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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Friday, August 12, 1994*

The House met at 10 a.m.

The Reverend Harry F. Andrews, Unity United Methodist Church, Kannapolis, NC, offered the following prayer:

Almighty and everlasting God, we once again summon You to this great Hall of debate and legislative creativity. Challenge us to tolerate each other's idiosyncrasies, remind us to love our neighbor as ourselves, and when all else fails, encourage us to agree to disagree. As we consider in what direction our constituents would want us to go on the issues of crime, health care, and world peace, open our hearts and minds to the opinions of others. We suspect that You are annoyed with some of the stuff we have approved since our Nation was born, but we ask this morning that You continue to annoy us with Your omnipotence, until we get it right. Strengthen us, humble us, bless us, affirm us, love us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from North Carolina [Mr. HEFNER] will lead us in the Pledge of Allegiance.

Mr. HEFNER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO REV. HARRY F. ANDREWS

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, it is a real pleasure to have Reverend Andrews and his wife and his lovely daughter, Jennifer, who has been a page here for some time; and I understand that he left North Carolina last night about 11 o'clock to get here in time for the prayer today. I tell you, that has got to be real dedication.

We are just more than happy to have you here today. With that beautiful prayer, I wish you could stay around and make things more palatable for us today.

Again, I want to thank you for your dedication to come here and share these few moments with us. Thank you very much.

A QUESTION OF PROPRIETY

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, the Constitution of the United States of America, section 7 states "All Bills for raising revenue shall originate in the House of Representatives."

So why has the other body been allowed to send us an appropriations bill with brand new revenue raisers in it?

On Wednesday, the House allowed the other body to get away with this unconstitutional act in the State, Commerce, Justice appropriations bill.

The Senate has tried this before, but has never been able to pull it off. The House has always stood firm in protecting its constitutional rights and duties.

I understand why the House majority has allowed this to happen. Chaffing under the tough budget laws of the land, the Democrat majority would rather sacrifice constitutional prerogatives to spend more money and raise more taxes.

I want to put the House on notice that if the Democratic majority refuses to stand with the traditions and constitutional powers of the House, I will stand up to defend them.

And if the Agriculture appropriations bill or other appropriations bills have unconstitutional revenues in them, I will pursue a question of privilege to the House to send these bills back to other body.

THE POLITICS OF GUNS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is an old axiom in war and in politics: Good generals keep their soldiers fighting and fit. But good generals never lead their good fighting soldiers into unnecessary danger.

I voted for that rule. I believe our party's leadership should be questioned. I do not want anybody to take away my guns, but that was a vote about politics, the politics of guns. If there are any liberal attempts to take away guns, I will oppose any further bills, but a Congress that cannot deal with the politics of guns cannot deal with the safety of the American people.

And the Democrat leadership, and I am not the most well-liked guy in this place, has got to look in the mirror and answer some questions to all Democrats all over this country, not just in this little closet.

LET US PRESENT A BIPARTISAN CRIME BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we are at a crossroads where there is an opportunity, I believe, to set a new tone and undertake a new direction for the rest of this Congress.

It is clear that yesterday's vote to return the crime bill to the conference committee, to reject the rule, is an opportunity either for the Clinton administration to try to twist arms and find a few more votes without change, or take a big step toward bipartisanship, go back into the conference, write a better bill, and with our help, have a bipartisan effort to bring that bill to the floor.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I simply want to rise today to urge the Democratic leadership of the Congress and the President to take the bipartisan route, to accept the vote yesterday of the House, to sit down and let us reopen the conference. Let us write a better crime bill. Let us bring it to the floor together on a bipartisan basis, and let us pass it by a big majority.

Then let us approach health in the same kind of open and bipartisan manner.

AMERICA WANTS THIS CRIME BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am a little perplexed by what was meant by the statement that I am following.

If we look at the crime bill, there were 68 Republicans that voted for it, and yet we did not have but 11 votes for the rule yesterday.

This was nothing but a conference committee that was not only bipartisan in attendance but bicameral, working out the difference between the Senate side and the House side, with both Republicans and Democrats in there. So this was just the final throes.

I do not know how you reopen the entire crime bill. I think there were some very important parts that were fought out on this floor. There was the assault weapons part which many got very upset about, but we won it. It was on the floor. It went fair and square.

And then I heard yesterday all sorts of noise about pork and social workers, and on and on. The only social workers I found in the bill were dealing with the Violence Against Women Act which all of us thought was so important, and it passed almost unanimously in this House. It was for the 1-800 number that we would have for the first time for families in crisis and for shelters for battered families. We have three times as many, now, for dogs and cats as we have battered families.

Yes, you probably need some social workers in those things, but those are needed areas, and if we do not solve the domestic terrorism in the home, we are never going to stop violence on the street. Those are all important components.

So I hope we can work this out and pass this crime bill. I think America wants this crime bill, but I hope we can also do it in a much lower, lower tone and not have the bipartisan rancoring we saw.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MONTGOMERY. Mr. Speaker, I have cleared this unanimous-consent request with the Republican side.

Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, August 12, 1994, to file a conference report on the Senate bill, S. 2182, to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1010

REOPENING THE CONFERENCE ON THE CRIME BILL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I would like to yield to the distinguished gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the gentleman for yielding.

I just wanted to respond to the gentlewoman from Colorado that, first, you can reopen the conference by reopening a conference. The Members go back in. The House has, in fact, set the stage for that to occur by rejecting the rule and refusing to take up the bill.

Second, the House bill left here with $22 billion in total spending, the Senate bill left at $26 billion. They got together at $33 billion. So when people say that it is exactly the same bill people voted for, let us be honest about it, this is not the same bill.

The sexual predator notification provision was weakened in conference. That is a very vital issue to Members who believe that when sexual predators are released from prison and released into your community, that you have a right to know about it.

Of course, the recent tragic kidnaping, rape, and murder of the 7-year-old girl in New Jersey drives that home. That was a twice-convicted sexual predator. This bill in its current form will protect the sexual predator's right to privacy rather than protecting that young girl's right to safety.

So where there are substantive policy differences, we can go back to conference, we can, in fact, rewrite this bill. We would like on our side to work in a bipartisan manner to write a good crime bill.

I thank my friend for yielding.

Mr. GOSS. Mr. Speaker, I thank the gentleman, and I associate myself with the remarks of the distinguished gentleman from Georgia.

HEALTH CARE REFORM FOR FAMILIES

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the health care status quo in America exacts a cruel price from American families. Today it costs nearly $8,000 a year to provide insurance for a family of four. If we fail to pass health care reform this year, the average family will be paying $14,000 for health care coverage by the year 2000.

Families need health care reform to remedy this unacceptable situation. That is why groups working on behalf of America's families are voicing their support for the Guaranteed Health Insurance Act—they recognize that it is good for the American family. Groups like Families USA, the Children's Defense Fund, Family Service America Inc., and the Child Welfare League support the Gephardt reform bill.

Perpetuating a scenario that doubles the costs of health care for families by the end of the century is nothing but unacceptable. Vote for health care reform and stop this drain on the strength of American families.

HEALTH CARE REFORM: WHY THE RUSH?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, as public support drops through the floor for the Clinton health care plan, due to its call for a huge new bureaucracy and job-killing mandates, the Democrat leadership has decided to appear to present a whole new bill to the House, the Gephardt health care plan.

Mr. Speaker, just as things are never as they appear, the legislation to be offered, the Clinton-Gephardt bill is nothing new.

The same huge new bureaucracy and job-killing mandates are included in this newly disguised package.

The House Democrat leadership thinks that a name change will fool the American people; well, it will not.

Mr. Speaker, why the rush to crowd this in in August? It appears to me that the Democrat leadership is terrified that we might go back to the people we are supposed to represent and we might get their opinion and we might come back and see the Gephardt-Clinton plan for what it is.

INDEPENDENT COUNSEL LAWS: THE UPS AND THE DOWNS

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans had a dilemma. For years they were trying to keep the independent counsel law from being authorized, but the political pressure became too strong. Now we know what their strategy is: It is to make it look ridiculous by their own actions. Look at what has happened with regard to the Whitewater issue:

First, the Republicans insisted that Janet Reno's—well, first, the Republicans killed the independent counsel law in 1992. Then they insisted that Janet Reno appoint someone, even though the law was killed. Then they criticized her because she did the appointment and did not have it done by the mechanism that they had killed. Then they got a Republican judge to appoint as an independent counsel a high-ranking official of the Bush and Reagan administrations, Mr. Starr, who is the most inappropriate independent counsel ever appointed, from the standpoint of bias.

Now it turns out that while conservative Republicans were crusading against fellow Republican, Mr. Fiske, the judge who was making the appointment was having lunch with the U.S. Senators who were the major critics and were urging him to change the appointment.

Now, Republican friends have said in the Whitewater case maybe the President did not do anything wrong, but the appearance standard was violated. Nobody has violated the appearance standard more than they have done in this instance.

THAT WACKY DEMOCRAT HEALTH CARE PLAN

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this from the Richmond Times-Dispatch:

> On a recent day, the House Ways and Means Committee endorsed legislation to impose global spending caps on every state in the nation. If any state exceeded its federally designated limit on health care spending, price controls would take effect.
>
> On the same day, the same committee passed proposals to (a) double the tax on self-insurance premiums, and (b) reduce the income tax deduction for a self-employed person's health insurance premiums.

Parenthetically, the Times-Dispatch adds:

> Such tax hikes on independence could help Congress corral the public into collectives, which may be the point of the exercise.

The editorial goes on:

> But obviously, taxing a good or service adds to its cost. So with one hand, the Congressmen voted to keep health care costs down, and with the other, they voted to increase health care costs.
>
> Good luck trying to figure that out.

Mr. Speaker, I am having a tough time figuring out the logic of the Democrat health care plan. And, so, I suspect, are the American people.

THE HEALTH CARE PLAN: LET US MEET WITH OUR PEOPLE FIRST

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is a representative Government. This House is designed to send people here to represent the folks at home. It means that it is part of our job to spend as much time as possible at home talking and listening to the folks that we represent.

Yesterday the President said he did not think the Congress should take a vacation. Vacation? Give me a break.

We go home and spend every day of that time meeting with people, in my case, in Wyoming, talking about how they feel about health care, how they feel about gun control, how they feel about the crime bill.

Every August this opportunity arises for an extended time to go home and talk to folks. It is important. It is especially important this year, it seems to me.

The administration has had a full-court press on trying to do something about a health care bill, any health care bill as long as it is passed, for political cover.

The leadership of this House has brought forth a number of bills, none of which has been scored as to their costs or as to who will pay for them.

Mr. Speaker, we need to go home and talk to the folks and come back and deal with health care then.

PRICE CONTROLS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the Clinton-Gephardt and Clinton-Mitchell plans are all about the Government controlling our health care. Today, I would like to highlight some of the price controls they impose.

The Clinton-Mitchell bill which costs $1 trillion taxes your health insurance plans whose premiums grow at rates faster than the Government prescribes. The Clinton-Gephardt plan creates a national cost containment commission to impose regulations to keep costs down. Price controls never have worked and they will not work now.

What this really means is Americans will be taxed and give up some of the services you need.

This is the Clinton plan for total Government control. But, America will not be fooled; they know the difference between myth and reality.

REPUBLICANS HAVE COOPERATED IN THE PAST AND WANT TO DO SO AGAIN

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I watched the temper tantrum of the President last night, and I got sick to my stomach. You might think he is the only one in America who is concerned about crime. Those who voted "no" on the rule are uncaring and obstructionist and partisan.

Mr. President, let me tell you, I broke ranks with my party over the past few years over the Brady bill, family and medical leave, striker replacement, campaign finance reform, California desert protection, grazing, and mining issues. And I saved Vice President GORE's globe program.

This President's definition of bipartisanship is when you do what he wants all the time.

Mr. President, you are no longer in Arkansas. Bipartisanship means working together. We are ready to work on crime, are you?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would like to remind Members to please address the Chair and not the President of the United States.

MORE THOUGHTS ON THE CRIME BILL VOTE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, yesterday an unholy alliance of the National Rifle Association and the Republican leadership insulted the American people by viciously assaulting the crime bill. Mr. Speaker, today the weapon of choice is the telephone. The American people should not be fooled by this political mugging.

Yesterday's vote was not about pork; yesterday's vote was about two things: Partisan politics and the ban on assault weapons.

☐ 1020

The proof is in the records of this House. Sixty-five Republicans voted for the crime bill last April when it had more prevention than the crime bill that reached the floor today. Where were those 65 yesterday? What changed? Was it the relentless bullying by the NRA and opportunism of the Republican leadership?

I say to the American people, "We must strike back, and the weapon of choice is the telephone. Call, call, call.

Call your Member of Congress and tell them you want this crime bill now. Do not suffer this insult in silence. Make your voice heard.''

THE CLINTON HEALTH BILLS ARE SOCIALISTIC

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, Dr. Martin Feldstein in Tuesday's Wall Street Journal made the following comments about the President's health care bills. Dr. Feldstein is a professor of economics at Harvard. He said:

> President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The tax cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That's equivalent to raising personal taxes across the board by nearly 20%.

Mr. Speaker, the Clinton health care bills are socialistic, and, in commenting on socialism, the great Winston Churchill said this:

> Socialism is the philosophy of failure, the creed of ignorance and the gospel of envy. Its inherent virtue is the equal sharing of misery.

Mr. Clinton, I would say to you, "I feel your pain."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MONTGOMERY). Members have got to obey the rules. They cannot direct their remarks to the President of the United States. Direct them to the Chair.

This is the second time the Chair has had to call attention to this matter.

AMERICA IS WAITING FOR THIS HOUSE TO PASS A CRIME BILL

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, while the National Rifle Association was celebrating the defeat of the crime bill last night, thousands of policemen cruised the mean streets of America hoping some drug-crazed gangbanger would not make their wives widows. While most Republicans were cheering the defeat of the crime bill, families in St. Louis, Chicago, New York, and Springfield, IL, were praying their children would not be the victims of a drive-by shooting. The National Rifle Association and the Republicans succeeded in gridlocking Congress last night on the crime bill, but this House owes it to the police and to America to pass a crime bill.

President Clinton was right. Congress should not take a vacation until we pass a crime bill. Criminals do not take a vacation, and American families are still waiting for us to break the Republican gridlock on this critical bill.

PEACE FOR SALE

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I rose on this floor twice in recent weeks to express my grave concerns about forgiving Jordan's debt to the United States. I believed this form of extortion would set a dangerous and unaffordable precedent.

I never like to say "I told you so, "but before the ink has dried on Jordan's forgiveness, we are being set up again. Business Week reported this week that Syrian President Assad is pursuing peace talks with Israel for only one reason that has little to do with peace. Instead, his only interest is reported to be some type of cash payoff, perhaps something along the multibillion lines of the Camp David accords.

There is no question that a Syrian-Israeli peace agreement is in the United States interest. But we must question whether it is in our interest to agree to be blackmailed whenever our allies face problems with their neighbors.

We have made the decision to reward Jordan. Let us not go farther down this road. Our Secretary on State should just say "no" to this deal.

JUDGE SENTELLE'S CONFLICT OF INTEREST

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, today's front page story in the Washington Post raises disturbing new questions about the decision to remove Judge Fiske from the Whitewater case.

First we learned that Judge Fiske was being replaced by a person who, in the past few months, has clearly taken partisan positions critical of the President.

Now we learn that the judge who led the decision to replace Judge Fiske, Judge David Sentelle, at the very time he was making the decision, met with two of the most partisan critics of Judge Fiske, two critics who have called for Judge Fiske's resignation again and again.

Mr. Speaker, this appears to be a clear, improper, and partisan manipulation of the judicial system.

Judge Sentelle's panel is supposed to be impartial.

The counsel he appoints is supposed to be independent.

For Judge Sentelle to meet with partisan members of the other body who have a political axe to grind in this case should be a subject of investigation itself.

Judge Sentelle said Fiske had to go because there appeared to be a conflict of interest. Well, it looks like Judge Sentelle has an ever greater conflict of interest of his own.

Having Judge Sentelle rule on the independent counsel is like having George Steinbrenner rule on the baseball strike.

DEMOCRATS' UNTOLD BENEFITS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, President Clinton and his allies are busy concocting benefits they can claim for their plan for a Government-run health care system.

But there is one benefit they could legitimately claim that millions of Americans will receive from the Clinton health care plan: unemployment benefits.

That is right, the employer mandates and big Government bureaucracy of the Clinton health plan will raise employers' costs and employees' unemployment.

How much will it add to the cost of doing business? According to the Heritage Foundation, it will cost businesses in my home State of Texas an additional $5.6 billion just by the year 2002 under the Clinton-Senate plan.

Under the Clinton-House plan, the costs are even higher. By 1999, it will raise the cost of doing business in Texas by $8 billion—or $1,200 per Texas employee.

Of course maybe the President has thought ahead. Perhaps being out of business and out of work will give these people time to wait in the long health care lines the President's plan will create.

WE ALL LOST

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, we apparently will not hear baseball scores for a while, but here is the score from last night. Inside the Beltway gridlock: First, people who are afraid to leave their homes for fear of crime: Zero.

Mr. Speaker, last night's loss was more than just a vote on a rule. We all lost.

We lost protection for women and children who live with the nightmare of domestic violence. We lost a chance for kids to find more than a life of selling drugs on the street.

But our biggest loss was the 100,000 cops that would restore security to our communities. That is over 2,000 cops in my State of Massachusetts alone. We lost the most important tool communities need to fight crime.

The American people were rooting for this crime bill, Mr. Speaker. We all lost.

□ 1030

TV EXPOSÉ REVEALS RIPOFF OF TAXPAYERS BY FAA EMPLOYEES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, last night, "Prime Time Live" carried a report about the FAA that I am sure angered everyone who saw it.

The report told how FAA employees in San Juan have been living in luxury hotels and condominiums for months at a time at taxpayer expense.

One family lived in hotel suites costing $360 per day and stayed at least 3 months.

This family, whose last name was Feeny, turned in expense accounts for meals totaling over $12,000 for just their first month in Puerto Rico, and the FAA paid them.

Their average claim for food ran to over $300 per day.

Another employee has claimed, and has been paid, approximately $5,000 per month for housing in Atlanta for almost a year now, even though he remains with the FAA in Puerto Rico.

An FAA employee who tried to blow the whistle on these padded expense accounts has resigned in disgust.

He says many millions have been spent by the FAA allowing their employees to claim and receive these exorbitant and ridiculous expenses.

No employee who has done the things reported by "Prime Time Live" should be allowed to work for the Government, in any capacity.

I call on the FAA to fire these employees immediately, and stop this taxpayer ripoff right now.

However, I know that due to our civil service system, nothing will be done and abuses like this will continue at the FAA and throughout the Federal Government.

NO INTENT FOUND TO DECEIVE CONGRESS ON VIRGINIA FACILITY FOR THE INTELLIGENCE COMMUNITY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, as chairman of the Intelligence Committee, I have been critical at times of the intelligence community's organization and management, but I come to the floor today to defend them on an allegation that was made by the Intelligence Committee of the other body regarding a building built by the National Reconnaissance Office in Virginia.

The allegation was made or inferred that in some way the intelligence community deceived Congress by never notifying us of this building. Yesterday we had a public hearing of the House Intelligence Committee in the Rayburn Building, and the fact of the matter is that while we may disagree with some of the procedures used by the National Reconnaissance Office, there was no intent to deceive Congress, and there was no intent to hide the facts or deceive the intelligence community or Congress with respect to that particular building.

This was a building that was designed several years ago, frankly, at the request of some Members of Congress and the intelligence community to consolidate the offices of the National Reconnaissance Office, which, up until 2 years ago, was actually a classified body. But the purpose of the consolidation was to close or consolidate many, many leased offices around the country that were costing the taxpayers a lot of money.

While we are going to look at the procedures used in the building and the contracting process and although we think the budgeting needs to be improved, I want to assure my colleagues that there was no intent to deceive Members of Congress in connection with that facility.

CRIME BILL DEFEATED BECAUSE BILL AND RULE FOUND WANTING

(Mr. EHLERS asked and was given permission to address the House for 1 minute.)

Mr. EHLERS. Mr. Speaker, I want to respond to some of the things I have heard discussed here this morning in regard to yesterday's vote on the rule to debate the crime bill. The statement has been made that the Republicans and the NRA defeated it. That is simply not true. The majority of the Members of this Chamber, of course, are Democrats, and 58 Democrats voted against it.

Personally, I did not hear anything from the NRA pro or con on the rule or the bill. I think we have to face the fact that it was a bad bill, and the rule was defeated because the rule prevented us from amending a bad bill and the rule prevented us from raising points of order against some of the pork and some of the bad features of the bill. That is why it was defeated.

I believe that with a rewritten bill, we will easily have a crime bill passed in this Chamber, and I think we have to stop pointing fingers of blame and simply say that we all want to do something about crime but we do not want a bill that is filled with pork and we do not want a bill that says it provides 100,000 policemen when in fact it only provides 20,000.

Mr. Speaker, I urge the conference committee to come back with a better bill, a bill that we can all support and vote for.

CONGRESS SHOULD LISTEN TO THE PEOPLE'S DESIRES ON CRIME AND HEALTH CARE LEGISLATION

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, last night the commonsense will of the American people prevailed as the so-called crime bill that was tough on taxpayers and soft on criminals was defeated.

As the crime bill goes back to conference for a much-needed facelift, the debate will shift to health care, and this Congress should heed some important lessons from the crime bill spectacle.

First, the American people do not like having their pockets picked. Just as the crime bill was a $9 billion social program pork fest, the Clinton-Gephardt health care bill contains 17 new taxes that Americans cannot afford, do not want, and will not tolerate.

Second, the American people do not like having bad bills rammed through Congress. Believe it or not, the 900-page crime bill we voted on last night was given to us yesterday morning. And wouldn't you know, the 700-page Clinton-Gephardt plan was made available less than 2 days ago. Health care reform is the most significant issue we have dealt with in years and the White House and Democrat leadership were going to try to slip it through, just like the crime bill.

Until last night, that is.

Maybe now instead of picking the pockets of Americans and ramming a huge government-run health care plan through Congress, we will listen to what the people are saying and pause and craft and pass targeted health care reforms.

A CALL FOR A COOPERATIVE EFFORT TO PASS A TOUGH CRIME BILL

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, my colleague from New York, Mr. SCHUMER, has been on the airwaves saying that yesterday's defeat on the crime bill reflects a pincer movement between the NRA and the Republican leadership of the House. Mr. SCHUMER's intrepetation could not be farther from the truth.

It may be that Mr. SCHUMER's New York City district is much different than my district in California. It may be his people were crying out for the millions of dollars in spending in new untested social programs. It may be that they are not concerned about the provisions in that bill which provide for the early release of thousands of convicted drug traffickers.

The people in my district in California know that drug traffickers are a key and driving force behind the crime impacting our communities. My district is interested in a crime bill that truly deals with the repeat criminals in our society.

So I have come to the floor to agree with my colleague, Mr. SCHUMER, about two things. First, he is right: If the people effectively communicate with Members across the country, they will be heard, and telephone calls and letters can make a difference. Second, we should bring a crime bill back to the floor. So, let's do so by one simple action: Provide an open rule that will allow amendments to the bill that would truly reflect people's concerns. I am confident that open debate on such amendments would lead to a tough crime bill that would help guarantee safety in the cities and on the streets in neighborhoods in America.

Mr. President, I urge you to call upon the bipartisan leadership of this House to allow open debate through an open rule concerning crime in America.

POLITICAL TAINT DARKENED ON APPOINTMENT OF INDEPENDENT COUNSEL TO INVESTIGATE THE PRESIDENT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, on the floor this week I criticized the baggage-of-appearance problems surrounding the appointment of Kenneth Starr to investigate the President. I thought then, though, that the furror and delay of yet another appointment augured for going on with the Starr appointment and assumed a heavy burden of demonstrating impartiality.

Following new revelations, however, it is clear that for his sake and for the sake of the court that appointed him, Starr should bow out. Partisan letters to the court and contacts between a particularly partisan Senator and the judge, David Sentelle, a protege of JESSE HELMS, now give the court an appearance problem.

The entire point of our independent-counsel legislation is to remove the investigation not only from political taint but from the appearance of political taint. That taint has now darkened. We need a new independent counsel and a new court to appoint her.

NEW JERSEY TRAGEDY POINTS UP NEED FOR TOUGH CRIME BILL

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, I witnessed two things on television last night. One was where the parents of a little girl in New Jersey named Megan spoke. They buried her last week. A sexual predator who had been convicted twice before lured her into a house and sexually abused her and killed the little girl.

The gentleman from New York [Mr. SCHUMER] voted in committee for the sexual language and then in conference personally took out that language.

The second item I witnessed last night was Mr. SCHUMER blaming the loss of his bill on others. I say to the gentleman from New York [Mr. SCHUMER] that Megan's parents asked administrators and anyone else to get in the face of the people who are weak on this issue and weak on crime. We do not want to get in the gentleman's face, but when you have $9 billion of socialized spending and your liberal special interest, the ACLU, wants you to take out language that would protect the Megans of the world, that is the reason why the crime bill failed yesterday.

CONSTITUENTS' PROTEST AGAINST CRIMINAL CODDLING BILL MAY BE KEY TO BILL'S FAILURE

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, it is far too simplistic to villainize the NRA and blame them for the failure of the crime-bill rule last evening. When this bill left the House, it had far too much pork in it. and it had a whole lot more when it returned.

When it left the House, it was aptly described as a "criminal coddling" bill, and one constituent called to ask us, "Please don't vote for the hug-a-thug bill" that was returned to us from conference.

A real reason that the bill failed was the rule itself and the fact that we did not have time to read this very large bill. But in the final analysis, the credit for killing this rule belongs to the American people who, in ever increasing numbers, called our offices to tell us, "Please don't vote for this bill."

□ 1040

DO NOT MISUSE THE INDEPENDENT LAW

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, I voted for the independent counsel law. I agree that we cannot expect an administration to investigate itself when there are allegations of wrongdoing. However, the use of the independent counsel process in the instance of Agriculture Secretary Mike Espy raises questions. As has been demonstrated over the years, these independent counsel investigations typically cost several hundred thousand dollars, some much more.

What was Secretary Espy's alleged misdeed? He evidently accepted a couple hundred dollars worth of travel, lodging, and sports events tickets from a food processing firm, and later reimbursed the firm for these costs.

Did Secretary Espy use bad judgment? Yes. Does this matter warrant an expensive legal investigation? I think not.

EPA SHOULD IMPLEMENT CLEAN AIR ACT AMENDMENTS OF 1990

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, I rise today to introduce three very important pieces of legislation intended to rectify an unfair application of the law. These bills will direct the Environmental Protection Agency to write Federal Implementation Plans in accordance with the 1990 Amendments to the Clean Air Act.

My reasons for introducing these measures are twofold. First, to alleviate an extremely unfair situation that is facing my State of California. Second, for the benefit of every other State in this Nation that is working hard to meet the goals set forth in the Clean Air Act.

The EPA is currently being forced to comply with a court order, which was handed down in 1993, 3 years after this Congress amended the Clean Air Act, which requires them to implement a Federal plan in accordance with the provisions of the 1977 act. I am deeply disturbed by this court decision, which neglects to recognize the intent of the 1990 amendments that place the responsibility of creating such plans squarely on the shoulders of the States, in recognition of the need to be flexible.

Additionally, the implementation of this Federal plan is to occur at the same time that California is working diligently to meet the requirements of the 1990 provisions. This makes the court's order all that more confusing. Why must the State of California comply with two versions of the same law?

It is with this question in mind that I rise before this House today to make it clear to the courts, the EPA and the States, that it is the intent of Congress to only require a State to comply with the latest version of the law. If this injustice is not corrected, California, as well as many other States, could face economic ruin.

The California Chamber of Commerce, for example, indicated that if this Federal plan is implemented it would result in the loss of a half-million jobs and $50 billion a year in transportation and related costs alone. Small businesses would be especially hard-hit. I do not believe that any one of you, my fellow colleagues, could stand by and watch this happen to your State.

Therefore, I call on my colleagues today, to join me in putting an end to this devastating, or potentially devastating, precedent which will place jobs and economic stability at risk.

FAILURE TO PASS CRIME BILL RULE A CRIME

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, what happened to the crime bill yesterday was a crime. It is a crime that the National Rifle Association is able to determine the votes of the House of Representatives through their PAC's and through their political intimidation. But it would be a worse crime if the American people do not understand why this bill, this rule, was defeated yesterday.

It was not the spin that has been put on it by the other side, and even by some people on the Democratic side, that it was because it contained too much pork. That is nonsense.

The big increase in the conference report over the House bill that many of them voted for was for cops on the beat; $3.4 billion was included for cops on the beat in the House bill; $8.8 billion was included in the conference agreement, a doubling.

This business about hearing the midnight sports leagues, the midnight basketball that Rush Limbaugh and so many people talked about, was actually cut from the House bill to the conference bill that we voted on yesterday, from $50 to $40 million. The big increase, and all the social programs you did not hear about, he big increase was in grants to combat violence against women. That is where the money was. But we do not hear about that.

What happened yesterday was a crime. It should never be repeated again. It is up to the Members of this House to stand up next week and repeal that action.

PORKLESS CRIME BILL WILL GO THROUGH LIKE GREASED LIGHTNING

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, all this talk about the hard-hearted Republican leadership is so much nonsense. Do you know how it pains us to see that dyspeptic look on the face of Mr. MORAN and the Speaker? To see the President in high dudgeon? To see the gentlewoman from Colorado coming here verklempt? Mr. SCHUMER talked about the weapon of choice being the phone. Maybe he can call 844-4444, had have coffee talk about what a tragedy it was for the President that his crime bill went down. But under this bill if you dial 911 you are likely to get a social worker instead of a cop.

I would say that my colleagues on the other side of the aisle should spend as much time focusing on how to get tough on criminals as they are trying to get tough with conservative religious people, those that they call the "radical religious right."

There was a meeting yesterday, and I think Mr. MORAN was there, where the Democratic participants arranged for nine Capitol Hill policemen to guard the meeting of the Radical Right Task Force. Mr. FAZIO, Ms. SLAUGHTER, Mr. DURBIN, Mr. FARR of California, Ms. MCKINNEY, Mr. SWETT, Mr. SYNAR, Ms. PRYCE of Ohio, and, yes, JIM MORAN, were all there meeting to do something about "these Christians."

Let us do something about criminals instead. Strip out the pork, bring the bill back, and, Mr. Speaker, it will go through like greased lightning.

DEMOCRAT CRIME BILL MAKES NATION AS SAFE AS NEW YORK CITY

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, the American people spoke last night. Congressmen do what their constituents want when they are 3 months out from an election, and that is what happened in the House of Representatives last night.

You know, the gentleman from New York [Mr. SCHUMER] offered us a crime bill that was intended to make our districts, our constituents, our voters, as safe as his district in New York City. And that was the problem.

Let me just say that six victims-right groups contacted us in the Republican Research Committee, the presidents of these groups, Justice for murder Victims, Victims and Friends United, Advocates for Survivors of Violent Crime, Citizens for Law and Order, Organized Victims of Violent Crime, and League of Victims and Empathy. From across the Nation they contacted us, and their presidents came down against this crime bill.

Let me tell you why. They were against it because they said it does not repeal prison caps, it does not include habeas corpus reform, and it does not provide for training for judges and prosecutors on victims rights. It contains no real truth-in-sentencing provisions. It eliminates provisions requiring mandatory restitution to victims of violent crimes.

The people know what was in this bill. They did not want it. They do not want their districts to be as safe as Mr. SCHUMER's district in New York City.

REPUBLICANS WANT A CRIME BILL

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, President Clinton last night tried to blame the defeat of the rule on the crime bill on the Republicans and the NRA. My colleagues, he still does not get the message. Republicans and Americans want a crime bill. In fact, 58 Democrats, 25 percent of the majority party who voted no, want a crime bill.

But here is what we and the American people did not want. we have been robbed in the streets, we have been robbed in our homes, and now we do not want to be ripped off by this Congress. We want punishment, not sensitivity training. We want reform of the welfare system that spawned this mess, not more social programs. We wanted our hard-earned dollars to go for good education and job creation, not dance classes and midnight basketball. We want drug felons behind bars, not out on our streets. Finally, Mr. Speaker, we want the death penalty, not President Clinton's promise to abolish it by Executive order.

RIGHTS AND HEALTH OF SEXUAL OFFENSE VICTIMS MUST BE PROTECTED IN NEW CRIME BILL

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, in the Crime Control Act of 1990, a provision said if States were to receive any funds from the Byrne grant then the State would have to establish a program allowing the victim of sexual assault to have the offender tested for the HIV virus.

I support the 1990 law because we need to protect the health and the rights of the victim, especially in the case of a sexual offense. When someone is raped, the victim has the right to know if their attacker carries this deadly disease.

However, even though the Federal Government requires a program for HIV testing for States, this provision was left out of the Federal crime bill. But now that we have the opportunity to strengthen the bill, I urge my colleagues to include this testing provision. A sex crime is just as heinous whether it is State or Federal and should be treated the same. I believe if this is a State requirement it should also be a Federal requirement.

Without this provision, Congress is telling America that the rights of the victim of a sexual crime is less important than their sexual predator. We should protect the victims of crime and include the Senate provision and insist that Federal crimes be treated as harsh as State crimes. More importantly, the rights of the victim of a sexual crime must be put above the rights of the sexual predator.

□ 1050

THE CRIME BILL VOTE

(Mr. MCCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Speaker, I have heard a number of people out here today say to us that somehow the vote yesterday was to kill the crime bill. It was not. It was a vote on the rule. It was vote down on the rule.

Republicans voted against the rule, most of us at least, because we believe that there is way too much social welfare spending in this bill. It is a backdoor way that some folks on the other side of the aisle have found to try to get more great society programs into legislation in the law.

There is a simple way to solve the problem that we face now and have a truly bipartisan crime bill all of us want. There is no reason why we should be concerned about doing that. It would take a few hours to sit down and do it. If some reasonable people on both sides of the aisle were called together, I am a conferee, was a conferee, would like to go back and do it again, take $5 billion or $6 billion out of this $9 billion of pork and social welfare spending that is in this bill and put it over into the prison side where it should be. Add to the prison money that is there so that we get enough money in the prison grant programs that we can actually do what we have been told is necessary to have $10.5 billion to $12 billion in order to provide enough money to the States to build the prisons beds necessary to take the repeat, second-time violent offenders off the streets and throw away the key.

That is what we need to be doing for prevention. That is the true crime prevention.

WHY THE RULE WAS DEFEATED

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I agree with the gentleman from Florida that what needs to happen here is the crime bill needs to go back to conference and we need to get out a crime bill that the majority of the House can support, that is a tough bill on crime.

I was a little concerned to hear the President of the United States suggest that what happened on the floor yesterday was a procedural trick. This was not a procedural trick. The only procedural trick was being done by the Democrats in bringing it out in a rule in the first place.

The fact is they could have brought the whole conference report to the floor without ever going to the Committee on rules. The reason why they knew they could not do that is because there were things in the conference report that were subject to points of order on the House floor that would have immediately sent the bill back to conference.

The entire conference report was flawed because of the procedural tricks that went on within the conference. What they were trying to do was cover their tails with what went on in the Committee on Rules, and they cold not get it done on the House floor.

The President needs to be informed that what was happening here was that his own party voted unanimously in the Committee on Rules to try to cover up the procedural tricks that were done in the conference. We should have less of that. Let us bring bills to the floor that are clean so that we can all vote on them clean.

YESTERDAY'S VOTE

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, the reason that the rule did not pass is because almost 60 Democrats voted with Republicans, majority of Republicans. Now, when we heard the President indicate that the reason the bill did not pass was because of the NRA and Republican leadership, that was not quite right.

The problem is that bill had too much social spending and not enough real crime efforts to decrease the amount of criminals on the street. Time and time again, Republicans have worked with the Democrats to help. For example, NAFTA, NAFTA passed because of a coalition. There right now is in Congress a coalition on a health care bill; that is, the Bilirakis-Rowland bill. We should be beginning as a group to get behind that bill and also GATT is another agreement that the Republicans are working with Democrats. So the Republicans are working with Democrats.

The reason this bill did not pass is not because of the NRA. It is not because of Republican leadership. It is because the American people did not want what that bill had.

FULL BUDGET DISCLOSURE ACT OF 1994

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 512 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4907.

□ 1054

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4907) to reform the concept of baseline budgeting, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from South Carolina [Mr. DERRICK] will be recognized for 15 minutes; the gentleman from Florida [Mr. GOSS] will be recognized for 15 minutes; the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes; and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Madam Chairman, I yield myself 5 minutes.

I am delighted to day to bring to the floor H.R. 4906, the Full Budget Disclosure Act of 1994.

This will improve our budget process precisely as its short title suggests: by requiring full budget disclosure. The official title of H.R. 4907 is "a bill to reform the concept of baseline budgeting." I can assure the Members the bill will do just that.

Madam Chairman, I suspect most Americans finds the Federal budget process difficult to comprehend at best. Part of the problem is our confusing terminology; we just don't use the same budgetary terms and concepts that ordinary people do.

One of the concepts associated with Federal budgeting most difficult for ordinary Americans to understand is the notion of a budget baseline.

Under the law, when the President submits his budget to the Congress, and the Congress prepares its congressional budget, they start from something called a "current policy baseline." That baseline assumes for the budget year and subsequent years of continuation of the current spending level for programs and services, adjusted for inflation and certain other technical factors.

There is absolutely nothing wrong with the current policy baseline. After all, every American appreciates how inflation erodes the purchasing power of his dollars over time. All Americans know the same number of dollars won't buy today what they bought 10 years ago, or even last year.

This is why the law provides for cost-of-living adjustments to Social Security benefits. If we did not give cost-of-living adjustments, Social Security benefits would over time lose much of their value and recipients would lose much of their income as inflation eroded their checks' purchasing power.

Madam Chairman, inflation erodes the purchasing power of Federal tax revenues too. Any given number of Federal tax dollars doesn't buy the same quantity of goods and services today that it bought 10 years ago, or even last year. As a result, it takes more dollars to repair a mile of Federal highway, buy fuel for the Navy ships and aircraft, and to maintain government buildings and other assets. Government must deal with the same inflation that households do, and the current policy baseline helps policymakers to understand inflation's effect on programs.

But use of the current policy baseline has one drawback: it makes more difficult comparisons of how spending changes from year to year in actual terms. It is this problem H.R. 4907 is designed to solve.

Under the bill, the President and the Congress would have to include an additional baseline, a current funding baseline, in their budget documents. The current funding baseline would start from last year's spending level and would not be adjusted for inflation.

This additional baseline would allow people to see and understand how various budget proposals would change spending from year to year in constant dollars, without taking inflation into account.

By comparing the two baselines to proposed spending, for example, policymakers and the public could both understand that a budget proposal for a given program might very well represent an increase over last year in actual dollars, but not enough to keep pace with inflation—or effectively a cut in the program.

Or people could see how a proposal that represented an increase in actual dollars exceeded the amount needed to keep pace with inflation, and was effectively an expansion of the program in question.

H.R. 4907 will also require the Congressional Budget Office to include in its annual report to the budget committees a comparison to current spending levels, and an analysis of the causes of increased spending in mandatory programs from cost-of-living adjustments, changes in beneficiaries, higher health-care costs, and other factors. This provision will help us better understand the reasons for growth in those so-called entitlement programs.

I am convinced H.R. 4907 will improve the budget process, that it will result in full budget disclosure, and that it will help both policymaker and ordinary Americans to understand the budget process better. My colleague from South Carolina [Mr. SPRATT] has done excellent work on this legislation. I urge all Members to support the Spratt bill.

Madam Chairman, I reserve the balance of my time.

□ 1100

Mr. GOSS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, as I said during the debate on the rule, baseline budgeting is one of our most confusing, irresponsible, inside-the-beltway creations. Under current law, Congress and the President are able to increase the dollars spent on a particular account, while publicly claiming to have cut the budget. The reason for this is that when committee's sit down to decide funding for next year's programs, instead of starting with the actual dollar amount spent the previous year, they use a figure that has been automatically inflated. Both discretionary and entitlement spending are subject to this twisted accounting. As a Member of the Bipartisan Commission on Entitlement Reform, I am hopeful that we will be able to address the dangerous trends in mandatory spending in the near future. But as the ranking member of the Budget Committee, Mr. KASICH, pointed out to us in rules earlier this week, it's far too early to declare victory on the discretionary side of the budget. Comprising an estimated $400 billion in taxpayer funds each year, any excess growth in the discretionary area is a serious concern.

While I am pleased that we have the chance to address the baseline problem today, I am concerned that the Spratt bill, H.R. 4907, will only add to the current confusion. Instead of replacing the single, flawed, baseline we currently use, the Spratt bill will keep that one and add a second baseline consisting of the current year's actual spending. This two-headed monster has two major problems: It is confusing, and it will not be effective in controlling future spending.

The confusion will stem from having two baselines instead of one. While it is difficult to determine when a cut is really a cut now, just wait until the Washington spin doctors are able to have a choice of baselines.

The second problem is the bill's lack of effectiveness. During the markup of the Spratt bill in Rules Committee, I confirmed with the chairman and the bill's sponsor that this bill will not change the current law baseline. Let me repeat; under this bill, the legal baseline will remain unchanged.

An alternative to the confusion and ineffectiveness of H.R. 4907 is the Kasich-Penny-Stenholm substitute. This simple and responsible alternative calls for a single baseline consisting of the current year's actual spending level. In addition, it requires that committee reports include a comparison between current year spending and revenue levels with the proposed increase or decrease in percentage terms. Finally, the substitute provides for a comprehensive review of entitlement spending trends on a yearly basis from the Congressional Budget Office.

Madam Chairman, I agree that it is high time that we reform the inflationary budget baseline. The choice before us should be clear: Support the common-cents amendment, and reject the convoluted approach of the Spratt bill.

Madam Chairman, I reserve the balance of my time.

Mr. SPRATT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the bill before us, H.R. 4907, is very basic. It requires two baselines to be set up in the format of the budget. One is a current funding baseline. This represents actual funding in a given year, the current year, for a functional program in the budget. CBO calls this a freeze.

We had an agreement on the floor yesterday that with respect to the current funding baseline, as defined in our bill, H.R. 4907, and in the substitute, there is no difference, no distinction. They are the same. This bill provides for a current funding baseline, just as Penny-Kasich-Stenholm would.

We also, however, provide for another baseline, which is a baseline used all the time in this institution, and used of necessity. It is called a current policy baseline, commonly sometimes called a current services level of funding—what it takes to carry forward existing programs that are embedded in permanent law, paying the same level of benefits after inflation, serving the same beneficiary population according to the terms of eligibility that are on the statute books, a current policy baseline.

Madam Chairman, our opposition says what they want is one giant scorecard. I would invite everybody who has an opportunity to read the "Minority Views" on this bill that are printed in the committee report, because the "Minority Views" recognize that in fact there are several different baselines used, and they will continue to be used because they are practical, they are good analytical devices, and they are the things that have been used for years and will continue to be used for these reasons.

For example, Madam Chairman, the minority acknowledges that baselines used by the Committee on Appropriations are always actual funding, unadjusted, and if you look at the Committee on Appropriations reports, each of the 13 reports will provide you with this year's funding and next year's funding, and will tell you what has been increased or decreased. That is a baseline that we do not provide for, because it is already used. We are not enshrining it in this particular bill, but it is another baseline.

The opposition derides us for attempting to set up a second baseline and claims that this is double-speak, that we are going to confuse the American people.

In truth, as they well know—as everyone well knows who has dealt with the budget here—the current services or current policy baseline exists because it is a useful device for measuring the adequacy of the current budget. For that reason, we have it. For that reason, it will continue, regardless of the outcome of this legislation.

In fact, Madam Chairman, one of the best defenses of the current policy or current services baseline is made in the minority report. This particular report says that when you are dealing with reconciliation, and I am reading from the report now:

> Where baselines really make a difference is mandatory spending and revenues, since these are used when it comes to reconciliation instructions. These instructions tell committees to find so much in "savings" or revenues by changing existing direct spending or tax laws. The amount of "savings" or revenues are derived by using the baseline of projected costs or revenues for the budget year and the outyears that would occur with no change in current law.

They go on to give an example of how a mandatory program at $100 million would increase to $150 million, but in reconciliation, instructions would be stated to require a $25 million reduction. They acknowledge that this is useful, this is useful. It is necessary, because permanent laws would provide for these programs to increase, unless we take action and do something about them. So we have to know. We have to have some measure of how they are going to increase in order to take action and to decrease them.

Madam Chairman, this is what the minority says:

> No one should deny Congress credit for taking action to restrain the growth in spending for programs, since these are often difficult choices to make.

Not cuts, but restraints in growth:

> On the other hand, it is difficult to convince the public that we are reducing spending and deficits when they see both continue to climb.

So what they want to get at is public perception, but you acknowledge that for purposes of operating this place, we need a current services baseline. They make the case for it right here.

That is all we are saying. Give the public the same baseline that the gentleman from Minnesota [Mr. PENNY], the gentleman from Ohio [Mr. KASICH], and the gentleman from Texas [Mr. STENHOLM] would require. We are willing to do that, the same definition, but at the same time let us use internally what they make the case for in their own minority views, the current services baseline.

□ 1110

In fact, the gentleman makes the case here. When we do that, the current services baseline is going to continue to exist, as I have argued continually, because it is such a useful device; it is a necessary device in making reconciliation devices.

You admit in here the Committee on Appropriations is still going to use a very simple and basic technique of taking this year's funding and you will also have an adjusted current funding baseline. There are going to be three baselines, regardless of what this bill does. So in formating the budget, let us have two useful baselines, the current funding baseline and the current policy baseline, and let us not try to have some artificial construct that would overcome what is inevitably going to be the operating procedure in this institution.

Mr. GOSS. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Florida.

Mr. GOSS. I asked the gentleman to yield as a courtesy because he did read from the minority report. We agree we have to have someplace to start from. All we are asking is it be the real starting place with the real numbers and there just be one starting place, not two. I think that is going to be crystal clear to people, that this is what we spent and this is what we are going to spend this year. That is all we are asking.

Mr. MURTHA. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Let me address what the gentleman is talking about, because we have the biggest discretionary budget in defense. One of the problems we have when they send a budget over to us: Say in the 1980's they would exaggerate inflation and we would have a different figure right away. But if we do not put the inflation figures in, if we do not come up with figures that are realistic, it makes it impossible for us to make the adjustments necessary to come up with a realistic bill.

For instance, the bill has decreased by 35 percent in budget authority and 23 percent in outlays since 1984, about a 10-year period. This year they did not put cost of living in. Last year they did not put cost-of-living in for personnel. Personnel costs are $70 billion for defense. I said, last year, we were going to pay the troops more. Even though nobody else is going to get a cost-of-living increase, the troops are going to get more. That did not sound like a lot of money. It was $11 billion if we count the tail. So if we do not consider inflation in the overall presentation, we have got a real problem. In other words, the first thing we would have to do is exactly what they have done when they have sent their presentation over to us. That is the problem.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Minnesota.

Mr. SABO. One of the purposes of baseline is to have some understanding of historically what is happening with programs in the relative level of funding. If I understand the gentleman accurately, when one looks at defense in budget authority from its peak in 1985, in inflation adjusted dollars, budget authority has gone down 35 percent. As I understand it, our friends who want to amend this bill would say it had only gone down about 10 percent, because that is what the change in dollars without any inflation adjustments would be, which most accurately historically reflects what has changed in defense spending over the last 9 or 10 years.

Mr. MURTHA. When we are talking about the bill, we are sitting in subcommittee, and it takes the staff weeks to get the budget proposals together that are sent over to us. The gentleman from Minnesota is on the committee and he knows what I am talking about. We try to at first figure out what the accurate figures are. I know that what the gentleman is trying to do is come up with accurate figures in the baseline, but if you do not have inflation built in, it is impossible for us to get the amount of money we need out of the budget. We do not have any leeway at all is what it amounts to. We always evaluate their inflation figures. Sometimes we reduce what they consider the inflationary costs and sometimes we do not. But we believe that in real dollars when we look at it, it has only declined 10 percent, but if we include inflation, it has declined by 35 percent. So we can see that we are not getting a realistic picture. It would be impossible for us to operate. The first thing we would have to do is put in the inflation figures. I do not see how we could operate under the premise that the gentleman from Texas is recommending. At least I do not see how it happens in a bill that we try to handle. So I have to agree with the Spratt idea.

Mr. STENHOLM. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Texas.

Mr. STENHOLM. The argument we make, nothing in our amendment precludes this discussion and these numbers and these concerns that the gentleman is expressing. All we are saying is we should start from one baseline and if we need to have increases for the valid reasons the gentleman from Pennsylvania is talking about, we justify those reasons, but we compare it back to one baseline. There is not a big difference between that. There is a big difference between the confusing aspects, though, if we are suggesting the second baseline is a valid baseline of which we have the money to pay for it. That is the problem. We are running $200 billion deficits, we have a cap on discretionary spending that we have to move to. So any increases have to be justified. We think it makes more sense for us to justify them on one baseline, and if we have an increase, call it what it is so people will understand we are getting an increase for the purpose of what we are increasing it.

Mr. SPRATT. Madam Chairman, if I could reclaim my time, we would agree with that to an extent. We will give the public and the Congress that information, but we will also retain the essential common sense of having a current services baseline because as the minority report correctly observes, it is absolutely necessary when we are determining whether or not what entitlement programs in particular are going to cost and to what extent spending growth must be restrained in these programs. Without that baseline, we have got no reliable estimate of what 70 percent of the budget direct spending is going to be in the outyears.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Minnesota.

Mr. SABO. If I might direct another question to my friend, the gentleman from Pennsylvania who chairs the Subcommittee on Defense. When you put out a committee report for your bill this year, if I remember accurately, it shows what was appropriated for last year's bill and it shows what is appropriated for next year's bill. Is that not accurate?

Mr. MURTHA. And also we usually have a 5-year projection in our bill if we ever are able to get it from the Defense Department. I understand what the gentleman is trying to do and I understand the problem. But if we do not build inflation in, the first thing we would do is to put the inflationary figures in the bill. Otherwise I am not sure how you operate.

Mr. SPRATT. I thank the gentleman for his statement.

Madam Chairman, I reserve the balance of my time.

Mr. CLINGER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would rise in reluctant opposition to H.R. 4907 and in support of the Penny-Kasich-Stenholm substitute. Before I do so, I would like to express again my concern and disappointment that the Committee on Government Operations which has jurisdiction over this matter waived our jurisdiction and did not consider this measure or this issue. I think the discussion that has just gone on about what some would view as an arcane, esoteric subject indicates that it is a complex area that really should be fully considered through the committee process. I would, therefore, register again my dismay that the Democratic leadership chose to have the Committee on Government Operations waive its jurisdiction.

I would like to commend the gentleman from South Carolina [Mr. SPRATT] for his work in crafting the budget bills that we have considered over the past several weeks, even though we did not consider them in committee, and to recognize the great service he has provided this body in bringing these bills to the floor. The task he has been given in drafting meaningful budget reform legislation, which at the same time satisfies the desires of spending advocates is not a job that I would covet. Frankly it is not a job that I am sure I would accept. Nevertheless, I believe that the gentleman from South Carolina [Mr. SPRATT] has very honestly tried to resolve the conflicting and sometimes very confusing signals that he has received on baseline budgeting, which has become, as I say again, readily apparent this morning.

Unfortunately confusing signals can occasionally lead to confusing legislation and that I suspect is the essence of H.R. 4907.

H.R. 4907 would establish, as we have heard, two separate statutorily equal baselines for discretionary spending, one which includes inflation adjustments, and one without.

Because the bill creates both a current policy baseline which adjusts for inflation and a current funding baseline which reflects current year's spending without an inflation adjustment, future budget and spending debates would likely be even less clear under the Spratt bill than is now the case.

□ 1120

While one group of Members might well be discussing an inflation-adjusted baseline, a second could readily be referring to the equally sanctioned unadjusted spending baseline, and the result, I think would be Members talking at cross-purposes, ships passing in the night, and a public unable to understand how program spending is rising or falling.

The Spratt bill would defeat the very purpose of baseline reform, that is, to provide a clear, ambiguous picture of spending growth.

While the very same information would be available under the Penny-Kasich-Stenholm approach, their amendment would establish one single baseline to reflect current spending, and any adjustments to the program funding would be revealed through a single, unadjusted baseline to provide a clear comparison of current and future spending. In addition, the Kasich approach would provide comparisons on entitlement spending which is not required, if I understand it, under H.R. 4907.

So, Madam Chairman, because the Penny-Kasich-Stenholm amendment provides the only real opportunity for clear, honest, and understandable budget debates while at the same time assuring access to information on programs, trends, and inflation needs, I would urge the adoption of the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. DERRICK. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I again want to try to make this basic point from our perspective: We would like to see one baseline, and that when we consider appropriation bills that we are comparing what we are being asked to spend in the future with what we spent last year. All of the relevance of baseline or current services or inflation-adjusted figures can still be made, just as the gentleman from Pennsylvania made a moment ago very relevant opinions that in some cases, if you do not keep up with inflation, there are certain cuts that are going to have to occur. But those should not be conceived from the standpoint if inflation goes up 103 and we grant 102 that we have cut somebody 1 percent. It should be that we ought to be debating that we are increasing.

I do not understand when this country and so many of the people particularly in this body came to the conclusion that cost-of-living adjustments, inflation-guaranteed increases, are an inherited right of anybody. No business can grant increases based on inflation unless they are making a profit.

We are losing $200 billion-plus a year right now in the United States of America, Inc. How anyone believes that they have a right to an inflation-adjusted figure for any purpose beats me.

But we think that it will, in fact, be more relevant, and we will get more honest debate and get more honest conclusions if we start right here in this body saying to everyone, "Here is what you got last year, here is what we are giving this year." If it is an increase, "This is why we are increasing it," and if it is a cut, "This Is why we are cutting it." If you want to make the argument that we have to make inflation-increased adjustments, make that argument, but make certain that in fact you explain why that increase goes up. That is all this argument is about.

That is why I encourage you to vote for the Penny-Kasich-Stenholm amendment. Vote against the Spratt amendment, because that is the only way we are truly going to get this explained in a way in which the average American can understand it.

Madam Chairman, there are some who will say that the debate on baseline budgeting is a meaningless exercise. I disagree. The way that we talk about the choices we face in the Federal budget has a significant impact on the outcome of policy. This debate is about bringing some honesty into the way that we talk about budgets.

The current budget process is enormously confusing and strongly biased in favor of deficit spending. Baseline budgeting distorts the process by making it appear that programs are incurring a spending cut when in fact they simply are receiving a smaller increase that expected.

The base bill before us today improves the current process by ensuring that Members will be able to compare proposed spending levels with the previous year's spending levels. The base bill has taken many of the provisions of the Common Cents Budget Reform Act that I introduced along with TIM PENNY and JOHN KASICH. Unfortunately, the base bill will create additional confusion in the budget process by adding a second official baseline. The base bill will make it even more difficult for the public to understand the budget process around here. More importantly, the base bill will continue the current bias toward higher spending created by the current services budgeting.

The Penny-Kasich-Stenholm amendment will eliminate the bias toward higher spending that is included in the base bill by replacing the current services baseline with a freeze baseline. Our amendment would put some west Texas tractor seat common sense in the budget process by requiring that budget proposals compare their budgets to the amount actually spent the prior year rather than against estimates of future spending. We should recognize increases in spending for what they are and not talk about cutting spending for what they are and not talk about cutting spending when we really are voting to increase spending.

The folks at the Stamford Dairy Queen understand that if you received $100 last year and receive $99 this year, that is a spending cut. If you receive $101 this year, that is an increase, even if you thought you were going to get $102 this year. The small business men and women of this country understand that if you are operating in the red, you can't afford to give cost-of-living adjustments to everyone.

The Penny-Kasich-Stenholm amendment will improve the decisionmaking process by changing the way we talk about budget decisions. If you want to put some truth in budgeting, vote for the Penny-Kasich-Stenholm substitute and against the Spratt substitute.

Mr. GOSS. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Madam Chairman, I thank the gentleman for yielding me this time.

The gentleman from Texas [Mr. STENHOLM], I think, spoke as eloquently to the issues that I would like to speak to as anybody possibly could.

I watched this debate, and I have listened to it, and certainly everybody who has spoken, particularly those who have defended the baseline budgeting as it exists, are great contributors to this Congress and are leaders in this Congress, and I respect that. I respect all that they have done. I do not mean to disagree with this particular bill as it is drafted, although I think the amendment, which is the Penny-Stenholm-Kasich amendment, is a far greater improvement to it.

But the bottom line is I do not think the public really comprehends what we are doing in the Congress of the United States with the budget, and as I sit here longer and longer, month by month, I begin to realize more and more why we have the budget deficit we do. Thank God this year we have started to at least deal with, if not pass, the issues of the line-item veto, with the enhanced rescissions which later passed, the balanced-budget amendment, and now we are dealing with baseline budgeting. Maybe later today we are dealing with emergency spending reforms which I think are needed. But the bottom line is, I think, one of the great problems we have is with baseline budgeting.

When you have a budget which actually begins each year with inflation built in, with demographic changes built in, with program costs built in, you have admitted defeat. You are never going to be able to balance your budget.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Minnesota.

Mr. SABO. Where is this budget that starts from this mythical baseline as you call it, every year?

Mr. CASTLE. Where is the budget?

Mr. SABO. Yes. I am curious. I have been budget chair 2 years. I put a chairman's mark in front of the committee for 2 years. I have never started with my mark to the committee being a baseline. A baseline is a measurement. It is not a budget.

Mr. CASTLE. Reclaiming my time, but it is used constantly by Members of Congress, not you necessarily, but by Members of Congress, by the White House of both parties, to say they are going to have savings on the budget.

Mr. SABO. Sure. It is a measurement.

Mr. CASTLE. It is an increased baseline.

Mr. SABO. It is a measurement of what is happening, just as last year's is a measurement.

Mr. CASTLE. It is a failure, it is a failure. I reclaim my time. It is a failure to recognize the fact of having a dollar amount in the year before, and you are actually spending more because you are starting with a new baseline which is artificial.

Mr. SABO. I would ask the gentleman to go to this year's budget resolution and find any number that refers to baseline in the budget document.

Mr. CASTLE. Whether it is referred to baseline in the document or not is irrelevant, because it is constantly referred to as baseline by everybody here with the understanding that all of this is put in.

Mr. SABO. This is a historic measurement of what we are doing, and that is accurate.

Mr. CASTLE. What I am simply asking for is the fact we start in all of our reporting with the figures from the year before, and that if we want to add in these figures, we show how they are being added. Maybe you do it in your budget process, but it does not come out that way in the public process.

Mr. SABO. We show last year's number, and we show this year's number. That is in the budget now, sir.

Mr. CASTLE. I have enjoyed this discussion with the chairman, but the bottom line is, in Washington, DC, we are still presenting the budget where the inflation is automatically built in.

I agree with the gentleman from Texas [Mr. STENHOLM], why should we have an inflation-adjusted budget presented to us as if it is a given right. I think the time has come we start looking at the flat amount that was spent the year before. Should we reduce it or increase it for whatever the reasons may be? Come to those conclusions and budget in that manner. If we do that, I believe that you are going to see budgets in this Congress which are going to more approximate what they should be in terms of the expenditures of the United States of America getting closer to a balanced budget and ultimately dealing with the deficit problems of the United States of America.

I was just handed a document which shows baseline budgeting in the budget document which the chairman just spoke to, so perhaps he does not understand his own document.

Mr. DERRICK. Madam Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Madam Chairman, I believe the baseline proposal of the gentleman from South Carolina [Mr. SPRATT] is clearly the best and fairest alternative before us, and I urge all Members to support it.

The argument here is over baselines, and, specifically, about what baseline gives us the best information for making spending decisions. A baseline is one of those Washington terms, but there is nothing arcane about the concept. A baseline is a method of comparison. Our current baseline tells us how much we will need to spend to purchase the same amount of goods and services as last year. It is a dynamic measure—not a static one, because it increases or decreases with inflation and deflation, with population growth or population loss.

I happen to believe the current baseline is the most useful one, because if the Federal Government is going to provide fewer services to my constituents, I want to know about it. I do not want to tell my constituents not to worry because we are spending the same amount as last year—when because of inflation, we are actually cutting services by 3- or 5-percent.

The authors of the alternative amendment are more interested, I believe, in knowing how much spending increases in nominal dollars. I completely agree that that is a useful thing to know, and if that is what they want to talk to their constituents about, I will not quarrel.

But why not do both? Why not look at spending from both perspectives, as Mr. SPRATT suggests? I do not think that understanding both sides of the equation will lead to more confusion; I believe it will enlighten us as to what is really going on in the budget. And I believe that would be worthwhile.

I urge my colleagues to vote against the Penny/Stenholm proposal, and for the Spratt proposal.

□ 1130

Mr. CLINGER. Madam Chairman, I would like to now yield 3 minutes to a valued member of the Committee on Government Operations, the gentleman from Florida [Mr. MICA].

Mr. MICA. Madam Chairman and my colleagues, as a new Member of this body coming recently from the private business sector, I have become accustomed to viewing the legislative process with a certain amount of healthy cynicism. I expect the Congress to do little yet claim a lot; to achieve modestly and trumpet loudly; to spend extravagantly and to save occasionally. I even expect us to do it with winks and nods and vague debates designed to obscure the reality of our true actions.

Even with this perspective, I am a little surprised by H.R. 4907. This bill, which comes to us as part of the leadership's A-to-Z sellout deal has no other purpose really other than to confuse future budget and spending debates, in my opinion.

While billed as an effort to provide more-informed budget discussions through baseline reform, H.R. 4907 would in fact simply cloud those debates through the introduction of two statutorily equal yet contrary budget baselines. H.R. 4907 would create both a current policy baseline and a current funding baseline, the first, which adjusts for inflation, and the second, which does not.

If passed, H.R. 4907 would encourage spending debates where groups of Members, in discussing the same $300 million program cut, could by using different baselines lines be hailing a major spending reduction on the one hand while decrying a budget-busting on the other.

If confusing to Members, just imagine the reaction of our constituents, the public, to this hocus-pocus and the resulting erosion in public trust.

By way of contrast to H.R. 4907, the Penny-Kasich-Stenholm substitute would create one single budget baseline to show this year's spending level pure and simple, no inflation adjustments, no gadgets, no gimmicks. If spending went up, we would call it an increase; if spending went down, we would know it is a cut. To me that makes sense.

Because the Penny-Kasich-Stenholm substitute provides the House its only real true opportunity to vote for real baseline budgeting reform in this Congress, I support the amendment's adoption and urge defeat of the Spratt alternatives.

Finally, Madam Chairman and my colleagues, you can fool some of the Members some of the time, but we do not need a two-baseline budget approach to fool more of the Members and the public all of the time.

Mr. DERRICK. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. I thank the gentleman for yielding this time to me.

I would suggest to the last gentleman who spoke, he should read an Appropriations Committee report one year. He would find the numbers there.

Last year, the President's request, committee recommendations, minus and plus from last year, from the President's request.

But I rise in support of the Spratt bill. There are three, and probably more, ways to accurately measure what we are doing as we deal with fiscal questions. One is last year's comparison to this year, that is accurate. We should know that.

We also need to know what historically is happening with programs. As it relates to discretionary programs, we need to know its impact, the impact of what we are doing in relationship to inflation. The reality is from 1985 inflation-adjusted dollars, defense has been cut 35 percent rather than simply 10 percent from the actual BA authority of 1985. That accurately reflects history and should be part of our documents.

Another measurement which we often use for larger programs is their relationship to gross domestic product. We show those regularly as a percentage of the gross domestic product. Again an accurate reflection of history.

What Mr. SPRATT's bill does is say that we can use all of those judgments and that they are accurate.

I must say to my friends who are proposing an alternative today, they would in fact skew any look at discretionary programs from the point of view of a program adjusted by inflation versus entitlements where inflation is built into the program, where inflation remains a part of the baseline.

If anything, the proposal skews our discussion more and more away from discretionary and more and more to entitlement programs.

Mr. GOSS. Madam Chairman, at this time I yield 2½ minutes to the distinguished chief budgeteer on our side, the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I thank the gentleman for yielding this time to me.

Madam Chairman, a picture truly is worth a thousand words. This chart here—and we will bring this back during the debate on the amendment—represents the National Science Foundation's spending. What essentially happened is that we increased the National Science Foundation by $221 million over 5 years. Yet the increase of $221 million over 5 years—you can see how it goes up each year. This is the National Science Foundation over 5 years. You can see clearly it is growing.

Any American family would feel good if their wages were growing like this. But in Washington terms, when you are living in Peoria or Columbus or in Waseca, Minnesota, you do not get told that the National Science Foundation is increasing like this. You read in the newspaper that the National Science Foundation was subject to a $476 million cut.

Now, come on, folks; that is not the way we want to budget in this town.

This increase, under no set of circumstances, under any set of explanations whatsoever, this cannot be called a cut. One place, one place, Disney World would be the only place that this could be labeled a cut or maybe some scam game out in Las Vegas.

This is an increase.

What we are suggesting in the Penny-Kasich-Stenholm amendment is that we call this an increase. Is it true that from one year to the next year that costs go up? Well, of course they do. But some costs go down. And in addition to that, you have to begin to prioritize.

We are not prejudging, we are not prejudging whether spending ought to go up or whether it ought to go down. What we are suggesting is that the American people be told that this is a spending increase. We are suggesting that the American people no longer be told that this is a spending cut.

Now, how can we afford to talk in terms that we can all understand in this country when we are going to have to deal with the immense problem of the budget deficit; not the budget deficit itself but the size and the scope of the Government and implications of the size and the scope of the Government beginning to suck resources out of the private sector, damaging the ability of this country to be prosperous in the outyears.

□ 1140

If I have to talk to anybody in this gallery today, and I have to tell them we need to reduce spending, I certainly want to be talking to them in language they understand. This is an increase in anybody's definition, not a cut.

Mr. DERRICK. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Chairman, as my colleagues know, I get awfully tired of cynics in this House, and I also get awfully tired of the things people know that ain't so.

I say to my colleagues, What you really have going here is a competition between biases. You got one set of folks who would like to see the budget always biased in favor of additional spending, you got another set of folks who would like to see it biased against spending, and in my view it should not be biased at all. That is the difference between the Stenholm and Spratt amendments. STENHOLM simply says, regardless of what happens in real life, the measure you start from when we take a look at a budget is what last year's dollar numbers were period. SPRATT says, because we might like to know what the impact is on Social Security recipients, because we might like to know what the impact is on our national defense and other key endeavors, he simply says to look at both ways, one from an unadjusted base, another from an adjusted base.

Now in light of the misstatements that have been made on the floor, Madam Chairman, I have here copies of 6 of the 13 Committee on Appropriations reports. We issue a report for every appropriation bill each year. My colleagues will not find in a one of them, not a one of them, numbers that are based on an inflated budget baseline. We start in all instances with the amount appropriated in the previous year. Then we list what is being appropriated in the coming year, and we compare it, either up or down, on the basis of a nonadjusted baseline.

So, do not give me this baloney that we spend more money because we start with the wrong baseline. We do not. We use the unadjusted base line.

All the gentleman from South Carolina [Mr. SPRATT] is suggesting is that, when we are looking at defense, it would be kind of nice to know if whether over 5 years or not the purchasing power of our programs have reduced by 30 percent or not because, if we get in a shooting war, it would be kind of nice if we had a whole submarine rather than two-thirds of a submarine. It would be kind of nice to know that we had the same effective combat power, even after inflation has eaten into it, that we had 10 years ago.

Now that is not used for budgeting purposes. I say, you do not build that money into the budget, but you have it available so people understand what the real-world effect is.

AARP has written us a letter in support of the Spratt amendment and in opposition to the Stenholm-Penny-Kasich amendment because they do not want to see the system biased in a way which will push the pressure to lower Social Security payments, and we should not want to bias it in that way. I say, If you pass the Spratt-Stenholm amendment, you are creating pressure to drive down Social Security payments. I do not think very many people want to do that.

When I bring the foreign aid bill to the floor——

Mr. SPRATT. Madam Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from South Carolina.

Mr. SPRATT. It is the Stenholm-Penny-Kasich amendment which I hope the gentleman is speaking against. He said the Spratt——

Mr. OBEY. Madam Chairman, I apologize. I meant Stenholm-Kasich.

Mr. CLINGER. Madam Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. McDADE] to engage in a colloquy.

Mr. McDADE. Madam Chairman, I thank the gentleman from Pennsylvania [Mr. CLINGER].

I would like to, if I may, get the attention of my able friend, the gentleman from Wisconsin [Mr. OBEY], the chairman of the Committee on Appropriations.

I wanted to just try to clarify one thing, because, for Members, it is quite a busy day here, as we all know.

As I understand what he said was that there are many standards by which budgeteering occurs, but fundamentally, when the Committee on Appropriations begins to do a bill and take testimony, the baseline that we use is last year's level of expenditures. Is that what the gentleman's point was?

Mr. OBEY. Madam Chairman, if the gentleman would yield, that is the baseline which we show in our reports, but we have available to us other devices and, the public should have available those same devices so that they understand what the impact is on program as well as understanding how it relates to specific amount of dollars that we appropriated last year.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. McDADE] has expired.

Mr. CLINGER. Madam Chairman, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. Madam Chairman, I thank the gentleman for having yielded an additional minute to me. I have been privileged to be a member of the Committee on Appropriations for 30 years. Let us focus, for example, on the defense budget. Let us assume that we have last year's level and for the first time in this year's budget we are going to buy an aircraft carrier if the Congress says yes. We fully fund the aircraft carrier in the current fiscal year budget; do we not?

Mr. OBEY. That is my understanding.

Mr. McDADE. That is my understanding as well, and we do it in relation to last year's level of expenditures, and we fully fund it so everybody in the Congress will know the out-year costs of that system, whether it be an aircraft carrier, or submarine, or whatever, and we have been doing that as a matter of course, as regular practice, in the Committee on Appropriations during my 30 years, but is that his understanding?

Mr. OBEY. That is exactly right.

Mr. McDADE. I thank the gentleman from Wisconsin.

Mr. OBEY. And we intend to continue to do that, but we want people to have available as an analytical tool both baselines. We do not spend from the inflation-adjusted baseline, but people ought to know what the real-life impact is.

Mr. CLINGER. Madam Chairman, I yield 4 minutes to the gentleman from New Hampshire [Mr. ZELIFF], a member of the Committee on Government Operations.

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. ZELIFF. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I appreciate the gentleman from New Hampshire [Mr. ZELIFF] yielding.

Let me say that I have in my hand the budget document, and the simple fact of the matter is, if we look at the 5-year spending bill, it actually increases in the budget document, and then the committee changed from the baseline, from the inflated growth level, shows cuts.

This is how we budget.

The simple fact of the matter is we take the baseline increases, exactly what we are trying to prevent in this bill, and we show anything below that level as a cut. So, in this country a cut is an increase. An increase is a cut in these budget documents.

Mr. ZELIFF. OK.

I rise in opposition to H.R. 4907 with all great due respect to my friend, the gentleman from South Carolina [Mr. SPRATT] and in support of the Penny-Kasich-Stenholm substitute, and I associate my remarks with the gentleman from Texas [Mr. STENHOLM]. The two-baseline system in this legislation will give us continued confusion, not reform. We need to have a clear bottom line to tell us whether real spending cuts have been made or whether we have simply slowed the growth in spending. The Penny-Kasich-Stenholm approach gives us this much needed businesslike reform.

The Penny-Kasich-Stenholm amendment provides for a true baseline with real numbers, not Mickey Mouse numbers that are so confusing no one knows what they mean.

As a small businessman by trade, let me illustrate this point. An employee goes to his boss and asks for a $1 per hour raise. The employer in turn offers a rise of 50 cents an hour. Under current budget rules, rules that would continue under this legislation, the baseline budget would show this this raise as a 50 cents an hour cut in spending for accounting purposes. Under the Penny-Kasich-Stenholm amendment, the raise would cost 50 cents an hour additional over the previous year's spending. My friends can be the judge. Which process makes the most sense in terms of fiscal accountability?

I am pleased that we are beginning to at least talk about reforming the flawed budget process, but we should not delude ourselves into thinking that we are doing anything more than tinkering at the margins.

Budget process reform is important, but let us not kid ourselves; we would not be here today if it were not for the leadership's determined effort to derail the A to Z spending cut effort.

And what has the leadership offered us in reform? Fundamental reform and real cuts in spending, or more tinkering at the margins?

A bipartisan group of 230 Members who cosponsored our bill and 204 Members who signed the discharge petition are supporting the A to Z plan to bring about real cuts in Federal spending and the elimination of wasteful Government programs.

□ 1150

This effort is desperately needed. We are in debt to the tune of $4.7 trillion, a level that is expected to rise to $6 trillion in the next 5 years. We are paying out $212 billion this year on the interest on the debt. By the year 2002 the interest on the debt will be $272 billion. A recent report by the bipartisan entitlement report commission indicates that by the year 2002 spending for entitlements and interest on the debt will consume all expected Federal revenue, leaving nothing for other programs.

So what has the leadership offered us to deal with the situation? Expedited rescissions authority that does very little, a budget-control bill that does nothing to control entitlement growth, and budget-disclosure legislation that establishes a confusing process of two separate budget guidelines.

Has the leadership followed through on a commitment to give us one day to consider entitlement cuts? No. Is there any serious effort at spending cuts so far? No; we are simply tinkering around the margins.

Madam Chairman, some of the process reforms sound real good, but A to Z remains the best way to curb runaway wasteful spending. If we want real reform, if we want to make a real difference, and if we want to cut wasteful Federal spending and protect future generations from being saddled with our huge debt, then I encourage all the Members to join 204 of our colleagues and sign the A to Z discharge petition No. 16 today. Let us stop playing games. Let us give the American people real reform. It is time for all of us to stop talking the talk and start walking the walk.

The CHAIRMAN. The Chair would like to announce that the gentleman from South Carolina [Mr. DERRICK] has 1 minute remaining, the gentleman from South Carolina [Mr. SPRATT] has 2 minutes remaining, the gentleman from Florida [Mr. GOSS] has 3 minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 2½ minutes remaining.

Mr. DERRICK. Madam Chairman, I reserve the right to close.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Madam Chairman, anyone concerned about responsible budgeting, deficit reduction, and intelligent budget process improvements can confidently support the Spratt baseline budget proposal, and they ought to oppose the Penny-Kasich-Stenholm substitute. That is because the Spratt measure is a balanced measure that would provide more information rather than less and would present that information in an easily understandable form.

We would be able to look at budget proposals both from the standpoint of current funding and from the standpoint of what it would take to maintain current policy. Both of these kinds of information are essential to responsible budgeting. By contrast, the Stenholm-Penny-Kasich proposal would narrow the amount of information used in drafting the budget because it would require Congress only to consider the previous year's nominal spending level. As the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Pennsylvania [Mr. MCDADE] have already made clear, we already use that point of comparison in presenting all of our appropriation bills. But in evaluating spending levels we do need information about what it would take to maintain current levels of coverage of benefits or program activity.

It is silly not to consider inflation or caseload increases. Everyone knows that the value of a dollar changes year to year.

We have heard a lot of analogies drawn in this debate to family budgeting. If you are drawing up your family budget and you are deciding what you need for food, you are going to want to know not just what you spent last year for food but you are also going to want to know what the inflation rate has been and how much it is going to take to feed your family at this year's prices. That is the way a family budget works, and that is the kind of information we need for the Federal budget as well.

There has been a lot of talk about budget numbers being confusing. That is actually rather patronizing, as though we were not able to understand this information or the American people could not handle it.

Talk about confusion: what we have in the Penny proposal is an artificial separation between entitlements and discretionary spending. The gentleman from Texas [Mr. STENHOLM] is properly concerned about the entitlement mentality in this country, but then why on earth would he leave entitlements out of this proposal? That invites far more confusion than does our present process.

Madam Chairman, the Spratt proposal would improve and expand the information available to us as we draw up the budget. The Penny-Kasich-Stenholm proposal would limit information and could distort the budget process. Support objective, informed budgeting. Support the Spratt substitute.

Mr. CLINGER. Madam Chairman, I reserve the balance of my time.

Mr. GOSS. Madam Chairman, I understand that I have 3 minutes remaining, and I yield all that time to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, I thank the gentleman for yielding this time to me.

Madam Chairman, an earlier speaker remarked that what we are really debating here is a question of spending bias, the bias in the debate. Some want to bias the debate in favor of spending, some want to bias the debate against additional spending. That does get to the heart of the issue.

The reason there is such resistance, unfortunately most of it on my side of the aisle, to the proposition that we ought to have a hard freeze as a baseline is because many Members of Congress prefer to have a spending bias in the way we develop our budgets.

The previous speaker just remarked that a family facing higher food costs has to anticipate those higher food costs and Congress ought to anticipate the higher costs that are attributable to all the programs we run as well. The difference is that if a family faces the same paycheck, they have to eat those higher food costs within the existing budget. Congress does not have to do that. We do not even admit that we have increased the budget unless the increase goes beyond the rate of inflation. Families do not have that luxury.

Our budget process does not make sense to most families in America because it is a nonsensical budget process. We start out with inflated baselines, and anything less than that is a cut, and that is absolute nonsense.

Several speakers have suggested that somehow this is going to put tremendous pressure on popular programs, and that the AARP opposes the Penny-Stenholm-Kasich substitute. The fact is that we treat entitlements in exactly the same manner that the Spratt proposal treats entitlements. There is no difference between the two. That is a real herring.

Some would say that a process change is not going to cure our spending problem here on Capitol Hill, but if process did not matter, then why are people who are happy with the status quo so resistant to this change in our budget process? We need to change the terms of debate in Washington, DC. We still face deficits as far as the eye can see in the $200 billion range per year. We need to change the spending bias.

The Penny-Stenholm-Kasich substitute establishes a hard-freeze baseline that will take away the spending bias. It will not deny the Budget Committee or the appropriators or others from using other comparisons in an inflation-adjusted budget, last year's budget, whatever, they want, but the official baseline against which all measures will be scored in the future would be a hard freeze. It will make our budget decisions more honest.

This debate does come down to that simple question of a bias. Do we want to continue a bias in favor of spending, or do we want to once and for all eliminate that bias? To vote for the Penny-Kasich-Stenholm substitute is to vote for honesty in budgeting.

Mr. CLINGER. Madam Chairman, may I inquire as to how much time remains?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 2½ minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 1 minute remaining.

Mr. CLINGER. Madam Chairman, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Madam Chairman, I thank the distinguished gentleman from Pennsylvania for yielding this 1 minute to me.

I simply wanted to make a closing remark from our point of view. We have heard from the appropriators and we have heard various views from both sides of the aisle on the budget process. I do not think anybody is trying to suggest that the appropriators are trying to deceive the Members of Congress in the process we go through in the appropriation of discretionary funding.

We do get lots of comparisons. There is no question about that. As Members of Congress, we need to get those, and we need to know what we are talking about. There is no beef on that at all, as far as I can see. The problem here is what the public wants to know and what claims are made. We are simply trying to suggest that there ought to be one clear, simple, understandable way of presenting it, that this is what we spent last year and this is what we are going to spend this year.

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Nobody is saying that we should ignore inflation or all of the other factors, the cost of doing business. Nobody is suggesting we should do that. What we are really saying is when we make claims, that they should be accurate and based on the fact that we spent this last year, we are going to spend this this year, and this is why. I do urge support of the Penny-Kasich-Stenholm amendment.

Mr. CLINGER. Madam Chairman, I yield 1½ minutes to the gentleman from California [Mr. COX], a member of the committee.

Mr. COX. Let me give just three examples of how baseline budgeting misleads everyone here in Congress and the American people. Republicans and Democrats this year offered amendments to reform the U.S. Marshal's Service. The amendments increased spending on the program by $9 million. You and I would call this a spending increase, but opponents of this commonsense effort at reform called it a $5 million spending cut. This is inside-the-beltway nonsense.

A second proposal would have allowed funding for the Bureau of Alcohol, Tobacco, and Firearms to grow by $15 million. The congressional budget process could not resist calling this a $2 million cut. More nonsense.

The State Department is a frequent target for reform. Republicans this year proposed restructuring the Department, but allowing its budget to increase by $25 million. Stop, said the big spenders. You are slashing the Department's spending by $77 million. Once again, this is the budget-baseline-beltway-nonsense factor at work.

We are on the right track here. We are on the way to commonsense reform, and I support the Stenholm-Penny-Kasich substitute.

Madam Chairman, Thomas Jefferson once noted, he who permits himself to tell a lie once, finds it much easier to do it a second and third time, until at length it becomes habitual. He tells lies without attending to it and the truth without the world believing him.

Jefferson was right. Baseline budgeting is a lie, one that eats away at our credibility. We should abandon this process forthwith.

Mr. DERRICK. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, it is clear people out in the countryside don't understand and appreciate the current policy baseline that we use in the Federal budget. What they understand is comparing proposed changes in funding for Federal programs to last year's level.

The Spratt bill will require budgets to include another baseline comparing spending not only to the current policy baseline, but also to the previous year's level. Both comparisons are relevant and instructive, and in fact necessary to a complete understanding of the budget. I believe the bill will improve the process both for policymakers and the American people.

Doing away with the current policy baseline and substituting the current funding baseline, as the Stenholm-Penny-Kasich amendment would do, will not result in full budget disclosure. It will merely substitute different information for what we use now. All the information is necessary to have full budget disclosure, and I commend the gentleman from South Carolina [Mr. SPRATT] for his hard work on this legislation.

I urge all Members to support the Spratt bill and reject the Penny-Kasich-Stenholm substitute.

Mr. FRANKS of Connecticut. Madam Chairman, I would have to say that very few of my constituents know that there are automatic spending increases every year in budget bills. They do not realize that a program spending cut passed by Congress—rare though this is—may not necessarily mean that less money will be spent on this program than the previous year. Yes, there are two definitions of a spending cut in Washington. I define a spending cut as actually reducing spending from the previous year. The majority party in Congress defines it as a legislative reduction from an automatic increase determined by the Congressional Budget Office and the Office of Management and Budget using assumptions of current law, inflation, and economic, and demographic changes.

Supposedly, the Budget Control Act will eliminate this deception. But while this bill has a powerful-sounding name, it does not really do anything to reform the budget process. The Budget Control Act will allow both definitions—my definition and the majority definition—to be used in budgeting. While this is an improvement over the current way spending cuts are portrayed, Congress can do better. I will vote for the Stenholm-Penny-Kasich substitute, which requires that all spending proposals be compared to the prior year's actual enacted levels. Under this substitute, the deceptive way spending cuts are portrayed would be completely eliminated. This can only benefit voters when they evaluate their representative's positions on cutting spending.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Budget Disclosure Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to require that budget documents provide the Congress with comprehensive data on budget trends.

SEC. 3. THE BASELINE.

(a) DEFINITION.—Section 250(c)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5)(A) The term 'current policy baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(B) The term 'current funding baseline' refers to the baseline as set forth in section 257 without any adjustment described in section 257(c)(1) for inflation other than the adjustment set forth in section 257(c)(2) for expiring housing contracts.".

(b) CONFORMING AMENDMENTS.—Sections 251, 252, 253, and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended by inserting "current policy" before "baseline" each place it appears.

SEC. 4. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current fiscal year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount of expenditure and appropriation for the same activity, if any, in the current fiscal year.".

(d) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) a comparison of estimated new budget authority and outlays for each function and subfunction for the current fiscal year with proposed new budget authority and outlays for the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.

"(31) a comparison for each function and subfunction of the current policy baseline level of new budget authority and outlays for the year for which the budget is submitted with the proposed new budget authority and outlays for the year for which the budget is submitted, including changes in percentage terms for each function and subfunction.".

SEC. 5. CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "As soon as practicable after the President's budget submission under section 1105(a) of title 31, United States Code, the Committee on the Budget of each House shall provide to its members the estimated level of outlays for the current year in each function and subfunction."; and

(2) striking "and" at the end of paragraph (9), by striking the period and inserting a semicolon at the end of paragraph (10), and by adding at the end the following new paragraphs:

"(11) a comparison (for each function) of estimated outlays and revenues for the current fiscal year with proposed spending and revenue levels for the budget year and each outyear, including the increase or decrease (in percentage terms) of spending; and

"(12) a comparison (for each function) of proposed outlays and revenues for the budget year with the current policy baseline projection for that year, including changes (in percentage terms).".

SEC. 6. CONGRESSIONAL BUDGET OFFICE REPORT TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of growth in the estimated total current policy baseline spending for mandatory programs for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 202(f)(3) of the Congressional Budget Act of 1974 is amended by striking "and" before "(B)", and by inserting before the period at the end the following: ", and (C) all direct spending programs".

(d) Section 308(a)(1)(C) of the Congressional Budget Act of 1974 is amended by inserting "and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted".

The CHAIRMAN. No other amendment shall be in order, except the amendments printed in House Report 103-689. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to amendment.

Debate time on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

If more than one of the amendments printed in the report is adopted, only the last one to be adopted shall be considered as finally adopted and reported to the House.

It is now in order to consider amendment No. 1 printed in House Report 103-689.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PENNY

Mr. PENNY. Madam Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. PENNY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baseline Reform Act of 1994".

SEC. 2. THE BASELINE.

(a) The second sentence of section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "for inflation as specified in paragraph (5); and

(2) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "to offset pay absorption and for pay annualization as specified in paragraph (4)".

(b) Section 1109(a) of title 31, United States Code, is amended by adding after the first sentence the following new sentence: "These estimates shall not include an adjustment for inflation for programs and activities subject to discretionary appropriations.".

SEC. 3. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount for the same activity (if any) in the current fiscal year.".

(d) Section 1105(a)(18) of title 31, United States Code, is amended by inserting "new budget authority and" before "budget outlays".

(e) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(30) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.".

SEC. 4. THE CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the concurrent resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the Congressional budget for the next fiscal year shall be from such estimated levels."; and

(2) striking paragraph (8) and redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (7) the following new paragraphs:

"(8) a comparison of levels for the current fiscal year with proposed spending and revenue levels for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction; and

"(9) information, data, and comparisons indicating the manner in which and the basis on which, the committee determined each of the matters set forth in the concurrent resolution;".

SEC. 5. CONGRESSIONAL BUDGET OFFICE REPORTS TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of spending growth in total mandatory spending for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 308(a)(1) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (C), by inserting ", and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted"; and

(2) by striking "and" at the end of subparagraph (C), by striking the period and inserting "; and" at the end of subparagraph (D), and by adding at the end the following new subparagraph:

"(E) comparing the levels in existing programs in such measure to the estimated levels for the current fiscal year."

(d) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"GAO REPORTS TO BUDGET COMMITTEES

(a) "SEC. 408. On or before January 15 of each year, the Comptroller General, after consultation with appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing all programs, projects, and activities that fall within the definition of direct spending under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. GAO reports to budget committees.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. PENNY] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes. Is the gentleman from South Carolina [Mr. SPRATT] opposed?

Mr. SPRATT. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from South Carolina [Mr. SPRATT] will control the 15 minutes in opposition.

The Chair recognizes the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, with our colleagues, CHARLIE STENHOLM and JOHN KASICH, I am today offering an amendment to H.R. 4907, the Full Budget Disclosure Act of 1994, that will provide a very simple, but powerful and fundamental change in the budget process.

Here's the problem we face: even though President Clinton's budget cut spending by approximately $250 billion over 5 years, Federal spending is slated to increase over that same time frame from $1.4 to $1.9 billion in 1999.

How can this be, since spending is being cut? The answer is the dirty-little secret of Federal budgeting: the budget is rigged to favor higher spending. Spending increases are built into the budget even before Congress considers spending cuts. As a result, the best Congress can ever do is reduce the growth of spending. Real spending cuts—where spending is reduced below actual spending levels is virtually unheard of and almost never done in Washington.

Current law requires budget proposals to be measured against a baseline which includes an automatic adjustment for inflation-plus all legislated changes scheduled to take effect rather than against actual spending levels. Against this baseline, any effort to simply slow down spending growth is shown as a cut, even if spending for the program would actually be higher than in the previous year.

The budget baseline's bias toward higher spending is very real. As Professor Allen Schick, one of the Nation's foremost experts on the budget process, wrote in his book "The Capacity To Budget,"

> The current services budget. . .complicates doing that which is difficult to do even under the most favorable circumstances—cutting into the base. This is a significant bias because the difference between "current expenditures" and "current services" often is the most effective margin of choice for congressional decisionmakers. That is, when they cut programs, they frequently do so by holding the dollars increase below the rate of inflation.

To change this bias toward increased spending, our amendment requires that proposed spending for discretionary programs be compared to actual current-year spending levels, rather than solely to inflated projections of those levels for the forthcoming fiscal years.

Our amendment accomplishes this through four specific provisions:

First, it amends the legal definition of the baseline so that it no longer assumes automatic growth in discretionary spending due to inflation.

Second, it requires both the President and Congress to compare their budgets to the amount actually spent the prior year, rather than solely against the inflated baseline.

Third, it stipulates that Congressional Budget Office [CBO] cost estimates of pending legislation must include a comparison to the change in spending from the prior year's level.

Finally, our amendment instructs CBO to enumerate all the programs funded on an automatic, open-ended basis rather than subject to annual congressional review (entitlement programs) and identify the reasons behind their projected growth.

The Spratt bill, H.R. 4907, simply adds a second official baseline that is called current funding while leaving the current-law baseline requiring inflated spending in place. This approach simply does nothing to control spending or give a more accurate picture of actual spending.

Earlier this year, CHARLIE STENHOLM and JOHN KASICH and myself introduced the Common Sense Budget Reform Act, H.R. 4434. The House has debated and passed one of the four reforms proposed by H.R. 4434, expedited and enhanced rescission authority. Two of the remaining three proposals contained in H.R. 4434 are before the House today: the measure we are currently debating and another on emergency appropriations requests. In passing the Penny-Kasich-Stenholm baseline reform amendment and defeating the Spratt amendment, we will continue on the road of real budget process reform. I urge your support for real baseline reform. I urge your vote for the Penny-Kasich-Stenholm amendment.

Mr. SABO. Madam Chairman, will the gentleman yield?

Mr. PENNY. I yield briefly to the gentleman from Minnesota.

Mr. SABO. Madam Chairman, would the gentleman tell me how his bill changes the baseline for entitlements, where all the growth fundamentally is?

Mr. PENNY. Madam Chairman, reclaiming my time, we change the measurement of the spending for the entitlement programs in the same manner as the Spratt substitute, which is to say the baseline, if it is spelled out in law, would be a higher spending level.

Mr. SABO. In fact it does not change the baseline for entitlements. In fact, the gentleman's problem is not with the budget; it is with existing law.

Mr. PENNY. I would simply respond to my good friend and colleague from Minnesota, if I were here trying to change the baseline on entitlement programs to make it a hard freeze, he would be opposing that proposition as well. So I think it is a disingenuous question.

Madam Chairman, I reserve the balance of my time.

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Mr. SPRATT. Madam Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Madam Chairman, I would like to point out that the amendment now offered denies the Congress the benefit of valuable and useful budget information. From my point of view, this would prohibit an inflation adjustment from the spending baseline.

While motivated by a desire to deny opportunities for increasing spending, the proposal would probably prohibit useful budget information, namely, the cost of last year's program if continued today, from being considered by the Congress.

Also there is a reality factor here. The concern about a built-in, automatic spending increase ignores the fact that tight discretionary caps, not the way budget data is presented, sets levels of spending.

Third, I would point out that the baseline preserves the role of Congress in setting spending priorities. The reason the budget incorporates baseline adjustments for inflation and other changes in the program is because the budget has to compare funding for different programs in different years. If Congress just passes last year's funding level and the programs actually cost more this year, then the cuts which the agency has to swallow are set by bureaucrats, not by those elected by the voters to represent them.

Finally, I support the bill offered by my distinguished colleague and subcommittee chairman in the Committee on Government Operations, who has put more information before the Congress. In creating two baselines, we will not cause anymore confusion. We will have better than this alternative because it recognizes that the current baseline presents useful information to Congress.

By requiring all information to be available, H.R. 4907 is not harmful to the budget and appropriations process.

I urge that the Stenholm-Penny-Kasich amendment be rejected.

Mr. PENNY. Madam Chairman, I yield 3 minutes and 30 seconds to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, let me try to put this in even more ways than we already have. We wonder why the American people are for term limits and think this place is so screwed up.

We sit in the Committee on the Budget and we try to figure out what our spending levels are. I want to tell my colleagues, I try to say, how much did we spend last year or is this an increase, is this a cut, what is this? You have to do it from all these baselines.

In last year's budget debate, we actually tried to compare spending using, I am not kidding, folks, the capped baseline, the uncapped baseline, the capped baseline with health care reform, the budget baseline, the revised Bush baseline, the capped baseline with the Bush defense, the House Budget Committee baseline, and the current services baseline.

Any time I tried to ask somebody, what were we doing last year, or is this an increase or a decrease, they would say, which baseline do you want us to use? I am saying ow we ought to forget about the Bush baseline, because we are like 2 years away from when he was President, but we will be using the Bush baseline next year under the current situation.

Now, when we have all these different baselines that we are trying to figure out what our spending level is from, can Members imagine a family in America trying to figure out how much they are going to spend last year based on 10 different ways of comparing it?

As a result of doing that, of course, we get to the picture that has 1,000 words. Only using those baselines, is it possible for the National Science Foundation to get a $221 million increase. The National Science Foundation got a $221 million increase, but in Washington, DC, and all across America, spread across the pages of our newspapers, it was called a $476 million cut. This level of increase, an increase like this that any family would be happy to have in their daily income, this increase, my colleagues, under the current situation is called a cut.

I would like to enter into the record the functions from general government for the concurrent budget resolution that flat out says that we will increase spending from the year before and if we do not increase spending from the year before, it is called a cut. So that everyone across this country, when they are sitting there watching and hearing this debate and they do not know who is right and who is wrong, it will be in the record. Call my office and ask for the record and see the misuses that indicate cuts when in essence, you will see in here, it really is an increase.

And back to this National Science Foundation, this is the Mona Lisa of the debate.

We are going to win this fight with the Penny-Kasich-Stenholm amendment. What is going to happen is there is going to be a procedural effort to say that if we pass current law, we will be okay. After we pass the Penny-Kasich-Stenholm amendment, there will be an amendment that if it gets 218 votes, it will become law. In this situation, we could actually get the whole House to vote for our proposal to bring sanity to the budget process, yet still lose because Members come and vote to retain the status quo.

Members should vote no on the Spratt amendment. We will be back to talk about that later. But Members clearly must come to the floor and put their voting card in the machine, because the American people want honesty in budgeting. They want us here to do what they do at home. Pass Penny-Kasich-Stenholm. Bring sanity to the budget process.

Mr. SPRATT. Madam Chairman, I yield 3 minutes to the chairman of the Committee on Appropriations, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Chairman, I regret to say that the sponsors of the amendment do not understand their own amendment.

They claim that they are making no change in mandatory baselines. That is true if we read section 2 of their proposal. But if Members then read sections 3 and section 4, they will see that they require the very changes in entitlement measurings that they deny that they require. That is why the AARP opposes their amendment. Because while they deny that they have an effect on entitlements, they in fact do require that we compare for Social Security, for instance, that we require spending levels this year with last year without regard to growth in population, without regard to inflation.

If their claim is correct, then the only effect of the proposal would be on the Committee on Appropriations. The only problem is, the Committee on Appropriations already does what they ask. These are the 13 reports which describe the spending baselines for last year versus this year in the 13 bills we report to the House each year.

I invite any Member to come up here right now and show me where we use an inflation-adjusted baseline.

The gentleman from Ohio [Mr. KASICH], I invite him to do that now. Show me where the Committee on Appropriations uses an adjusted inflation baseline. He cannot do it because we do not do it.

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. OBEY. The gentleman can use his own time.

I do not care what he does on the budget resolution. Show me on your time.

Mr. KASICH. Madam Chairman, I already did.

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I will buy you the biggest martini in town if you can show me where the Committee on Appropriations provides for an adjusted appropriation baseline. We do not do it.

So what it means, very simply, is this. If their bill does what they say it does, then it only has an effect on the Committee on Appropriations, and we already do what they say we ought to do. That means this bill is a nothing.

If their claim is incorrect, and they do in fact do what section 3 and 4 says, which is to require the kind of comparison that we put a squeeze on Social Security recipients' real income, then they do something very pernicious, and this amendment ought to be defeated.

However you interpret that depends on how you read this language, but the fact is that this language does not do what its sponsors say it does.

Mr. SPRATT. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Madam Chairman, I rise in strong opposition to the Stenholm substitute.

What Mr. STENHOLM is asking us to do is to change how we talk about the Federal budget in a way that makes no sense—even inside the beltway.

I want to make sure that we are all clear about the differences between the Stenholm substitute and the underlying bill. Mr. SPRATT's bill is a fair and balanced measure that provides for full range of information about changes in the budget from year to year—including information about the effect of inflation and changing economic conditions on programs.

In contrast, the Stenholm substitute would not give a fair and balanced picture of the Federal budget. Instead, it is designed to advance a political, agenda to confuse the American public about the Federal budget. Under the Stenholm substitute any increase in spending from the previous year would be made to appear as if the President or Congress had increased spending even when the increase was only the result of inflation or growth in the population.

For those who might question whether there is a political agenda here, I would only point out that the Stenholm substitute would apply different rules to subsidies provided through the tax code. For tax expenditures, Mr. STENHOLM would require that "projected economic factors" be taken into account. For social programs like Medicare, these factors would not be considered.

Why is this? Why is Medicare not affected by economic factors, but intangible drilling, exploration and development costs for oil and gas producers are? The question answers itself.

Mr. STENHOLM wants us to tell the American people that if spending on Federal programs increases just to take account of inflation or increases in the number of beneficiaries, the increase is, in effect, an expansion of the program—even through nothing has changed.

Let's take a simple example. Let's look at what this will mean for a Medicare beneficiary—let's call her Mrs. Smith—and her doctor in a small rural community.

Under current law, Medicare pays physicians on the basis of a fee schedule. It increases the fee schedules each year to reflect the increased overhead that physicians face due to higher labor costs, office rent, supplies, and malpractice premiums.

Right now, Medicare will pay 80 percent of the fee schedule amount for an office visit. Let us say in Mrs. Smith's area, the Medicare fee schedule is $50. So Medicare pays $40, and she pays $10.

Next year, Medicare increases its fee schedule in the area to, say, $55. Medicare still covers 80 percent, so it will pay $44, and she will pay $11.

Now, under Mr. STEMHOLM's amendment, the budget would only show that Medicare spending had increased by $4. It wouldn't show that Medicare spending had to increase by $4 just to keep Mrs. Smith even.

We didn't entitle Mrs. Smith to any new services. We didn't make more people eligible for the program. And we keep the limits on physician spending—limits which are enforced through updates to the fee schedule—in place.

In fact, all we did was to keep or promise to Mrs. Smith to pay 80 percent of her doctor bills. Yet under Mr. Stenholm's approach, keeping our promise is displayed as a program expansion.

Now if we asked Mrs. Smith whether we had expanded Medicare, she would look at us as if we had lost our minds. Her out-of-pocket costs have gone up $1—and would have gone up $5 if Medicare had not paid its share.

Under the Stenholm substitute, the only way we could say that the Medicare program did to expand would be no freeze the fee schedule at $50. Meanwhile, back in the real world, Mrs. Smith's doctor has this problem. His labor costs, office rent, and supplies are still going up, so he'll have to raise his fees if he wants to keep his practice going.

Let's say he raises his fee to $55. Mrs. Smith will have to pay the full $5 increase, as well as the $10 coinsurance.

What do you think Mrs. Smith would say if we were to ask her whether Medicare had just been cut? She'd look at us as if we had lost our minds. Of course it has been cut, she would say; it is only common sense.

I think most Americans know a program cut when they see one. That's what the Stenholm substitute is, and no amount of semantic juggling can disguise it.

I urge a vote for common sense and against the substitute.

Madam Chairman, I have a letter here from the American Association of Retired Persons, and they are against the Stenholm-Penny amendment. They say it would create a budget make-believe scenario in which people did not age. I also have a letter from the White House in opposition.

Madam Chairman, I include these letters for the RECORD:

THE WHITE HOUSE,
Washington, DC, August 12, 1994.

Hon. THOMAS S. FOLEY,
House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On behalf of the President and his economic team, we are writing again to urge members of the House of Representatives to oppose the Stenholm-Penny-Kasich substitute and to express our preference for the Spratt Full Budget Disclosure proposal. We want to clarify that this substitute would prohibit the use of economically-important information such as inflation in determining baselines for the discretionary budget. This would be a set-back for rational and reasonable budget-policy making.

A far more balanced and fair approach is the one included in the Spratt Baseline Budget proposal, which would allow for comparisons to both current funding levels and what it would take to maintain current policy.

The Stenholm-Penny-Kasich alternative would eliminate real comparisons of how year-to-year spending would actually impact on the services provided to real people's lives. No credible form of budgeting in today's economy completely disallows taking into account changes in inflation. Consider a five-year period during which inflation or the cost of living increases by 3% each year. The compounded total inflation is 16%. If a program, like Head Start, WIC or veterans' hospitals were to be cut 10% in real terms, the Stenholm-Penny-Kasich substitute would require that this cut to millions of Americans be presented only as a spending increase. Such a budget requirement would make the budget process less forthright and less informative as to how year-to-year changes were affecting real people's lives.

The Spratt proposal, on the other hand, would provide a fair, balanced and full-information alternative. It would allow two methods of budget reporting—both the present system of comparing budget proposals to the "current services baseline" and comparisons of changes in actual dollar amounts from year to year.

We urge you to oppose the Stenholm-Penny-Kasich substitute and to support the Spratt Baseline Budget proposal.

Sincerely,

ALICE M. RIVLIN,
Acting Director, Office of Management and Budget.

ROBERT E. RUBIN,
Assistant to the President for Economic Policy.

VOTE FOR H.R. 4907

VOTE AGAINST STENHOLM/PENNY/KASICH SUBSTITUTE

H.R. 4907 requires two baselines in the budget format:

(1) A "current funding baseline," representing actual funding for a function or program in the current year—what CBO calls a "freeze."

(2) A "current policy baseline," representing what is commonly called the "current services" level of funding.

The "current funding baseline" shows how much spending will increase or decrease.

The "current policy baseline" shows next year's cost of keeping a program running at the same level as this year without any change in policy.

Both baselines are useful, and H.R. 4907 provides for both.

Stenholm/Penny/Kasich provides for only one baseline and bans use of the "current policy" or "current services baseline."

AARP supports Spratt (H.R. 4907) and says the substitute will "lead to enormous pressure to cut programs such as Social Security and Medicare."

OMB supports Spratt (H.R. 4907) and calls Stenholm/Penny/Kasich "a set-back for rational budget policy-making."

AARP,
August 12, 1994.

Hon. JOHN M. SPRATT, Jr.,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SPRATT: The American Association of Retired Persons (AARP) supports your legislation H.R. 4907, the Full Budget Disclosure Act. The legislation would allow year to year changes in the budget baseline for discretionary and mandatory spending levels to be described in two ways: a current funding baseline and a current policy baseline. This dual track approach allows for a reasonable and informative presentation of budget data that can promote meaningful debate about how to allocate budget resources.

The Association opposes a substitute that will be offered by Representatives Penny, Kasich and Stenholm. Current budgeting procedure for entitlements recognizes that spending levels need to be adjusted for increases in the beneficiary population and changes in inflation and in the economy. The substitute would require budgets to be presented without these adjustments. This is patently unreasonable. In effect, it would create a budget make believe scenario in which people don't age.

Portraying year to year changes in Social Security and Medicare without adjustments for such basic factors is misleading and is certain to intensify efforts to cut benefits for reasons that are unrelated to the needs of these programs. For example, under the substitute, cost of living adjustments (COLAs) would be viewed as a spending increase despite the fact they are the only means to help beneficiaries keep up with rising costs for goods an services. This flies in the face of Congress' original intent providing for annual COLAs.

AARP believes that Congressional debate about the budget must be based on an accurate portrayal of our spending needs and commitments. Your legislation helps achieve this goal.

Sincerely,

JOHN ROTHER,
Director,
Legislation and Public Policy.

Mr. PENNY. Madam Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, this is an important debate, and I am glad we are having it on the floor. I rise in support of the Penny-Kasich-Stenholm amendment and in opposition to the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

The argument here seems to be that good government, consistent government, requires reporting these different kinds of baselines. I served in the Ohio State Senate, as did the gentleman from Ohio [Mr. KASICH], and I served on the Finance Committee. We had a large budget, nowhere near what the budget of the Federal Government is, but we had a large budget.

Every year we sat down with how much we spent last year and what the recommendations of the Governor were for spending for the next year, and we debated the alternatives offered by the majority and the minority party about how much programs needed to be increased or what other programs could survive at the current levels, or even could take cuts. It did not seem to us that we misunderstood the concept that some programs' expenses grew and other programs' expenses did not grow. We understood it, we debated it, we explained it, and we made decisions.

The second serious argument that is made on the floor here today is with regard to entitlements. Entitlement programs, particularly those that impact senior citizens, do expand in cost every year. They expand in cost for two reasons. One is that the number of seniors who are eligible for those programs, particularly Social Security and Medicare, grow; and the second is that we have adopted some laws, this body has adopted laws, which increase payments automatically. They are commonly called COLA's.

It seems to me again, Madam Chairman, that these are not concepts that we cannot explain to the public. Indeed, we would do much better if we did explain to them that the reason why we are spending more money on Medicare next year, and we are spending more money next year on Medicare, and we will the year after that, and we will the year after that, is because there are more seniors, and because their costs have gone up. It is an honest way of explaining it. They might just support the increase.

Mr. SPRATT. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished chairman of the Committee on the Budget.

Mr. SABO. Madam Chairman, I rise in opposition to the amendment. There is lots of rhetoric today, and a lot of it I think goes by what actually happens.

The reality is, we need different measurements as we look at this year's budget, as we look at budgets over a period of time. The Spratt bill, his substitute basically says we look at a variety of ways of measuring the budget. That is what we should do.

My friends who offer this amendment say, if I understand their amendment correctly, that we consider inflation, we consider changes in beneficiaries, for all the entitlement programs, but if we look at any historic pattern of what happens with discretionary spending, we ignore the impact of inflation. That makes no sense to me.

I have listened and read the rhetoric from the advocates of this amendment. They fundamentally disagree with existing law, which provides for inflation adjustment for a whole series of programs. They object to having, automatically, additional participants come into the program. They really would like that to be wiped off the books. That is not a budgetary problem, that is a problem of law.

Madam Chairman, if they want to fundamentally change that, they should introduce a bill to repeal indexing, repeal automatic growth in beneficiaries for programs. Then that would reflect in what we do in budgets. That is really what they want to do.

I say to the gentleman, then do it, put a bill in. Have hearings on it. I would not agree with it, but that would be the honest way to deal with it. What they are talking about is not a problem of the budget, it is a problem of law that they do not agree with. The budget reflects current law, which it should do.

Madam Chairman, if anything, their proposal skews the whole budget process in understanding it more toward entitlements and away from the options of discretionary spending, where the Congress makes judgments each year.

As I said earlier, Madam Chairman, to measure the budget between this year and last year is accurate. To measure it in other fashions is also accurate. To measure it in other fashions is also accurate, and needs to be part of what we look at when we understand the Federal budget.

Mr. PENNY. Madam Chairman, I yield 2½ minutes to my colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I want to commend and acknowledge to the Committee on Appropriations that the reports that they put out do accurately reflect last year's spending and this year's spending, and the baseline argument is irrelevant to the appropriations process, as it, in fact, pertains to appropriation bills. I am curious as to why they are fussing so much about this, however, from that standpoint. That I do not understand.

Madam Chairman, it is also interesting, when we start looking at the mandatory, for the most part, both of our bills are exactly alike in what we call for regarding mandatory proposals. The only difference is they require that both baselines be presented to the public.

We provide that only one baseline be presented to the public. That is the only reason why we are here occupying the House's time today, is because we believe the American public needs to understand the one baseline.

The Penny amendment does not prevent anyone, though, from putting pen to paper and figuring out how much a program need to be increased in order to keep up with inflation. As the gentleman from South Carolina, JOHN SPRATT, said yesterday, the Committee on the Budget will continue to provide various options for spending levels on different programs.

That is fine. That provides very good, necessary information for the policymakers to make those decisions. However, the heart of the argument today is very simple. To the American people, we need to present one baseline, comparing to last year's spending. If it is in mandatory spending, we do it exactly the same way the Spratt amendment is. We say "Let us show the American people why the increases are, in fact, there, whether they are by law or whether they are by any other estimation, or whether they are by any other action of this Congress."

What I am really opposed to is in our budget, in which, in Function 800, for example, 1993 spending was $12.3 billion, 1998 spending under a freeze is $13.9 billion.

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To me that is an increase of 1.6. But according to what we put out to the American people, it is a cut of 0.6. That is the relevancy of this whole argument today. That is the only thing that is relevant. That is why I say support the Penny-Kasich-Stenholm amendment, oppose the Spratt amendment, and let us present to the American people one honest presentation of the budget.

Madam Chairman, I rise in strong support of the Penny-Kasich-Stenholm amendment which would bring greater honesty to the budget process by eliminating the current services baseline and replacing it with a baseline that would be based on the previous year's spending levels.

The current budget process is enormously confusing and strongly biased in favor of deficit spending. Baseline budgeting distorts the budget process by making it appear that programs are incurring a spending cut when, in fact, they simply are receiving a smaller increase than expected.

The base bill before us today improves the current process by ensuring that Members will be able to compare proposed spending levels with the previous year's spending levels. I am concerned, however, that creating two official baselines will create additional confusion in the budget process. More importantly, the base bill will continue the current bias toward higher spending created by the current services budget.

Our amendment would eliminate the bias toward higher spending and put some west Texas tractor seat common sense in the budget process by requiring that budget proposals compare their budgets to the amount actually spent the prior year ranter than against estimates of future spending. We should recognize increases in spending for what they are and not talk about cutting spending when we really are increasing spending.

The folks at the Stamford Dairy Queen understand that if you received $100 last year and receive $99 this year, that is a spending cut. If you receive $101 this year, that is an increase, even if you expected to receive $102 this year. The small business men and women of this country understand that if you're operating in the red, you cannot afford to give cost-of-living increases to everyone.

The argument that our amendment will narrow the amount of information available to Members when making budget decisions is wrong. Our amendment does not prevent anyone from taking a calculator and figuring out how much a program needed to be increased in order to keep up with inflation or other factors. As we all know, there are countless benchmarks that are used to compare proposed spending levels. For example, Members can easily find out how much it would cost to fully fund Head Start, meet the national security objective or any other number of projected spending levels that are not officially part of the baseline. The Budget Committee will continue to provide Members with various options for spending levels on different programs, including the amount that a program needed to increase to keep pace with inflation. To argue that eliminating the official status of current services budgeting will somehow prevent anyone from providing this information is extremely misleading. What our amendment would do is take away the official status given to these inflated estimates that is used to create a presumption that programs should be increased at the rate of inflation.

I completely concur that there are programs that need and deserve increases in spending form last year's level for any number of good and valid reasons. Our amendment does not prevent us from increasing spending on programs. What it does is force us to debate these increases for what they are and require that supporters of programs justify why they should be increased instead of relying on current services budgeting to automatically justify an increase. We cannot afford to assume that spending on every program will increase by 3 or 4 percent a year.

There have been some suggestions that if this substitute passes, we will have to explain to Social Security recipients or military retirees why they will not be harmed if Congress provides identical funding levels from 1 year to the next. Anyone who has read our amendment knows that this argument is a red herring. Our amendment allows the baseline to reflect increases in spending that are required by law such as COLA's for military and civilian retirees and Social Security as well as other entitlement programs. Our amendment will bring greater accountability to these programs, however, by requiring the Congressional Budget Office to report on the specific reasons for growth in these blank check items. By bringing greater attention to all of the sources of growth in entitlement spending, we hope to further the educational process about these programs.

By changing the way we talk about budgetary decisions, our amendment will improve the decisionmaking process and the outcome of these decisions. Vote for the Penny-Kasich-Stenholm amendment to bring common sense into the budget process.

Mr. SPRATT. Madam Chairman, I yield myself 3½ minutes.

Madam Chairman, the opposition to our base bill, supporters of this substitute, come down to making the argument that what we are talking about is public perception, we want the public to be able to understand the budget better, and I fully appreciate that argument. But I think we have obscured in our zeal to make this argument the fact that the baselines now provided to the public and to the Congress and to anyone else who cares to look amply at lay out existing spending. We had Congressional Research Service go through the different budget documents and tell us how baseline spending was presented. Here, for example, is a page from the President's budget:

Current Services Estimates, the first column in it is 1993 Actual. We have got an actual spending line.

Here is a CBO projection of outlays by category in the budget outlook published twice a year. The first column, in Outlays by Category is Actual 1993 Spending.

Here is a page taken from the report accompanying the budget resolution issued by the Committee on the Budget, Committee Recommendation, Function 570, Medicare. The first two columns: Budget Authority in the current year for discretionary spending and mandatory spending; and Outlays, actual spending. The actual baseline is presented there.

Here is a page from an appropriation bill. The same thing. Here is a comparative statement of new budget authority. All of these provide it.

The Budget Act, Section 1105, subsection 7 provides that the President must submit appropriation expenditures and receipts to the Government in the prior fiscal year as a beginning point of the budget so we can compare it.

All we are doing is taking that requirement and making it explicit as we extend it to the Committee on the Budget and to the CBO.

It is important that the public understand it but let us not lose sight of the fact that we have a stake in the budget, too, here in the Congress, a big stake. It is important that we understand the budget. It is important that we have it laid out and formatted and arrayed and displayed so that we can make use of it and use it as a working document because we have to make rational decisions based upon it.

In that connection, we have created something called the current services baseline and we did not create it to obfuscate, to obscure, we created it because it is useful, it is useful to know what it is going to take in order to keep existing programs going.

This current services budget is designed to show what receipts, what outlays, what budget authority will have to be if no changes are made to existing law. It does not say we cannot make the changes but it tells us, it tells the public, this is what we are going to have to do if we are not going to change permanent underlying entitlement and mandatory spending law. It warns us of future problems, it provides a starting point. All of these things are useful to have and that is why they exist. Not because we want to obscure or obfuscate.

What we have had on the other side in the support of this substitute is a strawman. The opponents of this base bill have created a strawman, a construct to the budget that does not correspond to reality. As the chairman of the Committee on the Budget in talking about his resolutions has pointed out, as the chairman of the Committee on Appropriations has pointed out, actual spending baselines are there, we are going to keep them, enshrine them and require they be presented. But we are also going to keep something we have found useful, something that is going to exist regardless of the outcome of this vote, the current services baseline. We need both and that is why we need to vote down this substitute and vote for the base bill.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I rise in support of the Penny-Stenholm-Kasich substitute.

Madam Chairman, we live in an age when it is difficult to know what is real and what is illusion. We are entertained by movies that distort reality through the skill of film splicers and the mixing of real people with cartoons.

In this body, however, we should make every effort to deal with facts and figures that are real. First of all, our deliberations are in the public view and we have a responsibility to simplify rather than confuse the public.

When Congress wisely decided to freeze discretionary spending at 1993 levels for 5 years, we placed ourselves in the same position as a working family that does not get a raise in their paycheck for 5 years. If you do not receive any more money this year than you did last year, you are certainly deceiving yourself if you drift off into the world of illusion. It might be nice to think about inflation and certainly you must consider the fact that a new baby may have been born—but if the dollars available this year are the same as they were last year—that is reality. It is this same reality that Congress must deal with.

Madam Chairman, I urge the adoption of this substitute.

Mr. SPRATT. Madam Chairman, I yield the balance of my time to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Madam Chairman, the committee ought to reject the Penny-Kasich-Stenholm amendment for one principal reason: It simply will not result in full budget disclosure. In fact, it will remove valuable, important information from the budget debate and will result in the American people having less information about the effect of Federal spending proposals, not more.

Madam Chairman, the current policy baseline that the President, the Congressional Budget Office, the congressional budget committees, and other use serves an important and valuable purposes. Every American knows inflation over time erodes the purchasing power of tax dollars just a it erodes the purchasing power of individuals' incomes. When developing budget proposals for future years, the president and Congress must consider inflation's effect on the dollar and how many goods and services the dollar will buy.

If a program's funding is held below the level of inflation next year, then effectively the program has been cut since inflated dollars will buy slightly less next year than they buy now. I say slightly because fortunately inflation is extremely low right now. It has been argued that use of the current policy baseline allows policymaker to call increases in actual dollars cuts. That is true if they are making comparisons to the current policy baseline. But it is also true that the current policy baseline allows policmakers to characterize cuts as increases where spending, though higher in actual dollars, does not keep pace with inflation.

This is why it is important to adopt the base bill, so we can have a current funding baseline against which to compare budget proposals. If a program gets $100 million this year and inflation is 3 percent, then it would take $103 million next year to deliver the same level of services. If the President proposed $102 million for the program, then with the additional baseline proposed in this bill, nobody would be deceived. People could compare the proposal to the two baselines and see readily that the proposal is an increase of $2 million over this year, but $1 million short of the amount required to keep pace with inflation.

If the amendment eliminated the current policy baseline altogether, then policymaker could get away with calling the $102 million figure an increase, and the beneficiaries of the program might not really know it isn't actually enough to stay even.

That would be just like passing a law to skip next year's Social Security cost-of-living adjustment and telling the beneficiaries "We didn't cut your benefits. You'll get the same $614 per month net year that you get this year." The statement would be technically correct, but it would not tell the whole story.

Madam Chairman, the Spratt bill will enable policymakers and the American people to see the whole story. The pending amendment would facilitate the same type of double-talk that the proponents say now occurs, only in a different way. The result would still be less than full budget disclosure.

Madam Chairman. I urge the committee to reject the amendment and support the Spratt bill.

Madam Chairman, I include for the RECORD a letter urging support of the Spratt proposal, as follows:

THE WHITE HOUSE,
Washington, August 12, 1994.

Hon. THOMAS S. FOLEY,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the President and his economic team, we are writing again to urge members of the House of Representatives to oppose the Stenholm-Penny-Kasich substitute and to express our preference for the Spratt Full Budget Disclosure proposal. We want to clarify that this substitute would prohibit the use of economically-important information such as inflation in determining baselines for the discretionary budget. This would be a set-back for rational and reasonable budget-policy making.

A far more balanced and fair approach is the one included in the Spratt Baseline Budget proposal, which would allow for comparisons to both current funding levels and what it would take to maintain current policy.

The Stenholm-Penny-Kasich alternative would eliminate real comparisons of how year-to-year spending would actually impact on the services provided to real people's lives. No credible form of budgeting in today's economy completely disallows taking into account changes in inflation. Consider a five-year period during which inflation or the cost of living increases by 3% each year. The compounded total inflation is 16%. If a program, like Head Start, WIC or veterans' hospitals were to be cut 10% in real terms, the Stenholm-Penny-Kasich substitute would require that this cut to millions of Americans be presented only as a spending increase. Such a budget requirement would make the budget process less forthright and less informative as to how year-to-year changes were affecting real people's lives.

The Spratt proposal, on the other hand, would provide a fair, balanced and full-information alternative. It would allow two methods of budget reporting—both the present system of comparing budget proposals to the "current services baseline" and comparisons of changes in actual dollar amounts from year to year.

We urge you to oppose the Stenholm-Penny-Kasich substitute and to support the Spratt Baseline Budget proposal.

Sincerely,

ALICE M. RIVLIN,
Acting Director,
Office of Management and Budget.
ROBERT E. RUBIN,
Assistant to the President,
for Economic Policy.

Mr. PENNY. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Madam Chairman, I rise in strong support of the Kasich-Penny-Stenholm amendment which sounds to me like just eminent common sense.

As we all know, our current budget process includes many pro-spending biases. Most notable, the current services budget utilizes a baseline which assumes that we will budget as if all programs are left to grow on automatic pilot. According to the Congressional Budget Office, over the next 5 years, total Federal spending will increase by $360 billion from $1.47 to $1.83 trillion. During the same period, the Federal debt will increase from $4.6 to $6.3 trillion. We are not making progress on the national debt, and we should be honest with our constituents about our spending habits.

Under the current services baseline, any reduction is labeled a spending cut regardless of the fact that the actual spending level is above the prior year's level. For example, many of us were attacked for allegedly voting for $31 billion in Medicare cuts contained in the recent Penny-Kasich package. During the 5 years affected by Penny-Kasich, the Congressional Budget Office estimated that Medicare spending will rise from $143 to $239 billion, a 67-percent increase. In other words, even if the Penny-Kasich plan was adopted, Medicare spending would still rise from $143 billion to approximately $230 billion during the same period, a 61-percent increase. Even the largest deficit reduction package considered by Congress, the Solomon-Fawell-Upton budget, which would have reduced the deficit by $698 billion over 5 years and resulted in a Federal budget surplus in 1999, would have permitted total Government spending to increase, albeit less than if we left the budget on autopilot.

We simply cannot leave our budget on autopilot. We must face the fact that Government spending is out of control, and carefully consider any spending increases. Rather than assume that programs are entitled to automatic spending increases, we need to require departments and agencies to make their case to Congress for spending increases. The Stenholm-Penny-Kasich amendment recognizes this and would change our budgetary process to compare proposed spending levels with the current-year funding levels. While this and other budgetary reforms are not a substitute to real spending cuts, the change is important. By using rhetorical devices biased toward spending increases, the current budget process promotes higher spending levels. Eliminating these biases will promote greater fiscal responsibility.

I urge all Members to support the Stenholm-Penny-Kasich amendment, and oppose the Spratt proposal.

Mr. PENNY. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, fundamentally this is a debate about how Washington works. Our process here naturally unfortunately confuses the American people and does little to edify and inform them. We have appropriations in the Congress who constantly blame entitlements for causing the deficit. Yet when we bring entitlement cuts to the floor, they typically vote against them. We have legislators who clamor for a balanced budget amendment and yet they do not vote for the taxes or the spending cuts required to reach a balanced budget. We have Democrats who voted for Clinton's budget, declaring that it essentially beats or licks the deficit when under the Clinton budget we have deficits remaining in a $200 billion range as far as the eye can see and entitlements remain uncontrolled. We have Republicans who blast Clinton's budget as unacceptable and one that does not cut enough. Yet they were unable to come together on a plan of their own that did as much in terms of deficit reduction.

With all of the nonsense that surrounds the debate over the budget, we in this Congress finally owe the American people at least one bit of common sense: We need to give them a budget in which a freeze is actually a freeze, in which cuts are actually cuts. The only way to do that is to vote for the Penny-Kasich-Stenholm amendment. I urge a "yes" vote.

Mr. PORTMAN. Madam Chairman, I rise today to express my strong support for the Penny-Kasich-Stenholm substitute amendment to H.R. 4907, the Full Budget Disclosure Act. It is time that we bring some integrity, honesty, and accountability to the budgeting process.

It is time to end the kind of gimmickry that could only exist in Congress: where an increase in spending can be touted as a spending cut. This amendment would simplify the current budget process by requiring that all budgetary proposals be compared with actual spending levels of the past year instead of baseline estimates. This would bring some rationality to the process. It would bring our budget process in line with those of our constituents. A spending increase would actually be an increase from last year's funding levels, while a spending cut would represent a true decrease. The Penny-Kasich-Stenholm amendment provides for genuine reform to the current confusing and dishonest baseline budgeting process.

Under the current system, Members of Congress can argue that they are supporting spending cuts which are actually increases over last year's levels. They do so because the funding levels are below a so-called baseline, which takes into consideration inflation and economic and demographic factors. Unamended, H.R. 4907 does little to address this problem, because it does not change the statutory definition of baselines, thereby preserving the inflated baseline.

On the other hand, the Penny-Kasich-Stenholm amendment eliminates all of the budget gimmicks that are currently used to shield Members from having to make real spending cuts. I urge my colleagues to vote for real reforms to the baseline budgeting process—support the Penny-Kasich-Stenholm amendment.

Mr. SMITH of Michigan. Madam Chairman, I rise today in strong support of the Penny-Kasich-Stenholm amendment to bring truth in budgeting to the Federal budget process. The Penny-Kasich-Stenholm amendment will require the Federal Government to use last year's funding level in planning for the next year's budget.

It is the right thing to do. For years, Congress has allowed the baseline to automatically include inflation without discussion. Now, under the new baseline of last year's spending level, we will be allowed to compare spending from year to year honestly—without confusion.

For Americans everywhere, that plan their budget based on the amount they are paid—not on what they assume they should spend after an adjustment for inflation, this bill is honest and understandable.

Madam Chairman, the passage of the Penny-Kasich-Stenholm amendment is a giant step forward to have honesty in budgeting. It is the right thing to do.

Mr. FRANKS of New Jersey. Madam Chairman, only in Washington, DC, can people describe an increase in spending as a spending cut. They can do this because of something called baseline budgeting, where estimates of inflation costs, new recipients and other economic projections become built in to future government spending. Only funding that goes beyond such estimates has to be called a spending increase.

If Congress does limit a real funding increase to less than these estimates, any of us can then talk as if we actually cut a program's spending. This practice—where a spending increase is called a cut—corrupts all talk about budgets here in Washington.

Madam Chairman, if we in Congress are truly serious about controlling spending, we must begin by eliminating such accounting tricks as baseline budgeting. We need to use real spending numbers as our basic budget reference, like what was spent last year on any program or department.

Madam Chairman, I urge my colleagues to support the Stenholm-Penny-Kasich amendment. Congress should be willing to talk about money like America's families do, where more money being spent could never be called a cut. Let's begin cleaning up the way we talk about spending here in Congress, let's eliminate baseline budgeting today.

Mr. GALLO. Madam Chairman, I rise today in support of the Penny-Stenholm-Kasich substitute to the legislation under consideration. I believe that this substitute will lend a much-needed measure of clarity to the Federal budget process.

As a former member of the Budget Committee and a current member of the Appropriation Committees, I understand and appreciate the effort the gentleman from South Carolina is making with his bill. I believe, however, that his effort can be improved by adoption of the substitute.

Adoption of this substitute will not forbid us to consider what spending levels might be needed from one year to the next in order to maintain a certain program at current services. It will, however, force us to state clearly exactly how our spending in 1 year compares with that in the previous year in ways that everyone can understand.

By using a measure that every American family uses to run its household—comparing this year's spending to last year's—the American people will finally be able to see whether Congress is truly cutting spending or not.

Adoption of the substitute will, once and for all, put an end to the curious phenomena in Washington—where spending more money this year than last year can actually be considered a spending cut.

□ 1240

The CHAIRMAN. The question is on the amendment is the nature of a substitute offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 171, not voting 21, as follows:

[Roll No. 395]

AYES—247

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Crane
Crapo
Cunningham
Darden
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kasich
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Long
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Murphy
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Upton
Valentine
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—171

Abercrombie
Ackerman
Andrews (ME)
Barlow
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
de Lugo (VI)
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Klein
Klink
Kopetski
LaFalce
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Price (NC)
Rahall
Rangel
Reed
Richardson
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—21

Applegate
Barton
Bentley
Brewster
Edwards (CA)
Faleomavaega (AS)
Fields (LA)
Gejdenson
Lantos
Lewis (FL)
Lloyd
McCandless
Michel
Reynolds
Slattery
Sundquist
Underwood (GU)
Vento
Walsh
Washington
Williams

□ 1300

The Clerk announced the following pair:

On this vote:

Mr. Lewis of Florida for, with Mr. Vento against.

Messrs. BEVILL, MOAKLEY, YATES, and GENE GREEN of Texas changed their vote from "aye" to "no."

Mr. POMEROY and Mr. MENENDEZ changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order for the committee to consider amendment No. 2, printed in the House Report 103-689.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SPRATT

Mr. SPRATT. Madam Chairman, I offer the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SPRATT: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Budget Disclosure Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to require that budget documents provide the Congress with comprehensive data on budget trends.

SEC. 3. THE BASELINE.

(a) DEFINITION.—Section 250(c)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(5)(A) The term 'current policy baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(B) The term 'current funding baseline' refers to the baseline as set forth in section 257 without any adjustment described in section 257(c)(1) for inflation other than the adjustment set forth in section 257(c)(2) for expiring housing contracts.".

(b) CONFORMING AMENDMENTS.—Sections 251, 252, 253, and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended by inserting "current policy" before "baseline" each place it appears.

SEC. 4. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current fiscal year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year.".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount of expenditure and appropriation for the same activity, if any, in the current fiscal year."

(d) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) a comparison of estimated new budget authority and outlays for each function and subfunction for the current fiscal year with proposed new budget authority and outlays for the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.

"(31) a comparison for each function and subfunction of the current policy baseline level of new budget authority and outlays for the year for which the budget is submitted with the proposed new budget authority and outlays for the year for which the budget is submitted, including changes in percentage terms for each function and subfunction.".

SEC. 5. CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "As soon as practicable after the

President's budget submission under section 1105(a) of title 31, United States Code, the Committee on the Budget of each House shall provide to its members the estimated level of outlays for the current year in each function and subfunction."; and

(2) striking "and" at the end of paragraph (9), by striking the period and inserting a semicolon at the end of paragraph (10), and by adding at the end the following new paragraphs:

"(11) a comparison (for each function) of estimated outlays and revenues for the current fiscal year with proposed spending and revenue levels for the budget year and each outyear, including the increase or decrease (in percentage terms) of spending; and

"(12) a comparison (for each function) of proposed outlays and revenues for the budget year with the current policy baseline projection for that year, including changes (in percentage terms).".

SEC. 6. CONGRESSIONAL BUDGET OFFICE REPORT TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of growth in the estimated total current policy baseline spending for mandatory programs for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 202(f)(3) of the Congressional Budget Act of 1974 is amended by striking "and" before "(B)", and by inserting before the period at the end the following: ", and (C) all direct spending programs".

(d) Section 308(a)(1)(C) of the Congressional Budget Act of 1974 is amended by inserting "and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted".

The CHAIRMAN. Pursuant to the rule, the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Is the gentleman from Minnesota [Mr. PENNY] opposed?

Mr. PENNY. Madam Chairman, I am opposed to the amendment, and I would request the time.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise to move for judgment notwithstanding the verdict.

Madam Chairman, Members of the House have registered their opinion strongly in favor of having available to them and to the public a current funding baseline and the presentations we received from Budget Committee and from the Congressional Budget Office for functions and programs in the budget.

This bill before us, H.R. 4907, this bill about which we are to vote now, provides for that very same current funding baseline. It is in fact identical. We have agreed, there is no difference between current funding baseline required in the bill before us and in the required funding baseline in the Penny-Kasich-Stenholm substitute.

So you can have your cake and eat it too, because this bill clearly provides for that baseline which the House has just said it would like to have arrayed, presented, displayed in the budget presentations that come to the House.

But in addition, this bill would provide for a current policy or a current services baseline. What is a current services baseline?

Let me just read to the committee what the President's budget describes to be the current services baseline. It says it is designed to show what receipts, outlays, deficits, and budget authority would be if no changes are made in laws already enacted.

This baseline is not a prediction of the final outcome of the budget process nor is it a proposed budget; it is largely a mechanical application of existing laws. By itself, it commits no one to any particular policy, it does not constrain the choices available, but the commitments or constraints reflected in this are inherent in tax and spending policies contained in current law.

I submit to everyone here that it exists for a reason. It exists because it is useful, it exists because we have found it necessary for various reasons to have a current services baseline in order to do the budget every year.

The minority report to the Committee on Rules itself makes the case for having a current services baseline when it acknowledges if you are going to do reconciliation, you have to have a projection of what mandatory spending is going to be so you can reconcile against that, in order to reduce, if not cut, spending, at least reduce the rate of increase in spending. You have got to have a current services baseline to do it.

The argument is made here that the public needs to know exactly how much we are increasing the budget in actual dollars and cents, and we will give them that information because we have the same baseline.

But Congress also has, I argued earlier, a huge stake in the budget itself. We have to make the budget documents, as prepared by the President, by the Office of Management and Budget, by CBO, by our own budget committee's working documents useful to us, so we can make comparisons, project spending and know what we have got to cut.

Let me submit to the House also that the public has an interest as well in knowing what current services are, because the current services baseline is a way of telling the public this is what it costs to keep programs such as social security and Medicare, popular programs, in place, running in place in existing law. If we are going to be able to continue the level of benefits adjusted for inflation for the expanding beneficiary population, this is what we have to spend. It is useful for us, in fact it is necessary for us, in order to do the budget because that constitutes well over 50 percent of the budget today.

But it is also useful for us to tell the public this is what we have to spend if we are going to keep pace with inflation if we are going to keep pace with the growing beneficiary population.

I think both we and the public need this additional baseline. You do not deny yourselves a thing by voting for the Spratt bill because the Spratt bill will preserve the baseline that we have just now dictated ought to be in the, must be, in the budget, but it will also give us a very useful baseline, a current services baseline.

I submit we should vote "yes" on this and have our cake and eat it too.

Madam Chairman, I reserve the balance of my time.

Mr. PENNY. Madam Chairman, I yield myself such time as I may consume.

Fundamentally, this vote is simply designed to defeat the motion that was just adopted. If you voted "yes" on Penny-Kasich-Stenholm, you absolutely must vote "no" on Spratt because this amendment simply restores language that is in the base bill. If you vote for the previous amendment, you vote against this amendment.

□ 1310

This is one of those Capitol Hill procedures where we can do something and then undo it on a subsequent vote. It is another nonsensical procedure, but it happens all the time. The only way we can defeat this king-of-the-hill game is to vote no on Spratt.

The issue at play is the same. The debate will be almost identical to the debate just concluded, and for that reason I do not know that we need to eat up a lot of time here.

Bear in mind this measure supersedes the vote we just cast. To be consistent vote no on Spratt.

I reserve the balance of my time.

Mr. SPRATT. Madam Chairman, I yield 1 minute to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Madam Chairman, I rise in support of the Spratt amendment and urge the Members to vote yes on this. We are in effect saying here this amendment that we have just passed, of course if it stays into effect, we are just in effect saying that we should not have any cost-of-living expenses on Social Security, cost of living. We are saying to some of my projects, like the flood control where we are talking about saving lives, we are saying, "You'll have to assume the inflation, and you can only put 90 percent of the bill, that flood control project."

We can just go on and on, and it just does not make sense to have this kind of change. It is false economics, and I urge everyone to vote for the Spratt amendment.

Mr. PENNY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, we are going to have to get Mona Lisa out one more time here to explain what we are doing.

Now let me, first of all, say categorically this does not affect entitlement programs, and I am opposed to doing anything that has any impact whatsoever on Social Security, as what happened out here when we came out on our entitlement spending program. This is only discretionary spending.

This is the Mona Lisa. Now this Mona Lisa has a frown rather than a smile. What the gentleman from South Carolina [Mr. SPRATT] wants to do in his bill is to continue to have a chart that confuses people in terms of what our budgeting process is.

One more time, Madam Chairman, this represents a $221 million increase in spending. It is described across the newspapers of this country as a $476 million cut.

Now what we just passed was a proposal that budgets like they do in west Texas, and like they do in Minnesota, and like they do in Ohio, and what we are saying is an increase or a decrease in spending will be determined by what we spent the previous year. That is what we just passed.

Now we went on a baseball strike, we are in a baseball strike, but we play a little baseball here this morning because we just doubled off the wall with the Penny-Kasich-Stenholm amendment. We doubled off the wall because we actually passed the elimination of this kind of spending, this kind of budgeting. It is gone. The runner is on second base, and now there is a line drive in the outfield, and the gentleman from South Carolina [Mr. SPRATT] wants to throw the runner out at second base and continue to confuse the issue.

What I am suggesting here today is let us bring the runner home, let us drive the runner access the plate, and let us complete the job today, and, by completing the job today, we will budget like they do in west Texas, and in Minnesota, in Ohio and California, just like families do it.

We must reject this because, if we do not reject it, even though it is an improvement in the process, it will still be awfully confusing. The last thing we need with a $6 trillion national debt and budget deficits in the outyears projected to skyrocket is confusion when we try to communicate to the taxpayers of this country. Let us call a cut a cut.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KASICH] has expired.

Mr. PENNY. Madam Chairman, I yield 30 additional seconds to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Just remember this picture. We do not want to keep doing it this way, and, if my colleagues do not want to keep doing it this way because the American people do not want to do it this way, reject the Spratt substitute. Let us keep the Penny and Stenholm amendment in place, and let us get back to something where we can communicate to everyone without confusion so that we can deal rationally and sensibly with the Federal budget programs.

Mr. SPRATT. Madam Chairman, I yield myself such time as I may consume, and would the gentleman from Ohio [Mr. KASICH] remain in the well?

I say to the gentleman,

> After your baseball analogy I feel a little like Abbott and Costello, who's on first, who's on second. I'm not sure where you're coming from because I have heard you argue repeatedly with regard to the defense budgets that it needs to be stated in the current services context. It's useful for us to know that $280 billion in 1990 doesn't buy $280 billion of defense in 1995. Why not let the Congress and the public have that kind of projection of what it costs to keep our defense apace with the——

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I am glad the gentleman from South Carolina [Mr. SPRATT] raised the issue because, when we were voting on the last amendment, several Members on our side argued we think it is more useful to list defense spending on the basis of the baseline, and I said I think that is wrong. I think we ought to list defense as an increase or a decrease based the same way we do with everything else, and I would tell the gentleman,

> When you're trying to discuss increases or decreases in the Budget Committee, if you just ignore baselines, people don't even know what language you're talking in.

So, what I would say to the gentleman is I think it would be helpful in this House if we refer to defense spending increases or cuts based on the previous year's level, not on baselines, and, if the gentleman hears me do that again, I want him to call me on it.

Mr. SPRATT. Madam Chairman, I reclaim my time and say simply we will give the public and the Congress two baselines, the one the gentleman wants and the over which is a useful reminder of what it costs to keep defense where it was. That is all we are saying.

Mr. SABO. Madam Chairman, will the gentleman yield, and would the gentleman from Ohio [Mr. KASICH] keep his chart up?

Mr. SPRATT. I yield to the chairman of the Committee on the Budget.

Mr. SABO. Madam Chairman, I say to the gentleman, "I'm just curious, my friend. How much bigger is that last bar than the first bar? About two, three times as big?"

Mr. KASICH. No, I would not think it is that big.

Mr. SABO. About twice the size, twice the size of the first bar?

Mr. KASICH. Does the gentleman mean this to this?

Mr. SABO. Yes, three times as big?

Mr. KASICH. Probably.

Mr. SABO. And what is the actual change in dollars the first year to the——

Mr. KASICH. Well, the——

Mr. SABO. About 6, 7 percent?

Mr. KASICH. Let me explain——

Mr. SABO. The gentleman is a master of deception with his charts.

Mr. KASICH. Let me explain to the gentleman. Let me answer.

I say, "Under your definition of this bill, this $221 million increase is called a $476 million cut——

Mr. SABO. I am not asking about my description. I am asking about the description the gentleman is showing to the House and to the public. A 6, 7 percent change in actual dollars is in the chart that looks like a 300 percent change.

Mr. KASICH. The gentleman's definition shows this going downwards. I mean that is the problem. Let us get on the same page.

Mr. SPRATT. Madam Chairman, I reclaim my time and yield 2 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Chairman, I think the distinguished chairman of the Committee on the Budget has just pointed out the incredible deception that we find in the chart just used by the gentleman from Ohio. The base number for the first bar was 3.1. The final bar number was 3.35. Now, if the gentleman can tell me how that small a change in dollars results in a doubling visually on that bar graph, I would suggest to him he needs a new pair of glasses. The numbers do not match the story the gentleman is trying to tell on the graph.

I simply want to say that this debate has nothing whatsoever to do with spending.

□ 1320

This issue has only to do with what kind of information is made available to the public and to the Congress.

The gentleman from South Carolina [Mr. SPRATT] simply says that we ought to provide comparisons to both the current funding baseline, which is not inflation adjusted, and also to the current policy baseline, which is inflation adjusted. Members of the public and Members of this House have a right to see the budget from both perspectives.

Now, the gentleman on this side of the aisle who just spoke says it has nothing to do with entitlements. He then proceeded to say he was sick of seeing budgets for defense adjusted on the basis of the inflated baseline.

The fact is, they are not. I have the defense appropriation report right here. The first column reads, Appropriated, 1994. It lists the dollar amount for military personnel. The next line lists the amount spent in 1985. Then it compares the costs not with an inflation-adjusted baseline, but with the regular noninflated baseline.

So if in fact the gentleman is correct on entitlements, and he is not, but if he were, then this amendment would have absolutely no effect on discretionary spending whatsoever.

I urge you to vote for the Spratt amendment. It is the only unbiased and honest amendment before the House.

Mr. PENNY. Madam Chairman, I was just curious to know if it would save time if we replay the earlier debate.

Madam Chairman, I yield 1 additional minute to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, this is very illustrative of how we do it. This is how we reflect the increase in spending, and you are complaining about the chart. The way we ought to do is flip it over. This is the way you would have it read. See, that is the problem with this process.

Now, you know what is really curious? What is really curious is George Bush gives us in 1990 a one-half trillion dollar deficit reduction program. This President gives us a one-half trillion dollar deficit reduction program. If that is true, why has the national debt gone from $4.5 trillion to $6 trillion? If you can explain to me why we are cutting all this spending and having massive deficit reduction, why is it the deficit is going through the roof?

I will tell you why. We are not cutting spending, we are only counting cuts as slower increases in growth than what the bureaucrats in town want to do. I will tell why the people of this country do not want to budget it any more. They want to throw it out and do it with a straight line based on the year before. Madam Chairman, reject the Spratt amendment. Maintain the Penny-Stenholm proposal.

The CHAIRMAN. The gentleman from Minnesota [Mr. PENNY] has 10 minutes remaining, and the gentleman from South Carolina [Mr. SPRATT] has 5 minutes remaining.

Mr. PENNY. Madam Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, our debate is getting a little bit amusing now that we are replaying it for the third and fourth time.

You know, the important thing for us to remember, and I will start and conclude by this, is if you really want to contribute to the cynicism of the American people, vote for Spratt and then try to explain why you voted for Penny-Kasich-Stenholm and then voted immediately to overturn it. You cannot do it, folks.

Now, we can get into debate on the scales on charts. The fundamental here is it does not matter what the scale of the chart is. It is which direction the spending is going in and whether we are calling it an increase or decrease. That is all that is relevant.

In the last few days, the American Association of Retired People has used some very questionable judgment in some of the pronouncements concerning what is going on in this body and inside the beltway, and they are doing it again today. Because there is no relevance whatsoever to suggesting that either of these bills has anything to do with Social Security, Medicare, or any other program, bills that are both alike except for one major difference, and that is why we are debating it here today.

The gentleman from Wisconsin [Mr. OBEY] is correct. All of those who argue that we need all kinds of information are correct. What we are arguing is let us not confuse the American people with our policy business that we do in the Committee on the Budget. Let us tell the American people there is one budget baseline.

The people that drink coffee in the Dairy Queen in Stanford, TX, do not understand when we explain it to them any other way than this. If you get $100 this year and you get $99 next year, for whatever reason, that is a cut. If you get $101, that is an increase. That is the fundamental debate in this whole area of discussion today.

Madam Chairman, vote "no" on Spratt, particularly if you voted "yes" on Penny, because you cannot explain it any other way, unless you wish to continue the confusion on the American people of having dual baselines and all of the things that go with it.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Madam Chairman, I hope you do not mind if I try to inject a little rationality into the discussion, but I simply have to rise and defend my colleague from Ohio, who has been falsely accused of doctoring the chart to make it look favorable to his comments.

I would point out the little zig here. For those of you who are not mathematicians, I simply say this indicates a zero suppression. Anyone looking at a chart with a little zig there, should consider you are doing a comparative analysis, rather than an absolute one. The chart is perfectly accurate and illustrates that in fact the amount of spending has been increasing.

In the remainder of my time I simply want to comment on the previous speaker, Mr. STENHOLM's comments, and he is absolutely right. When the American automobile manufacturers publicize the price of their new car, and it has gone up $200, they are comparing it to the previous year's price. They do not advertise well, if you take the baseline adjusted for inflation, we are cutting the cost of our cars by $50 a year. Every press release that goes out, every statement made, every comparison by the buying public says in fact the price has gone up, and that is what is happening with our budget.

I urge that we reject the Spratt amendment.

Mr. PENNY. Madam Chairman, I yield 30 seconds to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Madam Chairman, I want to thank my colleague for explaining not only to me, but also for the people of the Stanford Dairy Queen, what that signature means on that, because I think the whole world will know better now what we are talking about in the charts. I appreciate the edification.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Madam Chairman, I thank my colleague from Minnesota for yielding.

I just want to add to, and I hope very briefly, the common sense that I am hearing out of people like the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] with regard to this amendment.

We have got to represent in our budgets the things that we are doing here in Washington in terms that most Americans can understand and believe. That is what we dealt with on Wednesday with the congressional accountability legislation, where we voted to bring Congress under every law that it passes for the rest of the country. That is what we have to do here when we talk budgets with small business people, with housewives, with those American citizens that live throughout the country and are trying to make sense out of these convoluted and complicated processes.

We are not changing the numbers. We are not misrepresenting anything. We are putting it all in terms that the average American can easily grasp. I think, quite honestly, it will make it easier for many of us here in Congress to understand as well. We have already had the zig explained. Now we have to make sure we get the zag out of there and come up with a budget we all understand. I urge support for the Penny amendment, and no vote on the Spratt amendment.

Mr. SPRATT. Madam Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished chairman of the Committee on the Budget.

Mr. SABO. Madam Chairman, I rise in support of the Spratt amendment. If you wanted the most complete, total information available using a variety of options, you support Spratt. You compare it to last year, you compare it to existing law, you compare it to the existence of inflation.

To the last speaker, I would only say when he plans for the future and having resources available to educate his kids, I hope he considers the long-term impact of inflation. Most Americans do. When Americans plan for their retirement, they consider the impact of inflation. We should too. When we look at what has historically happened in our country, we need to know how programs have changed, dollar for dollar. But we also need to know how it has been impacted by inflation.

□ 1330

When we measure the wage base of the American public and how, frankly, it has declined for millions of Americans over the last 20 years, we use inflation to understand that change and what is happening to millions of working Americans.

So, Madam Chairman, if we want to preserve the most options and understand what is happening with Federal budget policy, rather than fitting some little dogma, we vote for the Spratt amendment.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Madam Chairman, I thank the gentleman for yielding time to me.

I just wanted to add an anecdote from last summer that I thought might be of interest to the House.

Then Director of OMB, Leon Panetta, was in Cleveland for a roundtable conference. He is now, of course, the President's Chief of Staff. We were talking about the budget.

And I said we ought to start cutting with the Government, the Federal Government, ourselves. And Mr. Panetta said, "We did, we cut the pay of Federal workers."

And I looked at him and I said, "That is not true. We didn't cut the pay of Federal workers at all."

He said, "Yes, we have decreased the amount of the increase."

I said, "Mr. Panetta, when you say to the people in Parma, OH or in Rocky River that you have cut their pay, that means that if they made $34,000 this year, they will make $35,000 next year. That is a pay cut. It is not a decrease in an increase."

Mr. Panetta looked at me like I was from another planet. This is the former chairman of our distinguished Committee on the Budget.

That is the whole problem that we have got here in Washington with this baseline budgeting. I call it the dark alchemy of numbers.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Madam Chairman, I think when we go to explain how we are cutting spending to the American public, they do not understand because of the current system we are in.

I talked to my Mom. And I said, Mom, we are going to have a turkey for Thanksgiving, but next year the whole family is going to come so we need 10 turkeys. But came this year, the family called up and said, Mom, we cannot come. So we canceled the 10 turkeys and we stuck with the one turkey.

Under this system, we would tell the American public that we just cut 90 percent of the turkey expenditures. It is just not true.

We need to tell the American people instead of being able to confuse them, let them know exactly what they are spending.

As far as inflation, we could take care of inflation every year, because that happens yearly, not biyearly.

Mr. PENNY. Madam Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Madam Chairman, not one person in this Nation sits at their kitchen table and plans for the next year, assuming they are going to get a salary increase equal to inflation.

Nobody does. It would be awfully nice if they could. Most of them do not get a salary increase equal to inflation.

Why does this Congress continue to believe it is all right for us to assume the budget is going to go up by inflation and only above inflation that we should tell the citizens of America that we increase spending? Get real.

This is about sunshine. This is about honesty. This is about accountability. And this is easy. The simple things in life matter. We will never ever cast a more important vote than we will cast today on this issue for deficit reduction. Because if we pass this, from now on the public will be able to see whether we increase spending 1 percent or 2 percent and we can say, yes, that is less than inflation.

They will be able to see what we are doing and judge us by our work.

Mr. PENNY. Madam Chairman, in urging a no vote on Spratt for those who voted yes on Penny, I yield my final minute and a half to the gentleman from California [Mr. COX].

Mr. COX. Madam Chairman, a recent survey of the American people asked them do you trust Congress to do the right thing most of the time. One percent said yes.

Why are the American people so cynical? It is because we can do things like call a spending increase a spending cut.

If we abolish baseline budgeting, we will not stop spending increases. We will simply require that when we increase spending, we say so. And we do not call it a cut.

Recently, a bipartisan coalition proposed reforms in 12 Federal programs. Overall the proposal allowed spending to grow by $18 billion. But using this baseline budgeting technique, the supporters of big spending were able to claim that the coalition wanted to cut spending these in programs by $11 billion.

Now we are going to compound the deficit of baseline budgeting by using a procedural trick called king of the hill. After pretending to say that we stopped baseline budgeting, we can come back and use king of the hill to undo it all.

The Penny-Kasich-Stenholm amendment passed by 247 to 171. It abolishes baseline budgeting. Now the Spratt amendment is offered to repeal it. Cynical Members of Congress who just minutes ago voted to abolish the accounting trick that says a spending increase is really a cut can now vote to put this accounting slight of hand back into the big spenders bag of tricks. This is double deception.

Thomas Jefferson once noted, "He who permits himself to tell a lie once finds it much easier to do it a second and a third time until at length it becomes habitual. The falsehood of the tongue leads to the falsehood of the heart and in time depraves all good dispositions."

Jefferson was right. The baseline is a lie and it eats away at the credibility of this Congress. The king-of-the-hill procedure is a deceit. We should abandon use of this practice at once.

I urge my colleagues to vote "no" on this double deception.

The CHAIRMAN. All time of the gentleman from Minnesota [Mr. PENNY] has expired.

Mr. SPRATT. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, let me first make the argument that a vote for Spratt for the underlying base bill is completely consistent, even though you may have voted for the Stenholm-Penny-Kasich substitute. Why is that?

Undoubtedly Members of the House voted for Penny-Kasich-Stenholm because they wanted to have a frozen baseline. They wanted to have this year's spending baseline against which to measure increases in next year's budget. I understand that.

Indeed, we have, as a first step in this bill, accommodated that desire on the part of all Members and the desire of the public by having a current funding baseline authorized in this bill. It represents actual funding, what CBO calls a freeze.

There is also a need expressed by the fact that we use it continually for a current policy baseline both for us and for the public. And so if Members vote now for Spratt, we will simply say we want to have what we voted for before. We want the current funding baseline. But we would also like to have and have it displayed in the budget documents the current policy baseline.

Those who want to argue that an increase is an increase and a cut is a cut will have the current funding baseline against which to measure what is an increase and what is a cut. Those who would like to say, we are not keeping the Social Security Program adequately funded, we are not keeping Medicare adequately funded to maintain the benefits that are existing this year and next year, would have a current policy baseline as well.

We talk about entitlements but it applies to defense as well. If you want a current policy baseline so that you can say, do not fool yourself, a $1 billion increase in defense is not an increase, it is really a decrease. It will mean less pay, less O&M, less things that we essentially need for financial security. You need the current policy baseline for that purpose.

So this is a consistent vote. Members can vote to uphold what they voted for before because that is in this bill. But vote also for something useful, something analytically purposeful, the current policy baseline.

Vote for Spratt. Vote for good budget, full disclosure.

Mr. CONYERS. Madam Chairman, I rise in support of the legislation proposed by Representative SPRATT, a member of the Government Operations Committee, to reform our budget laws and provide more complete budgetary information to Congress.

H.R. 4907 reforms the baseline concept for the congressional budget and appropriations process. Currently, a program's baseline is adjusted each year so its spending level keeps pace with inflation and other factors. These adjustments make sure that Members of Congress, when asked to vote on budget and appropriations bills, are aware of the full cost of today's programs. H.R. 4907 would keep this baseline calculation and add a current funding baseline, which is not adjusted to reflect inflation.

In a series of Government Operations Committee hearings, several of our colleagues criticized the current baseline as providing for automatic spending increases and permitting Congress to call reductions in the size of the baseline increase a cut in spending.

These colleagues would prohibit inflation adjustments as Congress considers program funding levels. However, inflation is a very real cost for Federal programs.

The current baseline lets Members know that $1 of services this year is worth 97 cents next year because of inflation. Many Members want to know this information because it represents real reductions in programs, whether for kids or the Pentagon.

The new baseline estimate proposed in this bill would give Members a program's uninflated baseline. This should satisfy those Members who think the most important information is how much we spent last year.

Unlike the alternatives we will consider today, H.R. 4907 puts all of the information, with and without inflation, adjustments, before Members of Congress. We should not put new restrictions on the information Members of Congress can, and cannot, consider when making spending decisions. We cannot do our job if we have only half of the needed information.

If we are to impose spending cuts, we need to know what the full impact of these decisions will be. We cannot do this if we ignore the current costs of today's problems by focusing only on last year's costs. Under such a formula, Congress would always be behind the curve in addressing today's urgent priorities.

Madam Chairman, I urge adoption of H.R. 4907. The legislation will present all of the information Members of Congress need to fully evaluate spending decisions. I urge opposition to amendments which require Congress to turn a blind eye to today's needs. Thank you, and I yield back the balance of my time.

□ 1340

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from South Carolina [Mr. SPRATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 243, not voting 26, as follows:

[Roll No. 396]

AYES—170

Abercrombie
Ackerman
Andrews (ME)
Applegate
Barlow
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
de la Garza
de Lugo (VI)
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Jefferson
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Klein
Klink
Kopetski
Kreidler
LaFalce
Levin
Lewis (GA)
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Richardson
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sarpalius
Sawyer
Schumer
Scott
Serrano
Sharp
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—243

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kasich
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Murphy
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen

Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—26

Bacchus (FL)
Ballenger
Barton
Brewster
Faleomavaega (AS)
Fields (LA)
Gejdenson
Lantos
Lewis (FL)
Lloyd
McCandless
Michel
Montgomery
Pickle
Reynolds
Romero-Barcelo (PR)
Rostenkowski
Slattery
Sundquist
Synar
Thomas (WY)
Underwood (GU)
Vento
Walsh
Washington
Williams

□ 1358

The Clerk announced the following pairs:

On this vote:

Mr. Pickle for, with Mr. Barton against.

Mr. Vento for, with Mr. Thomas of Wyoming against.

Ms. FURSE changed her vote from "aye" to "no."

Mr. NEAL of Massachusetts changes his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GEJDENSON. Madam Chairman, today I was absent for rollcall votes Nos. 395 and 396. Had I been present, I would have voted against the Penny amendment, No. 395, and in favor of the Spratt amendment, No. 396.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, unfortunately I missed rollcall vote 396 on the Spratt amendment to H.R. 4907, the Full Budget Disclosure Act of 1994. Had I been present, I would have voted "no."

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute; as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. McDERMOTT) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4907) to reform the concept of baseline budgeting, pursuant to House Resolution 512, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLEMAN. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Was the gentleman on his feet?

Mr. COLEMAN. The gentleman was on his feet.

The SPEAKER pro tempore. The Chair will recognize that the gentleman was on his feet. The Chair will count for the yeas and nays. Those favoring the yeas and nays will rise and be counted. Members may be seated.

The Chair will count the House. In a House of obviously more than 220 Members, the Chair counts 45 in favor of a vote by the yeas and nays. Therefore, an insufficient number has arisen.

The yeas and nays were refused.

So the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4907, the bill just passed.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2921. An act to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities;

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992;

H.R. 4606. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes;

H.R. 4812. An act to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4606) "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. GORTON, Mr. MACK, and Mr. BOND, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2243) "An Act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4506) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.".

The message also announced that the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 2, 4, 8, 28, 48, and 49, to the above-entitled bill.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 60. Concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

The message also announced that pursuant to Public Law 99-498, the Chair, on behalf of the President pro tempore, reappoints William C. Hiss of Maine, to the Advisory Committee on Student Financial Assistance for a 3-year term effective October 1, 1994.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I ask to proceed for the purpose of receiving the schedule from the majority leader, and I yield to my good friend, the gentleman from Missouri, for that purpose.

Mr. GEPHARDT. I thank the gentleman for yielding. There will not be further votes today.

On Monday, August 15, the House will not be in session.

Tuesday, August 16, the House will meet at 10:30 a.m. for morning hour. The House will meet at noon on Tuesday for 12 bills under suspension. The bills are:

H.R. 1103, Secondary Transmissions Of Superstations And Network Stations For Private Home Viewing;

H.R. 2866, Headwaters Forest Act;

H.R. 4884, Criminal Justice Information Services Placement Assistance Act;

H.R. 4867, High Speed Rail Development Act of 1994;

H.R. 4868, Railroad Unemployment Insurance Amendments Act of 1994;

H.R. 2178, Hazardous Materials Transportation Act Amendments;

H.R. 4812, To Direct The AGS To Acquire Title To The Old U.S. Mint In San Francisco, CA;

H.R. 4709, To Make Certain Technical Amendments;

H.R. 3508, Tribal Self-Governance Act Of 1994;

H.R. 2947, Two Year Extension Of The Black Revolutionary War Patriots Foundation To Establish A Memorial;

H.R. 2815, Farmington Wild and Scenic River Act; and

H.R. 1305, Minor Boundary Adjustments and Miscellaneous Park Amendments.

We will try to not have votes until 5 o'clock on Tuesday afternoon on the suspension bills.

On Wednesday, August 17, and the balance of the week, the House will meet at 10 a.m. on Wednesday, Thursday, and possibly Friday. We will have H.R. 4906, Emergency Spending Control Act of 1994, subject to a rule; H.R. 3433, providing for the management of the Presidio, subject to a rule; H.R. 4908, hydrogen and fusion research and development programs authorization, subject to a rule; S. 2182, Department of Defense authorization conference report, subject to a rule; H.R. 3355, the Omnibus Crime Control Act conference report again, subject to a rule; H.R. 3800, Superfund Reform Act of 1994, subject to a rule; S. 349, Lobbying Disclosure Act of 1994 conference report; and S. 3, Congressional Spending Limit and Election Reform Act of 1994, conference report, subject to a rule.

There are other conference reports that may be brought up at any time.

I would say to the gentleman, we are continuing on both sides with different groups of Members working with the Congressional Budget Office on scoring the various health bills. It is our intention to try to get to health care if and when the Congressional Budget Office is finished that material. As the Members know, this is an interactive process and there is no way to predict, unfortunately, when that will be finished and we will just have to keep Members apprised on a day-by-day basis of where we are on that.

Mr. GINGRICH. If I could ask the majority leader, first I want to reconfirm for Members if they are back by 5 o'clock on Tuesday, that is when votes, in your judgment, will probably begin, for Members in terms of arranging plans, is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. GINGRICH. I want to walk through the health thing if I could for just a second. As I understand it, this is an extraordinary complex business and we have talked about it at length together, making sure that the Congressional Budget Office scoring is accurate, which takes time, and at the same time having an opportunity to interact with the authors of each bill because, as the gentleman knows, as we go through each part of this process it changes the whole nature of what we are doing.

I have two questions I guess. One is should Members for the present time plan on the week after next being here, or does the gentleman have any notion at this stage what plans they should make for the week after next?

Mr. GEPHARDT. We will have to advise them again next week on a day-by-day basis as we see where we are with the Congressional Budget Office work. As the gentleman knows, we have procedures without a recess motion that could be used to keep the House in session as long as the Senate is in session, and we anticipate it will be. We can go 3 days to 3 days under our rules and allow Members to not be here for votes, but keep the House in session and continue to work to see if we can get a solution to the CBO analysis problem.

Mr. GINGRICH. My second question is on the health side we had talked at one point about a very orderly procedure, which I found very attractive to begin the debate in an orderly way and have plenty of general debate time because of the intensity and scale of this issue, allow all of the various proponents of different bills to have a chance, and then move into a process with a second rule looking at any amendments, and looking at voting on the various alternatives.

In your judgment, the gentleman and the Democratic leadership yet decided whether we should wait until we are certain of the whole scoring process before we begin the initial general debate, or whether we should try to begin that late next week, or again, just for the purpose of those Members on both sides who may want to prepare remarks on an issue of this importance, do you have any thoughts at this stage on how we might proceed?

Mr. GEPHARDT. I do not want to stop anyone from writing a speech. But I do think that we are going to have hearings next week in the Rules Committee. We will continue on the bills. I think Members can anticipate that they may want to be involved in testifying there.

But I do think that it is hard to have meaningful debate on these bills until we know exactly what their provisions are, and again, the provisions may have to change as a result of the scoring necessities.

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Mr. GINGRICH. I would rather have us, as you know, go in an orderly manner, so you are not going to get any complaints on our side if we allow the scoring and the drafting and the technicalities to be worked out prior to beginning debate.

Because I think on an issue that affects the whole country on this scale, that is the right way to do it. So you will not hear any carping or complaining.

One other item, I noticed you mentioned here H.R. 3355, the Omnibus Crime Control Act. I would just like to comment and report to the House that a few minutes ago Senator DOLE and I along with four members of the conference sent a letter to the President on Air Force One offering to meet early this evening and discuss the possibility of bipartisan help in reporting the conference and that the 11 Republicans who voted "yes" yesterday on the rule have also sent a letter to the President indicating a desire to work with him in a bipartisan manner to get this bill rewritten.

So I just want Members to know we are prepared, if necessary, to work starting this weekend in a bipartisan manner to reopen the conference and to try to get to a passable crime bill as early as possible.

Mr. GEPHARDT. We have been meeting with a lot of our Members today to talk about the crime bill. We are trying to work toward a solution.

ADJOURNMENT FROM TODAY, FRIDAY, AUGUST 12, 1994, TO TUESDAY, AUGUST 16, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Tuesday, August 16, 1994.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

NORTHERN GREAT PLAINS RURAL DEVELOPMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2099) to establish the Northern Great Plains Rural Development Commission, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, but under my reservation, I yield to the distinguished chairman to explain the purpose of the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Northern Great Plains Rural Development Act would establish a commission to study and make recommendations regarding the economic development needs of the rural northern Great Plains States of South Dakota, North Dakota, Nebraska, Minnesota, and Iowa.

Mr. Speaker, S. 2099, the Northern Great Plains Rural Development Act, would establish a commission to study and make recommendations regarding the economic development needs of the rural northern Great Plains States of South Dakota, North Dakota, Nebraska, Minnesota and Iowa.

The legislation seeks to achieve this objective by seeking and encouraging the participation and input of a broad range of interested citizens in these States. The Commission proposed in the bill would be comprised of 10 members. Five are to be selected by the States with each Governor appointing one member, and five are to be selected by the Federal Government with the Secretary of Agriculture appointing one member from each of the five States.

The legislation requires the Commission to hold hearings, conduct studies, and determine the appropriate strategies for promoting development in the rural areas of the Northern Great Plains. The bill also states that the Commission will terminate in not less than 2 years.

Mr. Speaker, S. 2099 will provide a mechanism for State and local leaders, working with USDA, to develop a long-term, cooperative plan that enables the rural areas of these States to build on their shared and unique strengths and to overcome their common problems.

I commend the gentleman from South Dakota [Mr. JOHNSON] for introducing in the House the companion bill to this measure. The bill has support from lawmakers in all of the States included in the bill.

The Committee on Agriculture has approved this legislation by voice vote. And I urge my colleagues in the House to support its passage.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, this legislation passed the Senate by unanimous consent on June 22 and was routinely reported by the Committee on Agriculture by voice vote; it is identical to a companion House bill, H.R. 4388. There was no dissent on the Republican side concerning this legislation in Committee.

The bill sets up a rural development commission to study the economic problems of the northern Great Plains, specifically the States of South and North Dakota, Nebraska, Minnesota, and Iowa. It requires input from a wide array of interest groups, including local, regional and State governments, nonprofit organizations, agricultural and business groups in the area. They are required to come up with a strategy to address the economic needs of the region, which are similar to the problems of our agricultural economy nationally.

This legislation is similar to the Mississippi Delta Commission that was authorized in 1988, but the authorization expires following the Commission's report or within 2 years of enactment. It is my understanding funds have been provided in the Senate agricultural appropriations bill. The bill has broad support among the Members representing congressional districts in the regions and unanimous support from those States in the other body.

I would urge adoption of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Great Plains Rural Development Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the rural economy of the Northern Great Plains is undergoing a substantial and potentially threatening transformation;

(2) the rural Northern Great Plains suffers from substantial measurable poverty, unemployment, outmigration, underemployment, aging of the population, and low per capita income;

(3) the Northern Great Plains is highly rural and has a highly dispersed population, and contains many Native American reservations;

(4) many of the basic industries of the rural Northern Great Plains in natural resources are under stress;

(5) a concerted Federal, State, and local public and private effort is needed if the rural Northern Great Plains is to share in the general prosperity of the United States;

(6) the creation of jobs and expansion of existing businesses, including small businesses, offer the greatest hope for rural economic growth and revitalization in the Northern Great Plains;

(7) the availability of capital, technology, market information, infrastructure development, educational opportunities, health care, housing, recreational activities, and resource development are essential to successful business development in the rural Northern Great Plains;

(8) the transportation needs of the rural Northern Great Plains must be addressed through highway and bridge construction, air service availability, and rail service and river transport development;

(9) because of the social, geographic, weather, historical, and cultural ties of the rural Northern Great Plains as well as common economic problems, planning for this unique region is desirable and urgently needed; and

(10) in the rural Northern Great Plains, the tourism industry offers significant additional potential for supporting economic development and job growth, fostered by the wise stewardship of natural resources.

SEC. 3. PURPOSE.

The purpose of this Act is to establish the Northern Great Plains Rural Development Commission to study and make recommendations regarding the economic needs and economic development of the rural Northern Great Plains by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, businesses, and other entities in developing a 10-year rural economic development plan for the Northern Great Plains.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CHAIRPERSON.—The term "chairperson" means the chairperson of the Commission.

(2) COMMISSION.—The term "Commission" means the Northern Great Plains Rural Development Commission.

(3) NORTHERN GREAT PLAINS.—The term "Northern Great Plains" means the States of North Dakota, South Dakota, Nebraska, Iowa, and Minnesota.

(4) STATE.—The term "State" means a State in the Northern Great Plains.

SEC. 5. ESTABLISHMENT.

There is established a Commission to be known as the "Northern Great Plains Rural Development Commission".

SEC. 6. MEMBERSHIP AND ORGANIZATION.

(a) MEMBERSHIP.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the Governor of each State; and

(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

(b) TERM.—Each member of the Commission shall serve for such term as the official who appoints the member determines is appropriate.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but the Commission may establish that a lesser number shall constitute a quorum for the purpose of conducting hearings.

(d) MEETINGS.—

(1) FIRST MEETINGS.—Five or more members appointed under subsection (a)(1) shall determine the date, time, and place of the first meeting, and shall call the first meeting. At the first meeting, the members of the Commission shall appoint a chairperson

from among the members appointed under subsection (a)(1). The first meeting of the Commission shall be held not later than 45 days after the date of enactment of this Act.

(2) ADDITIONAL MEETINGS.—The Commission shall conduct such additional meetings as the Commission determines are appropriate.

(e) APPOINTMENTS.—Each appointment under this Act shall be made not later than 30 days after the date of enactment of this Act.

(f) VACANCIES.—A vacancy on the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(g) HEADQUARTERS.—The Commission shall establish the location for the headquarters of the Commission.

SEC. 7. DUTIES.

(a) PLAN.—The Commission shall identify and study the economic development, infrastructure, technology, telecommunications, capital, employment, transportation, business resource development, education, health care, housing, and recreation needs of the Northern Great Plains and develop a 10-year plan that makes recommendations and establishes priorities to address the needs.

(b) PREPARATION OF PLAN.—In developing the plan, the Commission shall, with respect to the Northern Great Plains—

(1) sponsor and conduct investigations, research studies, and field hearings;

(2) review and evaluate available research, studies, and information on conditions in the areas referred to in subsection (a);

(3) study the economy, identifying strengths, weaknesses, participation levels, opportunities, and methods of addressing outmigration;

(4) develop a profile of, and a description of resources devoted to, economic development (including tourism), human resources (including demographics, outmigration, poverty, Native Americans, education, and training), infrastructure (including air, water, highway, rail, and telecommunications), and natural resources;

(5) study and evaluate the economic development resources, coordination, collaboration, and "best practices" of the Federal, State, and local governments, nonprofit organizations, universities, businesses, agricultural and natural resources groups, foundations, cooperatives, and other organizations;

(6) identify methods of facilitating the employment and business startups of unemployed, underemployed, and low-income individuals and households;

(7) identify effective methods for promoting development on Native American reservations;

(8) study the availability of methods of delivering public, private, and nonprofit capital and technical assistance for business startups and expansions, including farming and ranching;

(9) evaluate the availability of, need for, and strategies for providing and maintaining, the infrastructure, including air, water, highway, rail, and telecommunications;

(10) study the structure and potential development of major industries, including agriculture, timber, mining, tourism, and manufacturing (including the use of advanced technologies and processes and adding value to raw materials and component parts);

(11) study the competence and availability of the labor force, including the health, educational, training, housing, and economic needs of the labor force;

(12) develop an inventory of water, mineral, energy, timber, agricultural, fishery, wildlife, and other natural resources;

(13) assess the comparative cost of doing business;

(14) assess the international trading levels, markets, and practices, and potential opportunities;

(15) assess the interconnection between metropolitan and rural areas and identify methods through which the areas can collaborate;

(16) assess methods by which small communities and regions are collaborating or can collaborate in economic development initiatives;

(17) evaluate—

(A) the distribution and impact of Federal spending, including grant-in-aid programs, research, and Federal procurement, and compare the level of spending in these categories with spending in other regions of the country; and

(B) the extent to which reliance on Federal, State, and local government outlays for poverty programs can be reduced by outlays targeted for economic development;

(18) identify Federal, State, and local government programs, policies, and regulations that enhance or obstruct the development of businesses and well-paying jobs with long-term potential and that effectively use the skills, education, and training of the labor force;

(19) evaluate the potential for States to jointly finance projects and activities of regional benefit; and

(20) analyze such other issues as the Commission determines are relevant to future economic development.

(c) DEVELOPMENT OF PLAN.—In developing the plan, the Commission shall—

(1) provide a forum for the consideration of the problems of the rural Northern Great Plains and proposed solutions, and establish and utilize citizens groups, special advisory councils, public hearings, and conferences;

(2) seek and encourage the participation of interested citizens, public officials, groups, agencies, economic development organizations, natural resource organizations, and other organizations;

(3) make the Commission accessible to the individuals, groups, agencies, and organizations referred to in paragraph (2) by holding at least 1 well publicized public hearing in each State; and

(4) consult with—

(A) Federal, State, and local government agencies, including the Departments of Agriculture, Commerce, Education, Labor, Health and Human Services, Housing and Urban Development, and Transportation, and the Small Business Administration, bank regulatory agencies, and rural development councils;

(B) banks, insurance companies, venture capital companies, and other for-profit financial institutions;

(C) nonprofit and community-based development organizations, revolving loan funds, and other organizations;

(D) industry and sectoral organizations;

(E) foundations and universities; and

(F) other organizations involved in economic development activities.

SEC. 8. COMPENSATION OF MEMBERS.

(a) MEMBERS APPOINTED BY GOVERNORS.—Each member of the Commission appointed by a Governor of a State may be compensated by the State that the member represents.

(b) MEMBERS APPOINTED BY THE SECRETARY.—Each member appointed by the Secretary of Agriculture, who is not otherwise employed by the United States Government, shall receive compensation at a rate determined by the Secretary of not to exceed the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day the member is engaged in the actual performance of the duties of the Commission. A member of the Commission appointed by the Secretary who is an officer or employee of the United States Government shall serve without additional compensation.

(c) TRAVEL AND OTHER EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Commission. Each member of the Commission shall also be reimbursed by the United States Government for other necessary expenses incurred by the member in the performance of the duties of the member.

SEC. 9. POWERS AND ADMINISTRATIVE PROVISIONS.

(a) EXPERTS AND CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Commission may enter into agreements with the Administrator of General Services for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as are agreed on by the chairperson and the Administrator of General Services.

(c) CONTRACTS.—Subject to subsection (d), the Commission may enter into contracts with Federal and State agencies and private firms, institutions, and agencies for the conduct of research and surveys, the preparation of reports, and other activities necessary to carry out the duties of the Commission.

(d) SUPPLIES, SERVICES, PROPERTY, AND CONTRACTS.—The Commission may procure supplies, services, and property, and make contracts in any fiscal year, only to such extent and in such amounts as are provided in appropriation Acts.

(e) HEARINGS.—The Commission or, on the authorization of the Commission, a member of the Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, memoranda, papers, and documents as the Commission or the member considers appropriate.

(f) INFORMATION.—The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each department, bureau, agency, board, commission, office, establishment, or instrumentality shall provide, to the extent permitted by law, the information, suggestions, estimates, and statistics directly to the Commission, upon request by the chairperson.

(g) PERSONNEL.—

(1) IN GENERAL.—Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule

pay rates, the chairperson of the Commission may appoint, terminate, and fix the compensation of an Executive Director and such additional personnel as the chairperson determines are necessary to enable the Commission to carry out the duties of the Commission.

(2) COMPENSATION.—The rate of compensation of the Executive Director may not exceed a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title. The rate of compensation of all other personnel may not exceed a rate equal to the daily equivalent of the lowest annual rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of such title.

(h) ASSISTANCE FROM OTHER AGENCIES.—Upon request of the Commission, the head of any Federal agency may make any of the facilities and services of the agency available to the Commission or detail any of the personnel of the agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act. If the head of an agency determines that the agency cannot make the facilities, services, or personnel available to the Commission, the head shall notify the chairperson in writing.

(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 10. REPORTS.

(a) INTERIM REPORT.—Before the end of the 270-day period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit a report to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, describing the findings and activities of the Commission and the further activities necessary to carry out the duties of the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, a report describing the findings and activities of the Commission and recommendations in accordance with paragraph (2) regarding specific actions that are necessary to promote the economic development of the rural Northern Great Plains while preserving, to the maximum extent possible, the natural beauty and habitat of the Northern Great Plains.

(2) RECOMMENDATIONS.—

(A) REGIONAL COLLABORATION.—The Commission shall, with respect to the Northern Great Plains—

(i) determine the most effective and appropriate method for ensuring continued collaboration within the region on economic development matters, considering regional compacts, cooperatives, foundations, development corporations, and other agreements and organizations;

(ii) identify the organizational structure, method of financing, functions, and participating organizations, of the collaboration referred to in clause (i);

(iii) identify methods of effective multi-community, substate, and small region development; and

(iv) assess the interconnection between metropolitan and rural areas and identify methods of collaboration between the areas.

(B) BUSINESS DEVELOPMENT.—The Commission shall, with respect to the rural Northern Great Plains—

(i) recommend methods of diversifying the rural economy, including the development and financing of value-added and new-use agricultural products;

(ii) develop methods to promote and finance beginning owner-occupied farming and ranching operations;

(iii) recommend methods of promoting entrepreneurial development, including business startups and expansions;

(iv) recommend methods in which the public, private, and nonprofit sectors can help increase international trading levels and penetrate new markets in agricultural, manufactured, and service products;

(v) evaluate the potential utility of business and manufacturing networks in target sectors;

(vi) assess the competitiveness of manufacturers and the use of modern technology, processes, and information by the manufacturers, and methods of assisting manufacturers lacking the technology, processes, or information;

(vii) recommend methods in which capital and technical assistance can be provided on a regional or sectoral basis to business startups and expansions by public, private, and nonprofit organizations; and

(viii) recommend ways in which Federal and State resource conservation programs can be used to encourage tourism in the region.

(C) CAPITAL.—The Commission shall, with respect to the rural Northern Great Plains—

(i) determine if there are capital needs in the economy, and in what part of the economy the needs are located, and recommend how governmental, nonprofit, cooperative, community-based, microlending, banking, venture, seed, and nonbanking financing sources can assist in meeting the needs;

(ii) identify such strategies in organization, regulations, policy, marketing, and coordination as are needed to implement a plan to meet the needs referred to in clause (i); and

(iii) recommend methods of utilizing secondary financial markets to increase the capital available for business development.

(D) INFRASTRUCTURE.—The Commission shall, with respect to the rural Northern Great Plains—

(i) prepare a plan to preserve, finance, and operate effective freight railroad service in coordination with States, the Federal Railroad Administration, the Interstate Commerce Commission, rail operators, shippers, and the financial community;

(ii) prepare an assessment and agreement on the capital needs, coordination, and financing of telecommunications infrastructure, in cooperation with the Department of Agriculture, the National Telecommunications and Information Administration of the Department of Commerce, the Federal Communications Commission, the public utilities commission of each State, telephone companies and cooperatives, representative users, and such other entities as the Commission determines are appropriate; and

(iii) recommend strategies for addressing air, water, and highway needs.

(E) HUMAN RESOURCES.—The Commission shall, with respect to the rural Northern Great Plains—

(i) identify methods of facilitating the employment and business startups of individuals who are not effectively participating in the labor force, including unemployed, underemployed, and low-income individuals and households;

(ii) identify methods of coordinating on a regional or sectoral basis education and training programs that are tied to economic development initiatives, especially programs that address the outmigration of youth; and

(iii) study the competence and availability of the labor force and the effects of the health, educational, training, housing, and economic needs of the labor force, and identify regional strategies addressing the needs.

(F) GOVERNMENT PROGRAMS, POLICIES, AND REGULATIONS.—The Commission shall submit to the appropriate government, nonprofit, and private sector organizations recommendations for modifications or additions to the programs, policies, and regulations referred to in section 7(b)(18) to promote the rural development of the Northern Great Plains.

SEC. 11. TERMINATION.

The Commission shall terminate on the earlier of—

(1) 120 days after the date of submission of the final report under section 10; and

(2) 2 years after the date of enactment of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PLANT VARIETY PROTECTION ACT AMENDMENTS OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to call up the bill (H.R. 2927) to amend the Plant Variety Protection Act to make such act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from Texas [Mr. DE LA GARZA] the chairman of the Committee on Agriculture, to explain the nature and purpose of the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Plant Variety Protection Act Amendments of 1994 would conform current U.S. law with the articles of the International Convention for the Protection of New Varieties of Plants of 1991, otherwise referred to as the UPOV.

Mr. Speaker, H.R. 2927, the Plant Variety Protection Act Amendments of 1994, would conform current U.S. law with the articles of the International Convention for the Protection of New Varieties of Plants of 1991, otherwise referred to as the UPOV Convention.

The primary purpose of this legislation is to strengthen the intellectual property rights of plant breeders and accommodate recent advancements in plant science knowledge and technology.

Since 1970, the Plant Variety Protection Act [PVPA] has provided for the issuance of certificates of plant variety protection. These certificates assure the the developers of novel varieties of sexually reproduced plants have the exclusive rights to sell, reproduce, import, or export such varieties, or use them in the reproduction of hybrids or different varieties.

In order to provide our plant breeders protection in other countries as well, the United States became a member of the UPOV Convention in 1981. The UPOV currently has 25 member countries and provides for uniform practices in the construction and administration of plant variety protection laws in the various member states.

After several years of negotiations, the UPOV Convention was significantly revised in 1991 to provide improved protection for innovative plant varieties. The United States is a signatory to the 1991 agreement. The bill before the House today would conform the current Plant Variety Protection Act to the 1991 UPOV agreement.

Briefly, the major provision of H.R. 2927 would: Prohibit the unauthorized sale of seed by farmers to others; establish new definitions; use the date of filing for protection as the basis for determining eligibility for protection; require that protected varieties be sold by variety name only—with a narrow exemption provided for certain turf and forage grass seeds; extend protection to first generation hybrids; extend the period of protection from 18 to 20 years for most crops and from 18 to 25 years for trees and vines.

Mr. Speaker, each of these changes are needed to conform U.S. law to the 1991 act of the UPOV Convention. In addition, and at the request of the potato industry, a provision is made for including tuber-propagated varieties within the scope of the PVPA.

Mr. Speaker, the development of new plant varieties is time-consuming and costly.

Many years must be spent in the development of a single new variety, with no guarantee of its success or profit. By granting an owner of a variety the right to prevent unauthorized sale of seed of that variety, this legislation will provide that owner with the opportunity to recover the costs of development.

Mr. Speaker, H.R. 2927 will encourage and protect the investment in research into new varieties necessary to respond to the changing needs of American agriculture. I urge my colleagues in the House to support passage of this legislation.

Mr. ROBERTS. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of H.R. 2927, the Plant Variety Protection Act Amendments of 1993. This legislation is an important step towards fulfilling the obligation incurred by the United States as a result of our participation in the International Convention for the Protection of New Varieties.

The development of new plant varieties is important to production agriculture. Not only to increase production of agricultural commodities, but to develop other qualities as well, such as pest and disease resistance. However, the development of these new varieties is time-consuming and costly.

The underlying concept of the International Convention for the Protection of New Varieties and this enabling legislation is simple enough. It maintains that by granting the owner of a variety the right to prevent unauthorized use or sale of the seed of that variety, the owner will have the opportunity to recover the cost of development and profit from their work. This profit then encourages the production of new varieties.

New varieties enable the Nation's farmers to respond to changing climatic conditions, reduce threats from damaging pests, and increase efficiencies that benefit both their own bottom line and the budgets of consumers. This legislation will play an important role in ensuring that Americans continue to enjoy the highest quality food and fiber at the lowest prices.

Again, Mr. Speaker, I underscore my support for this legislation and urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Plant Variety Protection Act Amendments of 1993".

(b) REFERENCES TO PLANT VARIETY PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

"SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—As used in this Act:

"(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

"(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

"(3) ESSENTIALLY DERIVED VARIETY.—

"(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

"(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

"(ii) is clearly distinguishable from the initial variety; and

"(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

"(B) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

"(4) KIND.—The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

"(5) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed.

"(6) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(7) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, and other matter.

"(b) RULES OF CONSTRUCTION.—For the purposes of this Act:

"(1) SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

"(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

"(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

"(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

"(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

"(6) PUBLICLY KNOWN VARIETIES.—

"(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

"(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

"(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.".

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

"SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

"(a) IN GENERAL.—The breeder of any sexually reproduced plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

"(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

"(A) in the United States, more than 1 year prior to the date of filing; or

"(B) in any area outside of the United States—

"(i) more than 4 years prior to the date of filing; or

"(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

"(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

"(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

"(4) stable, in the sense that the variety, when sexually reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

"(b) MULTIPLE APPLICANTS.—

"(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

"(2) REQUIREMENTS COMPLETED ON SAME DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

"(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.".

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The variety shall be named in accordance with regulations issued by the Secretary.";

(2) in the first sentence of paragraph (2), by striking "novelty" and inserting "distinctiveness, uniformity, and stability";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) A statement of the basis of the claim of the applicant that the variety is new.".

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: ", not including the date on which the application is filed in the foreign country"; and

(3) by adding at the end the following new paragraph:

"(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

"(i) the 2-year period beginning on the date of the expiration of the period of priority ; or

"(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

"(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.".

SEC. 6. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in the second sentence of subsection (a), by striking "by variety name";

(2) in the first sentence of subsection (b)—

(A) by striking "eighteen" and inserting "20"; and

(B) by inserting before the period at the end the following: ", except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate"; and

(3) in subsection (c), by striking "repository: *Provided, however*, That" and inserting "repository, or requiring the submission of a different name for the variety, except that".

SEC. 7. PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT; VARIETY PROTECTION.—

(1) REDESIGNATION.—Chapter 9 of title II (7 U.S.C. 2501 et seq.) is amended by redesignating section 94 (7 U.S.C. 2504) as section 92.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

(A) by striking "The owner" and inserting "(a) The owner"; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed.

(d) CONFORMING AMENDMENT.—Section 71 (7 U.S.C. 2461) is amended by striking "92,".

SEC. 8. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking "novel" the first two places it appears and inserting "protected";

(B) in paragraph (1), by striking "the novel" and inserting "or market the protected";

(C) by striking "novel" each place it appears in paragraphs (2) through (7);

(D) by striking "or" each place it appears at the end of paragraphs (3) through (6);

(E) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(F) by inserting after paragraph (6) the following new paragraphs:

"(7) condition the variety for the purpose of propagation;

"(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);";

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

"(b) The owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

"(c) This section shall apply equally to—

"(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

"(2) any variety that is not clearly distinguishable from a protected variety;

"(3) any variety whose production requires the repeated use of a protected variety; and

"(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided by this Act with respect to the propagating material.

"(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that has been sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

"(e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.".

SEC. 9. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking "section: *Provided*, That" and all that follows through the period and inserting "section.".

SEC. 10. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking "novel" each place it appears.

SEC. 11. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended by adding at the end the following new paragraph:

"(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate.".

SEC. 12. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Except as provided in subsection (b), any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS WITHDRAWN AND REFILED.—If a pending application is withdrawn and refiled after the effective date of this Act, eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act.

SEC. 13. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DE LA GARZA: Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Plant Variety Protection Act Amendments of 1994".

(b) References to Plant Variety Protection Act.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

"SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—As used in this Act:

"(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

"(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

"(3) ESSENTIALLY DERIVED VARIETY.—

"(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

"(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

"(ii) is clearly distinguishable from the initial variety; and

"(iii) except for differences that result from the act of derivation, conform to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

"(b) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

"(4) KIND.— The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

"(5) SEED.—The term 'seed', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.

"(6) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.

"(7) TUBER PROPAGATED.—The term 'tuber propagated' means propagated by a tuber or a part of a tuber.

"(8) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(9) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expressions of the characteristics resulting from a given genotype or combination or genotypes, distinguished from any other plant grouping by the expression of a at least one characteristic and considered as a unit with regard to the suitability of the pant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

"(b) RULES OF CONSTRUCTION.—For the purposes of this Act:

"(1) SALE OR DISPOSITION FOR NON-REPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

"(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

"(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

"(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

"(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

"(6) PUBLICLY-KNOWN VARIETIES.—

"(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

"(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

"(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.".

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

"SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

"(a) IN GENERAL.—The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

"(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

"(A) in the United States, more than 1 year prior to the date of filing; or

"(B) in any area outside of the United States—

"(i) more than 4 years prior to the date of filing; or

"(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

"(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

"(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

"(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

"(b) MULTIPLE APPLICANTS.—

"(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety

protection, to the exclusion of any other applicant.

"(2) REQUIREMENTS COMPLETED ON SAME DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

"(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.".

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The variety shall be named in accordance with regulations issued by the Secretary.";

(2) in the first sentence of paragraph (2), by striking "novelty" and inserting "distinctiveness, uniformity, and stability";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following new paragraph:

"(3) A statement of the basis of the claim of the applicant that the variety is new."; and

(5) in paragraph (4) (as redesignated by paragraph (3)), by inserting "(including any propagating material)" after "basic seed".

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: ", not including the date on which the application is filed in the foreign country"; and

(3) by adding at the end the following new paragraph:

"(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

"(i) the 2-year period beginning on the date of the expiration of the period of priority; or

"(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

"(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.".

SEC. 6. NOTICE OF REFUSAL; RECONSIDERATION.

The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "six months" and inserting "at least 30 days, and not more than 180 days"; and

(2) by striking "in exceptional circumstances".

SEC. 7. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a)—

(A) by designating the first through fourth sentences as paragraphs (1) through (4), respectively; and

(B) by striking paragraphs (2) and (3) (as so designated) and inserting the following new paragraphs:

"(2) If the owner so elects, the certificate shall—

"(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

"(B) if so specified, conform to the number of generations designated by the owner.

"(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).";

(2) in the first sentence of subsection (b)—

(A) by striking "eighteen" and inserting "20"; and

(B) by inserting before the period at the end the following: ", except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate"; and

(3) in subsection (c), by striking "repository: Provided, however, That" and inserting "repository, or requiring the submission of a different name for the variety, except that".

SEC. 8. PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT VARIETY PROTECTION.—

(1) REDESIGNATION.—Section 94 of the Act (7 U.S.C. 2504) is redesignated as section 92.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

(A) by striking "The owner" and inserting "(a) The owner"; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 71 (7 U.S.C. 2461) is amended by striking "92,".

(2) Section 102 (7 U.S.C. 2532) is amended by inserting "or tuber propagable" after "sexually reproducible" each place it appears.

SEC. 9. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking "novel" the first two places it appears and inserting "protected";

(B) in paragraph (1), by striking "the novel" and inserting "or market the protected";

(C) by striking "novel" each place it appears in paragraphs (2) through (7);

(D) in paragraph (3), by inserting ", or propagate by a tuber or a part of a tuber," after "sexually multiply";

(E) by striking "or" each place it appears at the end of paragraphs (3) through (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(G) by inserting after paragraph (6) the following new paragraphs:

"(7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 113;

"(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);";

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

"(b)(1) Subject to paragraph (2), the owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

"(2) In the case of a contract between a seed producer and the owner of a protected variety of lawn, turf, or forage grass seed, or alfalfa or clover seed for the production of seed of the protected variety, the producer shall be deemed to be authorized by the owner to sell such seed and to use the variety if—

"(A) the producer has fulfills the terms of the contract;

"(B) the owner refuses to take delivery of the seed or refuses to pay any amounts due under the contract within 30 days of the payment date specified in the contract; and

"(C) after the expiration of the period specified in subparagraph (B), the producer notifies the owner of the producer's intent to sell the seed and unless the owner fails to pay the amounts due under the contract and take delivery of the seed within 30 days of such notification. For the purposes of this paragraph, the term 'owner' shall include any licensee of the owner.

"(3) Paragraph (2) shall apply to contracts entered into with respect to plant varieties protected under this Act (7 U.S.C. 2321 et seq.) as in effect on the day before the effective date of this provision as well as plant varieties protected under this Act as amended by the Plant Variety Protection Act Amendments of 1994.

"(4) Nothing in this subsection shall affect any other rights or remedies of producers or owners that may exist under other Federal or State laws.

"(c) This section shall apply equally to—

"(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

"(2) any variety that is not clearly distinguishable from a protected variety;

"(3) any variety whose production requires the repeated use of a protected variety; and

"(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided under this Act with respect to the propagating material.

"(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that is sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

"(e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.".

SEC. 10. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking "section: Provided, That" and all that follows through the period and inserting "section.".

SEC. 11. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking "novel" each place it appears.

SEC. 12. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended—

(1) by inserting "or tubers or parts of tubers" after "plant material"; and

(2) by adding at the end the following new paragraph:

"(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, or alfalfa or clover seed may be sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this Act is required under State law.".

SEC. 13. ELIMINATION OF GENDER-BASED REFERENCES.

(a) The last sentence of section 7(a) (7 U.S.C. 2327(a)) is amended by striking "his designee shall act as chairman" and inserting "the designee of the Secretary shall act as chairperson".

(b) Section 10(a) (7 U.S.C. 2330(a)) is amended by striking "he" and inserting "the Secretary".

(c) Section 23 (7 U.S.C. 2353) is amended—

(1) in the second sentence, by striking "he" and inserting "the officer"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(d) Section 24 (7 U.S.C. 2354) is amended—

(1) in the first sentence of subsection (a), by striking "him" and inserting "the witness"; and

(2) in the second sentence of subsection (c)—

(A) by striking "his fees and traveling expenses" and inserting "the fees and traveling expenses of the witness"; and

(B) by striking "him" and inserting "the witness".

(e) The last sentence of section 27 (7 U.S.C. 2357) is amended by striking "he" each place it appears and inserting "the person".

(f) The first sentence of section 44 (7 U.S.C. 2404) is amended by striking "he" and inserting "the Secretary".

(g) Section 53 (7 U.S.C. 2423) is amended—

(1) in subsection (a), by striking "one (or his successor)" and inserting "one person (or the successor of the person)"; and

(2) in subsection (b), by striking "he" and inserting "the Secretary".

(h) Section 54 (7 U.S.C. 2424) is amended by striking "his successor in interest" and inserting "the successor in interest of the breeder".

(i) Section 55 (7 U.S.C. 2425) is amended—

(1) in subsection (a)(2) (as redesignated by section 5(1)), by striking "his application" and inserting "the application filed in the United States"; and

(2) in subsection (b), by striking "his predecessor in title" and inserting "the predecessor in title of the person".

(j) The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "him" and inserting "an applicant";

(2) by striking "an applicant shall" and inserting "the applicant shall"; and

(3) by striking "he" and inserting "the Secretary".

(k) The second sentence of section 72 (7 U.S.C. 2462) is amended by striking "his variety as specified in his application" and inserting "the variety as specified in the application".

(l) Section 82 (7 U.S.C. 2482) is amended by striking "his signature" and inserting "the signature of the Secretary".

(m) Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a) (as amended by section 7(1)(A))—

(A) in paragraph (1), by striking "(or his successor in interest) his heirs and assignees" and inserting "(or the successor in interest of the breeder)"; and

(B) in paragraph (4), by striking "his discretion" and inserting "the discretion of the Secretary"; and

(2) in subsection (c), by striking "he" and inserting "the last owner".

(n) Section 86 (7 U.S.C. 2486) is amended—

(1) in the first sentence, by striking "him" and inserting "the Secretary"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(o) Section 91(c) (7 U.S.C. 2501(c)) is amended by striking "he" and inserting "the Secretary".

(p) The fourth sentence of section 92(b) (as transferred by section 8(c)(1)) is amended by striking "he" and inserting "the Secretary".

(q) The first sentence of section 111(f) (as redesignated by section 9(2)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

(r) Section 112 (7 U.S.C. 2542) is amended by striking "his successor in interest" and inserting "the successor in interest of the person".

(s) Section 113 (7 U.S.C. 2543) is amended—

(1) in the first sentence—

(A) by striking "him" and inserting "the person"; and

(B) by striking "his farm" and inserting "the farm of the person"; and

(2) in the third sentence, by striking "his actions" and inserting "the actions of the purchaser".

(t) Section 121 (7 U.S.C. 2561) is amended by striking "his".

(u) Section 126(b) (7 U.S.C. 2566(b)) is amended by striking "his" and inserting "the".

(v) Section 128(a) (7 U.S.C. 2568(a)) is amended by striking "he" and inserting "the Secretary".

(w) Section 130(a) (7 U.S.C. 2570(a)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

SEC. 14. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS REFILED.—

(1) IN GENERAL.—An applicant may refile a pending application on or after the effective date of this Act.

(2) EFFECT OF REFILING.—If a pending application is refiled on or after the effective date of this Act—

(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act; and

(B) for purposes of section 42 of the Plant Variety Protection Act, as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

(c) LABELING.—

(1) IN GENERAL.—To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

(2) SANCTIONS.—Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).

SEC. 15. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1406) to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Plant Variety Protection Act Amendments of 1994".

(b) REFERENCES TO PLANT VARIETY PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

"SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—As used in this Act:

"(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

"(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

"(3) ESSENTIALLY DERIVED VARIETY.—

"(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

"(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

"(ii) is clearly distinguishable from the initial variety; and

"(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

"(B) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

"(4) KIND.—The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

"(5) SEED.—The term 'seed', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.

"(6) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.

"(7) TUBER PROPAGATED.—The term 'tuber propagated' means propagated by a tuber or a part of a tuber.

"(8) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(9) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

"(b) RULES OF CONSTRUCTION.—For the purposes of this Act:

"(1) SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

"(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

"(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

"(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

"(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

"(6) PUBLICLY KNOWN VARIETIES.—

"(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

"(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

"(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.".

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

"SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

"(a) IN GENERAL.—The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

"(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

"(A) in the United States, more than 1 year prior to the date of filing; or

"(B) in any area outside of the United States—

"(i) more than 4 years prior to the date of filing; or

"(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

"(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is publicly known or a matter of common knowledge at the time of the filing of the application;

"(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

"(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

"(b) MULTIPLE APPLICANTS.—

"(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

"(2) REQUIREMENTS COMPLETED ON SAME DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

"(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.".

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The variety shall be named in accordance with regulations issued by the Secretary.";

(2) in the first sentence of paragraph (2), by striking "novelty" and inserting "distinctiveness, uniformity, and stability";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following new paragraph:

"(3) A statement of the basis of the claim of the applicant that the variety is new."; and

(5) in paragraph (4) (as redesignated by paragraph (3)), by inserting "(including any propagating material)" after "basic seed".

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: ", not including the date on which the application is filed in the foreign country"; and

(3) by adding at the end the following new paragraph:

"(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

"(i) the 2-year period beginning on the date of the expiration of the period of priority ; or

"(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

"(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.".

SEC. 6. NOTICE OF REFUSAL; RECONSIDERATION.

The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "six months" and inserting "at least 30 days, and not more than 180 days"; and

(2) by striking "in exceptional circumstances".

SEC. 7. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a)—

(A) by designating the first through fourth sentences as paragraphs (1) through (4), respectively; and

(B) by striking paragraphs (2) and (3) (as so designated) and inserting the following new paragraphs:

"(2) If the owner so elects, the certificate shall—

"(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

"(B) if so specified, conform to the number of generations designated by the owner.

"(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).";

(2) in the first sentence of subsection (b)—

(A) by striking "eighteen" and inserting "20"; and

(B) by inserting before the period at the end the following: ", except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate"; and

(3) in subsection (c), by striking "repository: *Provided, however*, That" and inserting "repository, or requiring the submission of a different name for the variety, except that".

SEC. 8 PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT VARIETY PROTECTION.—

(1) REDESIGNATION.—Chapter 9 of title II (7 U.S.C. 2501 et seq.) is amended by redesignating section 94 (7 U.S.C. 2504) as section 92.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

(A) by striking "The owner" and inserting "(a) The owner"; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 71 (7 U.S.C. 2461) is amended by striking "92,".

(2) Section 102 (7 U.S.C. 2532) is amended by inserting "or tuber propagable" after "sexually reproducible" each place it appears.

SEC. 9. PROMPT PAYMENT.

Chapter 9 of title II (7 U.S.C. 2501 et seq.) (as amended by section 8) is further amended by adding at the end the following new section:

"SEC. 93. PROMPT PAYMENT.

"If a seed grower contracts with the holder of a certificate of plant variety protection issued under this Act, or a licensee of the holder, to produce lawn, turf, or forage grass seed, alfalfa, or clover seed, protected under this Act, payments due the grower under the contract shall be completed not later than the earlier of—

"(1) 30 days after the contract payment date; or

"(2) May 1 of the year following the production of the seed.".

SEC. 10. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking "novel" the first two places it appears and inserting "protected";

(B) in paragraph (1), by striking "the novel" and inserting "or market the protected";

(C) by striking "novel" each place it appears in paragraphs (2) through (7);

(D) in paragraph (3), by inserting ", or propagate by a tuber or a part of a tuber," after "sexually multiply";

(E) by striking "or" each place it appears at the end of paragraphs (3) through (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(G) by inserting after paragraph (6) the following new paragraphs:

"(7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 113;

"(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);";

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

"(b) The owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

"(c) This section shall apply equally to—

"(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

"(2) any variety that is not clearly distinguishable from a protected variety;

"(3) any variety whose production requires the repeated use of a protected variety; and

"(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided by this Act with respect to the propagating material.

"(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that has been sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

"(e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.".

SEC. 11. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking "section: *Provided*, That" and all that follows through the period and inserting "section.".

SEC. 12. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking "novel" each place it appears.

SEC. 13. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended—

(1) by inserting "or tubers or parts of tubers" after "plant material"; and

(2) by adding at the end the following new paragraph:

"(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, alfalfa, or clover seed may be sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this Act is required under State law.".

SEC. 14. ELIMINATION OF GENDER-BASED REFERENCES.

(a) The last sentence of section 7(a) (7 U.S.C. 2327(a)) is amended by striking "his designee shall act as chairman" and inserting "the designee of the Secretary shall act as chairperson".

(b) Section 10(a) (7 U.S.C. 2330(a)) is amended by striking "he" and inserting "the Secretary".

(c) Section 23 (7 U.S.C. 2353) is amended—

(1) in the second sentence, by striking "he" and inserting "the officer"; and

(3) in the third sentence, by striking "he" and inserting "the person".

(d) Section 24 (7 U.S.C. 2354) is amended—

(1) in the first sentence of subsection (a), by striking "him" and inserting "the witness"; and

(2) in the second sentence of subsection (c)—

(A) by striking "his fees and traveling expenses" and inserting "the fees and traveling expenses of the witness"; and

(B) by striking "him" and inserting "the witness".

(e) The last sentence of section 27 (7 U.S.C. 2357) is amended by striking "he" each place it appears " and inserting "the person".

(f) The first sentence of section 44 (7 U.S.C. 2404) is amended by striking "he" and inserting "the Secretary".

(g) Section 53 (7 U.S.C. 2423) is amended—

(1) in subsection (a), by striking "one (or his successor)" and inserting "one person (or the successor of the person)"; and

(2) in subsection (b), by striking "he" and inserting "the Secretary".

(h) Section 54 (7 U.S.C. 2424) is amended by striking "his successor in interest" and inserting "the successor in interest of the breeder".

(i) Section 55 (7 U.S.C. 2425) is amended—

(1) in subsection (a)(2) (as redesignated by section 5(1)), by striking "his application" and inserting "the application filed in the United States"; and

(2) in subsection (b), by striking "his predecessor in title" and inserting "the predecessor in title of the person".

(j) The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "him" and inserting "an applicant";

(2) by striking "an applicant shall" and inserting "the applicant shall"; and

(3) by striking "he" and inserting "the Secretary".

(k) The second sentence of section 72 (7 U.S.C. 2462) is amended by striking "his variety as specified in his application" and inserting "the variety as specified in the application".

(l) Section 82 (7 U.S.C. 2482) is amended by striking "his signature" and inserting "the signature of the Secretary".

(m) Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a) (as amended by section 7(1)(A))—

(A) in paragraph (1), by striking "(or his successor in interest)" and inserting "(or the successor in interest of the breeder)"; and

(B) in paragraph (4), by striking "his discretion" and inserting "the discretion of the Secretary"; and

(2) in subsection (c), by striking "he" and inserting "the last owner".

(n) Section 86 (7 U.S.C. 2486) is amended—

(1) in the first sentence, by striking "him" and inserting "the Secretary"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(o) Section 91(c) (7 U.S.C. 2501(c)) is amended by striking "he" and inserting "the Secretary".

(p) The fourth sentence of section 92(b) (as transferred by section 8(c)(1)) is amended by striking "he" and inserting "the Secretary".

(q) The first sentence of section 111(f) (as redesignated by section 9(2)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

(r) Section 112 (7 U.S.C. 2542) is amended by striking "his successor in interest" and inserting "the successor in interest of the person".

(s) Section 113 (7 U.S.C. 2543) is amended—

(1) in the first sentence—

(A) by striking "him" and inserting "the person"; and

(B) by striking "his farm" and inserting "the farm of the person"; and

(2) in the third sentence, by striking "his actions" and inserting "the actions of the purchaser".

(t) Section 121 (7 U.S.C. 2561) is amended by striking "his".

(u) Section 126(b) (7 U.S.C. 2566(b)) is amended by striking "his" and inserting "the".

(v) Section 128(a) (7 U.S.C. 2568(a)) is amended by striking "he" and inserting "the Secretary".

(w) Section 130(a) (7 U.S.C. 2570(a)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

SEC. 15. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS REFILED.—

(1) IN GENERAL.—An applicant may refile a pending application on or after the effective date of this Act.

(2) EFFECT OF REFILING.—If a pending application is refiled on or after the effective date of this Act—

(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act; and

(B) for purposes of section 42 of the Plant Variety Protection Act, as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

(c) LABELING.—

(1) IN GENERAL.—To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

(2) SANCTIONS.—Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).

SEC. 16. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of S. 1406 and insert in lieu thereof the text of H.R. 2927, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2927) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL POW/MIA RECOGNITION DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 196) designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House the minority has no objection to the legislation now being considered, and, Mr. Speaker, as the chief sponsor of House Joint Resolution 360, I rise in support of this legislation.

Mr. Speaker, I thank the distinguished chairman of the Post Office and Civil Service Committee, the gentleman from Missouri [Mr. CLAY], and our good ranking minority member, the gentleman from Indiana [Mr. MYERS], for bringing this important resolution to the floor today. Their support for veterans and Americans in uniform is well known and appreciated by this Member.

Mr. Speaker, I rise in full support of Senate Joint Resolution 196, designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag—a day when our veteran posts, our schools, our libraries, and our mass media can remind all Americans of our courageous servicemen whose fates are still undetermined from the Vietnam war.

In 1992, candidate Clinton told the POW/MIA family groups and veteran organizations that he would never lift the trade embargo against the Communist government of Vietnam until the fate of thousands of POW's and MIA's from the Vietnam war was resolved. President Clinton, against the advice of the American Legion, the National League of Families, the National Alliance of Families, and other veterans and family organizations lifted the trade embargo. His rationale for doing so was that the Vietnamese Government was cooperating with our efforts to account for our men.

Regrettably, besides some access to old crash sites that has been on many occasions, fully investigated by Vietnamese, Soviet, and Chinese personnel years ago, the Vietnamese Government has done virtually nothing to account for hundreds of Americans they have information on. The Government of Vietnam continues to withhold from our investigators access to prison records and military reports that were written at the time of the shoot downs and captures. The meticulous Communist recordkeepers tell us that the books were eaten by worms, damaged by weather, or hold sensitive national security information.

Meanwhile, our State Department continues to move full speed ahead, with its plans to open a Liaison Office that looks more and more like an Embassy as official relations between our Nation and the Socialist Republic of Vietnam appears to be a foregone conclusion.

Despite my reservations, it is my sincere hope that the administration's normalization of trade and relations with Vietnam eventually pays dividends and that next year there will not be a need for this resolution.

Accordingly, I urge my colleagues to vote for Senate Joint Resolution 196.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of House Joint Resolution 369.

Mr. Speaker, I would like to congratulate the gentleman from New York [Mr. GILMAN] on the courageous effort he has made on this issue over the years. It has just been something he has not let go of, and he has been tremendously responsible.

Mr. Speaker, I would again like to congratulate the gentleman from New York [Mr. GILMAN] who for many, many years has kept the faith not only with the American people but with those men and women who went to Vietnam to protect the interests of the United States of America and to fight for freedom.

Mr. Speaker, when we gave our word to them, the gentleman from New York [Mr. GILMAN] did not forget and has kept the faith with them over the years.

Mr. Speaker, I am very proud to be with the gentleman here today to declare that September 16 should be a day in memory of our MIA/POW's. This issue has, unlike the exemplary job Mr. GILMAN has done, has been a disgrace on the part of so many American officials and so many elected officials as well.

I remember when I was a young reporter shortly after the MIA/POW's were supposedly all returned, I was a young reporter and interviewed Richard Nixon in Los Angeles. I will never forget that interview because I asked him whether or not he was certain all of our MIA/POW's had been returned from Vietnam. And he gave me a statement to that effect.

However, after the interview, I thought to myself the President did not give me any reason to believe that all of the MIA/POW's were returned except that he was satisfied. It seemed to me if he was satisfied and that was not just a public statement, he would have given me reasons to believe that.

So I walked away from that interview so many years ago, 20 years ago now, saying, "You know, I don't think he was telling me the truth. I think he thinks there may still be some MIA/POW's in Vietnam." The question we have to ask ourselves, at that time why would the Vietnamese have ever given up all of their leverage on the United States of America in order to give back all of those people who had been there bombing them and participating in the war against them?

At that time the war was still going on in Cambodia, war was still going on in Laos, in fact, a war was still going on it South Vietnam. There was every reason to question whether or not the Vietnamese gave back all of those POW/MIA's at that time.

We have heard over and over and over again these years that the Communist regime in Hanoi has been cooperative. Well it just ain't so.

The history of our dealings with Hanoi in terms of our MIA/POW record is a record of deceit, foot-dragging, and manipulation. It is a history of we ourselves bending over backward to give the very best interpretation of all of Hanoi's actions. It is a history of a mindset on the part of American officials to debunk the entire MIA/POW issue, especially if there are any live-sighting reports about possible POW/MIA's still in the hands of the Communists.

Now, are there still live POW's, especially after all of these years? I happen to believe it is likely that they kept some Americans after claiming they returned them all. That does not mean these men would still be alive today. I do not know if they are or not, and I am not saying they were kept. What I do know is that the American people have been lied to on this issue over and over again.

What I do know is Hanoi has not been cooperating as we have been told on this issue.

Mr. Speaker, less than a year ago, I was up on the Cambodian-Vietnamese border with our American POW teams out there in the jungle, trying to find, desperately working under horrible conditions, having to cut landing pads out of the jungle in order to try to find a hospital where some of our MIA/POW's were kept near the end of the war.

The trouble is Hanoi could tell us the location of this hospital, which was a major facility during the war, simply by having any one of the thousands of North Vietnamese who were stationed at that hospital go to the scene and help our people locating it.

But instead our teams have been put through a grueling practice over and over again, trying their hardest, working long hours to find even the minuscule bit of information.

One of our own colleagues, PETE PETERSON of Florida, was held for 6 years as a prisoner of war. On the way over to Vietnam I asked PETE if he has been a prisoner of war, designated as a prisoner of war the entire time he was held captive. He told me, "no," in fact during the first 3 years of his captivity he was labeled as an MIA, meaning even his family did not know that he was being held captive by the North Vietnamese.

During that time that he was kept there, and I think this is important, Mr. PETERSON was kept totally separate from all other Americans. No one knew that he was being held captive. In fact, had he been kept instead of declared a POW, we would not have known he would have been there at all. It is possible other Americans were held in the same way. I am not saying that is absolutely the case, but that it is worth putting pressure on the Vietnamese instead of bending over backward giving them the benefit of the doubt.

When I was with them negotiating this issue, they told me that record that PETE PETERSON—the prison in which he was held those 6 years, were not available to us. Now, those records could have disclosed to us whether or not there were other prisoners in this status listed as MIA and being part of the prison population. In fact, we have not been given the record of any of those prisons.

That to me indicates the Vietnamese have been deceptive. We do not need to bend over backward in the POW/MIA issue, to normalize relations, rush in with a trading relationship with people who are treating us with that type of arrogance.

I would say during this time period the one hope that any people have of actually coming to the truth, to finding out what happened in there in Southeast Asia to our MIA/POW's, is to make sure we as American citizens keep the pressure up on our own Government and on Hanoi. That is why this resolution today is so important. That is why on September 16, I hope that all Americans will fly their MIA/POW flags at their local libraries and people will come forward and give radio interviews and talk to other Americans and others about the issue of MIA/POW's. We should never forget this war in Vietnam.

We should never forget the lessons we learned there. There are a lot lessons to be learned. But most importantly, never forget the men and women who marched off. They placed their lives on the line for us, and we should make sure they are never forgotten, because we are sending a message to our current defenders that we will always be behind them and will never ever leave them behind.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I thank the gentleman from California [Mr. ROHRABACHER] for his very strong supportive statements in support of the resolution.

Mr. Speaker, further reserving the right to object, I am pleased to yield to a longtime proponent of our need to explore and to get a full resolution of our MIA/POW issue, the gentleman from California [Mr. DORNAN].

Mr. DORNAN. I thank the gentleman from New York, the stalwart colleague from New York, who has been a leader on this issue for the better part of a quarter of a century.

Mr. Speaker, I am going to be uncharacteristically brief on this issue because our colleague and whip and one of our leaders, deputy whip, Mr. WALKER, has a privileged motion and I want to stay to hear that.

There is not anything I can say to add to the perfect remarks of the gentleman from California [Mr. ROHRABACHER] and to the perfect remarks of the gentleman from New York [Mr. GILMAN] on this issue.

□ 1430

Last week, I was going to make a speech on this because it was the 30th anniversary of the shootdown of our friend, Ev Alvarez, on August 5, 1964. What we did not know until 9 years later, Ev was to turn out not to be our longest-held prisoner. An Army Green Beret, Maj. Floyd Thompson, was taken prisoner March 26, 1964, served 1 week less than 9 years. His wife waited for him. MIA for all those years. So, this was the better part of a decade, this agony.

What I will do is just associate myself with the remarks, with the perfect remarks, of the gentleman from California [Mr. ROHRABACHER].

Mr. Speaker, I am going to put in the RECORD what the gentleman from New York [Mr. GILMAN] and I have agreed is the outstanding article by our friend, Dr. Frank Gaffney, last week on the warehoused remains of our heroes and why the Vietnamese can still not be trusted on this issue, and I would call my colleagues and the Nation's attention, through C-SPAN, to this month's Reader's Digest on the 30th anniversary of Ev Alvarez' shootdown. There is a superb article of how this man's faith, his Christian faith, his Catholic faith, which I will speak about in my special order tonight, how that sustained him through the darkest months when he was the only prisoner. They never let him know that they had Floyd Thompson, never saw him during all those 9 years.

I thank the gentleman for letting me speak, and I support, of course, Senate Joint Resolution 196.

Mr. Speaker, here is the superb article by Frank Gaffney, it is both heartbreaking and enraging to true patriots.

The article follows:

[From the Washington Times, July 26, 1994]

SMOKING GUN IN MIA COVERUP?

(By Frank Gaffney, Jr.)

One would think that, if a picture is worth a thousand words, 2,000 photos recently displayed at a national convention in Crystal City should be worth 2 million words. In fact, these pictures should translate into much more than a voluminous book's worth of wordage. They should clear the way for a final, honest accounting of what happened to the hundreds of men left behind at the end of the Vietnam war.

The photographs, which were presented publicly for the first time at the annual Washington meeting of the National Alliance of POW-MIA Families, were taken more than 20 years ago by the North Vietnamese army and news agency. They show American prisoners of war, aircraft crash sites and pilot identification cards.

Some of the subjects are among those prisoners who returned at the end of the war. But many others are servicemen—photographed alive or dead—who are still officially considered "unaccounted for."

Incredibly, these materials were secretly withheld from the public—including family members of some of those servicemen appearing in these photographs who claim the U.S. government had not previously informed them about the existence of these photos, even though the Defense Department now acknowledges having them for more than two years. The National Alliance obtained these formerly "TOP SECRET" photos from a former agent of the Defense Intelligence Agency.

The explanation for this stunning withholding of information relevant to the POW-MIA issue may lie in the fact that these photos represent damning new evidence of the extent to which the American and Vietnamese governments have covered up critical information on missing U.S. servicemen. Among other things, they document the great lengths to which North Vietnam went to document its inventory of captured or dead American prisoners and their equipment—to the point of labeling and warehousing prisoners' uniforms, flight helmets and aircraft identification numbers.

In addition, hundreds of pilot identification cards—including those of men still listed as missing—are shown in pristine condition. There are also photos depicting Vietnamese searching through crash sites together with Soviet bloc advisers, indicating there is much more information in Hanoi and Moscow that can and must be made public.

Importantly, these photos also appear to put to rest several, long-disputed issues:

Some American servicemen officially listed as missing in the Vietnam conflict were captured alive. Consequently, it is no longer possible to accept Hanoi's excuses—or those of its apologists—to the effect that it has no knowledge of the fate of these individuals.

American servicemen listed as missing or deceased "with body unrecoverable," were at one point in the hands of Vietnamese and Soviet bloc officials. The remains of such servicemen can no longer be considered irretrievably lost.

The Vietnamese government was meticulous in its record-keeping about captured or deceased American pilots. Claims that Hanoi has been fully forthcoming with what little documentation it had concerning U.S. POW-MIAs—or, alternatively, that worm- or water-damage or carelessness resulted in everything else being lost—should be seen for what they are: part of a long-running, cynical manipulation of such information by Vietnam.

Vietnamese excavation teams examined downed aircraft even in extremely remote areas. This proves that most crash sites—now being excavated by joint American and Vietnamese military teams at great cost to U.S. taxpayers—were scoured during the war and any prisoners, or their bodies, were removed long ago. Consequently, the illusion of great cooperation from Hanoi in investigating these sites should cease to be a justification for further steps toward normalizing bilateral relations.

The U.S. government has still not come clean about all that it knows concerning our unaccounted-for servicemen. Notwithstanding its professed commitment to declassify all relevant information, the Clinton team appears to be continuing the practice of past U.S. administrations in resisting full disclosure, for example, of electronic intercepts that support the National Alliance's photo collection on two points: (1) American servicemen were abandoned in Vietnam at the war's end and (2) that fact was assiduously covered up in the years since. And Clinton personnel choices make an early end to the cover-up unlikely; a virulent anti-war activist, Charles Searcy, was the president's choice to run POW-MIA affairs at the Pentagon, and the most respected field investigator, Garnett Bell, was replaced by young officers who have no background in the issue or in Southeast Asia.

Addressing the questions raised by Hanoi's photographs should be the sole focus of meetings like that between Secretary of State Warren Christopher and his Vietnamese counterpart in Bangkok this month. This effort should be accompanied by a new and independent evaluation of all available information related to the missing Americans. Clearly, unless and until Hanoi and Washington are fully forthcoming, there must be no further progress toward establishing full diplomatic and economic relations with communist Vietnam.

At a minimum, the National Alliance's photo exhibit ought to be displayed in the House and Senate office buildings, where it would be readily accessible to members of Congress, journalists and the public at large. It is especially important that this reminder of unfinished business be kept squarely in mind as President Clinton puts a new generation of Americans in uniform at risk of a similar fate in places like Bosnia, Haiti and the Golan Heights.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I want to thank the gentleman from California [Mr. DORNAN] for his supportive arguments.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 196

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of the Americans whom are still missing in action and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 16, 1994, is designated "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2. REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed, as a symbol of the concern and commitment of the United States to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for and to ending the uncertainty for their families and the Nation—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1994 (Memorial Day), September 16, 1994 (National POW/MIA Recognition Day), and November 11, 1994 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 16, 1994.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House;

(2) the Capitol Building; and

(3) the buildings containing the primary offices of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990 (36 U.S.C. 189).

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE THE SENATE AMENDMENTS TO H.R. 4554

Mr. GIBBONS. Mr. Speaker, I rise to a question of the privileges of the

House, and I offer a privileged resolution (H. Res. 518) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 518

Resolved, That Senate amendment No. 83 to the bill H.R. 4554 making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this house and that such bill with the Senate amendments thereto be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore. The resolution constitutes a question of privileges of the House.

The gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 518 is a simple resolution returning to the Senate the bill, H.R. 4554, because it contravenes the constitutional requirements that revenue measures originate only in the House of Representatives.

Specifically, the Senate amendments to H.R. 4554 provide that amounts are to be credited to the appropriations for the Food and Drug Administration "from fees established and collected to cover the costs of regulation of products under the jurisdiction of the Food and Drug Administration." These fees are not limited to cover only the costs of providing specified regulatory activities. Further, the FDA would not be required to change the fees, in appropriate amounts, only to those persons who benefit from such regulatory activities. Instead, the Senate amendments would allow the FDA to charge a broad cross-section of the public in order to fund the costs of its activities in general. Thus, these fees are not true regulatory fees, but constitute revenues which would fund the Government generally.

Therefore, I am asking that the House insist on its constitutional prerogatives. While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action does not constitute a rejection of the Senate bill on its merits. Our action today is merely procedural in nature. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill and the Senate to add its amendments and seek a conference.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the privileged resolution offered by the chairman of the Committee on Ways and Means.

Some folks may think that this appears to be a rather arcane battle and arcane discussion. It is, in fact, fundamental to an ordered process. The rules of the game in our society is the Constitution of the United States, and in Article I, Section 7, it says all bills for raising revenues shall originate in the House of Representatives. But the Senate may propose or concur with amendments, as on other bills.

The chairman has outlined a fee structure in the bill that we are asking to send back to the Senate. The fee structure in fact raises more money than the fees cover. If you are going to collect more in revenue than you are going to use for a particular purpose, you can call it whatever you want, but it is raising revenue under the Constitution, and the Constitution says that is the right and the privilege of the House of Representatives to originate. All the resolution does is simply tells the other body that we must insist on this constitutional requirement.

Now when the House adopts this privileged resolution to return the bill to the Senate, it does not prejudice the amendment's consideration in any constitutionally accepted manner. Certainly the Senate sponsors are free to seek an appropriate House-generated revenue bill to accomplish that purpose. Whether or not the substance of the measure should be approved and whatever context is to be considered is certainly a discussion for another day. For now the issue is simply: Will the House of Representatives enforce its prerogatives under the Constitution?

Mr. Speaker, I think that should be fairly simple for all of the Members of the House to understand and agree with the chairman, and I support the privileged resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Let me simply say that what is at issue here is whether or not the House will take an action which is called blue-slipping the appropriation bill for agriculture for the coming fiscal year. The reason the Committee on Ways and Means wants to do that is because the Senate inappropriately adopted an amendment which is clearly an effort simply to legislate more spending in the agriculture appropriation bill above the amount that would be allowed for the budget caps, and the way they do that is to inappropriately use a revenue device. I grant that. As chairman of the Committee on Appropriations, I fully appreciate the need for the Senate to cease and desist on items like this. But there are a number of ways that it can be done it seems to me. The committee can, if it chooses, pursue its right today. I fully recognize that right. If the committee pursues it in this manner, however, and if the Senate bill manager cannot obtain unanimous consent to vacate the ill-advised Senate action, then it means that we are forced to repass the agriculture appropriation bill in this House, repass it again in the Senate, consuming additional time at a time when this institution is already under great duress and great stress because of the large nature of the bills such as the health care bill and the crime bill which we are still trying to wrestle with.

□ 1440

An alternative manner in which to proceed would still preserve the rights of the Committee on Ways and Means to blue-slip this bill when it comes back from conference if the offending provision has not been removed. I have made it quite clear, both orally and in a letter to the chairman of the committee, that our committee will not come back from conference with that offending provision. We reject it outright and would insist that it not be included.

I cannot prevent the committee from exercising its right to offer this resolution today. They are correct. The committee does have the right and privilege to offer the resolution. But in a constructive atmosphere, one does not always need to exercise every right and privilege that one has. At least when that right is exercised, it would be good for this institution if that right were exercised in a way which took into account the greater needs of the institution at the moment.

I take a back seat to no one in my insisting that the Senate follow constitutional dictates, and I fully acknowledge the right of the Committee on Ways and Means to take this action. But I would suggest that a more constructive way in which to take it would be to withhold this action for the moment and allow us to remove the offending provision in conference.

Our committee did not, after all, place that offending matter in the bill. It was done in the Senate. They added the amount of spending that is in question. And we made quite clear it will be taken out and we will not bring an agriculture appropriation bill back to the floor if the Senate does not back off on its provision.

It seems to me that that would be a far more constructive way to deal with the situation at hand, rather than to add to the gridlock which we have around here by requiring this House, if the Senate does not do what it ought to do, to repass again an appropriation bill, and have the Senate repass it again, at a time when our focus ought to be on health care and ought to be on crime.

Mr. GIBBONS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the chairman of the Committee on Appropriations for his remarks. I have no argument with him about the substance of his remarks. I think he has been very straightforward and very professional and very gentlemanly in his approach. But we think it is appropriate that we send this back to the Senate at this time.

The SPEAKER pro tempore (Ms. BROWN of Florida). Does the gentleman from California wish to use further time?

Mr. THOMAS of California. I do, Madam Speaker. I yield myself such time as I may consume.

Madam Speaker, the chairman of the Committee on Appropriations talked about the greater needs of this institution. I think what is at issue is the Constitution of the United States. The issue is not inconvenience. The issue is not politics. The issue is not time. In part, the issue is you folks have controlled this body for so long that inconvenience, politics, and time may be more important than the primary and fundamental issue of the Constitution. The greater needs of the institution in the long run are met by making sure that we do not, for convenience, politics, or time, decide that something as fundamental as the origination of a bill, should take second place.

Madam Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER] such time as he may consume.

Mr. WALKER. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, we are faced here with a real problem and one that is developing, and I congratulate the gentleman from Florida [Mr. GIBBONS], the chairman of the Committee on Ways and Means, for the work he has done in the past to protect the House and the Constitution, and I congratulate him for what he is doing here today.

This is not the first instance of this. It is about the fourth instance of this within just the last 4 or 5 weeks.

Back on July 14, the Treasury-Postal appropriations bill, we had a similar kind of concern. And to his credit, the gentleman from Florida [Mr. GIBBONS], represented on the floor by the gentleman from New York [Mr. RANGEL], came to the floor and did what he is doing today: Assured the privileges of the House with regard to tax measures were protected.

Then on July 21, another bill came over, not an appropriations bill this time, but the Veterans Health Programs Improvement Act of 1994 came over with a revenue measure attached. Once again the Committee on Ways and Means did what it was that should be done. The gentleman from Florida [Mr. GIBBONS] came to the floor and protected the privileges of the House at that point, as should be done on those kinds of measures.

But the Senate was not finished. On July 21, they also added another tax measure to a bill that day, the Toxic Substance Control Act, which was also brought over with a revenue measure attached. Once again, the gentleman from Florida [Mr. GIBBONS], to his credit, came to the House floor and protected the privileges of the House on this particular tax measure.

What I am saying is there is a pattern here in the Senate now showing itself up in the appropriation bills. Prior to this, there was the appropriation bill on Commerce and Justice. On that particular one, an accommodation was worked out much in the way that the gentleman from Wisconsin [Mr. OBEY] has described to the House here. It was not blue-slipped on the way to conference, but was eligible for a blue slip on the way out of conference.

The Senate, seeing that action, has not decided they are also going to do it in yet another bill, the Agriculture, Rural Development, and Food Development Administration.

This simply cannot be allowed to happen. The fact is that we cannot put aside the Constitution in order to accommodate our legislative agenda in the House of Representatives. The Constitution is very firm on this point, and the Senate knows exactly what it is doing because it is doing it over, and over, and over, and over again, just within the last few weeks.

They are doing so because it allows them to escape a budget control mechanism that has been put in their way, and that is that they cannot spend more than they have revenues to accomplish. So what they are now trying to do is spend more and add the revenues on in the Senate.

We in the House should not accommodate that. We should make absolutely certain that our prerogatives with regard to taxing and spending are absolutely protected.

That is what is happening here right now. The prerogatives of the House are being protected by the resolution of the gentleman from Florida [Mr. GIBBONS]. I congratulate him for it. It is something we need to do each time this challenge is brought before us. We cannot allow the matters to be resolved somewhere in conference committees in the hope it will come back the right way.

We need to understand that this is not just a matter of an appropriations bill. It has now been in several committees where they have pulled the same kind of trick. I do not think the Senate is going to understand until we get to the point that every bill that they send over of this type is immediately sent back to them.

So, again, I thank the gentleman for what he has done.

Mr. DORNAN. Madam Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. DORNAN. Madam Speaker, if I am following this correctly, by putting new taxes, user fees or any other type of taxes, into an appropriations bill in the other body, they are opening up a window for more spending. Ergo, this is the much heard about tax and spending that goes on up here on Jenkins Hill.

Mr. WALKER. Madam Speaker, if the gentleman will yield further, precisely. Thank goodness the Constitution protects us from that. We have an opportunity here now to uphold what our forefathers in their wisdom knew about the Constitution, and that is that any revenue measures ought to start in the people's body. This one did not, and we are now going to send it back to the Senate, because they did not do it the right way, and we thank the gentleman from Florida [Mr. GIBBONS] for allowing the House to do this in the right way.

I thank the gentleman from California [Mr. THOMAS] for yielding.

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, I would simply like to reiterate one point, and I am not going to push this to a rollcall vote. I understand what is going to happen. But I simply want to say that in my view, this is not a question of the Constitution. This is not a question of constitutional prerogatives. It is a question of at what time, at what point, and under what manner, the constitutional prerogative is going to be exercised.

□ 1450

I believe that constitutional prerogatives are like opinions. Just because we have them, we do not always have to express them, at least not at the immediate time.

It just simply seems to me that the same purpose could be accomplished, the constitutional prerogative could be protected, if we were allowed to simply proceed to take out the offending Senate action in the conference.

I fully agree with the gentleman from Pennsylvania. I think this is simply an end run on spending caps. I resent it very much, and I am not going to allow it to happen. But the problem is that the process which the gentleman is pursuing today leaves us at the mercy of the ability of the other body to be responsible.

I think that under some circumstances that might be a very weak reed to lean upon and so it seems to me that the better course would be for us to responsibly take the offending matter out without requiring each house to go through another set of hoops. That is what I was trying to accomplish here today. I am sorry I could not do it.

Mr. THOMAS of California. Madam Speaker, reclaiming my time, I appreciate the gentleman's comments, but I think the history, as was outlined by the gentleman from Pennsylvania, clearly indicates that were this the first offense, obviously the option that the chairman of the Committee on Appropriations now seeks as an alternative might be appropriate. But when the Senate has done this not once a year, not twice a year, but when it does it three and four times a month, I think what we are about here is in part behavior modification and that perhaps this inconvenience by the way in which we are upholding our constitutional right might, in fact, get the Senate to understand that if they are responsible at the outset, they will not have to be responsible at the backend, as the gentleman from Wisconsin is concerned about, in terms of their ability to do it the right way.

It seems to me that an immediate response by the House of Representatives, in perhaps the most inconvenient way possible. will mean that we will not have to address this in the future.

Therefore, I support the resolution by the chairman of the Committee on Ways and Means, the gentleman from Florida.

Madam Speaker, I yield back the balance of my time.

Mr. GIBBONS. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

HEALTH CARE, SMALL BUSINESS, AND GRASS ROOTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. DERRICK] is recognized for 5 minutes.

Mr. DERRICK. Madam Speaker, ever since health care reform became a serious possibility certain factions interested in killing the initiative have spread disinformation and alarmist propaganda vilifying the entire effort. They portray reform as a murky conspiracy to enslave the public, or a malicious attempt to destroy business, or a bureaucratic campaign to expand Government control over the people.

The propaganda machines fired up by the defenders of the status quo have been working overtime. They've conducted an all out effort to convince the American people that they don't want health care reform. But reality will always belie propaganda, especially when the propaganda contradicts the people's experience.

The American people want and need health care reform. Mass mailings, phone banks and rabid talk show hosts can't persuade them otherwise. Americans aren't impressed with arguments that reform will ruin the quality of their health care and cost them more money. Americans already know that every year they pay more for less health care. They've been watching what health care they could afford evaporate.

If Congress lacks the courage to reform the health care system now, the situation will continue to deteriorate, more Americans will lose their coverage, and the blame will be ours.

Americans know the system needs reform to remedy the problems they face every day. Seventy-eight percent of Americans favor universal coverage, and 75 percent even favor employers sharing responsibility with their employees to pay for health insurance. Well-funded lobbying groups such as the NFIB aim their rhetoric at small businesses, telling them that reform is a job-killer that will close them down. The truth is that small business will benefit greatly from reform. As it stands they pay up to 50 percent more for the health insurance than large firms. A third of them see their insurance premiums rise by 25 percent every year, and the burden of covering the growing numbers of uninsured Americans is getting shifted onto their shoulders. The status quo hurts small business.

Wednesday a group of small business owners from Virginia, Pennsylvania, New York, and Washington, DC, took time away from their businesses to come to the Capitol and voice their support for health care reform. They know that reform will level the playing field for small businesses. It will lower their overhead tied up in health care costs, making it easier and cheaper to operate. These businessmen and women are members of the Small Business Coalition for Health Care Reform, a grass roots organization representing 626,000 businesses employing 5.5 million people. Unlike the NFIB, a well-funded lobbying group representing big-money interests, the Small Business Coalition supports reform.

Where groups such as NFIB are trying to kill reform and preserve the status quo beloved by their funders, the Small Business Coalition knows how much small business has to gain from reform. Their members, the small business grass roots, agree.

It's important to remember that grass roots organizations found the support for health care reform. Reform won't benefit a particular special interest, unless you define America as a special interest. Small businesses will gain from reform, but the focus of reform is the mass of employed, hard working, middle-income Americans who, despite their labors, still can't afford health care for themselves or their families. Anti-reform propaganda tries to convince people that reform will limit their options or degrade the quality of their health care.

That's not much of an argument for people who can't afford any health care or insurance at all. If anything, by guaranteeing coverage and insurance that can't be taken away, health care reform expands the average American's health care options.

Americans know it, and they overwhelmingly support reform. You can see the support by looking at the growing number of grass-roots organizations representing millions of Americans who have declared their support for the Guaranteed Health Insurance Act. They include labor unions, consumer advocacy groups, medical providers, health advocacy groups, teachers, education groups, family advocates, senior citizen groups, farmers, veterans and children's advocates.

In short, there are myriad organizations who know that their members can only benefit from health care reform. Members of Congress shouldn't confuse these voices with mere special interests. The voice they hear expresses America's will, and the will is for health care reform.

□ 1500

LEGITIMATE OPPOSITION TO THE CRIME BILL RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] will be recognized for 5 minutes.

Mr. HORN. Madam Speaker, it is utter nonsense to say that all of those who voted against the rule on the crime bill yesterday afternoon put the interests of the powerful National Rifle Association above those of their constituents. Yet, that is what some who are uninformed are saying.

This Member happened to campaign for a ban against assault rifles. This Member voted for a ban against assault rifles. This Member will again vote for a ban against assault rifles when the conference report on the Violent Crime Control and Law Enforcement Act of 1994 properly comes before this Chamber.

What bothered a number of us, Madam Speaker, was the arrogance and the misuse of the rules which was involved in the rule that preceded yesterday's conference report. It violated what this Chamber is all about; that is, a Chamber that seeks to reflect the people's will.

The minority is tired of having proposals brought in here that you cannot read in time, that are rammed down our throat with some pseudo sense of urgency. Of course there is urgency about crime. We see it, those of us from urban America. But where was ,the sense of urgency when this was happening 2, 3 years ago, months ago, et cetera?

The conference committee certainly took its time. They finished in late July. On the Republican side, we did not get the printed report with the agreed measure to be submitted to the Senate and the House, and then to the President, until 3:20 p.m. yesterday afternoon. We voted at about 5 p.m.

The conference report contained hundreds of pages, many of which had never been considered by the Senate or the House. They were add-ons put in by the Democratic majority in that conference committee.

What particularly concerned us, Madam Speaker, is when the very able and powerful chairman of the Committee on the Judiciary went before the Committee on Rules and was specifically asked to identify where were the point of order problems. That means where were the activities, programs, legal language, et cetera in the bill that violated existing House rules in the final reconciled version submitted by the conferees.

He refused to answer that question. He said he was not sure he knew, and then he said even if he did know, he would not tell them since it might be used against the bill on the floor. The Committee on Rules is an agent of the House of Representatives. When you insult our agent, you also insult our House. It is tragic that the nine member Democratic majority of that committee did not pursue what the four member Republican minority sought.

When a committee chairman seeks to waive the House rules prior to consideration of a bill, the members of the Committee on Rules are entitled to know what it is that they are waiving. To the average citizen, this might sound complicated, but if the Members do not know what they are voting on, how can they possibly reflect the will of the people? It is the people to whom we are responsible. We are not responsible to a chairman, we are not responsible to a committee, we are responsible to the people, and to civility and following the rules of this Chamber.

Madam Speaker, when we swear and take an oath on opening day to support the Constitution of the United States, that includes the rules of the House of Representatives, pursuant to that Constitution. I suspect some rules we have here such as the "king-of-the-hill" rule and other modern creations which prevent the process should be challenged in court. Certainly the founders would never have dreamed them up.

The timing of the vote violated the Legislative Reorganization Act of 1970, in that the 443-page conference report was not available to Members of the House 3 days ahead of its consideration. That situation is intolerable. That is why the chairman of Judiciary sought a waiver of the rules.

In addition, on another subject related to the crime bill, I am informed by the gentleman from Florida [Mr. McCollum], the author of many of the Republican anticrime bills, and the most knowledgeable member of the Committee on the Judiciary, that when the anticrime bill left the Senate, it left at a price tag of $22 billion.

When it left the House, it left at a price tag of $26 billion. When it was done with by the Senate and House conferees who prepared the conference report which contained the final version of the proposed law, the price tag had increased to $33 billion. That is an $11 billion increase! That amount of an increase has seldom been seen.

In addition, Madam Speaker, items were added in conference, as I noted, which had never been in either bill. They came as a surprise to the Republican members in the conference if they were ever consulted. The Representatives in the House, each of us elected by the people, have a right to know what is in the legislation before them.

Besides great changes in the amount of money involved, there were vital matters of substance, which were drastically changed.

Items which had been passed by both the House and the Senate by overwhelming votes were simply thrown on the cutting room floor.

One example was offered by our distinguished colleague, Susan Molinari, a Republican from New York. Her amendment would have changed the Federal rules of evidence to allow prosecutors in sexual assault and child molestation cases to introduce evidence that the defendant has committed similar crimes in the past. The Senate approved it by a vote of 75 to 19. The House supported it by a vote of 348 to 62 on a motion to instruct the House conferees to include this language in the final version of the proposed law.

Similarly, the distinguished gentlewoman from Washington [Jennifer Dunn] also a Republican offered the Sexually Violent Predators Act. This amendment would notify communities when convicted sexual predators moved into their area, giving families warning that danger exists in their neighborhoods. The Senate had adopted the language unanimously. A motion to instruct the House conferees to support this language was adopted by the House by a vote of 407 to 13.

Madam Speaker, with this type of disregard to the will of this House, when both of these important proposals were overwhelmingly approved by this Chamber, yet ended up littered on the cutting room floor, with no respect for the democratic process of this Chamber, I think many more should have voted against the rule than did.

Last night I watched the press conferences held by several of the contesting parties to the issues involved in this legislation. I had a feeling that several of them should have had a good night's sleep before commenting on the defeat of the rule.

If the Democratic majority in the next conference will get the message that not only Republicans but dozens of Democrats want to reduce the proposed legislation by several billion dollars in social programs which compete with already existing ones, then we will have a better bill.

If the Democratic majority in the next conference will get the message that not only Republicans but dozens of Democrats want to restore the Federal rules of evidence re those who commit sexual assault and molest children to the language approved by both Houses, then we will have a better bill.

If the President and the Democratic leadership in the House will wake up and accept the offer repeatedly made by the Republican whip and Republican leader to be Newt Gingrich to engage in bipartisan collaboration so that Republicans will participate in the takeoffs and not simply the crash landings, then we will have better public policy and a more united Congress and Nation. The gentleman from Georgia [Mr. Gingrich] has made that offer ever since the successful collaboration we had on NAFTA the North American Free-Trade Agreement.

Let us work together and we can adopt an effective anticrime bill and a sensible health care bill.

Madam Speaker, I was particularly impressed with the comments of the ranking Republican on Judiciary when he spoke on the problems with the handling of this legislation. There are few members of this body more respected than the gentleman from New York [Mr. Fish]. Hamilton Fish is dedicated to public service just as his family has been for almost two centuries. When he is upset, it is time for the House to listen to his thoughtful and wise comments.

Mr. Fish. Mr. Speaker, I rise in opposition to the rule. This conference report contains provisions which I oppose and, in addition, the conference committee deleted provisions which I supported. However, my opposition to this rule is based as much on procedural objections as it is on substantive policy.

As we all know, violent crime is a devastating national problem. Violent crime has increased in this country over 23 percent since 1988. A violent crime is committed once every 22 seconds and a murder is committed once every 22 minutes. A rape occurs every 5 minutes and a robbery every 47 seconds. Over 70 percent of the violent crimes committed in our country are committed by repeat offenders.

These are not just statistics. The victims of these crimes are real people—they are our constituents—and the ultimate victim is society. The crime epidemic has brought with it the pestilence of fear and Congress should address this complex problem in a comprehensive, realistic and bipartisan way. Whether we are Republicans or Democrats this is a national crisis that we share and partisan politics should not interfere with the best solutions.

Back in March, following action in the House Judiciary Committee on the Violent Crime Control and Law Enforcement Act of 1994, I went before the Rules Committee urging that certain key amendments be made in order. Those were amendments put forward by the Republican members of our Committee and reflected a number of very valid and valuable approaches to the serious problem of crime we have in this country.

Unfortunately, when this legislation was brought to the floor in April, several of my Republican colleagues were prevented from offering amendments under a highly restrictive rule. Still other Republican amendments were allowed but they were subjected to a king-of-the-hill procedure that prevented any real genuine opportunity for success.

Subsequently, after the legislation was passed by the House of Representatives, I appointed the four most senior Republican members of the House Judiciary Committee to serve on the conference committee on the Crime bill. For many weeks and months, the conference committee did not meet. Republican members were routinely excluded from closed door meetings during this time period. Then, finally, when the conference committee briefly convened, Republican Members were routinely refused key documents and several significant Republican amendments were dropped or weakened. Numerous Republican proposals were defeated in conference through the utilization of the proxy vote mechanism. Ultimately, none of the Judiciary Republican conferees signed the conference report. How could they approve a document which they had no part in formulating?

Furthermore, the conference report itself is a document that has been conspicuous by its absence. As of yesterday evening, the Members of this House did not have a complete, final copy of the conference report. The conference version, as I understand it, is almost four inches thick, it is over 1,000 pages long. How do we evaluate a major piece of legislation that no one has been permitted to read?

Mr. Speaker, I stand here as the Ranking Republican on the House Judiciary Committee. The upcoming vote on the rule is a procedural vote that must be evaluated in the light of these events. The rules process goes to the very heart of our role as legislators and our rights as Members of this House. I am angered and dismayed about the manner in which Republican Members have been denied their rightful role on this very important public policy question.

Mr. Speaker, I will vote "no" on this rule because of the tactics used by the Majority party—tactics which insult the Republican Members of this House and the American citizens we were elected to represent.

Madam Speaker, I attach an excerpt from "How Our Laws Are Made" which has been prepared by the Congressional Research Service. It explains the role of the Committee on Rules.

X. OBTAINING CONSIDERATION OF MEASURES

Obviously certain measures pending on the House and Union Calendars are more important and urgent than others and it is necessary to have a system permitting their consideration ahead of those that do not require immediate action. Because all measures are placed on those calendars in the order in which they are reported to the House, the latest bill reported would be the last to be taken up if the calendar number alone were the determinating factor.

SPECIAL RESOLUTIONS

To avoid delays and to provide some degree of selectivity in the consideration of measures, it is possible to have them taken up out of order by obtaining from the Committee on Rules a special resolution or "rule" for their consideration. That Committee, which is composed of majority and minority Members but with a larger proportion of majority Members than other committees, is specifically granted jurisdiction over resolutions relating to the order of business of the House. Usually the Chairman of the committee that has favorably reported the bill appears before the Committee on Rules accompanied by the sponsor of the measure and one or more Members of the Chairman's committee in support of the request for a resolution providing for its immediate consideration. If the Committee on Rules is satisfied that the measure should be taken up it will report a resolution reading substantially as follows with respect to a bill on the Union Calendar:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. ___) entitled, etc., and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed ___ hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on ___, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

If the measure is on the House Calendar the resolution reads substantially as follows:

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill (H.R. ___) entitled, etc., in the House.

The resolution may waive points or order against the bill. When it limits or prevents floor amendments, it is popularly known as a "closed rule".

SPECIAL COUNSEL IN WHITEWATER INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] will be recognized for 5 minutes.

Mr. HOYER. Madam Speaker, I rise to speak of a matter that is troubling me, and I think troubling other individuals. Some years ago, we created a special counsel, a special prosecutor, if you will. That position was created to assure objective, nonpartisan, nonpolitical review of possible wrongdoing within the executive department.

The reason for doing that was so that the Attorney General, who is appointed by the President of the United States, and who is the office to whom the U.S. attorneys report, would not be in effect in the chain of command as it related to the investigation of alleged wrongdoing of, in this case, her boss, the President.

I supported that legislation, and supported it when we reauthorized it recently. Because that legislation had not been reauthorized and signed into law when the question of Whitewater arose, and after the requests of the Members of the Republican Party in particular, concurred in, ultimately by the administration, the Attorney General, because the legislation was not in effect, appointed a special prosecutor for the purpose of investigating Whitewater.

□ 1510

After she had done so, she carefully reviewed prospective nominees and she chose for that position a Republican, a Republican who was known for his integrity and his legal skill, a Republican who in fact had experience as a prosecutor and was known to be a thorough and fair investigator. That gentleman's name was Fiske.

Subsequent to his appointment, he undertook the investigation and has made certain reports. The same people who had demanded the appointment of a special prosecutor, the same people who believed Mr. Fiske was a fair-minded, judicious prosecutor with personal and legal integrity have subsequently criticized him because they did not like his findings. His findings, of course, were that there was no transgression of law, no laws broken, no ethical violations in relationship to the communciations between the Treasury Department and the White House.

These Republicans, frankly, were not satisfied. Ten Republicans have written to the Federal court. But I get ahead of my story.

Subsequent to that appointment, we did in fact pass the reauthorization to the special prosecutor law. That law provides for a panel, appointed by the Chief Justice of the U.S. Supreme Court, to have the authority to choose a special prosecutor. That panel is currently composed of Judge David Sentelle and two other judges. Judge Sentelle was appointed by Chief Justice Rehnquist. Chief Justice Rehnquist, of course, was in the Nixon Cabinet and appointed by Nixon to the Supreme Court. Judge Sentelle as I understand it, is the first nonretired judge to chair this special prosecutor selection panel of Federal judges. The other two judges who sit on that panel are retired judges as has historically been the case. One of the other judges was appointed by a Republican and one by a Democrat, President Johnson.

I mentioned the 10 Members of this body who wrote to Judge Sentelle and the panel requesting that Mr. Fiske be removed as the special prosecutor. Mr.

Fiske has been at this for months. Mr. Fiske and the staff that he has collected at a cost of over $2 million in effect were asked by these 10 to be replaced, to be set aside, not because there was a question frankly of the results, although I suggest that they were upset with the results, but because they alleged that there was a conflict of interest.

INTRODUCTION OF THE FINANCIAL SERVICES COMPETITIVENESS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. NEAL] is recognized for 5 minutes.

Mr. NEAL of North Carolina. Madam Speaker, with the 21st century rapidly approaching, it is time that the legal framework of the U.S. financial services industry catch up with the marketplace. The technology of today, from computers to communications, has changed the face of financial services.

Unfortunately, our laws impose an antiquated legal structure on the new and competitive financial marketplace. As a result, we have a system that is tremendously inefficient and costly. It undercuts our international competitiveness, limits consumer choice and convenience, and ultimately suppresses economic growth.

Dramatic shifts in financial distribution networks and product lines have resulted in a rapid decline in the relative role of banks and other depository intermediaries. From 1980 to 1990, banks' market share fell a full 10 percentage points, from 37 to 27 percent of total financial intermediary assets. By 1990, banks had lost more than one-fourth of the market share with which they began the decade.

Madam Speaker, Congress has the ability to provide our financial system with the tools it needs to develop a better and more efficient system for the delivery of financial products while, at the same time, ensuring the safety and soundness of insured deposits. Our objective should be to ensure that our financial service firms are able to provide consumers and businesses with the most cost-efficient and highest quality financial products and to compete fairly in a global marketplace, while operating in a safe and sound manner.

Our regulatory system for financial services providers must also move toward the 21st century. Our present system is a patchwork of market and institutional regulation resulting from ad hoc responses to the historical developments, with no central theme. It is a house built over time without any floor plan or, indeed, any plan at all.

Even today, bills are introduced in Congress that react only to specific issues of immediate concern. One such example is H.R. 3447, the Securities Regulatory Equality Act of 1993, which responds to the narrow issue of bank sales of mutual funds.

I know from personal experience that bills often are drafted and amendments are crafted, not to deal with regulatory problems in a comprehensive manner, but to avoid or attain jurisdiction by one congressional committee or another. We are left with a hodge-podge of partial solutions to larger problems, the creation of competitive inequities among market participants, uneven regulations for similar activities across industries and forum shopping by regulated parties. The inability of the House to deal with the larger problems of the financial services sector in a comprehensive manner increases costs for our economy, to the detriment of both efficiency and safety.

One of my purposes in introducing this legislation, Madam Speaker, is to try to get Members to focus on the need to deal with these issues in a comprehensive way. We should not keep careening from one narrow issue to another, be it mutual fund sales disclosures, the use of derivatives, or the underwriting of securities, while pretending that the underlying nature of the financial services industry is the same as it was in 1933.

The world has changed in the past 60 years, but our financial services laws have not kept pace. It is time to recognize that the entire legal structure of the industry has become outmoded and is badly in need of change. Our response should not just be to try to apply another quick fix to whatever problem has caught our eye today. Sooner or later, and I believe sooner, we must break the cycle of temporary patchwork responses to innovations within the financial services industry and consider comprehensive reform. If not, we will be left with the financial services equivalent of hand-cranked telephones and quill pens in a world of cellular phones and fax machines.

Madam Speaker, the Financial Services Competitiveness Act, which I am introducing today, will facilitate a debate addressing the basic structure problems that are the result of outdated affiliation and activities restrictions contained in the Bank Holding Company Act, the Glass-Stegall Act and various other laws. It is designed to modernize the legal and regulatory framework while simultaneously imposing strong safeguards and more effective regulations. The legislation does not seek to realign the jurisdiction of regulators, but rather provide for the functional regulation of financial activities.

Under the bill, federally insured depository institutions would be permitted to affiliate with other financial and nonfinancial businesses. Thus, a bank with federally insured deposits, an insurance company and a company underwriting securities could all be owned by the same diversified financial services holding company.

Allowing affiliations would permit firms to increase their operating efficiencies and better serve their customers. Consumers would benefit from greater convenience, lower prices and enhanced competition. All financial services providers could offer similar options through the holding company structure. It provides competitive equality. It does not favor one industry over another. It encourages more effective competition.

At the same time, there would be safeguards to protect the taxpayer-backed deposit insurance funds. Each subsidiary of a holding company would be required to be separately capitalized. In addition, each holding company would be required to maintain adequate levels of capital in its depository institutions, and if it failed to do so, it would be required to divest the financial institutions and as well as infuse additional capital to bring the institutions into capital compliance. This provision in particular would insure that diversified financial services holding companies take seriously their responsibility of owning an insured depository institution subsidiary. It also would provide American taxpayers with an extra level of protection—a troubled bank would turn first to its diversified financial holding company, and not the taxpayer.

In addition, banking subsidiaries would not be permitted to engage in nonbanking activities. Each subsidiary would be regulated by the appropriate regulator as under existing law, meaning that securities subsidiaries would be regulated by the Securities and Exchange Commission, insurance subsidiaries by State insurance regulators and financial institutions by the appropriate banking regulator.

Madam. Speaker, it is readily apparent that the existing legal structure is not consistent with market realities and the globalization of the financial marketplace. It is time to craft our Nation's financial services policy to strengthen the system instead of restricting and detracting from the health and dynamism of the market.

I recognize that we will not be modernizing our financial services industry this year. But the Financial Services Competitiveness Act will help focus the debate on the need to accomplish modernization. I am pleased that the bill has strong bipartisan cosponsorship—Representatives McCOLLUM, LaFALCE, FRANK, LaROCCO, ORTON, DOOLEY, RIDGE, BAKER of Louisiana, and KING are joining me in introducing the bill today—and I look forward to working with them and others in this Congress to lay the groundwork for consideration of this extremely important issue.

A section by section analysis of this important legislation follows:

THE FSCA—"FINANCIAL SERVICES COMPETITIVENESS ACT"

SECTION BY SECTION ANALYSIS

To create an open and competitive marketplace for financial services which ensures the safety and soundness of the nation's financial system as well as the availability of innovative financial products and services for consumers, business and government at the lowest possible cost.

Section 1—Title

This section provides that this Act may be cited as the "Financial Services Competitiveness Act".

Section 2—Findings and Purpose

The Congress finds that (1) outdated statutes and regulations inhibit innovation, efficiency, and competition in the financial services industry to the detriment of consumers and providers, and (2) new legal framework for financial services must be created which will accord all financial services companies equal opportunity to serve the full range of credit and financial needs in the marketplace and (3) expanded product and service opportunities for all components of the financial services industry would strengthen individual intermediaries as well as the overall financial system, and (4) rapid globalization of the financial services marketplace and the emerging interdependence of major financial markets further underscore the necessity of modernizing domestic laws to maintain the competitiveness of U.S. intermediaries and the preeminence of U.S. financial markets, and (5) regulation of separate segments, subsidiaries and affiliates along functional lines without regard to ownership and control would serve national priorities better than the present system.

The purpose of the Act is to promote the safety and soundness of the nation's financial system, the availability of financial products and services to consumers, businesses, charitable institutions and governments in an efficient and cost-effective manner, to promote a legal structure governing providers of financial services that permits open and fair competition and affords all financial services companies equal opportunity to serve the full range of credit and financial needs in the marketplace, to ensure that domestic financial institutions and companies are able to compete effectively in international financial markets and to encourage regulation of financial activities and companies along functional lines without regard to ownership, control or affiliation.

Paragraph (1)—Affiliate—defines the term "affiliate" of a company to mean any other company which controls, is controlled by or is under common control with such company.

Paragraph (2)—Adequately Capitalized—defines the term "adequately capitalized" to have the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

Paragraph (3)—Appropriate Federal Banking Agency—defines "appropriate Federal banking agency" to mean the Comptroller of the Currency in the case of national banks or District banks, the Federal Reserve Board in the case of member banks (other than national banks), the Federal Deposit Insurance Corporation in the case of insured state banks that are not members of the Federal Reserve System and the Director of the Office of Thrift Supervision in the case of savings associations.

Paragraph (4)—Bank Holding Company—defines the term "bank holding company" as it is defined in section 2(a) of the Bank Holding Company Act of 1956, as amended.

Paragraph (5)—Board—defines the term "Board" to mean the Board of Governors of the Federal Reserve System.

Paragraph (6)—Company—defines the term "company" to mean any corporation, partnership, business trust, association or similar organization. However, corporations that are majority owned by the United States or any State are excluded from the definition of company.

Paragraph (7)—Control—defines the term "control" as the power directly or indirectly to direct the management or policies of a company or to vote 25% or more of any class of voting securities of a company.

There are four exceptions from the definition of control. These pertain to ownership of voting securities acquired or held by a company:

(1) as agent, trustee or in some other fiduciary capacity;

(2) as underwriter, for such period of time as will permit the sale of those securities on a reasonable basis;

(3) in connection with or incidental to market-making, dealing, trading, brokerage or other securities-related activities, provided that such shares are not acquired with a view toward acquiring, exercising or transferring control of the management or policies of the company;

(4) for the purpose of securing or collecting of a prior debt until two years after the date of acquisition.

In addition, no company formed for the sole purpose of proxy solicitation shall be deemed to be in control of another company by virtue of its acquisition of voting rights of the other company's securities.

Paragraph (8)—Depository Institution Holding Company—defines the term "depository institution holding company" as having the same meaning as in section 3(w)(1) of the Federal Deposit Insurance Act.

Paragraph (9)—Diversified Financial Services Holding Company—defines a DFSHC to be any company that files a notice with the Board that it intends to comply with the provisions of this section, *and* controls an insured depository institution or either:

(i) has, within the preceding twelve months filed a notice pursuant to subsection (b) of this section to establish or acquire control of an insured depository institution or a company owning such an insured depository, or

(ii) controls a company which, within the preceding twelve months, has filed an application for Federal deposit insurance, provided, that such notice or application has not been disapproved by the appropriate Federal banking agency.

Paragraph (10)—Financial Institution—defines the term "financial institution" to include any bank, savings association, insurance company, finance company, real estate company, securities company or other financial services company that is regulated, supervised or examined under the laws of any State.

Paragraph (11)—Insured Depository Institution—defines the term "insured depository institution" to have the same meaning given to it in section 3(c)(2) of the Federal Deposit Insurance Act.

Paragraph (12)—Representative—defines the term "representative" to include any agent, principal, solicitor, broker, director, or officer, employee or other representative of any company, insured depository institution or affiliate thereof.

Paragraph (13)—Savings and Loan Holding Company—defines the term "savings and loan holding company" as having the meaning given to it in section 10(a) of the Home Owner's Loan Act.

Paragraph (14)—Savings Association—defines the term "savings association" as having the meaning given to it in section 3(b) of the Federal Deposit Insurance Act.

Paragraph (15)—State—"State" is defined as having the meaning given to it in section 3(a) of the Federal Deposit Insurance Act.

Section 4—Establishment of a Diversified Financial Services Holding Company

Section 4 creates a new type of financial company, a diversified financial services holding company (DFSHC), and sets out the terms and conditions under which a company can be established and must be operated.

No person may take any action which causes any company to become a diversified financial services holding company without submitting prior notice to the Board of such person's intention to establish a diversified financial services holding company. The Board shall establish requirements and procedures for the submission of the notice.

A bank holding company shall lose its status as a bank holding company immediately upon filing the notice of its election to become a DFSHC. Similarly, a savings and loan holding company that elects to become a DFSHC will lose that status upon filing the notice of its election to become a DFSHC.

To assure that each depository institution controlled by a DFSHC would be subject to regulation and supervision by an appropriate Federal banking agency, owners of an uninsured depository institution would not be able to avail themselves of the opportunity to become a DFSHC, unless they agree to convert such uninsured institution into an insured depository institution.

The provisions of Glass-Steagall do not apply with respect to the affiliation of any bank that is an affiliate of a diversified financial services holding company with such company or any other affiliate of the company.

Section 5—Compliance With Change in Control Requirements

This section provides that any DFSHC wishing to acquire control of an insured depository institution or company owning such institution must comply with the requirements of the Change in Control Act.

Section 6—Adequate Capitalization

This section governs the capitalization of insured depository institutions that are controlled by a DFSHC.

Subsection (a)—Notification—In the event of a finding by the appropriate Federal banking agency that an insured depository institution controlled by a DFSHC is not adequately capitalized, such agency shall immediately provide a written notification of such non-compliance to the DFSHC.

Subsection (b)—Bond, Guaranty, Deposit or Surplus Account—At the time of the notification described in subsection (a) or at any time thereafter, the appropriate Federal banking agency may in its discretion require a DFSHC in an amount equal to the capital deficiency set forth in the notification to either:

(A) provide a bond, guarantee or similar undertaking in a form prescribed by the appropriate Federal banking agency,

(B) place and thereafter maintain on deposit in a segregated, earmarked account at the insured depository institution cash or investment securities (i.e., securities of the type that may be held by national banks for their own account pursuant to section 5136 of the Revised Statutes, as amended, or other liquid assets as the appropriate Federal banking agency, may permit),

(C) make a contribution to the surplus capital of the insured depository institution which shall be segregated from and not treated as capital, or

(D) reduce the amount of total assets of the institution, until the insured depository institution is capitalized pursuant to an agreement entered into between the DFSHC and the appropriate Federal banking agency or is otherwise made to become adequately capitalized; or the DFSHC has divested control of the insured depository institution pursuant to subsection (d) described below.

Upon receipt of the notification described in subsection (a) an insured depository institution shall not declare or pay a dividend to any shareholder and, upon appointment of a conservator pursuant to subsection (c), the DFSHC shall immediately return to such insured depository institution any dividends received from such insured depository institution during the period beginning 270 days prior to the receipt of the notification.

Subsection (c)—Appointment of Conservator—If the DFSHC fails to comply with any of the requirements of subsection (b), or the DFSHC fails within 45 days of its receipt of the notification described in subsection (a) to cause the insured depository institution to become adequately capitalized or to enter into an agreement with the appropriate Federal banking agency to cause the insured depository institution to become adequately capitalized, the appropriate Federal banking agency to cause the insured depository institution to become adequately capitalized, the appropriate Federal banking agency shall appoint a conservator for the insured depository institution.

Subsection (d)—Divestiture—If within 90 days of receipt of the notification described in subsection (a), a DFSHC has not caused the depository institution to become adequately capitalized or entered into an agreement acceptable to the appropriate Federal banking agency to cause the insured depository institution to become adequately capitalized, the appropriate Federal banking agency shall order divestiture. The appropriate Federal banking agency may cause the DFSHC to infuse additional capital into the insured depository institution if upon divestiture the insured depository institution would not be adequately capitalized.

Subsection (e)—Termination of Conservatorship; Rescission of Divestiture Order—If after the appointment of a conservator or the issuance of a divestiture order a DFSHC causes the insured depository institution to become adequately capitalized, the appropriate Federal banking agency shall immediately terminate such conservatorship or rescind such order.

Subsection (f)—Aggregate Limit on Required Capital Infusions—The maximum liability of a DFSHC for any capital infusion required by an appropriate Federal banking agency shall not exceed the amounts necessary for the institution to become adequately capitalized.

Subsection (g)—Judicial Review—Within 10 days after the appointment of a conservator or upon receipt of an order of divestiture, the DFSHC may apply to the U.S. District Court for the judicial district in which its principal office is located or the U.S. District Court for the District of Columbia for an order requiring the removal of the conservator or for an injunction setting aside, limiting or suspending the enforcement, operation or effectiveness of any such order.

Subsection (h)—Capital of DFSHC—The appropriate Federal banking agency may not impose any requirement pertaining to the capital of the DFSHC. Any agreement entered into pursuant to this section between a DFSHC and an appropriate Federal banking agency with respect to the capital of an undercapitalized insured depository institution subsidiary of such company shall terminate when the institution becomes adequately capitalized.

Section (7)—Additional Provisions Relating to Regulation of Insured Depository Institution Subsidiaries

This section accomplishes two objectives. First, it prohibits adversely differential treatment of DFSHCs and their affiliates, including their insured depository institution affiliates, except as this Act specifically provides. Second, the subsection insures that State and Federal initiatives do not undermine achievement of the purposes of this Act. Whether couched as affiliation, licensing or agency restrictions or as constraints on access to state courts, such laws effectively perpetuate market barriers and deny consumers the opportunity to choose between different financial products and services.

Subsection (a)—Differential Treatment Prohibition—Preempts Federal and State laws, rules, regulations and orders that differentiate between (i) insured depository institutions controlled by a DFSHC from any other insured depository institution in a manner adverse to DFSHC controlled insured depository institutions or (ii) DFSHCs or their affiliates from bank holding companies or savings and loan holding companies and their affiliates in a manner adverse to DFSHCs or their affiliates.

Subsection (b)—Relation to State Law—Preempts State laws that prevent or impede (i) any insured depository institution or affiliate thereof from being affiliated with a DFSHC or (ii) any DFSHC or affiliate thereof from marketing or offering products and services of the DFSHC or any of its affiliates. This preemption does not apply to any State law relating to examination, supervision or regulation of providers of financial services or to the protection of consumers, except to the extent such laws are inconsistent with this section or with the purposes of this Act. Creates a private right of action to declare State laws to be in violation of this section and to enjoin their application.

Subsection (c)—Access to State Courts—Removes a common uncertainty under State licensing and qualification to conduct business statutes which leaves an out-of-state insured depository institution's access to another State's courts unresolved. So long as such an insured depository institution limits its activities to those which do not constitute the establishment or operations of a "domestic branch" in that State, it can qualify to maintain or defend in that State's court any action which could be maintained or defended by a company which is not an insured depository institution and is not located in that State, subject to the same filing, fee and other condition or requirements as may be imposed on such a company.

Subsection (d)—Representatives—Makes clear that a State may not impede or prevent any insured depository institution affiliated with a DFSHC or any DFSHC or affiliate thereof from marketing products and services in that State by utilizing and compensating its agents, solicitors, brokers, employees or other persons located in that State.

Subsection (e)—Affiliate and Control Defined—Contains a special definition of "affiliate" and "control" for purposes of section 7 only. Control is deemed to occur where a person or entity owns or has the power to vote 10% or more of the voting securities of another entity or where a person or entity directly or indirectly determines the management or policies of another entity or person. Unlike the definition of affiliate set forth in section 3, this definition encompasses not only corporate affiliations but affiliations between corporations and individuals.

Section (8)—Insider Lending and Tying Provisions

This section subjects DFSHCs to the tying provisions of section 106 of the Bank Holding Company Act Amendments of 1970 and to the insider lender prohibitions of section 22(h) of the Federal Reserve Act. These actions prohibit abusive tying between products and services offered by insured depository institutions and products and services offered by the DFSHC itself or by any of its other affiliates. The tying restrictions do not apply to products and services that do not involve an insured depository institution. The insider lending provisions severely limit loans by a depository institution to officers and directors of the depository institution. For purposes of both provisions, the appropriate Federal banking agency will exercise the rulemaking authority presently vested in the Federal Reserve with regard to these limitations.

Section (9)—Enforcement and Examination; Payment System Services; Oversight

This section details the jurisdiction and authority of the appropriate Federal banking agencies.

Subsection (a)—Administrative Enforcement—The appropriate Federal banking agency shall enforce this Act by using its examination and supervisory powers.

Subsection (b)—Examination—The appropriate Federal banking agency is empowered to examine or require reports from any affiliate of an insured depository institution controlled by a DFSHC to solely assure compliance with this Act.

Subsection (c)—Federal Reserve Payment Services—All Federal Reserve services shall be available to all insured depository institutions on the same terms and conditions, except in instances that are necessary to avoid a material adverse effect on a large dollar payment system. The Federal Reserve may take enforcement action against an insured depository institution that has engaged in an activity that has resulted in a material adverse affect on a large dollar payment system.

Section (10)—Criminal and Civil Penalties

This section provides for criminal penalties for knowing and willful violations of the provisions of this Act. For companies found to be in violation of the provisions of this section the maximum penalty can be up to $1 million per day for each day that the violation continues.

For individuals found to be in violation of the provisions of this section the penalty shall be a fine and/or a prison term. The maximum fine could be up to $1 million per day for each day during which the violation continues. The maximum prison sentence shall be 5 years. In addition, individuals violating the provisions of this section will also be subject to the penalties provided for in Section 1005 of Title 18 for false entries in any book, report or statement to the extent that the violation included such false entries.

AGAINST HAITIAN INVASION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 5 minutes.

Mr. COOPER. Madam Speaker, evidence is mounting that the administration is planning to invade the country of Haiti while Congress is in the upcoming August recess. I have even heard rumors that troops from Fort Campbell on the Tennessee-Kentucky line already have orders to deploy to Haiti.

We in Congress need to have a full and fair debate on Haiti. I demand a vote before recess on whether the United States should invade Haiti. Already I have cosponsored 2 pieces of legislation which would achieve this objective, H. Con. Res. 269, the Goss-Kyl resolution against using force in Haiti unless American citizens are in clear and present danger; also H. Con. Res. 276, the Skaggs-Boehlert-Durbin resolution, in light of the U.N. resolution allowing use of force to hasten departure of the Haitian military dictatorship, demanding that the President, our President, get congressional approval before intervening militarily.

As the Persian Gulf crisis showed, when a President has time to inform the American people, he needs to do so. He needs to make sure he has the public's support. There is no imminent crisis forcing an invasion now in Haiti. There has been plenty of time to have a full and fair congressional debate.

Mr. President, we need a vote now, and I will vote against invading Haiti.

It is not enough to get U.N. approval as the administration has done. U.N. approval has nothing to do with U.S. approval. American interests must always come first.

I was for U.S. military involvement in the Persian Gulf crisis because there were vital United States interests at stake. The Pentagon supported our involvement there because we could win with minimum U.S. casualties and Saddam Hussein had been using weapons of mass destruction. We also in that instance had great international cooperation.

But I am against an invasion of Haiti. No major national interests are at stake in Haiti and there are no clear reasonable objectives for a military intervention. Even though some United States military experts think that an invasion itself would be relatively simple, building a democratic state in Haiti would take years. The Haitian military leadership is mounting a 2,000-strong civilian paramilitary group not to resist the invasion but to terrorize their fellow citizens. A civil war is likely to result after an invasion. Do we want to be in the middle of Haitian factions fighting each other? Remember, the last time we invaded Haiti, we stayed 19 years. Our Nation surely has higher priorities in the international community than being the world's policeman.

Madam Speaker, Aristide may have been democratically elected, but he seems to be an undemocratic leader. While he was in power in 1991, he flaunted his contempt for the rule of law and for democratic institutions.

Madam Speaker, I would urge the administration to get permission from this country to make sure that we have congressional approval and public support before we invade Haiti, before we use any military force in Haiti. We must ask our President not to take advantage of the congressional recess to start an invasion in Haiti.

WE MUST SAVE THE ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New York [Mr. NADLER] is recognized for 60 minutes as the majority leader's designee.

Mr. NADLER. Madam Speaker, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

SPECIAL COUNSEL IN WHITEWATER INVESTIGATION

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I was saying that we had appointed a special prosecutor and that a number of individuals had raised the issue of replacing Mr. Fiske. They raised the question of conflict of interest. They raised the question not of actual conflict of interest but of perceived conflict of interest. The court panel, Judge Sentelle and his colleagues, decided after the legislation had passed just this past week to replace Mr. Fiske. It is interesting that the court took pains to point out that they did not question either Mr. Fiske's integrity, his ability, or the quality of his investigation.

What they did say, however, was the court, therefore, "deems it in the best interest of the appearance of independence contemplated by the act that a person not affiliated with the incumbent administration be appointed."

Let me reiterate that what they were seeking was to have an appearance of independence. That is to say, there was an allegation that Mr. Fiske knew Mr. Nussbaum, the previous counsel to the White House, when they had both practiced together in New York.

□ 1520

So the court said there might be an appearance of a conflict of interest, an appearance of nonobjectivity, an appearance that perhaps the public would not get what it sought in a special prosecutor, and that is an objective and thorough investigation. That certainly for every American is a worthy objective. But I would think that every American must have been shocked at the action that Judge Sentelle and his colleagues took, because in replacing Mr. Fiske they chose a gentleman, Mr. Starr, who I hasten to add is also a gentleman of good repute, perceived by his colleagues to have high integrity and significant ability.

However, the court purportedly trying to prevent the appearance of bias, appointed somebody who had been a member of the Reagan administration, Solicitor General in the Bush administration, has campaigned for a number of Republican candidates to replace candidates who are Democrats on the basis that they were supporting President Clinton, whose firm, the Washington Post reports, has volunteered on a pro bono bases to represent interests adverse to those of the White House, and a person who quite clearly is a partisan opponent of the President.

Now there may be a lot of partisan opponents of the President and there is nothing wrong with that in a democracy, in a free country. But if in fact we are replacing Mr. Fiske so we can preclude the appearance of bias, to then appoint a very strong opponent of this administration seems to be a strange conclusion indeed of Judge Sentelle and his colleagues that that would preclude the appearance of bias.

Let me go a step further. There are two U.S. Senators who have not in the Senate chamber necessarily, but out in public expressed their deep opposition to the Clinton administration, and indeed in many respects disrespect for and antipathy toward President Clinton and this administration, and I refer to Senator JESSE HELMS and Senator FAIRCLOTH, both of North Carolina. The interesting thing is that Judge Sentelle was appointed to the Federal bench with the strong support of Senator JESSE HELMS. He then participates in appointing Mr. Starr, a strong Republican from Republican administrations to an allegedly objective, independent prosecutor role to investigate President Clinton.

The Washington Post reports further that there have been in recent weeks lunches between Judge Sentelle and Senator FAIRCLOTH, and I do not know whether Senator HELMS was present. Any fair-minded person might say that is certainly all right to have lunch, have discussions, have talks between these folks. But I ask Judge Sentelle, I ask the American people: Is that the appearance of objectivity? Is that the appearance of a lack of bias?

I want to tell my friends that I am surprised that Mr. Starr took this appointment. I am surprised that Mr. Starr, whom I do not know, but as I said has a representation for integrity and intellect, I am surprised that he would take this position. I am surprised that he would not respond to Judge Sentelle and his colleagues: "I believe that the appearance of bias is there, and if you are replacing Mr. Fiske to eliminate that, to appoint a partisan Republican advocate opponent of this administration does not meet, Judge Sentelle, your own test."

It is unfortunate that the judges did not follow their own advice. It is unfortunate the judges were insensitive to the necessity to have the integrity of this system upheld.

Madam Speaker, I will perhaps make further comments in the future as this matter develops. I thank the gentleman for yielding.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. BROWN of Florida). The Chair must ask all Members to refrain from personally referring to Members of the Senate by name.

Mr. NADLER. Madam speaker, I rise today because yesterday the National Rifle Association won a victory on the floor of this House which, if not reversed, will result in continued carnage in every city and town across this country. Yesterday opponents of the assault weapons ban contained in the crime bill united to defeat the rule and prevent the crime bill from reaching the floor for a vote.

Too many in this town have predicted that this vote kills any chance of enacting an assault weapons ban this year. I am here today to say that a majority of this House and a majority of the American people support this reasonable, indeed limited and conservative restriction on the private ownership of weapons of war, and hope indeed pray fervently that the assault weapons bill not be dropped from the crime bill when it again comes to the floor of this House.

Madam Speaker, there is a war going on in the streets of America and the bad guys are winning. Frightened parents keep their kids off the street, and some neighborhoods parents make their children sleep in bathtubs because of the fear of drive-by shootings and of heavily armed gangs rampaging in their communities.

The statistics are staggering. Although assault weapons comprise only about one-half of 1 percent of the estimated 211 million privately owned firearms in the United States, they account for roughly 8 percent of all gun crimes, according to the Bureau of Alcohol, Tobacco and Firearms. Eight percent of the gun crimes does not sound like that big a problem, but the fact is that assault weapons are the favorite weapons of professional criminals. The fact is that assault weapons are 16 times more likely to be used in a crime than are other firearms. The fact is that with an assault weapon a criminal is able to discharge more ammunition at a higher velocity with greater accuracy and kill and main more people, and do more damage than with conventional firearms. That is why the drug dealers prefer assault weapons. That is why psychotic mass murderers from Kileen, TX to Stockton, CA to Brooklyn, NY favor assault weapons.

□ 1530

The human toll of these weapons is staggering. As this House considers health care reform, every Member should be aware of the impact of assault weapons.

According to a report by the California attorney general's office:

> The danger of the semiautomatic weapon is not yet the frequency with which it is used in crime or the volume which exists compared to other types of guns. Rather, the danger is the potential each semiautomatic weapon confers upon an individual to kill and wound a large number of people.

The Journal of the American Medical Association made the true impact of assault weapons abundantly clear in June of 1992 when it reported:

> Wounds from high-velocity assault weapons resemble the wounds inflicted in the Vietnam war. They are often multiple and massive, and immediate treatment is critical to survival. High-velocity bullets may set up shock waves and cause cavitation effects resulting in unpredictable damage at sites far from the wound track. With low-velocity weapons, multiple wounds still occur, but the damage is localized to tissues adjacent to the wound track, and the full extent of the injury can usually be determined at the time of surgery. The estimated costs of treating penetrating trauma like that from an assault weapon varies from $15,000 to $20,000. A stay in intensive care is not unusual and may cost as much as $150,000, and patients may require a long rehabilitation. These patients need a tremendous amount of care and can be a tremendous burden on hospitals. Most gunshot-wound patients are not covered by private insurance, and their costs are reimbursed by government insurance programs or are uncompensated. Thus, the public bears a major share of the costs.

The fact is that between 1986 and 1993 an estimated 29,000 assault weapons were used to commit crimes in the United States. This figure includes 1,598 homicides, 940 assaults, 224 robberies, and 4,500 narcotics violations, all committed with assault weapons.

Between 1990 and 1991 assault weapons were used in more than 1,350 crimes in Dallas, and the Los Angeles police seized over 850 assault weapons.

Too often our police officers are outgunned by the criminals. Although assault weapons account for only one-half of 1 percent of all weapons in the country, assault weapons were used in nearly 10 percent of all cop-killings, according to FBI statistics.

Assault weapons are 18 times more likely to be used in a cop-killing than any other type of firearm.

Is it any wonder then that every major national law enforcement organization supports the assault weapons ban? Whom are we to trust, the police who patrol our streets or the unreasoning fanatics of the arrogant gun lobby? Where will the National Rifle Association be when the next child is shot with a military weapon? We know where they will be, not helping that child or the family or the community; they will be in front of the television cameras pointing to the tragedy as proof that the child should have been carrying an AK-47 or a street-sweeper or a Tech 9.

Do not listen to them, and do not be afraid of them. Madam Speaker, we must not give in to the NRA. We must not allow drug dealers and murderers to wreak havoc in our communities. We must stop the killing. We must pass the assault weapons ban. We must not accept any excuses.

This House has already passed it, and it should not be dropped from the crime bill.

Today I am circulating a latter addressed to the Speaker urging that the leadership of this House stand firm on the assault weapons ban, and I urge my colleagues who want to stop the violence to sign this letter. I hope the American people will look to see if their Representatives knuckle under to the strong-arm tactics of the NRA. Let them know that you want your communities back. Let your Representatives know that you do not want to worry about your children every time they walk out the door, every time they go to school, and every time they stand by a window.

Sign the Nadler letter. Speak for the majority of Americans who want safe streets and a ban on assault weapons. Now is the time for action. Now is the time to make our voices heard to begin the process of taking our country back from the criminals.

This country needs a good, rational attack on crime and criminals. This country needs an assault weapons ban. This country needs to stop the killing.

COME TO LOATHE THE MILITARY

The SPEAKER pro tempore (Ms. BROWN of Florida). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the minority leader.

Mr. DORNAN. Madam Speaker, I had mentioned a week ago that on Wednesday and Thursday just past I would be doing two special orders, the first titled "Feeding Christians to the Media Jackals," and the second I had titled ". . . Come To Loathe the Military," a phrase taken from a letter that 23-year-old Bill Clinton wrote when he was avoiding the draft for the third and final time; the third time that a young high school graduate from Arkansas would go into uniform in his place. Clinton had used that expression in a letter to the head of the ROTC in the great State of Arkansas, Col. Eugene Holmes, who had survived the Bataan Death March and later was a colonel in command of the ROTC at the University of Arkansas.

Colonel Holmes' brother Bob had died over the skies of Germany. His remains came back on his Eighth Air Force bomber, and his remains were buried at the cemetery at Cambridge where on my last visit I attempted to find his grave but ran out of time. One of these days I will get back to visit the grave of Bob Holmes.

I hoped during the break, Madam Speaker, to visit with Colonel Holmes himself.

In that Clinton letter to Holmes dated December 3, 1969, Clinton had used that expression that he and other young people in that period, because of Vietnam, had come to loathe the military. They made the mistake of blaming our men, now our young women, in uniform for the political policies set by this country.

The letter that I think of when I say the "Holmes letter" was the letter that Colonel Holmes wrote to all of us—the American people—in mid-September of 1992 telling the Nation, advising the Nation, "Do not vote for his Governor," then-Governor Bill Clinton, because Clinton "did not have the patriotism or the integrity to be the President of the United States." These are the words of the Bataan Death March survivor, who had over 20 men die in his arms, who endured over 3 years of horrible captivity on a major island of the Philippines, and whose younger brother died on a bombing mission against Adolf Hitler's Third Reich.

FEEDING CHRISTIANS TO THE MEDIA JACKALS

I want to split my special order tonight, but I am going to start off, and

I know Colonel Holmes would approve of this, Madam Speaker, with my theme of "Feeding Christians to the Media jackals," because I introduced a piece of legislation today, House Resolution 519. I have 28 original cosponsors.

On this very day, our former Republican whip who is now serving as a distinguished U.S. Senator from the great State of Mississippi, TRENT LOTT, has introduced companion legislation identical in the Senate.

□ 1540

My House Resolution 519, I have it before me, I will read it and then I will discuss it.

But before I do, I want to discuss again briefly some of the great history of our House.

Almost certainly, if Joseph Kennedy II had survived the Second World War, he would have come to Congress rather than his younger brother, Jack. Today, August 12, is the 50th anniversary of the death of Joseph Patrick Kennedy, the oldest son of the nine children of Joseph Kennedy, Sr.

Let me read just very briefly how Joseph Kennedy gave his life for his Nation 50 years ago today and quickly mention some other spots around the world where young Americans were giving what Abraham Lincoln so beautifully called the "full measure of devotion," their mortal lives.

On this day, Navy Lt. (jg.) Joseph P. Kennedy, the older brother of Senator TED KENNEDY and Senator Robert Kennedy, two sisters, Rosemary and Kathleen, and John F. Kennedy, soon-to-be Congressman, Senator, President, and then assassinated in the 46th year of his life.

Joe Kennedy took off from Great Britain in a 4-engine aircraft known as a Privateer. Most of us would recognize it as a B-24 Liberator, the bomber that our Treasury Secretary Lloyd Bentsen and former Senator George McGovern flew in combat.

But the Navy version of the B-24 Liberator had an extremely large high profile single tail, and the Navy called it a Privateer. It was a big 4-engine bomber.

They loaded this airplane with high explosives, dynamite to the layman, from bow to stern and put on it exotic radio-controlled equipment.

Having bailed out of military planes twice in peacetime, I can assure you when you bail out there is a great risk of life. You wonder if you are going to make it. Joe Kennedy had never bailed out in his life from an aircraft, civilian or military. And he was going to bail out of this big aircraft with his copilot—usually they would have a crew of 10. I am afraid I did not look up the name of this young copilot who died with Joe Kennedy. Kennedy was going to get this airplane over the English Channel, and even in summertime, it was pretty risky going across that channel. They were going to bail out of this aircraft once it had been guided by radio experimental controls toward the German submarine pens. They were to bail out and be rescued after they had launched this massive flying bomb, 4-engine bomber that of course would be destroyed when it flew right into the target.

Something went wrong, some tiny little spark, and Joe Kennedy and his courageous volunteer copilot, their remains were atomized somewhere over the English Channel, his fate known only to God, after they had lost radio contact.

He gave his life for his country in that struggle.

Life-and-death struggles were going on all over Brittany and the Normandy Peninsula.

The great George S. Patton, 3-star general at that time, had just broken out. He had run 35 miles yesterday, 50 years ago, and had taken a left turn and was about to close the Phalaise gap, which he came within a hair's breadth of doing, and maybe shortening the war, trapping an entire German army, an army that had been fighting since D-day in Normandy. In Brittany he had reached out his forces, particularly the 5th Armored Division, which adopted a very simple nickname, "Victory." The Victory Division was in the front, one of the spearhead units. We had crossed the beautiful Loire Valley, that beautiful chateau country. He had taken Nante and the French ports along Brittany. I only learned last night, reading something that I had never seen anywhere, that we never did conquer the German-held French ports of St. Milo and Lorean. They stayed German property until March 1945. Imagine how the areas around those citadels were littered with the bodies of young American infantrymen and armored artillery officers and men. We did take within a few days Brest and some of the other ports along there. And of course used those ports again to build up Patton's 3d Army and the 1st Army to make the final thrust across the Rhine in the dead of the worst winter, 50 years ago in March 1945.

What we always forget, and I have said this on the floor 4 or 5 times already in the last month, is the other struggles that were going on.

British forces took one of the most beautiful places in the world and liberated it today. They crossed the Arno yesterday into Florence and today they took the northern suburbs of Florence, 50 years ago today. The Russian Army, where more people were killed in combat than ever in history and probably ever again—God willing we never got ourselves into a nuclear conflict. In the South Pacific, in Guam, with the loss of almost 3,000 American lives and 17,000 Japanese lives, Guam was finally secure—secure except for the hundreds of Japanese that went into the jungle and fought on, not until just the end of the war, but fought on for years. One of them, one of the last survivors, turning himself in finally 27 years later in 1972. But Guam was safe enough to start building those B-29 bases to bring Japanese Imperial warlords to a position of unconditional surrender in August and to sign a peace treaty September 2 of 1945.

I hope to be a U.S. Congressman next year at not only Iwo Jima's 50th anniversary on February 23 but there in Tokyo Harbor on September 2 for the 50th anniversary of the signing of that great end to a ghastly, horrible slaughter of 55 million human beings. Yes this is quite a date in history.

May I put in here some notes of important meetings going on that turned out to be Communist lies.

Churchill, 50 years ago today, was in the recently liberated city of southern France. And he was there meeting with Yugoslav leader Josip Tito and the royalist prime minister of the kind of put together from World War I the false state of Yugoslavia. That prime minister was Irvan Subasic. Tito swore that he would not impose a Communist Government on Yugoslavia. Tito was probably a Croat, mostly with Serbian support. Preying on and eventually executing Radij Mihalevic, he says, "I am not a communist, and there will be no communist government," in lies to the great Winston Churchill, lies to his face. I repeat the British Army, 8th Army, driving the Germans out of the Italian city of Fiorenzi, or Florence. By the way, Joseph Kennedy's mission was called Aphrodite. I wonder if that is taught in schools about the first of the Kennedy brothers who died violently serving his country. It is interesting that Joe's death came 1 year and 11 days after John F. Kennedy's PT boat was cut in half, when he lost two of his men, and he won the Navy Cross by swimming to the Tuculumbungara Island with his life preserve on one of his burned enlisted crew members in his teeth. Kennedy picked up there a painful back injury from the Japanese destroyer cutting him in half that gave him great pain until the day he was assassinated in Dallas 20 years and some months later—back pain from his service in World War II.

□ 1550

Now what was happening to George Bush, our last immediate President, the 41st President of the United States? This week, 50 years ago, George Bush flew his 41st, 42nd and 43rd combat missions, building up to September 2, when he bailed out for the second time. That time he lost both his crew members. The first time he ditched, and both were saved; that was his 48th combat mission. He went back, and, after his second bail out, he had every right to be sent back stateside. They offered it to him. He had just done 30 days of unexpected submarine duty when the lifeguard submarine had picked him up. He was depth charged in that sub, had combat missions under the water, and he said, "No, I'm going back to my ship, the San Jacinto," and he flew ten more combat missions. But this was the week in the Marianas, bombing Iwo Jima, Chi Chi Jima, that George Bush got missions 41, 42 and 43.

Cut that half a century in half. Where was Clinton 25 years ago today? Meeting with the pro-Hanoi movement to set up those coordinated demonstrations that he would lead in England while they were being led here by his friends, David Metzger and the deputy, No. 2 man at the State Department today, Strobe Talbott—all that pro-Hanoi gang. They were working on dual objectives for Clinton, crush and suppress his draft notice in which he was ordered to show up July 28 of 1969. He had that crushed, reversed, undone. I had never heard of that in my life before or since. Right to this day, never heard of that. And now he was spending all of August getting ready for the demonstrations in Europe and was about to head back at the end of this month, 25 years ago, to Oxford where all the evidence indicates he never went to class, never stood for his June exams and, thereby, never got his degree until they gave him the honorary one at the end of the week-long photo opportunity period during the 50th anniversary at Normandy.

So, that was what was going on 25 years ago. By the way, 25 years ago in Vietnam the 101st Airborne was still mourning its wounded from the battles in Hamburger Hill; the mini Tet offensive of September before was 11 months old. They were expecting another, a third, Tet offensive. That summer it never materialized, and it was Nixon's first year. His secret plan to end the war in Vietnam was not to be implemented until 3 years later when Nixon had watched another 15,000 or more lives squandered in Vietnam. That is why this Republican was never a fan of Nixon's conduct of the war. Our POWs were at about the half point in numbers. Some of them had already been there. As I said, Alvarez was shot down 30 years ago this month on August 5, and so he was at the halfway point of his—beyond the halfway point of his captivity, but hundreds more were to be taken in this off-again, on-again, uncertain struggle.

And, as I have said on this floor, and I will say it until the day I die, Vietnam was no different than France, no different than New Guinea, no different than Iwo Jima, no different than France on the first go-around in 1918. It was American men from the same type of family, the same type of background, the same kind of patriotic conservative upbringing, the same men that fought in Desert Storm. These are all the same families, the same middle class background, with a few heroic, young, nobless oblige kids from wealthy families, and some poor kids generally, but they were the lucky ones because most poor kids were rejected by the draft board because they did not have a sufficient education to serve.

Remember 18,000,000 people were called by our draft board in World War II, and 6,000,000 of them were told—6,000,000—"We don't need you. You're not physically strong enough. You weren't fed well enough when you were young, and you don't have a sufficient education to even enter the Army as a G.I. doughboy, grand M-1 rifle-toting infantryman."

So, that is the background of my remarks today about what those men fought for.

As a young kid in the Second World War, I remember the Saturday Evening Post magazine's coming out with those Norman Rockwell paintings of Freedom of Speech, Freedom of Religion, Freedom from Want and Freedom from Fear. So, if I were doing a separate special order and starting out now, I would have ended the one called "Come to Loath the Military," and I would now be starting a special order entitled, "Feeding Christians to the Media Jackals."

Madam Speaker, here is my House Res. 519:

Mr. DORNAN submitted the following resolution, and in the CONGRESSIONAL RECORD, those people on C-Span that may want to look at it up in the library in their hometown that carries the CONGRESSIONAL RECORD, and most do, they will get the list of 28 cosponsors. I expect to have 150 before we adjourn here someday in the first week in October. Here is the resolution, which is also being introduced on the Senate side today, I repeat, by a great Senator from Mississippi, TRENT LOTT.

The resolution expresses the sense of the House of Representatives regarding religious intolerance:

> Whereas the rights, liberties and freedoms derived from the Constitution of the United States are guaranteed to all citizens regardless of their religious beliefs or affiliations; and whereas individuals of all religious denominations have made substantial contributions to the establishment, preservation and protection of the system of government of the Nation; now, therefore, be it resolved that, one, the House of Representatives strongly opposes anti-Christians bigotry and all forms of religious intolerance and condemns all manifestations and expressions of religious bigotry and intolerance; two, the House condemns individuals and organizations that foster intolerance, suspicion, hatred or fear of individuals who, A, hold values rooted in religious tenet; B, participate in the political process to ensure that the laws of the Nation reflect such values; C, advocate public policies that are respectful of such values; and, D, it shall be the policy of the House to seek to ensure that the rights of individuals to participate in the political process of the Nation are not infringed on the basis of their religious beliefs or affiliations.

Now, what motivated me, Madam Speaker, to have our legislative counsel draft this, I believe, important resolution? And what causes us to reaffirm what, when I was a young kid, was part of the whole American fabric of life, a respect for all religions? Well, it was, I am sorry to say, my friend, the gentleman from California [Mr. FAZIO], one of the Democrat leaders and deputy chair of the Democrat conference.

I came to this House on my first go-around in 1976. VIC came 2 years later. He is a decade younger than I am, but I remember him over by that leadership desk in January of 1979 with little blond and red-headed children. They looked like my children just a few years before, and I went over and introduced myself, and I said, "Boy, can I borrow some of these kids? They're just duplicates of mine, only a couple of decades younger."

The gentleman from California [Mr. FAZIO] and I have always, always had nothing but the most cordial of relations during our whole time here in Congress. I assume with that good paisano name, FAZIO, that he might be a fellow Roman Catholic. So I asked him and he said no, that he was Episcopalian or something, and I said, "Well, great," I said, "I'm glad to have you on board from northern California. This is an exciting time to be serving our country."

Since that time, I have crossed swords with the gentleman from California [Mr. FAZIO] in debate on this floor only once. He apparently did not know that Kate Michaelman had admitted publicly in Senate testimony that she had aborted her fourth child—it was her first abortion, the other three daughters were born alive—and that she was a Catholic, and had done it with a heavy heart. Kate Michaelman is now the spokesperson for NARAL, the National Abortion Rights Action League. I had mentioned this fact on the floor of the House. Mr. FAZIO thought I was revealing some personal secret of hers. He took me on, I took him on, and on a point of personal privilege we resolved the matter. It is the only time we crossed verbal swords in this House. But I think my pal from California, VIC FAZIO, is walking on very slippery ground when he goes down to the National Press Club and talks about firebreathing Christians and gives egregious, and I cannot believe sincere, advice, to my party, the party that he is in opposition to here 90 percent of the time. He held a press conference to suggest that Republicans must purge from our party all firebreathing Christians who have entered politics because they are worried about the cultural meltdown, the moral decline and the degradation, and what the prior speaker, the gentleman from New York [Mr. NADLER] said, the bad guys and gals winning in the streets of our Nation, tearing our young people apart.

□ 1600

We cannot demonize, and that is a word that the New York Times and the Washington Post and the L.A. Times have commented on. We cannot demonize the marginalize people in our country whose primary obligation as they see it is to raise stalwart young men and women and to pass on to them the verities that they learned at their mothers' knees, that were reinforced by their dads and by their school teachers.

I can remember the first thing I had to write in my binder as a Air Force preflight aviation cadet was we hold these truths to be self-evident, and that all men are created equal. And I remember taking my soft plastic binder, and with a ball point pen, embedding into it, with a firm reliance on divine providence, we mutually pledge our lives, our fortunes, and our sacred honor. And those very words that were signed by 56 early American forefathers, many of which gave up their fortunes, and some of them gave up their sacred lives, and none of them gave up their honor.

There is Moses' face in this chamber, the only one of the 23 large marble medallions of lawmakers that is other than a left or right profile. It starts with Moses, the keystone, the lodestar, dead center, looking right down at you, Madam Speaker, and over your head are the words "In God we trust."

We are not going to strip out of our country our religious heritage.

I spent my 30th year proudly watching JOHN LEWIS, the distinguished gentleman from Georgia, up there on that stage with Martin Luther King, speaking on that great August day, 31 years ago, it is amazing, August 28th, 1963.

JOHN and I are the only two Members of this Chamber or the U.S. Senate who were present to hear Martin Luther King give his speech, "I have a dream." And that speech is the only words of Martin King, Reverend King, that supersedes his great words in his letter from a Birmingham jail, where he said, "The laws of God supersede every law of man."

I suppose the Democrats are so desperate this election year that they will try anything to hang onto their majority. My gosh, the Democrats have controlled this place for 40 years, since I was too young to vote. In my first election, I was 21 then, I was in pilot training in Florida—no, I moved to Texas for jet training by that time, and everybody I voted for in California by absentee ballot lost. Jim Wright got elected in November of 1954, Eisenhower lost the House and the Senate, and it was only his second year. We have sat on this side of the aisle ever since. We have never had anything but minority loyal opposition on this side of the aisle. We are in our 40th year. We will come close, but I wouldn't put money that we will take it. And if Republicans do not take over Congress, the Democrats will continue to have liberals running the leadership positions and every committee for the 41st and 42nd year in a row. Totally unknown, that type of domination of one party in the first 150 years of our Nation's history.

And now, the Democrats are trying to save themselves from losing more than the average 14 seats. They may lose 20 seats. They may lose 30 seats. This conduct comes up, we might just have a seat change and turn this place upside down. We will move to that side of the aisle, and maybe in my last 2 years I will get to be Speaker pro tempore, standing up there and looking eloquent like you, Madam Speaker, which I have never done in 18 years of tenure around this place. Anything can happen.

But I will give my friend VIC, and he is my friend, the same warning that I gave my classmate from 1976, AL GORE, who is now the Vice President of the United States. I gave it to him to the right, of that door here, when he said Hi to me, warmly one morning, We have got good relations. And he had with him the prime minister of Ukraine. He introduced me to the prime minister.

I said AL, let me talk to you a second. I crossed that door, spoke to him by that half a pillar on the Republican side, I said AL, VIC FAZIO is giving my party advice. I don't know whether to take it seriously, about kicking activist Christians out of my party because they control the State organizations in six States. That kind of makes me happy. But let me give you some real advice. AL, we don't want a battle over religious belief. I said AL, are you aware that Mother Theresa is not part of the political religious left? She is certainly not the nonbelieving pagan left in this country. She is not the country-club-Republican atheist right in this country. And she is not part of the National Council of Churches, that doesn't know where they stand one month to next. Mother Theresa is part of the conservative religious right. And I said AL, so is Pope John Paul II, who you have met with twice.

This is the religious right. What you are taking on would be one-quarter of this country. Because I speak for the majority of my church. I am in the mainstream of my faith. I may not agree with my bishops over certain forms of gun control or Central America or capital punishment or universal medical care—all of those are optionable beliefs in my faith.

But the sacredness of human life, growing in a woman's womb, the sacredness of that life with an immortal soul for all of eternity infused into it by God the Creator Himself? That belief is not optionable.

And when I hear that nine Members of this House go to a meeting yesterday, right here in our own building, guarded by nine Capitol Hill police in case something untoward happened—to a meeting of a task force called the Radical Right Task Force, it struck me that every caucus in this House, funded or not funded, usually has a positive purpose. For strong rational defense, for instance. Or the Hispanic Caucus. We are allowed to belong to that, even if we are not Hispanic. I am a southern Californian. I love Hispanic history in my adopted State. The Arts Caucus, I am on that even though I get on the floor here and get angry at certain NEA grants squandering our good taxpayers' money for pornography or blasphemy. I am in the Grace Caucus. We have got all these caucuses focused on a positive good.

I cannot recall—may find an exception over the weekend—of a task force or caucus ever formed in this House like the one that Mr. FAZIO that is focused on one group of people because of their religious beliefs.

Now, to be sure, that whole group would say, oh, we are not talking about the Pope or Mother Theresa or your run-of-the-mill average loyal or disloyal Catholic.

We are not talking about mainstream Protestant designations. We are not even talking about smaller Protestant groups like Christian Scientists or Mormons. We are talking about fundamentalists. That is the word they use in all of these fire-breathing press releases of theirs.

Fundamentalists. That word has taken on a terrifying meaning in Iran. It has taken on a terrifying meaning, when that is the way the general media describes terrorists who blow up the second and third tallest buildings in the world after the Chicago Sears Tower, it is the Trade Twin Towers in New York. Blowing them up, five people dead, a sixth dies horribly in pain with lung failure weeks later. Six people dead, 1,000 injured by people called radical fundamentalists.

I know that VIC never makes a move, nor does Mr. Clinton, without these focus groups, without this garbage of putting people in a theater somewhere and getting touchy-feely buzzers, to press a button every time they ask them a test question.

□ 1610

And boy, when those focus groups or pollsters tell you this is up or this is down, then you come out with this bizarre attack on fundamentalist Christians who have tended to avoid politics as Caesar's world. All my adult life, how many groups I have spoken to begging them to come into the political process so they can have home school for their child and keep their young daughter innocent and try to teach their son to live up to the same standard of chasteness and decency that they are asking of his sisters. And then when they turn that son out into the angry, dangerous, violent and drug-ridden streets, they can expect that their son or daughter not to have their family values trampled upon. These people must come into the marketplace and get involved, they must make sure that Mosaic law and Christian principle and Jesus Christ's golden rule is written into law in this Chamber.

The dumbest, the most ignorant remark I have ever heard in my life is, you cannot legislate morality. What an asinine half-truthful statement. What that purports to mean is you cannot legislate morality in somebody's heart, which is an organ that we use to indicate the sensitive reasoning of brain power. You cannot do that.

But all law is a form of legislative morality. If not, why do we have St. Gregory over this door? Why do we have St. Alphonse over the other door, St. Edward the Confessor, St. Lewis, whose mother said, "I would rather have my son dead at my feet than have him commit one grievous mortal sin." Why do we have Moses up here? Why do we have the great rabbi who rewrote all the Talmudic law, a genius, Maimonides, writing in 11th century Spain.

Oh, we have got some losers up here like Napoleon, but we still have his Napoleonic law. We have people who did not belong to any specific religion but who certainly believed in God, like Thomas Jefferson. I tend to believe that he was a sincere man when he wrote, with a firm reliance on divine province. He meant every word of it.

Hammurabi, with his dark sides and did some killing. There are Greek and Roman people up there like Solon and Justinian who had their dark moments. But we have got Suleiman. We have got saints up on these walls. All law is a form of legislative morality.

It is easy to take down the tablets of Moses. Just off the top of my head, I remember when I was traveling against child pornography 3 years before I came here, finding the tablets on the front lawn of the courthouse in Duluth, MN, up in Lake Superior, in the capital city of Nevada. Are they still there? I did not know there were tablets on the wall of the third floor in the Montgomery County, MD, courthouse where the ACLU is trying to rip them down.

When Moses wrote, thou shalt not kill, did he say, you cannot defend yourself in uniform if you are a police officer, a police woman, in the military, a fighter pilot in the skies? No. He meant killing, murdering, immorally. But then we took his commandment and turned it into first-degree murder, second-degree murder, third-degree murder, voluntary manslaughter.

When he says, thou shalt not steal, did he foresee Bunco? Did he foresee a rip-off televangelist minister, a disgrace to religion, focused on greed and money, giving a bad name to religion but disappearing quickly, destroying themselves. They always do. Did he think about pickpocketing or, I said bunco artists, armed robbery, burglary, carjacking, home invasion? We are learning terms like carjacking and home invasion that we not even dreamed of when I first arrived in this Chamber. We have codified all of those stealing fever laws under mosaic commandments, thou shalt not steal.

When he says thou shalt not covet thy neighbor's wife, does that mean you could do it if you were a lesbian and she was separated from her husband? No, we do not have all that codification. It says basically, thou shalt not commit adultery and thou shalt not covet thy neighbor's wife. And it is left up to men and women of good will, with the guidance of religious leaders and lawmakers of principle, to decide what should be in the law and what should be taken care of by our hearts.

We know that there has not been a single person ever maybe in this Chamber, we left it to the States, who have tried to pass any laws against easy, quick, no-fault, cheap lying divorce. Never going to be adjudicated in my lifetime. I have never even thought of writing a law. But we know that quick, easy divorce, where children are involved is causing those angry streets out there. It turns into the community deserted children.

I do not like the term "dead beat dad." It may both start with a D and have a little alliteration to it, but dead beat dad sounds far too cute to me. This is a deserting, rotten person who brought children into the world and then ditches them and, so he can keep his Mercedes-Benz payments, does not contribute to the education of the children, let alone the funding of how they live and how they eat.

We all know when we study divorce that it turns loose a man. And unless he is a person of particular courage who becomes that Sunday visiting dad, his income goes up and the woman's income goes rock bottom and a life of terrible pain and struggle begins. That is for the States to decide and really for a change, a sea change of heart in culture, in our society.

The abortion battle is going to be with us forever, forever, because it is like slavery. It involves life. You cannot steal a human being's life and lock them up, as with a slave, and that can never be accomplished without turmoil and bringing a curse on your society. And you can never snuff out a human being's heartbeat in the womb of its mother and zero line its brain wave. You cannot ever do that. And that brain wave starts, that heartbeat starts at day 18, about, and the brain wave, by day 40, is established. You can never snuff that out without having this always a matter of public concern.

I tell my friend Vic that when he reads editorials like this in the New York Times or a front-page story, he better run from this. Here is the New York Times, June 3d. This is the paper that gave Vic Fazio some of these ideas. Conservative Christians have burst into view this year as an important, often divisive force in Republican politics. They now have control of six State organizations and are making inroads into several others. Front page. The mother paper of America.

Here is an editorial in the New York Times 4 days later:

"Many of the retrograde forces that brought us the ugliest Republican National Convention in recent memory," I was there. I did not see this festival of hate and fear. I saw some speeches I did not agree with, but it was dominant media culture, 95 percent liberal at the top of the networks, the three biggest papers in the country, they put this hate and fear spin on my Republican convention with a darn good platform.

It says, "The retrograde forces that brought us this national, ugliest national convention of recent memory have now conspired to nominate Oliver Lawrence North for the United States Senate in Virginia." That became a fait accompli.

"Mr. North's startling ascendancy is ominous evidence that the GOP remains vulnerable to the foot soldiers of fundamentalism."

Listen to this paragraph from my brilliant young friend, William Crystal.

"This month marks an important and alarming development in the politics of American religion." The month he is talking about is June. "As the influence in the Republican Party of 'fervent Christians' emerges as the hottest trendy story and talk show topic of the summer." And it persists, 2 months later. Why should just now there be all this dark talk about this subject is an interesting question.

The answer is not, despite what the Times suggest, that the religious right has "taken over" one of our two national parties and that our civil liberties, therefore, hang in the balance. It is by no means clear, in fact, that the influence of religious conservatives has increased much at all over the past many months.

We remember a front-page Washington Post story reporting significant Christian coalition participation in the Republican politics in more than half a dozen States a year ago. That story presumably about the same States featured with such drama not 2 weeks ago in the Times was in fact in September 1992.

□ 1620

Madam Speaker, at this point let me look for another few key articles to put in here. I was over here at St. Peter's on the Hill, St. Joseph's on the Senate side, St. Peter's on the House side, and here, just like many churches, only a block away from what used to be, and I would like to think still is, the heart of the District of Columbia.

Madam Speaker, in the back of the church I picked up the standard Archdiocesan newspaper for this area of the country called the Catholic Standard. The senior publisher of this would be, of course, the Archbishop, James Cardinal Hickey.

Madam Speaker, I read in here in a front-page story that many of my colleagues are distraught at the role the Catholic Church is now playing in politics vis-a-vis the health debate. Leaders in the Catholic Church are demanding that there not be coverage of abortion on demand for any reason under the sun, or no reason whatsoever, for all 9 months, right up until 1 microsecond before labor begins. That is the Roman Catholic Church's stand.

I read on the cover that my friend and colleague, the gentlewoman from Colorado [PATRICIA SCHROEDER], is really upset with that, that the church is making these statements. She says that, "The church is now going to undermine women's health care needs."

That is my colleague, the gentlewoman from New York [NITA LOWEY], a Democrat from New York. She insisted that the church is using health care reform to repeal Roe versus Wade. No, it is not. It is a separate debate, although, of course, the church would like to repeal Roe versus Wade. I would, too. After all, the whole case was based on lies.

Madam Speaker, the name for the young woman, Roe, was a lie. She never was raped. She made it up. Whoever heard of a Supreme Court decision that significant and far-reaching based on a foul lie? She simply was not raped, and had that baby anyway. It was her third attempt at abortion.

The woman who uses this pseudonym, Roe, has three daughters, all grown up, in their twenties. They have never met, as far as I know. The daughters would like to reconcile, but they said, "Not until our mother says she is happy that she did not get to kill all three of us." That is the Roe in Roe versus Wade. The Wade was the district attorney in the State of Texas.

Madam Speaker, the gentleman from California [DON EDWARDS], who is in his last months; in just 88 days is the election, when he will be replaced in this Chamber; DON EDWARDS says, joining the debate, "I especially resent the fact that certain religious groups are entering this political fight here in Congress." He resents that fact? Certain religious groups? Come on, DON, you mean Catholic, Roman Catholic Church.

If you want to be a know-nothing, like the people that got a rowboat and took a carved stone that the Vatican had sent for our Washington Monument, and took it out in the middle of the Potomac and dumped it, where it remains to this day, and that kind of know-nothing shut down the building of the Washington Monument for the better part of several decades; if you want to be a know-nothing about the Catholic Church, go ahead, take it on, DON.

Madam Speaker, the landscape of history for the better part of 1,900 years is littered with the forgotten and demeaned reputations of people who took on Holy Mother Church, or religion in general.

Let us have a debate about that some day. That is a good subject for our Oxford debate, casting the fire-breathing right to the media jackals. It would come up with a softer title than that.

Madam Speaker, here is a great lady that I have only had the opportunity to meet once, Helen Alvare, of the Life Issues Forum under the National Conference of Bishops. She says, "The best antidote (in addition to prayer, for the graces of dignity and holding your temper) is a good dose of the truth."

With that preamble, this spokeswoman for the Life Issues Forum of the Catholic Church takes apart these false claims. She says, "One of the claims is that the church is trying to take away what women presently have in private insurance." According to Alvare, "Virtually everyone who supports abortion mandates in health reform has claimed that most women have private insurance coverage of abortion. They say that unless abortion is 'a basic benefit,'" and it is, in the Gephardt and Mitchell health care reform plans, and of course, Clinton or Clinton-light or Hillary Clinton health care plan, all this abortion coverage is in there, making all of us pay for what we believe is the flat-out killing, and in some cases, in the cases of these abortionist doctors who kill 32 or more a day, knowledgeable, knowledgeable murder of innocent human life; not all of them, I guess there have to be stupid abortion doctors out there with a totally twisted and malformed conscience.

She goes on to say that is not a proven fact at all, and mandating abortion in every policy in this country. Not so, she says. "There is no conclusive proof that most private policies now cover abortion. Even if the claim were true, it would be irrelevant. What people can freely choose to buy or not buy" in abortion insurance coverage today "is no argument for forcing them under penalty of law to buy it tomorrow."

Then again, in answering my distinguished colleagues, the gentlewoman from New York [Mrs. LOWEY] and the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from California [Mr. EDWARDS], she goes on to say, "If those who claim they only want to preserve the 'status quo' were honest," said Alvare, "they would insist that health care reform preserve people's ability to choose whether to buy abortion insurance. They would never insist that abortion be a 'basic benefit' that every person must own."

Then here is myth, too, that she explodes. "Another claim is that the church," and this speakes for most Christian denominations, "does not want women to benefit from health reform. This was the premise of Schroeder's argument as she harshly accused the church of plotting to harm women's health interests under cover of removing abortion mandates from health care. The Congresswoman included 'osteoporosis' in her list of woman's services and diseases targeted for destruction in the church's 'plot.'

"In reality," comes back Mrs. Alvare, "the church has been in the forefront of efforts to promote access and quality services for women. Our hospitals," over 1,2000 of them, "provide care to millions of women every year. And our respect life agenda includes both support for healing and opposition to killing.

"That is why * * * the church opposes legislation that would force individual abortion coverage, force Catholic hospitals into business relationships with abortionists, and force communities," and this includes Lutheran hospitals, "to open unwanted abortion clinics." She emphasized the word "force" in the statement.

As an aside, Alvare added, "The church thinks women deserve really good," excellent, "treatment for osteoporosis."

The argument that the bishops are really trying to overturn Roe versus Wade admittedly tries Alvare's patience. "It is legally impossible for Federal health care legislation to overturn Supreme Court decisions," she says firmly. "Roe could be overturned only by a constitutional amendment" or another whole group of flesh-and-blood people on the Supreme Court, people who have maybe had a life, unlike Justice Souter, who indicated one thing and votes the other, which so often happens with appointees to the Supreme Court.

She closes, "Unfortunately, Roe is the law. It made abortions legal on demand," for all 9 months, for any reason at all, "but a health insurance bill that mandates abortion coverage would go much," much, much "further. It would force abortion into the private lives of every family, every health provider, every community, and every taxpayer."

□ 1630

Alvare notes that if abortion is eliminated from the basic benefits package and made available as a supplemental benefit, abortion-on-demand is sadly going to remain legal but the rest of us will not have to subsidize other people's decisions to kill their young in their womb.

Still another claim floating around the Halls of Congress is that the bishops are really trying to impose their religious values on everyone. Yeah, they're really having luck with that, aren't they? "Does this one sound familiar?" she asks. Every time an identifiable Catholic or Catholic institution speaks up in the public square about abortion, someone else raises this question.

She suggested practicing the following response in front of a mirror. She is recommending looking in a mirror for EDWARDS and LOWEY and PAT SCHROEDER. Look in a mirror, without a hint of impatience in your voice, and say this to yourself:

Being for unborn life is not a religious perspective, but a moral one shared by millions of Americans, religious and nonreligious. Opposition to government coerced involvement with abortion—China—is shared by even more millions. Poll after poll shows it. American women and men do not want universal insurance coverage with abortion mandates.

The final phony, false, lying claim is that the church really wants to make contraception illegal. I have never heard a sermon on making contraception illegal in the 45 years of my life since I was a middle teenager, not that I even heard it then, as anything but for the faithful.

She noted, Mrs. Alvare, that contraception is an important moral issue but she makes this key distinction: It does not kill human life, which abortion does. In the area of contraception, the church is seeking conscience protections but not seeking to make it illegal or unavailable.

She pointed out that much of the rhetoric by prochoice advocates is a way to deflect attention from the truth.

"People don't lie about you or your arguments if they have good arguments themselves." Well said, Mrs. Alvare.

Look, what I see here is a veiled attack, marginalizing and demonizing born-again, charismatic, evangelical, protestant Christians in order to try and cripple, intimidate, or to scare orthodox and traditional Jews, Serbian orthodox, Greek orthodox, Armenian orthodox, Russian orthodox, eastern orthodox, Greed orthodox, and traditional loyal orthodox Roman Catholics. By hitting at these groups that they think in their little focus groups do not have the clout to fight back, they think they can accomplish a major objective and save about 20 seats that they are probably going to lose in the coming election 88 days from this very day.

I would say for the sanity and the comity and the well-being and the decency of debate and discourse in this Chamber, do not proceed with your battle plans, Task Force on Radical Right. JIM MORAN was in the well right today when I used his name as having been at this 9-policemen-guarded opening meeting yesterday, chaired by LOUISE SLAUGHTER. Do not do this.

I close, Madam Speaker and let my time clock run out on this: Intelligent, lovely black lady columnist Adrienne T. Washington that I read occasionally in the Washington Times, the headline of her article from this week, 3 days ago, August 9, caught my eye. It says ACLU Censors the Ten Commandments. I will start reading it and I will include it in the RECORD in its entirety:

For decades a 3-by-4-foot bronze plaque with a centuries-old message has blended into the brickwork of the Montgomery County Courthouse. It's been around so long it hangs virtually unnoticed.

But no longer.

The ACLU wants the plaque of the Ten Commandments taken down from its perch on the third floor of the Judicial Center in Rockville.

Is Moses next, the author of those commandments? I would guess so, in the long run. Do they not have more significant causes to champion?

Madam Speaker, you will find the rest of her article compelling reading.

Her last words are:

Those 10 commandments are a necessary reminder, something we can learn from, if not aspire to. It should stay right where it is as just one expression, one example, of what a whole lot of people believe it takes to truly live free in today's topsy-turvy world.

Madam Speaker, I include the Washington Times article for the RECORD, as follows:

[From the Washington Times, Aug. 9, 1994]

ACLU CENSORS THE TEN COMMANDMENTS

(By Adrienne T. Washington)

For decades a 3-by-4-foot bronze plaque with a centuries-old message has blended into the brickwork of the Montgomery County Courthouse. It's been around so long it hangs virtually unnoticed.

The American Civil Liberties Union wants the plaque of the Ten Commandments taken down from its perch on the third floor of the Judicial Center in Rockville, saying it violates the First Amendment separation of church and state.

Don't they have more significant causes to champion?

Arthur Spitzer, legal director of the Montgomery County chapter of the ACLU, told reporter Arlo Wagner of The Washington Times that the plaque should be removed "because the government should not be telling people to observe the Sabbath," among other religious teachings.

How ludicrous. Mr. Spitzer is wrong. If ever there was a place to hang the Ten Commandments, it's in the so-called hallowed halls of blind justice. Here, humankind may welcome a little divine guidance along with a little divine intervention.

Most of the criminal codes and civil laws of Western civiliazation are based on the Judeo-Christian ethics espoused in the Ten Commandments. Besides, what about the other First Amendment rights that guarantee free speech and the right to religious freedom?

Wiping out any mention or symbol of religion or faith in all public places does not constitute religious freedom. This could be construed as religious censorship for some. Surely, the ACLU opposes censorship.

The Ten Commandments plaque was presented to the Montgomery officials by the Church Women of Montgomery County in 1940. Before the Judicial Center was built in 1981, the plaque hung outside Courtroom One in the District Court.

No doubt this plaque is like the hundreds of statues and monuments you walk by, drive by or stand by each day and never notice. Rather than take the Ten Commandments down, other religious and secular groups should be encouraged to place other placards that espouse their affirmations and thinking.

I fundamentally agree with the ACLU's position opposing adult-led prayer in public schools. It's too difficult to administer without offending someone.

But I firmly believe all students should learn about various world religions as part of their basic education. Just as they study history, geography and languages, people ought to know the difference between Hindus and Muslims, Christians and Jews, atheists and agnostics. Such information breeds religious tolerance. Lack of knowledge—like removing the Ten Commandments as though they don't exist—is what leads to more problems.

So why is Mr. Spitzer picking on the Ten Commandments?

Only three of the 10 tenets speak directly to God or religious practices. The rest speak to what should be appropriate behavior and interpersonal skills. And God knows we can't be reminded enough about common courtesy and human decency.

The Commandments were engraved on stone tablets and given to Moses by God at Mount Sinai. They are the foundation of divine law in the Old Testament. They are also paramount, individually or collectively, in the ethical systems of Judaism, Christianity and Islam.

And just in case your memory needs to be refreshed or you never learned the Commandments, let me give you the hit parade:

1. I am the Lord thy God. Thou shalt have no other gods before Me.
2. Thou shalt not take the name of the Lord thy God in vain.
3. Remember the Sabbath day, to keep it holy.
4. Honor thy father and thy mother.
5. Thou shalt not kill.
6. Thou shalt not commit adultery.
7. Thou shalt not steal.
8. Thou shalt not bear false witness against thy neighbor.
9. Thou shalt not covet thy neighbor's house.
10. Thou shalt not covet thy neighbor's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor anything that is thy neighbor's.

This is the fundamental moral code on which this country was founded, and to which the framers of the Constitution subscribed. I really don't think they thought the day would come that something as harmless as the Ten Commandments would be viewed as inappropriate to be seen in public building, especially a courthouse.

Montgomery County Attorney Joyce R. Stern unfortunately agrees with the ACLU's stance that the plaque, as presently displayed, does violate the Constitution. She ruled the plaque must be made part of a larger "historical display" to remain in the courthouse.

> The Ten Commandments plaque is a necessary reminder, something we can learn from, if not aspire to. It should stay right where it is as just one expression, one example, of what a whole lot of people believe it takes to truly live free in today's topsy-turvy world.

RESTORATION OF THE COEUR D'ALENE BASIN

The SPEAKER pro tempore (Ms. BROWN of Florida). Under a previous order of the House, the gentleman from Idaho [Mr. LAROCCO] is recognized for 5 minutes.

Mr. LAROCCO. Madam Speaker, I rise today to address an issue of vital importance to me, to Idaho, and the State of Washington, the restoration of the Coeur d'Alene Basin.

The Coeur d'Alene Basin covers approximately 3,700 square miles in north Idaho, including Lake Coeur d'Alene, the Coeur d'Alene River, the St. Joe River, St. Maries River, the Spokane River, and various tributaries. The basin forms the foundation of the region's economy, drinking water supply, and natural habitat.

The Coeur d'Alene Basin attracts an estimated 800,000 visitors annually. It provides 30 percent of the water to the region's sole-source aquifer, which serves over 400,000 residents in north Idaho and eastern Washington. The basin provides habitat for migratory bird populations—including tundra swan and wood ducks—as well as endangered, threatened or candidate species, such as bald eagle and the bull trout.

In the 1800's silver was discovered on the south fork of the Coeur d'Alene River Valley which was the beginning of the Coeur d'Alene mining district known as the "Silver Valley." In 1886, the first mill was put into operation at the Bunker Hill mining complex. By 1891 mining was flourishing.

Over a period of 100 years the mines of the Silver Valley produced nearly 45 percent of the Nation's silver, 11 percent of its lead, and 9 percent of its zinc. However, they also produced a tremendous quantity of heavy metal-contaminated wastes—an estimated 72 million tons of tailings were discharged into the Coeur d'Alene River.

I view restoration of the basin as one of the highest priorities for the future of north Idaho. I have been working in cooperation with the State of Idaho, the Coeur d'Alene Tribe, the mining industry and local citizens to devise a comprehensive plan for restoring the basin.

With the help of the U.S. Fish and Wildlife Service, U.S. Geological Survey, and the Bureau of Land Management, I have drafted a Coeur d'Alene Basin restoration bill as an amendment to the Clean Water Act. The State and the tribe have also drafted a legislative proposal.

Today I will be introducing both restoration bills.

At the request of the tribe and the State, I am introducing The Coeur d'Alene Basin and Spokane River Restoration Act of 1994, a bill that would establish a nonprofit corporation, the Coeur d'Alene Basin Restoration Corp., to provide for the conservation, remediation, and restoration of the Coeur d'Alene Basin and Spokane River watersheds. The corporation would serve to streamline restoration efforts, assure local control and public input, and reduce administrative costs.

I am also introducing The Coeur d'Alene Basin Restoration Act of 1994. Written as an amendment to the Clean Water Act, this bill would convene a Coeur d'Alene Basin Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for the Coeur d'Alene Basin. In addition, the bill includes measures to assure that efforts by Federal agencies, including the U.S. Fish and Wildlife Service, U.S. Geological Survey, and the Bureau of Land Management, are coordinated as part of a comprehensive restoration plan.

The introduction of these bills signifies a new cooperative effort to restore the Coeur d'Alene Basin. The Environmental Protection Agency has pledged its full support for a cooperative restoration effort, and it has moved a full-time EPA staff person to Coeur d'Alene. The State of Idaho, the Coeur d'Alene Tribe, mining company officials, and community leaders have begun earnest discussions on a comprehensive restoration effort.

I want to stress that both bills have been drafted from the ground up and public involvement will remain a focal point as they move through the legislative process.

Madam Speaker, Idahoans elected me to lead and to solve problems. I have pledged to be a strong voice in Congress and will continue to work collectively with the tribe, the mining industry, the State of Idaho and local citizens to solve this difficult problem.

I want to add in closing, Madam Speaker, that Speaker FOLEY joins me in trying to resolve the issues of the Coeur d'Alene Basin and I welcome his support in these endeavors.

□ 1640

REVOLVING DOOR JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. COLLINS] is recognized for 60 minutes.

Mr. COLLINS of Georgia. Madam Speaker, I want to begin my remarks today and refer back to a 1-minute speech that I gave on this floor March 4, 1993. Leading into this 1-minute speech was the 2 previous days. On each of the 2 previous days to this March 4 date, I came to the well of this House to deliver a 1-minute speech each of those days. The first day I referred my remarks not only to the Speaker but also to the President, and the Speaker challenged me and told me that I must refer all remarks to him. So I was out of order that day with those remarks as a freshman and unknowing to all of the rules.

The second day that I came to the well to give a 1-minute speech, I thought I was in order by reading excerpts from a letter from a constituent from Peachtree City, GA. In reading that letter and excerpts from that letter, the Speaker again hit the gavel and called my words out of order.

So the third day, not to be outdone, I came back to this well of the House for a 1-minute speech, and that 1-minute speech went something like this, Madam Speaker:

> Mr. Speaker, during this time on each of the past 2 days I have stood in this well and referred to letters and phone calls that I have received from people throughout the Third District of Georgia. I expressed their concerns, their fears, and their definition of the character of those of us who are involved in their Government.
>
> On each of those 2 days the Chair questioned my remarks and referred them to the Parliamentarian.
>
> Mr. Speaker, I differed with that questioning.
>
> Mr. Speaker, I will be out of order the day that I do not express the views of those who have sent me here to represent them.
>
> Mr. Speaker, I will be out of order the day I fail to carry through with the promises that I made when I asked those same people to send me here to represent them.
>
> Mr. Speaker, I will be out of order when I listen to the bureaucrats inside this Beltway instead of the people of the Third District of Georgia."

Madam Speaker, I wanted to refer to that out-of-order speech prior to speaking a little bit about the crime bill and the vote on the rule pertaining to the crime bill that took place here in this House yesterday, because the vote that I cast was a reflection of that out-of-order speech. It was a reflection of promises I had made when I was seeking this office. It was a reflection of the phone calls, the letters, the personal contact and the correspondence that I have received from the people of the Third District of Georgia.

Madam Speaker, when I received those correspondence or those contacts I did not ask those people questions other than listening to their requests, their comments. I only answered questions. I did not ask them what religion they were, I did not ask them what party they belonged to, I never ask them what race they are. I just listened to their comments, and that is the vote that I cast yesterday on the rule pertaining to the crime bill.

But, Madam Speaker, we can pass a crime bill in this House, and truthfully we should pass a crime bill. But we need to pass a good crime bill. We need to pass a crime bill that will actually address the problem, and that is the problems of the criminal. Get criminals off the streets. We need to address it in an area and in a way that imposes punishment, a deterrent. Many may think or may even be used as scapegoats, but if they do wrong, they deserve punishment, no matter what their personal thoughts.

But in order to address crime and crime prevention, I think we need to focus in, too, on some of the cases of crime and where a crime resolves, what it is resolved around. Often times that is in the area of poverty. Financial conditions of a person or a family would lead someone or entice someone to do wrong. Poverty areas are areas where crime is rampant, such as detected by the fact that if you follow welfare spending you also follow spending on crime, and often these areas of poverty are also areas of welfare. Those people, a lot of those people who live there are impoverished, they have no hope. They see no hope, they see no promise. They see a community of people that just like them live with no hope. They see other neighborhoods on the TV and hear about it on the radio and read about it in the media that also have no hope.

Why do they have no hope? Again it is financial. Again it is an area we need to address. I think we need to address, it with jobs, job opportunities, something that gives them hope, something that gives independence.

We can do that. But we do not need to do it with government, government jobs. Government jobs are taxpayer payroll jobs. There is no hope in a government job as such, because government jobs are temporary jobs, and that is the reason, because it is temporary, there is no permanence to it. We need to turn to the private sector, and we need to encourage the private sector to go into these communities, these urban areas, and not only urban areas but rural areas and establish manufacturing, establish businesses that will create jobs and provide jobs and provide hope for those in those impoverished areas. And we can do that. That is not only the job of this House, but it is something that this House should and must do.

There are a couple of areas of the crime bill that I want to refer to other than just that area that was referred to yesterday quite often as social spending. One is the area of the provision that provides for 100,000 additional cops on the streets. That is a provision that sounds good. It is a provision that is supported by many people. Why is it supported by so many? Because when they see a cop on the beat, whether he is walking, or whether he is in his patrol car or on his motorcycle, it gives them a sense of security, because there is someone in the area that is one of the good guys, the police.

But I question whether or not those 100,000 policemen are really again just a dead-end effort, because the funding for those policemen will fall far short, because there again it is temporary funding. The additional or continued policing by those cops who this encourages the hiring of will have to be picked up by those local entities. I know first hand and have had experience in that area. As a country commissioner in Butts County, GA, some 15 years or 16 years ago, there was a program, encouraged by the Federal Government, to hire deputy sheriffs, additional police, and for a small county and a small budget we took advantage of it, advantage of what we thought was a good thing. The only thing was it was good for only awhile, because the funds ran out. Then we as county commissioners and the governing body of that county had to fund those additional officers out of the treasury of that county.

So I think even though it sounds good, and it is good, it is good to have those people on the street, it is a little bit of false advertising from this House to say that we are furnishing the money, all of the money for those 100,000 policemen.

Another area that I want to address in the crime bill that was very controversial was that of the gun control provisions and what makes it so hard to swallow for many people across this country, and a lot of those in the Third District of Georgia. It is not the fact that we were eliminating through that procedure some guns. The real problem is that provision only pertained to a legal transfer of weapons, a legal transfer. It would stop the manufacture and prohibit the transfer of certain weapons. But it did not pertain and will not pertain and cannot pertain, and you will not pass any legislation in this House or in the other body that will pertain to the black market. And there are millions of weapons in that black market. They are passed, they are sold, they are given daily, and no legislation that we adopt will pertain to that weapon.

True, we can pass legislation that pertains to that person who is usually and normally a criminal that passes that weapon.

□ 1650

Back several months ago when we had the Brady bill on this floor, unlike this time with the crime bill, and I did not receive any phone calls from any of the people from the White House or the Cabinet, but when the Brady bill was on the floor, I received a call from Ms. Reno, and I was very pleased that she took the time to call me. I was impressed that she would call me, and she called to ask me to support the Brady bill and to oppose all amendments to it.

I told Ms. Reno I really appreciated her call, but I could not do that, because the people in the Third District of Georgia had asked me to oppose the Brady bill and support all amendments to it. It was not, as I informed her, the 3-day, 5-day, 7-day, 15-day, whatever the delay might be, that was not the emphasis; the problem and the concern of the people of the Third District of Georgia was this in the first step, the first step toward prohibition of weapons altogether.

Madam Speaker, you know, those people of the Third District of Georgia were right. Because immediately following the Brady bill came the ban on the assault weapons, the ban on the legal transfer of weapons, again, no ban on the black market and the transfer in that area. We need to rethink that and stop punishing and trying to deter or prevent law-abiding, legal purchases by people who are not of the criminal element.

Madam Speaker, again, I go back to the fact that we can, and we should, pass a crime bill. We should pass one that had the provision in it that I really liked in this one that the dealing with the fact that we were going to assist States with the construction of prisons, and they do need help. Many States are short of funds for the purpose of prison construction.

Fortunately, Georgia has built several prisons in recent years. My first year in the Georgia State senate, the first budget that came to the floor of the senate, there were no prisons included, but after several members of that senate body approached the appropriations committees, we were fortunate enough to include, before the finalization of that budget, some five prisons. All five have been built and opened, and along with three additional, along with additional boot camps, boot camps again, part of this crime bill that we are looking at that is in conference.

A Judge Kenneth Kilpatrick from Clayton County, GA, a State superior court judge there, sent information to Gov. Zell Miller pertaining to criminals, voicing the concern of many superior court judges in Georgia about the fact that criminals were being released from prison far before their sentences were completed or even long before even half of their sentences were completed. I have the package that Judge Kilpatrick sent to the Governor, Governor Zell Miller, and I want to read just two or three quotes from this package words and comments of Judge Kilpatrick.

First of all, and to quote him, he says, "Do not get hung up on the words 'violence' and 'one-third.' Violent offenders ought to be put away, but so should burglars, auto thieves, forgers, drug dealers, habitual offenders, and other criminals who are not normally called violent." And, again, he says, "Why should anyone sent to a penitentiary get out after serving only 33 percent of their sentence?" That was the one-third he referred to. "One-third has become a buzzword that lacks common sense. Make three-fourths the law, build the prisons, and watch the fear leave our streets." he went on to tell the Governor, "Until we face the fact that there are several thousand predators and punks walking the streets who must be incarcerated, neither we nor our property will be safe."

And, finally, he referred to Cool Hand Luke in the movie, and to quote Cool Hand Luke, "What we have here is a failure to communicate." The judge says to the governor, "Well, what we have here is a failure to rehabilitate. Goodness knows they have had their chances. We need to incarcerate."

I want to read just about, well, four particular cases out of a number of cases that the judge cited, and what had upset him about the early release of prisoners. A John Michael Conn, convicted of vehicular homicide in the first degree on July 25, 1991. He was drunk, 0.16 percent alcohol blood content, when he hit and killed a 13-year-old boy riding on a bicycle. He received a split sentence, 15 years, split to serve 8, 7 on probation. Mr. Conn was paroled December 9, 1993, serving less than 18 months of his sentence, 13 percent of the sentence rendered.

Another one was John Frederic Freeman, convicted of possession with intent to distribute cocaine in September 1992. The pardons and parole board said Mr. Freeman will be released in March 1994, serving 18 months of a 10-year sentence.

Shane Dolan Knight, convicted of at least 18 counts of burglary and forgery in the first degree, given a sentence of 10 years, released after 22 months, serving 18 percent of his 10-year sentence, and last, Karlston R. Blackstock, convicted of three counts of burglary sentenced to 15 years, released in 48 months, serving 27 percent of his sentence.

No wonder we cannot get control over crime.

Madam Speaker, I want to refer to an article that was in the National Review of June 13, 1994, written by Wesley Smith as he talks about in other areas how the Federal courts and the Federal Government have intervened with States in the operation of prisons, which has led to an enormous amount of lawsuits filed in Federal courts by inmates.

In 1966 there were 218 such lawsuits; in 1993 there were 53,000 such lawsuits. I think that is an area we need to address also, Madam Speaker.

I am placing that in the RECORD at the conclusion of my remarks.

Madam Speaker, I say we need to assist States, but we also need to assure that there will be severe and swift punishment.

We had an opportunity during the debate and the amendments offered here on this floor to change the habeas corpus laws, limit the number of habeas corpus appeals at the Federal level. We chose not to do so. We only chose to increase the number of instances where the death penalty can be applied at the Federal level.

But, Madam Speaker, we do not apply the death penalty at the Federal level. We very seldom apply it at the State level due to the fact of the endless appeals that are allowed.

Madam Speaker, I do not know about other Members of this House, but I have witnessed two executions in Georgia in the last 3 years, execution of one person who had cold-bloodedly shot and killed with a shotgun a police officer. Madam Speaker, it took 17 years of appeal after appeal to finally carry out the will of the people and the law of Georgia.

□ 1700

The second execution that I witnessed was just this spring. A person who had attacked two women and beat their heads off with a club.

Again, it took 15 years to bring that person to justice. Madam Speaker, that is too long. The people are tired of those types of appeals, and it does not help the system when we carry the appeals process for that length of time. We must address the death penalty, the imposition of it, and change the laws so that we can do it in a swifter pattern.

Madam Speaker, if we are going to address crime and we are going to address welfare reform in this Nation, we have to do them together or we will not get very good results either way.

I think they ought to parallel each other, we must have tax reform, tax reform that will encourage people to take a risk and invest, invest in communities, go back to those communities to which I referred that we impoverished, locate businesses in those areas so that we can create jobs in those areas because many of those people have no way to commute to another area for another job.

Madam Speaker, there are a number of things that we can do, a number of things that we can do jointly in this body, and it must be and it should be a bipartisan effort. I say it should be, it does not have to be a bipartisan effort; there are enough members of one party in this House to do any or all of these things. But if we take the time and we put our heads together and communicate with each other in this House, as Cool Hand Luke said, "I think we are failing to communicate"—but we need to communicate with each other.

Madam Speaker, when I got to the office this morning, and usually I am there around 7, I penned out a quick letter to the President, took it out to the fax machine myself and faxed it over to the White House, knowing I probably will never hear from it. I have sent a number of letters. Once in a while I will get a response, but it is not from President Bill Clinton, our President; it is from some staffer.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 12, 1994.

MR. PRESIDENT: I voted against the Rule for the Crime Bill not as an anti-vote toward anyone but as a representative vote for the people I represent. I am sure this is true of most of us who voted No.

Mr. President, you are faced with several options. I will refer to two. First, push forward and oppose the public, creating additional problems for Members of Congress or; second, listen to those of us who are voicing the concerns of constituents. To do so we must have the opportunity to discuss such concerns.

I have asked several times for such an audience but to no avail.

We, Congress, can pass a crime bill. A crime bill which will address crime problems. However, it will be difficult or the results will not be as positive as they should be if name calling and finger-pointing continues.

I know it is wishful thinking but I do wish I could have a few minutes of your time.

Best Regards,

MAC COLLINS.

Mr. COLLINS of Georgia. Madam Speaker, I want to wish you best regards. I know that just as soon as I hush, you are headed toward Florida, and I hope you have an enjoyable weekend because I am headed to Georgia.

The document referred to follows:

[From the National Review, June 13, 1994]

JAILHOUSE BLUES

TRUTH IN SENTENCING

FEDERAL JUDGES SEEM INFINITELY SOLICITOUS OF THE INMATES OF STATE PRISONS, AND NEARLY INDIFFERENT TO THEIR VICTIMS, PAST AND FUTURE. HOW CAN LAW-ABIDING CITIZENS BEGIN TO REDRESS THE BALANCE?

(By Wesley Smith)

(Mr. Smith is deputy director of the Governors' Forum at the Heritage Foundation and a member of the advisory board of the Safe Streets Alliance)

In 1989 Kenny Parker filed suit against Nevada state officials for "cruel and unusual punishment." His complaint? They had given him a jar of creamy peanut butter, whereas he had explicitly ordered chunky. One of Parker's jailmates—convicted first-degree murderer David Bean—is suing the state because the jeans he was given were too tight, "causing rashes and epileptic seizures." Another Nevada inmate, convicted child molester Chris Chapman, is suing for copies of the North American Man-Boy Love Association newsletter, as a matter of First Amendment rights. Iowa prisoner Art Hartsock, wanting to "see what I'm missing while I'm in here," has demanded greater access to pornography.

These "rights" violations seem less constitutional than comical, but they are taken seriously by the federal judiciary. In 1993, the nation's prisoners filed over 53,000 lawsuits in federal court, generally against state governments. While most cases are dismissed as frivolous, the litigation explosion has cost the states hundreds of millions of dollars in legal fees and in the costs of complying with the courts' orders. In 1993 Nevada alone spent about $700,000 in direct legal costs defending against suits like Parker's.

These legal costs, however, are dwarfed by the indirect costs on society as a whole. Most governors, state attorneys, and other criminal-justice officials say the prisoners'-rights movement is making state prisons ungovernable. And federally imposed prison population caps and other decrees aimed at alleviating "overcrowding" have forced the early release of tens of thousands of violent criminals.

JUDICIAL TSUNAMI

In 1966 prisoners filed 218 suits in federal court to remedy arguably inhumane treatment in federal, state, and county prisons. Then the federal judiciary opened the floodgates. By 1980 prisoner suits had increased twentyfold. In 1993 prisoners filed 53,713 lawsuits in federal courts—7,615 more suits than the Federal Government filed against criminals.

By 1993, four-fifths of all state prison systems and roughly one-third of the five hundred largest local jails were under federal-court supervision. And the courts are mostly not content to set broad guidelines for the states to interpret. In Arizona, for example, federal judges tell state prison officials the types of publications and typewriters they must buy for prisoners and the number of law clerks they must hire for the state's prison law libraries. (Delaware Attorney General Charles Oberly II says such rulings mean state prisoners have better access to law materials than he does.)

In South Carolina, Federal Judge James McMillan has given the state orders to purchase specific recreational equipment for prisoners, including three sets of horseshoe equipment, three guitars, five frisbees, fifty decks of playing cards, and a piano. In Alabama a federal judge orders the state to provide inmates air conditioning and televisions. In other states federal judges are seeing state-sponsored "cruel and unusual punishment" in prisons lacking basketball courts, weight rooms, televisions, workshops, or single-occupancy cells.

Under the guise of constitutional jurisprudence, the federal judiciary has aggressively replaced the criminal-justice policies of the fifty states with its own. Groups like the ACLU's National Prison Project argue that states must treat prisoners much as they do citizens at large. Federal judges have agreed; and in their pursuit to elevate the legal status of prisoners to that of law-abiding people, they have removed the concept of prison as punishment, and with it much of the deterrent effect of imprisonment.

Of course, prisoners have been quick to adopt this distorted view of their moral and legal status. An Illinois inmate demanded the right to use his cell as his place of residence for conducting drug-related activities. A Nevada inmate sued for the right to cross-dress, and 14 death-row inmates in California sued for the right to procreate through artificial insemination. Florida's Robert Procup sued when he got just one bread roll on his dinner plate, and sued again when prison officials failed to provide him a salad at lunch. When told by ABC's John Stossel that he was, after all, being punished, Procup replied, "Nobody sentenced me to punishment. They sentenced me to be separated from society"—a recurring theme of the prisoner's-rights movement. Procup was convicted of murder for cementing his business partner into a storage shed.

While federal judges see much decisions as principled constitutionalism, most prisoners see them as a weakness that demands to be exploited. Art Hartsock, the prisoner who won for himself and other inmates at Anamosa State Prison the right to view pornographic magazines, is now preparing for another suit. His reasoning: "Every dollar they spend fighting a lawsuit is a dollar they can't spend building a place to lock me up."

At age 15 Willie Bosket killed two New York subway riders "for the experience." He has also tried to kill two prison guards, which is why prison officials chain him to his cell door for five minutes each day before moving him. Of the chaining Bosket says, "I feel several things. I feel humiliated. I feel an affront to my dignity. I feel vulnerable." A federal court afforded him a jury trial to decide whether he would continue to be chained. At his trial Bosket told jurors his only regret was that he had not killed the guard. He vowed to kill again.

Most criminals show a psychology of denial for their criminal actions. Nevada Deputy Attorney General Anne Cathcart says criminals "come into prison denying any wrongdoing, and they are constantly presented with further reasons to blame others. Unlimited access to federal courts gives them an added tool to vent their anger and rebel against the system."

This undermines rehabilitation efforts generally, as prisoners quickly learn that contempt for the system is rewarded. But the federal bench has even prohibited specific state rehabilitation plans as violative of prisoners' rights. After Governor Gerald Baliles discovered in 1986 that 85 percent of Virginia inmates were illiterate, he started a program that linked reading proficiency to early parole. The ACLU threatened suit, saying prisoners had a right to parole without literacy tests, so Baliles made the program voluntary and consequently much less successful. Governor Fife Symington thought pornography might not be healthy for Arizona inmates, many of whom are sex offenders, so he decided last January to prohibit all pornographic materials in the state's prisons. That sounded reasonable to Arizona citizens, but Federal Judge Muecke didn't agree; he has begun contempt hearings against the state.

EACH TO HIS OWN RELIGION

Federal encroachment took a dramatic leap forward last November when Congress passed the Religious Freedom Restoration Act. RFRA severely limits the power of government to restrict a prisoner's religious activities.

Before RFRA, a state could restrict certain practices in prison to maintain order. For instance, Illinois forbade inmates belonging to Aryan Nation's religious arm, the Church of Jesus Christ Christian, to distribute literature calling for the extermination of Jews and blacks. In 1992 they sued the state for the right to do so. Shortly after RFRA became law, they amended their complaint with new-founded RFRA rights. Under this new standard Illinois will almost certainly lose. Susan O'Leary, deputy chief legal counsel for the state, predicts that this will incite riots in Illinois prisons, which have a 66 percent black population.

In 1987, the followers of Yahweh Ben Yahweh and his "Temple of Love" demanded the right to distribute hate literature among inmates and lost in court. They are now suing again under RFRA and have already won at the district court level. The Temple of Love, like Aryan Nation, is seeking attorney fees and monetary damages for religious rights denied them before RFRA even became law. These remedies do not take into account the costs to the states of hiring additional guards or building new cells to separate these inmates from others for their protection.

Even before RFRA, some federal courts were reluctant to define what constitutes a genuine religion. A federal court in 1974 declared The Church of the New Song a religion; this church requires Harvey's Bristol Cream, filet mignon, and marijuana for its religious ceremonies. In Indiana inmates calling themselves the Black Gangster Disciples are claiming a "new Muslim" status, even though prison officials believe their aim is to infiltrate their gang into the older Muslim group. In Colorado, inmate Robert Howard, a practicing Satanist, is suing for the right to religious materials including the Satanic Bible, passages of which command the sacrificing of a "preferably Christian" female virgin and the using of candles made from the fat of unbaptized babies. With RFRA, States will have little discretion in restricting so-called religious activities such as these in order to maintain security.

Religion-based demands for special diets are particularly costly to the States. Nevada Attorney General Frankie Sue del Papa says providing a special religious diet winds up adding 65 per cent to the total cost of imprisoning one inmate. California Attorney General Dan Lungren estimates that if only 2 per cent of the national inmate population demands special religious diets, it will cost the States at least $177 million annually.

Even if a state ultimately wins such a case, its taxpayers still lose. Since RFRA allows a state to restrict a religious practice only in a way that is least burdensome to the prisoner, few courts will be able to dismiss frivolous claims on summary judgment. Evidentiary hearings, expert witnesses, and transportation of prisoners, and state's witnesses to the hearings will be required to determine if the state is using a "least restrictive" penology. And since RFRA applies retroactively, cases already won by States will be relitigated.

According to a Senate staffer who worked to modify RFRA, "Congress imagined Baptist preachers holding Bible studies in prison. Who could be against that? They failed to realize it would be Satanists, white supremacists, and those wanting better lunches that would really take advantage of RFRA protections." Of course, the more reasonable inmate requests that RFRA was aimed at protecting, like Bible classes, were rarely denied. And now, since all "religions" will be entitled to equal treatment, States will be forced to eliminate legitimate religious programs in order to avoid suits by other "religious" groups demanding equal funding.

THE IGNORED RIGHT

As the definition of prisoners' rights has mushroomed, basic constitutional rights like personal safety have actually diminished. Prisons have become more violent than ever before, and America's streets have become more dangerous, as federal judges force the early release of violent criminals to reduce "cruel and unusual" overcrowding.

Although the Supreme Court in *Rhodes V. Chapman* declared double bunking was not, per se, cruel and unusual, it reaffirmed the right of the federal judiciary to decide the constitutionality of state prison conditions by looking at the "totality of the circumstances." By the early 1980's the lower federal courts had begun to set prison population limits that forced the release of prisoners by the tens of thousands in the following years.

After a court in 1981 imposed a population cap in Texas prisons, the state parole board increased early releases by over 400 per cent with inmates serving an average of 2 months for every year sentenced. This was followed by a 29 per cent surge of crime in Texas during the next decade, at a time when crime decreased nationally. The courts also mandated population reductions in county jails in Texas and across the country, forcing them to increase pre-trial releases. In Cook County, Illinois, almost 30,000 accused criminals are released before trial each year for this reason. Of that group, 67 percent are re-arrested on felony charges before their cases come to trial, over 25 percent of them for violent crimes.

The personal tragedies this federal policy has created are reported with numbing frequency in the nation's newspapers. Last June, Loran Cole, like other "nonviolent" criminals, was released early from a Florida prison to alleviate overcrowding; he had served only 18 months of a 66-month sentence for grand theft. Eight months later Cole was charged with the murder of John Edwards, an 18-year-old student at Florida State, and the kidnaping and rape of Edwards's sister. In Texas, Michael Blair served 18 months of a 10-year sentence for burglary and indecency with an 11-year-old girl (his actual crime, sexual assault, had been plea-bargained down). While still on parole in 1993, he raped and murdered 7-year-old Ashely Nicole Estell after kidnaping her from a park in an upscale Dallas community. Had he served even half his time, Blair would have been in prison on the day Ashley and her family went to the park. Kenneth McDuff was convicted and sentenced to death in 1968 for first-degree murder, for killing three teenagers execution style. McDuff's death sentence was commuted to life imprisonment when the Supreme Court outlawed capital punishment in 1972. This made him eligible for parole, which he got in 1989. Since then, he has been linked to the rape and murder of four women.

Just the threat of court-ordered releases has been enough to push state parole boards to release prisoners early. Between 1983 and 1993 the Georgia parole board released 36,006 violent and sex offenders—including 2,772 multiple sex offenders—after they had served an average of 36 percent of their sentences. In 1989, Governor Joe Frank Harris released 13,000 "nonviolent" prisoners under an emergency program to reduce prison populations when inmates threatened federal lawsuits. Since then the Georgia parole board has accelerated thousands of paroles. Although the parole board insists the released prisoners were "nonviolent," Clayton County Superior Court Judge Kenneth Kilpatrick says the early release of even nonviolent felons increases both nonviolent and violent crime, because short imprisonment suggests to criminals that any crime brings light punishment.

According to Department of Justice statistics, three-fourths of all violent criminals convicted in 1989 were back on the streets by December of 1993. Safe Streets Alliance President James Wootton [see sidebar, page 41] points out that 3.2 million criminals are out on parole or probation. Even modest early releases have been devastating. A study in Illinois in the early 1980s found that 21,000 prisoners released just 3 months early committed 23 homicides, 32 rapes, 262 arsons, 681 robberies, 2,472 burglaries, and 2,572 assaults during the 3-month period. Nationally, almost one-third of all violent crimes are committed by criminals on parole or pre-trial release. The federal courts have no apparent concern for the victims, however, but focus exclusively on the injustices they perceive as being committed against prisoners.

??? reform, it should dramatically limit federal-court jurisdiction over state prison administration. Article III of the Constitution gives Congress this power. If senators and congressmen refuse to use it, they should be held accountable by the voters for the foolish decisions of the federal judiciary in releasing criminals to rape and murder a second, third, and fourth time.

But there is no indication that Congress is willing to do so; therefore the States themselves will need to take matters into their own hands. They may be forced to confront Washington, as Governor Symington is doing in defying the federal court order that allows pornography in Arizona's prisons.

Governors like Symington, Mike Leavitt of Utah, and George Allen of Virginia, and hundreds of other state and local law-enforcement officials, see the current fight over control of state prisons as a small part of a larger problem. The federal judiciary's activism stems from an abstract theory of individual rights that disregards the rights of the community. Deliberately detached from the effects of their decisions on society, federal judges have acted as if they intended to strip communities of any power to defend themselves.

As recently elected Virginia Attorney General James Gilmore has said, it is the state's responsibility to make streets "as safe for our children as it was for us when we were growing up." The success of that agenda will be determined in large measure by the power of the States to free themselves from Washington's control.

CONFERENCE REPORT ON S. 2182

Mr. DELLUMS submitted the following conference report and statement on the bill (S. 2182), to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–701)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2182), to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Chemical demilitarization program.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Army programs.
Sec. 112. Transfer to Marine Corps of M1A1 tanks replaced by M1A2 upgrades.
Sec. 113. Transfer of M1A1 tanks to the Marine Corps.
Sec. 114. Exception to mandatory retirement of OV-1 aircraft for aircraft deployed in Korea.
Sec. 115. Small arms industrial base.
Sec. 116. Bunker defeat munition acquisition program.
Sec. 117. Procurement of helicopters.

Subtitle C—Navy Programs

Sec. 121. Nuclear aircraft carrier program.
Sec. 122. Seawolf submarine program.
Sec. 123. Guidance sets for Trident II missiles.
Sec. 124. Prohibition on Trident II backfit.
Sec. 125. Inclusion of conversion of vessels in fast sealift program.
Sec. 126. Limitation on procurement of TAGS vessels.
Sec. 127. Naval amphibious ready groups.

Subtitle D—Air Force Programs

Sec. 131. Intertheater airlift programs.
Sec. 132. Settlement of claims under the C-17 aircraft program.
Sec. 133. Preserving the bomber industrial base.
Sec. 134. Limitation on retirement of bomber aircraft.
Sec. 135. Evaluation of restart of C-5B aircraft procurement.

Subtitle E—Other Matters

Sec. 141. Sales authority of working-capital funded Army industrial facilities.
Sec. 142. Identification in budget of funds for chemical demilitarization program military construction projects.
Sec. 143. Transportation of chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Strategic environmental research and development program.
Sec. 204. Molecular design material science.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Space launch modernization.
Sec. 212. Standoff air-to-surface munitions technology demonstration.
Sec. 213. Extension of prohibition on testing Mid-Infrared Advanced Chemical Laser against an object in space.
Sec. 214. Applicability of certain electronic combat systems testing requirements.
Sec. 215. Advanced Self Protection Jammer (ASPJ) program.

Sec. 216. Advanced Lithography Program.
Sec. 217. Federally funded research and development centers.
Sec. 218. Digital Battlefield program.
Sec. 219. Dual-use electric and hybrid vehicles.
Sec. 220. Tactical antisatellite technologies program.
Sec. 221. Limitation on dismantlement of intercontinental ballistic missiles.
Sec. 222. Limitation on obligation of funds for seismic monitoring research.
Sec. 223. Superconducting magnetic energy storage project.
Sec. 224. Military satellite communications.

Subtitle C—Missile Defense Programs

Sec. 231. Compliance of ballistic missile defense systems and components with ABM treaty.
Sec. 232. Modifications to Anti-Ballistic Missile Treaty to be entered into only through treaty making power.
Sec. 233. Revisions to the Missile Defense Act of 1991.
Sec. 234. Limitation on flight tests of certain missiles.
Sec. 235. Program elements for Ballistic Missile Defense Organization.

Subtitle D—Women's Health Research

Sec. 241. Defense Women's Health Research Program.

Subtitle E—Other Matters

Sec. 251. Requirement for submission of annual report of the Semiconductor Technology Council to Congress.
Sec. 252. Report on oceanographic survey and research requirements to support littoral warfare.
Sec. 253. LANSCE/LAMPF upgrades.
Sec. 254. Study regarding live-fire survivability testing of F-22 aircraft.
Sec. 255. University Research Initiative Support Program.
Sec. 256. Manufacturing Science and Technology Program.
Sec. 257. Defense experimental program to stimulate competitive research.
Sec. 258. Study on convergence of Geosat and EOS altimetry programs.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Funds for depot-level maintenance and repair work.
Sec. 305. Support for the 1996 Summer Olympics.
Sec. 306. Support for the 1995 Special Olympics World Games.

Subtitle B—Defense Business Operations Fund

Sec. 311. Oversight of Defense Business Operations Fund.
Sec. 312. Review by Comptroller General of charges imposed by Defense Business Operations Fund.
Sec. 313. Limitation on obligations against the capital asset fund.
Sec. 314. Limitation on obligations against the supply management divisions.

Subtitle C—Environmental Provisions

Sec. 321. Limitation on use of environmental restoration funds for payment of fines and penalties.
Sec. 322. Participation of Indian tribes in agreements for defense environmental restoration.
Sec. 323. Extension of authority to issue surety bonds for certain environmental programs.
Sec. 324. Payment of certain stipulated civil penalties.
Sec. 325. Additional exception to prohibition on storage and disposal of nondefense toxic and hazardous materials at military installations.
Sec. 326. Assistance for public participation in defense environmental restoration activities.
Sec. 327. Pilot program to develop and demonstrate environmental remediation technologies.
Sec. 328. Environmental education and training program for defense personnel.
Sec. 329. Study of establishment of land management and training center.

Subtitle D—Depot-Level Activities

Sec. 331. Findings.
Sec. 332. Modification of limitation on performance of depot-level maintenance.
Sec. 333. Report on performance of depot-level maintenance and repair of new weapon systems.
Sec. 334. Review of cost growth in contracts to perform depot-level maintenance and repair.
Sec. 335. Authority for depot-level activities of the Department of Defense to compete for maintenance and repair workloads of other Federal agencies.
Sec. 336. Authority of depots to provide services outside the Department of Defense.
Sec. 337. Reutilization initiative for depot-level activities.
Sec. 338. Change of source for performance of depot-level workloads.
Sec. 339. Sale of articles and services of industrial facilities of the Armed Forces to persons outside the Department of Defense.

Subtitle E—Civilian Employees

Sec. 341. Extension of certain transition assistance authorities.
Sec. 342. Extension and expansion of authority to conduct personnel demonstration projects.
Sec. 343. Limitation on payment of severance pay to certain employees transferring to employment positions in nonappropriated fund instrumentalities.
Sec. 344. Retirement credit for certain service in nonappropriated fund instrumentalities before January 1, 1987.
Sec. 345. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.
Sec. 346. Foreign employees covered by the Foreign National Employees Separation Pay Account.
Sec. 347. Report on conversion of certain positions to performance by Department of Defense employees.
Sec. 348. Non-Federal employment incentive pilot program.
Sec. 349. Uniform health benefits program for employees of the Department of Defense assigned to nonappropriated fund instrumentalities.

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

Sec. 351. Reauthorization of Department of Defense domestic elementary and secondary schools for dependents.
Sec. 352. Report on calculation and recovery of tuition costs of certain students enrolled in schools of the defense dependents' education system.
Sec. 353. Authority to accept gifts for Department of Defense domestic elementary and secondary schools.
Sec. 354. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Subtitle G—Reviews, Studies, and Reports

Sec. 361. Reports on transfers of certain operation and maintenance funds.
Sec. 362. Review and report on use of operation and maintenance funds by the Department of Defense.
Sec. 363. Cost comparison studies for contracts for advisory and assistance services.
Sec. 364. Review by Defense Inspector General of cost growth in certain contracts.

Subtitle H—Other Matters

Sec. 371. Armed Forces Retirement Home.
Sec. 372. Limitation on use of appropriated funds for operation of Armed Forces Recreation Center, Europe.
Sec. 373. Limitation on retention of morale, welfare, and recreation funds by military installations.
Sec. 374. Ships' stores.
Sec. 375. Operation of military exchange and commissary store at Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.
Sec. 376. Disposition of proceeds from operation of the Naval Academy laundry.
Sec. 377. Authority to issue military identification cards to so-called honorary retirees of the Naval and Marine Corps Reserves.
Sec. 378. Repeal of annual limitation on expenditures for emergency and extraordinary expenses of the Department of Defense Inspector General.
Sec. 379. Transfer of certain excess Department of Defense property to educational institutions and training schools.
Sec. 380. Operation of overseas facilities of the Department of Defense by United States firms.
Sec. 381. Requirements for automated information systems of the the Department of Defense.
Sec. 382. Program to commemorate World War II.
Sec. 383. Assistance to Red Cross for emergency communications services for members of the Armed Forces and their families.
Sec. 384. Clarification of authority to provide medical transportation under National Guard pilot program.
Sec. 385. National Guard assistance for certain youth and charitable organizations.
Sec. 386. One-year extension of certain programs.
Sec. 387. Procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Temporary variation of end strength limitations for Army majors and lieutenant colonels.
Sec. 403. Extension of temporary variation of end strength limitations for Marine Corps majors and lieutenant colonels.
Sec. 404. Increase in authorized strength for Marine Corps general officers on active duty after fiscal year 1995.
Sec. 405. Management of senior general and flag officer positions.

Sec. 406. Temporary exclusion of Superintendent of Naval Academy from counting toward number of senior admirals authorized to be on active duty.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the reserves.
Sec. 413. Delay in increase in number of active component members to be assigned for training compatibilty with guard units.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Consistency of warrant officer personnel management policies with policies applicable to other officers.
Sec. 502. Authority for original regular appointments of Navy and Marine Corps limited duty officers serving in grades above pay grade O–3 under temporary appointments.
Sec. 503. Navy and Marine Corps limited duty officers twice having failed of selection for promotion.
Sec. 504. Selection for designated judge advocate positions.

Subtitle B—Reserve Component Matters

Sec. 511. Increased period of active duty for reserve forces mobilized other than during war or national emergency.
Sec. 512. Reserve general and flag officers on active duty.
Sec. 513. Review of opportunities for ordering individual reserves to active duty with their consent.
Sec. 514. Definition of active Guard and Reserve duty.
Sec. 515. Repeal of obsolete provisions pertaining to transfer of retired regular enlisted members to reserve components.
Sec. 516. Semiannual report on separations of active Army officers.
Sec. 517. Early Reserve retirement eligibility for disabled members of Selected Reserve.
Sec. 518. Annual payments for members retired under Guard and Reserve transition initiative.
Sec. 519. Educational requirements for appointment in reserve components in grades above first lieutenant or lieutenant (junior grade).
Sec. 520. Limited exception for Alaska scout officers from baccalaureate degree requirement for appointment as officer in National Guard above first lieutenant.
Sec. 521. Sense of Congress concerning the training and modernization of the reserve components.

Subtitle C—Victims' Rights, Family Advocacy, and Nondiscrimination Provisions

Sec. 531. Prohibition of retaliatory actions against members of the Armed Forces making allegations of sexual harassment or unlawful discrimination.
Sec. 532. Department of Defense policies and procedures on discrimination and sexual harassment.
Sec. 533. Annual report on personnel readiness factors by race and gender.
Sec. 534. Victims' advocates programs in Department of Defense.
Sec. 535. Transitional compensation and other benefits for dependents of members separated for dependent abuse.
Sec. 536. Study of spousal abuse involving Armed Forces personnel.

Subtitle D—Matters Relating to the Coast Guard

Sec. 541. Extension of Warrant Officer Management Act provisions to Coast Guard.
Sec. 542. Coast Guard force reduction transition benefits.
Sec. 543. Expansion of personnel adjustment, education, and training programs to include Coast Guard.

Subtitle E—Other Matters

Sec. 551. Repeal of required reduction in recruiting personnel.
Sec. 552. Authorized active duty strengths for Army enlisted members in pay grade E–8.
Sec. 553. Prohibition on imposition of additional charges or fees for attendance at certain academies.
Sec. 554. Biennial survey on the State of race and ethnic issues in the military.
Sec. 555. Review of certain discharges from the United States Military Academy during the post-Civil War period.
Sec. 556. Administration of athletics programs at the service academies.
Sec. 557. Reimbursement for certain losses of household effects caused by hostile action.
Sec. 558. Military recruiting on campus.
Sec. 559. Authorization for instruction of civilian students at foreign language center of the Defense Language Institute.
Sec. 560. Discharge of members who are permanently nonworldwide assignable.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

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Subtitle B—Reenactment of Federal Civil Defense Act of 1950 in the Robert T. Stafford Disaster Relief and Emergency Assistance Act

Sec. 3411. Restatement of Federal civil defense authorities in the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
Sec. 3412. Repeal of Federal Civil Defense Act of 1950.

TITLE XXXV—NAVAL PETROLEUM RESERVES

Sec. 3501. Authorization of appropriations.
Sec. 3502. Price requirement on sale of certain petroleum during fiscal year 1995.
Sec. 3503. Extension of operating contract for Naval Petroleum Reserve Numbered 1.

TITLE XXXVI—PANAMA CANAL COMMISSION

Sec. 3601. Short title.
Sec. 3602. Authorization of expenditures.
Sec. 3603. Expenditures in accordance with other laws.
Sec. 3604. Costs of educational services obtained in the United States.
Sec. 3605. Special immigrant status of Panamanians employed by the United States in the former Canal Zone.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Army as follows:

(1) For aircraft, $1,289,452,000.

(2) For missiles, $818,709,000.

(3) For weapons and tracked combat vehicles, $1,159,214,000.

(4) For ammunition, $902,821,000.

(5) For other procurement, $2,624,707,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Navy as follows:

(1) For aircraft, $4,491,845,000.

(2) For weapons, including missiles and torpedoes, $2,076,625,000.

(3) For shipbuilding and conversion, $5,619,897,000.

(4) For other procurement, $3,287,487,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Marine Corps in the amount of $403,410,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for Navy and the Marine Corps in the amount of $449,815,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Air Force as follows:

(1) For aircraft, $6,489,467,000.

(2) For missiles, $3,732,845,000.

(3) For ammunition, $251,546,000.

(4) For other procurement, $6,929,170,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1995 for Defense-wide procurement in the amount of $1,891,371,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $20,000,000.

(2) For the Air National Guard, $260,000,000.

(3) For the Army Reserve, $50,000,000.

(4) For the Naval Reserve, $80,000,000.

(5) For the Air Force Reserve, $50,000,000.

(6) For the Marine Corps Reserve, $50,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $599,549,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operations and maintenance;

(2) $215,265,000 is for procurement; and

(3) $20,700,000 is for research and development efforts in support of the chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Secretary of Defense may obligate funds appropriated for research, development, test, and evaluation of alternative technologies under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436).

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY PROGRAMS.

(a) M1A2 TANK UPGRADE.—The Secretary of the Army may, in accordance with statutory multiyear contract authority, enter into multiyear procurement contracts for procurement of upgrades of M1 Abrams tanks to the M1A2 Abrams configuration.

(b) AVENGER AIR DEFENSE MISSILE SYSTEM.—Notwithstanding the limitation on statutory multiyear contract authority relating to the maximum duration of a multiyear contract under that authority, the Secretary of the Army may extend the multiyear contract in effect during fiscal year 1994 for the Avenger air defense missile system for a sixth program year and may award such an extension.

(c) STATUTORY MULTIYEAR CONTRACT AUTHORITY DEFINED.—For purposes of this section, the term "statutory multiyear contract authority" means—

(1) the authority provided in section 2306(h) of title 10, United States Code; or

(2) if the Federal Acquisition Steamlining Act of 1994 is enacted during the second session of the One Hundred Third Congress, the authority provided in section 2306b of title 10, United States Code, as added by the Federal Acquisition Steamlining Act of 1994 (restating the authorities previously provided in section 2306(h) of such title).

SEC. 112. TRANSFER TO MARINE CORPS OF M1A1 TANKS REPLACED BY M1A2 UPGRADES.

(a) IN GENERAL.—The Secretary of the Army shall transfer M1A1 common tanks to the Marine Corps Reserve in accordance with this section.

(b) NUMBER OF TANKS TO BE TRANSFERRED.—The number of tanks to be transferred to the Marine Corps Reserve under this section is the number (if greater than zero) equal to the difference between—

(1) the number of M1A2 Abrams tank upgrades for which funds are authorized for fiscal year 1995 or (if lower) the number of such upgrades for which funds are appropriated for fiscal year 1995; and

(2) the number of such upgrades requested in the budget of the President for fiscal year 1995.

(c) TIMING FOR TRANSFERS.—Of the M1 tanks selected to be upgraded to the M1A2 configuration using funds provided for fiscal year 1995, the Secretary of the Army shall designate specific tanks, in the number of such tanks to be upgraded in excess of the number requested to be upgraded in the budget of the President, as constituting the additional M1A2 tank upgrades for which funds were provided in excess of the number requested in the budget. With respect to each such tank so designated, the Secretary may not accept delivery from the contractor of that tank until the Secretary has transferred to the Marine Corps Reserve one M1A1 common tank (in addition to any previously transferred).

SEC. 113. TRANSFER OF M1A1 TANKS TO THE MARINE CORPS.

(a) TRANSFERS AUTHORIZED.—As M1A1 tanks of the Army become excess to the requirements of the active component of the Army, the Secretary of the Army shall transfer to the Marine Corps 84 of such tanks selected by the Secretary of the Army to complete the requirements for tanks of the active component of the Marine Corps. Any such transfer shall be made at no expense to the Army.

(b) LIMITATION ON TANK TRANSFERS TO ARMY NATIONAL GUARD.—After the date of the enactment of this Act, the Secretary of the Army may not transfer an M1A1 tank to the Army National Guard until, with respect to that transfer, the Secretary has transferred a separate M1A1 tank to the Marine Corps (in addition to any M1A1 tanks previously transferred to the Marine Corps). The limitation in the preceding sentence shall remain in effect until the Secretary has transferred to the Marine Corps under this section the total number of tanks specified in subsection (a).

(c) CONDITION OF TANKS.—The tanks transferred to the Marine Corps pursuant to this section shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.

(d) TREATMENT OF CERTAIN TRANSFERRED TANKS UNDER LIMITATIONS.—Transfers of tanks under section 112 shall not be counted for purposes of this section.

SEC. 114. EXCEPTION TO MANDATORY RETIREMENT OF OV-1 AIRCRAFT FOR AIRCRAFT DEPLOYED IN KOREA.

(a) EXCEPTION TO MANDATORY RETIREMENT.—The first sentence of subsection (b)(2) of section 1439 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1689) shall not apply with respect to OV-1 Mohawk surveillance aircraft deployed in Korea in a number not in excess of the number of such aircraft deployed in Korea on the date of the enactment of this Act.

(b) EXCEPTION TO PROHIBITION ON USE OF FUNDS.—The provisions of subsection (a) of that section shall not apply with respect to the operation and maintenance of aircraft covered by subsection (a) of this section.

SEC. 115. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3), $93,683,000 is available for procurement of small arms weapons as follows:

(1) $38,902,000 for the MK19–3 grenade machine gun.

(2) $13,000,000 for the M16A2 rifle.

(3) $28,616,000 for the M249 squad automatic weapon.

(4) $13,165,000 for the M4 carbine.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be procured for the Army:

Weapon	**Quantity**
MK19–3 grenade machine gun	21,217
M16A2 rifle	1,002,277
M249 squad automatic weapon	71,769
M4 carbine	132,510.

(2) If the Army does not enter into contracts during fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts during subsequent fiscal years to meet those objectives.

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan. The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to Congress.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

SEC. 116. BUNKER DEFEAT MUNITION ACQUISITION PROGRAM.

The Secretary of the Army, in acquiring munitions under the bunker defeat munition weapons acquisition program—

(1) may acquire only those munitions that are designated as "type classified, limited procurement for contingency operations"; and

(2) may not acquire more than 6,000 such munitions.

SEC. 117. PROCUREMENT OF HELICOPTERS.

(a) AH-64 APACHE AIRCRAFT.—The prohibition in section 132(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1382) does not apply to the obligation of funds in amounts not to exceed $72,000,000 for the procurement of not more than 6 AH-64 aircraft from funds appropriated for fiscal year 1995 pursuant to section 101.

(b) OH-58D AHIP AIRCRAFT.—The prohibition in section 133(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) does not apply to the obligation of funds in amounts not to exceed $150,000,000 for the procurement of not more than 24 OH-58D AHIP Scout aircraft from funds appropriated for fiscal year 1995 pursuant to section 101.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) TRANSFER OF FISCAL YEAR 1994 FUNDS.—There is hereby authorized to be transferred to the Shipbuilding and Conversion, Navy, appropriation account for fiscal year 1995 the amount of $1,200,000,000, to be derived from the National Defense Sealift Fund.

(b) AVAILABILITY FOR CVN-76.—Funds transferred pursuant to the authorization in subsection (a) shall be available for the CVN–76 nuclear aircraft carrier program.

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION ON PROGRAM COST.—Except as provided in subsection (b), the total amount obligated on or expended for procurement of the SSN–21 and SSN–22 Seawolf submarines may not exceed $4,759,571,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

SEC. 123. GUIDANCE SETS FOR TRIDENT II MISSILES.

(a) LIMITATION.—Funds appropriated for fiscal year 1995 for the Navy pursuant to section 102 may not be obligated to procure more than 14 Mark-6 guidance sets for Trident II (D–5) missiles until the certification specified in subsection (b) has been submitted to Congress.

(b) CERTIFICATION.—A certification referred to in subsection (a) is a certification by the Secretary of Defense that it is necessary to procure (with funds referred to in subsection (a)) more than 14 Mark-6 guidance sets for Trident II (D-5) missiles because a failure to do so would pose an unacceptable risk to the long-term readiness and reliability of the Trident II (D–5) missile program.

SEC. 124. PROHIBITION ON TRIDENT II BACKFIT.

(a) LIMITATION.—The Secretary of the Navy may not modify any Trident I submarine to enable that submarine to be deployed with Trident II (D–5) missiles.

(b) WAIVER AUTHORITY.—If the Secretary of Defense determines that adherence to the prohibition in subsection (a) would result in a significant national security risk to the United States, the Secretary may waive that prohibition. Such a waiver may not take effect until the Secretary submits to Congress a certification of that determination and of the reasons for that determination.

SEC. 125. INCLUSION OF CONVERSION OF VESSELS IN FAST SEALIFT PROGRAM.

Section 1424 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 7291 note) is amended—

(1) in subsection (a), by inserting ", or conversion and operation," after "construction and operation"; and

(2) in subsection (b)—

(A) by inserting "or converted" after "constructed" each place it appears; and

(B) by inserting "or conversion" after "Construction" in paragraph (3).

SEC. 126. LIMITATION ON PROCUREMENT OF TAGS VESSELS.

(a) LIMITATION.—The Secretary of the Navy may not obligate funds for any of the vessels designated as TAGS–63, TAGS–64, or TAGS–65 unless the Secretary certifies to Congress that the multibeam sonars to be used on those vessels (whether new or remanufactured) have been obtained through the use of competitive acquisition procedures.

(b) NATIONAL SECURITY WAIVER.—The Secretary of the Navy may waive the limitation in subsection (a) for reasons of national security. Such a waiver may not take effect until the Secretary submits to Congress a report giving notice of the waiver and an explanation of the national security reasons for the waiver.

SEC. 127. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(2) Extensive testimony received by the Committee on Armed Services of the Senate in 1994 and prior years from military and civilian officials of the Department of Defense provided compelling support for a military requirement for 12 Amphibious Ready Groups.

(3) Twelve Amphibious Ready Groups is the correct number of amphibious ready groups necessary to sustain forward deployment and contingency requirements of the Navy.

(4) A report of the Department of the Navy (prepared pursuant to requirements of the National Defense Authorization Act for Fiscal Year 1993) clearly stipulates that a seventh LHD amphibious assault vessel is required in order for the Navy to achieve a force of 12 Amphibious Ready Groups.

(5) A significant shortfall in amphibious shipping and amphibious lift exists, both in the fiscal year 1995 budget request and in outyear force structure projections.

(6) The Department of the Navy has identified funds in outyear budget projections for the purchase of the amphibious assault vessel designated as LHD–7.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy—

(1) should plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible; and

(2) should extend the existing contract option on the LHD–7 Amphibious Assault Ship to facilitate achieving 12 Amphibious Ready Groups.

(c) LHD-7 CONTRACT OPTION EXTENSION.—(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD-7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of the Navy shall immediately begin negotiations to extend the existing contract option for the LHD–7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use for such contract option extension funds that are authorized to be appropriated for other Navy programs. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to Congress, after December 31, 1994, but before March 31, 1995, a report stating the Secretary's intentions regarding exercise of the existing contract option for the LHD–7 Amphibious Assault Ship. The report shall include an explanation of the Secretary's actions regarding attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD–7 Amphibious Assault Ship.

Subtitle D—Air Force Programs

SEC. 131. INTERTHEATER AIRLIFT PROGRAMS.

(a) AUTHORIZATION.—Of the amount provided in section 103 for procurement of aircraft for the Air Force—

(1) $103,707,000 shall be available for Non-Developmental Alternative Aircraft procurement; and

(2) $2,364,622,000 shall be available for the C-17 aircraft program, of which—

(A) $2,168,614,000 is for procurement of six C-17 aircraft;

(B) $189,900,000 is for advance procurement of up to eight C-17 aircraft for fiscal year 1996; and

(C) $6,108,000 is for C–17 modifications.

(b) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall use competitive procedures in selecting a source for the aircraft to be procured as Non-Developmental Alternative Aircraft under subsection (a).

(c) NOTICE TO CONGRESS.—Funds described in subsection (a) may not be obligated for procurement under subsection (a) until 60 days after the date on which the Secretary of Defense submits to Congress a report describing the Secretary's plan for the obligation of those funds.

(d) PRESERVATION OF INTERTHEATER AIRLIFT CAPACITY.—It is the sense of Congress that the Secretary of Defense, in acquiring aircraft using funds provided in accordance with subsection (a), should structure the acquisition of those aircraft so as to preserve the aggregate intertheater airlift capacity of the Air Force (measured in millions of ton-miles per day) as of the date of the enactment of this Act.

SEC. 132. SETTLEMENT OF CLAIMS UNDER THE C-17 AIRCRAFT PROGRAM.

(a) AUTHORIZATION FOR SUPPLEMENTAL AGREEMENTS AND CONTRACT MODIFICATIONS.—(1) The Secretary of the Air Force may (subject to subsection (e)) enter into supplemental agreements and contract modifications pertaining to contracts specified in paragraph (2) in order to do any of the following:

(A) Settle claims and disputes arising under those contracts as provided in the C–17 settlement agreement.

(B) Revise the delivery schedules under those contracts as provided in the C–17 settlement agreement for the aircraft designated as T–1 and P–1 through P–6.

(C) Revise range specifications, payload specifications, and other specifications under those contracts as provided in Attachment B to the letter (described in subsection (i)) setting forth the C–17 settlement agreement.

(2) This section applies to the following contracts:

(A) Air Force prime contract F33657–81–C–2108 (relating to the C–17 aircraft program).

(B) Such other Air Force contracts relating to the C–17 aircraft program (entered into before, on, or after the date of the enactment of this Act) as the Secretary of the Air Force determines to be appropriate.

(b) FURTHER CONSIDERATION FROM CONTRACTOR NOT REQUIRED.—The Secretary of the Air

Force may enter into a supplemental agreement or contract modification under subsection (a) without requiring further consideration from the contractor for the benefit to be derived by the contractor under that agreement or modification only to the extent provided for in the C–17 settlement agreement.

(c) RELEASE OF CONTRACTOR CLAIMS.—Any supplemental agreement or contract modification entered into under subsection (a) shall, as provided in the C–17 settlement agreement, require that the prime contractor release the Government from any contractual claim, demand, request for equitable adjustment, or other cause of action, known or unknown, that the prime contractor may have against the Government on or before January 6, 1994, arising out of the C–17 program contracts.

(d) CONTRACT MODIFICATIONS REGARDING CONTRACTOR COMMITMENTS.—(1) The Secretary of the Air Force shall incorporate into each appropriate C–17 contract the commitment of the prime contractor to make C–17 program changes as described in paragraph (2) on a nonreimbursable or cost-share basis.

(2) Paragraph (1) applies to the commitment of the prime contractor provided in the C–17 settlement agreement to make the following C–17 program changes:

(A) Extend the flight test program.

(B) Redesign the wing.

(C) Implement Computer Aided Design/Computer Aided Manufacturing System improvements, Management Information System improvements, and Advanced Quality System improvements.

(D) Implement product improvement cost reduction projects.

(E) Resolve other C–17 program issues.

(e) REQUIRED CERTIFICATION.—The Secretary of the Air Force may not enter into a supplemental agreement or contract modification under subsection (a) until 30 days after the date on which the Secretary of Defense submits to Congress a written certification of each of the following:

(1) That the terms and conditions set forth in the C–17 settlement agreement, including the terms and conditions relating to the settlement of claims, are in the best interest of the Government for a total procurement under the C–17 program that could be as few as 40 aircraft.

(2) That the membership of the Defense Science Board C–17 Task Force has advised the Secretary of Defense that, for a total procurement quantity of as few as 40 aircraft, the terms and conditions set forth in the C–17 settlement agreement, including the terms and conditions relating to settlement of claims, are in the best interest of the Government.

(3) That the Secretary will establish specific not-to-exceed costs estimates for production lots VII through XI and will provide that cost information to Congress not later than March 1, 1995.

(4) That during fiscal year 1995 no funds available to the Department of Defense will be used to relax performance requirements specified in the acquisition program baseline beyond the extent provided for in the C–17 settlement agreement.

(5) That the Secretary will transmit to Congress milestones and exit criteria for the C–17 not later than March 1, 1995.

(6) That nothing in the C–17 settlement agreement releases the contractor from any potential liability for fraud or criminal violations.

(f) RESTRICTION ON USE OF DOD FUNDS FOR DEVELOPMENT OF ALTERNATIVE AIRCRAFT.—No funds appropriated to the Department of Defense for fiscal year 1995 may be used to design, develop, or produce a modified version of the C–17 aircraft that could be considered to be a nondevelopmental alternative aircraft for purposes of future Department of the Air Force competitions for intertheater airlift requirements.

(g) OTHER CONTRACTOR OBLIGATIONS.—Nothing in this section shall be construed as relieving the prime contractor for the C–17 aircraft from any obligation provided for in the C–17 settlement agreement.

(h) C–17 SETTLEMENT AGREEMENT DEFINED.—For purposes of this section, the term "C–17 settlement agreement" means the settlement agreement that was proposed to the prime contractor for the C–17 aircraft program by the Under Secretary of Defense for Acquisition and Technology by letter dated January 3, 1994, and that was accepted by that prime contractor on January 6, 1994.

(i) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Air Force to enter into agreements and contract modifications under subsection (a) expires at the close of September 30, 1995.

SEC. 133. HEAVY BOMBER FORCE REQUIREMENTS.

(a) REQUIREMENTS STUDY.—The Secretary of Defense shall carry out a study of bomber force requirements of the Department of Defense. The Secretary shall submit to Congress a report on the results of the study not later than April 15, 1995. The study shall address, for each of the target years 1998, 2006, and 2014, the following:

(1) Realistic alternative mixes of bombers constituting the bomber force and whether, for each of the alternative mixes, the bomber force so produced can meet well-defined national security requirements.

(2) The incremental levels of munitions requirements, bomber upgrade requirements, and other support requirements for implementation of each of the alternative mixes.

(3) The cost of implementation, affordability of implementation, and time required for implementation of each of the alternative mixes.

(4) The sensitivity to small changes in assumptions of the capabilities of the bomber force produced by each of the alternative mixes to meet mission requirements.

(b) FURTHER ALTERNATIVE STRATEGIES.—If the Secretary determines in the study carried out under subsection (a) that the bomber force capabilities are not adequate to meet requirements for any of the target years considered, the Secretary shall undertake a further study to examine alternative strategies for increasing bomber force capabilities. As part of such examination, the Secretary shall do the following:

(1) Determine those core bomber industrial capabilities that are needed to maintain the ability to design, develop, and produce bomber aircraft in the near-term and in the long-term and that—

(A) would take extended periods of time or substantial expense to regenerate; and

(B) are in imminent danger of being lost.

(2) For each strategy examined—

(A) estimate the cost of implementing the strategy;

(B) make a judgment about the affordability of the strategy; and

(C) assess the time required to implement the strategy.

(c) SECOND REPORT.—If the Secretary carries out a study as provided in subsection (b), the Secretary shall submit to Congress a report containing the results of the study carried out under subsection (b) not later than July 1, 1995. The Secretary shall include in such report the Secretary's recommendations for assuring the availability of bomber force capabilities required in the future.

(d) ENHANCED BOMBER CAPABILITY FUND.—(1) Of the amounts authorized to be appropriated by section 103 for procurement of aircraft for the Air Force, not more than $125,000,000 is available for an Enhanced Bomber Capability Fund.

(2) Pending the completion of the studies required by subsections (a) and (b), the Secretary may obligate up to $100,000,000 of the amount in such fund—

(A) for those studies; and

(B) for the purpose of preserving those parts of the core capabilities referred to in subsection (b)(1).

(3) If, as a result of the study carried out under subsection (b), the Secretary determines that a new-generation bomber is needed to meet the national security requirements for bombers, the Secretary may obligate up to $25,000,000 of the amount in such fund for requirements formulation and conceptual studies for a conventional-conflict-oriented lower-cost next-generation bomber.

(e) LIMITATION ON FUND.—None of the amount available for the Enhanced Bomber Capability Fund may be obligated for advance procurement of new B–2 aircraft (including long-lead items).

(f) BOMBER DEFINED.—For purposes of this section, the term "bombers" means the B–52, B–1, and B–2 aircraft and other bomber aircraft that are developed after the enactment of this Act with similar range and payload characteristics.

SEC. 134. LIMITATION ON RETIREMENT OF BOMBER AIRCRAFT.

No funds available to the Secretary of Defense may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

SEC. 135. EVALUATION OF RESTART OF C–5B AIRCRAFT PROCUREMENT.

(a) EVALUATION.—The Secretary of the Air Force shall conduct an evaluation of the costs of restarting production of C–5B aircraft for the strategic airlift mission. The evaluation shall include startup costs and production costs for a production run of from 30 to 70 units.

(b) REPORT.—The Secretary shall submit to Congress a report on the evaluation under subsection (a). The report may be submitted as part of any other report required to be submitted that relates to intertheater airlift.

Subtitle E—Other Matters

SEC. 141. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in a case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting;

"(8) it is in the public interest to manufacture such article or perform such service; and

"(9) the sale will not interfere with performance of the military mission of the industrial facility.".

SEC. 142. IDENTIFICATION IN BUDGET OF FUNDS FOR CHEMICAL DEMILITARIZATION MILITARY CONSTRUCTION PROJECTS.

Section 1412(f) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(f)), is amended—

(1) by inserting ", including funds for military construction projects necessary to carry out this section," after "carrying out this section"; and

(2) by striking out the last sentence.

SEC. 143. TRANSPORTATION OF CHEMICAL MUNITIONS.

(a) PROHIBITION OF TRANSPORTATION ACROSS STATE LINES.—The Secretary of Defense may not transport any chemical munition that constitutes part of the chemical weapons stockpile out of the State in which that munition is located on the date of the enactment of this Act and, in the case of any such chemical munition not located in a State on the date of the enactment of this Act, may not transport any such munition into a State.

(b) TRANSPORTATION OF CHEMICAL MUNITIONS NOT IN CHEMICAL WEAPONS STOCKPILE.—In the case of any chemical munitions that are discovered or otherwise come within the control of the Department of Defense and that do not constitute part of the chemical weapons stockpile, the Secretary of Defense may transport such munitions to the nearest chemical munitions stockpile storage facility that has necessary permits for receiving and storing such items if the transportation of such munitions to that facility—

(1) is considered by the Secretary of Defense to be necessary; and

(2) can be accomplished while protecting public health and safety.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army $5,319,520,000.

(2) For the Navy, $8,845,854,000.

(3) For the Air Force, $12,475,681,000.

(4) For Defense-wide activities, $9,428,622,000, of which—

(A) $230,495,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $12,501,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1995.—Of the amounts authorized to be appropriated by section 201, $4,193,833,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $111,907,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 204. MOLECULAR DESIGN MATERIAL SCIENCE.

Of the amount authorized to be appropriated for the Navy by section 201(2), $10,000,000 shall be used to conduct a centralized program in molecular design material science.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) POLICY.—(1) It is in the Nation's long-term national security and economic interests to regain preeminence in the area of space launch technology and operations.

(2) Access to space at affordable costs is fundamental to maintaining required command, control, communications, intelligence, navigation, weather, and early warning support to United States and coalition forces.

(3) Encouragement of privately financed, cost effective expendable and reusable launch vehicles is in the economic interest of the Department of Defense and the United States Government.

(b) FINDING.—Congress finds that the current Department of Defense space launch infrastructure has several deficiencies, including high cost, excessive management overhead, inadequate operability and responsiveness to satellite launch requirements, lack of standardization, very large launch personnel requirements to support launch operations, over capacity, and technology obsolescence.

(c) REQUIRED ACTIONS.—The Secretary of Defense shall take the following actions in pursuance of the space launch modernization policy set forth in subsection (a) and to correct the deficiencies described in subsection (b):

(1) Develop an integrated space launch vehicle strategy that, if implemented, would replace or consolidate the current fleet of medium and heavy launch vehicles. Where prudent and cost effective, the strategy should include a plan for the development of new or upgraded expendable launch vehicles.

(2) Implement improved management practices including streamlined acquisition approaches, small government program staff, and minimal program overhead.

(3) Encourage and evaluate innovative acquisition, technical, and financing (including best commercial practices) solutions for providing affordable, operable, reliable, and responsive access to space.

(4) Centralize oversight of launch requirements to ensure integrated evaluation of satellite requirements and launch capabilities.

(5) Encourage and provide incentives for the use of commercial practices in the acquisition, operation, and support of Department of Defense space operations.

(6) Establish effective coordination among military, civilian, and commercial launch developers and users.

(d) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated in section 201(3), $90,000,000 shall be available for research, development, test, and evaluation of non-man-rated space launch systems and technologies. Of that amount—

(1) $30,000,000 shall be available for a competitive reusable rocket technology program; and

(2) $60,000,000 shall be available for expendable launch vehicle technology development and acquisition, as appropriate.

(e) TRANSFER OF FUNDS.—The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the Department of the Air Force the unobligated balance of funds appropriated for fiscal year 1994 to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

(f) PROGRAM PLAN.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall develop a plan to coordinate the programs of the Department of Defense and the National Aeronautics and Space Administration for expendable and reusable rocket technology demonstrators and technology development. The Secretary of Defense shall submit to Congress the plan developed under this subsection.

(g) LIMITATIONS.—(1) Funds authorized for appropriation in subsection (d)(1) may be obligated only—

(A) to the extent that the fiscal year 1995 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program; and

(B) as specified in the program plan developed and submitted to Congress pursuant to subsection (f).

(2) Not more than $30,000,000 of the funds authorized in subsection (d)(2) may be obligated until 30 days after the Secretary of Defense submits to Congress program plans, including objectives, milestones, future years defense program funding, and government-industry cost sharing considerations, as applicable.

SEC. 212. STANDOFF AIR-TO-SURFACE MUNITIONS TECHNOLOGY DEMONSTRATION.

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated by section 201(3), up to $2,000,000 may be used for the conduct of a demonstration of existing nondevelopmental items that would enable the use of a single adaptor kit for munitions described in paragraph (2) in order to give those munitions a near-term standoff and accurate guided capability. Such kits should be able to be integrated into aircraft at minimal or no cost.

(2) Paragraph (1) applies to guided and unguided in-inventory munitions of the class of 1,000 pounds and below.

(b) REPORT.—The Secretary of the Air Force shall submit to Congress a report setting forth in detail the results and costs of the demonstration under subsection (a) and the applicability of the technology demonstrated in providing the Armed Forces with an inexpensive near-term solution to providing both range extension and accurate guided capability to in-inventory munitions.

SEC. 213. EXTENSION OF PROHIBITION ON TESTING MID-INFRARED ADVANCED CHEMICAL LASER AGAINST AN OBJECT IN SPACE.

(a) PROHIBITION.—The Secretary of Defense may not carry out a test of the Mid-Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space during fiscal year 1995 unless such testing is specifically authorized by law.

(b) CERTAIN TESTING UNAFFECTED.—Nothing in this section is intended to restrict the use of the Sealite Beam Director for the purpose of calibrating a satellite sensor, or for the purpose of imaging an object in space, in conjunction with a laser device other than the MIRACL device operating at an average power level not to exceed that used by other laser devices as of January 1, 1994, at other Department of Defense facilities for those purposes.

SEC. 214. APPLICABILITY OF CERTAIN ELECTRONIC COMBAT SYSTEMS TESTING REQUIREMENTS.

(a) COVERED SYSTEMS.—Subsection (a) of section 220 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1589) is amended—

(1) by inserting "ACAT I level integrated or stand-alone" before "electronic combat system"; and

(2) by inserting "ACAT I level integrated or stand-alone" before "command, control, and communications countermeasure system".

(b) APPLICABILITY.—Subsection (e) of section 220 of such Act is amended to read as follows:

"(e) APPLICABILITY.—The provisions of subsections (a) and (b) shall apply to an ACAT I level integrated or stand-alone electronic combat system and to an ACAT I level integrated or stand-alone command, control, and communications countermeasure system that has not entered engineering and manufacturing development as of September 1, 1994.".

(c) WAIVER.—Section 220 of such Act is further amended by adding at the end the following new subsection:

"(f) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the requirements of subsection (a) with respect to a system in any case in which the Secretary determines that a waiver is necessary in the interests of national security.

"(2) Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to Congress a notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the expiration of the 30-day period that begins on the date on which the notice is submitted to Congress.".

SEC. 215. ADVANCED SELF PROTECTION JAMMER (ASPJ) PROGRAM.

(a) REQUIREMENT TO OBLIGATE FUNDS FOR ASPJ.—Subject to subsection (b), the Secretary of the Navy shall, not later than September 30, 1994, obligate funds appropriated to the Department of Defense for fiscal year 1994 and prior years to carry out logistics support and maintenance of existing Advanced Self Protection Jammer (ASPJ) systems, and integration of such systems from the Navy inventory into the F-14D aircraft for testing and evaluation. The Secretary may acquire sufficient racks, spares, and logistic support, including hardware and software, necessary to maintain the existing ASPJ systems in the Navy inventory.

(b) LIMITATION.—The Secretary of the Navy may obligate funds under subsection (a) only to the extent provided in appropriations Acts.

(c) RELATIONSHIP TO OTHER PROVISION OF LAW.—The Secretary of the Navy shall carry out subsection (a) notwithstanding section 122 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2334).

SEC. 216. ADVANCED LITHOGRAPHY PROGRAM.

(a) PURPOSE.—The purpose of the Advanced Lithography Program (in this section referred to as the "ALP") is to fund goal-oriented research and development to be conducted in both the public and private sectors to help achieve a competitive position for American lithography tool manufacturers in the international market place.

(b) CONDUCT OF PROGRAM.—(1) The program shall be conducted in accordance with research and development plans (including an interim plan) developed by the Semiconductor Technology Council, established in section 273 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603) (as amended by section 263(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1608)).

(2) The interim plan referred to in paragraph (1) shall be the Semiconductor Industry Association (SIA) 1994 development plan for lithography.

(c) PROGRAM MANAGEMENT.—The Advanced Research Projects Agency (ARPA) shall be the executive agent for the ALP and shall ensure seamless, fully integrated incorporation of the program planning of the ALP into the full range of ARPA core electronics development programs.

(d) FUNDING.—(1) Of the funds authorized to be appropriated in section 201(4), $60,000,000 shall be available for the ALP to conduct research and development activities in accordance with subsection (b).

(2) Of the funds authorized to be appropriated in section 201(4) for the Semiconductor Manufacturing Technology Consortium, the consortium is strongly encouraged to use not less than $10,000,000 for activities related to lithography.

SEC. 217. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(A) the name of each federally funded research and development center from which work is proposed to be procured for the Department of Defense for fiscal year 1995; and

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1995.

(2) The total of the proposed funding levels set forth in the report for all federally funded research and development centers may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 may be obligated to procure work from a federally funded research and development center until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated by section 201, not more than a total of $1,300,000,000 may be obligated to procure services from the federally funded research and development centers named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to a federally funded research and development center. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies the Committees on Armed Services of the Senate and House of Representatives of that determination and the reasons for the determination.

(f) PARTICIPATION IN PROGRAMS PROMOTING RESEARCH, DEVELOPMENT, DEMONSTRATION, OR TRANSFER OF TECHNOLOGY.—(1) A federally funded research and development center of the Department of Defense that functions primarily as a research laboratory may respond to solicitations and announcements under programs authorized by the Federal Government for the purpose of promoting the research, development, demonstration, or transfer of technology in a manner consistent with the terms and conditions of such program.

(2) A federally funded research and development center described in paragraph (1) that responds to a solicitation or announcement described in such paragraph shall not be considered to be engaging in a competitive procedure and may use, among other authorities, cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) as the instruments of participation in the solicitation or announcement.

(g) STUDY OF ROLE OF FFRDCS IN THE MISSION OF THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall require the Defense Science Board to conduct a study of the role of federally funded research and development centers in the mission of the Department of Defense. The study shall include an analysis of how the centers fit into the mission of the Department of Defense, which capabilities of the centers are unique and have national security consequences, and how these capabilities can be retained. The study also shall review the extent to which activities performed by such centers could be obtained through in-house capabilities of the Department of Defense or through competitive procedures with for-profit and nonprofit organizations. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study not later than May 1, 1995.

(h) REVIEW BY DEFENSE INSPECTOR GENERAL OF COMPARISON OF EXECUTIVE COMPENSATION OF FFRDCS.—(1) The Secretary of Defense shall require the Inspector General of the Department of Defense to conduct a review of the compensation paid by federally funded research and development centers to all the officers and employees of such centers who are paid at a rate exceeding the Executive Schedule Level I rate.

(2) In conducting the review, the Inspector General shall—

(A) assess the validity of the data submitted by federally funded research and development centers to the Defense Contract Audit Agency as justification for the salary rates that exceed the Executive Schedule Level I rate;

(B) compare the compensation paid those individuals with (i) the compensation of similar technical and professional staff from for-profit and nonprofit organizations that must compete for defense work, and (ii) government officials of comparable expertise and responsibility; and

(C) examine areas such as bonuses, medical benefits, severance packages, retirement plans, housing allowances, moving expenses, and other forms of nonsalary compensation, as appropriate.

(3) The Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review not later than May 1, 1995.

(i) LIMITATION REGARDING RATES OF COMPENSATION.—(1) Funds available to the Department of Defense may not be paid to a federally funded research and development center unless the head of such center enters into an agreement with the Secretary of Defense that provides the following:

(A) That no officer or employee of the federally funded research and development center referred to in paragraph (2) will be compensated in fiscal year 1995 at an annual rate of compensation that exceeds the annual rate of compensation provided that officer or employee in fiscal year 1994 (or, in the case of a person not employed as an officer or employee in such fiscal year, the annual rate of compensation provided for the person in the position of that officer or employee in fiscal year 1994).

(B) That no such officer or employee will be paid a bonus or provided any other financial incentive in fiscal year 1995.

(C) That no trustee of the federally funded research and development center will be paid compensation for services as trustee in fiscal year 1995 or any subsequent fiscal year at a rate that exceeds the rate of compensation provided in fiscal year 1994 for a member of the Defense Science Board for service as a member of such board.

(2) Subparagraphs (A) and (B) of paragraph (1) apply to officers and employees of a federally funded research and development center who are compensated at an annual rate of compensation that exceeds the annual rate of pay provided for Executive Schedule level I under section 5312 of title 5, United States Code.

(j) LIMITATION REGARDING CHARITABLE CONTRIBUTIONS.—Funds available to the Department of Defense may not be paid to a federally funded research and development center unless the head of such center enters into an agreement with the Secretary of Defense not to make any charitable donation to a private institution,

local government, institution of higher education, or any other person.

(k) UNDISTRIBUTED REDUCTION.—The total amount authorized to be appropriated for research, development, test, and evaluation in section 201 is hereby reduced by $52,650,000.

SEC. 218. DIGITAL BATTLEFIELD PROGRAM.

(a) FUNDING.—Of the amounts authorized to be appropriated by section 201, $95,857,000 shall be available for fiscal year 1995 for the digital battlefield program (PE 203758A).

(b) PROGRAM LIMITATION.—Not more than 60 percent of the funds appropriated pursuant to section 201 for the digital battlefield program (PE 203758A) for the Army for fiscal year 1995 may be obligated for research and development activities for development or integration of such program until the Secretary of the Army—

(1) coordinates with the Secretary of the Navy to include the Marine Corps in the Army's plans for the digital battlefield; and

(2) transmits to the congressional defense committees a report describing—

(A) the Army's plan of actions and milestones for defining the overall system architecture for the digital battlefield, the standards and protocols for the digital battlefield, and resulting requirements;

(B) how those requirements affect or will affect the major platforms that will make up the digital battlefield; and

(C) the manner in which coordination with the Secretary of the Navy under paragraph (1) is being carried out.

SEC. 219. DUAL-USE ELECTRIC AND HYBRID VEHICLES.

(a) FUNDING.—Of the funds authorized to be appropriated in this Act—

(1) $15,000,000 shall be available for procurement of electric and hybrid vehicles for military uses and for commercialization of such vehicles for nonmilitary uses; and

(2) $10,000,000 shall be available for research, development, test, and evaluation of electric and hybrid vehicles for military uses.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) may not be expended until the Secretary of Defense, the Secretary of the Army, and the Secretary of Energy enter into a memorandum of understanding that specifies the responsibilities of each Secretary for research, development, test, evaluation, procurement, and commercialization activities to be carried out with such funds.

(2) The memorandum generally, and specifically in the case of the commercialization of such vehicles for nonmilitary uses, shall provide that any procurement of electric and hybrid vehicles authorized in subsection (a) shall be in accordance with the provisions of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13201 et seq.) and shall be consistent with the amendments made to the Clean Air Act (42 U.S.C. 7401 et seq.) by Public Law 101–549 (commonly known as the Clean Air Act Amendments of 1990; 104 Stat. 2399).

SEC. 220. TACTICAL ANTISATELLITE TECHNOLOGIES PROGRAM.

(a) DEMONSTRATION AND VALIDATION ACTIVITIES.—Subject to subsection (e), the Secretary of Defense shall continue the demonstration and validation of kinetic energy antisatellite technologies under the tactical antisatellite technologies program.

(b) LEVEL FUNDING.—Subject to subsection (e), of the amounts authorized to be appropriated in section 201 for the Army, $5,000,000 shall be available for fiscal year 1995 for engineering development under the tactical antisatellite technologies program.

(c) REQUIREMENT OF OBLIGATION OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the Secretary shall obligate for engineering development under the tactical antisatellite technologies program all funds available for fiscal year 1993 and fiscal year 1994 for the Kinetic Energy Antisatellite (KE–ASAT) program that remain available for obligation on the date of the enactment of this Act.

(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).

(e) LIMITATION.—No funds appropriated to the Department of Defense for fiscal year 1995 may be obligated for the tactical antisatellite technologies program until the Secretary of Defense certifies to Congress that there is a requirement for an antisatellite program.

SEC. 221. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has submitted to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

SEC. 222. LIMITATION ON OBLIGATION OF FUNDS FOR SEISMIC MONITORING RESEARCH.

Funds authorized to be appropriated by this Act that are made available for seismic monitoring of nuclear explosions may not be obligated for a project unless the project is authorized in a plan approved by the review group established pursuant to Presidential Decision Directive 18 (dated December 20, 1993).

SEC. 223. SUPERCONDUCTING MAGNETIC ENERGY STORAGE PROJECT.

(a) AVAILABILITY OF FUNDS.—The authorization of appropriations for fiscal year 1993 for the Superconducting Magnetic Energy Storage Project (SMES) shall be effective until the funds appropriated for such project are expended. The purposes for which such funds may be expended under that authorization of appropriations are those that are authorized in section 218 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2352) and section 218 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589).

(b) TRANSFER DEADLINE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall comply with the requirement to transfer funds set forth in section 218(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589).

SEC. 224. DEPARTMENT OF DEFENSE SATELLITE COMMUNICATIONS.

(a) MILSTAR PROGRAM.—Of the amount authorized in section 201 for the MILSTAR satellite communications program, $20,000,000 is available either for advance procurement of MILSTAR satellites 5 and 6 or for the Advanced Extra High Frequency (EHF) program, as determined by the Secretary of Defense.

(b) DEPARTMENT OF DEFENSE SATELLITE COMMUNICATIONS MASTER PLAN.—(1) The Secretary of Defense shall develop a satellite communications master plan that addresses—

(A) the projected military satellite communications requirements of the Department of Defense;

(B) alternate and innovative ways of meeting those requirements (including greater reliance on the commercial sector); and

(C) possible financial incentives to ensure that those elements of the Department of Defense that create the demand for such communications services are required to have an important role in paying for the provision of those services.

(2) The Secretary shall submit to Congress a report on the master plan developed under subsection (a) not later than April 30, 1995.

Subtitle C—Missile Defense Programs

SEC. 231. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

(a) GENERAL LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1995, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1995 or for any fiscal year before 1995, may not be obligated or expended—

(1) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter; or

(2) for the acquisition of any material or equipment (including long lead materials, components, piece parts, or test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(b) LIMITATION RELATING TO BRILLIANT EYES.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the space-based, midcourse missile tracking system known as the Brilliant Eyes program, not more than $80,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review conducted pursuant to subsection (c).

(c) COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the Brilliant Eyes program to determine whether, and under what conditions, the development, testing, and deployment of the Brilliant Eyes missile tracking system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(d) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) The Secretary of Defense shall review the theater ballistic missile program known as the Navy Upper Tier program to determine whether the development, testing, and deployment of the system being developed under that program would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) Of the funds made available to the Department of Defense for fiscal year 1995, not more than $40,000,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review under paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the

Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 232. MODIFICATIONS TO ANTI-BALLISTIC MISSILE TREATY TO BE ENTERED INTO ONLY THROUGH TREATY MAKING POWER.

(a) REQUIREMENT FOR USE OF TREATY MAKING POWER.—The United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

SEC. 233. REVISIONS TO THE MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note) is amended—

(1) by striking out sections 235, 236, and 237; and

(2) in section 238, by inserting before the period at the end of the second sentence the following: ", and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the Congress that such negotiations have been concluded or terminated".

SEC. 234. LIMITATION ON FLIGHT TESTS OF CERTAIN MISSILES.

(a) LIMITATION.—The Secretary of Defense may not conduct the launch of a target ballistic missile as part of the theater missile defense extended range test program if an anticipated result of the launch of that target missile under that test program would be release of debris in a land area of the United States outside a designated Department of Defense test range or an extension thereof in force as of July 1, 1994.

(b) DEFINITION OF DEBRIS.—For purposes of subsection (a), the term "debris" does not include particulate matter that is regulated for considerations of air quality.

(c) CERTAIN TESTING UNAFFECTED.—Nothing in this section shall be construed as prohibiting or limiting testing of cruise missiles, unmanned aerial vehicles (UAVs), or precision-guided munitions.

(d) EXPIRATION OF LIMITATION.—The limitation in subsection (a) shall expire on the later of—

(1) June 30, 1995; or

(2) the end of the 30-day period beginning on the date of the publication by the Secretary of Defense of the Final Environmental Impact Statement on the Theater Missile Defense Extended Test Range.

SEC. 235. PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.

In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1995 (as submitted in the budget of the President), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) National Missile Defense.

(2) Theater High-Altitude Area Defense (THAAD).

(3) The Hawk Missile system.

(4) Battle Management, Command, Control, Communications, and Intelligence (BM/C^{3}I).

(5) Patriot Advanced Capability-3 Missile System.

(6) Patriot Advanced Capability-3 Missile risk reduction.

(7) Navy Lower Tier Missile Defense.

(8) Navy Upper Tier Missile Defense.

(9) Army Corps Surface-to-Air Missile (CORPS SAM).

(10) Boost Phase Intercept Program.

(11) Other Theater Missile Defense Activities.

(12) Support Technologies.

(13) Program Management.

Subtitle D—Women's Health Research

SEC. 241. DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary of Defense shall continue the Defense Women's Health Research Program established in fiscal year 1994 pursuant to the authority in section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1606). The program shall continue to serve as the coordinating agent for multi-disciplinary and multi-institutional research within the Department of Defense on women's health issues related to service in the Armed Forces. The program also shall continue to coordinate with research supported by other Federal agencies that is aimed at improving the health of women.

(b) PARTICIPATION BY ALL MILITARY DEPARTMENTS.—The Departments of the Army, Navy, and Air Force shall each participate in the activities under the program.

(c) ARMY TO BE EXECUTIVE AGENT.—The Secretary of Defense shall designate the Secretary of the Army to be the executive agent for administering the program.

(d) IMPLEMENTATION PLAN.—If the Secretary of Defense intends to change the plan for the implementation of the program previously submitted to the Committees on Armed Services of the Senate and House of Representatives, the amended plan shall be submitted to such committees before implementation.

(e) PROGRAM ACTIVITIES.—The program shall include the following activities regarding health risks and health care for women in the Armed Forces:

(1) The coordination and support activities described in section 251 of Public Law 103–160.

(2) Epidemiologic research regarding women deployed for military operations, including research on patterns of illness and injury, environmental and occupational hazards (including exposure to toxins), side-effects of pharmaceuticals used by women so deployed, psychological stress associated with military training, deployment, combat and other traumatic incidents, and other conditions of life, and human factor research regarding women so deployed.

(3) Development of a data base to facilitate long-term research studies on issues related to the health of women in military service, and continued development and support of a women's health information clearinghouse to serve as an information resource for clinical, research, and policy issues affecting women in the Armed Forces.

(4) Research on policies and standards issues, including research supporting the development of military standards related to training, operations, deployment, and retention and the relationship between such activities and factors affecting women's health.

(5) Research on interventions having a potential for addressing conditions of military service that adversely affect the health of women in the Armed Forces.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $40,000,000 shall be available for the Defense Women's Health Research Program referred to in subsection (a).

Subtitle E—Other Matters

SEC. 251. REQUIREMENT FOR SUBMISSION OF ANNUAL REPORT OF THE SEMICONDUCTOR TECHNOLOGY COUNCIL TO CONGRESS.

Section 273(b)(2)(I) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(b)(2)(I)), as amended by section 263 of Public Law 103–160 (107 Stat. 1608) is amended by inserting "and submit to Congress by March 31 of each year" after "Publish".

SEC. 252. REPORT ON OCEANOGRAPHIC SURVEY AND RESEARCH REQUIREMENTS TO SUPPORT LITTORAL WARFARE.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of the Navy shall submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) An identification of unique properties, including acoustics, bathymetry, bottom type, and ocean dynamics that affect shallow water operations in littoral regions.

(2) A list of the principal littoral regions that—

(A) designates each region as high, medium, or low priority based on the probable need for Navy operations in such regions; and

(B) for each region, is annotated to identify—

(i) the date of the most recent detailed survey; and

(ii) the extent to which that survey provides insight into the region's properties identified pursuant to paragraph (1).

(3) An assessment of the Navy's current and projected access to each region for surveying purposes.

(4) An assessment of the ability of current oceanographic survey and research assets to develop the information identified in paragraph (1).

SEC. 253. LANSCE/LAMPF UPGRADES.

Of the amounts authorized to be appropriated by section 201(1), $20,000,000 shall be available to complete the Los Alamos Neutron Scattering Center/Los Alamos Meson Physics Facility upgrades at the Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 254. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences—

(1) to conduct a study regarding the desirability of exercising the authority under subsection (c) of section 2366 of title 10, United States Code, to waive for the F–22 aircraft program the survivability tests required pursuant to subsection (a) of such section; and

(2) to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests.

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F–22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F–22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F–22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F–22 aircraft program that was not requested at that time.

(4) The sufficiency of the F–22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F–22 aircraft program that the Council considers appropriate on the basis of the study.

SEC. 255. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Of the amounts authorized to be appropriated under section 201, $10,000,000 shall be available for the University Research Initiative Support Program established pursuant to section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note).

SEC. 256. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

(a) PROGRAM AUTHORIZED.—(1) Section 2525 of title 10, United States Code, is amended to read as follows:

"§ 2525. Manufacturing science and technology program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

"(b) PURPOSE.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense.

"(c) EXECUTION.—The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of the Defense Agencies.

"(d) COMPETITION AND COST SHARING.—(1) Competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

"(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

"(A) is not likely to have any immediate and direct commercial application; or

"(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources.".

(2) The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of such title is amended to read as follows:

"2525. Manufacturing Science and Technology Program.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201, not more than $109,420,000 shall be available for the Manufacturing Science and Technology Program under section 2525 of title 10, United States Code (as amended by subsection (a)), of which—

(1) not more than $29,420,000 shall be available for the Army;

(2) not more than $20,000,000 shall be available for the Navy;

(3) not more than $50,000,000 shall be available for the Air Force; and

(4) not more than $10,000,000 shall be available for the Defense Logistics Agency.

SEC. 257. DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) PROGRAM REQUIRED.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall carry out a Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) PROGRAM OBJECTIVES.—The objectives of the program are as follows:

(1) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is competitive under the peer-review systems used for awarding Federal research assistance.

(2) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) PROGRAM ACTIVITIES.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of research grants.

(2) Competitive award of financial assistance for graduate students.

(d) ELIGIBLE STATES.—(1) The Director of the National Science Foundation shall designate which States are eligible States for the purposes of this section and shall notify the Director of Defense Research and Engineering of the States so designated.

(2) The Director of the National Science Foundation shall designate a State as an eligible State if, as determined by the Director—

(A) the institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the State for the fiscal year preceding the fiscal year for which the designation is effective, or for the last fiscal year for which statistics are available, is less than the amount equal to 60 percent of the national institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the United States for such preceding or last fiscal year, as the case may be;

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs at institutions of higher education in the State; and

(C) the State is an eligible State for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(e) COORDINATION WITH SIMILAR FEDERAL PROGRAMS.—(1) The Secretary shall consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and shall coordinate the program with the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Experimental Program to Stimulate Competitive Research shall be made to, and all awards shall be made through, the State committees established for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Experimental Program to Stimulate Competitive Research are coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

SEC. 258. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the cost to the National Aeronautics and Space Administration of satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In conducting the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services and on Commerce, Science, and Transportation of the Senate and the Committees on Armed Services and on Science, Space, and Technology of the House of Representatives a joint report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The report shall be submitted not later than February 15, 1995.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $17,426,804,000.

(2) For the Navy, $21,055,470,000.

(3) For the Marine Corps, $2,066,295,000.

(4) For the Air Force, $18,837,623,000.

(5) For Defense-wide activities, $10,031,576,000.

(6) For the Army Reserve, $1,238,822,000.

(7) For the Naval Reserve, $827,819,000.

(8) For the Marine Corps Reserve, $81,462,000.

(9) For the Air Force Reserve, $1,464,932,000.

(10) For the Army National Guard, $2,398,415,000.

(11) For the Air National Guard, $2,771,678,000.

(12) For the National Board for the Promotion of Rifle Practice, $2,544,000.

(13) For the Defense Inspector General, $140,798,000.

(14) For the United States Court of Appeals for the Armed Forces, $6,126,000.

(15) For Environmental Restoration, Defense, $2,030,200,000.

(16) For Drug Interdiction and Counter-drug Activities, Defense-wide, $714,200,000.

(17) For Medical Programs, Defense, $9,854,459,000.

(18) For Project Peace, $15,000,000.

(19) For Cooperative Threat Reduction programs, $400,000,000.

(20) For Overseas Humanitarian, Disaster, and Civic Aid programs, $86,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $1,239,438,000.

(2) For the National Defense Sealift Fund, $828,600,000, of which $220,000,000 shall be available for the Marine Corps maritime prepositioning ship enhancement program.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1995 from the Armed Forces Retirement Home Trust Fund the sum of $59,317,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. FUNDS FOR DEPOT-LEVEL MAINTENANCE AND REPAIR WORK.

Of amounts authorized to be appropriated for fiscal year 1995 under section 301, there shall be available for the performance of depot-level maintenance and repair work by depot-level activities of the Department of Defense the amount that is equal to the sum of—

(1) the total amount provided in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code, for the Department of Defense for the performance of depot-level maintenance and repair work; and

(2) $305,000,000, of which—

(A) $140,000,000 shall be available for the Army;

(B) $40,000,000 shall be available for the Navy;

(C) $75,000,000 shall be available for the Air Force; and

(D) $50,000,000 shall be available for the Marine Corps.

SEC. 305. SUPPORT FOR THE 1996 SUMMER OLYMPICS.

Section 306(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1335) is amended by inserting ", and for fiscal year 1995 the sum of $10,000,000," after "for fiscal year 1992 the sum of $2,000,000".

SEC. 306. SUPPORT FOR THE 1995 SPECIAL OLYMPICS WORLD GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in the State of Connecticut.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in subsection (c).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1995 Special Olympics World Games.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Defense for fiscal year 1995 the sum of $3,000,000 to carry out subsection (a).

Subtitle B—Defense Business Operations Fund

SEC. 311. OVERSIGHT OF DEFENSE BUSINESS OPERATIONS FUND.

(a) EXTENSION OF AUTHORITY.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2208 note) is amended by striking out "During the period" and all that follows through "December 31, 1994, the" and inserting in lieu thereof "The".

(b) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Defense Business Operations Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

(c) LIMITATION ON INCLUSION OF CERTAIN COSTS IN DBOF CHARGES.—A charge imposed for a good or service provided through the Fund may not include amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

(d) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

(e) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to the congressional defense committees, at the same time that the President submits the budget under section 1105 of title 31, United States Code, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a statement for each subaccount of the Fund) for the year for which the report is submitted.

(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted.

(3) A comparison of the amounts actually expended for the operation of the Fund for the previous fiscal year with the amount proposed for the operation of the Fund for that fiscal year in the budget.

(f) IMPLEMENTATION OF IMPROVEMENT PLAN.—(1) Not later than February 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September 1993. The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for any failure to meet any such milestone. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time that the Secretary submits the report to the congressional defense committees.

(2) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the improvement plan referred to in paragraph (1).

(3) Not later than March 1, 1995, the Comptroller General shall submit to the congressional defense committees a report containing the following:

(A) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to paragraph (1).

(B) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (2).

(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

(g) DEFINITION.—In this section, the term "Fund" means the Defense Business Operations Fund.

SEC. 312. REVIEW BY COMPTROLLER GENERAL OF CHARGES IMPOSED BY DEFENSE BUSINESS OPERATIONS FUND.

(a) REVIEW.—The Comptroller General of the United States shall review the charges proposed by the Secretary of Defense to be imposed for fiscal year 1996 for goods and services provided by the Defense Business Operations Fund, including related service charges and charges for overhead costs.

(b) DETERMINATION REQUIRED.—In conducting the review, the Comptroller General shall—

(1) compare the charges imposed for the provision of goods and services to the military departments and Defense Agencies with the charges imposed for the provision of goods and services to persons outside the Department of Defense; and

(2) determine the extent to which differences in such charges result in the military departments and Defense Agencies having a cost advantage or a cost disadvantage in relation to the persons outside the Department of Defense.

(c) REPORT.—Not later than April 15, 1995, the Comptroller General shall submit to Congress a report on the results of the review conducted under subsection (a). The report shall contain the comparison and determination required by subsection (b) and any recommendations of the Comptroller General for legislation or administrative action.

SEC. 313. LIMITATION ON OBLIGATIONS AGAINST THE CAPITAL ASSET FUND.

The Secretary of Defense may not incur obligations against funds in the capital asset subaccount of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of $1,440,000,000.

SEC. 314. LIMITATION ON OBLIGATIONS AGAINST THE SUPPLY MANAGEMENT DIVISIONS.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1995, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment and spare parts in support of repair, direct vendor deliveries, foreign military sales, initial outfitting requiring equipment furnished by the Federal Government, and the cost of operations.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is necessary in order to maintain the readiness and combat effectiveness of the Armed Forces. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

(c) DETERMINATIONS OF EFFECTS OF LIMITATION ON READINESS AND COMBAT EFFECTIVENESS.—Not later than 60 days after the date of the enactment of this Act, the Secretaries of the military departments and the Director of the Defense Logistics Agency shall each submit to the Secretary of Defense a report containing the views of such official on the effects of the limitation in subsection (a) on the ability of the Department of Defense to maintain the readiness and combat effectiveness of the Armed Forces. If the Secretary of Defense determines, after considering the reports, that the limitation will impair the readiness and combat effectiveness of any of the Armed Forces, the Secretary shall exercise the waiver authority provided in subsection (b).

Subtitle C—Environmental Provisions

SEC. 321. LIMITATION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

Section 2703 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) PAYMENT OF FINES AND PENALTIES.—None of the funds appropriated to the transfer account for fiscal years 1995 through 1999 may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the transfer account.".

SEC. 322. PARTICIPATION OF INDIAN TRIBES IN AGREEMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION.

Section 2701(d) of title 10, United States Code, is amended—

(1) by striking out "SERVICE OF OTHER AGENCIES.—The Secretary" and inserting in lieu thereof the following: "SERVICE OF OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary";

(2) in paragraph (1), as so designated, by inserting "or any Indian tribe" after "any State or local government agency"; and

(3) by adding at the end the following:

"(2) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).".

SEC. 323. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

Section 2701(j)(1) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

SEC. 324. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

The Secretary of Defense may pay, from funds appropriated pursuant to section 301(15), not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the West Virginia Ordnance Works.

SEC. 325. ADDITIONAL EXCEPTION TO PROHIBITION ON STORAGE AND DISPOSAL OF NONDEFENSE TOXIC AND HAZARDOUS MATERIALS AT MILITARY INSTALLATIONS.

Section 2692(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) the treatment and disposal of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department and the Secretary enters into a contract with that person that—

"(A) is consistent with the best interest of national defense and environmental security; and

"(B) provides for that person's continued financial and environmental responsibility and liability with regard to the material.".

SEC. 326. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding, and establishment of restoration advisory boards pursuant to this subsection. However, the issuance of regulations shall not be a precondition to the establishment of a restoration advisory board or affect the existence or operation of a restoration advisory board established before the date of the enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(3).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following new subsection:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1) Using funds made available under paragraph (3), the Secretary may make technical assistance grants under section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617(e)) in connection with installations containing facilities listed on the National Priorities List.

"(2)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (3) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards at installations not covered by paragraph (1) for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at the installations for which such committees and boards are in operation.

"(B) The private individuals who are members of a committee or advisory board are eligible for funding assistance under this paragraph only if they reside in the vicinity of the installation (or installations) for which the committee or advisory board is established and are not potentially responsible parties with respect to environmental hazards at any installation. Funds shall be paid to, and administered by, the committee or advisory board on which the private individuals are members for accounting and financial management purposes, subject to subparagraph (C).

"(C) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this paragraph only—

"(i) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed for or conducted at the installation; and

"(ii) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(D) The members of a technical review committee or restoration advisory board may use funds made available under this paragraph to employ technical or other experts, in accordance with the regulations prescribed under subsection (d)(2).

"(3)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following new subsection:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation (or group of installations), the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation or installations.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation or installations.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation or installations.

"(5) Developing environmental restoration strategies for the installation or installations.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish restoration advisory boards, the Secretary shall—

(1) prescribe the regulations required under subsection (d)(2) of section 2705 of title 10, United States Code, as added by subsection (a); and

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as added by subsection (b).

(e) REPORT.—Not later than May 1, 1996, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding—

(1) the establishment of restoration advisory boards under subsection (d) of section 2705 of title 10, United States Code, as added by subsection (a); and

(2) the expenditure of funds for assistance for citizen participation on technical review committees and restoration advisory boards under subsection (e) of such section, as added by subsection (b).

SEC. 327. PILOT PROGRAM TO DEVELOP AND DEMONSTRATE ENVIRONMENTAL REMEDIATION TECHNOLOGIES.

(a) COOPERATIVE AGREEMENT FOR PILOT PROGRAM.—(1) The Secretary of Defense may enter into a cooperative agreement with an institution of higher education for the purpose of facilitating the development and demonstration of new methods and technologies for more effective and expedient environmental remediation at military installations by engaging in a pilot demonstration project as provided in subsection (b).

(2) If the Secretary enters into a cooperative agreement under paragraph (1), the agreement shall authorize the institution of higher education to enter into partnerships or other relationships with private and public entities for purposes of conducting activities under the cooperative agreement.

(b) PILOT PROJECT AT DEFENSE LANDFILL.—(1) If the Secretary enters into a cooperative agreement under subsection (a)(1), the agreement shall authorize the institution of higher education to participate in a cooperative pilot demonstration project at a Government landfill described in paragraph (2) if such demonstration project can be carried out in a manner that is consistent with all other actions at such landfill that the Secretary is legally required to undertake.

(2) The Government landfill referred to in paragraph (1) is a Government landfill that—

(A) is listed on the National Priorities List pursuant to section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

(B) is located on a military installation to be closed pursuant to a base closure law.

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount authorized to be appropriated under section 201(4) and made available for innovative environmental technologies certification, $1,000,000 shall be available for the establishment of the cooperative agreement and the activities necessary to conduct the pilot demonstration project under this section.

SEC. 328. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM FOR DEFENSE PERSONNEL.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish and conduct an education and training program for members of the Armed Forces and civilian employees of the Department of Defense whose responsibilities include planning or executing the environmental mission of the Department. The Secretary shall conduct the program to ensure that such members and employees obtain and maintain the knowledge and skill required to comply with existing environmental laws and regulations.

(b) IDENTIFICATION OF MILITARY FACILITIES WITH ENVIRONMENTAL TRAINING EXPERTISE.—As part of the program, the Secretary may identify military facilities that have existing expertise (or the capacity to develop such expertise) in conducting education and training activities in various environmental disciplines. In the case of a military facility identified under this subsection, the Secretary should encourage the use of the facility by members and employees referred to in subsection (a) who are not under the jurisdiction of the military department operating the facility.

SEC. 329. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—Not later than May 1, 1996, the Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). If the Secretary concludes as a result of the study that establishing the center is feasible and advisable, the report shall include a statement of the Secretary's recommendations for the location of the center and the specific activities to be conducted at the center.

Subtitle D—Depot-Level Activities

SEC. 331. FINDINGS.

Congress makes the following findings:

(1) By providing the Armed Forces with a critical capacity to respond to the needs of the Armed Forces for depot-level maintenance and repair of weapon systems and equipment, the depot-level maintenance and repair activities of the Department of Defense play an essential role in maintaining the readiness of the Armed Forces.

(2) It is appropriate for the capability of the depot-level maintenance and repair activities of the Department of Defense to perform maintenance and repair of weapon systems and equipment to be based on policies that take into consideration the readiness, mobilization, and deployment requirements of the military departments.

(3) It is appropriate for the management of employees of the depot-level maintenance and repair activities of the Department of Defense to be based on the amount of workload necessary to be performed by such activities to maintain the readiness of the weapon systems and equipment of the military departments and on the funds made available for the performance of such workload.

SEC. 332. MODIFICATION OF LIMITATION ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

(a) MODIFICATION.—Subsection (a) of section 2466 of title 10, United States Code, is amended to read as follows:

“(a) PERCENTAGE LIMITATION.—Not more than 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Any such funds that are not used for such a contract shall be used for the performance of depot-level maintenance and repair workload by employees of the Department of Defense.”.

(b) INCLUSION OF REPAIR ACTIVITIES.—Subsection (b) of such section is amended by inserting “and repair” after “maintenance” each place it appears.

(c) REPORT.—Subsection (e) of such section is amended to read as follows:

“(e) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report identifying, for each military department and Defense Agency, the percentage of funds referred to in subsection (a) that was used during fiscal year 1994 to contract for the performance by non-Federal Government personnel of depot-level maintenance and repair workload.”.

SEC. 333. REPORT ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR OF NEW WEAPON SYSTEMS.

(a) REPORT.—Not later than April 1, 1995, the Secretary of Defense shall submit to Congress a report that contains a statement by each Secretary of a military department on the plans of that military department to provide for the depot-level maintenance and repair of any new weapon system described in subsection (b) by depot-level activities of the Department of Defense.

(b) COVERED WEAPON SYSTEMS.—A new weapon system referred to in subsection (a) is a weapon system—

(1) initially delivered to the military department by a contractor on, or within 4 years before, the date of the enactment of this Act; or

(2) planned for initial delivery to the military department by a contractor on, or within 5 years after, such date.

SEC. 334. REVIEW OF COST GROWTH IN CONTRACTS TO PERFORM DEPOT-LEVEL MAINTENANCE AND REPAIR.

(a) REVIEW.—The Secretary of Defense shall carry out a review of a representative sample of existing contracts entered into by the Department of Defense for the performance of depot-level maintenance and repair to determine the extent to which the costs incurred by a contractor under any such contract have exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than May 1, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 335. AUTHORITY FOR DEPOT-LEVEL ACTIVITIES OF THE DEPARTMENT OF DEFENSE TO COMPETE FOR MAINTENANCE AND REPAIR WORKLOADS OF OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

“§2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies

“A depot-level activity of the Department of Defense shall be eligible to compete for the performance of any depot-level maintenance and repair workload of a Federal agency for which competitive procedures are used to select the entity to perform the workload.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies.”.

SEC. 336. AUTHORITY OF DEPOTS TO PROVIDE SERVICES OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, as amended by section 335, is further amended by adding at the end the following new section:

“§2471. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by

“(a) AUTHORITY TO LEASE EXCESS EQUIPMENT AND FACILITIES.—Subject to subsection (b), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may lease excess equipment and facilities of a depot-level activity of the military department, or the Defense Agency, to a person outside the Department of Defense.

“(b) LIMITATIONS.—A lease under subsection (a) may be entered into only if—

“(1) the lease of any such equipment or facilities will not have a significant adverse effect on the readiness of the armed forces, as determined by the Secretary concerned;

“(2) the person leasing such equipment or facilities agrees to reimburse the Department of Defense for the costs (both direct and indirect costs, including any rental costs, as determined the Secretary concerned) attributable to the lease of such equipment or facilities;

“(3) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States, except in cases of willful conduct or gross negligence, from any claim for damages or injury to any person or property arising out the lease of such equipment or facilities; and

“(4) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary concerned to suspend or terminate the lease during a war or national emergency.

“(c) CREDIT TO TREASURY.—Any reimbursement (including the payment of rental costs) received under this section shall be credited to the Treasury as miscellaneous receipts.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2471. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by.”.

SEC. 337. REUTILIZATION INITIATIVE FOR DEPOT-LEVEL ACTIVITIES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall conduct activities to encourage commercial firms to enter into partnerships with depot-level activities of the military departments for the purposes of—

(1) demonstrating commercial uses of the depot-level activities that are related to the principal mission of the depot-level activities;

(2) preserving employment and skills of employees currently employed by the depot-level activities or providing for the reemployment and retraining of employees who, as the result of the closure, realignment, or reduced in-house workload of such activities, may become unemployed; and

(3) supporting the goals of other defense conversion, reinvestment, and transition assistance programs while also allowing the depot-level activities to remain in operation to continue to perform their defense readiness mission.

(b) CONDITIONS.—The Secretary shall ensure that activities conducted under this section—

(1) do not interfere with the closure or realignment of a depot-level activity of the military departments under a base closure law; and

(2) do not adversely affect the readiness or primary mission of a participating depot-level activity.

SEC. 338. CHANGE OF SOURCE FOR PERFORMANCE OF DEPOT-LEVEL WORKLOADS.

The text of section 2469 of title 10, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance or repair workload described in subsection (b) is not changed to performance by a contractor or by another depot-level activity of the Department of Defense unless the change is made using—

"(1) merit-based selection procedures for competitions among all depot-level activities of the Department of Defense; or

"(2) competitive procedures for competitions among private and public sector entities.

"(b) SCOPE.—Subsection (a) applies to any depot-level maintenance or repair workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense.

"(c) INAPPLICABILITY OF OMB CIRCULAR A-76.—Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) does not apply to a performance change to which subsection (a) applies.".

SEC. 339. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

"§2553. Articles and services of industrial facilities: sale to persons outside the Department of Defense

"(a) AUTHORITY TO SELL OUTSIDE DOD.—(1) The Secretary of Defense may sell in accordance with this section to a person outside the Department of Defense articles and services referred to in paragraph (2) that are not available from any United States commercial source.

"(2)(A) Except as provided in subparagraph (B), articles and services referred to in paragraph (1) are articles and services that are manufactured or performed by any working-capital funded industrial facility of the armed forces.

"(B) The authority in this section does not apply to sales of articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, which are governed by regulations required by section 4543 of this title.

"(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate facilities referred to in subsection (a) as the facilities from which articles and services manufactured or performed by such facilities may be sold under this section.

"(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

"(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

"(2) the purchaser agrees to hold harmless and indemnify the United States, except in any case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

"(3) the articles or services can be substantially manufactured or performed by the industrial facility concerned with only incidental subcontracting;

"(4) it is in the public interest to manufacture the articles or perform the services;

"(5) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

"(6) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

"(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

"(2) In the sale of articles and services under this section, the Secretary shall—

"(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

"(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

"(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

"(e) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of manufacture or performance.

"(f) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

"(g) DEFINITIONS.—In this section:

"(1) The term 'advance incremental funding', with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

"(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the manufacture of the articles or the performance of the services, as the case may be; and

"(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

"(2) The term 'variable costs', with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

"(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

"(B) in the case of services, the extent of the services sold.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2553. Articles and services of industrial facilities: sale to persons outside the Department of Defense.".

(b) EFFECTIVE DATE.—Section 2553 of title 10, United States Code, as added by subsection (a), shall take effect on April 1, 1995.

Subtitle E—Civilian Employees

SEC. 341. EXTENSION OF CERTAIN TRANSITION ASSISTANCE AUTHORITIES.

(a) REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.—Section 4433(b)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2722; 5 U.S.C. 3502 note) is amended by striking out "February 1, 1998" and inserting in lieu thereof "February 1, 2000".

(b) SEPARATION PAY.—(1) Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(2) Section 4436(d)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (5 U.S.C. 8348 note) is amended by striking out "January 1, 1998" and inserting in lieu thereof "January 1, 2000".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d)(3) of title 5, United States Code, is amended by striking out "the closure of an installation" and inserting in lieu thereof "the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation".

(d) CONTINUED HEALTH BENEFITS.—Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking out "October 1, 1997" each place it appears and inserting in lieu thereof "October 1, 1999"; and

(2) in clause (ii), by striking out "February 1, 1998," and inserting in lieu thereof "February 1, 2000,".

SEC. 342. EXTENSION AND EXPANSION OF AUTHORITY TO CONDUCT PERSONNEL DEMONSTRATION PROJECTS.

(a) CHINA LAKE DEMONSTRATION PROJECT.—(1) Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98–224; 98 Stat. 49) is amended by striking out "until September 30, 1995,".

(2) In the event of a reorganization of the organization carrying out the personnel demonstration project referred to in section 6 of such Act, such section shall apply with respect to the successor to that organization.

(b) DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS.—(1) The Secretary of Defense may, with the approval of the Director of the Office of Personnel Management, carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2)(A) Each personnel demonstration project carried out under the authority of paragraph (1) shall be generally similar in nature to the China Lake demonstration project.

(B) For purposes of subparagraph (A), the China Lake demonstration project is the demonstration project that is authorized by section 6 of the Civil Service Miscellaneous Amendments Act of 1983 to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 of title 5, United States

Code, shall apply to the demonstration project, except that—

(A) subsection (d) of such section 4703 shall not apply to the demonstration project; and

(B) the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority which is provided in such section 4703.

SEC. 343. LIMITATION ON PAYMENT OF SEVERANCE PAY TO CERTAIN EMPLOYEES TRANSFERRING TO EMPLOYMENT POSITIONS IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) Severance pay under this section may not be paid to—

"(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

"(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

"(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

"(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation, is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

"(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

"(ii) subchapter III of chapter 83 of this title;

"(iii) subchapter II of chapter 84 of this title; or

"(iv) any other retirement system of the Federal Government for persons retiring from employment with the Federal Government.

"(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

"(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

"(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

"(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

"(5) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations to carry out this subsection.

"(6) In this subsection:

"(A) The term 'defense nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense.

"(B) The term 'Coast Guard nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Coast Guard.

"(C) The term 'nonappropriated fund instrumentality' means a nonappropriated fund instrumentality described in section 2105(c) of this title.".

(b) APPLICABILITY.—Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall apply with respect to pay periods that begin on or after the date of the enactment of this Act.

SEC. 344. RETIREMENT CREDIT FOR CERTAIN SERVICE IN NONAPPROPRIATED FUND INSTRUMENTALITIES BEFORE JANUARY 1, 1987.

(a) STUDY REQUIRED.—The Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall conduct a study to determine the level of interest among employees referred to in subsection (b) in obtaining credit under the Civil Service Retirement System or the Federal Employees' Retirement System for former service described in such subsection as an employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees of the Department of Defense who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following:

(1) An analysis of the issues, including existing legal rights of the employees referred to in subsection (b) under the Civil Service Retirement System or the Federal Employees' Retirement System.

(2) A description of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full-time and part-time employees referred to in subsection (b) who are affected by any inequities described in paragraph (2).

(4) The recommendations of the Secretary, if any, for redressing any inequities described in paragraph (2).

(5) An assessment of the cost to the Federal Government of any recommendation referred to in paragraph (4).

SEC. 345. TRAVEL, TRANSPORTATION, AND RELOCATION EXPENSES OF EMPLOYEES TRANSFERRING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

"(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

"(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

"(1) is scheduled for separation from the Department, other than for cause;

"(2) is selected for appointment to a continuing position with the United States Postal Service; and

"(3) accepts the appointment.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 5734 the following new item:

"5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to persons separated from employment with the Department of Defense on or after the date of the enactment of this Act.

SEC. 346. FOREIGN EMPLOYEES COVERED BY THE FOREIGN NATIONAL EMPLOYEES SEPARATION PAY ACCOUNT.

Section 1581 of title 10, United States Code, is amended—

(1) by striking out "foreign national employees of the Department of Defense" each place it appears in subsections (a) and (b) and inserting in lieu thereof "foreign nationals referred to in subsection (e)"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation.".

SEC. 347. REPORT ON CONVERSION OF CERTAIN POSITIONS TO PERFORMANCE BY DEPARTMENT OF DEFENSE EMPLOYEES.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to ensure an optimum level of availability of members of the Armed Forces for assignment to combat units, it is the policy of the Department of Defense to assign employees of the Department of Defense to replace military personnel in Department of Defense positions to which assignment of military personnel can no longer be justified under current circumstances.

(2) Assignment of employees of the Department of Defense to such positions can provide valuable continuity for the performance of many missions of the Department while enhancing the readiness and military capability of the Armed Forces.

(3) During the Persian Gulf War, employees of the Department of Defense, employees of other Federal agencies, and employees of civilian contractors, by their distinguished service in the theater of operations, demonstrated the valuable contributions that civilian personnel can make to the performance of Department of Defense functions.

(4) The performance of Department of Defense functions by employees of the Department is often less costly than the performance of those functions by military personnel.

(5) The percentage of certain support positions that are filled by employees of the Department of Defense varies significantly among the military departments.

(6) The Secretary of Defense is reviewing the extent to which employees of the Department of Defense should replace military personnel in Department of Defense positions.

(b) REQUIREMENT FOR REPORT.—Not later than April 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the efforts of the Secretary—

(1) to identify positions in the Department of Defense to which continued assignment of military personnel is no longer justified under current circumstances; and

(2) to assign employees of the Department of Defense to replace military personnel in those positions.

(c) CONTENT OF REPORT.—The report required by subsection (b) shall contain the following:

(1) The number of positions identified by the Secretary, including the positions in which employees of the Department of Defense have replaced military personnel and the positions to which employees of the Department of Defense are planned to be assigned to replace military personnel.

(2) The cost of carrying out the planned changes in assignments.

(3) A discussion of the effects of such changes on workforce restructuring plans of the Department.

(4) A discussion of the efforts of the Secretary to encourage within the Department of Defense the assignment of employees of the Department to replace military personnel.

(5) An explanation of the justifications for maintaining variances in excess of 20 percent among the military departments in the percentage of support positions common to two or more military departments that are filled by employees of the Department of Defense rather than military personnel.

SEC. 348. NON-FEDERAL EMPLOYMENT INCENTIVE PILOT PROGRAM.

(a) AUTHORITY.—The Secretary of Defense may establish a pilot program for the payment of incentives in accordance with this section to facilitate the reemployment of eligible employees of the Department of Defense whose employment with the Department is being terminated by reason of the closure or realignment of the military installations where such persons are employed. Under the pilot program, the Secretary may pay retraining and relocation incentives to encourage non-Federal employers to hire and retain such employees.

(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department of Defense for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, except that such term does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or another retirement system for employees of the Government;

(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of chapter 83 of title 5, United States Code, or subchapter II of chapter 84 of such title; or

(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

(c) RETRAINING INCENTIVE.—(1) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the non-Federal employer agrees—

(A) to employ a person referred to in subsection (a) for at least 12 months for a salary which is mutually agreeable to the employer and such person; and

(B) to certify to the Secretary the cost incurred by the employer for any necessary training provided to such person in connection with the employment by that employer.

(2) The Secretary shall pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment by that employer. Subject to subsection (f), the Secretary shall prescribe the amount of the incentive.

(3) The Secretary shall pay a prorated amount of the full retraining incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

(4) In no event may the amount of the retraining incentive paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1).

(d) RELOCATION INCENTIVE.—The Secretary may pay a relocation incentive to an eligible employee if it is necessary for the employee to relocate in order to commence employment with a non-Federal employer under the pilot program. Subject to subsection (f), the amount of the incentive shall be equal to the total amount authorized to be paid for travel, transportation, and subsistence expenses under subchapter II of chapter 57 of title 5, United States Code, including the reimbursements authorized under section 5724b of such title, to a Federal employee being transferred between the same locations as the person paid the incentive.

(e) APPROVAL OF SECRETARY OF DEFENSE.—The Secretary of a military department or the head of a Defense Agency may offer an incentive under the pilot program with the prior approval of the Secretary of Defense or pursuant to a delegation of authority by the Secretary of Defense.

(f) LIMITATION.—The total amount of incentives paid in the case of a person under the pilot program may not exceed $10,000.

(g) DURATION.—No incentive may be paid under the pilot program for training or relocations commenced after September 30, 1999.

(h) DEFINITIONS.—In this section:

(1) The term "non-Federal employer" means an employer that is not an Executive agency, as defined in section 105 of title 5, United States Code, or the legislative or judicial branch of the Federal Government.

(2) The term "Defense Agency" has the meaning given such term in section 101(a)(11) of title 10, United States Code.

SEC. 349. UNIFORM HEALTH BENEFITS PROGRAM FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE ASSIGNED TO NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Not later than October 1, 1995, the Secretary of Defense shall take such steps as may be necessary to provide a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

(b) PROGRESS REPORT.—Not later than March 15, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress made by the Secretary in implementing subsection (a).

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

SEC. 351. REAUTHORIZATION OF DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS FOR DEPENDENTS.

(a) CONTINUED AUTHORITY.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§2164. Department of Defense domestic dependent elementary and secondary schools

"(a) AUTHORITY OF SECRETARY.—If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may enter into arrangements to provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees. The Secretary may, at the discretion of the Secretary, permit dependents of members of the armed forces and, to the extent provided in subsection (c), dependents of civilian employees of the Federal Government residing in a territory, commonwealth, or possession of the United States but not on a military installation, to enroll in an educational program provided by the Secretary pursuant to this subsection.

"(b) FACTORS FOR SECRETARY TO CONSIDER.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

"(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

"(B) The extent to which the local educational agency is able to provide an appropriate educational program for such dependents.

"(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary, is comparable to a program of free public education provided for children by the following local educational agencies:

"(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), local educational agencies in the State that are similar to the local educational agency referred to in paragraph (1)(B).

"(B) In the case of a military installation with boundaries contiguous to two or more States, local educational agencies in the contiguous States that are similar to the local educational agency referred to in paragraph (1)(B).

"(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia public schools, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

"(c) ELIGIBILITY OF DEPENDENTS OF FEDERAL EMPLOYEES.—(1) A dependent of a Federal employee residing in permanent living quarters on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

"(2)(A) Except as provided in subparagraphs (B) and (C), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

"(B) A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

"(C) Subparagraph (A) shall not apply to an individual who is a dependent of a Federal employee in the excepted service (as defined in section 2103 of title 5) and who is enrolled in an

educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

"(3) A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary.

"(d) SCHOOL BOARDS.—(1) The Secretary of Defense shall provide for the establishment of a school board for Department of Defense elementary and secondary schools established at each military installation under this section.

"(2) The school board shall be composed of the number of members, not fewer than three, prescribed by the Secretary.

"(3) The parents of the students attending the school shall elect the school board in accordance with procedures which the Secretary shall prescribe.

"(4)(A) A school board elected for a school under this subsection may participate in the development and oversight of fiscal, personnel, and educational policies, procedures, and programs for the school, except that the Secretary may issue any directive that the Secretary considers necessary for the effective operation of the school or the entire school system.

"(B) A directive referred to in subparagraph (A) shall, to the maximum extent practicable, be issued only after the Secretary consults with the appropriate school boards elected under this subsection. The Secretary shall establish a process by which a school board or school administrative officials may formally appeal the directive to the Secretary of Defense.

"(5) Meetings conducted by the school board shall be open to the public, except as provided in paragraph (6).

"(6) A school board need not comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act.

"(e) ADMINISTRATION AND STAFF.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

"(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(A) establish positions for civilian employees in schools established under this section;

"(B) appoint individuals to such positions; and

"(C) fix the compensation of such individuals for service in such positions.

"(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

"(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

"(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; and

"(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

"(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school established before the effective date of this section pursuant to authority similar to the authority in this section shall be considered to have been established pursuant to the authority of this section.

"(f) SUBSTANTIVE AND PROCEDURAL RIGHTS AND PROTECTIONS FOR CHILDREN.—(1) The Secretary shall provide the following substantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

"(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(B) In the case of infants and toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants and toddlers with disabilities under part H of such Act (20 U.S.C. 1471 et seq.).

"(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

"(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81–874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

"(3) In this subsection:

"(A) The term 'children with disabilities' has the meaning given the term in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)).

"(B) The term 'children with disabilities aged 3 to 5, inclusive' means such term as used in such Act (20 U.S.C. 1400 et seq.).

"(C) The term 'infants and toddlers with disabilities' has the meaning given the term in section 672(1) of such Act (20 U.S.C. 1472(1)).

"(g) REIMBURSEMENT.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2164. Department of Defense domestic dependent elementary and secondary schools.".

(c) SAVINGS PROVISION.—Nothing in section 2164 of title 10, United States Code, as added by subsection (a), shall be construed as affecting the rights in existence on the date of the enactment of this Act of an employee of any school established under such section (or any other provision of law enacted before the date of the enactment of this Act that established a similar school) to negotiate or bargain collectively with the Secretary with respect to wages, hours, and other terms and conditions of employment.

SEC. 352. REPORT ON CALCULATION AND RECOVERY OF TUITION COSTS OF CERTAIN STUDENTS ENROLLED IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM.

(a) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives and the Committee on Education and Labor of the House of Representatives a report on the calculation and application of the tuition rate required to be determined under section 1404(b) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923(b)).

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall contain the following:

(1) A description of—

(A) the costs included in the tuition rate;

(B) the method by which the tuition rate is determined; and

(C) the method by which any increase in the tuition rate is determined.

(2) An analysis of—

(A) the variation in the cost of providing educational services in the defense dependents' education system in different geographic locations; and

(B) the extent to which the imposition of a uniform tuition rate enables the system to receive adequate funds to defray the cost of providing educational services to tuition-paying students.

(3) Recommendations of the Secretary with respect to improvements that may be made in the determination and application of the tuition rate.

SEC. 353. AUTHORITY TO ACCEPT GIFTS FOR DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS.

(a) AUTHORITY.—Section 2605 of title 10, United States Code, is amended—

(1) by striking out "the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.)" in subsection (a) and inserting in lieu thereof "a defense dependents' school"; and

(2) by striking out "the defense dependent's education system" in subsection (b) and inserting in lieu thereof "defense dependents' schools".

(b) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

"(g) In this section, the term 'defense dependents' school' means the following:

"(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(2) An elementary or secondary school established pursuant to section 2164 of this title.".

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2605. Acceptance of gifts for defense dependents' schools".

(2) The item relating to such section in the table of sections at the beginning of chapter 155 of such title is amended to read as follows:

"2605. Acceptance of gifts for defense dependents' schools.".

SEC. 354. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated in section 301(5)—

(1) $50,000,000 shall be available for providing educational agencies assistance (as defined in subsection (c)(1)) to local educational agencies; and

(2) $8,000,000 shall be available for making educational agencies payments (as defined in subsection (c)(2)) to local educational agencies.

(b) NOTIFICATION AND DISBURSAL.—(1) Not later than June 30, 1995—

(A) the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1995 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(B) the Secretary of Education shall notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1995 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(2) The Secretary of Defense (with respect to funds made available under subsection (a)(1)) and the Secretary of Education (with respect to funds made available under subsection (a)(2)) shall disburse such funds not later than 30 days after the date on which notification to the eligible local education agencies is provided pursuant to paragraph (1).

(c) DEFINITIONS.—For purposes of this section:

(1) The term "educational agencies assistance" means assistance authorized under subsection (b) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2395; 20 U.S.C. 238 note).

(2) The term "educational agencies payments" means payments authorized under subsection (d) of that section.

Subtitle G—Reviews, Studies, and Reports

SEC. 361. REPORTS ON TRANSFERS OF CERTAIN OPERATION AND MAINTENANCE FUNDS.

(a) ANNUAL REPORTS.—In each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees, not later than the date on which the President submits the budget pursuant to section 1105 of title 31, United States Code, in that year, a report on the following:

(1) Each transfer of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations during the preceding fiscal year, including the reason for the transfer.

(2) Each transfer of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity during the preceding fiscal year, including the reason for the transfer.

(b) MIDYEAR REPORTS.—On May 1 of each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the following:

(1) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations, including the reason for the transfer.

(2) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity, including the reason for the transfer.

(c) COVERED ACTIVITIES.—The activities referred to in subsections (a) and (b) are the following:

(1) Activities for which amounts are appropriated for the Army for operation and maintenance for operating forces for (A) combat units, (B) tactical support, (C) force-related training/special activities, (D) depot maintenance, and (E) JCS exercises.

(2) Activities for which amounts are appropriated for the Navy for operation and maintenance for operating forces for (A) mission and other flight operations, (B) mission and other ship operations, (C) fleet air training, (D) ship operational support and training, (E) aircraft depot maintenance, and (F) ship depot maintenance.

(3) Activities for which amounts are appropriated for the Air Force for operation and maintenance for operating forces for (A) primary combat forces, (B) primary combat weapons, (C) global and early warning, (D) air operations training, (E) depot maintenance, and (F) JCS exercises.

(d) REPEAL.—Section 377 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1638) is hereby repealed.

SEC. 362. REVIEW AND REPORT ON USE OF OPERATION AND MAINTENANCE FUNDS BY THE DEPARTMENT OF DEFENSE.

(a) REVIEW.—The Secretary of Defense shall review all operation and maintenance accounts of the Department of Defense to determine the extent to which funds appropriated to those accounts are used for an activity for which funds have been appropriated to, or are more appropriately made available from, accounts of the Department for procurement, research, development, test, and evaluation, or military construction.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review conducted under subsection (a).

SEC. 363. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services that is expected to have a value in excess of $100,000.

"(2) If the Secretary determines that Department of Defense personnel have the capability to perform the services to be covered by the contract, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement to perform a cost comparison study under subsection (a)(2) based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410l of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

(c) EFFECTIVE DATE.—Section 2410l of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

SEC. 364. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the review carried out under subsection (a).

Subtitle H—Other Matters

SEC. 371. ARMED FORCES RETIREMENT HOME.

(a) INCREASED MAXIMUM LIMITATION ON DEDUCTIONS FROM PAY.—Section 1007(i)(1) of title 37, United States Code, is amended by striking out "50 cents" and inserting in lieu thereof "$1.00".

(b) MODIFICATION OF FEES PAID BY RESIDENTS.—(1) Paragraph (2) of section 1514(c) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414(c)) is amended to read as follows:

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.".

(2)(A) Subsections (d) and (e) of section 1514 of such Act are repealed.

(B) Such section is further amended by adding after subsection (c) the following new subsection (d):

"(d) APPLICATION OF FEES.—Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

"(1) In the case of a permanent health care resident—

"(A) in fiscal year 1998, 35 percent;
"(B) in fiscal year 1999, 45 percent; and
"(C) in fiscal year 2000, 65 percent.

"(2) In the case of a resident who is not a permanent health care resident—

"(A) in fiscal year 1998, 30 percent;
"(B) in fiscal year 1999, 35 percent; and
"(C) in fiscal year 2000, 40 percent.".

(c) MODERNIZATION OF FACILITIES.—(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home.

(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on January 1, 1995, and apply to years that begin on or after that date.

(2) The amendments made by subsection (b) shall take effect on October 1, 1997.

SEC. 372. LIMITATION ON USE OF APPROPRIATED FUNDS FOR OPERATION OF ARMED FORCES RECREATION CENTER, EUROPE.

(a) LIMITATION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§2247. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation

"(a) LIMITATION.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

"(b) EXCEPTION.—Subsection (a) does not apply to the use of funds for the payment of utilities, real property maintenance, and transportation of products made in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.".

SEC. 373. LIMITATION ON RETENTION OF MORALE, WELFARE, AND RECREATION FUNDS BY MILITARY INSTALLATIONS.

(a) LIMITATION.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2219. Retention of morale, welfare, and recreation funds by military installations: limitation

"Amounts may not be retained in a nonappropriated morale, welfare, and recreation account of a military installation of a military department in excess of the amount necessary to meet cash requirements of that installation. Amounts in excess of that amount shall be transferred to a single, department-wide nonappropriated morale, welfare, and recreation account of the military department.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2219. Retention of morale, welfare, and recreation funds by military installations: limitation.".

SEC. 374. SHIPS' STORES.

(a) EXTENSION OF DEADLINE FOR CONVERSION.—Section 371(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1634; 10 U.S.C. 7604 note) is amended by striking out "October 1, 1994" and inserting in lieu thereof "December 31, 1995".

(b) MODIFICATION OF EFFECTIVE DATE.—Section 371(d) of such Act is amended by striking out "shall take effect on the date on which the Secretary of the Navy completes the conversion referred to in subsection (a)" and inserting in lieu thereof "shall take effect on October 1, 1994".

SEC. 375. OPERATION OF MILITARY EXCHANGE AND COMMISSARY STORE AT NAVAL AIR STATION FORT WORTH, JOINT RESERVE CENTER, CARSWELL FIELD.

The Secretary of Defense shall provide for the operation by the Army and Air Force Exchange Service, until December 31, 1995, of any military exchange and commissary store located at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.

SEC. 376. DISPOSITION OF PROCEEDS FROM OPERATION OF THE NAVAL ACADEMY LAUNDRY.

Section 6971 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a)"; and

(B) in the first sentence, by striking out "and the Academy dairy" and inserting in lieu thereof "the Academy dairy, and the Academy laundry"; and

(2) by striking out subsection (b).

SEC. 377. AUTHORITY TO ISSUE MILITARY IDENTIFICATION CARDS TO SO-CALLED HONORARY RETIREES OF THE NAVAL AND MARINE CORPS RESERVES.

(a) AUTHORITY.—The Secretary of the Navy may issue a military identification card to a member of the Retired Reserve described in subsection (b).

(b) COVERED MEMBERS.—A member of the Retired Reserve referred to in subsection (a) is a member of the Naval Reserve or Marine Corps Reserve who transferred to the Retired Reserve under section 274(2) of title 10, United States Code, without having completed the years of service required under section 1331(a)(2) of such title for eligibility for retired pay under chapter 67 of such title.

(c) EFFECT ON COMMISSARY AND EXCHANGE BENEFITS.—The issuance of a military identification card under subsection (a) to a member of the Retired Reserve does not confer eligibility for commissary and exchange benefits on that member.

(d) LIMITATION ON COLOR AND FORMAT.—The Secretary shall ensure that the color and format in which a military identification card is issued under subsection (a) is not similar to the color and format in which a military identification card is issued by the Department of Defense to individuals other than members described in subsection (b).

SEC. 378. REPEAL OF ANNUAL LIMITATION ON EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES OF THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL.

Section 127(c) of title 10, United States Code, is amended—

(1) by striking out "(1)" after "(c)"; and

(2) by striking out paragraph (2).

SEC. 379. TRANSFER OF CERTAIN EXCESS DEPARTMENT OF DEFENSE PROPERTY TO EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS.

(a) AUTHORITY TO TRANSFER.—Subparagraph (G) of section 2535(b)(1) of title 10, United States Code, is amended to read as follows:

"(G) notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property is in the public interest.".

(b) TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993.—Except for property determined by the Secretary of Defense to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code, or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before October 23, 1992) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.

SEC. 380. OPERATION OF OVERSEAS FACILITIES OF THE DEPARTMENT OF DEFENSE BY UNITED STATES FIRMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, to the maximum extent practicable, the Secretary of Defense should give a preference to United States firms in the award of contracts to operate Department of Defense facilities not in the United States that provide goods and services to members of the Armed Forces and the dependents of such members.

(b) DEFINITION.—In this section, the term "United States firm" has the meaning given such term in section 2532(d)(1) of title 10, United States Code.

SEC. 381. REQUIREMENTS FOR AUTOMATED INFORMATION SYSTEMS OF THE DEPARTMENT OF DEFENSE.

(a) DETERMINATION REQUIRED.—(1) Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall—

(A) determine whether each automated information system described in paragraph (2) meets the requirements set forth in subsection (b); and

(B) take appropriate action to end the modernization or development by the Department of Defense of any such system that the Secretary determines does not meet such requirements.

(2) An automated information system referred to in paragraph (1) is an automated information system—

(A) that is undergoing modernization or development by the Department of Defense;

(B) that exceeds $50,000,000 in value; and

(C) that is not a migration system, as determined by the Enterprise Integration Executive Board of the Department of Defense.

(b) REQUIREMENTS.—The use of an automated information system by the Department of Defense shall—

(1) contribute to the achievement of Department of Defense strategies for the use of automated information systems;

(2) as determined by the Secretary, provide an acceptable benefit from the investment in the system or make a substantial contribution to the performance of the defense mission for which the system is used;

(3) comply with Department of Defense directives applicable to life cycle management of automated information systems; and

(4) be based on guidance developed under subsection (c).

(c) GUIDANCE FOR USE.—The Secretary of Defense shall develop guidance for the use of automated information systems by the Department of Defense. In developing the guidance, the Secretary shall consider the following:

(1) Directives of the Office of Management and Budget applicable to returns of investment for such systems.

(2) A sound, functional economic analysis.

(3) Established objectives for the Department of Defense information infrastructure.

(4) Migratory assessment criteria, including criteria under guidance provided by the Defense Information Systems Agency.

(d) WAIVER.—(1) The Secretary of Defense may waive the requirements of subsection (a) for an automated information system if the Secretary determines that the purpose for which the system is being modernized or developed is of compelling military importance.

(2) If the Secretary exercises the waiver authority provided in paragraph (1), the Secretary shall include the following in the next report required by subsection (f):

(A) The reasons for the failure of the automated information system to meet all of the requirements of subsection (b).

(B) A determination of whether the system is expected to meet such requirements in the future, and if so, the date by which the system is expected to meet the requirements.

(e) PERFORMANCE MEASURES AND MANAGEMENT CONTROLS.—(1) The Secretary of Defense shall establish performance measures and management controls for the supervision and management of the activities described in paragraph (2). The performance measures and management controls shall be adequate to ensure, to the maximum extent practicable, that the Department of Defense receives the maximum benefit possible from the development, modernization, operation, and maintenance of automated information systems.

(2) The activities referred to in paragraph (1) are the following:

(A) Accelerated implementation of migration systems.

(B) Establishment of data standards.

(C) Process improvement.

(f) REPORTS.—Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the establishment and implementation of the performance measures and management controls referred to in subsection (e)(1). Each such report shall also specify—

(1) the automated information systems that, as determined under subsection (a), meet the requirements of subsection (b);

(2) the automated information systems that, as determined under subsection (a), do not meet the requirements of subsection (b) and the action taken by the Secretary to end the use of such systems; and

(3) the automated information systems that, as determined by the Enterprise Integration Executive Board, are migration systems.

(g) REVIEW BY COMPTROLLER GENERAL.—Not later than April 30, 1995, the Comptroller General of the United States shall submit to Congress a report that contains an evaluation of the following:

(1) The progress made by the Department of Defense in achieving the goals of the corporate information management program of the Department.

(2) The progress made by the Secretary of Defense in establishing the performance measures and management controls referred to in subsection (e)(1).

(3) The progress made by the Department of Defense in using automated information systems that meet the requirements of subsection (b).

(4) The report required by subsection (f) to be submitted in 1995.

(h) DEFINITIONS.—In this section:

(1) The term "automated information system" means an automated information system of the Department of Defense described in the exhibits designated as "IT-43" in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code.

(2) The term "migration system" has the meaning given such term in the document entitled "Department of Defense Strategy for Acceleration of Migration Systems and Data Standards" attached to the memorandum of the Department of Defense dated October 13, 1993 (relating to accelerated implementation of migration systems, data standards, and process improvement).

SEC. 382. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) EXTENSION.—Section 378 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2387; 113 U.S.C. note) is amended by striking out "1995" in subsections (a) and (b) and inserting in lieu thereof "1996".

(b) REPORT.—(1) Not later than March 31, 1995, the Executive Director of the 50th Anniversary of World War II Commemoration Committee established by the Department of Defense shall submit to the Secretary of Defense a report on the reimbursement of a person for expenses incurred by that person in providing voluntary support for activities and programs conducted under the commemoration program referred to in section 378(a) of such Act. The report shall include the recommendations of the Committee on whether such reimbursement is appropriate, and if so, the extent of the reimbursement and the conditions upon which it should be provided.

(2) Not later than 45 days after receiving the report referred to in paragraph (1), the Secretary of Defense shall submit the report to the Committees on Armed Services of the Senate and House of Representatives together with any comments of the Secretary regarding that report.

SEC. 383. ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) ASSISTANCE.—The following amounts shall be available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross:

(1) For fiscal year 1995, $14,500,000 of the amount authorized to be appropriated in section 301(5).

(2) For each of fiscal years 1996 and 1997, $14,500,000 of the amount authorized to be appropriated for the Department of Defense for that fiscal year for operation and maintenance for Defense-wide activities.

(b) REPORT.—Not later than November 30 in each of 1994, 1995, and 1996, the Secretary of Defense shall submit to Congress a report on whether it is necessary for the Department of Defense to support the emergency communications services of the American National Red Cross in order to provide such services for members of the Armed Forces and their families. The report shall include the following:

(1) An estimate of the amount of funds necessary to provide such support.

(2) A projection of the date upon which the American National Red Cross can assume full financial responsibility for providing such emergency communications services.

(3) An assessment of the alternatives available to the Secretary for obtaining such emergency communications services, including the provision of such services by the Department of Defense.

SEC. 384. CLARIFICATION OF AUTHORITY TO PROVIDE MEDICAL TRANSPORTATION UNDER NATIONAL GUARD PILOT PROGRAM.

Paragraph (1) of section 376(h) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended to read as follows:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.".

SEC. 385. NATIONAL GUARD ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Chapter 5 of title 32, United States Code, is amended by adding at the end the following:

"§508. Assistance for certain youth and charitable organizations

"(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

"(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

"(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

"(3) National Guard personnel will enhance their military skills as a result of providing such services; and

"(4) the provision of the services will not result in a significant increase in the cost of the training.

"(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

"(1) Ground transportation.

"(2) Air transportation in support of Special Olympics.

"(3) Administrative support services.

"(4) Technical training services.

"(5) Emergency medical assistance and services.

"(6) Communications services.

"(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

"(d) ELIGIBLE ORGANIZATIONS.—The organizations eligible to receive services under this section are as follows:

"(1) The Boy Scouts of America.

"(2) The Girl Scouts of America.

"(3) The Boys Clubs of America.

"(4) The Girls Clubs of America.

"(5) The Young Men's Christian Association.

"(6) The Young Women's Christian Association.

"(7) The Civil Air Patrol.

"(8) The United States Olympic Committee.

"(9) The Special Olympics.

"(10) The Campfire Boys.

"(11) The Campfire Girls.

"(12) The 4-H Club.

"(13) The Police Athletic League.

"(14) Any other youth or charitable organization designated by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"508. Assistance for certain youth and charitable organizations.".

SEC. 386. ONE-YEAR EXTENSION OF CERTAIN PROGRAMS.

(a) DEMONSTRATION PROJECT FOR USE OF PROCEEDS FROM THE SALE OF CERTAIN PROPERTY.—(1) Section 343(d)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1344) is amended by striking out "terminate on December 5, 1994" and inserting in lieu thereof "terminate on December 5, 1995".

(2) Section 343(e) of such Act is amended by striking out "February 3, 1995" and inserting in lieu thereof "February 3, 1996".

(b) AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.—Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1684) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(c) AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES.—Section 2468(f) of title 10, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

SEC. 387. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 510,000.

(2) The Navy, 441,641.

(3) The Marine Corps, 174,000.

(4) The Air Force, 400,051.

SEC. 402. TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR ARMY MAJORS AND LIEUTENANT COLONELS.

(a) VARIATION AUTHORIZED.—In the administration of the limitation under section 523(a)(1) of title 10, United States Code, for fiscal years 1995 through 1997, the numbers applicable to officers of the Army serving on active duty in the grades of major and lieutenant colonel shall be the numbers set forth for that fiscal year in subsection (b) (rather than the numbers determined in accordance with the table in that section).

(b) NUMBERS FOR FISCAL YEARS 1995 THROUGH 1997.—The numbers referred to in subsection (a) are as follows:

Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1995	12,603	8,506
1996	12,870	8,646
1997	12,870	8,646.

SEC. 403. EXTENSION OF TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1639; 10 U.S.C. 523 note) is amended by striking out "and 1995" and inserting in lieu thereof "through 1997"

(b) LIMITATION.—The table in subsection (b) of such section is amended to read as follows:

"Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1994	3,023	1,578
1995	3,157	1,634
1996	3,157	1,634
1997	3,157	1,634.".

(c) CLERICAL AMENDMENT.—The caption of subsection (b) of such section is amended by striking out "AND 1995.—" and inserting in lieu thereof "THROUGH 1997.—".

SEC. 404. INCREASE IN AUTHORIZED STRENGTH FOR MARINE CORPS GENERAL OFFICERS ON ACTIVE DUTY AFTER FISCAL YEAR 1995.

Section 526(a)(4) of title. 10, United States Code, is amended by striking out "before October 1, 1995," and all that follows through "that date".

SEC. 405. MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS.

(a) IN GENERAL.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) An officer while serving in a position specified in section 604(b) of this title, if serving in the grade of general or admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above major general or rear admiral, as the case may be, under the first sentence of paragraph (1) or (2), as applicable.

"(B) Subparagraph (A) does not apply in the case of an officer serving in such a position if the Secretary of Defense, when considering officers for recommendation to the President for appointment to fill the vacancy in that position which was filled by that officer, did not have a recommendation for that appointment from each Secretary of a military department who (pursuant to section 604(a) of this title) was required to make such a recommendation.

"(C) This paragraph shall cease to be effective at the end of September 30, 1997.".

(b) LIMITATION ON NUMBER OF 4-STAR POSITIONS.—(1) Chapter 32 of such title is amended by adding at the end the following new section:

"§528. Limitation on number of officers on active duty in grades of general and admiral

"(a) LIMITATION.—The total number of officers on active duty after September 30, 1995, in the Army, Air Force, and Marine Corps in the grade of general and in the Navy in the grade of admiral may not exceed 32.

"(b) EXCEPTIONS.—The limitation in subsection (a) does not apply in the case of an officer serving in the grade of general or admiral in a position that is specifically exempted by law from being counted for purposes of limitations by law on the total number of officers that may be on active duty in the grades of general and admiral or the number of officers that may be on active duty in that officer's armed force in the grade of general or admiral.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"528: Limitation on number of officers on active duty in grades of general and admiral.".

(c) GREATER SERVICE COMPETITION FOR JOINT 4-STAR POSITIONS.—(1) Chapter 35 of such title is amended by adding at the end the following new section:

"§604. Senior joint officer positions: recommendations to the Secretary of Defense

"(a) JOINT 4-STAR OFFICER POSITIONS.—(1) Whenever a vacancy occurs, or is anticipated to occur, in a position specified in subsection (b)—

"(A) the Secretary of Defense shall require the Secretary of the Army to submit the name of at least one Army officer, the Secretary of the Navy to submit the name of at least one Navy officer and the name of at least one Marine Corps officer, and the Secretary of the Air Force to submit the name of at least one Air Force officer for consideration by the Secretary for recommendation to the President for appointment to that position; and

"(B) the Chairman of the Joint Chiefs of Staff may submit to the Secretary of Defense the name of one or more officers (in addition to the officers whose names are submitted pursuant to subparagraph (A)) for consideration by the Secretary for recommendation to the President for appointment to that position.

"(2) Whenever the Secretaries of the military departments are required to submit the names of officers under paragraph (1)(A), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that paragraph (and of any officer whose name the Chairman submits to the Secretary under paragraph (1)(B) for consideration for the same vacancy). The Chairman's evaluation shall primarily consider the performance of the officer as a member of the Joint Staff and in other joint duty assignments, but may include consideration of other aspects of the officer's performance as the Chairman considers appropriate.

"(b) COVERED POSITIONS.—Subsection (a) applies to the following positions:

"(1) Commander of a combatant command.

"(2) Commander, United States Forces, Korea.

"(3) Deputy commander, United States European Command, but only if the commander of that command is also the Supreme Allied Commander, Europe.

"(c) EXPIRATION.—This section shall cease to be effective at the end of September 30, 1997.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"604. Senior joint officer positions: recommendations to the Secretary of Defense.".

(d) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on the implementation of the amendments made by this section. The report shall include an assessment of the effectiveness of those amendments in meeting the objective of encouraging more competition among all services for appointment of officers to joint three-star and four-star positions. The report may include such additional recommendations concerning general and flag officer selection policy as the Secretary considers appropriate.

SEC. 406. TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY.

The officer serving as Superintendent of the United States Naval Academy on the date of the enactment of this Act, while so serving, shall not be counted for purposes of the limitations contained in section 525(b)(2) of title 10, United States Code.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1995, as follows:

(1) The Army National Guard of the United States, 400,000.

(2) The Army Reserve, 242,000.

(3) The Naval Reserve, 102,960

(4) The Marine Corps Reserve, 42,000.

(5) The Air National Guard of the United States, 115,581.

(6) The Air Force Reserve, 78,706.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may increase the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be reduced proportionately by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1995, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,650.

(2) The Army Reserve, 11,940.

(3) The Naval Reserve, 17,510.

(4) The Marine Corps Reserve, 2,285.

(5) The Air National Guard of the United States, 9,098.

(6) The Air Force Reserve, 648.

SEC. 413. DELAY IN INCREASE IN NUMBER OF ACTIVE COMPONENT MEMBERS TO BE ASSIGNED FOR TRAINING COMPATIBILTY WITH GUARD UNITS.

Section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 261 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1996".

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) In General.—For fiscal year 1995, the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 69,420.

(2) The Navy, 43,064.

(3) The Marine Corps, 25,377.

(4) The Air Force, 36,840.

(b) Scope.—The average military training student load authorized for an armed force under subsection (a) applies to the active and reserve components of that armed force.

(c) Adjustments.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1995 a total of $70,938,597,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1995.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. CONSISTENCY OF WARRANT OFFICER PERSONNEL MANAGEMENT POLICIES WITH POLICIES APPLICABLE TO OTHER OFFICERS.

(a) Exception From Mandatory Consideration by Promotion Board.—Section 575(d) of title 10, United States Code, is amended by inserting "(except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

(b) Secretarial Submission of Promotion Board Report.—Section 576(f)(1) of such title is amended by striking out the second sentence.

(c) Certain Promotion Formalities Deemed Completed.—Section 578 of such title is amended by adding at the end the following new subsections:

"(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

"(f) A warrant officer who has served continuously as an officer since subscribing to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.".

(d) Clarificiation of Warrant Officers Subject to WOMA Authorities.—Section 582(2) of such title is amended by inserting before the period at the end the following: "(other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date)".

SEC. 502. AUTHORITY FOR ORIGINAL REGULAR APPOINTMENTS OF NAVY AND MARINE CORPS LIMITED DUTY OFFICERS SERVING IN GRADES ABOVE PAY GRADE O-3 UNDER TEMPORARY APPOINTMENTS.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) An officer described in paragraph (2) may be given an original appointment as a regular officer of the Navy or the Marine Corps, as the case may be, in the grade, and with the date of rank in that grade, in which the officer is serving on the day before such original appointment.

"(2) This subsection applies to an officer of the Navy and Marine Corps who—

"(A) is on the active-duty list;

"(B) holds a permanent enlisted or warrant officer grade;

"(C) is designated for limited duty under subsection (a) of section 5596 of this title; and

"(D) is serving in the grade of lieutenant commander or commander, or in the grade of major or lieutenant colonel, under a temporary appointment under subsection (d) of section 5596 of this title.".

SEC. 503. NAVY AND MARINE CORPS LIMITED DUTY OFFICERS TWICE HAVING FAILED OF SELECTION FOR PROMOTION.

(a) Treatment of LDOs Twice Having Failed of Selection.—Section 6383 of title 10, United States Code, is amended—

(1) by redesignating subsections (g), (h), (i), and (j) as subsections (i), (j), (k), and (l), respectively; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) 18-Year Retirement Sanctuary.—If an officer subject to discharge under subsection (b), (d), or (e) is (as of the date on which the officer is to be discharged) not eligible for retirement under any provision of law but is within two years of qualifying for retirement under section 6323 of this title, the officer shall be retained on active duty as an officer designated for limited duty until becoming qualified for retirement under that section and shall then be retired under that section, unless the officer is sooner retired or discharged under another provision of law or the officer reverts to a warrant officer grade pursuant to subsection (h).

"(g) Reenlistment for LDOs Appointed From Enlisted Grades.—(1) An officer subject to discharge under subsection (b), (d), or (e) who is described in paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in a grade prescribed by the Secretary upon the officer's discharge pursuant to such subsection.

"(2) An officer described in this paragraph is an officer who—

"(A) is not eligible for retirement under any provision of law;

"(B) is not covered by subsection (f); and

"(C) was in an enlisted grade when first appointed as an officer designated for limited duty.

"(h) Reversion to Warrant Officer Grade for LDOs Appointed From Warrant Officer Grades.—An officer subject to discharge under subsection (b), (d), or (e) (including an officer otherwise subject to retention under subsection (f)) who is not eligible for retirement under any provision of law and who had the permanent status of a warrant officer when first appointed as an officer designated for limited duty may, at the officer's option, revert to the warrant officer grade and status that the officer would hold if the officer had not been appointed as an officer designated for limited duty.".

(b) Clarification of Officers Subject to Selective Retention.—Subsection (k) of such section (as redesignated by subsection (a)(1)) is amended by striking out "or the discharge under subsection (d)" in the first sentence and inserting in lieu thereof "or the discharge under subsection (b) or (d)".

(c) Conforming Amendments.—Such section is further amended—

(1) in subsection (a) by striking out "Except as provided in subsection (i)," each place it appears and inserting in lieu thereof "Except as provided in subsection (k),"; and

(2) in subsections (b) and (d), by striking out "Except as provided in subsection (i)," and inserting in lieu thereof "Except as provided in subsections (f) and (k),".

(d) Subsection Headings.—Such section is further amended as follows:

(1) Subsection (a) is amended by striking out "(a)(1)" and inserting in lieu thereof "(a) Mandatory Retirement.—(1)".

(2) Subsection (b) is amended by inserting "Lieutenant Commanders and Majors Who Twice Fail of Selection for Promotion.—" after "(b)".

(3) Subsection (c) is amended by inserting "Retired Grade and Retired Pay.—" after "(c)".

(4) Subsection (d) is amended by inserting "Navy Lieutenants and Marine Corps Captains Who Twice Fail of Selection for Promotion.—" after "(d)".

(5) Subsection (e) is amended by striking out "(e)(1)" and inserting in lieu thereof "(e) Officers in Pay Grades O–2 and O–1 Who Twice Fail of Selection for Promotion or Are Found Not Qualified for Promotion.—(1)".

(6) Subsection (i) (as redesignated by subsection (a)(1)) is amended by inserting "Determination of Grade and Status of Officers Reverting to Prior Status.—" after "(i)".

(7) Subsection (j) (as redesignated by subsection (a)(1)) is amended by inserting "Separation Pay for Officers Discharged.—" after "(j)".

(8) Subsection (k) (as redesignated by subsection (a)(1)) is amended by inserting "Selective Retention Boards for LDOs.—" after "(k)".

(9) Subsection (l) (as redesignated by subsection (a)(1)) is amended by inserting "Applicability of Section Only to Permanent LDOs.—" after "(l)".

SEC. 504. SELECTION FOR DESIGNATED JUDGE ADVOCATE GENERAL AND FLAG OFFICER POSITIONS.

(a) ARMY.—Section 3037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or Assistant Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(b) NAVY AND MARINE CORPS.—(1) Section 5148 of such title is amended—

(A) in subsection (b), by striking out the last sentence and and inserting in lieu thereof the following: "If an officer appointed as the Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."; and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(2) Section 5149(a) of such title is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out the second and third sentences and inserting in lieu thereof the following: "If an officer appointed as the Deputy Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."; and

(C) by adding at the end the following:

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(3) Section 5133 of such title is amended—

(A) in subsection (a)—

(i) by striking out "or the Judge Advocate General" in the first sentence; and

(ii) by striking out the second sentence; and

(B) in the first sentence of subsection (b)—

(i) by striking out "or the Judge Advocate General" both places it appears; and

(ii) by striking out "or major general, as appropriate".

(4) Section 5046 of such title—

(A) in subsection (a), by striking out the second sentence and inserting in lieu thereof the following: "If an officer appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a lower regular grade, the officer shall be appointed in the regular grade of brigadier general."; and

(B) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Staff Judge Advocate to the Commandant of the Marine Corps, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(5) The heading of section 5133, and the item relating to that section in the table of sections at the beginning of chapter 513 of such title, are each amended by striking out the third through sixth words.

(c) AIR FORCE.—Section 8037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

Subtitle B—Reserve Component Matters

SEC. 511. INCREASED PERIOD OF ACTIVE DUTY FOR RESERVE FORCES MOBILIZED OTHER THAN DURING WAR OR NATIONAL EMERGENCY.

(a) REVISION TO PERIOD OF ACTIVE DUTY.—Section 673b of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "90 days" and inserting in lieu thereof "270 days"; and

(2) by striking out subsection (i).

(b) REPORT REQUIRED.—(1) Not later than April 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the desirability of increasing the authority of the President to order units and members of the reserve components to active duty without the consent of the members concerned.

(2) The report shall include the following:

(A) An analysis of options for increased presidential authority.

(B) An assessment of the effects of each option on recruiting, retention, employer support for the reserve components, and the families of members of the reserve components.

(C) Programs that the Secretary recommends to mitigate any negative effects.

(D) Any option that the Secretary recommends.

(E) Any proposed legislation that the Secretary considers necessary to implement any recommended option.

SEC. 512. RESERVE GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

Section 526 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(d) NOTICE TO CONGRESS UPON CHANGE IN GRADE FOR CERTAIN POSITIONS.—(1) Not later than 60 days before an action specified in paragraph (2) may become effective, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing notice of the intended action and an analytically based justification for the intended action.

"(2) Paragraph (1) applies in the case of the following actions:

"(A) A change in the grade authorized as of July 1, 1994, for a general officer position in the National Guard Bureau, a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command.

"(B) Assignment of a reserve component officer to a general officer position in the the National Guard Bureau, to a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command in a grade other the grade authorized for that position as of July 1, 1994.

"(C) Assignment of an officer other than a general or flag officer as the military executive to the Reserve Forces Policy Board.

"(e) EXCLUSION OF CERTAIN OFFICERS.—The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for training or who is on active duty under a call or order specifying a period of less than 180 days.".

SEC. 513. REVIEW OF OPPORTUNITIES FOR ORDERING INDIVIDUAL RESERVES TO ACTIVE DUTY WITH THEIR CONSENT.

(a) REVIEW REQUIRED.—The Secretary of Defense shall—

(1) review the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) identify and remove any impediments, in regulations or other administrative rules, to increasing those opportunities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review. The report shall contain—

(1) a plan for increasing the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) a draft of any additional legislation that the Secretary considers necessary in order to increase those opportunities.

SEC. 514. DEFINITION OF ACTIVE GUARD AND RESERVE DUTY.

Section 101(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph (6):

"(6)(A) The term 'active Guard and Reserve duty' means active duty or full-time National Guard duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard, pursuant to an order to active duty or full-time National Guard duty for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

"(B) Such term does not include the following:

"(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 175 of this title.

"(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

"(iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.

"(iv) Duty performed as a general or flag officer.

"(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2))."

SEC. 515. REPEAL OF OBSOLETE PROVISIONS PERTAINING TO TRANSFER OF RETIRED REGULAR ENLISTED MEMBERS TO RESERVE COMPONENTS.

(a) ARMY.—Section 3914 of title 10, United States Code, is amended by striking out the second and third sentences.

(b) AIR FORCE.—Section 8914 of such title is amended by striking out the second and third sentences.

SEC. 516. SEMIANNUAL REPORT ON SEPARATIONS OF ACTIVE ARMY OFFICERS.

Section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of

Public Law 102–484; 106 Stat. 2536) is amended by adding at the end the following new subsection:

"(e) LIST OF CERTAIN SEPARATED OFFICERS.—On a semiannual basis, the Secretary of the Army shall furnish to the Chief of the National Guard Bureau a list containing the name, home of record, and last-known mailing address of each officer of the Army who during the previous six months was honorably separated from active duty in the grade of major or below.".

SEC. 517. EARLY RESERVE RETIREMENT ELIGIBILITY FOR DISABLED MEMBERS OF SELECTED RESERVE.

Section 1331a(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.".

SEC. 518. ANNUAL PAYMENTS FOR MEMBERS RETIRED UNDER GUARD AND RESERVE TRANSITION INITIATIVE.

(a) ANNUAL PAYMENT FOR ONE TO FIVE YEARS.—Subsection (d) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1162 note) is amended—

(1) by striking out "for 5 years" and inserting in lieu thereof "for a period of years prescribed by the Secretary concerned";

(2) by striking out "the 5-year period" and inserting in lieu thereof "that period"; and

(3) by adding at the end the following: "A period prescribed for purposes of this subsection may not be less than one year nor more than five years.".

(b) COMPUTATION OF ANNUAL PAYMENT.—Subsection (e) of such section is amended by adding at the end the following:

"(3) In the case of a member who will attain 60 years of age during the 12-month period following the date on which an annual payment is due, the payment shall be paid on a prorated basis of one-twelfth of the annual payment for each full month between the date on which the payment is due and the date on which the member attains age 60.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to payments to a member of the Armed Forces under subsection (b) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484) that are granted by the Secretary of Defense to that member after the date of the enactment of this Act.

SEC. 519. EDUCATIONAL REQUIREMENTS FOR APPOINTMENT IN RESERVE COMPONENTS IN GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

Section 596 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "an accredited educational institution" and inserting in lieu thereof "a qualifying educational institution"; and

(2) by adding at the end the following new subsection:

"(c) QUALIFYING EDUCATIONAL INSTITUTIONS.—(1) A qualifying educational institution for purposes of this section is an educational institution that is accredited or that meets the requirements of paragraph (2).

"(2)(A) An unaccredited educational institution shall be considered to be a qualifying educational institution for purposes of the appointment or recognition of a person who is a graduate of that institution if the Secretary concerned determines that (as of the year of the graduation of that person from that institution) at least three educational institutions that are accredited and that maintain Reserve Officers' Training Corps programs each generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of those courses.

"(B) In order to assist the Secretary concerned in making determinations under subparagraph (A), any unaccredited institution that seeks to be considered to be a qualifying educational institution for purposes of this paragraph shall submit to the Secretary of Defense each year such information as the Secretary may require concerning the program of instruction at that institution.

"(C) In the case of a person with a degree from an unaccredited institution that is a qualifying educational institution under this paragraph, the degree may not have been awarded more than three years before the date on which the person is to be appointed to, or recognized in, the grade of captain or, in the case of the Naval Reserve, lieutenant, in order for that person to be considered for purposes of subsection (a) to have been awarded a baccalaureate degree by a qualifying educational institution.".

SEC. 520. LIMITED EXCEPTION FOR ALASKA SCOUT OFFICERS FROM BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT AS OFFICER IN NATIONAL GUARD ABOVE FIRST LIEUTENANT.

(a) IN GENERAL.—Subsection (b) of section 596 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Recognition in the grade of captain or major in the Alaska Army National Guard of a person who resides permanently at a location in Alaska that is more than 50 miles from each of the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road and who is serving in a Scout unit or a Scout supporting unit.".

(b) CONFORMING STYLISTIC AMENDMENTS.—Such subsection is further amended by striking out "an individual" in paragraphs (2) and (3) and inserting in lieu thereof "a person".

SEC. 521. SENSE OF CONGRESS CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The force structure specified in the report resulting from the Bottom Up Review conducted by the Department of Defense during 1993 assumes increased reliance on the reserve components of the Armed Forces.

(2) The mobilization of the reserve components for the Persian Gulf War was handicapped by shortfalls in training, readiness, and equipment.

(3) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Army Reserve units before they could be deployed.

(4) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training.

(5) Funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces.

(b) STANDARD EVALUATION SYSTEM.—It is the sense of Congress that the Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, should establish—

(1) a standard readiness evaluation system that is uniform for all forces within each military service; and

(2) a standard readiness rating system that is uniform for the military departments.

(c) MILITARY DEPARTMENT BUDGETS.—It is the sense of Congress that the Secretary of Defense should assess the budget submission of each military department each year to determine (taking into consideration the advice of the Chairman of the Joint Chiefs of Staff) the extent to which National Guard and reserve units would, under that budget submission, be trained and modernized to the standards needed for them to carry out the full range of missions required of them under current Department of Defense plans. Based upon such assessment each year, the Secretary should adjust the budget submissions of the military departments as necessary in order to meet the priorities established by the Secretary of Defense for the total force.

Subtitle C—Victims' Rights, Family Advocacy, and Nondiscrimination Provisions

SEC. 531. PROHIBITION OF RETALIATORY ACTIONS AGAINST MEMBERS OF THE ARMED FORCES MAKING ALLEGATIONS OF SEXUAL HARASSMENT OR UNLAWFUL DISCRIMINATION.

(a) IN GENERAL.—Subsection (b) of section 1034 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "No person may take";

(2) by designating the second sentence as paragraph (2) and in that sentence striking out "the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(3) in the first sentence, by striking out "or preparing" and all that follows through "may not be restricted." and inserting in lieu thereof the following: "or preparing—

"(A) a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted; or

"(B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—

"(i) a Member of Congress;

"(ii) an Inspector General (as defined in subsection (j));

"(iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization; or

"(iv) any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications.".

(b) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS.—Subsection (c) of such section is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

"(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

"(B) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety."; and

(3) in the subsection heading, by striking out "CERTAIN ALLEGATIONS" and inserting in lieu thereof "ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS".

(c) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF WRONGDOING.—Such section is further amended—

(1) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively; and

(2) by striking out paragraph (4) of subsection (c) and inserting in lieu thereof the following:

"(d) INSPECTOR GENERAL INVESTIGATION OF UNDERLYING ALLEGATIONS.—Upon receiving an allegation under subsection (c), the Inspector General shall conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing (as described in subparagraph (A) or (B) of subsection (c)(2)) if there previously has not been such an investigation or if the Inspector General determines that the original investigation was biased or otherwise inadequate.".

(d) REPORTS ON INVESTIGATIONS.—Such section is further amended—

(1) by striking out "(5) Not later than 30 days" and inserting in lieu thereof "(e) REPORTS ON INVESTIGATIONS.—(1) Not later than 30 days";

(2) in the paragraph redesignated by paragraph (1)—

(A) by striking out "this subsection" and inserting in lieu thereof "subsection (c) or (d)";

(B) by striking out "the member of the armed forces concerned" and inserting in lieu thereof "the member of the armed forces who made the allegation investigated"; and

(C) by striking out the second sentence;

(3) by inserting after the paragraph redesignated by paragraph (1) the following new paragraph:

"(2) In the copy of the report submitted to the member, the Inspector General shall ensure the maximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5.";

(4) by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively; and

(5) in paragraph (3), as so redesignated, by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (1)".

(e) DEFINITION.—Subsection (j) of such section, as redesignated by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'unlawful discrimination' means discrimination on the basis of race, color, religion, sex, or national origin.".

(f) CROSS REFERENCE AMENDMENTS.—(1) Subsection (f) of such section, as redesignated by subsection (c)(1), is amended by striking out "subsection (c)(5)" in paragraphs (2)(A), (3)(A)(i), and (3)(B) and inserting in lieu thereof "subsection (e)(1)".

(2) Subsection (g) of such section, as redesignated by subsection (c)(1), is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (f)"

(g) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1034. Protected communications; prohibition of retaliatiory personnel actions".

(2) The table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1034. Protected communications; prohibition of retaliatiory personnel actions.".

(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe regulations to implement the amendments made by this section not later than 120 days after the date of the enactment of this Act.

(i) CONTENT OF REGULATIONS.—In prescribing regulations under section 1034 of title 10, United States Code, as amended by this section, the Secretary of Defense and the Secretary of Transportation shall provide for appropriate procedural protections for the subject of any investigation carried out under the provisions of that section, including a process for appeal and review of investigative findings.

SEC. 532. DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT.

(a) REPORT OF TASK FORCE.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment, constituted by the Secretary of Defense on March 15, 1994, shall transmit a report of its findings and recommendations to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary shall transmit to Congress the report of the task force not later than October 10, 1994.

(b) SECRETARIAL REVIEW.—Not later than 45 days after receiving the report under subsection (a), the Secretary shall—

(1) review the recommendations for action contained in the report;

(2) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(3) submit to Congress a report that—

(A) identifies the approved recommendations and the disapproved recommendations; and

(B) explains the reasons for each such approval and disapproval.

(c) COMPREHENSIVE DOD POLICY.—(1) Based on the approved recommendations of the task force and such other factors as the Secretary considers appropriate, the Secretary shall develop a comprehensive Department of Defense policy for processing complaints of sexual harassment and discrimination involving members of the Armed Forces under the jurisdiction of the Secretary.

(2) The Secretary shall issue policy guidance for the implementation of the comprehensive policy and shall require the Secretaries of the military departments to prescribe regulations to implement that policy not later than March 1, 1995.

(3) The Secretary shall ensure that the policy is implemented uniformly by the military departments insofar as practicable.

(4) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a proposal for any legislation necessary to enhance the capability of the Department of Defense to address the issues of unlawful discrimination and sexual harassment.

(d) MILITARY DEPARTMENT POLICIES.—(1) The Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and procedures in that Department for the making of, and responding to, complaints of unlawful discrimination and sexual harassment in order to ensure that those regulations are substantially equivalent to the regulations of the Department of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy and the Secretary of the Air Force may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen those regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the approved recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(e) REPORT OF ADVISORY BOARD.—(1) The Secretary of Defense shall direct the Advisory Board on the Investigative Capability of the Department of Defense, established by the Secretary of Defense in November 1993, to include in its report to the Secretary (scheduled to be transmitted to the Secretary during December 1994)—

(A) the recommendations of the Advisory Board as to whether the current Department of Defense organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim; and

(B) recommendations as to whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to respond to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim.

(2) The Secretary shall transmit to Congress the report of the Advisory Board not later than 15 days after receiving the report.

(f) PERFORMANCE EVALUATION STANDARDS FOR MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall ensure that Department of Defense regulations governing consideration of equal opportunity matters in evaluations of the performance of members of the Armed Forces include provisions requiring as a factor in such evaluations consideration of a member's commitment to elimination of unlawful discrimination or of sexual harassment in the Armed Forces.

SEC. 533. ANNUAL REPORT ON PERSONNEL READINESS FACTORS BY RACE AND GENDER.

(a) REQUIRED ASSESSMENT.—The Secretary of Defense shall submit to Congress an annual report on trends in recruiting, retention, and personnel readiness.

(b) DATA TO BE COLLECTED.—Each annual report under subsection (a) shall include the following information with respect to the preceding fiscal year for the active components of each of the Armed Forces under the jurisdiction of the Secretary (as well as such additional information as the Secretary considers appropriate):

(1) The numbers of members of the Armed Forces temporarily and permanently nondeployable and rates of temporary and permanent nondeployability, displayed by cause of nondeployability, rank, and gender.

(2) The numbers and rates of complaints and allegations within the Armed Forces that involve gender and other unlawful discrimination and sexual harassment, and the rates of substantiation for those complaints and allegations.

(3) The numbers and rates of disciplinary proceedings, displayed (A) by offense or infraction committed, (B) by gender, rank, and race, and (C) by the categories specified in paragraph (2).

(4) The retention rates, by gender, rank, and race, with an analysis of factors influencing those rates.

(5) The propensity of persons to enlist, displayed by gender and race, with an analysis of the factors influencing those propensities.

(c) SUBMISSION TO CONGRESS.—The Secretary shall submit the report under this section for any fiscal year as part of the annual Department of Defense posture statement provided to Congress in connection with the Department of Defense budget request for that fiscal year.

(d) INITIAL SUBMISSION.—The first report under this section shall be submitted in connection with the Department of Defense budget request for fiscal year 1996 and shall include data, to the degree such data already exists, for fiscal years after fiscal year 1991.

SEC. 534. VICTIMS' ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE.

(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims' advocates program.

(2) Programs of referred to in paragraph (1) are the following:

(A) Victim and witness assistance programs.

(B) Family advocacy programs.

(C) Equal opportunity programs.

(3) In the case of the Department of the Navy, separate victims' advocates programs shall be established for the Navy and the Marine Corps.

(b) PURPOSE.—A victims' advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:

(1) Crime.

(2) Intrafamilial sexual, physical, or emotional abuse.

(3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.

(c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs.

(2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims' advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.

(d) ASSISTANCE.—(1) Under a victims' advocates program established under subsection (a), individuals working in the program shall principally serve the interests of a victim by initiating action to provide (A) information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.

(2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.

(e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims' advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.

(f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act.

(g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation (and plans for implementation) of this section.

SEC. 535. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) EARLIER COMMENCEMENT OF PAYMENTS.—Subsection (e) of section 1059 of title 10, United States Code, as redesignated by section 1070(a)(5) of this Act, is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, shall commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member shall be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(b) COMMISSARY AND EXCHANGE BENEFITS.—Such section is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) COMMISSARY AND EXCHANGE BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to use commissary and exchange stores to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to use commissary and exchange stores under paragraph (1) is eligible or entitled to use commissary and exchange stores under another provision of law, the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores shall be determined under such other provision of law rather than under paragraph (1).".

(c) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits".

(2) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits.".

SEC. 536. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY.—The Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study. The report shall contain the following:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

Subtitle D—Matters Relating to the Coast Guard

SEC. 541. EXTENSION OF WARRANT OFFICER MANAGEMENT ACT PROVISIONS TO COAST GUARD.

(a) ESTABLISHMENT OF PERMANENT GRADE OF CHIEF WARRANT OFFICER, W-5.—(1) The grade of chief warrant officer, W-5, is hereby established in the Coast Guard.

(2) Section 571(a) of title 10, United States Code, is amended by striking out "Army, Navy, Air Force, and Marine Corps" and inserting in lieu thereof "armed forces".

(b) EXTENSION OF WARRANT OFFICER MANAGEMENT ACT PROVISIONS TO COAST GUARD WARRANT OFFICERS.—Chapter 33A of title 10, United States Code, is amended as follows:

(1) Section 573(a) is amended—

(A) by striking out "Secretary of a military department" in paragraph (1) and inserting in lieu thereof "Secretary concerned"; and

(B) by striking out "of the military department" in paragraph (2).

(2) Section 574 is amended by striking out "Secretary of each military department" in subsections (a) and (b) and inserting in lieu thereof "Secretary concerned".

(3) Section 575(b)(2) is amended by inserting "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

(4) Section 576 is amended—

(A) in subsection (a), by striking out "of the military department" in the matter preceding paragraph (1);

(B) in subsection (e), by striking out "of the military department"; and

(C) in subsection (f)(2), by striking out "of the military department".

(5) Section 580 is amended—

(A) in subsection (a)(4)(B), by inserting ", or severance pay computed under section 286a of title 14, as appropriate," after "section 1174 of this title"; and

(B) in subsection (e)(6), by inserting "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

(6) Section 581(a) is amended by striking out "in the Army, Navy, Air Force, or Marine Corps".

(c) TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1) A regular warrant officer of the Coast Guard who on the effective date of this section is on active duty and—

(A) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade;

(B) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer W–5; or

(C) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which that warrant officer is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as amended by this subsection (b), for promotion to the permanent grade equivalent to the grade in which that warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

(2) An officer referred to in subparagraph (A) of paragraph (1) who is not promoted to the grade to which that warrant officer is considered under such subsection to have been recommended for promotion because that officer's name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the temporary grade in which that warrant officer was serving on the effective date of this section as if that warrant officer were serving in the permanent grade.

(3) The date of rank of an officer referred to in paragraph (1)(A) who is promoted to the grade in which that warrant officer is serving on the effective date of this section is the date of that officer's temporary appointment in that grade.

(d) TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1)(A) Except as provided in paragraph (2), a reserve warrant officer of the Coast Guard who on the effective date of this section is subject to placement on the warrant officer active-duty list and who—

(i) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade; or

(ii) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W–5, that is the same as or higher than that warrant officer's permanent grade;

shall be considered to have been recommended by a board convened under section 598 of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which the warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

(B) The date of rank of a warrant officer referred to in subparagraph (A)(i) who is promoted to the grade in which that warrant officer is considered under such subparagraph to have been recommended for promotion is the date of the temporary appointment of that warrant officer in that grade.

(2) A reserve warrant officer of the Coast Guard who on the effective date of this section—

(A) is subject to placement on the warrant officer active-duty list;

(B) is serving on active duty in a temporary grade; and

(C) holds a permanent grade higher than the temporary grade in which that warrant officer is serving;

shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a grade equal to or lower than the permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, the appointment of that warrant officer to such grade shall be a temporary appointment.

(e) RANK OF COAST GUARD WARRANT OFFICERS.—(1) Subchapter A of chapter 11 of title 14, United States Code, is amended by adding at the end the following new section:

"§215. Rank of warrant officers

"(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

"(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 214 the following new item:

"215. Rank of warrant officers.".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 1125(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 555 note) is repealed.

(2) Section 286a(a) of title 14, United States Code, is amended by striking out "section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)" and inserting in lieu thereof "section 580(a)(4)(A) of title 10".

(3) Section 334(b) of such title is amended by striking out "section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or" and inserting in lieu thereof "section 580,".

(4) Section 41 of such title is amended by striking out "chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1;" and inserting in lieu thereof "chief warrant officers; cadets; warrant officers;".

(5)(A) Sections 212 and 213 of such title are repealed.

(B) The table of sections at the beginning of chapter 11 of such title is amended by striking out the items relating to section 212 and 213.

(6) Section 214 of such title is amended by striking out subsections (b) and (c).

(7) Section 583 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a of title 14.".

(g) TEMPORARY AUTHORITY FOR INVOLUNTARY SEPARATION OF CERTAIN WARRANT OFFICERS.—Section 580a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) This section applies to the Secretary of Transportation in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

SEC. 542. COAST GUARD FORCE REDUCTION TRANSITION BENEFITS.

(a) INVOLUNTARY SEPARATION BENEFITS AND SERVICES.—Chapter 58 of title 10, United States Code, is amended as follows:

(1) Section 1141 is amended in the matter preceding paragraph (1)—

(A) by striking out "Army, Navy, Air Force, or Marine Corps" and inserting in lieu thereof "armed forces"; and

(B) by striking out "or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994,".

(2) Section 1143 is amended—

(A) in the heading, by striking out "**: Department of Defense**";

(B) in subsection (a), by inserting "and the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense" and by striking out "under the jurisdiction of the Secretary";

(C) in subsection (b), by adding at the end the following new sentence: "The Secretary of Transportation shall establish permanent employment assistance centers at appropriate Coast Guard installations.";

(D) in subsection (c), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(E) in subsection (d), by adding at the end the following new sentence: "The Secretary of Transportation shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.".

(3) Section 1143a is amended—

(A) in the heading by striking out "**: Department of Defense**"; and

(B) by adding at the end the following new subsection:

"(h) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department *of Defense. The Secretary of Transportation shall implement the requirements of this section for the Coast Guard.".*

(4) Section 1145 is amended by adding at the end the following new subsection:

"(e) COAST GUARD.—The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the five-year period beginning on October 1, 1994. The Secretary of Transportation shall implement this section for the Coast Guard.".

(5) Section 1146 is amended by adding at the end the following new sentence: "The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the five-year period beginning October 1, 1994.".

(6) Section 1147(a) is amended—

(A) by inserting "(1)" before "The Secretary of a military department"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the five-year period beginning October 1, 1994, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.".

(7) Section 1148 is amended by inserting "and the Secretary of Transportation" after "Secretary of Defense".

(8) Section 1149 is amended—

(A) by inserting "or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense"; and

(B) by striking out "of the military department".

(9) Section 1150 is amended by adding at the end the following new subsection:

"(c) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Transportation shall prescribe regulations to implement this section for the Coast Guard.".

(10) The table of sections at the beginning of the chapter is amended by striking out ": Department of Defense" in the items relating to section 1143 and 1143a.

(b) SPECIAL SEPARATION BENEFIT.—Section 1174a of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "of each military department" and inserting in lieu thereof "concerned";

(2) in subsection (d), by striking out "of a military department" and inserting in lieu thereof "concerned";

(3) in subsection (e)(3), by striking out "of the military department"; and

(4) in subsection (h), by striking out "of a military department" and inserting in lieu thereof "concerned".

(c) VOLUNTARY SEPARATION INCENTIVE.—Section 1175 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by inserting "and the Secretary of Transportation" after "Secretary of Defense";

(2) in subsection (c), by striking out "of the military department";

(3) in subsection (g), by inserting "and the Department of Transportation for the Coast Guard" before the period at the end;

(4) in subsection (h)(3)—

(A) by inserting "by the Secretary of Defense" after "incentive payments made" in the first sentence; and

(B) by inserting "to the Secretary" after "shall be available" in the second sentence; and

(5) in subsection (i), by inserting "and the Secretary of Transportation" after "Secretary of Defense".

(d) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the Coast Guard in the same manner and to the same extent as that provision applies to the Department of Defense. The Secretary of Transportation shall implement the provisions of that section with respect to the Coast Guard and apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994.

SEC. 543. EXPANSION OF PERSONNEL ADJUSTMENT, EDUCATION, AND TRAINING PROGRAMS TO INCLUDE COAST GUARD.

(a) PRESEPARATION COUNSELING.—As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall implement the requirements of section 1142 of title 10, United States Code, for the Coast Guard.

(b) EMPLOYMENT ASSISTANCE, JOB TRAINING ASSISTANCE, AND OTHER TRANSITIONAL ASSISTANCE.—Section 1144 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ", the Secretary of Transportation," after "Secretary of Defense"; and

(B) by striking out "of a military department" and inserting in lieu thereof "concerned";

(2) in subsection (a)(2), by inserting ", the Secretary of Transportation," after "Secretary of Defense";

(3) in subsection (b)(4), by striking out "Department of Defense is" and inserting in lieu thereof "Department of Defense and the Department of Transportation are";

(4) in subsection (c), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(5) in subsection (d)(2), by inserting "and the Department of Transportation" after "Department of Defense".

(c) TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAM.—Section 1151 of such title (as amended by section 1131) is further amended—

(1) in subsection (a), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(2) in subsection (b), by inserting "and the Secretary of Transportation" after "Secretary of Defense" in the matter preceding the paragraphs;

(3) in subsection (c)(1)—

(A) by striking out "by the Secretary of Defense" in the matter preceding the subparagraphs; and

(B) in subparagraph (C), by inserting "of Defense, or the Secretary of Transportation with respect to the Coast Guard," after "Secretary";

(4) in subsection (d), by inserting "and the Secretary of Transportation" after "Secretary of Defense";

(5) in subsection (e)(1)—

(A) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the first sentence; and

(B) by striking out "Secretary may" in the second sentence and inserting in lieu thereof "Secretaries may";

(6) in subsection (e)(2), by striking out "Secretary" the first two places it appears and inserting in lieu thereof "Secretaries";

(7) in subsection (e)(3)—

(A) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary"; and

(B) by inserting "concerned" after "unless the Secretary";

(8) in subsection (e)(4), by striking out "Secretary" both places it appears and inserting in lieu thereof "Secretaries";

(9) in subsection (f)—

(A) by inserting ", or the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the matter preceding the paragraphs; and

(B) in paragraph (1), by inserting "concerned" after "the Secretary";

(10) in subsection (g)(1), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the matter preceding the subparagraphs;

(11) in subsection (h)—

(A) in paragraph (1), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(B) by inserting "concerned" after "Secretary" each place it appears in paragraphs (2) through (6);

(12) in subsection (h)(7)—

(A) in subparagraph (A)—

(i) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary" in the first sentence; and

(ii) by inserting "concerned" after "The Secretary" in the second sentence; and

(B) in subparagraph (C), by inserting "concerned" after "The Secretary";

(13) in subsection (i)—

(A) in paragraph (1), by inserting ", or the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "Secretary" both places it appears; and

(14) in subsection (j)—

(A) in paragraph (1)(F), by inserting ", or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "Secretary" both places it appears.

(d) LAW ENFORCEMENT OFFICER PLACEMENT PROGRAM.—Section 1152 of such title, as amended by section 1132, is further amended in subsections (a) and (d) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense".

(e) HEALTH CARE PROVIDER PLACEMENT PROGRAM.—Section 1153 of such title is amended—

(1) in subsection (a), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(2) in subsection (b)(1)—

(A) by striking out "by the Secretary of Defense" in the matter preceding the subparagraphs; and

(B) in subparagraph (C), by inserting "concerned" after "Secretary" both places it appears;

(3) in subsection (c)(1)—

(A) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(B) by inserting "concerned" after "to the Secretary"; and

(C) by striking out "Secretary may" and inserting in lieu thereof "Secretaries may";

(4) in subsection (c)(2)—

(A) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary"; and

(B) by inserting "concerned" after "unless the Secretary";

(5) in subsection (c)(3), by striking out "Secretary" both places it appears and inserting in lieu thereof "Secretaries";

(6) in subsection (d)—

(A) in paragraph (1) by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(B) by inserting "concerned" after "Secretary" each place it appears in paragraphs (2) through (5); and

(7) in subsection (e)—

(A) in paragraph (1), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "The Secretary".

(f) UPWARD BOUND.—Section 4466 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1143 note) is amended by adding at the end the following new subsection:

"(h) APPLICATION TO COAST GUARD.—The Secretary of Transportation may implement the provisions of this section for the Coast Guard in the same manner and to the same extent as such section applies to the Department of Defense.".

(g) SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING.—(1) Section 4483(1) of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) is amended by inserting before the period the following: "with respect to the Department of Defense and the Secretary of Transportation with respect to the Coast Guard".

(2) As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall implement the requirements of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) for the Coast Guard.

(h) LIMITATIONS ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense, the Department of Education, the Department of Labor, or the Department of Veterans Affairs may not be used to carry out subsection (a) or the amendments made by this section.

Subtitle E—Other Matters

SEC. 551. REPEAL OF REQUIRED REDUCTION IN RECRUITING PERSONNEL.

Section 431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2400) is repealed.

SEC. 552. AUTHORIZED ACTIVE DUTY STRENGTHS FOR ARMY ENLISTED MEMBERS IN PAY GRADE E–8.

(a) IN GENERAL.—Section 517(a) of title 10, United States Code, is amended by inserting "(or, in the case of the Army, 2.5 percent)" after "may not be more than 2 percent".

(b) SPECIAL RULE FOR 1995.—The percentage applicable to enlisted members of the Army in pay grade E–8 under section 517(a) of title 10, United States Code, during 1995 shall be 2.3 percent (rather than the percentage provided by the amendment made by subsection (a)).

(c) INAPPLICABILITY FOR 1994.—The amendment made by subsection (a) shall not apply with respect to the number of enlisted members of the Army on active duty in pay grade E–8 during 1994.

SEC. 553. PROHIBITION ON IMPOSITION OF ADDITIONAL CHARGES OR FEES FOR ATTENDANCE AT CERTAIN ACADEMIES.

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at an academy named in subsection (c) may be imposed unless the charge or fee is specifically authorized by a law enacted after the date of the enactment of this Act.

(b) EXCEPTION.—The prohibition specified in subsection (a) shall not apply with respect to any item or service provided to cadets or midshipmen at an academy named in subsection (c) for which a charge or fee is imposed as of the date of the enactment of this Act. The Secretary of Defense or the Secretary of Transportation, as the case shall be, shall notify Congress of any change made by an academy in the amount of a charge or fee authorized under this subsection.

(c) COVERED ACADEMIES.—This section applies to the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

(4) The United States Coast Guard Academy.

(5) The United States Merchant Marine Academy.

SEC. 554. BIENNIAL SURVEY ON THE STATE OF RACE AND ETHNIC ISSUES IN THE MILITARY.

(a) IN GENERAL.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 22—MISCELLANEOUS STUDIES AND REPORTS

"Sec.

"451. Racial and ethnic issues; biennial survey; biennial report.

"§451. Racial and ethnic issues; biennial survey; biennial report

"(a) BIENNIAL SURVEY.—The Secretary of Defense shall carry out a biennial survey to measure the state of racial and ethnic issues and discrimination among members of the armed forces serving on active duty. The survey shall solicit information on the race relations climate in the armed forces, including—

"(1) indicators of positive and negative trends of relations between all racial and ethnic groups;

"(2) the effectiveness of Department of Defense policies designed to improve race and ethnic relations; and

"(3) the effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

"(b) IMPLEMENTING ENTITY.—The Secretary shall carry out each biennial survey through the entity in the Department of Defense known as the Armed Forces Survey on Race/Ethnic Issues.

"(c) REPORTS TO CONGRESS.—Upon completion of each biennial survey under subsection (a), the Secretary shall submit to Congress a report containing the results of the survey.".

(2) The tables of chapters at the beginning of subtitle A of such title and the beginning of part I of such subtitle are amended by inserting after the item relating to chapter 21 the following new item:

"22. Miscellaneous Studies and Reports 451".

(b) FIRST REPORT.—The Secretary of Defense shall submit the first report under section 451(c) of title 10, United States Code, as added by subsection (a), not later than May 1, 1995.

SEC. 555. REVIEW OF CERTAIN DISCHARGES FROM THE UNITED STATES MILITARY ACADEMY DURING THE POST-CIVIL WAR PERIOD.

(a) REVIEW REQUIRED.—The Secretary of the Army shall carry out a thorough review, to be completed not later than 180 days after the date of the enactment of this Act, of—

(1) the discharge from the Corps of Cadets of the United States Military Academy in 1874 of James Webster Smith of South Carolina; and

(2) the discharge from the Corps of Cadets of the United States Military Academy in 1880 of Johnson Chesnut Whittaker of South Carolina.

(b) PURPOSES OF REVIEW.—The purpose of each review shall be to determine the validity of the original proceedings leading to such discharge and the extent, if any, to which racial prejudice or other improper factors now known may have tainted those proceedings. In conducting each review, the Secretary shall use as broad a range of historical documents as possible, including non-military sources.

(c) CORRECTION OF RECORDS.—If the Secretary determines that the discharge of James Webster Smith or Johnson Chesnut Whittaker was in error or an injustice, the Secretary shall correct that person's military records (including the records of proceedings in that person's discharge case).

(d) POSTHUMOUS COMMISSION.—Upon recommendation of the Secretary in the case of either person named in subsection (a), the President may issue in the name of that person a posthumous commission as an officer in the Regular Army in the grade of second lieutenant. Section 1523 of title 10, United States Code, shall apply with respect to a commission so issued.

SEC. 556. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§4357. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Athletics program: athletic director; nonappropriated fund account.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§6975. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall administer a nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Athletics program: athletic director; nonappropriated fund account.".

(3) The account referred to in subsection (b) of section 6975 of title 10, United States Code, as added by paragraph (1), shall be established not later than the effective date set forth in subsection (e).

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of such title is amended by adding at the end the following new section:

"§9356. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Athletics program: athletic director; nonappropriated fund account.".

(d) NAVY IMPLEMENTATION STUDY.—Not later than March 15, 1995, the Secretary of the Navy shall submit to Congress a report on the costs to the Department of the Navy of implementation of section 6975 of title 10, United States Code, as added by subsection (b). The report shall include a time line and description of the actions the Secretary plans to take to implement the requirements of that section.

(e) EFFECTIVE DATE.—Section 6975 of title 10, United States Code, as added by subsection (b), shall take on January 1, 1996.

SEC. 557. REIMBURSEMENT FOR CERTAIN LOSSES OF HOUSEHOLD EFFECTS CAUSED BY HOSTILE ACTION.

(a) AUTHORITY TO REIMBURSE.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action

"(a) AUTHORITY TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

"(b) COVERED LOSSES.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

"(c) LIMITATION.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

"(d) APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action.".

(c) EFFECTIVE DATE.—(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act, a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.

SEC. 558. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

SEC. 559. AUTHORIZATION FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

(a) ADMISSION OF CIVILIANS AS STUDENTS.—(1) The Secretary of the Army may enter into an agreement with an accredited institution of higher education (or a consortium of such institutions) under which students enrolled at an institution of higher education that is a party to the agreement may receive instruction at the Foreign Language Center of the Defense Language Institute on a cost-reimbursable, space-available basis.

(2) The Secretary may also permit other persons who would benefit from the instruction provided at the Center, as determined by the Secretary, to receive instruction at the Center on a cost-reimbursable, space-available basis.

(b) SELECTION AND ATTENDANCE.—(1) The Secretary shall select the persons who will be permitted to receive instruction at the Center pursuant to subsection (a). In the case of agreements under subsection (a)(1), the Secretary shall consult with the other parties to the agreements to establish qualifications and methods of selection for persons to receive instruction at the Center.

(2) Except as the Secretary determines necessary, a person who receives instruction at the Center pursuant to subsection (a) shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

(c) RETENTION OF FUNDS.—Amounts collected under subsection (a) to reimburse the Center for the costs of providing instruction to students under subsection (a) shall be credited to funds available for compensation of instructors at the Center and to defray direct civilian student costs to the school.

(d) CENTER DEFINED.—For purposes of this section, the term "Center" means the Foreign Language Center of the Defense Language Institute.

(e) EXPIRATION OF AUTHORITY.—No student may be admitted to the Center under subsection (a) to commence a program of instruction beginning after September 30, 1997.

SEC. 560. DISCHARGE OF MEMBERS WHO ARE PERMANENTLY NONWORLDWIDE ASSIGNABLE.

(a) IN GENERAL.—(1) Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling

"(a) REQUIRED SEPARATION.—(1) Subject to paragraph (2), a member of the armed forces who is classified as permanently nonworldwide assignable due to a medical condition shall (except as provided in subsection (c)) be separated.

"(2) Paragraph (1) shall not be in effect in the case of any of the armed forces if the Secretary concerned determines that the retention of permanently nonworldwide assignable members would not adversely affect the ability of that service to carry out its mission.

"(3) A separation under paragraph (1) shall be made on a date determined by the Secretary concerned, which (except as provided in subsection (b)(2)) shall be as soon as practicable after the date on which the determination is made that the member should be so classified and not later than the last day of the twelfth month beginning after that date.

"(b) FORM OF SEPARATION.—(1) If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged.

"(2) In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

"(c) EXCEPTIONS.—The Secretary concerned may waive subsection (a) with respect to an individual member of the armed forces under the jurisdiction of that Secretary if the Secretary determines that there are circumstances that warrant the retention of that member. Such circumstances may include—

"(1) consideration that the medical condition making the member permanently nonworldwide assignable was incurred in combat or otherwise as the result of an action of the member for which the member received a decoration or other recognition for personal bravery;

"(2) consideration that the member has a specific proficiency or skill that is vital to the national security; and

"(3) any other circumstance that the Secretary considers to be for the good of the service.

"(d) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(e) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling.".

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as added by subsection (a), shall apply with respect to members determined to be permanently nonworldwide assignable by reason of a medical condition before, on, or after the date of the enactment of this Act. In the case of such a determination made before the date of the enactment of this Act, the period for the separation of the member specified in subsection (a) of such section shall be treated as beginning on the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 1174(a)(1) of title 10, United States Code, is amended by striking out "section 580" and inserting in lieu thereof "section 580, 1177,".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1995.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1995, section 203(c)(1) of title 37, United States Code, is amended by striking out "$543.90" and inserting in lieu thereof "$558.04".

SEC. 602. COST-OF-LIVING ALLOWANCE FOR MEMBERS OF THE UNIFORMED SERVICES ASSIGNED TO HIGH COST AREAS IN THE CONTINENTAL UNITED STATES.

(a) ALLOWANCE AUTHORIZED.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 403a the following new section:

"§403b. Cost-of-living allowance in the continental United States

"(a) PAYMENT AUTHORIZED.—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

"(b) ELIGIBLE MEMBERS.—The following members are eligible to receive a cost-of-living allowance under this section:

"(1) A member assigned to a high cost area in the continental United States.

"(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

"(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

"(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

"(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

"(c) HIGH COST AREA DEFINED.—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

"(d) AMOUNT OF ALLOWANCE.—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

"(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

"(2) the percentage equal to the excess of—

"(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

"(B) the threshold percentage applicable to such fiscal year under subsection (c).

"(e) LIMITATION TO ONE ALLOWANCE.—If primary dependents of a member reside separately in different high cost areas—

"(1) the member may be paid only one cost-of-living allowance under this section; and

"(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

"(f) SERVICE NOT COVERED.—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

"(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

"(A) specifies a period of 140 days or more; or

"(B) states that the call or order to active duty is in support of a contingency operation.

"(g) AVERAGE SPENDABLE INCOME.—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

"(h) JOINT REGULATIONS.—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

"(i) OTHER DEFINITIONS.—In this section:

"(1) The term 'primary dependent', with respect to a member, means—

"(A) the member's spouse; or

"(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

"(2) The term 'cost of living' means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

"(A) The Consumer Price Index (all items-United States city average) published monthly by the Bureau of Labor Statistics.

"(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

"(3) The term 'uniformed services cost of living' means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

"(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

"(B) Average income tax paid.

"(C) Cost of health care.

"(4) The term 'base period', with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

"(5) The term 'administering Secretaries' means the following:

"(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

"(B) The Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy.

"(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

"(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

"(6) The term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 403a the following new item:

"403b. Cost-of-living allowance in the continental United States.".

(b) CONDITIONS ON PROVISION OF ALLOWANCE.—(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) of such section), shall submit to Congress a report describing—

(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.

SEC. 603. INCREASE IN SUBSISTENCE ALLOWANCE PAYABLE TO MEMBERS OF SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) INCREASE.—Section 209(a) of title 37, United States Code, is amended by striking out "$100 a month" in the first sentence and inserting in lieu thereof "$150 a month".

(b) APPLICATION OF INCREASE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to months beginning after August 31, 1995.

(2) Upon the approval of the Secretary of Defense, the Secretary of a military department may implement such amendments at an earlier date with respect to members of the Senior Reserve Officers' Training Corps under the jurisdiction of the Secretary if funds are available for the monthly subsistence allowances authorized by such amendments.

SEC. 604. TEMPORARY FAMILY HOUSING OR TEMPORARY HOUSING ALLOWANCES FOR DEPENDENTS OF MEMBERS WHO DIE IN THE LINE OF DUTY.

(a) Temporary Housing.—Section 403(l)(1) of title 37, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) Temporary Housing Allowances.—Section 403(l)(2) of such title is amended by striking out "90 days" both places it appears and inserting in lieu thereof "180 days".

(c) Effective Date.—The amendments made by this section shall take effect as of October 1, 1993.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) Selected Reserve Reenlistment Bonus.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) Selected Reserve Enlistment Bonus.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) Selected Reserve Affiliation Bonus.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) Ready Reserve Enlistment and Reenlistment Bonus.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) Prior Service Enlistment Bonus.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 612. EXTENSION AND MODIFICATION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(b) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(c) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of title 37, United States Code, is amended—

(1) by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,"; and

(2) by striking out "$6,000" and inserting in lieu thereof "$15,000".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(b) Reenlistment Bonus for Active Members.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) Enlistment Bonuses for Critical Skills.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) Special Pay for Enlisted Members of the Selected Reserve Assigned to Certain High Priority Units.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) Repayment of Education Loans for Certain Health Professionals who Serve in the Selected Reserve.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(f) Special Pay for Critically Short Wartime Health Specialists in the Selected Reserves.—Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(g) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(h) Nuclear Career Accession Bonus.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(i) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle C—Travel and Transportation Allowances

SEC. 621. RESPONSIBILITY FOR PREPARATION OF TRANSPORTATION MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out "the Secretary of the Army" and inserting in lieu thereof "the Secretary of Defense".

SEC. 622. PAYMENT FOR TRANSIENT HOUSING FOR MEMBERS OF A RESERVE COMPONENT PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

"(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

SEC. 623. CHANGE IN PROVISION OF TRANSPORTATION INCIDENT TO PERSONAL EMERGENCIES FOR MEMBERS STATIONED OUTSIDE THE CONTINENTAL UNITED STATES.

Section 411d(b) of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding the subparagraphs, by striking "from the international airport" and all that follows through "or the international airport nearest" and inserting in lieu thereof "from the location of the member or dependents, at the time notification of the personal emergency is received, or"; and

(B) in subparagraph (A), by striking "closest to the international airport" and inserting in lieu thereof "closest to the location"; and

(2) in paragraph (4), by striking "to the international airport" and all that follows through the period and inserting in lieu thereof "to the location from which the member or dependent departed or the member's duty station.".

SEC. 624. CLARIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCE OF FAMILY MEMBERS INCIDENT TO SERIOUS ILLNESS OR INJURY OF MEMBERS.

(a) Allowance in Cases of Brain Death.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "is necessary for" and inserting in lieu thereof "may contribute to"; and

(2) in paragraph (2), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and".

(b) Definition of Health and Welfare.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(3) In this section, the term 'health and welfare', with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.".

SEC. 625. APPLICABILITY OF ADDITIONAL FAMILY SEPARATION ALLOWANCE TO PERIODS BETWEEN DEPLOYMENTS LESS THAN 30 DAYS APART.

(a) Coverage of Period Between Certain Deployments.—Section 427(b) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking out the first sentence;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

"(A) the first day of that period; or

"(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as of June 20, 1994.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995.

(a) In General.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) Definitions.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) Limitation.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in *an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).*

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

SEC. 632. SENSE OF CONGRESS ON EQUAL TREATMENT OF EFFECTIVE DATES FOR FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY AND CIVILIAN RETIREES.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress, in the Omnibus Budget Reconciliation Act of 1993, changed the effective dates for future cost-of-living adjustments for military retired pay and for Federal civilian retirement annuities, which (before that Act) were provided by law to be made effective on December 1 each year.

(2) The timing, and the percentage of increase, of military and Federal civilian retirees' cost-of-living adjustments have been linked for decades.

(3) The effect of the enactment of the Omnibus Budget Reconciliation Act of 1993 was to abandon the longstanding congressional practice of treating military and Federal civilian retirees identically in matters related to cost-of-living adjustments.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) as a matter of simple equity and fairness, it is imperative that cost-of-living adjustments in retirement benefits for military and Federal civilian retirees be returned to an identical schedule as soon as possible, but not later than January 1, 1999;

(2) if after October 1, 1998, there is, by law, a difference between the date on which a cost-of-living adjustment for Federal civilian retirees takes effect and the date on which a cost-of-living adjustment for military retirees takes effect, then the difference in those effective dates should be eliminated by requiring that cost-of-living adjustments for both classes of retirees become effective on the earlier of the two dates; and

(3) if after October 1, 1998, there is, by law, a difference between the first month for which a cost-of-living adjustment for civilian retirees is payable and the first month for which a cost-of-living adjustment for military retirees is payable, then the difference in the months for which those adjustments are first payable should be eliminated by requiring that the cost-of-living adjustments for both classes of retirees first become payable for the earlier of the two months.

SEC. 633. CLARIFICATION OF CALCULATION OF RETIRED PAY FOR OFFICERS WHO RETIRE IN A GRADE LOWER THAN THE GRADE HELD AT RETIREMENT.

(a) PREVENTION OF RETIRED PAY BASED ON GRADE HIGHER THAN RETIRED GRADE.—Section 1401a(f) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "based on the grade in which the member is retired" after "at an earlier date";

(2) in the second sentence, by inserting ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before the period at the end; and

(3) by striking out the third sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to the computation of the retired pay of a member of the Armed Forces who retires on or after the date of the enactment of this Act.

SEC. 634. WAIVER OF ADMINISTRATIVE TIME-IN-GRADE REQUIREMENTS TO PREVENT PAY INVERSIONS IN RETIRED PAY OF CERTAIN MILITARY RETIREES.

(a) AUTHORITY.—The Secretary concerned may, for purposes of the computation under section 1401a(f) of title 10, United States Code, of the retired pay of military retirees described in subsection (b), waive any administrative time-in-grade regulation (as described in subsection (d)) that would otherwise apply to such computation. Any such waiver may be made retroactive, in the case of any such retiree, to the date on which that retiree initially became entitled to retired pay.

(b) COVERED RETIREES.—This section applies to any military retiree—

(1) who initially became entitled to retired pay on or after January 1, 1971, and before the date of the enactment of this Act;

(2) whose retired pay, by reason of the provisions of section 1401a(f) of title 10, United States Code (the so-called "Tower amendment"), was initially computed as an amount greater than would have been the case but for that section; and

(3) who, as of the earlier computation date applicable to that retiree—

(A) in the case of an individual retired in an enlisted grade, had served in the grade in which the retiree retired for a period that was less than the period prescribed by the applicable administrative time-in-grade requirement described in subsection (d); and

(B) in the case of an individual retired in an officer grade—

(i) was subject to an administrative time-in-grade requirement described in subsection (d) that established a time-in-grade requirement that was longer than the statutory time-in-grade requirement applicable to that member; and

(ii) had served in the grade in which the retiree retired for a period that was less than the period prescribed by such administrative time-in-grade requirement but not less than the statutory time-in-grade requirement applicable to that member.

(c) EARLIER COMPUTATION DATE.—For purposes of subsection (b)(3), the earlier computation date applicable to a military retiree is the date that (under such section 1401a(f) as in effect on the date of the member's retirement) was the "earlier date" that was used as the basis for the computation of the retiree's retired pay.

(d) REGULATIONS SUBJECT TO WAIVER.—A regulation that may be waived under subsection (a) is any regulation (not required by law) that establishes a minimum period of time that a member of the Armed Forces must have served in a grade on active duty in order to be eligible to retire in that grade.

(e) SCOPE OF WAIVER AUTHORITY.—The Secretary concerned may exercise the authority provided in subsection (a) in the case of an individual military retiree or for any group of military retirees.

(f) MILITARY RETIREE DEFINED.—For purposes of this section, the term "military retiree" means a member or former member of the Armed Forces who is entitled to retired pay.

(g) SECRETARY CONCERNED.—For purposes of this section, the term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

SEC. 635. CREDITING OF RESERVE SERVICE OF ENLISTED MEMBERS FOR COMPUTATION OF RETIRED PAY.

(a) ARMY.—(1) Section 3925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 3991 of this title,"; and

(B) by striking out subsection (c).

(2)(A) Paragraph (1) of subsection (a) of section 3991 of such title is amended to read as follows:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

"(A) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

"(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.".

(B) Subsection (b) of such section is amended—

(i) in paragraph (1), by striking out "of the table"; and

(ii) by striking out paragraph (3).

(3) The text of section 3992 of such title is amended to read as follows:

"(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay in accordance with this section.

"(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

"(1) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

"(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) NAVY AND MARINE CORPS.—The table in section 6333(a) of title 10, United States Code, is amended by striking out "his years of active service in the armed forces" in formula C under the column designated "Column 2" and inserting in lieu thereof "the years of service that may be credited to him under section 1405.".

(c) AIR FORCE.—(1) Section 8925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 8991 of this title,"; and

(B) by striking out subsection (c).

(2)(A) Paragraph (1) of subsection (a) of section 8991 of such title is amended to read as follows:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

"(A) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

"(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.".

(B) Subsection (b) of such section is amended—

(i) in paragraph (1), by striking out "of the table"; and

(ii) by striking out paragraph (3).

(3) The text of section 8992 of such title is amended to read as follows:

"(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay in accordance with this section.

"(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

"(1) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

"(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d) CONFORMING AMENDMENT.—Section 1405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) EXCLUSION OF TIME REQUIRED TO BE MADE UP.—Time required to be made up by an enlisted member of the Army or Air Force under section 972 of this title may not be counted in determining years of service under subsection (a).".

(e) EFFECTIVE DATE.—This section shall apply to—

(1) the computation of the retired pay of any enlisted member who retires on or after the date of the enactment of this Act;

(2) the computation of the retainer pay of any enlisted member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act; and

(3) the recomputation of the retired pay of any enlisted member who is advanced on the retired list on or after the date of the enactment of this Act.

SEC. 636. MINIMUM REQUIRED RESERVE SERVICE FOR ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE DURING FORCE DRAWDOWN PERIOD.

Section 1331 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'.".

SEC. 637. SBP PREMIUMS FOR RESERVE-COMPONENT CHILD-ONLY COVERAGE.

(a) DETERMINATION OF PREMIUMS.—Subsection (b) of section 1452 of title 10, United States Code, is amended to read as follows:

"(b) CHILD-ONLY ANNUITIES.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

"(2) NO REDUCTION WHEN NO CHILD.—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

"(3) SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

"(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

"(A) does not have an eligible spouse or former spouse; or

"(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) applies to any election for child-only coverage under a reserve-component annuity under the Survivor Benefit Plan, whether made before, on, or after the date of the enactment of this Act.

(2) Paragraph (1) does not apply in a case of an election referred to in that paragraph that was made before the date of the enactment of this Act if the participant was informed, in writing, before the date of the enactment of this Act that no reduction in the participant's retired pay for child-only coverage would be made during a period when there was no eligible dependent child.

SEC. 638. DISCONTINUATION OF INSURABLE INTEREST COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Paragraph (1) of section 1448(b) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following:

"(B) An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

"(C) A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

"(D) The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

"(E) Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a).".

SEC. 639. FORFEITURE OF ANNUITY OR RETIRED PAY OF MEMBERS CONVICTED OF ESPIONAGE UNDER UCMJ.

(a) FORFEITURE.—Section 8312(b)(2)(A) of title 5, United States Code, is amended by striking out "or article 106 (spies)" and inserting in lieu thereof ", article 106 (spies), or article 106a (espionage)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to persons convicted of espionage under section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), on or after the date of the enactment of this Act.

SEC. 640. TREATMENT OF RETIRED AND RETAINER PAY OF MEMBERS OF CADRE OF CIVILIAN COMMUNITY CORPS.

Section 159(c)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12619(c)(3)) is amended by adding at the end the following: "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section 162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.".

Subtitle E—Other Matters

SEC. 651. ELIGIBILITY OF MEMBERS RETIRED UNDER TEMPORARY SPECIAL RETIREMENT AUTHORITY FOR SERVICEMEN'S GROUP LIFE INSURANCE.

(a) ELIGIBILITY.—Section 1965(5) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who has not received the first increment of retirement pay or has not reached sixty-one years of age; and".

(b) INSURANCE COVERAGE.—Section 1967(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by adding "and" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;"; and

(4) in the second sentence, by inserting after "section 1965(5)(C) of this title," the following: "or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,".

(c) DURATION OF COVERAGE.—Section 1968(a) of such title is amended—

(1) in the matter preceding paragraph (1), by striking out "section 1965(5)(B) or (C)" and inserting in lieu thereof "subparagraph (B), (C), or (D) of section 1965(5)";

(2) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier."; and

(3) by adding at the end the following:

"(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.".

(d) Deductions.—Section 1969 of such title is amended—

(1) in subsection (a)(2)—

(A) by striking out "or is assigned" and inserting in lieu thereof "is assigned"; and

(B) by inserting after "section 1965(5)(C) of this title," the following: "or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,"; and

(2) in subsection (e), by striking out "section 1965(5)(C)" in the first sentence and inserting in lieu thereof "subparagraph (C) or (D) of section 1965(5)".

SEC. 652. TRANSPORTATION OF REMAINS.

(a) Transportation of Remains of Deceased Retired Members Who Die Outside United States.—(1) Section 1481 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "the remains of—" and inserting in lieu thereof "the remains of the following persons:";

(ii) by capitalizing the first letter of the first word in each paragraph;

(iii) by striking out the semicolon at the end of each paragraph (other than paragraphs (7) and (8)) and inserting in lieu thereof a period;

(iv) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(v) by adding after paragraph (8) the following new paragraph:

"(9) To the extent authorized under section 1482(g) of this title, any retired member of an armed force who dies while outside the United States or any individual who dies outside the United States while a dependent of such a member."; and

(B) by adding at the end the following new subsection:

"(c) In this section, the term 'dependent' has the meaning given such term in section 1072(2) of this title.".

(2) Section 1482 of such title is amended by adding at the end the following new subsection:

"(g) The payment of expenses incident to the recovery, care, and disposition of a decedent covered by section 1481(a)(9) of this title is limited to the payment of expenses described in paragraphs (1) through (5) of subsection (a) and air transportation of the remains from a location outside the United States to a point of entry in the United States. Such air transportation may be provided without reimbursement on a space-available basis in military or military-chartered aircraft. The Secretary concerned shall pay all other expenses authorized to be paid under this subsection only on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available, at the time of reimbursement, for the payment of such expenses.".

(3) The amendments made by this subsection shall apply with respect to the remains of, and incidental expenses incident to the recovery, care, and disposition of, an individual who dies after the date of the enactment of this Act.

(b) Transportation of Remains of Deceased Veterans on Aeromedical Evacuation Aircraft.—(1) Subsection (a) of section 2641 of title 10, United States Code, is amended by inserting before the period the following: "or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place".

(2) Such section is further amended—

(A) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "(or for the remains of a veteran)" after "furnished to a veteran";

(ii) in paragraph (1), by inserting "(or of the remains of such veteran)" after "of such veteran"; and

(iii) in paragraph (2), by inserting "(or the remains of the veteran)" after "for the veteran";

(B) in subsection (d)(1)—

(i) by inserting "(or on the survivors of a veteran)" after "on a veteran"; and

(ii) by inserting "(or for the remains of the veteran)" after "to the veteran"; and

(C) in subsection (d)(2), by inserting "(or for the remains of veterans)" after "to veterans".

SEC. 653. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL OUTSIDE THE UNITED STATES.

(a) In General.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§1060a. Special supplemental food program

"(a) Authority.—The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

"(b) Federal Payments and Commodities.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(c) Program Administration.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.

"(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

"(d) Departure From Standards.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(e) Regulations.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

"(f) Definitions.—In this section:

"(1) The term 'eligible civilian' means—

"(A) a dependent of a member of the armed forces residing with the member outside the United States;

"(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

"(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

"(2) The term 'national of the United States' means—

"(A) a citizen of the United States; or

"(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

"(3) The term 'dependent' has the meaning given such term in subparagraphs (A), (D), (E), and (I) of section 1072(2) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end the following new item:

"1060a. Special supplemental food program.".

SEC. 654. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) Study Required.—The Comptroller General of the United States shall carry out a study regarding the requirement in each of the following provisions of title 10, United States Code, to offset the amount of disability compensation payable to a veteran by the amount of the separation benefits paid to the veteran under such provision of law:

(1) Section 1174, relating to payment of separation pay upon involuntary discharge or release from active duty.

(2) Section 1174a(a), relating to payment of a special separation benefit for voluntary separation.

(3) Section 1175, relating to payment of a voluntary separation incentive.

(b) Elements of Study.—In carrying out the study required under subsection (a), the Comptroller General shall—

(1) determine the purposes of the provisions of law referred to in such subsection;

(2) determine the justifications for the requirement for offset of disability compensation provided in each such provision of law;

(3) assess the financial effects of the offset requirements on affected veterans, and the fiscal effects of the offset requirements on the Federal Government, taking into consideration—

(A) an estimate (by the Comptroller General) of the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(B) an estimate (by the Comptroller General) of—

(i) the number of such members who will receive separation benefits under the provisions of law referred to in subsection (a); and

(ii) the average amount of the benefits to be paid such members;

(C) an estimate (by the Comptroller General) of—

(i) the number of such members who will be entitled to disability compensation payable by the Secretary of Veterans Affairs; and

(ii) the average monthly amount of the compensation to which such members will be entitled; and

(D) an assessment (by the Comptroller General) of the extent, if any, to which the offset affects the capacity of such members to meet their financial obligations, including financial obligations incurred in connection with service in the Armed Forces or with separation from that service, and increased net costs for housing and medical care;

(4) determine the extent, if any, to which the offset of disability compensation required under the provisions of law referred to in subsection (a) reduces the effectiveness of such provisions of law for achieving the purposes of those provisions of law; and

(5) determine the cost to the Federal Government that would result from repeal of the offset requirements in such provisions of law.

(c) RESULTS OF STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the results of the study required under subsection (a). The report shall include recommendations of the Comptroller General for improvement of the separation benefits under the provisions of law referred to in subsection (a).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. REVISION OF DEFINITION OF DEPENDENTS TO INCLUDE YOUNG PEOPLE BEING ADOPTED BY MEMBERS OR FORMER MEMBERS.

(a) ELIGIBILITY FOR HEALTH BENEFITS.—Section 1072 of title 10, United States Code, is amended—

(1) in paragraph (2)(D), by striking out the matter preceding clause (i) and inserting in lieu thereof the following:

"(D) a child who—"; and

(2) by adding at the end the following new paragraph:

"(6) The term 'child', with respect to a member or former member of a uniformed service, means the following:

"(A) An unmarried legitimate child.

"(B) An unmarried adopted child.

"(C) An unmarried stepchild.

"(D) An unmarried person—

"(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

"(ii) who otherwise meets the requirements specified in paragraph (2)(D).".

(b) CONFORMING AMENDMENT.—Section 401(b)(1)(B) of title 37, United States Code, is amended by striking out "placement agency for the purpose of adoption" and inserting in lieu thereof "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member".

SEC. 702. TREATMENT OF CERTAIN DEPENDENTS AS CHILDREN FOR PURPOSES OF CHAMPUS, DEPENDENTS' DENTAL PROGRAM, AND CONTINUED HEALTH BENEFITS COVERAGE.

(a) CHAMPUS.—(1) Subsection (a) of section 1079 of title 10, United States Code, is amended in the first sentence by striking out "spouses and children" and inserting in lieu thereof "dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title,".

(2) Subsection (d) of such section is amended by striking out "as defined in section 1072(2)(A) or (D)" and inserting in lieu thereof "as described in subparagraph (A), (D), or (I) of section 1072(2)".

(b) DEPENDENTS' DENTAL PROGRAM.—Section 1076a of such title is amended—

(1) in subsection (a)(1), by striking out "spouses and children (as described in section 1072(2)(D) of this title)" and inserting in lieu thereof "eligible dependents";

(2) in subsection (e), by striking out "spouse or child" and inserting in lieu thereof "eligible dependent";

(3) in subsection (f), by striking out "spouse or children" both places it appears and inserting in lieu thereof "eligible dependents"; and

(4) by adding at the end the following new subsection:

"(h) ELIGIBLE DEPENDENT DEFINED.—In this section, the term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.".

(c) CONTINUED HEALTH BENEFITS COVERAGE.—Section 1078a of such title is amended—

(1) in subsection (b)(2)(A), by inserting before the semicolon the following: "or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title";

(2) in subsection (c)(3)—

(A) by striking out "child" both places it appears and inserting in lieu thereof "dependent"; and

(B) by striking out "child's" each place it appears and inserting in lieu thereof "dependent's";

(3) in subsection (d)(2)(A)—

(A) by striking out "child" the first, second, and fourth places it appears and inserting in lieu thereof "dependent"; and

(B) by striking out "an unmarried dependent child under section 1072(2)(D) of this title," and inserting in lieu thereof "a dependent under subparagraph (D) or (I) of section 1072(2) of this title;";

(4) in subsection (d)(2)(B)—

(A) by striking out "child's" and inserting in lieu thereof "dependent's"; and

(B) by striking out "child" and inserting in lieu thereof "dependent";

(5) in subsection (g)(1)(B), by striking out "an unmarried dependent child under section 1072(2)(D) of this title" and inserting in lieu thereof "a dependent under subparagraph (D) or (I) of section 1072(2) of this title"; and

(6) in subsection (g)(2), by striking out "child" both places it appears and inserting in lieu thereof "dependent".

SEC. 703. AVAILABILITY OF DEPENDENTS' DENTAL PROGRAM OUTSIDE THE UNITED STATES.

(a) PROGRAM EXPANSION.—Section 1076a of title 10, United States Code, is amended—

(1) by redesignating subsection (h), as added by section 702(b)(4), as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) CARE OUTSIDE THE UNITED STATES.—The Secretary may exercise the authority provided under subsection (a) to establish basic dental benefits plans for the provision of dental benefits outside the United States for the eligible dependents of members of the uniformed services accompanying the members on permanent assignments to duty outside the United States.".

(b) CONFORMING AMENDMENT.—Section 1077(c) of such title is amended by striking out "and care" and inserting in lieu thereof ", dental care provided outside the United States, and dental care".

SEC. 704. AUTHORIZATION FOR MEDICAL AND DENTAL CARE FOR ABUSED DEPENDENTS OF CERTAIN MEMBERS.

(a) ADDITIONAL BASIS FOR CARE.—Subsection (e) of section 1076 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Subject to paragraph (3), if an abused dependent of a former member of a uniformed service described in paragraph (4) needs medical or dental care for an injury or illness resulting from abuse by the member, the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services."; and

(2) by adding at the end the following new paragraph:

"(4)(A) A former member of a uniformed service referred to in paragraph (1) is a member who—

"(i) received a dishonorable or bad-conduct discharge or was dismissed from a uniformed service as a result of a court-martial conviction for an offense, under either military or civil law, involving abuse of a dependent of the member; or

"(ii) was administratively discharged from a uniformed service as a result of such an offense.

"(B) A determination of whether an offense involved abuse of a dependent of the member shall be made in accordance with regulations prescribed by the administering Secretary for such uniformed service.".

(b) CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by inserting "former" before "member" each place it appears in paragraphs (2) and (3);

(2) in paragraph (2), by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (4)"; and

(3) in paragraph (3)(C)—

(A) by striking out "is" and inserting in lieu thereof "was"; and

(B) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (4)".

(c) PERSONAL SERVICE CONTRACTS TO PROVIDE CARE.—(1) The Secretary of Defense may enter into personal service contracts under the authority of section 1091 of title 10, United States Code, with persons described in paragraph (2) to provide the services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services. Notwithstanding subsection (a) of such section, such services may be provided in medical treatment facilities of the Department of Defense or elsewhere as determined appropriate by the Secretary.

(2) The persons with whom the Secretary may enter into a personal services contract under this subsection shall include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

SEC. 705. ADDITIONAL AUTHORIZED HEALTH CARE SERVICE AVAILABLE THROUGH MILITARY HEALTH CARE SYSTEM.

Section 1077(b)(2)(B) of title 10, United States Code, is amended by inserting after "artificial limbs" the following: ", voice prostheses,".

SEC. 706. DEMONSTRATION PROGRAMS FOR SALE OF PHARMACEUTICALS.

(a) PERSONS ELIGIBLE FOR PARTICIPATION.—Subsection (c)(2) of section 702 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1079 note) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) either—

"(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

"(ii) can demonstrate to the satisfaction of the Secretary that the person relied upon a health care facility referred to in clause (i) before the closure of the facility to obtain the person's pharmaceuticals.".

(b) PURCHASE FEES.—Subsection (d) of such section is amended—

(1) by inserting "(1)" after "FEES.—"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of persons eligible to participate in the demonstration project for pharmaceuticals or the retail pharmacy network by reason of clause (ii) of subsection (c)(2)(B), the Secretary of Defense may increase the fees, charges, and copayments established under paragraph (1)(B) and otherwise applicable to such persons by an amount necessary to cover any additional costs incurred by the administering Secretaries as a result of making pharmaceuticals available to such persons under this section.".

SEC. 707. ONE YEAR CONTINUATION OF FULL CHAMPUS AND DEPENDENTS' DENTAL PROGRAM BENEFITS FOR DEPENDENTS OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) CONTINUATION OF SECTION 1079 CHAMPUS RULES.—Subsection (g) of section 1079 of title 10, United States Code, is amended by inserting after the first sentence the following new sentence: "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the one-year period beginning on the date of the death of the member.".

(b) CONTINUATION OF DEPENDENTS' DENTAL PROGRAM BENEFITS.—Subsection (i) of section 1076a of such title, as added by section 702(b)(4) and redesignated by section 703(a)(1), is further amended—

(1) by inserting "(1)" after "ELIGIBLE DEPENDENT DEFINED.—"; and

(2) by adding at the end the following new paragraph:

"(2) The term includes a dependent described in such subparagraphs of a member who dies while on active duty for a period of more than 30 days if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a), except that the term does not include the dependent after the end of the one-year period beginning on the date of the member's death. The Secretary of Defense may waive (in whole or in part) any requirements of the plan as the Secretary determines necessary for the effective administration of the plan for a dependent covered by this paragraph.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall apply with respect to the dependents described in such amendments of a member of a uniformed service who dies on or after October 1, 1993, while on active duty for a period of more than 30 days.

(d) CONFORMING REPEAL.—Section 704 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1687) is repealed. The repeal of such section shall not terminate the special payment rules provided in such section with respect to any person eligible for such payment rules on the date of the enactment of this Act.

Subtitle B—Changes to Existing Laws Regarding Health Care Management

SEC. 711. COORDINATION OF BENEFITS WITH MEDICARE.

Section 1086(d) of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of—

"(i) the amount paid for that care under medicare; and

"(ii) the total of all amounts paid or payable by third party payers other than medicare.

"(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

"(C) In this paragraph:

"(i) The term 'medicare' means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(ii) The term 'third party payer' has the meaning given such term in section 1095(h)(1) of this title.".

SEC. 712. AUTHORITY FOR REIMBURSEMENT OF PROFESSIONAL LICENSE FEES UNDER RESOURCE SHARING AGREEMENTS.

Section 1096 of title 10, United States Code, is amended by adding at the end the following:

"(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.".

SEC. 713. IMPOSITION OF ENROLLMENT FEES FOR MANAGED CARE PLANS.

Section 1097(c) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans.".

SEC. 714. STRENGTHENING MANAGED HEALTH CARE AUTHORITIES.

(a) AMENDMENTS TO ALTERNATIVE HEALTH CARE DELIVERY CONTRACTS AUTHORITY.—Section 1097 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) (as amended by section 713) as subsection (e); and

(2) by inserting after subsection (b) the following new subsections:

"(c) COORDINATION WITH FACILITIES OF THE UNIFORMED SERVICES.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. However, the Secretary may, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

"(d) COORDINATION WITH OTHER HEALTH CARE PROGRAMS.—In the case of a covered beneficiary who is enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.".

(b) AMENDMENTS TO THIRD PARTY COLLECTIONS PROGRAM AUTHORITY.—Section 1095 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out "if that care" and all that follows through the period and inserting in lieu thereof the following: "shall operate to prevent collection by the United States under subsection (a) if that care is provided—

"(1) through a facility of the uniformed services;

"(2) directly or indirectly by a governmental entity;

"(3) to an individual who has no obligation to pay for that care or for whom no other person has a legal obligation to pay; or

"(4) by a provider with which the third party payer has no participation agreement.";

(2) in subsection (d), by inserting "and except as provided in subsection (j)," after "(b),";

(3) in subsection (h)(1), by adding at the end the following new sentence: "Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection."; and

(4) by adding at the end the following new subsection:

"(j) The Secretary of Defense may enter into an agreement with any health maintenance organization, competitive medical plan, health care prepayment plan, or other similar plan (pursuant to regulations issued by the Secretary) providing for collection under this section from such organization or plan for services provided to a covered beneficiary who is an enrollee in such organization or plan.".

(c) CONDITION ON EXPANSION OF CHAMPUS REFORM INITIATIVE.—Section 712 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1073 note) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) EVALUATION OF CERTIFICATION.—The Comptroller General of the United States and the Director of the Congressional Budget Office shall evaluate each certification made by the Secretary of Defense under subsection (a) that expansion of the CHAMPUS reform initiative to another location is the most efficient method of providing health care to covered beneficiaries in that location. They shall submit their findings to Congress if these findings differ substantially from the findings upon which the Secretary made the decision to expand the CHAMPUS reform initiative.".

SEC. 715. DELAY IN DEADLINE FOR USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE.

Section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1696; 10 U.S.C. 1073 note) is amended—

(1) in subsection (a), by striking out "after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1994";

(2) in subsection (e), by striking out "February 1, 1994" and inserting in lieu thereof "December 31, 1994"; and

(3) by adding at the end the following new subsection (f):

"(f) MODIFICATION OF EXISTING CONTRACTS.—In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a).".

SEC. 716. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

Section 518(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2407) is amended—

(1) by inserting before the period at the end the following: ", unless the Secretary certifies to Congress that the number of such personnel to be reduced in a particular military department is excess to the current and projected needs for personnel in the Selected Reserve of that military department"; and

(2) by adding at the end the following new sentence: "The assessment of current and projected personnel needs under this subsection shall be consistent with the wartime requirements for Selected Reserve personnel identified in the final report on the comprehensive study of the military medical care system prepared pursuant to section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 1071 note).".

SEC. 717. IMPLEMENTATION OF ANNUAL HEALTH CARE SURVEY REQUIREMENT.

Section 724 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2440; 10 U.S.C. 1071 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44, United States Code.".

Subtitle C—Persian Gulf Illness

SEC. 721. PROGRAMS RELATED TO DESERT STORM MYSTERY ILLNESS.

(a) OUTREACH PROGRAM TO PERSIAN GULF VETERANS AND FAMILIES.—The Secretary of Defense shall institute a comprehensive outreach program to inform members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf Conflict, and the families of such members, of illnesses that may result from such service. The program shall be carried out through both medical and command channels, as well as any other means the Secretary considers appropriate. Under the program, the Secretary shall—

(1) inform such individuals regarding—

(A) common disease symptoms reported by Persian Gulf veterans that may be due to service in the Southwest Asia theater of operations;

(B) blood donation policy;

(C) available counseling and medical care for such members; and

(D) possible health risks to children of Persian Gulf veterans;

(2) inform such individuals of the procedures for registering in either the Persian Gulf Veterans Health Surveillance System of the Department of Defense or the Persian Gulf War Health Registry of the Department of Veterans Affairs; and

(3) encourage such members to report any symptoms they may have and to register in the appropriate health surveillance registry.

(b) INCENTIVES TO PERSIAN GULF VETERANS TO REGISTER.—In order to encourage Persian Gulf veterans to register any symptoms they may have in one of the existing health registries, the Secretary of Defense shall provide the following:

(1) For any Persian Gulf veteran who is on active duty and who registers with the Department of Defense's Persian Gulf War Veterans Health Surveillance System, a full medical evaluation and any required medical care.

(2) For any Persian Gulf War veteran who is, as of the date of the enactment of this Act, a member of a reserve component, opportunity to register at a military medical facility in the Persian Gulf Veterans Health Care Surveillance System and, in the case of a Reserve who registers in that registry, a full medical evaluation by the Department of Defense. Depending on the results of the evaluation and on eligibility status, reserve personnel may be provided medical care by the Department of Defense.

(3) For a Persian Gulf veteran who is not, as of the date of the enactment of this Act, on active duty or a member of a reserve component, assistance and information at a military medical facility on registering with the Persian Gulf War Registry of the Department of Veterans Affairs and information related to support services provided by the Department of Veterans Affairs.

(c) COMPATIBILITY OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure—

(1) that the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System maintained by the Department of Defense are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs; and

(2) that all information on individuals who register with the Department of Defense for purposes of the Persian Gulf War Health Surveillance System is provided to the Secretary of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

(d) PRESUMPTIONS ON BEHALF OF SERVICE MEMBER.—(1) A member of the Armed Forces who is a Persian Gulf veteran, who has symptoms of illness, and who the Secretary concerned finds may have become ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations.

(2) A member of the Armed Forces who is a Persian Gulf veteran and who reports being ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations until such time as the weight of medical evidence establishes other cause or causes of the member's illness.

(3) The Secretary concerned shall ensure that, for the purposes of health care treatment by the Department of Defense, health care and personnel administration, and disability evaluation by the Department of Defense, the symptoms of any member of the Armed Forces covered by paragraph (1) or (2) are examined in light of the member's service in the Persian Gulf War and in light of the reported symptoms of other Persian Gulf veterans. The Secretary shall ensure that, in providing health care diagnosis and treatment of the member, a broad range of potential causes of the member's symptoms are considered and that the member's symptoms are considered collectively, as well as by type of symptom or medical specialty, and that treatment across medical specialties is coordinated appropriately.

(4) The Secretary of Defense shall ensure that the presumptions of service connection and illness specified in paragraphs (1) and (2) are incorporated in appropriate service medical and personnel regulations and are widely disseminated throughout the Department of Defense.

(e) REVISION OF THE PHYSICAL EVALUATION BOARD CRITERIA.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall ensure that case definitions of Persian Gulf related illnesses, as well as the Physical Evaluation Board criteria used to set disability ratings for members no longer medically qualified for continuation on active duty, are established as soon as possible to permit accurate disability ratings related to a diagnosis of Persian Gulf illnesses.

(2) Until revised disability criteria can be implemented and members of the Armed Forces can be rated against those criteria, the Secretary of Defense shall ensure—

(A) that any member of the Armed Forces on active duty who may be suffering from a Persian Gulf-related illness is afforded continued military medical care; and

(B) that any member of the Armed Forces on active duty who is found by a Physical Evaluation Board to be unfit for continuation on active duty as a result of a Persian Gulf-related illness for which the board has no rating criteria (or inadequate rating criteria) for the illness or condition from which the member suffers is placed on the temporary disability retired list.

(f) REVIEW OF RECORDS AND RERATING OF PREVIOUSLY DISCHARGED GULF WAR VETERANS.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that a review is made of the health and personnel records of each Persian Gulf veteran who before the date of the enactment of this Act was discharged from active duty, or was medically retired, as a result of a Physical Evaluation Board process.

(2) The review under paragraph (1) shall be carried out to ensure that former Persian Gulf veterans who may have been suffering from a Persian Gulf-related illness at the time of discharge or retirement from active duty as a result of the Physical Evaluation Board process are revaluated in accordance with the criteria established under subsection (e)(1) and, if appropriate, are rerated.

(g) PERSIAN GULF ILLNESS MEDICAL REFERRAL CENTERS.—The Secretary of Defense shall evaluate the feasibility of establishing one or more medical referral centers to provide uniform, coordinated medical care for Persian Gulf veterans on active duty who are or may be suffering from a Persian Gulf-related illness. The Secretary shall submit a report on such feasibility to the Committees on Armed Services of the Senate and House of Representatives not later than six months after the date of the enactment of this Act.

(h) ANNUAL REPORT TO CONGRESS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on—

(A) efforts taken and results achieved in notifying members of the Armed Forces and their families as part of the outreach program required by subsection (a);

(B) efforts taken to revise the Physical Evaluation Board disability rating criteria and interim efforts to adjudicate cases before the revision of the criteria; and

(C) results of the review and rerating of previously separated servicemembers.

(2) The first report under paragraph (1) shall be submitted not later than 120 days after the date of the enactment of this Act.

(i) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf Conflict.

SEC. 722. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall conduct studies and administer grants for studies to determine—

(1) the nature and causes of illnesses suffered by individuals as a consequence of service or employment by the United States in the Southwest Asia theater of operations during the Persian Gulf War; and

(2) the appropriate treatment for those illnesses.

(b) NATURE OF THE STUDIES.—(1) Studies under subsection (a)—

(A) shall include consideration of the range of potential exposure of individuals to environmental, battlefield, and other conditions incident to service in the theater;

(B) shall be conducted so as to provide assessments of both short-term and long-term affects *to the health of individuals as a result of those exposures; and*

(C) shall include, at a minimum, the following types of studies:

(i) An epidemiological study or studies on the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses.

(ii) Studies to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances.

(iii) Clinical research and other studies on the causes, possible transmission, and treatment of Persian Gulf-related illnesses.

(2)(A) The first project carried out under paragraph (1)(C)(ii) shall be a retrospective study of members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War.

(B) The second project carried out under paragraph (1)(C)(ii) shall consist of animal research and nonanimal research, including in vitro systems, as required, designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

(c) Individuals Covered by the Studies.—Studies conducted pursuant to subsections (a) shall apply to the following individuals:

(1) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(3) To the extent appropriate, individuals who were employees of contractors of the Department of Defense in that theater during that period.

(4) To the extent appropriate, the spouses and children of individuals described in paragraph (1).

(d) Plan for the Studies.—(1) The Secretary of Defense shall prepare a coordinated plan for the studies to be conducted pursuant to subsection (a). The plan shall include plans and requirements for research grants in support of the studies. The Secretary shall submit the plan to the National Academy of Sciences for review and comment.

(2) The plan for studies pursuant to subsection (a) shall be updated annually. The Secretary of Defense shall request an annual review by the National Academy of Science of the updated plan and study progress and results achieved during the preceding year.

(3) The plan, and annual updates to the plan, shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

(e) Funding.—(1) From the amount authorized to be appropriated pursuant to section 201 for Defense-wide activities, the Secretary of Defense shall make available such funds as the Secretary considers necessary to support the studies conducted pursuant to subsection (a).

(2) For each year in which activities continue in support of the studies conducted pursuant to subsection (a), the Secretary of Defense shall include in the budget request for the Department of Defense a request for such funds as the Secretary determines necessary to continue the activities during that fiscal year.

(f) Reports.—(1) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress the coordinated plan for the studies to be conducted pursuant to subsection (a) and the results of the review of that plan by the National Academy of Sciences.

(2) Not later than October 1 of each year through 1998, the Secretary shall submit to Congress a report on the results of the studies conducted pursuant to subsection (a), plans for continuation of the studies, and the results of the annual review of the studies by the National Academy of Sciences.

(3) Each report under this section shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

(g) Definition.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101 of title 38, United States Code.

Subtitle D—Other Matters

SEC. 731. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM.

(a) Requirement for Program.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall develop and carry out a demonstration program to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces. The Secretary of Defense shall develop and carry out the program in consultation with the Secretaries of the military departments.

(2) In carrying out the program, the Secretary of Defense shall—

(A) subject to paragraph (3), designate not less than 10 major military medical treatment facilities of the Department of Defense to furnish chiropractic care under the program; and

(B) enter into agreements with such number of chiropractors as the Secretary determines sufficient for the purposes of the program to furnish chiropractic care at such facilities under the program.

(3) The Secretary may not designate under paragraph (2) any treatment facility that is located on a military installation scheduled for closure or realignment under a base closure law.

(b) Program Period.—The Secretary shall carry out the demonstration program in fiscal years 1995 through 1997.

(c) Reporting Requirements.—(1) Not later than January 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. The report shall—

(A) identify the treatment facilities designated pursuant to subsection (a)(2)(A); and

(B) include a discussion of the plan for the conduct of the program.

(2) Not later than May 1, 1995, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a plan for evaluating the program, including a schedule for conducting progress reviews and for submitting a final report to the committees.

(3) The Secretary shall submit to the committees referred to in paragraph (1) a final report in accordance with the plan submitted to such committees pursuant to paragraph (2).

(d) Oversight Advisory Committee.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program.

(2) The oversight advisory committee shall include the following members:

(A) The Comptroller General of the United States, or the designee of such person from within the General Accounting Office.

(B) The Assistant Secretary of Defense for Health Affairs, or the designee of such person.

(C) The Surgeons General of the Army, the Air Force, and the Navy, or the designees of such persons.

(D) No fewer than four independent representatives of the chiropractic health care profession, appointed by the Secretary of Defense.

(3) The oversight advisory committee shall assist the Secretary of Defense regarding—

(A) issues involving the professional credentials of the chiropractors participating in the program;

(B) the granting of professional practice privileges for the chiropractors at the treatment facilities participating in the program;

(C) the preparation of the reports required under subsection (c); and

(D) the evaluation of the program.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oversight advisory committee.

(e) Definition.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

SEC. 732. DEMONSTRATION PROGRAM FOR ADMISSION OF CIVILIANS AS PHYSICIAN ASSISTANT STUDENTS AT ACADEMY OF HEALTH SCIENCES, FORT SAM HOUSTON, TEXAS.

(a) Civilian Attendance.—The Secretary of the Army may enter into a reciprocal agreement with an accredited institution of higher education under which students of the institution may attend the didactic portion of the physician assistant training program conducted by the Army Medical Department at the Academy of Health Sciences at Fort Sam Houston, Texas, in exchange for the provision of such academic services by the institution as the Secretary and the institution consider to be appropriate to support the physician assistant training program. The Secretary shall ensure that the Army Medical Department does not incur any additional costs as a result of the agreement than the Department would incur to obtain academic services for the physician assistant training program in the absence of the agreement.

(b) Selection of Students.—(1) Subject to paragraph (2), not more than 20 civilian students per year may receive instruction at the Academy pursuant to the agreement under subsection (a). In consultation with the institution of higher education that is a party to the agreement, the Secretary shall establish qualifications and methods of selection for civilian students to receive instruction at the Academy. The qualifications established shall be comparable to those generally required for admission to the physician assistant training program at the Academy.

(2) The Secretary shall ensure that members of the Armed Forces are not denied enrollment in the physician assistant training program in order to permit the attendance of civilian students. The maximum annual enrollment for the program may not be increased solely for the purpose of permitting civilian students to attend the program.

(c) Rules of Attendance.—Except as the Secretary determines necessary, a civilian student who receives instruction at the Academy pursuant to the agreement under subsection (a) shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to military students attending the Academy.

(d) Term and Termination of Agreement.—The term of the agreement entered into under subsection (a) may not extend beyond September 30, 1997. Either party to the agreement may terminate the agreement at any time before that date.

(e) Report.—For each year in which the agreement under subsection (a) is in effect, the Secretary shall submit to Congress a report

specifying the number of civilian students who received instruction at the Academy under the agreement during the period covered by the report and accessing the benefits to the United States of the agreement.

(f) ACADEMY DEFINED.—For purposes of this section, the term "Academy" means the Academy of Health Sciences of the Army Medical Department at Fort Sam Houston, Texas.

SEC. 733. DELAY IN CLOSURE OF ARMY HOSPITAL AT VICENZA, ITALY.

(a) CLOSURE DELAY.—During fiscal year 1995, the Secretary of the Army may not reduce the level of medical care services provided by the United States Army Hospital at Vicenza, Italy.

(b) REPORT ON HOSPITAL.—Not later than March 1, 1995, the Secretary of Defense shall submit to Congress a report regarding the operation of the Army Hospital at Vicenza, Italy. The report shall contain the following:

(1) A description of the number and demographic characteristics of members of the Armed Forces on active duty and covered beneficiaries under chapter 55 of title 10, United States Code, who typically receive medical care services at the hospital, including those members and covered beneficiaries stationed or residing at (or in the immediate vicinity of) Aviano Air Force Base and Camp Darby.

(2) An analysis of the projected costs or savings, including the cost of CHAMPUS benefits, resulting from the programmed closure of the hospital.

(3) A description of the differences in practice patterns between American and Italian doctors, such as differences in the normal lengths of stay for the most frequent inpatient admissions (including childbirth) and the availability of alternative methods of providing anesthesia during childbirth.

(4) An analysis of the feasibility of establishing a birthing center for the area and patients currently served by the hospital, to be staffed primarily by American nurse-midwives.

(5) A detailed plan for ensuring the availability of quality medical care, consistent with American medical practice patterns, for covered beneficiaries residing in Northern Italy.

SEC. 734. ORAL TYPHOID VACCINE INVENTORY OF DEPARTMENT OF DEFENSE.

(a) NUMBER OF DOSES FOR INVENTORY.—The Secretary of Defense shall direct that the number of doses of oral typhoid vaccine purchased for inventory by the Department of Defense during a fiscal year be not less than the number of doses of parenteral injection typhoid vaccine purchased for inventory by the Department during that fiscal year.

(b) WAIVER.—The Secretary of Defense may waive the applicability of subsection (a) for a fiscal year if the Secretary determines that the waiver is necessary for medical reasons and notifies Congress of the reasons for the waiver.

SEC. 735. REPORT ON EXPANDED USE OF NON-AVAILABILITY OF HEALTH CARE STATEMENTS.

(a) REPORT REQUIRED.—Not later than December 31, 1994, the Secretary of Defense shall submit to Congress a report describing the plans (if any) of the Department of Defense to use the authority provided in sections 1080(b) and 1086(e) of title 10, United States Code, for making determinations whether or not to issue a nonavailability of health care statement. The report shall include an analysis of the effects of such plans on—

(1) the freedom of choice of covered beneficiaries in selecting health care providers;

(2) the access of covered beneficiaries to health care services;

(3) the quality and continuity of health care services;

(4) the clarity and understandability of the applicable requirements regarding issuance nonavailability of health care statements; and

(5) the health care costs incurred by the Federal Government and covered beneficiaries.

(b) USE OF AUTHORITY.—During the period beginning on the date of the enactment of this Act and ending 90 days after the date on which the Secretary submits the report required by subsection (a), the Secretary may not—

(1) expand the number or size of the geographical areas in which the Secretary is currently using the authority provided by sections 1080(b) and 1086(e) of title 10, United States Code; or

(2) implement or use such authority in a manner inconsistent with the manner in which such authority was implemented or used as of February 1, 1994.

SEC. 736. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than October 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993; and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

(b) USE OF ANALYSIS.—In evaluating changes to the pediatric care furnished by the Department of Defense (including that pediatric care furnished under the Civilian Health and Medical Program of the Uniformed Services) in the Tidewater region of Virginia, the Assistant Secretary may consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

SEC. 737. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who—

(1) reside within the service area (or former service area) of a military installation closed or approved for closure under a base closure law; and

(2) have failed to enroll in a timely manner in medicare part B due to reliance upon the military treatment facility located at such installation.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a report containing the results of the study required under subsection (a). The report shall also contain the following:

(1) For each military installation studied, the number of military retirees within both a 40 mile and 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties.

(2) A determination of the estimated aggregate amount of the penalties in terms of each military installation studied.

(3) A description of the characteristics of the population that are subject to the penalties, such as age and income level.

(4) An examination of the appropriateness of waiving the penalties.

(5) A description of the Department of Defense funds that should be used to pay the penalties if waiver of the penalties is not recommended.

(6) A proposed program for a special medicare part B enrollment period for affected retirees living near military installations already closed or which are designated for closure in the future.

(7) Legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by the closure of a military installation.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

SEC. 738. SENSE OF CONGRESS ON CONTINUITY OF HEALTH CARE SERVICES FOR COVERED BENEFICIARIES IN AREAS AFFECTED BY BASE CLOSURES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should take all appropriate steps, including a limited continuation of services for managed health care currently provided to covered beneficiaries described in subsection (b) who are eligible for such services, to ensure the continuity of health care services for such beneficiaries during the procurement, transition, and initial implementation phases of a TRICARE managed care support contract for Health Services Regions of the Military Health Services System of Department of Defense.

(b) COVERED BENEFICIARIES DESCRIBED.—The covered beneficiaries referred to in subsection (a) are covered beneficiaries under chapter 55, United States Code, who reside in areas adversely affected by the closure of a military installation under a base closure law (as defined in section 737(c)(1)).

(c) TRICARE DEFINED.—For purposes of this section, the term "TRICARE" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Assistance Programs

SEC. 801. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1995 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 802. PILOT MENTOR-PROTEGE PROGRAM.

Of the amounts authorized to be appropriated for fiscal year 1995 by title I of this Act, $50,000,000 shall be available for conducting the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note).

SEC. 803. INFRASTRUCTURE ASSISTANCE FOR HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS OF HIGHER EDUCATION.

Of the amounts authorized to be appropriated for fiscal year 1995 by section 201, $25,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 804. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

Subtitle B—Other Matters

SEC. 811. DELEGATION OF INDUSTRIAL MOBILIZATION AUTHORITY.

Section 2538 of title 10, United States Code, is amended—

(1) by striking out "through the Secretary of Defense" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "through the head of any department"; and

(2) in subsection (c)—

(A) by striking out "in the opinion of the Secretary of Defense" in the matter preceding paragraph (1) and inserting in lieu thereof "in the opinion of the head of that department"; and

(B) by striking out "Secretary" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "head of such department".

SEC. 812. DETERMINATIONS OF PUBLIC INTEREST UNDER THE BUY AMERICAN ACT.

(a) CONSIDERATIONS.—Section 2533 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) In determining under section 2 of title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy American Act', whether application of title III of such Act is inconsistent with the public interest, the Secretary of Defense shall consider the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The United States balance of payments.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) A need to ensure that the Department of Defense has access to advanced, state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

"(9) Any need—

"(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

"(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

"(10) The national security interests of the United States."; and

(2) by redesignating subsection (c) as subsection (b).

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 2533 of such title is amended to read as follows:

"§2533. Determinations of public interest under the Buy American Act".

(2) The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Determinations of public interest under the Buy American Act.".

SEC. 813. CONTINUATION OF EXPIRING REQUIREMENT FOR ANNUAL REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR AWARDING CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Section 2361 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more than $1,000,000 in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) Each report under paragraph (1) shall cover the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.".

SEC. 814. CONSOLIDATION AND REVISION OF LIMITATIONS ON PROCUREMENT OF GOODS OTHER THAN AMERICAN GOODS.

The text of section 2534 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure any of the following items only if the manufacturer of the item satisfies the requirements of subsection (b):

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (and components for such injectors)

"(3) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(4) VALVES AND MACHINE TOOLS.—Items in the following categories:

"(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(B) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(5) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992.

"(b) MANUFACTURER IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—

"(1) GENERAL REQUIREMENT.—A manufacturer meets the requirements of this subsection if the manufacturer is part of the national technology and industrial base.

"(2) MANUFACTURERS OF CHEMICAL WEAPONS ANTIDOTE.—In the case of a procurement of chemical weapons antidote referred to in subsection (a)(2), a manufacturer meets the requirements of this subsection only if the manufacturer—

"(A) meets the requirement set forth in paragraph (1);

"(B) is an existing producer under the industrial preparedness program at the time the contract is awarded;

"(C) has received all required regulatory approvals; and

"(D) when the contract for the procurement is awarded, has in existence in the national technology and industrial base the plant, equipment, and personnel necessary to perform the contract.

"(c) APPLICABILITY TO CERTAIN ITEMS.—

"(1) AIR CIRCUIT BREAKERS.—Subsection (a) does not apply to a procurement of spares or repair parts needed to support air circuit breakers produced or manufactured outside the United States.

"(2) VALVES AND MACHINE TOOLS.—(A) Contracts to which subsection (a) applies include the following contracts for the procurement of items described in paragraph (4) of such subsection:

"(i) A contract for procurement of such an item for use in property under the control of the Department of Defense, including any Government-owned, contractor-operated facility.

"(ii) A contract that is entered into by a contractor on behalf of the Department of Defense for the purpose of providing such an item to another contractor as Government-furnished equipment.

"(B) In any case in which a contract for items described in subsection (a)(4) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in subsection (a) applies.

"(C) Subsection (a)(4) and this paragraph shall cease to be effective on October 1, 1996.

"(3) BALL BEARINGS AND ROLLER BEARINGS.—Subsection (a)(5) and this paragraph shall cease to be effective on October 1, 1995.

"(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in that subsection if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United

States to a greater degree than the United States discriminates against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(e) SONOBUOYS.—

"(1) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country if United States firms that manufacture sonobuoys are not permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

"(2) WAIVER AUTHORITY.—The Secretary may waive the limitation in paragraph (1) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

"(3) DEFINITION.—In this subsection, the term 'United States firm' has the meaning given such term in section 2532(d)(1) of this title.

"(f) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 815. ENVIRONMENTAL CONSEQUENCE ANALYSIS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) GUIDANCE.—Before April 1, 1995, the Secretary of Defense shall issue guidance, to apply uniformly throughout the Department of Defense, regarding—

(1) how to achieve the purposes and intent of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by ensuring timely compliance for major defense acquisition programs (as defined in section 2430 of title 10, United States Code) through (A) initiation of compliance efforts before development begins, (B) appropriate environmental impact analysis in support of each milestone decision, and (C) accounting for all direct, indirect, and cumulative environmental effects before proceeding toward production; and

(2) how to analyze, as early in the process as feasible, the life-cycle environmental costs for such major defense acquisition programs, including the materials to be used, the mode of operations and maintenance, requirements for demilitarization, and methods of disposal, after consideration of all pollution prevention opportunities and in light of all environmental mitigation measures to which the department expressly commits.

(b) ANALYSIS.—Beginning not later than March 31, 1995, the Secretary of Defense shall analyze the environmental costs of a major defense acquisition process as an integral part of the life-cycle cost analysis of the program pursuant to the guidance issued under subsection (a).

(c) DATA BASE FOR NEPA DOCUMENTATION.—The Secretary of Defense shall establish and maintain a data base for documents prepared by the Department of Defense in complying with the National Environmental Policy Act of 1969 with respect to major defense acquisition programs. Any such document relating to a major defense acquisition program shall be maintained in the data base for 5 years after commencement of low-rate initial production of the program.

SEC. 816. DEMONSTRATION PROJECT ON PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

(a) DEMONSTRATION PROJECT.—The Secretary of Defense may conduct a demonstration project, beginning October 1, 1994, at Monterey, California, under which any fire-fighting, security-guard, police, public works, utility, or other municipal services needed for operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located within the county of Monterey. The purchase of such services for the demonstration project may be made notwithstanding section 2465 of title 10, United States Code.

(b) EVALUATION OF PROJECT.—Not later than December 31, 1996, the Secretary of Defense shall submit to Congress a report evaluating the results of the project and making any recommendations the Secretary considers appropriate, including recommendations on whether the purchase authorities used in conducting the project could be used to provide similar services at other locations.

SEC. 817. PREFERENCE FOR LOCAL RESIDENTS.

(a) PREFERENCE ALLOWED.—In entering into contracts with private entities for services to be performed at a military installation that is affected by closure or alignment under a base closure law, the Secretary of Defense may give preference, consistent with Federal, State, and local laws and regulations, to entities that plan to hire, to the maximum extent practicable, residents of the vicinity of such military installation to perform such contracts. Contracts for which the preference may be given include contracts to carry out environmental restoration activities or construction work at such military installations. Any such preference may be given for a contract only if the services to be performed under the contract at the military installation concerned can be carried out in a manner that is consistent with all other actions at the installation that the Secretary is legally required to undertake.

(b) DEFINITION.—In this section, the term "base closure law" means the following:

(1) The provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(c) APPLICABILITY.—Any preference given under subsection (a) shall apply only with respect to contracts entered into after the date of the enactment of this Act.

(d) TERMINATION.—This section shall cease to be effective on September 30, 1997.

SEC. 818. PAYMENT OF RESTRUCTURING COSTS UNDER DEFENSE CONTRACTS.

(a) CERTIFICATION OF COST SAVINGS.—(1) The Secretary of Defense may not, under section 2324 of title 10, United States Code, pay restructuring costs associated with a business combination undertaken by a defense contractor until the Department of Defense reviews the projected costs and savings that will result for the Department from such business combination and an official of the Department of Defense at the level of Assistant Secretary of Defense or above certifies in writing that projections of future cost savings resulting for the Department from the business combination are based on audited cost data and should result in overall reduced costs to the Department.

(2) The requirements for a review and certification under paragraph (1) shall not apply with respect to any business combination for which restructuring costs were paid or otherwise approved by the Secretary before August 15, 1994.

(b) REQUIREMENT FOR REGULATIONS.—Not later than January 1, 1995, the Secretary of Defense shall prescribe regulations on the allowability of restructuring costs associated with business combinations under defense contracts.

(c) MATTERS TO BE INCLUDED.—At a minimum, the regulations shall—

(1) include a definition of the term "restructuring costs"; and

(2) address the issue of contract novations under such contracts.

(d) CONSULTATION.—In developing the regulations, the Secretary of Defense shall consult with the Administrator for Federal Procurement Policy.

(e) REPORT.—Not later than November 13 in each of the years 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the following:

(1) A description of the procedures being followed within the Department of Defense for evaluating projected costs and savings under a defense contract resulting from a restructuring of a defense contractor associated with a business combination.

(2) A list of all defense contractors for which restructuring costs have been allowed by the Department, along with the identities of the firms which those contractors have acquired or with which those contractors have combined since July 21, 1993, that qualify the contractors for such restructuring reimbursement.

(3) The Department's experience with business combinations for which the Department has agreed to allow restructuring costs since July 21, 1993, including the following:

(A) The estimated amount of costs associated with each restructuring that have been or will be treated as allowable costs under defense contracts, including the type and amounts of costs that would not have arisen absent the business combination.

(B) The estimated amount of savings associated with each restructuring that are expected to be achieved on defense contracts.

(C) The types of documentation relied on to establish that savings associated with each restructuring will exceed costs associated with the restructuring.

(D) Actual experience on whether savings associated with each restructuring are exceeding costs associated with the restructuring.

(E) Identification of any programmatic or budgetary disruption in the Department of Defense resulting from contractor restructuring.

(f) DEFINITION.—In this section, the term "business combination" includes a merger or acquisition.

(g) COMPTROLLER GENERAL REPORTS.—(1) Not later than March 1, 1995, the Comptroller General shall submit to Congress a report on the adequacy of the regulations prescribed under subsection (b) with respect to—

(A) whether such regulations are consistent with the purposes of this section, other applicable law, and the Federal Acquisition Regulation; and

(B) whether such regulations establish policies, procedures, and standards to ensure that restructuring costs are paid only when in the best interests of the United States.

(2) The Comptroller General shall report periodically to Congress on the implementation of the policy of the Department of Defense regarding defense industry restructuring.

(3) Not later than December 1, 1997, the Comptroller General shall submit to Congress a final report on the policy of the Department of Defense on defense industry restructuring, including any recommendations the Comptroller considers appropriate.

SEC. 819. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

The Secretary of Defense is authorized to designate the following defense acquisition programs for participation, to the extent provided in the Federal Acquisition Streamlining Act of 1994, in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(1) The Fire Support Combined Arms Tactical Trainer program.

(2) The Joint Direct Attack Munition program.

(3) The Joint Primary Aircraft Training System.

(4) Commercial-derivative aircraft.

(5) Commercial-derivative engine.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

SEC. 901. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

(a) ESTABLISHMENT OF POSITION.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and inserting in lieu thereof "eleven".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of Defense (10)." and inserting in lieu thereof the following:

"Assistant Secretaries of Defense (11).".

SEC. 902. ORDER OF SUCCESSION TO SECRETARIES OF THE MILITARY DEPARTMENTS.

(a) ARMY.—Section 3017 of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Army.".

(b) NAVY.—Section 5017 of such title is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Navy.".

(c) AIR FORCE.—Section 8017 of such title is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Air Force.".

SEC. 903. CHANGE OF TITLE OF COMPTROLLER OF THE DEPARTMENT OF DEFENSE TO UNDER SECRETARY OF DEFENSE (COMPTROLLER).

(a) IN GENERAL.—(1) Section 135 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "a Comptroller of the Department of Defense" and inserting in lieu thereof "an Under Secretary of Defense (Comptroller)"; and

(B) in subsections (b), (c), (d), and (e), by striking out "Comptroller" each place it appears and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) The heading for such section is amended to read as follows:

"§135. Under Secretary of Defense (Comptroller)".

(3) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"135. Under Secretary of Defense (Comptroller).".

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—(1) Section 131(b)(4) of title 10, United States Code, is amended by striking out "Comptroller" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) Section 138(d) of such title is amended by striking out "and Comptroller".

(c) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5314 of title 5, United States Code, is amended by striking out "Comptroller of the Department of Defense" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(d) REFERENCES IN OTHER LAWS.—Any reference to the Comptroller of the Department of Defense in any provision of law other than title 10, United States Code, or in any rule, regulation, or other paper of the United States shall be treated as referring to the Under Secretary of Defense (Comptroller).

SEC. 904. NATIONAL GUARD BUREAU CHARTER.

(a) IN GENERAL.—Subtitle E of title 10, United States Code, as added by section 1611, is amended by inserting after chapter 1009, as added by section 1661(b), the following new chapter:

"CHAPTER 1011—NATIONAL GUARD BUREAU

"10501. National Guard Bureau.
"10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade.
"10503. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force.
"10504. Chief of National Guard Bureau: annual report.
"10505. Vice Chief of the National Guard Bureau.
"10506. Other senior National Guard Bureau officers.
"10508. Definition.

"§10501. National Guard Bureau

"(a) NATIONAL GUARD BUREAU.—There is in the Department of Defense the National Guard Bureau, which is a joint bureau of the Department of the Army and the Department of the Air Force.

"(b) PURPOSES.—The National Guard Bureau is the channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between (1) the Department of the Army and Department of the Air Force, and (2) the several States.

"§10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade

"(a) APPOINTMENT.—There is a Chief of the National Guard Bureau, who is responsible for the organization and operations of the National Guard Bureau. The Chief of the National Guard Bureau is appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(2) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(3) are in a grade above the grade of brigadier general.

"(b) TERM OF OFFICE.—An officer appointed as Chief of the National Guard Bureau serves at the pleasure of the President for a term of four years. An officer may not hold that office after becoming 64 years of age. An officer may be reappointed as Chief of the National Guard Bureau. While holding that office, the Chief of the National Guard Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.

"(c) ADVISER ON NATIONAL GUARD MATTERS.—The Chief of the National Guard Bureau is the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

"(d) GRADE.—The Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

"§10503. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force

"The Secretary of the Army and the Secretary of the Air Force shall jointly develop and prescribe a charter for the National Guard Bureau. The charter shall cover the following matters:

"(1) Allocating unit structure, strength authorizations, and other resources to the Army National Guard of the United States and the Air National Guard of the United States.

"(2) Prescribing the training discipline and training requirements for the Army National Guard and the Air National Guard and the allocation of Federal funds for the training of the Army National Guard and the Air National Guard.

"(3) Ensuring that units and members of the Army National Guard and the Air National Guard are trained by the States in accordance with approved programs and policies of, and guidance from, the Chief, the Secretary of the Army, and the Secretary of the Air Force.

"(4) Monitoring and assisting the States in the organization, maintenance, and operation of National Guard units so as to provide well-trained and well-equipped units capable of augmenting the active forces in time of war or national emergency.

"(5) Planning and administering the budget for the Army National Guard of the United States and the Air National Guard of the United States.

"(6) Supervising the acquisition and supply of, and accountability of the States for, Federal property issued to the National Guard through the property and fiscal officers designated, detailed, or appointed under section 708 of title 32.

"(7) Granting and withdrawing, in accordance with applicable laws and regulations, Federal recognition of (A) National Guard units, and (B) officers of the National Guard.

"(8) Establishing policies and programs for the employment and use of National Guard technicians under section 709 of title 32.

"(9) Supervising and administering the Active Guard and Reserve program as it pertains to the National Guard.

"(10) Issuing directives, regulations, and publications consistent with approved policies of the Army and Air Force, as appropriate.

"(11) Facilitating and supporting the training of members and units of the National Guard to meet State requirements.

"(12) Such other functions as the Secretaries may prescribe.

"§10504. Chief of National Guard Bureau: annual report

"(a) Annual Report.—The Chief of the National Guard Bureau shall submit to the Secretary of Defense, through the Secretaries of the Army and the Air Force, an annual report on the state of the National Guard and the ability of the National Guard to meet its missions. The report shall be prepared in conjunction with the Secretary of the Army and the Secretary of the Air Force and may be submitted in classified and unclassified versions.

"(b) Submission of Report to Congress.—The Secretary of Defense shall transmit the annual report of the Chief of the National Guard Bureau to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113(c) of this title is submitted to Congress.

"§10505. Vice Chief of the National Guard Bureau

"(a) Appointment.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(B) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(C) are in a grade above the grade of colonel.

"(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

"(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

"(B) The term of the Vice Chief of the National Guard Bureau shall end upon the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

"(4) The Secretary of Defense may waive the restrictions in paragraph (2) and the provisions of paragraph (3)(B) for a limited period of time to provide for the orderly transition of officers appointed to serve in the positions of Chief and Vice Chief of the National Guard Bureau.

"(b) Duties.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

"(c) Grade.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of major general.

"(d) Functions as Acting Chief.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence or disability ceases.

"(e) Succession After Chief and Vice Chief.—When there is a vacancy in the offices of both Chief and Vice Chief of the National Guard Bureau or in the absence or disability of both the Chief and Vice Chief of the National Guard Bureau, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty with the National Guard Bureau shall perform the duties of the Chief until a successor to the Chief or Vice Chief is appointed or the absence or disability of the Chief or Vice Chief ceases, as the case may be.

"§10506. Other senior National Guard Bureau officers

"(a) Additional General Officers.—(1) In addition to the Chief and Vice Chief of the National Guard Bureau, there shall be assigned to the National Guard Bureau—

"(A) two general officers selected by the Secretary of the Army from officers of the Army National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Army National Guard, with the other serving as Deputy Director, Army National Guard; and

"(B) two general officers selected by the Secretary of the Air Force from officers of the Air National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Air National Guard, with the other serving as Deputy Director, Air National Guard.

"(2) The officers so selected shall assist the Chief of the National Guard Bureau in carrying out the functions of the National Guard Bureau as they relate to their respective branches.

"(b) Other Officers.—There are in the National Guard Bureau a legal counsel, a comptroller, and an inspector general, each of whom shall be appointed by the Chief of the National Guard Bureau. They shall perform such duties as the Chief may prescribe.

"§10508. Definition

"In this chapter, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and Guam and the Virgin Islands.".

(b) Conforming Repeal.—(1) Section 3040 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 305 of such title is amended by striking out the item relating to section 3040.

(c) Conforming Amendment.—The text of section 108 of title 32, United States Code, is amended to read as follows:

"If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.".

(d) Effective Date.—The provisions of chapter 1011 of title 10, United States Code, as added by subsection (a), shall become effective, and the repeal made by subsection (c) and the amendment made by subsection (c) shall take effect, at the end of the 90-day period beginning on the date of the enactment of this Act.

Subtitle B—Professional Military Education

SEC. 911. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) Authority To Award.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§7102. Marine Corps University: master of military studies

"(a) Authority.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) Regulations.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

(b) Effective Date.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 912. BOARD OF ADVISORS FOR MARINE CORPS UNIVERSITY.

The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.

SEC. 913. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) Authority To Award.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§9317. Air University: master of airpower art and science

"(a) Authority.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) Regulations.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

(b) Effective Date.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

SEC. 914. SENSE OF CONGRESS ON GRADE OF HEADS OF SENIOR PROFESSIONAL MILITARY EDUCATION SCHOOLS.

It is the sense of Congress that an officer serving in a position as the head of one of the senior professional military education schools of the Department of Defense (or of the separate military departments) should, while so serving, hold a grade not less than the grade (or its equivalent) held by the officer serving in that position on the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 921. COMPOSITION OF RESERVE FORCES POLICY BOARD.

Section 175(a) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking out "or Regular Marine Corps" and inserting in lieu thereof

"and an officer of the Regular Marine Corps each";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(10) an officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.".

SEC. 922. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CLOSURE PROHIBITED.—The Uniformed Services University of the Health Sciences may not be closed.

(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

(c) GAO EVALUATION.—Not later than June 1, 1995, the Comptroller General of the United States shall submit to Congress a detailed report on the Uniformed Services University of the Health Sciences. The report shall include the following:

(1) A comparison of the cost of obtaining physicians for the Armed Forces from the University with the cost of obtaining physicians from other sources.

(2) An assessment of the retention rate needs of the Armed Forces for physicians in relation to the respective retention rates of physicians obtained from the University and physicians obtained from other sources and the factors that contribute to retention rates among military physicians obtained from all sources.

(3) A review of the quality of the medical education provided at the University with the quality of medical education provided by other sources of military physicians.

(4) A review of the overall issue of the special needs of military medicine and how those special needs are being met by physicians obtained from University and physicians obtained from other sources.

(5) An assessment of the extent to which the University has responded to the 1990 report of the Inspector General of the Department of Defense, including recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the University, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report.

(6) Such other recommendations as the Comptroller General considers appropriate.

SEC. 923. COMMISSION ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) SIZE OF COMMISSION.—(1) Section 952(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1738; 10 U.S.C. 111 note) is amended by striking out "seven members" and inserting in lieu thereof "eleven members".

(2) Section 956(b)(1) of such Act (107 Stat. 1740) is amended by striking out "Four members" and inserting in lieu thereof "Seven members".

(3) The additional members of the Commission on Roles and Missions of the Armed Forces authorized by the amendment made by paragraph (1) shall be appointed by the Secretary of Defense not later than 30 days after the date of the enactment of this Act.

(4) At least one of the additional members of the Commission appointed pursuant to the amendment made by paragraph (1) shall have previous military experience and management experience with the reserve components.

(b) REVIEW OF RESERVE COMPONENTS.—Section 953 of such Act (107 Stat. 1738) is amended—

(1) in subsection (d)—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the role of the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components.";

(2) in subsection (e)(3), by inserting after "Department of Defense" the following: ", including the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components"; and

(3) by adding at the end the following new subsection:

"(h) RECOMMENDATIONS CONCERNING RESERVE COMPONENTS.—The Commission shall also address the roles, missions, and functions of the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components within the total force of the Armed Forces, particularly in light of lower budgetary resources that will be available to the Department of Defense in the future.".

(c) RECOMMENDATIONS CONCERNING PROGRAMS AND FORCE STRUCTURE.—Section 953 of such Act is further amended by adding after subsection (h), as added by subsection (b), the following:

"(i) RECOMMENDATIONS CONCERNING PROGRAMS AND FORCE STRUCTURE.—The Commission may also recommend changes that would better align programs and force structure with projected missions and threats.".

(d) FFRDC SUPPORT.—(1) Section 957 of such Act (107 Stat. 1741) is amended by adding at the end the following new subsection:

"(f) FFRDC SUPPORT.—(1) Upon the request of the chairman of the Commission, the Secretary of Defense shall make available to the Commission, without reimbursement, the services of any federally funded research and development center that is covered by a sponsoring agreement of the Department of Defense. The cost of the services made available under this subsection may not exceed $20,000,000.

"(2) Notwithstanding any other provision of law, any analytic support or related services provided by such a center to the Commission shall not be subject to any overall ceiling established by this or any other Act on the activities or budgets of such centers.".

(2) Such section is further amended by striking out the section heading and inserting in lieu thereof the following:

"SEC. 957. PERSONNEL MATTERS; EXPERT SERVICES.".

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) RENAMING OF THE COURT OF MILITARY APPEALS.—(1) The United States Court of Military Appeals shall hereafter be known and designated as the United States Court of Appeals for the Armed Forces.

(2) Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Forces".

(b) RENAMING OF THE COURTS OF MILITARY REVIEW.—(1) Each Court of Military Review shall hereafter be known and designated as a Court of Military Criminal Appeals.

(2) Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Military Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

(3)(A) The heading of subchapter XII of chapter 47 is amended to read as follows:

"SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES".

(B) The table of subchapters at the beginning of chapter 47 is amended by striking out the item relating to subchapter XII and inserting in lieu thereof the following:

"XII. United States Court of Appeals for the Armed Forces .... 941 141".

(4)(A) The heading of section 866 is amended to read as follows:

"§866. Art. 66. Review by Court of Military Criminal Appeals".

(B) The heading of section 867 is amended to read as follows:

"§867. Art. 67. Review by the Court of Appeals for the Armed Forces".

(C) The items relating to sections 866 and 867 (articles 66 and 67) in the table of sections at the beginning of subchapter IX of chapter 47 are amended to read as follows:

"866. 66. Review by Court of Military Criminal Appeals.
"867. 67. Review by the Court of Appeals for the Armed Forces.".

(d) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following titles of the United States Code are amended by striking out "Court of Military Appeals" each place it appears in the specified sections and inserting in lieu thereof "Court of Appeals for the Armed Forces":

(A) In title 5, sections 8334(a)(1), 8336(l), 8337(a), 8338(c), 8339(d)(6), and 8339(h) and the table in section 8334(c).

(B) In title 18, sections 202(e)(2) and 6001(4).

(C) In title 28, sections 1259 and 2101(g).

(D) In title 44, section 906.

(2)(A) The heading of section 1259 of title 28, United States Code, is amended to read as follows:

"§1259. Court of Appeals for the Armed Forces; certiorari".

(B) The item relating to section 1259 in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"1259. Court of Appeals for the Armed Forces; certiorari.".

(3) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking out "Court of Military Appeals" each place it appears in paragraphs (8) and (10) and inserting in lieu thereof "Court of Appeals for the Armed Forces".

SEC. 925. BUDGET SUPPORT FOR RESERVE ELEMENTS OF SPECIAL OPERATIONS COMMAND.

Section 167 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) Budget Support for Reserve Elements.—(1) Before the budget proposal for the special operations command for any fiscal year is submitted to the Secretary of Defense, the commander of the command shall consult with the Secretaries of the military departments concerning funding for reserve component special operations units. If the Secretary of a military department does not concur in the recommended level of funding with respect to any such unit that is under the jurisdiction of the Secretary, the commander shall include with the budget proposal submitted to the Secretary of Defense the views of the Secretary of the military department concerning such funding.

"(2) Before the budget proposal for a military department for any fiscal year is submitted to the Secretary of Defense, the Secretary of that military department shall consult with the commander of the special operations command concerning funding for special operations forces in the military personnel budget for a reserve component in that military department. If the commander of that command does not concur in the recommended level of funding with respect to reserve component special operations units, the Secretary shall include with the budget proposal submitted to the Secretary of Defense the views of the commander of that command.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) Authority To Transfer Authorizations.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Effect on Authorization Amounts.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEAR 1994.

(a) Authorization of Prior Emergency Supplemental Appropriations.—Funds appropriated to the Department of Defense for fiscal year 1994 in chapter 3 of title I of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211; 108 Stat. 5) for the purposes stated in section 302 of such Act (108 Stat. 7), relating to the incremental and associated costs of the Department of Defense incurred in connection with ongoing United States operations relating to Somalia, Bosnia, Southwest Asia, and Haiti, are hereby authorized in amounts as follows:

(1) For Military Personnel:

(A) For the Army, $6,600,000.

(B) For the Navy, $19,400,000.

(C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:

(A) For the Army, $420,100,000.

(B) For the Navy, $104,800,000.

(C) For the Air Force, $560,100,000.

(D) For Defense-wide activities, $21,600,000.

(3) For Procurement:

(A) For Aircraft Procurement, Army, $20,300,000.

(B) For Other Procurement, Army, $200,000.

(C) For Other Procurement, Air Force, $26,800,000.

(b) Authorization of Supplemental Appropriations for Relief of Rwanda Refugees.—There is authorized to be appropriated to the Emergency Response Fund, Defense, as emergency supplemental appropriations for fiscal year 1994 the sum of $270,000,000 to be used to reimburse appropriations of the Department of Defense for costs incurred for emergency relief for Rwanda.

SEC. 1003. INCORPORATION OF CLASSIFIED ANNEX.

(a) Status of Classified Annex.—The Classified Annex prepared by the committee of conference to accompany the bill S. 2182 of the One Hundred Third Congress and transmitted to the President is hereby incorporated into this Act.

(b) Construction With Other Provisions of Act.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) Limitation on Use of Funds.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) Distribution of Classified Annex.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1004. DATE FOR SUBMISSION OF FUTURE-YEARS MISSION BUDGET.

Section 222(a) of title 10, United States Code, is amended by striking out "at the same time that" in the second sentence and inserting in lieu thereof "not later than 60 days after the date on which".

SEC. 1005. SUBMISSION OF NEXT FUTURE-YEARS DEFENSE PROGRAM AS REQUIRED BY LAW.

(a) Condition on Obligation of Advance Procurement Funds.—If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program is submitted to Congress.

(b) Removal of Condition.—If the Secretary submits to Congress the fiscal year 1996 future-years defense program during the 30-day period described in the first sentence of subsection (a), the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program.

(c) Compliance Certification as Condition of Effective Submission of FYDP.—A submission of the fiscal year 1996 future-years defense program may not be considered to have been made for purposes of this section unless the submission is accompanied by a certification by the Secretary that such program as submitted satisfies the requirements of section 221(b) of title 10, United States Code. Any such certification may be made by the Secretary only after consultation with the Inspector General of the Department of Defense.

(d) Definitions.—For purposes of this section:

(1) The term "fiscal year 1996 future-years defense program" means the multiyear defense program (including associated annexes) covering fiscal years beginning with fiscal year 1996 required (by section 221 of title 10, United States Code) to be submitted to Congress in conjunction with the President's budget for that fiscal year.

(2) The term "fiscal year 1995 advance procurement funds" means funds appropriated for the Department of Defense for fiscal year 1995 that are available for advance procurement.

SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.

(a) Authority.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1994 defense appropriations except as otherwise provided in section subsections (c) and (d).

(b) Covered Amounts.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1994 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1994 defense authorizations.

(c) Programs Not Available for Obligation.—Amounts described in subsection (b) which remain available for obligation on the date of the enactment of this Act may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1994 defense appropriations):

(1) The Guardrail modifications program under "Aircraft Procurement, Army" in the amount of $19,000,000.

(2) The AT–4 upgrade program under "Procurement of Ammunition, Army" in the amount of $15,000,000.

(3) The Combat Vehicle Modernization program under "Research, Development, Test, and Evaluation, Army" in the amount of $20,000,000 for incorporation of the Saudi Arabia M1A2 electronic data processing, storage and retrieval system in the United States version of the M1A2 tank.

(d) Manufacturing Technology.—The Secretary of Defense may obligate fiscal year 1994 defense appropriations under the Manufacturing Technology Development program which remain available for obligation on the date of the enactment of this Act in accordance with the competition and cost-sharing requirements of subsection (d) of section 2525 of title 10, United States Code, as amended by section 256 of this Act, notwithstanding any other provision of law that specifies (or has the effect of requiring) that a contract be entered into with, or a grant be made to, a particular institution or entity.

(e) Definitions.—For the purposes of this section:

(1) Fiscal Year 1994 Defense Appropriations.—The term "fiscal year 1994 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1994 in the Department of Defense Appropriations Act, 1994 (Public Law 103–139).

(2) FISCAL YEAR 1994 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1994 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1994 in the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

Subtitle B—Counter-Drug Activities

SEC. 1011. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) EXTENSION OF CURRENT AUTHORITY.—Section 1004(a) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended by striking out "through 1995" and inserting in lieu thereof "through 1999".

(b) CONDITION ON TRANSFER OF FUNDS.—Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states—

(1) the amount authorized to be transferred;

(2) the account from which such amount is authorized to be transferred; and

(3) the account to which such amount is authorized to be transferred.

(c) CONDITION ON DETAILING PERSONNEL.—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

(d) RELATIONSHIP TO OTHER LAW.—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be.

SEC. 1012. OFFICIAL IMMUNITY FOR AUTHORIZED EMPLOYEES AND AGENTS OF THE UNITED STATES AND FOREIGN COUNTRIES ENGAGED IN INTERDICTION OF AIRCRAFT USED IN ILLICIT DRUG TRAFFICKING.

(a) EMPLOYEES AND AGENTS OF FOREIGN COUNTRIES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and

(2) the President of the United States, before the interdiction occurs, has determined with respect to that country that—

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

(b) EMPLOYEES AND AGENTS OF THE UNITED STATES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a). The provision of such assistance shall not give rise to any civil action seeking money damages or any other form of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

(c) DEFINITIONS.—For purposes of this section:

(1) The terms "interdict" and "interdiction", with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term "illicit drug trafficking" means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term "assistance" includes operational, training, intelligence, logistical, technical, and administrative assistance.

SEC. 1013. REPORT ON STATUS OF DEFENSE RANDOM DRUG TESTING PROGRAM.

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the policy and procedures under which the Armed Forces conduct random drug testing of members of the Armed Forces, the frequency of such testing, and the number of members annually required to submit to such testing. The report shall describe any changes that were made to such policy or procedures, or to the frequency of such testing, during the one-year period ending on the date of the enactment of this Act.

Subtitle C—Naval Vessels and Related Matters

SEC. 1021. TRANSFER OF USNS MAURY.

(a) IN GENERAL.—The Secretary of the Navy shall transfer the USNS Maury (TAGS–39) to the Department of Transportation for assignment as a training ship to the California Maritime Academy at Vallejo, California. The transfer shall be made on the date of the decommissioning of that vessel.

(b) TERMS AND CONDITIONS.—(1) In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States.

(2) The Secretary may require such additional terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1022. TRANSFER OF OBSOLETE VESSEL USS GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH–7), the Secretary of the Navy may transfer the USS Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATION.—The transfer authorized by section (a) may be made only if the Secretary determines that the vessel USS Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1023. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

Subtitle D—POW/MIA Matters

SEC. 1031. ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1032. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the Secretary's recommendations as to whether those provisions of law should be amended.

(c) CONSULTATION.—The review under subsection (a) shall be carried out in consultation with the Secretaries of the military departments.

SEC. 1033. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate, in its final report, dated January 13, 1993, concluded—

(A) that "many American POWs had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials"; and

(B) that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POWs from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in that report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1034. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

(a) REQUIREMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the information specified in subsection (b) pertaining to United States personnel involved in the Vietnam conflict who remain not accounted for.

(b) REQUIRED INFORMATION.—The information to be provided in the report under subsection (a) is as follows:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1035. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall, at the end of January and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel.

(c) COMMISSION.—The President shall give serious consideration to establishing a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict.

SEC. 1036. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

Subtitle E—Miscellaneous Reporting Requirements

SEC. 1041. ANNUAL REPORT ON DENIAL, REVOCATION, AND SUSPENSION OF SECURITY CLEARANCES.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress, not later than 90 days after the close of each of fiscal years 1995 through 2000, a report concerning the denial, revocation, or suspension of security clearances for Department of Defense military and civilian personnel, and for Department of Defense contractor employees, for that fiscal year.

(b) MATTER TO BE INCLUDED IN REPORT.—The Secretary shall include in each such report the following information with respect to the fiscal year covered by the report (shown separately for members of the Armed Forces, civilian officers and employees of the Department of Defense, and employees of contractors of the Department of Defense):

(1) The number of denials, revocations, and suspensions of a security clearance, including clearance for special access programs and for sensitive compartmented information.

(2) For cases involving the denial or revocation of a security clearance, the average period from the date of the initial determination and notification to the individual concerned of the denial or revocation of the clearance to the date of the final determination of the denial or revocation, as well as the shortest and longest period in such cases.

(3) For cases involving the suspension of a security clearance, the average period from the date of the initial determination and notification to the individual concerned of the suspension of the clearance to the date of the final determination of the suspension, as well as the shortest and longest period of such cases.

(4) The number of cases in which a security clearance was suspended in which the resolution of the matter was the restoration of the security clearance, and the average period for such suspensions.

(5) The number of cases (shown only for members of the Armed Forces and civilian officers and employees of the Department of Defense) in which an individual who had a security clearance denied or revoked remained a member of the Armed Forces or a civilian officer or employee, as the case may be, at the end of the fiscal year.

(6) The number of cases in which an individual who had a security clearance suspended, and in which no final determination had been made, remained a member of the Armed Forces, a civilian officer or employee, or an employee of a contractor, as the case may be, at the end of the fiscal year.

(7) The number of cases in which an appeal was made from a final determination to deny or revoke a security clearance and, of those, the number in which the appeal resulted in the granting or restoration of the security clearance.

SEC. 1042. REPORT ON USE OF LOW-ENRICHED URANIUM AS FUEL FOR NAVAL NUCLEAR REACTORS.

(a) REQUIREMENT OF REPORT.—Not later than June 1, 1995, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of low-enriched uranium (instead of highly-enriched uranium) as fuel for naval nuclear reactors.

(b) CONTENTS OF REPORT.—The report shall include an assessment of the following:

(1) The advantages and disadvantages of the use of low-enriched uranium (instead of highly-

enriched uranium) as fuel for naval nuclear reactors.

(2) The effects of such use on the following:

(A) Operating performance, ship displacement, and reactor core life, including the full range of plausible trade-offs among operating performance, ship displacement, and reactor core life that may result from such use.

(B) Construction costs and operating costs.

(C) Naval fuel cycles.

(D) Policies of the United States for the nonproliferation of nuclear weapons, including the proposal of the President for a global ban on the production of fissile materials for weapons.

(3) The implications of such use for current and future United States nuclear-powered naval vessels.

(4) The complexity and effectiveness of safeguards under naval fuel cycles for low-enriched uranium in relation to the complexity and effectiveness of safeguards under naval fuel cycles for highly-enriched uranium.

(5) The risk of theft or diversion of low-enriched uranium under naval fuel cycles for low-enriched uranium in relation to the risk of theft or diversion of highly-enriched uranium under naval fuel cycles for highly-enriched uranium.

(6) The potential savings that might be achieved, and the potential additional costs that might be incurred, as a result of the use of low-enriched uranium instead of highly-enriched uranium as fuel for naval nuclear reactors.

(7) Any additional information that the Secretary of the Navy considers to be appropriate.

Subtitle F—Congressional Findings, Policies, Commendations, and Commemorations

SEC. 1051. SENSE OF CONGRESS CONCERNING COMMENDATION OF INDIVIDUALS EXPOSED TO MUSTARD AGENTS DURING WORLD WAR II TESTING ACTIVITIES.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of Defense should issue to each individual described in subsection (b) a commendation in honorary recognition of the individual's special service, loyalty, and contribution to the United States.

(b) Covered Individuals.—Individuals referred to in subsection (a) are those individuals who, as members of the Armed Forces or employees of the Department of War during World War II, were exposed (without their knowledge or consent) to mustard agents in connection with testing performed by the Department of War during that war.

(c) Notification of Exposure.—The Secretary of Defense shall notify each surviving individual described in subsection (b) of—

(1) the exposure described in subsection (b);

(2) the possible health effects of the exposure that are known to the Secretary; and

(3) the likely options available to the individual for medical treatment for any adverse health effects resulting from the exposure.

(d) Furnishing of Information to Secretary of Veterans Affairs.—The Secretary of Defense shall provide to the Secretary of Veterans Affairs any information of the Department of Defense regarding the exposure described in subsection (b), including the names of the individuals described in subsection (b).

SEC. 1052. USS INDIANAPOLIS (CA-35): GALLANTRY, SACRIFICE AND A DECISIVE MISSION TO END WW II.

(a) Findings.—Congress makes the following findings:

(1) The USS INDIANAPOLIS served the people of the United States with valor and distinction throughout World War II in action against enemy forces in the Pacific Theater of Operations from 7 December 1941 to 29 July 1945.

(2) The fast and powerful heavy cruiser with its courageous and capable crew, compiled an impressive combat record during her victorious forays across the battle-torn reaches of the Pacific, receiving in the process ten hard-earned Battle Stars from the Aleutians to Okinawa.

(3) This mighty ship repeatedly proved herself a swift, hard-hitting weapon of our Pacific Fleet, rendering invaluable service in anti-shipping, shore bombardments, anti-air and invasion support roles, and serving with honor and great distinction as Fifth Fleet Flagship under Admiral Raymond Spruance, USN, and Third Fleet Flagship under Admiral William F. Halsey, USN.

(4) This gallant ship, owing to her superior speed and record of accomplishment, transported the world's first operational atomic bomb to the Island of Tinian, accomplishing her mission at a record average speed of 29 knots.

(5) Following the accomplishment of her mission, the INDIANAPOLIS departed Tinian for Guam and, thereafter, embarked from Guam for the Leyte Gulf where she was to join with the fleet assembling for the invasion of Japan.

(6) At 0014 hours on 30 July 1945, the USS INDIANAPOLIS was sunk by enemy torpedo action.

(7) Of the approximately 900 members of her crew of 1,198 officers and men who survived the initial torpedo attack, only 319 were eventually rescued because, as a result of the ship's communication ability having been destroyed in the attack, the sinking of the USS INDIANAPOLIS was not discovered for five fateful days, during which the survivors suffered incessant shark attacks, starvation, desperate thirst, and exposure.

(8) From her participation in the earliest offensive actions in the Pacific in World War II to becoming the last capital ship lost in that conflict, the USS INDIANAPOLIS and her crew left an indelible imprint on our nation's struggle to eventual victory.

(9) This selfless and outstanding performance of duty reflects great credit upon the ship and her crew, thus upholding the very highest traditions of the United States Navy.

(b) Recognition and Commendation.—Congress, acting on behalf of the grateful people of the United States, hereby—

(1) recognizes the invaluable contributions of the USS INDIANAPOLIS to the ending of World War II; and

(2) on the occasion of the 50th Anniversary of her tragic sinking, and the dedication of her National Memorial in Indianapolis on July 30th, 1995, commends this gallant ship and her crew for selfless and heroic service to the United States of America.

Subtitle G—Other Matters

SEC. 1061. INCREASED AUTHORITY TO ACCEPT VOLUNTARY SERVICES.

(a) Expansion of Authority.—The text of section 1588 of title 10, United States Code, is amended to read as follows:

"(a) Authority To Accept Services.—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

"(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

"(2) Voluntary services to be provided for a museum or a natural resources program.

"(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

"(A) Family support programs.

"(B) Child development and youth services programs.

"(C) Library and education programs.

"(D) Religious programs.

"(E) Housing referral programs.

"(F) Programs providing employment assistance to spouses of such members.

"(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

"(b) Requirements and Limitations.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

"(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall—

"(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

"(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

"(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not—

"(A) place the person in a policy-making position; or

"(B) except as provided subsection (e), compensate the person for the provision of such services.

"(c) Authority To Recruit and Train Persons Providing Services.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

"(d) Status of Persons Providing Services.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

"(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

"(C) Section 522a of title 5 (relating to maintenance of records on individuals).

"(D) Chapter 11 of title 18 (relating to conflicts of interest).

"(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

"(A) Subchapter II of chapter 81 of title 5 (relating to compensation of nonappropriated fund employees for work-related injuries).

"(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

"(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

"(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) Reimbursement of Incidental Expenses.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a).

The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.".

(b) PILOT PROGRAM.—(1) The Secretary of Defense shall conduct a pilot program, for not less than six months, to accept voluntary services under the authority provided in section 1588 of title 10, United States Code, as amended by subsection (a). The purpose of the pilot program shall be to evaluate the policies and procedures of the Department of Defense for the acceptance of voluntary services under such section. The pilot program shall involve a variety of services, programs, and locations.

(2) The Secretary may not accept voluntary services under section 1588 of title 10, United States Code (other than services that may have been accepted under such section before the date of the enactment of this Act), and may not issue regulations to implement the amendment to such section made by subsection (a), until after the termination of the pilot program.

(3) Not later than 60 days after the termination of the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the pilot program.

(c) CONFORMING AMENDMENT.—Section 8171(a) of title 5, United States Code, is amended by inserting ", or to a volunteer providing such an instrumentality with services accepted under section 1588 of title 10," after "described by section 2105(c) of this title".

SEC. 1062. CIVIL AIR PATROL.

(a) PROVISION OF FUNDS.—Subsection (b) of section 9441 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) provide funds for the national headquarters of the Civil Air Patrol, including funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;".

(b) LIAISONS.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

"(2) A person employed pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.

"(3) A person employed pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.".

SEC. 1063. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTEES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, as amended by section 372, is further amended by adding at the end the following new section:

"§2248. Purchase of surety bonds: prohibition

"Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1995 through 1999 may not be obligated or expended for the purchase of surety bonds or other guarantees of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2248. Purchase of surety bonds: prohibition.".

SEC. 1064. REVISION OF AUTHORITY FOR USE OF NAVY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) SOURCES OF TRAINING.—Subsection (b) of section 1374 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1821; 10 U.S.C. 5013 note) is amended—

(1) by striking out the subsection caption and inserting in lieu thereof "SOURCES OF TRAINING.—"; and

(2) by inserting before the period at the end the following: "or may provide such training directly at such installations by agreement with the State concerned".

(b) LIABILITY AND INDEMNIFICATION.—Subsection (e) of such section is amended to read as follows:

"(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

"(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.".

SEC. 1065. DEMONSTRATION PROJECT FOR USE OF ARMY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system before their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

(f) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate.

SEC. 1066. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTIONS IN FORCE.

(a) STUDY AND REPORT.—(1) The Director of the Office of Personnel Management shall conduct a study on the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reductions in force.

(2) For purposes of paragraph (1), an interagency placement program is a program that

provides a system to require the offering of a position in an agency to an employee of another agency affected by a reduction in force if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is qualified for the offered position; and

(C) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the employee's present or last-held position.

(3) The Director shall carry out this subsection in consultation with the Secretary of Defense.

(4) The Director shall seek comments from the heads of all appropriate Federal agencies in conducting the study required by paragraph (1).

(5) Not later than six months after the date of the enactment of this Act, the Director shall submit to Congress a report on the results of the study required by paragraph (1) and on any action taken by the Director under subsection (b).

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) The Director may establish a Government-wide interagency placement program for Federal employees affected by reductions in force if, during the 6-month period beginning on the date of the enactment of this Act, the Director, in consultation with the Secretary of Defense, determines that such a program is feasible. To carry out the program, the Director may enter into an agreement with the head of each agency that agrees to participate in the program. If the Director establishes a program under this subsection, it is not necessary that the program be an interagency placement program within the meaning of subsection (a)(2).

(2) If the Director establishes a program pursuant to paragraph (1), the report required by subsection (a)(5) shall identify each agency that does not agree to participate in the program and the reasons of the head of that agency for not agreeing to participate.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "agency" means an Executive agency as defined in section 105 of title 5, United States Code, except that such term does not include the General Accounting Office.

(2) The term "Federal employees affected by reductions in force" means Federal employees who are separated, or are scheduled to be separated, from service under a reduction in force pursuant to—

(A) regulations prescribed under section 3502 of title 5, United States Code; or

(B) procedures established under section 3595 of such title.

SEC. 1067. NATIONAL MUSEUM OF HEALTH AND MEDICINE.

(a) PURPOSE.—It is the purpose of this section—

(1) to display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center;

(2) to designate the public facility of the Armed Forces Institute of Pathology as the National Museum of Health and Medicine; and

(3) to designate a site for the relocation of the public facility of the National Museum of Health and Medicine so that it may serve as a central resource of instruction about, and be involved in, the critical health issues which confront all American citizens.

(b) DESIGNATION AND SITE OF FACILITY.—The public facility of the Armed Forces Institute of Pathology—

(1) shall also be known as the National Museum of Health and Medicine; and

(2) shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia (or both) in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designated as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress makes the following findings:

(A) The National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia).

(B) The National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to another organization or an institution of higher education, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of another organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

SEC. 1069. REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) United States defense policy is to maintain the capability to fight and win two major regional contingencies nearly simultaneously.

(2) The Secretary of Defense conducted the Bottom Up Review during 1993 to structure the Armed Forces for the Post-Cold War period.

(3) The United States military force structure has shrunk dramatically since the 1991 Persian Gulf War and some critical force enhancements will not be deployed for several years.

(4) The Secretary of Defense (in testimony before the Committee on Armed Services of the Senate on February 2, 1994) stated that under current inflation assumptions the Department of Defense's Future Years Defense Program includes approximately $20,000,000,000 more in program funding requests for fiscal years 1996 through 1999 than the defense funding levels projected for the President's budget for those years.

(5) The Secretary of the Navy (in testimony before the Committee on Armed Services of the Senate on March 8, 1994) stated that by 1999 the Department of the Navy will operate only 330 ships, rather than the 346 ships projected in the report on the Bottom Up Review.

(6) The Secretary of Defense, in his January 1994 Annual Report to the President and Congress, reported that the Air Force will field approximately 100 heavy bombers, rather than the "up to 184" assumed in the report on the Bottom Up Review.

(7) The plans of the Department of Defense for a major regional contingency in the Far East call for up to 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for up to 7 Army divisions, while the report on the Bottom Up Review plans for an Army of 10 active divisions and at least 15 enhanced-readiness Army National Guard brigades.

(8) The President's budget for fiscal year 1995 assumes the Department of Defense will save at least $6,000,000,000 from procurement reform.

(9) The first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the President's budget.

(10) United States forces are presently involved in humanitarian relief efforts in or around Rwanda, in a number of air and maritime operations relating to the United Nations operations in Bosnia, and in a variety of operations relating to Iraq, Haiti, Somalia, and Macedonia.

(11) United States forces may be called upon in the future to conduct additional humanitarian and relief missions.

(12) United States forces may be called upon to conduct even more significant operations to enforce a peace agreement in Bosnia and to facilitate the departure from Haiti of the military leadership.

(13) Many of the forces that are participating in these other-than-war or nontraditional operations would be required early on in the event of one or more major regional contingencies.

(14) There are inevitable tradeoffs among spending on force structure, readiness, modernization, personnel, pay, and quality of life.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) within 30 days after enactment of this Act, the Secretary of Defense should initiate a review of the assumptions and conclusions of the President's budget, the report on the Bottom Up Review, and the Future Years Defense Program, such review to include consideration of the various other-than-war or nontraditional operations in which the United States forces are or may be participating;

(2) not more than 180 days after the review is initiated, the Secretary should submit to the President and Congress a report which—

(A) describes in detail the force structure required to fight and win two major regional contingencies nearly simultaneously in light of other ongoing or potential operations;

(B) may also address possible changes in national security planning or programs, including revised alliance arrangements, increased reliance on reserve component forces, or adjustments to the national military strategy; and

(C) includes an evaluation of an Army configured as 12 active duty divisions, a number of which would be rounded out with National Guard combat units;

(3) not more than 60 days after receipt of the report from the Secretary of Defense, the President should submit to Congress a report detailing the steps the President intends to take to meet the force structure described in the Secretary's report;

(4) future-years defense budgets submitted to Congress by the President should reflect the funding level necessary to support the force structure described in the report;

(5) funding for national defense for fiscal years 1995 through 1997 should be established at a level sufficient to support a force structure adequate to meet a two-war strategy and to ensure that the United States does not have a hollow force;

(6) the force structure to meet the requirements of a two-war strategy represents the minimum level which should be maintained unless the strategy is modified;

(7) whenever possible and consistent with the safety of United States personnel, in deploying military forces in support of operations other than war or other nontraditional operations, the President should seek to use forces other than those identified for early deployment in the event of one or more major regional contingencies; and

(8) the President should be willing to increase defense spending if required to meet new or existing threats.

SEC. 1070. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108".

(2) Section 133a(b) is amended by inserting "and Technology" before "in the performance of".

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,".

(4) The section 1058 added by section 551(a) of Public Law 103–160 (107 Stat. 1661) is amended in subsection (d) by striking out "subject to this chapter" and inserting in lieu thereof "subject to the Uniform Code of Military Justice (chapter 47 of this title)".

(5)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth".

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2172(a)(3) is amended—

(A) by striking out "health education assistance loan" and inserting in lieu thereof "health professions education loan";

(B) by striking out "part C" and inserting in lieu thereof "part A"; and

(C) by striking out "42 U.S.C. 294" and inserting in lieu thereof "42 U.S.C. 292".

(10) Section 2350j is amended—

(A) in subsection (a), by inserting a comma after "Secretary of State" the second place it appears; and

(B) in subsection (f), by striking out "the" after "shall submit to".

(11) Section 2399 is amended—

(A) in subsection (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(C) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

(12) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(13)(A) Section 2540, as added by subsection (a) of section 822 of Public Law 103–160 (107 Stat. 1705), and section 2541, as added by subsection (b) of that section, are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

(14) Section 2865(a)(4) is amended by adding a period at the end.

(15) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(16) The item relating to section 3082 in the table of sections at the beginning of chapter 307 (as added by section 521(b) of Public Law 103–160 (107 Stat. 1655)) is amended by striking out "3082." the second place it appears.

(17) Section 9021(c)(1) is amended by striking out "after the end of the 90-day period beginning on the date of the enactment of this section" and inserting in lieu thereof "after February 27, 1990".

(b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

(1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

(2) Section 524(c) (107 Stat. 1657) is amended by inserting "his" in the first quoted matter therein after "termination of".

(3) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(4) Section 554(a)(2) (107 Stat. 1666) is amended by striking out "inserting after the item relating to section 1056" and inserting in lieu thereof "adding at the end".

(5) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection (a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(6) Section 713(a)(1) (107 Stat. 1689) is amended by striking out "third party" in the first quoted matter therein and inserting in lieu thereof "third-party".

(7) Section 931(c)(1) (107 Stat. 1734) is amended by inserting close quotation marks before the period at the end.

(8) Section 931(f) (107 Stat. 1734) is amended—

(A) by striking out "Public Law 101–180" in paragraphs (1) and (2) and inserting in lieu thereof "Public Law 100–180"; and

(B) by inserting "1305(b)" in paragraph (3) after "Such section".

(9) Section 1001(a) (107 Stat. 1742) is amended by adding close quotation marks and a period at the end.

(10) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)".

(11) Section 1333(e)(4)(B)(i) (107 Stat. 1799) is amended by inserting a close parenthesis before the semicolon.

(12) Section 2854(1) (107 Stat. 1908) is amended by striking out "the" in the second quoted matter therein.

(13) Section 2902(a)(2) (107 Stat. 1911) is amended by striking out "Section 204(b)(7)(A)(ii)" and inserting in lieu thereof "Subparagraph (A)(i) of section 204(b)(7)".

(14) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)".

(15) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)".

(16) Section 3159(a) (107 Stat. 1956) is amended—

(A) in paragraph (1), by inserting a close parenthesis after "(15 U.S.C. 637(d)"; and

(B) in paragraph (3)—

(i) by inserting a close parenthesis after "(20 U.S.C. 1135d–5(3))"; and

(ii) by inserting a close parenthesis after "(20 U.S.C. 1059c(b)(1))".

(c) PUBLIC LAW 102–484.—Effective as of October 23, 1992, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 1505(e)(2) (22 U.S.C. 5859a(e)(2) is amended by striking out "and under subsection (d)(4)".

(2) Section 3161 (42 U.S.C. 7274h; 106 Stat. 2644) is amended—

(A) by striking out "work force" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "workforce";

*(B) by striking out "**WORK FORCE**" in the heading and inserting in lieu thereof "**WORKFORCE**"; and*

(C) by striking out "Part D" in subsection (c)(6)(B) and inserting in lieu thereof "division D".

(3) Section 3302 (106 Stat. 2649) is amended by striking out "Bauxite, Refactory" in the table in subsection (a) and inserting in lieu thereof "Bauxite, Refractory".

(4) Section 3315 (106 Stat. 2654) is amended by inserting "of 1950" after "Defense Production Act" the first place it appears.

(d) OTHER LAWS.—

(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 2903(c)(6) of Public Law 101–510 (10 U.S.C. 2687 note) is amended by striking out "House or Representatives" and inserting in lieu thereof "House of Representatives".

(3) Section 653(b)(2) of Public Law 100–456 (10 U.S.C. 1448 note) is amended by striking out "section 411(a)" and inserting in lieu thereof "section 1311(a)".

(4) Section 4(c) of Public Law 92–425 (10 U.S.C. 1448 note) is amended by striking out "section 3112" and "section 541(b)" and inserting in lieu thereof "section 5312" and "section 1541(b)", respectively.

(5) Section 709 of title 32, United States Code, is amended—

(A) in subsection (e)(6), by striking out "thirty days prior to" and inserting in lieu thereof "30 days before"; and

(B) in subsection (g)(2), by striking out "clause (1) of this subsection" and inserting in lieu thereof "paragraph (1)".

(6) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

(7) Section 182(a) of Public Law 103–236 (108 Stat. 418) is amended by striking out "section 1058, title 10, United States Code, before the date of enactment of this Act," and inserting in lieu thereof "section 1060 of title 10, United States Code, before April 30, 1994,".

(8) Subchapter II of chapter 81 of title 5, United States Code, is amended as follows:

(A) Section 8171 is amended—

(i) in subsection (a)—

(I) by striking out "Chapter 18 of title 33" in the first sentence and inserting in lieu thereof "The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.)";

(II) by striking out "section 902(2) of title 33" in the first sentence and inserting in lieu thereof "section 2(2) of such Act (33 U.S.C. 902(2))"; and

(III) by striking out "section 903(a) of title 33 which follows the first comma" in the second sentence and inserting in lieu thereof "section 3(a) of such Act (33 U.S.C. 903(3)) which follows the second comma";

(ii) in subsection (b), by striking out "section 902(4) of title 33" and inserting in lieu thereof "section 2(4) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(4))";

(iii) in subsection (c)(1), by striking out "section 939(b) of title 33" and inserting in lieu thereof "39(b) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 939(b))"; and

(iv) in subsection (d), by striking out "sections 918 and 921 of title 33" and inserting in lieu thereof "sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 18 and 21, respectively)".

(B) Sections 8172 and 8173 are amended by striking out "section 902(2) of title 33" and inserting in lieu thereof "section 2(2) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 2(2))".

(e) REFERENCES IN TITLE 10 TO SECTIONS OF TITLE 38.—Title 10, United States Code, is amended as follows:

(1) Section 706(c) is amended by striking out "section 4321" and inserting in lieu thereof "section 4301".

(2) Section 708(c)(2) is amended by striking out "section 1421" and inserting in lieu thereof "section 3021".

(3) Section 1450 is amended by striking out "section 411(a)" in subsections (c) and (k)(1) and inserting in lieu thereof "section 1311(a)".

(4) Section 1451(c)(2) is amended by striking out "section 411(a)" and inserting in lieu thereof "section 1311(a)".

(5) Section 1457(c)(3) is amended by striking out "section 411" and inserting in lieu thereof "section 1311".

(6) Section 2006(b)(2) is amended by striking out "section 1415(c)", "section 1411", and "section 1421(b)" and inserting in lieu thereof "section 3015(d)", "section 3011", and "section 3021(b)", respectively.

(7) Section 2184(1) is amended by striking out "section 1724" and inserting in lieu thereof "section 3524".

(8) Section 2641(c) is amended by striking out "section 5011(g)(5)" and inserting in lieu thereof "section 8111(g)(5)".

(9) Section 2679(a) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(f) CLARIFICATION OF APPLICABILITY OF LIMITATION RELATING TO CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—Section 2399 of title 10, United States Code, is amended in subsection (e)(3)(B) by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for".

(g) PROCUREMENT OF AERONAUTICAL SUPPLIES FOR EXPERIMENTAL PURPOSES.—Section 2373(a) of title 10, United States Code, is amended by striking out "and chemical activity supplies," and inserting in lieu thereof "chemical activity, and aeronautical supplies,".

(h) COORDINATION WITH OTHER PROVISIONS OF THIS ACT.—For purposes of applying amendments made by provisions of this Act other than this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

SEC. 1071. AUTHORIZATION TO EXCHANGE CERTAIN ITEMS FOR TRANSPORTATION SERVICES.

Paragraph (1) of section 2572(b) of title 10, United States Code, is amended by inserting "transportation," after "salvage,".

SEC. 1072. AIR NATIONAL GUARD FIGHTER AIRCRAFT FORCE STRUCTURE.

(a) FINDINGS.—Congress makes the following findings:

(1) The reduction in the total number of Air Force general purpose fighter wings being implemented as part of the changes in the force structure of the Air Force pursuant to the proposals in the report on the Bottom Up Review conducted by the Secretary of Defense during 1993 includes reduction in the number of Air National Guard and Air Force Reserve fighter wings from 10 to 7.

(2) The plan (as of the date of the enactment of this Act) for implementing that reduction in the number of Air National Guard and Air Force Reserve fighter wings is to reduce the number of fighter aircraft designated as being in the Primary Aircraft Inventory category that are authorized for each Air National Guard fighter unit from 24 or 18 aircraft to 15 aircraft and to convert some Air National Guard fighter units to other purposes.

(3) The Commission on Roles and Missions of the Armed Forces (established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738)) is required under section 954(b) of that Act to submit to Congress a report on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994; and

(2) the report referred to in subsection (a)(3) should contain a review of, and recommendations on, the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to those units and on requirements for resources for training of those units.

(c) REQUIREMENT.—(1) After receiving the report referred to in subsection (a)(3), the Secretary of Defense shall review the findings of the Commission set forth in that report on the role and requirements for general purpose fighter units of the Air National Guard.

(2) Not later than 30 days after receiving the report, the Secretary shall submit to Congress a report on the appropriate level of aircraft authorized in the Primary Aircraft Inventory of the Air Force for general purpose fighter units of the Air National Guard. The report shall include the plans of the Secretary for providing in a timely manner the funding levels necessary to support the level of such aircraft determined appropriate by the Secretary, if additional funding would be required to achieve and maintain that level of such aircraft.

SEC. 1073. SENSE OF CONGRESS CONCERNING VISAS FOR HIGH-LEVEL OFFICIALS OF TAIWAN.

It is the sense of Congress that no visa should be denied for a high-level official of Taiwan to enter the United States unless the official is otherwise excludable under the immigration laws of the United States.

SEC. 1074. DEFENSE MAPPING AGENCY.

(a) UNAUTHORIZED USE OF NAME.—Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§2797. Unauthorized use of Defense Mapping Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Mapping Agency', the initials 'DMA', the seal of the Defense Mapping Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) LIMITATION ON LIABILITY RELATING TO NAVIGATIONAL AIDS.—Chapter 167 of such title, as amended by subsection (a), is further amended by adding at the end the following new section:

"§2798. Civil actions barred

"(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the Defense Mapping Agency.

"(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the Defense Mapping Agency prepares or disseminates navigational aids.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2797. Unauthorized use of Defense Mapping Agency name, initials, or seal.
"2798. Civil actions barred.".

(d) EFFECTIVE DATE.—Section 2798 of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.

SEC. 1075. LIMITATION REGARDING TELECOMMUNICATIONS REQUIREMENTS

(a) LIMITATION.—No funds available to the Department of Defense or any other Executive agency may be expended to provide for meeting Department of Defense telecommunications requirements through the telecommunications procurement known as "FTS–2000" or through any other Government-wide telecommunications procurement until—

(1) the Secretary of Defense submits to the Congress a report containing—

(A) a certification by the Secretary that the FTS–2000 procurement or the other telecommunications procurement will provide assured, secure telecommunications support (including associated telecommunications services) for Department of Defense activities; and

(B) a description of how the procurement will be implemented and managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

(2) 30 days elapse after the date on which such report is received by the committees.

(b) DEFINITIONS.—In this section:

(1) The term "defense telecommunications requirements" means requirements for telecommunications equipment and services that, if procured by the Department of Defense, would be exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) pursuant to section 2315 of title 10, United States Code.

(2) The term "Executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(3) The term "procurement" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) EFFECT ON OTHER LAW.—Nothing in this section may be construed as modifying or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); or

(2) section 620 of Public Law 103–123.

TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

SEC. 1101. SHORT TITLE.

This title may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1994".

SEC. 1102. FUNDING OF DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to this Act for the Department of Defense for fiscal year 1995, the sum of $3,090,808,000 shall be available from the sources specified in subsection (b) for defense conversion, reinvestment, and transition assistance programs.

(b) SOURCES OF FUNDS.—The amount set forth in subsection (a) shall be derived from the following sources in amounts as follows:

(1) $7,500,000 of the amounts authorized to be appropriated pursuant to title I.

(2) $2,190,408,000 of the amounts authorized to be appropriated pursuant to title II.

(3) $892,900,000 of the amounts authorized to be appropriated pursuant to title III.

(c) DEFINITION.—For purposes of this section, the term "defense conversion, reinvestment, and transition assistance programs" includes the following programs and activities of the Department of Defense:

(1) The programs and activities authorized by the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2658) and the amendments made by that Act.

(2) The programs and activities authorized by the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII of Public Law 103–160; 107 Stat. 1783) and the amendments made by that Act.

(3) The programs and activities authorized by this title and the amendments made by this title.

Subtitle A—Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion

SEC. 1111. FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDS AVAILABLE.—Of the amount authorized to be appropriated under section 201 and specified in section 1102(b)(2) as a source of funds for defense conversion, reinvestment, and transition assistance programs, $751,000,000 shall be available for activities described in the defense reinvestment program elements of the budget of the Department of Defense for fiscal year 1995.

(b) ALLOCATION OF FUNDS.—The funds made available under subsection (a) shall be allocated as follows:

(1) $245,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code.

(2) $96,000,000 shall be available for commercial-military integration partnerships under section 2512 of such title.

(3) $80,000,000 shall be available for assistance of defense regional technology alliances under section 2513 of such title.

(4) $30,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of such title.

(5) $25,000,000 shall be available for assistance of manufacturing extension programs under section 2523 of such title.

(6) $24,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of such title.

(7) $10,000,000 shall be available for grants under section 2198 of such title to United States institutions of higher education and other United States not-for-profit organizations to support the management training program in Japanese language and culture.

(8) $50,000,000 shall be available for the maritime technology development program under section 1352(c)(2) of the National Shipbuilding and Shipyard Conversion Act of 1993 (subtitle D of title XIII of Public Law 103–160; 10 U.S.C. 2501 note).

(9) $35,000,000 shall be available for the agile manufacturing/enterprise integration program.

(10) $30,000,000 shall be available for the advanced materials synthesis and processing partnership program.

(11) $55,000,000 shall be available for the defense dual-use extension program under section 2524 of title 10, United States Code, of which—

(A) $5,000,000 shall be used for provision of assistance pursuant to subsection (c)(3) of such section; and

(B) $50,000,000 shall be available to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued pursuant to subsection (b)(3) of such section.

(12) $10,000,000 shall be available for the Federal Defense Laboratory Diversification Program under section 2519 of title 10, United States Code, as added by section 1113(a).

(13) $50,000,000 shall be available for the Navy Reinvestment Program under section 2520 of such title, as added by section 1113(b).

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1994 TECHNOLOGY REINVESTMENT PROJECTS.—Funds allocated under paragraphs (1) through (6) of subsection (b) to the defense reinvestment programs described in such paragraphs may also be used to make awards for technology reinvestment projects that were solicited under such programs in fiscal year 1994.

SEC. 1112. SUPPORT FOR TECHNOLOGIES WITH APPLICABILITY FOR LAW ENFORCEMENT AND MILITARY OPERATIONS OTHER THAN WAR.

(a) SUPPORT AUTHORIZED.—Using funds made available under subsection (b), the Secretary of Defense shall support the Memorandum of Understanding entered into between the Department of Defense and the Department of Justice on April 20, 1994, for the development, rapid deployment, and transition of technologies with applicability for law enforcement and military operations other than war. Such support may include support for national law enforcement technology centers of the National Institute of Justice.

(b) FUNDING FOR FISCAL YEAR 1995.—To carry out subsection (a), there shall be available to the Secretary $41,000,000, of which—

(1) $11,000,000 shall be derived from the amount authorized to be appropriated under section 201 and specified in section 1102(b) as a source of funds for defense conversion, reinvestment, and transition assistance programs; and

(2) $30,000,000 shall be derived from the amount authorized to be appropriated under section 201(4) for the tactical technology and experimental evaluation of major innovative technology programs elements of the budget of the Department of Defense for fiscal year 1995.

SEC. 1113. FEDERAL DEFENSE LABORATORY DIVERSIFICATION AND NAVY REINVESTMENT IN THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.—Subchapter III of chapter 148 of title 10, United States Code, is amended by inserting at the end thereof the following new section:

"§2519. Federal Defense Laboratory Diversification Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between a Department of Defense laboratory and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

"(2) Subject to subsection (d), the Secretary may provide a partnership with technical and

other assistance in order to facilitate the achievement of the purpose of this section.

"(d) Financial Commitment of Non-Federal Government Participants.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

"(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

"(e) Selection Process.—Competitive procedures shall be used in the establishment of partnerships.

"(f) Selection Criteria.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 2511(f) of this title.

"(g) Regulations.—The Secretary shall prescribe regulations for the purposes of this section.".

(b) Navy Reinvestment Program.—Such subchapter is further amended by inserting after section 2519 (as added by subsection (a)) the following new section:

"§2520. Navy Reinvestment Program

"(a) Establishment of Program.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) Partnerships.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(c) Program Requirements and Administration.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

"(d) Additional Selection Criteria.—The selection criteria for a proposed partnership for establishment under this section shall also include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

"(e) Regulations.—The Secretary shall prescribe regulations for the purposes of this section.".

(c) Clerical Amendments.—The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"2519. Federal Defense Laboratory Diversification Program.
"2520. Navy Reinvestment Program.".

(d) Definition of Federal Laboratory.—Section 2491(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", except that such terms include a federally funded research and development center sponsored by a Federal agency".

SEC. 1114. LOAN GUARANTEES UNDER DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAM.

(a) Memorandum of Understanding to Administer Loan Guarantee Program.—(1) For fiscal year 1995, the Secretary of Defense may enter into a memorandum of understanding with the Administrator of the Small Business Administration, the Administrator of the Economic Development Administration of the Department of Commerce, or the head of any other Federal agency having expertise regarding the provision of loan guarantees, under which such agency may—

(A) process applications for loan guarantees under section 2524(b)(3) of title 10, United States Code, during that fiscal year;

(B) guarantee repayment of the resulting loans; and

(C) provide any other services to the Secretary to administer the loan guarantee program under such section during that fiscal year.

(2) From funds made available for the loan guarantee program under such section, the Secretary of Defense may transfer to the agency or agencies that are parties to the memorandum of understanding such sums as may be necessary for the agency or agencies to carry out activities under the loan guarantee program.

(3) The Secretary of Defense shall enter into the memorandum of understanding authorized by paragraph (1) within 60 days after the date of the enactment of this Act for the administration of the loan guarantee program under such section during fiscal year 1995.

(4) The total amount allocated under section 1111(b)(11)(B) to cover the costs of loan guarantees during fiscal year 1995 under the loan guarantee program shall be divided between small business concerns and medium-sized business concerns (as defined in section 2524(g) of title 10, United States Code) as follows:

(A) 60 percent for small business concerns.

(B) 40 percent for medium-sized business concerns.

(b) Special Requirements Regarding Loan Guarantees.—Subsection (e) of section 2524 of title 10, United States Code, is amended to read as follows:

"(e) Special Requirements Regarding Loan Guarantees.—(1) The Secretary shall carry out the loan guarantee program authorized under subsection (b)(3) during any fiscal year for which funds are specifically made available to cover the costs of loan guarantees to be issued pursuant to such subsection.

"(2) In addition to the selection criteria specified in subsection (f), the selection criteria in the case of the loan guarantee program under subsection (b)(3) shall also include the following:

"(A) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(B) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(C) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

"(3) To be eligible for a loan guarantee under subsection (b)(3), a borrower must be able to demonstrate to the satisfaction of the Secretary that at least 25 percent of the value of the borrower's sales during the preceding fiscal year were derived from—

"(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

"(B) subcontracts in support of defense-related prime contracts.

"(4) The maximum amount of loan principal that the Secretary may guarantee under the loan guarantee program during a fiscal year may not exceed—

"(A) $1,250,000, with respect to a small business concern; and

"(B) $10,000,000 with respect to a medium-sized business concern.".

(c) Conforming Amendment.—Subsection (f) of such section is amended by striking out "Selection Criteria.—" and inserting in lieu thereof the following: "Selection Process and Criteria.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.".

SEC. 1115. FINANCIAL COMMITMENT REQUIREMENTS FOR SMALL BUSINESS CONCERNS FOR PARTICIPATION IN TECHNOLOGY REINVESTMENT PROJECTS.

(a) Defense Dual-Use Critical Technology Partnerships.—Section 2511(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.".

(b) Commercial-Military Integration Partnerships.—Section 2512(c)(3) of such title is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.".

(c) Regional Technology Alliances.—Section 2513(e) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the regional technology alliance from

sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary shall revoke the selection of the proposal submitted by the small business concern.".

(d) DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.—Section 2524(d) of such title is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a program proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated program costs. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the program from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated program costs, the Secretary shall revoke the selection of the program proposal submitted by the small business concern.".

(e) DEFINITION OF PERSON OF A FOREIGN COUNTRY.—Section 2491 of such title is amended by adding at the end the following new paragraph:

"(16) The term 'person of a foreign country" has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).".

SEC. 1116. CONDITIONS ON FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROJECTS.

(a) BENEFITS TO UNITED STATES ECONOMY.—In providing for the establishment or financial support of partnerships and other cooperative arrangements under chapter 148 of title 10, United States Code (using funds made available under section 1111(a)), the Secretary of Defense shall ensure that the principal economic benefits of, and to the extent practicable, the job creation resulting from, such partnerships and arrangements accrue to the economy of the United States.

(b) USE OF COMPETITIVE SELECTION PROCEDURES.—Funds made available under subsection (a) of section 1111 for the defense technology reinvestment programs described in subsection (b) of such section, and funds made available under subsection (b) of section 1112 for the program described in subsection (a) of such section, shall only be provided to projects selected using competitive procedures pursuant to a solicitation incorporating cost-sharing requirements for the non-Federal Government participants in the projects.

SEC. 1117. USE OF CERTAIN FUNDS PENDING SUBMISSION OF A NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC DEFENSE CAPABILITY ASSESSMENT AND A PERIODIC DEFENSE CAPABILITY PLAN.

(a) LIMITATION.—Not more than 50 percent of the funds made available for program element 65104D activities from funds authorized to be appropriated by this Act may be expended until the Secretary of Defense submits to Congress—

(1) a national technology and industrial base periodic defense capability assessment required by section 2505 of title 10, United States Code; and

(2) a periodic defense capability plan required by section 2506 of such title.

(b) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

SEC. 1118. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 1119. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

Subtitle B—Community Adjustment and Assistance Programs

SEC. 1121. FUNDS FOR ADJUSTMENT AND DIVERSIFICATION ASSISTANCE FOR STATES AND LOCAL GOVERNMENTS FROM OFFICE OF ECONOMIC ADJUSTMENT.

Of the amount made available pursuant to section 1102(a), $54,127,000 shall be available to provide community adjustment and economic diversification assistance under section 2391(b) of title 10, United States Code.

SEC. 1122. STUDIES AND PLANS FOR MARKET DIVERSIFICATION.

(a) FORM OF COMMUNITY ADJUSTMENT AND ECONOMIC DIVERSIFICATION.—Section 2391(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The terms 'community adjustment' and 'economic diversification' include the development of feasibility studies and business plans for market diversification within a community adversely affected by an action described in clause (A), (B), (C), or (E) of subsection (b)(1) by adversely affected businesses and labor organizations located in the community.".

(b) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available under section 1121, up to $10,000,000 shall be available to provide community adjustment and economic diversification assistance under section 2391(b) of title 10, United States Code, for the purpose of developing feasibility studies and business plans. The amount of such funds provided for such purpose with respect to any adversely affected community may not exceed $100,000.

SEC. 1123. ADVANCE COMMUNITY ADJUSTMENT AND ECONOMIC DIVERSIFICATION PLANNING.

(a) ASSISTANCE AUTHORIZED.—Section 2391(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in planning community adjustments and economic diversification even though the State or local government is not currently eligible for assistance under paragraph (1) if the Secretary determines that a substantial portion of the economic activity or population of the geographic area to be subject to the advance planning is dependent on defense expenditures.".

(b) CONFORMING AMENDMENTS.—Paragraph (8) of such section, as redesignated by subsection (a)(1), is amended by striking out "paragraph (6)" both places it appears and inserting in lieu thereof "paragraph (7)".

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available under section 1121, up to $5,000,000 shall be available to assist advance planning of community adjustments and economic diversification under paragraph (5) of section 2391(b) of title 10, United States Code, as added by subsection (a)(2).

Subtitle C—Personnel Adjustment, Education, and Training Programs

SEC. 1131. TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAMS.

(a) PERIOD OF ELIGIBILITY.—Subsection (c) of section 1151 of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "seven-year period beginning on October 1, 1992," and inserting in lieu thereof "nine-year period beginning on October 1, 1990,"; and

(2) by striking out paragraph (4).

(b) APPLICATION PERIOD.—Subsection (e)(1) of such section is amended to read as follows:

"(e) SELECTION OF PARTICIPANTS.—(1) Selection of members to participate in the placement program authorized by subsection (a) shall be made on the basis of applications submitted to the Secretary of Defense on a timely basis. An application shall be in such form and contain such information as the Secretary may require. An application shall be considered to be submitted on a timely basis if the application is submitted as follows:

"(A) Except as provided in subparagraphs (B) and (C), not later than one year after the date of the discharge or release of the applicant from active duty.

"(B) In the case of an applicant discharged or released from active duty before January 19, 1994, not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995.

"(C) In the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (c)(2) after the date of the discharge or release of the applicant from active duty, not later than one year after the date on which the applicant becomes educationally qualified.".

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $65,000,000 shall be available for the teacher and teacher's aide placement programs authorized by sections 1151, 1598, and 2410j of title 10, United States Code.

SEC. 1132. ASSISTANCE FOR ELIGIBLE MEMBERS TO OBTAIN EMPLOYMENT WITH LAW ENFORCEMENT AGENCIES.

(a) REVISED PROGRAM AUTHORITY.—(1) Section 1152 of title 10, United States Code, is amended to read as follows:

"§1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with eligible law enforcement agencies following the discharge or release of such members or former

members from active duty. Eligible law enforcement agencies shall consist of State law enforcement agencies, local law enforcement agencies, and Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior).

"(b) ELIGIBLE MEMBERS.—Any individual who, during the 6-year period beginning on October 1, 1993, is a member of the armed forces and is separated with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

"(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

"(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note); and

"(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as the Secretary, the Attorney General, or a participating eligible law enforcement agency prescribe in accordance with the agreement.

"(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense may provide funds to the Attorney General for grants under this section to reimburse participating eligible law enforcement agencies for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

"(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

"(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating eligible law enforcement agency.

"(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

"(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out the program established pursuant to subsection (a) may be used to administer the program.

"(f) REQUIREMENT FOR APPROPRIATION.—No person may be selected to participate in the program established pursuant to subsection (a) unless a sufficient amount of appropriated funds is available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to the person.

"(g) CONDITIONAL EXPANSION OF PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) Subject to paragraph (2), the Secretary may expand the placement activities authorized by subsection (a) to include the placement of eligible members and former members and eligible civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments.

"(2) The Secretary may implement the expansion authorized by this subsection only if the Secretary certifies to Congress not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 that such expansion will facilitate personnel transition programs of the Department of Defense. The expansion may be made through a program covered by an agreement referred to in subsection (a), if feasible, or in such other manner as the Secretary considers appropriate.

"(3) A civilian employee of the Department of Defense shall be eligible to participate in the expanded placement activities authorized under this subsection if the employee, during the six-year period beginning October 1, 1993, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.".

(2) The item relating to such section in the table of sections at the beginning of chapter 58 of title 10, United States Code, is amended to read as follows:

"1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.".

(b) FUNDING FOR FISCAL YEAR 1995.—(1) Of the amount made available pursuant to section 1102(a), $25,000,000 shall be available for the placement of members and former members of the Armed Forces as law enforcement officers under section 1152 of title 10, United States Code.

(2) Of the amount made available pursuant to section 1102(a), up to $5,000,000 shall be available for the placement of members and former members of the Armed Forces and civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments under section 1152 of title 10, United States Code, if the Secretary of Defense makes the certification required by subsection (g)(2) of such section within the time period specified in such subsection.

SEC. 1133. PILOT PROGRAM TO PLACE SEPARATED MEMBERS AND TERMINATED DEFENSE EMPLOYEES IN TEACHING POSITIONS AS BILINGUAL MATH AND SCIENCE TEACHERS.

(a) COOPERATIVE ARRANGEMENTS.—During fiscal year 1995, the Secretary of Defense shall carry out a pilot program to establish cooperative arrangements between the Department of Defense and a consortium of two or more entities described in subsection (b) for the purpose of assisting bilingual members of the Armed Forces after their separation from active duty, and bilingual civilian employees of the Department of Defense after the termination of their employment, in obtaining certification and employment as bilingual elementary or secondary school teachers in mathematics or science.

(b) ELIGIBLE ENTITIES.—The entities with which the Secretary of Defense may enter into a cooperative arrangement under the pilot program are as follows:

(1) Local governments of States that contain military installations and a high concentration of students who would benefit from the increased presence of bilingual elementary or secondary school teachers in mathematics or science.

(2) A consortium of two or more institutions of higher education that have a demonstrated background, expertise, and experience in operating bilingual teacher training programs in mathematics and science with an emphasis in English as a second language.

(c) ELIGIBLE MEMBERS AND EMPLOYEES.—(1) A member of the Armed Forces shall be eligible to participate in a cooperative arrangement established under the pilot program if the member—

(A) during the seven-year period beginning on October 1, 1992, is discharged or released from active duty after six or more years of continuous active duty immediately before the discharge or release;

(B) has received a baccalaureate or advanced degree from an accredited institution of higher education;

(C) is bilingual; and

(D) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(2) A civilian employee of the Department of Defense shall be eligible to participate in a cooperative arrangement established under the pilot program if the employee—

(A) during the five-year period beginning October 1, 1992, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense;

(B) has received a baccalaureate or advanced degree from an accredited institution of higher education;

(C) is bilingual; and

(D) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(d) STIPEND FOR PARTICIPANTS.—A member of the Armed Forces or a civilian employee of the Department of Defense who participates in a cooperative arrangement established under the pilot program shall be eligible to receive an educational stipend in the same amount as provided under paragraph (1) of subsection (g) of section 1151 of title 10, United States Code, subject to the conditions specified in paragraphs (2) and (3) of such subsection and section 1598(e)(2) of such title.

(e) ADMINISTRATIVE COSTS.—The Secretary of Defense shall cover the reasonable management costs of the pilot program incurred by the non-Federal entities participating in the cooperative arrangements established under the pilot program.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "bilingual" means the ability to communicate in both the English and another language.

(2) The term "State" includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

(g) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $5,000,000 shall be available to the Secretary of Defense to carry out this section.

SEC. 1134. DEMONSTRATION PROJECT TO ASSIST SEPARATED MEMBERS AND TERMINATED DEFENSE WORKERS TO BECOME BUSINESS OWNERS.

(a) BUSINESS OWNERSHIP DEMONSTRATION PROJECT.—During fiscal year 1995, the Secretary of Defense may carry out a demonstration project in not more than two eligible communities to assist separated members of the Armed Forces and terminated defense workers described in subsection (c) who reside in such communities to own their own businesses. The Secretary shall carry out the demonstration project in consultation with the Secretary of Commerce.

(b) ELIGIBLE COMMUNITIES.—To be eligible for selection by the Secretary of Defense as a site for the demonstration project, a community shall meet at least two of the following conditions:

(1) The local economy is heavily dependent on a defense contractor that is in the process of terminating a major defense contract (or having such contract terminated by the Department of Defense) or closing a major facility.

(2) The local economy may be adversely affected by changes in the use of a national laboratory previously engaged in the testing of nuclear weapons.

(3) The local economy would be adversely affected by the closure of two or more military installations.

(c) PERSONS ELIGIBLE FOR ASSISTANCE.—The following persons are eligible to participate in

the demonstration project to own their own businesses:

(1) Members of the Armed Forces who are discharged or released from active duty.

(2) Civilian employees of the Department of Defense who are terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(3) Employees of defense contractors who are terminated or laid off (or receive a notice of termination or layoff) as a result of the completion or termination of a defense contract or program or reductions in defense spending, as determined by the Secretary of Defense.

(d) ACTIVITIES UNDER DEMONSTRATION PROJECT.—Under the demonstration project, the Secretary of Defense shall—

(1) develop a business plan to establish a facility in each community in which the demonstration project is conducted to assist persons described in subsection (c) to own their own businesses;

(2) conduct a market study to identify markets for the facility;

(3) develop innovative approaches to capital formation for the facility and persons described in subsection (c);

(4) conduct a skills assessment study to determine the number and type of employees needed to operate the facility; and

(5) analyze the potential to use persons described in subsection (c) as employees of the facility.

SEC. 1135. DEMONSTRATION PROJECT TO PROMOTE SHIP RECYCLING AS A METHOD TO ASSIST SEPARATED MEMBERS AND TERMINATED DEFENSE WORKERS.

(a) SHIP RECYCLING DEMONSTRATION PROJECT.—(1) Subject to paragraph (2), the Secretary of Defense may carry out a demonstration project in not more than three eligible locations to assist separated members of the Armed Forces and terminated defense workers described in subsection (c) to obtain employment by participating in the establishment and operation of ship recycling facilities. To carry out the demonstration project, the Secretary shall seek the participation of representatives of the ship recycling industry.

(2) The Secretary of Defense may not implement or carry out the demonstration project unless the Secretary certifies to Congress not later than 180 days after the date of the enactment of this Act that—

(A) the demonstration project will facilitate personnel transition programs of the Department of Defense; and

(B) activities under the demonstration project will not disrupt the operations of United States companies that are engaged in ship recycling and scrapping as of the date of the enactment of this Act.

(b) ELIGIBLE LOCATIONS.—A location shall be eligible for selection by the Secretary of Defense as a site for the demonstration project if the location contains one or more military installations that have been selected for closure or realignment pursuant to a base closure law and such installations include naval and port facilities. Competitive procedures shall be used in the selection of locations in which to conduct the demonstration project.

(c) PERSONS ASSISTED UNDER DEMONSTRATION PROJECT.—The demonstration project is intended to promote the establishment and operation of ship recycling facilities that will provide employment for the following persons:

(1) Members of the Armed Forces who are discharged or released from active duty.

(2) Civilian employees of the Department of Defense who are terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(3) Employees of defense contractors who are terminated or laid off (or receive a notice of termination or layoff) as a result of the completion or termination of a defense contract or program or reductions in defense spending, as determined by the Secretary of Defense.

(d) ASSISTANCE AUTHORIZED.—To carry out the demonstration project in an eligible location selected by the Secretary, the Secretary may make grants to, and enter into contracts and cooperative agreements with, State governments, local governments, private entities, nonprofit organizations, and institutions of higher education operating in that location.

(e) ACTIVITIES SUPPORTED.—A government or entity (or group of entities) receiving assistance under the demonstration project shall use the assistance to perform, or support the performance of, any of the following:

(1) Developing a business plan to establish a ship recycling facility for military and commercial ships currently in service and projected for future scrapping.

(2) In consultation with the private sector, conducting a market study of—

(A) the existing private sector capacity to perform ship recycling;

(B) the utilization of existing ship recycling capacity;

(C) the regional impact on markets for scrap generated from ship recycling;

(D) the environmental remediation requirements associated with ship recycling;

(E) the ability to incorporate the private sector into the ship recycling facilities established pursuant to the demonstration project; and

(F) such other issues related to ship recycling as the Secretary considers appropriate.

(3) Conducting a skills assessment study to determine the number and type of employees needed to operate a ship recycling facility.

(4) Developing plans for the cost-effective environmental remediation of ships to be recycled at the facility.

(5) Demonstrating the feasibility of a ship recycling facility to become financially self-sustaining or projecting a reasonable timetable for the completion of the demonstration project, in which case the entity shall develop training, skills enhancement, and career placement programs to assist employees involved in ship recycling to secure new occupations and careers.

(6) Supporting regional ship recycling start-up activities.

(7) Analyzing the potential to use persons described in subsection (c) as employees at a ship recycling facility.

(f) TRANSFER OF EXCESS NAVAL VESSELS.—The Secretary of Defense may allocate among the ship recycling facilities established under the demonstration project excess naval vessels of the United States for recycling.

(g) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $7,500,000 shall be available to the Secretary of Defense to carry out the demonstration project if the Secretary of Defense makes the certification under subsection (a)(2) within the time period specified in such subsection.

SEC. 1136. ADMINISTRATION AND FUNDING OF DEFENSE DIVERSIFICATION PROGRAM AND DEFENSE CONVERSION ADJUSTMENT PROGRAM UNDER JOB TRAINING PARTNERSHIP ACT.

(a) DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1) is amended—

(1) in subsection (a), by striking out "From the amount" and all that follows through "Labor," and inserting in lieu thereof "From funds made available to carry out this section, the Secretary, in consultation with the Secretary of Defense,";

(2) in subsections (c), (d), (e), (i), (k)(2), (l), and (m), by striking out "Secretary of Defense" each place it appears and inserting in lieu thereof "Secretary";

(3) in subsection (d)(1)(A), by striking out "in consultation with the Secretary of Labor,";

(4) in the heading of subsection (e), by striking out "BY SECRETARY OF DEFENSE";

(5) in subsection (k)(1), by striking out "Secretary of Defense, in consultation with the Secretary of Labor," and inserting in lieu thereof "Secretary, in consultation with the Secretary of Defense,"; and

(6) in subsection (n), by striking out "Secretary of Defense, in consultation with the Secretary of Labor," and inserting in lieu thereof "Secretary, in consultation with the Secretary of Defense,".

(b) DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325(a) of the Job Training Partnership Act (29 U.S.C. 1662d(a)) is amended by striking out "From the amount appropriated pursuant to section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990," and inserting in lieu thereof "From funds made available to carry out this section,".

SEC. 1137. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d), as amended by section 1136(b), is further amended—

(1) in subsection (a), by striking out "or by closures of United States military facilities" each place it appears and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1), as amended by section 1136(a), is further amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Subtitle D—Other Matters

SEC. 1141. EXTENSION OF ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE AND ESTABLISHMENT OF ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) EXTENSION.—Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993 through 1996".

(b) LOAN GUARANTEES UNDER ARMS INITIATIVE.—The Armament Retooling and Manufacturing Support Act of 1992 (10 U.S.C. 2501 note) is amended—

(1) by redesignating section 195 as section 196; and

(2) by inserting after section 194 the following new section:

"SEC. 195. ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) PROGRAM AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may carry out a loan guarantee program to encourage commercial firms to use ammunition manufacturing facilities pursuant to section 193. Under such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity under this subtitle.

"(b) ADVANCED BUDGET AUTHORITY.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

"(c) PROGRAM ADMINISTRATION.—(1) The Secretary may enter into agreements with the Administrator of the Small Business Administration or the Administrator of the Farmers Home Administration, the Administrator of the Rural Development Administration, or the head of other appropriate agencies of the Department of Agriculture, under which such Administrators may, under this section—

"(A) process applications for loan guarantees;

"(B) guarantee repayment of loans; and

"(C) provide any other services to the Secretary to administer the loan guarantee program.

"(2) Each Administrator may guarantee loans under this section to commercial firms of any size, notwithstanding any limitations on the size of applicants imposed on other loan guarantee programs that the Administrator administers.

"(3) To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this section as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

"(d) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under this section may not exceed—

"(1) $20,000,000, with respect to any single borrower; and

"(2) $320,000,000 with respect to all borrowers.

"(e) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (c), and the Administrator may accept, such funds as may be necessary to administer the loan guarantee program under this section.

"(f) REPORTING REQUIREMENT.—Not later than July 1 of each year in which a guarantee issued under this section is in effect, the Secretary shall submit to the congressional defense committees a report specifying the amounts of loans guaranteed under this section during the preceding calendar year. No report is required after fiscal year 1997.".

(c) AUTHORIZATION FOR USE OF EXISTING BUDGET AUTHORITY.—Of the funds appropriated for the Armament Retooling and Manufacturing Support Initiative by title III of Public Law 102–396 under the heading "PROCUREMENT OF AMMUNITION, ARMY" (106 Stat. 1887), up to $43,000,000 may be made available to cover the costs of loan guarantees issued under section 195 of the Armament Retooling and Manufacturing Support Act of 1992 (as added by subsection (b)(2)), in such amounts as provided in an appropriations Act enacted after the date of the enactment of this Act.

SEC. 1142. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 60 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 60 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE OF WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 60 days".

SEC. 1143. PLAN FOR DEPLOYMENT OF DEFENSE ENVIRONMENTAL TECHNOLOGIES FOR DREDGING OF DUAL-USE PORTS.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a plan for the Department of Defense to encourage the further development and deployment of existing defense environmental technologies in support of the dredging requirements of dual-use ports, including—

(1) the environmentally secure containment and management of contaminated dredged materials; and

(2) the decontamination of dredged materials.

(b) MATTERS TO BE INCLUDED.—The plan to be established pursuant to subsection (a) shall include the following:

(1) A description of defense reinvestment and defense conversion programs under chapter 148 of title 10, United States Code, that are available to facilitate the deployment of defense environmental technologies in support of the dredging requirements of dual-use ports.

(2) A description of existing defense environmental technologies and processes that are available to support the objectives of the plan to be established pursuant to subsection (a).

(3) Recommendations for strategies to deploy such technologies and processes to ports of various sizes, including—

(A) ports with projects requiring more than 5,000,000 cubic yards of sediment to be dredged annually;

(B) ports with projects requiring more than 1,000,000 cubic yards of sediment to be dredged annually;

(C) ports that have been affected by, or are likely to be affected by, the closure of one or more major military installations and that, as a result thereof, require substantial environmental remediation; and

(D) military port installations that have experienced significant delays in advancing dredging projects because of environmental compliance or dredged material disposal problems.

(4) After consultation with the heads of other appropriate Federal agencies, an assessment of other available technologies and processes that may be used in support of the plan to be established pursuant to subsection (a).

(5) An assessment of the potential benefits and methods of transfer of technologies and processes for use in connection with dredging processes in commercial ports and waterways.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to Congress a report containing the plan to be established pursuant to subsection (a).

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1201. COOPERATIVE THREAT REDUCTION PROGRAMS.

For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1778; 22 U.S.C. 5952(b)).

SEC. 1202. EXTENSION OF SEMIANNUAL REPORT ON COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–60; 107 Stat. 1782) is amended—

(1) by striking out "Not later than April 30, 1994, and not later than October 30, 1994," and inserting in lieu thereof "Not later than April 30 and not later than October 30 of each year,";

(2) by striking out "under this title" and inserting in lieu thereof "under programs described in section 1203(b)"; and

(3) in paragraph (3), by striking out "this title" and inserting in lieu thereof "the programs described in section 1203(b)".

SEC. 1203. REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE.

(a) REPORT.—(1) The Secretary of Defense shall submit to Congress a report on the efforts made by the United States (including efforts through the use of audits, examinations, and on-site inspections) to ensure that assistance provided under cooperative threat reduction programs is fully accounted for and that such assistance is being used for its intended purposes.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(b) INFORMATION TO BE INCLUDED.—The report shall include the following:

(1) A list of cooperative threat reduction assistance that has been provided before the date of the report.

(2) A description of the current location of the assistance provided and the current condition of such assistance.

(3) A determination of whether the assistance has been used for its intended purpose.

(4) A description of the activities planned to be carried out during fiscal year 1995 to ensure that cooperative threat reduction assistance provided during that fiscal year is fully accounted for and is used for its intended purpose.

(c) Comptroller General Assessment.—Not later than 30 days after the date on which the report of the Secretary under subsection (a) is submitted to Congress, the Comptroller General of the United States shall submit to Congress a report giving the Comptroller General's assessment of the report and making any recommendations that the Comptroller General considers appropriate.

SEC. 1204. REPORT ON CONTROL AND ACCOUNTABILITY OF MATERIAL RELATING TO WEAPONS OF MASS DESTRUCTION.

The Secretary of Defense shall submit to Congress a report on progress being made in each state of the former Soviet Union that is a recipient of assistance under Cooperative Threat Reduction programs toward the development of an effective system of control and accountability for material related to weapons of mass destruction in that country. Under such a system, officials of the United States and of the recipient country should have an accurate accounting of the weapons of mass destruction in that country and the fissile and chemical materials from those weapons. The report shall be submitted not later than three months after the date of the enactment of this Act.

SEC. 1205. MULTIYEAR PLANNING AND ALLIED SUPPORT.

(a) Funding Report to Congress.—The Secretary of Defense shall submit to Congress a report as described in subsection (b) on funding for Cooperative Threat Reduction programs with states of the former Soviet Union. The report shall be submitted at the time of the transmission to Congress of the budget justification materials for the funding request in the fiscal year 1996 budget for such Cooperative Threat Reduction programs.

(b) Matters To Be Included in Annual Report.—The Secretary of Defense shall include in the report under subsection (a) the following:

(1) An estimate of the total amount that will be required to be expended by the United States in order to achieve the objectives of Cooperative Threat Reduction programs.

(2) A multiyear plan for the use of amounts and other resources provided by the United States for Cooperative Threat Reduction programs and to provide guidance for preparation of annual budget submissions.

(c) Subsequent Revisions to Report.—The Secretary of Defense shall submit an updated version of the report under subsection (a) for any fiscal year after fiscal year 1996 for which the budget of the President proposes that funds be appropriated to the Department of Defense for Cooperative Threat Reduction programs.

(d) Fiscal Year 1995 Limitation.—Of the amount authorized in section 301 for Cooperative Threat Reduction programs, the sum of $50,000,000 may not be obligated until the President certifies to Congress that the United States is making a concerted effort to ensure that allies of the United States are increasing their levels of support for activities that will aid in accomplishing the objectives of the Cooperative Threat Reduction programs.

SEC. 1206. FUNDING LIMITATIONS ON COOPERATIVE THREAT REDUCTION PROGRAM FOR FISCAL YEAR 1995.

(a) Program Amounts.—Of the amount authorized to be appropriated in section 301 for Cooperative Threat Reduction programs—

(1) not more than $60,000,000 may be obligated for the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities;

(2) not more than $200,000,000 may be obligated for Weapons Dismantlement, Destruction, and Denuclearization;

(3) not more than $60,000,000 may be obligated for Safety and Security, Transportation, and Storage;

(4) not more than $40,000,000 may be obligated for Nonproliferation;

(5) not more than $20,000,000 may be obligated for Defense and Military-to-Military Contacts; and

(6) not more than $20,000,000 may be obligated for other authorized programs and activities.

(b) Limited Authority To Exceed Individual Limitation Amounts.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1207. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

(a) Findings.—Congress makes the following findings:

(1) The United States has identified nonproliferation of weapons of mass destruction as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention.

(3) In early 1992, Russian President Boris Yeltsin indicated to former United States President George Bush that Russia still had an offensive biological weapons program.

(4) A United States Government report dated January 19, 1993, on arms control noncompliance noted that Russian declarations up to that date had dramatically underestimated the size, scope, and maturity of the former Soviet biological weapons program.

(5) Despite President Yeltsin's decree of April 11, 1993, stating that activities in violation of the Biological Weapons Convention are illegal, questions continue to arise regarding offensive biological weapons research, development, testing, production, and storage in Russia as well as in other countries.

(6) A United States Government report, dated June 23, 1994, states the following: "The United States has determined that the offensive biological warfare program that Russia inherited from the Soviet Union violated the Biological Weapons Convention through at least March 1992. The Soviet offensive biological weapons program was massive, and included production, weaponization, and stockpiling. The status of the program since that time remains unclear and the U.S. remains concerned about the Russian biological warfare program.".

(7) The Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992, confirmed the commitment of the three governments to full compliance with the Biological Weapons Convention and outlined steps designed to increase confidence in that commitment.

(8) The Presidents of Russia and the United States are scheduled to hold a summit meeting in Washington during the month of September 1994.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons;

(2) the President should keep the Congress fully and currently informed regarding any Russian activities related to offensive biological weapons;

(3) the President should continue to insist that the Russian Government complete the steps noted and agreed to in the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992;

(4) subsequent meetings of representatives of the United States, the United Kingdom, and Russia on biological weapons and the September 1994 summit meeting in Washington provide opportunities for the President to again emphasize the importance of resolving the issues related to compliance with the Biological Weapons Convention;

(5) in assessing the President's fiscal year 1996 budget request for foreign assistance funds for Russia, and for other programs and activities to provide assistance to Russia, including the Cooperative Threat Reduction programs, Congress will consider United States Government assessments of Russia's compliance with its obligations under the Biological Weapons Convention; and

(6) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of, and enhance compliance with, the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c) Presidential Reports.—Not later than February 1, 1995, not later than June 1, 1995, and not later than October 1, 1995, the President shall submit to Congress a report, in classified and unclassified forms, containing an assessment of the extent of compliance of the independent states of the former Soviet Union with the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(d) Content of Report.—The report shall include the following:

(1) Matters related to compliance.—

(A) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(B) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(C) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such states, including the sites and types of activity at those sites.

(D) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, aircraft, and ballistic missiles.

(E) An assessment of measures taken by the Russian Government to complete the steps noted and agreed to in the 1992 Joint Statement on Biological Weapons referred to in subsection

(b)(3), including a determination of the extent to which Russia has—

(i) agreed to permit visits to military and nonmilitary biological sites in order to attempt to resolve ambiguities;

(ii) provided information about biological weapons dismantlement accomplished to date, and further clarification of information provided in its United Nations Declarations regarding biological weapons;

(iii) been cooperative in exchanging information on a confidential, reciprocal basis concerning past offensive biological weapons programs not recorded in detail in its declarations to the United Nations;

(iv) cooperated in reviewing potential additional measures to monitor compliance with the Biological Weapons Convention and modalities for testing such measures;

(v) agreed to an examination of the physical infrastructure of its biological facilities to determine whether there is specific equipment or excess capacity inconsistent with their stated purpose;

(vi) helped identify ways to promote cooperation and investment in the conversion of biological weapons facilities; and

(vii) agreed to exchanges of scientists at biological facilities on a long-term basis.

(2) MATTERS RELATED TO UNITED STATES CAPABILITIES.—

(A) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(B) On the basis of the assessment and evaluations referred to in other provisions of the report, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) LIMITATION.—Of the amount authorized to be appropriated by section 301 for Cooperative Threat Reduction programs, $25,000,000 may not be obligated until the President submits to Congress the first report required under subsection (c).

SEC. 1208. COORDINATION OF CERTAIN COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) MILITARY-TO-MILITARY CONTACT PROGRAMS.—(1) None of the funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs may be obligated for activities under a military-to-military contact program until the Secretary of Defense and the Secretary of State submit to Congress a joint report on the coordination of military-to-military contact programs and comparable activities carried out under their respective jurisdictions.

(2) The report shall cover the following programs and activities:

(A) Defense and military-to-military contact programs to be carried out using funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs.

(B) Military-to-military contacts and comparable activities that are authorized by section 168 of title 10, United States Code, as added by section 1316.

(C) Programs authorized under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(3) The report shall include a discussion of how the programs and activities referred to in paragraph (2) are carried out to maximize—

(A) the effect of such programs and activities in enhancing United States foreign policy objectives; and

(B) cost-efficiency in the conduct of the programs and activities.

(b) REPORT.—Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1777; 22 U.S.C. 5956), is amended by adding at the end the following new paragraph:

"(5) A description of how all of the activities carried out under the authority of this title and other laws providing authority for cooperative threat reduction are coordinated with similar activities that are carried out under any other authority, including activities relating to military-to-military contacts, environmental restoration, and housing.".

SEC. 1209. SENSE OF CONGRESS CONCERNING SAFE AND SECURE DISMANTLEMENT OF SOVIET NUCLEAR ARSENAL.

(a) FINDINGS.—Congress makes the following findings:

(1) It is a pressing national security challenge for the United States to expedite the safe and secure dismantlement of the nuclear arsenal of the former Soviet Union.

(2) In particular, it is essential to expedite the return of strategic nuclear warheads from Ukraine, Belarus, and Kazakhstan and to expedite the safe and secure dismantlement of the nuclear delivery vehicles of Ukraine, Belarus, and Kazakhstan.

(3) Leakage of nuclear materials and technology, and the continuing threat of emigration of scientists and technicians from the former Soviet nuclear weapons complex, pose a grave threat to United States national security and to international stability.

(4) Congress has authorized so-called "Nunn-Lugar" funds to enable the Department of Defense to carry out cooperative activities with states of the former Soviet Union to address the threats described in paragraphs (1), (2), and (3).

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense and the Secretary of State should continue to give their serious attention to carrying out a coordinated strategy for addressing the urgent national security issues described in subsection (a);

(2) the United States should expedite the availability and effective application of so-called "Nunn-Lugar" funds;

(3) although activities conducted with those funds should, to the extent feasible, draw upon United States technology and expertise, the United States should work with local contractors in Belarus, Kazakhstan, Russia, and Ukraine when doing so would expedite more effective use of those funds; and

(4) efforts should be made to make the Science and Technology Centers in Moscow and Kiev, designed to slow the emigration of scientists and technicians from the former Soviet weapons complex, fully operational on an expedited basis.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Matters Relating to NATO

SEC. 1301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

(a) APPLICABILITY OF EXISTING AUTHORITY TO NATO ORGANIZATIONS.—Section 2350a of title 10, United States Code, is amended in subsections (a), (e)(2), and (i)(1) by inserting "or NATO organizations" after "major allies of the United States" each place it appears.

(b) NATO ORGANIZATION DEFINED.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'NATO organization' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.".

SEC. 1302. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history and is well suited to help marshal cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members, and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to crises outside the alliances's self-defense area.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) It is critical that the security interests of the member countries of the North Atlantic Treaty Organization not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1303. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended to read as follows:

"(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.".

(b) EXCLUSION OF CERTAIN ISLAND-BASED TROOPS IN CALCULATION OF AUTHORIZED END

STRENGTH.—Such section is further amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, members of the Armed Forces of the United States assigned to permanent duty ashore in Iceland, Greenland, and the Azores are excluded in calculating the end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO.".

(c) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 1304. ALLIED SHARE OF INSTALLATIONS COSTS.

(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

(2) The term "contributions", with respect to the share of such nonpersonnel costs assumed by the European member nations of NATO, means those cash and in-kind contributions made by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

SEC. 1305. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength overseas, the Department of Defense plans to close, or reduce United States military presence at, 867 military sites outside the United States.

(3) Most of the military sites outside the United States announced for closure are in Europe, where the United States has already closed 434 such sites while carrying out a reduction in troop strength in Europe from 323,432 in 1987 to approximately 100,000 by the end of fiscal year 1996.

(4) When the United States closes military sites in Europe, it leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some of the European NATO allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, most of which was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in those facilities.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure in NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects that are identified priorities of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the appropriate congressional committees a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraphs:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.

"(3) For purposes of this subsection, the appropriate congressional committees are—

"(A) the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the Senate.".

(2) Such section is further amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

SEC. 1306. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1307. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries that are participating in the Partnership for Peace and are making significant progress in working with the North Atlantic Treaty Organization:

(1) Defense articles and services, as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(2) Loan of materials, supplies, and equipment for research and development purposes.

(3) Leases and loans of major defense equipment and other defense articles.

(4) Cooperative military airlift agreements.

(5) The procurement of communications support and related supplies and services.

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

Subtitle B—Matters Relating to Several Countries

SEC. 1311. LIMITATION ON OBLIGATION OF FUNDS FOR OVERSEAS BASING ACTIVITIES.

(a) Limitation.—The total amount authorized to be appropriated to the Department of Defense for operation and maintenance and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas basing activities during fiscal year 1995 may not exceed $8,181,000,000, except to the extent provided by the Secretary of Defense under subsection (b).

(b) Exception.—The Secretary of Defense may increase the amount of the limitation under subsection (a) by such amount as the Secretary determines to be necessary in the national interest, except that such increase may not exceed $400,000,000. The Secretary may not make any such increase until the Secretary notifies the Congress of the Secretary's intent to make such an increase and a period of 15 days elapses after the day on which the notification is received by the Congress.

(c) Allocations of Savings.—Any amounts appropriated to the Department of Defense for fiscal year 1995 for the purposes covered by subsection (a) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of Defense at military installations and facilities located inside the United States.

(d) Definition.—In this section, the term "overseas basing activities" has the meaning given such term in section 1401(d)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1825), except that such term does not include activities of the Department of Defense for which funds are provided through appropriations for Military Personnel.

SEC. 1312. CLARIFICATION AND CODIFICATION OF OVERSEAS MILITARY END STRENGTH LIMITATION.

(a) In General.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123a the following new section:

"§123b. Forces stationed abroad: limitation on number

"(a) End-Strength Limitation.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

"(b) Exception for Wartime.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

"(c) Presidential Waiver.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"123b. Forces stationed abroad: limitation on number.".

(b) Effective Date.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.

(c) Conforming Repeal.—Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) is repealed.

SEC. 1313. COST-SHARING POLICY AND REPORT.

(a) Policy.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental costs incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO solely for support of NATO roles and missions.

(b) Implementation.—The President shall take all necessary actions to ensure the effective implementation of the policy set forth in subsection (a).

(c) Report.—The Secretary of Defense shall include in the annual report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following:

(1) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO and an analysis of the cost of providing and maintaining such forces in such assignment primarily for support of NATO roles and missions.

(2) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such forces in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military forces in Europe that the United States received from other NATO member nations in the fiscal year covered by the report, set out by country and by type of assistance, including both in-kind assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year covered by the report.

(d) Incremental Costs Defined.—For purposes of subsection (a), the definition provided for the term "incremental costs" in section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, as added by subsection (e), shall apply with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO in the same manner as such term applies with respect to permanent stationing ashore of United States forces in foreign nations for purposes of subsection (e)(4) of such section 1046.

(e) Definition for Reporting Requirement.—Section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1466; 22 U.S.C. 1928 note) is amended by adding at the end the following new subsection:

"(f) Incremental Costs Defined.—In this section, the term 'incremental costs', with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.".

SEC. 1314. REPORT ASSESSING THE NATIONAL SECURITY CONSEQUENCES OF UNITED STATES MILITARY COOPERATION PROGRAMS.

(a) Report.—The Secretary of Defense shall submit to Congress a report assessing the national security consequences of United States military cooperation programs. The report shall be submitted not later than the date of the submission to Congress of the next annual report of the Secretary of Defense submitted under section 113 of title 10, United States Code, after the date of the enactment of this Act.

(b) Matters To Be Included.—The report under subsection (a) shall include the following:

(1) A description of cooperative military relationships in effect.

(2) A description of how activities under those relationships are intended to improve United States national security.

(3) An assessment of the risks to the United States associated with engaging in military cooperation programs with foreign countries should the government of any of such country change its political orientation in a manner hostile to United States interests.

(4) An analysis of the effect on United States national security of possible multilateral actions to reduce the military capability of governments and military forces that could pose a future threat to United States interests.

(5) An assessment of any implications for regional security effected by existing cooperative military relationships.

(c) Form of Report.—The report under subsection (a) shall be submitted in unclassified form and, to the extent necessary, in classified form.

SEC. 1315. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) Findings.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife, but democracy in some nations of the region is fragile.

(2) It is desirable for the Department of Defense to perform a positive role in influencing the defense establishments and military forces of nations in the Western Hemisphere to make positive contributions to the democratic process and to domestic development programs of their respective nations.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051 of that title, participation of developing countries in combined exercises under section 2010 of that title, and the training of special operations forces with friendly forces under section 2011 of that title.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress (including in particular the testimony of the commander of the United States Southern Command and the commander of the United States Atlantic Command) has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) Military-to-military contact programs in the Western Hemisphere provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need for the Secretary of Defense to conduct a comprehensive review of the

several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary, particularly in the light of the changed circumstances in the region.

(10) There is a need for the Secretary of Defense to conduct a comprehensive review of various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional strategic and foreign policy objectives of the United States, including promotion of sustainable development, effective control of the military by elected civilian authorities, reliable regional security accords, and the appropriate role for militaries in democratic societies.

(11) There is a need for the Secretary of Defense to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REVIEW AND REPORT.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, carry out a comprehensive review and assessment of the matters referred to in paragraphs (2), (9), (10), and (11) of subsection (a); and

(2) submit to Congress a report on the review and assessment carried out pursuant to paragraph (1).

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) The contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, United States strategic objectives, and United States foreign policy objectives as described in paragraph (10) of subsection (a).

(6) United States humanitarian civic assistance and civic action programs conducted with host countries in the region and the effect that those programs have had in furthering the objectives described in paragraph (10) of subsection (a).

(7) The changes made or to be made in the programs, organizations, forums, and institutions referred to in paragraphs (3), (4), (5), and (6) as a result of the comprehensive review.

(d) RECOMMENDED LEGISLATION.—The report shall include any recommendations for legislation that the Secretary considers necessary to improve the ability of the Department to achieve its strategic objectives in the Western Hemisphere.

(e) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1316. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§168. Military-to-military contacts and comparable activities

"(a) PROGRAM AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

"(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

"(1) The commander of a combatant command, upon the request of the commander.

"(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

"(3) The head of any Department of Defense component.

"(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use those funds for the following activities and expenses:

"(1) The activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities.

"(2) The activities of military liaison teams.

"(3) Exchanges of civilian or military personnel between the Department of Defense and defense ministries of foreign governments.

"(4) Exchanges of military personnel between units of the armed forces and units of foreign armed forces.

"(5) Seminars and conferences held primarily in a theater of operations.

"(6) Distribution of publications primarily in a theater of operations.

"(7) Personnel expenses for Department of Defense civilian and military personnel to the extent that those expenses relate to participation in an activity described in paragraph (3), (4), (5), or (6).

"(8) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any activity referred to in another paragraph of this subsection.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for an activity or expense referred to in subsection (c) shall be in addition to amounts otherwise available for those activities and expenses for that fiscal year.

"(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

"(A) funding was proposed in the budget submitted to Congress for that fiscal year pursuant to section 1105(a) of title 31; and

"(B) Congress did not authorize appropriations.

"(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

"(3) Funds may not be provided under this section for a fiscal year for any country that is not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Except for those activities specifically authorized under subsection (c), funds may not be used under this section for the provision of defense articles or defense services to any country or for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(f) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term 'military-to-military contacts' means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"168. Military-to-military contacts and comparable activities.".

(b) FISCAL YEAR 1995 FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 168 of title 10, United States Code, as added by subsection (a).

(c) FISCAL YEAR 1995 ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component described in paragraph (2) shall not be counted (under section 115(a)(1) of title 10, United States Code) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401.

(2) Paragraph (1) applies in the case of a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of title 10, United States Code, as added by subsection (a).

(d) REPORT.—Not later than February 15, 1995, the Secretary of Defense shall submit to Congress a report on the management structure of the military-to-military contacts program.

SEC. 1317. EXTENSION OF AUTHORITY TO ENTER INTO CERTAIN COOPERATIVE AGREEMENT AUTHORITIES TO INCLUDE THE UNITED NATIONS AND REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS A MEMBER.

(a) LOGISTICS AGREEMENTS.—Section 2341 of title 10, United States Code, is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting in lieu thereof a comma; and

(2) by inserting after "from North Atlantic Treaty Organization subsidiary bodies" the following: ", and from the United Nations Organization or any regional international organization of which the United States is a member".

(b) CROSS-SERVICING AGREEMENTS.—Section 2342 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out "with—" in the matter preceding subparagraph (A) and inserting in lieu thereof "with any of the following:";

(B) in subparagraph (A)—

(i) by capitalizing the first letter of the first word; and

(ii) by striking out the semicolon at the end and inserting in lieu thereof a period;

(C) in subparagraph (B)—

(i) by capitalizing the first letter of the first word; and

(ii) by striking out "; or" at the end and inserting in lieu thereof a period;

(D) by redesignating subparagraph (C) as subparagraph (D) and capitalizing the first letter of the first word of that subparagraph; and

(E) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The United Nations Organization or any regional international organization of which the United States is a member.";

(2) in subsection (a)(2), by striking out "subsidiary body" both places it appears and inserting in lieu thereof "organization"; and

(3) in subsection (c), by striking out "as a routine or normal source" and inserting in lieu thereof "or international organization".

(c) LAW APPLICABLE TO ACQUISITION AND CROSS-SERVING AGREEMENTS.—(1) Section 2343 of such title is amended—

(A) by striking out subsection (a); and

(B) by striking out "(b)" before "Sections".

(2)(A) The heading of such section is amended to read as follows:

"§2343. Waiver of applicability of certain laws".

(B) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 138 of such title is amended to read as follows:

"2343. Waiver of applicability of certain laws.".

(d) METHOD OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES.—Section 2344(b)(4) of such title is amended by inserting after "North Atlantic Treaty Organization subsidiary bodies" the following: "and the United Nations Organization or any regional international organization of which the United States is a member".

(e) LIQUIDATION OF ACCRUED CREDITS AND LIABILITIES.—Section 2345(a) of such title is amended by striking out "three" in the first sentence and inserting in lieu thereof "12".

(f) CREDITING OF RECEIPTS.—Section 2346 of such title is amended by striking out "shall be credited to applicable appropriations, accounts, and funds of the Department of Defense" and inserting in lieu thereof "shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incurring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made".

(g) LIMITATION ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—Section 2347 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out "and" the first place it appears and inserting in lieu thereof a comma;

(B) by inserting after "subsidiary bodies of the North Atlantic Treaty Organization" the following: ", or from the United Nations Organization or any regional international organization of which the United States is a member";

(C) by striking out "$150,000,000" and inserting in lieu thereof "$200,000,000"; and

(D) by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000";

(2) in subsection (a)(2)—

(A) by striking out "$10,000,000" the first place it appears and inserting in lieu thereof "$60,000,000";

(B) by striking out "$2,500,000" and inserting in lieu thereof "$20,000,000"; and

(C) by striking out "$10,000,000" the second place it appears and inserting in lieu thereof "$60,000,000";

(3) in subsection (b)(1)—

(A) by striking out "and" the first place it appears and inserting in lieu thereof a comma;

(B) by inserting after "subsidiary bodies of the North Atlantic Treaty Organization" the following: ", or from the United Nations Organization or any regional international organization of which the United States is a member"; and

(C) by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000";

(4) in subsection (b)(2), by striking out "$10,000,000" and inserting in lieu thereof "$75,000,000"; and

(5) by adding at the end the following new subsection:

"(c) When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.".

(h) DEFINITIONS.—Section 2350 of such title is amended—

(1) in paragraph (1)—

(A) by inserting "(including airlift)" after "transportation";

(B) by inserting "calibration services," after "maintenance services,"; and

(C) by adding at the end the following new sentence: "Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act."; and

(2) by adding at the end the following new paragraph:

"(4) The term 'transfer' means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.".

(i) ANNUAL REPORT REQUIREMENT.—(1) Subchapter I of chapter 138 of title 10, United States Code, is amended by inserting after section 2349 the following new section:

"§2349a. Annual report on non-NATO agreements

"(a) REPORT.—The Secretary of Defense shall submit to Congress, not later than January 15 of each of 1996, 1997, 1998, 1999, and 2000, a report covering non-NATO cross-servicing and acquisition actions in effect during the preceding fiscal year

"(b) MATTERS TO BE INCLUDED.—Each such report shall set forth in detail the following with respect to the preceding fiscal year:

"(1) The total dollar amounts involved.

"(2) A description of any services and equipment provided or received through those actions.

"(3) A description of any equipment provided through those actions that is not returned.

"(4) The volume of credits and liabilities accrued and liquidated.

"(c) NON-NATO AGREEMENTS.—For purposes of this section, a non-NATO cross-servicing and acquisition agreement is a cross-servicing and acquisition agreement under this subchapter that involves countries or organizations other than North Atlantic Treaty Organization countries or subsidiary bodies.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2349 the following new item:

"2349a. Annual report on non-NATO agreements.".

(j) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to any acquisition or transfer of logistic support, supplies, and services under the authority of subchapter I of chapter 138 of title 10, United States Code, that is initiated after the date of the enactment of this Act.

SEC. 1318. PERMANENT AUTHORITY FOR DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATIVE PROGRAMS.

Subsection (c) of section 843 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2469; 10 U.S.C. 2350a note) is repealed.

Subtitle C—Matters Relating to Specific Countries

SEC. 1321. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has reiterated the longstanding United States commitment to maintaining the qualitative superiority of the Israeli Defense Force over any combination of adversaries.

(2) Congress continues to recognize the many benefits to the United States from its strategic relationship with Israel, including enhancing regional stability and technical cooperation.

(3) Despite the momentous peace process in which Israel and its neighbors are productively engaged, Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counter-proliferation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) the President should make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1322. READINESS OF MILITARY FORCES OF THE REPUBLIC OF KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) Under existing security arrangements between the United States and the Republic of Korea, responsibility for the defense of the territory of the Republic of Korea is allocated so that the Republic of Korea has primary responsibility for the ground defense of its territory and the United States has primary responsibility for air and sea defense of the Korean peninsula and for reinforcement.

(2) The Force Improvement Program of the Republic of Korea has not fully addressed critical shortfalls in its ground force capability which continue to exist even though the Republic of Korea spends approximately $12,000,000,000 annually on defense while the Democratic People's Republic of Korea spends approximately $4,000,000,000 annually on defense. The Republic of Korea has directed substantial defense resources to procuring submarines, destroyers, advanced aircraft, and other military systems that are marginal to its primary ground defense responsibility.

(3) The defense acquisition decisions of the Republic of Korea have had the effect of not allowing the Republic of Korea to attain self-sufficiency in its ground defense responsibility. As a result, there exists an undue burden on the United States for the ground defense of the Korean peninsula.

(4) The lack of intelligence capability to forecast the military intentions of the Democratic People's Republic of Korea presents major problems for the combined United States-Republic of Korea defense of South Korea.

(5) A short-warning attack by the Democratic People's Republic of Korea would cause major losses to the combined United States-Republic of Korea ground force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should urge the Republic of Korea to continue to improve its military ground forces with emphasis on counterartillery capabilities, defense against ballistic missiles and weapons of mass destruction, combined United States-Republic of Korea

logistics capabilities, combined United States-Republic of Korea medical support, and combined United States-Republic of Korea capabilities for tactical intelligence and indications and warning of a North Korean attack.

(c) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report, in classified form, on—

(1) the readiness of the military forces of the Republic of Korea to defeat an attack by the military forces of the Democratic People's Republic of Korea; and

(2) the adequacy of the defense acquisition strategy of the Republic of Korea to meet its primary ground defense mission.

SEC. 1323. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense conducted the Bottom-Up Review during 1993 to establish the size and structure for the Armed Forces for the Post-Cold-War era.

(2) The report on the Bottom-Up Review cites the need for the Armed Forces to be large enough to prevail in two major regional conflicts "nearly simultaneously".

(3) The report on the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf.

(4) The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq.

(5) The report on the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, up to 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades.

(6) The report on the Bottom-Up Review recognizes that approximately 100,000 members of the Armed Forces will be stationed in Europe.

(7) The report on the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time.

(8) The report on the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event one or both hypothetical conflicts result in lengthy deployments or to replace combat losses.

(9) Military planners calculate that 430,000 or more United States military personnel may be needed to win a war with North Korea begun by an invasion of South Korea by North Korea.

(10) In a worst case scenario, the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of the report on the Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(11) The Bottom-Up review was conducted for the purpose of force-sizing and was not meant to constrain operational planning.

(b) SENSE OF CONGRESS CONCERNING BUR.—It is the sense of Congress that—

(1) the force structure identified in the report on the Bottom-Up Review should not be used to limit the size or structure of the force that United States military commanders may request in preparation for a major regional contingency on the Korean peninsula; and

(2) the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

(c) SENSE OF CONGRESS CONCERNING SITUATION ON KOREAN PENINSULA.—It is the sense of Congress that the chairmen and ranking minority members of the Committees on Armed Services and chairmen and ranking minority members of the Appropriations Subcommittees on Defense of the Senate and House of Representatives should receive regular briefings from the Secretary of Defense on the situation on the Korean peninsula.

SEC. 1324. SENSE OF CONGRESS CONCERNING THE NORTH KOREAN NUCLEAR WEAPONS DEVELOPMENT PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Between 1950 and 1953, the United States led a military coalition that successfully repelled an invasion of the Republic of Korea by North Korea, at a cost of more than 54,000 American lives.

(2) The United States and the Republic of Korea ratified a Mutual Security Treaty in 1954 that commits the United States to helping the Republic of Korea defend itself against external aggression.

(3) Approximately 37,000 United States military personnel are presently stationed in the Republic of Korea.

(4) The United States and the Republic of Korea have regularly conducted joint military exercises, including "Team Spirit" exercises.

(5) North Korea has built up an armed force nearly twice the size of that in the Republic of Korea and has not renounced the use of force, terrorism, and subversion in its attempts to subdue and subjugate the Republic of Korea.

(6) Although North Korea signed the Treaty on the Non-Proliferation of Nuclear Weapons in 1985, it has impeded the international inspection of its nuclear facilities that is required of all signatories of that Treaty.

(7) North Korea's nuclear weapons and ballistic missile programs represent a grave threat to the security of the Korean peninsula and the entire world.

(8) Efforts in recent years by the United States to reduce tensions on the Korean peninsula have included—

(A) the withdrawal of all nuclear weapons from the territory of the Republic of Korea and a reduction in the number of United States military personnel stationed there;

(B) the postponement of the 1994 Team Spirit exercises;

(C) the establishment of direct diplomatic contacts with the North Korean government; and

(D) the offer of expanded diplomatic and economic contacts with North Korea.

(9) Weapons-grade plutonium can be extracted from the fuel rods removed from North Korea's principal reactor at Yongbyon.

(10) International inspectors were not permitted to examine and test in a timely manner spent fuel rods removed from North Korea's principal nuclear reactor at Yongbyon, as required to ensure compliance with North Korea's obligations under the Nuclear Non-Proliferation Treaty.

(11) Diplomacy concerning the North Korean nuclear program has clearly reached a crucial stage, the unsatisfactory resolution of which would place the international nonproliferation regime in jeopardy and threaten the peace and security of the Korean peninsula, the Northeast Asia region, and, by extension, the rest of the world.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the announced freeze on the North Korean nuclear program should remain in place until internationally agreed-upon safeguards of any North Korean civilian nuclear program can be made fully effective;

(2) the North Korean government should take a further step toward verified cooperation with the international nonproliferation regime by—

(A) permitting the unfettered international inspection and testing of the spent fuel rods removed from North Korea's nuclear reactor at the Yongbyon nuclear complex, followed by adequate international supervision of the transfer of all spent fuel rods from the Yongbyon complex and their disposal in another country; and

(B) accepting a comprehensive inspection process as required by the Treaty on the Non-Proliferation of Nuclear Weapons;

(3) a resolution of the inspection controversy at the Yongbyon complex that allows for anything less than the full international inspection of facilities in that complex required by North Korea's obligations under the Nuclear Non-Proliferation Treaty—

(A) would be unsatisfactory; and

(B) should prompt the Government of the United States to take such action as would indicate the severity with which the United States views this provocation against international norms; and

(4) such action should include (but not necessarily be limited to)—

(A) the seeking of international sanctions against North Korea; and

(B) the rescheduling of the Team Spirit exercises for 1994.

SEC. 1325. REPORT ON SECURITY RELATIONSHIP BETWEEN THE UNITED STATES AND JAPAN.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of Defense shall submit a report to Congress regarding the security relationship between the United States and Japan.

(b) CONTENT OF REPORT.—The report required by this section shall contain the following:

(1) An evaluation of the security objectives that the United States hopes to achieve in its relationship with Japan.

(2) An analysis of the threats, dangers, and risks to the United States and Japan in the Asia-Pacific region.

(3) An explanation of the United States strategy for achieving its security objectives with Japan and in the Asia-Pacific region.

(4) An evaluation of the role of the United States-Japan Security Treaty in achieving United States security objectives with Japan and in the Asia-Pacific region.

(5) An analysis of the contributions that regional security discussions, consultations, or frameworks could make to the achievement of United States and Japanese security objectives.

(6) A discussion of the process by which the United States and Japan address joint infrastructure matters, such as land and training issues, throughout Japan, including Okinawa.

(7) A description of the United States military facilities in Japan, including Okinawa, that have been transferred to Japan in the previous 10 years.

(8) A description of the contribution that Japan makes to the costs incurred by the United States in stationing military forces in Japan.

(9) A review of the United States military presence in Japan, including Okinawa, that contains the following information:

(A) The number and location of United States personnel.

(B) The number, size, and location of major United States military units.

(C) An inventory and description of the utilization of United States military facilities, including their military, economic, and environmental aspects.

(D) An explanation of the status of discussion between the United States and Japanese governments on joint infrastructure matters.

(E) A description of United States training activities.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

Subtitle A—Peace Operations

SEC. 1401. REPORTS ON REFORMING UNITED NATIONS PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress two reports on proposals by the United States for improving management by the United Nations of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second not later than June 1, 1995.

(b) STATUS OF IMPLEMENTATION OF UNITED STATES PROPOSALS.—Each report shall contain—

(1) a discussion of the status of implementation of proposals by the United States contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(2) an analysis of the results of such implementation.

(c) SUBJECTS TO BE COVERED.—Each report shall cover, at a minimum, the following matters:

(1) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(2) The reasons for lengthy, potentially disastrous delays after a peace operation has been authorized and steps by the United Nations to reduce those delays.

(3) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(4) Assistance by the United States to facilitate improvements by the United Nations in the matters described in paragraphs (1) and (3) and the terms under which such assistance has been or is being provided.

(d) PEACE OPERATION DEFINED.—In this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1402. REPORT ON MILITARY READINESS IMPLICATIONS OF BOSNIA PEACEKEEPING DEPLOYMENT.

(a) REPORT.—(1) The Secretary of Defense shall submit to the congressional defense committees a report assessing the implications for United States military readiness of the participation of United States ground combat forces in peacekeeping operations within Bosnia-Hercegovina.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act or 30 days following the deployment of United States ground forces to Bosnia-Hercegovina, whichever occurs sooner.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An estimate of the total number of forces required to carry out such an operation, including forces required for a rotation base.

(2) An estimate of the expected duration of such an operation.

(3) An estimate of the cost of such an operation, together with an explanation of how the Secretary proposes to provide funds for such an operation and an assessment of how such proposed funding plan would affect overall military readiness.

(4) An assessment of the effect such an operation would have on the ability of the United States Armed Forces to execute successfully the two nearly-simultaneous major regional conflict strategy articulated in the Bottom-Up Review.

(5) An assessment of how readily forces participating in such an operation could be redeployed to a major regional conflict, including an analysis of the availability of strategic lift, the likely condition of equipment, and the extent of retraining necessary to facilitate such a redeployment.

(6) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units designated to be part of the contingency force, including the extent to which contingency force combat units would support the initial deployment and subsequent rotations.

(7) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units not designated to be part of the contingency force, including the extent to which non-contingency force combat units would support the initial deployment and subsequent rotations.

(8) For the initial deployment and subsequent rotations, an assessment of the number and type of combat support and combat service support units required from active forces, including how many of such units are designated to support the deployment of the contingency force.

(9) An assessment of the degree to which such an operation would require the use of reserve component units and personnel and the use and timing of involuntary Selected Reserve call-up authority as provided by section 673b of title 10, United States Code.

(10) An assessment of the anticipated cost of equipment refurbishment resulting from such an operation.

(11) An assessment of how the increased operational tempo associated with such an operation would affect the mission capable readiness rates and overall health of both strategic and theater airlift assets.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "contingency force" includes—

(A) the set of four or five Army divisions that is designated as the Army contingency force by the Secretary of the Army, as well as Army active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict; and

(B) Air Force, Navy, and Marine Corps active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict.

(2) The term "Bottom-Up Review" means the October 1993 Department of Defense report entitled "Report on the Bottom-Up Review".

(d) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form and, if necessary, in classified form.

SEC. 1403. REPORT ON INTELLIGENCE LESSONS LEARNED FROM UNITED STATES ACTIVITIES IN SOMALIA.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the intelligence lessons learned from the United States participation in United Nations activities in Somalia.

(b) MATTERS TO BE INCLUDED.—The report shall—

(1) specifically describe the availability of intelligence on forces of other nations and of indigenous forces operating in Somalia before, during, and after the insertion of United States forces; and

(2) set forth a complete review of any intelligence failures, any equipment failures, and any equipment unavailability in the theater.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than 180 days after the date of the enactment of this Act.

SEC. 1404. BOSNIA AND HERCEGOVINA.

(a) PURPOSE.—It is the purpose of this section—

(1) to express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina; and

(2) to establish a process to end the arms embargo on the Government of Bosnia and Hercegovina.

(b) STATEMENT OF SUPPORT.—The Congress supports the efforts of the Contact Group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina based upon the Contact Group proposal.

(c) SENSE OF CONGRESS.—It is the sense of Congress that:

(1) The United States should work with the member nations of the North Atlantic Treaty Organization and with other permanent members of the United Nations Security Council to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina which maintains the territorial integrity of Bosnia and Hercegovina.

(2) A peaceful settlement of the conflict must preserve an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the Charter of the United Nations as part of a peaceful settlement, which rights include the inherent right of a sovereign state to self defense.

(3) The acceptance of the Contact Group proposal by the Government of Bosnia and Hercegovina should lead to the lifting of the Bosnia arms embargo.

(4) In providing weapons to the Bosnian Government or taking other actions, care should be taken to provide for the safety of the United Nations Protection Force (UNPROFOR) and the civilian personnel working for the United Nations or nongovernmental volunteer organizations.

(5) The United States should immediately seek to organize an international effort to provide assistance to the states bordering Serbia and Montenegro to bring about more effective enforcement by those states of the international economic sanctions on the Government of Serbia and Montenegro.

(d) GENERAL UNITED STATES POLICY.—The United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the Contact Group proposal. Such action should be taken on separate but complementary international and unilateral tracks, as set forth in subsections (e), (f), and (g).

(e) INTERNATIONAL POLICY.—If the Bosnian Serbs do not accept the Contact Group proposal by the date that is the later of October 15, 1994, or the end of the 10-day period beginning on the date of the enactment of this Act, the President (or his representative) should, not later than 14 days thereafter, formally introduce and support in the United Nations Security Council a resolution to terminate the Bosnia arms embargo. The resolution should provide for the termination of the arms embargo no later than December 1, 1994 (and may allow for the termination to be accomplished in stages ending no later than that date).

(f) UNILATERAL UNITED STATES POLICY.—(1) If by the earlier of November 15, 1994, or the end of the 15-day period beginning on the date on which a resolution described in subsection (e) (or a similar resolution) is formally introduced, the United Nations Security Council has not agreed to such a resolution and the Bosnian Serbs have not accepted the Contact Group proposal—

(A) the funding limitation specified in paragraph (2) shall be in effect;

(B) the President shall submit a plan to, and shall consult with, Congress on the manner in which United States Armed Forces and the military forces of friendly states would provide

training to the armed forces of the Government of Bosnia and Hercegovina outside of the territory of Bosnia and Hercegovina; and

(C) the President shall submit a plan to, and shall consult with, Congress regarding the unilateral termination by the United States of compliance with the Bosnia arms embargo and the implications thereof.

(2) If the funding limitation specified in this paragraph is in effect pursuant to paragraph (1)(A), then no funds appropriated by any provision of law may be used for the purpose of participation in, support for, or assistance to the enforcement of the Bosnia arms embargo by any Department, agency or other entity of the United States (or by any officer or employee of the United States or member of the Armed Forces of the United States) other than as required of all United Nations member states under the United Nations Security Council resolution referred to in subsection (h)(3) and the Charter of the United Nations.

(3)(A) The President may waive the limitation in paragraph (2) in the case of United States military personnel serving in NATO headquarters positions.

(B) Nothing in paragraph (2) is intended to impede enforcement of sanctions against Serbia.

(g) INTERIM POLICY.—If the Bosnian Serb faction attacks any area within those areas that have been designated by the United Nations as "safe areas", the President (or his representative) should promptly formally introduce and support in the United Nations Security Council a resolution that authorizes a selective lifting of the Bosnia arms embargo in order to allow the provision of defensive weapons (such as anti-tank weapons, counter-battery radars, and mortars) to enable the forces of the Government of Bosnia and Hercegovina to defend the safe areas.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Contact Group" means the group composed of representatives of the United States, Russia, France, Britain, and Germany seeking to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(2) The term "Contact Group proposal" means the peace proposal of the Contact Group that has been agreed to by the Government of Bosnia and Hercegovina and rejected by the Bosnian Serb faction.

(3) The term "Bosnia arms embargo" means application to the Government of Bosnia and Hercegovina of the arms embargo imposed by United Nations Security Council resolution 713, of September 25, 1991.

Subtitle B—Assistance Activities

SEC. 1411. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) OHDACA PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by—

(1) sections 401, 402, 2547, and 2551 of title 10, United States Code;

(2) section 404 of title 10, United States Code, as added by section 1412; and

(3) section 1413 of this Act.

(b) LIMITATION.—Not more than one-half of the amount authorized to be appropriated in section 301 for those programs may be obligated until the regulations required to be prescribed by subsection (a) of section 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) have been prescribed.

SEC. 1412. FOREIGN DISASTER ASSISTANCE.

(a) AUTHORITY.—Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§404. Foreign disaster assistance

"(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

"(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

"(1) The manmade or natural disaster for which disaster assistance is necessary.

"(2) The threat to human lives presented by the disaster.

"(3) The United States military personnel and material resources that are involved or expected to be involved.

"(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

"(5) The anticipated duration of the disaster assistance activities.

"(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"404. Foreign disaster assistance.".

SEC. 1413. HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.

(b) FORMS OF ASSISTANCE.—The Secretary may provide assistance under subsection (a) by—

(1) providing Department of Defense personnel to conduct the instruction, education, or training or to furnish advice; or

(2) providing financial assistance or in-kind assistance in support of such instruction, education, or training.

(c) LIMITATION ON UNITED STATES MILITARY PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

(d) USE OF FUNDS.—Of the amount authorized to be appropriated by section 301 for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department of Defense, not more than $20,000,000 shall be available for the program under subsection (a). Such amount may be used—

(1) for activities to support the clearing of landmines for humanitarian purposes, including activities relating to the furnishing of education, training, and technical assistance;

(2) for the provision of equipment and technology by transfer or lease to a foreign government that is participating in a landmine clearing program under this section; and

(3) for contributions to nongovernmental organizations that have experience in the clearing of landmines to support activities described in subsection (a).

(e) NOTICE TO CONGRESS.—The Secretary of Defense shall provide notice to Congress of any activity carried out under this section.

TITLE XV—ARMS CONTROL MATTERS

SEC. 1501. EXTENSION AND REVISION OF NONPROLIFERATION AUTHORITIES.

(a) EXTENSION OF NONPROLIFERATION AUTHORITIES.—Section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal year 1994" and inserting in lieu thereof "during fiscal years 1994 and 1995"; and

(2) in subsection (e)(1), by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal years 1994 and 1995".

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "the International Atomic Energy Agency (IAEA)" and inserting in lieu thereof "international organizations";

(B) by striking out "nuclear";

(C) by striking out "aggressive" and inserting in lieu thereof "effective"; and

(D) by striking out "the Treaty on" and all that follows in such paragraph and inserting in lieu thereof "international agreements on nonproliferation."; and

(2) in paragraph (4), by striking out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserting in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(c) SOURCES OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "for fiscal year 1994" after "under this section"; and

(B) by striking out "fiscal year 1994 or" and inserting in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Funds provided as assistance under this section for a fiscal year referred to in this paragraph may also be derived"; and

(2) in paragraph (3), by inserting after "$25,000,000" the following: "for fiscal year 1994 or $20,000,000 for fiscal year 1995".

SEC. 1502. JOINT COMMITTEE FOR REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

(a) NAME AND COMPOSITION.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat 1845) is amended—

(1) in paragraph (1)—

(A) by striking out "Non-Proliferation Program Review Committee" in the matter preceding subparagraph (A) and inserting in lieu thereof "Counterproliferation Program Review Committee";

(B) by striking out subparagraphs (B) and (E); and

(C) by redesignating subparagraphs (C), (D), and (F) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (2), by adding at the end the following: "The Secretary of Energy shall serve as the Vice Chairman of the committee.";

(3) in paragraph (4), by adding at the end the following: "The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee."; and

(4) by striking out paragraph (5).

(b) PURPOSES OF COMMITTEE.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking out "nonproliferation policy" and inserting in lieu thereof "counterproliferation policy"; and

(2) by adding at the end the following new paragraphs:

"(3) To establish priorities for programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To ensure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Government.

"(6) To ensure that Department of Energy national security programs include technology demonstrations and prototype development of equipment.".

(c) DUTIES.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" in the matter preceding subparagraph (A) and inserting in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy";

(B) by inserting "and" at the end of subparagraph (D); and

(C) by striking out subparagraphs (F) and (G);

(2) by striking out paragraphs (2), (3), and (7);

(3) in paragraph (4), by striking out "to support fully the nonproliferation policy of the United States";

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively; and

(5) by adding at the end the following new paragraph (5):

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.".

(d) COMMITTEE RECOMMENDATIONS.—Subsection (e) of such section is amended to read as follows:

"(e) RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.".

(e) EXTENSION OF COMMITTEE.—Subsection (f) of such section is amended by striking out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress" and inserting in lieu thereof "at the end of September 30, 1996".

*(g) HEADING AMENDMENT.—The heading of such section is amended by striking out "**proliferation**" and inserting in lieu thereof "**counterproliferation**".*

SEC. 1503. REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 1995, and May 1, 1996, the Secretary of Defense shall submit to Congress a report of the findings of the Counterproliferation Program Review Committee established by subsection (a) of the Review Committee charter.

(2) For purposes of this section, the term "Review Committee charter" means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), as amended by section 1502.

(b) CONTENT OF REPORT.—Each report under subsection (a) shall include the following:

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the Review Committee pursuant to subsection (c) of the Review Committee charter.

(2) A complete description of the requirements and priorities established by the Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the Review Committee for meeting requirements prescribed by the Review Committee and for eliminating deficiencies identified by the Review Committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to subsection (c) of the Review Committee charter, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each Review Committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) FORMS OF REPORT.—Each such report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

SEC. 1504. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 201(4), $16,500,000 shall be available for counterproliferation activities.

(b) LIMITATION.—(1) Of the funds made available pursuant to subsection (a), $4,000,000 may not be obligated until the Secretary of Defense submits to Congress a report on a proposed classified counterproliferation database system. The report shall provide—

(A) an assessment of current major databases and software capabilities of entities in the intelligence community and of national weapons laboratories and laboratories of the Armed Forces against capabilities defined in the proposed project; and

(B) an assessment of the technical feasibility of the proposed system, program plan, strategy, milestones and future year funding.

(2) No funds may be obligated for the database system described in the report until the Secretary of Defense and the Director of Central Intelligence enter into a written agreement concerning the program to develop that database system that provides—

(A) how funding for that program is to be divided between (i) the account of the National Foreign Intelligence Program, and (ii) Tactical Intelligence and Related Program accounts; and

(B) a plan for the sources of funds for, and the programmed amounts for, that program for fiscal years after fiscal year 1995.

(c) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than $2,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(d) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160, as amended by section 1502. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(e) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for counterproliferation technology projects—

(A) up to $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) up to $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective use of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe,

the Baltic countries, and states of the former Soviet Union.

(B) Of the funds available under paragraph (1)(B) for the program referred to in subparagraph (A), $9,000,000 may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional committees specified in subparagraph (C) a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and states of the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1)(B); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

(C) The congressional committees referred to in this subparagraph are the following:

(i) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.

(ii) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

SEC. 1505. STUDIES RELATING TO UNITED STATES COUNTERPROLIFERATION POLICY.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 1603 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 5859a; 107 Stat. 1843) is amended by striking out "During fiscal year 1994, the Secretary" and inserting in lieu thereof "The Secretary".

(b) REVISION OF REPORTING REQUIREMENT.—Such section is further amended—

(1) by striking out subsections (d) and (e);

(2) by redesignating subsection (f) as subsection (d); and

(3) in subsection (d) (as so redesignated)—

(A) by striking "and not later than October 30 of each year"; and

(B) by striking out "six-month" and inserting in lieu thereof "twelve-month".

(c) FISCAL YEAR 1995 AMOUNT.—Of the funds authorized to be appropriated by section 201(4) for technical studies, support, and analysis (PE 605104D), up to $2,000,000 shall be available for studies relating to United States counterproliferation policy.

SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).

SEC. 1507. LIMITATION ON FUNDS FOR STUDIES PENDING RECEIPT OF PREVIOUSLY REQUIRED REPORT.

(a) LIMITATION.—Of the total amount specified in section 1505 for counterproliferation activities for fiscal year 1995, $1,000,000 shall be withheld from obligation until the report described in subsection (b) has been submitted to Congress.

(b) REPORT.—The report referred to in subsection (a) is the report required to be submitted to Congress not later than May 30, 1994, pursuant to section 1422 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829).

SEC. 1508. SENSE OF CONGRESS CONCERNING INDEFINITE EXTENSION OF NUCLEAR NON-PROLIFERATION TREATY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, is the centerpiece of global efforts to prevent the spread of nuclear weapons.

(2) The United States has demonstrated longstanding support for that treaty and related efforts to prevent the spread of nuclear weapons.

(3) President Clinton has declared that preventing the spread of nuclear weapons is one of the highest priorities of his Administration.

(4) In April 1995, the parties to the Treaty on the Non-Proliferation of Nuclear Weapons will convene a conference in New York City to discuss the indefinite extension of the treaty.

(5) The policy of the President is to seek at that conference the indefinite and unconditional extension of that treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President has the full support of Congress in seeking the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) the President, when formulating and implementing other elements of nonproliferation policy of the United States (including United States counterproliferation doctrine, the Nuclear Posture Review, and nuclear testing policy), should take into account the objectives of the United States at the 1995 conference of the parties to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(3) the President and the President's senior national security advisers should dedicate themselves to ensuring the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 conference for that treaty.

SEC. 1509. NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

(a) FINDINGS.—Congress makes the following findings:

(1) On January 25, 1994, the United States and 37 other nations began negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President extended the current United States moratorium on nuclear weapons testing through September 1995.

(3) The United States is seeking to extend indefinitely the Treaty on the Non-Proliferation of Nuclear Weapons at the conference of the parties to the Treaty to be held in New York City in April 1995.

(4) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Treaty on the Non-Proliferation of Nuclear Weapons.

(5) Agreements to eliminate nuclear weapons testing and to control the spread of nuclear weapons could contribute to the national security of the United States, its allies, and other nations around the world.

(b) STATEMENT OF CONGRESSIONAL POLICY.—In view of the findings set forth in subsection (a), Congress—

(1) applauds the President for maintaining the United States moratorium on nuclear weapons testing and for taking a leadership role toward negotiation of a comprehensive nuclear test ban treaty;

(2) encourages all nuclear powers to refrain from conducting nuclear explosions, before the conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the Conference on Disarmament to make all possible progress toward a comprehensive nuclear test ban treaty by the end of 1994.

TITLE XVI—RESERVE OFFICER PERSONNEL MANAGEMENT ACT (ROPMA)

SEC. 1601. SHORT TITLE.

This title may be cited as the "Reserve Officer Personnel Management Act".

SEC. 1602. REFERENCES TO TITLE 10, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

Subtitle A—Reserve Officer Personnel Management

PART I—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

SEC. 1611. PROMOTION AND RETENTION OF RESERVE OFFICERS.

Title 10, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle E—Reserve Components

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap.	*Sec.*
"1001. Definitions	*10001*
"1003. Reserve Components Generally	*10101*
"1005. Elements of Reserve Components	*10141*
"1007. Administration of Reserve Components	*10201*
"1009. Reserve Forces Policy Boards and Committees	*10301*
"1011. National Guard Bureau	*10501*
"1013. Budget Information and Annual Reports to Congress	*10541*
"PART II—PERSONNEL GENERALLY	
"1201. Authorized Strengths and Distribution in Grade	*12001*
"1203. Enlisted Members	*12101*
"1205. Appointment of Reserve Officers	*12201*
"1207. Warrant Officers	*12241*
"1209. Active Duty	*12301*
"1211. National Guard Members in Federal Service	*12401*
"1213. Special Appointments, Assignments, Details, and Duties	*12501*
"1215. Miscellaneous Prohibitions and Penalties [No present sections]	
"1217. Miscellaneous Rights and Benefits	*12601*
"1219. Standards and Procedures for Retention and Promotion	*12641*
"1221. Separation	*12681*
"1223. Retired Pay for Non-Regular Service	*12731*
"1225. Retired Grade	*12771*
"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST	
"1401. Applicability and Reserve Active-Status Lists	*14001*
"1403. Selection Boards	*14101*
"1405. Promotions	*14301*
"1407. Failure of Selection for Promotion and Involuntary Separation	*14501*
"1409. Continuation of Officers on the Reserve-Active Status List and Selective Early Removal	*14701*
"1411. Additional Provisions Relating to Involuntary Separation	*14901*
"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS	
"1601. Training Generally [No present sections]	

"1606. Educational Assistance for Members of the Selected Reserve 16131
"1608. Health Professions Stipend Program 16201
"1609. Education Loan Repayments 16301

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"1801. Issue of Serviceable Material to Reserve Components [No present sections] ....
"1803. Facilities for Reserve Components 18231
"1805. Miscellaneous Provisions 18501

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"Chap. Sec.
"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve Active-Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"CHAPTER 1401—APPLICABILITY AND RESERVE ACTIVE-STATUS LISTS

"Sec.
"14001. Applicability of this part.
"14002. Reserve active-status lists: requirement for each armed force.
"14003. Reserve active-status lists: position of officers on the list.
"14004. Reserve active-status lists: eligibility for Reserve promotion.
"14005. Competitive categories.
"14006. Determination of years in grade.

"§14001. Applicability of this part

"This chapter and chapters 1403 through 1411 of this title apply, as appropriate, to all reserve officers of the Army, Navy, Air Force, and Marine Corps except warrant officers.

"§14002. Reserve active-status lists: requirement for each armed force

"(a) The Secretary of each military department shall maintain a single list, to be known as the reserve active-status list, for each armed force under the Secretary's jurisdiction. That list shall include the names of all reserve officers of that armed force who are in an active status other than those on an active-duty list described in section 620 of this title or warrant officers (including commissioned warrant officers).

"(b) The reserve active-status list for the Army shall include officers in the Army Reserve and the Army National Guard of the United States. The reserve active-status list for the Air Force shall include officers in the Air Force Reserve and the Air National Guard of the United States. The Secretary of the Navy shall maintain separate lists for the Naval Reserve and the Marine Corps Reserve.

"§14003. Reserve active-status: position of officers on the list

"(a) POSITION ON LIST.—Officers shall be carried on the reserve active-status list of the armed force of which they are members in the order of seniority of the grade in which they are serving in an active status. Officers serving in the same grade shall be carried in the order of their rank in that grade.

"(b) EFFECT ON POSITION HELD BY REASON OF TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer whose position on the reserve active-status list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on that list that the officer would have held if the officer had not received that appointment or assignment.

"§14004. Reserve active-status lists: eligibility for Reserve promotion

"Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

"§14005. Competitive categories

"Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

"§14006. Determination of years in grade

"For the purpose of chapters 1403 through 1411 of this title, an officer's years of service in a grade are computed from the officer's date of rank in grade as determined under section 741(d) of this title.

"CHAPTER 1403—SELECTION BOARDS

"Sec.
"14101. Convening of selection boards.
"14102. Selection boards: appointment and composition.
"14103. Oath of members.
"14104. Confidentiality of board proceedings.
"14105. Notice of convening of selection board.
"14106. Communication with board by officers under consideration.
"14107. Information furnished by the Secretary concerned to promotion boards.
"14108. Recommendations by promotion boards.
"14109. Reports of promotion boards: in general.
"14110. Reports of promotion boards: review by Secretary.
"14111. Reports of selection boards: transmittal to President.
"14112. Dissemination of names of officers selected.

"§14101. Convening of selection boards

"(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Naval Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a 'promotion board'.

"(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall (except in the case of a board convened to consider officers as provided in section 14301(e) of this title) be known as a 'vacancy promotion board'. Any other promotion board convened under this subsection shall be known as a 'mandatory promotion board'.

"(b) CONTINUATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

"(1) for continuation on the reserve active-status list under section 14701 of this title;

"(2) for selective early removal from the reserve active-status list under section 14704 of this title; or

"(3) for selective early retirement under section 14705 of this title.

A selection board convened under this subsection shall be known as a 'continuation board'.

"§14102. Selection boards: appointment and composition

"(a) APPOINTMENT.—Members of selection boards convened under section 14101 of this title shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Continuation boards shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

"(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander.

"(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

"(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards.

"§14103. Oath of members

"Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

"§14104. Confidentiality of board proceedings

"Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.

"§14105. Notice of convening of promotion board

"(a) REQUIRED NOTICE.—At least 30 days before a promotion board is convened under section 14101(a) of this title to consider officers in a grade and competitive category for promotion to the next higher grade, the Secretary concerned shall either (1) notify in writing the officers eligible for consideration by the board for promotion regarding the convening of the board, or (2) issue a general written notice to the armed force concerned regarding the convening of the board.

"(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include the date on which the board is to convene and (except in the case of a vacancy promotion board) the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notice.

"§14106. Communication with board by officers under consideration

"Subject to regulations prescribed by the Secretary of the military department concerned, an officer eligible for consideration by a promotion board convened under section 14101(a) of this title who is in the promotion zone or above the promotion zone, or who is to be considered by a vacancy promotion board, may send a written communication to the board calling attention to any matter concerning the officer which the officer considers important to the officer's case. Any such communication shall be sent so as to arrive not later than the date on which the board convenes. The board shall give consideration to any timely communication under this section.

"§14107. Information furnished by the Secretary concerned to promotion boards

"(a) INTEGRITY OF THE PROMOTION SELECTION BOARD PROCESS.—(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 14101(a) of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

"(2) No information concerning a particular eligible officer may be furnished to a selection board except for the following:

"(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

"(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the promotion board.

"(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 14106 of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

"(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1) is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

"(3) Information provided to a promotion board in accordance with paragraph (2) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the promotion board.

"(4) Paragraphs (2) and (3) do not apply to the furnishing of appropriate administrative processing information to the promotion board by an administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

"(5) Information furnished to a promotion board that is described in subparagraph (B), (C), or (D) of paragraph (2) may not be furnished to a later promotion board unless—

"(A) the information has been properly placed in the official military personnel file of the officer concerned; or

"(B) the information is provided to the later selection board in accordance with paragraph (2).

"(6)(A) Before information described in paragraph (2)(B) regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure—

"(i) that such information is made available to such officer; and

"(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the promotion board.

"(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished an appropriate summary of the information.

"(b) INFORMATION TO BE FURNISHED.—The Secretary of the military department concerned shall furnish to a promotion board convened under section 14101(a) of this title the following:

"(1) In the case of a mandatory promotion board, the maximum number (as determined in accordance with section 14307 of this title) of officers in each competitive category under consideration that the board is authorized to recommend for promotion to the next higher grade.

"(2) The name of each officer in each competitive category under consideration who is to be considered by the board for promotion.

"(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

"(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

"(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

"(c) LIMITATION ON MODIFYING FURNISHED INFORMATION.—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

"(d) OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of officers of the Naval Reserve, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.

"§14108. Recommendations by promotion boards

"(a) RECOMMENDATION OF BEST QUALIFIED OFFICERS.—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under sections 14107 of this title).

"(b) MAJORITY REQUIRED.—A promotion board convened under section 14101(a) of this title may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) BOARD RECOMMENDATION REQUIRED FOR PROMOTION.—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

"(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a promotion board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

"(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

"(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

"(2) attempt to coerce or, by any unauthorized means, influence any action of a promotion board or any member of a promotion board in the formulation of the board's recommendations.

"§14109. Reports of promotion boards: in general

"(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the officers recommended by the board for promotion. The report shall be signed by each member of the board.

"(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

"(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

"(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to

meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

"*(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for retention in an active status.*

"*(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.*

"*§14110. Reports of promotion boards: review by Secretary*

"*(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.*

"*(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.*

"*§14111. Reports of selection boards: transmittal to President*

"*(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section 14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.*

"*(b) REMOVAL OF NAME FROM BOARD REPORT.—The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.*

"*(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.*

"*§14112. Dissemination of names of officers selected*

"*Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.*

"*CHAPTER 1405—PROMOTIONS*

"*Sec.*
"*14301. Eligibility for consideration for promotion: general rules.*
"*14302. Promotion zones.*
"*14303. Eligibility for consideration for promotion: minimum years of service in grade.*
"*14304. Eligibility for consideration for promotion: maximum years of service in grade.*
"*14305. Establishment of promotion zones: mandatory consideration for promotion.*
"*14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system.*
"*14307. Numbers of officers to be recommended for promotion.*
"*14308. Promotions: how made.*
"*14309. Acceptance of promotion: oath of office.*
"*14310. Removal of officers from a list of officers recommended for promotion.*
"*14311. Delay of promotion: involuntary.*
"*14312. Delay of promotion: voluntary.*
"*14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half).*
"*14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; state adjutants general.*
"*14315. Position vacancy promotions: Army and Air Force officers.*
"*14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion.*
"*14317. Officers in transition to and from the active-status list or active-duty list.*

"*§14301. Eligibility for consideration for promotion: general rules*

"*(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—*

"*(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and*

"*(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).*

"*(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.*

"*(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGIBLE TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade—*

"*(1) an officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title;*

"*(2) an officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to the next higher grade as a reserve of the Army or of the Air Force as the case may be; or*

"*(3) an officer who has been nominated by the President for promotion to the next higher grade under any other provision of law.*

"*(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers below the promotion zone are exceptionally well qualified for promotion.*

"*(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe.*

"*(f) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel, colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.*

"*(g) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened.*

"*§14302. Promotion zones*

"*(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:*

"(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Naval Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(B) In the case of officers in the grade of colonel or brigadier general, for reserve officers of the Army and Marine Corps, or in the grade of captain or rear admiral (lower half), for reserve officers of the Navy, those who have neither (i) been recommended for promotion to the next higher grade when considered in the promotion zone, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(2) Those officers who are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade and the officer so designated.

"(3) Those officers who—

"(A) have been selected from below the zone for promotion to the next higher grade or by a vacancy promotion board, but whose names were removed from the list of officers recommended for promotion to that next higher grade resulting from that selection;

"(B) have not failed of selection for promotion to that next higher grade; and

"(C) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to that next higher grade and the officer so designated.

"(b) OFFICERS ABOVE THE ZONE.—Officers on the reserve active-status list are considered to be above the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are senior to the senior officer in the promotion zone for that competitive category.

"(c) OFFICERS BELOW THE ZONE.—Officers on the reserve active-status list are considered to be below the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are junior to the junior officer in the promotion zone for that competitive category.

"§14303. Eligibility for consideration for promotion: minimum years of service in grade

"(a) OFFICERS IN PAY GRADES O-1 AND O-2.—An officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant as a reserve officer of the Army, Air Force, or Marine Corps, or in the grade of ensign or lieutenant (junior grade) as a reserve officer of the Navy, may not be promoted to the next higher grade, or granted Federal recognition in that grade, until the officer has completed the following years of service in grade:

"(1) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

"(2) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

"(b) OFFICERS IN PAY GRADES O-3 AND ABOVE.—Subject to subsection (d), an officer who is on the reserve active-status list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant, or who is on the reserve active-status list of the Navy in a grade above lieutenant (junior grade), may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed the following years of service in grade:

"(1) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

"(2) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

This subsection does not apply to an adjutant general or assistant adjutant general of a State or to an appointment in a higher grade which is based upon a specific provision of law.

"(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD IN GRADE.—The Secretary concerned may prescribe a period of service in grade for eligibility for promotion, in the case of officers to whom subsection (a) applies, or for eligibility for consideration for promotion, in the case of officers to whom subsection (b) applies, that is longer than the applicable period specified in that subsection.

"(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE CONSIDERATIONS.—Subject to section 14307(b) of this title, the Secretary of the military department concerned may waive subsection (b) to the extent necessary to ensure that officers described in paragraph (1) of that subsection have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

"§14304. Eligibility for consideration for promotion: maximum years of service in grade

"(a) CONSIDERATION FOR PROMOTION WITHIN SPECIFIED TIMES.—(1) Officers described in paragraph (3) shall be placed in the promotion zone for that officer's grade and competitive category, and shall be considered for promotion to the next higher grade by a promotion board convened under section 14101(a) of this title, far enough in advance of completing the years of service in grade specified in the following table so that, if the officer is recommended for promotion, the promotion may be effective on or before the date on which the officer will complete those years of service.

"Current Grade	*Maximum years of service in grade*
"First lieutenant or Lieutenant (junior grade)	*5 years*
"Captain or Navy Lieutenant	*7 years*
"Major or Lieutenant commander	*7 years*

"(2) Paragraph (1) is subject to subsections (a), (b), and (c) of section 14301 of this title and applies without regard to vacancies.

"(3) Paragraph (1) applies to an officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and who holds a permanent appointment in the grade of first lieutenant, captain, or major as a reserve of the Army, Air Force, or Marine Corps, or to an officer on the reserve active-status list of the Navy in the grade of lieutenant (junior grade), lieutenant, or lieutenant commander as a reserve of the Navy, and who, while holding that appointment, has not been considered by a selection board convened under section 14101(a) or 14502 of this title for promotion to the next higher grade.

"(b) PROMOTION DATE.—An officer holding a permanent grade specified in the table in subsection (a) who is recommended for promotion to the next higher grade by a selection board the first time the officer is considered for promotion while in or above the promotion zone and who is placed on an approved promotion list established under section 14308(a) of this title shall (if not promoted sooner or removed from that list by the President or by reason of declination) be promoted, without regard to the existence of a vacancy, on the date on which the officer completes the maximum years of service in grade specified in subsection (a). The preceding sentence is subject to the limitations of section 12011 of this title.

"(c) WAIVER AUTHORITY FOR NAVY AND MARINE CORPS RUNNING MATE SYSTEM.—If the Secretary of the Navy establishes promotion zones for officers on the reserve active-status list of the Navy or the Marine Corps Reserve in accordance with a running mate system under section 14306 of this title, the Secretary may waive the requirements of subsection (a) to the extent the Secretary considers necessary in any case in which the years of service for promotion, or for consideration for promotion, within those zones will exceed the maximum years of service in grade specified in subsection (a).

"§14305. Establishment of promotion zones: mandatory consideration for promotion

"(a) ESTABLISHMENT OF ZONE.—Before convening a mandatory promotion board under section 14101(a) of this title, the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

"(b) NUMBER IN THE ZONE.—The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category under the provisions of sections 14303 and 14304 of this title and who are otherwise eligible for promotion.

"(c) FACTORS IN DETERMINING NUMBER IN THE ZONE.—The Secretary's determination under subsection (b) shall be made on the basis of an estimate of the following:

"(1) The number of officers needed in that competitive category in the next higher grade in each of the next five years.

"(2) In the case of a promotion zone for officers to be promoted to a grade to which the maximum years of in grade criteria established in section 14304 of this title apply, the number of officers in that competitive category who are required to be considered for selection for promotion to the next higher grade under that section.

"(3) The number of officers that should be placed in the promotion zone in each of the next five years to provide to officers in those years relatively similar opportunities for promotion.

"§14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system

"(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may by regulation implement section 14305 of this title by requiring that the promotion zone for consideration of officers on the reserve active-status list of the Navy or the Marine Corps for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

"(b) ASSIGNMENT OF RUNNING MATES.—An officer to whom a running mate system applies shall be assigned as a running mate an officer of the same grade on the active-duty list of the same armed force. The officer on the reserve active-status list is in the promotion zone and is

eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title when that officer's running mate is in or above the promotion zone established for that officer's grade under chapter 36 of this title.

"(c) CONSIDERATION OF OFFICERS BELOW THE ZONE UNDER A RUNNING MATE SYSTEM.—If the Secretary of the Navy authorizes the selection of officers for promotion from below the promotion zone in accordance with section 14307 of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system or otherwise as the Secretary determines to be appropriate to meet the needs of the Navy or Marine Corps.

"§14307. Number of officers to be recommended for promotion

"(a) DETERMINATION OF MAXIMUM NUMBER.—Before convening a promotion board under section 14101(a) of this title for a grade and competitive category (other than a vacancy promotion board), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine the maximum number of officers in that grade and competitive category that the board may recommend for promotion. The Secretary shall make the determination under the preceding sentence of the maximum number that may be recommended with a view to having on the reserve active-status list a sufficient number of officers in each grade and competitive category to meet the needs of the armed force concerned for officers on that list. In order to make that determination, the Secretary shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

"(b) BELOW-THE-ZONE SELECTIONS.—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

"(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

"(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

"§14308. Promotions: how made

"(a) PROMOTION LIST.—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list.

"(b) PROMOTION; HOW MADE; ORDER.—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

"(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

"(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

"(c) DATE OF RANK.—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

"(2) Except as specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

"(d) OFFICERS WITH RUNNING MATES.—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

"(e) ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

"(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

"(2) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

"(f) EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.—The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

"(g) ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.—A reserve officer of the Army who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army. A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.

"§14309. Acceptance of promotion; oath of office

"(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

"(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

"§14310. Removal of officers from a list of officers recommended for promotion

"(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

"(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

"(c) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

"§14311. Delay of promotion: involuntary

"(a) DELAY DURING INVESTIGATIONS AND PROCEEDINGS.—(1) Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may be delayed if any of the following applies before the date on which the appointment would otherwise be made:

"(A) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and the charges have not been disposed of.

"(B) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

"(C) A board of officers has been convened under section 14903 of this title to review the record of the officer.

"(D) A criminal proceeding in a Federal or State court of competent jurisdiction is pending against the officer.

"(2) If disciplinary action is not taken against the officer, if the charges against the officer are

withdrawn or dismissed, if the officer is not separated by the Secretary of the military department concerned as the result of having been required to show cause for retention, or if the officer is acquitted of the charges, as the case may be, then (unless action to delay the officer's appointment to the higher grade has been taken under subsection (b)) the officer shall be retained on the promotion list, list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(b) DELAY FOR LACK OF QUALIFICATIONS.—Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may also be delayed if there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade to which selected. If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade, the officer shall be retained on the promotion list, the list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade, and shall, upon promotion to that grade, have the same date of rank, the same effective date for pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(c) NOTICE TO OFFICER.—(1) The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) unless the officer is given written notice of the grounds for the delay. The preceding sentence does not apply if it is impracticable to give the officer written notice before the date on which the appointment to the higher grade would otherwise take effect, but in such a case the written notice shall be given as soon as practicable.

"(2) An officer whose promotion is delayed under subsection (a) or (b) shall be given an opportunity to make a written statement to the Secretary of the military department concerned in response to the action taken. The Secretary shall give consideration to any such statement.

"(d) MAXIMUM LENGTH OF DELAY IN PROMOTION.—The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) for more than six months after the date on which the officer would otherwise have been promoted unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or State court of competent jurisdiction or more than 90 days after final action has been taken in any court-martial case against the officer. Except for court action, a promotion may not be delayed more than 18 months after the date on which the officer would otherwise have been promoted.

"(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER STRENGTH IN GRADE OR DUTIES TO WHICH ASSIGNED.—(1) Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

"(2) The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

"(3) The date of rank and position on the reserve active-status list of a reserve officer whose promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

"(4) If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

"§14312. Delay of promotion: voluntary

"(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1) The Secretary of the military department concerned may, by regulation, permit delays of a promotion of an officer who is recommended for promotion by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title at the request of the officer concerned. Such delays, in the case of any promotion, may extend for any period not to exceed three years from the date on which the officer would otherwise be promoted.

"(2) Regulations under this section shall provide that—

"(A) a request for such a delay of promotion must be submitted by the officer concerned before the delay may be approved; and

"(B) denial of such a request shall not be considered to be a failure of selection for promotion unless the officer declines to accept a promotion under circumstances set forth in subsection (c).

"(b) EFFECT OF APPROVAL OF REQUEST.—If a request for delay of a promotion under subsection (a) is approved, the officer's name shall remain on the promotion list during the authorized period of delay (unless removed under any other provision of law). Upon the end of the period of the authorized delay, or at any time during such period, the officer may accept the promotion, which shall be effective on the date of acceptance. Such an acceptance of a promotion shall be made in accordance with regulations prescribed under this section.

"(c) EFFECT OF DECLINING A PROMOTION.—An officer's name shall be removed from the promotion list and, if the officer is serving in a grade below colonel or, in the case of the Navy, captain, the officer shall be considered to have failed of selection for promotion if any of the following applies:

"(1) The Secretary concerned has not authorized voluntary delays of promotion under subsection (a) to the grade concerned and the officer declines to accept an appointment to a higher grade.

"(2) The Secretary concerned has authorized voluntary delays of promotion under subsection (a), but has denied the request of the officer for a delay of promotion and the officer then declines to accept an appointment to a higher grade.

"(3) The Secretary concerned has approved the request of an officer for a delay of promotion and, upon the end of the period of delay authorized in accordance with regulations prescribed under subsection (a), the officer then declines to accept an appointment to a higher grade.

"§14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

"(a) AUTHORITY.—The President may vacate the appointment of a reserve officer to the grade of brigadier general or rear admiral (lower half) if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

"(b) EFFECT OF PROMOTION BEING VACATED.—Except as provided in subsection (c), an officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel as a reserve of the armed force of which the officer is a member. An officer whose promotion to the grade of rear admiral (lower half) is vacated under this section holds the grade of captain in the Naval Reserve. Upon assuming the lower grade, the officer shall have the same position on the reserve active-status list as the officer would have had if the officer had not served in the higher grade.

"(c) SPECIAL RULE FOR OFFICERS SERVING AS ADJUTANT GENERAL.—In the case of an officer serving as an adjutant general or assistant adjutant general whose promotion to the grade of brigadier general is vacated under this section, the officer then holds the reserve grade held by that officer immediately before the officer's appointment as adjutant general or assistant adjutant general.

"§14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general

"(a) GENERAL OFFICERS.—Within 30 days after a reserve officer of the Army or the Air Force on the reserve active-status list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary concerned shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

"(1) Transfer the officer in grade to the Retired Reserve, if the officer is qualified and applies for the transfer.

"(2) Transfer the officer in grade to the inactive status list of the Standby Reserve, if the officer is qualified.

"(3) Discharge the officer from the officer's reserve appointment and, if the officer is qualified and applies therefor, appoint the officer in the reserve grade held by the officer as a reserve officer before the officer's appointment in a general officer grade.

"(4) Discharge the officer from the officer's reserve appointment.

"(b) ADJUTANTS GENERAL.—If a reserve officer who is federally recognized in the Army National Guard or the Air National Guard solely because of the officer's appointment as adjutant general or assistant adjutant general of a State ceases to occupy that position, the Secretary concerned, not later than 30 days after the date on which the officer ceases to occupy that position, shall—

"(1) withdraw that officer's Federal recognition; and

"(2) require that the officer—

"(A) be transferred in grade to the Retired Reserve, if the officer is qualified and applies for the transfer;

"(B) be discharged from the officer's reserve appointment and appointed in the reserve grade held by the officer as a reserve officer of the Air Force immediately before the appointment of that officer as adjutant general or assistant adjutant general, if the officer is qualified and applies for that appointment; or

"(C) be discharged from the officer's reserve appointment.

"(c) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(3) or (b)(2)(B) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

"§14315. Position vacancy promotions: Army and Air Force officers

"(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—A reserve officer of the Army who is in the Army Reserve, or a Reserve officer of the Air Force who is in the Air Force Reserve, who is on the reserve active-status list in the grade of first lieutenant, captain, major, or lieutenant colonel is eligible for consideration for promotion to the next higher grade under this section if each of the following applies:

"(1) The officer is occupying or, as determined by the Secretary concerned, is available to occupy a position in the same competitive category as the officer and for which a grade higher than the one held by that officer is authorized.

"(2) The officer is fully qualified to meet all requirements for the position as established by the Secretary of the military department concerned.

"(3) The officer has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade.

"(b) CONSIDERATION FOR VACANCY PROMOTION TO BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A reserve officer of the Army who is in the Army Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade in a unit of the Army Reserve organized to serve as a unit, (B) has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade, and (C) meets the standards for consideration prescribed by the Secretary of the Army.

"(2) A reserve officer of the Air Force who is in the Air Force Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade, and (B) meets the standards for consideration prescribed by the Secretary of the Air Force.

"(c) VACANCY PROMOTION BOARDS.—Consideration for promotion under this section shall be by a vacancy promotion board convened under section 14101(a) of this title.

"(d) EFFECT OF NONSELECTION.—An officer who is considered for promotion under this section and is not selected shall not be considered to have failed of selection for promotion.

"(e) SPECIAL RULE FOR OFFICERS FAILED OF SELECTION.—A reserve officer of the Army or the Air Force who is considered as failed of selection for promotion under section 14501 of this title to a grade may be considered for promotion under this section or, if selected, promoted to that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill the vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"§14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion

"(a) OPPORTUNITY FOR PROMOTION TO FILL A VACANCY IN THE GUARD.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States is recommended by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title for promotion to the next higher grade, an opportunity shall be given to the appropriate authority of the State to promote that officer to fill a vacancy in the Army National Guard or the Air National Guard of that jurisdiction.

"(b) AUTOMATIC FEDERAL RECOGNITION.—An officer of the Army National Guard of the United States or the Air National Guard of the United States who is on a promotion list for promotion to the next higher grade as a result of selection for promotion as described in subsection (a) and who before the date of promotion is appointed in that higher grade to fill a vacancy in the Army National Guard or Air National Guard shall—

"(1) be extended Federal recognition in that grade, without the examination prescribed in section 307 of title 32; and

"(2) subject to section 14311(e) of this title, be promoted to that reserve grade effective on the date of the officer's appointment in that grade in the Army National Guard or Air National Guard.

"(c) NATIONAL GUARD OFFICERS FAILED OF SELECTION.—An officer who is considered as failed of selection for promotion under section 14501 of this title to a grade may be extended Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer's Federal recognition in the officer's reserve grade shall be withdrawn and the officer shall be promoted and transferred to the Army Reserve or the Air Force Reserve as appropriate.

"§14317. Officers in transition to and from the active-status list or active-duty list

"(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer—

"(1) shall be treated as if the officer had not been considered and recommended for promotion by the selection board or examined and been found qualified for Federal recognition; and

"(2) may not be placed on a promotion list or promoted to the higher grade after returning to an active status,

unless the officer is again recommended for promotion by a selection board convened under chapter 36 of this title or section 14101(a) or 14502 of this title or examined for Federal recognition under title 32.

"(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY LIST.—A reserve officer who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title and who before being promoted is placed on the active-duty list of the same armed force and placed in the same competitive category shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list for officers on the active-duty list established under chapter 36 of this title.

"(c) OFFICERS ON A PROMOTION LIST REMOVED FROM ACTIVE-DUTY LIST.—An officer who is on the active-duty list and is on a promotion list as the result of selection for promotion by a selection board convened under chapter 36 of this title and who before being promoted is removed from the active-duty list and placed on the reserve active-status list of the same armed force and in the same competitive category (including a regular officer who on removal from the active-duty list is appointed as a reserve officer and placed on the reserve active-status list) shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

"(d) OFFICERS SELECTED FOR POSITION VACANCIES.—If a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14314 of this title to fill a position vacancy or examined for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty. If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

"(e) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 10213 or 644 of this title.

"CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

"Sec.
"14501. Failure of selection for promotion.
"14502. Special selection boards: correction of errors.
"14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade).
"14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy.
"14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy.
"14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and lieutenant commanders of the Navy.
"14507. Removal from the active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy.
"14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
"14509. Separation at age 60: reserve officers below brigadier general or rear admiral (lower half).
"14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half).
"14511. Separation at age 62: major generals and rear admirals.
"14512. Separation at age 64: officers holding certain offices.
"14513. Separation for failure of selection of promotion.
"14514. Discharge or retirement for years of service or after selection for early removal.
"14515. Discharge or retirement for age.
"14516. Separation to be considered involuntary.
"14517. Entitlement of officers discharged under this chapter to separation pay.

"§14501. Failure of selection for promotion

"(a) An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Naval Reserve, captain who is in or above the promotion zone established for that officer's grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

"(b) Officers Twice Failed of Selection.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

"(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

"(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing of selection or after the officer's name was removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

"(3) The officer's name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

"(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer's grade and competitive category; or

"(B) the officer's name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

"§14502. Special selection boards: correction of errors

"(a) Officers Not Considered Because of Administrative Error.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

"(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

"(b) Officers Considered But Not Selected; Material Error.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a selection board but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

"(A) the action of the selection board that considered the officer or former officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the selection board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

"(3) Such board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the selection board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

"(c) Report.—Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has considered carefully the record of each officer whose name was referred to it.

"(d) Applicable Provisions.—The provisions of sections 14104, 14109, 14110, and 14111 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 14101(a) of this title.

"(e) Appointment of Officers Recommended for Promotion.—(1) An officer whose name is placed on a promotion list as a result of recommendation for promotion by a special selection board convened under this section, shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had he been recommended for promotion by the board which should have considered or which did consider him.

"(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

"(3) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary concerned may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

"(f) Time Limits for Consideration.—The Secretary of Defense may prescribe by regulation the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer

or former officer and time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section.

"(g) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

"(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under chapter 1403 of this title until—

"(A) the claim has been referred to a special selection board by the Secretary concerned and acted upon by that board; or

"(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

"(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim.

"(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

"(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

"(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

"§14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade)

"(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

"(1) has less than five years of service in an active status as a commissioned officer; or

"(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

"(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

"(A) may be discharged at any time after being found not qualified for promotion; and

"(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

"(2) Paragraph (1) shall not apply if the officer is sooner promoted.

"(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

"§14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

"(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the President approves the report of the selection board which resulted in the second failure, or (2) as provided in section 12646 or 12686 of this title.

"§14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

"Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"§14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force and Marine Corps and reserve lieutenant commanders of the Navy

"Unless retained as provided in section 12646, 12686, 14701, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the first day of the month after the month in which the officer completes 20 years of commissioned service.

"§14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

"(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

"(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

"§14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

"(a) THIRTY YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve officer of the Navy in the grade of rear admiral (lower half) who has not been recommended for promotion to rear admiral shall, 30 days after completion of 30 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of brigadier general or rear admiral (lower half), whichever is later, be separated in accordance with section 14514 of this title.

"(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general, and each reserve officer of the Navy in the grade of rear admiral, shall, 30 days after completion of 35 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of major general or rear admiral, whichever is later, be separated in accordance with section 14514 of this title.

"(c) RETENTION OF BRIGADIER GENERALS.—A reserve officer of the Army or Air Force in the grade of brigadier general who would otherwise be removed from an active status under this subsection (a) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 60 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(d) RETENTION OF MAJOR GENERALS.—A reserve officer of the Army or Air Force in the grade of major general who would otherwise be removed from an active status under this subsection (b) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 62 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(e) EXCEPTION FOR STATE ADJUTANTS GENERAL AND ASSISTANT ADJUTANTS GENERAL.—This section does not apply to an officer who is the adjutant general or assistant adjutant general of a State.

"§14509. Separation at age 60: reserve officers in grades below brigadier general or rear admiral (lower half)

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which

that officer becomes 60 years of age, be separated in accordance with section 14515 of this title.

"§14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half)

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve rear admiral (lower half) of the Navy who has not been recommended for promotion to the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 60 years of age.

"§14511. Separation at age 62: major generals and rear admirals

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general and each reserve officer of the Navy in the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 62 years of age.

"§14512. Separation at age 64: officers holding certain offices

"(a) ARMY AND AIR FORCE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, a reserve officer of the Army or Air Force who is Chief of the National Guard Bureau, an adjutant general, or if a reserve officer of the Army, commanding general of the troops of a State, shall on the last day of the month in which the officer becomes 64 years of age, be separated in accordance with section 14515 of this title.

"(b) NAVY AND MARINE CORPS.—The Secretary of the Navy may defer the retirement under section 14510 or 14511 of a reserve officer of the Navy in a grade above captain or a reserve officer of the Marine Corps in a grade above colonel and retain the officer in an active status until the officer becomes 64 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines.

"§14513. Separation for failure of selection of promotion

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and whose removal from an active status or from a reserve active-status list is required by section 14504, 14505, or 14506 of this title shall (unless the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the date specified in those sections—

"(1) be transferred to an inactive status if the Secretary concerned determines that the officer has skills which may be required to meet the mobilization needs of the officer's armed force;

"(2) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(3) if the officer is not transferred to an inactive status or to the Retired Reserve, be discharged from the officer's reserve appointment.

"§14514. Discharge or retirement for years of service or after selection for early removal

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and who is required to be removed from an active status or from a reserve active-status list, as the case may be, under section 14507, 14508, 14704, or 14705 of this title (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law), in accordance with those sections, shall—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for such transfer, be discharged from the officer's reserve appointment.

"§14515. Discharge or retirement for age

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for transfer to the Retired Reserve, be discharged from the officer's reserve appointment.

"§14516. Separation to be considered involuntary

"The separation of an officer pursuant to section 14513, 14514, or 14515 of this title shall be considered to be an involuntary separation for purposes of any other provision of law.

"§14517. Entitlement of officers discharged under this chapter to separation pay

"An officer who is discharged under section 14513, 14514, or 14515 of this title is entitled to separation pay under section 1174 of this title if otherwise eligible under that section.

"CHAPTER 1409—CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

"Sec.

"14701. Selection of officers for continuation on the reserve active-status list.

"14702. Retention on reserve active-status list of certain officers until age 60.

"14703. Authority to retain chaplains and officers in medical specialties until specified age.

"14704. Selective early removal from the reserve active-status list.

"14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps.

"14706. Computation of total years of service.

"§14701. Selection of officers for continuation on the reserve active-status list

"(a) CONSIDERATION FOR CONTINUATION.—(1) Upon application, a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title may, subject to the needs of the service and to section 14509 of this title, be considered for continuation on the reserve active-status list by a selection board convened under section 14101(b) of this title.

"(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 20 years of commissioned service.

"(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

"(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

"(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

"(6) An officer who is selected for continuation on the reserve active-status list as a result of the convening of a selection board under section 14101(b) of this title but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

"(7) Each officer who is continued on the reserve active-status list under this section, who is not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers recommended for promotion to the next higher grade shall (unless sooner separated under another provision of law) be separated in accordance with section 14513 or 14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

"(b) APPROVAL OF SECRETARY CONCERNED.—Continuation of an officer on the reserve active-status list under this section pursuant to action of a continuation board convened under section 14101(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A continuation board convened under section 14101(b) of this title to consider officers for continuation on the reserve active-status list under this section shall act in accordance with the instructions and directions provided to the board by the Secretary of the military department concerned.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

"§14702. Retention on reserve active-status list of certain officers until age 60

"(a) RETENTION.—Notwithstanding the provisions of section 14506 or 14507 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, or colonel who is—

"(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

"(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

"(b) SEPARATION AT AGE 60.—An officer may be retained under this section only so long as the officer continues to meet the conditions of subsection (a)(1) or (a)(2). An officer may not be retained under this section after the last day of the month in which the officer becomes 60 years of age.

"§14703. Authority to retain chaplains and officers in medical specialties until specified age

"(a) RETENTION.—Notwithstanding any provision of chapter 1407 of this title and except for officers referred to in sections 14503, 14504, 14505, and 14506 of this title and under regulations prescribed by the Secretary of Defense—

"(1) the Secretary of the Army may, with the officer's consent, retain in an active status any reserve officer assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Services Corps (if the officer has been designated as allied health officer or biomedical sciences officer in that Corps), the Optometry Section of the Medical Services Corps, the Chaplains, the Army Nurse Corps, or the Army Medical Specialists Corps;

"(2) the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplain Corps or appointed in the Medical Services Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer; and

"(3) the Secretary of the Air Force may, with the officer's consent, retain in an active status any reserve officer who is designated as a medical officer, dental officer, veterinary officer, Air Force nurse, or chaplain or who is designated as a biomedical sciences officer and is qualified for service as a veterinarian, optometrist, or podiatrist.

"(b) SEPARATION AT SPECIFIED AGE.—An officer may not be retained in active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of a reserve officer of the Army in the Chaplains or a reserve officer of the Air Force designated as a chaplain, 60 years of age).

"§14704. Selective early removal from the reserve active-status list

"(a) BOARDS TO RECOMMEND OFFICERS FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—Whenever the Secretary of the military department concerned determines that there are in any reserve component under the jurisdiction of the Secretary too many officers in any grade and competitive category who have at least 30 years of service computed under section 14706 of this title or at least 20 years of service computed under section 12732 of this title, the Secretary may convene a selection board under section 14101(b) of this title to consider all officers on that list who are in that grade and competitive category, and who have that amount of service, for the purpose of recommending officers by name for removal from the reserve active-status list, in the number specified by the Secretary by each grade and competitive category.

"(b) SEPARATION OF OFFICERS SELECTED.—In the case of an officer recommended for separation in the report of a board under subsection (a), the Secretary may separate the officer in accordance with section 14514 of this title.

"(c) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations for the administration of this section.

"§14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

"(a) AUTHORITY TO CONSIDER.—An officer in the Naval Reserve in an active status serving in the grade of rear admiral (lower half) or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement whenever the Secretary of the Navy determines that such action is necessary.

"(b) BOARDS.—If the Secretary of the Navy determines that consideration for early retirement under this section is necessary, the Secretary shall convene a board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

"(c) SEPARATION UNDER SECTION 14514.—An officer selected for early retirement under this section shall be separated in accordance with section 14514 of this title.

"§14706. Computation of total years of service

"For the purpose of this chapter and chapter 1407 of this title, a reserve officer's years of service include all service, other than constructive service, of the officer as a commissioned officer of any uniformed service (other than service as a warrant officer).

"CHAPTER 1411—ADDITIONAL PROVISIONS RELATING TO INVOLUNTARY SEPARATION

"Sec.

"14901. Separation of chaplains for loss of professional qualifications.

"14902. Separation for substandard performance and for certain other reasons.

"14903. Boards of inquiry.

"14904. Rights and procedures.

"14905. Officer considered for removal: retirement or discharge.

"14906. Officers eligible to serve on boards.

"14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

"§14901. Separation of chaplains for loss of professional qualifications

"(a) SEPARATION.—Under regulations prescribed by the Secretary of Defense, an officer on the reserve active-status list who is appointed or designated as a chaplain may, if the officer fails to maintain the qualifications needed to perform the professional function of a chaplain, be discharged. The authority under the preceding sentence applies without regard to the provisions of section 12645 of this title.

"(b) EFFECT OF SEPARATION.—If an officer separated under this section is eligible for retirement, the officer may be retired. If the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the officer may be transferred to the Retired Reserve.

"§14902. Separation for substandard performance and for certain other reasons

"(a) SUBSTANDARD PERFORMANCE OF DUTY.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because that officer's performance has fallen below standards prescribed by the Secretary concerned, to show cause for retention in an active status.

"(b) MISCONDUCT, ETC.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because of misconduct, because of moral or professional dereliction, or because the officer's retention is not clearly consistent with the interests of national security, to show cause for retention in an active status.

"(c) REGULATIONS.—The authority of the Secretary of a military department under this section shall be carried out subject to such limitations as the Secretary of Defense may prescribe by regulation.

"§14903. Boards of inquiry

"(a) CONVENING OF BOARDS.—The Secretary of the military department concerned shall convene a board of inquiry at such time and place as the Secretary may prescribe to receive evidence and review the case of any officer who has been required to show cause for retention in an active status under section 14902 of this title. Each board of inquiry shall be composed of not less than three officers who have the qualifications prescribed in section 14906 of this title.

"(b) RIGHT TO FAIR HEARING.—A board of inquiry shall give a fair and impartial hearing to each officer required under section 14902 of this chapter to show cause for retention in an active status.

"(c) RECOMMENDATIONS TO SECRETARY.—If a board of inquiry determines that the officer has failed to establish that the officer should be retained in an active status, the board shall recommend to the Secretary concerned that the officer not be retained in an active status.

"(d) ACTION BY SECRETARY.—After review of the recommendation of the board of inquiry, the Secretary may—

"(1) remove the officer from an active status; or

"(2) determine that the case be closed.

"(e) ACTION IN CASES WHERE CAUSE FOR RETENTION IS ESTABLISHED.—(1) If a board of inquiry determines that an officer has established that the officer should be retained in an active status or if the Secretary determines that the case be closed, the officer's case is closed.

"(2) An officer who is required to show cause for retention under section 14902(a) of this title and whose case is closed under paragraph (1) may not again be required to show cause for retention under such subsection during the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under section 14902(b) of this title and whose case is closed under paragraph (1) may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention under section 14902(b) of this title and who is thereafter retained in an active status may not again be required to show cause for retention under such section solely because of conduct which was the subject of the previous proceeding, unless the recommendations of the board of inquiry that considered the officer's case are determined to have been obtained by fraud or collusion.

"§14904. Rights and procedures

"(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status—

"(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

"(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

"(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

"(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

"(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

"§14905. Officer considered for removal: retirement or discharge

"(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under

this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

"(1) for voluntary retirement, if the officer is qualified for retirement;

"(2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or

"(3) for discharge in accordance with subsection (b)(3).

"(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status under section 14903 of this title shall—

"(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;

"(2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and

"(3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—

"(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or

"(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

"(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title..

"§14906. Officers eligible to serve on boards

"(a) COMPOSITION OF BOARDS.—(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

"(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board.

"(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

"§14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

"(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

"(1) terminate the reserve appointment of the officer; and

"(2) withdraw the officer's Federal recognition as an officer of the National Guard.

"(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer's appointment as a reserve officer of the Army or the Air Force, as the case may be.".

PART II—CONFORMING AMENDMENTS

SEC. 1621. DEFINITION OF RESERVE ACTIVE-STATUS LIST.

Section 101(c) is amended by adding at the end the following new paragraph:

"(7) The term 'reserve active-status list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.".

SEC. 1622. AUTHORITY TO SUSPEND OFFICER PERSONNEL LAWS DURING WAR OR NATIONAL EMERGENCY.

(a) AUTHORITY.—Section 123 is amended to read as follows:

"§123. Authority to suspend officer personnel laws during war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

"(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.".

(b) CONFORMING REPEAL.—Section 644 is repealed.

SEC. 1623. ACTIVE-DUTY LIST PROMOTION BOARDS TO HAVE AUTHORITY TO RECOMMEND THAT RESERVE OFFICERS CONSIDERED FOR PROMOTION BE REQUIRED TO SHOW CAUSE FOR RETENTION ON ACTIVE DUTY.

Section 617(b) is amended—

(1) by inserting "or reserve" after "any regular"; and

(2) by inserting "or 1411" after "chapter 60".

SEC. 1624. APPLICABILITY OF CHAPTER 36 TO RESERVE OFFICERS DURING WAR OR NATIONAL EMERGENCY.

Section 641 is amended—

(1) by inserting "(a)" before "Officers in the following"; and

(2) by adding at the end the following:

"(b) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by the Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.".

SEC. 1625. GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY.

Section 689 is amended—

(1) by inserting "or full-time National Guard duty" after "active duty" the first two places it appears; and

(2) by inserting "and placed on the active-duty list" after "active duty" the third place it appears.

SEC. 1626. DATE OF RANK.

Section 741(d)(3) is amended—

(1) by inserting "or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list" after "warrant officer (W-5)";

(2) by inserting "or reserve active-status list" after "active-duty list" the second place it appears; and

(3) by adding at the end: "The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.".

SEC. 1627. DISCHARGE BEFORE COMPLETION OF REQUIRED SERVICE IN CASE OF OFFICERS HAVING TWICE FAILED OF SELECTION FOR CAPTAIN OR NAVY LIEUTENANT.

Section 1005(b) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

"(4) an officer whose discharge or transfer from an active status is required by law.".

SEC. 1628. CONFORMING AMENDMENTS RELATING TO NAVY AND MARINE CORPS OFFICERS.

Section 6389 is amended—

(1) in subsection (a)—

(A) by inserting "while on the active-duty list" after "to the next higher grade"; and

(B) by striking out the period at the end and inserting in lieu thereof "or released from active duty and placed on the reserve active-status list.";

(2) in subsection (b), by striking out "or (f)";

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking out "lieutenant commander or above" both places it appears and inserting in lieu thereof "lieutenant commander or commander";

(C) by striking out "major or above" both places it appears and inserting in lieu thereof "major or lieutenant colonel";

(D) by inserting "while on the active-duty list" after "to the next higher grade" in the first sentence; and

(E) in the table—

(i) by striking out the line relating to the grades of captain in the Navy and colonel in the Marine Corps; and

(ii) by striking out "26 years" and inserting in lieu thereof "28 years";

(F) by designating the sentence after the table as paragraph (2) and in that sentence striking out "the first sentence of this subsection" and inserting in lieu thereof "the first sentence of paragraph (1)";

(G) by designating the next sentence as paragraph (3) and in that sentence striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(H) by designating the last sentence as paragraph (4) and in that sentence—

(i) striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(ii) striking out "captain or"; and

(4) by striking out subsections (e), (f), and (g).

SEC. 1629. REPEAL OF RESERVE OFFICER PERSONNEL POLICY LAWS.

(a) ARMY PROVISIONS.—

(1) Chapter 337, relating to appointments as reserve officers (other than sections 3351 and 3352), is repealed.

(2) Chapter 361, relating to separation for various reasons, is repealed.

(3) Chapter 363, relating to separation or transfer to the Retired Reserve, is repealed.

(b) NAVY AND MARINE CORPS PROVISIONS.—

(1) Chapter 541, relating to running mates as reserve officers, is repealed.

(2) Chapter 549, relating to reserve promotions, is repealed.

(3) Sections 6391, 6392, 6397, 6403, and 6410 are repealed.

(c) AIR FORCE PROVISIONS.—

(1) Chapter 837, relating to appointments as reserve officers (other than sections 8351 and 8352), is repealed.

(2) Sections 8819 and 8820 are repealed.

(3) Chapter 863, relating to separation or transfer to the Retired Reserve, is repealed.

SEC. 1630. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

Title 32, United States Code, is amended as follows:

(1) Sections 309 and 310 are amended to read as follows:

"§309. Federal recognition of National Guard officers: officers promoted to fill vacancies

"Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard, and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

"§310. Federal recognition of National Guard officers: automatic recognition

"(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

"(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.".

(2) Section 323 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

"(1) federally recognized as an officer of the National Guard; and

"(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.".

Subtitle B—Other Personnel Policy Amendments

PART I—APPOINTMENTS

SEC. 1631. REPEAL OF SEPARATE AUTHORITY FOR ACCESSION OF WOMEN IN RESERVE COMPONENTS.

(a) ENLISTMENTS.—Section 510 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) APPOINTMENT OF OFFICERS.—Section 591 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 1632. APPOINTMENT AUTHORITY FOR RESERVE GRADES OF LIEUTENANT COLONEL AND COMMANDER.

Section 593(a) is amended—

(1) in the first sentence, by striking out "Reserves in commissioned grades below lieutenant colonel and commander" and inserting in lieu thereof "reserve officers in commissioned grades of lieutenant colonel and commander or below"; and

(2) in the second sentence, by striking out "Reserves in commissioned grades above major and lieutenant commander" and inserting in lieu thereof "reserve officers in commissioned grades above lieutenant colonel and commander".

SEC. 1633. APPOINTMENT OF FORMER COMMISSIONED OFFICERS IN RESERVE COMPONENTS.

Chapter 34 is amended by inserting after section 596 the following new section:

"§596a. Commissioned officers: appointment of former commissioned officers

"Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed—

"(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

"(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.".

SEC. 1634. CONSTRUCTIVE CREDIT FOR APPOINTMENT OF OFFICERS IN RESERVE COMPONENTS WITH QUALIFYING EDUCATION OR EXPERIENCE.

Chapter 34 is further amended by inserting after section 596a (as added by section 1633) the following new section:

"§596b. Commissioned officers: service credit upon original appointment

"(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

"(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training, shall be credited with constructive service for such education, training, or experience, as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

"(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

"(2) If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade *of such person being that of captain or, in the case of the Naval Reserve, lieutenant.*

"(3) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.

"(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

"(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

"(1) initial grade as a reserve officer;

"(2) rank in grade; and

"(3) service in grade for promotion eligibility.

"(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.".

SEC. 1635. COMPUTATION OF YEARS OF SERVICE FOR TRANSFER OF ARMY OFFICERS TO RETIRED RESERVE.

(a) INTERIM REPEAL OF OBSOLETE PROVISION.—Effective for the period beginning on the date of the enactment of this Act and ending on the effective date specified in section 1291, section 3853 is amended by striking out "the greater of—" and all that follows and inserting in lieu thereof "the sum of the following:

"(1) The officer's years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component.

"(2) The officer's years of service in a federally recognized commissioned status in the National Guard if his service in the National Guard was continuous from the date of his Federal recognition as an officer in the National Guard to the date of his appointment in the National Guard of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transfers to the Retired Reserve and to discharges on or after the date of the enactment of this Act.

SEC. 1636. REPEAL OF MISCELLANEOUS OBSOLETE APPOINTMENT AUTHORITIES.

(a) ARMY RESERVE OFFICERS APPOINTED IN TEMPORARY GRADES.—Section 3352(a) is amended by striking out the second sentence.

(b) AIR FORCE AVIATION CADETS.—Section 8356 is repealed.

(c) REDUNDANT STATEMENT OF AUTHORITY.—Section 8379 is repealed.

PART II—SEPARATION AND RETIREMENT

SEC. 1641. COMPUTATION OF HIGHEST GRADE IN WHICH SATISFACTORILY SERVED FOR RESERVE COMMISSIONED OFFICERS AND FORMER OFFICERS.

Section 1370 is amended by adding at the end the following new subsection:

"(d)(1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade, under some other provision of law, a person who is entitled to retired pay under chapter 1225 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary concerned in accordance with this subsection.

"(2)(A) In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

"(B) In order to be credited with satisfactory service in an officer grade above major or lieutenant commander and below lieutenant general or vice admiral, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. A person covered by the preceding sentence who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.

"(3) A person whose length of service in the highest grade held does not meet the service in grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.".

Subtitle C—Reorganization and Consolidation of Laws Relating to Reserve Components

SEC. 1661. LAWS RELATING TO ORGANIZATION AND ADMINISTRATION OF RESERVE COMPONENTS.

(a) RESERVE COMPONENTS GENERALLY.—(1) Subtitle E, as added by section 1611, is amended by inserting after the table of chapters at the beginning of the subtitle the following:

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap	Sec.
"1001. Definitions	10001
"1003. Reserve Components Generally	10101
"1005. Elements of Reserve Components	10141
"1007. Administration of Reserve Components	10201
"1009. Reserve Forces Policy Boards and Committees	10301
"1011. National Guard Bureau	10501
"1013. Budget Information and Annual Reports to Congress	10541

"CHAPTER 1001—DEFINITIONS

"Sec.
"10001. Definition of State.

"§10001. Definition of State

"In this subtitle, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"CHAPTER 1003—RESERVE COMPONENTS GENERALLY

"Sec.
"10101. Reserve components named.
"10102. Purpose of reserve components.
"10103. Basic policy for order of National Guard into Federal service.
"10104. Army Reserve: composition.
"10105. Army National Guard of the United States: composition.
"10106. Army National Guard: when a component of the Army.
"10107. Army National Guard of the United States: status when not in Federal service.
"10108. Naval Reserve: administration.
"10109. Marine Corps Reserve: administration.
"10110. Air Force Reserve: composition.
"10111. Air National Guard of the United States: composition.
"10112. Air National Guard: when a component of the Air Force.
"10113. Air National Guard of the United States: status when not in Federal service.
"10114. Coast Guard Reserve.

"§10101. Reserve components named

"The reserve components of the armed forces are:

"(1) The Army National Guard of the United States.

"(2) The Army Reserve.

"(3) The Naval Reserve.

"(4) The Marine Corps Reserve.

"(5) The Air National Guard of the United States.

"(6) The Air Force Reserve.

"(7) The Coast Guard Reserve.

"§10102. Purpose of reserve components

"The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.

“§10103. Basic policy for order of the National Guard and reserve components to active duty

“Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

“§10104. Army Reserve: composition

“The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

“§10105. Army National Guard of the United States: composition

“The Army National Guard of the United States is the reserve component of the Army that consists of—

“(1) federally recognized units and organizations of the Army National Guard; and

“(2) members of the Army National Guard who are also Reserves of the Army.

“§10106. Army National Guard: when a component of the Army

“The Army National Guard while in the service of the United States is a component of the Army.

“§10107. Army National Guard of the United States: status when not in Federal service

“When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

“§10108. Naval Reserve: administration

“(a) The Naval Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

“(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Naval Reserve as they do to the Regular Navy.

“§10109. Marine Corps Reserve: administration

“(a) The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

“(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

“§10110. Air Force Reserve: composition

“The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

“§10111. Air National Guard of the United States: composition

“The Air National Guard of the United States is the reserve component of the Air Force that consists of—

“(1) federally recognized units and organizations of the Air National Guard; and

“(2) members of the Air National Guard who are also Reserves of the Air Force.

“§10112. Air National Guard: when a component of the Air Force

“The Air National Guard while in the service of the United States is a component of the Air Force.

“§10113. Air National Guard of the United States: status when not in Federal service

“When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

“§10114. Coast Guard Reserve

“As provided in section 701 of title 14, the Coast Guard Reserve is a component of the Coast Guard and is organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. Laws applicable to the Coast Guard Reserve are set forth in chapter 21 of title 14 (14 U.S.C. 701 et seq.).

“CHAPTER 1005—ELEMENTS OF RESERVE COMPONENTS

“Sec.

“10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.
“10142. Ready Reserve generally.
“10143. Ready Reserve: Selected Reserve.
“10144. Ready Reserve: Individual Ready Reserve.
“10145. Ready Reserve: placement in.
“10146. Ready Reserve: transfer from.
“10147. Ready Reserve: training requirements.
“10148. Ready Reserve: failure to satisfactorily perform prescribed training.
“10149. Ready Reserve: continuous screening.
“10150. Ready Reserve: transfer back from Standby Reserve.
“10151. Standby Reserve: composition.
“10152. Standby Reserve: inactive status list.
“10153. Standby Reserve: status of members.
“10154. Retired Reserve.

“§10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories

“(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

“(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

“(c) As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

“§10142. Ready Reserve

“(a) The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 12301 and 12302 of this title.

“(b) The authorized strength of the Ready Reserve is 2,900,000.

“§10143. Ready Reserve: Selected Reserve

“(a) Within the Ready Reserve of each of the reserve components there is a Selected Reserve. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of Reserves, trained as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32, as appropriate.

“(b) The organization and unit structure of the Selected Reserve shall be approved—

“(1) in the case of all reserve components other than the Coast Guard Reserve, by the Secretary of Defense based upon recommendations from the military departments as approved by the Chairman of the Joint Chiefs of Staff in accordance with contingency and war plans; and

“(2) in the case of the Coast Guard Reserve, by the Secretary of Transportation upon the recommendation of the Commandant of the Coast Guard.

“§10144. Ready Reserve: Individual Ready Reserve

“Within the Ready Reserve of each of the reserve components there is an Individual Ready Reserve. The Individual Ready Reserve consists of those members of the Ready Reserve who are not in the Selected Reserve or the inactive National Guard.

“§10145. Ready Reserve: placement in

“(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is transferred to the Standby Reserve under section 10146(a) of this title.

“(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

“(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

“(d) Under such regulations as the Secretary concerned may prescribe, any qualified member of a reserve component or any qualified retired enlisted member of a regular component may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve entitled to retired pay or a retired enlisted member of a regular component may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary concerned may not delegate his authority under the preceding sentence.

“§10146. Ready Reserve: transfer from

“(a) Subject to subsection (c) and under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve.

“(b) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.

“(c) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State.

“§10147. Ready Reserve: training requirements

“(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each person who is enlisted, inducted, or appointed in an armed force, and who becomes a member of the Ready Reserve under any provision of law except section 513 or 10145(b) of this title, shall be required, while in the Ready Reserve, to—

“(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year; or

“(2) serve on active duty for training not more than 30 days during each year.

"(b) A member who has served on active duty for one year or longer may not be required to perform a period of active duty for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

"§10148. Ready Reserve: failure to satisfactorily perform prescribed training

"(a) A member of the Ready Reserve covered by section 10147 of this title who fails in any year to perform satisfactorily the training duty prescribed in that section, as determined by the Secretary concerned under regulations prescribed by the Secretary of Defense, may be ordered without his consent to perform additional active duty for training for not more than 45 days. If the failure occurs during the last year of his required membership in the Ready Reserve, his membership is extended until he performs that additional active duty for training, but not for more than six months.

"(b) A member of the Army National Guard of the United States or the Air National Guard of the United States who fails in any year to perform satisfactorily the training duty prescribed by or under law for members of the Army National Guard or the Air National Guard, as the case may be, as determined by the Secretary concerned, may, upon the request of the Governor of the State (or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard) be ordered, without his consent, to perform additional active duty for training for not more than 45 days. A member ordered to active duty under this subsection shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case may be.

"§10149. Ready Reserve: continuous screening

"(a) Under regulations to be prescribed by the President, the Secretary concerned shall provide a system of continuous screening of units and members of the Ready Reserve to ensure the following:

"(1) That there will be no significant attrition of those members or units during a mobilization.

"(2) That there is a proper balance of military skills.

"(3) That except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills.

"(4) That with due regard to national security and military requirements, recognition will be given to participation in combat.

"(5) That members whose mobilization in an emergency would result in an extreme personal or community hardship are not retained in the Ready Reserve.

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be—

"(1) transferred to the Standby Reserve;

"(2) discharged; or

"(3) if the member is eligible and applies therefor, transferred to the Retired Reserve.

"§10150. Ready Reserve: transfer back from Standby Reserve

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Standby Reserve who has not completed his required period of service in the Ready Reserve may be transferred to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists.

"§10151. Standby Reserve: composition

"The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 12301 and 12306 of this title.

"§10152. Standby Reserve: inactive status list

"(a) An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status.

"§10153. Standby Reserve: status of members

"While in an inactive status, a Reserve is not eligible for pay or promotion and (as provided in section 12734(a) of this title) does not accrue credit for years of service under chapter 1223 of this title.

"§10154. Retired Reserve

"The Retired Reserve consists of the following Reserves:

"(1) Reserves who are or have been retired under section 3911, 6323, or 8911 of this title or under section 291 of title 14.

"(2) Reserves who have been transferred to the Retired Reserve upon their request, retain their status as Reserves, and are otherwise qualified.

"CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

"Sec.

"10201. Assistant Secretary of Defense for Reserve Affairs.
"10202. Regulations.
"10203. Reserve affairs: designation of general or flag officer of each armed force.
"10204. Personnel records.
"10205. Members of Individual Ready Reserve: requirement of notification of change of status.
"10206. Members: periodic physical examinations.
"10207. Mobilization forces: maintenance.
"10208. Annual mobilization exercise.
"10209. Regular and reserve components: discrimination prohibited.
"10210. Dissemination of information.
"10211. Policies and regulations: participation of reserve officers in preparation and administration.
"10212. Gratuitous services of officers: authority to accept.
"10213. Reserve components: dual membership prohibited.
"10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard.
"10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.

"§10201. Assistant Secretary of Defense for Reserve Affairs

"As provided in section 138(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs.

"§10202. Regulations

"(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as the Secretary considers necessary to carry out provisions of law relating to the reserve components under the Secretary's jurisdiction.

"(b) The Secretary of Transportation, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as the Secretary considers necessary to carry out all provisions of law relating to the reserve components insofar as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy.

"(c) So far as practicable, regulations for all reserve components shall be uniform.

"§10203. Reserve affairs: designation of general or flag officer of each armed force

"(a) The Secretary of the Army may designate a general officer of the Army to be directly responsible for reserve affairs to the Chief of Staff of the Army.

"(b) The Secretary of the Navy may designate a flag officer of the Navy to be directly responsible for reserve affairs to the Chief of Naval Operations and a general officer of the Marine Corps to be directly responsible for reserve affairs to the Commandant of the Marine Corps.

"(c) The Secretary of the Air Force may designate a general officer of the Air Force to be directly responsible for reserve affairs to the Chief of Staff of the Air Force.

"(d) The Secretary of Transportation may designate a flag officer of the Coast Guard to be directly responsible for reserve affairs to the Commandant of the Coast Guard.

"(e) This section does not affect the functions of the Chief of the National Guard Bureau, the Chief of Army Reserve, or the Chief of Air Force Reserve.

"§10204. Personnel records

"(a) The Secretary concerned shall maintain adequate and current personnel records of each member of the reserve components under the Secretary's jurisdiction showing the following with respect to the member:

"(1) Physical condition.

"(2) Dependency status.

"(3) Military qualifications.

"(4) Civilian occupational skills.

"(5) Availability for service.

"(6) Such other information as the Secretary concerned may prescribe.

"(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary of each military department shall maintain a record of the number of members of each class of each reserve component who, during each fiscal year, have participated satisfactorily in active duty for training and inactive duty training with pay.

"§10205. Members of Ready Reserve: requirement of notification of change of status

"(a) Each member of the Ready Reserve shall notify the Secretary concerned of any change in the member's address, marital status, number of dependents, or civilian employment and of any change in the member's physical condition that would prevent the member from meeting the physical or mental standards prescribed for the member's armed force.

"(b) This section shall be administered under regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"§10206. Members: periodic physical examinations

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every five years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually to the Secretary concerned a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually to the Secretary concerned a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

"§10207. Mobilization forces: maintenance

"(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued organization and training of the reserve components not mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

"(b) In this section, the term 'partial mobilization' means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

"§10208. Annual mobilization exercise

"(a) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units.

"(b) The Secretary shall maintain a plan to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

"§10209. Regular and reserve components: discrimination prohibited

"Laws applying to both Regulars and Reserves shall be administered without discrimination—

"(1) among Regulars;

"(2) among Reserves; and

"(3) between Regulars and Reserves.

"§10210. Dissemination of information

"The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

"§10211. Policies and regulations: participation of Reserve officers in preparation and administration

"Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional number of any staff with which he is serving.

"§10212. Gratuitous services of officers: authority to accept

"Notwithstanding section 1342 of title 31, the Secretary of a military department may accept the gratuitous services of an officer of a reserve component under the Secretary's jurisdiction (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States)—

"(1) in the furtherance of the enrollment, organization, and training of that officer's reserve component or the Reserve Officers' Training Corps; or

"(2) in consultation upon matters relating to the Armed Forces.

"§10213. Reserve components: dual membership prohibited

"Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

"§10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard

"In any case in which, under the laws of a State, an officer of the National Guard of that jurisdiction, other than the adjutant general or an assistant adjutant general, normally performs the duties of that office, the references in sections 12004(b)(1), 12215, 12642(c), 14507(b), 14508(e), and 14512 of this title to the adjutant general or the assistant adjutant general shall be applied to that officer instead of to the adjutant general or assistant adjutant general.

"§10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status

"(a)(1) Officers of the Army National Guard of the United States who are not on active duty—

"(A) may order members of the Army National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Air Force, may order members of the Air National Guard of the United States to active duty for training under that section.

"(2) Officers of the Air National Guard of the United States who are not on active duty—

"(A) may order members of the Air National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Army, may order members of the Army National Guard of the United States to active duty for training under that section.

"(b) Officers of the Army National Guard of the United States or the Air National Guard of the United States who are not on active duty—

"(1) may enlist, reenlist, or extend the enlistments of persons as Reserves of the Army or Reserves of the Air Force for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be; and

"(2) with respect to their Federal status, may promote or discharge persons enlisted or reenlisted as Reserves of the Army or Reserves of the Air Force for that service.

"(c) This section shall be carried out under regulations prescribed by the Secretary of the Army, with respect to matters concerning the Army, and by the Secretary of the Air Force, with respect to matters concerning the Air Force.".

(2)(A) Sections 261 through 265 and 267 through 281 are repealed.

(B) Chapter 11 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"261. Reference to chapters 1003, 1005, and 1007.

"§261. Reference to chapters 1003, 1005, and 1007

"Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.".

(3)(A) Chapter 519 and sections 652, 2001, 3076 through 3080, and 8076 through 8080 are repealed.

(B) Section 552(e) of Public Law 98–525 is repealed.

(4) Section 1004 is amended—

(A) by striking out subsections (a) and (b); and

(B) by striking out "(c)" before "Except as otherwise provided".

(5)(A) Section 10147(a), as added by paragraph (1), applies only to persons who were inducted, enlisted, or appointed in an armed force after August 9, 1955.

(B) Section 10148(b), as added by paragraph (1), applies only to persons who became members of the Army National Guard of the United States or the Air National Guard of the United States after October 4, 1961.

(b) BOARDS AND COMMITTEES.—(1) Part I of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

"Sec.
"10301. Reserve Forces Policy Board.
"10302. Army Reserve Forces Policy Committee.
"10303. Naval Reserve Policy Board.
"10304. Marine Corps Reserve Policy Board.
"10305. Air Force Reserve Forces Policy Committee.

"§10301. Reserve Forces Policy Board

"(a) There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The Board consists of the following:

"(1) A civilian chairman appointed by the Secretary of Defense.

"(2) The Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

"(3) An officer of the Regular Army designated by the Secretary of the Army.

"(4) An officer of the Regular Navy and an officer of the Regular Marine Corps, each designated by the Secretary of the Navy.

"(5) An officer of the Regular Air Force designated by the Secretary of the Air Force.

"(6) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Army, two of whom must be members of the Army National Guard of the United States, and two of whom must be members of the Army Reserve.

"(7) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy, two of whom must be members of the Naval Reserve, and two of whom must be members of the Marine Corps Reserve.

"(8) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force, two of whom must be members of the Air National Guard of the United States, and two of whom must be members of the Air Force Reserve.

"(9) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general officer or flag officer designated by the Chairman of the Board with the approval of the Secretary of Defense, and who serves without vote as military adviser to the Chairman and as executive officer of the Board.

"(10) An officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.

"(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.

"(c) The Board, acting through the Assistant Secretary of Defense for Reserve Affairs, is the principal policy adviser to the Secretary of Defense on matters relating to the reserve components.

"(d) This section does not affect the committees on reserve policies prescribed within the military departments by sections 10302 through 10305 of this title.

"(e) A member of a committee or board prescribed under a section listed in subsection (d) may, if otherwise eligible, be a member of the Reserve Forces Policy Board.

"(f) The Board shall act on those matters referred to it by the Chairman and, in addition, on any matter raised by a member of the Board.

"§10303. Naval Reserve Policy Board

"A Naval Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Naval Reserve.

"§10304. Marine Corps Reserve Policy Board

"A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.".

(2)(A) Section 3021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10301, and redesignated as section 10302.

(B) Section 8021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10304, and redesignated as section 10305.

(3) The text of section 175 is amended to read as follows:

"There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.".

(4)(A) Chapter 303 (as amended by paragraph (2)(A)) is amended by adding at the end the following:

"§3021. Army Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10302 of this title.".

(B) Chapter 803 (as amended by paragraph (2)(B)) is amended by adding at the end the following:

"§8021. Air Force Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Air Force an Air Force Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10305 of this title.".

(c) National Guard Bureau.—(1)(A) Chapter 1011, as added by section 904(a), is amended by inserting after section 10506 the following:

"§10507. National Guard Bureau: assignment of officers of regular or reserve components

"Except as provided in section 124402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army or Air Forces as he considers necessary.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 10506 the following new item:

"10507. National Guard Bureau: assignment of officers of regular or reserve components.".

(2) Sections 3541 and 8541 are repealed.

(d) Annual Reports to Congress.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1011, as added by section 904(a), the following:

"CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

"Sec.

"10541. National Guard and reserve component equipment: annual report to Congress.

"10542. Army National Guard combat readiness: annual report.".

(2)(A) Section 115b is transferred to chapter 1013, as added by paragraph (1), inserted after the table of sections, and redesignated as section 10541.

(B) The heading of that section is amended to read as follows:

"§10541. National Guard and reserve component equipment: annual report to Congress".

(3) Section 3082 is transferred to chapter 1013, as added by paragraph (1), inserted after section 10541 (as transferred and redesignated by paragraph (2)), redesignated as section 10542, and amended by striking out the word in the section heading before the colon and by striking out subsection (c).

SEC. 1662. LAWS RELATING TO RESERVE COMPONENT PERSONNEL POLICY.

(a) Strength and Distribution in Grade.—(1) Subtitle E, as added by section 1611, is amended by inserting after part I of such subtitle, as added by section 1661, the following:

"PART II—PERSONNEL GENERALLY

"Chap.	Sec.
"1201. Authorized Strengths and Distribution in Grade	12001
"1203. Enlisted Members	12101
"1205. Appointment of Reserve Officers	12201
"1207. Warrant Officers	12241
"1209. Active Duty	12301
"1211. National Guard Members in Federal Service	12401
"1213. Special Appointments, Assignments, Details, and Duties	12501
"1215. Miscellaneous Prohibitions and Penalties	[No present sections]
"1217. Miscellaneous Rights and Benefits	12601
"1219. Standards and Procedures for Retention and Promotion	12641
"1221. Separation	12681
"1223. Retired Pay for Non-Regular Service	12731
"1225. Retired Grade	12771

"CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE

"Sec.

"12001. Authorized strengths: reserve components.

"12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty.

"12003. Authorized strengths: commissioned officers active status.

"12004. Strength in grade: reserve general and flag officers in an active status.

"12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.

"12006. Strength limitations: authority to waive in time of war or national emergency.

"12007. Reserve officers of the Army: distribution.

"12008. Army Reserve and Air Force Reserve: warrant officers.

"12009. Army and Air Force reserve components: temporary increases.

"12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result.

"12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

"12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

"§12001. Authorized strengths: reserve components

"(a) Whenever the authorized strength of a reserve component (other than the Coast Guard Reserve) is not prescribed by law, it shall be prescribed by the President.

"(b) Subject to the authorized strength of the reserve component concerned, the authorized strength of each reserve component (other than the Coast Guard Reserve) in members in each grade is that which the Secretary concerned determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, a member of the reserve component concerned may not, as a result of such a determination, be reduced in the member's reserve grade without the member's consent.

"§12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty

"(a) The authorized strengths of the National Guard and the reserve components of the Army and the Air Force, exclusive of members who are included in the strengths authorized for members of the Army and Air Force, respectively, on active duty, are as follows:

"Army National Guard and the Army National Guard of the United States	600,000
"Army Reserve	980,000
"Air National Guard and the Air National Guard of the United States	150,000
"Air Force Reserve	500,000.

"(b) The strength authorized by this section for the Army National Guard and the Army National Guard of the United States, and the strength authorized by this section for the Air National Guard and the Air National Guard of the United States, shall be allocated among the States.

"§12003. Authorized strengths: commissioned officers in an active status

"(a) The authorized strengths of the Army, Navy, Air Force, and Marine Corps in reserve commissioned officers, other than commissioned warrant officers and officers on an active-duty list, in an active status are as follows:

"Army	275,000
"Air Force	200,000
"Navy	150,000
"Marine Corps	24,500.

"(b) The authorized strengths prescribed by subsection (a) may not be exceeded unless—

"(1) the Secretary concerned determines that a greater number is necessary for planned mobilization requirements; or

"(2) the excess results directly from the operation of a nondiscretionary provision of law.

"§12004. Strength in grade: reserve general and flag officers in an active status

"(a) The authorized strengths of the Army, Air Force, and Marine Corps in reserve general officers in an active status, and the authorized strength of the Navy in reserve officers in the grades of rear admiral (lower half) and rear admiral in an active-status, are as follows:

"Army	207
"Air Force	157
"Navy	48
"Marine Corps	10.

"(b) The following Army and Air Force reserve officers shall not be counted for purposes of this section:

"(1) Those serving as adjutants general or assistant adjutants general of a State.

"(2) Those serving in the National Guard Bureau.

"(3) Those counted under section 526 of this title.

"(c)(1) The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title. Of the number authorized under subsection (a), 39 are distributed among the line and the staff corps as follows:

"Line	*28*
"Medical Corps	*5*
"Chaplain Corps	*1*
"Judge Advocate General's Corps	*1*
"Dental Corps	*2*
"Nurse Corps	*1*
"Medical Service Corps	*1*

"(2) The remaining authorizations for the Navy under subsection (a) shall be distributed among such other staff corps as are established by the Secretary of the Navy under the authority provided by section 5150(b) of this title, except that—

"(A) if the Secretary has established a Supply Corps, the authorized strength for the Supply Corps shall be seven; and

"(B) if the Secretary has established a Civil Engineering Corps, the authorized strength for the Civil Engineering Corps shall be two.

"(3) Not more than 50 percent of the officers in an active status authorized under this section for the Navy may serve in the grade of rear admiral.

"(d) The authorized strength of the Marine Corps under subsection (a) is exclusive of those counted under section 526 of this title.

"(e)(1) A reserve general officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of general officers authorized under subsection (a).

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status

"(a)(1) Subject to paragraph (2), the authorized strength of the Army and the Air Force in reserve commissioned officers in an active status in each grade named in paragraph (2) is as prescribed by the Secretary of the Army or the Secretary of the Air Force, respectively. A vacancy in any grade may be filled by an authorized appointment in any lower grade.

"(2) A strength prescribed by the Secretary concerned under paragraph (1) for a grade may not be higher than the percentage of the strength authorized for the Army or the Air Force, as the case may be, under section 12003 of this title that is specified for that grade as follows:

Grade	*Army percentage*	*Air Force percentage*
Colonel	*2*	*1.8*
Lieutenant colonel	*6*	*4.6*
Major	*13*	*14.0*
Captain	*35*	*32.0*
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	*44*	*47.6*

"(b)(1) The authorized strengths of the Naval Reserve in line officers in an active status in the grades of captain, commander, lieutenant commander, and lieutenant, and in the grades of lieutenant (junior grade) and ensign combined, are the following percentages of the total authorized number of those officers:

"Captain	*1.5 percent*
"Commander	*7 percent*
"Lieutenant commander	*22 percent*
"Lieutenant	*37 percent*
"Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title)	*32.5 percent.*

"(2) When the actual number of line officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

"Colonel	*2 percent*
"Lieutenant colonel	*6 percent*
"Major	*12 percent*
"Captain	*35 percent*
"First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	*32.5 percent.*

"(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§12006. Strength limitations: authority to waive in time of war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

"§12007. Reserve officers of the Army: distribution

"The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to reserve units organized to serve as units among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

"(1) each special branch; and

"(2) all other branches taken together.

"§12008. Army Reserve and Air Force Reserve: warrant officers

"The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers. The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

"§12009. Army and Air Force reserve components: temporary increases

"(a) The authorized strength in any reserve grade, as prescribed under this chapter, for any reserve component under the jurisdiction of the Secretary of the Army or the Secretary of the Air Force is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 14304(b), 14314, or 14317 of this title.

"(b) An authorized strength so increased is increased for no other purpose. While an officer holds that grade, the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

"§12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result

"When there is a fraction in the final result of any computation under this chapter for the Naval Reserve or the Marine Corps Reserve, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

"§12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or National Guard

"(a) The number of enlisted members in pay grades E–8 and E–9 who may be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not exceed the number for that grade and armed force in the following table:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	569	202	328	14
E-8	2,585	429	840	74

"(b) Whenever the number of members serving in pay grade E-9 for duty described in subsection (a) is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E-8.".

(2)(A) Section 524 is transferred to chapter 1201, as added by paragraph (1), inserted after section 12010, and redesignated as section 12011.

(B) The heading of that section is amended to read as follows:

"§12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard".

(3) Chapter 531 and sections 3212, 3217 through 3225, 5454, 5456, 5457, 5458, 8212, and 8217 through 8225 are repealed.

(4) Section 517 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b) and in that subsection striking out "or whenever" and all that follows through "under subsection (b),".

(b) ENLISTMENTS.—(1) Part II of subtitle E, as added by subsection (a), is amended by adding after chapter 1201 (as added by subsection (a)), the following:

"CHAPTER 1203—ENLISTED MEMBERS

"Sec.
"12101. Definition.
"12102. Reserve components: qualifications.
"12103. Reserve components: terms.
"12104. Reserve components: transfers.
"12105. Army Reserve and Air Force Reserve: transfer from Guard components.
"12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.
"12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.

"§12101. Definition

"In this chapter, the term 'enlistment' means original enlistment or reenlistment.

"§12105. Army Reserve and Air Force Reserve: transfer from Guard components

"(a) Under such regulations as the Secretary concerned may prescribe—

"(1) an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve; and

"(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

"(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

"(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

"§12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

"(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

"(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

"(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

"§12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

"(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

"(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

"(2) subscribe to the oath set forth in section 304 of title 32; and

"(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

"(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States.

"(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

"(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

"(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.".

(2) Sections 510 (as amended by section 1631(a)), 511, and 512 are transferred to chapter 1203, as added by paragraph (1), inserted after section 12101, and redesignated as follows:

Section	*Redesignated section*
510	*12102*
511	*12103*
512	*12104*

(3) The following sections are repealed: sections 3259, 3260, 3261, 8259, 8260, and 8261.

(c) APPOINTMENT OF OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1203 (as added by subsection (b)) the following:

"CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

"Sec.
"12201. Qualifications for appointment.
"12202. Commissioned officer grades.
"12203. Commissioned officers: appointment, how made; term.
"12204. Commissioned officers: original appointment; limitation.
"12205. Commissioned officers: appointment; educational requirement.
"12206. Commissioned officers: appointment of former commissioned officers.
"12207. Commissioned officers: service credit upon original appointment.
"12208. Officers: appointment upon transfer.
"12209. Officer candidates: enlisted Reserves.
"12210. Attending Physician to the Congress: reserve grade while so serving.
"12211. Officers: Army National Guard of United States.
"12212. Officers: Air National Guard of United States.
"12213. Officers; Army Reserve: transfer from Army National Guard of United States.
"12214. Officers; Air Force Reserve: transfer from Air National Guard of United States.
"12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general.

"§12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

"(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

"(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.".

(2) Sections 591 (as amended by section 1631(b)), 592, 593 (as amended by section 1632), 594, 596, 596a (as added by section 1633), 596b (as added by section 1634), and 595 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	*Redesignated section*
591	*12201*
592	*12202*
593	*12203*
594	*12204*
596	*12205*
596a (as added by section 1633)	*12206*
596b (as added by section 1634)	*12207*
595	*12208*

(3) Sections 600, 600a, 3351, 8351, 3352 (as amended by section 1636(a)), and 8352 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after section 12208, and redesignated as follows:

Section	*Redesignated section*
600	*12209*
600a	*12210*
3351	*12211*
8351	*12212*
3352	*12213*

8352	12214

(d) WARRANT OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1205 (as added by subsection (c)) the following:

"CHAPTER 1207—WARRANT OFFICERS

"Sec.
"12241. Warrant officers: grades; appointment, how made; term.
"12242. Warrant officers: promotion.
"12243. Warrant officers: suspension of laws for promotions or mandatory retirement or separation during war or emergency.".

(2) Sections 597, 598, and 599 are transferred to chapter 1207, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
597	12241
598	12242
599	12243

(3) Chapter 34 is amended to read as follows:

"CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

"Sec.
"591. Reference to chapters 1205 and 1207.

"§591. Reference to chapters 1205 and 1207

"Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).".

(e) ACTIVE DUTY.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1207 (as added by subsection (d)) the following:

"CHAPTER 1209—ACTIVE DUTY

"Sec.
"12301. Reserve components generally.
"12302. Ready Reserve.
"12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units.
"12304. Selected Reserve: order to active duty other than during war or national emergency.
"12305. Authority of President to suspend certain laws relating to promotion, retirement, and separation.
"12306. Standby Reserve.
"12307. Retired Reserve.
"12308. Retention on active duty after becoming qualified for retired pay.
"12309. Reserve officers: use of in expansion of armed forces.
"12310. Reserves: for organizing, administering, etc., reserve components.
"12311. Active duty agreements.
"12312. Active duty agreements: release from duty.
"12313. Reserves: release from active duty.
"12314. Reserves: kinds of duty.
"12315. Reserves: duty with or without pay.
"12316. Payment of certain Reserves while on duty.
"12317. Reserves: theological students; limitations.
"12318. Reserves on active duty: duties; funding.
"12319. Ready Reserve: muster duty.
"12320. Reserve officers: grade in which ordered to active duty.
"12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned.".

(2) Sections 672 through 673a, section 673b (as amended by section 511), sections 673c through 687, section 689 (as amended by section 1625), and section 690 are transferred to chapter 1209, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
672	12301
673	12302
673a	12303
673b	12304
673c	12305
674	12306
675	12307
676	12308
677	12309
678	12310
679	12311
680	12312
681	12313
682	12314
683	12315
684	12316
685	12317
686	12318
687	12319
689	12320
690	12321

(3) The heading of section 12321 (as so redesignated) is amended to read as follows:

"§12321. Reserve Officer Training Corps units: limitation on number of Reserves assigned".

(4) Chapter 39 is amended by inserting after section 671b the following:

"§672. Reference to chapter 1209

"Provisions of law relating to service of members of reserve components on active duty are set forth in chapter 1209 of this title (beginning with section 12301).".

(f) NATIONAL GUARD MEMBERS IN FEDERAL SERVICE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1209 (as added by subsection (e)) the following:

"CHAPTER 1211—NATIONAL GUARD MEMBERS IN FEDERAL SERVICE

"Sec.
"12401. Army and Air National Guard of United States: status.
"12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau.
"12403. Army and Air National Guard of United States: members; status in which ordered into Federal service.
"12404. Army and Air National Guard of United States: mobilization; maintenance of organization.
"12405. National Guard in Federal service: status.
"12406. National Guard in Federal service: call.
"12407. National Guard in Federal service: period of service; apportionment.
"12408. National Guard in Federal service: physical examination.

"§12401. Army and Air National Guard of the United States: status

"Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

"§12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau

"(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

"(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

"(2) The number of officers of the Air National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

"§12403. Army and Air National Guard of United States: members; status in which ordered into Federal service

"Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

"§12404. Army and Air National Guard of United States: mobilization; maintenance of organization

"During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

"§12405. National Guard in Federal service: status

"Members of the National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

"§12406. National Guard in Federal service: call

"Whenever—

"(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

"(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

"(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

"§12407. National Guard in Federal service: period of service; apportionment

"(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

"(b) When the National Guard of a State is called into Federal service with the National Guard of another of those jurisdictions, the President may apportion the total number called *from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the jurisdictions affected by the call.*

"§12408. National Guard in Federal service: physical examination

"(a) Under regulations prescribed by the President, each member of the National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

"(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.".

(2) Sections 3495 through 3502 and 8495 through 8502 are repealed.

(g) MISCELLANEOUS PROVISIONS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1211 (as added by subsection (f)) the following:

"CHAPTER 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

"Sec.

"12501. Reserve components: detail of members of regular and reserve components to assist.

"12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.

"§12501. Reserve components: detail of members of regular and reserve components to assist

"The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

"§12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

"(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

"(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

"CHAPTER 1215—MISCELLANEOUS PROHIBITIONS AND PENALTIES

"[No present sections]

"CHAPTER 1217—MISCELLANEOUS RIGHTS AND BENEFITS

"Sec.

"12601. Compensation: Reserve on active duty accepting from any person.

"12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard.

"§12601. Compensation: Reserve on active duty accepting from any person

"Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

"§12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

"(a) For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Army; and

"(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

"(b) For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Air Force; and

"(3) inactive-duty training performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.".

(2) Sections 715, 1033, 3542, 3686, 8542, and 8686 are repealed.

(h) STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1217 (as added by subsection (g)) the following:

"CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

"Sec.

"12641. Standards and procedures: Secretary to prescribe.

"12642. Standards and qualifications: result of failure to comply with.

"12643. Boards for appointment, promotion, and certain other purposes: composition.

"12644. Members physically not qualified for active duty: discharge or transfer to retired status.

"12645. Commissioned officers: retention until completion of required service.

"12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.

"12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.".

(2) Sections 1001, 1002, 266, 1004 (as amended by section 1661(b)(4)), and 1005 through 1007 are transferred (in that order) to chapter 1219, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	*Redesignated section*
1001	*12641*
1002	*12642*
266	*12643*
1004	*12644*
1005	*12645*
1006	*12646*
1007	*12647*

(3) Section 1003 is repealed.

(4)(A) The heading of section 12641 (as so redesignated) is amended to read as follows:

"§12641. Standards and procedures: Secretary to prescribe".

(B) The heading of section 12644 (as so redesignated) is amended to read as follows:

"§12644. Members physically not qualified for active duty: discharge or transfer to retired status".

(5) Chapter 51 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.

"1001. Reference to chapter 1219.

"§1001. Reference to chapter 1219

"Provisions of law relating to standards and procedures for retention and promotion of members of reserve components are set forth in chapter 1219 of this title (beginning with section 12641).".

(i) SEPARATION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1219 (as added by subsection (h)) the following:

"CHAPTER 1221—SEPARATION

"Sec.

"12681. Reserves: discharge authority.

"12682. Reserves: discharge upon becoming ordained minister of religion.

"12683. Reserve officers: limitation on involuntary separation.

"12684. Reserves: separation for absence without authority or sentence to imprisonment.

"12685. Reserves separated for cause: character of discharge.

"12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.

"§12681. Reserves: discharge authority

"Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

"§12682. Reserves: discharge upon becoming ordained minister of religion

"Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment.

"§12683. Reserve officers: limitation on involuntary separation

"(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

"(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) by the approved sentence of a court-martial.

"(b) Subsection (a) does not apply—

"(1) to a separation under section 12684, 14901, or 14907 of this title;

"(2) to a dismissal under section 1161(a) of this title; or

"(3) to a transfer under section 12213, 12214, 14514, or 14515 of this title.

"§12684. Reserves: separation for absence without authority or sentence to imprisonment

"The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

"(1) who has been absent without authority for at least three months; or

"(2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

"§12685. Reserves separated for cause: character of discharge

"A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

"(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

"§12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

"Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system, may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.".

(2) Sections 1162 and 1163 are repealed.

(j) RETIRED PAY.—(1) Chapter 67 is transferred to part II of subtitle E, as added by subsection (a), inserted after chapter 1221 (as added by subsection (i)), and amended to read as follows:

"CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

"Sec.
"12731. Age and service requirements.
"12731a. Temporary special retirement qualification authority.
"12732. Entitlement to retired pay: computation of years of service.
"12733. Computation of retired pay: computation of years of service.
"12734. Time not creditable toward years of service.
"12735. Inactive status list.
"12736. Service credited for retired pay benefits not excluded for other benefits.
"12737. Limitation on active duty.
"12738. Limitations on revocation of retired pay.
"12739. Computation of retired pay.

"§12731. Age and service requirements

"(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(1) is at least 60 years of age;

"(2) has performed at least 20 years of service computed under section 12732 of this title;

"(3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and

"(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Transportation, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

"(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

"(A) the person performed active duty during World War I or World War II; or

"(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

"(2) In this subsection:

"(A) The term 'World War I' means the period beginning on April 6, 1917, and ending on November 11, 1918.

"(B) The term 'World War II' means the period beginning on September 9, 1940, and ending on December 31, 1946.

"(C) The term 'Korean conflict' means the period beginning on June 27, 1950, and ending on July 27, 1953.

"(D) The term 'Berlin crisis' means the period beginning on August 14, 1961, and ending on May 30, 1963.

"(E) The term 'Vietnam era' means the period beginning on August 5, 1964, and ending on March 27, 1973.

"(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections.

"(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

"(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'.

"§12731a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

"(B) after that date and before October 1, 1999, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on October 1, 1999.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2713).

"(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 12731(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard.

"§12732. Entitlement to retired pay: computation of years of service

"(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 12731 of this title, the person's years of service are computed by adding the following:

"(1) The person's years of service, before July 1, 1949, in the following:

"(A) The armed forces.

"(B) The federally recognized National Guard before June 15, 1933.

"(C) A federally recognized status in the National Guard before June 15, 1933.

"(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

"(E) The Naval Reserve Force.

"(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

"(G) The National Naval Volunteers.

"(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

"(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

"(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

"(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

"(ii) in the occupational therapy category, if the service was performed before appointment in *the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.*

"(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

"(A) One point for each day of—

"(i) active service; or

"(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

"(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

"(C) Points at the rate of 15 a year for membership—

"(i) in a reserve component of an armed force,

"(ii) in the Army or the Air Force without component, or

"(iii) in any other category covered by subsection (a)(1) except a regular component.

For the purpose of clauses (A), (B), and (C), service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

"(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

"(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

"(b) The following service may not be counted under subsection (a):

"(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

"(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

"(3) Service in the inactive National Guard.

"(4) Service in a non-federally recognized status in the National Guard.

"(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

"(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

"(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1).

"§12733. Computation of retired pay: computation of years of service

"For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

"(1) The person's days of active service.

"(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

"(3) One day for each point credited to the person under clause (B) or (C) of section 12732(a)(2) of this title, but not more than 60 days in any one year.

"(4) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

"§12734. Time not creditable toward years of service

"(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

"(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

"§12735. Inactive status list

"(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

"(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

"(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

"§12736. Service credited for retired pay benefits not excluded for other benefits

"No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

"§12737. Limitation on active duty

"A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

"§12738. Limitations on revocation of retired pay

"(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

"(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

"§12739. Computation of retired pay

"(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

"(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

"(2) $2\frac{1}{2}$ percent of the years of service credited to that person under section 12733 of this title.

"(b) The amount computed under subsection (a) may not exceed 75 percent of the retired pay base upon which the computation is based.

"(c) Amounts computed under this section, if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) Section 1401(a) is amended by striking out formula number 3 in the table set forth in that section.

(3) Section 1405(a)(3) is amended by striking out "section 1333" and "section 1331" and inserting in lieu thereof "section 12733" and "section 12731", respectively.

(4) Section 1406(b) is amended—

(A) by striking out the matter preceding the table and inserting in lieu thereof the following:

"(b) RETIREMENT UNDER SUBTITLE A OR E.—

"(1) DISABILITY, WARRANT OFFICER, AND DOPMA RETIREMENT.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.";

(B) in the table—

(i) by striking out the entry relating to section 1331 (including the matter relating to that entry in the column under the heading "The retired pay base is:"); and

(ii) by redesignating the references to footnotes 3 and 4 so as to refer to footnotes 2 and 3, respectively;

(C) by striking out footnote 2 to the table and redesignating footnotes 3 and 4 as footnotes 2 and 3, respectively; and

(D) by adding at the end the following:

"(2) NON-REGULAR SERVICE RETIREMENT.—In the case of a person who is entitled to retired pay under section 12731 of this title, the retired pay base is the monthly basic pay, determined at the rates applicable on the date when retired pay is granted, of the highest grade held satisfactorily by the person at any time in the armed forces. For purposes of the preceding sentence, the highest grade in which a person served satisfactorily as an officer shall be determined in accordance with section 1370(d) of this title.".

(5) Section 1407 is amended—

(A) in subsection (c)(2)(B), by striking out "chapter 67" and inserting in lieu thereof "chapter 1223"; and

(B) in subsection (f)(2)—

(i) by striking out "CHAPTER 67" in the heading and inserting in lieu thereof "CHAPTER 1223"; and

(ii) by striking out "section 1331" and inserting in lieu thereof "section 12731".

(6) Section 1409(a)(1)(B) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(7) Part II of subtitle A is amended by inserting after chapter 65 the following:

"CHAPTER 67—RETIRED PAY FOR NONREGULAR SERVICE

"Sec.

"1331. Reference to chapter 1223.

"§1331. Reference to chapter 1223

"Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).".

(8) Section 6034 is repealed.

(k) RETIRED GRADE.—(1) Part II of subtitle E, as added by subsection (a), is further amended

by adding after chapter 1223 (as added by subsection (j)) the following:

"CHAPTER 1225—RETIRED GRADE

"Sec.
"12771. Reserve officers: grade on transfer to Retired Reserve.
"12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
"12773. Limitation on accrual of increased pay or benefits.
"12774. Retired lists.

"§12771. Reserve officers: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370(d), in the armed force in which he is serving on the date of transfer.

"§12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 12774(a) of this title in the grade held by the officer while serving in that position.

"§12773. Limitation on accrual of increased pay or benefits

"Unless otherwise provided by law, no person is entitled to increased pay or other benefits because of sections 12771 and 12772 of this title.

"§12774. Retired lists

"(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under the Secretary's jurisdiction who are in the Retired Reserve.

"(b) The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Naval Reserve and the Marine Corps Reserve entitled to retired pay.".

(2) Sections 1374 and 6017 are repealed.

(3)(A) Section 1376 is amended—

(i) by striking out subsection (a); and

(ii) by striking out "(b)" before "The Secretary concerned".

(B) The heading of that section is amended to read as follows:

"§1376. Temporary disability retired lists".

SEC. 1663. LAWS RELATING TO RESERVE COMPONENT TRAINING AND EDUCATIONAL ASSISTANCE PROGRAMS.

(a) TRAINING GENERALLY.—Subtitle E, as added by section 1611, is amended by adding after part III of such subtitle (as added by that section) the following:

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"Chap.	*Sec.*
"1601. Training Generally ...	*[No present sections]*
"1606. Educational Assistance for Members of the Selected Reserve	*16131*
"1608. Health Professions Stipend Program	*16201*
"1609. Education Loan Repayments	*16301*

"CHAPTER 1601—TRAINING GENERALLY

"[No present sections]".

(b) MONTGOMERY GI BILL FOR SELECTED RESERVE.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

"Sec.
"16131. Educational assistance program: establishment; amount.
"16132. Eligibility for educational assistance.
"16133. Time limitations for use of entitlement.
"16134. Termination of assistance.
"16135. Failure to participate satisfactorily; penalties.
"16136. Administration of program.
"16137. Reports to Congress.".

(2) Sections 2131 through 2137 are transferred to chapter 1606, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	***Redesignated section***
2131	*16131*
2132	*16132*
2133	*16133*
2134	*16134*
2135	*16135*
2136	*16136*
2137	*16137*

(3) Section 16131 (as so redesignated) is amended—

(A) in subsection (c)(3)(B)(i), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304"; and

(B) in subsection (g)(1), by striking out "section 2136(c)" and inserting in lieu thereof "section 16136(c)".

(4) Section 16132 (as so redesignated) is amended—

(A) in subsection (a), by striking out "section 2131" and inserting in lieu thereof "section 16131"; and

(B) in subsection (c), by striking out "sections 2134 and 2135" and inserting in lieu thereof "section 16134 and 16135".

(5) Section 16133 (as so redesignated) is amended—

(A) in subsection (b)(1)(B), by striking out "section 268(b)" and inserting in lieu thereof "section 10143(a)"; and

(B) in subsection (b)(4)(A), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304".

(6) Section 16135 (as so redesignated) is amended—

(A) by striking out "section 2132" in subsection (a)(1)(A) and inserting in lieu thereof "section 16132"; and

(B) by striking out "section 2132(a)" in subsection (b)(1)(A) and inserting in lieu thereof "section 16132(a)".

(7) Chapter 106 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"2131. Reference to chapter 1606.
"2138. Savings provision.

"§2131. Reference to chapter 1606

"Provisions of law relating to educational assistance for members of the Selected Reserve under the Montgomery GI Bill program are set forth in chapter 1606 of this title (beginning with section 16131).".

(c) HEALTH PROFESSIONS STIPEND PROGRAM.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1606 (as added by subsection (b)) the following:

"CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

"Sec.
"16201. Financial assistance: health-care professionals in reserve components.
"16202. Reserve service: required active duty for training.
"16203. Penalties and limitations.
"16204. Regulations.

"§16204. Regulations

"This chapter shall be administered under regulations prescribed by the Secretary of Defense.".

(2) Section 2128 is transferred to chapter 1608, as added by paragraph (1), inserted after the table of sections, redesignated as section 16201, and amended by striking out subsection (f).

(3) Section 2129 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16201 (as transferred and redesignated by paragraph (2)), and redesignated as section 16202.

(4)(A) Section 2130 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16202 (as transferred and redesignated by paragraph (3)), redesignated as section 16203, and amended by striking out subsection (c).

(B) The heading of that section is amended to read as follows:

"§16203. Penalties and limitations".

(5) Section 16201, as so redesignated, is amended by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(6) Section 16202, as so redesignated, is amended by striking out "section 2128" both places it appears and inserting in lieu thereof "section 16201".

(7) Chapter 105 is amended—

(A) in the table of subchapters before subchapter I—

(i) by striking out the item relating to subchapter II; and

(ii) by redesignating the item relating to subchapter III so as to refer to subchapter II;

(B) by striking out the heading for subchapter II and the table of sections following that heading; and

(C) by redesignating subchapter III as subchapter II.

(d) EDUCATION LOAN REPAYMENT PROGRAMS.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1608 (as added by subsection (c) the following:

"CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

"Sec.
"16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties.
"16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.

"§16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties

"(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); or

"(B) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty specified by the Secretary of Defense.

The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or $500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

"(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.".

(2)(A) Section 2172 is transferred to the end of chapter 1609, as added by paragraph (1), and redesignated as section 16302.

(B) The heading of such section is amended to read as follows:

"§16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages".

(e) CONFORMING AMENDMENTS.—Section 2171 is amended as follows:

(1) Subsection (a)(1)(B) is amended by striking out "or" after "(B)".

(2) Subsection (a)(2) is amended—

(A) in the first sentence, by striking out "person for—" and all that follows through "(B) service performed" and inserting in lieu thereof "person for service performed"; and

(B) by striking out the second sentence.

(3) Subsection (b) is amended to read as follows:

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.".

(4) Subsection (e) is amended by striking out "Any individual who transfers from service described in clause (A) or (B) of subsection (a)(2) to service described in the other clause of such subsection" and inserting in lieu thereof "A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section)".

(5) Subsection (f) is amended—

(A) by inserting "and section 16301 of this title" after "this section"; and

(B) by inserting "and section 16301(a) of this title" after "subsection (a)".

(6) The heading of such section is amended to read as follows:

"§2171. Education loan repayment program: enlisted members on active duty in specified military specialties".

SEC. 1664. LAWS RELATING TO RESERVE COMPONENT PROCUREMENT AND EQUIPMENT.

(a) ADDITION OF NEW PART.—(1) Subtitle E, as added by section 1611, is amended by adding after part IV of such subtitle (as added by section 1663) the following:

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"Chap.	*Sec.*
"1801. Issue of Serviceable Material to Reserve Components	*[No present sections]*
"1803. Facilities for Reserve Components	*18231*
"1805. Miscellaneous Provisions	*18501*

"CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

"[No present sections]".

(b) FACILITIES FOR RESERVE COMPONENTS.—(1) Chapter 133 is transferred to the end of part V of subtitle E, as added by subsection (a), and redesignated as chapter 1803.

(2) The sections of that chapter are redesignated as follows:

Section	***Redesignated section***
2231	*18231*
2232	*18232*
2233	*18233*
2233a	*18233a*
2234	*18234*
2235	*18235*
2236	*18236*
2237	*18237*
2238	*18238*
2239	*18239*

(3) The items in the table of sections at the beginning of such chapter are revised to reflect the redesignations made by paragraph (2).

(4) Section 18233 (as redesignated by paragraph (2)) is amended by striking out "sections 2233a, 2234, 2235, 2236, and 2238" in subsection (a) and inserting in lieu thereof "sections 18233a, 18234, 18235, 18236, and 18238".

(5) Section 18233a (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233" and inserting in lieu thereof "section 18233"; and

(B) in subsection (b), by striking out "section 2233(a)" and inserting in lieu thereof "section 18233(a)".

(6) Section 18234 (as redesignated by paragraph (2)) is amended by striking out "section 2233" and inserting in lieu thereof "section 18233".

(7) Section 18235 (as redesignated by paragraph (2)) is amended by striking out "section 2233(a)(1)" in subsection (a)(1) and inserting in lieu thereof "section 18233".

(8) Section 18236 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a)—

(i) by striking out "section 2233" in the first sentence and inserting in lieu thereof "section 18233"; and

(ii) by striking out "section 2233(a) (3) or (4)" in the second sentence and inserting in lieu thereof "paragraph (3) or (4) of section 18233(a)";

(B) in subsection (b)—

(i) by striking out "clause (4) or (5) of section 2233(a)" in the matter preceding paragraph (1) and inserting in lieu thereof "paragraph (4) or (5) of section 18233(a)"; and

(ii) by striking out "section 2233(e)" in paragraph (2) and inserting in lieu thereof "section 18233(e)"; and

(C) in subsection (c), by striking out "section 2233" and inserting in lieu thereof "section 18233".

(9) Section 18237 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233(a)(2), (3) and (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)"; and

(B) in subsection (b), by striking out "section 2233(a) (2), (3) or (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)".

(10) Section 18239 (as redesignated by paragraph (2)) is amended by striking out "section 2233" both places it appears and inserting in lieu thereof "section 18233".

(11) Part IV of subtitle A is amended by inserting after chapter 131 the following:

"CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

"Sec.
"2231. Reference to chapter 1803.

"§2231. Reference to chapter 1803

"Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).".

(c) MISCELLANEOUS PROVISIONS.—(1) Part V of subtitle E, as added by subsection (a), is amended by adding after chapter 1803, as transferred by subsection (b), the following:

"CHAPTER 1805—MISCELLANEOUS PROVISIONS

"Sec.
"18501. Reserve components: personnel and logistic support by military departments.
"18502. Reserve components: supplies, services, and facilities.

"§18501. Reserve components: personnel and logistic support by military departments

"The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned and by the Chairman of the Joint Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Commandant of the Coast Guard and approved by the Secretary of Transportation when the Coast Guard is not operated as a service of the Navy.

"§18502. Reserve components: supplies, services, and facilities

"(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

"(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.".

(2) Section 2540 is repealed.

SEC. 1665. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO TRANSFERRED OR REPLACED PROVISIONS.—A reference to a provision of title 10, United States Code, transferred or replaced by the provisions of sections 1661 through 1664 (including a reference in a regulation, order, or other law) shall be treated as referring

to that provision as transferred or to the corresponding provision as so enacted by this subtitle.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall be treated as having been taken, or having matured, under the corresponding provision so enacted.

Subtitle D—Technical and Clerical Amendments

SEC. 1671. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.

(a) TABLE OF SUBTITLES.—The table of subtitles preceding subtitle A is amended by adding at the end the following new item:

"E. Reserve Components .... 10001".

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 2 is amended by striking out the item relating to section 115b.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to section 123 and inserting in lieu thereof the following:

"123. Authority to suspend officer personnel laws during war or national emergency.".

(3) The table of sections at the beginning of chapter 31 is amended by striking out the items relating to sections 510, 511, 512, and 517.

(4) The table of sections at the beginning of chapter 32 is amended—

(A) by striking out the item relating to section 524; and

(B) by striking out "524," in the item relating to section 527.

(5) The table of sections at the beginning of subchapter V of chapter 36 is amended by striking out the item relating to section 644.

(6) The table of sections at the beginning of chapter 37 is amended by striking out the item relating to section 652.

(7) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 672 and inserting in lieu thereof the following:

"672. Reference to chapter 1209.";

and

(B) by striking out the items relating to section 673 through 686 and section 689.

(8) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 715.

(9) The table of sections at the beginning of chapter 53 is amended by striking out the item relating to section 1033.

(10) The table of sections at the beginning of chapter 59 is amended by striking out the items relating to sections 1162 and 1163.

(11) The table of sections at the beginning of chapter 69 is amended—

(A) by striking out the item relating to section 1374; and

(B) by striking out the item relating to section 1376 and inserting in lieu thereof the following:

"1376. Temporary disability retired lists.".

(12) The table of sections at the beginning of chapter 101 is amended by striking out the item relating to section 2001.

(13) The table of sections at the beginning of chapter 109 is amended by striking out the items relating to sections 2171 and 2172 and inserting in lieu thereof the following:

"2171. Education loan repayment program: enlisted members on active duty in specified military specialties.".

(14) The table of sections at the beginning of subchapter I of chapter 152 is amended by striking out the item relating to section 2540.

(c) CROSS-REFERENCE AMENDMENTS—

(1) Section 101(a)(13) is amended by striking out "672(a), 673, 673b, 673c, 688, 3500, or 8500" and inserting in lieu thereof "688, 12301(a), 12302, 12304, 12305, or 12406".

(2) Section 113(c)(3) is amended by striking out "chapters 51, 337, 361, 363, 549, 573, 837, 861, and 863 of this title, as far as they apply to reserve officers" and inserting in lieu thereof "chapters 1219 and 1401 through 1411 of this title ".

(3) Section 523(b)(1) is amended—

(A) in subparagraph (B), by striking out "section 265" and all that follows through "of this title" and inserting in lieu thereof "section 10211, 10302 through 10305, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(4) Section 527 is amended by striking out "524," in the text and in the heading.

(5) Section 641(1) is amended—

(A) in subparagraph (B), by striking out "section 175" and all that follows through "of this title" and inserting in lieu thereof "section 3038, 8038, 10211, 10301 through 10305, 10501, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(6) Sections 1201, 1202, and 1203 are each amended by striking out "section 270(b)" and inserting in lieu thereof "section 10148(a)".

(7)(A) Section 1076(b)(2)(A) is amended by striking out "under chapter 67 of this title" and inserting in lieu thereof "under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(B) Section 1370(a)(1) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(8) Section 1482(f)(2) is amended by striking out "section 1332" and "section 1331" and inserting in lieu thereof "section 12732" and "12731", respectively.

(d) SURVIVOR BENEFIT PLAN.—Subchapter II of chapter 73 is amended as follows:

(1) Section 1447(14) is amended by striking out "chapter 67 of this title" and inserting in lieu thereof "chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) The following provisions are amended by striking out "section 1331(d)" and inserting in lieu thereof "section 12731(d)": sections 1447(2)(C), 1448(a)(2)(B), 1448(f)(1)(A), and 1448(f)(1)(B).

SEC. 1672. AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle B, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 337, 361, and 363.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to section 3076 through 3080 and section 3082.

(2) The table of sections at the beginning of chapter 331 is amended by striking out the items relating to section 3212 and sections 3217 through 3225.

(3) The table of sections at the beginning of chapter 333 is amended by striking out the items relating to sections 3259, 3260, and 3261.

(4) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3495 through 3502.

(5) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3541 and 3542.

(6) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3686.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 3038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 3961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 4342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 1673. AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—

(1) The table of chapters at the beginning of subtitle C is amended by striking out the items relating to chapters 519, 531, 541, and 549.

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 519.

(3) The table of chapters at the beginning of part II of subtitle C is amended by striking out the items relating to chapters 531, 541, and 549.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 533 is amended by striking out the items relating to sections 5456, 5457, and 5458.

(2) The table of sections at the beginning of chapter 539 is amended by striking out the item relating to section 5600.

(3) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6017 and 6034.

(4) The table of sections at the beginning of chapter 573 is amended by striking out the items relating to sections 6391, 6392, 6397, 6403, and 6410.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 6389(a) is amended by striking out "section 1005" and inserting in lieu thereof "section 12645".

(2) Section 6954(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(d) REPEAL OF SECTION REDUNDANT WITH SECTION 741.—

(1) Section 5506 is repealed.

(2) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5506.

SEC. 1674. AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle D, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 837 and 863.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 807 is amended by striking out the items relating to sections 8076 through 8080.

(2) The table of sections at the beginning of chapter 831 is amended by striking out the items relating to section 8212 and sections 8217 through 8225.

(3) The table of sections at the beginning of chapter 833 is amended by striking out the items relating to sections 8259, 8260, and 8261.

(4) The table of sections at the beginning of chapter 841 is amended by striking out the items relating to sections 8495 through 8502.

(5) The table of sections at the beginning of chapter 843 is amended by striking out the items relating to sections 8541 and 8542.

(6) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8686.

(7) The table of sections at the beginning of chapter 861 is amended by striking out the items relating to sections 8819 and 8820.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 8038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 8961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 9342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 1675. AMENDMENTS TO SUBTITLE E OF TITLE 10, UNITED STATES CODE.

(a) CHAPTER 1203.—Section 12102 (as transferred and redesignated by section 1662(b)(2)) is amended by striking out "section 3261 or 8261" in subsection (a) and inserting in lieu thereof "section 12107".

(b) CHAPTER 1205.—Sections of chapter 1205 (as transferred and redesignated by section 1662(c)(2)) are amended as follows:

(1) Section 12203 is amended by striking out "3352, or 8352" in subsection (a) and inserting in lieu thereof "12213, or 12214".

(2) Sections 12213 and 12214 are amended by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is" in subsection (a).

(c) CHAPTER 1209.—Sections of chapter 1209 (as transferred and redesignated by section 1662(e)(2)) are amended as follows:

(1) Section 12301 is amended—

(A) in subsection (b), by striking out "or Territory" and all that follows through the period at the end and inserting in lieu thereof "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)."; and

(B) in subsection (d), by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is".

(2) Section 12304 is amended—

(A) by striking out "section 673(a)" in subsection (a) and inserting in lieu thereof "section 12302(a)";

(B) by striking out "section 268(b)" in subsection (a) and inserting in lieu thereof "section 10143(a)"; and

(C) by striking out "section 3500 or 8500" in subsection (b) and inserting in lieu thereof "section 12406".

(3) Section 12305 is amended by striking out "section 672, 673, or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12301, 12302, or 12304".

(4) Section 12306 is amended by striking out "section 672" in subsection (a) and inserting in lieu thereof "section 12301".

(5) Section 12307 is amended by striking out "section 672(a) or 688", "section 1001(b)", and "chapter 67" and inserting in lieu thereof "section 688 or 12301(a)", "section 12641(b)", and "chapter 1223", respectively.

(6) Section 12308 is amended by striking out "chapter 67" and "section 1332(b)" and inserting in lieu thereof "chapter 1223" and "section 12732(b)", respectively.

(7) Section 12310 is amended by striking out "section 672(d)" in subsection (a) and inserting in lieu thereof "section 12301(d)".

(8) Section 12312 is amended by striking out "section 679(a)" in subsections (a) and (b) and inserting in lieu thereof "section 12311(a)".

(9) Section 12318 is amended—

(A) by striking out "section 673 or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12302 or 12304"; and

(B) by striking out "section 678" in subsection (b) and inserting in lieu thereof "section 12310".

(10) Section 12319(d) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(11) Section 12320 is amended by striking out "section 3353, 5600, or 8353" and inserting in lieu thereof "section 12207".

(d) CHAPTER 1219.—Sections of chapter 1219 (as transferred and redesignated by section 1662(h)) are amended as follows:

(1) Section 12642 is amended—

(A) by striking out "section 1332(a)(2)" in subsection (a) and inserting in lieu thereof "section 12732(a)(2)"; and

(B) by striking out "section 1005" in subsection (b) and inserting in lieu thereof "section 12645".

(2) Section 12645 is amended by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsection (a) and inserting in lieu thereof "chapter 573, 1407, 1409, or 1411".

(3) Section 12646 is amended—

(A) by striking out "section 1332" each place it appears in subsections (a) and (b) and inserting in lieu thereof "section 12732";

(B) by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsections (a) and (b) and inserting in lieu thereof "chapter 573, 1407, or 1409"; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active status under section 6389, 14513, or 14514 of this title or section 740 of title 14, is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

"(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

"(A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 3911, 6323, or 8911 of this title; and

"(B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

"(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.".

(4) Section 12647 is amended by striking out "chapters 337, 363, 573, 837, and 863" and inserting in lieu thereof "chapters 573, 1407, and 1409".

SEC. 1676. AMENDMENTS TO TITLES 32 AND 37, UNITED STATES CODE.

(a) TITLE 32, UNITED STATES CODE.—Title 32, United States Code, is amended as follows:

(1) Section 107(c) is amended by striking out "section 3496 or 8496" and inserting in lieu thereof "section 12402".

(2) Section 307(a)(3) is amended by striking out "and sections 8365 and 8366 of title 10".

(3) Section 323(c) is amended by striking out "section 3259, 3352(a), 8259, or 8352(a)" and inserting in lieu thereof "section 12105, 12213(a), or 12214(a)".

(4) The items relating to sections 309 and 310 in the table of sections at the beginning of chapter 3 are amended to read as follows:

"309. Federal recognition of National Guard officers: officers promoted to fill vacancies.
"310. Federal recognition of National Guard officers: automatic recognition.".

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 204(a)(2) is amended by striking out "section 3021, 3496, 3541, 8021, 8496, or 8541" and inserting in lieu thereof "section 10302, 10305, 10502, or 12402".

(2) Section 205(e)(2) is amended—

(A) by striking out "section 511(b) or 511(d)" in subparagraph (A) and inserting in lieu thereof "section 12103(b) or 12103(d)"; and

(B) by striking out "chapter 39" in subparagraph (B) and inserting in lieu thereof "chapter 1209".

(3) Section 905 is amended—

(A) by striking out "chapter 549" in subsection (a) and inserting in lieu thereof "chapter 1405"; and

(B) by striking out "section 5908" in subsection (b) and inserting in lieu thereof "section 14308(b)".

SEC. 1677. AMENDMENTS TO OTHER LAWS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 5517(d)(2) is amended by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

(2) Section 6323(b) is amended—

(A) in paragraph (1), by striking out "section 261 of title 10" and inserting in lieu thereof "section 10101 of title 10"; and

(B) in paragraph (2)(A), by striking out "3500, or 8500 of title 10" and inserting in lieu thereof "or 12406 of title 10"; and

(3) Sections 8332(c)(2)(B) and 8411(c)(2)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(4) Sections 8401(30) and 8456(a)(1)(A) are amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(b) TITLE 14, UNITED STATES CODE.—Title 14, United States Code, is amended as follows:

(1) Section 41a(a) is amended by striking out "section 679 of title 10" and inserting in lieu thereof "section 12311 of title 10".

(2) Section 271(e) is amended by striking out "section 593 of title 10" and inserting in lieu thereof "section 12203 of title 10".

(3) Section 712(c)(1) is amended by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10".

(4) Section 713 is amended by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(5) Sections 740(c) and 741(b) are amended by striking out "section 1006 of title 10" and inserting in lieu thereof "section 12646 of title 10".

(c) INTERNAL REVENUE CODE OF 1986.—Section 219(g)(6)(A) of the Internal Revenue Code of 1986 is amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(d) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) Sections 1965(5)(B), 1965(5)(C), and 1968(a)(4)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) Section 3002 is amended—

(A) in paragraph (4), by striking out "section 268(b) of title 10" and inserting in lieu thereof "section 10143(a) of title 10"; and

(B) in paragraph (6), by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(e) Public Law 99-661.—Section 403(b)(1) of Public Law 99-661 (10 U.S.C. 521 note) is amended—

(1) in subparagraph (B), by striking out "section 265" and all that follows through "of title 10" and inserting in lieu thereof "section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10";

(2) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(3) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(f) Military Selective Service Act.—Section 6 of the Military Selective Service Act (50 U.S.C. App. 456) is amended—

(1) in subsection (c)(2)(A), by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10";

(2) in subsection (c)(2)(D), by striking out "section 511(b) of title 10" and inserting in lieu thereof "section 12103 of title 10"; and

(3) in subsection (d)(1), by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

Subtitle E—Transition Provisions

SEC. 1681. CONTINUATION ON THE RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF THE ARMY AND AIR FORCE.

(a) Continuation Under Old Law.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on the effective date of this title—

(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer's reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this title.

(b) Exemption.—This section does not apply to an officer who is—

(1) sooner transferred from an active status or discharged under some other provision of law;

(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this title; or

(3) continued on the reserve active-status list under section 14701 of title 10, United States Code, as added by this title.

SEC. 1682. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR ARMY AND AIR FORCE OFFICERS.

(a) Promotions To Fill Vacancies.—A reserve commissioned officer of the Army or Air Force (other than a commissioned warrant officer) who, on the day before the effective date of this title, is recommended for promotion to fill a vacancy in the Army Reserve or the Air Force Reserve under section 3383, 3384, 8372, or 8373 of title 10, United States Code, as in effect on the day before the effective date of this title, in the next higher reserve grade shall be considered to have been recommended for promotion to that grade by a vacancy promotion board under section 14101(a)(2) of title 10, United States Code, as added by this title.

(b) Promotions Other Than To Fill Vacancies.—A reserve officer of the Army or Air Force who, on the day before the effective date of this title, is recommended for promotion under section 3366, 3367, 3370, 3371, 8366, or 8371 of title 10, United States Code, as in effect on the day before the effective date of this title, to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion by a mandatory promotion board convened under section 14101(a)(1) of title 10, United States Code, as added by this title.

(c) Officers Found Qualified for Promotion to First Lieutenant.—A reserve officer of the Army or Air Force who, on the effective date of the title, holds the grade of second lieutenant and has been found qualified for promotion to the grade of first lieutenant in accordance with section 3365, 3382, or 8365 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted to that grade on the date on which the officer would have been promoted under the provisions of chapter 337 or 837 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force under section 14308(b) of title 10, United States Code, as added by this title.

(d) Officers Once Failed of Selection.—(1) A reserve officer of the Army in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, has been considered once but not recommended for promotion to the next higher reserve grade under section 3366 or 3367 of title 10, United States Code, or a reserve officer of the Air Force in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, is a deferred officer within the meaning of section 8368 of such title, shall be considered to have been considered once but not selected for promotion by a board convened under section 14101(a)(1) of title 10, United States Code, as added by this title. If the officer is later considered for promotion by a selection board convened under that section and is not selected for promotion (or is selected for promotion but declines to accept the promotion), the officer shall be considered for all purposes to have twice failed of selection for promotion.

(2) In the case of a reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and whose name has been removed, under the provisions of section 3363(f) of title 10, United States Code, from a list of officers recommended for promotion or who has previously not been promoted because the President declined to appoint the officer in the next higher grade under section 8377 of such title as in effect on the day before the effective date of this title, or whose name was removed from a list of officers recommended for promotion to the next higher grade because the Senate did not consent to the officer's appointment, if the officer is later considered for promotion by a selection board convened by section 14101(a)(1) of title 10, United States Code, as added by this title, and (A) is not selected for promotion, (B) is selected for promotion but removed from the list of officers recommended or approved for promotion, or (C) is selected for promotion but declines to accept the promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

(e) Officers Twice Failed of Selection.—A reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and on that date is subject to be treated as prescribed in section 3846 or 8846 of title 10, United States Code, shall continue to be governed by that section as in effect on the day before the effective date of this title.

(f) Officers With Approved Promotion Declinations in Effect.—A reserve officer of the Army who, on the day before the effective date of this title, has declined a promotion under subsection (f) or (g) of section 3364 of title 10, United States Code, shall while carried on the reserve active status list be subject to the provisions of subsections (h), (i), and (j) of such section, as in effect on the day before the effective date of this title, except that the name of an officer to whom this section applies shall be placed on a promotion list under section 14308(a) of title 10, United States Code (as added by this title), and, at the end of the approved period of declination, shall be considered to have failed of promotion if the officer again declines to accept the promotion.

(g) Covered Officers.—This section applies to reserve officers of the Army and Air Force who—

(1) on the day before the effective date of this title are in an active status; and

(2) on the effective date of this title are subject to placement on the reserve active-status list of the Army or the Air Force.

SEC. 1683. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR NAVY AND MARINE CORPS OFFICERS.

(a) Recommendations for Promotion.—An officer covered by this section who, on the day before the effective date of this title, has been recommended for promotion to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion to that grade under section 14101(a) of title 10, United States Code, as added by this title.

(b) Failures of Selection.—An officer covered by this section who, on the day before the effective date of this title is considered to have failed of selection for promotion one or more times under chapter 549 of title 10, United States Code, to a grade below captain, in the case of a reserve officer of the Navy, or to a grade below colonel, in the case of a reserve officer of the Marine Corps, shall be subject to chapters 1405 and 1407 of title 10, United States Code, as added by this title, as if such failure or failures had occurred under the provisions of those chapters.

(c) Officers Other Than Covered Officers Recommended for Promotion.—A reserve officer of the Navy or Marine Corps who on the day before the effective date of this title (1) has been recommended for promotion in the approved report of a selection board convened under chapter 549 of title 10, United States Code, and (2) was on the active-duty list of the Navy or Marine Corps may be promoted under that chapter, as in effect on the day before the effective date of this title.

(d) Officers Found Qualified for Promotion to Lieutenant (Junior Grade) or First Lieutenant.—A covered officer who, on the effective date of this title, holds the grade of second lieutenant and has been found qualified for promotion in accordance with section 5908 or 5910 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted on the date on which the officer would have been promoted under the provisions of chapter 549 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Navy under section 14307(b) of such title, as added by this title.

(e) Officers Whose Names Have Been Omitted From a List Furnished to a Selection Board.—A covered officer whose name, as of the effective date of this title, had been omitted

by administrative error from the list of officers furnished the most recent selection board to consider officers of the same grade and component, shall be considered by a special selection board established under section 14502 of title 10, United States Code, as added by this title. If the officer is selected for promotion by that board, the officer shall be promoted as specified in section 5904 of title 10, United States Code, as in effect on the day before the effective date of this title.

(f) COVERED OFFICERS.—Except as provided in subsection (c), this section applies to any reserve officer of the Navy or Marine Corps who (1) before the effective date of this title is in an active status, and (2) on the effective date of this title is subject to placement on the reserve active-status list of the Navy or Marine Corps.

SEC. 1684. DELAYS IN PROMOTIONS AND REMOVALS FROM PROMOTION LIST.

(a) DELAYS IN PROMOTIONS.—(1) A delay in a promotion that is in effect on the day before the effective date of this title under the laws and regulations in effect on that date shall continue in effect on and after that date as if the promotion had been delayed under section 14311 of title 10, United States Code, as added by this title.

(2) The delay of the promotion of a reserve officer of the Army or the Air Force which was in effect solely to achieve compliance with limitations set out in section 524 of title 10, United States Code, or with regulations prescribed by the Secretary of Defense with respect to sections 3380(c) and 8380(c) of title 10, United States Code, as in effect on the day before the effective date of this title, shall continue in effect as if the promotion had been delayed under section 14311(e) of such title, as added by this title.

(b) REMOVALS FROM LIST.—An action that was initiated before the effective date of this title under the laws and regulations in effect before that date to remove the name of an officer from a promotion list or from a list of officers recommended or approved for promotion shall continue on and after such date as if such action had been initiated under section 14110(d) or 14310, as appropriate, of title 10, United States Code, as added by this title.

SEC. 1685. MINIMUM SERVICE QUALIFICATIONS FOR PROMOTION.

During the five-year period beginning on the effective date of this title, the Secretary of the Army and the Secretary of the Air Force may waive the provisions of section 14304 of title 10, United States Code, as added by this title. The Secretary may, in addition, during any period in which such a waiver is in effect, establish minimum periods of total years of commissioned service an officer must have served to be eligible for consideration for promotion to the grade of captain, major, or lieutenant colonel by boards convened under section 14101(a) of title 10, United States Code, as added by this title.

SEC. 1686. ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST.

(a) SIX-MONTH DEADLINE.—Not later than six months after the effective date of this title, the Secretary of the military department concerned shall ensure that—

(1) all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the reserve active-status list of their Armed Force under section 14002 of title 10, United States Code, as added by this title, shall be placed on the list for their armed force and in their competitive category; and

(2) the relative seniority of those officers on each such list shall be established.

(b) REGULATIONS.—The Secretary concerned shall prescribe regulations for the establishment of relative seniority. The Secretary of the Army and the Secretary of the Air Force shall, in prescribing such regulations, provide for the consideration of both promotion service established under section 3360(b) or 8360(e) of title 10, United States Code, as in effect on the day before the effective date of this title, and total commissioned service established under section 3360(c) or 8366(e) of such title, as in effect on the day before the effective date of this title. An officer placed on a reserve active-status list in accordance with this section shall be considered to have been on the list as of the effective date of this title.

SEC. 1687. PRESERVATION OF RELATIVE SENIORITY UNDER THE INITIAL ESTABLISHMENT OF THE RESERVE ACTIVE-STATUS LIST.

In order to maintain the relative seniority among reserve officers of the Army, Navy, Air Force, or Marine Corps as determined under section 1686, the Secretary of the military department concerned may, during the one-year period beginning on the effective date of this title, adjust the date of rank of any reserve officer of such Armed Force who was in an active status but not on the active-duty list on such effective date.

SEC. 1688. GRADE ON TRANSFER TO THE RETIRED RESERVE.

In determining the highest grade held satisfactorily by a person at any time in the Armed Forces for the purposes of paragraph (2) of section 1406(b) of title 10, United States Code, as added by this title, the requirement for satisfactory service on the reserve active-status list contained in section 1370(d) of title 10, United States Code, as added by this title, shall apply only to reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion under chapter 36 of that title or under chapter 1405 of that title, as added by this title, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after the effective date of this title.

SEC. 1689. RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE.

A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this title and who was subject to placement of the reserve active-status list on the effective date of this title may not be discharged under section 14503 of title 10, United States Code, as added by this title, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer.

SEC. 1690. MANDATORY SEPARATION FOR AGE FOR CERTAIN RESERVE OFFICERS OF THE NAVY AND MARINE CORPS.

(a) SAVINGS PROVISIONS FOR REQUIRED SEPARATION AGE.—A reserve officer of the Navy or the Marine Corps—

(1) who—

(A) on the effective date of this title is in an active status, and

(B) on the day before the effective date of this title was an officer described in section 6389(e), 6397(a), 6403(a), or 6403(b) of title 10, United States Code; and

(2) who, on or after the effective date of this title is subject to elimination from an active status under any provision of such title,

is entitled to be treated as that officer would have been treated under section 6397 or 6403 as applicable, as in effect on the day before the effective date of this title, if that treatment would result in the date for the officer's separation from an active status being a later date than the date established under the law in effect on or after the effective date of this title.

(b) SAVINGS PROVISIONS FOR MANDATORY SEPARATION FOR AGE.—An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before January 1, 1953, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 62 years of age, but can complete this service by the time he becomes 64 years of age, may be retained in an active status not later than the date he becomes 64 years of age.

(c) An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before the effective date of this title, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 60 years of age, but can complete this service by the time he becomes 62 years of age, may be retained in an active status not later than the date he becomes 62 years of age.

Subtitle F—Effective Dates and General Savings Provisions

SEC. 1691. EFFECTIVE DATE.

(a) EFFECTIVE DATE FOR AMENDMENTS.—Except as provided in subsection (b), the amendment made by section 1611 and the amendments made by subtitles C and D shall take effect on December 1, 1994.

(b) EFFECTIVE DATE FOR NEW RESERVE OFFICER PERSONNEL POLICIES.—(1) The provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall become effective on October 1, 1996. The amendments made by part II of subtitle A, by subtitle B, and by section 1671(c)(2) and paragraphs (2), (3)(B), (3)(C), and (4) of section 1675(d) shall take effect on October 1, 1996.

(2) Any reference in subtitle E of this title to the effective date of this title is a reference to the effective date prescribed in paragraph (1).

(3) The personnel policies applicable to Reserve officers under the provisions of law in effect on the day before the date prescribed in subsection (a) and replaced by the Reserve officer personnel policies prescribed in part III of subtitle E of title 10, United States Code, as added by section 1611, shall, notwithstanding the provisions of subsection (a), continue in effect until the effective date prescribed in paragraph (1).

(4) The authority to prescribe regulations under the provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall take effect on the date of the enactment of this Act.

SEC. 1692. PRESERVATION OF SUSPENDED STATUS OF LAWS SUSPENDED AS OF EFFECTIVE DATE.

If a provision of law that is in a suspended status on the day before the effective date of this title under section 1691(b)(1) is transferred or amended by this title, the suspended status of that provision is not affected by that transfer or amendment.

SEC. 1693. PRESERVATION OF PRE-EXISTING RIGHTS, DUTIES, PENALTIES, AND PROCEEDINGS.

Except as otherwise provided in this title, the provisions of this title and the amendments made by this title do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this title under section 1691(b)(1).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SECTION 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1995".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), and, in the case of the project described in section 2104(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Army may

acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$2,600,000
California	Fort Irwin	10,000,000
Georgia	Fort Benning	6,550,000
	Fort Gordon	44,750,000
Hawaii	Schofield Barracks	20,700,000
Kentucky	Fort Campbell	52,500,000
	Fort Knox	8,500,000
Maryland	Edgewood Arsenal	2,600,000
	Adelphi Laboratory Center	6,600,000
New Jersey	Bayonne Military Ocean Terminal	4,050,000
New York	Fort Drum	12,600,000
	United States Military Academy, West Point	28,000,000
North Carolina	Fort Bragg	29,000,000
	Sunny Point Military Ocean Terminal	22,200,000
Oklahoma	Fort Sill	18,000,000
Pennsylvania	Tobyhanna Depot	17,000,000
South Carolina	Charleston Naval Weapons Station	20,000,000
Texas	Fort Bliss	16,800,000
	Fort Hood	45,800,000
	Fort Sam Houston	4,300,000
Virginia	Fort Lee	15,600,000
	Fort Myer	7,300,000
Washington	Fort Lewis	64,000,000
CONUS Classified	Classified Location	1,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$29,200,000
	Camp Red Cloud	5,400,000
Kwajalein Atoll	Kwajalein	6,400,000
Worldwide	Host Nation Support	10,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Alaska	Fort Richardson	72 units	$5,000,000
Colorado	Fort Carson	145 units	16,500,000
Georgia	Fort Stewart	128 units	10,600,000
Hawaii	Schofield Barracks	190 units	26,000,000
Kansas	Fort Riley	126 units	12,600,000
Massachusetts	Natick Research Center	35 units	4,150,000
New York	United States Military Academy, West Point	56 units	8,000,000
Texas	Fort Bliss	215 units	21,400,000
	Fort Sam Houston	100 units	10,000,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $5,992,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $49,760,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,736,686,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $447,350,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $51,000,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $66,126,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $170,002,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,013,708,000, of which not more than $243,442,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)); and

(2) $14,000,000 (the balance of the amount authorized under section 2101(a) for the construction and renovation of a food processing facility at the United States Military Academy, West Point, New York).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure

changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2105. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECT AT FORT BRAGG, NORTH CAROLINA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

Using amounts previously appropriated for such purpose, the Secretary of the Army may carry out a military construction project for the construction of a library at Fort Bragg, North Carolina, in the total amount of $5,500,000.

SEC. 2106. RELOCATION OF ARMY FAMILY HOUSING UNITS FROM FORT HUNTER LIGGETT, CALIFORNIA, TO FORT STEWART, GEORGIA.

Section 2102(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Fort Hunter Liggett, California, one hundred fifty-four units, $12,300,000."; and

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) Fort Stewart, Georgia, one hundred twenty-one units, $9,890,000.".

SEC. 2107. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway should be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle bridge over the rail and truck crossing of the highway at the Plant is feasible and desirable, the Secretary may—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as a project for the construction of a defense access road under section 210 of title 23, United States Code.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), and, in the case of the project described in section 2204(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
California	Camp Pendleton Amphibious Task Force	$10,700,000
	Camp Pendleton Marine Corp Base	6,860,000
	China Lake Naval Air Warfare Center	6,000,000
	El Centro Naval Air Facility	3,000,000
	Lemoore Naval Air Station	7,000,000
	North Island Naval Air Station	18,830,000
	Port Hueneme Construction Battalion Center	9,650,000
	San Diego Marine Corps Recruit Depot	1,090,000
	San Diego Naval Station	4,100,000
	Twentynine Palms, Marine Corps Air-Ground Combat Center	2,900,000
Florida	Jacksonville Fleet and Industrial Supply Center	2,200,000
	Pensacola Naval Air Station	2,100,000
Hawaii	Kaneohe Bay Marine Corps Air Station	4,900,000
Illinois	Great Lakes Navy Public Works Center	13,000,000
Indiana	Crane Naval Surface Warfare Center	7,970,000
Maryland	Indian Head Naval Surface Warfare Center	10,400,000
	Patuxent River Naval Air Warfare Center	4,200,000
	United States Naval Academy	1,900,000
New Jersey	Lakehurst Naval Air Warfare Center	2,950,000
New Mexico	White Sands Naval Ordnance Missile Test Station	1,390,000
North Carolina	Camp Lejeune Marine Corp Base	14,850,000
	Cherry Point Marine Corps Air Station	2,100,000
Pennsylvania	Philadelphia Naval Shipyard	10,500,000
Rhode Island	Newport Naval Education and Training Center	14,500,000
	Newport Naval War College	28,000,000
South Carolina	Beaufort Marine Corps Air Station	10,800,000
	Parris Island Marine Corps Recruit Depot	8,350,000
Texas	Ingleside Naval Station	14,110,000
	Kingsville Naval Air Station	1,530,000
Virginia	Chesapeake Naval Security Group Activity	1,150,000
	Dam Neck Fleet Combat Training Center	7,000,000
	Little Creek Amphibious Base	5,000,000
	Norfolk Marine Corps Security Force Battalion Atlantic	6,480,000
	Norfolk Naval Base	5,100,000
	Norfolk Naval Station	16,430,000
	Quantico Marine Corps Combat Development Command	19,900,000
Washington	Bremerton Puget Sound Naval Shipyard	11,040,000
	Everett Naval Station	21,690,000
	Whidbey Island Naval Air Station	5,200,000
CONUS Classified	Aircraft Fire Rescue and Vehicle Maintenance Facilities	2,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Crete Naval Support Activity	$3,050,000
Italy	Naples Naval Support Activity	28,460,000
	Sigonella Naval Air Station	13,750,000
Puerto Rico	Sabana Seca Naval Security Group Activity	1,650,000
United Kingdom	Saint Mawgan Joint Communication Center	3,900,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	196 units	$28,552,000
	San Diego Navy Public Works Center	136 units	18,262,000
Hawaii	Moanalua Terrace	100 units (replacement)	16,000,000
Maryland	Patuxent River Naval Air Station	Housing Office	863,000
Mississippi	Gulfport Construction Battalion Center	120 units	10,370,000
Texas	Corpus Christi Naval Air Station	100 units	11,800,000
Virginia	Norfolk Navy Public Works Center	Warehouse and Self Help Center	555,000
Washington	Everett Naval Station	Housing Office	780,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,681,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $155,602,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,591,824,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $309,070,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,810,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,380,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $267,465,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $937,599,000, of which not more than $114,336,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)); and

(2) $18,000,000 (the balance of the amount authorized under section 2201(a) for the construction of a Strategic Maritime Research Center at the Naval War College, Newport, Rhode Island).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2205. RESTORATION OF AUTHORITY TO CARRY OUT MILITARY CONSTRUCTION PROJECT AT NAVAL SUPPLY CENTER, PENSACOLA, FLORIDA.

(a) REAUTHORIZATION.—Notwithstanding section 2205(b)(1)(D)(ii) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1865), the Secretary of the Navy may carry out the military construction project at the Naval Supply Center, Pensacola, Florida, which involves construction of a cold storage facility at the installation and was originally authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1514).

(b) CONFORMING AMENDMENT.—Section 2205(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1518), as amended by section 2205(b)(2) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1865), is further amended—

(A) in the matter preceding the paragraphs, by striking out "$1,759,990,000" and inserting in lieu thereof "$1,765,690,000"; and

(B) in paragraph (1), by striking out "$667,700,000" and inserting in lieu thereof "$673,400,000".

SEC. 2206. DESIGN ACTIVITIES FOR UPGRADE OF MAYPORT NAVAL STATION, FLORIDA.

(a) COMMENCEMENT OF DESIGN ACTIVITIES.—At the conclusion of the facilities study prepared by the Secretary of the Navy to identify infrastructure improvements that would be necessary to provide Mayport Naval Station, Florida, with the capability to serve as a homeport for a nuclear powered aircraft carrier and the programmatic environmental impact study to identify environmental issues associated with such improvements, the Secretary shall begin design activities for such military construction projects as may be necessary to provide for such a capability.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as an authorization to the Secretary to proceed with the construction of facilities specifically designed to make Mayport Naval Station capable of serving as a homeport for a nuclear powered aircraft carrier.

SEC. 2207. RELOCATION OF PASCAGOULA COAST GUARD STATION, MISSISSIPPI.

(a) AGREEMENT ON RELOCATION.—Subject to subsection (c), the Secretary of the Navy and the Secretary of Transportation may enter into an agreement that provides for the relocation of the activities and functions of Pascagoula Coast Guard Station to Pascagoula Naval Station, Pascagoula, Mississippi.

(b) PROHIBITION ON RELOCATION OR CONSTRUCTION COSTS.—The Navy may not incur any construction costs relating to the relocation. The Coast Guard may not incur any construction costs or relocation costs relating to the relocation.

(c) CONDITION ON RELOCATION.—The activities and functions of Pascagoula Coast Guard Station may not be relocated to Pascagoula Naval Station if either—

(1) the Secretary of the Navy determines that the relocation of the Coast Guard facility would interfere with the performance of the mission of the Navy at Pascagoula Naval Station; or

(2) the Secretary of Transportation determines that the relocation of the Coast Guard facility would be incompatible with Coast Guard operations in the Pascagoula area.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$9,600,000
Alaska	Cape Lisburne Long Range Radar Site	2,800,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	Elmendorf Air Force Base	*5,000,000*
Arizona	*Luke Air Force Base*	*4,900,000*
Arkansas	*Little Rock Air Force Base*	*4,800,000*
California	*Beale Air Force Base*	*11,850,000*
	Edwards Air Force Base	*$7,050,000*
	McClellan Air Force Base	*8,500,000*
	Travis Air Force Base	*3,600,000*
	Vandenberg Air Force Base	*6,550,000*
Colorado	*Peterson Air Force Base*	*1,750,000*
Delaware	*Dover Air Force Base*	*10,500,000*
Florida	*Cape Canaveral Air Force Station*	*10,450,000*
Georgia	*Moody Air Force Base*	*13,400,000*
	Robins Air Force Base	*21,200,000*
Idaho	*Mountain Home Air Force Base*	*15,950,000*
Illinois	*Scott Air Force Base*	*2,700,000*
Kansas	*McConnell Air Force Base*	*500,000*
Louisiana	*Barksdale Air Force Base*	*15,700,000*
Maryland	*Andrews Air Force Base*	*6,300,000*
Mississippi	*Columbus Air Force Base*	*13,200,000*
	Keesler Air Force Base	*11,240,000*
Missouri	*Whiteman Air Force Base*	*24,290,000*
Montana	*Malmstrom Air Force Base*	*7,200,000*
Nebraska	*Offutt Air Force Base*	*2,260,000*
Nevada	*Nellis Air Force Base*	*600,000*
New Jersey	*McGuire Air Force Base*	*17,000,000*
New Mexico	*Holloman Air Force Base*	*10,950,000*
	Kirtland Air Force Base	*28,000,000*
North Carolina	*Pope Air Force Base*	*5,050,000*
North Dakota	*Grand Forks Air Force Base*	*5,200,000*
	Minot Air Force Base	*5,850,000*
Ohio	*Wright-Patterson Air Force Base*	*26,550,000*
Oklahoma	*Altus Air Force Base*	*3,750,000*
	Tinker Air Force Base	*20,443,000*
	Vance Air Force Base	*11,680,000*
South Carolina	*Charleston Air Force Base*	*11,400,000*
South Dakota	*Ellsworth Air Force Base*	*5,950,000*
Tennessee	*Arnold Air Force Base*	*1,900,000*
Texas	*Brooks Air Force Base*	*6,500,000*
	Kelly Air Force Base	*8,950,000*
	Lackland Air Force Base	*5,200,000*
	Sheppard Air Force Base	*3,300,000*
Virginia	*Langley Air Force Base*	*5,500,000*
Washington	*Fairchild Air Force Base*	*17,900,000*
	McChord Air Force Base	*10,400,000*
Wyoming	*F.E. Warren Air Force Base*	*2,650,000*
CONUS Classified	*Classified Location*	*2,141,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	*Ramstein Air Base*	*$12,350,000*
	Spangdahlem Air Base	*9,473,000*
Greenland	*Thule Air Base*	*2,450,000*
Portugal	*Lajes Field, Azores*	*2,850,000*
United Kingdom	*Lakenheath Royal Air Force Base*	*7,100,000*
Overseas Classified	*Classified Locations*	*4,050,000*

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation	Purpose	Amount
Alabama	*Maxwell Air Force Base*	*25 units*	*$2,100,000*
Arizona	*Davis Monthan Air Force Base*	*110 units*	*10,029,000*
California	*Beale Air Force Base*	*76 units*	*8,842,000*
	Edwards Air Force Base	*34 units*	*4,629,000*
	Los Angeles Air Force Station	*50 units*	*8,962,000*
	Vandenberg Air Force Base	*128 units*	*16,460,000*
District of Columbia	*Bolling Air Force Base*	*100 units*	*9,000,000*
Florida	*Patrick Air Force Base*	*75 units*	*7,145,000*
Idaho	*Mountain Home Air Force Base*	*4 units*	*881,000*
	Mountain Home Air Force Base	*60 units*	*5,712,000*
Kansas	*McConnell Air Force Base*	*70 units*	*8,322,000*
Louisiana	*Barksdale Air Force Base*	*82 units*	*8,236,000*
Missouri	*Whiteman Air Force Base*	*Housing Office*	*567,000*
New Mexico	*Cannon Air Force Base*	*1 unit*	*230,000*
	Holloman Air Force Base	*76 units*	*7,733,000*
	Kirtland Air Force Base	*106 units*	*10,058,000*
North Carolina	*Pope Air Force Base*	*120 units*	*14,874,000*
	Seymour Johnson Air Force Base	*74 units*	*6,025,000*
North Dakota	*Grand Forks Air Force Base*	*Housing Office*	*709,000*

Air Force: Family Housing—Continued

State	Installation	Purpose	Amount
South Carolina	Shaw Air Force Base	3 units	631,000
Texas	Dyess Air Force Base	59 units	7,077,000
Utah	Hill Air Force Base	138 units	11,400,000
Virginia	Langley Air Force Base	148 units	14,421,000
Washington	Fairchild Air Force Base	6 units	1,035,000
Wyoming	F.E. Warren Air Force Base	106 units	11,321,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $9,275,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $61,770,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,601,602,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $438,154,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $38,273,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $49,386,000.

(5) For the construction of the climatic test chamber at Eglin Air Force Base, Florida, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2594), $20,000,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $247,444,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $824,845,000, of which not more than $112,757,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2305. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECTS AT TYNDALL AIR FORCE BASE, FLORIDA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) AUTHORIZATION.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1867) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "$2,600,000" in the amount column and inserting in lieu thereof "$8,200,000".

(b) CONFORMING AMENDMENT.—Section 2304(a) of such Act (107 Stat. 1870) is amended—

(1) in the matter preceding the paragraphs, by striking out "$2,040,031,000" and inserting in lieu thereof "$2,045,631,000"; and

(2) in paragraph (1), by striking out "$877,539,000" and inserting in lieu thereof "$883,139,000".

SEC. 2306. REVISION OF AUTHORIZED FAMILY HOUSING PROJECT AT TYNDALL AIR FORCE BASE, FLORIDA.

The table in section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1869) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "Infrastructure" in the purpose column and inserting in lieu thereof "45 units".

SEC. 2307. MODIFICATION OF AIR FORCE PLANT NO. 3, TULSA, OKLAHOMA.

(a) MODIFICATION AUTHORIZED.—Subject to subsection (b), of the amount authorized to be appropriated under section 301(4), not more than $10,000,000 shall be available to the Secretary of the Air Force to carry out the modification of Air Force Plant No. 3, Tulsa, Oklahoma.

(b) CONDITION.—The Secretary of the Air Force may not obligate any of the funds made available under subsection (a) until after the end of a period of 30 legislative days (as defined in section 2687(e)(4) of title 10, United States Code) beginning on the date the Secretary submits to the congressional defense committees a report certifying that the modification is consistent with the long term national security mission of Air Force Plant No. 3.

SEC. 2308. REPEAL OF LIMITATION ON ORDER OF RETIREMENT OF MINUTEMAN II MISSILES.

Section 2307 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1775) is repealed.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Agents and Munitions Destruction	Anniston Army Depot, Alabama	$5,000,000
	Pine Bluff Arsenal, Arkansas	3,000,000
	Tooele Army Depot, Utah	4,000,000
	Umatilla Army Depot, Oregon	12,000,000
Defense Intelligence Agency	Bolling Air Force Base, Washington, District of Columbia	600,000
Defense Logistics Agency	Defense Construction Supply Center, Columbus, Ohio	2,200,000
	Defense Contract Management Area Office, El Segundo, California	5,100,000
	Defense Fuel Support Point, Craney Island, Virginia	3,652,000
	Headquarters, Defense Logistics Agency, Ft. Belvoir, Virginia	4,600,000
Defense Medical Facility Office	Fort Dix, New Jersey	2,000,000
	Fort McPherson, Georgia	13,300,000
	McClellan Air Force Base, California	10,280,000
National Security Agency	Fort Meade, Maryland	5,458,000
Office Secretary of Defense	CONUS Classified Location	5,300,000
Section 6 Schools	Naval Surface Warfare Center, Virginia	1,560,000
Special Operations Forces	Eglin Auxiliary Field No. 9, Florida	20,200,000
	Fort Bragg, North Carolina	8,000,000
	Kirtland Air Force Base, New Mexico	9,600,000
	Naval Base Coronado, San Diego, California	3,400,000

SEC. 2402. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition) at the location, for the purpose, and in the amount set forth in the following table:

Defense Agencies: Family Housing

Country	*Agency*	*Purpose*	*Amount*
Belgium	*National Security Agency*	*1 unit*	*$300,000*

SEC. 2403. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $3,213,608,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $119,250,000.

(2) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $120,000,000.

(3) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $66,000,000.

(4) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $75,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $22,348,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $3,511,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $51,960,000.

(8) For energy conservation projects authorized by section 2404, $50,000,000.

(9) For base closure and realignment activities as authorized by title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), $87,600,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $2,588,558,000.

(11) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $350,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $29,031,000, of which not more than $24,051,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under subsection (a)(1).

SEC. 2406. COMMUNITY IMPACT ASSISTANCE WITH REGARD TO NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10), the Secretary of the Navy shall transfer $3,000,000 to the South Carolina Department of Highways and Public Transportation to be used for improvements to North Rhett Avenue, which provides access to the Naval Weapons Station, Charleston, South Carolina, to help alleviate the adverse effects of the closure of the Charleston Naval Station and Charleston Naval Shipyard, South Carolina, on the surrounding communities.

SEC. 2407. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

SEC. 2408. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1993 PROJECT.

(a) MODIFICATION OF AUTHORITY.—(1) The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599) is amended in the item relating to Fitzsimons Army Medical Center, Colorado, by striking out "$390,000,000" in the amount column and inserting in lieu thereof "$225,000,000".

(2) Section 2403(c)(6) of such Act (106 Stat. 2600) is amended by striking out "$388,000,000" and inserting in lieu thereof "$223,000,000".

(b) CERTIFICATION.—(1) If the budget for fiscal year 1996 that is submitted to Congress under section 1105 of title 31, United States Code, includes a request for funds for the construction of a replacement facility at Fitzsimons Army Medical Center, Colorado, then not later than March 15, 1995, the Secretary of Defense shall submit to the congressional defense committees a certification that the replacement facility is needed to meet military health care requirements.

(2) In making the certification, the Secretary of Defense shall address the issues raised in the Audit Report of the Inspector General of the Department of Defense dated March 21, 1994, and entitled "Medical Treatment Facility Requirements—Fitzsimons Army Medical Center", including—

(A) the cost-effectiveness of building a replacement facility;

(B) the Department of Defense policy on construction of new military medical treatment facilities in areas in which the majority of the patient population is military retirees and their dependents;

(C) the percentage of the patient population in the catchment area of Fitzsimons Army Medical Center and in the Region 8 area that consists of—

(i) active duty personnel;

(ii) dependents of active duty personnel;

(iii) military retirees; and

(iv) dependents of military retirees;

(D) the availability to and cost for the patient population in the catchment area of medical care provided by civilian medical facilities located in that area;

(E) the occupancy rates of civilian medical facilities in the catchment area;

(F) the nature and extent of advanced medical procedures provided by civilian medical facilities in the catchment area;

(G) the ability of and cost to other Department of Defense medical facilities and civilian medical facilities located in the Region 8 area of providing medical care to patients in that area that are currently served by Fitzsimons Army Medical Center;

(H) the projected occupancy rates at Fitzsimons Army Medical Center with and without patients from outside the catchment area and the Region 8 area; and

(I) the cost-effectiveness and contribution of the Graduate Medical Education program at Fitzsimons Army Medical Center to meeting the training requirements of the Army for military medical personnel.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program, as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $119,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1994, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $188,062,000; and

(B) for the Army Reserve, $57,370,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $22,748,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $249,053,000; and

(B) for the Air Force Reserve, $57,066,000.

SEC. 2602. PROHIBITION ON USE OF FUNDS FOR UNAUTHORIZED GUARD AND RESERVE PROJECTS.

(a) PROHIBITION OF UNAUTHORIZED PROJECTS.—Except as provided in subsection

(b), funds appropriated pursuant to the authorization of appropriations in section 2601 may only be used for the purpose of paying for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces (and for contributions for such purposes) under chapter 133 of title 10, United States Code, in the case of projects for the Guard and Reserve Forces specified in the joint explanatory statement of the committee of conference to accompany the bill S. 2182 of the One Hundred and Third Congress.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to funds authorized to be appropriated in section 2601 for unspecified planning and design and for unspecified minor construction. Such subsection shall also not apply in the case of a project for the Guard and Reserve Forces—

(1) specifically authorized by a law enacted after the date of the enactment of this Act;

(2) designated as emergency construction, in the same manner as provided for military construction projects under section 2803 of title 10, United States Code;

(3) designated as contingency construction, in the same manner as provided for military construction projects under section 2804 of such title;

(4) designated as a construction project required to carry out an environmental response action, in the same manner as provided for military construction projects under section 2810 of such title;

(5) designated as a construction project required to repair, restore, or replace a damaged or destroyed facility, in the same manner as provided for military construction projects under section 2854 of such title; or

(6) specified in the joint explanatory statement of the committee of conference to accompany any Act, enacted before the date of enactment of this Act, authorizing funds for military construction projects if the authorization for the project has not expired by the time the expenditure is to be made.

SEC. 2603. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) FISCAL YEAR 1994 GUARD AND RESERVE PROJECTS.—Section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended—

(1) in paragraph (1), by striking out "$283,483,000" and inserting in lieu thereof "$299,223,000"; and

(2) in paragraph (2), by striking out "$25,013,000" and inserting in lieu thereof "$33,713,000".

(b) FISCAL YEAR 1993 AIR NATIONAL GUARD PROJECT.—Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) is amended by striking out "$305,759,000" and inserting in lieu thereof "$306,959,000".

(c) FISCAL YEAR 1992 ARMY NATIONAL GUARD PROJECT.—Section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1534) is amended by striking out "$210,745,000" and inserting in lieu thereof "$211,759,000".

SEC. 2604. STATE NATIONAL GUARD HEADQUARTERS, FORT DIX, NEW JERSEY.

Funds appropriated pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) for the renovation of facilities at Fort Dix, New Jersey, for the purpose of accommodating a consolidated New Jersey National Guard headquarters may also be used for additions and alterations to such facilities for the same purpose.

SEC. 2605. COLORADO STATE AREA COMMAND ARMORY, ENGLEWOOD, COLORADO.

(a) CONTRIBUTION AUTHORIZED.—Using amounts appropriated for this purpose pursuant to the authorization of appropriations in section 2601(1)(A), the Secretary of Defense may make a contribution to the State of Colorado under paragraph (4) or (5) of section 2233(a) of title 10, United States Code, in connection with the relocation of the Colorado State Area Command Armory to Englewood, Colorado, and the improvement of such relocated armory.

(b) COMPUTATION OF AMOUNT OF CONTRIBUTION.—Notwithstanding section 2236(b) of title 10, United States Code, in computing the cost of construction under such section for purposes of making the contribution authorized under subsection (a), the Secretary of Defense may consider the cost or market value of the buildings and other improvements contributed by the State of Colorado in connection with the relocation of the Colorado State Area Command Armory. The amount of the Federal contribution for such armory under paragraph (4) or (5) of section 2233(a) of such title, as authorized by subsection (a), may not exceed $2,725,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1998 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1992 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2101, 2102, 2201, 2301, or 2601 of that Act, shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Colorado	Fort Carson	Family Housing New Construction (1 Unit)	$150,000
Georgia	Fort Benning	General Instruction Facility	2,150,000
	Fort Stewart	Family Housing New Construction (120 Units)	9,700,000
Oregon	Umatilla Depot Activity	Ammunition Demilitarization Support Facility	3,600,000
		Ammunition Demilitarization Utilities	7,500,000

Navy: Extension of 1992 Project Authorizations

State	Installation or location	Project	Amount
Mississippi	Gulfport Naval Construction Battalion Center	Controlled Humidity Warehouse	$7,000,000
West Virginia	Green Bank Naval Observatory	Alternate Operations Center	5,400,000
Italy	Sigonella Naval Air Station	Operations Control Center	9,850,000
	Sicily Naval Communications Station	Satellite terminal	2,750,000
Outside United States	Various locations	Satellite terminals	10,570,000

Air Force: Extension of 1992 Project Authorization

State	Installation or location	Project	Amount
Alaska	Eareckson (formerly Shemya) Air Force Station	Hazardous Materials Storage	$4,000,000
Arizona	Davis Monthan Air Force Base	Wastewater Treatment Facility	4,100,000
California	Beale Air Force Base	Munitions Maintenance Facility	2,700,000
Delaware	Dover Air Force Base	Additions and Alterations Child Development Center	2,600,000
Kansas	McConnell Air Force Base	Temporary Lodging Facility	2,700,000
Maryland	Andrews Air Force Base	Upgrade Mystic Star	2,700,000
North Carolina	Pope Air Force Base	Child Development Center	2,050,000

Army National Guard: Extension of 1992 Project Authorizations

State	Location	Project	Amount
California	Stockton	Additions and Alterations Combined Support Maintenance Shop	$1,613,000
District of Columbia	Fort Belvoir	Army Aviation Support Facility	2,765,000
Maryland	Cheltenham	Armory/Maintenance Shop	3,300,000
	Towson	Direct Logistics Warehouse	373,000
Mississippi	West Point	Maintenance Shop	1,270,000
	Tupelo	Maintenance Shop	$992,000
	Senatobia	Maintenance Shop	723,000
Nevada	Washoe County	Maintenance Shop	1,050,000
North Carolina	Camp Butner	Range	986,000
Ohio	Toledo	Armory	3,183,000
Rhode Island	Camp Varnum	Sewer and Water System	578,000
	Camp Fogarty	Armory	5,151,000
West Virginia	Huntington	Guard and Reserve Center	2,983,000

Army Reserve: Extension of 1992 Project Authorizations

State	Location	Project	Amount
Massachusetts	Taunton	Reserve Center	$3,526,000
Ohio	Perrysburg	Reserve Center Addition	2,749,000
Pennsylvania	Johnstown	Army and Marine Corps Aviation Facility	30,224,000
Tennessee	Jackson	Joint Training Facility	1,537,000
West Virginia	Huntington	Guard and Reserve Center	6,617,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1991 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1782), the authorizations for the projects set forth in the tables in subsection (b), as provided in section 2201, 2301, or 2401 of that Act and extended by section 2702(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1535) and section 2702 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1880), shall remain in effect until October 1, 1995, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996, whichever is later.

(b) TABLE.—The tables referred to in subsection (a) is as follows:

Navy: Extension of 1991 Project Authorization

State	Installation or location	Project	Amount
Connecticut	New London Naval Submarine Base	Thames River Dredging	$5,300,000

Air Force: Extension of 1991 Project Authorizations

State	Installation or location	Project	Amount
California	Beale Air Force Base	Student Dormitory	$3,650,000
Colorado	Buckley Air National Guard Base	Child Development Center	4,550,000
Hawaii	Schofield Barracks	Combat Arms Training/Maintenance Facility	1,400,000

Defense Agencies: Extension of 1991 Project Authorization

State	location	Project	Amount
Maryland	Defense Logistics Agency, Defense Reutilization and Marketing Office, Fort Meade	Covered Storage	$9,500,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1994; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. LIMITATION ON REPAIR OF EXISTING FACILITIES.

(a) APPLICATION OF LIMITATION TO MAJOR REPAIRS.—Section 2811 of title 10, United States Code, is amended to read as follows:

"§2811. Repair of facilities

"(a) REPAIRS USING OPERATIONS AND MAINTENANCE FUNDS.—Using funds available to the Secretary concerned for operation and maintenance, the Secretary concerned may carry out repair projects for an entire single-purpose facility or one or more functional areas of a multipurpose facility.

"(b) APPROVAL REQUIRED FOR MAJOR REPAIRS.—A repair project costing more than $5,000,000 may not be carried out under this section unless approved in advance by the Secretary concerned. In determining the total cost of a repair project, the Secretary shall include all phases of a multi-year repair project to a single facility. In considering a repair project for approval, the Secretary shall ensure that the project is consistent with force structure plans, that repair of the facility is more cost effective than replacement, and that the project is an appropriate use of operation and maintenance funds.

"(c) PROHIBITION ON NEW CONSTRUCTION OR ADDITIONS.—Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of subchapter I of chapter 169 of title 10, United States Code, is amended to read as follows:

"2811. Repair of facilities".

SEC. 2802. CLARIFICATION OF REQUIREMENT FOR NOTIFICATION OF CONGRESS OF IMPROVEMENTS IN FAMILY HOUSING UNITS.

Section 2825(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.".

SEC. 2803. LIMITED PARTNERSHIPS FOR NAVY HOUSING.

(a) AUTHORITY FOR HOUSING PARTNERSHIPS.—Subchapter II of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

"§2837. Limited partnerships with private developers of housing

"(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the naval service, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of the Navy may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not less than five percent, but not more than 35 percent, of the development costs under a limited partnership.

"(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

"(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

"(1) a suitable preference will be afforded members of the naval service in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

"(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

"(c) SELECTION OF INVESTMENT OPPORTUNITIES.—(1) The Secretary shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

"(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary. The Secretary may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

"(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the 'Navy Housing Investment Account'.

"(2) There shall be deposited into the Account—

"(A) such funds as may be authorized for and appropriated to the Account; and

"(B) any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a).

"(3) In such amounts as is provided in advance in appropriation Acts, the Account shall be available for contracts, investments, and expenses necessary for the implementation of this section.

"(4) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless the Account contains sufficient funds, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

"(e) NAVY HOUSING INVESTMENT BOARD.—(1) The Secretary of the Navy shall establish a board to be known as the 'Navy Housing Investment Board', which shall have the duties—

"(A) of advising the Secretary regarding those proposed limited partnerships under subsection (a), if any, that are financially and otherwise sound investments for meeting the objectives of this section;

"(B) of administering the Account established under subsection (d); and

"(C) of assisting the Secretary in such other ways as the Secretary determines to be necessary and appropriate to carry out this section.

"(2) The Navy Housing Investment Board shall be composed of seven members appointed for a two-year term by the Secretary. Among such members, the Secretary may appoint two persons from the private sector who have knowledge and experience in the financing and the construction of housing. The Secretary shall designate one of the members as chairperson of the Board.

"(3) Members of the Navy Housing Investment Board, other than those members regularly employed by the Federal Government, may be paid while attending meetings of the Board or otherwise serving at the request of the Secretary, compensation at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board. Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5.

"(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Navy Housing Investment Board.

"(f) REPORT.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit to Congress a report specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year.

"(g) TRANSFER OF NAVY LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

"(h) EXPIRATION AND TERMINATION OF AUTHORITIES.—(1) The authority of the Secretary to enter into a limited partnership under this section shall expire on September 30, 1999.

"(2) The Navy Housing Investment Board shall terminate on November 30, 1999.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2837. Limited partnerships with private developers of housing.".

SEC. 2804. REIMBURSEMENT FOR SERVICES PROVIDED BY THE DEPARTMENT OF DEFENSE INCIDENT TO CONSTRUCTION, MAINTENANCE, OR REPAIR PROJECTS TO REAL PROPERTY.

(a) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—Section 2205 of title 10, United States Code, is amended—

(1) by inserting "(a) AVAILABILITY OF REIMBURSEMENTS.—" before the first sentence; and

(2) by adding at the end the following new subsection:

"(b) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—The Secretary of Defense and the Secretaries of the military departments may charge a fixed rate for reimbursement of the costs of providing planning, supervision, administrative, or overhead services incident to any construction, maintenance, or repair project to real property or for providing facility services, irrespective of the appropriation financing the project or facility services.".

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2205. Reimbursements".

(2) The item relating to such section in the table of sections at the beginning of chapter 131 of title 10, United States Code, is amended to read as follows:

"2205. Reimbursements.".

SEC. 2805. AUTHORITY TO PAY CLOSING COSTS UNDER HOMEOWNERS ASSISTANCE PROGRAM.

Section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) is amended by inserting after the first sentence the following new sentence: "The

Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2811. PROHIBITION AGAINST CONSIDERATION IN BASE CLOSURE PROCESS OF ADVANCE CONVERSION PLANNING UNDERTAKEN BY POTENTIAL AFFECTED COMMUNITIES.

(a) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(3) of section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "(A)" before "In considering"; and

(2) by adding at the end the following new subparagraphs:

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.".

(b) COMMISSION RECOMMENDATIONS.—Subsection (d)(2) of such section is amended by adding at the end the following new subparagraph:

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.".

SEC. 2812. CONSULTATION REGARDING PERSONAL PROPERTY LOCATED AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) CLOSURES UNDER 1988 ACT.—(1) Section 204(b)(3)(D) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.".

(b) CLOSURES UNDER 1990 ACT.—Section 2905(b)(3)(D) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.".

SEC. 2813. CLARIFYING AND TECHNICAL AMENDMENTS TO BASE CLOSURE LAWS.

(a) CLARIFICATION OF SCOPE OF TERMINATION OF AUTHORITY UNDER 1988 ACT.—Section 202(c) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by striking out "The authority" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the authority"; and

(2) by adding at the end the following new paragraph:

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(b) USE OF UNOBLIGATED FUNDS IN 1988 ACCOUNT FOR ENVIRONMENTAL RESTORATION AND PROPERTY DISPOSAL.—Section 207(a)(5) of such Act is amended—

(1) by striking out "Unobligated funds" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), unobligated funds"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may, after the termination of authority referred to in subparagraph (A), use any unobligated funds referred to in that subparagraph that are not transferred in accordance with that subparagraph to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(c) CLARIFICATION OF DISPOSAL AUTHORITY.—

(1) UNDER 1988 ACT.—Section 204(b)(1) of such Act is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(2) UNDER 1990 ACT.—Section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(d) DEFINITION OF REDEVELOPMENT AUTHORITY.—

(1) UNDER 1988 ACT.—Section 209(10) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(2) UNDER 1990 ACT.—Section 2910(9) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by section 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927).

(e) CROSS REFERENCE.—

(1) UNDER 1988 ACT.—Section 204(b)(5)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (1)".

(2) UNDER 1990 ACT.—Section 2905(b)(5)(A) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (1)".

SEC. 2814. GOVERNMENT RENTAL OF FACILITIES LOCATED ON CLOSED MILITARY INSTALLATIONS.

(a) AUTHORIZATION TO RENT BASE CLOSURE PROPERTIES.—To promote the rapid conversion of military installations that are closed pursuant to a base closure law, the Administrator of the General Services may give priority consideration, when leasing space in accordance with the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to facilities of such an installation that have been acquired by a non-Federal entity.

(b) BASE CLOSURE LAW DEFINED.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

SEC. 2815. REPORT OF EFFECT OF BASE CLOSURES ON FUTURE MOBILIZATION OPTIONS.

(a) REPORT REQUIRED.—The Secretary of Defense shall prepare a report evaluating the effect of base closures and realignments conducted since January 1, 1987, on the ability of the Armed Forces to remobilize to the end strength levels authorized for fiscal year 1987 by sections 401, 403, 411, 412, and 421 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3859). The report shall identify those military construction projects, if any, that would be necessary to facilitate such remobilization and any defense assets disposed of under a base closure or realignment, such as air space, that would be difficult to reacquire in the event of such remobilization.

(b) TIME FOR SUBMISSION.—Not later than January 31, 1996, the Secretary shall submit to the congressional defense committees the report required by this section.

SEC. 2816. RESTORATION OF ANNUAL LEAVE FOR CIVILIAN EMPLOYEES IN CONNECTION WITH CERTAIN BASE REALIGNMENTS.

(a) RESTORATION REQUIRED.—Section 6304(d)(3) of title 5, United States Code, is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "closure of" and inserting "closure of, and any realignment with respect to,"; and

(3) by adding at the end the following new subparagraph:

"(B) For the purpose of subparagraph (A), the term 'realignment' means a base realignment (as defined in subsection (e)(3) of section 2687 of title 10) that meets the requirements of subsection (a)(2) of such section.".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to the restoration of annual leave of employees at military installations undergoing realignment if such leave is lost by operation of section 6304 of title 5, United States Code, on or after the date of the enactment of this Act.

SEC. 2817. AGREEMENTS OF SETTLEMENT FOR RELEASE OF IMPROVEMENTS AT OVERSEAS MILITARY INSTALLATIONS.

(a) AGREEMENTS SUBJECT TO OMB REVIEW.—Subsection (g) of section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence the following: "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.".

(b) REPORTS TO CONGRESS.—Such subsection is further amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

(2) by adding at the end the following:

"(2) Each year, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.".

Subtitle C—Changes to Existing Land Conveyance Authority

SEC. 2821. ADDITIONAL LESSEE OF PROPERTY AT NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

Section 2834(b) the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2614) is amended—

(1) is paragraph (1)—

(A) by striking out "City" the second place it appears and inserting in lieu thereof "Cities"; and

(B) by inserting "the City of Alameda, California," after "California," the first place it appears; and

(2) in paragraphs (2) and (3), by striking out "City" each place it appears and inserting in lieu thereof "Cities".

SEC. 2822. MODIFICATIONS OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) Participation of Additional Political Subdivisions in Regional Correctional Facility.—Subparagraph (B) of subsection (c)(3) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 108) is amended to read as follows:

"(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph from—

"(i) participating initially in the written agreement referred to in paragraph (2); or

"(ii) agreeing at a later date to participate as a member of the governmental entity referred to in paragraph (2)(A), or by contract with such entity, in the construction or operation of the regional facility to be constructed on the parcel of land conveyed under this section.".

(b) Time for Construction and Operation of Correctional Facility.—(1) Subsection (d)(1)(A)(i) of such section is amended by striking out "not later than 24 months after the date of the enactment of this Act" and inserting in lieu thereof "not later than April 1, 1997".

(2) The Secretary of the Army shall provide the recipient of the conveyance of property under section 603 of such Act with such legal instrument as is appropriate to modify, in accordance with the amendment made by paragraph (1), any statement of conditions contained in any existing instrument which conveyed the property to that recipient. The Secretary shall record the instrument in the appropriate office or offices of the Commonwealth of Virginia or political subdivision within the Commonwealth.

SEC. 2823. PRESERVATION OF CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, NEW YORK, AS NATURE PRESERVE.

(a) Preservation as Nature Preserve Required.—Section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626) is amended—

(1) by redesignating subsections (a) and (b) as subsections (c) and (d), respectively; and

(2) by inserting before subsection (c), as so redesignated, the following new subsections:

"(a) Purpose.—It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

"(b) Prohibition on Inconsistent Development.—The Secretary of the Navy shall not carry out or permit any development, commercial or residential, at the Calverton Pine Barrens that is inconsistent with the purpose specified in subsection (a).".

(b) Conforming Amendments.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking out "Prohibition.—" and inserting in lieu therefore "Reversionary Interest.—"; and

(2) by striking out "for commercial purposes" and all that follows through the period and inserting in lieu thereof "in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).".

SEC. 2824. RELEASE OF REVERSIONARY INTEREST RETAINED AS PART OF CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1904) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 2825. MODIFICATION OF LAND CONVEYANCE, FORT KNOX, KENTUCKY.

Section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1655) is amended—

(1) in subsection (c)(1), by striking out "for the construction of up to four units of military family housing at Fort Knox, Kentucky" and inserting in lieu thereof "for improvements to military family housing at Fort Knox, Kentucky, in an amount not to exceed $255,000";

(2) by striking out subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2826. REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) Clerical Amendments.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) Payment for Survey.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The cost of the survey shall be borne by the State of Texas.".

SEC. 2827. MODIFICATION OF HEIGHT RESTRICTION IN AVIGATION EASEMENT.

(a) Modification.—Section 6 of the Act of July 2, 1948 (62 Stat. 1229), as added by section 2862 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1805), is amended by adding at the end the following new sentence: "In addition, such height restriction shall not apply to the structure proposed to be constructed on a parcel of real property that is within the area conveyed under this Act and is identified as 1110 Santa Rosa Boulevard, Fort Walton Beach, Florida, so long as the proposed structure upon completion does not exceed a height of 155 feet above mean low-water level.".

(b) Instrument of Release.—The Secretary of the Air Force shall execute and file in the appropriate office any instrument necessary to effect the modification of the avigation easement referred to in the amendment made by subsection (a).

SEC. 2828. TECHNICAL AMENDMENT TO CORRECT REFERENCE IN LAND TRANSACTION.

Section 2842(c) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1898) is amended by striking out "Washington Gas Company" and inserting in lieu thereof "American Water Company".

Subtitle D—Land Conveyances

SEC. 2831. LAND CONVEYANCE, AIR FORCE PLANT NO. 3, TULSA, OKLAHOMA.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey, without consideration, to the City of Tulsa, Oklahoma (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, which consists of approximately 337 acres located in Tulsa, Oklahoma, and is known as Air Force Plant No. 3. The Secretary may also convey facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel to be conveyed if the Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstated on the parcel after conveyance of the parcel.

(b) Lease Authority.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the City in exchange for security services, fire protection, and maintenance provided by the City for the property.

(c) Condition of Conveyance.—The conveyance authorized under subsection (a) shall be subject to the condition that the City, directly or through an agreement with a public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at the parcel.

(d) Reversionary Interest.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (c), all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed) shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(e) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, AIR FORCE PLANT NO. 59, JOHNSON CITY (WESTOVER), NEW YORK.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey, without consideration, to the Broome County Industrial Development Authority (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, containing Air Force Plant No. 59, Johnson City (Westover), New York. The Secretary may also convey facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel to be conveyed if the

Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstituted on the parcel after conveyance of the parcel.

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Authority in exchange for security services, fire protection, and maintenance provided by the Authority for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority, directly or through an agreement with another public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at Air Force Plant No. 59.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (c), all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed) shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Authority.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) IN GENERAL.—The Secretary of the Navy may convey, without consideration, to the Community Development Agency of the Town of Riverhead, New York (in this section referred to as the "Community Development Agency"), all right, title and interest of the United States in and to a parcel of land, and improvements thereon, consisting of approximately 2,900 acres and comprising a portion of the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) CONDITION OF CONVEYANCE.—(1) The conveyance authorized under subsection (a) shall be subject to the condition that the Community Development Agency, directly or through an agreement with another public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity lost at the Naval Weapons Industrial Reserve Plant.

(2) The Community Development Agency shall carry out economic redevelopment under paragraph (1) in accordance with any redevelopment plan or plans prepared with respect to the Naval Weapons Industrial Reserve Plant by a planning commission that represents entities or organizations having an interest in land use in the region in which the plant is located.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (b)(1), all right, title and interest in and to the property, including improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Community Development Agency.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers to be necessary to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, RADAR BOMB SCORING SITE, DICKINSON, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the North Dakota Board of Higher Education (in this section referred to as the "Board") all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 4 acres located in Dickinson, North Dakota, which has served as the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Dickinson, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Board—

(1) use the property, recreational facilities, and housing facilities conveyed under such subsection for housing, recreation, and other purposes that, as determined by the Secretary, will promote and enhance educational opportunities provided by Dickinson State University; or

(2) enter into an agreement with an appropriate public or private entity to lease such property and facilities to that entity for such uses.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed property is not being used in accordance with subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND CONVEYANCE, FINLEY, AIR FORCE STATION, FINLEY, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—(1) Subject to subsection (c), the Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the "City"), with the consent of the City, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 12 acres, including improvements thereon, located 1.5 miles west of Finley, North Dakota, which has served as a support complex, recreational facilities, and housing facilities for the Finley Air Force Station and Radar Site, Finley, North Dakota.

(2) The parcel of property to be conveyed under paragraph (1) shall include real property referred to in that paragraph that is the location of a housing complex, the location of a waste water treatment system, and the former site of a trailer court.

(3) The purpose of the conveyance authorized under paragraph (1) is to encourage and facilitate economic redevelopment of Finley, North Dakota, following the closure of the Air Force Station and Radar Site.

(b) CONDITION OF CONVEYANCE.—The conveyance required under subsection (a)(1) shall be subject to the condition that the City—

(1) use the property and recreational facilities conveyed under that subsection for housing and recreation purposes; or

(2) enter into an agreement with an appropriate public or private entity or person to sell or lease the property and facilities to that entity or person for such uses.

(c) EFFECTIVE DATE OF CONVEYANCE.—The conveyance required under subsection (a)(1) shall occur, if at all, not earlier than January 1, 1995, and not later than June 30, 1995.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2836. LAND CONVEYANCE, CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to the Hall County, Nebraska, Board of Supervisors (in this section referred to as the "Board"), or the designee of the Board, all right, title and interest of the United States in and to the real property, together with any improvements thereon, located in Hall County, Nebraska, that is the site of the Cornhusker Army Ammunition Plant.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

(c) UTILIZATION OF PROPERTY.—The Board or its designee, as the case may be, shall utilize the real property conveyed under subsection (a) in a manner consistent with the Cornhusker Army Ammunition Plant Reuse Committee Comprehensive Reuse Plan.

(d) CONSIDERATION.—In consideration for the conveyance under subsection (a), the Board or its designee, as the case may be, shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary.

(e) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)) the amount received from the Board or its designee under subsection (d).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary may use the entire amount deposited in the special account under paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property

conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board or its designee, as the case may be.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, HAWTHORNE ARMY AMMUNITION PLANT, MINERAL COUNTY, NEVADA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Mineral County, Nevada, all right, title, and interest of the United States in and to a parcel consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by Mineral County, Nevada.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. LAND CONVEYANCE, FORT DIX, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Edison, New Jersey (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) included on the real property inventory of Fort Dix, New Jersey, which consists of approximately 10 acres and contains recreational fields and an unused garage identified as building 1072 on the real property inventory.

(b) CONDITION OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the condition that the City—

(1) maintain and use the recreational fields conveyed under such subsection for recreational purposes; and

(2) permit the women's softball team known as the Edison Angels (and any successor to such team) to continue to use such recreational fields on the same terms and conditions as contained in the agreement between the team and the Secretary, in existence on the date of the enactment of this Act.

(c) REVERSIONARY INTEREST.—If the Secretary determines that the City is not complying with the conditions specified in subsection (b), all right, title, and interest of the City in and to the property conveyed under subsection (a) (including improvements thereon) shall revert to the United States, and the United States shall have the right of immediate reentry on the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2839. LAND CONVEYANCE, DEFENSE FUEL SUPPLY POINT, CASCO BAY, MAINE.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey, without consideration, to the Town of Harpswell, Maine (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements (other than underground fuel storage facilities and above-ground fuel storage facilities) thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

(b) REQUIREMENTS RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized under subsection (a) until the Secretary of Defense—

(1) completes the removal from the parcel of all underground fuel storage facilities and above-ground fuel storage facilities; and

(2) notifies the Secretary of the Navy that the Secretary of Defense has carried out the requirements set forth in section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) with respect to the parcel.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2840. LAND CONVEYANCE, ARMY RESERVE FACILITY, RIO VISTA, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Rio Vista, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) containing the Reserve training facility located in Rio Vista, California.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City use the property for recreational purposes.

(c) CONSIDERATION.—In recognition of the public use to which the conveyed property will be devoted, the Secretary may require the City to pay to the United States an amount equal to less than the fair market value of the property, as determined by the Secretary, as consideration for the conveyance under subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2841. LEASE OF PROPERTY, NAVAL SHIPYARD, VALLEJO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease, without consideration, to the City of Vallejo, California (in this section referred to as the "City"), the real property (including improvements thereon) described in subsection (b), which is located on Mare Island in Vallejo, California, and is currently under the control of Mare Island Naval Shipyard Command.

(b) COVERED PROPERTY.—The parcel of real property to be leased under subsection (a) shall consist of all existing active dredge ponds and nontidal areas on Mare Island under the jurisdiction of the Navy, except that the parcel shall not include the nontidal areas identified in figure 3 of the Memorandum of Understanding between the United State Fish and Wildlife Service and Mare Island Naval Shipyard, dated July 28, 1988.

(c) LEASE TERMS.—The lease authorized under subsection (a)—

(1) may be for a period of not more than 15 years; and

(2) shall provide that the City—

(A) retain environmental responsibility for all actions of the City on the property subject to the lease; and

(B) hold harmless, indemnify, and defend the United States from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for injury or damage that results from, or is in any manner predicated upon activities of the City on the leased property during the term of the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LEASE OF PROPERTY, NAVAL RADIO RECEIVING FACILITY, IMPERIAL BEACH, CORONADO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Young Men's Christian Association of San Diego County, a California nonprofit public benefit corporation (in this section referred to as the "YMCA"), such interests in a parcel of real property (including any improvements thereon) consisting of approximately 45 acres at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, as the Secretary considers appropriate for the YMCA to operate and maintain a summer youth residence camp known as the YMCA San Diego Unified Recreational Facility (Camp SURF). Pursuant to the lease, the Secretary may authorize the YMCA to construct facilities on the parcel.

(b) LEASE TERMS.—The lease authorized in subsection (a) shall be for a period of 50 years, or such longer period as the Secretary determines to be in the best interests of the United States.

(c) CONSIDERATION.—As consideration for the lease of real property under subsection (a), the YMCA shall—

(1) agree to maintain and enhance the natural resources of the leased premises; and

(2) pay to the United States an amount in cash equal to the difference between the rental price prescribed by the Secretary under subsection (d) and the value of natural resources maintenance and enhancements performed by the YMCA, as determined by the Secretary.

(d) DETERMINATION OF RENTAL PRICE.—Acknowledging the benefits the YMCA has provided to the Armed Forces and the specific benefits Camp Surf provides to the children of San Diego, the Secretary may prescribe a rental price for the real property leased under subsection (a) that is less than fair market rental value.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the operation of the Naval Radio Receiving Facility, Imperial Beach, and to protect the interests of the United States.

SEC. 2843. AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE CERTAIN NAVY PROPERTY.

(a) JOINT USE AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, a special district of the State of California (in this section referred to as

the "District"), under which the District may use United States Navy Wharf Number 3 and associated real property comprising up to 25 acres located at the Naval Construction Battalion Center, Port Hueneme, California (in this section referred to as the "Center").

(b) TERM OF AGREEMENT.—The agreement authorized under subsection (a) may be for an initial period of not more than 15 years. Under the agreement, the Secretary shall provide the District with an option to extend the agreement for three additional periods of 5 years each.

(c) RESTRICTIONS ON USE.—The agreement authorized under subsection (a) shall require the District—

(1) to suspend operations under the agreement in the event Navy contingency operations are conducted at the Center; and

(2) to use the property covered by the agreement in a manner consistent with Navy operations conducted at the Center.

(d) CONSIDERATION.—(1) As consideration for the use of the property covered by the agreement under subsection (a), the District shall pay to the Navy an amount equal to the fair market rental value of the property, as determined by the Secretary taking into consideration the District's use of the property.

(2) The Secretary may include a provision in the agreement requiring the District—

(A) to pay the Navy an amount (as determined by the Secretary) to cover the costs of replacing at the Center any facilities vacated by the Navy on account of the agreement or to construct suitable replacement facilities for the Navy; and

(B) to pay the Navy an amount (as determined by the Secretary) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) CONGRESSIONAL NOTIFICATION.—The Secretary may not enter into the agreement authorized by subsection (a) until the end of the 21-day period beginning on the date on which the Secretary submits to Congress a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PAYMENT.—(1) In such amounts as is provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(1) to pay for general supervision, administration, and overhead expenses and for improvement, maintenance, repair, construction, or restoration to the port operations area (or to roads and railways serving the area) at the Center.

(2) In such amounts as is provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on account of the agreement under subsection (a) and for relocating operations of the Navy from the vacated facilities to replacement facilities.

(g) CONSTRUCTION BY DISTRICT.—The Secretary may authorize the District to demolish existing facilities located on the property covered by the agreement under subsection (a) and, consistent with the restriction specified in subsection (c)(2), construct new facilities on the property for joint use by the District and the Navy.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer, without reimbursement, the administrative jurisdiction, accountability, and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SEC. 2845. TRANSFER OF JURISDICTION, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) IN GENERAL.—Subject to subsections (c) through (g), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the Department of the Air Force, without reimbursement, jurisdiction and control of approximately 1,262 acres of public lands described in subsection (b). Such public lands are located in Otero County, New Mexico, and are contiguous to Holloman Air Force Base.

(b) DESCRIPTION OF LANDS TRANSFERRED.—The lands described in this subsection are as follows:

(1) T17S, R8E, Section 21:	*S½ N½:*	*160 acres*
	E½ NW¼ NE¼:	*20 acres*
	NE¼ NE¼:	*40 acres*
(2) T17S, R8E, Section 22:	*W½:*	*320 acres*
	W½ E½:	*160 acres*
(3) T17S, R8E, Section 27:	*All that part north of New Mexico Highway 70 except for the E½ E½*	*192 acres more or less*
(4) T17S, R8E, Section 28:	*NE¼:*	*160 acres*
	N½ SE¼:	*80 acres*
	SW¼ SE¼:	*40 acres*
	W½ SE¼ SE¼:	*20 acres*
(5) T17S, R8E, Section 33:	*NW¼ NE¼:*	*40 acres*
	NW¼ NE¼ NE¼:	*10 acres*
	W½ SW¼ NE¼:	*20 acres*

(c) USE OF TRANSFERRED LAND.—The lands transferred to the Department of the Air Force under subsection (a) shall be used by the Secretary of the Air Force for the construction of new evaporation ponds to support a wastewater treatment facility that the Secretary shall construct at Holloman Air Force Base.

(d) CATTLE GRAZING RIGHTS.—

(1) IN GENERAL.—The United States recognizes a grazing preference on the lands transferred to the Department of the Air Force under subsection (a).

(2) ADJUSTMENT OF GRAZING ALLOTMENT.—(A) The Secretary of the Air Force shall take such action as is necessary to ensure that—

(i) the boundary of the grazing allotment that contains the lands transferred to the Department of the Air Force is adjusted in such manner as to retain the portion of the allotment located south of United States Highway 70 in New Mexico and remove the portion of the lands that is located north of such highway; and

(ii) the grazing preference referred to in paragraph (1) is retained by means of transferring the preference for the area removed from the allotment under subparagraph (A) to public lands located south of such highway.

(B) The Secretary of the Air Force shall offer to enter into an agreement with each person who holds a permit for grazing on the lands transferred to the Department of the Air Force at the time of the transfer to provide for the continued grazing by livestock on the portion of the lands located south of such highway.

(e) ADDITIONAL REQUIREMENTS.—

(1) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary of the Air Force shall ensure that the transfer made pursuant to subsection (a) and the use specified in subsection (c) meet any applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL LAWS.—The Secretary of the Air Force shall use and manage the lands transferred under the authority in subsection (a) in such manner as to ensure compliance with applicable environmental laws (including regulations) of the Federal Government and State of New Mexico, and political subdivisions thereof.

(3) RESPONSIBILITY FOR CLEANUP OF HAZARDOUS SUBSTANCES.—Upon the transfer of the lands under subsection (a), the Secretary of the Air Force shall assume any existing or subsequent responsibility for the cost of response for release of hazardous substances (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) located on or within the lands transferred.

(4) MINING.—The transfer of lands under subsection (a) shall be made in such manner as to ensure the continuation of valid, existing rights under the mining laws and the mineral leasing and geothermal leasing laws of the United States. Subject to the preceding sentence, upon the transfer of the lands, mining and mineral management activities shall be carried out in the lands in a manner consistent with the policies of the Department of Defense concerning mineral exploration and extraction on lands under the jurisdiction of the Department.

(f) RIGHTS-OF-WAY.—The transfer of lands under subsection (a) shall not affect the following rights-of-way:

(1) The right-of-way granted to the Otero County Electric Cooperative, numbered NMNM 58293.

(2) The right-of-way granted to U.S. West Corporation, numbered NMNM 59261.

(3) The right-of-way granted to the Highway Department of the State of New Mexico, numbered LC0 54403.

(g) PUBLIC ACCESS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit public access to the lands transferred under subsection (a).

(2) CONSTRUCTION SITE.—The Secretary of the Air Force may not permit public access to the immediate area affected by the construction of a wastewater treatment facility in the area with the legal description of T17S, R8E, Section 22, except that the Secretary of the Air Force shall permit public access on an adjoining unfenced parcel of land—

(A) located along the west boundary of such area; and

(B) that is 50 feet in width.

(3) PUBLIC USES.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit, on the lands transferred under subsection (a), public uses that are consistent with the public uses on adjacent lands under the jurisdiction of the Secretary of the Interior.

(4) PERMIT NOT REQUIRED.—The Secretary of the Air Force may not require a permit for access authorized under this subsection to the lands transferred under subsection (a).

(5) ENTRY GATE.—The Secretary of the Air Force shall ensure that the entry gate to the lands transferred under subsection (a) that is located along United States Highway 70 shall be open to the public.

SEC. 2846. TRANSFER OF JURISDICTION, FORT DEVENS, MASSACHUSETTS.

(a) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, administrative jurisdiction of approximately 800 acres of land at Fort Devens, Massachusetts, to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, Massachusetts. The exact acreage of the land subject to the transfer shall be jointly determined by the Secretary of the Army and the Secretary of the Interior, in consultation with the Joint Boards of Selectmen of the towns of Harvard, Ayer, Shirley, and Lancaster in the State of Massachusetts and the Massachusetts Land Bank.

(b) ADMINISTRATION OF LAND.—The Secretary of the Interior shall administer the land transferred under this section in accordance with all laws applicable to areas in the National Wildlife Refuge System.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army and the Secretary of the Interior.

SEC. 2847. RELEASE OF REQUIREMENTS AND REVERSIONARY INTEREST ON CERTAIN PROPERTY IN BALTIMORE, MARYLAND.

(a) RELEASE AUTHORIZED.—The Secretary of Defense may release, without consideration, the requirements and the reversionary interest of the United States that are described in section 2 of the Act entitled "An Act granting a site for a dry-dock in the city of Baltimore upon certain conditions", approved June 19, 1878 (Chapter 310; 20 Stat. 167).

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms or conditions in connection with the release required under this section as the Secretary considers appropriate to protect the interests of the United States.

(c) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

SEC. 2848. RELEASE OF REVERSIONARY INTEREST ON CERTAIN PROPERTY IN YORK COUNTY AND JAMES CITY COUNTY, VIRGINIA, AND NEWPORT NEWS, VIRGINIA.

(a) RELEASE AUTHORIZED.—The Secretary of the Navy may release, without consideration, the reversionary interest of the United States in the real property conveyed by the deed described in subsection (b).

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is a deed between the United States and the Commonwealth of Virginia dated August 17, 1966, which conveyed to the Commonwealth of Virginia certain parcels of land located in York County and James City County, Virginia, and the city of Newport News, Virginia.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States and to ensure that the real property will continue to be used for public purposes.

(d) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

Subtitle E—Other Matters

SEC. 2851. JOINT CONSTRUCTION CONTRACTING FOR COMMISSARIES AND NONAPPROPRIATED FUND INSTRUMENTALITY FACILITIES.

(a) SINGLE CONTRACT CONSTRUCTION.—Section 2685 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of a military department may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(2) In paragraph (1), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.".

(b) OBLIGATION OF ANTICIPATED PROCEEDS.—Subsection (c) of such section is amended by inserting "or (d)" after "subsection (b)" both places it appears.

SEC. 2852. NATIONAL GUARD FACILITY CONTRACTS SUBJECT TO PERFORMANCE SUPERVISION BY ARMY OR NAVY.

(a) CONTRACTS SUBJECT TO SUPERVISION.—Subsection (a) of section 2237 of title 10, United States Code, is amended by striking out "under any provision" and all that follows through "and (4)" and inserting in lieu thereof "under section 2233(a)(1)".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by striking out "section 2233(a)(2), (3), or (4)" and inserting in lieu thereof "paragraph (2), (3), (4), (5), or (6) of section 2233(a)".

SEC. 2853. REPEAL OF RESTRICTIONS ON LAND TRANSACTIONS RELATING TO PRESIDIO OF SAN FRANCISCO, CALIFORNIA.

Section 2856 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103-160; 107 Stat. 1908) is repealed.

SEC. 2854. REPORT ON USE OF FUNDS FOR ENVIRONMENTAL RESTORATION AT CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) REPORT REQUIRED.—The Secretary of the Army shall submit to Congress a report describing the manner in which funds available to the Army for operation and maintenance (including funds in the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code) will be used by the Secretary for environmental restoration and maintenance of the real property that comprises the Cornhusker Army Ammunition Plant, Hall County, Nebraska.

(b) CONTENTS.—The report shall include the following:

(1) The funding plan for environmental restoration at the Cornhusker Army Ammunition Plant.

(2) A legal opinion stating whether any portion of the funds to be used for such environmental restoration may be used for the repair of the roads at the Plant in order to bring such roads into compliance with applicable State and local public works codes.

(3) A survey of the roads at the Plant that identifies which roads, if any, are in need of repair in order to bring the roads at the Plant into compliance with such codes.

(4) An estimate of the cost of the repair of the roads referred to in paragraph (3) in order to bring the roads into compliance.

(5) An explanation of the purpose, cost, and source of funds for any proposed preservation of documents or other materials relating to the cultural, historical, and natural resources associated with the Plant.

(c) SUBMISSION OF REPORT.—The Secretary shall submit the report required by this section not later than May 1, 1995.

SEC. 2855. ENGINEERING, DESIGN, CONSTRUCTION, AND RELATED SERVICES FOR WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL.

The Secretary of the Army is authorized, upon request by the Women in Military Service for America Memorial Foundation, Inc., to provide engineering, design, construction management, and related services, directly or by contract, to the Women in Military Service for America Memorial Foundation, Inc., on a reimbursable basis, for the purpose of repair, restoration, and preservation of the main gate structures, center plaza, and hemicycle of the Arlington National Cemetery, Arlington, Virginia, and the construction of the Women in Military Service for America Memorial.

SEC. 2856. SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if—

(1) the project is consistent with past actions under the base closure laws;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense.

These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

(c) Base Closure Laws Defined.—For purposes of this section, the term "base closure laws" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) Research and Development.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for research and development in carrying out weapons activities necessary for national security programs in the amount of $1,321,937,000, to be allocated as follows:

(1) For core research and development, $777,251,000, to be allocated as follows:

(A) For operating expenses, $649,341,000.

(B) For capital equipment, $59,420,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $68,490,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,500,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $3,300,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $13,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $21,810,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $4,900,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $20,980,000.

(2) For operating expenses for stockpile stewardship, $152,419,000.

(3) For inertial fusion, $176,473,000, to be allocated as follows:

(A) For operating expenses, $166,755,000.

(B) For capital equipment, $9,718,000.

(4) For technology transfer, $215,794,000, to be allocated as follows:

(A) For operating expenses, $209,794,000.

(B) For capital equipment, $6,000,000.

(b) Testing.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for testing in carrying out weapons activities necessary for national security programs in the amount of $208,000,000, to be allocated as follows:

(1) For weapons programs, $201,000,000, to be allocated as follows:

(A) For testing capabilities and readiness, $165,000,000.

(B) For capital equipment, $15,000,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,000,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,000,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $17,000,000.

(2) For Marshall Islands dose reconstruction, $7,000,000, to be allocated as follows:

(A) For operating expenses, $6,530,000.

(B) For capital equipment, $470,000.

(c) Stockpile Support.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for stockpile support in carrying out weapons activities necessary for national security programs in the amount of $1,698,556,000, to be allocated as follows:

(1) For operating expenses for stockpile support, $1,476,785,000.

(2) For operating expenses for reconfiguration, $94,271,000.

(3) For capital equipment, $20,180,000.

(4) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $107,320,000, to be allocated as follows:

Project 88–D–122, facilities capability assurance program, various locations, $14,820,000.

Project GPD–121, general plant projects, various locations, $1,000,000.

Project 95–D–123, replacement transportation safeguards division aviation facility, Albuquerque, New Mexico, $2,000,000.

Project 95–D–122, sanitary sewer upgrade Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $5,000,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $15,000,000.

Project 93–D–123, complex–21, various locations, $58,000,000.

(d) Program Direction.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out weapons activities necessary for national security programs in the amount of $159,852,000, to be allocated as follows:

(1) For operating expenses for weapons program direction, $157,498,000.

(2) For capital equipment, $2,354,000.

(e) Adjustments.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (d) reduced by the sum of—

(1) $143,276,000, for use of prior year balances; and

(2) $11,000,000, for savings resulting from procurement reform.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) Corrective Activities.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $512,000, all of which shall be available for the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto):

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California.

(b) Environmental Restoration.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,518,549,000.

(2) Subject to subsection (h), the amount authorized to be appropriated pursuant to this subsection is the amount authorized to be appropriated in paragraph (1) reduced by $133,900,000, as a result of the productivity savings initiative.

(c) Waste Management.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,855,772,000, to be allocated as follows:

(A) For operating expenses, $2,390,066,000.

(B) For capital equipment, $90,790,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $374,916,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $16,832,000.

Project 95–E–600, hazardous materials training center, Richland, Washington, $7,000,000.

Project 95–D–401, radiological support facilities, Richland, Washington, $1,585,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $700,000.

Project 95–D–403, hazardous waste storage facility, Mound Plant, Miamisburg, Ohio, $597,000.

Project 95–D–405, industrial landfill V and construction demolition landfill VII, Y–12 Plant, Oak Ridge, Tennessee, $1,000,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $2,338,000.

Project 95–D–407, 219–S secondary containment upgrade, Richland, Washington, $2,000,000.

Project 95–D–408, Phase II liquid effluent treatment and disposal, Richland, Washington, $7,100,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $3,292,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $21,373,000.

Project 94–D–406, low-level waste disposal facilities, K–25, Oak Ridge, Tennessee, $6,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $17,700,000.

Project 94–D–408, office facilities—200 East, Richland, Washington, $4,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $42,200,000.

Project 94–D–416, solvent storage tanks installation, Savannah River, South Carolina, $1,700,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $300,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,400,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats, Golden, Colorado, $3,300,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $3,300,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $14,810,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $88,605,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $26,525,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $5,000,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $2,846,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $3,995,000.

Project 90–D–172, aging waste transfer line, Richland, Washington, $3,819,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $1,747,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $7,594,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $300,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $18,000,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $5,900,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $6,000,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $45,058,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $160,800,000, as a result of the productivity savings initiative.

(d) TECHNOLOGY DEVELOPMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $405,759,000, to be allocated as follows:

(1) For operating expenses, $380,974,000.

(2) For capital equipment, $24,785,000.

(e) TRANSPORTATION MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $20,684,000, to be allocated as follows:

(1) For operating expenses, $20,240,000.

(2) For capital equipment, $444,000.

(f) PROGRAM DIRECTION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $84,948,000, to be allocated as follows:

(1) For operating expenses, $83,748,000.

(2) For capital equipment, $1,200,000.

(g) FACILITY TRANSITION AND MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for facility transition and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $772,967,000, to be allocated as follows:

(A) For operating expenses, $676,884,000.

(B) For capital equipment, $18,947,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $77,136,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $15,211,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $986,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Golden, Colorado, $2,500,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,219,000.

Project 94–D–412, 300 area process sewer piping system upgrade, Richland, Washington, $7,800,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $4,920,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $10,600,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $7,800,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,000,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $4,000,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $2,100,000.

Project 92–D–181, INEL fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 92–D–182, INEL sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $1,900,000.

Project 92–D–186, steam system rehabilitation, Phase II, Richland, Washington, $5,600,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $5,000,000, as a result of the productivity savings initiative.

(h) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b)(2), (c)(2), (d), (e), (f), and (g)(2) reduced by the sum of—

(1) $249,300,000, for use of prior year balances; and

(2) $17,500,000, for savings resulting from procurement reform.

SEC. 3103. NUCLEAR MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS.

(a) MATERIALS SUPPORT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for materials support in carrying out nuclear materials support necessary for national security programs in the amount of $902,255,000, to be allocated as follows:

(1) For reactor operations, $163,634,000.

(2) For processing of nuclear materials, $410,468,000.

(3) For support services, $167,776,000.

(4) For capital equipment, $39,427,000.

(5) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $64,950,000, to be allocated as follows:

Project GPD–146, general plant projects, various locations, $15,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $750,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $2,100,000.

Project 95–D–157, D-area powerhouse life extension, Savannah River, South Carolina, $4,000,000.

Project 95–D–158, disassembly basin upgrades K, L, and P, Savannah River, South Carolina, $13,000,000.

Project 93–D–147, domestic water system upgrade, Phases I and II, Savannah River, South Carolina, $11,300,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $2,700,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,900,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $3,000,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $5,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $2,000,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,200,000.

(6) For program direction, $56,000,000.

(b) OTHER DEFENSE PROGRAMS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for other defense programs in carrying out defense programs necessary for national security programs in the amount of $669,657,000, to be allocated as follows:

(1) For verification and control technology, $348,555,000, to be allocated as follows:

(A) For operating expenses, $332,682,000.

(B) For capital equipment, $15,873,000.

(2) For nuclear safeguards and security, $85,816,000, to be allocated as follows:

(A) For operating expenses, $82,421,000.

(B) For capital equipment, $3,395,000.

(3) For security investigations, $33,827,000.

(4) For security evaluations, $14,780,000.

(5) For the Office of Nuclear Safety, $21,679,000, to be allocated as follows:

(A) For operating expenses, $21,629,000.

(B) For capital equipment, $50,000.

(6) For worker and community transition, $115,000,000.

(7) For fissile material control and disposition, $50,000,000.

(c) NAVAL REACTORS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for naval reactors in carrying out nuclear materials support and other defense programs necessary for national security programs in the amount of $725,651,000, to be allocated as follows:

(1) For naval reactors development, $693,651,000, to be allocated as follows:

(A) For operating expenses:

(i) For plant development, $146,700,000.

(ii) For reactor development, $348,951,000.

(iii) For reactor operation and evaluation, $131,000,000.

(iv) For program direction, $18,800,000.

(B) For capital equipment, $28,200,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years,

and land acquisition related thereto), $20,000,000, to be allocated as follows:

Project GPN-101, general plant projects, various locations, $6,200,000.

Project 95-D-200, laboratory systems and hot cell upgrades, various locations, $2,400,000.

Project 95-D-201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 93-D-200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 92-D-200, laboratories facilities upgrades, various locations, $2,800,000.

(2) For operating expenses for enrichment materials, $32,000,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b), and (c) reduced by the sum of—

(1) $40,000,000, for recovery of overpayment to the Savannah River Pension Fund;

(2) $6,500,000, for savings resulting from procurement reform; and

(3) $401,406,000, for use of prior year balances for materials support and other defense programs.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $129,430,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the action and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same time period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. CONSTRUCTION DESIGN AND CONCEPTUAL DESIGN FOR CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $3,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and construction design exceeds $600,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for advance planning and construction design for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any proposed construction project exceeds $3,000,000, funds for such planning and design must be specifically authorized by law.

(c) REQUIREMENT OF CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) In any case in which the total estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before the Secretary submits a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy under sections 3101, 3102, and 3103, including those funds authorized to be appropriated for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirements of subsections (b) and (c) of section 3125 do not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title that are made available for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note),

the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, and the directors of the laboratories referred to in paragraph (1).

(b) Support of Dual-Use Programs.—(1) As part of the recruitment and training program, the directors of the laboratories referred to in subsection (a)(1) may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(2) Of the amounts authorized to be appropriated to the Secretary of Energy in section 3101(a)(1) for weapons activities for core research and development and allocated by the Secretary for education initiatives, $5,000,000 shall be available for employing students and fellows to carry out research referred to in paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).

(c) Establishment of Retiree Corps.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the laboratories referred to in subsection (a)(1), shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(d) Report.—(1) Not later than February 1, 1995, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the demographic trends of the personnel of the laboratories referred to in subsection (a)(1) and on actions taken by the Department of Energy to remedy identified deficiencies in various skill areas.

(2) The report shall be prepared in coordination with the Chairman of the Joint Nuclear Weapons Council and the directors of the laboratories. Information included in the report shall be aggregated and compiled into statistical categories.

(3) The report shall include the following:

(A) An inventory of the weapons-related tasks that the laboratories need to perform to support their nuclear weapons responsibilities.

(B) An inventory of the skills necessary to complete the weapons-related tasks referred to in subparagraph (A).

(C) For each laboratory, the number of scientists needed in each skill area to perform such tasks.

(D) The number of the scientists providing services in each skill area at each laboratory, stated by age.

(E) An assessment of which skill areas are understaffed.

(F) The number of scientists entering the weapons program at each laboratory, and their skill areas.

(G) The number of full-time equivalent personnel with weapon skills, their distribution by skill and, for each such skill, their distribution by age.

(H) The number of scientists retiring from the weapons program in the five-year period ending on the date of the report and the skill areas in which they worked in the year preceding their retirement.

(I) Based on the information contained in subparagraphs (A) through (H), a projection of the skills areas that will become understaffed in the five years following the date of the report.

(J) A statement of alternative actions that may be taken to retain and recruit scientists for the weapons programs at the laboratories in order to preserve a sufficient skill base and to fulfill stockpile stewardship responsibilities.

(K) Any plans of the Secretary to take any of the alternative actions referred to in subparagraph (J).

SEC. 3132. DEFENSE INERTIAL CONFINEMENT FUSION PROGRAM.

Of the funds authorized to be appropriated by this title to the Department of Energy for fiscal year 1995, $176,473,000 shall be available for the defense inertial confinement fusion program.

SEC. 3133. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) in amounts as follows:

(1) $50,000, assessed against the Fernald Environmental Management Project, Ohio, under such Act.

(2) $50,000, assessed against the Portsmouth Gaseous Diffusion Plant, Ohio, under such Act.

SEC. 3134. WATER MANAGEMENT PROGRAMS.

From funds authorized to be appropriated pursuant to section 3102 to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $11,415,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3135. PROTECTION OF WORKERS AT NUCLEAR WEAPONS FACILITIES.

Of the funds authorized to be appropriated by section 3102 for environmental restoration and waste management activities, $11,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3136. LIMITATION ON USE OF PROGRAM DIRECTION FUNDS.

The Secretary of Energy may not obligate more than 20 percent of the funds appropriated pursuant to this title for fiscal year 1995 for operating expenses for program direction in carrying out environmental restoration and waste management activities necessary for national security programs until the Secretary submits to Congress the reports required to be submitted in 1995 under subsections (a) and (d) of section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950; 42 U.S.C. 7274k).

SEC. 3137. NATIONAL SECURITY PROGRAMS.

Notwithstanding any other provision of law, not more than 80 percent of the funds appropriated to the Department of Energy for national security programs under this title may be obligated for such programs until the Secretary of Energy submits to the congressional defense committees the five-year budget plan with respect to fiscal year 1996 required under section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1681; 42 U.S.C. 7271b).

SEC. 3138. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) Funding.—(1) Of the funds authorized to be appropriated to the Department of Energy under section 3101 for fiscal year 1995, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority provided in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834).

(2) The Secretary of Energy may not obligate more than 50 percent of the amount made available under paragraph (1) for activities relating to the Hanford Health Information Network until the States of Washington, Oregon, and Idaho establish the uniform procedures required by section 3138(d)(3)(D) of such Act, as added by subsection (b).

(b) Prohibition on Disclosure of Exposure Information.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834) is amended by adding at the end the following new subsection:

"(d) Prohibition on Disclosure of Exposure Information.—(1) Except as provided in paragraph (2), a person may not disclose to the public the following:

"(A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

"(B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.

"(C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).

"(D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).

"(E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).

"(F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.

"(G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).

"(H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

"(2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.

"(3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:

"(A) The disclosure of information under paragraph (2).

"(B) The use of the Hanford Health Information Network database.

"(C) The future disposition of the database.

"(D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.".

SEC. 3139. LIMITATION ON STUDY OR RELOCATION OF TRITIUM-RELATED ACTIVITIES AND OPERATIONS.

None of the funds appropriated or otherwise made available to the Department of Energy for fiscal year 1995 pursuant to this title may be used to study or relocate tritium-related activities and operations from the Mound Plant, Ohio, to a facility other than a Department of Energy weapons production facility that has demonstrated tritium production and handling capabilities, as determined by independent consultants pursuant to a review of the June 1993 report of the Department entitled "Nonnuclear Reconfiguration Cost Effectiveness Report".

SEC. 3140. HAZARDOUS MATERIALS MANAGEMENT AND HAZARDOUS MATERIALS EMERGENCY RESPONSE TRAINING PROGRAM.

(a) USE OF FUNDS.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 under section 3102(c), not more than $6,000,000 shall be available for operating expenses to carry out a hazardous materials management and hazardous materials emergency response training program at Hanford Nuclear Reservation, Richland, Washington.

(b) REQUIREMENT OF CONCEPTUAL DESIGN.—None of the funds authorized to be appropriated under section 3102(c) for project 95-E-600 may be obligated or expended until the Secretary of Energy completes a conceptual design for the project.

SEC. 3141. INTERNATIONAL CENTER FOR APPLIED RESEARCH.

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish an International Center for Applied Research at the Savannah River Site, South Carolina. The purpose of the Center is to promote the following activities:

(A) The application in the United States of hydrogen technology research derived from tritium production.

(B) The development of beneficial uses of nuclear materials.

(C) The research and development of innovative methods for the treatment and disposal of nuclear waste.

(D) The development of specifications for the decommissioning of nuclear facilities and the disposition of nuclear materials.

(E) The research and development of any technologies that the Secretary considers appropriate and that are likely to be commercialized.

(2) The Secretary shall enter into an arrangement to provide for the location of the Center at a suitable facility at, or adjacent to, the Savannah River Site.

(3) The Secretary shall, using competitive procedures, select a nonprofit entity or a group of nonprofit entities to operate the Center. The Center shall promote activities under paragraph (1) in a manner that accomplishes regional development through applied science and technology.

(b) AVAILABILITY OF FUNDS.—Of amounts authorized to be appropriated in section 3101(c), $12,000,000 shall be available to establish the Center referred to in subsection (a).

Subtitle D—Other Matters

SEC. 3151. ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

(a) IN GENERAL.—The Secretary of Energy shall prescribe procedures to account for the use of funds for the performance of the programs and activities of the Department of Energy for which funds are appropriated pursuant to this title for national security programs of the Department of Energy. The procedures shall provide for such accounting for fiscal years beginning after fiscal year 1996.

(b) COVERED MATTERS.—The Secretary shall prescribe procedures under subsection (a)—

(1) to account for the funds appropriated to the Department pursuant to this title for national security programs and activities of the Department that are not used for the purpose for which such funds were appropriated; and

(2) to provide an accounting for all encumbered funds, unencumbered funds, unobligated funds, costed funds, and uncosted obligations of the national security programs of the Department in that fiscal year.

SEC. 3152. APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES.

(a) APPROVAL BY JOINT NUCLEAR WEAPONS COUNCIL.—Subsection (d) of section 179 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.".

(b) REPORT.—Such section is further amended by adding at the end the following new subsection:

"(e) Each fiscal year, at the same time the President submits the budget pursuant to section 1105 of title 31, the Chairman of the Council, through the Secretary of Energy, shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report, in classified form, on the following:

"(1) The effectiveness and efficiency of the Council, and of the deliberative and decision-making processes used by the Council, in carrying out the responsibilities described in subsection (d).

"(2) A description of all activities conducted by the Department of Energy during that fiscal year, or planned to be conducted by the Department of Energy during the next fiscal year, for the study, development, production, and retirement of nuclear warheads and that have been approved by the Council, including a description of—

"(A) the concept definition activities and feasibility studies conducted or planned to be conducted by the Department of Energy;

"(B) the schedule for completion of each such activity or study; and

"(C) the degree to which each such activity or study is consistent with United States policy for new nuclear warhead development or warhead modification and with established or projected military requirements.".

(c) TECHNICAL AMENDMENT.—Subsections (a)(3) and (b) of such section are amended by striking out "appointed" each place it appears and inserting in lieu thereof "designated".

SEC. 3153. STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA.

Not later than April 1, 1995, the Secretary of Energy shall submit to Congress a report on the feasibility of conducting the following activities at the Nevada Test Site, Nevada:

(1) The demilitarization of large rocket motors, high energetic explosives, and conventional ordnance.

(2) Disarmament and demilitarization of conventional weapons and components.

(3) Experiments that assist in monitoring compliance with international agreements on the nonproliferation of nuclear weapons.

(4) Programs for the Department of Energy and the Department of Defense to develop simulator technologies for nuclear weapons design and effects, including advanced hydrodynamic simulators, fusion test facilities, and nuclear weapons effects simulators.

(5) The stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note).

(6) Experiments related to the nonproliferation of nuclear weapons, including experiments with respect to disablement of such weapons, nuclear forensics, sensors, and verification and monitoring.

SEC. 3154. REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE.

(a) REPORT.—Not later than March 31, 1996, the Secretary of Energy shall submit to Congress a report that contains a description of all waste streams generated before 1992 during each step of the complete cycle of production and disposition of nuclear weapon components by the Department of Energy. The description for each such step shall be based on a unit of analysis that is appropriate for that step. The report shall include an estimate of the volume of waste generated per unit of analysis and an analysis of the characteristics of each waste stream.

(b) DEFINITIONS.—In this section:

(1) The term "waste stream" means waste materials the storage, treatment, or disposition of which is regulated under Federal law, except that such term does not include usable source materials, usable byproduct materials, and usable special nuclear materials.

(2) The terms "byproduct material", "source material", and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

SEC. 3155. COMMUNICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

(a) COMMUNICATION OF DATA.—Section 144 of the Atomic Energy Act of 1954 (42 U.S.C. 2164) is amended—

(1) by redesignating subsection d. as subsection e.; and

(2) by inserting after subsection c. the following new subsection d.:

"d. (1) In addition to the cooperation authorized in subsections a., b., and c., the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 142, as is necessary for—

"(A) the support of a program for the control of and accounting for fissile material and other weapons material;

"(B) the support of the control of and accounting for atomic weapons;

"(C) the verification of a treaty; and

"(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

"(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

"(A) will promote the common defense and security interests of the United States and the nation concerned; and

"(B) will not constitute an unreasonable risk to such common defense and security interests.

"(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.".

(b) APPLICABILITY OF NOTICE AND WAIT PROVISIONS.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act, as inserted by subsection (a), until December 31, 1995.

(c) CONFORMING AMENDMENTS.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended as follows:

(1) Section 123 is amended—

(A) by striking out "or 144 c." each place it appears and inserting in lieu thereof "144 c., or 144 d.";

(B) in subsection a., by striking out "or 144 b." and inserting in lieu thereof "144 b., or 144 d."; and

(C) in subsection b., by inserting "(except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d.)" after "the President has submitted text of the proposed agreement for cooperation".

(2) Section 142 d. is amended by striking out "subsection 144 b." and inserting in lieu thereof "subsection b. or d. of section 144.".

(3) Section 142 f. is repealed.

(4) Section 144 e., as redesignated by subsection (a)(1), is amended by striking out "or c." and inserting in lieu thereof "c., or d.".

SEC. 3156. SCHOLARSHIP AND FELLOWSHIP PROGRAM FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) USE OF FUNDS.—Of the funds authorized to be appropriated to the Department of Energy in section 3102 for fiscal year 1995 for environmental restoration and waste management, $1,000,000 shall be available for the scholarship and fellowship program for environmental restoration and waste management carried out under section 3132 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1572; 42 U.S.C. 7274e).

(b) DESIGNATION AS MARILYN LLOYD SCHOLARSHIP AND FELLOWSHIP PROGRAM.—(1) Section 3132(a) of such Act (42 U.S.C. 7274e(a)) is amended by adding at the end the following: "The scholarship and fellowship program shall be known as the 'Marilyn Lloyd Scholarship and Fellowship Program'.".

(2) The amendment made by paragraph (1) shall take effect on January 3, 1995.

SEC. 3157. REPORT ON ECONOMIC REDEVELOPMENT AND CONVERSION ACTIVITIES RESULTING FROM RECONFIGURATION OF DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) IN GENERAL.—Not later than May 1, 1995, the Secretary of Energy shall submit to Congress information on economic redevelopment and conversion activities that, in the determination of the Secretary, may result from the reconfiguration of the Department of Energy nuclear weapons complex. The Secretary may submit the information in a report or submit the programmatic environmental impact statement referred to in section 3145(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1949) and include the information in that statement.

(b) CONTENTS.—The information referred to in subsection (a) shall include the following:

(1) An analysis of the existing condition and capabilities of the facilities of the nuclear weapons complex.

(2) A description of the technologies and processes at such facilities that have the potential to be developed in collaboration with private industry, State, local, or tribal governments, institutions of higher education, or non-profit organizations.

(3) An estimate of the costs associated with economic redevelopment and conversion activities as a result of the reconfiguration of the nuclear weapons complex.

(4) A description of how the Secretary will coordinate with local interests regarding such activities.

SEC. 3158. OFFICE OF FISSILE MATERIALS DISPOSITION.

(a) ESTABLISHMENT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF FISSILE MATERIALS DISPOSITION

"SEC. 212. (a) There shall be within the Department an Office of Fissile Materials Disposition.

"(b) The Secretary shall designate the head of the Office. The head of the Office shall report to the Under Secretary.

"(c) The head of the Office shall be responsible for all activities of the Department relating to the management, storage, and disposition of fissile materials from weapons and weapons systems that are excess to the national security needs of the United States.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 210 the following new items:

"Sec. 211. Office of Minority Economic Impact.
"Sec. 212. Office of Fissile Materials Disposition.".

SEC. 3159. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES AT IDAHO NATIONAL ENGINEERING LABORATORY.

Section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2074), as amended by section 3136 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2641), is further amended—

(1) in the third sentence of subsection (a)(3), by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993, 1994, 1995, 1996, and 1997"; and

(2) in subsection (c), by striking out "September 30, 1994, with respect to the Idaho National Engineering Laboratory" and inserting in lieu thereof "September 30, 1997, with respect to the Idaho National Engineering Laboratory".

SEC. 3160. ELIMINATION OF REQUIREMENT FOR FIVE-YEAR PLAN FOR DEFENSE NUCLEAR FACILITIES.

(a) ELIMINATION OF REQUIREMENT.—Section 3135(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575; 42 U.S.C. 7274g(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy" in the first sentence and inserting in lieu thereof "all facilities owned or operated by the Department of Energy except defense nuclear facilities"; and

(B) by inserting "such" in the third sentence after "restoration at all";

(2) in paragraph (4), by striking out "The plan shall contain the following matters:" and inserting in lieu thereof "The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:";

(3) by striking out paragraph (6); and

(4) by redesignating paragraph (7) as paragraph (6).

(b) ANNUAL WASTE MANAGEMENT REPORTS.—Section 3153(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950; 42 U.S.C. 7274k(b)(1)) is amended—

(1) by inserting "including pollution prevention and" after "waste management,"; and

(2) by striking out "and technology research and development related to such activities and projects".

(c) CONTENTS OF ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT REPORTS.—Section 3153(c) of such Act (42 U.S.C. 7274k(c)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2)(D);

(3) by striking out the period at the end of paragraph (2)(E) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (2) the following new subparagraph:

"(F) a description of the personnel and facilities required to complete the activity or project; and"; and

(5) by adding at the end the following new paragraph:

"(3) contain a description of the research and development necessary to develop the technology to conduct the activities and projects covered by the report.".

(d) PUBLIC PARTICIPATION IN DEVELOPMENT OF INFORMATION.—Section 3153 of such Act (42 U.S.C. 7274k) is further amended by adding at the end the following new subsection:

"(f) PUBLIC PARTICIPATION IN DEVELOPMENT OF INFORMATION.—(1) The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in the development of information necessary to complete the reports required by subsections (a), (b), and (d).

"(2) Consultation under paragraph (1) shall not interfere with the timely submission to Congress of the budget for a fiscal year.

"(3) The Secretary may award grants to, and enter into cooperative agreements with, affected States and affected Indian tribes to facilitate the participation of such entities in the development of information under this subsection. The Secretary may also take appropriate action to facilitate the participation of interested members of the public in such development under this subsection.".

(e) PUBLIC PARTICIPATION IN PLANNING.—The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for environmental restoration and waste management at Department of Energy defense nuclear facilities.

SEC. 3161. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(4) The Secretary may not appoint more than 100 persons during fiscal year 1995 under the authority provided in this subsection.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the

Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5, United States Code.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) EPA STUDY.—(1) Upon the 50th appointment made by the Secretary pursuant to subsection (a)(1)(B), the Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall conduct a study of the effects of the implementation of such subsection on the conduct of remedial actions at sites on the National Priorities List.

(2) The study shall assess whether serious problems have resulted at any site on the National Priorities List from appointments made pursuant to subsection (a)(1)(B) of persons whose employment, at the time of the appointment, involved remedial actions or other similar activities at the site.

(3) For purposes of this subsection, a serious problem includes any of the following occurrences:

(A) A significant delay or significant disruption of a schedule for completion of a remedial action at the site.

(B) A significant escalation of the personnel costs for the remedial action.

(C) A significant exacerbation of any shortage in the number of critical personnel at the site.

(4) The Administrator, in consultation with the Secretary, shall submit to Congress a report on the study conducted under paragraph (1). The report shall be submitted not later than 30 days after the date upon which the Secretary has made the 50th appointment pursuant to subsection (a)(1)(B). The Secretary may not make more than 50 such appointments until the submission of the report.

(5) If, as a result of the study conducted under paragraph (1), the Administrator, in consultation with the Secretary, determines that serious problems have resulted at any site on the National Priorities List from appointments made pursuant to subsection (a)(1)(B), the Administrator and the Secretary shall jointly submit to Congress, together with the report referred to in paragraph (4), a plan to ameliorate the effects of those serious problems. Under the plan, the Administrator and the Secretary shall provide for—

(A) a reduction in the rate at which persons are appointed pursuant to such subsection;

(B) the making of appointments pursuant to such subsection of persons other than persons whose employment, at the time of the appointment, involved remedial actions or other similar activities at sites on the National Priorities List; or

(C) any other effective alternative to appointing persons described in subparagraph (B) that the Administrator and the Secretary consider appropriate.

(6) To carry out this section, the Secretary shall regularly provide to the Administrator the following information:

(A) The relevant previous places of employment of each person appointed pursuant to subsection (a)(1)(B).

(B) The site on the National Priorities List, if the employment of such person, at the time of the appointment of that person pursuant to such subsection, involved remedial actions or other similar activities at the site.

(d) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 3162. USE OF FUNDS FOR COMPUTER DECLASSIFICATION SYSTEM.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for a computer system for declassification purposes.

SEC. 3163. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.

(a) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the following:

(1) The actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (a).

(2) The actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements.

(3) The respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1995, $17,933,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF STOCKPILE FUNDS.

Subject to such limitations as may be provided in appropriations Acts, during fiscal year 1995, the National Defense Stockpile Manager may obligate up to $54,200,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section.

SEC. 3302. ROTATION OF MATERIALS TO PREVENT TECHNOLOGICAL OBSOLESCENCE.

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended by inserting "or technological obsolescence" after "deterioration".

SEC. 3303. EXTENSION OF LIMITATION ON AUTHORITY TO DISPOSE OF CHROMIUM FERRO AND MANGANESE FERRO.

Section 3302(f) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2651), as amended by section 3303(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1961), is further amended by striking out "October 1, 1994" and inserting in lieu thereof "October 1, 1995".

SEC. 3304. LIMITATION ON AUTHORITY TO DISPOSE OF ZINC.

(a) LIMITATION ON DISPOSAL AUTHORITY.—The disposal of zinc from the National Defense Stockpile pursuant to any disposal authority provided by law may not commence before April 1, 1995.

(b) CONDITION ON DISPOSAL AFTER EXPIRATION OF LIMITATION.—If any quantity of zinc is proposed for disposal from the National Defense Stockpile during fiscal year 1995 upon the expiration of the limitation prescribed under subsection (a), the President shall submit to Congress not later than February 15, 1995, a revised annual materials plan under section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2) that specifically describes the proposed disposals. The revised plan shall include the views of the Market Impact Committee regarding the market impact of the disposals, as required under section 10(c) of such Act (50 U.S.C. 98h–1(c)).

(c) EFFECT ON TRANSFERS OF ZINC TO OTHER FEDERAL AGENCIES.—Nothing in this section shall limit the authority of the National Defense Stockpile Manager to transfer zinc in the National Defense Stockpile to the jurisdiction and control of another Federal agency for official Government use.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.—The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3305. LIMITATIONS ON DISPOSAL OF CHROMITE AND MANGANESE ORES.

(a) PREFERENCE FOR DOMESTIC UPGRADING.—In offering to enter into agreements pursuant to

any provision of law for the disposal of chromite and manganese ores of metallurgical grade from the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c), the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders.

(b) Domestic Ferroalloy Upgrader Defined.—For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or is capable of engaging in such operations; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

(c) Application of Section.—The requirements specified in subsection (a) shall apply during fiscal year 1995.

SEC. 3306. REPORT ON DOMESTIC PRODUCTION OF HIGH PURITY ELECTROLYTIC CHROMIUM METAL.

(a) Agreement With National Academy of Sciences.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an agreement with the President of the National Academy of Sciences, under which the Academy will prepare a report regarding the production of high purity electrolytic chromium metal in the United States.

(b) Elements of Report.—In preparing the report under subsection (a), the National Academy of Sciences shall evaluate—

(1) the capability of industrial facilities in the United States to produce high purity electrolytic chromium metal;

(2) the need to maintain a domestic source for the production of high purity electrolytic chromium metal;

(3) the potential adverse effects on the United States economy and defense capabilities if domestic sources for the production of high purity electrolytic chromium metal are lost;

(4) the availability of high purity electrolytic chromium metal from sources outside the United States; and

(5) the capability and reliability of such foreign sources for the production of high purity electrolytic chromium metal.

(c) Submission of Report.—Not later than 120 days after the date on which the agreement is entered into under subsection (a), the National Academy of Sciences shall submit to the Secretary of Defense and Congress the report required under such agreement.

TITLE XXXIV—CIVIL DEFENSE

Subtitle A—Authorization of Appropriations

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $129,658,000 for fiscal year 1995 for the purpose of carrying out title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as added by section 3411.

Subtitle B—Reenactment of Federal Civil Defense Act of 1950 in the Robert T. Stafford Disaster Relief and Emergency Assistance Act

SEC. 3411. RESTATEMENT OF FEDERAL CIVIL DEFENSE AUTHORITIES IN THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT.

(a) Restatement as New Title.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) by redesignating title VI as title VII;

(2) by redesignating sections 601, 602, 603, and 604 as sections 701, 702, 703, and 704, respectively; and

(3) by inserting after title V the following new title VI:

"TITLE VI—EMERGENCY PREPAREDNESS

"SEC. 601. DECLARATION OF POLICY.

"The purpose of this title is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.

"SEC. 602. DEFINITIONS.

"(a) Definitions.—For purposes of this title only:

"(1) Hazard.—The term 'hazard' means an emergency or disaster resulting from—

"(A) a natural disaster; or

"(B) an accidental or man-caused event.

"(2) Natural disaster.—The term 'natural disaster' means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

"(3) Emergency preparedness.—The term 'emergency preparedness' means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

"(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

"(B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

"(C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

"(4) Organizational equipment.—The term 'organizational equipment' means equipment determined by the Director to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

"(5) Materials.—The term 'materials' includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.

"(6) Facilities.—The term 'facilities', except as otherwise provided in this title, includes buildings, shelters, utilities, and land.

"(7) Director.—The term 'Director' means the Director of the Federal Emergency Management Agency.

"(8) Neighboring countries.—The term 'neighboring countries' includes Canada and Mexico.

"(9) United states and states.—The terms 'United States' and 'States' includes the several States, the District of Columbia, and territories and possessions of the United States.

"(10) State.—The term 'State' includes interstate emergency preparedness authorities established under section 611(h).

"(b) Cross Reference.—The terms 'national defense' and 'defense,' as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes emergency preparedness activities conducted pursuant to this title.

"SEC. 603. ADMINISTRATION OF TITLE.

"This title shall be carried out by the Director of the Federal Emergency Management Agency.

"Subtitle A—Powers and Duties

"SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.

"(a) In General.—In order to carry out the policy described in section 601, the Director shall have the authorities provided in this section.

"(b) Federal Emergency Response Plans and Programs.—The Director may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Director may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

"(c) Delegation of Emergency Preparedness Responsibilities.—With the approval of the President, the Director may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

"(d) Communications and Warnings.—The Director may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

"(e) Emergency Preparedness Measures.—The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including

"(1) research and studies as to the best methods of treating the effects of hazards;

"(2) developing shelter designs and materials for protective covering or construction; and

"(3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements.

"(f) Training Programs.—(1) The Director may—

"(A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;

"(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and

"(C) provide instructors and training aids as necessary.

"(2) The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

"(3) The Director may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

"(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.

"(h) INTERSTATE EMERGENCY PREPAREDNESS COMPACTS.—(1) The Director may—

"(A) assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;

"(B) review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity between such compacts and consistency with Federal emergency response plans and programs;

"(C) assist and coordinate the activities under such compacts; and

"(D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

"(2) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

"(3) Nothing in this subsection shall be construed as preventing Congress from disapproving, or withdrawing at any time its consent to, any interstate emergency preparedness compact.

"(i) MATERIALS AND FACILITIES.—(1) The Director may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

"(2) Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this title before the approval of title by the Attorney General as required by section 355 of the Revised Statutes (40 U.S.C. 255).

"(3) The Director shall submit to Congress a report, at least quarterly, describing all property acquisitions made pursuant to this subsection.

"(4) The Director may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

"(5) The Director may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Director shall prescribe.

"(j) FINANCIAL CONTRIBUTIONS.—(1) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

"(2) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

"(3) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

"(4) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

"(5) The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

"(6) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director necessary for the use of such facility for emergency preparedness purposes.

"(7) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

"(8) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a–276a-5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

"(k) SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.—The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

"SEC. 612. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.

"The Director shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

"SEC. 613. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

"(a) GENERAL AUTHORITY.—To further assist in carrying out the purposes of this title, the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

"(b) PLAN REQUIREMENTS.—A plan submitted under this section shall—

"(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;

"(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

"(3) provide for the development of State and local emergency preparedness operational plans, pursuant to standards approved by the Director;

"(4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;

"(5) provide that the State shall make such reports in such form and content as the Director may require; and

"(6) make available to duly authorized representatives of the Director and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.

"(c) TERMS AND CONDITIONS.—The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.

"(d) APPLICATION OF OTHER PROVISIONS.—In carrying out this section, the provisions of section 611(h) and 621(h) shall apply.

"(e) ALLOCATION OF FUNDS.—For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

"(f) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director, will best assure the adequate development of the emergency preparedness capability of the United States.

"(g) ANNUAL REPORTS.—The Director shall report annually to the Congress all contributions made pursuant to this section.

"SEC. 614. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS.

"Notwithstanding any other provision of this title, funds appropriated to carry out this title may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title for such purpose.

"SEC. 615. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.

"Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this title for emergency preparedness activities and measures related to hazards.

"Subtitle B—General Provisions

"SEC. 621. ADMINISTRATIVE AUTHORITY.

"(a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the Director under this title, the Director may exercise the administrative authorities provided under this section.

"(b) ADVISORY PERSONNEL.—(1) The Director may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Director considers to be necessary in carrying out the provisions of this title.

"(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed $180 for each day of service, plus authorized subsistence and travel, as determined by the Director.

"(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The Director may—

"(1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;

"(2) establish and use such regional and other offices as may be necessary; and

"(3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.

"(d) GIFTS.—Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

"(e) REIMBURSEMENT.—The Director may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

"(f) PRINTING.—The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

"(g) RULES AND REGULATIONS.—The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The Director may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate..

"(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

"(2) Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

"(3) As used in this subsection, the term 'person' means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

"SEC. 622. SECURITY REGULATIONS.

"(a) ESTABLISHMENT.—The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

"(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

"(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.

"(d) EMPLOYEE OATHS.—Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

'I, ________, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

'And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of ________ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence.'

After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18, United States Code.

"SEC. 623. USE OF EXISTING FACILITIES.

"In performing duties under this title, the Director—

"(1) shall cooperate with the various departments and agencies of the Federal Government;

"(2) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

"(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

"SEC. 624. ANNUAL REPORT TO CONGRESS.

"The Director shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the Director considers appropriate.

"SEC. 625. APPLICABILITY OF TITLE.

"The provisions of this title shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

"SEC. 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS.

"(a) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"(b) Transfer Authority.—Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and the Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

"SEC. 627. RELATION TO ATOMIC ENERGY ACT OF 1954.

"Nothing in this title shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"SEC. 628. FEDERAL BUREAU OF INVESTIGATION.

"Nothing in this title shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.".

(b) Conforming Amendment Regarding Definition of National Defense.—Section 702(13) of the Defense Production Act of 1950 (50 U.S.C. App. 2152(13)) is amended by added at the end the following new sentence: "Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

SEC. 3412. REPEAL OF FEDERAL CIVIL DEFENSE ACT OF 1950.

(a) Repeal.—The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) is repealed.

(b) Conforming Amendments.—(1) Section 202(c) of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132(c)) is amended by striking out "section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c))," and inserting in lieu thereof "section 611(c) of this Act".

(2) The paragraph under the heading "civil defense procurement fund" in chapter XI of the Third Supplemental Appropriation Act, 1951 (50 U.S.C. App. 2264), is repealed.

(3) Section 813(d) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)) is amended by striking out "the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297)." and inserting in lieu thereof "title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

TITLE XXXV—NAVAL PETROLEUM RESERVES

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $199,456,000 for fiscal year 1995 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended.

SEC. 3502. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1995.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1995, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3503. EXTENSION OF OPERATING CONTRACT FOR NAVAL PETROLEUM RESERVE NUMBERED 1.

Notwithstanding section 7432(b) of title 10, United States Code, the Secretary of Energy may extend the operating contract for Naval Petroleum Reserve Numbered 1, in effect on the date of the enactment of this Act, for an additional two years effective on the expiration date of the contract. However, the contract may obligate funds only to the extent that such funds are made available in appropriation Acts.

TITLE XXXVI—PANAMA CANAL COMMISSION

SEC. 3601. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1995".

SEC. 3602. AUTHORIZATION OF EXPENDITURES.

(a) In General.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1995.

(b) Limitations.—For fiscal year 1995, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,030,000 for administrative expenses, of which not more than—

(1) $11,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $5,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $30,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) Replacement Vehicles.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 43 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama). A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. The purchase price of each vehicle may not exceed $19,500.

SEC. 3603. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3604. COSTS OF EDUCATIONAL SERVICES OBTAINED IN THE UNITED STATES.

Section 1321(e)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)(2)) is amended by inserting "or the United States" after "schools in the Republic of Panama".

SEC. 3605. SPECIAL IMMIGRANT STATUS OF PANAMANIANS EMPLOYED BY THE UNITED STATES IN THE FORMER CANAL ZONE.

Section 101(a)(27)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(F)) is amended in clause (ii) by inserting "or continues to be employed by the United States Government in an area of the former Canal Zone" after "employment".

And the House agree to the same.

From the Committee on Armed Services, for consideration of the entire Senate bill and the entire House amendment, and modifications committed to conference:

Ronald V. Dellums,
G.V. Montgomery,
Pat Schroeder,
Earl Hutto,
Ike Skelton,
Dave McCurdy,
Marilyn Lloyd,
Norman Sisisky,
John M. Spratt,
Solomon P. Ortiz,
H. Martin Lancaster,
Lane Evans,
James H. Bilbray,
John S. Tanner,
Glen Browder,
Martin T. Meehan,
Floyd Spence,
Duncan Hunter,
John R. Kasich,
Herbert H. Bateman,
Curt Weldon,
Jon Kyl,
Ronald K. Machtley,
Jim Saxton.

As additional conferees from the Committee on Education and Labor, for consideration of sections 337, 346–47, 643, 924, 1051, and 1082 of the Senate bill and sections 351–54, 1133, 1136, 1138, and 1151 of the House amendment, and modifications committed to conference:

William D. Ford,
William L. Clay,
Pat Williams,
William F. Goodling,
Steve Gunderson.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 142, 324, 708, 2821(e)(3), 2849, 3151, 3155, 3157–58, 3160, and 3201 of the Senate bill and sections 1055, 3201, and 3502 of the House amendment, and modifications committed to conference:

John D. Dingell,
Phil Sharp,
Al Swift,
Carlos T. Moorhead,
Mike Bilirakis.

Provided, Mr. Waxman is appointed in lieu of Mr. Swift, and Mr. Bliley is appointed in lieu of Mr. Bilirakis solely for the consideration of section 708 of the Senate bill.

Henry A. Waxman,
Tom Bliley.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 221–22, 225, 241, 251, 354, 823, 1012, 1013(b), 1014, 1015(a), 1016–18, 1021(a), 1021(b), 1022–23, 1024(c), 1031–32, 1041, 1065, 1070, 1074, 1078–79, 1088, 1092, and 1097 of the Senate bill and sections 1011(a), 1022–25, 1038, 1041, 1043, 1046–49, 1052, 1054, 1058–60, 1201–14, and 1401–04 of the

House amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,
TOM LANTOS,
BILL GOODLING.

As additional conferees from the Committee on Government Operations, for consideration of sections 824, 2812(c), 2827, and 3161 of the Senate bill and modifications committed to conference:

JOHN CONYERS, Jr.,
E. TOWNS,
MIKE SYNAR,
BILL CLINGER.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 357, 601, 654, 2206, 2825, 3134, and 3501–05 of the Senate bill and sections 522–23, 527, 601–02, 1137, and 3134 of the House amendment, and modifications committed to conference:

GERRY E. STUDDS,
WILLIAM J. HUGHES,
BILLY TAUZIN.

As additional conferees from the Committee on Natural Resources, for consideration of section 2853 of the House amendment and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
NEIL ABERCROMBIE.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 331–334, 346, 636, 901, 1080, 1087, 1090, and 3158 of the Senate bill and sections 165, 351, 375, 1031, and 2816 of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
JOHN MYERS,
CONSTANCE A. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 324, 1086, and 2827 of the Senate bill and section 3402 of the House amendment, and modifications committed to conference:

NORMAN Y. MINETA,
DOUGLAS APPLEGATE,
JAMES A. TRAFICANT, Jr.,
BUD SHUSTER,
BILL CLINGER.

Provided that Mr. Duncan is appointed in lieu of Mr. Clinger solely for the consideration of section 2827 of the Senate bill.

JOHN J. DUNCAN, Jr.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 232–249, and 3141 of the Senate bill and sections 211(a), 211(b), 216(a), 216(b), 216(c), 216(e), 217–18, 1112–15, and 3141 of the House amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
BOBBY SCOTT,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 641 of the Senate bill and modifications committed to conference:

G.V. MONTGOMERY,
JIM SLATTERY,
DOUGLAS APPLEGATE,
BOB STUMP,
MIKE BILIRAKIS,
Managers on the Part of the House.

SAM NUNN,
JIM EXON,
CARL LEVIN,
TED KENNEDY,
JEFF BINGAMAN,
JOHN GLENN,
RICHARD SHELBY,
ROBERT C. BYRD,
BOB GRAHAM,
CHUCK ROBB,
JOSEPH I. LIEBERMAN,
RICHARD H. BRYAN,
STROM THURMOND,
JOHN WARNER,
WILLIAM S. COHEN,
TRENT LOTT,
DAN COATS,
BOB SMITH,
LAUCH FAIRCLOTH,
KAY BAILEY HUTCHISON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees recommend authorizations for the Department of Defense for procurement, research and development, test and evaluation, operation and maintenance, working capital funds, military construction and family housing, weapons programs of the Department of Energy, and civil defense that have a budget authority implication of $263.8 billion.

SUMMARY TABLE OF AUTHORIZATIONS

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is generally provided in appropriation acts.

In order to relate the conference recommendations to the Budget Resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the defense function are authorized permanently or, in certain instances, authorized in other annual legislation. In addition, this authorization bill would establish personnel levels and include a number of legislative provisions affecting military compensation.

The following table summarizes authorizations included in the bill for fiscal year 1995 and, in addition, summarizes the implication of the conference action for the budget totals for national defense (budget function 050).

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

					BUDGET AUTHORITY IMPLICATION				
	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY1995 Request	House	Senate	Conference vs. Request	Conference
DIVISION A									
TITLE I									
Aircraft Procurement, Army	1,041.581	1,301.452	1,073.781	1,289.452	1,041.581	1,301.452	1,073.781	247.871	1,289.452
Missile Procurement, Army	593.995	685.136	693.909	818.709	593.995	685.136	693.909	224.714	818.709
Weapons & Tracked Combat Vehicles	919.786	942.886	1,132.886	1,159.214	919.786	942.886	1,132.886	239.428	1,159.214
Procurement of Ammunition, Army	844.644	854.883	878.122	902.821	844.644	854.883	878.122	58.177	902.821
Other Procurement, Army	2,690.233	2,651.233	2,677.719	2,624.707	2,690.233	2,651.233	2,677.719	-65.526	2,624.707
Aircraft Procurement, Navy	4,786.265	4,588.007	4,535.601	4,491.845	4,786.265	4,588.007	4,535.601	-294.420	4,491.845
Weapons Procurement, Navy	2,400.039	2,223.246	2,428.539	2,076.625	2,400.039	2,223.246	2,428.539	-323.414	2,076.625
Shipbuilding & Conversion, Navy	5,585.397	6,869.897	5,532.007	5,619.897	5,585.397	6,869.897	5,532.007	34.500	5,619.897
Other Procurement, Navy	3,319.418	3,241.611	3,310.217	3,287.487	3,319.418	3,241.611	3,310.217	-31.931	3,287.487
Procurement, Marine Corps	554.620	528.352	528.857	403.410	554.620	528.352	528.857	-151.210	403.410
Navy/Marine Corps Ammunition				449.815				449.815	449.815
Aircraft Procurement, Air Force	6,747.599	6,101.767	6,587.995	6,489.467	6,747.599	6,101.767	6,587.995	-258.132	6,489.467
Weapons Procurement, Air Force	4,392.173	3,953.232	4,330.473	3,732.845	4,392.173	3,953.232	4,330.473	-659.328	3,732.845
Other Procurement, Air Force	7,078.253	6,855.423	6,961.153	6,929.170	7,078.253	6,855.423	6,961.153	-149.083	6,929.170
Air Force Ammunition				251.546				251.546	251.546
Procurement, Defense-Wide	1,744.916	2,066.694	1,935.616	1,891.371	1,744.916	2,066.694	1,935.616	146.455	1,891.371
National Guard & Reserve Equipment		787.200	600.000	510.000		787.200	600.000	510.000	510.000
Chemical Agents & Munitions Destruction	575.349	670.349	590.149	599.549	575.349	670.349	590.149	24.200	599.549
Inspector General Procurement	1.000	1.000							
Defense Health Program	308.889	308.889							
Total Procurement	43,584.157	44,631.257	43,797.024	43,527.930	43,274.268	44,321.368	43,797.024	253.662	43,527.930
TITLE II									
R,D,T& E Army	5,260.082	5,424.803	5,152.308	5,319.520	5,260.082	5,424.803	5,152.308	59.438	5,319.520
R,D,T& E Navy	8,934.718	8,913.963	8,796.129	8,845.854	8,934.718	8,913.963	8,796.129	-88.864	8,845.854
R,D,T& E Air Force	12,349.362	12,318.766	12,329.796	12,475.681	12,349.362	12,318.766	12,329.796	126.319	12,475.681
R,D,T& E Defense-Wide	9,416.855	9,054.212	9,322.303	9,185.626	9,416.855	9,054.212	9,322.303	-231.229	9,185.626
Developmental Test & Evaluation	251.495	254.995	230.495	230.495	251.495	254.995	230.495	-21.000	230.495
Operational Test & Evaluation	12.501	12.501	12.501	12.501	12.501	12.501	12.501		12.501
FFRDC Reduction			-52.650	-52.650			-52.650	-52.650	-52.650
Total Research & Development	36,225.013	35,979.240	35,790.882	36,017.027	36,225.013	35,979.240	35,790.882	-207.986	36,017.027

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

					BUDGET AUTHORITY IMPLICATION				
	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY1995 Request	House	Senate	Conference vs. Request	Conference
TITLE III									
O&M, Army	17,766.814	17,362.741	17,542.914	17,426.804	17,816.814	17,362.741	17,592.914	-390.010	17,426.804
O&M, Navy	21,176.570	20,110.196	21,326.470	21,055.470	21,226.570	20,110.196	21,376.470	-171.100	21,055.470
O&M, Marine Corps	1,918.395	1,997.095	2,096.695	2,066.295	1,918.395	1,997.095	2,096.695	147.900	2,066.295
O&M, Air Force	19,026.623	18,733.458	18,789.023	18,837.623	19,076.623	18,733.458	18,839.023	-239.000	18,837.623
O&M, Defense-Wide	10,208.413	9,513.523	9,994.325	10,031.576	10,208.413	9,513.523	10,094.325	-176.837	10,031.576
Defense Health Program	9,613.170	9,613.331	9,854.459	9,854.459	9,922.059	9,922.220	9,854.459	-67.600	9,854.459
O&M, Army Reserve	1,253.709	1,255.057	1,253.709	1,238.822	1,253.709	1,255.057	1,253.709	-14.887	1,238.822
O&M, Navy Reserve	827.819	827.819	828.319	827.819	827.819	827.819	828.319		827.819
O&M, Marine Corps Reserve	81.462	81.462	81.462	81.462	81.462	81.462	81.462		81.462
O&M, Air Force Reserve	1,478.990	1,481.332	1,478.990	1,464.932	1,478.990	1,481.332	1,478.990	-14.058	1,464.932
O&M, Army National Guard	2,447.148	2,448.615	2,452.148	2,398.415	2,447.148	2,448.615	2,452.148	-48.733	2,398.415
O&M, Air National Guard	2,780.178	2,780.178	2,780.178	2,771.678	2,780.178	2,780.178	2,780.178	-8.500	2,771.678
Rifle Practice, Army	2.544	2.544	2.544	2.544	2.544	2.544	2.544		2.544
Inspector General	127.098	147.172	140.798	140.798	128.098	148.172	140.798	12.700	140.798
Court of Appeals for the Armed Services	6.126	6.152	6.126	6.126	6.126	6.152	6.126		6.126
Environmental Restoration, Defense	2,180.200	2,180.200	2,180.200	2,030.200	2,180.200	2,180.200	2,180.200	-150.000	2,030.200
Drug Interdiction & Counter-Drug Activ.	714.200	714.200	714.200	714.200	714.200	714.200	714.200		714.200
Former Soviet Union Threat Reduction	400.000	400.000	400.000	400.000	400.000	400.000	400.000		400.000
Summer Olympics		4.000	10.000	10.000		4.000	10.000	10.000	10.000
Intntl. Peacekeeping & Peace Enforcement	300.000	300.000	300.000		300.000	300.000	300.000	-300.000	
Project Peace		15.000		15.000		15.000		15.000	15.000
Overseas Humanitarian, Disaster & Civic Aid	71.900	60.000	71.900	86.000	71.900	60.000	71.900	14.100	86.000
Disposal & Lease/ Overseas Milt Facilities					15.131	15.131	15.131		15.131
Rocky Mtn Arsenal/ WWII 50th Anniversary		0.500			7.000	7.500	7.000		7.000
Special Olympics		2.000	3.000	3.000		2.000	3.000	3.000	3.000
Total Operation & Maintenance	92,381.359	90,036.575	92,307.460	91,463.223	92,863.379	90,368.595	92,579.591	-1,378.025	91,485.354
Defense Business Operations Fund	1,169.038	1,212.038	789.400	1,239.438	1,169.038	1,212.038	789.400	70.400	1,239.438
National Defense Sealift Fund	608.600		828.600	828.600	608.600		828.600	220.000	828.600

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	BUDGET AUTHORITY IMPLICATION				
					FY1995 Request	House	Senate	Conference vs. Request	Conference
TITLE IV-V-VI-VII									
Total Military Personnel (Sec. 431)		71,086.397	70,790.397	70,938.597	70,475.397	71,086.397	70,790.397	463.200	70,938.597
Military Retirement COLA		376.000	376.000	376.000		376.000	376.000	376.000	376.000
DIVISION B									
Military Construction, Army	690.576	853.426	490.076	552.976	690.576	853.426	490.076	-137.600	552.976
Military Construction, Navy	320.470	448.786	340.455	386.760	320.470	448.786	340.455	66.290	386.760
Military Construction, Air Force	353.313	503.213	526.663	529.313	357.313	507.213	530.663	176.000	533.313
Milt. Construction, Defense Agencies	481.729	465.009	546.519	508.069	481.729	465.009	546.519	26.340	508.069
NATO Infrastructure	219.000	119.000	219.000	119.000	219.000	119.000	219.000	-100.000	119.000
Milt. Construction, Army National Guard	9.929	145.067	180.312	188.062	9.929	145.067	180.312	178.133	188.062
Milt. Construction, Air National Guard	122.770	210.212	240.003	249.053	122.770	210.212	240.003	126.283	249.053
Military Construction, Army Reserve	7.910	37.410	37.870	57.370	7.910	37.410	37.870	49.460	57.370
Military Construction, Naval Reserve	2.355	11.905	17.355	22.748	2.355	11.905	17.355	20.393	22.748
Milt. Construction, Air Force Reserve	28.190	55.516	43.840	57.066	28.190	55.516	43.840	28.876	57.066
Base Realignment & Closure Account I	87.600	87.600	87.600	87.600	87.600	87.600	87.600		87.600
Base Realignment & Closure Account II	398.700	398.700	398.700	398.700	398.700	398.700	398.700		398.700
Base Realignment & Closure Account III	2,189.858	2,018.448	2,189.858	2,189.858	2,322.858	2,151.448	2,322.858		2,322.858
Total Military Construction	4,912.400	5,354.292	5,318.251	5,346.575	5,049.400	5,491.292	5,455.251	434.175	5,483.575
Family Housing, Army	1,273.610	1,285.610	1,241.210	1,183.710	1,273.610	1,285.610	1,241.210	-89.900	1,183.710
Family Housing, Navy	1,082.894	1,121.064	1,166.894	1,205.064	1,082.894	1,121.064	1,166.894	122.170	1,205.064
Family Housing, Air Force	1,024.338	1,044.827	1,068.200	1,072.289	1,054.338	1,074.827	1,098.200	47.951	1,102.289
Family Housing, Defense Agencies	29.381	29.381	29.381	29.381	29.381	29.381	29.381		29.381
Homeowners Assistance Fund					-133.000	-133.000	-133.000		-133.000
Total Family Housing	3,410.223	3,480.882	3,505.685	3,490.444	3,307.223	3,377.882	3,402.685	80.221	3,387.444

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FY 1995
[IN MILLIONS OF DOLLARS]

					BUDGET AUTHORITY IMPLICATION				
	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY1995 Request	House	Senate	Conference vs. Request	Conference
DIVISION C									
TITLE XXXI- DOE									
Weapons Activities	3,300.368	3,203.369	3,309.668	3,234.069	3,300.368	3,203.369	3,309.668	-65.599	3,234.069
Defense Environmental Restor. & Waste Mgt.	5,194.424	5,168.561	5,212.424	5,092.691	5,194.424	5,168.561	5,212.424	-124.733	5,092.691
Materials Support & Other Defense Programs	1,898.910	1,948.704	1,893.910	1,849.657	1,898.910	1,948.704	1,893.910	-49.253	1,849.657
Defense Nuclear Waste Disposal	129.430	129.430	129.430	129.430	129.430	129.430	129.430		129.430
Use of Prior Year Balances- Undistributed			-220.000				-220.000		
TITLE XXXII									
Defense Nuclear Facilities Safety Board	17.933	18.000	17.933	17.933	17.933	18.000	17.933		17.933
TITLE XXXIII									
National Defense Stockpile Transaction Fund					-150.000	-150.000	-250.000	150.000	
TITLE XXXIV									
FEMA Civil Defense	129.658	129.658	129.658	129.658	204.504	204.504	204.504		204.504
RECAPITULATION									
Department of Defense (Division A)	173,968.167	243,321.507	244,679.763	244,390.815	244,615.695	243,343.638	244,951.894	-202.749	244,412.946
Department of Defense (Division B)	8,322.623	8,835.174	8,823.936	8,837.019	8,356.623	8,869.174	8,857.936	514.396	8,871.019
National Defense Stockpile Transaction Fund					-150.000	-150.000	-250.000	150.000	
NSETF & Other Trust Funds					231.668	231.668	231.668		231.668
Offsetting Receipts					-921.045	-921.045	-921.045		-921.045
Total DoD Military (051)	182,290.790	252,156.681	253,503.699	253,227.834	252,132.941	251,373.435	252,870.453	461.647	252,594.588
Total Atomic Energy Defense Act. (053)	10,541.065	10,468.064	10,343.365	10,323.780	10,541.065	10,468.064	10,343.365	-239.585	10,323.780
Total Other Defense (054)	129.658	129.658	129.658	129.658	914.194	912.910	927.410		914.194
Total National Defense Function (050)	192,961.513	262,754.403	263,976.722	263,681.272	263,588.200	262,754.409	264,141.228	222.062	263,832.562

General limitation

The Senate bill contained a provision (sec. 4) that would limit the total amounts authorized to be appropriated in this act to $263.1 billion.

The House amendment contained no similar provision.

The Senate recedes.

Congressional defense committees

The term "congressional defense committees" is often used in this statement of the managers. It means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Overview

The budget request for fiscal year 1995 contained an authorization of $43,584.2 million for procurement in the Department of Defense. The Senate bill would authorize $43,797.0 million. The House amendment would authorize $44,631.3 million. The conferees recommend authorization of $43,527.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Submission of congressionally directed reports

As defense resources have declined, congressional emphasis on carefully prioritizing defense programs has properly increased. As a consequence, relatively smaller programs have required more thorough review. In developing the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), the conferees identified several Navy procurement and development programs in the statement of the managers (H. Rept. 103–357) that merited stronger review within the Department. A partial list of these programs includes antisubmarine warfare (ASW) targets, torpedo support equipment, attack submarine (SSN) acoustics, domestic forging and manufacture of ship propellers, ship self-defense, towed array sonars, and the ship main propulsion gas turbine improvement program. The conferees highlighted these issues for a variety of reasons, including:

(1) major changes in force structure that may not have been reflected in acquisition priorities;

(2) uneven protection of the industrial base in critical areas; and

(3) professed warfighting emphasis shifts to littoral operations that did not appear to reflect the post-Cold War defense environment.

The conferees believed that the Department failed to justify adequately many of these programs in the budget justification material and the budget review process. In a general effort to address these concerns prudently, the conferees avoided taking precipitous action and reducing budgeted resources in fiscal year 1994 for such programs.

Instead, the conferees directed the Department to prepare a number of reports. The conferees intended that these reports would provide the Navy an opportunity to specify, in detail, how the Navy was adapting these programs to accommodate a new strategic and budget reality. The conferees intended to review these reports during consideration of the fiscal year 1995 defense authorization request.

The conferees also reminded the Navy informally of a reporting requirement on combat logistic force plans. The report, which was originally required in July 1992 in the Senate report on S. 3114 (S. Rept. 102–352), was due in February 1993.

When the Armed Services Committees of the Senate and House of Representatives began their mark-ups of this act, the Navy had delivered none of the reports listed above. To date, the Navy has now submitted only three. Of the three, the conferees believe that only one, the report on SSN acoustics, is reasonably comprehensive and begins to address the concerns that triggered congressional interest in the first place. Even this report did not deal with a principal part of the report requirement—distinguishing between future upgrades appropriate for a littoral environment and those associated with traditional open ocean ASW. Nor did it clarify their cost implications, information that was explicitly requested in the bill.

The conferees: (1) lack some required reports; (2) have been unable to verify the resource allocation priorities made in the Navy budget; (3) have dealt with budget justification that did not clarify such anomalies as inordinate cost growth from prior years; and (4) have seen unenlightening Defense Department appeals that rely more on rhetoric and assertions than analysis. The consequences are relatively predictable. The conferees have reallocated resources from some of these programs to others with higher priority. The Navy, and the rest of the Defense Department, should not be surprised when the Department delivers reports that are deficient, late, or both, and Congress takes action that the Department would not prefer.

AIRCRAFT PROCUREMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $1,041.6 million for Aircraft Procurement, Army. The Senate bill would authorize $1,073.8 million. The House amendment would authorize $1,301.5 million. The conferees recommend authorization of $1,289.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 --- Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	AIRCRAFT PROCUREMENT, ARMY										
1	ARL (TIARA)	1	39,200	1	39,200	1	39,200			1	39,200
2	C21A AIRCRAFT										
3	GUARDRAIL COMMON SENSOR (TIARA)		4,991				4,991		-4,991		
3a	C-XX (MR)						23,000		23,000		23,000
4	TRACTOR HALL										
5	TOTAL PACKAGE FIELDING		379		379		379				379
6	AH-64 ATTACK HELICOPTER (APACHE)		5,611	6	77,611		5,611	6	72,000	6	77,611
7	UH-60 BLACKHAWK (MYP)	60	252,859	60	247,659	60	248,359		-5,200	60	247,659
8	UH-60 ADVANCE PROCUREMENT (CY)		140,200		140,200		140,200				140,200
9	HELICOPTER NEW TRAINING		477		477		477				477
10	DRUG INTERDICTION										
	MODIFICATION OF AIRCRAFT										
11	TRACTOR DEW										
12	GUARDRAIL MODS (TIARA)		26,938				26,938		26,938		
13	AH1F MODS		4,360		4,360		4,360				4,360
14	AH-64 MODS		52,305		52,305		52,305				52,305
15	CH-47 CARGO HELICOPTER MODS (MYP)		14,332		14,332		14,332				14,332
16	OH-58 MODS		1,100		1,100		1,100				1,100
17	C-20 AIRCRAFT MODS		944		944		944				944
18	LONGBOW		117,588		117,588		117,588				117,588
19	FLIGHT DATA RECORDER										
20	UH-1 MODS		8,402		8,402		8,402				8,402
21	UH-1 HUEY SLEP										
22	UH-60A (BLACK HAWK) MODS		25,865		25,865		25,865				25,865
22a	UH-60Q MEDEVAC MODS							4	25,000	4	25,000
23	KIOWA WARRIOR		111,767	36	336,767		110,467	24	150,000	24	261,767
24	EH-60 QUICKFIX MODS		39,164		39,164		39,164				39,164
25	AIRBORNE AVIONICS		18,986		18,986		18,986				18,986
26	ASE MODS		8,171		8,171		8,171				8,171
27	MODIFICATIONS < $2.0M		1,849		1,849		1,849				1,849
28	SPARES AND REPAIR PARTS APA		47,242		47,242		47,242				47,242
29	AIRCRAFT SURVIVABILITY EQUIPMENT		29,583		29,583		44,583		15,000		44,583
30	AIRBORNE COMMAND & CONTROL										

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
31	AVIONICS SUPPORT EQUIPMENT		30,267		30,267		30,267				30,267
32	TRAINING DEVICES		14,143		14,143		14,143				14,143
33	COMMON GROUND EQUIPMENT		18,640		18,640		18,640				18,640
34	AVIATION LIFE SUPPORT EQUIPMENT (ALS		8,871		8,871		8,871				8,871
35	AIR TRAFFIC CONTROL		8,769		8,769		8,769				8,769
36	INDUSTRIAL FACILITIES		2,864		2,864		2,864				2,864
37	LAUNCHER, 2.75 ROCKET										
38	AIRBORNE COMMUNICATIONS		5,714		5,714		5,714				5,714
39	CLOSED ACCOUNT ADJUSTMENT										
	TOTAL AIRCRAFT PROCUREMENT ARMY		1,041,581		1,301,452		1,073,781		247,871		1,289,452

MISSILE PROCUREMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $594.0 million for Missile Procurement, Army. The Senate bill would authorize $693.9 million. The House amendment would authorize $685.1 million. The House amendment would authorize $685.1 million. The conferees recommended authorization of $818.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	MISSILE PROCUREMENT, ARMY										
1	CHAPARRAL SYSTEM SUMMARY										
2	HAWK SYSTEM SUMMARY		330		330		330				330
3	OTHER MISSILE SUPPORT										
4	PATRIOT SYSTEM SUMMARY (MYP)		8,861		8,861		8,861				8,861
5	STINGER SYSTEM SUMMARY			500	10,000						
6	AVENGER SYSTEM SUMMARY		13,773				13,773		-8,400		5,373
7	AVENGER ADVANCE PROCUREMENT (CY)										
8	HELLFIRE SYS SUMMARY	830	121,641	1,295	133,641	1,230	133,641	415	5,200	1,245	126,841
9	JAVELIN (AAWS-M) SYSTEM SUMMARY	374	131,086	872	214,000	872	214,000	498	82,914	872	214,000
10	JAVELIN ADVANCE PROCUREMENT (CY)										
11	TOW 2 SYSTEM SUMMARY		27,808		27,808		27,808				27,808
12	MLRS ROCKET								10,000		10,000
13	MLRS LAUNCHER		60,123		60,123		60,123		130,000		190,123
14	ARMY TACTICAL MSL SYS (ATACMS)	148	115,858	148	115,858	148	115,858			148	115,858
15	ATACMS ADVANCE PROCUREMENT (CY)										
15a	SADARM										
16	PATRIOT MODS		26,160		26,160		26,160				26,160
17	HAWK MODS										
18	AVENGER MODS		10,877		10,877		10,877				10,877
18a	STINGER MODS						5,000		5,000		5,000
19	TOW MODS										
20	MLRS MODS		29,496		29,496		29,496				29,496
21	MODIFICATIONS LESS THAN $2.0M										
22	SPARES AND REPAIR PARTS MPA		34,616		34,616		34,616				34,616
23	AIR DEFENSE TARGETS		8,292		8,292		8,292				8,292
24	ITEMS LESS THAN $2.0M (MISSILES)		1,438		1,438		1,438				1,438
25	PRODUCTION BASE SUPPORT		3,636		3,636		3,636				3,636
	TOTAL MISSILE PROCUREMENT ARMY		593,995		685,136		693,909		224,714		818,709

TOW missile

The budget request contained $27.8 million in procurement for the TOW antitank missile. These funds were requested for plant closure and production support.

The Senate bill directed the Army to use the requested funds to continue missile production.

The House amendment took no similar action.

The House recedes.

The conferees direct the Secretary of the Army to include in the report required by the Senate report (S. Rept. 103-282) a reevaluation of TOW inventory requirements in light of the age and condition of the current TOW inventory, Javelin fielding, force structure reductions, and retirement of most of the Cobra attack helicopters. In addition, the conferees direct the Secretary to evaluate all reasonable alternatives for the Tow missile, including a hypervelocity missile, keeping in minds that any TOW replacement should not require extensive modifications of TOW launchers on the Army's Bradley fighting vehicles.

WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $919.8 million for Weapons and Tracked Combat Vehicles, Army. The Senate bill would authorize $1,132.9 million. The House amendment would authorize $942.9 million. The conferees recommend authorization of $1,159.2 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	PROCUREMENT OF W&TCV, ARMY										
	TRACKED COMBAT VEHICLES										
1	ABRAMS TRNG DEV MOD		994		994		994				994
2	BRADLEY FIGHTING VEHICLE FAMILY (MYP)		14,133		14,133		14,133				14,133
3	BRADLEY BASE SUSTAINMENT		145,438		145,438		145,438				145,438
4	BRADLEY FVS TRAINING DEVICES (MOD)		1,937		1,937		1,937				1,937
5	ABRAMS TANK TRAINING DEVICES		17,103		17,103		17,103				17,103
6	ARMORED GUN SYSTEM (AGS)										
7	M1 ABRAMS TANK SERIES (MYP)		22,089		22,089		22,089				22,089
8	CARRIER, MOD		51,090		51,090		51,090				51,090
9	BFVS SERIES (MOD)		72,512		72,512		72,512		7,600		80,112
10	HOWITZER, MED SP FT 155MM M109A6 (MOD)		237,603		159,503		237,603		-20,000		217,603
11	HOWITZER, MED SP FT 155MM M109A5 (MOD)		1,320		1,320		1,320				1,320
12	FAASV PIP TO FLEET		16,125		16,125		16,125		-6,172		9,953
13	IMPROVED RECOVERY VEHICLE (M88 MOD)		17,141	9	37,141		17,141		20,000		37,141
14	ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)										
15	M1 ABRAMS TANK (MOD)		40,291		40,291		40,291		-4,000		36,291
16	ABRAMS UPGRADE PROGRAM		122,156		122,156		50,556		-71,600		50,556
16a	ABRAMS UPGRADE PROGRAM (MCR)					24	108,000	24	108,000	24	108,000
17	ABRAMS UPGRADE ADV PROCUREMENT (CY)		52,973		52,973		124,573		71,600		124,573
17a	TANK ENGINE INDUSTRIAL BASE						35,000		35,000		35,000
18	MODS LESS THAN $2.0M (TCV-WTCV)		294		294		294				294
19	SPARES AND REPAIR PARTS WTCV				10,200				5,100		5,100
20	ITEMS LESS THAN $2.0M (TCV-WTCV)		218		218		218				218
21	PRODUCTION BASE SUPPORT (TCV-WTCV)		14,525		14,525		14,525				14,525
22	REGIONAL MAINTENANCE TRAINING SITES-EQU		1,710		1,710		1,710				1,710
	WEAPONS AND OTHER COMBAT VEHICLES										
23	HOWITZER, LIGHT, TOWED, 105MM, M119		195		195		195				195
24	MACHINE GUN, 5.56MM (SAW)		1,816		28,616		24,016		26,800		28,616
25	GRENADE LAUNCHER, AUTO, 40MM, MK19-3	600	12,302	600	21,302	600	38,902	1,800	26,600	2,400	38,902
26	MORTAR, 120MM		6,248		15,948		6,248		9,700		15,948
26a	M-16A2 RIFLE				13,000		13,000		13,000		13,000
27	5.56 CARBINE M4	8,892	4,865	8,892	7,865	8,892	13,165		8,300	8,892	13,165
28	PERSONAL DEFENSE WEAPON, 9MM				9,500				9,500		9,500

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
29	SQUAD AUTOMATIC WEAPON (MOD)		6,838		6,838		6,838				6,838
30	M16 RIFLE MODS		714		714		714				714
31	MODS LESS THAN $2.0M (WOCV-WTCV)		2,714		2,714		2,714				2,714
32	SPARES AND REPAIR PARTS WTCV		34,366		34,366		34,366				34,366
33	ITEMS LESS THAN $2.0M (WOCV-WTCV)		2,257		2,257		2,257				2,257
34	PRODUCTION BASE SUPPORT (WOCV-WTCV)		10,350		10,350		10,350				10,350
35	INDUSTRIAL PREPAREDNESS		7,469		7,469		7,469				7,469
	TOTAL WTCV		919,786		942,886		1,132,886		239,428		1,159,214

Bradley fighting vehicle system series modifications

The budget request included $72.5 million for Bradley fighting vehicle system (BFVS) series modifications.

The Senate bill and the House amendment would authorize the requested amount.

The Senate bill would authorize $7.6 million in another program element to procure one mechanized infantry battalion set of reactive armor tiles.

The conferees agree that this initiative should be funded in the Bradley modifications program element.

M109A6 howitzer improvement program

The budget request included $237.6 million for procurement of improved M109A6 howitzers.

The Senate bill would authorize the requested amount.

The House amendment would reduce the requested amount by $78.1 million.

The conferees agree to authorize $217.6 million, a reduction of $20.0 million to the requested amount.

Joint Army/industry plan for tank engines

The Senate bill included funds to preserve the tank engine industrial base and directed that some tank engine overhaul work be transferred from the Anniston Army Depot (AAD) to the contractor-operated Stratford Army Engine Plant (SAEP).

The House amendment contained no similar funding.

The conferees agree with the Defense Science Board recommendation that a U.S. tank industrial base should be preserved. The conferees believe that the SAEP, which currently manufactures engines for the Abrams M1 tank, and the Anniston Army Depot, which currently overhauls tank engines, could benefit from the preservation of this industry. Accordingly, the conferees agree to authorize $35.0 million for fiscal year 1995, of which:

(1) $9.0 million is for systems technical and engineering support and engine durability upgrade efforts;

(2) $6.0 million is for plant downsizing; and

(3) $20.0 million is for an extended service program for Abrams tank engines.

In addition, the conferees authorize the requested amounts for tank spares and repair parts and for depot activities at AAD. Finally, the conferees direct the obligation of the remaining $17.0 million authorized and appropriated in fiscal year 1994, and direct the Army to develop a depot/industry tank propulsion plan to be conducted jointly between AAD and SAEP that will preserve the tank engine base. The conferees direct the transfer of all outputs of the extended service program an its successor programs from the SAEP to AAD.

Tank gun mounts

The conferees note that the discussion in the Senate report (S. Rept. 103-282) concerning gun mounts is not necessarily the position of the conference.

V-903 diesel engines

The budget request and the Senate bill did not include funds for spares and repair parts for tracked combat vehicles.

The House amendment would authorize an additional $10.2 million for 294 V-903 diesel engines.

The conferees are aware that the contractor claims it cannot produce V-903 diesel engines when the production rate falls below about 730 engines per year and, therefore, intends to discontinue production on May 19, 1995. The V-903 diesel engine is used in the Bradley fighting vehicle, multiple launch rocket system, M9 armored combat earthmover, new command and control vehicle, new electronic fighting vehicle, and Marine Corps AAVP7A1. The Army states that it requires a substantial number of additional engines, but has not decided whether to continue to fund engine procurement at the rates the contractor claims are necessary.

The conferees direct the Army to determine the additional number of V-903 engines it requires. The Army is further directed to consider alternatives to the V-903 engine, including the possibility of acquiring the technical data package, and report the results of these analyses to the congressional defense committees not later than March 1, 1995.

The conferees agree to authorize an additional $5.1 million to continue procuring V-903 engines and direct the Army to reprogram additional funds in fiscal year 1995, and to request adequate funding in fiscal year 1996, if the Army decides to continue production at 730 engines a year.

AMMUNITION ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $844.6 million for Ammunition Procurement, Army. The Senate bill would authorize $878.1 million. The House amendment would authorize $854.9 million. The conferees recommend authorization of $902.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	PROCUREMENT OF AMMUNITION, ARMY										
	SMALL/MEDIUM CAL AMMUNITION										
1	CTG, 5.56MM, ALL TYPES		73,605		73,605		83,105		9,500		83,105
2	CTG, 7.62MM, ALL TYPES		12,108		12,108		12,108				12,108
3	CTG, 9MM, ALL TYPES		2,839		2,839		2,839				2,839
4	CTG, .50 CAL, ALL TYPES										
5	CTG, 20MM, ALL TYPES		1,171		1,171		1,171				1,171
6	CTG, 25MM, ALL TYPES		21,935		21,935		35,835		13,900		35,835
7	CTG, 30MM, ALL TYPES		16,577		16,577		16,577				16,577
8	CTG, 40MM, ALL TYPES		13,441		13,441		17,741		4,300		17,741
	MORTAR AMMUNITION										
9	CTG MORTAR 60MM 1/10 PRAC M840	1	305	1	3,305	1	3,305		3,000	1	3,305
10	CTG MORTAR 60MM ILLUM M721	14	6,276	14	6,276	14	6,276			14	6,276
	CTG, MORTAR, 120MM, HE										
11	CTG MORTAR 120MM SMOKE XM929 W/MO FUZE	17	21,698	17	21,698	17	21,698			17	21,698
	CTG, MORTAR, 81MM, 1/10 TNG										
	TANK AMMUNITION										
12	CTG TANK 35MM SUBCAL PRAC M968										
13	CTG TANK 105MM TP-T M490A1										
14	CTG TANK 105MM TPDS-T M724A1										
15	CTG 120MM APFSDS-T M829A2	24	82,447	24	82,447	24	82,447			24	82,447
16	CTG 120MM HEAT-MP-T M830A1	10	34,596	10	34,596	10	52,774		18,178	10	52,774
17	CTG TANK 120MM TP-T M831	43	29,774	43	29,774	43	29,774			43	29,774
18	CTG TANK 120MM TPCSDS-T M865	129	83,547	129	83,547	129	83,547			129	83,547
	ARTILLERY AMMUNITION										
19	CTG ARTY 105MM HERA M913				10,000		21,400		21,400		21,400
20	PROJ ARTY 155MM BASEBURNER M864				5,000						
	PROJ ARTY 155MM M795										
20a	SADARM						30,000		30,000		30,000
21	PROJ ARTY 155MM PRAC M804										
22	PROP CHG 155MM RED BAG M203A1										
23	MINE, TRAINING, ALL TYPES		5,478		5,478		5,478				5,478
24	MINE AT/AP M87 (VOLCANO)	17	44,248	17	44,248	17	52,248			17	44,248
25	BUNKER DEFEATING MUNITION (BDM)		7,761				7,761		-661		7,100

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 --- Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
26	ROCKET, HYDRA 70, ALL TYPES		107,850		107,850		107,850				107,850
27	PRIMER PERCUSSION M82										
28	DEMOLITION MUNITIONS, ALL TYPES		23,356		23,356		23,356				23,356
29	GRENADES, ALL TYPES		4,167		4,167		4,167				4,167
30	SIGNALS, ALL TYPES		687		687		687				687
31	SIMULATORS, ALL TYPES		9,388		9,388		9,388				9,388
32	AMMO COMPONENTS, ALL TYPES		5,222		5,222		5,222				5,222
33	M483 TO M864 CONVERSION										
34	UPGRADE/IMPROVEMENT OF AT4										
35	CAD/PAD ALL TYPES		7,084		7,084		7,084				7,084
36	ITEMS LESS THAN $2 MILLION		776		776		776				776
37	EOD EXPLOSIVE ITEMS										
38	AMMUNITION PECULIAR EQUIPMENT		4,645		4,645		4,645				4,645
39	ITEMS LESS THAN $2.0M (AMMO)		537		537		537				537
40	FIRST DESTINATION TRANSPORTATION(AMMO)		4,713		4,713		4,713				4,713
41	PROVISION OF INDUSTRIAL FACILITIES		44,429		44,429		44,429				44,429
42	COMPONENTS FOR PROVE-OUT		2,238		2,238		2,238				2,238
43	LAYAWAY OF INDUSTRIAL FACILITIES		26,774		26,774		26,774				26,774
44	PROVING GROUND MODERNIZATION		1,361		1,361		1,361				1,361
45	MAINTENANCE OF INACTIVE FACILITIES		48,142		48,142		48,142				48,142
46	CONVENTIONAL AMMO DEMILITARIZATION		95,469		95,469		100,469		5,000		100,469
47	ARMS INITIATIVE										
48	LAAP FLEXIBLE MANUFACTURING CENTER										
	PRIOR YEAR SAVINGS						-79,800		-46,440		-46,440
	UNDISTRIBUTED						-7,761				
	TOTAL AMMUNITION		844,644		854,883		870,361		58,177		902,821

Prior-year savings for procurement of ammunition-Army

The conferees agree to the following prior-year savings from fiscal year 1994 Army ammunition programs:

[Dollars in millions]

Item:	
35mm M968	−5.55
105mm M490A1 TP–T	−7.4
105mm M490AT TP–T tank	−10.0
105mm M724A1 DS–TP	−5.0
105mm M724A1 DS–TP tank	−10.0
Upgrade/improvement of AT–4	−5.0
CAD/PAD, all types	−1.36
Ammo components, all types	−2.13
Total	−46.44

120 millimeter tank ammunition

The House report (H. Rept. 103–499) directed the Secretary of the Army to maintain the 120 millimeter tank load operation at the Milan Army Ammunition Plant until the Secretary certifies to the congressional defense committees that it would be cost-effective to perform this function elsewhere.

The Senate report (S. Rept. 103–282) contained similar direction.

The conferees agree that fact-of-life changes have negated the need for the Senate and House direction.

OTHER PROCUREMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $2,690.2 million for Other Procurement, Army. The Senate bill would authorize $2,677.7 million. The House amendment would authorize $2,651.2 million. The conferees recommend authorization of $2,624.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	OTHER PROCUREMENT, ARMY										
	TACTICAL AND SUPPORT VEHICLES										
1	TACTICAL TRAILERS/DOLLY SETS		25,301		25,301		25,301				25,301
2	SEMITRAILER, TANK, 5000G										
3	SEMITRAILER VAN CGO SUPPLY 12T M129A2	99	4,851	99	4,851	99	4,851			99	4,851
4	HI MOB MULTI-PURP WHL VEH (HMMWV)(MYP)	1,360	108,119	1,360	108,119	1,360	108,119			1,360	108,119
5	FAMILY OF MEDIUM TACTICAL VEH (MYP)	3,535	382,739	3,535	332,739	3,535	382,739	-185	-18,100	3,350	364,639
6	HEAVY EQUIPMENT TRANSPORTER SYS										
7	FAMILY HEAVY TACTICAL VEHICLES (MYP)		16,459		16,459		36,459				16,459
8	MEDIUM TRUCK EXTENDED SVC PGM (ESP)										
9	MODIFICATION OF IN SVC EQUIP		11,817		11,817		11,817				11,817
10	ITEMS LESS THAN $2.0M (TAC VEH)		201		201		201				201
11	PASSENGER CARRYING VEHICLES										
12	GENERAL PURPOSE VEHICLES										
13	SPECIAL PURPOSE VEHICLES										
14	SYSTEM FIELDING SUPPORT PEO		5,477		5,477		5,477				5,477
15	PROJECT MANAGEMENT SUPPORT		2,501		2,501		2,501				2,501
16	SYSTEM FIELDING SUPPORT (TACOM)		2,114		2,114		2,114				2,114
17	SPARES AND REPAIR PARTS OPA-1										
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT										
18	JCSE EQUIPMENT (USREDCOM)		1,825		1,825		1,825				1,825
19	DEFENSE SATELLITE COMMUNICATIONS SYS		104,536		104,536		104,536				104,536
20	SAT TERM, EMUT	312	15,059	312	15,059	312	15,059			312	15,059
21	GMF CONTROL										
22	NAVSTAR GLOBAL POSITIONING SYSTEM	5,785	32,336	5,785	32,336	5,785	32,336			5,785	32,336
23	MILSTAR EDM TERMINAL										
24	GROUND COMMAND POST		5,948		5,948		5,948				5,948
25	MOD OF IN-SVC EQUIP (TAC SAT)		5,375		5,375		5,375				5,375
26	MSE MOD IN SERVICE		33,495		33,495		33,495				33,495
27	COMMAND CENTER IMPROVEMENT PROG (CCIP)		3,664		3,664		3,664				3,664
28	STD THEATER CMD & CONTROL SYS (STACCS)		12,095		12,095		12,095				12,095
29	WWMCCS INFORMATION SYSTEM (WIS)										
30	ARMY DATA DISTRIBUTION SYSTEM (ADDS)		9,558		9,558		9,558				9,558
31	MOBILE SUBSCRIBER EQUIP (MSE)										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
32	SINCGARS FAMILY		367,382		367,382		367,382				367,382
33	SW ASIA COMM INFRASTRUCTURE										
34	EAC COMMUNICATIONS		12,067		12,067		49,867		37,800		49,867
35	MOD OF IN-SVC EQUIP (EAC COMM)		11,774		11,774		11,774				11,774
36	C-E CONTINGENCY/FIELDING EQUIP		8,128		8,128		8,128				8,128
37	TSEC - ARMY KEY MGT SYS (AKMS)										
38	TSEC - INFORMATION SYSTEM SECURITY		13,083		13,083		13,083				13,083
39	TSEC - TEMPEST (COMSEC)										
40	TSEC - TRUNK ENCRYPTION DEVICES (TED)										
41	TSEC/KG-84, DED LOOP ENCRYP DEV										
42	TSEC/KY-99, MINTERM										
43	TSEC - SEC VOICE IMPRV PROG (COMSEC)										
44	TSEC - ITEMS LESS THAN $2.0M (COMSEC)										
45	TSEC - JCSE EQIP		531		531		531				531
46	TERRESTRIAL TRANSMISSION		899		899		899				899
47	C-E FACILITIES/PROJECTS		614		614		614				614
48	DEFENSE DATA NETWORK (DDN)		2,743		2,743		2,743				2,743
49	ELECTROMAG COMP PROG (EMCP)		881		881		881				881
50	WW TECH CON IMP PROG (WWTCIP)		200		200		200				200
51	INFORMATION SYSTEMS		22,000		22,000		22,000				22,000
52	DEFENSE MESSAGE SYSTEM (DMS)		16,468		16,468		16,468				16,468
53	LOCAL AREA NETWORK (LAN)		16,954		16,954		16,954				16,954
54	PENTAGON TELECOM CTR (PTC)		3,118		3,118		3,118				3,118
55	FOREIGN COUNTERINTELLIGENCE PROGRAM		210		210		210				210
56	GENERAL DEFENSE INTELL PROG (GDIP)		31,097		31,097		31,097				31,097
57	ITEMS LESS THAN $2.0M (INTEL SPT)		1,376		1,376		1,376				1,376
58	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		28,247		18,247		28,247		-4,700		23,547
59	COMMANDERS TACTICAL TERM (CTT) (TIARA)	24	8,228	24	8,228	24	13,228		5,000	24	13,228
60	HF COMINT SYSTEM (TIARA)										
61	IEW - GND BASE COMMON SENSORS (TIARA)		58,826		53,826		58,826				58,826
62	DEFENSE AIRBORNE RECONN PROGRAM (DARP)		2,428		2,428		1,028		-1,400		1,028
63	JOINT STARS (ARMY) (TIARA)		55,638		55,638		55,638				55,638
64	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIA		12,835		7,835		12,835		-5,000		7,835
65	DRUG INTERDICTION PROGRAM (TIARA)										

				--- House FY1995 ---		--- Senate FY1995 ---		----Conference---		-- Conference FY95 --	
P-1		FY1995 Request		Authorization		Authorization		Change to Request		Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
66	TACT ELEC SURV SYS (TESS)(TIARA)		4,669		4,669		4,669				4,669
67	TROJAN (TIARA)		22,319		22,319		22,319				22,319
68	MOD OF IN-SVC EQUIP (INTEL SPT)(TIARA)		15,295		15,295		15,295				15,295
69	ITEMS LESS THAN $2.0M (TIARA)										
70	CLOSE COMBAT DECOYS										
71	MOD OF IN-SVC EQUIP (EW)										
72	LESS THAN $2.0M (EW) CMP GEN		1,763		1,763		1,763				1,763
73	LT SPEC DIV INTERIM SENSOR (LSDIS)		1,889		1,889		1,889				1,889
74	FAAD GBS		64,316		64,316		64,316				64,316
75	NIGHT VISION DEVICES		78,362		98,362		80,612		2,250		80,612
76	PHYSICAL SECURITY SYSTEMS		10,222		10,222		10,222				10,222
77	ARTILLERY ACCURACY EQUIP		9,454		9,454		9,454				9,454
78	MOD OF IN-SVC EQUIP (TAC SURV)		4,603		4,603		4,603				4,603
79	INTEGRATED MET SYS SENSORS (IMETS)		7,004		7,004		7,004				7,004
80	ADV FIELD ARTIL TACT DATA SYS (AFATDS)	313	32,610	313	32,610		3,610	-313	-24,410		8,200
81	FIRE SUPPORT ADA CONVERSION	142	13,212	142	13,212	142	13,212		-1,600	142	11,612
82	INITIAL FIRE SPT AUTOMATIC SYS (IFSAS)										
83	CMBT SVC SUPT CONTROL SYS (CSSCS)	42	6,020	42	6,020	42	6,020			42	6,020
84	CORPS/THEATER ADP SVC CTR (CTASC)		2,006		2,006		2,006				2,006
85	FAAD C2		14,252		14,252		14,252				14,252
86	FORWARD ENTRY DEVICE (FED)		100		100		100				100
87	COMMON HARDWARE SOFTWARE										
88	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		1,697		1,697		1,697				1,697
89	LOGTECH		4,669		4,669		4,669				4,669
90	ISYSCON EQUIPMENT										
91	MANEUVER CONTROL SYSTEM (MCS)										
92	STAMIS TACTICAL COMPUTERS (STACOMP)		21,850		21,850		21,850				21,850
93	STANDARD INTEGRATED CMD POST SYSTEM		25,085		25,085		25,085				25,085
94	AUTOMATED DATA PROCESSING EQUIP		122,419		122,419		122,419		-12,000		110,419
95	RESERVE COMP AUTOMATION SYS (RCAS)		101,546		101,546		101,546				101,546
96	AFRTS		2,993		2,993		2,993				2,993
97	ITEMS LESS THAN $2.0M (A/V)		3,850		3,850		3,850				3,850
98	CALIBRATION SETS EQUIPMENT		10,349		10,349		10,349				10,349
99	INTEGRATED FAMILY OF TEST EQUIP (IFTE)		58,216		58,216		58,216				58,216

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
100	SIMP TEST EQUIP-INTERNAL COMBUST ENGS										
101	TMDE MODERNIZATION (TMOD)		11,188		11,188		11,188				11,188
102	INITIAL SPARES - PEO CCS										
103	INITIAL SPARES - PEO COMM										
104	INITIAL SPARES - PEO IEW										
105	INITIAL SPARES - PEO STAMIS										
106	INITIAL SPARES - NON PEO										
107	ARMY PRINTING AND BINDING EQUIPMENT										
108	INSTALLATION C4 UPGRADE_ (ICU)		2,274		2,274		2,274				2,274
109	PECIP AND QRIP										
110	PRODUCTION BASE SUPPORT (C-E)		849		849		849				849
111	SPECIAL PROGRAMS										
	OTHER SUPPORT EQUIPMENT										
112	SIMP COLL PROT EQUIP M20										
113	COLL PROT EQUIP, NBC TEMPER, TENT M2		10,310		10,310		10,310				10,310
114	MASK, PROTECTIVE, NBC M40/M42		24,980		24,980		24,980				24,980
115	REMOTE SENSING CHEM AGENT ALARM XM21	156	18,975	156	18,975	156	18,975			156	18,975
116	IMPROVED CHEMICAL AGENT MONITOR		2,778		2,778		2,778				2,778
117	AUTO CHEM AGENT ALARM (ACADA), XM22	388	13,046	388	13,046	388	13,046			388	13,046
118	DECONTAMINATE APP PWR DR LT WT M17										
119	GEN SMK MECH:MTRZD DUAL PURP XM56	71	12,500	71	12,500	71	12,500			71	12,500
120	RADIATION MONITORING SYSTEM (OPA-3)										
121	JOINT BIOLOGICAL DEFENSE PROGRAM		20,416		20,416				-20,416		
122	TOWED ASSAULT BRIDGE										
123	DISPENSER, MINE M139	179	16,311	179	16,311	179	16,311			179	16,311
124	DETECTING SET, MINE, AN/PSS-12										
125	AIR CONDITIONERS VARIOUS SIZE/CAPACITY		3,017		3,017		3,017				3,017
126	STANDARD INTEGRATED CMD POST SYSTEM										
127	CHEM/BIO PROTECTIVE SHELTER	51	9,539	51	9,539				-2,500	51	7,039
128	FIRETRUCKS										
129	SPACE HEATER	564	2,832	564	2,832	564	2,832			564	2,832
130	SOLDIER ENHANCEMENT										
131	FORCE PROVIDER		10,741		10,741		10,741				10,741
132	REFRIGERATION EQUIPMENT		4,788		4,788		1,888		-2,900		1,888

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference---- Change to Request Quantity	----Conference---- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
133	ITEMS LESS THAN $2.0M (CSS-EQ)		4,380		4,380		4,380				4,380
134	TANK ASSEMBLY FAB COLLAPSIBLE POL 10000	94	947	94	947	94	947			94	947
135	TANK ASSY, FAB COLLAPS, 20,000 GAL POL										
136	LAB PETROLEUM MODULAR BASE	1	2,360	1	2,360	1	2,360			1	2,360
137	INLAND PETROLEUM DISTRIBUTION SYSTEM		3,678		3,678		3,678				3,678
138	FORWARD AREA REFUELING SYS ADV AVIAT										
139	HEMTT AVIATION REFUELING SYSTEM	113	2,986	113	2,986	113	2,986			113	2,986
140	ITEMS LESS THAN $2.0M (POL)		7,726		7,726		7,726				7,726
141	WATER PURIF UNIT REV OS 3000 GPH										
142	FWD AREA WTR POINT SUP SYSTEM	155	2,731	155	2,731	155	2,731			155	2,731
143	SMALL MOBILE WATER CHILLER (SMWC)	185	1,907	185	1,907	185	1,907			185	1,907
144	ITEMS LESS THAN $2.0M (WATER EQ)		3,017		3,017		3,017				3,017
145	COMBAT SUPPORT MEDICAL		16,574		16,574		16,574				16,574
146	SHOP EQ CONTACT MAINT TRK MTD (MYP)	118	2,832	118	2,832	118	2,832			118	2,832
147	TOOL OUTFIT HYDRAULIC REPAIR 3/4 TRL MT	23	2,099	23	2,099	23	2,099			23	2,099
148	ITEMS LESS THAN $2.0M (MAINT EQ)		1,152		1,152		1,152				1,152
149	COMPACTOR HI-SPEED TAMP SELF PROP(CCE)										
150	ROLLER, VIBRATORY, SELF-PROPELLED(CCE)	31	5,876	31	5,876	31	5,876			31	5,876
151	CRUSHING/SCREENING PLANT, 150 TPH										
152	ITEMS LESS THAN $2.0M (CONST EQUIP)		3,396		3,396		3,396				3,396
153	LOGISTIC SUPPORT VESSEL (LSV)										
154	CAUSEWAY SYSTEMS		14,309		14,309						14,309
155	RAILWAY CAR, FLAT, 100 TON	97	11,617	97	11,617	97	11,617			97	11,617
156	ITEMS LESS THAN $2.0M (FLOAT/RAIL)		2,246		2,246		2,246				2,246
157	GENERATORS AND ASSOCIATED EQUIP		25,194		25,194		25,194				25,194
158	FRONT/SIDE LOADER FORKLIFT, CBD, PT,										
159	ITEMS LESS THAN $2.0M (MHE)		4,728		4,728		4,728				4,728
160	COMBAT TRAINING CENTERS SUPPORT		20,138		20,138		20,138				20,138
161	TRAINING DEVICES, NONSYSTEM		99,339		99,339		99,339		-13,400		85,939
162	SIMNET/CLOSE COMBAT TACTICAL TRAINER		32,038		32,038		32,038				32,038
163	SYSTEM FIELDING SUPPORT (OPA-3)		13,965		13,965		13,965				13,965
164	SPARES AND REPAIR PARTS OPA-3										
165	BASE LEVEL COM'L EQUIPMENT		9,322		9,322		9,322				9,322
166	ARMS CONTROL COMPLIANCE		3,521		3,521		3,521				3,521

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
167	COMBINED DEFENSE IMPROVEMENT PROJECT		3,143		3,143		3,143				3,143
168	MODIFICATION OF IN-SVC EQUIP (OPA-3)		36,447		36,447		36,447				36,447
169	PRODUCTION BASE SUPPORT (OTH)		1,887		1,887		1,887				1,887
170	INDUSTRIAL MODERNIZATION INCENTIVE										
171	SPECIAL EQUIPMENT FOR USER TESTING		10,517		10,517		10,517				10,517
172	OPA INITIAL SPARES		75,650		75,650		75,650		-4,150		71,500
173	TRACTOR ACE										
174	OPERATIONAL PROJECT STOCKS										
175	NATURAL GAS UTILIZATION										
176	CLOSED ACCOUNT ADJUSTMENTS										
176a	BATTLEFIELD COMBAT IDENTIFICATION			150	11,000						
	TOTAL OTHER PROCUREMENT ARMY		2,690,233		2,651,233		2,677,719		-65,526		2,624,707

Medium tactical trucks

The budget request contained $382.7 million to procure 3,535 medium trucks under the Army's family of medium tactical truck (FMTV) program.

The Senate bill would authorize the requested amount, but would prohibit obligation of 75 percent of the funds until the Under Secretary of Defense (Acquisition and Technology) reports to the congressional defense committees on a variety of issues.

The House amendment would reduce the requested amount by $50.0 million.

The conferees agree to authorize $364.6 million for this program, without limitations on the obligation of funds. The conferees understand that the Army is considering termination or another lengthy stretch-out of this program in fiscal year 1996, because of budget reductions and because the Army believes that trucks are a lower priority than weapons systems.

The conferees are concerned that the Army's position is short-sighted. Fast-moving projection forces are only as effective as their logistics system. Some of the Army's tactical trucks were built in the early 1950s, and Operation Desert Storm/Desert Shield revealed significant deficiencies. It is a fallacy that the Army could procure adequate trucks in a crisis from the commercial sector.

The Senate report (S. Rept. 103-282) argued that it makes little sense for the Army, Marine Corps, and the reserve components to pursue separate truck modernization programs—all of which are underfunded. The conferees believe this course makes even less sense if FMTV is stretched out further. The conferees endorse the analysis and reporting requirement described in the Senate report and establish a deadline for the report of March 15, 1995. The conferees urge the Secretary of Defense to carefully review the Army's proposed budget for the FMTV program.

AIRCRAFT PROCUREMENT, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $4,786.3 million for Aircraft Procurement, Navy. The Senate bill would authorize $4,535.6 million. The House amended would authorize $4,588.0 million. The conferees recommend authorization of $4,491.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 ---		--- Senate FY1995 ---		----Conference---		-- Conference FY95 --	
				Authorization		Authorization		Change to Request		Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	AIRCRAFT PROCUREMENT, NAVY										
1	EA-6B/REMFG (ELECT WARFARE) PROWLER										
2	AV-8B (V/STOL)HARRIER	4	130,216	4	130,216	4	130,216			4	130,216
3	AV-8B ADVANCE PROCUREMENT (CY)		15,528		15,528		15,528				15,528
4	F-14A/D (FIGHTER) TOMCAT										
5	F/A-18C/D (FIGHTER) HORNET (MYP)	24	1,032,368	24	1,032,368	17	782,368		-98,400	24	933,968
6	F-18 ADVANCE PROCUREMENT (CY)		84,792		84,792		44,792				84,792
7	CH/MH-53E (HELICOPTER) SUPER STALLION		41,084		41,084	4	101,084				41,084
8	CH/MH-53 ADVANCE PROCUREMENT (CY)										
9	AH-1W (HELICOPTER) SEA COBRA	12	141,721	12	141,721	12	141,721			12	141,721
10	SH-60B (ASW HELICOPTER) SEAHAWK										
11	SH-60B ADVANCE PROCUREMENT (CY)										
12	SH-60F CV (ASW HELICOPTER)		7,602				7,602				7,602
13	SH-60F ADVANCE PROCUREMENT (CY)										
14	E-2C (EARLY WARNING) HAWKEYE	4	285,759	4	285,759	4	285,759		-29,600	4	256,159
15	E-2C ADVANCE PROCUREMENT (CY)		41,669		41,669		41,669				41,669
16	C-20										
17	T-45TS (TRAINER) GOSHAWK	12	214,220	12	214,220	12	214,220			12	214,220
18	T-45 ADVANCE PROCUREMENT (CY)		31,180		31,180		31,180				31,180
19	HH-60H (HELICOPTER)		39,895		22,795		39,895				39,895
	MODIFICATION OF AIRCRAFT										
20	A-6 SERIES										
21	EA-6 SERIES		38,372				38,372		-38,372		
22	AV-8 SERIES		22,915		22,915		22,915				22,915
23	F-14 SERIES		158,326		158,326		158,326				158,326
24	ADVERSARY		211		211		211				211
25	ES-3 SERIES		19,310				19,310		-19,310		
26	F-18 SERIES		86,088		52,088		46,088		-40,000		46,088
27	H-46 SERIES		95,919		95,919		95,919				95,919
28	H-53 SERIES		53,814		53,814		53,814				53,814
29	SH-60 SERIES		59,803		47,929		59,803		-11,874		47,929
30	H-1 SERIES		95,874		95,874		95,874				95,874
31	H-2 SERIES										
32	H-3 SERIES		3,862		3,862		3,862				3,862

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
33	DARP MODS		21,714		21,714		21,714				21,714
34	P-3 SERIES		104,253		104,253		136,253				104,253
35	S-3 SERIES		40,891		22,491		40,891		-18,400		22,491
36	E-2 SERIES		187,139		159,539		187,139		-27,600		159,539
37	TRAINER A/C SERIES		276		276		276				276
38	C-130 SERIES		17,390		17,390		17,390				17,390
39	FEWSG		8,931		8,931		8,931				8,931
40	CARGO/TRANSPORT A/C SERIES		22,727		22,727		22,727				22,727
	KC-135 MULTIPOINT MODIFICATIONS								25,800		25,800
41	E-6 SERIES		90,482		81,482		90,482		-9,000		81,482
42	EXECUTIVE HELICOPTERS SERIES		38,093		33,093		38,093		-5,000		33,093
43	VARIOUS										
44	T-45 SERIES		6,316		6,316		6,316				6,316
45	POWER PLANT CHANGES		13,624		13,624		13,624				13,624
46	MISC FLIGHT SAFETY CHANGES		171		171		171				171
47	COMMON ECM EQUIPMENT		12,664		12,664				-12,664		
48	COMMON AVIONICS CHANGES		84,092		74,092		84,092		-10,000		74,092
49	SPARES AND REPAIR PARTS APN		916,436		916,436		916,436				916,436
50	COMMON GROUND EQUIPMENT		391,534		391,534		391,534				391,534
51	AIRCRAFT INDUSTRIAL FACILITIES		38,320		38,320		38,320				38,320
52	WAR CONSUMABLES		18,512		18,512		18,512				18,512
53	OTHER PRODUCTION CHARGES		50,351		50,351		50,351				50,351
54	SPECIAL SUPPORT EQUIPMENT		18,172		18,172		18,172				18,172
55	FIRST DESTINATION TRANSPORTATION		3,649		3,649		3,649				3,649
56	CANCELLED ACCOUNT ADJUSTMENTS										
	TOTAL AIRCRAFT PROCUREMENT NAVY		4,786,265		4,588,007		4,535,601		-294,420		4,491,845

F/A-18 C/D aircraft

The budget request included $1,032.4 million to buy 24 F/A-18 C/D aircraft in fiscal year 1995 and $84.8 million for advance procurement of 24 aircrafts in fiscal year 1996.

The House amendment would approve the requested amount. The House report (H. Rept. 103-499) noted that the Navy is selecting an identification friend or foe (IFF) device. The report also noted that an IFF interrogator/transponder had already been developed for export versions of F/A-18 C/D aircraft. The report directed the Secretary of the Navy to incorporate a non-developmental IFF into the aircraft, beginning with lot 19.

The Senate bill would authorize 17 aircraft and a total of $826.7 million for F/A-18 C/D production and advance procurement. The Senate report (S. Rept. 103-282) stated that 17 aircraft for the Department of the Navy, in addition to foreign sales, would be sufficient to maintain production. The report indicated that the Navy should plan to buy the more capable F/A-18 E/F in greater quantities when that version becomes available.

The conferees agree to provide $934.0 million to buy 24 F/A-18 C/D aircraft in fiscal year 1995 and $84.8 million for advance procurement of 24 aircraft in fiscal year 1996.

The conferees support the House initiative regarding procurement of a non-developmental IFF interrogator/transponder. However, the conferees note that there is more than one non-developmental interrogator/transponder available. Because savings derived from competition could be substantial, the conferees direct the Secretary of the Navy to ensure that the IFF requirement is satisfied through competitive procedures.

CH/MH-53E helicopters

The budget request included $41.1 million for the CH-53 helicopter. The Navy had planned to buy four CH-53E helicopters in fiscal year 1995, but now plans to shift some of its MH-53E and CH-53E helicopters from airborne mine countermeasures (AMCM) and vertical on-board delivery (VOD) squadrons to the Marine Corps. These shifts persuaded the Navy that it could truncate procurement of the CH-53Es at the end of the fiscal year 1994 buy.

The Senate bill would provide an additional $60.0 million for buying four CH-53 helicopters to support Marine Corps and Navy VOD lift requirements and preclude the need to reduce AMCM force structure.

The House amendment would authorize the requested amount.

The conferees agree to provide $41.1 million. The conferees note that these funds were requested for production line shutdown costs on the CH-53 program. The conferees understand that the Marine Corps may desire to use these funds to purchase two additional helicopters rather than terminate the program. The conferees would not object to the use of these funds for this purpose.

EA-6B modifications

The budget request included $38.4 million for EA-6B modifications. The Navy intended to use these funds for various structural and common configuration modifications, including the block 89A, wing center sections, pod hardback, and band 9/10 transmitter modifications.

The Senate bill would authorize the requested amount.

The House bill would not authorize any funds in fiscal year 1995 for EA-6B modifications.

The House and Senate reports (H. Rept. 103-499 and S. Rept. 103-282) directed the Secretary of the Navy to carry out a robust, lower cost alternative to the advanced capability (ADVCAP) upgrade program.

The Senate recedes. The conferees agree to authorize no funds for EA-6B modifications in fiscal year 1995.

The conferees direct the Secretary of the Navy to proceed with a lower cost alternative to the now-terminated advanced capability (DVCAP) upgrade program. Although the conferees are aware that the Navy is awaiting the results of a joint Navy/Air Force airborne electronic warfare (EW) study before commencing any alternative upgrade program for the EA-6B, the conferees are concerned that any delay in initiating these upgrades could foreclose the Navy's ability to capitalize on its prior ADVCAP investment. Furthermore, a failure to capture current technology through delaying the program could result in a requirement for a new aircraft that is unaffordable.

The conferees direct the Secretary of the Navy to immediately commence a modification program to address the structural and supportability problems associated with the EA-6B fleet. The conferees note the availability of the more than $475.0 million authorized and appropriated in fiscal year 1993 and 1994 for the EA-6B1 ADVCAP program, and direct the Secretary of the Navy to use those funds to initiate the structural upgrade program.

The conferees further direct the Secretary to report the results of the joint EW study, together with his recommendations for a lower cost alternative to the ADVCAP upgrade, to the congressional defense committees by December 31, 1994. The conferees specifically prohibit any reprogramming of the remaining prior-year funds for other purposes until the costs of the structural and tactical jamming system upgrades are further committees.

P-3 series modifications

The budget request included $104.3 million for P-3 series modifications.

The Senate bill would approve $136.3 million for P-3 modifications, an increase of $32.0 million from the requested level. Of this amount, the Senate report (S. Rept. 103-282) indicated that $25.0 million would provide for component testing, the development of a logistics and training infrastructure, and the procurement of additional anti-surface warfare (ASUW) improvement program (AIP) systems. The remaining $7.0 million would permit the Navy to complete procurement of new computers for the P-3C update III program, a separate action necessary for P-3 AIP.

The House amendment would approve the requested amount. The House report (H. Rept. 103-499) noted that, between 1991 and the end of fiscal year 1995, the maritime patrol aircraft (MPA) force structure will have been reduced from 37 squadrons to 22 squadrons. The House report expressed concern that the Navy may be reducing its MPA force structure too quickly. The House report directed the Secretary of the Navy to submit a report describing how the loss of operational capability that would result from a reduction in MPA force structure below 22 squadrons could be offset by other Navy or Department of Defense assets.

The conferees agree to approve the requested amount and reiterate the requirement that the Secretary of the Navy provide the report originally required by the House report.

Multipoint refueling modifications

The budget request contained $25.8 million for making multipoint refueling modifications to KC-135 tanker aircraft.

The Senate bill would delete these funds, based on information that the Air Force had canceled the program.

The House amendment would authorize the requested amount for multipoint modifications.

The conferees are concerned by the slow progress in providing multipoint refueling capability for Air Force KC-135 tanker aircraft. The conferees recently learned of a relatively inexpensive French modification program carried out in the United States to provide multipoint refueling for French KC-135 tankers. Therefore, the conferees encourage the Secretary of Defense to establish an aerial refueling initiative to consider a commercial program for KC-135 multipoint refueling.

To ensure that interoperability and low cost solutions are considered, the initiative should be administered with the oversight of the Under Secretary of Defense for Acquisition and Technology, relying on advice and support from Air Force and Navy representatives.

Because multipoint refueling provides relatively more improvements for Navy aircraft, the conferees agree to provide the fiscal year 1995 funds to the Navy. The conferees recommend $25.8 million for this initiative in the aircraft procurement, Navy account. The conferees understand that the initiative is included in the Future Years Defense Program and applaud the Secretary's interoperability initiatives.

Overview

The budget request for fiscal year 1995 contained an authorization of $2,400.0 million for Weapons Procurement, Navy. The Senate bill would authorize $2,428.5 million. The House amendment would authorize $2,223.2 million. The conferees recommend authorization of $2,076.6 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	WEAPONS PROCUREMENT, NAVY										
1	TRIDENT I		13,481		13,481		13,481				13,481
2	TRIDENT II	18	641,318	18	641,318	18	641,318			18	641,318
3	TRIDENT II ADVANCE PROCUREMENT (CY)		54,700		54,700		54,700				54,700
4	MISSILE INDUSTRIAL FACILITIES		212		212		212				212
5	TOMAHAWK	217	301,993	217	261,993	217	301,993		-11,900	217	290,093
6	AMRAAM	106	84,287	106	84,287	106	84,287			106	84,287
7	HARPOON	58	68,738	58	68,738	58	68,738			58	68,738
8	HARM										
9	STANDARD MISSILE	202	258,072	202	258,072	202	258,072			202	258,072
10	RAM	240	63,547	240	63,547	240	63,547			240	63,547
11	HELLFIRE										
12	TOW IIA										
13	AERIAL TARGETS		122,242		122,242		122,242				122,242
14	DRONES AND DECOYS										
15	OTHER MISSILE SUPPORT		8,848		8,848		8,848				8,848
16	TOMAHAWK MODS		17,435		17,435		17,435				17,435
17	SPARROW MODS		26,797		26,797		26,797				26,797
18	SIDEWINDER MODS		3,541		3,541		3,541				3,541
19	PHOENIX MODS										
20	HARPOON MODS		6,478		6,478		6,478				6,478
21	HARM MODS										
22	STANDARD MISSILES MODS		32,610		32,610		32,610				32,610
23	WEAPONS INDUSTRIAL FACILITIES		22,855				51,355		28,500		51,355
24	FLEET SATELLITE COMM (MYP)		125,480		73,180		125,480				125,480
25	ORDNANCE SUPPORT EQUIPMENT		5,994		5,994		5,994				5,994
	TORPEDOES AND RELATED EQUIPMENT										
26	MK-48 ADCAP TORPEDO (MYP)										
27	MK-50 ALWT										
28	ASW TARGETS		10,951				10,951				10,951
29	ASROC										
30	VERTICAL LAUNCHED ASROC (VLA)										
31	ADVANCE PROCUREMENT (CY)										
32	MK-46 TORPEDO MODS		2,571		2,571		2,571				2,571

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
33	MK-48 TORPEDO ADCAP MODS		52,341		52,300		52,341				52,341
34	QUICKSTRIKE MINE										
35	MK-60 CAPTOR MODS										
36	TORPEDO SUPPORT EQUIPMENT		67,646				67,646		-32,646		35,000
37	ASW RANGE SUPPORT		23,713		23,713		23,713				23,713
38	FIRST DESTINATION TRANSPORTATION		5,721		5,721		5,721				5,721
39	SMALL ARMS AND WEAPONS		11,751		11,751		11,751				11,751
40	CIWS MODS		49,047		49,047		49,047				49,047
41	5/54 GUN MOUNT MODS		6,568		6,568		6,568				6,568
42	MK-75 76MM GUN MOUNT MODS		2,068		2,068		2,068				2,068
43	MODS UNDER $2 MILLION		1,666		1,666		1,666				1,666
44	CANCELLED ACCOUNT ADJUSTMENTS										
45	GENERAL PURPOSE BOMBS		55,496		55,496		55,496		-55,496		
46	2.75 INCH ROCKETS		14,500		14,500		14,500		-14,500		
47	MACHINE GUN AMMUNITION		14,181		14,181		14,181		-14,181		
48	PRACTICE BOMBS		2,827		12,827		2,827		-2,827		
49	GATOR										
50	CARTRIDGES & CART ACTUATED DEVICES		14,942		14,942		14,942		-14,942		
51	AIRCRAFT ESCAPE ROCKETS		9,963		9,963		9,963		-9,963		
52	AIR EXPENDABLE COUNTERMEASURES		12,088		12,088		12,088		-12,088		
53	MARINE LOCATION MARKERS		781		781		781		-781		
54	DEFENSE NUCLEAR AGENCY MATERIAL		455		455		455		-455		
55	JATOS		1,418		1,418		1,418		-1,418		
56	5 INCH/54 GUN AMMUNITION		52,965		59,965		52,965		-52,965		
57	CIWS AMMUNITION		2,470		2,470		2,470		-2,470		
58	76MM GUN AMMUNITION		13,938		13,938		13,938		-13,938		
59	OTHER SHIP GUN AMMUNITION		15,139		15,139		15,139		-15,139		
60	SMALL ARMS & LANDING PARTY AMMO		14,175		14,175		14,175		-14,175		
61	PYROTECHNIC AND DEMOLITION		15,502		15,502		15,502		-15,502		
62	MINE NEUTRALIZATION DEVICES		3,546		3,546		3,546		-3,546		
63	SHIP EXPENDABLE COUNTERMEASURES		9,173		9,173		9,173		-9,173		
64	SPARES AND REPAIR PARTS WPN		53,809		53,809		53,809		-53,809		
	TOTAL WEAPONS PROCUREMENT NAVY		2,400,039		2,223,246		2,428,539		-323,414		2,076,625

Tomahawk missile procurement

The budget request included $302.0 million for the procurement of 217 Tomahawk missiles.

The Senate bill would approve the requested amount.

The House amendment would authorize the procurement of 217 missiles, but would reduce the requested amount by $40.0 million.

The conferees agree to a reduction of $11.9 million from the requested amount, consisting of:

(1) $2.6 million for an unsubstantiated pricing adjustment associated with the fiscal year 1994 selection of a single prime contractor; and

(2) $9.3 million for the capsule launch system (CLS) for submarines.

The conferees encourage the Navy to present its CLS projected inventory objective, and rationale for that inventory objective, with the fiscal year 1996 budget submission. The conferees intend to specifically exempt from this reduction funds budgeted for the Tomahawk precision strike initiative.

SHIPBUILDING AND CONVERSION, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $5,585.4 million for Shipbuilding and Conversion, Navy. The Senate bill would authorize $5,532.0 million. The House amendment would authorize $6,869.9 million. The conferees recommend authorization of $5,619.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	SHIPBUILDING & CONVERSION, NAVY										
1	CARRIER REPLACEMENT PROGRAM	1	2,446,958	1	3,646,958	1	2,446,958			1	2,446,958
2	CARRIER ADVANCE PROCUREMENT (CY)										
3	SSN-21										
4	CVN REFUELING OVERHAULS		38,328		38,328		38,328				38,328
5	CGN REFUELING OVERHAULS										
6	CGN ADVANCE PROCUREMENT (CY)										
7	DDG-51	3	2,697,690	3	2,697,690	3	2,697,690			3	2,697,690
8	DDG-51 ADVANCE PROCUREMENT (CY)										
9	LHD-7								50,000		50,000
10	LHD-7 ADVANCE PROCUREMENT				100,000						
11	LSD-41 (CARGO VARIANT)										
12	MHC MINE HUNTER COASTAL										
13	MCS CONV										
14	AE(C)	1	30,553	1	30,553					1	30,553
15	AOE										
16	OCEANOGRAPHIC SHIPS										
17	SERVICE CRAFT										
18	OUTFITTING		178,154		173,154		178,154		-5,000		173,154
19	POST DELIVERY		166,937		156,437		166,937		-10,500		156,437
20	AFS (C)	1	22,837	1	22,837					1	22,837
21	FIRST DESTINATION TRANSPORTATION		3,940		3,940		3,940				3,940
	NUCLEAR SUBMARINE MINE STEAM CONDENSERS										
	PRIOR YEARS' PROGRAMS										
	ESCALATION										
	TOTAL SHIPBUILDING & CONVERSION		5,585,397		6,869,897		5,532,007		34,500		5,619,897

OTHER PROCUREMENT, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $3,319.4 million for Other Procurement, Navy. The Senate bill would authorize $3,310.2 million. The House amendment would authorize $3,241.6 million. The conferees recommend authorization of $3,287.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	OTHER PROCUREMENT, NAVY										
	SHIPS SUPPORT EQUIPMENT										
1	LM-2500 GAS TURBINE		7,429		7,429		7,429				7,429
2	ALLISON 501K GAS TURBINE		8,188		7,000		8,188				8,188
3	STEAM PROPULSION IMPROVEMENT		303		303		303				303
4	OTHER PROPULSION EQUIPMENT		4,384		4,384		4,384				4,384
5	OTHER GENERATORS		9,013		9,013		9,013				9,013
6	OTHER PUMPS										
7	SUBMARINE PUMP RETROFIT KITS				1,000				1,000		1,000
8	HIGH PRESSURE AIR COMPRESSORS		172		172		172				172
9	SUBMARINE PROPELLERS		2,422		2,422		2,422				2,422
10	OTHER PROPELLERS AND SHAFTS		2,480		2,480		2,480				2,480
11	ELEC SUSPENDED GYRO NAVIGATOR		2,561		2,561		2,561				2,561
12	OTHER NAVIGATION EQUIPMENT		22,852		22,852		22,852				22,852
13	UNDERWAY REPLENISHMENT EQUIPMENT		22,465		20,000		22,465				22,465
14	TYPE 18 PERISCOPES										
15	PERISCOPES AND ACCESSORIES										
16	SUB PERISCOPES & IMAGING EQUIP		20,868		20,868		20,868				20,868
17	FIREFIGHTING EQUIPMENT		16,419		16,419		16,419				16,419
18	COMMAND AND CONTROL SWITCHBOARD		4,400		4,400		4,400				4,400
19	POLLUTION CONTROL EQUIPMENT		65,867		63,867		65,867		-2,000		63,867
20	SUBMARINE SILENCING EQUIPMENT		12,711		12,711		12,711				12,711
21	SURFACE SHIP SILENCING EQUIPMENT		205		205		205				205
22	SUBMARINE BATTERIES		9,610		9,610		9,610				9,610
23	STRATEGIC PLATFORM SUPPORT EQUIP		15,281		15,281		15,281				15,281
24	DSSP EQUIPMENT		3,691		3,691		3,691				3,691
25	MINESWEEPING EQUIPMENT										
26	HM&E ITEMS UNDER $2 MILLION		36,875		36,875		36,875				36,875
27	SURFACE IMA		4,502		4,502		4,502				4,502
28	DEGAUSSING EQUIPMENT										
29	RADIOLOGICAL CONTROLS		240		240		240				240
30	MINI/MICROMINI ELECTRONIC REPAIR		1,248		1,248		1,248				1,248
31	CHEMICAL WARFARE DETECTORS										
32	SUBMARINE LIFE SUPPORT SYSTEM		6,909		6,909		6,909				6,909

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	Amount	--- Senate FY1995 --- Authorization Quantity	Amount	----Conference--- Change to Request Quantity	Amount	-- Conference FY95 -- Authorization Quantity	Amount
33	REACTOR POWER UNITS		169,085		169,085		169,085				169,085
34	REACTOR COMPONENTS		194,673		180,000		194,673				194,673
35	DIVING AND SALVAGE EQUIPMENT		10,049		10,049		10,049				10,049
36	NAVAL SPECIAL WARFARE EQUIPMENT		5,191		5,191		5,191				5,191
37	STANDARD BOATS		5,623		5,623		5,623				5,623
38	OTHER SHIPS TRAINING EQUIPMENT		804		804		804				804
39	PRODUCTION SUPPORT FACILITIES		4,169		4,169		4,169				4,169
40	OPERATING FORCES IPE		6,326		6,326		6,326				6,326
41	NUCLEAR ALTERATIONS		156,804		120,000		156,804				156,804
42	MODERNIZATION SUPPORT										
43	FLEET MODERNIZATION PROGRAM										
43a	SHIP ALTERATIONS						5,000				
	COMMUNICATIONS AND ELECTRONICS EQUIPMENT										
44	AN/SPS-40		1,733		1,733		1,733				1,733
45	AN/SPS-48		630				630		-630		
46	AN/SPS-49		12,421		12,421		12,421				12,421
47	AN/SYS-()										
48	MK-23 TARGET ACQUISITION SYSTEM		12,287		12,287		12,287				12,287
49	RADAR SUPPORT		8,446		8,446		8,446				8,446
50	SURFACE ELECTRO-OPTICAL SYSTEM		7,158		7,158		7,158				7,158
51	SURFACE SONAR SUPPORT EQUIPMENT		6,248		6,248		6,248				6,248
52	AN/SQQ-89 SURF ASW COMBAT SYSTEM		88,445		88,445		88,445				88,445
53	AN/BQQ-5										
54	SSN ACOUSTICS		56,647				56,647		-18,000		38,647
55	SURFACE SONAR WINDOWS AND DOME		3,217		6,817		3,217		3,600		6,817
56	SONAR SUPPORT EQUIPMENT		14,673		14,673		14,673				14,673
57	SONAR SWITCHES AND TRANSDUCERS		21,550		21,550		21,550				21,550
58	FBM SYSTEM SONARS										
59	SUBMARINE ACOUSTIC WARFARE SYSTEM		10,684		22,684		10,684				10,684
60	SSTD		31,889		31,889		21,389		-9,300		22,589
61	ACOUSTIC COMMUNICATIONS		157		157		157				157
62	SUBMARINE ADVANCED COMBAT SYSTEM										
63	SOSUS		21,007		21,007		21,007				21,007
64	AN/SQR-18 TOWED ARRAY SONAR										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
65	SURTASS		8,781		8,781		8,781				8,781
66	ASW OPERATIONS CENTER		3,346		3,346		3,346				3,346
67	CARRIER ASW MODULE		4,870		4,870		4,870				4,870
68	AN/SLQ-32		50,606		50,606		50,606				50,606
69	AN/WLR-1		6,714		6,714		6,714				6,714
70	AN/WLR-8		1,749		1,749		1,749				1,749
71	ICAD SYSTEMS		1,790		1,790		1,790				1,790
72	EW SUPPORT EQUIPMENT		9,091		9,091		9,091				9,091
73	C-3 COUNTERMEASURES		26,317		26,317		26,317				26,317
74	COMBAT DF		1,792		1,792		1,792				1,792
75	OUTBOARD		12,901		12,901		12,901				12,901
76	NAVAL INTELL PROCESSING SYSTEM										
77	AN/WLQ-4		6,034		6,034		6,034				6,034
78	AN/WLQ-4 DEPOT										
79	AN/WLQ-4 IMPROVEMENTS										
80	SUBMARINE SUPPORT EQUIPMENT PROG		5,763		5,763		5,763				5,763
81	NAVY TACTICAL DATA SYSTEM		33,243		33,243		33,243				33,243
82	TACTICAL FLAG COMMAND CENTER		20,701		20,701		20,701				20,701
83	NAVAL TACTICAL COMMAND SUPPORT SYSTEM		43,156		43,156		43,156				43,156
84	LINK 16 HARDWARE		41,911		41,911		41,911				41,911
85	MINESWEEPING SYSTEM REPLACEMENT		50,758		50,758		50,758				50,758
86	EMSP (MYP)		33,963		33,963		33,963				33,963
87	NAVSTAR GPS RECEIVERS		18,108		18,108		18,108				18,108
88	HF LINK-11 DATA TERMINALS										
89	ARMED FORCES RADIO AND TV		4,431		4,431		4,431				4,431
90	STRATEGIC PLATFORM SUPPORT EQUIP		33,380		33,380		33,380				33,380
91	OTHER SPAWAR TRAINING EQUIPMENT										
92	OTHER TRAINING EQUIPMENT		12,647		12,647		12,647				12,647
93	MATCALS		4,348		4,348		4,348				4,348
94	SHIPBOARD AIR TRAFFIC CONTROL		10,622		10,622		10,622				10,622
95	AUTOMATIC CARRIER LANDING SYSTEM		12,338		12,338		12,338				12,338
96	TACAN		1,002		1,002		1,002				1,002
97	AIR STATION SUPPORT EQUIPMENT		5,907		5,907		5,907				5,907
98	MICROWAVE LANDING SYSTEM		1,467		1,467		1,467				1,467

P-1				--- House FY1995 ---		--- Senate FY1995 ---		----Conference---		-- Conference FY95 --	
		FY1995 Request		Authorization		Authorization		Change to Request		Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
99	FACSFAC		8,673		8,673		8,673				8,673
100	ID SYSTEMS		10,571		10,571		10,571				10,571
101	SURFACE IDENTIFICATION SYSTEMS		5,642		5,642		5,642				5,642
102	TADIX-B		14,363		14,363		14,363				14,363
103	NAVAL SPACE SURVEILLANCE SYSTEM										
104	SPACE SYSTEM PROCESSING										
105	NCCS ASHORE		16,102		16,102		16,102				16,102
106	RADIAC		6,235		6,235		6,235				6,235
107	OVER THE HORIZON RADAR										
108	GPETE		19,675		19,675		19,675				19,675
109	INTEG COMBAT SYSTEM TEST FACILITY		2,955		2,955		2,955				2,955
110	CALIBRATION STANDARDS		4,438		4,438		4,438				4,438
111	EMI CONTROL INSTRUMENTATION		2,687		2,687		2,687				2,687
112	SHORE ELEC ITEMS UNDER $2 MILLION		8,448		8,448		8,448				8,448
113	SHIPBOARD TACTICAL COMMUNICATIONS		34,382		34,382		34,382				34,382
114	FLIGHT DECK COMMUNICATIONS										
115	PORTABLE RADIOS		1,987		1,987		1,987				1,987
116	SINCGARS		13,749		13,749		13,749				13,749
117	SHIP COMMUNICATIONS AUTOMATION		28,534		28,534		28,534				28,534
118	SHIP COMM ITEMS UNDER $2 MILLION		11,076		11,076		11,076				11,076
119	SHORE LF/VLF COMMUNICATIONS		3,851		3,851		3,851				3,851
120	VERDIN										
121	SUBMARINE COMMUNICATION EQUIPMENT		6,623		6,623		6,623				6,623
122	SATCOM SHIP TERMINALS		126,363		106,363		126,363		-10,000		116,363
123	SATCOM SHORE TERMINALS		9,063		9,063		9,063				9,063
124	JCS COMMUNICATIONS EQUIPMENT		1,553		1,553		1,553				1,553
125	ELECTRICAL POWER SYSTEMS		1,480		1,480		1,480				1,480
126	SHORE HF COMMUNICATIONS										
127	DCS TECH CONTROL IMPROVEMENTS										
128	WWMCCS COMMUNICATIONS EQUIPMENT		2,175		2,175		2,175				2,175
129	SHORE COMMUNICATIONS AUTOMATION										
130	SHORE COMM ITEMS UNDER $2 MILLION										
131	NAVAL SHORE COMMUNICATIONS		25,133		25,133		25,133				25,133
132	SECURE VOICE SYSTEM		12,917		12,917		12,917				12,917

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
133	SECURE DATA SYSTEM		13,213		13,213		13,213				13,213
134	KEY MANAGEMENT SYSTEMS		15,292		15,292		15,292				15,292
135	SIGNAL SECURITY										
136	CRYPTOGRAPHIC ITEMS UNDER $2 MILL		2,850		2,850		2,850				2,850
137	CRYPTOLOGIC COMMUNICATIONS EQUIP		4,934		4,934		4,934				4,934
138	CRYPTOLOGIC ITEMS UNDER $2 MILLION										
139	CRYPTOLOGIC RESERVES EQUIPMENT										
140	CRYPTOLOGIC FIELD TRAINING EQUIP										
141	SHORE CRYPTOLOGIC SUPPORT SYSTEM										
142	ELECT ENGINEERED MAINTENANCE		2,641		2,641		2,641				2,641
143	OTHER DRUG INTERDICTION SUPPORT										
	AVIATION SUPPORT EQUIPMENT										
144	AN/SSQ-53 (DIFAR)		24,353		24,353				-24,353		
145	AN/SSQ-77 (VLAD)		28,451		28,451				-28,451		
146	AN/SSQ-110 (EER)		11,557		11,557		37,231		25,674		37,231
146a	AN/SSQ-62 (DICASS)						22,460		22,460		22,460
146b	AN/SSQ-36 (BT)						2,300		2,300		2,300
146c	AN/SSQ-86 (DLC)						2,370		2,370		2,370
147	CARTRIDGES & CART ACTUATED DEVELOP										
148	AIRCRAFT ESCAPE ROCKETS										
149	AIR EXPENDABLE COUNTERMEASURES										
150	MARINE LOCATION MARKERS										
151	DEFENSE NUCLEAR AGENCY MATERIAL										
152	JATOS										
153	WEAPONS RANGE SUPPORT EQUIPMENT		41,606		41,606		41,606				41,606
154	EXPEDITIONARY AIRFIELDS		5,561		5,561		5,561				5,561
155	AIRCRAFT REARMING EQUIPMENT		8,801		8,801		8,801				8,801
156	CATAPULTS & ARRESTING GEAR		36,606		36,606		36,606				36,606
157	METEOROLOGICAL EQUIPMENT		21,391		21,391		21,391				21,391
158	OTHER PHOTOGRAPHIC EQUIPMENT		819		819		819				819
159	AVIATION LIFE SUPPORT		7,873		7,873		7,873				7,873
160	AIRBORNE MINE COUNTERMEASURES		295		295		295				295
161	LAMPS MK III SHIPBOARD EQUIPMENT		4,449		4,449		4,449				4,449
162	REWSON PHOTOGRAPHIC EQUIPMENT		1,063		1,063		1,063				1,063

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
163	JSIPS-N										
164	STOCK SURVEILLANCE EQUIPMENT		1,407		1,407		1,407				1,407
165	DARP		4,001		4,001				-4,001		
166	OTHER AVIATION SUPPORT EQUIPMENT		10,497		10,497		10,497				10,497
	ORDNANCE SUPPORT EQUIPMENT										
167	GUN FIRE CONTROL EQUIPMENT		4,688		4,688		4,688				4,688
168	MK-92 FIRE CONTROL SYSTEM		6,642		6,642		6,642				6,642
169	HARPOON SUPPORT EQUIPMENT		3,001		3,001		3,001				3,001
170	TERRIER SUPPORT EQUIPMENT										
171	TARTAR SUPPORT EQUIPMENT		36,267		36,267		36,267				36,267
172	POINT DEFENSE SUPPORT EQUIPMENT		64,148		64,148		64,148				64,148
173	AIRBORNE ECM/ECCM		1,123		1,123		1,123				1,123
174	AEGIS SUPPORT EQUIPMENT		36,829		36,829		36,829				36,829
175	SURFACE TOMAHAWK SUPPORT EQUIPMENT		63,970		63,970		63,970				63,970
176	SUBMARINE TOMAHAWK SUPPORT EQUIP		4,879		4,879		4,879				4,879
177	VERTICAL LAUNCH SYSTEMS		28,413		28,413		28,413				28,413
178	STRATEGIC PLATFORM SUPPORT EQUIP		4,716		4,716		4,716				4,716
	LASER ARTICULATING ROBOTIC SYSTEM, PHIL										
179	STRATEGIC MISSILE SYSTEMS EQUIP		83,042		83,042		83,042				83,042
179a	TRIDENT NAVIGATION COMMONALITY SETS				40,000						
180	MK-117 FIRE CONTROL SYSTEM		19,752		19,752		19,752				19,752
181	SUBMARINE ASW SUPPORT EQUIPMENT		9,780		9,780		9,780				9,780
182	SURFACE ASW SUPPORT EQUIPMENT		16,396		16,396		16,396				16,396
183	ASW RANGE SUPPORT EQUIPMENT		6,372		6,372		6,372				6,372
184	EXPLOSIVE ORDNANCE DISPOSAL EQUIP		6,773		6,773		6,773				6,773
185	UNMANNED SEABORNE TARGET		5,491		5,491		5,491				5,491
186	ANTI-SHIP MISSILE DECOY SYSTEM		1,441		1,441		1,441				1,441
187	INDUSTRIAL FACILITIES (CALIBRATION EQ)		3,171		3,171		3,171				3,171
188	STOCK SURVEILLANCE EQUIPMENT		1,716		1,716		1,716				1,716
189	OTHER ORDNANCE TRAINING EQUIPMENT										
190	FLEET MINE SUPPORT EQUIPMENT		8,048		8,048		8,048				8,048
191	MINE NEUTRALIZATION DEVICES										
192	DEFENSE NUCLEAR AGENCY MATERIAL										
193	SHIP EXPENDABLE COUNTERMEASURE										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 Authorization Quantity	--- Senate FY1995 Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	CIVIL ENGINEERING SUPPORT EQUIPMENT										
194	PASSENGER CARRYING VEHICLES	114	2,303	114	2,303	114	2,303			114	2,303
195	SPECIAL PURPOSE VEHICLES		8,624		8,624		8,624				8,624
196	GENERAL PURPOSE TRUCKS		11,307		11,307		11,307				11,307
197	TRAILERS/TRUCK TRACTORS		2,721		2,721		2,721				2,721
198	EARTH MOVING EQUIPMENT		4,924		4,924		4,924				4,924
199	CONSTRUCTION & MAINTENANCE EQUIP		3,267		3,267		3,267				3,267
200	FIRE FIGHTING EQUIPMENT		2,288		2,288		2,288				2,288
201	WEIGHT HANDLING EQUIPMENT		1,599		1,599		1,599				1,599
202	AMPHIBIOUS EQUIPMENT		2,866		2,866		2,866				2,866
203	COMBAT CONSTRUCTION SUPPORT EQUIP		2,314		2,314		2,314				2,314
204	MOBILE UTILITIES SUPPORT EQUIPMENT		2,175		2,175		2,175				2,175
205	COLLATERAL EQUIPMENT		4,786		4,786		4,786				4,786
206	OCEAN CONSTRUCTION EQUIPMENT		478		478		478				478
207	FLEET MOORINGS										
208	POLLUTION CONTROL EQUIPMENT		29,991		29,991		29,991				29,991
209	OTHER CIVIL ENG SUPPORT EQUIPMENT		453		453		453				453
210	NATURAL GAS UTILIZATION EQUIPMENT										
	SUPPLY SUPPORT EQUIPMENT										
211	FORKLIFT TRUCKS		12,879		12,879		12,879				12,879
212	OTHER MATERIALS HANDLING EQUIPMENT		3,892		3,892		3,892				3,892
213	OTHER SUPPLY SUPPORT EQUIPMENT		3,312		3,312		3,312				3,312
214	FIRST DESTINATION TRANSPORTATION		11,699		11,699		11,699				11,699
215	SPECIAL PURPOSE SUPPLY SYSTEMS		71,479		71,479		71,479				71,479
	PERSONNEL AND COMMAND SUPPORT EQUIPMENT										
216	SURFACE SONAR TRAINERS										
217	SUBMARINE SONAR TRAINERS		3,148		3,148		3,148				3,148
218	SURFACE COMBAT SYSTEM TRAINERS		3,585		3,585		3,585				3,585
219	SUBMARINE COMBAT SYSTEM TRAINERS										
220	SHIP SYSTEM TRAINERS		9		9		9				9
221	TRAINING SUPPORT EQUIPMENT		1,920		1,920		1,920				1,920
222	TRAINING DEVICE MODIFICATIONS		21,356		21,356		21,356				21,356
223	COMMAND SUPPORT EQUIPMENT		24,417		24,417		24,417				24,417
224	EDUCATION SUPPORT EQUIPMENT		6,183		6,183		6,183				6,183

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
225	MEDICAL SUPPORT EQUIPMENT		2,955		2,955		2,955				2,955
226	INTELLIGENCE SUPPORT EQUIPMENT		33,284		33,284		34,484		-2,200		31,084
227	ITEMS UNDER $2 MILLION		200		200		200				200
228	OPERATING FORCES SUPPORT EQUIPMENT		19,015		19,015		19,015				19,015
229	NAVAL RESERVE SUPPORT EQUIPMENT		1,863		1,863		1,863				1,863
230	ENVIRONMENTAL SUPPORT EQUIPMENT		12,685		12,685		12,685				12,685
231	PHYSICAL SECURITY EQUIPMENT		7,323		7,323		7,323				7,323
232	COMPUTER ACQUISITION PROGRAM		41,807		41,807		41,807				41,807
233	PRODUCTIVITY INVESTMENT (PIF)										
234	PROD ENHANCE INCENTIVE FUND (PEIF)										
	JOINT TRAINING, ANALYSIS & SIMULATION C						10,500		10,500		10,500
	GENERAL REDUCTION						-10,500				
235	SPARES AND REPAIR PARTS OPN		314,571		314,571		313,671		-900		313,671
	INSTALLATION OF MODIFICATIONS										
	TOTAL OTHER PROCUREMENT NAVY		3,319,418		3,241,611		3,310,217		-31,931		3,287,487

Reactor components and nuclear alterations

The budget request included $194.7 million for the Navy to procure reactor components and $156.8 million to make alterations to nuclear power systems.

The Senate bill would approve the requested amounts.

The House amendment would reduce the reactor component request by $14.7 million and would reduce the nuclear alterations request by $36.8 million.

The conferees agree to provide the requested amounts. The conferees note that the budget justification materials for these two programs leave much to be desired. There is insufficient information to relate specific component procurement to specific ship upgrades. Neither can alteration expenses be related to installation schedules. The conferees find it unacceptable that the budget justification material does not provide the necessary information.

The conferees are dismayed by the attempts to scare members of Congress about the effects of potential reductions in these programs. The conferees believe that the Navy could have applied such effort more productively to providing the answers to legitimate questions.

The conferees are also unsure about the veracity of the claims made in some of the Navy Department's information papers. Claimed economic impacts on various geographic areas greatly exceeded the total potential reductions being considered. Accordingly, the DOD Inspector General is directed to investigate the accuracy of the Navy information papers prepared for the Congress on this matter, with specific attention to the economic impacts claimed, and to report his findings and recommendations to the Congress by December 31, 1994.

SATCOM ship terminals

The budget request included $126.4 million for procurement of SATCOM ship terminals.

The Senate bill would authorize the requested amount.

The House amendment would reduce the requested amount by $20.0 million.

The conferees agree to reduce the requested amount by $10.0 million, without prejudice.

PROCUREMENT, MARINE CORPS

Overview

The budget request for fiscal year 1995 contained an authorization of $554.6 million for Procurement, Marine Corps. The Senate bill would authorize $528.9 million. The House amendment would authorize $528.4 million. The conferees recommend authorization of $403.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	PROCUREMENT, MARINE CORPS										
1	5.56 MM, ALL TYPES		7,101		7,101		7,101		-7,101		
2	7.62 MM, ALL TYPES		36		36		36		-36		
3	LINEAR CHARGES, ALL TYPES										
4	.50 CALIBER		1,861		4,361		6,861		-1,861		
5	40 MM, ALL TYPES		12,359		12,359		12,359		-12,359		
6	60 MM HE M888		16,016		16,016		16,016		-16,016		
7	81 MM HE		15,662		15,662		15,662		-15,662		
8	81 MM SMOKE SCREEN		4,301		4,301		4,301		-4,301		
9	81MM ILLUMINATION (M853)		3,227		3,227		3,227		-3,227		
10	120MM TPCSDS-T M865		10,313		10,313		10,313		-10,313		
11	120 MM TP-T M831		4,937		4,937		4,937		-4,937		
12	155MM CHG. PROP. RED BAG		11,995		11,995				-11,995		
13	155MM M864 PROJ BASEBURNER										
14	FUZE, ET, XM762		17,194		17,194		17,194		-17,194		
15	FUZE, ET, XM767										
16	83 MM ROCKET HEAA (SMAW)										
17	CTG 25MM, ALL TYPES		8,863		8,863		8,863		-8,863		
18	25MM, TP-T, M793										
19	9 MM ALL TYPES		1,903		1,903		1,903		-1,903		
20	MINES, ALL TYPES										
21	GRENADES, ALL TYPES										
22	ROCKETS, ALL TYPES		2,174		2,174		2,174		-2,174		
23	AMMO MODERNIZATION		9,011		9,011		9,011		-9,011		
24	ITEMS LESS THAN $2 MIL		5,489		5,489		5,489		-5,489		
25	AAV7A1 PIP		3,022		3,022		3,022				3,022
26	LAV PIP	180	14,608	180	14,608	180	14,608			180	14,608
	LAV THERMAL SIGHTS										
27	LIGHT ARMORED VEHICLE										
28	MODIFICATION KITS (TRKD VEH)		3,508		3,508		3,508				3,508
29	ITEMS UNDER $2M (TRKD VEH)										
30	MULTI-LAUNCH ROCKET SYS (MLRS)										
31	MOD KITS (ARTILLERY)		510		510		510				510
32	ITEMS UNDER $2M (ALL OTHER)										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
33	HAWK MOD										
34	PEDESTAL MOUNTED STINGER (PMS) (MYP)	28	50,238	28	50,238	28	50,238			28	50,238
35	PMS ADVANCE PROCUREMENT (CY)										
36	MODIFICATION KITS		105		105		105				105
37	ITEMS LESS THAN $2 MILLION										
38	MANPACK RADIOS AND EQUIP		1,789		1,789		1,789				1,789
39	GPS										
40	VEHICLE MTD RADIOS & EQUIP (MYP)										
41	AN/GRC-171 B(V)4										
42	TSC-96 PIP FLEET SATCOM TERMINAL	1	538	1	538	1	538				538
43	UNIT LEVEL CIRCUIT SWITCH (ULCS)										
44	TACT COMM CENTER EQUIP.										
45	JOINT TACT INFO DIST SYS (CL I)		8,805		8,805		8,805				8,805
46	SIGNAL GENERATOR										
47	AUTO TEST EQUIP SYS		4,725		4,725		4,725				4,725
48	ELECTRONIC TEST EQUIP (TEL)		4,444		4,444		4,444				4,444
49	SINGLE CHAN GRD & AIR RADIO		49,030		49,030		49,030				49,030
50	MODIFICATION KITS (TEL)		1,088		1,088		1,088				1,088
51	ITEMS LESS THAN $2M (TEL)		1,561		1,561		1,561				1,561
52	POS LOCATING RPTG SYSTEM (PLRS)		3,083		3,083		3,083				3,083
53	TACTICAL AIR OPER MODULE (TAOM)		3,671		3,671		3,671				3,671
54	ADVANCED TACT AIR COMMAND CENTER										
55	MARINE TACTICAL C2		8,599		8,599		8,599				8,599
56	MULTI-SERV ADF FIELD ART TACTICAL DATA	113	5,140	113	5,140	113	5,140			113	5,140
57	DARP	1	28,768					-1	-28,768		
58	METEOROLOGICAL SYSTEMS	14	6,511	14	6,511	14	6,511			14	6,511
59	INTELLIGENCE SUPPORT EQUIPMENT		33,553		33,553		33,553				33,553
60	MOD KITS (INTEL)		121		121		121				121
61	ITEMS LESS THAN $2M (INTELL)		124		124		124				124
62	ELECTRONIC TMDE REPAIR FACILITY	4	712	4	712	4	712			4	712
63	MECH TEST TMDE		926		926		926				926
64	NIGHT VISION EQUIPMENT		29,647		29,647		39,647		10,000		39,647
65	ADP EQUIPMENT		12,938		12,938		12,938				12,938
66	TEST CALIB & MAINT SPT		1,504		1,504		1,504				1,504

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
67	MODIFICATION KITS (NONTEL)		1,091		1,091		1,091				1,091
68	ITEMS LESS THAN $2M (NONTEL)										
69	COMMERCIAL PASSENGER VEHICLES	103	1,835	103	1,835	103	1,835			103	1,835
70	COMMERCIAL CARGO VEHICLES		7,693		7,693		7,693				7,693
71	5/4T TRUCK HMMWV (MYP)										
72	LOGISTICS VEHICLE SYSTEM	68	11,153	68	11,153	68	11,153			68	11,153
73	TRAILERS		2,814		2,814		2,814				2,814
74	MODIFICATION KITS		4,542		4,542		4,542				4,542
75	ITEMS LESS THAN $2 MIL										
76	ENVIRONMENTAL CONTROL EQUIP ASSORT		2,258		2,258		2,258				2,258
77	ARMORED COMBAT EXCAVATOR (ACE)										
78	TACTICAL FUEL SYSTEM (TFS) EQUIP										
79	TOPOGRAPHIC/SURVEY EQUIPMENT										
80	POWER EQUIPMENT ASSORTED		2,638		2,638		2,638				2,638
81	AUTOMATIC BUILDING MACHINES										
82	COMMAND SUPPORT EQUIPMENT		1,596		1,596		1,596				1,596
83	AMPHIBIOUS RAID EQUIPMENT		255		255		255				255
84	PRODUCTIVITY INVESTMENT										
85	PHYSICAL SECURITY EQUIPMENT		761		761		761				761
86	GARRISON MOBILE ENGR EQUIP		2,511		2,511		2,511				2,511
87	TELEPHONE SYSTEM		13,375		13,375		13,375				13,375
88	WAREHOUSE MODERNIZATION		3,739		3,739		3,739				3,739
89	MATERIAL HANDLING EQUIP		2,992		2,992		2,992				2,992
90	FIRST DESTINATION TRANSPORTATION		2,489		2,489		2,489				2,489
91	LIGHTWEIGHT DECONTAMINATION SYSTEM										
92	FIELD MEDICAL EQUIPMENT		3,494		3,494		3,494				3,494
93	TRAINING DEVICES		25,511		25,511		25,511				25,511
94	SHELTER FAMILY										
95	CONTAINER FAMILY		5,281		5,281		5,281				5,281
96	MODIFICATION KITS		570		570		570				570
97	CHEMICAL AGENT MONITOR										
98	ITEMS LESS THAN $2 MIL		1,764		1,764		1,764				1,764
	MARINE ENHANCEMENT PROGRAM										
	INDOOR SIMULATED MARKSMANSHIP TRAINER										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 ---- Authorization Quantity	--- Senate FY1995 ---- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
99	DRUG INTERDICTION										
100	SPARES AND REPAIR PARTS PMC		44,548		44,548		44,548				44,548
	TOTAL PROCUREMENT MARINE CORPS		554,620		528,352		528,857		-151,210		403,410

AMMUNITION, NAVY AND MARINE CORPS

Overview

The budget request, the Senate bill, and the House amendment contained no separate accounts for ammunition programs of the Navy and the Marine Corps. These programs were funded within the Weapons Procurement, Navy and the Procurement, Marine Corps accounts, respectively. The conferees recommend authorization of $449.8 million for these programs in a new Ammunition, Navy and Marine Corps account as delineated in the following table. Unless noted explicitly in the statement of the managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 ---		--- Senate FY1995		----Conference---		-- Conference FY95 --	
				Authorization		Authorization		Change to Request		Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
PROCUREMENT OF AMMUNITION, NAVY AND MARINE C											
NAVY AMMUNITION											
45	GENERAL PURPOSE BOMBS								55,496		55,496
46	2.75 INCH ROCKETS								14,500		14,500
47	MACHINE GUN AMMUNITION								14,181		14,181
48	PRACTICE BOMBS								12,827		12,827
49	GATOR										
50	CARTRIDGES & CART ACTUATED DEVICES								14,942		14,942
51	AIRCRAFT ESCAPE ROCKETS								9,963		9,963
52	AIR EXPENDABLE COUNTERMEASURES								12,088		12,088
53	MARINE LOCATION MARKERS								781		781
54	DEFENSE NUCLEAR AGENCY MATERIAL								455		455
55	JATOS								1,418		1,418
56	5 INCH/54 GUN AMMUNITION								59,965		59,965
57	CIWS AMMUNITION								2,470		2,470
58	76MM GUN AMMUNITION								13,938		13,938
59	OTHER SHIP GUN AMMUNITION								15,139		15,139
60	SMALL ARMS & LANDING PARTY AMMO								14,175		14,175
61	PYROTECHNIC AND DEMOLITION								15,502		15,502
62	MINE NEUTRALIZATION DEVICES								3,546		3,546
63	SHIP EXPENDABLE COUNTERMEASURES								9,173		9,173
64	SPARES AND REPAIR PARTS WPN								53,809		53,809
MARINE CORPS											
1	5.56 MM, ALL TYPES								7,101		7,101
2	7.62 MM, ALL TYPES								36		36
3	LINEAR CHARGES, ALL TYPES										
4	.50 CALIBER								6,861		6,861
5	40 MM, ALL TYPES								12,359		12,359
6	60 MM HE M888								16,016		16,016
7	81 MM HE								15,662		15,662
8	81 MM SMOKE SCREEN								4,301		4,301
9	81MM ILLUMINATION (M853)								3,227		3,227
10	120MM TPCSDS-T M865								10,313		10,313
11	120 MM TP-T M831								4,937		4,937

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
12	155MM CHG. PROP. RED BAG										
13	155MM M864 PROJ BASEBURNER										
14	FUZE, ET, XM762								17,194		17,194
15	FUZE, ET, XM767										
16	83 MM ROCKET HEAA (SMAW)										
17	CTG 25MM, ALL TYPES								8,863		8,863
18	25MM, TP-T, M793										
19	9 MM ALL TYPES								1,903		1,903
20	MINES, ALL TYPES										
21	GRENADES, ALL TYPES										
22	ROCKETS, ALL TYPES								2,174		2,174
23	AMMO MODERNIZATION								9,011		9,011
24	ITEMS LESS THAN $2 MIL								5,489		5,489
			--------						--------		--------
	TOTAL NAVY/MARINE CORPS AMMUNITION								449,815		449,815

AIRCRAFT PROCUREMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $6,747.6 million for Aircraft Procurement, Air Force. The Senate bill would authorize $6,588.0 million. The House amendment would authorize $6,101.8 million. The conferees recommend authorization of $6,489.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 --- Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	AIRCRAFT PROCUREMENT, AIR FORCE										
1	B-1B (MYP)		154,254		154,254		154,254				154,254
2	B-2A (MYP)		384,384		384,384		384,384				384,384
3	F-15 E		20,394		20,394		20,394				20,394
4	F-16 C/D (MYP)		100,549		100,549		100,549				100,549
5	F-16 ADVANCE PROCUREMENT (CY)										
6	C-17 (MYP)	6	2,472,914	6	1,954,214	6	2,188,614		-304,300	6	2,168,614
7	C-17 ADVANCE PROCUREMENT (CY)		189,900		47,475		189,900				189,900
8	HC-130										
9	C-130H		49,975		49,975		49,975				49,975
10	NON DEVELOPMENT AIRLIFT AIRCRAFT		103,707	4	103,000		150,000				103,707
11	ENHANCED FLIGHT SCREENER										
12	JPATS	3	123,265	3	123,265	3	123,265		-15,000	3	108,265
13	TANKER, TRANSPORT, TRAINER SYSTEM	32	155,163	32	145,163	32	155,163			32	155,163
14	MH-60G										
15	CIVIL AIR PATROL A/C	27	1,444	27	1,444	27	1,444			27	1,444
16	DRUG INTERDICTION										
17	E-8B	2	445,339	2	445,339	2	545,239			2	445,339
18	E-8B ADVANCE PROCUREMENT (CY)		118,900		118,900		118,900		99,900		218,800
19	SOF A/C CSE										
	ENHANCED BOMBER CAPABILITY FUND						150,000		125,000		125,000
	MODIFICATION OF INSERVICE AIRCRAFT										
20	B-2A		65,136		65,136		65,136				65,136
21	B-1B		45,583		45,583		45,583				45,583
22	B-52		25,800		25,800		25,800				25,800
22a	BOMBER FORCE UPGRADE PROGRAM				100,000						
23	F-117		11,190		11,190		11,190				11,190
24	A-10		47,181		27,181		47,181		-10,000		37,181
25	F/RF-4		1,635		1,635		1,635				1,635
26	F-15		201,100		201,100		201,100				201,100
27	F-16		157,227		157,227		120,527		-36,700		120,527
28	EF-111		2,045		2,045		2,045				2,045
29	F-111		5,012		5,012		5,012				5,012
30	TR-1A										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	House Amount	--- Senate FY1995 --- Authorization Quantity	Senate Amount	----Conference--- Change to Request Quantity	Change Amount	-- Conference FY95 -- Authorization Quantity	Conference Amount
31	T/AT-37		1,416		1,416		1,416				1,416
32	C-5		28,715		28,715		28,715				28,715
33	C-9		6,784		6,784		6,784				6,784
34	C-17A		6,108		6,108		6,108				6,108
35	C-21		2,526		2,526		2,526				2,526
36	C-22		5,108		5,108		5,108				5,108
37	C-STOL		699		699		699				699
38	C-137		1,415		1,415		1,415				1,415
39	C-141		14,506		14,506		14,506				14,506
40	T-38		25,627		25,627		25,627				25,627
41	T-41 AIRCRAFT		185		185		185				185
42	T-43		5,212		5,212		5,212				5,212
43	KC-10A (ATCA)		18,073		18,073		18,073				18,073
44	C-12		1,300		1,300		1,300				1,300
45	C-18		2,131		2,131		2,131				2,131
46	C-20 MODS		6,465		6,465		6,465				6,465
47	VC-25A MOD		796		796		796				796
48	C-130		77,041		77,041		77,041				77,041
49	C-135		103,440		107,440		60,940		-42,500		60,940
49a	KC-135 REENGINE							2	48,000	2	48,000
50	E-3		137,570		117,570		137,570				137,570
51	E-4		35,230		25,230		35,230				35,230
52	H-1										
53	H-60		306		306		306				306
54	OTHER AIRCRAFT		40,795		40,795		40,795				40,795
55	DARP MODS		3,665		3,665		3,665		65,000		68,665
56	CLASSIFIED PROJECTS		48,907		48,907		48,907				48,907
57	SPARES AND REPAIR PARTS APAF		488,894		488,894		385,796		-107,798		381,096
58	COMMON AGE		225,845		201,845		225,845		-24,000		201,845
58a	DEPLOYABLE HYDRAULIC TEST AND REPAIR FA				4,000				2,000		2,000
59	INDUSTRIAL PREPAREDNESS		52,511		52,511		52,511				52,511
60	WAR CONSUMABLES		26,587		18,587		26,587		-2,000		24,587
61	OTHER PRODUCTION CHARGES		259,467		259,467		259,467		-55,734		203,733
62	DARP SUPPORT EQUIPMENT		196,886		196,886		196,886				196,886

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
63	COMMON ECM EQUIPMENT		41,292		41,292		41,292				41,292
64	OTHER PRODUCTION CHARGES - SOF										
	UNDISTRIBUTED						10,800				
	TOTAL AIRCRAFT PROCUREMENT AIR FORCE		6,747,599		6,101,767		6,587,994		-258,132		6,489,467

E-4 procurement

The budget request contained $35.2 million for modification of E-4 command post aircraft.

The Senate bill would authorize the requested amount.

The House amendment would reduce the requested amount by $10.0 million and would require a report on possible additional missions for the E-4 in the post-Cold War era.

The conferees agree to authorize the requested amount, but limit the obligation of $10.0 million until the Secretary of Defense submits the report called for in the House report (H. Rept. 103-499).

WEAPONS PROCUREMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $4,392.2 million for Weapons Procurement, Air Force. The Senate bill would authorize $4,330.5 million. The House amendment would authorize $3,953.2 million. The conferees recommend authorization of $3,732.8 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 ---		--- Senate FY1995		----Conference---		-- Conference FY95 --	
				Authorization		Authorization		Change to Request		Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	WEAPONS PROCUREMENT, AIR FORCE										
1	PEACEKEEPER (M-X)										
2	MISSILE REPLACEMENT EQ-BALLISTIC		16,180		16,180		16,180				16,180
3	HAVE NAP			36	26,000			36	26,000	36	26,000
4	TRI-SERVICE ATTACK MISSILE	48	373,875	48		48	308,075	-48	-373,875		
5	ADVANCED CRUISE MISSILE										
6	AMRAAM	413	309,462	413	309,462	413	309,462		-10,000	413	299,462
7	AGM-130 POWERED GBU-15	102	71,756	102	71,756	102	71,756			102	71,756
8	AGM-88A HARM										
9	TARGET DRONES	48	29,043	48	29,043	48	29,043			48	29,043
10	INDUSTRIAL FACILITIES		5,731				5,731				5,731
11	MISSILE REPLACEMENT EQ-OTHER		14,883		14,883		14,883				14,883
	GAMS					128	25,000				
	BAT/TMD DEMO						25,000				
	GAMS/BAT/TMD DEMO								40,000		40,000
12	HAVE NAP										
13	AIR LAUNCH CRUISE MISSILE						40,000		29,500		29,500
14	PEACEKEEPER (M-X)										
15	AIM-9 SIDEWINDER		8,304		8,304		8,304				8,304
16	MM III MODIFICATIONS		18,284		7,784		6,284		-9,000		9,284
17	AGM-65D MAVERICK										
18	AGM-88A HARM		64,157		64,157		64,157				64,157
19	MODIFICATIONS UNDER $2.0M		2,909		2,909		2,909				2,909
20	ADVANCED CRUISE MISSILE										
21	SPARES AND REPAIR PARTS WPAF		68,332		68,332		68,332				68,332
22	SPACEBORNE EQUIP (COMSEC)		2,092		2,092		2,092				2,092
23	GLOBAL POSITIONING (MYP)	5	134,831	5	134,831	5	134,831			5	134,831
24	GPS ADVANCE PROCUREMENT (CY)		55,352		55,352		55,352				55,352
25	SPACE SHUTTLE OPERATIONS		103,518		103,518		103,518				103,518
26	SPACE BOOSTERS		381,817		381,817		381,817				381,817
27	SPACE BOOSTERS ADV PROCUREMENT (CY)		40,900		40,900				-40,900		
28	MEDIUM LAUNCH VEHICLE	3	120,480	3	120,480	3	120,480			3	120,480
29	MLV ADVANCE PROCUREMENT (CY)		28,564		28,564		28,564				28,564
30	DEF METEOROLOGICAL SAT PROG		29,159		29,159		29,159				29,159

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
31	DEFENSE SUPPORT PROGRAM (MYP)		363,959		363,959		363,959				363,959
32	DSP ADVANCE PROCUREMENT (CY)										
33	DEFENSE SATELLITE COMM SYSTEM		20,185		20,185		20,185				20,185
34	IONDS (MYP)	5	35,649	5	30,649	5	35,649			5	35,649
35	IONDS ADVANCE PROCUREMENT (CY)		9,954		9,954		9,954				9,954
36	SPECIAL UPDATE PROGRAMS		184,212		184,212		184,212				184,212
37	SPECIAL PROGRAMS		1,619,032		1,569,032		1,586,032		-41,500		1,577,532
38	2.75 INCH ROCKET MOTOR	40,468	13,851	40,468	13,851	40,468	13,851	-40,468	-13,851		
39	ITEMS LESS THAN $2,000,000		1,990		1,990		1,990		-1,990		
40	5.56 MM	28,385	11,618	28,385	11,618	28,385	11,618	-28,385	-11,618		
41	20MM TRAINING	3,307	18,295	3,307	18,295	3,307	18,295	-3,307	-18,295		
42	30 MM TRAINING	2,523	23,672	2,523	23,672	2,523	23,672	-2,523	-23,672		
43	CARTRIDGE CHAFF RR-180	523	5,339	523	2,403	523	5,339	-523	-5,339		
44	CARTRIDGE CHAFF RR-188	1,513	2,351	1,513	2,351	1,513	2,351	-1,513	-2,351		
45	SIGNAL MK-4 MOD 3	710	1,466	710	1,466	710	1,466	-710	-1,466		
46	ITEMS LESS THAN $2,000,000		4,523		4,523		4,523		-4,523		
47	TIMER ACTUATOR FIN FUZE	18,000	8,742	18,000	8,742	18,000	8,742	-18,000	-8,742		
48	GBU-15		5,613		5,613		5,613		-5,613		
49	BOMB PRACTICE 25 POUND	668,720	9,406	668,720	6,922	668,720	9,406	-668,720	-9,406		
50	SENSOR FUZED WEAPON	260	113,513	260	113,513	260	113,513	-260	-113,513		
51	ITEMS LESS THAN $2,000,000		2,514		2,514		2,514		-2,514		
52	ITEMS LESS THAN $2,000,000		822		822		822		-822		
53	FLARE, IR MJU-7B	766,563	16,260	766,563	6,540	766,563	16,260	-766,563	-16,260		
54	PARACHUTE FLARE LUU-2 B/B	7,572	4,025	7,572	4,025	7,572	4,025	-7,572	-4,025		
55	M-206 CARTRIDGE FLARE	311,800	9,114	311,800	9,114	311,800	9,114	-311,800	-9,114		
56	INITIAL SPARES WPAF		161		161		161		-161		
57	REPLENISHMENT SPARES WPAF		2,865		2,865		2,865		-2,865		
58	MODIFICATIONS		507		507		507		-507		
59	ITEMS LESS THAN $2,000,000		10,271		7,068		10,271		-10,271		
60	FMU-139 FUZE		11,742		10,250		11,742		-11,742		
61	ITEMS LESS THAN $2,000,000		60		60		60		-60		
62	M-16 A2 RIFLE	1,450	833	1,450	833	1,450	833	-1,450	-833		
	TOTAL WEAPONS PROCUREMENT AIR FORCE		4,392,173		3,953,232		4,330,473		-659,328		3,732,845

Bomber improvements

The Senate bill would provide $90.0 million for improved interim conventional weapons for heavy bombers.

The House amendment would provide $100.0 million for both accelerating conventional weapon upgrades on B-1B bombers and for transferring heavy bombers from attrition reserve status to the active inventory.

The conferees agree to recommend the following funding:

(1) $37.5 million for testing and conversion of the nuclear air-launched cruise missile to conventional weapons capability;

(2) $40.0 million for the acquisition of GPS-aided munition system (GAMS) weapons and for testing of the brilliant anti-tank (BAT) submunition in a tactical munitions dispenser;

(3) $5.3 million in procurement and $18.1 million in operation and maintenance funds for the restoration of 24 B-52H bombers from attrition reserve status to active status; and

(4) $16.9 million for the acceleration of the integration of the joint direct attack munitions (JDAM) family of weapons onto the B-1B bomber.

AMMUNITION, AIR FORCE

Overview

The budget request, the Senate bill, and the House amendment contained no separate account for Air Force ammunition programs. Those programs were funded within the Weapons Procurement, Air Force account. The conferees recommend authorization of $251.5 million for these programs in a new Ammunition, Air Force account as delineated in the following table. Unless noted explicitly in the statement of the managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	PROCUREMENT OF AMMUNITION AIR FORCE										
38	2.75 INCH ROCKET MOTOR							40,468	13,851	40,468	13,851
39	ITEMS LESS THAN $2,000,000								1,990		1,990
40	5.56 MM							28,385	11,618	28,385	11,618
41	20MM TRAINING							3,307	18,295	3,307	18,295
42	30 MM TRAINING							2,523	15,500	2,523	15,500
43	CARTRIDGE CHAFF RR-180							523	2,403	523	2,403
44	CARTRIDGE CHAFF RR-188							1,513	2,351	1,513	2,351
45	SIGNAL MK-4 MOD 3							710	1,466	710	1,466
46	ITEMS LESS THAN $2,000,000								4,523		4,523
47	TIMER ACTUATOR FIN FUZE							18,000	8,742	18,000	8,742
48	GBU-15								5,613		5,613
49	BOMB PRACTICE 25 POUND							387,000	6,922	387,000	6,922
50	SENSOR FUZED WEAPON							260	113,513	260	113,513
51	ITEMS LESS THAN $2,000,000								2,514		2,514
52	ITEMS LESS THAN $2,000,000								822		822
53	FLARE, IR MJU-7B							766,563	6,540	766,563	6,540
54	PARACHUTE FLARE LUU-2 B/B							7,572	4,025	7,572	4,025
55	M-206 CARTRIDGE FLARE							311,800	9,114	311,800	9,114
56	INITIAL SPARES WPAF								161		161
57	REPLENISHMENT SPARES WPAF								2,865		2,865
58	MODIFICATIONS								507		507
59	ITEMS LESS THAN $2,000,000								7,068		7,068
60	FMU-139 FUZE								10,250		10,250
61	ITEMS LESS THAN $2,000,000								60		60
62	M-16 A2 RIFLE							1,450	833	1,450	833
			----------								----------
	TOTAL AIR FORCE AMMUNITION										251,546

OTHER PROCUREMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $7,078.3 million for Other Procurement, Air Force. The Senate bill would authorize $6,961.2 million. The House amendment would authorize $6,855.4 million. The conferees recommend authorization of $6,929.2 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	OTHER PROCUREMENT, AIR FORCE										
	MUNITIONS AND ASSOCIATED EQUIPMENT										
1	2.75 INCH ROCKET MOTOR										
2	ITEMS LESS THAN $2,000,000										
3	5.56 MM										
4	20 MM COMBAT										
5	20MM TRAINING										
6	30 MM TRAINING										
7	CARTRIDGE CHAFF RR-180										
8	CARTRIDGE CHAFF RR-188										
9	SIGNAL MK-4 MOD 3										
10	CART IMP 3000 FT/LBS,										
11	ITEMS LESS THAN $2,000,000										
12	BSU-49 INFLATABLE RETARDER										
13	GBU-15										
14	BOMB PRACTICE 25 POUND										
15	MK-84 BOMB-EMPTY										
16	SENSOR FUZED WEAPON										
17	CBU-87(COMBINED EFFECTS MUNITIONS)										
18	ITEMS LESS THAN $2,000,000										
19	ITEMS LESS THAN $2,000,000										
20	FLARE, IR MJU-7B										
21	MJU-10B										
22	ALA-17 FLARE										
23	SPARES AND REPAIR PARTS OPAF-1										
24	SPECIAL PROGRAMS										
25	MODIFICATIONS										
26	ITEMS LESS THAN $2,000,000										
27	FMU-139 FUZE										
28	ITEMS LESS THAN $2,000,000										
29	SQUAD AUTOMATIC WEAPON										
30	M-16 A2 RIFLE										
31	.50 CAL RIFLE										
32	M2 .50 CAL MACHINE GUN										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
33	12GA EOD SHOTGUN										
	VEHICULAR EQUIPMENT										
34	SEDAN, 4 DR 4X2	296	2,621	296	2,621	296	2,621			296	2,621
35	STATION WAGON, 4X2	133	1,773	133	1,773	133	1,773			133	1,773
36	BUS, 28 PASSENGER	33	1,616	33	1,616	33	1,616			33	1,616
37	BUS - 32-44 PASSENGER	26	1,763	26	1,763	26	1,763			26	1,763
38	AMBULANCE, BUS	1	78	1	78	1	78			1	78
39	MODULAR AMBULANCE	158	8,095	158	8,095	158	8,095			158	8,095
40	14-23 PASSENGER BUS	5	196	5	196	5	196			5	196
41	LAW ENFORCEMENT VEHICLE	24	311	24	311	24	311			24	311
42	ARMORED SEDAN	2	469	2	469	2	469			2	469
43	TRUCK, STAKE/PLATFORM										
44	TRUCK, CARGO-UTILITY, 3/4T, 4X4										
45	TRUCK, CARGO-UTILITY, 1/2T, 4X2										
46	TRUCK, PICKUP, 1/2T, 4X2	192	2,139	192	2,139	192	2,139			192	2,139
47	TRUCK, PICKUP, COMPACT	471	4,399	471	4,399	471	4,399			471	4,399
48	TRUCK MULTI-STOP 1 TON 4X2	477	9,391	477	9,391	477	9,391			477	9,391
49	TRUCK, PANEL, 4X2										
50	TRUCK CARRYALL										
51	MEDIUM TACTICAL VEHICLE										
52	TRUCK, CARGO, 2 1/2T										
53	TRUCK TRACTOR, OVER 5T										
54	TRUCK, DUMP 5 TON										
55	TRUCK, UTILITY										
56	CAP VEHICLES		787		787		787				787
57	ITEMS LESS THAN $2,000,000		12,546		12,546		12,546				12,546
	2.5 TON SLEP										
58	TRUCK PHONE LINE CONSTRUCTION										
59	TRUCK TANK FUEL R-11	154	22,782	154	19,000	154	22,782		-3,782	154	19,000
60	ITEMS LESS THAN $2,000,000		6,576		6,576		6,576				6,576
61	TRUCK CRASH P-23										
62	TRUCK WATER P-26 (P-18)										
63	HEAVY RESCUE VEHICLE	14	2,389	14	2,389	14	2,389			14	2,389
64	TRUCK PUMPER P-24	14	2,479	14	2,479	14	2,479			14	2,479

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
65	TRUCK PUMPER P-22	26	4,299	26	4,299	26	4,299			26	4,299
66	ITEMS LESS THAN $2,000,000										
67	TRUCK F/L 4000 LB GED/DED 144 INCH										
68	TRUCK, F/L 10,000 LB										
69	60K A/C LOADER	27	29,329	27	29,329	27	29,329			27	29,329
70	50K CONTAINER HANDLER										
71	ITEMS LESS THAN $2,000,000		3,357		3,357		3,357				3,357
72	RUNWAY SNOW REMOV AND CLEANING EQUIP										
73	WELL DRILLING SYSTEM										
74	SPARES AND REPAIR PARTS OPAF-2										
75	MODIFICATIONS		561		561		561				561
76	ITEMS LESS THAN $2,000,000		1,398		1,398		1,398				1,398
	GENERAL REDUCTION, MMII										
77	CANCELLED ACCOUNT ADJUSTMENTS										
ELECTRONICS AND TELECOMMUNICATIONS EQUIP											
78	COMSEC EQUIPMENT		21,265		21,265		21,265				21,265
79	SPARES AND REPAIR PARTS OPAF-3										
80	MODIFICATIONS (COMSEC)		479		479		479				479
81	INTELLIGENCE DATA HANDLING SYS		16,159		16,159		16,159				16,159
82	INTELLIGENCE TRAINING EQUIPMENT		148		148		148				148
83	INTELLIGENCE COMM EQUIP		9,939		9,939		9,939				9,939
84	ITEMS LESS THAN $2,000,000		195		195		195				195
85	AIR TRAFFIC CTRL/LAND SYS (ATCALS)		2,423		2,423		2,423				2,423
86	THEATER AIR CONTROL SYS IMPROVEMENT		78,774		78,774		78,774		-7,600		71,174
87	WEATHER OBSERV/FORCAST		21,264		21,264		21,264				21,264
87a	ASOS				5,000				5,000		5,000
88	DEFENSE SUPPORT PROGRAM		15,102		15,102		15,102				15,102
89	STRATEGIC COMMAND AND CONTROL		8,257		8,257		8,257				8,257
90	CHEYENNE MOUNTAIN COMPLEX		15,182		15,182		15,182				15,182
91	BMEWS MODERNIZATION										
92	SPACETRACK		918		918		918				918
93	NAVSTAR GPS		3,776		3,776		3,776				3,776
94	DEFENSE METEOROLOGICAL SAT PROG		16,081		16,081		16,081				16,081
95	MARS/USAF-FAA RADAR UPGRADE										

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
96	TAC SIGINT SUPPORT										
97	DRUG INTERDICTION PROGRAM										
98	IMAGERY TRANS										
99	TACTICAL WARNING SYSTEMS SUPPORT										
100	NORTH ATLANTIC DEFENSE C3										
101	DARP		22,392		22,392		9,792		-12,600		9,792
102	AUTOMATIC DATA PROCESSING EQUIP		39,121		39,121		39,121				39,121
103	ADP OPERATIONS CONSOLIDATION										
104	WWMCCS/GLOBAL COMMAND & CONTROL SYSTEM		12,623		12,623		12,623		-4,189		8,434
105	MOBILITY COMMAND AND CONTROL		16,276		16,276		16,276				16,276
106	AIR FORCE PHYSICAL SECURITY SYSTEM		25,522		25,522		25,522				25,522
107	COMBAT TRAINING RANGES		16,989		16,989		16,989				16,989
107a	ACMI TRAINING RANGES								25,000		25,000
108	C3 COUNTERMEASURES		5,426		5,426		5,426				5,426
109	BASE LEVEL DATA AUTO PROGRAM		34,093		34,093		34,093				34,093
110	AIR FORCE SATELLITE CONTROL NETWORK		25,810		25,810		25,810				25,810
111	AFMC CALS										
112	THEATER BATTLE MGT C2 SYS		45,547		45,547		45,547				45,547
113	EASTERN/WESTERN RANGE I&M		116,625		116,625		116,625				116,625
114	INFORMATION TRANSMISSION SYSTEMS		499		499		499				499
115	TELEPHONE EXCHANGE		44,872		44,872		44,872				44,872
116	JOINT TACTICAL COMM PROGRAM										
117	USTRANSCOM										
118	USCENTCOM		2,810		2,810		2,810				2,810
119	AUTOMATED TELECOMMUNICATIONS PRG		29,558		12,000		29,558		-17,558		12,000
120	MILSATCOM		3,770		3,770		3,770				3,770
121	SATELLITE TERMINALS		5,386		5,386		5,386				5,386
122	WIDEBAND SYSTEMS UPGRADE		1,433		1,433		1,433				1,433
123	MINIMUM ESSENTIAL EMER COMM NET										
124	TACTICAL C-E EQUIPMENT		41,718		41,718		41,718				41,718
125	RADIO EQUIPMENT		19,618		1,000		19,618		-18,618		1,000
126	TV EQUIPMENT (AFRTV)		2,622		2,622		2,622				2,622
127	CCTV/AUDIOVISUAL EQUIPMENT		2,286		2,286		2,286				2,286
128	ANTI JAM VOICE		390		390		390				390

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
129	BASE COMM INFRASTRUCTURE		869		869		869				869
130	SPARES AND REPAIR PARTS OPAF-3										
131	CAP COM & ELECT		293		293		293				293
132	ITEMS LESS THAN $2,000,000		9,535		9,535		9,535				9,535
133	COMM ELECT MODS		18,850		18,850		18,850				18,850
134	ANTIJAM VOICE										
135	SPACE MODS		29,655		29,655		29,655				29,655
	OTHER BASE MAINTENANCE AND SUPPORT EQUIP										
136	BASE/ALC CALIBRATION PACKAGE		10,004		10,004		10,004				10,004
137	NEWARK AFB CALIBRATION PACKAGE		1,601		1,601		1,601				1,601
138	ITEMS LESS THAN $2,000,000		11,667		11,667		11,667				11,667
139	NIGHT VISION GOGGLES										
140	BREATHING APPARATUS TWO HOUR		4,242		4,242		4,242				4,242
141	CHEMICAL/BIOLOGICAL DEF PROG		7,736		7,736		7,736				7,736
142	ITEMS LESS THAN $2,000,000		3,800		3,800		3,800				3,800
143	BASE MECHANIZATION EQUIPMENT		11,241		11,241		11,241				11,241
144	AIR TERMINAL MECHANIZATION EQUIP		6,863		6,863		6,863				6,863
145	ITEMS LESS THAN $2,000,000		4,304		4,304		4,304				4,304
146	GENERATORS-MOBILE ELECTRIC		4,358		4,358		4,358				4,358
147	FLOODLIGHTS SET TYPE NF2D										
148	ITEMS LESS THAN $2,000,000		3,539		3,539		3,539				3,539
149	BASE PROCURED EQUIPMENT		17,048		17,048		17,048				17,048
150	NATURAL GAS UTILIZATION EQUIPMENT										
151	MEDICAL/DENTAL EQUIPMENT		13,872		13,872		13,872				13,872
152	ENVIRONMENT PROJECTS		23,553		23,553		23,553				23,553
153	AIR BASE OPERABILITY		4,812		4,812		4,812				4,812
154	PALLET AIR CARGO	4,000	3,618	4,000	3,618	4,000	3,618			4,000	3,618
155	NET ASSEMBLY, 108" X 88"										
156	PHOTOGRAPHIC EQUIPMENT		6,629		6,629		6,629				6,629
157	TACTICAL SHELTER										
158	PRODUCTIVITY ENHANCEMENT		9,268		9,268		9,268				9,268
159	PRODUCTIVITY INVESTMENTS		5,092		5,092		5,092				5,092
160	MOBILITY EQUIPMENT		12,807		12,807		12,807				12,807
161	WARTIME HOST NATION SUPPORT		1,447		1,447		1,447				1,447

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
162	SPARES AND REPAIR PARTS OPAF-4		61,026		1,000		61,026				61,026
163	ITEMS LESS THAN $2,000,000		18,244		18,244		18,244		-2,336		15,908
164	INTELLIGENCE PRODUCTION ACTIVITY		58,050		55,704		57,050		-2,200		55,850
165	TECH SURV COUNTERMEASURES EQ		2,280		2,280		2,280				2,280
166	SR YR GROUND STATIONS										
167	DARP		65,306		65,306		65,306				65,306
168	SELECTED ACTIVITIES		5,620,346		5,494,846		5,516,846		-110,200		5,510,146
169	SPECIAL UPDATE PROGRAM		166,064		166,064		166,064				166,064
170	INDUSTRIAL PREPAREDNESS		1,020		1,020		1,020				1,020
171	MODIFICATIONS		1,020		1,020		1,020				1,020
172	FIRST DESTINATION TRANSPORTATION		13,492		13,492		13,492				13,492
	TOTAL OTHER PROCUREMENT AIR FORCE		7,078,253		6,855,423		6,961,153		-149,083		6,929,170

PROCUREMENT, DEFENSE-WIDE

Overview

The budget request for fiscal year 1995 contained an authorization of $1,744.9 million for Procurement, Defense-wide. The Senate bill would authorize $1,935.6 million. The House amendment would authorize $2,066.7 million. The conferees recommend authorization of $1,891.4 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
	PROCUREMENT, DEFENSE-WIDE										
1	MOTOR VEHICLES										
1a	ELECTRIC VEHICLES						15,000		15,000		15,000
2	MAJOR EQUIPMENT, OSD/WHS		77,780		77,780		77,780				77,780
3	DARP		250,660		301,899		292,360		62,339		312,999
4	CORPORATE INFORMATION MANAGEMENT SUPERCOMPUTERS		11,007		11,007		11,007				11,007
5	CLASSIFIED EQUIPMENT, NSA	[ ]	[ ]		[ ]		[ ]		[-9,200]		[ ]
6	DEFENSE AIRBORNE RECONNAISSANCE PROG		16,397		16,397		16,397				16,397
7	VEHICLES, DNA	33	1,544	33	1,544	33	1,544			33	1,544
8	OTHER CAPITAL EQUIPMENT, DNA	6	1,958	6	1,958	6	1,958			6	1,958
9	WWMCCS ADP SYSTEMS		7,273		7,273		7,273				7,273
10	INFORMATION SERVICES TRANSFER										
11	PLANS & PROGRAM ANALYSIS SUPPORT CTR		2,000		2,000		2,000				2,000
12	ITEMS LESS THAN $2 MILLION, DISA		74,010		74,010		74,010				74,010
13	DRUG INTERDICTION SUPPORT										
14	INTELLIGENCE AND COMMUNICATIONS, DIA	[ ]	[ ]		[ ]		[ ]				[ ]
15	DIA INTELLIGENCE PROGRAM SUPPORT GROUP	[ ]	[ ]		[ ]		[ ]				[ ]
16	DEFENSE SUPPORT ACTIVITIES, DLA		9,859		9,859		9,859				9,859
17	COMMUNICATION EQUIPMENT, DMA										
18	AUTOMATED INFORMATION SYSTEM EQUIPMENT		15,402		10,402		15,402				15,402
19	VECTOR PRODUCT EQUIPMENT										
20	DEVELOPMENT TEST FACILITY										
21	MC & G MAINFRAME UPGRADE										
22	VEHICLES, DMA		116		116		116				116
23	OTHER CAPITAL EQUIPMENT, DMA		28,531		23,531		28,531				28,531
24	GEODESY AND GEOPHYSICAL EQUIPMENT										
25	VEHICLES, DIS		2,903		2,903		2,903				2,903
26	OTHER CAPITAL EQUIPMENT, DIS		1,256		1,256		1,256				1,256
27	ITEMS LESS THAN $2 MILLION, DCAA		4,000		4,000		4,000				4,000
28	MAJOR EQUIPMENT , DSPO		11,700		11,700		11,700				11,700
29	MAJOR EQUIPMENT , DSPO										
30	MAJOR EQUIPMENT, DSPO										
31	MAJOR EQUIPMENT, OJCS		47,682		47,682		47,682				47,682

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
32	OTHER CAPITAL EQUIPMENT, OSIA										
	JOINT BIOLOGICAL DEFENSE PROGRAM						3,000		20,416		20,416
	BALLISTIC MISSILE DEFENSE ORGANIZATION										
33	PATRIOT		255,063		255,063		255,063				255,063
34	HAWK BN/C3 MODS		3,831		3,831		3,831				3,831
35	NAVY TMD		14,496				14,496				14,496
36	MAJOR EQUIPMENT, CIO	[ ]	[ ]		[ ]		[ ]				[ ]
37	CPMS		9,000		9,000		9,000				9,000
999	CLASSIFIED PROGRAMS		379,561		374,596		460,561		-9,200		370,361
	MENTOR-PROTEGE PROGRAM						50,000		50,000		50,000
	NATURAL GAS VEHICLES										
	NATURAL GAS CONVERSION										
	EARLY WARNING ASSURANCE				300,000						
	SPECIAL OPERATIONS COMMAND										
38	RADIO FREQUENCY MOBILE ELECTRONIC TEST		23,872		23,872		23,872				23,872
39	MC-130H COMBAT TALON II		29,688		29,688		29,688				29,688
40	AC-130U GUNSHIP ACQUISITION		71,102		71,102		71,102				71,102
41	C-130 MODIFICATIONS		65,661		65,661		65,661				65,661
42	HH-53 MODIFICATIONS		6,838		6,838		6,838				6,838
43	MH-47/MH-60 MODIFICATIONS		10,666		10,666		10,666				10,666
44	MH-60 MODIFICATIONS										
45	OTHER AIRCRAFT MODIFICATIONS										
46	OH-6 PROCUREMENT & MODIFICATIONS	7	7,381	7	7,381	7	7,381			7	7,381
47	AIRCRAFT SUPPORT		40,016		40,016		40,016				40,016
48	PC,CYCLONE CLASS		12,380		12,380		12,380		7,900		20,280
49	MK VIII MOD 1 - SEAL DELIVERY VEHICLE		11,906		11,906		11,906				11,906
50	SUBMARINE CONVERSION		12,288		12,288		12,288				12,288
51	MK V SPECIAL OPER CRAFT (MK V SOC)	2	9,595	2	9,595	2	9,595			2	9,595
52	SOF PYRO/DEMO		14,029		14,029		14,029				14,029
53	SOF PLATFORM GUN AMMUNITION		38,496		38,496		38,496				38,496
54	SOF INDIV WEAPONS AMMUNITION		10,188		10,188		10,188				10,188
55	COMM EQUIPMENT & ELECTRONICS		15,895		15,895		15,895				15,895
56	SOF INTELLIGENCE SYSTEMS		13,619		13,619		13,619				13,619
57	SOF SMALL ARMS & WEAPONS		8,530		8,530		8,530				8,530

P-1		FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
LINE	ITEM	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
58	SPECIAL WARFARE EQUIPMENT		14,987		14,987		14,987				14,987
59	MISCELLANEOUS EQUIPMENT		4,153		4,153		4,153				4,153
60	SOF PLANNING & REHEARSAL SYS (SOFPARS)		2,958		2,958		2,958				2,958
61	CLASSIFIED PROGRAMS		86,761		86,761		86,761				86,761
62	PSYOP EQUIPMENT		7,878		7,878		7,878				7,878
	TOTAL PROCUREMENT DEFENSE WIDE		1,744,916		2,066,694		1,935,616		146,455		1,891,371

SR–71 reconnaissance aircraft

The budget request did not include funding for SR–71 aircraft.

The Senate bill would provide $100.0 million in research and development, split equally between the national foreign intelligence program (NFIP) and tactical intelligence and related activities (TIARA) program budgets, to reactivate the SR–71 aircraft to provide a contingency reconnaissance capability. The Senate initiative depended on a determination of whether the costs would be acceptable and a viable contingency capability could be acquired for $100.0 million.

The House amendment contained no similar funding.

The conferees agree to provide $100.0 million to reactivate the SR–71 to provide an interim contingency reconnaissance capability to be managed by the Defense Airborne Reconnaissance Office for the purposes described in the Senate report (S. Rept. 103–282). The Secretary of Defense shall provide to the congressional defense committees classified and unclassified reports by January 1, 1995, detailing the following:

(1) how the SR–71 could be integrated into the Department's reconnaissance modernization plan;

(2) how the SR–71 will contribute additional capabilities to the Department's reconnaissance and intelligence collection capability;

(3) the time it will take to fully reactivate the SR–71; and

(4) the effect on the Future Years Defense Program of the costs to provide this additional reconnaissance capability until new endurance UAVs are fielded.

PROCUREMENT, NATIONAL GUARD AND RESERVE EQUIPMENT

Overview

The budget request for fiscal year 1995 contained no funds for Procurement, National Guard and Reserve Equipment. The Senate bill would authorize $600.0 million. The House amendment would authorize $787.2 million. The conferees recommend authorization of $510.0 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	NATIONAL GUARD & RESERVE EQUIPMENT										
	RESERVE EQUIPMENT										
	ARMY RESERVE										
1	NIGHT VISION										
2	MISCELLANEOUS EQUIPMENT				10,000				50,000		50,000
	COMMUNICATIONS ELECTRONICS						15,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						25,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				
	ENGINEERING EQUIPMENT				15,000						
	TACTICAL VEHICLES				15,000						
	SINCGARS				10,000						
3	EXTERNAL FUEL TANKS										
4	HEMTT TRUCKS										
	AUTOMATIC BUILDING MACHINES										
	M915/M916/HEAVY DUMP TRUCKS										
	5 TON FLATBED TRAILERS										
5	DRUG INTERDICTION										
	NAVY RESERVE										
6	MISCELLANEOUS EQUIPMENT				25,000				50,000		50,000
	COMMUNICATIONS ELECTRONICS						15,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						15,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				
7	C-130T AIRCRAFT				35,000						
	TACTICAL AIRLIFT AIRCRAFT							1	30,000	1	30,000
	HH-60 HELICOPTER UPGRADE KITS				39,500						
	C-9 MODS				25,000						
8	MH-53 HELICOPTERS										
9	LAMPS MK-1 ASW UPGRADE										
10	P-3 UPGRADES				42,000						
11	MIUW VAN UPGRADES				10,000						
12	FFG-7 DISPLAY SYS										
	CESE FOR EOD/MIVW				6,500						

P-1 LINE	ITEM	FY1995 Request		--- House FY1995 --- Authorization		--- Senate FY1995 --- Authorization		----Conference--- Change to Request		-- Conference FY95 -- Authorization	
		Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
13	DRUG INTERDICTION										
	MARINE CORPS RESERVE										
14	MISCELLANEOUS EQUIPMENT				5,000				50,000		50,000
	COMMUNICATIONS ELECTRONICS						15,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						10,000				
	MEDICAL EQUIPMENT						10,000				
	SIMULATION EQUIPMENT						10,000				
	SIMULATORS				15,000						
	AH-1W COBRA AIRCRAFT MODS				19,800						
	MEDIUM SUPPORT TRUCKS				7,500						
15	KC-130T AIRCRAFT										
16	AH-1W COBRA AIRCRAFT										
17	NIGHT VISION DEVICES										
	AIR FORCE RESERVE										
18	MISCELLANEOUS EQUIPMENT				1,000				20,000		20,000
	COMMUNICATIONS ELECTRONICS						25,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				
	SMALL ARMS SIMULATION										
19	C-130 AIRCRAFT				35,000						
	TACTICAL AIRLIFT AIRCRAFT							1	30,000	1	30,000
	KC-135 REENGINING				24,000						
	C-130 UPGRADES				8,900						
20	MH-60G HELO										
21	DRUG INTERDICTION										
	RESERVE AIRCRAFT										
22	MISCELLANEOUS EQUIPMENT										
	NATIONAL GUARD EQUIPMENT										
	ARMY NATIONAL GUARD										
23	MISCELLANEOUS EQUIPMENT				5,000				20,000		20,000
	COMMUNICATIONS ELECTRONICS						20,000				
	CONSTRUCTION/TRANSPORTATION EQUIP						30,000				
	MEDICAL EQUIPMENT						25,000				
	SIMULATION EQUIPMENT						10,000				

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
24	UH-60 HELICOPTERS			4	25,000						
25	CH-47										
26	M915/916 TRUCKS										
27	5 TON TRUCKS										
28	MEDIUM TACTICAL TRUCKS				25,000						
	TRACKED COMBAT VEHICLE EQUIP (M113/M-9/				5,000						
	CHEMICAL-BIO EQUIPMENT				5,000						
	LOGISTICAL SUPPORT EQUIP				5,000						
29	M113 ARMORED PERSONNEL CARRIER										
30	C-23 SIMULATOR										
31	M-9 ACE										
32	EXTERNAL FUEL TANKS										
33	MLRS				130,000						
34	NIGHT VISION DEVICES				20,000						
	COMM. ELECTRONIC EQUIP				25,000						
	TRAINING AND SIMULATION EQUIP				5,000						
	M109A5				12,000						
	FAASV										
	HUEY SLEP										
35	FIREARMS TRNG EQPT										
36	ELECTRONIC TANDEM NETWORK										
37	AH-1 MODS										
38	DRUG INTERDICTION										
	AIR NATIONAL GUARD										
39	MISCELLANEOUS EQUIPMENT				12,000				20,000		20,000
	COMMUNICATIONS ELECTRONICS						20,000				
	TACTICAL AIRLIFT AIRCRAFT					8	250,000	8	240,000	8	240,000
40	C-130 AIRCRAFT				10,000						
	AIRCRAFT DEFENSIVE SYSTEMS				25,000						
	F-15 ENGINE				25,000						
	COMBAT COMM AND ELECT EQUIP				30,000						
	FIGHTER AIRCRAFT MODS				25,000						
	KC-135 REENGINING				24,000						
	KC-135 RADAR MODS				15,000						

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	House FY1995 Authorization Quantity	House FY1995 Authorization Amount	Senate FY1995 Authorization Quantity	Senate FY1995 Authorization Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference FY95 Authorization Quantity	Conference FY95 Authorization Amount
	AIRLIFT REPLACEMENT RADAR				10,000						
41	F-15 MSIP										
42	F-15/F-16 ENGINE UPGRADES										
43	F-15 ALE-40										
44	MCE/TASCI										
45	DRUG INTERDICTION										
	NATIONAL GUARD AIRCRAFT										
46	NATIONAL GUARD AND RESERVE AIRCRAFT										
	TOTAL GUARD AND RESERVE EQUIPMENT				787,200		600,000		510,000		510,000

National Guard and reserve equipmentI90[H12AU4-B1071]National G

The budget request included no funds in the National Guard and reserve equipment procurement account.

The Senate bill would provide $600.0 million. The Senate report (S. Rept. 103–282) provided these funds in broad categories, such as medical equipment, aviation and aeromedical equipment, construction and transportation equipment, and electronic and communications equipment. The report also indicated that the funds should be focused toward those activities that meet important military needs, and also enhance the capability of the reserve components to assist civilian authorities.

The House amendment would provide $787.2 million. The House report (H. Rept. 103–499) allocated these funds to some specific programs and some generic categories.

The conferees agree to provide $510.0 million, as indicated in the following table. The conferees note that they have provided $130.0 million in the Army missile procurement account to buy a battalion of multiple launch rocket system (MLRS) launchers for the Army National Guard.

NATIONAL GUARD AND RESERVE PROCUREMENT

[In millions of dollars]

	Quantity	Amount
Army Reserve:		
Miscellaneous equipment	....	50.0
Navy Reserve:		
Miscellaneous equipment	....	50.0
Tactical airlift aircraft	1	30.0
Marine Corps Reserve:		
Miscellaneous equipment	....	50.0
Air Force Reserve:		
Miscellaneous equipment	....	20.0
Tactical airlift aircraft	1	30.0
Army National Guard:		
Miscellaneous equipment	....	20.0
Air National Guard:		
Miscellaneous equipment	....	20.0
Tactical airlift aircraft	8	240.0
Total	10	510.0

The conferees agree that the funds in this account should be made available in a generic category that will:

(1) give the reserve components maximum flexibility to identify their highest priority requirements and apply resources to filling those requirements; and

(2) allow the purchases to enhance activities that meet important military needs, and also enhance the capability of the reserve components to assist civilian authorities.

The conferees also agree that none of the funds in these areas be obligated until the Chief of the National Guard Bureau and the head of each reserve component have reported on the proposed use of such funds, in accordance with established reprogramming procedures.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

Overview

The budget request for fiscal year 1995 contained an authorization of $575.3 million for Chemical Agents and Munitions Destruction, Defense. The Senate bill would authorize $590.1 million. The House amendment would authorize $670.3 million. The conferees recommend authorization of $599.5 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

P-1 LINE	ITEM	FY1995 Request Quantity	FY1995 Request Amount	--- House FY1995 --- Authorization Quantity	--- House FY1995 --- Authorization Amount	--- Senate FY1995 --- Authorization Quantity	--- Senate FY1995 --- Authorization Amount	----Conference--- Change to Request Quantity	----Conference--- Change to Request Amount	-- Conference FY95 -- Authorization Quantity	-- Conference FY95 -- Authorization Amount
	CHEM AGENTS & MUNITIONS DESTRUCTION, DEF										
1	CHEM DEMILITARIZATION - RDTE		11,300		20,800		11,300		9,400		20,700
2	CHEM DEMILITARIZATION - PROC		208,465		284,465		215,265		6,800		215,265
3	CHEM DEMILITARIZATION - O&M		355,584		365,084		363,584		8,000		363,584
	TOTAL CHEMICAL DESTRUCTION		575,349		670,349		590,149		24,200		599,549

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Chemical agents and munitions destruction program (secs. 107, 142, and 143)

The budget request included $575.3 million for the chemical agents and munitions destruction program.

The Senate bill contained a provision (sec. 106) that would authorize $590.1 million for the program; authorize obligation of fiscal year 1994 appropriations for research, development, test, and evaluation for chemical agents and munitions destruction in title VI of Public Law 103–139; and amend Section 1412(f) of the Department of Defense Authorization Act of Fiscal Year 1986 to require military construction funds for the chemical agents and munitions destruction program to be included in separate defense accounts.

The House amendment contained a provision (sec. 107) that would authorize $670.3 million for the program. The House amendment also contained a provision (sec. 1040) that would prohibit transportation of the unitary stockpile from one state to another state, and would allow chemical munitions that are not part of the unitary stockpile, which are discovered or come under the control of the Department of Defense, to be transported to the nearest chemical munitions storage facility that has the necessary permits to receive and store such items.

The conferees agree to authorize $599.5 million for the chemical agents and munitions destruction program, an increase of $24.2 million to the requested amount. The conferees recommend that, of the funds provided for procurement, $22.5 million be available for the procurement of carbon filtration systems and ancillary equipment for the pollution abatement system at Tooele Army Depot and equipment modification design for all sites. Of the funds authorized for operation and maintenance, the conferees recommend that $8.0 million be available to support Army implementation of the National Research Council (NRC) recommendations to update risk assessments for storage, handling, and disposal activities at each site; enhance the stockpile surveillance program; and implement a public outreach program. Of the funds authorized for research and development, the conferees recommend $11.3 million for the nonstockpile program and $9.4 million for alternative technologies to the baseline program.

The conferees agree to authorize $25.0 million appropriated for development of alternative technologies in the Department of Defense Appropriations Act for Fiscal Year 1994. Of this amount, $4.3 million shall be available for completion of the cryofracture design and $20.7 million shall be available for development of alternative technologies to the baseline program.

The Senate report (S. Rept. 103–282) recommended making $2.0 million available from funds authorized for development of alternative technologies for programs to detect low-level exposure to chemical agents. The conferees endorse the Senate position and direct the Army to work with the national weapons laboratories on these programs.

In its report to Congress on alternative technologies to the baseline program, the NRC recommended that the Army continue to monitor developments in this area. The Army has notified the conferees of its plans to implement this recommendation by awarding a contract to monitor and evaluate various research activities in alternative technologies that have continued in development since the NRC report was published. The conferees direct the Army to report to the congressional defense committees on any emerging findings resulting from this contract and to pursue demonstration of promising alternatives to either the baseline process or to neutralization.

The conferees agree to the House provision that would prohibit transportation of a chemical munition that is part of the unitary stockpile in one state to another, and that would allow the transportation of nonstockpile chemical munitions that are discovered, or which come under the control of the Department of Defense, in one state to the nearest chemical munitions stockpile storage facility.

The conferees agree to amend section 1412(f) of Public Law 99–145 to require funds for military construction projects for the chemical agents and munitions destruction program to be included in the budget in separate defense accounts. Therefore, the conferees transfer the funds contained in the fiscal year 1995 Army budget request for the military construction of chemical agents and munitions destruction facilities to a separate defense-wide account.

Multiyear procurement authority for M1A2 tank upgrades (sec. 111)

The Senate bill contained a provision (sec. 111) that would authorize the multiyear procurement of M1A2 tank upgrades.

The House amendment contained no similar provision.

The House recedes.

The conferees agree that a multiyear procurement of M1A2 tank upgrades would benefit the Army. The conferees are concerned, however, about the Army's current proposal to reduce funding for the upgrade program substantially over the next several years, and the effect this reduction would have on the Army's ability to execute an appropriate multiyear procurement and maintain a viable industrial base. The conferees direct the Secretary of Defense to carefully review the Army's budget proposal for M1A2 tank upgrades.

Avenger (sec. 111)

The budget request included $13.8 million for the Avenger program.

The Senate bill would authorize the requested amount for Avenger procurement.

The House amendment would deny the requested amount on the grounds that it is excess to program requirements.

The Department of Defense has recently requested authority to reprogram $10.4 million in fiscal year 1994 Avenger funding. The conferees agree to reduce the fiscal year 1995 Avenger procurement request by $8.4 million and to deny the reprogramming request.

The conferees learned that the Avenger multiyear procurement contract will expire in fiscal year 1995, before the Marine Corps and other services can take advantage of the Army's contract and favorable pricing terms. The conferees, therefore, agree to a provision that would grant a one-year extension of the Avenger multiyear procurement authority. The Army, as the contracting agency, may incorporate this extension into contract number DAAH01–92–C–0023.

The conferees agree to this request with the understanding that there will be no additional costs for extending the delivery schedule. The conferees note that DOD must request funds for 113 fire units in fiscal year 1996 to meet the terms of the multiyear procurement contract. The conferees point out that the fiscal year 1996 budget request must request funds either for these fire units or for contract termination costs.

Transfer of replacement Army tanks to Marine Corps Reserve (sec. 112)

The Senate bill would provide $108.0 million more than the requested amount to fund an additional 24 M1A2 tank upgrades for the Army. The Senate bill also contained a provision (sec. 112) that would direct the Secretary of the Army to transfer, either simultaneously or in advance, one M1A2 common tank to the Marine Corps Reserve as each one of these additional M1A2 tanks is made available to the Army. The Senate intended this to be the first year of a two-year program to eliminate a shortfall of 48 tanks in the Marine Corps Reserve tank battalions.

The House amendment contained no similar provision and funding.

The House recedes.

Transfer of M1A1 tanks to the Marine Corps (sec. 113)

The Senate bill included a provision (sec. 1066) that would require the Army to transfer 84 M1A1 tanks to the Marine Corps. The provision would require that, as two M1A1 tanks become excess to the active Army's inventory requirements, one tank would be transferred to the National Guard, and one tank would be transferred to the Marine Corps, up to a total of 84 tanks for each. Thereafter, the Army would transfer all excess M1A1 tanks to the National Guard.

The House amendment included no similar provision. The House report (H. Rept. 103–499) directed the Chairman of the Joint Chiefs of Staff to review the M1A1 tank allocation and report to Congress on the results of that review.

The House recedes.

The conferees agree that this transfer should not be construed as a precedent for directing additional transfers of equipment between military services in the future. The conferees take this action to fill critical tank deficiencies in the active Marine Corps.

The conferees expect the Commission on Roles and Missions to review the allocation of armor among the services. The conferees believe that the Commission should consider the advice of the combatant commanders in this area as in the others on which they will provide advice. The conferees request the Commission to include any recommendations that it may have in its final report.

Exception to mandatory retirement of OV–1 aircraft for aircraft deployed in Korea (sec. 114)

The Senate bill contained a provision (sec. 113) that would permit the Army to use funds saved by the early retirement of OV–1 surveillance aircraft in Korea to lease a replacement surveillance capability, provided that the lease meets certain conditions. The provision also would amend existing law to permit the Army to maintain and operate OV–1 aircraft beyond fiscal year 1995.

The House amendment contained no similar provision.

The House recedes with an amendment that would permit the Army to continue to operate and maintain the OV–1s currently deployed in Korea beyond fiscal year 1995.

The conferees emphasize that the joint surveillance and target attack radar system (JSTARS) is the only wide-area moving target indicator radar program in the Department of Defense. The conferees are prepared to support an interim indications and warning capability for Korea until the Republic of Korea assumes responsibility for the mission, if the Secretary of Defense determines that the OV–1 is not sufficient and that it is impractical to use JSTARS in this role. The conferees do not support acquisition by the

Army of a new aircraft for this mission. The conferees direct the Secretary of Defense to inform the congressional defense committees promptly of his decisions on surveillance support in Korea.

Joint service small arms program (sec. 115)

The Senate bill contained a provision (sec. 114) that would authorize the multiyear procurement of small arms to meet the inventory objectives of the army and to sustain a reduced industrial base over an extended period until follow-on weapons are ready for production. The provision also would authorize additional funds for small arms development and require development of a small arms master plan.

The House amendment contained no similar provision.

The House recedes.

The conferees direct the Army to procure as many weapons as possible within the funding levels provided.

The conferees note that, in response to previous congressional direction, the Under Secretary of Defense (Acquisition and Technology) has completed an assessment of management initiatives to improve the transition of small arms technologies from the technology base to development and to ensure full coordination of the joint service small arms program and individual service-unique small arms programs. The conferees support these actions and direct that they be reflected in the revised joint service small arms master plan required by the Senate provision.

Bunker defeat munition (sec. 116)

The budget request included $2.6 million in RDT&E in PE 64802 and $7.8 million for procurement of the bunker defeat munition (BDM).

The senate bill included a provision (sec. 115) that would authorize $7.8 million to permit the Army to procure up to 6,000 type-classified standard BDM rounds and $2.6 million in RDT&E accounts for type-classification of the weapon.

The House amendment would deny funding for BDM.

The House recedes with an amendment. The conferees agree to deny RDT&E funds and to provide $7.1 million to procure no more than 6,000 BDM weapons. The conferees agree that a limited procurement of BDM munitions is reasonable to provide an interim capability for one light division until the SRAW/MPIM is ready for fielding. No RDT&E funds are authorized because the BDM can be type-classified for limited procurement for contingency operations without additional funds.

The army is joining the Marine Corps to develop a weapon which combines the capabilities of the Marine Corps short-range antiarmor weapon (SRAW) with the warhead technology developed in the Army's multipurpose individual munition (MPIM) program. This effort should result in a lightweight, shoulder-fired, low-signature/backblast general purpose weapon system that should be ready for fielding around fiscal year 2000.

Procurement of helicopters (sec. 117)

The budget request included no funds to buy additional AH-64 attack helicopters or to modify additional OH-58D scout helicopters.

The House amendment contained a provision (sec. 111) that would repeal sections 132 and 133 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189). Section 132 precludes further purchases of AH-64 helicopters. Section 133 includes a similar prohibition for the OH-58D scout helicopter program. The House amendment would also authorize an additional $72.0 million to buy six AH-64 helicopters and an additional $225.0 million to modify 36 OH-58D helicopters.

The Senate bill contained no similar provision and funding.

The Senate recedes with an amendment that would relax the prohibitions on continuing the AH-64 and OH-58D programs for fiscal year 1995. In addition, the conferees agree to provide an additional $72.0 million for six AH-64 helicopters and an additional $150.0 million for 24 OH-58D modifications.

Nuclear aircraft carrier program (sec. 121)

The Senate bill contained a provision (sec. 121) that would authorize transfer of $1.2 billion from the National Defense Sealift Fund to the shipbuilding and conversion, Navy account. The provision specified that the transferred funds would be available for the CVN-76 nuclear aircraft carrier program.

The House amendment contained a provision (sec. 161) that would prohibit the transfer of funds to fund the CVN-76 construction.

The House recedes.

Limitation on cost of Seawolf submarine program (sec. 122)

The Senate bill included a provision (sec. 122) that would impose a cost cap on the first two *Seawolf* submarines. The provision would permit automatic adjustments to the cost cap for (1) the amount of outfitting and post-delivery costs for these two vessels, (2) changes attributable to inflation, and (3) increased costs attributable to compliance with changes in federal, state, and local laws.

The House amendment included a provision (sec. 125) that would impose an absolute cost cap on the first two *Seawolf* submarines.

The House recedes.

Limitation on acquisition of guidance systems for Trident II missiles (sec. 123)

The Senate bill contained a provision (sec. 1098) that would limit the acquisition of guidance units for Trident II missiles to 14 units unless the Secretary of Defense certifies to the congressional defense committees that failure to procure additional units would pose an unacceptable risk to the long-term readiness and reliability of the Trident II missile program.

The House amendment contained a similar provision (sec. 122).

The House recedes.

Prohibition on Trident II backfit (sec. 124)

The House amendment contained a provision (sec. 123) that would prohibit the backfit of Trident II missiles into Trident missile submarines now equipped to carry Trident I missiles, unless the Secretary of Defense determines that adherence to the prohibition would result in a significant national security risk to the United States.

The Senate bill contained no similar provision.

The Senate recedes.

Inclusion of conversion of vessels in fast sealift program (sec. 125)

The House amendment contained a provision (sec. 124) that would amend section 1424(b) of the National Defense Authorization Act for Fiscal Year 1991. This provision would clarify that the legislative requirements for sealift ships apply identically to newly constructed and converted ships.

The Senate bill contained no similar provision.

The Senate recedes.

Limitation on procurement of TAGS vessels (sec. 126)

The House amendment contained a provision (sec. 126) that would prohibit the Secretary of the Navy from obligating funds for any of the vessels designated TAGS-63, TAGS-64, or TAGS-65, unless the Secretary certifies to the congressional defense committees that the multibeam sonars to be used on those vessels (whether new or remanufactured) have been obtained through competitive acquisition procedures.

The Senate bill contained no similar provision.

The Senate recedes.

Naval amphibious ready groups (sec. 127)

The Senate bill contained a provision (sec. 123) that would make findings on the importance of amphibious ready groups, express the sense of Congress that the Navy should budget to attain a twelfth amphibious ready group and its associated LHD-7 amphibious assault ship as soon as possible, direct the Secretary of the Navy to begin negotiations to extend the existing contract option for the LHD-7 ship, and require him to report on the Department of the Navy's intentions with respect to executing the existing contract option for the LHD-7.

The Senate bill included no funding for the LHD-7 amphibious assault ship.

The House amendment contained no similar provision, but would provide $100.0 million for LHD-7 advance procurement.

The House recedes. The conferees agree to authorize $50.0 million that may be used to extend the contract option for the LHD-7.

Intertheater airlift programs (sec. 131)

The House amendment contained a provision (sec. 131) that would authorize funds for procurement of non-developmental alternative aircraft (NDAA) and the C-17 airlift aircraft. The provision would require the Secretary of Defense to use competitive procedures to select the source for the NDAA program. The provision would also require the Secretary to structure NDAA acquisition so that the Air Force's aggregate intertheater airlift capacity is preserved.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree that maintaining aggregate airlift capacity is important. However, the conferees recommend that this concern be expressed as a sense of Congress provision, rather than as a legislative requirement.

Settlement of claims under the C-17 aircraft program (sec. 132)

The Senate bill contained a provision (sec. 131) that would authorize the settlement of certain claims under the C-17 aircraft program.

The House amendment contained no similar provision.

The House recedes with an amendment.

Enhanced bomber capability fund (sec. 133)

The Senate bill contained a provision (sec. 141) that would provide $150.0 million for a bomber industrial base fund and exempt those funds from the existing B-2 bomber cost cap.

The House amendment contained a provision (sec. 132) that would provide that any expenditures by the Department of Defense to preserve the B-2 bomber industrial facilities would be charged against the B-2 bomber cost cap.

The House recedes with an amendment.

The conferees agree to recommend $125.0 million for an enhanced bomber capability fund. The conferees further agree to require the Secretary of Defense to conduct new analyses of both bomber requirements in the near term and long term, and, should the Secretary conclude that the planned bomber program does not meet those requirements, examine alternative strategies to enhance bomber capabilities to meet those requirements and report his results to the congressional defense committees no later than April 15, 1995. Requirements would be defined, and bomber capabilities measured, for three time periods: 1998, 2006, and 2014.

In the event the Secretary determines that additional bomber capabilities are required, he shall examine alternative strategies for acquiring them, including, but not limited to:

(1) acceleration of planned upgrades to existing bombers and additional munitions and support for them;

(2) initiation of a program to develop a new, lower-cost "next generation" bomber oriented toward conventional warfare; and

(3) a resumption of low-rate production of additional B–2 bombers, or variants thereof, oriented toward conventional warfare.

As part of these analyses, the Secretary shall determine those core capabilities, which would take extended periods of time or substantial expense to regenerate and which are in imminent danger of being lost, that are needed to maintain the ability to design, develop, and produce bombers in the near term or long term.

While the analyses are ongoing, the Secretary may obligate up to $100.0 million both to conduct these analyses and to preserve those parts of the core capabilities described above. The conferees believe that the Secretary should report to Congress where and why such funds are to be spent before obligating them. The conferees understand that, because these assessment of the bomber industrial base will proceed over time, the Secretary may determine at various times throughout the study periods the need to fund appropriate core capabilities of the base.

Following completion of these analyses and an interim report on bomber issues from the Commission on Roles and Missions, but not later than July 1, 1995, the Secretary shall report the results, and his recommendations thereon, to the congressional defense committees. Thereafter, he may obligate all remaining unobligated balances to implement his recommendations, including funds for further preservation of core capabilities, if he so recommends.

Should the Secretary conclude from his analyses that a new "next-generation" bomber is required, he may obligate up to $25.0 million for requirements formulation and conceptual studies for a conventional-conflict-oriented, lower-cost next-generation bomber.

The conferees agree that none of the enhanced bomber capability funds may be used for advance procurement of new B–2 bomber aircraft, including long-lead items, and that subsections (c) and (d) of section 131 of the National Defense Authorization Act for Fiscal Year 1994, which established cost and numerical caps on the B–2 program, are unaffected by any provision in this act.

Retirement of bomber aircraft (sec. 134)

The Senate bill contained a provision (sec. 132) that would prohibit retirement of any B–52, B–1B, or F–111 aircraft during fiscal year 1995, and contained $18.0 million in operation and maintenance funds to retain additional B–52H aircraft in attrition reserve status.

The House amendment contained no similar provision.

The House recedes and agrees to the inclusion of $18.0 million in operation and maintenance funds to retain B–52 bombers.

Evaluation of restart of C–5B aircraft procurement (sec. 135)

The House amendment contained a provision (sec. 134) that would require the Secretary of the Air Force to evaluate the costs of restarting production of C–5B aircraft for the strategic airlift mission, and to submit a report to the congressional defense committees on the evaluation.

The Senate bill contained no similar provision.

The Senate recedes.

Sales authority of working-capital funded Army industrial facilities (sec. 141)

The Senate bill contained a provision (sec. 143) that would authorize Army industrial facilities, including Army arsenals, to sell commercial articles or services to persons outside DOD if the Secretary of the Army determines that the articles or services are not readily available from a commercial source.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Joint training, analysis, and simulation center

The Senate bill contained a provision (sec. 107) that would authorize $10.5 million for procurement of command, control, communications, and computer equipment for a joint training, analysis, and simulation center for the United States Atlantic Command.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree to authorize $10.5 million for this program within the Other Procurement, Navy account.

Termination of the F–14A/B upgrade program

The budget request included $158.3 million in procurement funds for the F–14A/B upgrade program, and $142.3 million in research and development funds for the F–14 Block I upgrade program.

The House amendment included a provision (sec. 121) that would terminate the F–14 A/B aircraft upgrade program. The House report (H. Rept. 103–499) directed the Navy to use the requested funds to convert existing F–14 aircraft into FA–14 variants with capabilities equivalent to the Air Force F–15E "Strike Eagle."

The Senate bill contained no similar provision. The Senate report (S. Rept. 103–282) directed the Navy to cancel the Block I upgrade program because the Senate was persuaded that the Navy budget will not be able to afford the ultimate $1.6 billion cost of this program.

The House recedes. The conferees agree to provide the requested amount in F–14 procurement and $29.4 million in research and development for programs unrelated to the Block I upgrade program.

Advanced capability (ADCAP) modification program for the MK–48 torpedo

The House amendment contained a provision (sec. 127) that would shift $52.3 million from the fleet satellite communications program to the advanced capability (ADCAP) modification program for the MK–48 torpedo.

The Senate bill contained no similar provision.

The House recedes.

Bomber force upgrade program

The House amendment contained a provision (sec. 133) that would provide $100.0 million for a bomber upgrade fund.

The Senate bill contained no similar provision.

The House recedes. Funding for bomber improvements is described elsewhere in this statement of the managers.

Fiscal year 1995 national defense sealift fund program

The House amendment contained a provision (sec. 162) that would authorize $608.6 million from the fiscal year 1994 unauthorized National Defense Sealift Fund appropriation to be available for fiscal year 1995 National Defense Sealift Fund programs.

The Senate bill contained no similar provision.

The House recedes.

Transfer of excess amount to BRAC III account

The House amendment contained a provision (sec. 163) that would transfer $591.4 million from the fiscal year 1994 unauthorized appropriation for the National Defense Sealift Fund to the base realignment and closure account, part III account.

The Senate bill contained no similar provision.

The House recedes.

Fiscal Year 1994 unauthorized sealift appropriation defined

The House amendment contained a provision (sec. 164) that would define, for purposes of the subtitle, the term "fiscal year 1994" unauthorized sealift appropriation." The term would be defined to mean $1,200.0 million of the amount appropriated for fiscal year 1994 to the National Defense Sealift Fund (in title V of the Department of Defense Appropriations Act for Fiscal Year 1994 (Public Law 103–139; 107 Stat. 1435)).

The Senate bill contained no similar provision.

The House recedes.

Operation of sealift vessels for which assistance is provided through National Defense Sealift Fund

The House amendment contained a provision (sec. 165) that would preclude the Department of Defense and Transportation from directly operating or maintaining any vessels constructed, altered, converted, purchased, operated, maintained, leased, or chartered with funds from the National Defense Sealift Fund. The provision would also preclude civilian employees of the United States from crewing these vessels.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree that the Department of Defense and Transportation must thoroughly evaluate the costs and benefits of employing a private contractor before making a final decision to operate, maintain, or man any national defense sealift vessel with U.S. civilian employees.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION (RDT&E)

Overview

The budget request for fiscal year 1995 contained an authorization of $36,225.0 million for research, development, test and evaluation in the Department of Defense. The Senate bill would authorize $35,790.9 million. The House amendment would authorize $35,979.2 million. The conferees recommend authorization of $36,017.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

RESEARCH AND DEVELOPMENT, ARMY

Overview

The budget request for fiscal year 1995 contained an authorization of $5,260.1 million for

Army research, development, test and evaluation. The Senate bill would authorize $4,152.3 million. The House amendment would authorize $5,424.8 million. The conferees recommend authorization of $5,319.5 million, as delineated in the following table.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL ARMY					
1	61101A	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	13,717	13,717	13,717		13,717
2	61102A	DEFENSE RESEARCH SCIENCES	195,346	209,346	225,346	10,650	205,996
3	61104A	ELECTROMECHANICS AND HYPERVELOC PHYSICS	5,050	8,700	8,650	3,600	8,650
4	62104A	TRACTOR ROSE	7,591	7,591	7,591		7,591
5	62105A	MATERIALS TECHNOLOGY	11,083	11,083	15,083	4,000	15,083
6	62120A	ELECTRONIC SURVIVABILITY AND FUZING TECH	26,036	32,036	26,036	3,000	29,036
7	62122A	TRACTOR HIP	11,502	11,502	11,502		11,502
8	62123A	TRACTOR FIELD	0	0	0		0
9	62211A	AVIATION TECHNOLOGY	19,993	19,993	19,993		19,993
10	62270A	EW TECHNOLOGY	18,256	18,256	18,256		18,256
11	62303A	MISSILE TECHNOLOGY	23,301	23,301	23,301		23,301
12	62307A	LASER WEAPONS TECHNOLOGY	0	4,000	0	4,000	4,000
13	62308A	MODELING AND SIMULATION	51,517	41,517	54,517	3,000	54,517
14	62601A	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	28,330	28,330	28,330		28,330
15	62618A	BALLISTICS TECHNOLOGY	25,692	25,692	25,692		25,692
16	62622A	CHEMICAL, SMOKE AND EQUIP DEFEATING TECH	29,657	42,157	18,957	4,000	33,657
17	62623A	JOINT SERVICE SMALL ARMS PROGRAM	5,326	5,326	5,826	500	5,826
18	62624A	WEAPONS AND MUNITIONS TECHNOLOGY	28,163	36,163	28,163	8,000	36,163
19	62705A	ELECTRONICS AND ELECTRONIC DEVICES	21,222	24,222	24,222	2,000	23,222
20	62709A	NIGHT VISION TECHNOLOGY	19,406	19,406	19,406		19,406
21	62716A	HUMAN FACTORS ENGINEERING TECHNOLOGY	14,393	14,393	14,393		14,393
22	62720A	ENVIRONMENTAL QUALITY TECHNOLOGY	25,887	39,387	30,887	13,500	39,387
23	62727A	NON-SYSTEM TRAINING DEVICE TECHNOLOGY	0	0	0		0
24	62782A	COMMAND, CONTROL, COMMUNICATIONS TECH	16,900	16,900	16,900		16,900
24a		PROJECT PLOWSHARES			5,000	5,000	5,000
25	62783A	COMPUTER AND SOFTWARE TECHNOLOGY	4,635	4,635	4,635		4,635
26	62784A	MILITARY ENGINEERING TECHNOLOGY	41,201	41,201	41,201		41,201
27	62785A	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	10,484	10,484	10,484		10,484
28	62786A	LOGISTICS TECHNOLOGY	31,825	31,825	31,825		31,825
29	62787A	MEDICAL TECHNOLOGY	87,529	93,029	87,529	5,000	92,529
30	62788A	TRACTOR FLOP	418	418	418		418
31	62789A	ARMY ARTIFICIAL INTELLIGENCE TECHNOLOGY	2,388	2,388	2,388		2,388

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
32	62813A	TRACTOR DUMP	0	0	0		0
33	63001A	LOGISTICS ADVANCED TECHNOLOGY	14,386	14,386	14,386		14,386
34	63002A	MEDICAL ADVANCED TECHNOLOGY	41,028	86,028	53,028	12,000	53,028
35	63003A	AVIATION ADVANCED TECHNOLOGY	51,350	63,850	51,350	3,000	54,350
36	63004A	WEAPONS & MUNITIONS ADVANCED TECHNOLOGY	25,562	32,562	25,562	7,000	32,562
37	63005A	COMBAT VEHICLE AND AUTOMOTIVE ADV TECH	59,414	62,414	59,414	3,000	62,414
38	63006A	COMMAND, CONTROL, COMMUNIC ADV TECH	17,179	17,179	17,179		17,179
39	63007A	MANPOWER, PERSONNEL & TRAINING ADV TECH	5,698	5,698	5,698		5,698
40	63009A	TRACTOR HIKE	5,399	5,399	5,399		5,399
41	63012A	TRACTOR HOLE	7,813	7,813	7,813		7,813
42	63013A	TRACTOR DIRT	1,665	1,665	1,665		1,665
43	63017A	TRACTOR RED	10,167	10,167	10,167		10,167
44	63020A	TRACTOR ROSE	3,240	3,240	3,240		3,240
45	63102A	MATERIALS AND STRUCTURES ADVANCED TECH	0	0	0		0
46	63105A	AIDS RESEARCH	3,185	3,185	3,185		3,185
47	63122A	TRACTOR HIP	4,600	4,600	4,600		4,600
48	63238A	GLOBAL SURV/AIR DEFENSE/PRECISION STRIKE	41,834	41,834	41,834		41,834
49	63270A	EW TECHNOLOGY	6,967	6,967	6,967		6,967
50	63313A	MISSILE AND ROCKET ADVANCED TECHNOLOGY	94,602	88,502	98,502	-6,100	88,502
51	63322A	TRACTOR CAGE	17,497	17,497	17,497		17,497
52	63606A	LANDMINE WARFARE AND BARRIER ADV TECH	11,950	21,950	21,950	10,000	21,950
53	63607A	JOINT SERVICE SMALL ARMS PROGRAM	5,746	5,746	7,246	1,500	7,246
54	63654A	LINE-OF-SIGHT, ANTITANK (LOSAT)	4,937	4,937	4,937		4,937
55	63710A	NIGHT VISION ADVANCED TECHNOLOGY	33,612	33,612	33,612		33,612
56	63734A	MILITARY ENGINEERING ADVANCED TECHNOLOGY	12,829	12,829	12,829		12,829
57	63742A	ADVANCED ELECTRONIC DEVICES DEVELOPMENT	0	0	0		0
58	63759A	CHEMICAL BIOLOGICAL DEFENSE & SMOKE ADV	198	198	198		198
59	63772A	ADV TACTICAL COMPUTER SCIENCE & TECH	34,995	39,995	39,995		34,995
60	63018A	TRACTOR TREAD	20,752	5,752	20,752	0	20,752
61	63019A	TRACTOR DUMP	15,786	15,786	15,786		15,786
62	63053A	ADVANCED COMMAND AND CONTROL VEHICLE	0	0	0		0
63	63303A	SURFACE-TO-SURFACE MISSILE ROCKET SYSTEM	0	0	0		0
64	63392A	ANTI-SATELLITE WEAPON (ASAT)	0	0	0		0
65	63604A	NUCLEAR MUNITIONS - ADV DEV	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
66	63617A	NON-LINE OF SIGHT (N-LOS)	0	0	0		0
67	63619A	LANDMINE WARFARE AND BARRIER - ADV DEV	23,944	23,944	23,944		23,944
68	63627A	SMOKE, OBSCURANT & TARGET DEFEATING SYS	2,821	2,821	2,821		2,821
69	63639A	ARMAMENT ENHANCEMENT INITIATIVE	[ ]	0	0	[8,500]	0
70	63640A	ARTILLERY PROPELLANT DEVELOPMENT	8,137	18,137	8,137	17,800	25,937
71	63645A	ARMORED SYSTEM MODERNIZATION - ADV DEV	175,476	175,476	175,476		175,476
72	63647A	TRACTOR DIRT	416	416	416		416
73	63649A	ENGINEER MOBILITY EQUIPMENT ADV DEVELOP	11,339	11,339	15,939	4,600	15,939
74	63653A	ADVANCED TANK ARMAMENT SYSTEM (ATAS)	10,075	10,075	2,575	-7,500	2,575
75	63713A	ARMY DATA DISTRIBUTION SYSTEM	5,587	5,587	5,587		5,587
76	63730A	TACTICAL SURVEILLANCE SYSTEM - ADV DEV	11,870	11,870	11,870		11,870
77	63745A	TACTICAL ELECTRONIC SUPPORT SYS- ADV DEV	1,718	1,718	1,718		1,718
78	63746A	SINCGARS ADV DEV	0	0	0		0
79	63747A	SOLDIER SUPPORT AND SURVIVABILITY	11,795	11,795	11,795		11,795
80	63760A	DISTRIBUTIVE INTERACTIVE SIMULATION	11,787	11,787	11,787		11,787
81	63766A	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM	15,008	10,008	15,008	0	15,008
82	63774A	NIGHT VISION SYSTEMS ADVANCED DEVELOP	2,715	2,715	2,715		2,715
83	63801A	AVIATION - ADV DEV	9,367	14,867	9,367	7,500	16,867
84	63802A	WEAPONS AND MUNITIONS - ADV DEV	663	5,263	663	600	1,263
85	63804A	LOGISTICS AND ENGINEER EQUIP - ADV DEV	5,581	6,881	7,581	3,300	8,881
86	63805A	COMBAT SERVICE SUPPORT COMPUTER SYS EVAL	18,876	18,876	18,876		18,876
87	63806A	NBC DEFENSE SYSTEM-ADV DEV	13,778	22,078	13,778	1,900	15,678
88	63807A	MEDICAL SYSTEMS - ADV DEV	17,495	17,495	17,495		17,495
89	63811A	METEOROLOGICAL DATA SYSTEMS	0	0	0		0
90	63831A	CLASSIFIED PROGRAM	[ ]	0	0		0
91	63830A	CLASSIFIED PROGRAM	[ ]	0	0		0
998		DEM/VAL CLASSIFIED	13,992	30,992	13,992	8,500	22,492
92	64201A	AIRCRAFT AVIONICS	14,433	14,433	14,433		14,433
93	64220A	ARMED, DEPLOYABLE OH-58D	0	0	0		0
94	64223A	COMANCHE	525,182	525,182	525,182		525,182
95	64270A	EW DEVELOPMENT	89,122	93,122	89,122	0	89,122
96	64315A	TRI-SERVICE STANDOFF ATTACK MISSILE	82,458	0	32,458	-62,458	20,000
97	64321A	ALL SOURCE ANALYSIS SYSTEM	42,891	32,891	42,891	0	42,891
98	64603A	NUCLEAR MUNITIONS - ENG DEV	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
99	64604A	MEDIUM TACTICAL VEHICLES	6,541	6,541	6,541		6,541
100	64609A	SMOKE, OBSCURANT & TARGET DEFEATING SYS	3,754	3,754	3,754		3,754
101	64611A	JAVELIN	31,337	31,337	34,737	3,400	34,737
102	64619A	LANDMINE WARFARE	33,843	33,843	33,843		33,843
103	64622A	HEAVY TACTICAL VEHICLES	0	0	0		0
104	64630A	ADVANCED TANK CANON	0	0	0		0
105	64633A	AIR TRAFFIC CONTROL	7,873	7,873	7,873		7,873
106	64640A	ADVANCED COMMAND/CONTROL VEHICLE (AC2V)	32,159	32,159	32,159		32,159
107	64642A	LIGHT TACTICAL WHEELED VEHICLES	3,479	3,479	0	-3,479	0
108	64645A	ARMORED SYSTEMS MODERNIZATION (ASM)	51,097	51,097	51,097	12,000	63,097
109	64649A	ENGINEER MOBILITY EQUIPMENT DEVELOPMENT	16,865	16,865	12,265	-4,600	12,265
110	64710A	NIGHT VISION SYSTEMS - ENG DEV	43,379	43,379	43,379		43,379
111	64713A	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	25,058	25,058	25,058		25,058
112	64715A	NON-SYSTEM TRAINING DEVICES - ENG DEV	48,329	48,329	48,329		48,329
113	64716A	TERRAIN INFORMATION - ENG DEV	10,547	10,547	10,547		10,547
114	64726A	INTEGRATED METEOROLOGICAL SUPPORT SYSTEM	0	0	0		0
115	64740A	TACTICAL SURVEILLANCE SYSTEM - ENG DEV	2,121	2,121	2,121		2,121
116	64741A	AIR DEFENSE COMMAND, CONTROL AND INTELL	26,494	26,494	26,494		26,494
117	64746A	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	7,201	17,201	7,201	8,500	15,701
118	64760A	DISTRIBUTIVE INTERACTIVE SIMULATION	8,041	8,041	8,041		8,041
119	64766A	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM	28,475	28,475	28,475		28,475
120	64767A	TRACTOR JEWEL	0	0	0		0
121	64768A	TRACTOR BAT	109,011	119,011	119,111	10,100	119,111
122	64770A	JOINT SURVEILL/TARGET ATTACK RADAR SYS	40,186	40,186	40,186		40,186
123	64778A	POSITIONING SYSTEMS DEVELOPMENT	3,846	3,846	3,846		3,846
124	64780A	COMBINED ARMS TACTICAL TRAINER (CATT)	52,160	52,160	52,160		52,160
125	64801A	AVIATION - ENG DEV	4,672	4,672	4,672		4,672
126	64802A	WEAPONS AND MUNITIONS - ENG DEV	9,130	25,130	9,130	5,400	14,530
127	64804A	LOGISTICS AND ENGINEER EQUIPMENT-ENG DEV	21,171	22,271	21,171	1,100	22,271
128	64805A	COMMAND, CONTROL, COMMUNICATIONS SYSTEMS	11,386	11,386	11,386		11,386
129	64806A	NBC DEFENSE SYSTEM-ENG DEV	13,474	48,274	13,474	10,700	24,174
130	64807A	MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEF	12,799	12,799	12,799		12,799
131	64808A	LANDMINE WARFARE/BARRIER - ENG DEV	7,794	7,794	7,794		7,794
132	64814A	SENSE AND DESTROY ARMAMENT MISSILE	72,071	10,000	42,071	-30,000	42,071

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
133	64816A	LONGBOW - ENG DEV	191,303	191,303	191,303		191,303
134	64817A	NON-COOPERATIVE TARGET RECOGNITION	13,666	13,666	13,666	5,500	19,166
135	64818A	ARMY TACTICAL COMMAND & CONTROL SYSTEMS	19,296	19,296	19,296		19,296
136	64820A	RADAR DEVELOPMENT	10,999	10,999	10,999		10,999
137	64256A	THREAT SIMULATOR DEVELOPMENT	20,270	20,270	20,270		20,270
138	64258A	TARGET SYSTEMS DEVELOPMENT	14,092	14,092	14,092		14,092
139	64759A	MAJOR T&E INVESTMENT	55,536	55,536	30,536	-11,000	44,536
140	65103A	RAND ARROYO CENTER	15,838	15,838	15,838		15,838
141	65104A	LOS ALAMOS MESON PHYSICS FACILITY	0	0	0	20,000	20,000
142	65301A	ARMY KWAJALEIN ATOLL	167,697	167,697	167,697		167,697
143	65502A	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
144	65601A	ARMY TEST RANGES AND FACILITIES	154,420	154,420	144,420	-10,000	144,420
145	65602A	ARMY TECHNICAL TEST INSTRUMENT/TARGETS	41,895	41,895	31,895	-10,000	31,895
146	65604A	SURVIVABILITY/LETHALITY ANALYSIS	37,757	37,757	37,757		37,757
147	65605A	DOD HIGH ENERGY LASER TEST FACILITY	0	0	20,000	20,000	20,000
148	65702A	METEOROLOGICAL SUPPORT TO RDT&E ACTIV	12,434	12,434	12,434		12,434
149	65706A	MATERIEL SYSTEMS ANALYSIS	19,011	19,011	19,011		19,011
150	65709A	EXPLOITATION OF FOREIGN ITEMS	12,027	12,027	12,027		12,027
151	65710A	JTCB POC, TEST/ASSESS, SMOKE ASSESS, NBC	4,779	4,779	4,779		4,779
152	65712A	SUPPORT OF OPERATIONAL TESTING	31,917	31,917	31,917		31,917
153	65801A	PROGRAMWIDE ACTIVITIES	103,262	103,262	93,262	-10,000	93,262
154	65802A	INTERNATIONAL COOPERATIVE RESEARCH & DEV	1,638	1,638	1,638		1,638
155	65803A	TECHNICAL INFORMATION ACTIVITIES	13,304	13,304	13,304		13,304
156	65805A	MUNITIONS STANDARDIZATION, EFFECTIVENESS	7,038	7,038	7,038		7,038
157	65810A	RDT&E SUPPORT FOR NONDEVELOPMENTAL ITEMS	3,524	3,524	3,524		3,524
158	65856A	ENVIRONMENTAL COMPLIANCE	49,907	49,907	44,907	-1,600	48,307
159	65872A	PRODUCTIVITY INVESTMENTS	0	0	0		0
160	65876A	MINOR CONSTRUCTION (RPM) - RDT&E	5,745	5,745	5,745		5,745
161	65878A	MAINTENANCE AND REPAIR (RPM) - RDT&E	91,970	91,970	91,970		91,970
162	65889A	RDTE SUPPORT TO CINC COUNTERNARCOTICS	0	0	0		0
163	65896A	BASE OPERATIONS - RDT&E	297,083	297,083	267,083	-15,000	282,083
164	65898A	MANAGEMENT HEADQUARTERS (R & D)	11,679	11,679	11,679		11,679
165	99999A	FINANCING FOR CANCELLED ACCOUNT ADJUST	0	0	0		0
166	63778A	MLRS PRODUCT IMPROVEMENT PROGRAM	55,699	71,799	55,699	16,100	71,799

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
167	23726A	ADV FIELD ARTILLERY TACTICAL DATA SYS	48,725	48,725	48,725		48,725
168	23735A	COMBAT VEHICLE IMPROVEMENT PROGRAMS	111,279	111,279	144,079	17,900	129,179
169	23740A	MANEUVER CONTROL SYSTEM	37,936	37,936	37,936		37,936
170	23744A	AIRCRAFT MODIFICATIONS/PRODUCT IMPROVE	9,564	9,564	9,564		9,564
171	23752A	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	3,035	3,035	3,035		3,035
172	23758A	DIGITIZATION	75,857	125,857	78,857	20,000	95,857
173	23801A	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT	24,610	34,610	29,610	13,000	37,610
174	23802A	OTHER MISSILE PRODUCT IMPROVEMENT PROG	74,380	78,380	64,280	-8,100	66,280
175	23806A	TRACTOR RIG	2,686	2,686	2,686		2,686
176	23808A	TRACTOR CARD	14,554	14,554	14,554		14,554
177	28010A	JOINT TACTICAL COMMUNIC PROG (TRI-TAC)	19,542	19,542	19,542		19,542
178	28051A	JOINT BIOLOGICAL DEFENSE PROGRAM	52,895	52,895	0	-52,895	0
179	31359A	SPECIAL ARMY PROGRAM	[ ]	0	0		0
180	33140A	INFORMATION SYSTEMS SECURITY PROGRAM	7,689	7,689	7,689		7,689
181	33142A	SATCOM GROUND ENVIRONMENT	95,191	95,191	95,191		95,191
182	33152A	WORLD-WIDE MILITARY COMMAND AND CONTROL	0	0	0		0
183	35127A	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	[ ]	0	0		0
184	35150A	AIRBORNE RECONNAISSANCE LOW	11,429	11,429	11,429		11,429
185	35889A	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
186	78045A	MANUFACTURING SCIENCE AND TECHNOLOGY	0	0	30,000	29,420	29,420
999		OPERATIONAL SYSTEMS CLASSIFIED	6,866	6,866	6,866		6,866
		CIVILIAN UNDERSTRENGTH			-48,400	-50,400	-50,400
		FEDERAL WORKFORCE RESTRUCTURING ACT			2,500	2,500	2,500
		GENERAL REDUCTION UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
			=========	=========	=========	=========	=========
		TOTAL RDT&E ARMY	5,260,082	5,424,803	5,152,308	59,438	5,319,520

University-related environmental technology

The conferees recommend an additional $10.0 million in PE 601102A to fund a competitively-awarded grant for computing, data, and communications networks and associated facilities in support of engineering biotechnology facilities.

Domestic source for PAN fiber

The budget request contained no funds for PAN fibers.

The Senate bill would provide $4.0 million to develop a domestic source for PAN fiber production.

The House amendment contained no similar funding.

The Senate report (S. Rept. 103-282) expressed concern that there are no domestic suppliers for high-modulus polyacrylonitrile (PAN) fiber. Composite materials using this fiber have a unique combination of specific strength and stiffness. A number of future systems (e.g., the THAAD missile) are examining the use of advanced composites using PAN fiber. Although two U.S. companies have developed high modulus PAN fibers, neither has been qualified to go into production. The conferees have been advised that the Army is concerned that it cannot guarantee future availability in the amounts required unless the material is ordered far ahead of time as a long-lead item.

The conferees agree to authorize an additional $4.0 million in PE 62105A in order to qualify at least two domestic sources for high modulus PAN fiber. The conferees agree that these funds may not be obligated unless the Army has firm contractual commitments from two domestic sources to qualify for future DOD production requirements.

Passive microwave camera

The budget request contained no funding for passive microwave camera research.

The Senate bill contained no funding for this research.

The House amendment would authorize $6.0 million to continue development of the passive microwave camera to detect targets in adverse weather and other obscurants.

The Senate recedes.

Solid state dye laser

The budget request contained no funding for solid state dye lasers.

The Senate bill contained no funding for this research.

The House amendment would authorize $4.0 million in PE 62307A for solid state dye laser applications in the medical field.

The Senate recedes.

Battery technology

The Senate bill would authorize no additional funding for battery technology development in the Army.

The House amendment would authorize $3.0 million for low-cost reusable alkaline manganese batteries.

The conferees agree to authorize an additional $2.0 million in PE 62705A for the development of battery technologies to meet the wide range of Army needs on the modern battlefield.

Environmental quality

The budget request contained $62.731 million for environmental quality exploratory development in PE 6272OA.

The Senate bill would authorize an additional $5.0 million for unexploded ordinance remediation at Jefferson Proving Ground.

The House amendment would authorize an additional $13.5 million for several programs, including $5.0 million for Jefferson Proving Ground; $4.0 million for the bioremediation education, science, and technology (BEST) program; and $4.5 million for continuing the joint Departments of Defense and Agriculture program in biotechnology.

The conferees agree to authorize an additional $13.5 million to fund the programs recommended in the Senate bill and the House amendment.

Helicopter air-to-air missile evaluation

The budget request contained no funding for helicopter air-to-air missile evaluations.

The Senate bill contained no funding for this research.

The House amendment would authorize an additional $12.5 million in PE 63003A to initiate a proof-of-principle examination and full-scale integration of an air-to-air Starstreak missile on an appropriate platform.

The conferees agree to authorize an additional $3.0 million in PE 63003A for an evaluation of the Starstreak missile on the AH-64 Apache helicopter.

Diesel engine evaluation

The budget request contained no funding for an evaluation of Haeco II diesel combined-cycle engines in the 400-to-600 horsepower range.

The House amendment would authorize $3.0 million for the Haeco II evaluation by the U.S. Army tank command.

The Senate contained no similar funding.

The Senate recedes.

Enhanced fiber optic guided missile/rapid force projection advanced concept technology demonstration

The budget request included $107.6 million in various program elements for the enhanced fiber optic guided missile system (EFOG-M) as a project within the advanced concept technology demonstration (ACTD) program.

The Senate bill would authorize the requested amount for the EFOG-M but expressed concern over the potential cost, performance, and force structure plans and requirements, as well as the possibility that the Army may be forced into EFOG-M development by the Office of the Secretary of Defense.

The House amendment would reduce the requested amount by $10.0 million and direct the Army to resolve congressional concerns regarding performance in realistic operational battlefield conditions and limited planned simulations and gaming.

The conferees agreed to reduce the requested amount for EFOG-M project by $10.0 million and direct the Army to address the concerns expressed in the House and Senate reports (H. Rept. 103-499 and S. Rept. 103-282).

The conferees are also concerned that the rapid force projection ACTD focuses almost exclusively in its early phases on the development and demonstration of the EFOG-M. The conferees are aware of proposals for demonstrating capabilities of precision guided mortars in later phases of the ACTD program. The conferees believe that these alternatives should be accelerated so that the Army and the Department of Defense will have field experience with these systems and a basis for conducting an adequate cost and operational effectiveness analysis. The conferees strongly encourage the Secretary of the Army and the Under Secretary of Defense (Acquisition and Technology) to address these issues prior to submission of the fiscal year 1996 budget request.

Countermine warfare program

The Senate bill recommended an increased authorization of $10.0 million in PE 63606A for Army efforts to improve mine detection and neutralization, with an emphasis on technologies that can be shared in an international environment.

The House amendment also recommended a $10.0 million increase in this program element to initiate an Army-led, integrated mine countermeasure research and development program. The House report (H. Rept. 103-499) indicated that this effort should concentrate on mine clearance in operations other than war (OOTW), and should be coordinated with the other military services and the Advanced Research Projects Agency (ARPA). The House report also required the Secretary of the Army to prepare and deliver a plan for this initiative to the congressional defense committees by February 15, 1995.

The conferees agree that the Defense Department should develop a fully coordinated program for countermine warfare. As a part of this program, the conferees encourage the Secretary of Defense to identify an executive agent to:

(1) coordinate all aspects of the landmine warfare program, from procurement to removal;

(2) develop an overarching strategic, operational, and tactical concept for the use of mines and countermine operations, including materiel development and inventory objectives; and

(3) exploit mine countermeasure doctrine, training capabilities, technical data, and equipment for application to peacetime demining efforts of other governmental and nongovernmental agencies.

The conferees believe that these activities should be coordinated with the other military services, the Humanitarian and Refugee Affairs Office within the Office of the Assistant Secretary of Defense (Special Operations and Low Intensity Conflict), and ARPA. The conferees reiterate the requirement for the Secretary of the Army to provide the plan for this countermine/demining initiative to the congressional defense committees by February 15, 1995.

Kinetic energy tank round

The budget request contained no funding for development of the X-rod, a 120mm rocket-boosted kinetic energy tank round.

The House amendment would authorize an additional $17.0 million to bridge the X-rod kinetic energy tank round program activities through fiscal year 1995.

The Senate bill contained no similar funding.

The conferees agree to authorize $8.5 million for X-rod development.

Advanced field artillery system/artillery propellant development

Both the Senate report (S. Rept. 103-282) and the House report (H. Rept. 103-499) expressed concerns about the Army's program to develop the advanced field artillery system (AFAS), the maturity of the liquid propellant (LP) gun technology being developed for the AFAS, and the need to maintain an advanced solid propellant armament system in parallel development as a potential backup for the AFAS liquid propellant armament system.

The House amendment recommended a $10.0 million increase in PE 63640A to continue the type-classification of the XM-230 unicharge advanced solid propellant in existing 39-caliber, 155mm cannons and to assess the feasibility of adapting a 52-caliber, unicharge cannon for integration into the M109 series howitzer.

The Senate bill did not contain a similar funding increase.

The conferees strongly support the modernization of Army artillery through the

AFAS program. The conferees understand that the XM46 liquid propellant is preferred over others. The conferees believe, however, that the Army must maintain a robust unicharge program as a back-up to the development of LP for the AFAS and for potential application to other cannon artillery weapon systems.

The conferees, therefore, recommend an authorization of $25.937 million in PE 63640A, an increase of $17.8 million above the requested amount, to continue engineering development of the XM297 cannon, to continue development of the XM-194 bolt-in/bolt-out gun mount for potential use in the M109A6 Paladin, and to type-classify the XM230 unicharge propellant for the standard 39-caliber artillery cannon.

The conferees expect the Army to demonstrate conclusively the ability to weaponize the liquid propellant armament system prior to the elimination of unicharge as a cannon propulsion alternative for the AFAS. The conferees also direct the Army to ensure the development of a domestic supply of basic hydroxyl amine nitrate chemistry for the production of liquid propellant, should it be selected as the propellant for the AFAS.

Advanced boresight equipment

The budget request included $1.4 million (PE 63801A), $1.3 million (PE 25633N), and $0.9 million (PE 79026F) in the Army, Navy, and Air Force research and development accounts for advanced boresight equipment. The Army is currently coordinating the advanced boresight program.

The Senate bill would authorize the requested amounts.

The House amendment would authorize an additional $1.0 million each for the Navy and the Air Force.

The conferees agree to authorize an additional $2.0 million for the Army.

Tactical bridging

The Senate bill would authorize the application of $2.0 million in prior-year funds and an additional $2.0 million of fiscal year 1995 funds in PE 63804A for an evaluation of medium assault bridge techniques and technologies to support the armored gun system (AGS).

The House amendment would authorize $1.3 million in PE 63804A and $1.1 million in PE 64804A for completing technical data packages and type-classification of the heavy tactical bridge and common bridge transporter.

The conferees agree to authorize funding for both medium and heavy tactical bridging programs, as recommended by the Senate bill and the House amendment.

Armored gun system

The budget request included $44.77 million for continued testing and engineering development of the armored gun system (AGS).

Both the Senate bill and the House amendment would authorize the requested amount.

Since the budget request was submitted, the Army determined that additional funding was needed to provide suitable vehicles for operational testing. The conferees agree to authorize an additional $12.0 million in PE 64645A to decrease concurrency risks by refurbishing six test vehicles for use in early operational test and evaluation. These funds may also be used for manufacturing enhancements on AGS components in order to reduce unit production costs and keep the supplier base active.

Automatic test equipment

The budget request contained $7.2 million for development of automatic test equipment for the Army.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $10.0 million for the integrated family of test equipment (IFTE).

The conferees agree to authorize $8.5 million above the requested amount for IFTE. The conferees continue to support a single family of test equipment for the Army's electronic maintenance needs. However, the conferees believe that the Army should continue to use existing multipurpose direct support electrical systems test sets to support the Abrams main battle tank and the Bradley fighting vehicle throughout the life of these systems and to include such equipment in the IFTE family when such equipment is more cost-effective.

Weapons and munitions engineering development

The budget request included $9.13 million in PE 64802A for weapons and munitions engineering development.

The Senate bill would authorize the requested amount.

The House amendment recommended an increase of $16.0 million for development of the XM930 illumination cartridge and continued development of the XM931 full-range training cartridge for the 120mm mortar system.

The conferees recommend a total authorization of $14.5 million, including $6.0 million for development of the XM930 illumination cartridge and $2.0 million for continued development of the XM931 full-range training cartridge. The conferees also recommend a reduction of $2.6 million for engineering and manufacturing development of the bunker defeating munitions with the understanding that these funds are no longer required for the program.

Battlefield combat identification system

The budget request contained $13.7 million in PE 6481A for development of the battlefield combat identification system (BCIS).

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $5.0 million in RDT&E and $11.0 million in procurement to accelerate the BCIS program.

The conferees recognize the importance of fielding capabilities as soon as possible to reduce battlefield fratricide and agree to authorize an additional $5.5 million in PE 64817A for further development of BCIS. The conferees share the Army's concern with the cost of BCIS and recognize the potential of the battlefield digitization program to provide much-improved identification friend or foe capabilities. The conferees also agree, however, that BCIS is promising technology and should be developed and evaluated.

Mobile automated instrumentation system

The budget request contained $55.3 million for major test and evaluation investment in PE 64759A.

The Senate bill would reduce the requested amount by $25.0 million.

The House amendment would authorize the requested amount.

The conferees agree to a reduction of $11.0 million from the requested amount. The conferees further agree that $14.0 million of the funds authorized for PE 64759A is specifically for the mobile automated instrumentation system.

High energy laser systems test facility

The budget request included no funds for the DOD high energy laser systems test facility (HELSTF).

The Senate bill would authorize $20.0 million for HELSTF, of which $2.5 million is available to carry out the U.S. share of the Nautilus tactical laser effort with Israel.

The House amendment included no funds for HELSTF.

The House recedes. As pointed out in the High Power Laser Guidance Report submitted by the Department of Defense to Congress in June 1994, HELSTF is the only integrated, megawatt-class laser facility with the only fully instrumented high-power laser range and environmentally-approved test area available to DOD. It will be used not only for the Army Nautilus program, but for the Navy point defense demonstration and the Air Force airborne laser lethality demonstration as well. The conferees agree that the Joint Directors of Laboratories (JDL) Technology Panel for Directed Energy Weapons should seek to ensure the role of HELSTF as an affordable and cost-effective DOD research and test facility to support both high-power laser and optical tracking programs. The panel should do this by determining how best to reduce overhead costs through automation and other restructuring measures. The conferees expect to see this important facility, including any facility improvements recommended by the JDL, included in the fiscal year 1996 budget request.

Multiple launch rockets

The budget request contained $55.7 million for development of the extended-range version of the multiple launch rocket system (ER-MLRS). The Army requested no funds for MLRS rocket production. The Army request presumed using $15.0 million of prior-year funds to maintain a production capability (a so-called "warm-line" fund).

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $16.1 million for a fuze facility. The Army planned to fund this facility in fiscal year 1996.

The conferees agree that it would be preferable to avoid a production break in the MLRS program. However, the Army does not require additional tactical rockets of the existing type, and the inventory of practice rockets will last until the next decade. The conferees believe that the production date of the ER rocket itself might be accelerated, but there is risk in the development of the wind-sensing device required to achieve prescribed accuracies at long ranges. Foreign sales are possible, but unlikely due to high unit costs.

The conferees agree to authorize $16.1 million for the faze facility. This action could make it possible to accelerate the production schedule of the ER rocket. This measure would make sense only if additional rockets are procured in fiscal year 1995. The conferees, therefore, agree to authorize an additional $10.0 million for rocket production and direct the Army to apply the $15.0 million in prior-year funds to rocket production to maintain the minimum sustaining production rate of 6,000 rounds. The conferees direct the Army to use the fiscal year 1996 funds programmed for the fuze facility for the MLRS program in fiscal year 1996. The conferees would support ER rocket production in fiscal year 1996 if the Army determines that wind-sensor development is mature enough or that the level of concurrency is acceptable in this program. Otherwise, the conferees believe that the funds should be applied to warm-line expenses.

The conferees also authorize the Army to initiate in fiscal year 1995 the improved launcher mechanical system (ILMS) for

MLRS and to synchronize that program with the improved fire control system within available funds. The conferees also encourage DOD and the contractor to renew attempts to avoid production breaks by making foreign military sales of MLRS, especially to the Republic of Korea. MLRS is as superb counter-batter weapon, and South Korea is faced with a formidable artillery and rocket threat.

M1A2 improvements

The Senate bill would authorize $25.0 million to accelerate development of an eye-safe laser and second-generation forward-looking infrared sensor for the M1A2 tank and other combat vehicles.

The House amendment contained no similar funding.

The House recedes.

The conferees understand that the cost in fiscal year 1995 to accelerate these programs is $17.9 million, instead of $25.0 million, and agree to authorize that amount.

Air defense missiles

The budget request contained $24.6 million for Army air defense missile product improvements.

The Senate bill would authorize an additional $5.0 million to accelerate development of the Block II fire-and-forget seeker for the Stinger retrofit program.

The House amendment would authorize an additional $10.0 million, with half the amount for Stinger and half the amount to platoon-level tests of the Starstreak missile.

The conferees agree to authorize $5.0 million for acceleration of the Stinger Block II, and $8.0 million for the evaluation of Starstreak.

The conferees direct the Secretary of the Army to undertake an operational assessment, to be conducted by the Army Operational Test and Evaluation Command, of the Starstreak and Stinger missile programs and report to the congressional defense committees by March 1, 1995. The report should address: (1) total inventory requirements for air defense missiles of the Stinger/Starstreak type; (2) the life-cycle costs of adding Starstreak to the inventory, including costs to modify launch platforms, compared to the costs of upgrading Stinger; (3) the operational effectiveness of the Block II Stinger compared to Starstreak; (4) the results of Starstreak evaluations conducted to date; and (5) the Secretary's recommendations concerning the acquisition of Starstreak.

Chemical-biological defense program

The budget request included $505.6 million for chemical-biological defense programs in the military services and defense agencies accounts.

The House amendment would authorize an increase of $55.6 million for the following three Army research and development programs: $12.5 million for PE 0602622A; $34.8 million for PE 0604806A; and $8.3 million for PE 0603806A.

The Senate bill would reduce the following programs in the Army research and development and procurement accounts by $93.5 million: $9.5 million reduction for procurement of chemical-biological shelters; $20.4 reduction for joint biological defense procurement; $10.7 million reduction to PE 602622A; and $53.0 million reduction for PE 0208051A.

The conferees agree to authorize an increase of $16.6 million to the following Army research and defense accounts: $4.0 million in PE 0602622A; $10.7 million in PE 0604806A; and $1.9 million in PE 0603806A. Further, the conferees agree to transfer research and development and procurement funds requested for joint biological defense in PE 028051A and line 121, other procurement, Army, to separate defense agency program elements pursuant to congressional direction in title XVII of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). The conferees also recommend that the Department utilize resources and technologies, existing and under development at the national weapons laboratories, the military service laboratories, and industry, in the chemical-biological defense program. The conferees remain concerned that the Department has not submitted three reports on the chemical-biological defense program. The three reports address: (1) the feasibility of the National Institutes of Health conducting all federal research relating to medical countermeasures against biowarfare agents (required by the national Institutes of Health Revitalization Act of 1993 and due by December 1993); (2) the necessity for a dedicated Department of Defense vaccine production facility (required by the National Defense Authorization Act for Fiscal Year 1994); and (3) measures taken to improve management, joint coordination, and oversight of the chemical-biological defense program (required by title XVII of the National Defense Authorization Act for Fiscal Year 1994). Title XVII also requires the consolidation of funds requested for all chemical-defense programs into separate defense accounts, which has also not been done.

The conferees are aware that the Department has taken a number of steps to consolidate management of the overall chemical-biological defense program. To ensure effective overall management, oversight, coordination, and consolidated control of the chemical-biological defense program, the conferees direct the Secretary of Defense to ensure that the responsibilities of both the Office of the Assistant to the Secretary of Defense (Atomic Energy) and the Secretary of the Army include the review of all chemical and biological defense technology base, advanced development, engineering development, and procurement activities.

RESEARCH AND DEVELOPMENT, NAVY

Overview

The budget request for fiscal year 1995 contained an authorization of $8,934.7 million for Navy research, development, test and evaluation. The Senate bill would authorize $8,796.1 million. The House amendment would authorize $8,914.0 million. The conferees recommend authorization of $8,845.9 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL NAVY					
1	61152N	IN-HOUSE INDEPENDENT LABORATORY RESEARCH	17,112	17,112	17,112		17,112
2	61153N	DEFENSE RESEARCH SCIENCES	407,971	420,971	392,971	-10,000	397,971
3	61572N	NAVY REINVESTMENT PROGRAM	10,000	0	10,000		10,000
4	62111N	SURFACE/AEROSPACE SURVEILL AND WEAPONS	75,088	75,088	75,088		75,088
5	62121N	SURFACE SHIP TECHNOLOGY	19,884	22,684	19,884	2,800	22,684
6	62122N	AIRCRAFT TECHNOLOGY	24,691	24,691	24,691		24,691
7	62131M	MARINE CORPS LANDING FORCE TECHNOLOGY	17,783	17,783	17,783		17,783
8	62232N	COMMAND, CONTROL, & COMMUNICATIONS TECH	21,099	21,099	21,099		21,099
9	62233N	READINESS, TRAINING, & ENVIRON QUAL TECH	42,753	50,453	42,753	5,000	47,753
10	62234N	MATERIALS, ELECTRONICS AND COMPUTER TECH	80,867	100,867	80,867	5,500	86,367
11	62270N	ELECTRONIC WARFARE TECHNOLOGY	18,095	18,095	18,095		18,095
12	62314N	UNDERSEA SURVEILLANCE WEAPON TECHNOLOGY	92,765	93,765	92,765		92,765
13	62315N	MINE COUNTERMEASURES, MINING & SPECIAL	34,710	34,710	37,710	3,000	37,710
14	62323N	SUBMARINE TECHNOLOGY	19,557	19,557	19,557		19,557
15	62435N	OCEANOGRAPHIC AND ATMOSPHERIC TECHNOLOGY	44,965	44,965	44,965		44,965
16	62572N	NAVY REINVESTMENT PROGRAM	25,000	0	25,000		25,000
17	63217N	AIR SYSTEMS AND WEAPONS ADVANCED TECH	30,293	16,072	30,293	-4,221	26,072
18	63238N	PRECISION STRIKE AND AIR DEFENSE	32,961	41,161	32,961	7,100	40,061
19	63270N	ADVANCED ELECTRONIC WARFARE TECHNOLOGY	14,799	14,799	14,799		14,799
20	63508N	SHIP PROPULSION SYSTEM	3,152	3,152	20,265	0	3,152
21	63555N	SEA CONTROL & LITTORAL WARFARE TECH DEM	82,134	45,021	0	-7,600	74,534
22	63572N	NAVY REINVESTMENT PROGRAM	15,000	0	15,000		15,000
23	63640M	MARINE CORPS ADVANCED TECHNOLOGY DEMON	25,961	25,961	25,961		25,961
24	63706N	MEDICAL DEVELOPMENT	17,820	17,820	22,820	5,000	22,820
25	63707N	MANPOWER, PERSONNEL & TRAINING ADV TECH	19,120	22,920	19,120		19,120
26	63712N	ENVIRONMENTAL QUALITY AND LOGISTICS ADV	21,024	21,024	21,024		21,024
27	63747N	UNDERSEA WARFARE ADVANCED TECHNOLOGY	47,330	47,330	72,405	0	47,330
28	63782N	SHALLOW WATER MCM DEMOS	4,525	4,525	44,471	0	4,525
29	63792N	ADVANCED TECHNOLOGY TRANSITION	79,863	84,863	79,863	0	79,863
30	63794N	C3 ADVANCED TECHNOLOGY	26,556	21,456	26,556	-5,100	21,456
31	63207N	AIR/OCEAN TACTICAL APPLICATIONS	16,936	16,936	16,936		16,936
32	63208N	TRAINING SYSTEM AIRCRAFT	4,117	4,117	4,117		4,117

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
33	63216N	AVIATION SURVIVABILITY	9,992	15,492	9,992	5,500	15,492
34	63254N	ASW SYSTEMS DEVELOPMENT	31,513	40,513	31,513	0	31,513
35	63261N	TACTICAL AIRBORNE RECONNAISSANCE	59,372	36,872	59,372	-10,372	49,000
36	63382N	ADVANCED COMBAT SYSTEMS TECHNOLOGY	3,587	3,587	3,587		3,587
37	63451N	TACTICAL SPACE OPERATIONS	2,220	2,220	2,220		2,220
38	63502N	SURFACE AND SHALLOW WATER MINE COUNTER	51,879	51,879	51,879		51,879
39	63504N	ADVANCED SUBMARINE COMBAT SYSTEMS DEVEL	20,564	24,564	20,564	4,000	24,564
40	63506N	SURFACE SHIP TORPEDO DEFENSE	30,247	30,247	30,247		30,247
41	63512N	CARRIER SYSTEMS DEVELOPMENT	15,878	15,878	17,378	1,500	17,378
42	63513N	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	26,248	26,248	26,248		26,248
43	63514N	SHIP COMBAT SURVIVABILITY	14,588	14,588	14,588		14,588
44	63525N	PILOT FISH	35,262	35,262	35,262		35,262
45	63528N	NON-ACOUSTIC ANTI-SUBMARINE WARFARE	4,756	4,756	4,756	-4,756	0
46	63536N	RETRACT JUNIPER	20,645	20,645	20,645		20,645
47	63542N	RADIOLOGICAL CONTROL	3,492	3,492	3,492		3,492
48	63553N	SURFACE ASW	6,659	6,659	6,659		6,659
49	63561N	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	86,005	98,118	86,005	0	86,005
50	63562N	SUBMARINE TACTICAL WARFARE SYSTEMS	8,023	8,023	8,023		8,023
51	63563N	SHIP CONCEPT ADVANCED DESIGN	29,302	29,302	29,302		29,302
52	63564N	SHIP PRELIMINARY DESIGN & FEASIBILITY	12,626	12,626	12,626		12,626
53	63570N	ADVANCED NUCLEAR POWER SYSTEMS	141,586	141,586	141,586		141,586
54	63573N	ADVANCED SURFACE MACHINERY SYSTEMS	72,355	84,755	72,355	7,400	79,755
55	63576N	CHALK EAGLE	59,840	59,840	59,840		59,840
56	63582N	COMBAT SYSTEM INTEGRATION	7,911	7,911	7,911		7,911
57	63591N	JOINT ADVANCED SYSTEMS	0	0	0		0
58	63601N	MINE DEVELOPMENT	0	0	0		0
59	63609N	CONVENTIONAL MUNITIONS	41,358	29,593	41,358	0	41,358
60	63610N	ADVANCED WARHEAD DEVELOPMENT (MK-50)	0	0	0		0
61	63611M	MARINE CORPS ASSAULT VEHICLES	26,399	30,499	26,399	4,100	30,499
62	63612M	MARINE CORPS MINE/COUNTERMEASURES SYSTEM	6,600	6,600	6,600		6,600
63	63634N	ELECTROMAGNETIC EFFECTS PROTECTION DEVEL	0	0	0		0
64	63635M	MARINE CORPS GROUND COMBAT/SUPPORT SYS	11,416	18,416	26,416	15,000	26,416
65	63654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP	8,923	8,923	8,923		8,923
66	63708N	ASW SIGNAL PROCESSING	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
67	63709N	ADVANCED MARINE BIOLOGICAL SYSTEM	3,539	3,539	3,539		3,539
68	63711N	FLEET TACTICAL DEVELOPMENT	4,678	4,678	4,678		4,678
69	63713N	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	14,198	14,198	14,198		14,198
70	63721N	ENVIRONMENTAL PROTECTION	51,101	52,901	52,901	1,800	52,901
71	63724N	NAVY ENERGY PROGRAM	4,468	4,468	4,468		4,468
72	63725N	FACILITIES IMPROVEMENT	2,500	2,500	2,500		2,500
73	63734N	CHALK CORAL	68,782	68,782	73,782	5,000	73,782
74	63735N	WWMCCS ARCHITECTURE SUPPORT	0	0	0		0
75	63737N	LINK HAZEL	0	0	0		0
76	63741N	SATELLITE LASER COMMUNICATIONS (H)	0	0	0		0
77	63746N	RETRACT MAPLE	102,674	102,674	102,674		102,674
78	63748N	LINK PLUMERIA	29,812	29,812	29,812		29,812
79	63750N	CHALK WEED	0	0	0		0
80	63751N	RETRACT ELM	39,472	39,472	39,472		39,472
81	63752N	CHALK POINSETTIA	0	0	0		0
82	63755N	SHIP SELF DEFENSE	192,269	200,769	203,469	16,200	208,469
83	63763N	WARFARE SYSTEMS ARCHITECTURE & ENGINEER	7,204	3,795	7,204	-3,409	3,795
84	63785N	COMBAT SYSTEMS OCEANOGRAPHIC PERFORMANCE	20,317	20,317	20,317		20,317
85	63787N	SPECIAL PROCESSES	33,053	33,053	33,053		33,053
86	63795N	GUN WEAPON SYSTEM TECHNOLOGY	24,849	61,449	24,849	6,000	30,849
87	63800N	JOINT ADVANCED STRIKE TECHNOLOGY PROGRAM	100,037	100,037	100,037	28,735	128,772
88	64212N	ASW AND OTHER HELO DEVELOPMENT	86,547	86,547	86,547		86,547
89	64214N	AV-8B AIRCRAFT - ENG DEV	10,203	10,203	10,203		10,203
90	64215N	STANDARDS DEVELOPMENT	15,987	15,987	15,987		15,987
91	64217N	S-3 WEAPON SYSTEM IMPROVEMENT	14,115	14,115	14,115		14,115
92	64218N	AIR/OCEAN EQUIPMENT ENGINEERING	5,797	5,797	5,797		5,797
93	64221N	P-3 MODERNIZATION PROGRAM	5,392	5,392	5,392		5,392
94	64231N	TACTICAL COMMAND SYSTEM	35,796	32,796	35,796	0	35,796
95	64233N	AFX	0	0	0		0
96	64261N	ACOUSTIC SEARCH SENSORS	19,016	19,016	19,016		19,016
97	64262N	V-22A	496,930	496,930	496,930		496,930
98	64264N	AIR CREW SYSTEMS DEVELOPMENT	12,157	15,157	12,157	0	12,157
99	64270N	EW DEVELOPMENT	79,980	79,980	79,980		79,980
100	64301N	MK 92 FIRE CONTROL SYSTEM UPGRADE	1,976	1,976	1,976		1,976

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
101	64307N	AEGIS COMBAT SYSTEM ENGINEERING	94,207	94,207	94,207		94,207
102	64312N	TRI-SERVICE STANDOFF ATTACK MISSILE	66,662	0	66,662		66,662
103	64366N	STANDARD MISSILE IMPROVEMENTS	11,811	11,811	11,811		11,811
104	64372N	NEW THREAT UPGRADE	1,701	1,701	1,701		1,701
105	64373N	AIRBORNE MCM	20,421	20,421	20,421		20,421
106	64503N	SSN-688 AND TRIDENT MODERNIZATION	41,936	41,936	41,936		41,936
107	64504N	AIR CONTROL	8,133	8,133	8,133		8,133
108	64507N	ENHANCED MODULAR SIGNAL PROCESSOR	11,970	11,970	11,970		11,970
109	64512N	SHIPBOARD AVIATION SYSTEMS	1,543	1,543	1,543		1,543
110	64516N	SHIP SURVIVABILITY	8,536	8,536	8,536		8,536
111	64518N	COMBAT INFORMATION CENTER CONVERSION	13,658	13,658	13,658		13,658
112	64524N	SUBMARINE COMBAT SYSTEM	89,726	89,726	89,726		89,726
113	64558N	NEW DESIGN SSN	266,155	266,155	266,155		266,155
114	64561N	SSN-21 DEVELOPMENTS	68,530	68,530	68,530		68,530
115	64562N	SUBMARINE TACTICAL WARFARE SYSTEM	25,261	25,261	25,261		25,261
116	64567N	SHIP CONTRACT DESIGN/ LIVE FIRE T&E	160,092	160,092	160,092		160,092
117	64574N	NAVY TACTICAL COMPUTER RESOURCES	15,774	15,774	15,774		15,774
118	64601N	MINE DEVELOPMENT	3,223	3,223	3,223		3,223
119	64602N	NAVAL GUNNERY IMPROVEMENTS	0	0	0		0
120	64603N	UNGUIDED CONVENTIONAL AIR-LAUNCHED WPNS	77,102	65,337	77,102	-11,765	65,337
121	64610N	LIGHTWEIGHT TORPEDO DEVELOPMENT	10,284	10,284	10,284		10,284
122	64612M	MARINE CORPS MINE COUNTERMEASURES SYSTEM	440	440	440		440
123	64618N	JOINT DIRECT ATTACK MUNITION	25,173	25,173	25,173		25,173
124	64654N	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOP	6,273	6,273	6,273		6,273
125	64656M	MARINE CORPS ASSAULT VEHICLES - ENG DEV	0	0	0		0
126	64703N	PERSONNEL, TRAINING, SIMULATION, AND HUM	1,136	1,136	1,136		1,136
127	64707N	SPACE AND ELECTRONIC WARFARE (SEW) ARCH	6,157	6,157	6,157		6,157
128	64710N	NAVY ENERGY PROGRAM	3,165	3,165	3,165		3,165
129	64715N	SURFACE WARFARE TRAINING DEVICES	0	0	0		0
130	64719M	MARINE CORPS COMMAND/CONTROL/COMMUNIC	11,371	11,371	11,371		11,371
131	64721N	BATTLE GROUP PASSIVE HORIZON EXTENSION	19,258	19,258	19,258		19,258
132	64727N	JOINT STANDOFF WEAPON SYSTEMS	111,127	111,127	111,127		111,127
133	64755N	SHIP SELF DEFENSE	181,501	181,501	199,401	8,000	189,501
134	64761N	INTELLIGENCE ENGINEERING	4,033	4,033	4,033		4,033

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
135	64771N	MEDICAL DEVELOPMENT	1,686	1,686	1,686		1,686
136	64777N	NAVIGATION/ID SYSTEM	69,213	69,213	69,213		69,213
137	64784N	DISTRIBUTED SURVEILLANCE SYSTEM	114,306	114,306	114,306		114,306
138	64256N	THREAT SIMULATOR DEVELOPMENT	28,003	28,003	28,003		28,003
139	64258N	TARGET SYSTEMS DEVELOPMENT	28,042	28,042	28,042		28,042
140	64759N	MAJOR T&E INVESTMENT	51,966	51,966	41,966	-5,000	46,966
141	65152N	STUDIES AND ANALYSIS SUPPORT - NAVY	6,058	6,058	4,058	-2,000	4,058
142	65154N	CENTER FOR NAVAL ANALYSES	45,394	43,394	45,394		45,394
143	65155N	FLEET TACTICAL DEVELOPMENT	4,570	4,570	4,570		4,570
144	65502N	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
145	65804N	TECHNICAL INFORMATION SERVICES	1,776	1,776	1,776		1,776
146	65853N	MANAGEMENT, TECHNICAL & INTERNATIONAL	10,266	10,266	10,266		10,266
147	65856N	STRATEGIC TECHNICAL SUPPORT	2,545	2,545	2,545		2,545
148	65861N	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	62,646	62,646	62,646		62,646
149	65862N	RDT&E INSTRUMENTATION MODERNIZATION	8,757	8,757	8,757		8,757
150	65863N	RDT&E SHIP AND AIRCRAFT SUPPORT	81,362	81,362	81,362		81,362
151	65864N	TEST AND EVALUATION SUPPORT	293,609	293,609	278,609	-10,000	283,609
152	65865N	OPERATIONAL TEST AND EVALUATION CAPABIL	8,637	8,637	8,637		8,637
153	65866N	NAVY SPACE AND ELECTRONIC WARFARE (SEW)	3,519	3,519	3,519		3,519
154	65867N	SEW SURVEILLANCE/RECONAISSANCE SUPPORT	14,565	12,065	14,565	-2,500	12,065
155	65871M	MARINE CORPS TACTICAL EXPLOIT NATL CAP	1,019	1,019	1,019		1,019
156	65872N	MANUFACTURING SCIENCE AND TECHNOLOGY	0	0	35,000	20,000	20,000
157	65873M	MARINE CORPS PROGRAM WIDE SUPPORT	6,316	6,316	6,316		6,316
158	65896N	BASE OPERATIONS - RDT&E	32,100	32,100	32,100	-32,100	0
159	11221N	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	52,361	52,361	52,361	-15,000	37,361
160	11224N	SSBN SECURITY TECHNOLOGY PROGRAM	29,315	41,665	29,315	0	29,315
161	11226N	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	537	9,399	537	0	537
162	11402N	NAVY STRATEGIC COMMUNICATIONS	75,992	75,992	75,992		75,992
163	12427N	NAVAL SPACE SURVEILLANCE	858	858	858		858
164	24134N	A-6 SQUADRONS	0	0	0		0
165	24136N	F/A-18 SQUADRONS	1,411,875	1,411,875	1,411,875		1,411,875
166	24152N	E-2 SQUADRONS	58,760	58,760	58,760		58,760
167	24163N	FLEET TELECOMMUNICATIONS (TACTICAL)	37,942	37,942	42,942	5,000	42,942
168	24229N	TOMAHAWK AND TOMAHAWK MISSION PLANNING	85,773	85,773	85,773		85,773

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
169	24311N	INTEGRATED SURVEILLANCE SYSTEM	28,805	36,605	28,805	7,800	36,605
170	24413N	AMPHIBIOUS TACTICAL SUPPORT UNITS	4,574	4,574	4,574		4,574
171	24571N	CONSOLIDATED TRAINING SYSTEMS DEVELOP	46,779	46,779	46,779		46,779
172	25604N	TACTICAL DATA LINKS	32,499	32,499	32,499		32,499
173	25620N	SURFACE ASW COMBAT SYSTEM INTEGRATION	16,649	16,649	16,649		16,649
174	25632N	MK-48 ADCAP	27,278	27,278	27,278		27,278
175	25633N	AVIATION IMPROVEMENTS	64,520	65,520	64,520	0	64,520
176	25658N	NAVY SCIENCE ASSISTANCE PROGRAM	7,097	7,097	7,097		7,097
177	25667N	F-14 UPGRADE	171,689	171,689	0	-142,300	29,389
178	25675N	OPERATIONAL NUCLEAR POWER SYSTEMS	58,851	58,851	58,851		58,851
179	26313M	MARINE CORPS COMMUNICATIONS SYSTEMS	7,408	7,408	7,408		7,408
180	26623M	MAR CORPS GROUND COMBAT/SUPPORTING ARMS	13,051	13,051	23,051	10,000	23,051
181	26624M	MARINE CORPS COMBAT SERVICES SUPPORT	6,173	4,628	6,173	0	6,173
182	26625M	MARINE CORPS INTELLIGENCE/ELEC WAR SYS	8,488	8,488	8,488		8,488
183	26626M	MARINE CORPS COMMAND/CONTROL/COMMUNIC	19,441	19,441	19,441		19,441
184	27161N	TACTICAL AIM MISSILES	22,376	22,376	22,376	-22,376	0
185	27163N	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	27,913	27,913	27,913		27,913
186	31327N	TECHNICAL RECONNAISSANCE AND SURVEILL	[ ]	0	0		0
187	33109N	SATELLITE COMMUNICATIONS	47,115	47,115	47,115		47,115
188	33140N	INFORMATION SYSTEMS SECURITY PROGRAM	[ ]	0	0		0
189	33152N	WORLD-WIDE MILITARY COMMAND AND CONTROL	0	0	0		0
190	34111N	SPECIAL ACTIVITIES	[ ]	0	0		0
191	35160N	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	14,639	14,639	14,639		14,639
192	35889N	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
193	78011N	INDUSTRIAL PREPAREDNESS	20,164	40,464	20,164	25,000	45,164
194	99999N	FINANCING FOR CANCELLED ACCOUNT ADJUST	0	0	0		0
999		OPERATIONAL SYSTEMS CLASSIFIED	567,056	562,056	531,556		567,056
		FEDERAL WORKFORCE RESTRUCTURING ACT			200	200	200
		GENERAL REDUCTION, UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
		STRATEGIC SEALIFT TECH DEV PROGRAMS					0
		TOTAL RDT&E NAVY	8,934,718	8,913,963	8,796,129	-88,864	8,845,854

Magnetohydrodynamics

The budget request contained $6.0 million for magnetohydrodynamics (MHD) research.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $3.0 million for MHD.

The conferees agree that of the amounts authorized to be appropriated in PE 61153N for the Navy, $9.0 million would be authorized for continuation of the MHD program.

Materials, electronics, and computer technology

The budget request contained $80.867 million in PE 62234N for materials, electronics, and computer technology.

The House amendment would authorize an additional $5.0 million for collaborative research efforts between the Navy and the academic community on materials research in welding and welding consumables for high strength steel structures; advanced methods to manage hydrogen in welding structures; and development of "part-on-call" manufacturing of metallic components. The House amendment also contained a provision (sec. 203) that would authorize an additional $500,000 for the Navy to initiate and carry out a manufacturing technology program for taconite processing technology.

The Senate bill contained no similar funding or provision.

The House recedes on its provision.

The conferees agree to authorize an additional $5.5 million in PE 62234N as provided by the House amendment and direct that of the $86.367 million authorized, $8.0 million be used for the continued development of high thermal conductivity fibers for use in removing heat from advanced electronic systems used in military and space applications, as described in the Senate report (S. Rept. 103-282) and the House report (H. Rept. 103-499).

Air systems and advanced technology

The budget request included $30.293 million for air systems and advanced technology in PE 63217N.

The Senate bill would provide the requested amount.

The House amendment would reduce the program element by $8.721 million for the advanced short takeoff and vertical landing (ASTOVL) technology demonstrator program and $5.0 million for the integrated high performance turbine engine technology (IHPTET) program, transferring the management and funding of these activities to the joint advanced strike technology (JAST) program (PE 63800N). The House amendment would also provide an additional $4.5 million for the advanced anti-radiation guided missile (AARGM) program in PE 63217N, as well as $3.0 million in PE 63203F.

The conferees agree to transfer $8.721 million to JAST, restore $5.0 million for IHPTET, and provide an additional $7.5 million for AARGM for the purposes described in the House report (H. Rept. 103-499).

Long-range guided projectile technology

The House amendment recommended the transfer of $5.0 million from air systems and weapons technology, PE 63217N, to gun weapons system technology, PE 63795N, in support of long-range guided projectile technology development.

The Senate bill did not contain a similar transfer.

The House recedes.

The conferees endorse the views expressed in the House report (H. Rept. 103-499) on the importance of advanced, long-range precision guided munitions in meeting Navy surface fire support requirements. For the Army, too, there is no point in developing new, long-range artillery capabilities unless projectiles are developed that can achieve the needed range, accuracy, and payload. The Conferees believe that the Army and the Navy should jointly capitalize on technologies, such as the global positioning system, inertial navigation, composite materials, and aerodynamic shapes, to achieve these objectives.

The conferees reserve judgment on the possibility of completely common ammunition, given the differences between Army and Navy artillery designs, but believe that technology and component commonality should be aggressively pursued. The conferees urge the two services to establish a joint program and seek adequate funding in future years.

Operational airship demonstration

The budget request contained $33.0 million for the precision strike and air defense program in PE 63238N. The budget request contained no funds for continuing an airship demonstration project.

The House amendment would provide an additional $8.2 million to conduct an airship ultra high frequency radar demonstration as a part of the mountaintop phase I demonstration project.

The Senate bill would authorize the requested amount.

The Department of Defense has provided more extensive briefings on the mountaintop phase I demonstration project. The conferees conclude that there is no practical role for the airship in this phase.

Instead, the conferees recommend an additional $7.1 million to continue the Navy's effort to assess the potential contribution that airships could make to the airborne component of the ship self-defense/cooperative engagement capability, over-the-horizon targeting and surveillance, and other relevant mission areas. The conferees understand that the Navy will be able to gather significant data during fleet exercises and missile tracking tests. These data will permit the Department to use modeling and simulation to evaluate the airship's potential contribution to joint cruise missile defense.

The conferees also direct the Secretary of the Navy to provide the results of this extended assessment to the congressional defense committees in the 1995 annual report on the ship self-defense/cooperative engagement program.

Interactive multi-dimensional acoustic trainer (IMAT)

The House amendment would provide an increase of $3.8 million in PE 63707N to accelerate exploitation of the interactive multidimensional acoustic trainer (IMAT) technology.

The Senate bill would provide no increased funding.

The House recedes.

The conferees understand that the Navy, as part of its core technology program, is continuing the IMAT program and investigating its potential application to a wide range of training requirements. The conferees endorse the direction to the Secretary of the Navy contained in the House report. (H. Rept. 103-499), relative to the assessment of training requirements and plans for development of advanced training technologies.

Battlefield surgical tissue replacement

The budget request contained no funding for battlefield surgical tissue replacement.

The Senate bill contained no funding for this research.

The House amendment would authorize an additional $5.0 million PE 62787A to conduct tissue substitutes and tissue repair using low-powered diode lasers.

The Senate recedes.

Aviation survivability

The budget request included $10.0 million in the Navy's aviation survivability research and development program (PE 63216N).

The House amendment recommended an increase of $5.5 million.

The Senate bill contained no similar recommendation.

The conferees agree to support the House recommendation.

The conferees note that the Defense Department has repeatedly excluded projects from its budget request in the expectation that Congress would provide additional funding for them. The conferees believe that, from time to time, individual projects merit additional funding. Additional congressional support may be justified for these projects when they have been excluded from the President's budget request, or require additional funding to capitalize on a particular technology or to meet a critical requirement.

The conferees believe strongly, however, that this should not be a routine practice for several projects at a single research and engineering center. Such projects and programs must compete with other projects and programs on the basis of their technical merit and ability to meet required operational capabilities in the budget development process. The conferees expect that the Armed Services Committees of the Senate and House of Representatives will monitor these practices closely when they consider future defense budget requests.

Antisubmarine warfare systems development

The budget request included $31.5 million for antisubmarine warfare (ASW) systems development (PE 63254N).

The House amendment would provide an additional $9.0 million: $4.0 million for extended echo ranging technology exploitation; and $5.0 million to continue hardware and software development and the installation of system upgrades in the BEARTRAP aircraft.

The Senate bill would authorize the requested amount.

The House recedes.

The conferees note the very important role that the BEARTRAP aircraft program has played in the rapid development and prototyping of advanced antisubmarine warfare technology. The conferees also note that the budget request for fiscal year 1995 is sharply reduced from the fiscal year 1994 level. Given the long term benefits that have accrued from the BEARTRAP aircraft, the conferees are concerned that this reduction in funding may be short-sighted. The conferees do not believe that it is justified by any rationale contained in the budget submission, which is silent on the subject.

The conferees strongly encourage the Navy to reevaluate its budget priorities with respect to BEARTRAP, and to maintain funding levels required to continue ongoing hardware and software upgrades to the system.

Ship main propulsion gas turbine improvements

The budget request included $72.4 million for advanced surface machinery systems.

The Senate bill would approve the requested amount.

The House amendment would add $12.4 million to the requested amount. Of this amount, $7.4 million would accelerate development of the inter-cooled recuperated (ICR) gas turbine engine. The remaining $5.0 million would initiate a concurrent program to retrofit existing Navy ship propulsion LM-2500 engines with a recuperator (called "LM-2500R"). The intent of the LM-2500R program would be to develop efficiencies similar to the ICR program for the Navy's existing main propulsion gas turbine.

The conferees agree to provide an additional $7.4 million to accelerate development of the ICR gas turbine engine. Although the Navy has not yet published the report, the conferees understand that a Navy life cycle cost analysis requested in the statement of the managers accompanying the conference report on the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357) concludes that the alternative of completing development of the LM-2500R would not be cost-effective. The conferees direct the Secretary of the Navy to provide the requested analysis to the congressional defense committees by December 1, 1994.

Short-range antiarmor weapon/multi-purpose individual munition

The budget request included $8.4 million in Navy research and development funds for development of the short-range antiarmor weapon (SRAW) for the Marine Corps. The conferees note that the requested amount is substantially below that needed to comply with the clear direction expressed by the conferees in the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357). In compliance with that direction, the Army has adopted the SRAW missile as the delivery system for the Army-developed multi-purpose individual munition (MIPM) warhead, and requested $3.9 million for research and development.

The Senate bill provided an additional $15.0 million for the Marine Corps SRAW program and directed the Marine Corps to reprogram an additional $6.6 million to meet the schedule established by the National Defense Authorization Act for Fiscal Year 1994. The Senate bill would authorize $3.9 million for the Army's SRAW/MIPM development program.

The House amendment would authorize the requested amount for the Marine Corps SRAW program, and authorize $3.9 million for the Army's SRAW/MIPM development program.

The conferees agree to authorize an additional $10.9 million in PE 63635M and urge the Marine Corps to reprogram at least $6.6 million to accelerate the engineering and manufacturing development program for the SRAW. The conferees understand that the resulting program schedule will not cause unacceptable concurrency and encourage the Marine Corps to monitor the development closely to ensure the success of the SRAW/EMD program. The conferees also state that they do not intend to subsidize this program if the services persist in underfunding it.

Army/Marine Corps 155mm lightweight howitzer program

The House amendment recommended a $7.0 million increase in PE 63635M and a $7.0 million increase in PE 63004A for the Marine Corps and the Army to complete evaluation of existing 155mm lightweight howitzer prototypes, evaluate advanced fire control and other promising technologies for improvements in the tactical mobility and operational effectiveness of towed artillery systems, confirm operational requirements, and provide the basis for a decision to proceed with further development and acquisition of a lightweight 155mm howitzer system.

The Senate bill contained no similar recommendation.

The conferees recommend an increased authorization of $5.0 million in PE 63635M for the Marine Corps and an increased authorization of $7.0 million in PE 63004A for the Army, as recommended in the House amendment. The conferees do not intend to support this program unless the Army and Marine Corps establish joint operational requirements, agree on a joint development program, and fund the program adequately.

To the extent possible within available funds in PE 63004A, the Army is authorized to develop advanced guidance and control for artillery munitions in conjunction with the Navy, as discussed elsewhere in this statement of the managers. The conferees urge the Secretary of the Army to seek funding to continue this initiative in fiscal year 1996.

Plasma arc technology

The budget request contained no funds for plasma arc technology.

The Senate bill would provide an additional $1.8 million in PE 60721N to allow the Navy to explore the use of plasma arc technology for solid waste treatment aboard naval vessels.

The House amendment would also provide $1.8 million for plasma arc technology.

The conferees agree to provide $1.8 million to assess the use of plasma arc technology on board naval vessels.

Ship self-defense

The budget request included a total of $373.8 million for ship self-defense research and development, $192.3 million in PE 63755N and $181.5 million in PE 64755N.

The Senate bill would add a total of $29.1 million to the requested amount to:

(1) accelerate the ship self-defense engineering and manufacturing development effort;

(2) continue preparations at the land-based test site and on the self-defense test ship; and

(3) procure NULKA decoys for additional at-sea testing.

The House amendment would provide an increase of $8.5 million to the program to begin an evaluation of an insensitive munition, dual thrust motor upgrade to the rolling air-frame missile (RAM) and for other initiatives.

The conferees agree to provide an increase of $24.2 million above the requested amount for self-defense programs. The conferees intend the Navy to apply this increased funding to:

(1) accelerating improvements to the self-defense test ship ($11.2 million);

(2) evaluating an insensitive munition, dual thrust motor upgrade to the RAM ($5.0 million); and

(3) procuring NULKA decoys ($8.0 million).

The conferees are concerned about persistent rumors that the Navy intends to divert prior-year funding from key self-defense thrusts, such as infrared sensors, to other programs. The conferees continue to believe, based on at-sea testing in 1993 and associated Navy briefings, that an integrated infrared search and track capability will be an important aspect of the emerging ship self-defense architecture. Consequently, the conferees encourage the Navy to keep the infrared sensor program on track and urge the Navy to provide an analytical rationale before taking any steps that would hinder this ongoing program.

Naval surface fire support

The Senate bill would authorize the requested amount of $24.8 million in PE 63795N, gun weapon system technology, for the naval surface fire support program.

The House amendment would authorize a $36.6 million increase to the requested amount to accelerate the fielding of fire support improvements for Marine amphibious operations.

The conferees agree to an increase of $6.0 million for this program. During the past three years, the conferees have repeatedly expressed concern over the need to correct deficiencies in the Navy's surface fire support for Marine amphibious operations.

The Department of the Navy's blueprint for future operations devotes major attention to operations in the littoral regions and emphasizes the importance of power projection through amphibious operations. Current amphibious doctrine emphasizes the need to project this power from beyond the horizon to minimize the threat from enemy missiles. At these greater standoff ranges, the Navy and the Marine Corps must (1) extend the range of Navy fire support systems; and (2) provide rapid ship-to-shore movement through such programs as the V-22 aircraft and the advanced amphibious assault vehicle (AAAV). Improvements in all these areas must take place simultaneously to achieve a true "over-the-horizon" assault capability. The conferees believe that emphasizing one or two of the parts of a capability at the expense of an essential element of that capability is hardly balanced.

The conferees have learned that, in preparing its fiscal year 1996 Future Years Defense Program proposal, the Department of the Navy reallocated resources from various Navy programs to fund the V-22 and AAAV. One of the programs cut was the ship fire support improvement program. The conferees were disturbed to learn that the Marine Corps participated in this reallocation. Although competition for declining resources is clearly intense, the conferees are concerned that Navy funding will not keep naval shore fire-support improvements on the same pace as that of other programs designed to improve amphibious capabilities. Program trade-offs are a fact of life, but, in this case, it is not clear that an essential balance has been maintained.

Therefore, the conferees direct the Secretary of the Navy to submit a report to the congressional defense committees by March 1, 1995, that presents an integrated plan, including funding and milestones, for fielding fire support improvements on a timeline that coincides with associated amphibious and air assault systems. The conferees assume that the cost and operational effectiveness analysis (COEA) directed in the National Defense Authorization Act for Fiscal Year 1993 will be completed in sufficient time to provide a solid analytical underpinning to this report.

Joint advanced strike technology program

The budget request included $100.037 million in PE 63800N and $101.354 million in PE 63800F for the Navy and Air Force joint advanced strike technology (JAST) program. The budget request also included $8.721 million in PE 63271N and $20.014 million in PE 63226E for the Navy and ARPA, respectively, to support the advanced short takeoff and vertical landing (ASTOVL)/conventional takeoff and landing (CTOL) demonstrator aircraft.

The Senate bill would authorize the requested amounts, and provide an additional $10.2 million for the ASTOVL direct lift propulsion concept.

The House amendment would:

(1) delete the funding for the Navy and ARPA ASTOVL;

(2) transfer the management of the ASTOVL program to the JAST program office;

(3) direct that the ASTOVL phase II program be funded from the funds provided to JAST; and

(4) direct the JAST program to continue to manage the ASTOVL phase II program through ARPA.

The House amendment would also reduce several propulsion programs (PE 63217N, PE 63202F, and PE 63216F would be reduced by $5.0 million, $8.0 million, and $10.0 million, respectively), because of perceived redundancies in propulsion research and development between these programs and the JAST program.

The conferees agree that:

(1) JAST and ASTOVL program management should be consolidated, with execution of the ASTOVL phase II program continuing to be performed by ARPA;

(2) Navy and ARPA ASTOVL funding should be shifted to the Navy JAST Program (PE 63800N); and

(3) the separate propulsion programs should be approved as requested.

The conferees would not object if the JAST program office were to determine that additional ASTOVL competitive propulsion concepts, such as direct lift and lift plus lift, should be funded.

Finally, the conferees understand that the Navy Department may be evaluating the potential of existing Air Force and Navy aircraft to meet its immediate long-range, stealthy, strike aircraft requirement. The conferees expect to be kept informed in a timely manner by all the services of such studies and analyses, and how such analyses may affect JAST requirements. This information should be provided to the congressional defense committees no later than the submission of the fiscal year 1996 budget request.

Advanced rocket system

The budget request included $14.8 million in PE 64603N for engineering and manufacturing development of the advanced rocket system (ARS).

The Senate bill would approve the requested amount.

The House amendment would provide $3.0 million to terminate the ARS program.

The conferees understand that the Marine Corps has decided that it cannot afford the ARS program at this time and will not request any additional funding for this program in future budget requests. Nevertheless, the Marine Corps still requires a 2.75 inch rocket with insensitive munitions (IM) and electromagnetic resistance (called "hazards of electromagnetic radiation to ordnance," or HERO). The conferees also understand that the Marine Corps plans to restructure the fiscal years 1994 and 1995 program. With this restructuring, the Marine Corps hopes to obtain sufficient information to enable the Marine Corps to pursue a more affordable program with the Army to address IM and HERO requirements.

The conferees agree to provide $3.0 million for these purposes. The conferees will consider a reprogramming request during the next year if the Army and Marine Corps have agreed to a plan to achieve their mutual IM, HERO, and environmental objectives for the upgrade of the 2.75 inch rocket system.

The conferees note that the Army is interested in hypervelocity rockets and more lethal warheads, and has funded successful technology developments in the past. The conferees understand that the current Hydra-70 rocket is not compatible with shipboard operations. The conferees also understand that non-developmental systems may help solve existing deficiencies in the current Hydra-70 rocket weapons system. The conferees specifically expect the Army and Marine Corps to consider the option of producing, and qualifying for operational use, an improved rocket based on the Hydra-70 system as a successor to the ARS program. The conferees believes that this option might be available through executing an engineering change proposal to the current Hydra-70 rocket using non-developmental items. For any option chosen, however, the conferees expect the Department to use competitive procedures in meeting the improved rocket requirement.

SSBN security technology assessment program

The budget request included $29.3 million for the SSBN security program.

The House amendment would authorize an additional $12.35 million for priority activities under the SSBN security technology assessment program.

The Senate bill would authorize the requested amount.

The House recedes.

Additional information on this program is contained in the classified annex to this statement of the managers.

Acoustic sensor technology

The budget request included $20.6 million for advanced submarine combat systems development (PE 63504N) and $28.8 million for integrated surveillance system development (PE 24311N).

The Senate bill would approve the requested amounts. The Senate report (S. Rept. 103-282) emphasized that the Navy could lower the cost of towed and hull-mounted arrays used in antisubmarine warfare by applying a number of new techniques, including, but not limited to, fiber optic technology.

The House amendment would add $4.0 million and $7.8 million to these programs, respectively, to lend additional support to the development of low cost, lightweight military applications of fiber optic technology. These applications include such systems as common optical towed arrays and flank arrays for submarines.

The conferees agree to provide the additional funds recommended in the House amendment. The conferees agree that further development of fiber optic systems could yield dramatic cost and effectiveness improvements for acoustic sensors. The conferees believe, however, that a number of other technologies, such as ceramics and composites, may also lead to significant cost and weight savings. The conferees agree that the Navy should continue to explore technology developments across a broad front with the objective of improved performance at lower cost.

Mine clearing technology

The conferees are aware that the Marine Corps has conducted preliminary tests with a power-blade, earth-moving technology which could improve mine clearing capabilities. The conferees recommend $600,000 of the funds authorized in PE 26623M for further tests and validation of the power-blade technology. The conferees expect the Army to also participate in these tests and evaluate the results for the improvement of Army mine clearing capabilities.

RESEARCH AND DEVELOPMENT, AIR FORCE

Overview

The budget request for fiscal year 1995 contained an authorization of $12,349.4 million for Air Force research, development, test and evaluation. The Senate bill would authorize $12,329.8 million. The House amendment would authorize $12,318.8 million. The conferees recommend authorization of $12,475.7 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL AF					
1	61101F	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	0	0	0		0
2	61102F	DEFENSE RESEARCH SCIENCES	235,805	235,805	230,805	-10,000	225,805
3	62101F	GEOPHYSICS	0	0	0		0
4	62102F	MATERIALS	70,049	70,049	70,049		70,049
5	62201F	AEROSPACE FLIGHT DYNAMICS	64,046	65,046	59,046	-5,000	59,046
6	62202F	HUMAN SYSTEMS TECHNOLOGY	52,518	52,518	47,518	-5,000	47,518
7	62203F	AEROSPACE PROPULSION	77,506	77,506	72,506	-5,000	72,506
8	62204F	AEROSPACE AVIONICS	74,673	74,673	69,673	-7,673	67,000
9	62205F	PERSONNEL, TRAINING AND SIMULATION	29,848	29,848	29,848		29,848
10	62206F	CIVIL ENGINEERING AND ENVIRONMENTAL QUAL	7,045	7,045	7,045		7,045
11	62269F	HYPERSONIC FLIGHT TECHNOLOGY	45,000	45,000	45,000		45,000
12	62302F	ROCKET PROPULSION AND ASTRONAUTICS TECH	0	0	0		0
13	62601F	ADVANCED WEAPONS	125,202	140,202	142,202	20,000	145,202
14	62602F	CONVENTIONAL MUNITIONS	44,685	44,685	44,685		44,685
15	62702F	COMMAND CONTROL AND COMMUNICATIONS	95,444	85,444	95,444		95,444
16	63106F	LOGISTICS SYSTEMS TECHNOLOGY	18,200	18,200	18,200		18,200
17	63112F	ADVANCED MATERIALS FOR WEAPON SYSTEMS	19,900	19,900	19,900		19,900
18	63202F	AEROSPACE PROPULSION SUBSYSTEMS INTEGRAT	29,941	21,941	29,941		29,941
19	63203F	ADVANCED AVIONICS FOR AEROSPACE VEHICLES	34,500	37,500	34,500	3,000	37,500
20	63205F	AEROSPACE VEHICLE TECHNOLOGY	14,339	14,339	14,339	-839	13,500
21	63211F	AEROSPACE STRUCTURES	12,300	12,300	12,300		12,300
22	63216F	AEROSPACE PROPULSION AND POWER TECH	40,662	36,662	40,662	-8,241	32,421
23	63227F	PERSONNEL, TRAINING AND SIMULATION TECH	9,241	9,241	9,241		9,241
24	63231F	CREW SYSTEMS & PERSONNEL PROTECTION TECH	16,600	18,900	21,600	6,100	22,700
25	63238F	GLOBAL SURVEILLANCE	14,500	14,500	14,500		14,500
26	63245F	ADVANCED FIGHTER TECHNOLOGY INTEGRATION	18,100	18,100	18,100		18,100
27	63250F	LINCOLN LABORATORY	15,000	15,000	15,000		15,000
28	63253F	ADVANCED AVIONICS INTEGRATION	24,500	24,500	24,500		24,500
29	63269F	NATIONAL AERO SPACE PLANE TECH PROGRAM	0	0	0		0
30	63270F	EW TECHNOLOGY	27,700	27,700	27,700	-3,700	24,000
31	63302F	SPACE AND MISSILE ROCKET PROPULSION	11,800	14,300	11,800	2,500	14,300
32	63311F	BALLISTIC MISSILE TECHNOLOGY	10,000	10,000	10,000	-5,000	5,000

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
33	63319F	AIRBORNE LASER TECHNOLOGY	0	0	0		0
34	63401F	ADVANCED SPACECRAFT TECHNOLOGY	24,200	124,200	24,200	30,000	54,200
35	63410F	SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS	4,200	4,200	4,200		4,200
36	63428F	SPACE SUBSYSTEMS TECHNOLOGY	0	0	0		0
37	63601F	CONVENTIONAL WEAPONS TECHNOLOGY	35,100	35,100	35,100		35,100
38	63605F	ADVANCED RADIATION TECHNOLOGY	59,500	59,500	59,500	10,000	69,500
39	63707F	WEATHER SYSTEMS TECHNOLOGY	5,100	5,100	5,100		5,100
40	63723F	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	9,798	9,798	9,798		9,798
41	63726F	C3I SUBSYSTEM INTEGRATION	11,050	11,050	11,050		11,050
42	63728F	ADVANCED COMPUTING TECHNOLOGY	9,125	9,125	9,125		9,125
43	63789F	C3 ADVANCED DEVELOPMENT	9,925	16,925	9,925	1,000	10,925
44	63107F	TECHNICAL EVALUTION SYSTEM	[ ]	0	0		0
45	63110F	SPECIAL EVALUATION PROGRAM	[ ]	0	0		0
46	63111F	MERIDIAN	[ ]	0	0		0
47	63260F	INTELLIGENCE ADVANCED DEVELOPMENT	5,134	5,134	5,134		5,134
48	63307F	AIR BASE OPERABILITY ADVANCED DEVELOP	2,312	2,312	2,312		2,312
49	63308F	STRATEGIC MISSILE MODERNIZATION	36,018	36,018	36,018		36,018
50	63319F	AIRBORNE LASER TECHNOLOGY	20,000	20,000	20,000		20,000
51	63402F	SPACE TEST PROGRAM	62,084	62,084	62,084		62,084
52	63430F	ADVANCED MILSATCOM	22,095	35,000	22,095	0	22,095
53	63434F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	7,601	7,601	3,601	0	7,601
54	63438F	SATELLITE SYSTEMS SURVIVABILITY	8,531	8,531	8,531		8,531
55	63440F	BRILLIANT EYES	0	0	120,000	0	0
56	63441F	ADVANCED SPACE BASED TW/AA (DEM VAL)	150,000	150,000	119,000	19,000	169,000
57	63617F	COMMAND, CONTROL, AND COMMUNICATION APPL	5,402	5,402	5,402		5,402
58	63714F	DOD PHYSICAL SECURITY EQUIP - EXTERIOR	0	0	0		0
59	63742F	COMBAT IDENTIFICATION TECHNOLOGY	13,453	13,453	13,453		13,453
60	63800F	JOINT ADVANCED STRIKE TECHNOLOGY PROGRAM	101,354	101,354	101,354		101,354
		ICBM DEM/VAL					0
61	63801F	SPECIAL PROGRAMS	[ ]	0	0		0
998		DEM/VAL CLASSIFIED	0	0	0		0
62	64201F	AIRCRAFT AVIONICS EQUIPMENT DEVELOPMENT	4,824	4,824	4,824		4,824
63	64211F	ADVANCED AERIAL TARGET DEVELOPMENT	0	0	0		0
64	64212F	AIRCRAFT EQUIPMENT DEVELOPMENT	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
65	64218F	ENGINE MODEL DERIVATIVE PROGRAM (EMDP)	761	761	761		761
66	64222F	NUCLEAR WEAPONS SUPPORT	5,637	3,637	5,637	0	5,637
67	64226F	B-1B (H)	74,119	74,119	74,119		74,119
68	64227F	TRAINING SYSTEMS DEVELOPMENT	14,261	14,261	14,261		14,261
69	64231F	C-17 PROGRAM	221,454	105,154	221,454	0	221,454
70	64233F	SPECIALIZED UNDERGRADUATE PILOT TRAINING	41,633	41,633	41,633	-4,200	37,433
71	64237F	VARIABLE STABILITY IN-FLIGHT SIMULATOR	2,027	2,027	2,027		2,027
72	64239F	F-22 EMD	2,461,149	2,461,149	2,461,149		2,461,149
73	64240F	B-2 ADVANCED TECHNOLOGY BOMBER	408,543	408,543	408,543		408,543
74	64242F	ADVANCED INTERDICTION AFT (AX)	0	0	0		0
75	64243F	MANPOWER, PERSONNEL AND TRAINING DEVELOP	4,636	4,636	4,636		4,636
76	64249F	NIGHT/PRECISION ATTACK	21,672	21,672	21,672		21,672
77	64268F	AIRCRAFT ENGINE COMPONENT IMPROVE PROG	97,399	97,399	97,399		97,399
77a		COMPOSITE PROPELLOR DEVELOPMENT			8,000	4,000	4,000
78	64270F	EW DEVELOPMENT	88,774	88,774	88,774		88,774
79	64312F	ICBM MODERNIZATION	0	0	0		0
80	64321F	JOINT TACTICAL FUSION PROGRAM	8,666	4,666	8,666	0	8,666
81	64327F	HARDENED TARGET MUNITIONS	0	0	0		0
82	64408F	NATIONAL LAUNCH SYSTEM	10,176	3,976	10,176	-10,176	0
		LAUNCH VEHICLE TECHNOLOGY			10,000	10,000	10,000
83	64479F	MILSTAR LDR/MDR SAT COMM	607,248	607,248	607,248		607,248
84	64601F	CHEMICAL/BIOLOGICAL DEFENSE EQUIPMENT	7,587	7,587	7,587		7,587
85	64602F	ARMAMENT/ORDNANCE DEVELOPMENT	10,853	10,853	10,853		10,853
85a		CALCM				8,000	8,000
85b		B-1/JDAM INTEGRATION				16,900	16,900
86	64604F	SUBMUNITIONS	26,680	12,680	26,680	0	26,680
87	64609F	R&M MATURATION/TECHNOLOGY INSERTION	8,804	8,804	8,804		8,804
88	64617F	AIR BASE OPERABILITY	9,580	9,580	9,580		9,580
89	64618F	JOINT DIRECT ATTACK MUNITION	84,995	84,995	84,995		84,995
90	64703F	AEROMEDICAL/CHEMICAL DEFENSE SYSTEMS	8,178	8,178	8,178		8,178
91	64704F	COMMON SUPPORT EQUIPMENT DEVELOPMENT	1,605	1,605	1,605		1,605
92	64706F	LIFE SUPPORT SYSTEMS	5,058	5,058	5,058		5,058
93	64707F	WEATHER SYSTEMS - ENG DEV	0	0	0		0
94	64708F	CIVIL, FIRE, ENVIRONMENTAL, SHELTER ENG	3,214	3,214	3,214		3,214

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
95	64711F	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	2,786	0	2,786	-2,786	0
96	64727F	JOINT STANDOFF WEAPONS SYSTEMS	48,966	48,966	48,966		48,966
97	64733F	SURFACE DEFENSE SUPPRESSION	951	951	951		951
98	64735F	RANGE IMPROVEMENT	18,301	18,301	18,301		18,301
99	64740F	COMPUTER RESOURCE TECHNOLOGY TRANSITION	6,621	6,621	6,621		6,621
100	64747F	ELECTROMAGNETIC RADIATION TEST FACIL	0	0	0		0
101	64750F	INTELLIGENCE EQUIPMENT	2,633	2,633	2,633		2,633
102	64754F	JOINT TACTICAL INFORMATION DISTRIBUTION	11,634	11,634	11,634		11,634
103	64755F	IMPROVED CAPABILITY FOR DEVELOPMENT TEST	0	0	0		0
104	64756F	SIDE LOOKING AIRBORNE RADAR	0	0	0		0
105	64770F	JOINT SURVEILL/TARGET ATTACK RADAR SYS	190,408	160,408	190,408	0	190,408
106	64779F	JOINT INTEROP TACT C2 SYSTEMS (JINTACCS)	2,063	2,063	2,063		2,063
107	33606F	UHF SATELLITE COMMUNICATIONS	20,879	20,879	20,879		20,879
		C-130J					0
		ICBM - EMD					0
108	64256F	THREAT SIMULATOR DEVELOPMENT	40,075	49,075	40,075	5,000	45,075
109	64258F	TARGET SYSTEMS DEVELOPMENT	7,576	7,576	7,576		7,576
110	64759F	MAJOR T&E INVESTMENT	53,544	53,544	48,544	-2,500	51,044
111	65101F	RAND PROJECT AIR FORCE	28,039	28,039	28,039	-5,000	23,039
112	65306F	RANCH HAND II EPIDEMIOLOGY STUDY	3,160	3,160	3,160		3,160
113	65502F	SMALL BUSINESS INNOVATIVE RESEARCH (H)	0	0	0		0
114	65708F	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	26,023	26,023	30,023	4,000	30,023
115	65712F	INITIAL OPERATIONAL TEST & EVALUATION	33,504	33,504	28,504	-2,500	31,004
116	65807F	TEST AND EVALUATION SUPPORT	373,376	373,376	373,376		373,376
117	65808F	DEVELOPMENT PLANNING	9,959	9,959	9,959	-2,459	7,500
118	65856F	ENVIRONMENTAL COMPLIANCE	42,876	42,876	42,876		42,876
119	65863F	RDT&E AIRCRAFT SUPPORT	34,476	34,476	34,476		34,476
120	65876F	MINOR CONSTRUCTION (RPM) - RDT&E	3,281	3,281	3,281		3,281
121	65878F	MAINTENANCE AND REPAIR (RPM) - RDT&E	51,904	51,904	41,904	-5,000	46,904
122	65896F	BASE OPERATIONS - RDT&E	106,914	106,914	96,914	-5,000	101,914
123	63107F	TECHNICAL EVALUTION SYSTEM	[ ]	0	0		0
124	63110F	SPECIAL EVALUATION PROGRAM	[ ]	0	0		0
125	11113F	B-52 SQUADRONS	0	0	0		0
126	11120F	ADVANCED CRUISE MISSILE	0	0	0		0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
127	11142F	KC-135 SQUADRONS	0	0	0		0
128	11213F	MINUTEMAN SQUADRONS	151,675	151,675	151,675		151,675
129	11312F	PACCS AND WWABNCP SYSTEM EC-135 CLASS V	0	0	0		0
130	11313F	STRAT WAR PLANNING SYSTEM - USSTRATCOM	0	0	0		0
131	11815F	ADVANCED STRATEGIC PROGRAMS	[ ]	0	0		0
132	12325F	JOINT SURVEILLANCE SYSTEM	2,770	2,770	2,770		2,770
133	12411F	SURVEILLANCE RADAR STATIONS/SITES	4,191	4,191	4,191		4,191
134	12412F	DISTANT EARLY WARNING (DEW) RADAR STATN	2,068	2,068	2,068		2,068
135	27129F	F-111 SQUADRONS	11,019	1,504	11,019	-8,200	2,819
136	27130F	F-15A/B/C/D SQUADRONS	0	0	0		0
137	27131F	A-10 SQUADRONS	0	0	0		0
138	27133F	F-16 SQUADRONS	93,157	93,157	93,157		93,157
139	27134F	F-15E SQUADRONS	116,562	116,562	116,562		116,562
140	27136F	MANNED DESTRUCTIVE SUPPRESSION	38,422	38,422	38,422		38,422
141	27137F	CONSTANT HELP	[ ]	0	0		0
142	27141F	F-117A SQUADRONS	0	0	0		0
143	27160F	TRI-SERVICE STANDOFF ATTACK MISSILE	81,063	81,063	81,063	137,537	218,600
144	27161F	TACTICAL AIM MISSILES	26,944	26,944	26,944	-26,944	0
145	27163F	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE	70,715	70,715	70,715		70,715
146	27217F	FOLLOW-ON TACTICAL RECONNAISSANCE SYS	0	0	0		0
147	27247F	AF TENCAP	21,183	21,183	21,183		21,183
148	27248F	SPECIAL EVALUATION PROGRAM	118,260	118,260	118,260		118,260
149	27411F	OVERSEAS AIR WEAPON CONTROL SYSTEM	0	0	0		0
150	27412F	TACTICAL AIR CONTROL SYSTEMS	7,383	7,383	7,383		7,383
151	27417F	AIRBORNE WARNING AND CONTROL SYS (AWACS)	85,643	85,643	85,643		85,643
152	27419F	TACTICAL AIRBORNE COMMAND & CONTROL SYS	2,779	2,779	2,779		2,779
153	27422F	DEPLOYABLE C3 SYSTEMS	2,610	2,610	2,610		2,610
154	27423F	ADVANCED COMMUNICATIONS SYSTEMS	459	459	459		459
155	27424F	EVALUATION AND ANALYSIS PROGRAM	73,957	73,957	73,957		73,957
156	27431F	COMBAT AIR INTELLIGENCE SYS ACTIVITIES	[ ]	0	0		0
157	27433F	ADVANCED PROGRAM TECHNOLOGY	165,351	165,351	165,351		165,351
158	27438F	THEATER BATTLE MANAGEMENT (TBM) C4I	33,957	33,957	33,957		33,957
159	27579F	ADVANCED SYSTEMS IMPROVEMENTS	119,866	119,866	119,866		119,866
160	27590F	SEEK EAGLE	15,982	15,982	15,982		15,982

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
161	27591F	ADVANCED PROGRAM EVALUATION	105,077	105,077	105,077		105,077
162	27601F	USAF WARGAMING AND SIMULATION	19,110	19,110	19,110		19,110
163	28006F	MISSION PLANNING SYSTEMS	14,483	14,483	14,483		14,483
164	28010F	JOINT TACT COMMUNIC PROGRAM (TRI-TAC)	0	0	0		0
165	28021F	ELECTRONIC COMBAT SUPPORT	[ ]	0	0		0
166	28042F	HAVE FLAG	[ ]	0	0		0
167	28060F	THEATER MISSILE DEFENSES	79,302	79,302	79,302	-52,000	27,302
168	31310F	FOREIGN TECHNOLOGY DIVISION	[ ]	0	0		0
169	31313F	DEFENSE DISSEMINATION PROGRAM	[ ]	0	0		0
170	31314F	IR/EO/DEW PROCESS AND EXPLOITATION	[ ]	0	0		0
171	31315F	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]	0	0		0
172	31317F	SENIOR YEAR OPERATIONS	[ ]	0	0		0
173	31324F	FOREST GREEN	[ ]	0	0		0
174	31357F	NUDET DETECTION SYSTEM	0	0	0		0
175	33110F	DEFENSE SATELLITE COMMUNICATIONS SYSTEM	30,876	30,876	21,476	-9,400	21,476
176	33126F	LONG-HAUL COMMUNICATIONS (DCS)	0	0	0		0
177	33131F	MIN ESSENTIAL EMERG COMM NETWORK (MEECN)	40,795	35,795	40,795	-5,000	35,795
178	33140F	INFORMATION SYSTEMS SECURITY PROGRAM	10,293	11,793	10,293	1,500	11,793
179	33144F	ELECTROMAGNETIC COMPATIBILITY ANAL CTR	9,287	9,287	9,287		9,287
180	33401F	COMMUNICATIONS SECURITY (COMSEC)	[ ]	0	0		0
181	33601F	MILSTAR SATELLITE COMMUNICATIONS SYSTEM	18,249	18,249	18,249		18,249
182	33605F	SATELLITE COMMUNICATIONS TERMINALS	1,905	1,905	1,905		1,905
183	34111F	SPECIAL ACTIVITIES	[ ]	0	0	[-61,500]	0
184	35110F	SATELLITE CONTROL NETWORK	101,146	101,146	101,146		101,146
185	35111F	WEATHER SERVICE	20,990	20,990	20,990		20,990
186	35114F	AIR TRAFFIC CONTROL, APPROACH, AND LAND	7,566	7,566	0	0	7,566
187	35119F	MEDIUM LAUNCH VEHICLES	21,042	121,042	21,042		21,042
		SPACE LAUNCH INITIATIVE				50,000	50,000
188	35124F	SPECIAL APPLICATIONS PROGRAM	[ ]	0	0		0
189	35137F	NATIONAL AIRSPACE SYSTEM (NAS) PLAN	30,980	30,980	30,980		30,980
190	35138F	UPPER STAGE SPACE VEHICLES	3,663	3,663	3,663		3,663
191	35142F	APPLIED TECHNOLOGY AND INTEGRATION	[ ]	0	0		0
192	35144F	TITAN SPACE LAUNCH VEHICLES	161,096	161,096	161,096		161,096
193	35145F	ARMS CONTROL IMPLEMENTATION	6,456	6,456	6,456		6,456

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
194	35158F	CONSTANT SOURCE	3,259	3,259	3,259		3,259
195	35160F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	21,135	21,135	21,135		21,135
196	35164F	NAVSTAR GLOBAL POS SYSTEM (USER EQUIP)	9,781	9,781	9,781		9,781
197	35165F	NAVSTAR GLOBAL POS SYS (SPACE/CONTROL)	51,125	51,125	51,125		51,125
198	35172F	COMBINED ADVANCED APPLICATIONS	[ ]	0	0		0
199	35181F	WESTERN SPACE LAUNCH FACILITY (WSLF)	0	0	0		0
200	35182F	EASTERN SPACE LAUNCH FACILITY (ESLF)	42,710	42,710	42,710		42,710
201	35887F	ELECTRONIC COMBAT INTELLIGENCE SUPPORT	1,892	1,892	1,892		1,892
202	35892F	SPECIAL ANALYSIS ACTIVITIES	[ ]	0	0		0
203	35905F	IMPROVED SPACE BASED TW/AA	0	0	0		0
204	35906F	NCMC - TW/AA SYSTEM	100,520	100,520	100,520		100,520
205	35909F	BALLISTIC MISSILE EARLY WARNING SYSTEM	0	0	0		0
206	35910F	SPACETRACK	34,396	34,396	34,396		34,396
207	35911F	DEFENSE SUPPORT PROGRAM	76,351	56,351	76,351		76,351
208	35912F	SUB-LAUNCH BALLISTIC MISSILE RADAR WARN	0	0	0		0
209	35913F	NUDET DETECTION SYSTEM	10,140	10,140	10,140		10,140
210	41218F	KC-135S	5,160	5,160	5,160		5,160
211	41840F	MAC COMMAND AND CONTROL SYSTEM	0	0	0		0
212	71111F	SUPPLY DEPOT OPERATIONS (NON-IF)	0	0	0		0
213	71112F	INVENTORY CONTROL POINT OPERATIONS	0	0	0		0
214	72207F	DEPOT MAINTENANCE (NON-IF)	2,099	2,099	2,099		2,099
215	78011F	MANUFACTURING SCIENCE AND TECHNOLOGY	0	0	50,000	50,000	50,000
216	78012F	LOGISTICS SUPPORT ACTIVITIES	5,804	5,804	5,804		5,804
217	78026F	PRODUCTIVITY, RELIABILITY, AVAILABILITY,	6,785	7,785	6,785	0	6,785
218	78054F	POLLUTION PREVENTION	16,216	16,216	16,216		16,216
219	84734F	CRYPTOLOGIC/SIGINT-RELATED SKILL TRAIN	1,526	1,526	1,526		1,526
220	88789F	COUNTERDRUG DEMAND REDUCTION ACTIVITIES	0	0	0		0
221	91218F	CIVILIAN COMPENSATION PROGRAM	5,655	5,655	5,655		5,655
222	101004F	INTERNATIONAL ACTIVITIES	3,436	3,436	3,436		3,436
		ALARM DEM/VAL PROTOTYPE					0
999		OPERATIONAL SYSTEMS CLASSIFIED	2,822,472	2,768,472	2,715,972	-61,500	2,760,972
		EXCIMER LASER IMAGING			10,000		0
		GENERAL REDUCTION			-10,000		0
		CIVILIAN UNDERSTRENGTH			-21,000	0	0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		FEDERAL WORKFORCE RESTRUCTURING ACT			900	900	900
		GENERAL REDUCTION, UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
		TOTAL RDT&E AIR FORCE	12,349,362	12,318,766	12,329,796	126,319	12,475,681

Sled tracks

The budget request contained funding for operation of Air Force and Navy sled tracks.

The Senate bill would add $4.0 million to the Air Force sled track program. The Senate report (S. Rept. 103–282) directed the Department of Defense to consolidate all sled track testing at Holloman Air Force Base, and to accelerate modernization of the Holloman sled track.

The House amendment contained no additional funding for sled track operation.

The conferees agree to authorize an additional $4.0 million to accelerate the modernization of the Holloman sled track. However, the conferees agree that it is premature to direct consolidation of all sled track testing pending the outcome of the 1995 base closure process. The conferees agree that the reporting requirement in the Senate report is unnecessary.

Thermionic power systems

The budget request contained $26.897 million in PE 62601F (project 8809, satellite technology). No funds were requested in this project to continue research on thermionic space power technology.

The Senate bill and the House amendment would both add $10.0 million to continue development of this technology.

The conferees agree that the thermionics program offers the potential for revolutionary improvements in power generation technology with substantial defense and commercial implications, and urge the Air Force to continue development of this technology.

Rocket propulsion technology

The budget request included $31.5 million in PE 62601F for project 1011 and $11.8 million in PE 63302F for rocket propulsion technology.

The Senate bill would provide no additional funds for this research.

The House amendment would authorize an additional $5.0 million in PE 62601F for project 1011 and an additional $2.5 million in PE 63302F for rocket propulsion technology.

The Senate recedes. The conferees support the additional funding for rocket propulsion programs as described in the House report (H. Rept. 103–499).

High frequency active auroral research program

The budget request contained no funding for the High frequency active auroral research program.

The Senate bill would authorize $5.0 million for this purpose in PE 62601F, provided that the Secretary of Defense notifies the congressional defense committees that funding to complete the project will be included in future budget requests.

The House amendment would provide no funding for the program.

The House recedes.

The conferees agree that the project has promise for detection of underground structures such as tunnels and shelters, and note that the absence of such a capability has been identified in a May 1994 report the Deputy Secretary of Defense as a serious weakness in the DOD plans for precision attacks on hardened targets and counterproliferation. This report recommends increased funding of $75.0 million annually for the detection of underground structures. The conferees further note that such a project would provide a world-class ionospheric research facility that could also detect mineral and oil deposits, aquifers, and geological structures.

The conferees share the Senate's concern that the Department of Defense will not include funds to finish this facility in future budget requests. The Air Force has spent $20.0 million, but the complete facility would require another $150.0 million. The conferees see no reason why funds would not be requested to finish this project if the Department of Defense is truly serious about locating underground structures. Therefore, the conferees direct that none of these funds be obligated until the Secretary of Defense notifies the congressional defense committees that the Department will, as part of the nonproliferation and counterproliferation program recommended in the May 1994 report, include funding for this project in future budget requests.

Decision support technology

The budget request included $9.925 million in PE 63789F for command, control, and communications advanced development.

The Senate bill would provide the requested amount.

The House amendment would provide an additional $7.0 million to conduct a technology demonstration of decision support technology.

The conferees agree to provide an additional $1.0 million for this purpose.

Composite propellers

The Senate bill provided an additional $8.0 million for the Air Force to begin the fabrication and component-level testing that would lead to qualification of an all-composite propeller.

The House amendment contained no similar funding.

Significant life cycle cost savings could be achieved through the use of composite propeller technology. The conferees, therefore, recommend $4.0 million to initiate a composite propeller technology program.

The conferees express their dismay over the apparent frivolous manner in which the Secretary of the Air Force responded to the direction contained in the Senate report on the National Defense Authorization Act for Fiscal Year 1994 (S. Rept. 103–112). The report asked for an analysis of the costs and benefits of composite propellers. The report was late, and it was unresponsive. The two-page report provided very little useful analysis of the issue. Further, when Air Force personnel were requested to provide the quantitative data to support the qualitative statements made in the report, they were unable to provide any data whatsoever.

F–111 squadrons

The budget request contained $11.019 million for F–111 squadrons research and development (PE 27129F).

The Senate bill would authorize the requested amount.

The House amendment would approve only $1.504 million because of unanticipated savings in the termination of the stores management system project.

The conferees agree to authorize $2.819 million, including $2.5 million to correct deficiencies found during initial flight testing of the digital flight control system modification.

Tri-service standoff attack missile

The budget request contained $66.7 million for the Navy, and $81.1 million for the Air Force, to continue development of the tri-service standoff attack missile (TSSAM). The budget request also contained $373.9 million in procurement to begin low-rate initial production of the Air Force's combined effects bomblet (CEB) version of the missile. Finally, the budget request included $82.5 million to pay for termination charges to cancel the Army portion of the program.

The House amendment would cancel the TSSAM program. The House amendment would eliminate the Air Force production funds, and all research and development funds except those requested for the Air Force. The House report (H. Rept. 103–499) directed the Department to use prior-year funds and the requested Air Force research and development funds for any termination costs. The House report based this decision on continuing cost and developmental problems in the TSSAM program, and the availability of less costly alternatives.

The Senate bill would approve the amounts requested for Air Force and Navy research and development, but would reduce Air Force procurement by $65.8 million. The Senate report (S. Rept. 103–282) directed that none of the fiscal year 1995 production funds be obligated until the testing program has: (1) achieved all contractual exit criteria for proceeding to the next phase of the program, and (2) passed the standards set forth in the classified annex to the statement of the managers accompanying the conference report on the Department of Defense Appropriations Act for Fiscal Year 1994 (H. Rept. 103–339). The Senate report noted that $50.0 million of the funds requested for the Army would be excess to termination requirements, and recommended a similar reduction.

The conferees believe that the capability promised by TSSAM is important for use in future conflicts. However, the conferees, adhering to a "fly-before-buy" philosophy, believe that the Air Force budget should reflect the current testing delays. The conferees recommend no missile procurement funds in fiscal year 1995, which will delay production until testing can demonstrate the expected performance and reliability.

The conferees agree to provide $20.0 million to fund the latest estimate of Army program termination costs, $66.7 million in Navy research and development funds to continue Navy participation in the program, and $218.6 million in Air Force research and development funds to support a restructured TSSAM development program.

The conferees are well aware of the technical problems that continue to plague the TSSAM program. Moreover, the conferees are disappointed with the overall management of the program.

Therefore, the conferees recommend a budget for TSSAM that would implement a plan proposed by the Air Force to restructure the development program in several ways:

(1) cancel production of the CEB variant missile;

(2) complete the engineering and manufacturing development of the CEB and unitary warhead variants of the missile;

(3) convert existing operational test assets to conduct additional developmental testing; and

(4) purchase 15 additional unitary warhead missiles to conduct operational testing with more "production representative" missiles.

Although this restructuring will delay production, additional testing will also provide more confidence in the Air Force's assessment that the improvements in various program management indicators are yielding results in improved flight reliability. The conferees believe that any restructuring should:

(1) protect the government's rights to hold the contractor team accountable for performance;

(2) provide additional work to hold the contractor team together until procurement of

the unitary warhead variant of the missile can begin; and

(3) allow the contractor team to demonstrate that the team has been able to solve the process control problems that have plagued the program.

The Secretary of the Air Force is directed to implement the restructured development program described above in a manner that: (1) contractually provides for any increased scope of work independent of the current scope of work, and (2) preserves all rights the government may have under current contracts for the TSSAM program.

The conferees are interested in delaying production only so long as is required to demonstrate performance. The conferees direct the Air Force to implement this restructured program and provide the funds necessary to carry out the plan in the Future Years Defense Program.

Microencapsulated phase change materials

The budget request contained no funding for microencapsulted phase change materials (micro PCM).

The Senate bill contained no funding for micro PCM.

The House amendment would authorize an additional $1.0 million to continue micro PCM research in the Air Force.

The House recedes. The the conferees, however believe that micro PCM innovative technology worth pursuing and would allow the Air Force to reprogram funds within its allotted funding to support micro PCM research in fiscal year 1995.

RESEARCH AND DEVELOPMENT, DEFENSE-WIDE

Overview

The budget request for fiscal year 1995 contained an authorization of $9,416.9 million for Defense-wide research, development, test and evaluation. The Senate bill would authorize $9,322.3 million. The House amendment would authorize $9,054.2 million. The conferees recommend authorization of $9,185.6 million, as delineated in the following table. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		RESEARCH DEVELOPMENT TEST & EVAL DEFWIDE					
1	61101D	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	0	0	0		0
2	61101E	DEFENSE RESEARCH SCIENCES	87,706	87,706	87,706		87,706
3	61101W	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	0	0	0		0
4	61103D	UNIVERSITY RESEARCH INITIATIVES	232,492	237,492	232,492	2,500	234,992
5	61109D	US-JAPAN MANAGEMENT TRAINING	0	0	0		0
6	61110D	FOCUSED RESEARCH INITIATIVES	20,000	20,000	20,000	-8,000	12,000
7	62109H	SUPERCONDUCTIVE MAGNETIC ENERGY STORAGE	0	0	0		0
8	62217C	BALLISTIC MISSILE DEFENSE TECHNOLOGY	106,460	73,460	0	-106,460	0
9	62227D	MEDICAL FREE ELECTRON LASER	25,938	25,938	25,938		25,938
10	62228D	HISTOR BLACK COLLEGES AND UNIVERSITIES	15,000	25,000	35,000	10,000	25,000
11	62301E	COMPUTING SYSTEMS AND COMMUNIC TECH	419,608	394,608	419,608	-25,000	394,608
11a		LOCATE WEAPONS OF MASS DESTRUCTION			[5,000]	[5,000]	[5,000]
11b		JOINT DOD-FBI TRAINING PROGRAM			[10,000]	[10,000]	[10,000]
12	62702E	TACTICAL TECHNOLOGY	111,343	126,343	111,343	10,000	121,343
13	62708E	INTEGRATED COMMAND AND CONTROL TECH	67,950	92,950	92,950	25,000	92,950
14	62712E	MATERIALS AND ELECTRONICS TECHNOLOGY	224,828	243,953	241,828	18,000	242,828
15	62715H	DEFENSE NUCLEAR AGENCY	231,978	227,978	254,478	-1,000	230,978
16	62787D	MEDICAL TECHNOLOGY	8,477	8,477	8,477		8,477
17	62790D	SBIR/SMALL BUS TECH TRANSFER PILOT PROG	1,500	1,500	1,500		1,500
18	62790H	SBIR/SMALL BUS TECH TRANSFER PILOT PROG	0	0	0		0
19	63217C	BALLISTIC MISSILE DEFENSE TECHNOLOGY	0	0	0		0
20	63734J	ISLAND SUN SUPPORT	2,784	2,784	2,784		2,784
21	65502D	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
22	35108K	COMMAND AND CONTROL RESEARCH	1,843	1,843	1,843		1,843
23	62222D	COUNTERTERROR TECHNICAL SUPPORT	6,321	6,321	9,321	3,000	9,321
24	63002D	MEDICAL ADVANCED TECHNOLOGY	4,542	4,542	44,542	40,000	44,542
25	63214C	SPACE BASED INTERCEPTORS	0	0	0	0	0
26	63215C	LIMITED DEFENSE SYSTEM	0	0	0		0
27	63216C	THEATER MISSILE DEFENSES	479,131	480,281	0	-479,131	0
28	63217C	BALLISTIC MISSILE DEFENSE TECHNOLOGY	769,993	584,393	0	-769,993	0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		BALLISTIC MISSILE DEFENSE:				2,526,635	2,526,635
		NATIONAL MISSILE DEFENSE			400,000	400,000	400,000
		THAAD				495,690	495,690
		GROUND BASED RADAR - T				173,200	173,200
		HAWK BM/C3				26,800	26,800
		BM/C3I				34,055	34,055
		PATRIOT (PAC-3)				284,705	284,705
		PAC-3 RISK REDUCTION				58,460	58,460
		NAVY LOWER TIER				140,000	140,000
		NAVY UPPER TIER				50,000	50,000
		CORPS SAM				17,725	17,725
		BOOST PHASE INTERCEPT				40,000	40,000
		OTHER TMD ACTIVITIES				373,050	373,050
		SUPPORT TECHNOLOGIES				262,950	262,950
		PROGRAM MANAGEMENT				170,000	170,000
		FOLLOW ON TECHNOLOGY			270,000		0
		FOLLOW ON TMD SYSTEMS			96,550		0
29	63218C	RESEARCH AND SUPPORT ACTIVITIES	0	0	463,117		0
30	63225D	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVEL	14,415	26,415	14,415	8,500	22,915
31	63226E	EXPERIMENTAL EVAL MAJOR INNOVATIVE TECH	609,331	613,017	597,331	26,800	636,131
31a		VIRTUAL BRIGADE			16,800	[16,800]	[16,800]
31b		ASTOVL			10,200	0	0
31c		ENDURANCE UAV OFFSET			-32,000	0	0
32	63569E	ADVANCED SUBMARINE TECHNOLOGY	25,261	42,261	25,261	9,000	34,261
33	63570D	DEFENSE REINVESTMENT	106,600	0	56,600	-30,600	76,000
34	63570E	DEFENSE REINVESTMENT	625,000	771,600	625,000	0	625,000
35	63704D	SPECIAL TECHNICAL SUPPORT	11,298	11,298	9,298	-2,000	9,298
36	63705D	MANUFACTURING TECHNOLOGY	97,057	117,057	10,000	-87,057	10,000
37	63711H	VERIFICATION TECHNOLOGY DEMONSTRATION	41,063	41,063	41,063		41,063
38	63716D	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	111,907	111,907	170,000	0	111,907
39	63724D	BIOLOGICAL DEFENSE - ADVANCED DEVELOP	0	0	9,650	52,895	52,895
40	63725D	COMPUTERS & COMMUNIC TO REDUCE MED COSTS	0	0	0		0
41	63736D	COMPUTER AIDED LOGISTICS SUPPORT	13,090	13,090	13,090		13,090

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
42	63737D	BALANCED TECHNOLOGY INITIATIVE	0	0	0		0
43	63738D	COOPERATIVE DOD/VA MEDICAL RESEARCH	0	30,000	20,000	40,000	40,000
44	63739E	MANUFACTURING TECHNOLOGY	346,129	418,329	371,129	56,200	402,329
44a		UAV ADJUSTMENT			-5,000	-5,000	-5,000
45	63741D	AIR DEFENSE INITIATIVE	0	0	0		0
		HIGH ENERGY LASER			50,000	0	0
46	63744E	ADVANCED SIMULATION	20,937	20,937	30,937	0	20,937
47	63745E	SEMICONDUCTOR MANUFACTURING TECHNOLOGY	90,000	90,000	90,000		90,000
48	63746E	MARITIME TECHNOLOGY OFFICE	0	0	0		0
49	63747E	ELECTRIC VEHICLES	0	10,000	15,000	10,000	10,000
50	63748E	NATURAL GAS VEHICLES	0	0	0		0
51	63749E	EARTH CONSERVANCY	0	0	0		0
52	63750D	ADVANCED CONCEPTS TECHNOLOGY DEMONSTR	50,000	25,000	50,000	-30,900	19,100
53	63755D	HIGH PERFORMANCE COMPUTING MODERNIZATION	183,048	133,048	183,048	-25,000	158,048
54	63756D	CONSOLIDATED DOD SOFTWARE INITIATIVE	0	0	0		0
55	63832D	JOINT WARGAMING SIMULATION MANAGE OFFICE	68,117	68,117	68,117	-13,114	55,003
56	64704D	ROCKET MOTOR DEMILITARIZATION PROGRAM	0	4,500	4,500	4,500	4,500
57	33132G	GLOBAL GRID COMMUNICATIONS	[ ]	0	0		0
58	63216C	THEATER MISSILE DEFENSES	0	0	0		0
59	63228D	PHYSICAL SECURITY EQUIPMENT	21,409	28,909	21,409	3,479	24,888
60	63708D	INTEGRATED DIAGNOSTICS	11,634	11,634	11,634		11,634
61	63709D	JOINT ROBOTICS PROGRAM	23,418	23,418	23,418		23,418
62	63710D	CLASSIFIED PROGRAM - C3I	8,092	8,092	8,092		8,092
63	63714D	ADVANCED SENSOR APPLICATIONS PROGRAM	27,359	27,359	27,359	4,756	32,115
64	63715D	AIM-9 CONSOLIDATED PROGRAM	0	0	0	49,320	49,320
64a		F-22N			10,000	10,000	10,000
65	63790D	NATO RESEARCH AND DEVELOPMENT	60,240	60,240	60,240	-24,950	35,290
		DISASTER PLANNING AND PREPAREDNESS					0
66	64216C	THEATER MISSILE DEFENSE (DEM/VAL)	[1,071,283]	0	0		0
66A		GROUND BASED RADAR	173,200	173,200	173,200	-173,200	0
66B		PATRIOT	69,240	0	69,240	-69,240	0
66C		ERINT	58,460	0	58,460	-58,460	0
66D		THAAD	495,690	495,690	495,690	-495,690	0
66E		SEA BASED TMD INT	179,543	0	179,543	-179,543	0

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
66F		RISK REDUCTION	0	210,000	75,000		0
66G		HAWK SYSTEM BM/C3	26,800	26,800	26,800	-26,800	0
66H		C4I & CONCEPTS OPS	33,500	33,500	34,055	-33,500	0
66I		TEST AND EVALUATION SUPPORT	34,850	34,850	0	-34,850	0
67	64217C	BALLISTIC MISSILE DEFENSE TECH (DEM/VAL)	120,000	0	0	-120,000	0
68	64225C	THEATER MISSILE DEFENSES	0	0	0		0
69	64708D	INNOVATIVE ENVIRONMENTAL SECURITY TECH	15,000	25,000	15,000	10,000	25,000
70	64225C	THEATER MISSILE DEFENSES	217,755	180,755	217,200	-217,755	0
71	64705D	MOBILE OFFSHORE BASE ANALYSIS	0	0	0		0
72	64771D	JOINT TACTICAL INFORMATION DISTRIBUTION	84,409	84,409	84,409		84,409
73	35889D	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
74	63218C	RESEARCH AND SUPPORT ACTIVITIES	215,233	198,833	0	-215,233	0
75	65104D	TECHNICAL STUDIES, SUPPORT AND ANALYSIS	40,501	40,501	40,501	-10,000	30,501
76	65110D	TECH SUPPORT TO USD(A)--CRITICAL TECH	2,660	2,660	2,660		2,660
77	65114E	BLACK LIGHT	4,875	4,875	4,875		4,875
78	65117D	FOREIGN MATERIAL ACQUISITION AND EXPLOIT	49,900	49,900	49,900		49,900
79	65120S	TECHNICAL INFORMATION SERVICE	0	0	0		0
80	65502E	SMALL BUSINESS INNOVATIVE RESEARCH	0	0	0		0
81	65798S	DEFENSE SUPPORT ACTIVITIES	15,234	15,234	15,234		15,234
82	65801S	DEFENSE TECHNICAL INFORMATION CENTER	42,949	42,949	42,949		42,949
83	65898E	MANAGEMENT HEADQUARTERS (R & D)	28,718	28,718	23,718		28,718
		COMMERCIAL COMMUNICATIONS					0
84	35889E	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
85	78011S	INDUSTRIAL PREPAREDNESS	0	0	0		0
86	21135J	CINC C2 INITIATIVES	1,389	1,389	1,389		1,389
87	28045K	C3 INTEROPERABILITY (JOINT TACT C3 AG)	36,040	36,040	36,040		36,040
88	31011G	CRYPTOLOGIC ACTIVITIES	[ ]	0	0	[-21,000]	0
89	31301L	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	0	0	[7,000]	0
90	31308L	MISSILE INTELLIGENCE AGENCY	[ ]	0	0		0
91	32016K	NATIONAL MILT COMMAND SYS-WIDE SUPPORT	3,788	3,788	3,788		3,788
92	32019K	JOINT/DEFENSE INFORMATION SYSTEMS ENGINE	9,768	9,768	9,768		9,768
93	33126K	LONG-HAUL COMMUNICATIONS (DCS)	19,657	19,657	19,657		19,657
94	33127K	SUPPORT OF THE NATIONAL COMMUNIC SYS	4,769	4,769	4,769		4,769
95	33131K	MIN ESSENTIAL EMERG COMM NETWORK (MEECN)	4,000	4,000	4,000		4,000

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
96	33140G	INFORMATION SYSTEMS SECURITY PROGRAM	[ ]	0	0		0
97	33150J	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	6,766	6,766	6,766		6,766
98	33154J	WWMCCS ADP MODERNIZATION	0	0	0		0
99	33154K	WWMCCS ADP MODERNIZATION	0	0	0		0
100	33401G	COMMUNICATIONS SECURITY (COMSEC)	[ ]	0	0		0
101	34311D	SELECTED ACTIVITIES	[ ]	0	0		0
102	35098L	DEFENSE SUPPORT ACTIVITY - IPSG	[ ]	0	0		0
103	35106LC	CONSOLIDATED IMAGERY ACTIVITIES	[ ]	0	0		0
104	35107LC	TACTICAL IMAGERY ACTIVITIES	[ ]	0	0		0
105	35127V	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	[ ]	0	0		0
106	35139B	DMA MAPPING, CHARTING, & GEODESY (MC&G)	67,008	57,008	67,008	-8,400	58,608
107	35141D	JOINT REMOTELY PILOTED VEHICLES PROGRAM	0	0	0		0
108	35154D	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	528,290	501,590	671,290	900	529,190
109	35154G	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	[ ]	0	0		0
110	35154I	DEFENSE AIRBORNE RECONNAISSANCE PROGRAM	0	0	0		0
111	35157I	LAND REMOTE SENSING SATELLITE SYSTEM	0	0	0		0
112	35159B	DEFENSE RECONNAISSANCE SUPPORT ACTIV	19,548	19,548	19,548		19,548
113	35159G	DEFENSE RECONNAISSANCE SUPPORT ACTIV	[ ]	0	0		0
114	35159I	DEFENSE RECONNAISSANCE SUPPORT ACTIV	46,865	46,865	46,865		46,865
115	35167G	COMPUTER SECURITY	[ ]	0	0		0
116	35190D	C3I INTELLIGENCE PROGRAMS	22,515	22,515	6,515	-16,000	6,515
117	35830K	CENTER FOR INFORMATION MANAGEMENT	0	0	0		0
118	35884L	INTEL PLANNING AND REVIEW ACTIVITIES	[ ]	0	0		0
119	35885G	TACTICAL CRYPTOLOGIC ACTIVITIES	[ ]	0	0		0
120	35889G	COUNTERDRUG INTELLIGENCE SUPPORT	[ ]	0	0		0
121	35889K	COUNTERDRUG INTELLIGENCE SUPPORT	0	0	0		0
122	35889L	COUNTERDRUG INTELLIGENCE SUPPORT	[ ]	0	0		0
123	35898L	MANAGEMENT HQ (AUXILIARY FORCES)	[ ]	0	0		0
124	116279BB	SBIR/SMALL BUS TECH TRANSFER PILOT PROG	0	0	0		0
125	116401BB	SPECIAL OPERATIONS TECHNOLOGY DEVELOP	7,560	7,560	7,560		7,560
126	116402BB	SPECIAL OPERATIONS ADVANCED TECH DEVELOP	15,549	16,049	15,549	500	16,049
127	116404BB	SPECIAL OPERATIONS TACTICAL SYSTEMS DEV	167,356	167,356	167,356	-9,600	157,756
128	116405BB	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS	2,958	2,958	2,958		2,958
129	116407BB	SOF MEDICAL TECHNOLOGY DEVELOPMENT	1,798	1,798	1,798		1,798

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
130	116408BB	SOF OPERATIONAL ENHANCEMENTS	20,316	20,316	20,316		20,316
999		DEFENSE WIDE CLASSIFIED PROGRAMS	1,139,099	1,103,738	1,159,799	-14,000	1,125,099
		DOD COUNTERPROLIFERATION INITIATIVE			12,500	16,500	16,500
		GULF WAR SYNDROME STUDY			10,000		0
		SMALL BUSINESS CONVERSION LOAN GUARANTEES			27,400		0
		GENERAL REDUCTION			-37,400		0
		BRILLIANT EYES				120,000	120,000
		CIVILIAN UNDERSTRENGTH			-900	-2,700	-2,700
		FEDERAL WORKFORCE RESTRUCTURING ACT			3,462	3,462	3,462
		GENERAL REDUCTION, UNIVERSITY RESEARCH					0
		CIVILIAN PERSONNEL PAY/LOCALITY PAY RAISES					0
		TOTAL RDT&E DEFENSE WIDE	9,416,855	9,054,212	9,322,303	-231,229	9,185,626

R-1 Line	PE	Program	FY 1995 Request	House Authorized	Senate Authorized	Conference Change to Request	FY 1995 Conference Authorized
		DIRECTOR OF TEST & EVAL DEFENSE					
1	64940D	CENTRAL TEST & EVAL INVESTMENT (CTEIP)	115,318	118,818	100,318	-15,000	100,318
2	65130D	FOREIGN COMPARATIVE TESTING	33,716	33,716	33,716		33,716
3	65131D	LIVE FIRE TESTING	10,461	10,461	6,461	-4,000	6,461
4	65804D	DEVELOPMENT TEST AND EVALUATION	92,000	92,000	90,000	-2,000	90,000
		TOTAL DIRECTOR TEST & EVALUATION	251,495	254,995	230,495	-21,000	230,495
		DIRECTOR OPERATIONAL TEST & EVALUATION					
1	65118D	OPERATIONAL TEST AND EVALUATION	12,501	12,501	12,501		12,501
		TOTAL OPERATIONAL TEST	12,501	12,501	12,501	0	12,501

DODDS Director's fund for science, mathematics and engineering

The budget request contained no funds for the DODDS Director's fund for science, mathematics and engineering.

The Senate bill would provide $20.0 million for this program from the funds authorized for PE 61103D.

The House amendment contained no funds for this program.

The House recedes.

Computer-assisted education

The budget request contained no funds for computer-assisted education.

The Senate bill would provide $20.0 million for computer-assisted education from the funds authorized for PE 61103D, and $2.0 million from each of the following program elements: PE 61102A, PE 61553N, and PE 61102F.

The House amendment contained no funds for this program.

The House recedes. The conferees direct the Department of Defense to conduct the competition called for in the Senate report (S. Rept. 103–282).

Center for Adaptive Optics

The budget request included $232.492 million in PE 61103D for university research initiatives (URI).

The Senate bill would authorize the requested amount.

The House amendment would provide an additional $5.0 million to complete the university research initiative for the technology transfer of adaptive optics that was initiated in fiscal year 1993.

The conferees recommend $234.992 million for URI, of which $5.0 million shall be for the Center for Adaptive Optics.

Telemedics

The budget request contained no funding for telemedicine.

The Senate bill would authorize $20.0 million for telemedicine in the following amounts: $10.0 million in the Army in PE 63002A; $5.0 million in the Air Force in PE 63231F; and $5.0 million in the Navy in PE 63706N.

The House amendment would provide $5.0 million in PE 62301E for telemedicine.

The House recedes. The conferees agree that the Director of Defense Research and Engineering should report to the Committees on Armed Services of the House of Representatives and the Senate in accordance with the direction on telemedicine reporting contained in the House report (H. Rept. 103–499). The conferees agree that any funds needed to accomplish the ARPA coordination called for in the House report shall come from PE 62301E.

Software reuse and technology transfer

The budget request contained $93.7 million for research on intelligence systems and software, including software reuse, in PE 62301E.

The Senate bill would authorize $7.5 million in this program element for software reuse.

The House amendment did not contain a similar authorization for software reuse.

The House recedes.

The conferees recommend that $7.5 million be authorized for the software reuse project as described in the Senate report (S. Rept. 103–282).

Simulation-based design

The budget request contained $111.3 million for PE 62702E, tactical technology.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $15.0 million for acceleration of simulation-based design technology.

The conferees agree to authorize an additional $5.0 million to the Advanced Research Projects Agency (ARPA) tactical technology program for simulation-based design.

Material and electronics technology

The budget request contained $224.828 million for materials and electronics in PE 62712E.

The Senate bill would authorize an additional $17.0 million in PE 62712E for continuous fiber metal matrix composites.

The House amendment would authorize an additional $19.125 million in PE 62712E for synthetic diamond, cryoelectronics, and microballoon technology.

The conferees agree to authorize an increase of $18.0 million in PE 62712E. Of the amount authorized, $17.0 million is for continuous fiber metal matrix composites; $8.0 million is for chemical vapor deposition (CVD) and chemical vapor composite (CVC) synthetic diamond; $1.0 million is for mercury cadmium telluride (MCT); $4.0 million is for microballoon technology; and $2.0 million is for aluminum beryllium alloys to meet military and commercial applications as recommended by the House amendment.

Defense Nuclear Agency

The budget request contained $231.978 million for research and development at the Defense Nuclear Agency (DNA).

The Senate bill would authorize $254.5 million for the Defense Nuclear Agency, an increase of $22.5 million over the requested amount.

The House amendment would authorize $228.0 million, a reduction of $4.0 million from the requested amount.

The conferees recommend $230.978 million for DNA.

The House report (H. Rept. 103–499) and the Senate report (S. Rept. 103–282) both discussed the electrothermal gun program. The conferees direct that this program be carried forward with a goal of an end-to-end demonstration of long range gunfire in accordance with the memorandum of agreement between DNA and the Navy, and that the program be carried out on a sound technical basis.

The conferees also recommend a $3.0 million increase to the requested amount for DNA operation and maintenance for the nuclear test personnel review (NTPR) program, which will fund the increased workload resulting from the Administration's interagency effort studying the conduct of radiation research on humans.

Joint DOD/DOE munitions technology development

The budget request contained $14.4 million for the joint DOD/DOE munitions technology development program.

The House amendment recommended an increase of $12.0 million to the requested amount.

The Senate bill recommended the requested amount.

The conferees recommend a total authorization of $22.915 for the program. The additional funds will permit an expansion of ongoing DOD/DOE efforts in the development of innovative warhead, explosive, and fuze technologies that improve the capability and safety of conventional munitions, and develop and demonstrate environmentally-compliant processes for the demilitarization and disposal of unserviceable, obsolete, or non-treaty-compliant weapons. The conferees believe that the increased program will significantly benefit efforts to address the growing backlog of munitions awaiting demilitarization and disposal.

Fuel cells

The budget request contained funds for fuel cell research but no funding for further development of the molten carbonate direct fuel cell power plant demonstration.

The Senate bill would provide an additional $8.0 million for fuel cell research.

The House amendment would provide $5.0 million for the molten carbonate direct fuel cell power plant demonstration.

The Senate recedes.

Experimental evaluation of major innovative technologies

The budget request contained $609.3 million for the experimental evaluation of major innovative technologies (EEMIT).

The Senate bill would reduce the requested amount by $12.0 million.

The House amendment would increase the requested amount by $3.7 million.

The conferees agree to an authorization of $636.1 million, which includes $5.0 million for fuel cells, $5.0 million for deep ocean relocation, $8.0 million for multi-function, self-aligned gate antenna development, $16.8 million for the virtual brigade, and a reduction of $20.0 million for the transfer of ASTOVL to the joint advanced strike technologies (JAST) program.

The conferees note that this is the second year that the conferees have authorized additional funding for the virtual brigade initiative. The conferees agree that this is the last year that the Armed Services Committees of the Senate and House of Representatives will add funds for this program. If the Department of Defense and the Army want this program to continue, they will have to include funding for it in future budget requests.

Thermophotovoltaic technology development

The House amendment would authorize an additional $2.0 million in PE 63226E for development and test of a prototype of a thermophotovoltaic (TPV) electric generator as a power source for use in unmanned underwater vehicles.

The Senate bill contained no similar funding.

The Senate recedes.

The conferees are aware of ongoing efforts in the Advanced Research Projects Agency to develop TPV technology and demonstrate an efficient TPV system. The conferees encourage the agency to continue its efforts with the National Aeronautics and Space Agency to develop and demonstrate competing TPV technologies and to program additional funds for this purpose.

Advanced submarine technology

The budget request included $25.3 million for the advanced submarine technology program.

The Senate bill would approve the requested amount.

The House amendment would approve an additional $17.0 million for the following programs:

(1) $5.0 million for an advanced structural control program for developing technologies to control active vibration and noise;

(2) $2.0 million to evaluate the programmable automated welding system (PAWS) and the welding expert manufacturing cell (WELDEXCELL) systems;

(3) $2.0 million for the advanced thermophotovoltaics program; and

(4) $8.0 million for an airborne multi-sensor integration demonstration.

The conferees agree to provide $7.0 million for the advanced structural control (ASC) program and $2.0 million for the automated welding program. The conferees recommend additional guidance on the advanced thermophotovoltaics program in the section of the statement of the managers dealing with the experimental evaluation of major innovative technologies (EEMIT) program.

The conferees intend that the additional $7.0 million for ASC be applied to (1) accelerate the demonstration of applying ASC chatter and vibration control for high speed, high precision machining and milling operations, and (2) begin the technology transfer process for bringing technology for actively controlling machinery platforms that has been demonstrated in the ARPA project M to the United States.

The conferees intend that the $2.0 million for automated welding technology be used to accelerate efforts for a coordinated, cooperative test of the capabilities that may be provided with the PAWS and WELDEXCELL technologies. The conferees agree that the Department should seek early transfer of advanced automated welding technologies to industry to take advantage of the cost benefit for naval ships and to enhance commercial welding competitiveness. The conferees agree that using appropriate technologies from the PAWS and WELDEXCELL programs is essential to establishing a performance baseline, generating technical information for possible future funding, and promoting rapid insertion into the user community through technology demonstrations and dissemination of technical information.

Fire protection technology

The conferees endorse the section of the Senate report (S. Rept. 103–282) that would urge the Department of Defense to provide strong central leadership to promote fire protection and fire fighting technology. The conferees share the Senate's concern that the Department of Defense has put little emphasis on R&D for fire protection. For instance, $250,000 appropriated for fiscal year 1994 to explore the possibility of a permanent fire protection center of excellence has not been released for obligation.

The committee is convinced that there is a pressing need for new technology for fire protection. Modern weapons have tremendous armor piercing and incendiary capability, but military personnel are still clothed in polyester uniforms and synthetic shoe materials that melt and burn. Most fire victims die from inhalation of smoke and toxic gases, yet the Navy oxygen breathing apparatus, designed in 1936, is still in service and is still difficult to use.

The development, testing, validation, and qualification of new fire resistant materials is unbearably slow and unwieldy. Technical information, data, specifications, standards, codes, and regulations appear to be in conflict and are not kept up to date.

The committee endorses the approach on fire protection technology contained in the House report (H. Rept. 103–200) on the House bill, H.R. 2401, the National Defense Authorization Act for Fiscal Year 1994. The conferees urge the Department to make available the funds appropriated for this project in PE 63226E in fiscal year 1994.

MARITECH

The conferees agree that of the amounts authorized to be appropriated for the MARITECH project in the Advanced Research Projects Agency (ARPA), $10.0 million shall be available for curved plate technology.

ARPA manufacturing technology

The budget request contained $346.1 million for ARPA manufacturing technology.

The Senate bill would authorize an additional $25.0 million for advanced lithography and for the Institute for Advanced Flexible Manufacturing Systems.

The House amendment would authorize an additional $72.2 million for advanced lithography and for coronary angiography.

The conferees agree to authorize an additional $56.2 million for ARPA manufacturing technology: $50.0 million for advanced lithography for a total for lithography of $60.0 million, $2.2 million for coronary angiography, and $4.0 million for the Institute for Advanced Flexibility Manufacturing Systems.

Advanced concept and technology demonstration (ACTD) program

The budget request contained $50.0 million for the advanced concept and technology demonstration (ACTD) program.

The Senate bill would provide $50.0 million in PE 63750D for the ACTD program.

The House amendment recommended a reduction of $25.0 million in the requested amount, because of a need to gain an understanding of the program plans for the individual technologies and advanced development projects selected for the ACTD program.

The conferees strongly endorse the views expressed in the House report (H. Rept. 103–499) on the value of the ACTD initiative. By involving the material developer and the military operational user in the development and demonstration of emerging advanced technologies and, when appropriate, fielding the newly demonstrated capability in limited numbers, ACTD can improve understanding of the military utility of the technology, validate operational concepts for the technology's use in the field, and break the lock-step of the traditional acquisition process. In this way, the development and fielding of new advanced technologies of proven military operational utility would be accelerated.

Because of the limited funding for the ACTD initiative recommended by the Appropriations Committees of the Senate and House of Representatives, the conferees agree to an authorization of only $19.1 million for the ACTD initiative. The conferees believe, however, that a higher funding level is both justified and required to capitalize on the ACTD initiative and would consider authorizing a higher amount, should the Appropriations Committees so recommend in their conference on the fiscal year 1995 defense appropriations bill.

Physical security equipment

The budget request contained $21.409 million for physical security equipment.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $7.5 million for robotic-related equipment.

The House recedes.

The conferees agree to authorize $3.479 million for a physical security vehicle in the physical security equipment line (PE 63228D) instead of in the Army's light tactical wheeled vehicles line (PE 64642). If a new physical security vehicle is approved by the Secretary of Defense and Congress, it should satisfy the needs of all the services.

The conferees are concerned, however, about a new armored vehicle intended only for physical security forces, including the military police. The conferees do not agree with the levels of protection that have been determined to be required for the Army's proposed armored security vehicle (ASV) and are not convinced that security forces, including military police, need a new vehicle with armor protection levels which exceed those available to scout platoons of tank and mechanized infantry battalions.

The conferees direct that not more than $1.0 million of the $3.479 million provided for the physical security vehicle may be obligated until 30 days after the Secretary of Defense submits to the congressional defense committees a cost and operational effectiveness analysis (COEA) justifying a new start for a separate, dedicated armored security vehicle. The COEA shall consider the need for security forces to have such a vehicle; the requirements of all the services; the potential threats that such security forces would most likely face; and all alternative vehicles currently in the Department of Defense inventory which could possibly fill the role of such a security vehicle, including the Bradley fighting vehicle, the M113 armored personnel carrier, the light armored vehicle, and current and upgraded versions of the armored high mobility multipurpose wheeled vehicle. The COEA shall thoroughly scrutinize ASV requirements for ballistic protection, specifically those against .50 caliber rounds and artillery fragments at close ranges.

Environmental technologies

The budget request included $15.0 million for innovative environmental security technology.

The Senate bill would authorize the requested amount.

The House amendment would authorize an additional $10.0 million.

The Senate recedes.

Acquisition and exploitation of foreign technology and material

The budget request contained $49.9 million for the foreign material acquisition and exploitation (FMA&E) program.

The Senate bill and House amendment approved the requested amount.

The House report (H. Rept. 103–499) requested a report by July 1, 1994, on the foreign materiel and technology activities of the Department of Defense. In addition, the classified annex accompanying the Senate report (S. Rept. 103–282) requested answers from the Secretary of Defense and the Director of Central Intelligence to questions concerning foreign technology and acquisition prior to the conference on this act. The Administration's response reflects progress towards meeting essential national requirements.

The conferees are pursuaded that elements of the FMA&E and related programs are underfunded and that there are significant management and coordination problems within these programs. The conferees are prepared to support additional funding, subject to normal reprogramming procedures, provided that progress is evident in solving these problems. The conferees also agree that particular attention should be given to funding the advanced technology acquisition program in order to sustain it at least at the fiscal year 1994 level. Additional guidance is contained in the classified annex to this statement of the managers.

Tactical unmanned aerial vehicles

The budget request included $121.0 million for research and development and $225.3 million in procurement for short-range and maneuver-variant unmanned aerial vehicles (UAVs).

The Senate bill would authorize the requested amount.

The House amendment would authorize $85.7 million for R&D, delete the funds requested for the maneuver-variant UAV, authorize the development of a down-sized ground station, authorize an additional $7.0 million for the integration of the common automatic recovery system (CARS) with Pioneer UAVs, and authorize the requested amount in procurement.

The short-range UAV program was recently restructured. The low-rate initial procurement was reduced from seven systems to four, and the Defense Airborne Reconnaissance Office (DARO) has requested authority to apply the savings to a system maturation program and to adapting the UAV to Navy ships.

The conferees approve $23.3 million for short-range UAV system maturation and $14.5 million for system testing and evaluation, but deny $30.6 million in procurement for the shipboard-variant. The conferees authorize up to $5.0 million in RDT&E to begin development of a shipboard-variant. The conferees fully support this development but believe that the program office should prove that the basic system is mature before developing variants.

The conferees also deny $21.1 million of the requested amount for the maneuver or close-range UAV system. The conferees recognize that the Marine Corps and Army have agreed on their requirements. However, the cost and operational effectiveness analysis (COEA) has not been completed and sent to Congress, and the conferees are not convinced that a separate UAV system is required to meet the Army-Marine Corps requirements. The conferees direct the DARO to review the COEA and undertake other analysis, as appropriate, to determine whether (1) the maneuver UAV would overburden brigade- and regiment-level logistics; (2) rapidly advancing brigades would "outrun" the maneuver UAV in terms of range, endurance, and ground support; (3) additional short-range systems at the division level to support brigades and regiments would make more operational sense; and (4) a short-range UAV solution would really be more expensive than the proposed maneuver system. This analysis should be completed and transmitted to the congressional defense committees as soon as possible, but no longer later than the submission of the fiscal year 1996 defense budget request. The conferees would be willing to consider a reprogramming request after the fiscal year 1996 budget is submitted to Congress.

The conferees agree to authorize an additional $7.0 million in RDT&E for the procurement of at least three unit sets of CARS equipment for integration and testing on the Pioneer UAV, but only if the equipment can be applied later to the short-range UAV system when Pioneer is retired.

Stabilized weapons platform system

The budget request included $9.6 million for development of a stabilized weapons platform system (SWPS) for the special operations patrol coastal ship.

The Senate bill and the House amendment approved the requested amount.

After the Senate and House of Representatives each approved the defense authorization bills for fiscal year 1995 (S. 2182 and H.R. 4301), the U.S. Special Operations Command informed the Armed Services Committees that it had decided not to develop the SWPS system any further. Instead, the Command intends to procure a less costly, stabilized, non-developmental gun system and to develop a surface-to-surface missile system. In response to this new plan, the conferees agree to reallocate $7.9 million of the requested amount of $9.6 million for the procurement of a gun system. Because the Department of Defense Appropriations Act for Fiscal Year 1995, as passed by the Senate and House of Representatives, does not contain funds to develop the missile system, the conferees do not recommend funds for that purpose.

The Command's decision to discontinue development of the SWPS system is a realistic recognition of the limited funds that are available for this capability. The conferees are concerned that the Command's plans for developing a surface-to-surface missile may still be too ambitious and costly. The conferees urge the U.S. Special Operations Command to carefully consider the technology and money that are available for a weapons system for a ship of the size and capabilities of the patrol coastal ship.

Ocean research

The budget request contained no funds for ocean research.

The Senate bill would provide $5.0 million for ocean research in the experimental evaluation of major innovative technology account (PE 0603226E).

The House amendment would provide no funds for ocean research.

The conferees agree to provide $5.0 million for ocean research from the funds authorized in PE 0603226E. These funds would be provided to establish a data base to understand the environmental ramifications of potentially harmful materials that have been deposited, dumped, or lost in the world's oceans in significant quantities. Part of this effort should include development of a process to monitor the uncertain or unknown effects of hazardous and non-hazardous contaminants on the marine environment.

Rocket motor demilitarization

The budget request contained no funds for rocket motor demilitarization.

The Senate bill would provide $4.5 million for PE 604704D to evaluate and test the environmentally-sound demilitarization of large rocket motors and other high energetic explosives at the Nevada Test Site (NTS).

The House amendment would provide $4.5 million.

The conferees provide $4.5 million for PE 604704D to evaluate and demonstrate methodologies and technologies for the environmentally-sound demilitarization of high energetic explosives at the Nevada Test Site. These efforts should include an evaluation of the possibility of using the inactive tunnels at the NTS.

Joint service imagery processing system

The budget request included $22.4 million in RDT&E and $47.6 million in procurement for the joint service imagery processing system (JSIPS).

The Senate bill would consolidate service funding for the restructured JSIPS initiative by authorizing $28.3 million in RDT&E and $41.7 million in procurement in the Defense Airborne Reconnaissance Office (DARO).

The House amendment would withhold $28.7 million from Marine Corps JSIPS procurement and $8.3 million from Army JSIPS development until a plan is submitted that better defines the capabilities of JSIPS alternative systems.

The House recedes.

The conferees, however, remain concerned about the Marine Corps proposal that maintains existing acquisition procedures through the Air Force joint program office. The conferees direct DARO and the Marine Corps to take maximum advantage of Navy JSIPS development, commercial off-the-shelf (COTS) technology, and DARO-approved streamlined acquisition practices.

The conferees direct DARO to report to the congressional defense and intelligence committees on the restructured JSIPS program elements prior to obligation of funds for each element. DARO also should report on the overall architecture and operational concept by March 1, 1995.

Multispectral imagery

The budget request included no funds for developing multispectral imaging sensor systems for airborne reconnaissance.

Both the Senate report (S. Rept. 103-282) and the House report (H. Rept. 103-499) directed the Defense Airborne Reconnaissance Office (DARO) to continue development of new multispectral imaging capabilities. Both reports also recommended use of unobligated Landsat funds for this purpose.

The conferees strongly support continued modernization of the U-2 aircraft, including its imaging capabilities. The Department of Defense recently terminated a development program for a high-performance and very expensive new multi-spectral imaging sensor for the U-2. The conferees recently learned that the existing U-2 electro-optical sensor could have been upgraded to achieve most of the capabilities of the terminated sensor at a very small fraction of the cost. The conferees cannot comprehend the reasons for not presenting this option to Congress years ago before hundreds of millions of dollars were wasted on the terminated program.

The conferees authorize $10.0 million to begin developing an upgraded, multispectral sensor for the U-2 (SYERS). The conferees direct the DARO to develop a prototype sensor that can be adapted for operational use, and then to upgrade the existing four sensors and associated ground station functions. The conferees expect the total program cost to be about $60.0 million. The conferees direct the Department to include funds for continuation of this effort in the fiscal year 1996 budget submission.

Cobra Ball upgrade

The budget request contained no research and development funding for the RC-135 Cobra Ball program.

The Senate bill contained no funding for the program.

The House amendment contained $13.646 million in PE 35154D for the infrared acquisition array.

The conferees recommend $13.6 million to upgrade the active ranging system, infrared acquisition sensor, and data processing capabilities. Enhancement of these capabilities is essential in order to provide adequate standoff range for collection of information on short-range ballistic missile systems and to provide data fusion for onboard sensors. The conferees request the Department to provide a report to the congressional defense committees on its plans and future funding for the Cobra Ball program.

C3I intelligence program

The budget request included $16.0 million for a classified counterproliferation computer database system in PE 0305190D.

The Senate bill would deny authorization of the requested amount.

The House amendment would authorize $16.0 million for the program.

The conferees concur with the Senate position as described in the Senate report (S. Rept. 103-282). The conferees support cooperative counterproliferation efforts between the Defense Department and the intelligence community. However, the conferees are seriously concerned about the proposed counterproliferation database system. From a technical perspective, it is an interesting and promising proposal; however, there are major coordination and funding problems.

This program is described as a joint national foreign intelligence program (NFIP)/tactical intelligence and related activities (TIARA) endeavor. However, with the exception of $4.0 million for general database development, funds for this program were not included in the fiscal year 1995 NFIP budget submission. The conferees also understand that NFIP agencies are reluctant to commit funds without a formal cost-sharing agreement on future funding because of the project's large operation and maintenance costs. This raises questions about the ability of the community to fully fund this program in its current configuration and the advisability of undertaking such an ambitious project as a pilot program.

The conferees also are concerned that a program of this magnitude has not competed with other intelligence community and defense intelligence systems in the intelligence systems board (ISB) system migration process. As a result, at this time, the conferees believe that a financial commitment is not appropriate and deny authorization of the amount requested for this system. The conferees note that this recommendation is made without prejudice and encourage DOD to submit a reprogramming request once specific conditions are met.

The conferees direct the intelligence and communications architectures (INCA) project office, in cooperation with the ISB, to compare current major databases and software capabilities of intelligence community members, military service laboratories, and Department of Energy national weapons laboratories, with the capabilities of the proposed project. The report shall include the following: an assessment of the technical feasibility of the proposed project; an assessment of the feasibility of implementing the proposed project; a proposed plan that would include program plan strategy, milestones, and future funding requirements; an evaluation of the practical aspects of database linkage between existing capabilities of the intelligence community and appropriate nonproliferation and counterproliferation offices within the U.S. government; and an evaluation of the effect of the new program on systems included in ongoing intelligence migration strategies and activities.

As a show of good faith, the conferees make available in section 1504 of this act $4.0 million in the research and development, defense agencies account for counterproliferation agencies. The conferees would limit the obligation and expenditure of these funds until the following conditions are met: the report described above is submitted to the congressional defense and intelligence committees; the ISB has determined that this system is consistent with its developing architecture and that it conforms with community standards for compatibility and interoperability; and a formal cost-sharing agreement between the NFIP and TIARA is reached, which includes sources and future funding. Lastly, the conferees would require that any reprogramming request for this program be matched dollar for dollar by a reprogramming request within the NFIP, or DOD may release the funds for other counterproliferation activities. A parallel provision for NFIP funding will be included in the Intelligence Authorization Act for Fiscal Year 1995, along with an amount of funds to be limited.

Central test and evaluation investment program

The budget request included $115.318 million for the central test and evaluation program in PE 64940D.

The Senate bill would reduce the requested amount by $15.0 million and recommend that the REDCAP-ACETEF real-time data link program continue to be funded within the authorized funds.

The House amendment would provide an additional $3.5 million for the REDCAP-ACETEF real-time data link.

The House recedes.

Animal research

The House report (H. Rept. 103-499) noted that the Department of Defense Inspector General found two DOD facilities, the U.S. Army Medical Department Center and School in San Antonio, Texas and the U.S. Naval Medical Research Institute Detachment in Lima, Peru, to be "not substantially in compliance" with DOD regulations and the Animal Welfare Act. Based on that finding, the House report directed the termination of animal research at the non-complaint facilities until they are accredited by the Animal Association for Accreditation of Laboratory Animal Care (AAALAC).

The conferees note that since the House report was issued, DOD has applied for AAALAC accreditation for the two noncompliant facilities. The conferees applaud the Department's expeditious efforts to gain accreditation for these facilities, and direct the termination of animal use at these facilities one year from the enactment of this act only if they have failed to achieve AAALAC accreditation by that date. The conferees urge DOD to seek AAALAC accreditation for all DOD animal facilities as expeditiously as possible. The conferees note that the other sections relating to animal research in the House report are not affected by this paragraph.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Strategic environmental research and development program (sec. 203)

The Senate bill contained a provision (sec. 203) that would authorize $170.0 million for the strategic environmental research and development program (SERDP).

The House amendment would authorize $111.9 million for the SERDP.

The Senate recedes to the House funding level.

The conferees are pleased that the new executive director of the SERDP is now in place. The conferees urge the director and the chair of the SERDP Council to bring into the SERDP program, using the hiring authority provided to the SERDP Council in the National Defense Authorization Act for Fiscal Year 1994, those persons necessary to run the program, either from within the Defense Department or from outside. The conferees urge the Council to coordinate the SERDP program to demonstrate and test environmental technologies closely with the environmental technology program funded in the office of the Deputy Under Secretary of Defense for Environmental Security.

Molecular design material science (sec. 204)

The budget request contained no funds for molecular design material science (MDMS).

The Senate bill contained no funds for MDMS.

The House amendment would provide $10.0 million in PE 61153N to continue the MDMS program.

The conferees agree to authorize $10.0 million for MDMS in PE 61153N and recommend a provision that would continue the program.

Space launch programs (sec. 211)

The Senate bill contained a provision (sec. 213) that would transfer prior-year funds appropriated for single-stage-to-orbit (SSTO) rocket technology from the Department of Defense to the National Aeronautics and Space Administration (NASA), since the Secretary of Defense submitted a report recommending that NASA be assigned lead responsibility for developing reusable rocket technology. The Senate bill would authorize no funds for reusable rocket technology for fiscal year 1995 and would authorize a total of $20.2 million for expendable rocket technology development.

The House amendment contained a provision (sec. 211) that would (1) establish DOD space launch policy; (2) require the Secretary of Defense to replace current launch systems, conduct flight tests by 1998 of reusable launch vehicles, and conduct flight tests of expendable launch vehicles; and (3) authorize $200.0 million, equally divided, for reusable and expendable rocket technology demonstrations.

The Senate recedes with an amendment.

The conferees agree to (1) authorize no funds for the national launch system program; (2) authorize $10.0 million in PE 62601F to continue concept development of simple, inexpensive expendable rocket systems that do not require complex turbo machinery; (3) transfer prior-year SSTO funds from the Advanced Research Projects Agency to the Air Force PE 63401F and note that these funds would not be for further development of the "Delta Clipper" vehicle built by BMDO; (4) authorize $30.0 million for the Air Force in PE 63401F to initiate reusable rocket technology development efforts, with the stipulation that DOD obligations shall not exceed amounts made available by NASA for such efforts for fiscal year 1995; (5) authorize $50.0 million for the Air Force in PE 35119F to initiate a competitive program to replace existing launch capabilities; and (6) limit the obligation of funds for both reusable and expendable rocket programs until coordinated DOD/NASA program plans are submitted to Congress.

The National Defense Authorization Act for Fiscal Year 1994 required the Administration to conduct another study of space launch capabilities, because Congress was unsatisfied by the space launch Bottom-Up Review, which concluded that acknowledged problems with current systems are not serious enough to warrant displacing other defense programs. The new study has resulted in the development of new national policy in this area. This policy assigns lead responsibility for reusable and expendable space launch vehicles to NASA and DOD, respectively. NASA has been instructed to determine by 1996 whether a reusable vehicle flight demonstration program is feasible and affordable, and by the end of the decade, whether a development program should be pursued. The Deputy Secretary of Defense is examining again whether a new launch initiative is warranted and affordable within the Department of Defense.

Accordingly, the conferees direct that the Department of Defense will not lead any government-financed reusable space vehicle flight demonstration or acquisition programs, at least until the Administration changes its policy. However, if the Department of Defense decides to conduct a competition to replace current DOD launch capabilities, and if DOD concludes that an industry proposal to build a reusable system to meet requirements is realistic, affordable and cost-effective, the conferees will consider a well-justified acquisition plan.

The conferees doubt that DOD can afford to finance any expensive space launch acquisition program. The conferees are aware of claims that the private sector is willing to finance all or most of a new capability. The conferees encourage DOD to explore such claims. However, the conferees expect that such proposals would require commitments from the government, which may entail substantial risk, and therefore require careful consideration by Congress and the Administration.

Standoff air-to-surface munitions technology demonstration (sec. 212)

The House amendment included a provision (sec. 212) that would require the Navy and the Air Force to spend up to $2.0 million each to demonstrate non-developmental technology for adapter kits that would give munitions in the 1,000 pound class and smaller a standoff and near-precision guided capability. The provision would also require the Secretary of Defense to submit a report on the results of that demonstration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize up to $2.0 million for the Air Force to conduct a demonstration as outlined in the House provision. This provision would require the Secretary of the Air Force to report on the demonstration's results.

Mid-infrared advanced chemical laser (sec. 213)

The House amendment contained a provision (sec. 213) that would prohibit the Secretary of Defense from carrying out a test of the mid-infrared advanced chemical laser (MIRACL) transmitter and associated optics against an object in space during 1994 unless such testing is specifically authorized in law.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would allow the sealite beam director to be utilized with a laser other than the MIRACL for satellite sensor calibration and imaging of space objects at a power level not to exceed that which has been utilized for these purposes as of January 1, 1994 at other Department of Defense laser facilities (including Kirtland Air Force Base, Maui Optical Facility, and the Firepond facility of the Lincoln Laboratory). The conferees reiterate their opposition to utilization of the MIRACL for damaging objects in space. This provision would continue to prevent MIRACL from illuminating any object in space.

Electronic combat testing (sec. 214)

The House amendment contained a provision (sec. 214) that would amend section 220 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) by limiting the applicability of the section to electronic combat systems that have been designated as Acquisition Category I (ACAT 1) systems (major defense acquisition programs) because of their cost of development and acquisition.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would limit the applicability of the House provision to those systems that have not entered engineering and manufacturing development by September 1, 1994. The amendment would also authorize the Secretary of Defense to waive the provision when in the national security interest.

Advanced self protection jammer (ASPJ) program (sec. 215)

The House amendment contained a provision (sec. 215) that would direct the Secretary of the Navy to carry out logistics support, maintenance, and integration of existing advanced self protection jammer (ASPJ) systems in the F-14D aircraft for testing and evaluation.

The Senate bill contained no similar provision.

The Senate recedes. The conferees note that, without ASPJ or another currently unavailable system, F-14D aircraft will have to operate without self protection jamming. The conferees understand that the Director, Operational Test and Evaluation, intends to assess whether the Navy's plans for operational test and evaluation for the F-14D aircraft adequately test the ASPJ system's effectiveness and suitability for combat. The conferees agree that this assessment should be complete before the Navy conducts the operational testing. The conferees urge the Director to take the steps necessary to expedite his assessment of the Navy's plans.

Advanced lithography (sec. 216)

The budget request contained $10.0 million in PE 63739E for advanced lithography.

The House amendment contained a provision (sec. 216) that would provide a statutory mandate for the ARPA advanced lithography program and authorize $100.0 million for the program.

The Senate bill contained no similar provision, but would provide $35.0 million for advanced lithography.

The Senate recedes with an amendment. Total funding for the ARPA lithography program would be authorized at $60.0 million, and the SEMATECH Board of Directors would be strongly encouraged to spend at least $10.0 million more to support lithography efforts consistent with the Semiconductor Industry Association 1994 development plan for lithography. The conferees urge the earliest possible appointment of the Semiconductor Technology Council and agree that an advanced lithography plan should be the principal focus of the Council's initial efforts.

Federally funded research and development centers (sec. 217)

The Senate bill contained a provision (sec. 216) that would require certain changes in DOD management of federally funded research and development centers (FFRDCs).

The House amendment contained a provision (sec. 217) that would allow FFRDCs to participate more fully in the defense conversion program.

The conferees note that federally funded research and development centers are privately-operated organizations sponsored by federal government agencies to work in all areas of basic or applied research. For several years, the conferees have expressed concern about the Defense Department's lack of control over management and funding of the FFRDCs. The conferees support the unique role that FFRDCs play in providing support to the Department of Defense that would be difficult to obtain through other means. The conferees are concerned, however, that as recipients of sole source funding from the Department of Defense, these centers may provide executive, technical, and professional compensation that may exceed the salaries and benefits of comparable government employees, or officers and employees of similar for-profit or non-profit organizations that must compete for defense work.

These concerns have been heightened recently by revelations of executive compensation that varies widely from FFRDC to FFRDC, housing and moving allowances not appropriate to federal institutions, and payments to trustees that do not appear to be justified. Further, the Congress has learned that some centers have contributed to charities, local governments, universities, and individuals. Such contributions are not usually reimbursed under federal contracts, and the conferees believe, not appropriate for sole source institutions to pay from fees.

Consequently the conferees agree to a provision that would limit executive salaries and trustee compensation, prohibit certain contributions to charities, and require the Secretary of Defense to study the need for FFRDCs and the compensation levels of FFRDC executives.

The conferees agree to limit the funding for FFRDCs for fiscal year 1995 to $1.3 billion, a reduction of $52.650 million from the requested amount. The conferees also agree to the House provision that would authorize certain FFRDCs to respond and participate in solicitations and announcements under programs authorized by the federal government for the purpose of promoting the development and transfer of dual-use technology to the U.S. industrial sector.

Digitization (sec. 218)

The budget request contained $75.857 million for the Army's digitization of the battlefield program.

The Senate bill would authorize an additional $3.0 million.

The House amendment included a provision (sec. 219) that would authorize an additional $50.0 million to begin a coordinated, integrated, planned program to provide digital enhancements for the M1/M1A2 tank and other land and air systems by 1996.

The Senate recedes with an amendment.

The conferees strongly support the Army's battlefield digitization concept and the Army's attempt to field a capability rapidly. The conferees seek to ensure, however, that the Army establishes strong management and a coherent integration plan in concert with the Marine Corps for an overall battlefield digitization architecture to guide the efforts of the various platform program offices.

Accordingly, the conferees agree to limit the obligation of funds for the digitization program until the Army defines an overall system architecture, standards and protocols, and integration and interoperability requirements.

The conferees also agree to authorize an additional $20.0 million primarily for the integration of aviation systems into the program.

Electric and hybrid vehicle technology (sec. 219)

The budget request contained no funds for electric and hybrid vehicle technology.

The Senate bill would provide $30.0 million for this program: $15.0 million in RDT&E funding and $15.0 million in procurement funding. The Senate bill also contained a provision (sec. 142) that would require the Department of Defense and the Department of Energy to enter into a memorandum of agreement regarding the execution of the program.

The House amendment would provide $10.0 million in RDT&E funding for electric and hybrid vehicle technology. The House amendment did not contain a provision similar to the Senate provision.

The conferees agree to provide $10.0 million in RDT&E and $15.0 million in Procurement funding for electric and hybrid vehicle technology. The House recedes on the Senate provision. The conferees also direct the Department of Defense to execute the program in accordance with the Senate and House reports (S. Rept. 103-282 and H. Rept. 103-499).

Kinetic energy antisatellite program (sec. 220)

The Senate bill contained a provision (sec. 211) that would make $10.0 million available for engineering development of the critical antisatellite technologies from funds authorized in fiscal year 1995. The provision would also direct the Secretary to utilize unobligated fiscal year 1993 and 1994 funds for this program.

The House amendment contained no similar provision.

The House recedes with an amendment that would make $5.0 million available from funds authorized in fiscal year 1995, in addition to unobligated fiscal year 1993 and 1994 funds, to continue critical development work.

Limitation on dismantlement of ICBMs (sec. 221)

The Senate bill contained a provision (sec. 214) that would prohibit the dismantlement of any ICBM that would reduce the total number of deployed Minuteman III ICBMs to less than 500 missiles. The prohibition would expire 180 days after the Secretary of Defense delivers to the congressional defense committees the results of the Secretary's ongoing Nuclear Posture Review.

The House amendment contained no similar provision.

The House recedes.

Seismic monitoring research (sec. 222)

The Senate bill contained a provision (sec. 215) that would limit the obligation of funds for seismic monitoring research projects unless the projects are authorized in a plan which has been approved by the Secretary of Defense and the Secretary of Energy.

The House amendment did not contain a similar provision.

The House recedes with an amendment that would limit the obligation of funds for seismic monitoring projects which are not contained in the annual plan approved by the Presidential review group established by Presidential Decision Directive 18.

The conferees are concerned that the Defense Department's future seismic monitoring plan calls for the expenditure of hundreds of millions of dollars through the end of the century without sufficient consideration for the affordability of such an undertaking without coordinated cost-sharing agreements between U.S. government agencies and departments and without agreements on international burdensharing. The Department has not provided detailed cost estimates of the U.S. share, or that of other countries, in support of a Comprehensive Test Ban Treaty (CTBT) verification. Further, it appears that the Department has been directed to fund the majority of seismic monitoring activities of the National Science Foundation (NSF) and the U.S. Geological Survey (USGS) under the Department of Interior, in addition to providing full funding for these activities for the Air Force Technical Applications Center (AFTAC).

The conferees direct the Secretary of Defense, in coordination with the Presidential review group, to provide a report to the congressional defense committees by May 1, 1995 on the total funding required and programmed for verification of a CTBT; the amount of total funding which will be cost-shared among departments and by other nations; and the funding and technical role that private seismic arrays and stations are intended to play in verification of a CTBT.

Superconducting magnetic energy storage (sec. 223)

Section 218 of the National Defense Authorization Act for Fiscal Year 1994 allowed the Navy to utilize certain RDT&E funds from fiscal year 1993 to continue the superconducting magnetic energy storage (SMES) program.

The conferees agree to a provision that would extend the authorization of these funds until they were expended.

Military satellite communications (sec. 224)

The Senate bill contained a provision (sec. 212) that would direct the Secretary of Defense to transfer responsibility for program management and funding for the Milstar communications satellite program from the Air Force to the Navy during fiscal year 1995.

The House amendment contained no similar provision.

The Senate recedes.

The Deputy Secretary of Defense is currently reviewing the management of DOD space programs and has assured the conferees that he intends to fundamentally reorganize it. Therefore, the conferees agree to withhold judgment on management of the Milstar program. The conferees stress the importance of improving policy oversight, avoiding the creation of a new large bureaucracy, maintaining a joint requirements process, and maintaining space program expertise within each of the services. The conferees direct the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to submit a report to the congressional defense committees immediately upon completion of the review. The report should fully explain all the options considered, the rationale for the option selected, and the relationship between the Secretary's proposal and the deliberations of the Commission on Roles and Missions.

The House amendment contained a provision (sec. 234) that would direct the Secretary of Defense to develop a military communications master plan that addresses the projected military communications requirements of the Department of Defense; alternate and innovative ways of meeting those requirements (including greater reliance on the commercial sector); and ways to ensure that those elements of the Department that create the demand for such communications services have an important role in paying for the provision of such services. The provision would also prohibit obligation of $50.0 million in Milstar funding until this report is transmitted to Congress.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree to a provision that would authorize the Secretary of Defense to use $20.0 million of Milstar funds either for advance procurement of Milstar satellites 5 and 6 or to accelerate the advanced EHF satellite program, as determined by the Secretary of Defense.

The provision also would require the Secretary of Defense to develop a satellite communications master plan that addresses requirements and innovative ways to meet them. The provision also would require the Secretary to explore options for establishing financial incentives to ensure that communications users do not inflate requirements for which they do not have to pay.

The conferees also direct the Secretary to include in the report an assessment of a number of issues raised by the General Accounting Office (GAO) and the Senate report (S. Rept. 103–282).

A recent GAO report, "Military Satellite Communications," noted that, since Congress directed greater use of commercial satellite communications for general-purpose, unprotected communications, DOD components have drastically redefined their requirements. According to GAO, requirements for total satellite communications have almost doubled, while the proportion defined as "protected" has grown by a factor of 10. GAO notes that this shift could have occurred because protected communications, provided by dedicated military satellites, are "free" to users, whereas unprotected communications, which can be met through commercial purchases, are charged to users' operation and maintenance budgets. GAO also points out that DOD elements procure most commercial satellite communications on an ad hoc basis; the Defense Commercial Communications Office has no knowledge or control over the process. GAO believes that more central control would save substantial money.

With regard to dedicated military satellite systems, as noted in the Senate report, each has been managed separately in the past, which drives up costs and limits interoperability. All of the current systems will have to be replaced within about 10 years. The Secretary should examine options to consolidate the follow-on programs.

The conferees believe that a sustainable solution to these problems requires a fundamental change in the Department's management of satellite communications services.

The conferees believe that the Department should plan to transition to Milstar III as soon as it is practical. To this end, the conferees believe that the advanced EHF program should be structured as a technology demonstration program that relies as much as possible on the private sector. The technologies demonstrated should be directly related to the areas of greatest technical risk, particularly the antenna suite and the digital electronics processing and packaging. The conferees do not believe that any funding at this stage should be allocated to lower-risk areas such as propulsion, solar panels, or the bus structure for the payload.

Ballistic missile defense programs (secs. 231, 233, and 235)

The Senate bill contained four provisions (secs. 221–224) that would deal with ballistic missile defense issues.

The House amendment also contained four provisions (secs. 221 and 231–233) that would cover similar or related issues.

The Senate report (S. Rept. 103–282) and House report (H. Rept. 103–449) also provided extensive guidance on ballistic missile defense (BMD) issues to the Ballistic Missile Defense Organization (BMDO).

The conferees explain in the following subsections their: broad policy guidance for ballistic missile defense research, development, testing, and deployment; concerns regarding the BMDO funding proposal for fiscal year 1995 and underlying long-term plans; resolution of those concerns; decisions and recommendations on programmatic and funding issues; and additional guidance on specific matters. Specific legislative provisions contained in this conference report will be discussed in the context of this guidance.

BROAD POLICY GUIDANCE

The conferees reiterate the broad policy guidance contained in the statements of the managers (H. Rept. 103–357 and H. Rept. 102–311) accompanying the National Defense Authorization Act for Fiscal Year 1994 and the Missile Defense Act of 1991 (10 U.S.C. 2431 note).

The conferees reaffirm that their highest priority for BMDO is the rapid development and early deployment of more effective theater missile defenses (TMD) designed to meet both existing and realistic near-term threats. In general, the conferees believe that an effective TMD capability will require a layered defense approach, using multiple systems.

In this regard, the conferees are troubled by the BMDO approach to the three follow-on TMD systems—Navy upper tier, CORPS SAM, and boost phase intercept (BPI). BMDO has structured these programs so that overall BMD funding in future years would be insufficient to support engineering and manufacturing development (EMD) for more than one of these TMD systems. Therefore, in its budget request, BMDO arbitrarily limited funding for the first two candidates, while it expanded funding for a variety of less mature BPI concepts. This funding strategy is designed to position all three candidate systems for a selection "contest" during fiscal year 1998, from which only one candidate would be selected for further development. In this area, the conferees find the BMDO strategy and funding assumptions to be flawed. In the judgment of the conferees, this approach has contributed to significantly expanded technical risk within BPI programs.

The conferees believe valid military requirements exist for each of the three follow-on TMD systems, and do not believe the natural pace of development should be either artificially delayed or unduly accelerated. The conferees further believe that a larger share of the overall BMD funding called for in the Bottom-Up Review (BUR) than BMDO apparently plans to allocate to TMD systems can be squeezed from lower priority BMDO activities in order to accelerate the development for deployment of the next generation of TMD systems.

In the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1994, the conferees endorsed as second in priority the development of a "hedging" strategy for national missile defenses (NMD), to ensure the availability of proven, flight-tested hardware should a missile threat to the United States arise more rapidly than is currently forecast. The conferees emphasized the importance of reduced lead-times for deployment of a very limited, prototypical, defense capability on very short notice against a quantitatively limited, long-range "rogue" missile threat. In the budget request for fiscal year 1995, BMDO has proposed a series of development "epochs" for NMD hardware. Each "epoch" would emphasize further development, refinement, and cost-reduction of component technologies for NMD systems, but the BMDO proposal contains few system-level or "end-to-end" flight-test intercept demonstrations over the next several years and none during fiscal year 1995. In addition, BMDO delayed for one year the initiation of flight tests of exoatmospheric kinetic kill vehicle prototypes—a key element of an NMD system—in order to complete fabrication and launch of the midcourse space experiment. The conferees find the BMDO approach inadequate to ensure the availability of proven hardware should an unanticipated strategic missile threat emerge.

Last year the conferees agreed that BMDO should focus more funding and management attention on these higher priorities, deemphasize generic, technology-base R&D, and transfer far-term technologies back to the services and defense agencies. The conferees were disappointed that the BMDO budget proposal still devoted more than 25 percent of BMD funding to lower-priority activities. As noted above, the conferees intend to vigorously support the development of selected follow-on TMD systems, and believe this can only be done if the level of effort and funding for lower-priority programs, projects, and activities is reduced.

CONFEREE CONCERNS

NAVY LOWER TIER

The conferees note a major disparity in the Department's approach to the top priority mission of theater ballistic missile defense. Specifically, in the last year, the Department made an important decision concerning the type of warhead to be used in the Patriot PAC–3 defense system. This decision appears to undercut the Department's technical approach to the Navy's lower tier missile defense system and requires a more careful review of its priorities in theater missile defense.

The Department's senior multi-service PAC–3 review group stated unanimously "that the higher quality of protection provided by . . . hit-to-kill lethality, particularly against chemicals submunitions and nuclear weapons . . . could provide a decisive military advantage." Further, the Department chartered an independent review group to review the Army's choice. That group upheld the Army's findings. In affirming the independent review group's findings, the Department said that "hit-to-kill lethality is fundamentally superior against theater ballistic missiles (TBMs) with mass destruction warheads during critical phases of military operations." It termed the candidate lacking a hit-to-kill warhead ". . . relatively ineffective against such threats." More recently, the Army has stated ". . that U.S. forces would suffer too many casualties to theater ballistic missile attack as a consequence" of selecting a blast-fragmentation warhead. If there were only a blast-fragmentation warhead interceptor available and no hit-to-kill interceptor—which is the case for Navy lower tier—the Army "would seek a different solution" rather than accept the interceptor with a blast-fragmentation warhead.

The Department could hardly be more explicit about the superior lethality of hit-to-kill technology in theater missile defense. However, the conferees note that the planned Navy lower tier interceptor missile, the Standard missile block IV–A, does not use a hit-to-kill warhead. Instead, it uses the same class of warhead that was so emphatically rejected in the PAC–3 competition. The Navy's initial response to this issue was that its lower tier interceptor must also be effective in defending ships from sea-skimming cruise missile attack, against which the blast-fragmentation warhead would be effective. Yet BMDO presentations to Congress this year on the Navy lower tier made no mention of this mission. Later responses emphasized the ability of the block IV–A to cope with non-submunition (unitary) TMD threats, minimized the significance of submunition threats, and remained silent about nuclear threats.

The conferees agree with and support the Department's rationale for the selection of ERINT and its hit-to-kill warhead for the PAC–3 system. However, the conferees are concerned about this fundamental contradiction in lethality approaches between the Patriot PAC–3 and the Navy lower tier system. Accordingly, the conferees are concerned that the Navy lower tier will be unable to provide adequate protection to amphibious landing areas or ports of debarkation against "ballistic missile attacks involving weapons of mass destruction"—the Department's own words for its reasons for designating it as a core TMD program. The conferees acknowledge that the Navy faces a large and growing threat from sea-skimming, anti-ship cruise missiles. The conferees also accept the Navy's judgment that the blast-fragmentation warhead planned for the Navy lower tier system offers superior lethality against that threat. The conferees note, however, that the Navy is developing a number of existing systems and programs that address the cruise missile threat to ships. The conferees further note that, for many short-warning scenarios, the Navy lower tier system may be the only TMD system available to defend U.S. forces in landing zones and ports from the growing theater ballistic missile threat. In these circumstances, the conferees require further assurances that the Navy lower tier system, by itself, can adequately protect U.S. troops going ashore until those troops can set up and make operable additional land-based TMD defenses. The conferees are unable to determine from information provided by the Department whether the proposed Navy lower tier configuration would adequately protect against the most stressing chemical submunition and nuclear warhead threats. This concern extends to the cooperative U.S.-Israeli ARROW/ACES program, which also relies on a blast-fragmentation warhead.

Some have suggested that the Standard block IV–A interceptor could be upgraded to embody hit-to-kill capability. The conferees are mindful that the Department concluded that "there were no reasonable upgrades" to the losing missile in the PAC–3 competition "that would substantially improve its performance against weapons of mass destruction."

Other options could possibly fill the requirement, though all have uncertainties. A marinized version of ERINT or the theater high altitude area defense (THAAD) system might be possible. Moreover, accelerating the CORPS SAM program might enable expeditionary forces to take their missile defense with them as they disembarked. If Patriot PAC–3 units could be prepositioned on LHDs or other appropriate ships, protection could be established on land within a matter of hours after arrival. Other options include pre-deploying PAC–3 systems to areas of possible engagement in advance of hostilities, and restricting initial landings to regions beyond the range of hostile TBMs.

The conferees have additional concerns related to this issue that are discussed in the classified annex to this statement of the managers.

NAVY UPPER TIER

Concerns about Navy lower tier warhead lethality affect other major TMD programs. The conferees note that a significant fraction of Navy lower tier funding supports Navy upper tier development. The current Navy upper tier program does involve hit-to-kill technology, but the LEAP vehicle is incompatible with the lower tier mission. The conferees recognize that the combination of Navy lower tier and Navy upper tier may be the lowest-cost combination for sea-based TBM systems; however, they recognize it may also be the least effective. If the Navy lower tier program were to be delayed by the search for greater lethality, or canceled in favor of other options, the program cost of the Navy upper tier would increase. The Navy upper tier program is also affected by the Administration's recent proposals in the Standing Consultative Commission to clarify the ABM Treaty. Under the proposed three kilometer per second interceptor velocity limit, the performance of the Standard missile equipped with a LEAP kill vehicle may be reduced to a point at which its cost and effectiveness relative to a marinized version of THAAD would require re-examination. Both factors suggest the need for prompt and thorough re-evaluation of the cost and effectiveness of the Navy upper tier program.

FOLLOW-ON TMD SYSTEMS

BMDO is pursuing three follow-on TMD programs that address different aspects of the theater missile threat: the Army's CORPS SAM; the Navy's upper tier; and the Air Force's boost phase intercept (BPI) programs. BMDO is seeking to bring all three programs to an EMD decision in 1998. Given the lack of technological maturity of BPI, the BMDO budget request would constrain funding for both CORPS SAM and Navy upper tier and allocate greater funding for BPI than is warranted by a development program of low-to-medium technical risk—the standard the conferees have traditionally applied.

PATRIOT PAC-3 RISK REDUCTION

The conferees strongly support the PAC-3 program, and believe that adequate risk-reduction funds should be made available to hedge against possible technical difficulties during the EMD phase of the program. In the conferees' view, adequate development funding for the ERINT interceptor that was selected for PAC-3 should be provided, and, as resources permit, funds for further development of selected technologies from the multi-mode missile should also be provided as a hedge against technical problems with comparable ERINT technologies. Given the priority they attach to the Patriot PAC-3 program, the conferees accept the need for both kinds of risk-reduction efforts.

OTHER BOOST-PHASE TECHNOLOGIES

In addition to the BPI program contained in the BMDO follow-on TMD category, funds for three boost-phase intercept concepts were also included in the budget request; the BMDO space-based laser program; the Air Force airborne laser program; and the Air Force air-launched kinetic-kill boost-phase interceptors. Funds requested for these four concepts exceeded $210.0 million. The congressional defense committees have all concluded that this level of funding is unsupportable. Clearly, the number of BPI approaches vying for scarce funds must be reduced so that significant progress can be made on one or two realistic concepts.

CONFEREE ACTIONS TO RESOLVE CONCERNS

NATIONAL MISSILE DEFENSE

The conferees agree to recommend $400 million for the NMD program. The conferees emphasize the importance of demonstrating, on an accelerated basis, the potential effectiveness of a national missile defense system through realistic flight testing. In this regard, the conferees endorse the guidance contained in the Senate report (S. Rept. 103-282) that: "The objective [for the NMD program] should be to develop and test, as rapidly as available NMD funding will permit, a limited, 'UOES-type' capability using existing flight-qualified hardware, even though such hardware may not incorporate the latest 'state of the art' technology." The conferees direct the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to review the fiscal year 1996 and Future Years Defense Program (FYDP) funding and programmatic content of the BMDO NMD technology readiness program, and to make any changes necessary to ensure BMDO compliance with this guidance.

The conferees also direct the Secretary, in consultation with the Chairman, to study the BMDO plans for fielding a limited "UOES-type" NMD capability against a variety of postulated threats. Within the overall BUR funding guidance to NMD in fiscal year 1996 and throughout the FYDP, the study shall consider those programmatic changes and reallocations of funds among NMD projects within the BMDO NMD technology readiness program that would minimize the lead-time to field an adequate defense of the United States against a quantitatively limited missile threat that could emerge at the end of the years 2000, 2005, and 2010, respectively. For the purpose of the study, the Secretary shall assume that the United States would receive reliable warning of a rogue missile threat three years in advance of each date mentioned, and that appropriate budgetary adjustments to respond to the threat would be made once reliable warning had been received. For each such threat date and set of assumptions, the Secretary shall estimate the date by which effective defenses of (a) the continental United States and (b) all 50 states against a limited strategic threat could achieve a limited operating capability. The report, in both classified and unclassified forms, shall be provided to the congressional defense committees not later than March 1, 1995.

THEATER MISSILE DEFENSE

The conferees further agree to provide substantial funding for the highest priority TMD programs. The conferees, however, also agree to restrict the obligation of portions of those funds until a number of additional analyses are prepared and delivered to the congressional defense committees, and until the committees receive additional assurances that these funds are required.

NAVY LOWER TIER

For the Navy lower tier system, the conferees agree to recommend $140.0 million, a reduction of $39.5 million from the requested amount. In addition, the conferees direct that only $100.0 million be available for obligation until all of the following conditions have been met:

(1) an analysis of the lethality of the Navy lower tier blast-fragmentation warhead against the full threat spectrum used by the Army in the analysis of the two competing Patriot PAC-3 warheads has been conducted and the results reported to the congressional defense committees;

(2) an analysis of the lethality of a notional CORPS SAM system based on ERINT- and GBR-T-type hardware against the same threat spectrum and under the same ground rules as (1) above has been conducted, and the results have been provided to the congressional defense committees;

(3) an analysis of the feasibility of employing either CORPS SAM or Patriot PAC-3 fire units, in lieu of the Navy lower tier system, for defense of amphibious landing zones and ports of debarkation, has been conducted and the results provided to the congressional defense committees. The analysis should evaluate the feasibility of both early deployment to shore from task force ships and operation of such units from the deck of selected task force vessels, and should be conducted against the same threat spectrum and under the same ground rules as described in (1) above.

(4) an analysis of the most cost-effective replacement system or systems for ship self-defense against the low-observable, sea-skimming cruise missile threat, under the assumption that the Navy lower system was terminated at the end of fiscal year 1995, has been conducted, and the results have been provided to the congressional defense committees;

(5) after review of the above analyses, the Chairman of the Joint Chiefs of Staff certifies in writing to the congressional defense committees that, in combination with other available TMD systems, the lethality of the planned Navy lower tier warhead provides an acceptable level of protection from the threat of chemical weapons submunitions for U.S. troops both at ports of debarkation and in amphibious landing operations *prior to* the deployment, setup, and operation of land-based TMD systems; and

(6) after review of the above analyses, the Secretary of Defense certifies in writing to the congressional defense committees that proceeding with the planned Navy lower tier system is a cost-effective use of limited BMDO resources.

NAVY UPPER TIER

For the Navy upper tier program, the conferees agree to recommend $50.0 million. Of this amount, $10.0 million may not be obligated until all of the following conditions have been met:

(1) an updated funding profile and schedule is provided to the congressional defense committees setting forth the cost and schedule for development and deployment of the planned Navy upper tier system if changes were made to the scope and schedule of the Navy lower tier system;

(2) an analysis of the cost-effectiveness of the planned Navy upper tier system (LEAP) relative to a marinized version of the THAAD interceptor missile has been conducted and the results have been provided to the congressional defense committees. The analysis shall be conducted under the following assumptions: (a) that the Navy lower tier program is, in one instance, canceled at the end of fiscal year 1995, and, in a second instance, is continued; (b) that the Army's THAAD program is fully funded through EMD; and (c) that the maximum velocity of a sea-based TMD interceptor is, in one instance, limited to three kilometers per second and, in a second instance, is unconstrained; and

(3) the report on the compliance of the Navy upper tier system has been delivered.

INDEPENDENT REVIEW

The conferees further direct the Secretary of Defense to reconstitute the independent review group originally established to review the Army's selection process for the Patriot PAC-3 interceptor missile decision (or to establish a similar group under the auspices of the Defense Science Board). This independent review group shall thoroughly review the lethality analysis required by item (1) of the "Navy lower tier" subsection above and the lethality analysis required in the "ARROW/ACES" subsection below. The results of their reviews, and their conclusions regarding the comparability of the analyses performed by the Department with the PAC-3 decision analysis, shall be provided to the congressional defense committees not later than 60 days after the Department completes the required lethality studies.

PATRIOT PAC-3 AND "RISK-REDUCTION"

The conferees recommend no funding for the two requested "demonstration/validation" (dem/val) activities labelled "ERINT," for which the requested amount was $58.5 million, and "Patriot," for which the requested amount was $69.2 million.

As a general matter, the conferees agree that "risk-reduction" activities should be focused on the selected system, preferably by providing adequate development funds, rather than through the creation of special "risk-reduction" funds. Therefore, the conferees agree to recommend a total of $284.7

million for Patriot PAC-3 EMD, including the transfer of $69.2 million in dem/val funds labelled "Patriot" to the EMD line. None of these funds may be used for "risk-reduction" activities in connection with multi-mode missile (MMM) technologies.

The conferees recognize the advantage of investing in backups for particularly critical or risky ERINT technologies or components, if such funds can be reallocated from lower-priority programs. The conferees further agree to that, as a general matter, such risk-reduction activities should be reviewed annually, and the funding level should be based on the successful candidate's rate of technical progress.

The conferees were given a DOD "Information Paper" dated May 18, 1994, regarding the Defense Department's proposed three-year, $84.8 million risk-reduction activity. That "Information Paper" recommended utilization of the requested $58.5 million for "ERINT" dem/val for risk mitigation for selected technologies from both the MMM and the ERINT missiles. The conferees agree to recommend the transfer of the $58.5 million requested under the "ERINT" dem/val account to a new line entitled "Patriot PAC-3 risk-reduction." This amount is only available for further research and development activities on selected MMM and ERINT technologies. The conferees direct that all funds allocated for risk-reduction on MMM technologies may only be obligated for technologies that are transferrable to the ERINT missile, in the event of technical difficulties with critical ERINT technologies. The conferees further direct that none of these risk-reduction funds be used for additional flight testing of the MMM interceptor missile during fiscal year 1995.

The conferees were informally notified at a late stage of the conference that DOD is contemplating a significantly larger risk-reduction effort than is contained in the May 18, 1994 "Information Paper," one on the order of $180.0 million. Neither funding details nor any rationale for such a significant increase in the need for risk-reduction was provided. The conferees agree that the relevant committees of jurisdiction should carefully review any such formal DOD risk-reduction proposal in the context of their consideration of the fiscal year 1996 defense budget request, and recommend that, if DOD deems the risk-reduction fund authorized above inadequate, it should submit a prior-approval reprogramming request during fiscal year 1995.

BOOST PHASE INTERCEPT PROGRAMS

The requested amounts for BPI programs in both BMDO and the Air Force totalled $210.6 million. Both the Senate bill and the House amendment would provide substantial funding for all BPI programs. The conferees are disappointed that both the Senate and the House defense appropriations bills have sharply restricted funding for BPI programs to $90.0 million or less. Given this constraint, the conferees recommend $30.0 million within the BMDO budget for high-power laser research. These funds may only be used to complete the integration of the Alpha laser, LAMP optics, and LODE beam control in such a way as to maximize the utility of the results for tactical applications of chemical lasers. The conferees also direct that the funds may not be used to initiate or carry out any work on the shield integration facility or any spacecraft-related activity. The conferees intend that the space-based portion of the chemical laser program end upon completion of the Alpha LAMP integration.

Of the remaining funds for BPI programs within the appropriations ceilings, the conferees recommend $20.0 million for the Air Force's airborne laser program, and $40.0 million for the BMDO boost phase intercept program. No funds are recommended for the boost phase intercept program contained within the Air Force's "theater missile defense" program element.

The conferees are disappointed with the Defense Department's overall effort to manage high-power laser research for tactical applications. The high-power laser guidance report, submitted by the Department in June 1994, does not outline an integrated departmental program for tactical application of high-power lasers. The conferees are concerned that this technology base is slowly withering away outside the Air Force, the one service providing significant support. The conferees, therefore, direct that the high-power laser program guidance be updated by March 31, 1995, with a view toward sustaining a technology base in high-power lasers for Army, Navy, and Air Force tactical applications. The conferees expect an integrated DOD high-power laser program to be reflected in the fiscal year 1996 request for the DOD science and technology base.

PROCUREMENT

The conferees recommend fully funding the $273.4 million requestion for procurement.

ADDITIONAL GUIDANCE

FUNDING RECOMMENDATIONS AND BUDGETARY DATA

The conferees agree to establish a set of distinct program elements for BMDO activities. The conferees' complete recommendation for BMDO funding is contained in the table that follows this discussion, for each program element and for selected programs, projects, and activities within certain program elements. The conferees intend that each program element shown shall be a separate line item, and that these titles shall be used to account for *all* funds for each such item, whether BMDO attributes the funds to exploratory development, demonstration/validation, EMD, or procurement. Since support activities like test and evaluation were not broken out by projects, the conferees direct that, for fiscal year 1995, the funds for the major TMD system program elements be used to carry out the planned research and development activities presented in budget documents and testimony, and that support for items like test and evaluation activities specifically for those programs be funded from the "other TMD activities" program element. Beginning in fiscal year 1996, to the extent possible, test and evaluation funds and other direct supporting activities associated with specific TMD systems should be requested as a project or task within the appropriate program element. The committee expects transfers among the designated program elements to be accomplished through customary prior-approval reprogramming procedures only. The conferees are determined to require BMDO to present budgetary data in an easy-to-comprehend form, allowing the activities comprising major programs and their costs to be readily identifiable. The conferees note that the current submission contains multiple program elements using the same names and that the NMD funding request is commingled in a program element with funds requested for other purposes. That is a totally unacceptable presentation.

ARROW/ACES

Within the "other TMD activities" program element, the conferees recommend $52.4 million for the joint U.S.-Israel ARROW/ACES program, which is the requested amount. The conferees note, however, that the concerns they have expressed regarding the questionable lethality of blast-fragmentation warheads against nuclear warheads and warheads containing chemical weapons submunitions apply even more directly to the ARROW/ACES program than to the Navy lower tier program. The conferees therefore direct BMDO to analyze the lethality of the planned ARROW/ACES warhead against the same threat spectrum and under the same ground rules as were used in the PAC-3 selection and are required to be used in conducting other analyses above. The results of this analysis shall be provided to the congressional defense committees not later than March 31, 1995.

MANAGEMENT SUPPORT

The conferees agree to recommend $170.0 million for the management support activity, a reduction of $50.2 million from the requested amount. The conferees note that in fiscal year 1993, BMDO provided oversight of a $3.7 billion SDIO budget of substantially greater diversity than the present program with a program management budget of $218.3 million. The total funding recommended herein for BMDO for fiscal year 1995 is $2.8 billion, or just over 75 percent of the fiscal year 1993 budget in *nominal* dollars. Yet BMDO requested virtually the same program management budget as in fiscal year 1993. A budget of $170.0 million for program management is in proportion to the decline in overall BMDO funding levels.

The conferees further direct that, in apportioning this program management budget, BMDO management apportion the reductions in rough proportion to the funding changes within the major program categories. Reductions need to be taken at all levels, including reductions in management layers and overhead.

COMPLIANCE REVIEWS

The conferees agree to a provision that would require compliance reviews for both the Brilliant Eyes program and the Navy upper tier program. Guidance for the Brilliant Eyes review is contained in the Senate report (S. Rept. 103-282); for the Navy upper tier program, the conferees require a review of the compliance of the LEAP configuration both as currently planned, and if the kick-stage motor were restricted to limit LEAP velocity to three kilometers per second.

CHANGES TO THE MISSILE DEFENSE ACT OF 1991

The conferees agree to a provision that would further streamline the Missile Defense Act of 1991, as amended.

FLIGHT TESTING OF THAAD INTERCEPTOR MISSILES DURING FISCAL YEAR 1995

The Senate report (S. Rept. 103-282) contained a section entitled "Compliance of THAAD Flight Testing During Fiscal Year 1995." The conferees endorse the views expressed in that section.

CONFEREES BMDO RDT&E FUNDING FOR FY 1995

$ in millions

Program Element	Project	Request	Recommend
National missile defense		$ 587.0	$ 400.0
THAAD		495.69	495.69
GBR-T		173.2	173.2
HAWK		26.8	26.8
BM/C^{3}I		34.055	34.055
Patriot dem/val		69.24	0
ERINT dem/val		58.46	0
PAC-3		217.2	284.705
PAC-3 risk-reduction		0	58.46
Navy lower tier		179.543	140.0
Navy upper tier		17.725	50.0
CORPS SAM		17.725	17.725
Boost phase intercept		61.1	40.0
Other TMD activities		383.05	373.05
of which:	ARROW/ACES	(52.4)	(52.4)
	Discrimination	(58.1)	(48.1)
Support technologies		408.984	262.95
of which:	Chemical laser	(77.5)	(30.0)
	Innovative sci & tech	(60.0)	(55.0)
	Countermeasures	(18.303)	(17.0)
Program management		215.233	170.0
Total, RDT&E		$ 2979.855	$ 2526.635

Senate advice and consent on agreements that modify the Anti-Ballistic Missile Treaty (sec. 232)

The Senate bill included a provision (sec. 225) that would require the President to submit any negotiated changes that would substantively modify the Anti-Ballistic Missile Treaty to the Senate. The United States would not be bound by any international agreement negotiated by the President that substantively modified the Anti-Ballistic Missile Treaty unless the agreement was presented to the Senate for its advice and consent to ratification of the agreement, pursuant to the Constitution.

The House amendment contained no similar provision.

The House recedes. The conferees note that there is a wide range of views in the Senate on what might constitute a "substantive modification" to the ABM Treaty which would trigger a requirement to submit the agreement to the Senate for further advice and consent. Since 1972, the ABM Treaty has been clarified or modified on a number of occasions without the Executive Branch submitting the changes to the Senate for its advice and consent. These clarifications or changes, negotiated in the Standing Consultative Commission (SCC) and not submitted to the Senate for its advice and consent, have taken the form of agreement statements.

The conferees believe that the Executive Branch should consult with the Senate on any new agreements reached in the SCC or elsewhere concerning the ABM Treaty to carefully determine whether these new agreements meet the definition of a "substantive modification" to the Treaty, and are required to be submitted to the Senate for advice an consent under Article II of the U.S. Constitution.

Limitation on flight tests of certain target missiles (sec. 234)

The House amendment contained a provision (sec. 235) that would limit certain missiles tests.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Defense women's health research program (sec. 241)

The budget request contained no funds for the defense women's health research program.

The Senate bill would provide $40.0 million in PE 63002D for the defense women's health research program and contained a provision (sec. 242) that would continue the program.

The House amendment would provide $40.0 million in PE 63002A for the defense women's health research program and contained a similar provision (sec. 241).

The Senate recedes with a clarifying amendment. The conferees agree to provide $40.0 million in PE 63002D.

Submission of Semiconductor Technology Council annual report (sec. 251)

The Senate bill included a provision (sec. 243) that would require the Semiconductor Technology Council to submit its annual report to Congress on March 31 of each year.

The House amendment contained no similar provision.

The House recedes.

Report on oceanographic survey and research requirements to support littoral warfare (sec. 252)

The Senate bill contained a provision (sec. 244) that would require, not later than March 1, 1995, the Secretary of the Navy to submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

The House amendment contained on similar provision.

The House recedes.

LANSCE/LAMPF upgrades (sec. 253)

The Senate bill included a provision (sec. 245) that would authorize $20.0 million for the Defense Nuclear Agency to complete the upgrade of the Los Alamos Neutron Scattering Center/Los Alamos Meson Physics Facility (LANSCE/LAMPF).

The House amendment contained no similar provision.

The House recedes with an amendment that would provide funds for the facility from funds made available pursuant to section 201 of this act. These funds would be included in a separate Army program element (PE 65104A).

Study regarding live-fire survivability testing of F–22 aircraft (sec. 254)

The Senate bill contained a provision (sec. 246) that would direct the Secretary of Defense to request the National Research Council of the National Academy of Sciences to study the desirability of waiving the live-fire survivability testing requirements for the F–22 aircraft.

The House amendment contained no similar provision.

The House recedes.

University research initiatives (secs. 255 and 257)

The Senate bill contained a provision (sec. 249) that would provide $10.0 million for the university research support program and $10.0 million for the defense experimental program to stimulate research (DEPSCOR). The provision would limit DEPSCOR awards to states that have received less than 50 percent of the national average investment of federal funds for higher education during the past fiscal year.

The House amendment contained a provision (sec. 218) that would provide $20.0 million for DEPSCOR, establish DEPSCOR in law, and describe the goals of the program.

The House recedes with an amendment that would allow states that have received less than 60 percent of the national average investment of federal funds for higher education during the past fiscal year to receive DEPSCOR awards.

Manufacturing technology (sec. 256)

The budget request contained $97.1 million for the manufacturing science and technology program in the defense agencies' account and $20.2 million for the industrial preparedness program in the Navy research and development account.

The Senate bill would provide $125.0 for the manufacturing science and technology program in the following amounts: $30.0 million for the Army; $50.0 million for the Air Force; $35.0 million for the Navy; and $10.0 million for the Defense Logistics Agency (DLA). The Senate bill would also provide $20.2 million for the Navy industrial preparedness program.

The House amendment would provide $117.1 million in the defense agencies account and $40.5 million for the Navy industrial preparedness program.

The conferees note that the military services have different approaches to manufacturing technology. The Army and Air Force conduct their programs through contracts with industry, while the Navy uses a mixture of contracts with industry and centers of excellence. In recognition of these differences, the conferees recommend authorizations in two separate programs.

The first program is the manufacturing science and technology program, for which the conferees recommend $109.4 million. The conferees agree that this program should be aimed at the manufacturing technology needs of the military departments. The conferees recommend a provision that would require all awards under this program to be made on the basis of competition and all awards involving dual-use technology to be cost-shared. The conferees note the importance of repair technology programs and urge the services to include repair technology programs in their manufacturing technology competitions. The conferees encourage the Army to consider supporting a medical manufacturing technology program for medical needs related to service in the military. The conferees also recognize the need for manufacturing technology in the apparel and microelectronic emulation programs of the Defense Logistics Agency, and commend these and others efforts described in the House report (H. Rept. 103–499).

The conferees recommend the following authorizations: $29.4 million for the Army in PE 78045A; $50.0 million for the Air Force in PE 78011F; $20.0 million for the Navy in PE 65872N; and $10.0 million for DLA in PE 63705D.

The second program is the Navy industrial preparedness program, for which the conferees recommend $45.2 million. The conferees intend this second program to be separate from the manufacturing science and technology program for the specific purpose of authorizing the Navy centers of excellence.

Altimetry convergence study (sec. 258)

The Senate bill contained a provision (sec. 1077) that would require the Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration to study converging radar altimeter programs.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

High-resolution imaging

The Senate bill contained a provision (sec. 204) that would authorize $10.0 million in Air Force RDT&E funds for high-resolution imaging of space objects using excimer lasers.

The House amendment contained no similar provision.

The Senate recedes from the statutory provision. The conferees would include $10.0 million in PE 63605F to continue the excimer laser high-resolution imaging program.

Limitation on obligation of ballistic missile defense funds

The Senate bill contained a provision (sec. 223) that would restrict the obligation of any fiscal year 1995 funds for ballistic missile defenses until certain overdue reports are provided to the congressional defense committees.

The House amendment contained no similar provision.

The Senate recedes because the reports in question have now been delivered.

Management and budget responsibility for space-based chemical laser program

The Senate bill contained a provision (sec. 224) that would provide guidance regarding the space-based chemical laser program.

The House amendment contained no similar provision.

The Senate recedes.

Study on beaming high-power laser energy to satellites

The Senate bill contained a provision (sec. 250) that would require the Secretary of Defense and the Administrator of NASA to study the cost, feasibility, and advisability (including arms control and environmental considerations) of developing a system to deliver energy to satellites by beaming high-power laser energy from ground sources.

The House amendment contained no similar provision.

The Senate recedes. The conferees direct the Secretary of Defense, in consultation with the Administrator of NASA, to carry out a study to determine the cost, feasibility, and advisability of the development and utilization of a system to deliver energy to satellites by beaming high-power laser energy from ground sources. The Secretary shall take into account the impact of such a system on the environment and the effect, if any, of the development and utilization of such a system on the arms control efforts or obligations of the United States. In carrying out the study, the Secretary shall consider the option of the development of a space energy laser (SELENE) system using a free electron laser at the Naval Air Weapons Station, China Lake, California. The Secretary shall submit the study to the congressional defense committees by July 1, 1995.

Advanced threat radar jammer

The Senate bill contained a provision (sec. 251) that would preclude the Secretary of Defense from negotiating or entering into an agreement with a country other than a NATO or major non-NATO ally on a joint development program for advanced threat radar jammers (ATRJ) for combat helicopters until 30 days after the Secretary reviews the program and submits a report to the congressional defense committees. The provision would require the report to address the following:

(1) the legal basis for seeking funds neither authorized nor appropriated for the program;

(2) the consistency of the program with the DOD policy that a system not be sold overseas before it had completed operational testing and evaluation (OT&E);

(3) the mission requirements for the system;

(4) an assessment of the threat for which the system is developed;

(5) the potential for proliferation of sensitive electronic warfare technologies;

(6) the availability of non-developmental, less sophisticated technologies for meeting the needs of U.S. and allied combat helicopters; and

(7) the availability of similar technologies from other foreign countries and the consequences of proliferating such technologies in potential conflict regions.

The House amendment contained no similar provision.

The Senate recedes. The conferees understand that:

(1) the Army's development program is fully funded within the Army budget;

(2) the "no sale until successful OT&E" policy does not apply to potential co-development efforts, only to the sale of systems already developed;

(3) requirements for the ATRJ have already been validated in an operational requirements document (ORD) and in a cost and operational effectiveness analysis (COEA);

(4) the requested threat assessment was made in deriving the analysis supporting the ORD and COEA;

(5) the interagency process already established for evaluating proliferation concerns is addressing such concerns;

(6) the ORD and COEA assessed non-developmental, less sophisticated technologies and found them deficient; and

(7) the potential development partner has a foreign source for similar equipment that would not be subject to U.S. export review and control.

Nevertheless, the conferees believe that enough concerns remain to require the Secretary of Defense, by March 31, 1995, to provide a report on the following matters:

(1) the potential cost-sharing and work-sharing plan for the co-development effort;

(2) the ORD and the COEA underpinning the Department's plans to proceed with the program;

(3) the threat assessment for the receiving nation underpinning the Department's plans to proceed with the program;

(4) an assessment of the potential foreign competitor systems, and the level of technology in those systems; and

(5) the results of the interagency review process that led to the approval of the co-development effort, including the review of potential proliferation concerns.

Missile early warning and tracking

The budget request contained:

(1) $150.0 million for development of the alert, locate, and report missiles (ALARM) early warning satellite, the follow-on to the defense support program (DSP) system. Of this amount, $31.0 million was requested for a technology demonstration program;

(2) $120.0 million within the Ballistic Missile Defense Organization for development and demonstration of Brilliant Eyes (BE); and

(3) $76.4 million for further development of DSP, including new ground processing capabilities.

The Senate bill would deny funding for the ALARM technology demonstration. It would also transfer the BE program to the Air Force, and allow the Secretary of Defense to use the funds to correct technical intelligence and warning shortfalls, accelerate ALARM, continue a BE program focused on theater defense, or continue DSP procurement.

The House amendment contained a provision (sec. 141) that would provide $300.0 million for ballistic missile early warning risk mitigation. These funds could be used for continued procurement of defense support program satellite number 24, accelerated development of ALARM leading to launch of the first satellite no later than the first quarter of 2002, development of BE, acquisition of three additional interim theater missile sensors, or a combination of the above. The House amendment also would reduce the requested amount for DSP RDT&E by $20.0 million.

The House recedes.

The Department of Defense has undertaken a comprehensive review of all space-based infrared (SBIR) requirements and programs for ballistic missile detection, tracking, technical intelligence, and other ancillary missions. The conferees applaud this effort, but not that Congress has directed such an assessment every year for at least the last three years. The conferees also not that this new review follows a major assessment conducted just a year ago in the Bottom-Up Review (BUR). The BUR resulted in decisions to terminate one program, develop a DSP follow-on, and initiate another (ALARM); to terminate further procurement of DSP; and to scale back the BE program substantially.

The BUR process completely upended the fiscal year 1994 budget request, but Congress patiently provided wide latitude to the Secretary of Defense to allocate funds once the BUR was completed. Now Congress is once again in the same position. The conferees intend to provide DOD latitude in this critical area in fiscal year 1995, but their patience is wearing thin. Moreover, if the Department makes major changes in the current program, the planned deployment date of a follow-on capability could be jeopardized.

The conferees deny the $31.0 million requested for the ALARM technology demonstration program. The conferees agree to apply these funds, and an additional $19.0 million, to accelerate the advanced tactical warning and attack assessment system by two years. The conferees agree to authorize the requested amount for BE, but shift the program to the defense agencies, RDT&E account. The Secretary of Defense should determine the appropriate management organization for this program based on the ongoing review and notify the congressional defense committees within 45 days after the date of enactment of this act.

In addition, in light of the ongoing review of SBIR programs within the Department, and the potential for changes to existing programs as a result of the study, the conferees direct the Secretary to promptly report to the congressional defense committees on the results of the study, together with any recommended programmatic, budgetary, and schedule changes. Should the Secretary determine that modifications to existing programs are necessary, the conferees would consider a reprogramming request to implement any such changes.

Mobile off-shore base and landing ship quay causeway program

The House amendment contained a provision (sec. 220) that would prohibit development or acquisition of a mobile off-shore base (MOB) or landing ship quay causeway (LSQ/C) until:

(1) the Joint Requirements Oversight Council (JROC) has approved an operational requirement for the MOB or LSQ/C; and

(2) the Secretary of Defense has certified to the congressional defense committees that: (a) there was a validated requirement for the MOB or LSQ/C, and (b) the acquisition plan and program to fulfill that requirement were fully funded in the Future Years Defense Program.

The Senate bill contained no similar provision. The Senate report (S. Rept. 103–282) stated that, by the end of 1994,: (1) the JROC should determine whether there is an operational requirement for these programs; and (2) the Defense Science Board (DSB) should review the programs and submit the results of its review to Congress prior to the submission of the fiscal year 1996 budget request.

The House recedes.

The conferees agree with the concerns expressed in the Senate report about over-the-shore logistics operations and the need for an ability to sustain operations in austere environments or in locations in which port operations could be disrupted by the use of weapons of mass destruction. The conferees agree with the finding in the House provision that the concepts of the sea-going MOB and related LSQ/C could significantly improve the U.S. crisis response capability in areas in which land bases are not available. The conferees also agree that the potential development and acquisition costs of these systems could be large enough that either would be a major defense program subject to review and approval by the Defense Acquisition Board.

The conferees agree with the guidance in the Senate report with respect to actions by the JROC and the Under Secretary of Defense for Acquisition and Technology. The conferees strongly desire that the results of the JROC program evaluation and the DSB report be submitted prior to December 31, 1994.

If the JROC and DSB reviews indicate that the Department should pursue either the MOB or LSQ/C program, or both, beyond fiscal year 1995, the conferees direct the Department of Defense to document future funding and development plans for these two programs, including specific development and acquisition milestones, as a part of its fiscal year 1996 budget justification. If the program's scope warrants, the Department should specify a schedule for timely review by the Defense Acquisition Board that can help inform congressional evaluation of the fiscal year 1996 Department of Defense budget request.

ARROW/ACES program

The House amendment contained a provision (sec. 221) regarding funding for the ARROW/ACES program.

The Senate bill contained no similar provision.

The House recedes. Funding for ARROW/ACES is discussed elsewhere in this statement of the managers.

Army helicopter engine upgrade program

The House amendment contained a provision (sec. 222) that would reduce the authorization for Army research and development by $4.5 million. The provision specified that the reduction would be derived from funds intended for developing an electronic fuel control to upgrade the hydro-mechanical unit for the T53-series helicopter engine.

The Senate bill contained no similar provision.

The House recedes. The conferees agree to recommend funding for Army research and development that incorporates this action.

Theater missile defense programs

The House amendment contained a provision (sec. 232) that would provide funding and guidance for the Navy upper tier theater missile defense program.

The Senate bill contained no similar provision.

The House recedes. Funding for the Navy upper tier program is discussed elsewhere in this statement of the managers.

Theater missile defense risk reduction activities

The House amendment contained a provision (sec. 233) that would create a risk-reduction fund for theater missile defenses.

The Senate bill contained no similar provision.

The House recedes.

TITLE III—OPERATION AND MAINTENANCE

The Senate bill would authorize $92,457,460,000 for operation and maintenance for the Department of Defense and $1,618,038,000 for Working Capital Fund accounts in fiscal year 1995.

The House amendment would authorize $90,317,199,000 for operation and maintenance for the Department of Defense and $1,212,038,000 for Working Capital Fund accounts in fiscal year 1995.

The conferees recommend authorization of $91,463,223,000 for operation and maintenance for the Department of Defense and $2,068,038,000 for Working Capital Fund accounts in fiscal year 1995, as reflected in the following tables.

The conferees recommend authorization of all funds for the Defense Health Program, including procurement, under Title III.

TITLE III –– OPERATION AND MAINTENANCE
SUMMARY OF FUNDS RECOMMENDED FOR AUTHORIZATION
[dollars in thousands]

Title	Amended FY 1995 Authorization Request	House Change	FY 1995 House Authorized	Senate Change	FY 1995 Senate Authorized	Conference Change	FY 1995 Conference Authorized
O&M, Army	17,816,814	(458,253)	17,358,561	(223,900)	17,592,914	(390,010)	17,426,804
O&M, Navy	21,226,570	(1,117,043)	20,109,527	149,900	21,376,470	(171,100)	21,055,470
O&M, Marine Corps	1,918,395	78,700	1,997,095	178,300	2,096,695	147,900	2,066,295
O&M, Air Force	19,076,623	(343,583)	18,733,040	(237,600)	18,839,023	(239,000)	18,837,623
O&M, Defense Agencies	10,208,413	(718,592)	9,489,821	(214,088)	9,994,325	(176,837)	10,031,576
O&M, Army Reserve	1,253,709	1,313	1,256,022	0	1,253,709	(14,887)	1,238,822
O&M, Navy Reserve	827,819	0	827,819	500	828,319	0	827,819
O&M, Marine Corps Reserve	81,462	0	81,462	0	81,462	0	81,462
O&M, Air Force Reserve	1,478,990	2,342	1,481,332	0	1,478,990	(14,058)	1,464,932
O&M, Army National Guard	2,447,148	1,467	2,448,615	5,000	2,452,148	(48,733)	2,398,415
O&M, Air National Guard	2,780,178	0	2,780,178	0	2,780,178	(8,500)	2,771,678
Rifle Practice, Army	2,544	0	2,544	0	2,544	0	2,544
Defense Inspector General	128,098	20,000	148,098	12,700	140,798	12,700	140,798
U.S. Court of Military Appeals	6,126	0	6,126	0	6,126	0	6,126
Summer Olympics	0	4,000	4,000	10,000	10,000	10,000	10,000
Environmental Restoration Fund	2,180,200	0	2,180,200	0	2,180,200	(150,000)	2,030,200
Drug Interdiction	714,200	0	714,200	0	714,200	0	714,200
Defense Health Program O&M	9,922,059	0	9,922,059	(67,600)	9,854,459	(67,600)	9,854,459
Overseas Humanitarian, Disaster & Civic Aid	71,900	(11,900)	60,000	0	71,900	14,100	86,000
Cooperative Threat Reduction	400,000	0	400,000	0	400,000	0	400,000
Contingency for International Peacekeeping	300,000	0	300,000	0	300,000	(300,000)	0
DOD 50th Anniversary of WWII	0	500	500	0	0	0	0
Special Olympics	0	2,000	2,000	3,000	3,000	3,000	3,000
Project Peace	0	15,000	15,000	0	0	15,000	15,000
Total	92,841,248	(2,524,049)	90,317,199	(383,788)	92,457,460	(1,378,025)	91,463,223

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND	1,169,038	43,000	1,212,038	(379,600)	789,438	70,400	1,239,438
NATIONAL DEFENSE SEALIFT FUND	608,600	(608,600)	0	220,000	828,600	220,000	828,600
TOTAL	1,777,638	(565,600)	1,212,038	(159,600)	1,618,038	290,400	2,068,038

TITLE III — — OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	OPERATION AND MAINTENANCE, ARMY							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	LAND FORCES							
250	COMBAT UNITS	1,783,474		1,783,474		1,783,474		1,783,474
300	TACTICAL SUPPORT	1,178,297		1,178,297		1,178,297		1,178,297
350	THEATER DEFENSE FORCES	208,141		208,141		208,141		208,141
400	FORCE RELATED TRAINING/SPECIAL ACTIVITIES	1,186,444		1,186,444		1,186,444		1,186,444
450	FORCE COMMUNICATIONS	61,496		61,496		61,496		61,496
500	DEPOT MAINTENANCE	1,037,338	300,000	1,292,338	65,000	1,102,338	140,000	1,177,338
	DEPOT CONVERSION		40,000					
	EXCESS UNIT DEPOT – LEVEL REPAIRABLES CREDIT		(85,000)					
550	JCS EXERCISES	66,412		66,412		66,412		66,412
600	BASE SUPPORT	3,197,534		3,197,534		3,197,534		3,197,534
650	REPROGRAMMINGS/FUEL CREDIT							
	LAND OPERATIONS SUPPORT							
700	COMBAT DEVELOPMENTS	222,405		222,405		222,405		222,405
750	UNIFIED COMMANDS	74,246		74,246		74,246		74,246
800	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	9,015,787	255,000	9,270,787	65,000	9,080,787	140,000	9,155,787
	BUDGET ACTIVITY 2: MOBILIZATION							
	MOBILITY OPERATIONS							
950	POMCUS	142,299		142,299		142,299		142,299
1000	STRATEGIC MOBILIZATION	284,647		284,647		284,647		284,647
1050	WAR RESERVE ACTIVITIES	54,718		54,718		54,718		54,718
1100	INDUSTRIAL PREPAREDNESS	89,728		91,728		89,728		89,728
	MREs		2,000				2,000	2,000
1150	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 2:	571,392	2,000	573,392	0	571,392	2,000	573,392
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
1300	OFFICER ACQUISITION	51,184		51,184		51,184		51,184
1350	RECRUIT TRAINING	12,173		12,173		12,173		12,173
1400	ONE STATION UNIT TRAINING	16,733		16,733		16,733		16,733
1450	RESERVE OFFICER TRAINING CORPS (ROTC)	108,642		108,642		108,642		108,642
1500	BASE SUPPORT (ACADEMY ONLY)	115,300		115,300		115,300		115,300

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	BASIC SKILL/ ADVANCE TRAINING							
1600	SPECIALIZED SKILL TRAINING	244,356		249,356		244,356		244,356
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
1650	FLIGHT TRAINING	258,167		258,667		258,167		258,167
	TOSS		500				500	500
1700	PROFESSIONAL DEVELOPMENT EDUCATION	87,296		87,296		87,296		87,296
1750	TRAINING SUPPORT	390,778		399,268		390,778		390,778
	TELETRAINING (TNET)		8,490				8,490	8,490
1800	BASE SUPPORT (OTHER TRAINING)	1,062,203		1,062,203		1,062,203		1,062,203
1850	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING/OTHER TRAINING							
1900	RECRUITING AND ADVERTISING	159,959	36,500	196,459	33,000	192,959	33,000	192,959
1950	EXAMINING	66,133		66,133		66,133		66,133
2000	OFF-DUTY AND VOLUNTARY EDUCATION	110,633		110,633		110,633		110,633
2050	CIVILIAN EDUCATION AND TRAINING	92,000		94,000		92,000		92,000
	NONCOMBATANT COUNSELING		2,000				2,000	2,000
2100	JUNIOR ROTC	65,387		65,387		65,387		65,387
2150	BASE SUPPORT (RECRUITING LEASES)	155,075		155,075		155,075		155,075
2200	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 3:	2,996,019	52,490	3,048,509	33,000	3,029,019	48,990	3,045,009
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SECURITY PROGRAMS							
2350	SECURITY PROGRAMS	400,696		386,696		406,396		400,696
	CLASSIFIED		(14,000)		5,700		(5,000)	(5,000)
	LOGISTICS OPERATIONS							
2450	SERVICEWIDE TRANSPORTATION	544,832		544,832		544,832	(16,300)	528,532
2500	CENTRAL SUPPLY ACTIVITIES	478,524		478,524		478,524		478,524
2550	LOGISTIC SUPPORT ACTIVITIES	342,751		327,751		342,751		342,751
	INVENTORIES		(15,000)				(45,000)	(45,000)
2600	AMMUNITION MANAGEMENT	388,599		388,599		388,599		388,599
	SERVICEWIDE SUPPORT							
2700	ADMINISTRATION	316,751		316,751		316,751		316,751
2750	SERVICEWIDE COMMUNICATIONS	805,494		805,494		805,494		805,494
2800	MANPOWER MANAGEMENT	81,413		81,413		81,413		81,413
2850	OTHER PERSONNEL SUPPORT	174,934		54,934		174,934		174,934
2900	OTHER SERVICE SUPPORT	541,957		541,957		541,957		541,957
2950	ARMY CLAIMS ACTIVITIES	177,564		177,564		177,564		177,564
3000	REAL ESTATE MANAGEMENT	98,209		98,209		98,209		98,209

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill		Senate Bill		Conference	
			Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
3100	BASE SUPPORT	600,280		884,280		600,280		600,280
	MWR/STARS & STRIPES		(6,000)				(6,000)	(6,000)
3150	DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT							
3170	REPROGRAMMINGS/FUEL CREDIT							
	SUPPORT OF OTHER NATIONS							
3200	INTERNATIONAL MILITARY HEADQUARTERS	265,525		265,525		265,525		265,525
3250	MISC SUPPORT OF OTHER NATIONS	20,267		20,267		20,267		20,267
3300	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 4:	5,237,796	(35,000)	5,372,796	5,700	5,243,496	(72,300)	5,165,496
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH		(100,000)	(100,000)	(405,700)	(405,700)	(241,200)	(241,200)
	MILITARY TO CIVILIAN CONVERSION		65,000	65,000				
	RATION CONTROL		(7,000)	(7,000)			(3,500)	(3,500)
	CONTRACTOR & CONSULTING SERVICES		(156,000)	(156,000)			(78,000)	(78,000)
	INFORMATION TECHNOLOGY		(138,743)	(138,743)			(30,000)	(30,000)
	RESIDUAL VALUE		(70,000)	(70,000)			(70,000)	(70,000)
	WARTIME HOST NATION SUPPORT		(100,000)	(100,000)			(100,000)	(100,000)
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(60,000)	(60,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(81,000)	(81,000)				
	UNOBLIGATED BALANCES		(130,000)	(130,000)			(95,000)	(95,000)
	PLANNED REDUCTION OFFSETS		(100,000)	(100,000)				
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				
	ARMS CONTROL COMPLIANCE COSTS				(6,000)	(6,000)	(6,000)	(6,000)
	REAL PROPERTY MAINTENANCE				60,000	60,000	30,000	30,000
	FEDERAL WORKFORCE RESTRUCT. ACT				22,600	22,600	22,600	22,600
	ARMY ENVIRON. POLICY INST.				1,500	1,500	1,500	1,500
	GSA FEES	(4,180)		(4,180)		(4,180)		(4,180)
	FOREIGN NATIONAL EMPLOYEES		(120,000)	(120,000)			(120,000)	(120,000)
	U.S. BASE OPERATIONS, OVERSEAS TRANSFERS		290,000	290,000			290,000	290,000
	MWR BILLETING TO BARRACKS		(65,000)	(65,000)				
	BARRACKS MAINTENANCE & REPAIR		65,000	65,000				
	STOCKPILE TRANSFER						(50,000)	(50,000)
	TRAVEL						(19,100)	(19,100)
	TOTAL, O&M, ARMY	17,816,814	(458,253)	17,358,561	(223,900)	17,592,914	(390,010)	17,426,804

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OPERATION AND MAINTENANCE, NAVY							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
3950	MISSION AND OTHER FLIGHT OPERATIONS	1,922,587		1,922,587		1,922,587		1,922,587
4000	FLEET AIR TRAINING	737,877		737,877		737,877		737,877
4050	INTERMEDIATE MAINTENANCE	67,154		67,154		67,154		67,154
4100	AIR OPERATIONS AND SAFETY SUPPORT	82,359		82,359		82,359		82,359
4150	AIRCRAFT DEPOT MAINTENANCE	659,511	50,000	709,511	30,000	689,511	20,000	679,511
4200	AIRCRAFT DEPOT OPERATIONS SUPPORT	34,001		34,001		34,001		34,001
4250	BASE SUPPORT	1,129,192		1,129,192		1,129,192		1,129,192
4300	REPROGRAMMINGS/FUEL CREDIT							
	SHIP OPERATIONS							
4350	MISSION AND OTHER SHIP OPERATIONS	1,891,202		1,876,202		1,891,202		1,891,202
	INVENTORIES		(15,000)				(45,000)	(45,000)
4400	SHIP OPERATIONAL SUPPORT AND TRAINING	501,771		501,771		501,771		501,771
4450	INTERMEDIATE MAINTENANCE	425,116		425,116		425,116		425,116
4500	SHIP DEPOT MAINTENANCE	2,337,433	50,000	2,387,433	35,000	2,372,433	20,000	2,357,433
	SHIP ALTERATIONS						5,000	5,000
4550	SHIP DEPOT OPERATIONS SUPPORT	867,204		867,204		867,204		867,204
4600	BASE SUPPORT	1,009,960		1,009,960		1,009,960		1,009,960
4650	REPROGRAMMINGS/FUEL CREDIT							
	COMBAT OPERATIONS/SUPPORT							
4700	COMBAT COMMUNICATIONS	213,237		213,237		213,237		213,237
4750	ELECTRONIC WARFARE	8,625		8,625		8,625		8,625
4800	SPACE SYSTEMS AND SURVEILLANCE	116,807		116,807		116,807		116,807
4850	WARFARE TACTICS	134,275		134,275		134,275		134,275
4900	OPERATIONAL METEOROLOGY AND OCEANOGRAPHY	188,699		188,699		188,699		188,699
4950	COMBAT SUPPORT FORCES	280,874		280,874		280,874		280,874
5000	EQUIPMENT MAINTENANCE	168,179		168,179		168,179		168,179
5050	DEPOT OPERATIONS SUPPORT	1,262		1,262		1,262		1,262
5100	BASE SUPPORT	461,296		461,296		461,296		461,296
5150	REPROGRAMMINGS/FUEL CREDIT							
	WEAPONS SUPPORT							
5200	CRUISE MISSILE	130,964		130,964		130,964		130,964
5250	FLEET BALLISTIC MISSILE	780,849		780,849		780,849		780,849
5300	IN-SERVICE WEAPONS SYSTEMS SUPPORT	30,546		30,546		30,546		30,546
5350	WEAPONS MAINTENANCE	475,942		475,942		475,942		475,942
5400	BASE SUPPORT	92,322		92,322		92,322		92,322
5410	UNDISTRIBUTED							

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill		Senate Bill		Conference	
			Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
5450	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	14,749,244	85,000	14,834,244	65,000	14,814,244	0	14,749,244
	BUDGET ACTIVITY 2: MOBILIZATION							
	READY RESERVE AND PREPOSITIONING FORCES							
5600	SHIP PREPOSITIONING AND SURGE	455,123		455,123		455,123		455,123
	ACTIVATIONS/INACTIVATIONS							
5700	AIRCRAFT ACTIVATIONS/INACTIVATIONS	12,921		12,921		12,921		12,921
5750	SHIP ACTIVATIONS/INACTIVATIONS	811,129		811,129		811,129		811,129
	MOBILIZATION PREPAREDNESS							
5850	FLEET HOSPITAL PROGRAM	16,473		16,473		16,473		16,473
5900	INDUSTRIAL READINESS	58,785		58,785		58,785		58,785
5950	COAST GUARD SUPPORT	18,308		18,308		18,308		18,308
	TOTAL, BUDGET ACTIVITY 2:	1,372,739	0	1,372,739	0	1,372,739	0	1,372,739
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
6150	OFFICER ACQUISITION	58,637		58,637		58,637		58,637
6200	RECRUIT TRAINING	4,436		4,436		4,436		4,436
6250	RESERVE OFFICERS TRAINING CORPS (ROTC)	51,323		51,323		51,323		51,323
6300	BASE SUPPORT	129,170		129,170		129,170		129,170
	BASIC SKILLS AND ADVANCED TRAINING							
6400	SPECIALIZED SKILL TRAINING	216,554		221,554		216,554		216,554
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
6450	FLIGHT TRAINING	325,683		325,683		325,683		325,683
6500	PROFESSIONAL DEVELOPMENT EDUCATION	54,442		54,442		54,442		54,442
6550	TRAINING SUPPORT	137,174		137,174		137,174		137,174
6600	BASE SUPPORT	454,375		454,375		454,375		454,375
6650	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING, AND OTHER TRAINING AND EDUCATION							
6700	RECRUITING AND ADVERTISING	89,849	25,700	115,549	31,000	120,849	31,000	120,849
6750	OFF-DUTY AND VOLUNTARY EDUCATION	61,798		61,798		61,798		61,798
6800	CIVILIAN EDUCATION AND TRAINING	24,362		24,362		24,362		24,362
6850	JUNIOR ROTC	21,171		21,171		21,171		21,171
6900	BASE SUPPORT	1,496		1,496		1,496		1,496
	TOTAL, BUDGET ACTIVITY 3:	1,630,470	30,700	1,661,170	31,000	1,661,470	36,000	1,666,470

TITLE III — — OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill		Senate Bill		Conference	
			Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE SUPPORT							
7100	ADMINISTRATION	382,299		382,299		382,299		382,299
7150	EXTERNAL RELATIONS	18,241		18,241		18,241		18,241
7200	CIVILIAN MANPOWER AND PERSON MANAGEMENT	55,571		55,571		55,571		55,571
7250	MILITARY MANPOWER AND PERSON MANAGEMENT	143,406		143,406		143,406		143,406
7300	OTHER PERSONNEL SUPPORT	386,950		446,950		386,950		386,950
	DEPOT CONVERSION		60,000					
7350	SERVICEWIDE COMMUNICATIONS	216,189		216,189		216,189		216,189
7400	BASE SUPPORT	291,873		291,873		291,873		291,873
7450	REPROGRAMMINGS/FUEL CREDIT							
	LOGISTICS OPERATIONS AND TECHNICAL SUPPORT							
7500	SERVICEWIDE TRANSPORTATION	142,315		142,315		142,315	(5,300)	137,015
7550	PLANNING, ENGINEERING AND DESIGN	243,258		243,258		243,258		243,258
7600	ACQUISITION AND PROGRAM MANAGEMENT	393,047		393,047		393,047		393,047
7650	AIR SYSTEMS SUPPORT	375,095		375,095		375,095		375,095
7700	HULL, MECHANICAL AND ELECTRICAL SUPPORT	54,079		54,079		54,079		54,079
7750	COMBAT/WEAPONS SYSTEMS	37,879		37,879		37,879		37,879
7800	SPACE AND ELECTRONIC WARFARE SYSTEMS	73,660		73,660		73,660		73,660
7850	BASE SUPPORT	131,959		131,959		131,959		131,959
	MWR/STARS & STRIPES		(3,000)	(3,000)			(3,000)	(3,000)
7900	REPROGRAMMINGS/FUEL CREDIT							
	SECURITY PROGRAMS							
7950	SECURITY PROGRAMS	508,727		496,727		503,827		508,727
	CLASSIFIED		(12,000)		(4,900)		(9,000)	(9,000)
8000	BASE SUPPORT	12,805		12,805		12,805		12,805
	SUPPORT OF OTHER NATIONS							
8100	INTERNATIONAL HEADQUARTERS AND AGENCIES	7,433		7,433		7,433		7,433
	TOTAL, BUDGET ACTIVITY 4:	3,474,786	45,000	3,519,786	(4,900)	3,469,886	(17,300)	3,457,486
	UNDISTRIBUTED							
	CONTRACTING & CONSULTING SERVICES		(84,000)	(84,000)			(42,000)	(42,000)
	CIVILIAN PERSONNEL UNDERSTRENGTH		(125,000)	(125,000)				
	MILITARY TO CIVILIAN CONVERSION		55,000	55,000				
	INFORMATION TECHNOLOGY		(138,743)	(138,743)			(30,000)	(30,000)
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(190,000)	(190,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(690,000)	(690,000)				
	UNOBLIGATED BALANCES		(80,000)	(80,000)			(55,000)	(55,000)
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	ARMS CONTROL COMPLIANCE COSTS				(3,000)		(3,000)	(3,000)
	REAL PROPERTY MAINTENANCE				50,000	50,000	25,000	25,000
	FEDERAL WORKFORCE RESTRUCT. ACT				11,800	11,800	11,800	11,800
	GSA FEES	(669)		(669)		(669)		(669)
	FOREIGN NATIONALS		(10,000)				(10,000)	(10,000)
	BASE OPERATIONS, OVERSEAS TRANSFERS		10,000				10,000	10,000
	STOCKPILE TRANSFER						(50,000)	(50,000)
	TRAVEL						(6,600)	(6,600)
	TOTAL, O&M, NAVY	21,226,570	(1,117,043)	20,109,527	149,900	21,376,470	(171,100)	21,055,470

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OPERATION AND MAINTENANCE, MARINE CORPS							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	EXPEDITIONARY FORCES							
8750	OPERATIONAL FORCES	296,897		296,897	62,000	358,897	50,000	346,897
8800	FIELD LOGISTICS	153,233		153,233		153,233		153,233
8850	DEPOT MAINTENANCE	114,749	50,000	164,749	55,000	169,749	50,000	164,749
8900	BASE SUPPORT	700,146		700,146		700,146		700,146
8950	REPROGRAMMINGS/FUEL CREDIT							
	USMC PREPOSITIONING							
9000	MARITIME PREPOSITIONING	70,866		70,866		70,866		70,866
9050	NORWAY PREPOSITIONING	7,868		7,868		7,868		7,868
9100	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	1,343,759	50,000	1,393,759	117,000	1,460,759	100,000	1,443,759
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
9250	RECRUIT TRAINING	6,265		6,265		6,265		6,265
9300	OFFICER ACQUISITION	258		258		258		258
9350	BASE SUPPORT	55,466		55,466		55,466		55,466
9400	REPROGRAMMINGS/FUEL CREDIT							
	BASIC SKILLS AND ADVANCED TRAINING							
9450	SPECIALIZED SKILLS TRAINING	19,486		43,486		19,486		19,486
	SKILL PROGRESSION TRAINING		19,000				12,000	12,000
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
9500	FLIGHT TRAINING	151		151		151		151
9550	PROFESSIONAL DEVELOPMENT EDUCATION	7,654		7,654		7,654		7,654
9600	TRAINING SUPPORT	53,022		53,022		53,022		53,022
9650	BASE SUPPORT	56,647		56,647		56,647		56,647
9700	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING AND OTHER TRAINING EDUCATION							
9750	RECRUITING AND ADVERTISING	54,608	4,100	58,708	6,600	61,208	6,600	61,208
9800	OFF-DUTY AND VOLUNTARY EDUCATION	11,080		11,080		11,080		11,080
9850	JUNIOR ROTC	7,491		7,491		7,491		7,491
9900	BASE SUPPORT	9,326		9,326		9,326		9,326
10000	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 3:	281,454	28,100	309,554	6,600	288,054	23,600	305,054

TITLE III — — OPERATION AND MAINTENANCE

[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill		Senate Bill		Conference	
			Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE SUPPORT							
10100	**LOGISTICS SUPPORT**	101,705		96,705		101,705		101,705
	INVENTORIES		(5,000)				(5,000)	(5,000)
10150	**SPECIAL SUPPORT**	121,415		121,415		121,415		121,415
10200	**SERVICEWIDE TRANSPORTATION**	35,447		35,447		35,447	(1,300)	34,147
10250	**ADMINISTRATION**	25,491		25,491		25,491		25,491
10300	**BASE SUPPORT**	9,124		14,724		9,124		9,124
	FAMILY SUPPORT PROGRAM		5,600				5,600	5,600
10350	**REPROGRAMMINGS/FUEL CREDIT**							
	CLASSIFIED PROGRAMS				4,700	4,700		
	TOTAL, BUDGET ACTIVITY 4:	293,182	600	293,782	4,700	297,882	(700)	292,482
	UNDISTRIBUTED							
	REAL PROPERTY MAINTENANCE				50,000	50,000	25,000	25,000
	TOTAL, O&M, MARINE CORPS	1,918,395	78,700	1,997,095	178,300	2,096,695	147,900	2,066,295

TITLE III -- OPERATION AND MAINTENANCE

[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OPERATION AND MAINTENANCE, AIR FORCE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
10850	PRIMARY COMBAT FORCES	2,697,173		2,697,173		2,697,173		2,697,173
10900	PRIMARY COMBAT WEAPONS	542,628		542,628		542,628		542,628
10950	COMBAT ENHANCEMENT FORCES	404,060		404,060		404,060		404,060
11000	AIR OPERATIONS TRAINING	567,551		717,551		567,551		567,551
	DEPOT MAINTENANCE		150,000		65,000	65,000	75,000	75,000
11050	COMBAT COMMUNICATIONS	844,372		844,372		844,372		844,372
11100	BASE SUPPORT	2,136,096		2,136,096		2,136,096		2,136,096
11110	REPROGRAMMINGS/FUEL CREDIT							
	COMBAT RELATED OPERATIONS							
11200	GLOBAL C3I AND EARLY WARNING	798,634		798,634		798,634		798,634
11250	NAVIGATION/WEATHER SUPPORT	138,501		138,501		138,501		138,501
11300	OTHER COMBAT OPS SUPPORT PROGRAMS	222,618		222,618		222,618		222,618
11350	JCS EXERCISES	29,265		29,265		29,265		29,265
11400	MANAGEMENT/OPERATIONAL HEADQUARTERS	106,417		106,417		106,417		106,417
11450	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	180,564		180,564		180,564		180,564
	BOMBER FORCE LEVELS				18,000	18,000	36,100	36,100
	SPACE OPERATIONS							
11550	LAUNCH FACILITIES	275,346		275,346		275,346		275,346
11600	LAUNCH VEHICLES	111,203		111,203		111,203		111,203
11650	SPACE CONTROL SYSTEMS	397,026		397,026		397,026		397,026
11700	SATELLITE SYSTEMS	37,146		37,146		37,146		37,146
11750	OTHER SPACE OPERATIONS	85,740		85,740		85,740		85,740
11800	BASE SUPPORT	348,385		348,385		348,385		348,385
	TOTAL, BUDGET ACTIVITY 1:	9,922,725	150,000	10,072,725	83,000	10,005,725	111,100	10,033,825
	BUDGET ACTIVITY 2: MOBILIZATION							
	MOBILITY OPERATIONS							
12000	AIRLIFT OPERATIONS	1,182,631		1,182,631		1,182,631		1,182,631
12050	AIRLIFT OPERATIONS C3I	15,783		15,783		15,783		15,783
12100	MOBILIZATION PREPAREDNESS	175,871		175,871		175,871		175,871
12150	PAYMENTS TO TRANSPORTATION BUSINESS AREA	1,364,200		1,364,200		1,364,200		1,364,200
12200	BASE SUPPORT	569,236		569,236		569,236		569,236
	TOTAL, BUDGET ACTIVITY 2:	3,307,721	0	3,307,721	0	3,307,721	0	3,307,721

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
	ACCESSION TRAINING							
12400	OFFICER ACQUISITION	46,561		46,561		46,561		46,561
12450	RECRUIT TRAINING	4,398		4,398		4,398		4,398
12500	RESERVE OFFICER TRAINING CORPS (ROTC)	37,529		37,529		37,529		37,529
12550	BASE SUPPORT (ACADEMIES ONLY)	90,478		90,478		90,478		90,478
	BASIC SKILLS AND ADVANCED TRAINING							
12650	SPECIALIZED SKILL TRAINING	200,365		205,365		200,365		200,365
	FRIENDLY FIRE/SAFETY TRAINING		5,000				5,000	5,000
12700	FLIGHT TRAINING	333,228		333,228		333,228		333,228
12750	PROFESSIONAL DEVELOPMENT EDUCATION	80,042		80,042		80,042		80,042
12800	TRAINING SUPPORT	68,293		68,293		68,293		68,293
12850	BASE SUPPORT (OTHER TRAINING)	529,177		529,177		529,177		529,177
12860	REPROGRAMMINGS/FUEL CREDIT							
	RECRUITING, AND OTHER TRAINING AND EDUCATION							
12950	RECRUITING AND ADVERTISING	41,885	900	42,785	1,100	42,985	1,100	42,985
13000	EXAMINING	3,435		3,435		3,435		3,435
13050	OFF DUTY AND VOLUNTARY EDUCATION	78,086		78,086		78,086		78,086
13100	CIVILIAN EDUCATION AND TRAINING	77,856		77,856		77,856		77,856
13150	JUNIOR ROTC	20,908		20,908		20,908		20,908
	TOTAL, BUDGET ACTIVITY 3:	1,612,241	5,900	1,618,141	1,100	1,613,341	6,100	1,618,341
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	LOGISTICS OPERATIONS							
13350	LOGISTICS OPERATIONS	884,155		869,155		884,155		884,155
	INVENTORIES		(15,000)				(45,000)	(45,000)
13400	TECHNICAL SUPPORT ACTIVITIES	349,512		349,512		349,512		349,512
13450	SERVICEWIDE TRANSPORTATION	246,084		246,084		246,084	(6,300)	239,784
13500	BASE SUPPORT	741,932		741,932		741,932		741,932
	MWR/STARS & STRIPES		(3,000)				(3,000)	(3,000)
	SERVICEWIDE ACTIVITIES							
13600	ADMINISTRATION	112,608		112,608		112,608		112,608
13650	SERVICEWIDE COMMUNICATIONS	357,116		357,116		357,116		357,116
13700	PERSONNEL PROGRAMS	75,366		75,366		75,366		75,366
13750	RESCUE AND RECOVERY SERVICES	32,446		32,446		32,446		32,446
13800	SUBSISTENCE-IN-KIND	53,717		53,717		53,717		53,717
13850	ARMS CONTROL	32,620		32,620		32,620		32,620
13900	OTHER SERVICEWIDE ACTIVITIES	684,814		684,814		684,814		684,814
13950	OTHER PERSONNEL SUPPORT	38,160		38,160		38,160		38,160

TITLE III — — OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
14000	CIVIL AIR PATROL CORPORATION	4,481	3,800	8,281	3,800	8,281	3,800	8,281
14050	BASE SUPPORT	159,432		159,432		159,432		159,432
14060	REPROGRAMMINGS/FUEL CREDIT							
	SECURITY PROGRAMS							
14150	SECURITY PROGRAMS	454,840		441,300		454,840		454,840
	CLASSIFIED		(13,540)		(28,500)	(28,500)	9,000	9,000
	SUPPORT TO OTHER NATIONS							
14250	INTERNATIONAL SUPPORT	7,071		7,071		7,071		7,071
	TOTAL, BUDGET ACTIVITY 4:	4,234,354	(27,740)	4,209,614	(24,700)	4,209,654	(41,500)	4,192,854
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH		(100,000)	(100,000)	(345,700)	(345,700)	(145,700)	(145,700)
	CONTRACTOR & CONSULTING SERVICES		(39,000)	(39,000)			(19,500)	(19,500)
	MILITARY TO CIVILIAN CONVERSION		50,000	50,000				
	INFORMATION TECHNOLOGY		(138,743)	(138,743)			(30,000)	(30,000)
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(75,000)	(75,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(84,000)	(84,000)				
	UNOBLIGATED BALANCES		(60,000)	(60,000)			(45,000)	(45,000)
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				
	ARMS CONTROL COMPLIANCE COSTS				(4,000)	(4,000)	(4,000)	(4,000)
	REAL PROPERTY MAINTENANCE				40,000	40,000	20,000	20,000
	FEDERAL WORKFORCE RESTRUCT. ACT				12,700	12,700	12,700	12,700
	GSA FEES	(418)		(418)		(418)		(418)
	FOREIGN NATIONALS		(70,000)	(70,000)			(70,000)	(70,000)
	RESIDUAL VALUE		(30,000)	(30,000)			(30,000)	(30,000)
	U.S. BASE OPERATIONS, OVERSEAS TRANSFERS		100,000	100,000			100,000	100,000
	STOCKPILE TRANSFER						(50,000)	(50,000)
	TRAVEL						(13,200)	(13,200)
	TOTAL, O&M, AIR FORCE	19,076,623	(343,583)	18,733,040	(237,600)	18,839,023	(239,000)	18,837,623

TITLE III — OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OPERATION AND MAINTENANCE, DEFENSE–WIDE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
14850	JOINT CHIEFS OF STAFF	400,752		400,752		400,752		400,752
14900	SPECIAL OPERATIONS COMMAND	996,943		1,005,943		996,943		996,943
	SOF LEASED AIRCRAFT		9,000					
	TOTAL, BUDGET ACTIVITY 1:	1,397,695	9,000	1,406,695	0	1,397,695	0	1,397,695
	BUDGET ACTIVITY 2: MOBILIZATION							
15050	DEFENSE LOGISTICS AGENCY	67,800		67,800		67,800		67,800
15100	OFFICE OF THE SECRETARY OF DEFENSE							
15150	WASHINGTON HEADQUARTERS SERVICES	46,311		46,311		46,311		46,311
	TOTAL, BUDGET ACTIVITY 2:	114,111	0	114,111	0	114,111	0	114,111
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING							
15250	DEFENSE ACQUISITION UNIVERSITY	111,624		111,624		111,624		111,624
15300	DEFENSE BUSINESS MANAGEMENT UNIVERSITY	3,947		3,947		3,947		3,947
	ENVIRONMENTAL EDUCATION PROGRAMS				8,000	8,000	8,000	8,000
	TOTAL, BUDGET ACTIVITY 3:	115,571	0	115,571	8,000	123,571	8,000	123,571
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
15450	AMERICAN FORCES INFORMATION SERVICE	83,183		95,183		83,183		83,183
	STARS & STRIPES		12,000				12,000	12,000
15550	CORPORATE INFORMATION MANAGEMENT	130,318		130,318		130,318		130,318
15600	CLASSIFIED AND INTELLIGENCE	3,176,380	(76,300)	3,100,136	(132,600)	3,043,780	(47,500)	3,128,880
	TELETRAINING (TNET)		56				56	56
15620	DEFENSE CIVILIAN PERSONNEL MANAGEMENT SERVICE	36,479		36,479		36,479		36,479
15650	DEFENSE CONTRACT AUDIT AGENCY	337,910	10,000	347,910		337,910	10,000	347,910
15670	DEFENSE HEALTH PROGRAM							
15750	DEFENSE INVESTIGATIVE SERVICE	196,169		196,169		196,169		196,169
15800	DEFENSE LOGISTICS AGENCY	1,233,209		1,233,209		1,233,209		1,233,209
15850	DEFENSE LEGAL SERVICES AGENCY	7,142		7,142		7,142		7,142
15900	DEFENSE MAPPING AGENCY	698,357	(5,000)	693,357		698,357		698,357
16000	DEFENSE NUCLEAR AGENCY	88,693		88,693		88,693		88,693
16020	DEFENSE POW/MIA OFFICE	13,581		13,581		13,581		13,581
16050	FEDERAL ENERGY MANAGEMENT PROGRAM	171,223		171,223		171,223		171,223
16100	DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,189,102		1,189,102		1,189,102		1,189,102

TITLE III — OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
16150	DEFENSE SUPPORT ACTIVITIES	63,109		73,109		63,109		63,109
	DOCUMENT STORAGE		10,000				10,000	10,000
16200	DEFENSE TECHNOLOGY SECURITY ADMINISTRATION	10,386		10,386		10,386		10,386
16250	JOINT CHIEFS OF STAFF	105,058		155,058		105,058		105,058
	MOBILITY INFRASTRUCTURE AND ENHANCEMENT FUND		50,000				50,000	50,000
16300	OFFICE OF ECONOMIC ADJUSTMENT	39,127	15,000	64,127		39,127	15,000	54,127
16350	OFFICE OF THE SECRETARY OF DEFENSE	376,243		401,243		376,243		376,243
	LANDMINE CLEARANCE		25,000					
16370	OFFICE OF THE SECRETARY OF DEFENSE (NO–YEAR)							
16400	ON SITE INSPECTION AGENCY	99,947		99,947	(7,000)	92,947	(7,000)	92,947
16500	WASHINGTON HEADQUARTERS SERVICES	540,122		540,122		540,122		540,122
16600	REPROGRAMMINGS							
	ASSIST LOCAL EDUCATION AGENCIES				58,000	58,000	58,000	58,000
	DNA ATOMIC HOTLINE				3,000	3,000	3,000	3,000
	TROOPS TO LAW ENFORCEMENT		10,000				10,000	10,000
	BILINGUAL EDUCATION						5,000	5,000
	TOTAL, BUDGET ACTIVITY 4:	8,595,738	50,756	8,646,494	(78,600)	8,517,138	118,556	8,714,294
	UNDISTRIBUTED							
	DEFENSE COMMISSARY AGENCY		40,000	40,000				
	SYSTEM TECHNOLOGY DEMONSTRATION		3,000	3,000				
	PERSONNEL TRANSITION DEMONSTRATION		3,000	3,000				
	CIVILIAN PERSONNEL UNDERSTRENGTH		(125,000)	(125,000)	(36,700)	(36,700)	(11,400)	(11,400)
	CONTRACTORS & CONSULTANTS		(71,000)	(71,000)			(35,500)	(35,500)
	INFORMATION TECHNOLOGY		(263,743)	(263,743)			(30,000)	(30,000)
	SEPARATION INCENTIVE DEFERMENT		(50,000)	(50,000)				
	DBOF ADJUSTMENT							
	CAPITAL ACCOUNTS		(155,000)	(155,000)			(40,000)	(40,000)
	PRIOR YEAR LOSSES		(141,000)	(141,000)				
	DIGITAL IMAGING		1,000	1,000			1,000	1,000
	SUPPLEMENTAL FOOD PROGRAM		5,000	5,000				
	ENVIRONMENTAL COMPLIANCE		(25,000)	(25,000)				
	DEFENSE LANGUAGE INSTITUTE TELETRAINING (TNET)		395	395			395	395
	AMERICAN NAT. RED CROSS				14,500	14,500	14,500	14,500
	FEDERAL WORKFORCE RESTRUCT. ACT				7,400	7,400	7,400	7,400
	USUHS				612	612	612	612
	NATIONAL DEFENSE STOCKPILE TRANSFER				(100,000)	(100,000)		
	COUNTERPROLIFERATION TRANSFER				(29,300)	(29,300)	(28,300)	(28,300)
	GSA FEES	(14,702)		(14,702)		(14,702)		(14,702)
	DBOF – CIVILIAN PERSONNEL UNDERSTRENGTH						(171,000)	(171,000)
	MSC RATE CHANGE						(8,900)	(8,900)
	TRAVEL						(2,200)	(2,200)
	TOTAL, O&M, DEFENSE–WIDE	10,208,413	(718,592)	9,489,821	(214,088)	9,994,325	(176,837)	10,031,576

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OPERATION AND MAINTENANCE, ARMY RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION OPERATIONS							
16900	BASE SUPPORT	306,084		306,084		306,084		306,084
16950	DEPOT MAINTENANCE	91,026		91,026		91,026		91,026
17000	RECRUITING AND RETENTION	33,200		33,200		33,200		33,200
17050	TRAINING OPERATIONS	706,475		707,788		706,475		706,475
	PROFESSIONAL MILITARY TRAINING		1,200				1,200	1,200
	TELETRAINING (TNET)		113				113	113
	TOTAL, BUDGET ACTIVITY 1:	1,136,785	1,313	1,138,098	0	1,136,785	1,313	1,138,098
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
17250	INFORMATION MANAGEMENT	25,338		25,338		25,338		25,338
17300	PUBLIC AFFAIRS	416		416		416		416
17350	PERSONNEL ADMINISTRATION	58,106		58,106		58,106		58,106
17400	STAFF MANAGEMENT	33,099		33,099		33,099		33,099
	TOTAL, BUDGET ACTIVITY 4:	116,959	0	116,959	0	116,959	0	116,959
	UNDISTRIBUTED							
	GSA FEES	(35)		(35)		(35)		(35)
	CIVILIAN PERSONNEL UNDERSTRENGTH						(16,200)	(16,200)
	TOTAL, O&M, ARMY RESERVE	1,253,709	1,313	1,255,022	0	1,253,709	(14,887)	1,238,822

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	OPERATION AND MAINTENANCE, NAVY RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	RESERVE AIR OPERATIONS							
17850	MISSION AND OTHER FLIGHT OPERATIONS	275,287		275,287		275,287		275,287
17900	FLEET AIR TRAINING							
17950	INTERMEDIATE MAINTENANCE	20,298		20,298		20,298		20,298
18000	AIR OPERATION AND SAFETY SUPPORT	1,681		1,681		1,681		1,681
18050	AIRCRAFT DEPOT MAINTENANCE	90,542		90,542		90,542		90,542
18100	AIRCRAFT DEPOT OPS SUPPORT	521		521		521		521
18150	BASE SUPPORT	134,281		134,281		134,281		134,281
18200	REPROGRAMMINGS/FUEL CREDIT							
	RESERVE SHIP OPERATIONS							
18250	MISSION AND OTHER SHIP OPERATIONS	45,948		45,948		45,948		45,948
18260	SHIP OPERATIONAL SUPPORT AND TRAINING	658		658		658		658
18300	INTERMEDIATE MAINTENANCE	18,675		18,675		18,675		18,675
18350	SHIP DEPOT MAINTENANCE	52,712		52,712		52,712		52,712
18360	SHIP DEPOT OPERATIONS SUPPORT	1,570		1,570		1,570		1,570
18400	REPROGRAMMINGS/FUEL CREDIT							
	RESERVE COMBAT OPERATIONS SUPPORT							
18450	COMBAT COMMUNICATIONS	648		648		648		648
18500	COMBAT SUPPORT FORCES	27,274		27,274		27,274		27,274
18550	BASE SUPPORT	57,836		57,836		57,836		57,836
	RESERVE WEAPONS SUPPORT							
18650	WEAPONS MAINTENANCE	10,572		10,572		10,572		10,572
	TOTAL, BUDGET ACTIVITY 1:	738,503	0	738,503	0	738,503	0	738,503
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
18850	ADMINISTRATION	8,014		8,014		8,014		8,014
18900	CIVILIAN MANPOWER AND PERSONNEL MANAGEMENT	2,995		2,995		2,995		2,995
18950	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	30,493		30,493		30,493		30,493
19000	OTHER PERSONNEL SUPPORT	2,725		2,725		2,725		2,725
19050	SERVICEWIDE COMMUNICATIONS	18,379		18,379		18,379		18,379
19100	BASE SUPPORT	23,748		23,748		23,748		23,748
19150	COMBAT/WEAPONS SYSTEMS	2,962		2,962		2,962		2,962
	CLASSIFIED PROGRAMS				500	500		

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	TOTAL, BUDGET ACTIVITY 4:	89,316	0	89,316	0	89,816	0	89,316
	TOTAL, O&M, NAVY RESERVE	827,819	0	827,819	500	828,319	0	827,819

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	OPERATION AND MAINTENANCE, MARINE CORPS RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION FORCES							
19550	TRAINING	12,301		12,301		12,301		12,301
19600	MATERIAL READINESS							
19610	OPERATING FORCES	21,401		21,401		21,401		21,401
19650	BASE SUPPORT	18,275		18,275		18,275		18,275
19700	DEPOT MAINTENANCE	2,812		2,812		2,812		2,812
19750	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	54,789	0	54,789	0	54,789	0	54,789
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
19900	RECRUITING AND ADVERTISING	7,388		7,388		7,388		7,388
19950	SPECIAL SUPPORT	6,462		6,462		6,462		6,462
20000	SERVICEWIDE TRANSPORTATION	4,936		4,936		4,936		4,936
20050	ADMINISTRATION	5,493		5,493		5,493		5,493
20100	BASE SUPPORT	2,394		2,394		2,394		2,394
	TOTAL, BUDGET ACTIVITY 4:	26,673	0	26,673	0	26,673	0	26,673
	TOTAL, O&M, MARINE CORPS RESERVE	81,462	0	81,462	0	81,462	0	81,462

TITLE III — OPERATION AND MAINTENANCE

[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill Change From Request	House Bill Authorization	Senate Bill Change From Request	Senate Bill Authorization	Conference Change From Request	Conference Authorization
	OPERATION AND MAINTENANCE, AIR FORCE RESERVE							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
20500	AIRCRAFT OPERATIONS	1,081,423		1,081,423		1,081,423		1,081,423
20550	MISSION SUPPORT OPERATIONS	40,666		40,666		40,666		40,666
20600	BASE SUPPORT	294,464		294,464		294,464		294,464
20650	DEPOT MAINTENANCE							
20700	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	1,416,553	0	1,416,553	0	1,416,553	0	1,416,553
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
20850	ADMINISTRATION	26,085		26,085		26,085		26,085
	TELETRAINING (TNET)		2,342				2,342	2,342
20900	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	22,070		22,070		22,070		22,070
20950	RECRUITING AND ADVERTISING	7,844		7,844		7,844		7,844
21000	OTHER PERSONNEL SUPPORT	5,762		5,762		5,762		5,762
21050	AUDIOVISUAL	676		676		676		676
21100	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 4:	62,437	2,342	62,437	0	62,437	2,342	64,779
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH						(16,000)	(16,000)
	TRAVEL						(400)	(400)
	TOTAL, O&M, AIR FORCE RESERVE	1,478,990	2,342	1,481,332	0	1,478,990	(14,058)	1,464,932

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

			House Bill		Senate Bill		Conference	
LINE ID	ACCOUNT	Amended FY 1995 Request	Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	MISSION OPERATIONS							
21450	TRAINING OPERATIONS	1,799,704		1,801,171		1,799,704		1,799,704
	TELETRAINING (TNET)		1,467				1,467	1,467
21500	RECRUITING AND RETENTION	19,316		19,316		19,316		19,316
21550	MEDICAL SUPPORT	23,070		23,070		23,070		23,070
21600	DEPOT MAINTENANCE	113,557		113,557		113,557		113,557
21650	BASE SUPPORT	298,661		298,661		298,661		298,661
21700	REPROGRAMMINGS/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	2,254,308	1,467	2,255,775	0	2,254,308	1,467	2,255,775
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES							
21850	INFORMATION MANAGEMENT	62,182		62,182		62,182		62,182
21900	PUBLIC AFFAIRS	1,717		1,717		1,717		1,717
21950	PERSONNEL ADMINISTRATION	84,197		84,197		84,197		84,197
22000	STAFF MANAGEMENT	44,744		44,744		44,744		44,744
	TOTAL, BUDGET ACTIVITY 4:	192,840	0	192,840	0	192,840	0	192,840
	UNDISTRIBUTED							
	NG PILOT MEDICAL PROGRAM				5,000	5,000	5,000	5,000
	CIVILIAN PERSONNEL UNDERSTRENGTH						(47,700)	(47,700)
	TRAVEL						(7,500)	(7,500)
	TOTAL, O&M, ARMY NATIONAL GUARD	2,447,148	1,467	2,448,615	5,000	2,452,148	(48,733)	2,398,415

TITLE III -- OPERATION AND MAINTENANCE

[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill: Change From Request	House Bill: Authorization	Senate Bill: Change From Request	Senate Bill: Authorization	Conference: Change From Request	Conference: Authorization
	OPERATION AND MAINTENANCE, AIR NATIONAL GUARD							
	BUDGET ACTIVITY 1: OPERATING FORCES							
	AIR OPERATIONS							
22400	AIRCRAFT OPERATIONS	2,072,651		2,072,651		2,072,651		2,072,651
22450	MISSION SUPPORT OPERATIONS	352,283		352,283		352,283		352,283
22500	BASE SUPPORT.	324,292		324,292		324,292		324,292
22550	DEPOT MAINTENANCE	22,781		22,781		22,781		22,781
22600	REPROGRAMMING/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 1:	2,772,007	0	2,772,007	0	2,772,007	0	2,772,007
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES							
	SERVICEWIDE ACTIVITIES							
22750	ADMINISTRATION	3,338		3,338		3,338		3,338
22800	RECRUITING AND ADVERTISING	4,833		4,833		4,833		4,833
22850	REPROGRAMMING/FUEL CREDIT							
	TOTAL, BUDGET ACTIVITY 4:	8,171	0	8,171	0	8,171	0	8,171
	UNDISTRIBUTED							
	CIVILIAN PERSONNEL UNDERSTRENGTH						(8,000)	(8,000)
	TRAVEL						(500)	(500)
	TOTAL, O&M, AIR NATIONAL GUARD	2,780,178	0	2,780,178	0	2,780,178	(8,500)	2,771,678

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

LINE ID	ACCOUNT	Amended FY 1995 Request	House Bill		Senate Bill		Conference	
			Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
	OTHER O&M ACTIVITIES [$ in thousands]							
30000	Rifle Practice, Army	2,544		2,544		2,544		2,544
30050	Inspector General	128,098	20,000	148,098		140,798		140,798
	DOD IG Staffing				12,700		12,700	
	GSA Fees	(74)						
	Procurement	1,000						
30100	U.S. Court of Military Appeals	6,126		6,126		6,126		6,126
	GSA Fees	(26)						
30150	Summer Olympics		4,000	4,000	10,000	10,000	10,000	10,000
30400	Environmental Restoration	2,180,200		2,180,200		2,180,200	(150,000)	2,030,200
30450	Drug Interdiction	714,200		714,200		714,200		714,200
30500	Defense Health Program, O&M	9,922,059		9,922,059		9,854,459		9,854,459
	Civilian Personnel Understrength				(67,600)		(67,600)	
	GSA Fees	(161)						
	Procurement	308,889						
	Overseas Humanitarian, Disaster & Civic Aid	71,900	(11,900)	60,000		71,900	14,100	86,000
	Cooperative Threat Reduction	400,000		400,000		400,000		400,000
30650	Contingency for International Peacekeeping	300,000		300,000		300,000	(300,000)	0
	DOD 50th Anniversary of WWII	0	500	500				
	Special Olympics	0	2,000	2,000	3,000	3,000	3,000	3,000
	Project Peace	0	15,000	15,000			15,000	15,000

TITLE III -- OPERATION AND MAINTENANCE
[dollars in thousands]

ACCOUNT	Amended FY 1995 Request	House Bill		Senate Bill		Conference	
		Change From Request	Authorization	Change From Request	Authorization	Change From Request	Authorization
REVOLVING AND MANAGEMENT FUNDS [$ in thousands]							
DEFENSE BUSINESS OPERATIONS FUND	1,169,038	43,000	1,212,038	(379,600)	789,438	70,400	1,239,438
NATIONAL DEFENSE SEALIFT FUND	608,600	(608,600)	0	220,000	828,600	220,000	828,600
TOTAL	1,777,638	(565,600)	1,212,038	(159,600)	1,618,038	290,400	2,068,038

ITEMS OF SPECIAL INTEREST

Army National Guard Hawk battalions

The conferees are concerned that the Army has not budgeted sufficient resources to provide the full range of support required for Army National Guard Hawk battalions in fiscal year 1995. The confereees direct the ctive Army and the National Guard Bureau to ensure that these Hawk battalions receive the resources required to maintain their readiness at a level consistent with their mission requirement.

Industrial base for operational rations

The conferees agree to authorize $2.0 million for the defense conversion grant program in support of the operational rations industry. These funds are intended to assist manufacturers of meals ready to eat (MREs) in developing a broader commercial base to offset projected lower levels of MRE purchases by the federal government while maintaining wartime surge capacity, and not for facility relocation.

Mobility infrastructure enhancement

The conferees believe that there is considerable opportunity to improve deployment capability and enhance mobility through investment in en-route infrastructure, including runway ramp space, preservation of en-route base availability, and ammunition loading. The conferees agree to add $50.0 million in this area. This funding is authorized in the operation and maintenance, defense-wide activities account for application to high priority projects with the potential for multiple mobility improvements. The Secretary of Defense is requested to report on the expenditure of these funds to the congressional defense committees prior to their allocation and should seek the view of the Commander in Chief, U.S. Transportation Command, in determining the application of these resources. Further, funding should be made available, if necessary, from this amount to conduct a mobilization exercise to integrate mobilization into the joint commands' exercise scenarios.

Recovery of excess transient lodging service charges

The House report (H. Rept. 103-499) directed the Army to transfer $65.0 million from installation morale, welfare, and recreation funds to Army operation and maintenance accounts for the purpose of performing repair and maintenance on barracks.

The Senate report (S. Rept. 103-499) contained no similar direction.

The conferees agree that the transfer of funding is not necessary because the Department of Defense has implemented specific regulations prohibiting the use of appropriated funds provided for temporary duty or permanent change of station travel to directly or indirectly generate non-appropriated levels. These regulations were issued in response to congressional directives following a series of GAO audits in 1990 which revealed practices of over-charging and inefficient use of on-base lodging.

Additionally, the conferees direct that non-appropriated fund loans between branches of the armed services be terminated by December 31, 1994.

With regard to base closures, the conferees direct the Department of Defense to submit a report to the Committee on Armed Services of the Senate and the House of Representatives on the potential and actual amount of proceeds accruing to non-appropriated fund activities as a result of residual value negotiations in Europe not later than March 31, 1995. Further, the conferees direct the Department of Defense to develop a consistent policy for the disposition of cash and other non-appropriated fund assets as the result of base closures. This policy should be submitted to the Committees on Armed Services not later than December 31, 1994.

DOD tactical intelligence programs

The Senate bill would authorize additional funding in the defense agencies, operation and maintenance (O&M) account for the following programs:

(1) reserves augmentation—$5.0 million;

(2) joint targeting support—$7.0 million; and

(3) intelligence communications architecture project—$2.5 million.

In addition, the Senate bill would shift $1.0 million in defense agencies, O&M funding for the automated message handling system, and $2.4 million in defense agencies, O&M funding for Air Combat Command automatic data processing, from the general defense intelligence program to the tactical intelligence and related activities aggregation.

The House amendment took no similar actions.

The House recedes.

The Senate bill also recommended a reduction of $18.0 million to the requested amount for O&M for the north warning system.

The House amendment would authorize the requested amount.

The conferees agree to reduce the requested amount by $5.0 million.

Information systems security

The budget request contained $19.0 million for the Center for Information Systems Security (CISS) within the Defense Information Systems Agency (DISA). The budget request also contained $693.5 million, an 11 percent decrease from the fiscal year 1994 level, for the information systems security program (ISSP) administered by the National Security Agency.

The Senate bill would authorize the requested amounts.

The House amendment would authorize an additional $4.0 million for the ISSP to be split between the ISSP and the CISS for secure architecture planning and implementation. The additional funds would be offset by a reduction in the DOD foreign counterintelligence program, in accordance with the priorities outlined in the Joint Security Commission report.

The conferees agree to the funding recommendations in the House amendment. The Senate report (S. Rept. 103-282) raised a number of fundamental issues regarding DOD funding and management of information systems security. The conferees endorse the views and direction expressed in the Senate report and in the classified annex to the House report (H. Rept. 103-541, Part 1) on H.R. 4299, the Intelligence Authorization Act for Fiscal Year 1995.

In addition, the conferees note that the CISS at DISA, in conjunction with the National Security Agency, has developed a security architecture that would begin to address the problems identified in the Senate report. However, there is no implementation plan for funding, procuring, and fielding the required network enhancements. Developing this plan will be complicated by the fact that security improvements must be integrated with the fielding of the defense message system and the evolution of the digital switched network (DISN). The conferees direct the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)) to prepare such an implementation plan and submit it to the congressional defense and intelligence committees by March 15, 1995.

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Funds for depot-level maintenance and repair work (sec. 304)

The House amendment contained a provision (sec. 304) that would add $600.0 million to the requested amount for the performance of depot-level maintenance and repair work in government facilities. This provision would also limit to 40 percent the amount available for the performance of depot-level maintenance and repair work by non-federal government employees.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree to authorize $305.0 million above the requested amount for depot-level maintenance and repair.

Support for 1996 Summer Olympics (sec. 305)

The Senate bill would authorize $10.0 million for Department of Defense support to the 1996 Summer Olympics in fiscal year 1995.

The House amendment contained a provision (sec. 305) that would authorize the Secretary of Defense to provide logistical support and personnel services in connection with the 1996 games of the XXVI Olympiad to be held in Atlanta, Georgia. The House provision would also authorize $4.0 million for Department of Defense support to the 1996 Summer Olympics in fiscal year 1995.

The Senate recedes with an amendment. The conferees agree to authorize $10.0 million for Department of Defense support to the 1996 Summer Olympics in fiscal year 1995.

Support for the 1995 Special Olympics World Games (sec. 306)

The Senate bill contained a provision (sec. 306) that would authorize the Secretary of Defense to provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in New Haven, Connecticut. The provision would authorize $3.0 million for DOD support for these Games in fiscal year 1995.

The House amendment contained a similar provision (sec. 307) that would authorize $2.0 million for DOD support for the 1995 Special Olympics World Games in fiscal year 1995.

The House recedes.

Subtitle B—Defense Business Operations Fund

Defense Business Operations Fund

The Senate bill and the House amendment contained a number of provisions related to the operation of the Defense Business Operations Fund (DBOF) which are described in the following sections.

The transfer of funds to and from the DBOF must be carried out in accordance with normal reprogramming procedures, unless otherwise directed by Congress. For fiscal year 1995, the reductions for civilian personnel understrength and for the DBOF capital asset subaccount that affect the DBOF cash balance have been made to the operation and maintenance accounts. These reductions should be offset by transfers from the DBOF.

The conferees are pleased that the process of advance billing for DBOF work can be eliminated in fiscal year 1995 under current plans. The conferees direct the Secretary of Defense to notify the congressional defense committees prior to reinstituting a policy of routine advance billing.

The annual DBOF budget justification material should clearly identify the surcharges added to the cost of goods and services in each of the DBOF business areas. In addition, this justification material should continue to highlight and explain the reasons for operating losses in the DBOF business areas. The DOD components managing the DBOF business areas must be held accountable for the operating results in these areas.

The conferees endorse the requirement in the Senate report (S. Rept. 103-282) for DOD to review its current policy of recovering all operating losses through the DBOF rate structure and report the results of this review to the congressional defense committees in its February 1, 1995 report on the implementation of the DBOF improvement plan.

Oversight of Defense Business Operations Fund (sec. 311)

The Senate bill contained two provisions (secs. 311 and 312) concerning the management of the Defense Business Operations Fund (DBOF). Section 311 would make permanent the authority of the Secretary of Defense to manage the working capital funds and industrial, commercial, and support activities of the Department of Defense through the DBOF. Section 312 would require the Secretary of Defense to submit to the congressional defense committees a progress report on the implementation of the DBOF improvement plan by February 1, 1995. This section would also require the Comptroller General to report to Congress on the Defense Department's implementation of the DBOF improvement plan by March 1, 1995.

The House amendment contained a provision (sec. 341) that would extend the authority to operate the DBOF and make other changes affecting the transfer, billing, use, and accumulation of funds.

The Senate recedes with an amendment that would make permanent the authority of the Secretary of Defense to operate the DBOF; authorize the purchase of goods and services from a source other than the DBOF; limit the inclusion of certain costs in DBOF charges; establish procedures for the accumulation of funds in the DBOF; require an annual report from the Secretary of Defense on the DBOF; and require a report from the Secretary of Defense and the Comptroller General on the DBOF improvement plan.

Review by Comptroller General of charges imposed by Defense Business Operations Fund (sec. 312)

The House amendment contained a provision (sec. 342) that would require the Comptroller General to review the charges for goods and services imposed by the Defense Business Operations Fund.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment that would limit the review to charges for goods and services imposed by the DBOF in fiscal year 1996.

Limitation on obligations against the capital asset fund (sec. 313)

The Senate bill contained a provision (sec. 313) that would set a cap of $1.5 billion, which is $100.0 million below the requested amount, on obligations from the capital asset subaccount of the DBOF during fiscal year 1995.

The House amendment contained no similar provision.

The House recedes with an amendment that would set a cap of $1.44 billion on obligations from the capital asset fund subaccount of the DBOF during fiscal year 1995.

Limitation on obligations against the supply management divisions (sec. 314)

The Senate bill contained a provision (sec. 314) that would prohibit the Secretary of Defense from incurring obligations against the Defense Business Operations Fund during fiscal year 1995, except for obligations for fuel, subsistence and commissary items, retail operations, repair of equipment, and the cost of operations, in excess of 65 percent of sales from the DBOF during the fiscal year; would allow the Secretary of Defense, or his designee, to waive this 65 percent limitation cap if the Secretary determines that such action is necessary to maintain the readiness and combat effectiveness of the military services; and would require the service secretaries and the Director of the Defense Logistics Agency to report to the Secretary of Defense on the effect of this limitation on their ability to maintain the readiness and combat effectiveness of the armed forces not later than 60 days after enactment of this act.

The House amendment contained no similar provision.

The House recedes.

Subtitle C—Environmental Provisions

Limitation on use of environmental restoration funds for payment of fines and penalties (sec. 321)

The Senate bill contained a provision (sec. 322) that would prohibit the use of funds appropriated to the defense environmental restoration account (DERA) to pay fines and penalties unless the activity for which the fine was assessed was funded by the DERA.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the prohibition through 1999.

Participation of Indian tribes in agreements for defense environmental restoration (sec. 322)

The Senate bill contained a provision (sec. 323) that would amend section 2701(d) of title 10, United States Code, to allow DOD to enter into environmental agreements with federally-recognized Indian tribes.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Extension of authority to issue surety bonds for certain environmental programs (sec. 323)

The Senate bill contained a provision (sec. 324) that would extend the Defense Department's authority to issue surety bonds for DOD contractors conducting environmental restoration activities from December 31, 1995 to December 31, 1999.

The House amendment contained no similar provision.

The House recedes.

Payment of certain stipulated civil penalties (sec. 324)

The Senate bill contained a provision (sec. 358) that would authorize the Secretary of Defense to pay a $500,000 fine to the hazardous substance superfund.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the provision arises out of a violation of an agreement entered into pursuant to the Comprehensive Environmental Response Compensation and Liability Act at the West Virginia Ordnance Works.

Additional exception to prohibition on storage and disposal of nondefense toxic and hazardous materials at military installations (sec. 325)

The House amendment contained a provision (sec. 2858) that would amend section 2692(b) of title 10, United States Code, to allow the treatment and disposal of hazardous material not owned by the Department of Defense, but generated on a military installation, if the treatment and disposal of such property was based on an agreement containing mutually agreeable terms.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the agreement to provide that the generator of the hazardous material would continue to be responsible for the environmental and financial consequences of the treatment and disposal of the material.

Assistance for public participation in defense environmental restoration activities (sec. 326)

The Senate bill contained a provision (sec. 2849) that would authorize the Secretary of Defense to establish restoration advisory boards to assist DOD with environmental restoration activities at military bases and to provide funding for local community members of such boards and existing technical review committees.

The House amendment contained a similar provision (sec. 1055).

The House recedes with an amendment that would allow the Secretary of Defense to provide funding for the local community members of the boards established for installations that are listed on the National Priorities List, using the authority provided by section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). In addition, the amendment would clarify the duties and responsibilities of the boards.

The conferees note that the CERCLA is currently before both Houses of Congress for reauthorization. One of the provisions in the bills under consideration would create community working groups for facilities that are listed on the NPL. The conferees do not believe that more than one advisory board, community group (if eventually established by law), or technical review committee (if eventually established by law), or technical review committee should be at an NPL site. Therefore, the conferees believe that the boards and committees created for the Department of Defense NPL sites prior to the reauthorization of the CERCLA should be transitioned to the community working groups that the conferees anticipate will be included in the reauthorized CERCLA.

Pilot program to develop and demonstrate environmental remediation technologies (sec. 327)

The House amendment contained a provision (sec. 1153) that would authorize $4.0 million for the Secretary of Defense to enter into a cooperative agreement with an institution of higher education to facilitate the development and demonstration of new technologies for environmental restoration.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide $1.0 million for the project.

Environmental education and training for defense personnel (sec. 328)

The House amendment contained a provision (sec. 2852) that would direct the Secretary of Defense to establish and conduct an enviromental education and training program for members of the military services and civilian employees of the Department of Defense. The provision would also direct the Secretary to establish training centers.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would allow the Secretary to identify military facilities with existing environmental training expertise or the ability to develop such expertise. The provision would direct the Secretary to encourage the use of these facilities for training.

Study of establishment of land management and training center at Fort Riley, Kansas (sec. 329)

The Senate bill contained a provision (sec. 360) that would direct the Secretary of the Army to study the feasibility of establishing a center for Department of Defense land management activities at Fort Riley, Kansas.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of the Army to study whether to establish a center for land management and training activities of the Department of Defense and to report on the results of the study by May 1, 1996. If the Secretary determines that establishment of such a center is feasible and advisable, the report shall identify suitable sites and activities for the center.

Subtitle D—Depot Level-Activities

Findings (sec. 331)

The House amendment contained a provision (sec. 321) that would express certain findings concerning depot-level maintenance and repair activities of the Department of Defense.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would modify the findings to emphasize the important role that depot-level activities of the Department of Defense play in meeting the readiness, mobilization, and deployment requirements of the military services.

Modification of limitation on performance of depot-level maintenance (sec. 332)

The House amendment contained a provision (sec. 322) that would revise the current percentage definition codified in section 2466 of title 10, United States Code, for depot-level maintenance and repair workloads that may be performed by non-federal government personnel to not more than 40 percent of the funds made available in a fiscal year to a military department or a defense agency for depot-level maintenance and repair. The House provision would also require that in computing the percentage of funds that are used to contract for depot-level maintenance and repair workload, DOD should include the costs of interim contractor support; contractor logistic support; maintenance and repair workload above the unit level; and the provision of materials and parts.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The conferees agree not to require the inclusion of the costs of maintenance and repair workload above the unit level and the provision of materials and parts in computing the percentage of funds that are used to contract for depot-level maintenance and repair.

Report on performance of depot-level maintenance and repair of new weapons systems (sec. 333)

The House amendment contained a provision (sec. 323) that would require that, within five years after the initial delivery of a weapon system to the Department of Defense, not less than 60 percent of the depot-level maintenance of the weapon system must be performed by employees of the Department of Defense.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to submit a report to Congress by April 1, 1995 that contains the plans of each military department to provide for the depot-level maintenance and repair of any new weapon system by depot-level activities of the Department of Defense.

Review of cost growth in contracts to perform depot-level maintenance and repair (sec. 334)

The House amendment contained a provision (sec. 324) that would require the Secretary of Defense to audit each contract entered into for the performance of depot-level maintenance and repair in order to monitor the costs incurred by the contractor.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to review a representative sample of contracts for the performance of depot-level maintenance and repair to determine the extent to which the costs incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

Authority for depot-level activities of the Department of Defense to compete for maintenance and repair workloads of other Federal agencies (sec. 335)

The House amendment contained a provision (sec. 326) that would allow the Department of Defense depot-level activities to compete for the depot-level maintenance and repair workload of other Federal agencies.

The Senate bill contained no similar provision.

The Senate recedes.

Authority of depots to provide services outside of the Department of Defense (sec. 336)

The House amendment contained a provision (sec. 327) that would authorize the secretary of a military department to lease excess depot-level facilities and equipment on a reimbursable and non-interference basis.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Reutilization initiative for depot-level activities (sec. 337)

The House amendment contained a provision (sec. 329) that would authorize a pilot program to encourage commercial firms to enter into partnerships with depot-level activities of the military departments.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of Defense to conduct activities to encourage commercial firms to enter into partnerships with depot-level activities of the military departments.

Change of source for performance of depot-level workloads (sec. 338)

The Senate bill contained a provision (sec. 341) that would require the Secretary of Defense to ensure that any depot-level maintenance workload performed by a depot-level activity of the Department of Defense with a value of $3.0 million or greater is not changed to performance by a contractor or by another DOD depot-level maintenance activity unless the change is made using merit-based selection procedures based upon competition among all DOD depot-level maintenance activities, or competitive procedures, including competition among private and public sector entities.

The House amendment contained no similar provision.

The House recedes. The conferees agree that the merit-based selection procedures required by this section for transferring workload between DOD depots should not affect the orderly transfer of workload as a result of base closure decisions.

Sale of articles and services of industrial facilities of the armed forces to persons outside Department of Defense (sec. 339)

The Senate bill contained a provision (sec. 359) that would authorize the Secretary of Defense to designate up to three DOD industrial facilities to sell articles and services to persons outside DOD if the Secretary determines that the articles or services are not available from a commercial source in the United States.

The House amendment contained a similar provision (sec. 1057) that would authorize DOD industrial facilities to sell articles and services outside DOD without regard to the availability of the goods or services from a commercial source. The House provision would also condition the exercise of the authority granted in the provision on a certification that a cost accounting system had been developed to track the financial activities related to any commercial business undertaken by these facilities. It would also delay the effective date of the authorities granted in the provision to June 1, 1995.

The House recedes with an amendment that would authorize the Secretary of Defense to designate any DOD industrial facility to participate in this program, and would make the authority under the provision effective April 1, 1995.

The conferees note the concerns expressed in both the House and Senate reports (H. Rept. 103–499 and S. Rept. 103–282) over the Defense Department's weak financial management operations. The conferees expect the Secretary of Defense to ensure that DOD industrial facilities have the cost accounting systems needed to keep track of the costs associated with making sales of articles and services under this section, and that expenditures made and revenues generated in such sales are not intermingled with funds authorized and appropriated for the military mission of the industrial facilities.

Subtitle E—Civilian Employees

Extension of certain transition assistance authorities (sec. 341)

The Senate bill contained a provision (sec. 331) that would extend certain personnel drawdown authorities (special reduction-in-force notification rules, separation pay, and continued health benefits). This provision would extend the annual leave carry-over provisions to employees at any installation closed through the base realignment and closure process.

The House amendment contained no similar provision.

The House recedes.

Extension and expansion of authority to conduct personnel demonstration projects (sec. 342)

The Senate bill contained a provision (sec. 332) that would make permanent the authority of the Secretary of the Navy to continue the personnel demonstration project at the Naval Air Warfare Center Weapons Division, China Lake, California, and at the Naval Command, Control, and Ocean Center, San

Diego, California. Additionally, this provision would authorize the Secretary of Defense, with the approval of the Office of Personnel Management, to conduct similar, though not necessarily identical, demonstration projects at other Department of Defense science and technology reinvention laboratories.

The House amendment contained no similar provision.

The House recedes with an amendment that would make technical changes and require the approval of the Office of Personnel Management for new demonstration projects.

The conferees recognize the success of the demonstration projects at the Naval Air Warfare Center Weapons Division and at the Naval Command, Control, and Ocean Center, and believe that innovative application of the lessons learned from these projects at other Department of Defense science and technology reinvention laboratories can provide the managerial flexibility in compensation, performance evaluation, and other matters necessary during the drawdown period.

The conferees recognize that no single project can fit all laboratories and encourage the Department of Defense and the Office of Personnel Management to work together in developing demonstration projects tailored to the needs of the individual laboratories.

Limitation on payment of severance pay to certain employees transferring to employment positions in nonappropriated fund instrumentalities (sec. 343)

The Senate bill contained a provision (sec. 333) that would preclude appropriated fund employees from immediately receiving severance pay upon movement to non-appropriated fund positions under the pay and benefits protections of the Portability of Benefits for Non-appropriated Fund Employees Act of 1990.

The House amendment contained no similar provision.

The House recedes.

Retirement credit for certain service in nonappropriated fund instrumentalities before January 1, 1987 (sec. 344)

The Senate bill contained a provision (sec. 334) that would require a study of portability of retirement credit for certain former nonappropriated fund employees not covered by previous portability legislation.

The House amendment contained no similar provision.

The House recedes with an amendment that would request the Defense Department to consult with the Office of Personnel Management on the study. Further, the conferees agree that the Department of Defense has not made a good faith effort to rectify an inequity largely caused by the Department's past personnel policies. The conferees look forward to working closely with the Department in the next fiscal year to resolve this complex issue.

Travel, transportation and relocation expenses of employees transferred from the Department of Defense to the Postal Service (sec. 345)

The Senate bill contained a provision (sec. 335) that would authorize the Department of Defense to pay the cost of travel, transportation, and relocation for employees scheduled for separation when the employee is selected for a position with the Postal Service.

The House amendment contained no similar provision.

The House recedes.

Foreign employees covered under the Foreign National Employees Separation Pay Account (sec. 346)

The Senate bill contained a provision (sec. 336) that would amend section 1581 of title 10, United States Code, to include foreign employees who are employed by a foreign nation for the benefit of the Department of Defense in the category of employees who would be authorized separation pay.

The House amendment contained no similar provision.

The House recedes.

Report on conversion of certain positions to performance by Department of Defense employees (sec. 347)

The House amendment contained a provision (sec. 373) that would require the Secretary of Defense to convert 10,000 military positions to federal civilian employee positions each year during fiscal years 1995, 1996, and 1997.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to (1) submit a report to the Committees on Armed Services of the Senate and House of Representatives on the Secretary's efforts to identify positions to which continued assignment of military personnel is no longer justified under current circumstances; and (2) assign DOD employees to replace military personnel in those positions.

Non-federal employment incentive pilot program (sec. 348)

The House amendment contained a provision (sec. 375) that would authorize the Secretary of Defense to establish a program to offer incentives to encourage non-federal employers to hire and retrain employees at military installations scheduled for closure or realignment.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Uniform health benefit programs for employees of the Department of Defense assigned to nonappropriated fund instrumentalities (sec. 349)

The House amendment contained a provision (sec. 376) that would provide for a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

The Senate bill contained no similar provision.

The Senate recedes.

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

Reauthorization of Department of Defense domestic elementary and secondary schools for dependents (sec. 351)

The Senate bill contained a provision (sec. 346) that would authorize continued operation of Department of Defense elementary and secondary schools within the United States, including territories, commonwealths, and possessions of the United States, when local education agencies are unable to provide appropriate education programs.

The House amendment contained a similar provision (sec. 351).

The House recedes with a clarifying amendment. The conferees agree that school boards for DOD elementary and secondary schools established under this section may participate in the development and oversight of fiscal, personnel, and education policies, procedures, and programs for the schools, except that the Secretary of Defense may issue any directive that the Secretary considers necessary for the effective operation of the school or the entire school system. The conference agreement would also require the Secretary to establish a process by which school boards may appeal such directives to the Secretary.

The conferees are concerned that subsection (c) of this conference agreement be cautiously implemented within Puerto Rico. The conferees recognize that continued eligibility for dependents of federal employees from agencies other than the Department of Defense to attend the Antilles Consolidated School System is necessary for the smooth operation of federal government activities in Puerto Rico. During initial implementation, the conferees expect the Department to consider the importance of program continuity when evaluating the educational needs of the children and to reach agreements with parents on the need for continued attendance of those students already enrolled.

Report on calculation and recovery of tuition costs of certain students enrolled in schools of the defense dependents' education system (sec. 352)

The House amendment contained a provision (sec. 353) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives and the Committee on Education and Labor of the House of Representatives not later than March 31, 1995 on the calculation and application of the tuition rate for schools in the defense dependents' education system.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to accept gifts for Department of Defense domestic elementary and secondary schools (sec. 353)

The House amendment contained a provision (sec. 354) that would provide that the authority of the Secretary of Defense to accept gifts for the defense dependents' education system under section 2605 of title 10, United States Code, includes gifts for DOD domestic elementary and secondary schools.

The Senate bill contained no similar provision.

The Senate recedes.

Assistance to local educational agencies that benefit dependents of members of the armed forces and Department of Defense civilian employees (sec. 354)

The Senate bill contained a provision (sec. 347) that would authorize a total of $58.0 million for payments to local school districts heavily impacted by DOD dependents in accordance with the authority contained in section 386 of the National Defense Authorization Act for Fiscal Year 1993.

The House amendment contained no similar provision.

The House recedes.

The conferees remain committed to quality education programs for military dependents and strongly support impact aid payments to school districts with large military-connected student populations. The conferees believe that the Department of Education should continue to manage the impact aid program, and that it should continue to make payments using funds appropriated for that purpose.

The conferees would like to stress that the authorization funds in this provision is the result of the unique problems resulting from the turbulence of the drawdown and the realignment of military forces. The conferees expect that such payments will be authorized only as necessary during the drawdown period.

Subtitle G—Reviews, Studies and Reports

Reports on transfers of certain operation and maintenance funds (sec. 361)

The House amendment contained a provision (sec. 311) that would prohibit the Secretary of Defense from transferring any amounts in excess of $20.0 million authorized and appropriated for operation and maintenance (O&M) operating forces accounts until after the Secretary submits a notification to Congress. The provision would also require a semiannual report on transfers of funds between and within certain O&M accounts.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would establish reporting requirements for fiscal years 1995, 1996 and 1997 on transfers of funds to and from certain readiness-related activities within the O&M accounts of the military services.

Review and report on use of operation and maintenance funds by the Department of Defense (sec. 362)

The House amendment contained a provision (sec. 368) that would require the Secretary of Defense to review DOD accounts to determine the extent to which funds appropriated for operation and maintenance are used for the activity for which the funds had been appropriated.

The Senate bill contained no similar provision.

The Senate recedes.

Cost comparison studies for contracts for advisory and assistance services (sec. 363)

The Senate bill contained a provision (sec. 363) that would require that, before the Secretary of Defense enters into a contract for advisory and assistance services with a value in excess of $100,000, the Secretary shall determine whether DOD personnel can perform the services proposed to be covered by the contract. If the Secretary determines that such personnel have that capability, the Secretary shall conduct a study comparing the cost of performing the services with DOD and contractor personnel.

The House amendment contained a similar provision (sec. 372).

The House recedes.

Review by Defense Inspector General of cost growth in certain contracts (sec. 364)

The Senate bill contained a provision (sec. 362) that would require the Department of Defense Inspector General to review a representative sample of contracts for the performance of commercial activities which resulted from a cost comparison study conducted under OMB Circular A-76.

The House amendment contained a similar provision (sec. 371) that would require the DOD IG to review not less than 20 percent of such contracts each year.

The House recedes.

SUBTITLE H—OTHER MATTERS

Armed Forces Retirement Home (sec. 371)

The Senate bill contained a provision (sec. 343) that would authorize the Secretary of Defense annually to increase the monthly assessment on active duty enlisted members and warrant officers to support the Armed Forces Retirement Home by fifty cents, up to a total of not more than two dollars per month. This section would also authorize the Armed Forces Retirement Home Board to increase the fee structure for residents of the Home, and direct the Board to identify and evaluate alternatives for modernization of the facilities of the United States Soldiers' and Airmen's Home.

The House amendment contained a provision (sec. 361) that would increase the fees paid by residents of the Armed Forces Retirement Home.

The House recedes with an amendment that would authorize the Secretary of Defense to increase the monthly assessment from fifty cents to one dollar per month. The conferees urge the Secretary and the Armed Forces Retirement Home Board to consider alternative methods of meeting the financial needs of the Armed Forces Retirement Home. The conferees direct the Secretary of Defense to seek the views of the senior enlisted member of each military service prior to December 1, 1994 on the effect of any increase in the current assessment, and report these views to the congressional defense committees.

The conferees strongly endorse the need for the report to identify and evaluate all alternatives for modernization of the facilities of the United States Soldiers' and Airmen's Home.

Limitation on use of appropriated funds for operation of Armed Forces Recreation Center, Europe (sec. 372)

The House amendment contained a provision (sec. 313) that would prohibit the use of appropriated funds to operate the Armed Forces Recreation Center, Europe except for payment of utilities, emergency repairs, and second destination transportation.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would include real property maintenance in the categories for which the use of appropriated funds is permitted.

Limitation on retention of morale, welfare, and recreation funds by military installations (sec. 373)

The House amendment contained a provision (sec. 312) that would limit retention of nonappropriated fund cash balances.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make clarifying changes.

Ships' stores (sec. 374)

The Senate bill contained a provision (sec. 353) that would amend section 371 of the National Defense Authorization Act for Fiscal Year 1994 by repealing the requirement that the Secretary of the Navy convert the operation of all ships' stores to operation by the Navy Exchange Service Command.

The House amendment contained a provision (sec. 378) that would extend the deadline for conversion of ships' stores to operation by the Navy Exchange to October 1, 1995.

The Senate recedes with an amendment that would change the deadline to December 31, 1995 and require a report by the Navy Audit Agency on the costs and benefits of the transfer.

Operation of military exchange and commissary store at Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field (sec. 375)

The House amendment contained a provision (sec. 377) that would provide for the operation by the Army and Air Force Exchange Service, until December 31, 1995, of any military exchange and commissary store located at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.

The Senate bill contained no similar provision.

The Senate recedes. The conferees agree that the operation of this and similar stores provides valuable quality-of-life benefits at no or minimum cost. In the future, the conferees would consider the use of appropriated funds where a compelling case can be made to keep benefits intact, although such stores may not achieve former levels of profitability. The conferees encourage the Secretary of Defense to initiate similar demonstration projects at other sites, including Fort Benjamin Harrison, Indian and Homestead Air Force Base, Florida, as these installations are closed or realigned.

Disposition of proceeds from operation of the Naval Academy laundry (sec. 376)

The Senate bill contained a provision (sec. 348) that would make technical changes to section 6971 of title 10, United States Code, relating to the disposition of proceeds from certain activities at the United States Naval Academy.

The House amendment contained no similar provision.

The House recedes.

Authority to issue military identification cards to so-called honorary retirees of the Naval and Marine Corps Reserves (sec. 377)

The House amendment contained a provision (sec. 382) that would permit the issue of identification cards to certain retirees of the Naval Reserve. Commissary and exchange privileges would not be authorized with the issue of this identification card.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make clarifying changes.

Repeal of annual limitation on expenditures for emergency and extraordinary expenses of the Department of Defense Inspector General (sec. 378)

The Senate bill contained a provision (sec. 349) that would remove the statutory ceiling on the Inspector General, Department of Defense, for emergency and extraordinary expenses authority provided in section 361 of the National Defense Authorization Act for Fiscal Year 1994.

The House amendment contained no similar provision.

The House recedes.

Transfer of certain excess Department of Defense property to educational institutions and training schools (sec. 379)

The Senate bill contained a provision (sec. 352) that would authorize DOD to donate certain industrial machinery, which is currently on loan to educational institutions and training schools, directly to those entities when the Secretary of Defense determines that such a donation contributes materially to national defense.

The House amendment contained a similar provision (sec. 386).

The House recedes with a clarifying amendment.

Operation of overseas facilities of the Department of Defense by United States firms (sec. 380)

The House amendment contained a provision (sec. 384) that would require that a contract for the operation of a DOD facility outside the United States for production or distribution of subsistence items be awarded to a U.S. firm.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that, to the maximum extent practicable, U.S. firms be given preference for operating DOD facilities that serve U.S. servicemen and women.

Requirements for automated information systems of the Department of Defense (sec. 381)

The House amendment contained a provision (sec. 370) that would limit the amount available to the Department of Defense for the new development and modernization of automated data processing programs in fiscal year 1995, and restrict new development and modernization until several determinations are made.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to determine that modernization projects for automated information systems costing more than $50.0 million have met certain criteria. This amendment would also require the Secretary of Defense to (1) develop guidance for the use of automated information systems by the Department of Defense; (2) establish performance measures and management controls for the supervision and management of the development and modernization of such systems; and (3) submit a report to the congressional defense committees on the establishment and implementation of these performance measures and management controls in each of the next three years.

The report required by this amendment should display the total funds provided for the defense information technology program (as identified in the information technology exhibits (43 series)), including funds in the Defense Business Operations Fund, and explain how these funds affect functional mission outcomes. The report shall include information by functional area on the (1) selection and conversion of migration systems for automated information management systems; (2) systems that will be migrated or eliminated; (3) total cost of migration, including conversion and interface costs; (4) number and cost of corporate data elements that have been standardized and implemented; and (5) improvements that have been made to the defense information infrastructure, including the savings that have been achieved by such improvements.

Program to commemorate World War II (sec. 382)

The Senate bill contained a provision (sec. 350) that would extend the authorization through fiscal year 1996 for the Secretary of Defense to conduct a program to commemorate the 50th anniversary of World War II.

The House amendment contained a provision (sec. 379) that would also extend this authorization through fiscal year 1996. In addition, the House provision would authorize the Secretary of Defense to reimburse expenses incurred by a person to provide for the participation of the S.S. Jeremiah O'Brien in programs and activities to commemorate the 50th anniversary of World War II.

The Senate recedes with an amendment that would require a report not later than March 31, 1995 by the Executive Director of the 50th Anniversary of World War II Commemoration Committee to the Secretary of Defense on the reimbursement of persons or groups for expenses incurred in providing voluntary support for activities and programs conducted under the World War II commemoration program. The report shall include the recommendations of the Commemoration Committee on whether such reimbursements are appropriate.

Assistance to Red Cross for emergency communications services for members of the Armed Forces and their families (sec. 383)

The Senate bill contained a provision (sec. 355) that would authorize the Secretary of Defense to reimburse, over a three-year period from the funds authorized for Defense-wide Activities, the American Red Cross for emergency communication services provided to servicemembers and their families.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and House of Representatives each year for the next three years on the need to support the Red Cross emergency communications services provided to servicemembers and their families. This report should include an assessment of the progress made by the Red Cross in developing alternative sources of funding and any recommendations the Secretary deems appropriate.

The conferees believe that the emergency communications services provided to the Department of Defense by the American Red Cross are very important to military readiness and to the welfare of military men and women and their families. The conferees believe it is appropriate for the Department to assist the Red Cross during a limited period of time with funding for this service while the Red Cross develops alternative means of financing these services. This assistance should not exceed $14.5 million per year for a period not to exceed three years. If, at the end of the three-year period, or during the three-year period, the Secretary of Defense determines that the Red Cross cannot provide emergency communication services to the military without funding from the Department of Defense, the Department of Defense should be prepared to implement other means of providing those services.

Clarification of authority to provide medical transportation under National Guard pilot program (sec. 384)

The Senate bill contained a provision (sec. 344) that would clarify that the authority contained in section 376 of the National Defense Authorization Act for Fiscal Year 1993 for the National Guard Bureau to carry out a pilot program to use National Guard personnel in medically underserved communities includes medical care services, dental care services, and transportation by air ambulance and other transportation for medical reasons.

The House amendment contained no similar provision.

The House recedes.

National Guard assistance for youth and charitable organizations (sec. 385)

The Senate bill contained a provision (sec. 1063) that would authorize members or units of the National Guard to provide assistance to specified organizations under certain conditions in conjunction with training. Additionally, this provision would authorize the use of equipment and facilities of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard and the Department of Defense, in carrying out these programs.

The House amendment contained a similar provision (sec. 362), but it would not authorize assistance to include security services or authorize assistance to the U.S. Olympic Committee. Additionally, the House provision did not address the use of equipment and facilities of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard and the Department of Defense.

The House recedes with an amendment that would not authorize the assistance to include security assistance.

One-year extension of certain programs (sec. 386)

The Senate bill contained a provision (sec. 351) that would extend for one year, until the end of fiscal year 1995, the authority for aviation depots and naval shipyards to engage in defense-related production and services.

The House amendment contained a provision (sec. 380) that would extend for one year the demonstration project for the use of proceeds from the sale of certain property; the authority for aviation depots and naval shipyards to engage in defense-related production and services; and the authority of base commanders over contracting for commercial activities.

The Senate recedes.

Procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland (sec. 387)

The Senate bill contained a provision (sec. 361) that would authorize $2.5 million for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

The House amendment contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

National Security Education Trust Fund obligations

The Senate bill contained a provision (sec. 304) that would authorize the obligation of funds from the National Security Education Trust Fund for fiscal year 1995.

The House amendment contained no similar provision.

The Senate recedes.

Maritime prepositioning ship enhancement

Section 2218 of title 10, United States Code, establishes and governs management and funding of the National Defense Sealift Fund. The Senate bill included a provision (sec. 356) that would amend section 2218 to add a new subsection. This new subsection would authorize the Department to purchase up to three foreign-built vessels for the Marine Corps maritime prepositioning ship (MPS) program.

The House amendment contained no similar provision.

The Senate recedes.

Roll-on/roll-off vessels for the Ready Reserve Force

The Senate bill contained a provision (sec. 357) that would permit the Secretary of Defense to transfer up to $43.0 million to the Maritime Administration for purchasing roll-on/roll-off (RO/RO) vessels for the Ready Reserve Force (RRF) of the National Defense Reserve Fleet.

The House amendment contained no similar provision.

The Senate recedes. However, the conferees agree that, should funds be appropriated exclusively for the purchase of RO/RO vessels for the RRF in fiscal year 1995, the Department of Defense may transfer these funds to the Maritime Administration for buying and converting such vessels for the RRF.

Limitation on use of specification for procurement of subsistence items

The House amendment contained a provision (sec. 314) that would prohibit the Secretary of Defense from using specifications or restrictions in the procurement of subsistence items for use at military installations and shore facilities.

The Senate bill contained no similar provision.

The House recedes.

The conferees not that the Office of the Secretary of Defense recently issued a directive to the military departments and the Defense Logistics Agency stating that, for the purchase of subsistence items for installation and shore facility use, commercial items will be requested and no military specifications or restrictive commercial item descriptions will be used.

Consideration of costs of closing Department of Defense depots in certain cost comparisons

The House amendment contained a provision (sec. 325) that would require including the cost of closing Department of Defense depots in any comparison of the cost of performing depot-level maintenance and repair work by non-federal government personnel with the cost of performing such work by employees of the Department of Defense.

The Senate bill contained no similar provision.

The House recedes.

Maintenance of sufficient depot-level facilities, activities, facilities, and employees of the Department of Defense

The House amendment contained a provision (sec. 328) that would require the Secretary of Defense to maintain sufficient depot-level activities, facilities, and employees to carry out all provisions of title III of the House amendment.

The Senate bill contained no similar provision.

The House recedes.

Survey and pilot program for the transfer of Department of Defense domestic dependent elementary and secondary schools to appropriate local educational agencies

The House bill contained a provision (sec. 352) that would require the Secretary of Defense to conduct a survey to determine the feasibility of, and actions necessary to be taken to effect, the transfer of the DOD schools to local education agencies (LEA). The provision would also require the Secretary to conduct a pilot program and transfer two schools to LEAs prior to the start of the 1995/1996 school year on terms that are agreeable to the LEA.

The Senate amendment contained no similar provision.

The House recedes.

The conferees direct the Secretary of Defense to conduct a survey of domestic elementary and secondary schools operated by the Department of Defense to collect information concerning the possibility of transferring the schools to LEAs. The Secretary shall also conduct a survey of school districts operated by local educational agencies with military-connected student populations of over 30 percent to determine the level of funding for such schools and the sources of that funding.

In conducting the survey of current Department of Defense domestic dependent schools, the Secretary shall coordinate with LEAs adjacent to the DOD-operated schools, education officials of the states in which the schools are located, and parent organizations representing parents with students enrolled in the DOD-operated schools.

The survey of each domestic school system operated by DOD shall include: (1) the opinions and attitudes of the parents of the students enrolled in the schools regarding the quality of education programs and transfer of DOD domestic dependent schools to LEAs; (2) the positions of the LEAs and appropriate education officials of the state in which the school is located regarding the responsibility of LEAs to educate military-connected students who reside on military installations, including the financial and legal basis for those positions; and (3) the positions of the LEAs and appropriate educational officials of the state in which the school is located regarding the transfer of DOD domestic dependent schools to LEAs, including requirements of the LEAs and state education authorities for financial, military construction, and other support needed to facilitate transfer of the schools to the LEAs.

In conducting the survey of school districts operated by local educational agencies with military-connected student populations of over 30 percent, the Secretary shall coordinate with the LEAs operating the school districts, education officials of the state in which the school district is located, and military parents with students enrolled in the schools.

The survey of each school district operated by local educational agencies with military-connected student populations of over 30 percent shall include: (1) the previous level of financial support of DOD and other federal agencies, and the timing of political and fiscal decisions concerning the education of military-connected students; (2) the positions of the LEAs and education officials of the state in which the school district is located regarding the responsibility of LEAs to educate military-connected students who reside on military installations, including the financial and legal basis for those positions and the officials' awareness of differences in federal contributions to dependent education between DOD domestic dependent schools and Department of Education impact aid; (3) an analysis of the funding sources of such school districts, including comparisons with other school districts within the state that do not have a large percentage of military-connected students; and (4) the opinions and attitudes of military parents with children attending such schools districts regarding the quality of education programs in the schools.

The Secretary of Defense shall report the results of the surveys to the Committees on Armed Services of the Senate and the House of Representatives by December 31, 1995.

Department of Defense food inventory program

The House amendment contained a provision (sec. 363) that would require the Secretary of Defense to provide for the expanded use throughout the United States of full-line commercial distributors to meet the food requirements of the Department of Defense not later than October 1, 1996.

The Senate bill contained no similar provision.

The House recedes. The conferees note that the Department of Defense is currently planning expanded use of distributors for peacetime troop feeding within the continental United States.

Requirement of comparative report on operation and maintenance funding

The House amendment contained a provision (sec. 369) that would require the Secretary of Defense to compare the level of funding for operation and maintenance for the next fiscal year with the level of funding for each previous fiscal year beginning with fiscal year 1975.

The Senate bill contained no similar provision.

The House recedes.

The conferees share with the Defense Science Board Task Force on Readiness the concern that the Department has not developed a better link between readiness and the resource allocation process. The conferees note that the Department now plans to develop analytical tools that tie resources to readiness. The conferees are encouraged by this commitment to understand the cost of readiness. The conferees believe it is critical during this time of increasing budget pressures that the Department understand precisely the resources necessary to achieve desired levels of readiness.

Use of service contract funds for separation incentive programs for Department of Defense employees

The House amendment contained a provision (sec. 374) that would require the Secretary of Defense during fiscal year 1995 to fund separation incentive payments for federal civilian employees from those funds authorized and appropriated for service contracts with private sector entities.

The Senate bill contained no similar provision.

The House recedes.

Modification of statute of limitations for certain claims for personal property damage or loss

The House amendment contained a provision (sec. 383) that would change the statute of limitations for a claim for personal property damage from two years to one year.

The Senate bill contained no similar provision.

The House recedes.

Priority to states for the transfer of nonlethal excess supplies of the Department of Defense

The House amendment contained a provision (sec. 387) that would require that Defense Department nonlethal excess supplies be made available to state and local governments before such supplies are made available for humanitarian relief.

The Senate bill contained no similar provision.

The House recedes.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

End strengths for active forces (sec. 401)

The Senate bill contained a provision (sec. 401) that would authorize the active duty end strengths for each of the military services at the levels contained in the budget request.

The House amendment contained a similar provision (sec. 401).

The following table summarizes the authorized active duty end strengths for fiscal year 1995:

ACTIVE FORCES END STRENGTHS FOR FISCAL YEAR 1995

	Fiscal year—		
	1994 Authorization	1995 Request	1995 Recommendation
Army:			
Total	540,000	510,000	510,000
Officer	88,855	82,300	82,300
Navy:			
Total	480,800	441,641	441,641
Officer	62,747	60,490	60,490
Marine Corps:			
Total	177,000	174,000	174,000
Officer	18,440	17,977	17,977
Air Force:			
Total	425,700	400,051	400,051
Officer	84,970	77,740	77,740
Total	1,623,500	1,525,692	1,525,592
Officer	254,739	238,507	238,507

Temporary variation of end strength limitations for Army majors and lieutenant colonels (sec. 402)

The House amendment contained a provision (sec. 502) that would amend section 523 of title 10, United States Code, to authorize a permanent revision in the strength limitations for Army commissioned officers on active duty in the grades of major and lieutenant colonel.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide in fiscal years 1995 and 1996 for temporary relief from the limitation on the number of officers on active duty in the grades of major and lieutenant colonel and extend the relief granted in fiscal year 1996 through fiscal year 1997.

The conferees recognize that the current grade tables may not reflect the current officer accession and retention environment. Nonetheless, the conferees remain reluctant to address permanent changes to the grade tables in a piecemeal fashion and do not understand the Defense Department's reluctance to address this matter in a comprehensive manner.

The conferees will consider permanent adjustments to the grade tables when it receives from the Department of Defense the report on officer personnel management systems required by section 502 of the National Defense Authorization Act for Fiscal Year 1993. The conferees expect this report to include recommendations regarding the grade tables in section 524 of title 10, United States Code, for members of the reserve components serving on active duty.

Extension of temporary variation of end strength limitations for Marine Corps majors and lieutenant colonels (sec. 403)

The Senate bill contained a provision (sec. 402) that would extend through fiscal year 1997, the temporary increase in the number of Marine Corps officers authorized to serve in the grades of major and lieutenant colonel that was included in the National Defense Authorization Act for Fiscal Year 1994.

The House amendment contained no similar provision.

The House recedes.

The conferees recognize that the current grade tables may not reflect the current officer accession and retention environment. Nonetheless, the conferees remain reluctant to address permanent changes to the grade tables in a piecemeal fashion and do not understand the Defense Department's reluctance to address this matter in a comprehensive manner.

The conferees will consider permanent adjustments to the grade tables when it receives from the Department of Defense the report on officer personnel management systems required by section 502 of the National Defense Authorization Act for Fiscal Year 1993.

Retention of authorized strength of general officers on active duty in the Marine Corps for fiscal years after fiscal year 1995 (sec. 404)

The Senate bill contained a provision (sec. 403) that would modify section 526(a)(4) of title 10, United States Code, to permit the Marine Corps to retain the current number of 68 general officers serving on active duty after October 1, 1995.

The House amendment contained no similar provision.

The House recedes. The conferees intend the Marine Corps to maintain at least seven general officers assigned to joint positions at all times.

Exemption from grade accountability of certain four-star general and flag officer positions (sec. 405)

The Senate bill contained a provision (sec. 404) that would exempt the combatant commanders (CINCs), the Deputy Commander in Chief of the U.S. European Command (CINCEUR), and the Commander, U.S. Forces, Korea from the ceiling for grades above major general or rear admiral for a test period of three years. The exemption in each instance would be conditioned on (1) the positions being filled by four-star officers and, in the case of the Deputy CINCEUR, on CINCEUR also serving as Supreme Allied Commander, Europe, and 2) each of the services having recommended an officer to the Secretary of Defense for consideration for the position to be exempted. This provision would also authorize the Chairman of the Joint Chiefs of Staff to recommend officers for appointment to these positions.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

The conferees note that this provision would exempt 11 four-star positions from the grade ceilings established for that grade, thereby increasing the number of three- and four-star positions that could be filled by 11 without an increase in the overall number of flag and general officers.

The conferees expressly intend that these exemptions not increase the number of four-star positions. Rather, these exemptions are to be used to fill those joint three-star positions that could not otherwise be filled after October 1, 1995, without this provision. The conferees direct the Department of Defense to use the flexibility provided by section 525(c) of title 10, United States Code, to ensure that each of the four Services can compete for these joint positions without regard to grade ceilings.

Although the CINC positions are open to nominations from each of the Services, the traditional patterns of filling these positions have not really changed. The conferees expect these traditional patterns to change as a result of the exemptions provided by this provision. The conferees hope that the Chairman of the Joint Chiefs of Staff does not have to exercise his authority to nominate officers for these positions, but the conferees expect him to do so if the services are not nominating the very best officers available for each position.

Temporary exclusion of Superintendent of Naval Academy from counting toward number of senior admirals authorized to be on active duty (sec. 406)

The Senate bill and the House amendment contained identical provisions (secs. 405 and 506, respectively) that would amend section 525 of title 10, United States Code, to provide that an officer who retired in the grade of admiral (if recalled to active duty, nominated by the President, and confirmed by the Senate for appointment to the grade of admiral while serving as the next Superintendent of the United States Naval Academy) would not count against the number of officers authorized to be on active duty in the grade of admiral (0–10) while so serving.

The contingencies and conditions in the Senate and House provisions have already been met; therefore, the conferees agree to delete them from the provision.

End strengths for Selected Reserve (sec. 411)

The Senate bill contained a provision (sec. 411) that would authorize Selected Reserve end strengths for each of the military services at the levels contained in the budget request for fiscal year 1995, except for the Naval Reserve and the Coast Guard Reserve. The Senate bill would authorize a Naval Reserve end strength of 109,000, which would exceed the level in the budget request by 8,290. The Senate bill would authorize a Coast Guard Reserve end strength of 8,000, which would exceed the level in the budget request by 1,000.

The House amendment contained a provision (sec. 411) that would authorize Selected Reserve end strengths for each of the military services at the levels contained in the budget request, except for the Coast Guard Reserve. The House amendment would authorize a Coast Guard Reserve end strength of 8,000, which would exceed the level in the budget request for 1,000.

The Senate recedes with an amendment that would authorize Selected Reserve end strengths for fiscal year 1995 as shown below:

	Fiscal year		
	1994 Authorization	1995 request	1959 Recommendation
Army National Guard	410,000	400,000	400,000
Army Reserve	260,000	242,000	242,000
Naval Reserve	118,000	100,710	102,960
Marine Corps Reserve	42,200	42,000	42,000
Air National Guard	117,700	115,581	115,581
Air Force Reserve	81,500	78,706	78,706
Coast Guard Reserve	10,000	7,000	8,000
Totals	1,039,400	985,997	989,247

The recommended authorization for the Naval Reserve reflects the conferees' expectation of further assessment of the future roles and missions of the Naval Reserve.

The conferees believe the recommended authorization for the Coast Guard Reserve end strength would allow the Coast Guard Reserve to reduce its authorized end strength by 20 percent during fiscal year 1995 while using statutory transition provisions to minimize involuntary separations.

End strengths for reservists on active duty in support of the reserves (sec. 412)

The Senate bill contained a provision (sec. 412) that would authorize the full-time active duty end strengths for each of the reserve components contained in the budget request.

The House amendment contained a similar provision (sec. 412).

The following table summarizes the authorized full-time active duty end strengths for each of the reserve components for fiscal year 1995:

	Fiscal year—		
	1994 Authorization	1995 Request	1995 Recommendation
Army National Guard	24,180	23,650	23,650
Army Reserve	12,542	11,940	11,940
Naval Reserve	19,718	17,510	17,510
Marine Corps Reserve	2,285	2,285	2,285
Air National Guard	9,389	9,098	9,098
Air Force Reserve	648	648	648
Totals	68,762	65,131	65,131

Delay in increase in number of active component personnel to be assigned for training compatability with Guard units (sec. 413)

The House amendment contained a provision (sec. 413) that would amend section 1132 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) by extending from the beginning of fiscal year 1995 to the beginning of fiscal year 1997 the date by which the Army is to assign 3,000 non-commissioned officers and warrant officers to the pilot program for active component support of the reserves.

The Senate bill contained no similar provision.

The Senate recedes.

Authorization of training student loads (sec. 421)

The Senate bill and the House amendment contained identical provisions (secs. 421 and 421, respectively) that would authorize the active and reserve average military training loads contained in the budget request.

The following table summarizes the authorized military training loads for fiscal year 1995:

MILITARY TRAINING STUDENT LOADS FOR FISCAL YEAR 1995

	Fiscal year—		
	1994 Authorization	1995 Request	1995 Recommendation
Army	75,220	69,420	69,420
Navy	45,269	43,064	43,064
Marine Corps	22,753	25,377	25,377
Air Force	33,439	36,840	36,840
Totals	176,681	174,701	174,701

Increase in appropriations for military personnel (sec. 431)

The Senate bill contained a provision (sec. 431) that would authorize $70,790,397,000.00 to be appropriated for military personnel in fiscal year 1995. This is an increase of $315,000,000.00 to the amount requested by the Department of Defense.

The House amendment contained a provision (sec. 431) that would limit the amount authorized to be appropriated for military personnel to $71,086,397,000, an increase of $611,000,000 above the requested amount.

The Senate recedes with an amendment that would authorize $70,938,597,000.00 to be appropriated for military personnel. This authorization would supersede the requirement to reduce the amount of funds available to the Department of Defense for permanent change of station moves.

General and flag officer requirements

The conferees note that the National Defense Authorization Act for Fiscal Year 1991 requires a significant reduction in the ceiling on the number of general and flag officers. In the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1991 (H. Rept. 101-923), the conferees noted that the specific fiscal year 1995 ceilings are for planning purposes and urged the Secretary of Defense to review those ceilings and recommend appropriate reallocations to the Committees on Armed Services of the Senate and House of Representatives.

If relief from the general and flag officer limitations is required, the conferees encourage the Secretary of Defense, in conjunction with the Chairman of the Joint Chiefs of Staff, to forward to the Committees on Armed Services a single, comprehensive legislative proposal that addresses the Department's joint and external general and flag officer requirements, as well as the general and flag officer requirements internal to each service.

TITLE V—MILITARY PERSONNEL POLICY

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Consistency of warrant officer personnel management policies with policies applicable to other officers (sec. 501)

The Senate bill contained a provision (sec. 502) that would amend chapter 33A of title 10, United States Code, concerning the personnel management of warrant officers, to make certain sections in the chapter consistent with provisions applicable to commissioned officers other than warrant officers. The provision would also apply the sections in chapter 33A to retired warrant officers who are recalled for active duty.

The House amendment contained a similar provision (sec. 503).

The House recedes.

Authority for original regular appointments of Navy and Marine Corps limited duty officers serving in grades above pay grade 0-3 under temporary appointments (sec. 502)

The Senate bill contained a provision (sec. 506) that would amend section 5589 of title 10, United States Code, to permit original appointments as regular officers of the Navy or Marine Corps in the same grade held pursuant to a temporary appointment.

The House amendment contained a similar provision (sec. 504).

The House recedes with an amendment that would make clarifying changes.

Navy and Marine Corps limited duty officers twice having failed of selection for promotion (sec. 503)

The Senate bill contained a provision (sec. 503) that would amend section 6383 of title 10, United States Code, to establish the same right to achieve retirement eligibility for limited duty officers of the Navy and Marine Corps that now exists for officers not appointed as limited duty officers and for warrant officers.

The House amendment contained a similar provision (sec. 505).

The House recedes with an amendment that would make clarifying changes.

Selection for designated judge advocate positions (sec. 504)

The Senate bill contained a provision (sec. 507) that would require the Secretary of Defense to ensure that officers selected to serve in senior judge advocate positions are chosen by impartial boards of officers.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes and that would provide that an officer who is appointed to and retires in such a position shall be retired in the grade held while so serving.

Selected Reserve activation authority (sec. 511)

Under section 673b of title 10, United States Code, often called the Presidential call-up authority, when the President determines that it is necessary to augment the active forces for an operational mission, the President may authorize the Secretary of Defense and the Secretary of Transportation to order units of the Selected Reserve to active duty for up to 90 days. The activation authority is limited to calling up not more than 200,000 members of the Selected Reserve at any one time. The President may authorize the Secretary of Defense and the Secretary of Transportation to extend the period of activation for an additional 90 days.

The Senate bill contained a provision (sec. 512) that would allow the President to use the authority under this section for a single 180-day call-up period. The Senate provision also would require the Secretary of Defense to submit to the congressional defense committees, not later than April 1, 1995, an analysis of options for increasing the Presidential call-up authority and an assessment of the effects of these options on recruiting, retention, and employer support for the reserve components. The Senate provision would not affect other provisions of law, such as 10 U.S.C. 672 and 673, which provide broader authority to mobilize the reserves for extended periods of service during war or national emergency.

The House amendment contained a provision (sec. 511) that would increase the initial period of activation in section 673b from 90 to 180 days and would permit a follow-on period of activation for another 180 days as well. The House provision would further specify that, if the President determines that augmentation of the active forces may be necessary for an operational mission that the President authorizes to be carried out, the President may, on or after the date of that mission authorization, authorize the Secretary of Defense and the Secretary of Transportation to order units of the Selected Reserve to active duty for up to 90 days. This additional activation authority would be limited to not more than 25,000 members of the Selected Reserve for a period of 90 days.

The House recedes with an amendment that would amend section 673b of title 10, United States Code, to permit the President to authorize the Secretary of Defense and the Secretary of Transportation to order up to 200,000 members of the Selected Reserve to active duty for a single period of 270 days, without the declaration of war or national emergency required for the general or partial mobilization authorities in sections 672 and 673 of title 10, United States Code. The conference agreement would also require the Secretary of Defense to submit to the congressional defense committees, not later than April 1, 1995, an analysis of options for increasing the Presidential call-up authority and an assessment of the effects of these options on recruiting, retention, and employer support for the reserve components.

The Department of Defense requested broader authority for the President to delegate the Selected Reserve activation authority to the Secretary of Defense and the Secretary of Transportation, which was included in neither the Senate bill nor the House amendment. The conference agreement would not amend the circumstances under which the President can use the authority under section 673b of title 10, United States Code, and would not provide for any broader delegation of authority to the Secretary of Defense and the Secretary of Transportation.

The Department of Defense has indicated that the time required for the President to exercise his authority under section 673b of title 10, United States Code, will cause military planners to exclude reserve component personnel from contingency plans. The conferees reject that line of reasoning and fully expect the Department of Defense, and particularly the commanders of the combatant commands, to continue to plan for, count on, and use members of the Selected Reserve among early deploying forces. Perceived impediments to the planning for and timely use of reserve component personnel and units can and should be overcome without legislative action. In that light, the conferees expect the Department of Defense and the White House to work together to develop and implement the plans and procedures necessary under a wide range of scenarios to ensure timely access to members of the Selected Reserve under section 673b of title 10, United States Code, and other authorities.

Reserve general and flag officers on active duty (sec. 512)

The House amendment contained a provision (sec. 512) that would amend section 526 of title 10, United States Code, to require that a least 15 reserve component general and flag officers serve on active duty. The authorizations for these reserve component officers would be within the total number of general and flag officers authorized to serve on active duty in each military service. This provision would also authorize a reserve general officer to serve as the military executive to the Reserve Forces Policy Board.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to notify the Committees on Armed Services of the Senate and House of Representatives in writing 60 days prior to taking an action that would: (1) change the grade authorized as of July 1, 1994, for a general or flag officer position in the National Guard Bureau, the office of a chief of a reserve component, or a reserve component command; (2) assign a reserve officer to a general or flag officer position in the National Guard Bureau, the office of a chief of a reserve component, or a reserve component command in a grade other than the grade authorized on July 1, 1994: or (3) assign an officer other than a general or flag officer as the military executive to the Reserve Forces Policy Board. Such a notification would include the analysis which justifies the intended action.

Review of opportunities for ordering individual reservists to active duty with their consent (sec. 513)

The Senate bill contained a provision (sec. 511) that would require the Secretary of Defense to review and report to the Committees on Armed Services of the Senate and the House of Representatives regarding the opportunities for individual members of the reserve components to be called to active duty, with their consent, to serve during peacetime in positions traditionally filled by active duty personnel in support of peacetime requirements.

The House amendment contained no similar provision.

The House recedes.

In another provision in this act, the conferees reduced the minimum required reserve service for eligibility for retired pay for non-regular serve during the force drawdown period. The conferees direct the Secretary of Defense to review the provisions of section 1331 of title 10, United States Code, as part of the review of impediments for members of the reserve components to serve on active duty. The Secretary of Defense should submit any recommended legislative changes to the Congress.

Definition of active Guard and reserve duty (sec. 514)

The House amendment contained a provision (sec. 513) that would amend section 101 of title 10, United States Code, to provide a definition for the term "active Guard and Reserve duty."

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Repeal of obsolete provisions pertaining to transfer of retired regular enlisted members to reserve components (sec. 515)

The Senate bill contained a provision (sec. 513) that would repeal obsolete provisions pertaining to the retired reserve.

The House amendment contained a similar provision (sec. 514).

The Senate recedes.

Semiannual report on separations of active Army officers (sec. 516)

The House amendment contained a provision (sec. 516) that would require the Secretary of the Army to furnish to the Chief, National Guard Bureau, on a semiannual basis, the name, home of record, and last-known mailing address of each officer who was honorably separated from the Army in the grade of major and below during the previous six-month period.

The Senate bill contained no similar provision.

The Senate recedes.

Early reserve retirement eligibility for disabled members of Selected Reserve (sec. 517)

The House amendment contained a provision (sec. 515(a)) that would authorize the service secretaries to provide for early qualification for retired pay at age 60 for certain members of the Selected Reserve who become physically unfit for continued service.

The Senate bill contained no similar provision.

The Senate recedes.

Annual payments for members retired under Guard and reserve transition initiative (sec. 518)

The Senate bill contained a provision (sec. 642) that would modify the special transition program of annual payments for reservists authorized by section 4416 of the National Defense Authorization Act for Fiscal Year 1993. The provision would revise the current program of five annual payments to authorize from one to five such payments.

The House amendment contained a similar provision (sec. 515(b)) that would amend title 10, United States Code, to modify the program of Guard and reserve transition initiatives enacted by the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484).

The House recedes with an amendment that would eliminate the requirement for the recoupment of payments once a member who has received payments under this provision begins to receive retired pay.

Educational requirements for appointment in reserve components in grades above first lieutenant or lieutenant junior grade (sec. 519)

The Senate bill contained a provision (sec. 504) that would modify section 596 of title 10, United States Code, to authorize the acceptance of college credits and degrees from non-accredited schools for the purpose of meeting the degree requirement of section 596 if at least three accredited schools accept such credits.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify the circumstances under which this authority could be used.

Limited exception for Alaska scout officers from baccalaureate degree requirement for appointment as an officer in the National Guard above first lieutenant (sec. 520)

The Senate bill contained a provision (sec. 505) that would exempt year-round Alaska Native residents who are officers in the Alaska Army National Guard serving in Eskimo Scout units or Eskimo Scout supporting units from the requirement to obtain a baccalaureate degree in order to advance above the grade of lieutenant.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Sense of Congress concerning the training and modernization of the reserve components (sec. 521)

The Senate bill contained a provision (sec. 514) that would express the sense of the Senate that the Department of Defense should establish a standard readiness and evaluation system and that it would provide in its annual budget submissions adequate resources to ensure that the National Guard and reserve units are trained and modernized to the standards needed for them to carry out the full range of missions required under the Bottom-Up Review.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the Secretary of Defense should: 1) establish a standard readiness evaluation system for all forces within each military service and a standard readiness rating that is uniform for the military departments; 2) assess the budget submission of each military department for each year to determine (taking into consideration the advice of the Chairman of the Joint Chiefs of Staff) the extent to which National Guard and reserve units would, under that budget submission, be trained and modernized to the standards needed to carry out the full range of missions required under current Department of Defense plans; and 3) based upon this assessment each year, adjust the budget submissions of the military departments in order to meet the priorities established by the Secretary of Defense for the total force.

Prohibition of retaliatory actions against members of the armed forces making allegations of sexual harassment or unlawful discrimination (sec. 531)

The House amendment contained a provision (sec. 527) that would establish procedures for investigation, review, and corrective action in cases involving alleged reprisal against members of the armed forces making allegations of sexual harassment or unlawful discrimination.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that the prohibition against retaliatory actions in 10 U.S.C. 1034 applies to matters involving sexual harassment and unlawful discrimination. The amendment would also revise section 1034 to make it clear that it protects communications to a Member of Congress, an Inspector General, a member of a DOD audit, inspection, investigation, or law enforcement organization, or any other person or organization designated by regulations or other established procedures to receive such communications.

Department of Defense policies and procedures on discrimination and sexual harassment (sec. 532)

The Senate bill contained a provision (sec. 1056) that would establish a procedure for review and revision of DOD policies and procedures related to unlawful discrimination and sexual harassment.

The House amendment contained no similar provision.

The House recedes with an amendment. Subsection (a) of the conference agreement would require the Department of Defense Task Force on Discrimination and Sexual Harassment to transmit its report to the Secretary of Defense not later than October 1, 1994. The Secretary of Defense would transmit a copy of the report to Congress not later than October 10, 1994.

Subsection (b) would require the Secretary of Defense to review the recommendations in the report and determine which recommendations to approve or disapprove. Not later than 45 days after receiving the report, the Secretary would be required to complete the review and transmit a report to Congress that identifies the approved and disapproved recommendations, and explains the reasons for each such approval and disapproval.

Subsection (c) would require the Secretary of Defense to develop a comprehensive DOD policy to ensure that the service secretaries prescribe regulations implementing the approved recommendations not later than March 1, 1995. The provision would require that the approved recommendations be implemented uniformly by the military departments, insofar as practicable. This provision also would require the Secretary of Defense to submit to Congress, not later than March 31, 1995, a proposal for any legislation necessary to enhance the Department's capability to address the issues of discrimination and sexual harassment.

Subsection (d) would require the Secretary of the Navy and the Secretary of the Air Force, in the development of implementing regulations, to revise their equal opportunity and complaint procedures in light of the recommendations of the Task Force and the experience of the other military services. The Air Force and Navy would be required to ensure that their equal opportunity and complaint procedure regulations would be substantially equivalent to the regulations of the Army on such matters. The conferees intend that the requirement for the Navy and Air Force procedures to be "substantially equivalent" to the Army procedures means that the Navy and Air Force regulations must be as specific as the Army regulations in addressing these issues.

The conference agreement would make it clear that the Navy and Air Force could implement regulations that go beyond the substantial equivalent of the Army's regulations. The conference agreement also would require the Army to review and revise its complaint regulations.

Subsection (e) would require the Advisory Board on the Investigative Capability of the Department of Defense to include in its report recommendations as to whether the current DOD organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim. This would include examination of the question of whether there should be a separate DOD unit to oversee matters related to allegations of discrimination, sexual harassment, or other misconduct related to the gender of the victim. The conference agreement also would require the Advisory Board to determine whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to deal with discrimination, sexual harassment, and other misconduct related to the gender of the victim.

Subsection (f) would require the Secretary of Defense to ensure that the regulations that currently govern consideration of equal opportunity matters in performance evaluations include consideration of an individual's commitment to elimination of discrimination and sexual harassment.

Annual report on personnel readiness factors by race and gender (sec. 533)

The House amendment contained a provision (sec. 528) that would require the Secretary of Defense to collect data and report annually, starting in fiscal year 1996, on specific recruiting, retention, and readiness issues related to gender and race.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify the subject of the report.

Victims' advocates programs in the Department of Defense (sec. 534)

The House amendment contained a provision (sec. 526) that would require the Secretary of Defense to establish within each of the military departments victim advocate programs for members of the armed forces and their dependents who are victims of sexual and physical abuse, unlawful discrimination, or sexual harassment.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to strengthen the Department's victim and witness assistance programs and its family advocacy program to assist members of the armed forces and their dependents who are victims of crime, intra-familial abuse, sexual harassment, and unlawful discrimination.

Transitional compensation and other benefits for dependents of members separated for dependent abuse (sec. 535)

The Senate bill contained a provision (sec. 522) that would improve the benefits and change the commencement date and duration of the program authorized in section 1058 of title 10, United States Code (as added by section 554(a)(1) of Public Law 103–160) for transitional compensation to dependents of members separated for dependent abuse.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Study of spousal abuse involving armed forces personnel (sec. 536)

The Senate bill contained a provision (sec. 1084) that would require the Secretary of Defense to study spousal abuse by armed forces personnel.

The House amendment contained no similar provision.

The House recedes.

Extension of Warrant Officer Management Act to Coast Guard (sec. 541)

The House amendment contained a provision (sec. 523) that would amend titles 10 and 14, United States Code, to include Coast Guard warrant officers under the provisions of the Warrant Officer Management Act.

The Senate bill contained no similar provision.

The Senate recedes.

Coast Guard force reduction transition benefits (sec. 542)

The House amendment contained a provision (sec. 522) that would extend eligibility to members of the Coast Guard for the force reduction period for the personnel readjustment benefits authorized by the National Defense Authorization Acts for Fiscal Year 1991 (Public Law 101–510), Fiscal Years 1992 and 1993 (Public Law 102–190), and Fiscal Year 1993 (Public Law 102–484).

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Expand personnel adjustment, education, and training programs to include the United States Coast Guard (sec. 543)

The House amendment contained a provision (sec. 1137) that would expand certain personnel adjustment, education, and training programs to the United States Coast Guard.

The Senate bill contained no similar provision.

The Senate recedes.

Repeal of required reduction in recruiting personnel (sec. 551)

The Senate bill contained a provision (sec. 441) that would repeal section 431 of the National Defense Authorization Act for 1993 which limits the number of personnel carrying out recruiting activities after September 30, 1994.

The House amendment contained an identical provision (sec. 521).

The conference agreement includes this provision.

Authorized active duty strengths for Army enlisted members in pay grade E–8 (sec. 552)

The House amendment contained a provision (sec. 524) that would amend section 517(a) of title 10, United States Code, to provide a new authorized daily average number of enlisted members on active duty (other than for training) in the Army in pay grade E–8.

The Senate bill contained no similar provision.

The Senate recedes.

Prohibition on imposition of additional charges or fees for attendance at certain academies (sec. 553)

The House amendment contained a provision (sec. 531) that would prohibit the imposition of any charge or fee for tuition, room or board for attendance at the United States Military Academy, United States Naval Academy, United States Air Force Academy, United States Coast Guard Academy, or United States Merchant Marine Academy.

The Senate bill contained no similar provision.

The Senate recedes.

Survey on the state of race and ethnic issues in the military (sec. 554)

The House amendment contained a provision (sec. 536) that would require the Secretary of Defense to carry out a biennial survey to measure the state of racial and ethnic issues and discrimination among active duty military personnel.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the deadline for the first survey to May 1, 1995.

Review of certain discharges from the United States Military Academy (sec. 555)

The Senate bill contained a provision (sec. 521) that would require the Secretary of the Army to review the discharge from the United States Military Academy of James Webster Smith in 1874 and Jackson Chestnut Whittaker in 1882 to determine whether the proceedings were tainted by racial prejudice or other improper factors.

The House amendment contained a similar provision (sec. 537).

The House recedes with a clarifying amendment.

Administration of athletics programs at the service academies (sec. 556)

The Senate bill contained a provision (sec. 1090) that would establish as a civil service position the position of athletic director at the United States Military Academy, United States Naval Academy, and United States Air Force Academy. The provision would also establish nonappropriated fund accounts for the athletic programs of the academies.

The House amendment contained no similar provision.

The House recedes with an amendment that would change the effective date of this provision to January 1, 1996.

The conferees note a September 1991 report of the General Accounting Office, The Organizational Status, Financial Status, and Oversight of the Naval Academy Athletic Association. Nonetheless, the conferees direct the Secretary of the Navy to report to the

Committees on Armed Services of the Senate and House of Representatives not later than March 15, 1995 on: (1) the projected cost to the Department of the Navy of implementing the changes required by this section; (2) the time lines and milestones for implementing these changes; (3) the details on how the position of athletic director would be established, including the anticipated civil service grade or pay level and any required exemptions to statutes governing Federal civil service employees; and (4) other matters relevant to this issue.

Upon receipt of this report, the Committees on Armed Services will evaluate its information with the intent of adopting, if necessary, perfecting legislation prior to the effective date of this provision.

Reimbursement for certain losses of household effects caused by hostile action (sec. 557)

The Senate bill contained a provision (sec. 654) that would authorize the secretaries of the military departments to reimburse servicemembers for the loss of household goods sustained during a permanent change of station move when the loss is caused by hostile action incident to war or a warlike action by a military force.

The House amendment contained a similar provision (sec. 525).

The House recedes with an amendment that would make clarifying changes.

Military recruiting on campus (sec. 558)

The Senate bill contained a provision (sec. 1076) that would preclude an institution of higher education that denies or prevents recruiting on campus from receiving DOD funds.

The House amendment contained a similar provision (sec. 535), but included "any educational institution" among those to be covered by this provision.

The House recedes.

Authorization for instruction of civilian students at the foreign language center of the Defense Language Institute (sec. 559)

The House amendment contained a provision (sec. 532) that would authorize the Secretary of the Army to establish a program terminating in 1997 to allow civilians to receive instruction at the Defense Language Institute.

The Senate amendment contained no similar provision.

The Senate recedes.

Discharge of members who are permanently non-worldwide assignable (sec. 560)

The House amendment contained a provision (sec. 534) that would require that members of the armed forces who are classified as permanently non-worldwide assignable due to a medical condition be involuntarily separated from the service, either through retirement for those individuals who are retirement eligible, or through discharge for all others. This provision would also allow the service secretary concerned to waive this required separation in certain cases, including through a determination that the retention of these individuals, as a class, would not adversely affect the ability of the service to carry out its mission.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority for officers to serve on successive promotion boards

The Senate bill contained a provision (sec. 501) that would authorize the Secretary of the military department concerned to approve officers to serve as members of successive selection boards concerned under section 628 of title 10, United States Code, for the consideration of officers of the same competitive category and grade if the second board does not consider the same officer or officers as the first board.

The House amendment contained a similar provision (sec. 501) that would authorize the Secretary of the military department concerned to approve officers to serve as members on successive selection boards convened under section 611(a) of title 10, United States Code.

The Senate and House recede.

Detail of defense personnel

The House amendment contained a provision (sec. 538) that would amend section 374 of title 10, United States Code, to authorize the Secretary of Defense to make DOD personnel currently stationed in Europe available to assist the Immigration and Naturalization Service, the United States Border Patrol, and the United States Customs Service.

The Senate bill contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Military pay raise for fiscal year 1995 (sec. 601)

The Senate bill contained a provision (sec. 601) that would authorize a 2.6 percent increase on January 1, 1995, in basic pay, basic allowance for quarters, and basic allowance for subsistence for military personnel.

The House amendment contained a similar provision (sec. 601), but included midshipmen and cadets.

The Senate recedes.

Cost-of-living allowance for members of the uniformed services assigned to high cost areas in the continental United States (sec. 602)

The House amendment contained a provision (sec. 602) that would establish a CONUS COLA to partially defray the added nonhousing costs incurred by servicemembers assigned to high-cost areas, effective July 1, 1995.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would substitute "spendable income" for "basic pay" in determining the amount of allowance for a member and would preclude payment of a CONUS COLA allowance until 90 days after the Secretary of Defense provides to Congress:

(1) the method(s) by which the Secretary of Defense would determine the non-housing cost indices;

(2) how the Secretary of Defense would determine the threshold;

(3) how the presence of exchange facilities, commissaries, and medical facilities will be factored into the cost indices for different locations;

(4) what non-housing-related costs would be used in developing the cost indices; and

(5) what features would be in place to avoid uncontrolled growth in the future.

The conferees are sensitive to the difficulties faced by servicemembers assigned to certain areas in which the cost of living is exceptionally high. Nonetheless, the conferees are concerned about growth in entitlements and caution the Department of Defense against allowing a CONUS COLA to expand beyond the rather narrow limits of its original purpose.

Increase in subsistence allowance payable to members of Senior Reserve Officer's Training Corps (sec. 603)

The House amendment contained a provision (sec. 603) that would amend title 37, United States Code, to increase the monthly subsistence allowance for members of the Senator Reserve Officers' Training Corps (ROTC) from the current level of $100 per month to $150 per month, effective September 1, 1995.

The Senate bill contained no similar provision.

The Senate recedes.

Entitlememt for dependents of servicemembers who die while on active duty (secs. 604 and 707)

The conferees agree to two provisions that would improve the entitlements available to survivors of servicemembers who die while on active duty. The first provision would: (1) modify section 1079(g) of title 10, United States Code, to continue the active duty dependent CHAMPUS cost-sharing and benefits package for one year for the dependents of servicemembers who die while on active duty beginning on the date of the servicemember's death, and (2) modify section 1076a of title 10, United States Code, to authorize coverage of the dependents of a servicemember who dies while on active duty by the dependents' dental program for up to one year beginning on the date of the servicemember's death. The second provision would modify sections 403(l)(1) and (2) of title 37, United States Code, to permit the dependents of servicemembers who die while on active duty to remain in government quarters or continue to receive housing allowances for 180 days beginning on the date of the servicemember's death. These provisions would be effective on October 1, 1993.

The conferees expect the Department of Defense to implement these improved entitlements quickly, especially for the dependents of those servicemembers who have died after October 1, 1993. Additionally, the conferees expect the Department of Defense to conduct a thorough outreach program to ensure that every affected dependent is apprised of these entitlements.

Extension of certain bonuses for active and reserve forces (secs. 611 and 613)

The Senate bill contained provisions (secs. 611 and 613) that would extend the authorities to pay certain bonuses for the active and reserve components.

The House amendment contained a similar provision (sec. 612 that would extend the authority for the aviator retention bonus until September 30, 1995.

The House recedes with an amendment that would extend the authority for the nuclear career annual incentive bonus until September 30, 1996.

Extension and modification of certain bonuses and special pay for nurse officer candidates, registered nurses, and nurse anesthetists (sec. 612)

The Senate bill contained a provision (sec. 612) that would extend the authority to pay (a) a nurse accession bonus, (b) incentive special pay to military-certified registered nurse anesthetists, and (c) a nurse officer candidate accession bonus. This provision would also increase annual incentive special pay for military-certified registered nurse anesthetists to a maximum of $15,000.

The House amendment contained a provision (sec. 611) that would increase the annual incentive special pay for military-certified nurse anesthetists to a maximum of $15,000.

The House recedes with an amendment that would extend these bonus authorities until September 30, 1996 instead of September 30, 1998.

Responsibility for preparation of transportation mileage tables (sec. 621)

The Senate bill contained a provision (sec. 621) that would transfer responsibility for maintaining the official table of distances from the Secretary of the Army to the Secretary of Defense.

The House amendment contained no similar provision.

The House recedes.

Payment for transient housing for reserves performing certain training duty (sec. 622)

The Senate bill contained a provision (sec. 655) that would authorize the secretaries of the military departments to provide reimbursement for housing service charges for transient government housing for reservists performing annual training duty or inactive training duty.

The House amendment contained no similar provision.

The House recedes.

Change in provision of transportation incident to personal emergencies for members stationed outside the continental United States (sec. 623)

The House amendment contained a provision (sec. 621) that would amend title 37, United States Code, to allow funded travel, incident to personal emergencies for members or dependents located outside the continental United States, from their location to the nearest international airport, and from the airport back to the point of departure.

The Senate bill contained no similar provision.

The Senate recedes.

Clarification of travel and transportation allowance of family members incident to serious illness or injury of members (sec. 624)

The House bill contained a provision (sec. 622) that would amend title 37, United States Code, to clarify the travel and transportation allowances for family members of a seriously ill or injured service member.

The Senate amendment contained no similar provision.

The Senate recedes.

Family separation allowance (sec. 625)

The conference agreement includes a provision that would modify section 427 of title 37, United States Code, to provide that an individual entitled to a family separation allowance (FSA-II) while deployed who returns from that deployment, thereby terminating entitlement to FSA-II, and who is redeployed within 30 days for a period in excess of 30 days shall, for the purposes of entitlement to FSA-II, be treated as if the individual had been deployed continuously.

Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995 (sec. 631)

The Senate bill contained a provision (sec. 1075) that would make the 1995 cost-of-living adjustment (COLA) for military retirees effective on April 1, 1995, which is the date on which civil service retiree COLAs will be paid, rather than on October 1, 1995 as provided under current law. This provision would take effect only if an act appropriating funds for the Department of Defense for fiscal year 1995 appropriates sufficient funds to the military retirement trust fund to offset the increased outlays that will result from advancing the COLA by 6 months.

The House amendment contained an identical provision (sec. 631).

In adopting this provision, the conferees reiterate their strong support for the concept of COLA equity. The conferees do not believe military retiree COLAs should be delayed beyond the dates on which civil service retiree COLAs are paid.

The inequity in the treatment of COLAs for military and civil service retirees is a direct result of the reconciliation instructions contained in the Budget Resolution for fiscal year 1994, which had the effect of requiring substantially larger mandatory spending reductions from military retirement benefits than those required from civil service retirement benefits. In order to achieve those reductions, the Omnibus Budget Reconciliation Act of 1993 provided for different COLA delay schedules for military and civil service retirees. The conference agreement would correct that inequity only for 1995.

Under the rules of the House of Representatives and the Senate and the requirements of the Congressional Budget Act, the only choices open to the conferees were to offset the cost advancing the military retirement COLA by cutting the defense budget, or to add the cost to the deficit. Reluctantly, the conferees funded military retiree COLAs (which have not been part of the defense budget for a decade) by cutting the defense budget because the conferees did not believe that increasing the already excessive federal budget deficit was an acceptable alternative.

In order to offset the outlay impact of the COLA provision, the conferees agree to make reductions in the operation and maintenance accounts which support the day-to-day operations and readiness of U.S. military forces. These reductions could result in lower readiness for U.S. military forces at the same time that extra demands are being placed on them in contingency operations around the world.

Since a continued diversion of operation and maintenance funding into the military retirement trust fund over the next 4 years would cause unacceptable reductions in military readiness, the conferees deem it imperative that an alternative method of eliminating this COLA disparity be found for fiscal years 1996, 1997 and 1998.

Requirement for equal treatment of civilian and military retirees in the event of delays in cost-of-living adjustments (sec. 632)

The Senate bill contained a provision (sec. 636) that would ensure equal treatment of civilian and military retirees in the event of delays in cost-of-living adjustments, beginning on October 1, 1998.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of the Congress on this matter.

Clarification of calculation of retired pay for officers who retire in a grade lower than the grade held at retirement (sec. 633)

The Senate bill and the House amendment contained identical provisions (secs. 631 and 632, respectively) that would amend section 1401a(f) of title 10, United States Code, to preclude commissioned officers from receiving retired pay in a grade higher than the grade in which they were retired.

The conference agreement includes this provision.

Computation of retired pay to prevent pay inversions (sec. 634)

The Senate bill contained a provision (sec. 634) that would authorize the secretaries of the military departments to waive the minimum service for retirement requirement which may have existed at the time a servicemember who is affected by the "Tower Amendment" retired.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

The "Tower Amendment" was enacted to ensure that retiring servicemembers not be penalized if their retired pay would be less than if they had retired earlier (pay inversion). Since some members may not have held their retirement grade for sufficient time to qualify for retirement at the earlier date, the secretaries of the military departments were required to waive the time-in-grade requirements. This provision would permit the secretaries of the military departments to waive the time-in-grade requirements retroactively as a class action.

Crediting of reserve service of enlisted members for computation of retired pay (sec. 635)

The Senate bill contained a provision (sec. 632) that would provide equitable treatment, in comparison to officers, for enlisted members retiring after 20 or more years (or 15 or more years if during the force drawdown transition period) by authorizing credit for inactive duty performed while a member of a reserve component.

The House amendment contained a similar provision (sec. 633).

The Senate recedes with an amendment that would make clarifying changes.

Minimum required reserve service for eligibility for retired pay for nonregular service during force drawdown period (sec. 636)

The House amendment contained a provision (sec. 634) that would change the minimum required reserve service for eligibility for retired pay during the force drawdown period.

The Senate amendment contained no similar provision.

The Senate recedes.

SBP premiums for reserve component, child-only coverage (sec. 637)

The House amendment contained a provision (sec. 635) that would clarify the mechanism for payment of premiums for individuals who select a reserve component, child-only election under the Survivor Benefit Plan.

The Senate amendment contained no similar provision.

The Senate recedes.

Discontinuation of insurable interest coverage under Survivor Benefit Plan (sec. 638)

The House amendment contained a provision (sec. 636) that would allow individuals who had previously made non-former spouse insurable interest elections under the Survivor Benefit Plan to terminate participation if they so desire.

The Senate amendment contained no similar provision.

The Senate recedes.

Forfeiture of annuity or retired pay of members convicted of espionage (sec. 639)

The Senate bill contained a provision (sec. 633) that would include the offense of espionage (article 106a of the Uniform Code of Military Justice) in the list of offenses subject to the forfeiture of retired pay or any annuity under 5 U.S.C. 8312.

The House amendment contained no similar provision.

The House recedes.

Treatment of retired and retainer pay of members of cadre of Civilian Community Corps (sec. 640)

The Senate bill contained a provision (sec. 645) that would clarify the intent of Congress concerning compensation for retired military members employed by the National Civilian Community Corps.

The House amendment contained no similar provision.

The House recedes.

Eligibility of members retired under temporary special retirement authority for Servicemen's Group Life Insurance (sec. 651)

The Senate bill contained a provision (sec. 641) that would authorize Servicemen's Group Life Insurance (SGLI) for members of the retired reserve of a uniformed service who retired under the temporary special retirement authority and (1) have not received the first increment of their retired pay, or (2) have not reached age 61 and have completed at least 15 years, but less than 20 years, or service creditable towards retirement.

The House amendment contained no similar provision.

The House recedes.

Transportation of remains (sec. 652)

The House amendment contained two provisions (secs. 365 and 366) concerning the transportation of remains of deceased former members of the armed forces. Section 365 would authorize the transportation of the remains of retired members who die outside the United States on a space-available basis to a point of entry in the United States. Section 366 would authorize transportation on aeromedical evacuation aircraft, on a cost-reimbursable basis, of the remains of certain deceased veterans who die in a Department of Veterans' Affairs medical facility.

The House amendment contained no similar provision.

The House recedes.

Special supplemental food program (sec. 653)

The Senate bill contained a provision (sec. 653) that would authorize the Secretary of Defense to provide special supplemental food benefits to members of the armed forces stationed overseas, and to eligible civilians serving with, employed by, or accompanying servicemembers overseas.

The House amendment contained a similar provision (sec. 364).

The House recedes.

Study of offset of disability compensation by receipt of separation benefits and incentives (sec. 654)

The Senate bill contained a provision (sec. 656) that would require a study on the offset of veterans' disability compensation by the amount of any separation benefits or incentives received by members of the armed forces upon separation from the armed forces.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Cost of living increases in SBP contributions to be effective concurrently with payment of related retired pay cost-of-living increases

The Senate bill contained a provision (sec. 635) that would preclude annual increases in the premiums military retirees pay to participate in the Survivor Benefit Plan (SBP) before annual cost-of-living increases in retired pay are payable.

The House amendment contained no similar provision.

The Senate recedes.

Disability coverage for officer candidates granted excess leave

The Senate bill contained a provision (sec. 651) that would include certain members not entitled to basic pay (officer candidates) among those whose receive physical disability coverage.

The House amendment contained no similar provision.

The Senate recedes.

Use of exchanges and morale, welfare, and recreation facilities by members of reserve components and dependents

The Senate bill contained a provision (sec. 652) that would amend section 1065 of title 10, United States Code, to authorize retired members of the Selected Reserve to use Department of Defense exchanges and other revenue-generating morale, welfare, and recreation facilities.

The House bill contained no similar provision.

The Senate recedes.

Authority for survivors to receive payment for all leave accrued by deceased members

The House amendment contained a provision (sec. 641) that would authorize survivors of members of the uniformed services to receive a payment upon death for all leave accrued, regardless of the 60-day career limitation.

The Senate bill contained no similar provision.

The House recedes.

TITLE VII—HEALTH CARE PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Revision of the definition of dependents to include young people being adopted by members or former members (sec. 701)

The Senate bill contained a provision (sec. 701) that would authorize coverage in the military health care system for individuals placed in the home of a servicemember or former servicemember by a placement agency for the purpose of adoption. The provision would also make the new category of "dependents" eligible for CHAMPUS as well as military treatment facility care.

The House amendment contained a similar provision (sec. 701) that would further expand the definition of the term "dependent" for the purposes of health care contained in section 1072 of title 10, United States Code, to include certain minors in the legal custody of a member or a former member of the armed forces. The definition would include individuals placed in the home of a member or former member by a state-licensed placement agency for the purpose of adoption.

The House recedes.

Treatment of certain dependents as children for purposes of CHAMPUS, dependents' dental program, and continued health benefits coverage (sec. 702)

The House amendment contained a provision (sec. 702) that would make conforming amendments to title 10, United States Code, to reflect changes to the definition of "dependent" for the purpose of medical care contained elsewhere in the House amendment and in the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

The Senate bill contained no similar provision.

The Senate recedes.

Availability of dependents' dental program outside the United States (sec. 703)

The Senate bill contained a provision (sec. 702) that would direct the Secretary of Defense to use existing authority to provide basic dental benefits for dependents of members of the uniformed services permanently stationed outside the United States.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Not later than 90 days after enactment of this act, the conferees expect the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive plan for the delivery of dental care to family members at overseas locations. The plan should specify by service and major installation whether direct care, enrollment in the dependent dental program, or other options will be offered.

Not later than 180 days following enactment, the conferees expect the Secretary of Defense to begin phased implementation of the plan. The conferees expect that the highest priority will be given to those areas demonstrating the greatest problems with access to primary dental care. The conferees direct the Secretary of Defense to report to the Committees on Armed Services on the status of the program by March 1, 1995; July 1, 1995; and September 30, 1995.

Authorization for medical and dental care for abused dependents of certain members (sec. 704)

The Senate bill contained a provision (sec. 703) that would authorize medical and dental care of abused dependents of members of the uniformed services who are administratively discharged from a uniformed service due to a conviction under military or civil law relating to the abuse of the dependent.

The House amendment contained a provision (sec. 703) that would expand the authorization for medical and dental care for the abuse-related injury to the abused dependents of members of the uniformed services who are administratively discharged due to a conviction under section 1076(e) of title 10, United States Code.

The Senate recedes.

Eligibility for participation in demonstration programs for sale of pharmaceuticals (sec. 706)

The Senate bill contained a provision (sec. 709) that would ensure that Medicare-eligible retirees who formerly relied upon a military treatment facility that has been closed or realigned continue to have some pharmaceutical benefit.

The House amendment contained no similar provision.

The House recedes with an amendment that would strengthen the requirement that the retiree relied upon the military treatment facility to obtain pharmaceuticals as a prerequisite for participation in this program and would permit the Secretary of Defense to achieve cost neutrality for this change to the mail-order pharmaceutical and retail pharmacy network demonstrations.

Additional health care services available through the military health care system (sec. 705)

The House bill contained a provision (sec. 704) that would amend section 1077 of title 10, United States Code, to expand covered military health care to include the provision of voice prostheses, including mechanical handheld voice prostheses.

The Senate amendment contained no similar provision.

The Senate recedes.

Coordination of benefits (sec. 711)

The Senate bill contained a provision (sec. 704) that would provide equitable reimbursement procedures for those cases in which CHAMPUS is the secondary payer to Medicare for active duty dependents and retired members and their dependents under the age of 65.

The House amendment contained no similar provision.

The House recedes. The conferees are sympathetic to the situation of these disabled individuals. However, the conferees remain concerned about the precedent of providing a more generous benefit to one subset of the beneficiary population while the majority of the population continues to receive a lesser benefit.

Authority for reimbursement of professional license fees under resource-sharing agreements (sec. 712)

The Senate bill contained a provision (sec. 705) that would authorize the Secretary of Defense to reimburse a member of the uniformed service for license fees imposed by a state government to provide health care services at a civilian health care facility.

The House amendment contained a similar provision (sec. 711) that would also enable civilian health care providers with whom the Secretary of Defense contracts for the delivery of health care to covered beneficiaries to purchase services or supplies directly from the military treatment facility.

The House recedes.

Imposition of enrollment fees for managed care plans (sec. 713)

The Senate bill contained a provision (sec. 712) that would permit the Secretary of Defense to offer Medicare-eligible beneficiaries who enroll in the health maintenance organization option offered in current managed care programs the opportunity to pay an enrollment fee similar to the enrollment fee that CHAMPUS-eligible enrollees may pay in lieu of meeting the required CHAMPUS deductible.

The Senate bill contained no similar provision.

The Senate recedes.

Strengthening managed health care authorities (sec. 714)

The House bill contained a provision (sec. 714) that would strengthen the ability of the Department of Defense to implement effective managed health care programs.

The Senate bill contained no similar provision.

The Senate recedes.

Delay in deadline for use of health maintenance organization model as option for military health care (sec. 715)

The House amendment contained a provision (sec. 714) that would extend the deadline for the Secretary of Defense to prescribe and implement a health benefit option and cost-sharing requirements modelled on health maintenance organization (HMO) plans in the private sector and other government health insurance programs.

The Senate bill contained no similar provision.

The Senate recedes.

Limitation on reduction in number of reserve component medical personnel (sec. 716)

The House amendment contained a provision (sec. 715) that would permit a reserve component to go below the floor established by section 518(a) of the National Defense Authorization Act for Fiscal Year 1993 if the Secretary of Defense certifies that the number of personnel to be reduced is excess to the current and projected needs of the military department.

The Senate bill contained no similar provision.

The Senate recedes.

Authority to conduct health care surveys of families of retired members (sec. 717)

The Senate bill contained a provision (sec. 707) that would allow the Defense Department to consider all persons receiving health care under chapter 55 of title 10, United States Code, as employees of the United States for the purpose of conducting surveys to determine the availability of health care services to such persons, their familiarity with facilities and services provided, their health, and their level of satisfaction.

The House amendment contained no similar provision.

The House recedes.

Programs related to the Gulf War Syndrome (sec. 721)

The House bill contained a provision (sec. 529) that would direct several actions to improve the medical treatment of veterans of the Persian Gulf War by the Department of Defense.

The Senate amendment contained a provision (sec. 1095) that would mandate the compatibility of the separate Persian Gulf illness registries maintained by the Department of Defense and the Department of Veterans' Affairs. This provision was nearly identical to a subsection of the House provision.

The Senate recedes with an amendment that would incorporate the Senate provision on health registries into the House provision.

The conferees agree that the Department of Defense was slow to react when initially confronted with growing evidence that some veterans of the Persian Gulf War were afflicted with symptoms which could not be diagnosed completely under existing protocols. Further, the conferees agree that the terms of this provision provide the necessary direction to the Department of Defense to continue its programs of treatment of victims of this illness. This provision would require the Secretary of Defense to begin a comprehensive outreach program to inform Persian Gulf veterans on matters related to the illness and to encourage them to register with the Department. The provision would also require the Department of Defense to presume that sick servicemembers who served in the Persian Gulf War are ill as a result of that service until it can be proven otherwise. Additionally, the provision would codify the current Department of Defense practice of not discharging sick Persian Gulf veterans until a suitable disability rating can be established. Further, it would direct the Secretary of Defense, in conjunction with the Secretary of Veterans' Affairs, to review the records of Persian Gulf veterans who have been discharged or retired by a physical evaluation board.

Cooperative Department of Defense/Department of Veterans' Affairs research (sec. 722)

The budget request contained no funds for cooperative research between the Departments of Defense and Veterans' Affairs.

The Senate bill would provide $40.0 million in PE 63738D for cooperative DOD/VA research; $20.0 million for the cost-shared DOD/VA brain and spinal cord injury program; and $20.0 million for Gulf War Syndrome research. The Senate bill also contained a provision (sec. 1093) that would require two studies of the health consequences of military service or employment in Southwest Asia during the Persian Gulf War and a provision (sec. 1094) that would award grants for research into the health consequences of the Persian Gulf War.

The House amendment would provide $30.0 million in PE 63738D for research on the use of artificial neural networks for cancer detection and treatment and for Gulf War Syndrome research.

The House recedes with an amendment.

The conferees agree to authorize $50.0 million in PE 63738D for brain and spinal cord research, in accordance with the Senate report (S. Rept. 103-282); artificial neural network research, lyme disease research, automated mammography, and diabetes research, in accordance with the House report (H. Rept. 103-499); and Gulf War Syndrome research.

The conferees view with great concern the complaints of an unexplained illness—the so-called "Gulf War Syndrome"—that have been made by a large number of veterans of the Persian Gulf War. The conferees note that in some cases these complaints extend to the families of the veterans and to some civilian employees of the U.S. government and support contractors who served in the Southwest Asia theater of operations.

The conferees note that the National Defense Authorization Act for Fiscal Year 1994 contained two provisions (secs. 270 and 271) that provided grants to support research on exposure to hazardous agents and materials and to depleted uranium by military personnel who served in the Gulf War. The conferees further note the congressional hearings on the subject of the Gulf War Syndrome and the several reviews that have been conducted in the past year within the Department of Defense, the Defense Science Board, and the Department of Veterans' Affairs into the potential causes of the medical problems which seem to be associated with service in the Gulf War. The conferees are aware of the review in April 1994 by the National Institutes of Health that considered certain medical complaints to be genuine. The conferees are aware of continuing inquiries and investigation into the basis for the complaints and consideration of a broad range of environmental, battlefield, and other conditions that may have contributed to the complaints.

The conferees strongly believe that the Departments of Defense, Veterans' Affairs, and Health and Human Services must make a concerted effort to determine the consequences to the health of members of the U.S. armed forces, government employees, supporting contractors, and their families of their service in Southwest Asia during the Persian Gulf War. The seriousness and immediate nature of the problem requires a priority, systematic, scientifically-based, and coordinated effort. The conferees believe that the effort should capitalize on work that has already been done or is in progress, but should include new activities which use the best efforts and capabilities of both government and non-government entities to assess the short-term and long-term hazards to the health of the individuals concerned. This effort must consider the broad range of potential environmental, battlefield, and other conditions incident to service in Southwest Asia during the Persian Gulf War.

The conferees direct that such an effort be conducted in accordance with a coordinated plan of research and study activities by federal and non-federal agencies, prepared by the Secretary of Defense, in coordination with the Secretaries of Veterans' Affairs and Health and Human Services, and reviewed by the National Academy of Sciences. The conferees agree that three groups of studies of the Gulf War Syndrome by non-federal entities should be among these efforts: (1) a study of the nature and scope of the syndrome; (2) a study of the health consequences of the administration of pyridostigmine bromide as a pretreatment antidote enhancer; and (3) a final group of clinical studies and other research on the causes, possible transmission, and treatment of undiagnosed illnesses of individuals who served in Southwest Asia in the military, or as DOD or contractor employees, and their spouses and children where appropriate, during the Gulf War.

The conferees note the need for independent research in certain cases to ensure that the results have the highest possible credibility. With this in mind, the conferees direct the Department of Defense to utilize non-federal research entities for the conduct of the epidemiological and pyridostigmine studies. The conferees further note that this non-federal research is in addition to any ongoing federal research or research internal to the federal government which the Secretary may direct. The conferees further direct the Secretary to ensure that the grants for this research be awarded on the basis of competition to non-federal researchers with no financial interest in the outcome of the research.

The first study or studies shall be epidemiological research of individuals who served as members of the armed forces in the Southwest Asia theater of operations during the Persian Gulf War; individuals who were civilian employees of the Department of Defense in that theater during that period; and where appropriate, individuals who were employees of contractors of the Department in that theater during that period and the spouses and children of individuals covered by the study.

The study shall be designed to assess the incidence, prevalence, and nature of the illness and symptoms, the risk factors associated with symptoms of the syndrome that were manifested within three years of deployment in the Southwest Asia theater of operations, and any other matters that the Secretary of Defense deems relevant to the health and welfare of the individuals involved. The potential risk factors assessed shall include exposure to chemical and biological agents, drugs and vaccines, endemic diseases, pesticides, toxins, and any other hazardous materials deemed appropriate. The study shall also assess the relationship between the illnesses and symptoms and stress-producing battlefield and wartime conditions.

The study shall attempt to compare:

(1) the incidence, prevalence, and nature of the illnesses and symptoms suffered by the individuals in the study prior to the commencement of the Persian Gulf War with those suffered by the individuals after the end of the war; and

(2) the incidence, prevalence, and nature of the illnesses, symptoms, and birth defects of any children conceived by such individuals before the commencement of the Persian Gulf War with those experienced after the end of the war.

After each successful applicant for the study or studies has been selected, the successful applicant or applicants shall be required to conduct a small pilot study to demonstrate the feasibility of their proposed study design and instruments.

The second group of studies shall determine the short-term and long-term health consequences of the administration of pyridostigmine bromide as an antidote enhancer for chemical nerve agent toxicity during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances that were present during the Persian Gulf War.

The first project of this second group of studies shall be a retrospective study on members of the armed forces who served in the Southwest Asia theater of operations during the Persian Gulf War and shall be designed to determine the following:

(1) the nature of the undiagnosed and chronic illnesses suffered by such members; and

(2) the extent to which the illnesses are associated with the use of pyridostigmine bromide or other medications or vaccinations, and exposure to pesticides, organophosphates, or carbamates.

The second research project shall use appropriate animal models and non-animal models, including in-vitro systems, as required, in studies designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophos-phates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

The conferees urge the Secretary of Defense to execute this research in consultation with the Secretaries of Veterans' Affairs and Health and Human Services, the Administrator of the Environmental Protection Agency, the head of the Medical Follow-Up Agency of the institute of Medicine, and the heads of other appropriate departments and agencies of the federal government.

The third group of studies shall include clinical studies and other research on the causes, possible transmission, and treatment of the Gulf War Syndrome. The Secretary of Defense shall award grants to appropriate non-governmental entities to determine:

(1) the nature and causes of any illnesses suffered by individuals as a result of service or employment in the Southwest Asia theater of operations during the Persian Gulf War;

(2) the methods of transmission, if any, of such illnesses from such individuals to other individuals; and

(3) the appropriate treatment for such illnesses.

In carrying out this research, the entities conducting the research should consider the following:

(1) illnesses or symptoms associated with exposure to depleted uranium particles, mycotoxins, genetically-altered organisms, petrochemical toxicity, pesticide poisoning, anthrax vaccines, botulinum toxoids, and other chemical hazards and agents;

(2) endemic viral, fungal, bacterial, and rickettsial diseases (including diseases arising from biological warfare activities);

(3) illnesses or symptoms associated with ingestion of silica or sand;

(4) assessment of reproductive risks arising from the illnesses and diseases referred to in paragraphs (1) through (3);

(5) pediatric disorders;

(6) birth defects;

(7) post-traumatic stress disorder;

(8) somatoform disorders;

(9) chronic fatigue syndrome; and

(10) multiple chemical sensitivities.

In awarding grants for the conduct of all of these studies, the Secretary shall select independent peer reviewers to evaluate the proposals received from entities proposing to conduct this research. The Secretary shall ensure that the reviewers:

(1) are not employees of the federal government;

(2) have an expertise in epidemiology, toxicology, neurology, biology, biostatistics, post-traumatic stress disorder, or public health; and

(3) have no financial relationship with any company that manufactures a product that may be addressed in the study.

The Secretary of Defense shall report the results of this research to the Congress.

Chiropractic health care demonstration (sec. 731)

The Senate bill contained a provision (sec. 706) that would require the Department of Defense to conduct a chiropractic health care demonstration.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Demonstration program for admission of civilians as physician assistant students at Academy of Health Sciences, Fort Sam Houston, Texas (sec. 732)

The House amendment contained a provision (sec. 722) that would authorize a demonstration program under which the Secretary of the Army could enter into a reciprocal agreement with an accredited institution of higher education to allow a limited number of students of that institution to attend the didactic portion of the physician assistant training program conducted at the Academy of Health Sciences, Fort Sam Houston, Texas, in return for the provision of certain academic services.

The Senate bill contained no similar provision.

The Senate recedes.

Delay in closure of Army hospital at Vicenza, Italy (sec. 733)

The House bill contained a provision (sec. 721) that would preclude the Secretary of the Army from reducing the level of medical care services provided by the U.S. Army hospital in Vicenza during fiscal year 1995 and direct the Secretary of Defense to submit a report not later than March 1, 1995, addressing a number of issues related to the closure of the Army hospital at Vicenza.

The Senate contained no similar provision.

The Senate recedes.

Oral typhoid vaccine inventory of Department of Defense (sec. 734)

The House amendment contained a provision (sec. 725) that would require the Secretary of Defense to maintain an inventory of an equal number of doses of oral typhoid vaccine and parenteral injection typhoid vaccine. The Secretary of Defense would be able to waive this requirement for reasons of national security.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary of Defense to waive this requirement for medical reasons.

Report on the expanded use of nonavailability of health care statements (sec. 735)

The House amendment contained a provision (sec. 723) that would direct the Secretary of Defense to report on the Department's plans to require that beneficiaries who use standard CHAMPUS and reside within the catchment area of a military treatment facility (MTF) obtain inpatient services and certain outpatient services from the MTF civilian provider network when the service is not available from the MTF.

The Senate bill contained no similar provision.

The Senate recedes.

Cost analysis of Tidewater Tricare delivery of pediatric health care to military families (sec. 736)

The Senate bill contained a provision (sec. 710) that would require the Assistant Secretary of Defense (Health Affairs) to consider certain cost experience gained from an analysis of the Tidewater Tricare demonstration in prescribing standards, limitations, and requirements relating to the cost of pediatric care under any managed care system established for the Department of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment that would limit the use of data gained from the Tidewater Tricare demonstration to future health care decisions in that area.

Study and report on financial relief for certain Medicare-eligible military retirees who incur Medicare late enrollment penalties (sec. 737)

The Senate bill contained a provision (sec. 708) that would require the Secretary of Defense, in consultation with the Secretary of Health and Human Services, to study and report to the Congress not later than March 31, 1995, on possible financial relief from late enrollment penalties for military retirees and dependents who reside in the service area of a base closure site and who did not enroll in Medicare Part B because they relied on a military treatment facility.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes.

Sense of Congress on continuity of health care services for certain covered beneficiaries (sec. 738)

The House amendment contained a provision (sec. 724) that would express the sense of Congress that the Secretary of Defense should take all appropriate steps, including a limited extension of the current managed care contract, to protect the continuity of health care services for all beneficiaries eligible for the base realignment and closure (BRAC) site managed health care benefit during the transition period of the TRICARE Region Six managed care contract.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would expand the beneficiary population covered by the sense of Congress to all beneficiaries residing in areas adversely affected by the closure of a military installation under the BRAC process.

Automated medical record capability in the medical information system

The Senate report (S. Rept. 103-282) directed the Department of Defense to implement, during fiscal year 1995, the plan outlined in the report submitted in response to section 714 of the National Defense Authorization Act for Fiscal Year 1994. This report described a test of components of an automated record capability at one or more military medical facilities. The conferees support the conduct of such a test and encourage the Department to work with the Department of Veterans' Affairs to include one or more veterans' facilities in this test so that the development of an automated medical record will be a cooperative effort between the two departments.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Procurement technical assistance centers (sec. 801)

The Senate bill contained a provision (sec. 811) that would authorize $12.0 million for the operation of procurement technical assistance centers in fiscal year 1995. The provision would also authorize up to $600,000 of the $12.0 million to be used to fund such programs sponsored by tribal organizations.

The House amendment contained a similar provision.

The House recedes.

Pilot mentor protege program (sec. 802)

The budget request contained $50.0 million in RDT&E funds for the pilot mentor protege program.

The Senate bill contained a provision (sec. 812) that would provide $50.0 million for the pilot mentor protege program from title I procurement funds.

The House amendment contained no similar provision.

The House recedes.

Historically black colleges and universities (sec. 803)

The budget request contained $15.0 million for historically black colleges and universities and minority institutions (HBCU/MI).

The Senate bill contained a provision (sec. 813) that would provide $35.0 million for these institutions.

The House amendment contained a provision (sec. 813) that would provide $25.0 million for the HBCU/MI program. The House report (H. Rept. 103-499) also recommended $10.0 million for undergraduate centers of excellence at HBCU/MI institutions.

The conferees recommend $25.0 million for the HBCU/MI program. The conferees further recommend that the Department of Defense ensure that minority women's programs, such as undergraduate science centers of excellence, have an opportunity to compete for funding under the HBCU/MI program.

Treatment under subcontracting plans for purchases from qualified nonprofit agencies for the blind or severely disabled (sec. 804)

The Senate bill contained a provision (sec. 816) that would extend until September 30, 1997 the law (10 U.S.C. 2410d) that provides contractors with credit towards their subcontracting goals for subcontracts with qualified nonprofit entities for the blind and severely disabled. The provision also would revise current law by including central nonprofit agencies designated by the Committee for Purchase from People Who are Blind or Severely Disabled.

The House amendment contained no similar provision.

The House recedes.

Industrial mobilization authority (sec. 811)

The Senate bill contained a provision (sec. 822) that would clarify 10 U.S.C. 2538 regarding the delegation of mobilization authority by the President during wartime.

The House amendment contained no similar provision.

The House recedes.

Determinations of public interest under the Buy American Act (sec. 812)

The Senate bill contained a provision (sec. 824) that would add several factors to the series of factors that section 2533 of title 10, United States Code, requires the Defense Department to consider when deciding whether to procure foreign-made goods.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete one of the factors added by the Senate provision and add a reference to the national technology employment base.

Continuation of reporting requirement on noncompetitive awards to colleges and universities (sec. 813)

The Senate bill included a provision (sec. 802) that would continue an annual reporting requirement on the awards of contracts and grants to universities through other than competitive procedures.

The House amendment contained no similar provision.

The House recedes with an amendment.

Consolidation of limitations on procurement of goods other than American goods (sec. 814)

The House amendment contained a provision (sec. 855) that would amend section 2534 of title 10, United States Code, to consolidate miscellaneous limitations and waivers on the procurement of foreign goods.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make technical changes and retain the existing limitation in law on the procurement of sonobuoys.

Environmental consequence analysis of major defense acquisition programs (sec. 815)

The House amendment contained a provision (sec. 871) that would require the Secretary of Defense to analyze the life-cycle environmental costs of major defense system acquisition programs before development begins. The provision would also direct the Secretary to issue implementing guidance for such analysis, as well as implementing guidance for compliance with the National Environmental Policy Act (NEPA), and to establish a NEPA data base.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary to issue guidance, by March 31, 1995, to ensure both that the life-cycle environmental costs of major defense system acquisition are analyzed before production begins, and that the Department complies with the National Environmental Policy Act in making decisions regarding the procurement of major defense systems. The provision would also direct the Secretary to implement the guidance by March 31, 1995.

Demonstration project on purchase of fire, security, police, public works, and utility services from local government agencies (sec. 816)

The House amendment contained a provision (sec. 874) that would require the Secretary of Defense to conduct a demonstration project at Monterey, California, under which any municipal services needed for operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located within the county of Monterey.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize, but not require, the Secretary to carry out this demonstration program.

Preference for local residents (sec. 817)

The House amendment contained a provision (sec. 876) that would authorize the Secretary of Defense to give a preference to private contractors performing work at closing military installations, if those contractors hire, to the maximum extent practicable, residents from the local communities. This work would include environmental restoration contracts.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary to give a preference only if granting the preference is consistent with all other legally required actions at the installation. The conferees are concerned that environmental restoration not be delayed as a result of any preferences.

Allowability under defense contracts of restructuring costs of a merger or acquisition (sec. 818)

The House amendment contained a provision (sec. 1033) that would bar the Secretary of Defense from authorizing any payments, after May 4, 1994, for any restructuring costs incurred by a defense contractor after a merger or acquisition.

The Senate bill contained no similar provision.

The Senate recedes with an amendment. The amendment would require the Secretary of Defense to issue regulations by January 1, 1995, that would govern the allowability of restructuring costs, and that would establish requirements for contract novation resulting from business combinations (mergers and acquisitions). The amendment also would impose an annual reporting requirement on the Department of Defense and would require the Comptroller General to assess the Defense Department's policy and make recommendations to Congress.

The conferees have serious concerns about allowing payment of restructuring costs beyond those costs that would be allowed as a result of an internal reorganization absent a merger or acquisition. The conferees remain convinced that regulations should provide clear restrictions on the reimbursement of costs resulting from mergers and acquisitions, including such controversial areas as the costs attributable to pension underfunding.

The conferees are concerned that the Department of Defense policy on restructuring costs does not require enough accountability. The conferees also are concerned about the absence of clear requirements for calculating and evaluating projections of future cost savings to the government when such savings are used as the basis for allowing payment of restructuring costs.

The conference agreement would require a DOD official at the level of an assistant secretary of defense or above to review restructuring agreements based on projections of future savings, certify that the projections are based on audited data, and certify that the payment of restructuring costs should result in overall reduced costs for the Department of Defense, which is the stated purpose for this policy.

The conferees believe that DOD policy must require the prompt novation of government contracts after a business combination and must require properly supported and audited advance agreements in order to ensure that the government's interests are protected. The Department also must ensure that contracting officers and auditors understand that, in the absence of detailed information showing compelling evidence of the benefit to the government, there is no obligation to pay these costs. Furthermore, DOD policy should ensure that contracting officers make every reasonable effort to price the projected savings into current contracts, thereby increasing the likelihood that actual savings will be obtained for the taxpayers rather than relying only on projections.

Defense acquisition pilot program designations (sec. 819)

The House amendment contained a provision (sec. 875) that would authorize the Secretary of Defense to designate five specified programs for participation in the defense acquisition pilot program established under section 809 of the National Defense Authorization Act for Fiscal Year 1991.

The Senate bill contained no similar provision. The Senate approved a similar provision, authorizing the designation of six specified programs under the pilot program authority, in section 5003 of the Federal Acquisition Streamlining Act of 1994.

The Senate recedes with an amendment that would authorize the Secretary of Defense to designate the following programs for participation in the defense acquisition pilot program to the extent provided in the Federal Acquisition Streamlining Act of 1994: (1) fire support combined arms tactical trainer; (2) joint direct attack munition; (3) commercial derivative aircraft; (4) commercial-derivative engine; and (5) joint primary aircraft training system.

LEGISLATIVE PROVISIONS NOT ADOPTED

Legislative provisions addressed in the Federal Acquisition Streamlining Act of 1994

A number of provisions in the Senate bill and the House amendment duplicate provisions under consideration by the conference committee on S. 1587, the Federal Acquisition Streamlining Act of 1994. The House and Senate conferees each agree to recede from their respective positions on the sections of S. 2182 listed blow in view of the disposition of these issues in the conference on S. 1587.

Item	S. 2182 Senate bill	S. 2182 House amendment	S. 1587 Senate bill	S. 1587 House amendment
Defense procurement policy		811		1501
Special tooling equipment		812	1505	1506
Vouchering procedures		813	2002	2002
Critical spare parts		814	2401	2401
Contractor guarantees		815	2402	2402
Procurement schedules		821		3001
Selected acquisition reports		822		3002
Unit cost reports		823		3003
Independent cost estimates		824	3001	3004
Baseline descriptions		825	3002	3005
Competitive prototyping		826	3004	3006
Competitive alt. sources		827	3005	3007
Operational Test and Evaluation		833–33, 906	3011–13	3011–13
Civil Reserve Air Fleet		841–43	3023	3021–23
Miscellaneous functions		851	3081	3051
Product evaluation		852	3082	3052
Leases		853	3083	3053
Naval vessel contracts		854		3054
Intellectual property		856	5092	8005
Subcontracting test	814	858		4103
Merit-based selections	801	872	4152	1301, 4151
Shipbuilding claims		873	2502	2502

Implementation of acquisition assistance regulations required by Public Law 103–160

The Senate bill contained a provision (sec. 815) that would prohibit obligation and expenditure of certain funds until the Department of Defense issues all regulations required by sections 811(d)(1) and 813(b)(1) of the National Defense Authorization Act for Fiscal Year 1994. The required implementing regulations concern the contract goal for small disadvantaged businesses (10 U.S.C. 2323) and the pilot Mentor-Protege program.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree that implementation of these sections is a matter of high priority, but believe that the Department should be given a final opportunity to issue appropriate regulations before specific action is taken by the Congress.

Department of Defense review of antitrust cases with national security implications

The House amendment contained a provision (sec. 857) that would establish in permanent law a procedure for the Secretary of Defense to review and comment on proposed mergers that might have national security implications.

The Senate bill contained no similar provision.

The House recedes. The conferees note that a report by the Defense Science Board has recommended procedures for DOD to review and comment on proposed mergers, and the conferees urge the Department to promptly implement these recommendations. In accordance with the recommendations of the Defense Science Board Task Force on Antitrust, the conferees direct the Secretary of Defense to ensure: (1) that DOD alerts the antitrust enforcement agencies to any proposed acquisition of a business concern that is a critical defense supplier with respect to which the Attorney General or the Federal Trade Commission receives notice under the antitrust laws; (2) when warranted, that DOD advises the antitrust agencies of relevant facts bearing on the likely effect of the proposed acquisition on the national industrial and technology base and on other national security considerations; and (3) that DOD promptly communicates its views to the Attorney General or the Federal Trade Commission on any national security concerns related to a proposed merger or acquisition.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Assistant secretary of defense (sec. 901)

The Senate bill contained a provision (sec. 901) that would increase the number of assistant secretaries of defense from 10 to 11.

The House amendment contained no similar provision.

The House recedes.

Order of succession in the military departments (sec. 902)

The Senate bill contained a provision (sec. 902) that would place the position of general counsel of a military department in the order of succession to the position of secretary of a military department immediately following the assistant secretaries.

The House amendment contained no similar provision.

The House recedes.

Change of title of Comptroller of the Department of Defense (sec. 903)

The House amendment contained a provision (sec. 905) that would change the title of the Comptroller of the Department of Defense to Under Secretary of Defense (Comptroller).

The Senate bill contained no similar provision.

The Senate recedes.

Revision of National Guard Bureau charter (sec. 904)

The House amendment contained a provision (sec. 901) that would set out the purpose of the National Guard Bureau; provide for the appointment and minimum grades of the Bureau leadership, including the chief, vice chief, and four additional general officers; provide for a Bureau legal counsel, comptroller, and inspector general; and require an annual report on the state of the National Guard. The provision would also require the Secretary of the Army and the Secretary of the Air Force to jointly develop a Guard Bureau charter.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would specify the grades of the Bureau leadership and provide for the annual report to be submitted to the Secretary of Defense through the Secretaries of the Army and the Air Force.

Marine Corps University: Master of Military Studies (sec. 911)

The Senate bill contained a provision (sec. 931) that would authorize the President of the Marine Corps University to confer the degree of "Master of Military Studies" to certain graduates of the college. This authority would become effective upon approval of the Masters of Military Studies program by the Secretary of Education.

The House amendment contained no similar provision.

The House recedes.

Marine Corps University: board of advisors (sec. 912)

The Senate bill contained a provision (sec. 932) that would establish a board of advisors for the Marine Corps University.

The House amendment contained no similar provision.

The House recedes with an amendment that would direct the Secretary of the Navy to establish a board of advisors for the Marine Corps University.

Air University: Master of Airpower Arts and Sciences degree (sec. 913)

The Senate bill contained a provision (sec. 933) that would authorize the Commander of the Air University to confer the degree of "Master of Airpower Arts and Sciences" to certain graduates of the School of Advanced Airpower Studies. This authority would become effective upon approval of the Masters of Airpower Arts and Sciences program by the Secretary of Education.

The House amendment contained no similar provision.

The House recedes.

Grades of heads of certain professional military education schools (sec. 914)

The House amendment contained a provision (sec. 507) that would specify the grades of the heads of the senior professional military education schools of the Department of Defense, including the separate military departments.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of the Congress that the heads of the senior professional military education schools should, while so serving, hold a grade no less than the grade held by the officers presently serving in those positions.

Reserve Forces Policy Board amendments (sec. 921)

The Senate bill contained a provision (sec. 921) that would amend section 175 of title 10, United States Code, by including a regular officer assigned to the Joint Staff and an officer of the regular Marine Corps in the membership of the Reserve Forces Policy Board.

The House amendment contained no similar provision.

The House recedes.

The Uniformed Services University of the Health Sciences (sec. 922)

The Senate bill contained a provision (sec. 922) that would prohibit the closing of the Uniformed Services University of the Health Sciences (USUHS); express the sense of Congress that the Secretary of Defense should budget for the ongoing operation of USUHS; and require a GAO report to the Committees on Armed Services of the Senate and House of Representatives on USUHS, its costs, the quality of its medical education, the requirements for military physicians, and other relevant matters.

The House amendment contained no similar provision.

The House recedes. The conferees believe that continuing efforts to close USUHS harm the University's ability to attract and retain the high quality faculty appropriate for a medical school of its stature, and should only be undertaken after careful, rigorous analysis and a comprehensive review of the USUHS role in the national health care system.

Commission on Roles and Missions (sec. 923)

The Senate bill contained three provisions (secs. 911–913) relating to the Commission on Roles and Missions. The first provision would include the National Guard and other reserve components in the overall framework of the Commission's review and recommendations, and require the Commission to address the roles, missions, and functions of the reserve components within the Total Force. The second provision would require the Secretary, upon the request of the chairman of the Commission, to make available to the Commission, without reimbursement, the services of the federally funded research and development centers (FFRDCs) covered by sponsoring agreements of DOD, of a value of not more than $20.0 million. The third provision would increase the membership of the Commission by one member, require that the additional member have previous military experience and management experience with the reserve components, and require the Secretary to appoint the new member within 15 days after the enactment of this act.

The House amendment contained a provision (sec. 1032) that would increase the membership of the Commission on Roles and Missions from seven to ten members and require the Secretary of Defense to appoint the new members within 45 days after the date of the enactment of this act.

The House recedes with an amendment that would increase the membership of the Commission from seven to eleven members, increase the number of members required for a quorum from four to seven members, require the Secretary of Defense to appoint the additional members within 30 days after the enactment of this act, provide that the Commission may also recommend changes that would better align programs and force structure with projected missions and threats, and provide that any analytic support or related services provided by a federally funded research and development center shall not be subject to any overall ceiling established by law.

The conferees note that the Commission on Roles and Missions has now begun its important work. The conferees are aware of some uncertainty as to whether the Commission's charter includes recommending changes in force structure, programs, and organizations. The provision adopted by the conferees makes it clear that changes in force structure and programs are part of the Commission's charter. The conferees believe that the original statute that established the Commission is already clear that recommendations on changes in organizations are part of the Commission's charter. In essence, the conferees intend that the Commission should have the full authority and means to carry out its important work.

The conferees recognize that limitations on the Commission's analytic staff (even with strong FFRDC support), its budget, and particularly its time will restrict its ability to cover programmatic issues. The conferees, therefore, encourage the Commission to address as many of the more significant programmatic issues as can be treated adequately with available resources and time, and include recommendations in its report as to how other high-priority issues of this type should be addressed.

Redesignation of United States Court of Military Appeals and the Courts of Military Review (sec. 924)

The Senate bill contained a provision (sec. 1061) that would redesignate the United States Court of Military Appeals as the United States Court of Appeals for the Armed Services, and that would redesignate the Courts of Military Review as the Courts of Military Criminal Appeals.

The House amendment contained no similar provision.

The House recedes with an amendment that would change the name of the United States Court of Military Appeals to the United States Court of Appeals for the Armed Forces.

Budget support for reserve special operations forces (sec. 925)

The House amendment contained a provision (sec. 904) that would amend section 167 of title 10, United States Code, to specify that the budget proposal for the U.S. Special Operations Command may not eliminate, or significantly reduce the level of funding for, a reserve component special operations unit without the concurrence of the secretary of the military department concerned.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the commander of the Special Operations Command to consult with the secretaries of the military departments concerning funding for reserve special operations units and to include their differing views, if any, with the budget proposal submitted to the Secretary of Defense. It also would require the secretaries of the military departments to consult with the commander of the Special Operations Command concerning funding for reserve special operations forces in the military personnel budgets of their military departments and to include the differing views, if any, of the commander with the budget proposal submitted to the Secretary of Defense.

LEGISLATIVE PROVISIONS NOT ADOPTED

Joint duty credit for equivalent duty in support of unified, combined, or United Nations military operations

The Senate bill contained a provision (sec. 923) that would authorize the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to grant full or partial credit for a joint duty assignment to officers for service in a position involving combat or combat-related military operations under unified, combined, or U.N. operational control in which the officers gained significant experience in joint matters.

The House bill contained no similar provision.

The Senate recedes.

The conferees recognize that some level of joint credit is appropriate for officers serving in certain positions involving combat or combat-related joint operations. The conferees are reluctant, however, to attempt to define the necessary statutory parameters for this authority without more than the limited empirical data received. The conferees believe that the collection of additional information over the next several months will better enable the Department and the Congress to devise suitable parameters. Accordingly, the Secretary of Defense is requested to ensure that data on officers who have served or are serving in these kinds of operations are collected and preserved. This will allow the expeditious implementation of legislation that is expected to result from the defense authorization process in 1995.

Upgrade of AFSC wargaming and other capabilities

The House amendment contained a provision (sec. 530) that would require the Secretary of Defense to upgrade the wargaming capability and other facilities and capabilities at the Armed Forces Staff College.

The Senate bill contained no similar provision.

The House recedes.

Army Reserve Command

The House amendment contained a provision (sec. 902) that would provide for a reserve command that would be independent of the Army Forces Command and commanded by an officer who would report directly to the Army Chief of Staff.

The Senate bill contained no similar provision.

The House recedes.

Assignment of reserve forces to combatant commands

The House amendment contained a provision (sec. 903) that would amend existing law that requires all forces to be assigned by the service secretaries to the combatant commands by providing (1) that reserve units, other than those called or ordered to active duty or reserve special operations units, be allocated to the combatant commands to which they may be assigned upon activation; (2) for the combatant commanders to establish standards in the areas of joint training and readiness; and (3) for the service secretaries to meet the standards established by the combatant commanders.

The Senate bill contained no similar provision.

The House recedes. The conferees have been informed that the Joint Chiefs of Staff have reached agreement on the authorities of the combatant commanders with respect to reserve component units that have not been called or ordered to active duty.

TITLE X—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Emergency supplemental authorization of appropriations for fiscal year 1994 (sec. 1002)

The Senate bill contained a provision (sec. 1002) that would authorize supplemental appropriations for fiscal year 1994 for the incremental costs of operations in Somalia, Bosnia, Southwest Asia, and Haiti.

The House amendment contained no similar provision.

The House recedes with an amendment that would also authorize $270.0 million for emergency supplemental appropriations for the Department of Defense to cover incremental costs related to the ongoing humanitarian relief effort for the refugees in and around the border areas of Rwanda. The conferees agree to authorize emergency supplemental appropriations for Rwanda only for the relief of the refugees. This section should not be construed as authorizing the military forces of the United States to engage in "nation-building" efforts in Rwanda.

Incorporation of classified annex (sec. 1003)

The House amendment contained a provision (sec. 1003) that would incorporate the classified annex that accompanied the House bill (H.R. 4301) into that act.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would incorporate the classified annex prepared by the conference committee into law.

The classified annex of legislative provisions to this conference report is incorporated by reference into this act and has the force and effect of law. The classified annex is available to the Senate and House of Representatives during consideration of this conference report, and will be made available to the President at the time of presentment of this legislation.

Date for submission of future-years mission budget (sec. 1004)

The Senate bill contained a provision (sec. 1003) that would require the submission of the future-years mission budget required by section 222 of title 10, United States Code, within 60 days of the submission of the President's budget.

The House amendment contained a similar provision (sec. 1004) that would require submission of the report within 30 days of the submission of the President's budget.

The House recedes.

Submission of future-years defense program in accordance with law (sec. 1005)

The Senate bill contained a provision (sec. 1004) that would require the submission of the fiscal year 1996 future years defense program (FYDP) within 90 days of the submission of the President's budget.

The Senate bill would also require the Secretary of Defense, after consultation with the Inspector General of the Department of Defense, to certify that the FYDP complies with the requirement for consistency between the FYDP and the President's budget contained in section 221(b) of title 10, United States Code.

The Senate bill would also prohibit the Department of Defense from obligating more than 10 percent of any unobligated advance procurement funds during the first 30 days after the end of the 90-day period unless the FYDP and the certification have been submitted. After this 30-day period, no advance procurement funds could be obligated until the FYDP and the certification had been submitted.

The House amendment contained no similar provision.

The House recedes with a technical amendment.

Identification and reporting of unauthorized appropriations (sec. 1006)

The House amendment contained a provision (sec. 1005) that would require the Secretary of Defense to submit a report each year upon enactment of the Department of Defense authorization and appropriation acts identifying all unauthorized programs, projects, and activities.

The Senate bill contained no similar provision.

The conferees agree to a provision that would allow the Department of Defense to obligate funds for all fiscal year 1994 programs, projects, and activities for which the amount appropriated exceeded the amount authorized, with the exception of the programs specifically cited in this section. This section would allow fiscal year 1994 funds to be obligated for the manufacturing technology program on the basis of competition.

Support for law enforcement (sec. 1011)

The House amendment contained a provision (sec. 1011) that would extend DOD support for law enforcement authorities contained in section 1004 of the National Defense Authorization Act for Fiscal Year 1991 through fiscal year 1997 and authorize $40.0 million for such support for fiscal year 1995.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would extend section 1004 through fiscal year 1999, delete the specific authorization for fiscal year 1995, and provide a limitation on the future transfer of DOD funds and personnel to another department or agency involved in the national counterdrug effort.

The conferees recognize that the Department's budget request strongly supports activities that are authorized by section 1004 and that a specific statutory authorization for support to law enforcement is no longer necessary.

The conferees continue to support the Department's efforts to develop and demonstrate non-intrusive inspection technology systems and the pilot outreach programs of the services and the National Guard.

The conferees support the integration of a third relocatable over-the-horizon radar (ROTHR) system into the national counterdrug effort. They have reservations, however, about placing the third system in Puerto Rico rather than in a location that would cover Mexico and Guatemala because most of the non-containerized drugs entering the United States come across the southwest border after being flown into those two countries. Accordingly, the conferees recommend the requested amount for the third system but direct the Department to conduct a comprehensive analysis of the relative contributions that the third system could make if placed in Puerto Rico or in a location in the continental United States from which it could cover Mexico and Guatemala. No funds may be expended for placing the third ROTHR system either in Puerto Rico or elsewhere until the comprehensive analysis is completed and its results reported to the congressional defense committees.

The conferees are concerned about the value and cost-effectiveness of the contribution that the mobile ground-based radars in the Andean region make to the counter-drug effort. The conferees are aware, however, that these radars have taken on important political and symbolic importance since the cessation of intelligence sharing in that region. Accordingly, the conferees agree to authorize most of the funds requested for the radars but deny $11.8 million of the requested amount without prejudice. The conferees direct the Department to review the utility of the ground-based radars for counter-drug use in the Andean region. Upon completion of the review, the Department may submit a prior-approval reprogramming request along with the results of the review to the appropriate congressional committees.

The following table details the conferees' agreement:

Drug Interdiction and Counter-Drug Activities (Operation and Maintenance)

[In thousands of dollars]

Fiscal year 1995 drug interdiction and counter-drug activities, O&M request	714,200
Increases:	
Project 1403 counterdrug R&D	6,000
Project 7403 national interagency CD institute	3,500
Project 8992 pilot outreach	1,000
Project 8993 pilot outreach	200
Project 8994 pilot outreach	200
Project 8995 pilot outreach	500
Project 8996 pilot outreach	400
Total increases	11,800
Decreases:	
Project 4419(T) SOUTHCOM radar support	11,800
Total decreases	11,800
Fiscal Year 1995 drug interdiction and counter-drug activities, O&M budget	714,200

Provision of intelligence where drug trafficking threatens national security (sec. 1012)

The Senate bill contained a provision (sec. 1089) that would enable, without violation of law, employees or agents of foreign governments to damage, render inoperative, or destroy an aircraft in that country's territory or airspace if that aircraft is reasonably suspected to be primarily engaged in illicit narcotics trafficking, provided the President has previously determined that (1) such actions are necessary due to the extraordinary threat posed by drug trafficking to the national security of that country, and (2) the country has appropriate procedures to protect against innocent loss of life, including effective means to identify and warn aircraft. The provision would also enable, without violation of law and without giving rise to civil liability, authorized employees or agents of the United States to provide assistance for the actions of such foreign countries.

The House amendment contained no similar provision.

The House recedes with an amendment that would define the term "illicit drug trafficking" and make clarifying changes.

Report on status of defense random drug testing program (sec. 1013)

The House amendment contained a provision (sec. 1042) that would require the Secretary of Defense to submit a one-time report on the Department of Defense random drug testing program.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Transfer of USNS Maury (sec. 1021)

The House amendment contained a provision (sec. 171) that would authorize the Secretary of the Navy to transfer the USNS Maury (TAGS-39) to the Department of Transportation for assignment as a training ship to the California Maritime Academy at Vallejo, California, on the date of the decommissioning of that vessel.

The Senate bill contained no similar provision.

The Senate recedes.

Transfer of obsolete vessel Guadalcanal (sec. 1022)

The Senate bill contained a provision (sec. 1083) that would permit the Secretary of the Navy, upon the decommissioning of the USS *Guadalcanal* (LPH-7), to transfer the ex-USS *Guadalcanal* to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

The House amendment contained no similar provision.

The House recedes.

Enhanced Marine Corps prepositioning (sec. 1023)

The Senate bill would provide $220.0 million to purchase and convert two additional maritime prepositioning ship (MPS) vessels for use by the Marine Corps MPS squadrons. This program has been described as the MPS enhancement program.

The House amendment contained no similar funding.

The conferees agree to provide $220.0 million in the National Defense Sealift Fund for the purposes intended in the Senate bill and agree to a provision that would exempt the MPS enhancement program from the provisions of section 2218(f) of title 10, United States Code.

Assistance to family members of certain POW/MIAs who remain unaccounted for (sec. 1031)

The Senate bill contained a provision (sec. 1062) that would establish a single point of contact within the Defense POW/MIA Office (DPMO) for the families of the POWs and MIAs from the Korean War and Cold War who are unaccounted for.

The House amendment contained a provision (sec. 1051) that was virtually identical to the Senate provision except that it did not cover the families of Cold War POW/MIAs who are unaccounted for.

The House recedes with an amendment that would designate the National Archives and Records Administration as the centralized record repository.

Review of missing persons laws (sec. 1032)

The Senate bill contained a provision (sec. 1069) that would make certain findings and require the Secretary of Defense, in consultation with the secretaries of the military departments, the national POW/MIA family organizations, and the national veterans organizations, to review the provisions of law relating to missing persons and to submit to Congress within 180 days his recommendation as to whether those laws should be amended.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete the findings and the requirement that the Secretary of Defense consult with the national POW/MIA family organizations and the national veterans organizations. The conferees, nevertheless, urge the Secretary to take the views of those organizations into consideration in conducting his review and making his recommendations to the Congress.

Contact with China on POW/MIA issues (sec. 1033)

The Senate bill contained a provision (sec. 1070) that would make certain findings and express the sense of the Congress that the Secretary of Defense should establish contact with the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American POW/MIAs from the Korean conflict.

The House amendment contained no similar provision.

The House recedes.

Information concerning unaccounted for personnel of the Vietnam conflict (sec. 1034)

The Senate bill contained a provision (sec. 1073) that would require the Secretary of Defense to submit to Congress a listing by name of all unaccounted for U.S. personnel from the Vietnam conflict about whom it is possible that officials of the Socialist Republic of Vietnam or the Lao People's Democratic Republic can produce information that could lead to the maximum possible accounting for those personnel.

The House amendment contained no similar provision.

The House recedes.

Report on POW/MIA matters concerning North Korea (sec. 1035)

The Senate bill contained in a provision (sec. 1074) that would make certain findings and require the Secretary of Defense to submit reports to Congress in January, May, and September 1995 on the status of efforts to obtain from North Korea information on and the remains of U.S. personnel unaccounted for from the Korean War. The provision also would require the Secretary to actively seek to establish a joint working level commission with North Korea to resolve the remaining cases relating to U.S. POW/MIAs from the Korean conflict.

The House amendment contained no similar provision.

The House recedes with an amendment that would reduce the number of reports to two and require the President to give serious consideration to establishing a joint working level commission with North Korea.

Disclosure of information concerning POW/MIAs from the Korean conflict, the Cold War, and the Vietnam era (sec. 1036)

The Senate bill contained a provision (sec. 1071) that would amend section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 that deals with the disclosure of information in the custody of the Department of Defense concerning POW/MIAs from the Vietnam conflict. The provision would extend that section to unaccounted U.S. personnel from the Korean conflict and the Cold War and apply it to the Archivist of the United States who has custody of records, reports, and information relating to the Korean conflict and the Cold War.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify the meaning of the term "Cold War."

Annual report on denial, revocation, and suspension of security clearances (sec. 1041)

The House amendment contained a provision (sec. 1031) that would require the Secretary of Defense to submit to Congress an annual report concerning the denial, revocation, or suspension of security clearances by the Department of Defense for fiscal year 1995 through fiscal year 2000.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that the reports should be based upon information that can be obtained through standard DOD data bases without imposing significant new data collection requirements on the Department of Defense.

Study on use of low-enriched uranium to fuel naval reactors (sec. 1042)

The House amendment contained a provision (sec. 1053) that would direct the Secretary of Energy and the Secretary of Defense to study the costs, advantages, and disadvantages of using low-enriched uranium to fuel naval reactors.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of the Navy to conduct the study.

Commendation of individuals exposed to mustard agents (sec. 1051)

The House amendment contained a provision (sec. 1036) that would express the sense of Congress that the Secretary of Defense should issue a commendation to individuals who were exposed to mustard agents in connection with testing during World War II; require the Secretary to notify such individuals of the exposure, possible health effects, and likely options for treatment; and require the Secretary to provide the Secretary of Veterans' Affairs with any information regarding the exposure, including the names of the individuals involved.

The Senate bill contained no similar provision.

The Senate recedes.

USS INDIANAPOLIS (CA-35): gallantry, sacrifice and a decisive mission to end World War II (sec. 1052)

The House amendment contained a provision (sec. 1035) that would recognize the contributions of the USS INDIANAPOLIS to the ending of World War II.

The Senate bill contained no similar provision.

The Senate recedes.

Increased authority to accept voluntary services (sec. 1061)

The Senate bill contained a provision (sec. 337) that would amend section 1588 of title 10, United States Code, to expand the areas in which volunteers can provide services in military communities. Under the provision, volunteers would be considered government employees for the purpose of compensation for work-related injuries, tort liability, access to records, and conflict of interest restrictions.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to conduct a pilot program involving a variety of services to evaluate the Department's policies and procedures for the acceptance of voluntary services.

Civil Air Patrol (sec. 1062)

The Senate bill contained a provision (sec. 342) that would reorganize the Air Force liaison with the Civil Air Patrol.

The House amendment contained a similar provision (sec. 367).

The House recedes.

Prohibition on the purchase of surety bonds and other guarantees for the Department of Defense (sec. 1063)

The Senate bill contained a provision (sec. 321) that would prohibit the Department of Defense from using funds to provide financial guarantees for the direct performance of the Department of Defense.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend this prohibition.

Use of inmate labor at military installations (secs. 1064 and 1065)

The Senate bill contained a provision (sec. 1051) that would permit installation commanders to enter into agreements with state or local governments under which non-violent offenders could perform certain services on military installations.

The Senate bill also contained two related provisions (secs. 1052 and 1053) that would expand the authority granted to the Department of the Navy in the National Defense Authorization Act for Fiscal Year 1994 to conduct a demonstration project to test the feasibility of using Navy facilities to provide employment training for non-violent offenders in a state penal system.

The House amendment contained no similar provisions.

The Senate recedes on section 1051 and the House recedes on sections 1052 and 1053 with an amendment that would make clarifying changes. These provisions would expand the demonstration project authorized last year to three installations in the Army and Navy. They would also clearly limit the use of inmate labor to specific activities and specify that inmate labor may not displace government or defense contractor employees, impair any contract for services at the installation, or involve services in skills for which there is a local surplus of available labor.

The conferees strongly support the demonstration program and urge the Department of Defense to fully use this authority in fiscal year 1995. Recognizing that the provisions do not require a report until two years after enactment of this act, the Armed Services Committees of the Senate and the House of Representatives will solicit comments from Department of Defense witnesses on the status and initial impressions of the project, including comments from commanders of participating installations, during hearings in fiscal year 1995.

Interagency placement program for federal employees affected by reduction-in-force actions (sec. 1066)

The Senate bill contained a provision (sec. 1080) that would direct the Office of Personnel Management to study and, if feasible, establish an interagency placement program for federal employees affected by reduction-in-force actions.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes and exclude the United States Postal Service and Postal Rate Commission from the definition of "agency" for the purposes of this provision.

National Museum of Health and Medicine (sec. 1067)

The Senate bill contained a provision (sec. 1086) that would require the National Museum of Health and Medicine to be located on or near the Mall in the District of Columbia on land owned by the federal government and/or the District of Columbia, and would express the sense of Congress on the location of the National Museum of Health and Medicine.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

Assignments of employees between federal agencies and FFRDCs (sec. 1068)

The Senate bill contained a provision (sec. 1087) that would include federally funded research and development centers (FFRDCs) on the list of institutions eligible to utilize the Intergovernmental Personnel Act for exchanges of employees with federal agencies.

The House amendment contained no similar provision.

The House recedes.

Review of the Bottom-Up Review and the Future Years Defense Program and establishment of new funding requirements and priorities (sec. 1069)

The Senate bill contained a provision (sec. 1091) that would make a number of findings concerning national military strategy, military force structure, and the level of the defense budget. The provision would also express the sense of Congress that (1) the Secretary of Defense should review the assumptions and conclusions of the Bottom-Up Review and the Future Years Defense Program; (2) the Secretary should submit to the President and the Congress a report detailing the force structure required for an effective defense of the United States and its vital national interests; (3) the President should submit to Congress a report detailing the steps he will take to meet the force structure recommended by the Secretary; and (4) the fiscal year 1996 defense budget should reflect the funding necessary to support the force structure recommended by the President.

The House amendment contained a provision (sec. 402) that would prohibit the President from deploying elements of more than one division of the Army's contingency force for operations other than war unless elements of all divisions that are not part of the Army's contingency force are currently deployed for such operations. The provision is related to a proposal that the Army be comprised of twelve divisions as discussed on pages 231–234 of the House report (H. Rept. 103–499).

The House amendment also contained a provision (sec. 553) that would make several findings and express the sense of Congress on a specific force structure for the armed forces and funding for national defense.

The House recedes with an amendment that would add several findings relating to the involvement of U.S. forces in operations other than war and the tradeoffs required among various elements of the defense budget. The amendment would also call for the Secretary of Defense's review and report to consider (1) the participation of U.S. forces in operations other than war, and (2) the potential need to address changes in national security planning, programs, the national military strategy, and the proposal to structure the Army around 12 active duty divisions. Finally, the amendment would encourage the President to increase defense spending if required to meet new or existing threats.

Technical amendments (sec. 1070)

The Senate bill contained a provision (sec. 1096) that would codify and clarify certain provisions of law and make certain technical amendments.

The House amendment contained no similar provision.

The House recedes with an amendment.

Authorization to exchange certain items for transportation services (sec. 1071)

The House amendment contained a provision (sec. 1056) that would amend section 2572 of title 10, United States Code, to authorize the Secretary of Defense to exchange certain historical artifacts not needed by the armed forces for transportation services which directly benefit the historical collections of the armed forces.

The Senate bill contained no similar provision.

The Senate recedes.

Air National Guard fighter aircraft force structure (sec. 1072)

The Senate bill contained a provision (sec. 307) that would require the Secretary of Defense to review the findings of the Commission on Roles and Missions of the Armed Forces on the role and requirements for general purpose fighter units of the Air National Guard and to complete, within 30 days of the Commission's report, a study which recommends the appropriate level of primary aircraft authorized for such units.

The House amendment contained no similar provision.

The House recedes.

Visas for officials of Taiwan (sec. 1073)

The Senate bill contained a provision (sec. 1078) that would require the President of Taiwan or any other high-level official of Taiwan to be admitted to the United States whenever the official applies to visit the United States to conduct certain discussions.

The House amendment contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that no visas should be denied for high-level officials of Taiwan to enter the United States, unless the official is otherwise excludable under U.S. immigration laws.

Defense Mapping Agency (sec. 1074)

The Senate bill contained a provision (sec. 1064) that would affect the Defense Mapping Agency (DMA) in two ways. First, it would preclude unauthorized use of the name, initials, or seal of the DMA. Second, it would clarify that the United States has not waived sovereign immunity with respect to lawsuits based upon the content of DMA maps and charts.

The House amendment contained no similar provision.

The House recedes.

Limitation regarding telecommunications requirements (sec. 1075)

The Senate bill contained a provision (sec. 1067) that would prohibit the Department of Defense from taking actions to merge "Warner-exempt" telecommunications activities with FTS-2000 until the Secretary of Defense certifies that DOD requirements can be met.

The House amendment contained no similar provision.

The House recedes with an amendment that would clarify that nothing in the provision may be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under current laws.

LEGISLATIVE PROVISIONS NOT ADOPTED

Support for international peace operations

The Senate bill contained a provision (sec. 1032) that would establish a contributions for international peacekeeping and peace enforcement activities fund (CIPA); authorize the use of DOD funds to pay the U.S. fair share of assessments for United Nations operations in which U.S. combat forces participate; authorize the furnishing of supplies, services, and equipment on a reimbursable basis in support of U.N. peace operations; require advance notice by the President to designated congressional committees in certain circumstances; provide for the use of reimbursements from the United Nations; and authorize up to $300.0 million for the CIPA fund.

The House amendment contained a provision (sec. 1050) that would prohibit the use of DOD funds to pay U.S. assessments to the United Nations for peacekeeping operations.

The conferees agree to delete both provisions. The conferees were deeply divided on whether DOD funds should be used to pay U.N. peacekeeping assessments. The conferees realize that this issue and a number of others relating to U.N. peace operations will almost certainly have to be dealt with in the next Congress. By then, the conferees will have further experience with U.N. peace operations and an additional year in which to consider these matters through hearings and consultations.

Termination of certain Department of Defense reporting requirements

The Senate bill contained a provision (sec. 1042) that would terminate certain Department of Defense reporting requirements on the date of the enactment of this act.

The House amendment contained no similar provision.

The Senate recedes. Section 1151 of the National Defense Authorization Act for Fiscal Year 1994 required the Secretary of Defense to submit to Congress by April 30, 1994, a list of reports that the Secretary determined to be unnecessary or incompatible with the efficient management of the Defense Department. Unfortunately, Congress did not formally receive the list until July 29, 1994. This late submission did not leave Congress enough time to adequately review the reports proposed for termination.

The list submitted by the Defense Department contains nearly 100 reports that will automatically be terminated on October 30, 1995, unless they are continued by legislation. During their review of this list in 1995, the Armed Services Committees of the Senate and House of Representatives will not consider retaining any report on the list unless it is shown to be necessary for national security or essential to congressional oversight.

Transfer of naval vessels to Brazil

The Senate bill contained a provision (sec. 1065) that would authorize the transfer of two "KNOX" class frigates to Brazil.

The House amendment contained no similar provision.

The Senate recedes. A separate bill that has now been passed by both the Senate and the House of Representatives, H.R. 4429, would authorize the transfer of these frigates as well as five other ships.

Acquisition of strategic sealift ships

The Senate bill contained a provision (sec. 1068) that would transfer $608.6 million from the shipbuilding and conversion, Navy account to the National Defense Sealift Fund. This provision would restore funding to exercise contract options to continue implementation of the strategic sealift program.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree to recommend full funding of the sealift contract options.

Certification of declassification of POW/MIA materials

The Senate bill contained a provision (sec. 1072) that would require the Secretary of Defense to issue a certification within 60 days after enactment of the bill that all materials related to Vietnam-era POWs and MIAs have been declassified.

The House amendment contained no similar provision.

The Senate recedes.

The conferees believe it is important that all available documents related to unaccounted for U.S. personnel from Southeast Asia be located and declassified to the maximum extent possible. Current law requires just that. The conferees are troubled by the proposal to require the Secretary of Defense to formally certify in writing that no more documents remain in federal records in classified form that could shed light on Vietnam-era POW/MIAs when there is always the possibility that additional information may be located by those responsible for declassifying POW/MIA documents. The effect of requiring a formal certification that no more documents remain could be the opposite of that intended. An individual who has told his superior he has searched all the files and no relevant documents exist—leading that superior to sign a formal certification—and who later stumbles across a relevant document may decide to dispose of the document quietly rather than produce it publicly.

The conferees believe that a good-faith effort has been and continues to be made to locate and declassify documents pertaining to Vietnam-era POW/MIAs in accordance with Executive Order requirements and section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 50 U.S.C. 401 note). At the same time, the conferees are aware of the concerns of Members that all pertinent POW/MIA documents have not been disclosed. Accordingly, the conferees direct the Defense POW/MIA Office to ensure that all documents pertaining to Vietnam-era POW/MIAs are disclosed on a continuing basis to POW/MIA family members and the public in accordance with Executive Order requirements, section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, and section 404 of the Intelligence Authorization Act for Fiscal Year 1989 (Public Law 100-453; 50 U.S.C. 401 note).

Review of DOD procedures for investigating deaths from causes determined to be self-inflicted

The Senate bill contained a provision (sec. 1085) that would express the sense of Congress that, upon receipt of the report required by section 1185 of the National Defense Authorization Act for Fiscal Year 1994, the Senate Committee on Armed Services should review the report and hold hearings related to the procedures employed by Department of Defense investigative organizations when conducting an investigation into the death of a member of the armed services who, while serving on active duty, died from a cause determined to be self-inflicted.

The House amendment contained no similar provision.

The Senate recedes. The conferees note that the Senate Armed Services Committee has agreed to review the DOD report in the course of its oversight hearings on military manpower issues. The conferees agree that the report should be reviewed thoroughly by the Armed Services Committees of both the Senate and the House of Representatives. In view of the commitment of the conferees to a thorough review of the report, the conferees agree that a specific sense of Congress provision is unnecessary.

Genocide in Rwanda

The Senate bill contained a provision (sec. 1092) that would express certain congressional findings and policies on the situation in Rwanda.

The House amendment contained no similar provision.

The Senate recedes.

Clarification of scope of authorization

The House amendment contained a provision (sec. 1002) that would specify that no funds are authorized to be appropriated in this act for the Department of Justice.

The Senate bill contained no similar provision.

The House recedes.

Funding for contingency operations

The House amendment contained a provision (sec. 1021) that would amend section 127a of title 10, United States Code, by removing the $300.0 million cap on the total of unreimbursed sums that may be drawn from the resources of the Defense Business Operations Fund (DBOF) at any one time; expand the purposes of the cash account established in fiscal year 1994 to cover any and all costs that cannot be funded through the DBOF; authorize the appropriation of $300.0 million for fiscal year 1995; and restrict the use of the Fund and any of the resources of the DBOF to those operations formally designated as national contingency operations.

The Senate bill contained no similar provision.

The House recedes.

Transfer of certain B-17G aircraft

The House amendment contained a provision (sec. 1034) that would require the Secretary of the Air Force to transfer all right, title, and interest of the Air Force in a certain B-17G aircraft to the organization known as Planes of Fame, Chino, California.

The Senate bill contained no similar provision.

The House recedes.

Armed Forces Expeditionary Medal

The House amendment contained a provision (sec. 1037) that would express the sense of Congress that certain servicemembers who served in El Salvador should be considered eligible to receive the Armed Forces Expeditionary Medal.

The Senate bill contained no similar provision.

The House recedes.

TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Funding for the defense conversion, reinvestment and transition assistance programs for fiscal year 1995 (sec. 1102)

The House amendment contained a provision (sec. 1302) that would summarize the amounts authorized for defense conversion, reinvestment, and transition assistance programs. The House provision would authorize $3,256.4 million.

The Senate bill contained no similar summary provision.

The Senate recedes with an amendment. The conferees agree to authorize $3,090.8 million for defense conversion, reinvestment, and transition assistance programs. The categories in the following table summarize the conferees' agreement:

Funding of Defense Conversion, Reinvestment and Transition Assistance Programs in Fiscal Year 1995

[Millions of dollars]

Defense Technology Conversion and Reinvestment (Funding Source)	
PE 603570E TRP/dual-use partnerships (R&D)	625.0
PE 603739E Mfg. technology (R&D)	398.3
PE 602301E Computing systems (R&D)	394.6
PE 602712E Electronics and materials (R&D)	256.8
various Sm. bus. innovative research (R&D)	161.0
PE 603745E SEMATECH (R&D)	90.0
PE 601101E Basic research (R&D)	87.7
PE 603570D Other reinvestment programs (R&D)[1]	76.0
PE 60x572N Navy reinvestment program (R&D)	50.0
PE 603744E Advanced simulation (R&D)	20.9
PE 603226E Law enforcement/peacekeeping (R&D)	20.0
PE 602702E Law enforcement/peacekeeping (R&D)	10.0
Subtotal	2,190.4
Personnel Assistance Transition	
Temporary early retirement (personnel)[2]	392.1
Separation pay/civilian benefits (O&M)	301.7
Guard and reserve transition (O&M)	139.5
Other initiatives (O&M)	99.0
Transition assistance (O&M)	72.4
Troops to teachers (O&M)	65.0
Troops to law enforcement/public safety (O&M)	25.0
Ship recycling demonstrations (procurement)	7.5
Bilingual math/science education demo projects (O&M)	5.0
Subtotal [all]	1,107.2
Subtotal [requiring authorization]	715.1
Community Assistance	
National Guard youth programs (O&M)	71.4
Junior ROTC expansion (O&M)	59.8
Office of Economic Adjustment	54.1
Subtotal	188.3
Total [all]	3,482.8
Total [Title XI authorized]	3,090.8

[1] $11.0 million provided for law enforcement/peacekeeping initiative.

[2] Authorization not required.

Funding for defense technology reinvestment programs (sec. 1111)

The Senate bill contained a provision (sec. 231) that would allocate funds for the defense technology reinvestment program element of the Defense Agencies research budget.

The House amendment included a similar provision (sec. 1111).

The Senate recedes with an amendment that would make $751.0 million of RDT&E funds available for the following reinvestment programs:

[Dollars in millions]

Defense Reinvestment Program (PE 63570E)	625.0
Dual-use partnerships	245.0
Commercial-military integration	96.0
Regional tech alliances	80.0
Defense adv. manufacturing partnership	30.0
Manufacturing extension	25.0
Def. manufacturing engin. education	24.0
Maritech	50.0
Agile manufacturing	35.0
Materials partnerships	30.0
US-Japan management training	10.0
Defense Reinvestment Program (PE 63570D)	76.0
Defense lab diversification	10.0
Loan guarantees	50.0
Small business technical assistance	5.0
Operations other than warfare/law enforcement	11.0
Navy Reinvestment Program (PEs 61572N, 62572N, and 63572N)	50.0

The conferees agree that the total funding for the operations other than warfare (OOTW)/law enforcement program, including funding to support the memorandum of understanding between DOD and the Justice Department, is $41.0 million. In addition to the $11.0 million described above, the conferees direct that $10.0 million be available for this program in the ARPA tactical technology program element (PE 62702E) and that $20.0 million be available in the ARPA experimental evaluation of major innovative technologies program element (PE 63226E).

Peacekeeping/law enforcement technology (sec. 1112)

The budget request contained $10.0 million for research into non-lethal technologies that are applicable to peacekeeping in PE 62702E.

The Senate bill would provide an additional $20.0 million for peacekeeping technology in PE 63226E. The Senate report (S. Rept. 103-282) expressed support for the April 20, 1994 memorandum of understanding (MOU) between the Department of Defense (DOD) and the Department of Justice (DOJ) on a joint technology development initiative.

The House amendment contained a provision (sec. 1111) that would authorize $37.0 million in funding for support of the DOD/DOJ MOU activities, and the House report (H. Rept. 103-499) described specific technologies of interest to both DOD and the Department of Justice to be pursued in the context of the MOU initiative.

The Senate recedes with an amendment that would explicitly authorize $41.0 million for this initiative from multiple funding sources.

The conferees expect that the MOU operation will maximize the benefits to state and local law enforcement agencies as well as develop technologies related to peacekeeping activities and military operations other than war. The conferees urge both DOD and the Justice Department to fully share the technologies applicable to their respective missions but note that the acquisition and deployment of equipment utilizing these technologies is the responsibility of the respective departments. The conferees also support the discussion in the House report (H. Rept. 103-499) on the technologies to be identified, developed, and deployed with the funding provided in this section. In addition to those technologies, the conferees also believe that sniper identification and response technologies should be among those reviewed in the context of the DOD/DOJ MOU process.

Federal defense laboratory diversification and Navy reinvestment programs (sec. 1113)

The Senate bill included a provision (sec. 234) that would provide a statutory framework for the federal defense laboratory diversification and Navy reinvestment programs proposed by the Administration.

The House amendment contained no similar provision.

The House recedes.

Loan guarantees under the defense dual-use assistance program (sec. 1114)

The Senate bill contained a provision (sec. 235) that would fund a loan guarantee program for small defense firms.

The House amendment included a provision (sec. 1113) that would add criteria for the loan guarantee program under section 2524 of title 10, United States Code.

The Senate recedes with an amendment. The conferees agree to provide $50.0 million for the Department of Defense to carry out a loan guarantee program in fiscal year 1995 in conjunction with the Small Business Administration (for loans to small businesses), and with the Economic Development Administration or other appropriate federal agency (for loans to medium-sized businesses). At least 60 percent of the funding shall be devoted to loan guarantees to small businesses with the remaining funds to be used for loan guarantees to medium-sized businesses.

The amendment would also include eligibility requirements that emphasize that (1) the recipients of the loans must be DOD contractors and subcontractors; (2) the loans must involve capital improvements that are at least partially utilized by DOD; and (3) the loans should promote the retention of workers under contracts and subcontracts with the Department of Defense.

Financial commitment requirements for small businesses (sec. 1115)

The Senate bill contained a provision (sec. 232) that would allow a small business at least 120 days after receiving an award in certain technology reinvestment programs to obtain the requisite non-federal cost-share from the venture capital market.

The House amendment included a similar provision (sec. 1114).

The Senate recedes with an amendment.

Conditions on funding of technology reinvestment projects (sec. 1116)

The Senate bill included a provision (sec. 233) that would establish conditions for funding technology reinvestment projects, including a requirement for the use of competitive selection procedures.

The House amendment contained a similar provision (sec. 1115).

The Senate recedes with an amendment.

National defense technology and industrial base (sec. 1117)

The Senate bill contained a provision (sec. 821) that would prohibit the Secretary of Defense from obligating or expending any of the funds authorized in PE 65104D until the annual national defense technology and industrial base assessment and plan required by sections 2505 and 2506 of title 10, United States Code, have been submitted.

The House amendment contained no similar provision.

The House recedes with an amendment. The conferees agree that only half the funds in PE 65104D will be subject to the provision. The conferees, however, direct the Secretary to submit the following to the Committees on Armed Services of the House of Representatives and Senate: (1) any industry sector studies prepared to support the annual capability assessment and plan as soon as they are completed; and (2) by September 30, 1994, a detailed description of the reasons for not submitting the annual capability assessment and plan and a schedule for their submission.

Documentation for awards under the technology reinvestment project (sec. 1118)

The Senate bill contained a provision (sec. 825) that would require certain documentation for awards of cooperative agreements or other transactions under the technology reinvestment project.

The House amendment included no similar provision.

The House recedes.

Comptroller General assessment of technology reinvestment project (sec. 1119)

The Senate bill contained a provision (sec. 826) that would require the Comptroller General to assess the extent to which individual technology reinvestment project activities advance national security or other objectives.

The House amendment included no similar provision.

The House recedes.

Funds for adjustment and diversification assistance for states and local governments from Office of Economic Adjustment (sec. 1121)

The House amendment contained a provision (sec. 1121) that would provide $54.1 million for community adjustment and economic diversification assistance.

The Senate bill contained no similar provision.

The Senate recedes.

Studies and plans for market diversification (sec. 1122)

The House amendment contained a provision (sec. 1122) that would amend section 2391(d) of title 10, United States Code, to include a definition of "community adjustment" and "economic diversification", and that would provide $10.0 million to develop feasibility studies and business plans for market diversification in communities adversely affected by defense budget reductions.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Advance community adjustment and economic diversification planning (sec. 1123)

The House amendment contained a provision (sec. 1123) that would provide funding for communities to conduct advance planning in anticipation of base realignment and closure decisions.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would clarify that up to $5.0 million is available for advance planning grants and that would remove the cap on the amount of funds available to any single community.

This funding is provided to assist communities that engage in advance economic planning in anticipation of base closure and realignment actions. Many communities have expressed interest in beginning planning activities in advance of any final decision by the Base Closure Commission and the Congress. This would enable these communities to have a smooth transition in the event that a base is closed in their community. The conferees believe that no more than $500,000 should be made available to one community or group of communities potentially affected by one base.

The conferees direct the Secretary of Defense to monitor these grants closely. In the event a community receives a grant under this section and the local base is not closed, the conferees expect DOD to recoup any unspent funds. In the event that the base is closed, the conferees expect DOD to take into consideration the funds received under this section in awarding any other transition, adjustment, and diversification grants under section 2391 of title 10, United States Code, or any other authorities.

Increased eligibility and application periods for troops-to-teachers program (sec. 1131)

The Senate bill contained a provision (sec. 643) that would ensure that, notwithstanding any other provision of law, servicemembers discharged or released from active duty after October 1, 1990, who meet all other eligibility requirements, are eligible to participate in the troops-to-teachers program described in section 1151 of title 10, United States Code.

The House amendment contained a provision (sec. 1131) that would authorize $65.0 million for teachers and teacher's aide placement programs for fiscal year 1995.

The House recedes with an amendment that would authorize $65.0 million for teachers and teacher's aid placement programs for fiscal year 1995.

Assistance for eligible members to obtain employment with law enforcement agencies (sec. 1132)

The Senate bill contained a provision (sec. 644) that would authorize the Secretary of Defense to enter into an agreement with the Attorney General to establish or participate in a program to assist certain members and former members of the armed services to obtain employment with law enforcement agencies.

The House amendment contained a similar provision (sec. 1132) that would expand the troops-to-law enforcement officer program to authorize the Secretary of Defense to assist the placement of displaced federal fire fighters who worked on military bases and other facilities.

The House recedes with an amendment that would authorize the expansion of the troops-to-law enforcement officer program to include fire fighters if the Secretary of Defense certifies that such expansion would facilitate personnel transition programs in the Department of Defense. The conferees note that the grants to facilitate placement under this program are intended to reimburse participating agencies for costs, including salaries and fringe benefits, of employing individuals under this program. These costs may include training necessary to meet state or local law enforcement certification requirements.

Additionally, the conferees encourage the Department of Defense to review those troops-to-law enforcement officer programs already in operation, such as the certified Georgia peace officer course, to determine whether any aspects of one or more of these programs should be used as a model for application on a regional or national basis.

Pilot program to place separated members and terminated defense employees in teaching positions as bilingual math and science teachers (sec. 1133)

The House amendment contained a provision (sec. 1133) that would authorize $3.0 million for a pilot program designed to encourage bilingual (English-Spanish) servicemembers and DOD civilian employees to become math and science teachers upon leaving federal service. Under the program, individuals who participate would be eligible to receive a stipend, and educational institutions or other non-federal entities would be compensated for reasonable costs incurred in connection with program participation.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize $5.0 million for this program and would authorize the program to also include servicemembers and DoD civilian employees who are bilingual in English and languages other than Spanish. Nonetheless, the conferees expect and strongly encourage the Secretary of Defense, in the execution of this authority, to select the entity for the first cooperative arrangement from among the eligible Hispanic entities.

Demonstration project to assist separated members and terminated defense workers to become business owners (sec. 1134)

The House amendment contained a provision (sec. 1134) that would authorize the Secretary of Defense to establish, in not more than two eligible communities, demonstration projects to assist separated servicemembers and terminated defense workers to own their own businesses.

The Senate bill contained no similar provision.

The Senate recedes.

Demonstration project to promote ship recycling as a method to assist separating members and terminated employees (sec. 1135)

The House amendment contained a provision (sec. 1135) that would authorize $15.0 million for the establishment of a ship recycling and defense worker job creation program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize $7.5 million for this program and require, at least 180 days prior to carrying out this project, the Secretary of Defense to certify to Congress that the project will facilitate the Department's personnel transition programs and will not disrupt the operation of U.S. companies engaged in ship recycling and scrapping.

Administration and funding of DDP/DCAP under Job Training Partnership Act (sec. 1136)

The House amendment contained a provision (sec. 1136) that would clarify the administration and funding of the defense diversification program and defense conversion adjustment program under the Job Training Partnership Act.

The Senate bill contained no similar provision.

The Senate recedes.

Assistance for certain workers dislocated due to reductions by the United States in the export of defense articles and services (sec. 1137)

The Senate bill and the House amendment contained identical provisions (secs. 924 and 1138, respectively) that would authorize assistance under the defense conversion adjustment program for certain workers dislocated due to reductions by the United States in the export of defense articles and services.

The conferees agree to include this provision.

Armament retooling and manufacturing support (sec. 1141)

The Senate bill contained a provision (sec. 345) that would authorize the Secretary of the Army to enter into agreements with agencies to administer a loan guarantee program as part of the armament retooling and manufacturing support (ARMS) initiative, consistent with the Federal Credit Reform Act of 1990 (title V of the Congressional Budget Act of 1974; 2 U.S.C. 661c). The provision would limit the total amount of loan principal which could be guaranteed at $65.0 million for all borrowers. This provision also would extend the authority for ARMS through fiscal year 1996.

The House amendment contained two provisions that would extend ARMS through fiscal year 1996 (sec. 1141) and provide loan guarantee authority (sec. 1142) limited to $320.0 million.

The House recedes with an amendment that would set the maximum amount of loan principal guaranteed during a fiscal year at $320.0 million.

Changes of notice requirements upon termination of defense programs (sec. 1142)

The Senate bill included a provision (sec. 1082) that would require certain notices to be made to employees of affected firms within 90 days after adverse actions in the budget process.

The House amendment included a similar provision (sec. 1151) that would require the notices within 30 days.

The Senate recedes with an amendment that would require the notices within 60 days of the budgetary actions.

Plan for deployment of defense environmental technologies for dredging of dual-use ports (sec. 1143)

The House amendment contained a provision (sec. 1152) that would direct the Secretary of Defense to establish a plan to encourage the development and deployment of defense environmental technologies in support of dredging requirements for dual-use ports.

The Senate bill contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISION NOT ADOPTED

Eligibility to lead technology reinvestment project activities

The House amendment included a provision (sec. 1112) that would make a labor organization eligible to take the lead in activities under the technology reinvestment project (TRP).

The Senate bill contained no similar provision.

The House recedes.

The conferees note that elsewhere in this act conditions are established for the funding of technology reinvestment projects. The Secretary of Defense is required to ensure that the principal economic benefits and, to the extent practicable, job creation resulting from technology reinvestment awards accrue to the U.S. economy. Accordingly, the conferees direct the Secretary to take appropriate steps to encourage greater participation of labor organizations in the TRP program.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Cooperative threat reduction with states of the former Soviet Union (secs. 1201–1209)

The budget request contained $400.0 million for cooperative threat reduction (CTR) with states of the former Soviet Union.

The Senate bill included a provision (sec. 1013) that would authorize the requested amount and extend the authorities and reporting requirements contained in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5951 et seq.). The Senate bill also contained a provision (sec. 1041) that would require a report on offensive biological warfare programs of states of the former Soviet Union.

The House amendment contained a provision (sec. 1048) that would authorize the requested amount and extend the semiannual CTR report. Additionally, the House amendment contained a provision that would express the sense of Congress on the safe and secure dismantlement of the Soviet nuclear arsenal (sec. 1046); require a report on the coordination of military-to-military programs (sec. 1047); require Presidential certification that Russia has terminated its offensive biological warfare program (sec. 1049); require a report accounting for CTR assistance (sec. 1201); require a report on the accountability and control of fissile and chemical materials (sec. 1202); require a report on allied support for CTR programs and annual reports on multiyear planning for CTR programs (sec. 1203); and place specific limitations on all CTR programs for fiscal year 1995 (sec. 1204).

The conferees agree to combine the provisions of the Senate bill and the House amendment.

The conferees reiterate that the main focus of cooperative threat reduction must be on activities directly related to the safety, dismantlement, and nonproliferation of weapons of mass destruction. The conferees direct that any environmental restoration or housing activities proposed to be carried out in fiscal year 1995 may be funded only from the subaccount established in paragraph (a)(6) of section 1206 of this act and may be conducted only in accordance with the authorities established in sections 1203(b)(6) and (b)(7) of the National Defense Authorization Act for Fiscal Year 1994. The conferees note that the limitations established in section 1206 of this act would apply only to the $400.0 million authorized to be appropriated in section 301(21) of this act.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Cooperative research and development agreements with NATO organizations (sec. 1301)

The Senate bill contained a provision (sec. 241) that would authorize the Defense Department to conduct cooperative research and development projects under section 2350a of title 10, United States Code, with NATO organizations.

The House amendment contained no similar provision.

The House recedes.

North Atlantic Treaty Organization (sec. 1302)

The Senate bill contained a provision (sec. 1097) that would set forth the sense of the Congress on the relationship between the North Atlantic Treaty Organization (NATO) and the United Nations.

The House amendment contained a similar provision (sec. 1041).

The House recedes.

Authorized end strength for military personnel in Europe (sec. 1303)

The Senate bill contained a provision (sec. 1012) that would specify that, beginning on October 1, 1995, the end strength level of U.S. military personnel permanently stationed ashore in European members of NATO may not exceed approximately 100,000. The provision would allow the end strength level to exceed 100,000, but not 113,000, if the President makes certain certifications to Congress.

The House amendment contained a provision (sec. 385) that would exclude U.S. military personnel permanently stationed ashore in Iceland, Greenland, and the Azores from the end strength limitation.

The Senate recedes with an amendment that would set the end strength limitation at approximately 100,000.

The U.S. European Command is responding to several demanding, but very uncertain, security and humanitarian concerns in its area of responsibility. U.S. military forces permanently stationed in European members of NATO have recently deployed to Macedonia, Croatia, Kenya, the Rwandan relief operation, and the Southern Watch mission in the northern Persian Gulf. In addition, units normally stationed elsewhere in Europe have been deployed to Turkey to protect the Kurds in northern Iraq.

The uncertain nature and length of these and similar deployments that could take place in the future make it very difficult to predict the appropriate end strength level for U.S. military personnel in Europe at the end of fiscal year 1996. Therefore, the conferees agree that the U.S. European Command should have some flexibility in planning the further drawdown of its forces. The conference agreement to set the fiscal year 1996 end strength level at approximately 100,000 and to exclude U.S. military personnel stationed in Iceland, Greenland, and the Azores is intended to assist the Command in managing its personnel level to the appropriate fiscal year 1996 level.

In order to consider this matter in 1995, the conferees direct the Secretary of Defense to submit a report to Congress that includes the following information:

(1) an assessment of the appropriate end strength level for U.S. military personnel permanently stationed ashore in European members of NATO at the end of fiscal year 1996;

(2) a detailed justification for the Secretary's recommended end strength level;

(3) the extent to which the recommended end strength level is determined by security and humanitarian requirements outside the NATO theater; and

(4) the potential for reducing the number of U.S. military personnel assigned to headquarters in Europe by streamlining and consolidating headquarters functions.

The report should be submitted by March 1, 1995.

Allied share of installation costs (sec. 1304)

The House amendment contained a provision (sec. 1043) that would specify that the NATO allies should pay an increasing share of the non-personnel costs of U.S. military installations in European member nations of NATO. The provision would require the withdrawal of 1,000 U.S. military personnel for each percentage point that the NATO allies, as a group, are below certain goals.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would replace the House provision with a statement of U.S. policy that the NATO allies should pay 37.5 percent of the non-personnel costs of U.S. military installations in European members of NATO by the end of fiscal year 1996. According to the Department of Defense, the NATO allies currently pay 36 percent of such costs.

The conferees do not believe that the size and shape of the U.S. military presence in Europe should be determined solely by the extent to which the NATO allies offset U.S. stationing costs. This kind of burdensharing is an important consideration, especially in maintaining public and political support for the forward deployment of U.S. forces. However, it is only one of many factors in the calculation of the security costs and benefits of U.S. military forces in Europe.

The conferees recognize the many ways in which the NATO allies "share the burden" of our collective security efforts. For example, our NATO allies have committed about 15,000 ground personnel to the United Nations Protection Force in the former Yugoslavia. Also, Germany has contributed more assistance than any other country for the reconstruction, democratization, and economic reform of central Europe and the former Soviet Union. It has also absorbed over 500,000 refugees from eastern Europe. All of these allied efforts contribute to the security of the United States and should be considered in determining whether the NATO allies equitably share the burdens and responsibilities of providing for our mutual security.

Payments-in-kind for release of United States overseas military facilities to NATO host countries (sec. 1305)

The Senate bill contained a provision (sec. 1019) that would require the Secretary of Defense to notify the Congress of an agreement to accept military construction projects, facility improvements, or host nation support as a payment-in-kind contribution for release of U.S. overseas military facilities to host nations no later than 30 days before concluding the agreement.

The House amendment contained no similar provision.

The House recedes with a clarifying amendment.

The conferees agree that the Secretary of Defense should continue efforts to negotiate for cash settlements in the return of U.S. overseas military facilities to host nations. When cash settlements cannot be agreed to, the conferees support the U.S. government receiving payments-in-kind contributions as a form of settlement. Understanding that these negotiations can be sensitive and time consuming in nature, the conferees urge the Secretary of Defense to continue to pursue these settlements in a prompt manner that is in the best interest of the U.S. government.

George C. Marshall Center (sec. 1306)

The Senate bill contained a provision (sec. 1081) that would (1) merge the funds received from the Federal Republic of Germany for its share of the costs of the George C. Marshall Center for Security Studies with the appropriations made available to the Department of Defense for the center for the same period and purpose; and (2) permit the Secretary of Defense to waive reimbursement for the costs of conferences, seminars, courses of instruction, or similar educational activities for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel is in the national security interests of the United States.

The House amendment contained no similar provision.

The House recedes.

Participation in allied defense cooperation (sec. 1307)

The Senate bill contained a provision (sec. 1079) that would express the sense of the Senate regarding the use of existing capabilities to facilitate defense cooperation between the United States and certain nations of the former Warsaw Pact.

The House amendment contained no similar provision.

The House recedes with an amendment.

Limitation on obligation of funds for overseas basing activities (sec. 1311)

The House amendment contained a provision (sec. 1039) that would limit the amount of operation and maintenance and military construction funds that could be obligated for overseas basing activities during fiscal year 1995 to no more than $8.181 billion. The provision would authorize the Secretary of Defense to exceed the limitation by such amount as the Secretary determines to be necessary in the national interest, but not by more than $400.0 million.

The Senate bill contained no similar provision.

The Senate recedes. The conferees note that the budget request included $8.581 billion (the sum of $8.181 billion and $400.0 million) of operation and maintenance and military construction funds for overseas basing activities.

The operation and maintenance tables in this statement of the managers include the following reductions in overseas basing activities:

[Dollars in thousands]

Account	*Change from request*
Army:	
Wartime host nation support	−100,000
Residual value	−70,000
Foreign national employees	−120,000
Army subtotal	−290,000
Navy:	
Foreign nationals	−10,000
Navy subtotal	−10,000
Air Force:	
Foreign nationals	−70,000
Residual value	−30,000
Air Force subtotal	−100,000
Total	−400,000

The operation and maintenance tables also include a corresponding addition of $400.0 million—$290.0 million, $10.0 million, and $100.0 million in the Army, Navy, and Air Force accounts, respectively.

The conferees want to clarify that if the military services cannot achieve the overseas savings included in the operation and maintenance tables, they are authorized to spend the $400.0 million added in the operation and maintenance tables for overseas basing activities (if the Secretary of Defense makes the determination and notification required by the House provision).

Clarification and codification of overseas military end strength limitation (sec. 1312)

The Senate bill contained a provision (sec. 1011) that would repeal the limitation that is to go into effect on October 30, 1996 on the number of U.S. military personnel permanently stationed ashore outside the United States.

The House amendment contained a provision (sec. 381) that would set the limitation at 200,000 personnel.

The Senate recedes with an amendment that would set the limitation at 203,000 personnel.

Cost-sharing policy and report (sec. 1313)

The Senate bill contained a provision (sec. 1017) that would state that the NATO allies should assist the United States in paying the incremental costs of stationing U.S. military personnel in Europe solely in support of NATO obligations. The provision would also require the Secretary of Defense to include certain information in the annual burdensharing report.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete the requirement for certain information that is already provided in the annual burdensharing report and that would make clarifying changes.

Report assessing the consequences of military cooperation activities (sec. 1314)

The House amendment contained a provision (sec. 1052) that would require the Secretary of Defense to submit a report to Congress assessing, on a regional basis, the national security consequences of U.S. military cooperation programs.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would change the report from a regional to a country-by-country assessment.

Review and report relating to the Western Hemisphere (sec. 1315)

The Senate bill contained a provision (sec. 1018) that would require the Secretary of Defense to review authorities, programs, organizations, defense forums, and defense education institutions relating to cooperative regional security programs in the Western Hemisphere. The provision would require the Secretary to submit to the Armed Services Committees of the Senate and House of Representatives a report concerning U.S. strategic objectives, external and internal threats, and the contributions that the programs, defense contacts, organizations, forums, and institutions make to regional security, host nation security and national development, and the strategic objectives of the United States.

The House amendment contained no similar provision.

The House recedes with an amendment that would make clarifying changes and require the Secretary of Defense to assess U.S. humanitarian, civic assistance, and civic action programs conducted with regional host countries.

Military-to-military contacts and comparable activities (sec. 1316)

The Senate bill contained a provision (sec. 1015) that would provide a statutory basis for the military-to-military contact program; preclude funds for this program from being used to provide military education and training, defense articles, or defense services; and provide $46.3 million to expand the program to regions other than Eastern Europe and the Baltic states.

The House amendment contained a provision (sec. 1038) that would provide $45.8 million for the program and limit the obligation of funds to not more than $10.0 million until the Secretary of Defense submits a report describing the implementation of the program during fiscal year 1995.

The House recedes with an amendment that would clarify that funds may not be used under this section for the provision of international military education and training programs under chapter 5 of part II of the Foreign Assistance Act of 1961, except for the authorized activities under subsection (c). The amendment would also require the Secretary of Defense to submit a report to Congress not later than February 15, 1995 on the management structure of the military-to-military contacts program.

Acquisition and cross-servicing agreements (sec. 1317)

The House amendment included a provision (sec. 1022) that would allow the Secretary of Defense to enter into acquisition and cross-servicing agreements with the United Nations and regional organizations of which the United States is a member. The provision would also make other changes in the authority of the Secretary of Defense to enter into such agreements.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would (1) delete subsection (c) of the House provision on pricing principles; (2) expand the definition of the term "transfer" to include selling and leasing; and (3) make other changes in subchapter I of chapter 138 of title 10, United States Code, that would facilitate acquisition and cross-servicing agreements between the United States and other countries and organizations.

The conferees agree to limit the expansion of the Secretary's authority to international organizations "of which the United States is a member." If the Defense Department determines after experience with this expanded authority that expanding it further to include international organizations of which the United States is *not* a member would enhance the U.S. national interest, the conferees encourage the Department of Defense to submit a legislative proposal to make this change.

Permanent authority for the Department of Defense to share equitably the costs of claims under international armaments cooperative programs (sec. 1318)

The Senate bill contained a provision (sec. 823) that would extend indefinitely the authority of the Defense Department to pay its share of an international armaments cooperative program's claims in accordance with the program's cost-sharing formula or in accordance with any other equitable formula that is negotiated by the participants.

The House amendment contained no similar provision.

The House recedes.

Defense cooperation between the United States and Israel (sec. 1321)

The Senate bill contained a provision (sec. 1014) that would express the support of Congress for continued cooperation between the United States and Israel in military and technical areas.

The House amendment contained no similar provision.

The House recedes with an amendment. The conferees agree that the national interests of the United States and Israel are best served by strengthening existing mechanisms for cooperation and working toward eliminating unnecessary barriers to collaboration between the two countries.

Readiness of military forces of the Republic of Korea (sec. 1322)

The House amendment contained a provision (sec. 1060) that would express the sense of Congress and require a report on the military capabilities and readiness of South Korea's military forces.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make several clarifying changes.

Military planning for the size and structure of a force required for a major regional contingency on the Korean peninsula (sec. 1323)

The Senate bill contained a provision (sec. 1099) that would express the sense of Congress about the relationship between the force structure identified in the Bottom-Up Review and the situation of the Korean peninsula.

The House amendment contained no similar provision.

The House recedes with an amendment that would make several clarifying changes.

Sense of the Congress concerning the North Korean nuclear weapons development program (sec. 1324)

The House amendment contained a provision (sec. 1058) that would express the sense of Congress about the North Korean nuclear weapons program.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would make several clarifying changes.

Report on the United States and Japan security relationship (sec. 1325)

The House amendment contained a provision (sec. 2854) that would require the Secretary of Defense to submit a report to Congress on the U.S. military presence in Okinawa.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of Defense to submit a report to Congress on the security relationship between the United States and Japan.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Reports on reforming multilateral peace operations (sec. 1401)

The Senate bill contained a provision (sec. 1031) that would require the Secretary of Defense to submit two reports, six months apart, to the congressional defense committees on U.S. proposals for improving U.N. management of peace operations.

The House amendment contained no similar provision.

The House recedes with an amendment that would require the reports to be submitted to Congress instead of the congressional defense committees.

Report on military readiness implications of Bosnia peacekeeping deployment (sec. 1402)

The House amendment contained a provision (sec. 1044) that would require the Secretary of Defense to submit to the congressional defense committees a report assessing the implications for U.S. military readiness of the participation of U.S. ground combat forces in peacekeeping operations in Bosnia-Hercegovina.

The Senate bill contained no similar provision.

The Senate recedes.

Report on intelligence lessons learned from Somalia (sec. 1403)

The House amendment contained a provision (sec. 1045) that would require the Secretary of Defense to submit to Congress a report on lessons learned from U.S. participation in U.N. activities in Somalia.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would clarify that the report is limited to intelligence matters.

Bosnia and Hercegovina (sec. 1404)

The Senate bill contained a provision (sec. 1088) that would express the sense of the Congress that the United States should work with NATO member nations and the U.N. Security Council to endorse the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina, including the following:

(a) the preservation of an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the U.N. Charter by the lifting of the arms embargo on the government of Bosnia;

(b) if the Bosnian Serbs, while the contact group's peace proposal is being considered, attack the safe areas, the partial lifting of the arms embargo and the provision of defensive weapons and equipment to the government of Bosnia to defend the safe areas; and

(c) if the Bosnian Serbs do not respond constructively to the contact group's proposal, the President shall promptly propose the multilateral lifting of the arms embargo on the government of Bosnia in the U.N. Security Council and, if the Security Council fails to pass such a resolution, the President shall within five days consult with Congress regarding unilateral termination of the arms embargo.

The House amendment contained four provisions (secs. 1401–1404) that would unilaterally terminate the U.S. arms embargo on Bosnia and authorize the drawdown of defense articles from DOD stocks, DOD defense services, and military education and training in an aggregate value not to exceed $200.0 million, without reimbursement from the government of Bosnia and Hercegovina. U.S. military personnel providing such defense services or military education and training would not perform any duties of a combatant nature.

The conferees agree on a provision that would express the support of the Congress for the efforts of the contact group to bring about a peaceful settlement of the conflict in Bosnia based upon the contact groups's proposal. The provision would express the policy of the Congress that the United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the contact group's proposal by taking action on separate but complementary international and unilateral tracks.

The policy under the international track would state that the President should formally introduce and support a resolution in the U.N. Security Council to terminate the arms embargo on Bosnia within 14 days of the later of October 15, 1994, or ten days after this act is enacted.

On the unilateral track, if the Bosnian Serbs have not accepted the contact group's proposal and the U.N. Security Council has not lifted the arms embargo on Bosnia by the earlier of November 15, 1994, or 15 days after the President introduces the resolution in the U.N. Security Council, the provision would prohibit the use of funds to participate in, support, or assist the enforcement of the Bosnian arms embargo. The President would be able to waive this prohibition in the case of U.S. military personnel serving in NATO headquarters positions. The provision would specifically state that the prohibition on the use of funds to enforce the Bosnian arms embargo is not intended to impede enforcement of sanctions against Serbia. The provision would also require the President to submit a plan to and consult with the Congress on the manner in which the armed forces of the United States and friendly states would train the Bosnian armed forces outside the territory of Bosnian and Hercegovina; and require the President to submit a plan to and consult with the Congress regarding the unilateral termination by the United States of observance of the Bosnia arms embargo and the implications thereof.

Finally, the provision would contain an interim policy that if the Bosnian Serb faction attacks any of the U.N. designated safe areas, the President should promptly formally introduce and support a resolution in the U.N. Security Council that authorizes the selective lifting of the Bosnia arms embargo to allow the provision of defensive weapons to enable the Bosnian forces to defend the safe areas.

The conferees note that the President has sent a letter to the Chairmen and Ranking Members of the Armed Services Committees of the Senate and House of Representatives stating, in pertinent part, that, "if by October 15 the Bosnian Serbs have not accepted the Contact Group's proposal, of July 6, 1994, it would be my intention within two weeks to introduce formally and support a resolution at the United Nations Security Council to terminate the arms embargo on Bosnia and Hercegovina."

In prohibiting the use of funds to participate in the enforcement of the Bosnian arms embargo, the conferees were careful to ensure that (a) the President could waive that prohibition in the case of U.S. military personnel who occupy positions throughout several NATO headquarters, including NATO's Supreme Allied Commander and the Commander in Chief, Allied Forces Southern Europe, and (b) U.S. forces could continue to conduct operations to enforce the arms and economic embargo on Serbia.

It is important that there is a clear understanding of the conferees' intent for the funding limitation in this provision. The conferees distinguished between what is *mandatory* under the U.N. Security Council resolution and what is *voluntary*. It is mandatory, for example, that the United States enforce the embargo by using its Customs agents and other law enforcement powers to stop the export of defense articles and services from the United States bound for Bosnia. It is voluntary, on the other hand, for any state to join the naval and air "picket line" that enforces the embargo in the waters of the Adriatic Sea and the air over the Balkans, for example, or to provide assistance or support to other states to help them do so. The conferees direct that the United States withdraw from all voluntary aspects of the enforcement of the embargo, but from no mandatory aspects when the relevant clauses of this provision are triggered. All voluntary participation must end for there to be good faith compliance with the stipulations of this statute.

The conferees intend this provision to encourage our NATO allies and other members of the U.N. Security Council to lift the arms embargo on Bosnia and to pressure the Bosnian Serb faction to accept the contact group's proposal.

Overseas humanitarian, disaster, and civic aid (sec. 1411)

The House amendment contained a provision (sec. 1023) that would establish a single funding account for overseas humanitarian, disaster, and civic aid (OHDACA) programs and limit the obligation of one-half of the funds in the account until regulations and a report required by section 1504 of the National Defense Authorization Act for Fiscal Year 1994 have been prescribed and submitted. The House provisions would authorize $60.0 million for the OHDACA account for fiscal year 1995.

The Senate bill contained no similar provision, but would authorize $71.9 million for humanitarian assistance for fiscal year 1995.

The Senate recedes with an amendment that would delete the reference to the report, which has now been submitted, and authorize $86.0 million for the OHDACA account in fiscal year 1995, of which $20.0 million would be reserved for humanitarian landmine clearing activities.

Foreign disaster relief activities (sec. 1412)

The Senate bill contained a provision (sec. 1016) that would provide a statutory basis for foreign disaster relief activities by authorizing the President to conduct such activities; require a Presidential determination that such activities are in the national interest of the United States and necessary to save lives; and require prompt notice to Congress concerning relevant matters. The provision would authorize $46.3 million for fiscal year 1995.

The House amendment contained a provision (sec. 1024) that would limit the Defense Emergency Response Fund to disasters occurring in the United States; require the Secretary of Defense to designate a foreign disaster relief activity to be a national contingency operation; and provide for the overseas humanitarian, disaster, and civic aid (OHDACA) account to be used for organizing general policies and programs for foreign disaster relief activities, but not for conducting the actual disaster relief activities.

The House recedes with an amendment that would delete the specific authorization of funds and provide that the OHDACA account would fund the development of general policies and programs for foreign disaster relief activities.

Humanitarian assistance program for clearing landmines (sec. 1413)

The Senate bill contained a provision (sec. 354) that would authorize not more than $10.0 million of operation and maintenance funds for the Secretary of Defense to carry out a humanitarian program for clearing landmines.

The House amendment contained two provisions (secs. 306 and 1025) that would address this matter. Section 306 would authorize not more than $25.0 million of operation and maintenance funds to support the clearing of landmines for humanitarian purposes. Section 1025 would direct the Secretary of Defense to carry out a program to assist other nations in clearing landmines.

The House recedes with an amendment that would: (1) authorize not more than $20.0 million for landmine clearing activities from the funds authorized for DOD overseas humanitarian, disaster, and civic aid programs; (2) allow the funds to be used for contributions to non-governmental organizations that have landmine clearing experience; (3) allow the funds to be used to transfer or lease equipment and technology to a foreign government participating in a landmine clearing program; and (4) require the Secretary of Defense to notify Congress of any activity carried out under this authority.

TITLE XV—ARMS CONTROL MATTERS

Legislative Provisions

LEGISLATIVE PROVISIONS ADOPTED

Counterproliferation (secs. 1501–1507)

The budget request included $30.3 million in the defense-wide operation and maintenance account for counterproliferation.

The Senate bill contained provisions that would recommend extension and revision of authorities contained in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (sec. 1021); continue the

Joint Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 through September 1, 1996, change the name of the Committee, modify the membership of the Committee, and narrow the focus of the group (sec. 1022); require a report to the congressional defense committees on the Committee's findings (sec. 1023); authorize $13.5 million in defense-wide research and development and operation and maintenance accounts for counterproliferation activities, direct the use of $15.0 million by the Advanced Research Projects Agency for two counterproliferation technology projects, and authorize the transfer of up to $100.0 million for counterproliferation technology projects (sec. 1024); and, restrict the use of travel funds by the Assistant Secretary of Defense for International Security Policy, pending receipt of a report (sec. 1025).

The House amendment contained provisions that would recommend extension and revision of authorities contained in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (sec. 1211); require studies related to counterproliferation policy (sec. 1212); provide $30.1 million of the requested funding (sec. 1213); limit the obligation of funds for counterproliferation studies pending receipt of a report (sec. 1214).

The conferees agree to a series of provisions on counterproliferation.

Extension and Revision of Existing Authorities

Section 1501 of this act would revise and extend the authorities in section 1505 of the National Defense Authorization Act for Fiscal Year 1993 through Fiscal Year 1995. The conference agreement would provide up to $25.0 million in fiscal year 1994 and $20.0 million in fiscal year 1995 to support international nonproliferation activities, including the On-Site Inspection Agency's (OSIA) support to the United Nations Special Commission on Iraq (UNSCOM). Assistance to international organizations would not include the payment of administrative costs of U.S. participation in international organizations.

The conferees have concerns regarding the Department's request to support chemical weapons and ballistic missile dismantlement, nuclear materials control and removal, and the destruction of weapons of mass destruction and their delivery systems in areas outside the former Soviet Union, such as the Middle East, Brazil, Argentina, and South Africa. The conferees direct the Secretary of Defense to provide to the congressional defense and foreign affairs committees, 30 days in advance of any U.S. commitment to support these activities, a report on the activities which the Department seeks to support; the specific support to be provided; the cost of providing such support; potential future funding for this support; the extent to which the United States is obligated to provide such support; and the national security objective for providing the support.

Joint Review Committee and Annual Report

The conferees endorse the Senate provision that would continue the Joint Committee for the Review of Counterproliferation Programs through September 1, 1996; change the membership of the committee; and sharpen its focus, as described in the Senate report (S. Rept. 103-282). Additionally, the conferees would require the Joint Committee to submit reports on its findings to Congress in both unclassified and classified form no later than May 1, 1995 and May 1, 1996.

The conferees emphasize that the intent of reducing the membership and narrowing the focus of the Committee is to enable the Defense Department to prioritize program and budget submissions so that they address the priority military needs identified in the May 1, 1994 report to Congress on nonproliferation and counterproliferation activities and programs. The conferees recognize the role of other government agencies and departments in nonproliferation activities and emphasize that the role of the Joint Review Committee is to facilitate the coordination of counterproliferation and nonproliferation activities.

Funding for Counterproliferation Programs

The conferees agree to authorize $16.5 million in defense-wide research and development accounts for counterproliferation activities identified by the Joint Review Committee as defense technology gaps. The conferees recommend that funds be made available for counterproliferation projects identified in the May 1994 report on nonproliferation and counterproliferation activities and programs, including the following: (1) a joint demonstration program for the detection, characterization, and defeat of deep and/or hardened underground structures. The conferees also recommend that technology programs at the Defense Nuclear Agency (DNA), the Advanced Research Projects Agency, the service laboratories, the national weapons laboratories, the intelligence community, and the National Test Facility be fully leveraged for this effort; and (2) field demonstrations for operational users utilizing promising and existing technologies like biological detectors and alarms, improved decontamination equipment and solutions, and improved chemical gear and masks. A report shall be submitted to the congressional defense committees within 90 days of enactment of this act identifying the priorities for which these funds would be utilized.

The conferees are concerned that the Defense Department's efforts in this field need more focus and coordination. Therefore, they direct the Department to develop a plan to promote and improve the education of military personnel on proliferation, nonproliferation, and counterproliferation issues. To initiate this program, the conferees recommend $2.0 million in the defense-wide operation and maintenance account. This program would be managed by the Chairman of the Joint Chiefs of Staff. The military services' professional military education schools and the National Defense University would establish or continue their current mission of determining the implications of weapons of mass destruction (WMD) for doctrine and develop recommended solutions to WMD warfighting requirements. Of this amount, not more than $500,000 would be available for the National Defense University counterproliferation program to conduct a broad range of policy research related to WMD proliferation. Additionally, the conferees endorse the Senate recommendation to add $500,000 to the research and development, defense agencies account for technical studies, support, and analysis in program element 605104D to be available to the Joint Chiefs of Staff for the unified commands' preparations to meet power projection challenges.

The conferees are increasingly concerned with the growing problem of criminal activity in Eastern Europe, the Baltic countries, and the former Soviet Union. The possible theft of nuclear materials by these organized crime groups makes it imperative that the United States act to prevent the proliferation of illegally acquired nuclear weapons, components, and related materials, and in particular, to prevent these materials from entering the United States. To fulfill this urgent requirement, the conferees agree that funds authorized for the Advanced Research Projects Agency for counterproliferation technology projects shall be available for two projects: (1) $5.0 million for a program to detect, locate, and disable weapons of mass destruction hidden by terrorists or hostile states in a confined area outside the United States. To the extent possible, the conferees recommend that the existing resources of the national weapons laboratories be utilized; and (2) $10.0 million for a joint Department of Defense-Federal Bureau of Investigation (FBI) law enforcement training program. The purpose of this program would be to expand and improve U.S. efforts to deter the possible proliferation of weapons of mass destruction by crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union.

Lastly, the conferees agree to authorize the Department to transfer up to $100.0 million of funds available in the research and development, defense agencies account for counterproliferation programs, projects, or activities identified by the Joint Review Committee as areas for progress.

Restrictions and Limitations on Funding

The conferees recommend a number of restrictions and limitations on the obligation of funds.

Until the Director of the Federal Bureau of Investigation and the Director of the Advanced Research Projects Agency jointly submit a memorandum of understanding that outlines the program plan and mechanisms for execution of the training program, only $1.0 million shall be available to ARPA and the FBI for the preparation of two reports that: (1) identify the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime groups in Eastern Europe, the Baltic countries, and the former Soviet Union, and (2) assess the actions that the United States should take to assist law enforcement agencies in these countries to prevent and deter the theft of nuclear weapons material and components and other weapons of mass destruction. This report should include information on the costs of personnel, support equipment, and training, the time required to commence the program, and future funding required for the program.

Pending receipt of a report on the proliferation of military satellites required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993, no funds available to the Department for travel expenses may be expended for travel by the Assistant Secretary of Defense for International Security Policy.

Further, the conferees would limit the obligation of $1.0 million of the funds authorized in section 1504(c) for counterproliferation studies until the report on the effect of increased use of dual-use technologies on the ability to control exports required by section 1422 of the National Defense Authorization Act for Fiscal Year 1994 is submitted to the congressional defense committees.

Finally, the conferees agree that $4.0 million of the funds authorized in section 1504 for counterproliferation activities shall not be available for obligation by the Department until the congressional defense and intelligence committees receive the following:

(1) a report from the intelligence and communications architectures (INCA) project office assessing the technical feasibility of a proposed classified counterproliferation database system; and (2) a DOD reprogramming request for this database system that is matched dollar for dollar by a reprogramming request within the national foreign intelligence program (NFIP) by the Director of Central Intelligence. Further details on this program are contained in the research and development, defense agencies portion of the statement of the managers under the C3I intelligence program.

Non-Proliferation Treaty (NPT) review conference (sec. 1508)

The House amendment contained a provision (sec. 1054) that would express the sense of the Congress that the President seek an indefinite and unconditional extension of the Nonproliferation Treaty in the 1995 review conference.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Negotiations on limiting nuclear weapons testing (sec. 1509)

The House amendment included a provision (sec. 1059) that would urge the Conference on Disarmament to make all possible progress toward a comprehensive test ban treaty and would discourage the nuclear powers from conducting nuclear weapons tests prior to the conclusion of a comprehensive test ban treaty.

The Senate bill did not contain a similar provision.

The Senate recedes with an amendment.

Arms control compliance

The budget request contained $271.4 million for arms control-related programs.

The Senate bill would authorize $251.1 million for these programs.

The House amendment would authorize $271.4 million.

The conferees recommend several adjustments to the requested amount based on consultations with officials from the Office of the Secretary of Defense, the military services, and the On-Site Inspection Agency (OSIA). The adjustments reflect delays in the anticipated date of entry into force of the Strategic Arms Reduction Treaty (START), the Chemical Weapons Convention (CWC), the Bilateral Destruction Agreement (BDA) between the United States and Russia, and the Open Skies Treaty (OST). The adjustments result in an overall reduction of $20.0 million for arms control compliance activities. The reductions are to be made in the following manner: $7.0 million in the O&M account for OSIA, and $6.0 million to the Army, $3.0 million to the Navy, and $4.0 million to the Air Force O&M accounts.

The statement of the managers accompanying the conference report on the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103–357) directed the Department of Defense to notify the congressional defense committees in writing 30 days prior to U.S. agreement to any recommendations in the various arms control consultative and verification commissions that would result in a technical change to a treaty that would affect inspection and monitoring provisions or that would increase U.S. costs of implementation. The Department has not complied with this request. The conferees direct the Department to comply with this request without delay. Additionally, the conferees direct the Secretary of Defense to provide a report to the congressional defense committees by February 28, 1995 on (1) all memoranda of understandings and political agreements or statements agreed with parties with whom the United States has a bilateral or multilateral arms control agreement; (2) a detailed accounting of additional expenses incurred as a result of these agreements; and (3) projected costs of the agreements.

FISCAL YEAR 1995 DOD ARMS CONTROL BUDGET

[Dollars in millions]

Account and Program	Request	Recomm	Rec Auth
WPN Arms control compliance	7.944	0.000	7.944
MPAF MMII/MMIII mods	4.728	0.000	4.728
OPAF Spares & repairs	2.496	0.000	2.496
OPA Arms control compliance	3.510	0.000	3.510
RDT&E, AF Arms control implementation	6.456	0.000	6.456
RDT&E, DA Ver tech dem, DNA (603711)	41.068	0.000	41.068
O&M, Army	39.237	−6.000	33.237
O&M, Navy	34.061	−3.000	31.061
O&M, Air Force	32.010	−4.000	28.010
O&M, DA OSIA	99.947	−7.000	92.947
Total	271.457	−20.000	251.457

TITLE XVI—RESERVE OFFICER PERSONNEL MANAGEMENT ACT (ROPMA)

Reserve Officer Personnel Management Act (secs. 1601–1693)

The House amendment included provisions (sec. 1301–1393) that collectively constitute the Reserve Officer Personnel Management Act (ROPMA).

The Senate bill contained no similar provisions.

The Senate recedes with an amendment that would delay the effective date of ROPMA until October 1, 1996. The conferees note the detailed legislative history of ROPMA contained in the House report (H. Rept. 103–84). The conferees agree that the Senate will consider perfecting legislation new year, including accelerating the effective date of ROPMA.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

OVERVIEW

The budget request for fiscal year 1995 contained $8,322,623,000 for military construction and family housing.

The Senate bill would authorize $8,823,936,000 for military construction and family housing.

The House amendment would provide $8,835,174,000 for this purpose.

The conferees recommend authorization of $8,837,019,000 for military construction and family housing in fiscal year 1995.

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

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AUTHORIZATION OF APPROPRIATIONS RECAPITULATION [In thousands of dollars]		BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
ARMY....................................	ARMY	690,576	853,426	490,076	552,976
NAVY....................................	NAVY	320,470	448,786	340,455	386,760
AIR FORCE...............................	AIR FORCE	353,313	503,213	526,663	529,313
DEFENSE AGENCIES........................	DEFENSE AGENCIES	481,729	465,009	546,519	508,069
NATO INFRASTRUCTURE.....................	NATO	219,000	119,000	219,000	119,000
BASE REALIGN & CLOSURE I................	BASE CLOSURE I	87,600	87,600	87,600	87,600
BASE REALIGN & CLOSURE II...............	BASE CLOSURE II	398,700	398,700	398,700	398,700
BASE REALIGN & CLOSURE III..............	BASE CLOSURE III	2,189,858	2,005,897	2,189,858	2,189,858
ARMY NATIONAL GUARD.....................	ARMY NATIONAL GUARD	9,929	145,067	180,312	188,062
AIR NATIONAL GUARD......................	AIR NATIONAL GUARD	122,770	210,212	240,003	249,053
ARMY RESERVE............................	ARMY RESERVE	7,910	37,410	37,870	57,370
NAVY RESERVE............................	NAVY RESERVE	2,355	11,905	17,355	22,748
AIR FORCE RESERVE.......................	AIR FORCE RESERVE	28,190	55,516	43,840	57,066
TOTAL MILITARY CONSTRUCTION...........	TOTAL	4,912,400	5,341,741	5,318,251	5,346,575
FAMILY HOUSING CONSTRUCTION, ARMY...........	FHC-ARMY	152,402	164,402	173,502	170,002
FAMILY HOUSING SUPPORT, ARMY................	FHS-ARMY	1,121,208	1,121,208	1,067,708	1,013,708
FAMILY HOUSING CONSTRUCTION, NAVY...........	FHC-NAVY	229,295	267,465	229,295	267,465
FAMILY HOUSING SUPPORT, NAVY................	FHS-NAVY	853,599	853,599	937,599	937,599
FAMILY HOUSING CONSTRUCTION, AIR FORCE.......	FHC-AIR FORCE	222,993	243,482	243,355	247,444
FAMILY HOUSING SUPPORT, AIR FORCE...........	FHS-AIR FORCE	801,345	801,345	824,845	824,845
FAMILY HOUSING CONSTRUCTION, DEFENSE AGENCIES	FHC-DEFENSE AGENCIES	350	350	350	350
FAMILY HOUSING SUPPORT, DEFENSE AGENCIES.....	FHS-DEFENSE AGENCIES	29,031	29,031	29,031	29,031
TOTAL FAMILY HOUSING..................	FH-TOTAL	3,410,223	3,480,882	3,505,685	3,490,444
TOTAL MILITARY CONSTRUCTION & FAMILY HOUSING.		8,322,623	8,822,623	8,823,936	8,837,019

TITLE XXI—ARMY

FISCAL YEAR 1995

The Senate bill would authorize $1,731,286,000 for Army military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $2,139,036,000 for this purpose.

The conferees recommend authorization of $1,736,686,000 for Army military construction and family housing for fiscal year 1995.

Authorization of military construction project at Fort Bragg, North Carolina, for which funds have been appropriated (sec. 2105)

The House amendment contained a provision (sec. 2105) that would authorize the Secretary of the Army, with amounts previously appropriated, to construct a library at Fort Bragg, North Carolina in the total amount of $5.5 million.

The Senate bill contained no similar provision.

The Senate recedes.

Relocation of Army family housing units from Fort Hunter-Liggett, California to Fort Stewart, Georgia (sec. 2106)

The Senate bill contained a provision (sec. 2105) that would amend the Military Construction Authorization Act for Fiscal Year 1992 (Division B of Public Law 102-190) to relocate a portion of the family housing units that had been authorized for construction at Fort Hunter-Liggett, California, to Fort Stewart, Georgia. The provision, which does not alter the amount of the original authorization, reflects basing changes that have occurred since the original authorization.

The House amendment contained no similar provision.

The House recedes.

Highway safety at Hawthorne Army Ammunition Plant, Nevada (sec. 2107)

The Senate bill contained a provision (sec. 2106) that would direct the Secretary of the Army to study traffic safety with respect to the rail and truck crossing on the highway at the Hawthorne Army Ammunition Plant. The Secretary's study would evaluate the feasibility of constructing a vehicle bridge over the rail and truck crossing, and determine if such a project qualifies as a military construction project or as a defense access road construction project as defined in section 210 of title 23, United States Code.

The House amendment contained no similar provision.

The House recedes.

Replacement of destroyed facility, Fort Gordon, Georgia

The conferees note that the 63d Signal Battalion vehicle maintenance facility at Fort Gordon, Georgia was destroyed by fire on January 16, 1994. The estimated replacement cost of the facility is $3.5 million. The conferees direct the Secretary of the Army to reprogram funds for this replacement project using authority in section 2854 of title 10, United States Code.

Authorization of projects for United States Forces, Korea

The conferees agree to authorize for appropriation $34.6 million for construction of barracks at two Army installations, Camp Casey and Camp Red Cloud, located in South Korea. Although these projects were not requested by the Administration, compelling testimony before the Armed Services Committees of the Senate and House of Representatives indicated that living conditions for the soldiers stationed near the Demilitarized Zone in Korea were substandard. Many of the soldiers assigned to these installations are housed in overcrowded, substandard quonset huts and H-relocatable buildings. These substandard facilities are deteriorated, undersized, energy inefficient, and structurally unsound.

The conferees agree that despite substantial contributions by the Republic of Korea toward upgrading U.S.-occupied military facilities, the Congress has an obligation to provide for the welfare of our armed forces. The authorization of these projects will enhance the moral and readiness of U.S. armed forces stationed in South Korea.

Management of military family housing, Hawaii

The conferees note the Secretary of Defense's decision to decentralize the Hawaii military family housing operation and maintenance, and management functions and accounts. The conferees understand that all funding for new construction, improvements, and operations, including furnishings management and maintenance, will now be the responsibility of each of the military services. The Department of the Army will continue to provide consolidated off-post housing referral services. Other functions such as installation master planning and the provision of handicapped-accessible housing will return to each service along with the management of its family housing.

To facilitate this decentralization, the conferees recommend the transfer and redistribution of $107.5 million from the Army's family housing account to the family housing accounts of the Navy and Air Force based on an allocation agreed upon by the military services.

TITLE XXII—NAVY

FISCAL YEAR 1995

The Senate bill would authorize $1,507,349,000 for Navy military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $1,569,850,000 for this purpose.

The conferees recommend authorization of $1,591,824,000 for Navy military construction and family housing for fiscal year 1995.

Restoration of authority to carry out military construction project at Naval Supply Center, Pensacola, Florida (sec. 2205)

The House amendment contained a provision (sec. 2205) that would authorize the Secretary of the Navy to construct a cold storage facility at the Naval Supply Center, Pensacola, Florida and any other construction associated with contract N62467-86-C-0421 which was entered into before the termination of authority, notwithstanding section 2205(b)(1)(D)(ii) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103-160).

The Senate bill contained a similar provision (sec. 2205).

The Senate recedes.

Design activities for upgrade of Mayport Naval Station, Florida (sec. 2206)

The House amendment contained a provision (sec. 2206) that would require, at the conclusion of a facilities study, the Secretary of the Navy to begin design activities for military construction projects to provide Mayport Naval Station, Florida with the capability to serve as a homeport for a nuclear-powered aircraft carrier.

The Senate bill contained a similar provision (sec. 2207).

The Senate recedes.

Relocation of Pascagoula Coast Guard Station, Mississippi (sec. 2207)

The Senate bill contained a provision (sec. 2206) that would authorize the Secretary of the Navy to enter into an agreement with the Secretary of Transportation to allow the U.S. Coast Guard to relocate the Pascagoula Coast Guard facilities to the Pascagoula Naval Station.

The House amendment contained no similar provision.

The House recedes with an amendment that would prohibit: (1) the Coast Guard from incurring any cost in the relocation to the Pascagoula Naval Station; and (2) the Pascagoula Coast Guard from relocating if the relocation of the Coast Guard facility would interfere with the performance of the mission of the Navy or be incompatible with Coast Guard operations in the Pascagoula area.

Water processing system upgrade, Construction Battalion Center Port Hueneme, California

The conferees understand that the Department of the Navy and the local water authorities in the Oxnard, California area, represented by the Sub-Regional Water District (SRWD), continue to negotiate the net regional benefits of managed water consumption. Therefore, the conferees intend that the authorization to construct a water processing system upgrade contained in this act should be construed to include other options, as may be negotiated, that provide the same potable water services included in the original project. These options may include, but are not limited to, assigning a portion, up to a maximum of $1.7 million, of the authorized funds to the SRWD for the purpose of construction of a regional reverse osmosis water treatment plant and provision of water to the Navy at favorable rates in lieu of construction of the plant by the Navy.

Defense access road, Blount Island, Florida

The House amendment would authorize $10.0 million for the construction of a defense access road in Blount Island, Florida.

The Senate bill did not provide funds for this project.

The House recedes.

The conferees direct the Secretary of the Navy to study the requirement for the road project and work with the Military Traffic Management Command to determine if the project qualifies for the defense access road (DAR) program as described in section 210 of title 23, United States Code. If the project qualifies for the DAR program, the Navy is encouraged to request authorization of appropriation for the road project in the budget request for fiscal year 1996.

Power plant upgrade, Public Works Center, Guam

The conferees understand that the Department of the Navy and the Guam Power Authority have shared the operating cost and use of power plants serving the Guam island wide power system (IWPS) as agreed to in the Power Pool Agreement of 1972. The Navy is seeking to terminate the 1972 Agreement and release all operating responsibilities of the power systems. As stated in the Agreement, the Navy must upgrade the Piti Power Plant before it can withdraw from the 1972 Agreement.

The House amendment would authorize $21.6 million to upgrade the Piti Power Plant.

The Senate bill did not include funds for this project.

The House recedes.

The conferees note the Navy's desire to terminate the 1972 Agreement and encourage the Navy to request funds for the power plant upgrade in the fiscal year 1996 budget request.

TITLE XXIII—AIR FORCE

FISCAL YEAR 1995

The Senate bill would authorize $1,594,836,000 for Air Force military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $1,548,040,000 for this purpose.

The conferees recommend authorization of $1,601,602,000 for Air Force military construction and family housing for fiscal year 1995.

Authorization of previously appropriated military construction projects at Tyndall Air Force Base, Florida (sec. 2305)

The Senate bill contained a provision (sec. 2305) that would amend section 2301 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) to authorize $3.2 million for an addition to a base supply and equipment warehouse and $2.4 million for construction of a security policy operations facility at Tyndall Air Force Base, Florida.

The House amendment contained a similar provision (sec. 2306).

The House recedes.

Revision of authorized family housing project, Tyndall Air Force Base, Florida (sec. 2306)

The Senate bill contained a provision (sec. 2306) that would amend section 2302(a) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) to convert the Tyndall Air Force Base, Florida infrastructure project into a 45-unit family housing project.

The House amendment contained a similar provision (sec. 2305).

The House recedes.

Modification of Air Force Plant No. 3, Tulsa, Oklahoma (sec. 2307)

The House amendment contained a provision (sec. 2307) that would authorize the Secretary of the Air Force to use up to $10.0 million of available funds for repair and maintenance to modify Air Force Plant No. 3 located in Tulsa, Oklahoma

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Air Force to submit a report to the congressional defense committees certifying the modifications are consistent with the future national security mission of the facility and wait 30 days before funds for modifications to the plant are obligated.

Repeal of limitation on the order of retirement of Minuteman II missiles (sec. 2308)

The House amendment contained a provision (sec. 2308) that would repeal section 2307 of the Military Construction Authorization Act for Fiscal Year 1991 (Division B of Public Law 101–510). The section requires the Secretary of the Air Force to provide that the installation which receives the last operational upgrade for the Minuteman II missile systems be the installation from which the last Minuteman II missile is retired.

The Senate bill contained no similar provision.

The Senate recedes.

Emergency construction

The conferees understand that recent flooding in middle Georgia has caused severe damage to facilities at Robins Air Force Base, Georgia. The base is seeking additional operation and maintenance funds from Air Force Headquarters to repair much of the flood damage. However, the hazardous waste disposal processing center was inundated with flood water and will require replacement.

The conferees are concerned that the flood damage to the hazardous material facility may cause future environmental and health safety hazards and urge the Secretary of the Air Force to consider constructing a $4.1 million replacement facility using emergency construction authority in section 2803 of title 10, United States Code.

Certain construction projects funded through operation and maintenance accounts

The conferees direct, within funds authorized for real property maintenance and repair, the Department of the Air Force to proceed with the following repair projects in fiscal year 1995: (1) $4.5 million, repair parking apron, Minot Air Force Base, North Dakota; (2) $7.6 million, repair depot maintenance hangar (phase I), Kelly Air Force Base, Texas; and (3) $1.7 million, upgrade electrical service to industrial area, McClellan Air Force Base, California.

TITLE XXIV—DEFENSE AGENCIES

FISCAL YEAR 1995

The Senate bill would authorize $3,252,058,000 for Defense Agencies military construction and family housing programs for fiscal year 1995.

The House amendment would authorize $2,999,138,000 for this purpose.

The conferees recommend authorization of $3,213,608,000 for Defense Agencies military construction and family housing for fiscal year 1995.

Energy conservation projects (sec. 2404)

The Senate bill contained a provision (sec. 2404) that would authorize the Secretary of Defense to carry out energy conservation projects using funds authorized in section 2405(a)(8) of this act.

The House amendment contained a similar provision (sec. 2404).

The House recedes.

Community impact assistance with regard to Naval Weapons Station, Charleston, South Carolina (sec. 2406)

The House amendment contained a provision (sec. 2406) that would, within amounts pursuant to the authorization of appropriations in section 2405(a) of the House bill, authorize the Secretary of the Navy to transfer $3.0 million to the South Carolina Department of Highways and Public Transportation to be used for improvements to North Rhett Avenue, Charleston, South Carolina. This would help alleviate the adverse effects of the closure of Charleston Naval Station and Charleston Naval Shipyard, South Carolina, on the surrounding communities.

The Senate bill contained a similar provision (sec. 2407).

The Senate recedes with a technical amendment.

Planning and design for construction in support of consolidation of operations of the Defense Finance and Accounting Service (sec. 2407)

The Senate bill contained a provision (sec. 2408) that would direct that $6.0 million of funds authorized for appropriation in section 2405(a)(7) of the Senate bill be available for planning and design activities to support the consolidation of operations of the Defense Finance and Accounting Service.

The House amendment contained no similar provision.

The House recedes.

Modification of authority to carry out fiscal year 1993 project (sec. 2408)

The Senate bill contained a provision (sec. 2406) that would terminate the fiscal year 1993 authorization for construction of a $390.0 million replacement hospital at Fitzsimons Army Medical Center in Aurora, Colorado.

The House amendment contained no similar provision.

The House recedes with an amendment that would reduce the fiscal year 1993 authorization to $225.0 million. The provision would require the Secretary of Defense, if the fiscal year 1996 budget request includes funds for the construction of a replacement facility at Fitzsimons Army Medical Center, to submit, no later than March 15, 1995, a report to the congressional defense committees that certifies that a replacement facility is needed to meet military health care requirements. The report shall address the following:

(1) the cost-effectiveness of building a replacement facility;

(2) the Department of Defense policy on construction of new military medical facilities where the majority of the beneficiary population is military retirees and their dependents;

(3) the relative percentage of active duty personnel, dependents of active duty personnel, military retirees, and dependents of military retirees that would be served in the catchment area and in the region 8 area;

(4) the availability and cost of medical care from civilian medical facilities in the catchment area for the beneficiary population;

(5) the occupancy rates of civilian medical facilities in the catchment area;

(6) the level of care provided by civilian hospitals in the catchment area;

(7) the relative cost and ability of other Department of Defense medical facilities or civilian medical facilities in region 8 to provide the medical care for patients in region 8 currently provided by Fitzsimons Army Medical Center;

(8) the projected occupancy rates at Fitzsimons Army Medical Center with and without patients from outside the catchment area and the region 8 area; and

(9) the cost-effectiveness and contribution of the graduate medical education program at Fitzsimons Army Medical Center to meeting the Army's requirements for training military medical personnel.

Chemical demilitarization program

The conferees agree to transfer the authorization for military construction associated with the chemical demilitarization program from the Department of the Army account to a Defense-Wide account, with the Army continuing to act as executive agent for the program. The conferees agree to an authorization of appropriation for phase I of construction for two chemical demilitarization facilities located at Pine Bluff Arsenal, Arkansas and Umatilla Army Depot, Oregon. The conferees expect the remainder of the funds necessary to complete these projects to be requested in the fiscal year 1996 budget in the mandated Defense-Wide account.

As executive agent for the chemical demilitarization program, the Army notified the congressional defense committees of the need to include funding for carbon filtration systems for four chemical demilitarization facilities. The conferees agree to authorize $4.0 million for Anniston Army Depot, Alabama and $5.0 million for Tooele Army Depot for these systems. The conferees direct the Department to request funds for the two additional carbon filtration systems for Pine Bluff Arsenal, Arkansas and Umatilla Army Depot, Oregon in the fiscal year 1996 budget request.

TITLE XXV—NATO

FISCAL YEAR 1995

The Senate bill would authorize $219.0 million for the U.S. contribution to the NATO Infrastructure program for fiscal year 1995.

The House amendment would authorize $119.0 million for this purpose.

The conferees recommend authorization of $119.0 million for the U.S. contribution to the NATO Infrastructure program.

This reduction is made without prejudice. The conferees acknowledge the May 1993 NATO report on the "Renewal of the Infrastructure Program." The report brings the infrastructure program in line with the new NATO strategic concept and reduces annual infrastructure funding levels by half from pre-1991 levels. The conferees reduce this authorization in order to meet other priority overseas infrastructure requirements, including quality of life facilities near the Demilitarized Zone in South Korea.

TITLE XXVI—GUARD AND RESERVE

FISCAL YEAR 1995

The Senate bill would authorize $519,380,000 for military construction and land acquisition for fiscal year 1995 for the National Guard and reserve components.

The House amendment would authorize $460,110,000 for this purpose.

The conferees recommend authorization of $574,299,000 for military construction and land acquisition for fiscal year 1995. This authorization would be distributed as follows:

Army National Guard	$188,062,000
Air National Guard	249,053,000
Army Reserve	57,370,000
Naval/Marine Corps Reserve	22,748,000
Air Force Reserve	57,066,000

Prohibition on use of funds for unauthorized Guard and reserve projects (sec. 2602)

The House amendment contained a provision (sec. 2602) that would prohibit the Guard and reserve components from using military construction funds for unauthorized Guard and reserve projects.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would provide for certain exceptions to the prohibition. The prohibition would not apply with respect to Guard and reserve funds for:

(1) unspecified planning and design and for unspecified minor construction;

(2) projects specifically authorized by a law enacted after the date of the enactment of this act;

(3) projects designated as emergency construction;

(4) projects designated as contingency construction;

(5) projects required to carry out an environmental response action;

(6) projects required to repair, restore, or replace damaged or destroyed facilities; and

(7) projects specified in past statements of the managers of conference committees to accompany any acts authorizing military construction projects.

Authorization of projects for which funds have been appropriated (sec. 2603)

The House amendment included a provision (sec. 2603) that would amend section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103-160) to increase the authorization of the Army National Guard and the Naval/Marine Corps Reserve accounts.

The Senate bill contained a similar provision (sec. 2602).

The Senate recedes with an amendment that would authorize additional Army National Guard military construction projects, including:

Fort Irwin, CA—maintenance covers	$1,265,000
Moloki, HI—armory	1,050,000
Oaho, HI—add to/alter armory	4,300,000
Tupelo, MS—Army aviation support facility	3,210,000
Las Cruces, NM—Army aviation support facility	1,014,000
Salem, OR—aviation taxiway repair	3,183,000

State National Guard Headquarters, Fort Dix, New Jersey (sec. 2604)

The House amendment contained a provision (sec. 2604) that would authorize, pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act of Fiscal Year 1993 (Division B of Public Law 102-484), the New Jersey National Guard to renovate, alter, and add to an existing facility at Fort Dix, New Jersey to accommodate a consolidated New Jersey National Guard headquarters.

The Senate bill contained no similar provision.

The Senate recedes.

Colorado state area command armory, Englewood, Colorado (sec. 2605)

The conferees agree to a provision that would allow the Secretary of Defense to consider the cost of market value of the buildings and improvements contributed by the State of Colorado to the Colorado National Guard in computing the amount of the federal contribution for construction of an armory in Englewood, Colorado.

Miscellaneous report requirements

The House report (H. Rept. 103-499) and the Senate report (S. Rept. 103-282) discussed military construction items of special interest. The conferees endorse the discussions in both reports and, unless modifications to those reports are contained in this statement of the managers, the positions and requirements contained in the House and Senate reports on the fiscal year 1995 military construction authorization acts are agreed to by the conferees.

General reduction

The conferees agree to a general reduction of $23.5 million in the authorization of appropriation for each of the Army, Navy, and Air Force military construction accounts. The general reductions are to be offset by savings from favorable bids, reduction in overhead costs, cancellation of projects due to force structure changes, and cancellation of projects due to the 1995 base realignment and closure decisions. The general reductions shall not cancel any military construction project authorized by this act.

Planning and design authorizations

The conferees direct that, within amounts authorized for the Army, Army National Guard, Air National Guard, and Air Force Reserve facility planning and design accounts, the services proceed with design activities for the following projects:

Army:	
Fort Benning, GA, consolidated maintenance facility	$1,000,000
Tobyhanna Army Depot, PA, industrial operations facility	1,200,000
Army National Guard:	
Camp Blanding, FL, water system upgrade	400,000
Camp Shelby, MS, multipurpose range complex	1,200,000
Nashville, TN, state area command facility	800,000
Air National Guard:	
Massachusetts Military Reservation, MA, installation restoration facility	1,000,000
Air Force Reserve:	
Luke AFB, AZ, squadron operations facility	266,000

Unspecified minor construction

The conferees direct, within funds authorized for unspecified minor construction for the Department of the Air Force and the Air National Guard, the services to proceed with the following minor military construction projects in fiscal year 1995: (1) $900,000 to alter the mission equipment facility at Moody Air Force Base, Georgia; and (2) $900,000 for an addition to the communications facility at McEntire Air National Guard Base, South Carolina.

Base maintenance and repair

The conferees are concerned with the backlog of maintenance and repair of existing facilities on military bases. During hearings before the Committees on Armed Services of the Senate and House of Representatives, witnesses from the military services testified that the backlog of maintenance and repair is continuing to grow at a rapid pace. For example, an Army witness testified that, at the start of fiscal year 1994, the backlog in maintenance and repair was $2.7 billion and is projected to grow to $4.6 billion by the end of fiscal year 1995.

The conferees understand that this situation is not unique to the Army and that this backlog will continue to grow as facilities age and the funding level for maintenance and repair continues at a steady state.

While eliminating the backlog will require many years, the conferees urge the military services to establish an appropriate level of funding in their future programs to significantly reduce the backlog.

The budget request for fiscal year 1995 included $4.1 billion for real property maintenance and repair. The conferees agree to increase the real property maintenance and repair accounts for the military services by the following amounts: $30.0 million for the Army; $25.0 million for the Navy; and $20.0 million for the Air Force.

TITLE XXVIII—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Limitation of repair of existing facilities (sec. 2801

The conferees are concerned that major repairs to facilities, funded through operation and maintenance accounts, are conducted without the oversight of the service secretaries or the Committees on Armed Services of the Senate and House of Representatives. The conferees believe improved oversight of the major repairs is required, but do not want to impose additional reporting requirements.

The conferees agree to a provision that would require the service secretary concerned to approve, in advance, any repair project with a total cost in excess of $5.0 million. In determining the total cost of the repair project, the secretary shall include all phases of a multi-year repair project. The secretary shall also consider whether future plans, cost effectiveness, and the use of operation and maintenance funds are appropriate. The conferees note that this provision would not constrain the secretary's flexibility to proceed with those projects requiring urgent repair.

Clarification of requirement for notification of Congress of improvements in family housing units (sec. 2801)

The Senate bill included a provision (sec. 2801) that would clarify the notification requirements for improvements to military family housing units by requiring congressional notification for only those family housing improvements exceeding $50,000 per unit not previously included in the annual budget justification data.

The House amendment contained no similar provision.

The House recedes.

Limited partnerships for Navy housing (sec. 2803)

The House amendment contained a provision (sec. 2802) that would amend chapter 649 of title 10, United States Code, to authorize the Department of the Navy to invest in limited partnerships to develop privately-owned family housing units near military installations. The House amendment also contained a provision (sec. 2803) that would authorize the Secretary of the Navy to establish a Navy Housing Investment Board consisting of private sector and federal government representatives. The Board would administer a revolving fund for Navy housing investment agreements.

The Senate bill contained no similar provision.

The House recedes on section 2803.

The Senate recedes on section 2802 with an amendment that would authorize the Secretary of the Navy to enter into limited partnership with one or more private developers to encourage the construction of housing near Navy installations. The amendment would also enable the Secretary to establish a Navy Housing Investment Board. The Secretary would also be authorized to contribute between five and 35 percent of the development costs under the limited partnership. Housing provided through these limited partnerships would be available on a preferential and affordable basis to Navy personnel.

Reimbursement for facility services provided by the Department of Defense (sec. 2804)

The conferees agree to a provision that would authorize the Secretary of Defense and the service secretaries to charge a fixed rate to recover the costs of providing planning, supervision, administrative, or overhead services related to construction, repair, or maintenance of real property.

Authority to pay closing costs under the homeowners assistance program (sec. 2805)

The Senate bill contained a provision (sec. 2802) that would amend section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) to authorize the Secretary of the Army, using available funds, to pay a qualified applicant's closing costs under the homeowners assistance program.

The House amendment contained no similar provision.

The House recedes.

Prohibition against consideration in base closure process of advance economic planning undertaken by communities adjacent to military installations (sec. 2811)

The Senate bill contained a provision (sec. 2811) that would prohibit any advance economic redevelopment and reuse planning or other conversion planning conducted by communities in anticipation of the base closure process from being taken into consideration during base closure deliberations.

The House amendment contained a similar provision (sec. 2811).

The House recedes.

Prohibition on transfer of certain property located at military installations to be closed pending completion of redevelopment plans (sec. 2812)

The House amendment contained a provision (sec. 2814) that would prohibit, under certain circumstances, the secretary of a military department from transferring personal property at a closing base prior to completion of the redevelopment plan.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the secretary of a military department to consult with the redevelopment authority, prior to completion of the redevelopment plan, to determine the items of personal property that the redevelopment authority might wish to retain at the closing base.

Clarifying and technical amendments to base closure laws (sec. 2813)

The Senate bill contained a provision (sec. 2812) that would make certain clarifying and technical amendments to the base closure laws.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete section (e) of the Senate provision dealing with related personal property.

Governmental rental of facilities located on closed military installations (sec. 2814)

The House amendment contained a provision (sec. 2817) that would allow the Administrator of the General Services Administration to give priority consideration to leases at installations closed under a base closure law and transferred to a non-federal agency.

The Senate bill contained no similar provision.

The Senate recedes.

Report of effect of base closures on future mobilization options (sec. 2815)

The House amendment contained a provision (sec. 2815) that would direct the Secretary of Defense to submit a report to Congress by September 30, 1995, evaluating the effect of base closures and realignments conducted since January 1, 1987, on the ability of the armed forces to mobilize to various historical end strengths.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to submit the report by January 1, 1996.

Restoration of annual leave for civilian employees in connection with certain base realignments (sec. 2816)

The House amendment contained a provision (sec. 2816) that would, under certain conditions, authorize the restoration of annual leave lost by civilian employees at military installations undergoing base realignments.

The Senate bill contained no similar provision.

The Senate recedes.

Reports to Congress on certain agreements of settlement for release of improvements at overseas military installations (sec. 2831)

The Senate bill contained a provision (sec. 2846) that would limit the review of proposed residual value settlements by the Office of Management and Budget to those settlements that have an estimated value in excess of $10.0 million.

The House amendment contained no similar provision.

The House recedes.

Additional lessee of property at Naval Supply Center, Oakland, California (sec. 2821)

The House amendment contained a provision (sec. 2821) that would amend section 2834(b) of the Military Construction Authorization Act for Fiscal Year 1993 (Division B of Public Law 102–484) to include the City of Alameda, California as an additional lessee of the property at the Naval Supply Center, Oakland, California.

The Senate bill contained no similar provision.

The Senate recedes.

Modifications of land conveyance, Fort A.P. Hill Military Reservation, Virginia (sec. 2831)

The Senate bill contained a provision (sec. 2831) that would amend section 603(c)(3) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25) to expand the number of political subdivisions eligible to use the regional correctional facility and to extend the facility construction timeline.

The House amendment contained a similar a provision (sec. 2822).

The House recedes.

Preservation of Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, New York, as nature preserve (sec. 2823)

The House amendment contained a provision (sec. 2823) that would amend section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (Division B of Public Law 102–484) to ensure that Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve.

The Senate bill contained a similar provision (sec. 2834).

The Senate recedes.

Modification of conveyance of electricity distribution system, Fort Dix, New Jersey (sec. 2832)

The Senate bill contained a provision (sec. 2832) that would amend section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) by deleting the reversionary clause.

The House amendment contained a similar provision (sec. 2824).

The House recedes.

The conferees understand that the Secretary of the Army has been unable to convey the Fort Dix electrical distribution system to the Jersey Central Power and Lighting Company as authorized in fiscal year 1994. The reversionary clause included in the original provision has precluded Jersey Central Power from bonding and insuring the distribution system. The conferees recommend removing the reversionary clause from the fiscal year 1994 provision to enable Jersey Central to take ownership of and begin operating the distribution system. The conferees note that the interests of the Department of the Army are protected by regulations of the Public Utilities Commission of the State of New Jersey.

Modification of land conveyance Fort Knox, Kentucky (sec. 2325)

The Senate amendment contained a provision (sec. 2833) that would amend section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (Division B of Public Law 101–189) to authorize the Secretary of the Army to use proceeds from the sale of 12 acres of land in the city of Radcliff for improvements to existing family housing units at Fort Knox.

The House amendment contained no similar provision.

The House recedes.

Revisions to release of reversionary interest, Old Spanish Trail Armory, Harris County, Texas (sec. 2826)

The Senate bill contained a provision (sec. 2847) that would make certain technical corrections to section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160).

The House amendment contained no similar provision.

The House recedes.

Modification of height restriction in avigation easement (sec. 2827)

The House amendment contained a provision (sec. 2855) that would amend section 2862 of the Military Construction Authorization Act of Fiscal Year 1991 (Division B of Public Law 101–510) to allow for the construction of a structure, not to exceed 155 feet, on property adjacent to Eglin Air Force Base, Florida. The provision would also require the Secretary of the Air Force to execute and file any instrument necessary to effect the modification of the avigation easement.

The Senate bill contained no similar provision.

The Senate recedes.

Technical amendment to correct reference in land transaction (sec. 2825)

The House amendment contained a provision (sec. 2857) that would amend section 2842(c) of the Military Construction Authorization Act for Fiscal Year 1994 (Division B of Public Law 103–160) by striking out "Washington Gas Company" and inserting in lieu thereof "American Water Company".

The Senate bill contained no similar provision.

The Senate recedes.

Land conveyances (secs. 2831, 2832, 2833, 2834, 2835, 2837, 2838, 2839, 2840)

The Senate bill contained a provision (sec. 2827) that would establish an expedited screening procedure to determine whether there were qualifying priority uses for certain parcels of real estate identified in the bill. If there were no such priority uses, the provision would authorize the Secretary of Defense to transfer the real estate to certain designated recipients

The House amendment contained a number of provisions (secs. 2831 2832, 2833, 2834, and 2835) that would authorize the Secretary of Defense to transfer certain designated parcels of real estate to certain designated recipients. The House provisions would not require any screening to determine any priority uses.

The Senate recedes to the House provisions and the House recedes to the Senate provision with an amendment that would delete the screening process. The conferees agree to a series of provisions that would authorize the Secretary of Defense to transfer certain designated parcels of real estate contained in the Senate bill and in the House amendment to designated recipients. The provisions would provide authority for the following parcels of real estate:

(1) Rio Vista Army Reserve Facility, Rio Vista, Calif.;

(2) 10 acres at Ft. Dix, New Jersey;

(3) Air Force Plant No. 3, Tulsa, Oklahoma;

(4) Naval Weapons Industrial Reserve Plant, Calverton, N.Y.;

(5) Air Force Plant No. 59, Johnson City, N.Y.;

(6) Housing at the Radar Bomb Scoring Site, Dickinson, N.D.;

(7) Radar Bomb Scoring Site, Finley, North Dakota;

(8) Hawthorne Army Ammunition Plant (Babbitt Housing Area), Mineral County, Nevada; and

(9) Defense Fuel Supply Point, Casco Maine.

The Senate conferees believe that, before any property belonging to the Department of Defense or the military services is transferred, the General Services Administration should have an opportunity, pursuant to the Federal Property and Administrative Services Act of 1949, to determine if there are other priority uses for the property. Of particular concern is the potential for use by other federal agencies. The Senate conferees believe that other federal agencies should be queried to determine if there are valid requirements for the property before it is transferred to a non-federal recipient. This is the only way that the federal government can ensure that it is not giving away property with one hand while acquiring similar property on the other hand. The Senate conferees are also aware, however, that the House conferees were not aware of the Senate conferees' desire to screen the DOD property for other uses prior to transfer at the time that the House conferees were considering the House amendment.

The House conferees agree to consider the screening process in their review and evaluation of any real estate for which authorization to transfer is provided in the fiscal year 1996 defense authorization act.

The conferees urge the subcommittees of jurisdiction of the Armed Services Committees of the Senate and House of Representatives to meet jointly, at the beginning of the 104th Congress, to discuss the effect of such a screening process on proposed land transfers. The conferees also urge that such discussions include consultation with members of the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, and the Committee on Public Works and Transportation of the House.

Land conveyance, Cornhusker Army Ammunition Plant, Hall County, Nebraska (sec. 2836)

The Senate bill contained a provision (sec. 2826) that would authorize the Secretary of the Army to transfer the Cornhusker Army Ammunition Plant to Hall County, Nebraska for fair market value.

The House amendment contained no similar provision.

The House recedes. The conferees note that this land may not be transferred until it meets the requirements of section 120 of the Comprehensive Environmental Response, Compensation and Liability Act.

Lease of property, Naval Shipyard, Vallejo, California (sec. 2841)

The House amendment contained a provision (sec. 2841) that would authorize the Secretary of the Navy to convey to the City of Vallejo, without consideration, a parcel of real property consisting of dredge ponds located on Mare Island in Vallejo, California, and currently under the control of the Mare Island Naval Shipyard Command.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary to lease the dredge ponds to the City for a lease term of up to 15 years.

Lease of property, Naval Radio Receiving Facility, Imperial Beach, Coronado, California (sec. 2842)

The House amendment contained a provision (sec. 2836) that would authorize the Secretary of the Navy to lease, at less than fair market value and for 50 years, 45.5 acres of real property at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, to the Young Men's Christian Association.

The Senate bill contained a similar provision (sec. 2836).

The Senate recedes.

Authority for Oxnard Harbor District, Port Hueneme, California, to use certain Navy property (sec. 2843)

The House amendment contained a provision (sec. 2851) that would authorize the Secretary of the Navy to enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, to permit joint use of Wharf Number 3 and associated real property comprising 25 acres located at the Naval Construction Battalion Center, Port Hueneme, California.

The Senate bill contained a similar provision (sec. 2822).

The Senate recedes.

Transfer of jurisdiction, Air Force housing at Radar Bomb Scoring Site, Holbrook, Arizona (sec. 2844)

The Senate bill contained a provision (sec. 2848) that would authorize the Secretary of the Air Force to transfer jurisdiction of family housing and associated support facilities at the Radar Bomb Scoring Site, Holbrook, Arizona to the Secretary of Interior for use in connection with the Petrified Forest National Park.

The House amendment contained a similar provision (sec. 2839).

The House recedes.

Land transfer, Holloman Air Force Base, New Mexico (sec. 2845)

The Senate bill contained a provision (sec. 2821) that would direct the Secretary of Interior to transfer 1,262 acres of public land to the Secretary of the Air Force for inclusion in the Holloman Air Force Base.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the Air Force assumes responsibility for all environmental response actions on the transferred land.

Land transfer, Fort Devens, Massachusetts (sec. 2846)

The Senate bill contained a provision (sec. 2825) that would authorize the Secretary of the Army to transfer to the Department of Interior approximately 800 acres of land located at Fort Devens for inclusion in the Oxbow National Wildlife Refuge.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would clarify that the transfer be made in consultation with the local communities and the State of Massachusetts Land Bank. The conferees direct the Secretary of the Army to transfer this land at no cost to the Department of Interior.

Release of requirements and reversionary interest on certain property in Baltimore, Maryland (sec. 2847)

The House amendment contained a provision (sec. 2837) that would authorize the Secretary of Defense to release the reversionary interest of the United States in property described in section 2 of chapter 310; 20 Stat. 167, which was approved on June 19, 1878.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Release of reversionary interest on certain property in York County and James City County, Virginia, and Newport News, Virginia (sec. 2848)

The Senate bill contained a provision (sec. 2824) that would authorize the Secretary of the Navy to release the reversionary interest of the United States in 62 acres of real property located in James City County, Virginia to the Virginia Department of Transportation, provided that the property would continue to be used for a public purpose.

The House amendment contained a similar provision (sec. 2838).

The House recedes with a technical amendment.

Joint construction contracting for commissaries and nonappropriated fund instrumentality facilities (sec. 2851)

The Senate bill contained a provision (sec. 2841) that would authorize joint construction contracting for commissaries and nonappropriated fund instrumentality facilities.

The House amendment contained no similar provision.

The House recedes.

National Guard facility contracts subject to performance supervision by the Army or the Navy (sec. 2852)

The Senate bill contained a provision (sec. 2842) that would make a technical correction to section 2237 of title 10, United States Code.

The House amendment contained no similar provision.

The House recedes.

The conferees understand that when paragraphs (5) and (6) were added to section 2233(a) of title 10, United States Code, section 2237 was not modified to reflect the change. This technical amendment will correct an oversight by adding paragraphs (5) and (6) to section 2237 of title 10, United States Code.

Repeal of restriction on land transactions relating to the Presidio of San Francisco, California (sec. 2853)

The House amendment contained a provision (sec. 2853) that would repeal section 2856 of the Military Construction Authorization Act for Fiscal Year 1994.

The Senate bill contained no similar provision.

The Senate recedes.

Report on use of funds for environmental restoration at Cornhusker Army Ammunition Plant, Hall County, Nebraska (sec. 2854)

The Senate bill contained a provision (sec. 2844) that would direct the Secretary of the Army to prepare a report describing the manner in which funds would be used for operation and maintenance and environmental restoration activities at the Cornhusker Army Ammunition Plant during the years before the property is transferred to Hall County Nebraska.

The House amendment contained no similar provision.

The House recedes.

Women in Military Service For America Memorial (sec. 2855)

The conferees agree to a provision that would authorize the Secretary of the Army to provide engineering, design, construction management, and related services to the Women in Military Service for America Memorial Foundation, Inc., on a reimbursable basis, for the construction of the Women in Military Service for America Memorial.

Sense of the Senate on authorizing military construction projects not requested in the President's budget request (sec. 2856)

The Senate bill contained a provision (sec. 2850) that would express the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization of funds for military construction projects not included in the annual budget request of the Department of Defense only if:

(1) the project is consistent with past actions of the base realignment and closure process;

(2) the project is included in the five-year military construction plan of the military department concerned;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be executed in that fiscal year.

The provision would also express the sense of the Senate that, in considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be offset by funds for other programs, projects, or activities, including military construction projects, in the budget request, and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

The House amendment contained no similar provision.

The House recedes.

The conferees recognize that each year Congress authorizes and appropriates funds for military construction projects, required by the military services, that are not included in the annual budget request.

The House conferees agree to consider the criteria set forth in this sense of the Senate provision, along with the criteria always used by the House, in their review and evaluation of any military construction projects proposed to be added to the fiscal year 1996 defense authorization request.

The conferees urge the subcommittees of jurisdiction of the Armed Services Committees of the Senate and House of Representatives to meet jointly at the beginning of the 104th Congress in an attempt to agree on the criteria that might be used to judge military construction projects not included in the budget request.

LEGISLATIVE PROVISIONS NOT ADOPTED

Sense of Senate on the activities of the Secretary of Defense in support of communities affected by base closures

The Senate bill contained a provision (sec. 2813) that would express the sense of the Senate that DOD regulations should conform closely with the amendments to the base closure provisions contained in the National Defense Authorization Act for Fiscal Year 1994, and that the Secretary of Defense should establish a base closure incentive award.

The House amendment contained no similar provision.

The Senate recedes.

Waiver of reporting requirements of certain real property transactions in the event of war or national emergency

The Senate bill contained a provision (sec. 2843) that would amend the reporting requirements regarding real property transactions in section 2662 of title 10, United States Code.

The House amendment contained no similar provision.

The Senate recedes.

DOD Laboratory Revitalization Act of 1994

The Senate bill contained a provision (sec. 2845) that would establish a five-year test program for revitalization of Department of Defense laboratories. The provision would increase the threshold for minor military construction projects funded through the unspecified minor military construction and operation and maintenance accounts for Department of Defense laboratories.

The House amendment contained no similar provision.

The Senate recedes.

Repayment of state and local costs incurred in connection with establishment of certain military installations selected for closure

The House amendment contained a provision (sec. 2812) that would, in certain circumstances, prevent the Secretary of a military service from removing items of personal property at a closing base, prior to completion of a redevelopment plan, unless such removal was approved by the redevelopment authority.

The Senate bill contained no similar provision.

The House recedes. In a small number of cases, State and local funds were expended to establish new military facilities in strategic locations around the country. The expenditure of these non-federal funds represented a direct State and local subsidy of federal military projects. The obligation of these monies represented a great financial sacrifice which is still being repaid. Therefore, the conferees direct the Secretary of Defense to include repayment of these State, county, and local expenditures in the calculation of the base on-time cost report (COBRA) used by the Department to determine the cost of closing a particular facility. The COBRA calculation should include the repayment costs to a state, county, or municipality (or an agency or political subdivision of such an entity) for funds raised or bonds issued for military construction, pier construction or improvements, land purchase, and infrastructure and utility improvements in direct support of the establishment of a military installation for which construction began on or after January 1, 1985.

Limitation on sources of funds available to implement base closures and realignments

The House amendment contained a provision (sec. 2813) that would prohibit the use of funds from outside the base closure account from being used for planning and design, minor construction, or operation and maintenance activities at closing bases.

The Senate bill contained no similar provision.

The House recedes.

Sense of the Congress on continued operation of medical facilities

The House amendment contained a provision (sec. 2856) that would urge the Secretary of the Air Force to pursue all practical options necessary to continue operating a health care facility for retired military personnel at K.I. Sawyer Air Force Base, Michigan, which was recommended for closure in 1993.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree to a similar provision in title VII of this act that would urge the Secretary of Defense to take all appropriate steps to protect the continuity of health care services for all beneficiaries residing in areas adversely affected by the base closure process, which would include areas such as K.I. Sawyer, Michigan and Myrtle Beach, South Carolina.

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
1	I	ALABAMA	ARMY	REDSTONE ARSENAL	PHYSICAL FITNESS CENTER ADDITION	0	0	2,600	2,600
2	I	ALABAMA	AIR FORCE	MAXWELL AFB	STUDENT DORMITORIES	9,600	9,600	9,600	9,600
3	I	ALABAMA	AIR FORCE	MAXWELL AFB	BLOCK HOUSE UPGRADE	0	3,700	0	0
4	I	ALABAMA	DEFENSE AGENCIES	ANNISTON ARMY DEPOT	CARBON FILTRATION SYSTEM	0	0	5,000	5,000
5	I	ALABAMA	ARMY NATIONAL GUARD	MOBILE	AVIATION SUPPORT FACILITY	0	7,200	0	7,200
6	I	ALABAMA	AIR NATIONAL GUARD	ABSTON ANG STATION	RELOCATE 232ND COMBAT COMMAND SQUAD	0	7,100	7,100	7,100
7	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	ADAL SQUADRON OPERATIONS FACILITY	1,100	1,100	1,100	1,100
8	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	ACFT PARKING APRON & HYDRANT REFUELING SYS	15,000	15,000	15,000	15,000
9	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	UPGRADE DRAINAGE SYSTEM	2,500	2,500	2,500	2,500
10	I	ALABAMA	AIR NATIONAL GUARD	BIRMINGHAM MAP	COMMUNICATIONS FACILITY	1,700	1,700	1,700	1,700
11	I	ALABAMA	AIR NATIONAL GUARD	DANNELLY FIELD	REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700	700	700
12	I	ALABAMA	AIR NATIONAL GUARD	DANNELLY FIELD	MUNITIONS MAINTENANCE STORAGE COMPLEX	0	0	4,200	0
13	I	ALASKA	AIR FORCE	CAPE LISBURNE	UPGRADE FUEL STORAGE SYSTEM	2,800	2,800	2,800	2,800
14	I	ALASKA	AIR FORCE	EIELSON AFB	CONVENTIONAL MUNITIONS SUPPORT FACILITY	0	0	3,300	0
15	I	ALASKA	AIR FORCE	ELMENDORF AFB	UTILITY UPGRADE	0	0	1,000	1,000
16	I	ALASKA	AIR FORCE	ELMENDORF AFB	CONVENTIONAL MUNITIONS SUPPORT FACILITY	0	0	4,000	4,000
17	I	ALASKA	DEFENSE AGENCIES	ELMENDORF AFB	HOSPITAL REPLACEMENT PHASE II	66,000	66,000	66,000	66,000
18	I	ALASKA	ARMY NATIONAL GUARD	BETHEL	SCOUT ARMY NAVIATION OPERATIONS FACILITY	0	0	6,380	6,380
19	I	ALASKA	AIR NATIONAL GUARD	KULIS ANGB	COMPOSITE ENGINEERING MAINTENANCE FACILITY	0	0	5,300	5,300
20	I	ARIZONA	NAVY	YUMA USMC AIR STATION	BACHELOR ENLISTED QUARTERS	0	0	15,085	0
21	I	ARIZONA	AIR FORCE	DAVIS-MONTHAN AFB	AIRCRAFT PARTS STORE	0	1,400	0	0
22	I	ARIZONA	AIR FORCE	LUKE AFB	STUDENT PILOT DORM	0	0	4,900	4,900
23	I	ARIZONA	AIR FORCE RESERVE	LUKE AFB	AVIONICS MAINTENANCE FACILITY	0	1,800	0	1,800
24	I	ARIZONA	AIR FORCE RESERVE	LUKE AFB	SQUADRON OPERATIONS FACILITY	0	1,900	0	1,900
25	I	ARKANSAS	ARMY	PINE BLUFF ARSENAL	AMMUNITION DEMILITARIZATION FACILITY	97,000	97,000	0	0
26	I	ARKANSAS	AIR FORCE	LITTLE ROCK AFB	DORMITORY	0	0	4,800	4,800
27	I	ARKANSAS	DEFENSE AGENCIES	PINE BLUFF ARSENAL	CARBON FILTRATION SYSTEM	0	0	5,000	0
28	I	ARKANSAS	DEFENSE AGENCIES	PINE BLUFF ARSENAL	AMMUNITION DEMILITARIZATION FACILITY	0	0	3,000	3,000
29	I	ARKANSAS	ARMY NATIONAL GUARD	BENTON	ARMORY	0	0	1,673	0
30	I	ARKANSAS	ARMY NATIONAL GUARD	SEARCY	ARMORY	0	0	2,415	2,415

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
31	I	ARKANSAS	ARMY NATIONAL GUARD	WARREN	OPERATIONAL MAINTENANCE SHOP	0	980	0	802
32	I	ARKANSAS.	AIR NATIONAL GUARD	FORT SMITH MAP	MUNITIONS STORAGE FACILITY	0	0	2,200	2,200
33	I	ARKANSAS	AIR NATIONAL GUARD	FORT SMITH MAP	REPLACE UNDERGROUND FUEL STORAGE FACILITY	440	440	440	440
34	I	ARKANSAS	AIR NATIONAL GUARD	LITTLE ROCK AFB	SUPPLY COMPLEX	0	0	5,800	0
35	I	CALIFORNIA	ARMY	FORT IRWIN	EXPANSION OF THE AIRPORT (PHASE I)	0	10,000	0	10,000
36	I	CALIFORNIA	NAVY	CAMP PENDLETON AMPHIBIOUS TASK FORCE	LANDING CRAFT AIR CUSHION FACS (INCR V)	10,700	10,700	10,700	10,700
37	I	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	AMMUNITION HANDLING FACILITY	570	570	570	570
38	I	CALIFORNIA	NAVY	CAMP PENDLETON MARINE CORPS BASE	UPGRADE ELECTRIC INFRASTRUCTURE	0	6,900	0	6,290
39	I	CALIFORNIA	NAVY	CHINA LAKE NAVAL AIR WARFARE CTR WPNS DIV	AIRCRAFT READY FUEL STORAGE FACILITY	6,000	6,000	6,000	6,000
40	I	CALIFORNIA	NAVY	EL CENTRO NAVAL AIR FACILITY	WASTEWATER TREATMENT PLANT UPGRADE	1,500	1,500	1,500	1,500
41	I	CALIFORNIA	NAVY	EL CENTRO NAVAL AIR FACILITY	POTABLE WATER DISTRIBUTION SYSTEM UPGRADE	1,500	1,500	1,500	1,500
42	I	CALIFORNIA	NAVY	LEMOORE NAVAL AIR STATION	BACHELOR ENLISTED QUARTERS MODERNIZATION	7,000	7,000	7,000	7,000
43	I	CALIFORNIA	NAVY	NORTH ISLAND NAVAL AIR STATION	DREDGING	18,830	18,830	18,830	18,830
44	I	CALIFORNIA	NAVY	PORT HUENEME NAVAL CONSTR BATTALION CTR	ABRASIVE BLAST AND PAINT SPRAY FACILITY	4,850	4,850	4,850	4,850
45	I	CALIFORNIA	NAVY	PORT HUENEME NAVAL CONSTR BATTALION CTR	WATER PROCESSING SYSTEM UPGRADE	4,800	4,800	4,800	4,800
46	I	CALIFORNIA	NAVY	SAN DIEGO MARINE CORPS RECRUIT DEPOT	PERSONAL HYGIENE FACILITIES	1,090	1,090	1,090	1,090
47	I	CALIFORNIA	NAVY	SAN DIEGO NAVAL STATION	CHAPEL AND RELIGIOUS EDUCATION FACILITY	4,100	4,100	4,100	4,100
48	I	CALIFORNIA	NAVY	TWENTYNINE PALMS MARCORP AIR-GRND COMB CTR	SMALL ARMS RANGE MODERNIZATION	2,900	2,900	2,900	2,900
49	I	CALIFORNIA	AIR FORCE	BEALE AFB	STORM DRAINAGE FACILITIES	1,450	1,450	1,450	1,450
50	I	CALIFORNIA	AIR FORCE	BEALE AFB	CONSOLIDATED SUPPORT CENTER	0	10,400	0	10,400
51	I	CALIFORNIA	AIR FORCE	EDWARDS AFB	F-22 ALTER ENGINEERING TEST FACILITY	4,550	4,550	4,550	4,550
52	I	CALIFORNIA	AIR FORCE	EDWARDS AFB	UPGRADE HYDRANT FUELING SYSTEM	2,500	2,500	2,500	2,500
53	I	CALIFORNIA	AIR FORCE	EDWARDS AFB	IMPROVE AIRCRAFT MAINTENANCE FACILITY	0	7,800	0	0
54	I	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	NEAR FIELD TEST RANGE	0	8,500	0	8,500
55	I	CALIFORNIA	AIR FORCE	MCCLELLAN AFB	UPGRADE ELECTRICAL SERVICE TO INDUSTRIAL AREA	0	1,650	0	0
56	I	CALIFORNIA	AIR FORCE	TRAVIS AFB	DORMITORY	2,300	2,300	2,300	2,300
57	I	CALIFORNIA	AIR FORCE	TRAVIS AFB	FIRE TRAINING FACILITY	1,300	1,300	1,300	1,300
58	I	CALIFORNIA	AIR FORCE	TRAVIS AFB	DORMITORY RENOVATION	0	9,000	0	0
59	I	CALIFORNIA	AIR FORCE	VANDENBERG AFB	SLFI-UPGRADE NATURAL GAS SYSTEM	5,000	5,000	5,000	5,000
60	I	CALIFORNIA	AIR FORCE	VANDENBERG AFB	FIRE TRAINING FACILITY	1,550	1,550	1,550	1,550

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
61	I	CALIFORNIA	DEFENSE AGENCIES	DEF CONTRACT MGMT OFC - EL SEGUNDO	ADMINISTRATIVE BUILDING(CONJUNCTIVE FUND)	5,100	5,100	5,100	5,100
62	I	CALIFORNIA	DEFENSE AGENCIES	MCCLELLAN AIR FORCE BASE	LIFE SAFETY/SEISMIC/UTILITY UPGRADE	10,280	10,280	10,280	10,280
63	I	CALIFORNIA	DEFENSE AGENCIES	SAN DEIGO (SOC)	SOF PBC PIER UPGRADE	3,400	3,400	3,400	3,400
64	I	CALIFORNIA	ARMY NATIONAL GUARD	CAMP ROBERTS	MODIFY RECORD FIRE/MAINTENANCE SHOP	0	0	3,910	3,910
65	I	CALIFORNIA	ARMY NATIONAL GUARD	CAMP ROBERTS	COMBAT PISTOL RANGE	0	0	952	952
66	I	CALIFORNIA	ARMY NATIONAL GUARD	LOS ALAMITOS RESERVE CENTER	UPGRADE UTILITY SYSTEM	0	0	6,847	0
67	I	CALIFORNIA	ARMY NATIONAL GUARD	LOS ALAMITOS RESERVE CENTER	DIRECT SUPPORT LOGISITICS FACILITY	0	5,060	5,060	4,218
68	I	CALIFORNIA	AIR NATIONAL GUARD	FRESNO ANG	BASE SUPPLY COMPLEX	0	7,000	0	0
69	I	CALIFORNIA	AIR NATIONAL GUARD	FRESNO ANGB	SITE RESTORATION	3,500	3,500	3,500	3,500
70	I	CALIFORNIA	AIR NATIONAL GUARD	MOFFETT NAS	ALTER VEHICLE MAINTENANCE FACILITY	400	400	400	400
71	I	CALIFORNIA	AIR NATIONAL GUARD	NO HIGHLANDS ANG STATION	REPLACE UNDERGROUND FUEL STORAGE TANKS	400	400	400	400
72	I	CALIFORNIA	AIR NATIONAL GUARD	SEPULVEDA AGS	SUPPLY ENGINEERING SHOP	0	0	1,600	0
73	I	CALIFORNIA	AIR FORCE RESERVE	MARCH AFB	REPLACE SUBSTATION	3,900	3,900	3,900	3,900
74	I	COLORADO	AIR FORCE	PETERSON AFB	UNDERGROUND FUEL STORAGE TANKS	1,750	1,750	1,750	1,750
75	I	COLORADO	AIR FORCE	UNITED STATES AIR FORCE ACADEMY	DORMITORIES	0	0	3,600	0
76	I	COLORADO	ARMY NATIONAL GUARD	DENVER	ARMORY	0	5,000	0	5,000
77	I	COLORADO	ARMY NATIONAL GUARD	ENGLEWOOD	ARMORY	0	2,725	0	2,725
78	I	COLORADO	AIR NATIONAL GUARD	BUCKLEY ANGB	ADD TO F-16 FUEL CELL DOCK	1,300	1,300	1,300	1,300
79	I	COLORADO	AIR NATIONAL GUARD	BUCKLEY ANGB	AIRCRAFT WASHRACK AND DEICING PAD	400	400	400	400
80	I	CONNECTICUT	ARMY NATIONAL GUARD	GROTON	IMPROVEMENTS TO THE CT-AVCRAD FACILITY	0	9,000	9,000	9,000
81	I	DELAWARE	AIR FORCE	DOVER AFB	DORMITORY	4,600	4,600	4,600	4,600
82	I	DELAWARE	AIR FORCE	DOVER AFB	PASSENGER PROCESSING TERMINAL	0	5,900	5,900	5,900
83	I	DISTRICT OF COLUMBIA	DEFENSE AGENCIES	BOLLING AFB	CHILLER COOLING TOWER DIAC	600	600	600	600
84	I	FLORIDA	NAVY	BLOUNT ISLAND	DEFENSE ACCESS ROAD	0	10,000	0	0
85	I	FLORIDA	NAVY	JACKSONVILLE FLT & INDUSTRIAL SUPPLY CTR	HAZARDOUS AND FLAMMABLE STOREHOUSE ADDN	2,200	2,200	2,200	2,200
86	I	FLORIDA	NAVY	PENSACOLA NAVAL AIR STATION	AIR TRAFFIC CONTROL TOWER	2,100	2,100	2,100	2,100
87	I	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	SLFI-UPGRADE ELECTRICAL DISTRIBUTION SYS	1,750	1,750	1,750	1,750
88	I	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	DELTA LAUNCH OPERATIONS FACILITY	7,000	7,000	7,000	7,000
89	I	FLORIDA	AIR FORCE	CAPE CANAVERAL AFS	CORROSION CONTROL FACILITY	1,700	1,700	1,700	1,700
90	I	FLORIDA	AIR FORCE	EGLIN AFB	RENOVATE CLIMATIC TEST CHAMBER PHASE II	20,000	20,000	20,000	20,000

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
91	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	BENSEN TANK STORAGE FACILITY	0	0	1,550	0
92	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	HC-130 NOSE DOCK/AMU	0	0	5,000	5,000
93	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	AQUATIC TRAINING FACILITY	0	0	2,900	2,900
94	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	SIMULATOR FAC ADD (H)	4,800	4,800	4,800	4,800
95	I	FLORIDA	DEFENSE AGENCIES	EGLIN AUX FIELD 9 (SOC)	HC-130 PARK APRON (H)	7,500	7,500	7,500	7,500
96	I	FLORIDA	ARMY NATIONAL GUARD	CAMP BLANDING	WASTEWATER TREATMENT PLANT	2,083	6,600	2,083	2,083
97	I	FLORIDA	AIR FORCE RESERVE	EGLIN AUXILARY FIELD 3	RENOVATE AIRMEN DINING FACILITY	0	2,650	0	2,650
98	I	FLORIDA	AIR FORCE RESERVE	EGLIN AUXILARY FIELD 3	RENOVATE VISITING AIRMEN LODGING FACILITY	0	3,750	0	0
99	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	RENOVATE BARRACKS QUARTERS (BLD 475)	0	2,550	0	2,550
100	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	REPAIR PHYSICAL FITNESS CENTER	0	1,400	0	1,400
101	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	HYDRANT AND "HOT PIT" FUELING SYSTEM	0	2,000	0	2,000
102	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	RENOVATE BARRACKS QUARTERS (BLD 478)	0	2,450	0	0
103	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	MOBILITY PROCESSING SUPPORT SYSTEM	0	1,150	0	1,150
104	I	FLORIDA	AIR FORCE RESERVE	HOMESTEAD AIR RESERVE STATION	RENOVATE BARRACKS QUARTERS (BLD 477)	0	2,450	0	0
105	I	GEORGIA	ARMY	FORT BENNING	UPGRADE CARMOUCHE TANK RANGE	0	0	1,900	1,900
106	I	GEORGIA	ARMY	FORT BENNING	MOBILIZATION DEPLOYMENT WAREHOUSE	4,650	4,650	4,650	4,650
107	I	GEORGIA	ARMY	FORT GORDON	CENTRAL VEHICLE WASH FACILITY	1,650	1,650	1,650	1,650
108	I	GEORGIA	ARMY	FORT GORDON	SECURE COMPARTMENTED INFORMATION FACILITY	2,500	2,500	2,500	2,500
109	I	GEORGIA	ARMY	FORT GORDON	WHOLE BARRACKS RENEWAL	21,000	21,000	21,000	21,000
110	I	GEORGIA	ARMY	FORT GORDON	CONSOLIDATED MAINTENANCE FACILITY	11,000	11,000	11,000	11,000
111	I	GEORGIA	ARMY	FORT GORDON	BRIGADE VEHICLE MAINTENANCE FACILITY	8,600	8,600	8,600	8,600
112	I	GEORGIA	ARMY	FORT GORDON	VEHICLE MAINTENANCE FACILITY	0	3,500	0	0
113	I	GEORGIA	AIR FORCE	MOODY AFB	ALTER MISSION EQUIPMENT FACILITY	0	0	900	0
114	I	GEORGIA	AIR FORCE	MOODY AFB	CONSTRUCT UEPH DORMITORY	3,800	3,800	3,800	3,800
115	I	GEORGIA	AIR FORCE	MOODY AFB	UPGRADE AIRFIELD PAVEMENTS	8,000	8,000	8,000	8,000
116	I	GEORGIA	AIR FORCE	MOODY AFB	SUPPLY/WRSK STORAGE	0	1,600	1,600	1,600
117	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS EXPANDED FLIGHT KITCHEN	1,850	1,850	1,850	1,850
118	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS ADD TO INTEGRATED SUPPORT FACILITY	3,100	3,100	3,100	3,100
119	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS UTILITIES/ MISCELLANEOUS SUPPORT	3,825	3,825	3,825	3,825
120	I	GEORGIA	AIR FORCE	ROBINS AFB	UPGRADE STORM DRAINAGE SYSTEM	2,200	2,200	2,200	2,200

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
121	I	GEORGIA	AIR FORCE	ROBINS AFB	J-STARS DORMITORY	5,525	5,525	5,525	5,525
122	I	GEORGIA	AIR FORCE	WARNER ROBINS AFB	ALTER WEAPON SYSTEMS SUPPORT CENTER	0	4,700	4,700	4,700
123	I	GEORGIA	DEFENSE AGENCIES	FORT MCPHERSON	HEALTH & DENTAL MEDICAL FACILITY	0	11,400	13,400	13,300
124	I	GEORGIA	ARMY NATIONAL GUARD	FORT STEWART	RTS MANAGEMENT FACILITY	0	0	2,400	2,400
125	I	GEORGIA	ARMY RESERVE	FORT MCPHERSON	US ARMY RESERVE COMMAND HQ (PH II)	0	0	21,400	21,400
126	I	GEORGIA	NAVY RESERVE	DOBBINS AIR RESERVE BASE	ADDITION TO RESERVE TRAINING CENTER	0	4,600	4,600	4,600
127	I	GEORGIA	NAVY RESERVE	NAS MARIETTA	TRAINING CENTER	0	2,650	0	2,650
128	I	GEORGIA	AIR NATIONAL GUARD	ROBINS AFB	B-1 CONSOLIDATED AIRCRAFT SPT/HYDRANT SYS	9,400	9,400	9,400	9,400
129	I	GEORGIA	AIR NATIONAL GUARD	ROBINS AFB	B-1 HANGER COMPLEX	8,400	8,400	8,400	8,400
130	I	GEORGIA	AIR NATIONAL GUARD	ROBINS AFB	ALTER B-1 MAINTENANCE HANGER	2,950	2,950	2,950	0
131	I	GEORGIA	AIR FORCE RESERVE	DOBBINS AFB	FIRE FIGHTER DEVELOPMENT CENTER	1,100	1,100	1,100	1,100
132	I	HAWAII	ARMY	SCHOFIELD BARRACKS	WHOLE BARRACKS RENEWAL	10,000	10,000	25,000	20,700
133	I	HAWAII	NAVY	KANEOHE BAY	CHILD CARE CENTER	0	171	4,900	4,900
134	I	HAWAII	ARMY RESERVE	FORT SHAFTER	RESERVE CENTER	0	9,500	0	9,500
135	I	HAWAII	AIR NATIONAL GUARD	HICKAM AFB	REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000	1,000	1,000
136	I	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	DORMITORY	4,950	4,950	4,950	4,950
137	I	IDAHO	AIR FORCE	MOUNTAIN HOME AFB	RENOVATE AIRCRAFT PARKING APRON	0	0	11,000	11,000
138	I	IDAHO	ARMY NATIONAL GUARD	POST FALLS	EXPAND ARMORY	0	0	2,500	2,500
139	I	IDAHO	AIR NATIONAL GUARD	BOISE AIRPORT	UPGRADE BASE DRAINAGE	380	380	380	380
140	I	IDAHO	AIR NATIONAL GUARD	GOWEN FIELD	HANGAR UPGRADE	0	0	4,000	0
141	I	ILLINOIS	NAVY	GREAT LAKES PUBLIC WORKS CENTER NAVY	SANITARY SEWER SYSTEM UPGRADE	13,000	13,000	13,000	13,000
142	I	ILLINOIS	AIR FORCE	SCOTT AFB	UNDERGROUND FUEL STORAGE TANKS	2,700	2,700	2,700	2,700
143	I	INDIANA	NAVY	NAVAL SURFACE WARFARE CENTER	ELECTRO-OPTICS CENTER	0	8,415	0	7,970
144	I	INDIANA	ARMY NATIONAL GUARD	CAMP ATTERBURY	CENTRAL WASH FACILITY	0	0	4,630	0
145	I	INDIANA	ARMY NATIONAL GUARD	CAMP ATTERBURY	AMMUNITION STORAGE POINT	0	7,340	0	7,340
146	I	INDIANA	ARMY NATIONAL GUARD	INDIANAPOLIS (STOUT FIELD)	COMBINED SUPPORT MAINTENANCE SHOP	0	0	10,080	0
147	I	INDIANA	ARMY NATIONAL GUARD	INDIANAPOLIS (STOUT FIELD)	UNITED STATES PROPERTY AND FISCAL OFFICE	0	4,137	4,137	4,137
148	I	INDIANA	AIR NATIONAL GUARD	FT WAYNE MAP	FIRE STATION AND AGE SHOP	1,950	1,950	1,950	1,950
149	I	INDIANA	AIR NATIONAL GUARD	FT WAYNE MAP	FUEL SYSTEMS MAINTENANCE & CORROSION FAC	5,200	5,200	5,200	5,200
150	I	INDIANA	AIR NATIONAL GUARD	FT WAYNE MAP	AIRCRAFT DEICING APRON	400	400	400	400

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
151	I	INDIANA	AIR NATIONAL GUARD	TERRE HAUTE (HULMAN FIELD)	COMPOSITE SUPPORT FACILITY	0	3,200	0	3,200
152	I	INDIANA	AIR FORCE RESERVE	GRISSOM AFB	CANTONMENT AREA ENV COMPLIANCE	2,200	2,200	2,200	2,200
153	I	IOWA	ARMY NATIONAL GUARD	CAMP DODGE	BATTALION COMPLEX (PHASE III)	0	4,678	0	4,678
154	I	IOWA	ARMY NATIONAL GUARD	CAMP DODGE	ADD/ALTER ORGANIZATIONAL MAINTENANCE SHOP	0	877	0	877
155	I	IOWA	AIR NATIONAL GUARD	DES MOINES	RUNWAY EXPANSION	0	0	4,000	0
156	I	IOWA	AIR NATIONAL GUARD	DES MOINES	ENGINEERING & SUPPLY FACILITY	0	0	2,300	0
157	I	IOWA	AIR NATIONAL GUARD	DES MOINES	FIRE SUPPRESION SYSTEM	0	0	2,300	2,300
158	I	IOWA	AIR NATIONAL GUARD	DES MOINES	ADD MUNITIONS COMPLEX	0	3,900	3,900	3,900
159	I	KANSAS	AIR FORCE	MCCONNELL AFB	STORM DRAINAGE FACILITIES	500	500	500	500
160	I	KANSAS	ARMY NATIONAL GUARD	FORT RILEY	ALTER DYNOMOMETER FACILITY	0	0	1,700	1,700
161	I	KANSAS	ARMY NATIONAL GUARD	SALINA	NICKELL BARRACKS TRAINING CENTER (PH II)	0	0	4,260	4,260
162	I	KANSAS	AIR NATIONAL GUARD	FORBES FIELD	UPGRADE RUNWAY	0	0	4,800	4,800
163	I	KANSAS	AIR NATIONAL GUARD	FORBES FIELD	UPGRADE SANITARY SEWER SYSTEM	670	670	670	670
164	I	KANSAS	AIR NATIONAL GUARD	FORBES FIELD	SITE RESTORATION & FUEL STRG TANK REMOVAL	2,950	2,950	2,950	2,950
165	I	KANSAS	AIR NATIONAL GUARD	MCCONNELL AFB	ALTER SQUADRON OPERATIONS FACILITY	0	0	800	0
166	I	KENTUCKY	ARMY	FORT CAMPBELL	EDUCATION FACILITY, PHASE I	0	0	14,600	8,100
167	I	KENTUCKY	ARMY	FORT CAMPBELL	WHOLE BARRACKS RENEWAL	22,000	22,000	22,000	22,000
168	I	KENTUCKY	ARMY	FORT CAMPBELL	EXPAND RAILROAD NETWORK	14,400	14,400	14,400	14,400
169	I	KENTUCKY	ARMY	FORT CAMPBELL	TACTICAL EQUIPMENT SHOP, PHASE I	0	0	16,400	8,000
170	I	KENTUCKY	ARMY	FORT KNOX	MULTI PURPOSE TRAINING RANGE	0	0	5,300	5,300
171	I	KENTUCKY	ARMY	FORT KNOX	SIMULATOR FACILITY MODIFICATION	0	0	3,200	3,200
172	I	KENTUCKY	ARMY NATIONAL GUARD	WESTERN KENTUCKY RTC, MADISONVILLE	BATTLE TRAINING CENTER (PH I)	0	0	6,500	6,500
173	I	KENTUCKY	AIR NATIONAL GUARD	STANDIFORD FIELD	FUEL CELL AND CORROSION CONTROL DOCK	2,950	2,950	2,950	2,950
174	I	LOUISIANA	AIR FORCE	BARKSDALE AFB	REPLACE APRON/HYDRANT FUEL SYSTEM (PH III)	0	0	11,600	8,200
175	I	LOUISIANA	AIR FORCE	BARKSDALE AFB	CONVENTIONAL MUNITIONS STORAGE FACIL (PH I)	0	0	14,000	6,000
176	I	LOUISIANA	AIR FORCE	BARKSDALE AFB	STORM DRAINAGE FACILITIES	1,500	1,500	1,500	1,500
177	I	LOUISIANA	ARMY NATIONAL GUARD	RUSTON	ARMORY REHABILITATION	0	0	2,745	2,745
178	I	LOUISIANA	NAVY RESERVE	NAVAL AIR STATION NEW ORLEANS	ARMING PAD	840	840	840	840
179	I	LOUISIANA	AIR NATIONAL GUARD	NAVAL AIR STATION, NEW ORLEANS	MAINTENANCE HANGAR	0	5,100	0	5,100
180	I	LOUISIANA	AIR FORCE RESERVE	BARKSDALE AFB	ADD/ALTER SUPPORT FACILITIES	5,000	5,000	5,000	5,000

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
181	I	MAINE	ARMY NATIONAL GUARD	AUGUSTA	ARMORY	0	0	4,000	3,900
182	I	MAINE	AIR NATIONAL GUARD	BANGOR IAP	SQUADRON OPERATIONS FACILITY	0	0	8,800	8,800
183	I	MAINE	AIR NATIONAL GUARD	BANGOR IAP	REFUELING VEHICLE MAINTENANCE FACILITY	379	379	379	379
184	I	MAINE	AIR NATIONAL GUARD	BANGOR IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	840	840	840	840
185	I	MARYLAND	ARMY	ADELPHI LAB CENTER	COMPUTER CENTER	6,600	6,600	6,600	6,600
186	I	MARYLAND	ARMY	EDGEWOOD ARSENAL	ELECTRICAL SYSTEM MODERNIZATION	0	2,750	0	2,600
187	I	MARYLAND	ARMY	FORT RICHIE	PHYSICAL TRAINING CENTER	0	0	3,600	0
188	I	MARYLAND	NAVY	INDIAN HEAD NAVAL SURFACE WARFARE CENTER	UPGRADE POWER PLANT	0	5,000	0	4,000
189	I	MARYLAND	NAVY	INDIAN HEAD NAVAL SURFACE WARFARE CENTER	DENITRATION ACID/MIX FACILITY	0	5,000	0	6,400
190	I	MARYLAND	NAVY	PATUXENT NAVAL AIR WARFARE CENTER	AIR ANTI-SUBMARINE CENTER, PHASE I	0	8,200	0	4,200
191	I	MARYLAND	NAVY	US NAVAL ACADEMY, ANNAPOLIS	FIRE STATION REPLACEMENT	0	2,000	0	1,900
192	I	MARYLAND	AIR FORCE	ANDREWS AFB	DORMITORY	6,300	6,300	6,300	6,300
193	I	MARYLAND	AIR FORCE	ANDREWS AFB	CHILD DEVELOPMENT CENTER	0	0	4,500	0
194	I	MARYLAND	DEFENSE AGENCIES	FORT MEADE	SUPERCOMPUTER FACILITY	12,720	0	0	0
195	I	MARYLAND	DEFENSE AGENCIES	FORT MEADE	CRITICAL SUBSTATION CONTROL	5,458	5,458	5,458	5,458
196	I	MARYLAND	DEFENSE AGENCIES	FORT MEADE	FANX II PURCHASE	14,800	0	14,800	0
197	I	MARYLAND	ARMY NATIONAL GUARD	MONTROSE NATIONAL GUARD	ARMORY	0	5,600	8,900	4,558
198	I	MASSACHUSETTS	ARMY NATIONAL GUARD	TAUTON	ARMORY	0	0	2,900	2,900
199	I	MASSACHUSETTS	ARMY NATIONAL GUARD	WESTFIELD	ADD/ALTER OPERATIONAL MAINTENANCE SHOP	0	0	1,200	1,200
200	I	MASSACHUSETTS	AIR NATIONAL GUARD	BARNES ANGB (WESTFIELD)	VEHICLE MAINTENANCE COMPLEX	0	0	2,000	0
201	I	MASSACHUSETTS	AIR FORCE RESERVE	WESTOVER AFB	REPLACE TAXIWAY	5,100	5,100	5,100	5,100
202	I	MASSACHUSETTS	AIR FORCE RESERVE	WESTOVER AFB	REPLACE UNDERGROUND STORAGE TANKS	1,000	1,000	1,000	1,000
203	I	MICHIGAN	ARMY NATIONAL GUARD	CALUMET	ARMORY RENOVATION	0	120	0	120
204	I	MICHIGAN	ARMY NATIONAL GUARD	FORT CUSTER	COMBAT PISTOL QUALIFICATION RANGE	0	0	400	400
205	I	MICHIGAN	ARMY NATIONAL GUARD	FORT CUSTER	MODIFY RECORD RANGE	0	0	900	900
206	I	MICHIGAN	AIR NATIONAL GUARD	ALPENA COUNTY REGIONAL AIRPORT	FIREMEN TRAINING FACILITY	750	750	750	750
207	I	MICHIGAN	AIR NATIONAL GUARD	ALPENA COUNTY REGIONAL AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	385	385	385	385
208	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANG BASE	UPGRADE SANITARY SEWER LINES	0	610	0	610
209	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANG BASE	REPAIR PARKING LOT & ROADS	0	2,042	2,042	2,042
210	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANGB	UPGRADE HEATING SYSTEM	5,400	5,400	5,400	5,400

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
211	I	MICHIGAN	AIR NATIONAL GUARD	SELFRIDGE ANGB	UPGRADE STORM DRAINAGE SYSTEM	840	840	840	840
212	I	MICHIGAN	AIR NATIONAL GUARD	WK KELLOGG REGIONAL AIRPORT	FIRE STATION & AIRCRAFT GROUND EQUIP SHOP	1,600	1,600	1,600	1,600
213	I	MINNESOTA	ARMY NATIONAL GUARD	CAMP RIPLEY	COMBINED SUPPORT MAINTENANCE SHOP	0	5,000	0	0
214	I	MINNESOTA	AIR NATIONAL GUARD	MINNEAPOLIS/ST. PAUL INTERN'L AIRPORT	OPERATIONS/AEROMEDICAL BUILDING	0	8,000	8,000	8,000
215	I	MISSISSIPPI	AIR FORCE	COLUMBUS AFB	T-1 JAYHAWK MAINTENANCE SUPPORT FACILITY	0	0	3,400	3,200
216	I	MISSISSIPPI	AIR FORCE	COLUMBUS AFB	BACHELOR ENLISTED QUARTERS	0	10,000	0	10,000
217	I	MISSISSIPPI	AIR FORCE	KEESLER AFB	7-LEVEL TRAINING DORMITORY	8,800	8,800	8,800	8,800
218	I	MISSISSIPPI	AIR FORCE	KEESLER AFB	7-LEVEL TRAINING CLASSROOMS	1,800	1,800	1,800	1,800
219	I	MISSISSIPPI	AIR FORCE	KEESLER AFB	UPGRADE FIRE SUPPRESSION SYSTEM	640	640	640	640
220	I	MISSISSIPPI	ARMY NATIONAL GUARD	CAMP SHELBY	REGIONAL SCHOOL FACILITY	0	7,000	0	0
221	I	MISSISSIPPI	ARMY NATIONAL GUARD	CRYSTAL SPRINGS	ARMORY	0	2,250	0	2,250
222	I	MISSISSIPPI	ARMY NATIONAL GUARD	WINONA	ARMORY	0	1,650	0	1,650
223	I	MISSISSIPPI	AIR NATIONAL GUARD	GULFPORT	OPERATIONS AMU SUPPORT FACILITY	0	0	2,250	2,250
224	I	MISSISSIPPI	AIR NATIONAL GUARD	GULFPORT	TROOP CAMP QUARTERS	0	5,800	5,800	5,300
225	I	MISSISSIPPI	AIR NATIONAL GUARD	THOMPSON AIR NATIONAL GUARD FIELD	FIRE STATION	0	2,400	0	1,750
226	I	MISSOURI	AIR FORCE	WHITEMAN AFB	B-2 ADAL APRON, TAXIWAY, & CONVOY ROADS	4,600	4,600	4,600	4,600
227	I	MISSOURI	AIR FORCE	WHITEMAN AFB	B-2 AIRCRAFT MAINT DOCKS/HYDRANT FUELING	15,000	15,000	15,000	15,000
228	I	MISSOURI	AIR FORCE	WHITEMAN AFB	B-2 ADAL DOCK & HANGAR FIRE PROTECTION SYS	3,400	3,400	3,400	3,400
229	I	MISSOURI	AIR FORCE	WHITEMAN AFB	STORM DRAINAGE FACILITIES	1,290	1,290	1,290	1,290
230	I	MISSOURI	ARMY NATIONAL GUARD	COLUMBIA	ARMORY	0	1,415	0	1,415
231	I	MISSOURI	ARMY NATIONAL GUARD	SKELTON TRAINING CENTER, JEFFERSON CITY	DEFENSE ACCESS ROAD	0	1,500	0	1,396
232	I	MISSOURI	AIR NATIONAL GUARD	JEFFERSON BARRACKS ANG SITE	REPLACE FUEL TANKS/UPGRADE REFUEL BOOTH	500	500	500	500
233	I	MISSOURI	AIR NATIONAL GUARD	ST LOUIS-LAMBERT FIELD	REPLACE UNDERGROUND FUEL STORAGE TANKS	440	440	440	440
234	I	MISSOURI	AIR NATIONAL GUARD	ST. JOSEPH	ADVANCED TACTICAL AIRLIFT TRAINING CENTER	0	0	2,150	2,150
235	I	MISSOURI	AIR NATIONAL GUARD	ST. JOSEPH	CIVIL ENGINEERING FACILITY	0	3,000	0	3,000
236	I	MONTANA	AIR FORCE	MALMSTROM AFB	UNGD FUEL STORAGE TANKS MINUTEMAN III FACS	4,000	4,000	4,000	4,000
237	I	MONTANA	AIR FORCE	MALMSTROM AFB	UNDERGROUND FUEL STORAGE TANKS	3,200	3,200	3,200	3,200
238	I	MONTANA	AIR NATIONAL GUARD	GREAT FALLS IAP	ADAL FUEL CELL AND CORROSION CONTROL HANG	1,150	1,150	1,150	1,150
239	I	MONTANA	AIR NATIONAL GUARD	GREAT FALLS IAP	MUNITIONS STORAGE FACILITY	0	0	3,150	3,150
240	I	NEBRASKA	AIR FORCE	OFFUTT AFB	STORM DRAINAGE FACILITIES	1,500	1,500	1,500	1,500

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
241	I	NEBRASKA	AIR FORCE	OFFUTT AFB	UNDERGROUND FUEL STORAGE TANKS	760	760	760	760
242	I	NEBRASKA	AIR NATIONAL GUARD	LINCOLN MAP	PARKING APRON,JET FUEL STOR AND OPTNG COM	14,274	14,274	14,274	14,274
243	I	NEBRASKA	AIR NATIONAL GUARD	LINCOLN MAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500	500	500
244	I	NEVADA	AIR FORCE	NELLIS AFB	DORMITORY	0	0	9,900	0
245	I	NEVADA	AIR FORCE	NELLIS AFB	RELOCATE WATER STORAGE TANK	0	0	600	600
246	I	NEVADA	ARMY NATIONAL GUARD	WASHOE COUNTY	ARMORY	0	5,500	5,600	5,520
247	I	NEVADA	ARMY RESERVE	LAS VEGAS	ARMED FORCES RESERVE CENTER	0	20,000	0	10,000
248	I	NEW JERSEY	ARMY	MIL OCEAN TERM BAYONNE	PAVE CARGO STAGING AND HOLDING AREA	4,050	4,050	4,050	4,050
249	I	NEW JERSEY	NAVY	LAKEHURST NAVAIRWARFARE CTR AIRCRAFT DIV	POTABLE WATER DISTRIBUTION SYSTEM ADDN	2,950	2,950	2,950	2,950
250	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	UPGRADE SANITARY SEWER SYSTEM	4,800	4,800	4,800	4,800
251	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	UPGRADE STORM DRAINAGE FACILITIES	1,900	1,900	1,900	1,900
252	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	DORMITORY	8,700	8,700	8,700	8,700
253	I	NEW JERSEY	AIR FORCE	MCGUIRE AFB	DORMITORY	1,600	1,600	1,600	1,600
254	I	NEW JERSEY	DEFENSE AGENCIES	FORT DIX	HOSPITAL LIFE SAFETY UPGRADE	2,000	2,000	2,000	2,000
255	I	NEW JERSEY	AIR NATIONAL GUARD	MCGUIRE AFB	REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000	1,000	1,000
256	I	NEW JERSEY	AIR NATIONAL GUARD	MCGUIRE AFB	AIRCRAFT PARKING APRON	0	9,600	9,600	9,600
257	I	NEW MEXICO	NAVY	WHITE SANDS NAVAL ORD MISSILE TEST STA	WEAPONS TEST RANGE	1,390	1,390	1,390	1,390
258	I	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	DORMITORY	3,950	3,950	3,950	3,950
259	I	NEW MEXICO	AIR FORCE	HOLLOMAN AFB	ADDITIONAL F-117 HANGARETTE	0	7,000	7,000	7,000
260	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	UPGRADE ELECTRICAL DISTRIBUTION SYSTEM, PH I	0	0	6,000	3,000
261	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	REPAIR WATER DISTRIBUTION CENTER	0	0	8,800	8,800
262	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	BASE SUPPORT CENTER/DINING HALL	0	0	9,500	9,500
263	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	UNDERGROUND FUEL STORAGE TANKS	3,200	3,200	3,200	3,200
264	I	NEW MEXICO	AIR FORCE	KIRTLAND AFB	CHILD CARE CENTER	0	0	3,500	3,500
265	I	NEW MEXICO	DEFENSE AGENCIES	KIRTLAND AFB (SOC)	AIRCREW TRAINING FACILITY	9,600	9,600	9,600	9,600
266	I	NEW MEXICO	ARMY NATIONAL GUARD	TAOS	ARMORY	0	0	1,690	0
267	I	NEW MEXICO	AIR NATIONAL GUARD	KIRTLAND AFB	REPLACE UNDERGROUND FUEL STORAGE TANKS	900	900	900	900
268	I	NEW YORK	ARMY	FORT DRUM	FLIGHT SIMULATOR BUILDING	0	3,900	0	0
269	I	NEW YORK	ARMY	FORT DRUM	AIRCRAFT PROTECTIVE SHELTERS	0	2,050	0	0
270	I	NEW YORK	ARMY	FORT DRUM	MULTIPURPOSE TRAINING RANGE	0	13,200	0	12,600

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
271	I	NEW YORK	ARMY	U S MILITARY ACADEMY	RENOVATE FOOD PROCESSING FACILITY, PHASE I	28,000	28,000	28,000	14,000
272	I	NEW YORK	ARMY NATIONAL GUARD	CAMP SMITH	OVERHAUL OF WATER SUPPLY AND DISTRIBUTION SYS	0	1,820	1,820	1,820
273	I	NEW YORK	AIR NATIONAL GUARD	HANCOCK FIELD	REPLACE UNDERGROUND FUEL STORAGE TANKS	580	580	580	580
274	I	NEW YORK	AIR NATIONAL GUARD	NIAGARA FALLS INTERNATIONAL AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	640	640	640	640
275	I	NEW YORK	AIR NATIONAL GUARD	STRATTON AIR NAT'L GUARD BASE	POLICE FACILITY AND FIRE STATION	0	3,200	3,600	3,200
276	I	NEW YORK	AIR FORCE RESERVE	NIAGARA IAP	FUEL MAINTENANCE HANGAR	0	0	5,450	0
277	I	NORTH CAROLINA	ARMY	FORT BRAGG	WHOLE BARRACKS RENEWAL	29,000	29,000	29,000	29,000
278	I	NORTH CAROLINA	ARMY	SUNNY POINT ARMY TERM	DREDGE TERMINAL ENTRANCE	16,500	16,500	16,500	16,500
279	I	NORTH CAROLINA	ARMY	SUNNY POINT ARMY TERM	HOLDING PAD	5,700	5,700	5,700	5,700
280	I	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	OIL SPILL PREVENTION	4,450	4,450	4,450	4,450
281	I	NORTH CAROLINA	NAVY	CAMP LEJEUNE MARINE CORPS BASE	MULTI-PURPOSE TRAINING RANGE COMPLEX	10,400	10,400	10,400	10,400
282	I	NORTH CAROLINA	NAVY	CHERRY POINT MARINE CORPS AIR STATION	CYROGENICS FACILITY	2,100	2,100	2,100	2,100
283	I	NORTH CAROLINA	AIR FORCE	POPE AFB	AIRCRAFT PARKING APRON LIGHTING	1,500	1,500	1,500	1,500
284	I	NORTH CAROLINA	AIR FORCE	POPE AFB	FIRE TRAINING FACILITY	1,100	1,100	1,100	1,100
285	I	NORTH CAROLINA	AIR FORCE	POPE AFB	COMBAT CONTROL TEAM SQUADRON FACILITY	0	2,150	0	2,450
286	I	NORTH CAROLINA	DEFENSE AGENCIES	FORT BRAGG	HOSPITAL REPLACEMENT PHASE III	75,000	75,000	75,000	75,000
287	I	NORTH CAROLINA	DEFENSE AGENCIES	FORT BRAGG	SPECIAL OPERATIONS FACILITY	0	0	16,000	8,000
288	I	NORTH CAROLINA	ARMY NATIONAL GUARD	KINSTON	ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	0	3,519	0	3,519
289	I	NORTH CAROLINA	AIR NATIONAL GUARD	DOUGLAS MAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	690	690	690	690
290	I	NORTH CAROLINA	AIR NATIONAL GUARD	STANLY COUNTY	COMPOSITE TRAINING FACILITY	0	5,100	0	5,100
291	I	NORTH CAROLINA	AIR FORCE RESERVE	KINSTON REGIONAL AIRPORT	HOLDING APRON & RUNWAY IMPROVEMENTS	0	4,960	0	4,960
292	I	NORTH DAKOTA	AIR FORCE	GRAND FORKS AFB	UNDERGROUND FUEL STORAGE TANKS - MISSILE FACS	5,200	5,200	5,200	5,200
293	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	UNGD FUEL STORAGE TANKS - MISSILE FACS	2,950	2,950	2,950	2,950
294	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	UNDERGROUND FUEL STORAGE TANKS	1,400	1,400	1,400	1,400
295	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	STORM DRAINAGE FACILITIES	1,500	1,500	1,500	1,500
296	I	NORTH DAKOTA	AIR FORCE	MINOT AFB	REPAIR PARKING APRON	0	4,500	4,500	0
297	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	UPGRADE STORM DRAINAGE SYSTEM	3,350	3,350	3,350	3,350
298	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	UPGRADE ELECTRICAL DISTRIBUTION SYSTEM (PH I)	0	0	4,150	0
299	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	ACQUISITION MANAGEMENT CENTER (PH III)	0	0	18,300	18,300
300	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	WASTE WATER TREATMENT PLANT	0	0	6,900	0

FISCAL YEAR 1995 MILITARY CONSTRUCTION AUTHORIZATION (IN THOUSANDS OF DOLLARS)

#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
301	I	OHIO	AIR FORCE	WRIGHT-PATTERSON AFB	NATIONAL AIR INTELLIGENCE CENTER	0	4,900	0	4,900
302	I	OHIO	DEFENSE AGENCIES	DEFENSE CONSTRUCTION SUPPLY CENTER	FIRE STATION	2,200	2,200	2,200	2,200
303	I	OHIO	ARMY NATIONAL GUARD	RAVENNA	ARMORY/TRAINING SITE SUPPORT FACILITY	0	0	4,500	4,500
304	I	OHIO	ARMY NATIONAL GUARD	TOLEDO	ARMORY	0	3,183	0	0
305	I	OHIO	AIR NATIONAL GUARD	MANSFIELD LANN AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	770	770	770	770
306	I	OHIO	AIR NATIONAL GUARD	SPRINGFIELD ANG BASE	MEDICAL TRAINING AND DINING HALL FACILITY	0	4,300	0	4,300
307	I	OHIO	AIR NATIONAL GUARD	SPRINGFIELD MAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	400	400	400	400
308	I	OHIO	AIR NATIONAL GUARD	SPRINGFIELD MAP	ADAL FUEL CELL AND CORROSION CONTROL DOCK	1,250	1,250	1,250	1,250
309	I	OHIO	AIR NATIONAL GUARD	TOLEDO EXPRESS AIRPORT	AIRCRAFT DEICING APRON	320	320	320	320
310	I	OHIO	AIR NATIONAL GUARD	TOLEDO EXPRESS AIRPORT	BASE CIVIL ENGINEERING MAINTENANCE COMPLEX	0	2,540	0	2,540
311	I	OHIO	AIR FORCE RESERVE	YOUNGSTOWN MAP	INDUSTRIAL WASTE WATER PRETREAT FACILITY	500	500	500	500
312	I	OKLAHOMA	ARMY	FORT SILL	WHOLE BARRACKS RENEWAL	18,000	18,000	18,000	18,000
313	I	OKLAHOMA	AIR FORCE	ALTUS AFB	ADD TO AND ALTER DORMITORY	3,750	3,750	3,750	3,750
314	I	OKLAHOMA	AIR FORCE	TINKER AFB	STORM DRAINAGE SYSTEM	1,243	1,243	1,243	1,243
315	I	OKLAHOMA	AIR FORCE	TINKER AFB	CORROSION CONTROL FACILITY (DBOF)	8,400	8,400	8,400	8,400
316	I	OKLAHOMA	AIR FORCE	TINKER AFB	EXTEND AND UPGRADE ALTERNATE RUNWAY	0	10,800	0	10,800
317	I	OKLAHOMA	AIR FORCE	VANCE AFB	FIRE TRAINING FACILITY	980	980	980	980
318	I	OKLAHOMA	AIR FORCE	VANCE AFB	ALTER DORMITORIES	2,300	2,300	2,300	2,300
319	I	OKLAHOMA	AIR FORCE	VANCE AFB	UPGRADE STORM DRAINAGE SYSTEM	1,800	1,800	1,800	1,800
320	I	OKLAHOMA	AIR FORCE	VANCE AFB	UPGRADE SANITARY SEWER SYSTEM	1,100	1,100	1,100	1,100
321	I	OKLAHOMA	AIR FORCE	VANCE AFB	AIRCRAFT PARKING APRON (PHASE V)	0	5,500	5,500	5,500
322	I	OKLAHOMA	ARMY NATIONAL GUARD	OKLAHOMA CITY	TROOP COMMAND ARMORY	0	3,911	0	0
323	I	OKLAHOMA	ARMY NATIONAL GUARD	OKLAHOMA MILITARY ACADEMY	BARRACKS AND CLASSROOMS	0	4,463	0	4,463
324	I	OKLAHOMA	AIR NATIONAL GUARD	TULSA IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700	700	700
325	I	OKLAHOMA	AIR FORCE RESERVE	TINKER AFB	UPGRADE RAMP AND HYDRANT REFUELING SYSTEM	0	0	10,200	10,200
326	I	OREGON	ARMY	UMATILLA ARMY DEPOT	AMMUNITION DEMILITARIZATION FACILITY	179,000	179,000	0	0
327	I	OREGON	DEFENSE AGENCIES	UMATILLA ARMY DEPOT	AMMUNITION DEMILITARIZATION FACILITY, PHASE I	0	0	12,000	12,000
328	I	OREGON	DEFENSE AGENCIES	UMATILLA ARMY DEPOT	CARBON FILTRATION SYSTEM	0	0	4,000	0
329	I	OREGON	ARMY NATIONAL GUARD	CAMP RILEA	TROOP ISSUE ACTIVITY WAREHOUSE UPGRADE	0	0	500	0
330	I	OREGON	ARMY NATIONAL GUARD	HERMISTON	ARMORY	0	0	1,800	1,713

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
331	I	OREGON	ARMY NATIONAL GUARD	PENDLETON	AVIATION SUPPORT FACILITY	0	0	2,000	2,000
332	I	OREGON	AIR NATIONAL GUARD	CAMP RILEA	COMMUNICATION & ELECTRONICS TRAINING FACILITY	0	4,650	4,650	4,650
333	I	OREGON	AIR NATIONAL GUARD	PORTLAND IAP	SITE RESTORATION	1,700	1,700	1,700	1,700
334	I	PENNSYLVANIA	ARMY	TOBYHANNA DEPOT	INDUSTRIAL OPERATIONS FACILITY	0	17,000	0	17,000
335	I	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	PIER 4 REHAB (PHASE II)	0	6,000	0	6,000
336	I	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	RENOVATE AND MODERNIZE FOUNDRY (PHASE II)	0	4,500	0	4,500
337	I	PENNSYLVANIA	NAVY	PHILADELPHIA NAVAL SHIPYARD	FIRE PROTECTION PUMP	0	1,000	0	0
338	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORD CITY, ARMSTRONG COUNTY	ARMORY	0	1,982	0	1,982
339	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORT INDIANTOWN GAP	ELECTRICAL TARGETING SYSTEM UPGRADE	0	0	770	770
340	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORT INDIANTOWN GAP	BARRACKS	0	0	6,200	6,200
341	I	PENNSYLVANIA	ARMY NATIONAL GUARD	FORT INDIANTOWN GAP	FLIGHT SIMULATOR	0	4,600	6,000	4,584
342	I	PENNSYLVANIA	ARMY NATIONAL GUARD	MT PLEASANT TOWNSHIP, WESTMORELAND COUNTY	ARMORY	0	3,954	0	3,594
343	I	PENNSYLVANIA	NAVY RESERVE	FOLSOM	RENOVATE ARMED FORCES RESERVE CENTER (BLDG 8)	0	2,300	0	2,300
344	I	PENNSYLVANIA	AIR NATIONAL GUARD	FT INDIANTOWN ANG COMMUNICATIONS SITE	REPLACE UNDERGROUND FUEL STORAGE TANKS	1,800	1,800	1,800	1,800
345	I	PENNSYLVANIA	AIR NATIONAL GUARD	GREATER PITTSBURGH INTERNATIONAL AIRPORT	REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500	500	500
346	I	PENNSYLVANIA	AIR NATIONAL GUARD	HARRISBURG IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	690	690	690	690
347	I	PENNSYLVANIA	AIR NATIONAL GUARD	WILLOW GROVE NAS	REPLACE UNDERGROUND FUEL STORAGE TANKS	470	470	470	470
348	I	RHODE ISLAND	NAVY	NAVAL WAR COLLEGE, NEWPORT	STRATEGIC MARITIME RESEARCH CENTER (PHASE I)	0	10,000	0	10,000
349	I	RHODE ISLAND	NAVY	NEWPORT NAVAL EDUCATION & TRAINING CENTER	SANITARY SEWER SYSTEM UPGRADES	14,500	14,500	14,500	14,500
350	I	SOUTH CAROLINA	ARMY	CHARLESTON NAVAL WEAPONS STATION	STRATEGIC MAINTENANCE COMPLEX (PH I)	0	0	24,000	20,000
351	I	SOUTH CAROLINA	NAVY	MARINE CORPS AIR STATION, BEAUFORT	F/A - 18D SPT. FACILITIES	0	10,800	0	10,800
352	I	SOUTH CAROLINA	NAVY	MARINE CORPS RECRUIT DEPOT, PARRIS ISLAND	RECRUIT TRAINING FACILITY	0	6,000	0	5,800
353	I	SOUTH CAROLINA	NAVY	PARRIS ISLAND MARINE CORPS RECRUIT DEPOT	CHILD DEVELOPMENT CENTER	2,550	2,550	2,550	2,550
354	I	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	ALTER DORMITORIES	9,900	9,900	9,900	9,900
355	I	SOUTH CAROLINA	AIR FORCE	CHARLESTON AFB	UPGRADE HAZARDOUS WASTE STORAGE FACILITY	1,500	1,500	1,500	1,500
356	I	SOUTH CAROLINA	ARMY NATIONAL GUARD	EASTOVER	CLASS IX AMMUNITION STORAGE FACILITY	0	0	2,300	2,300
357	I	SOUTH CAROLINA	ARMY NATIONAL GUARD	SENECA	ARMORY	0	0	1,400	0
358	I	SOUTH CAROLINA	ARMY RESERVE	NORTH CHARLESTON	RESERVE CENTER/MAINTENANCE COMPLEX	0	0	8,560	8,560
359	I	SOUTH CAROLINA	AIR NATIONAL GUARD	MCENTIRE ANGB	ADD/ALTER COMMUNICATIONS FACILITY	0	0	900	0
360	I	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	STORM DRAINAGE FACILITIES	1,450	1,450	1,450	1,450

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
361	I	SOUTH DAKOTA	AIR FORCE	ELLSWORTH AFB	CONSOLIDATED SUPPORT CENTER (PHASE II)	0	4,500	4,500	4,500
362	I	SOUTH DAKOTA	ARMY NATIONAL GUARD	CAMP RAPID	BARRACKS/ADMINISTRATION FACILITY	0	0	2,200	0
363	I	SOUTH DAKOTA	AIR NATIONAL GUARD	SIOUX FALLS (JOE FOSS FIELD)	POWER CHECK PAD/SOUND SUPPRESSOR	0	0	2,500	2,500
364	I	TENNESSEE	AIR FORCE	ARNOLD ENGINEERING DEV CENTER	HAZARDOUS WASTE/MATERIAL STORAGE FACILITY	1,900	1,900	1,900	1,900
365	I	TENNESSEE	ARMY NATIONAL GUARD	CHATTANOOGA ANG	ARMY NATIONAL GUARD AVIATION UNIT	0	2,949	0	0
366	I	TENNESSEE	ARMY NATIONAL GUARD	CHATTANOOGA ANG	ARMORY ADDITION AND REHABILITATION	0	1,604	0	1,604
367	I	TENNESSEE	ARMY NATIONAL GUARD	DUNLAP	ORGANIZATIONAL MAINTENANCE SUB SHOP	0	715	715	715
368	I	TENNESSEE	ARMY NATIONAL GUARD	JOHNSON CITY	ADD/ALTER JOINT ARMED FORCES RESV CTR	0	6,019	0	6,019
369	I	TENNESSEE	ARMY NATIONAL GUARD	LINDEN	ARMORY	0	1,097	1,097	1,097
370	I	TENNESSEE	ARMY NATIONAL GUARD	MILAN	ARMORY	0	825	825	825
371	I	TENNESSEE	ARMY NATIONAL GUARD	MOUNTAIN CITY	ARMORY	0	1,742	1,742	1,742
372	I	TENNESSEE	ARMY NATIONAL GUARD	ONEIDA	ARMORY	0	0	1,230	1,230
373	I	TENNESSEE	ARMY NATIONAL GUARD	ROGERSVILLE	ARMORY	0	0	1,820	1,820
374	I	TENNESSEE	ARMY NATIONAL GUARD	SPRINGFIELD	ARMORY	0	1,100	1,100	1,115
375	I	TENNESSEE	ARMY NATIONAL GUARD	TRENTON	ORGANIZATIONAL MAINTENANCE SHOP	0	630	630	630
376	I	TENNESSEE	ARMY NATIONAL GUARD	WAVERLY	ARMORY ADDITION AND REHABILITATION (PHASE II)	0	321	321	321
377	I	TENNESSEE	AIR NATIONAL GUARD	MEMPHIS	VEHICLE MAINTENANCE WAREHOUSE	0	0	1,900	1,900
378	I	TENNESSEE	AIR NATIONAL GUARD	MEMPHIS	SIMULATOR FACILITY	0	0	3,500	3,500
379	I	TENNESSEE	AIR NATIONAL GUARD	NASHVILLE	VEHICLE MAINTENANCE COMPLEX	0	0	2,250	2,250
380	I	TEXAS	ARMY	FORT BLISS	MAINTENANCE FACILITY	0	11,200	0	11,200
381	I	TEXAS	ARMY	FORT BLISS	US SERGEANTS MAJOR ACADEMY ADDITION	0	5,600	0	5,600
382	I	TEXAS	ARMY	FORT BLISS	CHILD DEVELOPMENT CENTER	0	4,000	0	0
383	I	TEXAS	ARMY	FORT HOOD	WHOLE BARRACKS RENEWAL	29,000	29,000	29,000	29,000
384	I	TEXAS	ARMY	FORT HOOD	LOGISTICS FACILITY PHASE IV	0	10,000	0	8,800
385	I	TEXAS	ARMY	FORT HOOD	TWO TACTICAL EQUIPMENT SHOPS	0	10,000	0	8,000
386	I	TEXAS	ARMY	FORT SAM HOUSTON	SEWAGE TREATMENT PLANT - CAMP BULLIS	4,300	4,300	4,300	4,300
387	I	TEXAS	ARMY	FORT SAM HOUSTON	DINING FACILITY MODERNIZATION	0	2,750	0	0
388	I	TEXAS	NAVY	INGLESIDE NAVAL STATION	MAGNETIC SILENCING FAC W/LAND ACQUISITION	14,110	14,110	14,110	14,110
389	I	TEXAS	NAVY	KINGSVILLE NAVAL AIR STATION	REPAIR & MAINTAIN NON-AIRBORNE ELECT/COMM EQU	0	1,530	0	1,530
390	I	TEXAS	AIR FORCE	BROOKS AFB	DIRECTED ENERGY FACILITY	0	6,500	0	6,500

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
391	I	TEXAS	AIR FORCE	DYESS AFB	ADD/ALTER DORMITORY	0	5,400	0	0
392	I	TEXAS	AIR FORCE	KELLY AFB	UPGRADE HYDRANT FUELING SYSTEMS	3,700	3,700	3,700	3,700
393	I	TEXAS	AIR FORCE	KELLY AFB	UPGRADE SANITARY SEWER LINES	3,000	3,000	3,000	3,000
394	I	TEXAS	AIR FORCE	KELLY AFB	ADD TO AND ALTER DORMITORY	2,250	2,250	2,250	2,250
395	I	TEXAS	AIR FORCE	KELLY AFB	ALTER DEPOT MAINTENANCE HANGAR, PHASE I	0	7,600	0	0
396	I	TEXAS	AIR FORCE	LACKLAND AFB	7-LEVEL TRAINING CLASSROOMS	1,800	1,800	1,800	1,800
397	I	TEXAS	AIR FORCE	LACKLAND AFB	ALTER RECRUIT DORMITORY	3,400	3,400	3,400	3,400
398	I	TEXAS	AIR FORCE	SHEPPARD AFB	7-LEVEL TRAINING CLASSROOMS	3,300	3,300	3,300	3,300
399	I	TEXAS	ARMY NATIONAL GUARD	EL CAMPO	ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	0	2,086	0	0
400	I	TEXAS	ARMY NATIONAL GUARD	FORT WORTH / SANDAGE	ARMORY RENOVATION	0	631	0	0
401	I	TEXAS	ARMY NATIONAL GUARD	FORT WORTH / SHOREVIEW	ADD / ALTER ARMORY	0	3,190	0	3,041
402	I	TEXAS	ARMY NATIONAL GUARD	MARSHALL	ORGANIZATIONAL MAINTENANCE SHOP	0	830	0	830
403	I	TEXAS	ARMY NATIONAL GUARD	WYLIE	ORGANIZATIONAL MAINTENANCE SHOP	0	1,261	0	1,261
404	I	UTAH	DEFENSE AGENCIES	TOOELE ARMY DEPOT	CARBON FILTRATION SYSTEM	0	0	4,000	4,000
405	I	UTAH	ARMY NATIONAL GUARD	CAMP WILLIAMS	TROOP SUPPORT ACTIVITY BUILDING (PH II)	0	0	2,290	2,290
406	I	UTAH	ARMY NATIONAL GUARD	ST. GEORGE	ARMORY ADDITION	0	0	880	0
407	I	UTAH	AIR NATIONAL GUARD	SALT LAKE CITY IAP	AIRCRAFT WASHRACK AND DEICE FACILITY	400	400	400	400
408	I	VERMONT	AIR NATIONAL GUARD	BURLINGTON IAP	MEDICAL TRAINING/OPERATIONS FACILITY	0	0	4,800	4,800
409	I	VIRGINIA	ARMY	FORT LEE	UPGRADE ELECTRICAL DISTRIBUTION, PHASE I	0	16,000	0	11,000
410	I	VIRGINIA	ARMY	FORT LEE	SOLDIERS ONE STOP CENTER	0	5,000	0	4,600
411	I	VIRGINIA	ARMY	FORT MYER	WHOLE BARRACKS RENEWAL	7,300	7,300	7,300	7,300
412	I	VIRGINIA	NAVY	CHESAPEAKE NAVAL SECURITY GROUP ACT NW	CHILD DEVELOPMENT CENTER	1,150	1,150	1,150	1,150
413	I	VIRGINIA	NAVY	DAM NECK FLEET COMBAT TRAIN CTR ATLANTIC	CHILD DEVELOPMENT CENTER	1,600	1,600	1,600	1,600
414	I	VIRGINIA	NAVY	DAM NECK FLEET COMBAT TRAIN CTR ATLANTIC	GUNLINE/WEAPONS TRAINING FACILITY	0	5,400	0	5,400
415	I	VIRGINIA	NAVY	LITTLE CREEK AMPHIBIOUS BASE	WEST SIDE FIRE STATION	0	5,000	0	5,000
416	I	VIRGINIA	NAVY	NAVAL BASE NORFOLK	FAMILY SERVICES CENTER	0	5,100	0	5,100
417	I	VIRGINIA	NAVY	NORFOLK MARINE CORPS SEC FORCE BATT LANT	BACHELOR ENLISTED QUARTERS	6,480	6,480	6,480	6,480
418	I	VIRGINIA	NAVY	NORFOLK NAVAL STATION	BACHELOR ENLISTED QUARTERS	16,430	16,430	16,430	16,430
419	I	VIRGINIA	NAVY	NORFOLK NAVAL STATION	NAUTICUS	0	1,000	0	0
420	I	VIRGINIA	NAVY	OCEANA NAVAL AIR STATION	AIRCRAFT FIXED START SYSTEM	0	4,700	0	0

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
421	I	VIRGINIA	NAVY	QUANTICO MARINE CORPS COMBAT DEV COMMAND	SEWAGE TREATMENT PLANT	19,900	19,900	19,900	19,900
422	I	VIRGINIA	AIR FORCE	LANGLEY AFB	CHILD DEVELOPMENT CENTERS (2)	0	5,500	0	5,500
423	I	VIRGINIA	DEFENSE AGENCIES	DEF FUEL SUPPORT POINT CRANEY ISLAND	MAINTENANCE & OPERATIONS FACILITY	3,652	3,652	3,652	3,652
424	I	VIRGINIA	DEFENSE AGENCIES	FORT BELVOIR	CHILD DEVELOPMENT CENTER	4,600	4,600	4,600	4,600
425	I	VIRGINIA	DEFENSE AGENCIES	NAVAL SURFACE WARFARE CENTER, DALGHREN	ADD/ALTER SECTION 6 SCHOOL	0	1,300	1,560	1,560
426	I	VIRGINIA	DEFENSE AGENCIES	PORTSMOUTH NAVAL HOSPITAL	HOSPITAL REPLACEMENT PHASE IV	120,000	120,000	120,000	120,000
427	I	VIRGINIA	ARMY NATIONAL GUARD	DANVILLE	EXPAND ARMORY	0	0	1,740	0
428	I	VIRGINIA	AIR NATIONAL GUARD	RICHMOND IAP	FUEL STORAGE COMPLEX	0	0	4,500	4,500
429	I	WASHINGTON	ARMY	FORT LEWIS	WHOLE BARRACKS RENEWAL	32,000	32,000	32,000	32,000
430	I	WASHINGTON	ARMY	FORT LEWIS	WHOLE BARRACKS RENEWAL	32,000	32,000	32,000	32,000
431	I	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYARD	INDUSTRIAL WASTEWATER TREATMENT FACILITY	3,200	3,200	3,200	3,200
432	I	WASHINGTON	NAVY	BREMERTON PUGET SOUND NAVAL SHIPYARD	UTILITIES AND SITE IMPROVEMENTS	7,840	7,840	7,840	7,840
433	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	BACHELOR ENLISTED QUARTERS	7,450	7,450	7,450	7,450
434	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	CHILD DEVELOPMENT CENTER	2,900	2,900	2,900	2,900
435	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	FLEET RECREATION CENTER	3,000	3,000	3,000	3,000
436	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	PHYSICAL FITNESS FACILITIES	6,840	6,840	6,840	6,840
437	I	WASHINGTON	NAVY	EVERETT NAVAL STATION	HAZARDOUS WASTE STORAGE AND TRANSFER FAC	1,500	1,500	1,500	1,500
438	I	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	WASTEWATER TREATMENT PLANT UPGRADE	2,400	2,400	2,400	2,400
439	I	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	FIRE FIGHTING TRAINING FACILITY	1,400	1,400	1,400	1,400
440	I	WASHINGTON	NAVY	WHIDBEY ISLAND NAVAL AIR STATION	INDUSTRIAL WASTEWATER PRETREATMENT FAC	1,400	1,400	1,400	1,400
441	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	STORM DRAINAGE FACILITIES	2,450	2,450	2,450	2,450
442	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	HAZARDOUS MATERIAL STORAGE FACILITY	1,400	1,400	1,400	1,400
443	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	SURVIVAL TRAINING SCHOOL FACILITY	0	0	5,000	3,750
444	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	FLIGHT SIMULATOR	0	4,200	0	4,000
445	I	WASHINGTON	AIR FORCE	FAIRCHILD AFB	SQUADRON OPERATIONS/MAINTENANCE	0	6,300	0	6,300
446	I	WASHINGTON	AIR FORCE	MCCHORD	AIR TRAFFIC CONTROL TOWER	0	2,700	0	2,700
447	I	WASHINGTON	AIR FORCE	MCCHORD	ALTER BLDG FOR CONSOLIDATED SUPPORT CENTER	0	7,700	0	7,700
448	I	WASHINGTON	NAVY RESERVE	SEATTLE	JOINT ARMED FORCES RESERVE CENTER	0	0	0	10,400
449	I	WASHINGTON	AIR NATIONAL GUARD	FAIRCHILD AFB	ADD/ALTER SQUADRON OPERATIONS FACILITY	0	0	1,250	1,250
450	I	WEST VIRGINIA	AIR NATIONAL GUARD	E WV REGIONAL APT (MARTINSBURG)	REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500	500	500

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
451	I	WISCONSIN	AIR NATIONAL GUARD	BILLY MITCHELL FIELD	REPLACE CENTRAL HEAT PLANT	800	800	800	800
452	I	WISCONSIN	AIR NATIONAL GUARD	TRUAX FIELD	ADAL AGE SHOP/STORAGE	340	340	340	340
453	I	WISCONSIN	AIR NATIONAL GUARD	VOLK FIELD	FIREMEN TRAINING FACILITY	700	700	700	700
454	I	WISCONSIN	AIR NATIONAL GUARD	VOLK FIELD	BASE FACILITIES IMPROVEMENTS (PHASE I)	0	9,900	0	4,900
455	I	WISCONSIN	AIR FORCE RESERVE	BILLY MITCHELL FIELD	INSTALL AIR EMISSION CONTROL DEVICE	750	750	750	750
456	I	WISCONSIN	AIR FORCE RESERVE	BILLY MITCHELL FIELD	FIRE FIGHTER TRAINING FACILITY	1,450	1,450	1,450	1,450
457	I	WYOMING	AIR FORCE	F E WARREN AFB	UNGD FUEL STORAGE TANKS - MISSILE FAC	2,650	2,650	2,650	2,650
458	I	WYOMING	ARMY NATIONAL GUARD	CAMP GUERNSEY	UTILITY UPGRADE	0	0	6,233	0
459	I	WYOMING	ARMY NATIONAL GUARD	TORRINGTON	ARMORY	0	0	5,300	5,300
460	O	CONUS CLASSIFIED	ARMY	CLASSIFIED LOCATION	CLASSIFIED PROJECT	0	1,900	1,900	1,900
461	O	CONUS CLASSIFIED	NAVY	CLASSIFIED LOCATION	AIRCRAFT FIRE/RESCUE STA & VEH MAINT FAC	2,200	2,200	2,200	2,200
462	O	CONUS CLASSIFIED	AIR FORCE	CLASSIFIED LOCATION	SPECIAL TACTICAL UNIT DETENTION FACILITY	2,141	2,141	2,141	2,141
463	O	CONUS CLASSIFIED	DEFENSE AGENCIES	CLASSIFIED LOCATION	COMMAND SUPPORT FACILITY UTILITY UPGRADE	5,300	5,300	5,300	5,300
464	O	GERMANY	AIR FORCE	RAMSTEIN AB	HAZARDOUS WASTE STORAGE FACILITY	1,150	1,150	1,150	1,150
465	O	GERMANY	AIR FORCE	RAMSTEIN AB	UPGRADE SEWAGE COLLECTION SYSTEM	11,200	11,200	11,200	11,200
466	O	GERMANY	AIR FORCE	SPANGDAHLEM AB	CHILD DEVELOPMENT CENTER	2,273	2,273	2,273	2,273
467	O	GERMANY	AIR FORCE	SPANGDAHLEM AB	UPGD SEWAGE TREATMENT PLANT & SEWER SYS	7,200	7,200	7,200	7,200
468	O	GREECE	NAVY	SOUDA BAY CRETE NAVAL SUPPORT ACTIVITY	AIRCRAFT PARKING APRON	3,050	3,050	3,050	3,050
469	O	GREENLAND	AIR FORCE	THULE AB	FIRE TRAINING FACILITY	2,450	2,450	2,450	2,450
470	O	GUAM	NAVY	PUBLIC WORKS CENTER	UPGRADE ELECTRICAL POWER PLANT	0	21,600	0	0
471	O	ITALY	NAVY	NAPLES NAVAL SUPPORT ACTIVITY	BACHELOR ENLISTED QUARTERS	19,360	19,360	19,360	19,360
472	O	ITALY	NAVY	NAPLES NAVAL SUPPORT ACTIVITY	QUALITY OF LIFE FACILITIES (INCREMENT II)	9,100	9,100	9,100	9,100
473	O	ITALY	NAVY	SIGONELLA NAVAL AIR STATION	BACHELOR ENLISTED QUARTERS	13,750	13,750	13,750	13,750
474	O	KOREA	ARMY	CAMP CASEY	BARRACKS	0	29,200	0	29,200
475	O	KOREA	ARMY	CAMP COINER	BARRACKS	0	6,200	0	0
476	O	KOREA	ARMY	CAMP RED CLOUD	BARRACKS	0	5,400	0	5,400
477	O	KWAJALEIN	ARMY	KWAJALEIN	FUEL CONTAINMENT FACILITY	1,200	1,200	1,200	1,200
478	O	KWAJALEIN	ARMY	KWAJALEIN	COVER RAW WATER TANKS	5,200	5,200	5,200	5,200
479	O	PORTUGAL	AIR FORCE	LAJES FIELD	REFUSE INCINERATOR	2,850	2,850	2,850	2,850
480	O	PUERTO RICO	NAVY	SABANA SECA NAVAL SECURITY GROUP ACTIVITY	OPERATIONS BUILDING ADDITION	1,650	1,650	1,650	1,650

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
481	O	PUERTO RICO	AIR NATIONAL GUARD	PUERTO RICO IAP	ADD TO AND ALTER AIRCRAFT CORROSION FAC	750	750	750	750
482	O	PUERTO RICO	AIR NATIONAL GUARD	PUERTO RICO IAP	REPLACE UNDERGROUND FUEL STORAGE TANKS	590	590	590	590
483	O	UNITED KINGDOM	NAVY	ST MAWGAN JOINT MARITIME COMMUNICATION CTR	CHILD DEVELOPMENT AND YOUTH CENTER	3,900	3,900	3,900	3,900
484	O	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	ADD TO AND ALTER DORMITORY	3,700	3,700	3,700	3,700
485	O	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	UPGRADE STORM DRAINAGE SYSTEM	2,550	2,550	2,550	2,550
486	O	UNITED KINGDOM	AIR FORCE	RAF LAKENHEATH	F-15E ADD TO MUNITIONS MAINTENANCE FAC	850	850	850	850
487	O	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	WAR READINESS MAINTENANCE/MANAGEMENT FAC	1,300	1,300	1,300	1,300
488	O	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	WAR READINESS MATERIAL MEDICAL STORAGE FAC	2,100	2,100	2,100	2,100
489	O	OVERSEAS CLASSIFIED	AIR FORCE	OVERSEAS CLASSIFIED	WAR READINESS MATERIAL OPEN STORAGE FAC	650	650	650	650
490	OI	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	12,000	12,000	12,000	12,000
491	OI	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CIVILIAN UNDERSTRENGTH	0	0	(14,000)	0
492	OI	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	ARMY - HOST NATION SUPPORT	25,000	25,000	25,000	10,000
493	OI	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	62,926	66,126	63,926	66,126
494	OI	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000	7,000	7,000
495	OI	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	43,380	43,380	43,380	43,380
496	OI	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	49,386	49,386	49,386	49,386
497	OI	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000	7,000	7,000
498	OI	WORLDWIDE UNSPECIFIED	BASE CLOSURE I	BASE REALIGNMENT & CLOSURE ACCI PART I	BASE REALIGNMENT & CLOSURE PART I	87,600	87,600	87,600	87,600
499	OI	WORLDWIDE UNSPECIFIED	BASE CLOSURE II	BASE REALIGNMENT & CLOSURE ACCI PART II	BASE REALIGNMENT & CLOSURE PART II	398,700	398,700	398,700	398,700
500	OI	WORLDWIDE UNSPECIFIED	BASE CLOSURE III	BASE REALIGNMENT & CLOSURE ACCI PART III	BASE REALIGNMENT & CLOSURE ACCT PART III	2,189,858	2,005,897	2,189,858	2,189,858
501	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED MINOR CONSTRUCTION	PLANNING AND DESIGN (DIA)	450	450	450	450
502	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (BMDO)	530	530	530	530
503	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	0	0	6,000	6,000
504	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (DODDS)	4,430	4,430	4,430	4,430
505	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (SOF)	5,713	5,713	5,713	5,713
506	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (OSD)	12,360	12,360	12,360	12,360
507	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	CONTINGENCY CONSTRUCTION (OSD)	10,411	8,511	8,511	3,511
508	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (OSD)	3,000	3,000	3,000	3,000
509	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (JCS)	5,873	5,873	5,873	5,873
510	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (SOF)	4,020	4,020	4,020	4,020

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
511	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	ENERGY CONSERVATION IMPROVEMENT PROGRAM	50,000	50,000	50,000	50,000
512	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION (DMFO)	5,025	5,025	5,025	5,025
513	OI	WORLDWIDE UNSPECIFIED	DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN (DMFO)	26,907	26,907	26,907	26,907
514	OI	WORLDWIDE UNSPECIFIED	NATO	UNSPECIFIED WORLDWIDE LOCATIONS	NATO INFRASTRUCTURE	219,000	119,000	219,000	119,000
515	OI	WORLDWIDE UNSPECIFIED	ARMY NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	5,167	5,167	5,167	5,167
516	OI	WORLDWIDE UNSPECIFIED	ARMY NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	1,000	2,157	15,191	5,900
517	OI	WORLDWIDE UNSPECIFIED	ARMY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	5,253	5,253	5,253	5,253
518	OI	WORLDWIDE UNSPECIFIED	ARMY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	2,657	2,657	2,657	2,657
519	OI	WORLDWIDE UNSPECIFIED	NAVY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	158	158	158	158
520	OI	WORLDWIDE UNSPECIFIED	NAVY RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	1,357	1,357	11,757	1,800
521	OI	WORLDWIDE UNSPECIFIED	AIR NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	4,000	4,000	4,000	4,000
522	OI	WORLDWIDE UNSPECIFIED	AIR NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	(8,000)	0
523	OI	WORLDWIDE UNSPECIFIED	AIR NATIONAL GUARD	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	11,532	11,532	14,823	14,823
524	OI	WORLDWIDE UNSPECIFIED	AIR FORCE RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	UNSPECIFIED MINOR CONSTRUCTION	4,018	4,018	4,018	4,018
525	OI	WORLDWIDE UNSPECIFIED	AIR FORCE RESERVE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING AND DESIGN	3,172	3,438	3,172	3,438
526	OI	WORLDWIDE UNSPECIFIED	ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	0	(23,500
527	OI	WORLDWIDE UNSPECIFIED	NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	0	(23,500
528	OI	WORLDWIDE UNSPECIFIED	AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	GENERAL REDUCTION	0	0	0	(23,500
529	OI	WORLDWIDE VARIOUS	ARMY NATIONAL GUARD	VARIOUS LOCATIONS	ARMORY UNIT STORAGE BUILDING	840	840	840	840
530	OI	WORLDWIDE VARIOUS	ARMY NATIONAL GUARD	VARIOUS LOCATIONS	INDOOR RANGE MODERNIZATION	839	839	839	839
531	XFN	ALABAMA	FNC-AIR FORCE	MAXWELL AFB	FAMILY HOUSING (25 UNITS)	2,100	2,100	2,100	2,100
532	XFN	ALASKA	FNC-ARMY	FORT RICHARDSON	RENOVATE FAMILY HOUSING (72 UNITS)	0	0	5,000	5,000
533	XFN	ARIZONA	FNC-AIR FORCE	DAVIS-MONTHAN AFB	FAMILY HOUSING REPLACEMENT (110 UNITS)	5,940	10,029	5,940	10,029
534	XFN	CALIFORNIA	FNC-NAVY	MARINE CORPS BASE CAMP PENDLETON	NEW CONSTRUCTION (196 HOMES)	28,552	28,552	28,552	28,552
535	XFN	CALIFORNIA	FNC-NAVY	PUBLIC WORKS CENTER SAN DIEGO	NEW CONSTRUCTION (136 HOMES)	18,262	18,262	18,262	18,262
536	XFN	CALIFORNIA	FNC-AIR FORCE	BEALE AFB	FAMILY HOUSING (76 UNITS)	8,842	8,842	8,842	8,842
537	XFN	CALIFORNIA	FNC-AIR FORCE	EDWARDS AFB	FAMILY HOUSING (34 UNITS)	4,629	4,629	4,629	4,629
538	XFN	CALIFORNIA	FNC-AIR FORCE	LOS ANGELES AFB	NEW CONSTRUCTION (50 UNITS)	0	5,000	8,962	8,962
539	XFN	CALIFORNIA	FNC-AIR FORCE	VANDENBERG AFB	FAMILY HOUSING (128 UNITS)	16,460	16,460	16,460	16,460
540	XFN	COLORADO	FNC-ARMY	FORT CARSON	REPLACEMENT CONSTRUCTION (145)	16,500	16,500	16,500	16,500

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
541	XFH	DISTRICT OF COLUMBIA	FHC-AIR FORCE	BOLLING AFB	FAMILY HOUSING (100 UNITS)	9,000	9,000	9,000	9,000
542	XFH	FLORIDA	FHC-AIR FORCE	PATRICK AFB	FAMILY HOUSING (75 UNITS)	7,145	7,145	7,145	7,145
543	XFH	GEORGIA	FHC-ARMY	FORT STEWART	REPLACEMENT CONSTRUCTION (128)	10,600	10,600	10,600	10,600
544	XFH	HAWAII	FHC-ARMY	HELEMANO	FAMILY HOUSING ROAD IMPROVEMENT	0	0	3,500	0
545	XFH	HAWAII	FHC-ARMY	SCHOFIELD BARRACKS	REPLACEMENT CONSTRUCTION (190)	26,000	26,000	26,000	26,000
546	XFH	HAWAII	FHC-NAVY	MOANALUA TERRACE	REPLACEMENT OF (100) FAMILY HOUSING UNITS	0	16,000	0	16,000
547	XFH	IDAHO	FHC-AIR FORCE	MOUNTAIN HOME AFB	FAMILY HOUSING (60 UNITS)	5,712	5,712	5,712	5,712
548	XFH	IDAHO	FHC-AIR FORCE	MOUNTAIN HOME AFB	FAMILY HOUSING (4 UNITS)	881	881	881	881
549	XFH	ILLINOIS	FHC-AIR FORCE	SCOTT AFB	HOUSING RELOCATION, PHASE III (300 UNITS)	0	0	0	0
550	XFH	KANSAS	FHC-ARMY	FORT RILEY	REPLACEMENT CONSTRUCTION (126 UNITS)	0	0	12,600	12,600
551	XFH	KANSAS	FHC-AIR FORCE	MCCONNELL AFB	FAMILY HOUSING (70 UNITS)	8,322	8,322	8,322	8,322
552	XFH	LOUISIANA	FHC-AIR FORCE	BARKSDALE AFB	FAMILY HOUSING (82 UNITS)	8,236	8,236	8,236	8,236
553	XFH	MARYLAND	FHC-NAVY	NAVAL AIR TEST CENTER PATUXENT RIVER	NEW CONSTRUCTION (HSG OFFICE)	863	863	863	863
554	XFH	MASSACHUSETTS	FHC-ARMY	NATICK RESEARCH CENTER	REPLACEMENT CONSTRUCTION (35)	4,150	4,150	4,150	4,150
555	XFH	MISSISSIPPI	FHC-NAVY	CBC GULFPORT	FAMILY HOUSING (120 UNITS)	0	10,370	0	10,370
556	XFH	MISSOURI	FHC-AIR FORCE	WHITEMAN AFB	HOUSING OFFICE	567	567	567	567
557	XFH	NEW MEXICO	FHC-AIR FORCE	CANNON AFB	FAMILY HOUSING (1 UNIT)	230	230	230	230
558	XFH	NEW MEXICO	FHC-AIR FORCE	HOLLOMAN AFB	FAMILY HOUSING (76 UNITS)	7,733	7,733	7,733	7,733
559	XFH	NEW MEXICO	FHC-AIR FORCE	KIRTLAND AFB	FAMILY HOUSING (106 UNITS)	10,058	10,058	10,058	10,058
560	XFH	NEW YORK	FHC-ARMY	U S MILITARY ACADEMY	REPLACEMENT CONSTRUCTION (56)	8,000	8,000	8,000	8,000
561	XFH	NORTH CAROLINA	FHC-AIR FORCE	POPE AFB	FAMILY HOUSING (120 UNITS)	14,874	14,874	14,874	14,874
562	XFH	NORTH CAROLINA	FHC-AIR FORCE	SEYMOUR JOHNSON AFB	FAMILY HOUSING (74 UNITS)	6,025	6,025	6,025	6,025
563	XFH	NORTH DAKOTA	FHC-AIR FORCE	GRAND FORKS AFB	HOUSING OFFICE	709	709	709	709
564	XFH	SOUTH CAROLINA	FHC-ARMY	FORT JACKSON	FAMILY HOUSING (105 UNITS)	0	12,000	0	0
565	XFH	SOUTH CAROLINA	FHC-AIR FORCE	SHAW AFB	FAMILY HOUSING (3 UNITS)	631	631	631	631
566	XFH	TEXAS	FHC-ARMY	FORT BLISS	REPLACEMENT CONSTRUCTION (110)	10,600	10,600	10,600	10,600
567	XFH	TEXAS	FHC-ARMY	FORT BLISS	REPLACEMENT CONSTRUCTION (105)	10,800	10,800	10,800	10,800
568	XFH	TEXAS	FHC-ARMY	FORT SAM HOUSTON	REPLACEMENT CONSTRUCTION (100)	10,000	10,000	10,000	10,000
569	XFH	TEXAS	FHC-NAVY	CORPUS CHRISTI NAVAL AIR STATION	FAMILY HOUSING UNITS (100)	0	11,800	0	11,800
570	XFH	TEXAS	FHC-AIR FORCE	DYESS AFB	FAMILY HOUSING (59 UNITS)	7,077	7,077	7,077	7,077

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#	I/O	LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
571	XFH	UTAH	FHC-AIR FORCE	HILL AFB	FAMILY HOUSING REPLACEMENT (138 UNITS)	0	11,400	11,400	11,400
572	XFH	VIRGINIA	FHC-NAVY	NAVAL SHIPYARD PORTSMOUTH	NEW CONSTRUCTION (SELF HELP/WAREHOUSE)	555	555	555	555
573	XFH	VIRGINIA	FHC-AIR FORCE	LANGLEY AFB	FAMILY HOUSING (148 UNITS)	14,421	14,421	14,421	14,421
574	XFH	WASHINGTON	FHC-NAVY	NAVAL STATION PUGET SOUND, EVERETT	NEW CONSTRUCTION (HSG OFFICE)	780	780	780	780
575	XFH	WASHINGTON	FHC-AIR FORCE	FAIRCHILD AFB	FAMILY HOUSING (6 UNITS)	1,035	1,035	1,035	1,035
576	XFH	WYOMING	FHC-AIR FORCE	F E WARREN AFB	FAMILY HOUSING (106 UNITS)	11,321	11,321	11,321	11,321
577	XOFH	BELGIUM	FHC-DEFENSE AGENCIES	BELGIUM	OFFICIAL RESIDENCE PURCHASE	300	300	300	300
578	XOFH	WORLDWIDE UNSPECIFIED	FHC-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	49,760	49,760	49,760	49,760
579	XOFH	WORLDWIDE UNSPECIFIED	FHC-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	5,992	5,992	5,992	5,992
580	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	CIVILIAN UNDERSTRENGTH	0	0	(6,000)	0
581	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	11	11	11	11
582	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	404,414	404,414	356,914	352,514
583	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	283,933	283,933	283,933	250,433
584	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	80,340	80,340	80,340	77,140
585	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,856	1,856	1,856	1,856
586	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	49,083	49,083	49,083	43,683
587	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	243,442	243,442	243,442	243,442
588	XOFH	WORLDWIDE UNSPECIFIED	FHS-ARMY	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	58,129	58,129	58,129	44,629
589	XOFH	WORLDWIDE UNSPECIFIED	FHC-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	24,681	24,681	24,681	24,681
590	XOFH	WORLDWIDE UNSPECIFIED	FHC-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	155,602	155,602	155,602	155,602
591	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	85	85	85	85
592	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	114,336	114,336	114,336	114,336
593	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	88,827	88,827	88,827	88,827
594	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,217	1,217	1,217	1,217
595	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	48,793	48,793	48,793	48,793
596	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	32,233	32,233	32,233	32,233
597	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	184,845	184,845	184,845	184,845
598	XOFH	WORLDWIDE UNSPECIFIED	FHS-NAVY	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	383,263	383,263	467,263	467,263
599	XOFH	WORLDWIDE UNSPECIFIED	FHC-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	61,770	61,770	61,770	61,770
600	XOFH	WORLDWIDE UNSPECIFIED	FHC-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	9,275	9,275	9,275	9,275

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#	I/O LOCATION	SERVICE	INSTALLATION	PROJECT	BUDGET REQUEST	H.PASSED	S.PASSED	CONFERENCE AGREEMENT
601	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	45,076	45,076	45,076	45,076
602	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	5,794	5,794	5,794	5,794
603	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	178,472	178,472	178,472	178,472
604	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	26	26	26	26
605	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	32,724	32,724	32,724	32,724
606	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	383,644	383,644	407,144	407,144
607	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	112,757	112,757	112,757	112,757
608	XOFN WORLDWIDE UNSPECIFIED	FHS-AIR FORCE	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	42,852	42,852	42,852	42,852
609	XOFN WORLDWIDE UNSPECIFIED	FHC-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	50	50	50	50
610	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	341	341	341	341
611	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	47	47	47	47
612	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	460	460	460	460
613	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	65	65	65	65
614	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	50	50	50	50
615	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	13,272	13,272	13,272	13,272
616	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	748	748	748	748
617	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	10,779	10,779	10,779	10,779
618	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	420	420	420	420
619	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	222	222	222	222
620	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	75	75	75	75
621	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	31	31	31	31
622	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	158	158	158	158
623	XOFN WORLDWIDE UNSPECIFIED	FHS-DEFENSE AGENCIES	UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	2,363	2,363	2,363	2,363

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A of Title XXXI of Division C of the Senate bill would authorize appropriations in the amount of $10,325,432,000 for the Department of Energy national security programs.

Subtitle A of Title XXXI of Division C of the House amendment would authorize appropriations in the amount of $10,460,864,000 for these purposes.

The conferees recommend an authorization of $10,305,847,000.

The DOE budget requests, including the amended budget requests, the authorizations contained in the Senate bill and the House amendment, and the conference agreement are presented in the following tables.

Fiscal Year 1995 Department of Energy National Security Programs
[Amount in thousands of dollars]

ATOMIC ENERGY DEFENSE ACTIVITIES	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	House/Senate +/−	Conference Auth.
TOTAL, WEAPONS ACTIVITIES	3,300,368	3,203,369	3,309,668	(106,299)	3,234,069
TOTAL, DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT	5,194,424	5,179,361	5,212,424	(33,063)	5,092,691
TOTAL, MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS	1,898,910	1,948,704	1,893,910	54,794	1,849,657
TOTAL, DEFENSE NUCLEAR WASTE DISPOSAL	129,430	129,430	129,430	0	129,430
AEDA General Reduction			(220,000)	220,000	
TOTAL,ATOMIC ENERGY DEFENSE ACTIVITIES	10,523,132	10,460,864	10,325,432	135,432	10,305,847

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
ATOMIC ENERGY DEFENSE ACTIVITIES								
WEAPONS ACTIVITIES								
A. Research and development								
1. Research and development – core								
Operating expenses	649,341	0	0	0	649,341	653,341	649,341	649,341
Capital equipment	69,420	0	0	0	69,420	69,420	69,420	59,420
Construction:								
GPD–101 General plant projects, various locations	8,500	0	0	0	8,500	8,500	8,500	4,500
95–D–102 CMR upgrades, Los Alamos National laboratory, NM	3,300	0	0	0	3,300	3,300	3,300	3,300
94–D–102 Nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations	13,000	0	0	0	13,000	13,000	13,000	13,000
92–D–102 Nuclear weapons research, development, and testing facilities revitalization, phase IV, various locations	21,810	0	0	0	21,810	21,810	21,810	21,810
90–D–102 Nuclear weapons research, development, and testing facilities revitalization, phase III, various locations	7,700	0	0	0	7,700	4,900	7,700	4,900
88–D–106 Nuclear weapons research, development, and testing facilities revitalization, phase II, various locations	22,480	0	0	0	22,480	20,980	22,480	20,980
Total, Construction	76,790	0	0	0	76,790	72,490	76,790	68,490
Total, Research and development – core	795,551	0	0	0	795,551	795,251	795,551	777,251
2. Stockpile stewardship – OE	0	0	0	0	0	152,419	0	152,419
3. Inertial fusion								
Operating expenses	166,755	0	0	0	166,755	166,755	166,755	166,755
Capital equipment	9,718	0	0	0	9,718	9,718	9,718	9,718
Total, Inertial fusion	176,473	0	0	0	176,473	176,473	176,473	176,473
4. Technology transfer								
Operating expenses	209,794	0	0	0	209,794	209,794	209,794	209,794
Capital equipment	6,000	0	0	0	6,000	6,000	6,000	6,000
Total, Technology transfer	215,794	0	0	0	215,794	215,794	215,794	215,794
Total, Research and development	187,818	0	0	0	1,187,818	1,339,937	1,187,818	1,321,937
B. Testing								
1. Weapons program								
Testing capabilities and readiness – OE	180,000	0	0	700	186,530	150,000	185,830	165,000
Experimentation – OE	152,419	0	0	0	152,419	0	152,419	0
Capital equipment	15,000	0	0	0	15,000	15,000	15,470	15,000
Construction:								
GPD–101 General plant projects, various locations	4,000	0	0	0	4,000	4,000	4,000	4,000

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
93-D-102 Nevada support facility, North Las Vegas, NV	17,000	0	0	0	17,000	17,000	17,000	17,000
Total, Construction	21,000	0	0	0	21,000	21,000	21,000	21,000
Total, Weapons program	368,419	0	0	0	368,419	186,000	374,719	201,000
2. Marshall Islands - Dose Reconstruction								
Operating expenses	5,830	0	0	700	6,530	5,830	0	6,530
Capital equipment	470	0	0	0	470	470	0	470
Total, Marshall island	6,300	0	0	700	7,000	6,300	0	7,000
3. Solar energy development	0	0	0	0	0	0	10,000	0
Total, Testing	374,719	0	0	700	375,419	192,300	384,719	208,000
Total, Research, development and testing	1,562,537	0	0	700	1,563,237	1,532,237	1,572,537	1,529,937
C. Stockpile support								
Operating expenses	1,399,085	0	83,700	0	1,482,785	1,393,085	1,487,085	1,476,785
Reconfiguration - OE	94,271	0	0	0	94,271	94,271	0	94,271
Capital equipment	12,880	0	7,300	0	20,180	12,880	15,880	20,180
Construction:								
Production base:								
Facilities capability assurance program:								
88-D-122 Facilities capabilities assurance program (FCAP), various locations	19,620	0	0	0	19,620	14,820	19,620	14,820
Production support facilities:								
GPD-121 General plant projects, various locations	1,000	0	0	0	1,000	1,000	1,000	1,000
95-D-123 Replacement transportation safeguards division aviation facility, Albuquerque, NM	0	0	2,000	0	2,000	0	2,000	2,000
Total, Production support facilities	1,000	0	2,000	0	3,000	1,000	3,000	3,000
Total, Production base	20,620	0	2,000	0	22,620	15,820	22,620	17,820
Environment, safety and health:								
95-D-122 Sanitary sewer upgrade, Y-12 Plant, Oak Ridge, TN	2,200	0	0	0	2,200	2,200	2,200	2,200
94-D-124 Hydrogen fluoride supply system, Y-12 Plant, Oak Ridge, TN	6,300	0	0	0	6,300	6,300	6,300	6,300
94-D-125 Upgrade life safety, Kansas City Plant, Kansas City, MO	1,000	0	0	0	1,000	1,000	1,000	1,000
94-D-127 Emergency notification system, Pantex Plant, Amarillo, TX	1,000	0	0	0	1,000	1,000	1,000	1,000
94-D-128 Environmental, Safety and Health analytical lab, Pantex Plant, Amarillo, TX	1,000	0	0	0	1,000	1,000	1,000	1,000
93-D-122 Life safety upgrades, Y-12 Plant, Oak Ridge, TN	5,000	0	0	0	5,000	5,000	5,000	5,000
92-D-126 Replace emergency notification systems, various locations	0	0	0	0	0	0	0	0
85-D-113 Plant power and steam dist. system, Pantex Plant, Amarillo, TX	0	0	0	0	0	0	0	0

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
85-D-115 Renovate plutonium buildings utility systems, Rocky Flats, CO	0	0	0	0	0	0	0	0
85-D-121 Air and water pollution control facilities, Y-12 Plant, Oak Ridge, TN	0	0	0	0	0	0	0	0
Total, Environment, safety and health	16,500	0	0	0	16,500	16,500	16,500	16,500
Safeguards and security:								
88-D-123 Security enhancement, Pantex Plant, Amarillo, TX	15,000	0	0	0	15,000	15,000	15,000	15,000
Reconfiguration								
93-D-123 Complex-21, various locations	58,000	0	0	0	58,000	58,000	0	58,000
Total, Construction	110,120	0	2,000	0	112,120	105,320	54,120	107,320
Use of prior year balances - OE (WA/SS)	0	0	0	0		0	0	0
Total, Stockpile support	1,616,356	0	93,000	0	1,709,356	1,605,556	1,557,085	1,698,556
D. Program direction								
Weapons program direction - OE	167,498	0	0	0	167,498	152,498	167,498	157,498
Contractor employee transition - OE	0	0	0	0		0	0	0
Capital equipment	2,354	0	0	0	2,354	2,354	2,354	2,354
Total, Program direction	169,852	0	0	0	169,852	154,852	169,852	159,852
E. Complex reconfiguration								
Operating expenses	0	0	0	0	0	0	94,271	0
Construction:								
93-D-123 Complex - 21, various locations	0	0	0	0	0	0	58,000	0
Total, Complex reconfiguration	0	0	0	0	0	0	152,271	0
Subtotal, Weapons activities	3,348,745	0	93,000	700	3,442,445	3,292,645	3,451,745	3,388,345
Adjustments								
Use of prior year balances	(77,077)	0	(54,000)	0	(131,077)	(89,276)	(131,077)	(143,276)
Contractor pay freeze	0	0	0	0	0	0	0	0
Procurement reform/GSA rent reduction	0	(11,000)	0	0	0	0	(11,000)	(11,000)
Total, Adjustments	(77,077)	(11,000)	(54,000)	0	(142,077)	(89,276)	(142,077)	(154,276)
TOTAL, WEAPONS ACTIVITIES	3,271,668	(11,000)	39,000	700	3,300,368	3,203,369	3,309,668	3,234,069
DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT								
A. Corrective activities								
Operating expenses	0	0	0	0	0	0	0	0
Capital equipment	0	0	0	0	0	0	0	0
Construction:								
92-D-403 Tank upgrades project, LLNL	1,012	0	0	0	1,012	512	1,012	512
89-D-142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	0	0	0	0	0	0	0	0
Total, Corrective activities	1,012	0	0	0	1,012	512	1,012	512

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
B. Environmental restoration								
Operating expenses	1,531,969	0	0	(7,184)	1,524,785	1,527,469	1,531,969	1,518,549
Productivity savings initiative	(133,900)	0	0	0	(133,900)	(133,900)	(133,900)	(133,900)
Total, Environmental restoration	1,398,069	0	0	(7,184)	1,390,885	1,393,569	1,398,069	1,384,649
C. Waste management								
Operating expenses	2,408,029	0	0	(12,783)	2,395,246	2,384,066	2,408,029	2,390,066
Capital equipment	104,790	0	0	0	104,790	104,790	104,790	90,790
Construction:								
GP-D-171 General plant projects,various locations	23,742	0	0	0	23,742	23,542	23,742	16,832
95-E-600 Hazardous materials training center Richland, WA	0	0	0	0	0	0	0	7,000
95-D-401 Radiological support facilities Richland, WA	1,585	0	0	0	1,585	1,585	1,585	1,585
95-D-402 Install permanent electrical service WIPP, AL	700	0	0	0	700	700	700	700
95-D-403 Hazardous waste storage facility, AL	597	0	0	0	597	597	597	597
95-D-405 Industrial landfill V and construction/ demolition landfill VII, Y-12 Plant, Oak Ridge,TN	1,000	0	0	0	1,000	1,000	1,000	1,000
95-D-406 Road 5-01 reconstruction, area 5, NV	2,338	0	0	0	2,338	2,338	2,338	2,338
95-D-407 219-S Secondary containment upgrade, Richland, WA	2,000	0	0	0	2,000	2,000	2,000	2,000
95-D-408 Phase II liquid effluent treatment and disposal, RL	7,100	0	0	0	7,100	7,100	7,100	7,100
94-D-400 High explosive wastewater treatment system, LANL	1,000	0	0	0	1,000	1,000	1,000	1,000
94-D-402 Liquid waste treatment system, NTS	3,292	0	0	0	3,292	3,292	3,292	3,292
94-D-404 Melton Valley storage tank capacity increase, ORNL	21,373	0	0	0	21,373	21,373	21,373	21,373
94-D-405 Central neutralization facility pipeline extension project, K-25	0	0	0	0	0	0	0	0
94-D-406 Low-level waste disposal facilities, K-25	6,000	0	0	0	6,000	6,000	6,000	6,000
94-D-407 Initial tank retrieval systems, Richland, WA	17,700	0	0	0	17,700	17,700	17,700	17,700
94-D-408 Office facilities - 200 East, Richland, WA	4,000	0	0	0	4,000	4,000	4,000	4,000
94-D-411 Solid waste operation complex Richland, WA	42,200	0	0	0	42,200	42,200	42,200	42,200
94-D-414 Site 300 explosive waste storage facility, LLNL	0	0	0	0	0	0	0	0
94-D-416 Solvent storage tanks installation, Savannah River, SC	1,700	0	0	0	1,700	1,700	1,700	1,700
94-D-417 Intermediate-level and low-activity waste vaults, Savannah River, SC	300	0	0	0	300	300	300	300
93-D-174 Plant drain waste water treatment upgrades, Y-12	1,400	0	0	0	1,400	1,400	1,400	1,400
93-D-175 Industrial waste compaction facility, Y-12	0	0	0	0	0	0	0	0

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
93-D-176 Oak Ridge reservation storage facility, Oak Ridge, TN	0	0	0	0	0	0	0	0
93-D-177 Disposal of K-1515 sanitary water treatment plant waste, K-25	0	0	0	0	0	0	0	0
93-D-178 Building 374 liquid waste treatment facility, Rocky Flats Plant, CO	3,300	0	0	0	3,300	3,300	3,300	3,300
93-D-181 Radioactive liquid waste line replacement, Richland, WA	3,300	0	0	0	3,300	3,300	3,300	3,300
93-D-182 Replacement of cross-site transfer system, Richland, WA	18,910	0	0	0	18,910	14,810	18,910	14,810
93-D-183 Multi-function waste remediation facility, Richland, WA	95,305	0	0	0	95,305	88,605	95,305	88,605
93-D-187 High level waste removal from filled waste tanks, Savannah River, SC	26,525	0	0	0	26,525	26,525	26,525	26,525
93-D-188 New sanitary landfill, Savannah River, SC	0	0	0	0	0	0	0	0
92-D-172 Hazardous waste treatment and processing facility, Pantex Plant	0	0	0	0	0	0	0	0
92-D-173 NOx abatement facility, ID	0	0	0	0	0	0	0	0
92-D-177 Tank 101-AZ waste retrieval system, Richland, WA	5,000	0	0	0	5,000	5,000	5,000	5,000
92-D-188 Waste management ES&H, and compliance activities, various locations	2,846	0	0	0	2,846	2,846	2,846	2,846
91-D-171 Waste receiving and processing facility, module 1, Richland, WA	3,995	0	0	0	3,995	3,995	3,995	3,995
90-D-172 Aging waste transfer line, Richland, WA	3,819	0	0	0	3,819	3,819	3,819	3,819
90-D-177 RWMC transuranic (TRU) waste characterization and storage facility, ID	11,747	0	0	0	11,747	1,747	11,747	1,747
90-D-178 TSA retrieval enclosure, ID	7,594	0	0	0	7,594	7,594	7,594	7,594
89-D-142 Reactor effluent cooling water thermal mitigation, Savannah River, SC	0	0	0	0	0	0	0	0
89-D-172 Hanford environmental compliance, Richland, WA	0	0	0	0	0	0	0	0
89-D-173 Tank farm ventilation upgrade, Richland, WA	800	0	0	0	800	300	800	300
89-D-174 Replacement high level waste evaporator, Savannah River, SC	18,000	0	0	0	18,000	18,000	18,000	18,000
89-D-175 Hazardous waste/mixed waste disposal facility, Savannah River, SC	500	0	0	0	500	0	500	0
88-D-173 Hanford waste vitrification plant (HWVP) Richland, WA	0	0	0	0	0	0	0	0
87-D-181 Diversion box and pump pit containment buildings, Savannah River, SC	0	0	0	0	0	0	0	0
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA	9,500	0	0	0	9,500	5,900	9,500	5,900
83-D-148 Non-radioactive hazardous waste management, Savannah River, SC	6,000	0	0	0	6,000	6,000	6,000	6,000

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
81-T-105 Defense waste processing facility Savannah River, SC	45,058	0	0	0	45,058	45,058	45,058	45,058
Total, Construction	400,226	0	0	0	400,226	374,626	400,226	374,916
Subtotal, Waste management	2,913,045	0	0	(12,783)	2,900,262	2,863,482	2,913,045	2,855,772
Productivity savings initiative	(160,800)	0	0	0	(160,800)	(160,800)	(160,800)	(160,800)
Total, Waste management	2,752,245	0	0	(12,783)	2,739,462	2,702,682	2,752,245	2,694,972
D. Technology development								
Operating expenses	386,974	0	0	0	386,974	386,974	400,974	380,974
Capital equipment	25,435	0	0	0	25,435	25,435	25,435	24,785
Construction:								
95-E-600 Hazardous materials training center, Richland, Washington	14,000	0	0	0	14,000	14,000	0	0
Total, Technology development	426,409	0	0	0	426,409	426,409	426,409	405,759
E. Transportation management								
Operating expenses	20,240	0	0	0	20,240	20,240	20,240	20,240
Capital equipment	444	0	0	0	444	444	444	444
Total, Transportation management	20,684	0	0	0	20,684	20,684	20,684	20,684
F. Program direction								
Operating expenses	83,748	0	0	0	83,748	83,748	83,748	83,748
Capital equipment	1,200	0	0	0	1,200	1,200	1,200	1,200
Total, Program direction	84,948	0	0	0	84,948	84,948	84,948	84,948
G. Facility transition & management								
Operating expenses	686,550	0	0	(3,033)	683,517	685,550	681,550	676,884
Capital equipment	23,947	0	0	0	23,947	23,947	23,947	18,947
Construction:								
GP-D-171 General plant projects, var. locations	20,495	0	0	0	20,495	20,495	20,495	15,211
95-D-453 Primary highway route north of the Wye Barricade, Richland, WA	2,500	0	0	0	2,500	2,500	2,500	0
95-D-454 324 Facility compliance/renovation, Richland, WA	1,500	0	0	0	1,500	1,500	1,500	1,500
95-D-455 Idaho national engineering laboratory radio communications upgrade, INEL, Idaho	1,440	0	0	0	1,440	1,440	1,440	0
95-D-456 Security facilities upgrade, Idaho chemical processing plant, INEL, Idaho	986	0	0	0	986	986	986	986
94-D-122 Underground storage tanks, Rocky Flats Plant, CO	2,500	0	0	0	2,500	2,500	2,500	2,500
94-D-401 Emergency response facility, INEL, ID	5,219	0	0	0	5,219	5,219	5,219	5,219
94-D-412 300 area process sewer piping system upgrade, Richland, WA	7,800	0	0	0	7,800	7,800	7,800	7,800
94-D-415 Idaho national engineering laboratory medical facilities, INEL, ID	4,920	0	0	0	4,920	4,920	4,920	4,920
94-D-451 Infrastructure replacement, Rocky Flats Plant, CO	10,600	0	0	0	10,600	10,600	10,600	10,600
93-D-172 Idaho national engineering laboratory electrical upgrade, INEL, ID	7,800	0	0	0	7,800	7,800	7,800	7,800

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	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
93-D-184 325 facility compliance/renovation, Pacific Northwest Laboratory, Richland, WA	1,000	0	0	0	1,000	1,000	1,000	1,000
93-D-185 Landlord program safety compliance, phase II, Richland, WA	0	0	0	0	0	0	0	0
93-D-186 200 Area unsecured core area fabrication shop, Richland, WA	4,000	0	0	0	4,000	4,000	4,000	4,000
92-D-125 Master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, CO	2,100	0	0	0	2,100	2,100	2,100	2,100
92-D-181 Idaho national engineering laboratory fire and life safety improvements, INEL, ID	6,000	0	0	0	6,000	6,000	6,000	6,000
92-D-182 Idaho national engineering laboratory sewer systems upgrade, INEL, ID	1,900	0	0	0	1,900	1,900	1,900	1,900
92-D-183 Idaho national engineering laboratory transportation complex, INEL, ID	0	0	0	0	0	0	0	0
92-D-184 Hanford infrastructure underground storage tanks, Richland, WA	0	0	0	0	0	0	0	0
92-D-186 Steam system rehabilitation, phase II Richland, WA	5,600	0	0	0	5,600	5,600	5,600	5,600
92-D-187 300 area electrical distribution conversion and safety improvements, phase II, Richland, WA	0	0	0	0	0	0	0	0
91-D-175 300 area electrical distribution conversion and safety improvements, phase I, Richland, WA	0	0	0	0	0	0	0	0
90-D-175 Landlord program safety compliance, phase I, Richland, WA	0	0	0	0	0	0	0	0
Total, Construction	86,360	0	0	0	86,360	86,360	86,360	77,136
Subtotal, Facility transition and management	796,857	0	0	(3,033)	793,824	795,857	791,857	772,967
Productivity savings initiative	(5,000)	0	0	0	(5,000)	(5,000)	(5,000)	(5,000)
Total, Facility transition and management	791,857	0	0	(3,033)	788,824	790,857	786,857	767,967
Subtotal, Defense environmental management	5,475,224	0	0	(23,000)	5,452,224	5,419,661	5,470,224	5,359,491
Use of prior year balances	(240,300)	0	0	0	(240,300)	(240,300)	(240,300)	(249,300)
General reduction and other adjustements	0	0	0	0	0	0	0	0
Procurement reform/GSA rent reduction	0	(17,500)	0	0	0	0	(17,500)	(17,500)
TOTAL, DEFENSE ENVIRONMENTAL RESTORATION & WASTE MANAGEMENT	5,234,924	(17,500)	0	(23,000)	5,194,424	5,179,361	5,212,424	5,092,691
MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS								
A. Materials Support								
1. Reactor operations	163,634	0	0	0	163,634	163,634	163,634	163,634
2. Processing of nuclear materials	410,468	0	0	0	410,468	410,468	369,468	410,468
3. Supporting services	167,776	0	0	0	167,776	167,776	167,776	167,776
4. Capital equipment	52,427	0	(13,000)	0	39,427	52,427	39,427	39,427
5. Construction:								
a. Environment, safety and health:								
95-D-154 Health physics site support facility, Savannah River, SC	2,000	0	0	0	2,000	2,000	2,000	0
95-D-158 Disassembly basin upgrades-K, L, P,								

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
Savannah River, SC	0	0	13,000	0	13,000	0	13,000	13,000
93-D-147 Domestic water system upgrade Phase I & II, Savannah River, SC	11,300	0	0	0	11,300	11,300	11,300	11,300
93-D-148 Replace high-level drain lines, Savannah River, SC	2,700	0	0	0	2,700	2,700	2,700	2,700
93-D-152 Environmental modification for production facilities, Savannah River, SC	2,900	0	0	0	2,900	2,900	2,900	2,900
92-D-140 F&H canyon exhaust upgrades, Savannah River, SC	0	0	0	0	0	0	0	0
92-D-142 Nuclear material processing training center, Savannah River, SC	0	0	0	0	0	0	0	0
92-D-143 Health protection instrument calibration facility, Savannah River, SC	3,000	0	0	0	3,000	3,000	3,000	3,000
90-D-149 Plantwide fire protection, Phases I and II, Savannah River, SC	21,000	0	0	0	21,000	5,000	21,000	5,000
Total, Environment, safety and health	42,900	0	13,000	0	55,900	26,900	55,900	37,900
b. Programmatic projects:								
GPD-146 General plant projects, various locations	21,000	0	0	0	21,000	21,000	21,000	15,000
95-D-155 Upgrade site road infrastructure, Savannah River, SC	750	0	0	0	750	750	750	750
95-D-156 Radio trunking system, Savannah River, SC	2,100	0	0	0	2,100	2,100	2,100	2,100
95-D-157 D-area powerhouse life extension, Savannah River, SC	4,000	0	0	0	4,000	4,000	4,000	4,000
92-D-150 Operations support facilities, Savannah River, SC	2,000	0	0	0	2,000	2,000	2,000	2,000
92-D-153 Engineering support facility, Savannah River Site, SC	3,200	0	0	0	3,200	3,200	3,200	3,200
86-D-149 Productivity retention program, Phases I, II, III, IV, V, and VI, various locations	0	0	0	0	0	0	0	0
Total, Programmatic projects	33,050	0	0	0	33,050	33,050	33,050	27,050
Total, Construction	75,950	0	13,000	0	88,950	59,950	88,950	64,950
6. Program direction	58,000	0	0	0	58,000	56,000	58,000	56,000
Total, Materials support	928,255	0	0	0	928,255	910,255	887,255	902,255
B. Other national security programs								
1. Verification and control technology								
a. Nonproliferation and verification R&D								
Operating expenses	224,547	0	0	0	224,547	218,547	224,547	215,000
Capital equipment	13,500	0	0	0	13,500	13,500	13,500	13,500
Construction:								
90-D-186 Center for national security and arms control, Sandia National Laboratories Albuquerque, NM	0	0	0	0	0	0	0	0
Total, Nonproliferation & verification R&D	238,047	0	0	0	238,047	232,047	238,047	228,500

Department of Energy
FY 1995 Congressional Table
(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
b. Arms control								
Operating expenses	76,251	0	0	0	76,251	76,251	76,251	76,251
Capital equipment	673	0	0	0	673	673	673	673
Total, Arms control	76,924	0	0	0	76,924	76,924	76,924	76,924
c. Intelligence								
Operating expenses	41,431	0	0	0	41,431	41,431	41,431	41,431
Capital equipment	1,700	0	0	0	1,700	1,700	1,700	1,700
Total, Intelligence	43,131	0	0	0	43,131	43,131	43,131	43,131
Total, Verification and control technology	358,102	0	0	0	358,102	352,102	358,102	348,555
2. Nuclear safeguards and security								
Operating expenses	82,421	0	0	0	82,421	82,421	82,421	82,421
Capital equipment	3,395	0	0	0	3,395	3,395	3,395	3,395
Total, Nuclear safeguards and security	85,816	0	0	0	85,816	85,816	85,816	85,816
3. Security investigations – OE	38,827	0	0	0	38,827	38,827	38,827	33,827
4. Security evaluations – OE	14,780	0	0	0	14,780	14,780	14,780	14,780
5. Office of nuclear safety								
Operating expenses	24,629	0	0	0	24,629	24,629	24,629	21,629
Capital equipment	50	0	0	0	50	50	50	50
Total, Office of nuclear safety	24,679	0	0	0	24,679	24,679	24,679	21,679
6. Worker and community transition	125,000	0	0	0	125,000	125,000	120,000	115,000
7. Fissile materials control and disposition	0	0	9,000	0	9,000	50,000	50,000	50,000
Total, Other national security programs	647,204	0	9,000	0	656,204	691,204	692,204	669,657
C. Naval reactors								
1. Naval reactors development								
a. Plant development – OE	146,700	0	0	0	146,700	146,700	146,700	146,700
b. Reactor development – OE	348,951	0	0	0	348,951	348,951	348,951	348,951
c. Reactor operation and evaluation – OE	136,000	0	0	0	136,000	136,000	136,000	131,000
d. Capital equipment	28,200	0	0	0	28,200	28,200	28,200	28,200
e. Construction:								
GPN–101 General plant projects, various locations	6,200	0	0	0	6,200	6,200	6,200	6,200
95–D–200 Laboratory systems and hot cell upgrades, various locations	2,400	0	0	0	2,400	2,400	2,400	2,400
95–D–201 Advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, ID	700	0	0	0	700	700	700	700
93–D–200 Engineering services facilities Knolls Atomic Power Laboratory, Niskayuna, NY	7,900	0	0	0	7,900	7,900	7,900	7,900
92–D–200 Laboratories facilities upgrades, various locations	2,800	0	0	0	2,800	2,800	2,800	2,800
Total, Construction	20,000	0	0	0	20,000	20,000	20,000	20,000
f. Program direction – OE	18,800	0	0	0	18,800	18,800	18,800	18,800
Total, Naval reactors development	698,651	0	0	0	698,651	698,651	698,651	693,651

Department of Energy
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(dollars in thousands)

	FY 1995 Request to Congress	Procurement GSA rent Reductions	FY 1995 Amended Request #1	FY 1995 Amended Request #2	FY 1995 Amended Req. to Congress	FY 1995 HASC	FY 1995 SASC	Conference Authorization
2. Enrichment materials – OE	32,000	0	0	0	32,000	32,000	32,000	32,000
Total, Naval reactors	730,651	0	0	0	730,651	730,651	730,651	725,651
Subtotal, Materials support & other defense programs	2,306,110	0	9,000	0	2,315,110	2,332,110	2,310,110	2,297,563
Adjustments:								
Savannah river pension refund	(40,000)	0	0	0	(40,000)	(40,000)	(40,000)	(40,000)
Use of prior year balances	(321,700)	0	(48,000)	0	(369,700)	(343,406)	(369,700)	(401,406)
Contractor pay freeze	0	0	0	0	.0	0	0	0
General reduction (Materials support)	0	0	0	0	0	0	0	0
Procurement reform/GSA rent reduction	0	(6,500)	0	0	(6,500)	0	(6,500)	(6,500)
Total, Adjustments	(361,700)	(6,500)	(48,000)	0	(416,200)	(383,406)	(416,200)	(447,906)
TOTAL, MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS	1,944,410	(6,500)	(39,000)	0	1,896,910	1,948,704	1,893,910	1,849,657
					0			
DEFENSE NUCLEAR WASTE DISPOSAL								
Defense nuclear waste disposal	129,430	0	0	0	129,430	129,430	129,430	129,430
General reduction	0	0	0	0	0	0	0	0
TOTAL, DEFENSE NUCLEAR WASTE DISPOSAL	129,430	0	0	0	129,430	129,430	129,430	129,430
AEDA General Reduction							(220,000)	0
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	10,580,432	(35,000)	0	(22,300)	10,523,132	10,460,864	10,325,432	10,305,847

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Weapons activities (sec. 3101)

The Senate bill contained a provision (sec. 3101) that would authorize $3.310 billion for operating expenses, plant projects, and capital equipment for weapons activities necessary to carry out the Department of Energy national security programs.

The House amendment contained a provision (sec. 3101) that would authorize $3.203 billion.

The conferees recommend $3.234 billion for weapons activities, a reduction of $66.0 million to the requested amount of $3.300 billion. This reduction is necessary due to budgetary constraints; however, it is offset in part by the availability of prior-year funds that have not been obligated, prior-year funds that, although obligated, have not been spent and will probably not be needed for the projects for which they were obligated, and unnecessary prefinancing expenses.

Environmental restoration and waste management (sec. 3102)

The Senate bill contained a provision (sec. 3102) that would authorize $5.212 billion for operating expenses, plant projects, and capital equipment for defense environmental restoration and waste management activities.

The House amendment contained a provision (sec. 3102) that would authorize $5.179 billion.

The conferees recommend $5.093 billion for defense environmental restoration and waste management activities, a reduction of $101.0 million to the requested amount of $5.194 billion. This reduction is necessary due to budgetary constraints; however, it is offset in part by the availability of prior-year funds that have not been obligated, prior-year funds that, although obligated, have not been spent and will probably not be needed for the projects for which they were obligated, and unnecessary prefinancing expenses.

Nuclear materials support and other defense programs (sec. 3103)

The Senate bill contained a provision (sec. 3103) that would authorize $1.894 billion for operating expenses, plant projects, and capital equipment for nuclear materials support and other defense programs.

The House amendment contained a provision (sec. 3103) that would authorize $1.949 billion.

The conferees recommend $1.850 billion for nuclear materials support and other defense programs, a reduction of $49.0 million to the requested amount of $1.899 billion. This reduction is necessary due to budgetary constraints; however, it is offset in part by the availability of prior-year funds that have not been obligated, prior-year funds that, although obligated, have not been spent and will probably not be needed for the projects for which they were obligated, and unnecessary prefinancing expenses.

Defense nuclear waste disposal (sec. 3104)

The Senate bill contained a provision (sec. 3104) that would authorize $129.4 million as the Department of Energy defense contribution to the nuclear waste fund.

The House amendment contained a identical provision (sec. 3104) that would authorize $129.4 million for payment to the fund.

The conferees recommend $129.4 million as the Department of Energy defense contribution to the nuclear waste fund.

Reprogramming (sec. 3121)

The Senate bill contained a provision (sec. 3121) that would set forth requirements and limitations on Department of Energy reprogramming actions. The provision would prevent the Department of Energy from reprogramming funds that would cause a program to exceed the lesser of 105 percent of the funds authorized for any program, or $10.0 million more than the amount authorized for any program, until 30 legislative days following submittal of a report to the Armed Services Committees of the Senate and House of Representatives and to the Energy and Water Appropriations Subcommittees of the Senate and House of Representatives, describing the funding adjustments.

The House amendment contained a similar provision (sec. 3121) that would prevent the Department of Energy from reprogramming funds that would cause a program to exceed the lesser of 102 percent of the funds authorized for any program for $1.0 million more than the amount authorized for any program.

The Senate recedes with an amendment. To ensure a uniform approach to reprogramming actions, the conferees recommend a provision that would prevent the Department of Energy from reprogramming funds that would cause a program to exceed, during any fiscal year, 110 percent of the funds authorized for any program, or $1,0 million more than the amount authorized for any program, until 30 legislative days following the submittal of a report to the congressional defense committees.

Limits on general plant projects (sec. 3122)

The Senate bill contained a provision (sec. 3122) that would allow the Secretary of Energy to carry out construction projects under the general plant projects authorized by title XXXI of the Senate bill if the total estimated cost of the project did not exceed $2.0 million.

The House amendment contained a similar provision (sec. 3122).

The House recedes.

Limits on construction projects (sec. 3123)

The Senate bill contained a provision (sec. 3123) that would prohibit the Secretary of Energy from beginning or incurring additional obligations for an ongoing construction project, if they would exceed by 25 percent or more the amount authorized for the project, or the total estimated cost of the project as shown in the most recent budget justification data submitted to Congress. The Secretary may undertake the prohibited actions if the Secretary notifies the congressional defense committees of the overage and explains the necessity for the overage.

The House amendment contained an identical provision (sec. 3123).

The conferees agree to include this provision.

Transfer authority (sec. 3124)

The Senate bill contained a provision (sec. 3124) that would allow the Secretary of Energy to transfer funds to other agencies for the performance of the work for which the funds were appropriated.

The House amendment contained a similar provision (sec. 3124).

The Senate recedes.

Construction design and conceptual design for construction projects (sec. 3125)

The Senate bill contained a provision (sec. 3125) that would allow the Secretary of Energy to use funds appropriated to the Department of Energy to carry out advance planning and design for construction projects if the total cost for advance planning and design does not exceed $3.0 million. If the total cost of the advance planning and design exceeds $600,000, the Secretary would be required to notify the congressional defense committees. The provision would also require specific congressional authorization if the total estimated cost of the advance planning and design activities exceeds $3.0 million.

The House amendment contained a similar provision (sec. 3125) that would limit the cost of advance planning and design to $2.0 million and would require notification of the appropriate congressional committees if the cost of the advance planning and design activities exceeds $300,000.

The Senate bill contained another provision (sec. 3126) that would require the Secretary of Energy to complete a conceptual design for a construction project before submitting the request for funds to begin the construction project, unless the request is for an emergency construction project.

The House amendment contained a similar provision (sec. 3126).

The conferees agree to combine the provisions into one provision that would require the Secretary of Energy to complete a conceptual design report before submitting an authorization request for a construction project which is estimated to cost more than $2.0 million. In addition, the provision would allow the Secretary to use available funds to complete the conceptual designs unless the cost of the conceptual design will exceed $3.0 million. When the cost of the conceptual design is estimated to exceed $3.0 million, the Secretary must submit a specific request for authorization to prepare the conceptual design.

Authority for emergency planning, design, and construction activities (sec. 3126)

The Senate bill contained a provision (sec. 3127) that would allow the Secretary of Energy to use funds appropriated to the Department of Energy for emergency planning, design, and construction activities if the activity is necessary to protect public health and safety, meet the needs of national defense, or protect property.

The House amendment contained a similar provision (sec. 3127).

The House recedes with an amendment that would allow the Secretary of Energy to use funds appropriated to the Department of Energy for emergency construction activities and that would clarify that completion of a conceptual design is not a prerequisite to initiating an emergency construction project.

Funds available for all national security programs of the Department of Energy (sec. 3127)

The Senate bill contained a provision (sec. 3128) that would provide, subject to the provisions of appropriations acts, that funds made available for DOE management and support activities and for general plant projects are available for use in connection with all national security programs of DOE.

The House amendment contained a similar provision (sec. 3128).

The House recedes.

Availability of funds (sec. 3128)

The Senate bill contained a provision (sec. 3129) that would, subject to appropriations acts, provide that funds appropriated for the Department of Energy remain available until expended.

The House amendment contained an identical provision (sec. 3129).

The conferees agree to include this provision.

Stockpile stewardship recruitment and training program (sec. 3131)

The Senate bill contained a provision (sec. 3131) that would direct the Secretary of Energy, in conjunction with the Chairman of the Joint Nuclear Weapons Council, to establish a program that would provide DOE and its three laboratories that have been traditionally involved in the nuclear weapons programs, a continuing source of highly-trained, highly-educated scientists, engineers, and other individuals. These three laboratories are the Lawrence Livermore National Laboratory, the Los Alamos National Laboratory, and the Sandia National Laboratory. The provision would authorize $4.0 million for the program and would require DOE to submit a report on laboratory personnel demographics.

The House amendment contained a similar provision (sec. 3131) but would provide $5.0 million for the program.

The Senate recedes.

The conferees are deeply concerned about the adverse demographic trends at the nuclear weapons laboratories. Notwithstanding statutory direction to the Secretary "to encourage the preservation of core intellectual and technical competencies of the U.S. in nuclear weapons," the Department has not taken measures to develop an inventory of the skills required to support the enduring nuclear weapons mission, nor the skills available within the laboratories to fulfill those requirements. At the same time, two disturbing trends continue to erode the skills base: (1) early retirement incentives offered at several laboratories have caused a disproportionate number of retirements of senior science professionals in the laboratories' weapons program; and (2) budget cuts and the perception of national ambivalence about the nuclear weapons program have hindered the laboratories' ability to recruit new professionals.

To address the problem of retention and recruitment within the weapons programs at the laboratories, the conferees agree to a provision that would direct the Secretary of Energy to establish a stockpile stewardship recruitment and training program.

The program would have three elements. First, the program would ensure a continuing supply of new scientists through improved recruitment and training. A specialized training program is necessary to develop the skills of new scientists and to maintain the skills of the current scientists. Second, the program would encourage the laboratories to work with graduate and undergraduate students in dual-use programs related to the nuclear weapons programs. This would help to bring into the laboratories a broad variety of new scientists who have wide-ranging skills applicable to both defense and non-defense work.

Third, the Secretary would be directed to establish a retiree corps. This corps could provide unique insight to new scientists by sharing and archiving their years of knowledge of the weapons program, including weapons testing. In addition, the members of the corps would be available to assist in the event any problems arise in the enduring stockpile. The conferees agree that nothing in this provision should be interpreted to amend, abrogate, or affect any retirement system or agreement.

The provision would also require the Secretary to prepare a report, in conjunction with the Nuclear Weapons Council, on the personnel demographics of the weapons laboratories. The report should identify the various tasks and skills necessary for the laboratories to meet their nuclear weapons obligations and to provide a breakdown, by age and skill, of the number of scientists available at each laboratory to meet its requirements. In addition, the report should identify any shortfalls, by skill and by laboratory, either existing now or anticipated over the next five years. In the report, the Secretary must identify the alternatives available to prevent any shortfalls and to maintain a highly competent staff at the laboratories. The conferees expect the data included in the report to be aggregated into statistical categories.

Defense inertial confinement fusion program (sec. 3132)

The Senate bill contained a provision (sec. 3132) that would provide $176.473 million to the Department of Energy for the defense inertial confinement fusion program.

The House amendment contained a similar provision (sec. 3132).

The House recedes.

In September 1990, the National Academy of Sciences completed a review of the inertial confinement fusion program. The review set out a series of milestones and priorities that the Department of Energy has begun to implement. The conferees urge the DOE to implement fully the recommendations of the Academy. The conferees provide $176.473 million for inertial confinement fusion, of which $166.755 million is for operating expenses and $9.718 million is for capital equipment. This is the same level as the requested amount.

This funding would provide $20.765 million to continue the upgrade of the OMEGA laser, $78.650 million for the upgrade of the NOVA laser, and $8.750 for the Naval Research Laboratory. The conferees note that no funds were requested for any litigation expenses or other expenses associated with the close-out or termination of any prior-year contracts. Therefore, the conferees prohibit the use of any of the funds authorized and appropriated for the ICF program for such purposes unless DOE submits a formal reprogramming request prior to obligating funds for litigation, close-out, termination, or related costs connected with prior-year contracts.

The ICF program is an important part of the new science-based stockpile stewardship program. The conferees remain committed to supporting the program.

Payment of penalties (sec. 3133)

The Senate bill contained a provision (sec. 3133) that would authorize the Secretary of Energy to pay two civil penalties, each in the amount of $50,000, assessed under the consent agreements and compliance orders for the Fernald and Portsmouth, Ohio facilities, to the Hazardous Substances Response Trust.

The House amendment contained a similar provision (sec. 3133).

The House recedes.

Water management programs (sec. 3134)

The Senate bill contained a provision (sec. 3134) that would authorize the Secretary of Energy to reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, Colorado, in the amount of $11.415 million from funds authorized for environmental restoration and waste management.

The House amendment contained an identical provision (sec. 3134).

The conferees agree to include this provision. This represents the fifth and final payment to the communities to allow them to complete a project, known as the "option B project," that will protect Standley Lake from runoff from the Rocky Flats Plant and replace the Great Western Reservoir system with a new water supply and treatment system.

Worker protection at nuclear weapons facilities (sec. 3135)

The Senate bill contained a provision (sec. 3136) that would authorize $11.0 million to continue the training program for workers at the DOE defense nuclear complex facilities established by section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

The House amendment contained a similar provision (sec. 3135).

The House recedes with a technical amendment that would clarify that the program will use funds authorized to be appropriated for environmental restoration and waste management in section 3102.

Limitation on use of program direction funds (sec. 3136)

The House amendment contained a provision (sec. 3137) that would prohibit the obligation of 50 percent of the funds appropriated for program direction for environmental restoration and waste management activities until the Secretary submits the first report required by section 3153 of the National Defense Authorization Act for Fiscal Year 1994.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit obligation of 20 percent of the funds appropriated for program direction until the required report is submitted.

National security programs (sec. 3137)

The Senate bill contained a provision (sec. 3137) that would prohibit obligation of more than 90 percent of the funds authorized to be appropriated under this title until the Secretary of Energy submits to the Congress the five-year budget plan for fiscal year 1996 required by section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991.

The House amendment contained no similar provision.

The House recedes with an amendment that would prohibit obligation of more than 80 percent of the funds available until the plan was submitted.

Programs for persons who may have been exposed to radiation released from Hanford nuclear reservation (sec. 3138)

The Senate bill contained a provision (sec. 3140) that would provide $3.296 million for the first of three additional years to continue the work of the Hanford health information network. Funds for the network were originally authorized in the National Defense Authorization Act for Fiscal Year 1991. In addition, the provision would prohibit the unauthorized use of information gathered by the network.

The House amendment contained a similar provision (sec. 3136) that would provide $2.5 million to continue the network. The House amendment also contained a provision (sec. 3158) that would prevent unauthorized disclosure of the information gathered by the network.

The Senate recedes to the House section 3136. The Senate recedes with an amendment to the House section 3158 that would prevent unauthorized disclosure of the information gathered by the network and that would require the States of Washington, Oregon, and Idaho to agree on a uniform procedure for authorized disclosure of the information gathered. The Secretary could obligate no more than half of the funds to the network until such a procedure is established.

The States of Oregon, Washington, and Idaho submitted a proposal to continue the network originally started in 1992 for three years, beginning in fiscal year 1995. The total cost would be $8.9 million. The conferees support continuation of the network for the additional time, but urge the network to begin planning for the three States to assume responsibility for the network at the end of fiscal year 1997.

Limitation on study or relocation of tritium-related activities and operations (sec. 3139)

The House amendment contained a provision (sec. 3142) that would prohibit the relocation of tritium-related facilities in a manner contrary to the recommendations analyzed in the Department of Energy's non-nuclear reconfiguration environmental assessment.

The Senate bill contained no similar provision.

The Senate recedes.

Hazardous materials management and hazardous materials emergency response training program (sec. 3140)

The Senate bill contained a provision (sec. 3139) that would provide an additional $14.0 million in operating expenses, from the funds authorized to be appropriate for environmental restoration and waste management, to continue training activities at the Department of Energy Hanford, Washington site. The Senate bill would not authorize construction funding requested for a training facility.

The House amendment contained no similar provision but would authorize $14.0 million for construction of a training facility (project 95–E–600) and $6.0 million in operating expenses.

The Senate recedes to the House construction authorization with an amendment that would authorize $7.0 million in construction funding. The House recedes to the Senate provision with an amendment that would provide $6.0 million in operating expenses, and transfer the funding for both construction and operating expenses from section 3102(d), technology development, to section 3102(c), waste management. The conferees believe that funding for hazardous materials management and emergency response training is not a research and development activity, and is thus more appropriately included under waste management activities. The provision would also prohibit the obligation of funds for project 95–E–600 until the Secretary of Energy completes a conceptual design for the project.

The conferees are concerned about the training available to workers at the Hanford site. The nuclear materials processing and production facilities at the site, including nuclear reactors, have to be decontaminated and decommissioned but are old and in a poor state of repair. Clearly, much of the future workload at the site will pose both radiological and physical hazards to the workers, and there is a pressing need for training at the site.

How the Department plans to utilize the training facility, however, is unclear to the conferees, particularly the extent to which the facility will be utilized by Department of Energy employees and contractor employees from other DOE defense complex sites, or by others outside of DOE. This facility should be designed primarily to meet the needs of DOE and contractor employees at Hanford. The DOE mission is not to develop or to provide broad-based hazardous materials training for the general public.

The conferees direct the Secretary to perform a needs assessment for worker training at DOE defense nuclear facilities, and propose a strategy to ensure that all hazardous material management and emergency response workers receive proper training. The report should also define the role of the Hanford training facility within the overall departmental strategy and discuss the extent to which this facility would be utilized by non-departmental employees. This assessment and strategy report should be delivered to Congress within 30 days of the President's budget submission for fiscal year 1996.

International Center for Applied Research (sec. 3141)

The House amendment contained a provision (sec. 3141) that would direct the Secretary of Energy to establish an international center for applied research which would be operated by a specific non-profit entity.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would ensure that selection of an operator for the center will be done on a competitive basis and that the center will run for the economic benefit of the Georgia-South Carolina regional area. This area will be affected by the anticipated downsizing of the workforce at the Savannah River Site.

The funding provided for operating of the center is the first of three annual funding allocations. The conferees agree that this three-year funding will serve as the total amount of operating funds provided for the center, and that the center should be self-sustaining by the time those funds are expended.

Accounting procedures for Department of Energy funds (sec. 3151)

The Senate bill contained a provision (sec. 3151) that would require the Department of Energy to account more fully for the use of its funds. This accounting would be done on a fiscal year basis, notwithstanding that the funds appropriated to the Department of Energy, pursuant to title XXXI for national security programs, are available for obligation until expended.

The House amendment contained a similar provision (sec. 3151).

The House recedes with an amendment that would clarify that this provision would apply to the funds authorized to be appropriated pursuant to title XXXI only and not to other funds of the Department.

DOE continues to have large uncosted balances in all national security programs and continues to retain funds in excess of those required to complete close-out of construction projects in construction project line items. The conferees are concerned that in the current constrained defense budget environment, the Department may not be making maximum use of its funds, or is requesting more funds than are necessary to meet its obligations. This provisions would assist the conferees and the Department in tracking the use of funds for national security programs.

Approval for certain nuclear weapons activities (sec. 3152)

The Senate bill contained a provision (sec. 3152) that would amend section 179 of title 10, United States Code, to include, as an additional responsibility of the Nuclear Weapons Council, coordination and approval of activities conducted by the Department of Energy associated with the study, development, production, and retirement of nuclear warheads.

The House amendment contained a similar provision (sec. 3152). The House provision would also require the Nuclear Weapons Council to conduct an annual review of operations of the Council, the projects approved by the Council, and the activities carried out by the Department of Energy. The results of the review would be discussed in an annual report to the Secretary of Energy, a copy of which would be provided to the congressional defense committees. The report would cover the preceding fiscal year and would be submitted prior to the preparation of the budget request for the next fiscal year.

The Senate recedes with an amendment that would clarify that the report is required to be submitted to the congressional defense committees at the same time the President's budget request is submitted to Congress.

Study of feasibility of conducting certain activities at the Nevada Test Site, Nevada (sec. 3153)

The Senate bill contained a provision (sec. 3153) that would require the Secretary of Energy to study a wide range of alternative uses for the Nevada Test Site.

The House amendment contained a similar provision (sec. 3153).

The House recedes.

Report on waste streams generated by nuclear weapons production cycle (sec. 3154)

The House amendment contained a provision (sec. 3154) that would direct the Secretary of Energy to analyze and describe all waste streams generated during each step of the complete cycle of production and disposition of nuclear weapons components.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary to analyze the waste streams that were generated before 1992 when the Department of Energy was actually producing nuclear weapons. The DOE has not produced any nuclear weapons for several years, has no plans to resume production of any existing nuclear weapons, and has no plans to design or produce any new weapon. Thus, such a review can only consider past production activities. The report must be submitted no later than March 31, 1996.

Communication of restricted data and formerly restricted data (sec. 3155)

The House amendment contained a provision (sec. 3155) that would amend subsection (f) of section 142 of the Atomic Energy Act of 1954 to clarify that restricted data which are exchanged with a member state of the Commonwealth of Independent States, pursuant to a bilateral agreement, need not also be released publicly.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would repeal subsection 142 f. of the Atomic Energy Act and allow the Department of Energy and the Department of Defense to release restricted data or formerly restricted data pursuant to cooperative agreements. The provision would amend section 144 of the Atomic Energy Act to allow DOE and DOD to release the data, as necessary, to further fissile material and other weapons material control and accountability programs; to support atomic weapons control and accountability; for treaty verification; and to assist in establishing a uniform international system of classification.

All releases of restricted or formerly restricted data would be made through agreements for cooperation entered into pursuant to section 123 of the Atomic Energy Act. In addition, the provision would waive the period of notice to Congress required by section 123 d. of the Atomic Energy Act, until

December 31, 1995, for agreements entered into pursuant to the new authority.

The conferees note that, in the past, agreements for cooperation under the Atomic Energy Act have been managed by the executive branch in a cumbersome fashion so that they take an extraordinarily long time to complete. The conferees provide for a streamlined section 123 process with the inclusion of procedural waivers. In turn, the conferees urge DOE and DOD to shorten the length of time necessary to enter into these agreements. The conferees hope that most of the time needed to enter into these agreements would be spent on actual negotiations with the country involved and not on protracted reviews. Close coordination among all parties concerned should help alleviate some of the long bureaucratic delays that section 123 agreements have suffered in the past.

The conferees understand that situations involving the release of restricted or formerly restricted data may require fast action. These new agreements could be very valuable, particularly in areas such as emergency response actions dealing with uncontrolled nuclear weapons or materials, or accident response. The conferees hope that situations in which fast action is required would be contemplated and addressed in these new agreements.

Designation of Marilyn Lloyd Scholarship and Fellowship Program (sec. 3156)

The Senate bill contained a provision (sec. 3138) that would authorize $1.0 million for the Department of Energy environmental scholarship program established by section 3132 of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

The House amendment contained a provision (sec. 3156) that would designate the scholarship program the "Marilyn Lloyd Scholarship and Fellowship Program" in honor of the congresswoman from the third district of Tennessee, who was the original sponsor of the scholarship and fellowship program, and her enduring commitment to higher education in the scientific and technical fields.

The conferees agree to include both provisions.

Report on economic redevelopment and conversion activities resulting from reconfiguration of Department of Energy nuclear weapons complex (sec. 3157)

The House amendment contained a provision (sec. 3157) that would require the Secretary of Energy to submit to Congress information regarding economic redevelopment and conversion activities that may result from reconfiguration of the Department's nuclear weapons complex.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

Office of Fissile Materials Disposition (sec. 3158)

The Senate bill contained a provision (sec. 3155) that would amend the Department of Energy Organization Act to establish, within DOE, an Office of Fissile Materials Disposition. This provision would make permanent the fissile materials project office established by the Secretary of Energy.

The House amendment contained no similar provision.

The House recedes.

Extension of authority to loan personnel and facilities at Idaho National Engineering Laboratory (sec. 3159)

The Senate bill contained a provision (sec. 3156) that would amend section 3133 of the National Defense Authorization Act for Fiscal Year 1993 to extend the loaned executive program at the Idaho National Engineering Laboratory until 1997, at which time the program will terminate.

The House amendment contained no similar provision.

The House recedes.

Elimination of requirement for five-year plan for defense nuclear facilities (sec. 3160)

The Senate bill contained a provision (sec. 3157) that would amend section 3135 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 by eliminating Department of Energy defense nuclear facilities from the annual five-year planning requirement.

The House amendment contained no similar provision.

The House recedes with an amendment that would amend section 3153 of the National Defense Authorization Act for Fiscal Year 1994, which directs the Secretary of Energy, for public participation, to prepare annual environmental management reports. The amendment would require the Secretary of Energy to provide for public participation generally in planning the activities of the Office of Environmental Restoration and Waste Management.

The five-year plan included an opportunity for public participation in environmental program planning and preparation of the plan. This element of the five-year plan will now be included in the annual environmental management reports.

The new report will supersede the five-year plan for Department of Energy defense facilities beginning in fiscal year 1995. The provision would not terminate the requirement to submit an annual five-year plan at DOE facilities other than defense facilities. Those facilities would not be included in the new reporting requirement.

Authority for appointment of certain scientific, engineering, and technical personnel (sec. 3161)

The Senate bill contained a provision (sec. 3158) that would allow the Secretary of Energy to hire and pay, without regard to civil service laws, up to 200 scientific, engineering, and technical personnel whose duties would relate to safety at Department of Energy defense nuclear facilities.

The House amendment contained no similar facilities.

The House recedes with an amendment. The amendment would expand the scope of the review conducted by the Office of Personnel Management (OPM) to include whether the rate of pay is appropriate to the qualifications and responsibilities of the individuals hired. In addition, the provision would require the Department to reimburse the Office of Personnel Management for the costs incurred by OPM in performing the required periodic reviews. The amendment would also limit the number of people that the Department may hire during the first year to 100.

The amendment would also require the Administrator of the Environmental Protection Agency (EPA) to consult with the Secretary and to issue a report to Congress after the fiftieth person is hired under this authority. The conferees are concerned that some of the people hired under this new authority may be already employed at a site listed on the national priorities list (NPL), which is established pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act. Some conferees are concerned about the effect of such hiring on such sites. They expressed concern that the Secretary, in using this authority, might delay the work at NPL sites. Therefore, the conferees would require the Administrator of EPA and the Secretary to assess in this report whether the appointments made under this authority have caused serious problems at any NPL site, including:

(a) significant delay or disruption of an environmental remedial action project;

(b) significant cost escalation of personnel for the remediation project; or

(c) significantly increased shortages or critical personnel.

If the Secretary and the Administrator find that these problems have indeed arisen as a result of this authority, they would be required to report jointly to Congress their plan to:

(a) reduce the rate of hiring under the authority provided under this section;

(b) solicit personnel from sources other than NPL sites; or

(c) provide any other effective alternative.

The report must be submitted to the Congress no later than 30 days after appointment of the fiftieth person under the authority provided by this section. The Secretary would be prohibited from making additional appointments under the authority of this section until the report is issued. In order to comply with the time constraints required by this section, the Secretary shall continuously monitor all persons appointed under this authority, record their previous places of employment and any NPL sites on which they were engaged at the time of their appointment under this authority, and provide this information to the Administrator on an ongoing basis.

The conferees direct the Secretary of Energy to submit a second report to Congress describing the use of the authority in fiscal year 1995. In this report, the Secretary should set forth the number of persons hired using the authority, their rates of pay, a general description of their duties and responsibilities including responsibilities associated with overseeing the DOE contractors, any problems associated with finding qualified individuals or with exercising the authority, and plans for use of the authority in fiscal years 1996 and 1997.

Use of funds for computer declassification system (sec. 3162)

The Senate bill contained a provision (sec. 3159) that would provide funds to assist the Department of Energy in supporting the Department's declassification productivity initiative.

The House amendment contained no similar provision.

The House recedes with a technical amendment that would specify that the funds are to support the initiation of a computer-assisted declassification process.

Safety and oversight and enforcement at defense nuclear facilities (sec. 3163)

The Senate bill contained a provision (sec. 3160) that would direct the Secretary of Energy to take appropriate actions to maintain the integrity and independence of the internal nuclear safety oversight function at the Department of Energy.

The House amendment contained no similar provision.

The House recedes with an amendment that would delete the findings in the Senate provision.

Budget justification documents

The conferees are dismayed with the poor quality of the Department of Energy's budget justification documents. In many instances, the information is inaccurate or incomplete. In other instances, the descriptive summaries are so general that it is difficult or impossible to identify the true nature of the program. There are also instances in which a number of projects are combined in the descriptive summary and a large total amount is displayed so that it is not possible to identify the funds requested for any of the individual projects. Finally, descriptions of projects are sometimes combined in ways that make it impossible to understand the project or where the project will be carried out. The conferees believe that it is imperative that the Department improve the quality of the budget documents and are willing to work with the Department to achieve that goal.

Nevada Test Site

The DOE amended budget request contained $338.9 million for operating expenses for weapons testing. This amount included $180.0 million for infrastructure at the Nevada Test Site (NTS), $6.5 million for Marshall Islands/dose reconstruction, and $152.4 million for experimentation. The experimentation request was to support activities related to stockpile stewardship.

The conferees agree to transfer the funds requested for experimentation from the weapons testing program to the core research and development account. These funds are shown on the funding tables as stockpile stewardship. This transfer is consistent with the directions to DOE in the National Defense Authorization Act for Fiscal Year 1994. This funding supports experimentation conducted under the stockpile stewardship, and does not support underground nuclear tests. Of the $152.4 million in the stockpile stewardship line, approximately $39.0 million will be allocated to the NTS to allow it to carry out activities in support of the stockpile stewardship program. The balance will be allocated to the laboratories to support their activities in support of the stockpile stewardship program.

The conferees agree to provide $165.0 million for operating expenses for infrastructure activities related to the NTS. This reduction is due to the availability of prior-year funds.

The conferees note that the NTS is a large and unique federal facility for which the conferees believe there are many possible alternative uses. Elsewhere in this act, the conferees recommend $4.5 million for the Department of Defense to use the NTS as a demonstration site for the environmentally-sound demilitarization of large rocket motors and other high-energetic explosives.

The National Defense Authorization Act for Fiscal Years 1992 and 1993 directed the Secretary of Energy to study the solar energy potential of the NTS. The "Nevada Test Site Solar Feasibility Study" is now complete. DOE found the NTS to be "a significant solar resource that can, in turn, provide important employment, local economic development and even export potential if developed." The Nevada Solar Enterprise Zone Task Force was created to implement the study. According to the study, as little as seven percent of the land area of the NTS would be necessary to generate the power equivalent of 10 large coal or nuclear power plants. Thus, the bulk of the NTS would remain available for any of the potential uses that might be identified in the alternative use study required by section 3153 of this act. The conferees agree that the Department of Energy may use $10.0 million from funds available for worker and community transition activities to begin to implement the work of the task force and the recommendations contained in the solar energy study.

Section 3153 of this act would require a study of other possible uses for and activities at the NTS. Alternative missions will enable NTS to maintain, at reduced cost, the infrastructure and personnel necessary to maintain a capability to resume testing, if necessary, in advance of a Comprehensive Test Ban Treaty (CTBT). Presumably, even under a CTBT, some level of readiness to test would be maintained at the NTS. Thus, DOE must focus on dual-use initiatives if this capability is to be maintained. The future of the NTS clearly lies in its potential for many and diverse uses, not just those focused on maintaining a nuclear weapons testing capability.

Funding for stockpile stewardship

The conferees are troubled that the Department of Energy did not request sufficient funds for fiscal year 1995 to support the stockpile stewardship plan developed by the Administration. This underfunding cannot continue without seriously undermining the Department's ability to fulfill its ongoing stewardship responsibilities. Therefore, the conferees direct the Department to request funds for fiscal year 1996 that are consistent with the stockpile stewardship program plan developed by the Administration and that will reverse the loss of nuclear competence at the laboratories.

Technology development

The conferees urge the Department of Energy to ensure that the funds allocated for research and development activities in support of the environmental restoration and waste management program are actually spent on needed research. More needs to be done to ensure that the scarce environmental research and development funds are used first, for research and, second, for research that addresses a priority need of the Department.

The conferees are particularly pleased with the newly-created joint research and development efforts that the DOE and the Department of Defense have initiated. The conferees look forward to more coordination in research and development between the two agencies.

Because the defense budget is decreasing, the environmental restoration and waste management programs will come under increasing budgetary constraints. The conferees believe that many dollars could be saved through the research, development, and demonstration of pollution prevention strategies, new waste characterization and treatment technologies, and remediation methodologies. The conferees urge the Secretary to fund the research and development program consistent with the Department's stated goal of dedicating 10 percent of the environmental budget to research and development.

Fissile material disposition

Disposition of excess weapons-grade fissile materials will continue to be a major challenge to the Department of Energy for the foreseeable future. Although all of the materials must be stored in a safe and secure manner for many years, the disposition of excess plutonium presents the most significant challenge. The conferees are disappointed that the Department did not include in its budget request a request for funding to deal with the many issues associated with the storage and disposition of these materials. The conferees recommend $50.0 million for fissile materials disposition.

The conferees urge DOE to begin assessing in earnest the broad range of technologies, including reactor, advanced reactor, and non-reactor technologies, potentially available for the disposition of plutonium. The assessments should focus on the safe, permanent disposition of surplus weapons material independent of the disposition of civilian plutonium. Each of the possible disposition options present significant challenges.

The conferees also expect the Secretary to use such funds as are available and required to identify the Department's near-term requirements for the storage of fissile materials until the nation has determined a final disposition strategy. The conferees recognize that in fiscal year 1995, the Secretary must also devote significant resources from the fissile materials disposition budget to prepare and issue the environmental impact statement (EIS) necessary for compliance with the National Environmental Policy Act. The conferees urge the Secretary to prepare the EIS in as cost-efficient a manner as possible.

Russia too faces a challenge, similar to that of the United States, in storing and ultimately reducing its excess weapons materials. The conferees believe that to the maximum extent practicable, DOE should work with its Russian counterparts to ensure that the Russian weapons-grade fissile materials are stored in a safe, secure, and accountable manner. Recent news reports about small quantities of weapons-grade plutonium, apparently from Russia, being available for sale in Germany are most troublesome. The conferees urge the Office of Fissile Materials Disposition to coordinate its activities with the DOE Office of Nonproliferation and National Security and other relevant offices and agencies in addressing areas of mutual concern with Russia.

The conferees note that the DOE weapons laboratories have established very successful and productive relationships with various Russian laboratories and urge DOE to expand on this success.

Material control and accounting

The conferees have consistently urged both the Department of Energy and the Department of Defense to develop an accurate accounting of all weapons-grade fissile and special nuclear materials in Russia and the other nations of the Commonwealth of Independent States (CIS). The conferees strongly believe that obtaining an accurate inventory of such materials in the CIS is a fundamental step in establishing an effective nonproliferation regime. The conferees recognize that a bilateral exchange of nuclear weapons stockpile data, including restricted data and formerly restricted data, between the United States and the nuclear states of the CIS will likely be necessary to establish such an accounting. The conferees agree to clarify and expand the authority of the President to provide such data in section 3155 of this act.

Elsewhere in this statement of the managers, the conferees direct the Department of Energy to work with Russia to explore options for excess weapons-grade fissile material disposition and to ensure that Russian weapons-grade fissile materials are stored in a safe, secure, and accountable manner. After discussions with DOE officials, the conferees understand that the Office of Nonproliferation and National Security will manage the Department's activities with Russia in these areas.

The conferees urge the Secretary to make available to the Office of Nonproliferation and National Security funds and resources required to ensure rapid progress in establishing a complete and accurate accounting of all weapons-grade fissile and special nuclear materials in the CIS. The conferees note that the DOE weapons laboratories have established very successful and productive relationships with various Russian laboratories and urge DOE to expand on this success. The conferees also encourage DOE to consider reprogramming actions, as appropriate, to support these efforts. The Office of Nonproliferation and National Security should coordinate its activities with the Department's Office of Fissile Materials Disposition, other DOE offices, the DOE laboratories, and relevant federal agencies

Finally, the conferees note that title XII of this act authorizes funds for the cooperative threat reduction program that could be used to support the control and accounting of fissile materials in the CIS. The conferees direct the Secretary of Energy to consult with the Secretaries of State and Defense to determine the most effective use of the funds provided in title XII for fiscal year 1995 and prior years to advance material control and accounting objectives.

Naval nuclear propulsion program

The U.S. naval nuclear propulsion program, a joint program of the Department of Energy and the Department of the Navy, has recently achieved a major milestone—nuclear-powered surface ships and submarines have just steamed their 100 millionth mile on nuclear power without a single nuclear accident or harm to the public or the environment. This is a remarkable achievement, and the conferees congratulate the men and women of the naval reactors program for their dedication and exemplary work.

LEGISLATIVE PROVISIONS NOT ADOPTED

General reduction in authorization of appropriations

The Senate bill contained a provision (sec. 3105) that would generally reduce the amount authorized to be appropriated for national security programs at the Department of Energy by $220.0 million. This reduction was offset by the use of prior-year funds that were available because DOE failed to submit the five-year budget plan required by section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991. Section 3139 of the National Defense Authorization Act for Fiscal Year 1994 prohibited the Department of Energy from obligating more than 95 percent of the funds authorized to be appropriated for fiscal year 1994 until the five-year plan was submitted. The plan was due with the President's budget request for fiscal year 1995 in January 1994.

The House amendment contained no similar provision.

The Senate recedes. The conferees agree that this general reduction is no longer necessary. On July 21, 1994, the Secretary of Energy transmitted the five-year budget plan for fiscal year 1995 and beyond.

Limitation on use of funds for special access programs

The Senate bill contained a provision (sec. 3135) that would prohibit 80 percent of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 from being obligated for special or limited access programs until the Secretary submitted to Congress the report required by section 93 of the Atomic Energy Act of 1954 (42 U.S.C. 2122a).

The House amendment contained a similar provision (sec. 3139) that would prevent obligation of any funds for special or limited access programs until the required report was submitted.

The conferees agree to delete both provisions because the Secretary of Energy has submitted the required report.

Solar energy activities at Nevada Test Site, Nevada

The Senate bill contained a provision (sec. 3141) that would authorize $10.0 million for use at the Nevada Test Site for solar energy activities.

The House amendment contained no similar provision.

The House recedes.

Nuclear Weapons Council membership

The Senate bill contained a provision (sec. 3154) that would add an additional senior representative of the Department of Energy to the membership of the Nuclear Weapons Council.

The House amendment contained no similar provision.

The Senate recedes.

The Senate provision was intended to reinforce the role of the Under Secretary of Energy in ensuring a strong defense program at the Department of Energy. The Senate was concerned that the DOE nuclear weapons program has suffered from lack of attention and planning by senior Department managers. The Senate conferees hoped that the Under Secretary, by his senior position within the Department and with expanded authority, would become an advocate of the defense programs within DOE. The Senate conferees believed that his membership on the Nuclear Weapons Council would serve to both reinforce the role of the defense programs within the Department of Energy and enable greater participation with the Department of Energy and enable greater participation with the Department of Defense and the Joint Chiefs of Staff in maintaining a safe and strong nuclear deterrent.

The Secretary of Energy has recently reaffirmed her commitment to the defense programs at the Department of Energy and to the overall role of the Department in matters relating to national security, such as non-proliferation and fissile materials control and disposition. The conferees look forward to working with the Secretary in ensuring that the Department has a robust defense program in a reduced budget environment. The conferees believe that, while more difficult to achieve, maintaining defense competencies using fewer resources than were available in the past is necessary and possible.

Conditions on contracts between the Federal Government and certain lessees and transferees of Department of Energy property

The Senate bill contained a provision (sec. 3161) that would prevent the Department of Energy management and operating contractors from taking unfair advantage of commercial information gained through their relationships with subcontractors when the management and operating contractors are engaging in a commercial venture utilizing former DOE facilities.

The House amendment contained no similar provision.

The Senate recedes.

The Senate provision originated in the contractual relationship between a DOE management and operating contractor (M&O) at a DOE facility and one of its subcontractors. Because the M&O contractor performed audit, inspection, and quality control functions for DOE on the subcontractor's products, the M&O contractor was given access to the subcontractor's plant and to proprietary and technical data, trade secrets, and commercial and financial information that it would not have had except for its status as an M&O contractor.

DOE is closing the particular facility because it no longer needs it. DOE anticipates that when it stops using the facility, it will be leased, pursuant to sections 3154 and 3155 of the National Defense Authorization Act for Fiscal Year 1994, to the local community, which will then sublet the facility to the M&O contractor. The former M&O contractor proposes to manufacture the same type of product as the subcontractor and compete with the subcontractor. The M&O would lease and use equipment at the former DOE facility that was used in developing the manufacturing process for the product made by the subcontractor. The product is manufactured at facilities owned by the subcontractor.

The Senate conferees were concerned that the former M&O contractor might unfairly use information acquired from the subcontractor to compete against the subcontractor. The Senate provision would permit federal agencies to require former M&O contractors who propose or bid on federal agency procurement to certify that they have not used, in the preparation of their proposal or bid, any information or data of the federal government or another entity that have not been released or otherwise made generally available for the preparation of bids or proposals.

Based on the representations made to the conferees that the Secretary of Energy already has the necessary statutory and regulatory authority to protect appropriately the rights and interests of subcontractors, the conferees agree that the Senate provision is no longer necessary. The conferees rely equally on the assurance made to the conferees by the Secretary of Energy that DOE will continue to work with the M&O contractor and the subcontractor to develop mutually acceptable and appropriate protective mechanisms. The conferees believe that the Secretary should secure an agreement between the subcontractor and the M&O contractor, substantially equal in force to confidentiality agreements commonly used elsewhere in industry, that the contractor and each of the managers and employees of the contractor will not use, in any manner, proprietary information, trade secrets, or other cost, commercial, or financial information acquired from the subcontractor solely as a result of the relationship between the M&O contractor and the subcontractor. These agreements should also specifically prevent the use of such information in the preparation, submission, or negotiation of a bid or offer to any federal agency for similar products. The conferees believe that the agreement should endure for a term sufficiently long to protect the subcontractor. The conferees direct the Secretary to work with the M&O contractor and the subcontractor to reach the agreement before closure of the DOE facility.

The conferees will follow the situation closely. The conferees remain concerned about the potential for unfair use of government and third-party information that was obtained by a former M&O contractor solely by virtue of that special status, and will continue to evaluate the need for legislation. The conferees believe that the principles of procurement integrity and fairness are generally adequate to prevent the M&O contractor from gaining unfair competitive advantage when bidding to supply similar or related products to DOE or to any other federal agency.

The conferees direct the Secretary to report to the congressional defense committees by January 1, 1995, on the resolution of this issue.

Limitation on use of funds for new construction projects

The House amendment contained a provision (sec. 3138) that would prohibit the Secretary of Energy from obligating or expending funds appropriated for a construction project for which funds were requested for the first time in fiscal year 1995, until the Secretary has completed a conceptual design for that project.

The Senate bill contained no similar provision.

The House recedes. Of the two projects to which this provision would have applied, the conferees have indicated elsewhere within this statement of the managers that the Department may not expend funds authorized to be appropriated on one of them until the Secretary has completed the conceptual design, and the conferees did not agree to authorize funds for the other project.

Prohibition on prefinancing

The House amendment contained a provision (sec. 3140) that would prohibit the Secretary of Energy from budgeting funds to retain Department personnel in the event that Congress allows a lapse in funding authority between fiscal years. The Department refers to this practice as "prefinancing."

The Senate bill contained no similar provision.

The House recedes.

The conferees note, however, that while all government agencies can retain essential personnel in the event of a lapse in funding authority, only the Department of Energy actually budgets for such a contingency. The conferees agree that the merits of prefinancing need to be re-examined, and that the Armed Services Committees of the Senate and House of Representatives will address this issue in hearings next year.

The conferees are further concerned that there does not appear to be a consistent rationale or methodology for budgeting for prefinancing Prefinancing should not be a "catch-all" category for otherwise unexplainable uncosted obligations. The conferees urge the Department to review its prefinancing policy while preparing the fiscal year 1996 budget request.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Authorization (sec. 3201)

The Senate bill contained a provision (sec. 3201) that would provide $17.933 million for the Defense Nuclear Facilities Safety Board.

The House amendment contained a provision (sec. 3201) that would provide $18.0 million for the Board.

The House recedes.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Authorized uses of stockpile funds (sec. 3301)

The Senate bill contained a provision (sec. 3302) that would authorize the stockpile manager to obligate $54.2 million from the National Defense Stockpile Transaction Fund during fiscal year 1995 for the authorized uses of funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act.

The House amendment contained no similar provision.

The House recedes.

Rotation of materials to prevent technological obsolescence (sec. 3302)

The Senate bill contained a provision (sec. 3304) that would amend section 6(a)(4) of the Stock Piling Act to allow for modernization and rotation of materials in the stockpile to prevent technological obsolescence.

The House amendment contained no similar provision.

The House recedes.

Extension of limitation on authority to dispose of chromium ferro and manganese ferro (sec. 3303)

The House amendment contained a provision (sec. 3301) that would prohibit the disposal of chromium ferro and manganese ferro from the National Defense Stockpile until the President certifies to Congress that there is a reliable domestic source for the adequate and timely production of these materials, and such source can be called upon in times of a national emergency or a significant mobilization of the armed forces.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would delay the current authority to dispose of chromium ferro and manganese ferro from the stockpile until October 1, 1995.

Limitations on authority to dispose of zinc (sec. 3304)

The House amendment contained a provision (sec. 3304) that would prohibit the disposal of zinc from the National Defense Stockpile unless the President certifies to Congress that any such proposal would not cause any undue disruption of the usual markets of producers, processors, and consumers of zinc.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would prohibit the disposal of zinc from the National Defense Stockpile to anyone outside the federal government prior to April 1, 1995. In order for the Stockpile manager to dispose of zinc after April 1, 1995, the Stockpile manager would have to submit a revised Annual Materials Plan for fiscal year 1995 to the Congress not later than February 15, 1995 that describes any such proposed disposal. This revised Annual Materials Plan would have to include the views of the Market Impact Committee regarding the market impact of any such disposal.

Limitations on the disposal of chromite and manganese ores (sec. 3305)

The House amendment contained a provision (sec. 3303) that would require the Stockpile manager to give a right of first refusal to domestic ferroalloy upgraders on any disposals of chromite and manganese ores of metallurgical grade from the stockpile during fiscal year 1995.

The Senate bill contained no similar provision.

The Senate recedes.

Report on domestic production of high purity electrolytic chromium metal (sec. 3306)

The House amendment contained a provision (sec. 3305) that would require the conversion of low carbon ferro chromium held in the National Defense Stockpile into high purity electrolytic chromium metal.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to enter into an agreement with the President of the National Academy of Sciences under which the Academy would prepare a report regarding the production of high purity electrolytic chromium metal in the United States.

LEGISLATIVE PROVISIONS NOT ADOPTED

Transfer from National Defense Stockpile Transaction Fund

The Senate bill contained a provision (sec. 305) that would authorize, to the extent provided in appropriations acts, the transfer of not more than $250.0 million from the National Defense Stockpile Transaction Fund to the operation and maintenance accounts for fiscal year 1995. This figure represents an increase of $100.0 million above the amount proposed for transfer in the budget request.

The House amendment contained no similar provision.

The Senate recedes. The conferees conclude that authorizing the transfer of funds from the National Defense Stockpile Transaction Fund in anticipation of sales of materials could create pressure on the Stockpile manager to sell excess materials in order to generate revenues for such transfers. The conferees agree that the decision to sell excess materials from the stockpile should be based on market and stockpile management considerations and not on the need to generate revenues.

Disposal of obsolete and excess materials contained in the National Defense Stockpile

The Senate bill contained a provision (sec. 3301) that would authorize disposal of two materials (aluminum and tungsten) from the National Defense Stockpile that were determined to be excess to the stockpile requirements recommended by the Department of Defense in the *1992 Report on National Defense Stockpile Requirements*.

The House amendment contained no similar provision.

The Senate recedes.

Rejection of change in stockpiling principles

The House amendment contained a provision (sec. 3302) that would repeal sections 3311 and 3314 of the National Defense Authorization Act for Fiscal Year 1994 concerning stockpiling principles.

The Senate bill contained no similar provision.

The House recedes. The conferees expect the next stockpile requirements report, to be submitted to the Congress by January 15, 1995 under section 14 of the Stock Piling Act, to contain a complete and thorough discussion of the stockpiling principles proposed by the Department of Defense, and to cover the full range of conflict scenarios on which the stockpile requirements are based. In addition, the conferees request that the next stockpile requirements report also contain an analysis of the capabilities of the U.S. domestic sources of strategic and critical materials and a current analysis of the U.S. dependence on, and reliability of, foreign sources for strategic and critical materials.

Repeal of advisory committee requirement

The Senate bill contained a provision (sec. 3303) that would repeal the requirement to establish an Advisory Committee Regarding Operation and Modernization of the Stockpile contained in section 3306 of the National Defense Authorization Act for Fiscal Year 1993.

The House amendment contained no similar provision.

The Senate recedes.

TITLE XXXIV—CIVIL DEFENSE

Authorization of appropriations (sec. 3401)

The budget request contained $129.658 million to carry out the Federal Civil Defense Act of 1950.

The Senate bill contained a provision (sec. 3401) that would authorize the requested amount.

The House amendment contained a provision (sec. 3401) that would authorize Relief and Emergency Assistance Act.

The Senate recedes.

Restatement of federal civil defense authorities in Robert T. Stafford Disaster Relief and Emergency Assistance Act (secs. 3411 and 3412)

The House amendment contained a provision (sec. 3402) that would repeal the Civil

Defense Act of 1950 (section 2251 et seq. of title 50 App., United States Code) and place its authorities into the Robert T. Stafford Disaster Relief and Emergency Assistance Act (section 5121 et seq. of title 42, United States Code).

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment.

The conferees understand that the Office of Management and Budget will transfer the civil defense program (i.e., the emergency preparedness program) and other portions of the Federal Emergency Management Agency budget now included in the 050 budget function to a domestic discretionary budget account because these programs no longer have a defense emphasis. This transfer will be incorporated into the President's fiscal year 1996 budget request.

TITLE XXXV—NAVAL PETROLEUM RESERVES

Authorization of appropriations (sec. 3501)

The House amendment contained a provision (sec. 3501) that would authorize funds for activities at the Naval Petroleum Reserves for fiscal year 1995.

The Senate bill contained no similar provision.

The Senate recedes.

Price requirement on sale of certain petroleum during fiscal year 1995 (sec. 3502)

The House amendment contained a provision (sec. 3502) that would establish pricing for sale of products from the Naval Petroleum Reserve.

The Senate bill contained no similar provision.

The Senate recedes with a technical amendment that would clarify that 10 U.S.C. 7430(b)(2)(B), the minimum price for Naval Petroleum Reserves 1, 2, and 3 petroleum sold during fiscal year 1995, does not apply. The only statutory minimum price in fiscal year 1995 will be 90 percent of the local market price of comparable petroleum prescribed in section 7430(b)(2)(A).

Extension of existing contract at Naval Pretroleum Reserves (sec. 3503)

The conferees agree to a provision that would allow the Department of Energy to extend the current operating contract at the Naval Petroleum Reserve Number 1 at Elk Hills, California for an additional two years. The conferees are very concerned about the future of this facility, the Department of Energy's plans for management of the facility, and opportunities for reducing its operating costs.

In the statement of the managers accompanying the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-357), the conferees requested a report by May 1, 1994, that would analyze a variety of management options for Elk Hills. The Department of Energy only submitted the requested report on August 2, 1994. In the meantime, the Department has also embarked on an effort to substantially change the management of the Elk Hills facility without analyzing other possible options and without considering the possibility of competition.

The conferees believe there are several potential management options that would reduce costs and achieve maximum value and benefit to the government. While the conferees do not recommend a particular option for the operation and management of the Elk Hills facility, they strongly believe that the Department should fully analyze all possible options before making a change in current operations. The conferees also strongly believe that any change in the operation or management of the Elk Hills facility should be accomplished using competitive procedures, to the extent practical.

This provision would allow the Department of Energy additional time to review fully all possible options before entering into any new management contract for the Elk Hills facility. The Armed Services Committees of the Senate and House of Representatives plan to hold hearings in 1995 on the DOE management options under consideration and the recommendations of the National Academy of Public Administration to ensure that the best interests of the government are fully protected.

TITLE XXXVI—PANAMA CANAL COMMISSION

Panama Canal Commission (secs. 3601–3605)

The Senate bill contained provisions (secs. 3501–3505) that would authorize expenditures from the Panama Canal Revolving Fund for the operations and maintenance of the Panama Canal. They would also authorize the Panama Canal Commission to reimburse eligible employees for the cost of dependent schooling at facilities in the United States in the same manner as is now authorized for the cost of dependent students attending non-Department of Defense dependent schools in Panama. Finally, the provisions would authorize Panamanian U.S. government employees, who are eligible under current law for special immigration benefits, to apply for immigration prior to the effective date of their retirement.

The House amendment contained no similar provisions. A separate House bill contained provisions essentially identical to those in the Senate bill.

The House recedes. The Panama Canal operates on a self-sustaining basis, utilizing tolls and revenues paid by canal users. Appropriated funds for not utilized for the operation and maintenance of the canal.

From the Committee on Armed Services, for consideration of the entire Senate bill and the entire House amendment, and modifications committed to conference.

Ronald V. Dellums,
G.V. Montgomery,
Pat Schroeder,
Earl Hutto,
Ike Skelton,
Dave McCurdy,
Marilyn Lloyd,
Norman Sisisky,
John M. Spratt,
Solomon P. Ortiz,
H. Martin Lancaster,
Lane Evans,
James H. Bilbray,
John S. Tanner,
Glen Browder,
Martin T. Meehan,
Floyd Spence,
Duncan Hunter,
John R. Kasich,
Herbert H. Bateman,
Curt Weldon,
Jon Kyl,
Ronald K. Machtley,
Jim Saxton,

As additional conferees from the Labor Committee on Education and Labor, for consideration of sections 337, 346–47, 643, 924, 1051, and 1082 of the Senate bill and sections 351–54, 1133, 1136, 1138, and 1151 of the House amendment, and modifications committed to conference:

William D. Ford,
William L. Clay,
Pat Williams,
William F. Goodling,
Steve Gunderson,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 142, 324, 708, 2821(e)(3), 2849, 3151, 3155, 3157–58, 3160, and 3201 of the Senate bill and sections 1055, 3201, and 3502 of the House amendment, and modifications committed to conference:

John D. Dingell,
Phil Sharp,
Al Swift,
Carlos J. Moorhead,
Mike Bilirakis,

Provided, Mr. Waxman is appointed in lieu of Mr. Swift and Mr. Bliley is appointed in lieu of Mr. Bilirakis solely for the consideration of section 708 of the Senate bill:

Henry A. Waxman,
Tom Bliley,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 221–22, 225, 241, 251, 354, 823, 1012, 1013(b), 1014, 1015(a), 1016–18, 1021(a), 1021(b), 1022–23, 1024(c), 1031–32, 1041, 1065, 1070, 1074, 1078–79, 1088, 1092, and 1097 of the Senate bill and sections 1011(a), 1022–25, 1038, 1041, 1043, 1046–49, 1052, 1054, 1058–60, 1201–14, and 1401–04 of the House amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Bill Goodling,

As additional conferees from the Committee on Government Operations, for consideration of sections 824, 2812(c), 2827, and 3161 of the Senate bill and modifications committed to conference:

John Conyers, Jr.,
E. Towns,
Mike Synar,
Bill Clinger,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 357, 601, 654, 2206, 2825, 3134, and 3501–05 of the Senate bill and sections 522–23, 527, 531, 601–02, 1137, and 3134 of the House amendment, and modifications committed to conference:

Gerry E. Studds,
William J. Hughes,
Billy Tauzin,

As additional conferees from the Committee on Natural Resources, for consideration of sections 2853 of the House amendments, and modifications committed to conference:

George Miller,
Bruce F. Vento,
Neil Abercrombie,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 331–334, 346, 636, 901, 1080, 1087, 1090, and 3158 of the Senate bill and sections 165, 351, 375, 1031, and 2816 of the House amendments, and modifications committed to conference:

William Clay,
Frank McCloskey,
Eleanor H. Norton,
John Myers,
Constance A. Morella,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 324, 1086, and 2827 of the Senate bill and section 3402 of the House amendment, and modifications committed to conference:

Norman Y. Mineta,
Douglas Applegate,
James A. Traficant, Jr.,
Bud Shuster,
Bill Clinger,

Provided that Mr. Duncan is appointed in lieu of Mr. Clinger solely for the consideration of section 2827 of the Senate bill:

JOHN J. DUNCAN, Jr.,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 232–33, 243, 249, and 3141 of the Senate bill and sections 211(a), 211(b), 216(a), 216(b), 216(c), 216(e), 217–18, 223(a), 1112–15, and 3141 of the House amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
TIM VALENTINE,
BOBBY SCOTT,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 641 of the Senate bill and modifications committed to conference:

G.V. MONTGOMERY,
JIM SLATTERY,
DOUGLAS APPLEGATE,
BOB STUMP,
MIKE BILIRAKIS,

Managers on the Part of the House.

SAM NUNN,
JIM EXON,
CARL LEVIN,
TED KENNEDY,
JEFF BINGAMAN,
JOHN GLENN,
RICHARD SHELBY,
ROBERT C. BYRD,
BOB GRAHAM,
CHUCK ROBB,
JOSEPH I. LIEBERMAN,
RICHARD H. BRYAN,
STROM THURMOND,
JOHN WARNER,
WILLIAM S. COHEN,
TRENT LOTT,
DAN COATS,
BOB SMITH,
LAUCH FAIRCLOTH,
KAY BAILEY HUTCHISON,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FIELDS of Louisiana (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. BARTON of Texas (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HORN) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. DREIER, for 5 minutes today.

(The following Members (at the request of Mr. NADLER) to revise and extend their remarks and include extraneous material:)

Mr. DERRICK, for 5 minutes, today.

Mr. COOPER, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. NEAL of North Carolina, for 5 minutes, today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. LAROCCO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HORN) and to include extraneous matter:)

Mr. CALLAHAN.
Mr. GOODLING.
Mr. DELAY.
Mr. FAWELL.
Mr. KING.
Mr. SAXON.
Mr. GRAMS.

(The following Members (at the request of Mr. NADLER) and to include extraneous matter:)

Mr. GEJDENSON.
Mr. JACOBS.
Mr. BONIOR.
Mr. LEVIN.
Mr. ROSE.
Mrs. CLAYTON.
Mr. DURBIN.
Mr. RAHALL in two instances.
Mr. ANDREWS of New Jersey.

(The following Members (at the request of Mr. COLLINS of Georgia) and to include extraneous matter:)

Mr. TAUZIN.
Mr. MEEHAN.
Mr. MCDERMOTT.
Mr. CAMP.
Mr. BILBRAY.
Mr. BERMAN.
Mr. PACKARD.
Mr. SOLOMON.
Mr. FRANKS of New Jersey.
Mr. WYDEN.
Ms. BROWN of Florida.
Ms. DELAURO.
Mr. MENENDEZ.
Mr. SHAW.
Mr. TORRES.
Mr. RANGEL.
Mr. STARK.
Mr. EVERETT.
Mr. BURTON in three instances.
Mrs. MALONEY.
Ms. VELÁZQUEZ.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes;

H.R. 1933. An act to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.;

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such act, and for other purposes;

H.R. 4277. An act to establish the Social Security Administration as an independent agency and to make other improvements in the Old-Age, Survivor, and Disability Insurance Program;

H.R. 4426. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 4453. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes;

H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes;

H.J. Res. 131. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day"; and

H.J. Res. 175. Joint resolution designating October 1994 as "Italian-American Heritage and Culture Month."

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1631. An act to amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia.

H.R. 2739. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

H.R. 4429. An act to authorize the transfer of naval vessels to certain foreign countries.

ADJOURNMENT

Mr. COLLINS of Georgia. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 16, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3684. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on military expenditures for countries receiving U.S. assistance; to the Committee on Appropriations.

3685. A letter from the Comptroller General, General Accounting Office, transmitting a compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress; to the Committee on Appropriations.

3686. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3687. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 94-47), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3688. A letter from the Acting director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Thailand for defense articles and services (Transmittal No. 94-46), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3689. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 94-44), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3690. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination and justification to exercise the authority granted him under section 451 of the Foreign Assistance Act of 1961, as amended, authorizing funds to support the Tanzanian participation in peacekeeping in Liberia and conflict resolution in Rwanda, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on Foreign Affairs.

3691. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the texts of the International Labor Organization Convention No. 174 and Recommendation No. 181 adopted at its 80th session at Geneva; to the Committee on Foreign Affairs.

3692. A letter from the Chairman, U.S. International Trade Commission, transmitting the 45th report on the operation of the U.S. trade agreements program during 1993, pursuant to 19 U.S.C. 2213(b); to the Committee on Ways and Means.

3693. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the obligation of certain funds; jointly, to the Committees on Appropriations and Foreign Affairs.

3694. A letter from the Secretary of the Interior, transmitting his views regarding H.R. 3433; jointly, to the Committee on Natural Resources, Ways and Means, and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with amendments (Rept. 103-601, Pt. 5). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2927. A bill to amend the Plan Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes; with an amendment (Rept. 103-699). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes (Rept. 103-700). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee of Conference. Conference report on S. 2182. An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 103-701). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral to the Committee on Government Operations of H.R. 2680 extended for a period ending not later than August 16, 1994.

The Committee on Government Operations discharged from further consideration of H.R. 4263; H.R. 4263 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 4945. A bill to establish the Library of Congress Revolving Fund, and for other purposes; to the Committee on House Administration.

By Mr. SANGMEISTER:

H.R. 4946. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; jointly, to the Committees on Armed Services, Agriculture, and Energy and Commerce.

By Mr. BRYANT:

H.R. 4947. A bill to amend title 28, United States Code, to establish additional requirements regarding appointment of an independent counsel; to the Committee on the Judiciary.

By Mr. BACHUS of Alabama (for himself, Mr. BEVILL, Mr. BROWDER, Mr. CALLAHAN, Mr. CRAMER, Mr. EVERETT, Mr. HILLIARD, Mr. MONTGOMERY, Mr. ROWLAND, and Mr. HUTTO):

H.R. 4948. A bill to designate Building No. 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL, as the "Claude Harris, Jr. Building"; to the Committee on Veterans' Affairs.

By Mr. FRANKS of New Jersey (for himself, Mr. MEEHAN, Mr. GALLO, and Mr. DELAY):

H.R. 4949. A bill to amend title 5, United States Code, to reform Federal administrative procedures and improve the regulatory process; to the Committee on the Judiciary.

By Mr. GEJDENSON (for himself, Mr. ROTH, Ms. CANTWELL, Mr. JOHNSTON of Florida, Mr. BEREUTER, Mrs. MEYERS of Kansas, Mr. FINGERHUT, Mr. ENGEL, Mr. WYNN, Mr. OBERSTAR, and Mr. SCHUMER):

H.R. 4950. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KIM:

H.R. 4951. A bill to amend the Clean Air Act to provide that no Federal implementation plan need be promulgated by the Environmental Protection Agency upon the failure of a State implementation plan to attain certain attainment deadlines which have been superseded by the 1990 amendments to the Clean Air Act, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4952. A bill to amend the Clean Air Act to provide that certain requirements in effect prior to the 1990 amendments to the Clean Air Act shall cease to apply, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4953. A bill to amend the Clean Air Act to prohibit the Environmental Protection Agency from promulgating a Federal implementation plan prior to the disapproval of State implementation plan revisions required pursuant to the Clean Air Act Amendments of 1990, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. MALONEY:

H.R. 4954. A bill to amend the Fair Housing Act to provide sanctions for the filing of certain complaints; to the Committee on the Judiciary.

By Mrs. MALONEY (for herself, Mrs. LOWEY, Mr. NADLER, Mr. WAXMAN, Mr. SAXTON, Mr. PASTOR, and Mr. COOPER):

H.R. 4955. A bill to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II; jointly, to the Committees on Government Operations, the Judiciary, and Intelligence (Permanent Select).

By Mr. NEAL of North Carolina (for himself, Mr. MCCOLLUM, Mr. LAFALCE, Mr. FRANK of Massachusetts, Mr. LAROCCO, Mr. DOOLEY, Mr. RIDGE, Mr. BAKER of Louisiana, and Mr. KING):

H.R. 4956. A bill to create an open and competitive marketplace for financial services which ensures the safety and soundness of the Nation's financial system as well as the availability of innovative financial products and services for consumers, business, and government at the lowest possible cost, and for other purposes; jointly, to the Committees on Banking, and Finance and Urban Affairs, and Energy and Commerce.

By Mr. RAHALL (for himself, Mr. BORSKI, Mr. DEFAZIO, Mr. COPPERSMITH, Mr. COSTELLO, and Mr. DE LUGO):

H.R. 4957. A bill to amend the Railway Labor Act concerning the applicability of requirements of that act to U.S. air carriers and flight crews engaged in flight operations outside the United States; to the Committee on Public Works and Transportation.

By Mr. ROSE:

H.R. 4958. A bill to amend title 3 of the United States Code to provide immunity from suit for the President of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. TAUZIN (for himself, Mr. Studds, Mr. Lipinski, Mr. Fields of Texas, and Mr. Coble) (all by request):

H.R. 4959. A bill to reduce the economic burden on U.S.-flagged merchant vessels by streamlining certain regulatory requirements, by expanding the delegation of the performance of marine safety functions to third parties, and by broadening the Coast Guard's marine safety authority, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WYDEN:

H.R. 4960. A bill to provide health care quality safeguards for consumers of health care insurance and health care products and services; to the Committee on Energy and Commerce.

By Mr. LAROCCO:

H.R. 4961. A bill to establish the Coeur d'Alene Basin Restoration Corporation and authorize the Corporation to undertake all actions necessary for the cleanup of mining wastes and the restoration of natural resources in the watershed encompassing the Coeur d'Alene River, Coeur d'Alene Lake, and its tributaries, and the Spokane River in northern Idaho and western Washington; jointly, to the Committees on Natural Resources, Energy and Commerce, and Public Works and Transportation.

H.R. 4962. A bill to amend the Federal Water Pollution Control Act relating to the Coeur d'Alene Basin Management Conference; jointly, to the Committees on Public Works and Transportation, Natural Resources, Merchant Marine and Fisheries, and Energy and Commerce.

By Ms. MARGOLIES-MEZVINSKY:

H.R. 4963. A bill to clarify that the expenses of administering the Old Age, Survivors, and Disability Insurance Programs are not included in the budget of the U.S. Government, and for other purposes; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. MENENDEZ (for himself, Mr. Frost, Mr. Foglietta, Mr. Hastings, Mrs. Meek of Florida, Mr. Ehlers, Ms. Kaptur, Mr. de Lugo , Mr. Farr, Mr. Engel, and Ms. Woolsey):

H.R. 4964. A bill to provide grants for demonstration projects to coordinate the administration of services to needy families with children; jointly, to the Committees on Ways and Means, Agriculture, Education and Labor, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. OWENS:

H.R. 4965. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series; to the Committee on the Judiciary.

By Mr. Franks of New Jersey (for himself, Mr. Meehan, Mr. Gallo, Mr. Quinn, Mr. Olver, Mr. Ackerman, Mr. Lipinski, Mr. Hinchey, Mr. Torkildsen, Mrs. Kennelly, Mr. McNulty, Mr. Blute, Mr. Machtley, Mr. Reed, Mr. Evans, Mr. Klink, Mr. Kasich, Mr. Fingerhut, Mrs. Johnson of Connecticut, Mr. Swett, and Mr. Coyne):

H.J. Res. 402. Joint resolution to designate the week beginning March 12, 1995, as "National Manufacturing Week"; to the Committee on Post Office and Civil Service.

By Mr. Rahall (for himself, Mr. Dingell, Mr. DeFazio, Ms. Kaptur, Mrs. Byrne, Mr. Michel, Ms. Danner, Mr. Hoke, Mr. Kildee, Mr. Fingerhut, Mr. Cox, Ms. McKinney, and Mr. Knollenberg):

H. Con. Res. 282. Concurrent resolution expressing the sense of the Congress concerning the ban on the use of United States passports in Lebanon; to the Committee on Foreign Affairs.

By Mr. GIBBONS:

H. Res. 518. Resolution returning to the Senate the Senate amendments to the bill H.R. 4554; considered and agreed to.

By Mr. DORNAN (for himself, Mr. Doolittle, Mr. Smith of New Jersey, Mr. Gingrich, Mr. Calvert, Mr. Hyde, Mr. DeLay, Mr. Armey, Mr. McCollum, Mr. Bartlett of Maryland, Mr. Goss, Mr. Packard, Mr. Crane, Mr. Fields of Texas, Mr. Ballenger, Mr. Kim, Mr. Burton of Indiana, Mr. Solomon, Mr. Bunning, Mr. Stearns, Mr. Goodlatte, Mr. Stump, Mr. Livingston, Mr. Duncan, Mr. McKeon, Mr. Talent, Mr. Royce, Mr. Hansen, and Mr. Sundquist):

H. Res. 519. Resolution expressing the sense of the House of Representatives regarding religious intolerance; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

458. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the Main San Gabriel Groundwater Basin; to the Committee on Natural Resources.

459. Also, memorial of the Legislature of the State of California, relative to COBRA benefits; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. Gejdenson, Mr. Pastor, Mr. Ford of Michigan, Mr. Sabo, Mr. Gallegly, Mr. Yates, and Mr. Dixon.

H.R. 193: Mr. Bonilla, Mr. Buyer, Mr. Chapman, Mr. Collins of Georgia, Mr. Dickey, Ms. Dunn, Mr. Ehlers, Mr. Gingrich, Mr. Goodling, Mr. Gunderson, Mr. Hall of Texas, Mr. Hoekstra, Mr. Inglis of South Carolina, Mr. Istook, Mr. Sam Johnson, Mr. Kasich, Mr. McCollum, Mr. McKeon, Mr. Schiff, Mr. Shays, Mr. Shuster, Mr. Stenholm, Mr. Taylor of North Carolina, Mr. Thomas of California, Mr. Volkmer, Mr. Hoke, Mr. Houghton, Mr. Schaefer, Mr. Talent, and Mr. Zeliff.

H.R. 291: Mr. Burton of Indiana, Mr. Johnson of Georgia, and Mr. Gingrich.

H.R. 326: Mr. Washington, Ms. Waters, and Mr. Edwards of California.

H.R. 654: Mr. Matsui and Mr. Ehlers.

H.R. 1172: Mr. Evans.

H.R. 1737: Mr. Waxman.

H.R. 2019: Mr. Brown of California.

H.R. 2043: Mr. Martinez.

H.R. 2059: Mr. Doolittle.

H.R. 2424: Mr. Brown of Ohio.

H.R. 3062: Mr. Doolittle.

H.R. 3064: Mr. Minge and Mr. Packard.

H.R. 3251: Mr. Shays and Mr. Zeliff.

H.R. 3407: Mr. Torkildsen.

H.R. 3705: Mr. Baesler and Mrs. Unsoeld.

H.R. 3990: Ms. Margolies-Mezvinsky.

H.R. 4051: Mr. Meehan.

H.R. 4056: Mr. Sarpalius, Mr. Bachus of Alabama, and Mr. Levin.

H.R. 4095: Mr. Hayes.

H.R. 4118: Mr. Hall of Texas.

H.R. 4316: Mr. Hinchey.

H.R. 4345: Mr. Santorum.

H.R. 4412: Mr. Hayes.

H.R. 4413: Mr. Skelton.

H.R. 4474: Mr. Andrews of New Jersey, Mr. Holden, Mr. Cox, Mr. Ramstad, and Mr. Talent.

H.R. 4477: Mr. Hayes, Mr. Mazzoli, Mr. Jacobs, Mr. Blute, Mr. Smith of Oregon, Mr. Clay, Mr. Darden, Mrs. Lloyd, Mr. Underwood, Mr. Murphy, Mr. Clement, Mr. Roth, Mr. Hutchinson, Mr. Moran, and Mr. Baker of Louisiana.

H.R. 4610: Mr. Evans, Mr. Parker, Mr. Boucher, Mr. Dickey, Mr. Cramer, and Mr. Bachus of Alabama.

H.R. 4702: Mr. Moran, Mrs. Morella, and Mrs. Roukema.

H.R. 4708: Mr. Foglietta.

H.R. 4791: Mr. Franks of New Jersey, Mr. Packard, and Mr. Fields of Texas.

H.R. 4826: Mr. Kingston, Mr. Emerson, Mr. Hansen, Mr. Kolbe, and Mr. Levy.

H.R. 4828: Mr. Barrett of Wisconsin, Mr. Blute, Ms. Lowey, Mr. Deutsch, Mr. Frank of Massachusetts, Ms. Schenk, and Mr. Thornton.

H.R. 4831: Mr. Gingrich.

H.R. 4841: Mr. Olver and Mr. Yates.

H.J. Res. 365: Mr. Conyers, Mr. Bliley, and Mr. Gene Green of Texas.

H.J. Res. 369: Mr. Hefner, Mr. Gordon, and Mr. Hobson.

H.J. Res. 385: Mr. Lantos, Ms. DeLauro, and Mr. Smith of Oregon.

H.J. Res. 397: Mr. de Lugo, Mr. Diaz-Balart, Mr. Ortiz, Ms. Velázquez, Mr. Richardson, Mr. LaFalce, Mr. Romero-Barcelo, Ms. Roybal-Allard, Mr. Neal of Massachusetts, Mr. Fazio, Mr. Serrano, Mr. Kopetski, Mr. Lipinski, Mr. Sarpalius, Mr. Filner, Mr. Berman, Mrs. Mink of Hawaii, Mr. de la Garza, and Mr. McDermott.

H. Con. Res. 249: Mr. Gilman, Mr. Hastings, Mr. Johnson of South Dakota, Mr. Price of North Carolina, Mr. Gunderson, Mr. Porter, Mr. Rose, Ms. Furse, Mr. Machtley, and Mr. Lipinski.

H. Con. Res. 254: Mr. Waxman.

H. Con. Res. 274: Mr. Towns and Mr. Dingell.

H. Con. Res. 276: Mr. Johnson of South Dakota, Mr. Walker, Mr. Meehan, Mrs. Johnson of Connecticut, Mrs. Mink of Hawaii, Mr. Fields of Texas, Mr. Price of North Carolina, Mr. Beilenson, Mr. LaRocco, Mr. Lightfoot, Mr. McHugh, Mrs. Roukema, Mr. Bereuter, Mr. Camp, Mr. Kleczka, Mr. Kildee, Mr. Walsh, Mr. Waxman, Mr. Minge, Mr. Visclosky, Mr. Costello, Mr. Leach, Mrs. Lloyd, Ms. Pelosi, Ms. Furse, Mr. Stenholm, Ms. Woolsey, Mr. Levy, Mr. Brown of California, and Mr. Schumer.

H. Res. 424: Mr. Hutto and Mr. Lipinski.

H. Res. 473: Mr. Barrett of Wisconsin.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 12 by Mr. TRAFICANT on H.R. 3261; Andrew Jacobs, Jr.

Petition 22 by Mr. INHOFE on House Resolution 409: Bob Stump.

Petition 23 by Mr. TAUZIN on H.R. 3875: Chet Edwards.

Petition 25 by Mr. CONDIT on House Resolution 489: Ernest J. Istook, Jr., Richard K. Armey, Jack Quinn, Howard Coble, Karen L. Thurman, Thomas E. Petri, Richard H. Baker, Tim Valentine, David Minge, Bill Barrett, James T. Walsh, Dean A. Gallo, James C. Greenwood, Thomas J. Bliley, Jr., Jerry Lewis, Bill McCollum, C.W. Bill Young, James A. Leach, Peter T. King, Nick Smith, John Linder, William F. Goodling, Edward R. Royce, Jim McCrery, Floyd Spence, Dave Camp, Jack Fields, Rick Lazio, Curt Weldon, Jim Saxton, Robert K. Dornan, Newt Gingrich, and Helen Delich Bentley.

Petition 26 by Mrs. FOWLER on House Resolution 472: Bob Goodlatte, Hamilton Fish, Jr., Jim McCrery, Peter G. Torkildsen, Craig Thomas, Michael D. Crapo, Roscoe G. Bartlett, Curt Weldon, John L. Mica, Joe Knollenberg, Dana Rohrabacher, Stephen E. Buyer, Thomas W. Ewing, Dan Schaefer, Cass Ballenger, Arthur Ravenel, Jr., John Boehner, Thomas J. Bliley, Jr., Jim Kolbe, Jim Saxton, and Vernon J. Ehlers.

SENATE—*Friday, August 12, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights * * * to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed * * *.*—Declaration of Independence.

Gracious, loving, patient God, this is our legacy in 1994—a political system grounded on faith in a Creator-God from whom comes human equality and liberty.

President Lincoln called the Nation to a day of prayer and fasting with these words: "We have grown in numbers, wealth and power as no other nation has ever grown. But we have forgotten God * * * we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us! It behooves us, then, to humble ourselves * * * to confess our national sins, and to pray for clemency and forgiveness."

Gracious God, give us ears to hear, minds to accept, and wills to obey.

In the name of Him who gave His life for sinners. Amen.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The PRESIDENT pro tempore. Under the order previously entered, the Senate will proceed to the consideration of S. 2082, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2082) to authorize appropriations for fiscal year 1995, for the intelligence activities of the U.S. Government and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with amendments, as follows:

[The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.]

S. 2082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1995".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The National Reconnaissance Office.

(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(7) The Department of State.

(8) The Department of the Treasury.

(9) The Department of Energy.

(10) The Federal Bureau of Investigation.

(11) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1995, for the conduct of intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany S. 2082 of the One Hundred Third Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations described in subsection (a) shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch of Government.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize the employment of civilian personnel in excess of the number of such personnel authorized for employment for fiscal year 1995 under section 102 of this Act, if the Director determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by subsection (a).

(c) INTELLIGENCE COMMUNITY DEFINED.—As used in subsection (a), the term "intelligence community" has the same meaning given to that term by section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1995 the sum of $106,300,000. Of the amounts made available under this subsection, funds made available for the Advanced Research and Development Committee and the Environmental Task Force are authorized to remain available until September 30, 1996.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Account of the Director of Central Intelligence is authorized 221 full-time personnel as of September 30, 1995. Such personnel of the Community Management Account may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1995, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Account staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than 1 year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1995 the sum of $198,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

In addition to amounts authorized to be appropriated by this Act for the salary, pay, retirement, and other benefits of Federal employees, there are authorized to be appropriated such additional or supplemental amounts as may be necessary to cover increases in those benefits authorized by law for fiscal year 1995.

SEC. 302. RESTRICTION ON THE CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorizations of appropriations contained in this Act do not constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution of the United States or by the laws of the United States.

SEC. 303. REPEAL OF RESTRICTION ON INTELLIGENCE COOPERATION WITH SOUTH AFRICA.

Section 107 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99-569) is repealed.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

SEC. 304. REPORT REGARDING MANDATORY RETIREMENT FOR EXPIRATION OF TIME IN CLASS.

(a) REPORT REQUIRED.—Not later than December 1, 1994, the Director of Central Intelligence shall submit to the *congressional defense and* intelligence committees [of Congress] a report setting forth a legislative proposal, coordinated as appropriate with elements of the intelligence community, which would provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps. *The report shall include an assessment of the advisability and feasibility of instituting such a mandatory retirement policy, and of alternative means to achieve the objectives of a mandatory retirement policy. The report shall also include an assessment from the Secretary of Defense of the impact of a mandatory retirement policy for intelligence community civilian employees on all other Department of Defense civilian employees.*

(b) DEFINITIONS.—For purposes of this section—

(1) the term ["intelligence committees of Congress"] *"congressional defense and intelligence committees"* means *the Committees on Armed Services of the Senate and House of Representatives, the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives,* the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the term "intelligence community" has the same meaning given to that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. AMENDMENT OF SECTION 4(a) OF THE CIA ACT OF 1949.

Section 4(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403e(a)) is amended in subparagraphs (A) and (C) of paragraph (5), by striking "not the result of vicious habits, intemperance, or misconduct on his part," each place it appears.

SEC. 402. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) POSITION ESTABLISHED.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

"GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The General Counsel of the Central Intelligence Agency is the chief legal officer of the Central Intelligence Agency.

"(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.".

(b) PAY FOR POSITION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel of the Central Intelligence Agency.".

TITLE V—DEPARTMENT OF DEFENSE

SEC. 501. CENTRAL IMAGERY OFFICE.

(a) AMENDMENTS OF THE NATIONAL SECURITY ACT OF 1947.—(1) Section 105(b)(2) of the National Security Act of 1947 (50 U.S.C. 403-5(b)(2)) is amended by striking "a central imagery authority" and inserting in lieu thereof "the Central Imagery Office".

(2) Section 106(b) of such Act (50 U.S.C. 403-6(b)) is amended—

(A) in the subsection caption, by striking out "CENTRAL IMAGERY AUTHORITY" and inserting in lieu thereof "CENTRAL IMAGERY OFFICE"; and

(B) by striking out "Central Imagery Authority" and inserting in lieu thereof "Central Imagery Office".

(b) CIVILIAN PERSONNEL MANAGEMENT FOR THE CENTRAL IMAGERY OFFICE.—(1) Subject to paragraph (2), the Secretary of Defense may exercise the authorities set forth in sections 1601 and 1604 of title 10, United States Code, pertaining to civilian officers and employees in the Defense Intelligence Agency, with respect to civilian officers and employees of the Central Imagery Office.

(2)(A) Civilian personnel administrative support for officers and employees of the Central Imagery Office shall remain a responsibility of the Defense Intelligence Agency.

(B) The authority provided in section 1604(e)(1) of title 10, United States Code, may, with respect to civilian officers and employees of the Central Imagery Office, be delegated by the Secretary of Defense only to the Deputy Secretary of Defense.

SEC. 502. PUBLIC AVAILABILITY OF CERTAIN MAPS, CHARTS, AND GEODETIC DATA.

Section 2796(b)(1)(C) of title 10, United States Code is amended by inserting "jeopardize or interfere with ongoing military or intelligence operations, or" after "disclosed,".

SEC. 503. AUTHORITY TO ESTABLISH A NATIONAL PUBLIC INFORMATION CENTER.

Of the funds made available to the Secretary of Defense under this Act, the Secretary is authorized during fiscal year 1995 to expend not more than $3,000,000 to establish a National Public Information Center for the purpose of—

(1) surveying, collecting, storing, distributing, and presenting unclassified information, including information retained by Government agencies as of the date of enactment of this Act;

(2) providing support for training in decision-making, and for professional education in the Department of Defense and the intelligence community (as defined in section 3(4) of the National Security Act of 1947); and

(3) informing more broadly the American public.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR COUNTERINTELLIGENCE PURPOSES.

Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(1) by striking "Notwithstanding" and inserting "(a) DISCLOSURE OF CERTAIN IDENTIFYING INFORMATION.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) DISCLOSURES TO THE FBI FOR COUNTERINTELLIGENCE PURPOSES.—

"(1) CONSUMER REPORTS.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a written request for a consumer report, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such records are necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought is a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(2) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(3) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of such consumer reporting agency may disclose to any person, other than those officers, employees, or agents of such agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this subsection, that the Federal Bureau of Investigation has sought or obtained a consumer report or identifying information respecting any consumer under paragraph (1) or (2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such a consumer report or identifying information.

"(4) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing credit reports or identifying information in accordance with procedures established under this title, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this subsection.

"(5) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this subsection outside of the Federal Bureau of Investigation, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this subsection shall be construed to authorize or permit the withholding or information from Congress.

"(7) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to paragraphs (1) and (2).

"(8) DAMAGES.—Any agency or department of the United States obtaining or disclosing credit reports, records, or information contained therein in violation of this subsection is liable to the consumer to whom such records relate in an amount equal to the sum of—

"(A) $100, without regard to the volume of records involved;

"(B) any actual damages sustained by the consumer as a result of the disclosure;

"(C) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(D) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(9) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this subsection and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(10) GOOD-FAITH EXCEPTION.—Any credit reporting agency or agent or employee thereof making disclosure of credit reports or identifying information pursuant to this subsection in good-faith reliance upon a certificate of the Federal Bureau of Investigation pursuant to provisions of this subsection shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(11) LIMITATION OF REMEDIES.—The remedies and sanctions set forth in this subsection shall be the only judicial remedies and sanctions for violation of this subsection.

"(12) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this subsection, injunctive relief shall be available to require compliance with the procedures of this subsection. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

The PRESIDENT pro tempore. Under the previous order, the committee amendments will be agreed to en bloc.

The committee amendments were agreed to en bloc.

The PRESIDENT pro tempore. Under the previous order, there is a 60-minute time limitation on debate on the bill, with up to 20 minutes of that time for opening statements of the managers. Certain amendments as stated on page 2 of today's Calendar of Business are the only amendments that will be in order. They will be considered under the time limits specified.

Mr. DECONCINI addressed the Chair.

The PRESIDENT pro tempore. The Senator from Arizona [Mr. DECONCINI].

PRIVILEGE OF THE FLOOR—S. 2082

Mr. DECONCINI. Mr. President, I ask unanimous consent Joe Sanchez be permitted the privilege of the floor during the course of S. 2082.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am pleased to join with my distinguished colleague and vice chairman of the Select Committee on Intelligence, Senator WARNER, is presenting to the Senate the intelligence authorization bill for fiscal year 1995.

Senator WARNER and I came to the leadership positions on this committee at the beginning of this Congress, and we will both relinquish our positions at the end of this Congress. I am leaving the Senate, of course, and Senator WARNER's 8-year term on the committee will expire. Although our tenure in these positions has been relatively limited, the last 2 years have been active and, I believe, productive years for the committee. A great deal of the credit for this goes to the senior Senator from Virginia. We have worked well together in addressing what is a complex and often problematic area: the activities of U.S. intelligence agencies.

Senator WARNER has been a partner and we have supported each other, compromised, and found what we felt was the best interests for the intelligence community in the oversight responsibilities of our committee.

This has been and continues to be a difficult period for the intelligence community whose role continues to evolve and whose capabilities continue to adjust in the wake of the cold war. Clearly, the world remains an uncertain and dangerous place. Our policymakers face problems that seem more difficult to deal with, more intractable, than those of the cold war period. It is no longer so easy to predict where U.S. military forces will be deployed round the world or to predict the nature of the threat they can expect to face. Few would argue, in the face of such uncertainty, that we can afford to eliminate our capacity to gather information when such information might mean the difference between life and death of our military service men and women, or mean we take the wrong diplomatic path on a matter of crucial importance to our security.

At the same time, I think most would agree there is room to scale back an intelligence community which over a period of years has grown to considerable proportions largely to deal with the threat to United States security posed by the Soviet Union and its Warsaw Pact allies.

I think the Senate should appreciate the degree to which the intelligence community has been scaled back. This will, in fact, be the fifth consecutive year that the President's budget request for the National Foreign Intelligence Program will be cut by the Congress. Overall, the authorization recommended by the committee for fiscal year 1995 is over 13 percent less than the 1990 appropriation for national intelligence in real terms—fiscal year 1995 dollars since 1990. More importantly, we are recommending cuts to terminate, rather than just scale back, some programs and activities which have significant out-year costs; so, in these cases, a dollar saved in fiscal year 1995 means additional savings in future years.

There have been even greater reductions in personnel. In 1992, Congress mandated an across-the-board cut of 17.5 percent in civilian personnel to be achieved by fiscal year 1997. These reductions are well on track. Indeed, recent administration decisions will extend the downsizing to achieve reductions of at least 22.5 percent by the end of the decade. Personnel costs represents a significant proportion of the overall budget, and therefore we cannot bring the budget under control without bringing the number of intelligence employees down as well.

While the level of funding recommended by the committee for fiscal year 1995 remains classified pursuant to executive branch policy, suffice it to say we are recommending a reduction of almost $300 million to the administration request for national intelligence activities. The administration's request itself represented a slight reduction over the amount appropriated for the previous fiscal year when adjusted for inflation.

Thus, Mr. President, we are recommending a budget somewhat below last year's appropriated level. It is not a deep cut but it is a cut nonetheless. We have reduced in places we can and have added funding in a few places where we think it is needed. The bottom line is that we believe this level of funding will preserve a substantial, flexible, and forward-looking intelligence capability adequate to support the national security needs of the country during the next fiscal year.

Mr. President, I must say to my colleagues that while I do not see the justification for increases in intelligence in the near term, it is becoming increasingly difficult to find places to cut, particularly given the current assumptions and philosophical underpinnings that form the basis for program and budget decisions by the executive branch in this area.

This is one of the principal factors which prompted me to support the creation of the new Commission on Intelligence, which we will propose as an amendment to this bill. Senator WARNER conceived of this and believed it was the right thing to do earlier than I did, I must admit. And I have been convinced by his leadership that, indeed, we should have such a commission.

I think the time has come for the role of the intelligence agencies to be reevaluated. I think the time has come for the assumptions which underlie the resourcing of intelligence to be reexamined. A new consensus needs to be developed.

The executive branch could do this if it wanted. The oversight committees of the Congress could do this if they wanted. But I believe that a review conducted by either branch would not have the credibility with the other or, for that matter, with the American people.

What is needed, in my view, is a hardheaded, objective review of the fundamentals by a group of outsiders, by smart people, respected people who have no vested interest in preserving the status quo and no ax to grind. If Senator WARNER and I can leave the committee having set this in motion, I believe we will have left a very valuable legacy.

Mr. President, before giving the floor to our distinguished vice chairman, let me briefly summarize the key provisions in this bill.

Principally, of course, the bill authorizes appropriations for fiscal year 1995 for: First, the intelligence activities of the U.S. Government; second, the Central Intelligence Agency Retirement and Disability System; and third, the community management account of the Director of Central Intelligence. It also authorizes the personnel ceilings as of September 30, 1995, for the intelligence activities of the United States and for the community management account of the Director of Central Intelligence. The funding and personnel levels which are authorized for intelligence activities are contained in a classified schedule of authorizations that are given the force of law by the bill itself.

The bill also would repeal the limitation regarding intelligence cooperation with South Africa contained in section 107 of the Intelligence Authorization Act for fiscal year 1987. Motivated by a concern that the intelligence services of South Africa were playing an instrumental role in preserving the apartheid system against internal opposition forces, in 1986 Congress prohibited the United States intelligence agencies from engaging in any form of cooperation with the Government of South Africa "except activities which are reasonably designed to facilitate the collection of necessary intelligence."

With the advent of majority rule in South Africa, the committee believes it appropriate to repeal the longstanding statutory limitation on intelligence cooperation. Indeed, it is in the interests of the United States to have the flexibility to cooperate as may be appropriate with the newly elected South African Government to foster the development of democratic institutions and processes. U.S. intelligence may be able to contribute. We can provide assistance to the intelligence and security services which emerge under the newly elected South African Government to establish internal management and administrative systems. We can help these agencies improve accountability and oversight, and, as may be applicable, to adapt to any legislative oversight that may be established.

The bill also contains a provision requiring appointment by the President, with the advice and consent of the Senate, of the General Counsel of the Central Intelligence Agency. The committee believes that the position of CIA General Counsel warrants Senate confirmation. Not only would this requirement provide greater assurance that the position would not be politicized, it would improve the stature and importance of the office within the Agency itself.

The bill also contains a provision to permit the Secretary of Defense to provide civilian personnel management for the Central Imagery Office consistent with existing authority for the Defense Intelligence Agency subject to certain conditions.

I will address the Aldrich Ames espionage case and the legislative steps the committee has approved to address CIA-FBI counterintelligence problems after the statement of my good friend and vice chairman of the committee, Senator WARNER.

Mr. WARNER addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Mr. President, I express my appreciation to my distinguished friend and partner, Senator DECONCINI. We have worked together as full partners. In some areas, we have had disagreements, but we have always been able to reconcile what we thought was in the best interest of our country and that of the Senate. I hope as the record of the achievements of this committee during the 2-year period under his stewardship are examined, from a historical perspective, that they will reflect credit on this Senator as he departs his career in the U.S. Senate.

I am pleased to join our distinguished chairman in recommending approval of S. 2082, the intelligence authorization bill for the fiscal year 1995. While I would have preferred, and indeed I supported at various times, a higher funding level for intelligence activities, I nevertheless believe this bill is an outstanding step forward in our Nation's intelligence capabilities.

Although it contains a reduction of approximately $300 million from the administration's request, which I supported, it does provide funding in excess of the budget request in four very critical areas:

First, intelligence support to U.S. military operations. Ever since our performance in the gulf region, we have been conscious of the need to increase the ability to get real-time intelligence to our troops in forward deployed areas. General Schwarzkopf, I think, made a lasting contribution in this area when he came back from that war and debriefed the Senate and the House on the need to have increased support for our military operations, and we have made an advancement in that area.

Second, activities to reduce the critical problem of the proliferation of weapons of mass destruction. This is a subject on which I and many other Members of this body have spoken very often and, indeed, the Presiding Officer, who is a member of the Senate Armed Services Committee, has addressed the subject of proliferation of weapons of mass destruction.

There is no threat to our Nation or any other nation in this world of any greater magnitude than the proliferation of chemical, biological and, indeed, weapons with fissionable material. I am glad that we made advances in that area.

Third, efforts to improve our counterintelligence capability. I anticipate a very lively and constructive debate on this bill today with regard to a piece of legislation that has been very carefully considered by our committee and, indeed, by a number of Senators not on our committee. The regrettable incidence of the Ames case brought to our attention the need to make legislative—and I emphasize legislative—improvements in this area. For many years, the executive branch—and, indeed, it extends over a number of Presidencies—have tried to deal with these issues by Executive order and other regulatory procedures. It simply, Mr. President, has not worked effectively, and we saw that in the crisis that occurred as a result of the Ames case.

Fourth, the advanced R&D initiatives which will keep our intelligence capabilities on the cutting edge. This Nation is recognized the world over as a superpower and much of that is dependent upon our ability to maintain a strong research and development base to place our Nation in the very forefront of technology across a wide range of subjects. And, indeed, this week we saw quite a controversy over a certain building. We may have occasion to address that later. But there was no dispute throughout that controversy of the essential work that is being performed by the persons who will hopefully soon enter that complex of buildings and continue their efforts to keep the United States on the cutting edge of technology.

At this point, however, I would like to sound a note of caution concerning any further reductions to the intelligence budget. I believe that we are dangerously close to compromising the ability of our U.S. intelligence community to perform its many obligations.

The overall level of intelligence spending has been declining in real terms for each of the last 5 years. In fact, the budget submitted this year by the administration contained a real reduction of approximately 2 percent from last year's appropriated level. Our committee further reduced that request.

Overall funding for the intelligence community has shrunk by over 13 percent in real terms since 1989. Personnel cuts have been even more dramatic. Between 1991 and the year 2001, it is projected that we will achieve a force reduction of 25 percent if we continue as now planned. I personally, just speaking for myself, am not confident that that is the right direction to go. Nevertheless, that is the course we are on under the current administration's plan.

If achieved, one-quarter of the positions that existed as of 1991, in the intelligence community, will be eliminated in this decade. These reductions are taking place against a backdrop of increased conflict around the world and ever-increasing reductions in the U.S. defense budget. At such a time, our need for intelligence could well be even greater, and I say that because of the historical record of how intelligence performs as a force multiplier in terms of our military structure.

It is elementary, Mr. President. Take a battalion of fighting men and women on the front. To the extent that they have intelligence superior to the adversary they face, the fewer we will need to engage that adversary, or the fewer assets we would need to repel that adversary.

So intelligence does serve as a force multiplier and, indeed, it serves to protect, to afford a greater measure of protection to our forward deployed fighting forces.

Overall funding for the intelligence community has shrunk, as I say, by 13 percent in real terms since 1989. I question whether or not we should remain on this course, but nevertheless we have this budget this year. It has been thoroughly reviewed by our committee, and we are here today to proceed on the bill.

These reductions are taking place, Mr. President, against a backdrop of increased conflict around the world and ever-increasing reductions in our U.S. defense budget. Several weeks ago, the Intelligence Committee received testimony from the Defense Intelligence Agency which revealed that there are currently 64 trouble spots or, in their terminology, "hot spots," worldwide, geographic areas in which there is killing taking place, where there is open and active combat.

It is interesting to compare this level of 64 today to that of, say, maybe 7 or 8 years ago when the DIA computed that there were less than half that number of trouble spots in the world.

That indicates the level of difficulty that we face in terms of our leadership role as a nation, and our responsibility as a legislative branch to give adequate support to the men and women of the Armed Forces, who, from time to time, are called upon to engage in the cause of freedom in these hot spots around the world.

Such a world presents the intelligence community with new, diverse and complex challenges. Instead of the overwhelming focus we had for so many years on the Soviet Union and the Warsaw Pact, the intelligence community is now called upon to provide expertise and information on trouble spots around the globe. Maintaining a viable intelligence capability in a rapidly changing world is not easy. It is not inexpensive.

Some have argued that the intelligence budget should be subject to reductions proportionate to those taken in the overall defense budget. I disagree. Again, I point out historically that intelligence has served as a force multiplier of our military capability. Intelligence provides the U.S. military and U.S. policymakers with a critical edge over our potential adversaries. I ask my colleagues to consider how many lives were saved, for example, during World War II, due to the fact that the United States and Great Britain were able to crack the codes of both the German and the Japanese forces. More recently, United States intelligence played a critical role in helping United States and allied forces defeat Iraq with a minimum of losses to our side compared to those experienced by the enemy.

The idea that intelligence is a force multiplier that should be protected in a period of declining budgets is certainly not a new one. It is proven historically. Let me make another historical reference. In 1947, as the U.S. military was drawing down in the aftermath of World War II, Adm. Chester Nimitz wrote the following:

> It is my desire to preserve, to the maximum practicable extent, the Directorate of Naval Communication organization and strength and, if possible, to get them more help. The greater the contraction of the Navy, the more important our DNC and communication intelligence become.

That was his view of intelligence in 1947, and it is my view of intelligence here in 1994.

Admiral Nimitz believed then, indeed as I do today, that intelligence and communication capabilities are more, not less important during a period of declining military budgets and force structure. I will strongly oppose any efforts to further reduce this intelligence budget.

As the chairman mentioned, we will be offering two important amendments to this authorization bill, and indeed, we have formed our partnership to try to move the cutting edge in this very important area. We made those movements, we drew up this bill, and we submit it to our colleagues today based on many hours of long and careful analysis, not only of the situation today, not only of the situation generated by the Ames case, but historically the problems that have confronted the intelligence agencies of our Government. Likewise, we draw on the very valuable work generated by our predecessors in the leadership on the Intelligence Committee, Senator COHEN and Senator BOREN, and indeed a certain committee under their jurisdiction which provided very valuable insight in this area.

The first is legislation to strengthen the counterintelligence capabilities of the United States. In the wake of the arrest of Aldrich Ames, it became clear that legislative changes were needed to assist the Government in deterring potential spies and in detecting espionage activity when deterrence fails. Since today's turncoat traitors are primarily motivated, indeed, according to their own admissions, largely by the dollar bill, the legislation which the committee adopted focuses on the financial activities of individuals with security clearances in our intelligence system, providing for Government access to financial and travel records. These initiatives draw upon groundwork laid by Senators, as I said, BOREN and COHEN, the former chairman and vice chairman of our committee.

Now, at the heart of this initiative is a recognition that in going into the financial background of those who have volunteered —and every one of them is a volunteer—to take on these tasks in special areas of the highest secrecy in our Government, we will have the ability to probe into their personal affairs, particularly their financial affairs. And it is my hope they understand we do this to protect them and to protect their work, and it is essential in terms of our national security that they yield some measure of their own personal privacy to achieve a balanced ability by this country to protect ourselves from spies within our own ranks.

We believe that this legislation is a necessary step forward in our efforts to prevent the disclosure of sensitive information critical to our national security. We must do all we can to stop future turncoats in our country from betraying our national secrets.

The second amendment which we will be sponsoring is the Warner-Graham-DeConcini bill to establish a Presidential commission to examine the roles and missions of the intelligence community. A post-cold-war bottom-up review of our intelligence agencies is long overdue. In fact, the review which we are calling for would represent the first time since the passage of the National Security Act of 1947—that piece of legislation which created the Central Intelligence Agency—that any Presidential commission will have examined overall the CIA and the other entities associated with it.

I am most appreciative of the important contributions made to this legislation, an idea that I came up with with both Senators GRAHAM and DECONCINI.

I should like to thank the chairman for the cooperative spirit with which we conduct the committee's work, especially the budget deliberations.

As with any piece of legislation, the bill before us today does not contain everything that the chairman or I might desire. Rather, it is the result of extensive deliberations and, indeed, a measure of compromise. The committee has produced a very balanced and appropriate set of recommendations, and I commend our chairman for his effective leadership. Also, I express my thanks now to the very dedicated staff that we have on the Senate Intelligence Committee.

AMENDMENT NO. 2553

Mr. DECONCINI. Mr. President, I now send to the desk under the previous order a managers' amendment offered by Senator WARNER and myself and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. WARNER, proposes an amendment numbered 2553.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DECONCINI. Mr. President, the committee amendment that Senator WARNER and I now offer would insert, with one modification which I will explain momentarily, the text of S. 2056—which was reported by the committee on June 30—as a new title of the authorization bill. In our view, this amendment is significant legislation which would vastly improve the ability of the Government to detect and prosecute espionage.

It is, quite simply, what needs to be done in the wake of the Ames case.

We all recognize that no law will stop a person bent on betraying his or her country from finding a way to do so. But there are things we can do to make a person think twice about it, that increase the odds they will be detected and successfully prosecuted. That is the objective of this amendment.

It is a moderate proposal, which carefully balances the Government's needs against the civil liberties of our citizens. Indeed, there were a number of proposals suggested to the committee which were not accepted because of civil liberties concerns. At the same time, this amendment is focused on those gaps in the system where experience has shown there are problems.

This legislation was originally introduced by Senator WARNER and myself at the request of the administration. With the exception of one provision which I will address in a moment, the administration fully supports it. The Intelligence Committee reported the bill by a vote of 15 to 2, and the two Senators who voted not to report the bill did so on the basis of the administration's reservations about the one section I alluded to. In short, the amendment has widespread, bipartisan support.

Before summarizing the provisions of the amendment as a whole, let me say a few words about section 3, regarding the coordination of counterintelligence activities, which the administration has not endorsed and which is the section we have modified somewhat since S. 2056 was reported.

The language at issue in this section requires the heads of departments and agencies within the executive branch to notify the Federal Bureau of Investigation immediately when they have information which indicates that classified information is being, or may have been deliberately disclosed to a foreign power or an agent of a foreign power; and then to consult with the FBI with respect to appropriate follow-up actions. The language goes on to say that once the FBI undertakes an investigation, it shall be given complete and timely access to the records and employees of the agency concerned.

The purpose of this language is to ensure that departments and agencies do not take administrative actions on their own initiative which interfere with or preclude possible criminal prosecution, and to ensure that once a criminal investigation has been opened, the FBI receives complete and timely cooperation.

This is not to say that a criminal investigation by the FBI will always be warranted by these circumstances or that it will not be outweighed by other U.S. interests. The point of this language is only to ensure that all of these interests get sorted out by the agencies concerned without one department or agency unilaterally taking actions that delay or prejudice a possible criminal investigation.

My colleagues may well assume that what this language contemplates is already standard operating procedure. That is certainly what I thought.

But I regret to say, Mr. President, that this is not the way the system has operated. The Select Committee on Intelligence has now held several hearings on this subject. Our staff has been briefed on 36 cases over the last 10 years where coordination has been a problem. We have found there are cases where the failure to bring the FBI in a timely way has delayed, and sometimes even precluded, a criminal prosecution. We have found cases where the failure to provide the FBI with access to records and personnel in a timely manner has delayed bringing culprits to justice. We also found cases where the performance of the FBI, in coordinating its investigative activities with affected departments and agencies, has itself been deficient.

In this regard, the bill as modified imposes reciprocal obligations upon the Federal Bureau of Investigation to work closely with other departments and agencies on counterintelligence matters.

Mr. President, the American people have a right to expect that departments and agencies will work cooperatively with the FBI on matters of national security. They have a right to expect that bureaucratic pettiness and turf fights will not impede or preclude bringing a spy to justice.

The administration has taken the position that this legislation is unnecessary. It points to a new Presidential directive which creates a bureaucratic structure to ensure timely and thorough coordination of counterintelligence activities and asks us to give it time to work. I would like to believe that creating new interagency committees and assigning an FBI agent to the CIA are going to take care of this problem.

But, Mr. President, if past experience is any indication, this is not going to solve the problem.

As a matter of fact, over 10 of them over the last 25 or 30 years. We have had memoranda of understanding, some quite explicit, arising out of incidents where espionage cases have had great publicity, and we have had bureaucratic structures. Yet, the problem persists. The Ames case is the best example today where there was in fact the 1988 memorandum of understanding, that now most recently has been declassified, which specifically directed the agency, in the case the CIA, to turn over all information at any time that they had a suspicion that any of their employees might be giving information to someone of another foreign government. Yet, Mr. Ames operated from 1985 until 1993. It was not until 1993, actually in 1991, when finally a task force was joined together between the FBI and the CIA, but even then the FBI did not have all of the information which the CIA had.

So there has to be a better way. And memoranda of understanding, even though they can be explicit, in bureaucratic structures have not worked, and we have to take a more aggressive position.

There is not one word in what we propose that is inconsistent with what the administration says are its objectives. Rather, this language complements and strengthens the bureaucratic structure established by the administration.

I might add that in the unlikely event there might be a situation where a serious counterintelligence matter could not be notified to the FBI, the bill would permit the President to authorize a waiver of the requirement so long as the oversight committees were advised within 30 days that there had been such a waiver—not what the facts or the circumstances were, just that the waiver had been exercised—and when national considerations permitted, were advised of the reason which prompted such a waiver by the President.

So we took into consideration the administration's caution in infringing on the Executive right to have such confidentiality in counterespionage. The President can do so.

Senator WARNER and I, as well as a solid majority on our committee, have come to believe that legislation is needed here. I remain hopeful that the administration will reach the same conclusion by the time we get to conference.

Now, let me turn to the rest of the amendment and summarize what is in it.

Section 2 requires the President to issue a new Executive order within 180 days setting minimum uniform standards for access to classified information. At present, these standards vary from agency to agency. The bill also provides that the new Executive order shall require written consents from all persons with security clearances permitting authorized investigative agencies to have access to their financial and travel records during the period of their access to classified information and 5 years thereafter in accordance with the criteria established by the bill. The new Executive order also will require reporting of certain financial and travel data by persons in particularly sensitive positions. Both the nature of the reporting and the determination of what positions require such reporting are left to the discretion of the executive branch.

This was brought clearly out in the Ames case, Mr. President, where there was some information that had been derived by investigators within the CIA, never turned over or very lately turned over, to the FBI. And yet, there was not any disclosure that was required by law that brought this to their attention. This would be different.

Section 2 permits authorized investigative agencies to obtain financial and travel records if certain limited criteria are met and such request is certified by at least an assistant secretary level of the department or agency concerned. Private or governmental entities who receive such requests are prohibited from divulging that such a request has been made to others.

I have already described a portion of section 3 on counterintelligence coordination. In addition, this section establishes a national counterintelligence policy board under the National Security Council to develop policy for the President in this area and to resolve disputes between agencies. The board would be chaired by the Attorney General and consist of the Secretary of Defense, Director of Central Intelligence, the Director of the FBI, and the Assistant to the President for National Security Affairs.

Section 4 of the amendment gives the FBI access to consumer credit reports in counterintelligence cases based upon a letter from the FBI Director or Deputy Director certifying that the subject of the request is an agent of a foreign power. Recipients of such requests are prohibited from divulging such requests to the subject or others. Similar legislation passed the Senate last year but was never enacted.

Section 5 of the amendment gives the Attorney General authority to provide rewards up to $500,000 for information leading to espionage arrests, similar to the authority the Attorney General has in the terrorism area.

Section 6 gives Federal courts jurisdiction over espionage where the conduct involved took place outside the United States. This has occasionally been an obstacle in the past.

Section 7 makes the criminal forfeiture provisions for espionage consistent with those provided by law in the drug area. In essence, this provision would allow a court to substitute other property of a defendant in an espionage case where the defendant has deliberately moved the proceeds of his or her espionage activities beyond reach of the court.

Section 8 permits the Attorney General to deny retirement benefits to employees of the U.S. Government convicted of espionage in foreign courts provided the Attorney General certifies that due process was provided and sufficient evidence to prove a violation of U.S. law. There has been at least one case where the United States was compelled to pay retirement benefits in these circumstances.

Section 9 is a particularly significant change to existing law, Mr. President. It would require that physical searches for intelligence purposes be carried out pursuant to a court order, rather than pursuant to the approval of the Attorney General.

It may come as a surprise to many of my colleagues to learn that the executive branch carries out warrantless physical searches within the United States for intelligence purposes. Such searches are not common, but they happen. Indeed, the Attorney General authorized such a search in the course of the Ames investigation.

The Intelligence Committee believes there are compelling reasons to establish statutory procedures for the conduct of physical searches to collect foreign intelligence information similar to those used for electronic surveillance under the Foreign Intelligence Surveillance Act of 1978.

In the absence of legislation, the executive branch will continue conducting physical searches without a judicial warrant based upon the approval of the Attorney General. The committee does not believe this arrangement provides adequate protection for the constitutional rights of U.S. citizens. Searches carried out under a court order would provide such protection. The special court established under the foreign intelligence surveillance act of 1978 is comprised of seven Federal district court judges appointed by the Chief Justice of the United States. The statutory requirements which must be met by the Government before an order approving an electronic surveillance can be issued by this court are detailed and comprehensive. The constitutionality of such orders has been upheld by every Federal court which has considered the issue since 1978.

The constitutionality of warrantless intelligence searches, on the other hand, remains unresolved. There is no authoritative judicial opinion upholding the legality of such searches. Any defendant in an espionage case who is confronted with evidence obtained by an intelligence search can be expected to challenge the legality of such search. Should a court rule against the Government, a successful prosecution could be seriously jeopardized.

Such a ruling would also leave those Federal officers in the Justice Department and FBI who approved and carried out such search potentially liable to civil suits by the defendant for violation of his or her civil rights. The committee is advised that such officers routinely purchase personal liability insurance at their own expense to guard against such contingency.

Thus, from the standpoint of protecting the constitutional rights of Americans, from the standpoint of bringing greater legal certainty to this area, from the standpoint of avoiding problems with future espionage prosecutions, and from the standpoint of protecting Federal officers and employees from potential civil liability, we think the legislation is desirable and necessary.

Finally, Mr. President, section 10 of the amendment provides for a new criminal offense making it a misdemeanor for Government employees knowingly to remove classified materials to an unauthorized location with the intent to retain them at such location. This form of misconduct was evident in the Ames case. In fact, many in

Government believe this to be a widespread practice.

Indeed with an interview I had with Mr. Ames, he indicates there is no security in taking documents in and out of the Central Intelligence Agency. Others have confirmed that as well. There is no inspection of a bag, or a purse, or a briefcase as one walks in or out, and there is no penalty, by law, if you take something outside. There was, under Admiral Turner as the CIA director, a spot check of bags that came in and out with employees of the CIA. There was some resentment, but indeed it made people think that you should not be taking classified information home without authority. And now the law would be clarified.

The unauthorized removal and retention of classified materials at an unsecure location inherently increases the risk that such materials will be disclosed to unauthorized persons. Some employees may even decide to stockpile classified documents waiting for the opportunity to sell them.

Senator KERREY offered this amendment at markup, and I believe it makes sense. There ought to be criminal sanctions for this type of conduct in order to provide greater deterrence and to provide a grounds for prosecution in appropriate cases.

Also, Mr. Ames is a person who had a well-known drinking problem. And yet, outside of several references and one counseling session, was there anything but promotion in job ratings, even though there was a considerable case and Mr. Ames was very clear about his drinking problem. He did not drink all the time, but when he drank, apparently he really drank, to the extent that he would pass out at functions and on the way home be taken to the hospital. Yet, there was no reprimand of Mr. Ames. There was caution and one counseling session.

So there is obviously need of better security, better leadership at the CIA to institute policies and directions that are going to make a difference.

The Ames interview further convinced me that we can do a better job in the counterintelligence area. However, we need to have one agency clearly in charge of investigation, an agency with trained investigators. Investigators at the CIA are not criminal investigators. They are investigators. FBI investigators are trained differently. They understand what they have to go after when they need or might need to do a criminal investigation. This amendment, that is proposed by Senator WARNER and myself, would provide this role to the FBI in this statute.

No more MOU's, no more Executive orders that are well intended and meant to be effective, but indeed permit an Ames case, a Howard case, a Pollard case, and many other cases to continue to function.

Will this legislation stop this? I cannot say to my colleagues that it will. But, indeed, it is going to place the best criminal investigators that we have available to the Federal Government into this process at the very earliest point of view and, as I pointed out, there is ample protection; if the President believes that there is some instance where they do not want the information turned over to the FBI, he can so waive.

The Congress and the American people want and deserve accountability. This amendment that is offered in behalf of the Senator from Virginia and myself, I believe, does just that.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, again, I wish to compliment the distinguished chairman. We did work together on this. There were times when I think individuals of less determination and perhaps less conviction might have folded their tents and just gone along with what appeared to be the wisdom that has prevailed for so many years on this issue. But we want to break new ground because we think it is essential that new ground be broken.

I am proud of the achievements that we have made thus far, and I am ever so hopeful today that our colleagues will accept the challenge that we are going to present to them.

Madam President, this legislation is a result of many months of work by the Intelligence Committee in concert with the executive branch to correct what we perceive as a number of problems revealed in the Ames case.

I am pleased to report that with the exception of section 3, which I will address specifically here momentarily, the administration supports this very important piece of legislation. Unfortunately, the Ames case makes painfully clear that the espionage threat against the United States did not end with the cold war. There are still people, American citizens, American citizens entrusted with the highest secrets that this country possesses; yes, there are citizens who will for one reason or another step forward and share those secrets and thereby compromise the security of our great Nation.

Unlike the spies of the forties, fifties, and sixties who were often motivated by ideology or perhaps other intellectual motivations, today's turncoats are overwhelmingly motivated by the dollar.

For this reason, our counterintelligence legislation focuses on the financial activities of persons with access to this body of highly classified information. This legislation provides valuable tools for deterring espionage activity and detecting violations when deterrence fails.

The amendment before the Senate would require all executive branch employees who are granted a security clearance to consent to Government access to their financial and travel records, and this can be done on a spot-check basis, without notice.

Employees with access to particularly sensitive classified information—and for those following this debate, there are a number of levels of classification of information, so we are talking about particularly sensitive classified information, as determined by our President—would be required to provide reports on their financial and travel information.

A key provision of this bill prohibits the private sector—for example, banks, brokerage houses, and travel agencies—from disclosing that the Government has made a request for access to financial and travel records. This provision prevents employees from being tipped off that they are under scrutiny.

Madam President, employees with access to classified information must be willing to accept certain personal disclosures as a condition of employment. In an area as sensitive and critical as the Nation's security, the scales must tip in favor of protecting our Nation's secrets. Our bill accomplishes that objective.

Other key aspects of this bill include a provision granting the Attorney General the authority to provide rewards of up to $500,000 for information leading to espionage arrests and a provision extending the criminal forfeiture provisions of the drug enforcement statute to the proceeds of espionage.

This legislation is certainly not a panacea. It will not be an absolute deterrence against those who, for what reason we know not, decide to spy and betray our Nation.

There is no law, Madam President, no framework of law today, tomorrow, or in the future, which can keep pace with the vagaries of human nature. But this legislation is a strong step forward to try to stop or limit espionage activities.

If the authorities provided in this legislation had been in effect during the investigation of the Ames case, it is my judgment that in all likelihood this case could have been detected and brought to prosecution, perhaps years earlier.

At this point, I would like to acknowledge the pioneering efforts by Senators BOREN and COHEN in this area. I am hopeful that momentarily the Senator from Maine will join us and speak to this legislation.

In 1989, these two Senators established a panel of outside experts—it was known as the Jacobs Panel—to study the statutory framework for the conduct of U.S. counterintelligence activities and to recommend legislative proposals. Many of the recommendations of the Jacobs Panel are incorporated in this amendment.

It is interesting—I have asked those two distinguished Senators why they did not press forward at that time with these initiatives, and they can speak best for themselves—but apparently they felt that, with the demise of the Soviet Union and the Warsaw Pact, there was not the feeling of urgency in this country to address this issue.

I acknowledge that in all likelihood, these two Senators would have gone forward had they thought the time was right to pursue counterintelligence legislation. Well, the time is right now. And I am pleased to join with Senator DECONCINI and the majority of the members of our committee to bring it forward.

Madam President, I would like to address the provision of this bill which has generated, somewhat to my surprise, a large measure of controversy. Section 3 deals with the coordination of counterintelligence activities within the executive branch.

It became clear during the committee's examination of the Ames case that there were serious and longstanding problems with coordination between the CIA and the FBI regarding the investigation of counterintelligence cases, including the case of Aldrich Ames.

It is my belief that when the after-action reports are completed on the Ames case, we will find that the failure of the CIA and the FBI to fully cooperate on this investigation, that failure of cooperation, in measure, was responsible for a delay of several years in positively identifying Aldrich Ames as a spy.

Section 3 of the committee amendment attempts to correct this coordination problem by more clearly defining the conditions under which the FBI must be notified of possible compromises of classified information.

And, as a corollary, there is a comparable provision for notification by the FBI of other departments and agencies of such counterintelligence information as might pertain to them.

This section specifically requires agency and department heads to ensure that the FBI is notified whenever it becomes apparent that classified information has been deliberately disclosed to a foreign government or agent of a foreign government. And, in turn, the FBI, as I mentioned previously, is required to keep an affected agency advised of the progress of FBI counterintelligence investigations of any employee of that agency.

Mr. President, the reason for my putting into legislation the provisions of section 3 dealing with CIA-FBI cooperation originates in the long history of fractious relations between the CIA and FBI on counterintelligence agencies.

Frankly, no matter how hard we have tried to pursue an analysis of why these two groups of highly dedicated employees, albeit in different agencies, albeit on different payrolls, but who have equally strong motivations to stop counterintelligence activities, equally strong motivations to stop it and to protect this Nation, why they have not been able to work together, I think, will forever remain a mystery. Today the situation appears to be better than in the past. But, nevertheless, a problem remains.

The committee has been briefed on numerous cases in which the CIA's failure to notify the FBI in a timely manner concerning a counterintelligence case has led to a delay and/or compromise of an investigation.

I would like to quote from a 1986 Senate Intelligence Committee report entitled, "Meeting the Espionage Challenge: A Review of the United States Counterintelligence and Security Program."

Madam President, the report states:

> Another aspect of counterintelligence awareness is the knowledge by agency security officials of when to bring a matter to the attention of a U.S. counterintelligence agency. In the Edward Lee Howard case, CIA security officials failed to alert and involve the FBI in a timely fashion.

If I may repeat that:

> In the Edward Lee Howard case, CIA security officials failed to alert and involve the FBI in a timely fashion.

That is the U.S. Senate. Many of the Members here today were here in 1986 addressing this counterintelligence problem specifically.

The report goes on:

> The CIA has taken steps recently to guard against a recurrence of this problem.

So the Senate apparently received certain assurances that the problem would not occur again.

Continuing to quote from the report:

> The FBI should continue to work closely with security officials of all U.S. Government agencies to ensure that they understand the requirements and guidelines. A good example is the Pollard case, where the Naval Investigative Service brought in the FBI at an early stage. The committee is pleased that the Navy has given a commendation and a monetary award to the official who was responsible for bringing to the FBI the Pollard case promptly when certain questionable behavior was first observed.
>
> The lessons of the Howard and Pollard cases should be extended to all departments and agencies that handle highly sensitive information. Interagency procedures for reporting suspicious conduct to the FBI should be strengthened.
>
> Moreover, the Howard and Pelton cases demonstrate that former employees with grievances or financial problems can compromise our most sensitive national security programs. Individuals who choose to work in positions as sensitive as those occupied by a Howard or a Pelton should expect to be held to a higher security obligation than personnel with access to less sensitive information. Therefore, the FBI should be informed when employees with access to extremely sensitive information resign or are dismissed under circumstances indicating potential motivation for espionage.
>
> The decision as to whether the circumstances justify investigations in varying degrees should be made by the FBI in light of its counterintelligence experience, not by the employing agency. Interagency procedures should be established to address borderline cases.

This body spoke ever so clearly in 1986 about the need for the executive branch to recognize the potential for these problems and to take such steps as were necessary. Nevertheless, the delays in apprehending Aldrich Ames occurred for the very, very reason that was recited in the 1986 Senate report.

Successive administrations—and indeed this is not a political problem. This is not a Clinton administration problem; this is not a Bush administration problem; this is not a Reagan administration problem, exclusively. It goes back throughout the long history of the working relationship between these agencies.

Successive administrations have attempted to solve this problem by Executive orders, memorandums of understanding between various agencies and, to a lesser extent, legislation. Since 1947, there have been no less than 10 attempts to deal with this issue. And yet, the Ames case shows us that lack of coordination continues.

Madam President, may I take the time of this body to read the 10 instances in which either legislation or an Executive order or a memorandum of understanding were utilized in attempts to solve this coordination problem.

First, the National Security Act of 1947; then Section 603 of the Intelligence Authorization Act of fiscal year 1990; then Executive Order 12333; then National Security Directive 47; National Security Council Directive 5; Attorney General-DCI procedures and FBI CI Activities Overseas, 1982; FBI-CIA MOU Regarding Activities of CIA Officers of CI Concern, 1988; Attorney General Guidelines for FBI Espionage Investigations of U.S. Diplomatic Mission Personnel Abroad, 1990; FBI-CIA Supplemental MOU regarding CI Activities Abroad, 1992; CIA-State MOU on CI Response Abroad, 1989.

Time and time again, the executive branch has tried to deal with this problem, but the problem still exists.

Madam President, it is clear that we need legislation in this area now, and I am ever so hopeful that this body will agree with us today.

This history documents why another administrative fix to this problem simply will not work. Any administrative solution would be far too dependent on the personalities of the individuals in charge of CIA and the FBI at the various times that these cases come up.

We have individuals of the best of intentions at the head of the CIA today and at the head of the FBI. But tomorrow—and I am not suggesting that either may be replaced, but eventually all are replaced and there is a rotation of these individuals who serve as the head of these respective agencies and departments. That is the nature of how the executive branch functions. We cannot have these important areas dependent upon the respective personalities of the individuals in charge of the various departments and agencies.

Those personalities may interact at one period of time in a very cooperative spirit. Yet the same personalities may not cooperate in a subsequent situation. So this important area cannot depend on personalities and good intentions. It must be based on bedrock, sound law. Any administrative solution would be far too dependent upon the personalities of the individuals in charge of the CIA and FBI if we continue the course that we are following at the present time.

For months the chairman and I negotiated in the best of good faith with top administration officials concerning legislative language which would be acceptable to the administration. We went to the White House repeatedly. We came very close to agreement. But unfortunately, for reasons that can best be explained by those who wish to espouse the administration's position, the administration still feels they can solve this problem with yet another Executive order.

The potential damage to our national security is far too great for the Senate to ignore this issue any longer. We must go on record acknowledging that there is a problem. The problem is with us today—it will be with us tomorrow and well into the future—of individuals who want to break ranks and spy. And the only way to correct it in my judgment, and that of the distinguished chairman of this committee and the majority, is to do it legislatively.

Madam President, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I yield such time as may be required by the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. WARNER. Madam President, might I add the Senator from Nebraska has taken a very active role in the affairs of the committee, and the chairman and I are grateful.

Mr. KERREY. I thank my friend from Virginia.

Madam President, the distinguished Senator from Virginia has covered many of the areas that are in this piece of legislation. I intend to deliver a short statement in support of the bill, indicating what is in it that I think is important, and also discuss briefly the National Reconnaissance Building and the process leading to its declassification.

I rise in strong support of the bill that is now before us, the intelligence authorization bill for fiscal year 1995. In the course of crafting this bill, the Intelligence Committee has had outstanding leadership from Senator DECONCINI and Senator WARNER.

It is not easy to produce an intelligence authorization these days. The cold war consensus about the roles and missions of the intelligence community now seems far away. There is real controversy today about what the community should be doing and how it should be organized, and the Intelligence Committee could not be deaf to that controversy. At the same time, our task was more finite: to authorize intelligence programs and activities that will protect America and warn our policymakers about the forces that threaten our country, and also to guide the change that is ongoing in the intelligence community. Our committee essentially funds the President's request in monetary terms. We disagree with some of the administration's priorities for specific programs, but we do not disagree about the dangers of the new world disorder and the need for good intelligence to warn us about them.

We read often in the press that the intelligence community is stuck in a cold war posture and has changed little since the fall of the wall. Do not believe it. Under Jim Woolsey's leadership the Intelligence agencies are covering new targets and providing more value to policymakers than ever. But further change is needed, and this bill supports change in two important ways.

First, we need change in the way the community does counterintelligence, the way it catches spies and keeps secrets. The Ames case is the most recent event to demonstrate that we need to give law enforcement authorities every possible tool to catch and prosecute those who would betray their country. That is why there are provisions in this bill to require that the FBI be promptly informed when espionage is apparent. At the same time, the bill recognizes that in some particularly sensitive cases, the information relating to the case might have to be very closely held, to protect sources or vital information. So the bill gives the President flexibility to waive the FBI notification requirement on what the committee hopes will be rare occasions.

Second, we need to support the intelligence community's efforts to come to grips with this changed world by giving them and ourselves the benefit of the insights of a broad range of experts and national leaders. This bill contains provisions to create a joint Presidential-congressional commission to do just that. Senator WARNER and Senator DECONCINI recognize that it is time for a fundamental review of the roles and missions of the intelligence community, and they also correctly understand that the administration and Congress can not stop their ongoing business to conduct the root-and-branch review that is required. So I agree with my chairman and vice chairman that we need a joint commission, and that it should take about a year to go back to first principles. My hope for this commission is that it will contribute a new direction for intelligence, but I think it has an even bigger task—an even more important task, and that is to restore the consensus in our country that we need intelligence, that the country must be able to collect secrets and analyze secrets and act covertly in the world, and that some secrets are worth keeping. The cold war consensus on national security and secrecy has badly frayed over the years. If in the course of discussion surrounding the commission work, a new consensus can be formed,

I will be proud to have been an original cosponsor of this provision.

NRO HEADQUARTERS

Madam President, I would also like to comment on a defense intelligence issue that has created much controversy in the Senate and in the country: the new headquarters of the National Reconnaissance Office in Chantilly, VA.

Many of our colleagues are angry about the size and scope of the project and about the fact that the Intelligence Committee was not given clear and consistent information about the project. Further, the declassification of the project on Monday came, inevitably, as a surprise to many, and nobody likes to be surprised by a project of this size. A reaction seems to be forming to punish the intelligence community or the NRO or CIA because of this project. Let me suggest, two points.

First, we should calm down and count to 10 before we punish in this case, because the intelligence community and administration have acted very responsibly in recent days in bringing this matter into public view.

Second, in focusing on punishment and on closing barn doors long after the horses have gone, we may overlook the larger issue here, which is the fundamental question of what should be classified in order to protect our country from the real enemies that threaten us, and what information should be declassified so the public can know how their money is spent.

Do not misunderstand me. I agree with my colleagues who are concerned about the size and lavishness of this project, and I would have much preferred that the NRO would have approached Congress about this project years ago in a straightforward manner, like any GSA or military construction project. I also believe that our congressional oversight could have been much better. But things could be worse. First, I do not think there was a conscious effort here to deceive Congress. Second, at least we have some buildings to show for the money. The buildings are excess to the NRO's need, they are nicer than most Government buildings, but they exist and they are on 70 acres of land that will only grow in value.

We all know that this Congress and this Government very often puts a lot of money into things that have no value and at the end of the day people say we just wasted our money. In this case at least we have a hard asset to show for it. We have had expensive Federal court houses go way over budget without anywhere near the criticism that we are now heaping on the intelligence community. To go public when you know criticism is coming is, in my view, a brave act.

When it became apparent to Director Woolsey and Deputy Defense Secretary Deutch that the Senate Intelligence Committee had problems with this project, they agreed with this Senator that public disclosure and public discussion were the way to go. they did not have to do that. They could have kept the wraps on this building. But they took the bold decision to open it up the administration backed them. As a consequences we are able to discuss it in public. That decision required a willingness to part with the old ways of the cold war and ask anew the question: given the new threat environment, what do we keep from our enemies and as a result the American people and what do we fully disclose?

We should greet a bold decision like this one with praise. Instead, we and all together, the news media seize on what they told us and bludgeon them for their honesty.

I will say, if I was a senior intelligence official and witnessed the pillorying of the NRO of the last few days, it would be a cold day in hell before I voluntarily declassified anything. That is not the response we should seek to create, if we are truly interested in having an intelligence community that can protect America against today's threats.

When we encourage the intelligence agencies to hunker down and go to the ground, we also postpone the establishment of a new consensus in America that some secrets are important to our security and must be kept secret.

By declassifying information that no longer needs to be kept secret and by demonstrating that the Government does not use secrecy to cover up its embarrassments, we are giving greater protection to the secrets that must be kept. Therefore, Madam President, I urge that we encourage this process of declassification and openness, rather than lurk in the undergrowth waiting to ambush whoever practices it. Our most urgent business in this field is to determine and rank the threats that face America today and make sure our intelligence resources are properly dedicated against them.

Our next priority, almost as important, is to reconstruct the national consensus that intelligence is necessary and secrets must be kept. Before we rush to punish the intelligence community about this headquarters, let us think about these larger matters and how our reaction affects them.

Madam President, again, I want to thank the distinguished Senator from Virginia and the distinguished Senator from Arizona. The distinguished Senator from Virginia has been a very calm and reassuring hand in all this. As always, in cases like this where you are charting a new ground—and that is exactly what is happening; there is no roadmap in this transaction. We are literally into territory where there is no previous precedent we can cite and say, "Well, we are going to do it like we did in 1991, 1990 or some previous times. In these kinds of environments, what is needed is a steady hand on the tiller, somebody who knows how to operate a compass and stay calm when the ambush occurs, when the firefight begins.

I must say, I am very proud to be able to say that the distinguished Senator from Virginia, all the way through this process, was able to say, "OK, men, let's stay calm here. We've got a problem. There is a way to solve this problem. We don't need to rush to judgment. We don't need to be impulsive. We don't need to do things quickly here. Understand, this is something vital to the national security interest of our country."

Our business is to make sure our intelligence communities can do their job to protect the American people from real threats in the world. I appreciate very much the leadership of the Senator from Virginia.

Mr. COHEN. Madam President, the chairman and vice chairman have described their amendment in detail, and I will not repeat what they have said.

I would like to recount some of the history behind this legislation, though, to emphasize that it is not a reflexive response to events that have been in the headlines in recent months.

When Boris Yeltsin gave his memorable speech to a joint session of Congress in 1991, he bluntly declared, "No more lies." Perhaps because of the thunderous applause that followed, many Americans seem to have misheard him to say "no more spies." We now know better.

The point, though, is that we should have known all along. If anyone got the impression that the end of the cold war meant there would be no one left to come in from the cold, they did not get that impression from Moscow. After the collapse of the Berlin Wall and the Warsaw Pact, Soviet and later, Russian intelligence officials clearly stated that they were still hard at work and even were getting more aggressive at such matters as stealing business secrets.

The CIA, the FBI, and others warned that the end of the cold war would produce no decline in espionage against the United States and, indeed, might lead to an increase since some Americans might be more comfortable selling secrets to countries that no longer appear to threaten us.

During the 1980's, more spies were unmasked than during any other decade in our history. Most were clerks, analysts, military personnel, and other low- to mid-level employees with access to our most important secrets and a willingness to sell those secrets to the highest bidder. Only one-tenth of them were recruited. Nine out of ten were volunteers, initiating contact with a foreign intelligence service.

When Senator BOREN and I became chairman and vice chairman of the Intelligence Committee, we were very familiar with these issues, having participated in the committee's counterintelligence review following the arrest of the Walker spy ring, which resulted in the committee's 1986 report, Meeting the Espionage Challenge. Determined to see that this challenge was, in fact, met and not just studied, we convened a panel of wisemen with significant experience in government, the law, and industry to identify ways to improve the Nation's counterintelligence system without sacrificing the personal liberties our national security apparatus is meant to protect.

This panel—which was led by Eli Jacobs and included such prominent individuals as Warren Christopher, Lloyd Cutler, Arthur B. Culvahouse, Sol Linowitz, Adm. Bobby Imman—worked closely with the intelligence committee and the Intelligence Community for a year in reviewing past espionage cases and identifying means to deter, detect, and prosecute such cases in the future. It is important to note that this effort was not a response to a single incident like the Ames case. Rather, it involved a systematic review of a large number of cases that occurred over a period of decades.

And based upon the committee's work and the Jacob Panel's report, we introduced legislation designed to deter Americans from spying and detect and prosecute those who were not deterred.

Given the pecuniary motives of today's spies, that bill sought to improve the chance that warning lights would start flashing when Americans handling highly classified information lived beyond their means. Or, as was noted in a 1990 statement that is particularly pertinent in light of the Ames cases, "if a guy goes from a Vega to a Jaguar in a year's time, something's wrong" and should be detected.

We concluded that the FBI should be given greater access to financial and foreign travel records of persons who are cleared to handle top secret information and for 5 years thereafter. While constituting a moderate loss of privacy for those handling highly classified information, this would create an important deterrent to those tempted to spy and a new tool to catch those who do. Being entrusted with the Nation's secrets is a privilege for which the Nation can and should ask reasonable sacrifice.

A second significant change we proposed was to establish uniform requirements for access to highly classified information, which today can vary widely from one agency to another. According to a recent report by a panel appointed by the CIA and the Pentagon, information on a certain technology was subject to discretionary controls by the Department of Energy but protected with deadly force by one of the military services. Similar, if less extreme, variations exist in agencies' requirements for obtaining security clearances.

Beside creating wasteful redundancies, this permits weak links in the chains of security guarding our secrets. It even opens the opportunity for a person to shop around for a security clearance. Jonathan J. Pollard, who pleaded guilty in 1986 of spying for Israel, was denied employment by the CIA in 1977 because of security concerns only to be hired 2 years later as a civilian Navy intelligence analyst.

Other measures identified included better enabling the Government to confiscate spies' ill-gotten gains; establishing jurisdiction in U.S. courts for espionage acts committed abroad; allowing monetary rewards for information leading to the arrest or conviction of spies or prevention of espionage; closing gaps in our espionage laws; and subjecting foreign intelligence physical searches to the same court order process required for electronic surveillance under the Foreign Intelligence Surveillance Act.

It is quite possible that had that legislation been adopted when it was first introduced in 1990, Aldrich Ames would have been caught much sooner. Equally important, unknown persons now spying or considering doing so could be caught or deterred before causing grievous and costly damage.

Unfortunately, as the cold war thawed, the resulting flood of goodwill for our former enemies swept away support for improving counterintelligence. While thoroughly vetted by the Jacobs Panel, public hearings by the Intelligence Committee, and Justice Department reviews, the bill languished in the 101st and 102d Congresses, misperceived as the remnants of an anachronistic cold war agenda.

At the time, we asked whether it would take another security disaster such as that involving Felix Bloch before Congress would be spurred to take action. As the Ames case regrettably reveals, the answer was yes.

After Mr. Ames reminded us that spying for dollars will continue as long as we entrust secrets to fallible human beings, there finally was a broader recognition of the need for Congress to remedy our counterintelligence system.

Among others, Senators DECONCINI and WARNER, the present chairman and vice chairman of the Intelligence Committee, introduced legislation that picked up provisions of the bill Senator BOREN and I introduced in the 101st, the 102d and the 103d Congresses. Senators DECONCINI and WARNER were kind enough to allow Senator BOREN and me to testify to their committee on these various bills, and the legislation the committee reported in June—now before the Senate as the pending amendment—paralleled even more closely the bill we have pursued for so long, with further improvements made by the constructive suggestions of the Justice Department and the intelligence community.

While it is regrettable that it required a major counterintelligence failure, it is gratifying that this legislation has now garnered the kind of broad support in Congress and the executive branch it has long merited. And I commend the chairman and vice chairman of the Intelligence Committee for taking advantage of the favorable circumstances for pressing this legislation forward. It is long overdue, and we should act now before this subject moves out of the public's mind and off Congress's legislative agenda.

I urge my colleagues to support the amendment.

Mr. WARNER. Madam President, I thank my distinguished colleague. Those kind remarks, coming from the Senator from Nebraska, have a particular meaning, because he has displayed a measure of courage which has received appropriate recognition in years past.

I am grateful that he is willing to continue to serve on the Intelligence Committee as I and Senator DECONCINI step down. It is my hope that perhaps he will have the opportunity to take a leadership role in the affairs of that committee in the years to come.

AMENDMENT NO. 2554 TO AMENDMENT NO. 2553

(Purpose: To improve the information available to the Congress and the public on foreign industrial espionage)

Mr. WARNER. Madam President, I send an amendment to the desk in the second degree. I do so on behalf of the Senator from Maine, [Mr. COHEN] and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order at this time. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. COHEN, proposes an amendment numbered 2554 to amendment No. 2553.

Mr. WARNER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—(1) In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) The President shall submit the report required under this subsection not later than 6 months after the date of the enactment of this Act.

(b) ANNUAL UPDATE.—Not later than 1 year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

Mr. COHEN. Madam President, the amendment I am offering addresses the problem of industrial espionage committed by or with the assistance of foreign intelligence services.

I am not going to suggest that foreign industrial espionage is the greatest difficulty American industry faces in seeking to succeed in the global market. But it is a real problem that costs the U.S. economy billions of dollars annually and appears to be growing rapidly.

It is also a problem that has attracted far too little attention to date. As a result, efforts to deal with it are grossly inadequate. To far too great an extent, foreign industrial espionage has been an issue of concern to those who specialize in intelligence matters rather than those who are engaged in business.

Some larger companies are acting to protect themselves, but most American businesses are not—including many of the smaller firms which give birth to so much of our new technology.

The cases reported in the media abound. A South Korean computer company penetrates an American competitor with a mole who plants a bug in the United States company's fax machine. A Japanese company recruits an American executive with a drug habit to support, buying sensitive bidding information and other commercial secrets. Maintenance workers walk into a U.S. company's office overseas and reprogram the telephone switching equipment to enable outsiders to eavesdrop on the company's phone calls. An American scientist goes from labcoat to turncoat, selling foreign pharmaceutical companies trade secrets that had cost $750 million in research and development costs to acquire.

While much industrial espionage is solely the work of private firms, in many cases foreign governments assist or even direct economic spying activities.

French intelligence has long engaged in a large-scale industrial espionage program, penetrating foreign businesses, intercepting their telecommunications, and conducting a reported 10 to 15 breakins each day at Parisian hotels to copy documents business people have left in their rooms. The information acquired is passed on to French industry.

The Governments of Japan, Germany, Belgium, the Netherlands, and other allies, as well as such countries as China are also reported to spy on behalf of their countries' industry.

"All of America's major foreign competitors [have] the full weight of their governments' diplomatic and intelligence resources thrown behind their nationals' companies or consortia, especially ones in heavy offshore competition," former senior CIA official George Carver said 3 years ago.

The situation is only getting worse as "foreign intelligence services have turned from politics to economics [with] the United States as their prime target," CIA Director Robert Gates warned in 1992.

The U.S. Government has taken steps to make American industry better informed of the foreign industrial espionage threat and to assist it to defend itself.

Most of these efforts, however, are focused on the defense industry, which has long been targeted by Soviet and other hostile intelligence services. While some progress in protecting nondefense industry has been made in the last few years, the general posture of the Federal Government remains a reactive one—at best telling nondefense industry that "we're ready to help if you come to us with a problem." In my view, the Government should adopt an aggressive approach, going out to industry to explain what the problem is and how to guard against it.

To its credit, the FBI did produce in late 1992 a small pamphlet to raise business travelers' awareness of the industrial espionage threat overseas. The value of the pamphlet, however, was undermined by its almost exclusive focus on industrial espionage by communist or formerly communist countries, which few view as economic competitors and to which fewer still travel.

The General Accounting Office summed up the situation well in 1992 testimony: "The efforts of (intelligence and criminal justice) agencies do not appear to be sufficiently coordinated to adequately protect U.S. industry against economic espionage."

The Justice Department has acknowledged weaknesses in its ability to deal with the threat, noting in a July 1992 letter:

> The Attorney General has a limited ability to counter the unfair economic advantages being realized by foreign businesses and industries (through industrial espionage). Therefore, legislation providing additional "economic espionage" investigative jurisdiction to the Attorney General is warranted at this time.

I have considered various legislative options for addressing the problem of foreign industrial espionage. The amendment I am offering today, however, accepts a GAO recommendation that before seeking to legislate, Congress should generate a broader public dialogue and a comprehensive review of how the Federal Government is organized to fight this threat. This will help to ensure that legislative and other remedies adopted will be effective and not just the fodder for flacks.

My amendment would do three things:

First, it would require a one-time report reviewing:

First, the respective roles of the various agencies in identifying and countering foreign industrial espionage threats;

Second, the means by which the Federal Government communicates to U.S. industry information on these threats and on methods to protect against them;

Third, specific measures to improve the Government's internal functioning to counter foreign industrial espionage and its communication with industry on such espionage; and

Fourth, information on the nature of the threat, including the number and identity of foreign governments conducting industrial espionage, industrial sectors and information and technologies being targeted for espionage, and espionage methods used.

Second, my amendment would require an annual update, but only on the nature of the threat, so that the business community and Congress would be aware of trends in the threat.

Third, my amendment would clarify existing requirement for a quadrennial report on foreign industrial espionage targeting critical technologies to ensure that report examines not only espionage directed by foreign governments but also that directly assisted by foreign governments.

I want to emphasize that nothing in my amendment advocates offensive industrial espionage activities against foreign companies, which is opposed by the U.S. intelligence community and most of the U.S. business community.

I would also emphasize that I generally oppose burdening the executive branch with reporting requirements. In fact, Senator LEVIN and I are engaged in an effort to repeal as many congressional imposed reporting requirements as possible.

But this does not mean that all reports should be opposed. Under the right circumstances, reporting requirements can stir the executive branch to action, provide the basis for much needed legislation, or help alter public behavior. I believe that the reports required by this amendment fall into this category.

The need for the amendment is highlighted by the wide chasm between the executive branch's rhetoric and action on the primacy of economic issues such as this.

When the Clinton administration assumed power, it created with much fanfare the National Economic Council. Deliberately modeled on the National Security Council, this new White House based operation was meant to give substance to the campaign rhetoric that in the post-cold-war world economic issues would assume the central focus occupied by security issue during the long twilight struggle.

One would have hoped that a complex issue such as this affecting the health of the Nation's economy and involving many Government agencies that traditionally do not deal with each other would have been precisely the type of problem to be tackled by the National Economic Council. Unfortunately, that does not appear to be the case.

I am hopeful that by compelling the review required by this amendment, we can energize the administration to adopt a more active role in addressing this threat. And by alerting the media and, through it, the business community to the nature of and trends in the threat, the private sector will adopt a more active role in protecting itself and in cooperating with the Federal

Government to counter the threat more effectively.

In the words of the GAO, how these issues are decided may have a dramatic effect on the economic future of America.

Madam President, I refer those interested in this subject to my statement of March 10 (S2731), which includes the various documents and articles I have referenced or quoted today.

Mr. WARNER. Madam President, the chairman and I are quite willing to accept this amendment. If that may be the case, we shall determine from a parliamentary standpoint the voting later on.

May I say, Madam President, I thoroughly agree with the distinguished Senator from Maine that the Government should adopt an aggressive approach in explaining to industry what the problem is.

Mr. LEAHY. Mr. President, I have spoken to the distinguished chairman of the Select Committee on Intelligence about the provisions of this legislation that would amend the Foreign Intelligence Surveillance Act of 1978 to establish court order procedures to govern searchers for foreign intelligence purposes conducted in the United States.

I know that the ACLU and others oppose any legislation in this area in the hope that constitutional uncertainty surrounding whether the executive branch has some inherent authority to conduct warrantless searches for foreign intelligence purposes will act as a deterrent on the extent of such activity.

I would prefer that the Congress establish a fair statute protective of the privacy rights of Americans and sensitive to the delicate balance that is needed between the secrecy that necessarily surrounds our foreign intelligence activities and the openness that is essential to due process, good government and government accountability. I would prefer a statute with strict accountability, with punishment to deter and compensate for abuse, and with the maximum openness possible.

If we are going to have a court process to serve as a check on executive branch excursions into searches for foreign intelligences purposes in the United States and against Americans, we need to be sure that it is an effective check and that the deck is not stacked against individual rights of privacy. The procedures in the bill seem more intent on securing the privacy of the proceedings than the privacy of individuals. They are virtually all done ex parte and in camera without the person or persons whose privacy rights are being affected having any notice or opportunity to contest the Government's actions. Even where the Government has commenced criminal proceedings, the Attorney General can opt to foreclose any adversary procedure to test the Government's submission, assertions, or certifications.

Furthermore, the special court is required to approve the Government's requests unless it can sua sponte determine them to be clearly erroneous. This clearly erroneous standard for review has no place in these proceedings. This standard of review relegates the special court to determining little more than whether the application papers are in suitable form.

There may be other procedures worth considering to ensure that lower court and appellate review of these matters is vigorous and reflects the board sensitivity to first and fourth amendment rights that the Nation and other Federal appellate court judges embody.

I think we should carefully consider the suggestions recently made by Kenneth C. Bass III, who was the initial Counsel for Intelligence Policy, at the Department of Justice during the Carter administration. These suggestions came after Senate hearings had concluded and after the Senate Select Committee had already reported this bill. He acknowledges that surveillance of U.S. persons for foreign intelligence purposes involves a delicate judgmental process and admits that nothing in our present procedures insures that difficult legal issues and close questions will be fully aired and presented for judicial scrutiny.

Mr. Bass suggests that in a small number of cases involving U.S. persons as targets of applications for searches for foreign surveillance purposes it would be possible for the court to appoint an independent counsel to examine an application devoid of the identity of the target and intelligence sources and to appear before the court to present arguments against the issuance of a surveillance order. This guardian at litem approach holds promise and should be fully explored before final passage of any bill.

In addition, I am also troubled that activities protected by the first amendment of the Constitution of the United States are allowed to form any basis to target a U.S. person for a foreign intelligence search. Historically, it has been in this area where the abuses have come. The temptation to target political dissidents is often too great to resist. We can do better.

Finally, I think that the provisions governing congressional oversight can and should be strengthened and improved. This is an area where we are being asked to rely upon the procedures adopted by the Congress to protect the rights of Americans to feel safe and secure from surveillance by their own Government. As the peoples' representatives we must demand greater accountability and provide more extensive oversight in this fundamental area. Thus, for a start I would recommend that oversight reporting be required of both the Foreign Intelligence Surveillance Court and the Attorney General independently and that such reports be made to the Judiciary Committees of the House and Senate, as well as to our Intelligence Committees. Moreover, such reports should include more than the total numbers of applications and orders but also critical information about those applications, including the total number of Americans searched, and an accounting of agency requests that did not result in applications.

I have other suggestions, which I am sharing with Chairman DECONCINI and Vice Chairman WARNER. I have been assured by the chairman that he intends to consult with me and others who are concerned about these provisions in preparation for a House-Senate conference and before agreeing upon a conference report or seeking final passage. I have great respect, admiration, and affection for the Senator from Arizona.

The chairman of the Select Committee on Intelligence has requested that we expedite Senate passage of the committee's bill at this time so that important reforms to the National Security Act to improve our counterintelligence and security posture have a chance to be enacted this year. In the wake of the Ames case, the bombing of the World Trade Center, and the apparent breakdowns in our foreign intelligence efforts, I share with him a desire to expedite necessary corrective action. In light of his personal assurances and the special circumstances that preclude extended debate, I will honor his request and not insist upon extensive debate. I rise to make clear my concerns about the procedures to govern court orders for searches for foreign intelligence purposes within the United States so that we can proceed in good faith to attempt to fashion an improved bill that can command the support of the Senate and the American people.

Mr. DECONCINI. Madam President, we have reviewed this amendment. I think the Senator from Virginia has explained it in some detail, and we are prepared to accept the amendment on the part of the majority.

Mr. WARNER. Madam President, I urge its adoption.

The PRESIDING OFFICER (Mrs. MURRAY). Is all time yielded back?

Mr. DECONCINI. I yield back my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2554) was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2555

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2555 to amendment No. 2553.

Mr. DECONCINI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

Not less than $10 million from the NSA base budget shall be transferred to U.S. Army signals intelligence activities directed at counternarcotics targets. A detailed operations plan with special emphasis on the United States/Mexico border and including the participation of the National Security Agency, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Customs Service, shall be provided to the Senate Select Committee on Intelligence and the House permanent Select Committee on Intelligence not later than November 15, 1994. This plan shall include a detailed description of the planned targets and the type of intelligence collection, dissemination, analysis and tasking that will be included in these operations.

Mr. DECONCINI. Madam President, this amendment provides for transfer of $10 million from the base for better utilization of technical assets of the U.S. intelligence community, specifically in expertise of national security agencies on the war on drugs.

I offer this as a second-degree amendment. I think it has been cleared on the other side of the aisle.

Mr. WARNER. Madam President, it has been cleared, and I urge adoption of the amendment.

The PRESIDENT OFFICER. Is there further debate? Is all time yielded back?

Mr. DECONCINI. I yield back the time, Madam President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2555) was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

Mr. DOLE. Will the Senator withhold.

The PRESIDING OFFICER. Does the Senator from Arizona withhold his request?

Mr. DECONCINI. I withdraw the request.

Mr. DOLE. Madam President, was leaders' time reserved?

The PRESIDING OFFICER. Yes, it was.

Mr. DOLE. I ask that I be permitted to use part of that leader time, with my remarks not to interfere with the debate.

The PRESIDING OFFICER. The Senator has that right.

CRIME BILL VOTE

Mr. DOLE. Madam President, yesterday's House vote on the crime bill should not be viewed as a defeat for President Clinton but, rather, as an opportunity, an opportunity to go back to the drawing board and draft the kind of tough, no-nonsense crime-fighting plan the American people deserve.

A tough crime bill would strip out the billions and billions of dollars in social welfare spending. The most effective crime prevention measure is not the pork barrel, but the prison cell.

A tough crime bill would increase funding for State prisons to the $13 billion level passed by the House last April, and condition at least half the funding on the adoption of truth-in-sentencing laws for first-time violent offenders.

A tough crime bill would plug the so-called mandatory minimum "safety valve" that could result in the early release of as many as 10,000 convicted criminals had that bill passed.

A tough crime bill would restore the mandatory minimum penalties for those who use a gun in the commission of a crime.

A tough crime bill would mandate restitution to the victims of violent crime. Unbelievably, this proposal was dropped by the crime conferees.

Mr. President, a tough crime bill would require that the public be notified of the whereabouts of violent sexual predators living in their communities. Congress must pass the Megan Kanka law, and must do so now.

And I might add we did add that provision to the DOD appropriations bill last evening. I know it is not the appropriate place for it, but I hope the conferees will keep that amendment. It is very important.

This is not the time for finger pointing. Playing the blame game will not get us anywhere. The crime bill failed yesterday, not because of the so-called gun issue, as President Clinton would have us believe, but because the American people saw the crime bill for what it really was: An overhyped, multibillion-dollar boondoggle that emphasized social theory over law enforcement.

If President Clinton is serious about passing a tough, no-nonsense crime-control plan, then Republicans are prepared to work with him. But the President must understand that resurrecting the crime bill must be a bipartisan effort, which I think the President forgets far too often.

They pass these bills, load them up with money, money, money, billions and billions of dollars. Then they ask for bipartisan support.

The Republican conferees on the crime bill were totally ignored. The liberals on the conference committee decided to spend billions of dollars without even 1 minute of hearings, not 1 minute, adding up to $10 to $12 billion with no hearings at all.

So the President has to understand if he talks about bipartisanship, it has to be bipartisanship. It has to be Republicans and Democrats sitting down together, not asking Republicans after the fact to support a terrible bill and then complain because Republicans will not do that. No behind-the-scenes meetings; no secret deals; no goodies—goodies passed out to Members who vote right; no one-party drafting sessions. If Republicans have real input, if our ideas are considered and accepted, then there is a chance, a good chance, that Congress may be able to pass a real crime bill later this year.

But I want to reemphasize, the President talks a lot about bipartisanship. I think we all like to have a lot of bipartisanship. But bipartisanship does not mean letting one party put something together and then asking the other party to support it when they have had no input. That is not bipartisanship.

If President Clinton has not gotten the message on the crime bill, he will probably get it on the health care bill. The American people want us to work together. The American people want us to think beyond the beltway. There are real people out there with real problems. They are very interested in crime legislation. They are not interested in a $10- to $12-billion social welfare program for midnight basketball and dancing lessons and self-esteem lessons, and $2 billion going back to local communities. We did not have 1 day of hearings, 1 minute of hearings on any of these provisions.

So, Mr. President, if you are serious about fighting crime and being tough on crime, you are going to have a lot of allies on both sides of the aisle, and we look forward to working together with the Democrats on a bipartisan basis. Bipartisan basis—not a partisan basis but a bipartisan basis.

Mr. WARNER. Madam President, I would like to commend the distinguished Republican leader. Year after year, day after day, hour after hour, he is the first to come to the Senate and the last to leave. And he has shown that kind of leadership which can produce the bipartisan direction to our legislation requested.

Madam President, I say to the Republican leader, most respectfully, that what we witnessed in the House last night is a direct reaction to the people in this country communicating with their legislators and indicating to their legislators that something is basically wrong, as our minority leader has described. In other words, no more of this back-room, locked-door, single-party politics. Break it out into the open. Let us have a voice, and we will express it.

That is the sort of leadership that the Senator has given this body, not only our Republican ranks but the entire Senate, for these many years.

Mr. DOLE. I thank the Senator from Virginia. I know the Senator from Arizona has been one of the key players on the right side of the issue on a tough crime bill.

I want to congratulate him for his efforts in the conference. But I do think a lot of people say it is a stunning defeat. I think it is maybe a stunning opportunity. You can always turn these defeats around. It seems to me that, if we are included, there are a lot of experts on this issue on both sides of the aisle, and there are well-intentioned men and women. And I just suggest now maybe this may be a test case that may overlap into other issues. This is a good opportunity for the President.

I thank the Senator.

Mr. WARNER. Madam President, I will just conclude. It is a stunning victory for the people of the United States.

Mr. DECONCINI. Madam President, it is my judgment that it is a bipartisan bill. I think the foundation will be there.

But in all due respect, I must say that I think the National Rifle Association did win a victory and the American people lost. I am disappointed to see that happen. I have faith in the Members of the House of Representatives that they are going to hear from their people, and there are two issues here. One is whether or not there are programs within that crime bill that came out of conference that some may feel are inappropriate toward the prevention side and what some have even called pork barrel. The other is the assault weapons prohibition, which passed both Houses.

I think we need to make a distinction. Why did that bill go down? In my judgment it went down—as was clearly stated in the news media this morning—because the NRA was successful in pressuring Members and threatening them, saying that they would be defeated, if indeed, they voted for the rule to let that crime bill come to the floor.

So I would just like to have another opinion inserted in the RECORD.

Mr. WARNER. Madam President, just to conclude with a few comments in response to those of Senator DECONCINI, when I said it was "a stunning victory" for the people, I am not here defending the NRA, or in any way criticizing them. They have their right to express their voice.

But, indeed, it was the inclusion in that bill of billions and billions of dollars of programs that were not directly related, I say to my good friend, to the enforcement of crime. Many programs, while they may be beneficial to our country, while they may be needed, were not given any degree of scrutiny in this Chamber; billions of dollars of programs which this Chamber never spent a minute in the context of this crime bill addressing. That is the reason the American people spoke up, and through their elected representatives in the House said, "No. Hold it. Let us stop where we are, and send this big bill back through the process and let it be examined and hopefully take out much of that legislation which is far too costly, given the fiscal situation in this country today, far too costly for this Nation to spend its dollars on."

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2553, AS AMENDED

Mr. DECONCINI. Madam President, I yield the remainder of the time on the pending amendment of the managers.

I ask for its immediate consideration.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2553), as amended, was agreed to.

Mr. DECONCINI. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2556

(Purpose: To establish a commission on the roles and capabilities of the United States intelligence community, and for other purposes)

Mr. WARNER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. METZENBAUM, Mr. CHAFEE, Mr. COHEN, Mr. KERREY, Mr. BOREN, Mr. LUGAR, Mr. BRYAN, Mr. BAUCUS, Mr, DURENBERGER, Mr. PELL, Mr. LAUTENBERG, Mr. HATCH, Mr. JOHNSTON, Mr. BUMPERS, and Mr. KERRY, proposes an amendment numbered 2556.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE ___—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. ___01. ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the "Commission").

SEC. ___02. COMPOSITION AND QUALIFICATIONS.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community.

(B) Two members shall be appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

(b) CHAIRMAN.—The President shall designate one of the members appointed from private life to serve as Chairman of the Commission.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(d) DEADLINE FOR APPOINTMENTS.—The appointments required by section subsection (a) shall be made within 45 days after the date of enactment of this Act.

(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

SEC. ___03. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-Cold War global environment; and

(2) to prepare and transmit the reports described in section __04.

(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include for example, economic issues, environmental issues, and health issues.

(3) What functions, if any, should continue to be assigned the Central Intelligence Agency and what capabilities should it retain for the future.

(4) Whether the existing organization and management framework of the Central Intelligence Agency provide the optimal structure for the accomplishment of its mission.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of the Governments of the United Kingdom, Canada, Australia, France, Israel, Russia, and Germany.

(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually-shared objectives are adequate.

SEC. ___04. REPORTS.

(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. ___05. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. ___06. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission. No member of the staff shall be a current officer or employee of the intelligence community.

(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions, except that no person shall be detailed to the staff of the Commission who is an officer or employee of an intelligence agency.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

SEC. ___07. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. ___08. TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section ___04(c).

SEC. ___09. DEFINITIONS.

For purposes of this title—

(1) the term "intelligence agency" means any agency, office, or element of the intelligence community;

(2) the term "intelligence community" shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(3) the term "congressional intelligence committees" refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. WARNER. Madam President, I would like to read the distinguished list of cosponsors that have joined in this legislation. First, the Senator from Florida, Mr. GRAHAM, a very valued member of the Senate Intelligence Committee, who will momentarily address this bill; the distinguished chairman, the Senator from Arizona, Mr. DECONCINI; Senator METZENBAUM; Senator CHAFEE, Senator COHEN; Senator KERREY; Senator BOREN; Senator LUGAR; Senator BRYAN; Senator BAUCUS; Senator DURENBERGER; Senator PELL; Senator LAUTENBERG; Senator HATCH; Senator JOHNSTON; Senator BUMPERS; and Senator KERRY.

I ask unanimous consent that the RECORD may remain open until 2 o'clock today, within which time other Senators desiring to be noted as original cosponsors may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, in the wake of the Ames case, and the demise of the Soviet Union, and the Warsaw Pact, many tough questions regarding the effectiveness of our intelligence agencies and their proper role in a post-cold-war world are being asked by Members of Congress and the public. These questions deserve careful, sustained, and detailed consideration by a group which is independent of the intelligence community independent of the Congress and the executive branch.

In my view, an independent review is long overdue. The Defense Department has been subject to a variety of reviews that have helped it to keep pace with a changing strategic environment. These reviews have included the Goldwater-Nichols Act largely conducted by the Senate Armed Services Committee under the leadership of Senator NUNN; the Bottom-Up Review, largely conducted under the aegis of the Secretary of Defense, Secretary Aspin; and an ongoing Presidential Commission on the Roles and Missions of the Armed Forces. By contrast, the Intelligence Community has not had an independent top-to-bottom review since it was established in 1947.

I would like to reiterate that point.

The CIA came into being in 1947, and not since the initial legislation establishing it has there been a Presidential commission to examine that agency and other related agencies. So that is why it is timely, I think, to undertake a thorough review. That is the precise reason that I came forward with this concept, and I am pleased to be joined by some distinguished Members of the Senate.

I happen to believe that an independent commission will validate the continued need for a robust intelligence structure to support U.S. national security interests.

Again, Madam President, the concept of the Commission is not in any way to be perceived as a criticism of the employees who are now performing these valued duties. I think if you were to submit to them the question of whether or not their functions, individually and collectively, should be reviewed in the context of the functions of others in like agencies and departments, they would agree it is timely to look at these matters collectively.

Nevertheless, the Commission may well recommend changes that eliminate some duplication and waste that is in the system today. Indeed, I am confident it is there. I think many of the employees who devote their lives and careers to intelligence would be the first to acknowledge that some corrections are now timely.

An independent review—or, as we call it in Government, a scrub—of the existing structure, would provide both the Congress and the American people with assurances that our intelligence organizations and activities are consistent with our great Nation's values, budgets, and goals.

It is not the intent of the sponsors to prevent the implementation of changes already being contemplated. Counterintelligence reforms, for example, should be implemented immediately. So should the reforms underway in the Directorate of Intelligence, which were enumerated by Director Woolsey recently. These are limited efforts which do not include a review of the fundamental missions and organization of the intelligence community.

My colleagues should be aware that the administration has indicated its opposition to this amendment, preferring instead to have a study of the intelligence community conducted by the President's Foreign Intelligence Advisory Board, commonly referred to as PFIAB.

I and the other sponsors of this amendment, however, believe that a study staffed by current employees of the intelligence community would not be as credible as one under the independent aegis of a Presidential commission. A PFIAB study would not provide the fully independent review which is required at this critical time.

I should also point out that the executive branch, as a rule, does not share PFIAB documents with Congress, it being an executive branch agency, and that is quite proper within the framework of our laws and precedence. So congressional committees could not have, perhaps, the full opportunity to review a PFIAB report.

Recently I asked to see a PFIAB report, which I have reason to believe is an excellent report, on Somalia. Senator LEVIN and I, at the direction of the leadership of the Armed Services Committee, are performing a report on that subject. But I was denied, understandably, because of executive branch privilege. That is a clear example.

Our amendment has a number of important features:

First, the commission established by this amendment would review the full range of issues that have arisen concerning the intelligence community in recent years. For example, the commission would be charged with examining the roles and missions of the intelligence community, as well as its budget.

Second, the commission would be comprised of 4 Members of Congress, appointed by the leadership, as well as 13 individuals from the private sector, 9 appointed by the President, and 4 by the congressional leadership. To ensure an independent perspective, the private sector individuals must have a strong background in the national security arena, but a majority of them cannot have previously held senior leadership positions in the intelligence community.

Third, this amendment stipulates that no member of the commission staff shall be a current employee of the intelligence community.

Finally, the commission has been given sufficient time to conduct a thorough review and develop recommendations for Congress and the President. I am hopeful that my colleagues will support this amendment.

Madam President, before the distinguished Senator from Florida, who is my principal cosponsor, addresses this amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I yield such time as the distinguished Senator from Florida may require.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Madam President, I thank my colleague and copartner in the development of this amendment, the distinguished Senator from Virginia.

As he has so well said, the intelligence community in the United States is largely a product of World War II and the events immediately after World War II leading to the cold war. The CIA was formed during the administration of President Truman and has proceeded for the intervening almost half century, largely operating on the same principles that were in existence at the time of its creation.

Some of those principles were that our enemy was the large empire of the Soviet Union; that it was an empire which was difficult to penetrate; it was an empire which encouraged the development of technology as a means of gathering information; it was a period of time in which we had relationships with special allies, largely the result of experiences during World War II; our intelligence community was an activity which was largely provider rather than user oriented.

Those were some of the characteristics which, for a half century, served this Nation well, as we were dealing with the Soviet Union. Now we are in a new era, and we need to ask a new set of questions, such as: What will be the needs of the users of our intelligence? Who will be the users of our intelligence? How do we best provide for their needs?

I came to this need for a study of the future of our intelligence community, Madam President, during the course of our budget considerations in the Intelligence Committee. Without breaching any of the confidentiality of those discussions, I was struck with the fact that we were largely focused on highly specific, relatively technical questions, when the questions we ought to have been asking were: What is it we are trying to accomplish? How will this particular allocation of resources move us toward the achievement of those objectives? How do we evaluate whether we have accomplished the objectives or are moving in a direction toward their attainment?

Some of the subissues that come out of that analysis will include questions such as: What will be the role of our intelligence community in providing economic intelligence, in addition to its traditional foreign policy and national security orientation? What will be the changes required in our selection of personnel for our intelligence community at a time when the intelligence community is at least stagnating and may be constricting as a result of budget constraints?

And as we begin to move more toward intelligence that human beings gather, rather than intelligence acquired through machines, I have been dismayed, Madam President, in a number of visits to our Embassies and intelligence stations around the world, that there was not more diversity in who our intelligence agents are.

If you are in a country which is largely Hispanic, or largely of African origin, you would think that we would be in a better position to gather human intelligence if we had people who were personally more conversant with and expressed the language, the culture, the background of that particular country. One of the unique things about America is that we are so diverse and therefore have the ability to draw upon a wide range of backgrounds of Americans who can serve American interests in societies with which they have some special affinity. Those are the kinds of questions which I hope this intelligence commission will pursue.

Madam President, as the Senator from Virginia indicated——

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. WARNER. The distinguished chairman and I yield such additional time from our managers' allocation as our colleague from Florida may desire, recognizing that we will need some additional time, both of us. So I hope that will not exceed 6, 7, or 8 minutes.

The PRESIDING OFFICER. Does the Senator yield time from the bill?

Mr. WARNER. Yes, that is correct.

The PRESIDING OFFICER. The Senator from Florida may continue.

Mr. GRAHAM. I appreciate the generosity of my colleague from Virginia. I will not intrude on that generosity to even the extent that he suggested.

I would like to reiterate some of the concerns that the Senator from Virginia expressed relative to the alternative to that which we have presented. I am pleased that in the administration, in the intelligence community, and in the Congress there is a recognition that there needs to be this indepth study of the mission and role of the intelligence community in the post-cold-war era.

The alternative to doing it in the manner that is suggested in this amendment is to have it done through the Presidential Commission on Foreign Intelligence, which is an agency within the White House which has been in existence to assist the President in his evaluation of intelligence activities.

I believe that the format that is being presented to the Senate today is a superior method of achieving and securing support for a comprehensive examination of our Intelligence Commission of our intelligence community for at least three reasons.

First, the structure that we are suggesting includes both representatives of the executive branch and of the legislative branch. If the report of the Commission is to have the maximum degree of sustained support by the public and by the Government, I believe that it would be enhanced by having all of those persons who will eventually have to be involved in implementation of the policy involved in the establishment of those new policies.

Second, I think that it is important that the membership be people who are primarily selected because of the vision of the questions of what we need to have for the future of our intelligence community, that they can bring to this task.

The President's advisory agency has in the past largely been assigned specific technical responsibilities, important responsibilities but generally focused on question of the appropriate technology for a particular type of information gathering.

I believe that while those questions are critical to the tactical implementation of whatever recommendations are made the questions that we hope will be asked and answered are of a higher level of concept, of basic function, direction and necessary steps in order to achieve goals for our intelligence community.

Third, it is important that there be an independent staff. In the past, the President's advisory agency has been staffed by professionals from the Central Intelligence Agency. That staff was arguably appropriate given the focused nature of the questions that they were asked to answer, but I believe that if we are going to be looking comprehensively at all components of the intelligence community for a long period into the future that the Commission's report would have a great degree of credibility if it had a staff that was not seen as being predisposed to any particular component of the intelligence community or predisposed to the way in which the intelligence community had conducted itself in the past.

Madam President, I believe this is important business that we are discussing today. It represents a significant part of our Nation's effort at maintaining an effective not only foreign policy and national security policy but increasingly an economic policy.

I believe that the Senator from Virginia and those who have joined with him have given us an effective road map as to how to get the right questions asked and answered and I hope that our colleagues will concur and this amendment will be adopted.

Madam President, with the introduction of this amendment, we have the opportunity to lay the groundwork for a pivotal change in the intelligence community. This amendment will establish a blue-ribbon commission to take a fresh look at the roles, missions, and resources of the intelligence community, to refine the objectives and renew the vitality of this essential capability.

The intelligence community as we know it has developed largely during and since World War II. For most of this period, we had a clear, identifiable enemy. The collapse of the Soviet Eastern bloc, however, presents a dramatically changed world. We now face several simultaneous crisis areas around the globe. Regional instability presents a variety of new threats each day.

Our intelligence needs are different today than just a few years ago. As we reduce our defense spending, the focus on intelligence as a force multiplier becomes even greater.

Yet, my sense is that the intelligence community has not confronted and adjusted to this reality. The timing is right with the changes brought about by the post-cold-war era, to readdress the functions and structure of the intelligence community.

Agencies within the intelligence community have been studied, but a comprehensive study of the entire community has not been undertaken since its establishment. In addition, implementation of the recommendations has been limited.

This amendment offers the advantages of an independent and collaborative approach to achieve the most effectiveness. The proposed commission has the independence to freely and comprehensively assess intelligence activities and develop a paradigm for an intelligence community that can better address today's and tomorrow's requirements. A collaborative, bipartisan approach with both executive and legislative branch involvement with nine members appointed by the President, and eight members appointed by congressional leadership—four Members of Congress and four members from the private sector—ensures that recommendations will have support from both areas and can easily be acted upon.

These members are the most critical element of the Commission's credibility and effectiveness. These members—charged with the responsibility for an essential redirection of the intelligence community—must be knowledgeable, respected individuals with appropriate stature; with a background in national security affairs; and with a desire to develop a blueprint to refine our intelligence collection, analysis and management. In keeping with the spirit of the Commission, partisan alliances should be surpassed. Issues should be addressed in the best interest of the Nation to effect a new course for the intelligence community. The Commission will have the necessary independence to take a new look at the intelligence community and consider these key elements:

First, what should the role of the intelligence community be, not only for defense and foreign policy support, but should roles extend into other areas such as economic intelligence; second, do resources—human, material, and funding—appropriately correspond with the Nation's requirements, including contingencies; third, are intelligence efforts properly focused for today's environment as well as poised to address future needs.

A particular concern is whether recruitment, training, and promotion policies of the intelligence community are properly focused to provide the human resources needed to fulfill current and future requirements.

Human intelligence, as a potential source, is increasing, especially in the numerous emerging hot spots around the world where other means of intelligence gathering may be limited. But this source is useful only if we adapt our resources, drawing on the diversity available within our Nation. To accomplish this, the intelligence community must relinquish outmoded cultures and break through to a new mind set which more adequately addresses national requirements.

In a separate effort, the Commission on Roles and Missions of the Armed Forces is beginning their review with recommendations expected by May 24, 1995. This Commission will review intelligence product use and value as a threat assessment for the military services, and, if needed, develop recommendations. Our proposed Commission on the Roles and Capabilities of the Intelligence Community should assess these findings and to the extent that it is pertinent, develop recommendations.

The Commission, proposed in this amendment, will conduct an independent, comprehensive evaluation with executive and legislative branch collaboration, providing an opportunity for a pivotal change which could serve to strengthen the support and renew the vitality of this vital capability essential for our Nation's security.

Madam President, I look forward to creation of this Commission and the recommendations it will provide.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I thank our distinguished colleague from Florida. He has worked with me every step of the way on this amendment and provided some very valuable concepts which have been incorporated into the amendment.

Madam President, I anticipate at this time that the distinguished Senator from Pennsylvania [Mr. SPECTER] desires to address the Senate under the time allocation accorded him on this amendment.

Mr. SPECTER. I will in a few minutes.

Mr. WARNER. Recognizing that the Senator from Pennsylvania is not ready to proceed, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Madam President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is considering S. 2082 under a time agreement.

Mr. BIDEN. Madam President, I ask the distinguished chairman of the committee whether he would be willing to yield me 2 minutes on an unrelated matter.

Mr. DECONCINI. Madam President, I certainly yield to the Senator from Delaware 2 minutes of the manager's time.

If the Senator wants some more time, since we are waiting for another Senator who is coming over to speak, I will yield him additional time or we go outside the bill.

Madam President, I ask unanimous consent that the Senator from Delaware be permitted to speak, as if this morning business, for 5 minutes and the time not be allotted against the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized 5 minutes.

THE CRIME BILL

Mr. BIDEN. Madam President, my distinguished colleague from Virginia, prior to bringing up this bill or once this bill was brought up, referenced the defeat of the crime bill yesterday by the House Republicans and the Democrats, who voted with the NRA, and as did the distinguished Republican leader earlier today. Many have spoken to the crime bill.

I will be necessarily brief this morning. I would like to point out one thing, and I have the utmost respect for my friend from Virginia. He said this morning that the House got a message from the American people. I think the real message from the American people is going to come this weekend. But we will see who is correct on that.

The House did receive two messages yesterday prior to the vote. The first message was from the chairman of the Republican National Committee, who sent a message to the Republicans letting them know if they voted for a rule, which meant voted for this crime bill, they would have their water cut off.

To prove the point that I am not making it up, they later sent out a letter retracting that letter saying, "No, we really do not mean that. You can vote the way you want to vote on this."

But the point, is one message was received very clear from the RNC: Do not vote for this crime bill. This crime bill gives a victory to Clinton.

Now this is me saying, not the NRC, my translation: A victory to Clinton hurts us, notwithstanding the fact it helps the American people.

There was a second message sent, a message that has been sent with resounding clarity for the last 6 years, preventing the American people—and I always wonder about all of us, including me, when I quote "speak for the American people." I do not speak for the American people, but I use that phrase sometimes, but I know I do not speak for the American people. I speak for JOE BIDEN, and I speak with as much honesty as all of us do, and sometimes occasionally clarity, as to what I think the American people want. Everyone's view is equally informed, maybe more informed than mine, as to what the American people want.

But I think the American people want a crime bill. I think the American people want assault weapons off our streets. I think the American people want 100,000 more police officers. I think the American people want the Federal Government to give States moneys to build prisons so no hardened criminal is let out, as they say, before his time. I think the American people want us to have drug treatment for people in prisons so we do not release them addicted to drugs. We are doing no favor for them. I think that.

But something I know—I do not think this—I know what I am about to say. For 6 years, I, along with others, but my responsibility as chairman of the committee, have drafted and attempted to pass a strong crime bill, and for 6 years I have underestimated every year the power of the NRA. I must acknowledge that. I do not like admitting that. I flat out got it wrong. For 6 years, the NRA, in conjunction with our Republican colleagues and a few of our Democratic friends, have blocked the passage of tough crime legislation.

Now we hear a lot about midnight basketball and dancing in prison. That is a bunch of malarkey.

But, beyond that, we also hear about the American taxpayers cannot afford to pay it.

Unlike our Republican friends—some of our Republican friends—I have a very good memory. When we passed this legislation in the Senate for 22.3 billion dollars' worth of spending, what we did, with the help of the leadership of the Republican party in the person of Senator GRAMM and the leadership of the Democratic Party in the person of Senator BYRD, we decided we were not going to spend new tax dollars to pay for any of this, and we set up a trust fund.

We said, we are going to make a trade. We are going to fire bureaucrats and hire cops. We are going to fire bureaucrats and hire prosecutors. We are going to fire bureaucrats and hire judges. We are going to fire bureaucrats and build more prisons. We are going to fire bureaucrats and we are going to make sure we put kids in jail who are violent offenders.

So there is no new money to fund this crime bill. This President has reduced the Federal work force to a lower lever than any time since President Kennedy was President of the United States of America. So there is no new money.

Now, what would be honest, if they want to say it, is, instead of spending the money on crime prevention, they would rather spend the money on reducing the deficit. That is an argument I am willing to have with them. Let the people decide that. Do you want more cops on the street? Do you want more prisons to keep people in jail? Do you want more judges? Do you want more prosecutors? Or do you want to reduce the deficit more?

And, I might add, this President is the only President who has reduced the deficit.

So, Madam President, we talk about truth in sentencing—we put that in the crime bill, by the way, truth in sentencing—let us have a little truth in debate here.

There were two messages received loud and clear by the House of Representatives yesterday—one message from the NRC and the other message from the NRA. I compliment them on their muscle, I dispute them on their judgment, and I resent them for their refusing to allow us to even vote up or down on this bill.

I thank my colleagues for yielding me time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I ask unanimous consent that I may have 8 minutes to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, before the distinguished chairman leaves the floor, I stand by my statement that the vote in the House yesterday was a victory for the American people and it was a vote that was in reaction to their anger for a variety of reasons.

The distinguished chairman may point his finger at the NRA. I am not here to defend the NRA. He may point his finger at the leadership of the Republicans. They speak for themselves. But let him also address the fact that 58 Democrats of his party in the House of Representatives voted—voted, Mr. Chairman—with the majority.

I urge my distinguished friend to just make a check, as I have, of the switchboard of the U.S. Senate; indeed, the switchboard of the Congress as a whole. It has been jammed with calls all this past weekend and all this week of American people seeking to reach their representatives and express their views—not just the NRA, not just Republicans, but Americans from every walk of life.

I would like to think that that vote yesterday was in reaction to those calls. It puts this bill in the proper posture. It exposed the fact that that bill left this Chamber at the level of $22 billion and emanated from the conference in excess of $30 billion.

I would like to ask the distinguished chairman, because he was a principal in that conference, if, at this time, he is willing to tell this body exactly how you went from $22 billion that your fellow colleagues authorized, and allowed this pork to be stuffed in there like so much sausage and then dumped on the House.

Mr. BIDEN. I would be delighted to answer the question.

Madam President, first of all, it is real basic. And I will be brief, because I know the Senator does not want me to take all the time.

I dispute the notion that this is pork.

But let me tell you how we got that number. We passed over here a requirement that the American people and the localities get 100,000 cops. The House had passed their bill at $29 billion and they only had 50,000 police officers in their bill, No. 1.

No. 2, we did not have as much money in for prisons as the House had for prisons. We had $6.5 billion. The House had $13.5 billion for prisons.

So just taking those two items, cops and prisons, and making sure we went to the Senate number, we had to add to the bill to get to 100,000 cops and to get $8.3 billion for prisons, which my Republican friends say they wanted.

By whatever calculation, they have a minimum of additional $3.6 billion and a maximum of $7.6 billion, because the total cost for 100,000 police officers is $8.8 billion.

So to go to the Senate level, we had to add it to the House level or add the prisons to our level. So, right off the bat, just to get more cops and more prison money, which everyone said they wanted, there was another $3 billion to $4 billion that got added.

In addition to that, we then added, at the request of our Republican friends—the House did not have any money in there for what Senator DOMENICI and I very badly wanted—money for Federal law enforcement. So we added nearly $1 billion for the FBI, for the Drug Enforcement Administration, and for other police agencies, including the ATF and the police organizations in the Department of the Treasury.

We did accept about $3 billion additional money for programs that were prevention programs. In return, the House accepted the additional money for police officers and additional money for Federal law enforcement officers, and we accepted additional money for prisons.

If you add up those broad numbers, that is how you get to the over $30 billion mark.

And how do we pay for it? We paid for it by making sure that the sixth year of savings, which has been scored by OMB, acknowledged by the Budget Committee, acknowledged by the Republican and Democratic leadership as real dollars, we took those moneys, an additional $8 billion, I think the number was, for the sixth year of savings, which would come from firing bureaucrats or reducing the number of Federal workers to pay for those additional costs.

NEW DOLLARS IN CRIME CONFERENCE REPORT

Madam President, since the time we passed the Senate bill, a bill that garnered the votes of 95 Senators it will tell you exactly what was added:

We added $1.8 billion for prisons. When the Biden crime bill passed the Senate back last November, there was $6.5 billion for new prisons. In the conference report, there is now $8.3 billion for prisons.

We added $1 billion to the Byrne Drug Enforcement Grant Program—$1 billion new dollars that will go to State and local police officers on the frontlines of the fight against drugs.

We added $50 million for the Drug Enforcement Administration, the DEA. There was $100 million, now there is $150 million for new DEA agents and new investigations of drug traffickers.

We added $170 million for law enforcement operations in the Treasury Department, for efforts by the Bureau of Alcohol, Tobacco and Firearms to track down illegal arms dealers and major criminal gangs. There was $380 million in the Senate bill for Treasury law enforcement. The conference report has $550 million.

We added $1 billion, $1 billion for criminal alien and immigration enforcement, money for new Border Patrol agents and other enforcement activities to cut down on illegal immigration and to speed up the deportation of illegal aliens who have committed crimes in this country.

I might also point out that we have in the conference report more than twice what the House bill had for State and local law enforcement. The conference report spends $13.1 billion for State, local, and Federal criminal justice—the House-passed bill had only $5.5 billion.

To maintain the same balance we had in the Senate bill, the same comprehensive attack, the conference report also added new money for prevention activities, so that we don't simply keep building prisons and producing enough criminals to put them in—the conference report contains $3.8 billion in new spending for a whole host of programs that will provide the children of this country who must grow up in neighborhoods that are virtual combat zones, where there are no movie theaters, no bowling alleys, no miniature golf courses—where there is nowhere to go and nothing to do but hang out on the corner—that will provide these kids with a safe haven. Programs that will provide them with a range of activities they can participate in that are supervised by responsible adults, not by the thugs out on the corner.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I want to make certain my remarks reflected that it was $23 billion passed by the Senate and $33 billion out of conference.

Mr. BIDEN. Will the Senator yield?

Mr. WARNER. Madam President, first, what is the time allocation?

The PRESIDING OFFICER. The Senator from Virginia controls 2 minutes 10 seconds.

Mr. BIDEN. Will the Senator yield me just 10 seconds to clarify?

Mr. WARNER. Madam President, I would like to yield momentarily to the Senator from Arizona.

Mr. BIDEN. Just 10 seconds to make a point.

The Senator is correct about something he said earlier.

Fifty-eight Democrats did vote with all but 11 Republicans against the bill. But those 58 Democrats said that the reason they were voting against the bill is because of the assault weapons ban.

So I am not contradicting myself when I point out it was the NRC and NRA. There are Democrats in the Senate and the House who feel very strongly about the NRA position on banning assault weapons. He is correct, though, 58 Democrats did vote on those grounds.

Mr. WARNER. Madam President, I am glad I did bring that to the attention of the chairman, my distinguished colleague. But it would have been helpful early on if he had included that to give a more balanced perspective to his statement. But I stand absolutely rigid in my view that the American people, the wide spectrum of the American people, at their own initiative, not just because of the NRA—and the NRA has a perfect right to express its views, as does any other organization—but at their own initiative they came forward and the House reflected their collective judgment.

I yield such time as I have left to the distinguished Senator from Arizona.

Mr. McCAIN. Madam President, I just say to my friend from Virginia, very quickly, the distinguished chairman of the Judiciary Committee just said 58 of his Democratic colleagues in the House were puppets of the NRA. I would say to the Senator from Delaware, maybe they had strong feelings about the constitutionality of the issue. So there are 58 individuals who voted their consciences, certainly in their opinion.

The fact is, with the explanation the Senator from Delaware just gave as the reason why we got the $33 billion, they wanted more so we gave them more; we wanted more and so they gave more; they wanted more so we gave them more—and therefore we got to $33 billion.

The fact is the American people know there are hundreds of millions and billions of dollars in pure giveaway social programs there, many of which have never been tried, never been tested. But we are going to pump these billions of dollars of their taxpayers' dollars into what they want, instead of crime enforcement, at the same time releasing between 10,000 and 16,000 drug dealers and drug pushers from prison.

Mr. BIDEN. Madam President, I ask the distinguished Senator from Arizona to yield me 30 seconds.

Mr. DECONCINI. Madam President, I yield the Senator from Delaware a minute.

Mr. BIDEN. I am sure the Senator from Delaware did not mean to suggest I used the world "puppet." It is his word, "puppet." I like his vocabulary. It is colorful. But I said very bluntly that 58 Democrats straightforwardly acknowledged they were opposed to the assault weapons provision and voted the NRA position. I did not say they were puppets. I say they believe that. I said, "I said they believe that." Although I am always interested in the Senator's characterization of what he thinks someone said.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. WARNER. Madam President, we are on the pending amendment, that is the amendment by the Senator from Virginia, the Senator from Florida, the Senator from Arizona, to establish a Presidential Commission.

Momentarily the Senator from Pennsylvania [Mr. SPECTER], will address it. But in the meantime, I suggest perhaps our colleague from New York be given an opportunity.

Mr. DECONCINI. How much time does the Senator from Arizona have remaining on the bill?

The PRESIDING OFFICER. The Senator from Arizona controls 21 minutes on the bill; 12½ minutes on the pending amendment.

Mr. DECONCINI. I yield to the Senator from New York 10 minutes on the bill.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. MOYNIHAN. Madam President, it is with no pleasure I rise on this occasion. Rather, I rise with a sense of responsibility to the committee and to the body, to recount experiences of another time in which the intelligence community has been very much less than candid and open with respect to matters that the Intelligence Committee should have been informed about.

There has been some discussion in recent days concerning the failure of the intelligence community to notify the Senate Select Committee on Intelligence of the new headquarters of the National Reconnaissance Office. This is not new. This is not the first time such a thing has happened, nor will it be, I fear, the last such incident, while the existing culture—if I could use that large word—of the intelligence community, of the national security state, of the secrecy system, stays in place.

I served for 8 years on the Intelligence Committee. I joined it the first year after it was created. And in those 8 years I was very closely associated with Barry Goldwater, a man revered in this institution not least because he was incapable of lying. For 4 years I was the vice chairman of the committee and he was chairman and we spent a very great deal of time together. At that time there was an understanding, which I am sure exists today, that there are some matters which, if the chairman and vice chairman are notified about, it can be considered that the Senate has been informed. Unfortunately, this is an Agency which has lied to Congress before. Egregiously.

Perhaps the most extraordinary example was the concerted campaign launched in the spring of 1984 when it emerged that the Central Intelligence Agency had mined harbors in Nicaragua—arguably a violation of international law and treaty, but inarguably a significant anticipated action. As I recall the language of the statute, "the committee will be informed of significant anticipated activities." We were not.

The world knew about the mining of the harbors immediately—it was the intention that the world should know. But that our Government had done this, was not known.

In the spring, the Wall Street Journal reported that this had been an action of the Agency—Mr. David Rogers, specifically. Barry Goldwater was outraged. He had not been told of something as important as the mining of the Nicaraguan harbors, and he so stated. Whereupon the Agency began what Robert R. Simmons, the former staff director of the committee, said "can only be described as a domestic disinformation campaign against the U.S. Congress in which they alleged that the intelligence committees had been fully briefed on the harbor mining program." The attack on Chairman Goldwater was vicious.

They went to the New York Times—which was concerned about this—and told the Times that, no, Senator Goldwater was informed. It is simply that Senator Goldwater is not as keen as he may once have been; that he does not remember everything that happens; that, in effect, senility had set in. And the Times—given the seriousness of the charge and the manifest sincerity with which they were told by Agency officials, regretfully, reported that the Senator has begun to lose it. Repeatedly the Agency claimed that he was told, he just cannot recall having been told. It was a lie, an audacious lie, about a revered Member of this body. And faced with it, and the proposition that it was not going to be retracted, I—then acting chairman in Senator Goldwater's absence—announced I would resign in protest.

When the announcement appeared—it was Easter time and Senator Goldwater was in the Far East—it caused something of a ruckus. And, in time, the then-director, Mr. William J. Casey, came to the committee, we then met up on the 4th floor of the Capitol here, and apologized. He acknowledged the committee had not been adequately informed.

Part of the disinformation operation involved an address given at the Naval Academy—the Naval Academy, I say to Senator WARNER—where we teach standards of truthfulness. Mr. McFarland, then National Security Adviser to the President, went to the Naval Academy and told the cadets that Senator Goldwater and the committee had been informed—lied to the cadets.

Subsequently, Mr. McFarland testified before the Iran-Contra Committees on May 12, 1987—we are now more than 3 years from then. In many ways, Iran-Contra arose out of the mining of the harbors, money was cut off, and so forth.

Here is an exchange between Senator SARBANES and Mr. McFarland who, I want to say, has made clear he wished he had never done any of those things.

Reading from transcript:

> Mr. SARBANES. Did you know about the mining of the Nicaraguan harbor?
>
> Mr. MCFARLAND. Yes, sir.
>
> Mr. SARBANES. Did you think that should have been consulted with the Intelligence Committees?
>
> Mr. MCFARLAND. Yes, sir.
>
> Mr. SARBANES: It wasn't done.
>
> Mr. MCFARLAND: No, sir.

But the disinformation campaign almost prevailed and never really got resolved.

Following that episode, Director Casey signed the agreements negotiated with the Intelligence Committees which came to be known as the Casey accords. They were specifically designed to see that something like the mining of the harbors never happened again without the committee being informed. Not that the President could not do what he ordered done, but the committee would be informed.

One was signed while Mr. Goldwater and I were chairman and ranking member, and another one was signed a year later. Whereupon the Agency proceeded to lie to the committees again. During all of this period, the Iran-Contra episode took place and the committee was never involved. Indeed, a second agreement was made the following year which confirmed how well it was working, but it was never informed.

Madam President, I discussed this disinformation matter with Mr. Gates when he was under consideration for the post of—Madam President, may I have 2 additional minutes, if I may ask Senator DECONCINI?

The PRESIDING OFFICER (Mrs. BOXER). Does the Senator yield 2 minutes?

Mr. DECONCINI. I yield up to 5 minutes and I ask the time come off the pending amendment.

Mr. MOYNIHAN. Madam President, I will not take that much time.

At the time Mr. Gates was being considered for the Director of the Agency, I raised with him specifically the question of the disinformation campaign directed against Senator Goldwater, and he undertook to look into this and to clear up the record, which now all agree Mr. Casey and Mr. McFarland had lied about Barry Goldwater.

Mr. Gates did not do a thing. He was there, I recall, for 4 years and never lifted a finger to say the Agency had done what it ought never have done and what it ought not do again.

If I can say, Dean Acheson saw all this coming. In his book, "Present at the Creation," he wrote:

> I had the gravest foreboding about this organization and warned the President that * * * neither he, the National Security Council, nor anyone else would be in a position to know what (the CIA) was doing or to control it.

It is a simple thought that secrecy corrupts. It corrupts analysis. Two years before the Berlin Wall came down, the CIA formally estimated the per capita gross domestic product in East Germany to be higher than West Germany. In his memoir, George P. Shultz, Secretary of State, recalls in 1986 when then President Reagan and he were thinking that perhaps they might have some success with Mr. Gorbachev, Mr. Gates, then the Director of Intelligence, informed him, Mr. Secretary, "the Soviet Union is a despotism that works."

You can reach out and touch the day that the Soviet Union would collapse but, no, secrecy inhibits the correction of error. The error simply gets compounded and extended, and it leads to events such as misleading the Congress. It has done so in the past and will do so in the future, so long as it continues.

The secrecy system is still in place. You may know that we have an Information Security Oversight Office which counts the annual creation of secrets. Its most recent report shows that last year, 6,408,688 secrets were created. Can you imagine that we know there were 6,408,688 secrets created last year, a 1-percent increase in the first year of the Clinton administration?

This will go on until we do something about it, addressing it directly. We have created a Commission on Protecting and Reducing Government Secrecy, which is even now in the process of being assembled. I understand Mr. HAMILTON in the House has agreed to be on the Commission and I have done so on the Senate side. Other Members of Congress and private citizens will be appointed. The mission of the Commission is of singular importance to the Republic. It is no less than examining ways to reclaim the liberties of the people. I welcome the proposal by the Senator from Virginia for a review of current intelligence needs. I ask to be made a cosponsor.

Mr. WARNER. Madam President, will the Senator yield on my time?

We will most assuredly add him as a cosponsor. His cosponsorship has a special meaning because he has, again, served on this committee some 8 years, and has identified himself over these many years with the Intelligence Committee.

But also, Madam President, as I conceived of the idea of the Presidential Commission, I thought back on the Social Security Commission, which was one of the most successful in the 16 years I have been privileged to serve in this body. That is a Commission that laid down a format that was quite readily adopted by the Congress and the executive branch.

The distinguished Senator from New York has a far clearer recollection of the work done by that Commission. And given the fact that this administration at the moment is not wholeheartedly in support of the idea of the Senator from Virginia of a Presidential Commission, I wonder if he might address that Commission and how it could likewise have a parallel effect on supporting this Commission.

Mr. MOYNIHAN. Yes. The Nation's largest domestic program, the Social Security Administration, was in imminent danger of bankruptcy. It would have shaken the society in an extraordinary way. The danger was not perhaps as grave as was perceived, but the unthinkable would have occurred: The checks would not go out.

President Reagan, with the vigorous assistance of the then majority leader, Mr. Baker, and Mr. O'Neill, the Speaker of the House, assembled a Commission, a bipartisan Commission, with representatives of the President, the House, the Senate, and with Alan Greenspan as our executive director, now the distinguished head of the Federal Reserve, and Senator DOLE, who was a leading member. It took us a year to get our work done.

The PRESIDING OFFICER. The Chair advises the Senator from New York that his 5 minutes he was yielded has expired.

Mr. MOYNIHAN. I ask for 1 additional minute.

Mr. DECONCINI. I yield 1 additional minute from the pending amendment.

The PRESIDING OFFICER. Time is yielded.

Mr. MOYNIHAN. As Senator DOLE said, when you first hear about these matters, they seem insoluble. And many people thought this whole Social Security thing could never ever be sound in the first place. But he said the more you learn—it had taken a lot of learning and reading—we can fix this thing. He said it the day after he had been reelected, in the Chamber, sitting right over there. He had written an article in the New York Times to that effect.

I went up to him. I said, "We cannot officially work it out." I said, "We can fix this thing, can't we? Do you think so? Why don't we?" And with the help of James A. Baker III, in about 10 days' time it was done.

But a lot of learning had taken place, a lot of facts had been assembled, and it was bipartisan. And it was something that was not forced on the President. To the contrary, the President welcomed the solution in the end. A secure Social Security System emerged.

If I may say, the last of the recommendations to be concluded was that the Social Security Administration be an independent agency. The Senate adopted a conference report to that effect about 2 weeks ago. The House did yesterday afternoon by a unanimous vote. This kind of unanimity comes out of the bipartisanship and cross-relationship between the Congress and the Executive.

I think we have an excellent idea. It is not a moment too soon. And I wish the Senator very well, every success, and I am honored to be a cosponsor.

The PRESIDING OFFICER. The Chair will state that the Senator's time has now expired, and the Senator from Virginia has no further time remaining on this amendment.

Mr. SPECTER addressed the Chair.

Mr. WARNER. Madam President, would the distinguished Senator seeking recognition just allow me to thank my colleague from New York.

My understanding is the Senator from Pennsylvania is now to be recognized.

The PRESIDING OFFICER. That is correct. The Senator has 15 minutes.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I thank the Chair.

At the outset, I compliment the distinguished chairman, Senator DECONCINI, and the distinguished ranking member, Senator WARNER, for their leadership of the Intelligence Committee and for bringing to the floor the Intelligence Authorization Act and the pending amendment for the creation of an independent commission to review the roles and capabilities of the U.S. intelligence community, which I support.

The public may wonder why a commission is necessary, but the fact is that the work of the Senate and the House, too, is so involved with so many varied matters that a review by a commission, which can spend the time necessary, is very much in the national interest.

I am glad to see that the final report date has been advanced from December 31, 1996 to March 1, 1996. It would have been my hope that the commission could have finished its work at an earlier date so we would have the advantage of their thinking, but it does take time for clearances. It is important that the commission have enough time to do its work right, but the sooner the better.

I had the privilege of serving on the Intelligence Committee for some 6 years and have been off the committee now for 3½ years and look forward to rejoining the Intelligence Committee next year, hopefully as the chairman, assuming a Republican majority, or in the absence of a Republican majority, then as the vice chairman.

The committee has very, very important work to do. The comments I wish to make today—and I had hoped to be here earlier today but was working with a group meeting on health insurance—relate to the threat of terrorism and how we are going to deal with terrorism and the need institutionally to establish an international criminal court.

Our overhead satellites tell us a great deal, but the most important work is done by what is called in the trade "HUMINT," which means human intelligence. I believe that past limitations of funds set back the intelligence community on human intelligence which is a very slow, time-consuming process to build agents who have the capacity to work within the networks of the terrorists and to work within the networks of those who are planning ill for the world, to find out what is going on so that we can respond.

The recent incident with Aldrich Ames has set back human intelligence even further by his disclosures and by the tragedy of so many of intelligence agents being murdered, being eliminated.

I am hopeful that the intelligence community will work on this very time-consuming, difficult matter to reestablish HUMINT.

With the decrease of international hijacking of airplanes, there may be a public perception that terrorism is on the wane. But the fact is, as disclosed by the Director of the Central Intelligence Agency, international terrorism is on the increase, with some 427 terrorist incidents worldwide last year, which represents a significant increase over the 362 incidents in 1992. The Director of Central Intelligence, James Woolsey, pointed out in open testimony the activities of Iran in continuing to support the Lebanese Hezbollah who are violently opposing progress on the Mideast Peace Accord between Israel and the PLO and now between Israel and Jordan.

We saw the recent bombings of the Israeli Embassy and Jewish Center in Buenos Aires which is linked to foreign terrorism. We saw not too long ago, the bombing of the World Trade Center.

Terrorism remains an enormous problem internationally. What has to be understood publicly is that just because the incidence of international hijackings has decreased, the security of innocent civilians has not increased. Unfortunately, the public focus is too short-lived, and that is understandable because there are so many problems that confront the country. But those of us in Washington who work on intelligence must pursue the threat in a professional, systematic manner.

One area on which we have not had the progress is in the establishment of an international criminal court which I have spoken about many times during my 14 years in this body and which the Senate and the House have endorsed on many occasions.

Quite candidly, it has not received the support of either Republican or Democrat administrations. If we are to stem the tide of international crimes, it is very important that we move ahead to institutionalize a mechanism to deal with such crimes—an international criminal court. We do have a war crimes tribunal which has been set up for the crimes against humanity and probable genocide in Bosnia. The Senate has debated, as has the House, many times trying to take action against these atrocities. We talk about bombing, which has been limited. We talk about land operations, which have been rejected for very practical reasons. We talk about unilaterally lifting the arms embargo.

But one thing we could do—which we owe victims of war crimes in Bosnia—is not so complicated. It is to bring the war criminals to trial and to show that there is an international rule of law. The United Nations, with U.S. support, did establish a war crimes tribunal and finally laboriously a chief prosecutor. The court must now act.

I took the floor a year ago to earmark some $3 million for the war crimes tribunal to investigate and gather evidence together. The Senate, the House and the administration ought to be pushing much harder for prosecutions and accountability.

Now we have the atrocities in Rwanda. I am gratified to note that the Secretary of State has called for an international criminal court to try the war criminals in Rwanda. But we cannot expect a war crimes tribunal to be established for each and every violation of internationally accepted law. The solution is to establish a permanent international court. There was strong public support years ago for such a court with the hijacking of the *Achille Lauro* and the murder of Leon Klinghoffer, and for what happened when Abu Abbas left Egypt on an airliner to Tunisia, was forced down in Italy, where Abbas was released by Italian authorities, later tried in absentia, and finally received a 30-year jail sentence, which meant absolutely nothing.

I had an opportunity back in 1986 to discuss the incident with the then Prime Minister of Italy, Prime Minister Craxi and then with Yugoslavian President Mojsov, who were concerned about the terrorism implications for their country. Had we had an international criminal court, I think the Italians, the Yugoslavs or Egypt would have turned over Abbas to an international criminal court.

There is a matter of national sovereignty, and Egypt was not prepared to turn over Abu Abbas to the United States. When the Egyptian airliner was forced down in Sicily, there was a standoff between United States military personnel and Italian military personnel, and, as a result, we did not get our hands on Abu Abbas for trial in the United States. Questions had been raised at that time of whether the United States had jurisdiction over terrorism committed against U.S. citizens abroad.

Fortunately, we did correct U.S. law with the 1984 Omnibus Crime Control Act, which gives U.S. courts jurisdiction over hijackers, terrorists, and the 1986 Terrorist Prosecution Act which I introduced and which was passed after the terrorist murders in the Rome and Vienna airports.

We also need a permanent international criminal court to try international drug traffickers.

Examples for this need are the incidents of international drug dealers residing in Colombia, and the U.S. difficulty in gaining their extradition to the United States. Former President Gaveria of Colombia told me that it would have been easier to extradite and try these criminals in an international criminal court.

I would like to focus now on the enormous problem of the proliferation of weapons of mass destruction—nuclear, chemical, and biological, and their missile delivery systems. In North Korea we have good reason to believe that a nuclear bomb is being developed but have insufficient proof to really confront the North Koreans. The same nuclear weapons development problem was true in Iraq, and with the so-called "big gun," it is true in India, Pakistan, and Iran.

Those are problems of overwhelming importance in nations with despots like Saddam Hussein, the despots who run Iran, and the uncertainty and unpredictability in North Korea's reaction as to efforts to persuade them to comply with international conventions such as the Nuclear Non-Proliferation Treaty. There is still a great and concerted need for intelligence, especially human intelligence, even when these violations are not hitting the front pages.

So I think the Intelligence Authorization Act is important. I think the creation of the new independent commission can give us further insight. But I think, most importantly, we have to work institutionally to develop human intelligence, and institutionally we have to work to develop the international criminal court.

I look forward next year to joining the Intelligence Committee. We will be losing a valued member in Senator DECONCINI who will regrettably be leaving this body after 18 years of distinguished service. I think that the Intelligence Committee has done outstanding work. It is obvious that vigilance and oversight is necessary at all times, especially in light of the recent disclosures about the building of the new NRO establishment. But these are items which have to be addressed.

I look forward to working with my colleagues on these important issues in the future.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Madam President, I thank the Senator from Pennsylvania. Indeed, he will be a valuable member of the committee. Certainly he will be on the committee next year, and we look forward to his real leadership.

Mr. WARNER. Madam President, will the Senator yield?

Mr. DECONCINI. Yes.

Mr. WARNER. I join the distinguished chairman in commending our colleague. Indeed, I had the pleasure of serving on the committee at the same time that he served.

Mr. SPECTER. I thank my colleagues for those generous comments. I look forward to serving on the committee.

The PRESIDING OFFICER. Does the Senator yield the remaining 3 minutes and 31 seconds?

Mr. SPECTER. I yield that time to my colleague from Utah, Senator HATCH, and more time, if necessary, off my time.

Mr. DECONCINI. I have no objection.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that my remarks be considered as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair inquires how much time the Senator may use?

Mr. HATCH. I am not sure.

Mr. DECONCINI. May I inquire? How long does the Senator anticipate?

Mr. HATCH. I do not know. It will not be very long; maybe 10 minutes.

Mr. DECONCINI. I do not want to object to the Senator from Utah, but we are trying to pass this bill and vote by 1 o'clock. We have one more amendment. We have a 30-minute limitation. Could the Senator restrict that to 5 minutes?

Mr. HATCH. I do not know if I can. But I will certainly try.

Mr. GRAMM. Madam President, reserving the right to object, maybe I should notify my colleagues. I would like to have an opportunity to speak for 5 minutes. I will limit it strictly to 5 minutes. It is not my objective to hold up this bill. But I would like to make a comment on another subject. The time in which I speak will be strictly limited to 5 minutes.

Mr. DECONCINI. Will the Senators let us just put in some statements, and yield the time on the pending Warner amendment? Then we will ask for some 5 minutes time before we go to the next amendment.

Mr. HATCH. Sure.

Mr. DECONCINI. Madam President, the pending amendment is the Warner amendment.

The PRESIDING OFFICER. That is correct.

COMMISSION ON THE ROLES AND CAPABILITIES OF THE U.S. INTELLIGENCE COMMUNITY

Mr. DECONCINI. Madam President, I rise in support of the amendment offered today by Senators WARNER and GRAHAM to be created a commission on the roles and capabilities of the U.S. intelligence community.

I give Senator WARNER, the distinguished vice chairman of the Select Committee on Intelligence, and Senator GRAHAM, who has made an extremely valuable contribution as a member of the committee, the lion's share of the credit for this initiative. They have for some time now believed such an effort is needed.

I have come to agree with them. Indeed, it has been my hope that the DCI might have initiated such a review, but this has not happened, and, plain and simply, I am tired of waiting. I believe this amendment represents a better way to go.

Madam President, there have been significant changes in the intelligence community since the end of the cold war. There have been personnel reductions and reallocations of resources carried out by individual agencies.

But what we are thus far lacking and what is, in my opinion, sorely needed, is an overall revalidation of the roles and capabilities of the intelligence community in the post-cold-war world. We need to have an objective, hardheaded look at the fundamentals: at what we expect intelligence agencies to do, at what levels they should be resourced, at what capabilities they must retain for the future. Everything should be on the table.

I do not think this can be achieved by the executive branch looking at itself, nor do I think the congressional oversight committees have the capability to do what is needed.

What this amendment proposes is a bipartisan commission with 17 members. Nine would be appointed by the President; two by the majority and minority leaders of the Senate, respectively; and two by the Speaker and minority leader of the House of Representatives, respectively. The President would designate a chairman. The commission would be empowered to hire its own staff and not have to rely on staff from the intelligence agencies.

The end result of its work would be a report to the President and the Congress. To the extent possible, the report would be unclassified and made available to the public. There would necessarily be a classified supplement which would not be made public, but which would be provided to the President and the intelligence committees.

The amendment provides the Commission with sufficient time to do its job. These are difficult issues and should not be assessed in a rush. The amendment provides that the final report of the commission be submitted no later than March 1, 1996. Given the time which will be required for the appointment and security processing of the members of the commission, we think this will allow more than a year for the commission to do its substantive work.

Madam President, in my tenure on the Intelligence Committee and in particular during these last 2 years when I've served as chairman, it has become increasingly clear to me that the political consensus that we once had for this function has eroded and continues to erode. We need a new consensus. We need a new rationale—a revalidation of the approach we have been taking by a group of objective, hardheaded people, with no ax to grind and no stake in the outcome. This is what we contemplate in this commission.

I am convinced this amendment will serve the interests of both the executive and legislative branches and urge my colleagues to support it.

Mr. METZENBAUM. Mr. President, I am pleased to support the Intelligence Authorization Act for fiscal year 1995. This bill does not reduce the intelligence budget by as much as I believe it should. It does represent, however, a sincere effort by the Intelligence Committee to identify those programs that can most readily be cut back without any harm to the national security.

This bill, as amended, will deal with problems that our audit team uncovered in its recent investigation of the new headquarters building for the national reconnaissance office. We held a hearing on this subject on Wednesday, where high officials and veteran NRO personnel admitted that the building project should have been presented to the committee as a separate budget item. The witnesses also agreed that, now that the NRO is publicly acknowledged, there would be no reason for covert procurement of a building such as this one in the future.

The DeConcini-Warner amendment, which is similar to the Bryan and Boren amendments to the Defense appropriations bill, will ensure that these problems do not occur in the future. I am happy to support it.

The Intelligence Authorization Act, as amended today, will also bring about needed reforms in the counterintelligence and security field. And it will mandate a presidential commission to examine the roles and missions of our intelligence agencies.

I am especially pleased that we will make it easier for intelligence agencies to track the financial and travel activities of their employees with access to the most sensitive information. Such activities are far better indicators of possible security problems than are the political and sexual questions that security officers have pursued in the past.

I am also pleased that we are moving to create a system of court orders for physical searches for foreign intelligence purposes. The executive branch conducts secret searches of people's homes and offices today, based upon a constitutionally suspect claim of Presidential powers which are then delegated to the Attorney General. I think that is a terrible way in which to handle such an intrusive technique.

By contrast, the Foreign Intelligence Surveillance Court, which was established by the Foreign Intelligence Surveillance Act of 1978, has consistently passed constitutional muster for the control of foreign intelligence wiretaps, which are a similarly invasive technique. Allowing the FISA court to handle physical searches will enable us to bring judicial supervision to an area that surely warrants it.

I should add that I do hope some changes will be made to the physical search provision in conference. For example, the bill before us would allow a person who is in a legal proceeding to object to the use of seized documents only if that person owned the documents or the premises that were searched. But someone could easily have documents about you that were not owned by you, but either were written by you or were authoritative records concerning you.

I think that in such a case, if the Government is going to use those documents against you in a legal proceeding, you should be permitted to contest the legality of the search. I say this especially because the Government will be allowed to undertake that search without showing probable cause that a crime has been committed.

At a recent hearing of the House Intelligence Committee, former Department of Justice official Kenneth Bass had some additional suggestions for the conference committee. He would broaden the circumstances in which a defense attorney may gain access to the documents underlying a physical search order. And he suggests that when the Government seeks a court order authorizing an intelligence search, an officer of the Foreign Intelligence Surveillance Court be instructed to act as an "advocate of the target arguing against the warrant." All these ideas, which arose after our mark-up, can and should be addressed in conference.

The intelligence authorization bill will put into law a new interagency structure for handling counterintelligence issues. The old system was clearly broke, and the many mistakes surrounding the Aldrich Ames espionage case merely underscore the tragic lack of coordination and cooperation between the various executive branch agencies that handle personnel security and counterespionage matters.

The bill we approve today will give the new National Counterintelligence Policy Board a permanent chairman, rather than relying upon a rotating chair that can only be a prescription for drift and inaction in future years. I can readily believe that a rotating chair was the best that the White House could get competing agencies to accept. But that is no reason for the Congress to limit its efforts to improve counterintelligence policy making. We will do the country a real service by giving that board one chair, and the Attorney General is as fair a person as you are likely to find for the task.

I am a cosponsor of the Warner-Graham-DeConcini bill to establish a Presidential commission on the roles and missions of our intelligence agencies, so I am delighted to see that idea added to the budget bill today. We may not all agree on how well U.S. intelligence is doing or on how much money to spend on it, but all of us know that a careful look is needed at the role of intelligence after the cold war.

The commission we are proposing will be named largely by the President, but will also have members from the House and Senate. I think it will give the President and the country a fresh view of what intelligence is needed, and how to meet those needs.

Let me note, however, that we do not want the intelligence agencies to just stand around while this commission considers their fate. If there are changes or reforms that an agency knows it should make, it should go right ahead and make them. This commission will be no excuse for drift and inaction.

Let me turn now to the issue of disclosing the total figure for the intelligence budget. Last year, of course, the Senate passed a "sense of Congress" provision calling on the President to find a means of disclosing that figure. I regret that we were forced to drop that provision in conference.

Three things have happened since then to give me confidence that we will eventually win on this issue. First, on November 22 of last year, 11 leaders of Congress joined me in urging the President to disclose the budget figure. The nine Democrats and two Republicans who signed that letter included the majority leader of the Senate, the Speaker and majority leader of the House of Representatives, the chairmen of both the Senate and House Intelligence Committees, and no fewer than six former chairmen or vice chairmen of the Senate Intelligence Committee. I ask unanimous consent, Mr. President, tht the text of that letter be included in the RECORD.

The second hopeful sign was a letter of March 23, 1994, from the Director of Central Intelligence, Jim Woolsey, to our vice chairman, Senator JOHN WARNER. My colleagues may recall that in last year's debate on this issue, one of Senator WARNER'S major points was that other countries do not disclose how much they spend on intelligence. That did not bother me, because I am not frightened by the thought of America being a pioneer. We were the first country to establish congressional oversight of intelligence, and now we see more and more countries following our lead.

A month after he raised that argument, Senator WARNER asked the DCI to study other countries' practices and report back to us. Director Woolsey's reply listed seven countries that do disclose their intelligence budget totals, including Australia, New Zealand, Norway, Greece and—most recently—our closest intelligence partner, the United Kingdom. Now, I still do not believe that we should be bound by the practices of other countries. But I am delighted to see this specious argument die a peaceful death and to report to my colleagues that more recent statements by opponents of disclosure carefully omit any discussion of what our allies are doing.

Finally, Mr. President, I take heart from the recent vote on this issue in the House of Representatives. I am sorry that the House rejected an amendment proposed by House Intelligence Committee Chairman DAN GLICKMAN to require disclosure of the budget total. But I am very pleased that the margin of defeat was only 27 votes. That compares very favorably with the 95-vote margin by which a weaker proposal was defeated just 1 year ago. It demonstrates, in my view, that the march of history is in our direction.

The bill before us today does not contain any provision regarding budget disclosure. Based on last year's experience, moreover, I know that passage of such a provision by the Senate will not achieve our purpose in the face of the recent vote in the House. I will not take up my colleagues' time, therefore, by proposing disclosure language today.

I am confident, however, that within a year or so, a freshman Democratic Senator from Ohio will join a majority of his colleagues in both houses in enacting legislation to strike this modest, but needed, blow for the American people's right to know how the Government is spending their money.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, November 22, 1993.

The PRESIDENT OF THE UNITED STATES,
The White House Office, Pennsylvania Avenue, NW., Washington, DC

DEAR MR. PRESIDENT: Last February, Senator Metzenbaum sent you a letter proposing that the Executive branch disclose to the public the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities. We are writing you now to reinforce that message and to urge you to take decisive action on this issue.

The world has changed greatly since the Cold War days in which the norm of strict secrecy on the intelligence budget was established. We no longer face a monolithic enemy with a massive intelligence establishment that might somehow use this information to harm us. Neither can we rely upon unquestioning public support for secret operations or for the budgets to support them.

You and your administration are well aware of this. In your campaign and in your months in office, you have stood for both greater openness and greater economy in our government. You have also begun the process of drafting a new Executive order on classified information, even as the Director of Central Intelligence and the Secretary of Defense have created a Joint Security Commission to recommend more rational and economical means of defining and protecting the information that truly requires secrecy in order to protect the national security.

We believe that in the post-Cold War world, and especially in a time of budget stringency when national priorities are being reexamined, the level of intelligence spending (although not the details) must be open to the public. In the absence of a legitimate security justification, the norms of our democratic system require that the public be informed.

We stand with you on the need for new approaches in a changed world. We hope you will bring that spirit of change to the issues of intelligence budget disclosure.

Sincerely yours,

Thomas S. Foley, Richard A. Gephardt, Dan Glickman, Dave Durenberger, David L. Boren, Howard M. Metzenbaum, George J. Mitchell, Daniel K. Inouye, Dennis DeConcini, Patrick Leahy, Frank Murkowski, Daniel Patrick Moynihan.

Mr. DECONCINI. Madam President, I ask unanimous consent that a statement by the administration in opposition to, I am sorry to say, our Commission; to section 3 of the bill; and to requiring Senate confirmation of the CIA general counsel, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 12, 1994.

STATEMENT OF ADMINISTRATION POLICY

S. 2082—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995—(DE CONCINI (D) AZ)

The Administration supports S. 2082, but opposes this provision requiring the President to nominate and the Senate to confirm the General Counsel of the Central Intelligence Agency (CIA). All General Counsels serving in the Administration, whether or not the Senate confirms them, are held to the highest standards of professional responsibility. The Administration, while deeply committed to the principles of accountability embodied in the congressional oversight process and to the rule of law, does not believe Senate confirmation of the CIA General Counsel is required at this time.

In addition, the Administration would oppose amendments that would mandate the manner in which counterintelligence activities are coordinated within the Executive branch. The Administration is implementing a Presidential Directive that provides for the reorganization of U.S. counterintelligence policy management and coordination. This Directive makes the necessary improvements to U.S. counterintelligence efforts.

The Administration is committed to conducting a review of intelligence roles and missions through the President's Foreign Intelligence Advisory Board (PFIAB). This review will be undertaken in full consultation with the Congress. The Administration would oppose amendments that would mandate the establishment of a new Commission for this purpose.

Mr. DECONCINI. Madam President, I ask unanimous consent that any time that this Senator has remaining on the pending Warner amendment be applied to the manager's time on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, parliamentary inquiry: It is this Senator's understanding that the yeas and nays have been ordered on the Warner amendment.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Accordingly then, I ask unanimous consent that this amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Now, Madam President, the bill is open for further amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Madam President, to inform the Senate, it is the intention of the distinguished chairman and myself to offer another amendment which would require perhaps 30 minutes equally divided between the two of us. I, of course, will be a cosponsor of the amendment in which we would debate. And then the Senate could, soon after other developments could occur, would vote in about 45 minutes. The first vote will be on the Warner amendment, the second vote would be on the DeConcini-Warner amendment, and then the third vote would be on final passage of the bill itself.

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the remaining time on the previous amendment is yielded.

AMENDMENT NO. 2557

(Purpose: To require a review of the National Reconnaissance Office Headquarters Building project, the application of existing DOD procurement and contracting procedures to the construction of buildings or facilities and specific congressional authorization and appropriations for the project before more funds are expended)

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. WARNER, Mr. BAUCUS, Mr. D'AMATO, and Mr. METZENBAUM, proposes an amendment numbered 2557.

Mr. DECONCINI. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 18 and 19, insert the following new section:

SEC. 504. LIMITATIONS ON FUNDING OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD PROCUREMENT AND CONTRACTING PROCEDURES.—Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Authorizations referred to in section 102 of this Act—

(1) $50,000,000 out of the Miscellaneous Support account of the Mission Support Consolidated Expenditure Center may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of the National Reconnaissance Office Headquarters Building project and the results of such review have been disclosed to the congressional intelligence committees; and

(2) no such funds made available by this Act may be obligated or expended for the purchase of any real property, or to contract for any construction or acquisition, in connection with the construction of buildings or facilities, unless (and to the extent that)—

(A) such purchase or contract is made or entered into in accordance with the policies and procedures applicable to other elements of the Department of Defense; or

(B) the President determines that the national security interest of the United States requires that such policies and procedures shall not apply to a particular purchase or contract and reports such determination in accordance with subsection (b).

(b) WAIVER PROCEDURES.—Not later than 30 days after making a determination under subsection (a)(2)(B), the President shall report in writing the determination to the congressional intelligence committees.

(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS REQUIRED.—Except to the extent and in the amounts specifically provided in an Act authorizing appropriations and in an appropriation Act, no funds made available under any provision of law may be obligated or expended for the National Reconnaissance Office Headquarters Building project if such funds would cause the total amount obligated or expended for such project to exceed $310,000,000.

(d) DEFINITIONS.—As used in this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) NATIONAL RECONNAISSANCE OFFICE HEADQUARTERS BUILDING PROJECT.—The term "National Reconnaissance Office Headquarters Building project" means the project for the headquarters buildings of the National Reconnaissance Office, situated at the so-called Westfields site, and includes all construction and improvement of facilities (including 'fit up') and all actions related to the acquisition of land, communications, computers, furniture and other building furnishings, and vehicle parking facilities.

Mr. DECONCINI. Madam President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER OF PROCEDURE

Mr. DECONCINI. Madam President, I ask unanimous consent the pending amendment be set aside, and that we proceed in morning business to accommodate the Senator from Utah for not to exceed 8 minutes, and the Senator from Texas for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, reserving the right to object, it would appear to me that in fairness to the Senate as a whole, given the schedule, that we ought to indicate, the chairman and I, that we would interpose objection to any further matters which might take the Senate's attention from this bill and the amendments.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

The Chair would ask the two managers, do they wish to reserve their 15 minutes each on the DeConcini-Warner amendment?

Mr. DECONCINI. That is correct.

The PRESIDING OFFICER. We will now proceed to morning business for 8 minutes to the Senator from Utah, and 5 minutes to the Senator from Texas.

Mr. HATCH. I thank you. I will not take the full 8 minutes.

THE CRIME BILL

Mr. HATCH. Madam President, I was interested in Chairman BIDEN's comments on the floor regarding the crime bill just a little while ago. I felt like I had to respond because my colleagues on the other side of the aisle say we must pass a crime bill, because it took them months to build their fragile coalition. There is little doubt in my mind that building support among social workers and liberals is a tough job, but the administration has never tried to build a coalition which included Republicans.

Earlier in the week, I joined BOB DOLE and other Senate Republican conferees in a letter to President Clinton which laid out the foundation for a compromise. But our input has been ignored by the administration and the other party. The administration did not lead, but followed the liberal wing of its party. The President and his party should seize this opportunity to move forward with a bipartisan bill, a bill which is tougher on criminals than it is on our wallets, a bill which moves to the right.

I ask unanimous consent that the letter Republicans sent to President

Clinton be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. As the distinguished Senator from Virginia said, the voice of America is getting through. There are several key elements which a crime bill worthy of Senate passage should contain, and which the conference report omits. It is one of the reasons the rule was defeated.

A crime bill worthy of the Senate's support should have at least $13 billion in real money for the actual construction and operation of prisons.

A crime bill worthy of the Senate's support should not provide for the early release of convicted criminals. We are talking about 10,000 to 15,000 people being released early to just go out and do what they have done before.

A crime bill worthy of the Senate's support should not squander billions upon billions of dollars in scarce crime-fighting resources on gauzy social spending schemes straight out of the failed Great Society of the 1960's. That is what this bill does.

A crime bill worthy of the Senate's support should impose stiff mandatory minimum penalties for the use of a gun in a crime. It should impose stiff mandatory minimum sentences for those selling drugs to kids. That bill does not.

A crime bill worthy of the Senate's support should retain the many tough provisions passed by the Senate and abandoned by the conference—provisions ranging from the Moseley-Braun-Hatch amendment subjecting 13-year-olds committing certain heinous crimes to prosecution as adults, to the tough Dole-Hatch-Brown Federal antigang provision.

A vote for this conference report is a vote for early release from prison for as many as 10,000 to 16,000 Federal convicts. This little shocker has not been mentioned by the news media or by the President.

A vote for this conference report is a vote to spend a woefully inadequate amount of money for the construction and operation of prison space. A careful examination of the conference report's provisions on prisons reveals that it is much better suited for sound bites by the President and those who favor spending as little as possible on real prisons than it is suited for the actual construction and operation of prison space.

A vote for this conference report is a vote to waste literally billions of dollars in 1960's-style social spending boondoggles, rather than spend these precious resources on hardnosed law enforcement programs and more prison space. This is a cave-in by the President who supported this diversion of crime-fighting funds into social spending boondoggles. This diversion is an effort to appease liberal special-interest groups on whom he relies for political support.

A vote for this conference report is a vote to acquiesce in this administration's cynical, back-door betrayal of the American people concerning the death penalty. The administration has said it will implement by Executive order what it cannot achieve through the legislature, that is, the misuse of statistics to undermine, if not end, the use of the death penalty where it is otherwise merited.

A vote for this conference report is a vote soft on crime.

A vote for this conference report is a vote for deficit spending—$13 billion in deficit spending.

A vote for this conference report is a vote to restrict second amendment rights without any real impact on crime.

One last thing, Madam President. The conference report spends an inadequate amount of money on prison construction and operation. Some of the money it purports to spend is not even funded by the crime bill.

The other side of the aisle claims to spend $8.3 billion on prisons. Yet, $1.8 billion of that funding is given to the Attorney General to hand over to the States with total discretion to alleviate the costs associated with the incarceration of criminal aliens. Not one dime of the $1.8 billion in alien incarceration grants has to be spent on prison construction.

The remaining $6.5 billion in so-called prison spending is in the misleadingly rugged-sounding program entitled "Violent Offender Incarceration and Truth in Sentencing Grants" section. Yet, not one dime of this money has to be spent on prison construction or operation. Let me repeat that: Not one dime of that $6.5 billion prison proposal supported by the President must be spent on construction of prisons or operation of prisons.

Rather, the money can be spent on programs, including alternative confinement facilities and drug treatment, intended to free up existing prison space—not to build new prisons. These programs will ostensibly free up existing prison space through early-release-type programs for some offenders, halfway houses for still other offenders, and similar alternatives to prison. In other words, all of the money can be spent on softheaded alternative confinement facilities and other alternatives to prison construction and operation.

Indeed, this program requires State recipients to implement a comprehensive correctional plan. The plan must include, among other things, diversion programs, particularly drug diversion programs, prisoner rehabilitation and treatment programs, prisoner work activities, and job skills programs. What do any of these things have to do with locking up violent criminals?

In effect, in order to qualify for the prison grants, the States have to spend much or all of it on a costly, liberal corrections scheme. This is a shell game. Ironically, the so-called truth in sentencing Republicans had fought for was opposed by some on the other side of the aisle as being too costly for the States. Yet, they have little trouble in requiring the States to implement the Clinton administration's version of appropriate correctional policy—diversion programs, including drug diversion, treatment, and job skills programs—in order to qualify for the prison grants.

To make matters worse, the conference report supporters suggest that the bill conditions as much as 40 percent of the so-called prison grant funding on State implementation of truth in sentencing. Yet, State adoption of a determinate sentencing scheme under their proposal will only apply to second-time violent offenders. Furthermore, these grants are subject to the same condition I mentioned earlier—the State must implement a liberal corrections scheme.

Foreover, for whatever reason, the other side of the aisle is intent on giving the administration broad discretion to distribute the crime bill money how and where they see fit. Although the other side of the aisle eventually inserted a formula, 15 percent of this prison money is turned over to the Attorney General of the United States to do with as she pleases. As well, if the Department chooses to delay allocation of formula funds long enough, the unallocated funds are turned over to the Attorney General's discretionary fund.

The reason criminals serve less than 40 percent of their sentences is not because we have failed to spend precious prison dollars on drug diversion and job skills programs. Our Nation's prisons do not have revolving doors—where murderers are sentenced to 15 years but serve less than 7, and rapists are sentenced to 8 years but serve less than 3—because we have failed to spend an adequate amount of our prison dollars on drug and sex offender treatment programs, and post-release assistance. Our Nation's criminal justice system lacks credibility because we have failed to provide an adequate deterrent to crime and enough places to lock up hardened criminals and throw the key away.

We desperately need an emergency buildup of prison space. A Senate Republican amendment to put $13 billion into actual construction and operation of prisons was rejected in conference.

Madam President, let us get real on this bill. The reason the rule was defeated is that it is a bad bill. We have to fight against it.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, August 10, 1994.

Hon. WILLIAM J. CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: Congress has an historic opportunity to pass anticrime legislation that can make a real difference in the lives of all Americans.

While the crime conference report now pending before Congress contains a number of worthy provisions, it is unfortunately deficient in several critical areas: It provides too few resources for state prison construction and operation. It fails to promote a real truth-in-sentencing plan for America so that violent criminals are kept behind bars where they belong. It permits the early release of as many as 10,000 federal prisoners as a result of a mandatory minimum "repeal" provision. And it needlessly increases the federal budget deficit.

The conference report also devotes billions and billions of dollars to more than 25 separate "prevention" programs. The American people are not fooled by this multi-billion dollar boondoggle: It is an obvious attempt to placate the most liberal wing of the Democratic Party, which otherwise would not support a bill that establishes an enforceable federal death penalty.

Not only is this pork-barrel spending wasteful, it is also unnecessary, a duplication of existing federal programs. The General Accounting Office, for example, recently reported that there are already seven federal agencies sponsoring 266 prevention programs for delinquent and at-risk youth. The annual price-tag for these programs is $3 billion. GAO also estimates that the federal government currently runs 154 separate and overlapping federal employment and training programs at an annual cost of nearly $25 billion. The bottom line is that more pork will not mean more crime prevention.

Mr. President, we want to pass a crime bill, and we want to do so on a bipartisan basis. That's why we urge you to call upon the Senate and House Democratic Leadership to reconvene the conference immediately so that the following improvements to the conference report can be made:

Strip the pork-barrel provisions and divert a significant portion of the savings to the Edward Byrne Memorial Grant Program. The Byrne program is designed to assist state and local law enforcement, the very people who are on the front-lines in the war against crime. This is where the resources are needed most.

Increase funding for state prisons to the $13.5 billion level passed by the House and make it available only for prison construction and operation. Condition at least half of this funding on the adoption of truth-in-sentencing laws for first-time violent offenders.

Narrow the so-called mandatory minimum "safety valve" that the Administrative Office of the U.S. Courts estimates could result in the early release of as many as 10,000 federal prisoners.

Prohibit the use of statistical tests and racial quotas in the enforcement of our nation's death penalty laws.

Restore the mandatory minimum penalties for those who use a gun in the commission of a crime or sell drugs to children.

Restore the provision ensuring the admissibility of evidence of similar crimes in sex offenses cases. This provision was adopted on a bipartisan basis by both Houses of Congress.

Restore the provision requiring mandatory restitution to the victim crime.

Restore the deficit-neutral trust fund.

Republicans would prefer making additional improvements to the conference report. However, if the changes we have listed above are adopted, we are prepared to support the conference report as a compromise measure. If the changes are not adopted, we will have no choice but to oppose a bloated, soft-on-crime conference report that we believe would not be in the best interests of the American people.

We would also like to take this opportunity to urge you not to resurrect the so-called Racial Justice Act through an executive order or other Presidential directive. The American people will rightfully view such a directive as nothing more than a back-door attempt to abolish the federal death penalty.

Mr. President, thank you for your attention to this request. We look forward to hearing from you.

Sincerely,

ORRIN G. HATCH,
STROM THURMOND,
CHUCK GRASSLEY,
ARLEN SPECTER.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

THE CRIME BILL CONFERENCE REPORT

Mr. GRAMM. Madam President, I am sure that there are a lot of Americans who were stunned when the House defeated the crime bill. After all, we know that 85 percent of the American people believe that our bleeding Nation needs to do something to deal with violent crime. And yet, there it was, real as life on television yesterday. A bipartisan coalition of Democrats and Republicans soundly defeated this bill, and then we had the specter of the President blaming Democrats and Republicans for thwarting the will of the American people.

Sort of in the words of Paul Harvey, let me try to tell you the rest of the story.

What happened here is that an agenda was brought into the crime debate that never was part of that debate.

You see, the President has continued to talk tough on crime, but the policy of his administration has never lived up to that rhetoric. A perfect example is the worst provision of this bill. The President came into office and at a joint session of Congress—the first one he spoke to—he called for getting tough on crime. He then cut prison construction, the FBI, the DEA, and the INS. And the Attorney General started a drive to overturn mandatory minimum sentencing for drug felons.

Now what the House did in the conference committee is adopt a provision that overturns mandatory minimum sentencing for drug felons, a provision that we are now told by officials in the Bureau of Prisons could let as many as 10,000 drug felons who today are in the Federal penitentiary, back out on the streets.

I am sure the American people are asking a question: How can we be passing a crime bill which is aimed at grabbing violent criminals by the throat, and yet at the same time that crime bill has a provision that could give early release to as many as 10,000 drug felons, who have been out selling drugs to our children?

The reason is: That was the President's agenda, but it was not an agenda that he ever told the American people about.

The second big problem with this crime bill is that it is full of pork. From the bill we passed in the Senate, it has added $8 billion of spending programs that basically give money out to different institutions with the idea that they can spend that money however they want to spend it, if they can in any way claim that it might induce someone not to commit a crime. That is why we have funding for midnight basketball in this bill.

Madam President, the crime bill was rejected not because people are against grabbing violent criminals by the throat, but because it has $8 billion of raw, rotten pork in it.

At the same time these two provisions were being added, our provision of 10 years in prison without parole for selling drugs to a minor was dropped. Our provision providing 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony was dropped.

In short, what we have seen is piracy against the crime bill. The get-tough provisions were taken out of the bill and pork was put into it. And in an extraordinary provision, as many as 10,000 drug felons who are in the Federal penitentiary for trying to sell drugs to our children could be let back out on the street.

Now, if the crime bill passes in the House, it is going to come to the Senate. There is a budget point of order against it, and I am going to raise that point of order, and the Senate is going to have to have 60 votes in order to pass this bill. I do not believe we have the 60 votes. The bill will be up for amendment at that point, and I and others are going to move to take the pork out, take the get-out-of-jail-free provision out, and put the get-tough provisions back in.

With those changes made, the bill will pass, and then the President can give America a real crime bill.

But this debate is not about crime. The get-tough-on-criminal provisions were taken out of the bill. This debate is about $8 billion of the worst kind of pork that anybody has ever seen, and this debate is about a provision which the President has fostered, the President has promoted in secret, which could let as many as 10,000 drug felons back out on the streets.

It has been the President's goal and the Attorney General's goal since the day they took office to overturn minimum mandatory sentencing for people who sell drugs to our children. They could not get it adopted in the Senate, but they got it in conference, and it will become the law of the land if this bill becomes law.

I pledge to you it is not going to become the law of the land. That provision is coming out of this bill. If the President will simply help us take the pork out, take the get-out-of-jail-free provision out, and put the get-tough provisions back in, we can all celebrate the passage of a tough, great, crime bill. We can all stand up together and tell the American people that we did a good job for them.

But you cannot, with a straight face, tell people we did a good job with $8 billion of pork and with a provision that could let as many as 10,000 people out of prison who are in prison today.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts.

Mr. KERRY. Madam President, I ask unanimous consent to be permitted to proceed for about 5 minutes.

Mr. DECONCINI. Madam President, I say respectfully to the Senator, the Senator from Virginia is not here, and he had indicated he was putting the Senate on notice that he was not going to interrupt this bill. We are trying to get one amendment finished here. So I will have to suggest the absence of a quorum until the Senator comes here and see if we can negotiate something with the Senator from Massachusetts.

Mr. KERRY. Let me suggest this as a compromise. Rather than waste the Senate's time putting in the quorum, I will speak. When he comes here I will stop the minute he comes here and find out what he wants to do.

Mr. DECONCINI. Madam President, I ask unanimous consent that the Senator from Massachusetts be permitted to speak in morning business until the Senator from——

Mr. KERRY. Oh, the Senator is here now.

Madam President, I ask the Senator from Virginia if I could just proceed for approximately 5 minutes.

Mr. WARNER. Madam President, I wish to accommodate our distinguished colleague from Massachusetts. The problem is that the leadership on this bill has informed the Senate that we have one additional amendment requiring no more than 30 minutes of debate, and that the Senate could anticipate then three consecutive rollcall votes, subject to the concurrence of the majority leader and the Republican leader. Those votes will be the normal of a 15-minute vote, followed by two, in sequence, of 10 minutes each.

If the Senator can assure us that he will take no longer than 5 minutes, I will not regard this as a major invasion of the scheduling. But I will have to indicate at this point in time that this Senator will make further objection to any interruptions of the bill for consideration of other matters.

Mr. KERRY. I thank my friend from Virginia and I thank the distinguished chairman of the committee.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

THE CRIME BILL

Mr. KERRY. Madam President, I want to respond to the Senator from Texas, and I want to try to put this crime bill and what happened in its proper perspective.

I think everybody knows how much money has been spent by the National Rifle Association and by the gun lobby in the last days to prevent Americans from getting a crime bill.

When my friend from Texas comes to the floor and suggests to Americans that we did not get a crime bill because it has pork in it, or because somehow there is a provision that is going to let people out of jail free, that is the same kind of phoniness or facade or hiding of reality that Americans are actually sick of. They are fed up with the Washington that makes pretenses about what is really happening in this country:

I say $1.8 billion over 6 years to prevent violence against women, to help police and prosecutors in looking at specific violence that is conducted against women is not pork. It seems to me that a youth league in the inner-city, whether it is New York, or Washington, or Boston, to help kids have something to do at night other than walking around toting guns or watching drug dealers, drug deal, or watching pimps be the only role model of the community, is money well spent.

All you have to do is look at programs that are models all across this country to find out how it makes a difference in those kids' lives.

I was recently in Lynn, MA, talking to 16-year olds that have nothing to look forward to in the future, have no parents, nobody giving them a sense of possibilities, and the only programs that make a difference for them are boys' or girls' clubs, or something in the community that gives them an alternative in life.

This bill, finally, for the first time—and I say this as an ex-prosecutor—for the first time in 20 years has a real approach to trying to deal with some of the problems. Sure, we can build prisons. We can put cops on the streets. But if all you want to do is have a whole new supply of kids to fill the prisons or become the object of cop pursuit, then you can continue to ignore young people in America.

I do not consider money for boys' and girls' clubs—when you go to any city in America and you find only 10 or 20 percent of the kids in the community have access to those clubs, it seems to me that labeling $30 million to that as pork is not to understand the concerns of Americans.

What about $630 million for community schools? I have gone from school community to school community, and the people are telling me, why does the school shut at 2:30 or 3 o'clock in the afternoon?

Kids cannot even use school facilities in America in the afternoon because we are unwilling to pay a custodian to be there. Is that pork?

Let me tell you, Madam President, we have violent criminals in America who cannot go to jail today or who are let out early because beds are being taken up by nonviolent first-time offenders.

There was a graduate of college who drove around this country in his Volkswagen. He was following the Grateful Dead. He got to one city and a Federal narcotics officer was urging him, saying, "Look, I need to buy some drugs." The kid never sold drugs, but he had a $400 bill on his Volkswagen and he needed it to go back to school, and he sold some, sold it to them. Whacko—he is in jail for the first time in his life, a first-time offender, a nonviolent offender.

You tell me that is the kind of person you are worried about in a crime bill that you want to put away for 10 years, when a violent offender is let out by a judge because we do not have a bed to put him in?

You look at the statistics across this country for prison after prison—150 percent capacity, 160 percent capacity.

The Republicans are here, or some are here, talking about how this is a get-out-of-jail-free program. This is a put-the-people-in-jail-who-belong-in-jail program and it is a way of immediately responding to concerns of Americans about violence.

If we do not turn around and start to deal with the problems of kids in America, we are going to fill up our prisons endlessly. And if we do not have the money to build those prisons and for the cops on the street, we are not going to restore basic order in America. That is what this crime bill would have done.

Instead, what do you have? You have the greatest advertisement in a long time for campaign finance reform, because you have this extraordinary flow of money coming into people's campaign coffers and a distortion of the whole political process by moneyed interests who prevent the real concerns of Americans from being met.

No wonder people in this country are fed up with Washington. They are fed up because they understand what they want done. And instead, we get things being labeled, and gamey little political phrases thrown around. And, in the end, what happens? Another kid picks up a gun and shoots somebody, and America goes on about its business.

It is extraordinary to me that this bill, the first significant effort to deal with crime in 20 years, did not pass because some people want the weapons of war—assault weapons—on the streets of America. We had better get about the business in the next few days of doing the business of America, and pass this crime bill.

The PRESIDING OFFICER. The Senator's time has expired.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The Senate continued with the consideration of the bill.

Mr. DECONCINI addressed the Chair.

AMENDMENT NO. 2557

The PRESIDING OFFICER (Mr. MATHEWS). The question is on the DeConcini amendment No. 2557.

The Senator from Arizona.

Mr. DECONCINI. Madam President, I want to talk about the amendment.

I first want to say the purpose of the amendment offered by the Senator from Virginia and myself is to place certain limits upon the funds authorized by the bill for the National Reconnaissance Office of the Department of Defense. The amendment provides that of the funds being authorized for the NRO, $50 million from the miscellaneous support category, may not be expended until the executive branch review of the NRO headquarters project is completed.

It also caps total spending for the NRO complex at $310 million. And how did we come to that figure? We came to that figure through a thorough staff review initiated by this committee. The result of that review was that our audit team found that the budget for the NRO project was $347 million.

Now, when we looked back, we got into this discussion: Did we know or did we not know?

In November 1992, a NRO briefing to staff included their plan to proceed with construction of four office towers and that the cost would be $175 per square foot. This meant that they estimated a cost of $186 million for the construction project excluding utilities, taxes, communication equipment, furniture, office supplies and a margin.

When our staff went to the NRO several months ago, we got an estimate of $347 million for the project. Now, all of a sudden, since that was exposed and declassified, at the credit of the President of the United States himself, the cost has come down to $310 million.

That is what this amendment says. "Fine, Mr. NRO; we hope that that is what you really want to live by," and that is exactly what the amendment does.

The recent controversy over the NRO building project has been fierce, and I want to make sure we stay focused on the real problem. The NRO slid incrementally into a major project in a manner that never made the true dimensions, most importantly the cost, clear to the Congress of the United States. Maybe the NRO made this information known to the House; maybe the House knew that this was a $347 million project and just signed off on it. Maybe the Members said, "Have a grand project. Do what you want." We did not know.

The only clear indication was the November 1992 NRO briefing which indicated that the project cost was $186 million, and now we know the project budget is actually $347 million. In the few days since that we disclosed this information, the NRO suddenly reports that the budget is down to $310 million.

This construction project is a major initiative. One would be quite cynical to say that a $347 million complex is not a major initiative. It was a major initiative. Even today, the budget is a moving target. We do not know what it is. There has been no accountability here, and we are trying to put it in this amendment.

In today's austere budget environment, with Government facilities being closed around the country, it is especially troubling for this organization and the Director of Central Intelligence, Mr. Woolsey, to attempt to justify this by saying, "Well, times have changed. In those days, it was OK—in 1990, 1991. We didn't have to tell anybody. Because this was a classified operation, we did not need to tell anybody."

That is what the oversight committees are for. They have cleared staff to work with and protect classified information. Our staff and Members were cleared to be briefed and they were not thoroughly briefed on this project.

And Mr. Faga, the former NRO Director, was recently quoted in the press as saying, "I know the Senate committee was briefed." Well, between 1991, 1992, and 1993, Mr. Faga never once mentioned it before the Senate Intelligence Committee in closed briefings. His deputy, Mr. Hill, mentioned it once in 1992, with two lines. And those two lines do not mention even the amount. The only insight into this project's cost came from a few questions that were asked by astute Senators and staff in 1991 and 1992. Yet the answers came back in one sentence or two sentences.

The House apparently agrees with the NRO and the DCI concluding, "Oh, it's OK." The former CIA Director, Mr. Gates, came up one time and mentioned the project. Four lines in 1991, that is all we had.

Now, if that is adequate notice, believe me, something had better change in the intelligence community or the American public is not going to support even this reduced expenditure.

Mr. President, I ask unanimous consent that a summary of critical events and selected statements that were made at our recent Senate hearing on this matter, as well as the House hearing, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NRO HEADQUARTERS PROJECT

The overriding concern that was raised by our review of the NRO headquarters project was accountability. Accountability refers to the fact that the NRO, like all government agencies, has an obligation to be answerable, and to justify the expenditures of taxpayer dollars. The oversight committees in this case were the only ones to whom the NRO was accountable. Because the NRO used overt procurement procedures rather than established government facility procurement procedures—MILCON or GSA procedures—no body else was looking—not the DCI, not the CIA, not DOD, certainly not the internal NRO IG, no one but the oversight committees. The information they provided to us fell far short of a complete picture, particularly in terms of the project's cost.

Our committee never knew, at any time, in any form, that as of 1992 when the NRO adopted a total collocation plan, the project price tag would be upward to $347 million. The bits and pieces of cost information that we had was piecemeal, and, at times, contradictory.

The NRO submitted a narrative description of the construction project, beginning in the fiscal year 1993 budget submission, but at no time, did the NRO submit for our approval a comprehensive budget for this project. Instead, the project's budget was included in what is known as the base budget. The base budget is a consolidation of all funds required to "maintain current capabilities." Funding for any new project or capabilities are supposed to be segregated so that they may be considered and separately approved.

Our Committee knew that the NRO was reorganizing. We encouraged that reorganization.

We knew that the NRO was building a permanent facility in northern Virginia. They told us.

We knew, based on the NRO's Fiscal Year 1993 budget request, that the NRO was planning to build 800,000 square feet of office space for the collocation.

We knew, based on the NRO's Fiscal Year 1994 budget request, that they had decided on total collocation and planned to build 4 buildings, with about 1 million square feet, which they were constructing in western Fairfax County, VA.

In fact, we thought we knew the project's price tag. In November of 1992, about 2 months after the construction project's construction contracts were let, the NRO came forward to request some additional money for this construction project. At that time they briefed our staff on the scope and cost of the complex. They told us that they had decided that it was necessary to build 4 towers to implement the total collocation option recommended by the most recent studies. And they told us that the Westfields Project cost would be $175 per square foot. That would have made the project cost $186 million. That cost, they told us, covered everything except taxes, utilities, communication equipment, furniture, office supplies, and margin.

The $186 million cost was the last cost information we had until we raised concerns in October 1993 about the lack of information on certain projects in the NRO's base budget. To that end, in our Fiscal Year 1994 Intelligence Authorization Act we pointed out our dissatisfaction, and asked the intelligence community display project-related costs in the base budget.

In fact, we had so many concerns about many of the Intelligence Community's facilities, and facility projects that we did a special review in November 1993 in which we asked every intelligence organization to report on its facilities. It was that review that prompted us in April of 1994 to launch a specific review of the new NRO headquarters project.

What would have happened in this case, to ensure effective NRO accountability, is simple. In September of 1990 when the NRO decided that the best collocation option was to build a facility in Fairfax County, VA, they should have come forward with a plan. The plan should have included the options considered, the costs of the options, the option selected with justification. For example:

They should have told us how much that plan would cost and how long it would take.

In addition, since they wanted to "protect the option of total collocation" they should have told us that total collocation would mean approximately 1 million square feet, which would house X number of NRO employees and X number of NRO contractors. That plan should have included a projected cost and schedule.

With that information in hand, we would have had something on which to hold the NRO accountable. And we could have made an informed decision and provided approval prior to the project's initiation. If at a later time the cost went up, the schedule changed, or the scope or design changed, the NRO should have come back to us, justified the proposed change, identified the cost, and once again sought approval.

To have had this level of information is not micromanagement. It is good government, and the right and responsibility of the Congressional oversight committees. We should have had this type of information if this had been a $3 million facility, and we certainly should have had this level of information in this case, for a $347 million facility.

INFO FROM HEARINGS AND NEWS ARTICLES

Senate Aug. 10 hearing, Mr. Roger Marsh, the NRO Headquarters Project director stated: "We have been negligent, clearly negligent, for not showing the budget breakout for this project."

Senate Aug. 10 hearing, Mr. Jeffrey Harris, the current director of the NRO stated: "In hindsight, [the costs buried in the NRO's operation's budget] should have been broken out specifically. It [carrying a construction project in an operation's budget] won't be done in the future."

Senate hearing, according to DCI Woolsey, "If this (building) were begun today, . . . there's no question it would be done differently."

The DCI, in Thursday's House hearing, acknowledged that the 4 buildings were more space than the NRO required. He stated that the 4 buildings could effectively be used with other agencies, and that the NRO planned to bring more people in from other agencies to utilize the extra space.

The Deputy Director of the NRO, in our hearing on Wednesday, said that while the NRO needed some additional space beyond 3 towers, they knew they did not need the amount of space they provided when they built the forth tower.

Senate Aug. 10 hearing, Deputy NRO director Jimmy Hill stated, "We have tried to respond every time the committee has asked a question . . . clearly in this case there was a lack of communication."

Senate Aug. 10 hearing, Mr. Marsh, NRO project director, " . . . We clearly have missed the mark for your expectations for how we break this specific project budget out."

In Thursday's House hearing, Rep. Combest stated: "[Senate] Members and staff need to do their homework." *We don't disagree.* In this case, based on the information provided to us, we thought we knew the total project cost. In fact, we thought we knew the project's price tag. In November of 1992, about 2 months after the construction project's construction contracts were let, the NRO came forward to request some additional money for this construction project. At that time they briefed our staff on the scope and cost of the complex. They told us that they had decided that it was necessary to build 4 towers to implement the total collocation option recommended by the most recent studies. And they told us that the Westfields Project cost would be $175 per square foot. That would have made the project cost $186 million. That cost, they told us, covered everything except taxes, utilities, communication equipment, furniture, office supplies, and margin.In Wednesday's Senate hearing Secretary Deutch stated: "Whenever there is an identifiable project, I think it should be separately identified in a budget account and defended in front of this and other committees straight forwardly. Regardless of its intelligence character I think it should be separately identified.

Sen. DeConcini asked him specifically if that would apply to this kind of project. He replied, "yes." In response to Senator Baucus' questions during our hearing, and regarding what our committee was told about this project in 1992 and 1993, Director Woolsey said, "As the costs were refined, some of the other costs I believe were not provided in a fashion that was readily available for the committee to get at the detail * * *"

Mr. DECONCINI. This amendment goes further and removes the authority of the Director of Intelligence to authorize such buildings.

Mr. Woolsey did not authorize these buildings. This did not happen on his watch. He is not responsible.

What he is responsible for, in my judgment, is trying to defend such an operation at either $347 million or $310 million.

Let me just point out, there were roughly 68 acres that were purchased by the NRO back in 1991. They told us the other day, when Senator WARNER and I were out there, that they decided to buy an additional 4 acres. We said, "Oh, that is nice. Are you going to build a fifth or sixth building?" No, but it so happens the plan they submitted to the planning and zoning people of Fairfax County includes the option for two more buildings, and there may be an explanation.

Why did they buy the 4 acres? They did not want a neighbor. They did not want a motel sitting on the corner. By this time, this is a declassified operation. You mean to tell me they could not provide security for that motel? So they went out and bought 4 additional acres, averaging $8.13 per square foot. That is roughly over $300,000 per acre for land they are not going to use. This is the taxpayers' money being spent.

The CIA Director wants to defend that as a proper notification to the committee.

There was no notification. Senator BOREN, the past chairman, said he never was notified of it. As a matter of fact, Senator BOREN had a reprogramming request for $22 million that was signed, and he told me just the other day that it is not his signature on it.

I make no accusations that anybody did anything improper, but I point out that never did Senator BOREN admit that he had any notice of this. And I know that Senator WARNER—at least I believe—and myself had no notice that there was a $347 million project going on out there until we found it out through the very astute auditors on our committee. These auditors were commissioned by Senator WARNER and myself to go out to the CIA and the other intelligence communities and assess what all their facilities were. You would think that would be pretty easy. It is not easy. It is very classified as to where they are and how many there are. It is a difficult task to get information on these facilities.

When we finally got out there to review this facility, they did answer our questions. But they knew we were on to something and they started to be defensive. To the credit of Mr. Harris, when he came before our committee he said, "We made a mistake. We are not going to do that again." And Deputy Secretary of Defense, Mr. Deutch, to his credit, said, "It should not have happened. We should have had notice and it will not happen again." And the President deserves credit as well. When this was brought to his attention, within 1 week he declassified the whole project because he believes, as I believe, that the American public deserve to know where their taxpayer dollars are going to go. And we in the Congress have a right to say yes or no. We are the ones who appropriate the money. We are the ones who authorize these projects. And this was not authorized in any specific form whatsoever, at least not by the Senate Intelligence Committee.

If it was done in the House, well and good. Apparently the House Members are happy about spending $347 million on this project with no specific funding authorization, and they are saying this is simply an effort by the Senate to be derogatory toward the director—that is nonsense. My colleagues over there know that.

I hope the Members of the Senate will pass this bill. I hope if anything comes out of this, there is truly the commitment from NRO, that we got from Mr. Harris, that in the base budget they will not have such an initiative for any infrastructure spending without being specific. Mr. Deutch and Mr. Woolsey confirmed their commitment to that procedure.

Why was this project declassified? It was declassified because the President of the United States—not Mr. Woolsey—the President of the United States insisted it be declassified. As a matter of fact, Mr. Woolsey advocated to the White House, to the Hill staff members, as well as one Senator that it be classified for another 18 months. Fortunately, that Senator, I am told, said, "You have 18 hours, as far as I am concerned, to get this project declassified." And the President went ahead and ordered the declassification so we could talk about this and prevent this kind of expenditure without thorough information and congressional approval.

People ask me today how many more buildings are out there? I hope there are none, and I do not want to leave any inferences that there are. But, frankly, when you disguise this kind of elephant in the middle of a football field, and no authority to do it, it makes me wonder. No wonder the American public is sick and tired of the agencies that deal with our national security spending money in such a manner without authority of the U.S. Congress.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, let me go back and recite once again certain procedures, steps which I think, certainly for this Senator, help to bring this situation into proper focus. The chairman and I periodically meet with our audit staff. Those meetings of course are available for all members of the committee but, quite understandably, committees leave to their chair and cochair—ranking—the responsibility for daily activities. We had charged, the chairman and I, the audit staff—we charged them to go out and make an audit.

I remember it well. I was the only Senator in the room. Others had not arrived. I received this briefing. I then turned to staff present and the audit staff and said, "In my judgment there are some serious questions raised. No. 1, why is there nothing in our record to reflect total cost? No. 2, why nothing to reflect total size?"

On the point of size, there is a million square feet in this conglomerate of four rather large buildings. Having had some recollection of the size of the Pentagon—I served in that building for over 5 years—I ascertained the Pentagon is 5 million square feet, usable square feet. All of a sudden we are building, for one relatively small segment of our overall intelligence community, an entity which is roughly, approximately one-fifth the size of the Pentagon.

That I found very troubling. So I recommended to Chairman DECONCINI we promptly write the executive branch, DOD, CIA, and get those facts which we felt necessary to determine this project in terms of its full size and scope. That letter went out on July 29.

I then joined the chairman in a second letter to the executive branch, suggesting this matter be declassified.

Mr. President, I ask unanimous consent to have those two letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, August 4, 1994.
Hon. R. JAMES WOOLSEY,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR DIRECTOR WOOLSEY: The Select Committee on Intelligence will convene a closed hearing on Wednesday, August 10, 1994, at 10:30 a.m. in Room 219, Senate Hart Office Building, to review the process utilized by the National Reconnaissance Office [NRO] to notify Congress, secure the necessary funding, and initiate construction of its new headquarters complex in Chantilly, Virginia. The Committee also intends to examine how remaining construction and future use of the facility can be managed for maximum cost-effectiveness. We would like to invite you to testify at the hearing, and also request your assistance in making available as witnesses Mr. Jeffrey Harris, Director of the NRO; Mr. Jimmie Hill, Deputy Director of the NRO; and Mr. Roger Marsh, Chief of the NRO's Mission Support Organization. We have also invited the Honorable John M. Deutch, Deputy Secretary of Defense, to appear as a witness.

We plan to conduct the hearing in two panels. The first panel, consisting of Mr. Harris, Mr. Hill, and Mr. Marsh, will be asked to review the history of and rationale for the project, including decisions regarding project size and the process by which Congress was informed of the project. The second panel, consisting of yourself and Secretary Deutch, will discuss what options are available to reduce the project's cost and increase its usefulness, including the colocation of other Intelligence Community functions at this site. Members will also want to hear testimony addressing the issue of whether or not the Intelligence Community should retain the special authority which is being utilized to construct this facility.

We believe that prompt public disclosure of this project is in the best interest of the Intelligence Community. We urge you to quickly declassify the essential facts—the location, organization, size, and cost of this project—by the time of the hearing.

Thank you for your attention to our request.

Sincerely,

DENNIS DECONCINI,
Chairman.
JOHN W. WARNER,
Vice Chairman.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, August 4, 1994.
Hon. JOHN M. DEUTCH,
Deputy Secretary of Defense,
Pentagon, Washington, DC.

DEAR MR. SECRETARY: The Select Committee on Intelligence will convene a closed hearing on Wednesday, August 10, 1994, at 10:30 A.M. in Room 219, Senate Hart Office Building, to review the process utilized by the National Reconnaissance Office (NRO) to notify Congress, secure the necessary funding, and initiate construction of its new headquarters complex in Chantilly, Virginia. The Committee intends to examine how remaining construction and future use of the facility can be managed for maximum cost-effectiveness. We would like to invite you to testify at the hearing. We are also inviting the Honorable R. James Woolsey, Director of Central Intelligence; Mr. Jeffrey Harris, Director of the NRO; Mr. Jimmie Hill, Deputy Director of the NRO; and Mr. Roger Marsh, Chief of the NRO's Mission Support Organization; to appear as witnesses.

We plan to conduct the hearing in two panels. The first panel, consisting of Mr. Harris, Mr. Hill, and Mr. Marsh, will be asked to review the history of and rationale for the project, including decisions regarding project size and the process by which Congress was informed of the project. The second panel, consisting of yourself and Director Woolsey, will discuss what options are available to reduce the project's cost and increase its usefulness, including the colocation of other Intelligence Community functions at this site. Members will also want to hear testimony addressing the issue of whether or not the Intelligence Community should retain the special authority which is being utilized to construct this facility.

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Thank you for your attention to our request.

Sincerely,

DENNIS DECONCINI,
Chairman.
JOHN W. WARNER,
Vice Chairman.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, July 29, 1994.
Hon. R. JAMES WOOLSEY,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

GENTLEMAN: We recently asked our Committee's Audit Team to review the National Reconnaissance Office's headquarters construction initiative, known as the Westfields project. The Audit Team spent two months working with NRO officials examining the project's requirements, cost, schedule, management procedures and internal controls, and has recently reported their conclusions to us.

We were shocked and dismayed to learn that the facility cost for the new NRO headquarters at Westfields may reach $350 million by completion, nearly double the amount most recently briefed to the Committee. In fact the total anticipated cost of this project, under its current configuration, was never effectively disclosed to our Committee, either in the annual budget submissions or in related briefings. We consider the NRO's failure to coordinate and communicate with this Committee on this large, sensitive and very expensive project to reflect disregard for this Committee's oversight responsibilities for intelligence operations and funding.

In order to address these concerns and further explain the NRO's actions with regard to the new Westfields complex, we request that you provide us with the following information:

1. An explanation of why the Committee was not fully informed of the scope and cost of this project, consistent with facility construction requirements for other intelligence organizations such as CIA and NSA.

2. Reasons why the NRO failed to use either Military Construction or General Services Administration support for the Westfields construction project.

3. Reasons why the NRO included this activity in the base budget rather than presenting it as a new initiative, as the CIA had done for its new headquarters project at Langley.

4. Steps which can be taken immediately to reduce the costs of this project, consistent with the NRO reorganization and Intelligence Community's overall budget reduction initiatives.

5. Ways to efficiently utilize the excess space and unused land which will be available upon completion of the Westfields complex, so as to realize cost savings for the U.S. Government.

6. Reasons why the new NRO headquarters project remains a covert procurement operation, and your plans to manage inadvertent or directed disclosure of the NRO's ownership of this facility.

Please provide your written answers to our committee within 7 days of your receipt of this letter. You may direct your response to Ms. Pat Hanback, who can be reached at 202–224–1700 if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,

DENNIS DECONCINI,
Chairman.
JOHN WARNER,
Vice Chairman.

Mr. WARNER. By declassifying this project what I wanted to do was make an assessment of the executive branch response before we went out in public with this project. I joined the chairman on a Monday morning on-site inspection. Then that afternoon I was notified by committee staff that certain members of our committee desired to have a press conference. I had hoped we would not get into the public domain with this until we had a chance to assess the executive branch responses, for the reason we could have narrowed whatever gap existed at that time—and which still remains, regrettably—between our analysis of the facts and the executive branch analysis of the facts. Nevertheless, we are where we are today.

The bottom line is as follows. I think this committee quite properly has addressed this project in the context that we did not have the information that the Senate required.

Second, this is a valuable project and it will be completed along the exterior lines as envisioned. And it will be utilized in an efficient and cost-effective manner by the Federal Government. We, as Senators, have to provide for the construction for public employees and we do so in a manner to try to bring about a certain quality of the working spaces and working conditions, but not to give preferential treatment to some employees.

Again drawing on my experience in the Department of Defense, when I, as Secretary of the Navy, had cognizance over the naval portion of the NRO—and the naval portions and other portions have now been consolidated—I remember it to be a comparatively small group, in terms of number of people and in terms of budget. True, it has grown through the years. My first reaction is this was more than was necessary—and that has now been confirmed in the testimony—the new headquarters larger than necessary to house the NRO.

A certain colocation of contractors—that, too, is important. But again, this is a project that our committee, as correctly stated by Chairman DECONCINI—our committee did not possess the full details necessary to keep not only ourselves informed but to fulfill our responsibility to other Senators.

So we now have quick reaction by the executive branch, under the leadership of the Secretary of Defense and the Deputy Secretary, to put together an executive branch team to analyze the facts. I urge all to withhold judgment on this—withhold judgment until that report is completed. And I anticipate that report will corroborate many of the assertions made by myself and the distinguished chairman of this committee, as to the failure to have adequate communications between various segments of the intelligence community and this committee regarding the relevant facts.

Mr. President, the House yesterday had a hearing. It has been contrasted in some ways to the hearing that we held. Certain assertions were made about their level of knowledge. I join with the chairman. I do not presume to have knowledge about what the House knows, but I do point out to the chairman that we had no conference item in the last several years on this subject with the House, at which time we would have had an exchange of views if our views were different. This is the first time that the matter has come up. The House is free to assert its views; we assert ours.

Also, Mr. President, I think that this amendment should in no way be interpreted as an attempt to delay completion of the envisioned project. To the contrary. It is solely for completing the project in a cost-effective, efficient manner, and to assure the American taxpayers that should the NRO, as they have now testified, not require all this space, the balance of the space will be occupied by individuals performing necessary contractor support and/or by other defense-related or intelligence-related entities, so that the project one day will be complete.

I want to assure the local community, I am proud of the fact that it is in the State of Virginia. I knew it was there. I worked on the colocation of all of these entities in our State and, indeed, on this site. I have not been told the specifics. Again, I did not have knowledge of the full cost. I had been relying on the 1992 figures of less than $200 million in terms of the whole project.

Nevertheless, this amendment is a constructive effort to make sure that it is cost-effective, that it is utilized fully by the Government in a proper manner and also that those persons enjoying this very attractive site will do so in a manner commensurate with other Government employees, wherever they are throughout the Federal Government.

Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, how much time does the Senator from Arizona have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 4 minutes remaining.

Mr. DECONCINI. And on the bill, how much time does the Senator have?

The PRESIDING OFFICER. The Senator has 14 minutes on the bill.

Mr. DECONCINI. Mr. President, I yield 5 minutes from the Senator's time on the bill to the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I thank the Senator from Arizona very much for his generosity.

I support the amendment being offered by the committee chairman and vice chairman. On Wednesday of this week, the committee held what I regard to be a very revealing hearing. At that hearing, the public was presented with a very sorry picture of the intelligence community hiding from the Congress the costs of a huge construction project. I believe this amendment ensures that the cost of the project will not grow any larger than it now already has.

In 1989, the National Reconnaissance Office started a very worthwhile project. They decided to bring together many of their activities which were spread throughout the United States and consolidate them in the Washington, DC area. The intent was clear and the goal was wise: Consolidation would eliminate waste and streamline many of the operations. Unfortunately, the intent and the goal became lost in the desire to build a huge, modern, spacious, and extremely well-equipped headquarters complex.

This complex, as has already been stated, is located in the Westfields area, along Route 28, in Northern Virginia. In order to get an idea of the size and the impact of this new headquarters, you do not need to have a security clearance. You only have to stand outside of the security fence and see that the National Reconnaissance Office will be working in an office complex that will be unrivaled throughout the entire Federal Government.

Mr. President, not only does it have a great deal of space for every worker, it originally had a sauna and it originally had a fountain. Thankfully, these at least have been dropped from the project. This office complex is large, it is modern, and it is costly.

In my opinion, excessive secrecy has led to the costliness of this project. As the Director of Central Intelligence admitted to me in the hearing on Wednesday, the intelligence community still—to this day—has not specifically identified to the Congress in any of its budget requests the total cost or budget for this project. Since 1989, during briefings or in letters they have mentioned many different numbers—some as high as $195 million, but only as a result of our committee's special audit did we find out that the National Reconnaissance Office has budgeted $350 million for this 1 million square feet of office space.

Let me give you some perspective on this. The vice chairman reminded everyone on Wednesday that the Pentagon has 5 million square feet. The NRO's office complex, on the other hand, is 1 million square feet. How many people work in the Pentagon? Twenty-eight thousand. But how many will work in the NRO's new headquarters? Three thousand. This gives you some idea of how large and spacious a complex is being built by the taxpayers for a cost of $350 million.

I fully support the chairman's and vice chairman's amendment. It very simply says, enough is enough. It says quite simply that $310 million may be spent on the total project. This is only $40 million less than the NRO has budgeted. It requires that, if for some reason $310 million is not enough to build an office for 3,000 people, the intelligence community must come to the Congress and ask and justify its needs quite specifically.

I commend the chairman and I commend the vice chairman for the speed with which they have responded to the information that has come to their attention and the actions they are taking to bring this costly project under control.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to thank the Senator from Montana for his participation in the hearings the other day and also for his interest in joining as a member of the committee to get some kind of handle on the cost of intelligence projects.

The Senator from Montana makes an extremely good point about the square footage of offices. Our review shows that almost 50 percent of the offices are going to be single-occupied with the most common office size at 165 square feet—165 square feet—per office. The General Services Administration's recommended square foot per person for Federal Government employees is 125 square feet per person.

Mr. Marsh, the NRO Project Director, said it may be a little bit off and they will supply us with more information if necessary.

The Senator from Montana points out very astutely how many people are going to be here versus how many are in the Pentagon. I do not know if the Senator realized that 1,000 of the 2,900 people moving into the new facility are contractors, not employees of the NRO. So they are building space out here for other people to come in and use.

What right does any agency have to step forward and spend money, build an excess building for a thousand contractors without coming to the Congress, making justification for the expenditure, and seeking our authority? Maybe we would have approved it. The Senator from Montana pointed the other way. It has been his experience in dealing with buildings in the 15 years he has been here that if you come to the committee and make a good case, the committee is pretty receptive.

Mr. BAUCUS. If the chairman will yield, what struck me—and I would like the chairman's reaction to this—was the most common office size for over 40 percent of the building occupants is about 165 square feet per person.

Mr. DECONCINI. That is right.

Mr. BAUCUS. Mr. President, I ask the chairman, do we have any sense of what, say, 20 percent or 30 percent of the personnel will have as office space? If 165 square feet is the most common office size, I have to think that there are an awful lot of offices there that are spacious, luxurious beyond any comprehension. I wonder if we have a sense yet about that.

Mr. DECONCINI. If the Senator will yield, we do not, we do not have the total picture, but we do know there are some offices that are going to have 500 square feet—the office for directors, for example. That is a lot of space. That is more than the Senator has in his office or I have in my office.

Mr. BAUCUS. Much more.

Mr. DECONCINI. Our audit team is still going through that information. When we get it, we will put it in the RECORD.

Mr. BAUCUS. Why does a person need 500 square feet in their office?

Mr. DECONCINI. I think that is a question we should present to the NRO when they come back with the explanation of just how this office space is broken down. We asked them, as the Senator may recall if he was there, how many other facilities do they have, how many are going to be put in here, and what amount do they project will be saved by this consolidation, collocation, that the Congress asked them to do. I am not sure they ever even determined it. And they are going to come and tell us, but they say it may be classified.

Mr. BAUCUS. I thank the Senator.

Mr. DECONCINI. I thank the Senator.

Mr. CONRAD. Will the Senator yield?

Mr. DECONCINI. I will be glad to yield to the Senator from North Dakota.

Mr. CONRAD. The Senator made mention of the fact that of the 2,900 employees that were going to be in this facility, 1,000 would be contractors; that is, I assume he meant by that people who are working on NRO business but that are operating as private contractors.

Mr. DECONCINI. The Senator is correct. That is my understanding.

Mr. CONRAD. What would be the justification for out of 2,900 employees, 1,000 would be private contractors? Why are they not employees of NRO? What is the purpose for that? And what is the cost, if the Senator might know it, of those people operating as private contractors?

Mr. DECONCINI. Well, the Senator raises a question that I cannot answer because the NRO has not answered what the cost is. Their answer is that if they contract for some specialty service that the NRO cannot do in-house—and they do have that legitimate requirement—then, when they contract, those people rent space if they come back here to do the work, and they charge a commission that may be as much as 20 to 25 percent on top of whatever the rent is. So their justification is, put them in here, and then we do not charge them rent, but we do not pay the commission.

But my question is, I would like to know a better argument, and I would like to know, as the Senator from North Dakota just asked, how much is that costing us? They are spending money out there, more than $175 a square foot, to build that building, probably more now than $310 million, for which, believe me, I think you could rent space and even pay a 25 percent premium for a lot less than paying $175 per square foot for office space for contractors.

Mr. CONRAD. If I might just further inquire, it strikes me that we have something here that really begs for further investigation. Why would there be 1,000 contractors out of 2,900 employees? What is the tax effect? Are those people getting favored tax treatment because they are being treated as contractors? Are those people working full-time for the NRO? If so, why are they not on the permanent payroll of NRO? Is this being used as a way to get around certain restrictions with respect to the number of personnel? Is it being used to get around certain restrictions with respect to Federal employees? Is it being used to give them tax-favored treatment?

All of those questions present themselves. I must say when I hear we are building public space for 2,900 people and 1,000 of them are private contractors, that sets off a lot of alarm bells in this Senator's head.

Mr. DECONCINI. I thank the Senator for his questions, and I am going to take them out of the RECORD and send them to the special task force headed by Deputy Secretary Deutch and ask that they be included in its review of this project. I think the Senator raises profoundly important questions that need to be answered. We need to know that. Maybe there is a justifiable reason. But I am like the Senator; the alarms go off.

Mr. CONRAD. I thank the Senator.

The PRESIDING OFFICER. The Chair does indicate to the Senator from Arizona that the time on the amendment has expired.

The Senator from Arizona has 7 minutes 40 seconds remaining on the bill.

Mr. DECONCINI. Mr. President, is there any time remaining to the Senator from Virginia?

The PRESIDING OFFICER. The Senator from Virginia has 6 minutes 35 seconds.

Mr. DECONCINI. How much?

The PRESIDING OFFICER. Six minutes.

Mr. DECONCINI. Mr. President, I will suggest the absence of a quorum, and as soon as the Senator comes back, I am prepared to yield back the time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. In the meantime, the time will be charged equally against each side.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I would like to pose a couple of questions. I had reserved a couple of amendments on this bill under a time agreement.

The PRESIDING OFFICER. Does the Senator from Arizona yield time?

Mr. DECONCINI. I yield whatever time I have left. I yield 4 minutes off the bill, from the time reserved for the manager of the bill.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I have met with the Senator from Arizona and the Senator from Virginia, Senator WARNER, about my concerns on this bill as it was originally drafted. I had reserved a couple of spaces for amendments, but our staffs have been working out the matters I was interested in. It is my understanding that each of the matters that I was concerned about has been dealt with in the managers' amendment that has been adopted. But I would like to make sure that is the case. I would like to therefore pose two or three questions to the Senator from Arizona and the Senator from Virginia.

I have a section, insert section, 3(c) here which deals with the coordination of counterintelligence matters in the Federal Bureau of Investigation. And it says:

> Except as provided in paragraph 3 below, the head of each department or agency within the executive branch shall ensure that—

And this is the key paragraph.

> the Federal Bureau of Investigation is advised immediately of any information, regardless of its source, which indicates that classified information is being, or may have been, deliberately disclosed in an unauthorized manner to a foreign power or an agent of a foreign power.

I believe the word "deliberately" was added after our meeting. I believe that achieves my major concern so that there is a certain threshold here of intent so that we do not have simply piles of complaints going over to the FBI on any matters that would not raise concern by any reasonable person.

I believe that has been taken care.

Mr. DECONCINI. If the Senator will yield, I can confirm that is exactly what was suggested by the Senator and his staff. And the word "deliberately" was included in the managers' amendment that we submitted and have agreed to here so as to do away with too much paper, to raise the threshold, as the Senator from Georgia pointed out.

I think the Senator from Virginia has something to say on this as well.

Mr. WARNER. Mr. President, before the distinguished Senator from Georgia came in to consult with the chairman and me, I had discussed this with the director of the Central Intelligence Agency. He, likewise, felt two things should be achieved in this paragraph. One is an affirmative duty on both the FBI and the CIA; that those affirmative duties be parallel in nature; and that there be some limitation of the materials sent back and forth, not in the sense to hide anything, but just to eliminate a lot of the material which might have been caught by more general phraseology, to that material which was essential in the promulgation of their respective responsibilities in counterintelligence and that drafting was incorporated at his recommendation as well as that of the Senator from Georgia.

Mr. NUNN. I thank my friends from Arizona and Virginia.

A couple more questions. The other concern I had—referring to the bill language here—I had a concern that the FBI was going to be consulted by the CIA in the event there was any kind of deliberate informational breach of classified information, but that this was not a two-way street. In other words, once the FBI started the investigation, there was not a corresponding duty of the FBI to keep the appropriate officials of the CIA informed of their activities. It seems to me there has to be a two-way street in terms of coordination.

I believe that the Senators have addressed that concern in this managers' amendment, also; have they not?

Mr. DECONCINI. If the Senator will yield, the Senator from Georgia raised that issue, as did the national security advisers that we met with, and that is section 2, below the (c) on the page the Senator has before him. I believe it does exactly what the Senator suggested we do and what the national security advisers also requested.

Mr. NUNN. I thank the Senator from Arizona.

The third concern, I believe, has also been dealt with. That is, making sure that if there were extraordinary circumstances that perhaps none of us can foresee here on the floor of the Senate, but they nevertheless could occur, when the President of the United States believes that there could be an endangered national security interest, vital national security interests, if this information is immediately turned over to the FBI, and it could be a matter of life or death, or could be a matter of war or peace, for some reason we may not foresee, I was hoping the President would get some waiver authority here for these extraordinary circumstances.

I believe that has also been provided for.

Mr. DECONCINI. It is indicated in paragraph 3, and it gives the President authority to waive on a case-by-case basis. He must only advise the committee that he has exercised that authority—but not the particular matters, until later when he feels he can do so.

Mr. NUNN. I thank the Senators. I think all of the concerns that I had raised with the two Senators and their staffs have been taken care of. I will have no amendment. I am not sure if I have one or two amendments on the list. But I will not be intending to bring those up.

I thank the Senators for their help and leadership.

Mr. DECONCINI. I thank the Senator from Georgia for his constructive discussion here. It has been a great pleasure to work with him as chairman of the Armed Services Committee, which is part of this whole important procession. I appreciate immensely his participation and willingness to work to get this legislation, and the Senator from Virginia and I feel it really is necessary that we do some legislation in this area.

Mr. WARNER. I join the distinguished chairman, and I thank Senator NUNN in his capacity as chairman of the Armed Services Committee. There is a sequential referring of the entire budget that comes up—that is, most of it—and, as such, I have seen, through the years, in working with him, that he exercises his responsibilities. It is not a simple passthrough. It is reviewed by the chairman and members of the Armed Services Committee with care.

Mr. NUNN. I say to my friend that our committee reviews their work carefully on everything—except building and construction.

Mr. WARNER. The Senator's point is not well conceded.

Mr. DECONCINI. I ask unanimous consent that the Senator from Nevada, Senator BRYAN, be included as an original sponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am prepared to yield back any remaining time this Senator has.

Mr. WARNER. Mr. President, I likewise yield back whatever time the Senator from Virginia has remaining.

I ask unanimous consent that Senator SPECTER be added as a cosponsor to the amendment of the Senator from Virginia on the Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, on Wednesday evening I expressed my displeasure on this floor over the way the Intelligence Committee has handled the publicity over the headquarters building that is being constructed for the National Reconnaissance Office. I said then, and I repeat now, that if the committee or individual Senators seek only to assign blame rather than looking at how the committee and the Congress may share that blame we are sure to perpetuate rather than solve existing oversight problems.

The committee has been aware of this construction project since its inception, indeed it was largely responsible for the consolidation of the NRO which made this project necessary. At any time over the last several years, the committee could have examined this project in detail. Only recently did the committee bother to take such a look. And when it discovered apparent problems it immediately transformed them into a major public issue. I believe that this approach was highly irresponsible and counterproductive.

Mr. President, as I stated the other night, this will come back to bite the committee. Well, today's Washington Times provides just such a bite. I ask unanimous consent that this editorial be included in the RECORD at the conclusion of my statement.

Mr. President, I do not say that the NRO is without blame or that the committee is not justified in its concern over this issue. But the way it has been handled is nothing short of irresponsible. If the committee seeks only to assign blame, it will surely never correct its own oversight shortcomings.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 12, 1994]

THE CASE OF THE PURLOINED SPY AGENCY

Even in a city that thrives on hues and cries, it sure was a mighty one that was raised by President Clinton's revelation on Monday that an innocent looking office complex in Westfields, Va., is really going to house a super-secret spy agency, the National Reconnaissance Office, which is in charge of our spy satellite operations.

In fact, so secret is the NRO that even its name was hush-hush until two years ago, when the agency's existence was first officially acknowledged. Not since the Department of Energy revealed that Americans have been unknowingly zapped by government scientists with atomic radiation for 50 years have we seen such an uproar over Cold Warriors conniving and conspiring to hoodwink the American people. Why, this project was so secret that even the president of the United States didn't know about it. How 'bout that?

At Senate Intelligence Committee hearings on the $310 million construction project on Wednesday, members could barely contain their outrage. Sputtered Sen. Richard Byran: "I don't think it can be underestimated the extent or magnitude of the damage done to the intelligence community in terms of its credibility with the Congress and the American people." Chairman Dennis DeConcini intimated that the CIA had been employing the purloined letter technique, hiding the massive complex in plain view (just like the CIA, isn't?). And the always charming Sen. Howard Metzenbaum snarled that perhaps CIA Director James Woolsey's *successor* would be more forthcoming with information. "Where were you?" he demanded of Mr. Woolsey.

Well, where was the Senate Intelligence Committee, you might ask? Where was Mr. DeConcini? Where was Sen. John Warner, ranking minority member of the committee, in whose state the complex is being built? Where was former committee chairman David Boren, who has released a statement saying that he was "never made personally aware that a construction project of this magnitude was being contemplated." Indeed where was George Tenet, staff director for the Intelligence Committee under Mr. Boren and now in charge of intelligence for the National Security Council staff—the man who ought to have been able to spare Mr. Clinton this enormous surprise? Why didn't any of these people know?

The truth, of course, is that they did know. They know very well that the intelligence services are being reorganized and some of their functions consolidated. The NRO complex in Westfields is a part of that process. But no one saw this as an issue until the president decided to declare it a scandal.

Just how much they knew is evident from the ample documentation that Mr. Woolsey and NRO Director Jeffrey Harris brought with them to the hearing.

A few samples:

Back in 1989, a Senate Supplemental to Report No. 101–78 stated that the reorganization plan, combining a number of functions of the CIA, the Air Force, and the NRO in a northern Virginia facility was "feasible" and "should be pursued" and authorized $30 million in fiscal 1990 and $27 million in fiscal 1991 for this purpose.

On Feb. 26, 1990, William Webster, Director of Central Intelligence, and Dick Cheney, Secretary of Defense, wrote to Mr. Boren regarding the NRO headquarters collocation, describing "a phased, incremental facility strategy," and outlined the funding needed for a partial collocation, a total cost of $195.4 million.

On Sept. 17, 1990, then-director of the NRO, Martin Faga, wrote to Mr. Boren giving him "formal notification of the National Reconnaissance Office (NRO) intent to purchase a parcel of land in support of the permanent facility collocation activities of the NRO restructure efforts." The letter describes "a parcel of land approximately 68 acres" and a "current master plan [providing] for the development of approximately 1.3 million square feet on the site. . . . Phase one provides for the construction of approximately 500,000 square feet. . . . Phase two would add an additional 400,000 square feet. Phase three would provide an additional 400,000 square feet. Flexibility is inherent in the master plan to allow phases two and three to be sized differently as the need arises."

In 1992, the FY 1993 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriation subcommittees, stated that "in FY 1991, the NRO acquired a parcel of land sufficient to protect for the option of full collocation. The final NRO facility headquarters will be located in western Fairfax, Virginia on approximately 70 acres. The facility master plan allows for a six-building complex, structured parking, emergency generator building, warehouse, conference facility, and cafeteria. The current construction plan and budget provide for three buildings. . . . occupancy in late 1995. The total construction is approximately 800,000 square feet."

On Nov. 10, 1992, the staff of the Senate Intelligence Staff was briefed on the details of the project. The plan had grown from three to four buildings, a total of 1 million square feet, (with an option to build two more should the need arise).

On Nov. 13, 1992, Mr. Faga wrote to David Boren and Frank Murkowski, committee vice chairman, requesting permission to reallocate $22 million to accelerate the NRO's consolidation plan. He was told, "The Committee does not object to the expenditure of funds for the purpose specified."

In addition, there is report upon report of estimated costs for the three- and four-building options five years' worth of intelligence authorization bills, appropriations bills, conference reports and on an on, in which the project has been specifically mentioned, and, of course, funded.

It's a pity, Mr. Woolsey only has the truth on his side. Apparently, that doesn't count for much when there's posturing and intelligence-bashing to be done.

Mrs. FEINSTEIN. Mr. President, I rise today as a cosponsor of the DeConcini-Warner amendment concerning the construction of a National Reconnaissance Office [NRO] headquarters building.

Frankly, I was extremely troubled to learn that more then $300 million is being spent to secretly construct an NRO facility in northern Virginia to consolidate personnel located in California and throughout the country.

Apparently, construction of the NRO facility was begun in 1990 and undertaken without the full knowledge and approval of Congress. This raises serious concerns about congressional oversight of this project and the entire NRO Organization. In my opinion, the credibility of the NRO has been damaged, and Congress will be forced to more closely scrutinize its budget and activities.

I am trying to get answers about this project and consolidation, but am concerned about the level of cooperation the NRO is giving my office.

Last week, my staff contacted Pentagon officials to inquire about speculation that NRO personnel were moving from offices at Los Angeles Air Force Base [AFB] in California to a new NRO headquarters building near Dulles International Airport. The Air Force denied all knowledge of such a proposed consolidation, and inquiries to the NRO went unanswered. The way these inquiries were handled leads me to believe that the intelligence community was trying to deceive Congress or, at a minimum, me. This is simply unacceptable.

Still today, after Pentagon officials testified before the Senate Intelligence Committee, the NRO has not provided me or my office any information, except a joint statement that was released to the press.

Apparently, construction of the NRO facility was originally planned for a partial consolidation of headquarters personnel that are scattered throughout the Washington area. This would have allowed for construction of a building with two office towers at substantially less cost than current estimates.

However, sometime in 1992, after the fall of the Soviet Union—the primary target of NRO activities—the intelligence community decided to proceed with a full consolidation of NRO personnel nationwide. This decision caused the estimated cost for the new facility to near $350 million as two additional office towers were added, for a total of four huge towers. This new structure will be far larger than necessary to house NRO and support personnel. I am unclear why additional funds were allocated for this new structure at a time when defense and intelligence budgets were declining.

My staff still has not been able to determine exactly what type of consolidation is being proposed or the details of the approval process. Specifically:

When and how was the decision made to shift from only partial consolidation to full consolidation?

How many military, civilian, and contractor personnel are being affected, and what type of work are they performing?

Where are these personnel currently located?

When is the proposed consolidation occurring?

What implications does the proposed consolidation have on the base realignment and closure [BRAC] process?

Because NRO is partly a Defense Department agency, is it subject to the BRAC process?

Was a true cost-benefit analysis completed to determine whether the associated cost of the NRO facility and full consolidation justified any national security or fiscal gain?

I have already written to Defense Secretary Perry expressing my concern over this matter and submitted some of these questions to him. I expect answers to these questions as soon as possible. I also expect the review currently being undertaken by the Director of the CIA and Deputy Secretary of Defense to address these and other issues.

In addition to my concerns regarding general congressional oversight of the project, I am particularly troubled that, though the consolidation was approved years ago and the Intelligence Committee was notified, I was never made aware that jobs would be moved out of California. Also, I am concerned that the consolidation of personnel from Los Angeles AFB may have an adverse impact—direct or indirect—on the upcoming 1995 base closure process, especially considering that this is just one of a number of planned consolidations out of Los Angeles AFB.

As many of my colleagues know, the Space and Missile Systems Center at Los Angeles AFB is a center of excellence for the design and acquisition of satellites and other space systems. It would seem reasonable and practical that those working on satellites, such as the NRO, would want to be located at or near Los Angeles AFB. This is where the program offices are, this is where the acquisition personnel are, this is where the Aerospace Corporation, a support FFRDC is, and this is where the contractors are.

But, the NRO apparently decided to move its personnel from this center of excellence to a headquarters building near Washington, DC. I believe the decisionmaking process for proceeding to a full consolidation also needs to be examined closely.

Mr. President, this matter needs to be thoroughly looked into and I hope that much of the information surrounding the project can be declassified so the public and taxpayers will have full knowledge of what is being built near Dulles International Airport.

I fully support this amendment and urge its adoption.

The PRESIDING OFFICER. The question occurs on amendment No. 2557, offered by the Senator from Arizona.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—99

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NOT VOTING—1

Wellstone

So the amendment (No. 2557) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2556

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to amendment No. 2556, offered by the Senator from Virginia [Mr. WARNER].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—99

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle

Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NOT VOTING—1

Wellstone

So the amendment (No. 2556) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator BOREN be added as a cosponsor to the DeConcini-Warner amendment, and that Senator LEAHY be added as a cosponsor to the Warner-DeConcini amendment that has already been adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the immediate consideration of H.R. 4299, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 4299 is stricken, the text of S. 2082, as amended, is inserted in lieu thereof, and the bill is considered read for a third time.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that this vote be restricted to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is: Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Minnesota [Mr. WELLSTONE] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

]Rollcall Vote No. 285 Leg.]

YEAS—97

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—2

Hatfield
Riegle

NOT VOTING—1

Wellstone

So the bill (H.R. 4299), as amended, was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House of Representatives thereon, and the Chair appoints conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. GRAHAM) appointed Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. KERREY of Nebraska, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY of Massachussetts, Mr. BAUCUS, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. GORTON, Mr. CHAFEE, Mr. STEVENS, Mr. LUGAR, and Mr. WALLOP; and, from the Committee on Armed Services, Mr. NUNN and Mr. THURMOND.

MEASURES INDEFINITELY POSTPONED

The PRESIDING OFFICER. Under the previous order, S. 2082 and S. 2056 are indefinitely postponed.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DECONCINI, and then Senator WARNER, be recognized to make brief remarks with respect to the bill just passed; that the Senate then proceed to the consideration of Calendar No. 506, S. 1614, the child nutrition bill; that Senator LEAHY then be recognized to offer an amendment on behalf of himself and the committee; that there be 5 minutes of debate on that amendment; that upon the disposition of that amendment Senator SIMPSON be recognized to speak on health care for up to 20 minutes; that, upon conclusion of Senator SIMPSON's remarks, Senator MCCONNELL be recognized to offer his amendment regarding motor-voter requirements in WIC offices; that there be 90 minutes of debate on the McConnell amendment; that, upon the use or yielding back of that time, the Senate vote without any intervening action on or in relation to Senator MCCONNELL's amendment; that all time be equally divided in the usual form; that no other amendments be in order prior to the disposition of the Leahy and McConnell amendments; and that, upon the disposition of these amendments, S. 1614 be returned to the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

COMMENDATIONS

Mr. DECONCINI. Mr. President, I want to say a particular thank-you to my colleague, and vice chairman, Senator WARNER, for his cooperation in the past couple of years.

This is a difficult time for the intelligence community, and without the cooperation of the Senator from Virginia, we would not have had the bill as constructed and the legislation that we have just passed. He played a major, major role.

I also want to thank all of his staff, particularly Judy Ansley and Chris Mellon for their superb participation in this effort; also a number of other people who have done a tremendous job: Tim Carlsgaard, Charlie Battaglia, Britt Snider, Pat Hanback, and Sarah Holmes for their particular efforts on the audit team; Jim Wolfe, for the strong effort that he has given this year; Jonathan Zittrain and the entire staff. Also, in behalf of the Senator from Florida [Mr. GRAHAM] and myself, I want to thank Al Cumming and Harriet Schneider for their fine work.

This staff at the committee is not a partisan staff at all. It is not divided by minority or majority. I think that bodes well for the votes that we received today on this bill, and the lack of consternation and disagreement that is here when there are areas of disagreement. We work them out. We do not have confrontations. I think it serves the intelligence community well.

The recent exposure we talked about today regarding the NRO happened because this committee took an initiative first under Senators BOREN and COHEN to have an audit staff, only two people—currently Ms. Hanback and Ms. Holmes. We have uncovered a number of things that need to be corrected, and we have attempted to correct them.

I am most grateful to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank my good friend. We work together, and we shall finish up our venue here at the conclusion of this Congress.

But I would say that the strong votes the Senate has just recorded on pieces of legislation, which together we have worked on, I think is an affirmation of the leadership that the Senator from Arizona has given this committee. I regret that in today's paper there is some indication of dissatisfaction on behalf of our counterparts in the House of Representatives. And I hope they, too, will note the votes taken by this Chamber today with regard to pieces of legislation which are landmark, absolutely landmark pieces of legislation taken to strengthen America's intelligence.

I join our distinguished chairman in commending our entire staff; Norm Bradley, the staff director; Tim Carlsgaard; Mrs. Hanback; and Mr. Mellon on my staff. Mr. Mellon came from Senator CHAFEE's staff, and will be returning. Mrs. Ansley at the conclusion of this year, will return to my staff.

But I think the most important thing is that Judy and Steve Ansley have within the past year brought into the world a wonderful baby girl, Rachel Emily Ansley. And she never missed a day on the job. She continued each day at her home, and that shows the dedication that not only this individual has but many, many persons that we are privileged to have in service here in the Senate on our staffs.

I yield the floor.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask that we now go forward with S. 1614.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Better Nutrition and Health for Children Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

Sec. 101. Delivery of commodities.
Sec. 102. Combined Federal and State commodity purchases.
Sec. 103. Nutritional requirements.
Sec. 104. Elimination of whole milk requirement.
Sec. 105. Use of free and reduced price meal eligibility information.
Sec. 106. Automatic eligibility of Head Start participants.
Sec. 107. Use of nutrition education and training program resources.
Sec. 108. Special assistance for schools electing to serve all children free lunches or breakfasts.
Sec. 109. Definition of school.
Sec. 110. Reimbursement for meals, supplements, and milk under certain programs contingent on timely submission of claims and final program operations report.
Sec. 111. Organically produced agricultural products.
Sec. 112. Food and nutrition projects.
Sec. 113. Summer food service program for children.
Sec. 114. Commodity distribution program.
Sec. 115. Child and adult care food program.
Sec. 116. Homeless children nutrition program; demonstration program for the prevention of boarder babies.
Sec. 117. Pilot projects.
Sec. 118. Food service management institute.
Sec. 119. Compliance and accountability.
Sec. 120. Duties of the Secretary of Agriculture relating to nonprocurement debarment under certain child nutrition programs.
Sec. 121. Nutrition education promotion program.
Sec. 122. Information clearinghouse.
Sec. 123. Guidance and grants for accommodating medical and special dietary needs of children with disabilities.

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

Sec. 201. School breakfast program.
Sec. 202. State administrative expenses.
Sec. 203. Competitive foods of minimal nutritional value.
Sec. 204. Special supplemental nutrition program.
Sec. 205. Nutrition education and training program.

TITLE III—EFFECTIVE DATES

Sec. 301. Effective dates.

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

SEC. 101. DELIVERY OF COMMODITIES.

(a) IN GENERAL.—Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

(1) by striking subsection (b) and inserting the following new subsection:

"(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.";

(2) by striking subsections (c) and (d); and

(3) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f), and clauses (i) and (ii) of subsection (g)(3)(A), of section 14 of such Act (42 U.S.C. 1762a) are amended by striking "section 6(e)" and inserting "section 6(c)".

(2) The last sentence of section 16(a) of such Act (42 U.S.C. 1765(a)) is amended by striking "section 6(e) of this Act" and inserting "section 6(c)".

(3) Section 17(h)(1)(B) of such Act (42 U.S.C. 1766(h)(1)(B)) is amended by striking "section 6(e)" and inserting "section 6(c)".

SEC. 102. COMBINED FEDERAL AND STATE COMMODITY PURCHASES.

Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by schools in the State in meals served under the school lunch program under this Act.".

SEC. 103. NUTRITIONAL REQUIREMENTS.

(a) TECHNICAL ASSISTANCE FOR SCHOOL LUNCH PROGRAM.—Section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) MINIMUM NUTRITIONAL REQUIREMENTS MEASURED BY WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL LUNCHES.—Section 9(a)(1)(A) of such Act (42 U.S.C. 1758(a)(1)(A)) (as amended by subsection (a)) is further amended—

(1) by striking "; except that such minimum nutritional requirements" and inserting the following: ", except that—

"(i) the minimum nutritional requirements";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school lunches.".

SEC. 104. ELIMINATION OF WHOLE MILK REQUIREMENT.

Section 9(a)(2) of the National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fluid whole milk and fluid unflavored lowfat milk" and inserting "fluid milk, except that a State educational agency may require schools in the State to offer any type or types of milk to students"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) The Secretary shall purchase each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a

bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

"(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

"(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.".

SEC. 105. USE OF FREE AND REDUCED PRICE MEAL ELIGIBILITY INFORMATION.

Clause (iii) of section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)(iii)) is amended to read as follows:

"(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

"(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

"(II) a person directly connected with the administration or enforcement of a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); and

"(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

"(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

"(iv) Information provided by a school under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

"(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.".

SEC. 106. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

(a) IN GENERAL.—Section 9(b)(6) of the National School Lunch Act (42 U.S.C. 1758(b)(6)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "a member of";

(B) in clause (i)—

(i) by inserting "a member of" after "(i)"; and

(ii) by striking "or" at the end;

(C) in clause (ii)—

(i) by inserting "a member of" after "(ii)"; and

(ii) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))."; and

(2) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on September 1, 1995.

SEC. 107. USE OF NUTRITION EDUCATION AND TRAINING PROGRAM RESOURCES.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency shall, particularly with regard to the responsibilities of the agency under subsection (a)(3), use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.".

SEC. 108. SPECIAL ASSISTANCE FOR SCHOOLS ELECTING TO SERVE ALL CHILDREN FREE LUNCHES OR BREAKFASTS.

Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the second sentence, by striking "In the case of" and inserting the following:

"(B) Except as provided in subparagraph (C), (D), or (E), in the case of"; and

(3) by striking the third and fourth sentences and inserting the following new subparagraphs:

"(C)(i) Except as provided in subparagraph (D), in the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

"(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

"(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school-year period.

"(D)(i) In the case of any school that, on the date of enactment of this subparagraph, is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

"(ii) A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period. The school may reapply to the State at the end of the 5-school-year period, and at the end of each 5-school-year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school-year period. The school shall require submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of each 5-school-year period for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

"(E)(i) In the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

"(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).".

SEC. 109. DEFINITION OF SCHOOL.

(a) IN GENERAL.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(1) in the first sentence—

(A) in subparagraph (A), by striking "under," and inserting "under and";

(B) in subparagraph (B), by striking ", and" and inserting a period; and

(C) by striking subparagraph (C); and

(2) in the second sentence, by striking "of clauses (A) and (B)".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1995.

SEC. 110. REIMBURSEMENT FOR MEALS, SUPPLEMENTS, AND MILK UNDER CERTAIN PROGRAMS CONTINGENT ON TIMELY SUBMISSION OF CLAIMS AND FINAL PROGRAM OPERATIONS REPORT.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following new subsection:

"(j)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims submitted to State agencies by eligible schools, institutions, and service institutions for service of meals, supplements, and milk under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) only if—

"(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which reimbursements are claimed; and

"(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

"(2) The Secretary may waive the requirements of paragraph (1).".

SEC. 111. ORGANICALLY PRODUCED AGRICULTURAL PRODUCTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 110) is further amended by adding at the end the following new subsection:

"(k)(1) The Secretary shall make available, at the request of State educational agencies and schools participating in the school lunch program, information about means for schools to obtain organically produced agricultural products (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)), such as meats, poultry products, fruits, products made from grains, dairy products, and vegetables that are organically produced.".

"(2) Paragraph (1) shall apply beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with such Act (7 U.S.C. 6501 et seq.).".

SEC. 112. FOOD AND NUTRITION PROJECTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 111) is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

"(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

"(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

"(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

"(C) create community service learning opportunities or educational programs;

"(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

"(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

"(F) be able to provide model curricula, examples, advice, and guidance to school, community groups, States, and local organizations regarding means of carrying out similar projects.

"(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this section in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

"(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

"(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.".

SEC. 113. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) Order of Priority.—Section 13(a)(4) of the National School Lunch Act (42 U.S.C. 1761(a)(4)) is amended by striking subparagraphs (A) through (F) and inserting the following:

"(A) School food authorities.

"(B) Units of local, municipal, or county government that have demonstrated successful program performance in a prior year.

"(C) Other units of local, municipal, or county government, and private nonprofit organizations eligible under paragraph (7).".

(b) Private Nonprofit Organizations.—Section 13(a)(7) of such Act (42 U.S.C. 1761(a)(7)) is amended by striking subparagraph (C).

(c) Non-School Sites.—Section 13(c)(1) of such Act (42 U.S.C. 1761(c)(1)) is amended by inserting before the period at the end of the following: "or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to an unanticipated school closure".

(d) Registered Food Service Management Company Reports.—Section 13(l)(3) of such Act (42 U.S.C. 1761(l)(3)) is amended by striking "and their program record" and inserting "that have been seriously deficient in their participation in the program,".

(e) Management and Administration Plan.—Section 13(n) of such Act (42 U.S.C. 1761(n)) is amended—

(1) in paragraph (2), by adding "and" after the semicolon at the end;

(2) in paragraph (3), by striking the semicolon at the end and inserting a period; and

(3) by striking paragraphs (4) through (12).

(f) Elimination of Warning in Private Nonprofit Organization Application Relating to Criminal Provisions and Related Matters.—Section 13(q) of such Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (4), by striking "paragraphs (1) and (3)" and inserting "paragraphs (1) and (2)".

(g) Hearings Regarding State Action on the Basis of Federal Review Findings.—Section 13(q) of such Act (42 U.S.C. 1761(q)) (as amended by paragraphs (1) and (2) of subsection (f)) is further amended by inserting before paragraph (4) the following new paragraph:

"(3) A State shall not be required to provide a hearing to a private nonprofit organization concerning a State action taken on the basis of a Federal review finding with respect to a program carried out under this section. If a State does not provide a hearing to the organization concerning the action, the Secretary, on request, shall provide a hearing to the organization concerning the action.".

(h) Extension of Program.—Section 13(r) of such Act (42 U.S.C. 1761(r)) is amended by striking "1994" and inserting "1998".

SEC. 114. COMMODITY DISTRIBUTION PROGRAM.

(a) Extension.—Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "1994" and inserting "1998".

(b) Nutritional Content.—Section 14(b) of such Act (42 U.S.C. 1762a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall improve the overall nutritional quality of entitlement commodities (within the meaning of section 18) provided to schools under the school lunch program to assist the schools in improving the nutritional content of meals served under the program.

"(3) The Secretary shall—

"(A) require that nutritional content information labels be placed on packages or shipments of commodities provided to schools under the school lunch program; or

"(B) otherwise provide nutritional content information regarding the commodities provided to schools under the school lunch program.".

SEC. 115. CHILD AND ADULT CARE FOOD PROGRAM.

(a) Reapplication for Assistance at 3-Year Intervals.—Section 17(d)(2)(A) of the National School Lunch Act (42 U.S.C. 1766(d)(2)(A)) is amended by striking "2-year intervals" and inserting "3-year intervals".

(b) Use of Administrative Funds to Conduct Outreach and Recruitment to Unlicensed Day Care Homes.—Section 17(f)(3)(C) of such Act (42 U.S.C. 1766(f)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following new clause:

"(ii) Funds for administrative expenses may be used by a family or group day care home sponsoring organization to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.".

(c) Information and Training Concerning Child Health and Development.—Section 17(k) of such Act (42 U.S.C. 1766(k)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall encourage States to provide information and training concerning child health and development to family or group day care home sponsoring organizations.".

(d) Extension of Statewide Demonstration Projects.—Section 17(p) of such Act (42 U.S.C. 1766(p)) is amended—

(1) in paragraph (4)(B), by striking "1992" and inserting "1998"; and

(2) in paragraph (5), by striking "1994" and inserting "1998".

(e) WIC Information.—Section 17 of such Act (42 U.S.C. 1766) is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(2) The State agency shall—

"(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

"(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

"(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

"(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

"(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

"(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

"(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

"(ii) information on the maximum income limits, according to family size, applicable to the program; and

"(iii) information on where parents may apply to participate in the program.".

SEC. 116. HOMELESS CHILDREN NUTRITION PROGRAM; DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES.

(a) HOMELESS CHILDREN NUTRITION PROGRAM.—The National School Lunch Act is amended by inserting after section 17A (42 U.S.C. 1766a) the following new section:

"SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.

"(a) IN GENERAL.—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

"(b) AGREEMENTS TO PARTICIPATE IN PROJECTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

"(2) ELIGIBILITY REQUIREMENTS.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section, including requirements that—

"(A) each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children under the age of 6 at each site; and

"(B) each food service site operated by any of the organizations shall meet applicable State and local health, safety, and sanitation standards.

"(c) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—A project conducted under this section shall—

"(A) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program established under section 17 for free meals and supplements; and

"(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of the project.

"(2) MODIFICATION.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

"(3) HOMELESS CHILDREN ELIGIBLE FOR FREE MEALS WITHOUT APPLICATION.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without submitting an application.

"(d) FUNDING PRIORITIES.—From the amount described in subsection (f), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the 'current fiscal year') in the following order of priority, to the maximum extent practicable:

"(1) The Secretary shall first provide such funding to entities and organizations, each of which—

"(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

"(B) is eligible to receive funding under this section to carry out the project for the current fiscal year;

to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

"(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

"(e) NOTICE.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

"(f) FUNDING.—

"(1) IN GENERAL.—From funds made available under section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)), the Secretary shall expend $3,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out this section.

"(2) EXCEPTION.—The Secretary may expend less than the amount described in paragraph (1) if there is an insufficient number of suitable applicants to carry out projects under this section. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

"(g) DEFINITION OF EMERGENCY SHELTER.—As used in this section, the term 'emergency shelter' has the meaning provided in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).".

(b) DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES.—Subsection (c) of section 18 of the National School Lunch Act (42 U.S.C. 1769(c)) is amended to read as follows:

"(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

"(A) homeless pregnant women; and

"(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

"(2) To be eligible to obtain funds under this subsection, a homeless shelter, transitional housing organization, or other entity that provides or will provide temporary housing for individuals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

"(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(B) receive the approval of the Secretary for the proposal;

"(C) be located in an urban area that has—

"(i) a significant population of boarder babies;

"(ii) a very high rate of mortality for children under 1 year of age; or

"(iii) a significant population of homeless pregnant women and homeless women with infants;

as determined by the Secretary; and

"(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

"(3) Food and nutrition services funded under this subsection—

"(A) may include—

"(i) meals, supplements, and other food;

"(ii) nutrition education;

"(iii) nutrition assessments;

"(iv) referrals to—

"(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

"(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(III) other public or private programs and services;

"(v) activities related to the services described in any of clauses (i) through (iv); and

"(vi) administrative activities related to the services described in any of clauses (i) through (v); and

"(B) may not include the construction, purchase, or rental of real property.

"(4)(A) A participating entity shall—

"(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 17 for free meals and supplements;

"(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

"(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women, homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

"(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

"(5) The Secretary shall impose such auditing and recordkeeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

"(6) The Secretary shall periodically report to the appropriate committees of Congress on projects carried out under this subsection.

"(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 17B.

"(8) As used in this subsection:

"(A) The term 'boarder baby' means an abandoned infant described in section 103(1) of the

Abandoned Infants Assistance Act of 1988 (Public Law 100–505; 42 U.S.C. 670 note).

"(B) The term 'nutrition education' has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).".

SEC. 117. PILOT PROJECTS.

(a) FORTIFIED FLUID MILK.—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

"(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

"(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

"(A) all whole milk in final package form for beverage use shall contain not less than—

"(i) 3.25 percent milk fat; and

"(ii) 8.7 percent milk solids not fat;

"(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

"(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

"(5) Not later than 2 years after the establishment of pilot projects under this subsection, the Secretary shall report to the appropriate committees of Congress on—

"(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

"(B) the impact of offering the milk on milk consumption;

"(C) the views of the school food service authorities on the pilot projects; and

"(D) any increases or reductions in costs attributed to the pilot projects.

"(6) The Secretary shall—

"(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

"(B) on request, make available to State agencies and the public—

"(i) the information obtained under subparagraph (A); and

"(ii) information about where to obtain milk described in paragraph (3).

"(7)(A) The pilot projects established under this subsection shall terminate on the last day of the third year after the establishment of the pilot projects.

"(B) The Secretary shall advise representatives of all districts participating in the pilot projects that the districts may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.".

(b) INCREASED CHOICES OF FRUITS, VEGETABLES, LEGUMES, CEREALS, AND GRAIN-BASED PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (a)) is further amended by adding at the end the following new subsection:

"(f)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (7), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary shall use the funds provided under this subsection to provide to the schools referred to in paragraph (1)—

"(A) per meal reimbursements, in addition to reimbursements otherwise due the schools;

"(B) incentive awards to schools that agree to increase the choices of the schools of qualified products during the school year; or

"(C) qualified products acquired by the Secretary.

"(4) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(5) On request, the Secretary shall provide information to the appropriate committees of Congress on the impact of the pilot project on participating schools, including—

"(A) the extent to which school children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of—

"(i) requiring that each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) requiring that each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) mandating that the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(6) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $10,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(7) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(c) INCREASED CHOICES OF LOWFAT DAIRY PRODUCTS AND LEAN MEAT AND POULTRY PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products and lean meat and poultry products (including, subject to paragraph (7), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary shall use the funds provided under this subsection to provide to the schools referred to in paragraph (1)—

"(A) per meal reimbursements, in addition to reimbursements otherwise due the schools;

"(B) incentive awards to schools that agree to increase the choices of the schools of qualified products during the school year; or

"(C) qualified products acquired by the Secretary.

"(4) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(5) On request, the Secretary shall provide information to the appropriate committees of Congress on the impact of the pilot project on participating schools, including—

"(A) the extent to which school children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of—

"(i) requiring that each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) requiring that each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) mandating that the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of the school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(6) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $10,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(7) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

SEC. 118. FOOD SERVICE MANAGEMENT INSTITUTE.

(a) REQUIRED ACTIVITIES.—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b–1(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "and" at the end of clause (viii);

(B) by redesignating clause (ix) as clause (x); and

(C) by inserting after clause (viii) the following new clause:

"(ix) culinary skills; and";

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(F) training food service personnel to comply with the nutrition guidance and objectives of section 24 through a national network of instructors or other means;

"(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

"(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 24.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 21 (42 U.S.C. 1769b–1) is amended—

(1) in subsection (a)(1), by striking "from" and inserting "subject to the availability of, and from,"; and

(2) by striking subsection (e) and inserting the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 1998 for purposes of carrying out subsection (a)(1).

"(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

"(A) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $2,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) ADDITIONAL FUNDING.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) $2,000,000 for each of fiscal years 1995 through 1998. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.".

SEC. 119. COMPLIANCE AND ACCOUNTABILITY.

Not later than 1 year after the date of enactment of this Act, the Director of the Office of Technology Assessment shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that analyzes—

(1) the status of the coordinated review system authorized under section 22 of the National School Lunch Act (42 U.S.C. 1769c);

(2) the advantages and disadvantages of the system; and

(3) the cost impact of the system on schools.

SEC. 120. DUTIES OF THE SECRETARY OF AGRICULTURE RELATING TO NONPROCUREMENT DEBARMENT UNDER CERTAIN CHILD NUTRITION PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) in recent years, there has been an alarming number of instances of price-fixing and bid-rigging regarding foods purchased for—

(A) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(2) effective educational and monitoring programs can greatly reduce the incidence of price-fixing and bid-rigging by companies that sell products to schools;

(3) reducing the incidence of price-fixing and bid-rigging in connection with the school lunch and breakfast programs could save school districts, parents, and taxpayers millions of dollars per year; and

(4) the Comptroller General of the United States has noted that bid-rigging awareness training is an effective means of deterring improper collusion and bid-rigging.

(b) NONPROCUREMENT DEBARMENT.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

"(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

"(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

"(2) providing training, technical advice, and guidance in identifying and preventing the activities.

"(b) DEFINITIONS.—As used in this section:

"(1) CHILD NUTRITION PROGRAM.—The term 'child nutrition program' means—

"(A) the school lunch program established under this Act;

"(B) the summer food service program for children established under section 13;

"(C) the child and adult care food program established under section 17;

"(D) the homeless children nutrition program established under section 17B;

"(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

"(F) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

"(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

"(2) CONTRACTOR.—The term 'contractor' means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

"(3) LOCAL AGENCY.—The term 'local agency' means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

"(4) NONPROCUREMENT DEBARMENT.—The term 'nonprocurement debarment' means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

"(5) PERSON.—The term 'person' means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

"(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

"(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

"(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(d) NONPROCUREMENT DEBARMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

"(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

"(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

"(B) fraud, bribery, theft, forgery, or embezzlement;

"(C) knowingly receiving stolen property;

"(D) making a false claim or statement; or

"(E) other obstruction of justice.

"(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment or for other good cause (as determined by the Secretary), the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

"(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 1 year.

"(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 3 years.

"(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

"(i) reverse a debarment decision;

"(ii) reduce the period or scope of a debarment;

"(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

"(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

"(5) INFORMATION.—On request, the Secretary shall present to the appropriate congressional

committees information regarding the decisions required by this subsection.

"(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

"(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

"(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate the nonprocurement debarment proceedings described in subsection (d)(1) against the contractor who has committed a cause for debarment (as determined under subsection (d)(2)), unless the action—

"(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

"(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

"(3) is unfair to a person that is not involved in the improper activity that would otherwise result in the debarment;

"(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

"(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment; or

"(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

"(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

"(1) exhaust all administrative procedures prescribed by the Secretary; and

"(2) receive notice of the final determination of the Secretary.

"(g) INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the appropriate congressional committees information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.".

(c) APPLICABILITY.—Section 25 of the National School Lunch Act (as added by subsection (b)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act.

(d) NO REDUCTION IN AUTHORITY TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS.—The authority of the Secretary of Agriculture that exists on the day before the date of enactment of this Act to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by this Act or the amendment made by subsection (b).

SEC. 121. NUTRITION EDUCATION PROMOTION PROGRAM.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 120(b)) is further amended by adding at the end of each the following new section:

"SEC. 26. NUTRITION EDUCATION PROMOTION PROGRAM.

"(a) IN GENERAL.—The Secretary, using amounts received under subsection (d), shall establish a nutrition education promotion program to promote healthy eating habits among participants in the domestic food assistance programs of the Department.

"(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

"(1) develop or assist other persons in developing appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting nutrition education;

"(2) distribute or assist other persons in distributing the materials to appropriate public or private individuals and entities; and

"(3) provide funds to public or private individuals and entities, including teachers, child care providers, physicians, health professional organizations, food service personnel, school food authorities, and community-based organizations for the purpose of assisting the individuals and entities in conducting nutrition education promotion programs to promote healthy eating habits among the participants in the domestic food assistance programs of the Department.

"(c) COOPERATIVE AGREEMENTS AND GRANTS.—The Secretary may enter into cooperative agreements with, and make grants to, Federal agencies, State, and local governments, and other entities, to carry out the program described in subsection (a).

"(d) GIFTS, BEQUESTS, AND DEVISES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sale of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement on order of the Secretary.

"(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that would ensure that the acceptance of any gifts, bequests, or devises would not—

"(A) reflect unfavorably on the ability of the Secretary to carry out the responsibilities of the Secretary in a fair and objective manner; or

"(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.".

SEC. 122. INFORMATION CLEARINGHOUSE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 121) is further amended by adding at the end the following new section:

"SEC. 27. INFORMATION CLEARINGHOUSE.

"(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

"(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

"(1) be experienced in the gathering of first-hand information in all the States through on-site visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

"(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

"(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

"(4) be sponsored by an organization, or be an organization, that—

"(A) has helped combat hunger for at least 10 years;

"(B) is committed to reinvesting in the United States; and

"(C) is knowledgeable regarding Federal nutrition programs;

"(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

"(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

"(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

"(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for each of fiscal years 1997 and 1998, and $75,000 for fiscal year 1999. The Secretary shall be entitled to receive the funds and shall accept the funds.".

SEC. 123. GUIDANCE AND GRANTS FOR ACCOMMODATING MEDICAL AND SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 122) is further amended by adding at the end the following new section:

"SEC. 28. GUIDANCE AND GRANTS FOR ACCOMMODATING MEDICAL AND SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' means individuals, each of which is—

"(A) a participant in a covered program; and

"(B) an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) COVERED PROGRAM.—The term 'covered program' means—

"(A) the school lunch program established under this Act;

"(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

"(C) any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a school food service authority, or institution or organization, that participates in a covered program.

"(b) GUIDANCE.—

"(1) DEVELOPMENT.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidances for accommodating the medical

and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) TIMING.—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 90 days after the date of enactment of this section.

"(3) DISTRIBUTION.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

"(4) REVISION OF GUIDANCE.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidance to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) ADDITIONAL ASSISTANCE.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

"(3) ALLOCATION BY SECRETARY.—

"(A) PREFERENCE.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

"(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

"(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

"(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

"(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

"(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 21.

"(B) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

"(C) APPLICATIONS.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

"(4) ALLOCATION BY STATE EDUCATIONAL AGENCIES.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

"(5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 2000 to carry out this subsection.".

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

SEC. 201. SCHOOL BREAKFAST PROGRAM.

(a) TECHNICAL ASSISTANCE FOR SCHOOL BREAKFAST PROGRAM.—Section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) STARTUP AND EXPANSION OF SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Subsection (g) of section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773(g)) is amended to read as follows:

"STARTUP COSTS

"(g)(1) The Secretary shall make payments, totalling not less than $5,000,000 for each of fiscal years 1991 through 1996, $6,000,000 for each of fiscal years 1997 and 1998, and $7,000,000 for fiscal year 1999 and each subsequent fiscal year, on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to expand the programs.

"(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the national school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a breakfast program or a summer food service program for children, respectively.

"(9) Expenditures of funds from State and local sources for the maintenance of the breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

"(10) As used in this subsection:

"(A) The term 'eligible school' means a school—

"(i) attended by children a significant percentage of whom are members of low-income families; and

"(ii) that agrees to operate the breakfast program established with the assistance provided under this section for a period of not less than 3 years.

"(B) The term 'service institutions' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

"(C) The term 'summer food service program for children' means a program authorized by section 13 of such Act (42 U.S.C. 1761).".

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) FUNDING FOR HOMELESS CHILDREN NUTRITION PROGRAM.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "paragraphs (2), (3), and (4) of this subsection" and inserting "paragraphs (2) through (5)"; and

(2) in paragraph (5), by striking subparagraph (B) and inserting the following new subparagraph:

"(B)(i) Notwithstanding any other provision of this subsection, of the amounts that are provided under paragraph (1), before making the allocations required under paragraphs (2), (3), and (4), the Secretary shall allocate $3,000,000 for fiscal year 1995 and each subsequent fiscal year to carry out section 17B of the National School Lunch Act.

"(ii) After making the allocations required under clause (i) and paragraphs (2), (3), and (4), the Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.".

(b) WITHHOLDING OF FUNDS FOR SERIOUS DEFICIENCY IN STATE ADMINISTRATION OF PROGRAMS.—Section 7(a) of such Act (42 U.S.C. 1776(a)) is amended by adding at the end the following new paragraph:

"(9)(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the National School Lunch Act (42 U.S.C. 1751 et seq.), or compliance with a regulation issued to carry out a program pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a period of time specified by the Secretary, the Secretary may withhold from the State all or part of the funds allocated to the State under this section and sections 13(k)(1) and 17 of the National School Lunch Act (42 U.S.C. 1761(k)(1) and 1766).

"(B) On a subsequent determination by the Secretary that the administration of the program for which the Secretary withheld funds under subparagraph (A), or compliance with the regulation issued to carry out the program, is no longer seriously deficient and is carried out in an acceptable manner, the Secretary may allocate all or part of the funds withheld under subparagraph (A) to the State.".

(c) EXTENSION OF AUTHORITY TO PROVIDE FUNDS FOR STATE ADMINISTRATIVE EXPENSES.—Section 7(h) of such Act (42 U.S.C. 1776(h)) is amended by striking "1994" and inserting "1998".

(d) PROHIBITION OF FUNDING UNLESS STATE AGREES TO PARTICIPATE IN CERTAIN STUDIES OR SURVEYS.—Section 7 of such Act (42 U.S.C. 1776) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in each study or survey of a program authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) that is conducted by the Secretary.".

SEC. 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (c), respectively;

(2) in subsection (b) (as so designated)—

(A) by striking "Such regulations" and inserting "(1) The regulations"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall develop and provide to elementary schools, through each State agency, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

"(3) The Secretary shall provide to secondary schools, through State agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

"(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.".

SEC. 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) DEFINITION OF NUTRITIONAL RISK.—Section 17(b)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by inserting after "health," at the end of subparagraph (C) the following new subparagraph: "(D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse,"; and

(3) in subparagrah (E) (as so redesignated), by striking "alcoholism and drug addiction, homelessness, and" and inserting "homelessness and".

(b) PRESUMPTIVE ELIGIBILITY.—Section 17(d)(3) of such Act (42 U.S.C. 1786(d)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) Under the procedures, a pregnant woman who meets the income eligibility standards shall be considered presumptively eligible to participate in the program and shall be certified for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of the woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.".

(c) TECHNICAL CORRECTIONS.—Section 17(e) of such Act (42 U.S.C. 1786(e)) is amended by redesignating paragraph (3) (as added by section 123(a)(3)(D) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101–147; 103 Stat. 895)) and paragraphs (4) and (5) as paragraphs (4), (5), and (6), respectively.

(d) COORDINATION OF WIC AND MEDICAID PROGRAMS USING MANAGED CARE PROVIDERS.—Section 17(f)(1)(C)(iii) is amended by inserting before the semicolon at the end the following: ", including medicaid programs that use managed care providers under section 1903(m) or 1915(b) of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)".

(e) PRIORITY CONSIDERATION FOR CERTAIN MIGRANT POPULATIONS.—The first sentence of section 17(f)(3) of such Act (42 U.S.C. 1786(f)(3)) is amended by inserting before the period at the end the following: "and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time".

(f) INCOME ELIGIBILITY GUIDELINES.—Paragraph (18) of section 17(f) of such Act (42 U.S.C. 1786(f)(18)) is amended to read as follows:

"(18) Not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).".

(g) USE OF RECOVERED PROGRAM FUNDS IN YEAR COLLECTED.—Section 17(f) of such Act (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.".

(h) EXTENSION OF PROGRAM.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in the first sentence of subsection (g)(1), by striking "1991, 1992, 1993, and 1994" and inserting "1991 through 1998"; and

(2) in the first sentence of subsection (h)(2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1990 through 1998".

(i) USE OF FUNDS FOR TECHNICAL ASSISTANCE AND RESEARCH EVALUATION PROJECTS.—Section 17(g)(5) of such Act (42 U.S.C. 1786(g)(5)) is amended—

(1) by striking "and administration of pilot projects" and inserting "administration of pilot projects";

(2) by inserting before the period at the end the following: ", and carrying out technical assistance and research evaluation projects of the programs established under this section"; and

(3) by adding at the end the following new sentence: "The Secretary may allow the interagency transfer of funds made available to carry out this paragraph to Federal and other agencies to carry out projects and initiatives that are consistent with program goals.".

(j) BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES.—

(1) IN GENERAL.—Section 17(h)(3) of such Act (42 U.S.C. 1786(h)(3)) is amended—

(A) in subparagraph (A)(i)(II), by striking "$8,000,000," and inserting "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E),"; and

(B) by adding at the end the following new subparagraph:

"(E) The national minimum breastfeeding promotion expenditure shall be—

"(i) with respect to fiscal year 1995, the amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program, based on the average number of pregnant women and breastfeeding women during the last 3 months for which the Secretary has final data; and

"(ii) with respect to each of fiscal years 1996 through 1998, the amount described in clause (i) adjusted for inflation in accordance with paragraph (1)(B)(ii).".

(2) IMPLEMENTATION.—The Secretary of Agriculture may permit a State agency a period of not more than 2 years after the effective date of this subsection to comply with the expenditure required by reason of the amendments made by paragraph (1).

(k) DEVELOPMENT OF STANDARDS FOR THE COLLECTION OF BREASTFEEDING DATA.—Section 17(h)(4) of such Act (42 U.S.C. 1786(h)(4)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E)(i) not later than 1 year after the effective date of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program; and

"(ii) effective beginning on the date of the establishment of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4).".

(l) SUBMISSION OF INFORMATION TO CONGRESS ON WAIVERS WITH RESPECT TO PROCUREMENT OF INFANT FORMULA.—Section 17(h)(8)(D)(iii) of

such Act (42 U.S.C. 1786(h)(8)(D)(iii)) is amended by striking "at 6-month intervals" and inserting "on a timely basis".

(m) Cost Containment.—

(1) In general.—Section 17(h)(8)(G) (42 U.S.C. 1786(h)(8)(G)) is amended—

(A) in clause (i)—

(i) in the first sentence, by striking "The" and inserting "During each of fiscal years 1995 and 1996, the"; and

(ii) by striking the second sentence and inserting the following new sentence: "If an offer made under the preceding sentence results in the implementation of contracts by 2 or more State agencies, the Secretary shall also make offers in accordance with the preceding sentence during each of fiscal years 1997 and 1998.";

(B) in clause (viii), by inserting after the first sentence the following new sentence: "In conducting an offer under this clause, the Secretary shall attempt to develop and use procurement procedures that are likely to be broadly acceptable among State agencies."; and

(C) by adding at the end the following new clause:

"(ix) If an offer made under clause (i) results in the implementation of contracts by 2 or more State agencies, the Secretary shall promptly offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal or infant juice manufacturers, or both, and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. If the offer of the Secretary to solicit bids regarding cost containment contracts for infant cereal or infant juice, or both, results in the implementation of contracts by 2 or more State agencies, the Secretary shall renew the offer at appropriate intervals.".

(2) Repeal of termination of authority.—Section 209 of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is repealed.

(n) Prohibition on Interest Liability to Federal Government on Rebate Funds.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) is amended by adding at the end the following new subparagraph:

"(L) A State shall not incur an interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used to carry out the program.".

(o) Use of Unspent Nutrition Services and Administration Funds.—Section 17(h) of such Act (42 U.S.C. 1786(h)) is amended by adding at the end the following new paragraph:

"(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use, for the purposes specified in subparagraph (B), the lesser of $10,000,000 or the amount of unspent funds for nutrition services and administration from the previous fiscal year.

"(B) Funds under subparagraph (A) shall be used for—

"(i) the development of infrastructure for the program under this section, including management information systems;

"(ii) special State projects of regional or national significance directed toward improving the services of the program under this section; and

"(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.".

(p) Spendback Funds.—Section 17(i)(3) of such Act (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)(i), by inserting "(except as provided in subparagraph (H))" after "1 percent"; and

(2) by adding at the end the following new subparagraph:

"(H) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in rebates provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.".

(q) Elimination of Duplicative Migrant Reports.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in subsection (d)(4), by inserting after "Congress" the following: "and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k)"; and

(2) by striking subsection (j).

(r) Initiative To Provide Program Services at Community and Migrant Health Centers.—Section 17 of such Act (42 U.S.C. 1786) (as amended by subsection (q)(2)) is further amended by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the 'Secretaries') shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers than are served on the date of enactment of the Better Nutrition and Health for Children Act of 1994.

"(2) The initiative shall also include—

"(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

"(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

"(3) The initiative may include—

"(A) outreach and technical assistance for State and local agencies and the health centers referred to in subparagraphs (A) and (B) of paragraph (2);

"(B) demonstration projects in selected States or local areas; and

"(C) such other activities as the Secretaries consider appropriate.

"(4) As used in this subsection:

"(A) The term 'community health center' has the meaning provided in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

"(B) The term 'migrant health center' has the meaning provided in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).".

(s) Farmers' Market Nutrition Program.—

(1) Matching requirement for Indian State agencies.—Section 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is amended by adding at the end the following new sentence: "The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.".

(2) Expansion.—Section 17(m)(5)(F) of such Act (42 U.S.C. 1786(m)(5)(F)) is amended—

(A) in clause (i), by striking "15 percent" and inserting "17 percent"; and

(B) by striking clause (ii) and inserting the following new clause:

"(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use up to 1 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables.".

(3) Notification of award of funds.—Section 17(m)(6)(A) of such Act (42 U.S.C. 1786(m)(6)(A)) is amended by adding at the end the following new sentence: "The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.".

(4) Minimum amount of grants.—Section 17(m)(6)(B)(ii) of such Act (42 U.S.C. 1786(m)(6)(B)(ii)) is amended by striking "$50,000" each place it appears and inserting "$75,000".

(5) State plan submission date.—Section 17(m)(6)(D)(i) of such Act (42 U.S.C. 1786(m)(6)(D)(i)) is amended by striking "at such time and in such manner as the Secretary may reasonably require" and inserting "by November 15 of each year".

(6) Maintenance of effort.—Section 17(m)(6)(F)(iii) of such Act (42 U.S.C. 1786(m)(6)(F)(iii)) is amended by striking "reduce in any fiscal year" and inserting "reduce, in the first full fiscal year of the Federal grant,".

(7) Allocation of additional funds.—Section 17(m)(6)(G) of such Act (42 U.S.C. 1786(m)(6)(G)) is amended—

(A) in the first sentence of clause (i), by striking "45 to 55 percent" and inserting "60 percent"; and

(B) in the first sentence of clause (ii), by striking "45 to 55 percent" and inserting "40 percent".

(8) Data collection requirements.—Section 17(m)(8) of such Act (42 U.S.C. 1786(m)(8)) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraphs:

"(D) if available, information on the change in consumption of fresh fruits and vegetables by recipients;

"(E) if available, information on the effects of the program on farmers' markets; and".

(9) Authorization of appropriations.—Section 17(m)(10)(A) of such Act (42 U.S.C. 1786(m)(10)(A)) is amended by striking "and $8,000,000 for fiscal year 1994" and inserting "$8,000,000 for fiscal year 1994, $10,500,000 for fiscal year 1995, $12,500,000 for fiscal year 1996, $15,000,000 for fiscal year 1997, and $18,000,000 for fiscal year 1998".

(10) Elimination of reallocation of unexpended funds of demonstration projects.—Section 17(m)(10)(B)(ii) of such Act (42 U.S.C. 1786(m)(10)(B)(ii)) is amended by striking the second sentence.

(11) Definition of State agency.—Section 17(m)(11)(D) of such Act (42 U.S.C. 1786(m)(11)(D)) is amended by inserting before the period at the end the following: "or any other agency approved by the chief executive officer of the State".

(12) PROMOTION BY THE SECRETARY.—The Secretary of Agriculture shall promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary.

(t) CHANGE IN NAME OF PROGRAM.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN";

(B) in the first sentence of subsection (c)(1), by striking "special supplemental food program" and inserting "special supplemental nutrition program";

(C) in the second sentence of subsection (k)(1), by striking "special supplemental food program" each place it appears and inserting "special supplemental nutrition program"; and

(D) in subsection (o)(1)(B), by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(B) Section 685(b)(8) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a(b)(8)) is amended by striking "Special Supplemental Food Program for Women, Infants and Children" and inserting "special supplemental nutrition program for women, infants, and children".

(C) Section 3803(c)(2)(C)(x) of title 31, United States Code, is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(D) Section 399(b)(6) of the Public Health Service Act (42 U.S.C. 280c–6(b)(6)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(E) Paragraphs (11)(C) and (53)(A) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) are each amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(F) Section 202(b) of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(3) REFERENCES.—Any reference to the special supplemental food program established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under such section.

SEC. 205. NUTRITION EDUCATION AND TRAINING PROGRAM.

(a) NAME OF PROGRAM.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking "information and education" each place it appears in subsections (b), (c), (d)(1), and (j)(1) and inserting "education and training".

(b) NUTRITION EDUCATION PROGRAMS.—The second sentence of section 19(c) of such Act (42 U.S.C. 1788(c)) is amended—

(1) in subparagraph (B), by striking "school food service" and inserting "child nutrition program";

(2) by striking "and" at the end of subparagraph (C); and

(3) by inserting before the period at the end the following: "; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health".

(c) NUTRITION EDUCATION AND TRAINING.—Section 19(d) of such Act (42 U.S.C. 1788(d)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and the provision of nutrition education to parents and caregivers";

(2) in the first sentence of paragraph (4), by striking "educational and school food service personnel" and inserting "educational, school food service, child care, and summer food service personnel"; and

(3) in the first sentence of paragraph (5), by inserting after "schools" the following: ", and in child care institutions and summer food service institutions,".

(d) USE OF FUNDS.—Section 19(f) of such Act (42 U.S.C. 1788(f)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) The funds made available under this section may, under guidelines established by the Secretary, be used by a State educational agency for—

"(A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

"(B) undertaking an assessment of the nutrition education needs of the State;

"(C) developing and carrying out a State plan of operation and management for nutrition education;

"(D) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

"(E) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

"(F) providing funding for a nutrition component in the health education curriculum offered to children in kindergarten through grade 12;

"(G) instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children to practice sound eating habits;

"(H) developing means of providing nutrition education to children, and families of children, through after-school programs;

"(I) creating instructional programming for teachers, food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

"(J) encouraging public service advertisements to promote healthy eating habits for children; and

"(K) achieving related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials."; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for overall administrative and supervisory or program purposes in connection with the program authorized under this section if the State makes available at least an equal amount for the expenditures.".

(e) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of such Act (42 U.S.C. 1788(h)) is amended—

(1) in the first sentence of paragraph (2), by inserting "and training" after "education"; and

(2) in the third sentence of paragraph (3)—

(A) by striking "and" at the end of subparagraph (D); and

(B) by inserting before the period at the end the following: "; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i)(2)(A) of such Act (42 U.S.C. 1788(i)(2)(A)) is amended by striking "nutrition education and information programs" and all that follows through the period at the end and inserting "nutrition education and training programs $10,000,000 for fiscal year 1995 and each subsequent fiscal year.".

(g) AVAILABILITY OF FUNDS.—Section 19(i) of such Act (42 U.S.C. 1788(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.".

TITLE III—EFFECTIVE DATES

SEC. 301. EFFECTIVE DATES.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on October 1, 1994.

Mr. LEAHY. Mr. President, the Better Nutrition and Health for Children Act, represents a new direction in child nutrition programs.

The programs addressed in the bill can make a big difference in the nutritional health of children. They can save medical costs years down the road, and help create an educated and productive American work force for the 21st century.

We must start with our children in preventing hunger and improving the health of our Nation. This bill does both.

This legislation has already let the way for major improvements in the school lunch program.

Last year, the school lunch program served 25 million children each school day. For some children, school lunches are the main meal of the day. The bill helps schools by requiring USDA to improve the quality of commodities donated to schools, and to label those commodities regarding their nutritional content.

I am pleased the Department of Agriculture has proposed major improvements in the school lunch and breakfast programs. These new proposals of Secretary Espy and Assistant Secretary Ellen Haas will result in more nutritious school meals. They, and the staff at USDA, have done an outstanding job in promoting the health of children. Parents want schools to provide improved and healthier lunches to their children. The USDA proposal is a very significant step in that direction.

USDA is taking action in part because of the results of a Department study which found that lunches contain an average of 38 percent of calories from fat and 15 percent from saturated fat. The government's dietary guidelines recommend intakes of only 30 percent and 10 percent respectively.

The proposed rules are designed to help schools meet these dietary guidelines. And this bill works hand-in-hand with those proposal to improve the nutritional health of America's children.

I am pleased that the committee reported this bill without any objection. This bill continues our bipartisan tradition of support for child nutrition programs.

I also want to highlight one new provision included in the managers' amendment to the bill. A number of companies have been ripping off the school lunch program by selling mislabeled or contaminated juice to schools.

One company sold more than $100 million worth of orange juice adulterated with beet sugar to consumers and the school lunch program. In another case, prosecutors allege that a company added unknown preservatives to orange juice. The preservatives were found in containers with the warning in German that they held "dangerous goods of the highest classification."

I want to commend the Office of Consumer Litigation of the Department of Justice, as well as the various U.S. attorney's offices, which have aggressively investigated and prosecuted incidents of illegally adulterated juice sold to child nutrition programs. Yet while the Department of Defense has debarred some of these companies from selling juice to the military, the Department of Agriculture has not done the same.

This bill provides tough penalties for companies who defraud the school lunch program. It will debar dairies who price-fix; it will debar juice companies who contaminate their products for a profit; it will debar any company convicted of breaking the law and cheating our schools.

Companies convicted of fraud against child nutrition programs can no longer get away with a slap on the wrist—this bill will prevent those companies from continuing to make profits at the expense of school children.

The Managers' amendment also corrects a problem relating to inspection of juice used in schools. School lunch contracts for juice purchased by USDA currently require in-plant, on-line inspection 90 days prior to shipment. But schools which purchase their juice independently of USDA do not have the same inspection assurance.

Concerns have been raised by some about possible adverse economic effects that this provision may have on some legitimate suppliers of fruit juice to school meal programs. Those concerns will be carefully assessed during the conference committee deliberations with the House.

The goal of this provision is to ensure that we have the highest level of confidence in the quality of juice served to America's school children, while preserving an adequate variety of purchasing options for schools.

In implementing this provision, USDA should inform schools that pure juice products purchased for the school lunch or breakfast programs must be inspected by the Agricultural Marketing Service. This notice will help schools to know that the juice they are serving their children have met rigorous AMS standards for quality.

The bill includes a number of other improvements. It makes permanent the homeless preschool nutrition program, the Nutrition Education and Training program, and the Food Service Management Institute. It nearly triples the minimum requirements for breastfeeding promotion activities in WIC. And it strengthens the authority of the Secretary to debar companies that defraud child nutrition programs.

I must commend the ranking Republican on the committee, Senator LUGAR, for his dedication to these programs and his helpful advice. He has earned the respect of every member of the committee for his continued, earnest support of nutrition programs.

Senator HARKIN held two informative and very productive hearings on the bill and has been a leader in terms of the health of America's children. He has worked to promote better nutrition through the school lunch and breakfast programs.

The ranking member on the nutrition subcommittee, Senator MCCONNELL, has again distinguished himself for his thorough understanding and support of these programs.

And, as has been the case for many years, the Republican leader is a "nutrition leader" as well. Senator DOLE has worked with me over the years—under several Presidents—to enhance the health and well-being of America's children.

This year I was pleased that every member of the committee helped craft the bill and shape its final form. Staff worked diligently together to present ideas to us for our consideration.

As always, my chief nutrition staff person, Ed Barron, has been of great assistance to me and other members of the committee. As deputy chief counsel to the committee, Ed has done an outstanding job working with me over the last 7 years.

His two boys, James and Stephen, will both be in school this September. They will be able to benefit from healthier school lunches, along with 25 million other school children, as provisions of this bill are implemented.

Doug O'Brien has also done an outstanding job working on these issues and has worked many long hours on behalf of low-income Americans. I am proud of his work for the committee and the professionalism which he has brought to these issues.

Amy Brown played a leading role in orchestrating a successful outcome to this legislative effort. She led staff negotiations and ensured that numerous important improvements to the Special Supplemental Nutrition Program for Women, Infants and Children [WIC] and other child nutrition programs are a part of the bill before us today.

Amy joined my staff last year as a Javits Fellow, and I am pleased that she is now a permanent member of my staff. Through all the complex issues and technical matters, Amy always keeps her focus on what really counts—improving the lives of low-income children and families. She has become a major committee resource in the fight against hunger.

Alicia Bambara, press secretary of the committee, has worked tirelessly many nights and weekends to ensure that the pilot project for the prevention of boarder babies will become a reality. Alicia knows first hand the crisis of abandoned infants through her volunteer work with the Junior League of Washington, and she made an invaluable contribution in designing and shaping this program. Alicia's dedication has helped create what promises to be a model Federal program.

Many other staff were very helpful in this process and I will only single out a few. Stacy Hoffhaus, who formerly handled nutrition issues for Senator DOLE, is now very ably and expertly doing the same for Senator LUGAR. Her addition to committee staff will continue the tradition of outstanding staffing on nutrition matters.

Stacy deserves to be recognized for her early efforts while with Senator DOLE in developing the concept of a program to assist schools in meeting the medical and special dietary needs of children with disabilities. Under the direction of the Republican leader, Stacy held meetings, convinced staff, and gathered information that was ultimately used in the formulation of section 123 of this bill. Stacy can be very proud of this achievement.

Dave Johnson, minority counsel to the committee, is also an expert on nutrition programs. Having him back with the committee is a major boost to the staff resources of the committee.

Mark Halverson, who is with Senator HARKIN, has distinguished himself over the last several years and plays a significant role on nutrition issues. He has been very helpful to my staff on these matters.

Patti Fine has greatly assisted Senator MCCONNELL and this committee over the last several years. She provides thoughtful input and good counsel and has ably promoted the child care food program interests.

Vicky Urcuyo, who is on a detail with Senator DOLE, was also a great help in this effort. Her knowledge of these programs, from her years at USDA, helped ensure that many provisions of the bill were effectively targeted.

Many other staff made major contributions of ideas and effort in this process including: Brian Cavey, with

Senator BAUCUS; Morris Goff, with Senator BOREN; Hunt Shipman, with Senator COCHRAN; Scott Carlson, with Senator CONRAD; Tom Dayley, with Senator CRAIG; Ace Gallagher, with Senator DASCHLE; Jeannine Kenney, with Senator FEINGOLD; Shannon Royce, with Senator GRASSLEY; Chuck Penry, with Senator HEFLIN; Nancy Hammer, with Senator KERREY; and Theresa Sachs, with Senator PRYOR.

I want to make special mention of a dedicated staff member of the House Committee on Education and Labor. Margaret Kajeckas is leaving the House to attend Columbia University in a program leading to a masters in public administration.

Margaret has done an outstanding job for the committee and is a credit to the other body. She has been a major force in helping the Congress to improve child nutrition programs throughout the United States.

As always, the fine work of Senate Legislative Counsel needs to be recognized. Gary Endicott, Liz Aldridge and Janine Johnson are important assets to the Senate and make the legislative process work smoothly. Senate legislative counsel staff have always been willing to work 24 hours a day to get the job done correctly and on time. I intend to have them live up to this praise during the farm bill next year.

Complex budget rules and procedures now play a critical role in the process of enacting legislation. Special credit needs to be paid to Joan Huffer with the Senate Budget Committee who made a lot of this bill possible with helpful advice and assistance.

The counsel to the Congressional Budget Office, Gail Del Balzo, has provided my staff with important advice over the years about budget rules and procedural requirements. Julie Isaacs and Cory Oltman with CBO deserve special credit for the time they spent figuring out what each provision of this bill will cost over the next 5 years. They often had to analyze new ideas under intense time pressure.

Jean Jones and Joe Richardson of the Congressional Research Service are instant sources of information and maintain the longer term institutional memory regarding nutrition programs. Their help is always greatly appreciated.

Chris Sarcone and Bob Sturm were once again pressed into special duty to keep track of all the details that need to get done, and to complete the longest part of the report—the Cordon rule section. I want to thank them for staying late and getting the job done.

In addition, the fine support staff of this committee should be recognized. Mary Kinzer has a special interest in these nutrition programs and did a fine job helping out.

Diane Coates, who formerly worked for me up in Vermont, is now working with me in Washington. She did a great job helping out on the background and committee consideration sections of the report. Our summer interns, Charles Finn, Leesa Klepper, and Jonathan Lamy were also a great help.

I am proud of the Better Nutrition and Health for Children Act. As I mentioned when I introduced this bill I received letters of support from the American Academy of Pediatrics, the American Heart Association, the American Cancer Society, the Children's Defense Fund, Public Voice for Food and Health Policy, the Center for Science in the Public Interest, the Food Research and Action Center, the American School Food Service Association, and many other groups.

A fundamental basis of this bill is that there is a crucial link between good nutrition and good health—good nutrition is an extremely cost-effective way to reduce health care costs and improve the lives of Americans. Dr. Joseph Hagan, President of the Vermont Chapter of the American Academy of Pediatrics, testified at a committee hearing that healthy eating habits are vital to the growth and development of children. The important of this concept is evident throughout the bill.

Title I of the Better Nutrition and Health for Children Act, as introduced, was intended to guarantee full funding for the WIC program. That language has now been included in key Senate and House health care bills.

Many Members of this body, and the other body, have worked toward full funding of WIC for years. Senator BUMPERS, as chairman of the Appropriations subcommittee with jurisdiction, has worked hard to increase funding. Many other Members have as well, including the majority leader of the Senate—Senator GEORGE MITCHELL.

I want to especially thank Senator MITCHELL for including full funding for WIC in his health care bill. And I want to single out one member of his staff—Lisa Nolan—for all of her help. Lisa is a tremendous resource and very ably represents the majority leader.

In addition to the nutrition and health benefits WIC brings to participants, full funding of WIC results in significant savings in other Federal programs. A 1992 General Accounting Office report showed that WIC reduces the incidence of very low birth weight by 44 percent. GAO calculated that the Government investment in pregnant women through WIC would pay for itself within a year—and would avert $1 billion in medical and other expenses in the next 18 years.

I will continue to press for inclusion of full funding for WIC in any health care bill that passes the Congress. Many groups have been supportive of guaranteeing full funding for WIC and I appreciate their efforts. Bread for the World has been in the forefront in this effort. Their president, David Beckmann, and their congressional liaison, Barbara Howell, have provided continuous support. The National Association of WIC Directors has also been a leader in this fight.

Dr. Richard Narkewicz of Vermont, who is a former president of the American Academy of Pediatrics, has worked with me over the years on this fight to fully fund WIC. He is a champion on this issue.

Bob Greenstein and Ellen Nissenbaum of the Center on Budget and Policy Priorities has been very helpful in providing advice and good counsel to me and other Members of Congress.

I want to especially thank Dr. Carl Sagan and Dr. T. Berry Brazelton for the input they provided at a hearing on this bill. Dr. Sagan, director of the Laboratory for Planetary Studies at Cornell University and 1994 recipient of the Public Welfare Medal, made a powerful case for full funding for WIC. He also discussed the important link between undernutrition and cognitive impairment.

Dr. Brazelton, a pediatrician at Children's Hospital in Boston, professor emeritus at Harvard Medical School and noted expert on early childhood development, offered further evidence that undernutrition severely affects children's development and activity. He stressed the importance of WIC and school feeding programs.

A major purpose of the bill is to encourage good nutrition for children from the beginning of their lives by encouraging breastfeeding among mothers enrolled in WIC. It follows from the recommendation of the Department of Health and Human Services in its Healthy Children 2000 National Health Promotion and Disease Prevention Objectives.

The health benefits of breastfeeding have been fully documented and include the immunological effects of breastmilk which cannot be duplicated in formula. Breastfeeding rates are especially low among low-income mothers.

This bill improves breastfeeding promotion and support in WIC by setting aside funding based on a formula of $21 per pregnant and breastfeeding woman, adjusted for inflation. States are allowed up to 2 years to adjust breastfeeding promotion expenditures to comply with the new formula.

Minda Lazarov, a research associate for Nurture, Center to Prevent Childhood Nutrition, championed the funding formula which the committee adopted. Her search and compelling advocacy have been major reasons for the increase in Federal support for breastfeeding efforts through WIC. Dr. Sandra Huffman, President of Nurture, has worked to prevent childhood malnutrition in other countries as well as this country and I commended her for the excellent job she has done.

I also want to thank Stefan Harvey and Janice Steinschneider, at the Center on Budget and Policy Priorities, for their analysis and advice regarding improvements in breastfeeding promotion and other areas of the WIC program.

The bill begins to track breastfeeding in WIC by adding breastfeeding rates and expenditures to the list of items to be included in biennial reports from the States to the Secretary. Such statistical data is essential in evaluating both the cost and success of the WIC breastfeeding promotion program.

The bill also continues the WIC Infant Formula Cost Containment Program originally begun in 1987 and expanded in 1989. According to USDA, that program now saves over $950 million per year and puts 1.5 million eligible women, infants and children onto WIC at no additional cost to taxpayers.

The bill promotes consumption of fresh produce among low-income individuals and families while helping farmers' markets. Over 400,000 people participate in the highly successful WIC Farmers' Market Nutrition Program in 11 States. Fruits, vegetables and other farm products provide a healthy supplement to the dairy products, juices and fortified cereals included in the WIC package.

The success of the WIC Farmers' Market Program gives evidence that introduction of more low-income individuals and families to fresh fruits and vegetables can have a positive effect on nutrition and eating habits.

The National Association of Farmers' Market Nutrition Programs has become a potent force in assisting farmers' markets. I appreciate their detailed input. Mary Carlson of the Vermont Office of Economic Opportunity is an officer with that association and has provided me with very helpful information and good advice. I am very pleased that the association's next major meeting will be in Burlington, VT.

Dan Cooper of Iowa and Jim Stephenson of Pennsylvania have also played a key role in suggesting improvements to that program. Both Dan and Jim are leaders in promoting and expanding farmers' market programs.

The bill authorizes increases in funding for the WIC Farmers' Market Program to $10.5 million in 1995 and $18 million by 1998. This will allow States to remain in the program and encourage others to join.

Another focus of the Better Nutrition and Health for Children Act is to ensure that more children from low-income families have the opportunity to eat a nutritious breakfast. Children who start the day hungry jeopardize not only their health, but also their ability to learn.

Jo Busha, director of child nutrition for Vermont, testified at one of the nutrition hearings that the school breakfast startup grant program played a "major rule" in the expansion of the breakfast program in Vermont. I was pleased to have included that program in the last reauthorization bill in 1989. Jo has played a major role in helping additional Vermont schools take advantage of this Federal program.

A few provisions of the bill as introduced are no longer necessary because USDA has already acted on them. For example, the bill as introduced sought to improve nutrition in school breakfasts and lunches by permitting schools to offer low-fat yogurt as an alternative for eggs, meat, peanut butter, or other meat alternatives. Low-fat yogurt is a good source of vitamins, mineral's and protein, and has become increasingly popular with children.

Since the introduction of S. 1614, the Department has proposed regulations which will replace the current food-group-based meal patterns and make meals eligible for reimbursement based on their nutrient content. I am pleased that such a change would make yogurt an allowable food as part of a school breakfast or lunch.

The National School Lunch Program provides lunch to 25 million children each day, with over half the lunches served to low-income children. That represents an opportunity to make a lasting difference in the nutrition and health of children.

As always, the help and counsel of the American School Food Service Association is greatly appreciated. Dorothy Caldwell has done a great job as President of that association. Over the years, Kevin Dando has proven to be a great asset to ASFSA.

I relied on ASFSA input throughout the process and look forward to working with them and their local counsel, Marshall Matz, during the conference with the other body. I also want to note that the testimony of Marilyn Hurt, legislative chair of the ASFSA, was extremely helpful. I want to congratulate the new president of ASFSA, Vivian Pilant. She has done a great job as director of child nutrition programs in South Carolina since 1979, and I look forward to working with her.

I want to thank the New York City Coalition Against Hunger and their Executive Director, Judith Walker, for their role in the child nutrition reauthorization. The soup kitchens and food pantries which make up NYCCAH know firsthand the reality of hunger among America's children. I welcome their continued input as we consider food stamp reauthorization in 1995.

The Community Food Resource Center was also very helpful in this reauthorization process. CFRC has run a successful universal meal program in New York City, and gave the committee valuable advice for improving universal feeding options.

While lack of funding precluded a greater effort, I am pleased that the bill authorizes the appropriation of funds to purchase organically produced agricultural products, such as fruits, vegetables, grains, meats, poultry, and dairy products. As interest in organic food grows nationwide, many schools have expressed an interest in offering these items.

The bill requires USDA to provide schools, on request, with information on where to obtain organic products. To the extent schools do consider buying organic, they should look to their local organic growers first. This has the dual advantage of promoting local businesses and reducing transit costs and spoilage. In providing schools with information about organic suppliers USDA should make certain to provide schools with the names of local suppliers if they are available.

To help schools meet the new higher nutritional standards, the bill instructs the Secretary to improve the nutritional quality of entitlement commodities provided to schools. It also requires that nutritional information be provided to schools regarding such commodities. This will help school food service personnel in preparing nutritious meals which include commodities.

The bill increases school choice by eliminating the current requirement that schools offer whole milk for school lunch programs. This is based on a bill introduced by Senator LUGAR and allows schools to choose what types of milk to offer children. Under current law schools must offer both whole milk and low-fat milk. Many schools would prefer to decide that issue themselves.

I want to especially thank one person for the courage she displayed in testifying before the committee. Carol A. Meiki is a food service supervisor for the Chicago Public Schools. Ms. Meiki's testimony was very helpful regarding the competitive foods section of this bill.

The bill also educates parents concerning the importance of nutrition for good health by funding parent-student education programs and programs to encourage parents to visit the school lunch program with their children. Educating parents will help them reinforce at home the nutrition lessons children learn at school.

The bill makes improvements in the summer food service program. The goal is to encourage the creation of more summer food service programs so that more low-income children who get school lunch and breakfast can receive meals in the summertime too.

Summer food service participation is very low compared to participation in the school lunch program. Nationwide only 15 percent of the targeted population is being reached by this program. Barriers to participation include initial startup costs and the cost of transporting children to summer food sites in very rural areas.

The bill provides funding for grants to help States defray the costs of setting up additional summer food service program sites. Similar start-up grants have been highly successful in promoting expansion of the school breakfast program.

I am disappointed that we had to drop a provision providing a higher reimbursement rate for rural areas for the summer food service program. Julie Cadwallader Staub of Vermont convinced me of the merits of that approach but a lack of funds precluded including it in the final bill.

Mike Haga of the Food Research and Action Center was helpful in suggesting various proposals to improve the summer food service program. As the committee report on this bill notes, FRAC staff were extremely helpful in designing many aspects of the bill. Rob Fersh, ED Cooney, Michelle Tingling-Clemens, Lynn Parker, and Ellen Teller all deserve a lot of credit for their efforts.

The bill reauthorizes two State pilot projects for the child and adult care food program by allowing for-profit centers to be eligible if 25 percent or more of the children they serve meet the guidelines for free or reduced price school meals. Those two programs are working very well and should continue to be funded by the Congress.

The bill addresses the situation on preschool age children living in homeless shelters. GAO reports that 25,000 children under age 6 live in homeless shelters. These children are at nutritional risk and often go hungry while their older brothers eat in school. The homeless preschool nutrition program feeds them meals that USDA reports are "more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices" than they would otherwise receive.

This bill expand the homeless preschool nutrition program and provides a stable source of guaranteed funding. The program, which began as a demonstration project, is currently funded from "leftover" administrative expense funds not used by states.

I want to commend His Eminence, Cardinal Anthony J. Bevilaqua, Archbishop of Philadelphia, for his foresight, his leadership and his support of this program. His Eminence testified at a hearing that "when one homeless child goes hungry, we are all starved." Patrick Temple-West, of the Archdiocese of Philadelphia, has done a tremendous job administering the projects in Philadelphia which benefit homeless children.

At a hearing I held on this bill, Cardinal Bevilaqua spoke of the importance of the homeless preschool nutrition program in providing children with adequate and nutritious meals. Cardinal Bevilaqua noted that at present only 10 percent of the 25,000 children under the age of 6 who are in shelters are reached by the program.

I am pleased that the city of New York may soon use this program at five homeless shelters in the city. Ms. Barbara Johnson who is director of their Family Emergency Assistance Program is working to expand the program to sites in addition to the Jamaica Assessment Center. This will increase the nutritional quality of means served by those shelters and provide New York City with much-needed local cost savings. A member of my staff recently visited the Jamaica site on a Saturday with very little advance notice and was impressed with how well the program operated.

While it may seem in obvious point research clearly shows that homeless preschool children are at great nutritional risk. A study by Martha Taylor and Sally Koblinsky, "Food Consumption and Eating Behavior of Homeless Preschool Children," show that the diets of these children is "very low in dairy products and fruits and vegetables, and low in grains when compared with USDA recommendations for an adequate diet." Minerals and vitamins provided by these food groups are critical to children's growth, development and ability to learn. The study also found that "a third of the sample of homeless preschoolers went to bed hungry several times a month."

The bill also establishes a pilot project for the prevention of boarder babies. A boarder baby is a baby that remains in the hospital even after he or she is medically able to leave. The baby may be abandoned, or the mother may simply have no home where she can take the infant. Under the pilot, grants totalling up to $400,000 a year in 1995 through 1998 will be made to shelters for homeless pregnant women, infants, and the mothers or guardians of those infants. The grants will provide for coordination with the WIC program, as well as additional food and nutrition services.

The idea for the pilot project came from a program called the "The Sunshine Project," in Washington, DC. The Junior League of Washington and the Temporary Emergency Residential Resource Institute for Families in Crisis [TERRIFIC] joined with D.C. General Hospital to form the program in an effort to provide comprehensive assistance to keep babies with their mothers. I hope that Federal funding will enable them and others to provide expanded food and nutrition services to pregnant women, infants, and homeless mothers, and guardians. I want to commend the Junior League, TERRIFIC and D.C. General Hospital for establishing this important program. I also want to single out Ms. Caroline Stinebower, chairwoman of the Maternal-Child Health Project at D.C. General Hospital, and Dr. Shirley Grant, chief of ambulatory care at Johns Hopkins University Hospital and a board member of the Washington Junior League, who spoke eloquently about the need for such programs before the committee. Dr. Grant noted that the total annual cost of caring for these babies in hospitals is close to $300 million.

I also want to thank Ms. Angela Holland, a former WIC participant who also participated in the D.C. General program. Ms. Holland was able to successfully turn her life around and offers a true model for the effect these programs can have. Her strength and courage are impressive.

The Better Nutrition and Health for Children Act also aims to improve understanding of proper nutrition among children and to educate parents and school staff about child nutrition. The bill provides grants to state educational agencies and local schools through the nutrition education and training (NET) program.

Child nutrition programs should not only provide nutritious meals to kids when they are in school, but should also teach them about good nutrition. Nutrition education will assist them in making positive choices about what they eat both in and out of school so they will grow into healthy adults.

The bill also looks ahead to the future of nutrition education. It provides for competitive grants of between $100,000 and $300,000 per year through 1998 in three States to nonprofit educational organizations to create and demonstrate food and nutrition based projects which are fully integrated with elementary school curricula. These demonstrations can provide models for teaching nutrition education in the future.

The first such program that should be funded by USDA is the FoodWorks "Common Roots" Program in Vermont so effectively run by Joseph Keifer. Joseph has earned the extensive praise he has received from Vermont teachers, parents and students. His program fits in perfectly with the new nutrition initiatives of USDA.

I expect in addition that some of the funds provided to the Secretary for nutrition and education would go to other excellent projects around the Nation that teach young children about farming, farming techniques, harvesting, and marketing.

Right in Washington's backyard there is a great community farm and nutrition project called "From the Ground Up." It is a partnership between the Chesapeake Bay Foundation and the Capital Area Food Bank.

The project brings homeless families, low-income children and families to Upper Marlboro, MD, to farm 10 acres of land owned by the Bay Foundation. The food they grow is channeled to five community farm stands in low-income neighborhoods and sold at very low prices. Educational instruction is provided on the farm on a variety of topics including how to cook and handle farm products and how to safely store foods. Instruction on healthy food preparation is stressed.

A major goal of the project in addition to education is to create access to nutritious foods in low-income neighborhoods. The director is Greg Sandor and he has done a great job with his project. Lynn Brantley, the executive director of the Capital Area Food Bank, and Michael Heller of the Chesapeake Bay Foundation also deserve a lot of credit for getting this project started. Also the firm of Booze, Allen & Hamilton has donated time and effort to help out. I appreciate that public-spirited attitude.

The bill also makes administrative improvements so child nutrition programs will work better. These changes will help reduce paperwork, improve program management, and facilitate access for eligible low-income children.

For example, the bill makes children who are income-eligible for Head Start automatically eligible for free meal reimbursements under the Child and Adult Care Food Program. CACFP provides meals to the great majority of Head Start participants. Although children who are income-eligible for Head Start necessarily meet CACFP income guidelines, current law requires eligibility information to be specifically processed to establish eligibility for CACFP. This provision will result in significant paperwork savings for Head Start Programs.

The Better Nutrition and Health for Children Act addresses anticompetitive activities in order to prevent price-gouging and bid-rigging in child nutrition programs, including school lunch, school breakfast and WIC.

During the past several years, the Antitrust Division of the U.S. Department of Justice has filed over 100 criminal cases against persons and companies accused of bid-rigging, price-fixing and similar activities involving dairy products sold to schools or the Department of Defense. As of March 1992, the Secretary of Agriculture had neither suspended nor debarred any of the 13 dairy companies or 28 individuals convicted of milk-contract bid-rigging from participating in the school lunch or breakfast programs.

Effective educational and monitoring programs can greatly reduce the incidence of price-fixing and bid-rigging by companies that sell products to schools. Reducing the incidence of these anticompetitive activities could save school districts, parents, and taxpayers millions of dollars per year.

For these reasons, the bill provides training and technical assistance to States and local agencies in identifying and preventing anticompetitive activities in conjunction with child nutrition programs, and instructs the Secretary to cooperate with the Attorney General and State attorneys general regarding investigations of anticompetitive activities in conjunction with these programs.

It establishes guidelines and a timetable for the Secretary to consider debarment of contractors for committing various criminal or civil offenses, and establishes mandatory child nutrition program debarment periods unless certain factors are found.

I would like to make note of an additional provision, included in the managers' amendment, on the bar coding of WIC vouchers. I am concerned that too much low-iron infant formula is being incorrectly or inadvertently purchased through the WIC Program. The bill would require pilot tests to see how effectively bar codes could be used to eliminate this problem.

This test should be large enough to reflect the diversity of the WIC recipient population and retailers. Tests should be conducted in large as well as small population States, and in cities as well as rural areas. Factors to be examined should include: costs and benefits to WIC participants and retail vendors, benefits to State WIC Programs, and the impact on the accuracy of WIC redemptions.

I would hope that these tests could be completed fairly quickly since the technology has been in use in many locations for years. I would expect that the tests should be completed and the information provided to the Congress well before September 30, 1995.

Finally, I want to make a special note of the contributions of Mickey Weiss in the battle against hunger. Mickey is a retired produce wholesaler who established the Nation's first wholesale produce distribution program in Los Angeles in 1987. He has developed a system where produce that has cosmetic imperfections or a short anticipated shelf life is donated to hundreds of groups in Los Angeles that feed the hungry.

Instead of wasting millions of pounds of edible and wholesome produce each year, Mickey has rerouted that food to the needy. His motto is: Donate, Don't Dump. He has been helped in his good deeds by many people, but I would like to focus on two that I recently met.

Dr. Susan Evans and Dr. Peter Clark with the Institute of Health Promotion and Disease Prevention Research of the Department of Preventive Medicine, University of Southern California School of Medicine, have been tirelessly working with Mickey Weiss to transfer the Los Angeles model to other cities. They have helped launch programs in Houston; Baltimore; San Francisco; Dallas; Chicago; Philadelphia; San Mateo, California; Detroit, and Columbus, Ohio.

I know that several additional cities are working with Mickey, Dr. Evans and Dr. Clark. I am pleased that they are having a great deal of success in getting other cities interested in similar programs. I would like USDA to continue to work with them to get this message across to other communities.

As chairman of the committee with jurisdiction over child nutrition programs, I want to clarify my position on how the Department should implement statutory language in the committee amendments to S. 1614.

The amendment creates a new section 9(f)(2) of the National School Lunch Act, which sets forth in more detail how schools can implement the dietary guidelines. My colleagues and I expect schools to meet the guidelines, but we believe they should have flexibility in how to achieve that goal.

USDA's proposed regulations, published on June 10, allow schools to use "menu cycles" which incorporate the nutrition standards as an alternative to nutrient standard menu planning. We are pleased that USDA has included this approach.

USDA will offer schools specific menus of menu systems that meet the guidelines and nutrient standards. This alternative will be very helpful for many schools, and I know some Vermont schools will likely prefer this approach. It will allow them to plan healthy meals without doing a computer analysis of the foods consumed, for example by following menu options or cycles. USDA will have to rely on nutrient analysis in designing those systems or cycles.

I also understand that States and local school food authorities may want to customize menus to local preferences. This alternative approach would achieve the same result—implementation of the dietary guidelines and nutrition requirements.

It is unclear from USDA's proposal who would pay for creating these model menus. USDA should provide these menu cycles or "menu systems with nutrient analysis" to States or to schools at no cost to them.

These model menus systems should be easy to use and contain a variety of options. This does not eliminate the requirement that schools comply with the dietary guidelines; it simply provides options to reach that end. My colleagues and I expect USDA to fully implement this approach.

It is very important that USDA provide schools with menu options or choices so that it is easy for them to meet the dietary guidelines. USDA should not simply provide a "meal pattern" as now found in the regulations that sets forth few choices for schools to follow. That meal pattern clearly does not take into account the various levels of fat and saturated fat found in foods.

My colleagues and I have in mind something more detailed and tailored than the current meal pattern, something which will truly help schools meet the dietary guidelines.

For example, in designing these menu systems USDA must take into account the various levels of fats and saturated fats found in foods. This is important because the only quantitative guideline proposed by USDA focuses on fat and saturated fat levels. The information provided by USDA should allow schools to generate a variety of menus that will meet guidelines and other nutrient requirements set by the Secretary.

Under USDA's proposed rules, only schools "without the capability to conduct nutrient standard menu planning" as decided by the State educational agency would be able to use other approaches. We believe that all schools should have the choice of what approach to use.

One additional point needs to be made. The committee amendment requires USDA to provide materials and information to States and schools to help them implement the dietary guidelines. The Secretary needs to provide these materials and advice, including publications in the Federal Register, in advance so that schools can use them to provide meals that comply with the guidelines.

The ability of local schools across the country to implement the guidelines in a timely manner will depend upon the Department providing the standardized recipes, menu cycles, food product specification, and preparation techniques, nutrient standard menu planning, assisted nutrient standard menu planning, food-based menu systems with nutrient analysis and other approaches in a timely manner.

S. 1614, the Better Nutrition and Health for Children Act, is a good bill. It was reported unanimously out of committee and deserves the unanimous support of the full Senate as well. I hope all my colleagues will join me in this preventive effort to ensure that today's American children become tomorrow's healthy citizens.

In concluding my remarks today, I would like to look to the work ahead for my committee. As we complete work on reauthorization of child nutrition programs this year, we are beginning to prepare for our major work next year in the farm bill, when food stamps, TEFAP, and other nutrition programs need to be reauthorized.

One issue that needs to be resolved in the Food Stamp Act reauthorization involves funding for the American Samoa Nutrition Assistance Program. This program is currently funded through appropriations, making funding unsure each year, and making it difficult for administrators to plan ahead. It is a small, $5.4 million program which provides nutrition assistance to the elderly, blind, and disabled in American Samoa.

Similar programs for Puerto Rico and the Commonwealth of Northern Mariana Islands are funded through the Food Stamp Act. There is no reason that American Samoa should be treated any differently. It should be funded through the same mechanism.

I am very interested in seeing this change become law and will work to achieve it in the farm bill next year.

Mr. President, what is the unanimous-consent agreement now on?

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized for purposes of offering an amendment upon which there shall be 5 minutes of debate.

AMENDMENT NO. 2558

Mr. LEAHY. Mr. President, I offer that amendment, and I ask that it be read, and then I will yield the floor to the Senator from Wyoming.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2558.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 19 and 20, insert the following new subsection:

(c) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than July 1, 1996, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than July 1, 1996, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary shall—

"(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and other approaches, including food-based menu systems with nutrient analysis, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph.

"(3)(A) Not later than 120 days after the date of enactment of this subsection, the Secretary shall submit to the authorizing committees of Congress a detailed and specific plan that describes the actions the Secretary will take to encourage schools that are participating in the school lunch and school breakfast programs to serve lunches and breakfasts under each program that are consistent with the Guidelines.

"(B) The Secretary shall include in the plan—

"(i) a strategy for providing technical assistance to States, State educational agencies, schools, and school food service authorities to encourage consistency with the Guidelines; and

"(ii) a strategy for informing State child nutrition directors, school food service directors, parents, guardians, and students of—

"(I) the provisions of the Guidelines;

"(II) the importance of implementing the Guidelines; and

"(III) specific suggestions for dietary modifications that would achieve the objectives of the Guidelines.".

On page 84, line 6, strike "is amended" and insert "(as amended by section 103(c)) is further amended".

On page 84, line 8, strike "(f)" and insert "(g)".

On page 95, between lines 12 and 13, insert the following new subsection:

(i) ALL-DAY ACTIVITIES.—The Secretary of Agriculture shall—

(1) not later than 180 days after the date of enactment of this Act, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

On page 97, between lines 13 and 14, insert the following new paragraph:

(1) in paragraph (1)(A), strike "25 percent of the children served by such organization" and insert "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,";

On page 97, line 14, strike "(1)" and insert "(2)".

On page 97, line 16, strike "(2)" and insert "(3)".

On page 117, between lines 18 and 19, insert the following new subsection:

(b) USE OF FOOD SERVICE MANAGEMENT INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—Section 21(d) (42 U.S.C. 1769b–1(d)) is amended—

(1) by striking "(d) COORDINATION.—The" and inserting the following:

"(d) COORDINATION.—

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following new paragraph:

"(2) USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

On page 117, line 19, strike "(b)" and insert "(c)".

On page 117, line 19, insert "of such Act" after "Section 21".

On page 118, lines 19 and 20, strike "$2,000,000 for each of fiscal years 1995 through 1998" and insert "such sums as are necessary for fiscal year 1995 and each subsequent fiscal year".

On page 118, line 25, strike the quotation marks and the following period.

On page 118, after line 25, add the following new subparagraph:

"(C) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

On page 140, between lines 6 and 7, insert the following new sections:

SEC. 124. INSPECTION OF JUICE AND JUICE PRODUCTS.

(a) IN GENERAL.—The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

"SEC. 29. INSPECTION OF JUICE AND JUICE PRODUCTS.

"(a) DEFINITION OF JUICE AND JUICE PRODUCT.—As used in this section, the terms 'juice' and 'juice product' mean juice and a juice-based product, respectively, for which a United States standard for a grade has been issued by the Secretary under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

"(b) PROHIBITION.—No State, State agency, or local agency shall contract to procure, or make available, juice or a juice product for use in the school lunch program established under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) unless the juice or juice product was processed under in-plant inspection conducted by the Secretary.

"(c) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 270 days after the date of enactment of this Act.

SEC. 125. ADMINISTRATION OF NUTRITION PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations that—

(1) significantly ease the administrative and paperwork burdens on participating schools and families with respect to—

(A) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(2) streamline Federal, State, and local administration of all programs established under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

On page 140, lines 18 and 19, after "preparation of", insert the following: "foods high in complex carbohydrates and".

On page 156, after line 24, add the following new subsection:

(o) USE OF UNIVERSAL PRODUCT CODES.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (n)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) If the Secretary determines that the system is feasible, cost-effective, and reduces the incidence of incorrect redemptions described in clause (i), the Secretary shall establish such procedures as the Secretary determines appropriate to require States to carry out the system.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

On page 157, line 1, strike "(o)" and insert "(p)".

On page 157, line 23, strike "(p)" and insert "(q)".

On page 158, line 16, strike "(q)" and insert "(r)".

On page 158, line 24, strike "(r)" and insert "(s)".

On page 159, line 2, strike "(q)(2)" and insert "(r)(2)".

On page 160, line 18, strike "(s)" and insert "(t)".

On page 164, line 7, strike "(t)" and insert "(u)".

On page 169, between lines 4 and 5, insert the following new subparagraph:

"(H) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;".

On page 169, line 5, strike "(H)" and insert "(I)".

On page 169, line 8, strike "(I)" and insert "(J)".

On page 169, line 11, strike "role" and insert "importance".

On page 169, line 13, strike "(J)" and insert "(K)".

On page 169, line 14, strike "and".

On page 169, line 15, strike "(K)" and insert "(L)".

On page 169, line 18, strike "materials.'; and" and insert "materials; and".

On page 169, between lines 18 and 19, insert the following new subparagraph:

"(M) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766)."; and

On page 171, between lines 8 and 9, insert the following new title:

TITLE III—OTHER RELATED PROVISIONS

SEC. 301. DISTRIBUTION OF COMMODITIES ON CERTAIN INDIAN RESERVATIONS.

Section 3(j) of the Food Stamp Act of 1977 (7 U.S.C. 2012(j)) is amended by adding at the end the following new sentence: "For the purpose of the distribution of commodities under section 4(b), the term 'reservation' includes the geographically defined area or areas (including an urban area or areas) within the boundaries of former reservations in Oklahoma, as defined by the Secretary of the Interior, over which a tribal organization exercises governmental jurisdiction.".

On page 171, line 9, strike "**III**" and insert "**IV**".

On page 171, line 10, strike "301" and insert "401".

Mr. DASCHLE. Mr. President, today we are taking action to reauthorize and improve several important nutrition programs under the National School Lunch Act and the Child Nutrition Act. The bill reported by the Senate Agriculture Committee provides a comprehensive vehicle for continuing and strengthening access to good nutrition for some of our most vulnerable children. I am pleased to be a cosponsor of this legislation.

This reauthorization of child nutrition programs is timely, as it coincides with the administration's effort to elevate child welfare concerns on the national policy agenda. The bill is an important element of health reform, as it has become increasingly apparent that investment in child nutrition programs today will pay rich dividends in terms of the future health and productivity of our Nation.

Chairman LEAHY, in particular, deserves credit for his longstanding leadership in the child nutrition area. That leadership, and his commitment to child nutrition programs, is evident in this reauthorization bill.

The National School Lunch Program is the linchpin of this bill. It currently serves more than 25 million meals each day and boasts voluntary participation rate of 90 percent of all schools nationwide. However, S. 1614 also reauthorizes the special supplemental nutrition program for women, infants and children [WIC] and allots a greater number of grants for schools interested in initiating school breakfast programs.

There is, however, one additional aspect of this bill that I believe merits brief mention. That is, the encouragement it offers schools to comply with new nutritional standards governing the school lunch and breakfast programs that will ensure children have access to a healthy diet.

In June, USDA proposed a major rule to update nutrition standards for school meals. The proposed USDA regulations, the School Meals Initiative for Healthy Children, require that by July 1, 1998 school meals meet the 1990 dietary guidelines, which establish a 30-percent limit on daily dietary fat, and a 10-percent limit on saturated fat.

I commend the Department for insisting that the dietary guidelines be incorporated into school meals. It does concern me, however, that the Department's rule allows 8 years from the date of publication for schools to comply with this important health initiative.

The time is long overdue to have our school meals conform to the fat standards of the dietary guidelines. Quite frankly, I am not comfortable with four year implementation schedule proposed by USDA.

In discussing this issue with school officials from South Dakota and other interested parties, it seems reasonable to me to expedite the implementation of these nutrition standards. I am pleased that the committee agrees, and that the managers' amendment requires that schools participating in school meals programs comply with the dietary guidelines by July 1, 1996, rather than by July 1, 1998.

This certainly is a worthwhile objective that will have a real impact on the health of children who participate in school meals programs. It should be aggressively pursued, as the amendment suggests.

At the same time, however, I can appreciate the effort it takes to implement an extensive rule and the importance of providing schools ample time to comply with it. I fully realize that not all schools will be able to comply with the dietary guidelines by 1996.

To address that issue, the amendment offers schools the option of seeking an exemption from the July 1, 1996 compliance deadline. Schools that encounter difficulty with this compliance date will be able to apply for a waiver from their own State education department.

State educational agencies are in the best position to determine if a school can or cannot reasonably meet the expedited deadline. Under the bill, if compliance is truly problematic, the State can grant a 2-year extension to July 1, 1998.

Our intention is not to force compliance at any cost. Rather, it is to encourage aggressiveness on this health initiative. Schools that have the ability to implement the dietary guidelines before 1998 should do so.

Mr. President, allow me to briefly explain why I feel so strongly that expedited implementation is crucial.

The USDA proposal would allow schools four more years to comply with the dietary guidelines. That is not an insignificant amount of time.

Four years is one-third of a child's elementary and secondary education. Children who entered school in 1990, when the dietary guidelines were first issued, will be freshman in high school in 1998. Their formative years will be behind them.

Moreover, information compiled by USDA consistently shows that children's diets, including meals served in schools, do not conform to the recommendations of the dietary guidelines. The 1989 and 1990 Continuing Survey of Food Intakes by Individuals, conducted by USDA, reports that fat comprises, on average, 35 percent of calories for the diets of children ages 6 to 19.

Given what we have learned about the importance of diet to good health, that should be unacceptable. Encouraging our Nation's schoolchildren to eat low-fat, nutritious school breakfasts and lunches is a sound, cost-effective public health policy.

It is well known that high-fat, high-salt diets can lead to many health problems later in life, such as heart disease. By offering children healthy options for school breakfast and lunch and helping them develop nutritionally sound eating habits, we may be able to reduce the incidence of these conditions.

Another USDA study entitled "The School Nutrition Dietary Assessment [SDNA] Study," released in October 1993, found that while school lunches meet or exceed one-third of the recommended dietary allowance [RDA] for key nutrients, they do not meet the recommended levels of fat and saturated fat in the dietary guidelines. In fact, the report showed that the lunches exceeded the recommendations.

More to the point, the report showed the average percentage of calories from total fat was 38 percent compared with the recommended goal of 30 percent or less; and the saturated fat was 15 percent, compared with the recommended goal of less than 10 percent.

In addition, the SDNA report found that children who ate the school lunch consumed a much higher amount of calories from fat than those children who brought their lunch from home or purchased a lunch from vending machines.

There are currently no requirements or limitations on the percentage of calories from fat in school meals. Moreover, recent reports suggest that few schools are in compliance with the dietary guidelines. To me, that is unacceptable.

I am not suggesting that schools are not taking any initiative. In fact, in my home State of South Dakota, there has been great effort by schools to adhere to the dietary guidelines on their own.

South Dakota school food service officials tell me that the publication of the dietary guidelines in 1990 gave them incentive to implement more changes. Those changes include serving more poultry, fish, and leaner ground beef; using low-fat or 50/50 blend cheeses and low-fat margarine; offering more fresh fruits, canned fruits in juice or light syrup, fresh vegetables and frozen vegetables; providing low-fat dressing for salads, relishes, and potatoes; using small amounts of salt when cooking vegetables and meat; draining the ground beef very thoroughly; and serving unbreaded chicken patties.

In Mitchell, SD, nutrient information is calculated daily. Their meals average 550 calories per meal and 31 percent fat. According to the food service director at Mitchell, this is a significant drop since the 1980's when the meals consisted of 38 to 39 percent fat.

The Nutrition Service Program in Watertown, SD, plans menus that offer students an attractive variety of highly nutritious foods that meet the dietary guidelines for Americans. In September of 1992, the Watertown Board of Education endorsed the concept of offering daily food service menus based on the dietary guidelines and resources available from the Department of Agriculture and Department of Health. The healthier menus in Watertown are a result of the guidelines, which encourage the food service to serve healthier diets.

In addition, I heard from several other schools in my State that are taking steps voluntarily to comply with the dietary guidelines. I find that development very encouraging.

It appears that a number of our Nation's schools will meet the July 1, 1996 deadline. Others could meet it with relatively little difficulty. S. 1614 encourages them to do so.

While many schools around the country are taking steps on their own to conform to the dietary guidelines, I realize that not all schools have the resources to meet the July 1, 1996 deadline. Under the manager's amendment, those schools can apply to their State education agency for a waiver of the July 1, 1996 compliance date.

The dietary guidelines were issued in 1990, and the Department's proposal says these standards must be met by 1998. I agree with the committee's assessment that an 8-year implementation schedule is overly generous.

In 1961, we launched the effort to put a man on the Moon, and 8 years later it was done. The question I ask is, does it really take the same amount of time to provide our kids a low-fat diet?

Our children deserve better. Students should have nutritious diets, that is the bottom line. With a concerted effort between the Department, the States, and the school food service authorities, this should be done prior to 1998.

A second provision in the managers' amendment requires schools to inform students and parents of the nutritional content of school meals served and how those meals correspond to the dietary guidelines. This provision sets the same July 1, 1996, deadline for compliance.

A child can go into a store and buy a candy bar or a bottle of juice and know the nutritional content by looking at the label. School meals should provide the same information.

Children should be cognizant of what they are consuming. Healthy eating habits begin with health choices. In order to make healthy choices, information about the nutritional content of the food we eat must be readily available.

Parents should also be able to learn the nutritional content of the school meals their children are consuming.

Parents, together with their children, should have access to the nutrition facts, so that they cannot only evaluate the quality of school meals, but also apply this awareness to meals consumed outside the school environment.

Again, I commend the chairman for pushing forward with this child nutrition reauthorization bill. It is a good bill, and I urge its adoption by the Senate.

Mr. LEAHY. Mr. President, this amendment has been cleared, and will be done by a voice vote. At this point, I retain the balance of my time, and yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my friend from Vermont, Senator LEAHY. He is a good friend and very accommodating. I am most appreciative. I thank the majority leader for giving us this opportunity to speak. He has been very gracious in accommodating me and very patient. That is his strength, his patience.

I must return to Wyoming for the personal reason of the health of a family member. Hold no votes for me. I know that is a statement that is often made. But nevertheless, it is true. I shall return to your midst soon, the first part of the week.

HEALTH CARE REFORM AND THE MITCHELL BILL

Mr. SIMPSON. Mr. President, for the past 2½ years, it has been a privilege for me to be involved in a Republican health care task force chaired by my friend and colleague, the junior Senator from Rhode Island, JOHN CHAFEE. It is quite impossible to fully describe the hard work and dedication this man displayed in taking up this task; steady, thoughtful, reflective, bright, persistent, congenial, and much more. And the Senator from Rhode Island educated 35 to 40 Republican Senators on the complexities of U.S. health care, principles of health care reform, with 2 years of meetings, every Thursday at 8:30 in the morning. I was a reluctant and tardy schoolboy on several of those occasions. Breakfasts were very sparse. And we did our work. We traveled to Annapolis for 2-day seminars, and finally produced legislation with sound principles of health care.

This rigorous education enabled us to learn more about the full glossary of health care terminology. We came to realize how complex it is. We struggled with the technical issues. We sat and scratched our heads for weeks. Every time we would come up with a solution, we would find something on the other side that prevented it. We discussed all of the issues, how best to achieve reform in the health care system, and how much that reform would cost the American people. I am no master at this, but I have been paying attention.

To my knowledge, the Senate Democrats have never organized such a comprehensive study group, and there are many on that side of the aisle who are very adroit and knowledgeable on this issue.

So I think it is fair to remind my colleagues, as well as the public, that the Republicans do not need to be lectured about the urgency of health care reform. We have been immersed in the issue for over 2 years. We have been through the whole gamut of issues and concerns. We have learned the hard way that it can take weeks of meetings to fully understand and prescribe proper solutions. The process in which we are currently participating—one in which we are presented with one bill one day, only to receive another a few days later just as we were reviewing the cost estimates of the preceding one—makes a mockery of the process of study and reflection in which we Republicans have been faithfully engaged in these past years.

We have done our level best to play a constructive role in this process. Republicans were, in a sense, kept in the dark when the First Lady's plus member task force began its confidential deliberations over the details of the President's health care plan. Regrettably, Mrs. Clinton led this effort without consulting some of the very people who created the very best health care system in the world. The Republicans anxiously waited for months for the President's plan. We were quite dismayed to find then that his agenda called for these mandates, taxes, layers of bureaucracy, price controls, and deficit spending. Then we watched the House and Senate committees hold hearings and mark up their versions of the Clinton Health Security Act. It soon became very obvious to everyone involved that the President's bill was not going to get the support of the American people.

In fact, my friend and colleague on the Environment and Public Works Committee, Senator MOYNIHAN, chairman of the Committee on Finance, together with a majority of the Senate Finance Committee, recognized this fact early in the deliberations and decided to go with a stripped-down version of the bill with no automatic mandates, and slightly less Government bureaucracy.

So then, of course, we returned to a bill which is the essence of the Clinton bill after watching it hacked apart by criticism from the American public. The American people have spoken very clearly in opposition to the Clinton bill, and I have no doubt they will continue to oppose it in its latest, repackaged version, when they discover all of the ingredients in the cauldron. Macbeth would envy the "odious brew."

Let me list some of the salient features of this bill. One is a triggered mandate that can only result in a loss of jobs. We think that is a payroll tax. Even the small business exemption contained in the Mitchell bill—employers with 25 or fewer employees are exempt from the mandate—could create daunting disincentives for small business to expand. What happens when you hire the 26th worker? Then it would include the cost of insuring the entire firm. These are things we must look at.

Under the Mitchell bill, more than 100 million people—almost 1 out of every 2 Americans—would be eligible for subsidies. That is more than the number of beneficiaries currently in Medicare and Medicaid and Social Security combined. Some families that include a pregnant woman and children, if they have incomes of up to 300 percent of the poverty level, would be eligible for subsidies—meaning that a family of four with an income of $44,000 would be eligible for subsidies to purchase health insurance coverage. The cost of this new entitlement program is totally unclear, but CBO has previously estimated that a much less generous subsidy contained in the Finance Committee bill would cost nearly $924 billion over the first 8 years. It would almost immediately become the third largest entitlement program in the entire Federal budget.

This is not the only new entitlement. There are two others. These programs are estimated to cost up to $150 billion. There is a new prescription drug benefit added to the Medicare Program and a new long-term care program for the severely disabled.

This new home and community-based long-term care program covering all Americans would cover all persons who are severely disabled, regardless of their age or their income or net worth.

I can only tell you, Mr. President, that my family knows too well about the costs and heartaches of caring for elderly parents. My father, who suffered from Parkinson's disease, was in the West Park long-term care center for in Cody, WY, for several years. My mother is still in her own home, but requires around-the-clock nursing care. This type of care, ladies and gentlemen, is not inexpensive. It costs us $8 an hour, 365 days a year. But I come from a family that has always looked out for one another, and we have been blessed with enough means to do so and are very privileged to be able to do that. My brother, Pete, and I never thought twice about taking care of our parents, as they always took care for us so lovingly. Not everyone can afford that, and the Government cannot afford it. So those are things we are going to have to deal with. Now we are talking about home care. The problem with all of this is the cost. The senior groups keep pushing and pushing and pushing for long-term care benefits, regardless of net worth or income, but none of these groups have realistically addressed the actual costs of such a program. They are always simply wanting more. This would expose the Federal Treasury to a huge new entitlement, one that could not possibly be handled.

So this is not going to be something that we are going to like. Somebody is going to have to pay for this. I just finished work with the entitlements commission, a bipartisan group, chaired by Senators KERREY and DANFORTH. They have worked doggedly, and they have done yeoman work. This is an interesting committee and commission.

I ask unanimous consent that the names of the members of that Commission be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Chairman: Robert Kerrey (D-NE).
Vice Chairman: Jack Danforth (R-MO).
Bill Archer (R-TX).
Dale Bumpers (D-AR).
Eva Clayton (D-NC).
Michael Castle (R-DE).
Thad Cochran (R-MS).
Christopher Cox (R-CA).
Kika de la Garza (D-TX).
Robert Denham.
John Dingell (D-MI).
Pete Domenici (R-NM).
Tom Downey.
Sandra Freedman.
Porter Goss (R-FL).
William Gray.
Robert Greenstein.
Judd Gregg (R-NH).
Karen Horn.
Tom Kean.
Alex McMillan (R-NC).
Carol Moseley-Braun (D-IL).
Daniel Patrick Moynihan (D-NY).
Pete Peterson.
Harry Reid (D-NV).
Roy Romer.
Dan Rostenkowski (D-IL).
Martin Sabo (D-MN).
Jim Sasser (D-TN).
Alan Simpson (R-WY).
Richard Trumka.
Malcolm Wallop (R-WY).

Mr. SIMPSON. So here is this group, going across party lines to present the bare, raw facts. Here is one of the charts contained in the report. It shows you that if we do nothing, Federal health care spending will triple by the year 2030. Here it is, 1993, 3.3 percent of gross domestic product. We are not talking about a percentage of the budget. We are talking about GDP. It will go 3.3 percent in 2030 to 11.0 to GDP, not budget, sucking up more than we can ever imagine.

I remind my colleagues of what that means. That is a tripling as a percentage of the economy, it is growing so much faster than the economy that it will take up three times as large a share of it. So that is where we are—even if we add nothing with regard to health care.

We often hear that "if we enact health care reform, all of our problems will be solved." We often hear that said. Wrong, forget it. That is certainly not true with this health care reform, which preserves, even accelerates, Federal health care spending trends. Even if we had perfect health care reform—meaning that if we slowed health care costs down to the point where they grew no faster than inflation, the aging of the population would by itself assure that Federal health care spending would still take up twice the share of our national economy in the year 2030 that it does today. So we are not going to get this done, even if we had hallowed perfection in health care reform. This is not my conclusion alone; it is the conclusion of 30 out of 32 members of the bipartisan Entitlement Reform Commission.

When the subject of health care reform was first debated, I was receptive and eager to work in a bipartisan fashion—and I still am. I reflected on information such as this and reached the unavoidable conclusion that some types of reforms would be necessary to avoid fiscal disaster.

So why do we need health care reform? When people say we do not need it, remember how we got here. We were spending $900 billion a year on it. In 2030, it would cost $2 trillion. We are going to add to this picture of skyrocketing costs portrayed in this chart.

In the flurry of all this, we have forgotten the fundamental issue in the debate: containing health care costs, trying to rein in health care. Those are the major reasons we became involved in this. Now it seems that this has been overshadowed by this issue of universal coverage. All of us have discovered there are no easy solutions to this problem, and that consumers' desires for physician choice often run counter to the idea of managed care and cost controls. Cost containment in the form of premium taxes is an administrative nightmare and even more difficult to understand and explain.

Senator PACKWOOD has spent days trying to figure out the cost containment provisions in the Mitchell bill for us, and he still cannot understand them to his satisfaction.

In fact, the other night, we heard Senator PACKWOOD state that in the Democratic Policy Committee summary of the Mitchell bill, there was no section on cost containment. Senator MITCHELL'S own Policy Committee cannot figure it out either.

I commend BOB PACKWOOD. He is back. He is astute. He is knowledgeable. He is as bright as a dollar, and he is ready. Do not step into the ring with him unless you have a little more knowledge than he does, because he is deeply involved.

We heard him present his case. We heard Senator CHAFEE. We heard Senator DANFORTH. We heard Senator DURENBERGER. We heard Senator KASSEBAUM.

Health care reform absolutely must save money if it is to be reform at all. Do not forget how we got here. Yet the legislation seems designed to ensure the fiscal "train wreck" we must try to avoid. I would refer to the budget-enforcement mechanisms in particular. There is no ceiling to limit the expansion of the Federal health care budget, and no limit on how much it might grow from year to year.

The original version even contained a $10 billion cushion above deficit-neutrality, meaning that the health care reform plan would not only fail to save money, and would permit us to spend larger and large amounts of taxpayer dollars, but it would have assuredly added to the deficit, even with all of the new taxes collected. I am pleased to learn that this loophole seems to be missing in the latest revision of the bill.

One other item. During the course of this, I often hear references to other countries: Why do not we do like other countries? And we are the only industrialized country on Earth that does not provide for its citizens. I hear that every day, several times a day. We are happy to do that, if you are willing to bear the cost.

Do you want to do it like Sweden does, where they suck up 53.2 percent of revenues to fund all levels of Government? Should we do it like Norway where they have 47.1 percent of the revenue that they earn going to health care and social programs? Shall we do it like my native land in the Netherlands where it is 47 percent, sucking up that much revenue to take care of social programs? We can do it. I think perhaps he wants to think about it. We are only at 29.8 percent. We can move it up to another 10. That is exactly where we will go with this situation. And then add long-term care. That is particularly troublesome. It cannot be funded.

Let me give one example of how the cost controls in this legislation are insufficient to control the spending that it introduces, by returning to the long-term care program. This long-term care program is particularly troublesome. I and many others do not believe that this benefit comes even close to being fully funded under the Mitchell bill. The fully funded program would cost approximately $45 billion in 2004, with Federal costs of about $38 billion if the Feds were paying 75 percent of costs—this program is a State-run program using Federal matching funds. The amount provided in the Mitchell bill would pay for less than half of those costs in just the year 2004.

And to think that groups like AARP still demand long-term health care regardless of net worth or income. With regard to the AARP, I am getting a lot of mail from home saying: The AARP does not speak for me. Scratch me off the list. They did not poll the membership out here. And I think we are going to watch them begin to decline in influence here. The greed will be exposed as we probe through their activities.

Let me just show you this one. Here is the cost given in the Mitchell program. There is a huge discrepancy here in financing. The bottom orange line shows what the Mitchell-Clinton bill provides for funding from 1998 to 2004. The figure for 2004 is $15.4 billion. The top yellow line is the estimated public cost of a fully funded home care and community-based benefit. These costs have been modeled by the Lifeplan computer modeling and policy group from Brandeis University that has been working on the long-term care issue for a number of years. These numbers have been determined by taking the number of eligible persons defined under the bill times the estimated cost of such a home health care benefit. In 2004, the chart shows that the cost of such a benefit is estimated to be $44.1 billion.

Where are we going to get the funds to make up this huge difference of almost $30 billion? And this would only be at the early stages of this program.

I do not think we have any idea, I say to my colleagues, about the cost of these benefits because no one has figured demographics and the aging of the population into the equation. In addition, no one has even bothered to take a look at how much home health care program costs are rising within the Medicare program. They have increased an average of 40 percent annually since 1988.

So one of the most distressing and less than candid situations with regard to this bill is the promise to disabled citizens that a long-term benefit will be available to them when they need it most, and that is impossible. It will not take place. It will be yanked away from them, or given to them and yanked away.

The only responsible alternative is to completely review these long-term care provisions, and rewrite them to achieve their goals more modestly and within the bounds of practicality.

As our national debt rapidly approaches the $5 trillion mark, I think most American's agree that we are long past the point at which the Federal Government can "pick up the tab" for everyone regardless of their financial circumstances. Seniors in particular ought to be very concerned about the effect the national debt will have on their children and grandchildren in the 21st century. Most of them know that we have to set priorities and make rational decisions about who should qualify for assistance—and how much help they should receive—under any new programs that Congress enacts. If their voices are heard above the roar of some of the irresponsible senior citizen groups, I am confident we can craft a health care plan that is not only accessible to those who need this coverage, but affordable and realistic as well.

I find it offensive that Democrats have taken individual cases and tried to portray their proposals as panacea for these people in need. The implication is that Democrats alone have a monopoly on sensitivity. Further, that only through Democrat legislative proposals can we achieve health care reform combined with compassion. Contrary to the image which Democrats would like to create, Republicans are sensitive and compassionate, too. We also want health care reform, but we do not want to further accelerate the national fiscal disaster that truly is around the corner even under the existing system. Democrat proposals which promise everything, even if they cannot be delivered; which are guaranteed to come equipped with huge new Government bureaucracies, and which, when we are in dire need of cost containment, would increase Government costs exponentially—do not constitute Republican principles of health care reform.

I have listened carefully to the thoughtful views expressed by Senators PACKWOOD, DURENBERGER, KASSEBAUM, and others. I commend their analysis to every American. It will stun and alarm most Americans to discover the scope, the expanse, of the new spending in this legislation. We ourselves are still being surprised by it, and this is why it is our duty to go through this legislation word for word and describe it for the American people before passing billions of dollars in costs on to them.

That's not a filibuster, and it's not gridlock. It's called "doing our jobs." The employer mandates in this bill are a problem. However, we have a responsibility to the American people to explain to them the whole spectrum of this bill's other defects. Doing less would be irresponsible.

Finally, let me close my remarks by commending the majority leader for giving those of us on this side of the aisle our chance to deliver our views. Even as there are those who criticize any inspection of this legislation as a form of delay, we know that we will continue to be able to voice our concerns, and we will have our chance to amend and to correct. We do not expect to prevail on every vote, but we do expect to offer our alternatives, of which we have many. So let me close on that note. I urge my colleagues to completely study the impact of this legislation on Federal spending. I am confident that as they do, there will be much less enthusiasm for passing the full cost of this legislation on to the beleaguered American public.

I thank the Chair. I note that my time has expired. I appreciate the courtesy.

I simply say this is about people. It is about cost. It is not about case-by-case events. All of those are poignant. It is about how do we pay for it. We all are compassionate. We all will be trying hard.

I thank very much the Chair and the majority leader for the accommodation.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I understand the Chair has before it the committee amendments. They have been cleared, and I urge their adoption.

I ask unanimous consent that the time be reserved to me, but they are to be in order to move now to the consideration of the committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Kentucky is to be recognized for an amendment.

Mr. LEAHY. Mr. President, have the committee amendments been agreed to?

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2559

(Purpose: To improve the administration of the WIC Program)

Mr. McCONNELL. Mr. President, I send an amendment to the desk on behalf of myself, Mr. LUGAR, Mr. CRAIG, Mr. DOLE, Mr. COCHRAN, Mr. HELMS, Mr. COVERDELL, Mr. GRASSLEY, and Mr. CHAFEE.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] for himself, Mr. LUGAR, Mr. CRAIG, Mr. DOLE, Mr. COCHRAN, Mr. HELMS, Mr. COVERDELL, Mr. GRASSLEY, and Mr. CHAFEE proposes an amendment numbered 2559.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . IMPROVED ADMINISTRATION OF WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) No State agency or local agency shall be considered an office in a State that provides public assistance for purposes of section 7(a)(2)(A) of Public Law 103-31.".

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, the amendment I have offered is very simple. It will remove the burden WIC clinics will face after January 1, 1995, of registering WIC recipients to vote. The National Voter Registration Act, popularly known as the motor-voter bill, requires States to designate public assistance offices as voter registration sites. Included in the report language accompanying this bill was a sentence asserting that "public assistance offices" includes WIC, as well as AFDC, food stamp, and Medicaid offices. Mr. President, I believe this inclusion of WIC clinics is shortsighted and needs to be revisited.

Mr. President, at the outset it is important to stress that this amendment is not about the merits of the motor-voter bill. This Chamber knows well my views on that legislation. This amendment is about the WIC Program. It is about burdening one of our most successful programs with totally unrelated responsibilities. The requirements of motor-voter will impair the ability of local WIC clinics to meet the needs of needy pregnant women, infants, and children, and to fulfill the mission of the program.

The WIC Program was designed specifically for low-income pregnant, postpartum, and breastfeeding women; infants; and children under age 5 who are at nutritional risk. Benefits participants receive include vouchers for supplemental foods such as infant formula, iron-fortified cereal, and vitamin C-rich juices. Equally important, and arguably more so than the foods provided, are the health screenings, nutrition education sessions, and one-on-one contacts WIC workers have with moms to teach them about the nutritional needs of their fetus and/or child.

The potential impact this program has on the health and well-being of our children is significant. In Kentucky, over half of the babies born are on WIC, and that figure is similar nationwide. The link between adequate nutrient intake and the development of a child is clear. Tufts University researchers have found that undernutrition can have a detrimental impact on the intellectual and behavioral development of a child. Iron deficiency, for example, has an adverse effect on a child's ability to concentrate and retain information. Prolonged undernourishment can harm a child's social and cognitive development.

Mr. President, WIC is successful in improving the nutritional status of the participants: studies show that pregnant women on WIC and Medicaid are less likely to deliver premature or low birth weight babies, which saves Medicaid expenditures and puts the infant on a healthy path at the start. Another study found that WIC reduced the prevalence of anemia, and reduced height and weight abnormalities among children.

But, the National Voter Registration Act requires public assistance offices, including WIC, to distribute voter registration application forms to all applying for public assistance, to assist the applicants with completing the forms unless the applicant refuses such assistance, and to accept the completed registration form and forward it to the appropriate State officials.

Further, the offices can be asked to maintain copies of the forms applicants sign when declining to register, as well as register non-program-applicants who walk in off the street.

The administrative burden this imposes on WIC is considerable and indisputable. In fact, it is specifically recognized in the congressional reports accompanying the National Voter Registration Act. Both the House and Senate reported that "Costs for registration application assistance for these offices [public assistance offices] should be considered matchable under the current Federal match rate for these programs." Agencies are interpreting this to mean that offices can be reimbursed at a Federal match for the additional expenses incurred by fulfilling the requirements of motor voter.

But, Mr. President, WIC is not a program to which the State contributes funds to match Federal dollars. WIC is a grant program under which Federal money is given to the States for both administrative and food expenses. WIC is a discretionary program, not a mandatory program.

Every year for the last 6 years at least, a large, bipartisan group of Senators—including myself—has written to our colleagues on the Appropriations Committee urging them to continue on the road to fully funding WIC. And the committee obliges. This year alone, appropriators have recommended an increase of $260 million to $3.47 billion so that we can continue to increase participation in this successful program.

Requiring WIC workers to register people to vote detracts from the primary mission of the WIC program—improving the nutritional health of our Nation's underprivileged children. Mandating clinics to administer the motor-voter requirements consumes the scarce Federal dollars that are appropriated for the important WIC activities such as health screening, nutrition education, and breastfeeding promotion.

If WIC clinics are subject to the motor-voter mandates, then WIC workers will have to spend valuable time and money on an activity that is totally unrelated to the mission of the WIC program. Further, it could take away from efforts to expand participation in WIC. As we, as appropriators, continue to increase funds for WIC, I would hope that those funds go to adding recipients onto this successful program, and continuing the health and nutrition education efforts.

Mr. President, I want to make one final point before yielding the floor for the moment. This is not, as will probably be contended, an assault on the motor-voter bill. It does not eviscerate the motor-voter bill. It is important to remember that 77 percent of WIC participants are children under age 5. Now, clearly, 5-year-olds are not going to be registered voters. Seventy-seven percent of WIC recipients are under 5. Only 23 percent, or 1.4 million, WIC participants are women—a very small fraction of the motor-voter universe.

In reporting on the motor-voter bill, CBO estimated that 80 to 90 percent of voters would register through the driver's license system, while the remaining 10 to 20 percent would register through the mail-in and agency-based systems. And, WIC is but a small component of the agency-based system. Is a small fraction-of-a-fraction of the scope of the motor-voter bill. But for WIC, voter registration is a very significant burden and certainly unrelated to its purpose.

Mr. President, I think it is important to point out that the National Association of WIC Directors supports my amendment—exempting WIC from the burdens of motor-voter is an item on their 1994 legislative agenda.

I ask unanimous consent that a letter, dated June 21, from the National Association of WIC Directors, Executive Director Douglas A. Greenaway, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF WIC DIRECTORS,
June 21, 1994.

Hon. MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCONNELL: The National Association of WIC Directors, NAWD, applaud your efforts to ensure that the essential mission of the Special Supplemental Food Program for Women, Infants and Children, WIC—the provision of quality nutrition education and breastfeeding promotion and support services—is maintained and not be diluted by unrelated activities.

NAWD expressed concern in its broadly distributed 1994 legislative agenda about the negative consequences the National Voter Registration Act will have upon WIC Clinics.

> NAWD urged the Congress to either exempt the WIC Program from the Act or provide additional monies to perform this new unrelated task.
>
> NAWD's canvass of state and local agency directors and nutrition coordinators confirms that the requirements to implement the Act in WIC clinics will only further reduce the already stretched time, staff, financial and other resources available to ensure that WIC participants receive the quality nutrition services to which they are eligible.
>
> NAWD is dedicated to maximizing WIC Program resources through effective management practices. Our members—State, U.S. Territory and Native American Agency Directors, Local Agency Directors, Nutritionists and others—have made important contributions toward improving the quality of life of America's low-income women, infants and children.
>
> NAWD is pleased to learn that you will offer an amendment to the Child Nutrition Act reauthorizing legislation to exempt WIC from implementation requirements of the National Voter Registration Act. NAWD is grateful to you for your generous and continued support of the WIC Program.
>
> Should you have any questions or if I may provide additional information, please feel free to contact me on 202-232-5492.
>
> Sincerely,
>
> DOUGLAS A. GREENAWAY,
> *Executive Director.*

Mr. McCONNELL. In sum, this amendment would relieve WIC clinics—not any other public assistance office—of the burden of complying with the motor-voter bill. As the WIC program celebrates it's 20th birthday this year, let us not stray from the important mission of this program: to improve the nutritional health and well-being of underprivileged women, infants, and children. I hope my colleagues to join me in support of this amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 35 minutes remaining.

Mr. McCONNELL. Mr. President, I retain the remainder of my time for the moment.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask the distinguished Senator from Kentucky for as many as 7 minutes.

Mr. McCONNELL. I yield 7 minutes to the Senator.

Mr. LUGAR. I thank the Senator.

Mr. President, I commend the distinguished junior Senator from Kentucky, Senator MCCONNELL, who is the ranking member on the Senate Nutrition Subcommittee and has done so much to ensure the successful legislation that we are considering today.

I thank him especially for his amendment to exempt WIC from the provisions of the National Voter Registration Act. The Senator has made the case with eloquence and cogency. But let me simply underline some of the important points that he has raised.

I share his concern that requiring WIC agency staff to offer voter registration services will detract from the fundamental goal of the Women, Infants, and Children Program, which is to promote the health of at-risk, low-income mothers and children through the provision of nutrition services and nutritious food.

In fact, the time element in these services is important, Mr. President. I cannot stress enough the diligence with which the staffs of WIC programs approach these responsibilities and opportunities. But the women and infants that they serve are fully in need of their total devotion and concentration. And, in my judgment, the National Voter Registration Act is extraneous to nutrition and feeding programs. In fact, a 1994 report by the Urban Institute cited voter registration as one of the new Federal and State initiatives that, without additional funding—and I quote from the Urban Institute—"will inevitably reduce sources devoted to core WIC services." That is from an objective agency, devoted to the urban poor, looking specifically at the objectives of the WIC Program.

The services provided at WIC clinics are qualitatively different from those provided by other public assistance agencies. That, certainly, is the central point of our case today. The WIC services qualitatively are different. WIC agency staff offer nutrition education. They conduct nutrition assessments. They make referrals to other health care and social service providers. They promote breast feeding and tailor food packages to meet individual needs.

It is these services which have helped WIC to achieve its proven effectiveness in reducing infant mortality. It is these services which have led WIC to a special effectiveness, in making certain that the birth weight of infants was higher and thus the incidence of infant mortality declined. WIC has been especially effective in lowering the incidence of iron deficiency anemia for infants.

I just state obvious common sense, that mandating the WIC staff to spend time on something totally unrelated to these overriding health goals and nutrition goals is simply not sound public policy. Therefore, I commend the McConnell amendment to my colleagues. I strongly support it and have asked to be a cosponsor, and the distinguished Senator from Kentucky has included me among the cosponsors. I am hopeful it will have strong support in this body.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Kentucky.

Mr. FORD. Mr. President, let me start out by saying I am a strong supporter of the WIC Program. There is nothing I see out on the horizon that does better work as it relates to women, infants and children than the WIC Program. It is a little odd to me, however, that we heard about the WIC Program here today and how devastating it will be to that program if the recipients who bring their children in are asked if they would like to register to vote. That is all. They can say yes or no.

If they say "no" it is over. There is no cost. There is no time lost.

This is just an effort by those who vehemently opposed the motor voter registration bill. This is not a simple amendment just to prevent those who are on the WIC Program from being participants in this program. What it says is "the office."

In checking around I find many of our States are combining health care offices. So when you combine a health care office and WIC is within that office when they walk through the front door—this eliminates it. So this is a back-door effort to gut the Motor Voter Registration Act that we passed here and the President signed into law. It will not take effect until January. So we do not know whether it is going to help or hurt.

But if this goes through, then those who have supported the ability of individuals to be reconnected with their Government—and I do not believe anybody on the other side will tell me that people are not riled up, they want to be registered to vote. What we have done is eliminated the patriotic duty, if you want to call it that, or the blood-given right, by all of the hurdles that we have placed in front of an individual wanting to have the opportunity to vote to prevent them from registering.

You cannot tell me that having the form there and asking the mother, on the form, if she is registered—if the answer is yes, that ends it; if you are not registered, do you want to register? If the answer is no, that ends it.

But do not take my word for it. The motor voter law requires public employees, like those who administer the WIC Program, to assist citizens in the voter registration process. Contrary to what the WIC directors are saying, the process is not a burden. But you do not have to take my word for it. Listen to the Center on Budget and Policy Priorities, one of the most respected—and I underscore respected—advocates for the WIC Program. I think everybody—I think—will agree to that. But here is what they have to say.

> The costs of this procedure are marginal, and whatever small costs are entailed are treated like any other WIC administrative costs * * *
>
> In short, these tasks would not add substantial burden. And they would help achieve a fundamental democratic goal—increased citizen participation in the affairs of our democracy.

That is a quote directly from the letter from the Center on Budget and Policy Priorities. I ask unanimous consent to have that letter printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FORD. You do not have to take my word for it. Here is something the Center on Budget and Policy Priorities has clearly stated about the goal of the motor voter law: We must eliminate the barriers that are preventing citizens from getting to the ballot box. Voter registration should be simple, convenient and accessible to all citizens. The registration of citizens in WIC offices as well as other social service agencies—motor vehicle license bureaus and other State and local offices—will achieve that goal. And on election day, those who choose to vote will be able to do so. And that is democracy in action.

So what we are saying here is that there is no extra effort. How many times can that mother that is there to get some help in the WIC Program—how many times can she get to the post office or the registrar's office? Can she only go Saturday? Or noon, when the office is closed? Can she only get there Saturday, when the office is closed? The answer is probably so.

So, with this amendment we deny her, that woman, the opportunity to register and to vote. She probably has more emotion, probably understands the problems better than most. What we are saying here in this amendment, if it passes, is that we want to deny that woman the ability to register and express her opinion.

So what we are doing is denying the women an easier route to register and to vote and to express their opinion. Mr. President, this amendment must be defeated. And the work of implementing the motor voter law must proceed.

We did not think this up all by ourselves, this procedure.

We went to the State of Pennsylvania and we copied from them. We went to the State of Minnesota and took it from them. It is something that has been tried, something that is good.

So now they are saying in this amendment that we can eliminate the ability of everyone going to a public assistance office, under this amendment, from having the opportunity to register to vote, because the amendment says "office."

If there is a 10-by-12 space for WIC, is that all this amendment is going to cover? Or is it the office in which WIC has a portion of the square feet? When you walk in the front door, you are in the office. They will say, "You can't have them over here, but you can have them all around." So if you have them all around, could the WIC mother then go over and get one from the other office in the building or on the floor?

Oh, Mr. President, this is just another way to try to use a motion to stop some people, particularly women, from having the opportunity to register to vote.

I am one who says that these women have every right to be registered. We should not prevent them the opportunity that others are given. What we are seeing here is denying to their infants and children the facilities and services that they are entitled to, when we have it refuted by the Center on Budget and Policy Priorities, it really is not going to take up any time; it really is not going to cost any money; whatever problem there is might be marginal.

So if you want to deny these women who are having trouble with their children, trying to lead a good life, and trying to make them healthy, and say to them, "You can't register to vote as others can register to vote," then I think you are denying a segment of our population the opportunity that should not be.

Mr. President, I yield the floor and reserve the remainder of my time.

EXHIBIT 1

CENTER ON BUDGET AND POLICY PRIORITIES

PROPOSALS TO EXEMPT WIC FROM THE NATIONAL REGISTRATION ACT

It has been suggested that WIC be exempted from the National Voter Registration Act (also known as the Motor Voter Act). Such an action would be unwise. It could be the first step in a process toward unraveling the Motor Voter Act.

The tasks involved for WIC programs to comply with the Motor Voter Act are modest. During a certification interview at a WIC clinic, participants would be given a 5″ 8″ voter registration card and a short form asking them if they want to register at the WIC clinic. If a participant checks the "NO" box on the form, the WIC clinic has no additional tasks. If the WIC participant wishes to register at the clinic, the participant fills out the simple card (with the caseworker's assistance, if the participant requests it) and the participant or caseworker drops the card in a box. Once every 10 days, the clinic would send the cards in the box to the elections office. The costs of this procedure are marginal, and whatever small costs are entailed are treated like other WIC administrative costs and charged against a state's WIC grant for administrative and nutrition services. It should be noted that under legislation sought by state WIC agencies and enacted in 1989, grants to states for administrative and nutrition services this year reached 25 percent of total WIC funding. This exceeds the percentage for any prior fiscal year.

In addition, USDA's Food and Nutrition Service has sent a directive to its regional offices, directing them to work with states to insure that these procedures are implemented in the least burdensome ways possible. The FNS directive also clears up a misunderstanding on the part of a number of states who mistakenly thought they would be subject to various additional requirements under the Motor Voter legislation.

In short, these tasks would not add substantial burden. And they would help achieve a fundamental democratic goal—increased citizen participation in the affairs of our democracy. Citizen participation in elections has been declining for some time. The National Voter Registration Act holds promise of helping to stem that trend, and the WIC program—which is now a mature program—has a role to play and a contribution to make. It is understandable that some WIC administrators would not see this task as central to WIC and urge that they be excluded from it. But from the standpoint of the well-being of our nation's democratic values, the National Voter Registration Act—including its application to WIC—should be maintained.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL addressed the Chair.

Mr. McCONNELL. Mr. President, I listened very carefully to my colleague from Kentucky, and I want to commend him for the good work that he did on this legislation. I was not in favor of it, but he succeeded through the legislative process and it became law. That is not really the issue before us today.

My colleague talks about whether or not it is going to inconvenience the WIC directors. I think they themselves would be the best testimony, the best evidence of whether this legislation, if applied to them come January, is going to create a problem.

In the letter that I referred to earlier from the National Association of WIC Directors, it is rather clear how they feel about it. In a letter to me dated June 21 from the director, it says:

> Dear Senator McCONNELL: The National Association of WIC Directors applaud your efforts to ensure that the essential mission of the Special Supplemental Food Program for Women, Infants, and Children—the provision of quality nutrition education and breastfeeding promotion and support services—is maintained and not diluted by unrelated activities.

Later in the letter, the Director says their,

> * * * canvass of State and local agency directors and nutrition coordinators confirms—

Confirms, these are the people actually working there and dealing with the WIC clients.

> that the requirements to implement the act in WIC clinics will only further reduce the already stretched time, staff, financial, and other resources available to ensure that WIC participants receive the quality nutrition services to which they are eligible.

Mr. President, how many folks are we talking about here? First, it is important to remember that 77 percent of the people that come into the WIC clinic are under age 5—77 percent are under age 5; 23 percent of the WIC participants are women. But of that group, 12 percent are under 18. So 77 percent of the people who are coming into the clinic are under age 5, and of the women who are coming in with their children into the clinic, 23 percent of those women are under age 18.

It is important also to note that two-thirds of the WIC clients go to other agencies for other services, and those agencies are required to participate through the National Voter Registration Act.

So it is not like these adults who come into the WIC office are not going to be dealing with some other agency required to register under the National Voter Registration Act. Two-thirds of the WIC recipients are on Medicaid, food stamps, and/or AFDC. This amendment does not affect those programs. So two-thirds of that six-tenths of 1 percent of the population will be provided with voter registration options at the other agencies.

We are talking about a minuscule percentage of the eligible voting-age population that might—might—miss an opportunity to be registered through this agency-based effort.

Let us go over that one more time: 77 percent of the WIC clients are under 5; 23 percent are women, but of that group, 12 percent are under 18, so they are not eligible; and two-thirds of the overall WIC recipients go to some other agency, such as Medicaid, food stamps, and/or AFDC. So two-thirds of those folks are going to be exposed to other agency-based registration efforts.

It could hardly be persuasively argued, Mr. President, that this is blowing a gaping hole in the National Voter Registration Act. I come at this as ranking member of the Nutrition Subcommittee. I fully admit I was not supportive of the Motor-Voter Act, but that is over. The supporters of that prevailed.

The question is, at this point, on this bill, whether this six-tenths of 1 percent of the population is going to be affected in this adverse way.

I am going to retain the remainder of my time, but we are talking here largely about an agency that serves children who are not eligible to vote and a reasonable percentage of women who have children who are under 18, two-thirds of which go to some other agency which is required to engage in voter registration under the Motor-Voter Act. Clearly, this is not blowing a gaping hole in the national Motor-Voter Act.

So, Mr. President, I retain the remainder of my time and yield the floor at this point.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Will the Senator yield to me?

Mr. FORD. I yield such time as the Senator from Oregon might use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATFIELD. Mr. President, I thank my colleague for yielding the time.

I would like to say from the very beginning that on most things that involve electoral and political processes, I follow the lead of my colleague from Kentucky, Senator McCONNELL. I know few, if any, on my side of the aisle who have greater expertise or have a better background in commenting on these matters.

On this one issue, I do take a different position, in part because my own State of Oregon had proven motor-voter registration to be an effective instrument by which we expanded participation in government and brought more people into the voting process.

I might also say, as a former secretary of state from Oregon, meaning the head of the elections office, I presided over a number of election cycles where we had, of course, State supervision, State roles, State involvement. In all of these roles, I must say, Mr. President, that I feel that the State should be paramount. I think the Federal Government has a limited role to play in the matter of these basic procedures. With the mobility of our population and for other reasons, however, I think that the matter of mail-in registration is a very legitimate kind of Federal role to create uniformity across the country. I think making voter registration available at the time of your driver's license application is another legitimate Federal role. I think also, when you are at a Federal agency conducting business, a further appropriate role would be for the agency to supply registration forms.

In the motor-voter bill, which, by the way, has not taken effect yet—it was postponed until January 1995 to skip this election cycle in order for the States and the local governments to become involved in the process—we left it to the States to negotiate as to which Federal agencies would make available the voter registration system. We did not designate the agencies in the bill.

This fight today is basically symbolic because this is the first Federal agency authorization program potentially affected by motor-voter that has come up in this Congress. I think it is important to defeat this effort to undermine the motor-voter registration law because I assume that we could possibly face this same amendment on each and every other Federal agency program that may come along subsequent to the one that we are dealing with today.

And so even though there is a small percentage of potential registrants involved, as cited by the author of the amendment, Senator McCONNELL, I think it is very important to set the precedent today that we are not going to have an erosion of the basic concept of the motor-voter registration bill which was passed and signed into law to take effect in January 1995.

A recent study by the Department of Transportation found that almost 50 percent of the people in the low-income families and minorities do not have drivers' licenses and have annual incomes of less than $10,000. Five States already offer some form of public agency voter registration system; Alaska, Iowa, Minnesota, New Jersey, and Ohio. Again, this idea has already been proven at the State level. We are not venturing into some strange field of experimentation. All we are saying in effect is let the Federal agencies that are designated out of State negotiations be also the source of such registration forms.

A number of my colleagues opposed the original bill that includes agency registration because of the fear of coercion, fear of coercion by Federal agencies when a recipient of a Federal program is handed a check in one hand and a voter registration form in the other. Is it intimidation? Is it coercion?

As one of the cosponsors of this bill initially, we paid very careful attention to anticoercion safeguards, to protect against manipulation or intimidation of public assistance recipients who register.

These safeguards are threefold. One, clients in public agencies will not be registered unless they specifically indicate they want to be registered.

Second, registration forms will explain that no action can be taken against those clients who do not want to register in a Federal agency.

And No. 3, the name and number of the person with whom to file a complaint—a complaint—if abuse occurs or if the recipient assumes or feels or considers that there has been some kind of intimidation—must be given to that recipient.

We do have safeguards against coercion. Should such coercion still happen and a complaint be filed, and it was found that coercion was a valid complaint by the recipient, this is now a Federal offense, including criminal penalties.

I believe that adequate protections are in place to prevent the manipulation of Americans. Furthermore, I support my colleague, Mr. FORD, the chairman of our committee, in his view that we have worked hard to ensure that the agency-based registration aspect of this law would have a minimal impact on any agency's work. In other words, we are not imposing an additional great demand for work, for being registrars, with that fulfilling the basic mission of the agency. In this specific case, WIC agencies have been asked to make available registration forms and to provide the same assistance in completing those forms as they would for their own forms in their agency.

Mr. President, this bill is not rooted in partisanship. This bill is rooted in democratic philosophy. It stands for the premise that we are all Americans, first, not Democrats or Republicans. It also has a focus of providing for the individual and helping the individual to understand and to involve himself or herself as an individual voice in an expression of interest in the political process. Its purpose is to protect the value and integrity of votes, the votes cast through a strong registration process, not to keep any element of society from exercising their right to vote.

I urge my colleagues to meet this first attack of what I assume to be many others to follow, by defeating this amendment offered by my good friend from Kentucky.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 25 minutes, both Senators from Kentucky have 25 minutes remaining.

Mr. FORD. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. JEFFORDS. Mr. President, I do not think any of my colleagues are more knowledgeable and diligent than my colleague from Kentucky on matters such as that contained in the amendment before us today. He knows his stuff and he makes a very persuasive argument.

I also have been with him on many of the issues, especially when they become partisan. However, on this issue, I disagree very strongly with him. So, too, does a majority of the Senate. We had a full and exhaustive debate on this issue many months ago. We have fought this battle, and those of us in favor of encouraging Americans to participate in the election process prevailed.

Having torn down some of the barriers to voting, I think it is unfortunate that my friend from Kentucky feels it necessary to try to resurrect those barriers. All eligible Americans have the right and responsibility to vote. If we can make it easier for them to fulfill this responsibility and exercise their rights, we should do so.

I understand that there may be some questions as to whether the language of the amendment comports with the Senator's intention to block voter registration in connection with the Women, Infants, and Children Feeding Program. If there is a problem, I know it was inadvertent, so I will restrict my few comments to the impact on WIC.

Why should we single out the WIC Program? Of any of the Federal programs serving low-income Americans, I think it probably has the strongest bipartisan support. President Bush boosted WIC funding tremendously with the active help of Republicans in both the Senate and the House.

And why on Earth should we single out pregnant women and those with infants? Becoming a parent often has a profound positive impact on an individual, who is all of a sudden given a much greater stake in our society by a birth.

But with this amendment, half a million women, who often face many barriers to voting, would be denied easier access to our political system. I strongly supported the motor-voter bill, and I just as strongly oppose the amendment of the Senator from Kentucky to deny its benefits to some 500,000 women in this country.

I appreciate his concern for the WIC Program, however, and know that he and those who support the amendment must share my support for the provisions relating to WIC in the Health Security Act, which we will be facing sometime later this year.

Mr. President, I hope this amendment is defeated, and urge my colleagues to do so.

Mr. President, I yield the floor. I yield the remainder of my time to the Senator from Kentucky.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, how much time does the distinguished Senator from Washington desire?

Mrs. MURRAY. If I could have about 3 minutes.

Mr. FORD. I yield up to 5 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mrs. MURRAY. I thank my colleague from Kentucky for his leadership on this issue and for his consideration in opposing this amendment today.

I rise to oppose this amendment. Mr. President, I remember a little over a year ago when I was a very proud Member of the U.S. Senate to vote with the majority in behalf of the motor-voter bill. It was a message that fit all Americans who care about its citizens. We care about them being involved in our Government, and being part of that Government. And we were doing everything we could to make it easier for every American, no matter who they were or where they came from, to be a part of this democracy by allowing them to vote.

I am simply amazed that we are on the floor of the U.S. Senate today beginning to try to repeal that act by going after group by group, and the very first group we are going to make it tougher for is mothers with young children.

I can think of no one that we should be more accommodating to than mothers with young children. That is from one of the few people on the floor who had the experience of being a young mother with children at one time in my life. I can tell you how difficult it is for these women to get their kids ready to go out to do anything, grocery shopping or whatever, much less getting out to register to vote.

I think it would be the worst move, the worst message to send to these mothers that we are going to exclude them from our democracy by passing this amendment.

I urge all of my colleagues to vote a resounding "no" to this amendment.

I thank my colleague. I thank the chairman for yielding time.

Mr. LEAHY. Mr. President, the amendment before us brings up an issue that was decided by the Senate over a year ago.

In passing the National Voter Registration Act, we decided that access to our electoral system of government should be open to all Americans, and that voter registration procedures should not be a barrier to participation.

Motor-voter requires States to provide voter registration services when people apply for a driver's license and at public assistance agencies, including AFDC, food stamps, Medicaid, and WIC.

Opponents of motor-voter are making a desperate attempt to chip away at the edges of the National Voter Registration Act.

They claim voter registration will pose too great a burden on WIC clinics, but those claims are grossly exaggerated.

Agencies are only required to provide and accept voter registration applications when clients apply or are recertified for WIC. They are not required to offer voter registration services in any mailings to participations, nor at each appointment.

Public assistance agencies, such as WIC, were included in the National Voter Registration Act to ensure that all citizens have equal access to voter registration.

WIC applicants should have the same opportunity as people who apply for driver's licenses to participate in our political process.

When the motor-voter bill was being debated, WIC was recognized as a program likely to have contact with citizens who do not have driver's licenses. Estimates are that if WIC were exempt from the mandates of the National Voter Registration Act, 500,000 poor women will be excluded from voter registration services because they do not receive food stamps, Medicaid, or AFDC.

The Clinton administration and the Department of Agriculture stand firmly behind motor-voter. USDA has told WIC directors that the Department is committed to the successful implementation of motor-voter in WIC clinics.

In fact, USDA is allowing any costs associated with voter registration to be covered by WIC administrative funds.

Since 1974, I have been an outspoken champion of the WIC Program in Congress, and I am sensitive to concern that WIC is weakened with each additional demand put on it.

But motor-voter was signed into law with a goal in mind, and I believe in that goal. WIC is just the first target of opponents of motor-voter. And if they succeed here, it will be just the first step. What will be next? Food stamps? Unemployment? Medicaid?

We cannot start tearing apart motor-voter piece by piece.

I see it very simply: The intention of this amendment is to keep poor women from voting. But poor women have the same rights as rest of us, and they deserve every chance to participate in the political process.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I think the message is getting through loud and clear that we are going after young mothers; that we are going after young mothers who have problems of not being in the mainstream, who are going for help, and we are trying to deny to those women help.

Let me make two points. Mr. President, I want to make a point again that the letter that my colleague has that WIC directors do not want this, they want to maintain the status quo, but the status quo for voter registration in my opinion is not acceptable.

I go back to the statement I made earlier where the strong advocate of the WIC Program, the Center on Budget and Policy Priorities, one of the most respected advocates for the WIC Program, has said, in short, that these tasks would not add any substantial burden, that they would help achieve a fundamental democratic goal of increasing citizen participation in the affairs of our democracy.

Mr. President, I ask unanimous consent that the statement from the Center on Budget and Policy Priorities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTER ON BUDGET AND POLICY PRIORITIES

PROPOSALS TO EXEMPT WIC FROM THE NATIONAL REGISTRATION ACT

It has been suggested that WIC be exempted from the National Voter Registration Act (also known as the Motor Voter Act). Such an action would be unwise. It could be the first step in a process toward unraveling the Motor Voter Act.

The tasks involved for WIC programs to comply with the Motor Voter Act are modest. During a certification interview at a WIC clinic, participants would be given a 5" x 8" voter registration card and a short form asking them if they want to register at the WIC clinic. If a participant checks the "NO" box on the form, the WIC clinic has no additional tasks. If the WIC participant wishes to register at the clinic, the participant fills out the simple card (with the caseworker's assistance, if the participant requests it) and the participant or caseworker drops the card in a box. Once every 10 days, the clinic would send the cards in the box to the elections office. The costs of this procedure are marginal, and whatever small costs are entailed are treated like other WIC administrative costs and charged against a state's WIC grant for administrative and nutrition services. It should be noted that under legislation sought by state WIC agencies and enacted in 1989, grants to states for administrative and nutrition services this year reached 25 percent of total WIC funding. This exceeds the percentage for any prior fiscal year.

In addition, USDA's Food and Nutrition Service has sent a directive to its regional offices, directing them to work with states to insure that these procedures are implemented in the least burdensome ways possible. The FNS directive also clears up a misunderstanding on the part of a number of states who mistakenly thought they would be subject to various additional requirements under the Motor Voter legislation.

In short, these tasks would not add substantial burden. And they would help achieve a fundamental democratic goal—increased citizen participation in the affairs of our democracy. Citizen participation in elections has been declining for some time. The National Voter Registration Act holds promise of helping to stem that trend, and the WIC program—which is now a mature program—has a role to play and a contribution to make. It is understandable that some WIC administrators would not see this task as central to WIC and urge that they be excluded from it. But from the standpoint of the well-being of our nation's democratic values, the National Voter Registration Act—including its application to WIC—should be maintained.

Mr. FORD. Mr. President, it has been indicated that this would be a tremendous burden on the WIC directors. Let me read from the instructions from the Department of Agriculture Food and Nutrition Service that says:

> Voter registration services are required to be offered by WIC clinics at every application, reapplication, and change of address. Such services need not again be offered during other participant contacts such as voucher pickups, nutrition education sessions, or other instances where a parent comes into the clinic. There are no requirements to offer voter registration services in any mailing to participants.

So it is just one time, the first blush, and that is it. That is the end of it. They either say "yes" or "no." Or they say, "I am registered. I don't need to register again." Or they say, "Yes. I want to register." Then they are helped. If they say, "No. I do not want to register," that ends it.

I do not understand why you want to take on the motor-voter, and you take on the young mothers of this country with children and try to prevent them from having an opportunity to register.

I do not know what six-tenths of 1 percent is. I do not know. By my calculation, we have roughly 250 million people in this country. And six-tenths of 1 percent of our population does not sound too big. But when you get into the millions, it sounds pretty good. We are denying over 1 million, if my calculations are right, and those of the smarter people in the Chamber when they put the pencil to it, that it is well over 1 million young mothers, mothers with infant children. So six-tenths of 1 percent does not sound very big.

Seventy-three percent of those that come for help are with children. Somebody has to bring them. Their mother brought them. We are saying to the mother of those children that they are not going to have equal access.

Where in the world are we going to come out here on the floor and say we are going to deny young mothers that have real problems, that do not have equal access to register to vote, to express the voice of those 5-year olds? Oh, they say 3 percent of them are 5-year olds. So we do not have to worry about them. But the mother ought to be able to exercise her voice. And what those children ought to have, as anybody knows what they need the mother does, and we are saying to her, "You cannot have the same access to register to vote that others have."

Mr. President, we have gone too far in this amendment. If you look at the amendment, it says "office." What does that mean? When all of the State governments are trying to combine and have a one-stop health center, when you walk in the front door, it is the office, and WIC is back here in the corner. So we deny it to the whole floor, to all the help. This is a back-door way of trying to gut motor-voter, and I think it is a dreadful way to start.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky has 15 minutes. The junior Senator from Kentucky has 25 minutes.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, it is unfortunate that this turned into a motor-voter debate when it really is about child nutrition. My interest in this was stimulated, not by my opposition last year to motor-voter, which I concede and make no apologies for, but my interest at this point was generated by the National Association of WIC Directors who wrote, and who asked to be relieved of this responsibility. It is not just the National Association of WIC Directors. I have a letter here from the county health department in Shepherdsville, KY. I will read a couple of paragraphs of that letter before asking that it be printed in the RECORD. It says:

> DEAR SENATOR MCCONNELL: . . . WIC staff . . . doing voter registration rather than nutritional education or breast feeding promotion, then there will be some major disruptions that deal with WIC clients (most of whom are far too young to vote yet anyway).

"Most of whom are far to young to vote anyway."

> The lack of reimbursement mechanisms for costs associated with motor voter tells me that without the McConnell amendment I am looking at an unfunded mandate to provide staff and space for voter registration while taking these same staff away from other clinical duties.

I am quoting, Mr. President, from the people who administer these WIC clinics on the scene. I did not make this up. This is their view of the onerous requirement that they participate in registering voters.

Let me repeat here. Seventy-seven percent of the WIC clients are under age 5. Surely the proponents of this are not suggesting that they be registered. Twenty-three percent of the WIC participants are women. Twenty-three percent of the WIC participants are women, but of that group 12 percent are under 18. They are not eligible to vote. Two-thirds of the WIC lines go to other agencies which are entitled and required to register people to vote.

So we are talking about a minuscule percent of the target audience of the National Voter Registration Act, but a very important group of soldiers out there in the field trying to adequately feed women, infants, and children under the WIC Program.

Mr. President, in order for the WIC clinics to comply with motor voter, they are going to have to utilize administrative funds. WIC has two pots of money: food and administrative. Unlike food stamps, unlike AFDC, unlike Medicaid, WIC is not an entitlement program and does not have a Federal mandate for State matching dollars.

Activities that are funded from the administrative pot of money include eligibility determination, enrolling new participants, health screening for nutritional risk, and nutritional education sessions. So when you have a limited pot of money, Mr. President, it is only logical that paying for one activity will take away from the efforts on other projects.

Motor voter would undermine the ability of WIC workers to increase participation and to focus on nutrition-related activities—the very activities that have made this program so successful in reducing anemia and the incidence of premature and low birthweight babies. As local and State agencies work hard to maximize the use of funds to increase participation, obviously it would be better if we did not divert those funds away from it.

I ask unanimous consent that the letter from the Bullitt County Health Department to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BULLITT COUNTY HEALTH DEPARTMENT
Shepherdsville, KY.

DEAR SENATOR MCCONNELL: I strongly endorse the McConnell WIC/Motor Voter Amendment to the National Voter Registration Act. It's wrong that WIC clinics are to be considered as public assistance offices for purposes of this Act.

WIC has been one of the very few strongly successful government programs. Simply, put, WIC works. It works because the WIC Program is very specific about its mission and has kept focus on it: Improving nutritional status of women and children at risk.

If WIC staff are doing voter registration rather than Nutritional Education or Breastfeeding Promotion, then there were be some major distractions in dealing with WIC clients (most of whom are far too young to vote yet anyway).

The lack of reimbursement mechanisms for costs associated with Motor Voter tells me that without the McConnell Amendment, I am looking at an unfunded mandate to provide staff and space for voter registration while taking these same staff away from other clinical duties.

In closing, I would say that without the McConnell Amendment, the Motor Voter Act penalizes the WIC Program (and all its participants) for its success by infringing upon it.

That's the wrong way to reward an outstanding program like WIC.

Consequently, I again state how strongly I support the McConnell WIC/Motor Voter Amendment.

Sincerely,

NED FITZGIBBONS,
Director.

Mr. MCCONNELL. I want to make one point, and I will be ready to wrap up here. I do not know about my senior colleague, but the League of Women Voters, obviously, was opposed to this amendment. And there has been some correspondence between the National Association of WIC Directors and the League of Women Voters. It is interesting that in the letter to the President of the League of Women Voters, the executive director of the National Association of WIC Directors points out:

> Some nineteen tangentially related programmatic requirements have been placed on the program in the last several years. Experience has shown that the time required to serve the nutrition education and breastfeeding support and promotion needs of WIC participants has been seriously eroded by additional requirements placed upon the program by policymakers.

That is, other things before they get to this.

> While these requirements benefit participants, they detract from WIC's ability to meet its primary mission. Infrastructure problems (insufficient space, staffing shortages and constrained MIS systems) combined with added requirements, often totally unrelated to nutrition education efforts of the program, e.g. the NVRA, are forcing many participants to experience delays in appointments and others to go unserved.

I ask unanimous consent that this letter be printed in the RECORD as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
WIC DIRECTORS,
July 25, 1994.

MS. BECKY CAIN,
President, The League of Women Voters, Washington, DC.

DEAR MS. CAIN: I am in receipt of a copy of your Memorandum to Members of the U.S. Senate dated 11 July regarding the National Voter Registration Act, NVRA.

Just as the League of Women Voters supports WIC, the National Association of WIC Directors, NAWD, is fully supportive of efforts to register voters.

The WIC Program prides itself on being the Gateway to Health Care. WIC strives to reach its mission of providing quality nutrition education and services, breastfeeding promotion and education, dietary food supplements and health care referrals to low income women, and their children at nutritional risk. Programmatic requirements totally unrelated to the mission of WIC infringe upon that mission and seriously detract from the need of staff and participants alike to focus on the health and well-being of the nation's women, infants and children.

In your memorandum, you advised that ". . . efforts to exempt WIC from the NVRA are precipitous. We believe that the concerns that have been expressed . . . will prove to be unfounded."

NAWD takes exception to these comments. Some nineteen tangentially related programmatic requirements have been placed on the Program in the last several years. Experience has shown that the time required to serve the nutrition education and breastfeeding support and promotion needs of WIC participants has been seriously eroded by the additional requirements placed upon the Program by policy makers. While these requirements benefit participants, they detract from WIC's ability to meet its primary mission. Infrastructure problems (insufficient space, staffing shortages and constrained Management Information Systems systems) combined with the added requirements, often totally unrelated to the nutrition education efforts of the Program, e.g. the NVRA, are forcing many participants to experience delays in appointments and others to go unserved.

Your Memorandum goes on to state that "limited voter registration services are required. Effective motor voter programs have demonstrated that this is a minimal responsibility that should not detract from the agencies' primary mission. WIC applicants, should have the same opportunity as driver's license applicants to participate in our political process." According to a USDA study "in 1992 nearly two-thirds of WIC participants received benefits from at least one other public assistance program." NAWD feels confident that the majority of WIC's participants will receive adequate voter registration information without WIC Program involvment in NVRA.

NAWD has expressed its concerns to Members of Congress about the negative consequences voter registration requirements embodied in the NVRA would have on WIC clincs and efforts to successfully accomplish the WIC mission. NAWD advised that if WIC is not exempted from this Act, additional monies must be appropriated to perform this service.

NAWD has calculated that approximately $25.6 million in personnel costs alone will be expended for interview and registration efforts by WIC. This figure does not include MIS or other administrative costs involved in processing information, reproducing materials, the cost of materials or space requirements. Conservatively estimating the cost per participant to be served by the WIC Program at $41 per month, expenditures by WIC on NVRA could force over 624,000 participants to go unserved.

NAWD urges you to reconsider your position and calls upon the League of Women Voters to endorse a healthy future for all Americans. Granting everyone a healthy future stake in the successes of the nation makes for better citizens—willing and fully empowered to participate in the rights of citizenship—among them the right to vote!

Sincerely,

DOUGLAS A. GREENAWAY,
Executive Director.

Mr. MCCONNELL. Finally, let me ask my friend and colleague from Kentucky. He was concerned that the way the amendment was crafted, it might impact other personnel jointly occupying an office. I understand that under the agreement under which we were operating, it would take unanimous consent for me to modify my amendment. If he gives me unanimous consent, I would modify it in such a way that it was more specifically crafted to effect only the personnel who work in an office which provide supplemental food and nutrition education under the section and shall not be considered to be working in an office in a State that provides public assistance for the purposes of this section.

That modification, I believe would deal—I understand it would not gain support if the modification is allowed, but it would deal with the issue he raised.

Mr. FORD. If the Senator will withhold so we can look at that.

Mr. MCCONNELL. Yes.

Mr. President, while the staff is looking at that modification, let me repeat one more time. In the universe of people who come into a WIC clinic, 77 percent are under 5 years old. Of the remaining 23 percent—and they are women who have brought in the children—12 percent of them are under the age of 18. Of this whole universe of people who come into a WIC office, WIC clients, two-thirds of them go to other agencies that are required under motor-voter to provide voter registration assistance.

I offer this amendment today not as an opponent of motor voter, which I confess to have been last year; I offer this as the ranking member of the nutrition subcommittee of the Senate Agriculture Committee, and I do it on behalf of the Nation's WIC directors, the people who are there dealing with the clients every day, who feel that this will get in the way of their providing this service, mostly to children, and mostly to clients who also go to other offices that are required to offer this service under the National Voter Registration Act.

So with all due respect to those who have spoken in opposition to the amendment, I do not see how you can argue this is blowing a gaping hole in the motor voter bill. It seems to me that this is an amendment clearly designed to deal with the nutritional needs of women, infants, and children, and not an amendment designed to eviscerate the Motor Voter Act.

How much time is remaining?

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator has 16 minutes 47 seconds.

Mr. MCCONNELL. I reserve the remainder of my time.

Mr. FORD. I will accept the Senator's modification.

Mr. MCCONNELL. Madam President, I ask unanimous consent to modify my amendment in the way I described.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 2559), as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . IMPROVED ADMINISTRATION OF WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) The personnel who work in an office which provides supplemental foods and nutrition education under this section shall not be considered to be working in an office in a State that provides public assistance for purposes of section 7(a)(2)(A) of Public Law 103–31."

Mr. FORD. Madam President, I imagine the audience gets confused that each of us is referred to as the Senator from Kentucky. I am the one who is opposed to the amendment. My friend is the one that is the proponent.

I made a point and I think I caught the amendment that was going to eliminate every agency that was combined. I guess you can term it either way you wanted to. But at least I made a point here that this amendment could have eliminated the ability of any office to register.

Madam President, they say they cannot imagine why we would object to something like this. The only issue here has been emotion. We find in the amendment that it could have eliminated the use of registration forms in all offices. Now it has been modified in an effort to limit it. I have shown and filed for the RECORD an amendment from the Center on Budget and Policy Priorities, one of the most respected advocates for the WIC Program, saying it would not take up any time or money. I have a statement from the Department of Agriculture, Nutrition Services, that says you only offer it one time. When they come back, you do not have to offer it again. Here is the Pennsylvania form, right here. You give this to the recipient the first time, and that recipient has a little bit to fill out here, some to fill out here, and questions over here.

There is one question on there. "Does anyone in your household want to register to vote?" You can say, "no," and that is the end of it. You can say "yes," so the employee is required then to say, "Here is the form, and you fill it out. If you have any questions I will help you." That is all.

But what we are doing here is we are denying even the possibility of that mother having this much. We hear a lot of figures—we do not get numbers—77 per percent of those who come into the WIC office are under 5. That is expected, is it not? Then you have 23 percent that are left, and 12 percent of those would go to some other office.

Then you say it is only six-tenths of 1 percent of those who are really meaningful in this. So it is over a million. I am not sure exactly how many, and I do not think six-tenths of 1 percent is a real figure.

But how many mothers are denied under this amendment to have an opportunity to register? They say that this is getting into the voter registration. That is true. That is what he is trying to eliminate. That is what I am trying to keep.

When you have a respected speaker say it is not going to cost much, if anything, it is just the supervisors do not want more work to do—bureaucrats. They say they are robbing them of time with the mother.

So here is the form. Go fill it out. Do you want to register to vote? Here is another form. Fill it out.

How much time does that take? That is not denying anybody anything. It is giving them an opportunity to participate in democracy for those children under 5 that she brought in with her. To pick on women, the very first pop out of the box before this law takes effect, then I just have a lot to wonder about, Madam President, and that is all there is to it. And that is going to deny someone the ability to perform their services.

So, I am going to leave it at that.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Madam President, I think we ought not to beat this to death.

The important thing to remember is that WIC is a child nutrition program. Yes, it serves women. But it does so with the intent of producing a healthy, well-nourished baby and teaching the moms about nutritional feeding habits to pass on to the children.

If the Senate believes WIC as a child nutrition program should register people to vote, then do you also think that school lunch and breakfast programs, child care food programs, and the summer food programs should provide the same registration services?

If that is the rationale, maybe we ought to carry it over to school lunch, breakfast, child care food, and summer food programs. Those programs deal also with children.

If WIC is required to be a voter registration agency, should the election officers be required to administer WIC? Voter registration is totally unrelated to WIC, just as WIC services are totally unrelated to registering voters.

I hope the Senate will not conclude that this amendment, which is the result of correspondence to me as the ranking member of the nutrition subcommittee, correspondence from the National Association of WIC Directors, would be an effort on their part or mine to unravel motor voter.

I hope that people might conclude that the best efforts of those offices should be put forward in dealing with nutritional problems of these folks who come there for services.

I am prepared at this point, if the senior Senator from Kentucky is, to yield back the remainder of my time.

The PRESIDING OFFICER. If I understood the Senator is yielding back the remainder of the time.

Mr. MCCONNELL. No. I want to see if we have finished here.

Mr. FORD. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I am pleased to join Senator MCCONNELL in offering this amendment to exempt WIC clinics from the requirements of the National Voter Registration Act. Passage of the amendment will help ensure that the integrity of the WIC Program is not jeopardized by unrelated administrative requirements.

Forcing WIC clinics to comply with the requirements of the National Voter Registration Act means that limited administrative funds are diverted from program purposes and redirected to pay for voter registration. WIC is a discretionary program that is attempting to stretch its funds to meet the needs of as many recipients as possible. Using these funds for voter registration is a mistake.

We all know how successful the WIC Program is at meeting the food and nutrition education needs of its clients. I, for one, don't want to see that success imperiled. WIC mothers go to the clinics to receive instruction on breastfeeding and proper nutrition for their children and themselves. They are not there to be registered to vote.

In fact, mothers represent only 23 percent of the WIC client population. Seventy-seven percent of WIC clients are under age 5. So, obviously, WIC clinics are not the best places to seek out and register potential voters.

As my colleagues know, I opposed the passage of the motor-voter bill last year. Motor-voter is yet the latest in a string of unfunded mandates imposed on the States and localities by the Federal Government. With a credit-card mentality, the Federal Government mandates and the States and cities pick up the tab.

Mr. President, in closing I want to thank the distinguished ranking member on the Nutrition Subcommittee, Senator MCCONNELL, for his hard work on this issue. I am pleased to join him and Senator LUGAR, Senator CRAIG, Senator COCHRAN, Senator HELMS, and Senator COVERDELL in cosponsoring this important amendment, and I urge my colleagues to support its passage. What's at stake is nothing less than the integrity of the WIC Program.

THE FOLLY OF REQUIRING WIC OFFICES TO REGISTER VOTERS

Mr. CHAFEE. Mr. President, I am pleased to be a cosponsor of Senator MCCONNELL'S amendment that would exempt WIC offices from the requirements of the National Voter Registration Act, which was approved and signed into law last year.

Some might wonder what voter registration has to do with providing nutrition services to low-income women and infants. That's a very good question. The National Voter Registration Act contains a provision that requires all agencies providing public assistance to offer voter registration services. Of course, this provision included WIC offices.

Although I have never supported the National Voter Registration Act, for a number of reasons that I discussed last year during debate on that measure, I have no argument with the intent of the act. I agree that we should make every reasonable effort to increase voter registration in the hope of encouraging greater participation in the election process. Rhode Island has a motor-voter program that has worked very well since its inception in 1990. The National Voter Registration Act, while well motivated, is seriously flawed, and the effect its implementation will have on WIC offices is one example of the flaws in this act.

But we aren't here to debate the wisdom of the National Voter Registration Act. We are here to reauthorize the Child Nutrition Act and the National School Lunch Act. These programs, particularly the Child Nutrition Act, have been extremely successful. I always have supported expansion of the WIC Program, as has my colleague from Kentucky, who offered this amendment.

In recent weeks, I have received letters and phone calls from the WIC office in Rhode Island asking for my assistance in relieving the burdens that would be imposed by the National Voter Registration Act. John L. Smith, chief of the WIC Program at the Rhode Island Department of Health, wrote to me on June 2, 1994. He took the time to express support for the goals of the National Voter Registration Act but went on to say:

> As enlightened as this seems, however, to carry out the provisions of the NVRA requires significant WIC staff time. Such staff time cannot be procured without either purchasing more time or substituting NVRA for other staff activities.

Mr. Smith went on to point out:

> At the WIC clinic level, over 80% of the available funds are used for direct nutritional services to WIC clients. Therefore, if the program is required to conduct NVRA activities, it must subtract the time required for these activities from an already expanding set of requirements to provide nutrition assessment and education, drug abuse assessment and referral, breast feeding promotion and support, and information and referral services for health care, financial aid and other nutrition support services, immunization assessment and referral and support services.

In short, Mr. President, we have required the WIC offices to undertake an enormous list of highly beneficial activities. On top of these requirements, we have added registering clients to vote.

There is no doubt in the mind of Kathleen A. Stento, chairwoman of the Rhode Island WIC advisory board, that the requirements of the National Voter Registration Act would have a detrimental effect on the quality of the services provided at Rhode Island's WIC clinics. The advisory council represents the 23 local WIC clinics in Rhode Island. Ms. Stento wrote:

> On this matter, we are united: we DO NOT want to give up any of our nutrition education time (nutrition education is the key to our program * * * it is what makes the program unique to any other food assistance programs, and it is what makes the program work). The National Voter Registration Act is worthwhile, but it is not fair to burden the WIC program with its implementation.

I ask unanimous consent that the full text of the letters from Mr. Smith and from Ms. Stento be printed in the RECORD in their entirety.

I do not believe that this is the appropriate time to debate the National Voter Registration Act, but I do believe that we should take the appropriate step of relieving WIC clinics of this terribly burdensome requirement by supporting the McConnell amendment.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

RHODE ISLAND WIC ADVISORY COUNCIL,
Providence, RI, May 26, 1994.

Hon. JOHN H. CHAFEE,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: I am writing on behalf of the Rhode Island WIC Advisory Council. The Council requests your further support of the WIC Program for the 1994 Reauthorization legislation.

In particular, we look to you to support full funding for the program so that all eligible needy mothers and children can be served and to preserve the nutrition and health prevention focus of the program.

As you are aware, Rhode Island WIC aggressively built the Program over the years and now serves one of the highest proportions of need in the nation. This means, however, that the State does not share in the annual growth funding provided by Congress, under current federal funding formulas. Nevertheless, about 30% of eligible Rhode Islanders are still unserved, and Council members often have to tell eligible parents that their children must be placed on a waiting list, perhaps for a long period of time, until funds are available.

Only with commitment to a full funding approach will resources nationally be sufficient to allow Rhode Island to participate in growth.

I also write to you today, asking that you please consider our strong reservations regarding the National Voter Registration Act, and the negative impact we feel it will have on the local WIC agencies here in your home state.

As chairwoman of the Council, I represent the 23 local agencies in Rhode Island. The WIC Advisory Council meets regularly to discuss matters that affect the WIC program in

Rhode Island, at the grass roots level. We feel very strongly that the potential is great for the National Voter Registration Act to have an extremely negative impact on the quality of the nutrition services we provide at our WIC sites.

The overwhelming consensus among the local agencies is that the time it would take to register voters, would be decreasing the time we have to provide nutrition education services, too greatly. On this matter, we are united: we do not want to give up any of our nutrition education time (nutrition education is the key to our program * * * it is what makes the program unique to any other food assistance programs, and it is what makes the program work).

The National Voter Registration Act is worthwhile, but it is not fair to burden the WIC program with its implementation. Please consider the validity of our argument and do what you can to exempt the WIC program from providing Voter Registration services.

In conclusion, let me again urge you to work towards exempting the WIC program from the National Voter Registration Act. Additionally, I extend to you an invitation to join the WIC Advisory Council of Rhode Island at an upcoming meeting, to discuss in person, our concerns regarding this matter. Please contact me to arrange a place and date if your busy schedule allows. Thank you for your time and attention to this letter, we hope to meet with you at your convenience.

Sincerely,

KATHLEEN A. STENTO,
Chairwoman.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, DEPARTMENT OF HEALTH,
Providence, RI, June 2, 1994.

Hon. JOHN H. CHAFEE,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: This is to express my appreciation for the opportunity to meet with Coates Lear recently to discuss legislative matters impacting on the WIC Program. This meeting was particularly timely in light of the current consideration of WIC Program reauthorization. At the request of your office, this is to provide additional detail about the potential impact of the National Voter Registration Act (NVRA) on the WIC Program.

This Office believes deeply that the WIC Program's existence, success and support represent an important public policy and that the determination of such important public policies should be made with the fullest possible participation by all members of society eligible to vote. To this end, it is entirely appropriate of government to encourage voter participation and educate citizens to be aware of and knowledgeable about the issues that face the country and which their votes may impact. It is in this spirit that the National Voter Registration Act was passed.

As enlightened as this seems, however, to carry out the provisions of the NVRA requires significant WIC staff time. Such staff time cannot be procured without either purchasing more time or substituting NVRA for other staff activities.

The NVRA, and parallel state legislation, provides no additional financial resources to the WIC Program to purchase more staff time to carry out its activities. Therefore it is apparent that the WIC Program can only carry out NVRA activities by reducing its efforts in other areas. At the WIC clinic level, over 80% of the available funds are used for direct nutritional services to WIC clients. Therefore, if the program is required to conduct NVRA activities, it must subtract the time required for those activities from an already expanding set of requirements to provide nutrition assessment and education, drug abuse assessment and referral, breastfeeding promotion and support, and information and referral services for health care, financial aid and other nutrition support services, immunization assessment and referral, and general preventive health care participation referral and support services.

It is fairly obvious that the preceding activities are all deeply allied with the program's mission of preventive health care. Activities aimed at NVRA support are not so obviously allied. Virtually all Rhode Island WIC clinics are certified voluntary, nonprofit health care sites. They are surprised that the NVRA law defines them as "public assistance agencies". The customary and accepted meaning of that term is defined by the various financial assistance Titles of the Social Security Act, and usually applied to government administered offices or other agencies primarily providing assistance under the Social Security Act. I believe that non governmental subgrantee programs primarily engaged in health care services, should not be defined as public assistance providers, for NVRA purposes.

We respectfully request, therefore, that Congress reconsider the role of the WIC Program with respect to NVRA and determine that either the NVRA activities detract from and do not fit with the preventative health activities, traditional and recently added, of WIC or that NVRA activities should be supported by additional appropriated funds for WIC in order not to detract from the program's nutritional and health assistance role, which has been the basis of its success in reducing low birth rate, infant mortality and poor childhood development.

I thank you for the opportunity to bring these ideas, concerns and recommendations directly to your office.

Please feel free to call on this office at any time for information about how the WIC Program can be of assistance to our fellow Rhode Islanders or how policy options might further or deter the Program's mission, locally or nationally.

Sincerely,

JOHN L. SMITH,
Chief, WIC Program.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Madam President, I understand we now have an agreement between both sides.

I ask unanimous consent that the vote on the McConnell amendment or in relation to his amendment occur at 6:20 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, I understand that Senator MCCONNELL and I are both ready to yield back.

Mr. MCCONNELL. Madam President, I yield back the remainder of my time.

Mr. FORD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The vote will be at 6:20 p.m.

Mr. FORD. Madam President, I ask for the yeas and nays on the McConnell amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, a few days ago I spoke here about the compelling need for comprehensive health care reform in our country. I said then, as I have on many other occasions, that we need to put far more emphasis on preventive health care so that we can change our current sick care system into a true health care system. By emphasizing more preventive care we will not only promote better health for Americans, but we will also ensure that we spend our money in a smarter way.

Child nutrition programs stand as one of the very best examples of how smart spending on prevention pays dividends in money saved and in healthier and more fulfilling lives for our people. We know that sound nutrition, beginning even before birth, can prevent many problems throughout life. Programs like the school lunch and breakfast programs; the summer food service program; the special supplemental nutrition program for women, infants and children [WIC]; the special milk program; and the child and adult care food program are critically important tools in the effort to improve—and indeed save—lives while spending smarter.

As the chairman of the Nutrition Subcommittee of the Committee on Agriculture, Nutrition, and Forestry, I was pleased to hold hearings earlier this year on this legislation and more generally on the crucial role of sound nutrition in building promising futures for our children. Those hearings followed hearings held by Chairman Leahy which dealt with related aspects of this legislation and the child nutrition programs.

The necessity of sound childhood nutrition and the important role of Federal child nutrition programs could not be clearer. Children who are hungry or undernourished suffer impaired health, growth, physical development and cognitive and behavioral development. Good nutrition is a sound prevention strategy against a host of serious and costly health problems including infant mortality, premature births, low birth weight, anemia, and even lead poisoning. For example, studies have shown that each $1 invested in WIC prenatal assistance saves from $11.92 to $4.21 in Medicaid costs. In a study I requested, the GAO estimated that the initial investment in WIC prenatal benefits of $296 million in 1990 would save $1.036 billion in health and education expenditures over the next 18 years.

Undernourished children simply do not learn as well as they should. The President recently signed the goals 2000 education bill, which included the goal that every U.S. child enter school ready to learn. But without proper nutrition our children simply will not be ready to learn.

We are also gaining a much clearer picture of the specific ways in which nutrition and dietary patterns early in life affect health throughout life. Three of four leading causes of death in our Nation have been linked to diet. Sound nutrition and dietary habits in childhood and adolescence have been linked to the prevention of chronic disease and illness later in life. And healthy dietary habits formed in childhood provide a solid foundation for a lifetime of healthier eating.

Simply put, without sound nutrition our Nation's children will be foreclosed from attaining their full human potential for leading healthy and fulfilling lives. When our children's lives are diminished, each and every one of us is also diminished in some way, as is our Nation. And despite the encouraging progress that has been made, millions of children in our Nation remain at risk for the damaging consequences of inadequate or unsound nutrition. With all that is at stake, we simply cannot afford to be complacent about the nutrition of our Nation's children.

Once again, I want to congratulate Chairman LEAHY for his leadership on this legislation that we have put together in the Agriculture Committee and to commend him for his heartfelt commitment to nutrition issues, particularly regarding children. This bill reauthorizes and makes improvements in the various Federal child nutrition programs. The legislation will improve the ability of the programs to meet the nutritional needs of our Nation's children. And, in recognition of the link between diet and health, the legislation will help improve the nutritional quality of the meals children receive.

Despite severe budgetary limitations, this legislation will achieve significant improvements in child nutrition programs. The bill provides for stronger efforts to include more children in the school breakfast and summer food service programs. The bill provides for more help to local school districts to improve the nutritional quality of the meals they serve and to meet new USDA nutrition guidelines. USDA will be directed to improve the nutritional quality of commodities provided to schools and to label commodities in order to enhance the benefit to schools of the commodity distribution program.

The bill also reauthorizes the WIC program and makes a number of improvements designed to help the program better achieve its objectives and to facilitate administration of the program. In particular, the bill reinforces and strengthens efforts within the WIC program to promote increased breastfeeding. I worked to include breastfeeding promotion in the 1989 WIC reauthorization, and am very pleased that this bill expands these efforts. I am also pleased that this bill reauthorizes the WIC Farmers Market Program and provides for the growth of program, both in States like my State of Iowa already in the program and through the participation of additional States. We also initiated this program through the 1989 bill, and it is very gratifying to see that it has become a very popular and successful program.

Finally, I want to mention the important provisions of the bill designed to prevent and deter fraud, bid-rigging and other anticompetitive activities in procurement for the child nutrition programs. The bill will significantly strengthen USDA debarment procedures, and will provide training, technical assistance, advice and guidance to help State and local agencies prevent and avoid fraud and anticompetitive activities. I have a keen interest in these provisions of the bill. Any fraud against Government programs is detestable, but cheating child nutrition programs surely falls into a distinct category of outrageous behavior.

Mr. President, this legislation represents a crucial part of our Nation's prevention strategy. It is not only nutrition legislation. It is also health legislation. And it is education legislation. I urge my colleagues to support this important bill.

Mr. DOLE. Mr. President, I rise in support of legislation to reauthorize the child nutrition programs. This legislation revises and extends the Supplemental Nutrition Program for Women, Infants and Children [WIC], the Summer Food Service Program, the Commodity Distribution Program, State administrative expenses and the Nutrition Education and Training Program. The bill also makes a number of changes in those child nutrition programs which are permanently authorized.

One provision addresses an issue which is very important to me. In compliance with USDA child nutrition and section 504 regulations many schools around the country are working to make the National School Lunch and School Breakfast Programs accessible to children who, because of disability or chronic illness, are unable to eat what is on the regular menu. To accomplish this task, these schools need specific technical guidance.

A popular maxim among those of us here in Congress who actively support school meal programs is that a hungry child cannot learn. This is doubly true of children with special dietary needs. For a child with diabetes or severe allergies, appropriate nutrition can mean the difference between sickness and health. For a severely disabled child, appropriate nutrition can mean the difference between being alert and responsive or passive and withdrawn.

When the school lunch program was established in 1946, and when I was involved in expanding it during the early 1970's, no one envisaged that regular schools would be asked to serve children with such a wide array of disabilities and chronic illness. Many of these children come from low-income families without the financial resources to provide them adequate nutrition, making their needs that much more pressing.

Section 123 of this bill requires USDA to issue guidance to assist schools and other institutions in accommodating the special dietary needs of these children. The guidance will give meal providers a greater understanding of how they can meet these needs. In many cases, accommodation may require no more than substituting fruit for a piece of cake or making available a special plate or cup. In other cases, the preparation of special meals may be necessary.

This section also contains discretionary funding for grants to States to cover nonrecurring costs associated with accommodating special needs children. These funds will be awarded on a competitive basis and can be used to purchase special feeding and food preparation equipment. Other appropriate uses would include providing training or purchasing educational videos, manuals, or other training materials dealing with accommodating children with special dietary needs.

The grants included in this bill will assist the food service community in providing for the special needs of these children. This bill contains other worthy provisions which refine operating procedures, reduce paperwork and establish targeted discretionary pilot programs and assistance grants.

Mr. President, in closing I want to thank the distinguished chairman and the ranking member of the Agriculture Committee, Senator LEAHY and Senator LUGAR, the chairman and ranking member of the Nutrition Subcommittee, Senator HARKIN and Senator McCONNELL, and Senator COCHRAN, their staffs, and their members of the Senate Agriculture Committee for their hard work on this legislation. This bipartisan effort addresses needed changes in the child nutrition programs and will ensure their continued effectiveness. I urge my colleagues to give it their support.

Mr. GRASSLEY. Mr. President, I am pleased that we have come to the place of floor action on S. 1614, the Better Nutrition and Health of Children Act of 1993. This Act has several provisions that historically have been very important to our country. It also has provisions that have been particularly important to Iowa.

The WIC Program has received overwhelming support over the years from Republicans and Democrats alike. It has proven successful in providing preventative care for women, infants, and children by providing good basic nutrition.

I, like many of my colleagues, have consistently supported greater funding for the program as a means of reducing other health costs down the road.

I am pleased to see an increase in funding for the WIC breastfeeding program. Medical research shows that children who are breasted are less likely to encounter certain physical challenges than children who are formula fed. The Iowa WIC program has consistently encouraged WIC recipients to breastfeed their children for both physical and emotional health reasons.

The Farmers' Market WIC Program has been one of the projects in which I have had special interest for several years. The program provides fruits and vegetables for nutritionally at-risk women and children. In Iowa alone, it serves countless thousands who would not have received fruits and vegetables otherwise. Additionally, it helps farmers who need to diversify their market and encourages use of farmers' markets generally. Research shows that women continue to use farmers markets even after they are no longer officially part of the Farmer Market WIC Program.

I am pleased with several provisions of the committee bill being considered today. The committee language has increased funding for the Farmers Market Program and provided for a greater administrative match. Because farmers markets are not year round in many States, there are special considerations, such as start up and shut down costs for these programs that other programs do not face. Additionally, the bill allows States to use up to 1 percent of its funds for market development in areas where there are no farmers markets for nutritionally at risk families. This provision will allow States to develop farmers markets in underserved areas.

Of course, the school breakfast and lunch program are an important part of any child nutrition reauthorization. The bill before us provides appropriate attention to the millions of children served through these programs. It addresses the issue of moving toward school breakfast and lunches serving nutritious foods, but does so in a way that is not overly burdensome to school districts trying to care for our children. It also provides flexibility to school districts to choose lowfat or skim milk products if they prefer these products to whole milk.

I am pleased that the committee has been able to address my chief concern with the proposal, which was its original cost. Many of the high cost provisions originally in the bill have been dropped so that we have a balanced bill before us today. I join my colleagues in supporting this final proposal.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

the legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ADM. HENRY MAUZ, JR., U.S. NAVY, TO RETIRE IN GRADE

Mr. NUNN. Madam President, the Committee on Armed Services today reported the nomination of Adm. Henry Mauz, Jr., U.S. Navy, to retire in grade. In view of the media attention to certain allegations about this nomination, the committee has directed the chairman and ranking minority member to prepare a statement describing the committee's action. I ask unanimous consent that a joint statement prepared by myself and Senator THURMOND be included in the RECORD at this point, along with the documents referred to in the joint statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATOR SAM NUNN, CHAIRMAN OF THE SENATE ARMED SERVICES COMMITTEE AND SENATOR STROM THURMOND, RANKING MINORITY MEMBER, CONCERNING THE NOMINATION OF ADM. HENRY MAUZ, JR., U.S. NAVY, TO RETIRE IN GRADE

Admiral Henry Mauz, Jr. is currently serving as the Commander in Chief, U.S. Atlantic Fleet. On May 10, 1994, he was nominated by President Clinton to retire in grade as a four star admiral after more than 35 years of outstanding service.

The Committee was prepared to act on the Mauz nomination in July, when we received a letter about the nomination from the Government Accountability Project (GAP), a non-profit organization, dated July 11, 1994. The letter contained allegations of inappropriate action by Admiral Mauz with respect to investigation and disposition of sexual harassment incident. The letter also contained allegations that Admiral Mauz had inappropriately used government assets and retaliated against a whistleblower.

The Committee followed its normal procedures and forwarded the material to the Navy, directing the Navy to address the issues set forth in the letter. The Committee subsequently received an additional letter from GAP, dated August 5, 1994, which also was forwarded to the Navy.

Adm. J.M. Boorda, the Chief of Naval Operations, responded to the first letter from GAP in a letter dated July 27, 1994. Secretary of the Navy John Dalton responded to the second letter on August 5, 1994. The Committee has carefully considered the material provided by GAP and the responses provided by the Navy, copies of which are attached. The Committee has received a report on these and other matters. Based on the material provided by the Navy, and Admiral Mauz's record of service, the Committee has recommended that the Senate confirm his nomination to retire in grade.

CHIEF OF NAVAL OPERATIONS,
July 27, 1994.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee,
U.S. Senate; Washington, DC.

DEAR MR. CHAIRMAN, I am responding to your letter of July 21, 1994 to the Secretary of the Navy which enclosed a letter from the Government Accountability Project, concerning the retirement confirmation of Admiral Henry Mauz, Jr., U.S. Navy. I have reviewed the letter as well as the letters from Lieutenant Darlene Simmons and Senior Chief George Taylor that were included. It is my judgment that the allegations in these letters are not correct. Admiral Mauz has served faithfully and well in every assignment including this final one as a four star officer and deserves to retire in grade.

Before turning to these allegations, I want to state that Admiral Mauz is completing a career that exceeds thirty-five years of dedicated service to our Nation. He is scheduled to retire and desires to do so. His relief has been confirmed and is ready to assume the duties of Commander in Chief, U.S. Atlantic Fleet. Admiral Mauz's plans to enter the next phase of his personal and professional life are being delayed as is the assumption of command by the relieving officer. Admiral Mauz's performance has been outstanding throughout his career including, especially including, this final tour as Commander in Chief, U.S. Atlantic Fleet.

With regard to LT Simmons, Admiral Mauz did not suppress the evidence of any inquiry, did not fail to take corrective action on behalf of LT Simmons, nor did he fail to follow proper procedures in inquiring into allegations. Further, the Inspector General of the Atlantic Fleet did not cover-up the nature and extent of underlying problems nor prevent appropriate remedial action in the case.

The case of LT Simmons is an involved one with several complaints, overlapping in time, and inquiries that took place over nearly two years. It is clear that in 1992 LT Simmons was sexually harassed while stationed aboard USS CANOPUS (AS-34). While serving as Legal Officer in that ship she received repeated requests for dates and comments about her physical appearance from another officer who was one rank senior to her and with whom she worked closely in the performance of her duties.

The case was initiated at the shipboard level on 1 June 1992, when LT Simmons reported to the ship's Executive Officer that she was being sexually harassed by another officer. The allegations involved repeated requests for dates and comments about her physical appearance. On 5 June 1992, the officer was counseled and administrative action was taken. He requested retirement from the Navy as was his prerogative.

Unfortunately—and unacceptably—an atmosphere of harassment and hostility persisted, particularly as the retirement of the officer involved was not effective until April 1993, and he remained on duty on the ship. On 9 October 1992, an anonymous DOD IG hot line call and a call by LT Simmons to Congresswoman Schroeder and to the then Assistant Secretary of the Navy, Barbara Pope, raised the visibility of this case.

Admiral Mauz responded promptly when informed of the matter as a result of these calls. To assure fairness and high-level attention, he directed his Special Assistant for

Women's Affairs, CDR Miller, to join an investigation by COMSUBGRU 10. Following a briefing by Commander Miller, the offending officer was moved off the ship by the Commanding Officer in October 1992. The CO assembled all officers and told them that LT Simmons had been sexually harassed, condemned this behavior, and emphasized that any harassment would not be tolerated.

LT Simmons states in her letter that Commander Miller substantiated the sexual harassment. That is true. There is no question that LT Simmons was sexually harassed. As the Commander in Chief, U.S. Atlantic Fleet, Admiral Mauz acted promptly and appropriately. He directed the necessary actions to ensure a thorough and timely response to LT Simmons's allegations. The expeditious assignment of Commander Miller to examine the case and ensure that LT Simmons had a direct conduit to him clearly substantiates his personal concern and direct involvement in investigating LT Simons's allegations.

Nor was this the end of Admiral Mauz's concern. In December 1992, Admiral Mauz returned to this matter. He personally intervened with the Chief of Naval Personnel to extend LT Simmons on active duty and assure her assignment to another command.

At this time also, LT Simmons complained that her transfer fitness report was issued in reprisal. The Inspector General investigation, completed in the spring of 1993, substantiated LT Simmons's original allegations of sexual harassment and also concluded the Commanding Officer of CANOPUS failed to recognize the development of a hostile command climate. Accordingly, the Commanding Officer was counseled by his immediate superior. While the Inspector General concluded the fitness report was not reprisal, the Secretary of the Navy later concluded that he would review, through the Board for Correction of Naval Records, any alleged injustice in her military record and that LT Simmons would be given the option of a new duty station with orders retaining her on active duty until September 1996. The Secretary stated that his decision was based on his recognition that ". . . your [LT Simmons] harassment, and the energy required on your part to address issues springing from it, impaired your ability to demonstrate fully what you can contribute to the Navy." The Secretary's action in correcting the fitness report, intended to provide LT Simmons with an opportunity to continue her naval career, was a decision that only the Secretary is empowered to make.

On his own initiative, Admiral Mauz returned to this matter for a third time in 1993. In a series of actions he manifested his concern that improvements should be made in handling cases of this kind. To effect change in this regard, Admiral Mauz, in April of 1993, issued a policy statement for the "Prevention of Sexual Harassment" to all Atlantic Fleet activities. It addressed Department of the Navy policy and the need for training in place. It asked every manager, supervisor, and employee, military and civilian, within Admiral Mauz's command with the responsibility for carrying out the DON policy on prevention of sexual harassment.

In June 1993, Admiral Mauz signed a combined LANT/PACFLTINST 5354.1 (Equal Opportunity) that revised the Command Managed Equal Opportunity program and incorporated sexual harassment requirements from a new SECNAVINST.

In September 1993, Admiral Mauz issued a PERSONAL FOR to ensure each commander was cognizant of the contents of the combined LANT/PAC Equal Opportunity instruction. He directed each commander to review the implementation of the program, including sexual harassment, in his command to ensure compliance. ISIC's were directed to include this as a special interest item for command inspections, and were directed to utilize Equal Opportunity Program Specialists in their inspections to the maximum extent possible.

Going well beyond normal bureaucratic requirements, in April 1994, Admiral Mauz returned to this matter again. To assure that fleet priorities and procedures would be as good as they could be, he personally conducted a training session for all flag officers assigned to the Atlantic Fleet. The subject was a case study in sexual harassment, and on addressing it, Admiral Mauz used both information obtained from the inquiry about LT Simmons case and information provided by LT Simmons herself. Finally, Admiral Mauz recognized that additional training was needed beyond what the initial curriculum in sexual harassment provided. Accordingly, he directed the development and distribution of a kit to assist commanders with the investigation and disposition of sexual harassment complaints. This kit formed the nucleus for the newly published Navy Sexual Harassment Handbook.

In January 1994, LT Simmons forwarded allegations of criminal dereliction by Admiral Mauz in the handling of her case. As the facts of the case did not, in fact, justify criminal charges, they were determined to be more appropriate for resolution under the provisions of Article 1150, U.S. Navy Regulations, Redress of Wrong Committed by a Senior, than under the Uniform Code of Military Justice (UCMJ). The allegations were accordingly returned to LT Simmons by the Vice Chief of Naval Operations, on advice of counsel, for forwarding as a matter under Article 1150. In response, LT Simmons indicated she did not desire to pursue an Article 1150 complaint. Nevertheless, LT Simmons's allegations were referred to the Naval Inspector General. The Inspector General found the allegations against Admiral Mauz to be without merit. Admiral Mauz did not influence, or attempt to influence, the Inspector General's decision in this matter.

With regard to Senior Chief Taylor, the allegation that Admiral Mauz influenced the charges against Senior Chief Taylor after Senior Chief Taylor arrived at Port Hueneme, California, is without basis.

By way of background, there were charges brought against Senior Chief Taylor after he began his tour of duty in California. These charges addressed irregularities in the manner in which Senior Chief Taylor performed his duties. Senior Chief Taylor declined to have his case heard under Article 15 of the UCMJ, as was his right. As a result, charges were referred to a special court-martial. After charges were referred, Senior Chief Taylor's chain of command in the Pacific decided it was appropriate to move the case out of the Port Hueneme area to ensure an independent review of the case. Accordingly, the charges were considered by a Flag Officer in command in the San Diego area.

Following a newspaper account which stated that the charges against Senior Chief Taylor had been withdrawn in response to allegations of retaliation for his whistle-blowing activity in Bermuda, Admiral Mauz's Executive Assistant asked the senior Staff Judge Advocate to call his counterpart at Port Hueneme for additional information. A call was made and the situation was clarified. The senior Staff Judge Advocate verbally reported his findings to the Executive Assistant who then briefed Admiral Mauz as to the action he had taken. There was no influence on the case and, in fact, the charges had already been withdrawn at the time of the call.

Subsequently, unbeknownst to either the senior Staff judge Advocate or Admiral Mauz, a junior Staff Judge Advocate obtained a copy of the defense motion that was the basis for withdrawal of the charges, as well as a copy of the charge sheets, from a friend who was then Officer in Charge, Navy Legal Service Office, Port Hueneme. The Officer in Charge believed that in providing that documentation, he was responding to an official request from Admiral Mauz's staff and acting quite properly he informed Senior Chief Taylor's military counsel of the actions he had taken to comply with that request. While these documents were shared with the senior Staff Judge Advocate, he did not speak of them to any other staff member. Clearly, the junior Staff Judge Advocate's inquiry and receipt of documents did not stem from Admiral Mauz. In fact, Admiral Mauz did not become aware of the documents until their existence was revealed during my inquiry into Senior Chief Taylor's allegation preparatory to making this letter response. In this vein, Admiral Mauz's statement to Navy Times on July 21, 1994, that "I don't really recall this, but I think I said ok," to an inquiry regarding the newspaper account was not an accurate recollection. In fact, Admiral Mauz's Executive Assistant states that he, independently and without Admiral Mauz's knowledge, instituted the lawyer's inquiry into the newspaper article. These matters, taking place after the withdrawal of charges at Port Hueneme, could not have had any impact in any event.

The San Diego commander convened an Investigation under Article 32 of the UCMJ to inquire into the matter and make recommendations as to appropriate disposition. The senior Judge Advocate assigned to conduct the Article 32 Investigation concluded there were reasonable grounds to believe that four offenses should be charged, with a total of seven specifications thereunder. The senior Judge Advocate recommended that the charges be adjudicated under Article 15 of the UCMJ, but noted that should Senior Chief Taylor decline Article 15, referral of the charges to special court-martial would be appropriate. The Commander in Chief of U.S. Pacific Fleet, however, determined that the nature of charges did not warrant referral to court-martial and directed counseling as the appropriate remedy, thereby closing the case.

In summary, Admiral Mauz was not involved in Senior Chief Taylor's case in California. He played no role in the charges themselves or in the disposition of the charges.

Senior Chief Taylor had accused Admiral Mauz of misconduct with regard to Admiral Mauz's travel to Bermuda. As a result of Senior Chief Taylor's allegations regarding Admiral Mauz's travel to Bermuda, the Naval Inspector General conducted a complete and thorough investigation. The investigation did not disclose any misuse of government facilities. The Inspector General determined that Admiral Mauz conducted significant official business while in Bermuda, including an inspection of the air station's facilities, addressing base personnel at an "All Hands" meeting and making calls on the U.S. Consul General and the Governor of Bermuda. Admiral Mauz took two days of leave while in Bermuda, in compliance with Navy guidelines for combining leave and official travel. The Inspector General determined that the scheduling of the trip created the perception of impropriety and that there was a violation in the use of government drivers during the period of time that Admiral Mauz was on leave, as a result of which Admiral Mauz received informal written counseling.

Admiral Mauz did not remove Senior Chief Taylor from his duties or attempt to prosecute Senior Chief Taylor for insubordination as a result of Senior Chief Taylor having publicly accused Admiral Mauz of misconduct, as alleged by Mr. Ruch of the Government Accountability Project. Senior Chief Taylor originally alleged that his Commanding Officer in Bermuda had taken those actions as reprisals for his whistle-blowing activity in Bermuda. After a thorough investigation of the facts surrounding those actions, however, the DoD IG concluded that the actions were warranted under the circumstances and did not constitute reprisal. In fact, at the time the actions were taken, no one was aware of Senior Chief Taylor's whistle-blowing activity. The difficulties Senior Chief Taylor was experiencing in Bermuda preceded any knowledge by naval personnel, including his Commanding Officer and Admiral Mauz regarding his complaints.

Admiral Mauz has served his Navy and Nation for over thirty-five years. He has served in positions of great responsibility and he has served his Nation well.

I have discussed this letter with the Secretary of the Navy and he and I are in complete agreement that Admiral Mauz should be confirmed to retire in his four star grade and that he should be permitted to depart his command in a timely manner.

I am, of course, prepared to provide you any additional information that you or the other members of the Committee may require. Thank you for your consideration. I have sent an identical letter to Senator Thurmond.

Very respectfully,

J.M. BOORDA,
Admiral, U.S. Navy.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, August 9, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am responding to your letter of August 5, 1994, concerning the retirement confirmation of Admiral Henry Mauz, Jr., U.S. Navy.

The latest GAP letter alleges improper communications between the members of Admiral Mauz staff and persons assigned in the Port Hueneme area who had knowledge of the court-martial case involving Senior Chief Taylor. In order to be able to assure the Committee that we were providing all information relevant to this matter, OPNAV staff spoke with the persons concerned and confirmed the accuracy of those parts of the Chief of Naval Operations' 27 July letter to you that addressed this issue (pages 4 and 5).

Senior Chief Taylor had charges brought against him arising out of actions in November 1993 while serving at the Naval Construction Battalion Center (NCBC), Port Hueneme, California. He had previously requested in writing to be transferred outside the Commander in Chief, U.S. Atlantic Fleet (CINCLANTFLT) chain of command, and the Bureau of Naval Personnel approved that request by assigning him to an appropriate billet in his rating at Port Hueneme. He reported to NCBC Port Hueneme for duty in December 1992.

After referral to trial of the November 1993 charges, the convening authority (NCBC Port Hueneme) decided it was appropriate to move the case out of the Port Hueneme area to ensure the fair and independent disposition of the case. To this end, the convening authority withdrew the charges on March 26, 1994. My inquiry revealed no communications between Admiral Mauz or anyone on his staff and those involved with bringing the charges, and ultimately withdrawing the charges, against Senior Chief Taylor prior to the withdrawal of charges in March 1994.

The proceedings in Senior Chief Taylor's case were mentioned in a short Orlando Sentinel article of March 29, 1994, which appeared in a Pentagon compilation of news articles on 1 April. In describing the withdrawal of charges relating to Senior Chief Taylor's alleged negligent and improper arrest of a service member, the article stated that his attorneys had filed documents "contending the misconduct charges were retaliation for Taylor's comments" in the past regarding Bermuda. Admiral Mauz' Executive Assistant saw the article and asked the senior Staff Judge Advocate to ascertain what, if any, connection there could have been between Senior Chief Taylor's current situation in Port Hueneme and Bermuda. Both officers were confident that CINCLANTFLT had taken no action whatsoever in retaliation against Senior Chief Taylor, and they were understandably concerned that such a suggestion might have been made and believed it important to ascertain the basis, if any, for such an allegation.

The CINCLANTFLT staff Judge Advocate called the NCBC Staff Judge Advocate, who confirmed the news article was indeed misleading and that there was no suggestion during the proceedings of any involvement by CINCLANTFLT or his subordinates in Senior Chief Taylor's case. The NCBC Staff Judge Advocate explained the charges involved Senior Chief Taylor's law enforcement activities while assigned to NCBC Port Hueneme. The charges included an allegation that Senior Chief Taylor engaged in unauthorized off-base law enforcement activities, including carrying a government-issued firearm off-base. The CINCLANTFLT Staff Judge Advocate recounted this information to the Executive Assistant, who then spoke briefly to Admiral Mauz about the matter. The request for clarification of the short news article was appropriate in order for CINCLANTFLT to ascertain whether there were grounds for investigation into any alleged impermissible actions by anyone under the command of CINCLANTFLT.

Neither Admiral Mauz, nor any other CINCLANTFLT official, was involved with the referral or withdrawal of the charges, which arose solely from events centered in NCBC Port Hueneme nearly a year after Senior Chief Taylor's transfer to that command. On 23 March 1994, Senior Chief Taylor's defense counsel in the pending case filed a "motion to dismiss for vindictive prosecution," alleging the Port Hueneme convening authority had made an unlawful decision to prosecute Senior Chief Taylor. The defense motion complained mainly about he vigor with which the Port Hueneme command pursued the charges against Senior Chief Taylor, alleging that members of that command "had distaste" for his previous whistle-blowing activities and the charges were being pursued because Senior Chief Taylor exercised his rights to remain silent and to refuse nonjudicial punishment for his alleged improper law enforcement activities. The defense pointed to alleged statements by officials in Port Hueneme suggesting that they had focused inordinate attention on his previous, well-publicized disclosures relating to Bermuda. The defense motion did not allege "personal interest" or any actions or involvement relating to this case by Admiral Mauz or anyone subordinate to him.

With regard to receipt of a copy of the defense motion by a member of the office of the CINCLANTFLT Staff Judge Advocate, the GAP letter is incorrect in stating that this occurred prior to the call seeking clarification of the news article. I have reconfirmed the office of the CINCLANTFLT Staff Judge Advocate received the motion more than a week after the charges were withdrawn. This occurred when a Navy judge advocate assigned to an NCBC Port Hueneme tenant command called some of his lawyer colleagues to offer to send them copies of the document, which he found to be unique and very interesting from a professional perspective. One of these officers was an attorney in the office of the CINCLANTFLT Staff Judge Advocate with whom he had worked closely in the past. The two officers had maintained a close professional association and friendship, and spoke with each other and exchanged faxes regularly on professional issues. The CINCLANTFLT Lieutenant accepted the offer, but upon receipt noticed that portions of it were illegible. In order to obtain a better copy, she called the Officer in Charge, Naval Legal Service Office Detachment, Port Hueneme, who was reluctant to provide the document, despite the fact that it was one of the papers in a public court proceeding, to people who were merely curious about the case and had no official reason to have it. The CINCLANTFLT Lieutenant replied that when allegations relating to a command appear in the press, the command has a valid interest in ascertaining the basis, if any, of such allegations. The Officer in Charge agreed that this was a valid reason and, believing that he had received a reasonable request from the CINCLANTFLT staff, he faxed her a copy. Since the Officer in Charge viewed the call as a CINCLANTFLT request, he so informed Senior Chief Taylor's defense counsel.

The request for the document did not stem from Admiral Mauz. During the further inquiry by OPNAV staff, the Officer in Charge verified the CINCLANTFLT Lieutenant neither demanded a copy of the motion, nor stated that her call was at the personal request of Admiral Mauz. Moreover, the document was not shared outside the CINCLANTFLT Staff Judge Advocate's office. Since the document included no allegations of impropriety by Admiral Mauz or anyone in CINCLANTFLT, and had not been requested by Admiral Mauz or anyone else on his staff, there was no reason for the Staff Judge Advocate to provide the document to, or discuss it with others.

There is simply no basis whatsoever for any claim that Admiral Mauz took a personal interest in the case involving Senior Chief Taylor. The facts as confirmed by thorough inquiry show the accuracy of Admiral Mauz' public statement categorically denying any such allegation. The communications by members of his staff were permissible and in no way alter this conclusion. There was no attempt or intent in any of these communications to affect the case.

I have sought to answer the GAP letter's claims candidly, thoroughly and accurately in order to assist the Committee in its deliberations on Admiral Mauz' confirmation to retire in his four-star grade. I believe strongly that there is no basis for the GAP claims and that Admiral Mauz' confirmation—and the assumption of command by his successor—should not be further delayed.

I am available at any time to discuss this matter further with you or to provide you any further information you desire. Please do not hesitate to call on me. I have sent a similar letter to Senator Thurmond.

Sincerely,

JOHN H. DALTON,
Secretary of the Navy.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, July 11, 1994.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR NUNN. On behalf of the Government Accountability Project (GAP) I am writing to bring information to the attention of your committee bearing on the merits of the retirement of Admiral Henry Mauz at the "four star" level.

GAP is a non-partisan, non-profit whistleblower protection organization. GAP provides legal representation and other support services to workers both within and outside federal service. Two of our clients, Senior Chief Master-at-Arms George R. Taylor and Lt. Darlene S. Simmons, JAGC, USNR, have had direct, recent experiences with Admiral Mauz and their letters are attached for your consideration (Attachments 1 and 2).

As Senior Chief Taylor's letter indicates, Admiral Mauz misused government facilities and property at the Bermuda Naval Air Station for his and his family's personal use. When these actions were brought to public attention, Admiral Mauz and his staff retaliated against Taylor, stripping him of his duties and attempting to prosecute him for insubordination. Following his transfer to the base at Port Hueneme, California, Taylor was faced with a 48-count court martial on a supposedly unrelated matter. This incident was closely monitored by Admiral Mauz's legal staff for the Atlantic Fleet. All charges against Taylor were subsequently dismissed.

As Lt. Simmons's letter indicates, Admiral Mauz was aware of sexual harassment against Lt. Simmons and the failure of her command to take proper action. Admiral Mauz suppressed the findings of his own command's inquiry into the issue. Despite his personal involvement and knowledge of the situation, Admiral Mauz failed to order any corrective action be taken on behalf of Lt. Simmons. Finally, the Vice Chief of Naval Operations, Admiral S.R. Arthur, refused to accept a formal complaint from Lt. Simmons alleging dereliction of duty in violation of the Uniform Code of Military Justice against Admiral Mauz.

While the Secretary of the Navy, John H. Dalton, recently ordered corrective action on behalf of Lt. Simmons (an apology, clearing her record, a new duty station and letters of censure for three officers in her former chain of command [see Attachment 3]), * * *

PONTE VEDRA, FL,
July 8, 1994.

Senator SAM NUNN,
Chairman Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR NUNN: I am writing this letter to express my concern that Admiral Henry Mauz may retire at the Four Star Level, a distinction indicative of extraordinary service. I request that during the deliberation process of this issue the information regarding Admiral Mauz's involvement in the handling of my sexual harassment case be considered. I believe Admiral Mauz was (1) Derelict in his Duty through his culpable inefficient and negligent handling of my case of sexual harassment. (2) Admiral Mauz failed to act on my report of sexual harassment, retaliation and reprisal. I specifically report to you that Admiral Mauz failed to follow those procedures directed by the Department of Defense and the Department of the Navy. (3) Admiral Mauz in his position as Commander In Chief of the Atlantic Fleet Mauz intentionally allowed sexual harassment, retaliation and reprisal by senior officers in my chain of command to go unchecked. Admiral Mauz used his official position to protect those guilty of sexual harassment and then to cover up his inefficient handling of the matter.

Admiral Mauz had knowledge in October 1992 that I was sexually harassed. This harassment was substantiated by a member of his staff, Commander Cathleen Miller. Admiral Mauz was also aware of the failure of my chain of command to handle the matter from May 1992 until October 1992. A command inquiry was conducted in October 1992. This command inquiry substantiated the sexual harassment which I had reported in May 1992. The command inquiry also substantiated the existence of a hostile environment in which I worked from May 1992 until October 1992. Admiral Mauz was familiar with those substantiated facts and took no action.

On December 28, 1992 I suffered reprisal for my report of sexual harassment when I received an adverse fitness report. I reported this retaliation and reprisal directly to the aide of Admiral Mauz. I was assured on that same day that Admiral Mauz was personally involved and that proper corrective action would follow. I relied in good faith on these assurances. My good faith reliance was not justified. Instead of taking corrective action the reprisal was covered up. Admiral Mauz was personally involved in this negligent handling of my report of reprisal. Admiral Mauz was the highest level of leadership in my chain of command.

I then reported the failure by my entire chain of command to properly handle my report of sexual harassment and reprisal to the Department of Defense, Inspector General's office. This report was then referred to the Navy Inspector General. I believe that Admiral Mauz used his position to influence the report from the Navy Inspector General's office in order to protect himself because he knew that he and the chain of command had failed to take appropriate action in my case of sexual harassment.

I actually swore to these facts on a charge sheet for violation of the Uniform Code of Military Justice Article 92 by Admiral Mauz. This charge sheet and supporting memorandum was returned to me without any investigation whatsoever. This was inappropriate and not in accordance with applicable instructions and orders.

I believe Admiral Mauz has perpetuated the discrimination against women in the U.S. Navy with his failure to take swift and tough action against sexual harassment. I believe his failure to hold anyone accountable in my case of sexual harassment was Dereliction of his duties. One who is derelict in the performance of duty should not be rewarded for extraordinary service.

Sincerely,

DARLENE S. SIMMONS.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, May 12, 1994.

Lt. DARLANE S. SIMMONS, JAGC, USNR,
Naval Legal Service Office, Mayport, FL.

DEAR LIEUTENANT SIMMONS: I am writing to discuss your future in the U.S. Navy. Before doing so, however, I wish to express my profound regret over the harassment that you unfortunately experienced. No one in our Navy or Marine Corps should be treated as you were. My goal is to send the message to every Sailor, Marine, and civilian in our Department that we are to treat others with the same respect and dignity we expect ourselves.

I believe we have made significant progress during the past 18 months to implement a comprehensive program aimed at eliminating sexual harassment from the workforce. As you know, we issued our revised policy guidance in January 1993 and also established an Advice and Counseling Line and an Informal Resolution System. Our Department-wide Reporting and Tracking System will provide us with information on formal complaints, results of investigations and administrative and judicial actions taken to resolve complaints. In March, we released the "Commander's Handbook," a single reference for commanders that addresses investigation, resolution, and prevention of sexual harassment. I thank you for your lessons learned, which were integrated into the first edition. While we have done much, I realize we still have far to go.

After you testified, I directed my staff to thoroughly review the circumstances of your case. Our review leads me to conclude that: you were sexually harassed by a fellow officer, aboard USS CANOPUS; he retaliated against you by fostering a hostile work environment and polarizing the wardroom against you; the shipboard chain of command did not correct this environment; and your fitness report for the period 9 February 1992 to 28 December 1992 was improperly handled by the command.

As a result of my review of your case, I am issuing a Secretarial letter of censure to the officer who committed the harassment. The Chief of Naval Operations is also taking action with regard to two other officers in your former chain of command who did not measure up to our standards.

With regard to your specific situation, I recognize that your harassment, and the energy required on your part to address issues springing from it, impaired your ability to demonstrate fully what you can contribute to the Navy. Therefore, I have directed that the Navy make available to you the option to transfer to a new duty station with orders that you be retained on active duty until 1 September 1996. This represents an additional two years beyond the date currently established for your departure from active duty, and will afford you the opportunity to compete again for augmentation to the Regular Navy.

I have been informed that you have applied to the Board for Correction of Naval Records (BCNR) in accordance with 10 U.S.C. 1552 to correct any injustice in your performance records. I have final authority to review the BCNR's recommendation and will direct action to correct your military record as necessary.

While my actions can never wipe the slate clean, they reflect my genuine desire that you have the opportunity to continue to serve, if you wish. Should you nevertheless decide to leave active duty on 1 September 1994, however, I want you to know that you have my respect and gratitude for your Navy service.

I have directed Rear Admiral H. E. Grant, the Judge Advocate General of the Navy, to meet personally with you to discuss your decision.

JOHN H. DALTON,
Secretary of the Navy.

JULY 8, 1994.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN, I would like to introduce myself. My name is George R. Taylor. I am a Senior Chief Petty Officer (E–8) currently on active duty with the U.S. Navy stationed at the U.S. Naval Construction Battalion Center, Port Hueneme, California. Additionally, I am a whistleblower.

Sir, In December 1992, I blew the whistle on fraud, waste, and abuse concerning mismanagement at the U.S. Naval Air Station Bermuda. I would like to give you a very brief rundown on some of the events that transpired and are continuing to unfold in regards to Admiral Henry Mauz Jr., USN, Commander in Chief, U.S. Atlantic Fleet.

In November 1992, Admiral Mauz abused his power and authority as CINCLANTFLT by traveling to NAS Bermuda along with 12 other military and civilian personnel for a five day vacation.

Admiral Mauz was flown to Bermuda at government expense along with the other personnel. During his time on the island, his entire "official" visit consisted of playing golf, dining in the best restaurants, and shopping. This was in fact exposed on national television on ABC News's "Primetime Live" program. I appeared on the show and commented on the behavior of not only Admiral Mauz but numerous flag officers within the Armed Forces who had visited the beautiful island at taxpayer's expense. Additionally, Senator McCain had visited the island with a large group of family members and the nanny for his grandchildren all at taxpayer's expense or at reduced rate.

As you know, this was not a popular thing for me to do. I was not politically correct. Needless to say, numerous high ranking officers within the Department of Defense were offended. Representative Schroeder made arrangements for me to be transferred to NCBC Port Hueneme, CA. I was very naive. I believe in the system. However, I have very little faith left at this time. During the past 18 months numerous things have occurred that in my opinion and the opinion of my attorney have been nothing short of criminal.

Admiral Mauz in my opinion has not only abused his power but is a disgrace to the uniform of the Naval Service. He was a key player in me being charged with over 48 offenses of violating the Uniform Code of Military Justice in a supposed "unrelated to Bermuda situation." His attorney requested and received all legal documents and a brief in regards to my status. All charges were dismissed by Admiral Kelley, CINCPACFLT, 8 months later. Admiral Mauz took a personal interest in the prosecution of a case where nothing had been done wrong.

Senator, there is no doubt that if you or I committed some of the things that Admiral Mauz has, we would have been ran out of town.

As you know, the Navy has gone through a lot. However, I do believe with the current leadership in the Navy things will improve, but in order to correct wrongs and to ensure that senior, military officers do not continue to abuse their power and authority, you should take the lead in retiring Admiral Mauz at a two-star level.

You sir, are in the position to send a message to the entire Armed Forces announcing that misconduct at any level will not be tolerated, also that everyone in the Armed Forces from E1 to O–10 will be held accountable for their actions.

Sir, if you or your staff needs additional information feel free to call me at (805) 388–3915 or my attorney, Jeff Ruch at (202) 408–0034.

Very Respectfully,

GEORGE R. TAYLOR,
MACS(SW), USN.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, August 3, 1994.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR NUNN, last month my client, Senior Chief Master-at-Arms George R. Taylor (USN) wrote to you concerning the pending four-star retirement of Admiral Henry Mauz. In his letter, Senior Chief Taylor wrote that Admiral Mauz had taken "a personal interest" in the prosecution, that was later dismissed, against Senior Chief Taylor and the members of his security detachment. This personal interest raised questions concerning retaliatory motive since the attempted prosecution took place within the Pacific Command at a time when Admiral Mauz served as Commander of the Atlantic Fleet.

In the August 1, 1994 edition of *Navy Times*, Admiral Mauz told reporter Patrick Pexton that Taylor's allegation was "without foundation" and "nonsense." Mauz told the reporter that his staff contacted Port Hueneme authorities only once and then only for the purposes of learning the status of the case. In fact, Captain Joseph Baggett, the legal advisor to Admiral Mauz, did contact the legal advisor for the base at Port Hueneme after the withdrawal of the 48-count court martial against Taylor and his detachment on April 9, 1994.

Prior to Captain Baggett's call to Port Hueneme, however, Lt. Noreen Hagerty-Ford, a JAG attorney on Admiral Mauz's staff, contacted Lt. John Tamboer, the supervisor of Taylor's military defense counsel, Lt. Carter Brod., Lt. Hagerty-Ford asked Lt. Tamboer to provide her with a copy of a motion filed by Lt. Brod seeking dismissal of all charges against Taylor on the grounds of "vindictive prosecution" [attached]. Lt. Tamboer refused her request, on the grounds that the Atlantic Fleet had no legitimate reason to obtain defense filings. Lt. Hagerty-Ford called Lt. Tamboer later that same day and demanded a copy of the motion stating that her call was at the personal request of Admiral Mauz. Lt. Tamboer acceded to this direct request from a flag officer and provided a copy of the motion to Lt. Hagerty-Ford.

Admiral Mauz's public statements with respect to his role and the role of his personal staff in the Taylor prosecution do not square with the facts. The lack of candor displayed here is consistent with the "damage control" approach to high profile personnel cases Admiral Mauz has exhibited. More disturbingly, these repeated contacts represent an attempt to influence the prosecution of Taylor and to intimidate his military defense counsel.

As always, if you or your staff desire any further information from my clients, please do not hesitate to contact me.

Sincerely,

JEFFREY P. RUCH,
Policy Director,
Government Accountability Project.

[Navy-Marine Corps Trial Judiciary, Southwest Judicial Circuit, Port Hueneme, CA, Special Court-Martial]

MOTION TO DISMISS FOR VINDICTIVE PROSECUTION PURSUANT TO THE FIFTH AMENDMENT

UNITED STATES *v.* TAYLOR, GEORGE R., MACS, E–8 424–86–0238, U.S. NAVY, DATE: MARCH 23, 1994.

1. Nature of motion

This is a Motion to Dismiss for Vindictive Prosecution filed pursuant to the Fifth Amendment of the U.S. Constitution. This motion is filed as a direct result of an unlawful decision by Commander, Naval Construction Battalion Center, Port Hueneme, to prosecute MACS George R. Taylor, USN, the accused in this case.

2. Summary of facts

PRIOR TO MACS TAYLOR'S REPORTING AT NCBC

a. In 1992, MACS George R. Taylor, USN, held the position of Chief of Military Police at Naval Air Station Bermuda. While serving at NAS Bermuda, MACS Taylor produced evidence that the air station existed as a resort for top military officials at the expense of taxpayers. MACS Taylor and another "whistleblower" were featured on the 10 December 1992 episode of ABC's "Primetime Live" (tape of which will be hereinafter referred to as "the Bermuda tape"), which prompted Defense and Inspector General Investigations. As a result of MACS Taylor's activities, Congress voted to close the Bermuda base in 1995.

b. MACS Taylor was transferred to Naval Construction Battalion Center, Port Hueneme, (hereinafter "NCBC"), in January 1993, under the protection of the Military Whistleblowers Protection Act.

c. Before MACS Taylor arrived at NCBC members of the base security department posted an article about MACS Taylor's activities in Bermuda on the security department bulletin board. In addition, members of the security department gathered in a conference room to view the Bermuda tape.

d. Before MACS Taylor arrived, a file was sent to NCBC from Bermuda which included a non-punitive letter of caution and materials related to MACS Taylor's activities at Bermuda.

e. Prior to MACS Taylor's arrival at NCBC, RADM David Nash, USN, Commanding Officer of NCBC, requested a copy of the Bermuda tape from Kari Lee Patterson, a civilian employee at NCBC. Ms. Patterson delivered the tape to Mr. W.E. Hudson, NCBC Security Officer, who delivered the tape to RADM Nash.

AFTER REPORTING AT NCBC

f. Upon MACS Taylor's arrival, RADM Nash held a meeting with top base officials to discuss the arrival of MACS Taylor.

g. Upon reporting on board NCBC, MACS Taylor was taken to Executive Officer's Inquiry for activities in Bermuda. At the XOI, Taylor was awarded the Nonpunitive Letter of Caution sent from Bermuda. The charge was for disrespect to a commissioned officer at Bermuda.

h. Immediately upon arriving at NCBC, MACS Taylor was directed to meet with LCDR Cole in his office. At that meeting, which was attended by BMCS Kossman, LCDR Cole told MACS Taylor that "this isn't Bermuda" and "You aren't going to get away with that s--t here", or words to that effect.

i. In January 1993, LCDR Cole was called by Jeff Ruch, an attorney with the Government Accountability Project, a public interest organization which was involved with the incident in Bermuda. Mr. Ruch called LCDR Cole to discuss the pending Captain's Mast for Disrespect in Bermuda. After the phone conversation, LCDR Cole confronted MACS Taylor, saying he had just gotten a call from his "liberal lawyers" and "this is bull----", or words to that effect. LCDR Cole told MACS Taylor that "they're not gonna get you out of this. . . . This package was sent here. We're going to adjudicate this here", or words to that effect.

j. Approximately one month after MACS Taylor reported aboard, MACS Taylor suggested to LCDR Cole that one of his practices was improper. LCDR Cole had, on several occasions, sent sailors to the Long Beach Brig with full knowledge that there would never be a court-martial. This was typically done on a Friday afternoon, where the magistrate would be unable to release the sailor until the following Monday. When MACS Taylor suggested to LCDR Cole that this practice was improper, LCDR Cole became incensed, telling MACS Taylor "I'm the f---ing lawyer on this base; who made you the base lawyer?", or words to that effect.

k. A meeting to discuss Workman's Compensation issues was held in September 1993 and was attended by LCDR Cole, MACS Taylor, NCBC Executive Officer, NCBC Command Master Chief, and other officials. At the meeting, LCDR Cole confronted MACS Taylor due to rumors he had heard about members of the Special Investigations Unit, of which Taylor was a member, being deputized by the federal government. MACS Taylor denied ever spreading the rumor. LCDR Cole responded by admonishing MACS Taylor for not addressing him as "Sir" when making a statement.

l. In a Memorandum dated 5 September 1993, LCDR Cole requested to the Commanding Officer, NCBC, that MACS Taylor be relieved of his duties. RADM Nash, however, declined to carry out LCDR Cole's request.

m. MACS Taylor has also had numerous personal confrontations with Mr. W.E. Hudson, NCBC Security Officer, since reporting aboard. Mr. Hudson is MACS Taylor's direct superior in the Security Department.

n. On 30 September 1993, MACS Taylor received a performance evaluation which covered the period since MACS Taylor's arrival on board NCBC and was signed by RADM Nash. Taylor received straight 4.0 evaluations on this evaluation. There was no mention whatsoever of any problems with MACS Taylor's performance. MACS Taylor was described as having "great depth of professional knowledge" and a "keen sense of responsibility". He was praised for "drafting and immediate implementation of the department's quality-focused Standard Operating Procedures." He was also praised for conducting a special task force to curtail the flow of drugs onto the base and for assisting civilian police in drug operations.

16 NOVEMBER ARREST

o. On 16 November 1993, MACS Taylor participated in the arrest of CE3 Richard Miller, USN, a deserter who had escaped from the Long Beach Brig. There were three other NCBC police officers at the scene. The arrest took place in the City of Oxnard with the participation of the Oxnard Police. No complaints were made by any persons involved in the arrest. Officers Ernie Eglin and L.E. Robertson of Oxnard Police executed the arrest and believe that MACS Taylor acted entirely properly.

p. On 17 November 1993, Mr. Hudson called MACS Taylor into his office and accused him of acting improperly during the previous night's arrest. Mr. Hudson then discussed with MACS Taylor the possibility of an early retirement for MACS Taylor.

q. On 18 November 1993, Mr. Hudson met with LCDR Cole to discuss this situation. At this meeting, the two men agreed to have Naval Investigative Service investigate MACS Taylor's activities on the night of the arrest.

r. On 22 November 1993, Mr. Hudson informed MACS Taylor that he planned to have NIS investigate the arrest.

s. Pursuant to advice from military defense attorneys, MACS Taylor and each of the other three officers consistently invoked his right to remain silent during the investigation.

t. On 3 January 1994, MACS Taylor was given a Report Chit citing one specification of violation of Article 92 related to the arrest of CE3 Miller. LCDR Cole's signature appears on the Chit for "person submitting report". Along with the Report Chit, MACS Taylor received formal notification of contemplated Nonjudicial Punishment.

u. On numerous occasions after the Report Chit was drafted, LCDR Cole attempted to persuade MACS Taylor and the other three NCBC officers involved to answer questions about the arrest. On or about 3 January 1994, LCDR Cole informed MACS Taylor that the Incident Complaint Report for the incident in question had never been received, and he gave MACS Taylor a direct order to write a report describing what happened on the night in question. MACS Taylor has consistently maintained that he submitted the report immediately after the arrest. Pursuant to advice from LT Carter F. Brod, JAGC, USNR, Defense Counsel, MACS Taylor nevertheless prepared a new report to avoid violating a direct order.

v. When discussing with MACS Taylor his potential Captain's Mast, LCDR Cole ordered MACS Taylor to sit locked at attention. LCDR Cole told MACS Taylor that he would "add twenty more —— charges" if Taylor refused Captain's Mast.

w. On or about 6 January 1994, LCDR Cole called LT Brod and asked LT Brod to give MACS Taylor pre-Mast Advice. LCDR Cole told LT Brod that MACS Taylor was being really stupid in his attitude and that if he did not accept Mast then they were going to "throw the book at him". LCDR Cole told LT Brod that, if MACS Taylor refused Mast, "we have lots of other stuff on him to use which we will throw on there", or words to that effect.

x. On 10 January 1994, MACS Taylor refused Nonjudicial Punishment.

y. LCDR Cole has made numerous attempts to persuade the other three NCBC officers to discuss the details of the arrest. On 6 January 1994, LCDR Cole told LT Brod in a telephone conversation that "the command is unlikely to dismiss the charges against Senior Chief Taylor but would probably dismiss on the others if they opened up."

z. In a telephone conversation with civilian police Lieutenant Byron Frank, which lasted over one hour, LCDR Cole told Lt. Frank that "if you all had just cooperated with the NIS investigation, then you would have just gotten a slap on the wrist", or words to that effect. LCDR Cole stated that "Senior Chief Taylor is manipulating the other three officers. I feel really sorry for them", or words to that effect. LCDR Cole stated that "ABC bailed his ass out in Bermuda. They won't come to his rescue now", or words to that effect. LCDR Cole asked Lt. Frank, who was also an African-American, "why won't you just tell me what happened? I'm the smartest black attorney in the JAG Corps. Let's just talk brother to brother", or words to that effect.

aa. On 21 January 1994, 48 specifications of UCMJ violations were preferred against MACS Taylor. Many of the specifications related to the 16 November arrest, but 16 of the 47 new specifications related to incidents in April, May and June of 1993.

bb. Naval Criminal Investigative Service conducted an extensive investigation of the charges against MACS Taylor. Included as part of the NCIS investigation were interviews of over twenty-one witnesses. Many of the witnesses, including Petty Officer Pringle, Detective Wunsch and Lieutenant Frank, were asked questions about MACS Taylor's activities in Bermuda.

cc. LT Robert P. Morean, JAGC, USNR, Trial Counsel, conducted several witness interviews at NCBC on or about 15 February 1994. LCDR Cole was present for many of these interviews and occasionally participated in questioning. In the interview with BMCS Kossman, USN, LCDR Cole corrected BMCS Kossman for giving an answer LCDR Cole believed was incorrect. When MS3(SS) Doyle was interviewed, LCDR Cole was "right there, only two feet away from me." When MS3 Doyle told LT Morean that he felt MACS Taylor was an excellent cop and excellent leader, LCDR Cole stormed out of the meeting and slammed the door. LCDR Cole also assisted LT Morean in the questioning of Dan Gordon, Security Department Training Officer.

dd. On 9 February 1994, LCDR Cole approached DT3 Fredia Wright, USN, who had a son living on base who had been barred from the base for juvenile delinquency. LCDR Cole offered DT3 Wright that her son could continue to live on the base if he would testify in the court-martial of MACS Taylor. LCDR Cole told her that she could disregard the barring notice if her son would cooperate.

ee. On or about 18 February 1994, LCDR Cole discussed the 16 November arrest while teaching a class to new NCBC security officers. While teaching this class, LCDR Cole referred to the four officers who made the 16 November arrest as "the four", and used their arrest as an example of illegal police activities.

OTHER SIMILAR NCBC SECURITY CASES

ff. In the past, there have been several other arrests by NCBC Police with the same characteristics as the 16 November arrest. No prosecution or disciplinary action was taken in any of the other arrests. There have also been egregious cases of clear dereliction of duty by NCBC Military Police where no prosecution was undertaken.

gg. On 23 September 1992, NCBC Detective A. Carpenter, MA1 Woods, USN, and NCBC Detective P. Wunsch arrested EOCN Jason S. Tyree, USN, a deserter from NMCB–40, off-base in the City of Oxnard. The facts of that arrest were effectively identical to those in the case at bar. There was no disciplinary action of any kind taken against any of the officers.

hh. In December 1993, a complaint was filed alleging that GSM2 E.J. Beman used unlawful force in an arrest of a female suspect. The investigation of the incident was handled internally; NCIS was never asked to investigate. Beman was not court-martialed for his actions.

ii. In mid-1992, evidence existed that civilian NCBC police officer Carlos Tengonan used unnecessary force by hitting a suspect in the mouth with a baton. No investigation of any kind was undertaken, and no disciplinary action followed.

jj. On 21 January 1992, F.D. Forbes, a civilian NCBC police officer arrested a suspect in the City of Port Hueneme by pursuing him on an off-base street, drawing his service revolver and ordering the suspect to freeze. The suspect was unarmed and seen climbing over the base fence from on-base to off-base, which is not an offense under any criminal code. The "suspect" was not charged with any crime. Forbes was not disciplined in any way for making this off-base arrest.

kk. Many members of the NCBC Security Department believe that, based on their knowledge of the facts, the 16 November arrest was entirely legal and consistent with NCBC police practices.

RECENT FACTS

ll. On 22 February 1994, LCDR Cole offered LT Brod that MACS Taylor could still go to Captain's Mast if he wanted. LCDR Cole told LT Brod that, if MACS Taylor accepted Mast, the charges would include only two specifications of dereliction of duty.

mm. On 9 March 1994, LCDR Cole ordered an administrative questioning of Byron Frank regarding the arrest of 16 November 1993. LT Morean told LT Caroline Goldner, JAGC, USNR, that this was done as a "discovery tool" for the court-martial of MACS Taylor.

nn. On 17 March 1994, LT Morean told LT Brod in a telephone conversation, that "it is my understanding that if everyone had been forthcoming, there would have been no charges. The Admiral just got ticked when everyone clammed up."

3. Statement of law

a. R.C.M. 907, MCM 1984. Motions to Dismiss.

b. Fifth Amendment, United States Constitution. "No person shall be . . . compelled in any case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law."

c. *Bordenkircher* v. *Hayes*, 434 U.S.C. 357 (1978). "To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort."

d. *Chaffin* v. *Stynchcombe*, 412 U.S.C. 17 (1973). For an agent of the state to pursue a course of action whose object is to penalize a person's reliance on his constitutional rights is "patently unconstitutional."

e. *U.S.* v. *Davis*, 18 MJ 820 (AFCMR 1984). For a claim of prosecutorial vindictiveness to succeed, it must be established that the decision to prosecute was based on impermissible considerations such as race, religion, or the desire to prevent the exercise of a legal right. "In the classic prosecutorial vindictiveness case the subsequent charges are harsher variations of the same decision to prosecute." See also *U.S.* v. *Spence*, 719 F.2d 358 (11th Cir. 1983), *Hardwick* v. *Doolittle*, 558 F.2d 292 (5th Cir. 1977).

f. *U.S.* v. *Spence*, 719 F.2d 358 (11th Cir. 1983). "To help simplify prosecutorial vindictiveness claims, the Supreme Court developed a 'presumption of vindictiveness'." 719 F.2d at 361. "Courts in this circuit construing post-Blackledge decisions have held that whenever a prosecutor brings more serious charges following the exercise of procedural rights, 'vindictiveness' is presumed, provided that the circumstances demonstrate either actual vindictiveness or a realistic fear of vindictiveness." 719 F.2d at 361.

g. *U.S.* v. *Krezdorn*, 718 F.2d 1360 (5th Cir. 1983). If the defendant challenges as vindictive a prosecutorial decision to increase the number of severity of charges following the exercise of a legal right, the court must examine the prosecutor's actions in the context of the entire proceedings. If "the course of events provides no objective indication that would allay a reasonable apprehension by the defendant that the more serious charge was vindictive, i.e. inspired by a determination to 'punish a pesky defendant for exercising his legal rights,' a presumption of vindictiveness applies which cannot be overcome unless the government proves by a preponderance of the evidence occurring since the time of the original charge decision altered that initial exercise of the prosecutor's discretion." 718 F.2d at 1365.

h. *U.S.* v. *Blanchette*, 17 M.J. 512 (AFCMR 1983). "The test for prosecutorial vindictiveness is whether, in a particular factual situation, there is a realistic likelihood of vindictiveness for the preferral of charges against the accused." 17 M.J. at 514.

i. *U.S.* v. *Hagen*, 25 M.J. 78 (CMA 1987). Once a prima facie case of vindictiveness is made out, the burden shifts to the prosecution to disprove the misconduct. See also *U.S.* v. *Garwood*, 20 M.J. at 154 (CMA 1985).

j. *U.S.* v. *Falk*, 479 F.2d 616, 620 (7th Cir. 1973). If a defendant alleges intentional or purposeful discrimination and presents facts to raise a reasonable doubt about the prosecutor's purpose, then the prosecutor can be called to the stand to testify.

k. *U.S.* v. *Green*, 37 M.J. at 384 (CMA 1993). "This Court has previously stated that 'in referring a case to trial, a convening authority is functioning in a prosecutorial role' ". See also *U.S.* v. *Fernandez*, 24 M.J. at 78 (CMA 1987), *Cooke* v. *Orser*, 12 MJ 335 (CMA 1982), *U.S.* v. *Hardin*, 7 M.J. at 404 (CMA 1979).

l. In assessing a claim of prosecutorial vindictiveness, the Supreme Court focuses on practices which tend to chill the assertion of defendant's rights. *Blackledge* v. *Perry*, 417 U.S. 21 (1974), *NC* v. *Pearce*, 395 U.S. 711 (1969), *Bordenkircher* v. *Hayes*, 434 U.S. 357 (1978).

4. Discussion

a. There are essentially three independent bases upon which the prosecution of MACS Taylor is vindictive. The first basis is due to retaliation for MACS Taylor's whistleblowing in Bermuda and his personal relationship with the convening authority's attorney, LCDR Cole. These two issues have been grouped together because they support the premise that MACS Taylor is being prosecuted for who he is, not what he had done. Second, MACS Taylor is being prosecuted for exercising his constitutional right to remain silent, Third, MACS Taylor is being prosecuted for exercising his right to refuse Captain's Mast.

b. In light of the nature of these charges, the fact that forty-eight total specifications were preferred in this case, in itself, is strong evidence of the government's vindictiveness. An inference can be drawn that by charging MACS Taylor with such a large number of charges, the government intended to intimidate him, "show" him, or otherwise "retaliate" against him for any one of the three bases supporting this motion. The context of these charges, including the content and tone of statements made by the convening authority's attorney, further clarifies that this prosecution was undertaken with a vindictive purpose.

BASIS 1: BERMUDA AND PERSONAL RELATIONSHIP

c. Under this basis, this motion seeks dismissal of all charges pending against MACS Taylor. None of these charges would have been brought but for MACS Taylor's whistleblowing in Bermuda and his personal relationship with LCDR Cole. Pursuant to *U.S.* v. *Davis* and *Blackledge* v. *Perry*, these are both impermissible bases for undertaking a prosecution.

d. There is substantial evidence that the convening authority knew about MACS Taylor's activities in Bermuda and had distaste for those activities. RADM Nash requested a copy of the Bermuda tape before MACS Taylor arrived. Articles were posted and the tape was watched at the security department prior to MACS Taylor's arrival. LCDR Cole's statements to MACS Taylor when he arrived at NCBC show his distaste for MACS Taylor's whistleblowing. MACS Taylor was taken to XOI by the convening authority for activities in Bermuda. The convening authority awarded him a letter of caution at this XOI for activities in Bermuda. NCIS, in conducting the investigation of these charges for the convening authority, asked numerous witnesses if they knew anything about the Bermuda incident. Furthermore, LCDR Cole's statement that "ABC bailed him out of Bermuda, they won't come to his rescue here", shows the vindictive tone of LCDR Cole based on MACS Taylor's activities in Bermuda.

e. There is also substantial evidence that LCDR Cole had a personal animosity for MACS Taylor. The statement by LCDR Cole at the meeting upon MACS Taylor's arrival is evidence of that animosity. MACS Taylor questioned LCDR Cole's professionalism by challenging his practice with regard to pretrial confinees. LCDR Cole was incensed at MACS Taylor's complaint. The 5 September 1993 memorandum shows that prior to this arrest, LCDR Cole sought to have MACS Taylor fired from his job. Ever since the first meeting when MACS Taylor reported at NCBC, there have been continual confrontations between the two men.

f. In addition to the evidence of vindictiveness, there is considerable evidence of fact situations similar to those in the case at bar that were not prosecuted. The off-base arrests involving detectives Forbes and Wunsch were very similar to this arrest, and no disciplinary action followed. There was evidence of dereliction by GSM2 Beman, but no disciplinary action was initiated. There was evidence of dereliction by Officer Tangonan, and no investigation was initiated. An examination of these other situations demonstrates that the government would not have ordinarily prosecuted this case but for MACS Taylor's activities in Bermuda and his personal relationship with LCDR Cole.

g. The vigor with which the command initiated this prosecution is further evidence of the other-than-official interest in seeing MACS Taylor prosecuted. For example, NCIS was called in to investigate and devoted a great deal of resources to this investigation. NCIS jurisdiction, however, is normally over major offenses only. LCDR Cole used his influence as base SJA over other legal matters to affect the investigation in this court-martial. LCDR Cole used the pressure of a barring order to enlist the support of an unwilling witness, Doug Lively. He used his administrative power to order a civilian, Byron Frank, to give, against his will, information to use against MACS Taylor. LCDR Cole also actively participated in interviewing witnesses with the Trial Counsel.

h. In sum, there is substantial evidence that this prosecution would not have normally been initiated but for the fact that MACS Taylor was the subject. Dislike of a sailor based on his past legal activities (Bermuda) and his personality is not a permissible basis upon which to initiate a prosecution. For the foregoing reasons, all funding charges against MACS Taylor should be dismissed.

BASIS 2: RIGHT TO REMAIN SILENT

i. Ever since initially being accused of dereliction, MACS Taylor has exercised his Constitutional right to remain silent. There is substantial evidence that all forty-eight charges in this court-martial are a result of vindictiveness due to MACS Taylor's invoking this constitutional right. Under this basis, this motion seeks dismissal of all charges.

j. On 17 March 1994, the Trial Counsel told the Defense Counsel that it was his understanding, based on his discussions with the Convening Authority, that no charges would have been brought for MACS Taylor's invocation on this right. The Trial Counsel further stated that it was his understanding that the Admiral "got ticked" when MACS Taylor invoked this right. The Trial Counsel's statement is clear evidence that the government's decision to prosecute was based on MACS Taylor's decision to remain silent.

k. In discussing Taylor's court-martial charges with Byron Frank, LCDR Cole stated that "if they had just cooperated with NIS, then it would've been a slap on the wrist", implying that the charges would not have been brought at all but for MACS Taylor's invocation of his right to remain silent.

l. LCDR Cole has made numerous attempts at pressuring MACS Taylor to give up his right to remain silent, including attempts to persuade LT Brod * * * MACS Taylor. LCDR Cole further told MACS Taylor that if he didn't "open up" there would be "twenty more charges."

m. The convening authority has taken several other actions which demonstrate the vigor with which it has attempted to get MACS Taylor to give up his right to remain silent. First, LCDR Cole gave MACS Taylor a direct order to write a new Incident Complaint Report, alleging that the original had been lost. Second, LCDR Cole administratively ordered civilian police lieutenant Byron J. Frank, who participated in the arrest, to give details of the arrest. LT Morean described this administrative order as a "discovery tool".

n. In sum, there is considerable evidence that the convening authority was angered by MACS Taylor's silence, and was in fact motivated to prosecute in retaliation for MACS Taylor's silence. In fact, the convening authority expressly told the Trial Counsel that there would have been a prosecution at all had Taylor not "clammed up". It is evident that all forty-eight charges are in direct retaliation for MACS Taylor's exercise of a constitutional right, the right to remain silent.

o. To allow the government to prosecute as retaliation for exercising the right to remain silent would be to chill the exercise of this important constitutional right. Based on the foregoing, all charges now pending should be dismissed.

BASIS 3: RIGHT TO REFUSE CAPTAIN'S MAST

p. After MACS Taylor refused Captain's Mast, the charges against him rose from one specification of dereliction of duty to 48 specifications in total at special court-martial. There is substantial evidence that the additional 47 specifications were preferred in retaliation for MACS Taylor's refusal to accept Mast. Under this basis, this motion seeks dismissal of all charges added after the refusal of Captain's Mast. The charges sought to be dismissed include all additional specifications related to the 16 November arrest (beyond the one specification from Mast) as well as all specifications related to previous incidents.

q. LCDR Cole explicitly told MACS Taylor and LT Brod that if Taylor refused Mast "there would be twenty more charges" and that he would "throw the book at him". These statements demonstrated LCDR Cole's intentions to retaliate if MACS Taylor refused Mast.

r. Supreme Court and military decisions support that a large increase in charges after the invocation of a legal right is a strong sign of prosecutorial vindictiveness. Here, the charges jumped from one to forty-eight after MACS Taylor exercised his right to a court-martial. In *U.S.* v. *Davis*, the court states that the classic prosecutorial vindictiveness case involves a harsher variation of the same decision to prosecute. Clearly, if the first decision to prosecute was for only one specification, then a second decision for 48 specifications is a harsher variation.

s. In *U.S.* v. *Martino*, 18 M.J. 526 (AFCMR 1984), the government raised the number of charges after the accused refused NJP. The court held such prosecution to be proper. Martino can be distinguished on several bases. First, the court emphasized that the defense counsel asserted prosecutorial vindictiveness with no evidence whatsoever of a vindictive motivation. Further, the government showed evidence of a valid motivation for the difference in number of charges. In the case at bar, however, there is considerable evidence of vindictiveness and there is no evidence of valid government motive for increasing the charges from 1 to 48.

t. In *Bordenkircher* v. *Hayes*, the Supreme Court held that in the normal give and take of plea bargaining, a prosecutor has valid discretion to increase and decrease the number of charges in order to secure a guilty plea. Bordenkircher is distinguishable on several grounds. First, in Bordenkircher, the only evident motive on the part of the prosecutor was the non-vindictive motive to receive a guilty plea. In the case at bar, there is considerable evidence of vindictiveness unrelated to the desire to secure a Mast conviction. Second, in Bordenkircher, it was not disputed that the defendant was properly chargeable for the additional charges. In the case at bar, however, there is considerable evidence that there was no valid basis for the additional charges. MACS Taylor's performance evaluation of September 1993 shows the convening authority's acknowledgement that there was no case of dereliction for any prior incidents. Third, the additional charges in the case at bar were not part of the course of normal plea bargaining. MACS Taylor was ordered to attention and threatened with more charges if he did not accept Mast. Further, the military relationship between a Lieutenant Commander and a Senior Chief Petty Officer is one of unequal bargaining power.

u. In *U.S.* v. *Davis*, a claim of prosecutorial vindictiveness was rejected. In *Davis*, however, there were no additional charges brought in the move from Mast to court-martial. In the case at bar, the charges rose from one to forty-eight. Justifying its rejection of the prosecutorial vindictiveness claim, the *Davis* court stated that the classic case of prosecutorial vindictiveness occurs when the number of charges is raised.

v. *U.S.* v. *Blanchette* also involved a rejected prosecutorial vindictiveness claim. That case can be distinguished in that the reason for not charging the accused initially was due to insufficiency of evidence. The court found that the additional charges were justified due to the availability of new evidence. No such evidentiary justifications exist for the government in the case at bar.

w. In sum, because MACS Taylor refused Mast on one specification of dereliction of duty, the convening authority retaliated by preferring forty-seven additional charges against him at a court-martial. The possibility of retaliation is clearly "realistic", and the impression made on the accused is clearly one of intimidation. The statements by LCDR Cole are evidence that the convening authority was in fact motivated by vindictiveness. Dismissing the additional charges would be consistent with Supreme Court and Military case law. To allow vindictive charging as occurred here would be to chill the exercise of a sailor's legal right to refuse Captain's Mast. For the foregoing reasons, all charged beyond the initial specification of dereliction of duty should be dismissed.

5. Evidence

a. Witnesses. The defense offers the testimony of the following witnesses in support of this motion: Detective Wunsch, Sergeant Forbes, LCDR Cole, MACS Taylor, Lieutenant Frank, Officer Eglin, Officer Robertson, MACS Kossman, Kari Lee Patterson, DT3 Wright, MS3 Doyle, Mr. Hudson, Mr. Flynt, R.J. Bryan, Petty Officer Bassett, Petty Officer Pringle, Andrew Stewart, LT Morean, Petty Officer Beman, Officer Tangonan.

b. Documents. The following documents will be presented as evidence in support of this motion: Incident Complaint Report (ICR) for Wunsch arrest, ICR for Forbes incident, report of Beman incident, 5 September 1993 Memorandum from LCDR Cole, Bermuda file, MACS Tayor evaluation, Mast charges, Report chit, NJP Refusal Form, Court-martial charges, letter of caution, Bermuda tape, new ICR for 16 November arrest, Barring notice for Doug Lively.

6. Relief requested

Pursuant to Basis 1, the defense respectfully requests that all charges be dismissed. Pursuant to Basis 2, the defense respectfully requests that all charges be dismissed. Pursuant to Basis 3, the defense respectfully requests that all charges other than the one specification charged at Mast be dismissed.

7. Oral argument

The defense desires to make oral argument on this motion.

Date: March 23, 1994.

CARTER F. BROD,
LT, JAGC, USNR,
Defense Counsel.

CERTIFICATE OF SERVICE

I, Lieutenant Carter F. Brod, JAGC, USNR, certify that on this 23rd day of March 1994, I personally served upon government trial counsel a true and correct copy of this Motion.

TRIBUTE TO NICK C. AQUILINA

Mr. REID. Madam President, on September 3, 1994, Nick Aquilina will retire from the Department of Energy after 32 years of Federal service. As the manager of the Nevada Operations Office of the Department of Energy for the last 7 years, he has been a valuable partner to the elected officials of the State of Nevada and the community of southern Nevada. We, along with all his coworkers, will miss him.

Nick Aquilina's career chronicles the vision and achievement of our nuclear weapons program and the people who made it possible. He characterizes the spirit and dedication of a generation of Americans who dedicated their lives to maintaining our nuclear deterrent.

Nick began his career at the Nevada Test Site in 1962 as an employee of Reynolds Electrical and Engineering Company. He went on to management positions in the Atomic Energy Commission, the Energy Research and Development Agency and in the Department of Energy.

His career started as our country emerged from its first nuclear testing moratorium and it is ending as we find ourselves in our second moratorium, one which will likely be followed by a comprehensive test ban. During those intervening years, Nick and his coworkers developed a nuclear arsenal that was a critical element of our Nation's national security policy. That policy lead to the demise of the Soviet Union and the end of the cold war.

Throughout his career, and in his capacity as manager of the Nevada Operations Office, Nick has shown us the importance of commitment; commitment to the mission, commitment to the community, and commitment to his values and his heritage.

Nick has never lost sight of the mission of the test site and of the Department. He has always worked with the test side customers to meet their mission needs and with the Department leadership to make sure that the programs was conducted safely and in compliance with national objectives.

Nick has been committed to the community and the positive role that the Department can play in the community. He has supported educational and outreach programs in the Las Vegas area and contributed innumerable hours of his personal time to the community.

As he has risen through his career he has never forgotten his roots, his Italian heritage with its sense of family and community, and his youthful test site days with its hard work and dedication to excellence and achievement. These early values have become the foundation for the outstanding character and the leadership that Nick has shown us as manager of the Nevada Operations Office.

Over the last decade, Nick has held various management positions in the Department of Energy. During this same period, the leadership of the Department and the world situation has changed dramatically. While immersed in this sea of change, Nick has shown an outstanding ability to assess the changing environment, to keep focused on the important elements of the missions and his values, and to lead the Nevada Operation and its partners into the future.

Nick has built on the strong culture of the testing community to meet the challenge of change. By focusing on teamwork, the needs of the customer, and a positive, can-do, attitude in the face of uncertainty, Nick and the test community are creating a new future for the test site. Their new vision, created under Nick's leadership, will be a final legacy that Nick leaves to provide guidance and leadership to a future generation of test site workers.

Nick believed in the mission, he dedicated his career to the mission, and he accomplished the mission. And finally he set the vision of the future.

I wish to extend my recognition and appreciation to Nick C. Aquilina, who has served his Nation and the community of southern Nevada so well.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Madam President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody does anything about it. Many Senators talk a good game when they are back home about bringing Federal deficits and the Federal debt under control, but look how they vote on bloated spending bills passing the Senate.

As of Thursday, August 11, at the close of business, the Federal debt stood—down to the penny—at exactly $4,645,161,184,155.52. The debt, do not forget, was run up by the Congress of the United States. The big-spending bureaucrats in the executive branch of the U.S. Government cannot spend a dime unless and until it has been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by one President or another, depending on party affiliation. Sometimes they say Ronald Reagan ran it up; sometimes they say George Bush. These buck-passing declarations are false because the Congress of the United States is the culprit.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban Missile Crisis was going on. A billion minutes ago, not many years had elapsed since the crucifixion of Jesus Christ.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of 4,645 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at $4,645,161,184,155.52.

PACIFIC PENSION INSTITUTE

Mr. PRESSLER. Madam President, a few weeks ago, I attended a conference of the Pacific Pension Institute. The primary objective of the conference was to discuss the cross border flow of investment capital among the Pacific rim countries. The participants consisted primarily of public pension plan administrators.

I was invited to attend the conference to discuss current pension issues, including actions by the Clinton administration as well as legislative proposals pending in Congress. I ask unanimous consent to insert in the RECORD excerpts from my speech immediately following my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PACIFIC PENSION INSTITUTE PENSION ISSUES

One of the primary legislative initiatives being considered during the 103rd Congress is designed to shore up the Pension Benefit Guarantee Corporation (PBGC). As you probably know, the PBGC has a growing underfunded balance—a deficit which has increased for the fifth year in a row. This is causing some alarm due to the massive taxpayer bailout needed from the S&L collapse.

The measure being considered is the Retirement Protection Act (H.R. 3396 and S. 1780). This legislation is based on recommendations from an interagency working group headed by the Secretary of the Department of Labor, Robert Reich. The group was tasked to study the problems facing the PBGC and they completed their work last fall.

The proposed legislation is designed to ensure the financial stability of the insurance program of the PBGC—due to underfunded pension plan growth. It would require underfunded plans to pay higher overall insurance premiums and fund their obligations more quickly. Hearings have been held in both the House and Senate. Passage is considered likely.

While public pension plans are not directly related to the PBGC, you may be interested to learn of recent action that does concern public plans. During last week's mark-up in the House Ways and Means Committee, a provision was added to the proposed Retirement Protection Act. The amendment would direct the General Accounting Office (GAO) to conduct a study on the underfunding of State, local, and Federal government plans.

In addition, the amendment provides for the GAO to consider the causes and implications of public plan underfunding. The report would be due April 30, 1995. This bill is continuing through the House legislative process.

In addition to the Administration's focus on the PBGC, the Department of Labor (DOL) also has recently issued an "Interpretive Bulletin" regarding pension investments. Specifically, it clarifies the DOL's "interpretation" of the ERISA law concerning the investment of Economically Targeted Investments (ETIs). Let me briefly describe the DOL's bulletin.

The DOL issued its bulletin on June 23, 1994. The document "sets forth the view of the DOL concerning the legal standard imposed by sections 403 and 404 of Part 4 of Title 1 of ERISA with respect to a plan fiduciary's decision to invest plan assets in economically targeted investments (ETIs)." ETIs are generally defined as investments that are selected for the economic benefits they create in addition to the return on investment.

In the DOL document, the Department states—"the requirements of ERISA do not prevent plan fiduciaries from deciding to invest plan assets in an ETI if the ETI has an expected rate of return that is commensurate to rates of return of alternative investments with similar risk characteristics that are available to the plan, and if the ETI is otherwise an appropriate investment for the plan in terms of such factors as diversification and the investment policy of the plan."

While the DOL's bulletin directly effects private plans, I understand public plan administrators may be interested in the DOL's bulletin too. After all, public plans abide by many regulations and fiduciary responsibility similar to those interpreted by the DOL. Therefore, public fund managers are always wise to pay attention to DOL actions.

At first glance it may raise concerns that the Administration's bulletin could result in limitations on public fund investment options—or rather forcing managers to invest in ETIs. However, I view the DOL's actions in a different light.

First, as you know, it does only apply to private plans. Second, it really is no more than a "clarification" of DOL's interpretation of ERISA. That is, that if all things are equal, it is okay to invest in an economically disadvantaged target. Now, I think it is rare to find that level of equality in risk assessment. In fact, if you want to look at the possible implications of the DOL bulletin on public plans, it could be argued that the DOL is adding further credence to the public pension fiduciaries desire to invest in non-typical investments. I would consider the DOL's bulletin as no more than a "sprinkling of holy water" for ETIs.

At the same time, it is true the Clinton Administration is on record regarding their desire to encourage pension managers to take into account social concerns as they make their investments. Reportedly, the Administration would like to tap into pension funds to help pay for improving our nation's infrastructure. This is based on recommendations from the Infrastructure Investment Council.

Of course, this idea has raised serious concerns. What are the rights and protections of pension plan participants and retirees? What is the risk of taxpayers and workers in the investment of these funds? What are the long-range returns? How will such investing contribute to overall economic growth and societal well-being? While such investing may be "politically correct", is it fiscally prudent? These questions and more remain unanswered. Many of these same questions should be asked in regard to ETIs.

What else is the Clinton Administration up to? Only yesterday, Secretary Reich issued guidelines to prod pension managers to take a more active role in the governance of their companies. The DOL's guidelines are aimed at making fund managers use their voting power more. In short, its a push to get pension managers involved in issues ranging from job training to corporate appointments.

Frankly, I do not think it is the role of the federal government to be nosing around in this area. Businesses need less government interference, not more. As ranking member of the Senate Small Business Committee, I will be monitoring the Administration's actions very closely in this area. And I encourage you all to continue to watch closely the actions by both the Administration and Congress. After all, what you don't know can hurt you.

As you are all aware, some public pension plans do have limitations imposed by State legislatures on their ability to invest in international markets. In fact, thirty-nine percent of U.S. public pension systems are subject to a state law that prohibits or restricts pension fund investments in foreign securities. Sixty-one percent have no such restriction.

Let's consider the public pension plan in my home state of South Dakota. Public pension funds for South Dakota state and local employees, as well as educators, are covered under the South Dakota Retirement System. This multiple employer, defined benefit retirement plan covers over 400 separate public employers and over 50,000 members.

The international investment of South Dakota's public pension funds is allowed. However, the South Dakota Benefit Board has imposed some limitations (note, the limitations were not imposed by state law). According to the South Dakota Benefit Board, a maximum of fifteen percent of the assets may be invested internationally. This figure of 15 percent includes one percent in an "emerging country".

I thought you may be interested to hear a bit more about South Dakota's Retirement plan and how they are doing with their international investments:

The State Investment Council manages $2.2 billion in funds for the South Dakota Retirement System—

—$270 million (or 12.4 percent) of the $2.2 billion is invested internationally;

—$197 million is invested internally,

—the remainder—$70 million—is invested by outside management. The outside managers handle the "emerging country" funds. Internally, they handle the "high-quality" funds.

Of the 12.4 percent of the South Dakota public pension funds that are invested internationally, the investment breakdown is as follows:

21.0 percent = United Kingdom.
20.0 percent = Japan.
9.0 percent = Switzerland.
8.5 percent = Germany.
7.0 percent = Hong Kong.
5.0 percent = France.
4.0 percent = Netherlands.
3.5 percent = Spain.
3.5 percent = Australia.
3.0 percent = Sweden.
2.5 percent = Belgium.
2.5 percent = Mexico.
2.5 percent = Singapore.
2.0 percent = Italy.
1.6 percent = Norway.
0.5 percent = New Zealand.
0.5 percent = Malaysia.

I thank you for the opportunity to take part in this important conference and discuss some aspects of the regulation and management of pension funds and investment alternatives.

These indeed are important subjects for your consideration as investment managers. Your decisions are vital to millions of people who depend upon their retirement benefits for their livelihood in their later years. Again, it has been a pleasure to be with you.

LOST AT SEA: TERMS OF INTERNATIONAL SEA AUTHORITY STILL DO NOT SAIL WITH THE UNITED STATES

Mr. PRESSLER. Madam President, today I express my opposition to Senate ratification of the Law of the Sea Convention. The treaty itself was signed by Madeleine Albright, the U.S. Ambassador to the United Nations on July 29, 1994. This signature provisionally binds the United States to the stipulations of the treaty for the next 4 years. Although the United States has gone this far, the Senate should not give final approval to the treaty.

First of all, no other industrialized country has ratified this treaty. It could be that these countries are waiting to see the outcome for the United States and will then decide whether signing the treaty is beneficial for them. As a signed member, the United States is required also to contribute a substantial sum of money, for which we would receive little or no return. Ratifying the treaty is, therefore, not an investment for the United States, but rather it is a donation to an experimental international governmental organization of less developed and developing countries.

Aside from the fact we would have to pay one quarter of the total implementation costs as well as year to year costs, we would have only a partial veto. This means that even if we truly were opposed to something being voted on, we essentially would have no power to protect ourselves from the outcome of such a vote if we held a minority position. Partial veto seems meager compensation considering the huge sums of resources we could be required to contribute.

An even larger problem emerges, however, with our ratification of the terms of this treaty. We challenge our own economic philosophy. Since Adam Smith wrote the "Wealth of Nations," the United States has been the most liberal country in terms of backing a position of governmentally unregulated business. The United States, having grown to and retained the position of the world's largest economy, has experienced success in business because our various industries are allowed to compete with each other. This natural, healthy competition results in resources flowing to their highest valued use, the most efficient technology being employed leading to lower prices for consumers, and the incentive to keep using the most efficient methods of production.

The treaty is in conflict with our economic philosophy. Resources and revenues will have to be distributed equally according to the treaty. Is this what we want when obviously the United States' input is far more than equal? Why would we pay 25 percent of all costs when our return would be significantly less?

The deep seabed mining provisions of this treaty are greatly anticompetitive. In fact, the rules of this treaty may conflict with rules of the GATT. As one of the few industrialized signatory members, there is a chance that the less developed country members would use this opportunity to discriminate against us.

It has been said that the new amendments deal with these objections and criticisms, but have we seen exactly how? Is the treaty amended to an acceptable extent? Now that we have no choice but to remain bound provisionally to this treaty for a certain extent of time, we should leave it at that. We can see how it develops over the next 4 years, look for places that still need improvement, and then ratify the treaty sometime down the road if it then seems beneficial to the United States.

Madam President, with unanimous consent I would like to submit an article from the Wall Street Journal written by Doug Bandow at the conclusion of my remarks. Mr. Bandow is a senior fellow of the Cato Institute, and served as deputy representative to the third U.N. Conference on the Law of the Sea. Having been involved at the forefront of the negotiations of this treaty, Mr. Bandow is an expert on the issues at hand. His article raises valid points and elicits useful information. I ask unanimous consent to place Mr. Bandow's article in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[The Wall Street Journal, July 28, 1994]

DEEP-SIX THE LAW OF THE SEA

(By Doug Bandow)

The Law of the Sea Treaty—that "constitution of the oceans" that surfaced during the Carter years—is back in the news. The regulation-heavy treaty was properly torpedoed by Ronald Reagan in 1982, but the Clinton administration has resurrected it. Indeed, the U.S. plans to sign the accord tomorrow at the United Nations. Then only the Senate can block its ratification.

The treaty has a predictable pedigree, given its U.N. origins. Throughout the 1970s and early 1980s, most Third World states saw socialism as the wave of the future and promoted the New International Economic Order—global redistribution of resources, technology and wealth. The Law of the Sea was the quintessential expression of this new order, and the most far-reaching.

The ocean floor is littered with manganese nodules and other resource deposits. Visions of vast wealth free for the taking led Malta's U.N. representative, Arvid Pardo, to propose in 1967 that the seabed be declared the "common heritage of mankind." The U.N. General Assembly created an ad hoc Seabed Committee and, in 1973, organized the Third United Nations Conference on the Law of the Sea.

SEABED MINING

That conference eventually gave birth to a convention with more than 400 articles, on subjects ranging from ocean transit to marine pollution. But its most contentious provisions addressed seabed mining.

The treaty created the International Seabed Authority to regulate private mining, and the Enterprise to develop the ocean floor. The Authority was ruled by an Assembly and a Council: The Soviet bloc was guaranteed three seats on the latter, while the U.S. was assured of none. Western countries and firms were to provide funds and technology for redistribution to developing states. The treaty limited mineral production, failed to guarantee private firms access to the seabed and subsidized the Enterprise. Little wonder that President Reagan—joined by other leaders of the industrialized world and event the Soviet Union—rejected the treaty.

But diplomats are attracted to treaties as moths to lights. Informal discussions began in 1990 over revising the accord, culminating in Secretary of State Warren Christopher's announcement that the administration will sign a revised treaty. And yet earlier this year David Colson, deputy assistant secretary of state for oceans, admitted that "the basic flaws of [the treaty's] deep seabed mining regime are manifold." "Why, then, bother trying to "fix" it?

The Law of the Sea Treaty was created in a different era with a purpose of extracting wealth from the West. Since then, most developing states have begun moving away from collectivism. Yet the original treaty structure remains. Even the State Department acknowledges that the agreement "retains the institutional outlines of Part XI," as the labyrinthine seabed mining provisions are known.

In contrast, a decentralized process, perhaps with a small international office, providing for mutual recognition of mine-sites and arbitration of conflicts at minimal expense, would provide adequate security of tenure for mining companies. The U.S. and the Europeans implemented such a system after they rejected the first treaty. This framework could be expanded to other nations. The newest version of the treaty is simply a solution in search of a problem.

Supporters of the Law of the Sea Treaty point out that the convention covers other subjects, such as navigation and scientific research. However, while these provisions are generally noncontroversial, they are also largely irrelevant, since most merely codify customary international law. The Pentagon worries about naval transit, but few countries have the incentive, let alone the ability, to interfere with American ships: Not once over the past decade has a U.S. vessel been denied freedom of transit. In any case, it is the U.S. Navy, and not the Law of the Sea Treaty, that will ultimately guarantee U.S. interests.

As for the seabed provision, State Department negotiator Wesley Scholz claims that "we have been successful in fixing all the major problems raised by the Reagan administration. We have converted the seabed part of the agreement into a market-based regime."

Well, not quite. Administration officials have turned a disastrous accord into merely a bad one.

Overall, the International Seabed Authority remains an unnecessary bureaucratic boondoggle, likely to end up as enervating, expensive and politicized as the U.N. The Treaty retains both the ISA and the Enterprise, an international version of the state enterprises that have failed so miserably all over the world. The governing process is almost comically complicated, with an Assembly, Council, and such subsidiary bodies as a Finance Committee and a Legal and Technical Commission, all of which have their own arcane rules for membership and voting. For each site they wish to mine, private companies are still required to survey and provide, gratis, a separate site for the Enterprise. Antimonopoly and density provisions would continue to threaten U.S. firms disproportionately.

Companies would still owe a $250,000 application fee and some as-yet-undetermined level of royalties and profit-sharing. (The "system of payments," intones the compromise text, shall be "fair both to the contractor and to the Authority," whatever that means.) Any surplus funds would still be distributed "taking into particular consideration the interests and needs of the developing States and the peoples who have not attained full independence or other self-governing status," like the PLO.

Even some of the changes look inadequate. Under the revised treaty, the U.S. would be guaranteed a seat on the Council, but no veto. Rather, the Council would consist of four chambers, any one of which could block action if a majority of its members voted no. On matters of vital interest, the U.S. probably could round up the necessary two extra votes within its chamber, but over time the career foreign service officers likely to staff most nations' ISA delegations, including that of the U.S., might grow uncomfortable being known as obstructionists.

Moreover, developing states and the land-based mineral producers—whose interests are antagonistic to the very idea of seabed mining—are to have their own chambers, and thus de facto vetoes over the ISA's operations. They may therefore be able to extract some potentially expensive concessions, like new limits on production, before allowing the ISA to function.

Funding remains a problem as well, despite America's seat on the Finance Committee. The U.S., naturally, would be expected to provide the largest share of the ISA's budget, 25% to start. How much would that be? Years ago the U.N. estimated that the ISA could cost between $41 million and $53 million annually, on top of initial building costs of $104 million and $225 million. The administration contends that the new agreement provides for "reducing the size and costs of the regime's institutions"—by the adoption of a paragraph pledging that "all organs and subsidiary bodies to be established under the Convention and this Agreement shall be cost-effective." Like the U.N. itself?

Finally, the mandatory technology transfer requirement has been discarded, a major advance, only to be replaced by a provision requiring sponsoring states to facilitate the acquisition of mining technology if the Enterprise or Third World nations "are unable to obtain" equipment commercially. Could the ISA then hold the industrialized countries, as well as private miners, responsible for subsidizing the Enterprise's acquisition of technology? Provisions like this are potential time bombs.

'A VERY IMPORTANT DEVELOPMENT'

The revised Law of the Sea Treaty "is a very important development for the United State because it gives us an opportunity to, in a market-oriented context, gain the benefits of some of the resources of the Law of the Sea," explained Mr. Christopher to Congress in June.

If only that were true. In fact, consumers worldwide are far more likely to gain the benefits of those minerals without the treaty. Created at a time when redistributionist economics held sway internationally, the treaty is beyond fixing. With the administration nevertheless committed to signing the record, it is up to the Senate to consign it to the ash heap (or ocean floor) of history—where it belongs.

WELCOMING PRESIDENT LEVON TER-PETROSSIAN OF ARMENIA TO THE UNITED STATES

Mr. PRESSLER. Mr. President, I rise today to welcome President Levon Ter-Petrossian of Armenia to the United States. I feel greatly honored, as I am sure my colleagues do, that we had the opportunity to meet with President Ter-Petrossian and discuss the current status of Armenia-United States relations.

Since his election in October 1991, the first democratic presidential election in the Republic of Armenia, President Ter-Petrossian has worked to establish friendly and close diplomatic and economic ties with many other countries. His success in diplomacy can be proved by the fact that more than 120 countries, including the United States, have formally recognized Armenia, and over 70 have established diplomatic relations with Armenia. In fact, an Armenian Embassy already has opened here in Washington, DC.

Furthermore, it is to the credit of President Ter-Petrossian that through the efforts of his administration, Armenia has become an active participant in global issues and concerns and has become a member of prominent international organizations. Some of those organizations include the United Nations, the Commonwealth of Independent States, the Conference on Security and Cooperation in Europe, the World Bank, and the International Monetary Fund.

President Ter-Petrossian is an extremely well-educated individual with a clearly defined sense of purpose, even though he faced strong opposition from outside during the pre-independence days of Armenia. After he led the Armenian Legislature to unanimously adopt its Declaration of Independence, the United States was one of the first nations to recognize Armenia's Independence. Consequently, good ties with the United States are a top priority on Armenia's foreign policy agenda. Much progress has been made on that front. Bilateral agreements have been signed—strengthening relations between our two countries.

On August 9, 1994, President Ter-Petrossian and President Clinton met for the first time. Such a meeting holds great significance, because it emphasizes President Ter-Petrossian's commitment to promoting greater understanding and cooperation between the world's leading democracy and Armenia, one of the newest democracies. Once again, I would like to extend a most vigorous welcome to President Ter-Petrossian as he continues to meet with various U.S. officials. I offer my best wishes for the continued success in Armenia's transition to a market-oriented, democratic state.

Mr. LOTT. I ask unanimous consent to proceed for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I might say to the Senator we are in morning business and he has up to 15 minutes now.

Mrs. BOXER. Will the Senator yield for a question on time?

Mr. LOTT. Madam President, I would be delighted to yield to the Senator from California.

Mrs. BOXER. I would ask the distinguished majority whip if he can tell me how much time is set aside for morning business?

Mr. FORD. It is indefinite until we bring up the bill.

How much time would the distinguished Senator from California need?

Mrs. BOXER. I request 15 minutes.

Mr. LOTT. Madam President, I yield to the Senator from Kentucky for another question.

Mr. FORD. I apologize. With the yielding of the Senator from Mississippi, I ask unanimous consent the Senator from Mississippi have 15 minutes, and following the distinguished Senator, the Senator from California have 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Mississippi is recognized for 15 minutes.

THE HEALTH CARE BILL

Mr. LOTT. Madam President, since we have had questions about the time, that is one of the reasons I rise this afternoon, to protest the fact that we are now back in morning business. It is 4:30 on Friday afternoon. We have not had, that I know of, any time allocated today at all for debate or discussion on health care. Yet we are hearing in the news media there are going to be amendments on the health care bill today or tomorrow.

I know there are many Senators who have yet to have an opportunity to utter the first word on the so-called Clinton-Mitchell health package, so I do not understand why we are not continuing debate on that very important issue. The American people think we are involved in a heated debate now on health care reform, yet I do not think anything has been said on the floor of the U.S. Senate this whole day on health care. We have been on other issues. Not that they are unimportant, but certainly health care is supposed to be the issue of the day.

I also thought we had some sort of time agreement that would take 90 minutes, I think it was, on the issue that is just being debated. I had been waiting for that to be completed so we could go to the health care debate—so we could have a vote and then go to the health care debate. Now we are told there will be no vote—we may have a vote at 6:20 on Friday night and we may then, or may not, go back to health care at 6:30 or 7 or 7:30 tonight.

I do not know, it does not seem to me this is a good way to run a train. If we are serious about finding out what is in the Clinton-Mitchell package, it seems to me we ought to be looking into it, discussing it, asking questions about it, having an opportunity to engage each other in debate, and at some point even have amendments. But we are not doing that.

I do not know what happened. I guess we are trying to accommodate some Senators who are somewhere in this town, maybe at the White House, or maybe in Minnesota. I do not know where they are. But I know this. It looks to me like once again, for the sake of a few or one—I do not know—that the other 99 are being asked to stand around and wait until 6:20 on Friday night. So I object to the way this is being done. I am prepared to stay tonight, but I would like at least to know what the schedule is going to be, and I object to the fact we are not even taking up the important issues of the day: Health care.

I am ready to go when my opportunity comes. I have been waiting for 3 days to have an opportunity to get engaged in a debate. I believe only eight Republican Senators have been able to speak on health care.

Madam President, I am running out of appropriate ties and shirts to be able to make my presentation on health care. Let us get on with it, or let us do the wise thing—like the House of Representatives—go home and think about this issue, learn what is really involved. Maybe we would finally get a bill we might have to vote on.

I understand now we are looking at the third version of the Clinton-Mitchell bill. Every time I think I have a grip on it, it changes on me. So I just hope the American people are looking at this, and watching it. And they have to be wondering what in the world is going on.

THE CRIME BILL

Mr. LOTT. Madam President, I wanted to speak at this time to go back and correct the record a little bit on the crime issue. I was very proud of the Senate last year—last year, I believe it was in late November or December—we debated at great length a true crime package. We had a lot of amendments that were offered—some were rejected, many were accepted. We voted on it, and it passed. It passed overwhelmingly. I voted for it, even though it had some things I did not like in it and even though I would have liked to have had some strong language on limiting the ridiculous number of appeals of sentences, improving habeas corpus—it still was a pretty good package.

Included in that package was some language that I offered called the three-strikes-and-you're-out amendment. I offered that amendment last year before it was made popular by a lot of other folks. But that is unimportant. The important thing is to get the job done.

Now the President goes on the stump and he refers to this thing that came out of conference—which is truly a very questionable bill in terms of fighting criminals—and one of the things he points out is it has the "three strikes and you're out" in it. Take a look at it. It is not the same language we passed in the Senate. The language we passed in the Senate was a lot tougher. What we wound up with is language that might affect 1 percent of the violent felons in the Federal system—maybe 100 felons.

What happened in conference is they neutered the strength of the "three strikes and you're out." That is what happened to the whole package.

I do not understand why the Senate conferees did not stand and fight for the Senate-passed bill that really was tough on criminals. It really did have enough money in there for prisons. It did have money in there for policemen on the streets. And it was not just another pork barrel bill.

Then it came out of the House—in several pieces, I might add—and all of a sudden it got to be a social welfare package. It grew. The President, I think, maybe originally asked for less than $20 billion; the Senate passed something around $20 billion; the House passed something like $28 billion, and it came out of conference higher than any of the other bills. What it is, is $33 billion. So at every stop it picked up money. Yet the true crime fighting packages at every stop were reduced. So we took money from prisons and we put it over in so-called prevention.

I urge my colleagues, look at what is really in that so-called prevention. What are these items? Would the mayors like to have it? Great. Sure they would like to have it. Would the cities and towns like to have $40 million for midnight basketball? Sure. I think it is a great idea. But how much does it cost to go down to the local gym, flip on the lights, and here is a ball: Play ball. We are going to pay $40 million for that? And that is just one example.

So in the conference they reduced the amount of money for prisons. They increased overall money, but they reduced the amount of money for prisons. They increased the amount of money for so-called prevention. And they turned this into a bill that was more about pork than prisons, more about so-called prevention instead of policemen.

It is a very different bill. And, oh, yes, the assault weapons language that we passed in the Senate—and, Madam President, you were very actively involved in that and did an excellent job—it was in there. A lot of us voted for it anyway.

Remember that—a lot of people seem to forget that—we thought fighting crime was very important and this bill was going to do something. I thought in the conference they would make some improvements in this language; that this would not just be a gun control bill with a lot of pork in it; it would really fight crime. And it does not do any of those.

This bill was destroyed in conference again. It happened 2 years ago in 1992. We had an extended debate on the floor, we thought it was a good bill, it went to conference, came back, and the House conferees prevailed. The House is much, much more liberal on this issue than the Senate. I believe the record shows that.

Some of the House people voted against it because it added some additional death penalty sentences for certain crimes. It would have more death penalties, up to 60, so people voted against it because of that. I bet you the American people think that improved the bill. But you had House Members voting against the rule because it was tougher on allowing the death penalty.

This argument that the President makes about parliamentary trickery, procedural trick. I served in the House for 16 years. Everybody over there—Conservative, Liberal, Republican, Democrat, Westerner or Southerner—we have all used the rules and the procedure. The key vote in 1981 on the budget resolution that actually cut some spending for a change was a vote on the rule. That is what won the whole debate. I was there when it happened. We wound up having six votes on the budget, but after the first vote on the rule, it was all said and done; it was going to be passed.

So this is nothing new. And for somebody to allege the Republicans did it, the Republicans cannot do anything in the House without a lot of Democratic votes—58; 58 Democrats, including people like Lee Hamilton of Indiana, not exactly your run-of-the-mill right-wing Member of the House, a very thoughtful guy who said, "Look, the funding is very spongy."

The truth of the matter is, it "ain't" going to be paid for. Because of this bill at that level, it will be added to the deficit. You have some line items in there, little projects for various House Members. This is a bad bill. It ought to be sent back to conference and changed significantly.

I urge my colleagues in the Senate who have been conferees, I urge the President, let us all cool the rhetoric, let us cut the amount of spending in the bill, let us knock out some of the unnecessary pork spending that is in the bill, and let us make sure it is paid for and then we can have a real crime-fighting package.

Madam President, I am sure my time is about to expire. I just wanted to reflect a little bit on the actual history of this legislation because there has been a lot of rewriting of what happened. I think we should work together. We should try to get a strong crime bill, but it ought to be closer to the Senate bill instead of the House bill, one that is tough on crime and not one that is just tough on the budget and the American taxpayers.

I yield the floor at this time, Madam President.

Mr. FORD. Madam President, will the distinguished Senator yield? I ask unanimous consent that the Senator from Nebraska [Mr. EXON] have 15 minutes following the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized for 15 minutes.

CRIME

Mrs. BOXER. Madam President, I thank the majority whip. I want to talk a little bit about the setback that occurred in the House of Representatives on the crime bill, a bill that you and I care deeply about for our State, Madam President, a bill that we each worked very hard on. You worked hard on the assault weapons ban. I worked on the Violence Against Women's Act and the Driver's Privacy Protection Act. Clearly, we both feel very strongly about this bill.

For 2 years now, since I got elected to the Senate, I have had the chance to meet with people from all over the great State of California. Every chance they get they send me a message. They tell me to do something to stop the wave of violence that is crashing over our communities, our schools and our streets. They tell me this because they understand that no child should have to choose between their safety and their education, and yet a lot of our children are afraid to go to school. A lot of our young parents are afraid to send them there.

When I was a kid growing up a long time ago, my parents worried about my crossing the street. They said make sure you look both ways, be very careful, pay attention. Today our parents worry about whether their children will make it home in one piece. They worry that their children are going to get shot by a stray gang bullet or someone driving by in a car.

No woman should have to look fear in the face every time she walks into a parking lot at night, and let me tell you, we feel that fear. We feel that fear. Sometimes I say to my male colleagues and my friends and to my son and to my husband, "Do you feel that same fear women feel?" And they say, "Well, not really, not quite as much."

Tragically, the women in this country have to be ever mindful, wherever we are, that someone could attack us, could hurt us, could brutalize us. Every 6 minutes in America a woman gets raped, and every 15 seconds a woman gets beaten. This is wrong.

No police officer should be outgunned by a thug wielding a military-style assault weapon. And no American, no matter how they live or where they live, should be prisoners in their homes. The people want tough laws to lock up violent offenders. We put that in the crime bill. It survived in the crime bill.

The half-truths you hear around here are unbelievable. Let me read you about what emerged from conference on the three strikes and you are out:

Requires life imprisonment for those convicted for the third time of crimes of violence or drug trafficking.

Yes, it is true that they added a proviso that someone who is 70 years old or older who is determined to be no longer dangerous could get out after serving 30 years, but they have to have been deemed safe; they have to have served for 30 years, and they have to be over 70 years of age.

Madam President, I held a series of violence summits all over the State of California. Do you know who were the strongest voices for programs like midnight basketball? Do you know who were the strongest voices for programs like Boys Clubs and Girls Clubs to help our children turn away from crime? Do you know who the strongest voices were? It stunned me. They were not the teachers. They were not the social workers. They were not the elected officials. They were the police officers. The police officers said, "Senator, by the time those kids come to us, it is too late. Yes, we should lock them up when they do things that are bad, and we know you are for that, but you have to help us in the early stages to give these kids something to say yes to."

I was so surprised. When I had my first meeting in the northern part of the State, I thought, well, maybe this is the thinking in the northern part of the State. Then I went into the central valley, the farmland area, and it was the same thing. And I went down south, the same thing. The police officers are asking us to invest in the broad spectrum of crime fighting tools—in prevention, enforcement, in drug interdiction, and in new prisons. And that is what we did in this bill.

What really amazes me is that people stand up on the Senate floor and say this bill is loaded with pork. They did not think it was pork on that side of the aisle when they fought for more prison money. And I voted with them for prison money because I believe we need to get the hardened criminals locked up. They never said it was pork to put 100,000 police officers on the street. They didn't say that because they know and I know that is what the people want. And that is what this bill is about.

When they talk about pork, they always mention midnight basketball and girls clubs and boys clubs. They call it pork. I call it smart.

And then they say the bill is terrible because it lets drug offenders out on the streets. Well, we need to get to the truth of that. We are faced with a problem because we need prison space for hardened, violent criminals. We are desperate to lock these people up, absolutely; three strikes and you are out. You stay in jail. We all supported that.

We need prison space. We are building prisons. But we also need the space now. So what we say in this bill is if there is a first-time nonviolent drug offender, the judge has the option to waive the minimum mandatory sentence but the person has to serve a minimum of 2 years.

The American people, in my opinion, want us to pass this crime bill because this crime bill is tough and it is smart.

How do we fund it? We cut down the bureaucracy. We cut jobs in the Federal Government. And we have set up a trust fund. And when Senator BYRD brought that plan to the floor, everyone—Republicans and Democrats—praised Senator BYRD for it.

Well, unfortunately, yesterday marked a victory for the special interests and the guardians of gridlock. It was a sad day for the House of Representatives, in which I served for 10 years, and even a sadder day for the American people.

Yesterday, those who want to see our President fail joined up with the gun extremists to halt the wheels of progress and break our promise to the American people. But I say the issues are on our side, and those who stand in the way of this bill I think will begin to feel the pressure, because the people want what is in this bill. They want 100,000 new police on the streets. They want $1 billion in funding to help States fight drugs. They want tough new penalties like three strikes and you are out to get violent offenders off our streets. They want to extend the death penalty to cover approximately 60 offenses. They want money for prisons and boot camps so we can lock up our most violent felons and steer our young people along the right track. They want drug court programs to get offenders off drugs and out of the criminal justice system.

And, Madam President, they want the Violence Against Women Act, of which I am so proud to be an author. Violence against women has reached epidemic proportions. We address it in a big way in this bill. Do you know we have more animal shelters than we have shelters for battered women and their children?

This bill changes that. This bill is a necessity. The ban on assault weapons, Madam President, is crucial, and I am sure that you will have more to say on that subject.

I think that those who are trying to bring gridlock back are distorting what has happened over in the House. Some have said that it was the Democrats who brought down this bill, but I want to give you the numbers because they are very clear. An overwhelming number of Democrats voted for that rule, and an overwhelming number of Republicans voted against that rule—198 Democrats voted for the rule, and 11 Republicans; 167 Republicans voted against a crime bill, and 58 Democrats joined them.

When you have 198 Democrats who support getting this crime bill to the floor and only 11 Republicans, I think it is pretty clear.

So, Madam President, as I wind up my remarks, I have an appeal to make to the American people.

When we ask the American people what they worry about, they are very clear in their response. Crime is about the number one issue. Health care is very close behind. And I say to the American people, you watch these proceedings. You listen. You make your own judgment. Who is willing to step up to the plate to face these long-neglected issues, to try to solve them, and who plays the part of Dr. No? No, we cannot have this crime bill because I do not like one of the thousands of things in it. No, we cannot have the health bill because I do not like 3 of the 2,000 things in it.

The bottom line is we are a legislative body. There is give and take in this legislative body, Madam President. We fashioned a crime bill that is very wise. Prevention, punishment, and enforcement all go hand in hand. We need to go back and make sure that the House of Representatives brings out that rule and we have an opportunity to make good on the promises we made to the American people.

I thank the Chair, and I thank the majority whip for his generosity. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Kentucky is recognized.

Mr. FORD. Will the Senator from Nebraska yield me just 1 minute so I might ask unanimous consent?

Mr. EXON. I yield.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT—MESSAGE FROM THE HOUSE

Mr. FORD. I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4554.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That Senate amendment No. 83 to the bill H.R. 4554 making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill with the Senate amendments thereto be respectfully returned to the Senate with a message communicating this resolution.

Mr. FORD. Madam President, I ask unanimous consent the Chair lay before the Senate a message on H.R. 4554, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for fiscal year 1995, which was returned to the Senate by the House; that Senate amendment 83 be modified with the amendment I now send to the desk; that the Senate insist on its amendments, request a new conference with the House, and that those Senators currently serving as conferees on this bill be reappointed.

The PRESIDING OFFICER. Without objection, the amendment will be modified.

The amendment is as follows:

In lieu of Senate amendment No. 83, insert the following: "On page 70 of the bill insert the following after line 6: *Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be preemptorily removed without a hearing from his or her position because of remarks made during personal time regarding Departmental policies or proposed policies.*"

Mr. FORD. I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 15 minutes.

HEALTH CARE REFORM

Mr. EXON. I thank the Chair very much. I thank my colleague from the State of Kentucky.

Madam President, I am about to make some remarks with regard to health care. I apologize to the Senate and the television cameras that I do not have any charts. It seems to me that we are going down the course where without a chart you cannot hardly discuss anything in the Senate anymore. But I hope that my words will be descriptive enough, possibly different enough from some of the other debate that we have had on the health care issue.

Madam President, I come here with rancor to none, with accusations against none, with an understanding of the passion that grips Americans and Nebraskans on the health care issue, and with an understanding of the strongly held views of my colleagues of all persuasions.

I suggest that a little peacemaking might be in order. I am one of those Senators who rejected early on the President's health care plan, but I am genuinely undecided on all of the proposals now before the Senate. All of them have some pluses and some minuses, and would need substantive amendment before I could support anyone.

In my 24 years of public service, I have never seen my constituents so divided and concerned. They, like those of us here representing them, have been so bombarded by conflicting and competing claims, charges, and countercharges that they are understandably leery of the outcome. So am I. Thus far most of the debate has created lots of political heat, but not a lot of health care light.

But out of all of this chaos and confusion might come the courage to lay partisanship aside, quell our rhetoric, harness our individual determinations that we know best, and come forth with a health care plan that will have some sense of broad-based support.

True, we have generally good health care for most Americans, based primarily on employer based insurance plans. Why then some ask, are we trying to destroy it? We are not! We are trying to make it more affordable for all and provide a means toward a reasonable degree of coverage for all.

We are trying to recognize that neither the Government, nor business, nor individuals can possibly afford the spiraling costs of health care we have experienced in the last 20 years. We must control costs and the costs of any plan we approve.

It is clear that we can never begin to get our Government fiscal house in order and stop deficit spending unless we harness health care spending. If we cannot understand that, we cannot understand anything. We cannot turn the clock back to the days of yesteryear. We do not want to. We would not be satisfied with the lesser quality health care of those days. We must salute and thank the health care delivery system and its dedicated professionals for the greatest half-century in advancement of health care in the history of mankind.

But that does not mean we can or should give them the green light or a blank check from individuals, business or the Government to continue the dizzying pace of the cost spiral. What quality of life is it that finds us scrambling to find the money to pay for care that still leaves us always behind the curve?

From the very beginning of the serious considerations for addressing this truly national issue, I pleaded and argued against the various socializing schemes and a government run system. I insisted on keeping the insurance policy concept as the centerpiece. I am pleased to note that essentially those two principles are the key ingredients in all of the plans.

But key insurance reform is essential as is a better understanding of who is taking advantage of whom under the present system that cries out for correction. There are many Americans who seem to believe that we should let well enough alone. That this is not a legitimate national issue. That is nonsense in my view. Social security, almost universally endorsed as a sound and fair concept, paid for half by the individual and half by the employer, is a national program that would not be in place were it not for the actions of the Federal Government. If social security is good, what is so bad about health security?

Many do not seem to realize that they are paying dearly now for the uninsured, for whatever reason, by clandestine "cost shifting," and higher taxes. Unless corrected, it is going to get much worse in the future.

Let me be clear. There is a tremendous cost to doing nothing and allowing the status quo to prevail. And that cost goes beyond the individual family hardships that exist today for those who need health care coverage and cannot get it.

There is a collective cost to all taxpaying Americans as well. In 1970, the combined cost of Medicare and Medicaid together was $9 billion. By 1990, that cost rose to $137 billion. By the year 2000, if we continue on our current course, that cost will rise to $458 billion. This is staggering. And this, more than any other part of the Federal budget, will drive us deeper into the despair of red ink and add to the already crushing burden of debt we are piling on to our children and grandchildren. This "cost shifting" must stop, too.

I am not sure who has the right bill or solution. I wish that I could be as self-confident and certain as some of my colleagues are of their solutions.

I call and plead for all sides to cease and desist from tearing apart and questioning the motives of others. Throughout all of the plans there appears to be many underlying and fundamental agreements. Why do we not start talking together and in a less accusatory fashion? In my view there are some good concepts in the Dole plan, the Chafee plan, the Moyhihan plan, and the Mitchell plan. There may be others.

In the end I am fearful that on the present course we will preach gridlock. That will be the likely outcome after all of the shouting, the litmus test votes and all the political posturing.

My suggestion is to proceed as quickly as possible to a workable solution through a process that I suggested personally to the President some time ago.

It embodies a process we have employed successfully previously.

The record shows that when we were faced with a serious issue like the solvency of the Social System we went to the summit. I cite that, and I also cite the summit that we went to at Andrews Air Force Base to try to solve the budget crisis. I cite only these two summits of recent vintage that rescued the solvency of Social Security, and the Andrews summit on the budget problems that were partially solved there.

The process is not complicated. The President summons the elected leadership of the House and Senate, on a bipartisan basis, to come together with him out of the spotlight in an attempt to reach a compromise. If it can be worked out, fine. If not, the gridlock is so declared and we dismiss the issue for this session. Any agreement, of course, would have to be brought back, explained and debated in the Congress and voted on.

It should be clear to all that unless something of this nature can be tried we are not likely to succeed, but rather be further bogged down in endless and relentless debate and recriminations.

Let us reject needless discontent. Let us try to agree on a measure that would have a chance to succeed and bring the country together. Let us quit dividing. Let us seek to be positive and meet in serious, attempted compromise on this important issue.

In closing, I suggest, Mr. President, that we silence the cannons, sheath the political knives, and count the blessings for Americans of today and tomorrow. I think all of us would be proud to some day look back and say: I was a part of the beginning of the process that brought the elimination of the fear of all Americans, young and old alike, to be without adequate health care. Mr. President, I think God would also be proud of us.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

HEALTH SECURITY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 2351, the health care reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 2560

(Purpose: To provide for a substitute amendment)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 2560.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. I ask unanimous consent that there be printed in the RECORD a statement of changes from the prior proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHANGES FROM AUGUST 9 MITCHELL HEALTH PROPOSAL

Subtitle B of Title II. This provision makes the labor protections under the Home and Community Based Care program conform with labor protections affecting all dislocated workers resulting from enactment of this legislation. From the August 9 document, conforming changes have been made on page 367, line 14; on page 588, lines 14 through page 590, line 13; on page 591, line 13; on page 591; on page 679, strike line 14 and all that follows through line 19 on page 684; on page 691, after line 10, insert new subsection.

Part 3 of Subtitle E of Title III. This part—Payments to Hospitals Serving Vulnerable Populations—has been deleted, as it was replaced by Part 3 of Subtitle B of Title IV in the previous document.

Title VII. Section 7132. The self-employment income provision in the original bill (from the Finance Committee bill) modifies the self-employment tax base of S corporation shareholders and limited partners who own at least a 2 percent interest and provide significant services to service related businesses. In this amendment, the provision is modified to provide that all two-percent owners who provide significant services to S corporations and limited partnerships will include as net earnings from self-employment the lesser of their net share of the income from the trade or business or 30 percent of their Social Security wage base ($18,200).

Subtitle A of Title VIII. The authorization of funds for the Indian Health Service (included in the original bill) was inadvertently omitted from the August 9 document. The original language has been restored. The provision relating to the direct spending allotment for IHS, which was in Title VIII of the August 9 document, has been returned to Subtitle H of Title III, as it was in the original bill.

Title XI. Throughout Title XI, the word "sequester" has been replaced by the word "reductions."

Mr. DOLE. Mr. President, I ask for the yeas and nays on amendment No. 2560.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader earlier today, and just a short time ago, the process for determining the schedule for dealing with this bill over the next 2 days, and beyond. I indicated to him that we had several amendments ready for consideration and will be prepared to proceed with an amendment to be offered by Senator DODD first.

I invited the distinguished Republican leader to have an alternate procedure, where Republican amendments could be considered as well. He indicated that they do not have any at this time. Therefore, we will proceed with Senator DODD's amendment, and following that, we will be prepared to proceed with other amendments, which I have identified to Senator DOLE.

Therefore, if agreeable, Senator DODD is now prepared to offer his amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, the majority leader is correct. We did have a discussion earlier today and one a few moments ago. Following the earlier discussion, we had a meeting in my office with some of the Republican colleagues, particularly Senator PACKWOOD, who will be directing the effort on this side of the aisle. At this time, we do not have any amendments.

As I indicated to the majority leader earlier today, we have a number of Members who wish to make statements, who have not made those statements. As the majority leader said, and I have said many times, obviously, if Members are here with something to say and they are not repeating it every half-hour or every hour, the same Senators, I hope they will have that opportunity. Of course, once the amendment is offered, I assume they can speak to the amendment or the bill generally. But we are prepared to proceed on that basis.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I thank my colleague for his comments. As I indicated, I advised Senator DOLE earlier today of the amendments we were considering and sent a copy of the amendment to his office this afternoon so that they would have prior notice of the amendment before being offered. We would be prepared to proceed on that. What I hope is that Senator DOLE and I can have a discussion sometime in the near future to determine how our colleagues want to proceed with respect to that amendment itself. We will have further amendments, as well.

Following those discussions, I expect to make a decision, following consultation with Senator DOLE and the managers of the bill, with respect to the schedule for this evening and for tomorrow.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. DODD] is recognized.

AMENDMENT NO. 2561

(Purpose: To promote early and effective health care services for pregnant women and children)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Mr. RIEGLE, Mrs. MURRAY, Mr. SIMON, Mrs. BOXER, Mr.

WOFFORD, and Mr. LEVIN, proposes an amendment numbered 2561.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 1201, insert the following new subsection:

(d) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only issue or renew a health plan in a State if such plan covers clinical preventive services according to a periodicity schedule established under paragraph (3), including prenatal care, well baby care, and immunizations, for pregnant women and children without imposing cost-sharing requirements on such services.

(2) INTERIM STANDARDS APPLICATION PERIOD.—The interim standards application period is on or after July 1, 1995, and before January 1, 1997.

(3) PERIODICITY SCHEDULE.—

(A) IN GENERAL.—Not later than July 1, 1995, the Secretary shall establish a schedule of periodicity that reflects the general, appropriate frequency with which clinical preventive services should be provided routinely to children. In establishing the schedule under the preceding sentence the Secretary shall consult with the American Academy of Pediatrics regarding children's preventive care.

(B) EFFECTIVENESS.—The schedule established by the Secretary under subparagraph (A) shall be effective until the Board develops a periodicity schedule under section 1213(a)(2).

(4) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(e) shall apply to this subsection.

Mr. DODD. Mr. President, I offer this amendment that deals, I say to my colleagues, primarily with the issue of children, an issue on which I hope there is unanimity of thought here. We are talking about some 12 million young Americans who are without any health insurance today. They make up some 36 percent of the uninsured population of this country, even though they represent a little more than 25 percent of the entire population of the United States.

There is a disproportionate representation of children among the uninsured in this country. While there will be, I am confident, significant debate, Mr. President, about various aspects of the bill being proposed by the majority leader, on the issue of mandates, and on the question of cost containment, and whether or not benefit packages ought to be larger or smaller; and I presume we will go through that process over the next several days, and possibly weeks.

But I would hope, Mr. President, that on the issue of one constituency, we will all try to come together to do what we can to increase the possibility of the most helpless in our society from being covered—that is, America's children.

As I said, there are some 12 million of them, Mr. President. Today, they are not getting the kind of proper protection they should have. I point out as well, Mr. President, that a significant number of this 12 million are the children of working families. These are not children whose parents are living on public assistance, or depending upon someone else for their survival for maintenance on a daily basis. Rather, these are children whose parents go out every single day and try and hold down jobs and provide for their families through hard work and labor.

These children, through no fault of their own, and through no fault of their parents, find themselves exposed not only to the dangers of the diseases that can afflict a child at the earliest stages of life, but also to those diseases and problems that go unattended and can cost significant dollars in later years. I will demonstrate very shortly, Mr. President, exactly how that happens.

So, while there is a small cost involved in prevention and prenatal care and in providing for the well child, we now know statistically, that children that get the kind of immunizations early on, women who are pregnant who get care during pregnancy, not only save that child and save that family from the tremendous pain and suffering that can accompany an illness, but for those who are not affected by that particular argument, if they are only concerned about the costs, if you can catch a problem early, or stop one from happening, then there are literally thousands and thousands of dollars to be saved for the American taxpayers, and to others who end up picking up the costs in many cases because the children and families do not have adequate coverage.

So this amendment, which I will explain, is very simple. It is one that can be endorsed and supported across the board. I am particularly pleased that this is the very first amendment to be considered by this body on the issue of health care.

We are not talking about some arcane issue, some formula that no one could possibly understand. We are not talking about some narrow constituency.

We are talking about a group of people in this country that I believe all Americans, regardless of party, regardless of ideology, regardless of political persuasion, want us to do our best to see that they are covered and helped.

For that reason, Mr. President, I offer this amendment as the very first amendment to be considered in the national health care reform debate.

Mr. President, the issue of children is one that we have debated and discussed. In fact, it is with some degree of irony that the last bill that was considered prior to returning to the health care bill was a child nutrition bill. I listened to many of the arguments and debating points raised here. Again there was virtual support and unanimity about WIC Programs and seeing to it that our children are well served.

I see the presence of my good friend, the minority leader, on the floor. Very few people, I would say, fought as hard for food programs, for food stamps, than the Senator from Kansas throughout his career.

Again, I point this out because the issues involving young people, by and large, enjoy broad-based support. When we talk about health care, we talk about the uninsured; we talk about trying to reach all Americans. While it may be difficult to get everybody, because of the problems associated with cost and a variety of other questions, I would hope that we could at least reach these children. While adults and others may be hard to deal with, children ought to be one population that we can serve.

We all lose, obviously, when the worker or the person of tomorrow is crippled for life by untreated illness. That occurs today. We all lose when a completely preventable disease—let me emphasize that it is a completely preventable disease—like measles ripple through the child population. We all lose when parents cannot change jobs for fear of losing coverage for their children.

The failings of our current health system are magnified when we look at how it treats our youngest citizens. Children are overrepresented among the uninsured. I made that point a moment ago. They represent some 36 percent of the uninsured population. Of that 37 million or 40 million people that are uninsured in America today, 36 percent are children.

Children are overrepresented among the uninsured, and our lack of emphasis on preventative care hurts children more than any other age groups. Americans under the age of 21 comprise a little over 25 percent of the total population of our Nation, but 36 percent of the uninsured are children.

There are 12 million Americans under 21 without health coverage. There are 9.5 million children under the age of 18 without health insurance. And I point out on a parochial basis 44,000 of this population of uninsured live in my home State of Connecticut.

Mr. President, the United States ranks 21st out of 23 industrialized nations in the world in terms of infant mortality. I get chilled when I just state that statistic. Let me repeat it. Out of 23 industrialized nations in the world, the United States ranks 21st in infant mortality. We beat only Portugal and Greece. They are 22nd and 23rd. Our infant mortality in the United States of America in 1994 is 30 percent higher than Germany, 35 percent higher than our neighbor to the north, Canada, and twice as high as our chief economic competitor in the world, Japan.

This, Mr. President, is a middle-class issue, in my view. In fact, nearly 58 percent of uninsured children are dependents of parents with full-time, full-year jobs. These are children from hardworking families who want nothing more than to provide the basics for their kids; food to eat, a roof over their heads, and a visit to the doctor when they get sick or need a checkup.

This problem, Mr. President, is embodied in the case of young Chelsea Tourigny of Norwich, CT, the town of my family in Connecticut. Chelsea's mother wrote about her problem.

Chelsea suffers from a rare blood disorder that causes frequent bruising and occasionally uncontrolled bleeding. Chelsea's father died in 1989. But his health insurance was through Electric Boat Division. My colleagues are more than familiar with that company because of the debates we have had about submarines in this body from time to time. I know they have heard me talk about Electric Boat with some frequency. This is not an obscure corporation in Connecticut. Electric Boat, the father's employer, continued for 3 years after his death the health care coverage for Chelsea's treatment, a pretty generous program that the Electric Boat Division of General Dynamics provides its employees.

But then, Mr. President, as happens, the policy expired. Companies cannot continue to maintain benefits in perpetuity. The fact that they did it for 3 years after the employee's death, I think was rather good.

Chelsea's mother was able to purchase health insurance for herself, for her son, but no health insurance company—no company —would take young Chelsea. She had a preexisting condition and was on her own.

This is a family that works, a family that contributed to the economic wellbeing of the country. In fact, I add in this particular case contributed to the security of the country since her father worked for a major defense contractor. They did everything right, played by the rules. A child incurred an illness through no fault of the parents. They had done nothing wrong. They worked hard, contributed to their community and their society. Yet, when her father died and they lost their company provided benefits 3 years later, the mother went out and tried to find some coverage for her family.

They will take her. They will take the son. But Chelsea falls through the cracks.

Mr. President, the point I made earlier that is illustrated by this case is that the overwhelming majority of the uninsured children in this country have parents who work full-time, full-year jobs.

As to welfare children, if you are a welfare child in America, you do not get counted in this number because under Medicaid you get covered. So children of welfare parents do not have this worry. This is an issue that affects the children of working, middle-class Americans. That is why it is important that we consider it and do everything we can for them.

The Tourignys, as I point out, are not poor. They are middle-class citizens, who do not qualify for public assistance, and, I suspect, would not ask for it. As Barbara Tourigny said, "You've got to lose everything in order to get health coverage. I am not destitute enough yet," she said. But she will be if she cannot buy health care for her daughter, or has to sell the home, or incur significant financial obligations for her.

Unfortunately, Mr. President, Chelsea is not alone. More and more children are joining them. The number of children in this country covered by employment-related insurance is dropping. It fell from 64.1 percent in 1987 to 59.6 percent in 1992. Let me repeat that; in 1987, 64.1 percent of the population was covered. Now it is dropping to 59.6 percent. All the trend lines are working in the wrong direction. If these trends continue nearly half of all American children will not be covered by job-related insurance by the year 2000.

The majority leader's plan, with its promise of greatly expanded coverage for all Americans, will bring health care to millions of children who now go without it. And I think everybody, everybody in this Chamber ought to get behind that idea. Whatever other differences we may have, that issue and that constituency ought to unite all of us.

In addition, the Mitchell health care proposal recognizes how important preventative care is. This amendment that I have offered seeks to build on what he has done in this area.

I finally believe, Mr. President, that this is a moral issue, it is an economic issue, and it is inexcusable for us to allow millions of our children to go without the medical care that they need. But this is also, as I said a moment ago, an economic issue.

According to the Institute of Medicine, every dollar that we spend on immunizing children will save $10 in long-term health care costs. To look at this issue through an economic prism, one need only look at the managed care companies operating today. All health maintenance organizations—some of the most prominent ones, I might point out, are operated or based in my home State of Connecticut. These HMO's all readily cover preventive services like immunizations and well-child checkups. Most HMO's have outreach programs to educate patients and encourage them to take advantage of immunizations and other preventive services.

A Rand study found that children in HMO's receive preventive care at least 40 percent more often than children in traditional insurance plans. They also have a 50 percent higher rate of overall medical visits.

HMO's, Mr. President, do these things because they know it makes business sense to do so. HMO's know that providing preventive services and encouraging patients to use them are investments that in the long run will reduce illness and, very important to them, reduce and cut costs.

In crafting his bill, Mr. President, the majority leader recognized the compelling moral and economic reasons for providing preventive services for children. Under his plan all health insurance policies will cover children's preventive services, like shots and checkups, in 1997.

This amendment that I offer this afternoon, Mr. President, would move that date up to July 1995. A year and a half may not sound like much I suppose in legislative time—less than one Congress, one might point out—or in economic terms, I suppose. But it can represent an entire lifetime for a young infant and the family.

Those first 18 months of life are critical. Health problems that go undetected then can cause problems for decades, if not a lifetime.

Mr. President, I say that we should make sure that insurance policies cover these critical services sooner, far sooner, rather than later. I see no reason to wait until 1997 to detect and prevent diseases in our children. I see no reason to wait until 1997 to begin reaping the savings preventive care can deliver.

This amendment would also direct the Secretary of Health and Human Services to establish an interim schedule of childhood preventive services. That schedule would be enforced until the National Health Benefits Board, created by this legislation, developed its own permanent schedule.

That is needed, Mr. President, because the date by which the board must define the benefits package does not kick in until July of 1995. So you have to have HHS come up with some rules ahead of time in order to make this work.

Again, I suppose some might say, what is a year and a half? But, again, Mr. President, if you are a young family out there, particularly working families that want to see their children receive the kind of benefits and help they need, this becomes important.

Mr. President, I want to particularly point out, because sometimes we say a dollar here, a dollar there, but I think it may be worthwhile for my colleagues to just get some sense of what happens just in the area of low-birthweight babies, which is a common problem, unfortunately, in this country.

Over 90 percent of infants born to mothers who did not see a health care provider during pregnancy—this is the March of Dimes study of 1994, so I presume it was the year before or 1992—

these babies, we are told, are three times more likely to be born low-birthweight than those mothers who receive timely prenatal care.

Close to 40,000 infants die each year—and again I repeat the statistic, Mr. President, that we rank 21st in the world among industrialized nations in infant mortality.

The costs for doing this preventive care, what does it mean? The average cost of care for low-birthweight infants ranges from $14,000 to $50,000, with costs increasing as the birthweight decreases. The source for this information is the Annie C. Casey Foundation Kids Count Data Book. In 1994, the costs for treating just those low-birthweight children born to adolescent mothers was approximately $1.2 billion in 1989.

That is a number that ought to get somebody's attention around here. Just in the low-birthweight category, $1.2 billion—$1.2 billion—in health care costs because of low-birthweight children.

That is a problem that could get solved if we would reach these children of these working families earlier and provide the kind of prenatal services and the kind of care they can get. We are not going to save every nickel of this, but just think if we could cut into these numbers and help these children get a start in life with a good average birthweight, instead of going to have to go through the trauma these families do. We must remember the staggering costs associated with just one problem, just the problem of low-birthweight children.

The cost we have from the National Adolescent Health Information Center is $1.23 billion. It costs $20,000, on average, to provide initial hospital care for a low-birthweight infant and $400,000 in lifetime medical costs. That is from the Department of Health and Human Services Public Health Service, 1990. I might point out that in 1990 we were under the Bush administration, so these are their numbers.

We are talking here, as I say, about an amendment that merely moves the date when health insurance plans will include preventive care for children up 18 months.

Most of us here, I think, understand and accept the notion that some major parts of the health care bill will have to be phased in over time. But, again, as I said at the outset, I hope with this one constituency of children, that we might do a little better by speeding up the process, saving lives and supporting families that are feeling tremendous pressure. I think it is so important to make that point.

And let me just go to this chart.

Mrs. BOXER. Will the Senator yield for a question before he presents his chart?

Mr. DODD. I am glad to yield.

Mrs. BOXER. I want to say to the Senator, to me, as a mom, as someone who is very anxious to get into this health care debate, I am very pleased that this is the first amendment. I want to thank the Senator for that.

I wondered, does the Senator have a list of the countries that do better than we do in terms of infant mortality? Would the Senator be willing to read that out loud? Because I think it is important that our colleagues on the Republican side and the Democratic side listen to the countries that do better than the United States of America when it comes to infant mortality.

And while the Senator's staff may be trying to get that, I wanted to point out to the Senator, when I was in the House, I was chair of the health task force of the Budget Committee. And in San Diego we learned of a child who got the measles because the child did not get a vaccine, which, at that time, would have cost $14, and it wound up costing the city and county of San Diego $800,000.

So I think what the Senator from Connecticut is pointing out is that here we have morality meeting economic sense. I hope that all of our colleagues on both side of the aisle will make that connection. This is the right thing to do and it is the smart thing to do.

I hope the Senator will find the list and let us hear those countries that do better than we do on infant mortality.

Mr. DODD. I thank my colleague from California. We will try to get that list for you.

I have made note that we are 21st among industrialized nations. Portugal and Greece are the two that come after us at 22 and 23. Actually, Canada does much better than we do.

Here is the list. Here is the United States right here at 22d. That is where we rank in infant mortality.

Japan ranks No. 1 with the lowest infant mortality rates.

Ireland—I am proud to say Ireland comes in No. 2.

I say to the distinguished Senators from New York and Massachusetts, you will be pleased to know that Ireland is No. 2 in infant mortality.

Finland, Singapore, Hong Kong, Sweden, The Netherlands, Norway, Denmark, Canada, Germany, Switzerland, Australia, United Kingdom, France, Austria, South Korea, Greece, Spain, Italy, New Zealand all do better than the United States in infant mortality.

We rightfully take so much pride in this country in things that we do well. We lead the world in so many areas. I think everybody would like to see the United States do far better in the area of infant mortality than we do today so we could take pride in this area, too.

Mr. DOLE. Will the Senator yield?

Mr. DODD. I am glad to yield.

Mr. DOLE. I think the Senator makes a good point.

But I would also point out that a lot of these countries do not have the drug culture we have, they do not have AIDS babies, crack babies, babies having babies. There are a lot of reasons. If you look down some of those countries, they have not been infested like we have with some of these problems. That makes a difference. It does not lessen the problem.

But I think we have some basic problems we need to face up to that may or may not deal with this particular amendment that gets back to families and values and things of that sort.

Mr. DODD. I thank my colleague from Kansas.

It is correct that we do have a diverse population, and that is worth noting.

The bottom line, I suppose, at the end of the day is, we are still ranked 22d in this area.

We are not exclusive or alone in some of these areas. There are a number of countries in Europe and elsewhere that suffer from many of the same problems.

But, nonetheless, I think, as we are looking at the health care bill, the fact that children are about 36 percent of the uninsured in the United States America is a staggeringly high statistic. And, it is something we can and should do something about.

I might further point out regarding a couple of the problems my colleague and friend from Kansas mentioned, the drug problem and the like, we unfortunately did not get a rule passed last night in the other body on the crime bill. A lot of that crime bill—a good part of it—some of it was to deal with prevention and deal with issues that might be of some assistance in the problem areas we needed to face. At any rate, those are the countries, I say to my colleague from California, that do a better job than we do.

Let me point out with this chart, if I may, the statistic I pointed out earlier, because I think this needs to be emphasized. I think there is a great misunderstanding about who we are talking about in this population of uninsured. This amendment focuses on children, and I think it is important not only to point out the majority of these children are within working families, but also where trend lines are going. The basic point of this chart is that 64 percent of the children uninsured were within working families. And the number now, of those who are covered, is dropping to 60 percent. Families with one or more full-time workers have roughly the same numbers: 64 percent down to 60 percent. So we are seeing the problem getting worse. I think it is critically important to point out the direction we are going in this area.

The last chart I will put up, if we have it here, is the one that points out the poorest Americans. Again, there may be some truth to what my colleague from Kansas has said that it is because of myriad problems we face in this country. But I think something of a source of shame is, of all the industrialized nations, the United States has the unique distinction of having, as the poorest sector of its population, its children. In most countries, it is the older population. They are on fixed incomes, struggling to make ends meet. The United States is the only country that has kids as the poorest part of the population.

I think we all know and appreciate how important it is going to be for this next generation of children to be the best educated, best prepared generation that this country has ever produced. We are not going to reach those goals if they start out in life at the earliest days, even before birth, not getting the kind of treatment and care and nurturing that is necessary for them to succeed.

We know now, as a result of the Carnegie Foundation study, General Accounting Office reports, Head Start reviews, and so forth, the children that get adequate nutrition, the children who start out right and get the help and support in the earliest days of their lives, are less likely to have the learning problems. A child that is well fed, that is healthy, learns at a far better rate and retains knowledge at a much higher rate than children who are not.

That is not some theory I am espousing here. That is just a fact. So when we talk about "these kids," these kids become parents pretty soon. They raise children. If this trend continues, then these numbers begin to explode. So the importance of focusing on 12 million—again, I cite we are talking about 37 million to 40 million uninsured in the country; 12 million of that number are children. Hence, the reason I think it so important that this amendment that is focused on children be a critical part of the majority leader's proposal to deal with national health care reform. If we do not focus on these kids and get them started early, then, as I pointed out earlier, we pay an awful price financially as well.

So I am very hopeful this amendment will be adopted. I am pleased to have as my cosponsor my colleague from Michigan, Senator RIEGLE, who has done terrific work, I point out, on the Finance Committee during the consideration of the health reform package in that committee, and my colleague from Massachusetts, as well as my colleague from Illinois, Senator SIMON, and others who are cosponsoring this amendment.

I hope we can have a good debate and discussion and bipartisan support as we begin the process of fashioning a health care reform package.

I will just end on this note, Mr. President, and yield the floor to others to comment on this. We have now started the debate and the process of dealing with this bill. My hope is we will find some common ground for children.

It is quite clear the American public would like us to come up with a sound, intelligent, well thought out health care reform package. The majority leader has put forward a bill that I think deserves support. He is the first to admit it is not perfect. People have other ideas. But let us get to it. Let us drop the labels. Let us not sit back, as we too often do, and engage in the partisan politics that have caused this institution to grind to a halt.

We have a chance now, in these next few weeks here, to do something that seven Presidents and six decades of effort in previous Congresses have failed to accomplish. This is the first time we have had a health care bill on the floor of this body. We have an opportunity to make a difference, and my hope is we will do that.

Mr. RIEGLE. Will the Senator yield for a moment?

Mr. DODD. I yield to my colleague from Michigan.

Mr. RIEGLE. Mr. President, I appreciate my colleague yielding. I thank him for his leadership on this amendment and also, over the years, on issues related to children.

I want to say to the Senator, these children we are talking about are in working families across America. They have no health insurance now. You know, they are not Republican children or Democratic children. They are America's children. They need this coverage; they need this preventive care so they have a chance to grow up and be well, healthy, and strong so they will be able to move into the work force at some time and form families of their own. They are our Nation's future. What happens to our children and our country is really the story of the future.

I appreciate the point, as well, that Senator DOLE made a minute ago about some of the special problems that we have in our country with drugs and teenage unwed mothers, and things of that kind. But by the same token, if you look at these other nations, they have some of those problems, too; but these nations that are doing better than we are with their children are far poorer nations. In other words, they have less to work with and are still managing, somehow, to see to it that their children have a full chance in life.

All of us here, one way or another, have experienced situations—either personally or within our families—where a medical situation can strike, and it can come without any warning. Certainly I think if we could ward something off, if we can prevent a child from having to go through a terrible trauma of some kind of health crisis that might take their life or impair them for life—why would we not want to do that? Is that not one of the reasons we formed ourselves as a Nation, to look after our own well-being as a people, and especially our children?

Whatever else we do not do on health care—I hope we can do it all, or do as much as we can—the kids of the country who are uninsured and are underinsured cannot fend for themselves. They need our help. We owe that to them. We want them to love this country and understand the country matters. We want them to be devoted to the country. But I think we have to show a certain measure of love and devotion to them. It is a reciprocal arrangement. If we are going to expect people to feel as if they are part of America and the country matters, we have to show they matter to the country. They are important to us. We want to help them.

We hear a lot of citations around here, religious citations of one kind or another. But from the teachings that I got from the earliest age in the church I was taken to by my parents, I think I remember as vividly as anything the notion in the Bible of the teachings that Jesus said: Let the little children come unto me.

Mr. MOYNIHAN. "Suffer."

Mr. RIEGLE. "Suffer the little children to come unto me."

Regardless of one's religious practice, I think because of the universal humanity and decency that is so manifest and powerful, that is one thing we can do in this country—care for our children.

I thank the Senator for yielding.

Mr. PACKWOOD. Mr. President, parliamentary inquiry. Do I understand when we yield, we are supposed to be yielding for questions, not yielding the floor for purposes of statements?

Mr. MOYNIHAN. Will the Senator from Connecticut yield for a question?

The PRESIDING OFFICER. The Chair will enforce the rules of debate.

Mr. MOYNIHAN. Is the Senator aware——

The PRESIDING OFFICER. The Senator from Connecticut still has the floor.

Mr. DODD. I was yielding, for a question, to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Is the Senator aware, as I am sure he is, that in the underlying measure here, the bill reported by the Committee on Finance, there is a provision that the subsidies for health insurance will be available to all children under 21, and all pregnant women—an extraordinarily universal proposition—and that this measure was offered to the committee bill by the distinguished Senator from Michigan, who forbears to identify himself with the measure? But it should be acknowledged that it is his—and, indeed, ours.

The Senator brings forward now essentially those provisions, for which I am, for one, very grateful; and the Senator is aware of its "paternity"?

Mr. DODD. Mr. President, I mentioned a moment ago—in fact the Senator from Michigan had authored a very significant provision within the Finance Committee bill's package that relates to this issue very specifically—the Senator from New York is absolutely correct—and enjoyed, I gather, pretty broad-based support.

Again, I make the point, I think these issues are ones that ought to bind us together. I thought, Mr. President, because there has been so much animosity as part of the debate that we might begin considering this bill on an issue that ought to bind us together a bit. I have listened over the last several days to one set of accusations being fired back and forth here. Here is a group of people we all care about in this country and something we can do something about.

So while there are those who want to just make a good political issue out of this question, I think people sent us here to try and get something done, and clearly health care is an area they want us to work on.

Rather than get into this business of back and forth, here is an area we can work together on. If we cannot work together on this, then I do not hold out much hope of working on anything. If 12 million kids in this country, many of whom are children of working families, if we cannot do a better job for them in all of this, then I do not know what we can do well.

Looking down the States—and I mentioned the number generally—the State of Texas, 23 percent of the children uninsured in that State; 22 percent in New Mexico; Arkansas, 19 percent; California, 17 percent; Louisiana, 19 percent.

I am going to ask unanimous consent to print this list in the RECORD, because my colleagues may be interested in how their States come out in this area.

Mr. President, we all need to do work in this area, to do a better job to see to it these kids are getting the kind of coverage they ought to have. I am sure everybody has gotten letters, gotten calls from families within our States citing one example after another, whether because of a preexisting condition or whatever.

I have a telephone number in my office that is very similar to the Capitol number. I am not going to give out my office number because I can imagine what would occur if I did, but that number, CA4-3121, is very similar. So I answered the phone and just this afternoon have taken a bunch of calls.

The last call I received, I will say to my colleague from New York, is a constituent of yours. She works at Bloomingdale's in New York City and called to express her deep concern. She has two daughters, one 24, one 29. One is married, both have jobs, neither have health insurance today, and she is worried about them. She has health coverage at Bloomingdale's where she is working, but she is concerned with the Macy's acquisition, and so forth, and that she may lose it. But she is worried about her two adult daughters.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. DODD. I will be glad to.

Mr. MOYNIHAN. Is he aware—I am sure he is—that he is describing working families?

Mr. DODD. Absolutely.

Mr. MOYNIHAN. The indigent, dependent families of the country have Government health insurance in the form of Medicaid. It is those who are working who do not, and it is an irrational arrangement and this would respond to it.

Mr. DODD. My colleague is absolutely correct. I make this point——

The PRESIDING OFFICER. If the Senator will withhold for a moment. The Chair reminds Senators they may ask the Senator from Connecticut questions.

Mr. DODD. Mr. President, I am responding to the question of the Senator from New York, and I appreciate him raising the question. I think it needs to be emphasized, and that is, 82 percent of the uninsured population in this country are working people, out every day, holding down jobs, trying to keep their families together.

As I said a moment ago, it is a great irony in a sense. If you are incarcerated and watching this debate somewhere in America and you get sick, you get health care. Imagine that. Or if you are on welfare in the United States somewhere, you get health care. If you are a part of the Federal employment force or one of us here, you have health care. The people who are out working are not watching this program because they have a job, they cannot watch this program, they are out there without health care coverage. We have to do more for working families in this country. Working people——

Mr. GREGG. Will the Senator yield for a question?

Mr. DODD. Let me complete the thought. I will be glad to yield. These are working people. We take care of the incarcerated, the welfare recipients and take care of Federal employees. And yet if you are out working, avoiding those situations, we do not do a very good job. Eighty-two percent of the uninsured in this country are working, and 12 million of that population are kids and a significant percentage of them are children of working families.

We ought to be able to do better in a great country like this and a strong Nation. We lag behind. And the Senator from Michigan pointed out correctly. We have great wealth. The nations that are ahead of us, with the exception of Japan, I suppose, have far less resources than we do. If they can do a better job in infant mortality, I would like to think my country can. I think being a patriot in this country means a lot of things, not the least of which is that we take care of working people and their children on something as basic as health. That is not a privilege, that is a right: Basic health care. That ought to be something that joins all of us together.

Mr. GREGG. Will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for the purpose of a question.

Mr. GREGG. The Senator made an eloquent statement.

Mr. DODD. I have to take a question.

Mr. GREGG. This will be a question, I assure you. I duly noted the Chair's admonitions. Actually, I wanted to ask a question earlier and you were into your speech, so I could not get in there. But the Senator from New York raised the issue of the underlying bill, which is the Finance bill. And now we have the Mitchell bill, which has just, as I understand, been delivered to the desk, which is the third configuration of that bill.

What I am trying to figure out is how they work relative to the people that you are concerned about, especially children and pregnant women. I read the CBO language on how this works relative to children and women. I note that they say:

> The system of subsidies for families which would also change significantly raises concerns about affordability and equity. The special subsidies for low-income children and pregnant women would be dropped, making health insurance more expensive for low-income families without an employer contribution, even though they would now be required to purchase coverage.

What they are talking about here is a State that has been a mandated State under the plan. That, of course, is under the Mitchell plan as it was originally presented in the bill 3 days ago and has been amended. Maybe the plan has been amended again under this proposal. I was wondering if you could explain to me, because I am trying to understand this, how, if you are in a mandated State versus an unmandated State under the Mitchell plan, this subsidy works in relationship to what the CBO is saying here, which is that it does not work? The CBO is essentially saying, to quote again:

> The special subsidies for low-income children—

Who I think are the people you are targeting—

> and pregnant women would be dropped.

I am just trying to get a sense of how the Mitchell bill works.

Mr. DODD. You are asking how the Mitchell bill works. We can have a good debate over the next several days.

I should have pointed out earlier what the Senator from Michigan, Senator RIEGLE, has done in the Finance Committee bill in the area of principally subsidies. We are dealing with benefits, rather than subsidies. They complement each other.

So for purposes of clarity, that is a slight distinction here. What we are doing is saying—and I pointed this out earlier—that the guidelines in this area will have to be developed by the Health and Human Services administration because the effective date of this amendment would actually occur prior to the time that the board is established that would set the benefits within this category. So that board would then make the suggestions in this area.

As for the issue of a mandated State, or a State that is not—staff provided me a response to your question. The subsidies of pregnant women and children are used in the voluntary situation until the year 2000 to get us to 95 percent. It would continue beyond that.

So I guess the question of if you did not meet that 95 percent number, then by the year 2000—that would continue beyond that particular period of time as well in a State that was under the mandate.

Mr. GREGG. Will the Senator yield for a further question? I understand the point you are making is to basically energize the activity of the bill relative to the manner in which payment is applied at an earlier date. It is all tied into the issue of subsidy.

Under this bill, as I understand it from the CBO report and from the small amount I have been able to read of the prior bills, there are approximately 100 to 120 million people who receive subsidies, with those subsidies being fairly significantly targeted on the group that you are concerned about, children. But the mandated language in this bill that creates a mandated State versus an unmandated State has created a situation where CBO says that because of the disruption, complication, and inequities that would result, CBO does not believe it would be feasible to implement the mandated system in some States but not in others and the system would have to include either all States or no States.

I guess what I am getting to——

Mr. DODD. If I could respond to the Senator——

Mr. GREGG. How is your system going to improve the situation if CBO is saying that the underlying bill is going to undermine the situation?

Mr. DODD. Let me respond to my friend and neighbor from New England in this way. This amendment does basically one thing, and that is accelerate the benefits to pregnant women and infant children by a space of a year and a half. That is what it is designed to do, to speed up the delivery of those particular benefits for children.

The issue of the mandates is a very legitimate question. I presume we are going to spend some time discussing that issue. But it does not pertain to my amendment.

Mr. GREGG. If the Senator will yield further, it does because the CBO language—that is the group they are talking about—they are saying special subsidies for low-income pregnant women would be dropped and essentially would not work.

So I guess my concern is that even though you may accelerate these benefits, that the underlying bill undermines these benefits, and because of its complexity in the manner in which it has required different States—as I understand it, the complexity occurs when different States do not reach 95 percent.

I guess all I am trying to get is an explanation, and what the Senator is saying is, well, this is not the proper time to explain it because it does not apply to this language. I guess my concern is that this is an integrated effort here. We are dealing with a system that is a matrix of a lot of different—a very heavily woven matrix, and when you pull on one end, as you are here, I presume you affect the other end of the bill. And one of the other ends of the bill is in language which they say does not work.

I am just trying to get an explanation of how it works.

Mr. DODD. Mr. President, I think I heard a question at the end of that; the intonation of the voice rose to a question.

I just say once again that the issue of whether States trigger in, in the year 2000, based on the 95 percent coverage rule has nothing to do with my amendment. My amendment places a condition on private insurance plans. What I am talking about is the acceleration of the benefit so that children would be able to receive that benefit at an earlier date. And the question of the state mandate in the year 2000 is irrelevant.

Mr. LOTT. Will the Senator yield on that point?

Mr. DODD. I think the Senator from West Virginia wanted to ask me to yield to him.

I will be glad to yield.

I would point out, I presume he has a question which he would like to raise.

Mr. LOTT. Is he yielding for a question?

Mr. DODD. He is yielding for a question.

Mr. ROCKEFELLER. I thank the Senator from Connecticut for his courtesy.

I wish to point out, before I begin what is a defense of this current amendment, that the Senator from New York, the chairman of the Finance Committee, has been on this whole subject for three decades or more. And I keep thinking of the time back in 1965 when he wrote a book which was criticized by many, but which was absolutely accurate, and which is even more accurate today because it predicted what was true at the time, and predicted what would happen, and what would happen has happened. And this amendment gets to a number of those matters.

I think this is a first-class amendment because I think it puts children first. I think it is going to make a real difference in people's lives.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator will remember that the Senator holding the floor can yield only for a question.

Mr. ROCKEFELLER. Then, in that case, I would ask of the Senator from Connecticut, I would simply stipulate that I would like to make a statement in defense of the amendment.

Mr. COATS. Does the Senator yield the floor?

Mr. DODD. I yielded for a question, and if my colleague has a question——

Mr. ROCKEFELLER. I do not have a question. I have a statement.

Several Senators addressed the Chair.

Mr. LEAHY. May we have order.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. I thank the Chair.

Mr. COATS. Would my friend yield to me for a true question?

Mr. DODD. In a minute. Let me see if we cannot move along a little bit. I do not intend to hold the floor. I offered the amendment. I would hope we would have discussion of the amendment. If people have questions about it, so be it. A lot of people want to talk on this amendment so, Mr. President, at this point I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. COATS. Mr. President, parliamentary inquiry.

Mr. KENNEDY. I thank the Chair——

Mr. COATS. Parliamentary inquiry.

Mr. MOYNIHAN. Mr. President, may we have order.

Mr. KENNEDY. For the opportunity to speak on this amendment generally. May we have order, Mr. President. I do not yield to the Senator.

Mr. COATS. I did not ask the Senator to yield.

Mr. KENNEDY. I have been recognized.

Mr. COATS. I am asking for a parliamentary inquiry.

The PRESIDING OFFICER. The Senate will come to order.

Mr. KENNEDY. I do not yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. COATS. Parliamentary inquiry, Mr. President.

Mr. KENNEDY. I do not yield to the Senator and ask for the regular order.

Mr. COATS. I did not ask the Senator to yield.

Mr. KENNEDY. I ask for the regular order.

Mr. COATS. I am not asking the Senator to yield.

Mr. KENNEDY. The regular order is the Senator from Massachusetts is recognized, and I intend to proceed under the time honored code of this institution and not to be interrupted at this time.

Mr. DODD. Does the Senator have the right to make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Indiana——

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. If the Senator from Massachusetts will withhold for just a moment, I want to remind Senators, the Senator from Indiana must have the floor in order to make a parliamentary inquiry, and the Senator from Massachusetts has the floor.

Mr. KENNEDY. Thank you, Mr. President.

Generally, in the institution, we permit those who are the principal sponsors, or the principal cosponsors of the amendment at least a brief opportunity to indicate why they are supporting the amendment. The Senator from Connecticut has been the primary sponsor of this amendment, and the Senator from Michigan, Senator RIEGLE, who had been a primary sponsor of a similar amendment in the Finance Committee. I see our friend and colleague from West Virginia, who is chairman of the children's commission, who did so much work for the children; Senator MURRAY, and others who wanted to speak on it.

But I hope, at least as one of those who supports the amendment, I will be allotted time to make a very brief comment. I see others here. And I know there has been set a time for a vote to happen.

I will just take one aspect of the reason for the support of this amendment, because the Senator from Connecticut has outlined the case extremely well.

I think everyone in this body understands that parents are the first responsibility for their children. All of us understand that that is a given. All of us understand that the most important opportunities for children to develop are in a home in which there is going to be nurturing, caring, loving, and affection, and where there is going to be the opportunity to receive health care. We understand that great African adage that it takes a village to bring up a child. It takes loving parents; it takes loving members of a family; it takes those members within a community. And we understand that.

But we also take note of what has happened in our society over the period of recent times, and the pressures which children, particularly, are under. And the Senator has reviewed that in very great detail.

I will just mention very briefly what has happened between 1980 and 1990 in terms of the change in the number of poor infants and toddlers by State according to the GAO: In Arizona, the total numbers have increased by 90 percent; in the State of California, 49 percent; in Colorado, 57 percent; in the State of Florida, 47 percent; in Wyoming, 69 percent; in Texas, 60 percent—percentage increase in numbers of those children that are living in poverty in this country from 1980 to 1990. This is not something of a few statistics.

This is a real human tragedy. And the interesting irony is if you look through the GAO study, the one State which has had the most dramatic reduction is where? Good old Hawaii—the only State that has shared benefits, that has a requirement that employers are going to provide for their employees and have the kind of preventive programs that are included in this Dodd amendment.

Mr. President, I find that I am somewhat amazed by the characterizations of the bill as an employer mandate, particularly with regard to this amendment. Whether you are for an employer mandate or against, this amendment does not include them. No employer is required to offer coverage. No employer is required to contribute to coverage. All this amendment says is that insurers must start including preventive services for children and pregnant women in any policy they sell.

The Mitchell bill provides for a standard, comprehensive benefit package to be offered by all Americans. This is not a radical approach. Twenty-one States already mandate coverage of well-child care. Many insurance policies are already voluntarily included, the FEHB plan offered by Blue Cross, which most of us have, includes it as well.

So this is not a radical program. We know there are a list of various studies that have indicated why this is necessary. I would just mention one, and then I will yield because I see others who desire the floor.

That is the excellent study that was developed by Dr. Hamberger, a former president of the Insurance Institute of Medicine, one of the most distinguished health philosophers, I think, head of the Carnegie Commission. His view of what was happening to children was not really directed to the numbers of children that were in poverty, teenage pregnancies, the numbers of children that were dropouts in terms of schools. He did the health analysis, benefiting from the studies that have been done on the development of the brain and what happens to these children in the earliest of years from 0 to 3 without having adequate nutrition, without having adequate nurturing, without having adequate caring.

He did this excellent study, which the Members of this body should be concerned with, and the Carnegie Commission talked about the impact that it has on children in terms of their life's experience. He talks about what it means in terms of costs, and we are going to hear, What is the cost of this? What is the cost of that? He does that in terms of showing why this is sound. But he talks about what it means in terms of the real possibilities of these children in their lives and their future and how they are going to socialize with their neighbors and with the members of their families.

No one can read, no one can pay attention to that Carnegie Commission report, which really is an indictment of our society for failing to understand the real challenge that this Nation faces in caring for its children.

This Dodd amendment addresses in an important way, perhaps not as much as any of us would, a strong downpayment, advancing the time of coverage over the Mitchell bill, advancing it to demonstrate that we in this Congress say that children should no longer be left out and left behind.

It is a compelling amendment. I am so glad at least, I say to my good friend and colleague from New York, that finally we are talking about health care in this body, that finally we are talking about dealing with something that really makes a difference for peoples' families. And Members here are on their feet ready to speak and ready to debate this issue. I hope that we will be able to get to an early resolution of an amendment which reaches to the heart and soul of what this debate is all about; that is, whether we are going to care about the needs of our children as much as we are going to care for the special interests.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, we have a filibuster going on here this afternoon. At least it appears that way. We have those who offer amendments, and they have dominated the floor. At this point, if we are not going to start this debate, we are not going to make any agreements anymore. We should have had the bill read. It is 1,400 and some pages.

But I understood, in visiting with the majority leader, that there would be some give and take. We have not had any opportunity. We have numbers of Members who are on the floor. It has taken since 5 o'clock to have amendments offered and farm it over to everybody on that side. It is probably by design. Maybe they have been losing the debate. Maybe they think they can bring up a couple of amendments and talk about the children, or talk about the disabled. Maybe that will somehow change the tide of American public opinion. It is not going to happen.

We want to find out how it is paid for. Nobody opposes helping children, or pregnant women, or the disabled. Somebody is going to pay higher premiums. We ought to find that out. If we ever get to ask the question, we will find out some of these things.

Even more importantly, we have only had on this side about 6 hours to speak on a bill that is going to affect everyone in America. If this is how we are going to conduct the business, then we will have to revise what we have in mind. If we are going to have a balance in time, OK. But if the Democrats are going to decide they will speak a certain time, and that we can have whatever is left, then it is not going to work.

So I just suggest to my colleagues that we came on this floor in good faith today. We agreed to the majority leader's unanimous consent request. We did not have to. We could have had the bill read.

Then we have this kind of display, which I think is unfair and unseemly when we are talking about health care. We want to talk about health care on this side of the aisle, too. We have as much right to talk about health care. We are going to take every right to talk about health care. We want the American people to know what is in this bill.

Somebody ought to explain the bill before we start offering amendments.

I would suggest the absence of a quorum. We will have a vote at 6:20. Then we will determine after that vote how we are going to play this game.

I suggest the absence of a quorum.

Mr. MITCHELL. Mr. President, would the Senator withhold it for a moment to permit me to make a few comments?

Mr. DOLE. Sure.

Mr. MITCHELL. Mr. President, the previous days of debate were conducted in a manner in which the time was equally divided. Indeed, on one occasion the Democratic manager yielded time to a Republican colleague to give him additional time to finish his remarks.

We have now been on this amendment for about an hour, and I can assure the Senator and all of our colleagues that there was no design or intent or plan to foreclose our Republican colleagues from speaking. We recognize that every Senator has the opportunity, the right, to be heard, and that clearly will be the case here.

Second, with respect to the agreement to permit the bill to come up by unanimous consent today, as the distinguished Republican leader knows, that was agreed to by him and me on Tuesday of this week as part of a broader discussion involving the days of debate only, leading up to until now.

I indicated at that time that I would withhold filing a motion to invoke cloture on the motion to proceed if we had an assurance that we would be able to go to the legislation, and that if we did not receive that assurance—for which I am grateful to the distinguished Republican leader. We have proceeded as we did agree. We have no intention of foreclosing anyone from speaking. And there will be ample opportunity. As I said, only about 1 hour has transpired on this amendment.

I have seen many, many occasions when the introductory statements with respect to amendments by the cosponsors have vastly exceeded 1 hour.

So I do not think any implication can or should be drawn from the fact that just about an hour having elapsed it has all been by the sponsors of the legislation. That is, I think, a rather common occurrence in the Senate.

I really want to say that it is our desire and intention that everyone have full opportunity, that there is no—the Senator suggested or asked whether it was by intention or design. That is not the case. I do not think there has been any such action on our part. So everybody will have full opportunity, and we want everyone to be heard on any aspect of the amendment or the bill.

It is my hope that we can proceed to a vote on the amendment after there has been ample opportunity for consideration and debate on that. Of course, Senators are free to debate other issues during the same time as well as the amendment.

But I do want to make that comment in response to the Senator.

Mr. DOLE. I thank the majority leader. We have tried to sort this thing out. But I must say, and maybe I have not been here long enough to understand what I am talking about, about what is going on over there. Or maybe I have been here too long and I understand what I thought was going on. There is not any doubt in my mind about what is happening; any doubt in the mind of the people who are participating. They did not offer the amendment and sit down. They offered the amendment and farmed it out to the floor.

I assume the inference must be the Democrats love children and we do not like children, so we should not be entitled to speak; or that the Democrats are concerned about pregnant women and the Republicans are not, so we should not be allowed to speak on things like that. So we should not be allowed to speak on things like that. That is not the case, and we are not going to be denied the opportunity to present our case. As I have said to the majority leader, this is an important issue. We have a lot of statements to make. Our people are concerned in our States. We want to know what all these things are going to cost. How much is the bill going to cost. It is going to cost the State of Wisconsin about $900 million over the next few years. We would like to find out some of these facts before we start offering anything. There may not be any problem with the amendment. This moves up the date a year and a half, but somebody has to pay for it. Subsidies do not kick in and——

Mr. DODD. Will my colleague yield?

Mr. DOLE. I would, but it is time to vote and we would not want to miss the vote.

Mr. DODD. I ask unanimous consent to speak for another minute.

Several Senators objected.

The PRESIDING OFFICER. Objection is heard.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT

The PRESIDING OFFICER. The hour of 6:20 having arrived, under the previous order, the Senate will continue with the consideration of S. 1614.

The bill will be stated.

The legislative clerk read as follows:

A bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 2559

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2559 offered by the Senator from Kentucky [Mr. McCONNELL].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Arizona [Mr. McCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—36

Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kassebaum
Kempthorne
Lott
Lugar
Mack
McConnell
Nickles
Packwood
Pressler
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—59

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham

Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NOT VOTING—5

Domenici
McCain
Murkowski
Roth
Simpson

So the amendment (No. 2559) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, S. 1614 is returned to the calendar.

HEALTH SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT UNDER SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, on behalf of the Committee on the Budget, under section 27 of the concurrent resolution on the budget, House Concurrent Resolution 218, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and revised aggregates in connection with the Mitchell amendment to S. 2351, the Health Security Act.

Section 27 of the budget resolution states, in relevant part:

SEC. 27. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.

(a) * * *

(2) BUDGET AUTHORITY AND OUTLAY ALLOCATIONS AND REVENUE AGGREGATES.—In the Senate, budget authority and outlays may be allocated to a committee (or committees) and the revenue aggregates may be reduced (as provided under subsection (c)) for direct-spending or receipts legislation in furtherance of any of the purposes described in subsection (b)(2) within that committee's jurisdiction, if, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

* * * * *

(b) * * *

(2) PURPOSES UNDER SUBSECTION (a)(2).—Budget authority and outlay allocations may be revised or the revenue floor reduced under subsection (a)(2) for—

* * * * *

(B) to make continuing improvements in ongoing health care programs, to provide for comprehensive health care reform, to control health care costs, or to accomplish other health care reforms;

* * * * *

(c) REVISED ALLOCATIONS AND AGGREGATES.—

(1) UPON REPORTING.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on that legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates to carry out this section.

(2) ADJUSTMENTS FOR AMENDMENTS.—If the chairman of the Committee on the Budget submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (b)(2)(B), upon the offering of an amendment to that legislation that would necessitate such a submission, the chairman shall submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates, if the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

(d) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates submitted under subsection (c) shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this concurrent resolution on the budget.

On August 9, 1994, I submitted an adjustment under this section for S. 2351, the Health Security Act. Within the meaning of section 27(c)(2) of the budget resolution, the Health Security Act constitutes "legislation in furtherance of the purpose described in subsection (b)(2)(B)."

The Mitchell amendment to the Health Security Act also meets the other requirement of section 27(c)(2) of the budget resolution that:

* * * the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—

(A) fiscal year 1995; or

(B) the period of fiscal years 1995 through 1999.

As the Mitchell amendment to the Health Security Act complies with the conditions set forth in the budget resolution, under the authority of section 27(c)(2) of the budget resolution, I hereby submit to the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised aggregates to carry out this subsection.

Note that, as this reserve fund submission accommodates an amendment, it covers the time that the amendment is either pending or adopted (if the amendment is adopted). If the Senate rejects the amendment, this reserve fund submission shall lapse, and the allocations and aggregates shall revert to the levels they would have in the absence of this reserve fund submission.

I ask unanimous consent that the reserve fund table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RESERVE FUND FILING PURSUANT TO SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1995

[Adjustments to aggregates and allocations; $ billions]

Reserve fund filing for	The Mitchell substitute				
	1995	1996	1997	1998	1999
Aggregate totals:					
Budget authority	−2,400	−4.900	10.900	24.200	32.500
Outlays	−2.400	−4.900	10.900	24.200	32.500
Revenues	−2.400	−4.900	10.900	24.200	32.500

Finance committee allocations	1995	1995–99
Budget authority	−2,400	60.300
Outlays	−2.400	60.300
Revenue	−2.400	60.300

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I seek recognition on this amendment.

I would like to begin by yielding for a question to the Senator from Connecticut about his amendment.

I yield to the Senator from Indiana, Senator COATS.

Mr. COATS. If I could just get the attention of the Senator from Connecticut.

Mr. DODD. If the Senator will withhold. It is a little difficult.

The PRESIDING OFFICER. Is there objection to the Senator from Indiana directing a question to the Senator from Connecticut?

Without objection, it is so ordered.

Mr. LOTT. I do not believe I have to ask for unanimous consent. I had the floor and I yielded to the Senator from Indiana for a question.

The PRESIDING OFFICER. The Senator from Indiana may ask a question of the Senator from Mississippi under the regular order.

Mr. MOYNIHAN. Mr. President, we must have order at the moment.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DODD. Mr. President, if the Senator will yield, I will be glad to respond to a question.

Mr. LOTT. If the Senator will address the question to me, I will yield to the Senator from Connecticut to respond.

Mr. COATS. I would like to ask the Senator from Mississippi if he will ask the Senator from Connecticut a question.

I have been trying to get an answer here now for nearly 45 minutes and I apologize for not knowing the procedure to do that.

One of the problems that we have on this side is trying to analyze the bill, because the underlying bill keeps changing. So in order to respond to amendments that are offered from the Senator from Connecticut, or indications or references to the bill, we are not sure which bill we are talking about.

The amendment that was offered by the Senator from Connecticut, I ask the Senator from Mississippi, says that it is an amendment to S. 2351 which, as I understand it, is the underlying Finance Committee bill.

The amendment says, "At the end of section 1201, insert the following new subsection."

I cannot find section 1201 in the underlying Finance Committee bill. I was wondering if the Senator from Mississippi will ask the Senator from Connecticut how I find section 1201 in the bill that the amendment is offered to.

While we were debating the amendment offered by the Senator from Connecticut, a third health bill was delivered to the desk, unbound, but it is now the third Mitchell bill. So we have three Mitchell bills, plus the underlying Finance Committee bill.

I signed a pledge to read all the bills. I want to know which bill to read.

Mr. BREAUX. All of them.

Mr. COATS. Maybe I should read all of them. It will take an awful lot of time.

I would like to know which bill we are on. I would like to find section 1201.

Mr. LOTT. I will be glad to yield to the distinguished Senator from Connecticut to respond to that question. It is certainly a valid question, because we do not know which bill we are dealing with or which section we are dealing with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I will not respond by asking some other Senator to respond to the Senator from Mississippi, to respond to the Senator from Indiana.

The amendment is offered as an amendment to the substitute that was offered by the majority leader. Now, there may be a particular glitch, which we will be glad to correct to conform to the appropriate section as it relates to children and the effective date. That is a very appropriate question and we will conform it to that.

I will in a moment ask to modify my own amendment, from the parliamentary standpoint, to modify the amendment to see that it does conform to the Mitchell substitute, which is the pending bill

Mr. LOTT. Mr. President, I will be glad to yield to the Senator from Indiana.

Mr. COATS. One last followup question, I say to the Senator from Mississippi.

Do we know or have reason to find out whether or not the third Mitchell bill, which was just delivered, whether it is carried through the section in the Finance Committee bill, which went to the first Mitchell bill, which went to the second Mitchell bill; do we now know that that is part of the second Mitchell bill?

Mr. LOTT. I ask unanimous consent to yield to the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I respond as I did a moment ago. The pending matter is the substitute offered by the majority leader. There may be a requirement to modify it to make sure it conforms.

Clearly, the section pertains, as I said in my opening remarks. I pointed out specifically what was in the Mitchell proposal as it related to benefits to be provided to pregnant women, infants, and children.

We are merely extending, or backing, the effective date on that from 1997 to July of 1995. That is all the amendment does except for some minor points. I will be glad to see to it that the appropriate pages conform. But that is the purpose.

Mr. LOTT. Mr. President, if I could proceed now to reclaim my time? Perhaps the Senator from Connecticut——

Mr. DODD. I would just say, if the Senator will yield?

Mr. LOTT. I yield.

Mr. DODD. The bill reads "S. 2351." That is the Mitchell substitute.

Mr. LOTT. Mr. President, again claiming my time, I think it is time to review the bidding here a little bit. This afternoon at about 5 o'clock the majority leader laid down a bill that we do now have the yeas and nays on. This was the third version of his bill.

Here is the latest version. I note the first Mitchell bill that we got, I think it was last week, maybe Thursday, was 1,410 pages. The one we saw earlier this week I believe was 1,438. And the latest one now is 1,443 pages long. And we first saw this bill at 5 o'clock this afternoon. We have not had a chance to go through it, certainly. We do not know how the sections or subsections relate to the earlier iterations, and so we are going to have to take some time to go through that.

It makes it very difficult to offer amendments, by the Senator from Connecticut, the Senator from Indiana, or any other Senator, because we are not sure exactly what we have before us and how an amendment would or could or should be offered.

So I understand the Senator from Connecticut will need some time to make that correction and other Senators will need some time to draft amendments.

Mr. DODD. Will the Senator yield for just one point?

Mr. LOTT. I will be glad to, yes.

Mr. DODD. I am informed now the amendment as submitted is correct, that it amends amendment No. 2560 to S. 2351, which is the Mitchell substitute.

So the amendment as presented to the clerk conforms.

Mr. LOTT. Clarification, because it is very confusing. Then you have the right section to the third version of the Clinton-Mitchell bill. But the mistake apparently was there is an indication there it was to the Finance Committee bill? Instead of to the Clinton-Mitchell bill?

Mr. DODD. Amendment offered by Mr. DODD to S. 2351 to amendment No. 2560, which is the Mitchell substitute.

Mr. LOTT. We will work with you on that.

But, again, I think it is important to emphasize, after having heard this discussion, that there is confusion and we are going to need time to make sure we are all talking on the same level. We need more time to talk about this whole area of health care, let alone this specific bill. I want to emphasize, while we have had 8 speakers, I think, on this side during the week at different times, three times, to speak on this subject, we still have 20 Senators on this side who are very anxious to make an opening statement or express their interest in or concern or support for, you know, the Dole bill or Mitchell bill, I, II, or III.

I have really, like a lot of others, been waiting for 3 days for an opportunity to just make an opening statement on that subject. I am glad I am going to have that chance tonight at 7 o'clock on a Friday night. Others will speak tomorrow, I am sure. We will be speaking on this amendment before us on over to next week.

I want to note the fact that one Senator said, "At last we are getting to health care."

I agree. You know, this week everybody has been trying to be accommodating so we have been on the Labor-HHS appropriations bill. Then we have been on health care. Then we are on

DOD appropriations. Then we are on health care. Today we have been on intelligence authorization and child nutrition—and now at 5 o'clock we got back on health care.

I do not think that is a very good way to debate what everybody agrees is clearly one of the most important issues we have had before this body in 25, 40, 50 years—in a kind of disjointed fashion, a little bit here and a little bit there.

Now, all of a sudden, we have a bill, the third version of the same bill, and an amendment which we are now trying to discuss. I am sure this will, hopefully, move forward. I know the distinguished Senator from New York would like it to be done in an orderly, sensible way. I guess next week we will all get our desks cleared off and really get down to being serious about it and continue to work only on health care. But it is confusing not to know exactly what version we are talking about and how an amendment should be offered.

I thank the Senator from Indiana for his point. I would like to ask a question, if I could, before the Senator works on making sure to get all the corrections on his amendment.

One of the points that you made that I think is very important, that really bothers me on this amendment you offered, is the fact that, as I understand it, it would go into effect immediately——

Mr. DODD. That is not correct.

Mr. LOTT. Let me propound the question—go into effect immediately before the subsidies begin. Which would mean, I take it, there is an interim, then, after which this amendment would take effect but before the subsidies begin, and, therefore, there would be an additional cost for families with children to have to deal with; is that correct?

Mr. MOYNIHAN. Mr. President, may I offer a parliamentary inquiry?

Mr. LOTT. Mr. President, I understand——

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. LOTT. I understand I do not have to yield for the purpose of a parliamentary inquiry, but because of my high regard for the chairman of the Finance Committee, I am delighted to yield.

Mr. MOYNIHAN. Mr. President, is it not the case Senators must address the Chair and not one another directly?

The PRESIDING OFFICER. Senators should address their questions to other Senators through the Chair in the third person.

Mr. MOYNIHAN. I thank the Chair.

Mr. LOTT. I thank the Senator for that point. It is obvious we need to maintain absolute decorum in how we handle this debate. I would be glad, Mr. President, to address the question through the Chair to the Senator from Connecticut because I think this is a very important question and I am very sincere about it.

Is your amendment intended—Mr. President, does the Senator intend for it to go into effect immediately? Is there a lag before the subsidies begin? If that is true, then I think we are going to need to know what the costs of that amendment would be in the interim for families with children? And in that connection, I wonder, has his amendment been costed out by CBO? Do we have a CBO estimate of the cost of this particular amendment? Because if, in fact, families with children—in the private sector, Mr. President, I might say—are going to have this additional cost to make up for the fact that they will not have the subsidies involved, then you are talking about revenue loss, and we need to know what that is going to be. What is the CBO estimate? What is the revenue impact? And what is the impact on families with children? I would be glad to yield to the Senator from Connecticut for a response to that question without——

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me respond to my friend from Mississippi. Others have raised issues about this. This amendment has nothing to do with the subsidy program, nothing whatsoever to do with the subsidy program. All this amendment says is that insurers, private insurers, private areas must start including preventive services for children and pregnant women in any policy that they sell. That they sell. So there is no subsidy issue here at all.

So, while that is an interesting question, if you are looking at cost here, what do the carriers—what is the effect on the premiums to other insured parties?

I inquired. Just to give you some idea, it works out Travelers Insurance Co. has told me that the benefit for this, for children, would cost roughly about 9 cents a day for other insured parties. Estimates run a little higher than that when you talk to others.

So, again, I emphasize to you, this is not a part of the subsidy program. It deals with the benefits. And all it says is that, if you are selling insurance, we require that as a part of that package you include assistance to pregnant women and children for prevention. So it is not a part of the subsidy deal.

The cost implications regarding CBO—and we made inquiries on that—the estimates are roughly $100 million for the first year, and as much as $300 million in the outyears. I would say to my colleague, Mr. President, responding to my colleague from Mississippi, we were initially told there would be no budgetary implications or impact. Then last evening we were informed there may be some.

There is built into the majority leader's proposal a surplus into the several billions of dollars. If there are any financial or fiscal implications, that is the maximum extent to which they would occur, according to the CBO's response to our inquiries.

Mr. LOTT. Mr. President, again, I do think we should make clear we at least understand what the impacts will be. I appreciate the clarification I received here. But as I understand it, one of the impacts would be, as he suggested, premiums would go up, which would affect the tax deductions, which would go up. There clearly would be a revenue loss. And we need to know before we vote—eventually, sometime, I guess, next week or whenever—on this amendment what that effect would be.

Mr. DODD. If my colleague will yield?

Mr. LOTT. If I could proceed? I hope my colleague from Connecticut will pursue that further. We will pursue that later, what revenue impact that might have. And we will have a chance to clear it up before we vote on this amendment.

Mr. President, I certainly am going to review this amendment more in the next few hours and days. We will have a great deal more discussion on it to try to understand exactly what it means in the overall debate, but I have some other points I would like to make here.

In addition to talking about the fact we are dealing with the third version of this bill, I think it is important to also note to our colleagues that the House, the other body, is not going to deal with health care this month—not at all.

They are going to leave this weekend, and they are coming back next week. They are going to take up some suspensions and deal with the crime bill. They are not going to take up or vote on health care at all this month.

So we are talking about the Senate proceeding down an uncertain path. We do not know where it is leading or how long it is going to lead us there. But at some point, I presume we will have a vote or votes on what I think really is a revenue bill which really I thought had to pass the House first before we could even take it up.

They are not even going to take this issue up. They are doing the right thing. They are making sure that the various alternatives they have pending are understood by the Members, have been costed out by CBO, which is overworked and overtaxed, I am sure, and have time to think about it.

Also, they are going to have to listen to their constituents. They are going to be back in their various States, and they are going to be listening to the people. And when they come back, there will not be a Gephardt bill. It is history. And more than likely, there is not going to be a Mitchell bill 1, 2, 3, or 5, or 6, or whatever, because when they get home and start listening to the people, they are going to find out the people do not want this Government takeover. They do not want this bill. They do not want the Gephardt bill.

I am sure my colleagues are very well aware of the fact that in a recent CNN poll, 68 percent of the American people, who are smarter than we are, obviously, say keep talking about this thing, keep working on it and do it next year in the cool of the night when you understand what you are doing, because they know that we do not know what we are doing.

There may be a few Senators on the Finance Committee who have some foggy idea of what is in this bill, but not many.

The only way this bill will have a chance, I presume, is after we adopt a lot of amendments—a lot of amendments—and a lot of them probably will not be adopted even if the effort is made.

So I think we need to think about that. This is a case where we Btu'd the House last year. That was on the tax issue. They voted for the Btu tax. It came over here and we wisely knocked it out. And they said, "Oh, my goodness, you made us walk the plank, we have been Btu'd."

They are turning the tables this time. They say this may be a revenue bill, and any other time they would be screaming that we are proceeding on a bill that should constitutionally have begun in the House of Representatives. But this time, they are saying, "You all go first; go ahead on." Yes, we are going to go ahead, we are going to cast the votes, and they are going to come back and say the people do not want this thing.

The people do not want and we do not need a government takeover of health care to make the improvements we do need in health care. We do not need this massive thing. I do not understand why we are insisting on moving the envelope forward on something that the people are rejecting.

We do not need 18 new taxes to fix the problems we have in the American health care system. It is not necessary, it is not needed, and the people do not want it.

We do not need 50 new bureaucracies and a whole list of other commissions and Government controls, including the National Health Benefits Board with new powers that we are not quite sure what they are. I keep asking myself: Why should 85 percent of the American people who now are insured or covered one way or the other be taxed more, get less, lose choice and all kinds of things we are not sure of yet so that another 10 percent of the people may be covered somewhere down the line?

It is not necessary to do all these things to address the problems we need to cover millions that do need insurance coverage.

Mr. President, I am not saying that we should do nothing. I am saying there are some things we should do. I have been saying it for years. Others have said that. And as proof of it, I offer the fact that last October, a year ago—well, October, not quite a full year—I introduced as the original sponsor in the Senate the bill developed primarily under the leadership of Congressman BOB MICHEL, the Republican leader in the House, the bill, Affordable Health Care Now Act of 1993.

So this is something that I was working on a year ago, and it is a bill that really addresses the problems we have that we can fix. It is a bill that probably 98 Senators could say, "Yeah, we could do all that, or we should do all that, but we would like to do a lot more."

In talking about this whole area, in talking about the Senator's amendment and health care in general, I want tonight to point out what was in that bill that I sponsored last year.

It sought three things: Better access to health care, security of health coverage, and control of health care costs.

The bill was introduced by the distinguished minority leader in the House, BOB MICHEL, along with about 140 other House Members. You might say, "Well, that bill didn't have a lot of support." This bill has more cosponsors than any other bill pending in the Congress: 140, approximately, House Members and about 14 Senators. So we have 154 Members of the Congress that are cosponsors of this bill.

It would increase employee access to coverage by requiring all employers to offer but not pay for basic insurance. It allows employers to obtain affordable insurance through group purchasing arrangements.

I do not understand how in the world or why in the world we have not allowed that long before now. It would really provide a lot of help, a lot of relief, and certainly we should do that.

It would require insurers who sold small group plans to offer a standard plan, catastrophic plan and a medisave plan to all companies with two to 50 workers and mandate targeted insurance reforms to limit premium rate variations and to remove regulatory barriers.

The bill encourages the creation of tax-exempt personal medical savings accounts which could be used to purchase insurance or pay for out-of-pocket expenses.

Medicaid reform, 100 percent tax deductibility of health costs to individuals lacking coverage and the self-employed and expansion of community and rural health programs are also in this legislation.

One of the problems we have in my State is not just coverage but access. In a lot of rural areas, you cannot get to a doctor or clinic, let alone a hospital. So I do feel any bill that we pass has to have a strong rural community service center aspect, and it has to include urban areas, too. So it has to be rural and urban community centers. I support that so that we will have people, even if they have insurance, who can get to some sort of preventive maintenance or some sort of health care.

The bill, known as the Michel-Lott bill, eliminates the fear of losing coverage by limiting preexisting condition restrictions and allowing portability of insurance. That is the issue that has driven an awful lot of desire for health care reform; that issue right there, plus costs and the transfer payments. If we can fix just those three areas, most people would say, "Hallelujah, let that be done," and that would be enough.

The bill also controls the growth of health care costs by real malpractice reform removing antitrust impediments and eradicating fraud and abuse.

Mr. President, you might wonder why I have not mentioned the word "Government" yet when describing this package. The reason is my legislation seeks to make our current health care system—now the best in the world—even better through market reforms. It is a commonsense, free-market solution to fixable problems.

I cannot say the same for the main bill that we are now discussing, even though I have not had a chance to look at the latest version of the Clinton-Mitchell bill. It is high time to tell the truth about the so-called health reform bills that have the Government taking over 14.5 percent of our economy.

Over the past year and a half, opponents of Government-run health care legislation, like the original Clinton bill, the Clinton-Mitchell bill 1, 2 and 3 and the House Clinton-Gephardt bill have been trying to scare the middle-income Americans to death. These bills are really less health care and more health scare.

I really worry about their impact on middle-income working Americans. I do think that there are a lot of good things we could do. We all agree. The amendment of the Senator from Connecticut, how could you be against that?

But I think it is also irresponsible if we do not say, How much is this going to cost? Who is going to pay for it? There seems to be this mythical bank in the sky in which we say, "Don't worry about that; you know, nobody really gets hurt."

Well, think about it a minute. Somebody pays. It is not going to be the low-income folks. They get help whether it is at 100 percent of parity, 200, 300. Whatever it is, they will be helped. There are not enough rich people to pay all these extra costs. Guess who pays? The same folks that pay every time. The working people of America are going to get this bill. The shipyard workers in my hometown where my father was a pipefitter, hard hat, blue-collar guy, that is who always gets the bill. That is where the money is. It is in the middle. They are going to get this bill, and it is going to be big, monstrous, a $1 trillion increase over the next 8 years.

So I am here tonight to make two points. One, there are reasonable alternatives. There are bipartisan opportunities. I know the chairman of the Finance Committee would prefer that that is the way we would go, hard as it may be, but it may be the way we eventually do go somehow or another.

But I want to make one more point, and I will make it over and over and over as we go through this debate. On every amendment that comes up, I am going to ask, How much is it going to cost? And who is going to pay? The middle-income workers will pay, and they are being squeezed to death already. My 26-year-old, working, entrepreneurial son is going to have to pay, and he is going to be told, you have to pay a lot more under these so-called community ratings. You are going to get really jacked up. And he is the guy that is out there working trying to create jobs—not just take care of himself, create jobs. He is trying to find a way to make sure that the people that work with him get health care coverage.

But as I understood the earlier version of the Clinton-Mitchell bill, one of the things that was in there—maybe it is not now; I do not know—if you cover one of your workers with health care, even if it is supervisory or management, you must cover them all.

If that is the case, there are very many things that could happen, but here are some of them. One, nobody will get the coverage—zero. None of the supervisory, none of the management, none of the desk workers, none of the people. Or he is going to have to lay off people; raise his costs.

All the options are bad. But what you have been hearing here in this health scare debate, the mantra that you have heard is you may lose your insurance; you may go broke and use up all of your savings; you may not be fully covered unless the Government steps in and takes over.

Oh, yes, let the Government do it all. Why should we be worried about the people that are working and paying the taxes? They can handle it. They can take a little more. They can pay for everybody else. Sooner or later, everybody is going to say, "Hey, I want to ride on the wagon. I don't want to pull it. It's heavy. It's hard. I want to get all this free stuff myself."

Where is the Senate going to be? We raised taxes last year on bonuses. People that work hard, make some savings, make a little extra money, they got their taxes raised. It is discouraging people from working hard, making some savings.

This is all about a bunch of quackery. Those who want the Government to run health care with the efficiency of the Postal Service and the compassion of IRS are not, in my opinion, telling the truth about what Government would do if it takes over health care. Government-run health care will not save money, but it will cost jobs. And guess whose jobs? Some of them will be low-income jobs, but a lot of middle-income jobs are really going to get hit. The middle class after Government-run health care are going to find their wallets a lot thinner and in far too many instances pink slips in their wallets.

One of the things that we have come across in looking at this legislation is the fact that these employer mandates have a particularly hard impact on families with children. In fact, I have a study here, and I would like to submit it for the RECORD, Mr. President. I ask unanimous consent to insert a study from the Family Research Council in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOWHERE TO RUN, NO PLACE TO HIDE: STATE DATA ON THE FAMILY IMPACT OF EMPLOYER-MANDATED HEALTH CARE

In June, the Family Research Council released a family-impact analysis of leading employer-mandated health care proposals being considered in Congress. The principal finding of the econometrics study FRC commissioned is that parents with children under 18 will suffer the brunt of the job losses for all types of employer-mandates studied.

FRC's econometric study also found that families with children in every region of the country—indeed, each state—will disproportionately experience job loss. This is significant because it means that families thrown out of work in one area of the country are not likely to find better job prospects in another state or region of the country.

CONSAD Research Corporation supplied the data in the FRC analyses. CONSAD is an independent, Pittsburgh-based, public policy research firm that focuses on applied social system research. Founded in 1963, it has for thirty years produced numerous analyses on a wide spectrum of subjects ranging from program and management evaluations to economic and environmental impact assessments. It specializes in econometric modeling, which combines traditional economic theory, public and private databases, and statistical methods to define problems and identify solutions

The following charts present the data for each state, based on the particular legislative provisions of 3 employer-mandated health care proposals studied—the Clinton bill, the Kennedy bill, and the House Education and Labor bill. The state data is listed for each plan with and without the benefit of the business subsidies included in each (depicted by the italicized columns).

The data displays a uniform pattern of disproportional impact on families for each of the states. A quite similar pattern occurs in analyses of the aggregated data for the nation. Families with children generally by represent about 46 percent of a state's work force, but they experience about 55 percent of the job losses. When the impacts are computed for the plans without their subsidies to businesses to defray the cost of health insurance, the disproportional impact climbs to about 60 percent. Assessing the family impact of plans without business subsidies provides insight into scenarios where future political considerations affect the level of subsidy associated with the mandate being phased-in or "triggered" at some later date, as some have purposed.

Jobs losses are of special concern where children are impacted. The state analysis cannot provide a statistically valid estimate of the actual number of implicated children. However, it is reasonable to assume that the total number of children living in homes with a jobless parent is in excess of the numbers of jobs lost by families with children.

TECHNICAL NOTE

The econometric model that CONSAD has developed to estimate the impacts of health care reform on employment and the federal deficit incorporates detailed representations of the work force, the numbers of businesses in specific industries, and the sizes of businesses. The databases and economic theory used for these analyses are widely accepted as "state of the art" in the field.

The CONSAD model characterizes the population of workers in the U.S. with data from the March 1993 current Population Survey (CPS), a database maintained by the U.S. Department of Commerce. The March 1993 CPS contains sample data on the occupations of workers, the industries in which they work, their full-time or part-time status, their annual wages, whether or not they have health care insurance, and the source of that insurance. In order to describe the number of business establishments and average salaries of workers in businesses in different industry sectors and size categories, data is compiled from the 1990 County Business Patterns (CBP) of the U.S. Department of Commerce. The model uses estimates of current health insurance premiums from the U.S. Congressional Budget Office and wage elasticities of demand (econometric parameters necessary for the estimation of the amount of job loss) from the economics literature.

CLINTON PLAN

State	Total jobs lost	Total jobs lost by families	Families percent of total loss	Families percent of total work force	Total jobs lost without subsidies	Total jobs lost by families	Families percent of total loss
Alabama	12,100	6,700	55	47	53,400	32,500	60
Alaska	1,200	600	50	47	6,500	3,800	60
Arizona	10,800	5,900	55	46	53,000	31,700	60
Arkansas	6,900	3,700	54	46	30,500	18,400	60
California	101,000	54,400	55	46	459,000	275,600	60
Colorado	10,800	5,900	55	46	52,000	31,000	60
Connecticut	14,000	7,700	55	46	58,500	35,000	60

CLINTON PLAN—Continued

State	Total jobs lost	Total jobs lost by families	Families percent of total loss	Families percent of total work force	Total jobs lost without subsidies	Total jobs lost by families	Families percent of total loss
Delaware	2,600	1,500	58	46	11,500	6,900	60
District of Columbia	4,800	2,700	56	45	18,600	11,000	59
Florida	39,500	21,200	54	46	203,000	121,000	60
Georgia	20,900	11,400	55	46	96,800	58,000	60
Hawaii	3,800	2,000	53	46	19,000	11,400	59
Idaho	2,500	1,400	56	46	13,200	8,000	60
Illinois	42,000	23,500	55	46	182,000	109,000	60
Indiana	20,100	11,000	55	46	88,700	53,700	60
Iowa	9,100	5,000	55	46	43,100	26,000	60
Kansas	8,000	4,400	55	46	37,500	22,600	60
Kentucky	10,400	5,700	55	46	49,400	29,700	60
Louisiana	10,700	5,800	54	47	51,900	31,200	60
Maine	3,800	2,100	55	46	18,700	11,200	60
Maryland	15,800	8,500	54	46	75,600	45,000	60
Massachusetts	27,300	15,000	55	46	114,000	68,400	60
Michigan	32,000	17,800	55	46	144,200	87,200	60
Minnesota	16,500	9,000	55	46	74,000	44,600	60
Mississippi	6,200	3,400	55	47	33,800	20,300	60
Missouri	18,600	10,200	55	46	81,900	49,300	60
Montana	1,700	900	53	4646	10,400	6,200	60
Nebraska	5,400	2,900	54	46	25,500	15,300	60
Nevada	6,100	3,400	56	46	25,100	15,000	60
New Hampshire	3,700	2,000	54	46	18,800	11,300	60
New Jersey	27,500	15,000	55	46	120,200	72,100	60
New Mexico	3,500	1,900	54	46	19,100	11,400	60
New York	71,100	39,000	55	46	287,000	172,000	60
North Carolina	24,700	13,600	55	47	106,000	64,000	60
North Dakota	1,600	900	53	46	8,900	5,300	60
Ohio	39,900	21,900	55	46	174,400	105,000	60
Oklahoma	8,100	4,400	54	46	39,800	24,000	60
Oregon	8,200	4,400	54	46	53,400	25,400	60
Pennsylvania	43,000	23,600	55	46	187,500	112,800	60
Rhode Island	3,600	2,000	56	46	16,300	9,800	60
South Carolina	11,400	6,200	55	46	50,700	30,000	60
South Dakota	1,700	900	53	46	9,400	5,600	60
Tennessee	17,000	9,300	55	46	74,000	44,700	60
Texas	51,900	28,300	55	46	238,000	142,800	60
Utah	5,600	3,100	55	46	29,000	17,400	60
Vermont	1,700	900	53	46	9,300	5,500	60
Virginia	20,000	11,100	55	46	96,000	57,000	60
Washington	15,500	8,400	54	46	72,000	44,000	61
West Virginia	4,300	2,300	53	47	20,600	12,400	60
Wisconsin	17,400	9,500	55	46	79,000	47,600	60
Wyoming	900	500	56	47	5,500	3,300	60

Note.—Actual numbers listed for job losses have been rounded down to the nearest one hundred. Percentages listed reflect the relationships of the numbers before rounding.

(Mr. AKAKA assumed the chair.)

Mr. LOTT. It points out that the employer-mandated health care would have a disproportionate impact on families with children and that there will be total jobs lost—now, I do admit this is under, I think the original Clinton bill, and there have been a lot of changes. Maybe it is not as bad. Maybe it will be different. But you are talking about total jobs lost under the employer mandate under the Clinton bill: 18,600 in Missouri; 8,200 in Oregon; in my own State of Mississippi, which can ill afford it, 6,200. You are talking about job losses for families with children.

Obviously, there are problems with our health care system. We can fix specific problems, problems that most Americans fear—portability, availability, exclusion of those Americans with preexisting conditions. Targeted reforms are popular, are possible, and I think are essential.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. LOTT. And sooner or later that is what we are going to.

Mr. President, if I could, I do have a few more pages to go. Allow me to complete that, and I will be glad to yield further.

We do not need Government-run health care. We do not need new bureaucracy. We do not need mandates. Government-run health care is like giving a lobotomy when they only have a headache. It is overkill. Middle-class Americans know this, Mr. President.

So I ask unanimous consent to enter at this point in the RECORD an article from the July 21, 1994, Wall Street Journal by Dr. Martin Feldstein, who wrote an article called "Mandates Would Hurt the Middle Class."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MANDATES WOULD HURT THE MIDDLE CLASS

(By Martin Feldstein)

President Clinton's campaign to rescue his health care plan emphasizes that his proposed health insurance mandates would be good for the middle class. Although the president repeats this claim in every speech, nothing could be further from the truth. Mr. Clinton said this week that there might be room for compromise on mandates, but if Congress enacts anything like the Clinton health plan, the American middle class would be the big losers.

The Clinton health program would hurt the vast middle class in order to provide insurance to a relatively small number of currently uninsured low-income people and to transfer income to many more low-income people who are already insured. The program would be wasteful and inefficient, a "negative sum game" in which the middle class would lose far more than the poor gain. It can be understood only as a technique for achieving a redistribution of income that could not be enacted in a more straightforward way.

PRIMARY CONCERN

If President Clinton really wanted to help the middle class, he would focus on the health insurance issue that he knows is its primary concern: the ability to maintain existing insurance coverage after a job change or the loss of an employed spouse. Relatively simple legislation could require insurance companies not to cancel existing policies and not to exclude pre-existing conditions when an individual transfers to a new group. Companies that sell insurance could also be required to offer periodic enrollment opportunities for any one who wishes to purchase insurance with premiums limited by using assigned risk pools to deal with high-risk individuals or groups.

But instead of reforming the existing insurance to deal with the legitimate concerns of the middle class, the president and Mrs. Clinton have pursued the goal of building a massive government-managed system for redistributing health care and income.

The middle class could hardly be the big winner from mandating universal coverage, as President Clinton claims, since more than two-thirds of the uninsured are in families with below average income. Moreover, the relatively small number of currently uninsured middle-class families who would become insured under the Clinton plan would have to pay for that insurance by a decline in their wages.

Virtually all economists agree that most firms that are required to provide health insurance must offset the higher cost of fringe benefits by paying lower wages or laying off workers. The Congressional Budget Office has stated this clearly in its analysis of health insurance options. Even the administration has recognized this in its congressional testimony.

A currently uninsured individual who now earns $40,00 would suffer a wage decline of more than $2,500 because of the Clinton employer mandate. A two-earner couple with

$40,000 of combined earnings would experience twice as large a wage decline. These wage cuts might not be immediate, but within a few years wages would inevitably be depressed below what they would otherwise have been. If wages could not fall that much, jobs would be lost as firms respond to the higher overall cost of labor by moving production offshore, subcontracting, and substituting equipment for employees.

Some firms would be able to avoid reducing wages by the full amount of the mandated insurance costs because they have the market power to pass along some of the higher employment costs through price increases. When that happens, middle-class consumers as a whole would pay for the expanded insurance.

The currently insured middle class would also be hit in other ways. The Clinton plan would require middle-class-income families to pay substantial premiums out of their own pockets. For the typical married couple, the required out-of-pocket premium would be $872 a year. The administration has acknowledge that more than 40% of Americans would face higher out-of-pocket premium under the Clinton plan than they do today.

Although the middle class has to pay for its health insurance through reduced wages, the Clinton plan would subsidize the premiums of low-wages firms. These subsidies would translate into higher incomes for millions of lower-wage employees who are now insured. The cost of providing these subsidies would be borne by the middle-class in the form of extra premium payments and an explicit increase in taxes.

The administration has claimed that it can finance the subsidies to low-income employees with a tax on cigarettes (another hit to the middle-class). In reality, the Clinton plan would face a much larger financing gap of about $120 billion a year before the end of the decade. This gap could be financed only by substantially higher taxes on the middle class. Official estimates might understate the financing cost in order to make it easier for Congress to enact the legislation. But once the benefits are enacted, the middle-class taxpayers will have to pay for them.

Little is heard these days of the administration's early claim that, by controlling the cost of care, it could avoid such a financing gap. No one really believed that the administration could achieve cost reductions of the magnitude that it projected. Moreover, middle-class voters were rightly worried that controls on health-care costs would restrict their choice of doctors and hospitals and would force reductions in the quality and quantity of care that they received.

But although such tough cost controls are not part of the president's current sales pitch for his health plan, they would play an important role if the Clinton plan were enacted. Only by controlling middle-class spending on health care can doctors and other health providers be redirected to meet the increased demands from lower-income individuals that would result from expanding their health insurance. And limiting the future growth of government health spending is crucial to the president's goal of containing the budget deficit while increasing welfare payments and expanding other government social programs.

VERY BAD-DEAL

So the middle class would not only face lower wages, higher premiums, and a substantial tax increase but would also see a decline in the quantity and quality of middle-class health care. In short, the Clinton health plan would be a very bad deal for the middle class.

If the president is the expert on domestic policies that he claims to be, why doesn't he understand all this? And if he does understand it, why doesn't he level with the middle class and admit that it is being asked to pay more and accept less health care in order to redistribute income and health care to lower-income groups?

Mr. LOTT. Mr. President, Dr. Feldstein is the former chairman of the President's Council of Economic Advisers, and he wrote, among other things, in this article about health care, this quote. And it really caught my attention when I saw it. This is not some professor off the street or somebody who has not studied this issue. This is a guy that is very qualified, an eminent professor, and he has really studied the subject. He said:

The middle class—

I do not like that terminology. I do not like this class warfare, but the middle-income people,

would not only face lower wages, higher premiums, and substantial tax increases, but also see a decline in quantity and quality of middle-class health care.

And I believe that was true under the original Clinton bill, probably more so than under the latest version. But we need to study it and see exactly what is in it.

Mr. President, I would like to ask unanimous consent to also enter into the RECORD an article from the July 13, 1994, Washington Post by Robert J. Samuelson called "Congress Should Simply Start Over."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 13, 1994]

CONGRESS SHOULD SIMPLY START OVER

(By Robert J. Samuelson)

The best thing Congress could do now on health care would be to start over next year. The most important social legislation in a quarter-century should not be approved as a last-minute, poorly understood patchwork. From the start, the debate has suffered from the Clintons' wild promises that they could achieve "universal coverage" at little extra cost. This has produced five inconsistent congressional bills that all—in one way or another—fantasize a health care future that will never happen.

Health politics has become bumper-sticker politics. Everything is being done for image and immediate bragging rights. Vast promises are made of new benefits with little effective control on cost. Health spending already constitutes 21 percent of Federal spending and one-seventh of all spending in the economy. The danger of a poorly crafted program is that, although it might be "popular in the short-run, [it] could encumber our economy with long-term commitments that we simply cannot afford," warns the bipartisan Committee for a Responsible Federal Budget.

What really is at stake is the integrity of government. Popular cynicism is no secret. In surveys, Americans express discontent with government. Yet surveys also show that Americans want more from government in the way of health care, education, environmental protection and economic security. Politicians pander to the inconsistencies by posing government as a "solution" to a multitude of problems. The Clintons are practitioners of this style of politics. The trouble is that when the "solutions" don't match the promises, public disillusion deepens.

"Universal coverage" is a swell slogan but a meaningless concept. Almost no one today has complete insurance coverage against all health risks. For example, only about 5 percent of the elderly have insurance for long-term care. And the idea that complete coverage can be constructed is a mirage, because health care is an infinitely elastic concept. It expands with every new technology, drug or discovered ailment. Consider: Between 1982 and 1991, the number of cornea transplants doubled, from 18,500 to 41,400. We will never be able to afford everything; some rationing, by income or availability, will always exist.

What the debate skirted is the morally awkward issue of whether health care is a "right"—and if so, what care is a "right." The Clintons evaded this question by promising to control costs and expand benefits. The claim was always dubious. Five outside groups re-estimated the Clintons' "basic package" of insurance benefits. All found higher costs than the White House did. For individual coverage, the costs were put from 9 percent to 26 percent higher; for two-parent families, the costs were 13 to 59 percent higher. No matter. The Clintons set Congress's agenda.

How bad are the resulting bills? Examine the Senate Finance Committee bill, described as "moderate." Its goal is to raise the share of Americans with insurance to 95 percent by the year 2002. Small firms with fewer than 100 workers could buy health insurance from big purchasing cooperatives. Insurers would have to accept almost anyone who applied. There would be insurance subsidies for everyone with an income of up to twice the poverty line (in 1992, the poverty line for a family of four was $14,335). What are the bill's defects? Herewith the top three:

(1) It creates a huge "off budget" entitlement. True, the bill doesn't compel companies to buy insurance. But it does decree what all insurance must cover, and the coverage is lavish. Aside from most doctor and hospital bills, it also includes mental health, rehabilitation services, drug- and alcohol-abuse services, hospice care and family-planning services. Although a National Health Board would set the details, Congress would have the final say. And it has little reason to resist inevitable demands for new benefits, because "mandates" could be expanded without imposing new taxes.

(2) There is no effective cost control. Indeed, because the bill mandates comprehensive insurance, it would probably accelerate spending. The new spending pressures would overwhelm the tiny measures intended to curb costs: putting small companies in buying pools and instituting a complex, probably unworkable tax on "high-priced" insurance plans.

(3) Subsidies for the poor aren't financed. No one yet knows how much the subsidies should cost, but the tax increases in the bill (the cigarette tax goes from $0.24 a pack to $1.24 a pack) might cover only half the amount.

In short, the Finance bill would probably speed up health spending, skimp on subsidies and miss its 95 percent coverage target. Other bills are as bad or worse. The House Ways and Means Committee wants bigger mandates and subsidies. It pays for its subsidies mainly from "savings" generated by price and spending controls. But no one knows whether the controls would work or be acceptable. A "single-payer" bill has the honesty of avoiding mandates and pays for government insurance with taxes. However, benefits are so generous that, by one estimate, they would raise health spending by an extra $300 billion by the year 2000. The increase is assumed away with cost controls.

All these bills indulge in make-believe. Although they sound good, they would break down in practice. A sensible bill might be put together with some modest insurance reforms. But this seems unlikely, precisely because it would be so politically unexciting. What should not be forgotten in the inevitable clamor to "do something" is that a bad bill would be worse than no bill at all. Opposing such a bill is prudence, not obstructionism.

The country deserves a more candid debate than Congress can provide this year. It is between those who consider health care a "right" and those (like me) who think the first focus should be on cost control. If it is a "right," then put the spending in the budget and pay for it with the taxes. If the focus is costs, then curb tax subsidies for insurance or impose strict spending controls. Neither approach would be easy. Any sweeping reform requires public understanding. This is now missing. "Great innovations" Thomas Jefferson once said, "should not be forced on slender majorities."

Mr. LOTT. That is a great idea. Start over. I know members of the Finance Committee would not want to do that. But I think we have gotten so far into this we are completely balled up. We have no idea what we are really debating. We cannot figure out how to stop it or change it.

I wish we could just take a clean sheet—and we could get four or five of our experts here, the Senator from New York, the Senator from Oregon—and say, "Look, let's do what we need to do, what we can afford and no more. Get it for us by the morning." They could do it. And we ought to start all over.

Mr. Samuelson points out that the health scare legislation like the Clinton-Mitchell bill and the Clinton-Gephardt bill create large off-budget entitlements. The Clinton-Mitchell bill mandates that all insurance policies cover a mandated—mandated—set of benefits, even benefits like drug counseling, which many people, certainly most people, do not need, and the benefits are set by a National Health Benefits Board and approved by Congress.

Great. No doubt, in the future, the number of benefits will expand because of political pressure. There will be more. We will include this and then they will do that, and then there will be another one. Senators have an endless stream of great ideas of benefits that ought to be covered. And the way it works, even though you know there is a tremendous cost involved, and it is not being paid for, when the amendment is offered to add more benefits in the Congress—and that is included in the legislation—who is going to walk up here and vote against more assistance for children? Or more assistance for mental health?

Mental health, now, I think there is maybe—I do not know what is in the latest bill, but I think there was like 30 days' assistance, so maybe we could double that to 60. Anybody want to vote against that? It is very hard.

So there is going to be an endless stream of more benefits added. We ought to just go ahead and put everything in it we can think of at once, get it over with, and see if there is any way we can pay for it, which I doubt. When benefits expand, costs will soar and spending will go through the roof. Who will pay for this? The middle-class, middle-income people. They will pay. Not the poor, very little of the wealthy.

The Clinton-Mitchell and the Clinton-Gephardt bills also tax "high-priced private insurance plans."

I want to get more into what is the definition of the high-priced plans. But I will bet you this: A lot of middle-income people would have what would be described as "high-priced private insurance plans." Once again, the middle-income folks are going to be told, "You have to pay more taxes; more money out of your pockets; less choice in health care."

Yes. There are subsidies also in the Clinton-Mitchell and Clinton-Gephardt bills because these are not fully financed, as I understand it. Maybe in the new version it is. I doubt it. But we are going to have to address that at some point.

If health insurance for the poor is not fully financed, guess who pays? The middle-income folks get it again.

These are the general problems with all of this health scare legislation. The bills cost too much, and the costs are passed on to the middle-income folks in the form of higher taxes and less health coverage.

The bills also have what I would consider to be extreme criminal penalties, or at least criminal penalties for what is quite often relatively harmless behavior. But in the earlier version of the Clinton-Mitchell bill, "criminal" and "crime" are words mentioned many, many times. I saw a count on that earlier; that it ran way up. I believe the earlier Mitchell bill uses the terms "ban," "criminal," "enforce," "fine," "limit," "penalty," "prison," "prohibit," "requires," "restriction," "sanction," "violate" a total of 1,488 times.

Hey. That is a new idea. This is the crime bill. We have been looking for it. Maybe this is the crime bill. Because the earlier version—and I presume the latest version of the Clinton-Mitchell bill has an astronomical number of instances where crime and criminal acts are included. I do not understand that.

In fact, under the earlier bill, Section 5324 of the Clinton-Mitchell bill, if you tip your doctor to get an extra special care, you could spend up to 15 years in prison. Maybe that has been taken out, and we will look for that and see what happened. But it was in there. There is no way you can deny that.

Further, these health scare bills will suck jobs out of the economy. Many people—in fact almost everybody knows—know it is going to cost some jobs. Some of the bills have direct employer mandates. Maybe they will not in the end. I do not know. But if you do not have employer mandates, how is this thing going to be paid for? I do not see it. If employer mandates go down, this legislation probably goes down.

There have been many studies on the effects of employer mandates on the employment in this country. None of the studies I know of have said that mandates will create jobs; none of them.

In a February 1994 report, the CBO put the range of job loss because of employer mandate at between 300,000 and 1.2 million. A research study commissioned by the National Association of Independent Businesses estimates that an employer mandate would cost 850,000 jobs nationally with potential job loss of 3.8 million. The study found 34 million workers would suffer wage cuts of over $63 billion because of these mandates.

So when the Senator from Connecticut says we need to add things that are very good, somebody is going to pay, and somebody is going to be forced to pay for it, and employer mandates are an important part of it. And jobs are at stake.

A study done by the Office of Planning and Research by the State, in this case the State of California, estimates that employer mandates would cost America 2.6 million jobs.

The Employment Policy Institute estimates that a Clinton-like plan with mandates in a best-case scenario would destroy between 780,000 and 890,000 jobs; in the worst-case scenario, as high as 2.1 million jobs would be destroyed.

Guess where so many of these jobs come from? Some of them will be low-income jobs. But a great number of them once again would impact middle-income jobs.

I see the majority leader on the floor. Did he want me to yield for point of business?

Mr. MITCHELL. I am awaiting the appearance of the Republican leader, so I then can make an announcement with respect to the schedule.

I thank the Senator for his courtesy. I suggest he proceed until such time as the Republican leader arrives.

Mr. LOTT. I thank the majority leader.

The President's own Council of Economic Advisers—this is not some Republican group or some conservative group—the President's advisers in its 1994 report found that between 350,000 and 600,000 jobs would be lost.

So there is instance after instance of respected groups that point out that employer mandates would cost jobs. Yes. We want people to have insurance coverage. We want access in rural areas. But do we want to lose hundreds of thousands, maybe a million jobs in the process?

My point tonight is it does not have to be that way. We can do what we need to do and not lose the jobs. But what we need to do is only what we need to do, and not in our wildest dreams that we have been thinking about for 20 years.

I would be glad at this point to yield to the majority leader for this important announcement.

Mr. MITCHELL. Mr. President, I thank my colleague. I ask unanimous consent that my remarks appear in the RECORD so as not to interrupt the remarks of the Senator from Mississippi.

Mr. President, I understand that the distinguished Republican leader will not be coming to the floor but will be represented by the Senator from Oregon.

So I would like to advise Senators of my decision with respect to the schedule, and the proposal that I have made for proceeding to the Republican leader.

Earlier today, I met with the Republican leader and advised him that we Democrats had several amendments which we were prepared to offer, and provided our Republican colleagues with copies of two of those amendments, and the remainder will be provided as soon as they are ready.

I suggested to Senator DOLE that we were prepared to proceed in a manner that we would offer one amendment, and it would be debated and disposed of. And then the Republicans would offer an amendment, and that we would alternate in an effort so that both sides could have amendments ready.

Senator DOLE indicated that the Republicans had no amendments ready at that time. We agreed that we would then proceed with our amendments until such time as our Republican colleagues had amendments which they wished to offer.

We therefore began with the first amendment which is the pending amendment offered by Senator DODD regarding children. I expressed to Senator DOLE my hope that we could proceed to have a vote on that amendment either today or tomorrow.

As all Senators know, under the rules of the Senate, any Senator can speak for as long as he or she wants, and prevent the Senate from voting or acting. And, of course, the minority has that ability.

Senator DOLE has advised me that our Republican colleagues will prevent the vote from occurring on that amendment this week and will use their right of unlimited debate to prevent any vote from occurring. I regret that. But I accept it as the reality of the Senate's rules.

I, therefore, suggested the following course of procedure to Senator DOLE: That we would continue to debate this evening, and tomorrow, under a procedure in which the time would be equally divided between the two parties, and would alternate in 30-minute segments; so that the Republicans would speak for 30 minutes and Democrats would have 30 minutes and back and forth, and that way the time would not only be equally divided, but equally divided in reasonable segments every time.

Mr. LOTT. That would begin from here forward? That would not be applicable to me, would it?

Mr. MITCHELL. No. But since the Senator has been talking about 45 minutes, I hope he will wrap up in a reasonable time and permit the process to begin.

Mr. LOTT. I have about another 10 or 12 minutes. I was not aware of this agreement. These things have welled up inside me, and I finally got my chance to talk. I hope I will be able to conclude.

Mr. MITCHELL. I am describing the circumstances leading up to the proposed agreement. It is not an agreement yet.

I think it is appropriate that it would be completed in that time, because prior to the last vote, Democrats spoke for about an hour, so that would make it roughly even on the subject during the day today.

I then suggested that we reconvene on Monday morning and that we offer the second amendment, a copy of which was provided to our Republican colleagues several hours ago, and that we then debate that on Monday, and that we have votes on the two amendments at 5 p.m. on Monday.

I further suggested to Senator DOLE that if we could identify a subject on which Republicans would have amendments ready by Tuesday, then we could devote time to that subject on Tuesday, and Republicans could offer amendments on that subject, and Democrats could as well. And we could deal with a discrete subject, discrete provisions in the bill that are of interest to both sides and all parties.

Since it is clear that Republicans have the ability under the rules to prevent any vote from occurring on the amendment today or tomorrow, and since the only recourse I would have would be to insist on votes on procedural matters, I have concluded that I will not at this time exercise that right, because I do not believe any useful purpose will be served by it.

Therefore, there will be no further votes this evening, or tomorrow. Senator DOLE has indicated that he is not able at this time to agree to the proposal I outlined with respect to the schedule on Monday and beyond, but hopes to be able to do so tomorrow. Therefore, I will limit my request this evening to the allocation of time this evening and tomorrow. I will make an announcement tomorrow with respect to the schedule on Monday.

I have attempted to proceed on this matter in a way that is fair to all, and also which would permit a full exploration of the issues, both with respect to the bill and the pending and future amendments. I hope that we can do that in the coming days.

Mr. President, the Senator from Mississippi wanted how much more time?

Mr. LOTT. Well——

Mr. MITCHELL. Would 15 minutes be reasonable?

Mr. LOTT. I think so, Mr. President.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator LOTT have up to 15 minutes more time; that following that, the Senate proceed to debate only on the pending amendment and the bill itself, with the time to be equally divided in alternating 30-minute segments, with the 30 minutes immediately following Senator LOTT's remarks to be on the Democratic side, and thereafter, so long as Senators wish to speak for the evening; that when the Senate reconvenes tomorrow at 9:30 a.m., there be a period for morning business not to extend beyond 10 a.m.; that the Senate then continue to debate the matter from 10 a.m. until 5 p.m. tomorrow, under the same procedure—that is, 30-minute alternating segments, with the first 30 minutes tomorrow, beginning at 10 a.m., under the control of our Republican colleagues, and that the designation of time, if need be, be under the control of the Senators MOYNIHAN and PACKWOOD.

Mr. COATS. Reserving the right to object.

Mr. PACKWOOD. Reserving the right to object, did you say confine debate tomorrow to the amendments?

Mr. MITCHELL. No; debate on the amendment or the bill.

Mr. PACKWOOD. That is the first question I ask. I want to make sure. I have, at the moment, 27 Senators who want to make opening statements, and some of them are 3, 4 hours long. I do not think they want to be interrupted in half hour segments.

Mr. MITCHELL. Some of the opening statements are 3 or 4 hours long?

Mr. PACKWOOD. Yes.

Mr. MITCHELL. Of course there was vigorous protest today when Democrats spoke for about an hour. It was suggested that there was some kind of scheme or design to prevent Republicans from speaking, and now you are suggesting that Republicans want to speak 3 or 4 hours at a time.

Mr. PACKWOOD. I am perfectly willing to go on an equal basis. I want the leader to know some of these statements are quite long. I have no objection to 4-hour opening statements on the Democrat side either. Most of them are in the neighborhood, I would judge, of an hour to an hour and a half. But some are 3 or 4 hours.

Mr. MITCHELL. Well, then, in order to accommodate our Republican colleagues, why do I not suggest that we stay in session tomorrow from 10 a.m. until midnight, and that the time be allocated in 1 hour segments?

Mr. PACKWOOD. From 8 a.m. until midnight?

Mr. MITCHELL. Ten a.m.

Mr. PACKWOOD. Well, as the leader knows, either side can tie up the other side. Earlier on the product liability bill we were unable to come to a vote because the majority of Democrats did not want to do it. And the leader is aware that last session we could never vote on capital gains because we could not get enough votes to get to cloture.

All I am suggesting is this. I am looking at the majority leader's statement of 2 days ago. It says, "There will be ample opportunity to debate this bill." Of course, he was referring to the previous bill, but I assume it applies to this one. "I have said many times no one will be rushed. We will stay here as long as it takes us, as many days, weeks, or months, if necessary, for every Senator to be able to consider the bill amply."

Mr. MITCHELL. If the Senator would like to stay in session beyond midnight, I am agreeable to that.

Mr. PACKWOOD. You know there is no purpose in doing that. If we are going to stay here until midnight every night, you and I know nothing will be accomplished. You can have procedural votes, if that is what you insist upon.

I thought you really meant that our side could make opening statements of some consequence and serious nature. We have been preparing for this. We have divided up into teams, and we have serious things to say on the different issues. The opening statements will relate to different sections of the bill. In a sense, the majority leader is saying there is something wrong with that.

Mr. MITCHELL. I am certainly not suggesting that. I think the Senator is entitled to have the time he wants to speak, but I am trying to accommodate that. I do not appear to be reaching him in an accommodation.

Mr. PACKWOOD. I suggest this for tomorrow. Divide the time equally, but not put it into statements.

Mr. MITCHELL. The problem with that, of course, is that when one Senator gets the floor and speaks 3, 4, 5, 6 hours, other Senators are totally inconvenienced, I think. I think it is better if we have a reasonable schedule in which Senators can plan their appearances and, therefore, Senators will not be inconvenienced by the actions of any one Senator.

Mr. PACKWOOD. I will talk to those who want to make opening speeches. For those who can confine themselves to an hour, I suggest they speak tomorrow.

Why do we not divide the time in hour segments instead of half hour, rotating back and forth, and quit at 4 or 5 o'clock, whatever you said, in the afternoon.

Mr. MITCHELL. I just proposed that a moment ago.

Mr. PACKWOOD. OK. I did not hear. What is the proposal now?

Mr. MITCHELL. My initial proposal was half-hour segments. In response to the Senator's earlier objection, I proposed 1-hour segments, which I take it the Senator now proposes.

Mr. PACKWOOD. Yes.

Mr. COATS. Mr. President, reserving the right to object, I want to make sure I understand this, because many of us have been waiting very, very patiently.

I am very high on the list. Since I serve on the Labor Committee and have dealt with the labor bill that Senator KENNEDY proposed, I feel like I have some knowledge of the bill.

I was told that we were assured we were going to take up the health bill at 2:15 p.m. Tuesday, without interruption. Once on the bill, we would be on the bill. Senators would have the opportunity to speak on the bill.

Yet, there has been a very limited amount of time allocated to that purpose.

I said I am high on the list. My turn is finally coming up tomorrow, on Saturday. But I have been waiting patiently all week while we have disposed of all kinds of other business.

We have been willing on our side to do that. We accommodated that, including today. It is impossible for any of us to make any kinds of plans for family, including dinner.

I came today thinking my turn was finally here, only to learn that 5 hours will be allocated to a bill we were not even talking about earlier in the week.

So I waited patiently for that 5 hours to expire, and then came down ready to make my statement, and an amendment was dropped on even before the new bill was presented to the desk.

I was here when the bill came in. The amendment was already offered before the bill was here.

So now, having waited and been patient, when we are now asked to limit what we were going to say to some arbitrary time limit and do it on a Saturday, it is difficult for this Senator to just do it, to keep changing and agree to changing the rules, or what I think are the rules. Maybe they were not rules. In fact, I am willing to let my statement be limited. I have no intention of filibustering. I have no intention of speaking 4 hours. I have not timed my statement. I do not know if it is 39 minutes or 53 minutes or 64 minutes.

But I would like to give my statement, and I am going to do so in a reasonable amount of time. Then I am going to sit down and let whoever else wants to talk deliver their statement.

Mr. MITCHELL. Mr. President, if I might respond, first I am sure it was inadvertent, but the Senator is incorrect. The amendment was not offered before the bill was introduced.

Second, as the Senator well knows, unanimous consent is required in the Senate before any procedure is ultimately approved. And I do not know what he was told or what reports he had, but in the absence of unanimous consent, then the schedule is, of course, always subject to change.

It is quite common that I make proposals, as I have just indicated I have earlier this evening, as to the schedule for Monday. But until consent is granted by our Republican colleagues, there is no agreement to that effect.

If the Senator acts on the basis of a proposal, surely all of us are sufficiently familiar with the Senate to be aware that unless and until agreement is obtained and approved by consent, it is subject to change.

I regret any inconvenience to the Senator, but I urge him in the future to base his decisions on agreements as opposed to proposals which I may make.

Mr. COATS. Mr. President, further reserving the right to object, I certainly understand how the unanimous consent procedure works, and I am attempting to abide by that.

It has been a floating crap game this week in terms of what we are doing and when we are doing it. It literally changed several times an hour. It is extraordinarily difficult for any Senator to understand what the next procedure is going to be. But I understand that is how the Senate works.

I do believe that operating on a Saturday with the Members having changed travel plans, it is important to keep some semblance of order. I will not object to an hour time limit imposed for tomorrow on individual speakers, and going back and forth.

However, I just hope that if it turns out that this Senator needs—or a Senator from the other side needs—another 3 minutes or 7 minutes to finish a statement they have been working on for a long time, there will be some consideration in granting that. I have no doubt the Senator will grant that.

Mr. MITCHELL. I say to the Senator that we are in tomorrow. I do not know if the Senator was here earlier.

I indicated it had been my intention and hope that we be in session and voting tomorrow, but the distinguished Republican leader has advised me that the Republicans would use their ability under the rules of unlimited debate to prevent a vote from occurring tomorrow. That is the reason there is not going to be a vote tomorrow.

Second, as I stated earlier and I repeat, the only recourse I have to guarantee a vote would be to call for a vote on a procedural matter. I have concluded that I will not do so tomorrow because I do not believe it would serve any useful purpose.

So if the Senator is inconvenienced because we are not going to be doing something that we thought we were, that is the reason for it.

Mr. COATS. Mr. President, further reserving the right to object, I ask the floor manager, how many Republican Senators have had the opportunity to give opening statements.

Mr. PACKWOOD. So far?

Mr. COATS. So far.

Mr. PACKWOOD. Eight.

Mr. COATS. Eight of forty-four Republican Senators.

Mr. LOTT. I think I am the ninth one.

Mr. PACKWOOD. We have 28 signed up who want to give opening statements. The remainder want to, but 28 have not given them yet.

Mr. COATS. Mr. President, it seems to this Senator, on the most important bill I have certainly faced since I have been in the Congress since 1981, and what many consider one of the most important pieces—if not the most important piece—of legislation that Congress has ever considered, there ought to be some willingness to allow individual Members to express their opinions on this without the implication that Senators on this side are somehow not cooperating with the majority leader or the majority party simply because they are not ready to vote on a Saturday after we have had 6 hours and eight Senators allowed to speak.

The implication is that somehow the Republicans are being unfair, that we are trying to delay consideration of this legislation, when 36 of us have not even had an opportunity to say the first word.

So again, I say I will not object to the unanimous-consent request. But this Senator certainly does not want to be left in the position where the impression is given that I am asking for something extraordinary and out of the ordinary, when 36 of our colleagues have not even had a chance to say the first word on probably one of the most—if not the most—important bill this Senate has taken up in a long, long time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Senator from Oregon.

Mr. PACKWOOD. I object.

I was going to change the unanimous consent for tomorrow to 6 hours equally divided, and if one of my speakers happens to go for 15 or 20 or 25 minutes, to take it out of the 3 hours rather than trying to confine that person.

The Senator from Indiana may need 47 minutes or 53 minutes, or something like that. We end up with the same amount of time. At least, we will have a little more flexibility in allocating it.

Mr. MOYNIHAN. Fine.

Mr. MITCHELL. Mr. President, I have no objection to that.

I want to note, if I can make a comment, we had a situation earlier where Democrats spoke for 1 hour, and not only an implication but a direct accusation was made that this was some scheme to prevent Republicans from speaking. So my proposal was directly responding to that concern to accommodate what were Republican protests. I just want to make that clear.

Now, those who have protested to the prior situation are objecting to what I have proposed to accommodate their concerns. But the managers are fully capable of allocating the time and I am perfectly prepared to renew my request with just the time equally divided under the control of the managers.

Mr. DODD. Mr. President, reserving the right to object, I just point out, and I will not object to this, but it is not inconceivable we are playing the numbers game again very briefly where one colleague of ours on the other side could end up taking the 2 hours or 3 hours, and we will be hearing the argument on Monday that only 10 Senators have had an opportunity to make opening statements.

So I just point out that I hope we do not hear that argument on Monday.

Mr. MITCHELL. I expect the Senator will.

Mr. DODD. I hope we do not hear the argument that we were unable to get the statements out because someone used all the time.

I do not object to this. I wanted to make that point.

Mr. MITCHELL. That is what already happened during part of this week.

Mr. President, let me restate the request so there can be no misunderstanding. There has been so much back and forth here.

Mr. President, I ask unanimous consent that, as to this evening, upon the completion of Senator LOTT's remarks, there be debate to continue for so long as Senators wish to debate, with the time allocated in alternating 30-minute segments this evening, and the first segment following Senator LOTT be for Democratic Senators to be followed by Republican Senators, and so on for, as long as Senators wish to stay and speak; that tomorrow, the Senate reconvene at 9:30; that there be a period for morning business until 10 a.m.; that the time between 10 and 5 be for debate only; and that it be equally divided and under the control of the managers.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

Mr. LOTT. Mr. President, I am delighted to be able to begin to return now to the general debate and discussion of the amendment of the Senator from Connecticut.

I think one of the points that the Senator from Indiana tried to make was that this bill, which is the latest Clinton-Mitchell bill, version No. 3, was laid down at 5 o'clock, an amendment was offered immediately today, and then, and only then, did we get this bill delivered to us.

Now it is being said, we should vote tonight. I do not know what the cost estimates are. I think that is a legitimate question.

Mr. DODD. I have the cost estimates. I gave them earlier. The CBO estimates $100 million the first year, $300 million the second year, $100 million the third year, and no cost in the years thereafter. That is the CBO's estimate.

Mr. LOTT. Those are very legitimate questions, and there are others on this amendment and on other amendments.

Clearly, to infer that we are, you know, delaying things because we are not ready to vote on amendments to a bill we did not see until 5 o'clock this afternoon, is not appropriate.

We have, I think, every right—in fact a responsibility—to take a look at this legislation and to take a look at amendments before we are forced to start voting.

All right, maybe we had eight Senators speak on our side for 6 hours. That is less than 1 hour each. But there are a lot of Senators that do want to speak on this issue. In fact, I have had my own constituents already saying, "Now, where are you? I thought you would be speaking up on this issue." I have been waiting my turn.

If you look at other major pieces of legislation, I think you will find they were debated not for a few hours, and in broken fashion, or a week or 2. They went on for days, weeks, and I believe even perhaps months in one or two instances.

So for us to be able to have some time to speak on this issue before we start addressing amendments, I think is fundamentally fair—and I know the chairman of the Finance Committee would support that effort.

Like tonight, there are so many questions I have, there are so many areas I would like to speak on, but I would really be trying to relate this to the alternative bill that I have and, in fact, to the middle-class.

I am going to speak for about an hour. And for an old House guy, it is not easy. I used to speak in 5-minute bursts. I know the Senator from Connecticut used to do that. But, after a while in the Senate, it certainly takes a little longer. Certainly this legislation deserves a little time.

We want to cooperate, but we are not going to be rushed into it.

Under the Clinton-Mitchell bill that we saw earlier this week, if 95 percent of the population is not covered by the year 2,000 and, if Congress does not act, businesses with more than 25 employees will have to pick up 50 percent of their employees's insurance.

The Clinton-Mitchell bill also has a lot of other taxes than what has been mentioned in my earlier remarks here today.

We could fix the problems with health care without raising any taxes, but yet in this bill—the latest version, I presume, also—we do have a 45-cent-per-pack tax increase on cigarettes. We have a 1.75 percent tax on all insurance premiums, not the high-priced ones, not for just some, but for all insurance premiums, as I understand it; plus a 25 percent excise tax on the so-called high-priced insurance plans.

Businesses also would lose health plan deductions if the plans—listen to this—businesses would lose their health plan deductions if the plans they offer do not conform to the standard, expensive Government benefits plan.

Do it our way or you cannot do it. You will lose your deduction.

This is an indirect mandate, but a very serious one. If businesses provide insurance for their employees, the only policies that will not be heavily taxed will be the Government-tailored plans, and they will be very costly. The employers must pass this along in the form of lower wages, less jobs, and/or higher prices for the consumers.

Employers, because of the Clinton-Mitchell "antidiscrimination" clauses, must provide insurance to all employees, if even one single employee is covered. These mandates are bad, once again, for middle-income people.

How will business react to these mandates? A Hewit study of large employers found that 34 percent of them would reduce or terminate part-time job positions if insurance coverage was mandated for these workers.

Keep in mind now that the Clinton-Gephardt version has that mandate at 80 percent, and much earlier than even the Clinton-Mitchell plan.

The Clinton-Mitchell bill's exemption for companies with less than 26 employees would stunt business growth—hiring of that 26th worker would mean wages for that worker, and health coverage for the entire firm. There would be little incentive, certainly, for businesses to expand.

Now we all represent our respective States. So I keep saying, what is it going to mean in my own State?

There will be some benefits, there is no question, in this plan. But in my State, a Government-run health care system would, once again, destroy thousands of jobs that we really cannot afford to lose.

Mr. President, there is a report by the Family Research Council, entitled, "Families With Children in Mississippi Bear the Brunt of Job Losses to Employer-Mandated Health Care proposals."

Mr. President, this report shows that families with dependent children in Mississippi will bear a disproportionate share of the job losses under any employer mandate. Under a Clinton-like bill with subsidies, 3,400 of the estimated 6,200 jobs lost in Mississippi would be shouldered by families with dependent children—55 percent of the job losses will come from families with children, even though working parents are only 47 percent of the State's labor force.

Without subsidies—paid for by the middle class—job loss for families with dependent children would climb to 61 percent of all job losses—working parents would absorb 17,500 of the 28,900 jobs lost. Surely, Government-run health care will make thousands of families in the middle-income area in Mississippi worse off than they are today. They could very likely lose jobs, as these statistics show.

This bill, this 1,443-page bill, as I understand it, has 17 new taxes; community rating mandates in the bill, that will make younger workers heavily subsidize the insurance costs of older workers and retirees; some 50 new bureaucracies; and, as I mentioned earlier, a projected cost of over $1 trillion over 8 years. To me that is disaster. This is the second largest entitlement program in human history, as I have been told, bringing over 100 million people into the Government-mandated health care system.

That is the key factor. We are going to bring all these people into the Government-run system.

It is untrue that Government-run health care will help the middle-class. It will hurt it. Under the Government-run plan, premiums could cost families up to $6,946 a year, according to the Hewit study I referred to. The people back home need to remember this statistic. That is almost $2,000 more per year than the 1992 average cost of $5,028 a year.

You folks that are working, blue-collar workers, you are going to pay $2,000 more than you were paying in 1992 under this plan.

The health scare bills have frightened middle-class Americans. The American people see the debate turning in a dangerous direction, towards a new, costly, bureaucracy that will not solve our problems. In fact, it make their problems worse.

That is why almost two out of three people think that Congress should take their time and do this, this legislation, next year. Common sense and prudence have been replaced by desperation, by those who want bureaucrats to take over one-seventh of the Nation's economy. I think we need to calm down and take a serious look at what we are doing. We can fix the problems with the system, and the plan that Senator DOLE and Senator PACKWOOD have offered will solve those problems of high cost, portability of insurance, availability of affordable insurance, and the inclusion of those Americans with preexisting conditions through the free market. They give people the medical savings accounts which would certainly help middle-income Americans by allowing families flexibility in choosing their health insurance. And the Dole-Packwood bill does have assistance for low-income people. I believe about $100 billion——

Mr. PACKWOOD. It is $108 billion, I think.

Mr. LOTT. There is $108 billion for that purpose. We can let Americans continue to choose their own doctors. We can have real malpractice reform. We can plug the holes in the system without new taxes, without new bureaucracies, and without price controls.

We fix all this without decimating the middle class. Americans do not want this Government-run, Government-controlled system. The market works. We have seen time and time again that Government-run programs do not work. The costs almost invariably spiral out of control. Under this Clinton-Mitchell plan or any other Government-first, people-last plan, middle-income families will pay more for less health care.

So, with that, Mr. President, I yield my time at this point. I surely will have, perhaps, some more questions for the Senator from Connecticut later on, and I will have at least one amendment I will be prepared to offer before we finish this legislation, directed at trying to be helpful to middle-income Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from Mississippi for forceful and factual argument which will not find much support on our side of the aisle but will be, nonetheless, admired.

May I make one point to him? The Republican mayor of New York City, my good friend and our respected mayor, Rudolf Giuliani, wrote a letter to the House leadership in which he was joined by two eminent labor leaders, Stanley Hill and Dennis Rivera. And Mayor Giuliani made this point, a rather important point from our perspective. He said:

> America is debating universal health care. New York has given universal health care for most of this century.

I might point out, you know, we grew to be the preeminent Nation in the world under arrangements that are different from other parts. Hawaii has universal employer mandate. But we have had universal health care. I can speak as the child who has the normal range of mishaps and number of visits to hospitals and doctors. There were no bills. You could pay, but if you did not pay there was no consequence. It was understood that health care would always be available in New York City. So we are not exactly embarking on an enterprise heretofore unknown in North America. There are those who think New York City sometimes may not be part of North America but I insist to the contrary, island though it may be in large measure.

A vigorous proponent of health care, an able and informed Senator who has been patiently awaiting without making any points of order as to gain any special attention, the distinguished Senator from Washington—I am happy to yield her. Would half a hour be sufficient?

Mrs. MURRAY. Mr. President, 15 minutes will be sufficient.

Mr. MOYNIHAN. I yield as much time as she wants within the half-hour.

Mrs. MURRAY. Mr. President, I thank the distinguished Chair.

We have heard many statements over the last several days, meant to be scary and frightening, but I submit to this body who is really frightened and in a frightening position today is our Nation's children. Because if we continue in today's trend without passing health care reform, they will not grow up with affordable, quality health care and have the quality of life that I hope to pass on to my children and my grandchildren.

I am pleased tonight to join Senators KENNEDY and DODD in offering the amendment that is before us for our Nation's children.

I ask unanimous consent that Senators DASCHLE, BOXER, and MITCHELL be added to this amendment.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mrs. MURRAY. The American people have heard discussions on this floor about employer mandates, premium caps, and triggers. We have heard a lot about purchasing co-ops, alliances, and malpractice limits. Why? Because these are the issues that affect big interests, those who control our Nation's health care system today.

But my parents taught me a lesson a long time ago, that the little guy is just as important as the big guy. And that is what this amendment is all about. It takes us back to why this debate started in the first place. It reminds us that our society is not well served by the current system.

Parents across this country worry about our children's health. Parents who have no health insurance worry about what they will do when their child gets sick. Those who are insured worry about whether they are covered against everything that could and often does happen to our children.

I know what it is like to sit in a doctor's office with a sick child. I know the frustration, trying to ease a child's tears and the silent helplessness of soothing pain. And I know the anxiety.

Too many times I have rushed to the doctor's office waiting to hear the physician ask, "What's wrong with this little one?" But all too often I was questioned by the receptionist: "Do you have health insurance? Well, we will have to call the company to see if this is covered."

Unfortunately, nearly 10 million children in this Nation never even hear that question. Unless we change the system, 10 million children will remain on the outside, without adequate health care.

And what happens to these children as they grow older? The social cost is enormous. These children at risk grow into adolescents and young adulthood, toughened by hardship. And they come to believe that no adult really cares for them. Is it any wonder that we see higher dropout rates and more brutal juvenile violent crime? Of the medical costs that are preventable—that are preventable—teen health problems now surpass $27 billion a year. Can this country afford this?

The Mitchell bill puts our Nation's children on the right path towards a healthy future. The purpose of this amendment is to give them a jump start. We heard before that this amendment has to do with subsidies. It has nothing to do with subsidies. It simply requires private insurance companies to provide coverage for preventive services for pregnant women and children for any plan issued after July 1, 1995. Our children grow up fast. This amendment gets them on the right road from the start.

Raising kids has become more complicated and scarier. This amendment takes one worry away from America's families. Our country cannot afford to neglect our future generation. As John Kennedy once said, "The needs of our children should not be made to wait." I hope this body keeps that statement in mind as we continue to debate this bill. "The needs of our children should not be made to wait."

I yield the floor.

Mr. MOYNIHAN. May I thank once again the distinguished Senator from Washington, who cares so very much about this subject and knows so very much about it, for a remarkably concise and moving statement.

The majority leader?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to make just two points briefly. First, the distinguished Senator from Mississippi and several of our colleagues have referred to the Government-run system, in an obvious effort to create the impression that the legislation I have proposed and which is being considered would create a Government-run system. Those were the exact words used.

Let me make clear that my amendment will have just the opposite effect. One of the largest Government-run systems now is the Medicaid system, which provides health insurance for persons with incomes below the poverty level. Under my legislation, most of that program will be abolished and the assistance now going to them under a Government program would be channeled to them to encourage them to purchase private health insurance.

So, in effect, a very large Government program would be abolished and those persons would enter the private health insurance system where most Americans are.

I recognize that our colleagues are obviously engaged in a tactic of, if you repeat something often enough, people will come to accept it, even if it is not correct. That is what has occurred with respect to this Government-run system. Much the same thing occurred a year ago, Mr. President, when we were debating the President's economic plan. Many of our colleagues today making these charges about the pending bill repeatedly talked about how the President's economic plan would raise taxes on small business and raise the tax rates of large numbers of Americans, and they were successful in persuading Americans of that, even though it was not true.

Polls showed last year that a large number of Americans believed that their income tax rates were going up when, in fact, only about 1.2 percent of Americans, those at the very top of the income scale, did have their income tax raised. A large number of other Americans, much larger numbers, had their taxes gradually reduced or they received some significant benefit.

So I accept the fact that campaigns of misinformation do work, but I think it is important that those of us involved in the debate make clear what the circumstances are.

Finally, if I could make one comment on one aspect of the discussion this evening. We have had a lot of colorful talk by some of our colleagues about the fact that there have been some changes in the bills that have been presented, and to a person unfamiliar with Senate procedure and the practices of the Senate, it might sound unusual or uncommon or strange that a bill is changed in the process. But, of course, as every Senator knows and as everyone who follows the legislative process knows, it is a common event that bills are changed in the process and a draft bill is introduced, labeled as such, technical corrections are found, typographical errors occur, substantive changes are made to accommodate concerns expressed by one or another Senator.

And so I hope that most people have enough of an awareness of the legislative process to understand that it is a common event that change occurs as bills move through the process.

Indeed, just yesterday, Senator DOLE described one such circumstance with respect to his bill, the bill that he and

Senator PACKWOOD introduced earlier this week. Senator DOLE told us that when he announced his plan to introduce a bill in June and after that plan was studied, the Governors Association issued a letter criticizing it and he then, as he put it, worked with the Governors over the next few weeks to change his plan to accommodate their concerns. And, therefore, the bill introduced by Senators DOLE and PACKWOOD this week was, by their own account, different from the plan they announced in June because they made a legitimate and appropriate effort to accommodate the concerns of Governors.

Indeed, I am going through the same process now with Governors. They have sent a memorandum to me expressing concerns about some parts of our bill, and we are meeting with them in an effort to accommodate those concerns.

I fully expect, Mr. President, that when Senators DOLE and PACKWOOD introduce their bill as an amendment to be considered, it may well have some changes from the version that was introduced earlier this week. Should we then engage in flamboyant rhetoric about the fact that they may make a couple changes in their bill and suggest that is something unusual and we then get up and hold up the two bills in our hands and wave them around like a pair of fans and suggest that there is something unusual or different or inappropriate with that? The answer is, of course, no. This is a regular part of the process.

The legislation I introduced today as a substitute amendment has a few minor changes from the version introduced on August 9, and I expect now within the legislative process there are going to be many other changes proposed by Senators and adopted by the Senate.

So I hope that no Americans are diverted or distracted by all of the fuss and feathers about changes made in the bill. It is a common event. It occurs regularly. I am certain it will occur with respect to other bills that are proposed here. We accept it as a part of the process. We are now reviewing the bill that was introduced by our colleagues in an attempt to determine in what respect it differs from the plan announced in June, and I hope that the debate now can focus on the real issues.

Mr. DODD. Will the majority leader yield?

Mr. MITCHELL. Yes; certainly.

Mr. DODD. I am pleased the majority leader has made this point, because I think some of you have seen some of our colleagues wave these volumes around. If I understand what you said, in effect, the substitute introduced this afternoon at approximately 5 o'clock is virtually the same bill we have been talking about for the past several days with literally technical and minor corrections; is that not correct?

Mr. MITCHELL. A couple of the changes are substantive, but there are very few in there.

Mr. DODD. But this notion of holding one bill in your left hand and another bill in your right hand and implying or suggesting that we are dealing with entirely two distinct products is engaging in a bit of hyperbole or exaggeration.

Mr. MITCHELL. Well, it gets you on TV.

Mr. DODD. I just lastly ask the majority leader, I think I understood the unanimous consent request in the sense that now the pending business is the amendment I offered at roughly 5:30 this afternoon.

Mr. MITCHELL. That is correct.

Mr. DODD. We have no agreement on when this amendment can be considered and voted upon; is that correct? Or do I have a time when I can anticipate we might get a vote on that amendment?

Mr. MITCHELL. I have proposed to the distinguished Republican leader that we vote on that amendment at 5 p.m. on Monday, but he has not yet been able to get that cleared or has not responded on that. So as of now, there is no time, but my hope is we can go to that amendment——

Mr. DODD. So it being Friday night now at 8 o'clock, and Saturday and Sunday and virtually all day Monday would be time devoted to the general discussion of either this amendment or the bill at large.

Mr. MITCHELL. That is correct, although there will be no session on Sunday.

Mr. DODD. I thank the majority leader.

Mr. MITCHELL. I yield the floor.

Mr. MOYNIHAN. Mr. President, I happily yield such time as he may wish—and I believe he indicated 10 minutes, but it does not matter—to the Senator who has so singularly helped bring us to this historic moment, the Senator from Pennsylvania, my friend, HARRIS WOFFORD.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. I thank the Senator. I wish to thank the Senator from Connecticut for bringing this amendment to us as the first amendment of this bill. And I want to thank the majority leader just now for cutting through some of the fog of confusion that has been laid down over the country and helping to start make it clear that this is not more government-run medicine but it is building on our private health insurance, pointing out that in the Medicaid program it is helping to move people into the kind of choices that other people have in the private health insurance system.

This is an amendment that deals with extending the private health insurance system to make it real and effective for children and pregnant women in this country.

Winston Churchill used to say that buying milk for babies was the best investment a nation could make in the future.

The second best investment we can make is in well-baby care and childhood immunization and adequate prenatal care. That is why we need this amendment, to give kids a good, fighting chance.

There are members of this Senate who, for reasons I do not understand, seem almost proud of how far they can stretch out the deadline for universal coverage. With all due respect to them, I disagree strongly.

Wherever we possibly can, and especially wherever it costs us nothing, we must move ahead sooner rather than later. That should be our guiding principle in evaluating this and every other amendment to the health care bill. For health care delayed is health care denied.

I congratulate the Senator from Connecticut and Senator KENNEDY from Massachusetts for seeing that this is obviously a first priority and the first place to begin in strengthening and improving this bill so that it will make sense and dollars and cents for the American people.

This amendment will save dollars and lives. We know that from experience. In Pennsylvania, in 1985, two ministers in Pittsburgh approached Blue Cross/Blue Shield of Western Pennsylvania to see what could be done to help the thousands of Pittsburgh children whose families could not afford even basic health services.

Out of that encounter came a program called the Caring Program. It is funded jointly by Blue Cross/Blue Shield and private contributions. The Caring Program provides to thousands of children the same kinds of services this amendment would cover. Pennsylvania's Blue Cross/Blue Shield knows that covering preventive services for children and pregnant women is the right thing to do. And as tough-minded business people, they also know it makes sense, dollars and cents.

Infants who get their immunizations and well-baby care, whose mothers get prenatal care are not nearly as likely to get sick. The old saying is true, an ounce of prevention is worth a pound of cure. The investment in preventive care pays for itself many times over.

Another Pennsylvania program is built on that same common sense approach. We call it CHIP, the Children's Health Insurance Program. Governor Casey established this in 1992. CHIP provides free or low-cost health care for children living in low-income families. It is administered by Blue Cross/Blue Shield and U.S. Healthcare. Thirty-two thousand Pennsylvania children are enrolled in CHIP; 32,000 children are healthier and better able to learn because Pennsylvania said no child's health should depend solely on his family's income.

Tending to the same basic health needs of children and pregnant women works, whether it is in a fee-for-service plan or a managed care plan. These programs are part of the reason that Pennsylvania's percentage of uninsured children is less than half the national average. Pennsylvania is showing that the solutions are out there and they work.

A Pennsylvania pediatrician, Dr. Elias Schwartz wrote to me this week, and I quote:

> Our children are our future. When we care for them and their mothers, we also care for the productive, contributing citizens they will become.

This amendment alone cannot close the health care gap for America's children, but it can make a big difference. What this amendment says is simply that insurance companies must include and cannot charge co-pays for well-baby care and childhood immunizations and prenatal care.

I do not know how many Members of this Senate have ever seen a 2-pound baby, as I have. It is an amazing sight. And I have seen some of these babies who survived and thrived and seen the joy of their families. I have seen it at a hospital cost of half a million dollars. And I have seen and held a million-dollar baby.

The doctors often point out to me that with the mother's lack of health insurance, those costs then are shifted to other people's bills and that with just a few hundred dollars of prenatal care, this $500,000, this $1 million baby would have been born healthy.

My colleague, Senator GRAMM, said yesterday that "not even God can prevent preexisting conditions." That may be so. But this Congress can prevent discrimination based on pre-existing conditions. And we can prevent many of the illnesses that rob our children of their health, their potential, and their lives by passing this amendment.

Mr. President, I call for action as soon as possible on this amendment, to move forward to build a bill which the Finance Committee and the Labor Committee jointly have put together, a bill that has been known and debated for months, a bill in which this principle and the purpose of this amendment has been an essential guiding point from the very beginning. By this strengthening amendment, we can make that bill better and bring the process, for which so many of us have worked for so long, to fruition.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, may I ask the Chair how much time remains?

The PRESIDING OFFICER. Four minutes and 40 seconds.

Mr. MOYNIHAN. We have on this side 4 minutes and 40 seconds. I yield to the Senator.

Mr. ROCKEFELLER. I would say to the distinguished chairman from New York my remarks will take more time than that, so perhaps, if on the half-hour rule, we would have a quorum call or something, then it would go to the Republican side and then I could speak in the next half-hour.

Mr. MOYNIHAN. I think I will suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Democratic side might have an additional 12 minutes, I believe is required.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I yield 15 minutes, an accumulated 15 to the distinguished Senator from West Virginia.

Mr. ROCKEFELLER. I thank the distinguished chairman of the Finance Committee.

Mr. President, I am extremely pleased to rise in support of our first amendment that would expand vital coverage for preventive services to children and pregnant women. I am extremely pleased that our first amendment puts children first because, frankly, that is a very large part of what health care reform must be about, creating a secure health future for our Nation's children.

This amendment is extremely important. It is an amendment that matters. It is an amendment that will make a real difference in people's lives.

Three years ago, the National Commission on Children, which I chaired—this is sort of a summary of it. It is very interesting, Mr. President, I would note—and I would also point out to my friend from New York—this was a commission that had 32 members, including 3 members of the Bush administration, that had about as many Republicans as Democrats. It was all about children and all about health care and all about all kinds of other things, and we had a completely unanimous vote. After 2 years of work, the vote was unanimous, and we covered the waterfront so far as children's issues are concerned.

One of the things we suggested was moving forward on universal health coverage for children, and 2 years before that the Pepper Commission made similar recommendations. The distinguished Senator from Minnesota certainly remembers that. That was this effort: Universal coverage, in fact, starting with children. Pregnant women and children were the first order of priority.

An overall theme and major strength of the Mitchell bill is its special emphasis on children and mothers through special targeted subsidies that will begin as quickly as feasible. The Mitchell bill gives children a head start on health coverage, and this amendment gives children a real jump start. It will give a large number of hardworking families an immediate health benefit beginning July 1, 1995, less than 1 year away.

Under this amendment, private insurance policies will be required to offer preventive services to children, and to mothers without any cost-sharing requirements. The amendment is long awaited and way overdue, according at least to this Senator's timetable. But we are finally here, and this is what matters the most. I predict that this amendment will be favorably voted on. I pray that it will be favorably voted on, and I pray that the vote will be bipartisan.

I believe and I deeply hope we are going to start putting aside some of what we saw earlier this evening—that is, the politics and the rhetoric—and focus on what we are hired on by our constituents to do here in the Congress; that is, to focus on health care policies as a first priority.

As we begin debating the majority leader's bill and focus on its policies, I think we are going to be surprised in fact by the amount of agreement that can be reached in many, many areas if there is the will for us to do so on both sides. I hope that this is just the first example of a potentially emerging consensus.

Why children and why preventive services? For all the obvious reasons, and more. America's record on children is not particularly admirable. We have lost some very important ground over the past decade and a half. Since 1980, no progress has been made in reducing the overall rate in which babies are born too small and too soon. Low-birthweight babies are 40 times more likely to die in their first month of life, and 5 times more likely to die later in their first year.

In my own State of West Virginia, we have made some progress in reducing the number of babies born at a low-birthweight and lowering our infant mortality rate. But it is still much too high. Forty-four percent of our teen mothers in West Virginia, and 26 percent of all mothers in West Virginia, do not receive adequate prenatal care.

The U.S. infant mortality rate remains stuck well below many other industrialized countries, something which our colleagues on both sides of the aisle are very, very aware of. The emotional and physical tragedy of a baby starting off his or her first few days, sometimes months, in a neonatal intensive care unit is bad enough. But it is also a tremendous waste of our precious health care dollars. The average cost of providing neonatal intensive care for one low-birthweight baby could finance the cost of providing prenatal care for 58 women for the entire trimester. It is time, Mr. President, that we got much smarter about spending our health care dollars, and this amendment is one way that will advance that.

Another example is immunizations. In 1979, the Surgeon General set a goal of immunizing 90 percent of 2-year-olds against common childhood diseases by the year 1990. Today, we are at 72 percent, a 2-percent increase from 1990, and a long way from our goal. I do not think that the cost-benefit of adequately immunizing our children even needs repeating.

Ninety percent of private health insurance for children is purchased through their parents' job-based health plans. The amendment before us will be of significant benefit to many of those children and their families, since less than half of conventional indemnity policies even cover preventive care services for children.

Only about 42 percent of children with health insurance have coverage for routine immunizations, less than half, and only a third of health insurance policies in medium and large firms—the percentage for small firms would be much less, of course—even cover well-baby care. This amendment will give those children and those infants without immunization and without well-baby coverage a direct benefit, and it will do it in less than 1 year from today.

About 5 million women, Mr. President, have private insurance policies that do not cover maternity. These women will directly benefit from the amendment before us. They will no longer have to worry about seeking early prenatal care because of the expense, because it will be there for them.

Under this amendment, cost-sharing requirements for preventive, cost-effective care would be prohibited. This is extremely important and very cost effective. We know from studies that cost-sharing requirements can deter people from seeking care, including necessary, very necessary, medical care. One study found that even nominal copayments for doctor services kept people from seeking early medically necessary care.

So not having copayment responsibilities means that people are going to take advantage of health care, and are going to get prenatal care, and a lot of children are going to start life off a lot healthier.

Mr. President, I would also like to take a second to remind my colleagues that job-based coverage for children has diminished significantly over the past 15 years. And that is a cause for alarm. Having a job is no longer an assurance of reliable health insurance coverage. In 1980, 40 percent of employers paid for dependent coverage in full. In 1990, 10 years later, that number is only one-third of employers.

The majority leader's bill provides us the road map to stop the deterioration of job-based coverage, beginning with insurance reforms and voluntary purchasing cooperatives to help small companies afford coverage for their workers and for their families.

By 1997, which is really just a few years from now, the Mitchell bill will mean that 74 percent of all currently uninsured children in my State of West Virginia—that is 48,000 children—will have private health insurance coverage. That is enormously important public policy. And it is of enormous importance to my people in West Virginia. Not Medicaid; I am not talking about Medicaid or some other new Government-run health program—but a private health insurance policy with decent reimbursement rates and wide doctor acceptance.

Mr. President, in closing, as I said earlier, the majority leader's bill will give children a stable, secure health care system. This amendment is a good start because it will give millions of our children a better start. I urge my colleagues, when the time comes, to adopt Senator DODD's excellent amendment.

I thank the Chair and the distinguished chairman of the Finance Committee.

I yield the floor.

Mr. MOYNIHAN. Very well done, sir. It appears that no other Senator is seeking recognition on either side.

Mr. PACKWOOD. Mr. President, I have a few remarks.

Mr. MOYNIHAN. Forgive me.

PRIVILEGE OF THE FLOOR

Mr. PACKWOOD. I ask unanimous consent that the privilege of the floor be granted to John Ratner, an employee of the General Accounting Office on Detail, Committee on Finance, during each day this bill or other health care reform is the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, let me tell you a bit what bothers us on our side. If you will notice, the House of Representatives the other day voted to apply all of the laws that apply to all other American citizens to the House of Representatives—the National Labor Relations Act, the Fair Labor Standards Act, and many others, including the Occupational Safety and Health Act, OSHA. Many or all of the pages that we have in the Senate, who do extraordinary work—and we work them long hours—are high school students, and they go to a special school here. But they would be very much like our young high school sons and daughters.

What I think we are coming to, first, is this, Mr. President. There are four bills here. The top one is the finance bill we were first considering, and then the majority leader's first bill, his second bill, and third bill. I weighed this. If we adopt the Occupational Safety and Health Act for the Senate, the pages will not be allowed to pick up this stack. It is too heavy for them. We are being asked to consider this stack in a very short period of time.

The majority leader was just on the floor saying there are minor changes, and that it is common and we do this all of the time. And we do make technical corrections all of the time. But I want to emphasize to the Senate the quantity of changes he was talking about. Between his first bill and his second bill—and we have his third bill tonight—he made amendments to every title of the bill. A title is the legal language we use in bills, like title 1, 2, and 3. He made changes to every title of the bill in 139 sections of the bill. Those are not minor, modest, minuscule changes.

The RECORD will show that I asked yesterday whether or not it was true that a particular part of the bill that both the Chairman, Senator MOYNIHAN, and I were interested in, was in or out of the second bill. I had heard it was out. This was a section that dealt in the law, not in the Finance Committee bill. It is the only bill that was introduced that did not have this section in it. We were going to tell every medical school in this country how many residents they could have. Residents are graduate medical students. We were going to tell them what kinds of residents they could have—surgeons, ophthalmologists, podiatrists, whatever. We were going to tell them on the theory that we knew better than they do. This is a section that offended very greatly the Chairman and I.

I was assured by one of the Democratic Senators that in the new bill—it is no longer new; it is yesterday's—introduced by the majority leader that section was out; indeed, the section was out. Do you know what was in? A commission. And a commission was to determine how many residents and what kind of residents, and the word reduced—and they shall determine to what extent the number of residents shall be reduced. Well, darn it, that answer misled me. I thought it was out of the bill. And I hope before we are done, this pernicious section is going to be out of any bill that we are considering.

But how on Earth are we to know when we get, tonight, the leader's bill? We got this tonight. Some amendment has been offered to this, or something else, we are not yet sure, and the leader wants to vote on it tonight. That is our problem.

There is one thing we do know about the leader's bill of yesterday. I do not know about it today. I do not have the CBO estimates yet. We know that the leader's bill, yesterday, would spend more money on health over the next decade than if we pass no bill at all. People have been talking about the waste, the excess, and ineptness of our present medical system. And if we did nothing, we would spend less money than if we passed the majority leader's bill intact. Maybe we want to spend more money. It is a fair argument. I would prefer not to. But it is a fair philosophical argument and, on balance, it divides, on average, Republicans from Democrats. On average, Democrats are more comfortable spending money, Republicans are not. Democrats are more comfortable with a centralized bureaucracy, Republicans are not. I am not saying every Democrat and Republican fall into those categories; I am just saying on average. You can tell it from the speeches. With a few exceptions, all of the Democratic opening statements have been horror stories of somebody who is sick or injured and had no insurance coverage. In essence, every one of their opening statements was that little Nellie is tied to the railroad tracks, and the train is coming down the track, and the train is going to cut off her legs and she does not have any insurance coverage; and the solution of the Democrats is to make sure she is insured. I think the solution of the Republicans would be to try to stop the train. And yet, we are not going to be allowed to stop the train if we pass the majority leader's bill.

I am going to quote a few statistics, and it ought to bother everybody in this country, because it happens so slightly that we are unaware of it. In 1950, every government in the United States—Federal Government, State government, local, cities, counties, fire districts, school districts, water districts—taxed 21 percent of all the money in this country, or $1 in $5. That was in 1950. All of those same governments, in 1950—all of them put together—spent about 23 percent of all the money we had. So we were taxing 21 percent and spending 23 percent. We had a deficit, collectively, if you add all the governments together. The argument is, first off, that we should raise taxes to narrow the deficit. Well, over the last 40 years, that has not happened. As I said, in 1950, we taxed 21 percent, we spent 23 percent.

Forty-four years later all of the same governments, all Federal Government, all the State governments, cities, counties, fire districts, water districts are taxing not 21 percent, $1 in $5 roughly. They are all collectively taxing 33 percent, $1 in $3. So the taxes have gone up rather significantly. Spending, however, for all of the governments is 36 percent.

So in 1950, we taxed 21 percent; we spent 23 percent. In 1994, we taxed 33 percent; we spent 36 percent.

We have raised the taxes. We have not narrowed the deficit. And the bill that we have before us raises an immense quantity of taxes and spends an immense quantity of money.

As I have said, the bill we have before us will spend more money on health than if we pass no bill at all. But the question we ought to ask ourselves is, do we want to look in another 10 or 20 or 30 or 40 years like Sweden, because if we keep going the way we are going gradually we will end up taxing 40, 45, or 50 percent of all the money we have, and we will spend 2 or 3 percent more than we have. We will never balance the budget. We will just spend the money.

The bill that we have before us, Mr. President, is an immense taxing and spending bill. And before we rush pellmell into it, we would like a legitimate chance to know it and to talk about it and to present our arguments to the American public.

We normally in the Senate have a recess schedule starting tonight. If we had the recess, we would be home, and we would be talking with our constituents about this bill. And we would be asking their opinion and their judgment.

But the majority leader has said that we cannot go home. He has said we are going to stay here as long as it takes, as many days, weeks, and months, if necessary, for every Senator to be able to consider the bill amply. That is fine. But, Mr. President, there is one problem with that. We can consider it amply, but our constituents cannot, and the only chance we are going to have, because we cannot go home to educate them, is to attempt to educate them through debate on the Senate floor and through opening statements that are going to thoroughly dissect this bill.

A few moments ago, I was called off the floor and interviewed by one of the better reporters who is covering this subject, and she indicated one of the Democratic Senators had gone up to the press gallery after I had indicated that we had many Senators who wanted to make opening statements and that some might be 4 or 5 hours long, not all, but two or three may be 4 or 5 hours long. Many of them will be an hour, some a half-hour, some an hour and a half.

And that Senator accused us of using filibuster tactics. He called that a filibuster.

I ask you if we cannot go home and talk to our constituents and if the only way we have where we otherwise would be a month at home talking to them, if the only way we have to get the point across that we feel so strongly about on this bill is to talk on the floor of the Senate, is that some kind of an immoral, unethical process? Is that a filibuster?

And this was from a Senator who voted against allowing us to have a vote on product liability, who filibustered the bill so that we could not vote on it, then goes upstairs and says to the press that the Republicans are filibustering this when we cannot go home, and we have no other opportunity to bring this bill to the public's attention.

Mr. President, we are going to bring this bill to the public's attention. It may take us days or weeks or months. General Grant said he was prepared to fight it out on this line if it takes all summer. I think we are prepared to equal General Grant.

With that, I am prepared to yield such time as I have remaining of my half-hour section to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. DASCHLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DASCHLE. What is the current time allocation for the Senator from Oregon?

The PRESIDING OFFICER. Under the previous order, each side is allocated 30 minutes. The Republican floor manager has 15 minutes and 5 seconds under his control and, as I understand, he has yielded that time to the Senator from Texas.

Mr. DASCHLE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the distinguished managers of the bill, Senator MOYNIHAN and Senator PACKWOOD, for allowing me this time. I do not intend to speak for 2 or 3 hours I say to Senator PACKWOOD. And unlike Senator LOTT, it is not welling up in me and having to come out all at once tonight. But I have been watching the debate for the last week, and I did want to say a few things tonight before I do give my opening statement later in the next week or whenever my time comes.

Mr. President, I did spend the last weekend at home going through Texas, walking through Dairy Queens, coffee shops, talking to people, not talking about health care in particular, but saying, "What is on your mind?" Not one person that I talked to did not blurt out something along the lines of, "What are you people in Washington going to do with our health care system?" That is a variation of everything I hear as I go through my State, just talking to people in the airports, walking down the street, walking into a building. It is the topic that people most fear, and it seems to me that the more they hear the more afraid they become, because they are being educated on all of the things that could change in the health care system as we know it.

I would like to put in perspective what we are talking about here. Eighty-five percent of the people in our country have health care coverage.

Most are satisfied with that coverage or, if they do not like it, at least they know that they are going to be covered and something catastrophic will not happen to them. Ninety-five percent is now considered universal coverage.

So what are we going to do to bring the other 10 percent into the fold, because we do want them to be covered? We want them to know that something catastrophic will not happen to them when they do not have coverage.

It seems to me that President Clinton and Senator MITCHELL and the people who are supporting the kind of plan that will, in fact, throw out the system we have and replace it with something that is a massive Federal takeover of our system are asking a different question from what I think we should be asking.

President Clinton is saying how can we bring the other 10 percent into the fold? That is the question. I think the question should be, how are we going to bring the other 10 percent into the fold without damaging the system that 85 percent of our people have and to make sure that the full 95 or 100 percent have a great quality health care system as we do in our country now?

I think that should be the question. So if that is the question, I think you will come to a different answer from the Clinton-Mitchell type of approach.

Senator MITCHELL's plan has mandates. They do not come until after the year 2000, if we do not have the 95-percent coverage, but, nevertheless, the mandates are there. It is a 50-percent mandate for employers, but it includes individual mandates as well. So it is going to be mandates for all of the people in our country.

It includes massive tax increases, the 1.75 percent tax on every premium, so if you are covered, you are going to pay that tax, and if you cover yourselves or your employees with a better plan, you are going to have a 25-percent excise tax.

It seems to me that that is the wrong approach, having a massive tax increase if you are going to do better for your employees. We should be trying to encourage people to cover themselves fully, trying to encourage employers to do better, as best they can, for their employees.

And there are so many things in there that I think we just do not know yet. That is why I have been uncomfortable with the bill that was introduced last week, taking it up immediately, 1,400 pages, because all of these new Federal programs and Federal agencies and commissions that are going to decide what all of us have in our cookie-cutter plans.

But one thing did jump out at me, because I am very supportive of medical education, and that is that we are also talking about engineering our medical profession in these plans.

What about the young man or woman who wants to go to medical school because his or her mother and father or mother or father were ophthalmologists and they want to go to medical school so they can come home and be in the family of ophthalmology? That is what they have grown up in, working in the summers when they were in high school. They know what ophthalmology is and they love it.

So they go to medical school under one of these new plans and they graduate from medical school and they get ready to go into their ophthalmology specialty. And the agency that is in charge of saying how many specialties are available says, "I'm sorry, but ophthalmology is filled. You are not going to be able to do that."

That is not what this country is looking for in health care reform. We are looking for keeping our choices, for our best young men and women to go into the medical profession knowing that they will be able to pick the specialty that they want or to be able to do a family practice, which is what we hope they will do, especially in our rural areas. But we do not want in this country to start engineering our medical practice, because that is going to take away from the quality that we have known in this country.

It seems that we are patterning these new bills, the Clinton-Mitchell-Gephardt type bills, after what we have seen in Canada. In fact, President Clinton said in the campaign that he was looking at the Canadian system as the model for his plan.

But I wish you would talk to someone who has lived in Canada and lived under their health care system. If someone is well in the Canadian system, they do fine. But if you are sick in the Canadian system, you have a problem. There is rationed health care because there is a limit on what can be spent and that causes rationing. You wait 6 months for heart bypass surgery; hope you have that luxury. A lot of people who can afford it will go to the United States to have surgery because they cannot wait 9 months for cataract surgery or 3 months for a mammogram.

I read an article by a woman who had just had a baby in Canada. She said that she had thought she would have anesthesia. But there was only one anesthetist in the hospital there and the anesthetist was taken up with emergency surgery, and by the time he could get to her it was too late.

That would not happen in America. No woman has a baby without anesthesia if she wants it, regardless of whether she can pay or not. That is because we have the quality of health care system that we do. I do not think we want to give up that quality for a system that is not working in Canada and we certainly do not want to put that kind of system in place in America where we do have the quality.

So, Mr. President, I would just say that I think we do need to take our time. I do have some concerns, and I do want to more fully explore those concerns.

But I think the people of this country deserve to be able to really know what is in this bill and what the effects are and have time to study it. I think they want to know what impact these bills are going to have on their quality of life. Because that is what this is. It is one-seventh of our economy. Millions of jobs in the health care industry are at stake here.

But, most of all, it is a basic quality of life issue for every American, what we do. I do not think we have to do it in the next 2 weeks, because if we make a mistake, it will be very difficult to reverse the mistake.

You know, we passed a tax bill in this body last year, and I was against it. But I know that we will be able at some point in the future to repeal a bad tax. We have passed some regulations and mandates that I think are not going to work. We can repeal a bad regulation.

But, Mr. President, when you overhaul the health care system, throwing out everything that we know today and putting in a whole new Government structure, we cannot reverse that. We cannot reverse it. And we must remember that. We are talking about something so important to so many families.

The only responsible approach is to take it one step at a time. Let us improve the system as we know it. We can do that.

There are some things that we need to do. We need more accessibility. The Mitchell plan provides that, so does the Dole plan. The Dole plan does it without mandates and taxes and without a massive Government bureaucracy. We need access, and we can do that. That will be a responsible thing for this Congress to do.

And we can bring health care costs down with malpractice reform. The Dole plan is the only bill that has malpractice reform. I think that is the only way we are going to really bring the costs down. We can also do some of the things in the Mitchell-Clinton-Gephardt bills that take away some of the duplication of paperwork in our insurance forms. We need to do that. But we also need malpractice reform if we are going to bring the costs down so that we can keep the quality in our system.

And we can make affordable access possible through voluntary pools. We do not have to have mandates for that. We can have voluntary pools with tax incentives to help people pay, along with subsidies for people who are at the poverty level or 150 percent of the poverty level.

You know, I have seen so many of the President's press conferences and his town hall meetings. He has some tragic stories. Most of the people that are mentioned in the press conferences that do have needs that we must address would be covered in a plan like the Dole plan. We can bring those people into the system without hurting the system for the other 85 percent of our population. Let us do this responsibly.

Mr. President, let us do this responsibly. Let us make sure that we take one responsible step at a time. We do not need a crisis, and we are going to make a crisis if we take an action that we have not experimented with, that we are not sure what the consequences will be.

So, Mr. President, I thank you for recognizing me, and I thank the managers of the bill.

I just hope that Americans will listen to the debate. I hope that we will be able to debate fully enough that they will have the education they need to make a choice. If they want this massive, new Federal bureaucracy taking over the health care system, do they want the new taxes?

Let me just make one point before I close. And that is that we are told that there are people now not in the system and we pay for them anyway. And we can take those costs off by making sure that everyone is covered.

I submit to you that it is just a matter of how we pay for the people who are not covered. I doubt that there is much difference between how we take care of people today through Medicaid, through county health clinics, through emergency facilities that are open to people who do not have coverage, versus the new taxes in the Mitchell-Clinton-Gephardt bills that are used to pay for the people who are not covered, to pay for the subsidies for the people who are not covered. The subsidies in the Mitchell bill are estimated now to cost $1 trillion over the next 8 years—that is what I have seen in print.

That is a cost that we must pay for. Someone is going to have to do it. It is going to be the people who are taxed on their premiums, especially if they decide to go the extra mile and pay 25-percent tax. There are taxes all through this bill. So that is how we are going to pay for the people who are not covered.

We are doing that now. And people have a quality health care system to rely on. So let us try to help the people who do not have coverage. Let us try to bring them into the system, make sure they get the prenatal care, the preventive care, the care that will keep them from having the emergencies or the premature babies. We need to do that. Let us do it in a responsible way that brings everyone the quality that we have in our system. That is the responsible approach.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Texas for her very thoughtful and carefully modulated remarks. I think on that happy note we conclude our debate for the day.

There is just some concluding business for the Senate, I say to the Presiding Officer who has been waiting patiently, well past the hour in which his watch was to have concluded.

MORNING BUSINESS

FISCAL YEAR 1995 ENERGY AND WATER APPROPRIATIONS BILL

Mr. DURENBERGER. Mr. President, the forces of nature are both awesome and horrible. Every year America suffers natural disasters: lethal tornados, devastating earthquakes, scarring wildfires like those plaguing our western forests, savage hurricanes along our southern coasts, bone-dry droughts, and wrenching floods like those experienced last month in south Georgia and last summer in my state of Minnesota, Iowa, and Missouri.

The cost of these disasters cannot be measured in dollars only; lives are lost, crops and livelihoods are wiped out, treasured memories destroyed, and lands are scarred.

While government cannot control Mother Nature, wise planning and engineering can lessen her threat. This is what the U.S. Army Corps of Engineers does: it plans, constructs and manages flood control measures throughout the country. And, this is why this Energy and Appropriations bill is so important: it funds the Corps of Engineers.

The committee has funded projects on numerous Minnesota streams and lakes: on the Zumbro River through Rochester, on Basset Creek through Golden Valley, on the Mississippi River in St. Paul, on the reservoir lakes in northern Minnesota, on the St. Croix River by Stillwater, and on the Minnesota River in Chaska. All these projects have saved property and just as importantly, withstood the test of time.

Also, Mr. President, coming from Minnesota, one cannot overlook the great value of keeping America's internal shipping lanes open to oceangoing traffic. Minnesota serves as both the starting point of the Mighty Mississippi and the St. Lawrence Seaway of the Great Lakes. Billions of dollars of goods use both passage-ways each year.

Thus, the funds made available by the Committee for such projects as upgrading Lock and Dam number 26 on the Mississippi River allows barge traffic from the Twin Cities of St. Paul and Minneapolis to flow unhindered southward to the Gulf of Mexico. Likewise the harbor dredging and lock maintenance on the St. Lawrence Seaway preserves Duluth as a great shipping port.

So, Mr. President, since the bill before the Senate today is the last Energy and Water appropriations bills that I will have the privilege to be a part of, I want to thank the Chairman and Ranking Member for their assistance in making Minnesota a better and safer state.

FLOOD CONTROL PROJECTS

Mr. President, in my 16 years in the Senate, eight flood control projects have been either finished or started. These projects are bringing more than just flood control to Minnesotans, they are bringing peace of mind. Although there are so many, let me just remark on several of the most important:

In 1976, the City of Rochester was ravaged by flood waters from the Zumbro River, killing 5 people, and destroying homes and croplands. In response, my first legislative action in the Senate was to introduce an amendment to the Water Resource Development Act to authorize the Army Corps of Engineers to construct a series of levees on the South Fork of Zumbro River, Bear Creek, and Cascade Creek. The project was designated to provide protection from the 200 year flood event—and was even put to the test during last summer's floods. Since then, the Federal Government has provided over $76 million in funding, and the project is now scheduled for completion next year.

The Bassett Creek flood control project is currently scheduled for completion in 1995. This project began after severe floods damaged property in such towns as Golden Valley, New Hope, and Crystal in 1974, 1975, 1978, and 1987. With a Federal share of $29 million, flood storage in recreational areas and open spaces will be created throughout the watershed, with a new tunnel in the outlet reach under a highly urbanized area of Minneapolis. Finally, we will be able to provide the necessary flood protection to the people of these cities.

The City of Chaska, on the Minnesota River now has 1.1 miles of upgraded levee and 1.5 miles of new levee as well as new drainage and pumping facilities. This construction is designed to protect residents from flooding of the River, and the Chaska and East Creeks. Thanks to assistance from this Committee, the project will be completed in 1996.

In Marshall, levees from the 1960s were already in place to protect the town from the smaller floods which occurred from the Redwood River with such regularity. However, during particularly high waters, the Redwood has been known to escape the boundaries of its banks, and flow out over the county highway and into the city. The funding provided by this Committee beginning in 1986 was used to improve the existing levee system and drainage facilities, and implement channel improvements. The first stage of construction was completed in 1993.

Our capitol city of St. Paul lies on the upper reaches of the Mississippi River, and has been ravaged by record-breaking floods. After floods in 1952 1965 and 1969, a flood barrier was constructed to protect 448 floodprone acres. But, with the threat of future floods and the potential for over $270 million in damages if the project were to fail, the Crops determined that protection must be increased. Improvements were authorized in the Water Resources Development Act of 1986 and 1990 to raise the existing flood barrier by 4 feet, thus protecting the area from a 588-year flood. The project also includes raising the height of existing floodwalls, and improving levees, closures and dumping stations. I am pleased to say that the Corps plans to complete this project within the next few months.

The historic city of Stillwater's retaining wall system was built in 1937–38 as a Works Progress Administration project to protect the fragile riverfront from flooding and erosion when the locks and dams were built on the Mississippi River at Red Wing, MN. Unfortunately, over the years the structural integrity of the wall had seriously degenerated. But last year, this Committee awarded $2.4 million to expand the existing flood wall system to protect the local residents, fragile riverbank and surrounding property—much of which is listed on the National Register of Historic sites. Construction of this project is well under way, thanks to the efforts of Mayor Hooley of Stillwater, and Ed Cain.

The city of Houston, located in the flood plain of the Root River, has been hit by major flooding 10 times since 1960. Improvements to the existing flood system were authorized in the Water Resources Act of 1986, but it was not until this year that the Senate was finally able to designate funding to construct a new dike system to enlarge the channel and reduce the danger of flash flooding. While this worthy project was removed by the conference committee, I am hopeful that the Army Corps will continue to support this project by providing funding under the Section 205 authority. For a Federal promise of $140,000, local and State interests will contribute matching funds upwards of $1.1 million.

In beautiful northwestern Minnesota lies the Sauk Lake, and several tributaries. This area is hailed as one of Minnesota's finest vacation spots—boasting such recreational activities as fishing, boating, swimming, and camping. However, in the mid 1980s, the area was plagued with major aquatic plant growth and algae problems. Currently, the Corps is working under a Local Cooperative Agreement to plan a weed harvesting program. This success story is a wonderful example of how Federal, State and local representatives can work together, sharing cost and equipment, to restore the natural beauty to this recreation area.

Minnesota's North Shore of Lake Superior is the most dangerous on the Great Lakes because of its rocky coastline, frequent unexpected and violent storms, and extremely cold waters. For small craft operators, the best protection available are the few commercial boat harbors or natural cove areas. However, these are still dangerous because of the rough waters within the bay during storms. Last year, for the first time, this Committee recognized the danger of having no safe havens on Lake Superior by appropriating funds for construction of a harbor of refuge at Silver Bay. Finally, small boat operators will have somewhere they can go to escape the tempestuous moods of the Great Lake. I am hopeful that the importance of such havens will continue to receive recognition long after I leave this chamber.

NAVIGATION MAINTENANCE

In the Water Resources Development Act of 1986, I authored legislation that led to the expansion of the twin locks at Lock and Dam 26 on the Mississippi River. This expansion significantly improved the transportation capabilities of this great waterway. During discussion of this bill, I worked hard to break the deadlock on how to finance the cost of improving and expanding the capacity of our Nation's waterways. In the end, we developed a barge tax which enabled America's farmers to continue using the waterways to transport most agricultural products.

Rivaling the Lock and Dam in the quest for Federal dollars is the Upper Mississippi Environmental Management Plan, also created in the 1986 Water Resources Development Act, and then extended in 1990. This effort began with the formation of GREAT—the Great River Environmental Action Team—which consisted of Minnesota as well as Illinois, Iowa, Missouri, and Wisconsin. Our goal was to implement a coordinated plan which addressed commercial navigation and ecosystem management on the Upper Mississippi River.

In other areas, we eliminated unfair tolls on the St. Lawrence Seaway. Instead of tolls we pursued the more fair funding method of imposing an ad valorem-based fee to cover the Army Corps operations and maintenance at the ports on Duluth—the westernmost port to the Atlantic in the country. At first, tolls were paid to the Harbor Maintenance Trust Fund, and later rebated. This year, for the first time, we have done away with the rebates. Now shippers using the Seaway no longer pay any tolls. And the ad valorem tax is perfect for the type of cargo shipped from the Great Lakes. The tax is paid on the value of the cargo, rather than on the size of the vessel. And most of the exports from Duluth are items like grains and taconite—products whose value rests in bulk.

CONCLUSION

In conclusion, Mr. President, the funds that the Chairman and Ranking Member of the Energy and Water Appropriations Committee have provided to projects in my State of Minnesota are greatly appreciated by me and by millions of Minnesotans whose property has been protected.

In addition, I cannot conclude without thanking the tireless work of Lou Kowalski of the Corps of Engineers, St. Paul District. Lou is the fountain of knowledge and hardwork. He has spent a career shepherding these complex projects through the often tortuous process from drawing board to ribbon cutting.

FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I rise today in my continuing effort to illustrate the need for health care reform. Today, I would like to tell the story of Gary and Joann Smith from my hometown of Flint, MI. [Their names have been changed at their request.]

Gary worked as a bricklayer for the Jones and Simpson Construction Co. for more than 40 years. He was a member of Brick Layers Union Local No. 12 and has been retired for the last 6 years. He is 66 and his wife Joann is 69. Joann has never worked outside the home.

While Gary was employed by the construction company, he and his wife received comprehensive health care coverage, including prescription drugs, through Blue Cross/Blue Shield of Michigan. They incurred no out-of-pocket expenses. When Gary retired in 1988 at age 60, the company offered continued health coverage, as a retiree benefit, that cost the Smiths only $100 per month.

With affordable coverage and enjoying good health, Gary and Joann felt confident that their health care needs would be met throughout their golden years. When Gary became eligible for Medicare, their retiree health policy continued to provide supplemental coverage for prescription drugs, dental, and vision services.

But on February 22, 1994, Gary required emergency surgery to treat an aneurism. During his hospital stay, Gary was notified that his supplemental policy would be canceled as of April 1, because the company was going out of business. All retirees would lose their coverage.

This was a terrible blow for Gary and Joann, as well as for all the other retirees who lost coverage, who knew the difficulty they would face in finding affordable health insurance.

Since his surgery, Gary has required constant medication. Joann takes medication to treat high blood pressure and severe allergies. She is so unsettled by their loss of prescription drug coverage that she is delaying getting care for a recently diagnosed kidney problem because she is afraid that they cannot afford drug treatment for her husband and herself.

Gary and Joann live on monthly income of $2,000. Their drug costs now average $400 per month, or 20 percent of their income. The loss of prescription drug coverage has left them feeling vulnerable and insecure. They are distraught that the savings that were supposed to last them through their retirement may be eaten up by ever increasing medical costs that they never imagined they would have to pay. Despite his fragile condition, Gary has attempted to work doing some small side jobs to supplement their income, but such work leaves him utterly exhausted.

Once secure and looking forward to their retirement years, the Smith's are now frightened and left wondering how they will afford to pay these ever increasing prescription drug costs.

Mr. President, rising health care costs have forced companies across the country to cut benefits to retirees who thought their coverage was guaranteed. Because Medicare does not cover prescription drug costs, our seniors are losing any sense of security for their later years. Senator MITCHELL'S health reform bill would add affordable drug coverage to Medicare and guarantee access to comprehensive coverage to everyone. Mr. President, I will continue to work with my colleagues to pass a health care reform bill this season.

CONCURRENT RESOLUTION 57 TO DESIGNATE 1995 AS JAZZ CENTENNIAL YEAR

Mr. CHAFEE. Mr. President, I rise today to cosponsor and lend my full support to Concurrent Resolution 57, which would designate 1995 as Jazz Centennial Year.

Last year in New Orleans, the Louisiana Music Commission, in consultation with historians, jazz musicians, and supporters, determined 1945 to be the 50th anniversary of the inception of jazz, and thus, 1995 to be the centennial.

Jazz, of course, thrives in such diverse places as Chicago, New Orleans, New York, and Newport, RI. In fact, this weekend is the 40th annual Newport Jazz Festival.

The Newport Jazz Festival continually attracts the biggest names and the brightest stars to Rhode Island's shores each summer. This year's line up includes George Benson, Manhattan Transfer, David Sanborn, Dave Brubeck, and the Newport All-Stars, a jazz band formed by George Wein, the founder of the Newport Jazz Festival. The All-Stars have been performing their signature blend of traditional jazz across the Nation since the 1950's.

The festival showcases jazz's rich history and musical diversity, which make it such a unique art form. Both the old masters, and their students who will shape jazz's future, will be performing.

Mr. President, jazz music embodies the distinct American spirit of innovation and improvisation, freedom and honesty, and discipline and study. These are attributes and ideals that have made our Nation great, and I would urge my colleagues to cosponsor this concurrent resolution.

ELI LILLY AND CO. ASSISTANCE TO RWANDA REFUGEES

Mr. LUGAR. Mr. President, I would like to draw my colleagues' attention to an act of humanity in an otherwise inhumane situation. Eli Lilly and Co., headquartered in Indianapolis, IN, has begun shipping what may ultimately be tens of millions of dollars worth of antibiotics to the Rwanda relief effort.

Working through relief organizations including MAP International and the American Red Cross, nearly 1.3 million refugees may be treated for a variety of infections with this medicine, including pneumonia, bronchitis, and wound infections.

While Lilly has a longstanding history of product donation, this is the largest single donation toward such a relief effort, and is believed to be the largest onetime pharmaceutical product donation ever made by a pharmaceutical company. We are proud of Lilly and its employees in this historic effort.

Mr. PELL. The Senator from Indiana has every right to be proud of Eli Lilly's generous donation. They are to be commended. The loss of life and the suffering of the Rwandan refugees is beyond the comprehension of man to grasp. The efforts of companies such as Eli Lilly are a necessary and very welcome act of compassion if we are to ease the suffering of innocents. I hope that recognition of Eli Lilly and their efforts will encourage other companies to come forward and contribute as well.

PRIVILEGE OF THE FLOOR—S. 2351

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Oliver Fein be granted privilege of the Senate floor during the pendency of the Health Security Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 2351

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Parashar Patel and Judy Whang be granted privilege of the Senate floor during the pendency of the Health Security Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FAMILY CAREGIVERS WEEK

Mr. MOYNIHAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a joint resolution (S.J. Res. 153) to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week."

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 153) entitled "Joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as 'National Family Caregivers Week'", do pass with the following amendments:

Page 2, lines 3 and 4, strike out "the week beginning on November 21, 1993 and ending on November 27, 1993, and".

Page 2, line 6, strike out "are each", and insert: "*is*".

Page 2, line 9, strike "weeks", and insert: "*week*".

Amend the title so as to read: "Joint resolution to designate the week beginning on November 20, 1994, and ending on November 26, 1994, as 'National Family Caregivers Week'.".

Mr. MOYNIHAN. I move the Senate concur en bloc to the House amendments to the joint resolution and to the title.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MOYNIHAN. I move to reconsider the motion.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 558, 559, and 560, that the joint resolutions be read three times, passed and the motions to reconsider be laid upon the table, en bloc; that the preambles be agreed to en bloc; further that any statements relating to these Calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL BREAST CANCER AWARENESS MONTH

The joint resolution (S.J. Res. 185) to designate October 1994 as "National Breast Cancer Month" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

The text of the joint resolution (S.J. Res. 185) will be printed in a future edition of the RECORD.

CRIME PREVENTION MONTH

The joint resolution (S.J. Res. 192) to designate October 1994 as "Crime Prevention Month" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

The text of the joint resolution (S.J. Res. 192) will be printed in a future edition of the RECORD.

YEAR OF THE GRANDPARENT

The joint resolution (S.J. Res. 198) designating 1995 the "Year of the Grandparent" was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

The text of the joint resolution (S.J. Res. 198) will be printed in a future edition of the RECORD.

Mr. MOYNIHAN. Mr. President, I ask the senior Senator from New York be instructed to advise Mr. Richard Avedon of the adoption of 1995, as the year of the grandparent.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXCECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4822. An act to make certain laws applicable to the legislative branch of the Federal Government.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolution:

H.R. 1933. An act to authorize appropriations for the Martin Luther King Jr. Federal Holiday Commission, extend such Commission, establish a National Service Day to promote community service, and for other purposes.

H.R. 4453. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

H.J. Res. 131. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

At 3:43 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 2009. An act to amend title IV of the Social Security Act by reforming the Aid to Families with Dependent Children Program, and for other purposes.

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

The message also announced that the House has agreed to (H.Res. 518) and that the Senate amendment No. 83 to the bill (H.R. 4544) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill with the Senate amendments thereto be respectfully returned to the Senate with a message communicating this resolution.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

H.R. 4277. An act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

H.R. 4426. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995.

H.J. Res. 175. A joint resolution designating October 1993 and October 1994 as "Italian-American Heritage and Culture Month."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

ENROLLED BILLS SIGNED

At 4:50 p.m., a message from the House of Representatives, delivered Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4822. An act to make certain laws applicable to the legislative branch of the Federal Government; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S. 2069. A bill to grant consent of Congress to the Northeast Interstate Dairy Compact (Rept. No. 103–333).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2251. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes (Rept. No. 103–334).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2383. An original bill to authorize the sale of the Alaska Power Administration (Rept. No. 103–335).

S. 2384. An original bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes (Rept. No. 103–336).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 1779. A bill to designate the facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, as the "Jerry L. Litton United States Post Office Building".

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 3197. A bill to redesignate the Post Office building located at 13th and Rockland Streets in Reading, Pennsylvania, as the "Gus Yatron Federal Postal Facility".

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 3285. A bill to redesignate the postal facility located at 1401 West Fort Street, Detroit, Michigan, as the "George W. Young Post Office".

H.R. 4190. A bill to designate the United States Post Office located at 41–42 Norre Gade in Saint Thomas, Virgin Islands, as the "Alvaro de Lugo United States Post Office".

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 4576. A bill to designate the Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, as the "Jamie L. Whitten Federal Building".

H.R. 4577. A bill to designate the Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, as the "William H. Natcher Federal Building and United States Courthouse".

H.R. 4790. A bill to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse".

S. 2073. A bill to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation To Subcommittees of Budget Totals from the Concurrent Resoltuion for Fiscal Year 1995" (Rept. No. 103–337).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Roger C. Viadero, of Virginia, to be Inspector General, Department of Agriculture, and

Jose M. Amador, of Texas, to be an Assistant Secretary of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAUCUS, from the Committee on Environment and Public Works:

Norma Udall, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years;

Matt James, of California, to be Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years;

Terrence L. Bracy, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years;

Bill Anoatubby, of Oklahoma, to be Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years;

William A. Nitze, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency;

Kay Collett Goss, of Arkansas, to be an Associate Director of the Federal Emergency Management Agency; and

Robert James Huggett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be admiral

Adm. Henry H. Mauz, Jr., U.S. Navy, 578–48–6674.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 2382. A bill to amend the Tariff Act of 1930 to provide parity between the United States and certain free trade agreement countries with respect to the exemption for personal and household effects purchased abroad by returning residents, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON:

S. 2383. An original bill to authorize the sale of the Alaska Power Administration; from the Committee on Energy and Natural Resources; placed on the calendar.

S. 2384. An original bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. DECONCINI:

S. 2385. A bill to require the Secretary of Agriculture to establish and carry out a Sustainable Ecosystems and Economies Demonstration Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. HUTCHISON:

S. 2386. A bill to authorize the Administrator of General Services to enter into agreements for the construction and improvement of border stations on the United States international borders with Canada and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. DASCHLE, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S. 2387. A bill to amend the Service Members Occupational Conversion and Training Act of 1992 to permit a period of training under the Act of more than 18 months, and for other purposes; to the Committee on Veterans Affairs.

By Mr. HATCH (for himself, Mr. DOLE, Mr. BINGAMAN, Mr. MCCAIN, Mr. KENNEDY, Mr. DOMENICI, Mr. DODD, Mr. DANFORTH, Mr. REID, Mr. MACK, Mr. BRYAN, Mr. GRAMM, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. MOYNIHAN, Mr. CRAIG, Mrs. FEINSTEIN, Mr. LUGAR, Mr. LIEBERMAN, Mr. BROWN, Mrs. BOXER, Mr. CHAFEE, Mr. SIMON, Mr. WARNER, Mr. DECONCINI, Mr. SPECTER, Mr. D'AMATO, and Mr. THURMOND):

S.J. Res. 216. A joint resolution designating the week beginning September 12, 1994, as "National Hispanic Business Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 2382. A bill to amend the Tariff Act of 1930 to provide parity between the United States and certain free-trade agreement countries with respect to the exemption for personal and household effects purchased abroad by returning residents, and for other purposes; to the Committee on Finance.

BORDER TARIFFS ACT OF 1994

• Mr. BINGAMAN. Mr. President, I offer a bill to correct an inequity that has developed along our border with Mexico with respect to tariffs on goods crossing the border.

The United States currently permits duty-free entry of $400 of retail goods for personal consumption each month. There is a 10 percent duty on the next 1,000 dollars' worth of purchases brought into the United States. Mexico, by contrast, limits the amount of goods that can be imported for personal consumption to $50 per day. Goods above that amount have a duty of approximately 33 percent.

Mr. President, this difference in policy obviously hampers trade along our borders. It is ironic that this problem exists at a time when both the United States and Mexico have made a commitment to increasing trade through enactment of the North American Free-Trade Agreement.

Initially, I hoped that this problem could be corrected administratively. I wrote to the Secretary of State about this issue. With my fellow border Senators, I also contacted the Commissioner of Customs in our country and President Salinas in Mexico. All, ultimately, to no avail.

There are two tracks we can take to persuade the Government of Mexico to increase its duty-free limit, and I believe that we should pursue both of them. The first is to get our government to negotiate with the Government of Mexico to equalize the duties. My good friend and colleague from Arizona, Senator DECONCINI, inserted language in the Commerce, State, Justice Appropriations report that would direct the U.S. Trade Representative to make doing so a priority. Simultaneously, I believe that we should change the exemption provided for in our tariff laws to match that of Mexico's. Together, these two actions can help ensure that retail businesses on both sides of the border are on the same footing.

So, today, I rise to offer legislation that would equalize the amount of personal retail goods that can cross the border duty-free in either direction. This legislation simply says that our duty will not be lower than Mexico's.

It is my hope that this measure, which provides equity for our border business and ultimately promotes trade, will win speedy approval.•

By Mr. DECONCINI:

S. 2385. A bill to require the Secretary of Agriculture to establish and carry out a Sustainable Ecosystems and Economies Demonstration Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION ACT

• Mr. DECONCINI. Mr. President, I am today introducing the Sustainable Ecosystems and Economies Demonstration Act. This bill authorizes a demonstration program to implement ecosystem management practices on lands within our National Forest System. This will be accomplished through the use of ecosystem management contracts and includes every region of the country.

We must begin managing our public lands by looking at the entire ecosystem. This holistic approach will take into account the vegetation, the wildlife, the water, the land, the air, and the people—the people that make their living from the resources as well as those who come to visit.

Our national forests have been very much in the news lately. The news has not been good—the forests are burning. Hundreds of thousands of acres have been destroyed. The lives of expert and courageous firefighters have been lost trying to save not only the natural resources but the lives and the homes of those in the path of the fires.

Should we fight all natural fires? Should we use fire as a management tool to eliminate fuel loading and thus reduce the number of large fires? Are these fires natural occurrences that we must learn to live with or have our past management practices added fuel to this problem? Have our logging practices, our grazing methods, our fire management contributed to this problem or is it merely the human intrusion into pristine areas bringing this issue to the boiling point? What strategies can the Forest Service use to limit the harmful effect of fire on the resources and the humans who live in the area?

These same questions just posed regarding fires can also be asked for the management of disease, insects, and soil erosion. Mr. President, we must find a balanced use of our natural resources. The goal must be to maintain a healthy ecosystem and be sensitive to the economic and social effects of these management strategies. The effects of natural disasters, the extraction of commodities such as minerals and timber, and the management of the national forests for recreation, wildlife habitat, and other resources have an effect on those that live in the area, own adjacent property, and rely on the resources for their livelihood.

The Forest Service must have more tools to effectively deal with the future of our forests. This act provides two important new tools.

Mr. President, let me explain these two new initiatives. The first tool is a mechanism to fund the demonstration areas. Numerous separate accounts are currently utilized to fund the Forest Service which cumulatively result in inadequate amounts. The General Accounting Office, in 1987, concluded that the current funding mechanisms prevented land managers at the forest and district levels from implementing end-results management practices. This bill designs demonstration areas to be self funding with no appropriations required. The Federal portion of the receipts generated from sales of timber within the demonstration area will be placed in an account to be used within the area for projects that benefit the ecosystem. That portion of the forest revenue shared with local government will continue. The concept is not to divert money from the treasury but to target areas with significant problems, especially where there are major conflicts between resource issues and local needs.

The second tool is a mechanism to create land management service contracts. The idea is to create a contract between the Forest Service and a third party for certain activities such as wildlife habitat improvement, reforestation, wetlands enhancement, recreation opportunity development, et cetera, as determined by the local Forest Service official. Again, the funding for this contract will be from the receipts generated as I just discussed.

Beginning in 1987, according to report language I had included in the Interior appropriations, the Forest Service was able to try the concept in several forests in the southwest. After several years of developing the concept, the Forest Service reported that current laws prevent the exchange of timber receipts for services.

The fiscal year 1992 Interior appropriations bill included bill language at my request to authorize stewardship end-result contract projects in the Dixie and Kaibab National Forests. In a floor colloquy with Senator LEAHY we discussed the purposes of the program. Senator LEAHY made the point that the amendment would "* * * provide the authority aggressively move forward in implementing a pilot project." Senator LEAHY also clarified the fact that the language did not amend any environmental statutes and that the contracts should be used to promote ecosystem-based programs. He also said that the treatments should be tailored to localized conditions and examine a wide range of products, services, and management options.

The Forest Service feels there is great potential in the contract approach. What has been discovered is that these demonstration contracts in effect now allow more coordinated, effective, and less costly treatments.

The purpose of any pilot program is to find out what works and does not work. These pilot projects in the southwest have provided a lot of information. It is time to apply what we have learned on a national scale and continue gaining knowledge on the most effective methods to accomplish ecosystem management.

This bill offers a 5-year national program to provide for more diverse experiences. The only limitation in the bill is that contracts be restricted to two districts in two forests in each region to ensure equitable distribution. I recommend to the authorizing committee that flexibility be provided to the Forest Service in selecting the demonstration areas; however, the bill is written to allow a grandfathering of the forests where the program was initiated in the fiscal year 1992 and 1993 appropriations acts.

This bill gives priority to communities which have been severely impacted by reductions in timber sales due to endangered species or other environmental concerns. This demonstration program is experimental and should provide the Forest Service an expanded role in dealing with local government and local issues.

I would like to thank Jim Magner and Jim Matson, organizers of the Sustainable Ecosystem Coalition, and those in the Forest Service who have been so creative in exploring solutions to the complex issues in this area. Additionally, I am most appreciative of the work provided by Dr. Dave Garrett of the Northern Arizona University School of Forestry. Finally, I would like to thank Senator LEAHY, the chairman of the Agriculture Committee, for his early support and guidance for the demonstration program and Senator BYRD for his leadership and support.

I urge my colleagues to give this bill serious consideration. I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sustainable Ecosystems and Economies (SEE) Demonstration Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The successful implementation of new and innovative processes is required to assist in determining ecosystem management practices for Federal lands.

(2) A reduction in timber sales and the available volume of timber has had significant adverse impacts on the economic health and well-being of many small communities that are dependent on Federal timber resources.

(3) Conditions in many forests, including heavy fuel loads, tree density, and increasing threats from catastrophic fires, disease, and insect infestations adversely affect the biodiversity, health, and sustainability of forests.

(4) The achievement of ecosystem management will be greatly hindered, unless the Federal Government determines a means of balancing sustainable ecosystem requirements with the growing demands on timber resources in an expeditious manner.

(5) The authority granted to managers of Federal lands does not provide for the distribution of receipts of revenue from timber and other products to fund actions properly or to achieve ecosystem management.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for demonstration projects to establish and implement new ecosystem management practices on specific lands managed by—

(A) the Secretary and the heads of other Federal agencies; and

(B) States and private landowners.

(2) To test the feasibility of ecosystem management contracts.

(3) To improve the health of forest resources.

(4) To provide for needed flexibility in contracting and funding practices and distribution of receipts of revenue from timber and other products to ensure that Federal land managers have the necessary means to implement ecosystem management.

(5) To provide an economic stimulus to communities that are profoundly dependent on Federal timber resources.

(6) To provide the Secretary of Agriculture the authority to enter into ecosystem management demonstration contracts to achieve management requirements prescribed in the following provisions of law:

(A) The Multiple Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(B) The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(C) The Act of June 7, 1924 (commonly known as the "Clarke-McNary Act of 1924") (43 Stat. 653, chapter 348).

(D) The Act entitled "An Act to facilitate and simplify national-forest administration", approved June 15, 1940 (54 Stat. 398; 41 U.S.C. 20a).

(E) The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001 et seq.).

(F) The last paragraph in the matter under the heading "FOREST SERVICE." in the Act of May 23, 1908 (popularly referred to as the "Twenty-Five Percent Fund Act") (35 Stat. 260, chapter 192; 16 U.S.C. 500).

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ACCOUNT.—The term "Account" means the Sustainable Ecosystems and Economies Account established under section 5.

(2) COORDINATOR.—The term "Coordinator" means the Coordinator for the Forest Service selected by the Secretary under section 4(b).

(3) DEMONSTRATION PROJECT.—The term "demonstration project" means a demonstration project carried out under the Program.

(4) ECOSYSTEM MANAGEMENT CONTRACT.—The term "ecosystem management contract" means a contract that a local land use manager enters into pursuant to section 4 to carry out a demonstration project.

(5) ECOSYSTEM MANAGEMENT AREA.—The term "ecosystem management area" means any unit of a national forest selected by a local land manager, in consultation with the Coordinator, as a site for a demonstration project pursuant to section 4(c).

(6) LOCAL LAND MANAGER.—The term "local land manager" means the supervisor of each national forest selected as a site for demonstration projects pursuant to section 4(d).

(7) PROGRAM.—The term "Program" means the Sustainable Ecosystems and Economies Demonstration Program established under section 4.

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and implement in the Forest Service a Sustainable Ecosystems and Economies (SEE) Demonstration Program to investigate and demonstrate strategies to provide for new management practices to—

(1) ensure sustainable ecosystems; and

(2) provide technical and economic assistance to forest resource-dependent communities.

(b) ECOSYSTEM MANAGEMENT CONTRACTS.—Each local land manager may enter into an ecosystem management contract with a qualified non-Federal entity. The contract shall contain a description of the elements of the demonstration project, including the following:

(1) Site-specific criteria.

(2) Clearly delineated treatments and services.

(c) APPLICATION OF PRODUCT VALUE.—A local land manager who is an official of the Forest Service may apply all or part of the revenues received from the sale of timber or any other forest product removed from within an ecosystem management area pursuant to an ecosystem management contract as an offset against the cost of stewardship services to carry out a demonstration project under the Program. Such services may include site preparation, recreation, replanting, wildlife habitat enhancement, silviculture programs, watershed improvements, and other enhancements made pursuant to the demonstration project to achieve the ecosystem management objectives prescribed in the contract.

(d) COORDINATOR FOR THE FOREST SERVICE.—As soon as practicable after the date of enactment of this Act, the Secretary shall appoint an individual to serve as Coordinator for the Forest Service. The Coordinator shall—

(1) administer the Program; and

(2) provide, upon request, support and technical assistance to local land managers.

(e) DESIGNATION OF ECOSYSTEM MANAGEMENT AREAS.—Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Coordinator, shall designate locations for ecosystem management areas, including the following:

(1) Not more than two districts located in each of two national forests located in each region of the Forest Service.

(2) Districts within a forest authorized to enter into a stewardship end result contract, as described in the twenty-third paragraph in the matter under the heading "ADMINISTRATIVE PROVISIONS, FOREST SERVICE" under the heading "FOREST SERVICE" under title II of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 106 Stat. 1403).

(f) RESEARCH AND OTHER TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—To the maximum extent feasible, in hiring part-time employees for conducting inventories and related activities, the Secretary shall ensure that priority is given to qualified unemployed individuals in rural communities in close proximity to national forests.

(2) PARTICIPATION BY NON-FEDERAL INDIVIDUALS AND ENTITIES.—The Secretary shall ensure that non-Federal individuals or entities are involved in the design, monitoring, and evaluation of a sufficient number of demonstration projects conducted under this section to provide an adequate assessment of such processes.

(g) SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION PROGRAM ACCOUNT.—The Secretary, acting through the Coordinator, shall advise the Secretary of the Treasury concerning the administration of the Sustainable Ecosystems and Economies Demonstration Program Account established under section 5.

(h) REQUIREMENTS FOR SELECTION OF ECOSYSTEM MANAGEMENT AREAS AND IMPLEMENTATION OF PROGRAM.—To the maximum extent practicable, in selecting ecosystem management areas and implementing the Program, the Secretary, acting through the Coordinator, shall provide for the use of existing land use plans, public review processes, and current administrative review processes in effect at the time of the implementation, and consult with appropriate existing advisory councils.

(i) PROJECT PRIORITIES.—To the maximum extent practicable, the demonstration projects shall be designed—

(1) to serve communities that have been designated by the Secretary as timber dependent or have significant unemployment rates attributable to land management decisions made by the Federal Government, as determined by the Secretary;

(2) to maximize the employment of qualified local individuals; and

(3) to initially give priority to wildland interface areas (as defined by the Secretary) with respect to reducing wildfire hazards and minimizing the effects of insect or disease infestation in a manner consistent with ecosystem management objectives established by the local land manager.

(j) REGULATIONS.—To the maximum extent possible the Secretary shall carry out the Program without prescribing additional regulatory requirements.

(k) APPLICATION OF SMALL BUSINESS ACT.—In carrying out this Act, the Secretary shall give such preferential treatment to small businesses, including small business concerns (within the meaning of section 3(a) of the Small Business Act (15 U.S.C. 632(a))), under existing laws and policies relating to the allocation of timber sales programs in the Forest Service.

(l) TSPIRS.—Any timber offset made pursuant to subsection (k), and any other value for timber that is approved by the Secretary as an offset pursuant to a demonstration project, shall be credited as a revenue for the purposes of the Timber Sales Program Information Reporting System (commonly referred to as the "TSPIRS") of the Forest Service.

(m) ACRES TREATED.—A local land manager may use the number of acres subject to treatments and services prescribed under an ecosystem management contract as a standard for assessing the relative merit of a demonstration project.

(n) Payment to Local Governments.—The Secretary (acting through the Chief of the Forest Service) shall consider the tract value (as defined and determined by the Secretary) of timber or other product (as defined and determined by the Secretary) removed pursuant to a demonstration project as money received for the purposes of computing and distributing payments to States under the last paragraph in the matter under the heading "FOREST SERVICE." in the Act of May 23, 1908 (popularly referred to as the "Twenty-Five Percent Fund Act") (35 Stat. 260, chapter 192; 16 U.S.C. 500).

(o) Joint or Cooperative Demonstration Projects.—As part of the Program, the Secretary may enter into agreements and memoranda of understanding to conduct joint or cooperative demonstration projects with—

(1) the heads of other Federal agencies;

(2) appropriate officials of the governments of States and political subdivisions of States; and

(3) appropriate officials of other public and private entities that the Secretary considers appropriate for carrying out a demonstration project.

(p) Compliance With Environmental Laws.—The Secretary shall ensure that the entity that intends to carry out the demonstration project has met all applicable Federal environmental laws (as determined by the Secretary).

(q) Termination of Program.—The Program established under this section shall terminate 5 years after the date of enactment of this Act. A demonstration project established under the Program shall terminate not later than 5 years after the date on which a management contract is executed, or with respect to a demonstration project described in subsection (o), 5 years after the date the Secretary executes an agreement or enters into a memorandum of understanding under such subsection.

SEC. 5. SUSTAINABLE ECOSYSTEMS AND ECONOMIES DEMONSTRATION PROGRAM ACCOUNT; SUPPLEMENTAL FUNDING.

(a) Purpose.—There is hereby established in the Treasury of the United States a Sustainable Ecosystems and Economies Account. The Secretary of the Treasury shall maintain a subaccount in the Account for each national forest that is selected as a site for demonstration projects under section 4.

(b) Administration of Account.—The Secretary of the Treasury shall administer the Account in consultation with the Secretary of Agriculture, acting through the Coordinator.

(c) Deposits.—Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit in the Account the amount of revenues received from demonstration projects in excess of any amount required to offset the cost of stewardship services pursuant to section 4(b).

(d) Expenditures.—On the request of the Secretary, acting through the Coordinator, the Secretary of the Treasury shall make available to the Secretary of Agriculture from the appropriate subaccount of the Account, funds directly related to the development, planning, and implementation of demonstration projects carried out in a national forest in an amount equal to the revenues received in the subaccount from the sale of forest products from such national forest.

(e) Termination Date for Deposits.—No deposits may be made into the Account after the earlier of—

(1) the date that is 5 years after the date of enactment of this Act; or

(2) the date on which all demonstration projects authorized under this Act have been terminated.

(f) Transfer of Funds.—Upon the termination of the Account, funds remaining in the Account shall be transferred to the general fund of the Treasury.

(g) Supplemental Funds.—In addition to using funds from the Account established under this section, the Secretary may use funds made available to the Secretary by appropriations to carry out the mission of the Forest Service (as defined and determined by the Secretary).

SEC. 6. DISSEMINATION OF RESEARCH AND DEMONSTRATION RESULTS.

(a) In General.—The Secretary shall disseminate to public and private forest owners the results of the research and demonstration projects carried out under section 4 that may be beneficial to such forest owners.

(b) Application of Authorities.—In carrying out this section, the Secretary may exercise the authorities related to the dissemination of information granted to the Secretary under the following provisions of law:

(1) The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.).

(2) The Act commonly known as the "McIntyre-Stennis Act of 1962" (Public Law 87-788).

(3) The Wood Residue Utilization Act of 1980 (16 U.S.C. 1681 et seq.).

(c) Reports to Congress.—Not later than 180 days after the date of termination of each demonstration project, the Secretary shall prepare and submit to Congress a summary and evaluation of the elements of the demonstration project (as described in the applicable ecosystem management contract) and the results of the demonstration project. The report may include the following:

(1) A summary of the beneficial and adverse environmental impacts associated with the activities conducted pursuant to the demonstration project.

(2) The functional role of the ecosystem management area that is the site of the demonstration project with respect to—

(A) the ecosystem encompassing the ecosystem management area and other associated ecosystems; and

(B) the long-term demands of the health and biodiversity of the forest.

(3) The economic impacts on local employment and adjacent rural communities of the activities conducted under the demonstration project.

(4) The project costs and revenues and cost savings, if any, resulting from coordinated treatments, including an identification of revenues realized from the sale of forest products.

(5) With respect to the ecosystem management contract, a summary of the following:

(A) The benefits and limitations of the ecosystem management contract.

(B) The number of applicants for participation in the demonstration project.

(C) A description of the regulatory process that governs the ecosystem management contract.

(D) The effectiveness of the ecosystem management contract in defining and achieving results in the demonstration project.

(6) The impacts on small businesses.

(7) The effectiveness of the public involvement process in the development and implementation of the demonstration project.

(8) The number and nature of appeals associated with the development and implementation of the demonstration project.

(9) The use of research in developing and implementing the development project.

(10) An evaluation of the work conducted under agreements or contracts with institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) or other appropriate educational or research institutions (including a nonprofit corporation, a private foundation, or a consortium of such institutions) to carry out research, establish project criteria, or conduct project end-result evaluations.

(11) A determination of measurable units that were used to measure progress or improvement toward achieving sustainability for the ecosystem.

(12) The relative effectiveness of the provisions under the last paragraph in the matter under the heading "FOREST SERVICE." in the Act of May 23, 1908 (popularly referred to as the "Twenty-Five Percent Fund Act") (35 Stat. 260, chapter 192; 16 U.S.C. 500) in determining the amounts of payments to local governments in comparison with the effectiveness of the determinations made under the demonstration projects.

SEC. 7. REPORT BY THE PRESIDENT.

(a) In General.—The President shall submit to Congress an annual report concerning the status of the Program. The President shall submit the first report not later than 1 year after the date of enactment of this Act, and shall submit a final report not later than 1 year after the date on which the Program terminates.

(b) Final Report.—The final report submitted by the President under this section shall contain the following:

(1) An evaluation of the results of the demonstration projects conducted under the Program and an evaluation of the Program, on the basis of—

(A) costs and the quantities of outputs; and

(B) environmental costs and benefits.

(2) Such recommendations concerning the achievement of ecosystem management and other matters related to the Program as the President determines to be appropriate.•

By Mrs. HUTCHISON:

S. 2386. A bill to authorize the Administrator of the General Services Administration to enter into agreements for the construction and improvement of border stations on the United States international borders with Canada and Mexico, and for other purposes; to the Committee on Environment and Public Works.

THE BORDER INFRASTRUCTURE ENHANCEMENT ACT

• Mrs. HUTCHISON. Mr. President, I introduce a bill that will facilitate much-needed enhancement of border crossing infrastructure by permitting the Federal Government to take advantage of private and local financing for border stations. This legislation permits the Federal Government to lease these facilities from local governments or private entities on an annual basis for use by Federal agencies. Passage of the North American Free Trade Agreement [NAFTA] provides an excellent opportunity to focus on the issues and problems related to cross-border trade. In Texas these trade flow problems precede NAFTA. Trade with Mexico has increased 250 percent since the 1980's. Seventy-four percent of this trade crosses at Texas border crossings. Therefore, Texas is long familiar with lengthy, idling, lines at the border crossings—which generate air pollution and impose enormous economic costs on cross-border trade. These environmental and efficiency problems are only growing with increases in NAFTA trade.

Many of the problems that impede the efficient flow of goods across our southern border are unique to that border; however, there are also many similarities between the northern and southern borders, especially inadequate infrastructure financing. Growth in north-south trade is straining the border station infrastructure at the northern frontier as well. My bill is designed to address this problem on both borders and in a way that empowers local communities, and draws upon their resources and expertise in international trade.

Much-needed border crossings are not being constructed because, in this era of increasing budgetary constraints, the Federal Government cannot afford the cost of constructing the accompanying border stations which house Customs, INS, and the U.S. Department of Agriculture inspection services. The $360 million Congress authorized in 1988 for the Southwest Border Capital Improvements Program to construct 40 new and expanded border stations along the United States-Mexico border have been exhausted. Yet, the need for these facilities continues to grow.

Just recently, citizens in the border city of Pharr, TX, expressed their frustration about this situation to me. A much-needed new bridge will open in Pharr next year, yet Pharr will need to spend $500,000 building temporary facilities for Customs and INS to use until the General Services Administration is able to build permanent facilities in 1996. Under the legislation I am introducing today, local government or private entities would have been able to construct the border station by the time the bridge opened. The border communities in my State indicate that they are more than willing to provide the upfront financing necessary for the construction of these needed border stations and enter into long-term leases with the Government, if only Washington will cooperate.

This bill permits, indeed I would hope encourages, the Federal Government to enter into 30-year leases with local governments or corporate entities for these facilities. It allows Congress to appropriate the sums necessary on an annual basis, rather than require an appropriation equal to the cost of the lease in the first year of the lease. This legislation will save Federal dollars because it allows the Government to get out of the border stations construction business. Local governments or private parties will be able to bring necessary border stations on line more quickly and efficiently than the current multiyear process the Government undertakes to plan and construct border stations.

Similar legislation has been introduced in the House of Representatives by House Agriculture Committee Chairman DE LA GARZA, with whom I am working very closely on this and other border infrastructure issues. I look forward to working with all the border State representatives as we look for innovative ways to enhance hemispheric trade and improve the quality of life in our border communities, our Nation's gateways for NAFTA trade.●

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, MR. DASCHLE, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S. 2387. A bill to amend the Service Members Occupational Conversion and Training Act of 1992 to permit a period of training under the Act of more than 18 months, and for other purposes; to the Committee on Veterans' Affairs.

SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT

● Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced S. 2387, a bill to amend the Service Members Occupational Conversion and Training Act [SMOCTA], Public Law 102-484.

SMOCTA authorizes payment of a subsidy to employers who train recently separated service members whose military skills do not transfer to the civilian job market. The subsidy is 50 percent of the training wage payable over a period of 18 months up to a maximum of $10,000, or $12,000 in the case of a disabled veteran.

Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training. This limitation has prevented veterans from entering into some training programs for stable, well-paying jobs.

The proposed amendment would, among other things, allow an employer and veteran to agree to a training program that lasts longer than 18 months if they are willing to do so without the benefit of a subsidy for the extended training period. Removing the 18-month cap on training will not increase the amount of the subsidy payable under a training program.

Another provision in the bill would clarify that the existing provision that requires employers to pay a wage normally paid to other employees in the same or comparable training programs refers to other employees and programs in the community where the veteran is being trained. It also clarifies that this provision will be applicable throughout the entire training period, not just during the period that a training subsidy is paid.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVEMENTS TO SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(A) PERIOD OF TRAINING.—

(1) ELIMINATION OF 18-MONTH CAP ON PERIOD.—Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2) STANDARD FOR WAGES AND BENEFITS.—

(A) IN GENERAL.—Section 4486(d)(2) of such Act (10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community during the entire program period of the eligible person.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to programs of training under the Service Members Occupational Conversion and Training Act of 1992 that are begun on or after the date of the enactment of this Act.

(b) PAYMENTS.—Section 4487(a)(1) of such Act (10 U.S.C. 1143 note) is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)"; and

(2) by adding at the end thereof the following new subparagraphs:

"(C) In determining under the third sentence of subparagraph (A) the amount of the payment which an employer shall receive on behalf of an eligible person, the number of hours for which payment will be received may not exceed the number of hours equivalent to 18 months of training.

"(D) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employee has not received on that person's behalf assistance in an aggregate amount in excess of the applicable amount set forth in subparagraph (B).".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employee on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".●

ADDITIONAL COSPONSORS

S. 921

At the request of Mr. CHAFEE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 921, a bill to reauthorize and amend the Endangered Species Act for the conservation of threatened and endangered species, and for other purposes.

S. 2071

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2312

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2312, a bill to maintain the ability of United States agriculture to remain viable and competitive in domestic and international markets, to meet the food and fiber needs of the United States and international consumers, and for other purposes.

S. 2330

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. WARNER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

S. 2363

At the request of Mr. GORTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2363, a bill to establish registration and tracking procedures and community notification with respect to released sexually violent predators.

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

AMENDMENTS SUBMITTED

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

DECONCINI (AND OTHERS) AMENDMENT NO. 2553

Mr. DECONCINI (for himself, Mr. WARNER, Mr. GLENN, Mr. D'AMATO, Mr. DURENBERGER, Mr. LUGAR, Mr. KERREY, Mr. BUMPERS, Mr. GRAHAM, Mr. CHAFEE, and Mr. BRYAN) proposed an amendment to the bill (S. 2082) to authorize appropriations for fiscal year 1995 for the intelligence activities of the U.S. Government and for the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

At the end of the bill insert the following new title:

"TITLE VII—COUNTERINTELLIGENCE AND SECURITY

SECTION 701. SHORT TITLE.

This title may be cited as the "Counterintelligence and Security Enhancements Act of 1994".

SEC. 702. ACCESS TO CLASSIFIED INFORMATION.

(a) AMENDMENT OF THE NATIONAL SECURITY ACT OF 1947.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

"PROCEDURES

"SEC. 801. Not later than 180 days after the date of enactment of this title, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum—

"(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

"(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

"(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide written consent to the employing department or agency which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, and travel records, as determined by the President, in accordance with section 802 of this title, during the period of access to classified information and for a period of five years thereafter;

"(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial conditions and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

"(5) establish uniform minimum standards to ensure that employees whose access to classified information is being denied or terminated under this title are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned, except that, wherever such information is derived from a classified source, appropriate measures shall be taken to conceal the identity of such source from the employee concerned.

"REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

"SEC. 802. (a)(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding agency, or from any consumer credit reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination.

Any authorized investigative agency may also request records maintain by any commercial entity within the United States pertaining to travel by a person outside the United States.

"(2) Requests may be made under this section where—

"(A) the records sought pertain to a person who is or was an employee required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than 5 years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

"(B)(i) there is information or allegations indicating that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

"(ii) information comes to the attention of the employing agency indicating the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

"(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

"(3) Each such request—

"(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary of Assistant Director), and shall certify that—

"(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

"(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

"(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

"(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii),

"(C) shall identify specifically or by category the records or information to be reviewed; and

"(D) shall inform the recipient of the request of the prohibition described in subsection (b).

"(b) Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

"(c)(1) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

"(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(d) Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

"(e) An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

"(1) to the agency employing the employee who is the subject of the records of information;

"(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

"(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

"(f) Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

"EXCEPTIONS

"SEC. 803. Except as otherwise specifically provided, the provisions of this title shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President.

"DEFINITIONS

"SEC. 804. For purposes of this title—

"(1) the term 'authorized investigative agency' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

"(2) the term 'classified information' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successive orders, or the Atomic Energy Act of 1954, to require protection against unauthorized disclosure and that is so designated;

"(3) the term 'consumer credit reporting agency' has the meaning given such term in section 603 of the Consumer Credit Protection Act (15 U.S.C. 1681a);

"(4) the term 'employee' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise act for or on behalf of the United States Government;

"(5 the terms 'financial agency' and 'financial institution' have the meanings given to such terms in section 5312(a) of title 31, United States Code, and the term 'holding agency' has the meaning given to such term in section 1101(6) of the Right of Financial Privacy Act of 1978 (12 U.S.C. 3401);

"(6) the terms 'foreign power' and 'agent of a foreign power' have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(7) the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified), and any other possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of contents of the National Security Act of 1947 is amended by adding at the end the following:

"TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

"Sec. 801. Procedures.

"Sec. 802. Requests by authorized investigative agencies.

"Sec. 803. Exceptions.

"Sec. 804. Definitions.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 180 days after the date of enactment of this Act.

SEC. 703 COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES.

(a) ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD.—(1) There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the "Board"). The Board shall report to the President through the National Security Council.

(2) The Board shall consist of the following individuals:

(A) The Attorney General, who shall serve as Chair.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Director of the Federal Bureau of Investigation.

(E) The Assistant to the President for National Security Affairs.

(b) FUNCTION OF THE BOARD.—The Board shall serve as the principal mechanism for—

(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

(c) COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—(1) Except as provided in paragraph (3) below, the head of each department or agency within the Executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its source, which indicates that classified information is being, or may have been, deliberately disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;.

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department of agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the FBI is given complete and timely access to its employees and records for purposes of such investigative activities.

(2) Except as provide in paragraph (3), below, the Director of the Federal Bureau of Investigation shall ensure that counterintelligence information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the Executive branch, is provided through appropriate channels to the department or agency concerned, and that such departments or agencies are consulted in advance with respect to any action taken by the Federal Bureau of Investigation involving the personnel, operations, or information of such department or agency after a report is provided pursuant to subparagraph (1)(A).

(3) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraphs (1) or (2), above, as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days of issuing such waiver, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(4) The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

(5) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of

Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(6) As used in this section, the terms 'foreign power' and 'agent of a foreign power', have the same meanings as set forth in subsections 101(a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. 704. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR COUNTERINTELLIGENCE PURPOSES.

Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(1) by striking "Notwithstanding" and inserting

"(a) Disclosure of Certain Identifying Information.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) Disclosures to the FBI for Counterintelligence Purposes.—

"(1) Consumer Reports.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a written request for a consumer report, signed by the Director or Deputy Director of the Federal Bureau of Investigation who certifies compliance with this subsection. The Director or Deputy Director may make such a certification only if he has determined in writing that—

"(A) such records are necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought is a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(2) Identifying Information.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former address, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or Deputy Director, which certifies compliance with this subsection. The Director or Deputy Director may make such certification only if the Director or Deputy Director has determined in writing that—

"(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as so defined.

"(3) Confidentiality.—No consumer reporting agency or officer, employee, or agent of such consumer reporting agency may disclose to any person, other than those officers, employees, or agents of such agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this subsection, that the Federal Bureau of Investigation has sought or obtained a consumer report or identifying information respecting any consumer under paragraph (1) or (2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such a consumer report or identifying information.

"(4) Payment of fees.—The Federal Bureau of Investigation may, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing credit reports or identifying information in accordance with this title, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this subsection.

"(5) Limit on dissemination.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this subsection outside of the Federal Bureau of Investigation, except to the Department of Justice or as may be necessary for the conduct of a foreign counterintelligence investigation.

"(6) Rules of construction.—Nothing in this subsection shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this subsection shall be construed to authorize or permit the withholding of information from Congress.

"(7) Reports to congress.—On an annual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to paragraphs (1) and (2).

"(8) Damages.—Any agency or department of the United States obtaining or disclosing credit reports, records, or information contained therein in violation of this subsection is liable to the consumer to whom such records relate in an amount equal to the sum of—

"(A) $100, without regard to the volume of records involved;

"(B) any actual damages sustained by the consumer as a result of the disclosure;

"(C) if the violation is found to have been willful or intentional, such punitive damages as a court may allow: and

"(D) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney's fees, as determined by the court.

"(9) Good faith exception.—Any credit reporting agency or agent or employee thereof making disclosure of credit reports or identifying information pursuant to this subsection in good faith reliance upon a certificate of the Federal Bureau of Investigation pursuant to this subsection shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State. As used in this subsection, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(10) Limitation of remedies.—The remedies set forth in this subsection shall be the only judicial remedies for violation of this subsection.

"(11) Injunctive relief.—In addition to any other remedy contained in this subsection, injunctive relief shall be available to require compliance with the procedures of this subsection. In the event of any successful action under this subsection, costs of the action, together with reasonable attorney's fees, as determined by the court, may be recovered.".

SEC. 705. REWARDS FOR INFORMATION CONCERNING ESPIONAGE.

(a) Rewards.—Section 3071 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "With respect to"; and

(2) by adding at the end the following new subsection:

"(b) With respect to acts of espionage involving or directed at the United States, the Attorney General may reward any individuals who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

"(3) leading to the prevention or frustration of an act of espionage against the United States.".

(b) Definitions.—Section 3077 of such title is amended by adding at the end the following new paragraph:

"(8) 'act of espionage' means an activity that is a violation of—

"(A) section 793, 794, or 798 of title 18, United States Code; or

"(B) section 783(b) of title 50, United States Code.".

(c) Clerical Amendments.—The items relating to chapter 24 in the table of chapters at the beginning of such title, and in the table of chapters at the beginning of part II of such title, are each amended by adding at the end the following: "and espionage.".

SEC. 706. ESPIONAGE NOT COMMITTED IN ANY DISTRICT.

(a) In General.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§3239. Espionage and related offenses not committed in any district

"The trial for any offense involving a violation of—

"(1) section 793, 794, 798, 952, or 1030(a)(1) of this title,

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421), or

"(3) subsection (b) or (c) of section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c)), begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district,

may be in the District of Columbia or in any other district authorized by law.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 211 of such title is amended by inserting after the item relating to section 3238 the following:

"3239. Espionage and related offenses not committed in any district.".

SEC. 707. CRIMINAL FORFEITURE FOR VIOLATION OF CERTAIN ESPIONAGE LAWS.

(A) In General.—Section 798 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)-(p)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

"(e) As used in subsection (d) of this section, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified), and any other possession of the United States.".

(b) AMENDMENTS FOR CONSISTENCY IN APPLICATION OF FORFEITURE UNDER TITLE 18.—(1) Section 793(h)(3) of such title is amended in the matter above subparagraph (a) by striking out "(o)" each place it appears and inserting in lieu thereof "(p)".

(2) Section 794(d)(3) of such title is amended in the matter above subparagraph (A) by striking out "(o)" each place it appears and inserting in lieu thereof "(p)".

(c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(g)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)-(p)) shall apply to—

"(A) property subject to forfeiture under this subsection:

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

SEC. 708. DENIAL OF ANNUITIES OR RETIRED PAY TO PERSONS CONVICTED OF ESPIONAGE IN FOREIGN COURTS INVOLVING UNITED STATES INFORMATION.

Section 8312 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsections (b)(1) and (c)(1), an offense within the meaning of such subsections is established if the Attorney General certifies to the agency administering the annuity or retired pay concerned—

"(1) that an individual subject to this chapter has been convicted by an impartial court of appropriate jurisdiction within a foreign country in circumstances in which the conduct violates the provisions of law enumerated in subsections (b)(1) and (c)(1), or would violate such provisions had such conduct taken place with the United States, and that such conviction is not being appealed or that final action has been taken on such appeal;

"(2) that such conviction was obtained in accordance with procedures that provided the defendant due process rights comparable to such rights provided by the United States Constitution, and such conviction was based upon evidence which would have been admissible in the courts of the United States; and

"(3) that such conviction occurred after the date of enactment of this subsection.".

SEC. 709. PROVIDING A COURT ORDER PROCESS FOR PHYSICAL SEARCHES UNDERTAKEN FOR FOREIGN INTELLIGENCE PURPOSES.

(a) AMENDMENT OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title III as title IV and section 301 as section 401, respectively;

(2) in section 401 (as redesignated) by inserting "(other than title III)" after "provisions of this Act"' and

(3) by inserting after title II the following new title:

"TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN INTELLIGENCE PURPOSES

"SEC. 301. (a) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court. Notwithstanding any other law, a judge of the court to whom application is made may grant an order in accordance with section 303 approving a physical search in the United States of the premises, property, information, or material of a foreign power or an agent of a foreign power for the purpose of collecting foreign intelligence information.

"(b) The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this title, except that no judge shall hear the same application which has been denied previously by another judge designated under section 103(a) of the Act. If any judge so designated denies an application for an order authorizing a physical search under this title, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established under section 103(b).

"(c) The court of review established under section 103(b) shall have jurisdiction to review the denial of any application made under this title. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

"(d) Judicial proceedings under this title shall be concluded as expeditiously as possible. The record of proceedings under this title, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of Central Intelligence.

"APPLICATION FOR AN ORDER

"SEC. 302. (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include—

"(1) the identity of the Federal officer making the application;

"(2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application;

"(3) the identity, if known, or a description of the target of the search, and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;

"(4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power;

"(B) the premises or property to be searched contains foreign intelligence information; and

"(C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;

"(5) a statement of the proposed minimization procedures;

"(6) a statement of the nature of the foreign intelligence sought and the manner in which the physical search is to be conducted;

"(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President by and with the advice and consent of the Senate—

"(A) that the certifying official deems the information sought to be foreign intelligence information;

"(B) that the purpose of the search is to obtain foreign intelligence information;

"(C) that such information cannot reasonably be obtained by normal investigative techniques;

"(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

"(E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D); and

"(8) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

"(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

"(c) The judge may require the applicant to furnish such other information as may be necessary to make the determinations requiring by section 303.

"ISSUANCE OF AN ORDER

"SEC. 303. (a) Under an application made pursuant to section 302, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

"(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

"(2) the application has been made by a Federal officer and approved by the Attorney General;

"(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power, except that no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States;

"(B) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power; and

"(C) physical search of such premises or property can reasonably be expected to yield foreign intelligence information which cannot reasonably be obtained by normal investigative means;

"(4) the proposed minimization procedures meet the definition of minimization contained in this title; and

"(5) the application which has been filed contains all statements and certifications required by section 302, and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 302(a)(7)(E) and any other information furnished under section 302(c).

"(b) An order approving a physical search under this section shall—

"(1) specify—

"(A) the identity, if known, or a description of the target of the physical search;

"(B) the nature and location of each of the premises or property to be searched;

"(C) the type of information, material, or property to be seized, altered, or reproduced;

"(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the authorized scope of each search and what minimization procedures shall apply to the information acquired by each search; and

"(E) the period of time during which physical searches are approved; and

"(2) direct—

"(A) that the minimization procedures be followed;

"(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search;

"(C) that such landlord, custodian or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain;

"(D) that the applicant compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid; and

"(E) that the Federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

"(c)(1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a), for the period specified in the application or for one year, whichever is less.

"(2) Extensions of an order issued under this title may be granted on the same basis as the original order upon an application for an extension and new findings made in the same manner as required for the original order, except that an extension of an order under this Act for a physical search targeted against a foreign power, as defined in section 101(a)(5) or (6), or against a foreign power, as defined in section 101(a)(4), that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no property of any individual United States person will be acquired during the period.

"(3) At or before the end of the period of time for which a physical search is approved by an order or an extension, or at any time after a physical search is carried out, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

"(d)(1) Notwithstanding any other provision of this title, whenever the Attorney General reasonably determines that—

"(A) an emergency situation exists with respect to the execution of a physical search to obtain foreign intelligence information before an order authorizing such search can with due diligence be obtained, and

"(B) the factual basis for issuance of an order under this title to approve such a search exists,

the Attorney General may authorize the execution of an emergency physical search if—

"(i) a judge having jurisdiction under section 103 is informed by the Attorney General or the Attorney General's designee at the time of such authorization that the decision has been made to execute an emergency search, and

"(ii) an application in accordance with this title is made to that judge as soon as practicable but not more than 24 hours after the Attorney General authorizes such search.

"(2) If the Attorney General authorizes on emergency search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

"(3) In the absence of a judicial order approving such a physical search, the search shall terminate the earlier of—

"(A) the date on which the information sought is obtained;

"(B) the date on which the application for the order is denied; or

"(C) the expiration of 24 hours from the time of authorization by the Attorney General.

"(4) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the search, no information obtained or evidence derived from such search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 301.

"(e) Applications made and orders granted under this title shall be retained for a period of at least 10 years from the date of the application.

"USE OF INFORMATION

"SEC. 304. (a) Information acquired from a physical search conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No information acquired from a physical search pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

"(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search of the premises or property of that aggrieved person pursuant to the authority of this title, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

"(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search of the premises or property of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

"(e)(1) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

"(A) the information was unlawfully acquired; or

"(B) the physical search was not made in conformity with an order of authorization or approval.

"(2) Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

"(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

"(g) If the United States district court pursuant to subsection (f) determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(h) Orders granting motions or requests under subsection (g), decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

"(i) If an emergency execution of a physical search is authorized under section 303(d) and a subsequent order approving the search is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to the search as the judge may determine in his discretion it is the interests of justice to serve, notice of—

"(1) the fact of the application;

"(2) the period of the search; and

"(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed 90 days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

"CONGRESSIONAL OVERSIGHT

"SEC. 305. (a) On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all physical searches conducted pursuant to this title. On an annual basis the Attorney General shall also provide to those committees a report setting forth with respect to the preceding calendar year—

"(1) the total number of applications made for orders approving physical searches under this title; and

"(2) the total number of such orders either granted, modified, or denied.

"PENALTIES

"SEC. 306. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

"(1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or

"(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

"(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

"(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

"(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

"CIVIL LIABILITY

"SEC. 307. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 306 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

"(1) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

"(2) punitive damages; and

"(3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

"AUTHORIZATION DURING TIME OF WAR

"SEC. 308. Notwithstanding any other law, the President, through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.

"DEFINITIONS

"SEC. 309. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'international terrorism', 'sabotage', 'foreign intelligence information', 'Attorney General', 'United States person', 'United States', 'person', and 'State' shall have the same meanings as in section 101 of this Act.

"(2) 'Aggrieved person' means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

"(3) 'Foreign Intelligence Surveillance Court' means the court established by section 103(a) of this Act.

"(4) 'Minimization procedures' with respect to physical search, means—

"(A) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

"(B) procedures that require that non-publicly available information, which is not foreign intelligence information, as defined in section 101(e)(1) of this Act, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand such foreign intelligence information or assess its importance; and

"(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.

"(5) 'Physical search' means any physical intrusion into premises or property (including examination of the interior of property by technical means) that is intended to result in a seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include 'electronic surveillance', as defined in section 101(f) of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents for the Foreign Intelligence Surveillance Act of 1978 is amended by striking the items relating to title III and inserting the following:

"TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"Sec. 301. Authorization of physical searches for foreign intelligence purposes.
"Sec. 302. Application for an order.
"Sec. 303. Issuance of an order.
"Sec. 304. Use of information.
"Sec. 305. Congressional oversight.
"Sec. 306. Penalties.
"Sec. 307. Civil liability.
"Sec. 308. Authorization during time of war.
"Sec. 309. Definitions.

"TITLE IV—EFFECTIVE DATE

"Sec. 401. Effective Date.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 90 days after the date of enactment of this Act, except that any physical search approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of title III of the Foreign Intelligence Surveillance Act of 1978 (as added by this Act), if that search is conducted within 180 days after the date of enactment of this Act pursuant to regulations issued by the Attorney General, which were in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the date of enactment of this Act.

SEC. 710. LESSER CRIMINAL OFFENSE FOR UNAUTHORIZED REMOVAL OF CLASSIFIED DOCUMENTS.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1924. Unauthorized removal and retention of classified documents or material

"(a) IN GENERAL.—Whoever, being an officer, employee, contractor, or consultant of the United States, and, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials containing classified information of the United States, knowingly removes such documents or materials without authority and with the intent to retain such documents or materials at an unauthorized location shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both.

"(b) DEFINITION.—In this section, the term 'classified information of the United States' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1924. Unauthorized removal and retention of classified documents or material.".

COHEN AMENDMENT NO. 2554

Mr. WARNER (for Mr. COHEN) proposed an amendment to amendment No. 2553 proposed by Mr. DECONCINI to the bill S. 2082, supra; as follows:

At the end of the amendment, add the following:

SEC. . REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—(1) In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraph (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) The President shall submit the report required under this subsection not later than 6 months after the date of the enactment of this Act.

(b) ANNUAL UPDATE.—Not later than 1 year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

DECONCINI (AND ROBB) AMENDMENT NO. 2555

Mr. DECONCINI (for himself and Mr. ROBB) proposed an amendment to amendment No. 2553 proposed by him to the bill S. 2082, supra; as follows:

At the end of the amendment, add the following:

Not less than $10 million from the NSA base budget shall be transferred to U.S. Army signals intelligence activities directed at counternarcotics targets. A detailed operations plan with special emphasis on the U.S./Mexico border and including the participation of the National Security Agency, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Customs Service, shall be provided to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence no later than November 15, 1994. This plan shall include a detailed description of the planned targets and the type of intelligence collection, dissemination, analysis and tasking that will be included in these operations.

WARNER (AND OTHERS) AMENDMENT NO. 2556

Mr. WARNER (for himself, Mr. GRAHAM, Mr. DECONCINI, Mr. METZENBAUM, Mr. CHAFEE, Mr. COHEN, Mr. KERREY, Mr. BOREN, Mr. LUGAR, Mr. BRYAN, Mr. BAUCUS, Mr. DURENBERGER, Mr. PELL, Mr. LAUTENBERG, Mr. HATCH, Mr. JOHNSTON, Mr. BUMPERS, Mrs. BOXER, Mr. MOYNIHAN, Mr. SPECTER, Mr. LEAHY, Mr. ROBB, and Mr. KERRY) proposed an amendment to the bill S. 2082, supra; as follows:

At the end of the bill, add the following new title:

TITLE ___—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. ___01. ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the "Commission").

SEC. ___02. COMPOSITION AND QUALIFICATIONS.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community.

(B) Two members shall be appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

(b) CHAIRMAN.—The President shall designate one of the members appointed from private life to serve as Chairman of the Commission.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(d) DEADLINE FOR APPOINTMENTS.—The appointments required by section subsection (a) shall be made within 45 days after the date of enactment of this Act.

(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

SEC. ___03. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-Cold War global environment; and

(2) to prepare and transmit the reports described in section __04.

(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include for example, economic issues, environmental issues, and health issues.

(3) What functions, if any, should continue to be assigned the Central Intelligence Agency and what capabilities should it retain for the future.

(4) Whether the existing organization and management framework of the Central Intelligence Agency provide the optimal structure for the accomplishment of its mission.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of the Governments of the United Kingdom, Canada, Australia, France, Israel, Russia, and Germany.

(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually-shared objectives are adequate.

SEC. ___04. REPORTS.

(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. __05. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. ___06. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission. No member of the staff shall be a current officer or employee of the intelligence community.

(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a non-reimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions, except that no person shall be detailed to the staff of the Commission who is an officer or employee of an intelligence agency.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a non-reimbursable basis, any administrative and support services requested by the Commission consistent with this title.

SEC. __07. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. __08. TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section _04(c).

SEC. __09. DEFINITIONS.

For purposes of this title—

(1) the term "intelligence agency" means any agency, office, or element of the intelligence community;

(2) the term "intelligence community" shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(3) the term "congressional intelligence committees" refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

DECONCINI (AND OTHERS) AMENDMENT NO. 2557

Mr. DECONCINI (for himself, Mr. WARNER, Mr. BAUCUS, Mr. D'AMATO, Mr. BOREN, Mrs. FEINSTEIN, Mr. BRYAN, and Mr. METZENBAUM) proposed an amendment to the bill S. 2082, supra; as follows:

On page 11, between lines 18 and 19, insert the following new section:

SEC. 504. LIMITATIONS ON FUNDING OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD PROCUREMENT AND CONTRACTING PROCEDURES.—Of the funds made available by this Act for the National Reconnaissance Office under the classified Schedule of Authorizations referred to in section 102 of this Act—

(1) $50,000,000 out of the Miscellaneous Support account of the Mission Support Consolidated Expenditure Center may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of the National Reconnaissance Office Headquarters Building project and the results of such review have been disclosed to the congressional intelligence committees; and

(2) no such funds made available by this Act may be obligated or expended for the purchase of any real property, or to contract for any construction or acquisition, in connection with the construction of buildings or facilities, unless (and to the extent that)—

(A) such purchase or contract is made or entered into in accordance with the policies and procedures applicable to other elements of the Department of Defense; or

(B) the President determines that the national security interest of the United States requires that such policies and procedures shall not apply to a particular purchase or contract and reports such determination in accordance with subsection (b).

(b) WAIVER PROCEDURES.—Not later than 30 days after making a determination under subsection (a)(2)(B), the President shall report in writing the determination to the congressional intelligence committees.

(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS REQUIRED.—Except to the extent and in the amounts specifically provided in an Act authorizing appropriations and in an appropriation Act, no funds made available under any provision of law may be obligated or expended for the National Reconnaissance Office Headquarters Building project if such funds would cause the total amount obligated or expended for such project to exceed $310,000,000.

(d) DEFINITIONS.—As used in this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) NATIONAL RECONNAISSANCE OFFICE HEADQUARTERS BUILDING PROJECT.—The term "National Reconnaissance Office Headquarters Building project" means the project for the headquarters buildings of the National Reconnaissance Office, situated at the so-call Westfields site, and includes all construction and improvement of facilities (including 'fit up') and all actions related to the acquisition of land, communications, computers, furniture and other building furnishings, and vehicle parking facilities.

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT OF 1994

LEAHY AMENDMENT NO. 2558

Mr. LEAHY proposed an amendment to the bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes; as follows:

On page 79, between lines 19 and 20, insert the following new subsection:

(c) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than July 1, 1996, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than July 1, 1996, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary shall—

"(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and other approaches, including food-based menu systems with nutrient analysis, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph.

"(3)(A) Not later than 120 days after the date of enactment of this subsection, the Secretary shall submit to the authorizing committees of Congress a detailed and specific plan that describes the actions the Secretary will take to encourage schools that are participating in the school lunch and school breakfast programs to serve lunches and breakfasts under each program that are consistent with the Guidelines.

"(B) The Secretary shall include in the plan—

"(i) a strategy for providing technical assistance to States, State educational agencies, schools, and school food service authorities to encourage consistency with the Guidelines; and

"(ii) a strategy for informing State child nutrition directors, school food service directors, parents, guardians, and students of—

"(I) the provisions of the Guidelines;

"(II) the importance of implementing the Guidelines; and

"(III) specific suggestions for dietary modifications that would achieve the objectives of the Guidelines.".

On page 84, line 6, strike "is amended" and insert "(as amended by section 103(c)) is further amended".

On page 84, line 8, strike "(f)" and insert "(g)".

On page 95, between lines 12 and 13, insert the following new subsection:

(i) ALL-DAY ACTIVITIES.—The Secretary of Agriculture shall—

(1) not later than 180 days after the date of enactment of this Act, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

On page 97, between lines 13 and 14, insert the following new paragraph:

(1) in paragraph (1)(A), strike "25 percent of the children served by such organization" and insert "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,";

On page 97, line 14, strike "(1)" and insert "(2)".

On page 97, line 16, strike "(2)" and insert "(3)".

On page 117, between lines 18 and 19, insert the following new subsection:

(b) Use of Food Service Management Institute for Dietary and Nutrition Activities.—Section 21(d) (42 U.S.C. 1769b–1(d)) is amended—

(1) by striking "(d) Coordination.—The" and inserting the following:

"(d) Coordination.—

"(1) In general.—The"; and

(2) by adding at the end the following new paragraph:

"(2) Use of institute for dietary and nutrition activities.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

On page 117, line 19, strike "(b)" and insert "(c)".

On page 117, line 19, insert "of such Act" after "Section 21".

On page 118, lines 19 and 20, strike "$2,000,000 for each of fiscal years 1995 through 1998" and insert "such sums as are necessary for fiscal year 1995 and each subsequent fiscal year".

On page 118, line 25, strike the quotation marks and the following period.

On page 118, after line 25, add the following new subparagraph:

"(C) Funding for education, training, or applied research or studies.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

On page 140, between lines 6 and 7, insert the following new sections:

SEC. 124. INSPECTION OF JUICE AND JUICE PRODUCTS.

(a) In General.—The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

"SEC. 29. INSPECTION OF JUICE AND JUICE PRODUCTS.

"(a) Definition of Juice and Juice Product.—As used in this section, the terms 'juice' and 'juice product' mean juice and a juice-based product, respectively, for which a United States standard for a grade has been issued by the Secretary under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

"(b) Prohibition.—No State, State agency, or local agency shall contract to procure, or make available, juice or a juice product for use in the school lunch program established under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) unless the juice or juice product was processed under in-plant inspection conducted by the Secretary.

"(c) Regulations.—The Secretary shall issue such regulations as are necessary to carry out this section.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date that is 270 days after the date of enactment of this Act.

SEC. 125. ADMINISTRATION OF NUTRITION PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations that—

(1) significantly ease the administrative and paperwork burdens on participating schools and families with respect to—

(A) the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(2) streamline Federal, State, and local administration of all programs established under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

On page 140, lines 18 and 19, after "preparation of", insert the following: "foods high in complex carbohydrates and".

On page 156, after line 24, add the following new subsection:

(o) Use of Universal Product Codes.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (n)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) If the Secretary determines that the system is feasible, cost-effective, and reduces the incidence of incorrect redemptions described in clause (i), the Secretary shall establish such procedures as the Secretary determines appropriate to require States to carry out the system.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

On page 157, line 1, strike "(o)" and insert "(p)".

On page 157, line 23, strike "(p)" and insert "(q)".

On page 158, line 16, strike "(q)" and insert "(r)".

On page 158, line 24, strike "(r)" and insert "(s)".

On page 159, line 2, strike "(q)(2)" and insert "(r)(2)".

On page 160, line 18, strike "(s)" and insert "(t)".

On page 164, line 7, strike "(t)" and insert "(u)".

On page 169, between lines 4 and 5, insert the following new subparagraph:

"(H) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;".

On page 169, line 5, strike "(H)" and insert "(I)".

On page 169, line 8, strike "(I)" and insert "(J)".

On page 169, line 11, strike "role" and insert "importance".

On page 169, line 13, strike "(J)" and insert "(K)".

On page 169, line 14, strike "and".

On page 169, line 15, strike "(K)" and insert "(L)".

On page 169, line 18, strike "materials.'; and" and insert "materials; and".

On page 169, between lines 18 and 19, insert the following new subparagraph:

"(M) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766)."; and

On page 171, between lines 8 and 9, insert the following new title:

TITLE III—OTHER RELATED PROVISIONS

SEC. 301. DISTRIBUTION OF COMMODITIES ON CERTAIN INDIAN RESERVATIONS.

Section 3(j) of the Food Stamp Act of 1977 (7 U.S.C. 2012(j)) is amended by adding at the end the following new sentence: "For the purpose of the distribution of commodities under section 4(b), the term 'reservation' includes the geographically defined area or areas (including an urban area or areas) within the boundaries of former reservations in Oklahoma, as defined by the Secretary of the Interior, over which a tribal organization exercises governmental jurisdiction.".

On page 171, line 9, strike "**III**" and insert "**IV**".

On page 171, line 10, strike "301" and insert "401".

McCONNELL (AND OTHERS) AMENDMENT NO. 2559

Mr. McCONNELL (for himself, Mr. Lugar, Mr. Craig, Mr. Dole, Mr. Cochran, Mr. Helms, Mr. Coverdell, Mr. Grassely, and Mr. Chaffe) proposed an amendment to the bill S. 1614, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . IMPROVED ADMINISTRATION OF WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) No State agency or local agency shall be considered an office in a State that provides public assistance for purposes of section 7(a)(2)(A) of Public Law 103-31.".

HEALTH SECURITY ACT

MITCHELL AMENDMENT NO. 2560

Mr. MITCHELL proposed an amendment to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Health Security Act".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED ACCESS TO STANDARDIZED AND AFFORDABLE HEALTH PLANS

Subtitle A—Rules and Definitions of General Applicability

PART 1—RULES OF GENERAL APPLICABILITY

Sec. 1001. Access to standardized coverage.
Sec. 1002. Standard health plan principles.
Sec. 1003. Protection of consumer choice.

PART 2—DEFINITIONS

Sec. 1011. Definitions relating to health plans.
Sec. 1012. Definitions relating to employment and income.
Sec. 1013. Other general definitions.

Subtitle B—Health Plan Standards

PART 1—ESTABLISHMENT AND APPLICATION OF STANDARDS

Sec. 1101. Establishment of national standards.
Sec. 1102. General rules.

PART 2—INSURANCE MARKET REFORM

Sec. 1111. Guaranteed issue, availability, and renewability.
Sec. 1112. Enrollment.
Sec. 1113. Coverage of dependents.
Sec. 1114. Nondiscrimination based on health status.
Sec. 1115. Benefits.
Sec. 1116. Community rating requirements.
Sec. 1117. Risk adjustment and reinsurance.
Sec. 1118. Financial solvency requirements and consumer protection against provider claims.

PART 3—DELIVERY SYSTEM REFORM

Sec. 1121. Prohibition of discrimination.
Sec. 1122. Quality assurance standards.
Sec. 1123. Consumer grievance process.
Sec. 1124. Health security cards.
Sec. 1125. Information and marketing standards.
Sec. 1126. Information regarding a patient's right to self-determination in health care services.
Sec. 1127. Contracts with purchasing cooperatives.
Sec. 1128. Health plan arrangements with providers.
Sec. 1129. Utilization management protocols and physician incentive plans.

PART 4—SUPPLEMENTAL HEALTH BENEFITS PLANS

Sec. 1141. Supplemental health benefits plans.

Subtitle C—Benefits and Cost-Sharing

PART 1—STANDARD BENEFITS PACKAGES

Sec. 1201. General description of standard benefits packages.
Sec. 1202. Description of categories of items and services.
Sec. 1203. Definitions.

PART 2—NATIONAL HEALTH BENEFITS BOARD

Sec. 1211. Creation of National health benefits board; membership.
Sec. 1212. Qualifications of board members.
Sec. 1213. General duties and responsibilities.
Sec. 1214. Powers.
Sec. 1215. Funding.
Sec. 1216. Applicability of Federal Advisory Committee Act.
Sec. 1217. Congressional consideration of Board proposals.

Subtitle D—Access to Health Plans

PART 1—ACCESS THROUGH EMPLOYERS

Sec. 1301. General employer responsibilities.
Sec. 1302. Auditing of records.
Sec. 1303. Prohibition of certain employer discrimination.
Sec. 1304. Evasion of obligations.
Sec. 1305. Prohibition on self-insuring cost-sharing benefits.
Sec. 1306. Development of large employer purchasing groups.
Sec. 1307. Responsibilities in single-payer States.
Sec. 1308. Rules governing litigation involving retiree health benefits.
Sec. 1309. Enforcement.

PART 2—ACCESS THROUGH HEALTH INSURANCE PURCHASING COOPERATIVES

SUBPART A—GENERAL REQUIREMENTS-

Sec. 1321. Organization and operation.
Sec. 1322. Membership.
Sec. 1323. Agreements with certified standard health plans.
Sec. 1324. Membership and marketing fees.

SUBPART B—COMMUNITY-RATED EMPLOYERS

Sec. 1331. Duties of purchasing cooperatives.

SUBPART C—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Sec. 1341. Requirements applicable to FEHBP.
Sec. 1342. Special rules for FEHBP supplemental plans.
Sec. 1343. Definitions.

PART 3—TREATMENT OF ASSOCIATION PLANS

Sec. 1351. Rules relating to multiple employer welfare arrangements.
Sec. 1352. Association plans.

Subtitle E—Federal Responsibilities

PART 1—SECRETARY OF HEALTH AND HUMAN SERVICES

SUBPART A—GENERAL DUTIES

Sec. 1401. General duties and responsibilities.
Sec. 1402. Annual report.
Sec. 1403. Assistance with family collections.
Sec. 1404. Advisory opinions.
Sec. 1403. Funding.

SUBPART B—RESPONSIBILITIES RELATING TO REVIEW AND APPROVAL OF STATE SYSTEMS

Sec. 1411. Federal review and action on State systems.
Sec. 1412. Failure of participating States to meet conditions for compliance.
Sec. 1413. Reduction in payments for health programs by Secretary of Health and Human Services.
Sec. 1414. Review of Federal determinations.
Sec. 1415. Federal support for State implementation.

SUBPART C—RESPONSIBILITIES IN ABSENCE OF STATE SYSTEMS

Sec. 1421. Application of subpart.
Sec. 1422. Federal assumption of responsibilities in non-participating States.
Sec. 1423. Imposition of surcharge on premiums under federally-operated system.
Sec. 1424. Return to State operation.

SUBPART D—ESTABLISHMENT OF CLASS FACTORS FOR CHARGING PREMIUMS

Sec. 1431. Premium class and age class factors.

SUBPART E—RISK ADJUSTMENT AND REINSURANCE METHODOLOGY FOR PAYMENT OF PLANS

Sec. 1435. Development of a risk adjustment and reinsurance methodology.

SUBPART F—RESPONSIBILITIES FOR FINANCIAL REQUIREMENTS

Sec. 1441. Capital standards for community-rated plans.
Sec. 1442. Standard for guaranty funds.

SUBPART G—OPEN ENROLLMENT

Sec. 1445. Periods of authorized changes in enrollment.
Sec. 1446. Distribution of comparative information.

PART 2—ESSENTIAL COMMUNITY PROVIDERS

Sec. 1461. Certification.
Sec. 1462. Categories of providers automatically certified.
Sec. 1463. Standards for additional providers.
Sec. 1464. Certification process; review; termination of certifications.
Sec. 1465. Notification of participating States.
Sec. 1466. Health plan requirement.
Sec. 1467. Recommendation on continuation of requirement.
Sec. 1468. Definitions.

PART 3—SPECIFIC RESPONSIBILITIES OF SECRETARY OF LABOR.

Sec. 1481. Responsibilities of Secretary of Labor.
Sec. 1482. Federal role with respect to multistate self-insured health plans.
Sec. 1483. Assistance with employer collections.
Sec. 1484. Penalties for failure of large employer purchasing groups to meet requirements.
Sec. 1485. Applicability of ERISA enforcement mechanisms for enforcement of certain requirements.
Sec. 1486. Workplace wellness program.

PART 4—OFFICE OF RURAL HEALTH POLICY

Sec. 1491. Office of Rural Health Policy.

PART 5—COLLECTIVE BARGAINING DISPUTE RESOLUTION

Sec. 1495. Findings and purpose.
Sec. 1496. Application limited to transition period.
Sec. 1497. Request for appointment of board of inquiry.
Sec. 1498. Appointment of board of inquiry.
Sec. 1499. Public factfinding.
Sec. 1499A. Compensation of members of boards of inquiry.
Sec. 1499B. Maintenance of status quo.

Subtitle F—Participating State Responsibilities

PART 1—GENERAL RESPONSIBILITIES

Sec. 1501. State plan and certification of standard health plans and supplemental health benefits plans.
Sec. 1502. Community rating areas and health plan service areas.
Sec. 1503. Open enrollment periods.
Sec. 1504. Risk adjustment program.
Sec. 1505. Guaranty funds.
Sec. 1506. Enrollment activities.
Sec. 1507. Rural and medically underserved areas.
Sec. 1508. Public access sites.
Sec. 1509. Requirements relating to possessions of the United States.
Sec. 1510. Right of recovery of certain taxes against providers.

PART 2—TREATMENT OF STATE LAWS

Sec. 1511. Preemption of certain State laws relating to health plans.
Sec. 1512. State law restrictions on health professional licensure.
Sec. 1514. Preemption from State benefit mandates.

PART 3—STATE FLEXIBILITY

SUBPART A—EXISTING STATE LAWS

Sec. 1521. Continuance of existing Federal law waivers.
Sec. 1522. Hawaii Prepaid Health Care Act.
Sec. 1523. Alternative State provider payment systems.
Sec. 1524. Alternative State hospital services payment systems.

SUBPART B—REQUIREMENTS FOR STATE SINGLE-PAYER SYSTEMS
Sec. 1531. Single-payer system described.
Sec. 1532. General requirements for single-payer systems.
Sec. 1533. Special rules for States operating Statewide single-payer system.
Sec. 1534. Special rules for community rating area-specific single-payer systems.
SUBPART C—EARLY IMPLEMENTATION OF COMPREHENSIVE STATE PROGRAMS
Sec. 1541. Early implementation of comprehensive State programs
Subtitle G—Miscellaneous Provisions
Sec. 1601. Provision of items or services contrary to religious belief or moral conviction.
Sec. 1602. Antidiscrimination.
Sec. 1603. Neutrality concerning union organizing.
TITLE II—NEW BENEFITS
Subtitle A—Coverage of Outpatient Prescription Drugs in Medicare
Sec. 2000. References in subtitle.
Sec. 2001. Coverage of outpatient prescription drugs.
Sec. 2002. Payment rules and related requirements for covered outpatient drugs.
Sec. 2003. Medicare rebates for covered outpatient drugs.
Sec. 2004. Prescription Drug Payment Review Commission.
Sec. 2005. Coverage of home infusion drug therapy services.
Sec. 2006. Medicare drug benefit plans.
Sec. 2007. Payment for covered outpatient drug benefit under medicare contracts with HMOs and CMPs.
Sec. 2008. Maintenance of effort.
Subtitle B—Home and Community-Based Services
Part 1—Home and Community-Based Services for Individuals With Disabilities
Sec. 2101. State programs for home and community-based services for individuals with disabilities.
Sec. 2102. State plans.
Sec. 2103. Individuals with disabilities defined.
Sec. 2104. Home and community-based services covered under State plan.
Sec. 2105. Cost sharing.
Sec. 2106. Quality assurance and safeguards.
Sec. 2107. Advisory groups.
Sec. 2108. Payments to States.
Sec. 2109. Appropriations; allotments to States.
Sec. 2110. Federal evaluations.
Part 2—Grants Relating to the Development of Hospital Linkage Programs
Sec. 2111. Information and technical assistance grants relating to development of hospital linkage programs.
Subtitle C—Long-Term Care Insurance Improvement and Accountability
Sec. 2200. Short title.
Part 1—Promulgation of Standards and Model Benefits
Sec. 2201. Standards.
Part 2—Establishment and Implementation of Long-Term Care Insurance Policy Standards
Sec. 2211. Implementation of policy standards.
Sec. 2212. Regulation of sales practices.
Sec. 2213. Additional responsibilities for carriers.
Sec. 2214. Renewability standards for issuance, and basic for cancellation of policies.
Sec. 2215. Benefit standards.
Sec. 2216. Nonforfeiture.
Sec. 2217. Limit of period of contestability and right to return.
Sec. 2218. Civil money penalty.
Part 3—Long-Term Care Insurance Policies, Definition and Endorsements
Sec. 2221. Long-term care insurance policy defined.
Sec. 2222. Code of conduct with respect to endorsements.
Subtitle D—Life Care
Sec. 2301. Short title.
Sec. 2302. Life care: public insurance program for nursing home care.
Subtitle E—Study and Report
Sec. 2401. Study of issues related to end of life care.
TITLE III—HEALTH PROFESSIONS WORKFORCE AND PUBLIC HEALTH INITIATIVES
Subtitle A—Workforce Priorities Under Federal Payments
Sec. 3000. Definitions.
Part 1—Institutional Costs of Graduate Medical Education; Workforce Priorities
SUBPART A—NATIONAL COUNCIL REGARDING WORKFORCE PRIORITIES
Sec. 3001. National Council on Graduate Medical Education.
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SEC. 1001. ACCESS TO STANDARDIZED COVERAGE.

(a) IN GENERAL.—A participating State system shall require that each health plan (whether insured or self-insured) or long-term care policy issued, sold, offered for sale, or operated in the State shall be certified by the appropriate certifying authority as one of the following:

(1) A certified standard health plan.

(2) A certified supplemental health benefits plan.

(3) A certified long-term care policy under part 2 of subtitle B of title II.

(b) FEDERAL CERTIFICATION OF MULTISTATE SELF-INSURED PLANS.—For Federal certification of multistate self-insured health plans, see section 1482.

SEC. 1002. STANDARD HEALTH PLAN PRINCIPLES.

In accordance with this Act, the following principles shall apply to all standard health plans:

(1) No standard health plan may discriminate on the basis of medical history, health status, pre-existing medical conditions, or genetic predisposition to medical conditions.

(2) A standard health plan—

(A) shall offer an annual open enrollment period and accept all eligible individuals for coverage;

(B) shall not impose a rider that serves to exclude coverage to an individual; and

(C) shall not impose waiting periods before coverage begins.

(3) A standard health plan shall ensure that all medically necessary or appropriate services, as defined in the benefits package, are provided.

(4) Health benefits coverage shall be portable from one standard health plan to another.

Nothing in this section shall be construed so as to relieve a standard health plan of any obligation or requirement imposed under this Act.

SEC. 1003. PROTECTION OF CONSUMER CHOICE.

Nothing in this Act shall be construed as prohibiting the following:

(1) An individual from purchasing any health care services.

(2) An individual from purchasing supplemental insurance (offered consistent with this Act) to cover health care services not included within the standard benefits package established under subtitle C.

(3) An individual who is not an eligible individual from purchasing health insurance.

(4) Employers from providing coverage for benefits in addition to such standard benefits package (subject to part 1 of subtitle D).

(5) An individual from obtaining (at the expense of such individual) health care from any health care provider of such individual's choice.

PART 2—DEFINITIONS

SEC. 1011. DEFINITIONS RELATING TO HEALTH PLANS.

Except as otherwise specifically provided, in this Act the following definitions and rules apply:

(1) HEALTH PLAN.—

(A) IN GENERAL.—The term "health plan" means any plan or arrangement which provides, or pays the cost of, health benefits.

(B) EXCLUSIONS.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accidental death or dismemberment.

(ii) Coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury.

(iii) A medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act).

(iv) Coverage issued as a supplement to liability insurance.

(v) Worker's compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as a health plan).

(viii) An equivalent health care program.

(ix) Such other plan or arrangement as the Secretary determines is not a health plan.

(C) CERTAIN PLANS INCLUDED.—Such term includes any plan or arrangement not described in any clause of subparagraph (B) which provides for benefit payments, on a periodic basis, for—

(i) a specified disease or illness, or

(ii) period of hospitalization,

without regard to the costs incurred or services rendered during the period to which the payments relate.

(B) INSURED HEALTH PLAN.—

(i) IN GENERAL.—The term "insured health plan" means any health plan which is a hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by a carrier.

(ii) CARRIER.—The term "carrier" means a licensed insurance company, a hospital or medical service corporation (including an existing Blue Cross or Blue Shield organization, within the meaning of section 833(c)(2) of Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act), a health maintenance organization, or other entity licensed or certified by the State to provide health insurance or health benefits. The Secretary may issue regulations that provide for affiliated carriers to be treated as a single carrier where appropriate under this Act.

(C) SELF-INSURED HEALTH PLAN.—The term 'self-insured health plan' means an employee welfare benefit plan, church plan, or other arrangement which—

(i) provides health benefits funded in a manner other than through the purchase of one or more insured health plans, but

(ii) does not include any coverage or insurance described in clauses (i) through (ix) of subparagraph (A).

(2) CERTIFIED STANDARD HEALTH PLAN.—

(A) IN GENERAL.—The term "certified standard health plan" means a standard health plan which is certified by the appropriate certifying authority as meeting the other applicable requirements of this title.

(B) STANDARD HEALTH PLAN.—The term "standard health plan" means a health plan which provides for the standard benefits package or the alternative standard benefits package established under subtitle C.

(3) CERTIFIED SUPPLEMENTAL HEALTH BENEFITS PLAN.—

(A) IN GENERAL.—The term "certified supplemental health benefits plan" means a supplemental health benefits plan which is certified by the appropriate certifying authority as meeting the applicable requirements of part 4 of subtitle B.

(B) SUPPLEMENTAL HEALTH BENEFITS PLAN.—The term "supplemental health benefits plan" means an insured or self-insured health plan which provides health benefits which consist of supplemental services or cost-sharing described in part 4 of subtitle B. Such term does not include a plan which provides for benefit payments, on a periodic basis, for a specified disease or illness or period of hospitalization without regard to the costs incurred or services rendered during the period to which the payments relate.

(4) CERTIFIED LONG-TERM CARE INSURANCE POLICY.—

(A) IN GENERAL.—The term "certified long-term care insurance policy" means a long-term care insurance policy which is certified by the applicable certifying authority as meeting the applicable requirements of part 2 of subtitle B of title II.

(B) LONG-TERM CARE INSURANCE POLICY.—The term "long-term care insurance policy" has the meaning given such term by section 2721.

(5) TERMS AND RULES RELATING TO COMMUNITY AND EXPERIENCE RATING.—

(A) COMMUNITY-RATED PLAN.—The term "community-rated plan" means a health plan provided to community-rated individuals which meets the requirements of section 1116.

(B) COMMUNITY-RATED EMPLOYER.—The term "community-rated employer" means, with respect to an employee, an employer that is not an experience-rated employer with respect to such employee.

(C) COMMUNITY-RATED INDIVIDUAL.—The term "community-rated individual" means an individual—

(i) who is not an experience-rated individual, or

(ii) who is an experience-rated individual (determined without regard to this subparagraph) who is not a full-time employee of an experience-rated employer and who does not enroll in a certified standard health plan offered by the employer.

(D) EXPERIENCE-RATED PLAN.—The term "experience-rated plan" means a health plan which—

(i) is a self-insured health plan of an experience-rated employer, or

(ii) is an insured health plan which is experience-rated,

but any such plan may cover only experience-rated individuals.

(E) EXPERIENCE-RATED EMPLOYER.—

(i) IN GENERAL.—The term "experience-rated employer" means, with respect to any calendar year—

(I) any employer if, on each of 20 days during the preceding calendar year (each day being in a different week), such employer (or any predecessor) employed more than 500 employees for some portion of the day; or

(II) a multiemployer plan or rural electric cooperative or rural telephone cooperative association plan that covers 500 or more individuals.

(ii) SPECIAL RULE FOR LEASING BUSINESSES.—In the case of an employer the primary trade or business of which is employee leasing—

(I) all of the employees which such employer leases to other employers shall be treated as community-rated individuals, and

(II) this Act shall be applied separately with respect to its other employees.

(iii) U.S. POSTAL SERVICE.—Such term includes the United States Postal Service for any period during which the Postal Service is not covered by the FEHBP.

(F) EXPERIENCE-RATED INDIVIDUAL.—The term "experience-rated individual" means an individual who is an employee of an experience-rated employer or a member of a plan described in subparagraph (E)(i)(II).

(6) FULL-TIME EMPLOYEE.—The term "full-time employee" means, with respect to any month, an employee who normally performs at least 24 hours of service per week for an employer in the month (not including the month which includes the hiring date of such employee).

(7) SPECIAL RULE FOR SPOUSES AND DEPENDENTS.—If any individual is offered coverage under a health plan as the spouse or a dependent of a primary enrollee of such plan, such individual shall have the status of such enrollee unless such individual is eligible to elect other coverage and so elects.

SEC. 1012. DEFINITIONS RELATING TO EMPLOYMENT AND INCOME.

Except as otherwise specifically provided, in this Act the following definitions and rules apply:

(1) EMPLOYER, EMPLOYEE, EMPLOYMENT, AND WAGES DEFINED.—Except as provided in this section—

(A) the terms "wages" and "employment" have the meanings given such terms under section 3121 of the Internal Revenue Code of 1986,

(B) the term "employee" has the meaning given such term under section 3121 of such Code, subject to the provisions of chapter 25 of such Code, and

(C) the term "employer" has the same meaning as the term "employer" as used in such section 3121.

(2) EXCEPTIONS.—For purposes of paragraph (1)—

(A) EMPLOYMENT.—

(i) EMPLOYMENT INCLUDED.—Paragraphs (1), (2), (5), (7) (other than clauses (i) through (iv) of subparagraph (C) and clauses (i) through (v) of subparagraph (F)), (8), (9), (10), (11), (13), (15), (18), and (19) of section 3121(b) of the Internal Revenue Code of 1986 shall not apply.

(ii) EXCLUSION OF INMATES AS EMPLOYEES.—Employment shall not include services performed in a penal institution by an inmate thereof or in a hospital or other health care institution by a patient thereof.

(iii) EXCLUSION OF PART-TIME DOMESTIC SERVICE.—Employment shall not include domestic service in a private home of the employer (within the meaning section 3121(a)(7)(B), determined without dollar limitation) by an individual who is not a full-time employee.

(iv) EXCLUSION OF SEASONAL OR TEMPORARY.—Employment shall not include seasonal or temporary services performed for an employer for less than 6 months in a calendar year.

(v) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under regulation by the Secretary of Labor, an employee shall be considered to be employed on a full-time basis by an employer (and to be a full-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of employment in the industry, represents full-time employment in that industry.

(B) WAGES.—Paragraph (1) of section 3121(a) of the Internal Revenue Code of 1986 shall not apply.

(C) EMPLOYEES.—

(i) TREATMENT OF SELF-EMPLOYED.—The term "employee" includes a self-employed individual.

(ii) EXCLUSION OF CERTAIN FOREIGN EMPLOYMENT.—The term "employee" does not include an individual with respect to service, if the individual is not a citizen or resident of the United States and the service is performed outside the United States.

(3) AGGREGATION RULES FOR EMPLOYERS.—For purposes of this Act—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) under regulations of the Secretary of Labor, all employees of organizations which are under common control with one or more organizations which are exempt from income tax under subtitle A of the Internal Revenue Code of 1986 shall be treated as employed by a single employer.

The regulations prescribed under subparagraph (B) shall be based on principles similar to the principles which apply to taxable organizations under subparagraph (A).

SEC. 1013. OTHER GENERAL DEFINITIONS.

Except as otherwise specifically provided, in this Act the following definitions apply:

(1) APPROPRIATE CERTIFYING AUTHORITY.—The term 'appropriate certifying authority' means—

(A) except as provided in subparagraph (B), in the case of a standard health plan, a supplemental health benefits plan, or a long-term care insurance plan, the State commissioner or superintendent of insurance or other State authority in the participating State; or

(B) in the case of a multistate self-insured health plan or a multistate self-insured supplemental health benefits plan, the Secretary of Labor.

(2) COMMUNITY RATING AREA.—The term "community rating area" means an area specified by a State under section 1502(a).

(3) EQUIVALENT HEALTH CARE PROGRAM.—The term "equivalent health care program" means—

(A) part A or part B of the medicare program under title XVIII of the Social Security Act,

(B) the medicaid program under title XIX of the Social Security Act,

(C) the health care program for active military personnel under title 10, United States Code,

(D) the veterans health care program under chapter 17 of title 38, United States Code,

(E) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code,

(F) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and

(G) a State single-payer system approved by the Secretary under subpart B of part 3 of subtitle F.

(4) ESSENTIAL COMMUNITY PROVIDER.—The term "essential community provider" means an entity certified as such a provider under subpart B of part 2 of subtitle E.

(5) HEALTH PLAN SPONSOR.—The term "health plan sponsor" means—

(A) with respect to a community-rated plan, the carrier providing the plan,

(B) with respect to an insured experience-rated plan, the carrier providing the plan, and

(C) with respect to a self-insured experience-rated plan, the experience-rated employer providing the plan.

(6) MEDICARE PROGRAM.—The term "medicare program" means the health insurance program under title XVIII of the Social Security Act.

(7) MEDICARE-ELIGIBLE INDIVIDUAL.—The term "medicare-eligible individual" means

an individual who is entitled to benefits under part A of the medicare program.

(8) MULTIEMPLOYER PLAN.—The term "multiemployer plan" has the meaning given such term in section 3(37) of the Employee Retirement Income Security Act of 1974, and includes any plan that is treated as such a plan under title I of such Act.

(9) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(10) PARTICIPATING PROVIDER.—The term "participating provider" means, wiih respect to a health plan, a provider of health care services who is a member of a provider network of the plan.

(11) PARTICIPATING STATE.—The term "participating State" means a State establishing a State program under this title.

(12) PURCHASING COOPERATIVE.—The term "purchasing cooperative" means a health insurance cooperative established under part 2 of subtitle D.

(13) RESIDENCE.—

(A) IN GENERAL.—An individual is considered to reside in the location in which the individual maintains a primary residence (as established under rules of the Secretary).

(B) MULTIPLE RESIDENCES.—Under such rules and subject to section 1112, in the case of an individual who maintains more than one residence, the primary residence of the individual shall be determined taking into account the proportion of time spent at each residence.

(C) COUPLE.—In the case of a couple only one spouse of which is a qualifying employee, except as the Secretary may provide, the residence of the employee shall be the residence of the couple.

(14) RURAL ELECTRIC COOPERATIVE.—The term "rural electric cooperative" has the meaning given such term in section 3(40)(A)(iv) of the Employee Retirement Income Security Act of 1974.

(15) RURAL TELEPHONE COOPERATIVE ASSOCIATIONS.—The term "rural telephone cooperative association" has the meaning given such term in section 3(40)(A)(v) of the Employee Retirement Income Security Act of 1974.

(16) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(17) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(18) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

Subtitle B—Health Plan Standards

PART 1—ESTABLISHMENT AND APPLICATION OF STANDARDS

SEC. 1101. ESTABLISHMENT OF NATIONAL STANDARDS.

In order for a standard health plan to be eligible to be certified as a standard health plan by an appropriate certifying authority, the standard health plan shall, beginning on January 1, 1997, meet the requirements of this Act, including the following uniform national standards established in this subtitle and described in regulations promulgated by the Secretary:

(1) The insurance market reform standards of part 2.

(2) The delivery system reform standards of part 3.

(3) Standards for participation in a guaranty fund established by the State under section 1505 (established by the Secretary of Labor in the case of multistate self-insured standard health plans), except in the case of a health plan described in section 1011(1)(C).

(4) Standards for the collection and reporting of data in accordance with subtitle B of title V.

(5) Standards for effective grievance procedures that enrollees may utilize in pursuing complaints in accordance with subtitle C of title V.

SEC. 1102. GENERAL RULES.

(a) CONSTRUCTION.—Whenever in this subtitle a requirement or standard is imposed on a standard health plan, the requirement or standard is deemed to have been imposed on the insurer or sponsor of the plan or policy in relation to that plan or policy.

(b) USE OF INTERIM, FINAL REGULATIONS.—In order to permit the timely implementation of the provisions of this subtitle, the Secretary and the Secretary of Labor are each authorized to issue regulations under this subtitle on an interim basis that become final on the date of publication, subject to change based on subsequent public comment.

PART 2—INSURANCE MARKET REFORM

SEC. 1111. GUARANTEED ISSUE, AVAILABILITY, AND RENEWABILITY.

(a) GUARANTEED ISSUE.—Except as otherwise provided in this section, a standard health plan sponsor—

(1) offering a community-rated standard health plan shall offer such plan to any community-rated individual applying for coverage (either directly with the plan or through an employer or a purchasing cooperative); and

(2) offering an experience-rated standard health plan shall offer such plan to any experience-rated individual eligible for coverage under the plan through such individual's experience-rated employer.

No plan may engage in any practice that has the effect of attracting or limiting enrollees on the basis of personal characteristics, such as occupation or affiliation with any person or entity, or other characteristics described in section 1602.

(b) AVAILABILITY.—

(1) IN GENERAL.—A community-rated standard health plan shall be made available to community-rated individuals throughout the entire community rating area in which such plan is offered, including through any employer purchasing cooperative choosing to offer such plan.

(2) GEOGRAPHIC LIMITATIONS.—

(A) NONNETWORK PLANS.—A community-rated nonnetwork plan (as defined in section 1128(d)(6)(D)) may deny coverage under the plan to a community-rated individual who resides outside the community rating area in which such plan is offered.

(B) NETWORK PLANS.—A community-rated network plan (as defined in section 1128(d)(6)(A)) may deny coverage under the plan to a community-rated individual who resides outside the health plan service area in which such plan is offered.

(C) RULES REGARDING DENIALS.—No denial may be made under subparagraph (A) or (B) unless such denial is applied uniformly, without regard to health status, insurability of individuals, or other characteristics described in section 1602.

(3) CAPACITY LIMITATIONS.—

(A) IN GENERAL.—With the approval of the appropriate regulatory authority, a standard health plan may limit enrollment because of the plan's capacity to deliver services or to maintain financial stability. If such a limitation is imposed, the limitation may not be imposed on a basis of personal characteristics, such as occupation or affiliation with any person or entity, or other characteristics described in section 1602.

(B) RESTRICTIONS.—If such a limitation is imposed—

(i) the plan may only enroll individuals under the plan consistent with rules established by the State consistent with subparagraph (C); and

(ii) the plan may not discriminate based on the method through which a family seeks enrollment under the plan.

(C) STATE OVERSIGHT.—Each State shall, in accordance with rules promulgated by the Secretary, establish procedures and methods to assure equal opportunity of enrollment for all families, regardless of when during the open enrollment period, or the method by which, the enrollment has been sought.

(c) RENEWABILITY; LIMITATION ON TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a standard health plan that is issued to an individual shall be renewed, at the option of the individual.

(2) GROUNDS FOR REFUSAL TO RENEW OR TERMINATE.—A standard health plan sponsor may refuse to renew, or may terminate, a standard health plan under this title only for—

(A) in the case of plan in a participating State and any community rating area in such State with respect to which the requirements of title X have not become effective, nonpayment of premiums;

(B) fraud on the part of the individual relating to such plan; or

(C) misrepresentation of material facts on the part of the individual relating to an application for coverage or claim for benefits.

(3) TERMINATION OF PLANS.—A standard health plan may elect not to renew or make available the standard health plan through a particular type of delivery system in a community rating area, but only if the standard health plan—

(A) elects not to renew all of its standard health plans using such delivery system in such community rating area; and

(B) provides notice to the appropriate certifying authority and each individual covered under the plan of such termination at least 180 days before the date of expiration of the plan.

In such case, a standard health plan sponsor may not provide for the issuance of any standard health plan using such a delivery system in such community rating area during a 5-year period beginning on the date of the termination of the last plan not so renewed. For purposes of this paragraph, the term "delivery system" means a delivery system used by a network plan (as defined in section 1128(d)(6)(A)) or a nonnetwork plan (as defined in section 1128(d)(6)(D)).

(d) CERTAIN EXCLUDED PLANS.—The provisions of this section, other than subsections (c) and (e)(2)(B), shall not apply to any religious fraternal benefit society in existence as of September 1993, which bears the risk of providing insurance to its members, and which is an organization described in section 501(c)(8) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code.

(e) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only offer a health plan in a State if such plan sponsor publicly discloses the health plans such sponsor offers in the State and each offered plan meets the standards specified in paragraph (2).

(2) SPECIFIED STANDARDS.—

(A) Issue and availability.—The standards specified in subsections (a) and (b) if the individual or group applies for coverage during the open enrollment period required under section 1112(h).

(B) Renewal.—The standards specified in subsection (c), except paragraph (3) shall be applied by substituting "State" for "community rating area".

(3) Interim standards application periods.—The interim standards application period is—

(A) in the case of the standard specified in paragraph (2)(A), on or after January 1, 1995, and before January 1, 1997; and

(B) in the case of the standard specified in paragraph (2)(B), on or after August 1, 1994, and before January 1, 1997.

(4) Preemption.—The requirements of this subsection do not preempt any State law unless State law directly conflicts with such requirements. The provision of additional protections under State law shall not be considered to directly conflict with such requirements. The Secretary may issue letter determinations with respect to whether this subsection preempts a provision of State law.

(5) Construction.—The provisions of this subsection shall be construed in a manner that assures, to the greatest extent practicable, continuity of health benefits under health plans in effect on the effective date of this title.

(6) Special rules for acquisitions and transfers.—The Secretary may issue regulations regarding the application of this subsection in the case of health plans (or groups of such plans) which are transferred from one health plan sponsor to another sponsor through assumption, acquisition, or otherwise.

SEC. 1112. ENROLLMENT.

(a) In General.—Each standard health plan shall establish an enrollment process consistent with this section.

(b) Annual Open Enrollment Period.—Each standard health plan shall permit eligible individuals to enroll (or change enrollment) in the plan during each annual open enrollment period for each community rating area specified by the appropriate certifying authority under section 1503.

(c) Additional Periods of Authorized Changes in Enrollment.—

(1) In general.—Each standard health plan shall provide for changes in enrollment with respect to such other periods and occurrences (including changes in residence, appropriate changes in employment, and the insolvency of carriers or experience-rated employers) for which an individual is authorized to change enrollment in standard health plans, as the Secretary shall specify.

(2) Disenrollment for cause.—

(A) In general.—The Secretary shall establish procedures by which individuals enrolled in a standard health plan may disenroll from such plan for good cause (as defined by Secretary) at any time during a year and enroll in another standard health plan. Such procedures shall be implemented by participating States in a manner that ensures continuity of coverage for the standard benefits package or the alternative standard benefits package for such individuals during the year.

(B) Additional remedies.—In the case of an individual who changes enrollment from a plan for good cause due to a pattern of underservice under a plan, the Secretary may provide rules under which the carrier providing the standard health plan is liable, to the subsequent standard health plan in which the individual is enrolled, for excess costs (as identified in accordance with such rules) during the period for which it may be reasonably anticipated that the individual would (but for such cause) have continued enrollment with the original standard health plan.

(d) Effectiveness of Change of Enrollment.—Except as the Secretary may provide, changes in enrollment during an annual open enrollment period under subsection (a) shall take effect as determined by the appropriate certifying authority. The Secretary shall also provide when a change of enrollment under subsection (c) becomes effective.

(e) Direct Enrollment.—

(1) In general.—Subject to paragraph (2), each community-rated standard health plan shall provide for the direct enrollment of community-rated individuals in the plan under methods and procedures established by the Secretary.

(2) Enrollment processes.—The Secretary shall provide standards for States to ensure the broad availability and processing of enrollment forms, including direct enrollment through the mail, and other such processes as the Secretary may designate.

(f) Marketing Fees.—

(1) Plans offered outside purchasing cooperatives.—A community-rated standard health plan may impose a marketing fee surcharge for community-rated individuals enrolling in the plan through an agent, broker, or other authorized sales method, or through a direct enrollment process. Such surcharge shall be in addition to the weighted average of marketing fees of such plan for community-rated individuals enrolled in such a plan through any purchasing cooperative in the community rating area. Such surcharges shall be applied uniformly for individuals using the same enrollment mechanism.

(2) Plans offered through purchasing cooperatives.—For the imposition of marketing fees in the case of enrollment in standard health plans through purchasing cooperatives, see section 1324(b).

(g) Change of Enrollment.—As used in this section, the term "change of enrollment" includes, with respect to an individual—

(1) a change in the standard health plan in which the individual is enrolled,

(2) a change in the type of family enrollment, and

(3) the enrollment of the individual at the time the individual's status changes to a community-rated individual, experience-rated individual, or a premium subsidy-eligible individual under section 6002.

(h) Application of Interim Standard.—

(1) In general.—During the interim standard application period, a health plan sponsor may only offer a health plan in a State if such plan sponsor publicly discloses the health plans such sponsor offers in the State and each offered plan provides for an annual open enrollment period of at least 30 days.

(2) Interim standard application periods.—The interim standard application period is on or after January 1, 1995, and before January 1, 1997.

(3) Application of rules.—Paragraphs (4), (5), and (6) of section 1111(d) shall apply to this subsection.

SEC. 1113. COVERAGE OF DEPENDENTS.

(a) In General.—Except as otherwise provided in this Act, a standard health plan shall enroll all members of the same family (as defined in subsection (b)).

(b) Family Defined.—In this Act, unless otherwise provided, the term "family"—

(1) means, with respect to an individual who is not a child (as defined in subsection (c)), the individual; and

(2) includes the following persons (if any):

(A) The individual's spouse.

(B) The individual's children (and, if applicable, the children of the individual's spouse).

(c) Classes of Enrollment; Terminology.—

(1) In general.—In this Act, each of the following is a separate class of enrollment:

(A) Coverage only of an individual (referred to in this Act as the "individual" enrollment or class of enrollment).

(B) Coverage only of a child (referred to in this Act as the 'single child' enrollment or class of enrollment).

(C) Coverage only of 2 or more children (referred to in this Act as the 'multiple children' enrollment or class of enrollment).

(D) Coverage of a married couple without children (referred to in this Act as the "couple-only" enrollment or class of enrollment).

(E) Coverage of an individual and one or more children (referred to in this Act as the "single parent" enrollment or class of enrollment).

(F) Coverage of a married couple and one or more children (referred to in this Act as the "dual parent" enrollment or class of enrollment).

(2) References to family and couple classes of enrollment.—In this Act:

(A) Family.—The terms "family enrollment" and "family class of enrollment", refer to enrollment in a class of enrollment described in any subparagraph of paragraph (1) (other than subparagraph (A)).

(B) Couple.—The term "couple class of enrollment" refers to enrollment in a class of enrollment described in subparagraph (D) or (F) of paragraph (1).

(d) Spouse; Married; Couple.—

(1) In general.—In this Act, the terms "spouse" and "married" mean, with respect to a person, another individual who is the spouse of the person or married to the person, as determined under applicable State law.

(2) Couple.—The term "couple" means an individual and the individual's spouse.

(e) Child Defined.—

(1) In general.—In this Act, except as otherwise provided, the term "child" means an individual who is a child (as determined under paragraph (3)) who—

(A) is under 25 years of age or is disabled,

(B) is unmarried, and

(C) is a dependent of another individual (within the meaning of section 152(a) of the Internal Revenue Code of 1986.

The Secretary may adjust the age limitation in subparagraph (A) with respect to part-time or full-time students.

(2) Application of State law.—Subject to paragraph (3), determinations of whether a person is the child of another person shall be made in accordance with applicable State law.

(3) National rules.—The Secretary may establish such national rules respecting individuals who will be treated as children under this Act as the Secretary determines to be necessary. Such rules shall be consistent with the following principles:

(A) Step child.—A child includes a step child who is an individual living with an adult in a parent-child relationship.

(B) Disabled child.—A child includes an unmarried dependent individual regardless of age who is incapable of self-support because of mental or physical disability which existed before age 25.

(C) CERTAIN INTERGENERATIONAL FAMILIES.—A child includes the grandchild of an individual if—

(i) the parent of the grandchild is a child and the parent and grandchild are living with the grandparent; or

(ii) the grandparent has legal custody of the grandchild.

(D) TREATMENT OF EMANCIPATED MINORS.—An emancipated minor shall not be treated as a child.

(E) CHILDREN PLACED FOR ADOPTION.—

(i) IN GENERAL.—A child includes a child who is placed for adoption with an individual, except when the child is a child in State-supervised care.

(ii) PLACED FOR ADOPTION.—The term "placed for adoption" in connection with any placement for adoption of a child with any individual, means the assumption and retention by such individual of a legal obligation for total or partial support of such child in anticipation of the adoption of such child.

(f) ADDITIONAL RULES.—

(1) IN GENERAL.—The Secretary shall provide for such additional exceptions and special rules, including rules relating to—

(A) families in which members are not residing in the same area or in which children are not residing with their parents,

(B) changes in family composition occurring during a year,

(C) treatment of children in State-supervised care, and

(D) treatment of children of parents who are separated or divorced,

as the Secretary finds appropriate.

(2) CHILDREN IN STATE-SUPERVISED CARE.—

(A) IN GENERAL.—In the case of a child in State-supervised care (as described in subparagraph (B)), the child shall be considered as a family of one and enrolled by the State agency who has been awarded temporary or permanent custody of the child (or which has legal responsibility for the child) in a high cost-sharing plan unless the State agency has established a special health service delivery system designated to customize and more efficiently provide health services to children in State-supervised care, in which case the State agency will enroll the child in the plan appropriate to ensure access to such a special health service delivery system.

(B) CHILDREN IN STATE-SUPERVISED CARE.—For purposes of subparagraph (A), the term "child in State-supervised care" means any child who is residing away from the child's parents and is temporarily or permanently, on a voluntary or involuntary basis, under the responsibility of a public child welfare or juvenile services agency or court. Such term includes any child who is not yet made a ward of the court or adjudicated as a delinquent residing in emergency shelter care, any child in the physical custody of public or private agencies, and any child who is with foster parents, or other group or residential care providers. Such term also includes any child who is legally adopted and for whom the Federal or State government is providing adoption assistance payments.

(g) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only offer a health plan in a State if such plan meets the standards specified in this section.

(2) INTERIM STANDARDS APPLICATION PERIODS.—The interim standards application period is on or after January 1, 1995, and before January 1, 1997.

(3) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(d) shall apply to this subsection.

SEC. 1114. NONDISCRIMINATION BASED ON HEALTH STATUS.

(a) NO LIMITS ON COVERAGE; NO PRE-EXISTING CONDITION LIMITS.—Except as provided in subsections (b) and (c), a standard health plan may not—

(1) terminate, restrict, or limit coverage or establish premiums based on the health status, medical condition, claims experience, receipt of health care, medical history, anticipated need for health care services, disability, genetic predisposition to medical conditions, or lack of evidence of insurability of an individual;

(2) terminate, restrict, or limit coverage in any portion of the plan's community rating area, except as provided in section 1111(b)(2);

(3) except as provided in section 1111(c)(2), cancel coverage for any community-rated individual until that individual is enrolled in another applicable standard health plan;

(4) impose waiting periods before coverage begins; or

(5) impose a rider that serves to exclude coverage of particular individuals or particular health conditions.

(b) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Subject to paragraph (4), before January 1, 2002, a standard health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the plan with respect to an individual if—

(A) the condition was diagnosed or treated during the 3-month period ending on the day before the date of enrollment under the plan;

(B) the limitation or exclusion extends for a period not more than 6 months after the date of enrollment under the plan;

(C) the limitation or exclusion does not apply to an individual who, as of the date of birth, was covered under the plan; or

(D) the limitation or exclusion does not relate to pregnancy.

(2) CONTINUOUS COVERAGE.—A standard health plan shall provide that if an individual under such plan is in a period of continuous coverage with respect to particular services as of the date of enrollment under such plan, any period of exclusion of coverage with respect to a preexisting condition as permitted under paragraph (1) shall be prohibited.

(3) DEFINITIONS.—As used in this subsection:

(A) PERIOD OF CONTINUOUS COVERAGE.—The term "period of continuous coverage" means the period beginning on the date an individual is enrolled under a health plan or health care program which provides benefits equivalent to those provided by the plan in which the individual is seeking to enroll with respect to coverage of a preexisting condition and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

(B) PREEXISTING CONDITION.—The term "preexisting condition" means, with respect to coverage under a standard health plan, a condition which was diagnosed, or which was treated, within the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

(4) NO EXCLUSION DURING AMNESTY PERIOD OR WITH RESPECT TO A SUBSIDY-ELIGIBLE INDIVIDUAL.—This subsection shall not apply—

(A) during the first annual open enrollment period specified by the appropriate certifying authority under section 1503, and

(B) with respect to the enrollment of an individual eligible for a full premium subsidy under subtitle A of title VI.

(c) SPECIAL PREEXISTING RULE FOR CERTAIN PLANS.—In the case of a health plan described in section 1011(1)(C)(i), subsection (b) shall be applied by substituting—

(1) "Beginning in January 1, 1995," for "Subject to paragraph (4), before January 1, 2002," in paragraph (1);

(2) "5-year" for "3-month" in paragraphs (1)(A) and (3)(B); and

(3) "5 years" for "6 months" in paragraph (1)(B).

(d) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standard application period, a health plan sponsor may only offer a health plan (other than a plan described in subsection (c)) in a State if such plan meets the standards specified in paragraph (2).

(2) SPECIFIED STANDARDS.—

(A) EXCLUSION.—The standards specified in subsection (b) by substituting "6-month" for "3-month" in paragraphs (1)(A) and (3)(B).

(B) COVERAGE.—A self-insured health plan may not reduce or limit coverage of any condition or course of treatment that is expected to cost more than $2,500 during any 12-month period.

(3) INTERIM STANDARDS APPLICATION PERIOD.—The interim standards application period is—

(A) in the case of the standard specified in paragraph (2)(A), on or after January 1, 1995, and before January 1, 1997.

(B) in the case of the standard specified in paragraph (2)(B), on or after August 1, 1994, and before January 1, 1997.

(4) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(e) shall apply to this subsection.

SEC. 1115. BENEFITS.

(a) IN GENERAL.—A standard health plan (other than a health plan described in section 1011(1)(C)) shall offer to all enrollees in the plan the standard benefits package or the alternative standard benefits package established under subtitle C.

(b) ALTERNATIVE STANDARD BENEFITS PACKAGE.—

(1) IN GENERAL.—A carrier may only offer a standard health plan with an alternative standard benefits package in a community rating area if such carrier also offers a standard health plan with a standard benefits package in such area.

(2) INCLUSION IN RISK ADJUSTMENT AND REINSURANCE PROGRAMS.—Any standard health plan with an alternative standard benefits packages shall be included in any reinsurance or risk adjustment program under section 1117 operating in the community rating area in which such plan is offered.

(3) OFFER PROHIBITED IF MANDATES REQUIRED.—A carrier may not offer an alternative benefits package in a participating State and any community rating area in such State with respect to which the requirements of title X have become effective.

SEC. 1116. COMMUNITY RATING REQUIREMENTS.

(a) APPLICABILITY.—Except as provided in subsection (e), the provisions of this section shall apply to community-rated standard health plans.

(b) STANDARD PREMIUMS WITH RESPECT TO COMMUNITY-RATED INDIVIDUALS.—Subject to subsection (d), each community-rated standard health plan shall establish within each community rating area in which the plan is to be offered a standard premium for individual enrollment for the standard benefits package and the alternative standard benefits package established under subtitle C.

(c) Uniform Premiums Within Community Rating Areas.—

(1) In general.—Subject to paragraph (2), the standard premium described in subsection (b) shall be the same for all community-rated individuals within a community rating area.

(2) Application to enrollees.—

(A) In general.—The premium charged for coverage in a standard health plan shall be the product of—

(i) the standard premium established under paragraph (1);

(ii) in the case of enrollment other than individual enrollment, the family adjustment factor specified under subparagraph (B); and

(iii) the age adjustment factor specified under subparagraph (C).

(B) Family adjustment factor.—The Secretary, in consultation with the NAIC, shall develop a family adjustment factor that reflects the relative actuarial costs of benefit packages based on the applicable family enrollment (as compared with such costs for individual enrollment).

(C) Age adjustment factor.—The Secretary, in consultation with the NAIC, shall specify, within 6 months of the date of the enactment of this Act, uniform age categories and rating increments for age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. The highest age adjustment factor may not exceed twice the lowest age adjustment factor for individuals 18 to 65 years of age. The Secretary shall also provide for the gradual phaseout of age adjustment factors during the period beginning after December 31, 2004, and ending before January 1, 2010.

(d) Lower Premium Through Purchasing Cooperatives.—Notwithstanding any other provision of this section, no premium may be charged to a community-rated individual by a community-rated standard health plan in a community rating area which is not the lowest premium negotiated for such plan offered through any purchasing cooperative in such area.

(e) Experience Rating.—

(1) Applicability.—The provisions of this subsection shall apply to experience-rated standard health plans.

(2) Rating.—For purposes of applying this section to experience-rated employers, the employees of the employer involved shall constitute the community with respect to the determination of the premium.

(3) Premiums.—An experience-rated standard health plan may not vary the premium imposed with respect to experience-rated individuals enrolled in the plan, except as may be allowed under this section with respect to geographic and family coverage factors (as determined by the Secretary of Labor) under the plan.

SEC. 1117. RISK ADJUSTMENT AND REINSURANCE.

(a) In General.—Except as provided in subsection (b), each standard health plan (other than a health plan described in section 1011(1)(C)) shall participate in a standard health plan risk adjustment program and a reinsurance program implemented by the State in accordance with section 1504.

(b) Multistate Plans.—Each multistate self-insured standard health plan shall participate in a reinsurance program developed by the Secretary of Labor under section 1482.

SEC. 1118. FINANCIAL SOLVENCY REQUIREMENTS AND CONSUMER PROTECTION AGAINST PROVIDER CLAIMS.

(a) Solvency Protection.—Each standard health plan shall meet financial solvency requirements to assure protection of enrollees with respect to potential insolvency. Each standard health plan shall meet requirements relating to capital and solvency established by the Secretary under section 1401(h).

(b) Protection Against Provider Claims.—In the case of a failure of a standard health plan to make payments with respect to the standard benefits covered under the plan for any reason, an individual who is enrolled under the plan is not liable to any health care provider with respect to the provision of health services within such set of benefits for payments in excess of the amount for which the enrollee would have been liable if the plan were to have made payments in a timely manner.

PART 3—DELIVERY SYSTEM REFORM

SEC. 1121. PROHIBITION OF DISCRIMINATION.

(a) In General.—Each standard health plan shall comply with the antidiscrimination requirements of section 1602.

(b) Additional Antidiscrimination Requirements.—

(1) In general.—No State, standard health plan, or standard health plan sponsor may discriminate in participation, reimbursement, or indemnification against a health care provider who is acting within the scope of the provider's license or certification under applicable State or Federal law solely on the basis of such license or certification of such provider.

(2) Number and type.—Nothing in this Act shall—

(A) prevent a standard health plan from matching the number and type of health care providers to the needs of the plan members; or

(B) except as specifically provided in this Act, establish any other measure designed to maintain quality or to control costs.

SEC. 1122. QUALITY ASSURANCE STANDARDS.

(a) In General.—Each standard health plan shall comply with the plan performance standards in accordance with subtitle A of title V. Each standard health plan shall establish procedures, including ongoing quality improvement procedures, to ensure that the health care services provided to enrollees under the plan will be provided under reasonable standards of quality of care consistent with prevailing professionally recognized standards of medical practice and the quality standards established under subtitle A of title V.

(b) Internal Quality Assurance Program.—Each standard health plan shall establish, and communicate to its enrollees and its providers, an ongoing internal program, including periodic reporting, to monitor and evaluate the quality and cost effectiveness of its health care services, pursuant to standards established by the National Quality Council.

SEC. 1123. CONSUMER GRIEVANCE PROCESS.

Each standard health plan shall demonstrate to the appropriate certifying authority the capability to administer the plan in a manner which ensures due process for all enrollees under rules established by the Secretary under subtitle F of title V.

SEC. 1124. HEALTH SECURITY CARDS.

Each standard health plan shall issue a health security card to each individual enrolled in such plan in accordance with subtitle B of title V and regulations promulgated by the Secretary.

SEC. 1125. INFORMATION AND MARKETING STANDARDS.

(a) In General.—Each standard health plan shall provide information to the participating State and each purchasing cooperative through which such plan is offered which is required to be provided under sections 1401(d) and 5009, other applicable information requirements of this Act, and rules promulgated by the Secretary.

(b) Marketing Methods; Advertising Materials.—A standard health plan may utilize direct marketing, agency, or other arrangements to distribute health plan information, subject to applicable fair marketing practices laws and standards established by the State or by the Secretary, including standards to prevent selective marketing. All advertising, promotional materials, and other communications with health plan members and the general public must be factually accurate and responsive to the needs of served populations. A standard health plan may not distribute marketing materials to an area smaller than the entire community rating area of the plan.

(c) Payment of Agent Commissions.—A standard health plan—

(1) may pay a commission or other remuneration to an agent or broker in marketing the plan to individuals or groups, but

(2) may not vary such remuneration based, directly or indirectly, on the anticipated or actual claims experience associated with the group or individuals to which the plan was sold.

(d) Materials in Appropriate Languages.—In the case of a community rating area that includes a significant number or proportion of residents with limited English proficiency, each standard health plan in such area shall provide materials under this Act in the native languages of such residents, as appropriate.

SEC. 1126. INFORMATION REGARDING A PATIENT'S RIGHT TO SELF-DETERMINATION IN HEALTH CARE SERVICES.

(a) In General.—Each standard health plan shall—

(1) provide written information to each individual enrolling in such plan of—

(A) such individual's right under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning medical care, including the right to accept or refuse medical treatment and the right to formulate advance directives (as defined in section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3))), and

(B) the written policies of the plan with respect to such right; and

(2) require participating primary care physicians to include in their patients' charts the wishes of the patient concerning advance directives and organ donation.

(b) Promotion of Shared Decision Making.—Each standard health plan shall promote shared decision making by assuring that patients are appropriately informed about health care treatment options.

SEC. 1127. CONTRACTS WITH PURCHASING COOPERATIVES.

(a) Contracts With Cooperatives.—A community-rated standard health plan provided by a carrier shall enter into contracts with each purchasing cooperative seeking such a contract in the community rating area served by the plan.

(b) Pricing.—No community-rated standard health plan shall offer a rate to a purchasing cooperative in the community rating area served by the plan that is more than the premium rate determined under section 1116. Such a plan may charge a marketing fee as specified under section 1324(b)(1).

SEC. 1128. HEALTH PLAN ARRANGEMENTS WITH PROVIDERS.

(a) Providers Outside Area.—A State may not limit the ability of any plan to contract with a health care provider located outside of the geographic boundaries of a community rating area or the State.

(b) Treatment of Cost-Sharing.—Each standard health plan which provides the standard benefits package established under subtitle C shall include in its payments to health care providers such additional reimbursements as may be necessary to reflect cost-sharing reductions to which individuals are entitled under subtitle A of title VI.

(c) Provider Verification.—Each standard health plan shall ensure that all health care providers reimbursed by the plan are authorized under State law to provide applicable services. Each standard health plan shall—

(1) verify the credentials of practitioners and facilities;

(2) ensure that all health care providers meet applicable State licensing and certification standards;

(3) ensure that each health care provider participating in the plan annually discloses information regarding operations, ownership, finances, and workforce necessary to evaluate the provider's compliance with this Act;

(4) oversee the quality and performance of participating providers, consistent with section 1122; and

(5) investigate and resolve consumer complaints against participating providers.

(d) Requirements for Network Plans.—

(1) Arrangements with health care providers.—

(A) In general.—Each network plan through its provider network shall demonstrate that it appropriately recognizes and serves the diverse health care needs of the population in the health plan service area (established under section 1502(d)) served by the plan.

(B) Availability.—Each network plan through its provider network shall include a sufficient number, mix, and distribution of participating health care providers within the network to ensure that all network items and services are available and accessible to all enrollees throughout the health plan service area of the plan—

(i) with reasonable promptness;

(ii) within reasonable proximity to the residence of the enrollees;

(iii) during reasonable hours of operation, including after-hours services; and

(iv) in the case of emergency and urgent care services, when medically necessary, 24-hours a day, 7-days a week,

in a manner which does not conflict with the plan's responsibilities to establish measures designed to maintain quality and to control costs.

(2) Information to enrollees and prospective enrollees.—Each network plan shall provide enrollees and prospective enrollees with information identifying—

(A) the number, mix, and distribution of participating health care providers; and

(B) any such health care provider refusing to provide a network item or service pursuant to section 1601.

(3) Gatekeeper.—With respect to each network plan that utilizes a gatekeeper or similar process to approve network items and services, such plan shall ensure that such gatekeeper or process does not create an undue burden for enrollees with complex or chronic health conditions and shall ensure access to relevant specialists for the continued care of such enrollees when medically indicated. In cases of a patient with a severe, complex, or chronic health condition, such plan shall determine, in conjunction with the enrollee and the enrollee's primary care provider, whether it is medically necessary or appropriate to use a specialist or a care coordinator from an interdisciplinary team as the gatekeeper or in the health care approval process.

(4) Continued care.—Each network plan shall develop and implement mechanisms for coordinating the delivery of care among different providers so as to enhance continuity of care for the patient.

(5) Eligible centers of specialized treatment expertise.—

(A) In general.—Each network plan shall demonstrate that adults, children, and individuals with disabilities have access to specialized treatment expertise when medically indicated by meeting evaluation criteria established by the Secretary. In establishing such criteria, the Secretary may consider a process by which a network plan could be deemed to meet such evaluation criteria if such plan demonstrates referrals to designated centers of specialized care when medically necessary or appropriate, informs enrollees of the availability of referral care, and ensures compliance with section 1123.

(B) Eligible centers.—The Secretary shall establish criteria for designating centers of specialized care and shall designate eligible centers based on such criteria. The criteria shall include requirements for staff credentials and experience, and requirements for measured outcomes in the diagnosis and treatment of patients. The Secretary shall develop additional criteria for outcomes of specialized treatment as research findings become available. To be designated as a center of specialized care, a center shall—

(i) attract patients from outside the center's local geographic region, from across the State or the United States; and

(ii) either sponsor, participate in, or have medical staff who participate in peer-reviewed research.

(C) Limitation.—A State may not establish rules or policies that require or encourage network plans to give preference to centers of specialized treatment expertise within the State or within the community rating area. A network plan shall not prohibit an academic health center, teaching hospital, or other center for specialized care with which the plan contracts from contracting with one or more other plans.

(D) Specialized treatment expertise.—For purposes of this paragraph, the term "specialized treatment expertise", with respect to the treatment of a health condition by an eligible center, means expertise in diagnosing and treating unusual diseases or conditions, diagnosing and treating diseases or conditions which are unusually difficult to diagnose or treat, and providing other specialized health care.

(6) Definitions relating to network plans.—For purposes of this Act—

(A) Network plan defined.—The term "network plan" means a standard health plan that utilizes a provider network.

(B) Provider network defined.—The term "provider network" means, with respect to a standard health plan, health care providers that have entered into an agreement with the plan under which such providers are obligated to provide network items and services to individuals enrolled in the plan, or have an agreement to provide network items and services on a fee-for-service basis.

(C) Network items and services.—The term "network items and services" means items or services provided to an individual enrolled under a standard health plan with a standard benefits package established under subtitle C by a health care provider who is a member of a provider network of the plan.

(D) Nonnetwork plan defined.—The term "nonnetwork plan" means a standard health plan that does not utilize a provider network.

(E) Nonnetwork items and services.—The term "nonnetwork items and services" means items or services provided to an individual enrolled under a standard health plan by a health care provider who is not a member of a provider network of the plan.

(e) Emergency and Urgent Care Services.—

(1) In general.—Each standard health plan shall cover emergency and urgent care services provided to enrollees, without regard to whether or not the health care provider furnishing such services has a contractual (or other) arrangement with the plan to provide items or services to enrollees of the plan and in the case of emergency services without regard to prior authorization.

(2) Payment amounts.—In the case of emergency and urgent care provided to an enrollee outside of a standard health plan's community rating area, the payment amounts of the plan shall be based on the applicable fee schedule described in subsection (f).

(f) Application of Plan Fee Schedule.—

(1) In general.—Subject to paragraph (2), each standard health plan that provides for payment for services on a fee-for-service basis and has not established an agreement or contractual arrangement with health care providers specifying a basis for payment shall make such payment to such providers under a fee schedule established by the plan.

(2) Rule of construction.—Nothing in the paragraph (1) shall be construed to prevent a standard health plan from providing for a different basis or level of payment than the fee schedule established under such paragraph as part of a contractual agreement with participating providers under the plan.

(g) Provider Participation Program; Requirement of Direct Billing.—

(1) Provider participation program.—Each standard health plan shall establish a program under which participating health care providers may agree to accept the plan's payment schedule as payment in full, and agree not to charge patients more than the cost-sharing required by such plan for nonnetwork items and services. Each such plan shall make available the list of participating health care providers to enrollees and prospective enrollees. To the extent possible, the program under this subparagraph shall meet the requirements of subsection (d).

(2) Direct billing.—

(A) In general.—A health care provider may not charge or collect from an enrollee amounts that are payable by the standard health plan (including any cost-sharing reduction assistance payable by the plan) and shall submit charges to such plan in accordance with any applicable requirements of subtitle B of title V (relating to health information systems).

(B) Prohibition.—An individual or entity that performs clinical laboratory services may not present or cause to be presented, a claim, bill, or demand for payment to any person other than the individual receiving such services, or to the standard health plan of the individual, except that the Secretary may by regulation establish appropriate exceptions to the requirement of this subparagraph.

(3) Prohibition of balance billing of taxes.—Any agreement entered into between a standard health plan and a health care provider shall prohibit the provider from charging patients the amount of any

tax recovered from the provider under section 4518 of the Internal Revenue Code of 1986.

(4) Rule of construction.—Nothing in this Act shall be construed to—

(A) require or force an individual to receive health care solely through the individual's standard health plan; or

(B) prohibit any individual from privately contracting with any health care provider and paying for the treatment or service provider by such provider on a cash basis or any other basis as agreed to between the individual and the provider.

(i) Relation to Detention.—A standard health plan is not required to provide any reimbursement to any detention facility for services performed in that facility for detainees in the facility.

(j) Physician Participation.—

(1) In general.—Each standard health plan shall establish mechanisms through which physicians have input into matters affecting patient care and through which patients have the ability to choose any primary care physician from available practitioners.

(2) Contract procedures.—Each standard health plan shall provide not less than 30 days notification to physicians of decisions to cancel or deny renewal of contracts and shall establish an informal, non-binding, and advisory review process for appeals.

(k) Ethical Business Conduct.—Each standard health plan shall develop and implement a code of ethical business conduct for its activities, including those of its components, and assure proficient management and planning functions.

(l) Enrollment.—A standard health plan may not knowingly accept the enrollment of an individual who is enrolled in another standard health plan.

SEC. 1129. UTILIZATION MANAGEMENT PROTOCOLS AND PHYSICIAN INCENTIVE PLANS.

(a) Requiring Consumer Disclosure.—Each standard health plan shall disclose upon request to enrollees (and prospective enrollees) and to participating providers (and prospective providers), the protocols and financial incentives used by the plan, including utilization management protocols and physician incentive plans for controlling utilization and costs, while protecting proprietary business information to the extent specified by the Secretary.

(b) Utilization Management.—The utilization review and management activities of each standard health plan, provided either directly or through contract, shall meet the following standards as defined by the Secretary:

(1) Personnel.—All review determinations shall be made by health care providers are licensed, certified, or otherwise credentialed and who are qualified to review utilization of the treatment being sought.

(2) Review process.—Each standard health plan shall base utilization management on current scientific knowledge, stress the efficient delivery of health care and quality outcomes, rely primarily on evaluating and comparing practice patterns rather than routine case-by-case review, be consistent and timely in application, and have a process for making review determinations for urgent and emergency care 24 hours a day.

(3) No financial incentive.—Utilization management by each standard health plan may not create financial incentives for reviewers or health care providers to reduce or limit medically necessary or appropriate services.

(c) Physician Incentive Plans.—A standard health plan may not operate a physician incentive plan unless such incentive plan meets the requirements of section 1876(i)(8)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(8)(A)).

PART 4—SUPPLEMENTAL HEALTH BENEFITS PLANS

SEC. 1141. SUPPLEMENTAL HEALTH BENEFITS PLANS.

(a) Treatment of Supplemental Health Benefits Plans.—

(1) In general.—Nothing in this Act may be construed as preventing a standard health plan sponsor from offering and pricing (in a manner that is separate from the offering and pricing of the standard health plans offered by such sponsor in the community rating area) supplemental health benefits plans pursuant to the State certification plan, the requirements of this section, and regulations promulgated by the Secretary.

(2) Plans defined.—In this Act—

(A) Supplemental health benefits plan.—The term "supplemental health benefits plan" means a supplemental services plan or a cost-sharing plan.

(B) Supplemental services plan.—The term "supplemental services plan" means a health plan which provides—

(i) coverage for services and items not included in the standard benefits package established under subtitle C,

(ii) coverage for items and services included in such package but not covered because of a limitation in amount, duration, or scope of benefits, or

(iii) both.

(C) Cost-sharing plan.—The term "cost-sharing plan" means a health plan which provides coverage for deductibles and coinsurance imposed as part of the standard benefits package established under subtitle C.

(b) Requirements for Supplemental Services Plans.—

(1) Application of certain health plan standards.—

(A) In general.—The standards specified in subparagraph (B) shall apply with respect to each supplemental services plan in the same manner as such standards apply with respect to a certified standard health plan.

(B) Specified standards.—The standards specified in this subparagraph are as follows:

(i) Section 1111 (relating to guaranteed issue, availability, and renewability).

(ii) Section 1112 (relating to enrollment).

(iii) Section 1114 (relating to nondiscrimination based on health status).

(iv) Section 1116 (relating to rating limitations for community-rated market).

(2) No duplicative health benefits.—A standard health plan sponsor or any other entity may not offer any supplemental services plan that—

(A) duplicates the standard benefits package established under subtitle C, or

(B) duplicates any coverage provided under the medicare program to any medicare-eligible individual.

(3) Restrictions on marketing abuses.—Not later than May 1, 1995, the Secretary shall develop minimum standards that prohibit marketing practices by standard health plan sponsors and other entities offering supplemental services plans that involve—

(A) providing monetary incentives for, or tying or otherwise conditioning, the sale of the plan to enrollees in a certified standard health plan of the sponsor or entity;

(B) linking in any manner to the plan's standard benefits package; or

(C) using or disclosing to any party information about the health status or claims experience of participants in a certified standard health plan for the purpose of marketing a supplemental services plan.

(c) Requirements for Cost-Sharing Plans.—

(1) Rules for offering of policies.—A cost-sharing plan may be offered to an individual only if—

(A) the plan is offered by the standard health plan in which the individual is enrolled;

(B) the standard health plan offers the plan to all individuals enrolled in the standard health plan;

(C) the individual is not enrolled in an alternative benefits package; and

(D) the plan is offered only during the enrollment periods for standard health plans specified in section 1112.

(2) Prohibition of coverage of copayments.—A cost-sharing plan may not provide any benefits relating to any copayments established under subtitle C.

(3) Equivalent coverage for all services.—A cost-sharing plan shall provide coverage for items and services in the standard benefits package to the same extent as the plan provides coverage for all items and services in the package.

(4) Requirements for pricing.—

(A) In general.—The price of any cost-sharing plan shall—

(i) be the same for each individual or class of family to whom the plan is offered;

(ii) include any expected increase in utilization resulting from the purchase of the plan by individuals enrolled in the standard health plan; and

(iii) not result in a loss-ratio of less than 90 percent.

(B) Loss-ratio defined.—In subparagraph (A)(iii), a "loss-ratio" is the ratio of the premium returned to the consumer in payout relative to the total premium collected.

Subtitle C—Benefits and Cost-Sharing

PART 1—STANDARD BENEFITS PACKAGES

SEC. 1201. GENERAL DESCRIPTION OF STANDARD BENEFITS PACKAGES.

(a) Standard Benefits Package.—For purposes of this title, a standard benefits package is a benefits package that—

(1)(A) provides all of the items and services under the categories of health care items and services described in section 1202; and

(B) provides for at least one of the 3 cost-sharing schedules established under section 1213(c)(2) by the National Health Benefits Board established under section 1211 (referred to in this part as the "Board") for such a package; and

(2) has an actuarial value that is equivalent to the actuarial value of the benefits package provided by the Blue Cross/Blue Shield Standard Option under the Federal Employees Health Benefits Program during 1994, adjusted for cost differences after 1994.

(b) Alternative Standard Benefits Package.—For purposes of this title, an alternative standard benefits package is a benefits package that—

(1)(A) provides all of the items and services under the categories of health care items and services described in section 1202; and

(B) provides for the very high deductible cost-sharing schedule established under section 1213(c)(3) by the Board for such a package; and

(2) has an actuarial value that is less than the actuarial value of the benefits package provided by the Blue Cross/Blue Shield Standard Option under the Federal Employees Health Benefits Program during 1994, adjusted for cost differences after 1994.

(c) Actuarial Values.—The Board shall determine the actuarial values referred to in subsections (a)(2) and (b)(2). In determining whether a benefits package meets the requirements of subsection (a)(2) or (b)(2), the Board shall use utilization and unit cost measures based on nationwide experience and shall make appropriate adjustments to reflect differences in the cost effectiveness of the delivery system used by the health plan providing the package.

SEC. 1202. DESCRIPTION OF CATEGORIES OF ITEMS AND SERVICES.

(a) IN GENERAL.—The categories of health care items and services described in this section are the following, as defined by the Board under section 1213(a):

(1) HOSPITAL SERVICES.—The hospital (as defined in section 1203(7)) services described in this paragraph include the following:

(A) Inpatient hospital services.

(B) Outpatient hospital services.

(C) 24-hour a day hospital emergency services.

(2) HEALTH PROFESSIONAL SERVICES.—The items and services described in this paragraph are—

(A) health professional services (as defined in section 1203(3)), including consultations, that are provided in a home, office, or other ambulatory care setting, or an institutional setting; and

(B) services and supplies (including drugs and biologicals which cannot be self-administered) furnished as incident to such health professional services.

(3) EMERGENCY AND AMBULATORY MEDICAL AND SURGICAL SERVICES.—The items and services described in this paragraph are 24-hour a day emergency services and ambulatory medical or surgical services provided in a facility that is legally authorized to provide such services in the State in which such services are provided.

(4) CLINICAL PREVENTIVE SERVICES.—The items and services described in this paragraph are clinical preventive services, including services for high risk populations, age-appropriate immunizations, tests, and clinician visits furnished consistent with any periodicity schedule specified by the Board under section 1213(a)(2)(B).

(5) MENTAL ILLNESS AND SUBSTANCE ABUSE SERVICES.—The items and services described in this paragraph are mental illness and substance abuse services, including inpatient, outpatient, residential non-hospital, and intensive non-residential services, for the treatment of mental illness and substance abuse disorders (as defined in section 1203(9)).

(6) FAMILY PLANNING SERVICES AND SERVICES FOR PREGNANT WOMEN.—The services described in this section include the following items and services:

(A) Voluntary comprehensive family planning services, including counseling and education.

(B) Contraceptive drugs and devices that are subject to approval by the Secretary under the Federal Food, Drug, and Cosmetic Act.

(C) Services for pregnant women.

(7) HOSPICE CARE.—The hospice care described in this paragraph is items and services provided for end of life care (as defined in section 1203(6)).

(8) HOME HEALTH CARE.—

(A) IN GENERAL.—The home health care described in this paragraph is home health care (as defined in section 1203(4)) and home infusion drug therapy services (as defined in section 1203(5)).

(B) LIMITATIONS.—Coverage for home health care is subject to the following limitations:

(i) INPATIENT TREATMENT ALTERNATIVE.—Such care is covered only as an alternative to inpatient treatment in a hospital, skilled nursing facility (as defined in section 1203(15)), or rehabilitation facility (as defined in section 1203(14)) after an illness, injury, disorder, or other health condition.

(ii) REEVALUATION.—At the end of each 60-day period of home health care, the need for continued care shall be reevaluated by the person who is primarily responsible for providing the home health care. Additional periods of care are covered only if such person determines that the requirement in clause (i) is satisfied.

(9) EXTENDED CARE SERVICES—

(A) IN GENERAL.—The extended care services described in this section are the items and services described in section 1861(h) of the Social Security Act, when provided to an inpatient of a skilled nursing facility or a rehabilitation facility.

(B) LIMITATIONS.—Extended care services are covered only as an alternative to receiving inpatient hospital services as a result of an illness, injury, disorder, or other health condition.

(10) AMBULANCE SERVICES.—

(A) IN GENERAL.—The ambulance services described in this paragraph are covered only when indicated by the medical condition of the individual receiving such services. Such services include the following:

(i) Ground transportation by ambulance.

(ii) Air or water transportation by an aircraft or vessel equipped for transporting an injured or sick individual in cases in which there is no other method of transportation or where use of another method of transportation is contra-indicated by the medical condition of such individual.

(11) OUTPATIENT LABORATORY, RADIOLOGY, AND DIAGNOSTIC SERVICES.—The items and services described in this paragraph are laboratory, radiology, and diagnostic services provided upon prescription to individuals who are not inpatients of a hospital, hospice, skilled nursing facility, or rehabilitation facility.

(12) OUTPATIENT PRESCRIPTION DRUGS.—The items described in this paragraph are the following used for a medically accepted indication (as defined in section 1203(8)):

(A) Outpatient prescription drugs.

(B) Blood clotting factors (as defined in section 1203(1)).

(C) Drugs used for home infusion therapy.

(D) Biologicals.

(E) Accessories and supplies used directly with the items described in subparagraphs (A) through (D).

(13) OUTPATIENT REHABILITATION SERVICES.—

(A) IN GENERAL.—The outpatient rehabilitation services described in this paragraph are—

(i) outpatient occupational therapy;

(ii) outpatient physical therapy;

(iii) outpatient respiratory therapy; and

(iv) outpatient speech-language pathology services and outpatient audiology services.

(B) LIMITATIONS.—Coverage for outpatient rehabilitation services is subject to the following limitations:

(i) SERVICE LIMITATION.—Such services shall include only items or services used to restore or maintain functional capacity or to prevent or minimize limitations on physical and cognitive functions as a result of an illness, injury, disorder, or other health condition, including items or services used to attain new functional abilities at an age-appropriate rate.

(ii) REEVALUATION.—At the end of each 60-day period of outpatient rehabilitation services, the need for continued services shall be reevaluated by the person who is primarily responsible for providing the services. Additional periods of services are covered only if such person determines that the requirement of clause (i) is satisfied.

(14) DURABLE MEDICAL EQUIPMENT AND PROSTHETIC AND ORTHOTIC DEVICES.—

(A) IN GENERAL.—The items and services described in this paragraph are—

(i) durable medical equipment (as defined in section 1203(2);

(ii) prosthetic devices (as defined in section 1203(12);

(iii) orthotics (as defined in section 1203(10)) and prosthetics (as defined in section 1203(11)); and

(iv) accessories and supplies used directly with the equipment or devices described in clauses (i) through (iv).

(B) REPAIR, MAINTENANCE, ETC.—The items and services described in this paragraph include the following with respect to the equipment and devices described in subparagraph (A):

(i) Repair and maintenance of such equipment or devices.

(ii) Replacement of such equipment or devices when required due to loss, irreparable damage, wear, or because of a change in the patient's condition.

(iii) Fitting and training for the use of such equipment or devices.

(15) VISION CARE, HEARING CARE, AND DENTAL CARE.—

(A) IN GENERAL.—The items described in this paragraph are the vision care described in subparagraph (B), dental care described in subparagraph (C), and hearing care described in subparagraph (D).

(B) VISION CARE.—The vision care described in this subparagraph is routine eye examinations, diagnosis, and treatment for defects in vision furnished to individuals who are under 22 years of age, including eyeglasses and contact lenses furnished according to a periodicity schedule established by the Board.

(C) DENTAL CARE.—

(i) INDIVIDUALS UNDER 22.—The dental care described in this subparagraph shall include the following, as specified by the Board, furnished to individuals who are under 22 years of age:

(I) Emergency dental treatment.

(II) Prevention and diagnosis of dental disease.

(III) Treatment of dental disease.

(IV) Space maintenance procedures to prevent orthodontic complications.

(V) Interceptive orthodontic treatment to prevent severe malocclusion.

(ii) INDIVIDUALS OVER 22.—The dental care described in this subparagraph for individuals who are over 22 years of age is emergency dental treatment, as specified by the Board.

(D) HEARING CARE.—The hearing care items and services described in this paragraph are the following when furnished to an individual who is under 22 years of age:

(i) Routine ear examinations and diagnosis for defects in hearing as part of a physician visit.

(ii) Hearing aids when recommended by a physician or audiologist.

(16) INVESTIGATIONAL TREATMENTS.—The items and services described in this paragraph are items and services required to provide patient care pursuant to the design of a qualified investigational treatment (as defined in section 1203(13)).

(b) LIMITATION.—

(1) IN GENERAL.—Items and services under the categories described in subsection (a) shall be furnished to health plan enrollees when medically necessary or appropriate.

(2) Definition.—For purposes of this subtitle, the term "medically necessary or appropriate" when referring to an item or service means an item or service intended to maintain or improve the biological, psychological, or functional condition of a health plan enrollee or to prevent or mitigate an adverse health outcome to an enrollee.

SEC. 1203. DEFINITIONS.

For purposes of this subtitle:

(1) Blood Clotting Factors.—The term "blood clotting factors" has the meaning given such term in section 1861(s)(2)(I) of the Social Security Act.

(2) Durable Medical Equipment.—The term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act.

(3) Health Professional Services.—The term "health professional services" means professional services that—

(A) are lawfully provided by a physician; or

(B) would be described in subparagraph (A) if provided by a physician, but are provided by another person who is legally authorized to provide such services in the State in which the services are provided.

(4) Home Health Care.—The term "home health care" means the items and services described in section 1861(m) of the Social Security Act.

(5) Home Infusion Drug Therapy Services.—The term "home infusion drug therapy services" means the home infusion drug therapy services described in section 1861(ll) of the Social Security Act.

(6) Hospice Care.—The term "hospice care" means the items and services described in paragraph (1) of section 1861(dd) of the Social Security Act, except that in applying such section for purposes of this paragraph—

(A) paragraphs (4)(B) and (5) shall be disregarded; and

(B) all references to the Secretary of Health and Human Services shall be treated as references to the Board.

(7) Hospital.—The term "hospital" has the meaning given such term in section 1861(e) of the Social Security Act, except that such term shall include a facility operated by the uniformed services, the Department of Veterans Affairs, and the Indian Health Service that is primarily engaged in providing services to inpatients that are equivalent to the services provided by a hospital defined in such section 1861(e).

(8) Medically Accepted Indication.—The term "medically accepted indication" means with respect to the use of a drug, any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

(A) the drug has been approved by the Food and Drug Administration; and

(B) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the Secretary.

(9) Mental Illness and Substance Abuse Disorders.—The term "mental illness and substance abuse disorder" means a mental or substance abuse disorder listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, or the International Classification of Diseases, 9th Revision, the Clinical Modification, Third Edition, or revised versions of such manuals or texts.

(10) Orthotics.—The term "orthotics" includes—

(A) an accessory or supply used directly with a prosthetic device to achieve therapeutic benefits and proper functioning; and

(B) leg, arm, back, and neck braces.

(11) Prosthetics.—The term "prosthetics" includes artificial legs, arms, and eyes.

(12) Prosthetic Devices.—The term "prosthetic devices" means devices that replace all or part of the function of a body organ.

(13) Qualified Investigational Treatment.—The term "qualified investigational treatment" means an investigational treatment that is part of a peer-reviewed and approved research program (as defined by the Secretary) or research trials approved by the Secretary, the Directors of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Secretary of Veterans Affairs, the Secretary of Defense, or a qualified nongovernmental research entity as defined in guidelines of the National Institutes of Health, including guidelines for cancer center support grants designated by the National Cancer Institute.

(14) Rehabilitation Facility.—The term "rehabilitation facility" means an institution (or a distinct part of an institution) which is established and operated for the purpose of providing diagnostic, therapeutic, and rehabilitation services to individuals for rehabilitation from illness, injury, disorder, or other health condition. An entity qualifying as a hospital (as defined in paragraph (7)) may also qualify as a rehabilitation facility for the purposes of section 1202(a)(9).

(15) Skilled Nursing Facility.—The term "skilled nursing facility" means an institution (or a distinct part of an institution) which is primarily engaged in providing to residents—

(A) skilled nursing care and related services for residents who require medical or nursing care; or

(B) rehabilitation services to residents for rehabilitation from illness, injury, disorder, or other health condition.

PART 2—NATIONAL HEALTH BENEFITS BOARD

SEC. 1211. CREATION OF NATIONAL HEALTH BENEFITS BOARD; MEMBERSHIP.

(a) In General.—There is hereby established in the Department of Health and Human Services a National Health Benefits Board (referred to in this part as the "Board").

(b) Composition.—The Board is composed of 7 members appointed by the President, by and with the advice and consent of the Senate. No more than 4 members of the Board may be affiliated with the same political party. Members shall be appointed not later than 90 days after the date of the enactment of this title.

(c) Chair.—The President shall designate one of the members of the Board as chair.

(d) Terms.—

(1) In general.—Except as provided in paragraph (2), the term of each member of the Board is 6 years and begins when the term of the predecessor of that member ends.

(2) Initial terms.—The initial terms of the members of the Board first taking office after the date of the enactment of this title, shall expire as designated by the President, two at the end of two years, two at the end of four years, and three at the end of six years.

(3) Continuation in office.—Upon the expiration of a term of office, a member shall continue to serve until a successor is appointed and qualified.

(e) Vacancies.—

(1) In general.—If a vacancy occurs, other than by expiration of term, a successor shall be appointed by the President, by and with the consent of the Senate, to fill such vacancy. The appointment shall be for the remainder of the term of the predecessor.

(2) No impairment of function.—A vacancy in the membership of the Board does not impair the authority of the remaining members to exercise all of the powers of the Board.

(3) Acting chair.—The Board may designate a member to act as chair during any period in which there is no chair designated by the President.

(f) Meetings; Quorum.—

(1) Meetings.—The chair shall preside at meetings of the Board, and in the absence of the chair, the Board shall elect a member to act as chair pro tempore.

(2) Frequency.—The Board shall meet not less frequently than 4 times each year.

(3) Quorum.—Four members of the Board shall constitute a quorum thereof.

SEC. 1212. QUALIFICATIONS OF BOARD MEMBERS.

(a) Citizenship.—Each member of the Board shall be a citizen of the United States.

(b) Basis of Selection.—Board members shall be selected on the basis of their experience and expertise in relevant subjects, including the practice of medicine, nursing, or other clinical practices, health care financing and delivery, State health systems, consumer protection, business, law, and delivery of care to vulnerable populations.

(c) Pay and Travel Expenses.—

(1) Pay.—

(A) Chair.—The chair of the Board shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level II of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the chair is engaged in the actual performance of duties vested in the Board.

(B) Members.—Each member of the Board shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board.

(2) Travel expenses.—Members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 1213. GENERAL DUTIES AND RESPONSIBILITIES.

(a) Clarification and Refinement of Items and Services.—

(1) In general.—The Board shall promulgate such regulations or establish such guidelines as may be necessary to clarify and refine the items and services under the categories of health care items and services described in section 1202 in accordance with the requirements of subsections (a)(2) and (b)(2) of section 1201.

(2) Schedules for items and services.—

(A) In general.—The Board shall establish and update periodicity schedules for the items and services in the categories of health care items and services described in section 1202.

(B) Special rule with respect to clinical preventive services.—With respect to clinical preventive services, the Board—

(i) shall specify and define specific items and services as clinical preventive services and shall establish and update a periodicity schedule for such items and services; and

(ii) in specifying clinical preventive services and establishing and updating periodicity schedules under clause (i), shall consult with experts in clinical preventive services, including, for clinical preventive services with respect to immunization, the Advisory Committee on Immunization Practices, for clinical preventive services for reproductive health and other related women's health issues, the American College of Obstetricians and Gynecologists, for clinical preventive services for children, the American Academy of Pediatrics, and for clinical preventive services in general, the U.S. Preventive Services Task Force.

(3) MENTAL ILLNESS AND SUBSTANCE ABUSE SERVICES.—

(A) PARITY.—

(i) IN GENERAL.—The Board shall design mental illness and substance abuse services so as to achieve parity with services for other medical conditions. Except as provided in clause (iii), day or visit limits or cost-sharing requirements, including out-of-pocket limits, may not be applied to mental illness and substance abuse services that are not applied to services for other medical conditions.

(ii) PARITY DEFINED.—For purposes of this subparagraph, the term "parity" means comprehensive, coverage for all medically necessary or appropriate mental illness and substance abuse services in inpatient, outpatient, residential, and intensive non-residential settings.

(iii) SPECIAL RULE.—

(I) EFFECT ON OTHER BENEFITS.—If the Board determines that parity of mental illness and substance abuse services with services for other medical conditions cannot be achieved without imposing unduly burdensome cost-sharing requirements on other services, the Board may design mental illness and substance abuse services such that they include the limit described in subclause (II). If, after limiting mental illness and substance abuse services as described in subclause (II), the Board determines that such parity cannot be achieved without imposing unduly burdensome cost-sharing requirements on other services, the Board may also limit such services as described in subclause (III).

(II) LIMIT ON INPATIENT HOSPITAL CARE.—The Board may limit inpatient hospital care, but in the case of mental illness the limit may not be set at a level below 30 days per year, and in the case of substance abuse services the limit may not be set at a level below the level sufficient to provide detoxification services.

(III) COINSURANCE FOR OUTPATIENT ADULT PSYCHOTHERAPY.—The Board may set the coinsurance for outpatient adult psychotherapy at a level higher than the coinsurance for other services, but no higher than a 50 percent coinsurance level, after the first 5 visits for such services.

(IV) REQUIREMENT TO ACHIEVE PARITY BY DATE CERTAIN.—Consistent with the process described in section 3510, the Board shall ensure that parity for mental illness and substance abuse services with services for other medical conditions is established no later than January 1, 2001. If the Board finds that establishing parity for mental illness and substance abuse services with services for other medical conditions cannot be achieved by January 1, 2001, without imposing unduly burdensome cost-sharing on all services, the Board shall develop a legislative proposal for an extension of such date. Not later than January 1, 2000, the Board shall submit to the Congress an implementing bill which contains such statutory provisions as are necessary or appropriate to implement the legislative proposal developed under the preceding sentence.

(B) MANAGEMENT OF SERVICES.—

(i) IN GENERAL.—The Board shall develop standards for the appropriate management of mental illness and substance abuse services. Such standards shall include quality managed care techniques.

(ii) QUALITY MANAGED CARE.—For purposes of clause (i), the term "quality managed care" refers to the administration of benefits through methods of central intake, preauthorization, and utilization review under circumstances that protect individuals from unwarranted denial of services.

(C) SETTINGS.—The Board shall give priority to ensuring that mental illness and substance abuse services are provided in the least restrictive setting that is clinically appropriate and encouraging the use of outpatient and intensive nonresidential treatments to the greatest extent possible.

(b) DETERMINING MEDICAL NECESSITY OR APPROPRIATENESS.—

(1) IN GENERAL.—The Board shall be authorized to establish—

(A) criteria for determinations of medical necessity or appropriateness;

(B) procedures for determinations of medical necessity or appropriateness; and

(C) regulations or guidelines to be used in determining whether an item or service under the categories of health care items and services described in section 1202 is medically necessary or appropriate.

(2) REQUIREMENTS.—The Board shall include the following in establishing criteria, procedures, and regulations under this subsection:

(A) SPECIAL RULES WITH RESPECT TO ENROLLEES UNDER 22 YEARS OF AGE.—In making any determination with respect to medical necessity or appropriateness with respect to an enrollee under 22 years of age, the Board shall consider whether the item or service is—

(i) is appropriate for the age and health status of the enrollee;

(ii) will prevent or ameliorate the effects of a condition, illness, injury, or disorder;

(iii) will aid the overall physical and mental growth and development of the enrollee; or

(iv) will assist in achieving or maintaining maximum functional capacity in performing daily activities

This subparagraph shall apply to all items and services under the categories of health care items and services described in section 1202 as clarified and refined by the Board under subsection (a).

(B) CONSULTATIONS WITH EXPERT AUTHORITIES.—The Board shall consider the opinions of outside experts in establishing criteria, procedures, and regulations with regard to medical necessity or appropriateness.

(C) RECOMMENDATIONS TO SECRETARY.—In the absence of sufficient evidence to develop regulations with respect to any particular coverage determination, the Board shall recommend to the Secretary specific areas for which priorities should be given to undertake clinical trials or establish practice guidelines.

(3) HEALTH PLAN REQUIREMENTS.—The regulations established by the Board under this subsection shall provide that—

(A) in reviewing any determination with respect to medical necessity or appropriateness made by an enrollee and the health professional furnishing any item or service, health plans shall consider the criteria and procedures established by the Board under this subsection and available scientific evidence; and

(B) if a health plan has developed a clinical practice guideline or utilization protocol, or has made a general coverage determination, the plan shall—

(i) provide a copy of, and a written statement of the basis for, the guideline, protocol, or determination at least 60 days prior to the effective date of such guideline, protocol, or determination, to each affected provider with which the plan has a contract and the government entity which certifies the plan;

(ii) provide any or all of such information upon request to enrollees, potential enrollees, or other interested parties, including provider groups and specialty organizations; and

(iii) revise such guidelines, protocols, or determinations periodically, or, if new scientific evidence becomes available, as soon as possible after such evidence is available.

(c) COST-SHARING.—The Board shall establish cost-sharing schedules to be provided by health plans providing a standard benefits package or an alternative standard benefits package. In establishing such cost-sharing schedules, the Board shall meet the following requirements:

(1) ANNUAL BASIS.—The Board shall review and update cost-sharing schedules as determined appropriate by the Board, but on at least an annual basis.

(2) PLANS PROVIDING STANDARD BENEFITS PACKAGE.—The Board shall establish 3 cost-sharing schedules for health plans providing the standard benefits package which permit a variety of delivery system options, including fee-for-service, preferred provider organizations, point of service, and managed care. Such cost-sharing schedules shall consist of—

(A) a low cost-sharing schedule;

(B) a high cost-sharing schedule; and

(C) a combination cost-sharing schedule.

(3) PLANS PROVIDING ALTERNATIVE STANDARD BENEFITS PACKAGE.—The Board shall establish only one very high deductible cost-sharing schedule for health plans providing the alternative standard benefits package. Such cost-sharing schedule shall provide for a higher deductible than any deductible under a schedule established for health plans providing a standard benefits package.

(4) CLINICAL PREVENTIVE SERVICES.—No cost-sharing schedule established by the Board for health plans providing the standard benefits package may include cost-sharing for clinical preventive services and prenatal care.

(5) COST-SHARING RULES.—Cost-sharing schedules established by the Board shall include copayments, coinsurance, deductibles, and out-of-pocket limits. The copayments, coinsurance, deductibles and out-of-pocket limits on cost-sharing for a year under the schedules shall be applied based upon expenses incurred for covered items and services furnished in the year.

(6) LIFETIME LIMITS.—No cost-sharing schedule established by the Board may include lifetime limits.

(d) LEGISLATIVE PROPOSALS ON ACTUARIAL EQUIVALENCE AND HEALTH SERVICE CATEGORIES.—

(1) IN GENERAL.—The Board may develop legislative proposals for modifications to the actuarial equivalence provisions of section 1201 and the categories of health care items and services under section 1202.

(2) IMPLEMENTING BILL.—The Board shall submit to the Congress an implementing bill which contains such statutory provisions as

are necessary or appropriate to implement the legislative proposals developed under paragraph (1).

(e) REPORTS.—

(1) DENTAL CARE.—The Board shall undertake a study to determine the costs of providing—

(A) preventive dental care to all adults;

(B) restorative dental care to all adults; and

(C) preventive dental care to adults with developmental, cognitive, and other mental disabilities.

Not later than July 1, 1996, the Board shall prepare and submit to the Secretary and the Congress, a report concerning such study.

(2) IN VITRO FERTILIZATION.—The Board shall undertake a study to determine the costs of providing coverage for in vitro fertilization in the standard benefits package. Not later than July 1, 1996, the Board shall prepare and submit to the Secretary and the Congress, a report concerning such study.

(3) SUBSTANCE ABUSE COST-SHARING.—

(A) IN GENERAL.—Not later than 1 year after the date on which all members of the Board are appointed under this part, the Board shall conduct a study and make recommendations to Congress regarding the feasibility of eliminating any cost-sharing requirements imposed on substance abuse treatment services under the cost-sharing schedules established by the Board under subsection (c).

(B) ELEMENTS OF STUDY.—The study conducted by the Board under subparagraph (A) shall—

(i) examine separately the implications of eliminating cost-sharing requirements on substance abuse treatment services for each of the following groups of individuals—

(I) pregnant and post-partum women;

(II) alcohol abusers; and

(III) abusers of illegal drugs; and

(ii) quantify the health, economic, crime-control, and other benefits of eliminating such requirements.

(f) OTHER REQUIREMENTS.—The Board shall satisfy any other requirements imposed on the Board under this title.

SEC. 1214. POWERS.

(a) EXECUTIVE DIRECTOR; STAFF.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(2) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Board, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS–15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out its duties under this Act.

(b) CONTRACT AUTHORITY.—To the extent provided in advance in appropriations Acts, the Board may contract with any person (including an agency of the Federal Government) for studies and analysis as required to execute its functions. Any employee of the Executive Branch may be detailed to the Board to assist the Board in carrying out its duties.

(c) CONSULTATIONS WITH EXPERTS.—The Board may consult with any outside expert individuals or groups that the Board determines appropriate in performing its duties under section 1213. The Board may establish advisory committees.

(d) ACCESS TO INFORMATION.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its functions, to the extent such information is otherwise available to a department or agency of the United States. Upon request of the chair, the head of that department or agency shall furnish that information to the Board.

(e) DELEGATION OF AUTHORITY.—Except as otherwise provided, the Board may delegate any function to such officers and employees as the Board may designate and may authorize such successive redelegations of such functions with the Board as the Board deems to be necessary or appropriate. No delegation of functions by the Board shall relieve the Board of responsibility for the administration of such functions.

(f) RULEMAKING.—The Board is authorized to establish such rules as may be necessary to carry out this subtitle.

SEC. 1215. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board $5,000,000 for each year and such additional sums as may be necessary to carry out the purposes of this part.

(b) SUBMISSION OF BUDGET.—Under the procedures of chapter 11 of title 31, United States Code, the budget for the Board for a fiscal year shall be reviewed by the Director of the Office of Management and Budget and submitted to the Congress as part of the President's submission of the Budget of the United States for the fiscal year.

SEC. 1216. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 1217. CONGRESSIONAL CONSIDERATION OF BOARD PROPOSALS.

(a) IN GENERAL.—Any implementing bill described in section 1213 shall be considered by Congress under the procedures for consideration described in subsection (b).

(b) CONGRESSIONAL CONSIDERATION.—

(1) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementing bill described in subsection (a), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(2) INTRODUCTION AND REFERRAL.—On the day on which the implementing bill described in subsection (a) is transmitted to the House of Representatives and the Senate, such bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which the implementing bill is transmitted, the bill shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The implementing bill introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(3) AMENDMENTS PROHIBITED.—No amendment to an implementing bill shall be in order in either the House of Representatives or the Senate and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(4) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the committee or committees of either House to which an implementing bill has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the implementing bill and it shall be placed on the appropriate calendar. A vote on final passage of the implementing bill shall be taken in each House on or before the close of the 45th day after the implementing bill is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the implementing bill. If prior to the passage by one House of an implementing bill of that House, that House receives the same implementing bill from the other House then—

(i) the procedure in that House shall be the same as if no implementing bill had been received from the other House; but

“(ii) the vote on final passage shall be on the implementing bill of the other House.

(B) COMPUTATION OF DAYS.—For purposes of subparagraph (A), in computing a number of days in either House, there shall be excluded—

(i) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain, or an adjournment of the Congress sine die, and

(ii) any Saturday and Sunday not excluded under clause (i) when either House is not in session.

(5) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an implementing bill shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) DEBATE.—Debate in the House of Representatives on an implementing bill shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or to move to reconsider the vote by which an implementing bill is agreed to or disagreed to.

(C) Motion to postpone.—Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) Appeals.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill shall be decided without debate.

(E) General rules apply.—Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of an implementing bill shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(6) Floor consideration in the Senate.—

(A) Motion to proceed.—A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) General debate.—Debate in the Senate on an implementing bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(C) Debate of motions and appeals.—Debate in the Senate on any debatable motion or appeal in connection with an implementing bill shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) Other motions.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill is not in order.

Subtitle D—Access to Health Plans

PART 1—ACCESS THROUGH EMPLOYERS

SEC. 1301. GENERAL EMPLOYER RESPONSIBILITIES.

(a) Offer of Plans.—

(1) In general.—Each employer—

(A) shall make available to each employee of the employer the opportunity—

(i) in the case of an experienced-rated employer, to enroll through the employer in one of at least 3 certified experience-rated standard health plans which provide the standard benefits package established under subtitle C, including, if available, a fee-for-service plan, a combination cost-sharing plan, and a low cost-sharing plan as established under such subtitle, or

(ii) in the case of a community-rated employer—

(I) to enroll in any community-rated plan offered through a purchasing cooperative operating in the community rating area in which such employer is located, and if such cooperative is not a purchasing cooperative described in section 1341, then also through a cooperative so described, and

(II) at the option of the employer, to enroll through the employer in one of at least 3 certified community-rated standard health plans which provide the standard benefits package established under subtitle C, including, if available, a fee-for-service plan, a combination cost-sharing plan, and a low cost-sharing plan as established under such subtitle; and

(B) shall provide, upon request, payroll withholding of the employee's premiums.

(2) Waiver of requirement.—The Governor of a participating State (or, the Secretary of Labor, in the case of sponsors of multistate self-insured health plans) may waive the requirement under paragraph (1) for any employer in a rural area of such State which demonstrates an insufficient population density to support 3 types of certified standard health plans. Such an employer shall at least offer a fee-for-service plan as established under subtitle C.

(3) Prohibition on offering of alternative package.—No employer may offer an alternative standard benefits package established under subtitle C.

(b) Forwarding of Information.—

(1) Information regarding plans.—An employer must provide each employee of such employer—

(A) with information provided by the State under section 1508 regarding all certified standard health plans offered in the community rating area in which the employer is located, and

(B) if the employer knows that an employee resides in another community rating area, information regarding how to obtain information on certified standard health plans offered to residents of such other community rating area.

(2) Information regarding employees.—An employer shall forward the name and address (and any other necessary identifying information specified by the Secretary) of each employee enrolling through the employer—

(A) to the certified standard health plan in which such employee is enrolling, or

(B) to the purchasing cooperative (if any) through which such employee is enrolling.

SEC. 1302. AUDITING OF RECORDS.

Each employer shall maintain such records, and provide the participating State for the area in which the employer maintains its principal place of employment (as specified by the Secretary of Labor) with access to such records, as may be necessary to verify and audit the information reported under this Act.

SEC. 1303. PROHIBITION OF CERTAIN EMPLOYER DISCRIMINATION.

(a) In General.—No employer may discriminate with respect to an employee on the basis of the family status of the employee or on the basis of the class of family enrollment selected with respect to the employee.

(b) Other Prohibitions.—For the prohibition of other employer discriminatory practices, see section 4522 of the Internal Revenue Code of 1986.

SEC. 1304. EVASION OF OBLIGATIONS.

It shall be unlawful for any employer or other person to discharge, fine, suspend, expel, discipline, discriminate, or otherwise take adverse action against any employee, if a purpose of such action is to interfere with the employee's attainment of status as community-rated or experience-rated individual, as a full-time employee, or as a part-time employee, or if a purpose of such action is to evade or avoid any obligation under this Act.

SEC. 1305. PROHIBITION ON SELF-INSURING COST-SHARING BENEFITS.

A community-rated employer (and an experience-rated employer with respect to employees who are community-rated eligible individuals) may provide benefits to employees that consist of the benefits included in a cost-sharing plan (as defined in section 1141(a)(2)(C)) only through a contribution toward the purchase of a cost-sharing plan which is funded primarily through insurance.

SEC. 1306. DEVELOPMENT OF LARGE EMPLOYER PURCHASING GROUPS.

(a) In General.—Nothing in this title shall be construed as prohibiting 2 or more experience-rated employers from joining together to purchase insurance for their employees, except that each such employer shall be responsible for meeting the employer's requirements under this title with respect to its employees.

(b) Rules by Secretary.—The Secretary of Labor shall provide rules for large employer purchasing groups similar to the rules applicable to purchasing cooperatives, including rules regarding fiduciary responsibilities and financial management.

(c) No Use of Purchasing Cooperatives.—An experience-rated employer shall be ineligible to purchase health insurance through a purchasing cooperative, except with respect to health insurance for individuals described in paragraphs (1) and (2) of section 1308(d).

SEC. 1307. RESPONSIBILITIES IN SINGLE-PAYER STATES.

In the case of an individual who resides in a single-payer State and an employer with respect to employees who reside in such a State, the responsibilities of such individual and employer under such system shall supersede the obligations of the individual and employer under this subtitle.

SEC. 1308. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

(a) Maintenance of Benefits.—

(1) In general.—If—

(A) retiree health benefits or plan or plan sponsor payments in connection with such benefits are to be or have been terminated or reduced under an employee welfare benefit plan; and

(B) an action is brought by any participant or beneficiary to enjoin or otherwise modify such termination or reduction,

the court without requirement of any additional showing shall promptly order the plan and plan sponsor to maintain the retiree health benefits and payments at the level in effect immediately before the termination or reduction while the action is pending in any court. No security or other undertaking shall be required of any participant or beneficiary as a condition for issuance of such relief. An order requiring such maintenance of benefits may be refused or dissolved only upon determination by the court, on the basis of clear and convincing evidence, that the action is clearly without merit.

(2) Modifications.—Nothing in this section shall preclude a court from modifying the obligation of a plan or plan sponsor to the extent retiree benefits are otherwise being paid.

(b) Burden of Proof.—In addition to the relief authorized in subsection (a) or otherwise available, if, in any action described in subsection (a), the terms of the employee welfare benefit plan summary plan description or other materials distributed to employees at the time of a participant's retirement or disability are silent or are ambiguous, either on their face or after consideration of extrinsic evidence, as to whether retiree health benefits and payments may be terminated or reduced for a participant and his or her beneficiaries after the participant's retirement or disability, then the benefits and payments shall not be terminated or reduced for the participant and his or her beneficiaries unless the plan or plan sponsor establishes by a preponderance of the evidence that the summary plan description and other materials about retiree benefits—

(1) were distributed to the participant at least 90 days in advance of retirement or disability;

(2) did not promise retiree health benefits for the lifetime of the participant and his or her spouse; and

(3) clearly and specifically disclosed that the plan allowed such termination or reduction as to the participant after the time of his or her retirement or disability.

The disclosure described in paragraph (3) must have been made prominently and in language which can be understood by the average plan participant.

(c) REPRESENTATION.—Notwithstanding any other provision of law, an employee representative of any retired employee or the employee's spouse or dependents may—

(1) bring an action described in this section on behalf of such employee, spouse, or dependents; or

(2) appear in such an action on behalf of such employee, spouse or dependents.

(d) RETIREE HEALTH BENEFITS.—For the purposes of this section, the term "retiree health benefits" means health benefits (including coverage) which are provided to—

(1) retired or disabled employees who, immediately before the termination or reduction, are entitled to receive such benefits upon retirement or becoming disabled; and

(2) their spouses and dependents.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to actions relating to terminations or reductions of retiree health benefits which are pending or brought, on or after July 20, 1993.

SEC. 1309. ENFORCEMENT.

In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual.

PART 2—ACCESS THROUGH HEALTH INSURANCE PURCHASING COOPERATIVES

Subpart A—General Requirements

SEC. 1321. ORGANIZATION AND OPERATION.

(a) DESIGNATION OF COOPERATIVES.—A State shall certify health insurance purchasing cooperatives (in this Act referred to as "purchasing cooperatives") in accordance with this part. Each cooperative shall be chartered under State law and operated as a not-for-profit corporation.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each cooperative shall be governed by a Board of Directors to be composed of members of the cooperative who are representatives of community-rated employers, community-rated employees, and community-rated individuals elected by the members of the purchasing cooperative.

(2) INITIAL BOARD.—The initial Board of Directors of a purchasing cooperative shall be composed of members selected by the sponsoring entity of the cooperative. Subsequent members of the Board of Directors shall be elected as provided for under paragraph (1) after being nominated by a nominating committee appointed by the preceding Board of Directors.

(c) ESTABLISHMENT BY STATE OR LOCAL GOVERNMENT.—A State or local government may establish or sponsor a purchasing cooperative to serve a community rating area. The Secretary shall establish special rules concerning the legal and governing structure of a State or local government purchasing cooperative.

(d) MEMBERSHIP.—A purchasing cooperative shall accept all community-rated employers, community-rated employees, and community-rated individuals residing within the area served by the cooperative as members if such employers, employees, or individuals request such membership. Members of a cooperative shall have voting rights to select members of the Board of Directors consistent with rules established by the State.

(e) PROHIBITION.—An insurer may not form or underwrite a purchasing cooperative but may administer such a cooperative.

(f) DUTIES OF COOPERATIVES.—Each purchasing cooperative shall—

(1) negotiate (regarding premiums and marketing fees) with and enter into agreements with certified standard health plans under section 1323;

(2) enter into agreements with community-rated employers;

(3) enroll community-rated employees and community-rated individuals in certified standard health plans;

(4) collect premiums and make payments to certified standard health plans on behalf of community-rated employers and community-rated individuals;

(5) provide for coordination with other purchasing cooperatives;

(6) provide comparative information to the public and the participating State on certified standard health plans offered through the purchasing cooperative from information provided by the plans under section 1125;

(7) have the capability of accepting data from certified standard health plans as required under subtitle B of title V;

(8) comply with such fiduciary responsibility, financial management, and administrative requirements as the Secretary may establish;

(9) comply with rules established by the Secretary to prohibit conflicts of interest on the part of officers and employees of the purchasing cooperative; and

(10) carry out other functions provided for under this title.

(g) LIMITATION ON ACTIVITIES.—A cooperative shall not—

(1) perform any activity (including review, approval, or enforcement) relating to payment rates for providers;

(2) perform any activity (including certification or enforcement) relating to compliance of standard health plans with the requirements of this Act;

(3) assume insurance risk; or

(4) perform other activities identified by the State as being inconsistent with the performance of its duties under this Act.

(h) RULES OF CONSTRUCTION.—

(1) MULTIPLE COOPERATIVES.—Nothing in this section shall be construed to prevent a State from certifying or establishing more than one purchasing cooperative in a community rating area.

(2) EXCLUSIVE COOPERATIVE.—

(A) IN GENERAL.—Nothing in this section shall be construed as requiring a State to certify or establish more than one purchasing cooperative serving a community rating area.

(B) SPECIAL RULES.—If a State chooses to certify only one purchasing cooperative in a community rating area, then such cooperative (other than a cooperative established under section 1341) may not negotiate regarding premiums as described in subsection (f)(1) and, notwithstanding section 1323(a)(1), shall enter into an agreement with each certified standard health plan operating in the area which desires such an agreement.

(2) SINGLE ORGANIZATION SERVING MULTIPLE COMMUNITY RATING AREAS.—Nothing in this section shall be construed as preventing a single not-for-profit corporation from being the purchasing cooperative for more than one community rating area.

(3) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed as requiring any community-rated individual, community-rated employee, or community-rated employer to purchase a certified standard health plan exclusively through a cooperative.

SEC. 1322. MEMBERSHIP.

(a) IN GENERAL.—A purchasing cooperative shall offer all community-rated individuals and community-rated employees residing within the community rating area served by the cooperative the opportunity to enroll in any certified standard health plan that has entered into an agreement with the cooperative under section 1323.

(b) ENROLLMENT PROCESS.—A purchasing cooperative shall establish an enrollment process for certified standard health plans in accordance with rules established by the Secretary.

(c) COORDINATION AMONG PURCHASING COOPERATIVES.—Each participating State shall establish rules consistent with this section for coordination among purchasing cooperatives in cases in which community-rated employers are located in one community rating area and their community-rated employees reside in a different community rating area.

SEC. 1323. AGREEMENTS WITH CERTIFIED STANDARD HEALTH PLANS.

(a) AGREEMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each purchasing cooperative for a community rating area may enter into an agreement under this section with any certified standard health plan that the purchasing cooperative desires to be made available through such purchasing cooperative.

(2) MINIMUM REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each purchasing cooperative shall enter into an agreement under paragraph (1) with at least 3 types of certified standard health plans which provide the standard benefits package established under subtitle C, including, if available, a fee-for-service plan, a combination cost-sharing plan, and a low cost-sharing plan as established under such subtitle.

(B) WAIVER OF REQUIREMENT.—The Governor of a participating State may waive the requirement under subparagraph (A), in a manner consistent with section 1301(a)(2)), for any purchasing cooperative in a rural area of such State which demonstrates an insufficient population density to support 3 types of certified standard health plans. Such a purchasing cooperative shall at least offer a fee-for-service plan as established under such subtitle.

(3) LIMITATION.—A purchasing cooperative may not enter into an agreement under this section with a standard health plan unless such plan is certified by the State under subtitle E.

(4) TERMINATION OF AGREEMENT.—An agreement under paragraph (1) shall remain in effect for a 12-month period. The State shall establish a process for the termination of agreements entered into under this section and a process for appealing such termination under this paragraph. In accordance with rules established by the State—

(A) a cooperative may terminate an agreement with a certified standard health plan if the health plan's certification for the community rating area involved is terminated or if the health plan fails to fulfill the requirements of the agreement; and

(B) a certified standard health plan may appeal the termination of an agreement with a cooperative under this paragraph to the State in accordance with rules and procedures established by the State.

(b) RECEIPT OF GROSS PREMIUMS.—

(1) IN GENERAL.—A purchasing cooperative may require that a certified standard health plan with which such cooperative has an agreement under this section provide for the payment of premiums directly to the cooperative in accordance with rules promulgated by the Secretary.

(2) FORWARDING OF PREMIUMS.—A purchasing cooperative that requires direct payment of premiums under paragraph (1) shall forward to the certified standard health plan the amounts collected on the behalf of the enrollees in such plan in accordance with the State program of reinsurance and risk adjustment.

(3) CERTIFIED STANDARD HEALTH PLANS RETAIN RISK OF NONPAYMENT.—Nothing in this subsection shall be construed as placing upon a purchasing cooperative any risk associated with the failure of individuals and employers to make prompt payment of premiums (other than the portion of the premium representing the purchasing cooperative administrative fee under section 1324(a)).

SEC. 1324. MEMBERSHIP AND MARKETING FEES.

(a) COOPERATIVE FEES.—A purchasing cooperative shall charge members a uniform membership fee to cover the cost of activities undertaken by the cooperative (including all administrative costs incurred by the cooperative).

(b) MARKETING FEES.—

(1) IN GENERAL.—A purchasing cooperative shall charge members a separate marketing fee which a certified standard health plan may charge to cover the cost of marketing and administrative activities undertaken by such plan in such cooperative.

(2) NEGOTIATION.—A purchasing cooperative and a certified standard health plan shall negotiate the marketing fee. Such negotiated fee shall not be binding on such health plan with respect to other purchasing cooperatives through which the plan is offered.

(3) LIMITATION.—In no case shall a marketing fee assessed by a certified standard health plan offered outside of a purchasing cooperative be lower than the weighted average of the marketing fees negotiated with all purchasing cooperatives for the community rating area involved.

(c) OVERALL LIMITATION ON MEMBERSHIP AND MARKETING FEES.—In no event may the sum of the membership fee and the marketing fee charged by a purchasing cooperative with respect to a certified standard health plan exceed 1.5 percent of the premium for such plan.

(d) DISCLOSURE AND MULTIPLE COOPERATIVES.—

(1) DISCLOSURE.—A purchasing cooperative shall, prior to the time of enrollment, publish the membership fee of such cooperative and the marketing fees for each certified standard health plan offered through the cooperative. Such fees shall be calculated and identified as separate charges from the premium charged by the certified standard health plans offered by the purchasing cooperative.

(2) SUBMISSIONS TO STATE.—

(A) IN GENERAL.—Each purchasing cooperative in a community rating area shall provide the State with information on the fees described in paragraph (1) under rules developed by the State.

(B) DOCUMENTATION.—Pursuant to regulations issued by the Secretary, certified standard health plans shall submit actuarial data and such other documentation as the State may require in order to verify the basis for variation in marketing fees across cooperatives and other insurance distribution sources. States shall use such information in order to make a determination that each plan's marketing fees are based on legitimate variation in marketing and distribution costs across alternative distribution sources.

(3) MULTIPLE COOPERATIVES.—In community rating areas in which States have certified multiple purchasing cooperatives, such cooperatives may compete for members on the basis of the fees described in this section.

Subpart B—Community-Rated Employers

SEC. 1331. DUTIES OF PURCHASING COOPERATIVES.

(a) IN GENERAL.—A purchasing cooperative for a community rating area shall offer to enter into an agreement under this section with each community-rated employer that employs individuals in the community rating area and that desires to join the cooperative. An agreement between such an employer and a cooperative shall include provisions consistent with the requirements of this subtitle.

(b) ELECTION OF ENROLLMENT.—

(1) IN GENERAL.—An employee of a community-rated employer may select coverage under any of the certified standard health plans offered through a purchasing cooperative of which the employer is a member.

(2) ENROLLMENT OUTSIDE THE COOPERATIVE.—An employee of a community-rated employer may elect to enroll in a plan offered through the purchasing cooperative with which the employer has entered into an agreement or directly with a certified standard health plan selected by the employer (if such plan is not offered by the cooperative selected by the employer). A community-rated employee not residing in the community rating area served by the purchasing cooperative selected by the employer shall enroll in a certified standard health plan consistent with rules promulgated by the Secretary. The purchasing cooperative selected by the employer shall be responsible for forwarding premium payments to the appropriate plan or cooperative for each community-rated employee.

(3) VOLUNTARY EMPLOYER CONTRIBUTION.—If an employer voluntarily contributes to the cost of health insurance coverage for its employees, the employer shall not be required to make a contribution on behalf of an employee who elects to obtain coverage directly from a certified standard health plan not chosen by such employer or from a purchasing cooperative not chosen by such employer, unless such cooperative is one established under section 1341.

(c) FORWARDING INFORMATION ON ELIGIBLE EMPLOYEES.—Under an agreement between an employer and a cooperative, the employer must forward to the appropriate cooperative such information as may be required by the Secretary.

Subpart C—Federal Employees Health Benefits Program

SEC. 1341. REQUIREMENTS APPLICABLE TO FEHBP.

(a) AVAILABILITY OF PLANS.—

(1) COMMUNITY-RATED INDIVIDUALS.—All certified standard health plans offered by FEHBP through a purchasing cooperative joined or established by FEHBP in a community rating area under subsection (b) shall be made available to all community-rated individuals residing within that area at the community-rated premium established under section 1116.

(2) FEDERAL EMPLOYEES AND ANNUITANTS.—Until January 1, 2005, any Federal employee or annuitant shall obtain coverage under any FEHBP plan offered through such a purchasing cooperative in the community rating area in which such employee or annuitant resides at the rate established under chapter 89 of title 5, United States Code, for such plan.

(3) OFFER OF NATIONAL PLANS.—Each purchasing cooperative joined or established under paragraph (1) shall, not later than January 1, 1998, offer to community-rated individuals covered by such cooperative all national FEHBP plans (including employee organization plans) at a community-rated premium under rules established by the Office of Personnel Management.

(b) AGREEMENTS WITH PURCHASING COOPERATIVES.—

(1) IN GENERAL.—The Office of Personnel Management shall make every effort to enter into an agreement with a purchasing cooperative in each community rating area in the United States to carry out its responsibilities under this section.

(2) ESTABLISHMENT BY OPM.—During the period in which no purchasing cooperative exists in an area or the Office of Personnel Management is unsuccessful in reaching such an agreement, the Office of Personnel Management shall establish and administer a purchasing cooperative in such area. Such cooperative shall meet all the requirements of this part except rules regarding governance and fiduciary responsibility.

(3) DESIGNATION AS PURCHASING COOPERATIVE.—All FEHBP eligible employees residing in the community rating area served by a cooperative described in paragraph 1 or (2) shall enroll in a certified standard health plan through such cooperative.

(c) REQUIREMENT OF OPM.—

(1) IN GENERAL.—The Office of Personnel Management is hereby authorized to take such actions as are appropriate to fulfill its responsibilities under this subpart.

(2) RATE BLENDING.—The Office of Personnel Management shall implement rules to blend after January 1, 2005, the premiums for FEHBP plans offered through purchasing cooperatives to Federal employees and community-rated individuals in each community rating area.

(d) AMENDMENTS TO TITLE 5.—

(1) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 8915. Relationship to the Health Security Act

"(a) The provisions of this chapter shall be subject to the provisions of the Health Security Act, to the extent of any inconsistency between such provisions.

"(b) Individuals who are not Federal employees or annuitants and who are enrolled in a health benefits plan pursuant to section 1341 of the Health Security Act shall for all administrative purposes be treated separately from Federal employees and annuitants enrolled under this chapter.

"(c) No provision of the Health Security Act shall be construed to authorize the payment or deposit of any monies from or into the Employees Health Benefits Fund, except as authorized by the Office of Personnel Management to facilitate the termination of a plan provided under this chapter to employees and annuitants of the United States Postal Service and the reestablishment of such plan as a certified standard health plan under the Health Security Act.".

(2) CONFORMING AMENDMENT.—Section 8914 of title 5, United States Code, is amended by striking out "Any provision of law" and inserting in lieu thereof "Except for the provisions of the Health Security Act, any provision of law".

(3) TECHNICAL AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by adding after the item relating to section 8914 the following new item:

"8915. Relationship to the Health Security Act.".

SEC. 1342. SPECIAL RULES FOR FEHBP SUPPLEMENTAL PLANS.

(a) DEVELOPMENT.—The Office of Personnel Management shall develop FEHBP supplemental health benefit plans. The Office of Personnel Management shall meet and confer with representatives of Federal employees and annuitants regarding the supplemental services plans and the cost-sharing plans to be offered (including premium contributions, if any, to be made by the Federal Government with respect to such plans for Federal employees and annuitants) through a process to be established by the National Partnership Council.

(b) OFFERING.—The Federal Government shall offer FEHBP supplemental health benefit plans developed in accordance with subsection (a) and cost-sharing plans as provided in section 1141 to Federal employees, annuitants, and any other community-rated individual.

SEC. 1343. DEFINITIONS.

For purposes of this Act:

(1) ANNUITANT.—The term "annuitant" means an "annuitant" as defined by section 8901 of title 5, United States Code.

(2) FEHBP.—The term "FEHBP" means the health insurance program under chapter 89 of title 5, United States Code.

(3) FEDERAL EMPLOYEE.—The term "Federal employee" means an "employee" as defined by section 8901 of title 5, United States Code.

PART 3—TREATMENT OF ASSOCIATION PLANS

SEC. 1351. RULES RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) GENERAL RULE.—A multiple employer welfare arrangement—

(1) shall meet all requirements of this Act applicable to standard health plans, and

(2) may elect to be treated as a health insurance purchasing cooperative if it meets the requirements of part 2 and other applicable requirements of this Act.

(b) TREATMENT FOR RATING PURPOSE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a plan to which subsection (a) applies shall be treated as a community-rated plan and shall meet all requirements of this Act applicable to a community-rated plan.

(2) EXPERIENCE-RATED PLAN.—A plan shall be treated as an experience-rated plan only if the only participants in the plan are experience-rated individuals.

(b) COORDINATION WITH ERISA.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by striking paragraph (6).

(c) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—For purposes of this section, the term "multiple employer welfare arrangement" has the meaning given such term by section 3(40) of the Employer Retirement Income Security Act of 1974.

SEC. 1352. ASSOCIATION PLANS.

(a) GENERAL RULE.—Any health plan to which section 1351 does not apply which is maintained by a trade association, industry association, professional association, chamber of commerce, a religious organization, or a public entity association, or similar entity shall meet all requirements of this Act applicable to standard health plans.

(b) TREATMENT FOR RATING PURPOSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a plan to which subsection (a) applies shall be treated as a community-rated plan and shall meet all requirements of this Act applicable to a community-rated plan.

(2) EXPERIENCE-RATED PLAN.—A plan shall be treated as an experience-rated plan only if the only participants in the plan are experience-rated individuals.

Subtitle E—Federal Responsibilities

PART 1—SECRETARY OF HEALTH AND HUMAN SERVICES

Subpart A—General Duties

SEC. 1401. GENERAL DUTIES AND RESPONSIBILITIES.

(a) IN GENERAL.—Except as otherwise specifically provided in this Act (or with respect to the administration of provisions in the Internal Revenue Code of 1986 or in the Employee Retirement Income Security Act of 1974), the Secretary of Health and Human Services shall administer and implement all of the provisions of this Act.

(b) COVERAGE AND FAMILIES.—The Secretary shall develop and implement standards relating to the eligibility of individuals for coverage in applicable health plans under subtitle B and may provide such additional exceptions and special rules relating to the treatment of family members under section 1113 as the Secretary finds appropriate.

(c) QUALITY MANAGEMENT AND IMPROVEMENT.—The Secretary shall establish and have ultimate responsibility for a performance-based system of quality management and improvement as required by section 5001.

(d) INFORMATION SYSTEM AND INFORMATION RELATED FUNCTIONS.—

(1) IN GENERAL.—The Secretary shall—

(A) develop and implement standards to establish a national health information system to measure quality as required by title V;

(B) provide model format and content requirements for summary plan descriptions, to be made available at public access sites under section 1508;

(C) provide model format and content requirements for comparative plan brochures under section 1125, to be made available by purchasing cooperatives under section 1321, and at public access sites under section 1508; and

(D) establish standards for the provision of information on purchasing cooperatives in accordance with section 1508, including information on marketing and purchasing cooperative fees and purchasing cooperative membership applications.

(2) INFORMATION RELATED FUNCTIONS.—

(A) DESIGNATION.—The Secretary shall provide for the use of entities in the national health data network to perform information related functions under this section with respect to employers, States, contracting entities, and purchasing cooperatives.

(B) FUNCTIONS.—The functions referred to in subparagraph (A) shall include—

(i) receipt of information submitted by employers under section 1301,

(ii) with respect to the information received, transmittal to the States, and

(iii) such other functions as the Secretary specifies.

(e) PARTICIPATING STATE REQUIREMENTS.—Consistent with the provisions of subtitle F, the Secretary shall—

(1) establish requirements for participating States,

(2) monitor State compliance with those requirements, and

(3) provide technical assistance,

in a manner that ensures access to the standard benefit package for all eligible individuals.

(f) DEVELOPMENT OF PREMIUM AND AGE CLASS FACTORS.—The Secretary shall establish premium class and age class factors under subpart D.

(g) DEVELOPMENT OF REINSURANCE AND RISK-ADJUSTMENT METHODOLOGY.—The Secretary shall develop a methodology for the reinsurance and risk-adjustment of premium payments to community-rated and experience-rated health plans in accordance with section 1504.

(h) FINANCIAL REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall establish minimum capital requirements and requirements for guaranty funds and financial reporting and auditing standards under subpart F.

(2) FINANCIAL MANAGEMENT STANDARDS.—The Secretary, in consultation with the Secretary of Labor, shall establish, for purposes of section 1118, standards relating to the management of finances, maintenance of records, accounting practices, auditing procedures, and financial reporting for States, consumer purchasing cooperatives and health plans. Such standards shall take into account current Federal laws and regulations relating to fiduciary responsibilities and financial management of funds.

(3) AUDITING STATE PERFORMANCE.—The Secretary shall perform periodic financial and other audits of States to assure that such States are carrying out their responsibilities under this Act consistent with this Act. Such audits shall include audits of State performance in the areas of—

(A) assuring enrollment of all community-rated individuals in health plans;

(B) management of premium and cost sharing discounts and reductions provided;

(C) financial management (including the financial activities of cooperatives and State-designated contracting entities); and

(D) assuring enforcement of the anti-discrimination provisions of this Act.

(i) STANDARDS FOR HEALTH PLAN GRIEVANCE PROCEDURES.—The Secretary shall establish standards for health plan grievance procedures that are used by enrollees in pursuing complaints.

(j) FIDUCIARY REQUIREMENTS.—The Secretary shall, in consultation with the Secretary of Labor, develop and promulgate fiduciary requirements for the management of funds by States, plans, cooperatives, and employers.

(k) GUARANTY FUNDS.—The Secretary shall establish standards for guaranty funds as provided for in section 1442.

(l) STANDARDS FOR UTILIZATION MANAGEMENT PROGRAMS.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with interested parties which may include one or more accrediting organizations, shall promulgate uniform Federal standards for utilization management programs, to include the activities described in section 1129.

(2) COMPLIANCE.—States shall ensure compliance with the Federal standards established under paragraph (1), consistent with their role in certifying health plans.

(3) REVIEW AND UPDATE.—The Secretary shall periodically review and update utilization management standards to reflect appropriate policies and practices in health care delivery.

(m) COLLECTION ACTIVITIES.—The Secretary may provide (through contract or otherwise) for collection activities for the collection of amounts owed to States, health plans and purchasing cooperatives for health insurance coverage subject to the provisions of this title.

SEC. 1402. ANNUAL REPORT.

(a) IN GENERAL.—The Secretary, in consultation with the National Health Benefits Board and the Health Care Cost and Coverage Commission, shall prepare and submit to the President and the Congress an annual report concerning the overall implementation of the new health care system under this Act.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in each annual report under this section the following:

(1) Information on Federal and State implementation.

(2) Data related to quality improvement.

(3) Recommendations or changes in the administration and regulation of laws related to health care financing, delivery, and coverage.

SEC. 1403. ASSISTANCE WITH FAMILY COLLECTIONS.

The Secretary shall provide States with such technical and other assistance as may promote the efficient collection of amounts owed by families under this Act.

SEC. 1404. ADVISORY OPINIONS.

(a) IN GENERAL.—Community- and provider-based plans, and individuals and organizations seeking to establish such plans, shall be eligible to receive advisory opinions from appropriate Federal entities, including opinions concerning whether their arrangement complies with Federal self-referral, fraud and abuse, and anti-trust laws.

(b) REGULATIONS.—The Secretary shall issue regulations setting forth the procedures for obtaining advisory opinions described in subsection (a).

(c) TIMING OF OPINIONS.—An advisory opinions shall be issued not later than 90 days after receipt of a request for such opinion from a plan.

(d) FEES.—Applicants under this section shall pay a fee, the amount of which to be determined by the Secretary, to cover the costs of providing an opinion under this section.

SEC. 1403. FUNDING.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this subpart for each of the fiscal years 1995 through 1999.

Subpart B—Responsibilities Relating to Review and Approval of State Systems

SEC. 1411. FEDERAL REVIEW AND ACTION ON STATE SYSTEMS.

(a) APPROVAL OF STATE SYSTEMS BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall approve a State health care system for which a plan is submitted under section 1501(a) unless the Secretary determines that the system (as set forth in the plan) does not (or will not) meet the responsibilities for a participating State under this Act.

(2) REGULATIONS.—Not later than July 1, 1995, the Secretary shall issue regulations, prescribing the requirements for State health care systems under this title, except that in the case of a plan submitted under section 1501(a) before the date of issuance of such regulations, the Secretary shall take action on such document notwithstanding the fact that such regulations have not been issued.

(3) NO APPROVAL PERMITTED FOR YEARS PRIOR TO 1996.—Except as otherwise specifically provided in this Act, the Secretary may not approve a State health care system under this subpart for any year prior to 1996.

(b) REVIEW OF COMPLETENESS OF PLANS.—

(1) IN GENERAL.—When a State submits a plan under subsection (a)(1), the Secretary shall notify the State, not later than 7 working days after the date of submission, whether or not the plan is complete and provides the Secretary with sufficient information to approve or disapprove the document.

(2) ADDITIONAL INFORMATION ON INCOMPLETE PLAN.—If the Secretary notifies a State that the State's plan is not complete, the State shall be provided such additional period (not to exceed 45 days) as the Secretary may by regulation establish in which to submit such additional information as the Secretary may require. Not later than 7 working days after the State submits the additional information, the Secretary shall notify the State respecting the completeness of the plan.

(c) ACTION ON COMPLETED DOCUMENTS.—

(1) IN GENERAL.—The Secretary shall make a determination (and notify the State) on whether the State's plan provides for the implementation of a State system that meets the applicable requirements of this title—

(A) in the case of a State that did not require an additional period described in subsection (b)(2) to file a complete plan, not later than 90 days after notifying a State under subsection (b) that the State's plan is complete, or

(B) in the case of a State that required an additional period described in subsection (b)(2) to file a complete plan, not later than 90 days after notifying a State under subsection (b) that the State's plan is complete.

(2) REVIEW OF COVERAGE AREA.—The Secretary shall review the State designation of community rating area boundaries to determine whether such boundaries comply with sections 1502 and 1602, and in particular, the requirements of such sections concerning non-discrimination in the establishment of coverage area boundaries.

(3) PLANS DEEMED APPROVED.—If the Secretary does not meet the applicable deadline for making a determination and providing notice under paragraph (1) with respect to a State's plan, the Secretary shall be deemed to have approved the State's plan for purposes of this Act.

(d) OPPORTUNITY TO RESPOND TO REJECTED PLAN.—

(1) IN GENERAL.—If (within the applicable deadline under subsection (c)(1)) the Secretary notifies a State that its plan does not provide for the implementation of a State system that meets the applicable requirements of this title, the Secretary shall provide the State with a period of 60 days in which to submit such additional information and assurances as the Secretary may require.

(2) DEADLINE FOR RESPONSE.—Not later than 30 days after receiving additional information and assurances under paragraph (1), the Secretary shall make a determination (and notify the State) on whether the State's plan provides for the implementation of a State system that meets the applicable requirements of this title.

(3) PLAN DEEMED APPROVED.—If the Secretary does not meet the deadline established under paragraph (2) with respect to a State, the Secretary shall be deemed to have approved the State's plan for purposes of this Act.

(e) APPROVAL OF PREVIOUSLY TERMINATED STATES.—If the Secretary has approved a State system under this part for a year but subsequently terminated the approval of the system under section 1412(b)(2), the Secretary shall approve the system for a succeeding year if the State—

(1) demonstrates to the satisfaction of the Secretary that the failure that formed the basis for the termination no longer exists, and

(2) provides reasonable assurances that the types of actions (or inactions) which formed the basis for such termination will not recur.

(f) REVISIONS TO STATE SYSTEM.—

(1) SUBMISSION.—A State may revise a system approved for a year under this section, except that such revision shall not take effect unless the State has submitted to the Secretary a document describing such revision and the Secretary has approved such revision.

(2) ACTIONS ON REVISIONS.—Not later than 60 days after a document is submitted under paragraph (1), the Secretary shall make a determination (and notify the State) on whether the implementation of the State system, as proposed to be revised, meets the applicable requirements of this title. If the Secretary fails to meet the requirement of the preceding sentence, the Secretary shall be deemed to have approved the implementation of the State system as proposed to be revised.

(3) REJECTION OF REVISIONS.—Subsection (d) shall apply to an amendment submitted under this subsection in the same manner as it applies to a completed plan submitted under subsection (b).

SEC. 1412. FAILURE OF PARTICIPATING STATES TO MEET CONDITIONS FOR COMPLIANCE.

(a) IN GENERAL.—In the case of a participating State, if the Secretary determines that the operation of the State system under this title fails to meet the applicable requirements of this Act, the Secretary shall apply against the State in accordance with subsection (b).

(b) TYPE OF SANCTION APPLICABLE.—The sanctions applicable under this section are as follows:

(1) If the Secretary determines that the State's failure does not substantially jeopardize the ability of eligible individuals in the State to obtain coverage for the standard benefit package, the Secretary shall reduce payments with respect to the State in accordance with section 1413.

(2) If the Secretary determines that the failure substantially jeopardizes the ability of eligible individuals in the State to obtain coverage for the standard benefit package—

(A) the Secretary shall terminate its approval of the State system; and

(B) the Secretary shall assume the responsibilities described in section 1422.

(c) TERMINATION OF SANCTION.—A State against which a sanction is imposed under this section may submit information at any time to the Secretary to demonstrate that the failure that led to the imposition of the sanction has been corrected.

(d) PROTECTION OF ACCESS TO BENEFITS.—The Secretary shall take actions under this section with respect to a State only in a manner that assures the continuous coverage of eligible individuals enrolled in community-rated health plans.

SEC. 1413. REDUCTION IN PAYMENTS FOR HEALTH PROGRAMS BY SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) In General.—Upon a determination by the Secretary under section 1412(b)(1), the Secretary shall reduce the amount of any of the payments described in subsection (b) that would otherwise be made to individuals and entities in the State by such amount as the Secretary determines to be appropriate.

(b) Payments Described.—The payments described in this subsection are as follows:

(1) Payments to academic health centers in the State under subtitle B of title III.

(2) Payments to individuals and entities in the State for health research activities under section 301 and title IV of the Public Health Service Act.

(3) Payments to hospitals in the State under part 4 of subtitle E of title III (relating to payments to hospitals serving vulnerable populations)

SEC. 1414. REVIEW OF FEDERAL DETERMINATIONS.

Any State affected by a determination by the Secretary under this subpart may appeal such determination in accordance with section 5531.

SEC. 1415. FEDERAL SUPPORT FOR STATE IMPLEMENTATION.

(a) Planning Grants.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary shall, to the extent amounts are appropriated, make available to each State a planning grant to assist the State in the development of a health care system necessary to enable the State to become a participating State under this title.

(2) Formula.—The Secretary shall establish a formula for the distribution of funds made available under this subsection.

(3) Authorization of appropriations.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 1995 and 1996 for grants under this subsection.

(b) Grants for Start-up Support.—

(1) In general.—The Secretary shall, to the extent amounts are appropriated, make available to States, upon their becoming participating States, grants to assist in the establishment of purchasing cooperatives.

(2) Formula.—The Secretary shall establish a formula for the distribution of funds made available under this subsection.

(3) State matching funds required.—Funds are payable to a State under this subsection only if the State provides assurances, satisfactory to the Secretary, that amounts of State funds (at least equal to the amount made available under this subsection) will be expended for the purposes described in paragraph (1).

(4) Authorization of appropriations.—There are authorized to be appropriated $313,000,000 for fiscal year 1996, $625,000,000 for fiscal year 1997, and $313,000,000 for fiscal year 1998, for grants under this subsection.

Subpart C—Responsibilities in Absence of State Systems

SEC. 1421. APPLICATION OF SUBPART.

(a) Initial Application.—This subpart shall apply with respect to a State as of January 1, 1997, unless—

(1) the State submits a plan for a State system under section 1411(a)(1) by July 1, 1996, and

(2) the Secretary determines under section 1411 that such system meets the requirements of subtitle F.

(b) Termination of Approval of System of Participating State.—In the case of a participating State for which the Secretary terminates approval of the State system under section 1412(b)(2), this subpart shall apply with respect to the State as of such date as is appropriate to assure the continuity of coverage for the standard benefit package for eligible individuals in the State.

SEC. 1422. FEDERAL ASSUMPTION OF RESPONSIBILITIES IN NON-PARTICIPATING STATES.

Upon determining that this subpart will apply to a State for a calendar year, the Secretary shall take such steps as are necessary to ensure that the standard benefit package is provided to eligible individuals in the State during the year, including the establishment of community-rating areas within such State as appropriate.

SEC. 1423. IMPOSITION OF SURCHARGE ON PREMIUMS UNDER FEDERALLY-OPERATED SYSTEM.

If this subpart applies to a State for a calendar year, the premiums charged by community-rated health plans in the State shall be equal to premiums that would otherwise be charged, increased by 15 percent. Such 15 percent increase shall be used to reimburse the Secretary for any administrative or other expenses incurred as a result of establishing and operating the system in that State.

SEC. 1424. RETURN TO STATE OPERATION.

(a) Application Process.—After the establishment and operation of a system by the Secretary in a State under section 1422, the State may at any time apply to the Secretary for the approval of a State system in accordance with the procedures described in section 1411.

(b) Timing.—If the Secretary approves the system of a State for which the Secretary has operated a system under this subpart during a year, the Secretary shall terminate the operation of the system, and the State shall establish and operate its approved system, as of January 1 of the first year beginning after the Secretary approves the State system. The termination of the Secretary's system and the operation of the State's system shall be conducted in a manner that assures the continuous coverage of eligible individuals in the State under community-rated health plans.

Subpart D—Establishment of Class Factors for Charging Premiums

SEC. 1431. PREMIUM CLASS AND AGE CLASS FACTORS.

(a) In General.—For purposes of this title and title X, the Secretary shall establish premium class and age class factors in accordance with section 1113(c).

(b) Conditions.—In establishing such factors, the factor for the class of individual enrollment shall be 1 and the factor for the couple-only class of family enrollment shall be 2.

Subpart E—Risk Adjustment and Reinsurance Methodology for Payment of Plans

SEC. 1435. DEVELOPMENT OF A RISK ADJUSTMENT AND REINSURANCE METHODOLOGY.

(a) Establishment.—The Secretary shall develop a risk adjustment and reinsurance methodology in accordance with section 1504.

(b) Research and Demonstration.—The Secretary shall conduct and support research and demonstration projects to develop and improve, on a continuing basis, the risk adjustment and reinsurance methodology under this subpart.

(c) Technical Assistance.—The Secretary shall provide technical assistance to States in implementing the methodology developed under this subpart.

Subpart F—Responsibilities for Financial Requirements

SEC. 1441. CAPITAL STANDARDS FOR COMMUNITY-RATED PLANS.

(a) In General.—The Secretary shall establish, in consultation with the States, minimum capital requirements for carriers, for purposes of section 1118.

(b) $500,000 Minimum.—Subject to subsection (c), under such requirements there shall be not less than $500,000 of capital maintained for each carrier.

(c) Additional Capital Requirements.—The Secretary shall establish standards that provide for additional capital for purposes of this section. The amount of such additional capital required shall reflect factors likely to affect the financial stability of a carrier, including the following:

(1) Projected plan enrollment and number of providers participating in plans of the carrier.

(2) Market share and strength of competition.

(3) Extent and nature of risk-sharing with participating providers and the financial stability of risk-sharing providers.

(4) Prior performance of the carrier, risk history, and liquidity of assets.

(d) Community- and Provider-Based Plans.—

(1) In general.—States shall consider alternative financial instruments and methods for community- and provider-based plans (as defined in paragraph (2)) to meet the capital and solvency standards developed in accordance with this section. Provisions made for such plans shall ensure the fiscal integrity and financial solvency of such plans.

(2) Eligible plans.—Plans eligible for special consideration by States must be offered by public or not-for-profit entities that are owned, or in which a majority share of the plan's investment is held by—

(A) health care providers who practice in the plan;

(B) individuals who live in the area, or not-for-profit organizations located in the area serviced by the plan;

(C) a combination of individuals and organizations described in subparagraphs (A) and (B); or

(D) organizations located outside the service area which provide for control over local operations by individuals described in subparagraphs (A) or (B).

(e) Development of Standards by NAIC.—The Secretary may request the National Association of Insurance Commissioners to develop model standards for the additional capital requirements described in subsection (c) and to present such standards to the Secretary not later than July 1, 1995. The Secretary may accept such standards as the standards to be applied under subsection (c) or modify the standards in any appropriate manner.

SEC. 1442. STANDARD FOR GUARANTY FUNDS.

(a) In General.—In consultation with the States, the Secretary shall establish standards for guaranty funds established by States for community-rated health plans.

(b) Guaranty Fund Standards.—The standards established under subsection (a) for a guaranty fund shall include the following:

(1) Each fund must have a method to generate sufficient resources to pay health providers and others in the case of a failure of a health plan in order to meet obligations with respect to—

(A) services rendered by the health plan for the standard benefit package, including any supplemental coverage for cost sharing provided by the health plan, and

(B) services rendered prior to health plan insolvency and services to patients after the insolvency but prior to their enrollment in other health plans.

(2) Each fund shall be liable for all claims against the plan by health care providers with respect to their provision of items and services covered under the standard benefit package to enrollees of the failed plan. Such claims, in full, shall take priority over all other claims. The fund is liable, to the extent and in the manner provided in accordance with rules established by the Secretary, for other claims, including other claims of such providers and the claims of contractors, employees, governments, or any other claimants.

(3) The fund stands as a creditor for any payments owed the plan to the extent of the payments made by the fund for obligations of the plan.

(4) The fund has authority to borrow against future assessments in order to meet the obligations of failed plans participating in the fund.

Subpart G—Open Enrollment

SEC. 1445. PERIODS OF AUTHORIZED CHANGES IN ENROLLMENT.

The Secretary shall specify periods of enrollment in accordance with section 1112(c).

SEC. 1446. DISTRIBUTION OF COMPARATIVE INFORMATION.

The Secretary shall specify a period of time prior to open enrollment during which States must provide for the distribution to community-rated individuals enrollment materials and comparative information on health plans and purchasing cooperatives.

PART 2—ESSENTIAL COMMUNITY PROVIDERS

SEC. 1461. CERTIFICATION.

For purposes of this Act, the Secretary shall certify as an "essential community provider" any health care provider or organization that—

(1) is within any of the categories of providers and organizations specified in section 1462(a), or

(2) meets the standards for certification under section 1463(a).

SEC. 1462. CATEGORIES OF PROVIDERS AUTOMATICALLY CERTIFIED.

(a) IN GENERAL.—The categories of providers and organizations, including subrecipients, specified in this subsection are as follows:

(1) CATEGORY 1 ENTITIES.—The following entities shall be considered category 1 entities:

(A) Covered entities as defined in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)), except that subsections (a)(4)(L)(iii) and (a)(7) of such section shall not apply.

(B) School health services centers under title III.

(C) Public or nonprofit hospitals, including children's hospitals—

(i) that meet the criteria for public hospitals which are eligible entities under section 340B of the Public Health Service Act in any cost reporting period in the 3-year period prior to the date of enactment of this Act, except that subsection (a)(4)(L)(iii) of such section shall not apply; or

(ii) meeting alternative criteria developed by the Secretary after the date of enactment of this Act which are comparable to the criteria utilized in determining eligibility under such section 340B;

(D) Public and private, nonprofit mental health and substance abuse providers receiving funds under title V or XIX of the Public Health Service Act.

(E) Runaway homeless youth centers or transitional living programs for homeless youth providing health services under the Runaway Homeless Youth Act of 1974 (42 U.S.C. 5701 et seq.).

(F) Public or nonprofit maternal and child health providers that receive funding under title V of the Social Security Act.

(G) Rural health clinics as defined under section 1861(aa)(2) of the Social Security Act.

(H) Programs of the Indian Health Service (as defined in section 8302(3)).

(2) CATEGORY 2 ENTITIES.—The following entities shall be considered category 2 entities:

(A) Medicare dependent small rural hospitals under section 1886(d)(8)(iii) of the Social Security Act.

(B) Children's hospitals meeting comparable criteria determined appropriate by the Secretary.

(b) STUDY OF FEDERALLY CERTIFIED RURAL HEALTH CLINICS.—The Secretary shall conduct an evaluation of the Rural Health Clinics program as defined in section 1861(aa)(2) of the Social Security Act to examine the causes of the growth in the program and the characteristics of providers certified as rural health clinics and the characteristics of the population served by rural health clinics to ensure that the program meets the needs of rural underserved communities. The Secretary shall report the findings of such evaluation, together with any recommended changes in the rural health clinics program, to the Congress not later than January 1, 1996.

SEC. 1463. STANDARDS FOR ADDITIONAL PROVIDERS.

(a) STANDARDS.—The Secretary shall publish standards for the certification of additional categories of health care providers and organizations as essential community providers, including the categories described in subsection (b). Such a health care provider or organization shall not be certified unless the Secretary determines, under such standards, that health plans operating in the area served by the applicant would not otherwise be able to assure adequate access to items and services included in the standard benefit package if such a provider was not so certified.

(b) CATEGORIES TO BE INCLUDED.—The categories described in this subsection are as follows:

(1) CERTAIN HEALTH PROFESSIONALS.—A health professional who—

(A) for at least 20 hours per week—

(i) is located in an area (or areas) designated as a health professional shortage area (under section 332 of the Public Health Service Act) or serves a population (or populations) designated as a medically underserved population (under section 330 of the Public Health Service Act); or

(ii)(I) is located or provides services in a neighborhood or community whose residents are at risk of underservice; and

(II) is available to patients at such location on evenings and weekends; and

(B) if the health professional is a physician—

(i) is licensed to practice in the jurisdiction; and

(ii) is either—

(I) granted privileges to practice at one or more hospitals; or

(II) has a consultation and referral arrangement with one or more physicians who are granted privileges to practice at one or more hospitals.

(2) INSTITUTIONAL PROVIDERS.—Public and private nonprofit hospitals and other public and nonprofit institutional health care providers, including family planning clinics, located in health professional shortage areas (as defined under section 332 of the Public Health Service Act) or receiving funding under subtitle E of title III of this Act).

(3) OTHER PROVIDERS.—

(A) IN GENERAL.—Other public and private nonprofit agencies and organizations that—

(i) are located in such an area or providing health services to such a population, and

(ii) provide health care and services essential to residents of such an area or such populations.

(B) NONPROFIT HOSPITALS.—Nonprofit hospitals with a minimum of 200 beds, located in urban areas where—

(i) the cumulative total of its services provided to individuals who are entitled to benefits under title XVIII of the Social Security Act or under a State plan under title XIX of such Act equals a minimum of 65 percent; and

(ii) a minimum of 20 percent of its services are provided to individuals eligible for assistance under such title XIX.

SEC. 1464. CERTIFICATION PROCESS; REVIEW; TERMINATION OF CERTIFICATIONS.

(a) CERTIFICATION PROCESS.—

(1) PUBLICATION OF PROCEDURES.—The Secretary shall publish, not later than 6 months after the date of the enactment of this Act, the procedures to be used by health care professionals, providers, agencies, and organizations seeking certification under this subpart, including the form and manner in which an application for such certification is to be made.

(2) TIMELY DETERMINATION.—The Secretary shall make a determination upon such an application not later than 60 days (or 15 days in the case of a certification for an entity described in section 1462) after the date the complete application has been submitted. The determination on an application for certification of an entity described in section 1462 shall only involve the verification that the entity is an entity described in such section.

(b) REVIEW OF CERTIFICATIONS.—The Secretary shall periodically review whether professionals, providers, agencies, and organizations certified under this subpart continue to meet the requirements for such certification.

(c) TERMINATION OR DENIAL OF CERTIFICATION.—

(1) PRELIMINARY FINDING.—If the Secretary preliminarily finds that an entity seeking certification under this section does not meet the requirements for such certification or such an entity certified under this subpart fails to continue to meet the requirements for such certification, the Secretary shall notify the entity of such preliminary finding and permit the entity an opportunity, under subtitle C of title V, to rebut such findings.

(2) FINAL DETERMINATION.—If, after such opportunity, the Secretary continues to find that such an entity continues to fail to meet such requirements, the Secretary shall terminate the certification and shall notify the entity and the State of such termination and the effective date of the termination.

SEC. 1465. NOTIFICATION OF PARTICIPATING STATES.

(a) IN GENERAL.—Not less often than annually the Secretary shall notify each participating State of essential community providers that have been certified under this subpart.

(b) CONTENTS.—Such notice shall include sufficient information to permit each State to notify health plans of the identity of each entity certified as an essential community provider, including—

(1) the location of the provider within each plan's service area,

(2) the health services furnished by the provider, and

(3) other information necessary for health plans to carry out this subpart.

SEC. 1466. HEALTH PLAN REQUIREMENT.

(a) In General.—

(1) Category 1 entities.—With respect to each essential community provider described in section 1462(a)(1) (other than a provider of school health services) that makes an election under subsection (d), that serves the health plan service area of such health plan, and that requests participation under this section, a health plan shall either—

(A) enter into a written provider participation agreement (described in subsection (b)) with such providers, or

(B) make payments to such provider in accordance with subsection (c).

(2) Category 2 entities.—

(A) In general.—With respect to at least one essential community provider described in subparagraph (A) and at least one essential community provider described in subparagraph (B) of section 1462(a)(2), that makes an election under subsection (d), that serves the health plan service area of such health plan, and that requests participation under this section, a health plan shall either—

(i) enter into a written provider participation agreement (described in subsection (b)) with such providers, or

(ii) enter into a written agreement under which the plan shall make payments to such provider in accordance with subsection (c).

(B) Exception.—A State, as part of the State plan under section 1501(a), may submit to the Secretary for approval a request that the Secretary permit the State to—

(i) require health plans operating in certain community rating areas in the State to contract with more than one essential community provider of each type referred to in subparagraph (A), based on geographic proximity, cultural and language needs, capacity to meet the needs of enrollees, or other factors determined relevant by the State; and

(ii) establish additional types of essential community providers under section 1462(a)(2) that a health plan must contract with under subparagraph (A).

(C) Discretion of secretary.—With respect to a State request under subparagraph (B), the Secretary shall—

(i) approve such request; or

(ii) require the designation of such additional essential community providers in the State as the Secretary determines necessary.

(b) Participation Agreement.—A participation agreement between a health plan and an electing essential community provider under this subsection shall provide that the health plan agrees to treat the provider in accordance with terms and conditions the same as those that are applicable to other providers participating in the health plan with respect to each of the following:

(1) The scope of services for which payment is made by the plan to the provider.

(2) The rate of payment for covered care and services.

(3) The availability of financial incentives to participating providers.

(4) Limitations on financial risk provided to other participating providers.

(5) Assignment of enrollees to participating providers.

(6) Access by the provider's patients to providers in medical specialties or subspecialties participating in the plan.

(c) Payments for Providers Without Participation Agreements.—

(1) In general.—Payment in accordance with this subsection is payment based, as elected by the electing essential community provider, either—

(A) on the fee schedule developed by the State; or

(B) on payment methodologies and rates used under the applicable Medicare payment methodology and rates (or the most closely applicable methodology under such program as the Secretary specifies in regulations).

(2) Special rule for federally qualified health centers and rural health clinics.—With respect to each federally qualified health center (as such term is defined in section 1861(aa) of the Social Security Act) and each rural health clinic that is an essential community provider, a health plan shall make payments based on the reasonable cost rates applicable under section 1833(a)(3) of the Social Security Act, except that the federally qualified health center may accept other payment amounts.

(3) No application of gate-keeper limitations.—Payment in accordance with this subsection may be subject to utilization review, but may not be subject to otherwise applicable gatekeeper requirements under the plan.

(d) Election.—

(1) In general.—In this part, the term "electing essential community provider" means, with respect to a health plan, an essential community provider certified under this subpart that elects under this subpart to apply to the health plan.

(2) Form of election.—An election under this subsection shall be made in a form and manner specified by the Secretary, and shall include notice to the health plan involved. Such an election may be made annually with respect to a health plan, except that the plan and provider may agree to make such an election on a more frequent basis.

(e) Special Rule for Providers of School Health Services.—A health plan shall pay, to each provider of school health services located in the plan's service area, an amount determined by the Secretary for such services furnished to enrollees of the plan.

SEC. 1467. RECOMMENDATION ON CONTINUATION OF REQUIREMENT.

(a) Studies.—In order to prepare recommendations under subsection (b), the Secretary shall conduct studies regarding essential community providers, including studies that assess—

(1) the definition of essential community provider,

(2) the sufficiency of the funding levels for providers, including the special rule for federally qualified health centers under section 1466(c)(2), for both covered and uncovered benefits under this Act,

(3) the effects of contracting requirements relating to such providers on such providers, health plans, and enrollees,

(4) the impact of the payment rules for such providers, and

(5) the impact of national health reform on such providers.

(b) Recommendations to and Consideration by Congress.—

(1) In general.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress, specific recommendations concerning whether, and to what extent, section 1466 should continue to apply to some or all essential community providers. Such recommendations may include a description of the particular types of such providers and circumstances under which such section should continue to apply.

(2) Joint resolution and consideration by congress.—

(A) In general.—The recommendations under paragraph (1) shall be implemented unless a joint resolution (described in subparagraph (B)) disapproving such recommendations is enacted in accordance with the provisions of subparagraph (C), before the end of the 45-day period beginning on the date on which such recommendations were submitted. For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(B) Joint resolution of disapproval.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the Secretary submits recommendations under paragraph (1) and—

(i) which does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Secretary of Health and Human Services concerning the extension of certain essential community provider provisions, as submitted by the Secretary on __________.", the blank space being filled in with the appropriate date; and

(iii) the title of which is as follows: "Joint resolution disapproving recommendations of the Secretary of Health and Human Services concerning the extension of certain essential community provider provisions, as submitted by the Secretary on __________.", the blank space being filled in with the appropriate date.

(C) Procedures for consideration of resolution of disapproval.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(D) Special rules.—For purposes of applying subparagraph (C) with respect to such provisions—

(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of recommendations under paragraph (1)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to an appropriate Committee of the Senate (specified by the Majority Leader of the Senate at the time of submission of recommendations under paragraph (1)); and

(ii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Secretary submits a recommendation under paragraph (1).

SEC. 1468. DEFINITIONS.

As used in subpart:

(1) Children's hospital.—The term "children's hospital" means those hospitals whose inpatients are certified by the Secretary or the State to be predominantly under the age of 18.

(2) Health professional.—The term "health professional" means a physician, nurse, nurse practitioner, certified nurse midwife, physician assistant, psychologist, dentist, pharmacist, chiropractor, clinical

social worker, and other health care professional recognized by the Secretary.

(3) SUBRECIPIENT.—The term "subrecipient" means, with respect to a recipient of a grant under a particular authority, an entity that—

(A) is receiving funding from such a grant under a contract with the principal recipient of such a grant, and

(B) meets the requirements established to be a recipient of such a grant.

PART 3—SPECIFIC RESPONSIBILITIES OF SECRETARY OF LABOR.

SEC. 1481. RESPONSIBILITIES OF SECRETARY OF LABOR.

(a) IN GENERAL.—The Secretary of Labor is responsible—

(1) under subtitle D, for the enforcement of requirements applicable to employers (including requirements relating to payment of premiums under title X if applicable) and the administration of large employer purchasing groups;

(2) for the temporary assumption of the operation of self-insured employer sponsored health plans that are insolvent;

(3) for carrying out any other responsibilities assigned to the Secretary under this Act; and

(4) for administering title I of the Employee Retirement Income Security Act of 1974 as it relates to group health plans maintained by large employer purchasing groups.

(b) AGREEMENTS WITH STATES.—The Secretary of Labor may enter into agreements with States in order to enforce responsibilities of employers and large employer purchasing groups, and requirements of employer sponsored health plans, under subtitle B of title I of the Employee Retirement Income Security Act of 1974.

(c) CONSULTATION.—In carrying out activities under this Act with respect to large employer purchasing groups, employer sponsored health plans, and employers, the Secretary of Labor shall consult with the Secretary of Health and Human Services.

(d) GUARANTY FUNDS.—

(1) IN GENERAL.—The Secretary of Labor shall establish standards for guaranty funds to be established by a State with respect to a self-insured plan operating wholly within the State.

(2) MULTISTATE PLANS.—The Secretary of Labor shall establish and administer a guaranty fund with respect to multistate self-insured plans.

(e) EMPLOYER-RELATED REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary, shall be responsible for assuring that employers—

(A) make payments of any employer premiums (and withhold and make payment of the family share of premiums with respect to qualifying employees) and provide discounts to employees as required under this Act, including auditing of collection activities with respect to such payments,

(B) submit timely reports as required under this Act, and

(C) otherwise comply with requirements imposed on employers under this Act.

(2) AUDIT AND SIMILAR AUTHORITIES.—The Secretary of Labor—

(A) may carry out such audits (directly or through contract) and such investigations of employers and States and large employer purchasing groups,

(B) may exercise such authorities under section 504 of Employee Retirement Income Security Act of 1974 (in relation to activities under this Act),

(C) may provide (through contract or otherwise) for such collection activities (in relation to amounts owed to large employer purchasing groups, and for the benefit of such groups), and

(D) may impose such civil penalties in accordance with this Act,

as may be necessary to carry out such Secretary's responsibilities under this section.

(3) AUDITING OF EMPLOYER PAYMENTS.—

(A) IN GENERAL.—Each State is responsible for auditing the records of community-rated employers to assure that employer payments (including the payment of amounts withheld) were made in the appropriate amount as provided under subtitle B of title X.

(B) EMPLOYERS WITH EMPLOYEES RESIDING IN DIFFERENT COMMUNITY-RATING AREAS.—In the case of a community-rated employer which has employees who reside in more than one community rating area in more than one State, the Secretary of Labor, in consultation with the Secretary, shall establish a process for the coordination of State auditing activities among the States involved.

(C) APPEAL.—In the case of an audit conducted by a State on an employer under this paragraph, an employer or other State that is aggrieved by the determination in the audit is entitled to review of such audit by the Secretary of Labor in a manner to be provided by such Secretary.

(f) AUTHORITY.—The Secretary of Labor is authorized to issue such regulations as may be necessary to carry out section 1305 and responsibilities of the Secretary under this Act.

SEC. 1482. FEDERAL ROLE WITH RESPECT TO MULTISTATE SELF-INSURED HEALTH PLANS.

(a) IN GENERAL.—In the case of a multistate self-insured health plan or a multistate self-insured supplemental health benefits plan, the Secretary of Labor shall be responsible for certifying such plans and carrying out activities under this title in the same manner as a participating State would carry out activities under this title with respect to a standard health plan.

(b) SELF-INSURED PLAN STANDARDS.—The Secretary of Labor shall develop and publish standards applicable to self-insured plans offered by large employers. The Secretary shall develop and publish such standards by not later than the date that is 6 months after the date of enactment of this Act. Such standards shall be the certified standard health plan standards applicable to self-insured plans under this title.

(c) DETERMINATION OF MULTISTATE STATUS.—For purposes of this Act, a self-insured health plan or a self-insured supplemental health benefits plan shall be considered a multistate health plan if established or maintained by an experience-rated employer which has a substantial number of employees enrolled in such plan in each of 2 or more States (as determined by the Secretary of Labor).

SEC. 1483. ASSISTANCE WITH EMPLOYER COLLECTIONS.

The Secretary of Labor shall provide States with such technical and other assistance as may promote the efficient collection of all amounts owed under this Act by employers.

SEC. 1484. PENALTIES FOR FAILURE OF LARGE EMPLOYER PURCHASING GROUPS TO MEET REQUIREMENTS.

If the Secretary of Labor finds that a large employer purchasing group has failed substantially to meet the applicable requirements of subtitle D, the Secretary shall impose a civil money penalty of not to exceed $10,000 for each such violation.

SEC. 1485. APPLICABILITY OF ERISA ENFORCEMENT MECHANISMS FOR ENFORCEMENT OF CERTAIN REQUIREMENTS.

The provisions of sections 502 (relating to civil enforcement), 504 (relating to investigative authority) and 506 (relating to criminal enforcement) of the Employee Retirement Income Security Act of 1974 shall apply to enforcement by the Secretary of Labor of the applicable requirements for large group purchasers in the same manner and to same extent as such provisions apply to enforcement of title I of such Act.

SEC. 1486. WORKPLACE WELLNESS PROGRAM.

(a) IN GENERAL.—The Secretary shall develop certification criteria for workplace wellness programs.

(b) APPLICATION OF SECTION.—Any health plan may offer a uniform premium discount, not to exceed 5 percent, to employers maintaining certified workplace wellness programs.

PART 4—OFFICE OF RURAL HEALTH POLICY

SEC. 1491. OFFICE OF RURAL HEALTH POLICY.

(a) APPOINTMENT OF ASSISTANT SECRETARY.—

(1) IN GENERAL.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended—

(A) by striking "by a Director, who shall advise the Secretary" and inserting "by an Assistant Secretary for Rural Health (in this section referred to as the 'Assistant Secretary'), who shall report directly to the Secretary"; and

(B) by adding at the end the following new sentence: "The Office shall not be a component of any other office, service, or component of the Department.".

(2) CONFORMING AMENDMENTS.—(A) Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended by striking "the Director" and inserting "the Assistant Secretary".

(B) Section 338J(a) of the Public Health Service Act (42 U.S.C. 254r(a)) is amended by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(C) Section 464T(b) of the Public Health Service Act (42 U.S.C. 285p-2(b)) is amended in the matter preceding paragraph (1) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(D) Section 6213 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395x note) is amended in subsection (e)(1) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(E) Section 403 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300ff-11 note) is amended in the matter preceding paragraph (1) of subsection (a) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(3) AMENDMENT TO THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Health and Human Services (5)" and inserting "Assistant Secretaries of Health and Human Services (6)".

(b) EXPANSION OF DUTIES.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended by striking "and access to (and the quality of) health care in rural areas" and inserting "access to, and quality of, health care in rural areas, and reforms to the health care system and the implications of such reforms for rural areas".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART 5—COLLECTIVE BARGAINING DISPUTE RESOLUTION

SEC. 1495. FINDINGS AND PURPOSE.

(a) FINDING.—Congress finds that—

(1) consistent with the intention of this Act to eliminate waste and inefficiency in the health care industry, it is important to avoid costly and disruptive labor disputes; and

(2) such disputes are particularly likely to take place during the period of transition to a restructured health care delivery system because of disruptions to established employment relationships resulting from that restructuring.

(b) PURPOSE.—It is the purpose of this part to expand the role of the Federal Mediation and Conciliation Service, acting through the Boards of Inquiry provided for in limited terms under section 8(g) of the National Labor Relations Act (29 U.S.C. 158(g)) and section 213 of the Labor Management Relations Act of 1947(29 U.S.C. 183), to avoid labor disputes by providing for public fact finding in contract negotiations.

SEC. 1496. APPLICATION LIMITED TO TRANSITION PERIOD.

The provisions of this part are intended to avoid costly and disruptive labor disputes during the period of transition to a restructured health care delivery system, and shall be repealed effective upon the end of calendar year 2000.

SEC. 1497. REQUEST FOR APPOINTMENT OF BOARD OF INQUIRY.

(a) IN GENERAL.—A health care entity (as defined in section 3082(a)) or a labor organization that has been lawfully certified or recognized as the representative of the employees of a health care entity for the purpose of engaging in collective bargaining concerning wages, hours and other terms and conditions of employment, may request that the Director of the Federal Mediation and Conciliation Service (hereafter referred to in this part as the "Director") appoint an impartial Health Care Board of Inquiry to investigate the issues involved in a collective bargaining dispute between the entity and the labor organization.

(b) TIME FOR REQUEST.—Such request may be made no earlier than 60 days after notice of the existence of a contract dispute has been provided to—

(1) the Federal Mediation and Conciliation Service In accordance with clause (A) or (B) of the last sentence of section 8(d) of the Labor Management Relations Act (29 U.S.C. 158(d)); or

(2) where the health care entity is otherwise exempt from coverage under such Act, any comparable State or territorial agency established to mediate and conciliate disputes to which notice is required to be given under applicable State law.

SEC. 1498. APPOINTMENT OF BOARD OF INQUIRY.

(a) IN GENERAL.—Except as provided in subsection (b), the Director shall appoint a Health Care Board of Inquiry not later than 10 days after receipt of a request under section 1496. Each such Board shall be composed of such number of individuals as the Director may deem desirable. No member appointed under this section shall have any interest or involvement in the health care institutions or the employee organizations involved in the dispute.

(b) LIMITATION.—With respect to the appointment of a Health Care Board of Inquiry under paragraph (1), if the Director determines that—

(1) the health care entity is—

(A) otherwise exempt from coverage under the Labor Management Relations Act, as amended (29 U.S.C. 141 et seq.); and

(B) subject to State laws containing procedures for the resolution of impasses in collective bargaining that are comparable to those that would be followed by a Board of Inquiry under this section; or

(2) the parties involved have agreed to procedures for the resolution of the impasse in collective bargaining that are comparable to those that would be followed by a Board of Inquiry;

the Director may refuse the request for the appointment of such a Board.

SEC. 1499. PUBLIC FACTFINDING.

A Health Care Board of Inquiry appointed under this part shall investigate the issues involved in the dispute and make a written report thereon to the parties and to the Director within 30 days after the establishment of such a Board. The written report shall contain the findings of fact together with the Board's recommendations for settling the dispute, with the objective of achieving a prompt, peaceful and just settlement of the dispute. The Board shall arrange for publication of such report within the community served by the health care entity involved.

SEC. 1499A. COMPENSATION OF MEMBERS OF BOARDS OF INQUIRY.

(a) EMPLOYEES IF FEDERAL GOVERNMENT.—Members of any board established under this part who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by such members in carrying out its duties under this section.

(b) OTHER MEMBERS.—Members of any board established under this section who are not subject to subsection (a) shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for GS-128 of the General Schedule under section 5332 of title 5, United States Code, including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this part.

SEC. 1499B. MAINTENANCE OF STATUS QUO.

After the establishment of a board under section 1497, and for 15 days after any such board has issued its report, no change in the status quo in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time the parties began their bargaining in the case of an initial beginning negotiation, except by agreement, shall be made by the parties to the controversy.

Subtitle F—Participating State Responsibilities

PART 1—GENERAL RESPONSIBILITIES

SEC. 1501. STATE PLAN AND CERTIFICATION OF STANDARD HEALTH PLANS AND SUPPLEMENTAL HEALTH BENEFITS PLANS.

(a) STATE PLAN.—

(1) IN GENERAL.—For purposes of the approval of a State health care system by the Secretary under section 1411, a State is a "participating State" if the State meets the applicable requirements of this subtitle.

(2) SUBMISSION OF PLAN.—In order to be approved as a participating State under section 1411, a State shall submit to the Secretary a State plan (in a form and manner specified by the Secretary) that describes the State health care system that the State is establishing (or has established).

(3) DEADLINE.—If a State is not a participating State with a State health care system in operation by January 1, 1997, the provisions of subpart C of part 1 of subtitle E (relating to responsibilities in absence of State systems) shall take effect.

(4) SUBMISSION OF INFORMATION SUBSEQUENT TO APPROVAL.—A State approved as a participating State under section 1411 shall submit to the Secretary an annual update to the State health care system not later than February 15 of each year following the first year for which the State is a participating State. The update shall contain—

(A) such information as the Secretary may require to determine that the system shall meet the applicable requirements of this Act for the succeeding year; and

(B) such information as the Secretary may require to determine that the State operated the system during the previous year in accordance with the Secretary's approval of the system for such previous year.

(b) HEALTH PLAN ACCREDITATION, CERTIFICATION AND ENFORCEMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for the accreditation, certification and enforcement of health plan standards by States (hereafter referred to in this subsection as the "ACE program"). Under such program, the Secretary shall—

(A) develop guidelines for the accreditation, certification and enforcement of standards for certified standard health plans;

(B) approve State ACE programs as meeting such guidelines; and

(C) monitor the compliance of States with such guidelines.

(2) PROGRAM ELEMENTS.—The guidelines referred to in paragraph (1) shall include the following components:

(A) CERTIFICATION.—State certification, and recertification not less frequently than once during each 3-year period, of standard health plans determined by the State to be in compliance with the standards established under subtitle B and with the regulations promulgated by the Secretary concerning such standards.

(B) DISENROLLMENT DATA.—State review of enrollee disenrollment from each standard health plan to determine whether there is a pattern of disenrollment that does not reflect the distribution of such plans' reenrolling membership.

(C) MONITORING.—State monitoring of the performance of each standard health plan to ensure that such plans continue to meet the criteria for certification.

(3) STATE PROGRAMS.—Each participating State shall develop accreditation, certification and enforcement programs in accordance with the guidelines established by the Secretary under paragraph (1).

(4) USE OF PRIVATE ORGANIZATIONS.—

(A) IN GENERAL.—A State may utilize private accreditation organizations to review the compliance by standard health plans with specific standards with which such organizations have demonstrated expertise. A State may use such reviews as the basis for determining plan compliance with such standards. The Secretary shall approve eligible accreditation organizations and promulgate regulations prohibiting conflicts of interest in the use of such bodies by States.

(B) LIMITATIONS.—The use of private accreditation organizations by a State under subparagraph (A) shall not relieve such State of its obligations under this subsection. In no case shall a State delegate enforcement authority or enforcement responsibilities to private organizations.

(5) ENFORCEMENT.—A State ACE program shall establish a process for imposing sanctions on standard health plans that fail to comply with the standards established under this title. Such sanctions may include—

(A) limiting or prohibiting new member enrollment;

(B) permitting existing members to disenroll from the health plan without penalty;

(C) State operation of a health plan to provide transitional access;

(D) the imposition of civil monetary penalties in accordance with this Act;

(E) requiring that a plan follow a corrective action plan developed by the State; and

(F) decertification or denial of recertification, but only after the plan has been provided a reasonable opportunity to comply with such standards.

(6) Multi-state plans.—The Secretary of Labor, in consultation with the Secretary, shall carry out all certification and enforcement activities described in this subsection with respect to multistate self-insured plans.

(c) Other State Duties.—A participating State shall—

(1) certify each purchasing cooperative that meets the requirements of part 2 of subtitle D; and

(5) administer the State subsidies as provided for in title VI.

(d) Effective Date.—Subsection (b) shall apply to standard health plans and supplemental health benefits plans sold, issued, or renewed on or after January 1, 1997.

SEC. 1502. COMMUNITY RATING AREAS AND HEALTH PLAN SERVICE AREAS.

(a) In General.—In accordance with this section, each participating State shall, subject to approval by the Secretary, provide for the division of the State into 1 or more community rating areas.

(b) Multiple Areas.—With respect to a community rating area—

(1) no metropolitan statistical area in a State may be incorporated into more than 1 such area in the State;

(2) the number of individuals residing within such an area may not be less than 250,000; and

(3) no area incorporated in a community rating area may be incorporated into another such area.

(c) Boundaries.—

(1) In general.—In establishing boundaries for community rating areas, a participating State shall comply with the antidiscrimination requirements of section 1602.

(2) Coordinating multiple community rating areas.—Nothing in this section shall be construed as preventing a participating State from coordinating the activities of one or more community rating areas in the State.

(3) Interstate community rating areas.—Community rating areas with respect to interstate areas shall be established in accordance with rules established by the Secretary.

(4) Coordination in multi-state areas.—One or more participating States may coordinate their operations in contiguous community rating areas. Such coordination may include the following activities, adoption of joint operating rules, contracting with standard health plans, enforcement activities, and establishment of fee schedules for health providers.

(d) Health Plan Service Areas.—

(1) In general.—Pursuant to guidelines developed under paragraph (2), each State shall designate, by not later than January 1, 1997, health plan service areas.

(2) Guidelines.—The State shall designate one or more health plan service areas within each community rating area in the State that—

(A) prevent discrimination in accordance with section 1602; and

(B) do not cross community rating area boundaries.

SEC. 1503. OPEN ENROLLMENT PERIODS.

Each participating State, based on rules and procedures established by the Secretary, shall specify a uniform, annual open enrollment period for each community rating area during which all eligible individuals are permitted the opportunity to change enrollment among the standard health plans offered to such individuals in such area under this Act. The initial annual open enrollment period shall be for a period of 90 days.

SEC. 1504. RISK ADJUSTMENT PROGRAM.

(a) Requirement for Implementation.—In accordance with rules established by the Secretary, each State shall implement a risk adjustment methodology developed by the Secretary under subsection (d).

(b) State Risk Adjustment Organization.—Each State shall establish a State risk adjustment organization to carry out the adjustments required under the methodology implemented by the State under subsection (a) and make payments in accordance with subsection (c). Such organization shall meet standards established by the Secretary relating to organizational structure, operation, fiduciary responsibilities and financial management.

(c) Adjustments and Payments.—

(1) Classes of purchasers.—The Secretary shall specify classes of individual health plan purchasers whose expected expenditures are higher than those of employed individuals covered under community-rated plans.

(2) Estimates.—The Secretary shall annually estimate the amount by which the expected expenditures related to specified high-cost community-rated individual health plan purchasers (as specified by the Secretary under the methodologies developed under subsection (a)) for the year involved will exceed the expected average expenditures for other community-rated health plan enrollees. Based on such estimates, the Secretary shall develop a per capita adjustment amount with respect to each community rating area.

(3) Payments.—

(A) In general.—The State risk adjustment organization shall, using the methodologies developed by the Secretary under subsection (a), apply the per capita adjustment amount to community-rated and experience-rated (and multistate plans under subparagraph (C)) health plans offered within each community rating area in the State.

(B) Standard plans.—Standard health plans subject to an assessment under subparagraph (A) shall make payments to the State risk adjustment organization for the State in which such plans provide coverage.

(C) Multistate plans.—A multistate community-rated or experience-rated plan that is subject to an assessment under subparagraph (A) shall make payments to a single State risk adjustment organization and provide such organization with information concerning the geographic distribution of the enrollees in such plan. Such organization shall determine the amount of such payments that are applicable to each community rating area and distribute such amounts to the appropriate State risk adjustment organization.

(D) Distribution.—State risk adjustment organizations shall distribute amounts collected under this paragraph to community-rated or experience-rated health plans that are determined to have expected expenditures for items and services provided to enrolled individuals that are greater than the average expenditures for enrollees in standard health plans. The amounts of such distributions shall be based on the methodology applied by the organization involved.

(d) Development of Methodologies.—

(1) In general.—Not later than January 1, 1995, the Secretary, in consultation with an advisory committee established by the Secretary, shall develop a risk adjustment and reinsurance methodology for use by States in accordance with this section.

(2) Methodology.—

(A) Purposes.—The risk adjustment methodology developed under paragraph (1) shall—

(i) ensure that assessments imposed on or payments provided to standard health plans reflect the expected relative utilization and expenditures for covered items and services by the enrollees of each plan compared to the average utilization and expenditures for all eligible individuals, and

(ii) protect standard health plans that enroll a disproportionate share of eligible individuals with respect to whom expected utilization of health care services (included in the benefit package) and expected health care expenditures for such services are greater than the average level of such utilization and expenditures for eligible individuals.

(B) Factors to be considered.—The methodology shall take into account the following factors:

(i) Demographic characteristics.

(ii) Health status, including prior use of health services.

(iii) Geographic area of residence.

(iv) Socio-economic status.

(v) The cost sharing of the plan.

(vi) Any other factors determined by the Secretary to be material to the purposes described in subparagraph (A).

(3) Special consideration for mental illness and mental retardation.—In developing the methodology under this section, the Secretary shall give consideration to the unique problems of adjusting payments relating to health plans with respect to individuals with mental illness and mental retardation.

(4) Mandatory reinsurance.—

(A) In general.—The methodology developed under this section shall include a system of mandatory reinsurance as a component of the risk adjustment methodology.

(B) Reinsurance system.—The Secretary, in developing the methodology for a mandatory reinsurance system under subparagraph (A), shall—

(i) provide for standard health plans to make payments to state-established reinsurance programs for the purpose of reinsuring all or part of the health care expenditures for items and services included in the standard benefit package for classes of high-cost individual health plan purchasers (as specified by the Secretary) or specific high-cost treatments or diagnosis; and

(ii) specify the manner of creation, structure, and operation of the system in each State, including—

(I) the manner (which may be prospective or retrospective) in which standard health plans make payments to the system, and

(II) the type and level of reinsurance coverage provided by the system.

(5) Cost-sharing adjustment.—The standards developed by the Secretary under this subsection shall include a cost-sharing adjustment mechanism to adjust for losses among all standard health plans, except multistate self-insured health plans, resulting from the reduced cost-sharing obligations of individuals receiving assistance as is

provided under the program described in subtitle A of title VI.

(6) CONFIDENTIALITY OF INFORMATION.—The methodology shall be developed under this section in a manner that is consistent with privacy standards promulgated under title V. In developing such standards, the Secretary shall take into account any potential need of States for certain individually identifiable health information in order to carry out risk-adjustment and reinsurance activities under this Act, but only to the minimum extent necessary to carry out such activities and with protections provided to minimize the identification of the individuals to whom the information relates.

SEC. 1505. GUARANTY FUNDS.

A State, in accordance with the standards established by the Secretary under section 1442, shall establish a State guaranty fund with respect to community-rated plans offered in such State. The State shall establish a separate guaranty fund with respect to self-insured plans operating in the State in accordance with section 1481.

SEC. 1506. ENROLLMENT ACTIVITIES.

(a) PROVIDER-BASED ENROLLMENT MECHANISMS.—The Secretary shall promulgate rules regarding the establishment by each participating State, in accordance with section 6006, of provider-based enrollment mechanisms for individuals seeking care who are not enrolled in a standard health plan. Such rules shall include provisions requiring standard health plans to pay providers for care delivered to individuals prior to the individual's enrollment in the plan and be consistent with section 1114.

(b) COORDINATION OF ENROLLMENT ACTIVITIES.—Each participating State shall coordinate its activities, including plan enrollment and disenrollment activities, with other States in a manner specified by the Secretary that ensures continuous, nonduplicative coverage of community-rated and experience-rated individuals in standard health plans and that minimizes administrative procedures and paperwork.

SEC. 1507. RURAL AND MEDICALLY UNDERSERVED AREAS.

(a) IN GENERAL.—If, in accordance with appropriate rules established by the Secretary, a State determines that there is inadequate access in the provision of health services by standard health plans in any area of a State, the State may authorize—

(1) a standard health plan to be the only standard health plan in the area; or

(2) two or more standard health plans to take joint action to develop and implement a program.

(b) MEDICALLY UNDERSERVED AREA DEFINED.—For purposes of this subtitle the term "medically underserved area" means an urban or rural area designated by the Secretary as an area with a shortage of health professional or of health services or facilities.

SEC. 1508. PUBLIC ACCESS SITES.

(a) DESIGNATION.—A State shall designate public access sites within each community rating area through which residents of such areas can obtain consumer information concerning health plans and purchasing cooperatives offered in such areas. Such sites shall be designated in a manner that ensures ready access to such information by health care consumers throughout the community rating area.

(b) INFORMATION.—

(1) IN GENERAL.—A State shall, through the public access sites designated under subsection (a) and using the information provided to the State under sections 1125, 1321(f)(6), 1401, and 5005 prepare and make available information, in a comparative form, concerning standard health plans certified by the State and purchasing cooperatives operating in the State, including summary plan descriptions, consumer report cards and performance reports and other consumer information required under this Act. The State shall provide such materials to employers located within the State.

(2) 1995-1997.—With respect to calendar years 1995 through 1997, a State shall, through the public access sites designated under subsection (a), provide the information disclosed by plans under section 1111(e)(1).

SEC. 1509. REQUIREMENTS RELATING TO POSSESSIONS OF THE UNITED STATES.

(a) IN GENERAL.—A possession of the United States shall be a participating State meeting the requirements of this Act only if there is an agreement in effect between the United States and such possession pursuant to which—

(1) the laws of such possession impose a part B premium recapture assessment (as defined in subsection (b));

(2) nothing in any provision of law, including the law of such possession, permits such possession to reduce or remit in any way, directly or indirectly, any liability to such possession by reason of such assessment;

(3) any amount received in the Treasury of such possession by reason of such assessment shall be paid (at such time and in such manner as the Secretary of the Treasury shall prescribe) to the Federal Supplementary Medical Insurance Trust Fund;

(4) such assessment is coordinated with the assessment imposed by section 59B of the Internal Revenue Code of 1986 such that, for any period, an individual would be required to pay (in the aggregate) not more than the applicable amount for such period; and

(5) the possession complies with such other requirements as may be prescribed by the Secretary and the Secretary of the Treasury to carry out the purposes of this paragraph, including requirements prescribing the information individuals to whom such assessment may apply shall furnish to the Secretary and the Secretary of the Treasury.

(b) QUALIFIED PART B PREMIUM RECAPTURE ASSESSMENT.—In subsection (a), the term "qualified medicare part B premium recapture assessment" means an assessment imposed and collected by such a possession that is—

(1) equivalent to the assessment imposed under section 59B of the Internal Revenue Code of 1986; and

(2) imposed on all individuals who are bona fide residents of the possession, to the extent such individuals have not paid the assessment imposed under such section 59B to the United States by reason of subsection (d)(5) of such section.

SEC. 1510. RIGHT OF RECOVERY OF CERTAIN TAXES AGAINST PROVIDERS.

Each participating State shall provide that issuers and plan sponsors of certified standard health plans shall have the right of recovery against providers described in section 4518 of the Internal Revenue Code of 1986 and shall provide methods of enforcing such right.

PART 2—TREATMENT OF STATE LAWS

SEC. 1511. PREEMPTION OF CERTAIN STATE LAWS RELATING TO HEALTH PLANS.

(a) LAWS RESTRICTING PLANS OTHER THAN FEE-FOR-SERVICE PLANS.—Except as may otherwise be provided in this section, no State law shall apply to any services provided under a health plan that is not a fee-for-service plan (or a fee-for-service component of a plan) if such law has the effect of prohibiting or otherwise restricting plans from—

(1) limiting the number and type of health care providers who participate in the plan;

(2) requiring enrollees to obtain health services (other than emergency services) from participating providers or from providers authorized by the plan;

(3) requiring enrollees to obtain a referral for treatment by a specialized physician or health institution;

(4) establishing different payment rates for participating providers and providers outside the plan;

(5) creating incentives to encourage the use of participating providers; or

(6) requiring the use of single-source suppliers for pharmacy, non-serviced medical equipment, and other health products and services.

(b) PREEMPTION OF STATE CORPORATE PRACTICE ACTS.—Any State law related to the corporate practice of medicine and to provider ownership of health plans or other providers shall not apply to arrangements between health plans that are not fee-for-service plans and their participating providers.

SEC. 1512. STATE LAW RESTRICTIONS ON HEALTH PROFESSIONAL LICENSURE.

(a) IN GENERAL.—Except as otherwise provided in this section, nothing in this title shall be construed as limiting any State's authority to enact and enforce laws with respect to the licensure or certification of any class of health professional or the provision of any class of health professional services.

(b) SCOPE OF PRACTICE.—Effective as of January 1, 1996, a State may not restrict through licensure or otherwise the practice of any class of health professionals beyond what is justified by the skills and training of such professionals.

(c) ACADEMIC DEGREE.—Effective as of January 1, 1996, a State may not restrict the participation, reimbursement, or indemnification of a health professional solely on the basis of the academic degree of such professional if the professional is acting within the scope of the professional's license under applicable State law.

SEC. 1513. PREEMPTION FROM STATE BENEFIT MANDATES.

Effective as of January 1, 1996, no State shall establish or enforce any law or regulation that requires any standard health plan to cover items and services that are different from the items and services specified under subtitle C.

PART 3—STATE FLEXIBILITY

Subpart A—Existing State Laws

SEC. 1521. CONTINUANCE OF EXISTING FEDERAL LAW WAIVERS.

Nothing in this Act shall preempt any feature of a State health care system operating under a waiver granted before the date of the enactment of this Act under titles XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 1396 et seq.) or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

SEC. 1522. HAWAII PREPAID HEALTH CARE ACT.

(a) ERISA WAIVER.—

(1) IN GENERAL.—Section 514(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(5)) is amended to read as follows:

"(5)(A) Except as provided in subparagraphs (B) and (C), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§393-1 through 393-51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any

State tax law relating to employee benefits plans.

"(C) If the Secretary of Labor notifies the Governor of the State of Hawaii that as the result of an amendment to the Hawaii Prepaid Health Care Act enacted after the date of the enactment of this paragraph—

"(i) the proportion of the population with health care coverage under such Act is less than such proportion on such date, or

"(ii) the level of benefit coverage provided under such Act is less than the actuarial equivalent of such level of coverage on such date,

subparagraph (A) shall not apply with respect to the application of such amendment to such Act after the date of such notification.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) HSA WAIVER.—

(1) IN GENERAL.—The Secretary shall, at the request of the Governor of the State of Hawaii and in accordance with this section, grant a waiver to the State from the requirements of this Act (other than the requirements specified in paragraph (3)).

(2) SCOPE OF WAIVER.—The waiver granted under paragraph (1) shall exempt—

(A) the State of Hawaii;

(B) health plans offered within the State; and

(C) health plan participants, including employers, employees, residents, and health plan sponsors within the State,

from requirements otherwise applicable to the State and such plans and participants.

(3) REQUIRED COMPLIANCE OF OTHER REQUIREMENTS.—The waiver shall initially be granted under paragraph (1) if the State of Hawaii demonstrates to the Secretary that the State maintains—

(A) a requirement that employers make premium contributions comparable to the requirements of this Act;

(B) a comprehensive benefit package (including cost sharing) that is comparable with the requirements of subtitle B of this title;

(C) a percentage of State population with health care coverage that is not less than the national average;

(D) a quality control mechanism and data system that are comparable to the applicable requirements of title V; and

(E) health care cost containment consistent with the provisions of this Act.

(4) WAIVER PERIOD.—The waiver initially granted under paragraph (1) shall extend for the period during which the State of Hawaii continues to comply with the requirements specified in paragraph (3). The Secretary may require the State, every 5 years, to demonstrate to the Secretary the State's continued compliance with such requirements.

(5) PROCEDURE IN THE EVENT OF NON-COMPLIANCE.—

(A) NOTICE.—If, at any time after granting a waiver under paragraph (1), the Secretary finds that the State of Hawaii is not meeting the requirements specified in paragraph (3), the Secretary shall notify the State of the Secretary's findings.

(B) OPPORTUNITY TO CONTEST.—The State may contest the Secretary's findings under the procedures provided under section 5231.

(C) OPPORTUNITY FOR CORRECTION.—

(i) FINDINGS NOT CONTESTED.—If the State does not contest the Secretary's findings within the 30-day period beginning on the date of receipt of a notice of such findings, the State shall have—

(I) a 90-day period beginning on such date to show a good faith effort to remedy the non-compliance, and

(II) an additional 12-month period to take such actions as may be required to bring the State into compliance with the requirements specified in paragraph (3).

(ii) CONTESTED FINDINGS.—If the State contests the Secretary's findings within such 30-day period but such findings are upheld, the State shall have—

(I) a 90-day period beginning on the date of final adjudication to show a good faith effort to remedy the non-compliance, and

(II) an additional 12-month period to take such actions as may be required to bring the State into compliance with the requirements specified in paragraph (3).

(D) TERMINATION.—If the State fails to demonstrate a good faith effort under subparagraph (C)(i)(I) or (C)(ii)(I) or to take actions under subparagraph (C)(i)(II) or (C)(ii)(II) within the time period specified, the Secretary may revoke the waiver granted in paragraph (1).

(6) COOPERATIVE AGREEMENT WITH THE SECRETARY.—The Secretary shall enter into cooperative agreements with appropriate officials of the State of Hawaii—

(A) to develop standards and reporting requirements necessary for the issuance and maintenance of the State's waiver under paragraph (1); and

(B) otherwise to effectuate the provisions of this subsection.

(7) ELIGIBILITY FOR FEDERAL FUNDS PROVIDED TO PARTICIPATING STATES.—Nothing in this subsection shall preclude the eligibility of the State of Hawaii to participate in any public health initiative, grant, or financial aid program under this Act (including the medicaid program under title XIX of the Social Security Act), or the sharing of revenue resulting from the amendments made by title VII, designed to implement the purpose of this Act. The Secretary shall work with appropriate officials of the State of Hawaii to develop comparable, alternative standards to govern the State's entitlement under title XI.

SEC. 1523. ALTERNATIVE STATE PROVIDER PAYMENT SYSTEMS.

Notwithstanding any other provision of law, if a hospital reimbursement system operated by a State meets the requirements of section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) and has been approved by the Secretary and in continuous operation since July 1, 1977, the payment rates and methodologies required under the system for services provided in the State shall apply to all purchasers and payers, including those under employee welfare benefit plans authorized under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), workers' compensation programs under State law, the Federal Employees' Compensation Act under chapter 81 of title 5, United States Code, and Federal employee health benefit plans under chapter 89 of title 5, United States Code.

SEC. 1524. ALTERNATIVE STATE HOSPITAL SERVICES PAYMENT SYSTEMS.

(a) IN GENERAL.—No State shall be prevented from enforcing—

(1) a State system described in subsection (b), or

(2) a State system described in subsection (c),

by any provision of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or chapter 81 or 89 of title 5, United States Code.

(b) REIMBURSEMENT CONTROL SYSTEM.—A State system is described in this subsection if it is a State reimbursement control system in operation before the date of the enactment of this Act which—

(1) applies to substantially all non-Federal acute care hospitals in the State, and

(2) regulates substantially all rates of payment (including maximum charges) in the State for inpatient hospital services, except payments made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(c) HEALTH INSURANCE REFORM SYSTEM.—A State system is described in this subsection if it is a State health insurance reform system in operation before the date of the enactment of this Act which requires any insurer (including a health maintenance organization) to comply with requirements governing open enrollment and community rating, including premium adjustments or other health care assessments for the purpose of risk adjustment.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (b).—In the case of a State system described in subsection (b), the provisions of this section shall apply before, on, and after the date of the enactment of this Act.

(2) SUBSECTION (c).—In the case of a State system described in subsection (c), the provisions of this section shall apply before, on, and after the date of the enactment of this Act, and before the effective date of section 1116 of this Act.

Subpart B—Requirements for State Single-Payer Systems

SEC. 1531. SINGLE-PAYER SYSTEM DESCRIBED.

The Secretary shall approve an application of a State to operate a single-payer system if the Secretary finds that the system—

(1) meets the requirements of section 1532;

(2)(A) in the case of a system offered throughout a State, meets the requirements for a Statewide single-payer system under section 1533; or

(B) in the case of a system offered in a single community rating area of a State, meets the requirements for an area specific single-payer system under section 1534.

SEC. 1532. GENERAL REQUIREMENTS FOR SINGLE-PAYER SYSTEMS.

Each single-payer system shall meet the following requirements:

(1) ESTABLISHMENT BY STATE.—The system is established under State law, and State law provides for mechanisms to enforce the requirements of the system.

(2) OPERATION BY STATE.—The system is operated by the State or a designated agency of the State.

(3) ENROLLMENT OF INDIVIDUALS.—

(A) MANDATORY ENROLLMENT OF ALL COMMUNITY-RATED INDIVIDUALS.—The system shall provide for the enrollment of all community-rated individuals residing in the State (or, in the case of an area-specific single-payer system, in the community rating area) who are not medicare-eligible individuals.

(B) OPTIONAL ENROLLMENT OF MEDICARE-ELIGIBLE INDIVIDUALS.—At the option of the State and if the Secretary has approved an application submitted by the State, the system may provide for the enrollment of medicare-eligible individuals residing in the State (or, in the case of an area-specific single-payer system, in the community rating area).

(C) OPTIONAL ENROLLMENT OF EXPERIENCE-RATED INDIVIDUALS.—At the option of the State, a single-payer system may provide for the enrollment of experience-rated individuals residing in the State (or, in the case of an area-specific single-payer system, in the community rating area).

(D) OPTIONS INCLUDED IN STATE SYSTEM DOCUMENT.—A State may not exercise any of the options described in subparagraphs (B) or (C) for a year unless the State included a description of the option in the submission of its system document to the Secretary for the year under section 1501(a).

(E) EXCLUSION OF CERTAIN INDIVIDUALS.—A single-payer system may not require the enrollment of veterans, active duty military personnel, and American Indians.

(4) DIRECT PAYMENT TO PROVIDERS.—

(A) IN GENERAL.—With respect to providers who furnish items and services included in the standard benefits package established under subtitle C to individuals enrolled in the system, the State shall make payments directly, or through fiscal intermediaries, to such providers and assume (subject to subparagraph (B)) all financial risk associated with making such payments.

(B) CAPITATED PAYMENTS PERMITTED.—Nothing in subparagraph (A) shall be construed to prohibit providers furnishing items and services under the system from receiving payments on a capitated, at-risk basis based on prospectively determined rates.

(5) PROVISION OF STANDARD BENEFITS PACKAGE.—

(A) IN GENERAL.—The system shall provide for coverage of the standard benefits package established under subtitle C, including the cost-sharing provided under the package (subject to subparagraph (B)), to all individuals enrolled in the system.

(B) IMPOSITION OF REDUCED COST-SHARING.—The system may decrease the cost-sharing otherwise provided in the standard benefits package established under subtitle C with respect to any individuals enrolled in the system or any class of services included in the package, so long as the system does not increase the cost-sharing otherwise imposed with respect to any other individuals or services.

(6) COST CONTAINMENT.—The system shall provide for mechanisms to ensure, in a manner satisfactory to the Secretary, that—

(A) the rate of growth in health care spending will not be higher than the target established under this Act;

(B) the expenditures described in subparagraph (A) are computed and effectively monitored;

(C) automatic, mandatory, nondiscretionary reductions in payments to health care providers will be imposed to the extent required to assure that such per capita expenditures do not exceed the applicable target referred to in subparagraph (A); and

(D) Federal payments to a single payer State or health care coverage area shall be limited to the payments that would have been made in the absence of the implementation of the single payer system.

(7) FEDERAL PAYMENTS.—The system shall provide for mechanisms to ensure, in a manner satisfactory to the Secretary, that Federal payments to a single-payer State or community rating area shall be limited to the payments that would have been made in the absence of the implementation of the single-payer system.

(8) REQUIREMENTS GENERALLY APPLICABLE TO STANDARD HEALTH PLANS.—The system shall meet the requirements applicable to a standard health plan, except that—

(A) the system does not have the authority provided to standard health plans under section 1111(b)(3) (relating to permissible limitations on the enrollment of community-rated eligible individuals on the basis of limits on the plan's capacity); and

(B) the system is not required to meet the requirements of sections 1116 (relating to rating limitations for community-rated market), 1118(a) (relating to plan solvency), and section 1125 (relating to restrictions on the marketing of plan materials).

SEC. 1533. SPECIAL RULES FOR STATES OPERATING STATEWIDE SINGLE-PAYER SYSTEM.

(a) IN GENERAL.—In the case of a State operating a Statewide single-payer system—

(1) the State shall operate the system throughout the State; and

(2) except as provided in subsection (b), the State shall meet the requirements for participating States under part 1.

(b) EXCEPTIONS TO CERTAIN REQUIREMENTS FOR PARTICIPATING STATES.—In the case of a State operating a Statewide single-payer system, the State is not required to meet the following requirements otherwise applicable to participating States under part 1:

(1) ESTABLISHMENT OF COMMUNITY RATING AND SERVICE AREAS.—The requirements of sections 1502(a) (relating to the establishment of community rating areas) and 1502(b) (relating to the designation of health plan service areas).

(2) OTHER REFERENCES INAPPLICABLE.—Any requirement which the Secretary determines is not appropriate to apply to a State single-payer system.

(c) FINANCING.—

(1) IN GENERAL.—A State operating a Statewide single-payer system shall provide for the financing of the system using, at least in part, a payroll-based financing system that requires employers to pay at least the amount that the employers would be required to pay if the employers were subject to the requirements of title X (determined without regard to any effective date).

(2) USE OF FINANCING METHODS.—Such a State may use, consistent with paragraph (1), any other method of financing.

(d) SINGLE-PAYER STATE DEFINED.—In this title, the term “single-payer State’ means a State with a Statewide single-payer system in effect that has been approved by the Secretary in accordance with this part.

SEC. 1534. SPECIAL RULES FOR COMMUNITY RATING AREA-SPECIFIC SINGLE-PAYER SYSTEMS.

(a) IN GENERAL.—In the case of a State operating a community rating area specific single-payer system, except as provided in subsection (b), the State shall meet the requirements for participating States under part 1.

(b) EXCEPTIONS TO CERTAIN REQUIREMENTS FOR PARTICIPATING STATES.—

(1) ESTABLISHMENT OF SERVICE AREAS.—The requirement of section 1502(b) (relating to the designation of health plan service areas).

(2) OTHER REFERENCES INAPPLICABLE.—Any requirement which the Secretary determines is not appropriate to apply to a community rating area specific single-payer system.

Subpart C—Early Implementation of Comprehensive State Programs

SEC. 1541. EARLY IMPLEMENTATION OF COMPREHENSIVE STATE PROGRAMS

(a) APPLICATION.—

(1) IN GENERAL.—In accordance with this section, each State desiring to implement the reform standards established in this Act before the applicable effective date for such standards, may submit an application to the Secretary of Health and Human Services and the Secretary of Labor to request approval of a State comprehensive health care reform program established under State law which meets the requirements specified in subsection (b).

(2) ESTABLISHMENT OF CRITERIA.—The Secretaries shall establish not later than January 1, 1995, criteria for—

(A) the approval of such applications, and

(B) the continuing review of such State programs consistent with the provisions of subpart B of part 1.

(3) EXPEDITED PROCEDURE.—The Secretaries shall establish an expedited procedure for the consideration and disposition of applications under this subsection. The procedure established by the Secretaries shall provide that such consideration and disposition be completed within 90 days, and that if the application is approved, multistate employers be notified of such approval.

(b) REQUIREMENTS SPECIFIED.—The State program shall be consistent with the reform standards established in this Act and the interim and final (if any) regulations promulgated by the Secretaries, including—

(1) a standardized benefits package meeting the requirements established under subtitle C, or in the event such requirements have not been fully promulgated on the date of the application, the requirements for a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d));

(2) insurance reforms and rating requirements as specified under part 2 of subtitle B;

(3) standards for health plans as specified under part 3 of subtitle B;

(4) the recognition of, and standards for, purchasing cooperatives, as specified in part 2 of subtitle D;

(5) compliance with the data collection and privacy procedures established under subtitle B of title V;

(6) consumer grievance process as specified in section 1123;

(7) the imposition of employer and individual responsibilities as specified in part 1 of subtitle D and title X (determined without regard to any effective date);

(8) the establishment of the subsidy program under this Act; and

(9) health care cost containment under this Act.

(c) QUALIFICATION FOR FEDERAL FUNDS.—For purposes of this Act, a State with an approved State program under this section shall be considered a participating State and shall maintain such status if such State meets the requirements of this Act as such provisions become effective.

(d) EMPLOYER CERTIFICATION PROCESS.—In the case of any multistate self-insured health plan, certification by the plan to the Secretary of Labor that such plan is in compliance with the applicable Federal standards described in subsection (b) shall satisfy compliance with any State program approved under this section.

(e) FUNDING.—The Secretary of Health and Human Services shall pay over to each State with an approved application under this section for each calendar quarter ending before 1997 an amount equal to the estimated decrease in Federal expenditures (net of any estimated decrease in Federal revenues) for such quarter with respect to such State resulting from the implementation of the State comprehensive health care reform program.

Subtitle G—Miscellaneous Provisions

SEC. 1601. PROVISION OF ITEMS OR SERVICES CONTRARY TO RELIGIOUS BELIEF OR MORAL CONVICTION.

(a) IN GENERAL.—A health professional or a health facility may not be required to provide an item or service in the standard benefit package if the professional or facility objects to doing so on the basis of a religious belief or moral conviction.

(b) NOTICE.—A health professional or health facility that intends to refuse to provide an item or service in the standard benefit package under subsection (a), shall provide written notice with respect to such item or service to any health plan through which such professional or facility offers or intends to offer items or services.

SEC. 1602. ANTIDISCRIMINATION.

(a) IN GENERAL.—The Secretary of Health and Human Services, and any State, health plan, purchasing cooperative, employer, health program or activity receiving Federal financial assistance, or other entity subject to this Act, shall not directly or through contractual arrangements—

(1) deny or limit access to or the availability of health care services, or otherwise discriminate in connection with the provision of health care services; or

(2) limit, segregate, or classify an individual in any way which would deprive or tend to deprive such individual of health care services, or otherwise adversely affect his or her access to health care services;

on the basis of race, national origin, sex, religion, language, income, age, sexual orientation, disability, health status, or anticipated need for health services.

(b) APPLICATION OF SECTION TO SPECIFIC ACTIONS.—This section shall apply to, but is not limited to, the following actions:

(1) The establishing of boundaries for community rating areas under section 1502, the enrollment of individuals in a health care plan or the marketing of a health care plan, and the selection of providers or the setting of the terms or conditions under which providers participate in a health care plan or provider network.

(2) The determination of the scope of services provided by a health care plan, and the providing of such services and determining of the site or location of health care facilities.

(c) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue regulations to carry out this section.

(d) EFFECT ON OTHER LAWS. Nothing in this Act shall be construed to limit the scope of, or the availability of relief under, any other Federal or State law prohibiting discrimination or providing relief therefore.

SEC. 1603. NEUTRALITY CONCERNING UNION ORGANIZING.

Amounts appropriated to carry out this Act may not be utilized to assist, promote or deter union organizing.

TITLE II—NEW BENEFITS

Subtitle A—Coverage of Outpatient Prescription Drugs in Medicare

SEC. 2000. REFERENCES IN SUBTITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subtitle, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

SEC. 2001. COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

(a) COVERED OUTPATIENT DRUGS AS MEDICAL AND OTHER HEALTH SERVICES.—Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended to read as follows:

"(J) covered outpatient drugs;".

(b) DEFINITION OF COVERED OUTPATIENT DRUG.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) in the heading, by adding at the end the following: "; Covered Outpatient Drugs";

(2) in paragraph (1)—

(A) by striking "paragraph (2)" and inserting "the succeeding paragraphs of this subsection", and

(B) by striking the period at the end and inserting ", but only if used for a medically accepted indication."; and

(3) by striking paragraph (2) and inserting the following:

"(2) Except as otherwise provided in paragraph (3), the term 'covered outpatient drug' means any of the following products used for a medically accepted indication:

"(A) A drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

"(B) A biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product.

"(C) Insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(D) Enteral nutrients (but only if provided as a covered home infusion drug).

"(3) The term 'covered outpatient drug' does not include any product—

"(A) which is administered through infusion in a setting described in paragraph (5)(A)(ii) unless the product is a covered home infusion drug;

"(B) when furnished as part of, or as incident to, any other item or service for which payment may be made under this title (other than physicians' services or services which would be physicians' services if furnished by a physician); or

"(C) which is listed under paragraph (2) of section 1927(d) (other than subparagraph (I) or (J) of such paragraph) as a drug which may be excluded from coverage under a State plan under title XIX and which the Secretary elects to exclude from coverage under part B.

"(4) For purposes of this subsection, the term 'medically accepted indication', with respect to the use of an outpatient drug, includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

"(A) the drug has been approved by the Food and Drug Administration; and

"(B)(i) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the Secretary, unless the Secretary has determined that the use is not medically appropriate or the use is identified as not indicated in one or more such compendia, or

"(ii) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining accepted uses of drugs, that such use is medically accepted based on supportive clinical evidence in peer reviewed medical literature appearing in publications which have been identified for purposes of this clause by the Secretary.

The Secretary may revise the list of compendia in subparagraph (B)(i) designated as appropriate for identifying medically accepted indications for drugs.

"(5)(A) For purposes of this subsection, the term 'covered home infusion drug' means a covered outpatient drug dispensed to an individual that—

"(i) is administered intravenously, subcutaneously, or epidurally, using an access device that is inserted into the body and an infusion device to control the rate of flow of the drug (or through other means of administration determined by the Secretary);

"(ii) is administered—

"(I) in the individual's home,

"(II) in an institution used as the individual's home, but only if the drug is administered during an inpatient day for which payment is not made to the institution under part A for inpatient or extended care services furnished to the individual, or

"(III) in a facility other than the individual's home if the administration of the drug at the facility is determined by the Secretary to be cost-effective (in accordance with such criteria as the Secretary may establish); and

"(iii) with respect to a drug furnished in a home setting—

"(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or the indication to which the drug is applied, that the drug cannot generally be administered safely and effectively in such a setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug or the indication to which the drug is applied, that the drug can generally be administered safely and effectively in such a setting.

"(B) Not later than January 1, 1999, (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home infusion drugs, with respect to which home infusion drug therapy may be provided under this title.".

(c) CONFORMING AMENDMENTS REPEALING SEPARATE COVERAGE OF CERTAIN DRUGS AND PRODUCTS.—(1) Effective January 1, 1999, section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (A), by striking "(including drugs" and all that follows through "self-administered)";

(B) by striking subparagraphs (G) and (I);

(C) by adding "and" at the end of subparagraph (M); and

(D) by striking subparagraphs (O), (P), and (Q).

(2) Effective January 1, 1999, section 1861 (42 U.S.C. 1395x) is amended by striking the subsection (jj) added by section 4156(a)(2) of OBRA-1990.

(3) Effective January 1, 1999, section 1881(b) (42 U.S.C. 1395rr(b)) is amended—

(A) in the first sentence of paragraph (1)—

(i) by striking ", (B)" and inserting ", and (B)", and

(ii) by striking ", and (C)" and all that follows and inserting a period; and

(B) in paragraph (11)—

(i) by striking "(11)(A)" and inserting "(11)", and

(ii) by striking subparagraphs (B) and (C).

SEC. 2002. PAYMENT RULES AND RELATED REQUIREMENTS FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) PAYMENT FOR AND CERTAIN REQUIREMENTS CONCERNING COVERED OUTPATIENT DRUGS.—

"(1) DEDUCTIBLE.—

"(A) IN GENERAL.—Payment shall be made under paragraph (2) only for expenses incurred by an individual for a covered outpatient drug during a calendar year after the individual has incurred expenses in the year for such drugs (during a period in which the individual is entitled to benefits under this part) equal to the deductible amount for that year.

"(B) DEDUCTIBLE AMOUNT.—

"(i) For purposes of subparagraph (A), the deductible amount is—

"(I) for 1999, an amount equal to the amount determined under clause (ii)(I);

"(II) for 2000, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year;

"(III) for 2001, an amount equal to the amount determined under clause (ii)(II); and

"(IV) for any succeeding year, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year.

"(ii) For purposes of clause (i), the amount determined under this clause is—

"(I) in 1999, an amount determined by the Secretary such that the amount so determined will result in projected incurred spending and administrative costs (net of projected rebates under section 1851 and any portion of the part B premium attributable to the covered outpatient drug benefit) for providing payment under this title for covered outpatient drugs that would be equal to a spending target equal to $13,400,000,000; and

"(II) in 2001, an amount determined by the Secretary (based on actual experience) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage that would have incurred such expenses had actual experience in such incurred spending and administrative costs (described in subclause (I)) for 1999 been equal to the spending target for 1999 (described in subclause (I)).

"(iii) The Secretary shall promulgate the deductible amount for 1999 and each succeeding year not later than October 1 of the previous year.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the deductible established under paragraph (1), the amount payable under this part for a covered outpatient drug furnished to an individual during a calendar year shall be equal to—

"(i) 80 percent of the payment basis described in paragraph (3), in the case of an individual who has not incurred expenses for covered outpatient drugs during the year (including the deductible imposed under paragraph (1)) in excess of the out-of-pocket limit for the year under subparagraph (B); and

"(ii) 100 percent of the payment basis described in paragraph (3), in the case of any other individual.

"(B) OUT-OF-POCKET LIMIT DESCRIBED.—

"(i) For purposes of subparagraph (A), the out-of-pocket limit for a year is equal to—

"(I) for 1999, $1275; and

"(II) for any succeeding year, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876, an organization described in section 1833(a)(1)(A), or a medicare drug benefit plan under section 1851) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year.

"(ii) The Secretary shall promulgate the out-of-pocket limit for 1999 and each succeeding year not later than October 1 of the previous year.

"(3) PAYMENT BASIS.—For purposes of paragraph (2), the payment basis is the lesser of—

"(A) the actual charge for a covered outpatient drug, or

"(B) the applicable payment limit established under paragraph (4).

"(4) PAYMENT LIMITS.—

"(A) PAYMENT LIMIT FOR SINGLE SOURCE DRUGS AND MULTIPLE SOURCE DRUGS WITH RESTRICTIVE PRESCRIPTIONS.—In the case of a covered outpatient drug that is a multiple source drug which has a restrictive prescription, or that is a single source drug, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the per unit estimated acquisition cost for the drug product (determined under subparagraph (C)) for the period.

"(B) PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS WITHOUT RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that is a multiple source drug which does not have a restrictive prescription, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the unweighted median of the unit estimated acquisition cost (determined under subparagraph (C)) for the drug products for the period.

"(C) DETERMINATION OF UNIT PRICE.—

"(i) IN GENERAL.—The Secretary shall determine, for the dispensing or providing of a covered outpatient drug product in the payment calculation period, the estimated acquisition cost for the drug product. With respect to any covered outpatient drug product, the estimated acquisition cost may not exceed 93 percent of the published average wholesale price for the drug, as determined one month prior to the beginning of the payment calculation period.

"(ii) COMPLIANCE WITH REQUEST FOR INFORMATION.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide price information requested to carry out clause (i), or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as they apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to clause (i) shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part and to permit the Comptroller General to review the information provided.

"(5) ADMINISTRATIVE ALLOWANCE FOR PURPOSES OF PAYMENT LIMIT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the administrative allowance established under this paragraph is—

"(i) for 1999, an amount equal to $5; and

"(ii) for each succeeding year, the amount for the previous year, adjusted by the percentage change in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that previous year.

"(B) NO DISPENSING FEE FOR CERTAIN DRUGS AND PRODUCTS.—No administrative allowance may be provided under this paragraph with respect to any of the following covered outpatient drugs:

"(i) Erythropoietin provided to dialysis patients.

"(ii) Drugs and biologicals provided as incident to a physician's service or to a service which would be a physician's service if furnished by a physician.

"(iii) Covered home infusion drugs.

"(6) MAIL ORDER PHARMACY OPTION.—

"(A) ESTABLISHMENT OF MAIL ORDER OPTION.—The Secretary may establish a competitive bidding process to award contracts to mail order pharmacies for the provision of covered outpatient drugs that are maintenance drugs to individuals who opt to receive such drugs through the mail order pharmacies. The payment amount for a covered outpatient drug under this section to a mail order pharmacy under such a contract shall be equal to the amount bid by such plan under this subparagraph instead of the payment limit determined in accordance with paragraph (4).

"(B) SHARING OF SAVINGS.—To the extent that payment is made under this section for maintenance drugs that are provided through a mail order pharmacy pursuant to subparagraph (A), an individual that opts to receive such drugs from such pharmacy shall receive from the Secretary a rebate or a contribution toward the individual's cost sharing in an amount equal to 25 percent of the excess of the payment limit determined in accordance with paragraph (4) over the amount charged by the mail order pharmacy for such drug.

"(7) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

"(A) IN GENERAL.—The Secretary shall develop a program to—

"(i) provide on-line prospective review of prescriptions on a 24-hour basis (in accordance with subparagraph (B)) and retrospective review of claims;

"(ii) establish standards for counseling individuals to whom covered outpatient drugs are prescribed; and

"(iii) identify (and to educate physicians, patients, and pharmacists concerning)—

"(I) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(II) instances or patterns of substandard care with respect to such drugs,

"(III) potential adverse reactions, and

"(IV) appropriate use of generic products.

"(B) PROSPECTIVE REVIEW.—

"(i) IN GENERAL.—The program under this paragraph shall provide for on-line prospective review of each covered outpatient drug prescribed for a patient before the prescription is filled or the drug is furnished, including screening for potential drug therapy problems due to therapeutic duplication, drug-to-drug interactions, and incorrect drug dosage or duration of drug treatment.

"(ii) DISCUSSION OF APPROPRIATE USE.—In conducting prospective review under this subparagraph, any individual or entity that dispenses a covered outpatient drug shall offer to discuss with the patient to whom the drug is furnished or the patient's caregiver (in person if practicable, or through access to a toll-free telephone service) information regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and such other matters as the Secretary may require.

"(iii) ADDITIONAL DUTIES.—In carrying out this subparagraph, the Secretary shall—

"(I) develop public domain software which could be used by carriers and pharmacies to provide the on-line prospective review; and

"(II) study the feasibility and desirability of requiring patient diagnosis codes on prescriptions and to the extent that the Secretary finds such a requirement to be feasible and desirable, to implement such a requirement to be effective on and after January 1, 2000.

"(C) PRIOR AUTHORIZATION.—

"(i) DEVELOPMENT OF LIST OF MISUSED DRUGS.—The Secretary shall develop (and periodically) update a list of covered outpatient drugs which the Secretary has determined, based on data collected, may be subject to misuse or inappropriate use. The Secretary shall provide a means for manufacturers to appeal an initial decision to include a drug on the list.

"(ii) PRIOR AUTHORIZATION FOR DRUGS ON LIST.—The Secretary shall establish a process under which (subject to clause (iii)) the Secretary may require advance approval for any covered outpatient drug included on the list developed under clause (i).

"(iii) RESTRICTIONS ON DENIAL OF APPROVAL.—The Secretary may not deny the approval of a drug under the process established under clause (ii) before its dispensing unless the process—

"(I) provides responses by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(II) provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in emergency situations (as defined by the Secretary).

"(iv) EXPANSION TO OTHER DRUGS.—If the rate of growth of payments under this part for covered outpatient drugs exceeds the average rate of growth for parts A and B expenditures and the Secretary finds such action to be feasible and desirable, the Secretary may require advance approval under this subparagraph for the dispensing of a covered outpatient drug in cases where a more cost-effective therapeutically or generically equivalent drug is available

"(D) DRUG USE REVIEW.—As part of the program established under subparagraph (A), the Secretary shall provide for a drug use review program to provide for the ongoing periodic examination of claims data and other records on covered outpatient drugs furnished to patients under this title in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and patients.

"(E) ADOPTION OF MEDICAID PROGRAMS.—To the extent considered appropriate by the Secretary, the program developed under this paragraph with respect to drugs furnished in a State may include elements applicable to the furnishing of covered outpatient drugs under the State medicaid program under section 1927.

"(8) BILLING REQUIREMENTS.—

"(A) MANDATORY ASSIGNMENT.—(i) Payment under this part for a covered outpatient drug may only be made on an assignment-related basis.

"(ii) Except for deductible, coinsurance, or copayment amounts applicable under this part, no person may bill or collect any amount from an individual enrolled under this part or other person for a covered outpatient drug for which payment may be made under this part, and no such individual or person is liable for payment of any amounts billed in violation of this clause. If a person knowingly and willfully bills or collects an amount in violation of the previous sentence, the Secretary may apply sanctions against such person in accordance with section 1842(j)(2). Paragraph (4) of section 1842(j) shall apply in this clause in the same manner as such paragraph applies to such section.

"(B) USE OF ELECTRONIC SYSTEM.—The Secretary shall establish, by not later than January 1, 1998, a point-of-sale electronic system for use by carriers and pharmacies in the submission of information respecting covered outpatient drugs dispensed to medicare beneficiaries under this part. Such system shall be consistent with the standards established by the National Council of Prescription Drug Programs.

"(10) REQUIRING PHARMACY SUPPLIER NUMBERS.—

"(A) IN GENERAL.—Payment may not be made under this part with respect to a covered outpatient drug dispensed by a pharmacy unless the entity has obtained a supplier number from the Secretary.

"(B) STANDARDS FOR ISSUING SUPPLIER NUMBERS.—The Secretary may not issue a supplier number to an entity for purposes of subparagraph (A) unless the entity demonstrates to the Secretary that it will maintain patient records (in accordance with such standards as the Secretary may impose) and meet the other applicable requirements of this subsection and section 1848(g).

"(11) STUDY ON PHARMACEUTICAL CARE SERVICES.—The Secretary shall conduct a study to develop, in consultation with actively practicing pharmacists, a payment methodology (to be in addition to the administrative allowance established under paragraph (5)) which is based upon and reflects the reasonable charges for varying levels of pharmacist services, including patient consultations provided to individuals under this section. The Secretary shall submit a report, including such recommendations as the Secretary determines to be appropriate, to Congress on the methodology developed under this paragraph not later than September 30, 1998.

"(12) DEFINITIONS.—In this subsection:

"(A) MULTIPLE AND SINGLE SOURCE DRUGS.—The terms 'multiple source drug' and 'single source drug' have the meanings given those terms under section 1927(k)(7), except that the reference in such section to a 'covered outpatient drug' shall be considered a reference to a covered outpatient drug under this part.

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that a particular drug product must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that a particular drug product must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug product was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means a calendar year.".

(b) REQUIRING PHARMACIES TO SUBMIT CLAIMS.—Section 1848(g)(4) (42 U.S.C. 1395w-4(g)(4)) is amended—

(1) in the heading—

(A) by striking "PHYSICIAN", and

(B) by inserting "BY PHYSICIANS AND SUPPLIERS" after "CLAIMS";

(2) in the matter in subparagraph (A) preceding clause (i)—

(A) by striking "For services furnished on or after September 1, 1990, within 1 year" and inserting "Within 1 year (or 90 days in the case of covered outpatient drugs)",

(B) by striking "a service" and inserting "an item or service", and

(C) by inserting "or of providing a covered outpatient drug," after "basis,"; and

(3) in subparagraph (A)(i), by inserting "item or" before "service".

(c) SPECIAL RULES FOR CARRIERS.—

(1) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(D) With respect to activities related to covered outpatient drugs, the Secretary may enter into contracts with carriers under this section to perform the activities on a regional basis.".

(2) ADDITIONAL FUNCTIONS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by adding "and" at the end of subparagraph (L);

(C) by redesignating subparagraph (L) as subparagraph (I); and

(D) by inserting after subparagraph (I) (as so redesignated) the following new subparagraphs:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) receive information transmitted under the electronic system established under section 1834(d)(8)(B), and

"(ii) respond to requests by pharmacies (and individuals entitled to benefits under this part) as to whether or not such an individual has met the prescription drug deductible established under section 1834(d)(1)(A) for a year; and

"(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system established under section 1834(d)(8)(B) for covered outpatient drugs under this part;".

(3) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) (42 U.S.C. 1395u(c)(1)(A)) is amended—

(A) by inserting "(i)" after "(c)(1)(A)",

(B) in the first sentence, by inserting ", except as otherwise provided in clause (ii)," after "under this part, and", and

(C) by adding at the end the following:

"(ii) To the extent that a contract under this section provides for activities related to covered outpatient drugs, the Secretary may provide for payment for those activities based on any method of payment determined by the Secretary to be appropriate.".

(4) BATCH PROMPT PROCESSING OF CLAIMS.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(A) in paragraphs (2)(A) and (3)(A), by striking "Each" and inserting "Except as provided in paragraph (4), each";

(B) by adding at the end the following new paragraph:

"(4)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), with respect to claims for payment for covered outpatient drugs shall provide for a payment cycle under which each carrier will, on a monthly basis, make a payment with respect to all claims which were received and approved for payment in the period since the most recent date on which such a payment was made with respect to the participating pharmacy or individual submitting the claim.

"(B) If payment is not issued, mailed, or otherwise transmitted within 5 days of when such a payment is required to be made under subparagraph (A), interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after such 5-day period and ending on the date on which payment is made.".

(5) USE OF OTHER ENTITIES FOR COVERED OUTPATIENT DRUGS.—Section 1842(f) (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following:

"(3) with respect to activities related to covered outpatient drugs, any other private entity which the Secretary determines is qualified to conduct such activities.".

(6) DESIGNATED CARRIERS TO PROCESS CLAIMS OF RAILROAD RETIREES.—Section 1842(g) (42 U.S.C. 1395u(g)) is amended by inserting "(other than functions related to covered outpatient drugs)" after "functions".

(e) CONFORMING AMENDMENTS.—

(1)(A) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(i) by striking "and" at the end of clause (O), and

(ii) by inserting before the semicolon at the end the following: ", and (Q) with respect to covered outpatient drugs, the amounts paid shall be as prescribed by section 1834(d)".

(B) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended in the matter preceding subparagraph (A) by inserting ", except for covered outpatient drugs," after "and (I) of such section".

(2) Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by inserting "or with respect to covered outpatient drugs" before the comma.

(3) The first sentence of section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(4) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) in clause (i), by inserting "section 1834(d)," after "section 1833(b),", and

(B) in clause (ii), by inserting ", other than for covered outpatient drugs," after "provider)".

SEC. 2003. MEDICARE REBATES FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Part B of title XVIII is amended by adding at the end the following new section:

"REBATES FOR COVERED OUTPATIENT DRUGS

"SEC. 1850. (a) REQUIREMENT FOR REBATE AGREEMENT.—In order for payment to be available under this part for covered outpatient drugs of a manufacturer dispensed or provided on or after January 1, 1999, the manufacturer must have entered into and have in effect a rebate agreement with the Secretary meeting the requirements of subsection (b).

"(b) TERMS, IMPLEMENTATION, AND ENFORCEMENT OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this section shall require the manufacturer to pay to the Secretary for each calendar quarter, not later than 30 days after the date of receipt of the information described in paragraph (2) for such quarter, a rebate in an amount determined under subsection (c) for all covered outpatient drugs of the manufacturer described in subparagraph (B).

"(B) DRUGS INCLUDED IN QUARTERLY REBATE CALCULATION.—Drugs subject to rebate with respect to a calendar quarter are drugs which are dispensed or provided during such quarter to individuals (other than individuals enrolled with an entity with a contract under section 1876 or a medicare drug benefit plan with a contract under section 1851) eligible for benefits under this part, as reported to the Secretary.

"(2) INFORMATION FURNISHED TO MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary shall report to each manufacturer, not later than 60 days after the end of each calendar quarter, information on the total number, for each covered outpatient drug, of units of each dosage form, strength, and package size dispensed or provided under the plan during the quarter, on the basis of the data reported to the Secretary described in paragraph (1)(B).

"(B) AUDIT.—The Comptroller General may audit the records of the Secretary to the extent necessary to determine the accuracy of reports by the Secretary pursuant to subparagraph (A). Adjustments to rebates shall be made to the extent determined necessary by the audit to reflect actual units of drugs dispensed.

"(3) PROVISION OF PRICE INFORMATION BY MANUFACTURER.—

"(A) QUARTERLY PRICING INFORMATION.—Each manufacturer with an agreement in effect under this section shall report to the Secretary, not later than 30 days after the last day of each calendar quarter, on the average manufacturer retail price and the average manufacturer non-retail price for each dosage form and strength of each covered outpatient drug for the quarter.

"(B) BASE QUARTER PRICES.—Each manufacturer of a covered outpatient drug with an agreement under this section shall report to the Secretary, by not later than 30 days after the effective date of such agreement (or, if later, 30 days after the end of the base quarter), the average manufacturer retail price, for such base quarter, for each dosage form and strength of each such covered drug.

"(C) VERIFICATION OF AVERAGE MANUFACTURER PRICE.—The Secretary may inspect the records of manufacturers, and survey wholesalers, pharmacies, and institutional purchasers of drugs as necessary to verify prices reported under subparagraph (A).

"(D) PENALTIES.—

"(i) CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty on a manufacturer with an agreement under this section—

"(I) for failure to provide information required under subparagraph (A) on a timely basis, in an amount up to $10,000 per day of delay;

"(II) for refusal to provide information about charges or prices requested by the Secretary for purposes of verification pursuant to subparagraph (C), in an amount up to $100,000; and

"(III) for provision, pursuant to subparagraph (A) or (B), of information that the manufacturer knows or should know is false, in an amount up to $100,000 per item of information.

Such civil money penalties are in addition to any other penalties prescribed by law. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) TERMINATION OF AGREEMENT.—If a manufacturer with an agreement under this section has not provided information required under subparagraph (A) or (B) within

90 days of the deadline imposed, the Secretary may suspend the agreement with respect to covered outpatient drugs dispensed after the end of such 90-day period and until the date such information is reported (but in no case shall a suspension be for less than 30 days).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than one year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall afford a manufacturer an opportunity for a hearing concerning such termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVE DATE OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO PHARMACIES.—In the case of a termination under this subparagraph, the Secretary shall notify pharmacies and physician organizations not less than 30 days before the effective date of such termination.

"(c) AMOUNT OF REBATE.—

"(1) BASE REBATE.—Each manufacturer shall remit a basic rebate to the Secretary for each calendar quarter in an amount, with respect to each dosage form and strength of a covered outpatient drug, equal to the product of—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B); and

"(B)(i) in the case of a single-source drug or innovator-multiple source drug, 15 percent of the average manufacturer retail price, or

"(ii) in the case of a noninnovator-multiple source drug, insulin, or an enteral nutrient, 6 percent (or the applicable percent if the Secretary implements the sliding scale developed in accordance with paragraph (4)) of the average manufacturer retail price.

"(2) ADDITIONAL REBATE.—Each manufacturer shall remit to the Secretary, for each calendar quarter, an additional rebate for each dosage form and strength of a single-source or innovator-multiple-source drug, in an amount equal to—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B), multiplied by

"(B) the amount, if any, by which the average manufacturer retail price for such drugs of the manufacturer exceeds the average manufacturer retail price for the base quarter, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. average) from the end of such base quarter to the month before the beginning of such calendar quarter.

"(3) DEPOSIT OF REBATES.—The Secretary shall deposit rebates under this section in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(4) APPLICABLE PERCENT.—

"(A) NONINNOVATOR-MULTIPLE SOURCE DRUG.—

"(i) IN GENERAL.—For purposes of this subparagraph, the Secretary may develop and implement a sliding scale to determine the applicable percent for rebates based on the relationship between the average manufacturer retail price of the noninnovator-multiple source drug and the average manufacturer retail price of the equivalent innovator drug (except as provided in subparagraph (B)).

"(ii) SLIDING SCALE DESCRIBED.—The sliding scale developed by the Secretary under clause (i) shall—

"(I) require that the applicable percent be not less than 2 percent and not be greater than 15 percent; and

"(II) ensure that the total level of rebates collected under such a sliding scale would be equivalent to a flat 6 percent rebate on such drugs.

"(B) ENTERAL NUTRIENTS AND INSULIN.—For purposes of this subparagraph, the applicable percent for enteral nutrients and insulin under the sliding scale would be equal to 6 percent.

"(d) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by a manufacturer under this section is confidential and shall not be disclosed by the Secretary (or a carrier), except—

"(A) as the Secretary determines to be necessary to carry out this section,

"(B) to permit the Comptroller General to review the information provided, and

"(C) to permit the Director of the Congressional Budget Office to review the information provided.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AVERAGE MANUFACTURER RETAIL PRICE.—The term 'average manufacturer retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States for drugs distributed to the retail pharmacy class of trade.

"(2) AVERAGE MANUFACTURER NON-RETAIL PRICE.—The term 'average manufacturer non-retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the weighted average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States by hospitals and other institutional purchasers that purchase drugs for institutional use and not for resale.

"(3) BASE QUARTER.—The term 'base quarter' means, with respect to a covered outpatient drug of a manufacturer, the calendar quarter beginning April 1, 1993, or (if later) the first full calendar quarter during which the drug was marketed in the United States.

"(4) DRUG.—The terms 'innovator multiple source drug', 'noninnovator-multiple source drug', and 'single source drug' have the meanings given those terms under section 1927(k)(7), except that the reference in such section to a 'covered outpatient drug' shall be considered a reference to a covered outpatient drug under this part.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug—

"(A) the entity whose National Drug Code number (as issued pursuant to section 510(e) of the Federal Food, Drug, and Cosmetic Act) appears on the labeling of the drug; or

"(B) if the number described in subparagraph (A) does not appear on the labeling of the drug, the person named as the applicant in a human drug application (in the case of a new drug) or the product license application (in the case of a biological product) for such drug approved by the Food and Drug Administration.".

(b) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "and" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) consisting of a covered outpatient drug (as described in section 1861(t)) furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1850 for the year.".

SEC. 2004. PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.

Part B of title XVIII is amended by inserting after section 1846 the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1847. (a)(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than January 1, 1996, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary, one individual representing a research-based pharmaceutical company, and one individual representing a biotechnology company.

"(b)(1) The Commission shall submit to Congress an annual report no later than May 1 of each year, beginning with 1997—

"(A) concerning the implementation and the operation of the coverage of covered outpatient drugs under this part, including recommendations to Congress on changes to the program to improve access to prescription drugs, the quality of prescription drug care, and program efficiencies;

"(B) reviewing the process of contracting with medicare drug benefits plans under section 1851;

"(C) concerning the fiscal soundness of the furnishing of covered outpatient drugs under this part;

"(D) concerning the appropriateness, fairness and effectiveness of the rebate structure under section 1850; and

"(E) concerning the advisability of developing a review process to exempt small manufacturers of single source or innovator multiple source drugs from rebates under section 1850 based on the manufacturer's sales and the historic pricing of the manufacturer's products.

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

SEC. 2005. COVERAGE OF HOME INFUSION DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home infusion drug therapy services" before the semicolon.

(b) HOME INFUSION DRUG THERAPY SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) inserted by section 4156(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after such subsection the following new subsection:

"Home Infusion Drug Therapy Services

"(ll)(1) The term 'home infusion drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a setting described in subsection (t)(5)(A)(ii),

"(B) by a qualified home infusion drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by that provider, and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively a drug regimen through use of a covered home infusion drug (as defined in subsection (t)(5)), but do not include such covered home infusion drugs.

"(3) The term 'qualified home infusion drug therapy provider' means any entity that the Secretary determines meets the following requirements (or, in the case of a home health agency or an entity with respect to which the only items and services described in paragraph (2) furnished by the entity are enteral nutrition therapy services, meets any of the following requirements which the Secretary considers appropriate):

"(A) The entity is capable of providing nursing or pharmacy services and providing or arranging for the other items and services described in paragraph (2) and covered home infusion drugs.

"(B) The entity maintains clinical records on all patients.

"(C) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(D) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(E) The entity coordinates all services with the patient's physician.

"(F) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(G) The entity assures that only trained personnel provide covered home infusion drugs (and any other service for which training is required to provide the service safely).

"(H) The entity assumes responsibility for the quality of services provided by others under arrangements with the entity.

"(I) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, the entity (i) is licensed pursuant to such law, or (ii) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(J) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home infusion drug therapy services and the efficient administration of the home infusion drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended—

(A) in subsection (a)(2)(B), by striking "or (E)" and inserting "(E), or (F)",

(B) in subsection (a)(2)(D), by striking "and" at the end,

(C) in subsection (a)(2)(E), by striking the semicolon and inserting "; and",

(D) by inserting after subsection (a)(2)(E) the following new subparagraph:

"(F) with respect to home infusion drug therapy services, the amounts described in section 1834(j);", and

(E) in the first sentence of subsection (b), by striking "services, (3)" and inserting "services and home infusion drug therapy services, (3)".

(2) AMOUNT DESCRIBED.—Section 1834 is amended by adding at the end the following new subsection:

"(j) HOME INFUSION DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home infusion drug therapy services, payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—

"(A) IN GENERAL.—The Secretary shall establish by regulation before the beginning of 1999 and each succeeding year a fee schedule for home infusion drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.

"(B) ADJUSTMENT FOR SERVICES FURNISHED BY INSTITUTIONS.—The fee schedule established by the Secretary under subparagraph (A) shall provide for adjustments in the case of home infusion drug therapy services for which payment is made under this part that are furnished by a provider of services to avoid duplicative payments under this title for the service costs associated with such services.".

(d) CERTIFICATION.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) in the case of home infusion drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home infusion drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(e) CERTIFICATION OF HOME INFUSION DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "home infusion drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (ll)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by striking "an agency is a hospice program" and inserting "an agency or entity is a hospice program or a home infusion drug therapy provider,"; and

(B) in the second sentence—

(i) by striking "institution or agency" and inserting "institution, agency, or entity", and

(ii) by striking "or hospice program" and inserting "hospice program, or home infusion drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 (42 U.S.C. 1395w-2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INFUSION DRUG THERAPY PROVIDERS" at the end,

(B) in subsection (a), by inserting "or that a qualified home infusion drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(ll)(3)" after "under this part", and

(C) in subsection (b)(2)(A)(iv), by inserting "or home infusion drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(k) With respect to carrying out functions relating to payment for home infusion drug therapy services and covered home infusion drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

(g) CONFORMING AMENDMENTS.—(1) Section 1834(h)(4)(B) (42 U.S.C. 1395m(h)(4)(B)) is amended by striking ", except that" and all that follows through "equipment".

(2) Section 1861(n) (42 U.S.C. 1395x(n)) is amended by adding at the end the following: "Such term does not include any home infusion drug therapy services described in section 1861(ll) or any covered outpatient drug used as a supply related to the furnishing of an item of durable medical equipment.".

(3) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after "dental" the following: "devices or enteral and parenteral nutrients, supplies, and equipment".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1999.

SEC. 2006. MEDICARE DRUG BENEFIT PLANS.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 2003, is further amended by adding at the end the following new section:

"SEC. 1851. MEDICARE DRUG BENEFIT PLANS.

"(a) IN GENERAL.—

"(1) GENERAL PERMISSION TO CONTRACT.—The Secretary shall enter into contracts with medicare drug benefit plans in a State for the provision of covered outpatient drugs (as defined in section 1861(t)(2)) (except as provided in subsection (i)(3)(G)) to individuals entitled to benefits under part A and enrolled under part B if the plan meets the requirements of this section with respect to individuals enrolled under this section.

"(2) ENTITIES ELIGIBLE TO ENTER INTO A CONTRACT.—The Secretary may enter into a contract under this section with a medicare drug benefit plan that is—

"(A) a certified standard health plan but only if such plan has not entered into a contract with the Secretary under section 1876 in the State;

"(B) a network of chain and independent pharmacy providers;

"(C) a pharmacy benefit management company; or

"(D) any other entity that the Secretary determines is appropriate.

"(3) AVAILABILITY OF PLANS.—

"(A) IN GENERAL.—Every individual entitled to benefits under part A and enrolled under part B shall be eligible to enroll under this section with any medicare drug benefit plan with a contract under this section which serves the State in which the individual resides.

"(B) ENROLLMENT BY AN INDIVIDUAL.—In accordance with the enrollment periods established under subsection (e)(1), an individual may enroll under this section with a medicare drug benefit plan with a contract under this section only through a third party designated by the Secretary in regulations and the individual may only terminate enrollment in accordance with subsection (e)(2).

"(C) INFORMATION DISTRIBUTED BY THE SECRETARY.—

"(i) IN GENERAL.—The Secretary shall develop and distribute comparative materials to individuals eligible to enroll under this section regarding all medicare drug benefit plans with contracts under this section, the availability of payment for covered outpatient drugs under section 1834(d), and the availability of covered outpatient drugs to enrollees of entities with contracts under section 1876. Each medicare drug benefit plan with a contract in the State shall contribute to the cost of developing and distributing such materials in accordance with a method to be determined by the Secretary. The Secretary shall include in such comparative materials a notice that each medicare drug benefit plan with a contract under this section is authorized by law to terminate or refuse to renew the contract, and that termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the plan under this section.

"(ii) PROVISION OF INFORMATION BY THE PLAN.—Each medicare drug benefit plan with a contract under this section shall collect and provide such standard information as the Secretary shall prescribe by regulation as necessary to evaluate the performance and quality of such plan, including enrollee satisfaction, and to compare such performance and quality with competing plans.

"(4) PAYMENTS.—

"(A) PAYMENTS IN LIEU OF NORMAL PAYMENTS.—Payments under a contract to a medicare drug benefit plan under this section shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to section 1834, for covered outpatient drugs furnished by or through the plan to individuals enrolled with the plan under this section.

"(B) SOURCE OF PAYMENT.—The payment to a medicare drug benefit plan under this section for individuals enrolled under this section with the plan and entitled to benefits under part A and enrolled under part B shall be made from the Federal Supplementary Medical Insurance Trust Fund.

"(5) DEFINITIONS.—

"(A) SERVICE AREA.—The term 'health plan service area' means a health plan service area designated by the State under section 1502(d) of the Health Security Act.

"(B) CERTIFIED STANDARD HEALTH PLAN.—The term 'certified standard health plan' has the meaning given such term in section 1011(2) of the Health Security Act.

"(b) PAYMENT RULES UNDER CONTRACTS.—

"(1) IN GENERAL.—

"(A) PAYMENTS.—With respect to any calendar year, each medicare drug benefit plan with a contract under this section shall receive a payment under this title with respect to each individual enrolled with the plan for each month such individual is enrolled equal to the applicable monthly percentage of the lesser of—

"(i) 95 percent of the fee for service component determined under paragraph (2)(B)(i) adjusted by the rate factor determined under subparagraph (C) for the class of such individual; or

"(ii) the medicare drug benefit plan component determined under paragraph (2)(B)(ii) for the plan's service area adjusted by the rate factor determined under subparagraph (C) for the class of such individual.

"(B) APPLICABLE MONTHLY PERCENTAGE.—For purposes of subparagraph (A), the Secretary shall annually set the applicable monthly percentage for each month of the calendar year. Such percentage for a month shall be equal to the Secretary's estimate of the proportion of the total covered outpatient drug benefit incurred in such month under section 1834 to the total covered outpatient drug benefit incurred for such year under section 1834.

"(C) DETERMINATION OF CLASSES OF INDIVIDUALS AND RATE FACTORS FOR SUCH CLASSES.—

"(i) DETERMINATION OF CLASSES.—For purposes of this section, the Secretary shall define appropriate classes of individuals based on such factors as the Secretary determines to be appropriate.

"(ii) RATE FACTORS.—The Secretary shall annually determine the rate factors for each class of individuals defined in clause (i) reflecting the differences in the average per capita spending for providing covered outpatient drug coverage under part B among individuals in such classes.

"(2) DETERMINATION OF PAYMENT RATE.—

"(A) DETERMINATION BY SECRETARY.—The Secretary shall annually determine under subparagraph (B), and shall announce (in a manner intended to provide notice to interested parties) not later than October 1 before the calendar year concerned, the payment for each service area.

"(B) FORMULAS FOR DETERMINING PAYMENT AMOUNTS.—

"(i) FEE-FOR-SERVICE COMPONENT.—The amount determined under this clause is the projected average annual per capita drug fee-for-service costs (as defined in subparagraph (D)) for covered outpatient drugs for the service area for individuals not enrolled in medicare drug benefit plans with contracts under this section or entities with contracts under section 1876, adjusted by the factor described in clause (ii)(I).

"(ii) MEDICARE DRUG BENEFIT PLAN COMPONENT.—The medicare drug benefit plan component determined under this clause is the sum of the following amounts determined with respect to each medicare drug benefit plan—

"(I) the amount of the uniform annual premium submitted by the plan to the Secretary under subparagraph (C), adjusted by a factor determined by the Secretary to normalize the difference in the distribution of individuals projected to be enrolled in the plan among the various classes of individuals defined by the Secretary to the national distribution of all individuals in the program under this title among such classes; multiplied by

"(II) a fraction (expressed as a percentage), the numerator of which is the number of all individuals enrolled in the plan (as projected by the plan using either historical experience or some other methodology developed by the Secretary), and the denominator of which is the number of all individuals enrolled in all medicare drug benefit plans in the service area.

"(C) UNIFORM ANNUAL PREMIUMS; PREMIUM FOR ADDITIONAL SERVICES.—

"(i) IN GENERAL.—Each medicare drug benefit plan shall, not later than August 1 of each year, submit to the Secretary a bid for the next calendar year for each service area with respect to which the plan proposes to serve under a contract under this section. A bid with respect to a service area shall include the following:

"(I) UNIFORM ANNUAL PREMIUM.—A statement of the uniform annual premium amount that the plan intends to charge for individuals enrolled under this section with the plan.

"(II) PREMIUM FOR SUPPLEMENTAL PLAN.—A statement of the fixed monthly premium amount that the plan intends to charge for each supplemental plan offering additional cost-sharing benefits.

"(ii) NOTICE BEFORE BID SUBMISSIONS.—At least 45 days before the date for submitting bids under clause (i) for a year, the Secretary shall provide for notice to medicare drug benefit plans of—

"(I) proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous calendar year and shall provide such plans an opportunity to comment on such proposed changes;

"(II) the applicable monthly percentage for each month of the calendar year as determined by the Secretary under paragraph (1)(B); and

"(III) the rate factors for such calendar year determined under paragraph (1)(C).

"(D) PROJECTED AVERAGE ANNUAL PER CAPITA FEE-FOR-SERVICE COSTS.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'projected average annual per capita drug fee-for-service costs' means, with respect to a service area, the annual amount that the Secretary estimates in advance would be payable in any contract year for providing payment for covered outpatient drugs for individuals enrolled under part B (including administrative costs incurred by organizations described in section 1842), if the services were to be furnished by other than a medicare drug benefit plan with a contract under this section or by an entity with a contract under section 1876.

"(ii) BASIS FOR ESTIMATES.—The estimate made by the Secretary under clause (i) shall be made on the basis of actual experience of the service area or, if the Secretary determines that the data in that service area are inadequate to make an accurate estimate, the Secretary may use the actual experience of a similar area, with appropriate adjustments to assure actuarial equivalence, including adjustments the Secretary may determine appropriate to adjust for demographics, health status, and the presence of specific medical conditions. For the first 2 years that contracts are entered into under this section, the Secretary shall base such estimates on the best available data.

"(3) PAYMENT RULES.—

"(A) AMOUNT OF PREMIUM.—

"(i) STANDARD PACKAGE.—Each medicare drug benefit plan with a contract under this section must provide to individuals enrolled with the plan under this section, for each month of the duration of such enrollment during each contract period, the coverage described in subsection (d) for the lesser of—

"(I) the applicable monthly percentage of the uniform annual premium amount submitted under paragraph (2)(C)(i)(I); or

"(II) the applicable monthly percentage of the amount described in subsection (b)(1)(A).

"(ii) SUPPLEMENTAL PLAN.—

"(I) IN GENERAL.—Each medicare drug benefit plan with a contract under this section must provide to individuals enrolled with the plan under this section, for the duration of such enrollment during each contract period, a fixed monthly premium for the supplemental plan described in paragraph (2)(C)(i)(II) equal to the premium amount determined by the plan under such paragraph. An individual that elects to enroll in the supplemental plan shall be responsible for paying to the plan the fixed monthly premium amount described in the preceding sentence.

"(II) PAYMENT GREATER THAN FIXED MONTHLY PREMIUM.—If, with respect to any individual enrolled in a medicare drug benefit plan with a contract under this section, the amount paid to the plan under subsection (b)(1)(A) exceeds the applicable monthly percentage of the uniform annual premium amount submitted under paragraph (2)(C)(i)(I), the plan shall apply such excess to a premium for any supplemental policy described in paragraph (2)(C)(ii) that the individual may elect. If the individual does not elect such a policy, the medicare drug benefit plan shall pay such excess to the Secretary for deposit in the Federal Supplementary Medical Insurance Trust Fund.

"(B) MONTHLY PAYMENTS.—

"(i) IN GENERAL.—The Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (1)(A) to each medicare drug benefit plan with a contract under this section for each individual enrolled with the plan under this section.

"(ii) ADJUSTMENTS.—The amount of payment under this subparagraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(iii) PAYMENT TO PLAN ONLY.—If an individual is enrolled under this section with a medicare drug benefit plan with a contract under this section, only the plan shall be entitled to receive payments from the Secretary under this title for covered outpatient drugs furnished to the individual.

"(d) COVERAGE OF BENEFITS.—

"(1) DRUGS PROVIDED.—A medicare drug benefit plan with a contract under this section must provide to individuals enrolled in the plan under this section covered outpatient drugs (as defined in section 1861(t)(2)), except as provided in subsection (i)(3)(G).

"(2) PROVISION OF MEDICALLY NECESSARY CARE.—Each medicare drug benefit plan with a contract under this section must—

"(A) make the covered outpatient drugs described in paragraph (1)—

"(i) available and accessible to enrolled individuals within the State with reasonable promptness and in a manner which assures continuity, and

"(ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(B) provide for reimbursement with respect to drugs which are described in subparagraph (A) and which are provided to such an individual other than through the plan, if—

"(i) the drugs were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the drugs through the plan.

"(3) COST-SHARING.—Each medicare drug benefit plan with a contract under this section must provide to individuals enrolled under this section with respect to the drugs described in paragraph (1), cost-sharing requirements that are equal to 95 percent of the actuarial value of the cost sharing requirements under section 1834.

"(4) COST-SHARING FOR SUPPLEMENTAL PLANS.—A supplemental plan may not have cost-sharing that applies differential cost-sharing based on the therapeutic class of drug prescribed or other cost-sharing structures that the Secretary determines would be likely to discourage enrollment by individuals with medical conditions that require extensive use of prescription drugs.

"(5) ACTUARIAL EQUIVALENCE OF STANDARD PLAN AND SUPPLEMENTAL PLAN.—The premium charged to an individual enrolled under this section for a supplemental policy that eliminates or reduces the cost-sharing requirement imposed on such individual and the actuarial value of any remaining cost-sharing requirement under the plan shall not exceed 95 percent of the actuarial value of the cost-sharing requirements under section 1834.

"(e) ENROLLMENT.—

"(1) ENROLLMENT PERIODS.—Each medicare drug benefit plan with a contract under this section must have a uniform open enrollment period (which shall be the period specified by the Secretary under section 1876(c)(3)(A)(i)), for the enrollment of individuals under this section, of at least 30 days duration every year. The plan must also have additional enrollment periods in accordance with the enrollment periods required under clauses (ii), (iii), and (iv) of section 1876(c)(3)(A).

"(2) TERMINATION.—An individual may only terminate an individual's enrollment with a medicare drug benefit plan during an open enrollment period described in paragraph (1).

"(3) NONDISCRIMINATION.—The medicare drug benefit plan must provide assurances to the Secretary that it will not discriminate against any individual because of the individual's health status, requirements for covered outpatient drugs, claims experience, medical history, or other factors that are generally related to the need for covered outpatient drugs and that it will notify each individual of such fact at the time of the individual's enrollment.

"(4) NOTICE OF RIGHTS, ETC.—Each medicare drug benefit plan with a contract under this section shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this section, including an explanation of—

"(A) the enrollee's rights to benefits from the plan,

"(B) the restrictions on payments under this title for covered outpatient drugs furnished other than by or through the plan,

"(C) out-of-plan coverage provided by the plan, and

"(E) appeal rights of enrollees.

"(f) MEMBERSHIP REQUIREMENTS.—

"(1) NON-MEDICARE REQUIREMENT.—

"(A) IN GENERAL.—Each entity with a contract under this section shall provide that at least ½ of the individuals who are provided with drug coverage by the entity are individuals who are not enrolled in a medicare drug benefit plan under this section.

"(B) SUSPENSION OF ENROLLMENT.—If the Secretary determines that a medicare drug benefit plan with a contract under this section has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this section or of payment to the plan under this section for individuals newly enrolled with the plan, after the date the Secretary notifies the plan of such noncompliance.

"(2) 5000 INDIVIDUALS.—Each medicare drug benefit plan with a contract under this section shall provide covered outpatient drug coverage to at least 5000 individuals, except that the Secretary may enter into such a contract with a medicare drug benefit plan that has fewer enrollees if the plan primarily serves members residing outside of urbanized areas.

"(g) PAYMENT RULES FOR PLANS.—

"(1) SUBROGATION RIGHTS.—Notwithstanding any other provision of law, the medicare drug benefit plan may, (in the case of the provision of covered outpatient drugs to an individual enrolled under this section for a drug for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, under no fault insurance, or under a primary plan (as defined in section 1862(b)(2)(A)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

(B) such enrollee to the extent that the enrollee has been paid under such law, plan, or policy for such services.

"(2) PROMPT PAYMENT REQUIREMENT.—

"(A) IN GENERAL.—A contract under this section shall require the medicare drug benefit plan to provide prompt payment (consistent with the provisions of section 1842(c)(4)) of claims submitted for covered outpatient drugs furnished to individuals pursuant to such contract, if the drugs are not furnished under a contract between the plan and the provider or supplier.

"(B) FAILURE.—In the case of a plan which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this section under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the plan under this section to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

"(h) DURATION, TERMINATION, EFFECTIVE DATE, AND TERMS OF CONTRACT; POWERS AND DUTIES OF SECRETARY.—

"(1) DURATION AND TERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(B) EXCEPTION.—The Secretary may terminate a contract at any time (after such reasonable notice and opportunity for hearing to the medicare drug benefit plan involved as the Secretary may provide in regulations), if the Secretary finds that the plan—

"(i) has failed substantially to carry out the contract,

"(ii) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

"(iii) no longer substantially complies with the requirements of this section.

"(2) EFFECTIVE DATE.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) TERMS.—Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by the Secretary—

"(i) shall have the right to inspect or otherwise evaluate—

"(I) the quality, appropriateness, and timeliness of drugs provided under the contract, and

"(II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the medicare drug benefit plan that pertain—

"(I) to the ability of the plan to bear the risk of potential financial losses, or

"(II) to drugs provided or determinations of amounts payable under the contract;

"(B) shall require the plan with a contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the plan;

"(C)(i) shall require the plan to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members);

"(ii) shall require the plan to provide and supply information determined appropriate by the Secretary in the manner determined appropriate by the Secretary; and

"(iii) shall require the plan to notify the Secretary of loans and other special financial arrangements which are made between the plan and subcontractors, affiliates, and related parties; and

"(D) shall contain such other terms and conditions not inconsistent with this section (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) PERIOD OF DISQUALIFICATION.—The Secretary may not enter into a contract with a medicare drug benefit plan if a previous contract with that plan under this section was terminated at the request of the plan within the preceding 5-year period or if the plan submits a bid under subsection (b)(2)(C) and does not enter into a contract, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) DISREGARD OF CERTAIN INCONSISTENT LAWS, ETC.—The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(6) FINDINGS OF FAILURE.—

"(A) IN GENERAL.—If the Secretary determines that medicare drug benefit plan with a contract under this section—

"(i) fails substantially to provide medically necessary covered outpatient drugs that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the plan whose medical condition or history indicates a need for substantial future covered outpatient drugs;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section;

"(vi) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services; the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in subparagraph (B).

"(B) REMEDIES.—The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the plan of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the plan under this section for individuals enrolled after the date the Secretary notifies the plan of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(i) OTHER GENERAL REQUIREMENTS ON PLANS.—

"(1) GRIEVANCE PROCEDURES.—Each medicare drug benefit plan with a contract under this section must provide meaningful procedures for hearing and resolving grievances between the plan (including any entity or individual through which the plan provides health care services) and individuals enrolled with the plan under this section.

"(2) APPEALS.—An individual enrolled with a medicare drug benefit plan under this section who is dissatisfied by reason of the individual's failure to receive any covered outpatient drug to which the individual believes the individual is entitled and at no greater charge than the individual believes the individual is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the plan a party. If the amount in controversy is $1,000 or more, the individual or plan shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the plan shall be entitled to be parties to that judicial review.

"(3) ADDITIONAL REQUIREMENTS.—Not later then January 1, 1998, the Secretary shall establish standards for additional requirements for medicare drug benefit plans with contracts under this section, that to the extent possible are consistent with the standards relating to eligible organizations that have entered into risk contracts under section 1876, and which provide that a medicare drug benefit plan—

"(A) must demonstrate financial solvency;

"(B) must demonstrate the ability to provide benefits to all potential enrollees throughout the State served by the plan;

"(C) must not engage in marketing or other practices designed to discourage or limit the issuance of a medicare outpatient drug coverage plan to any potential enrollee on the basis of health status, claims experience, medical history, or other factors that are generally related to utilization of covered outpatient drugs;

"(D) must inform individuals eligible to enroll with the plan about the plan only in accordance with procedures and conditions determined by the Secretary and may not distribute promotional or informational material unless—

"(i) at least 45 days before its distribution, the plan has submitted the material to the Secretary for review,

"(ii) the material is made available to all individuals eligible to enroll in the plan in the State served by the plan, and

"(iii) the Secretary has not disapproved the distribution of the material due to a determination that in the Secretary's discretion, the material is materially inaccurate or misleading or otherwise makes a material misrepresentation; and

"(E) must provide convenient access to pharmacies for individuals in each zip code region of the State taking into account the special needs of individuals who are enrolled in part B;

"(F) in addition to the access described in subparagraph (E), may provide enrollees with a mail-order pharmacy option;

"(G) may establish a formulary system (to be maintained throughout the 1-year contract period) which ensures that—

"(i) the formulary shall cover at least one covered outpatient drug in each therapeutic class of drugs representing a unique mechanism of action (as defined by the Secretary); and

"(ii) that any covered outpatient drug excluded by the formulary is subject to a prior authorization process in which the plan may not deny approval of any drug unless the plan complies with the process described in section 1834(d)(7)(C)(iii);

"(H) must disclose any special relationships or arrangements with drug manufacturers, including ownership arrangements, distribution arrangements, or alliances;

"(I) must have standards to assure the appropriate use of outpatient prescription medications, including a program of prospective and retrospective drug use review, consistent with standards under the drug use review program developed by the Secretary under section 1834(d)(7), including for any mail order services operated or used by the plan; and

"(J) is able to process claims for outpatient prescription drugs under the program through an on-line real time point of sale system, and has developed a process for processing out-of-area claims.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to contracts which became effective on or after January 1, 1999.

SEC. 2007. PAYMENT FOR COVERED OUTPATIENT DRUG BENEFIT UNDER MEDICARE CONTRACTS WITH HMOS AND CMPS.

(a) IN GENERAL.—In providing for payments for the covered outpatient drug benefit, as added by section 2001, to entities with risk contracts under section 1876 of the Social Security Act, the Secretary of Health and Human Services may base such payment on classes of enrollees or geographic factors that are different than the classes or geographic factors otherwise utilized for determining payment under such section.

(b) EFFECTIVE DATE.—This section shall apply to contracts entered into on or after January 1, 1999.

SEC. 2008. MAINTENANCE OF EFFORT.

(a) MAINTENANCE OF EFFORT WITH RESPECT TO PRESCRIPTION DRUGS.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) PRESCRIPTION DRUGS.—

"(i) IN GENERAL.—A group health plan may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current retirement status with an employer may be eligible to receive covered outpatient drug coverage under part B, except that this subparagraph shall not prohibit a plan from taking into account that an individual is eligible to receive covered outpatient drug coverage under part B on or after January 1, 2002. To the extent that the group health plan furnishes prescription drugs pursuant to a collectively bargained agreement, this subparagraph shall prohibit a plan from taking into account that an individual is eligible to receive covered outpatient drug coverage under part B for the greater of the period of the agreement or until January 1, 2002.

"(ii) CURRENT RETIREMENT STATUS.—An individual has 'current retirement status' with an employer if the individual no longer has current employment status due to the individual's retirement from such employment status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to group health plans offering prescription drug coverage on or after January 1, 1994.

Subtitle B—Home and Community-Based Services

PART 1—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 2101. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 2102(b) is entitled to payment in accordance with section 2108.

(b) ENTITLEMENT TO SERVICES.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this subtitle, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 2102. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XIX of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1998, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1998 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1994, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act during fiscal year 1994 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index which reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act.

(iv) Community supported living arrangements services under section 1930 of such Act.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), within the amounts provided by the State and under section 2108 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 2103(a)) in the State.

(C) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 2103(b)(1)) shall be conducted by a public agency.

(D) RESTRICTIONS.—The plan may not limit the eligibility of individuals with disabilities based on—

(i) income,

(ii) age,

(iii) residential setting (other than an institutional setting), or

(iv) other grounds specified by the Secretary.

(E) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XIX of the Social Security Act as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 2104, the plan shall specify—

(i) the services made available under the plan,

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities, and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities,

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding,

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions,

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A), and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than,

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements which the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 2105.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII; and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 2105 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 2106.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 2107(b), and

(B) include the documentation prepared by the group under section 2107(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XIX of the Social Security Act, titles V and XX of such Act, programs under the Older Americans Act of 1965, programs under the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Education Act, and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities, and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2004, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan, and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program, including procedures to assist any employees who may be displaced in exercising rights under section 3093.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days, and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1998, shall be effective as of January 1, 1998). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 2108(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 2108(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 2103. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this subtitle, the term 'individual with disabilities' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)), and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living,

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies, or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this subtitle, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3), and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 2104(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term 'activity of daily living' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 2104. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals), and

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(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all need services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The Secretary shall provide guidance to the States with regard to the appropriate qualifications for individuals who conduct comprehensive assessments.

(B) INDIVIDUALIZED PLAN OF CARE.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed. A plan of care under this subparagraph shall—

(i) specify which services included under the individual plan will be provided under the State plan under this subtitle,

(ii) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan,

(iii) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual, and

(iv) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in clause (ii). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified under the State plan),

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative), and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services, and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive devices, as defined in the Technology Related Assistance for Individuals with Disabilities Act.

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities, and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board,

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary, or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers,

(2) cash payments directly to individuals with disabilities,

(3) capitation payments to health plans, and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term 'personal assistance services' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, and cueing with activities of daily living, whether agency-administered or consumer-directed (as defined in paragraph (2)).

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term 'consumer-directed' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term 'agency-administered' means, with respect to such services, services that are not consumer-directed.

SEC. 2105. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level (referred to in paragraph (2)) applicable to a family of the size involved.

(2) OFFICIAL POVERTY LEVEL.—The term 'applicable poverty level' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 2106. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities,

(B) setting the minimum standards for agency providers and how such standards will be enforced,

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced,

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services,

(E) establishing a process to receive, investigate, and resolve allegations of neglect and/or abuse,

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services,

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities, and

(I) specifying the role of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 2109(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards which restrict the use or

disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1998, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances,

(B) be told how to complain to State and local authorities, and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 2107. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from the those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan,

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan,

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable,

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan,

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed, and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 2108. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 2102(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1998), from its allotment under section 2109(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 2109(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 2109(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2004, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term 'Federal home and community-based services matching percentage' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 2109. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1998 THROUGH 2004.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1998 through 2004 is the following:

(A) For fiscal year 1998, $1,800,000,000.

(B) For fiscal year 1999, $2,900,000,000.

(C) For fiscal year 2000, $3,600,000,000.

(D) For fiscal year 2001, $5,000,000,000.

(E) For fiscal year 2002, $7,900,000,000.

(F) For fiscal year 2003, $11,400,000,000.

(G) For fiscal year 2004, $15,400,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2004 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year, and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan but for the provision of similar services under the program under this subtitle. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2004), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2004), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1998 and ending with fiscal year 2004) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by the Secretary) that would have been made under part A of title XIX for home and community based services for disabled individuals but for the provision of similar services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year (specified in subsection (a)) to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary which takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 2105(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 2106(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1903(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 2110. FEDERAL EVALUATIONS.

(a) IN GENERAL.—Not later than December 31, 2003, December 31, 2006, and each December 31 thereafter, the Secretary shall provide to Congress analytical reports that evaluate—

(1) the extent to which individuals with low incomes and disabilities are equitably served;

(2) the adequacy and equity of service plans to individuals with similar levels of disability across States;

(3) the comparability of program participation across States, described by level and type of disability; and

(4) the ability of service providers to sufficiently meet the demand for services.

(b) GERIATRIC ASSESSMENTS.—Not later than 18 months after the date of enactment of this part, the Secretary shall report to Congress concerning the feasibility of providing reimbursement under health plans and other payers of health services for full geriatric assessment, when recommended by a physician.

PART 2—GRANTS RELATING TO THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS

SEC. 2111. INFORMATION AND TECHNICAL ASSISTANCE GRANTS RELATING TO DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to State and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term placement in nursing homes or other institutional settings.

(b) DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

"(a) DISSEMINATION OF INFORMATION.—The Secretary shall compile, evaluate, publish and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in need of long-term health care services, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

"(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to assist private and public agencies, including area agencies on aging, and organizations in developing and expanding programs and projects that facilitate the discharge of individuals in hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home and community-based settings.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

"(A)(i) a State agency as defined in section 102(43) of the Older Americans Act of 1965; or

"(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act; or

"(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

"(2) APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

"(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home and community-care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

"(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care provided in home and community-based settings rather than nursing homes or other institutional settings and undertaking the planning and management of individualized care plans to facilitate discharge into such settings;

"(C) assurances that nongovernmental case management agencies funded under grants awarded under this section are not direct providers of home and community-based services;

"(D) satisfactory assurances that adequate home and community-based long term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals or acute care facilities under the proposed program can be served in such home and community-based settings, with flexible, individualized care which reflects individual choice and preference;

"(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

"(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home and community-based long term care programs in order to provide satisfactory assurances that adequate home and community-based long term care services are available in the community to be served.

"(3) AWARDING OF GRANTS.—

"(A) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

"(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home and community-based case management and services to individuals in need of long term care with hospital discharge planning programs; and

"(ii) demonstrate that adequate home and community-based long-term care management and services are available, or will be made available to individuals being served under the program funded with amounts received under subsection (b).

"(B) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

"(i) are equitably distributed on a geographic basis;

"(ii) include projects operating in urban areas and projects operating in rural areas; and

"(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

"(C) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act to enable an applicant for a grant under subsection (b) to satisfy the assurance required under paragraph (1)(D).

"(4) USE OF GRANTS.—An entity that receives amounts under a grant under subsection (b) may use such amounts for planning, development and evaluation services and to provide reimbursements for the costs of one or more case managers to be located in or assigned to selected hospitals who would—

"(A) identify patients in need of individualized care in home and community-based long-term care;

"(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

"(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

"(5) DIRECT SERVICES SUBJECT TO REIMBURSEMENTS.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act.

"(6) LIMITATIONS.—

"(A) TERM.—Grants awarded under this section shall be for terms of less than 3 years.

"(B) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

"(C) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

"(d) EVALUATION AND REPORTS.—

"(1) BY GRANTEES.—An entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home and community-based long term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

"(2) BY SECRETARY.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1994 through 1996.".

Subtitle C—Long-Term Care Insurance Improvement and Accountability

SEC. 2200. SHORT TITLE.

This subtitle may be cited as the "Long-Term Care Insurance Improvement and Accountability Act".

PART 1—PROMULGATION OF STANDARDS AND MODEL BENEFITS

SEC. 2201. STANDARDS.

(a) APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, in consultation with the NAIC, shall develop and publish specific standards to implement the standards specified in this subtitle.

(2) STATE STANDARDS.—Nothing in this subtitle shall be construed as preventing a participating State from applying standards that provide greater protection to insured individuals under long-term care insurance policies than the standards promulgated under this subtitle, except that such State standards may not be inconsistent with any of the standards specified in this subtitle.

(b) DEADLINE FOR APPLICATION OF STANDARDS.—

(1) IN GENERAL.—Subject to paragraph (2), the date specified in this subsection for a State is—

(A) the date the State adopts the standards established under subsection (a)(1); or

(B) the date that is 1 year after the first day of the first regular legislative session that begins after the date such standards are first established under subsection (a)(2);

whichever is earlier.

(2) STATE REQUIRING LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(A) requiring State legislation (other than legislation appropriating funds) in order for the standards established under subsection (a) to be applied; but

(B) having a legislature which is not scheduled to meet within 1 year following the beginning of the next regular legislative session in which such legislation may be considered;

the date specified in this subsection is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1995. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) ITEMS INCLUDED IN STANDARDS.—The standards promulgated under subsection (a) shall include—

(1) minimum Federal standards for long-term care insurance consistent with the provisions of this subtitle;

(2) standards for the enhanced protection of consumers with long-term care insurance; and

(3) procedures for the modification of the standards established under paragraph (1) in a manner consistent with future laws to expand existing Federal or State long-term care benefits or establish a comprehensive Federal or State long-term care benefit program.

(d) CONSULTATION.—In establishing standards and models of benefits under this section, the Secretary shall, after consultation with representatives of carriers, consumer groups, and providers of long-term care services—

(1) recommend the appropriate inflationary index to be used with respect to the inflation protection benefit portion of the standards;

(2) recommend the uniform needs assessment mechanism to be used in determining the eligibility of individuals for benefits under a policy;

(3) recommend appropriate standards for the regulation of the insurance aspects of supported housing arrangements; and

(4) perform such other activities as determined appropriate by the Secretary.

PART 2—ESTABLISHMENT AND IMPLEMENTATION OF LONG-TERM CARE INSURANCE POLICY STANDARDS

SEC. 2211. IMPLEMENTATION OF POLICY STANDARDS.

(a) IN GENERAL.—

(1) REGULATORY PROGRAM.—No long-term care policy (as defined in section (2221)) may be issued, sold, or offered for sale as a long-term care insurance policy in a State on or after the date specified in section 2201(b) unless—

(A) the Secretary determines that the State has established a regulatory program that—

(i) provides for the application and enforcement of the standards established under section 2201(a); and

(ii) complies with the requirements of subsection (b);

by the date specified in section 2201(b), and the policy has been approved by the State commissioner or superintendent of insurance under such program; or

(B) if the State has not established such a program, or if the State's regulatory program has been decertified, the policy has been certified by the Secretary (in accordance with such procedures as the Secretary may establish) as meeting the standards established under section 2201(a) by the date specified in section 2201(b).

For purposes of this subsection, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

(2) Review of state regulatory programs.—The Secretary shall review regulatory programs described in paragraph (1)(A) at least biannually to determine if they continue to provide for the application and enforcement of the standards and procedures established under section 2201(a) and (b). If the Secretary determines that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under paragraph (1)(B) with respect to certifying policies in the State and shall exercise full authority under section 2201 for carriers, agents, or associations or its subsidiary in the State plans in the State.

(b) Additional Requirements for Approval of State Regulatory Programs.—For purposes of subsection (a)(1)(A)(ii), the requirements of this subsection for a State regulatory program are as follows:

(1) Enforcement.—The enforcement under the program—

(A) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards; and

(B) shall provide for notice in the annual report required under paragraph (5) to the Secretary of cases where such compliance is not secured within such 30-day period.

(2) Process.—The enforcement process under each State regulatory program shall provide for—

(A) procedures for individuals and entities to file written, signed complaints respecting alleged violations of the standards;

(B) responding to such complaints within 90 days;

(C) the investigation of—

(i) those complaints which have a reasonable probability of validity, and

(ii) such other alleged violations of the standards as the program finds appropriate; and

(D) the imposition of appropriate sanctions (which include, in appropriate cases, the imposition of a civil money penalty as provided for in section 2218) in the case of a carrier, agent, or association or its subsidiary determined to have violated the standards.

(3) Private actions.—An individual may commence a civil action in an appropriate State or United States district court to enforce the provisions of this title and may be awarded appropriate relief and reasonable attorney's fees.

(4) Consumer access to compliance information.—

(A) In general.—A State regulatory program shall provide for consumer access to complaints filed with the State commissioner or superintendent of insurance with respect to long-term care insurance policies.

(B) Confidentiality.—The access provided under subparagraph (A) shall be limited to the extent required to protect the confidentiality of the identity of individual policyholders.

(5) Process for approval of premiums.—

(A) In general.—Each State regulatory program shall—

(i) provide for a process for approving or disapproving proposed premium increases or decreases with respect to long-term care insurance policies; and

(ii) establish a policy for receipt and consideration of public comments before approving such a premium increase or decrease.

(B) Conditions for approval.—No premium increase shall be approved (or deemed approved) under subparagraph (A) unless the proposed increase is accompanied by an actuarial memorandum which—

(i) includes a description of the assumptions that justify the increase, including a financial report on expenditures;

(ii) contains such information as may be required under the Standards; and

(iii) is made available to the public.

(C) Application.—Except as provided in subparagraph (D), this paragraph shall not apply to a group long-term care insurance policy issued to a group described in section 4(E)(1) of the NAIC Long Term Care Insurance Model Act (effective January 1991), except that such group policy shall, pursuant to guidelines developed by the NAIC, provide notice to policyholders and certificate holders of any premium change under such group policy.

(D) Exception.—Subparagraph (C) shall not apply to—

(i) group conversion policies;

(ii) the group continuation feature of a group policy if the insurer separately rates employee and continuation coverages; and

(iii) group policies where the function of the employer is limited solely to collecting premiums (through payroll deductions or dues checkoff) and remitting them to the insurer.

(E) Construction.—Nothing in this paragraph shall be construed as preventing the Secretary, in consultation with the NAIC, from promulgating standards, or a State from enacting and enforcing laws, with respect to premium rates or loss ratios for all, including group, long-term care insurance policies.

(6) Annual reports.—Each State regulatory program shall provide for annual reports to be submitted to the Secretary on the implementation and enforcement of the standards in the State, including information concerning violations in excess of 30 days.

(7) Access to other information.—The State regulatory program shall provide for consumer access to actuarial memoranda, including financial information, provided under paragraph (4).

(8) Default.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the enforcement activities described in subsection (c).

(c) Secretarial Enforcement Authority.—

(1) In general.—The Secretary shall exercise authority under this section in the case of a State that does not have a regulatory program approved under this section.

(2) Complaints and investigations.—The Secretary shall establish procedures—

(A) for individuals and entities to file written, signed complaints respecting alleged violations of the requirements of this subtitle;

(B) for responding on a timely basis to such complaints; and

(C) for the investigation of—

(i) those complaints that have a reasonable probability of validity; and

(ii) such other alleged violations of the requirements of this subtitle as the Secretary determines to be appropriate.

In conducting investigations under this subsection, agents of the Secretary shall have reasonable access necessary to enable such agents to examine evidence of any carrier, agent, or association or its subsidiary being investigated.

(3) Hearings.—

(A) In general.—Prior to imposing an order described in paragraph (4) against a carrier, agent, or association or its subsidiary under this section for a violation of the requirements of this subtitle, the Secretary shall provide the carrier, agent, association or subsidiary with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary by regulation) of the date of the notice, a hearing respecting the violation.

(B) Conduct of hearing.—Any hearing requested under subparagraph (A) shall be conducted before an administrative law judge. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

(C) Authority in hearings.—In conducting hearings under this paragraph—

(i) agents of the Secretary and administrative law judges shall have reasonable access necessary to enable such agents and judges to examine evidence of any carrier, agent, or association or its subsidiary being investigated; and

(ii) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this subparagraph and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(D) Issuance of orders.—If an administrative law judge determines in a hearing under this paragraph, upon the preponderance of the evidence received, that a carrier, agent, or association or its subsidiary named in the complaint has violated the requirements of this subtitle, the administrative law judge shall state the findings of fact and issue and cause to be served on such carrier, agent, association, or subsidiary an order described in paragraph (4).

(4) Cease and desist order with civil money penalty.—

(A) In general.—Subject to the provisions of subparagraphs (B) through (F), an order under this paragraph—

(i) shall require the agent, association or its subsidiary, or a carrier—

(I) to cease and desist from such violations; and

(II) to pay a civil penalty in an amount not to exceed $15,000 in the case of each agent, and not to exceed $25,000 for each association or its subsidiary or a carrier for each such violation; and

(ii) may require the agent, association or its subsidiary, or a carrier to take such other remedial action as is appropriate.

(B) Corrections within 30 days.—No order shall be imposed under this paragraph by reason of any violation if the carrier, agent, or association or its subsidiary establishes to the satisfaction of the Secretary that—

(i) such violation was due to reasonable cause and was not intentional and was not due to willful neglect; and

(ii) such violation is corrected within the 30-day period beginning on the earliest date the carrier, agent, association, or subsidiary knew, or exercising reasonable diligence could have known, that such a violation was occurring.

(C) WAIVER BY SECRETARY.—In the case of a violation under this subtitle that is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed under subparagraph (A)(i)(II) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

(D) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge under this paragraph shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this paragraph.

(E) JUDICIAL REVIEW.—A carrier, agent, or association or its subsidiary or any other individual adversely affected by a final order issued under this paragraph may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(F) ENFORCEMENT OF ORDERS.—If a carrier, agent, or association or its subsidiary fails to comply with a final order issued under this paragraph against the carrier, agent, association or subsidiary after opportunity for judicial review under subparagraph (E), the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

SEC. 2212. REGULATION OF SALES PRACTICES.

(a) DUTY OF GOOD FAITH AND FAIR DEALING.—

(1) IN GENERAL.—Each agent (as defined in section 2233) or association that is selling or offering for sale a long-term care insurance policy has the duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

(2) POLICY REPLACEMENT FORM.—With respect to any individual who elects to replace or effect a change in a long-term care insurance policy, the individual that is selling such policy shall ensure that such individual completes a policy replacement form developed by the Secretary, in consultation with the NAIC. A copy of such form shall be provided to such individual and additional copies shall be delivered by the selling individual to the old policy issuer and the new issuer and kept on file for inspection by the State regulatory agency.

(3) PROHIBITED PRACTICES.—An agent or association is considered to have violated paragraph (1) if the agent or association engages in any of the following practices:

(A) TWISTING.—Knowingly making any misleading representation (including the inaccurate completion of medical histories) or incomplete or fraudulent comparison of any long-term care insurance policy or insurers for the purpose of inducing, or tending to induce, any individual to retain or effect a change with respect to a long-term care insurance policy.

(B) HIGH PRESSURE TACTICS.—Employing any method of marketing having the effect of, or intending to, induce the purchase of long-term care insurance policy through force, fright, threat or undue pressure, whether explicit or implicit.

(C) COLD LEAD ADVERTISING.—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

(D) OTHERS.—Engaging in such other practices determined inappropriate under guidelines issued by the Secretary, in consultation with the NAIC.

(b) FINANCIAL NEEDS STANDARDS.—The Secretary, in consultation with the NAIC, shall develop recommended minimum financial needs standards (including both income and asset criteria) for the purpose of advising individuals as to the costs and amounts of insurance needed when considering the purchase of a long-term care insurance policy.

(c) PROHIBITION OF SALE OR ISSUANCE TO MEDICAID BENEFICIARIES.—An agent, an association, or a carrier may not knowingly sell or issue a long-term care insurance policy to an individual who is eligible for medical assistance under title XIX of the Social Security Act.

(d) PROHIBITION OF SALE OR ISSUANCE OF DUPLICATE SERVICE BENEFIT POLICIES.—An agent, association or its subsidiary, or a carrier may not sell or issue a service-benefit long-term care insurance policy to an individual—

(1) knowing that the policy provides for coverage that duplicates coverage already provided in another service-benefit long-term care insurance policy held by such individual (unless the policy is intended to replace such other policy); or

(2) for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage—

(A) does not duplicate other coverage in effect under a service-benefit long-term care insurance policy; or

(B) will replace another service-benefit long-term care insurance policy.

In this subsection, the term "service-benefit long-term care insurance policy" means a long-term care insurance policy which provides for benefits based on the type and amount of services furnished.

(e) PROHIBITION BASED ON ELIGIBILITY FOR OTHER BENEFITS.—A carrier may not sell or issue a long-term care insurance policy that reduces, limits, or coordinates the benefits provided under the policy on the basis that the policyholder has or is eligible for other long-term care insurance coverage or benefits.

(f) PROVISION OF OUTLINE OF COVERAGE.—No agent, association or its subsidiary, or carrier may sell or offer for sale a long-term care insurance policy without providing to every individual purchaser or potential purchaser (or representative) an outline of coverage that complies with the standards established under section 2201(a).

(g) PENALTIES.—Any agent who sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, and, in addition, is subject to a civil money penalty of not to exceed $15,000 for each such violation. Any association or its subsidiary or carrier that sells, offers for sale, or issues a long-term care insurance policy in violation of this section may be fined in accordance with title 18, United States Code, and in addition, is subject to a civil money penalty of not to exceed $25,000 for each violation. Nothing in this subsection shall be construed as preempting or otherwise limiting the penalties that may be imposed by a State for conduct that violates this section.

(h) AGENT TRAINING AND CERTIFICATION REQUIREMENTS.—The Secretary, in consultation with the NAIC, shall establish requirements for long-term care insurance agent training and certification that—

(1) specify requirements for training insurance agents who desire to sell or offer for sale long-term care insurance policies; and

(2) specify procedures for certifying and recertifying agents who have completed such training and who are qualified to sell or offer for sale long-term care insurance policies.

SEC. 2213. ADDITIONAL RESPONSIBILITIES FOR CARRIERS.

(a) REFUND OF PREMIUMS.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is denied or an applicant returns a policy or certificate within 30 days of the date of its issuance pursuant to subsection 2217, the carrier shall, not later than 30 days after the date of the denial or return, refund directly to the applicant, or in the case of an employer to whomever remits the premium, any premiums paid with respect to such a policy (or certificate). Any such refund shall not be made by delivery by the carrier.

(b) MAILING OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the carrier shall provide each individual applicant the policy (or certificate) of insurance and outline of coverage not later than 30 days after the date of the approval.

(c) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the carrier shall, within 15 days of the date of a written request by the policyholder or certificate holder (or representative)—

(1) provide a written explanation of the reasons for the denial;

(2) make available all medical and patient records directly relating to such denial; and

(3) provide a written explanation of the manner in which to appeal the denial.

Except as provided in subsection (e) of section 2215, no claim under such a policy may be denied on the basis of a failure to disclose a condition at the time of issuance of the policy if the application for the policy failed to request information respecting the condition.

(d) REPORTING OF INFORMATION.—A carrier that issues one or more long-term care insurance policies shall periodically (not less often than annually) report, in a form and in a manner determined by the Secretary, in consultation with the NAIC, to the Commissioner, superintendent or director of insurance of each State in which the policy is delivered, and shall make available to the Secretary, upon request, information in a form and manner determined by the Secretary, in consultation with the NAIC, concerning—

(1) the long-term care insurance policies of the carrier that are in force;

(2) the most recent premiums for such policies and the premiums imposed for such policies since their initial issuance;

(3) the lapse rate, replacement rate, and rescission rates by policy;

(4) the names of that 10 percent of its agents that—

(A) have the greatest lapse and replacement rate; and

(B) have produced at least $50,000 of long-term care insurance sales in the previous year; and

(5) the claims denied (expressed as a number and as a percentage of claims submitted) by policy.

Information required under this subsection shall be reported in a format specified in the standards established under section 2201(a).

For purposes of paragraph (3), there shall be included (but reported separately) data concerning lapses due to the death of the policyholder. For purposes of paragraph (4), there shall not be included as a claim any claim that is denied solely because of the failure to meet a deductible, waiting period, or exclusionary period.

(e) STANDARDS ON COMPENSATION FOR SALE OF POLICIES.—

(1) IN GENERAL.—Until the Secretary, in consultation with the NAIC, promulgates mandatory standards concerning compensation for the sale of long-term care policies, a carrier that issues one or more long-term care insurance policies may provide a commission or other compensation to an agent or other representative for the sale of such a policy only if the first year commission or other first year compensation to be paid does not exceed—

(A) 200 percent of the commission or other compensation paid for selling or servicing the policy in the second year, or

(B) 50 percent of the premium paid on the first year policy.

(2) SUBSEQUENT YEARS.—The commission or other compensation provided for the sale of long-term care policies to an individual during each of the years during the 5-year period subsequent to the first year of the policy shall be the same as that provided in the second subsequent year.

(3) LIMITATION.—No carrier shall provide compensation to its agents for the sale of a long-term care policy which replaces an existing policy, and no agent shall receive compensation for such sale greater than the renewal compensation payable by the replacing carrier on renewal policies.

(4) COMPENSATION DEFINED.—As used in this subsection, the term "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy, including, but not limited to, deferred compensation, bonuses, gifts, prizes, awards, and finders fees.

SEC. 2214. RENEWABILITY STANDARDS FOR ISSUANCE, AND BASIC FOR CANCELLATION OF POLICIES.

(a) IN GENERAL.—No long-term care insurance policy may be canceled or nonrenewed for any reason other than nonpayment of premium, material misrepresentation, or fraud.

(b) CONTINUATION AND CONVERSION RIGHTS FOR GROUP POLICIES.—

(1) IN GENERAL.—Each group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this subsection.

(2) BASIS FOR CONTINUATION.—For purposes of paragraph (1), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premiums when due. A group policy which restricts provision of benefits and services to, or contains incentives to use certain providers or facility, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

(3) BASIS FOR CONVERSION.—For purposes of paragraph (1), a policy provides a basis for conversion of coverage if the policy entitles each individual—

(A) whose coverage under the group policy would otherwise be terminated for any reason; and

(B) who has been continuously insured under the policy (or group policy which was replaced) for at least 6 months before the date of the termination;

to issuance of a policy providing benefits not less than, substantially equivalent to, or in excess of, those of the policy being terminated, without evidence of insurability.

(4) TREATMENT OF SUBSTANTIAL EQUIVALENCE.—In determining under this subsection whether benefits are substantially equivalent, consideration should be given to the difference between managed care and non-managed care plans.

(5) GROUP REPLACEMENT OF POLICIES.—If a group long-term care insurance policy is replaced by another long-term care insurance policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all individuals covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(c) STANDARDS FOR ISSUANCE.—

(1) IN GENERAL.—

(A) GUARANTEE.—An agent, association or carrier that sells or issues long-term care insurance policies shall guarantee that such policies shall be sold or issued to an individual, or eligible individual in the case of a group plan, if such individual meets the minimum medical underwriting requirements of such policy.

(B) PREMIUM FOR CONVERTED POLICY.—If a group policy from which conversion is made is a replacement for a previous group policy, the premium for the converted policy shall be calculated on the basis of the insured's age at the inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(2) UPGRADE FOR CURRENT POLICIES.—The Secretary, in consultation with the NAIC, shall establish standards, including those providing guidance on medical underwriting and age rating, with respect to the access of individuals to policies offering upgraded benefits.

(3) RATE STABILIZATION.—The Secretary, in consultation with the NAIC, shall establish standards for premium rate stabilization.

(d) EFFECT OF INCAPACITATION.—

(1) IN GENERAL.—

(A) PROHIBITION.—Except as provided in paragraph (2), a long-term care insurance policy in effect as of the effective date of the standards established under section 2201(a) may not be canceled for nonpayment if the policy holder is determined by a long-term care provider, physician, or other health care provider (independent of the issuer of the policy), to be cognitively or mentally incapacitated so as to not make payments in a timely manner.

(B) REINSTATEMENT.—A long-term care policy shall include a provision that provides for the reinstatement of such coverage, in the event of lapse, if the insurer is provided with proof of cognitive or mental incapacitation. Such reinstatement option shall remain available for a period of not less than 5 months after termination and shall allow for the collection of past due premium.

(2) PERMITTED CANCELLATION.—A long-term care insurance policy may be canceled under paragraph (1) for nonpayment if—

(A) the period of such nonpayment is in excess of 30 days; and

(B) notice of intent to cancel is provided to the policyholder or designated representative of the policy holder not less than 30 days prior to such cancellation, except that notice may not be provided until the expiration of 30 days after a premium is due and unpaid.

Notice under this paragraph shall be deemed to have been given as of 5 days after the mailing date.

SEC. 2215. BENEFIT STANDARDS.

(a) USE OF STANDARD DEFINITIONS AND TERMINOLOGY, UNIFORM FORMAT, AND STANDARD BENEFITS.—Pursuant to standards established under section 2201(a), each long-term care insurance policy shall, with respect to services, providers or facilities—

(1) use uniform language and definitions, except that such language and definitions may take into account the differences between States with respect to definitions and terminology used for long-term care services and providers; and

(2) use a uniform format for presenting the outline of coverage under such a policy;

as prescribed under guidelines issued by the Secretary, in consultation with the NAIC, and periodically updated.

(b) DISCLOSURE.—

(1) OUTLINE OF COVERAGE.—

(A) REQUIREMENT.—Each carrier that sells or offers for sale a long-term care insurance policy shall provide an outline of coverage to each individual policyholder under such policy that meets the applicable standards established pursuant to section 2201(a), complies with the requirements of subparagraph (B), and is in a uniform format as prescribed in guidelines issued by the Secretary, in consultation with the NAIC, and periodically updated.

(B) CONTENTS.—The outline of coverage for each long-term care policy shall substantially and accurately reflect the contents of the policy or the master policy and shall include at least the following:

(i) A description of the benefits and coverage under the policy.

(ii) A statement of the exclusions, reductions, and limitations contained in the policy.

(iii) A statement of the terms under which the policy (or certificate) may be continued in force or discontinued, the terms for continuation or conversion, and any reservation in the policy of a right to change premiums.

(iv) Consumer protection information, including the manner in which to file a claim and to register complaints.

(v) A statement, in bold face type on the face of the document in language that is understandable to an average individual, that the outline of coverage is a summary only and not a contract of insurance, and that the policy (or master policy) contains the contractual provisions that govern.

(vi) A description of the terms, specified in section 2217, under which a policy or certificate may be returned and premium refunded.

(vii) Information on—

(I) national average costs for nursing facility and home health care and information (in graph form) on the relationship of the value of the benefits provided under the policy to such national average costs and State average costs; and

(II) other public and private long-term care insurance products and long-term care programs were made available by the Federal Government or by a State government.

(viii) A statement of the percentage limit on annual premium increases that is provided under the policy pursuant to this section.

(2) CERTIFICATES.—A certificate issued pursuant to a group long-term care insurance policy shall include—

(A) a description of the principal benefits and coverage provided in the policy;

(B) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

(C) a statement that the group master policy determines governing contractual provisions.

(3) LONG-TERM CARE AS PART OF LIFE INSURANCE.—In the case of a long-term care insurance policy issued as a part of, or a rider on, a life insurance policy, at the time of policy delivery there shall be provided a policy summary that includes—

(A) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

(B) an illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits (if any) for each covered individual; and

(C) any exclusions, reductions, and limitations on benefits of long-term care.

(4) ADDITIONAL INFORMATION.—The Secretary, in consultation with the NAIC shall develop recommendations with respect to informing consumers of the long-term economic viability of carriers issuing long-term care insurance policies.

(c) LIMITING CONDITIONS ON BENEFITS; MINIMUM BENEFITS.—

(1) IN GENERAL.—A long-term care insurance policy may not condition or limit eligibility—

(A) for benefits for a type of services to the need for or receipt of any other services;

(B) for any benefit on the medical necessity for such benefit;

(C) for benefits furnished by licensed or certified providers in compliance with conditions which are in addition to those required for licensure or certification under State law, or if no State licensure or certification laws exists, developed by the Secretary, in consultation with the NAIC; or

(D) for residential care (if covered under the policy) only—

(i) to care provided in facilities which provide a higher level of care; or

(ii) to care provided in facilities which provide for 24-hour or other nursing care not required in order to be licensed by the State.

(2) HOME HEALTH CARE OR COMMUNITY-BASED SERVICES.—If a long-term care insurance policy provides benefits for the payment of specified home health care or community-based services, the policy—

(A) may not limit such benefits to services provided by registered nurses or licensed practical nurses;

(B) may not require benefits for such services to be provided by a nurse or therapist that can be provided by a home health aide or a home care worker who is licensed or certified under State licensure or certification laws, or if no such laws exist, who is in compliance with qualifications developed by the Secretary, in consultation with the NAIC;

(C) may not limit such benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act; and

(D) shall provide, at a minimum—

(i) benefits for personal care services (including home health aide and home care worker services as defined by the Secretary, in consultation with the NAIC), home health services, adult day care, and respite care in an individual's home or in another setting in the community; or

(ii) any of such benefits on a respite care basis.

(3) NURSING FACILITY SERVICES.—If a long-term care policy provides benefits for the payment of specified nursing facility services, the policy shall provide such benefits with respect to all nursing facilities in the State. Except as provided by the Secretary, in consultation with the NAIC, under uniform language and definitions established under section 2215(a)(1)), the term 'nursing facilities' has the meaning given such term by section 1919(a) of the Social Security Act.

(4) PER DIEM POLICIES.—

(A) DEFINITION.—For purposes of this subtitle, the term "per diem long-term care insurance policy" means a long-term care insurance policy (or certificate under a group long-term care insurance policy) that provides for benefit payments on a periodic basis due to cognitive impairment or loss of functional capacity without regard to the expenses incurred or services rendered during the period to which the payments relate.

(B) LIMITATION.—No per diem long-term care insurance policy (or certificate) may condition, limit or otherwise exclude benefit payments based on the receipt of any type services from any type providers of long-term care service providers.

(d) PROHIBITION OF DISCRIMINATION.—A long-term care insurance policy may not, with respect to benefits under the policy, treat an individual with Alzheimer's disease, with any related progressive degenerative dementia of an organic origin, with any organic or inorganic mental illness, or with mental retardation or any other cognitive or mental impairment, differently from an individual having a functional impairment for which such benefits may be made available.

(e) LIMITATION ON USE OF PREEXISTING CONDITION LIMITS.—

(1) INITIAL ISSUANCE.—

(A) IN GENERAL.—Subject to subparagraph (B), a long-term care insurance policy may not exclude or condition benefits based on a medical condition for which the policyholder received treatment or was otherwise diagnosed before the issuance of the policy.

(B) 6-MONTH LIMIT.—A long-term care policy or certificate issued under this subtitle may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the policy or certificate with respect to an individual if—

(i) a condition that was diagnosed or treated during the 6-month period ending on the day before the first date of coverage under the policy or certificate; and

(ii) the limitation or exclusion extends for a period not more than 6 months after the date of coverage under the policy or certificate.

(2) REPLACEMENT POLICIES.—If a long-term care insurance policy replaces another long-term care insurance policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new policy for similar benefits to the extent such time was spent under the original policy.

(f) ELIGIBILITY FOR BENEFITS.—

(1) LONG-TERM CARE POLICIES.—Each long-term care insurance policy shall—

(A) describe the level of benefits available under the policy; and

(B) specify in clear, understandable terms, the level (or levels) of physical, cognitive, or mental impairment required in order to receive benefits under the policy.

(2) FUNCTIONAL ASSESSMENT.—In order to submit a claim under any long-term care insurance policy, each claimant shall have a professional functional assessment of his or her functional or cognitive abilities. Such initial assessment shall be conducted by an individual or entity, meeting the qualifications established by the Secretary, in consultation with the NAIC, to assure the professional competence and credibility of such individual or entity and that such individual meets any applicable State licensure and certification requirements. The individual or entity conducting such assessment may not control, or be controlled by, the issuer of the policy.

(3) CLAIMS REVIEW.—Except as provided in paragraph (4), each long-term care insurance policy shall be subject to final claims review by the carrier pursuant to the terms of the long-term care insurance policy.

(4) APPEALS PROCESS.—

(A) IN GENERAL.—Each long-term care insurance policy shall provide for a timely and independent appeals process, meeting standards established by the Secretary, in consultation with the NAIC, for individuals who dispute the results of the claims review conducted under paragraph (3) or the policyholder's functional assessment conducted under paragraph (2).

(B) INDEPENDENT ASSESSMENT.—An appeals process under this paragraph shall include, at the request of the claimant, an independent assessment of the claimant's functional or cognitive abilities.

(C) CONDUCT.—An independent assessment under subparagraph (B) shall be conducted by an individual or entity meeting the qualifications established by the Secretary, in consultation with the NAIC, to assure the professional competence and credibility of such individual or entity and any applicable State licensure and certification requirements and may not be conducted—

(i) by an individual who has a direct or indirect significant or controlling interest in, or direct affiliation or relationship with, the issuer of the policy;

(ii) by an entity that provides services to the policyholder or certificate holder for which benefits are available under the long-term care insurance policy; or

(iii) by an individual or entity in control of, or controlled by, the issuer of the policy.

(5) STANDARD ASSESSMENTS.—Not later than 2 years after the date of enactment of this subtitle, the advisory committee established under section 2201(d) shall recommend uniform needs assessment mechanisms for the determination of eligibility for benefits under such assessments.

(6) CONTROL DEFINED.—For purposes of paragraphs (2) and (4), the term "control" means the direct or indirect possession of the power to direct the management and policies of a person. Control is presumed to exist, if any person directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing at least 10 percent of the voting securities of another person.

(g) INFLATION PROTECTION.—

(1) OPTION TO PURCHASE.—A carrier may not offer a long-term care insurance policy unless the carrier also offers to the proposed policyholder, including each group policyholder, the option to purchase a long-term care insurance policy that provides for increases in benefit levels, with benefit maximums or reasonable durations that are meaningful, to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. A carrier may not offer to a policyholder an inflation protection feature that is less favorable to the policyholder than one of the following:

(A) With respect to policies that provide for automatic periodic increases in benefits, the policy provides for an annual increase in benefits in a manner so that such increases are computed annually at a rate of not less than 5 percent.

(B) With respect to policies that provide for periodic opportunities to elect an increase in benefits, the policy guarantees that the insured individual will have the right to periodically increase the benefit levels under the policy without providing evidence of insurability or health status so long as the option for the previous period was not declined. The amount of any such additional benefit may not be less than the difference between—

(i) the existing policy benefit; and

(ii) such existing benefit compounded annually at a rate of at least 5 percent for the period beginning on the date on which the existing benefit is purchased and extending until the year in which the offer of increase is made.

(C) With respect to service benefit policies, the policy covers a specified percentage of the actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) EXCEPTION.—The requirements of paragraph (1) shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

(3) REQUIRED INFORMATION.—Carriers shall include the following information in or together with the outline of coverage provided under this subtitle:

(A) A comparison (shown as a graph) of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. Such comparison shall show benefit levels over not less than a 20-year period.

(B) Any expected premium increases or additional premiums required to pay for any automatic or optional benefit increases, whether the individual who purchases the policy obtains the inflation protection initially or whether such individual delays purchasing such protection until a future time.

(4) CONTINUATION OF PROTECTION.—Benefit increases under a policy described in paragraph (1) shall continue without regard to an insured's age, claim status or claim history, or the length of time the individual has been insured under the policy.

(5) CONSTANT PREMIUM.—A policy described in paragraph (1) that provides for automatic benefit increases shall include an offer of a premium that the carrier expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(6) REJECTION.—Inflation protection under this subsection shall be included in a long-term care insurance policy unless a carrier obtains a written rejection of such protection signed by the policyholder.

SEC. 2216. NONFORFEITURE.

(a) IN GENERAL.—Each long-term care insurance policy (or certificate) shall provide that if the policy lapses after the policy has been in effect for a minimum period (specified under the standards under section 2201(a)), the policy will provide, without payment of any additional premiums, nonforfeiture benefits as determined appropriate by the Secretary, in consultation with the NAIC.

(b) ESTABLISHMENT OF STANDARDS.—The standards under section 2201(a) shall provide that the percentage or amount of benefits under subsection (a) shall increase based upon the policyholder's equity in the policy.

SEC. 2217. LIMIT OF PERIOD OF CONTESTABILITY AND RIGHT TO RETURN.

(a) CONTESTABILITY.—A carrier may not cancel or renew a long-term care insurance policy or deny a claim under the policy based on fraud or intentional misrepresentation relating to the issuance of the policy unless notice of such fraud or misrepresentation is provided within a time period to be determined by the Secretary, in consultation with the NAIC.

(b) RIGHT TO RETURN.—Each applicant for a long-term care insurance policy shall have the right to return the policy (or certificates) within 30 days of the date of its delivery (and to have the premium refunded) if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

SEC. 2218. CIVIL MONEY PENALTY.

(a) CARRIER.—Any carrier, association or its subsidiary that sells or offers for sale a long-term care insurance policy and that—

(1) fails to make a refund in accordance with section 2213(a);

(2) fails to transmit a policy in accordance with section 2213(b);

(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2213;

(4) provides a commission or compensation in violation of section 2213(e);

(5) fails to provide an outline of coverage in violation of section 2215(b)(1); or

(6) issues a policy without obtaining certain information in violation of section 2215(f);

is subject to a civil money penalty of not to exceed $25,000 for each such violation.

(b) AGENTS.—Any agent that sells or offers for sale a long-term care insurance policy and that—

(1) fails to make a refund in accordance with section 2213(a);

(2) fails to transmit a policy in accordance with section 2213(b);

(3) fails to provide, make available, or report information in accordance with subsections (c) or (d) of section 2213;

(4) fails to provide an outline of coverage in violation of section 2215(b)(1); or

(5) issues a policy without obtaining certain information in violation of section 2215(f);

is subject to a civil money penalty of not to exceed $15,000 for each such violation.

(c) EFFECT ON STATE LAW.—Nothing in this section shall be construed as preempting or otherwise limiting the penalties that may be imposed by a State for the types of conduct described in this section.

PART 3—LONG-TERM CARE INSURANCE POLICIES, DEFINITION AND ENDORSEMENTS

SEC. 2221. LONG-TERM CARE INSURANCE POLICY DEFINED.

(a) IN GENERAL.—As used in this section, the term "long-term care insurance policy" means any insurance policy, rider or certificate advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered individual on an expense incurred, indemnity prepaid or other basis, for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes—

(1) group and individual annuities and life insurance policies, riders or certificates that provide directly, or that supplement long-term care insurance; and

(2) a policy, rider or certificates that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

(b) ISSUANCE.—Long-term care insurance policies may be issued by—

(1) carriers;

(2) fraternal benefit societies;

(3) nonprofit health, hospital, and medical service corporations;

(4) prepaid health plans;

(5) health maintenance organizations; or

(6) any similar organization to the extent they are otherwise authorized to issue life or health insurance.

(c) POLICIES EXCLUDED.—The term "long-term care insurance policy" shall not include any insurance policy, rider or certificate that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With respect to life insurance, such term shall not include life insurance policies, riders or certificates—

(1) that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement,

(2) that provide the option of a lump-sum payment for those benefits, or

(3) with respect to which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

(d) APPLICATIONS.—Notwithstanding any other provision of this subtitle, this subtitle shall apply to any product advertised, marketed or offered as a long-term insurance policy, rider or certificate.

SEC. 2222. CODE OF CONDUCT WITH RESPECT TO ENDORSEMENTS.

Not later than 1 year after the date of enactment of this subtitle, the Secretary, in consultation with the NAIC, shall issue guidelines that shall apply to organizations and associations (other than employers and labor organizations that do not accept compensation) that provide endorsements of long-term care insurance policies, or that permit such policies to be offered for sale through the organization or association. Such guidelines shall include at minimum the following:

(1) In endorsing or selling long-term care insurance policies, the primary responsibility of an organization or association shall be to educate their members concerning such policies and assist such members in making informed decisions. Such organizations and associations may not function primarily as sales agents for insurance companies.

(2) Organizations and associations shall provide objective information regarding long-term care insurance policies sold or endorsed by such organizations and associations to ensure that members of such organizations and associations have a balanced and complete understanding of both the strengths and weaknesses of the policies that are being endorsed or sold.

(3) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the manner in which such policies and the insurance company issuing such policies were selected. If the organization or association and the insurance company have interlocking directorates, the organization

or association shall disclose such fact to their members.

(4) Organizations and associations selling or endorsing long-term care insurance policies shall disclose in marketing literature provided to their members concerning such policies the nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support that the organization or association receives) from the endorsement or sale of the policy to its members.

(5) The Boards of Directors of organizations and associations selling or endorsing long-term care insurance policies, if such organizations and associations have a Board of Directors, shall review and approve such insurance policies, the compensation arrangements and the marketing materials used to promote sales of such policies.

Subtitle D—Life Care

SEC. 2301. SHORT TITLE.

This title may be cited as the "Life Care Act".

SEC. 2302. LIFE CARE: PUBLIC INSURANCE PROGRAM FOR NURSING HOME CARE.

The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XXVII—LIFE CARE: PUBLIC INSURANCE PROGRAM FOR NURSING HOME CARE

"SEC. 2701. ESTABLISHMENT OF VOLUNTARY LONG-TERM CARE INSURANCE PROGRAM.

"The Secretary shall establish a voluntary insurance program for individuals 35 years of age and over to cover the nursing home stays of such individuals. The Secretary shall establish a process for enrollment in the Life Care program.

"SEC. 2702. BENEFITS.

"(a) IN GENERAL.—

"(1) ENTITLEMENT TO BENEFITS.—An individual who is eligible for benefits under this program pursuant to section 2703 shall be entitled to coverage in accordance with subsection (c) for necessary services described in subsection (b) that are provided to the individual by a nursing facility while the individual is an inpatient of the facility.

"(2) NONFORFEITURE.—The Secretary shall establish standards to ensure the nonforfeiture of benefits for which premiums have been paid.

"(b) TYPES.—Coverage may be provided under this part for—

"(1) nursing care provided by or under the supervision of a registered professional nurse;

"(2) physical, occupational, or speech therapy furnished by a facility or by others under arrangements with a facility;

"(3) medical social work services;

"(4) drug, biological, supply, appliance, and equipment for use in the facility, that is ordinarily furnished by the facility for the care and treatment of an inpatient;

"(5) such other services necessary to the functioning of a patient, including personal care and assistance with activities of daily living, as are generally provided by a nursing home facility; and

"(6) with respect to the initial 6 months of covered residence in a nursing facility, such room and board costs as are not covered by beneficiary copayment.

"(c) COVERAGE.—

"(1) IN GENERAL.—An individual eligible for benefits under this program shall be entitled, subject to subsection (d), to have payments made, for services described in subsection (b), up to an amount (based on the election made by the individual equal to $30,000, $60,000, or $90,000 (or to such greater amount as adjusted by the Secretary to reflect increases in the Consumer Price Index for fiscal years after fiscal year 1995); and

"(2) to asset protection in accordance with section 2708.

"(d) WAITING PERIOD.—

"(1) COVERAGE PURCHASED DURING INITIAL PERIOD.—BENEFITS UNDER INDIVIDUAL COVERAGE PURCHASED UNDER THIS PART DURING THE INITIAL PERIOD SPECIFIED IN SECTION 2703A(A)(2) SHALL BE UNAVAILABLE DURING THE 3-YEAR PERIOD FOLLOWING THE DATE OF SUCH PURCHASE, EXCEPT AS PROVIDED IN PARAGRAPH (3).

"(2) ALL OTHER COVERAGE.—In the case of individual coverage under this part purchased after the initial bperiod specified in section 2703A(a)(2), the Secretary may provide for a waiting period (of not longer than 3 years) after such purchase during which covered benefits are unavailable, if necessary to ensure the affordability or actuarial soundness of such coverage or to prevent adverse selection among purchasers.

"(3) SECRETARY'S DISCRETION TO SHORTEN WAITING PERIOD.—The Secretary may reduce or eliminate any waiting established under this subsection if the Secretary determines that such reduction or elimination will not adversely affect the actuarial soundness of coverage under this part.

"(e) PAYMENT.—Amounts provided under this part with respect to an eligible individual for the services described in subsection (b) shall be paid from the general fund of the Treasury of the United States.

"(f) RESIDENTIAL CARE FACILITIES.—The Secretary shall consider the feasibility of making payments under this part for services delivered in residential care facilities. Not later than 2 years after the date of enactment of this Act, the Secretary shall report its findings to the Congress with respect to the feasibility of making such payments.

"SEC. 2703. ELIGIBILITY.

"(a) IN GENERAL.—An individual who is a legal resident of the United States and has purchased coverage under this part in accordance with section 2703A shall be eligible for benefits under this part if—

"(1) the individual has been determined by a Screening Agency through a screening process (conducted in accordance with section 2707)—

"(A) to require hands-on or stanby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living; or

"(B)(i) to have achieved a score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, that indicates either severe cognitive impairment or sever mental impairment, or both; and

"(ii)(I) to require handson or standby assistance, supervision, or cueing with at least one activity of daily living or with at least such instrumental activity of daily living or with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary Specifies; or

"(II) to display symptoms of one or more seriours behavioral problems (that is on a list is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

"(C) to require such assistance, supervision, or cueing over a period of at least 90 days; and

"(2) an application for such benefits has been filed—

"(A) by such individual, or

"(B) on behalf or such individual by the individual's legal guardian (or representative, in the case of an individual who is cognitively impaird.

"(C) PUBLIC EDUCATION.—In the 12 months preceding the initial enrollment period, the Secretary shall, either directly or through grants and contracts, conduct a public service and education campaign designed to inform potentially eligible individuals as to the nature of the benefits and the limited enrollment period. In conducting such campaigns the Secretary shall make information available to individuals through the open enrollment process for obtaining health care benefits under this Act.

"SEC. 2703A. PURCHASE OF COVERAGE.

"(a) PERIOD OF AVAILABILITY.—

"(1) IN GENERAL.—An individual may purchase coverage under this part, subject to subsection (b), when the individual is within 6 months of the individual's 35th, 45th, 55th, or 65th birthday.

"(2) INITIAL PERIOD.—Any individual aged 35 or older may purchase coverage under this part, subject to subsection (b)—

"(A) during the 1-year period beginning on the date of publication of final regulations implementing this part; or

"(B) in the case of such an individual who at no time during such 1-year period is eligible, for at least 60 consecutive days, during the subsequent 1-year period.

"(b) COVERAGE NOT AVAILABLE TO INSTITUTIONALIZED INDIVIDUALS.—An individual shall not be eligible to purchase coverage under this part—

"(1) while an inpatient in a hospital or nursing home;

"(2) within the 6-month period after the individual's discharge from a nursing home; or

"(3) within the 90-day period after the individual's discharge from a hospital.

"(c) PUBLIC EDUCATION.—In the 12 months preceding the initial enrollment period, the Secretary shall, either directly or through grants and contracts, conduct a public service and education campaign designed to inform potentially eligible individuals as to the nature of the benefits and the limited enrollment period. In conducting such campaigns the Secretary shall make information available to individuals through the open enrollment process for obtaining health care benefits under this Act.

"SEC. 2704. PREMIUM RATES.

"(a) ESTABLISHMENT OF RATES.—The Secretary shall determine one actuarially fair, age-rated premium for the initial year of coverage under this part for each of the following age groups;

"(1) for individuals who initially purchase such coverage, after the initial period specified in section 2703A(a)(2), at ages 35, 45, 55, and 65; and

"(2) for individuals in each one-year age group for ages 35 and higher who initially purchase such coverage during such initial period.

"(b) REVISION.—The Secretary shall revise premium rates annually to increase such rates to reflect the amount of the increase in the cost of living adjustment with respect to benefits under title II of the Social Security Act.

"(c) RATES.—In developing premium rates under the program established under this part, the Secretary shall establish rates that are expected to cover 100 percent of the reimbursement amount provided under this part for nursing home stays for those individuals enrolled in the program.

"(d) WAIVER.—An individual electing to purchase coverage under this part shall not be required to pay premiums during any period in which such individual is receiving benefits under this part.

"(e) PAYMENT.—Premiums shall be paid under this section into the general fund of the Treasury of the United States.

"SEC. 2705. QUALIFIED SERVICE PROVIDERS.

"(a) IN GENERAL.—To be considered as a covered nursing home service under this part, such service must have been provided by a qualified service provider.

"(b) TYPES.—A provider shall be considered a qualified service provider under this part if the provider is a nursing facility that is certified by the State and meets the requirements of this part and any other standards established by the Secretary by regulation for the safe and efficient provision of services covered under this part.

"SEC. 2706. REIMBURSEMENT.

"(a) AMOUNT.—Monthly reimbursement for nursing facility services under this part shall equal 65 percent (or during the initial 6 months of coverage, 80 percent) of the amount the Secretary determines to be reasonable and appropriate to cover the cost of care provided under this part.

"(b) PROSPECTIVE PAYMENT.—To the extent feasible, the Secretary shall establish a prospective payment mechanism for payment for nursing home services under this part that takes into account the expected resource utilization of individual patients based on their degree of disability, the methodology recommended for reimbursement of skilled nursing facilities under title XVIII of the Social Security Act, and other factors determining service requirements.

"(c) ROOM AND BOARD PAYMENT.—An individual receiving benefits under this program shall be responsible for the payment of an amount for room and board that is equal to—

"(1) with respect to the initial 6 months of residence in a nursing facility, 20 percent of the average per diem rate paid by the Secretary to nursing facilities receiving reimbursement under this part; and

"(2) with respect to subsequent periods of residence, 35 percent of the average per diem rate paid by the Secretary to nursing facilities receiving reimbursement under this part. Payments under subsection (a) and (c) shall be considered payment in full for services received under this section.

"(d) PRIORITY PAYERS.—Notwithstanding any other provision of this part, reimbursement for nursing facility services provided under this part to an individual shall, to the extent available, be made under the Medicare program, under Department of Veterans Affairs' programs, or under private insurance policies prior to reimbursement under this part.

"SEC. 2707. LONG-TERM CARE SCREENING AGENCY.

"(a) ESTABLISHMENT.—The Secretary shall contract with entities to act as Long-Term Care Screening Agencies (hereafter referred to in this part as the 'Screening Agency') for each designated area of a State. It shall be the responsibility of such agency to assess the eligibility of individuals residing in the geographic jurisdiction of the Agency, for services provided under this part according to the requirements of this part and regulations prescribed by the Secretary. In entering into such contracts, the Secretary shall give preference to State governmental entities and private nonprofit agencies.

"(b) ELIGIBILITY.—The Screening Agency shall determine the eligibility of an individual under this part based on the results of a preliminary telephone interview or written questionnaire (completed by the applicant, by the caregiver of the applicant, or by the legal guardian or representative of the applicant) that shall be validated through the use of a screening tool administered in person to each applicant determined eligible through initial telephone or written questionnaire interviews not later than 15 days from the date on which such individual initially applied for services under this part.

"(c) QUESTIONNAIRES AND SCREENING TOOLS.—

"(1) IN GENERAL.—The Secretary shall establish a telephone or written questionnaire and a screening tool to be used by the Screening Agency to determine the eligibility of an individual for services under this part consistent with requirements of this part and the standards established by the Secretary by regulation.

"(2) QUESTIONNAIRES.—The questionnaire shall include questions about the functional impairment and mental status of an individual and other criteria that the Secretary shall prescribe by regulation.

"(3) SCREENING TOOLS.—The screening tool should measure functional impairment caused by physical or cognitive conditions as well as information concerning cognition disability, behavioral problems (such as wandering or abusive and aggressive behavior), and any other criteria that the Secretary shall prescribe by regulation. The screening tool shall be administered in person.

"(d) NOTIFICATION.—Not later than 15 days after the date on which an individual initially applied for services under this part (by telephone or written questionnaire), the Screening Agency shall notify such individual that such individual is not eligible for benefits, or that such individuals must schedule an in-person screening to determine final eligibility for benefits under this part. The Screening Agency shall notify such individual of its final decision not later than 2 working days after the in-person screening.

"(e) IN-PERSON SCREENING.—An individual (or the legal guardian or representative of such individual) whose application for benefits under this part is denied on the basis of information provided through a telephone or written questionnaire, shall be notified of such individual's right to an in-person screening by a nurse or appropriate health care professionals.

"(f) APPEALS.—The Secretary shall establish a mechanism for hearings and appeals in cases in which individuals contest the eligibility findings of the Screening Agency.

"(g) PAYMENT.—

"(1) PAYMENT FOR SCREENING.—The Screening Agency may require payment from individuals only in accordance with standards established by the Secretary.

"(2) NO PAYMENT FOR POOREST.—The Screening Agency may not require payment for individuals with incomes of less than 150 percent of the official poverty line.

"SEC. 2708. ASSET PROTECTION.

"Notwithstanding any other provision of law, the assets an eligible individual may retain and be determined eligible for nursing facility benefits, including payments of room and board under this part, under State Medicaid programs (in accordance with section 1902(a)(10)) shall be increased by the amount of coverage ($30,000, $60,000, or $90,000) elected under section 2702.

"SEC. 2709. RELATION TO PRIVATE INSURANCE.

"(a) IN GENERAL.—Except as provided in subsection (b), an insurer may not offer a long-term care insurance policy to an individual who has purchased coverage under this part if the coverage under such policy duplicates the coverage provided under this part.

"(b) DEVELOPMENT OF STANDARD PACKAGES.—The Secretary shall develop standard long-term care insurance benefits packages that insurers may offer to insured individuals under this part. Such packages shall provide coverage for benefits that compliment, but do not duplicate, those covered under this part.

"SEC. 2710. DEFINITIONS.

"As used in this part:

"(1) NURSING FACILITY.—The term 'nursing facility' means—

"(A) a skilled nursing facility (as defined in section 1819(a) of the Social Security Act); or

"(B) a facility that is a nursing facility (as defined in section 1919(a) of such Act) which meets the requirements of section 1819(b)(4)(C) of such Act (relating to nursing care).

"(2) SPELL OF ILLNESS.—The term 'spell of illness' means a period of consecutive days beginning with the first day on which an individual is furnished services as an inpatient in a hospital or nursing facility and ending with the close of the first 6 consecutive months thereafter during which the individual is no longer an inpatient of a nursing facility, or 90 days after the individual is no longer an inpatient in a hospital.

"SEC. 2711. REPORTS.

"(a) IN GENERAL.—Prior to the promulgation of regulations implementing this title, the Secretary shall report to Congress on—

"(1) the actuarially-sound premium rates to be used in the implementation of this Act, including whether the premiums will cover 100 percent of the benefits paid out, and whether Federal funds will be required to support the payment of benefits;

"(2) an assessment of the impact of such premium rates on the affordability of coverage under this Act;

"(3) a projected enrollment of individuals by age category; and

"(4) an estimate of current and projected enrollment of individuals, by age category in coverage under private long-term care insurance.

"(b) LIFE CARE REPORT.—Not later than 2 years after the promulgation of regulations implementing this title, the Secretary shall report to Congress on the following aspects of the Life Care Act:

"(1) The current and projected premium rates.

"(2) The current and projected enrollment of individuals, by age category and an estimate of current and projected enrollment of individuals by age category in private long-term care insurance.

"(3) The projected use of benefits and the impact of use on premium rates.

"(4) An assessment of the impact of projected premium rates on the affordability of coverage under this Act.

"(c) RECOMMENDATIONS.—The Secretary shall make recommendations to Congress regarding necessary revisions to the Life Care Act as a result of the findings provided in the reports submitted under this section.".

Subtitle E—Study and Report

SEC. 2401. STUDY OF ISSUES RELATED TO END OF LIFE CARE.

(a) STUDY.—

(1) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary shall enter into an agreement with the Institute of Medicine of the National

Academy of Sciences (or with another nonprofit, nongovernmental organization or consortium of institutions if the Institute declines to perform the study) to investigate and report on issues relating to appropriate care at the end of life, including how to determine the appropriateness of curative or life-prolonging or palliative services for gravely or terminally ill or injured persons of all ages.

(2) SPECIFIC ISSUES.—The study described in paragraph (1) shall specifically include an examination of the following issues:

(A) The epidemiology of dying.

(B) The feasibility and utility of clinical practice guidelines for appropriate care.

(C) Conditions that promote or impede appropriate care (such as professional training and beliefs, financing and organization of services, patient and public knowledge and attitudes).

(D) Priorities for research on the issues described in the preceding subparagraphs.

(E) Concerns of health care practitioners and providers, medical educators, the general public, and those responsible for public and private decisions about the organization, financing, and quality of health care in the United States.

(b) REPORT.—The Institute of Medicine (or the organization conducting the study under this section) shall submit to the Secretary and the Congress a report on the study described in subsection (a) within 27 months after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE III—HEALTH PROFESSIONS WORKFORCE AND PUBLIC HEALTH INITIATIVES

Subtitle A—Workforce Priorities Under Federal Payments

SEC. 3000. DEFINITIONS.

For purposes of this subtitle:

(1) The term "academic year" has the meaning given such term in section 3012(b)(3)(A).

(2) The term "allocation period" has the meaning given such term in section 3015(d).

(3) The term "annual number of specialty positions" has the meaning given such term in section 3013(g)(1).

(4) The term "approved physician training program" has the meaning given such term in section 3012(b)(1).

(5) The term "consumer price index" has the meaning given such term in section 3033(e)(1).

(6) The term "designation period" has the meaning given such term in section 3013(g)(2).

(7) The term "funding agreement" has the meaning given such term in section 3012(b)(3)(B).

(8) The term "general health care inflation factor" has the meaning given such term in section 3033(e)(4).

(9) The term "medical school" has the meaning given such term in section 3001(e)(2).

(10) The term "medical specialty" has the meaning given such term in section 3012(b)(3)(C).

(11) The term "National Council" has the meaning given such term in section 3001(e)(3).

(12) The term "primary health care" has the meaning given such term in section 3013(g)(3).

(13) The term "qualified applicant" has the meaning given such term in section 3012(b)(2), in the case of subpart B; and has the meaning given such term in section 3031(c), in the case of subpart C.

(14) The term "specialty position" has the meaning given such term in section 3013(g)(4).

(15) The term "training participant" has the meaning given such term in section 3013(g)(5).

PART 1—INSTITUTIONAL COSTS OF GRADUATE MEDICAL EDUCATION; WORKFORCE PRIORITIES

Subpart A—National Council Regarding Workforce Priorities

SEC. 3001. NATIONAL COUNCIL ON GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—There is established within the Department of Health and Human Services a council to be known as the National Council on Graduate Medical Education.

(b) DUTIES.—The Secretary shall carry out subpart B acting through the National Council.

(c) COMPOSITION.—

(1) IN GENERAL.—The membership of the National Council shall include between 12 and 16 individuals who are appointed to the Council from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary, and shall include individuals from each of the following categories in the following proportions:

(A) One-quarter composed of consumers of health care services, at least one of whom resides in a rural area.

(B) One-quarter composed of primary health care physicians who are faculty members of medical schools (including officials of medical schools and executive officers of teaching hospitals) and primary health care physicians who are practicing and are not faculty members of medical schools, at least one of whom resides in a rural area.

(C) One-quarter composed of non-primary health care specialty physicians who are faculty members of medical schools, non-primary health care specialty physicians who are not faculty members of medical schools, officials of medical schools, and executive officers of teaching hospitals.

(D) One-quarter composed of officers and employees of health plans, and officers or members of purchasing cooperatives.

(2) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the National Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary or other Federal officers who are appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The Secretary shall, from among members of the National Council appointed under subsection (c)(1), designate an individual to serve as the Chair of the Council.

(e) DEFINITIONS.—For purposes of this subtitle:

(1) The term "academic health center" means an entity defined in section 3051(c)(1).

(2) The term "medical school" means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

(3) The term "National Council" means the council established in subsection (a).

(f) CONFORMING AMENDMENT REPEALING THE COUNCIL ON GRADUATE MEDICAL EDUCATION (COGME).—Effective on the date of the first meeting of the National Council, section 30 of the Health Professions Education Extension Amendments of 1992 (Public Law 102-408) is repealed.

Subpart B—Authorized Positions in Specialty Training

SEC. 3012. COOPERATION REGARDING APPROVED PHYSICIAN TRAINING PROGRAMS.

(a) IN GENERAL.—With respect to an approved physician training program in a medical specialty, a funding agreement with a qualified applicant for payments under section 3031 and section 3051 for a calendar year is that the qualified applicant will ensure that the number of individuals enrolled in the program in the subsequent academic year is in accordance with this subpart.

(b) DEFINITIONS.—

(1) APPROVED PROGRAM.—For purposes of this subtitle:

(A) The term "approved physician training program", with respect to the medical specialty involved, means a residency or other postgraduate program that trains physicians and meets the following conditions:

(i) Participation in the program may be counted toward certification in the medical specialty as determined under the applicable standards of the American Board of Medical Specialties or the Council on Postdoctoral Training of the American Osteopathic Association.

(ii) The program is accredited by the Accreditation Council on Graduate Medical Education, or approved by the Council on Postdoctoral Training of the American Osteopathic Association.

(B) The term "approved physician training program" includes any postgraduate program described in subparagraph (A) that provides health services in an ambulatory setting, without regard to whether the program provides inpatient hospital services.

(C) The term "approved physician training program" includes any postgraduate program described in subparagraph (A), whether operated by academic health centers, teaching hospitals, group practices, ambulatory care providers, prepaid health plans, or other entities.

(D) The term "approved physician training program" includes any postgraduate program described in subparagraph (A) that provides fellowship training in family medicine, general internal medicine or general pediatrics, and provides training for a faculty position in family medicine, general internal medicine, or general pediatrics.

(2) QUALIFIED APPLICANT; SUBPART DEFINITION.—For purposes of this subpart, the term "qualified applicant", with respect to an academic year, means an entity that trains individuals in an approved physician program that receives payments under subpart C for the calendar year in which the academic year begins.

(3) OTHER DEFINITIONS.—For purposes of this subtitle:

(A)(i) Except as provided in clause (iii), the term "academic year" means the 1-year period beginning on July 1. The academic year beginning July 1, 1993, is academic year 1993-1994.

(ii) With respect to the funding agreement described in subsection (a), the term "subsequent academic year" means the academic year beginning July 1 of the calendar year for which payments are to be made under the agreement.

(iii) For purposes of determining the academic year in which a training participant enters an approved physician training program, the academic year is the 1-year period beginning on or after June 1.

(B) The term "funding agreement", with respect to payments under section 3031 and

3051 to a qualified applicant, means that the Secretary may make the payments only if the qualified applicant signs the agreement involved.

(C) The term "medical specialty" includes all medical, surgical, and other physician specialties and subspecialties.

SEC. 3013. ANNUAL AUTHORIZATION OF NUMBER OF SPECIALTY POSITIONS; REQUIREMENTS REGARDING PRIMARY HEALTH CARE.

(a) ANNUAL AUTHORIZATION OF NUMBER OF POSITIONS.—In the case of each medical specialty, the National Council shall, pursuant to section 3012, designate for academic year 1998–1999 and each subsequent academic year the number of individuals nationwide who are authorized to be enrolled in eligible programs in each medical specialty for the academic year involved.

(b) PRIMARY HEALTH CARE.—

(1) REQUIREMENT ACROSS SPECIALITIES.—In carrying out subsection (a) for an academic year, the National Council shall ensure that, of the class of training participants entering all eligible programs for their first year of graduate medical education for academic year 1998–1999 or any subsequent academic year, the percentage of such class that completes eligible programs in primary health care and does not subsequently enter a nonprimary health care training program, is not less than the following, as applicable to the academic year involved:

(A) For academic year 1998–1999, 39 percent.

(B) For academic year 1999–2000, 44 percent.

(C) For academic year 2000–2001, 49 percent.

(D) For academic year 2001–2002 and each subsequent academic year, 55 percent, except as provided in section 3014.

(2) RULE OF CONSTRUCTION.—The requirement of paragraph (1) regarding a percentage applies in the aggregate to training participants entering eligible programs for the academic year involved, and not individually to any eligible program.

(c) DESIGNATIONS REGARDING 3-YEAR PERIODS.—

(1) DESIGNATION PERIODS.—For each medical specialty, the National Council shall make the annual designations under subsection (a) for periods of 3 academic years.

(2) INITIAL PERIOD.—The first designation period established by the National Council after the date of the enactment of this Act shall be the academic years 1998–1999 through 2000–2001.

(d) CERTAIN CONSIDERATIONS IN DESIGNATING ANNUAL NUMBERS.—

(1) IN GENERAL.—Factors considered by the National Council in designating the annual number of specialty positions for an academic year for a medical specialty shall include the extent to which there is a need for additional practitioners in the speciality, as indicated by the following:

(A) The characteristics of diseases, disorders, or health conditions treated, including—

(i) the incidence and prevalence (in the general population and in various other populations) of the diseases, disorders, or other health conditions with which the specialty is concerned;

(ii) the intensity of care required for each of these diseases, disorders, or health conditions;

(iii) the relevant training received and experience attained by primary health care and specialist physicians in caring for each of these diseases, disorders, or health conditions; and

(iv) should sufficient data become available, the extent to which individuals with certain diseases, disorders, or health conditions have better health outcomes when treated by non-primary health care physicians than by primary health care physicians.

(B) The number of physicians who will be practicing in the specialty in the academic year.

(C) The number of physicians who will be practicing in the specialty at the end of the 5-year period beginning on the first day of the academic year.

(D) Whether, after examining medical specialty requirements, the National Council determines that specialty is a medical shortage specialty (as defined by the National Council).

(2) RECOMMENDATIONS OF PRIVATE ORGANIZATIONS.—In designating the annual number of specialty positions for an academic year for a medical specialty, the National Council shall consider the recommendations of organizations representing physicians in the specialty, organizations representing academic medicine, and the recommendations of organizations representing consumers of the services of such physicians.

(3) TOTAL OF RESPECTIVE ANNUAL NUMBERS.—

(A) IN GENERAL.—For academic year 1998-1999 and subsequent academic years, the National Council shall ensure that the total of the respective annual numbers designated under subsection (a) for an academic year is a total that—

(i) bears a relationship to the number of individuals who graduated from medical schools in the United States in the academic year 1997-1998; and

(ii) is consistent with the purposes of this subpart.

(B) REDUCTION.—For each of the academic years 1998-1999 through 2001-2002, the total determined under subparagraph (A) shall be reduced by a percentage determined by the National Council.

(e) VOLUNTARY COMPLIANCE.—

(1) ESTABLISHMENT OF THE POSITIONS FOR FIRST DESIGNATION PERIOD.—Not later than June 1, 1996, the National Council shall establish the number of positions in each medical specialty that will be allocated under subsection (a) for the academic years 1998–1999, 1999–2000, and 2000–2001.

(2) VOLUNTARY COMPLIANCE.—A medical specialty shall not be subject to the mandatory allocation system described in section 3015 if—

(A) by June 1, 1997, each eligible approved physician training program has submitted to the National Council a proposal for first year positions in approved physician training programs in that particular medical specialty for the academic years 1998–99, 1999–2000, and 2000–2001 and the total proposed number of all such positions for the specialty does not exceed the number of positions established for such specialty under paragraph (1) for each such academic year; and

(B) in subsequent academic years, the total proposed number of first year positions in approved physician training programs in that particular medical specialty does not exceed the number of individuals nationwide who are authorized to be enrolled in approved medical training programs for such medical specialty for such year pursuant to subsection (a).

(3) LOSS OF COMPLIANCE.—The National Council may, at any time, determine that a specialty is not in compliance with the number of positions established by the Council under paragraph (1) or subsection (a) and initiate, with respect to that specialty, the system of mandatory allocations described in section 3015.

(f) STUDY.—Not later than January 1, 2005, the Secretary shall arrange for the completion, by the Institute of Medicine or other similar entity, of an independent study concerning the effect of medical workforce regulation and planning in general and in particular geographic areas. The results of such study together with recommendations concerning the appropriateness of modifying or eliminating workforce regulations shall be compiled in a report and transmitted by the Secretary to the President and the Congress.

(g) DEFINITIONS.—For purposes of this subtitle:

(1) The term "annual number of specialty positions", with respect to a medical specialty, means the number designated by the National Council under subsection (a) for eligible programs for the academic year involved.

(2) The term "designation period" means a 3-year period under subsection (c)(1) for which designations under subsection (a) are made by the National Council.

(3) The term "primary health care" means the following medical specialties: Family medicine, general internal medicine, general pediatrics, geriatric medicine, and obstetrics and gynecology. Only those participants in programs with a significant primary care training emphasis will be considered to have completed an eligible program in primary care for the purposes of subsection (b)(1). Determination of the meaning of a "significant primary care training emphasis" will be made by the National Council.

(4) The term "specialty position" means a position as a training participant.

(5) The term "training participant" means an individual who is enrolled in an approved physician training program.

SEC. 3014. NATIONAL COUNCIL RECOMMENDATION OF NUMBER OF GRADUATE MEDICAL EDUCATION POSITIONS.

(a) IN GENERAL.—

(1) RECOMMENDATIONS.—Beginning with academic year 2001–2002 and each subsequent academic year, the National Council may after considering the factors described in paragraph (2) annually recommend to the Secretary a change in accordance with subsection (b), the distribution of positions among medical specialties determined under section 3013(a) and 3013(b)(1)(D).

(2) FACTORS FOR CONSIDERATION.—In developing a recommendation under paragraph (1), the Secretary shall consider the impact on rural, inner city, and public hospitals of reducing numbers of individuals authorized to enter approved physician training programs and the appropriate supply of physicians in the aggregate and in particular medical specialties.

(b) LIMITATIONS ON RECOMMENDED PERCENT FOR PRIMARY CARE FOR ACADEMIC YEAR 2001–2002.—For the academic year 2001-2002, the number that the National Council may recommend under subsection (a)(1) may not be more than 5 percentage points less or 5 percentage points more than the number described in section 3013(b)(1)(D).

(c) CONSIDERATION AND IMPLEMENTATION BY THE SECRETARY.—The Secretary shall in the Secretary's discretion implement the recommendations by the National Council under subsection (a) in accordance with section 3013(b)(1). The Secretary may not modify such recommendations.

SEC. 3015. ALLOCATIONS AMONG SPECIALITIES AND PROGRAMS.

(a) IN GENERAL.—Subject to the provisions of section 3013, for each academic year, the

National Council shall for each medical specialty make allocations among eligible programs of the annual number of specialty positions that the Council has designated for such year. The preceding sentence is subject to subsection (b)(3).

(b) ALLOCATIONS REGARDING 3-YEAR PERIOD.—

(1) IN GENERAL.—For each medical specialty, the National Council shall make the annual allocations under subsection (a) for periods of 3 academic years.

(2) ADVANCE NOTICE TO PROGRAMS.—With respect to the first academic year of an allocation period established by the National Council, the National Council shall, not later than July 1 of the preceding academic year, notify each eligible program of the allocations made for the program for each of the academic years of the period.

(3) INITIAL PERIOD.—The first allocation period established by the National Council after the date of the enactment of this Act shall be the academic years 1998–1999 through 2000–2001.

(c) CERTAIN CONSIDERATIONS.—

(1) GEOGRAPHIC AREAS.—In making allocations under subsection (a) for eligible programs of the various geographic areas, the National Council shall include among the factors considered the—

(A) distribution of approved physician training programs with respect to population and community need; and

(B) historical distribution of approved physician training programs among the geographic areas.

(2) QUALITY OF PROGRAMS.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the quality of such programs.

(3) UNDERREPRESENTATION OF MINORITY GROUPS AND WOMEN.—In making an allocation under subsection (a) for an eligible program, the National Council shall include among the factors considered the following:

(A) The extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups and women.

(B) With respect to a racial or ethnic group or women represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in the various medical specialities.

(4) UNDERSERVED RURAL AND INNER-CITY COMMUNITIES.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the extent to which the population of training participants in the program includes training participants who have resided in rural or inner-city communities for a substantial period, as defined by the Council and the proportion of past participants in the program who are practicing in rural or inner-city communities.

(5) RECOMMENDATIONS OF PRIVATE ORGANIZATIONS.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the recommendations of organizations representing physicians in the medical specialties, the recommendations of organizations representing academic medicine and the recommendations of organizations representing consumers of the services of such physicians.

(d) DEFINITIONS.—For purposes of this subtitle, the term "allocation period" means a 3-year period under subsection (b)(1) for which allocations under subsection (a) are made by the National Council.

Subpart C—Costs of Graduate Medical Education

CHAPTER 1—OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS

SEC. 3031. FEDERAL FORMULA PAYMENTS TO QUALIFIED ENTITIES FOR THE COSTS OF THE OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS.

(a) IN GENERAL.—In the case of a qualified entity that in accordance with section 3032 submits to the Secretary an application for calendar year 1997 or any subsequent calendar year, the Secretary shall make payments for such year to the qualified entity for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3033 and 3034, and may administer the payments as a contract, grant, or cooperative agreement.

(b) PAYMENTS FOR OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS.—The purpose of payments under subsection (a) is to assist a qualified applicant with the costs of operation of an approved physician training program. A funding agreement for such payments is that the qualified applicant involved will expend the payments only for such purpose or for such other related purposes as the Secretary may authorize.

(c) QUALIFIED APPLICANT; SUBPART DEFINITION.—

(1) IN GENERAL.—For purposes of this subpart, the term "qualified applicant", with respect to the calendar year involved, means an entity—

(A) that trains individuals in approved physician training programs; and

(B) that submits to the Secretary an application for such year in accordance with section 3032.

(2) ENTITIES INCLUDED.—The term "qualified applicant" may include an approved physician training program, teaching hospital, medical school, group practice, an entity representing two or more parties engaged in a formal association, a community health center or another entity operating an approved physician training program.

(d) TREATMENT OF PODIATRIC AND DENTAL RESIDENCY PROGRAMS.—Except as provided in section 3034, for the purposes of this subpart, an approved physician training program includes training programs approved by the Commission on Dental Accreditation or the Council of Podiatric Medical Education of the American Podiatric Medical Association. This subsection shall not apply for purposes of subpart B.

SEC. 3032. APPLICATION FOR PAYMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—For purposes of section 3031(a), an application for payments under such section for a calendar year is in accordance with this section if—

(A) the eligible entity involved submits the application not later than the date specified by the Secretary;

(B) the application demonstrates that the condition described in subsection (b) is met with respect to the program;

(C) the application contains each funding agreement described in this part and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(2) CERTAIN ENTITIES.—If an applicant under paragraph (1) is an entity representing two or more parties—

(A) the application shall contain a written agreement, signed by all participants, in which all of the participants agree as to the manner in which the payments will be allocated; and

(B) the applicant shall agree to submit additional documentation, if requested by the National Council, that demonstrates that the funds are distributed in the manner agreed upon by all participants.

(b) CERTAIN CONDITIONS.—An eligible entity meets the condition described in this subsection for receiving payments under section 3031 for a calendar year if—

(1) the entity agrees to use such funds only to support an approved physician training program;

(2) with respect to—

(A) a specialty for which programs have received allocations under section 3015, the entity agrees that funds will be used only to support approved training programs for which the number of specialists in training is consistent with the allotment under section 3015; and

(B) a specialty for which a voluntary program has received allocations under section 3013(e), the entity agrees that funds will only be used to support approved training programs for which the number of specialists in training is consistent with the allocations under section 3013(e); and

(3) the entity notifies each residency training program director of each approved physician training program operated by the entity of the amount of payments received by the entity under this section and sections 3051 and 3055 that is attributable to the number of training participants in the program.

(c) COMPLIANCE WITH SPECIALTY ALLOCATIONS.—A funding agreement for payments under section 3031 is that an eligible institution that operates or is affiliated with an approved physician training program shall receive such payments only if the number of specialists in such a program is consistent with the allotment under section 3015 or 3013(e).

(d) RESIDENCY TRAINING PROGRAM DIRECTOR.—For purposes of this section, the term "residency training program director" means an individual specified in the application of the entity as the official with primary administrative responsibility for an approved physician training program.

SEC. 3033. AVAILABILITY OF FUNDS FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.

(a) GRADUATE MEDICAL EDUCATION ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2) and except as provided in section 3034, the following amounts shall be available for a calendar year for making payments under sections 3031 and 3055 from the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986:

(A) In the case of calendar year 1997, $3,200,000,000.

(B) In the case of calendar year 1998, $3,600,000,000.

(C) In the case of calendar year 1999, $5,800,000,000.

(D) In the case of calendar year 2000, $6,100,000,000.

(E) In the case of calendar year 2001, $6,500,000,000.

(F) In the case of each subsequent calendar year, the amount specified in subparagraph (E) increased by the product of such amount and the general health care inflation factor for such year (as defined in subsection (e)).

(2) ALLOCATION OF ACCOUNT FOR PAYMENTS TO TRAINING PROGRAMS AND FOR TRANSITIONAL

PAYMENTS.—If the sum of the amounts specified in subsection (b), section 3034(c), and section 3055(a) exceeds the amounts available for such calendar year in the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986, then each such amount shall be reduced by an amount which bears the same ratio to such amount as the amounts available bear to the sum of such amounts.

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Except as provided in section 3034, payment amounts with respect to any physician training program under this section shall be equal to the product of the number of full time equivalent training participants in the program, and the per resident amount for the training program.

(2) PER RESIDENT AMOUNT.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the per resident amount for a training program shall be equal to—

(i) with respect to—

(I) the first calendar year during which the program receives payment under subsection (a), 90 percent;

(II) the second calendar year during which the program receives payment under subsection (a), 80 percent;

(III) the third calendar year during which the program receives payment under subsection (a), 70 percent;

(IV) the fourth calendar year during which the program receives payment under subsection (a), 60 percent; and

(V) the fifth and subsequent calendar year during which the program receives payment under subsection (a), 50 percent;

of the approved FTE resident amount that would have been determined under section 1886(h)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(h)(2)(D)) for the hospital operating such approved physician training program for a cost reporting period beginning in such calendar year if the amendments made by section 4306 of the Health Security Act had not been made; and

(ii) with respect to—

(I) the first calendar year during which the program receives payment under subsection (a), 10 percent;

(II) the second calendar year during which the program receives payment under subsection (a), 20 percent;

(III) the third calendar year during which the program receives payment under subsection (a), 30 percent;

(IV) the fourth calendar year during which the program receives payment under subsection (a), 40 percent; and

(V) the fifth and subsequent calendar years during which the program receives payment under subsection (a), 50 percent;

of the geographically adjusted national average per resident amount.

(B) MINIMUM PER RESIDENT AMOUNT.—Notwithstanding the provisions of subparagraph (A), the per resident amount for a training program shall not be less than 75 percent of the geographically adjusted national average per resident amount determined in accordance with subparagraph (A)(ii).

(C) NO HISTORIC PAYMENT BASIS.—For purposes of subparagraph (A)(i), the Secretary shall determine the appropriate per resident amount applicable to an entity that—

(i) trains individuals in an approved physician training program that is sponsored by or is affiliated with more than one entity that had a per resident amount determined under section 1886(h) of the Social Security Act which reflects the average per resident amounts under such section for such entities; or

(ii) trains individuals in an approved physician training program that is sponsored by or is affiliated with an entity that did not have a per resident amount determined under such section for cost reporting periods beginning before 1996 which reflects the national average per resident amount.

(3) ADJUSTMENT FACTOR.—Payments under this section shall be subject to an adjustment factor, as determined by the Secretary, so that total payments in any year will not exceed the amounts specified in subsection (a) and as provided in subsection (d).

(4) ADDITIONAL PROVISIONS REGARDING NATIONAL AVERAGE COST.—

(A) DETERMINATION OF NATIONAL AVERAGE COST.—The Secretary shall in accordance with clause (ii) of subsection (b)(2)(A) determine, for academic year 1992–1993, an amount equal to the geographically adjusted national average per resident amount described in such clause with respect to training a participant in an approved physician training program. The national average applicable under such clause for a calendar year for such programs is, subject to subparagraph (B), the amount determined under the preceding sentence increased by the amount necessary to offset the effects of inflation occurring since academic year 1992–1993, as determined through use of the consumer price index.

(B) GEOGRAPHIC ADJUSTMENT.—The national average determined under subparagraph (A) and applicable to a calendar year shall, in the case of the eligible entity involved, be adjusted by a factor to reflect regional differences in the applicable wage and wage-related costs.

(5) FUNDING LEVEL AND ALLOCATION METHOD.—Not later than January 1, 1998, the Secretary shall complete a study to determine the effect and appropriateness of the funding level and allocation method described in subsection (a) and paragraphs (1), (2), (3), and (4) of this subsection on the operation of training programs and on national workforce goals and shall compile the findings and recommendations derived from such study in a report to be submitted to the President and the Congress.

(c) DETERMINATION OF FULL-TIME-EQUIVALENT TRAINING PARTICIPANTS.—

(1) RULES.—The Secretary shall establish rules consistent with this subsection for the computation of the number of full-time-equivalent training participants in approved physician training programs under subsection (b)(1).

(2) ADJUSTMENT FOR PART-YEAR OR PART-TIME TRAINING PARTICIPANTS.—Such rules shall take into account individuals who serve as training participants for only a portion of a period in an approved physician training program or simultaneously with more than one such program.

(3) WEIGHTING FACTORS FOR CERTAIN TRAINING PARTICIPANTS.—

(A) IN GENERAL.—Subject to paragraph (4), such rules shall provide, in calculating the number of full-time-equivalent training participants in an approved physician training program—

(i) for a training participant who is in the participant's initial training period, the weighting factor is 1.00,

(ii) except as provided in clause (iii), for a training participant who is not in the participant's initial training period, the weighting factor is 0.75, and

(iii) in an academic year in which the total number of training participant positions in all approved physician training programs in all medical specialities does not exceed—

(I) 134 percent of United States medical school graduates in academic year 1997–1998, the weighting factor for a training participant who is not in the training participant's initial training period is 0.85;

(II) 126 percent of United States medical school graduates in academic year 1997–1998, the weighting factor for such a participant is 0.90;

(III) 118 percent of United States medical school graduates in 1997–1998, the weighting factor for such a participant is 0.95 percent; and

(IV) 110 percent of United States medical school graduates in academic year 1997–1998, the weighting factor for such a participant, the weighting factor is 1.0.

(B) STUDY.—Not later than January 1, 1998, the Secretary shall complete a study to determine the effect that applying weighting factors in calculating the number of full-time-equivalent training participants would have on supporting national workforce goals.

(4) INTERNATIONAL MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—Such rules shall provide that, in the case of an individual who is an international medical graduate, the individual shall not be counted as a training participant unless—

(A) the individual has passed the FMGEMS examination or the U.S. Medical Licensing Examination, or

(B) the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

(5) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that all the time so spent by a training participant under an approved physician training program shall be counted towards the determination of full-time equivalency, without regard to the setting in which the activities are performed.

(d) LIMITATION.—Subject to subsection (a), if the amount available from the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986 for a calendar year is insufficient for providing each eligible entity with the amount of payments determined under subsection (b) for the entity for such year, the Secretary shall make such pro rata reductions in the amounts so determined as may be necessary to ensure that the total of payments made under section 3031 for such year equals the amount specified under section 3033(a).

(e) DEFINITIONS.—For purposes of this subtitle:

(1) CONSUMER PRICE INDEX.—The term "consumer price index" means the Consumer Price Index for All Urban Consumers (U.S. city average).

(2) INTERNATIONAL MEDICAL GRADUATE.—The term "international medical graduate" means a training participant who is a graduate of a school of medicine, school of osteopathy, school of dentistry, or school of podiatry that is not—

(A) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation),

(B) a school of osteopathic medicine accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation,

(C) a school of dentistry which is accredited by the Commission on Dental Accreditation, or

(D) a school of podiatric medicine which is accredited by the Council of Podiatric Medical Education of the American Podiatric Medical Association.

(3) FMGEMS EXAMINATION.—The term "FMGEMS examination" means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences or any successor examination recognized by the Secretary for this purpose.

(4) GENERAL HEALTH CARE INFLATION FACTOR.—(A) The term "general health care inflation factor", with respect to a year, means the percentage increase in the consumer price index for the year plus the following:

(i) For 1997, 1.0 percentage points.

(ii) For 1998, 0.5 percentage points.

(iii) For 1999 and for 2000, 0 percentage points.

(B) YEARS AFTER 2000.—

(i) RECOMMENDATION TO CONGRESS.—In 1999, the Secretary shall submit to Congress recommendations, after consultation with the Federal Reserve Board, on what the general health care inflation factor should be for years beginning with 2001.

(ii) FAILURE OF CONGRESS TO ACT.—If the Congress fails to enact a law specifying the general health care inflation factor for a year after 2000, the Secretary, in January of the year before the year involved, shall compute such factor for the year involved. Such factor shall be the product of the factors described in subparagraph (C) for that fiscal year, minus 1.

(iii) STUDY BY FEDERAL RESERVE BOARD.—Not later than January 1, 1999, the Federal Reserve Board shall conduct a study, and report to the Secretary, concerning what the general health care inflation factor should be for years beginning with 2001. Such study shall consider whether continued indexing with respect to such factor is advisable and whether the consumer price index should be used (in whole or in part, modified or unmodified) with respect to premium caps for future years. The recommendations of the Federal Reserve Board under such study shall be considered in the recommendations submitted under clause (i).

(C) FACTORS.—The factors described in this subparagraph for a year are the following:

(i) CPI.—1 plus the percentage change in the CPI for the year, determined based upon the percentage change in the average of the CPI for the 12-month period ending with August 31 of the previous fiscal year over such average for the preceding 12-month period.

(ii) REAL GDP PER CAPITA.—1 plus the average annual percentage change in the real, per capita gross domestic product of the United States during the 3-year period ending in the preceding calendar year, determined by the Secretary based on data supplied by the Department of Commerce.

(5) INITIAL TRAINING PERIOD.—The term "initial training period" means the period of time required for board eligibility, except that—

(A) except as provided in subparagraph (B), in no case shall the initial period of participation exceed an aggregate period of formal training of more than 5 years for any individual, and

(B) a period, of not more than 2 years, during which an individual is in a—

(i) residency or fellowship program in geriatric medicine, preventive medicine, or adolescent medicine, or

(ii) a fellowship program in family medicine, general internal medicine or general pediatrics, which provides training for a faculty position in family medicine, general internal medicine or general pediatrics,

shall be treated as part of the initial training participation period, but shall not be counted against any limitation on the initial training period.

The initial training period shall be determined, with respect to a training participant, as of the time the training participant enters any approved physician training program.

(6) PERIOD OF TIME REQUIRED FOR BOARD ELIGIBILITY.—

(A) GENERAL RULE.—Subject to subparagraphs (B) and (C), the term "period of time required for board eligibility" means, for a training participant, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the training participant is training.

(B) APPLICATION OF 1985–1986 DIRECTORY.—Except as provided in subparagraph (C), the period of time required for board eligibility shall be such period specified in the 1985–1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education or a more current version of such Directory or the equivalent directory regarding postdoctoral training for osteopathic physician training programs.

(C) CHANGES IN PERIOD OF TIME REQUIRED FOR BOARD ELIGIBILITY.—If the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs or the equivalent directory regarding postdoctoral training for osteopathic physician training programs—

(i) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985–1986 Directory, the Secretary may increase the period of time required for board eligibility for that specialty, but not to exceed the period of time required for board eligibility specified in that later Directory, or

(ii) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985–1986 Directory, the Secretary may decrease the period of time required for board eligibility for that specialty, but not below the period of time required for board eligibility specified in that later Directory.

SEC. 3034. PAYMENTS FOR DENTAL AND PODIATRIC POSITIONS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the provisions of this chapter shall apply with respect to dental and podiatric medicine training programs.

(b) LIMITATION.—Subject to the amount made available under section 3033(a), the aggregate amount available for making payments to all approved physician training programs in dentistry and podiatric medicine may not exceed $200,000,000 in any calendar year.

(c) PAYMENT METHODOLOGY.—The Secretary shall determine the amount to be paid to approved dental and podiatric training programs on the basis of a methodology to be developed by the Secretary that is equivalent to the methodology described in section 3033(b)(4).

CHAPTER 2—FEDERAL FORMULA PAYMENTS FOR NURSING AND HEALTH PROFESSIONS EDUCATION

SEC. 3041. FEDERAL FORMULA PAYMENTS FOR NURSING AND HEALTH PROFESSIONS EDUCATION.

(a) IN GENERAL.—The Secretary shall make payments for calendar year 1997 and each subsequent calendar year to an eligible entity that submits an application in accordance with subsection (b) for the purpose specified in subsection (c). The Secretary shall make such payments in accordance with section 3042.

(b) ELIGIBLE ENTITY.—For purposes of this chapter, the term "eligible entity" means an entity that would have been eligible to receive payments for nursing or health professions education under section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) (as in effect on the day before the date of the enactment of the Health Security Act).

(c) PURPOSE.—The purpose specified in this subsection is to assist an eligible entity with the costs of nursing or health professions education.

SEC. 3042. AVAILABILITY OF FUNDS FOR PAYMENTS; AMOUNT OF PAYMENTS.

(a) IN GENERAL.—The following amounts shall be available for making payments under section 3041 from the Nursing and Health Professions Education Account established under section 9551(a)(2)(C) of the Internal Revenue Code of 1986:

(1) In the case of calendar year 1997, the amount of payments that were made under title XVIII of the Social Security Act in the previous calendar year that were attributable to payments made pursuant to section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) for the purpose described in section 3041(c) in the previous calendar year, updated by the annual expected rate of growth in such payments, based upon the average rate of growth in such payments over the previous 4 calendar years.

(2) In subsequent calendar years, the amount of payments that were made under this subsection in the previous calendar year, updated by the annual expected rate of growth in such payments, based upon the average rate of growth over the previous 4 calendar years.

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the payment amount with respect to any eligible entity under this section shall be equal to the amount that the entity would have received for such calendar year under the payment methodology for payments under section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) (as in effect on the day before the date of the enactment of the Health Security Act) for such payments.

(2) ADJUSTMENT FACTOR.—Payments under paragraph (1) shall be subject to an adjustment factor, as determined by the Secretary, so that total payments in any year will not exceed the amounts specified in subsection (a).

CHAPTER 3—ACADEMIC HEALTH CENTERS AND OTHER ELIGIBLE INSTITUTIONS

SEC. 3051. FEDERAL FORMULA PAYMENTS TO ACADEMIC HEALTH CENTERS AND OTHER ELIGIBLE INSTITUTIONS.

(a) IN GENERAL.—In the case of an eligible institution that in accordance with section 3052 submits to the Secretary a written request for calendar year 1997 or any subsequent calendar year, the Secretary shall make payments for such year to the eligible institution for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3053, and may administer the payments as a contract, grant, or cooperative agreement.

(b) PAYMENTS FOR COSTS INCURRED BY ELIGIBLE INSTITUTIONS.—

(1) COSTS ATTRIBUTABLE TO ACADEMIC NATURE OF INSTITUTIONS.—With respect to an eligible institution that is a qualified academic health center or a qualified teaching hospital, the purpose of payments under subsection (a) is to assist such institutions with costs that are not routinely incurred by other entities in providing health services, but are incurred by such institutions in providing health services by virtue of the academic nature of such institutions. Such costs include—

(A) with respect to productivity in the provision of health services, costs resulting from the reduced rate of productivity of faculty due to teaching responsibilities;

(B) the uncompensated costs of clinical research; and

(C) exceptional costs associated with the treatment of health conditions with respect to which an eligible institution has specialized expertise (including treatment of rare diseases, treatment of unusually severe conditions, and providing other specialized health care).

(2) HIGH INTENSITY NONTEACHING RURAL HOSPITAL.—With respect to an eligible institution that is a high intensity nonteaching rural hospital, the purpose of payments under subsection (a) is to assist the institution with the costs of treating a substantial number of severely ill patients.

(c) DEFINITIONS.—

(1) ACADEMIC HEALTH CENTER.—For purposes of this subtitle, the term "academic health center" means an entity that operates a teaching hospital that sponsors or is affiliated with an approved physician training program.

(2) ELIGIBLE INSTITUTION.—For purposes of this subtitle, the term "eligible institution", with respect to a calendar year, means a qualified academic health center, qualified teaching hospital, or high intensity nonteaching rural hospital that submits to the Secretary a written request in accordance with section 3052.

(3) HIGH INTENSITY NONTEACHING RURAL HOSPITAL.—For purposes of this subtitle, the term "high intensity nonteaching rural hospital" means a nonteaching hospital located in a rural area as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)) that the Secretary determines has a case-mix index (defined as the average weight of all cases in the hospital for all diagnosis-related groups as determined in accordance with section 1886(d)(4) of such Act (42 U.S.C. 1395ww(d)(4)) of greater than 120 percent of the national average case-mix index for all rural hospitals.

(4) QUALIFIED CENTER OR HOSPITAL.—For purposes of this subtitle:

(A) The term "qualified academic health center" means an academic health center that operates a teaching hospital.

(B) The term "qualified teaching hospital" means any teaching hospital other than a teaching hospital that is operated by an academic health center.

(6) TEACHING HOSPITAL.—For purposes of this subtitle, the term "teaching hospital" means a hospital that sponsors or is affiliated with an approved physician training program (as defined in section 3012(b) or section 3031(d)).

SEC. 3052. REQUEST FOR PAYMENTS.

(a) IN GENERAL.—For purposes of section 3051, a written request for payments under such section is in accordance with this section if—

(1) the eligible institution involved submits the request not later than the date specified by the Secretary;

(2) the request is accompanied by each funding agreement described in this part; and

(3) the request is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) CONTINUED STATUS AS ELIGIBLE INSTITUTION.—A funding agreement for payments under section 3051 is that the eligible institution involved will maintain status as such an eligible institution. For purposes of this subtitle, the term "funding agreement", with respect to payments under section 3051 to such an eligible institution, means that the Secretary may make the payments only if the eligible institution makes the agreement involved.

(c) COMPLIANCE WITH SPECIALTY ALLOCATIONS.—A funding agreement for payments under section 3051 is that an eligible institution that operates or is affiliated with an approved physician training program shall receive such payments only if the number of specialists in such a program is consistent with the allotment under section 3015 or 3013(e).

SEC. 3053. AVAILABILITY OF FUNDS FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.

(a) ANNUAL ACADEMIC HEALTH CENTER ACCOUNT.—

(1) AVAILABILITY OF FUNDS FROM ACCOUNT.—Except as provided in paragraph (2), the following amounts shall be available for a calendar year for making payments under section 3051 from the Academic Health Center Account established under section 9551(a)(2)(B) of the Internal Revenue Code of 1986 is the following, as applicable to the calendar year:

(A) In the case of calendar year 1997, $6,300,000,000.

(B) In the case of calendar year 1998, $7,300,000,000.

(C) In the case of calendar year 1999, $8,200,000,000.

(D) In the case of calendar year 2000, $9,400,000,000.

(E) In the case of calendar year 2001, $10,600,000,000.

(F) In the case of each subsequent calendar year, the amount specified in subparagraph (E) increased by the product of such amount and the general health care inflation factor (as defined in subsection (d)).

Each of the amounts specified under the preceding subparagraphs for a calendar year shall be reduced by an amount equal to the amount specified under section 3041(a) for such year.

(2) SPECIAL ALLOTMENTS.—Of the amounts available for a calendar year for making payments under subsection (a) pursuant to paragraph (1)—

(A) such amounts as are necessary shall be reserved to make payments to eligible institutions that are high intensity nonteaching rural hospitals; and

(C) the remainder of the amounts available for making payments under subsection (a), shall be expended for making payments under section 3051 to other eligible institutions.

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE INSTITUTIONS.—

(1) QUALIFIED ACADEMIC HEALTH CENTERS AND QUALIFIED TEACHING HOSPITALS.—The amount of payments required in section 3051 to be made to a qualified academic health center or a qualified teaching hospital for a calendar year is an amount equal to the product of—

(A) the amount available for making such payments for the calendar year from the Academic Health Center Account established under section 9551(a)(2)(B) of the Internal Revenue Code of 1986; and

(B) the percentage constituted by the ratio of—

(i) the product of—

(I) the sum, for all discharges of individuals, of the amounts otherwise paid on behalf of such individuals; and

(II) an adjustment factor equal to (e raised to the power (.405 r) -1), where "r" is the ratio of the qualified academic health center's or the qualified teaching hospital's full-time equivalent training participants to beds and "e" is the natural log of one; and

(ii) the sum of the respective amounts determined under clause (i) for qualified academic health centers and qualified teaching hospitals.

(2) HIGH INTENSITY NONTEACHING RURAL HOSPITAL.—Subject to the annual amount reserved for high intensity nonteaching rural hospitals under subsection (a)(2)(A) for a calendar year, the amount required under section 3051 to be made to a high intensity nonteaching rural hospital is an amount equal to 5 percent of the inpatient costs of patient care for all patients of the hospital.

(3) ADJUSTMENT FACTOR.—Payments under this section shall be subject to an adjustment factor, as determined by the Secretary, so that total payments in any year will not exceed the amounts specified in 3053(a).

(c) REPORT REGARDING MODIFICATIONS IN FORMULA.—Not later than July 1, 2000, the Secretary shall submit to the Congress a report containing any recommendations of the Secretary for the modification of the program of formula payments described in this chapter. In preparing such report the Secretary shall consider—

(1) the costs described in section 3051(b) incurred by academic health centers;

(2) the adequacy of the formula payments established in this chapter to cover such costs, taking into account any additional revenues to cover such costs paid by other payers, including private health plans;

(3) the impact of the current payment methodology on training in the ambulatory setting of national workforce goals, and its effect on the education and training of primary care physicians;

(4) the importance to the maintenance of a quality national health care system of academic health centers in providing for the training of health professionals, in conducting clinical research, and in providing innovative, technically advanced care; and

(5) the overall impact of the reformed health care system on the ability of academic health centers to perform such functions.

(d) GENERAL HEALTH CARE INFLATION FACTOR.—For purposes of this subtitle, the term "general health care inflation factor", with respect to a year, has the meaning given such term in section 3033(e)(4) for such year.

Subpart D—Transitional Provisions

SEC. 3055. TRANSITIONAL PAYMENTS TO INSTITUTIONS.

(a) PAYMENTS REGARDING EFFECTS OF SUBPART B ALLOCATIONS.—For each of the calendar years specified in subsection (b)(2), in the case of an eligible entity that submits to the Secretary an application for such year in accordance with subsection (d), the Secretary shall make payments for the year to the entity for the purpose specified in subsection (c). The Secretary shall make the payments in an amount determined in accordance with subsection (e), and may administer the payments as a contract, grant, or cooperative agreement.

(b) Eligible Entities Losing Specialty Positions; Relevant Years Regarding Payments.—

(1) Eligible entities losing specialty positions.—The Secretary may make payments under subsection (a) to an eligible entity only if, with respect to the calendar year involved, the entity meets the following conditions:

(A) During the year preceding the initiation of transitional payments, the entity—

(i) received payments under section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) for residents in one or more approved programs, or

(ii) sponsored or was affiliated with one or more approved physician training programs that received payments under section 3031.

(B) The aggregate number of full-time-equivalent training participant positions in such programs has been reduced below the aggregate number of full-time-equivalent training participant positions for the academic year 1993–1994.

(C) The aggregate number of full-time-equivalent training participant positions in such programs spent in patient care activities at the entity has been reduced below the aggregate number of full-time-equivalent training participant positions for the academic year 1993–1994, as a result of allocations under subpart B, or as a result of voluntary changes under section 3013(e) prior to January 1, 2002.

(2) Relevant years.—Except as provided in subsection (e)(3), the Secretary may make payments under subsection (a) to an eligible entity only for the first four calendar years after the initial calendar year for which the entity meets the conditions described in paragraph (1).

(3) Eligible entity.—For purposes of this section, the term "eligible entity" means a qualified academic health center or teaching hospital entity that submits to the Secretary an application in accordance with subsection (d).

(c) Purpose of Payments.—The purpose of payments under subsection (a) is to assist an eligible entity with the costs of operation. A funding agreement for such payments is that the entity involved will expend the payments only for such purpose.

(d) Application for Payments.—For purposes of subsection (a), an application for payments under such subsection is in accordance with this subsection if—

(1) the eligible entity involved submits the application not later than the date specified by the Secretary;

(2) the application demonstrates that the entity meets the conditions described in subsection (b)(1) and that the entity has cooperated with the approved physician training programs of the entity in meeting the condition described in section 3032(b);

(3) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(e) Amount of Payments.—

(1) In general.—Subject to the amounts available from the Graduate Medical Education Account established under section 9551(a)(2)(A) of the Internal Revenue Code of 1986 in the calendar year involved, the amount of payments required in subsection (a) to be made to an eligible entity for such year is the product of the amount determined under paragraph (2) and the applicable percentage specified in paragraph (3).

(2) Number of specialty positions lost.—For purposes of paragraph (1), the amount determined under this paragraph for an eligible entity for the calendar year involved is the product of—

(A) an amount equal to the aggregate number of full-time equivalent specialty positions lost; and

(B) the amount that would be received under section 3033 for each speciality position lost.

(3) Applicable percentage.—

(A) In general.—Except as provided under subparagraph (B), for purposes of paragraph (1), the applicable percentage for a calendar year is the following, as applicable to such year:

(i) For the first calendar year after calendar year 1996 for which the eligible entity involved meets the conditions described in subsection (b)(1), 100 percent.

(ii) For the second such year, 75 percent.

(iii) For the third such year, 50 percent.

(iv) For the fourth such year, 25 percent.

(B) Exceptions.—

(i) Urban or rural underserved communities.—If the Secretary determines that access to health care in a rural or urban underserved community would be impaired by the annual reductions of the applicable percentage described in subparagraph (A), the Secretary may eliminate such annual reduction or adjust such percentage (at the discretion of the Secretary) to eligible institutions in such a community.

(ii) Voluntary compliance positions.—For the number of positions determined in paragraph (4)(A) that result from voluntary reductions in the number of specialty positions under section 3013(e), the applicable percentage for a calendar year is the following as applicable to such year:

(I) For the first 2 calendar years after calendar year 1996 for which the eligible entity involved meets the conditions described in subsection (b)(1), 100 percent.

(II) For the third such year, 75 percent.

(III) For the fourth such year, 50 percent.

(IV) For the fifth such year, 25 percent.

(4) Determination of specialty positions lost.—

(A) For purposes of this paragraph, the aggregate number of specialty positions lost, with respect to a calendar year, is the difference between—

(i) the aggregate number of specialty positions described in subparagraph (B) for the eligible entity involved for the academic year beginning in such calendar year; and

(ii) the aggregate number of such specialty positions at the entity for academic year 1993–1994.

(B) For purposes of subparagraph (A), the specialty positions described in this subparagraph are specialty positions in the medical specialities with respect to which payments under section 3031 are made to the approved physician training programs of the eligible entities involved.

(C) The total number of positions lost for all eligible entities may not exceed the number by which the aggregate number of specialty positions with respect to which payments are made under section 3031 for the academic year beginning in such calendar year is below the number of full-time-equivalent positions for the academic year 1993–1994.

SEC. 3056. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) Waiver.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of an interested State agency)" after "interested United States Government agency"; and

(2) by inserting after "public interest" the following: "except that in the case of a waiver requested by an interested State agency the waiver shall be subject to the requirements of section 214(k)".

(b) Restrictions on Waiver.—Section 214 of that Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(k)(1) In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country the Director of such country furnishes a statement in writing that it has no objection to such waiver;

"(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

"(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

"(2) Whenever an interested State agency requests the waiver of the two-year residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall change the status of the alien to that of an alien described in section 101(a)(15)(H)(b).

"(3) If an alien whose status was changed under paragraph (2) demonstrates that the alien has worked for a period of 5 years in a health professional shortage area, then the Attorney General may approve a petition filed on the alien's behalf by the health care facility in which the alien is employed seeking change of the alien's status to that of a special immigrant described in section 101(a)(27)(L).

"(4) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(L), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).".

(c) Special Immigrant Status.—Section 101(a)(27) of the Immigration and Nationality Act is amended by adding at the end the following new subparagraph:

"(L) immigrants whose status have been changed from that of an alien described in paragraph (15)(H)(b) pursuant to section 214(k)(2), except that not more than 500 immigrants may be admitted in any fiscal year under this subparagraph.".

(d) Grounds for Deportation.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended by adding at the end the following new subparagraph:

"(I) Failure to maintain employment as a health care professional.—Any alien described in section 212(e)(iii) who fails to maintain employment in accordance with subparagraphs (B) and (C) of section 212(k)(1).".

(e) Effective Date.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 2005.

PART 2—HEALTH PROFESSIONS SCHOOLS PAYMENTS

Subpart A—Payments to Medical Schools

SEC. 3061. FEDERAL PAYMENTS TO MEDICAL SCHOOLS.

(a) Entitlement.—Each eligible medical school that in accordance with section 3062 submits to the Secretary an application for academic year 1997, or any subsequent academic year, shall be entitled to payments for such year for the purpose specified in subsection (b). The Secretary shall make such payments in an amount determined in accordance with section 3063, and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(b) Payments to Medical Schools.—The purpose specified in this subsection is to assist an eligible medical school with the direct costs of academic programs including the education of medical students (especially in primary health care and ambulatory training), graduate students in biomedical sciences, and otherwise unfunded faculty research. Payments under this section shall supplement and not supplant existing resources for this purpose. A funding agreement for such payments is that the medical school involved will expend the payments received pursuant to section 3063(b) as follows:

(1) 50 percent shall be expended for primary health care education (including prevention), and peer reviewed primary care research in departments and divisions of primary care, including family medicine departments, and divisions of general internal medicine, geriatric medicine, and general pediatrics, or in medical schools in which primary care activities are primarily performed by other organizational units of the medical school, such other units. The medical school will distribute such amounts among the departments, divisions, or other units of primary care so that the distribution of such amounts bears a reasonable relationship to the amount of ambulatory primary care education of medical students in such departments and divisions and the national workforce goals and shall specify such information and the distribution of funds in the application under section 3062.

(2) 25 percent shall be expended for other ambulatory training. The medical school shall give priority for expending such amounts to funding ambulatory care training in community and rural area health centers.

(3) 25 percent shall be expended for the support of peer-reviewed faculty research in biomedicine and health services.

(c) Per Capita Payments by Medical Schools for Off-School Education.—A funding agreement for payments under subsection (a) for an eligible medical school for an academic year is that if, for the academic year, one or more students is enrolled (or accepted for enrollment) in the medical school on the contingency of successfully completing for the academic year a substantial number of hours in medical education through an educational institution that does not operate a medical school, and if the medical school provides credit toward a doctorate in medicine for the hours successfully completed at such other institution, then the medical school will pay to the other institution for such academic year an amount equal to the product of—

(1) the product of—

(A) the number of such students attending the other institution for such academic year; and

(B) the percentage of the academic year spent at the other institution; and

(2) the quotient of—

(A) the amount of payments made to the medical school under subsection (a) for the academic year; over

(B) the number of students in the eligible medical school in the academic year (including students described in this subsection).

(d) Eligible Medical School; Subpart Definition.—For purposes of this subpart, the term "eligible medical school" with respect to the academic year involved, means an approved medical school that submits to the Secretary an application for such year in accordance with section 3062.

SEC. 3062. APPLICATION FOR PAYMENTS.

For purposes of section 3061(a), an application for payments under such section for an academic year is in accordance with this section if—

(1) the dean (or appropriate presiding official) of the eligible medical school submits the application not later than the date specified by the Secretary;

(2) the application contains each funding agreement described in this subpart and provides such assurances of compliance with the agreements as the Secretary may require; and

(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

SEC. 3063. AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.

(a) Authorization of Appropriations.—

(1) In general.—The appropriation authorized for each of the following academic years for making payments pursuant to section 3061(a) shall not be less than or in excess of the following:

(A) In the case of academic year 1997, $200,000,000.

(B) In the case of academic year 1998, $300,000,000.

(C) In the case of academic year 1998, $400,000,000.

(D) In the case of academic year 2000, $500,000,000.

(E) In the case of academic year 2001, $600,000,000.

(F) In the case of each subsequent academic year, the amount specified in subparagraph (F) increased by the product of such amount and the general health care inflation factor (as defined in subsection (d)).

(b) Amount of Payments for Individual Eligible Programs.—Subject to the annual amount available for making payments pursuant to subsection (a) for an academic year, the amount of the payment required under section 3041 to be made to an eligible medical school for the academic year is an amount equal to the sum of—

(1) the product of ½ of the amount available for the academic year pursuant to subsection (a) and the proportion of students (as determined by the Secretary) at the eligible medical school in academic year 1993-1994 compared to all students enrolled in eligible medical schools nationwide in academic year 1993-1994;

(2) the product of ¼ of the amount available for the academic year pursuant to subsection (a) and the proportion of peer-reviewed research conducted by the faculty at the eligible medical school (including health services research) compared to all such research conducted by the faculty at all eligible medical schools nationwide; and

(3) the product of ¼ of the amount available for the academic year pursuant to subsection (a) and the proportion of the eligible medical school's number of graduates in primary care specialties from the class graduating 6 years prior to such academic year who complete eligible programs in primary health care and do not subsequently enter a nonprimary health care training program compared to such number of graduates of all eligible medical schools nationwide in such year.

The Secretary shall establish a method for measuring faculty research contributions.

(c) Studies.—

(1) Funding level and allocation method.—Not later than January 1, 1998, the Secretary shall arrange for an independent study and report to be completed, by the Institute of Medicine or other similar entity, concerning the amount of and allocation method for medical school funding, and the impact of the payments under this part on national workforce goals, including the education and training of primary care physicians. Such report shall be submitted to the President and the Congress and shall include findings and recommendations as to the appropriateness of modifying funding levels or allocations.

(2) Impact of health care reform on medical education.—Not later than January 1, 2000, the Secretary shall arrange for an independent study and report to be completed, by the Institute of Medicine or other similar entity, concerning the impact of health reform on undergraduate medical education. Such report shall be submitted to the President and the Congress and shall include appropriate findings and recommendations.

(d) General Health Care Inflation Factor.—As used in this subtitle, the term "general health care inflation factor" with respect to a year, has the meaning given such term in section 3033(e)(4) for such year.

Subpart B—Payments to Nursing Programs

SEC. 3071. FEDERAL PAYMENTS TO GRADUATE NURSE TRAINING PROGRAMS.

(a) Federal Payments to Graduate Nurse Training Programs.—

(1) Entitlement.—Each eligible graduate nurse training program that in accordance with paragraph (2) submits to the Secretary an application for calendar year 1997 or any subsequent calendar year shall be entitled to

payments for such year to the program for the purpose specified in paragraph (3). The Secretary shall make such payments in an amount determined in accordance with subsection (b), and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments for a calendar year is in accordance with this paragraph if—

(A) the eligible graduate nurse training program involved submits the application not later than the date specified by the Secretary;

(B) the application provides such assurances as the Secretary may require that the program will expend payments only for the purpose described in paragraph (3);

(C) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require;

(D) the application contains an assurance that the graduate nurse training program shall annually submit a report on the costs of clinical training of nurses in such manner as the Secretary may require; and

(E) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(3) PAYMENTS FOR OPERATION OF GRADUATE NURSE TRAINING PROGRAMS.—The purpose of payments under paragraph (1) is to assist an eligible graduate nurse training program with the costs of the clinical portions of training programs and supporting full-time enrollees in such training programs.

(b) AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—The appropriation authorized for each of the following calendar years for making payments pursuant to subsection (a)(1) shall not be less than or in excess of the following:

(A) In the case of calendar year 1997, $200,000,000.

(B) In the case of each subsequent calendar year, the amount specified in subparagraph (A) increased by the product of such amount and the general health care inflation factor as defined in subsection (c).

(2) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE PROGRAMS.—Subject to the annual amount available under paragraph (1) for a calendar year, the amount of payments required under subsection (a) to be made to an eligible graduate nurse training program that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to the product of—

(A) the number of full-time enrollees in the program; and

(B) the estimated national average per full-time enrollee cost of each graduate nurse training program described in subsection (c)(1) for the calendar year (as determined by the Secretary), adjusted by a factor to reflect regional differences in the applicable wage and wage related costs.

(3) LIMITATION.—If the annual amount available under paragraph (1) for a calendar year is insufficient for providing each eligible graduate nurse training program that submits to the Secretary an application for such year in accordance with subsection (a)(2) with the amount of payments determined under paragraph (2) for the program for such year, the Secretary shall make such pro rata reductions in the amounts so determined as may be necessary to ensure that the total of payments made under subsection (a) for such year equals the total of such amount.

(c) DEFINITIONS.—For purposes of this part:

(1) ELIGIBLE GRADUATE NURSE TRAINING PROGRAM.—The term "eligible graduate nurse training program" means programs in advanced practice nurse education that are programs for education as nurse practitioners, programs for education as nurse midwives, programs for education as nurse anesthetists, and programs for training clinical nurse specialists that are—

(A) designated by the Secretary as eligible graduate nurse training programs;

(B) accredited programs that award a master degree or a post-master certificate and provide training preparing an individual for practice as an advanced practice nurse; and

(C) existing programs funded in 1994 under section 822 or 831 of the Public Health Service Act that do not award a master degree may also be designated eligible programs.

(2) PROGRAMS FOR EDUCATION AS NURSE PRACTITIONERS.—The term "programs for education as nurse practitioners" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as a nurse practitioners.

(3) PROGRAMS FOR EDUCATION AS NURSE MIDWIVES.—The term "programs for education as nurse midwives" means programs meeting the conditions to be programs for which awards of grants and contracts may be made under section 822 of the Public Health Service Act for education as nurse midwives.

(4) PROGRAMS FOR EDUCATION AS NURSE ANESTHETISTS.—The term "programs for education as nurse anesthetists" means programs meeting the conditions to be programs for which awards of grants may be made under section 831 of the Public Health Service Act for education as nurse anesthetists.

(5) PROGRAMS FOR TRAINING CLINICAL NURSE SPECIALISTS.—The term "programs for training clinical nurse specialists" means programs in advanced practice nurse education meeting the conditions to be programs for which awards of grants and contracts may be made under section 821 of the Public Health Service Act.

(6) FULL-TIME ENROLLEE.—The term "full-time enrollee" means an individual who is enrolled in an advanced nurse training program and qualifies as a full-time student at the institution operating such program.

(7) GENERAL HEALTH CARE INFLATION FACTOR.—The term "general health care inflation factor", with respect to a year, has the meaning given such term in section 3033(e)(4) for such year.

SEC. 3072. NATIONAL COUNCIL ON GRADUATE NURSE TRAINING.

(a) IN GENERAL.—There is established within the Department of Health and Human Services a council to be known as the National Council on Graduate Nurse Training.

(b) DUTIES.—The National Council on Graduate Nurse Training shall—

(1) collect and analyze data on trends of supply and demand for advanced practice nurses;

(2) analyze and consider the supply of advanced practice nurses in the context of changes in the overall supply of health professionals;

(3) recommend priorities for support of graduate nurse training by type of programs described in section 3071(c);

(4) report to Congress annually and include in its report the number of students who graduated the previous year from funded programs; and

(5) consider and recommend appropriate standards for assessing the quality of advanced practice nursing clinical training programs.

(c) COMPOSITION.—

(1) IN GENERAL.—The membership of the National Council on Graduate Nurse Training shall include between 12 and 16 individuals who are appointed to the Council from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary, and shall include—

(A) a nurse practitioner, a nurse-midwife, a nurse anesthetist, and a clinical nurse specialist; and

(B) an official of a school of nursing, an official of a teaching hospital or other health services entity, and other experts in health care financing, delivery, and professions training.

(2) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the National Council on Graduate Nurse Training shall include individuals designated by the Secretary, the Secretary of Veterans Affairs, and the Secretary of the Department of Defense to serve as members of the Council from among Federal officers or employees who are appointed by the President, by the Secretary, the Secretary of Veterans Affairs, the Secretary of Defense, or other Federal officers who are appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The Secretary shall, from among members of the National Council on Graduate Nurse Training appointed under subsection (c)(1), designate an individual to serve as the Chair of the Council.

Subpart C—Payments to Dental Schools

SEC. 3073. DENTAL SCHOOLS.

(a) FEDERAL PAYMENTS TO DENTAL SCHOOLS.—

(1) ENTITLEMENT.—Each eligible school of dentistry that in accordance with paragraph (2) submits to the Secretary an application for calendar year 1997 or any subsequent calendar year shall be entitled to payments for such year to the program for the purpose specified in paragraph (3). The Secretary shall make such payments in an amount determined in accordance with subsection (b), and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments for a calendar year is in accordance with this paragraph if—

(A) the dean (or appropriate presiding official of the eligible school of dentistry involved) submits the application not later than the date specified by the Secretary;

(B) the application provides such assurances as the Secretary may require that the program will expend payments only for the purpose described in paragraph (3);

(C) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(3) PURPOSE.—With respect to an eligible school of dentistry, the purpose of payments under paragraph (1) is to assist such school with the costs of training dental students, including unreimbursed oral health care costs associated with such training. A funding agreement for such payments is that the school of dentistry involved will expend the payments only for direct expenses determined as allowable by the Secretary.

(4) SCHOOL OF DENTISTRY.—For purposes of this subtitle, the term "eligible school of dentistry" means an accredited public or nonprofit private school in a State that provides training leading to a degree of doctor of dentistry or an equivalent degree, and any advanced training relating to such training.

(b) AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—The appropriation authorized for each of the following calendar years for making payments pursuant to subsection (a)(1) shall not be less than or in excess of the following:

(A) In the case of each of calendar years 1997, 1998, 1999 and 2000, $50,000,000.

(B) In the case of each subsequent calendar year, the amount specified in subparagraph (A) increased by the product of such amount and the general health care inflation factor as defined in subsection (c).

(2) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE PROGRAMS.—Subject to the annual amount available under paragraph (1) for a calendar year, the amount of payments required under subsection (a) to be made to an eligible school of dentistry that submits to the Secretary an application for such year in accordance with subsection (a)(2) is an amount equal to the sum of—

(A) 75 percent of the amount available pursuant to paragraph (1) multiplied by the ratio of the number of full-time equivalent training participants in the school of dentistry (determined in accordance with a method to be developed by the Secretary) to the national number of full-time equivalent training participants in all schools of dentistry (as determined by the Secretary) in the academic year 1993–1994; and

(B) 25 percent of the amount available pursuant to paragraph (1) multiplied by the ratio of the unreimbursed oral health care costs of the school of dentistry to the national unreimbursed oral health care costs of all schools of dentistry (as determined by the Secretary).

(c) ELIGIBLE SCHOOL OF DENTISTRY.—For purposes of this subpart, the term "eligible school of dentistry" with respect to a calendar year involved, means a school of dentistry that submits to the Secretary an application for such year in accordance with subsection (a)(2).

Subpart D—Payments to Schools of Public Health

SEC. 3074. SCHOOLS OF PUBLIC HEALTH.

(a) FEDERAL PAYMENTS TO SCHOOLS OF PUBLIC HEALTH.—

(1) ENTITLEMENT.—Each eligible school of public health that in accordance with paragraph (2) submits to the Secretary an application for calendar year 1997 or any subsequent calendar year shall be entitled to payments for such year to the program for the purpose specified in paragraph (3). The Secretary shall make such payments in an amount determined in accordance with subsection (b), and shall administer the payments as a grant. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the years specified in this subpart.

(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments for a calendar year is in accordance with this paragraph if—

(A) the dean (or appropriate presiding official of the eligible school of public health involved submits the application not later than the date specified by the Secretary;

(B) the application provides such assurances as the Secretary may require that the program will expend payments only for the purpose described in paragraph (3);

(C) the application contains each funding agreement described in this subpart and the application provides such assurances of compliance with the agreements as the Secretary may require; and

(D) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(3) PURPOSE.—With respect to an eligible school of public health, the purpose of payments under this paragraph is to assist such school with the costs of training public health professionals in disease prevention and health promotion, the management of health services, health care policy and health care organization, public health practice, outcomes and quality of care, and epidemiologic and biostatistical research. A funding agreement for such payments is that the school of public health involved will expend the payments only for direct expenses determined as allowable by the Secretary.

(4) SCHOOL OF PUBLIC HEALTH.—For purposes of this subpart, the term "school of public health" means an accredited public or non-profit private school in a State that—

(A) is located within a university accredited by one of the recognized regional accrediting bodies;

(B) has as its central concept the prevention of disease and the promotion of health through research, education and professional practice;

(C) offers the Master of Public Health degree;

(D) provides, with sufficient faculty and other resources, education at the master degree level with an emphasis in at least each of the following areas:

(i) Behavioral sciences.

(ii) Biostatistics.

(iii) Environmental and health sciences.

(iv) Epidemiology.

(v) Health services administration; and

(E) offers graduate education at the doctoral degree level in at least 1 of the 5 areas described in subparagraph (D).

(b) AUTHORIZATION OF APPROPRIATIONS; ANNUAL AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—The appropriation authorized for each of the following calendar years for making payments pursuant to subsection (a)(1) shall not be less than or in excess of the following:

(A) In the case of each of calendar years 1997, 1998, 1999 and 2000, $25,000,000.

(B) In the case of each subsequent calendar year, the amount specified in subparagraph (A) increased by the product of such amount and the general health care inflation factor.

(2) PAYMENTS TO SCHOOLS OF PUBLIC HEALTH.—

(A) IN GENERAL.—The amount required under subsection (a) to be made to an eligible school of public health is an amount equal to the product of—

(i) the amount available for making such payments for the calendar year pursuant to paragraph (1); and

(ii) the percentage constituted by the ratio of the number of full-time students enrolled in degree programs in such schools and the number of full-time equivalents of part-time students enrolled in degree programs in such school (determined in accordance with subparagraph (B)) to the national number of all such students in all schools of public health in the academic year beginning in the previous fiscal year.

(B) FULL-TIME EQUIVALENTS.—For the purposes of this paragraph, the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

(i) the total number of credit hours of instructions in such year for which study leading to a graduate degree in public health or an equivalent degree, divided by

(ii) the number of credit hours of instructions which a student pursuing a full-time course of study leading to a graduate degree in public health or equivalent degree.

(C) NEW SCHOOL.—In the case of a new school of public health which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subparagraph (A)(ii) shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(c) ELIGIBLE SCHOOL OF PUBLIC HEALTH.—The term "eligible school of public health" with respect to the calendar year involved, means a school of public health that submits to the Secretary for such year in accordance with subsection (a)(2).

PART 3—RELATED PROGRAMS

Subpart A—Work Force Development

SEC. 3081. PROGRAMS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—

(1) FUNDING.—For purposes of carrying out the programs described in this section, there is authorized to be appropriated (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs)—

(A) $126,000,000 in fiscal year 1996;

(B) $135,000,000 in fiscal year 1997;

(C) $120,000,000 in fiscal year 1998;

(D) $115,000,000 in fiscal year 1999;

(E) $91,500,000 in fiscal year 2000;

(F) $54,900,000 in fiscal year 2001;

(G) $32,010,000 in fiscal year 2002; and

(H) $22,900,000 in each of fiscal years 2003 and 2004.

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Health and Human Services.

(b) PRIMARY CARE PHYSICIAN AND PHYSICIAN ASSISTANT TRAINING.—For purposes of subsection (a), the programs described in this section include programs to support projects to train additional numbers of primary care physicians and physician assistants, including projects to enhance community-based generalist training for medical students, residents, and practicing physicians; to retrain mid-career physicians previously certified in a nonprimary care medical specialty; to expand the supply of physicians with special training to serve in rural and inner-city medically underserved areas; to support expansion of service-linked educational networks that train a range of primary care providers in community settings; to provide for training in managed care, cost-effective practice management, and continuous quality improvement; to provide interdisciplinary training for medical students, residents or practicing physicians, and dental students, residents, and dental hygienists, to deliver primary care to individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those who are more than 18 years of age; and to develop additional information on primary care workforce issues as required to meet future needs in health care.

(c) TRAINING OF UNDERREPRESENTED RACIAL AND ETHNIC MINORITIES AND DISADVANTAGED PERSONS.—For purposes of subsection (a), the programs described in this section include a program to support projects to increase the number of racial and ethnic underrepresented minority and disadvantaged persons in medicine, osteopathy, dentistry, advanced practice nursing, public health, psychology, and other health professions, including projects to provide continuing financial assistance for such persons entering health professions training programs; for financial assistance for facility renovation or construction; to increase support for recruitment and retention of such persons in the health professions; to maintain efforts to foster interest in health careers among such persons at the preprofessional level; and to increase the number of racial and ethnic minority health professions faculty at programs that have a significant number of underrepresented racial and ethnic minorities.

(d) EXPANDING RURAL HEALTH CAREER OPPORTUNITIES AND RETENTION EFFORTS.—

(1) IN GENERAL.—For purposes of subsection (a), the programs described in this section include programs to support projects to increase the number of individuals living in rural, underserved communities who enter the fields of medicine, osteopathy, dentistry, advanced practice nursing, public health, psychology, and other health professions, and to encourage the retention of such health care professionals in rural, underserved communities.

(2) RURAL HEALTH CAREER TRAINING.—Projects to increase the number of individuals recruited from rural, underserved areas include projects—

(A) to provide continuing financial assistance for such persons entering health professions education and training programs;

(B) to increase efforts to foster interest in health careers among such persons at the preprofessional level;

(C) to foster the development of training curricula appropriate to rural health care settings; and

(D) to increase support for recruitment of such persons in the health professions.

(3) RETENTION OF RURAL HEALTH CARE PROVIDERS.—Projects to encourage the retention of individuals providing health care in rural, underserved areas include projects—

(A) to establish State and regional locum tenans programs in rural health care settings so that substitute health care providers are available when permanent staff is absent from the health care setting;

(B) to implement programs to foster interdisciplinary team approaches to rural health training and practice; and

(C) to develop state-of-the-art network telecommunications and telemedicine systems to link rural health professionals to other health care providers and academic health care centers.

(e) NURSE TRAINING.—For purposes of subsection (a), the programs described in this section include a program to support projects to support midlevel provider training and address priority nursing workforce needs, including projects to train additional nurse practitioners and nurse midwives; to support baccalaureate-level nurse training programs providing preparation for careers in teaching, community health service, and specialized clinical care; to train additional nurse clinicians and nurse anesthetists; to support interdisciplinary school-based community nursing programs; and to promote research on nursing workforce issues.

(f) INAPPROPRIATE PRACTICE BARRIERS; FULL UTILIZATION OF SKILLS.—For purposes of subsection (a), the programs described in this section include a program—

(1) to develop and encourage the adoption of model professional practice statutes for advanced practice nurses and physician assistants, and to otherwise support efforts to remove inappropriate barriers to practice by such nurses and such physician assistants; and

(2) to promote the full utilization of the professional education and clinical skills of advanced practice nurses and physician assistants.

(g) ADVISORY BOARD ON HEALTH CARE WORK FORCE DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall establish an Advisory Board known as the National Advisory Board on Health Care Workforce Development to advise, consult with, and make recommendations to the Secretary and to the Secretary of Labor on matters relating to—

(A) health care worker supply and its adequacy to assure proper health care delivery system staffing in both rural and urban areas; and

(B) the impact of this Act, and of related changes in law regarding health care, on health care workers and the needs of such workers, including needs regarding education, training, and other career development matters and the relationship of health care workers to health care professionals.

(2) COMPOSITION.—The Board established under paragraph (1) shall be composed of the following members with expertise in health care workforce issues appointed by the Secretary in consultation with the Secretary of Labor:

(A) Five representatives of labor organizations representing health care workers.

(B) Five representatives of health care delivery institutions.

(C) Two representatives from health care education organizations.

(D) Two representatives from consumer organizations.

(3) ASSISTANCE.—The Secretary shall provide the Board with such administrative assistance as may be necessary for the Board to carry out this subsection.

(h) OTHER PROGRAMS.—For purposes of subsection (a), the programs described in this section include a program to train health professionals and administrators in managed care, cost-effective practice management, continuous quality improvement practices, and provision of culturally sensitive care.

(i) RELATIONSHIP TO EXISTING PROGRAMS.—This section may be carried out through programs established in title VII or VIII of the Public Health Service Act, as appropriate and as consistent with the purposes of such programs.

(j) MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES.—Title VII of the Public Health Service Act is amended by inserting after section 778, the following new section:

"SEC. 779. MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES.

"(a) IN GENERAL.—The Secretary may make grants and enter into contracts with university affiliated programs, schools of medicine, and schools of dentistry to assist in meeting the costs of such programs or schools to—

"(1) improve the interdisciplinary training of primary care physicians and dentists in the health care services needs of individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those who are more than 18 years of age;

"(2) develop, evaluate, and disseminate curricula relating to the health care service needs of individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those individuals who are more than 18 years of age;

"(3) support the training and retraining of faculty to provide such instruction; and

"(4) support continuing education of health professionals who provide health care services and support to individuals with mental, physical, and developmental disabilities, including mental retardation, particularly those who are more than 18 years of age.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated, $10,000,000 for each of the fiscal years 1995 through 2000.".

SEC. 3082. PROGRAMS OF THE SECRETARY OF LABOR.

(a) IN GENERAL.—

(1) FUNDING.—For purposes of carrying out the programs described in this section, and for carrying out section 3083, there is authorized to be appropriated (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs)—

(A) $252,000,000 in fiscal year 1996;
(B) $180,000,000 in fiscal year 1997;
(C) $160,000,000 in fiscal year 1998;
(D) $153,000,000 in fiscal year 1999;
(E) $122,000,000 in fiscal year 2000;
(F) $73,200,000 in fiscal year 2001;
(G) $42,680,000 in fiscal year 2002; and
(H) $30,500,000 in each of fiscal years 2003 and 2004.

(2) ADMINISTRATION.—The programs described in this section and carried out with amounts made available under subsection (a) shall be carried out by the Secretary of Labor (in this section referred to as the "Secretary").

(b) RETRAINING PROGRAMS; ADVANCED CAREER POSITIONS; WORKFORCE ADJUSTMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of subsection (a), the programs described in this section are the following:

(A) A program for skills upgrading and occupational retraining (including retraining health care workers for more advanced positions as technicians, nurses, and physician assistants), and for quality and workforce improvement.

(B) A demonstration program to assist workers in health care institutions in obtaining advanced career positions.

(C) A program to develop and operate health care industry worker job banks in local employment services agencies or one-stop career centers, subject to the following:

(i) Such job banks shall be available to all health care providers in the community involved.

(ii) Such job banks shall begin operation not later than 90 days after the date of the enactment of this Act.

(iii)(I) With respect to each affected community, the local employment service agency or one-stop career center serving such community shall be allocated not less than one counselor whose responsibility it shall be to develop and operate health and insurance industry worker job banks. Where the impact of health care industry restructuring in the affected community is such that the functions required under this clause cannot be adequately provided by one counselor, additional counselors shall be allocated to carry out such functions.

(II) Such counselor shall solicit job openings from local health care industry employers, maintain frequent contacts with these and other employers, and monitor and update all job listings appropriate for displaced health care workers seeking employment.

(III) The local employment service agency or one-stop career center shall provide directly, or facilitate the provision of, labor exchange services to displaced health care industry workers, including assessment, counseling, testing, job-search assistance, job referral and placement, and referral to training and educational programs, where appropriate.

(IV) The Secretary of Labor shall develop performance goals for the effective performance of such job banks with respect to the number and quality of jobs listed, the degree of participation by employers in the affected community, and success in placement of job bank users in jobs listed, taking into account specific geographic, economic and labor market characteristics of the community served.

(D) A program to provide for joint labor-management decision-making in the health care sector on workplace matters related to the restructuring of the health care delivery system provided for in this Act.

(E) A program to collect data regarding the adequacy of the supply of health care workers by occupation and sector of the health industry in light of existing and projected demand for such workers.

(F)(i) A program to encourage the adoption and utilization of high performance, high quality health care delivery systems, including employee participation committees and employee team systems that will contribute to more effective health care by increasing the role and the area of independent decisionmaking of health care workers.

(ii) For purposes of this subparagraph, the term "employee participation committees" means committees of workers independently selected by and from a facility's nonmanagerial workforce, or selected by unions where collective bargaining agreements are in effect, and which operate independently without employer interference and consult with management on issues of efficiency, productivity, and quality of care, except that an employee participation committee established under and operating in conformity with this subparagraph shall not be considered a labor organization within the meaning of section 2(5) of the National Labor Relations Act or a representative within the meaning of section 1, sixth, of the Railway Labor Act.

(2) USE OF FUNDS.—Amounts made available under subsection (a) for carrying out this section may be expended for program support, faculty development, trainee support, workforce analysis, and dissemination of information, as necessary to produce required performance outcomes.

(c) CERTAIN REQUIREMENTS FOR PROGRAMS.—In carrying out the programs described in subsection (b), the Secretary shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Explicit, clearly defined skill requirements developed for all the positions and projections of the number of openings for each position.

(2) Opportunities for internal career movement.

(3) Opportunities to work while training or completing an educational program.

(4) Evaluation and dissemination.

(5) Training opportunities in several forms, as appropriate.

(d) ADMINISTRATIVE REQUIREMENTS.—In carrying out the programs described in subsection (b), the Secretary shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Joint labor-management implementation and administration.

(2) Discussion with employees as to training needs for career advancement.

(3) Commitment to a policy of internal hirings and promotion.

(4) Provision of support services.

(5) Consultations with employers and with organized labor.

Subpart B—Transitional Provisions for Workforce Stability

SEC. 3091. APPLICATION.

(a) LIMITATION TO TRANSITION PERIOD.—The provisions of this subpart are intended to minimize, to the extent possible, disruptions in established employment relationships during the period of transition to a restructured health care delivery system, and shall terminate December 31, 2000.

(b) HEALTH CARE ENTITIES COVERED BY SUBPART.—The provisions of this subpart, including references to displacing employers, hiring employers, successors and contractors, apply only to health care entities that employ more than 25 individuals.

SEC. 3092. DEFINITIONS.

(a) HEALTH CARE ENTITY.—As used in this subpart, the term "health care entity" includes individuals, sole proprietorships, partnerships, associations, business trusts, corporations, governmental institutions, and public agencies (including state governments and political subdivisions thereof) that—

(1) provide health care services under title I (including nonmandatory health care services under title I) or under the amendments made or programs referred to in titles II, III, IV, and VIII; or

(2) provide necessary related services, including administrative, food service, janitorial or maintenance services, to an entity that provides health care services (as described in subparagraph (1));

except that an entity that solely manufactures or provides goods or equipment to a health care entity shall not be considered a health care entity.

(b) AFFILIATED ENTERPRISE.—As used in this subpart, the term "affiliated enterprise" means a health care entity that, together with the displacing employer, is considered a single employer as defined under 414 of the Internal Revenue Code of 1986. For purposes of this subpart, a health care entity which contracts with a State to provide services pursuant to a State program under part I of subtitle B of title II shall be deemed to be an affiliated enterprise of such State.

(c) PREFERENCE ELIGIBLE EMPLOYEE.—As used in this subpart, the term "preference eligible employee" means an employee who—

(1) has been employed for in excess of 1 year by a health care entity; and

(2) has been displaced by or has received notice of an impending displacement by such entity.

(d) DISPLACEMENT.—As used in this subpart, the term "displacement" includes a lay off, termination, significant cutback in paid work hours, or other loss of employment, except that a discharge for just cause shall not constitute a displacement within the meaning of this paragraph.

SEC. 3093. OBLIGATIONS OF DISPLACING EMPLOYER AND AFFILIATED ENTERPRISES IN EVENT OF DISPLACEMENT.

(a) NOTICE.—A health care entity which displaces a preference eligible employee shall provide such employee with—

(1) written notice, no later than the date of displacement, of employment rights under this subpart, including employment rights with respect to affiliated enterprises of the displacing employer; and

(2) notice of any existing or subsequent vacancies with the displacing employer or an affiliated enterprise, which notice may be given by posting of such vacancies wherever notices to applicants for employment are customarily posted, by listing such vacancies with the local employment services agency, or in such other manner as the Secretary of Labor, by regulation, may hereafter specify.

Any such vacancy shall remain open for applications by preference eligible employees for not less than 14 calendar days from the date on which the initial notice is provided.

(b) HIRING PREFERENCE.—

(1) IN GENERAL.—A qualified preference eligible employee who applies during the notice period described in subsection (a)(2) for a vacant position with the displacing employer or an affiliated enterprise, which position is in the employee's occupational specialty and is located in the same State or Standard Metropolitan Statistical Area in which the employee was employed prior to the displacement, shall be given the right to accept or decline the position before the employer may offer the position to a nonpreference eligible employee.

(2) MULTIPLE APPLICATIONS.—When considering applications from more than one qualified preference eligible employee, the hiring health care entity shall have discretion as to which of such employees will be offered the position.

(3) EMPLOYMENT QUALIFICATIONS.—Nothing in this subsection shall be construed to prohibit the hiring health care entity from establishing reasonable employment qualifications for a vacancy to which this subpart applies, except that employees who performed essentially the same work prior to their displacement shall be deemed presumptively qualified for comparable positions.

(c) TERMINATION OF PREFERENCE ELIGIBILITY.—A displaced employee's preference eligibility shall terminate—

(1) at such time as the displaced employee obtains substantially equivalent employment with the displacing employer; or

(2) if the employee does not obtain such employment—

(A) with respect to health care entities other than the displacing employer, 2 years after the date of the displacement; or

(B) with respect to the displacing employer, upon the termination of this subpart pursuant to section 3081(a).

SEC. 3094. EMPLOYMENT WITH SUCCESSORS.

A health care entity that succeeds another health care entity through merger, consolidation, acquisition, contract, or other similar manner shall provide employees of the previous health care entity who would otherwise be displaced the right to continued employment in the job positions held by such employees prior thereto, unless the employer can establish that such positions no longer exist.

SEC. 3095. COLLECTIVE BARGAINING OBLIGATIONS DURING TRANSITION PERIOD.

(a) CONTINUATION OF PREVIOUSLY RECOGNIZED BARGAINING REPRESENTATIVES AND AGREEMENTS.—If a majority of the employees in an appropriate bargaining unit consists of employees who were previously covered by a bargaining agreement or represented by an exclusive representative with respect to terms and conditions of employment, and there has not been a substantial change in the operations performed by the employees in that unit, the employer shall recognize such representative as the exclusive representative for the unit and shall assume the bargaining agreement, except that where application of this subsection would result in the recognition of more than one bargaining representative for a single unit, the question concerning which representative shall be recognized as the exclusive representative for the unit shall be resolved in accordance with applicable Federal or State law.

(b) JOINT EMPLOYER STATUS.—If employees of a contractor are assigned on a regular basis to perform work on the premises of a contracting entity and the tasks performed by these employees are functionally integrated with the operations of the contracting entity on whose premises such employees work, both the contractor and the contracting entity shall be considered joint employers of the employees with respect to work performed on those premises for purposes of determining compliance with labor relations laws. Employees of such joint employers may not be excluded from a bargaining unit within either entity on the basis of such joint employer status.

SEC. 3096. GENERAL PROVISIONS.

(a) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations to implement the requirements of section 3093.

(b) OTHER LAWS.—The standards and requirements of this subpart shall not preempt or excuse noncompliance with any other applicable Federal or State law, regulation or municipal ordinance that establishes additional notice and preference standards or requirements concerning employee dislocation, employee representation, or collective bargaining.

(c) RULES OF CONSTRUCTION.—Nothing in this subpart shall be construed—

(1) to excuse or otherwise limit the obligation of an employer to comply with any collective bargaining agreement or any employment benefit plan that provides rights to employees in addition to those provided under this subpart; or

(2) to require an employer to recognize or bargain with a labor organization in violation of State law.

(d) ENFORCEMENT.—Unless otherwise specifically provided in this subpart, the enforcement provisions of section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) shall apply with respect to the enforcement of the individual rights, including notice requirements, provided under section 3093. The collective bargaining and contractual rights provided under sections 3094 and 3095 shall be enforced through administrative and judicial procedures otherwise provided under Federal or State law with respect to such rights.

Subtitle B—Academic Health Centers

SEC. 3101. DISCRETIONARY GRANTS REGARDING ACCESS TO CENTERS.

(a) RURAL INFORMATION AND REFERRAL SYSTEMS.—The Secretary may make grants to eligible centers for the establishment and operation of information and referral systems to provide the services of such centers to rural health plans.

(b) OTHER PURPOSES REGARDING URBAN AND RURAL AREAS.—The Secretary may make grants to community- and provider-based health plans as defined in section 1441(c)(2) to carry out activities (other than activities carried out under subsection (a)) for the purpose of providing the services of eligible centers to residents of rural or urban communities who otherwise would not have adequate access to such services.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriate, $5,000,000 for each of the fiscal years 1996 and 1997, $4,000,000 for each of the fiscal years 1998 and 1999, $3,050,000 for fiscal year 2000, $1,830,000 for fiscal year 2001, $1,067,000 for fiscal year 2002, and $760,000 for each of the fiscal years 2003 and 2004.

Subtitle C—Health Research Initiatives

PART 1—PROGRAMS FOR CERTAIN AGENCIES

SEC. 3201. BIOMEDICAL, BEHAVIORAL AND HEALTH SERVICES RESEARCH.

(a) FINDINGS.—Congress finds the following:

(1) Nearly 4 of 5 peer reviewed research projects deemed worthy of funding by the National Institutes of Health are not funded, and 9 of 10 peer reviewed research projects deemed worthy of funding by the Agency for Health Care Policy and Research are not funded.

(2) Less than 2 percent of the nearly one trillion dollars our Nation spends on health care is devoted to health research, while the defense industry spends 15 percent of its budget on research.

(3) Public opinion surveys have shown that Americans want more Federal resources put into health research and support by having a portion of their health insurance premiums set aside for this purpose.

(4) Ample evidence exists to demonstrate that health research has improved the quality of health care in the United States. Advances such as the development of vaccines, the cure of many childhood cancers, drugs that effectively treat a host of diseases and disorders, a process to protect our Nation's blood supply from the HIV virus, progress against cardiovasculor disease including heart attack and stroke, and new strategies for the early detection and treatment of diseases such as colon, breast, and prostate cancer clearly demonstrates the benefits of health research.

(5) Among the most effective methods to control health care costs are the prevention of intentional and unintentional injury and the prevention and cure of disease and disability, thus, health research which holds the promise of prevention of intentional and unintentional injury and cure and prevention of disease and disability is a critical component of any comprehensive health care reform plan.

(6) The state of our Nation's research facilities at the National Institutes of Health and at universities is deteriorating significantly. Renovation and repair of these facilities are badly needed to maintain and improve the quality of research.

(7) Because the Omnibus Budget Reconciliation Act of 1993 freezes discretionary spending for the next 5 years, the Nation's investment in health research through the National Institutes of Health and the Agency for Health Care Policy and Research is likely to decline in real terms unless corrective legislative action is taken.

(8) A health research fund is needed to maintain our Nation's commitment to health research and to increase the percentage of approved projects which receive funding at the National Institutes of Health and the Agency for Health Care Policy and Research to at least 33 percent.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—With respect to each calendar year, the Secretary shall provide for payment, from funds in the Treasury not otherwise appropriated, for activities under this section, an amount equal to 0.25 percent in 1997 and subsequent years, of all private premiums required to be paid in accordance with the Act.

(2) DEFINITION.—For purposes of this subsection, the term "private health premiums" means all premium related payments made by employers, individuals, and families for coverage under this Act.

(3) MAINTENANCE OF EFFORT.—No amounts made available under this subsection shall replace or reduce the amount of appropriations for the National Institutes of Health or the Agency for Health Care Policy and Research.

(c) PURPOSES FOR EXPENDITURES.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404F. EXPENDITURES FOR BIOMEDICAL AND BEHAVIORAL RESEARCH.

"(a) IN GENERAL.—With respect to 80 percent of the amounts made available under section 3201 of the Health Security Act in a fiscal year, the Secretary shall distribute—

"(1) 2 percent of such amounts during any fiscal year to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion for the following activities:

"(A) for carrying out the responsibilities of the Office of the Director, in including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine and the Office of Rare Diseases Research; and

"(B) for construction and acquisition of equipment for or facilities of or used by the National Institutes of Health;

"(2) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

"(3) 1 percent of such amounts during any fiscal year for carrying out section 301 and part D of title IV with respect to health information communications; and

"(4) the remainder of such amounts during any fiscal year to member institutes of the National Institutes of Health and Centers in the same proportion to the total amount received under this section, as the amount of annual appropriations under appropriations Acts for each member institute and Centers for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and Centers of the National Institutes of Health for the fiscal year.

"(b) Plans of Allocation.—The amounts transferred under subsection (a) shall be allocated by the Director of NIH or the various directors of the institutes and centers, as the case may be, pursuant to allocation plans developed by the various advisory councils to such directors, after consultation with such directors.".

SEC. 3202. HEALTH SERVICES RESEARCH.

(a) In General.—The Secretary shall distribute the remainder of the amounts made available under section 3201 in a fiscal year (not to exceed 20 percent of the total of amounts available in a fiscal year under such section), to the Agency for Health Care Policy and Research for policy-initiated and investigator-initiated research.

(b) Research on Health Care Reform.—Section 902 of the Public Health Service Act (42 U.S.C. 299a), as amended by section 2(b) of Public Law 102-410 (106 Stat. 2094), is amended by adding at the end the following subsection:

"(f) Research on Health Care Reform.—

"(1) In general.—In carrying out section 901(b), the Administrator shall conduct and support research on the reform of the health care system of the United States, as directed by the Secretary.

"(2) Priorities.—In carrying out paragraph (1), the Administrator shall give priority to the following:

"(A) Conducting and supporting research on the appropriateness and effectiveness of alternative clinical strategies (including community-based programs and preventive services), the quality and outcomes of care, and administrative simplification.

"(B) Conducting and supporting research on the appropriateness and effectiveness of alternative community-based and clinical strategies including integrating preventive services into primary care, the effectiveness of preventive counseling and health education, and the efficacy and cost-effectiveness of clinical preventive services.

"(C) Conducting and supporting research on consumer choice and information resources; on the role of shared decision making in enhancing patient and provider therapeutic options; the effects of health care reform on health delivery systems; methods for risk adjustment; factors influencing access to health care for vulnerable populations, including children, persons with low-income, persons with disabilities, or individuals with chronic or complex health conditions, and primary care.

"(D) The development of clinical practice guidelines consistent with section 913, the dissemination of such guidelines consistent with section 903, and the assessment of the effectiveness of such guidelines.".

SEC. 3203. AHCPR CONFORMING AMENDMENTS.

(a) Traineeship Program.—Section 902(c) of such Act (42 U.S.C. 299a(c)) is amended—

(1) by redesignating the matter following the subsection heading as paragraph (1) and realigning the margin of such so as to align with the margin of section 903(a)(1);

(2) by inserting before "The Administrator" the following: "In general.—"; and

(3) by adding at the end thereof the following new paragraph:

"(2) Traineeship program.—The Administrator shall establish a traineeship program for not to exceed 25 investigators, to enable such investigators to carry out research at the Agency that would benefit the mission of the Agency and further the educational needs of such investigators. Such investigator positions shall not be counted against any Federal employment ceilings affecting the Agency.".

(b) Printing Services.—Section 902 of such Act (42 U.S.C. 299a) is amended by adding at the end thereof the following new subsection:

"(f) Authority to Contract for Printing Services.—The Administrator may publish or arrange for the publication of research findings and practice guidelines, without regard to section 501 of title 44, United States Code.".

(c) Panels.—Section 913(a) of such Act (42 U.S.C. 299b-2(a)) is amended by adding at the end thereof the following new flush sentence: "Panels convened for the purpose of carrying out paragraphs (1) and (2) shall not be considered advisory committees within the meaning of section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App. 3(2)), and prior to publication by the Administrator, clinical practice guidelines, performance measures, and review criteria as described in section 912(a) are not subject to the requirements of section 552 of title 5, United States Code.".

(d) Arrangements.—Section 913 of such Act (42 U.S.C. 299b-2) is amended by adding at the end thereof the following new subsection:

"(d) Arrangements.—

"(1) In general.—Upon the request of a public or private entity, the Administrator may collect, tabulate, and analyze statistics, perform technology assessments, carry out health services and outcomes and effectiveness research, and facilitate the development of clinical practice guidelines under arrangements with such entities under which such entities compensate the Administrator for the costs of the services provided.

"(2) Amounts and personnel.—Amounts collected from payments under this subsection shall be available to the Administrator for obligation until expended, and personnel used to provide such services shall not be counted against any Federal employment ceilings affecting the Agency.".

(e) Technical Amendment.—Section 913(c) of such Act (42 U.S.C. 299b-2(c)) is amended by moving the first sentence so as appear after the subsection heading.

PART 2—FUNDING FOR PROGRAM

SEC. 3211. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Relation to Other Funds.—Amounts made available under this subtitle are in addition to any other authorizations of appropriations that are available to carry out section 3202 and the amendments made by such section.

(b) Trigger and Release of Monies.—No expenditure shall be made pursuant to section 3201(b) during any fiscal year in which the annual amount appropriated for the National Institutes of Health and the Agency for Health Care Policy and Research is less than the amount so appropriated for the prior fiscal year. With respect to amounts available for expenditure pursuant to section 3201(b) which, as a result of the application of this subsection remain unexpended, such amounts shall be obligated by the Secretary of Health and Human Services under the public health initiative under subtitle H.

PART 3—MEDICAL TECHNOLOGY IMPACT STUDY

SEC. 3221. MEDICAL TECHNOLOGY IMPACT STUDY.

(a) Assessment of the Standard Impact of Medical Technologies.—

(1) In general.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research (hereafter referred to in this section as the "Administrator"), shall undertake an interdisciplinary study (to be known as the "Medical Technology Impact Study") to assess the overall economic costs, economic benefits, and effect on patient outcomes of medical technologies used in treating each of a list of target diseases and conditions. The Secretary shall submit the report of the Administrator to Congress (in accordance with subsection (c)) concerning the results of the study and may provide any recommendations determined to be necessary to ensure the availability, access, and appropriate use of medical technologies to improve the quality of health care in the United States.

(2) Purpose.—The purpose of the study under paragraph (1) is to assess the impact of old, new, and emerging medical technologies on health care costs, social costs, and patient outcomes, and to identify the factors, including government and private payor reimbursement policies, that impede or encourage innovation that improves patient outcomes. Congress intends that the study complement the technology assessment, outcomes research, and guideline development activities authorized under title IX of the Public Health Service Act by providing a comprehensive context for understanding the economic and social factors related to the development and use of medical technologies.

(3) Definitions.—As used in this section:

(A) Economic benefits.—The term "economic benefits" may include, based on available data—

(i) reductions in the economic costs of disease;

(ii) increases in employment attributable to the medical technology industry;

(iii) increases in Federal and State tax revenues attributable to the medical technology industry and its employees;

(iv) improvements in the balance of trade deficit attributable to the medical technology industry; and

(v) other benefits that are determined by the Advisory Committee established under subsection (b) to be relevant to assessing the impact of medical technology.

(B) Economic costs.—The term 'economic costs' may include, based on available data—

(i) the financial costs to the health care system of diagnosing and treating disease, including the costs of nontreatment and palliative care;

(ii) the financial costs to employers resulting from worker illness, including the costs of productivity losses and worker absenteeism;

(iii) the financial costs to families resulting from illness of a family member, including costs associated with loss of income, hiring of caretakers, and long term and hospice care;

(iv) the financial costs to government of illness, including reductions in income tax revenues attributable to worker illness and worker related injuries and increases in transfer payments, including unemployment, disability, welfare, and survivor benefit payments, made to individuals and families on account of illness; and

(v) other costs that are determined by the Advisory Committee established under subsection (b) to be relevant to assessing the impact of medical technology.

(C) Medical technologies.—The term 'medical technologies' includes drugs, biologics (including vaccines), medical devices, drug delivery systems, and surgical services and other procedures for preventing, diagnosing, and treating diseases or health conditions.

(D) Medical technology industry.—The term 'medical technology industry' includes the biotechnology, pharmaceutical, and medical device industries, and such other industries that invent, develop, or market medical technologies.

(E) PATIENT OUTCOMES.—The term 'patient outcomes' may include—

(i) changes in clinical outcomes, including stabilization of patients with progressive disease or health conditions, resulting from the use of safe and effective medical technology in prevention, diagnosis, or treatment;

(ii) changes in mortality, morbidity, and health service use, including stabilization of patients with progressive diseases;

(iii) changes in quality of life, including ability to perform activities of daily living, ability to return to work, relief from discomfort or pain, alleviation of fatigue, and improved mental functioning and well-being; and

(iv) other outcomes that are determined by the Advisory Committee to be relevant to assessing the impact of medical technology.

(b) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Administrator shall establish an Advisory Committee to assist the Agency for Health Care Policy and Research in preparing the reports required under subsection (c). Except as provided in paragraph (3), no member of the Advisory Committee shall be an employee of the Federal Government.

(2) MEMBERSHIP.—The Advisory Committee shall be balanced in its representation of interested parties and shall be composed of at least two individuals appointed by the President of the Institute of Medicine and two individuals from each of the following categories to be appointed by the Administrator:

(A) Experts in medical technology assessment.

(B) Experts in objective measures of improved patient outcomes, such as clinical outcomes, mortality, morbidity, and health service use.

(C) Experts in subjective measures of improved patient outcomes, such as quality of life.

(D) Experts in quantifying the economic costs of disease to the health care system, including public and private payers.

(E) Experts in quantifying the economic impact of the medical technology industry.

(F) Experts in health statistics and epidemiology.

(G) Physicians and other health care providers.

(H) Officers or employees of health plans and other health care payers.

(I) Experts in the ethical implications of health care.

(J) Experts in private sector financial market investment in the medical technology industry.

(K) Consumers and members of patient advocacy groups.

(L) Health professional organizations.

(M) Officers or employees of biotechnology companies.

(N) Officers or employees of medical device companies.

(O) Officers or employees of pharmaceutical companies.

(3) EX OFFICIO.—The following individuals or their designees shall serve as ex officio members of the Advisory Committee:

(A) The Director of the National Institutes of Health.

(B) The Commissioner of Food and Drugs.

(C) The Director of the Centers for Disease Control and Prevention.

(D) The Administrator of the Health Care Financing Administration.

(E) The Under Secretary of Commerce for Technology.

(F) The Director of the Congressional Office of Technology Assessment.

(c) INTERDISCIPLINARY STUDY AND REPORT.—

(1) IN GENERAL.—The Administrator, in consultation with the Advisory Committee established under subsection (b), shall determine which diseases or conditions should be studied in the Medical Technology Impact Study under subsection (a). In carrying out the medical technology assessment required under this subsection, the Administrator shall consider various factors, including those outlined in section 904(b)(2) of the Public Health Service Act and government and private payor reimbursement policies that impede or encourage innovation that improves patient outcomes. The diseases or conditions studied in such Study shall be those considered to be high priority according to the following criteria:

(A) Aggregate economic costs to the United States.

(B) Overall importance to public heath.

(C) Potential for improvements in patient outcomes.

(D) Significant changes expected in management of the condition.

(E) Other criteria identified by the Advisory Committee.

(2) DESIGN.—The Administrator, in consultation with the Advisory Committee established under subsection (b), and the Institute of Medicine pursuant to paragraph (3), shall develop a design, based on the list of target diseases and conditions, for undertaking the Medical Technology Impact Study under subsection (a).

(3) CONTRACT.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to enter into a contract to review the design of the Medical Technology Impact Study under subsection (a) and report to the Administrator concerning any recommendations for revising such design, in the interest of assuring that it reflects the best available scientific methodologies.

(4) PUBLICATION.—The Administrator shall publish the study design under this section and list of target diseases and conditions, the recommendations of the Institute of Medicine, and the response of the Administrator to such recommendations in the Federal Register for a 60-day period for public comment. Any such comments shall be considered by the Administrator in completing the proposed study design for submission to the Secretary.

(5) DESIGN REPORT.—The Secretary shall report to Congress concerning the proposed design of the Medical Technology Impact Study, together with recommendations for appropriations necessary to carry out the Study.

(6) GRANTS AND CONTRACTS.—Beginning in the first fiscal year for which Congress appropriates funds under subsection (d), and ending on September 30 of that year, the Administrator shall enter into grants and contracts with appropriate entities to conduct any investigations and analyses that may be required to carry out the design of the Medical Technology Impact Study under subsection (a).

(7) REPORT ON FINDINGS.—The Administrator, in consultation with the Advisory Committee established under subsection (b), shall develop a draft comprehensive report concerning the findings of the Medical Technology Impact Study under subsection (a), shall make copies of the draft report available to the public, and shall publish a notice in the Federal Register providing for a 60-day period of public comment. Any such comments shall be considered by the Administrator in completing and submitting the final report to the Secretary.

(8) FINAL REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit the report of the Administrator under this section to Congress, and may include any recommendations determined necessary to assure the availability, access and appropriate use of medical technologies to improve the quality of health care in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle D—Core Functions of Public Health Programs; National Initiatives Regarding Preventive Health

PART 1—FUNDING

SEC. 3301. AUTHORIZATIONS OF APPROPRIATIONS.

(a) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For the purpose of carrying out part 2, there are authorized to be appropriated $284,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $339,000,000 for fiscal year 1998, $383,000,000 for fiscal year 1999, $381,300,000 for fiscal year 2000, $228,800,000 for fiscal year 2001, $133,370,000 for fiscal year 2002, and $95,300,000 for each of the fiscal years 2003 and 2004.

(b) NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION.—For the purpose of carrying out part 3, there are authorized to be appropriated $158,000,000 for fiscal year 1996, $112,000,000 for fiscal year 1997, $100,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsections (a) and (b) are in addition to any other authorizations of appropriations that are available for the purposes described in such subsections.

PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS

SEC. 3311. PURPOSES.

Subject to the subsequent provisions of this subtitle, the purposes of this part are to strengthen the capacity of State and local public health agencies to carry out the following functions:

(1) To monitor and protect the health of communities against communicable diseases and exposure to toxic environmental pollutants, occupational hazards, harmful products, and poor quality health care.

(2) To identify and control outbreaks of infectious disease and patterns of chronic disease and injury.

(3) To inform and educate health care consumers and providers about their roles in preventing injury, preventing and controlling disease and the appropriate use of medical services.

(4) To develop and test new prevention and public health control interventions.

(5) To integrate and coordinate the prevention programs and services of standard health plans, community-based providers, local health departments, State health departments, purchasing cooperatives, and other sectors of State and local government that affect health, including education, labor, transportation, welfare, criminal justice, environment, agriculture, and housing.

(6) To conduct research on the effectiveness and cost-effectiveness of public health programs.

SEC. 3312. GRANTS TO STATES FOR CORE FUNCTIONS OF PUBLIC HEALTH.

(a) IN GENERAL.—The Secretary shall make grants to States that submit applications as prescribed in section 3313 in an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in section 1902(2) of the Public Health Service Act to the State for fiscal year 1981 bear to the total amount appropriated for such provisions of law for fiscal year 1981.

(b) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For purposes of subsection (a), the functions described in this subsection are, subject to subsection (c), as follows:

(1)(A) Data collection, activities related to population health (including the population of individuals ineligible for the standard benefit package) measurement and outcomes monitoring, including the acquisition and installation of hardware and software, personnel training and technical assistance to operate and support automated and integrated information systems, the regular collection and analysis of public health data, vital statistics, and personal health services data and analysis for planning and needs assessment purposes of data collected from health plans through the information system under title V of this Act.

(B) Data measures under this paragraph must include an ethnic identifier on all forms. To the extent feasible, ethnic identifiers should be classified by ethnic sub-group populations. Access to data must be ensured for research organizations and data clearinghouses. Population health measurement and outcome monitoring should focus on health status differentials between racial, and ethnic groups, by subpopulation, and gender differences.

(2) Activities to protect the environment and to assure the safety of housing, workplaces, food and water, including the following activities:

(A) Monitoring and improving the overall public health quality and safety of communities.

(B) Assessing exposure to high lead levels and water contamination.

(C) Providing support for poison control centers.

(D) Monitoring sewage and solid waste disposal, radiation exposure, radon exposure, and noise levels.

(E) Abatement of lead-related hazards.

(F) Assuring recreation, home and worker safety.

(G) Public information and education programs that help to reduce intentional and unintentional injuries, including training parents and children on use of safety devices.

(H) Enforcing public health safety and sanitary codes.

(I) Other activities relating to promoting the public health of communities.

(3) Investigation and control of adverse health conditions, including improvements in emergency treatment preparedness, injury prevention, cooperative activities to reduce violence levels in homes and communities, activities to control the outbreak of disease, exposure related conditions and other threats to the health status of individuals.

(4) Public information and education programs to reduce risks to health such as use of tobacco, alcohol and other drugs, sexual activities that increase the risk to HIV transmission and sexually transmitted diseases, domestic violence, poor diet, physical inactivity, and low childhood immunization levels.

(5) Accountability and quality assurance activities, including monitoring the quality of personal health services furnished by health plans and providers of medical and health services in a manner consistent with the overall quality of care monitoring activities undertaken under title V, and monitoring communities' overall access to health services.

(6) Provision of public health laboratory services to complement private clinical laboratory services and that screen for diseases and conditions such as metabolic diseases in newborns, provide toxicology assessments of blood lead levels and other environmental toxins, diagnose sexually transmitted diseases, tuberculosis and other diseases requiring partner notification, test for infectious and food-borne diseases, and monitor the safety of water and food supplies.

(7) Training and education to assure provision of care by all health professionals, with special emphasis placed on the training of public health professions including epidemiologists, biostatisticians, health educators, public health administrators, sanitarians and laboratory technicians.

(8) Leadership, policy development and administration activities, including needs assessment, the setting of public health standards, the development of community public health policies, and the development of community public health coalitions.

(9) Establishment of programs that encourage partnerships among local law enforcement and community groups for the purpose of developing community response teams to assist victims of domestic violence.

(c) RESTRICTIONS ON USE OF GRANT.—

(1) IN GENERAL.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

(A) to provide inpatient services;

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under subsection (a) is that the State involved will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

(d) MAINTENANCE OF EFFORT.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures of non-Federal amounts for core health functions at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant.

(e) DOMESTIC VIOLENCE.—As used in this section, the term "domestic violence" means any intentional violence, controlling, or coercive behavior or pattern of behavior by an individual who is currently or who was previously, in an intimate or acquaintance relationship with the victim. Such behavior may occur at any stage of the lifecycle and may encompass single acts or a syndrome of actual or threatened physical injury, sexual assault, rape, psychological abuse, or neglect. Such term includes behavior which currently may be described as "child neglect", "child abuse", "spousal abuse", "domestic violence", "woman battering", "partner abuse", "elder abuse", and "date rape".

SEC. 3313. SUBMISSION OF INFORMATION.

The Secretary may make a grant under section 3312 only if the State involved submits to the Secretary the following information:

(1) A description of existing deficiencies in the State's public health system (at the State level and the local level), using standards of sufficiency developed by the Secretary.

(2) A description of health status measures to be improved within the State (at the State level and the local level) through expanded public health functions.

(3) Measurable outcomes and process objectives for improving health status and core health functions for which the grant is to be expended.

(4) Information regarding each such function, which—

(A) identifies the amount of State and local funding expended on each such function for the fiscal year preceding the fiscal year for which the grant is sought; and

(B) provides a detailed description of how additional Federal funding will improve each such function by both the State and local public health agencies.

(5) A description of the core health functions to be carried out at the local level, and a specification for each such function of—

(A) the communities in which the function will be carried out; and

(B) the amount of the grant to be expended for the function in each community so specified.

SEC. 3314. REPORTS.

A funding agreement for a grant under section 3312 is that the States involved will, not later than the date specified by the Secretary, submit to the Secretary a report describing—

(1) the purposes for which the grant was expended; and

(2) describing the extent of progress made by the State in achieving measurable outcomes and process objectives described in section 3313(3).

SEC. 3315. APPLICATION FOR GRANT.

The Secretary may make a grant under section 3312 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 3314, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

SEC. 3316. ALLOCATIONS FOR CERTAIN ACTIVITIES.

Of the amounts made available under section 3301 for a fiscal year for carrying out this part, the Secretary may reserve not more than 5 percent for carrying out the following activities:

(1) Technical assistance with respect to planning, development, and operation of core health functions carried out under section 3312, including provision of biostatistical and epidemiological expertise and provision of laboratory expertise.

(2) Development and operation of a national information network among State and local health agencies.

(3) Program monitoring and evaluation of core health functions carried out under section 3312.

(4) Development of a unified electronic reporting mechanism to improve the efficiency of administrative management requirements regarding the provision of Federal grants to State public health agencies.

SEC. 3317. DEFINITIONS.

For purposes of this part:

(1) The term "funding agreement", with respect to a grant under section 3312 to a State, means that the Secretary may make the grant only if the State makes the agreement involved.

(2) The term "core health functions", with respect to a State, means the functions described in section 3312(b).

SEC. 3318. SINGLE APPLICATION AND UNIFORM REPORTING SYSTEMS FOR CORE FUNCTIONS OF PUBLIC HEALTH AND PUBLIC HEALTH CATEGORICAL GRANT PROGRAMS ADMINISTERED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) SINGLE APPLICATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a single consolidated application to enable States to apply for the Core Functions of Public Health Grants Program and any or all of the Public Health Service Act categorical programs described in subsection (b).

(2) REQUIREMENTS.—The application developed under paragraph (1) shall—

(A) be designed so that information collected will be consistent with the requirements of this part including subsection (b);

(B) be designed and implemented not later than 1 year after the date of enactment of this Act; and

(C) be developed with resources made available under section 3316 (not resources made available for the programs described in subsection (b)).

(3) STATE PUBLIC HEALTH OFFICERS.—In developing the single consolidated application form to be used under this subsection the Secretary shall consult with Federal, State and local public health agencies.".

(4) ELIGIBILITY.—States and local governments that have grants, contracts or cooperative agreements in effect with the Centers for Disease Control and Prevention on the date of enactment of this Act shall be eligible to use a single application under this section to apply for any or all of the Public Health Service Act categorical programs described in subsection (b).

(b) ELIGIBLE PUBLIC HEALTH SERVICE ACT PROGRAMS.—Eligible Public Health Service Act categorical programs described in this subsection are the following:

(1) The Preventive Health and Health Services Block Grant under section 1903 of the Public Health Service Act.

(2) The Childhood Lead Poisoning Prevention Program under section 317A of the Public Health Service Act.

(3) The Sexually Transmitted Diseases Program under section 318 of the Public Health Service Act.

(4) The Prevention of Sexually Transmitted Diseases-Related Infertility Program under section 318A of the Public Health Service Act.

(5) The Breast and Cervical Cancer Early Detection Program under sections 1501 through 1509 of the Public Health Service Act.

(6) The National Program of Cancer Registries under section 399H of the Public Health Service Act.

(7) The Injury Control and Prevention Program under sections 391 through 394 of the Public Health Service Act.

(8) The Preventive Health for Prostate Cancer Program under section 317D of the Public Health Service Act.

(9) The Birth Defects Data Program under section 317C of the Public Health Service Act.

(10) Programs under subtitle D of this title.

(11) Other relevant programs as determined appropriate by the Secretary.

(c) ALLOCATION OF FUNDS.—In awarding grants to States and local governments under a single application under this section, the Secretary shall delineate to each grantee the amounts to be dedicated to each of the programs described in subsection (b) and ensure that funding allotments for each of such programs are consistent with the requirements of Federal law.

(d) UNIFORM CORE FUNCTIONS OF PUBLIC HEALTH REPORTING SYSTEM.—

(1) DEVELOPMENT.—The Secretary, acting through the Director of the Office of Disease Prevention and Health Promotion and the Director of the Centers for Disease Control and Prevention, in consultation with other relevant Federal and State health agencies with data collection responsibilities, shall develop and implement a Uniform Core Public Health Functions Reporting System to collect program and fiscal data concerning the programs described in subsection (b).

(2) REQUIREMENTS.—The system developed under paragraph (1) shall—

(A) use outcomes consistent with the goals of Healthy People 2000;

(B) be designed so that information collected will be consistent with the requirements of this part including subsection (b);

(C) be designed and implemented not later than 2 years after the date of enactment of this Act; and

(D) be developed with resources made available under section 3316 of this Act (not resources made available for the programs described in subsection (b)).

(3) STATE PUBLIC HEALTH OFFICERS.—In developing the data set to be used under Uniform Core Public Health Functions Reporting System the Secretary shall consult with Federal, State and local public health agencies.

(e) STUDY.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Secretary shall request that the Institute of Medicine conduct a study concerning—

(A) the effects of consolidating any or all of the grant programs administered by the Centers for Disease Control and Prevention and described in subsection (b) into a Core Functions of Public Health Block Grant Program;

(B) the development of alternative methods for implementing a block grant program or categorical grant program; and

(C) alternative formulas for allocating State grants that incorporate measures of health status, population and degree of poverty.

In particular, the impact of program consolidation on the targeted recipients, including women and vulnerable populations, shall be addressed in the study. If the Institute of Medicine declines to do the study, the Secretary shall make grants to or enter into contracts with a public or nonprofit private entity with relevant expertise for the conduct of such a study.

(2) REPORT.—Not later than 1 year after the date of the receipt of the contract under paragraph (1), the contract recipient shall prepare and submit to the Secretary, the Energy and Commerce Committee of the House of Representatives, and the Committee on Labor and Human Resources of the Senate a report that contains the results of the study conducted under paragraph (1).

(3) ISSUANCE OF PLAN.—Not later than 1 year after the date on which the report under paragraph (2) is received by the Secretary and the committees referred to in such paragraph, the Secretary shall issue a plan in response to the report. Such a plan shall include the identification of relevant changes in authorizing language.

PART 3—NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION

Subpart A—General Grants

SEC. 3331. GRANTS FOR NATIONAL PREVENTION INITIATIVES.

(a) IN GENERAL.—The Secretary may make grants to entities described in subsection (b) for the purpose of carrying out projects to develop and implement innovative community-based strategies to provide for health promotion and disease prevention activities for which there is a significant need, as identified under section 1701 of the Public Health Service Act.

(b) ELIGIBLE ENTITIES.—The entities referred to in subsection (a) are agencies of State or local government, private nonprofit organizations (including research institutions), and coalitions that link two or more of these groups.

(c) CERTAIN ACTIVITIES.—The Secretary shall ensure that projects carried out under subsection (a)—

(1) reflect approaches that take into account the special needs and concerns of the affected populations;

(2) are targeted to the most needy and vulnerable population groups and geographic areas of the Nation;

(3) examine links between various high priority preventable health problems and the potential community-based remedial actions; and

(4) establish or strengthen the links between the activities of agencies engaged in public health activities with those of purchasing cooperatives, health care providers, and other entities involved in the personal health care delivery system described in title I.

SEC. 3332. PRIORITIES.

(a) ESTABLISHMENT.—

(1) ANNUAL STATEMENT.—The Secretary shall for each fiscal year develop a statement of proposed priorities for grants under section 3331 for the fiscal year.

(2) ALLOCATIONS AMONG PRIORITIES.—With respect to the amounts available under section 3301(b) for the fiscal year for carrying out this part, each statement under paragraph (1) for a fiscal year shall include a specification of the percentage of the amount to be devoted to projects addressing each of the proposed priorities established in the statement.

(3) PROCESS FOR ESTABLISHING PRIORITIES.—

(A) PREFERENCE.—In establishing priorities for grants under this part, preference shall be given to projects that—

(i) reduce the prevalence of chronic diseases including cardiovascular disease, stroke, diabetes, and cancer;

(ii) prevent violence against women by training providers and other health care professionals to identify victims of domestic violence, to provide appropriate examination and treatment, and to refer the victims for appropriate social and legal services; and

(iii) establish community health advisor programs described in subparagraph (B).

(B) COMMUNITY HEALTH ADVISOR PROGRAMS.—For purposes of subparagraph (A)(iii), the term "community health advisor program" means a program that performs the following functions:

(i) Provides outreach services to inform the community of the availability of program services.

(ii) Collaborate efforts with health care providers and related entities to facilitate the provision of health services and health related social services.

(iii) Provide public education on health promotion and disease prevention and efforts to facilitate the use of available health services and health-related social services.

(iv) Provide health-related counseling.

(v) Make referrals for available health services and health-related social services.

(vi) Improve the ability of individuals to use health services and health-related social services under Federal, State, and local programs, through assisting individuals in establishing eligibility under the programs.

(vii) Establish a community health advisor training program.

(viii) Provide services in the language and cultural context most appropriate for the individuals served by the program.

(ix) Provide compensation for the services of, and opportunities for training and employment of, community health advisors.

(x) Such other services as the Secretary determines to be appropriate, which may include transportation and translation services.

(C) PUBLICATION OF STATEMENT.—Not later than January 1 of each fiscal year, the Secretary shall publish a statement under paragraph (1) in the Federal Register. A period of 60 days shall be allowed for the submission of public comments and suggestions concerning the proposed priorities. After analyzing and considering comments on the proposed priorities, the Secretary shall publish in the Federal Register final priorities (and associated reservations of funds) for approval of projects for the following fiscal year.

(D) DEFINITION OF COMMUNITY HEALTH ADVISOR.—For purposes of subparagraph (B), the term "community health advisor" means an individual—

(i) who has demonstrated the capacity to carry out one or more of the authorized program services;

(ii) who, for not less than 1 year, has been a resident of the community in which the community health advisor program involved is to be operated; and

(iii) is a member of a socioeconomic group to be served by the program.

(b) APPLICABILITY TO MAKING OF GRANTS.—

(1) IN GENERAL.—The Secretary may make grants under section 3331 for projects that the Secretary determines—

(A) are consistent with the applicable final statement of priorities and otherwise meets the objectives described in subsection (a); and

(B) will assist in meeting a health need or concern of a population within a defined health care coverage area or other service area.

(2) SPECIAL CONSIDERATION FOR CERTAIN PROJECTS.—In making grants under section 3331, the Secretary shall give special consideration to applicants that will carry out projects that, in addition to being consistent with the applicable published priorities under subsection (a) and otherwise meeting the requirements of this part, have the potential for replication in other communities.

SEC. 3333. SUBMISSION OF INFORMATION.

The Secretary may make a grant under section 3331 only if the applicant involved submits to the Secretary the following information:

(1) A description of the activities to be conducted, and the manner in which the activities are expected to contribute to meeting one or more of the priority health needs specified under section 3332 for the fiscal year for which the grant is initially sought.

(2) A description of the total amount of Federal funding requested, the geographic area and populations to be served, and the evaluation procedures to be followed.

(3) Such other information as the Secretary determines to be appropriate.

SEC. 3334. APPLICATION FOR GRANT.

The Secretary may make a grant under section 3331 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 3333, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

Subpart B—Development of Telemedicine in Rural Underserved Areas

SEC. 3341. GRANTS FOR DEVELOPMENT OF RURAL TELEMEDICINE.

(a) IN GENERAL.—

(1) GRANTS AWARDED.—The Secretary, acting through the Office of Rural Health Policy, shall award grants to eligible entities that have applications approved under subsection (b) for the purpose of expanding access to health care services for individuals in rural areas through the use of telemedicine. Grants shall be awarded under this section to encourage the initial development of rural telemedicine networks, expand existing networks, link existing networks together, or link such networks to existing fiber optic telecommunications systems.

(2) ELIGIBLE ENTITY.—For purposes of this section, the term "eligible entity" includes hospitals and other health care providers in a health care network of community-based providers that includes at least three of the following:

(A) Community or migrant health centers.

(B) Local health departments.

(C) Community mental health centers.

(D) Nonprofit hospitals.

(E) Private practice health professionals, including rural health clinics.

(F) Other publicly funded health or social services agencies.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including the anticipated need for the grant, a description of the use to which the eligible entity would apply any amounts received under such grant, the source and amount of non-Federal funds the entity would pledge for the project, a showing of the long-term viability of the project and evidence of the provider commitment to the network. The applicant should demonstrate the manner in which the project will promote the integration of telemedicine in the community so as to avoid redundancy of technology and achieve economies of scale.

(c) PREFERENCE.—The Secretary shall, in awarding grants under this section, give preference to applicants that—

(1) are health care providers in rural health care networks or providers that propose to form such networks, and the majority of the providers in such a network are located in a medically underserved or health professional shortage area;

(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located;

(3) propose to use Federal funds to develop plans for, or to establish, telemedicine systems that will link rural hospitals and rural health care providers to other hospitals and health care providers;

(4) will use the amounts provided under the grant for a range of health care applications and to promote greater efficiency in the use of health care resources;

(5) demonstrate the long-term viability of projects through use of local matching funds (cash or in-kind); and

(6) demonstrate financial, institutional, and community support for the long-range viability of the network.

(d) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the development of telemedicine networks. Such amounts may be used to cover the costs associated with the development of telemedicine networks and the acquisition of telemedicine equipment and modifications or improvements of telecommunications facilities including—

(1) the development and acquisition through lease or purchase of computer hardware and software, audio and visual equipment, computer network equipment, modification or improvements to telecommunications transmission facilities, telecommunications terminal equipments, interactive video equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

(2) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

(3) the development and acquisition of instructional programming;

(4) demonstration projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telemedicine;

(5) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

(6) development of projects to use telemedicine to facilitate collaboration between health care providers; or

(7) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

(e) PROHIBITED USES.—Amounts received under a grant awarded under this section may not be used for any of the following:

(1) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 60 percent of the total grant funds.

(2) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 10 percent of the total grant funds.

SEC. 3342. REPORT AND EVALUATION OF TELEMEDICINE.

Not later than October 1, 1995, the White House Information Infrastructure Task Force shall prepare and submit to Congress a report that evaluates telemedicine. Such report shall evaluate—

(1) whether telemedicine expands access to health care services;

(2) the effectiveness and cost effectiveness of telemedicine services;

(3) the quality of telemedicine services delivered; and

(4) all Federal activity regarding telemedicine and recommendations for a coordinated

Federal strategy to increase access to health care through telemedicine.

SEC. 3343. REGULATIONS ON REIMBURSEMENT OF TELEMEDICINE.

Not later than July 1, 1996, the Secretary, in consultation with the Director of the Office of Rural Health and the Administrator of the Health Care Financing Administration, shall issue regulations concerning reimbursement for telemedicine services provided under title XVIII of the Social Security Act.

SEC. 3344. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subpart.

SEC. 3345. REIMBURSEMENT FOR TELEMEDICINE SERVICES UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish demonstration projects under which eligible entities that have received grants under this section may receive payments in accordance with subsection (b) for the purpose of developing appropriate reimbursement and coverage policies for telemedicine services provided under title XVIII of the Social Security Act.

(b) DEVELOPMENT OF PAYMENT METHODOLOGIES AND PAYMENTS PROVIDED.—For purposes of subsection (a), the Health Care Financing Administration shall reimburse a provider of telemedicine services from funds made available under subsection (d) in accordance with a methodology or varying methodologies to be developed by the Secretary.

(c) REPORT AND EVALUATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a repot that evaluates the demonstration projects under this section.

(d) TRANSFER.—The Secretary shall transfer not to exceed $10,000,000 from the Hospital Insurance Trust Fund for the purpose of carrying out demonstration programs under this section.

SEC. 3346. MAINTENANCE OF EFFORT.

Any funds available for the activities covered by a demonstration project or grant program conducted under this subpart shall supplement, and not supplant, funds that are expended for similar purposes under any State, regional, or local program.

SEC. 3345. DEFINITION.

As used in this part the term "rural health care network" means a group of rural hospitals or other rural health care providers (including clinics, physicians and non-physicians primary care providers) that have entered into a relationship with each other or with nonrural hospitals and health care providers for the purpose of strengthening the delivery of health care services in rural areas or specifically to improve their patients' access to telemedicine services. At least 75 percent of hospitals and other health care providers participating in the network shall be located in rural areas.

Subtitle E—Health Services for Medically Underserved Populations

PART 1—INITIATIVES FOR ACCESS TO HEALTH CARE

Subpart A—Authorization of Appropriations

SEC. 3411. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IMPROVING ACCESS TO HEALTH SERVICES.—

(1) SUBPART B.—

(A) Except as provided in subparagraph (B), for the purpose of carrying out subpart B, there are authorized to be appropriated, $309,000,000 for fiscal year 1996, $346,000,000 for fiscal year 1997, $252,000,000 for fiscal year 1998, $188,000,000 for fiscal year 1999, $64,050,000 for fiscal year 2000, $38,430,000 for fiscal year 2001, $22,400,000 for fiscal year 2002, and $16,000,000 for each of the fiscal years 2003 and 2004.

(B) With respect to awards to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) under subpart B, there are authorized to be appropriated $132,000,000 for fiscal year 1996, $148,000,000 for fiscal year 1997, $108,000,000 for fiscal year 1998, $81,000,000 for fiscal year 1999, $27,450,000 for fiscal year 2000, $16,470,000 for fiscal year 2001, $9,600,000 for fiscal year 2002, and $6,860,000 for each of the fiscal years 2003 and 2004.

(2) SUBPART C.—For the purpose of providing grants and loans under subpart C, there are authorized to be appropriated $63,000,000 for fiscal year 1996, $45,000,000 for fiscal year 1997, $40,000,000 for fiscal year 1998, $38,000,000 for fiscal year 1999, $30,500,000 for fiscal year 2000, $18,300,000 for fiscal year 2001, $10,670,000 for fiscal year 2002, and $7,620,000 for each of the fiscal years 2003 and 2004.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

(c) ELIGIBLE ENTITIES.—For purposes of this part, the term "eligible entities" means—

(1) covered entities as defined in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)), except that subsection (a)(4)(L)(iii) and (a)(7) of such section shall not apply;

(2) school health service sites under title III of this Act;

(3) nonprofit hospitals meeting the criteria for public hospitals which are eligible entities under section 340B of the Public Health Service Act, except that subsection (a)(4)(L)(iii) of such section shall not apply, and children's hospitals meeting comparable criteria as determined appropriate by the Secretary;

(4) public and private, nonprofit community mental health centers and substance abuse treatment providers receiving funds from the Substance Abuse and Mental Health Services Administration;

(5) runaway homeless youth centers or transitional living programs for homeless youth for the provision of health services under the Runaway Homeless Youth Act of 1974 (42 U.S.C. 5701 et seq.);

(6) rural referral centers under section 1886(d)(5)(C) of the Social Security Act, except that such eligibility is restricted to the receipt of grants under section 3441; and

(7) public or nonprofit entities in nonmetropolitan areas (as defined by the Department of Commerce) in a consortium of community-based providers that includes at least three of the following:

(A) community or migrant health centers;

(B) local health departments;

(C) community mental health centers;

(D) nonprofit hospitals;

(E) private practice health professionals;

(F) rural health clinics; or

(F) other publicly funded health or social services agencies;

except that such eligibility is restricted to the receipt of grants or contracts under sections 3421(a) and 3461(a).

(d) CONSIDERATION.—The Secretary shall give adequate assistance to federally qualified health centers in order to ensure the provision of comprehensive primary health care services, other covered services and benefits, and enabling services to medically underserved populations that were served by such centers prior to the date of enactment of this Act, except that such federally qualified health centers must continue to meet the requirements for designation under section 1861(aa)(4) of the Social Security Act.

(e) EQUITABLE DISTRIBUTION.—The Secretary shall, in awarding grants, entering into contracts, and making loans under this part, assure an equitable distribution of funds between rural and urban areas.

Subpart B—Development of Community Health Groups and Health Care Sites and Services

SEC. 3421. GRANTS AND CONTRACTS FOR DEVELOPMENT OF PLANS AND NETWORKS AND THE EXPANSION AND DEVELOPMENT OF HEALTH CARE SITES AND SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with eligible entities described in section 3411(c) for—

(A) the development of community health groups whose principal purpose is to provide the standard benefit package under title I in one or more health professional shortage areas or to provide such items and services to a significant number of individuals who are members of a medically underserved population; and

(B) the expansion of existing health delivery sites and services and the development of new health delivery sites and services.

(2) CONSIDERATION BY SECRETARY.—In awarding grants or contracts under paragraph (1), the Secretary shall give consideration to—

(A) the geographic proximity of the grant applicants and recipients;

(B) cultural and language differences existing within the communities to be served under the grants or contracts; and

(C) the capacity needs of the communities to be served.

(b) SERVICE AREA.—In making an award under subsection (a), the Secretary shall designate the geographic area with respect to which the community health group involved is to provide health services.

(c) PRIORITY.—In making awards under subsection (a)(1), the Secretary shall give priority to proposals in which a greater number of eligible entities and other health care providers, especially providers in community-and provider-based health plans under section 1441(d)(2), are participants in the community health group, except in areas such as rural areas, where providers are severely limited in number.

(d) LIMITATION ON AWARDS.—The Secretary may not make awards under subsection (a)(1) for more than 5 years to the same community health group.

(e) DEFINITIONS.—For purposes of this subpart:

(1) The term "community health group" means—

(A) a community health network that—

(i) is a public or nonprofit private consortium of health care providers that principally provides some of the items and services of the standard benefit package to medically underserved populations, and residents of health professional shortage areas;

(ii) has an agreement with one or more health plans; and

(iii) has a written agreement governing the participation of health care providers in the consortium to which each participating provider is a party; or

(B) a community health plan that—

(i) is a public or nonprofit private entity that principally provides all of the items and services of the standard benefit package to medically underserved populations, and residents of health professional shortage areas;

(ii) is a participant in one or more health alliances; and

(iii) has a written agreement governing the participation of health care providers in the consortium to which each participating provider is a party.

(2) The term "health professional shortage areas" means health professional shortage areas designated under section 332 of the Public Health Service Act.

(3) The term "medically underserved population" means a medically underserved population designated under section 330(b)(3) of the Public Health Service Act, populations residing in health professional shortage areas under section 332 of the Public Health Service Act, and populations eligible for premium subsidies and cost sharing reductions based on income under title I.

SEC. 3422. CERTAIN USES OF AWARDS.

(a) IN GENERAL.—Amounts awarded under section 3421 may be expended for—

(1) the development of a community health group, including entering into contracts between the recipient of the award and health care providers who are to participate in the group;

(2) the expansion, development and ongoing operation of health delivery sites and services; and

(3) activities under paragraphs (1) and (2) which include—

(A) the recruitment, compensation, and training of health professionals and administrative staff;

(B) the purchase and upgrading of equipment, supplies, and information systems including telemedicine systems; and

(C) the establishment of reserves required for furnishing services on a prepaid or capitated basis, except that eligible entities may use non-cash mechanisms (including bonds, letters of credit and federally guaranteed reinsurance pools) for establishing and maintaining financial reserves.

(b) LOANS AND GRANTS.—The Secretary may provide for payment, in any fiscal year, of not to exceed 10 percent of the amounts appropriated to carry out this subpart to make loans and grants to eligible entities to support the types of activities described in section 3441, subject to the requirements of subpart C, except that, with respect to amounts available for non-federally qualified health center activities, such funds may be used to convert facilities from providers of acute care service to providers of primary, emergency or long-term care.

SEC. 3423. APPLICATION.

The Secretary may not make an award to an entity under section 3421 until such entity submits and application to the Secretary, in such form and containing such assurances and information as the Secretary determines appropriate, including—

(1) an assessment of the need that the medically underserved population or populations proposed to be served by the applicant have for health services and for enabling services (as defined in section 3461);

(2) a description of how the applicant will design the proposed community health plan or practice network (including the service sites involved) for such populations based on the assessment of need;

(3) a description of efforts to secure financial and professional assistance and support for the project; and

(4) evidence of significant community involvement in the initiation, development and ongoing operation of the project.

SEC. 3424. PURPOSES AND CONDITIONS.

Grants shall be made under this subpart for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act.

Subpart C—Capital Cost of Development of Community Health Groups and Other Purposes

SEC. 3441. DIRECT LOANS AND GRANTS.

(a) IN GENERAL.—The Secretary shall make grants and loans to—

(1) eligible entities (as defined in section 3411(c));

(2) hospitals designated by the Secretary as essential access community hospitals under section 1820(i)(1) of the Social Security Act; or

(3) rural primary care hospitals under section 1820(i)(2) of such Act;

for the capital costs of developing community health groups (as defined in section 3421(e)) and expanding existing health delivery sites or developing new health delivery sites.

(b) USE OF ASSISTANCE.—

(1) IN GENERAL.—The capital costs for which grants and loans made pursuant to subsection (a) may be expended are, subject to paragraphs (2) and (3), the following:

(A) The acquisition, modernization, expansion or construction of facilities, or the conversion of unneeded hospital facilities to facilities that will assure or enhance the provision and accessibility of health care and enabling services to medically underserved populations.

(B) The purchase of major equipment, including equipment necessary for the support of external and internal information systems.

(C) The establishment of reserves required for furnishing services on a prepaid or capitated basis.

(D) Such other capital costs as the Secretary may determine are necessary to achieve the objectives of this section.

(2) PRIORITIES REGARDING USE OF FUNDS.—In providing grants and loans under subsection (a) for an entity, the Secretary shall give priority to authorizing the use of amounts for projects for the renovation and modernization of medical facilities necessary to prevent or eliminate safety hazards including asbestos removal, avoid noncompliance with licensure or accreditation standards, or projects to replace obsolete facilities.

(3) LIMITATION.—The Secretary may authorize the use of grants and loans under subsection (a) for the construction of new buildings only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, expanding or converting existing buildings, or that construction new buildings will cost less.

(c) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The principal amount of loans under subsection (a) may cover up to 90 percent of the costs involved.

(2) GRANTS.—Grants under this subsection may not exceed 75 percent of the costs involved.

(d) INTEREST SUBSIDIES.—Amounts provided under this section may be used to provide interest subsidies for loans provided under this section where such subsidies are necessary to make a project financial feasible.

SEC. 3442. CERTAIN REQUIREMENTS.

(a) IN GENERAL.—The Secretary may approve a loan under section 3441 only if—

(1) the Secretary is reasonably satisfied that the applicant for the project for which the loan would be made will be able to make payments of principal and interest thereon when due; and

(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(b) TERMS AND CONDITIONS.—Any loan made under section 3441 shall, subject to the Federal Credit Reform Act of 1990, meet such terms and conditions (including provisions for recovery in case of default) as the Secretary, in consultation with the Secretary of the Treasury, determines to be necessary to carry out the purposes of such section while adequately protecting the financial interests of the United States. Terms and conditions for such loans shall include provisions regarding the following:

(1) Security.

(2) Maturity date.

(3) Amount and frequency of installments.

(4) Rate of interest, which shall be at a rate comparable to the rate of interest prevailing on the date the loan is made.

SEC. 3443. DEFAULTS; RIGHT OF RECOVERY.

(a) DEFAULTS.—

(1) IN GENERAL.—The Secretary may take such action as may be necessary to prevent a default on loans under section 3441, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes.

(2) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures, as the Secretary deems appropriate to protect the interest of the United States in the event of a default on a loan made pursuant to section 3441, including selling real property pledged as security for such a loan and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan.

(3) WAIVERS.—The Secretary may, for good cause, but with due regard to the financial interests of the United States, waive any right of recovery which the Secretary has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made pursuant to section 3441, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(b) TWENTY-YEAR OBLIGATION; RIGHT OF RECOVERY; SUBORDINATION; WAIVERS.—

(1) IN GENERAL.—With respect to an eligible entity for which a grant or loan was made under section 3441, the Secretary may award the grant or loan only if the applicant involved agrees that the applicant will be liable to the United States for the amount of the grant or loan, together with an amount representing interest, if at any time during the 20-year period beginning on the date of completion of the activities involved, the entity—

(A) ceases to be an eligible entity utilized by a community health group, or by another public or nonprofit private entity that provides health services in one or more health professional shortage areas or that provides such services to a significant number of individuals who are members of a medically underserved population; or

(B) is sold or transferred to any entity other than an entity that is—

(i) a community health group or other entity described in subparagraph (A); and

(ii) approved by the Secretary as a purchaser or transferee regarding the facility.

(2) SUBORDINATION; WAIVERS.—With respect to essential community providers, the Secretary may subordinate or waive the right of recovery under paragraph (1), and any other Federal interest that may be derived by virtue of a grant or loan under section 3441, if the Secretary determines that subordination or waiver will further the objectives of this part.

SEC. 3444. PROVISIONS REGARDING CONSTRUCTION OR EXPANSION OF FACILITIES.

(a) SUBMISSION OF INFORMATION.—In the case of a project for construction, conversion, expansion or modernization of a facility, the Secretary may provide loans under section 3441 only if the applicant submits to the Secretary the following:

(1) A description of the site.

(2) Plans and specifications which meet requirements prescribed by the Secretary.

(3) Information reasonably demonstrating that title to such site is vested in one or more of the entities filing the application (unless the agreement described in subsection (b)(1) is made).

(4) A specification of the type of assistance being requested under section 3441.

(b) AGREEMENTS.—In the case of a project for construction, conversion, expansion or modernization of a facility, the Secretary may provide loans under section 3441 only if the applicant makes the following agreements:

(1) Title to such site will be vested in one or more of the entities filing the application (unless the assurance described in subsection (a)(3) has been submitted under such subsection).

(2) Adequate financial support will be available for completion of the project and for its maintenance and operation when completed.

(3) All laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq; commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 276c of title 40.

(4) The facility will be made available to all persons seeking service regardless of their ability to pay.

SEC. 3445. APPLICATION FOR ASSISTANCE.

The Secretary may provide loans under section 3441 only if an application for such assistance is submitted to the Secretary, the application contains each agreement described in this subpart, the application contains the information required in section 3444(a), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

SEC. 3446. ADMINISTRATION OF PROGRAMS.

This subpart, and any other program of the Secretary that provides loans, shall be carried out by a centralized loan unit established within the Department of Health and Human Services.

Subpart D—Enabling and Supplemental Services

SEC. 3461. GRANTS AND CONTRACTS FOR ENABLING AND SUPPLEMENTAL SERVICES.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with eligible entities described in section 3411(c) to assist such entities in providing the services described in subsections (b) and (c) for the purpose of increasing the capacity of individuals to utilize the items and services included in the standard benefits package under title I, and to provide access to essential supplemental services that are not fully reimbursable under title I prior to January 2001.

(2) CONSIDERATION BY SECRETARY.—In awarding grants or contracts under paragraph (1), the Secretary shall give consideration to—

(A) the geographic proximity of the grant applicants and recipients;

(B) cultural and language differences existing within the communities to be served under the grants or contracts; and

(C) the capacity needs of the communities to be served.

(b) ENABLING SERVICES.—Enabling services shall include transportation, community and patient outreach, patient and family education, translation services, case management, home visiting, and such other services as the Secretary determines to be appropriate in carrying out the purpose described in such subsection.

(c) SUPPLEMENTAL SERVICES.—Supplemental services shall include items or services described in section 1106 or section 1118 of this Act that would otherwise be excluded from coverage prior to January 1, 2001.

(d) CERTAIN REQUIREMENTS REGARDING PROJECT AREA.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved—

(1) submits to the Secretary—

(A) information demonstrating that the medically underserved populations in the community to be served under the award have a need for enabling services; and

(B) a proposed budget for providing such services;

(2) the applicant for the award agrees that the medically underserved residents of the community will be consulted with respect to the design and implementation of the project carried out with the award;

(3) agrees that the services will not be denied because the individual is unable to pay for such services; and

(4) agrees that the applicant will utilize existing resources to the maximum extent practicable.

(e) APPLICATION FOR AWARDS OF ASSISTANCE.—The Secretary may make an award of a grant or contract under subsection (a) only if an application for the award is submitted to the Secretary, the application contains each agreement described in this subpart, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

SEC. 3462. AUTHORIZATIONS OF APPROPRIATIONS.

(a) ENABLING SERVICES.—For the purpose of carrying out section 3461(b), there are authorized to be appropriated $88,000,000 for fiscal year 1996, $252,000,000 for fiscal year 1997, $224,000,000 for fiscal year 1998, $215,000,000 for fiscal year 1999, $213,500,000 for fiscal year 2000, $128,100,000 for fiscal year 2001, $74,690,000 for fiscal year 2002, and $53,300,000 for each of the fiscal years 2003 and 2004.

(b) SUPPLEMENTAL SERVICES.—For the purpose of carrying out section 3461(c), there are authorized to be appropriated $189,000,000 for fiscal year 1996, $225,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004.

(c) FEDERALLY QUALIFIED HEALTH CENTERS.—With respect to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) for the purpose of carrying out section 3461(b), there are authorized to be appropriated $38,000,000 for fiscal year 1996, $108,000,000 for fiscal year 1997, $96,000,000 for fiscal year 1998, $92,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004.

(d) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

(e) EQUITABLE DISTRIBUTION.—The Secretary shall, in awarding grants, entering into contracts, and making loans under this part, assure an equitable distribution of funds between rural and urban areas.

Subpart E—Rural Health Plan Demonstration Projects

SEC. 3465. RURAL HEALTH PLAN DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Labor, shall establish and implement not more than 3 demonstration projects for the designation of rural health plan areas. To be designated as a rural health plan area under this section, an area must be a rural area (as defined in section 1866(d)(2)(D) of the Social Security Act) or an underserved nonurban area in accordance with other criteria specified by the Secretary.

(b) APPLICATION.—To be eligible to conduct a demonstration project under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require to ensure that project participants meet the goals described in subsection (d). An application submitted under this section shall—

(1) identify the area in which the demonstration project will be conducted; and

(2) provide assurances that the area described in paragraph (1) meets the requirements of subsection (a).

(c) REQUIREMENTS.—An entity offering a health plan through a demonstration project under this section shall—

(1) have a recognized, long-standing relationship with the rural community in which the project is being conducted;

(2) ensure that the health plan is operated as a standard health plan;

(3) ensure that the plan meets the requirements for standard health plans under title I;

(4) ensure that the plan offers enrollment—

(A) on an experience-rated basis to experience-rated employees of the plan sponsor; and

(B) on a community-rated basis to community-rated individuals in the community rating area in which such plan operates; and

(5) meet the requirements of subtitle B of title I.

(d) Goals.—The goals referred to in this subsection are as follows:

(1) To develop a reliable supply of health care providers and rural health service delivery infrastructures with a sound financial footing.

(2) To develop a mechanism to begin to provide the benefits of networking found in urban health systems to rural Americans living in rural health plan areas.

(e) Duration.—The Secretary may revoke the designation of a rural health plan area if the Secretary determines that the entity conducting the project in such area has failed to comply with the requirements of this section. The Secretary may not designate a rural health plan area under this section after December 31, 1999.

(f) Evaluations and Reports.—

(1) Evaluations.—Each entity offering a health plan through a demonstration project under this section shall submit to the Secretary such interim evaluations as the Secretary may require.

(2) Report.—Not later than 360 days after the date on which the first demonstration project is implemented under this section, and annually thereafter for each year in which a project is being conducted, the Secretary shall submit to Congress a report that evaluates the effectiveness of such projects. Such reports shall include any legislative recommendations determined appropriate by the Secretary.

PART 2—NATIONAL HEALTH SERVICE CORPS

SEC. 3471. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Additional Funding; General Corps Program; Allocations Regarding Nurses.—For the purpose of carrying out subpart II of part D of title III of the Public Health Service Act, and for the purpose of carrying out section 3472, there are authorized to be appropriated $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004.

(b) Relation to Other Funds.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 3472. ALLOCATION FOR PARTICIPATION OF NURSES IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Of the amounts appropriated under section 3471, the Secretary shall reserve such amounts as may be necessary to ensure that, of the aggregate number of individuals who are participants in the Scholarship Program under section 338A of the Public Health Service Act, or in the Loan Repayment Program under section 338B of such Act, the total number who are being educated as nurse practitioners, nurse midwives, or nurse anesthetists or are serving as nurse practitioners, nurse midwives, or nurse anesthetists, respectively, is increased to 20 percent.

SEC. 3473. ALLOCATION FOR PARTICIPATION OF PSYCHIATRISTS, PSYCHOLOGISTS, AND CLINICAL SOCIAL WORKERS IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Of the amounts appropriate under section 3471, the Secretary shall reserve such amounts as may be necessary to ensure that of the aggregate number of individuals who are participants in the scholarship program under section 338A of the Public Health Service Act, the number who are being educated as psychiatrists, psychologists, and clinical social workers or are serving as psychiatrists, psychologists, and clinical social workers, respectively, is increased to 15 percent.

Subtitle F—Mental Health; Substance Abuse

PART 1—AUTHORITIES REGARDING PARTICIPATING STATES

SEC. 3510. INTEGRATION OF MENTAL HEALTH AND SUBSTANCE ABUSE SYSTEMS.

(a) In General.—As a condition of being a participating State under title I, each State shall, not later than January 1, 2001, achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by health plans pursuant to title I of this Act. A State may petition the Secretary for a waiver of the requirement of this subsection under the circumstances described in section 3511(b)(7).

(b) Certification of Readiness.—

(1) Petition.—A State may petition the Secretary to integrate the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by health plans pursuant to title I of this Act prior to January 1, 2001.

(2) State readiness to integrate.—Upon receiving such a petition, the Secretary shall, based on the reports submitted pursuant to subsections (b) and (c) of section 3511 and the criteria promulgated pursuant to paragraph (3), ascertain the State's readiness to integrate its mental illness and substance abuse services with the mental illness and substance abuse services offered by health plans pursuant to title I of this Act and certify whether the State is prepared to conduct such an integration.

(3) Criteria.—The certification by the Secretary of a State's readiness to integrate under paragraph (2) shall be based on objective criteria promulgated by the Secretary after consultation with the States.

(c) Application of Provisions.—Upon the issuance of a certification of readiness by the Secretary for a State, the limits set forth in subsections (a)(3)(A)(iii)(I)(aa) and (bb) of section 1213 shall not apply to the provision of mental illness and substance abuse services in the State.

SEC. 3511. REPORT ON INTEGRATION OF MENTAL HEALTH SYSTEMS.

(a) In General.—As a condition of being a participating State under title I, each State shall, not later than October 1, 1998, submit to the Secretary a report containing the information described in subsection (b) on (including a plan for) the measures to be implemented by the State to achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services that are included in the standard benefit package under title I. The plan required in the preceding sentence shall meet the conditions described in section 3083(b). In addition, each State shall submit to the Secretary a report containing the information described in subsection (c) for each year up to and including the year 2001 or the date on which an unlimited benefit for mental illness and substance abuse services is provided.

(b) Required Contents of Integration Report.—With respect to the provision of items and services relating to mental illness and substance abuse, the report of a State under subsection (a) shall, at a minimum, contain the following information:

(1) Information on the number of individuals served by or through mental illness and substance abuse programs administered by State and local agencies and the proportion who are eligible persons under title I.

(2) Information on the extent to which each health provider furnishing mental illness and substance abuse services under a State program participates or will participate in one or more health plans, and, in the case of providers that do not so participate, the reasons for the lack of participation.

(3) With respect to the two years preceding the year in which the State becomes a participating State under title I—

(A) the amount of funds expended by the State and its political subdivisions for each of such years for items and services that are included in the standard benefit package under such title;

(B) the amount of funds expended for medically necessary and appropriate items and services not included in such benefit package, including medical care, other health care, and supportive services related to the provision of health care.

(4) An estimate of the amount that the State will expend to furnish items and services not included in such package once the expansion of coverage for mental illness and substance abuse services is implemented.

(5) A description of how the State will assure that all individuals served by mental illness and substance abuse programs funded by the State will be enrolled in a health plan and how mental illness and substance abuse services not covered under the benefit package will continue to be furnished to such enrollees.

(6) A description of the conditions under which the integration of mental illness and substance abuse services can be achieved, and an identification of changes in participation and certification requirements that are needed to achieve the integration of such programs and providers into health plans.

(7) If the integration of mental illness and substance abuse programs operated by the State into one or more health plans is not medically appropriate or feasible for one or more groups of individuals treated under State programs, a description of the reasons that integration is not feasible or appropriate and a plan for assuring the coordination for such individuals of the care and services covered under the standard benefit package with the additional items and services furnished by such programs.

(8) A description of the manner in which the resources that the State and its political subdivisions currently spend on mental health and substance abuse services will be used to facilitate integration.

(c) Required Contents of Transition Report.—With respect to the a report required under this subsection, the report shall, at a minimum, contain the following information:

(1) The amount of funds expended for substance abuse and mental health services by the source of revenue, including, Federal block grant funds under title XIX of the Public Health Service Act, Federal categorical grant funds, funds under title XIX of the Social Security Act, State and local revenues and health plan payments.

(2) The amount of funds expended for supportive services to individuals enrolled in substance abuse and mental health treatment programs, including transportation, child care, educational and vocational training and coordination with other public systems such as the social service, child welfare

and juvenile and criminal justice systems, by source of revenue.

(3) The amount of funds expended on medically necessary and appropriate items and services not covered or reimbursed in the standard benefit package by source of revenue.

(4) The amount of funds expended by the State on substance abuse and mental illness services for individuals who are not eligible to receive the standard benefit package pursuant to this Act, and the source of revenue for such services.

(d) GENERAL PROVISIONS.—Reports under subsections (b) and (c) shall be provided at the time and in the manner prescribed by the Secretary. The Secretary shall also determine what, if any, reports shall be submitted in years following the implementation of an unlimited benefit for mental illness and substance abuse services.

(e) REPORTING REQUIREMENT.—Each State shall report annually to the Secretary on the incidence and prevalence of mental illness and substance abuse disorders in the prison population, changes in such incidence and prevalence in the prison population, and potential causative factors with respect to such changes, including an estimate of the extent to which the denial of treatment, or the provision of inadequate treatment, to individuals with mental illness and substance abuse disorders is contributing to the criminal activity of such individuals.

(f) REDEPLOYMENT OF HEALTH CARE WORKERS.—In addition to any other requirements imposed under this section, the plan described in subsection (a) shall provide for the following:

(1) COMMENCEMENT OF NEGOTIATIONS.—Before initiating the process of implementing the integration of mental illness and substance abuse services, negotiations shall be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(2) REQUIREMENTS WITH RESPECT TO NEGOTIATIONS.—The negotiations described in paragraph (1) shall address—

(A) the impact of the proposed changes upon the workforce; and

(B) methods to redeploy workers to positions in the proposed system, in the case of workers affected by the proposed changes, including procedures to assist employees who may be displaced in exercising rights under section 3093.

(3) EVIDENCE OF COMPLIANCE.—The plan shall provide evidence that there has been compliance with paragraphs (1) and (2), including a description of the results of the negotiations.

PART 2—ASSISTANCE FOR STATE MANAGED MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS

SEC. 3531. AVAILABILITY OF ASSISTANCE.

(a) IN GENERAL.—The Secretary shall make grants to States for the development and operation of comprehensive managed mental health and substance abuse programs that are integrated with the health delivery system established under this Act. Such programs shall—

(1) promote the development of integrated delivery systems for the management of the mental health and substance abuse services provided under the standard benefits package;

(2) give priority to providing services to low-income adults with serious mental illness or substance abuse disorders and children with serious emotional disturbance or substance abuse disorders and provide for the phase-in of such services for all eligible persons within 5 years;

(3) ensure that individuals participating in the program have access to all medically necessary mental health and substance abuse services;

(4) promote the linkage of mental health and substance abuse services with primary and preventive health care services; and

(5) meet such other requirements as the Secretary may impose.

(b) EXCEPTION.—Nothing in this part shall be construed as preventing States that have separate administrative entities for mental health and for substance abuse services from establishing separate comprehensive managed care programs for such services and receiving assistance under this part for either or both programs.

SEC. 3532. PLAN REQUIREMENTS.

In order to receive a grant under this part, a State must have a plan for a comprehensive managed mental health and substance abuse program which is approved by the Secretary. Such plan shall—

(1) describe the management, access, and referral structure that the State will use to promote and achieve integration of mental health and substance abuse services with the health delivery system established under this Act for eligible individuals in the State;

(2) describe how the State will ensure that providers of specialized services will meet appropriate standards and provide assurances that the State has complied with section 1501 as it affects mental health and substance abuse services;

(3) describe payment, utilization review, and other mechanisms that the State will use to encourage appropriate service delivery and management of costs;

(4) describe uniform patient placement criteria that the State will use to ensure placement in appropriate substance abuse treatment programs;

(5) describe the processes the State will use to ensure that individuals will continue to have access to treatment through referrals from nonhealth public entities, such the juvenile or criminal justice systems, or social service systems;

(6) specify the methods the State will use to ensure that individuals receiving services under the program have access to all medically necessary and appropriate mental health and substance abuse services;

(7) define terms that will be used by the State in determining the eligibility of individuals for services under the program;

(8) describe how health plans will use services under the comprehensive managed mental health and substance abuse programs established under this part;

(9) describe the role of local government in financing and managing the integrated mental illness and substance abuse treatment system;

(10) describe the sources of funding, including Medicaid (title XIX of the Social Security Act) and the block grants authorized by title XIX of the Public Health Service Act, that will be used by the State, other than the grant received under this part, to operate the program, and provide the status of any request for a Medicaid waiver made by the State to the Secretary;

(11) describe how the State provided for broad-based public input in the development of the plan, and the mechanism that will be used for ongoing public comment on and review of amendments to the plan; and

(12) describe grievance procedures that will be available for individuals dissatisfied with their health plan's participation in the comprehensive managed mental health and substance abuse program, and mechanisms that will be available to review the performance of health plans and fee-for-service arrangements to ensure against under treatment.

SEC. 3533. ADDITIONAL FEDERAL RESPONSIBILITIES.

The Secretary shall, upon the submission of a State's plan under section 3532, ensure the timely consideration of any Medicaid waiver requests submitted by the State, affirm that section 1501 has been implemented, and ensure the timely implementation of section 1504(d)(3).

SEC. 3534. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this part, $126,000,000 for fiscal year 1996, $90,000,000 for fiscal year 1997, $80,000,000 for fiscal year 1998, $77,000,000 for fiscal year 1999, $61,000,000 for fiscal year 2000, $36,600,000 for fiscal year 2001, $21,340,000 for fiscal year 2002, and $15,200,000 for each of the fiscal years 2003 and 2004.

Subtitle G—Comprehensive School Health Education; School-Related Health Services

PART 1—HEALTHY STUDENTS-HEALTHY SCHOOLS GRANTS FOR SCHOOL HEALTH EDUCATION

SEC. 3601. PURPOSES.

It is the purpose of this part—

(1) to support the development and implementation of comprehensive age appropriate health education programs in public schools for children and youth kindergarten through grade 12; and

(2) to increase access to preventive and primary health care services for children and youth through school-based or school-linked health service sites in accordance with locally determined needs.

SEC. 3602. HEALTHY STUDENTS-HEALTHY SCHOOLS GRANTS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Education, shall award grants to State educational agencies in eligible States to integrate comprehensive school health education in schools within the State, with priority given within States to those communities in greatest need as defined by section 3683(a).

(b) ELIGIBLE USES OF FUNDS.—Funds made available under this section shall be used—

(1) to implement comprehensive school health education programs, as defined in subsection (f)(1) through grants to local educational agencies;

(2) to provide staff development and technical assistance to local educational agencies, schools, local health agencies, and other community organizations involved in providing comprehensive school health education programs;

(3) to evaluate and report to the Secretary on the progress made towards attaining the goals and objectives described under subsection (c)(1)(A); and

(4) to conduct such other activities to achieve the objectives of this subpart as the Secretary may require.

(c) APPLICATION.—An application for a grant under subsection (a), shall be jointly developed by the State educational agency and the State health agencies of the State involved, and shall contain—

(1) a State plan for comprehensive school health education programs, that outlines—

(A) the goals and objectives of the State for school health education programs, and the manner in which the State will allocate funds to local educational agencies in order to achieve these goals and objectives;

(B) the manner in which the State will coordinate programs under this part with other Federal, State and local health education programs and resources, and school health services;

(C) the manner in which comprehensive school health education programs will be coordinated with other Federal, State and local education programs (such as programs under titles I, II, and IV of the Elementary and Secondary Education Act of 1965), with the school improvement plan of the State, if any, under title III of the Goals 2000: Educate America Act, and with any similar programs;

(D) the manner in which the State shall work with State and local educational agencies and with State and local health agencies to reduce barriers to implementing school health education programs;

(E) the manner in which the State will monitor the implementation of such programs by local educational agencies and establish outcome criteria by which to evaluate their effectiveness in achieving progress towards the goals and objectives described in subparagraph (A);

(F) the manner in which the State will provide staff development and technical assistance to local educational agencies, and build capacity for professional development of health educators; and

(G) the manner in which such school health education programs will be, to the extent practicable, culturally competent and linguistically appropriate and responsive to the diverse needs of the students served;

(2) a description of the respective roles of the State educational agency, local educational agencies, the State health agency and local health agencies in developing and implementing the State's school health education plan and resulting programs;

(3) a description of the input of the local community (including students and parents) in the development and operation of comprehensive school health education programs;

(4) an assurance that communities identified in section 3683(a) receive priority as locations for comprehensive school health education programs for all grades to the extent that a State does not implement a statewide program; and

(5) an assurance that grants to local educational agencies under subsection (b)(1) are contingent upon submission by such agencies of a plan consistent with the requirements for the State plan as required under this subsection.

(d) WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.—

(1) WAIVERS.— Except as provided in paragraph (4), upon the request of an entity and under a relevant program described in paragraph (2), the Secretary of Health and Human Services and the Secretary of Education may grant to the entity a waiver of any requirement of such program regarding the use of funds, or of the regulations issued for the program by the Secretary involved, if the following conditions are met with respect to such program:

(A) The Secretary involved determines that the requirements of such program impede the ability of the State educational agency to achieve more effectively the purposes described in section 3601.

(B) The Secretary involved determines that, with respect to the use of funds under such program, the requested use of the funds by the entity would be consistent with the purposes described in section 3601.

(C) The State educational agency provides all interested local educational agencies in the State with notice and an opportunity to comment on the proposal and makes these comments available to the Secretary.

(2) RELEVANT PROGRAMS.—For purposes of paragraph (1), the programs described in this subparagraph are the following:

(A) In the case of programs administered by the Secretary of Health and Human Services, the following:

(i) The program known as the Prevention, Treatment, and Rehabilitation Model Projects for High Risk Youth, carried out under section 517 of the Public Health Service Act.

(ii) The program known as the State and Local Comprehensive School Health Programs to Prevent Important Health Problems and Improve Educational Outcomes, carried out under such Act.

(B) In the case of programs administered by the Secretary of Education, any program carried out under part B of the Drug-Free Schools and Communities Act of 1986, except that a component of such comprehensive school health education must be consistent with the statutory intent and purposes of such Act.

(3) WAIVER PERIOD.—A waiver under this paragraph shall be for a period not to exceed 3 years, unless the Secretary involved determines that—

(A) the waiver has been effective in enabling the State to carry out the activities for which it was requested and has contributed to improved performance of comprehensive health education programs; and

(B) such extension is in the public interest;

(4) WAIVERS NOT AUTHORIZED.—The Secretary involved under paragraph (1), may not waive, under this section, any statutory or regulatory requirements relating to—

(A) comparability of services;

(B) maintenance of effort;

(C) parental participation and involvement;

(D) the distribution of funds to States or to local educational agencies or other recipients of funds under the programs described in paragraph (2);

(E) maintenance of records;

(F) applicable civil rights requirements; or

(G) the requirements of sections 438 and 439 of the General Education Provisions Act.

(5) TERMINATION OF WAIVER.—The Secretary involved under paragraph (1) shall terminate a waiver under this subsection if the Secretary determines that the performance of the State affected by the waiver has been inadequate to justify a continuation of the waiver or if it is no longer necessary to achieve its original purpose.

(e) DEFINITIONS.—As used in this section:

(1) COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The term "comprehensive school health education" means a planned, sequential program of health education that addresses the physical, emotional and social dimensions of student health in kindergarten through grade 12. Such program shall—

(A) be designed to assist students in developing the knowledge and behavioral skills needed to make positive health choices and maintain and improve their health, prevent disease and injuries, and reduce risk behaviors which adversely impact health;

(B) be comprehensive and include a variety of components addressing personal health, community and environmental health, injury prevention and safety, nutritional health, the effects of substance use and abuse, consumer health regarding the benefits and appropriate use of medical services including immunizations and other clinical preventive services, and other components deemed appropriate by the local educational agencies;

(C) be designed to be linguistically and culturally competent and responsive to the needs of the students served; and

(D) address locally relevant priorities as determined by parents, students, teachers, and school administrators and health officials.

(2) ELIGIBLE STATE.—The term "eligible State" means a State with a memorandum of understanding or a written cooperative agreement entered into by the agencies responsible for health and education concerning the planning and implementation of comprehensive school health education programs. Among these States a priority shall be given to qualified States as defined in section 3682(c).

(3) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(f) AUTHORIZED FUNDING.—For the purpose of carrying out this section, out of the funds available under section 3681, there are made available, not to exceed $15,000,000 for fiscal year 1995, $20,000,000 for fiscal year 1996, $25,000,000 for fiscal year 1997, $30,000,000 for fiscal year 1998, $40,000,000 for fiscal year 1999, and $50,000,000 for fiscal year 2000.

SEC. 3603. HEALTHY STUDENTS-HEALTHY SCHOOLS INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish a Healthy Students-Healthy Schools Interagency Task Force to be composed of representatives of the Office of Disease Prevention and Health Promotion, the National Institutes of Health, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the Office of School Health Education within the Department of Education, and other Federal agencies and departments which have responsibility for components of school health and education.

(b) CO-CHAIRPERSONS.—The Assistant Secretary for Health and the Assistant Secretary for Elementary and Secondary Education shall serve as co-chairpersons of the task force established under subsection (a).

(c) FUNCTIONS AND ACTIVITIES.—The task force established under subsection (a) shall—

(1) review and coordinate all Federal efforts in school health education and health services;

(2) provide scientific and technical advice concerning the development and implementation of model comprehensive school health education programs and curricula;

(3) develop model student learning objectives and assessment instruments that shall be made available to all States;

(4) develop a uniform grant application form (a form that serves as the principal document containing the core information concerning a particular entity) and procedures

that may be used with respect to all school health education-related programs (including supplementary information procedures to be implemented when an entity that has already submitted an application form is applying for additional assistance) that require the submission of an application; and

(5) recommend to the Secretary, for inclusion in the biennial report required by section 3604(2), methods for effectively linking school health education and health services research findings at the Federal level with implementation at the State and local levels.

(d) CONSOLIDATION OF INITIATIVES.—Not later than 12 months after the date of enactment of this Act, the task force established under subsection (a) shall prepare and submit to the Congress a report containing the recommendations of the task force for the consolidation of Federal school health education initiatives.

(d) CONSOLIDATION OF INITIATIVES.—Not later than 12 months after the date of enactment of this Act, the task force established under subsection (a) shall prepare and submit to the Congress a report containing the recommendations of the task force for the consolidation of Federal school health education initiatives.

SEC. 3604. DUTIES OF THE SECRETARY.

The Secretary shall—

(1) establish and maintain a national clearinghouse, using advanced technologies to the maximum extent practicable, and mechanisms for the diverse dissemination of school health education material, including written, audio-visual, and electronically conveyed information to educators, schools, health care providers, and other individuals, organizations, and governmental entities;

(2) submit a biennial report to the Committee on Labor and Human Resources of the Senate and the appropriate committees of the House of Representatives on the implementation and contribution of comprehensive school health education programs funded under this part toward achieving relevant National Healthy People 2000 objectives established by the Secretary; and

(3) encourage coordination among Federal agencies, State and local governments, educators, school health providers, community-based organizations, and private sector entities to support development of comprehensive school health education programs and school health services.

PART 2—SCHOOL-RELATED HEALTH SERVICES

Subpart A—Development and Operation

SEC. 3681. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDING FOR SCHOOL-RELATED HEALTH SERVICES.—For the purpose of carrying out this subpart, there are authorized to be appropriated, $252,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $359,000,000 for fiscal year 1998, $441,000,000 for fiscal year 1999, $427,000,000 for fiscal year 2000, $256,200,000 for fiscal year 2001, $149,380,000 for fiscal year 2002, and $107,000,000 for each of the fiscal years 2003 and 2004.

(b) FUNDING FOR PLANNING AND DEVELOPMENT GRANTS.—Of amounts made available under this section, not to exceed $10,000,000 for each of fiscal years 1995 and 1996 may be utilized to carry out section 3684.

SEC. 3682. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—

(1) PLANNING AND DEVELOPMENT GRANTS.—Entities eligible to apply for and receive grants under section 3684 are—

(A) State health agencies that apply on behalf of local community partnerships; or

(B) local community partnerships in States in which health agencies have not successfully applied.

(2) OPERATIONAL GRANTS.—Entities eligible to apply for and receive grants under section 3685 are—

(A) a qualified State as designated under subsection (c) that apply on behalf of local community partnerships; or

(B) local community partnerships in States that are not designated under subparagraph (A).

(b) LOCAL COMMUNITY PARTNERSHIPS.—

(1) IN GENERAL.—A local community partnership under subsection (a)(1)(B) and (a)(2)(B) is an entity that, at a minimum includes—

(A) a local health care provider, which may be a local public health department, with experience in delivering services to children and youth or medically underserved populations;

(B) local educational agency on behalf of one or more public schools; and

(C) one community based organization located in the community to be served that has a history of providing services to at-risk children and youth.

(2) RURAL COMMUNITIES.—In rural communities, local partnerships should seek to include, to the fullest extent practicable, providers and community based organizations with experience in serving the target population.

(3) PARENT AND COMMUNITY PARTICIPATION.—An applicant described in subsection (a) shall, to the maximum extent feasible, involve broad-based community participation (including parents of the youth to be served).

(c) QUALIFIED STATE.—A qualified State under subsection (a)(2)(A) is a State that, at a minimum—

(1) demonstrates an organizational commitment (including a strategic plan) to providing a broad range of health, health education and support services to at-risk youth; and

(2) has a memorandum of understanding or cooperative agreement jointly entered into by the State agencies responsible for health and education regarding the planned delivery of health and support services in school-based or school-linked centers.

SEC. 3683. PREFERENCES.

In making grants under sections 3684 and 3685, the Secretary shall give priority to applicants whose-communities to be served show the most substantial level of need for health services among children and youth.

SEC. 3684. PLANNING AND DEVELOPMENT GRANTS.

(a) IN GENERAL.—The Secretary may make grants during fiscal years 1995 and 1996 to entities eligible under section 3862 to develop school-based or school-linked health service sites.

(b) USE OF FUNDS.—Amounts provided under a grant under this section may be used for the following:

(1) Planning for the provision of school health services, including—

(A) an assessment of the need for health services among youth in the communities to be served;

(B) the health services to be provided and how new services will be integrated with existing services;

(C) assessing and planning for the modernization and expansion of existing facilities and equipment to accommodate such services; and

(D) an affiliation with relevant health plans.

(2) recruitment and training of staff for the administration and delivery of school health services;

(3) the establishment of local community partnerships as described in section 3682 (b);

(4) in the case of States, the development of memorandums of understanding or cooperative agreements for the coordinated delivery of health and support services through school health service sites; and

(5) other activities necessary to assume operational status.

(c) APPLICATION FOR GRANTS.—To be eligible to receive a grant under this section an entity described in section 3682 (a) shall submit an application in a form and manner prescribed by the Secretary.

(d) NUMBER OF GRANTS.—Not more than one planning grant may be made to a single applicant. A planning grant may not exceed 2 years in duration.

(e) AMOUNT AVAILABLE FOR DEVELOPMENT GRANT.—The Secretary may award not to exceed—

(1) $150,000 to entities under section 3682(a)(1)(A) and to localities planning for a citywide or countywide school health services delivery system; and

(2) $50,000 to entities under section 3682(a)(1)(B).

SEC. 3685. GRANTS FOR OPERATION OF SCHOOL HEALTH SERVICES.

(a) IN GENERAL.—The Secretary may make grants to eligible entities described in section 3682(a)(2) that submit applications consistent with the requirements of this section, to pay the cost of operating school-based or school-linked health service sites.

(b) USE OF GRANT.—Amounts provided under a grant under this section may be used for the following—

(1) health services, including diagnosis and treatment of simple illnesses and minor injuries;

(2) preventive health services, including health screenings follow-up health care, mental health, and preventive health education;

(3) enabling services, as defined in section 3461(b), and other necessary support services;

(4) training, recruitment, and compensation of health professionals and other staff necessary for the administration and delivery of school health services; and

(5) referral services, including the linkage of individuals to health plans, and community-based health and social service providers.

(c) APPLICATION FOR GRANT.—To be eligible to receive a grant under this section an entity described in section 3682(a)(2) shall submit an application in a form and manner prescribed by the Secretary. In order to receive a grant under this section, an applicant must include in the application the following information—

(1) a description of the services to be furnished by the applicant;

(2) the amounts and sources of funding that the applicant will expend, including estimates of the amount of payments the applicant will receive from health plans and other sources;

(3) a description of local community partnerships, including parent and community participation;

(4) a description of the linkages with other health and social service providers; and

(5) such other information as the Secretary determines to be appropriate.

(d) ASSURANCES.—In order to receive a grant under this section, an applicant must meet the following conditions—

(1) school health service sites will, directly or indirectly, provide a broad range of health

services, in accordance with the determinations of the local community partnership, that may include—

(A) diagnosis and treatment of simple illnesses and minor injuries;

(B) preventive health services, including health screenings and follow-up health care, mental health and preventive health education;

(C) enabling services, as defined in section 3461(b);

(D) referrals (including referrals regarding mental health and substance abuse) with follow-up to ensure that needed services are received;

(2) the applicant provides services recommended by the health provider, in consultation with the local community partnership, and with the approval of the local education agency;

(3) the applicant provides the services under this subsection to adolescents, and other school age children and their families as deemed appropriate by the local partnership;

(4) the applicant maintains agreements with community-based health care providers with a history of providing services to such populations for the provision of health care services not otherwise provided directly or during the hours when school health services are unavailable;

(5) the applicant establishes an affiliation with relevant health plans and will establish reimbursement procedures and will make every reasonable effort to collect appropriate reimbursement for services provided; and

(6) the applicant agrees to supplement and not supplant the level of State or local funds under the direct control of the applying State or participating local education or health authority expended for school health services as defined by this Act;

(7) services funded under this Act will be coordinated with existing school health services provided at a participating school; and

(8) for applicants in rural areas, the assurances required under paragraph (4) shall be fulfilled to the maximum extent possible.

(e) STATE LAWS.—Notwithstanding any other provision in this part, no school based health clinic may provide services, to any minor, when to do so is a violation of State laws or regulations pertaining to informed consent for medical services to minors.

(f) LIMITATION ON ADMINISTRATIVE FUNDS.—In the case of a State applying on behalf of local educational partnerships, the applicant may retain not more than 5 percent of grants awarded under this subpart for administrative costs.

(g) DURATION OF GRANT.—A grant under this section shall be for a period determined appropriate by the Secretary.

(h) AMOUNT OF GRANT.—The annual amount of a grant awarded under this section shall not be more than $200,000 per school-based or school-linked health service site.

(i) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (3), a grant for services awarded under this section may not exceed—

(A) 90 percent of the non-reimbursed cost of the activities to be funded under the program for the first 2 fiscal years for which the program receives assistance under this section; and

(B) 75 percent of the non-reimbursed cost of such activities for subsequent years for which the program receives assistance under this section.

The remainder of such costs shall be made available as provided in paragraph (2).

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share required by paragraph (1) may be in cash or in-kind, fairly evaluated, including facilities, equipment, personnel, or services, but may not include amounts provided by the Federal Government. In-kind contributions may include space within a school facilities, school personnel, program use of school transportation systems, outposted health personnel, and extension of health provider medical liability insurance.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (1) for any year in accordance with criteria established by regulation. Such criteria shall include a documented need for the services provided under this section and an inability of the grantee to meet the requirements of paragraph (1) despite a good faith effort.

(j) TRAINING AND TECHNICAL ASSISTANCE.—Entities that receive assistance under this section may use not to exceed 10 percent of the amount of such assistance to provide staff training and to secure necessary technical assistance. To the maximum extent feasible, technical assistance should be sought through local community-based entities. The limitation contained in this subsection shall apply to individuals employed to assist in obtaining funds under this part. Staff training should include the training of teachers and other school personnel necessary to ensure appropriate referral and utilization of services, and appropriate linkages between class-room activities and services offered.

(k) REPORT AND MONITORING.—The Secretary will submit to the Committee on Labor and Human Resources in the Senate and the Committee on Energy and Commerce in the House of Representatives a biennial report on the activities funded under this Act, consistent with the ongoing monitoring activities of the Department. Such reports are intended to advise the relevant Committees of the availability and utilization of services, and other relevant information about program activities.

Subpart B—Capital Costs of Developing Projects

SEC. 3691. FUNDING.

Amounts available to the Secretary under section 3412 for the purpose of carrying out subparts B and C of part 2 of subtitle E are, in addition to such purpose, available to the Secretary for the purpose of carrying out this subpart.

Subtitle H—Public Health Service Initiative

SEC. 3695. PUBLIC HEALTH SERVICE INITIATIVE.

(a) IN GENERAL.—Subject to subsection (c), the Secretary of Health and Human Services shall provide for payment, from funds in the Treasury not otherwise appropriated, to individuals and entities that are eligible to receive assistance pursuant to the provisions referred to in paragraphs (1) through (13) of subsection (b), to the extent of the amounts specified under subsection (b).

(b) AMOUNTS SPECIFIED.—The amounts specified in subsection (a) with respect to a fiscal year shall be—

(1) with respect to the core functions of public health programs authorized under part 2 of subtitle D of title III, $284,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $339,000,000 for fiscal year 1998, $383,000,000 for fiscal year 1999, $381,300,000 for fiscal year 2000, $228,800,000 for fiscal year 2001, $133,370,000 for fiscal year 2002, and $95,300,000 for each of the fiscal years 2003 and 2004;

(2) with respect to the national initiatives regarding health promotion and disease prevention under part 3 of subtitle D of title III, $158,000,000 for fiscal year 1996, $112,000,000 for fiscal year 1997, $100,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(3) with respect to occupational injury and illness prevention under section 3903, $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $120,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(4) with respect to activities for the development of plans and networks under subpart B of part 1 of subtitle E of title III—

(A) $309,000,000 for fiscal year 1996, $346,000,000 for fiscal year 1997, $252,000,000 for fiscal year 1998, $188,000,000 for fiscal year 1999, $64,050,000 for fiscal year 2000, $38,430,000 for fiscal year 2001, $22,400,000 for fiscal year 2002, and $16,000,000 for each of the fiscal years 2003 and 2004; and

(B) with respect to awards to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act) under subpart B, $132,000,000 for fiscal year 1996, $148,000,000 for fiscal year 1997, $108,000,000 for fiscal year 1998, $81,000,000 for fiscal year 1999, $27,450,000 for fiscal year 2000, $16,470,000 for fiscal year 2001, $9,600,000 for fiscal year 2002, and $6,860,000 for each of the fiscal years 2003 and 2004;

(5) with respect to capital costs under subpart C of part 1 of subtitle E of title III, $63,000,000 for fiscal year 1996, $45,000,000 for fiscal year 1997, $40,000,000 for fiscal year 1998, $38,000,000 for fiscal year 1999, $30,500,000 for fiscal year 2000, $18,300,000 for fiscal year 2001, $10,670,000 for fiscal year 2002, and $7,620,000 for each of the fiscal years 2003 and 2004;

(6) with respect to enabling services under subpart D of part 1 of subtitle E of title III—

(A) $88,000,000 for fiscal year 1996, $252,000,000 for fiscal year 1997, $224,000,000 for fiscal year 1998, $215,000,000 for fiscal year 1999, $213,500,000 for fiscal year 2000, $128,100,000 for fiscal year 2001, $74,690,000 for fiscal year 2002, and $53,300,000 for each of the fiscal years 2003 and 2004; and

(B) with respect to awards to federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act), $38,000,000 for fiscal year 1996, $108,000,000 for fiscal year 1997, $96,000,000 for fiscal year 1998, $92,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(7) with respect to supplemental services under subpart D of part 1 of subtitle E of title III $189,000,000 for fiscal year 1996, $225,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004;

(8) with respect to the National Health Service Corps program referred to under section 3471, $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $200,000,000 for fiscal year 1998, $192,000,000 for fiscal year 1999, $152,500,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, and $38,100,000 for each of the fiscal years 2003 and 2004;

(9) with respect to school-related health service programs under subpart A of part 5 of

subtitle G of title III, $252,000,000 for fiscal year 1996, $292,000,000 for fiscal year 1997, $359,000,000 for fiscal year 1998, $441,000,000 for fiscal year 1999, $427,000,000 for fiscal year 2000, $256,200,000 for fiscal year 2001, $149,380,000 for fiscal year 2002, and $107,000,000 for each of the fiscal years 2003 and 2004;

(10) with respect to the development and operation of comprehensive managed mental health and substance abuse programs under section 3534, $126,000,000 for fiscal year 1996, $90,000,000 for fiscal year 1997, $80,000,000 for fiscal year 1998, $77,000,000 for fiscal year 1999, $61,000,000 for fiscal year 2000, $36,600,000 for fiscal year 2001, $21,340,000 for fiscal year 2002, and $15,200,000 for each of the fiscal years 2003 and 2004;

(11) with respect to programs of the Secretary of Health and Human Services under section 3081, $126,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $120,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004;

(12) with respect to programs of the Secretary of Labor under section 3082, $252,000,000 for fiscal year 1996, $180,000,000 for fiscal year 1997, $160,000,000 for fiscal year 1998, $153,000,000 for fiscal year 1999, $122,000,000 for fiscal year 2000, $73,200,000 for fiscal year 2001, $42,680,000 for fiscal year 2002, and $30,500,000 for each of the fiscal years 2003 and 2004;

(13) with respect to academic health certers access under section 3131, $5,000,000 for fiscal year 1996, $5,000,000 for fiscal year 1997, $4,000,000 for fiscal year 1998, $4,000,000 for fiscal year 1999, $3,050,000 for fiscal year 2000, $1,830,000 for fiscal year 2001, $1,067,000 for fiscal year 2002, and $760,000 for each of the fiscal years 2003 and 2004; and

(14) with respect to programs of the Indian Health Service under title VIII, $133,330,000 for each of the fiscal years 1996 through 2004.

(c) AUTHORITY TO TRANSFER FUNDS.—The Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, acting through appropriations Acts, may transfer the amounts specified under subsection (b) in each fiscal year among the programs referred to in such subsection.

Subtitle I—Additional Provisions Regarding Public Health

SEC. 3901. CURRICULUM DEVELOPMENT AND IMPLEMENTATION REGARDING DOMESTIC VIOLENCE AND WOMEN'S HEALTH.

(a) IN GENERAL.—The Secretary shall make grants to eligible entities for the purpose of implementing and developing for trainees a curriculum that includes training in identification, treatment and referral of victims of domestic violence, including elder abuse, and women's health needs.

(b) ELIGIBLE ENTITIES.—For purposes of subsection (a), eligible entities are any school of medicine, school of osteopathic medicine, school of public health, graduate program in mental health practice, school of nursing as defined in section 853 of the Public Health Service Act, a program to train physician assistants, a program for training allied health professionals, and a program for training of family medicine physicians, general internists, general pediatricians, geriatricians, and obstetrician/gynecologists.

(c) CURRICULUM.—A curriculum developed under this section shall include—

(1) identification of victims of domestic violence and maintaining complete medical records that include documentation of the examination, treatment provided, and referral made and recording the location and nature of the victim's injuries;

(2) examining and treating such victims within the scope of the health professional's discipline, training, and practice, including at a minimum providing medical advice regarding the dynamics and nature of domestic violence;

(3) referring the victims to public and nonprofit entities that provide support services for such victims;

(4) training in the identification and diagnosis of diseases afflicting women and other medical disorders as they affect women;

(5) training in the treatment of such diseases and disorders with emphasis on the unique needs of women; and

(6) research into the causes of such diseases and disorders, including determination of appropriate means of prevention.

(d) ALLOCATION OF APPROPRIATIONS.—Of the amounts made available under section 3301(b) for a fiscal year, the Secretary shall reserve not to exceed $20,000,000 for a fiscal year for carrying out this section.

(e) DOMESTIC VIOLENCE.—As used in this section, the term "domestic violence" means any intentional violence, controlling, or coercive behavior or pattern of behavior by an individual who is currently or who was previously, in an intimate or acquaintance relationship with the victim. Such behavior may occur at any stage of the lifecycle and may encompass single acts or a syndrome of actual or threatened physical injury, sexual assault, rape, psychological abuse, or neglect. Such term includes behavior which currently may be described as "child neglect", "child abuse", "spousal abuse", "domestic violence", "woman battering", "partner abuse", "elder abuse", and "date rape".

SEC. 3902. COMMUNITY SCHOLARSHIP PROGRAMS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is amended—

(1) in the section heading, by striking "DEMONSTRATION";

(2) in subsection (a)—

(A) by striking "for the purpose of carrying out demonstration programs"; and

(B) by striking "health manpower shortage areas" and inserting "Federally-designated health professional shortage areas";

(3) in subsection (c)—

(A) by striking "health manpower shortage areas" and inserting "Federally-designated health professional shortage areas" in the matter preceding paragraph (1); and

(B) by striking "in the health manpower shortage areas in which the community organizations are located," and inserting "in a Federally-designated health professional shortage area that is served by the community organization awarding the scholarship," in paragraph (2);

(4) in subsection (e)(1)—

(A) by striking "health manpower shortage area" and inserting "a Federally-designated health professional shortage area"; and

(B) by striking "in which the community" and all that follows through "located";

(5) in subsection (k)(2), by striking "internal medicine" and all that follows through the end thereof and inserting "general internal medicine, general pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals."; and

(6) in subsection (l)(1), by striking "$5,000,000" and all that follows through "1993" and inserting "$1,000,000 for fiscal year 1994, and such sums as may be necessary for each fiscal year thereafter".

Subtitle J—Occupational Safety and Health

SEC. 3903. OCCUPATIONAL INJURY AND ILLNESS PREVENTION.

(a) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor shall work together to develop and implement a comprehensive program to expand and coordinate initiatives to prevent occupational injuries and illnesses.

(b) SECRETARY OF LABOR.—The Secretary of Labor after consultation with the Secretary of Health and Human Services shall directly or by grants or contracts—

(1) provide for training and education programs for employees and employers in the recognition and control of workplace hazards and methods and measures to prevent occupational injuries and illnesses;

(2) develop model educational materials for training and educating employees and employers on the recognition and control of workplace hazards, including a core curriculum for general safety and health training and materials related to specific safety and health hazards; and

(3) provide programs and services for technical assistance to employers and employees on the recognition and control of workplace safety and health hazards including programs for onsite consultation.

Technical assistance and consultative services under paragraph (3) shall be provided in a manner that is separate from the enforcement programs conducted by the Secretary of Labor.

(c) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services after consultation with the Secretary of Labor shall directly or by grants or contracts—

(1) provide education programs for training occupational safety and health professionals including professionals in the fields of occupational medicine, occupational health nursing, industrial hygiene, safety engineering, toxicology and epidemiology;

(2) provide education programs for other health professionals and health care providers and the public to improve the recognition, treatment and prevention of occupationally related injuries and illnesses;

(3) conduct surveillance programs to identify patterns and to determine the prevalence of occupational illnesses, injuries and deaths related to exposure to particular safety and health hazards;

(4) conduct investigations and evaluations to determine if workplace exposures to toxic chemicals, harmful physical agents or potentially hazardous conditions pose a risk to exposed employees; and

(5) conduct research, demonstrations and experiments relating to occupational safety and health to identify the causes of and major factors contributing to occupational illnesses and injuries.

(d) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established a National Advisory Board for Occupational Injury and Illness Prevention to provide oversight, advice and direction on the occupational injury and illness prevention programs and initiatives conducted by the Secretary of Labor and Secretary of Health and Human Services.

(2) COMPOSITION.—The Board shall be composed of 10 members appointed by the Secretary of Labor, 5 of whom are to be designated by the Secretary of Health and Human Services. Such members shall be composed of representatives of employers, employees, and occupational safety and health professionals.

(e) DIRECTOR OF NIOSH.—The responsibilities of the Secretary of Health and Human

Services established under this section shall be carried out by the Director of the National Institute for Occupational Safety and Health.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section there are authorized to be appropriated $189,000,000 for fiscal year 1996, $135,000,000 for fiscal year 1997, $120,000,000 for fiscal year 1998, $115,000,000 for fiscal year 1999, $91,500,000 for fiscal year 2000, $54,900,000 for fiscal year 2001, $32,010,000 for fiscal year 2002, and $22,900,000 for each of the fiscal years 2003 and 2004.

SEC. 3905. FULL FUNDING FOR WIC.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in the second sentence of subsection (a)—

(A) by striking "authorized" and inserting "established"; and

(B) by striking ", up to the authorization levels set forth in subsection (g) of this section," and inserting ", up to the levels made available under this section,";

(2) in subsection (c)—

(A) in the first sentence of paragraph (1), by striking "may" and inserting "shall";

(B) in paragraph (2), by striking "appropriated" and inserting "made available";

(3) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1)(A) There are authorized to be—

"(i) appropriated to carry out this section such amounts as are necessary for each of fiscal years 1995 through 2000; and

"(ii) made available such amounts as are necessary for the Secretary of the Treasury to fulfill the requirements of subparagraph (B).

"(B)(i) Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary of Agriculture, on January 1 of each fiscal year, to carry out this subsection—

"(I) $349,000,000 for fiscal year 1996;

"(II) $507,000,000 for fiscal year 1997;

"(III) $521,000,000 for fiscal year 1998;

"(IV) $534,000,000 for fiscal year 1999; and

"(V) $549,000,000 for fiscal year 2000.

"(ii) The Secretary of Agriculture shall be entitled to receive the funds and shall accept the funds.

"(C) In lieu of obligating the funds made available under subparagraph (B) to carry out this subsection, if the amount appropriated (other than the amount provided under subparagraph (B)(i)) to carry out this subsection for—

"(i) fiscal year 1996 is less than $3,565,000,000, the amount referred to in subparagraph (B)(i)(I) shall be obligated by the Secretary, during the period beginning December 31, 1995, and ending June 30, 1996, to increase the special assistance factor prescribed under section 11(a) of the National School Lunch Act (42 U.S.C. 1759a(a)) for free lunches served under the school lunch program (as established under section 4 of such Act (42 U.S.C. 1753));

"(ii) fiscal year 1997 is less than $3,659,000,000, the amount referred to in subparagraph (B)(i)(II) shall be obligated by the Secretary, during the period beginning December 31, 1996, and ending June 30, 1997, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act);

"(iii) fiscal year 1998 is less than $3,757,000,000, the amount referred to in subparagraph (B)(i)(III) shall be obligated by the Secretary, during the period beginning December 31, 1997, and ending June 30, 1998, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act);

"(iv) fiscal year 1999 is less than $3,859,000,000, the amount referred to in subparagraph (B)(i)(IV) shall be obligated by the Secretary, during the period beginning December 31, 1998, and ending June 30, 1999, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act); and

"(v) fiscal year 2000 is less than $3,963,000,000, the amount referred to in subparagraph (B)(i)(V) shall be obligated by the Secretary, during the period beginning December 31, 1999, and ending June 30, 2000, to increase the special assistance factor prescribed under section 11(a) of such Act for free lunches served under the school lunch program (as established under section 4 of such Act).

"(D) Any increase in the special assistance factor prescribed under section 11(a) of such Act as a result of subparagraph (C) shall not affect any annual adjustment in the factor under section 11(a)(3) of such Act.

"(E) Notwithstanding any other provision of law, no additional amounts shall be made available under this provision for any fiscal year after fiscal year 2000.";

(B) in the first sentence of paragraph (4), by striking "appropriated" and inserting "made available"; and

(C) in paragraph (5), by striking "appropriated" and inserting "made available";

(4) in subsection (h)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "appropriated" both places it appears and inserting "made available"; and

(ii) in subparagraph (C), by striking "appropriated" both places it appears and inserting "made available"; and

(B) in the first sentence of paragraph (2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1990 through 2000"; and

(5) in subsection (l), by striking "funds appropriated" and inserting "funds made available".

Subtitle L—Border Health Improvement

SEC. 3908. BORDER HEALTH COMMISSION.

(a) ESTABLISHMENT.—The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

(b) DUTIES.—It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to develop and implement a comprehensive plan for carrying out the actions recommended by the needs assessment through—

(A) assisting in the coordination of public and private efforts to prevent potential health problems and resolve existing health problems,

(B) assisting in the coordination of public and private efforts to educate the population, in a culturally competent manner, concerning such potential and existing health problems; and

(C) developing and implementing culturally competent programs to prevent and resolve such health problems and to educate the population, in a culturally competent manner, concerning such health problems where a new program is necessary to meet a need that is not being met through other public or private efforts; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private person in the other country for the cost of a health care service that such person furnishes to a citizen or resident alien of the first country who is unable, through insurance or otherwise, to pay for the service.

(c) OTHER AUTHORIZED FUNCTIONS.—In addition to the duties described in subsection (b), the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private persons who act to prevent or resolve such problems or who educate the population concerning such health problems.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(A) The Secretary of Health and Human Services or the Secretary's delegate.

(B) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(C) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals—

(i) who have a demonstrated interest or expertise in health issues of the United States-Mexico Border Area; and

(ii) whose name appears on a list of 6 nominees submitted to the President by the chief executive officer of the State where the nominees resides.

(2) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(3) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States—

(A) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

(e) REGIONAL OFFICES.—The Commission should designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's governor and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

(f) REPORTS.—Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

(g) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. Such term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) RESIDENT ALIEN.—The term "resident alien", when used in reference to a country, means an alien lawfully admitted for permanent residence to the United States or otherwise permanently residing in the United States under color of law (including residence as an asylee, refugee, or parolee).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

TITLE IV—MEDICARE AND MEDICAID

SEC. 4000. REFERENCES IN TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

Subtitle A—Medicare

PART 1—INTEGRATION OF MEDICARE BENEFICIARIES

SEC. 4001. INDIVIDUAL ELECTION TO REMAIN IN CERTAIN HEALTH PLANS.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Notwithstanding any other provision of this section, each eligible organization with a risk-sharing contract (or which is eligible to enter into such a contract, as determined by the Secretary) that is the sponsor of a standard health plan under subtitle B of title I of the Health Security Act shall provide each individual who meets the requirements of paragraph (2) with the opportunity to elect (by submitting an application at such time and in such manner as specified by the Secretary) to continue enrollment in such plan (for the same benefits as other individuals enrolled in the plan) and to have payments made by the Secretary to the plan on the individual's behalf in accordance with paragraph (3). The premium imposed with respect to such an individual by the plan shall be in an amount (determined in accordance with rules of the Secretary and notwithstanding other provisions of such Act) which reflects the difference between the premium otherwise established (adjusted by a factor to reflect the actuarial difference between medicare beneficiaries and other plan enrollees) and the amount payable under paragraph (3).

"(2) An individual meets the requirements of this paragraph if the individual is—

"(A) enrolled in the health plan of an eligible organization in a month in which the individual is either not entitled to benefits under part A, or is an employee (as defined in the Health Security Act) or the spouse or dependent of an employee,

"(B) entitled to benefits under part A and enrolled under part B in the succeeding month,

"(C) a community-rated individual under the Health Security Act in that succeeding month, and

"(D) not an experience-rated employee (as defined in the Health Security Act) or the spouse or dependent of an experience-rated employee in that succeeding month.

"(3) The Secretary shall make a payment to an eligible organization on behalf of each individual enrolled with the organization for whom an election is in effect under this subsection in an amount determined by the rate specified by subsection (a)(1)(C) (notwithstanding the second sentence of paragraph (1)). Such payment shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as provided under subsection (a)(5) (other than as provided under subparagraph (B) of that paragraph).

"(4) The period for which payment may be made under paragraph (3)—

"(A) begins with the first month for which the individual meets the requirements of paragraph (2) (or a later month, in the case of a late application, as may be specified by the Secretary); and

"(B) ends with the earliest of—

"(i) the month following the month—

"(I) in which the individual notifies the Secretary that the individual no longer wishes to be enrolled in the health plan of the eligible organization and to have payment made on the individual's behalf under this subsection; and

"(II) which is a month specified by the Secretary as a uniform open enrollment period under subsection (c)(3)(A)(i), or

"(ii) the month in which the individual ceases to meet the requirements of paragraph (2).

"(5) Notwithstanding any other provision of this title, payments to an eligible organization under this subsection on behalf of an individual shall be the sole payments made with respect to items and services furnished to the individual during the period for which the individual's election under this subsection is in effect.".

(b) CONFORMING AMENDMENT.—Section 1838(b) (42 U.S.C. 1395q(b)) is amended by inserting after "section 1843(e)" the following: ", 1876(c)(3)(B) or 1876(k)(4)(B)".

SEC. 4002. ENROLLMENT AND TERMINATION OF ENROLLMENT.

(a) UNIFORM OPEN ENROLLMENT PERIODS.—

(1) FOR CAPITATED PLANS.—The first sentence of section 1876(c)(3)(A)(i) (42 U.S.C. 1395mm(c)(3)(A)(i)) is amended by inserting "(which may be specified by the Secretary)" after "open enrollment period".

(2) FOR MEDIGAP PLANS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(A) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "paragraph (1), (2), or (3)",

(B) by redesignating paragraph (3) as paragraph (4), and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) Each issuer of a medicare supplemental policy shall have an open enrollment period (which shall be the period specified by the Secretary under section 1876(c)(3)(A)(i)), of at least 30 days duration every year, during which the issuer may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy, because of age, health status, claims experience, receipt of health care, or medical condition. The policy may not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods, and probationary periods (except as provided by paragraph (2)(B)). The Secretary may require enrollment through a third party designated under section 1876(c)(3)(B).".

(b) ENROLLMENTS FOR NEW MEDICARE BENEFICIARIES AND THOSE WHO MOVE.—Section 1876(c)(3)(A) (42 U.S.C. 1395mm(c)(3)(A)) is amended—

(1) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) through (iv)", and

(2) by adding at the end the following:

"(iii) Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (d) during any enrollment period specified by section 1837 that applies to that individual. Enrollment under this clause shall be effective as specified by section 1838.

"(iv) Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (d) who has previously resided outside the geographic area which the organization serves. The enrollment period shall begin with the beginning of the month that precedes the month in which the individual becomes a resident of that geographic area and shall end at the end of the following month. Enrollment under this clause shall be effective as of the first of the month following the month in which the individual enrolls.".

(c) ENROLLMENT THROUGH THIRD PARTY; UNIFORM TERMINATION OF ENROLLMENT.—The first sentence of section 1876(c)(3)(B) (42 U.S.C. 1395mm(c)(3)(B)) is amended—

(1) by inserting "(including enrollment through a third party)" after "regulations", and

(2) by striking everything after "with the eligible organization" and inserting "during an annual period as prescribed by the Secretary, and as specified by the Secretary in the case of financial insolvency of the organization, if the individual moves from the geographic area served by the organization, or in other special circumstances that the Secretary may prescribe.".

(d) Effective Date.—The amendments made by the previous subsections apply to enrollments and terminations of enrollments occurring after 1995 (but only after the Secretary of Health and Human Services has prescribed the relevant annual period), except that the amendments made by subsection (a)(2) apply to enrollments for a medicare supplemental policy made after 1995.

PART 2—PROVISIONS RELATING TO PART A

SEC. 4101. INPATIENT HOSPITAL SERVICES UPDATE FOR PPS HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclauses (XII) and (XIII) to read as follows:

"(XII) for fiscal year 1997, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas,";

"(XIII) for fiscal years 1998 through 2004, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas, and"; and

(2) by adding at the end the following new subclause:

"(XIV) for fiscal year 2005 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 4102. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS Hospitals.—

(1) Reduction in base payment rates for PPS hospitals.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Health Security Act) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Health Security Act).".

(2) Reduction in update.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking "and (II)" and inserting "(II)", and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year which (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-Exempt Hospitals.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is further amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2003.".

SEC. 4103. REDUCTIONS IN DISPROPORTIONATE SHARE PAYMENTS.

Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking "The amount" and inserting "Subject to clause (ix), the amount";

(2) in clause (vi), by striking "In" and inserting "Subject to clause (x), in"; and

(3) by adding at the end the following new clauses:

"(ix) Notwithstanding any other provision of this subparagraph, the Secretary shall reduce the amount of any additional payment made to a hospital under this subparagraph for discharges occurring on or after the date on which the State in which such hospital is located becomes a participating State (as such term is defined in title I of the Health Security Act), by 50 percent of such additional payment.

"(x) Not later than July 1, 1996, the Secretary and the Prospective Payment Assessment Commission shall submit to the Congress a recommendation on a methodology for measuring and allocating funds for hospitals that receive an additional payment under this paragraph including a replacement for the fraction described in clause (vi)(II).".

SEC. 4104. EXTENSION OF FREEZE ON UPDATES TO ROUTINE SERVICE COST LIMITS FOR SKILLED NURSING FACILITIES.

(a) Payments Based on Cost Limits.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "112 percent" each place it appears and inserting "100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13503(a)(1) of the Omnibus Budget Reconciliation Act of 1993)".

(b) Adjustments to Limits.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by inserting the following sentence at the end: "The effect of the amendment made by section 4104(a) of the Health Security Act shall not be considered by the Secretary in making adjustments pursuant to this subsection."

(c) Payments Determined on Prospective Basis.—Section 1888(d)(2)(B) (42 U.S.C. 1395yy(d)(2)(B)) is amended by striking "105 percent" and inserting "100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13503(b) of the Omnibus Budget Reconciliation Act of 1993)".

(d) Effective Date.—The amendments made by subsections (a), (b), and (c) shall apply to cost reporting periods beginning on or after October 1, 1995.

SEC. 4105. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) Clarification of Additional Payment.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)) is amended by striking "the first 3 12-month cost reporting periods that begin" and inserting "the 36-month period beginning with the first day of the cost reporting period that begins".

(b) Special Treatment Extended.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) in clause (i), by striking "October 1, 1994" and inserting "October 1, 1999"; and

(2) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1999".

(c) Extension of Target Amount.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(1) in the matter preceding clause (i), by striking "March 31, 1993" and inserting "September 30, 1999"; and

(2) by amending clause (iii) to read as follows:

"(iii) with respect to discharges occurring in fiscal years 1994 through 1999, the target amount for the cost reporting period beginning in the previous fiscal year increased by the applicable percentage increase under subparagraph (B)(iv).".

SEC. 4106. PROVISIONS RELATING TO RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) Eligibility of Rural Primary Care Hospitals for Grants.—

(1) In general.—Section 4005(e)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended in the matter preceding subparagraph (A) by inserting "any rural primary care hospital as defined in section 1861(mm)(1), or" after "means".

(2) Effective date.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 1993.

(b) Extension of Authorization of Appropriations.—Section 4005(e)(9) of Omnibus Budget Reconciliation Act of 1987 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of the fiscal years 1993 through 1999".

(c) Frequency of Required Reports.—Section 4008(e)(8)(B) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "every 6 months" and inserting "every 12 months".

SEC. 4107. PAYMENTS FOR SOLE COMMUNITY HOSPITALS WITH TEACHING PROGRAMS AND MULTIHOSPITAL CAMPUSES.

(a) In General.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended by adding at the end the following new clause:

"(vi) The Secretary shall determine payment under clause (i) for a sole-community hospital that is a part of a multi-campus hospital by making the determination under such clause for each facility of the multicampus hospital if any facility of the hospital would have a value of 'r' greater than 0, as 'r' is defined in subparagraph (B)(ii). In making a determination for each such facility, the Secretary shall determine the DRG-specific rate applicable to the facility based on its location in accordance with paragraph (3)(D).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1993, from multi-campus hospitals that merged facilities on or after October 1, 1987.

SEC. 4108. MORATORIUM ON DESIGNATION OF NEW LONG-TERM HOSPITALS.

Notwithstanding clause (iv) of section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)), a hospital which has an average inpatient length of stay (as determined by the Secretary of Health and Human Services) of greater than 25 days shall not be treated as a hospital described in such clause for purposes of such title unless such hospital was treated as a hospital described in such clause for purposes of such title as of the date of the enactment of this Act.

SEC. 4109. REVISED PAYMENT METHODOLOGY FOR REHABILITATION AND LONG-TERM CARE HOSPITALS.

(a) REHABILITATION HOSPITALS AND DISTINCT PART UNITS.—

(1) DEFINITION.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by adding at the end the following new sentence: "In defining a rehabilitation hospital and a rehabilitation unit of a hospital which is a distinct part of a hospital, the Secretary shall take into account the impact of new technologies, survival rates, and changes in the practice of rehabilitation medicine.".

(2) TARGET AMOUNT CALCULATION FOR REHABILITATION HOSPITALS AND DISTINCT PART UNITS.—

(A) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in subparagraph (A), by striking "(D), and (E)" and inserting "(D), (E), and (F)";

(ii) in subparagraph (B)(ii), by striking "and (E)" and inserting "(E), and (F)"; and

(iii) by adding at the end the following new subparagraph:

"(F)(i) Subject to clause (ii), for cost reporting periods beginning on or after October 1, 1994, in the case of a hospital described in subsection (d)(1)(B)(ii) or a rehabilitation unit described in such subparagraph, the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital or unit—

"(aa) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital or unit for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subparagraph was in effect with respect to such hospital, increased (in a compounded manner), by

"(bb) the applicable percentage increases applied to such hospital or unit under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(II) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B). There shall be substituted for the allowable average costs of inpatient hospital services determined under subclause (I)(aa), the average of the allowable average costs of inpatient hospital services (as so defined) recognized under this title for the hospital or unit for cost reporting periods beginning during fiscal years 1990 and 1991 (if any).

"(ii)(I) Notwithstanding the provisions of clause (i), in the case of a hospital or unit to which the last sentence of clause (i) applies, the hospital or unit's target amount under such clause for a cost reporting period shall be—

"(aa) not less than 70 percent of the national weighted average of all target amounts calculated under such clause for all hospitals and units described in such clause (as determined by the Secretary), and

"(bb) not less than the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4) for such hospital or unit in the base cost reporting period (including any payments made to such hospital or unit pursuant to paragraph (1)(A)), multiplied by the applicable percentage increase for such cost reporting period under subparagraph (B).

"(II) Notwithstanding the provisions of clause (i), in the case of a hospital or unit that is not described in subclause (I), the hospital or unit's target amount under such clause for a cost reporting period shall be—

"(aa) not less than the amount described in subclause (I)(aa), and

"(bb) not greater than 110 percent of the national weighted average of all target amounts calculated under clause (i) for all hospitals and units described in such clause (as determined by the Secretary).".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply with respect to cost reporting periods beginning on or after October 1, 1994.

(3) DEVELOPMENT OF NATIONAL PROSPECTIVE RATES FOR REHABILITATION HOSPITALS AND DISTINCT PART UNITS.—

(A) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall develop a proposal to replace the current system under which rehabilitation hospitals and rehabilitation units of a hospital which are a distinct part of a hospital (as described in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) receive payment for the operating and capital-related costs of inpatient hospital services under part A of title XVIII of such Act with a prospective payment system. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall develop a system that provides for—

(i) a payment on a per-discharge basis, and

(ii) an appropriate weighting of such payment amount as it relates to the classification of the discharge.

(B) REPORTS.—Not later than October 1, 1996, the Secretary shall submit the proposal developed under subparagraph (A) to the Congress.

(b) ASSIGNMENT OF NEW BASE YEAR FOR CERTIFIED LONG-STAY HOSPITALS THAT ALSO SERVE A SIGNIFICANT PROPORTION OF LOW-INCOME PATIENTS.—

(1) REBASING FOR LONG-TERM HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)), as amended by subsection (a), is further amended—

(i) in subparagraph (A), by striking "(E), and (F)" and inserting "(E), (F), and (G)";

(ii) in subparagraph (B)(ii), by striking "(E), and (F)" and inserting "(E), (F), and (G)"; and

(iii) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) For cost reporting periods beginning on or after October 1, 1994, in the case of a hospital described in subsection (d)(1)(B)(iv) that—

"(I) has not received the additional payment amount described in paragraph (1)(A) for at least the preceding 2 consecutive 12-month cost reporting periods; and

"(II) for which the sum of the amounts described in subclauses (I) and (II) of subsection (d)(5)(F)(vi) during the period described in clause (I) exceeds 25 percent,

the term 'target amount' has the meaning given such term by clause (ii).

"(ii) In the case of a hospital described in clause (i), the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(aa) the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital during cost reporting periods of the hospital beginning during fiscal years 1990 and 1991 for such hospital (in this subparagraph referred to as the 'base cost reporting period'), increased (in a compounded manner), by

"(bb) the applicable percentage increases applied to such hospital or under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting periods, or

"(II) with respect to a subsequent 12-month cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B).

"(iii) Notwithstanding clause (ii)(II), if, after 2 consecutive 12-month cost reporting periods, a hospital continues to be described in subclauses (I) and (II) of clause (i), there shall be substituted for the base cost reporting period described in clause (ii)(I)(aa) the most recent preceding 2 12-month cost reporting periods of the hospital for which data is available (as determined by the Secretary), but only if such substituting results in an increase in the target amount for the hospital. The substitution under the preceding sentence may not occur more often than every 2 years.

"(iv) Effective October 1, 1994, the Secretary shall take into account the enactment of this subparagraph in making available to the hospital the payments described in section 1815(e)(2), and, shall increase such payments as if the target amount of the hospital had been established pursuant to this subparagraph as of such date.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall be effective with respect to cost reporting periods beginning on or after October 1, 1994.

(c) BUDGET NEUTRALITY.—The Secretary shall reduce the amount of payments to be made under subparagraphs (F) and (G) of section 1886(b)(3) of the Social Security Act for a cost reporting period beginning on or after October 1, 1994, by an amount the Secretary determines necessary so that such payments do not exceed an amount equal to the total amount that would have been paid under such subparagraphs if the amendments made by subsections (a) and (b) had not been enacted.

SEC. 4110. TERMINATION OF INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended in the matter preceding clause (i) by striking "The Secretary" and inserting "For discharges occurring before January 1, 1997, the Secretary".

(b) ADJUSTMENT TO STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "excluding" and inserting "for discharges occurring before January 1, 1997, excluding".

SEC. 4111. LIMITED SERVICE HOSPITAL PROGRAM.

(a) LIMITED SERVICE HOSPITAL PROGRAM.—Section 1820 (42 U.S.C. 1395*l*-4) is amended to read as follows:

"LIMITED SERVICE HOSPITAL PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) make available alternative hospital models to small rural or isolated rural communities in which facilities are relieved of the burden of selected regulatory requirements by limiting the scope of inpatient acute services required to be offered;

"(2) alter medicare reimbursement policy to support the financial viability of alternative facilities by limiting the financial risk faced by such small hospitals through the use of reasonable cost reimbursement; and

"(3) promote linkages between facilities designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) IN GENERAL.—Any State that submits an application in accordance with subsection (c) may establish a limited service hospital program described in subsection (d).

"(c) APPLICATION.—A State may establish a limited service hospital program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) in the case of a State applying to establish a rural primary care hospital program (described in subsection (d)(1)(A)), provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that it will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan); and

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of designating, rural nonprofit or public hospitals or facilities located in the State as rural primary care hospitals facilities or medical assistance facilities; and

"(3) such other information and assurances as the Secretary may require.

"(d) LIMITED SERVICE HOSPITAL PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a limited service hospital program that includes—

"(A) a rural primary care hospital program under which—

"(i) at least one facility in the State shall be designated as a rural primary care hospital in accordance with paragraph (2), and

"(ii) the State shall develop at least one rural health network (as defined in subsection (e)) in the State;

"(B) a medical assistance facility program under which at least one facility in the State shall be designated as a medical assistance facility in accordance with paragraph (2); or

"(C) both.

"(2) STATE DESIGNATION OF FACILITIES.—A State may designate one or more facilities as a rural primary care hospital or medical assistance facility in accordance with subparagraph (A) or (B).

"(A) CRITERIA FOR DESIGNATION AS RURAL PRIMARY CARE HOSPITAL.—A State may designate a facility as a rural primary care hospital only if the facility—

"(i) is located in a rural area (as defined in section 1886(d)(2)(D)), or is located in a county whose geographic area is substantially larger than the average geographic area for urban counties in the United States and whose hospital service area is characteristic of service areas of hospitals located in rural areas;

"(ii) at the time such facility applies to the State for designation as a rural primary care hospital, is a hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed), with a participation agreement in effect under section 1866(a);

"(iii) has in effect an agreement to participate with other hospitals and facilities in a rural health network;

"(iv) provides 24-hour emergency services to ill or injured persons prior to admission to the facility or prior to their transportation to a full-service hospital;

"(v) provides not more than 15 inpatient beds (meeting such conditions as the Secretary may establish) for providing acute inpatient care;

"(vi) provides inpatient care for a period not to exceed an average length of 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions);

"(vii) meets such staffing requirements as would apply under section 1861(e), to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to provide emergency care on a 24-hour basis under clause (v) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, onsite dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, offsite basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (vii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(viii) meets the requirements of subparagraphs (C) through (I) of paragraph (2) of section 1861(aa), and of clauses (ii) and (iv) of the second sentence of that paragraph, except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(B) CRITERIA FOR DESIGNATION AS MEDICAL ASSISTANCE FACILITY.—A State may designate a facility as a medical assistance facility only if the facility—

"(i) is located in a county (or equivalent unit of local government)—

"(I) with fewer than 6 residents per square mile, or

"(II) in a rural area (as defined in section 1886(d)(2)(D)) that is located more than a 35-mile or 45-minute drive from a hospital, a rural primary care hospital, or another facility described in this subsection;

"(ii) at the time such facility applies to the State for designation as a medical assistance facility—

"(I) is a hospital (or in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed), with a participation agreement in effect under section 1866(a); or

"(II) is licensed in accordance with applicable State and local laws and regulations;

"(iii) meets the requirements of clauses (iv), (vi), and (vii) of subparagraph (A); and

"(iv) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(e) RURAL HEALTH NETWORK DEFINED.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization—

"(1) consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a rural primary care hospital, and

"(B) at least 1 hospital that furnishes services that a rural primary care hospital cannot furnish, and

"(2) the members of which have entered into agreements regarding—

"(A) patient referral and transfer,

"(B) the development and use of communications systems, including (where feasible) telemetry systems and systems for electronic sharing of patient data,

"(C) the provision of emergency and nonemergency transportation among the members, and

"(D) credentialing and quality assurance.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a rural primary care hospital or medical assistance facility (as the case may be) if the facility—

"(1) is located in a State that has established a limited service hospital program in accordance with subsection (d);

"(2) is designated as a rural primary care hospital or medical assistance facility by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a rural primary care hospital or medical assistance facility solely because, at the time the facility applies to the State for designation as a rural primary care hospital or medical assistance facility, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care in a rural primary care facility pursuant to subsection (d)(2)(A)(vi)). The Secretary may establish additional conditions of participation for rural primary care hospitals with a substantial number of such beds. For purposes of the first sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital or medical assistance facility.

"(h) GRANTS.—

"(1) LIMITED SERVICE HOSPITAL PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) in the case of a rural primary care hospital program described in subsection (d)(1)(A), engaging in activities relating to planning and implementing rural health networks; and

"(C) designation of facilities as rural primary care hospitals or medical assistance facilities.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) STUDY ON CLINICALLY BASED ALTERNATIVE TO 96-HOUR RULE.—The Secretary shall conduct a study on the feasibility of admitting patients to rural primary care hospitals and medical assistance facilities on a limited DRG basis instead of using the 96-hour average length of stay criteria described in subsection (d)(2)(A)(vii).

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund—

"(1) for making grants under subsection (h)(1) to States that have established a rural primary care hospital program in the State under subsection (d)(1)(A), $15,000,000 for each of fiscal years 1993 through 1995; and

"(2) for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 1999.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND MEDICAL ASSISTANCE FACILITIES.—

(1) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"MEDICAL ASSISTANCE FACILITY; MEDICAL ASSISTANCE FACILITY SERVICES

"(oo)(1) The term 'medical assistance facility' means a facility certified by the Secretary as a medical assistance facility under section 1820(f).

"(2) The term 'medical assistance facility services' means items and services, furnished to an inpatient for a medical assistance facility by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A)(i) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "inpatient hospital services" the first place it appears and inserting ", inpatient hospital services and inpatient medical assistance facility services"; and

(ii) by striking "inpatient hospital services" the second place it appears and inserting "such services".

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (b), by striking "inpatient rural primary care hospital services," and inserting "inpatient rural primary care hospital services, other than a medical assistance facility providing inpatient medical assistance facility services,"; and

(ii) by amending subsection (*l*) to read as follows:

"(*l*) PAYMENT FOR INPATIENT RURAL PRIMARY CARE SERVICES AND INPATIENT MEDICAL ASSISTANCE FACILITY SERVICES.—The amount of payment under this part for inpatient rural primary care services and inpatient medical assistance facility services is the reasonable costs of the rural primary care hospital or medical assistance facility in providing such services.".

(3) TREATMENT OF MEDICAL ASSISTANCE FACILITIES AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "medical assistance facility,"after "rural primary care hospital,".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by inserting "a medical assistance facility, as defined in section 1861(oo)(1)," after "1861(mm)(1),".

(C) The third sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(mm)(1)" and inserting "1861(mm)(1), or 1861(oo)(1),".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended—

(i) by striking "or a rural primary care hospital" the first place it appears and inserting ", a rural primary care hospital, or a medical assistance facility"; and

(ii) by striking "or a rural primary care hospital" the second place it appears and inserting ", the rural primary care hospital, or the medical assistance facility".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by inserting "medical assistance facility," after "rural primary care hospital,".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "or rural primary care hospitals" each place it appears and inserting ", rural primary care hospitals, or medical assistance facilities".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "or rural primary care hospital" and inserting ", rural primary care hospital, or medical assistance facility", and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "or rural primary care hospital" and inserting ", rural primary care hospital, or medical assistance facility".

(E) Section 1164(e) (42 U.S.C. 1320c–13(e)) is amended by inserting "medical assistance facilities," after "rural primary care hospitals,".

(F) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by inserting "medical assistance facility," after "rural primary care hospital,".

(G) Section 1833 (42 U.S.C. 1395*l*) is amended—

(i) in subsection (h)(5)(A)(iii)—

(I) by striking "or rural primary care hospital" and inserting "rural primary care hospital, or medical assistance facility"; and

(II) by striking "to the hospital" and inserting "to the hospital or the facility";

(ii) in subsection (i)(1)(A), by inserting "medical assistance facility," after "rural primary care hospital,";

(iii) in subsection (i)(3)(A), by striking "or rural primary care hospital services" and inserting "rural primary care hospital services, or medical assistance facility services";

(iv) in subsection (*l*)(5)(A), by inserting "medical assistance facility," after "rural primary care hospital," each place it appears; and

(v) in subsection (*l*)(5)(C), by striking "or rural primary care hospital" each place it appears and inserting ", rural primary care hospital, or medical assistance facility".

(H) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by adding at the end the following: "A medical assistance facility shall be considered a hospital for purposes of this subsection.".

(I) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by inserting "medical assistance facility," after "rural primary care hospital,".

(J) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "1861(mm)(1))" and inserting "1861(mm)(1)) or a medical assistance facility (as defined in section 1861(oo)(1)).",

(ii) in subsection (w)(1) by inserting "medical assistance facility," after "rural primary care hospital,", and

(iii) in subsection (w)(2), by striking "or rural primary care hospital" each place it appears and inserting ", rural primary care hospital, or medical assistance facility".

(K) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "or rural primary care hospital" each place it appears and inserting ", rural primary care hospital, or medical assistance facility".

(L) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by inserting "medical assistance facilities," after "rural primary care hospitals,";

(ii) in subparagraph (H)—

(I) in the matter preceding clause (i), by inserting "and in the case of medical assistance facilities which provide inpatient medical assistance facility services" after "rural primary care hospital services"; and

(II) in clauses (i) and (ii), by striking "hospital" each place it appears and inserting "hospital or facility";

(iii) in subparagraph (I)—

(I) in the matter preceding clause (i), by striking "or rural primary care hospital" and inserting ", a rural primary care hospital, or a medical assistance facility"; and

(II) in clause (ii), by striking "the hospital" and inserting "the hospital or the facility"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "and rural primary hospitals" and inserting ", rural primary care hospitals, and medical assistance facilities";

(II) in clause (i), by striking "or rural primary care hospital," and inserting ", rural primary care hospital, or medical assistance facility,"; and

(III) in clause (ii), by striking "hospital" and inserting "hospital or facility".

(M) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital," each place it appears in subparagraphs (A) and (B) and inserting "rural primary care hospital, medical assistance facility,", and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals," each place it appears and inserting "rural primary care hospitals, medical assistance facilities".

(N) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) or a medical assistance facility (as defined in section 1861(oo)(1)).".

(c) Part B Amendments Relating to Rural Primary Care Hospitals and Medical Assistance Facilities.—

(1) Coverage.—(A) Section 1861(oo) (42 U.S.C. 1395x(oo)) as added by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient medical assistance facility services' means medical and other health services furnished by a medical assistance facility on an outpatient basis.".

(B) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(i) in subparagraph (I), by striking "and" at the end;

(ii) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(K) outpatient medical assistance facility services (as defined in section 1861(oo)(3)).".

(2) Payment.—(A) Section 1833(a) (42 U.S.C. 1395*l*(a)) is amended—

(i) in paragraph (2), in the matter preceding subparagraph (A), by striking "and (I)" and inserting "(I), and (K)";

(ii) in paragraph (6), by striking "and" at the end;

(iii) in paragraph (7), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(8) in the case of outpatient medical assistance facility services, the amounts described in section 1834(g).".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(i) in the subsection heading by inserting "AND OUTPATIENT MEDICAL ASSISTANCE FACILITY SERVICES" after "SERVICES";

(ii) in paragraph (1), by striking "provided during a year before 1993 in a rural primary care hospital under this part shall be determined by one of the following methods as elected by the rural primary care hospital" and inserting "in a rural primary care hospital or medical assistance facility under this part shall be determined by one of the following methods as elected by the rural primary care hospital or medical assistance facility";

(iii) in paragraph (1)(A)(ii), by striking "outpatient rural primary care hospital services" each place it appears and inserting "outpatient rural primary care hospital services or outpatient medical assistance facility services"; and

(iv) in paragraph (1)(B), by striking "hospital" and inserting "hospital or facility".

(d) Payment Continued to Designated EACHs.—

(1) Termination of each designation.—Section 1820(i)(1)(A) (42 U.S.C. 1395*l*(4)(i)(1)(A)) is amended by inserting at the end the following new flush sentence:

"The Secretary shall not designate any hospital as an essential access community hospital on or after July 1, 1994 (October 1, 1994, in the case of a hospital located in a State receiving a grant under this section before July 1, 1994).".

(2) Permitting payment to prior designated EACHs.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(A) in clause (iii)(III), by inserting "as in effect on July 2, 1994" before the period at the end; and

(B) in clause (v), by inserting "as in effect on July 2, 1994" after "1820(i)(1)."

(3) Effective date.—The amendments made by this subsection shall take effect on July 1, 1994.

(e) Technical Amendment Relating to Part A Deductible, Coinsurance and Spell of Illness.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)), as amended by subsection (b)(2)(A), is amended—

(A) by striking "inpatient medical assistance facility services" and inserting "inpatient medical assistance facility services, inpatient rural primary care hospital services, or inpatient medical assistance facility services"; and

(B) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services, inpatient rural primary care hospital services, or inpatient medical assistance facility services,".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services, inpatient medical assistance facility services,".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services, inpatient medical assistance facility services,"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital, rural primary care hospital, or medical assistance facility".

(f) Repeal of Development of PPS System For Inpatient Rural Primary Care Hospital Services.—

(1) In general.—Section 1814(*l*) (42 U.S.C. 1395f(*l*)) is amended by striking paragraph (2).

(2) Conforming amendments.—Section 1814(*l*)(1) (42 U.S.C. 1395F(*l*)(1)) is amended—

(A) by striking "(*l*)(1)" and inserting "(*l*)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(C) in paragraph (2), as redesignated, by striking "paragraph" and inserting "subsection"; and

(D) in the last sentence, by striking "paragraph" and inserting "subsection".

(g) Repeal of Development and Implementation of All Inclusive PPS System for Outpatient Rural Primary Care Services.—

(1) In general.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by subsection (c)(2)(B), is amended by striking paragraph (2).

(2) Conforming amendments.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended—

(A) by striking "(1) In general.—"

(B) by redesignating subparagraph (A) and clauses (i) and (ii) of such subparagraph as paragraph (1) and subparagraphs (A) and (B) of such paragraph, respectively;

(C) by redesignating subparagraph (B) as paragraph (2);

(D) in paragraph (1)(A), as redesignated, by striking "subparagraph (B)"; and

(E) in paragraph (1)(B), as so redesignated, by striking "subparagraph" and inserting "paragraph".

(h) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to services furnished on or after October 1, 1994.

SEC. 4112. SUBACUTE CARE STUDY.

(a) Study.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall—

(1) define the level and type of care that should constitute subacute care;

(2) determine the appropriateness of furnishing subacute care in different settings by evaluating the quality of care and patient outcomes;

(3) determine the cost and effectiveness of providing subacute care under the medicare program under title XVIII of such Act to individuals who are eligible for benefits under part A of such title;

(4) determine the extent to which hospital DRG prospective payment rates under section 1886(d) of such Act (42 U.S.C. 1395ww(d)) are appropriate for the less restrictive institutional settings that provide subacute care; and

(5) study the relationships between institutions and their payment methodologies in order to develop ways in which to maximize the continuity of care for each patient episode in which subacute care is furnished.

(b) Report.—Not later than October 1, 1996, the Secretary shall submit to the Congress a report on the matters studied under subsection (a).

SEC. 4113. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

PART 3—PROVISIONS RELATING TO PART B

SEC. 4201. UPDATES FOR PHYSICIANS' SERVICES.

Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) in subparagraph (A), by inserting after "subparagraph (B)" the following: "and, in the case of 1995, specified in subparagraph (C)";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) Special provision for 1995.—For purposes of subparagraph (A), the conversion factor specified in this subparagraph for 1995 is—

"(i) in the case of physicians' services included in the category of primary care services (as defined for purposes of subsection (j)(1)), the conversion factor established under this subsection for 1994 reduced by 1 percent and adjusted by the update established under paragraph (3) for 1995; and

"(ii) in the case of any other physicians' services, the conversion factor established under this subsection for 1994 reduced by 4.0 percent and adjusted by the update established under paragraph (3) for 1995.".

SEC. 4202. SUBSTITUTION OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY; REPEAL OF RESTRICTION ON MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.—Section 1848(f)(2)(A)(iii) (42 U.S.C. 1395w-4(f)(2)(A)(iii)) is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

(b) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

(1) in the heading, by inserting "IN CERTAIN YEARS" after "ADJUSTMENT";

(2) in the matter preceding subclause (I), by striking "for a year";

(3) in subclause (I), by adding "and" at the end;

(4) in subclause (II), by striking ", and" and inserting a period; and

(5) by striking subclause (III).

(c) REPEAL OF PERFORMANCE STANDARD FACTOR.—

(1) IN GENERAL.—Section 1848(f)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(2) CONFORMING AMENDMENT.—Section 1848(f)(2)(A) is amended in the matter following clause (iv) by striking "1, multiplied by 100" and all that follows through "subparagraph (B))" and inserting "1 and multiplied by 100".

(d) EFFECTIVE DATE.—

(1) VOLUME PERFORMANCE STANDARDS.—The amendments made by subsections (a) and (c) shall apply with respect to volume performance standards established beginning with fiscal year 1995.

(2) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1997.

SEC. 4203. PAYMENT FOR PHYSICIANS' SERVICES RELATING TO INPATIENT STAYS IN CERTAIN HOSPITALS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII (42 U.S.C. 1831 et seq.) is amended by inserting after section 1848 the following new section:

"LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES RELATING TO INPATIENT STAYS IN CERTAIN HOSPITALS

"SEC. 1849. (a) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOSPITAL.—The term 'hospital' means a subsection (d) hospital as defined in section 1886(d)(1)(B).

"(2) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

"(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

"(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

"(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

"(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

"(B) if such physician provides at least one service to a medicare beneficiary in such hospital.

"(3) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

"(4) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).

"(b) SERVICES SUBJECT TO REDUCTION.—

"(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

"(A) the hospital-specific per admission relative value under subsection (c)(2) for the following year; and

"(B) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (c)(1).

"(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection (d)) the amount of payment otherwise determined under this part for each physician's service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

"(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff of such hospital under paragraph (1).

"(c) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

"(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

"(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

"(A) IN GENERAL.—The hospital-specific per admission relative value projected for a hospital (other than a teaching hospital) for a calendar year shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

"(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific per admission relative value projected for a teaching hospital in a calendar year shall be equal to the sum of—

"(i) the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)); and

"(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second calendar year preceding such calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

"(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

"(d) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (b) during a year shall be reduced by 15 percent, in the case of a service furnished by a member of the medical staff of the hospital for which the Secretary determines under subsection (b)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

"(e) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

"(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission relative value shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (c)(2)(C)).

"(2) RECONCILIATION WITH REDUCTIONS TAKEN.—

"(A) REIMBURSEMENT.—In the case of a hospital for which the payment amounts for physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

"(i) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (c)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (d), including interest at an appropriate rate determined by the Secretary; and

"(ii) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) exceeded the allowable average per admission relative value applicable to the hospital's medical staff under subsection (c)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total amount of payment otherwise determined under this part for physicians' services furnished during the year to inpatients of the hospital by the hospital's medical staff (prior to the reduction under subsection (d)), the difference between 15 percentage points and the actual number of percentage points that the medical staff exceeded the allowable average per admission relative value, including interest at any appropriate rate determined by the Secretary.

"(B) NO REIMBURSEMENT.—The Secretary shall not pay the fiduciary agent for the medical staff of a hospital any amounts by which payments for physicians' services provided by the medical staff were reduced for a year under this section if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) exceeded the allowable average per admission relative value applicable to the hospital's medical staff under subsection (c)(1) for the year by 15 percentage points or more.

"(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have 1 year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate amounts withheld made by the carrier.

"(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(A)(ii) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff, on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.

"(f) CLAIMS TO BE SUBMITTED NOT LATER THAN 90 DAYS AFTER END OF YEAR.—Notwithstanding any other provision of law, no payment may be made under this part for any physician's service furnished by a member of the medical staff of a hospital to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for the payment for such service not later than 90 days after the last day of the year.".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 1395l(a)(1)(N)) is amended by inserting "(subject to reduction under section 1849)" after "1848(a)(1)".

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is amended by striking "this subsection," and inserting "this subsection and section 1849,".

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is amended by striking "beneficiary," and inserting "beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 4204. CHANGES IN UNDERSERVED AREA BONUS PAYMENTS.

(a) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)",

(2) by inserting "described in paragraph (2)" after "physicians' services",

(3) by striking "10 percent" and inserting "the applicable percent",

(4) by striking "service" the last place it appears and inserting "services", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is 20 percent in the case of primary care services, as defined in section 1842(i)(4), and 10 percent for services other than primary care services furnished in health professional shortage areas located in rural areas as defined in section 1886(d)(2)(D).

"(B) The Secretary shall reduce payments for all services (other than primary care services) for which payment may be made under this section by such percentage as the Secretary determines necessary so that, beginning on the date of the enactment of the Health Security Act, the amendments made by section 4204(e) of such Act would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) are effective for services furnished on or after January 1, 1995.

SEC. 4205. CORRECTION OF MVPS UPWARD BIAS.

(a) IN GENERAL.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by striking "including changes in law and regulations affecting the percentage increase described in clause (i)" and inserting "excluding anticipated responses to such changes".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to performance standard rates of increase determined for fiscal year 1995 and succeeding fiscal years.

SEC. 4206. DEMONSTRATION PROJECTS FOR MEDICARE STATE-BASED PERFORMANCE STANDARD RATE OF INCREASE.

Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended by adding at the end the following new paragraph:

"(6) STATE-BASED PERFORMANCE STANDARD RATES OF INCREASE DEMONSTRATION PROJECTS.—The Secretary shall establish demonstration projects in not more than 3 States under which a State elects State-based performance standard rates of increase to substitute for the national performance standard rates of increase established for the year under paragraph (2). The Secretary shall develop criteria for the establishment of such demonstration projects which shall include the requirement of budget-neutrality for payments made under this part with respect to physicians' services furnished in a State participating in the demonstration project.".

SEC. 4207. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 4208. EYE OR EYE AND EAR HOSPITALS.

Section 1833(i)(4)(A) (42 U.S.C. 1395l(i)(4)(A)) is amended in the matter following clause (iii) by striking "January 1, 1995" and inserting "September 30, 1997".

SEC. 4209. IMPOSITION OF COINSURANCE ON LABORATORY SERVICES.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1995.

SEC. 4210. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1995. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be, or be within, metropolitan statistical areas; and

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity meets quality standards specified by the Secretary for the furnishing of such item or service.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Magnetic resonance imaging tests and computerized axial tomography scans, including a physician's interpretation of the results of such tests and scans.

"(2) Enteral and parenteral nutrients and supplies.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; or"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section during 1996 does not result in a reduction of at least 10 percent in the projected payment amount that would have applied to the items or services under part B if the items or services had not been furnished through competitive acquisition under such section in such year, the Secretary shall reduce for such year the payment amount for all such services by such percentage as the Secretary determines necessary to result in such a reduction for such year.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished under part B of title XVIII of the Social Security Act on or after January 1, 1995.

SEC. 4211. APPLICATION OF COMPETITIVE ACQUISITION PROCEDURES FOR LABORATORY SERVICES.

(a) IN GENERAL.—Section 1847(c), as added by section 4210, is amended by inserting after paragraph (2) the following new paragraph:

"(3) Clinical diagnostic laboratory tests.".

(b) REDUCTION IN FEE SCHEDULE AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE SAVINGS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

"(7) Notwithstanding any other provision of this subsection, if the Secretary applies the authority provided under section 1847 to establish competitive acquisition areas for the furnishing of clinical diagnostic laboratory tests during 1996 and the application of such authority does not result in a reduction of at least 10 percent in the projected payment amount that would have applied to such tests under this section in such year if the tests had not been furnished through competitive acquisition under section 1847, the Secretary shall reduce for such year each payment amount for all such tests otherwise determined under the fee schedules and negotiated rates established under this subsection by such percentage as the Secretary determines necessary to result in such a reduction for such year.".

SEC. 4212. EXPANDED COVERAGE FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.

(a) COVERAGE IN OUTPATIENT SETTINGS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii), by striking "section 1919(a)" and inserting "section 1919(a) or in an outpatient setting as defined by the Secretary".

(b) PAYMENT BASED ON PHYSICIAN FEE SCHEDULE.—

(1) Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(O)) is amended—

(A) by striking "section 1861(s)(2)(K)(iii) (relating to nurse practitioner and clinical nurse specialist services provided in a rural area)" and inserting "section 1861(s)(2)(K)";

(B) by striking "for services furnished on or after January 1, 1992," and inserting "for services described in section 1861(s)(2)(K)(iii) furnished on or after January 1, 1992, and for services described in clauses (i), (ii), and (iv) of section 1861(s)(2)(K) furnished on or after January 1, 1997,"; and

(C) by striking "subsection (r)(2)" and inserting "subsection (r)(2) or subparagraph (A) or (B) of section 1842(b)(12)".

(2) Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended—

(A) by striking "and" at the end of clause (i);

(B) in clause (ii) in the matter preceding subclause (I), by striking "the prevailing" and inserting "for services furnished before January 1, 1997, the prevailing";

(C) by striking the period at the end of clause (ii)(II) and inserting "; and"; and

(D) by inserting at the end the following clause:

"(iii) in the case of services furnished on or after January 1, 1997, the fee schedule amount shall be equal to—

"(I) in the case of services performed as an assistant at surgery, 65 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistance at surgery,

"(II) in the case of services performed (other than as an assistant at surgery) in a hospital, 75 percent of the fee schedule amount specified under section 1848, and

"(III) in the case of other services, 85 percent of the fee schedule amount specified under section 1848.

(c) RURAL NURSE PRACTITIONERS AS ASSISTANTS AT SURGERY IN URBAN AREAS.—Section 1861(s)(2)(K)(ii) (42 U.S.C. 1395x(s)(2)(K)(ii)), as amended by subsection (a)(2), is further amended by adding "or services as an assistant at surgery furnished by a nurse practitioner whose primary practice location (as defined by the Secretary) is in a rural area (as defined in section 1886(d)(2)(D)) to an individual who resides in a rural area when the service is furnished to such individual in an urban area by such practitioner when such practitioner refers such individual to an urban area for the furnishing of services" after "as defined by the Secretary".

(d) CONFORMING AMENDMENTS.—

(1) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "subsection (s)(2)(K)".

(2) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)), as amended by section 4108(b)(4)(K), is amended by striking "section 1861(s)(2)(K)(i)" and inserting "section 1861(s)(2)(K)".

(3) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)), as amended by section 4108(b)(4)(L)(ii), is further amended by striking "section 1861(s)(2)(K)(i)" and inserting "section 1861(s)(2)(K)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1997.

SEC. 4213. ELIMINATION OF BALANCE BILLING.

Effective January 1, 1996, notwithstanding any provision of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), a nonparticipating physician, or nonparticipating supplier or other person (as such terms are defined in section 1842(i)(2) of such Act (42 U.S.C. 1395u(i)(2)) may not receive payment for services or items under such title.

SEC. 4214. DEVELOPMENT AND IMPLEMENTATION OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative value units for each physician's service. The methodology utilized shall recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.

(2) REPORT.—The Secretary shall transmit a report by January 1, 1996, on the methodology developed under paragraph (1) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is amended—

(A) by inserting "for the service for years before 1997" before "equal to",

(B) by striking the period at the end of subclause (II) and inserting a comma, and

(C) by adding after and below subclause (II) the following:

"and for years beginning with 1997 based on the relative practice expense resources involved in furnishing the service.".

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii)) is amended by striking "The practice" and inserting "For years before 1997, the practice".

(3) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner

as they apply to adjustments under clause (ii)(I) of such section.

SEC. 4215. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.

(a) In General.—Subparagraph (B) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended by striking the period at the end and inserting ", except that such percentage increase shall—

"(i) be reduced by 2 percentage points for each of years 1995 and 1996;

"(ii) be reduced by 1.5 percentage points for 1997;

"(iii) be reduced by 2 percentage points for 1998; and

"(iv) be reduced by 1 percentage point for 1999.".

(b) Effective Date.—The amendment made by this section shall be effective on the date of the enactment of this Act.

SEC. 4216. CLARIFICATION OF REGULATIONS TO DISTINGUISH ORTHOTICS AND PROSTHETICS FROM DURABLE MEDICAL EQUIPMENT.

The Secretary of Health and Human Services shall—

(1) redesignate section 414.228 of title 42, Code of Federal Regulations, as section 414.62 of title 42, Code of Federal Regulations, and shall insert such section, as redesignated, at the end of subpart A of part 414 of subchapter B of chapter IV of title 42, Code of Federal Regulations; and

(2) shall strike "and Prosthetic and Orthotic Devices" from the heading of subpart D of part 414 of subchapter B of chapter IV of title 42, Code of Federal Regulations.

SEC. 4217. GENERAL PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1)(A), by striking "and prior to January 1999"; and

(2) in paragraph (2), by striking "prior to January 1998".

PART 4—PROVISIONS RELATING TO PARTS A AND B

SEC. 4301. MEDICARE SECONDARY PAYER CHANGES.

(a) Extension of Data Match.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) Repeal of Sunset on Application to Disabled Employees of Employers With More Than 100 Employees.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended—

(1) in the heading, by striking "Sunset" and inserting "Effective date"; and

(2) by striking ", and before October 1, 1998".

(c) Extension of Period for End Stage Renal Disease Beneficiaries.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended in the second sentence by striking "and on or before October 1, 1998,".

SEC. 4302. INCREASE IN MEDICARE SECONDARY PAYER COVERAGE FOR END STAGE RENAL DISEASE SERVICES TO 24 MONTHS.

(a) In General.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)), as amended by section 4301(c), is amended by striking the last sentence and inserting: "Effective for items and services furnished on or after January 1, 1996 (with respect to periods beginning on or after July 1, 1994), this subparagraph shall be applied by substituting '24-month' for '12-month' each place it appears.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to items and services provided on or after January 1, 1996.

SEC. 4303. EXPANSION OF CENTERS OF EXCELLENCE.

(a) In General.—The Secretary of Health and Human Services shall use a competitive process to contract with centers of excellence for cataract surgery, coronary artery by-pass surgery, and such other services as the Secretary determines to be appropriate. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts on the basis of negotiated or all-inclusive rates as follows:

(1) The center shall cover services provided in an urban area (as defined in section 1886(d)(2)(D) of the Social Security Act) for years beginning with fiscal year 1995.

(2) The amount of payment made by the Secretary to the center under title XVIII of the Social Security Act for services covered under the contract shall be less than the aggregate amount of the payments that the Secretary would have made to the center for such services had the contract not been in effect.

(3) The Secretary shall make payments to the center on such a basis for the following services furnished to individuals entitled to benefits under such title:

(A) Facility, professional, and related services relating to cataract surgery.

(B) Coronary artery bypass surgery and related services.

(C) Such other services as the Secretary and the center may agree to cover under the contract.

(b) Rebate of Portion of Savings.—In the case of any services provided under a contract conducted under subsection (a), the Secretary shall make a payment to each individual to whom such services are furnished (at such time and in such manner as the Secretary may provide) in an amount equal to 10 percent of the amount by which—

(1) the amount of payment that would have been made by the Secretary under title XVIII of the Social Security Act to the center for such services if the services had not been provided under the contract, exceeds

(2) the amount of payment made by the Secretary under such title to the center for such services.

SEC. 4304. REDUCTION IN ROUTINE COST LIMITS FOR HOME HEALTH SERVICES.

(a) Reduction in Update To Maintain Freeze in 1996.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "112 percent," and inserting "and before July 1, 1996, 112 percent, or"; and

(3) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993),".

(b) Basing Limits in Subsequent Years on Median of Costs.—

(1) In general.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)), as amended by subsection (a), is amended in the matter following subclause (IV) by striking "the mean" and inserting "the median".

(2) Adjustment to limits.—Section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by adding at the end the following new sentence: "The effect of the amendments made by 656(b) of the Health Security Act shall not be considered by the Secretary in making adjustments pursuant to this clause.".

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to cost reporting periods beginning on or after July 1, 1997.

SEC. 4305. IMPOSITION OF 20 PERCENT COINSURANCE ON HOME HEALTH SERVICES.

(a) Part A.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 20 percent of the average of all the per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) Part B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)), as amended by section 4108(c)(2), is amended—

(1) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(2) in subparagraph (E), by striking "and" at the end;

(3) in subparagraph (F), by striking the semicolon at the end and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(G) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2),

less a copayment amount equal to 20 percent of the average of all per visit costs for such service furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year);".

(c) Provider Charges.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(1) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(2) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after July 1, 1995.

SEC. 4306. TERMINATION OF MEDICAL EDUCATION PAYMENTS.

(a) In General.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by adding at the end the following new paragraph:

"(6) Termination of payments attributable to costs of training physicians.—Notwithstanding any other provision of this section or section 1861(v), no payment may be made under this title for direct graduate medical education costs attributable to an approved medical residency training program for any cost reporting period (or portion thereof) beginning on or after January 1, 1997.".

(b) PROHIBITION AGAINST RECOGNITION OF COSTS OF TRAINING PHYSICIANS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 4102(b), is amended by adding at the end the following new subparagraph:

"(U) Such regulations shall not include any provision for specific recognition of the costs of graduate medical education for hospitals for any cost reporting period (or portion thereof) beginning on or after January 1, 1997. Nothing in the previous sentence shall be construed to affect in any way payments to hospitals for the costs of any approved educational activities that are not described in such sentence.".

(c) PROHIBITION AGAINST RECOGNITION OF COSTS OF NURSE PROFESSIONS OR OTHER HEALTH PROFESSIONS EDUCATION.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 4102(b) and subsection (b) is amended by adding at the end the following new subparagraph:

"(V) Such regulations shall not include any provision for specific recognition of the costs of nursing or other health professions education beginning on or after January 1, 1997.".

SEC. 4307. MEDICARE SELECT.

(a) AMENDMENTS TO PROVISIONS RELATING TO MEDICARE SELECT POLICIES.—

(1) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—Subsection (c) of section 4358 of the Omnibus Budget Reconciliation Act of 1990 is hereby repealed.

(2) REQUIREMENTS OF MEDICARE SELECT POLICIES.—Section 1882(t)(1) (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the requirements of the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), and

"(ii) in the case of a policy described in subparagraph (C)(i)—

"(I) the benefits under such policy are not one of the groups or packages of benefits described in subsection (p)(2)(A),

"(II) except for nominal copayments imposed for services covered under part B of this title, such benefits include at least the core group of basic benefits described in subsection (p)(2)(B), and

"(III) an enrollee's liability under such policy for physician's services covered under part B of this title is limited to the nominal copayments described in subclause (II),

the policy shall nevertheless be treated as meeting those requirements if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy, and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not a policy or plan providing benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account, except in the case of preventive services, benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).".

(b) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q)(1) (42 U.S.C. 1395ss(q)(1)) is amended—

(1) by striking "(1) Each" and inserting "(1)(A) Except as provided in subparagraph (B), each";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B)(i) In the case of a policy that meets the requirements of subsection (t), an issuer may cancel or nonrenew such policy with respect to an individual who leaves the service area of such policy; except that, if such individual moves to a geographic area where such issuer, or where an affiliate of such issuer, is issuing medicare supplemental policies, such individual must be permitted to enroll in any medicare supplemental policy offered by such issuer or affiliate that provides benefits comparable to or less than the benefits provided in the policy being canceled or nonrenewed. An individual whose coverage is canceled or nonrenewed under this subparagraph shall, as part of the notice of termination or nonrenewal, be notified of the right to enroll in other medicare supplemental policies offered by the issuer or its affiliates.

"(ii) For purposes of this subparagraph, the term 'affiliate' shall have the meaning given such term by the 1991 NAIC Model Regulation.".

(c) CIVIL PENALTY.—Section 1882(t)(2) (42 U.S.C. 1395ss(t)(2)) is amended—

(1) by striking "(2)" and inserting "(2)(A)";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I); and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(d) EFFECTIVE DATES.—

(1) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subsection referred to as the "NAIC") makes changes in the 1991 NAIC Model Regulation (as defined in section 1882(p)(1)(A) of the Social Security Act) to incorporate the additional requirements imposed by the amendments made by this section, section 1882(g)(2)(A) of such Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed under this paragraph (such changed Regulation referred to in this subsection as the "1995 NAIC Model Regulation").

(2) SECRETARY STANDARDS.—If the NAIC does not make changes in the 1991 NAIC Model Regulation (as so defined) within the 9-month period specified in paragraph (1), the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall promulgate a regulation and section 1882(g)(2)(A) of the Social Security Act shall be applied in each State, effective for policies issued to policyholders on and after the date specified in paragraph (3), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation (as so defined) as changed by the Secretary under this paragraph (such changed Regulation referred to in this subsection as the "1995 Federal Regulation").

(3) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State adopts the 1995 NAIC Model Regulation or the 1995 Federal Regulation, or

(ii) 1 year after the date the NAIC or the Secretary first adopts such regulations.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the 1995 NAIC Model Regulation or the 1995 Federal Regulation, but

(ii) having a legislature which is not scheduled to meet in 1995 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART 5—REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK

SEC. 4401. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) REPEAL OF DATA BANK.—Section 1144 of the Social Security Act (42 U.S.C. 1320b-14), as added by section 13581 of the Omnibus Budget Reconciliation Act of 1993, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) of such Act (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "the information received under" and all that follows and inserting "the information received under subparagraph (A) for the purposes of carrying out this subsection."; and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) of such Act (42 U.S.C. 1396(a)(25)(A)(i)) is amended by striking "(including the use of information collected by the Medicare and Medicaid Coverage Data Bank under section 1144 and any additional measures as specified" and inserting "(as specified".

(3) CONFORMING AMENDMENT RELATED TO DATA MATCHES.—Subsection (a)(8)(B) of section 552a of title 5, United States Code, is amended—

(A) in clause (v), by adding "; or" at the end;

(B) in clause (vi), by striking "; or" and inserting a semicolon; and

(C) by striking clause (vii).

(4) CONFORMING AMENDMENT TO ERISA.—

(A) Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1031) is amended—

(i) by striking subsection (f); and

(ii) by redesignating subsection (g) as subsection (f).

(B) Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(i) in paragraph (6), by striking the semicolon at the end and inserting "; or";

(ii) in paragraph (7), by striking "; or" and inserting a period; and

(iii) by striking paragraph (8).

(C) Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by striking paragraph (4).

(D) Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended by striking "fiduciary, or any person referred to in section 101(f)(1)" and inserting "or fiduciary".

Subtitle B—Medicaid Program

PART 1—INTEGRATION OF CERTAIN MEDICAID ELIGIBLES INTO REFORMED HEALTH CARE SYSTEM

SEC. 4601. LIMITING COVERAGE UNDER MEDICAID OF ITEMS AND SERVICES COVERED UNDER STANDARD BENEFIT PACKAGE.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"TREATMENT OF ITEMS AND SERVICES IN THE STANDARD BENEFIT PACKAGE

"SEC. 1931. (a) ITEMS AND SERVICES COVERED UNDER STANDARD BENEFIT PACKAGE.—Except as provided in subsection (c), a State plan under this part shall not provide medical assistance consisting of payment for items and services in the standard benefit package described in section 1201(a) of the Health Security Act.

"(b) MEDICAL ASSISTANCE NOT AFFECTED.—Subsection (a) shall not be construed as—

"(1) affecting the eligibility of any individual for medical assistance consisting of payment for items and services not covered under the standard benefits package; or

"(2) with respect to individuals under the age of 19, prohibiting payment of medical assistance for items and services covered under the standard benefits package to the extent that the items and services under this part exceed the items and services covered under such package with respect to amount, duration, and scope.

"(c) EXCEPTIONS.—Subsection (a) shall not affect the provision of medical assistance consisting of payment for items and services in the standard benefits package—

"(1) which are provided to—

"(A) an individual eligible for medical assistance under the State plan who is not a premium subsidy eligible individual (as defined in 6002(a)(2) of the Health Security Act);

"(B) an individual with respect to whom supplemental security income benefits are being paid under title XVI; and

"(C) an individual who is eligible for benefits under part A of title XVIII; or

"(2) which consist of emergency services to certain aliens under section 1903(v)(2).

"(d) STATE MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—

"(A) REDUCTION IN QUARTERLY PAYMENTS.—For any calendar quarter in an applicable year (as defined in subparagraph (B)), the amount otherwise payable to a State under section 1903 for the quarter shall be reduced by the State maintenance of effort amount for the quarter determined under paragraph (2).

"(B) APPLICABLE YEAR.—For purposes of this paragraph, the term 'applicable year' means 1997 and any succeeding year.

"(2) MAINTENANCE OF EFFORT AMOUNT.—

"(A) IN GENERAL.—The maintenance of effort amount for a State for a calendar quarter in an applicable year shall be equal to 25 percent of the sum of—

"(i) the State's AFDC eligibles payment amount for the year determined under paragraph (3); and

"(ii) the State's non-cash eligibles payment amount for the year determined under paragraph (4).

"(3) STATE AFDC ELIGIBLES PAYMENT AMOUNT.—

"(A) IN GENERAL.—The AFDC eligibles payment amount for a State for a year is an amount equal to the product of—

"(i) the adjusted State per capita amount for the year determined under subparagraph (B); multiplied by

"(ii) the number of AFDC eligible individuals receiving premium assistance under section 6002 of the Health Security Act during the year (as estimated by the Secretary).

"(B) ADJUSTED STATE PER CAPITA AMOUNT.—

"(i) IN GENERAL.—The adjusted State per capita amount for a year is the base State per capita amount determined under clause (ii) updated by the percentage change in the State per capita health expenditures index (as described in paragraph (5)(A)) during the period beginning on October 1, 1994, and ending on December 31 of the year preceding the applicable year (as determined by the Secretary).

"(ii) BASE STATE PER CAPITA AMOUNT.—The base per capita amount for a State shall be an amount, as determined by the Secretary, equal to the quotient of—

"(I) the total expenditures from State funds made under the State plan during fiscal year 1994 with respect to medical assistance consisting of items and services of the type included in the standard benefit package for AFDC eligible individuals; divided by

"(II) the average total number of AFDC eligible individuals who received such medical assistance under the State plan in any month during fiscal year 1994.

"(iii) DISPROPORTIONATE SHARE PAYMENTS NOT INCLUDED.—In applying clause (ii), payments made under section 1923 shall not be counted in the gross amount of payments.

"(C) AFDC ELIGIBLE DEFINED.—For purposes of this paragraph, the term 'AFDC eligible' means an individual who receives aid or assistance under any plan of the State approved under part A or part E of title IV.

"(4) NON-CASH ELIGIBLES PAYMENT AMOUNT.—

"(A) IN GENERAL.—The non-cash eligibles payment amount for a State for a year is an amount equal to the State's base payment amount (determined under subparagraph (B)) for the applicable year updated by the percentage change in the State per capita health expenditures index (as described in paragraph (5)(A)) and the State population index (as described in paragraph (5)(B)) during the period beginning on October 1, 1994, and ending on December 31 of the year preceding the applicable year (as determined by the Secretary).

"(B) STATE BASE PAYMENT AMOUNT.—

"(i) IN GENERAL.—The base payment amount for a State for an applicable year shall be an amount, as determined by the Secretary, equal to the total expenditures from State funds made under the State plan during fiscal year 1994 with respect to medical assistance consisting of items and services of the type included in the standard benefit package for non-cash eligible individuals who would not have received such medical assistance if the provisions of this section and subtitle A of title VI of the Health Security Act had been in effect in fiscal year 1994.

"(ii) DISPROPORTIONATE SHARE PAYMENTS INCLUDED.—

"(I) IN GENERAL.—In applying clause (i), the applicable percentage (as determined under subclause (II)) of payments made under section 1923 shall be counted in the gross amount of payments.

"(II) APPLICABLE PERCENTAGE.—The applicable percentage determined under this subclause is the amount (expressed as a percentage) equal to—

"(aa) the State's inpatient hospital expenditures for noncash eligible individuals in fiscal year 1994; divided by

"(bb) the State's inpatient hospital expenditures for all individuals eligible for medical assistance under the State plan in fiscal year 1994.

"(C) NON-CASH ELIGIBLE DEFINED.—For purposes of this paragraph, the term 'non-cash eligible' means any individual who received medical assistance under the State plan during fiscal year 1994 other than an AFDC eligible individual or an individual described in subsection (b).

"(5) INDEXES.—

"(A) STATE PER CAPITA HEALTH EXPENDITURES INDEX.—The Secretary shall establish a State per capita health expenditures index for each State which measures the change in State per capita health expenditures from year to year.

"(B) State population index.—The Secretary shall establish a State population index which measures the change in the number of individuals residing in a State from year to year.".

(b) No Federal Financial Participation.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) with respect to items and services covered under the standard benefit package described in section 1201(a) of the Health Security Act for individuals to whom section 1931(a) applies.".

(c) Effective Date.—The amendments made by this section shall apply with respect to items or services furnished in a State on or after January 1, 1997.

PART 2—COORDINATED CARE SERVICES FOR DISABLED MEDICAID ELIGIBLES

SEC. 4605. COORDINATED CARE SERVICES FOR DISABLED MEDICAID ELIGIBLES.

(a) State Expenditures Limited to Certified Health Plans.—Section 1903(m) (42 U.S.C. 1396b) is amended by adding at the end the following new paragraph:

"(7) No payment shall be made under this part to a State with respect to expenditures incurred by the State for payment for services provided by an entity with a contract under this subsection unless such entity is a standard health plan (as defined in section 1011(2)(B) of the Health Security Act).".

(b) Modification to 75/25 Rule.—Section 1903(m)(2)(A)(ii) (42 U.S.C. 1396b(m)(2)(A)(ii)) is amended by striking "75 percent" and inserting "50 percent".

(c) Effective Date.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1997.

PART 3—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS

SEC. 4611. REPLACEMENT OF DSH PAYMENT PROVISIONS WITH PROVISIONS RELATING TO PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS.

(a) Amendments to Provisions Requiring States to Make DSH Payment Adjustments.—

(1) Adjustments to national DSH payment limit.—Section 1923(f)(1)(B) (42 U.S.C. 1396r–4(f)(1)(B)) is amended to read as follows:

"(B) National DSH payment limit.—

"(i) In general.—Except as provided in clause (ii), the national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under the State plans under this part for medical assistance during the fiscal year.

"(ii) Reduction in limit.—For fiscal years ending in a calendar year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act—

"(I) equals or exceeds 85 percent but is less than 88 percent, '10 percent' shall be substituted for '12 percent' in clause (i);

"(II) equals or exceeds 88 percent but is less than 90 percent, '8 percent' shall be substituted for '12 percent' in clause (i);

"(III) equals or exceeds 90 percent but is less than 92 percent, '6 percent' shall be substituted for '12 percent' in clause (i); and

"(IV) equals or exceeds 92 percent, '4 percent' shall be substituted for '12 percent' in clause (i).

(2) Adjustments to state allotment limits.—Section 1923(f)(2)(B) (42 U.S.C. 1396r–4(f)(2)(B)) is amended to read as follows:

"(B) Exceptions.—

"(i) In general.—Except as provided in clause (ii), a State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year.

"(ii) Reduction in limit.—For fiscal years ending in a calendar year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act—

"(I) equals or exceeds 85 percent but is less than 88 percent, '10 percent' shall be substituted for '12 percent' in clause (i);

"(II) equals or exceeds 88 percent but is less than 90 percent, '8 percent' shall be substituted for '12 percent' in clause (i);

"(III) equals or exceeds 90 percent but is less than 92 percent, '6 percent' shall be substituted for '12 percent' in clause (i); and

"(IV) equals or exceeds 92 percent, '4 percent' shall be substituted for '12 percent' in clause (i).

(3) Elimination of high DSH states and state supplemental amounts.—

(A) In general.—Section 1923(f)(2)(A) (42 U.S.C. 1396r–4(f)(2)(A)) is amended to read as follows:

"(A) In general.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year increased by the State growth factor (as defined in paragraph (3)(B)) for the fiscal year.".

(B) Conforming amendments.—(i) Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(ii) Section 1923(f)(3) (42 U.S.C. 1396r–4(f)(3)), as redesignated by clause (i), is amended by striking subparagraphs (A) and (C) and redesignating subparagraphs (B), (D), and (E) as subparagraphs (A), (B), and (C).

(iii) Section 1923(f)(3)(B) (42 U.S.C. 1396r–4(f)(3)(B)), as redesignated by clauses (i) and (ii), is amended to read as follows:

"(B) State growth amount.—The term 'State growth amount' means, with respect to a State for a fiscal year, the product of the State growth factor and the State DSH payment limit for the previous fiscal year.".

(iv) Section 1923(f)(1)(A) (42 U.S.C. 1396r–4(f)(1)(A) is amended by striking "(as defined in paragraph (4)(B))" and inserting "(as defined in paragraph (3)(A))".

(3) Termination of requirement on states to make DSH payment adjustments.—Section 1923 (42 U.S.C. 1396r–4) is amended by adding at the end the following new subsection:

"(h) Termination of Requirement to Make Payment Adjustments.—

"(1) In general.—Any requirement imposed by this section on a State to increase the rate or amount of payment for inpatient hospital services provided by a hospital which serves a disproportionate number of low income patients with special needs shall terminate in the year described in paragraph (2).

"(2) Year described.—The year described in this paragraph is the first year beginning after the year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 100001 of the Health Security Act, equals or exceeds 92 percent.".

(4) No federal financial participation.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 4601(b), is amended—

(1) by striking "or" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) during or after the year described in section 1923(h)(2) with respect to any payment made by a State to a hospital which serves a disproportionate number of low income patients with special needs that is in excess of the payment otherwise required under this part.".

(5) Effective date.—The amendments made by this section shall be effective for calendar quarters beginning on or after January 1, 1997.

(b) Payments to Hospitals Serving Vulnerable Populations.—Title XIX (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new part:

"PART B—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS

"SEC. 1951. PAYMENTS TO HOSPITALS.

"(a) Entitlement Status.—The Secretary shall provide for payment in accordance with this part to eligible hospitals described in section 1952. The preceding sentence constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the fiscal years, specified in subsection (b).

"(b) Amount of Entitlement.—For purposes of subsection (a), the amounts and fiscal years specified in this subsection are (in the aggregate for all eligible hospitals) $2,500,000,000 for the first applicable fiscal year (as defined in section 1954) and for each subsequent fiscal year.

"(c) Payments Made on Quarterly Basis.—Payments to an eligible hospital under this section for a year shall be made on a quarterly basis during the year.

"SEC. 1952. IDENTIFICATION OF ELIGIBLE HOSPITALS.

"(a) Hospitals in Participating States.—In order to be an eligible hospital under this part, a hospital must be located in a State that is a participating State under title I of the Health Security Act.

"(b) State Identification.—In accordance with the criteria described in subsection (c) and such procedures as the Secretary may require, each State shall identify the hospitals in the State that meet such criteria and provide the Secretary with a list of such hospitals.

"(c) Criteria for Eligibility.—A hospital meets the criteria described in this subsection if the hospital's low-income utilization rate for the base year under section 1923(b)(3) (as such section is in effect on the day before the date of the enactment of this part) is not less than 25 percent.

"SEC. 1953. AMOUNT OF PAYMENTS.

"(a) In General.—The total amount available for payments under this part in a year shall be allocated to hospitals for low-income assistance in accordance with this subsection.

"(b) Determination of Hospital Payment Amount.—The amount of payment to an eligible hospital during a year shall be equal to the hospital's low-income percentage (as defined in subsection (c)) of the total amount available for payments under this part for the year.

"(c) LOW-INCOME PERCENTAGE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, an eligible hospital's 'low-income percentage' for a year is equal to the amount (expressed as a percentage) of the total low-income days for all eligible hospitals for the year that are attributable to the hospital.

"(2) LOW-INCOME DAYS DESCRIBED.—For purposes of paragraph (1), an eligible hospital's low-income days for a year shall be equal to the product of—

"(A) the total number of inpatient days for the hospital for the year (as reported to the Secretary by the State in which the hospital is located, in accordance with a reporting schedule and procedures established by the Secretary); and

"(B) the hospital's low-income utilization rate for the base year under section 1923(b)(3) (as such section is in effect on the day before the date of the enactment of this part).

"SEC. 1954. DEFINITIONS.

"For purposes of this part:

"(1) BASE YEAR.—The term 'base year' means 1996.

"(2) FIRST APPLICABLE FISCAL YEAR—The term 'first applicable fiscal year' means first fiscal year that begins after the fiscal year ending in the calendar year during which the percentage of individuals covered by insurance, as determined by the National Health Care Cost and Coverage Commission established under section 10001 of the Health Security Act, equals or exceeds 92 percent.".

(c) CONFORMING AMENDMENTS.—(1) Title XIX (42 U.S.C. 1396 et seq.) is amended by striking the title and inserting the following:

"TITLE XIX—MEDICAL ASSISTANCE PROGRAMS AND PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS"

"PART A—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS".

(2) Title XIX (42 U.S.C. 1396 et seq.) is amended by striking each reference to "this title" and inserting "this part".

PART 4—MEDICAID LONG-TERM CARE PROVISIONS

SEC. 4615. INCREASED RESOURCE DISREGARD FOR INDIVIDUALS RECEIVING CERTAIN SERVICES.

(a) IN GENERAL.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by adding "and" at the end of subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(G) provide that, in determining the eligibility of any unmarried individual who has applied for or is receiving medical assistance consisting of community-based services furnished under a waiver under subsection (c) or (d) of section 1915, personal care services described in section 1905(a)(24), or home and community care for functionally disabled elderly individuals under section 1929, the first $4,000 of resources may, at the option of the State, be disregarded.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1995.

SEC. 4616. FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.

(a) EXPANSION OF NUMBER OF WAIVERS.—Section 9412(b)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "15" and inserting "40".

(b) DEVELOPMENT OF PROTOCOLS AND MODEL CERTIFICATION GUIDELINES.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end the following new paragraphs:

"(5) The Secretary, in consultation with the States and organizations operating projects in accordance with waivers under this subsection shall develop and publish a waiver protocol that will establish minimum standard requirements that an organization must meet to be eligible for a waiver under this subsection. In developing the protocol under the preceding sentence, the Secretary shall incorporate standards for organizations to deliver integrated acute and long-term care services for the elderly, children, and young adults.

"(6) The Secretary shall develop model guidelines that shall be available to States that choose to establish a comprehensive procedure for the licensure and certification of an organization operating a demonstration project under a waiver granted pursuant to this subsection. Such guidelines shall encompass the range of services provided by such an organization.

(c) EVALUATIONS AND REPORTS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall develop standard evaluation protocols to assess the cost-effectiveness and quality of service provided under—

"(i) demonstration projects operating on the date of the enactment of this paragraph under waivers granted pursuant to this subsection; and

"(ii) demonstration projects granted waivers after the date of the enactment of this paragraph.

"(B) The Secretary shall conduct evaluations of the demonstration projects in accordance with the protocols developed under subparagraph (A) and based on the results of such evaluations, report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Subcommittee on Health and the Environment of the Committee on Energy and Commerce of the House of Representatives by—

"(i) not later than January 1, 1998, with respect to demonstration projects described in subparagraph (A)(i); and

"(ii) not later than January 1, 2003, with respect to demonstration projects described in subparagraph (A)(ii);

on the desirability of granting permanent status under titles XVIII and XIX of the Social Security Act to such demonstration projects that the Secretary has determined to be successful.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4617. ELIMINATION OF REQUIREMENT OF PRIOR INSTITUTIONALIZATION WITH RESPECT TO HABILITATION SERVICES FURNISHED UNDER A WAIVER FOR HOME OR COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1915(c)(5) (42 U.S.C. 1396n(c)(5)) is amended in the matter preceding subparagraph (A) by striking ", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1995.

SEC. 4618. ELIMINATION OF RULE REGARDING AVAILABILITY OF BEDS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—The first sentence of section 1915(c)(1) (42 U.S.C. 1396n(c)(1)) is amended by inserting the following before the end period: "(at the option of the State, such determination may be made without regard to the availability of beds in such a hospital, nursing facility, or intermediate care facility for the mentally retarded located in the State)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to waivers granted or renewed on or after January 1, 1995.

SEC. 4619. PREADMISSION SCREENING FOR MENTALLY RETARDED INDIVIDUALS.

(a) IN GENERAL.—Section 1919(b)(3)(F)(ii) (42 U.S.C. 1396r(b)(3)(F)(ii)) is amended by striking "that, because" and all that follows through the period at the end and inserting "that the individual's primary need is for medical services that are at the level provided by the nursing facility and that the nursing facility has the capability to provide any specialized services necessary for habilitation of the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions on or after July 1, 1995.

PART 5—MISCELLANEOUS

SEC. 4621. MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES.

(a) IN GENERAL.—Paragraph (21) of section 1905(a) (42 U.S.C. 1396d(a)) is amended to read as follows:

"(21) services furnished by all certified nurse practitioners (as defined by the Secretary) or clinical nurse specialists (as defined in subsection (t)) which the certified nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider;".

(b) CLINICAL NURSE SPECIALIST DEFINED.—Section 1905 (42 U.S.C. 1396) is amended by adding at the end the following new subsection:

"(t) The term 'clinical nurse specialist' means an individual who—

"(1) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(2) holds a master's degree in a defined clinical area of nursing from an accredited educational institution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1995.

SEC. 4622. RELIEF FROM THIRD PARTY LIABILITY REQUIREMENTS WHEN COST-EFFECTIVE.

(a) IN GENERAL.—Section 1902(a)(25)(B) (42 U.S.C. 1396a(a)(25)(B)) is amended to read as follows—

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability, unless—

"(i) the amount of reimbursement the State can reasonably expect to recover for medical assistance furnished to an individual does not exceed the costs of such recovery, or

"(ii) with respect to case management services (as defined in section 1915(g)(2)), the State demonstrates to the satisfaction of the Secretary (using the methods specified by the Secretary under subsection (aa)) that it is not cost-effective in the aggregate to seek such recovery with respect to such services furnished to individuals covered under the State plan;".

(b) METHODS FOR DEMONSTRATION.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended by adding at the end the following new subsection:

"(aa) The Secretary shall specify in regulations the methods by which a State may demonstrate that it is not cost-effective in the aggregate to seek reimbursement for medical assistance paid for case management services under subsection (a)(25)(B)(ii). The methods specified by the Secretary under the preceding sentence shall include allowing a State to demonstrate that case management services are not generally covered by health insurers in the State.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1995.

SEC. 4623. EXTENSION OF MORATORIUM ON TREATMENT OF CERTAIN FACILITIES AS INSTITUTIONS FOR MENTAL DISEASES.

Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "the year described in section 1923(h)(2) of the Social Security Act".

SEC. 4624. ALLOWING CERTAIN ENTITIES TO PARTICIPATE IN A WAIVER.

Section 1903(m)(6)(D) (42 U.S.C. 1396b(m)(6)(D)) is amended to read as follows:

"(D) The undertaking described in subparagraph (A) shall be eligible to participate in a waiver under section 1915(b).".

TITLE V—QUALITY AND CONSUMER PROTECTION

Subtitle A—Quality Management and Improvement

SEC. 5001. NATIONAL QUALITY COUNCIL.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a council to be known as the National Quality Council to oversee a national program of quality management and improvement designed to enhance the quality, appropriateness, and effectiveness of health care services and access to such services in the United States.

(b) APPOINTMENT.—The National Quality Council shall consist of 15 members appointed by the President, with the advice and consent of the Senate, who are broadly representative of the population of the United States and shall include the following:

(1) Individuals and health care providers distinguished in the fields of medicine, public health, health care quality, and related fields of health services research. Such members shall constitute at least one-third of the Council's membership.

(2) Individuals representing consumers of health care services. Such members shall constitute at least one-third of the Council's membership.

(3) Other individuals representing purchasers of health care, health plans, States, and nationally recognized health care accreditation organizations.

(c) DUTIES.—The National Quality Council shall—

(1) develop national goals and performance measures of quality;

(2) develop uniform quality goals and performance measures for plans;

(3) oversee the design and implementation of a program of national surveys of plans and consumers;

(4) oversee the design and production of Consumer Report Cards;

(5) oversee Quality Improvement Foundations;

(6) oversee National and State-based Consumer Information and Advocacy Centers; and

(7) oversee the evaluation of the impact of the implementation of this Act on the quality of health care services in the United States and the access of consumers to such services.

(d) COORDINATION AND CONSULTATION.—

(1) COORDINATION WITH MEDICARE.—The Secretary shall promulgate regulations necessary to ensure the coordination and eventual integration of the functions and activities of the Council established under this part with respect to Medicare and non-Medicare populations.

(2) CONSULTATION.—In carrying out the duties under this section, the National Quality Council shall establish a process of consultation with appropriate interested parties.

(e) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council shall serve for a term of 4 years.

(2) STAGGERED ROTATION.—Of the members first appointed to the Council under subsection (b), the President shall appoint members to serve for a term of between 1 and 4 years so that no more than one third of the Council seats are vacated each year.

(3) SERVICE BEYOND TERM.—A member of the Council may continue to serve after the expiration of the term of the member until a successor is appointed.

(f) VACANCIES.—If a member of the Council does not serve the full term applicable under subsection (e), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(g) CHAIR.—The President shall designate an individual to serve as the chair of the Council.

(h) MEETINGS.—The Council shall meet not less than once during each 4-month period and shall otherwise meet at the call of the President or the chair.

(i) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Council shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) CONFLICTS OF INTEREST.—Members of the Council shall disclose upon appointment to the Council or at any subsequent time that it may occur, conflicts of interest.

(k) EXECUTIVE DIRECTOR; STAFF.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Council shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(2) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Council, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS-15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Council to assist the Council in carrying out its duties under this Act.

(l) CONTRACT AUTHORITY.—To the extent provided in advance in appropriations Acts, the Council may contract with any person (including an agency of the Federal Government) for studies and analysis as required to execute its functions. Any employee of the Executive Branch may be detailed to the Council to assist the Council in carrying out its duties.

(m) CONSULTATIONS WITH EXPERTS.—The Council may consult with any outside expert individuals or groups that the Council determines appropriate in performing its duties under this section. The Council may establish advisory committees.

(n) ACCESS TO INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its functions, to the extent such information is otherwise available to a department or agency of the United States. Upon request of the chair, the head of that department or agency shall furnish that information to the Council.

(o) DELEGATION OF AUTHORITY.—Except as otherwise provided, the Council may delegate any function to such officers and employees as the Council may designate and may authorize such successive redelegations of such functions with the Council as the Council deems to be necessary or appropriate. No delegation of functions by the Council shall relieve the Council of responsibility for the administration of such functions.

(p) RULEMAKING.—The Council is authorized to establish such rules as may be necessary to carry out this section.

(q) HEALTH CARE PROVIDER.—For purposes of this subtitle, the term "health care provider" means an individual who, or entity that, provides an item or service to an individual that is covered under the health plan (as defined in section 1111) in which the individual is enrolled.

SEC. 5002. NATIONAL GOALS AND PERFORMANCE MEASURES OF QUALITY.

(a) IN GENERAL.—The National Quality Council shall develop a set of national quality goals and performance measures of quality for both the general population and for population subgroups defined by demographic characteristics and health status. The goals and measures shall incorporate goals identified by the Secretary of Health and Human Services for meeting public health objectives utilizing, but not limited to, goals delineated in Healthy People 2000.

(b) SUBJECT OF MEASURES.—National measures of quality performance shall be developed under subsection (a) in a manner that provides statistical and other information on at least the following subjects:

(1) Outcomes of health care services and procedures.

(2) Population health status.

(3) Health promotion.

(4) Prevention of diseases, disorders, disabilities, injuries, and other health conditions.

(5) Access to care and appropriateness of care.

(6) Consumer satisfaction.

(c) ACCURACY OF MEASURES.—A State shall periodically audit the national measures of quality performance to assure accuracy.

SEC. 5003. STANDARDS AND PERFORMANCE MEASURES FOR HEALTH PLANS.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The National Quality Council shall establish national standards and performance measures for health plans, which may be used to assess the provision of health care services and access to such services, both for the general population and population subgroups defined by demographic characteristics and health status. In subject matter areas with which the National Quality Council determines that sufficient information and consensus exist, the Council shall establish goals for performance by health plans consistent with the national goals and performance measures established under section 5002.

(2) MEASURES AND STANDARDS.—

(A) MEASURES.—Quality measures under this section shall relate, at a minimum, to:

(i) Access by consumers to health care services and providers.

(ii) Appropriateness of health care services.

(iii) Consumer satisfaction.

(iv) Outcomes of care.

(v) Disease prevention and health promotion.

(B) STANDARDS.—Quality standards under this section at a minimum shall relate to:

(i) Health plan compliance with members' rights under this Act.

(ii) Quality improvement and accountability.

(iii) Documentation and review of provider credentialing and competency.

(iv) Management of clinical, and administrative and financial information.

(b) CERTIFICATION OF PLANS.—The National Quality Council shall provide information and technical assistance to the Secretary and the States concerning the use of national standards and performance measures developed under this section for State certification of health plans.

SEC. 5004. PLAN DATA ANALYSIS AND CONSUMER SURVEYS.

(a) IN GENERAL.—The National Quality Council shall oversee the design and conduct of periodic surveys of health care consumers and plans to gather information concerning the quality measures established under sections 5002 and 5003. The surveys shall monitor consumer reaction to the implementation of this Act and, in coordination with relevant data from health plans and other sources, be designed to assess the impact of this Act both for the general population of the United States and for populations vulnerable to discrimination or to receiving inadequate care due to health status, demographic characteristics, or geographic location.

(b) SURVEY ADMINISTRATION AND DATA ANALYSIS.—The National Quality Council shall approve a standard design for the consumer surveys and sampling of relevant plan data described in subsection (a) which shall be administered by the Administrator of the Agency for Health Care Policy and Research or such other appropriate entity as the Council shall designate on a plan-by-plan and State-by-State basis. Sufficient consumer survey and plan data shall be collected and verified to provide for reliable and valid analysis. A State may add survey questions on quality measures of local interest to surveys conducted in the State. The plan-level survey shall include a subset of consumer survey questions related to consumer satisfaction, perceived health status, access, and such other survey items designated by the Council.

(c) SAMPLING STRATEGIES.—The National Quality Council shall approve sampling strategies under subsection (a) that ensure that appropriate survey samples adequately measure populations that are considered to be at risk of receiving inadequate health care or may be difficult to reach through consumer-sampling methods, including individuals who—

(1) fail to enroll in a health plan;

(2) resign from a plan; or

(3) are vulnerable to discrimination or to receiving inadequate care due to health status, demographic characteristics, or geographic location.

(d) SURVEY INTEGRATION.—To the extent feasible, the consumer and plan surveys developed under this section shall be integrated with existing Federal surveys.

SEC. 5005. EVALUATION AND REPORTING OF QUALITY PERFORMANCE.

(a) HEALTH PLAN REPORTS.—Each State annually shall publish and make available to the public and Consumer Information and Advocacy Centers a performance report, in a standard format designated by the National Quality Council, outlining the performance of each health plan offered in the State with respect to the set of national measures of quality performance developed under sections 5002 and 5003. The report shall include—

(1) the results of a smaller number of such measures for health care providers if the available information is statistically meaningful; and

(2) the results of consumer surveys and an analysis of the plan data collected in section 5004.

(b) CONSUMER REPORT CARDS.—The health plan reports under subsection (a) shall be summarized in a consumer report card as specified by the National Quality Council and made available by the State through the Consumer Information and Advocacy Centers to all individuals in the State.

(c) QUALITY REPORTS.—The National Quality Council annually shall provide recommendations to the Congress, the National Health Benefits Board, and the Secretary in the form of a summary report that—

(1) outlines in a standard format the performance of each State;

(2) discusses State-level and national trends relating to health care quality; and

(3) presents data for each State from health plan reports and consumer surveys that were conducted during the year.

SEC. 5006. DEVELOPMENT AND DISSEMINATION OF PRACTICE GUIDELINES.

(a) IN GENERAL.—The National Quality Council may advise the Secretary and the Administrator of the Agency for Health Care Policy and Research concerning priorities for the development and periodic review and updating of clinically relevant guidelines established under section 912 of the Public Health Service Act.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as precluding other agencies in the Public Health Service from carrying out guidelines and activities under the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act.

SEC. 5007. RESEARCH ON HEALTH CARE QUALITY.

The National Quality Council may make recommendations to the Secretary and the Administrator of the Agency for Health Care Policy and Research concerning priorities for research with respect to the quality, appropriateness, and effectiveness of health care.

SEC. 5008. QUALITY IMPROVEMENT FOUNDATIONS.

(a) ESTABLISHMENT.—The National Quality Council shall oversee the operation of quality improvement foundations in performing the duties specified in subsection (c).

(b) STRUCTURE AND MEMBERSHIP.—

(1) GRANT PROCESS.—The Secretary, in consultation with the Council, shall, through a competitive grantmaking process, award grants for the establishment and operation of a quality improvement foundation in each State or region (as defined in paragraph (2)(B)).

(2) ESTABLISHMENT OF GEOGRAPHIC AREAS.—The Secretary shall establish throughout the United States geographic areas with respect to which grants under this section will be made. In establishing such areas, the Secretary shall take into account the following criteria:

(A) STATE AREAS.—Each State shall generally be designated as a geographic area for purposes of this paragraph.

(B) MULTI-STATE AREAS.—The Secretary may establish geographic areas comprised of multiple contiguous States only where the Secretary determines that volume of activity or other relevant factors justifies such an establishment.

(3) ELIGIBLE APPLICANTS.—To be eligible to receive a grant for the establishment of a quality improvement foundation under paragraph (1), an applicant entity shall meet the following conditions:

(A) NOT-FOR-PROFIT.—The entity shall be a not-for-profit entity operating within the State or region involved.

(B) BOARD.—The entity shall have a board which includes—

(i) representatives of health care providers from throughout the State or region involved, including both practicing providers and experts in the field of quality measurement and improvement, which together shall comprise at least one-fourth of the board's membership;

(ii) at least one representative of Academic Health Centers, Schools of Public Health or other schools as defined in section 799 of the Public Health Service Act operating within the State or region involved (or operating outside of the State or region if no such Centers or schools operate within the State or region), which shall comprise up to one-fourth of the membership;

(iii) representatives of consumers residing within the State or region involved, who shall comprise one-fourth of the membership; and

(iv) representatives of purchasers of health care, health plans, State or local health departments, and other interested parties residing within the State or region involved, and representatives of the State or States within a region.

(C) STAFFING.—Each entity shall have sufficient, competent staff of experts possessing the skills and knowledge necessary to enable the foundation to perform its duties.

(c) DUTIES.—

(1) IN GENERAL.—Each quality improvement foundation shall carry out the duties described in paragraph (2) for the State or region in which the foundation is located. The

foundation shall establish a program of activities incorporating such duties and shall be able to demonstrate the involvement of a broad cross-section of the providers and health care institutions throughout the State or region. A foundation may apply for and conduct research described in section 5007.

(2) DUTIES DESCRIBED.—The duties described in this paragraph include the following:

(A) Collaboration with and technical assistance to providers and health plans in ongoing efforts to improve the quality of health care provided to individuals in the State.

(B) Population-based monitoring of practice patterns and patient outcomes,on an other than a case-by-case basis.

(C) Developing programs in lifetime learning for health professionals to improve the quality of health care by ensuring that health professionals remain informed about new knowledge, acquire new skills, and adopt new roles as technology and societal demands change.

(D) Disseminating information about successful quality improvement programs, practice guidelines, and research findings, including information on innovative staffing of health professionals.

(E) Assist in developing innovative patient education systems that enhance patient involvement in decisions relating to their health care, including an emphasis on shared decisionmaking between patients and health care providers.

(F) Issuing a report to the public regarding the foundation's activities for the previous year including areas of success during the previous year and areas for opportunities in improving health outcomes for the community, and the adoption of guidelines.

(G) Providing notice to the State or appropriate entity if the foundation determines, after reasonable opportunities for improvement, that the quality of a provider or plan remains so inadequate that the patients or enrollees of such a provider or plan are potentially subject to substantial harm in utilizing the services of such provider or services under such plan.

(d) RESTRICTIONS ON DISCLOSURE.—The restrictions on disclosure of information under section 1160 of the Social Security Act shall apply to quality improvement foundations under this section, except that—

(1) such foundations shall make data available to qualified organizations and individuals for research for public benefit;

(2) individuals and qualified organizations shall meet standards consistent with the Public Health Service Act and policies regarding the conduct of scientific research, including provisions related to confidentiality, privacy, protection of humans and shall pay reasonable costs for data; and

(3) such foundations may exchange information with other quality improvement foundations.

SEC. 5009. CONSUMER INFORMATION AND ADVOCACY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish (by grant or contract) and oversee a National Center of Consumer Information and Advocacy to provide technical assistance, adequate training and support to States and Consumer Information and Advocacy Centers in each State (hereafter referred to in this section as the "Center") to carry out the duties of this section, including providing public education to consumers concerning this Act.

(2) REQUIREMENTS FOR NATIONAL CENTER.—The National Center of Consumer Information and Advocacy shall be a national non-profit organization with public education and health advocacy expertise and shall have sufficient staff to carry out its duties and a demonstrated ability to represent and work with a broad spectrum of consumers, including vulnerable and underserved populations.

(3) STATE-BASED CENTERS.—The Consumer Information and Advocacy Center in each State shall disseminate State reports on quality performance (as defined in section 5005(4)) and health plan consumer report cards (as defined in section 5005(2)) in order to facilitate consumer choice of health plans, perform public outreach and provide education and assistance regarding consumer rights and responsibilities under this Act, and assist consumers in dealing with problems that arise with consumer purchasing cooperatives, large group purchasers, health plans, insurance agents, and health care providers operating in such State.

(b) CONTRACTS.—

(1) SOLICITATION.—The Secretary shall solicit contracts from private non-profit organizations based in each State to fulfill the duties of the Center in the State. The Secretary may develop such regulations and guidelines as necessary to oversee the process of considering and awarding competitive contracts under this section. In awarding such contracts, the Secretary shall consult with the National Center of Consumer Information and Advocacy and shall, at a minimum, consider the demonstrated ability of the organization to represent and work with a broad spectrum of consumers, including vulnerable and underserved populations.

(2) CONTRACT PERIOD.—The contract period for the State-based Consumer Information and Advocacy Centers and the National Center of Consumer Information and Advocacy under this section shall be not less than 4 years and not more than 7 years.

(c) FUNCTIONS AND RESPONSIBILITIES.—

(1) DISSEMINATION OF REPORTS.—Each Center shall disseminate State reports on quality performance (as defined in section 5005(2)) and health plan consumer report cards (as defined in section 5005(2)) in order to facilitate consumer choice of health plans.

(2) STAFF, OFFICES AND HOTLINES.—Each Center shall have sufficient staff, local offices throughout the State, and a State-wide toll-free hotline to carry out the advocacy duties of this section. Through direct contact and the hotline, the Center shall provide the following services in the State, including appropriate assistance to individuals with limited English language ability—

(A) outreach and education relating to consumer rights and responsibilities under this Act, including such rights and services available through the Center;

(B) assistance with enrollment in health plans, or obtaining services or reimbursement from health plans;

(C) assistance with filing an application for premium or cost sharing subsidies;

(D) information to enrollees about existing grievance procedures and coordination with other entities to assist in identifying, investigating, and resolving enrollee grievances under this Act (including grievances before State medical boards);

(E) referrals to appropriate local providers of legal assistance and to appropriate State and Federal agencies which may be of assistance to aggrieved individuals in the area; and

(F) conduct public hearings no less frequently than once a year to identify and address community health care needs.

(d) ACCESS TO INFORMATION.—The Secretary and the States shall ensure that, for purposes of carrying out the Center's duties under this section, the Center (and officers and employees of the Center in local offices) have appropriate access to necessary information subject to protections for confidentiality of enrollee information. Each Center shall have the capability to accept electronic quality data from plans as required under subtitle B.

(e) EVALUATION AND REPORT.—The Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract. The Center shall report to the Secretary and the State annually on the nature and patterns of consumer complaints received in the Center and its local offices during each year and any policy, regulatory, and legislative recommendations for needed improvements together with a record of the activities of the Center.

(f) CONFLICTS OF INTEREST.—The Secretary shall ensure that no individual involved in the designation of a State Center, the Center itself, or of any delegate thereof is subject to a conflict of interest, including affiliation with (through ownership or common control) a health care facility, managed care organization, health insurance company or association of health care facilities or providers. No grantee under this section may have a direct involvement with the licensing, certification, or accreditation of a health care facility, a health care plan, or a provider of health care services .

(g) LEGAL COUNSEL.—The Secretary shall ensure that adequate legal counsel is available, and is able, without conflict of interest, to assist the Center, and the local offices thereof in the performance of their official duties.

(h) COORDINATION.—The Center shall coordinate its activities with all appropriate entities including Quality Improvement Foundations (established under section 5008) and the State agencies designated to carry out client advocacy activities pursuant to section 2106.

(i) CONSTRUCTION.—Nothing in this section shall replace grievance procedures established or otherwise required under this Act.

SEC. 5010. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL QUALITY COUNCIL.—For the purpose of carrying out this subtitle with respect to the establishment and activities of the National Quality Council, there are authorized to be appropriated $4,000,000 for each of the fiscal years 1995 through 2000.

(b) QUALITY IMPROVEMENT FOUNDATIONS.—For the purpose of carrying out section 5008, the are authorized to be appropriated $100,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, and $300,000,000 for each of the fiscal years 1998 through 2000.

(c) CONSUMER INFORMATION AND ADVOCACY CENTERS.—For the purpose of carrying out section 5009, the are authorized to be appropriated $100,000,000 for fiscal year 1996, $200,000,000 for fiscal year 1997, $300,000,000 for each of the fiscal years 1998 through 2000, of which $4,000,000 for each fiscal year shall be made available to the National Center of Consumer Information and Advocacy.

SEC. 5011. ROLE OF HEALTH PLANS IN QUALITY MANAGEMENT.

Each health plan shall—

(1) measure and disclose performance on quality measures as designated by this Act;

(2) furnish information required under subtitles B and of this title and provide such

other reports and information on the quality of care delivered by health care providers who are members of a provider network of the plan as may be required under this Act; and

(3) maintain quality management systems that—

(A) use the national measures of quality performance developed by the National Quality Council under section 5003; and

(B) measure the quality of health care furnished to enrollees under the plan by all health care providers of the plan where practical.

SEC. 5012. INFORMATION ON HEALTH CARE PROVIDERS.

(a) STATE OBLIGATIONS.—Each State shall make available to consumers, upon request, information concerning providers of health care services or supplies. Such information shall include—

(1) the identity of any provider that has been convicted, under Federal or State law, of a criminal offense relating to fraud, corruption, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care service or supply;

(2) the identity of any provider that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care service or supply;

(3) the identity of any provider that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance; and

(4) the identity of any provider whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating to the provider's professional competence, professional performance, or financial integrity, or any provider who surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

(b) PUBLIC AVAILABILITY OF INFORMATION IN NATIONAL PRACTITIONER DATA BANK ON DEFENDANTS, AWARDS, AND SETTLEMENTS.—

(1) IN GENERAL.—Section 427(a) of the Health Care Quality Improvement Act (42 U.S.C. 11137 (a)) is amended by adding at the end the following new sentence: "Not later the January 1, 1996, the Secretary shall promulgate regulations under which individuals seeking to enroll in health plans under the Health Security Act shall be able to obtain information reported under this part with respect to physicians and other licensed health practitioners participating in such plans for whom information has been reported under this part on repeated occasions.".

(2) ACCESS TO DATA BANK FOR POINT-OF-SERVICE CONTRACTORS UNDER MEDICARE.—Section 427(a) of such Act (42 U.S.C. 11137(a)) is amended—

(A) by inserting "to sponsors of point-of-service networks under section 1990 of the Social Security Act,", and

(B) in the heading, by inserting "RELATED" after "CARE".

SEC. 5013. CONFORMING AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title IX of the Public Health Service Act is amended—

(1) in section 903(a)(4) (42 U.S.C. 299a-1(a)(4)), by inserting "and Quality Improvement Foundations" after "health agencies";

(2) in section 904(c)(1) (42 U.S.C. 299a-2(c)(1)), by inserting "the National Quality Council and" after "in consultation with";

(3) in section 912(b)(4) (42 U.S.C. 299b-1(b)(4))—

(A) by inserting "outcomes," before "risks"; and

(B) by inserting before the semicolon "to the extent feasible given the availability of unbiased, reliable, and valid data";

(4) in section 914 (42 U.S.C. 299b-3)—

(A) in subsection (a)(2)(B)—

(i) by inserting "the National Quality Council," after "shall consult with"; and

(ii) by inserting before the period "and relevant sections of the Health Security Act";

(B) in subsection (c), by inserting "Quality Improvement Foundations and other" after "carried out through"; and

(C) in subsection (f)—

(i) by striking "TO ADMINISTRATOR" in the subsection heading;

(ii) by striking "Administrator" and inserting "National Quality Council and the"; and

(5) in section 927 (42 U.S.C. 299c-6), by adding at the end thereof the following new paragraphs:

"(5) The term 'National Quality Council' means the Council established under section 5001 of the Health Security Act.

"(6) The term "Quality Improvement Foundations" means the Foundations established under section 5008 of the Health Security Act.".

Subtitle B—Administrative Simplification

PART 1—PURPOSE AND DEFINITIONS

SEC. 5101. PURPOSE.

It is the purpose of this subtitle to improve the efficiency and effectiveness of the health care system by encouraging the development of a health information network through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 5102. DEFINITIONS.

For purposes of this subtitle:

(1) CODE SET.—The term "code set" means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

(2) COORDINATION OF BENEFITS.—The term "coordination of benefits" means determining and coordinating the financial obligations of health plans when health care benefits are payable under 2 or more health plans.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a provider of services (as defined in section 1861(u) of the Social Security Act), a provider of medical or other health services (as defined in section 1861(s) of the Social Security Act), and any other person furnishing health care services or supplies.

(4) HEALTH INFORMATION.—The term "health information" means any information, whether oral or recorded in any form or medium that—

(A) is created or received by a health care provider, health plan, health oversight agency (as defined in section 5202), health researcher, public health authority (as defined in section 5202), employer, life insurer, school or university, or health information network service certified under section 5141; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

(5) HEALTH INFORMATION NETWORK.—The term "health information network" means the health information system that is formed through the application of the requirements and standards established under this subtitle.

(6) HEALTH INFORMATION PROTECTION ORGANIZATION.—The term "health information protection organization" means a private entity or an entity operated by a State that accesses standard data elements of health information through the health information network, processes such information into non-identifiable health information, and may store such information.

(7) HEALTH INFORMATION NETWORK SERVICE.—The term "health information network service"—

(A) means a private entity or an entity operated by a State that enters into contracts to—

(i) process or facilitate the processing of nonstandard data elements of health information into standard data elements;

(ii) provide the means by which persons are connected to the health information network for purposes of meeting the requirements of this subtitle, including the holding of standard data elements of health information;

(iii) provide authorized access to health information through the health information network; or

(iv) provide specific information processing services, such as automated coordination of benefits and claims transaction routing; and

(B) includes a health information protection organization.

(8) HEALTH PLAN.—The term "health plan" has the meaning given such term in section 1011(1)(B) except that such term shall include clauses (iii), (iv), (v), (vi), and (viii) of such section.

(9) NON-IDENTIFIABLE HEALTH INFORMATION.—The term "non-identifiable health information" means health information that is not protected health information as defined in section 5202.

(10) HEALTH RESEARCHER.—The term "health researcher" shall have the meaning given such term under section 5202.

(11) PATIENT MEDICAL RECORD INFORMATION.—The term "patient medical record information" means health information derived from a clinical encounter that relates to the physical or mental condition of an individual.

(12) STANDARD.—The term "standard" when referring to an information transaction or to data elements of health information means the transaction or data elements meet any standard adopted by the Secretary under part 2 that applies to such information transaction or data elements.

PART 2—STANDARDS FOR DATA ELEMENTS AND INFORMATION TRANSACTIONS

SEC. 5111. GENERAL REQUIREMENTS ON SECRETARY.

(a) IN GENERAL.—The Secretary shall adopt standards and modifications to standards under this subtitle that—

(1) are consistent with the objective of reducing the costs of providing and paying for health care;

(2) give priority to standards in use and generally accepted or developed or modified by the standards setting organizations accredited by the American National Standard Institute (ANSI); and

(3) are consistent with the objective of protecting the privacy of protected health information (as defined in section 5202).

(b) INITIAL STANDARDS.—The Secretary may develop an expedited process for the adoption of initial standards under this subtitle.

(c) Failsafe.—If the Secretary is unable to adopt standards or modified standards in accordance with subsection (a) that meet the requirements of this subtitle—

(1) the Secretary may develop or modify such standards and, after providing public notice and after an adequate period for public comment, adopt such standards; and

(2) if the Secretary adopts standards under paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the actions taken by the Secretary under this subsection.

(d) Paper formats.—The Secretary—

(1) shall develop written forms that are consistent with the standards adopted by the Secretary under this subtitle for use prior to the date on which the health information network is fully operational; and

(2) after the health information network is fully operational, may develop methods by which a person may use the standards adopted by the Secretary under this subtitle with respect to health information that is in written rather than electronic form.

SEC. 5112. STANDARDS FOR DATA ELEMENTS OF HEALTH INFORMATION.

(a) In General.—The Secretary shall adopt standards necessary to make data elements of the following health information uniform and compatible for electronic transmission through the health information network:

(1) the health information that is appropriate for transmission in connection with transactions described in subsections (a), (b), and (d) of section 5121;

(2) the quality information required to be submitted by a health plan under title I and subtitle A of this title; and

(3) patient medical record information.

(b) Additions.—

(1) In general.—The Secretary may make additions to the sets of data elements adopted under subsection (a) as the Secretary determines appropriate in a manner that minimizes the disruption and cost of compliance with such additions.

(2) Data elements required for risk adjustment, etc.—The additions to the sets of data elements made by the Secretary under paragraph (1) may include the data elements required for risk adjustment or reinsurance and reconciliation of payments and subsidies under titles VI and X.

(c) Certain Data Elements.—

(1) Unique health identifiers.—The Secretary shall establish a system to provide for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. The personal health identifier for an individual shall be an encrypted form of the social security account number assigned to the individual by the Secretary under section 205(c)(2) of the Social Security Act.

(2) Code sets.—

(A) In general.—The Secretary, in consultation with experts from the private sector and Federal agencies, shall—

(i) select code sets for appropriate data elements from among the code sets that have been developed by private and public entities; or

(ii) establish code sets for such data elements if no code sets for the data elements have been developed.

(B) Distribution.—The Secretary shall establish efficient and low-cost procedures for distribution of code sets and modifications to such code sets under section 5115(c).

SEC. 5113. INFORMATION TRANSACTION STANDARDS.

(a) In General.—The Secretary shall adopt technical standards relating to the method by which data elements of health information that have been standardized under section 5112 may be transmitted electronically, including standards with respect to the format in which such data elements shall be transmitted.

(b) Special Rule for Coordination of Benefits.—Any standards adopted by the Secretary under paragraph (1) that relate to coordination of benefits shall provide that a claim for reimbursement for medical services furnished is tested by an algorithm specified by the Secretary against all records of enrollment and eligibility for the individual who received such services to determine any primary and secondary obligors for payment.

(c) Electronic Signature.—The Secretary, in coordination with the Secretary of Commerce, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which will be deemed to satisfy State and Federal statutory requirements for written signatures with respect to information transactions required by this Act and written signatures on medical records and prescriptions.

SEC. 5114. STANDARDS RELATING TO WRITTEN EXPLANATIONS OF BENEFITS.

The Secretary shall adopt standard methods and formats which shall be used by health plans to submit a written explanation of benefits to an enrollee.

SEC. 5115. TIMETABLES FOR ADOPTION OF STANDARDS.

(a) Initial Standards for Data Elements.—The Secretary shall adopt standards relating to—

(1) the data elements for the information described in section 5112(a)(1) not later than 9 months after the date of the enactment of this subtitle (except in the case of standards with respect to data elements for claims attachments which shall be adopted not later than 24 months after the date of the enactment of this subtitle);

(2) the data elements for the information described in section 5112(a)(2) not later than 9 months after the date of the enactment of this subtitle;

(3) data elements for patient medical record information not earlier than 24 months and not later than 7 years after the date of the enactment of this subtitle; and

(4) any addition to a set of data elements, in conjunction with making such an addition.

(b) Initial Standards for Information Transactions.—The Secretary shall adopt standards relating to information transactions under section 5113 not later than 9 months after the date of the enactment of this subtitle (except in the case of standards for claims attachments which shall be adopted not later than 24 months after the date of the enactment of this subtitle).

(c) Standards for Written Claims and Explanations of Benefits.—The Secretary shall adopt standard methods and formats described in section 5114 not later than 9 months after the date of the enactment of this subtitle.

(d) Modifications to Standards.—

(1) In general.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under this subtitle and shall adopt modified standards as determined appropriate, but no more frequently than once every 6 months. Any modification to standards shall be completed in a manner which minimizes the disruption and cost of compliance.

(2) Special rules.—

(A) Modifications during first 12-month period.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary shall not adopt any modifications to standards adopted under this subtitle during the 12-month period beginning on the date such standards are adopted unless the Secretary determines that a modification is necessary in order to permit compliance with requirements relating to the standards.

(B) Additions and modifications to code sets.—

(i) In general.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets to accommodate changes in biomedical science and health care delivery.

(ii) Additional Rules.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements that were encoded prior to the modification are to be converted or translated so as to preserve the value of the data elements. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

(e) Evaluation of Standards.—The Secretary may establish a process to measure or verify the consistency of standards adopted or modified under this subtitle. Such process may include demonstration projects and analysis of the cost of implementing such standards and modifications.

PART 3—REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION

SEC. 5121. REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION.

(a) Requirements on Plans and Providers Relating to Financial and Administrative Transactions.—If a health care provider or a health plan conducts any of the following transactions, such transactions shall be standard transactions and the information transmitted or received in connection with such transaction shall be in the form of standard data elements:

(1) Claims (including coordination of benefits).

(2) Claims attachments.

(3) Responses to research inquiries by a health researcher.

(4) Other transactions determined appropriate by the Secretary consistent with the goal of improving the functions of the health care system or reducing administrative costs.

(b) Requirement Only on Plans Relating to Financial and Administrative Transactions.—If a person desires to conduct any of the following transactions with a health plan as a standard transaction, the health plan shall conduct such standard transaction and the information transmitted or received in connection with such transaction shall be in the form of standard data elements:

(1) Enrollment and disenrollment.

(2) Eligibility.

(3) Payment and remittance advice.

(4) Premium payments.

(5) First report of injury.

(6) Claims status.

(7) Referral certification and authorization.

(8) Other transactions determined appropriate by the Secretary consistent with the

goal of improving the functions of the health care system or reducing administrative costs.

(c) REQUIREMENT ON PLANS RELATING TO QUALITY INFORMATION.—Any quality information required to be submitted by a health plan under title I or subtitle A of this title shall be in the form of standard data elements and the transmission of such data shall be in the form of a standard transaction.

(d) REQUIREMENT ONLY ON PURCHASING COOPERATIVES.—If a person desires to conduct any of the following transactions with a purchasing cooperative (as defined in section 1013(12)) as a standard transaction, the cooperative shall conduct such standard transaction and the information transmitted or received in connection with such transaction shall be in the form of standard data elements:

(1) Enrollment and disenrollment.

(2) Premium payments.

(e) REQUIREMENT WITH RESPECT TO DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—A health plan or health care provider shall make the standard data elements transmitted or received by such plan or provider in connection with the transactions described in subsections (a), (b), and (c) or acquired under section 5164(a) available for disclosure as authorized by this subtitle.

(2) SPECIAL RULE.—In the case of a health care provider that does not file claims, such provider shall be responsible for making standard data elements for encounter information available for disclosure as authorized by this subtitle.

(f) SATISFACTION OF REQUIREMENTS.—A health care provider, health plan, or consumer purchasing cooperative may satisfy the requirement imposed on such provider, plan, or cooperative under subsection (a), (b), (c), (d), or (e) by—

(1) directly transmitting standard data elements;

(2) submitting nonstandard data elements to a health information network service certified under section 5141 for processing into standard data elements and transmission; or

(3) in the case of a provider, submitting data elements to a plan which satisfies the requirements imposed on such provider on the provider's behalf.

(g) TIMELINESS.—A health care provider or health plan shall be determined to have satisfied a requirement imposed under this section only if the action required is completed in a timely manner, as determined by the Secretary. In setting standards for timeliness, the Secretary shall take into consideration the age and the amount of information being requested.

SEC. 5122. TIMETABLES FOR COMPLIANCE WITH REQUIREMENTS.

(a) INITIAL COMPLIANCE.—

(1) IN GENERAL.—Not later than 12 months after the date on which standards are adopted under part 2 with respect to a type of transaction or data elements for a type of health information, a health plan, health care provider, or purchasing cooperative shall comply with the requirements of this subtitle with respect to such transaction or information.

(2) ADDITIONAL DATA ELEMENTS.—Not later than 12 months after the date on which the Secretary adopts an addition to a set of data elements for health information under part 2, a health plan, health care provider, or purchasing cooperative shall comply with the requirements of this subtitle using such data elements.

(b) COMPLIANCE WITH MODIFIED STANDARDS.—

(1) IN GENERAL.—If the Secretary adopts a modified standard under part 2, a health plan, health care provider, or purchasing cooperative shall be required to comply with the modified standard at such time as the Secretary determines appropriate taking into account the time needed to comply due to the nature and extent of the modification.

(2) SPECIAL RULE.—In the case of modifications to standards that do not occur within the 12-month period beginning on the date such standards are adopted, the time determined appropriate by the Secretary under paragraph (1) shall be no sooner than the last day of the 90-day period beginning on the date such modified standard is adopted and no later than the last day of the 12 month period beginning on the date such modified standard is adopted.

PART 4—ACCESSING HEALTH INFORMATION

SEC. 5131. ACCESSING HEALTH INFORMATION FOR AUTHORIZED PURPOSES.

(a) IN GENERAL.—The Secretary shall adopt technical standards for appropriate persons, including health plans, health care providers, health information network services certified under section 5141, health researchers, and Federal and State agencies, to locate and access the health information that is available through the health information network due to the requirements of this subtitle. Such technical standards shall ensure that any request to locate or access information shall be authorized under subtitle C.

(b) PROCUREMENT RULE FOR GOVERNMENT AGENCIES.—

(1) IN GENERAL.—Health information protection organizations certified under section 5141 shall make available to a Federal or State agency pursuant to a Federal Acquisition Regulation (or an equivalent State system), any non-identifiable health information that is requested by such agency.

(2) CERTAIN INFORMATION AVAILABLE AT LOW COST.—If a health information protection organization described in paragraph (1) needs information from a health plan or health care provider in order to comply with a request of a Federal or State agency that is necessary to comply with a requirement under this Act, such plan or provider shall make such information available to such organization for a charge that does not exceed the reasonable cost of transmitting the information. If requested, a health information protection organization that receives information under the preceding sentence must make such information available to any other such organization that is certified under section 5141 for a charge that does not exceed the reasonable cost of transmitting the information.

(c) FUNCTIONAL SEPARATION.—The standards adopted by the Secretary under subsection (a) shall ensure that any health information disclosed under such subsection shall not, after such disclosure, be used or released for an administrative, regulatory, or law enforcement purpose unless such disclosure was made for such purpose.

(d) PUBLIC USE FUNCTIONS.—Nothing in this subtitle shall be construed to limit the authority of a Federal or State agency to make non-identifiable health information available for public use functions.

SEC. 5132. RESPONDING TO ACCESS REQUESTS.

(a) IN GENERAL.—The Secretary may adopt, and modify as appropriate, standards under which a health care provider or health plan shall respond to requests for access to health information consistent with this subtitle and subtitle C.

(b) STANDARDS DESCRIBED.—The standards under subsection (a) shall provide—

(1) for a standard format under which a provider or plan will respond to each request either by satisfying the request or responding with an explanation of the specific restriction which results in a failure to satisfy the request; and

(2) that any restrictions will not prevent a plan or provider from responding to a request in a timely manner taking into account the age and amount of the information being requested.

(c) CONSTRUCTION.—Nothing in this section shall be construed as permitting a health care provider or health plan to refuse to disclose any health information that is required to be disclosed by law.

SEC. 5133. LENGTH OF TIME INFORMATION SHOULD BE ACCESSIBLE.

The Secretary shall adopt standards with respect to the length of time any standard data elements for a type of health information should be accessible through the health information network.

SEC. 5134. TIMETABLES FOR ADOPTION OF STANDARDS AND COMPLIANCE.

(a) INITIAL STANDARDS.—The Secretary shall adopt standards under this part not later than 9 months after the date of the enactment of this subtitle and such standards shall be effective upon adoption.

(b) MODIFICATIONS TO STANDARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under this part and shall adopt modified standards as determined appropriate, but no more frequently than once every 6 months. Any modification to standards shall be completed in a manner which minimizes the disruption and cost of compliance. Any modifications to standards adopted under this part shall be effective upon adoption.

(2) SPECIAL RULE.—The Secretary shall not adopt modifications to any standards adopted under this part during the 12-month period beginning on the date such standards are adopted unless the Secretary determines that a modification is necessary in order to permit compliance with the requirements of this part.

PART 5—STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK

SEC. 5141. STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION NETWORK SERVICES.

(a) STANDARDS FOR OPERATION.—The Secretary shall establish standards with respect to the operation of health information network services, including standards ensuring that—

(1) such services develop, operate, and cooperate with one another to form the health information network;

(2) such services meet all of the requirements under subtitle C that are applicable to such services;

(3) such services make public information concerning their performance, as measured by uniform indicators such as accessibility, transaction responsiveness, administrative efficiency, reliability, dependability, and any other indicator determined appropriate by the Secretary;

(4) such services have security procedures that are consistent with the privacy requirements under subtitle C, including secure methods of access to and transmission of data;

(5) such services, if they are part of a larger organization, have policies and procedures in place which isolate their activities with

respect to processing information in a manner that prevents access to such information by such larger organization.

(b) Certification by the Secretary.—

(1) Establishment.—Not later than 12 months after the date of the enactment of this subtitle, the Secretary shall establish a certification procedure for health information network services which ensures that certified services are qualified to meet the requirements of this subtitle and the standards established by the Secretary under this section. Such certification procedure shall be implemented in a manner that minimizes the costs and delays of operations for such services.

(2) Application.—Each entity desiring to be certified as a health information network service shall apply to the Secretary for certification in a form and manner determined appropriate by the Secretary.

(3) Audits and reports.—The procedure established under paragraph (1) shall provide for audits by the Secretary and reports by an entity certified under this section as the Secretary determines appropriate in order to monitor such entity's compliance with the requirements of this subtitle, subtitle C, and the standards established by the Secretary under this section.

(4) Recertification.—A health information network service must be recertified under this subsection at least every 3 years.

(c) Loss of certification.—

(1) Mandatory termination.—Except as provided in paragraph (3), if a health information network service violates a requirement imposed on such service under subtitle C, its certification under this section shall be terminated unless the Secretary determines that appropriate corrective action has been taken.

(2) Discretionary termination.—If a health information network service violates a requirement or standard imposed under this subtitle and a penalty has been imposed under section 5151, the Secretary shall review the certification of such service and may terminate such certification.

(3) Conditional certification—The Secretary may establish a procedure under which a health information network service may remain certified on a conditional basis if the service is operating consistently with a plan intended to correct any violations described in paragraphs (1) or (2). Such procedure may provide for the appointment of a trustee to continue operation of the service until the requirements for full certification are met.

(d) Certification by Private Entities.—The Secretary may designate private entities to conduct the certification procedures established by the Secretary under this section. A health information network service certified by such an entity in accordance with such designation shall be considered to be certified by the Secretary.

SEC. 5142. ENSURING AVAILABILITY OF INFORMATION.

The Secretary shall establish a procedure under which a health plan or health care provider which does not have the ability to transmit standard data elements directly or does not have access to a health information network service certified under section 5141 shall be able to make health information available for disclosure as authorized by this subtitle.

PART 6—PENALTIES

SEC. 5151. GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.

(a) In General.—Except as provided in subsection (b), the Secretary shall impose on any person that violates a requirement or standard imposed under this subtitle a penalty of not more than $1,000 for each violation. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under section 1128A of such Act.

(b) Limitations.—

(1) Noncompliance not discovered exercising reasonable diligence.—A penalty may not be imposed under subsection (a) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in subsection (a).

(2) Failures due to reasonable cause.—

(A) In general.—Except as provided in subparagraphs (B) and (C), a penalty may not be imposed under subsection (a) if—

(i) the failure to comply was due to reasonable cause and not to willful neglect; and

(ii) the failure to comply is corrected during the 30-day period beginning on the 1st date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

(B) Extension of period.—

(i) No penalty.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

(ii) Assistance.—If the Secretary determines that a health plan, health care provider, or purchasing cooperative failed to comply because such person was unable to comply, the Secretary may provide technical assistance to such person. Such assistance shall be provided in any manner determined appropriate by the Secretary.

(3) Reduction.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (2) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

PART 7—MISCELLANEOUS PROVISIONS

SEC. 5161. IMPOSITION OF ADDITIONAL REQUIREMENTS.

(a) Data Element Standards.—A person may not impose a standard on another person that is in addition to the standards adopted by the Secretary under section 5112 unless—

(1) such person voluntarily agrees to such standard; or

(2) a waiver is granted under subsection (c) to impose such standard.

(b) Transactions and Access Standards.—A person may not impose a standard on another person that is in addition to the standards adopted by the Secretary under section 5113 or 5131 unless such person voluntarily agrees to such standard.

(c) Conditions for Waivers.—

(1) In general.—A person may request a waiver from the Secretary in order to require another person to comply with a standard that is in addition to the standards adopted by the Secretary under section 5112.

(2) Consideration of waiver requests.—No waiver may be granted unless the Secretary determines that the value of the data to be exchanged for research or other purposes significantly outweighs the administrative cost of the additional standard taking into consideration the burden of the timing of the imposition of the additional standard.

(3) Anonymous reporting.—If a person attempts to impose a standard in addition to the standards adopted by the Secretary under section 5112, the person on whom such additional standard is being imposed may contact the Secretary. The Secretary shall develop a procedure under which the contacting person shall remain anonymous. The Secretary shall notify the person imposing the additional standard that the additional standard may not be imposed unless the other person voluntarily agrees to such standard or a waiver is obtained under this subsection.

SEC. 5162. EFFECT ON STATE LAW.

(a) In General.—A provision, requirement, or standard under this subtitle shall supersede any contrary provision of State law, including—

(1) a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form, and

(2) a provision of State law which provides for requirements or standards that are more stringent than the requirements or standards under this subtitle;

except where the Secretary determines that the provision is necessary to prevent fraud and abuse, with respect to controlled substances, or for other purposes.

(b) Public Health Reporting.—Nothing in this subtitle shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

SEC. 5164. HEALTH INFORMATION CONTINUITY.

(a) Information Held by Health Plans and Providers.—If a health plan or health care provider takes any action that would threaten the continued availability of the standard data elements of health information held by such plan or provider, such data elements shall be obtained by the State in which such plan or provider is located. The State shall ensure that such data elements are transferred to a health plan or health care provider in accordance with procedures established by the Secretary.

(b) Information Held by Health Information Network Services.—If a health information network service certified under section 5141 loses its certified status or takes any action that would threaten the continued availability of the standard data elements of health information held by such service, such data elements shall be transferred to another health information network service certified under section 5141, as designated by the Secretary.

SEC. 5165. PROTECTION OF COMMERCIAL INFORMATION.

In adopting standards under this subtitle, the Secretary shall not require disclosure of trade secrets and confidential commercial information by entities operating in the health information network except as required by law.

SEC. 5166. PAYMENT FOR HEALTH CARE SERVICES OR HEALTH PLAN PREMIUMS.

Nothing in this subtitle shall be construed to prohibit payments for health care services or health plan premiums from being made by debit, credit, or other payment cards or numbers or other electronic payment means.

SEC. 5167. HEALTH SECURITY CARDS.

(a) In General.—The Secretary shall establish standards relating to the form of health security cards issued by health plans and the information to be encoded electronically on such cards.

(b) FORM DESCRIBED.—The standard form for a health security card shall be a card which—

(1) is made of plastic or a similar durable material with a useful life of at least 5 years;

(2) is resistant to counterfeiting;

(3) can store information that can be encoded and retrieved electronically;

(4) can be produced in a cost-effective manner and used in all types of health care locations; and

(5) specifies on its face the social security account number assigned to the individual who is the cardholder by the Secretary under section 205(c)(2) of the Social Security Act.

(b) INFORMATION DESCRIBED.—The information electronically encoded on a health security card shall include the identity of the individual to whom the card was issued, including such individual's personal health identifier specified under section 5112(c)(1), and may include any other information that the Secretary determines may be useful in order for the card to serve the purpose of easing access to and paying for health care services. A health plan shall make available to an individual cardholder, upon demand by such individual, a printed copy of all information electronically encoded on such individual's health security card.

SEC. 5168. MISUSE OF HEALTH SECURITY CARD OR PERSONAL HEALTH IDENTIFIER.

(a) HEALTH SECURITY CARD.—A person who—

(1) requires the display of, requires the use of, or uses a health security card for any purpose other than obtaining or paying for health care;

(2) falsely makes, forges, counterfeits or alters a health security card;

(3) without lawful authority prints, photographs, or makes any impression in the likeness of any health security card; or

(4) sells, transfers, or otherwise delivers a false, forged, counterfeited, or altered health security card knowing that the card is false, forged, counterfeited, or altered;

shall be fined not more than $25,000, imprisoned not more than 2 years, or both.

(b) PERSONAL HEALTH IDENTIFIER.—A person who requires the disclosure of, requires the use of, or uses an individual's personal health identifier for any purpose that is not authorized by the Secretary, shall be fined not more than $25,000, imprisoned not more than 2 years, or both.

SEC. 5169. DIRECT BILLING FOR CLINICAL LABORATORY SERVICES.

(a) IN GENERAL.—

(1) REQUIREMENT.—Except as provided in paragraph (2), in the case of a claim for payment for a clinical diagnostic laboratory test for which payment may otherwise be made, payment may be made only to the person who, or entity which, performed or supervised the test.

(2) EXCEPTION.—Payment for a clinical diagnostic laboratory test may be made to a physician with whom the physician who performed the test shares a practice.

(b) ADDITIONAL EXCEPTIONS.—The Secretary may, by regulation, establish exceptions to the requirement under subsection (a)(1) that are in addition to the exception under subsection (a)(2). In establishing such exceptions the Secretary shall take into account—

(1) circumstances in which an individual's privacy might be violated; or

(2) the need for confidentiality on the part of the person furnishing the test.

SEC. 5170. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

PART 8—ASSISTANCE TO THE SECRETARY

SEC. 5171. GENERAL REQUIREMENT ON SECRETARY.

In complying with any requirements imposed under this subtitle, the Secretary shall rely on recommendations of the Health Information Advisory Committee established under section 5172 and shall consult with appropriate Federal agencies.

SEC. 5172. HEALTH INFORMATION ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the Health Care Information Advisory Committee.

(b) DUTY.—

(1) IN GENERAL.—The committee shall—

(A) provide assistance to the Secretary in complying with the requirements imposed on the Secretary under this subtitle and subtitle C;

(B) be generally responsible for advising the Secretary and the Congress on the status of the health information network; and

(C) make recommendations to correct any problems that may occur in the network's implementation and ongoing operations and to refine and improve the network.

(2) TECHNICAL ASSISTANCE.—In performing its duties under this subsection, the committee shall receive technical assistance from appropriate Federal agencies.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The committee shall consist of 15 members to be appointed by the President not later than 60 days after the date of the enactment of this subtitle. The President shall designate 1 member as the Chair.

(2) EXPERTISE.—The membership of the committee shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the committee.

(3) TERMS.—Each member of the committee shall be appointed for a term of 5 years, except that the members first appointed shall serve staggered terms such that the terms of no more than 3 members expire at one time.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy on the committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(C) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the member's successor takes office.

(5) CONFLICTS OF INTEREST.—Members of the committee shall disclose upon appointment to the committee or at any subsequent time that it may occur, conflicts of interest.

(d) MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the committee shall meet at the call of the Chair.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

(3) QUORUM.—A majority of the members of the committee shall constitute a quorum, but a lesser number of members may hold hearings.

(e) POWER TO HOLD HEARINGS.—The committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers advisable to carry out the purposes of this section.

(f) OTHER ADMINISTRATIVE PROVISIONS.—Subparagraphs (C), (D), and (H) of section 1886(e)(6) of the Social Security Act shall apply to the committee in the same manner as they apply to the Prospective Payment Assessment Commission.

(g) REPORTS.—

(1) IN GENERAL.—The committee shall annually prepare and submit to Congress and the Secretary a report including at least an analysis of—

(A) the status of the health information network established under this subtitle, including whether the network is fulfilling the purpose described in section 5101;

(B) the savings and costs of the network;

(C) the activities of health information network services certified under section 5141, health care providers, health plans, and other entities using the network to exchange health information;

(D) the extent to which entities described in subparagraph (C) are meeting the standards adopted under this subtitle and working together to form an integrated network that meets the needs of its users;

(E) the extent to which entities described in subparagraph (C) are meeting the privacy and security protections of subtitle C;

(F) the number and types of penalties assessed for noncompliance with the standards adopted under this subtitle;

(G) whether the Federal Government and State Governments are receiving information of sufficient quality to meet their responsibilities under the Health Security Act;

(H) any problems with respect to implementation of the network;

(I) the extent to which timetables under this subtitle for the adoption and implementation of standards are being met; and

(J) any legislative recommendations related to the health information network.

(2) AVAILABILITY TO THE PUBLIC.—Any information in the report submitted to Congress under paragraph (1) shall be made available to the public unless such information may not be disclosed by law.

(h) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the committee shall continue in existence until otherwise provided by law.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

PART 9—DEMONSTRATION PROJECTS FOR COMMUNITY-BASED CLINICAL INFORMATION SYSTEMS

SEC. 5181. GRANTS FOR DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary may make grants for demonstration projects to promote the development and use of electronically integrated community-based clinical information systems and computerized patient medical records.

(b) APPLICATIONS.—

(1) SUBMISSION.—To apply for a grant under this part for any fiscal year, an applicant shall submit an application to the Secretary in accordance with the procedures established by the Secretary.

(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted under paragraph (1) unless the application

includes assurances satisfactory to the Secretary regarding the following:

(A) USE OF EXISTING TECHNOLOGY.—Funds received under this part will be used to apply telecommunications and information systems technology that is in existence on the date the application is submitted in a manner that improves the quality of health care, reduces the costs of such care, and protects the privacy and confidentiality of information relating to the physical or mental condition of an individual.

(B) USE OF EXISTING INFORMATION SYSTEMS.—Funds received under this part will be used—

(i) to enhance telecommunications or information systems that are operating on the date the application is submitted;

(ii) to integrate telecommunications or information systems that are operating on the date the application is submitted; or

(iii) to connect additional users to telecommunications or information networks or systems that are operating on the date the application is submitted.

(C) MATCHING FUNDS.—The applicant shall make available funds for the demonstration project in an amount that equals at least 20 percent of the cost of the project.

(c) GEOGRAPHIC DIVERSITY.—In making any grants under this part, the Secretary shall, to the extent practicable, make grants to persons representing different geographic areas of the United States, including urban and rural areas.

(d) REVIEW AND SANCTIONS.—The Secretary shall review at least annually the compliance of a person receiving a grant under this part with the provisions of this part. The Secretary shall establish a procedure for determining whether such a person has failed to comply substantially within the provisions of this part and the sanctions to be imposed for any such noncompliance.

(e) ANNUAL REPORT.—The Secretary shall submit an annual report to the President for transmittal to Congress containing a description of the activities carried out under this part.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Subtitle C—Privacy of Health Information

PART 1—FINDINGS AND DEFINITIONS

SEC. 5201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) The improper disclosure of individually identifiable health care information may cause significant harm to an individual's interests in privacy, health care, and reputation and may unfairly affect the ability of an individual to obtain employment, education, insurance, and credit.

(2) The movement of people and health care related information across State lines, the availability of, access to, and exchange of health care related information with Federally funded health care systems, the medicare program under title XVIII of the Social Security Act, and the medicaid program under title XIX of such Act, through automated data banks and networks, and the emergence of other multistate health care providers and payors create a need for a uniform Federal law governing the disclosure of health care information.

(b) PURPOSE.—The purpose of this subtitle is to establish effective mechanisms to protect the privacy of individuals with respect to individually identifiable health care information that is created or maintained as part of health treatment, enrollment, payment, testing, or research processes.

SEC. 5202. DEFINITIONS.

(a) TERMS RELATING TO PROTECTED HEALTH INFORMATION.—In this subtitle:

(1) PROTECTED HEALTH INFORMATION.—The term "protected health information" means any information, including demographic information collected from an individual, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, health oversight agency, health researcher, public health authority, employer, life insurer, school or university, or certified health information network service; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

(i) identifies an individual; or

(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(2) DISCLOSE.—The term "disclose", when used with respect to protected health information, means to provide access to the information, but only if such access is provided to a person other than the individual who is the subject of the information.

(b) TERMS RELATING TO HEALTH CARE SYSTEM PARTICIPANTS.—In this subtitle:

(1) HEALTH INFORMATION TRUSTEE.—The term "health information trustee" means—

(A) a health care provider, health plan, health oversight agency, certified health information network service, employer, life insurer, or school or university insofar as it creates, receives, maintains, uses, or transmits protected health information;

(B) any person who obtains protected health information under section 5213, 5217, 5218, 5221, 5222, 5226, or 5231; and

(C) any employee or agent of a person covered under subparagraphs (A) or (B).

(2) HEALTH CARE.—The term "health care"—

(A) means—

(i) a preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, counseling, service, or procedure—

(I) with respect to the physical or mental condition of an individual; or

(II) affecting the structure or function of the human body or any part of the human body; or

(ii) any sale or dispensing of a drug, device, equipment, or other item to an individual, or for the use of an individual, pursuant to a prescription; but

(B) does not include any item or service that is not furnished for the purpose of examining, maintaining, or improving the health of an individual.

(3) HEALTH CARE PROVIDER.—The term "health care provider" means a person who is licensed, certified, registered, or otherwise authorized by law to provide an item or service that constitutes health care in the ordinary course of business or practice of a profession.

(4) HEALTH OVERSIGHT AGENCY.—The term "health oversight agency" means a person who—

(A) performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the licensing, accreditation, or certification of health care providers; or

(B)(i) performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the effectiveness of, compliance with, or applicability of legal, fiscal, medical, or scientific standards or aspects of performance related to the delivery of, or payment for, health care or relating to health care fraud or fraudulent claims for payment regarding health; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a Federal or State law governing the assessment, evaluation, determination, or investigation described in clause (i).

(5) HEALTH PLAN.—The term "health plan" shall have the meaning given such term under section 5102.

(6) HEALTH RESEARCHER.—The term "health researcher" means a person who conducts a biomedical, public health, epidemiological, health services, or health statistics research project or a research project on social and behavioral factors relating to health.

(7) INSTITUTIONAL REVIEW BOARD.—The term "institutional review board" means—

(A) a board established in accordance with regulations of the Secretary under section 491(a) of the Public Health Service Act;

(B) a similar board established by the Secretary for the protection of human subjects in research conducted by the Secretary; or

(C) a similar board established under regulations of a Federal Government authority other than the Secretary.

(8) PUBLIC HEALTH AUTHORITY.—The term "public health authority" means an authority or instrumentality of the United States, a State, or a political subdivision of a State that is (A) responsible for public health matters; and (B) engaged in such activities as injury reporting, public health surveillance, and public health investigation or intervention.

(c) REFERENCES TO CERTIFIED ENTITIES.—In this subtitle:

(1) CERTIFIED HEALTH INFORMATION NETWORK SERVICE.—The term "certified health information network service" means a health information service (as defined under section 5102) that is certified under section 5141.

(2) CERTIFIED HEALTH INFORMATION PROTECTION ORGANIZATION.—The term "certified health information protection organization" means a health information protection organization (as defined in section 5102) that is certified under section 5141.

(d) OTHER TERMS.—In this subtitle:

(1) INDIVIDUAL REPRESENTATIVE.—The term "individual representative" means any individual legally empowered to make decisions concerning the provision of health care to an individual (where the individual lacks the legal capacity under State law to make such decisions) or the administrator or executor of the estate of a deceased individual.

(2) LAW ENFORCEMENT INQUIRY.—The term "law enforcement inquiry" means an investigation or official proceeding inquiring into whether there is a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant to such a statute.

(3) PERSON.—The term "person" includes an authority of the United States, a State, or a political subdivision of a State.

PART 2—AUTHORIZED DISCLOSURES

Subpart A—General Provisions

SEC. 5206. GENERAL RULES REGARDING DISCLOSURE.

(a) GENERAL RULE.—A health information trustee may disclose protected health information only for a purpose that is authorized under this subtitle.

(b) DISCLOSURE WITHIN A TRUSTEE.—A health information trustee may disclose protected health information to an officer, employee, or agent of the trustee, but only for a purpose that is compatible with and related to the purpose for which the information was collected or received by that trustee.

(c) SCOPE OF DISCLOSURE.—

(1) IN GENERAL.—Every disclosure of protected health information by a health information trustee shall be limited to the minimum amount of information necessary to accomplish the purpose for which the information is disclosed.

(2) REGULATIONS.—The Secretary, after notice and opportunity for public comment, may issue regulations under paragraph (1), which shall take into account the technical capabilities of the record systems used to maintain protected health information and the costs of limiting disclosure.

(d) NO GENERAL REQUIREMENT TO DISCLOSE.—Nothing in this subtitle that permits a disclosure of health information shall be construed to require such disclosure.

(e) USE AND REDISCLOSURE OF INFORMATION.—The protected health information received under a disclosure permitted by the subtitle may not be used or disclosed unless the use or disclosure is necessary to fulfill the purpose for which the information was obtained and is not otherwise prohibited by law. Protected health information about an individual that is disclosed under this subtitle may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual unless specifically permitted by this subtitle.

(f) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED INFORMATION.—

(1) IN GENERAL.—Except with respect to protected health information that is disclosed under section 5213 and except as provided in paragraph (2), a health information trustee may not disclose protected health information unless such information is clearly identified as protected health information that is subject to this subtitle.

(2) ROUTINE DISCLOSURES SUBJECT TO WRITTEN AGREEMENT.—A health information trustee who routinely discloses protected health information to a person may satisfy the identification requirement in paragraph (1) through a written agreement between the trustee and the person with respect to the protected health information.

(g) CONSTRUCTION.—Nothing in this subtitle shall be construed to limit the ability of a health information trustee to charge a reasonable fee for the disclosure or reproduction of health information.

(h) INFORMATION IN WHICH PROVIDERS ARE IDENTIFIED.—The Secretary, after notice and opportunity for public comment, may issue regulations protecting information identifying providers in order to promote the availability of health care services.

SEC. 5207. AUTHORIZATIONS FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) WRITTEN AUTHORIZATIONS.—A health information trustee may disclose protected health information pursuant to an authorization executed by the individual who is the subject of the information, if each of the following requirements is met:

(1) WRITING.—The authorization is in writing, signed by the individual who is the subject of the information, and dated on the date of such signature.

(2) SEPARATE FORM.—The authorization is not on a form used to authorize or facilitate the provision of, or payment for, health care.

(3) TRUSTEE DESCRIBED.—The trustee is specifically named or generically described in the authorization as authorized to disclose such information.

(4) RECIPIENT DESCRIBED.—The person to whom the information is to be disclosed is specifically named or generically described in the authorization as a person to whom such information may be disclosed.

(5) STATEMENT OF INTENDED DISCLOSURES.—The authorization contains an acknowledgment that the individual who is the subject of the information has read a statement of the disclosures that the person to receive the protected health information intends to make, which statement shall be in writing, on a form that is distinct from the authorization for disclosure, and which statement must be received by the individual authorizing the disclosure on or before such authorization is executed.

(6) INFORMATION DESCRIBED.—The information to be disclosed is described in the authorization.

(7) EXPIRATION DATE SPECIFIED.—The authorization specifies a date or event upon which the authorization expires, which shall not exceed 2 years from the date of the execution of the authorization.

(8) AUTHORIZATION TIMELY RECEIVED.—The authorization is received by the trustee during a period described in subsection (c)(1).

(9) DISCLOSURE TIMELY MADE.—The disclosure occurs during a period described in subsection (c)(2).

(b) AUTHORIZATIONS REQUESTED IN CONNECTION WITH PROVISION OF HEALTH CARE.—

(1) IN GENERAL.—A health information trustee may not request that an individual provide to any other person an authorization described in subsection (a) on a day on which—

(A) the trustee provides health care to the individual requested to provide the authorization; or

(B) in the case of a trustee that is a health facility, the individual is admitted into the facility as a resident or inpatient in order to receive health care.

(2) EXCEPTION.—Paragraph (1) does not apply if a health information trustee requests that an individual provide an authorization described in subsection (a) for the purpose of assisting the individual in obtaining counseling or social services from a person other than the trustee.

(c) TIME LIMITATIONS ON AUTHORIZATIONS.—

(1) RECEIPT BY TRUSTEE.—For purposes of subsection (a)(8), an authorization is timely received if it is received by the trustee during—

(A) the 1-year period beginning on the date on which the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to a person who provides health counseling or social services to individuals; or

(B) the 30-day period beginning on the date on which the authorization is signed under subsection (a)(1), if the authorization permits the disclosure of protected health information to a person other than a person described in subparagraph (A).

(2) DISCLOSURE BY TRUSTEE.—For purposes of subsection (a)(9), a disclosure is timely made if it occurs before the date or event specified in the authorization upon which the authorization expires.

(d) REVOCATION OR AMENDMENT OF AUTHORIZATION.—

(1) IN GENERAL.—An individual may in writing revoke or amend an authorization described in subsection (a), in whole or in part, at any time, except when—

(A) disclosure of protected health information has been authorized to permit validation of expenditures for health care; or

(B) action has been taken in reliance on the authorization.

(2) NOTICE OF REVOCATION.—A health information trustee who discloses protected health information pursuant to an authorization that has been revoked shall not be subject to any liability or penalty under this subtitle if—

(A) the reliance was in good faith;

(B) the trustee had no notice of the revocation; and

(C) the disclosure was otherwise in accordance with the requirements of this subtitle.

(e) DECEASED INDIVIDUAL.—The Secretary shall develop and establish through regulation a procedure for obtaining protected health information relating to a deceased individual when there is no individual representative for such individual.

(f) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in subsection (a) and model statements of intended disclosures of the type described in subsection (a)(5).

(g) COPY.—A health information trustee who discloses protected health information pursuant to an authorization under this section shall maintain a copy of the authorization.

SEC. 5208. CERTIFIED HEALTH INFORMATION NETWORK SERVICES.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a certified health information network service acting as an agent of the trustee for any purpose permitted by this subtitle. Such a service, acting as an agent of a trustee, may disclose protected health information to another person as permitted under this subtitle to facilitate the completion of the purpose for which such information was disclosed to the service.

(b) CERTIFIED HEALTH INFORMATION PROTECTION ORGANIZATIONS.—A health information trustee may disclose protected health information to a certified health information protection organization for the purpose of creating non-identifiable health information (as defined in section 5102).

Subpart B—Specific Disclosures Relating to Patient

SEC. 5211. DISCLOSURES FOR TREATMENT AND FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.

(a) HEALTH CARE TREATMENT.—A health care provider, health plan, employer, or person who receives protected health information under section 5213, may disclose protected health information to a health care provider for the purpose of providing health care to an individual if the individual who is the subject of the information has not previously objected in writing to the disclosure.

(b) DISCLOSURE TO HEALTH PLANS FOR FINANCIAL AND ADMINISTRATIVE PURPOSES.—A health care provider or employer may disclose protected health information to a health plan for the purpose of providing for the payment for, or reviewing the payment of, health care furnished to an individual.

(c) DISCLOSURE BY HEALTH PLANS FOR FINANCIAL AND ADMINISTRATIVE PURPOSES.—A health plan may disclose protected health information to a health care provider or a health plan for the purpose of providing for the payment for, or reviewing the payment of, health care furnished to an individual.

SEC. 5212. NEXT OF KIN AND DIRECTORY INFORMATION.

(a) NEXT OF KIN.—A health care provider or person who receives protected health information under section 5213 may disclose protected health information to the next of kin, an individual representative of the individual who is the subject of the information, or an individual with whom that individual has a close personal relationship if—

(1) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) exigent circumstances exist such that it would not be practicable to notify the individual of the right to object; and

(2) the information disclosed relates to health care currently being provided to that individual.

(b) DIRECTORY INFORMATION.—A health care provider and a person receiving protected health information under section 5213 may disclose protected health information to any person if—

(1) the information does not reveal specific information about the physical or mental condition of the individual who is the subject of the information or health care provided to that person;

(2) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) exigent circumstances exist such that it would not be practicable to notify the individual of the right to object; and

(3) the information consists only of 1 or more of the following items:

(A) The name of the individual who is the subject of the information.

(B) If the individual who is the subject of the information is receiving health care from a health care provider on a premises controlled by the provider—

(i) the location of the individual on the premises; and

(ii) the general health status of the individual, described as critical, poor, fair, stable, or satisfactory or in terms denoting similar conditions.

(d) IDENTIFICATION OF DECEASED INDIVIDUAL.—A health care provider, health plan, employer, or life insurer, may disclose protected health information if necessary to assist in the identification of a deceased individual.

SEC. 5213. EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—A health care provider, health plan, employer, or person who receives protected health information under this section may disclose protected health information in emergency circumstances when necessary to protect the health or safety of an individual from imminent harm.

(b) SCOPE OF DISCLOSURE.—The disclosure of protected health information under this section shall be limited to persons who need the information to take action to protect the health or safety of the individual.

Subpart C—Disclosure for Oversight, Public Health, and Research Purposes

SEC. 5216. OVERSIGHT.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health oversight agency for an oversight function authorized by law.

(b) USE IN ACTION AGAINST INDIVIDUALS.—Notwithstanding section 5206(e), protected health information about an individual that is disclosed under this section may be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information if the action or investigation arises out of and is directly related to receipt of health care or payment for health care or an action involving a fraudulent claim related to health.

SEC. 5217. PUBLIC HEALTH.

A health care provider, health plan, public health authority, employer, or person who receives protected health information under section 5213 may disclose protected health information to a public health authority or other person authorized by law for use in a legally authorized—

(1) disease or injury reporting;

(2) public health surveillance; or

(3) public health investigation or intervention.

SEC. 5218. HEALTH RESEARCH.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health researcher if an institutional review board determines that the research project engaged in by the health researcher—

(1) requires use of the protected health information for the effectiveness of the project; and

(2) is of sufficient importance to outweigh the intrusion into the privacy of the individual who is the subject of the information that would result from the disclosure.

(b) RESEARCH REQUIRING DIRECT CONTACT.—A health information trustee may disclose protected health information to a health researcher for a research project that includes direct contact with an individual who is the subject of protected health information if an institutional review board determines that—

(1) the research project meets the requirements of paragraphs (1) and (2) of subsection (a);

(2) direct contact is necessary to accomplish the research purpose; and

(3) the direct contact will be made in a manner that minimizes the risk of harm, embarrassment, or other adverse consequences to the individual.

(c) USE OF HEALTH INFORMATION NETWORK.—

(1) IN GENERAL.—A health information trustee may disclose protected health information to a health researcher using the health information network (as defined in section 5102) only if an institutional review board certified by the Secretary under paragraph (2) determines that the research project engaged in by the health researcher meets the requirements of this section.

(2) CERTIFICATION OF INSTITUTIONAL REVIEW BOARDS.—

(A) REGULATIONS.—The Secretary, after notice and opportunity for public comment, shall issue regulations establishing certification requirements for institutional review boards under this subtitle. Such regulations shall be based on regulations issued under section 491(a) of the Public Health Service Act and shall ensure that institutional review boards certified under this paragraph have the qualifications to access and protect the confidentiality of research subjects.

(B) CERTIFICATION.—The Secretary shall certify an institutional review board that meets the certification requirements established by the Secretary under subparagraph (A).

(d) OBLIGATIONS OF RECIPIENT.—A person who receives protected health information pursuant to subsection (a)—

(1) shall remove or destroy, at the earliest opportunity consistent with the purposes of the project, information that would enable an individual to be identified, unless—

(A) an institutional review board has determined that there is a health or research justification for retention of such identifiers; and

(B) there is an adequate plan to protect the identifiers from disclosure that is inconsistent with this section; and

(2) shall use protected health information solely for purposes of the health research project for which disclosure was authorized under this section.

Subpart D—Disclosure For Judicial, Administrative, and Law Enforcement Purposes

SEC. 5221. JUDICIAL AND ADMINISTRATIVE PURPOSES.

A health care provider, health plan, health oversight agency, or employer may disclose protected health information—

(1) pursuant to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or comparable rules of other courts or administrative agencies in connection with litigation or proceedings to which the individual who is the subject of the information is a party and in which the individual has placed the individual's physical or mental condition in issue;

(2) to a court, and to others ordered by a court, if the protected health information is developed in response to a court-ordered physical or mental examination; or

(3) pursuant to a law requiring the reporting of specific medical information to law enforcement authorities.

SEC. 5222. LAW ENFORCEMENT.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, employer, or person who receives protected health information under section 5213 may disclose protected health information to a law enforcement agency (other than a health oversight agency governed by section 5216) if the information is requested for use—

(1) in an investigation or prosecution of a health information trustee;

(2) in the identification of a victim or witness in a law enforcement inquiry; or

(3) in connection with the investigation of criminal activity committed against the trustee or on premises controlled by the trustee.

(b) CERTIFICATION.—When a law enforcement agency (other than a health oversight agency) requests that a health information trustee disclose protected health information under this section, the law enforcement agency shall provide the trustee with a written certification that—

(1) specifies the information requested;

(2) states that the information is needed for a lawful purpose under this section; and

(3) is signed by a supervisory official of a rank designated by the head of the agency.

(c) RESTRICTIONS ON ADDITIONAL DISCLOSURE.—Notwithstanding section 5206(e), protected health information about an individual that is disclosed to a law enforcement agency under this section may be used in, or disclosed for, an administrative, civil, or criminal action or investigation against the individual if the action or investigation arises out of and is directly related to the action or investigation for which the information was obtained.

Subpart E—Disclosure Pursuant to Government Subpoena or Warrant

SEC. 5226. GOVERNMENT SUBPOENAS AND WARRANTS.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, employer, or person who receives protected health information under section 5213 may disclose protected health information under this section if the disclosure is pursuant to—

(1) a subpoena issued under the authority of a grand jury, and the trustee is provided a written certification by the grand jury seeking the information that the grand jury has complied with the applicable access provisions of section 5227;

(2) an administrative subpoena or a judicial subpoena or warrant, and the trustee is provided a written certification by the person seeking the information that the person has complied with the applicable access provisions of section 5227; or

(3) an administrative subpoena or a judicial subpoena or warrant, and the disclosure otherwise meets the conditions of section 5216, 5217, 5221, or 5222.

(b) RESTRICTIONS ON ADDITIONAL DISCLOSURE.—

(1) ACTIONS OR INVESTIGATIONS.—Notwithstanding section 5206(c), protected health information about an individual that is received under subsection (a) may be disclosed for, or used in, any administrative, civil, or criminal action or investigation against the individual if the action or investigation arises out of and is directly related to the inquiry for which the information was obtained.

(2) SPECIAL RULE.—Protected health information about an individual that is received under subsection (a)(3) may not be disclosed by the recipient unless the recipient complies with the conditions and restrictions on disclosure with which the recipient would have been required to comply if the disclosure had been made under section 5216, 5217, 5221, or 5222.

SEC. 5227. ACCESS PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS AND WARRANTS.

(a) PROBABLE CAUSE REQUIREMENT.—A government authority may not obtain protected health information about an individual under paragraph (1) or (2) of section 5226(a) for use in a law enforcement inquiry unless there is probable cause to believe that the information is relevant to a legitimate law enforcement inquiry being conducted by the government authority.

(b) WARRANTS.—A government authority that obtains protected health information about an individual under circumstances described in subsection (a) and pursuant to a warrant shall, not later than 30 days after the date the warrant was executed, serve the individual with, or mail to the last known address of the individual, a notice that protected health information about the individual was so obtained, together with a notice of the individual's right to challenge the warrant in accordance with section 5228.

(c) SUBPOENAS.—Except as provided in subsection (d), a government authority may not obtain protected health information about an individual under circumstances described in subsection (a) and pursuant to a subpoena unless a copy of the subpoena has been served on the individual on or before the date of return of the subpoena, together with a notice of the individual's right to challenge the subpoena in accordance with section 5228, and—

(1) 15 days have passed since the date of service on the individual and within that time period the individual has not initiated a challenge in accordance with section 5228; or

(2) disclosure is ordered by a court after challenge under section 5228.

(d) APPLICATION FOR DELAY.—

(1) IN GENERAL.—A government authority may apply ex parte and under seal to an appropriate court to delay (for an initial period of not longer than 90 days) serving a notice or copy of a subpoena required under subsection (b) or (c) with respect to a law enforcement inquiry. The government authority may apply to the court for extensions of the delay.

(2) REASONS FOR DELAY.—An application for a delay, or extension of a delay, under this subsection shall state, with reasonable specificity, the reasons why the delay or extension is being sought.

(3) EX PARTE ORDER.—The court shall enter an ex parte order delaying or extending the delay of notice, an order prohibiting the disclosure of the request for, or disclosure of, the protected health information, and an order requiring the disclosure of the protected health information if the court finds that—

(A) the inquiry being conducted is within the lawful jurisdiction of the government authority seeking the protected health information;

(B) there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry;

(C) the government authority's need for the information outweighs the privacy interest of the individual who is the subject of the information; and

(D) there is reasonable ground to believe that receipt of notice by the individual will result in—

(i) endangering the life or physical safety of any individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence or the information being sought; or

(iv) intimidation of potential witnesses.

SEC. 5228. CHALLENGE PROCEDURES FOR LAW ENFORCEMENT WARRANTS AND SUBPOENAS.

(a) MOTION TO QUASH.—Within 15 days after the date of service of a notice of execution or a copy of a subpoena of a government authority seeking protected health information about an individual under paragraph (1) or (2) of section 5226(a), the individual may file a motion to quash—

(1) in the case of a State judicial warrant or subpoena, in the court which issued the warrant or subpoena;

(2) in the case of a warrant or subpoena issued under the authority of a State that is not a State judicial warrant or subpoena, in a court of competent jurisdiction; or

(3) in the case of any other warrant or subpoena issued under the authority of a Federal court or the United States, in the United States district court for the district in which the individual resides or in which the warrant or subpoena was issued.

(b) COPY.—A copy of the motion shall be served by the individual upon the government authority by registered or certified mail.

(c) PROCEEDINGS.—The government authority may file with the court such papers, including affidavits and other sworn documents, as sustain the validity of the warrant or subpoena. The individual may file with the court reply papers in response to the government authority's filing. The court, upon the request of the individual or the government authority or both, may proceed in camera. The court may conduct such proceedings as it deems appropriate to rule on the motion, but shall endeavor to expedite its determination.

(d) STANDARD FOR DECISION.—A court may deny a motion under subsection (a) if it finds there is probable cause to believe the protected health information is relevant to a legitimate law enforcement inquiry being conducted by the government authority, unless the court finds the individual's privacy interest outweighs the government authority's need for the information. The individual shall have the burden of demonstrating that the individual's privacy interest outweighs the need by the government authority for the information.

(e) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In reaching its determination, the court shall consider—

(1) the particular purpose for which the information was collected;

(2) the degree to which disclosure of the information will embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the inquiry being conducted by the government authority, and the importance of the information to that inquiry; and

(5) any other factor deemed relevant by the court.

(f) ATTORNEY'S FEES.—In the case of a motion brought under subsection (a) in which the individual has substantially prevailed, the court may assess against the government authority a reasonable attorney's fee and other litigation costs (including expert's fees) reasonably incurred.

(g) NO INTERLOCUTORY APPEAL.—A ruling denying a motion to quash under this section shall not be deemed to be a final order, and no interlocutory appeal may be taken therefrom by the individual. An appeal of such a ruling may be taken by the individual within such period of time as is provided by law as part of any appeal from a final order in any legal proceeding initiated against the individual arising out of or based upon the protected health information disclosed.

Subpart F—Disclosure Pursuant to Private Party Subpoena

SEC. 5231. PRIVATE PARTY SUBPOENAS.

A health care provider, health plan, employer, or person who receives protected health information under section 5213 may disclose protected health information under this section if the disclosure is pursuant to a subpoena issued on behalf of a private party who has complied with the access provisions of section 5232.

SEC. 5232. ACCESS PROCEDURES FOR PRIVATE PARTY SUBPOENAS.

A private party may not obtain protected health information about an individual pursuant to a subpoena unless a copy of the subpoena together with a notice of the individual's right to challenge the subpoena in accordance with section 5233 has been served upon the individual on or before the date of return of the subpoena, and—

(1) 15 days have passed since the date of service on the individual, and within that time period the individual has not initiated a challenge in accordance with section 5233; or

(2) disclosure is ordered by a court under section 5233.

SEC. 5233. CHALLENGE PROCEDURES FOR PRIVATE PARTY SUBPOENAS.

(a) MOTION TO QUASH SUBPOENA.—Within 15 days after service of a copy of the subpoena seeking protected health information under section 5231, the individual who is the subject of the protected health information may file in any court of competent jurisdiction a motion to quash the subpoena and serve a copy of the motion on the person seeking the information.

(b) STANDARD FOR DECISION.—The court shall grant a motion under subsection (a) unless the respondent demonstrates that—

(1) there is reasonable ground to believe the information is relevant to a lawsuit or other judicial or administrative proceeding; and

(2) the need of the respondent for the information outweighs the privacy interest of the individual.

(c) SPECIFIC CONSIDERATIONS WITH RESPECT TO PRIVACY INTEREST.—In determining under subsection (b) whether the need of the respondent for the information outweighs the privacy interest of the individual, the court shall consider—

(1) the particular purpose for which the information was collected;

(2) the degree to which disclosure of the information would embarrass, injure, or invade the privacy of the individual;

(3) the effect of the disclosure on the individual's future health care;

(4) the importance of the information to the lawsuit or proceeding; and

(5) any other relevant factor.

(d) ATTORNEY'S FEES.—In the case of a motion brought under subsection (a) in which the individual has substantially prevailed, the court may assess against the respondent a reasonable attorney's fee and other litigation costs and expenses (including expert's fees) reasonably incurred.

PART 3—PROCEDURES FOR ENSURING SECURITY OF PROTECTED HEALTH INFORMATION

Subpart A—Establishment of Safeguards

SEC. 5236. ESTABLISHMENT OF SAFEGUARDS.

(a) IN GENERAL.—A health information trustee shall establish and maintain appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of protected health information created or received by the trustee; and

(2) to protect against any anticipated threats or hazards to the security or integrity of such information.

(b) REGULATIONS.—The Secretary shall promulgate regulations regarding security measures for protected health information.

SEC. 5237. ACCOUNTING FOR DISCLOSURES.

(a) IN GENERAL.—

(1) REQUIREMENT TO CREATE OR MAINTAIN RECORD.—A health information trustee shall create and maintain, with respect to any protected health information disclosed in exceptional circumstances (as described in paragraph (2)), a record of—

(A) the date and purpose of the disclosure;

(B) the name of the person to whom or to which the disclosure was made;

(C) the address of the person to whom or to which the disclosure was made or the location to which the disclosure was made; and

(D) the information disclosed, if the recording of the information disclosed is practicable, taking into account the technical capabilities of the system used to maintain the record and the costs of such maintenance.

(2) EXCEPTIONAL CIRCUMSTANCES DESCRIBED.—For purposes of paragraph (1) protected health information is disclosed in exceptional circumstances if the disclosure—

(A) is not a routine part of doing business, as determined in accordance with guidelines promulgated by the Secretary; or

(B) is permitted under sections 5213 and 5217.

(b) DISCLOSURE RECORD PART OF INFORMATION.—A record created and maintained under paragraph (a) shall be maintained as part of the protected health information to which the record pertains.

Subpart B—Review of Protected Health Information By Subjects of the Information

SEC. 5241. INSPECTION OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (c), a health care provider or health plan—

(1) shall permit an individual who is the subject of protected health information to inspect any such information that the provider or plan maintains;

(2) shall permit the individual to have a copy of the information;

(3) shall permit a person who has been designated in writing by the individual who is the subject of the information to inspect, or to have a copy of, the information on behalf of the individual or to accompany the individual during the inspection; and

(4) may offer to explain or interpret information that is inspected or copied under this subsection.

(b) ADDITIONAL REQUESTS.—Except as provided in subsection (c), a health plan or health care provider shall, upon written request of an individual—

(1) determine the identity of previous providers to the individual; and

(2) obtain protected health information regarding the individual.

(c) EXCEPTIONS.—A health care provider or health plan is not required by this section to permit inspection or copying of protected health information if any of the following conditions apply:

(1) MENTAL HEALTH TREATMENT NOTES.—The information consists of psychiatric, psychological, or mental health treatment notes, and the provider or plan determines, based on reasonable medical judgment, that inspection or copying of the notes would cause sufficient harm to the individual who is the subject of the notes so as to outweigh the desirability of permitting access, and the provider or plan has not disclosed the notes to any person not directly engaged in treating the individual, except with the authorization of the individual or under compulsion of law.

(2) INFORMATION ABOUT OTHERS.—The information relates to an individual other than the individual seeking to inspect or have a copy of the information and the provider or plan determines, based on reasonable medical judgment, that inspection or copying of the information would cause sufficient harm to 1 or both of the individuals so as to outweigh the desirability of permitting access.

(3) ENDANGERMENT TO LIFE OR SAFETY.—The provider or plan determines that disclosure of the information could reasonably be expected to endanger the life or physical safety of any individual.

(4) CONFIDENTIAL SOURCE.—The information identifies or could reasonably lead to the identification of a person (other than a health care provider) who provided information under a promise of confidentiality to a health care provider concerning the individual who is the subject of the information.

(5) ADMINISTRATIVE PURPOSES.—The information—

(A) is used by the provider or plan solely for administrative purposes and not in the provision of health care to the individual who is the subject of the information; and

(B) has not been disclosed by the provider or plan to any other person.

(d) INSPECTION AND COPYING OF SEGREGABLE PORTION.—A health care provider or health plan shall permit inspection and copying under subsection (a) of any reasonably segregable portion of a record after deletion of any portion that is exempt under subsection (c).

(e) CONDITIONS.—A health care provider or health plan may require a written request for the inspection and copying of protected health information under this subsection. The health care provider or health plan may require a cost reimbursement for such inspection and copying.

(f) STATEMENT OF REASONS FOR DENIAL.—If a health care provider or health plan denies a request for inspection or copying under this section, the provider or plan shall provide the individual who made the request (or the individual's designated representative) with a written statement of the reasons for the denial.

(g) DEADLINE.—A health care provider or health plan shall comply with or deny a request for inspection or copying of protected health information under this section within the 30-day period beginning on the date on which the provider or plan receives the request.

SEC. 5242. AMENDMENT OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A health care provider or health plan shall, within the 45-day period beginning on the date on which the provider or plan receives from an individual a written request that the provider or plan correct or amend the information—

(1) make the correction or amendment requested;

(2) inform the individual of the correction or amendment that has been made; and

(3) inform any person who is identified by the individual, who is not an officer, employee or agent of the provider or plan, and to whom the uncorrected or unamended portion of the information was previously disclosed, of the correction or amendment that has been made.

(b) REFUSAL TO CORRECT.—If the provider or plan refuses to make the corrections, the provider or plan shall inform the individual of—

(1) the reasons for the refusal of the provider or plan to make the correction or amendment;

(2) any procedures for further review of the refusal; and

(3) the individual's right to file with the provider or plan a concise statement setting forth the requested correction or amendment and the individual's reasons for disagreeing with the refusal of the provider or plan.

(c) BASES FOR REQUEST TO CORRECT OR AMEND.—An individual may request correction or amendment of protected health information about the individual under paragraph (a) if the information is not timely, accurate, relevant to the system of records, or complete.

(d) STATEMENT OF DISAGREEMENT.—After an individual has filed a statement of disagreement under paragraph (b)(3), the provider or plan, in any subsequent disclosure of the disputed portion of the information—

(1) shall include a copy of the individual's statement; and

(2) may include a concise statement of the reasons of the provider or plan for not making the requested correction or amendment.

(e) RULE OF CONSTRUCTION.—This section shall not be construed to require a health care provider or health plan to conduct a formal, informal, or other hearing or proceeding concerning a request for a correction or amendment to protected health information the provider or plan maintains.

(f) CORRECTION.—For purposes of paragraph (a), a correction is deemed to have been made to protected health information when information that is not timely, accurate, relevant to the system of records, or complete is clearly marked as incorrect or when supplementary correct information is made part of the information.

SEC. 5243. NOTICE OF INFORMATION PRACTICES.

(a) PREPARATION OF WRITTEN NOTICE.—A health care provider or health plan shall prepare a written notice of information practices describing the following:

(1) PERSONAL RIGHTS OF AN INDIVIDUAL.—The rights under this subpart of an individual who is the subject of protected health information, including the right to inspect and copy such information and the right to seek amendments to such information, and the procedures for authorizing disclosures of protected health information and for revoking such authorizations.

(2) PROCEDURES OF PROVIDER OR PLAN.—The procedures established by the provider or plan for the exercise of the rights of individuals about whom protected health information is maintained.

(3) AUTHORIZED DISCLOSURES.—The disclosures of protected health information that are authorized.

(b) DISSEMINATION OF NOTICE.—A health care provider or health plan—

(1) shall, upon request, provide any individual with a copy of the notice of information practices described in subsection (a); and

(2) shall make reasonable efforts to inform individuals in a clear and conspicuous manner of the existence and availability of the notice.

(c) MODEL NOTICE.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate a model notice of information practices for use by health care providers and health plans under this section.

Subpart C—Standards for Electronic Disclosures

SEC. 5246. STANDARDS FOR ELECTRONIC DISCLOSURES.

The Secretary shall promulgate standards for disclosing protected health information in accordance with this subtitle in electronic form. Such standards shall include standards relating to the creation, transmission, receipt, and maintenance, of any written document required or authorized under this subtitle.

PART 4—SANCTIONS

Subpart A—No Sanctions for Permissible Actions

SEC. 5251. NO LIABILITY FOR PERMISSIBLE DISCLOSURES.

A health information trustee who makes a disclosure of protected health information about an individual that is permitted by this subtitle shall not be liable to the individual for the disclosure under common law.

SEC. 5252. NO LIABILITY FOR INSTITUTIONAL REVIEW BOARD DETERMINATIONS.

If the members of an institutional review board make a determination in good faith that—

(1) a health research project is of sufficient importance to outweigh the intrusion into the privacy of an individual; and

(2) the effectiveness of the project requires use of protected health information,

the members, the board, and the parent institution of the board shall not be liable to the individual as a result of the determination.

SEC. 5253. RELIANCE ON CERTIFIED ENTITY.

If a health information trustee contracts with a certified health information network service to make a disclosure of any protected health information on behalf of such trustee in accordance with this subtitle and such service makes a disclosure of such information that is in violation of this subtitle, the trustee shall not be liable for to the individual who is the subject of the information for such unlawful disclosure.

Subpart B—Civil Sanctions

SEC. 5256. CIVIL PENALTY.

(a) VIOLATION.—Any health information trustee who the Secretary determines has substantially failed to comply with this subtitle shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $10,000 for each such violation.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—Section 1128A of the Social Security Act, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1128A of such Act.

SEC. 5257. CIVIL ACTION.

(a) IN GENERAL.—An individual who is aggrieved by conduct in violation of this subtitle may bring a civil action to recover—

(1) the greater of actual damages or liquidated damages of $5,000;

(2) punitive damages;

(3) a reasonable attorney's fee and expenses of litigation;

(4) costs of litigation; and

(5) such preliminary and equitable relief as the court determines to be appropriate.

(b) LIMITATION.—No action may be commenced under this section more than 3 years after the date on which the violation was or should reasonably have been discovered.

Subpart C—Criminal Sanctions

SEC. 5261. WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) OFFENSE.—A person who knowingly—

(1) obtains protected health information relating to an individual in violation of this subtitle; or

(2) discloses protected health information to another person in violation of this subtitle,

shall be punished as provided in subsection (b).

(b) PENALTIES.—A person described in subsection (a) shall—

(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

(3) if the offense is committed with intent to sell, transfer, or use protected health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

PART 5—ADMINISTRATIVE PROVISIONS

SEC. 5266. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAW.—Except as provided in subsections (b), (c), and (d), this subtitle preempts State law.

(b) LAWS RELATING TO PUBLIC OR MENTAL HEALTH.—Nothing in this subtitle shall be construed to preempt or operate to the exclusion of any State law relating to public health or mental health that prevents or regulates disclosure of protected health information otherwise allowed under this subtitle.

(c) PRIVILEGES.—Nothing in this subtitle is intended to preempt or modify State common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the State. This subtitle does not supersede or modify Federal common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the United States. Authorizations pursuant to section 5207 shall not be construed as a waiver of any such privilege.

(d) CERTAIN DUTIES UNDER STATE OR FEDERAL LAW.—This subtitle shall not be construed to preempt, supersede, or modify the operation of—

(1) any law that provides for the reporting of vital statistics such as birth or death information;

(2) any law requiring the reporting of abuse or neglect information about any individual;

(3) subpart II of part E of title XXVI of the Public Health Service Act (relating to notifications of emergency response employees of possible exposure to infectious diseases); or

(4) any Federal law or regulation governing confidentiality of alcohol and drug patient records.

SEC. 5267. RIGHTS OF INCOMPETENTS.

(a) EFFECT OF DECLARATION OF INCOMPETENCE.—Except as provided in section 5268, if an individual has been declared to be incompetent by a court of competent jurisdiction, the rights of the individual under this subtitle shall be exercised and discharged in the best interests of the individual through the individual's representative.

(b) NO COURT DECLARATION.—Except as provided in section 5268, if a health care provider determines that an individual, who has not been declared to be incompetent by a court of competent jurisdiction, suffers from a medical condition that prevents the individual from acting knowingly or effectively on the individual's own behalf, the right of the individual to authorize disclosure may be exercised and discharged in the best interest of the individual by the individual's representative.

SEC. 5268. EXERCISE OF RIGHTS.

(a) INDIVIDUALS WHO ARE 18 OR LEGALLY CAPABLE.—In the case of an individual—

(1) who is 18 years of age or older, all rights of the individual shall be exercised by the individual; or

(2) who, acting alone, has the legal right, as determined by State law, to apply for and obtain a type of medical examination, care, or treatment and who has sought such examination, care, or treatment, the individual shall exercise all rights of an individual under this subtitle with respect to protected health information relating to such examination, care, or treatment.

(b) INDIVIDUALS UNDER 18.—Except as provided in subsection (a)(2), in the case of an individual who is—

(1) under 14 years of age, all the individual's rights under this subtitle shall be exercised through the parent or legal guardian of the individual; or

(2) 14, 15, 16, or 17 years of age, the rights of inspection and amendment, and the right to authorize disclosure of protected health information of the individual may be exercised either by the individual or by the parent or legal guardian of the individual.

Subtitle D—Expanded Efforts To Combat Health Care Fraud and Abuse Affecting Federal Outlay Programs

PART 1—IMPROVED ENFORCEMENT

SEC. 5301. HEALTH CARE FRAUD AND ABUSE AFFECTING FEDERAL OUTLAY PROGRAMS.

(a) IN GENERAL.—Not later than January 1, 1995, the Secretary and the Attorney General of the United States shall establish a joint program—

(1) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse affecting Federal outlay programs,

(2) to conduct investigations (including consumer complaint investigations), audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(3) to facilitate the enforcement of this subtitle and other statutes applicable to health care fraud and abuse.

(b) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program under subsection (a), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data and resources with Federal, State and local law enforcement agencies, State Medicaid Fraud Control Units, and State agencies responsible for the licensing and certification of health care providers.

(c) COORDINATION WITH PURCHASING COOPERATIVES AND CERTIFIED HEALTH PLANS.—In carrying out the program under subsection (a), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of purchasing cooperatives and certified standard health plans.

(d) AUTHORITIES OF ATTORNEY GENERAL AND SECRETARY.—In carrying out duties under subsection (a), the Attorney General and the Secretary—

(1) shall conduct, supervise, and coordinate audits, civil and criminal investigations, inspections, and evaluations relating to the program established under such subsection;

(2) shall have access (including on-line access as requested and available) to all records available to purchasing cooperatives and certified standard health plans relating to the activities described in paragraph (1) (subject to restrictions based on the confidentiality of certain information under subtitles B and C of this title); and

(3) may issue advisory opinions, fraud alerts, and other appropriate educational material to assist in compliance with the provisions of this subtitle.

(e) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information or communications to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under part 2.

(f) USE OF POWERS UNDER INSPECTOR GENERAL ACT OF 1978.—In carrying out duties and responsibilities under the program established under subsection (a), the Inspector General is authorized to exercise all powers granted under the Inspector General Act of 1978 to the same manner and extent as provided in that Act.

(g) DEFINITIONS.—In this subtitle:

(1) CERTIFIED STANDARD HEALTH PLANS; PURCHASING COOPERATIVES.—The terms "certified standard health plan" and "purchasing cooperative" have the meanings given such terms by sections 1011(2) and 1013(16), respectively.

(2) FEDERAL OUTLAY PROGRAMS.—The term 'Federal outlay programs' means—

(A) any program under title XVIII of the Social Security Act,

(B) any State health care program (as defined in section 1128(h) of the Social Security Act),

(C) any program under the Public Health Service Act, and

(D) any program under this Act, including any State program approved under title I which' certifies standard health plans, supplemental health benefits plans, and long-term care policies.

(3) INSPECTOR GENERAL.—The term "Inspector General" means the Inspector General of the Department of Health and Human Services.

SEC. 5302. ESTABLISHMENT OF FEDERAL OUTLAY PROGRAM FRAUD AND ABUSE CONTROL ACCOUNT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established an account to be known as the "Federal Outlay Program Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(A) such gifts and bequests as may be made as provided in paragraph (2);

(B) such amounts as may be deposited in the Anti-Fraud Account as provided in section 5311(d)(2) and title IX of the Social Security Act; and

(C) such amounts as are transferred to the Anti-Fraud Account under paragraph (3).

(2) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(3) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Subject to the limitation in subparagraph (B), the Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(i) Criminal fines imposed in cases involving a Federal health care offense (as defined in subsection (d)).

(ii) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(iii) Administrative penalties and assessments imposed under section 5311 (except as otherwise provided by law).

(iv) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the $75,000,000, plus 50 percent of the excess (if any) of the amount described in subparagraph (A) for any fiscal year (beginning in fiscal year 1995).

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the Federal Outlay Program Fraud and Abuse Control Program established under section 5301 (including the administration of the Program), and may be used to cover costs incurred in operating the Program, including costs of—

(A) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(B) investigations;

(C) financial and performance audits of health care programs and operations;

(D) inspections and other evaluations;

(E) rewards paid under section 5304; and

(F) provider and consumer education (including the provision of advisory opinions) regarding compliance with the provisions of this subtitle.

Not more than twenty percent of the amounts available in the Anti-Fraud Account for any fiscal year shall be used for costs described in subparagraph (F).

(2) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(c) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(d) FEDERAL HEALTH CARE OFFENSE DEFINED.—For purposes of subsection (a)(3)(A)(i), the term "Federal health care offense" means a violation of, or a criminal conspiracy to violate—

(1) sections 226, 668, 1033, or 1347 of title 18, United States Code;

(2) section 1128B of the Social Security Act;

(3) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of title 18, United States Code, if the violation or conspiracy relates to health care fraud;

(4) sections 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud; or

(5) sections 301, 303(a)(2), or 303 (b) or (e) of the Federal Food Drug and Cosmetic Act, if the violation or conspiracy relates to health care fraud.

SEC. 5303. USE OF FUNDS BY INSPECTOR GENERAL.

(a) REIMBURSEMENTS FOR INVESTIGATIONS.—

(1) IN GENERAL.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(2) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

(3) EXCEPTION FOR FORFEITURES.—This subsection does not apply to investigative costs paid to the Inspector General from the Department of Justice Asset Forfeiture Fund, which monies shall be deposited and expended in accordance with subsection (b).

(b) HHS OFFICE OF INSPECTOR GENERAL ASSET FORFEITURE PROCEEDS FUND.—

(1) IN GENERAL.—There is hereby established the "HHS Office of Inspector General Asset Forfeiture Proceeds Fund", to be administered by the Inspector General, which shall be available to the Inspector General without fiscal year limitation for expenses relating to the investigation of matters within the jurisdiction of the Inspector General.

(2) DEPOSITS.—There shall be deposited in the Fund all proceeds from forfeitures that have been transferred to the Inspector General from the Department of Justice Asset Forfeiture Fund under section 524 of title 28, United States Code.

SEC. 5304. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution of a Federal health care offense (as defined in section 5302(d)).

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITION.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

PART 2—CIVIL PENALTIES AND RIGHTS OF ACTION

SEC. 5311. CIVIL MONETARY PENALTIES.

(a) ACTIONS SUBJECT TO PENALTY.—

(1) IN GENERAL.—Any person who is determined by the Secretary to have committed any action with respect to a certified standard health plan or certified long-term care plan or long-term care services provided under this Act that would subject the person to a penalty under paragraphs (1) through (11) of section 1128A of the Social Security Act if the action was taken with respect to title V, XVIII, XIX, or XX of such Act, shall be subject to a penalty in accordance with subsection (b).

(2) TREATMENT OF AMOUNTS RECOVERED.—Any amounts recovered under the preceding sentence shall be paid to the Secretary and such portions of the amounts recovered as is determined to have been improperly paid from a certified standard health plan or certified long-term care policy for the delivery of or payment for health care items or services shall be repaid to such plan or policy (and enrollees of such plan or policy as appropriate) and the remainder of the amounts recovered shall be deposited in the Federal Outlays Program Fraud and Abuse Control Account established under section 5302.

(b) PENALTIES.—

(1) GENERAL RULE.—In the case of a person who the Secretary determines has committed an action described in subsection (a), the person shall be subject to the civil monetary penalty (together with any additional assessment) to which the person would be subject to under section 1128A of the Social Security Act if the action was taken with respect to title V, XVIII, XIX, or XX of such Act.

(2) PENALTIES DESCRIBED.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "$2,000" and inserting "$10,000"; and

(B) by striking "twice the amount claimed" and inserting "3 times the amount claimed".

(3) INTEREST ON PENALTIES.—Section 1128A(f) of such Act (42 U.S.C. 1320a-7a(f)) is amended by adding after the first sentence the following: "Interest shall accrue on the penalties and assessments imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where such penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of such penalties and assessments owed to cover the costs of collection.".

(c) ADDITIONAL OFFENSES.—

(1) IN GENERAL.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraphs (1) and (2);

(B) by striking the comma at the end of paragraph (2) and inserting a semicolon; and

(C) by inserting after paragraph (3) the following new paragraphs:

"(4) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a Federal outlay program (as defined in section 5301(g)(1) of the Health Security Act) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a Federal outlay program;

"(5) in the case of a person who is not an organization, agency, or other entity, who is excluded from participating in a program under title XVIII or a Federal outlay program in accordance with this section, section 1128, or section 1156 and who, during the period of exclusion, retains either a direct or indirect ownership or control interest of 5 percent or more in, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII;

"(6) engages in a practice that circumvents a payment methodology intended to reimburse for two or more discreet medical items or services at a single or fixed amount, including but not limited to, multiple admissions or readmission to hospitals and other institutions reimbursed on a diagnosis reimbursement grouping basis;

"(7) engages in a practice which has the effect of limiting (as compared to other plan enrollees) the appropriate utilization of health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

"(8) fails to comply with a quality assurance program or a utilization review activity;

"(9) employs or contracts with any individual or entity who is excluded from participating in a program under title XVIII or a Federal outlay program in accordance with this section, section 1128, or section 1156, for the provision of any services (including but not limited to health care, utilization review, medical social work, or administrative), or employs or contracts with any entity for the direct or indirect provision of such services, through such an excluded individual or entity; or

"(10) submits false or fraudulent statements, data or information, or claims to the Secretary, the Secretary of Labor, any other Federal agency, a State health care agency, a purchasing cooperative, or any other Federal, State or local agency charged with implementation or oversight of a certified health plan under this Act or a public program that the person knows or should know is fraudulent;".

(4) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver of coinsurance or deductible amounts by a person or entity, if—

"(A) the waiver is not offered as part of any advertisement or solicitation;

"(B) the person does not routinely waive coinsurance or deductible amounts; and

"(C) the person—

"(i) waives the coinsurance and deductible amounts after determining in good faith that the individual is indigent;

"(ii) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(iii) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary.".

(5) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(A) in subparagraph (A), by striking "claimed," and inserting the following: "claimed, including any person who presents or causes to be presented a claim for an item or service which includes a procedure or diagnosis code that the person knows or should know will result in a greater payment to the person than the code applicable to the item or service actually provided or actual patient medical condition,";

(B) in subparagraph (C), by striking "or" at the end;

(C) in subparagraph (D), by striking "; or" and inserting ", or"; and

(D) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(c) PROCEDURES FOR IMPOSITION OF PENALTIES.—

(1) APPLICABILITY OF PROCEDURES UNDER SOCIAL SECURITY ACT.—Except as otherwise provided in paragraph (2), the provisions of section 1128A of the Social Security Act (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil monetary penalty, assessment, or exclusion under this section in the same manner as such provisions apply with respect to the imposition of a penalty, assessment, or exclusion under section 1128A of such Act.

(4) AUTHORITY OF SECRETARY OF LABOR TO IMPOSE PENALTIES, ASSESSMENTS, AND EXCLUSIONS.—

(A) IN GENERAL.—The Secretary of Labor may initiate an action to impose a civil monetary penalty, assessment, or exclusion under this section with respect to actions relating to a certified multistate self-insured health plan if authorized by the Attorney General of the United States and the Secretary pursuant to regulations promulgated by the Secretary in consultation with the Attorney General.

(B) REGULATIONS DESCRIBED.—Under the regulations promulgated under subparagraph (A), the Attorney General and the Secretary shall review an action proposed by the Secretary of Labor, and not later than 60 days after receiving notice of the proposed action from the Secretary of Labor, shall—

(i) approve the proposed action to be taken by the Secretary of Labor;

(ii) disapprove the proposed action; or

(iii) assume responsibility for initiating a criminal, civil, or administrative action based on the information provided in the notice.

(C) ACTION DEEMED APPROVED.—If the Attorney General and the Secretary fail to respond to a proposed action by the Secretary of Labor within the period described in paragraph (2), the Attorney General and the Secretary shall be deemed to have approved the proposed action to be taken by the Secretary of Labor.

(e) NOTIFICATION OF LICENSING AUTHORITIES.—Whenever the Secretary's determination to impose a penalty, assessment, or exclusion under this section becomes final, the Secretary shall notify the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33) of the Social Security Act) that such a penalty, assessment, or exclusion has become final and the reasons therefore.

SEC. 5312. PERMITTING PARTIES TO BRING ACTIONS ON OWN BEHALF.

(a) IN GENERAL.—Subject to subsections (b) and (c), a certified standard health plan (as defined in section 1011(2)) or an experience-rated employer (as defined in section 1011(5)(E)) that suffers harm or monetary loss exceeding the sum or value of $10,000 (excluding interest) as a result of any activity of an individual or entity which makes the individual or entity subject to a civil monetary penalty under section 5311 may, in a civil action against the individual or entity in the United States District Court, obtain treble damages and costs including attorneys' fees against the individual or entity and such equitable relief as is appropriate.

(b) REQUIREMENTS FOR BRINGING ACTION.—A person may bring a civil action under this section only if—

(1) the person provides the Secretary with written notice of—

(A) the person's intent to bring an action under this section,

(B) the identities of the individuals or entities the person intends to name as defendants to the action, and

(C) all information the person possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under section 5311 against the defendants, and

(2) one of the following conditions is met:

(A) During the 60-day period that begins on the date the Secretary receives the written notice described in paragraph (1), the Secretary does not notify the person that the Secretary intends to initiate an investigation to determine whether to impose a civil monetary penalty under section 5311 against the defendants.

(B) The Secretary notifies the person during the 60-day period described in subparagraph (A) that the Secretary intends to initiate an investigation to determine whether to impose a civil monetary penalty under such section against the defendants, and the Secretary subsequently notifies the person that the Secretary no longer intends to initiate an investigation or proceeding to impose a civil monetary penalty against the defendants.

(C) After the expiration of the 1-year period that begins on the date written notice is provided to the Secretary, the Secretary has not initiated a proceeding to impose a civil monetary penalty against the defendants.

(c) TREATMENT OF EXCESS AWARDS.—If a person is awarded any amounts in an action brought under this section that are in excess of the damages suffered by the person as a result of the defendant's activities, 20 percent of such amounts shall be withheld from the person for payment into the Federal Outlays Program Fraud and Abuse Control Account established under section 5302.

(d) STATUTE OF LIMITATIONS.—No action may be brought under this section more than 6 years after the date of the activity with respect to which the action is brought.

(e) NO LIMITATION ON OTHER ACTIONS.—Nothing in this section shall limit the right of any person to pursue any other right of action or remedy available under the law.

(f) PENDANT JURISDICTION.—Nothing in this section shall be construed, by reason of a claim arising under this section, to confer on the Courts of the United States jurisdiction over any State law claim.

SEC. 5313. EXCLUSION FROM PROGRAM PARTICIPATION.

(a) MANDATORY EXCLUSION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall exclude an individual or entity from participating in any applicable health plan if the individual or entity—

(A) is excluded from participation in a public program under, or is otherwise described in, section 1128(a) of the Social Security Act (relating to individuals and entities convicted of health care-related crimes or patient abuse);

(B) has been convicted after the date of the enactment of this section, under Federal or State law, in connection with the delivery of a health care item or service of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct; or

(C) has been convicted after such date, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(2) WAIVER PERMITTED.—

(A) IN GENERAL.—When, in the opinion of the Secretary, mandatory exclusion under paragraph (1) of an individual or entity would significantly harm the public health or pose a significant risk to the public health, the Secretary may waive such exclusion and shall apply such other appropriate penalties as authorized under this subtitle.

(B) APPLICATION FOR WAIVER OF EXCLUSION.—

(i) IN GENERAL.—An individual or entity subject to mandatory exclusion under this subsection may apply to the Secretary, in a manner specified by the Secretary in regulations, for waiver of the exclusion.

(ii) SECRETARIAL RESPONSE.—The Secretary may waive the exclusion for the reasons described in subparagraph (A).

(b) PERMISSIVE EXCLUSION.—The Secretary may exclude an individual or entity from participating in any applicable health plan if the individual or entity—

(1) is excluded from participation in a public program under, or is otherwise described in, section 1128(b) of the Social Security Act (other than paragraphs (3), (6)(A), (6)(C), (6)(D), (10), or (13) of such section);

(2) has been convicted after the date of the enactment of this section, under Federal or State law, in connection with the delivery of a health care item or service of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct; or

(3) has been convicted after the date of the enactment of this section, under Federal or State law, of a criminal offense consisting of a misdemeanor relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(c) PERIOD OF EXCLUSION.—

(1) NOTICE OF EXCLUSION.—An exclusion under this section shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

(2) EFFECTIVE DATE OF EXCLUSION.—Such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

(3) PERIOD OF EXCLUSION.—

(A) IN GENERAL.—The Secretary shall specify, in the notice of exclusion under paragraph (1), the minimum period (or, in the case of an exclusion of an individual excluded from participation in a public program under, or is otherwise described in, section 1128(b)(12) of the Social Security Act, the period) of the exclusion.

(B) MINIMUM PERIOD FOR MANDATORY EXCLUSIONS.—In the case of a mandatory exclusion under subsection (a), the minimum period of exclusion shall be not less than 2 years.

(C) MINIMUM PERIOD FOR CERTAIN PERMISSIVE EXCLUSIONS.—

(i) FRAUD, OBSTRUCTION OF INVESTIGATION, AND CONTROLLED SUBSTANCE CONVICTION.—In the case of an exclusion of an individual excluded from participation in a public program under, or is otherwise described in, paragraph (1) or (2) of section 1128(b) of the Social Security Act or paragraph (1), (2), or (3) of subsection (b) of this section, the period of exclusion shall be a minimum of 1 year, unless the Secretary determines that a longer period is necessary because of aggravating circumstances.

(ii) SUSPENSIONS.—In the case of an exclusion of an individual or entity excluded from participation in a public program under, or is otherwise described in, paragraph (4), (5)(A), or (5)(B) of section 1128(b) of the Social Security Act, the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

(iii) UNNECESSARY SERVICES.—In the case of an exclusion of an individual or entity described in paragraph (6)(B) of section 1128(b) of the Social Security Act, the period of the exclusion shall be not less than 1 year.

(d) Notice to Entities Administering Public Programs for the Delivery of or Payment for Health Care Items or Services.—

(1) In general.—The Secretary shall exercise the authority under this section in a manner that results in an individual's or entity's exclusion from all certified standard health plans under such program for the delivery of or payment for health care items or services.

(2) Notification.—The Secretary shall promptly notify each sponsor of an applicable health plan and each entity that administers a State health care program described in section 1128(h) of the Social Security Act of the fact and circumstances of each exclusion (together with the period thereof) effected against an individual or entity under this section or under section 5311(b)(3).

(e) Notice to State Licensing Agencies.—The provisions of section 1128(e) of the Social Security Act shall apply to this section in the same manner as such provisions apply to sections 1128 and 1128A of such Act.

(f) Notice, Hearing, and Judicial Review.—

(1) In general.—Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of such Act, except that such action shall be brought in the Court of Appeals of the United States for the judicial circuit in which the individual or entity resides, or has a principal place of business, or, if the individual or entity does not reside or have a principal place of business within any such judicial circuit, in the United States Court of Appeals for the District of Columbia Circuit.

(2) Administrative hearing.—Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination based on paragraphs (6)(B), (7), (8), (9), (11), (12), (14), or (15) of section 1128(b) of the Social Security Act, shall be entitled to a hearing by an administrative law judge (as provided under section 205(b) of the Social Security Act) on the determination before any exclusion based upon the determination takes effect. If a hearing is requested, the exclusion shall be effective upon the issuance of an order by the administrative law judge upholding the determination of the Secretary to exclude.

(g) Convicted Defined.—In this section, the term "convicted" has the meaning given such term in section 1128(i) of the Social Security Act.

(h) Request for Exclusion.—

(1) In general.—The sponsor of any standard health plan, the board of any purchasing cooperative, and the Secretary of Labor in the case of a multistate self-insured health plan may request that the Secretary of Health and Human Services exclude an individual or entity with respect to actions under a certified health plan in accordance with this section.

(2) Response by secretary.—

(A) In general.—An individual or entity excluded (or directed to be excluded) from participation under this section or section 5411(b)(3) may apply to the Secretary, in a manner specified by the Secretary in regulations and at the end of the minimum period of exclusion (or, in the case of an individual or entity described in section 1128(b)(12) of the Social Security Act, the period of exclusion) provided under this section or section 5411(b)(3) and at such other times as the Secretary may provide, for termination of the exclusion.

(B) Secretarial response.—The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

(i) there is no basis under this section or section 5411(b)(3) for a continuation of the exclusion, and

(ii) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

(C) Notification of termination.—The Secretary shall promptly notify each sponsor of an applicable health plan and each entity that administers a State health care program described in section 1128(h) of the Social Security Act of each termination of exclusion made under this paragraph.

(i) Effect of Exclusion.—Notwithstanding any other provision of this Act, no payment may be made under a certified standard health plan for the delivery of or payment for any item or service (other than an emergency item or service, not including items or services furnished in an emergency room of a hospital) furnished—

(1) by an individual or entity during the period when such individual or entity is excluded pursuant to this section from participation in a certified standard health plan; or

(2) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to this section from participation in a certified health plan and the person furnishing the item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

PART 3—AMENDMENTS TO CRIMINAL LAW

SEC. 5321. HEALTH CARE FRAUD.

(a) In General.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any purchasing cooperative, certified standard health plan, certified long-term care insurance policy, or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any purchasing cooperative, certified standard health plan, certified long-term care insurance policy, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title) such person shall be imprisoned for any term of years.

"(b) As used in this section the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 5322. THEFT OR EMBEZZLEMENT.

(a) In General.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 668. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, securities, premiums, credits, property, or other assets of a purchasing cooperative, certified standard health plan, certified long-term care insurance policy, or of any fund connected with such a cooperative, plan, or policy, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section, the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"668. Theft or embezzlement in connection with health care.".

SEC. 5323. FALSE STATEMENTS.

(a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 5324. BRIBERY AND GRAFT.

(a) In General.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery and graft in connection with health care

"(a) Whoever—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to a health care official, or offers or promises a health care official to give anything of value to any other person, with intent—

"(A) to influence any of the health care official's actions, decisions, or duties relating to a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(B) to influence such an official to commit or aid in the committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy; or

"(C) to induce such an official to engage in any conduct in violation of the lawful duty of such official; or

"(2) being a health care official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection;

shall be fined under this title or imprisoned not more than 15 years, or both.

"(b) Whoever, otherwise than as provided by law for the proper discharge of any duty, directly or indirectly gives, offers, or promises anything of value to a health care official, for or because of any of the health care official's actions, decisions, or duties relating to a purchasing cooperative, certified standard health plan, or certified long-term care insurance policy, shall be fined under this title or imprisoned not more than two years, or both.

"(c) As used in this section—

"(1) the term 'health care official' means—

"(A) an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(B) an officer, counsel, agent, or employee, of an organization that provides services under contract to any purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(C) an official or employee of a State agency having regulatory authority over any purchasing cooperative, certified standard health plan, or certified long-term care insurance policy;

"(D) an officer, counsel, agent, or employee of a health care sponsor;

"(2) the term 'health care sponsor' means any individual or entity serving as the sponsor of a certified health plan for purposes of the Health Security Act, and includes the joint board of trustees or other similar body used by two or more employers to administer a certified standard health plan for purposes of such Act; and

"(3) the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery and graft in connection with health care.".

SEC. 5325. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 5302(d) of the Health Security Act);".

SEC. 5326. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) A person who is privy to grand jury information concerning a health law violation—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any civil proceeding related to a Federal health care offense (as defined in section 5302(d) of the Health Security Act).".

SEC. 5327. FORFEITURES FOR VIOLATIONS OF FRAUD STATUTES.

Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense (as defined in section 5302(d) of the Health Security Act), shall order such person to forfeit to the United States any property, real or personal, constituting or traceable to the gross proceeds obtained, directly or indirectly, as a result of the commission of the offense, if the violation results in serious bodily injury (as defined in section 1365).".

PART 4—AMENDMENTS TO CIVIL FALSE CLAIMS ACT

SEC. 5331. AMENDMENTS TO CIVIL FALSE CLAIMS ACT.

Section 3729 of title 31, United States Code, is amended—

(1) in subsection (a)(7), by inserting "or to a certified standard health plan or certified long-term care insurance policy" after "property to the Government";

(2) in the matter following subsection (a)(7), by inserting "or certified standard health plan or certified long-term care insurance policy" before "sustains because of the act of that person,";

(3) at the end of the first sentence of subsection (a), by inserting "or certified standard health plan or certified long-term care insurance policy" before "sustains because of the act of the person.";

(4) in subsection (c)—

(A) by inserting "the term" after "section,"; and

(B) by adding at the end the following: "The term also includes any request or demand, whether under contract of otherwise, for money or property which is made or presented to a certified standard health plan or certified long-term care insurance policy."; and

(5) by adding at the end the following:

"(f) CERTIFIED STANDARD HEALTH PLAN AND CERTIFIED LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the terms 'purchasing cooperative', 'certified standard health plan', and 'certified long-term care insurance policy' have the meanings given those terms in sections 1013(16), 1011(2), and 1011(4) of the Health Security Act, respectively.".

PART 5—EFFECTIVE DATE

SEC. 5341. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the provisions of, and amendments made by, this subtitle shall be effective on and after January 1, 1996.

Subtitle E—Medical Liability Reform

PART 1—SYSTEM REFORMS

SEC. 5401. FEDERAL TORT REFORM.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in section 5402, this subtitle shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this subtitle shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(2) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subtitle shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States;

(C) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(3) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

(b) DEFINITIONS.—In this subtitle, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice liability actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(6) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a cause of action brought in a State or Federal court against a health care provider or health care professional by which the plaintiff brings a medical malpractice claim.

(7) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim brought against a health care provider or health care professional in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care

services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort;

(B) any claim based on an allegation that a product is defective that is brought against any individual or entity that is not a health care professional or health care provider; or

(C) any claim brought pursuant to subtitle F.

SEC. 5402. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO MALPRACTICE CLAIMS UNDER PLANS.—Prior to or immediately following the commencement of any medical malpractice action, the parties shall participate in the alternative dispute resolution system administered by the State under subsection (b). Such participation shall be in lieu of any other provision of Federal or State law or any contractual agreement made by or on behalf of the parties prior to the commencement of the medical malpractice action.

(b) ADOPTION OF MECHANISM BY STATE.—Each State shall—

(1) maintain or adopt at least one of the alternative dispute resolution methods satisfying the requirements specified under subsection (c) and (d) for the resolution of medical malpractice claims arising from the provision of (or failure to provide) health care services to individuals enrolled in a standard health plan; and

(2) clearly disclose to enrollees (and potential enrollees) the availability and procedures for consumer grievances, including a description of the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall, by regulation, develop alternative dispute resolution methods for the use by States in resolving medical malpractice claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (d), result in a final decision as to facts, law, liability or damages.

(B) CLAIMANT-REQUESTED BINDING ARBITRATION.—For claims involving a sum of money that falls below a threshold amount set by the Secretary, the use of arbitration not subject to subsection (d). Such binding arbitration shall be at the sole discretion of the claimant.

(C) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(D) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Attorney General shall assure that the methods promote the resolution of medical malpractice claims in a manner that—

(A) is affordable for the parties involved;

(B) provides for timely resolution of claims;

(C) provides for the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution for individuals enrolled in plans.

(3) WAIVER AUTHORITY.—Upon application of a State, the Attorney General, in consultation with the Secretary, may grant the State the authority to fulfill the requirement of subsection (b) by adopting a mechanism other than a mechanism established by the Attorney General pursuant to this subsection, except that such mechanism must meet the standards set forth in paragraph (2).

(d) FURTHER REDRESS.—Except with respect to the claimant-requested binding arbitration method set forth in subsection (c)(1)(B), and notwithstanding any other provision of a law or contractual agreement, a plan enrollee dissatisfied with the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the enrollee's claim under the method, initiate or resume a cause of action to seek damages or other redress with respect to the claim, to the extent otherwise permitted under State law. The results of any alternative dispute resolution procedure are inadmissible at any subsequent trial, as are all statements, offers, and other communications made during such procedures, unless otherwise admissible under State law.

SEC. 5403. REQUIREMENT OF CERTIFICATE OF MERIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—Except as provided in subsection (c) and subject to the penalties of subsection (e), no medical malpractice liability action may be brought by any individual unless, at the time the individual commences such action, the individual or the individual's attorney submits an affidavit declaring that—

(1) the individual (or the individual's attorney) has consulted and reviewed the facts of the claim with a qualified specialist (as defined in subsection (d));

(2) the individual or the individual's attorney has obtained a written report by a qualified specialist that clearly identifies the individual and that includes the specialist's determination that, based upon a review of the available medical record and other relevant material, a reasonable medical interpretation of the facts supports a finding that the claim against the defendant is meritorious and based on good cause; and

(3) on the basis of the qualified specialist's review and consultation, the individual (or the individual's attorney) has concluded that the claim is meritorious and based on good cause.

(b) IDENTITY OF SPECIALIST.—Only upon a showing of good cause may a court order that the identity of the specialist used for purposes of subsection (a) be revealed. In such an event, such identity shall be reviewed by the court on an in camera basis only.

(c) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice liability action without submitting an affidavit described in such subsection if—

(A) despite good faith efforts, the individual is unable to obtain the written report before the expiration of the applicable statute of limitations;

(B) despite good faith efforts, at the time the individual commences the action, the individual has been unable to obtain medical records or other information necessary, pursuant to any applicable law, to prepare the written report requested; or

(C) the court of competent jurisdiction determines that the affidavit requirement shall be extended upon a showing of good cause.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action to which paragraph (1) applies, the action shall be dismissed unless the individual submits the affidavit described in subsection (a) not later than—

(A) in the case of an action to which subparagraph (A) of paragraph (1) applies, 90 days after commencing the action; or

(B) in the case of an action to which subparagraph (B) of paragraph (1) applies, 90 days after obtaining the information described in such subparagraph or when good cause for an extension no longer exists.

(d) QUALIFIED SPECIALIST DEFINED.—

(1) IN GENERAL.—As used in subsection (a), the term "qualified specialist" means, with respect to a medical malpractice liability action, a health care professional who is reasonably believed by the individual bringing the action (or the individual's attorney) to have expertise in the same or substantially similar area of practice to that involved in the action.

(2) EVIDENCE OF EXPERTISE.—For purposes of paragraph (1), evidence of required expertise may include evidence that the individual—

(A) practices (or has practiced) or teaches (or has taught) in the same or substantially similar area of health care or medicine to that involved in the action; or

(B) is otherwise qualified by experience or demonstrated competence in the relevant practice area.

(e) SANCTIONS FOR SUBMITTING FALSE AFFIDAVIT.—Upon the motion of any party or on its own initiative, the court in a medical malpractice liability action may impose a sanction on a party, the party's attorney, or both, for—

(1) any knowingly false statement made in an affidavit described in subsection (a);

(2) making any false representations in order to obtain a qualified specialist's report; or

(3) failing to have the qualified specialist's written report in his or her custody and control;

and may require that the sanctioned party reimburse the other party to the action for costs and reasonable attorney's fees.

SEC. 5404. LIMITATION ON AMOUNT OF ATTORNEY'S CONTINGENCY FEES.

(a) IN GENERAL.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with such action (including the resolution of the claim that is the subject of the action under any alternative dispute resolution system) in excess of—

(1) 33⅓ percent of the first $150,000 of the total amount recovered by judgment or settlement in such action; plus

(2) 25 percent of any amount recovered above the amount described in paragraph (1);

unless otherwise determined under State law. Such amount shall be computed after deductions are made for all the expenses associated with the claim other than those attributable to the normal operating expenses of the attorney.

(b) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under subsection (a) may, in the discretion of the court, be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 5405. PERIODIC PAYMENT OF AWARDS.

(a) IN GENERAL.—A party to a medical malpractice liability action may petition the court to instruct the trier of fact to award any future damages on an appropriate periodic basis. If the court, in its discretion, so instructs the trier of fact, and damages are awarded on a periodic basis, the court may require the defendant to purchase an annuity or other security instrument (typically based on future damages discounted to present value) adequate to assure payments of future damages.

(b) FAILURE OR INABILITY TO PAY.—With respect to an award of damages described in subsection (a), if a defendant fails to make payments in a timely fashion, or if the defendant becomes or is at risk of becoming insolvent, upon such a showing the claimant may petition the court for an order requiring that remaining balance be discounted to present value and paid to the claimant in a lump-sum.

(c) MODIFICATION OF PAYMENT SCHEDULE.—The court shall retain authority to modify the payment schedule based on changed circumstances.

(d) FUTURE DAMAGES DEFINED.—As used in this section, the term "future damages" means any economic or noneconomic loss other than that incurred or accrued as of the time of judgment.

SEC. 5406. FEDERAL STUDY ON MEDICAL NEGLIGENCE.

(a) STUDY.—To improve the level of empirical data on the incidence and effect of medical negligence in the United States, the Secretary of Health and Human Services shall commission and oversee a nationwide interdisciplinary study to evaluate—

(1) the incidence of injuries resulting from medical treatment, including a determination of the percentage of such injuries that resulted from the negligence of a physician, other health care provider or health care institution;

(2) the costs of medical expenses and lost wages to the victims of medical negligence and their families, and their compensation for such losses under the current malpractice system;

(3) methods to reduce the incidence and costs of medical negligence; and

(4) methods to promote the efficient and fair resolution of legal claims stemming from the incidence of medical negligence.

(b) ACCESS TO RECORDS.—For the purposes of the study conducted under subsection (a), the Secretary of Health and Human Services shall have the powers necessary to access hospital patients' records while maintaining patient confidentiality.

(c) REPORT TO CONGRESS.—Not later than 3 years after the commission of the study under subsection (a), the study shall be completed and the Secretary of Health and Human Services shall prepare and submit to Congress a report describing the findings of the study.

PART 2—DEMONSTRATION PROJECT RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 5411. PILOT PROGRAM APPLYING PRACTICE GUIDELINES TO MEDICAL MALPRACTICE LIABILITY ACTIONS.

(a) ESTABLISHMENT.—Not later than 1 year after the Secretary of Health and Human Services determines that appropriate practice guidelines are available and were developed with the input of health care providers, legal professionals and consumer representatives, the Secretary shall establish pilot programs under which the Secretary shall provide funds (in such amounts as the Secretary determines appropriate) to one or more eligible States to determine the effect of applying practice guidelines in the resolution of medical malpractice liability actions.

(b) ELIGIBILITY OF STATE.—To be eligible to participate in a pilot program under subsection (a), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) assurances that, under the law of the State, in the resolution of any medical malpractice liability action, compliance or noncompliance with an appropriate practice guideline shall be admissible by either party at trial as presumptive evidence of nonliability or liability for medical negligence; and

(2) such other information and assurances as the Secretary may require.

(c) REPORTS TO CONGRESS.—Not later than 3 months after the last day of each year for which a pilot program established under subsection (a) is in effect, the Secretary of Health and Human Services shall prepare and submit to Congress a report describing the operation of the program during the year for which the report is submitted. Such report shall contain such recommendations as the Secretary considers appropriate, include recommendations relating to revisions to the laws governing medical practice liability.

SEC. 5412. ENTERPRISE LIABILITY DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration project under which the Secretary shall provide funds (in such amount as the Secretary considers appropriate) to one or more eligible States to demonstrate whether substituting liability for medical malpractice on the part of the health plan in which a physician participates for the personal liability of the physician will result in improvements in the quality of care provided under the plan, reductions in defensive medical practices, and better risk management.

(b) ELIGIBILITY OF STATE.—A State is eligible to participate in the demonstration project established under subsection (a) if the State submits an application to the Secretary (at such time and in such form as the Secretary may require) containing such information and assurances as the Secretary may require, including assurances that the State—

(1) has entered into an agreement with a health plan (other than a fee-for-service plan) operating in the State under which the plan assumes legal liability with respect to any medical malpractice claim arising from the provision of (or failure to provide) services under the plan by any physician participating in the plan;

(2) has provided that, under the law of the State, a physician participating in a plan that has entered into an agreement with the State under paragraph (1) may not be liable in damages or otherwise for such a claim and the plan may not require such physician to indemnify the plan for any such liability; and

(3) will provide the Secretary with such reports on the operation of the project as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out demonstration projects under this section.

Subtitle F—Remedies and Enforcement

PART 1—REVIEW OF BENEFIT DETERMINATIONS FOR ENROLLED INDIVIDUALS

Subpart A—General Rules

SEC. 5501. HEALTH PLAN CLAIMS PROCEDURE.

(a) DEFINITIONS.—For purposes of this section—

(1) CLAIM.—The term "claim" means a claim for payment or provision of benefits under a health plan, a request for preauthorization of items or services which is submitted to a health plan prior to receipt of the items or services, or the denial, reduction or termination of any service or request for a referral or reimbursement.

(2) INDIVIDUAL CLAIMANT.—The term "individual claimant" with respect to a claim means any individual who submits the claim to a health plan in connection with the individual's enrollment under the plan, or on whose behalf the claim is submitted to the plan by a provider.

(3) PROVIDER CLAIMANT.—The term "provider claimant" with respect to a claim means any provider who submits the claim to a health plan with respect to items or services provided to an individual enrolled under the plan.

(b) GENERAL RULES GOVERNING TREATMENT OF CLAIMS.—

(1) ADEQUATE NOTICE OF DISPOSITION OF CLAIM.—In any case in which a claim is submitted in complete form to a health plan, the plan shall provide to the individual claimant and any provider claimant with respect to the claim a written notice of the plan's approval or denial of the claim within 15 days after the date of the submission of the claim. The notice to the individual claimant shall be written in language calculated to be understood by the typical individual enrolled under the plan and in a form which takes into account accessibility to the information by individuals whose primary language is not English. In the case of a denial of the claim, the notice shall be provided within 5 days after the date of the determination to deny the claim, and shall set forth the specific reasons for the denial. Such notice shall include an explanation of the specific reasons and facts underlying the decision to reduce or fail to provide services or pay the claim. The notice of a denial shall clearly explain the right to appeal the denial under paragraph (2) and a description of the process for appealing such decision sufficient to allow the claimant to initiate an appeal and submit evidence to the decision maker in support of the position of the claimant. Failure by any plan to comply with the requirements of this paragraph with respect to any claim submitted to the plan shall be treated as approval by the plan of the claim.

(2) PLAN'S DUTY TO REVIEW DENIALS UPON TIMELY REQUEST.—The plan shall review its denial of the claim if an individual claimant or provider claimant with respect to the claim submits to the plan a written request for reconsideration of the claim after receipt of written notice from the plan of the denial. The plan shall allow any such claimant not less than 60 days, after receipt of written notice from the plan of the denial, to submit

the claimant's request for reconsideration of the claim.

(3) TIME LIMIT FOR REVIEW.—The plan shall complete any review required under paragraph (2), and shall provide the individual claimant and any provider claimant with respect to the claim written notice of the plan's decision on the claim after reconsideration pursuant to the review, within 30 days after the date of the receipt of the request for reconsideration.

(4) DE NOVO REVIEWS.—Any review required under paragraph (2)—

(A) shall be de novo,

(B) shall be conducted by an individual who did not make the initial decision denying the claim and who is authorized to approve the claim, and

(C) shall include review by a qualified physician in the same speciality as the treating physician if the resolution of any issues involved requires medical expertise.

(c) TREATMENT OF URGENT REQUESTS TO PLANS FOR PREAUTHORIZATION.—

(1) IN GENERAL.—This subsection applies in the case of any claim submitted by an individual claimant or a provider claimant consisting of a request for preauthorization of items or services which is accompanied by an attestation that—

(A) failure to immediately provide the items or services could reasonably be expected to result in—

(i) placing the health of the individual claimant (or, with respect to an individual claimant who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part,

or

(B) immediate provision of the items or services is necessary because the individual claimant has made or is at serious risk of making an attempt to harm such individual claimant or another individual.

(2) SHORTENED TIME LIMIT FOR CONSIDERATION OF REQUESTS FOR PREAUTHORIZATION.—Notwithstanding subsection (b)(1), a health plan shall approve or deny any claim described in paragraph (1) within 12 hours after submission of the claim to the plan. Failure by the plan to comply with the requirements of this paragraph with respect to the claim shall be treated as approval by the plan of the claim.

(3) EXPEDITED EXHAUSTION OF PLAN REMEDIES.—Any claim described in paragraph (1) which is denied by the plan shall be treated as a claim with respect to which all remedies under the plan provided pursuant to this section are exhausted, irrespective of any review provided under subsection (b)(2).

(4) DENIAL OF PREVIOUSLY AUTHORIZED CLAIMS NOT PERMITTED.—In any case in which a health plan approves a claim described in paragraph (1)—

(A) the plan may not subsequently deny payment or provision of benefits pursuant to the claim, unless the plan makes a showing of an intentional misrepresentation of a material fact by the individual claimant, and

(B) in the case of a violation of subparagraph (A) in connection with the claim, all remedies under the plan provided pursuant to this section with respect to the claim shall be treated as exhausted.

(d) TIME LIMIT FOR DETERMINATION OF INCOMPLETENESS OF CLAIM.—For purposes of this section—

(1) any claim submitted by an individual claimant and accepted by a provider serving under contract with a health plan and any claim described in subsection (b)(1) shall be treated with respect to the individual claimant as submitted in complete form, and

(2) any other claim for benefits under the plan shall be treated as filed in complete form as of 10 days after the date of the submission of the claim, unless the plan provides to the individual claimant and any provider claimant, within such period, a written notice of any required matter remaining to be filed in order to complete the claim.

Any filing by the individual claimant or the provider claimant of additional matter requested by the plan pursuant to paragraph (2) shall be treated for purposes of this section as an initial filing of the claim.

(e) ADDITIONAL NOTICE AND DISCLOSURE REQUIREMENTS FOR HEALTH PLANS.—In the case of a denial of a claim for benefits under a health plan, the plan shall include, together with the specific reasons provided to the individual claimant and any provider claimant under subsection (b)(1)—

(1) if the denial is based in whole or in part on a determination that the claim is for an item or service which is not covered by the standard benefit package or exceeds payment rates under the applicable fee schedule, the factual basis for the determination,

(2) if the denial is based in whole or in part on exclusion of coverage with respect to services because the services are determined to comprise an experimental treatment or investigatory procedure, the medical basis for the determination and a description of the process used in making the determination, and

(3) if the denial is based in whole or in part on a determination that the treatment is not medically necessary or appropriate or is inconsistent with the plan's practice guidelines, the medical basis for the determination, the guidelines used in making the determination, and a description of the process used in making the determination.

(f) WAIVER OF RIGHTS PROHIBITED.—A health plan may not require any party to waive any right under the plan or this Act as a condition for approval of any claim under the plan, except to the extent otherwise specified in a formal settlement agreement.

SEC. 5502. REVIEW IN AREA COMPLAINT REVIEW OFFICES OF GRIEVANCES BASED ON ACTS OR PRACTICES BY HEALTH PLANS.

(a) COMPLAINT REVIEW OFFICES.—

(1) IN GENERAL.—In accordance with rules which shall be prescribed by the Secretary of Labor, each State shall establish and maintain a complaint review office for each community rating area established by such State. According to designations which shall be made by each State under regulations of the Secretary of Labor, the complaint review office for a community rating area established by such State shall also serve as the complaint review office for large group sponsors operating in the State with respect to individuals who are enrolled under health plans maintained by such sponsors and who reside within the area of the community rating area.

(2) HEALTH SYSTEMS NOT ESTABLISHED BY STATES.—In the case of any health care system established in any State by the Secretary of Health and Human Services, the Secretary of Health and Human Services shall assume all duties and obligations of such State under this part in accordance with the applicable regulations of the Secretary of Labor under this part.

(b) FILINGS OF COMPLAINTS BY AGGRIEVED PERSONS.—In the case of any person who is aggrieved by—

(1) any act or practice engaged in by any health plan which consists of or results in denial of payment or provision of benefits under the plan or delay in the payment or provision of benefits, or

(2) any act or practice engaged in by any other plan maintained in a community rating area or by a large group sponsor which consists of or results in denial of payment or provision of benefits under a supplemental benefit policy or a cost sharing policy or delay in the payment or provision of the benefits,

if the claimant alleges that the denial or delay consists of a failure to comply with the terms of the plan (including the provision of benefits in full when due in accordance with the terms of the plan), or with the applicable requirements of this Act, such person may file a complaint with the appropriate complaint review office.

(c) EXHAUSTION OF PLAN REMEDIES.—Any complaint including a claim to which section 5501 applies may not be filed until the complainant has exhausted all remedies provided under the plan with respect to the claim in accordance with such section.

(d) FORM OF COMPLAINT.—The complaint shall be in writing under oath or affirmation, shall set forth the complaint in a manner calculated to give notice of the nature of the complaint, and shall contain such information as may be prescribed in regulations of the Secretary of Labor.

(e) NOTICE OF FILING.—The complaint review office shall serve by certified mail a notice of the complaint (including the date, place, and circumstances of the alleged violation) on the person or persons alleged in the complaint to have committed the violation within 10 days after the filing of the complaint.

(f) TIME LIMITATION.—Complaints may not be brought under this section with respect to any violation later than one year after the date on which the complaining party knows or should have reasonably known that a violation has occurred. This subsection shall not prevent the subsequent amending of a complaint.

SEC. 5503. INITIAL PROCEEDINGS IN COMPLAINT REVIEW OFFICES.

(a) ELECTIONS.—Whenever a complaint is brought to the complaint review office under section 5502(b), the complaint review office shall provide the complainant with an opportunity, in such form and manner as shall be prescribed in regulations of the Secretary of Labor, to elect one of the following:

(1) To forego further proceedings in the complaint review office and rely on remedies available in a court of competent jurisdiction.

(2) To submit the complaint as a dispute under the Early Resolution Program established under subpart B and thereby suspend further review proceedings under this section pending termination of proceedings under the Program.

(3) In any case in which an election under paragraph (1) or (2) is not made, or an election under paragraph (2) was made but resolution of all matters in the complaint was not obtained upon termination of proceedings pursuant to the election by settlement agreement or otherwise, to proceed with the complaint to a hearing in the complaint review office under section 5504 regarding the unresolved matters.

(b) DUTY OF COMPLAINT REVIEW OFFICE.—The complaint review office shall provide (in a linguistically appropriate manner) an explanation to complainants bringing complaints to the office concerning the legal and other ramifications of each option available under this section.

(c) EFFECT OF PARTICIPATION IN EARLY RESOLUTION PROGRAM.—Any matter in a complaint brought to the complaint review office which is included in a dispute which is timely submitted to the Early Resolution Program established under subpart B shall not be assigned to a hearing under section 5504 unless the proceedings under the Program with respect to the dispute are terminated without settlement or resolution of the dispute with respect to such matter. Upon termination of any proceedings regarding a dispute submitted to the Program, the applicability of this section to any matter in a complaint which was included in the dispute shall not be affected by participation in the proceedings, except to the extent otherwise required under the terms of any settlement agreement or other formal resolution obtained in the proceedings.

SEC. 5504. HEARINGS BEFORE HEARING OFFICERS IN COMPLAINT REVIEW OFFICES.

(a) HEARING PROCESS.—

(1) ASSIGNMENT OF COMPLAINTS TO HEARING OFFICERS AND NOTICE TO PARTIES.—

(A) IN GENERAL.—In the case of an election under section 5503(a)(3)—

(i) the complaint review office shall assign the complaint, and each motion in connection with the complaint, to a hearing officer employed by the State in the office; and

(ii) the hearing officer shall have the power to issue and cause to be served upon the plan named in the complaint a copy of the complaint and a notice of hearing before the hearing officer at a place fixed in the notice, not less than 5 days after the serving of the complaint.

(B) QUALIFICATIONS FOR HEARING OFFICERS.—No individual may serve in a complaint review office as a hearing officer unless the individual meets standards which shall be prescribed by the Secretary of Labor. Such standards shall include experience, training, ability to communicate with the enrollee, affiliations, diligence, absence of actual or potential conflicts of interest, and other qualifications deemed relevant by the Secretary of Labor. At no time shall a hearing officer have any official, financial, or personal conflict of interest with respect to issues in controversy before the hearing officer.

(2) AMENDMENT OF COMPLAINTS.—Any such complaint may be amended by the hearing officer conducting the hearing, upon the motion of the complainant, in the hearing officer's discretion at any time prior to the issuance of an order based thereon.

(3) ANSWERS.—The party against whom the complaint is filed shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

(b) ADDITIONAL PARTIES.—In the discretion of the hearing officer conducting the hearing, any other person may be allowed to intervene in the proceeding and to present testimony.

(c) HEARINGS.—

(1) DE NOVO HEARING.—Each hearing officer shall hear complaints and motions de novo.

(2) TESTIMONY.—The testimony taken by the hearing officer shall be reduced to writing. Thereafter, the hearing officer, in his or her discretion, upon notice may provide for the taking of further testimony or hear argument.

(3) AUTHORITY OF HEARING OFFICERS.—The hearing officer may compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the hearing officer, an appropriate district court of the United States may issue an order requiring compliance with the subpoena and any failure to obey the order may be punished by the court as a contempt thereof. The hearing officer may also seek enforcement of the subpoena in a State court of competent jurisdiction.

(4) EXPEDITED HEARINGS.—Notwithstanding section 5503 and the preceding provisions of this section, upon receipt of a complaint containing a claim described in section 5501(c)(1), the complaint review office shall promptly provide the complainant with the opportunity to make an election under section 5503(a)(3) and assignment to a hearing on the complaint before a hearing officer. The complaint review office shall ensure that such a hearing commences not later than 24 hours after receipt of the complaint by the complaint hearing office and not later than 3 days after the receipt of a complaint, the Complaint Review Office shall provide a decision.

(d) DECISION OF HEARING OFFICER.—

(1) IN GENERAL.—Not later than 120 days after the date on which a complaint is assigned under this section, the hearing officer shall decide if the preponderance of the evidence justifies the denial of services and whether to decide in favor of the complainant with respect to each alleged act or practice. Each such decision—

(A) shall include the hearing officer's findings of fact, and

(B) shall constitute the hearing officer's final disposition of the proceedings.

(2) DECISIONS FINDING IN FAVOR OF COMPLAINANT.—If the hearing officer's decision includes a determination that any party named in the complaint has engaged in or is engaged in an act or practice described in section 5502(b), the hearing officer shall issue and cause to be served on such party an order which requires such party—

(A) to cease and desist from such act or practice,

(B) to provide the benefits due under the terms of the plan and to otherwise comply with the terms of the plan and the applicable requirements of this Act,

(C) to pay to the complainant prejudgment interest on the actual costs incurred in obtaining the items and services at issue in the complaint,

(D) to pay to the prevailing complainant a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the hearing on the charges on which the complainant prevails, and

(E) to provide other appropriate relief.

(3) DECISIONS NOT IN FAVOR OF COMPLAINANT.—If the hearing officer's decision includes a determination that the party named in the complaint has not engaged in or is not engaged in an act or practice referred to in section 5502(b), the hearing officer—

(A) shall include in the decision a dismissal of the charge in the complaint relating to the act or practice, and

(B) upon a finding that such charge is frivolous, shall issue and cause to be served on the complainant an order which requires the complainant to pay to such party a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the proceedings on such charge.

(4) SUBMISSION AND SERVICE OF DECISIONS.—The hearing officer shall submit each decision to the complaint review office at the conclusion of the proceedings and the office shall cause a copy of the decision to be served on the parties to the proceedings.

(e) FINAL DECISION.—The decision of the hearing officer shall be final and binding upon all parties.

(f) COURT ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—The complainant may petition any court of competent jurisdiction for enforcement of the order. In any such proceeding, the order of the hearing officer shall not be subject to review.

(2) AWARDING OF COSTS.—In any action for court enforcement under this subsection, a prevailing complainant shall be entitled to a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to such action.

SEC. 5505. CIVIL MONEY PENALTIES.

(a) DENIAL OR DELAY IN PAYMENT OR PROVISION OF BENEFITS.—

(1) IN GENERAL.—The Secretary of Labor may assess a civil penalty against any health plan, or against any other plan in connection with benefits provided thereunder under a supplemental benefit policy or a cost sharing policy, for unreasonable denial or delay in the payment or provision of benefits thereunder, in an amount not to exceed—

(A) $25,000 per violation, or $75,000 per violation in the case of a finding of bad faith on the part of the plan, and

(B) in the case of a finding of a pattern or practice of such violations engaged in by the plan, $1,000,000 in addition to the total amount of penalties assessed under subparagraph (A) with respect to such violations.

For purposes of subparagraph (A), each violation with respect to any single individual shall be treated as a separate violation.

(2) CIVIL ACTION TO ENFORCE CIVIL PENALTY.—The Secretary of Labor may commence a civil action in any court of competent jurisdiction to enforce a civil penalty assessed under paragraph (1).

(3) SUPPLEMENTAL PLANS.—Nothing in this section shall be construed to limit the rights and remedies available under State law with respect to supplemental benefit plans.

(b) CIVIL PENALTIES FOR CERTAIN OTHER ACTIONS.—The Secretary of Labor may assess a civil penalty described in section 5505(b)(1) against any experience-rated health plan, or against any other plan sponsored by a large employer group purchaser in connection with benefits provided thereunder under a cost sharing policy, for any action described in section 5505(a). The Secretary of Labor may initiate proceedings to impose such penalty in the same manner as the Secretary of Health and Human Services may initiate proceedings under section 5505 with respect to actions described in section 5505(a).

Subpart B—Early Resolution Programs

SEC. 5511. ESTABLISHMENT OF EARLY RESOLUTION PROGRAMS IN COMPLAINT REVIEW OFFICES.

(a) ESTABLISHMENT OF PROGRAMS.—Each State shall establish and maintain an Early Resolution Program in each complaint review office in such State. The Program shall include—

(1) the establishment and maintenance of forums for mediation of disputes in accordance with this subpart, and

(2) the establishment and maintenance of such forums for other forms of alternative dispute resolution (including binding arbitration) as may be prescribed in regulations of the Secretary of Labor.

Each State shall ensure that the standards applied in Early Resolution Programs administered in such State which apply to any form of alternative dispute resolution described in paragraph (2) and which relate to time requirements, qualifications of facilitators, arbitrators, or other mediators, and confidentiality are at least equivalent to the standards which apply to mediation proceedings under this subpart.

(b) Duties of Complaint Review Offices.—Each complaint review office in a State—

(1) shall administer its Early Resolution Program in accordance with regulations of the Secretary of Labor,

(2) shall, pursuant to subsection (a)(1)—

(A) recruit and train individuals to serve as facilitators for mediation proceedings under the Early Resolution Program from attorneys who have the requisite expertise for such service, which shall be specified in regulations of the Secretary of Labor,

(B) provide meeting sites, maintain records, and provide facilitators with administrative support staff, and

(C) establish and maintain attorney referral panels,

(3) shall ensure that, upon the filing of a complaint with the office, the complainant is adequately apprised of the complainant's options for review under this part, and

(4) shall monitor and evaluate the Program on an ongoing basis.

SEC. 5512. INITIATION OF PARTICIPATION IN MEDIATION PROCEEDINGS.

(a) Eligibility of Cases for Submission to Early Resolution Program.—A dispute may be submitted to the Early Resolution Program only if the following requirements are met with respect to the dispute:

(1) Nature of dispute.—The dispute consists of—

(A) an assertion by an individual enrolled under a health plan of one or more claims against the health plan for payment or provision of benefits, or against any other health plan with respect to benefits provided under a supplemental benefit policy or a cost sharing policy, based on alleged coverage under the plan; and

(B) a denial by the plan of the claims, or a denial of appropriate reimbursement based on the claims, by the plan.

(2) Nature of disputed claim.—Each claim consists of—

(A) a claim for payment or provision of benefits under the plan; or

(B) a request for information or documents the disclosure of which is required under this Act (including claims of entitlement to disclosure based on colorable claims to rights to benefits under the plan).

(b) Filing of Election.—A complainant with a dispute which is eligible for submission to the Early Resolution Program may make the election under section 5503(a)(2) to submit the dispute to mediation proceedings under the Program not later than 15 days after the date the complaint is filed with the complaint review office under section 5502(b).

(c) Agreement to Participate.—

(1) Election by claimant.—A complainant may elect participation in the mediation proceedings only by entering into a written participation agreement (including an agreement to comply with the rules of the Program and consent for the complaint review office to contact the health plan regarding the agreement), and by releasing plan records to the Program for the exclusive use of the facilitator assigned to the dispute.

(2) Participation by plans or health benefits contractors.—Each party whose participation in the mediation proceedings has been elected by a claimant pursuant to paragraph (1) shall participate in, and cooperate fully with, the proceedings. The claims review office shall provide such party with a copy of the participation agreement described in paragraph (1), together with a written description of the Program. Such party shall submit the copy of the agreement, together with its authorized signature signifying receipt of notice of the agreement, to the claims review office, and shall include in the submission to the claims review office a copy of the written record of the plan claims procedure completed pursuant to section 5501 with respect to the dispute and all relevant plan documents. The relevant documents shall include all documents under which the plan is or was administered or operated, including copies of any insurance contracts under which benefits are or were provided and any fee or reimbursement schedules for health care providers.

SEC. 5513. MEDIATION PROCEEDINGS.

(a) Role of Facilitator.—In the course of mediation proceedings under the Early Resolution Program, the facilitator assigned to the dispute shall prepare the parties for a conference regarding the dispute and serve as a neutral mediator at such conference, with the goal of achieving settlement of the dispute.

(b) Preparations for Conference.—In advance of convening the conference, after identifying the necessary parties and confirming that the case is eligible for the Program, the facilitator shall analyze the record of the claims procedure conducted pursuant to section 5501 and any position papers submitted by the parties to determine if further case development is needed to clarify the legal and factual issues in dispute, and whether there is any need for additional information and documents.

(c) Conference.—Upon convening the conference, the facilitator shall assist the parties in identifying undisputed issues and exploring settlement. If settlement is reached, the facilitator shall assist in the preparation of a written settlement agreement. If no settlement is reached, the facilitator shall present the facilitator's evaluation, including an assessment of the parties' positions, the likely outcome of further administrative action or litigation, and suggestions for narrowing the issues in dispute.

(d) Time Limit.—The facilitator shall ensure that mediation proceedings with respect to any dispute under the Early Resolution Program shall be completed within 120 days after the election to participate. The parties may agree to one extension of the proceedings by not more than 30 days if the proceedings are suspended to obtain an agency ruling or to reconvene the conference in a subsequent session.

(e) Inapplicability of Formal Rules.—Formal rules of evidence shall not apply to mediation proceedings under the Early Resolution Program. All statements made and evidence presented in the proceedings shall be admissible in the proceedings. The facilitator shall be the sole judge of the proper weight to be afforded to each submission. The parties to mediation proceedings under the Program shall not be required to make statements or present evidence under oath.

(f) Representation.—Parties may participate pro se or be represented by attorneys throughout the proceedings of the Early Resolution Program.

(g) Confidentiality.—

(1) In general.—Under regulations of the Secretary of Labor, rules similar to the rules under section 574 of title 5, United States Code (relating to confidentiality in dispute resolution proceedings) shall apply to the mediation proceedings under the Early Resolution Program.

(2) Civil remedies.—The Secretary of Labor may assess a civil penalty against any person who discloses information in violation of the regulations prescribed pursuant to paragraph (1) in the amount of three times the amount of the claim involved. The Secretary of Labor may bring a civil action to enforce such civil penalty in any court of competent jurisdiction.

SEC. 5514. LEGAL EFFECT OF PARTICIPATION IN MEDIATION PROCEEDINGS.

(a) Process Nonbinding.—Findings and conclusions made in the mediation proceedings of the Early Resolution Program shall be treated as advisory in nature and nonbinding. Except as provided in subsection (b), the rights of the parties under subpart A shall not be affected by participation in the Program.

(b) Resolution Through Settlement Agreement.—If a case is settled through participation in mediation proceedings under the Program, the facilitator shall assist the parties in drawing up an agreement which shall constitute, upon signature of the parties, a binding contract between the parties, which shall be enforceable under section 5515.

(c) Preservation of Rights of Non-Parties.—The settlement agreement shall not have the effect of waiving or otherwise affecting any rights to review under subpart A, or any other right under this Act or the plan, with respect to any person who is not a party to the settlement agreement.

SEC. 5515. ENFORCEMENT OF SETTLEMENT AGREEMENTS.

(a) Enforcement.—Any party to a settlement agreement entered pursuant to mediation proceedings under this subpart may petition any court of competent jurisdiction for the enforcement of the agreement, by filing in the court a written petition praying that the agreement be enforced. In such a proceeding, the order of the hearing officer shall not be subject to review.

(b) Court Review.—It shall be the duty of the court to advance on the docket and to expedite to the greatest possible extent the disposition of any petition filed under this section, with due deference to the role of settlement agreements under this part in achieving prompt resolution of disputes involving health plans.

(c) Awarding of Attorney's Fees and Other Costs and Expenses.—In any action by an individual enrolled under a health plan for court enforcement under this section, a prevailing plaintiff shall be entitled to reasonable costs and expenses (including a reasonable attorney's fee and reasonable expert witness fees) on the charges on which the plaintiff prevails.

SEC. 5516. DUE PROCESS FOR HEALTH CARE PROVIDERS.

(a) Publicly Available Standards and Process.—Each health plan shall establish and utilize—

(1) publicly available standards for contracting with health care providers; and

(2) a publicly available process for dismissing such providers or failing to renew contracts with such providers.

(b) Notice Requirement.—

(1) In general.—The process established by a health plan under subsection (a) shall include reasonable notification to a health care provider of a decision to dismiss such provider or not to renew a contract with

such provider before such decision takes effect.

(2) Exception.—The notice required under paragraph (1) shall not apply if failure to dismiss a provider or renewing a provider's contract would adversely affect the health or safety of a patient.

(3) Contents of notice.—Each notice to a health care provider under paragraph (1) shall contain the reasons for the dismissal or failure to renew. Such reasons shall be consistent with the standards established under subsection (a).

(c) Review.—The process established by a health plan under subsection (a) shall include an opportunity for review of the health plan's action by a health care provider who is dismissed by a health plan or with respect to whom a health plan fails to renew a contract. Such review shall be conducted by—

(1) the provider's peers who have contracts with, or are employed by, the health plan; and

(2) if there is mutual consent of the provider and the health plan, one or more enrollees in the health plan.

A health care provider may have an attorney present in connection with any review under this subsection if the provider notifies the health plan that an attorney will be present in advance of the review proceeding.

(d) Effect on Other Laws.—The provisions of this section shall not supersede any other provision of Federal or State law.

PART 2—ADDITIONAL REMEDIES AND ENFORCEMENT PROVISIONS

SEC. 5531. JUDICIAL REVIEW OF FEDERAL ACTION ON STATE SYSTEMS.

(a) In General.—Any State that is aggrieved by a determination by the Secretary under subpart B of part 1 of subtitle E of title I shall be entitled to judicial review of such determination in accordance with this section.

(b) Judicial Review.—

(1) Jurisdiction.—The courts of appeals of the United States (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction to review a determination described in subsection (a), to affirm the determination, or to set it aside, in whole or in part. A judgment of a court of appeals in such an action shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(2) Petition for review.—A State that desires judicial review of a determination described in subsection (a) shall, within 30 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be transmitted by the clerk of the court to the Secretary, and the Secretary shall file in the court the record of the proceedings on which the determination or action was based, as provided in section 2112 of title 28, United States Code.

(3) Scope of review.—The findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

SEC. 5532. CIVIL ENFORCEMENT.

(a) In General.—Unless otherwise provided in this Act, the district courts of the United States shall have jurisdiction of civil actions brought by—

(1) the Secretary of Labor to enforce any final order of such Secretary or to collect any civil monetary penalty assessed by such Secretary under this Act; and

(2) the Secretary of Health and Human Services to enforce any final order of such Secretary or to collect any civil monetary penalty assessed by such Secretary under this Act.

(b) ERISA.—Section 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(1)(B)) is amended by inserting "except in the case of an action by any participant, beneficiary, or fiduciary to which subtitle F of title V of the Health Security Act applies," before "to recover".

SEC. 5533. PRIORITY OF CERTAIN BANKRUPTCY CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended to read as follows:

"(8) Eighth, allowed unsecured claims—

"(A) based upon any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution; or

"(B) for payments under title X of the Health Security Act owed to a State.".

SEC. 5534. PRIVATE RIGHT TO ENFORCE STATE RESPONSIBILITIES.

The failure of a participating State to carry out a responsibility applicable to participating States under this Act constitutes a deprivation of rights secured by this Act for the purposes of section 1977 of the Revised Statutes of the United States (42 U.S.C. 1983). In an action brought under such section, the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

SEC. 5535. PRIVATE RIGHT TO ENFORCE FEDERAL RESPONSIBILITIES IN OPERATING A SYSTEM IN A STATE.

(a) In General.—The failure of the Secretary of Health and Human Services to carry out a responsibility under subpart C of part 1 of subtitle E of title I, confers an enforceable right of action on any person who is aggrieved by such failure. Such a person may commence a civil action against the Secretary in an appropriate State court or district court of the United States.

(b) Exhaustion of Remedies.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

(c) Relief.—In an action under subsection (a), if the court finds that a failure described in such subsection has occurred, the aggrieved person may recover compensatory damages and the court may award any other appropriate relief.

(d) Attorney's Fees.—In an action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5536. PRIVATE RIGHT TO ENFORCE RESPONSIBILITIES OF COOPERATIVES AND HEALTH PLANS.

(a) In General.—The failure of a purchasing cooperative or health plan to carry out a responsibility applicable to the entity under this Act confers an enforceable right of action on any person who is aggrieved by such failure. Such a person may commence a civil action against the cooperative or health plan in an appropriate State court or district court of the United States.

(b) Exhaustion of Remedies.—

(1) In general.—Except as provided in paragraph (2), in an action under subsection (a) the court may not exercise jurisdiction until the aggrieved person has exhausted any administrative remedies that may be provided by law.

(2) No exhaustion required.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law if the action relates to—

(A) whether the person is a community-rated or experience-rated individual;

(B) whether the person is eligible for a subsidy or premium discount under title VI of X;

(C) whether the person is eligible for a reduction in cost sharing; or

(D) enrollment or disenrollment in a health plan.

(c) Relief.—In an action under subsection (a), if the court finds that a failure described in such subsection has occurred, the court may award any appropriate relief.

(d) Attorney's Fees.—In any action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5537. ENFORCEMENT OF CONSUMER PROTECTIONS.

(a) Covered Violations.—The provisions of this section shall apply with respect to a health plan that fails to fulfill a duty imposed on the plan under section 1122 and subtitle A of this title.

(b) Administrative Enforcement and Civil Penalties.—The penalties described in section 1867(d)(1) of the Social Security Act and the procedures described in section 1128A of such Act (other than the first two sentences of subsection (a) and subsection (b)) shall apply to health plans described in subsection (a). In addition to such penalties, an amount not to exceed $1,000,000 may be assessed in the case of a finding of a pattern or practice of such violations. The Secretary shall establish procedures whereby, when a consumer has disenrolled from a health plan violating the duties described in subsection (a), successor health plans may recover from the original health plan for health care costs attributable to such violations.

(c) Correction of Substantial Violations.—Upon an administrative or judicial finding of a substantial violation of the duties described in subsection (a), the State or court may—

(1) inform all current enrollees of the plan of the violation and that they may disenroll immediately from that plan and enroll with another community-rated health plan; and

(2) notify the health plan that it shall immediately cease enrollment activities until it has obtained certifications from the appropriate certifying entity or court that the violation has been corrected.

Such actions shall not be taken without providing the health plan with a reasonable opportunity to correct such violations, except where providing such an opportunity would risk health or safety.

SEC. 5538. DISCRIMINATION CLAIMS.

(a) Civil Action by Aggrieved Person.—

(1) IN GENERAL.—Any person who is aggrieved by a violation of section 1602 may commence a civil action against the party or parties committing such violation in an appropriate State court or district court of the United States.

(2) STANDARDS.—The standards used to determine whether a violation has occurred in a complaint alleging discrimination on the basis of age or disability under section 1602 shall be the standards applied under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(3) RELIEF.—In any action under paragraph (1), if the court finds a violation of section 1602, the court may award such equitable and injunctive relief as it deems appropriate, and may award to the aggrieved person any sums lost as a result of the violation. If the court finds that the party or parties committing a violation engaged in intentional discrimination in violation of section 1602, the aggrieved person may recover compensatory damages. If the court finds that the party or parties committing such violation did so with malice or reckless indifference to the federally protected rights of the aggrieved person, the aggrieved person may recover punitive damages under this section against a defendant other than a government, government agency or political subdivision.

(4) ATTORNEYS' FEES.—In any action under paragraph (1), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees and other litigation expenses) as part of the costs, and the United States shall be liable for costs the same as a private person.

(b) ACTION BY SECRETARY.—Whenever the Secretary of Health and Human Services finds that a party has failed to comply with section 1602 or with an applicable regulation issued under such section, the Secretary shall notify the party. If within a reasonable period of time the party fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) terminate or limit the participation of such party in the programs authorized by this Act;

(3) withhold Federal financial assistance to the party; or

(4) take such other action as may be provided by law.

(c) ACTION BY ATTORNEY GENERAL.—When a matter is referred to the Attorney General under subsection (b)(1), the Attorney General may bring a civil action in a district court of the United States for such relief as may be appropriate, including injunctive relief. In a civil action under this section, the court—

(1) may grant any equitable relief that the court considers to be appropriate;

(2) may award such other relief as the court considers to be appropriate, including in cases of intentional discrimination compensatory and punitive damages; and

(3) may, to vindicate the public interest when requested by the Attorney General, assess a civil money penalty against the party in an amount—

(A) not exceeding $50,000 for a first violation; and

(B) not exceeding $100,000 for any subsequent violation.

SEC. 5539. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS.

Federal payments under this Act shall be treated as Federal financial assistance for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), section 303 of the Age Discrimination Act of 1975 (42 U.S.C. 6102), and section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

SEC. 5540. CIVIL AND ADMINISTRATION ACTION BY ESSENTIAL COMMUNITY PROVIDER.

(a) IN GENERAL.—An electing essential community provider (as defined in section 1466(d)) who is aggrieved by the failure of a health plan to fulfill a duty imposed on the plan by section 1466 may commence a civil action against the plan in an appropriate State court or district court of the United States.

(b) RELIEF.—In an action under subsection (a), if the court finds that the health plan has failed to fulfill a duty imposed on the plan by section 1466, the electing essential community provider may recover compensatory damages and the court may order any other appropriate relief.

(c) ATTORNEY'S FEES.—In any action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

(d) STATE COMPLAINT SYSTEM REQUIRED.—Prior to commencing an action under subsection (a), the aggrieved essential community provider may first elect to utilize the administrative process provided under this subsection as follows:

(1) The Secretary shall prescribe regulations governing administrative grievance actions by essential community providers that shall be consistent with the requirements of section 5504 and that shall provide for the consolidation of complaints (at the election of the essential community providers) in cases involving multiple complaints against a single health plan.

(2) A State shall make available to each electing essential community provider that is aggrieved by an action of a health plan under section 1466, the opportunity to file a complaint in the complaint review office established under section 5502. In the case of essential community providers located in a cooperative established in any State by the Secretary, the Secretary shall assume all of the duties and obligations of such State under this section.

SEC. 5541. FACIAL CONSTITUTIONAL CHALLENGES.

(a) JURISDICTION.—The United States District Court for the District of Columbia shall have original and exclusive jurisdiction of any civil action brought to invalidate this Act or a provision of this Act on the ground of its being repugnant to the Constitution of the United States on its face and for every purpose. In any action described in this subsection, the district court may not grant any temporary order or preliminary injunction restraining the enforcement, operation, or execution of this Act or any provision of this Act.

(b) CONVENING OF THREE-JUDGE COURT.—An action described in subsection (a) shall be heard and determined by a district court of three judges in accordance with section 2284 of title 28, United States Code.

(c) CONSOLIDATION.—When actions described in subsection (a) involving a common question of law or fact are pending before a district court, the court shall order all the actions consolidated.

(d) DIRECT APPEAL TO SUPREME COURT.—In any action described in subsection (a), an appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order in which the district court—

(1) holds this Act or any provision of this Act invalid; and

(2) makes a determination that its holding will materially undermine the application of the Act as whole.

(e) CONSTRUCTION.—This section does not limit—

(1) the right of any person—

(A) to a litigation concerning the Act or any portion of the Act; or

(B) to petition the Supreme Court for review of any holding of a district court by writ of certiorari at any time before the rendition of judgment in a court of appeals; or

(2) the authority of the Supreme Court to grant a writ of certiorari for the review described in paragraph (1)(B).

SEC. 5542. TREATMENT OF PLANS AS PARTIES IN CIVIL ACTIONS.

(a) IN GENERAL.—A health plan may sue or be sued under this Act as an entity. Service of summons, subpoena, or other legal process of a court or hearing officer upon a trustee or an administrator of any such plan in his or her capacity as such shall constitute service upon the plan. In a case where a plan has not designated in applicable plan documents an individual as agent for the service of legal process, service upon the Secretary of Health and Human Services (in the case of a community-rated health plan) or the Secretary of Labor (in the case of an experienced-rated health plan) shall constitute such service. The Secretary, not later than 15 days after receipt of service under the preceding sentence, shall notify the administrator or any trustee of the plan of receipt of such service.

(b) OTHER PARTIES.—Any money judgment under this Act against a plan referred to in subsection (a) shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in his individual capacity under this Act.

SEC. 5543. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—A health plan may not discharge, discriminate or otherwise take adverse action against any employee with respect to compensation, terms, conditions or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal, State or private supervisory agency or entity regarding a possible violation of any provision of this Act or any regulation issued under this Act.

(b) CIVIL ACTION.—An employee or former employee who believes that such employee has been discharged, discriminated or otherwise subject to adverse action in violation of subsection (a) may file a civil action in the appropriate United States district court within 2 years of the date of such discharge, discrimination or adverse action.

(c) DETERMINATION OF COURT.—If a court in an action under subsection (b) determines that a violation of subsection (a) has occurred, the court may order the health care entity or plan that committed the violation—

(1) to reinstate the employee to his or her former position;

(2) to pay compensatory damages to the employee;

(3) to pay reasonable costs and attorneys fees incurred by the employee in bringing such action; and

(4) to take such other appropriate actions to remedy any past discrimination.

SEC. 5544. GENERAL NONPREEMPTION OF RIGHTS AND REMEDIES.

Nothing in this subtitle shall be construed to deny, impair, or otherwise adversely affect a right or remedy available under law to any person, except to the extent the right or remedy is inconsistent with this title.

Subtitle G—Repeal of Exemption

SEC. 5601. REPEAL OF EXEMPTION FOR HEALTH INSURANCE.

(a) IN GENERAL.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), known as the McCarran-Ferguson Act, is amended by adding at the end the following:

"(c) Notwithstanding that the business of insurance is regulated by State law, nothing in this Act shall limit the applicability of the following Acts to the business of insurance to the extent that such business relates to the provision of health benefits:

"(1) The Sherman Act (15 U.S.C. 1 et seq.).

"(2) The Clayton Act (15 U.S.C. 12 et seq.).

"(3) Federal Trade Commission Act (15 U.S.C. 41 et seq.).

"(4) The Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 21a et seq.), known as the Robinson-Patman Antidiscrimination Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the sixth month beginning after the date of the enactment of this Act.

TITLE VI—INDIVIDUAL AND EMPLOYER SUBSIDIES

SEC. 6000. MARKETING FEES AND COOPERATIVE FEES INCLUDED IN PREMIUM.

For purposes of this title, the term "premium" includes applicable marketing fees (described in section 1112(f)) and purchasing cooperative membership fees (described in section 1324).

Subtitle A—Individual Premium and Cost-Sharing Assistance

SEC. 6001. REQUIREMENT TO OPERATE STATE PROGRAM.

(a) IN GENERAL.—A participating State shall have in effect a program for furnishing premium assistance and cost-sharing assistance in accordance with this subtitle for calendar years beginning after 1996.

(b) DESIGNATION OF STATE AGENCY.—A State may designate any appropriate State agency to administer the program under this subtitle.

SEC. 6002. ASSISTANCE WITH CERTIFIED STANDARD HEALTH PLAN PREMIUMS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—An eligible individual (as defined in section 6008(4)) who has been determined by a State under section 6004 to be a premium subsidy eligible individual (as defined in paragraph (2)) shall be eligible for premium assistance in the amount determined under subsection (b).

(2) PREMIUM SUBSIDY ELIGIBLE INDIVIDUAL.—For purposes of this subtitle, the term "premium subsidy eligible individual" means any of the following individuals:

(A) INDIVIDUALS WITH INCOMES BELOW A CERTAIN INCOME THRESHOLD.—An eligible individual who has a family income determined under section 6008(3) which does not exceed 200 percent of the poverty line (as defined in section 6008(5)).

(B) CHILDREN.—An eligible individual who—

(i) is a child (as defined in section 6008(2));

(ii) has a family income determined under section 6008(3) which does not exceed 300 percent of the poverty line; and

(iii) has not been enrolled in a health plan offered by an employer during the 6-month period ending on the date the individual submits an application to the State for premium assistance under this subtitle.

(C) PREGNANT WOMEN.—An eligible individual who—

(i) is a pregnant woman (as defined in section 6008(6));

(ii) has a family income determined under section 6008(3) which does not exceed 300 percent of the poverty line; and

(iii) is not enrolled in a health plan on the date the individual submits an application to the State for premium assistance under this subtitle.

(3) SPECIAL RULE WITH RESPECT TO CHILDREN AND PREGNANT WOMEN.—An eligible individual may not be a premium subsidy eligible individual described in subparagraphs (B) or (C) of paragraph (2) if an employer contribution of at least 80 percent of the premium under a certified standard health plan that is available to the individual through the employer is made or offered to be made on behalf of the individual.

(b) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—

(A) DETERMINATION OF AMOUNT.—The amount of premium assistance for a month for a premium subsidy eligible individual is the lesser of—

(i) the premium assistance amount determined under paragraph (2); or

(ii) the amount of the premium for coverage under the certified standard health plan (as defined in section 6008(1)) in which the individual is enrolled that is not paid (or offered to be paid) on behalf of such individual by an employer.

(B) SPECIAL RULES FOR DETERMINING AMOUNT OF EMPLOYER PAYMENTS.—

(i) FAMILY CONTRIBUTIONS.—If an employer makes a payment toward the premium for coverage under a certified standard health plan on behalf of a family (rather than any particular individual), such contribution shall be allocated ratably among the individuals in the family.

(ii) GREATEST EMPLOYER CONTRIBUTION AVAILABLE.—The employer contribution with respect to any individual is the largest employer contribution offered to be made on behalf of the individual by the individual's employer or any employer of any member of the individual's family.

(2) PREMIUM ASSISTANCE AMOUNT DETERMINED.—

(A) IN GENERAL.—The premium assistance amount determined under this paragraph is an amount equal to the lesser of—

(i) the subsidy percentage specified in paragraph (3) multiplied by 1/12th of the annual premium paid for coverage under a certified standard health plan in which the individual is enrolled, or

(ii) the subsidy percentage specified in paragraph (3) multiplied by 1/12th of the weighted average annual premium rate (as defined in subparagraph (B)) for all community-rated certified standard health plans offered in the community rating area in which the individual resides.

(B) WEIGHTED AVERAGE ANNUAL PREMIUM RATE.—For purposes of this paragraph, the term "weighted average annual premium rate" means the average premium for the community-rated certified standard health plans offered in the community rating area in which the individual resides, weighted to reflect the total enrollment of community-rated eligible individuals among such plans.

(3) SUBSIDY PERCENTAGE.—For purposes of paragraph (1)(A), the term 'subsidy percentage' means the following:

(A) INDIVIDUALS WITH INCOMES BELOW CERTAIN INCOME THRESHOLD.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), for a premium subsidy eligible individual described in subsection (a)(2)(A), 100 percent reduced (but not below zero) by 1 percentage point for each 1 percentage point (or portion thereof) by which such individual's family income exceeds 100 percent of the poverty line.

(ii) AFDC RECIPIENTS.—For a premium subsidy eligible individual described in subsection (a)(2)(A) who is a member of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act, the subsidy percentage shall be 100 percent.

(iii) NON-CASH MEDICAID ELIGIBLES.—

(I) IN GENERAL.—For a premium subsidy eligible individual described in subsection (a)(2)(A) who is a non-cash medicaid eligible described in subclause (II), the subsidy percentage shall be 100 percent during the 6-month period beginning on January 1, 1997.

(II) NON-CASH MEDICAID ELIGIBLE.—The non-cash medicaid eligibles described in this subclause are individuals receiving medical assistance under the State plan under title XIX of the Social Security Act as of December 31, 1996, who are not individuals—

(aa) who are members of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act;

(bb) with respect to whom supplemental security income benefits are being paid under title XVI of such Act; or

(cc) eligible for benefits under part A of title XVIII of such Act.

(B) CHILDREN AND PREGNANT WOMEN.—For a premium subsidy eligible individual described in subparagraph (B) or (C) of subsection (a)(2), 100 percent reduced (but not below zero) by 0.87 peroentage point for each 1 percentage point (or portion thereof) by which such individuals family income exceeds 185 percent of the poverty line.

(c) PAYMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the premium assistance available to a premium subsidy eligible individual under subsection (b) shall be paid by the State in which the individual resides directly to the certified standard health plan in which the individual is enrolled. Payments under the preceding sentence shall commence in the first month during which the individual is enrolled in a certified standard health plan and determined under section 6004 to be a premium subsidy eligible individual.

(2) ENROLLMENT REQUIREMENT.—No payment shall be made to a certified standard health plan with respect to an individual unless the individual was enrolled in the plan through an employer or a purchasing cooperative (as defined in section 1013(12)).

(3) SPECIAL RULE WITH RESPECT TO FAMILIES WITH MULTIPLE CHILDREN.—If a family includes more than 1 child described in subsection (a)(2)(B), no premium assistance may be paid to a plan under paragraph (1) on behalf of any such child unless such assistance is paid on behalf of all such children.

(4) ADMINISTRATIVE ERRORS.—A State is financially responsible for premium assistance paid based on an eligibility determination error to the extent the State's error rate for eligibility determinations exceeds a maximum permissible error rate to be specified by the Secretary.

(d) TREATMENT OF CERTAIN ELIGIBLE INDIVIDUALS AS INSURED.—All individuals eligible for full premium subsidies under this section shall be considered to have health coverage under a certified standard health plan.

SEC. 6003. ASSISTANCE WITH COST-SHARING FOR CERTIFIED STANDARD HEALTH PLANS.

(a) NON-AFDC LOW-INCOME INDIVIDUALS.—

(1) INDIVIDUALS WORKING FOR COMMUNITY-RATED EMPLOYERS.—

(A) IN GENERAL.—If a non-AFDC low-income individual described in subparagraph (B) is enrolled in a community-rated certified standard health plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(B) INDIVIDUAL DESCRIBED.—A non-AFDC low-income individual described in this subparagraph is an individual who is employed by a community-rated employer and who is unable to enroll in a certified standard health plan—

(i) with a premium at or below the weighted average premium rate for all community-rated certified standard health plans offered through the purchasing cooperative offered by the individual's employer, and

(ii) providing a low or combination cost-sharing schedule.

(2) INDIVIDUALS WORKING FOR EXPERIENCE-RATED EMPLOYERS.—

(A) IN GENERAL.—If a non-AFDC low-income individual described in subparagraph (B) is enrolled in an experience-rated certified standard health plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(B) INDIVIDUAL DESCRIBED.—A non-AFDC low-income individual described in this subparagraph is an individual who is employed by an experience-rated employer and who is unable to enroll in a certified standard health plan offered by such employer providing a low or combination cost-sharing schedule.

(3) NON-WORKING INDIVIDUALS.—

(A) IN GENERAL.—If a non-AFDC low-income individual described in subparagraph (B) is enrolled in a community-rated certified standard plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(B) INDIVIDUAL DESCRIBED.—A non-AFDC low-income individual described in this subparagraph is an individual who is not employed and who is unable to enroll in a certified standard health plan—

(i) with a premium at or below the weighted average premium rate for all community-rated certified standard health plans offered in the community rating area in which the individual resides, and

(ii) providing a low or combination cost-sharing schedule.

(4) NON-AFDC LOW-INCOME INDIVIDUAL.—For purposes of this subsection, the term "non-AFDC low-income individual" means an eligible individual who—

(A) has a family income determined under section 6008(3) which does not exceed 150 percent of the poverty line; and

(B) is not a member of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act.

(b) AFDC RECIPIENTS.—

(1) LOW OR COMBINATION COST-SHARING PLAN.—An AFDC recipient enrolled in a community-rated certified standard plan—

(A) with a premium at or below the weighted average premium rate for all community-rated certified standard health plans offered in the community rating area in which the individual resides, and

(B) providing a low or combination cost-sharing schedule,

shall be eligible for cost-sharing assistance consisting of a reduction in the amount of copayment applied with respect to an item or service in an amount equal to 20 percent of the copayment amount otherwise applicable under the plan, rounded to the nearest dollar.

(2) HIGH COST-SHARING PLAN.—If an AFDC recipient is unable to enroll in a health plan described in paragraph (1) and such individual is enrolled in a community-rated certified standard plan providing a high cost-sharing schedule, such individual shall be eligible for cost-sharing assistance consisting of a reduction in the cost-sharing under such plan to the level of a plan providing a low cost-sharing schedule.

(3) AFDC RECIPIENT.—For purposes of this subsection, the term "AFDC recipient" means an eligible individual who is a member of a family receiving aid to families with dependent children under part A or E of title IV of the Social Security Act.

(c) NOTIFICATION OF HEALTH PLANS.—If a State determines that an individual is eligible for cost-sharing assistance under this section, the State shall notify the certified standard health plan in which such individual is enrolled of such determination in a timely manner.

SEC. 6004. ELIGIBILITY DETERMINATIONS.

(a) IN GENERAL.—The Secretary shall promulgate regulations specifying requirements for State programs under this subtitle with respect to determining eligibility for premium and cost-sharing assistance.

(b) SPECIFICATIONS FOR REGULATIONS.—The regulations promulgated by the Secretary under subsection (a) shall include the following requirements:

(1) APPLICATIONS.—A State program shall provide that an individual may file an application for assistance with an agency designated by the State at any time, in person or by mail.

(2) APPLICATION FORM.—A State program shall provide for the use of an application form developed by the Secretary under subsection (c).

(3) DISTRIBUTION OF APPLICATIONS.—A State program shall make applications accessible at locations where individuals are most likely to obtain the applications.

(4) REQUIREMENT TO SUBMIT REVISED APPLICATION.—A State program shall require individuals to submit revised applications to reflect changes in estimated family incomes, including changes in employment status of family members, during the year. The State shall revise the amount of any premium assistance based on such a revised application.

(5) VERIFICATION.—A State program shall provide for verification of the information supplied in applications under this subtitle. Such verification may include examining return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

(c) ADMINISTRATION OF STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary shall establish standards for States operating programs under this subtitle which ensure that such programs are operated in a uniform manner with respect to application procedures, data processing systems, and such other administrative activities as the Secretary determines to be necessary.

(2) APPLICATION FORMS.—The Secretary shall develop an application form for assistance which shall—

(A) be simple in form and understandable to the average individual;

(B) require the provision of information necessary to make a determination as to whether an individual is eligible for assistance, including a declaration of estimated income by the individual based, at the election of the individual—

(i) on multiplying by a factor of 4 the individual's family income for the 3-month period immediately preceding the month in which the application is made, or

(ii) on estimated income for the entire year for which the application is submitted; and

(C) require attachment of such documentation as deemed necessary by the Secretary in order to ensure eligibility for assistance.

(d) EFFECTIVENESS OF ELIGIBILITY.—A determination by a State that an individual is a premium subsidy eligible individual or an individual eligible for cost-sharing assistance shall be effective for the calendar year for which such determination is made unless a revised application submitted under subsection (b)(4) indicates that an individual is no longer eligible for assistance.

(e) PENALTIES FOR MATERIAL MISREPRESENTATIONS.—

(1) IN GENERAL.—Any individual who knowingly makes a material misrepresentation of information in an application for assistance under this subtitle shall be liable to the Federal Government for the amount any assistance received by individual on the basis of a misrepresentation and interest on such amount at a rate specified by the Secretary, and, shall, in addition, be liable to the Federal Government for $2,000 or, if greater, 3 times the amount any assistance received by individual on the basis of a misrepresentation.

(2) COLLECTION OF PENALTY AMOUNTS.—A State which receives an application for assistance with respect to which a material misrepresentation has been made shall collect the penalty amount required under paragraph (1) and submit such amount to the Secretary in a timely manner.

SEC. 6005. END-OF-YEAR RECONCILIATION FOR PREMIUM ASSISTANCE.

(a) IN GENERAL.—

(1) REQUIREMENT TO FILE STATEMENT.—An individual who received premium assistance under this subtitle from a State for any month in a calendar year shall file with the State an income reconciliation statement to verify the individual's family income for the year. Such a statement shall be filed at such time, and contain such information, as the State may specify in accordance with regulations promulgated by the Secretary.

(2) NOTICE OF REQUIREMENT.—A State shall provide a written notice of the requirement under paragraph (1) at the end of the year to an individual who received premium assistance under this subtitle from such State in any month during the year.

(b) RECONCILIATION OF PREMIUM ASSISTANCE BASED ON ACTUAL INCOME.—

(1) IN GENERAL.—Based on and using the income reported in the reconciliation statement filed under subsection (a) with respect to an individual, the State shall compute the amount of premium assistance that should have been provided under this subtitle with respect to the individual for the year involved.

(2) OVERPAYMENT OF ASSISTANCE.—If the total amount of the premium assistance provided was greater than the amount computed under paragraph (1), the individual is liable to the State to pay an amount equal to the amount of the excess payment. Any amount collected by a State under this paragraph shall be submitted to the Secretary in a timely manner.

(3) Underpayment of assistance.—If the total amount of the premium assistance provided was less than the amount computed under paragraph (1), the State shall pay to the individual an amount equal to the amount of the deficit.

(4) State option.—A State may, in accordance with regulations promulgated by the Secretary, establish a procedure under which any overpayments or underpayments of premium assistance determined under paragraphs (2) and (3) with respect to an individual for a year may be collected or paid, as appropriate, through adjustments to the premium assistance furnished to such individual in the succeeding year.

(c) Verification.—Each State may use such information as it has available to verify income of individuals with applications filed under this subtitle, including return information disclosed to the State for such purpose under section 6103(l)(15) of the Internal Revenue Code of 1986.

(d) Penalties for Failure to File.—In the case of an individual who is required to file a statement under this section in a year who fails to file such a statement, the entire amount of the premium assistance provided in such year shall be considered an excess amount under subsection (b)(2) and such individual shall not be eligible for premium assistance under this subtitle until such statement is filed. A State, using rules established by the Secretary, shall waive the application of this subsection if the individual establishes, to the satisfaction of the State under such rules, good cause for the failure to file the statement on a timely basis.

(e) Penalties for False Information.—Any individual who provides false information in a statement filed under subsection (a) is subject to the same penalties as are provided under section 6004(e) for a misrepresentation of material fact described in such section.

SEC. 6006. ENROLLMENT OUTREACH.

(a) In General.—The Secretary shall promulgate regulations under which each State operating a program for premium assistance under this subtitle shall have in effect an enrollment outreach system under which individuals may be determined eligible for such assistance by health care providers who furnish services to such individuals.

(b) Specifications for Regulations.—The regulations promulgated by the Secretary under subsection (a) shall include the following requirements:

(1) Health care providers.—Each State shall permit only the classes or categories of health care providers determined appropriate by the Secretary (referred to in this subsection as "eligible health care providers") to participate in an enrollment outreach system established by the State.

(2) Application for assistance.—Each State shall develop and make available to eligible health care providers in the State an enrollment package for distribution to potentially eligible individuals which includes a simple form for individuals who receive services from such providers to apply for premium assistance. Such form shall—

(A) permit an individual completing the form to make a declaration that the individual is eligible for a full subsidy under section 6002; and

(B) permit an individual to enroll in a community-rated certified standard health plan offered in the community rating area in which the individual resides.

(3) Submission of completed application.—An individual who receives an enrollment application form from an eligible health care provider may complete the form and submit it to the individual's provider or the State agency operating the program for premium assistance under this subtitle. If a health care provider receives an application under this section the provider shall submit the application to the State agency administering the premium assistance program under this subtitle within a period of time determined appropriate by the Secretary in regulations.

(4) Selection of health plan.—An individual may select a community-rated certified standard health plan with which to enroll on the date the individual submits an application form under this section or the individual may make such selection at a later date determined appropriate by the Secretary in regulations. If an individual fails to select a health plan with which to enroll by the date determined appropriate by the Secretary, the State agency shall select such a plan for the individual.

(5) Effective date of enrollment.—An individual who is enrolled in a community-rated certified standard health plan in accordance with the enrollment eligibility system established under this section shall be an enrollee of the plan as of the date the individual submits an application to the State agency or a health care provider.

(6) Period of eligibility.—An individual who submits an application to a health care provider under an enrollment outreach system under this section shall be eligible for premium assistance under this subtitle for the period beginning on the date such application is submitted and ending 60 days after such date.

(7) No State responsibility for administrative errors.—Section 6002(c)(3) shall not apply to any eligibility determinations made under this section.

(8) No reconciliation required.—The reconciliation provisions of section 6005 shall not apply to any premium assistance paid on behalf of an individual during a period of eligibility for such assistance under this section.

(9) Requirement on states.—During a period of eligibility for premium assistance under this section, an individual shall be given an opportunity by a State to apply for continuing eligibility for premium assistance under this subtitle.

SEC. 6007. PAYMENTS TO STATES.

(a) In General.—

(1) Payments from the Secretary.—A State operating a program for furnishing premium assistance under this subtitle shall be entitled to receive payments from the Secretary in an amount equal to the premium assistance paid on behalf of individuals eligible for such assistance under this subtitle. Such payments shall be made at such time and in such form as provided in regulations promulgated by the Secretary.

(2) State entitlement.—This subsection constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide payments to States operating programs under this subtitle in accordance with this section.

(b) State Assessments for Administration Costs.—A State operating a program for furnishing premium and cost-sharing assistance under this subtitle may impose a premium assessment on the insured health plans offered in the State in an amount not to exceed one percent of the amount of the premium. Amounts collected pursuant to this subsection may only be used to cover the administrative costs of the State in operating such program.

(c) Audits.—The Secretary shall conduct regular audits of the activities under the State programs conducted under this subtitle.

SEC. 6008. DEFINITIONS AND DETERMINATIONS OF INCOME.

For purposes of this subtitle:

(1) Certified standard health plan.—The term "certified standard health plan" means a certified standard health plan (as defined in section 1011(2)(A)) providing the standard benefits package as described in section 1201(a).

(2) Child.—The term "child" means an individual who is under 19 years of age.

(3) Determinations of income.—

(A) Family income.—The term "family income" means, with respect to an individual who—

"(i) is not a dependent (as defined in subparagraph (B)) of another individual, the sum of the modified adjusted gross incomes (as defined in subparagraph (D)) for the individual, the individual's spouse, and children who are dependents of the individual; or

(ii) is a dependent of another individual, the sum of the modified adjusted gross incomes for the other individual, the other individual's spouse, and children who are dependents of the other individual.

(B) Dependent.—The term "dependent" shall have the meaning given such term under section 152 of the Internal Revenue Code of 1986.

(C) Special rule for foster children.—For purposes of subparagraph (A), a child who is placed in foster care by a State agency shall not be considered a dependent of another individual.

(D) Modified adjusted gross income.—The term "modified adjusted gross income" means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

(ii) increased by—

(I) the amount of interest received or accrued by the individual during the taxable year which is exempt from tax, and

(II) the amount of the social security benefits (as defined in section 86(d) of such Code) received during the taxable year to the extent not included in gross income under section 86 of such Code.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

(E) Special rule for individuals temporarily unemployed.—

(i) In general.—An individual who becomes unemployed (as described in clause (vi)) is eligible for enhanced income protection in accordance with this subparagraph.

(ii) Enhanced income protection described.—For purposes of determining eligibility for premium assistance under section 6002(a)(2)(A) and the subsidy percentage under section 6002(b)(3)(A) for a calendar year for an individual who becomes unemployed, such individual's spouse, and children who are dependents of such individual, the family income for such individuals determined under subparagraph (A) shall be reduced—

(I) for each month during the year before and after the period of unemployment (as defined in clause (iii)), by an amount equal to the lesser of the gross wages of the individual for the month or 1/12th of the amount equal to 75 percent of the poverty line for an individual; and

(II) for each month during the period of unemployment, by an amount equal to any unemployment compensation under an unemployment compensation law of a State or of the United States received by or on behalf of the unemployed individual.

(iii) PERIOD OF UNEMPLOYMENT.—For purposes of this subparagraph, with respect to an individual who becomes unemployed, the "period of unemployment" is the lesser of—

(I) the period beginning on the date the individual becomes unemployed and ending on the date the individual becomes reemployed; or

(II) 6 months.

(iv) SPECIAL RULE.—This subparagraph shall not apply if an employer contribution of at least 80 percent of the premium under a certified standard health plan is available to the unemployed individual through an employer of a member of the individual's family.

(v) APPLICATION OF RECONCILIATION.—The provisions of section 6005 regarding end-of-year reconciliation for premium assistance shall apply to any premium assistance received by an individual by reason of the application of this subparagraph.

(vi) WHEN INDIVIDUAL BECOMES UNEMPLOYED.—For purposes of this subparagraph, an individual becomes unemployed when the individual is involuntarily terminated from employment held for at least 6 months.

(F) RULES RELATING TO DISREGARD OF CERTAIN INCOME.—The Secretary may promulgate rules under which spousal income may be disregarded in instances where a spouse is not part of a family unit.

(4) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means an individual who is residing in the United States and who is—

(i) a citizen or national of the United States; or

(ii) an alien permanently residing in the United States under color of law (as defined in subparagraph (C)).

(B) EXCLUSION.—The term "eligible individual" shall not include an individual who is an inmate of a public institution (except as a patient of a medical institution).

(C) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—The term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

(i) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(ii) An alien who is granted asylum under section 208 of such Act.

(iii) An alien whose deportation is withheld under section 243(h) of such Act.

(iv) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(v) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

(vi) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that—

(A) in the case of a family of less than five individuals, is applicable to a family of the size involved; and

(B) in the case of a family of more than four individuals, is applicable to a family of four persons.

(6) PREGNANT WOMAN.—

(A) IN GENERAL.—The term "pregnant woman" includes a woman deemed to be a pregnant woman under subparagraph (B).

(B) PERIOD AFTER TERMINATION OF PREGNANCY.—For purposes of this subtitle, a woman shall be deemed to be a pregnant woman during the period beginning on the date of the termination of the pregnancy and ending on the first day of the first month that begins more than 90 days after such date.

SEC. 6009. COORDINATION WITH PREMIUM FINANCING PROVISIONS.

During any period during which the provisions subtitle B of title X apply to a State—

(1) the provisions of subparagraphs (B) and (C) of section 6002(a)(2) (and any provision relating to such provisions) shall not apply to such State; and

(2) the provisions of subparagraph (E) of section 6008(3) shall not apply to an individual whose spouse is employed on a full-time basis.

Subtitle B—Employer Subsidies

SEC. 6101. PURPOSE.

It is the purpose of this subtitle to provide subsidies to eligible employers to assist such employers in providing, or expanding the provision of, health care coverage for the employees of such employers.

SEC. 6102. ELIGIBLE EMPLOYERS.

(a) IN GENERAL.—To be eligible for a subsidy under this subtitle an employer shall—

(1) comply with the requirements of part 1 of subtitle D of title I;

(2) contribute to the cost of health care coverage for all employees of the same class (limited to full- or part-time) employed by the employer;

(3) contribute not less than 50 percent of the cost of health care coverage for each class of enrollment for each employee so covered;

(4) prepare and submit to the Secretary of Labor an application, at such time, in such manner and containing such information as the Secretary may require.

(b) APPLICATION OF REQUIREMENTS.—

(1) IN GENERAL.—The requirements of paragraphs (2) and (3) of subsection (a) shall only apply with respect to employees of the same class (limited to full- or part-time) described in paragraph (2).

(2) COVERAGE OF EMPLOYEES.—The employees described in this paragraph are those employees—

(A) for which the employer is contributing to the costs of health care coverage; and

(B) for which the employer did not make such a contribution prior to the date of enactment of this Act.

(c) SOLE PROPRIETORSHIPS.—A sole proprietorship with not less than 3 full-time employees (including the sole proprietor) shall be eligible for a subsidy under this subtitle if such proprietorship reports the payment of wages, in the year prior to the year for which the subsidy is applied for, in an amount required under regulations promulgated by the Secretary of Labor.

(d) INELIGIBILITY.—

(1) SELF-EMPLOYED.—A self-employed individual (as such term is defined in section 1011(c)) shall not be eligible for a subsidy under this subtitle.

(2) EMPLOYEE LEASING FIRMS.—An employer that is an employee leasing firm as described in section 1011(5)(E)(ii) shall not be eligible for a subsidy under this subtitle.

(3) STATE OR LOCAL GOVERNMENTS.—An employer that is a State or local government shall not be eligible for a subsidy under this section.

SEC. 6103. EMPLOYER CERTIFICATION.

(a) REQUIREMENT.—An employer that submits an application under section 6102(a)(4) shall certify that such employer, prior to the date of enactment of this Act, did not contribute to the costs of health care coverage for the employees for which the employer is applying for the subsidy.

(b) CONTRIBUTION LIMIT.—For purposes of subsection (a), an employer shall be treated as having contributed to the health care coverage of an employee if the amount of such contribution is $500 or more (on an annualized basis).

(c) UNION SICKNESS FUNDS.—For purposes of this subtitle, employers that contribute to union sickness funds on behalf of their employees shall be deemed to have contributed to the costs of health care coverage for the employees of such employer.

(d) REGULATIONS.—For purposes of this section, the Secretary of Labor shall promulgate regulations to enable an employer to determine whether and to what extent an employer contributed to the costs of an employee's health care coverage prior to the date of enactment of this Act. An employer shall utilize such regulations in submitting a certification under this section.

SEC. 6104. AMOUNT OF SUBSIDY.

(a) IN GENERAL.—With respect to an employee for which a subsidy application submitted by an employer has been approved by the Secretary of Labor under this subtitle, the employer shall receive a subsidy (to be paid each year during the 5-year period beginning with the first calendar year after the date of enactment of this Act) in an amount that equals (but not less than zero)—

(1) with respect to the first 3 calendar years after the date of enactment of this Act—

(A)(i) in the case of a community-rated employer, 50 percent of the least of—

(I) the weighted average premium rate (as defined in section 6002(b)(1)(C)) for the purchasing cooperative through which the employer has contributed to the employee's health care coverage (for the year involved);

(II) the community-rate of the standard health plan under which the employee received coverage (for the year involved); or

(III) the weighted average premium rate of the community rating area in which the employee resides; or

(ii) in the case of an experience-rated employer, 50 percent of the lesser of—

(I) the weighted average premium rate of the community rating area in which the employee resides; or

(II) the premium rate for the experience-rated plan under which the employee received coverage (for the year involved); less

(B) 8 percent of the wages of the employee (for the year involved);

(2) with respect to the fourth calendar year after the date of enactment of this Act—

(A) 37.5 percent of the lesser of the amounts referred to in subparagraph (A) of paragraph (1) (for the type of employer and the year involved); less

(B) 8 percent of the wages of the employee (for the year involved); and

(3) with respect to the fifth calendar year after the date of enactment of this Act—

(A) 25 percent of the lesser of the amounts referred to in subparagraph (A) of paragraph (1) (for the type of employer and the year involved); less

(B) 8 percent of the wages of the employee (for the year involved).

(b) LIMITATIONS.—

(1) PART-TIME EMPLOYEES.—With respect to subsidies for health care coverage for part-time employee, the Secretary of Labor shall develop a formula for the pro-rata reduction in such subsidies based on the formula described in subsection (a) and the hours of work performed by the employee.

(2) SINGLE SUBSIDY.—An employer shall not be eligible to receive more than one subsidy under this section. The Secretary of Labor shall promulgate regulations to ensure that no employer will receive a second or subsequent subsidy under this subtitle regardless of whether such employer had previously received the previous subsidy as an employer in a capacity different from that of the employer's present capacity.

SEC. 6105. DEFINITION.

For purposes of this Act, an employee who is employed by an employer—

(1) for at least 120 hours in a month shall be deemed to be employed on a full-time basis with respect to that month, or

(2) for at least 40 hours, but less than 120 hours, in a month shall be deemed to be employed on a part-time basis.

TITLE VII—REVENUE PROVISIONS

SEC. 7000. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Financing Provisions

PART 1—INCREASE IN TAX ON TOBACCO PRODUCTS

SEC. 7101. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5701 is amended by striking paragraph (1) and all that follows and inserting the following:

"(1) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, the amount per thousand determined under the following table:

"In the case of cigarettes removed—	The tax per thousand is—
After July 31, 1995, and before January 1, 1997	$19.50
During 1997	$24.50
During 1998	$29.50
After December 31, 1998	$34.50.

"(2) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, removed at any time, an amount per thousand equal to 2.1 times the tax per thousand imposed by paragraph (1) on cigarettes removed at such time; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette."

(b) CIGARS.—Paragraphs (1) and (2) of section 5701(a) are amended to read as follows:

"(1) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, the amount per thousand determined under the following table:

"In the case of cigars removed—	The tax per thousand is—
After July 31, 1995, and before January 1, 1997	$1.83
During 1997	$2.30
During 1998	$2.77
After December 31, 1998	$3.23.

"(2) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, the applicable percentage (determined under the following table) of the price for which sold but not more than the applicable limitation (determined under such table) per thousand:

"In the case of cigars removed—	The applicable percentage is—	The limitation is—
After July 31, 1995 and before January 1, 1997	21 percent	$48.75
During 1997	26 percent	$61.26
During 1998	31 percent	$73.74
After December 31, 1998	37 percent	$86.25."

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended—

(1) by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of cigarette papers removed—	The tax for each 50 papers is—
After July 31, 1995 and before January 1, 1997	1.22 cents
During 1997	1.53 cents
During 1998	1.84 cents
After December 31, 1998	2.16 cents."

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended—

(1) by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of cigarette tubes removed—	The tax for each 50 tubes is—
After July 31, 1995 and before January 1, 1997	2.44 cents
During 1997	3.06 cents
During 1998	3.69 cents
After December 31, 1998	4.31 cents."

(e) SNUFF.—Paragraph (1) of section 5701(e) is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of snuff removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	58.5 cents
During 1997	73.5 cents
During 1998	88.5 cents
After December 31, 1998	$1.03½."

(f) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) is amended—

(1) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of chewing tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	19.5 cents
During 1997	24.5 cents
During 1998	29.5 cents
After December 31, 1998	34.5 cents."

(g) PIPE TOBACCO.—Subsection (f) of section 5701 is amended—

(1) by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "the amount determined in accordance with the following table", and

(2) by adding at the end the following:

"In the case of pipe tobacco removed—	The tax per pound is—
After July 31, 1995 and before January 1, 1997	$1.10
During 1997	$1.38
During 1998	$1.66
After December 31, 1998	$1.94."

(h) APPLICATION OF TAX INCREASE TO PUERTO RICO.—Section 5701 is amended by adding at the end the following new subsection:

"(h) APPLICATION OF TAXES TO PUERTO RICO.—Notwithstanding subsections (b) and (c) of section 7653 and any other provision of law—

"(1) IN GENERAL.—On tobacco products and cigarette papers and tubes, manufactured in or imported into the Commonwealth of Puerto Rico, there is hereby imposed a tax at the rate equal to the excess of—

"(A) the rate of tax applicable under this section to like articles manufactured in the United States, over

"(B) the rate referred to in subparagraph (A) as in effect on the day before the date of the enactment of the Health Security Act.

"(2) SHIPMENTS TO PUERTO RICO FROM THE UNITED STATES.—Only the rates of tax in effect on the day before the date of the enactment of the Health Security Act shall be taken into account in determining the amount of any exemption from, or credit or drawback of, any tax imposed by this section on any article shipped to the Commonwealth of Puerto Rico from the United States.

"(3) SHIPMENTS FROM PUERTO RICO TO THE UNITED STATES.—The rates of tax taken into account under section 7652(a) with respect to tobacco products and cigarette papers and tubes coming into the United States from the Commonwealth of Puerto Rico shall be the rates of tax in effect on the day before the date of the enactment of the Health Security Act.

"(4) DISPOSITION OF REVENUES.—The provisions of section 7652(a)(3) shall not apply to any tax imposed by reason of this subsection."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States or the Commonwealth of Puerto Rico which are removed before any tax-increase date and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) on each tax-increase date an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on such date for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any article on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) on any tax-increase date shall be paid on or before the date which is 3 months after such tax-increase date.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax-increase date shall be subject to the taxes imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means August 1, 1995, January 1, 1997, January 1, 1998, and January 1, 1999.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, as amended by this Act.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 7102. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.

(a) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(1) Subsection (b) of section 5704 is amended by adding at the end the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe."

(2) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States."

(3) Subsection (a) of section 5761 is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(4) Subsection (d) of section 5761, as redesignated by paragraph (2), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(5)(A) Subpart F of chapter 52 is amended by adding at the end the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

"(b) CROSS REFERENCE.—

"For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c)."

(B) The table of sections for subpart F of chapter 52 is amended by adding at the end the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products."

(b) IMPORTERS REQUIRED TO BE QUALIFIED.—

(1) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763(b) and (c) are each amended by inserting "or importer" after "manufacturer".

(2) The heading of subsection (b) of section 5763 is amended by inserting "QUALIFIED IMPORTERS," after "MANUFACTURERS,".

(3) The heading for subchapter B of chapter 52 is amended by inserting "**and Importers**" after "**Manufacturers**".

(4) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting "and importers" after "manufacturers".

(c) REPEAL OF TAX-EXEMPT SALES TO EMPLOYEES OF CIGARETTE MANUFACTURERS.—

(1) Subsection (a) of section 5704 is amended—

(A) by striking "EMPLOYEE USE OR" in the heading, and

(B) by striking "for use or consumption by employees or" in the text.

(2) Subsection (e) of section 5723 is amended by striking "for use or consumption by their employees, or for experimental purposes" and inserting "for experimental purposes".

(d) REPEAL OF TAX-EXEMPT SALES TO UNITED STATES.—Subsection (b) of section 5704 is amended by striking "and manufacturers may similarly remove such articles for use of the United States;".

(e) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(f) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting "under section 5704" after "internal revenue bond".

(g) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or".

(h) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—Section 7652 is amended by adding at the end the following new subsection:

"(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—For purposes of this section, with respect to taxes imposed under section 5701 or this section on any tobacco product or cigarette paper or tube, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the rate of tax under section 5701 in effect on the article on the day before the date of the enactment of the Health Security Act."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after December 31, 1994.

SEC. 7103. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax), as amended by section 7101, is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of the amount determined in accordance with the following table per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

"In the case of roll-your-own tobacco removed—	**The tax per pound is—**
After July 31, 1995 and before January 1, 1997	$1.10
During 1997	$1.38
During 1998	$1.66
After December 31, 1998	$1.94."

(b) Roll-Your-Own Tobacco.—Section 5702 (relating to definitions) is amended by adding at the end the following new subsection:

"(p) Roll-Your-Own Tobacco.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes."

(c) Technical Amendments.—

(1) Subsection (c) of section 5702 is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(2) Subsection (d) of section 5702 is amended—

(A) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(B) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(3) The chapter heading for chapter 52 is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

"Chapter 52. Tobacco products and cigarette papers and tubes."

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to roll-your-own tobacco removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after July 31, 1995.

(2) Transitional rule.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before August 1, 1995, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

PART 2—HEALTH RELATED ASSESSMENTS

SEC. 7111. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) General Rule.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter:

"CHAPTER 37—HEALTH RELATED ASSESSMENTS

"Subchapter A. Insured and self-insured health plans.

"Subchapter A—Insured and Self-Insured Health Plans

"Sec. 4501. Health insurance and health-related administrative services.

"Sec. 4502. Self-insured health plans.

"Sec. 4503. Definitions and special rules.

"SEC. 4501. HEALTH INSURANCE AND HEALTH-RELATED ADMINISTRATIVE SERVICES.

"(a) Imposition of Tax.—There is hereby imposed—

"(1) on each taxable health insurance policy, a tax equal to 1.75 percent of the premiums received under such policy, and

"(2) on each amount received for health-related administrative services, a tax equal to 1.75 percent of the amount so received.

"(b) Liability for Tax.—

"(1) Health insurance.—The tax imposed by subsection (a)(1) shall be paid by the issuer of the policy.

"(2) Health-related administrative services.—The tax imposed by subsection (a)(2) shall be paid by the person providing the health-related administrative services.

"(c) Taxable Health Insurance Policy.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, the term 'taxable health insurance policy' means any insurance policy providing accident or health insurance with respect to individuals residing in the United States.

"(2) Exemption of certain policies.—The term 'taxable health insurance policy' does not include any insurance policy if substantially all of the coverage provided under such policy relates to—

"(A) liabilities incurred under workers' compensation laws,

"(B) tort liabilities,

"(C) liabilities relating to ownership or use of property,

"(D) credit insurance,

"(E) coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury, or

"(F) such other similar liabilities as the Secretary may specify by regulations.

"(3) Special rule where policy provides other coverage.—In the case of any taxable health insurance policy under which amounts are payable other than for accident or health coverage, in determining the amount of the tax imposed by subsection (a)(1) on any premium paid under such policy, there shall be excluded the amount of the charge for the nonaccident or health coverage if—

"(A) the charge for such nonaccident or health coverage is either separately stated in the policy, or furnished to the policyholder in a separate statement, and

"(B) such charge is reasonable in relation to the total charges under the policy.

In any other case, the entire amount of the premium paid under such a policy shall be subject to tax under subsection (a)(1).

"(4) Treatment of prepaid health coverage arrangements.—

"(A) In general.—In the case of any arrangement described in subparagraph (B)—

"(i) such arrangement shall be treated as a taxable health insurance policy,

"(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a taxable health insurance policy, and

"(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

"(B) Description of arrangements.—An arrangement is described in this subparagraph if under such arrangement—

"(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and

"(ii) substantially all of the risks of the rates of utilization of services is assumed by such person or the provider of such services.

"(d) Health-Related Administrative Services.—For purposes of this section, the term 'health-related administrative services' means—

"(1) the processing of claims or performance of other administrative services in connection with accident or health coverage under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and

"(2) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan (as defined in section 4502(c)) established or maintained by a person other than the person performing the services.

For purposes of paragraph (1), rules similar to the rules of subsection (c)(3) shall apply.

"SEC. 4502. SELF-INSURED HEALTH PLANS.

"(a) Imposition of Tax.—In the case of any applicable self-insured health plan, there is hereby imposed a tax for each month equal to 1.75 percent of the sum of—

"(1) the accident or health coverage expenditures for such month under such plan, and

"(2) the direct administrative expenditures for such month under such plan.

"(b) Liability for Tax.—

"(1) In general.—The tax imposed by subsection (a) shall be paid by the plan sponsor.

"(2) Plan sponsor.—For purposes of paragraph (1), the term 'plan sponsor' means—

"(A) the employer in the case of a plan established or maintained by a single employer,

"(B) the employee organization in the case of a plan established or maintained by an employee organization, or

"(C) in the case of—

"(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

"(ii) a voluntary employees' beneficiary association under section 501(c)(9), or

"(iii) a plan described in subsection (c)(2)(F),

the association, committee, joint board of trustees, cooperative, or other similar group of representatives of the parties who establish or maintain the plan.

"(c) Applicable Self-Insured Health Plan.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if—

"(1) any portion of such coverage is provided other than through an insurance policy, and

"(2) such plan is established or maintained—

"(A) by one or more employers for the benefit of their employees or former employees,

"(B) by one or more employee organizations for the benefit of their members or former members,

"(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

"(D) by a voluntary employees' beneficiary association described in section 501(c)(9), "(E) by any organization described in section 501(c)(6), or

"(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement, a rural electric cooperative, or a rural telephone cooperative association, as such terms are defined in section 3(40) of the Employee Retirement Income Securities Act of 1974.

"(d) ACCIDENT OR HEALTH COVERAGE EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The accident or health coverage expenditures of any applicable self-insured health plan for any month are the aggregate expenditures paid in such month for accident or health coverage provided under such plan to the extent such expenditures are not subject to tax under section 4501.

"(2) TREATMENT OF REIMBURSEMENTS.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, reimbursements (by insurance or otherwise) received during such month shall be taken into account as a reduction in accident or health coverage expenditures.

"(3) CERTAIN EXPENDITURES DISREGARDED.—Paragraph (1) shall not apply to any expenditure for the acquisition or improvement of land or for the acquisition or improvement of any property to be used in connection with the provision of accident or health coverage which is subject to the allowance under section 167, except that, for purposes of paragraph (1), allowances under section 167 shall be considered as expenditures.

"(e) DIRECT ADMINISTRATIVE EXPENDITURES.—For purposes of this section, the term 'direct administrative expenditures' means the administrative expenditures under the plan to the extent such expenditures are not subject to tax under section 4501. In determining the amount of such expenditures, rules similar to the rules of subsection (d)(3) shall apply.

"SEC. 4503. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) ACCIDENT OR HEALTH COVERAGE.—The term 'accident or health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a taxable health insurance policy (as defined in section 4501(c)).

"(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

"(3) PREMIUM.—The term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating. Amounts returned where the amount is not fixed in the contract but depends on the experience of the insurer or the discretion of management shall not be included in return premiums.

"(4) UNITED STATES.—The term 'United States' includes any possession of the United States.

"(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—For purposes of this subchapter—

"(A) the term 'person' includes any governmental entity, and

"(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the taxes imposed by this subchapter except as provided in paragraph (2).

"(2) EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program—

"(A) no tax shall be imposed under section 4501 on any premium received pursuant to such program or on any amount received for health-related administrative services pursuant to such program, and

"(B) no tax shall be imposed under section 4502 on any expenditures pursuant to such program.

"(3) EXEMPT GOVERNMENTAL PROGRAM.—For purposes of this subchapter, the term 'exempt governmental program' means—

"(A) the insurance programs established by parts A and B of title XVIII of the Social Security Act,

"(B) the medical assistance program established by title XIX of the Social Security Act,

"(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

"(i) members of the Armed Forces of the United States, or

"(ii) veterans, and

"(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

"(c) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 36 the following new item:

"CHAPTER 37. Health related assessments."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to premiums received, and expenses incurred, with respect to coverage for periods after December 31, 1995.

SEC. 7112. HIGH COST HEALTH PLAN ASSESSMENT.

(a) IN GENERAL.—Subchapter A of chapter 37 (relating to assessments on insured and self-insured health benefits), as added by section 7111, is amended by adding at the end the following new part:

"PART II—HIGH COST HEALTH PLANS

"Subpart A. Community-rated plans.

"Subpart B. Experience-rated plans.

"Subpart C. Definitions and special rules.

"Subpart A—Community-Rated Plans

"Sec. 4511. Community-rated plans.

"Sec. 4512. Reference premiums.

"SEC. 4511. COMMUNITY-RATED PLANS.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—If a community-rated certified standard health plan is a high cost plan for any coverage period beginning after December 31, 1996, there is hereby imposed a tax equal to 25 percent of the excess premiums of the plan for the period.

"(2) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the issuer of the high cost plan.

"(b) HIGH COST PLAN.—For purposes of this section—

"(1) IN GENERAL.—A plan is a high cost plan for any coverage period if—

"(A) it is operating within a noncompetitive community rating area, and

"(B) it has excess premiums for the period.

"(2) NONCOMPETITIVE COMMUNITY RATING AREA.—A community rating area is a noncompetitive community rating area for any coverage period if, for the preceding coverage period—

"(A) the average premium for community-rated certified standard health plans in the area, weighted to reflect the total enrollment of community-rated individuals among such plans, exceeded

"(B) the weighted average reference premium for all such plans.

The determination under this paragraph shall be made on the basis of enrollment during the annual open enrollment period for such preceding coverage period and shall take into any applicable plan marketing fees described in section 1112(f) of the Health Security Act and purchasing cooperative membership fees described in section 1324 of such Act.

"(c) EXCESS PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess premiums' means, with respect to a certified standard health plan, the excess (if any) of—

"(A) the premiums received under the plan during the coverage period, over

"(B) the sum of the amounts determined under paragraph (2) with respect to each class of enrollment.

"(2) EXCESS PREMIUM BASELINE.—

"(A) IN GENERAL.—The amount determined under this paragraph for any class of enrollment for any coverage period is an amount equal to the product of the reference premium for such class and the number of primary insureds in such class for the period.

"(B) PROPORTIONATE REDUCTION OF REFERENCE PREMIUM.—The reference premium applicable under subparagraph (A) to an individual who was a primary insured for only a portion of the coverage period shall be proportionately reduced to reflect the period the individual was not a primary insured.

"(3) DISREGARD OF AGE ADJUSTMENT.—The amount determined under paragraph (1)(A) shall be adjusted to reflect the premiums which would have been received if no age adjustment were permitted under section 1116 of the Health Security Act.

"(4) REDUCTION FOR TAXES.—The amount determined under paragraph (1)(A) shall be reduced by the amount of the tax imposed by this section included in determining the amount of the premiums.

"(d) COVERAGE PERIOD.—For purposes of this subpart, the term 'coverage period' means, with respect to any community rating area, the 12-month period for which an individual is covered under a standard health plan if the individual enrolls in the plan during the annual open enrollment period for the area under section 1503 of the Health Security Act.

"(e) PLANS COVERING MORE THAN ONE AREA.—For purposes of this subpart, if a community-rated plan covers individuals residing in more than 1 community rating area, the plan shall be treated as a separate plan with respect to each such area.

"SEC. 4512. REFERENCE PREMIUMS.

"(a) ESTABLISHMENT OF REFERENCE PREMIUMS.—For purposes of this subpart—

"(1) IN GENERAL.—The Secretary shall, in consultation with the Secretary of Health and Human Services, establish for each coverage period a reference premium for each class of enrollment for community-rated plans within a community rating area. The Secretary shall publish such reference premiums within a reasonable period of time before the annual open enrollment period for the coverage period.

"(2) METHOD OF DETERMINING REFERENCE PREMIUM.—Each reference premium for a class of enrollment for any coverage period shall be the reference premium in effect for such class for the preceding coverage period—

"(A) increased by the target growth rate for the coverage period as provided under subsection (b)(1), and

"(B) adjusted to reflect—

"(i) material changes in the characteristics of community-rated individuals as provided under subsection (b)(2), and

"(ii) changes in the actuarial value of the standard benefits package as provided under subsection (b)(3).

"(b) ANNUAL ADJUSTMENTS TO REFERENCE PREMIUMS.—For purposes of subsection (a)(2)—

"(1) TARGET GROWTH RATE.—The target growth rate for any coverage period is the percentage increase in the Consumer Price Index (as defined in section 1(f)(4)) which the Secretary estimates will occur during the coverage period—

"(A) increased by 2 percentage points (3 and 2.5 percentage points in the case of coverage periods beginning in 1997 and 1998, respectively), and

"(B) increased or decreased by the amount the estimate under this paragraph was incorrect for the preceding coverage period.

"(2) MATERIAL CHANGES.—

"(A) IN GENERAL.—The Secretary may, in consultation with the Secretary of Health and Human Services and pursuant to such method as the Secretary prescribes, adjust the reference premium to reflect—

"(i) changes in the demographic characteristics (including factors such as age, gender, and socioeconomic status) of community-rated individuals in the community rating area which are materially different when compared to the average changes in such characteristics in the United States, and

"(ii) extraordinary changes in the health status of such individuals (as so compared).

"(B) EFFECT ON WEIGHTED AVERAGE.—Any adjustments under subparagraph (A) for any coverage period shall not result in a change in the weighted average of such factors for all community rating areas in the United States.

"(3) CHANGES IN BENEFIT PACKAGE.—If the actuarial value of the standard benefits package is changed pursuant to subtitle C of title I of the Health Security Act, the Secretary shall adjust the reference premiums appropriately to reflect such change.

"(c) COMPUTATION OF REFERENCE PREMIUM FOR 1996.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, shall compute the reference premium for each class of enrollment for 1996. Each such reference premium shall be the reference premium which is adjusted under subsection (a)(2) in determining the reference premium for coverage periods beginning in 1997.

"(2) METHOD OF DETERMINING REFERENCE PREMIUMS.—Each reference premium under paragraph (1) shall be equal to the national average per capita current coverage health expenditures for 1994 (determined under subsection (d))—

"(A) increased as provided in paragraph (3),

"(B) adjusted to reflect the differences in the community rating area as provided in paragraph (4), and

"(C) modified to reflect the class of enrollment for which it is being determined in the same manner as premiums are modified under section 1116 of the Health Security Act.

"(3) UPDATING FOR 1995 AND 1996.—The Secretary shall update the national average per capita current coverage health expenditures for 1994 to reflect the annual percentage increases for calendar years 1995 and 1996 in private sector health care spending for items and services included in the standard benefits package. Such increase shall not exceed the current projected increase in per capita private health insurance premiums for such years contained in the estimate of national health insurance expenditures published by the Congressional Budget Office in the fall of 1993.

"(4) AREA ADJUSTMENTS.—

"(A) IN GENERAL.—The Secretary shall, using information of the type described in subparagraph (B), establish an adjustment for each community rating area which takes into account the differences among community rating areas, including variations in health care expenditures, in rates of uninsurance and underinsurance, and in the proportion of expenditures for services provided by academic health centers.

"(B) TYPE OF INFORMATION.—The type of information described in this subparagraph is—

"(i) information on variations in premiums across States and across community rating areas within a State (based on surveys and other data);

"(ii) information on variations in per capita health spending by State, as measured by the Secretary;

"(iii) information on variations across States in per capita spending under the medicare program and in such spending among community rating areas within a State under such program; and

"(iv) area rating factors commonly used by actuaries.

"(C) CONSULTATION PROCESS.—The Secretary shall, in cooperation with the Secretary of Health and Human Services, consult with representatives of States and community rating areas before establishing the adjustment under this subsection.

"(d) DETERMINATION OF NATIONAL AVERAGE PER CAPITA CURRENT COVERAGE HEALTH EXPENDITURES.—

"(1) IN GENERAL.—The national average per capita current coverage health expenditures are equal to—

"(A) the total amount of covered current health care expenditures described in paragraph (2), divided by

"(B) the estimated population in the United States of community-rated individuals as of 1994 (as determined under paragraph (4)) for whom such expenditures were determined.

The population under subparagraph (B) shall not include SSI recipients.

"(2) COVERED CURRENT HEALTH CARE EXPENDITURES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'covered current health care expenditures' means the amount of total payments made in the United States during 1994 (other than amounts for cost sharing) for items and services included in the standard benefits package.

"(B) REMOVAL OF CERTAIN EXPENDITURES NOT TO BE COVERED.—The amount determined under subparagraph (A) shall be decreased by the proportion of such amount that is attributable to any of the following:

"(i) Medicare beneficiaries.

"(ii) SSI recipients.

"(iii) Expenditures which are paid for through workers' compensation or automobile or other liability insurance.

"(iv) Any other expenditures by parties (including the Federal Government) that the Secretary estimates will not be payable by community-rated plans for coverage under the standard benefits package.

"(C) ADDITION OF PROJECTED EXPENDITURES FOR UNINSURED AND UNDERINSURED INDIVIDUALS.—The amount determined under subparagraph (A) (as adjusted under subparagraph (B)) shall be increased to take into account increased utilization of, and expenditures for, items and services covered under the standard benefits package likely to occur, as a result of coverage under a community-rated plan of individuals who, as of 1994, were uninsured or underinsured with respect to the standard benefits package. In making such determination, such expenditures shall be based on the estimated average cost for such services in 1994 (and not on private payment rates established for such services). In making such determination, the estimated amount of uncompensated care in 1994 shall be reduced to reflect the number and characteristics of the currently uninsured who will become insured by reason of the Health Security Act and will not include adjustments to offset payments below costs by public programs.

"(D) ADDITION OF HEALTH PLAN ADMINISTRATION COSTS.—The amount determined under subparagraph (A) (as adjusted under the preceding subparagraphs) shall be increased by an estimated percentage (determined by the Secretary, but no more than 15 percent) that reflects the proportion of premiums that are required for administration and for State premium taxes (which taxes shall be limited to such amounts in 1994 as are attributable to the health benefits to be included in the standard benefits package).

"(E) DECREASE FOR COST SHARING.—The amount determined under subparagraph (A) (as adjusted under the preceding subparagraphs) shall be decreased by a percentage that reflects (i) the estimated average percentage of total amounts payable for items and services covered under the standard benefits package that will be payments in the form of cost sharing under a certified standard benefit plan with a high cost-sharing option, and (ii) the percentage reduction in utilization estimated to result from the application of such cost sharing.

"(3) SPECIAL RULES.—

"(A) BENEFITS USED.—The determinations under this subsection shall be based on the standard benefits package as in effect in 1996.

"(B) ASSUMING NO CHANGE IN EXPENDITURE PATTERN.—The determination under paragraph (2) shall be made without regard to any change in the pattern of expenditures that may result from the enrollment of SSI recipients in community-rated plans.

"(4) ELIGIBLE INDIVIDUALS.—The determination of individuals who are community-rated individuals under this subsection shall be made as though the Health Security Act was fully in effect in each State as of 1994.

"(e) TREATMENT OF CERTAIN STATES.—For purposes of this section—

"(1) NONPARTICIPATING STATES.—In the case of a State that is not a participating State or otherwise has not established community rating areas, the entire State shall be treated as a single community rating area.

"(2) CHANGES IN BOUNDARIES.—In the case of a State that changes the boundaries of its community rating areas, the Secretary shall provide a method for computing reference premiums for each area affected by such change in a manner that—

"(A) reflects the factors taken into account in establishing the adjustment factors under this section, and

"(B) results in the weighted average of the newly computed reference premiums for the areas affected by the change being equal to the weighted average of the reference premiums for the areas as previously established.

"Subpart B—Experience-Rated Plans

"Sec. 4515. Experience-rated plans.

"SEC. 4515. EXPERIENCE-RATED PLANS.

"(a) Imposition of Tax.—

"(1) In general.—In the case of any calendar year beginning after December 31, 1999, there is hereby imposed a tax equal to 25 percent of the excess premium equivalents of an experience-rated standard health plan.

"(2) Liability for tax.—The tax imposed by this section shall be paid by the plan sponsor.

"(b) Excess Premium Equivalents.—For purposes of this section—

"(1) In general.—The term 'excess premium equivalents' means the excess (if any) of—

"(A) the premium equivalents of the plan for the calendar year, over

"(B) the product of the reference premium and the number of primary insureds covered by the plan during the calendar year.

"(2) Proportionate reduction in reference premium.—The reference premium applicable under paragraph (1)(B) to a primary insured covered under the plan for only a portion of the calendar year shall be proportionately reduced to reflect the period the individual was not a primary insured.

"(c) Reference Premium.—For purposes of this section—

"(1) In general.—The reference premium for any plan for any calendar year shall be the reference premium in effect for the preceding calendar year—

"(A) increased by the target growth rate for the calendar year as provided under paragraph (2), and

"(B) adjusted to reflect—

"(i) material changes in the characteristics of individuals covered by the plan as provided under paragraph (3), and

"(ii) changes in the actuarial value of the standard benefits package as provided under paragraph (4).

"(2) Target growth rate.—The target growth rate for any calendar year is the percentage increase in the Consumer Price Index (as defined in section 1(f)(4)) which the Secretary estimates will occur during the calendar year—

"(A) increased by 2 percentage points, and

"(B) increased or decreased by the amount the estimate under this paragraph was incorrect for the preceding calendar year.

"(3) Material changes.—The Secretary may, in consultation with the Secretary of Health and Human Services, establish such method as the Secretary determines appropriate for adjusting the reference premium for any plan to reflect—

"(A) changes in the demographic characteristics (including factors such as age, gender, socioeconomic status, and class of enrollment) of individuals in the plan which are materially different when compared to the average changes in such characteristics in the United States, and

"(B) extraordinary changes in the health status of such individuals (as so compared).

"(4) Changes in benefit package.—If the actuarial value of the standard benefits package is changed pursuant to subtitle C of title I of the Health Security Act, the Secretary shall adjust the reference premiums appropriately to reflect such change.

"(d) Reference Premium for 1999.—

"(1) In general.—The reference premium for calendar year 1999 shall be equal to the average of the per capita premium equivalents for calendar years 1997, 1998, and 1999. Such reference premium shall be the reference premium which is adjusted under subsection (c) for determining the reference premium for calendar year 2000.

"(2) Per capita premium equivalent.—

"(A) In general.—The per capita premium equivalent for any calendar year shall be equal to the premium equivalent for providing the standard benefits package to each primary insured, adjusted as provided under subparagraph (B).

"(B) Growth factors.—The amount determined under subparagraph (A)—

"(i) for calendar year 1997 shall be increased by the target growth rates for calendar years 1998 and 1999, and

"(ii) for calendar year 1998 shall be increased by the target growth rate for calendar year 1999.

For purposes of this subparagraph, the target growth rate shall be determined under subsection (c)(2), except that subsection (c)(2)(A) shall be applied for calendar year 1998 by substituting '2.5' for '2'.

"(e) Premium Equivalents.—For purposes of this section—

"(1) In general.—The term 'premium equivalents' means, with respect to any calendar year, the sum of—

"(A) expenditures described in subsections (d) and (e) of section 4502 with respect to coverage under the plan, and

"(B) in the case of any coverage provided through an insurance policy, premiums paid for such coverage.

"(2) Exclusion of nonstandard coverage.—The premium equivalents for any calendar year shall not include amounts with respect to—

"(A) any coverage other than coverage for the standard benefits package, or

"(B) any cost-sharing coverage.

"(3) Risk adjustment payments.—The premium equivalents for any calendar year shall include payments under any risk adjustment program established under title I of the Health Security Act.

"(4) Taxes disregarded.—The premium equivalents for any calendar year shall not include the amount of any tax imposed by this section.

"(f) Special Rules.—For purposes of this section—

"(1) Aggregation rules.—

"(A) Plans.—All plans maintained by the same plan sponsor shall be treated as 1 plan.

"(B) Sponsors.—All plan sponsors which are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as 1 plan sponsor.

"(2) Startup plans.—If a plan sponsor first begins operation of an experience-rated plan after 1997, the reference premium for the first calendar year for which the plan is in operation and to which this section applies shall, under regulations prescribed by the Secretary, be determined as if the reference premium for the preceding calendar year were equal to the average of the reference premiums for all community-rated plans for the preceding calendar year in the areas in which the plan is operating. The Secretary may, in consultation with the Secretary of Health and Human Services, provide a method for adjusting the reference premium determined under the preceding sentence in a manner similar to the manner under subsection (c)(3).

"(3) Acquisitions and dispositions.—The reference premium after an acquisition or disposition described in section 41(f)(3) involving the plan sponsor of an experience-rated plan shall be made pursuant to such regulations as the Secretary may prescribe.

"(4) Information.—The Secretary may require a plan sponsor of an experience-rated plan to adopt such conventions as are necessary in its accounting practices and financial records to assure that only costs related to the standard benefits package are taken into account in determining the premium equivalents with respect to the plan.

"Subpart C—Definitions and Special Rules

"Sec. 4518. Right of recovery.

"Sec. 4519. Definitions and special rules.

"SEC. 4518. RIGHT OF RECOVERY FROM PROVIDERS.

"(a) General Rule.—Each issuer or plan sponsor of a certified standard health plan shall be entitled to recover from the providers of items or services covered by the plan an amount equal to 50 percent of the amount of any tax imposed by this part on the issuer or sponsor.

"(b) Recovery.—For purposes of subsection (a)—

"(1) any amount recovered from any provider shall not exceed the provider's proportionate share of items or services provided under the plan for the period the tax was imposed, and

"(2) an issuer or plan sponsor may recover an amount from a provider through a reduction in payments under the plan, direct payments from the provider, or such other manner as may be provided under State law adopted pursuant to section 1510 of the Health Security Act.

"(c) Balance Billing.—For prohibition of balance billing of any amount recovered from a provider under this section, see section 1128(h)(3) of the Health Security Act.

"SEC. 4519. DEFINITIONS AND SPECIAL RULES.

"(a) Health Plans.—For purposes of this part—

"(1) Standard health plan.—The term 'standard health plan' has the meaning given such term by section 1011(2)(B) of the Health Security Act, except that such term does not include a plan offering the alternative standard benefit package described in 1201(b) of such Act.

"(2) Standard benefits package.—The term 'standard benefits package' has the meaning given such term by section 1201(a) of such Act.

"(b) Community Rating Areas and Plans.—For purposes of this part—

"(1) Community rating area.—The term 'community rating area' means an area established under section 1502 of the Health Security Act.

"(2) Community-rated plan.—The term 'community-rated plan' means a plan which is community-rated under section 1116 of such Act.

"(3) Experience-rated plan.—The term 'experience-rated plan' means any plan which is not a community-rated plan.

"(c) Premiums.—For purposes of this part—

"(1) In general.—The term 'premium' has the meaning given such term by section 4503(a)(3).

"(2) Administrative costs.—Amounts received for health-related administrative services (as defined in section 4501(d)) provided in connection with any standard health plan taken into account under section 4511(c)(3) shall be treated as premiums.

"(3) Risk adjustment payments.—Payments under a risk adjustment program established under title I of the Health Security Act shall be disregarded in computing the amount of any premiums.

"(d) Insurance Policy and Plan Sponsor.—For purposes of this part—

"(1) INSURANCE POLICY.—The term 'insurance policy' has the meaning given such term by section 4503(a)(2).

"(2) PLAN SPONSOR.—The term 'plan sponsor' has the meaning given such term by section 4502(b)(2), except that in the case of a plan not described in such section, such term means the person or persons who establish or maintain the plan.

"(e) SPECIAL RULES.—For purposes of this part—

"(1) RETURNS.—A return of any tax imposed by this part shall be filed no later than 2½ months after the close of the period to which it relates. The Secretary may require returns to be filed more frequently if the Secretary determines it necessary for the effective administration of this part.

"(2) DEPOSITS.—The Secretary may require deposits of any taxes imposed by subpart A or B at such times as the Secretary determines appropriate.

"(3) GOVERNMENTAL ENTITIES SUBJECT TO TAX.—The rules of section 4503(b) shall apply for purposes of this part.

"(4) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this part shall be covered over to any possession of the United States.

"(f) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out the provisions of this part, including regulations—

"(1) requiring the maintenance of such records, and the reporting of such information as the Secretary determines necessary, and

"(2) which provide that 2 or more plans of a person or any related persons must be aggregated, or a plan must be treated as 2 or more separate plans."

(b) CONFORMING AMENDMENTS.—

(1) Subchapter A of chapter 37, as added by section 7111, is amended by inserting after the subchapter heading the following:

"Part I. Premium and related assessments.
"Part II. High cost health plans.

"PART I—PREMIUM AND RELATED ASSESSMENTS".

(2) Section 4503, as so added, is amended by striking "subchapter" each place it appears and inserting "part".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES

SEC. 7121. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 is amended by adding at the end the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"Sec. 59B. Recapture of certain health care subsidies.

"SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

"(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part.

"(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

"(1) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(c) PHASE-IN OF RECAPTURE AMOUNT.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $15,000, the recapture amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the recapture amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $15,000.

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$30,000' for '$15,000' each place it appears.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $80,000,

"(B) $100,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse, and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax under section 55.

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d).

"(5) TAXES IMPOSED BY POSSESSIONS.—The tax imposed by this section shall not apply to a bona fide resident of a possession with respect to which the requirements of section 1509 of the Health Security Act are met."

(b) TRANSFERS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B(a) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the recapture amounts referred to in such section 59B(a) for such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Subparagraph (A) of section 6050F(c)(1) is amended by inserting before the comma "and in the case of the information specified in subsection (a)(1)(D)".

(4) The heading for section 6050F is amended by inserting "**AND MEDICARE PART B COVERAGE**" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(d) WAIVER OF CERTAIN ESTIMATED TAX PENALTIES.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 16, 1997, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a) of the Internal Revenue Code of 1986, as added by this section.

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII. Certain health care subsidies received by high-income individuals."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART 4—OTHER PROVISIONS

SEC. 7131. INCREASE IN TAX ON CERTAIN HOLLOW POINT AND LARGE CALIBER HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4181 (relating to imposition of tax on firearms) is amended—

(A) by striking "Shells, and cartridges" and inserting "Shells and cartridges not taxable at 10,000 percent", and

(B) by adding at the end the following:

"ARTICLES TAXABLE AT 10,000 PERCENT.—

"Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.

"Any cartridge with a projectile measuring .500 inch or greater in diameter which may be used in a handgun."

(2) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall not be covered into the fund the portion of the tax imposed by such section 4181 that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendments made by section 7131(a)(1) of the Health Security Act, as estimated by the Secretary."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales after December 31, 1994.

(2) FLOOR STOCKS TAX.—

(A) IN GENERAL.—In the case of any article held on January 1, 1995, which is taxable under section 4181 of the Internal Revenue Code of 1986 on and after such date at a tax rate of 10,000 percent, there is hereby imposed a tax equal to the excess of—

(i) the tax which would be imposed under section 4181 of such Code if the article were sold on such date, over

(ii) the prior tax (if any) imposed under such section on such article.

(B) CREDIT.—Each person shall be allowed as a credit against the taxes imposed by subparagraph (A) an amount equal to the taxes imposed on articles which such person destroys (in such manner as the Secretary may prescribe) after December 31, 1994, and before April 1, 1995.

(C) PAYMENT.—The taxes imposed by subparagraph (A) on any article shall be paid by the person holding the article on January 1, 1995. Such taxes shall be paid before April 1, 1995, in such manner as the Secretary of the Treasury may prescribe.

(D) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on January 1, 1995, shall be subject to the tax imposed by subparagraph (A) if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(ii) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(E) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this paragraph.

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4181 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by subparagraph (A), to the same extent as if such taxes were imposed by such section 4181. The Secretary may treat any person who bore the ultimate burden of the tax imposed by subparagraph (A) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 7132. MODIFICATION TO SELF-EMPLOYMENT TAX TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS AND PARTNERS.

(a) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE.—Section 1402 (relating to definitions) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

"(1) IN GENERAL.—In the case of any individual—

"(A) who is a 2-percent shareholder (as defined in section 1372(b)) of an S corporation for any taxable year of such corporation, and

"(B) who provides significant services to or on behalf of such S corporation during such taxable year,

such shareholder's net earnings from self-employment shall include such shareholder's pro rata share (as determined under section 1366(a)) of the taxable income or loss of such corporation for such taxable year from the active conduct by such corporation of trades or businesses, and to the extent provided in regulations, for any other taxable year to the extent such income or loss is attributable to such services.

"(2) LIMITATION.—The amount included under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) 30 percent of the contribution and benefit base (as determined under section 230 of the Social Security Act) for the calendar year in which the taxable year begins, or

"(B) the excess of—

"(i) such contribution and benefit base, over

"(ii) the sum of the net earnings from self-employment of the taxpayer for the taxable year (without regard to this subsection) and the wages of the taxpayer for the taxable year.

"(3) CERTAIN EXCEPTIONS TO APPLY.—In determining the amount to be taken into account under paragraph (1), the exceptions provided in subsection (a) shall apply, except that, in the case of the exceptions provided in subsection (a)(5), rules similar to the rules of subparagraph (B) thereof shall apply to shareholders in S corporations.

"(4) APPLICATION OF DEFERRED COMPENSATION RULES.—For purposes of subchapter D of chapter 1 (and any other provision of this title relating thereto), in the case of an individual who is treated as having net earnings from self-employment by reason of paragraph (1)—

"(A) such individual shall not be treated as a self-employed individual (within the meaning of section 401(c)(1)) with respect to services performed for the S corporation, and

"(B) such net earnings shall be treated as compensation received by the individual as an employee of the S corporation."

(2) AMENDMENT TO SOCIAL SECURITY ACT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

"Treatment of Certain S Corporation Shareholders

"(k)(1) In the case of any individual—

"(A) who is a 2-percent shareholder (as defined in section 1372(b) of the Internal Revenue Code of 1986) of an S corporation for any taxable year of such corporation, and

"(B) who provides significant services to or on behalf of such S corporation during such taxable year,

such shareholder's net earnings from self-employment shall include such shareholder's pro rata share (as determined under section 1366(a) of the Internal Revenue Code of 1986) of the taxable income or loss of such corporation for such taxable year from the active conduct by such corporation of trades or businesses, and to the extent provided in regulations, for any other taxable year to the extent such income or loss is attributable to such services.

"(2) The amount included under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) 30 percent of the contribution and benefit base (as determined under section 230) for the calendar year in which the taxable year begins, or

"(B) the excess of—

"(i) such contribution and benefit base, over

"(ii) the sum of the net earnings from self-employment of the taxpayer for the taxable year (without regard to this subsection) and the wages of the taxpayer for the taxable year.

"(3) In determining the amount to be taken into account under paragraph (1), the exceptions provided in subsection (a) shall apply, except that, in the case of the exceptions provided in subsection (a)(5), rules similar to the rules of subparagraph (B) thereof shall apply to shareholders in S corporations."

(b) TREATMENT OF CERTAIN LIMITED PARTNERS.—

(1) AMENDMENT OF THE INTERNAL REVENUE CODE.—Paragraph (13) of section 1402(a) is amended to read as follows:

"(13) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than—

"(A) guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services, or

"(B) in the case of a limited partner who provides significant services to or on behalf of the partnership for any taxable year of the partnership, the limited partner's distributive share (determined without regard to payments described in subparagraph (A)) of the taxable income or loss of such partnership—

"(i) for such taxable year from the active conduct by such partnership of trades or businesses, and

"(ii) to the extent provided in regulations, for any other taxable year to the extent attributable to such services,

except that the amount included under this subparagraph for any taxable year shall not exceed the limitation described in subsection (k)(2);".

(2) AMENDMENT OF THE SOCIAL SECURITY ACT.—Paragraph (12) of section 211(a) of the Social Security Act is amended to read as follows:

"(12) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than—

"(A) guaranteed payments described in section 707(c) of the Internal Revenue Code of 1986 to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services, or

"(B) in the case of a limited partner who provides significant services to or on behalf of the partnership for any taxable year of the partnership, the limited partner's distributive share (determined without regard to payments described in subparagraph (A)) of the taxable income or loss of such partnership—

"(i) for such taxable year from the active conduct by such partnership of trades or businesses, and

"(ii) to the extent provided in regulations, for any other taxable year to the extent attributable to such services,

except that the amount included under this subparagraph for any taxable year shall not exceed the limitation described in subsection (k)(2);".

(c) INVENTORY INCOME.—Section 1402 (relating to definitions), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(l) INVENTORY INCOME.—

"(1) IN GENERAL.—The net earnings from self-employment of any taxpayer for any taxable year under subsection (a) (determined without regard to this subsection) shall be reduced by 40 percent of the lesser of—

"(A) the taxpayer's allocable share of net inventory income, or

"(B) the amount of such net earnings in excess of the applicable amount for the taxable year.

"(2) NET INVENTORY INCOME.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'net inventory income' means net income from the sale of property described in section 1221(1).

"(B) DEALERS IN SECURITIES.—For purposes of subparagraph (A)—

"(i) any security described in section 475(c)(2) (without regard to the last sentence thereof) which is held by a person as a dealer in securities (as defined in section 475(c)(1)) shall be treated as property described in section 1221(1), and

"(ii) net income from any such security shall be taken into account to the extent otherwise taken into account in computing net earnings from self-employment.

"(3) APPLICABLE AMOUNT.—For purposes of paragraph (1), the term 'applicable amount' means the excess of—

"(A) $135,000, adjusted, in the case of any taxable year beginning in any calendar year after 1996, in the same manner as is used in adjusting the contribution and benefit base for the calendar year under section 230(b) of the Social Security Act, over

"(B) the amount of wages paid to the individual during the taxable year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of individuals beginning after December 31, 1995, and to taxable years of S corporations and partnerships ending with or within such taxable years of individuals.

SEC. 7133. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after September 30, 1995.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning October 1, 1995, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before October 1, 1995, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with October 1995.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—SECTION 226(G) OF THE SOCIAL SECURITY ACT (42 U.S.C. 426(G)) IS AMENDED—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)," and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after September 30, 1995.

Subtitle B—Tax Treatment of Employer-Provided Health Care

PART 1—GENERAL PROVISIONS

SEC. 7201. LIMITATION ON EXCLUSION FOR EMPLOYER-PROVIDED HEALTH BENEFITS.

(a) GENERAL RULE.—Section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF CERTAIN BENEFITS NOT PART OF PERMITTED COVERAGE.—

"(1) IN GENERAL.—Effective on and after January 1, 2004, gross income of an employee shall include employer-provided coverage under any accident or health plan which is not permitted coverage.

"(2) PERMITTED COVERAGE.—For purposes of this subsection, the term 'permitted coverage' means any—

"(A) coverage under a certified standard health plan (as defined in section 1011(2)(A) of the Health Security Act),

"(B) coverage under a certified supplemental health benefit plan (as defined in section 1011(3)(A) of the Health Security Act) which consists of—

"(i) the payment of cost sharing amounts under a certified standard health plan (as so defined) providing the standard benefits package described in part 1 of subtitle C of title I of such Act, or

"(ii) coverage for vision, dental, or hearing care for an individual age 22 or over to the extent not included under subparagraph (A),

"(C) coverage under a qualified long-term care insurance policy (as defined in section 7702B(b)),

"(D) coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury,

"(E) coverage only for accidental death or dismemberment,

"(F) coverage under a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act),

"(G) coverage under an equivalent health care program (as defined in section 1013(3) of the Health Security Act), and

"(H) other coverage to the extent that the Secretary determines that the continuation of an exclusion for such coverage is not inconsistent with the purposes of this subsection.

"(3) SPECIAL RULES FOR FLEXIBLE SPENDING ARRANGEMENTS.—

"(A) IN GENERAL.—To the extent that any employer-provided coverage is provided through a flexible spending or similar arrangement, paragraph (1) shall be applied by substituting 'January 1, 1996,' for 'January 1, 2004'.

"(B) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this paragraph, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the cost of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(b) EMPLOYMENT TAX TREATMENT.—

(1) SOCIAL SECURITY TAX.—

(A) Subsection (a) of section 3121 is amended by inserting after paragraph (21) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(B) Subsection (a) of section 209 of the Social Security Act is amended by inserting after paragraph (21) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b) of the Internal Revenue Code of 1986."

(2) RAILROAD RETIREMENT TAX.—Paragraph (1) of section 3231(e) is amended by adding at the end the following new sentence: "Nothing in clause (i) of the second sentence of this paragraph shall exclude from the term 'compensation' any amount which is required to be included in gross income under section 106(b)."

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by inserting after paragraph (16) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(4) WAGE WITHHOLDING.—Subsection (a) of section 3401 is amended by adding at the end the following new sentence:

"Nothing in the preceding provisions of this subsection shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1996.

(2) BENEFITS PROVIDED PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS.—In the case of a flexible spending arrangement maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which was ratified before June 30, 1994, the amendments referred to in paragraph (1) shall not apply to benefits pursuant to any such agreement before the later of—

(A) January 1, 1996, or

(B) the earlier of—

(i) the date on which the last of such agreements terminate (determined without regard to any extension thereof on or after June 30, 1994), or

(ii) January 1, 1998.

SEC. 7202. HEALTH BENEFITS MAY NOT BE PROVIDED UNDER CAFETERIA PLANS.

(a) GENERAL RULE.—Subsection (f) of section 125 (defining qualified benefits) is amended by adding at the end the following new sentence: "Such term shall not include any benefits or coverage under an accident or health plan."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 125 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1997.

(2) BENEFITS PROVIDED PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS.—In the case of a cafeteria plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which was ratified before June 30, 1994, the amendments referred to in paragraph (1) shall not apply to benefits pursuant to any such agreement before the later of—

(A) January 1, 1997, or

(B) the earlier of—

(i) the date on which the last of such agreements terminate (determined without regard to any extension thereof on or after June 30, 1994), or

(ii) January 1, 1999.

SEC. 7203. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PROVISION MADE PERMANENT.—

(1) IN GENERAL.—Subsection (l) of section 162 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1993.

(b) AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 162(l) are amended to read as follows:

"(1) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c), there shall be allowed as a deduction under this section an amount equal to 50 percent of the amount paid during the taxable year for coverage under a certified standard health plan (as defined in section 1011(2)(A) of the Health Security Act).

"(2) LIMITATIONS.—

"(A) LOWER PERCENTAGE IN CERTAIN CASES.—

"(i) IN GENERAL.—If the taxpayer has 1 or more employees in a trade or business with respect to which such taxpayer is treated as an employee within the meaning of section 401(c), the deduction under paragraph (1) shall not exceed the portion of the amount paid which is equivalent to the largest employer contribution made on behalf of any such employee for coverage under a certified standard health plan.

"(ii) EQUIVALENT CONTRIBUTION.—For purposes of clause (i), the amount paid is equivalent to a contribution if—

"(I) it is the same dollar amount as the contribution,

"(II) it represents the same percentage of cost under the plan to which it is made as does the contribution, or

"(III) it represents the same percentage of the weighted average premium for the class of enrollment (as defined in section 1113(c) of the Health Security Act) for the community rating area in which the employee works as does the contribution.

For purposes of applying subclause (II) or (III), any dollar limitation applicable to all employer contributions (whether expressed as a dollar amount or a percentage described in subclause (III)) shall be disregarded.

"(B) DEDUCTION LIMITED TO EARNED INCOME.—No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's earned income (within the meaning of section 401(c)).

"(C) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or the taxpayer's spouse."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 162(l)(5) is amended by striking "shall be treated as such individual's earned income" and inserting "shall be included in such individual's earned income".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

SEC. 7204. LIMITATION ON PREPAYMENT OF MEDICAL INSURANCE PREMIUMS.

(a) GENERAL RULE.—Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(10) LIMITATION ON PREPAYMENTS.—If—

"(A) the taxpayer pays a premium or other amount which constitutes medical care under paragraph (1), and

"(B) such premium or other amount is properly allocable to insurance coverage or care to be provided during periods more than 12 months after the month in which such payment is made,

such premium or other amount shall be treated as paid ratably over the period during which such insurance coverage or care is to be provided. The preceding sentence shall not apply to any premium to which paragraph (7) applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1994.

PART 2—EMPLOYER HEALTH CARE CONTRIBUTIONS

SEC. 7211. TAX TREATMENT OF EMPLOYER HEALTH CARE CONTRIBUTIONS.

(a) IN GENERAL.—Chapter 37 (relating to health-related taxes), as added by section 7111, is amended by adding at the end the following new subchapter:

"Subchapter B—Employer-Provided Health Benefits

"Sec. 4521. Taxable employer-provided health benefits.

"Sec. 4522. Discriminatory employer practices.

"Sec. 4523. Exceptions.

"Sec. 4524. Definitions and special rules.

"SEC. 4521. TAXABLE EMPLOYER-PROVIDED HEALTH BENEFITS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax equal to the product of—

"(1) the aggregate employer contributions for coverage described in paragraph (1) or (2) of subsection (b) during any portion of the taxable year during which there is discriminatory permitted coverage, and

"(2) the highest rate of tax imposed under section 11(b) for the taxable year.

"(b) APPLICABLE COVERAGE.—This section applies to—

"(1) coverage under a certified standard health plan (as defined in section 1011(2)(A) of the Health Security Act), and

"(2) coverage under a certified supplemental health benefit plan (as defined in section 1011(3)(A) of such Act).

"(c) DISCRIMINATORY PERMITTED COVERAGE.—For purposes of this section, the term 'discriminatory permitted coverage' means, with respect to any period, coverage described in subsection (b) with respect to which the requirements of subsection (a) or

(b) of section 4522 are not met during such period.

"SEC. 4522. DISCRIMINATORY EMPLOYER PRACTICES.

"(a) Health Status Requirements.—For purposes of section 4521(c), an employer meets the requirements of this subsection if, with respect to coverage described in such section—

"(1) there is no waiting period or denial of coverage with respect to an employee, and

"(2) the amount of the employer contribution on behalf of an employee is not conditioned, and does not vary,

by reason of the employee's health status, claims experience, medical history, receipt of health care, or lack of evidence of insurability.

"(b) Uniform Contribution Requirements.—

"(1) In general.—For purposes of section 4521(c), an employer meets the requirements of this subsection if the employer contribution on behalf of an employee for coverage described in such section is equivalent to each employer contribution on behalf of all other employees who elect such coverage under plans offered by the employer.

"(2) Equivalent contribution.—For purposes of paragraph (1), a contribution is equivalent to any other contribution if—

"(A) it is the same dollar amount as the other contribution,

"(B) it represents the same percentage of cost under the plan to which it is made as does the other contribution, or

"(C) it represents the same percentage of the weighted average premium for the class of enrollment (as defined in section 1113(c) of the Health Security Act) for the community rating area in which the employee works as does the other contribution.

For purposes of applying subparagraph (B) or (C), any dollar limitation applicable to all employer contributions (whether expressed as a dollar amount or a percentage described in subparagraph (C)) shall be disregarded.

"(3) Excluded employees.—

"(A) In general.—The following employees of an employer shall be excluded from consideration under this subsection:

"(i) Any employee before the employee has completed 6 months of service with the employer.

"(ii) Any employee who normally works less than 24 hours per week.

"(iii) Any employee who normally works during not more than 6 months of any year.

"(iv) Any employee who has not attained age 18.

"(v) Any employee who is included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that employer-provided benefits for standard health benefits coverage was the subject of good faith bargaining between the employee representatives and employer or employers.

"(vi) Any employee who is a nonresident alien and who receives no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(vii) Any former employee.

"(B) Coverage of part-time employees.—

"(i) In general.—If an employer makes an employer contribution for any period for coverage described in section 4521(c) for any employee who normally works at least 10 hours but less than 24 hours per week, subparagraph (A)(ii) shall be applied by substituting '10 hours' for '24 hours'.

"(ii) Requirements may be met separately.—If an employer elects the application of this clause—

"(I) the requirements of this subsection shall be applied separately to employees to whom this subsection applies by reason of clause (i), and

"(II) such employees shall be excluded in determining whether such requirements are met with respect to any other employees.

"(iii) Pro rata contributions permissible.—For purposes of this subsection, contributions on behalf of any employee to which this subsection applies by reason of clause (i) shall not fail to be treated as equivalent solely because they are proportionate to the number of hours the employee works.

"(4) Aggregation rules.—For purposes of this subsection—

"(A) In general.—All employers treated as a single employer under subsection (b) or (c) of section 414 shall be treated as a single employer.

"(B) Affiliated service groups.—All employees of members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer.

"(5) Separate lines of business.—If, under section 414(r), an employer is treated as operating separate lines of business for a year, the employer may apply this subsection separately to employees in each separate line of business.

"SEC. 4523. EXCEPTIONS.

"(a) Exception for Reasonable Diligence.—No tax shall be imposed by this subchapter during any period for which it is established to the satisfaction of the Secretary that the employer did not know, or exercising reasonable diligence would not have known, that the employer had taken any action subject to tax under this subchapter.

"(b) Corrections Within 30 Days.—No tax shall be imposed by this subchapter with respect to any action subject to tax under this subchapter if—

"(1) such action was due to reasonable cause and not to willful neglect, and

"(2) such action is corrected during the 30-day period beginning on the 1st date the employer knew, or exercising reasonable diligence would have known, that such action was subject to such tax.

"(c) Waiver by Secretary.—In the case of any action subject to tax under this subchapter which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of any tax imposed by this subchapter to the extent that the payment of such tax would be excessive relative to the action involved.

"SEC. 4524. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions.—For purposes of this subchapter—

"(1) Employer.—

"(A) In general.—The term 'employer' means any person or governmental entity for whom an individual performs services, of whatever nature, as an employee (as defined in section 3401(c)).

"(B) Special rules.—

"(i) A partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401(c)(1).

"(ii) An S corporation shall be treated as the employer of each shareholder who is an employee within the meaning of section 401(c)(1).

"(2) Employer contributions.—The term 'employer contribution' means, with respect to coverage under a health plan, a reasonable estimate of the portion of the cost of the coverage which is to be provided by the employer.

"(b) Liability for Tax.—Any tax imposed by this subchapter shall be paid by the employer.

"(c) Taxes To Apply to Governmental and Other Tax-Exempt Entities.—Notwithstanding any other provision of law or rule of law, none of the following shall be exempt from the taxes imposed by this subchapter:

"(1) The United States, any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

"(2) Any other entity otherwise exempt from tax under chapter 1.

"(d) No Cover Over to Possessions.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.

"(e) Regulations.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this subchapter, including regulations providing for the determination of the amount of any employer contribution, the aggregation of governmental and tax-exempt entities, and the prevention of the avoidance of any tax imposed by this subchapter through the use of any arrangement described in section 414(o)."

(b) Employee Leasing.—Paragraph (3) of section 414(n) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) subchapter B of chapter 37."

(c) Tax Not Deductible.—Section 275(a) is amended by adding at the end the following new paragraph:

"(7) The taxes imposed by section 4521 (relating to taxable employer-provided health benefits)."

(d) Conforming Amendment.—The table of subchapters for chapter 37 is amended by adding at the end the following new item:

"Subchapter B. Employer-provided health benefits."

(e) Effective Date.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle C—Exempt Health Care Organizations

PART 1—GENERAL PROVISIONS

SEC. 7301. QUALIFICATION AND DISCLOSURE REQUIREMENTS FOR NONPROFIT HEALTH CARE ORGANIZATIONS.

(a) Treatment of Hospitals and Other Entities Providing Health Care Services.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Qualification of Health Care Organizations as Exempt Organizations.—

"(1) In general.—An organization which is described in paragraph (3) or (4) of subsection (c) and the predominant activity of which is the provision of health care services shall be exempt from tax under subsection (a) only if—

"(A) such organization, with the participation of community representatives, annually—

"(i) assesses its community's needs for health care services and qualified outreach services, and

"(ii) prepares a written plan to meet those needs, "(B) pursuant to such plan, such organization provides (directly or indirectly) significant qualified outreach services,

"(C) such organization does not discriminate against individuals in the provision of health care services on the basis of participation in a government-sponsored health plan, and

"(D) such organization does not discriminate against individuals in the provision of emergency health care services on the basis of ability to pay.

"(2) Special rule for health maintenance organizations.—A health maintenance organization shall not be treated as described in subsection (c)(3) unless substantially all of its primary care health services are provided as described in subsection (m)(6)(A).

"(3) Definitions and special rule.—For purposes of this subsection—

"(A) Qualified outreach services.—The term 'qualified outreach services' means health care services (or preventive care, educational, or social services programs related thereto) which are provided—

"(i) in 1 or more medically underserved areas,

"(ii) at below cost to individuals who are otherwise unable to afford such services, or

"(iii) at emergency care facilities which provide specialty services and which normally operate at a loss.

Such term shall not include insurance described in subparagraph (B)(iii) unless such insurance is provided on a subsidized basis.

"(B) Health care services.—The term 'health care services' means—

"(i) any activity which consists of providing medical care (as defined in section 213(d)(1)(A)) to individuals,

"(ii) in the case of an organization described in subsection (c)(3), any activity which is treated as accomplishing an exempt purpose of the organization solely because it is carried on as part of an activity described in clause (i), and

"(iii) insurance (other than commercial-type insurance, as defined in subsection (m)) for the activities described in clauses (i) and (ii).

"(C) Medically underserved area.—The term 'medically underserved area' means, with respect to a health care service, any area reasonably determined by the organization (in a manner not inconsistent with regulations prescribed by the Secretary) to have—

"(i) a shortage (relative to the number of individuals needing such service) of health professionals performing such service, or

"(ii) a population group experiencing such a shortage.

Such term includes a health professional shortage area (as defined in section 332 of the Public Health Service Act).

"(4) Exceptions.—This subsection shall not apply to any organization which—

"(A) demonstrates, in a manner not inconsistent with regulations prescribed by the Secretary, that one of its principal purposes is academic training or medical research, or

"(B) provides health care services exclusively on an uncompensated basis, regardless of ability to pay.

"(5) Disallowance of charitable deductions.—No gift or bequest to an organization which is not exempt from tax by reason of this subsection shall be allowed as a deduction under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

"(6) Requirements supplement other requirements.—The requirements of this subsection are in addition to, and not in lieu of, the requirements otherwise applicable to an organization described in paragraph (3) or (4) of subsection (c)."

(b) Reporting and Disclosure of Needs Assessment and Plan.—

(1) Reporting.—

(A) Organizations described in section 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (12), and by inserting after paragraph (9) the following new paragraphs:

"(10) in the case of an organization which prepares a plan described in section 501(n)(1)(A) (relating to community needs)—

"(A) a copy of such plan for the year, and

"(B) information on the implementation of such plan for the year (including unrecovered costs and revenues foregone in furtherance of such plan),

"(11) such information as the Secretary may require with respect to any taxable inurement (as defined in section 4958(d)), and".

(B) Organizations described in section 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Certain Organizations Described in Section 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) and which prepares a plan described in section 501(n)(1)(A) (relating to community needs) for the year—

"(1) shall include a copy of such plan with the return required under subsection (a) for the year, and

"(2) shall include on such return the information referred to in paragraphs (10)(B) and (11) of subsection (b) with respect to such organization."

(2) Disclosure.—

(A) In general.—Subsection (e) of section 6104 (relating to public inspection of certain annual returns and applications for exemption) is amended by adding at the end the following new paragraph:

"(3) Community health care needs assessment and plan.—

"(A) In general.—Every organization which is required to prepare a plan described in section 501(n)(1)(A) (relating to community needs)—

"(i) shall make a copy of such plan (and the assessment on which such plan is based) available for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, shall provide—

"(I) a copy of such plan (and assessment), and

"(II) a copy of the annual return filed under section 6033,

to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

If the request under clause (ii) is made in person, such copies shall be provided immediately and, if made other than in person, shall be provided within 30 days.

"(B) Period of availability.—Subparagraph (A) shall apply—

"(i) with respect to any plan (and assessment) during the 3-year period after the close of the year for which such plan is prepared, and

"(ii) with respect to any return, during the 3-year period beginning on the filing date (as defined in paragraph (1)(D)).

"(C) Limitation.—Subparagraph (A)(ii) shall not apply to any request if the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest."

(B) Technical amendment.—The heading for subsection (e) of section 6104 is amended by striking "And Applications for Exemption" and inserting ", Applications for Exemption, and Community Needs Assessment and Plan for Health and Outreach Services".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1995.

(2) HMO service requirement.—So much of the amendments made by this section as relates to section 501(n)(2) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date of the enactment of this Act.

SEC. 7302. EXCISE TAXES FOR PRIVATE INUREMENT BY TAX-EXEMPT HEALTH CARE ORGANIZATIONS.

(a) In General.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Private Inurement by Tax-Exempt Health Care Organizations

"Sec. 4958. Taxes on private inurement.

"Sec. 4959. Other definitions.

"SEC. 4958. TAXES ON PRIVATE INUREMENT.

"(a) Initial Taxes.—

"(1) On the beneficiary.—There is hereby imposed on any taxable inurement a tax equal to 25 percent of the amount thereof. The tax imposed by this paragraph shall be paid by any beneficiary of such inurement.

"(2) On the management.—In any case in which there is a tax imposed by paragraph (1), there is hereby imposed on the participation of any organization manager of an organization in any taxable inurement which occurs with respect to such organization, knowing that it is taxable inurement, a tax equal to 2½ percent of the amount thereof, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the taxable inurement.

"(b) Additional Taxes.—

"(1) On the beneficiary.—In any case in which an initial tax is imposed by subsection (a)(1) on any taxable inurement and such inurement is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by any beneficiary of such inurement.

"(2) On the management.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) Special Rules Relating to Liability for Tax.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one taxable inurement, all such persons shall be jointly and severally liable under such paragraph with respect to such inurement.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 taxable inurement, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) TAXABLE INUREMENT.—For purposes of this section, the term 'taxable inurement' means any inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be, in a transaction involving an applicable tax-exempt health care organization in which—

"(1) the value of any economic benefit provided to or for the use of a disqualified person exceeds the value of the consideration (including the performance of services) received by the organization for providing such benefit, or

"(2) the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the gross or net revenues of 1 or more activities of the organization.

The amount of any taxable inurement with respect to any such transaction shall be the excess described in paragraph (1) or the amount described in paragraph (2). For purposes of paragraph (1), an economic benefit shall not be treated as provided as consideration for the performance of services unless the organization clearly indicated its intent to so treat such benefit.

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction—

"(i) an organization manager, or

"(ii) an individual (other than an organization manager)—

"(I) in a position to exercise substantial influence over the affairs of the organization, or

"(II) performing substantial medical services as a physician pursuant to an employment or other contractual relationship with the organization or a related organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt health care organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this subsection.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or halfblood) of the individual and their spouses.

"(f) TREATMENT OF PREVIOUSLY EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section, the status of any organization as an applicable tax-exempt health care organization shall be terminated only if—

"(A)(i) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

"(ii) there is a final determination by the Secretary that such status has terminated, and

"(B)(i) such organization pays the tax imposed by paragraph (2) (or any portion not abated pursuant to paragraph (3)), or

"(ii) the entire amount of such tax is abated pursuant to paragraph (3).

"(2) IMPOSITION OF TAX.—There is hereby imposed on each organization referred to in paragraph (1) a tax equal to the lesser of—

"(A) the amount which the organization substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from its exemption from tax under section 501(a), or

"(B) the value of the net assets of such organization.

"(3) ABATEMENT OF TAX.—The Secretary may abate the unpaid portion of the assessment of any tax imposed by paragraph (2), or any liability in respect thereof, if the applicable tax-exempt health care organization distributes all of its net assets to 1 or more organizations each of which has been in existence, and described in section 501(c)(3), for a continuous period of at least 60 calendar months. If the distributing organization is described in section 501(c)(4), the preceding sentence shall be applied by treating the reference to section 501(c)(3) as including a reference to section 501(c)(4).

"(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (d), (e), and (f) of section 507 shall apply for purposes of this subsection.

"SEC. 4959. OTHER DEFINITIONS.

"(a) APPLICABLE TAX-EXEMPT HEALTH CARE ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt health care organization' means any organization—

"(1) the predominant activity of which is the provision of health care services (as defined in section 501(n)(3)), and

"(2) which (without regard to any taxable inurement) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a).

Such term does not include a private foundation (as defined in section 509(a)).

"(b) TAXABLE PERIOD; CORRECTION.—For purposes of this subchapter—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable inurement, the period beginning with the date on which the inurement occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1) of section 4958, or

"(B) the date on which the tax imposed by such subsection (a)(1) is assessed.

"(2) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any taxable inurement, undoing the inurement to the extent possible, establishing safeguards to prevent future such inurement, and where fully undoing the inurement is not possible, such additional corrective action as is prescribed by the Secretary by regulations."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT HEALTH CARE ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity the predominant activity of which is the provision of health care services (as defined in subsection (n)(3)) unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4958", and

(B) by inserting before the period "or a taxable inurement for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private inurement)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)) has 'knowingly' participated in taxable inurement (as defined in section 4958(d))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"SUBCHAPTER D. Private inurement by tax-exempt health care organizations.

"SUBCHAPTER E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to inurement occurring on or after June 30, 1994.

(2) APPLICATION OF BINDING CONTRACT RULE TO TAX-EXEMPT HEALTH CARE ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—The amendments made by this section shall not apply to any inurement involving an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 occurring before July 1, 1996, pursuant to a written contract which was binding on June 29, 1994, and at all times thereafter before such inurement occurred.

SEC. 7303. TREATMENT OF HEALTH MAINTENANCE ORGANIZATIONS, PARENT ORGANIZATIONS, AND HEALTH INSURANCE PURCHASING COOPERATIVES.

(a) INSURANCE PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS.—

(1) IN GENERAL.—Section 501(m) (relating to certain organizations providing commercial-type insurance not exempt from tax) is amended by adding at the end the following new paragraph:

"(6) CERTAIN ACTIVITIES PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS NOT TREATED AS COMMERCIAL-TYPE INSURANCE.—For purposes of this subsection, the provision of (or the arranging for the provision of) medical care on a prepaid basis by a health maintenance organization shall not be treated as providing commercial-type insurance if (and only if) such care is—

"(A) care provided by such organization to its members at its own facilities through health care professionals who do not provide substantial health care services other than on behalf of such organization,

"(B) care provided by a health care professional to a member of such organization on a basis under which substantially all of the risks of the rates of utilization is assumed by the provider of such care,

"(C) care (other than primary care) provided to a member of such organization pursuant to a referral by such organization, or

"(D) emergency care provided to a member of such organization at a location outside such member's area of residence."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 501(m) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(B) Paragraph (5) of section 501(m) is amended by striking "paragraph (3)(E)" and inserting "paragraph (3)(D)".

(b) TREATMENT OF PARENT ORGANIZATIONS OF HEALTH CARE PROVIDERS.—Section 509(a) (defining private foundation) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) an organization which is organized and operated for the benefit of, and which directly or indirectly controls, an organization described in section 170(b)(1)(A)(iii), and".

(c) PURCHASING COOPERATIVES EXEMPT FROM TAX.—

(1) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

"(26)(A) Any health insurance purchasing cooperative described in section 1013(12) of the Health Security Act.

"(B) Such a cooperative shall not be exempt from tax pursuant to any provision other than this paragraph.

"(C) Such a cooperative shall not be exempt from tax unless—

"(i) no part of the net earnings of such cooperative inures to the benefit of any private shareholder or individual,

"(ii) no substantial part of the activities of such cooperative is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and

"(iii) such cooperative does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(2) CERTAIN PROVISIONS APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(3) MADE APPLICABLE TO PURCHASING COOPERATIVES.—Section 501 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CERTAIN PROVISIONS MADE APPLICABLE TO HEALTH INSURANCE PURCHASING COOPERATIVES.—A health insurance purchasing cooperative described in subsection (c)(26) shall be treated—

"(1) as described in subsection (c)(3) for purposes of applying subsection (h) (relating to expenditures by public charities to influence legislation), section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), and section 4958 (relating to private inurement), and

"(2) as described in subsection (h)(4)."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7304. TAX TREATMENT OF TAXABLE ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.

(a) GENERAL RULE.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.—

"(1) GENERAL RULE.—Any organization to which this subsection applies shall be taxable under this part in the same manner as if it were an insurance company other than a life insurance company.

"(2) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any organization—

"(A) which is not exempt from taxation under this subtitle,

"(B) which is not taxable as a life insurance company under part I of this subchapter, and

"(C) the primary and predominant business activity of which during the taxable year consists of 1 or more of the following:

"(i) Issuing accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts.

"(ii) Operating as a health maintenance organization.

"(iii) Entering into arrangements under which—

"(I) fixed payments or premiums are received as consideration for the organization's agreement to provide or arrange for the provision of health care services, regardless of how the health care services are provided or arranged to be provided, and

"(II) substantially all of the risks of the rates of utilization of such services is assumed by such organization or the provider of such services.

In the case of an organization which has as a material business activity the issuing of accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts, the administering of accident and health insurance contracts by such organization shall be treated as part of such business activity for purposes of subparagraph (C)(i)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

(2) TRANSITIONAL RULES.—

(A) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization to which section 831(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies for such organization's first taxable year beginning after December 31, 1994; except that this paragraph shall not apply if such organization treated itself as an insurance company taxable under part II of subchapter L of chapter 1 of such Code on its original Federal income tax return for its taxable year beginning in 1992 and for all of its taxable years thereafter beginning before January 1, 1995.

(B) TREATMENT OF CURRENTLY TAXABLE COMPANIES.—Except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, in the case of any organization to which this paragraph applies—

(i) the amendments made by this section shall be treated as a change in the method of accounting, and

(ii) all adjustments required to be taken into account under section 481 of the Internal Revenue Code of 1986 shall be taken into account for such company's first taxable year beginning after December 31, 1994.

(C) TREATMENT OF CURRENTLY TAX-EXEMPT COMPANIES.—Except as provided in regulations prescribed by the Secretary of the Treasury or his delegates, in the case of any organization to which this paragraph applies and which was exempt from tax under chapter 1 of the Internal Revenue Code of 1986 for such organization's last taxable year beginning before January 1, 1995—

(i) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting required by this section for its first taxable year beginning after December 31, 1994, and

(ii) for purposes of determining gain or loss, the adjusted basis of any asset held by such organization on the first day of such taxable year shall be treated as equal to its fair market value as of such day.

SEC. 7305. REPEAL OF SECTION 833.

(a) REPEAL OF SECTION 833.—

(1) IN GENERAL.—Section 833 (relating to treatment of Blue Cross and Blue Shield and similar organizations) is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 56(c) is amended by striking paragraph (3).

(B) The table of sections for part II of subchapter L of chapter 1 is amended by striking the item relating to section 833.

(b) APPLICATION OF SECTION 833 PRIOR TO REPEAL.—

(1) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized and governed by State laws which are specifically and exclusively applicable to not-for-profit insurance or health-service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization."

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(c) EFFECTIVE DATE OF REPEAL.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) TRANSITION RULES FOR BLUE CROSS AND BLUE SHIELD AND SIMILAR ORGANIZATIONS.—

(A) PRIOR FRESH START PRESERVED.—The adjusted basis of any asset determined under section 1012(c)(3)(A)(ii) of the Tax Reform Act of 1986 shall not be affected by the amendments made by this section.

(B) RECOUPMENT OF PRIOR RESERVE BENEFIT.—In the case of any organization entitled to the benefits of section 833(a)(3) of the Internal Revenue Code of 1986 (as in effect after the amendment made by subsection (a)) for such organization's last taxable year beginning before January 1, 1997, the amount determined under paragraph (4) of section 832(b) of such Code for each of such organization's first 6 taxable years beginning after December 31, 1996, shall be increased by an amount equal to 3⅓ percent of its unearned premiums on outstanding business as of the close of such organization's last taxable year beginning before January 1, 1997.

SEC. 7306. TAX EXEMPTION FOR HIGH-RISK INSURANCE POOLS.

Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(27)(A) In the case of taxable years beginning after December 31, 1989, and before January 1, 1997, a qualified high risk health insurance pool.

"(B) For purposes of subparagraph (A), the term 'qualified high risk health insurance pool' means an entity—

"(i) which was established by a State or political subdivision thereof to provide health insurance on a nonprofit basis to persons unable to obtain health insurance because of health conditions,

"(ii) with respect to which the State or political subdivision—

"(I) participates in the ongoing governance of the entity, and

"(II) subsidizes the operation of the entity, and

"(iii) no part of the net earnings of which inure to the benefit of any private shareholder, member, or individual."

PART 2—TAX TREATMENT OF SECTION 501(c)(3) BONDS

SEC. 7311. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) In General.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Exempt person.—

"(A) In general.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) Governmental unit not to include federal government.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) organization.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) Repeal of Qualified 501(c)(3) Bond Designation.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) Conforming Amendments.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "related business use" in the heading of subparagraph (B) and inserting "related private business use", and

(E) by striking "government use" in the heading thereof and inserting "exempt person use".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "Government use" in the heading thereof and inserting "Exempt person use".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Issues Used To Provide Residential Rental Housing for Family Units.—

"(1) In general.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units. This paragraph shall not apply if the bond would not be a private activity bond if the section 501(c)(3) organization were not an exempt person.

"(2) Exception for bonds used to provide qualified residential rental projects.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) Substantial rehabilitation.—

"(A) In general.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) Exception.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) Certain property treated as new property.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) In general.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) Special rule where no operating State or local program for tax-exempt financing.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) Definitions.—For purposes of this paragraph—

"(i) Tax-exempt financing.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) Taxable financing.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "a governmental unit" and inserting "an exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "governmental" and inserting "exempt person".

(12) The heading of section 146(m) is amended by striking "Government" and inserting "Exempt Person".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) Certain Rules Not To Apply to Mortgage Revenue Bonds and Qualified Student Loan Bonds.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "governmental use bonds and qualified 501(c)(3)" in the heading thereof and inserting "exempt person".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person",

(B) by striking "qualified 501(c)(3) bonds,", and

(C) by striking the comma after "private activity bonds" the first place it appears.

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "Certain private" in the heading thereof and inserting "Private".

(20) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150 is amended by adding at the end the following new subsection:

"(f) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).''; and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds (including refunding bonds) issued after December 31, 1994.

Subtitle D—Tax Treatment of Long-Term Care Insurance and Services

SEC. 7401. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in subsection (g)), or".

(b) QUALIFIED LONG-TERM CARE SERVICES DEFINED.—Section 213 (relating to the deduction for medical, dental, etc., expenses) is amended by adding at the end the following new subsection:

"(g) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

"(A) are required by an individual during any period the individual is an incapacitated individual (as defined in paragraph (2)),

"(B) have as their primary purpose—

"(i) the provision of needed assistance with 1 or more activities of daily living (as defined in paragraph (3)), or

"(ii) protection from threats to health and safety due to severe cognitive impairment, and

"(C) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in paragraph (4)).

"(2) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who—

"(A) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in paragraph (3), or

"(B) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

"(3) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(A) Eating.

"(B) Toileting.

"(C) Transferring.

"(D) Bathing.

"(E) Dressing.

"(4) LICENSED PROFESSIONAL.—The term 'licensed professional' means—

"(A) a physician or registered professional nurse, or

"(B) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(5) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

"(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended to read as follows:

"(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in—

"(i) subparagraphs (A) and (B), or

"(ii) subparagraph (C), but only if such insurance is provided under a qualified long-term care insurance policy (as defined in section 7702B(b)) and the amount paid for such insurance is not disallowed under section 7702B(d)(4)."

(2) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7402. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance policy (as defined in subsection (b)) shall be treated as an accident or health insurance contract,

"(2) amounts (other than policyholder dividends (as defined in section 808) or premium refunds) received under a qualified long-term care insurance policy shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance policy shall be treated as an accident or health plan with respect to such coverage,

"(4) except as provided in subsection (d)(4), amounts paid for a qualified long-term care insurance policy providing the benefits described in subsection (b)(6)(B) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance policy shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE POLICY.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance policy' means any certified long-term care policy (as defined in section 1011(4)(A)) of the Health Security Act) that—

"(A) limits benefits under such policy to individuals who are certified by a licensed professional (as defined in section 213(g)(4)) within the preceding 12-month period—

"(i) as being unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), 2 or more activities of daily living (as defined in section 213(g)(3)), or

"(ii) having a severe cognitive impairment (as defined in section 213(g)(2)(B)), and

"(B) satisfies the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) PREMIUM REQUIREMENTS.—The requirements of this paragraph are met with respect to a policy if such policy provides that premium payments may not be made earlier than the date such payments would have been made if the contract provided for level annual payments over the life expectancy of the insured or 20 years, whichever is shorter. A policy shall not be treated as failing to meet the requirements of the preceding sentence solely by reason of a provision in the policy providing for a waiver of premiums if the insured becomes an individual certified in accordance with paragraph (1)(A).

"(3) PROHIBITION OF CASH VALUE.—The requirements of this paragraph are met if the policy does not provide for a cash value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed, other than as provided in paragraph (4).

"(4) REFUNDS OF PREMIUMS AND DIVIDENDS.—The requirements of this paragraph are met with respect to a policy if such policy provides that—

"(A) policyholder dividends are required to be applied as a reduction in future premiums or, to the extent permitted under paragraph (6), to increase benefits described in subsection (a)(2),

"(B) refunds of premiums upon a partial surrender or a partial cancellation are required to be applied as a reduction in future premiums, and

"(C) any refund on the death of the insured, or on a complete surrender or cancellation of the policy, cannot exceed the aggregate premiums paid under the contract.

Any refund on a complete surrender or cancellation of the policy shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(5) COORDINATION WITH OTHER ENTITLEMENTS.—The requirements of this paragraph are met with respect to a policy if such policy does not pay, or provide reimbursement for, expenses incurred to the extent that such expenses are also paid or reimbursed under title XVIII of the Social Security Act or are paid or reimbursed under a certified standard health plan (as defined in section 1011(2)(A)) of the Health Security Act).

"(6) MAXIMUM BENEFIT.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the benefits payable under the policy for any period (whether on a periodic basis or otherwise) may not exceed the dollar amount in effect for such period.

"(B) NONREIMBURSEMENT PAYMENTS PERMITTED.—Benefits shall include all payments described in subsection (a)(2) to or on behalf of an insured individual without regard to the expenses incurred during the period to which the payments relate. For purposes of section 213(a), such payments shall be treated as compensation for expenses paid for medical care.

"(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount within the calendar year in the case of payments on other than a per diem basis).

"(D) ADJUSTMENTS FOR INCREASED COSTS.—

"(i) IN GENERAL.—In the case of any calendar year after 1996, the dollar amount in effect under subparagraph (C) for any period or portion thereof occurring during such calendar year shall be equal to the sum of—

"(I) the amount in effect under subparagraph (C) for the preceding calendar year (after application of this subparagraph), plus

"(II) the product of the amount referred to in subclause (I) multiplied by the cost-of-living adjustment for the calendar year.

"(ii) COST-OF-LIVING ADJUSTMENT.—For purposes of clause (i), the cost-of-living adjustment for any calendar year is the percentage (if any) by which the cost index under clause (iii) for the preceding calendar year exceeds such index for the second preceding calendar year.

"(iii) COST INDEX.—The Secretary, in consultation with the Secretary of Health and Human Services, shall before January 1, 1997, establish a cost index to measure increases in costs of nursing home and similar facilities. The Secretary may from time to time revise such index to the extent necessary to accurately measure increases or decreases in such costs.

"(iv) SPECIAL RULE FOR CALENDAR YEAR 1997.—Notwithstanding clause (ii), for purposes of clause (i), the cost-of-living adjustment for calendar year 1997 is the sum of 1.5 percent plus the percentage by which the CPI for calendar year 1996 (as defined in section 1(f)(4)) exceeds the CPI for calendar year 1995 (as so defined).

"(E) PERIOD.—For purposes of this paragraph, a period begins on the date that an individual has a condition which would qualify for certification under subsection (b)(1)(A) and ends on the earlier of the date upon which—

"(i) such individual has not been so certified within the preceding 12-months, or

"(ii) the individual's condition ceases to be such as to qualify for certification under subsection (b)(1)(A).

"(F) AGGREGATION RULE.—For purposes of this paragraph, all policies issued with respect to the same insured shall be treated as one policy.

"(c) TREATMENT OF LONG-TERM CARE INSURANCE POLICIES.—For purposes of this title, any amount received or coverage provided under a long-term care insurance policy that is not a qualified long-term care insurance policy shall not be treated as an amount received for personal injuries or sickness or provided under an accident or health plan and shall not be treated as excludible from gross income under any provision of this title.

"(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by rider on a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract or policy.

"(2) PREMIUMS AND CHARGES FOR LONG-TERM CARE COVERAGE.—Premium payments for coverage under a long-term care insurance policy and charges against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage shall be treated as premiums for purposes of subsection (b)(2).

"(3) APPLICATION OF SECTION 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) described in paragraph (2) made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(4) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the coverage provided by the rider is a qualified long-term care insurance policy under subsection (b).

"(5) AMOUNT OF DISTRIBUTION UNDER RIDER.—This subsection shall not apply to any rider on a life insurance contract unless the percentage reduction in the cash surrender value of the contract by reason of any payment under the rider does not exceed the percentage reduction in the death benefit payable under the contract by reason of the payment.

For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a long-term care insurance policy, except that the coverage under a rider described in this subsection shall not fail to be treated as such an addition by reason of a reduction in the contract's death benefit or cash surrender value resulting from any payment under the rider.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the requirements of this section, including regulations to prevent the avoidance of this section by providing long-term care insurance coverage under a life insurance contract and to provide for the proper allocation of amounts between the long-term care and life insurance portions of a contract."

(b) Cafeteria Plans.—Section 125(f) is amended by adding at the end the following new sentence: "Such term does not include any coverage or benefits under a qualified long-term care policy (as defined in section 7702B)."

(c) Reserves.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance policy within the meaning of section 7702B)" after "contract".

(d) Clerical Amendment.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of long-term care insurance."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to policies issued after December 31, 1995, except that a policy issued before January 1, 1996, which, on January 1, 1996, satisfies the requirements of a qualified long-term care insurance policy as set forth in section 7702B(b) of the Internal Revenue Code of 1986 shall be treated as having been issued on January 1, 1996.

(2) Transition rule.—If, after the date of enactment of this Act and before January 1, 1996, a policy providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance policy (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange, except that gain (if any) shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a policy providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance policy within 60 days thereafter shall be treated as an exchange.

(3) Issuance of rider not treated as material change.—For purposes of applying section 101(f), 7702, or 7702A of such Code to any contract, the issuance of a rider on a life insurance contract providing long-term care insurance coverage shall not be treated as a modification or material change of such contract.

SEC. 7403. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) General Rule.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) Treatment of Certain Accelerated Death Benefits.—

"(1) In general.—For purposes of this section, any amount received under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) Necessary conditions.—

"(A) In general.—Paragraph (1) shall not apply to any amount received unless—

"(i) the total amount received is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

"(ii) the percentage reduction in the cash surrender value of the contract by reason of the distribution does not exceed the percentage reduction in the death benefit payable under the contract by reason of such distribution.

"(B) Present value.—The present value of the reduction in the death benefit shall be determined by—

"(i) using a discount rate which is based on an interest rate which does not exceed the highest interest rate set forth in subparagraph (C), and

"(ii) assuming that the death benefit (or the portion thereof) would have been paid on the date which is 12 months after the date of the certification referred to in paragraph (3).

"(C) Rates.—The interest rates set forth in this subparagraph are the following:

"(i) the 90-day Treasury bill yield,

"(ii) the rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for the calendar month ending 2 months before the date on which the rate is determined, and

"(iii) the rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum.

"(D) Special rules relating to liens.—If a lien is imposed against a life insurance contract with respect to any amount referred to in paragraph (1)—

"(i) for purposes of subparagraph (A), the amount of such lien shall be treated as a reduction (at the time of receipt) in the death benefit or cash surrender value to the extent that such benefit or value, as the case may be, is (or may become) subject to the lien, and

"(ii) paragraph (1) shall not apply to the amount received unless any rate of interest with respect to any amount in connection with which such lien is imposed does not exceed the highest rate set forth in subparagraph (C).

"(3) Terminally ill individual.—For purposes of this subsection, the term 'terminally ill individual' means an individual who the insurer has determined, after receipt of an acceptable certification by a licensed physician, has an illness or physical condition which can reasonably be expected to result in death within 12 months after the date of certification.

"(4) Exception for business-related policies.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured having a financial interest in any trade or business carried on by the taxpayer."

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by this section shall apply to amounts received after the date of the enactment of this Act.

(2) Delay in application of discount rules.—Clause (i) of section 101(g)(2)(A) of the Internal Revenue Code of 1986 shall not apply to any amount received before January 1, 1995.

(3) Issuance of rider not treated as material change.—For purposes of applying section 101(f), 7702, or 7702A of the Internal Revenue Code of 1986 to any contract, the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)) shall not be treated as a modification or material change of such contract.

SEC. 7404. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Qualified Accelerated Death Benefit Riders Treated as Life Insurance.—For purposes of this part—

"(1) In general.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) Qualified accelerated death benefit riders.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract which provides for a distribution to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(3))."

(b) Effective Date.—The amendments made by this section shall take effect on January 1, 1995.

Subtitle E—Other Revenue Provisions

PART 1—EMPLOYMENT STATUS PROVISIONS

SEC. 7501. EMPLOYMENT STATUS PROPOSAL REQUIRED FROM DEPARTMENT OF THE TREASURY.

Not later than January 1, 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a legislative proposal providing statutory standards for the classification of workers as employees or independent contractors.

SEC. 7502. INCREASE IN SERVICES REPORTING PENALTIES.

(a) Increase in Penalty.—Section 6721(a) (relating to imposition of penalty) is amended by adding at the end the following new paragraph:

"(3) Increased penalty for returns involving payments for services.—

"(A) In general.—Subject to the overall limitation of paragraph (1), the amount of the penalty under paragraph (1) for any failure with respect to any applicable return shall be equal to the greater of $50 or 5 percent of the amount required to be reported correctly but not so reported.

"(B) Exception where substantial compliance.—Subparagraph (A) shall not apply to failures with respect to applicable returns required to be filed by a person during any calendar year if the aggregate amount which is timely and correctly reported on applicable returns filed by the person for the calendar year is at least 97 percent of the aggregate amount which is required to be reported on applicable returns by the person for the calendar year.

"(C) Applicable return.—For purposes of this paragraph, the term 'applicable return' means any information return required to be filed under—

"(i) section 6041(a) but only if such return relates to payments to any person for services performed by such person (other than as an employee), or

"(ii) section 6041A(a)."

(b) Conforming Amendment.—Section 6721(a)(1) is amended by striking "In" and inserting "Except as provided in paragraph (3), in".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act.

PART 2—TAX INCENTIVES FOR HEALTH SERVICES PROVIDERS

SEC. 7511. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PRIMARY HEALTH SERVICES PROVIDERS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the number of months during such taxable year—

"(A) during which the taxpayer is a qualified primary health services provider, and

"(B) which are within the taxpayer's eligible service period, and

"(2) $1,000 ($500 in the case of a qualified practitioner who is not a physician).

"(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified primary health services provider' means, with respect to any month, any qualified practitioner who—

"(A) has in effect a certification by the Bureau as a provider of primary health services and such certification is, when issued, for a health professional shortage area in which the qualified practitioner is providing primary health services,

"(B) is providing primary health services full time in the health professional shortage area identified in such certification, and

"(C) has not received a scholarship under the National Health Service Corps Scholarship Program or any loan repayments under the National Health Service Corps Loan Repayment Program.

"(2) SPECIAL RULES RELATING TO SHORTAGE AREAS.—

"(A) AREAS CEASING TO BE SHORTAGE AREAS.—For purposes of paragraph (1)(B) and subsection (e)(2), a provider shall be treated as providing services in a health professional shortage area when such area ceases to be such an area if it was such an area on the first day of the provider's eligible service period.

"(B) AREAS WITHIN METROPOLITAN AREAS.—A qualified practitioner who is providing services within a metropolitan statistical area (as defined in section 143(k)(2)) shall not be treated as meeting the requirements of paragraph (1)(B) unless such services are provided for, or on behalf of, a governmental or nonprofit entity.

"(3) QUALIFIED PRACTITIONER.—The term 'qualified practitioner' means a physician, a physician assistant, a nurse practitioner, or a certified nurse-midwife.

"(c) ELIGIBLE SERVICE PERIOD.—For purposes of this section, the term 'eligible service period' means the period of 36 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider (as specified in the certification under subsection (b)(1)(A)). A taxpayer shall not have more than 1 eligible service period.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BUREAU.—The term 'Bureau' means the Bureau of Primary Health Care, Health Resources and Services Administration of the United States Public Health Service.

"(2) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

"(3) PHYSICIAN ASSISTANT; NURSE PRACTITIONER.—The terms 'physician assistant' and 'nurse practitioner' have the meanings given to such terms by section 1861(aa)(5) of the Social Security Act.

"(4) CERTIFIED NURSE-MIDWIFE.—The term 'certified nurse-midwife' has the meaning given to such term by section 1861(gg)(2) of the Social Security Act.

"(5) PRIMARY HEALTH SERVICES.—The term 'primary health services' has the meaning given such term by section 330(b)(1) of the Public Health Service Act.

"(6) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' has the meaning given such term by section 332(a)(1)(A) of the Public Health Service Act.

"(7) PRACTITIONER CURRENTLY PRACTICING IN SHORTAGE AREAS.—In the case of a qualified practitioner who, on December 31, 1994, was providing primary health services in any health professional shortage area—

"(A) the practitioner's eligible service period shall begin on January 1, 1995, and

"(B) if such practitioner is a physician, subsection (a)(2) shall be applied by substituting '$500' for '$1,000'.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If there is a recapture event during any taxable year, then—

"(A) no credit shall be allowed under subsection (a) for such taxable year and any succeeding taxable year, and

"(B) the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the aggregate credits allowed to such taxpayer under this section for all prior taxable years.

"(2) RECAPTURE EVENT DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'recapture event' means the failure of the taxpayer to be a qualified primary health services provider during any of the first 24 months during the taxpayer's eligible service period.

"(B) SECRETARIAL WAIVER.—The Secretary, in consultation with the Secretary of Health and Human Services, may waive any recapture event caused by extraordinary circumstances.

"(3) NO CREDITS AGAINST TAX; MINIMUM TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part or for purposes of section 55."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Primary health services providers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 7512. EXPENSING OF MEDICAL EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation on expensing of certain depreciable business assets) is amended to read as follows:

"(1) DOLLAR LIMITATION.—

"(A) GENERAL RULE.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $17,500.

"(B) HEALTH CARE PROPERTY.—The aggregate cost which may be taken into account under subsection (a) shall be increased by the lesser of—

"(i) the cost of section 179 property which is health care property placed in service during the taxable year, or

"(ii) $10,000."

(b) DEFINITION.—Section 179(d) (relating to definitions) is amended by adding at the end the following new paragraph:

"(11) HEALTH CARE PROPERTY.—

"(A) IN GENERAL.—For purposes of this section, the term 'health care property' means section 179 property—

"(i) which is medical equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment,

"(ii) which is owned (directly or indirectly) and used by 1 or more physicians (as defined in section 1861(r) of the Social Security Act) in the active conduct of the full-time trade or business of all such physicians of providing primary health services (as defined in section 330(b)(1) of the Public Health Service Act) in a health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act), and

"(iii) substantially all the use of which is in such area.

"(B) SPECIAL RULE FOR METROPOLITAN STATISTICAL AREAS.—A physician who is providing services within a metropolitan statistical area (as defined in section 143(k)(2)) shall not be treated as meeting the requirements of subparagraph (A)(ii) unless such services are provided for, or on behalf of, a governmental or nonprofit entity."

(c) RECAPTURE.—Paragraph (10) of section 179(d) is amended by inserting "and with respect to any health care property which ceases (other than by an area failing to be treated as a health professional shortage area) to be health care property at any time" before the period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1994.

PART 3—MISCELLANEOUS PROVISIONS

SEC. 7521. POST-RETIREMENT MEDICAL AND LIFE INSURANCE RESERVES.

(a) MINIMUM PERIOD FOR WORKING LIVES.—Section 419A(c)(2) (relating to additional reserves for post-retirement medical and life insurance benefits) is amended by inserting "(but not less than 10 years)" after "working lives of the covered employees".

(b) SEPARATE ACCOUNTING.—

(1) REQUIREMENT.—Section 419A(c)(2) is amended by adding at the end the following new flush sentence:

"Such reserve shall be maintained as a separate account."

(2) USE OF RESERVE FOR OTHER PURPOSES.—Paragraph (1) of section 4976(b) (defining disqualified benefit) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any payment to which subparagraph (C) does not apply which is out of an account described in section 419A(c)(2) and which is not used to provide a post-retirement medical benefit or life insurance benefit."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions paid or accrued after December 31, 1994, in taxable years ending after such date.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (b) shall apply to contributions paid or accrued after the date

of the enactment of this Act, in taxable years ending after such date.

SEC. 7522. CREDIT FOR COST OF PERSONAL ASSISTANCE SERVICES REQUIRED BY EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 7511, is amended by inserting after section 23 the following new section:

"SEC. 24. COST OF PERSONAL ASSISTANCE SERVICES REQUIRED BY EMPLOYED INDIVIDUALS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the personal assistance expenses paid or incurred by the taxpayer during such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 10 percentage points for each $5,000 by which the modified adjusted gross income (as defined in section 59B(d)(2)) of the taxpayer for the taxable year exceeds $45,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$2,500' for '$5,000' and '$22,500' for '$45,000'.

"(b) LIMITATION.—The amount of personal assistance expenses for the benefit of an individual which may be taken into account under subsection (a) for the taxable year shall not exceed the lesser of—

"(1) $15,000, or

"(2) such individual's earned income (as defined in section 32(c)(2)) for the taxable year. In the case of a joint return, the amount under the preceding sentence shall be determined separately for each spouse.

"(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual (other than a nonresident alien) who, by reason of any medically determinable physical impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, is unable to engage in any substantial gainful activity without personal assistance services appropriate to carry out activities of daily living. An individual shall not be treated as an eligible individual unless such individual furnishes such proof thereof (in such form and manner, and at such times) as the Secretary may require.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) PERSONAL ASSISTANCE EXPENSES.—The term 'personal assistance expenses' means expenses for—

"(A) personal assistance services appropriate to carry out activities of daily living in or outside the home,

"(B) homemaker/chore services incidental to the provision of such personal assistance services,

"(C) in the case of an individual with a cognitive impairment, assistance with life skills,

"(D) communication services,

"(E) work-related support services,

"(F) coordination of services described in this paragraph,

"(G) assistive technology and devices, including assessment of the need for particular technology and devices and training of family members, and

"(H) modifications to the principal place of abode of the individual to the extent the expenses for such modifications would (but for subsection (e)(2)) be expenses for medical care (as defined by section 213) of such individual.

"(2) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means eating, toileting, transferring, bathing, and dressing.

"(e) SPECIAL RULES.—

"(1) PAYMENTS TO RELATED PERSONS.—No credit shall be allowed under this section for any amount paid by the taxpayer to any person who is related (within the meaning of section 267 or 707(b)) to the taxpayer.

"(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount taken into account in determining the credit under this section shall not be taken into account in determining the amount of the deduction under section 213.

"(3) BASIS REDUCTION.—For purposes of this subtitle, if a credit is allowed under this section for any expense with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expense shall be reduced by the amount of the credit so allowed.

"(f) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $45,000 and $22,500 amounts in subsection (a)(2) and the $15,000 amount in subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1,000, such increase shall be rounded to the nearest multiple of $1,000."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) in the case of any property with respect to which a credit has been allowed under section 24, to the extent provided in section 24(e)(3)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Cost of personal assistance services required by employed individuals."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7523. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN PROGRAMS UNDER THE HEALTH SECURITY ACT.

(a) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF HEALTH SECURITY ACT.—

"(A) IN GENERAL.—The Secretary shall, upon written request, disclose current return information described in subparagraph (B) to any Federal, State, or local agency administering an assistance program under the Health Security Act.

"(B) INFORMATION.—The information described in this subparagraph is information which consists only of adjusted gross income, the untaxed portion of social security benefits, tax-exempt interest income, marital status, and dependents.

"(C) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, assistance provided under the Health Security Act.

"(D) EXCLUSION FROM MATCHING PROGRAM.—Any matches of information under this paragraph shall not be treated as a matching program for purposes of section 552a of title 5, United States Code."

(b) CONFORMING AMENDMENTS.—

(1) Section 6103(9)(2) is amended by inserting "or (15)" after "subsection (l)(7)(D)".

(2) Section 6103(p)(3)(A) is amended by striking "or (14)" and inserting "(14), or (15)".

(3) Section 6103(p)(4) is amended—

(A) by striking "or (12)" in the matter preceding subparagraph (A) and inserting "(12), or (15)", and

(B) by striking "or (14)" in subparagraph (F)(ii) and inserting "(14), or (15)".

(4) Section 7213(a)(2) is amended by striking "or (12)" and inserting "(12), or (15)".

Subtitle F—Graduate Medical Education and Academic Health Centers Trust Fund

SEC. 7601. ESTABLISHMENT OF GRADUATE MEDICAL EDUCATION AND ACADEMIC HEALTH CENTERS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding at the end the following new part:

"PART II—HEALTH CARE TRUST FUNDS

"Sec. 9551. Graduate Medical Education and Academic Health Centers Trust Fund

"SEC. 9551. GRADUATE MEDICAL EDUCATION AND ACADEMIC HEALTH CENTERS TRUST FUND.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'Graduate Medical Education and Academic Health Centers Trust Fund', consisting of such amounts as may be appropriated or credited to the Academic Health Centers Trust Fund as provided in this section or section 9602(b).

"(2) ACCOUNTS IN THE TRUST FUND.—The Graduate Medical Education and Academic Health Centers Trust Fund shall consist of the following 3 accounts:

"(A) The Graduate Medical Education Account.

"(B) The Academic Health Centers Account.

"(C) The Nursing and Health Professions Education Account.

Each such account shall consist of such amounts as are allocated to it under this section.

"(b) TRANSFERS TO THE TRUST FUND.—

"(1) TAXES.—There are hereby appropriated to the Graduate Medical Education and Academic Health Centers Trust Fund amounts received in the Treasury under sections 4501 and 4502 (relating to assessments on insured and self-insured health plans) to the extent attributable to the rates of such taxes not in excess of 1.5 percent.

"(2) TRANSFERS FROM OTHER TRUST FUNDS.—The Secretary of Health and Human Services shall transfer each fiscal year to the Graduate Medical Education and Academic Health Centers Trust Fund from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust

Fund established under the Social Security Act the sum of—

"(A) the amount that would have been paid from the Federal Hospital Insurance Trust Fund in such fiscal year under section 1886(d)(5)(B) of such Act (as in effect before the date of the enactment of the Health Security Act), plus

"(B) the amount that would have been paid from such trust funds in such fiscal year under section 1886(h) of such Act (as so in effect).

"(c) GRADUATE MEDICAL EDUCATION ACCOUNT.—

"(1) TRANSFERS.—There is allocated to the Graduate Medical Education Account each fiscal year an amount equal to the amounts made available under section 3033 of the Health Security Act.

"(2) EXPENDITURES.—Amounts in the Graduate Medical Education Account are appropriated to make the payments described in sections 3031 and 3055 of the Health Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(d) ACADEMIC HEALTH CENTERS ACCOUNT.—

"(1) TRANSFERS.—There is allocated to the Academic Health Centers Account each fiscal year an amount equal to the amounts made available under section 3053 of the Health Security Act.

"(2) EXPENDITURES.—Amounts in the Academic Health Centers Account are appropriated to make the payments described in section 3051 of the Health Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(e) NURSING AND HEALTH PROFESSIONS EDUCATION ACCOUNT.—

"(1) TRANSFERS.—There is allocated to the Nursing and Health Professions Education Account each fiscal year an amount equal to the amounts made available under section 3042 of the Health Security Act.

"(2) EXPENDITURES.—Amounts in the Nursing and Health Professions Education Account are appropriated to make the payments described in section 3041 of the Health Security Act, and to the extent any such amount is not expended during any fiscal year, such amount shall be available for such purpose for subsequent fiscal years.

"(f) RULES RELATING TO ACCOUNTS.—

"(1) INSUFFICIENT FUNDS.—If, for any fiscal year, the sum of the amounts required to be allocated under subsections (c), (d), and (e) exceeds the amounts received in the Graduate Medical Education and Academic Health Centers Trust Fund, then each of such amounts required to be so allocated shall be reduced to an amount which bears the same ratio to such amount as the amounts received in the trust fund bear to the amounts required to be so allocated (without regard to this paragraph).

"(2) ALLOCATION OF EXCESS FUNDS AND INTEREST.—Amounts received in the Graduate Medical Education and Academic Health Centers Trust Fund in excess of the amounts required to be allocated under subsections (c), (d), and (e), and amounts credited to such trust fund under section 9602(b), for any fiscal year shall be allocated to each account ratably on the basis of the amounts allocated to the account for the fiscal year (without regard to this paragraph).".

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 is amended by inserting after the subchapter heading the following new items:

"Part I. General trust funds.

"Part II. Health care trust funds.

"PART I—GENERAL TRUST FUNDS".

TITLE VIII—OTHER FEDERAL PROGRAMS

Subtitle A—Indian Health Service

SEC. 8101. PURPOSES.

The purposes of this subtitle are as follows:

(1) To ensure the delivery of health care services to American Indians and Alaska Natives in a culturally appropriate manner in fulfillment of the unique trust responsibility of the Federal Government and legal obligation to American Indian and Alaska Native people—

(A) derived from the province of international law; and

(B) founded in the treaties, Constitution, statutes, and court decisions of the United States.

(2) To provide sufficient funding for the provision of the standard benefit package as it applies to all eligible beneficiaries under this subtitle.

(3) To ensure that funding levels for services and benefits that are not part of the standard benefits package described in this subtitle are not diluted or diminished.

(4) To raise the health status of American Indians and Alaska Natives to the highest possible level.

(5) To raise the quality of health care delivery to American Indians and Alaska Natives to the highest possible level.

(6) To ensure that health care services provided to American Indians and Alaska Natives are provided in a manner consistent with, and carries out, the recognized Indian self-determination and tribal self-governance policy of the United States.

SEC. 8102. DEFINITIONS.

As used in this subtitle:

(1) AMERICAN INDIAN.—The term "American Indian" has the meaning provided the term "Indian" under paragraph (8).

(2) ALASKA NATIVE.—The term "Alaska Native" has the meaning provided the term "Native" under section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(3) HEALTH PROGRAM OF THE INDIAN HEALTH SERVICE.—The term "health program of the Indian Health Service" means a program which provides or is responsible for obtaining health services under this Act or any other applicable law through programs operated by the Indian Health Service, Indian tribes, or tribal organizations, including Indian tribes or tribal organizations operating under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) RESERVATION.—The term "reservation" means the reservation of any federally recognized Indian tribe, former Indian reservations in Oklahoma, and lands held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) INDIAN HEALTH PLAN.—The term "Indian health plan" means a health plan that is operated by the Secretary under part 1.

(6) INDIAN ENROLLEE.—The term "Indian enrollee" means an individual enrolled in an Indian health plan.

(7) URBAN INDIAN PROGRAM.—The term "urban Indian program" means any program operated pursuant to title V of the Indian Health Care Improvement Act.

(8) OTHER TERMS.—The terms "Indian", "Indian tribe", "tribal organization", "urban Indian", "urban Indian organization", and "service unit" have the same meaning as given such terms under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

PART 1—INDIAN HEALTH PLANS

SEC. 8111. ORGANIZATION OF HEALTH CARE FACILITIES AS HEALTH PLANS.

(a) ORGANIZATION AND ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations, organize Indian health plans and operate Indian Health Service facilities as or within Indian health plans under this Act.

(2) STANDARDS.—

(A) REGULATIONS.—The Secretary may prescribe regulations establishing standards for the operation of Indian Health Service facilities as or within Indian health plans under this Act. In prescribing such standards, the Secretary shall ensure that such standards require the provision of the standard benefit package and conform, to the extent possible, with the requirements for health plans generally set forth in subtitle B of title I.

(B) REPORT.—Not later than 30 days after prescribing standards under subparagraph (A), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the appropriate Committee of the House of Representatives a report describing the differences, if any, between such standards and the requirements for health plans generally referred to in subparagraph (A).

(b) FACILITIES.—Health care facilities of the Indian Health Service located within an area or region may be organized to operate as a single health plan encompassing all such facilities within that area or region or may be organized to operate as several health plans.

(c) STATE ACTION.—In carrying out responsibilities under this Act, a State (or a State-established entity)—

(1) may not impose any standard or requirement on an Indian health plan that is inconsistent with this part or any regulation prescribed under this part or other Federal laws regarding the operation of this part; and

(2) may not deny certification of an Indian health plan under this Act on the basis of a conflict between a rule of a State and this part or regulations prescribed under this part or other Federal laws regarding the operation of this Part.

SEC. 8112. CONTRACT AUTHORITY FOR FACILITIES OPERATING AS OR WITHIN HEALTH PLANS.

(a) CONTRACTS OR AGREEMENTS.—The Director of the Indian Health Service may enter into contracts and agreements for the provision of care and services to be provided under the Indian health plan and contracts and agreements for other services (including procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) consistent with this part.

(b) CONTRACTS AND AGREEMENTS.—Contracts and agreements (including leases) under this section shall not be subject to the following provisions of law:

(1) Section 702 of title 5, relating to the right of review of agency wrongs by courts of the United States.

(2) Sections 1346(a)(2) and 1491 of title 28, relating to the jurisdiction of the district courts of the United States and the United States Court of Federal Claims, respectively, for the actions enumerated in such sections.

(3) Subchapter V of chapter 35 of title 31, relating to adjudication of protests of violations of procurement statutes and regulations.

(4) Sections 3526 and 3702 of such title, relating to the settlement of accounts and claims, respectively, of the United States.

(5) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637(b)(7), (e), (f), (g), and (h)), relating to requirements with respect to small businesses for contracts for property and services.

(6) The provisions of law assembled for purposes of codification of the United States Code as section 471 through 544 of title 40 that relate to the authority of the Administrator of General Services over the lease and disposal of Federal Government property.

(7) The provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), relating to the procurement of property and services by the Federal Government.

(8) Chapter 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), relating to the procurement of property and services by the Federal Government.

(9) Office of Management and Budget Circular A-76.

SEC. 8113. RESOURCE SHARING AUTHORITY.

(a) AGREEMENTS WITH PLANS AND PROVIDERS.—The Secretary may enter into agreements with other health plans, with health care providers, and with other health industry organizations, and with individuals, for the sharing of resources of the Indian Health Service under an Indian health plan.

(b) OTHER AGREEMENTS.—The Secretary may enter into agreements with other departments and agencies of the Federal Government for the sharing of resources of the Indian Health Service and such departments and agencies in order to provide care and services under an Indian health plan.

SEC. 8114. ADMINISTRATIVE AND PERSONNEL FLEXIBILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may appoint health care personnel to positions in any facility of the Indian Health Service operating as or within an Indian health plan in accordance with such qualifications for such positions as the Secretary may establish.

(b) MARKETING ACTIVITIES.—Subject to the provisions of this Act, the Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of Indian health plans.

SEC. 8115. EXPENDITURE AUTHORITY.

(a) DIRECTOR'S DISCRETION.—

(1) IN GENERAL.—To the extent that appropriations are available, the Director of the Indian Health Service may expend funds available to an Indian health plan for any purpose, and in any amount, that the director determines appropriate in order to ensure that the Indian health plan meets the requirements and the requirements of furnishing care and services to Indians.

(2) SPECIFIC EXPENDITURES.—Funds may be expended under this subsection in order to cover the following costs:

(A) The costs of marketing and advertising under an Indian health plan.

(B) The costs of legal services provided to an Indian health plan.

(C) The costs of acquisition (including acquisition of land), construction, repair, or renovation of facilities.

(b) LIMITATION.—Subsection (a) shall not apply to expenditures of funds provided to a facility by the Secretary exclusively for the purpose of the provision of the following services:

(1) Services relating to spinal-cord dysfunction.

(2) Services relating to substance abuse.

SEC. 8116. INDIAN HEALTH CARE INVESTMENT FUND.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund to be known as the Indian Health Care Investment Fund (hereafter referred to in this section referred to as the "Fund").

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary, in addition to amounts otherwise authorized to be appropriated to the Secretary, for Indian health plans, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirement of subsection (c).

(c) REQUIREMENTS.—For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall, subject to the availability of appropriated funds, credit to the Fund an amount in that fiscal year as follows:

(1) For fiscal year 1995, $400,000,000.

(2) For fiscal year 1996, $400,000,000.

(3) For fiscal year 1997, $400,000,000.

(d) AVAILABILITY OF FUND.—

(1) IN GENERAL.—Subject to paragraph (2), amounts in the Fund shall be available to the Secretary only for the Indian health plans organized and operated under this part.

(2) ESTIMATION AND AVAILABILITY.—

(A) ESTIMATION.—For each of fiscal years 1996 and 1997, the Secretary shall estimate the total amount to be collected or recovered under this subtitle by reason of the provision of care and services through Indian health plans or the enrollment of individuals in such plans under that part. The Secretary shall estimate the amount to be so collected or recovered with respect to each Indian health plan and with respect to all Indian health plans.

(B) AVAILABILITY.—For each such fiscal year, the Secretary shall make available to each Indian health plan an amount that bears the same relationship to the total amount available in the Fund for the fiscal year as the amount estimated to be collected or recovered by the Indian health plan during the fiscal year bears to the total amount estimated to be collected or recovered by all Indian health plans during that fiscal year.

(e) REPORT.—Not later than March 1, 1997, the Secretary shall submit to Congress a report concerning the operation of the Indian Health Services health care system in preparing for, and operating under, national health care reform under the Health Security Act during fiscal years 1995 and 1996. The report shall include a discussion of—

(1) the adequacy of amounts in the Fund for the operation of Indian health plans;

(2) the quality of care provided by such plans; and

(3) the ability of such plans to attract patients.

SEC. 8117. TRIBAL AUTHORITY.

With respect to the provisions of this part, the Secretary shall promulgate regulations with the consent of tribes or urban Indian organizations prior to the implementation of any authority under this part that effects such tribes or organizations.

PART 2—ELIGIBILITY, BENEFITS AND COVERAGE

SEC. 8121. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS.

(a) COVERAGE.—The programs of the Indian Health Service shall remain as the principal provider of health care for Indians, except that nothing in this subtitle shall limit the ability of Indians to seek care from providers outside the programs of the Indian Health Service.

(b) ELIGIBILITY.—An Indian is eligible for services under a program of the Indian Health Service or eligible to enroll in an Indian health plan if the individual is—

(1) eligible to receive services pursuant to sections 36.1 through 36.14 of title 42, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act);

(2) an urban Indian residing in an area served by an urban Indian program; or

(3) an Indian described in section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b)).

(c) FAMILY MEMBERS.—

(1) IN GENERAL.—The Secretary may authorize an Indian health plan to enroll members of the family of an enrollee under subsection (b), subject to the payment of premiums, deductibles, copayments, and coinsurance as required under the this Act.

(2) FAMILY.—For purposes of paragraph (1), an enrollee's family is those individuals (other than the enrollee) included within the term "family" as defined in section 1113(b).

(d) HEALTH PROGRAMS OF THE INDIAN HEALTH SERVICE.—With respect to an individual that elects to enroll in a health program of the Indian Health Service, such program shall be the applicable Indian health plan.

(e) LIMITATION ON CHARGES.—An eligible Indian (as defined in subsection (b)) receiving services from or being referred by a health program of the Indian Health Service, or being enrolled in or receiving services covered under an Indian health plan, shall not be subject to any charge for deductibles, copayments, coinsurance, or any other cost for health services provided under such program.

SEC. 8122. BENEFITS.

The Secretary shall ensure that each health program of the Indian Health Service and each Indian health plan provide to each enrolled individual the items and services in the standard benefit package, to the extent that such items and services can be provided consistent with appropriations for that purpose. In the event that appropriations are insufficient the Secretary may revise the standard benefit package available to enrolled individuals.

SEC. 8123. SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.

(a) IN GENERAL.—All individuals described in section 8121(b) shall remain eligible for such benefits under the laws administered by the Indian Health Service as supplement to the standard benefit package. The individual shall not be subject to any charge or any other cost for such benefits.

(b) MAINTENANCE OF EFFORT.—The Secretary shall ensure that the requirements of this subtitle do not result in a reduction of the level of supplemental benefits provided by or through the Indian Health Service.

SEC. 8124. PREMIUMS, COPAYMENTS, AND OTHER CHARGES.

(a) IN GENERAL.—Except as provided in section 8121(c), the Secretary may not impose on or collect from an Indian enrollee a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) for items and services in the standard benefit package that an Indian health plan provides.

(b) LIMITATIONS.—In the case of an Indian enrollee who is not described in section 8121(b), the Secretary shall charge premiums and establish copayments, deductibles, and coinsurance amounts for care and services provided under this subtitle. The premium rate, and the rates for deductibles and copayments, for each Indian health plan shall be established by that health plan based on rules established under the this Act.

SEC. 8125. PROVISION OF HEALTH SERVICES TO NON-INDIANS.

(a) Contracts With Health Plans.—A health program of the Indian Health Service may enter into a contract with a health plan for the provision of health care services to individuals enrolled in such health plan if—

(1) the appropriate official of the program determines that the provision of such health services will not result in a denial or diminishment of health services to any individual described in section 8111(b); and

(2) each tribe or urban Indian organization served by the program authorizes or has authorized the provision of services to such individuals.

(b) Family Treatment.—A health program of the Indian Health Service may provide health care services to insured non-Indian family members of individuals described in section 8111(b) under the same restrictions as those described in subsection (a).

(c) Applicable Individual Charges.—Non-Indians receiving services in a program under subsection (b) shall be subject to any applicable deductibles, copayments, coinsurance, or any other cost for health services provided.

SEC. 8126. ESSENTIAL COMMUNITY PROVIDERS.

A health program of the Indian Health Service automatically certified as an essential community provider under section 1462 may elect to accept certification—

(1) only for eligible individuals described in section 8111(b);

(2) for non-Indian individuals if each tribe or tribal organization served by the program authorizes or has authorized serving non-Indians; or

(3) for eligible individuals described in section 8111(b) and family members of such individuals described in section 8111(b) who are enrolled in a plan other than a health program of the Indian Health Service, if each tribe or urban Indian organization served by the program authorizes or has authorized serving such family members.

SEC. 8127. PAYMENT BY OTHER PROVIDERS.

(a) Payment for Services Provided by Indian Health Service Programs.—Nothing in this subtitle shall be construed as amending section 206, 401, or 402 of the Indian Health Care Improvement Act (25 U.S.C. 1621e, 1641, or 1642) or any other provision of law relating to payments on behalf of Indians for health services from other Federal programs or from other third party payers.

(b) Payment for Services Provided by Contractors.—Nothing in this subtitle shall be construed as affecting any other provision of law, regulation, or judicial or administrative interpretation of law or policy concerning the status of the Indian Health Service as the payer of last resort for Indians eligible for contract health services under a health program of the Indian Health Service.

(c) Payment for Services by Medicare.—Programs of the Indian Health Service shall be eligible for payments for services provided to Medicare beneficiaries.

(d) Retention of Receipts.—Notwithstanding any other provision of law, the collections made by a health program of the Indian Health Service shall remain with the health program.

(e) Collection.—Each health program of the Indian Health Service shall make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are covered by public or private health insurance programs.

(f) Payor of Last Resort.—The payor of last resort rule described in subsection (b) shall not be applied to require—

(1) enrollment in a Federal or State health plan; or

(2) travel of more than 50 miles or 50 minutes to utilize alternative Indian outpatient health resources.

SEC. 8128. CONTRACTING AUTHORITY.

Section 601(d)(1)(B) of the Indian Health Care Improvement Act (25 U.S.C. 1661(d)(1)(B)) is amended by inserting "(including personal services for the provision of direct health care services)" after "goods and services".

SEC. 8129. CONSULTATION.

(a) OMB and Secretary.—The Director of the Office of Management and Budget and the Secretary shall consult, on an annual basis, with representatives of Indian tribes, tribal organizations, and urban Indian organizations concerning health care reform initiatives that affect Indian communities, and policy, funding, and administration of health programs of the Indian Health Service. The Secretary shall solicit and consider the views and recommendations provided by Indian tribes, tribal organizations, and representatives of urban Indian organizations in making determinations that affect Indians and Indian tribes.

(b) Federal Advisory Group.—

(1) Establishment.—The Secretary shall establish an advisory group to assess all aspects of the development and administration of the budget for programs of the Indian Health Service and advise the Office of Management and Budget, the Secretary and Congress with respect to such aspects.

(2) Composition.—The advisory group shall be comprised of—

(A) not less than one representative from each area of the Indian Health Service to be appointed by the Secretary from nominees of tribes and tribal organizations in the respective areas;

(B) not less than one urban Indian representative from each area the Indian Health Service with an urban Indian (as defined in section 4(f) of the Indian Health Care Improvement Act (25 U.S.C. 1603(f)) program to be appointed by the Secretary; and

(C) such other appointees as the Secretary determines appropriate, on the condition that a majority of the members are selected from nominations submitted to the Secretary by a tribe or tribal organization.

SEC. 8130. TRANSITIONAL STUDIES.

(a) In General.—The Secretary shall conduct planning, feasibility, or similar health services studies related to the transition of the health programs of the Indian Health Service under health care reform. Such studies shall take into account the measurements and the means to accomplish the Healthy People 2000 objectives as required under sections 3 and 214 of the Indian Health Care Improvement Act. Such studies shall include an assessment of—

(1) the feasibility of developing an Indian health plan or plans;

(2) the financing necessary to provide the same level of standard benefits to American Indians and Alaska Natives as will be available to all other Americans;

(3) the staffing, program and infrastructure enhancements required to deliver the standard benefits package;

(4) the facility and capital construction needs necessary to provide the standard benefit package; and

(5) the administrative improvements necessary to network, share and access patient data, quality management and improvement data, and financial information.

(b) Advisory Group.—

(1) Establishment.—The Secretary shall establish an advisory group to provide the Secretary with advise concerning the focus, content and conduct of studies under subsection (a).

(2) Composition.—The advisory group shall be comprised of—

(A) not less than one representative from each area of the Indian Health Service to be appointed by the Secretary from among nominees of tribes and tribal organizations in the respective areas;

(B) not less than one urban Indian representative from each area of the Indian Health Service which an urban Indian (as defined in section 4(f) of the Indian Health Care Improvement Act (25 U.S.C. 1603(f)) program to be appointed by the Secretary; and

(C) other appointees as the Secretary determines appropriate, except that the Secretary shall ensure that a majority of the members so appointed are selected from nominations submitted to the Secretary by tribes or tribal organizations.

(c) Recommendations.—Not later than June 30, 1997, the Secretary shall submit to Congress recommendations based on the studies conducted under this section, including recommendations for changes in the structure of Indian Health Services. A timetable for implementing health care reform activities shall be included in such final recommendations.

SEC. 8131. LOANS AND LOAN GUARANTEES.

The Secretary may make loans, and guarantee the payment of principal and interest, to Federal and non-Federal lenders on behalf of health programs of the Indian Health Service or Indian health plans for the purpose of improving and expanding such facilities. Loans and loan guarantees under this section shall be provided under such terms and conditions as the Secretary may prescribe.

SEC. 8132. SIMPLIFICATION OF BILLING.

The Secretary shall take such action as may be necessary to ensure that health programs of the Indian Health Service and Indian health plans may submit all claims for benefits or payment for services entitled to reimbursement in a manner consistent with that of all other health care providers.

SEC. 8133. LONG-TERM CARE DEMONSTRATIONS.

Subject to the availability of appropriations under subtitle B of title II (for home and community-based long-term care services), the Secretary shall establish a demonstration program to provide five grants to health programs of the Indian Health Service to enable such programs to plan and implement innovative methods of providing enhanced home and community-based long-term care services.

SEC. 8134. TECHNICAL ASSISTANCE.

Indian tribes shall be eligible for funds made available under this Act for technical assistance or transitional support.

SEC. 8135. PUBLIC HEALTH PROGRAMS.

Health programs of the Indian Health Service shall be eligible to apply for funding under public health programs authorized under title III of this Act, as deemed appropriate by the Secretary.

SEC. 8136. SURVEY OF HEALTH SERVICES AVAILABLE TO INDIAN VETERANS.

(a) In General.—The Secretary, in consultation with the Secretary of Veterans Affairs, Indian tribes and tribal organizations, shall conduct a survey to assess the availability and accessibility of health care services for Indian veterans residing on Indian reservations.

(b) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress that shall include recommendations concerning the survey conducted under subsection (a).

SEC. 8137. RULE OF CONSTRUCTION.

Unless otherwise provided in this Act, no part of this Act shall be construed to rescind or otherwise modify any obligations, findings, or purposes contained in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

PART 3—AUTHORIZATION OF APPROPRIATIONS

SEC. 8141. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—For the purpose of carrying out this subtitle, including transitional costs and the purchase of additional contract health care services for individual eligible Indians, there are authorized to be appropriated $515,000,000 for fiscal year 1995, $930,000,000 for fiscal year 1996, and $1,150,000,000 for each of the fiscal years 1997 through 2004.

(2) SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.—In addition to amounts otherwise authorized to be appropriated (including the amounts authorized to be appropriated under paragraph (1)), for the purpose of carrying out section 8123, there are authorized to be appropriated $360,000,000 for fiscal year 1995, $400,000,000 for each of the fiscal years 1996 through 1999, and such sums as may be necessary for fiscal year 2000 and each fiscal year thereafter.

(3) LOANS AND LOAN GUARANTEES.—In addition to amounts otherwise authorized to be appropriated (including the amounts authorized to be appropriated under paragraph (1)), for the purpose of carrying out section 8131, there are authorized to be appropriated $500,000,000 for the principal of the loan. The authority of the Secretary to make loans and to guarantee loans under such section shall be subject to such amounts as may be provided for in each fiscal year in advance in an appropriations Act.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established under this subtitle are in addition to any other authorizations of appropriations that are available for the purposes of carrying out this subtitle.

SEC. 8142. FUNDING METHODOLOGY.

The Secretary shall establish new methodologies, consistent with the Indian Health Care Improvement Act, for the distribution to Indian tribes of all new funds that become available for health care initiatives under this subtitle. New distribution methodologies should consider differences in local resources, status of health (as declared under section 3 of such Act), socioeconomic status of tribal people, and facilities, equipment and staff available in concert with the establishment of Indian epidemiological centers under such Act.

Subtitle B—Department of Veterans Affairs

SEC. 8201. SHORT TITLE.

This Act may be cited as the "Veterans Health Care Reform Act of 1994".

SEC. 8202. BENEFITS AND ELIGIBILITY THROUGH DEPARTMENT OF VETERANS AFFAIRS MEDICAL SYSTEM.

(a) DEPARTMENT OF VETERANS AFFAIRS AS A PARTICIPANT IN HEALTH CARE REFORM.—

(1) IN GENERAL.—Title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER HEALTH SECURITY ACT

"SUBCHAPTER I—GENERAL

"1801. Definitions.

"SUBCHAPTER II—ENROLLMENT

"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.

"SUBCHAPTER III—BENEFITS

"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits.
"1823. Supplemental health benefits plans.
"1824. Limitation regarding veterans enrolled with health plans outside Department.

"SUBCHAPTER IV—FINANCIAL MATTERS

"1831. Premiums, copayments, and other charges.
"1832. Medicare coverage and reimbursement.
"1833. Recovery of cost of certain care and services.
"1834. Health Plan Fund.

"SUBCHAPTER I—GENERAL

"§ 1801. Definitions

"For purposes of this chapter:

"(1) The term 'health plan' means an entity that has been certified under the Health Security Act as a health plan.

"(2) The term 'VA health plan' means a health plan that is operated by the Secretary under section 7341 of this title.

"(3) The term 'VA enrollee' means an individual enrolled under the Health Security Act in a VA health plan.

"(4) The term 'standard benefit package' means the package of benefits required to be provided by a health plan under the Health Security Act.

"SUBCHAPTER II—ENROLLMENT

"§ 1811. Enrollment: veterans

"Each veteran may enroll with a VA health plan. A veteran who wants to receive the standard benefit package through the Department shall enroll with a VA health plan.

"§ 1812. Enrollment: CHAMPVA eligibles

"An individual who is eligible for benefits under section 1713 of this title may enroll with a VA health plan in the same manner as a veteran.

"§ 1813. Enrollment: family members

"(a) The Secretary may authorize a VA health plan to enroll members of the family of an enrollee under section 1811 or 1812 of this title, subject to payment of premiums, deductibles, copayments, and coinsurance as required under the Health Security Act.

"(b) For purposes of subsection (a), an enrollee's family is those individuals (other than the enrollee) included within the term 'family' as defined in section 1113(b) of the Health Security Act.

"SUBCHAPTER III—BENEFITS

"§ 1821. Benefits for VA enrollees

"The Secretary shall ensure that each VA health plan provides to each individual enrolled with it the items and services in the standard benefit package under the Health Security Act, to the extent that such items and services can be provided consistent with appropriations for that purpose. In the event that appropriations are insufficient the Secretary may revise the standard benefit package available to enrolled individuals.

"§ 1822. Chapter 17 benefits

"The Secretary shall provide to a veteran the care and services not included in the standard benefit package that are authorized to be provided under chapter 17 of this title in accordance with the terms and conditions applicable to that veteran and that care under such chapter, to the extent that such items and services can be provided consistent with appropriations for that purpose. In the event that appropriations are insufficient the Secretary may revise the standard benefit package available to enrolled individuals.

"§ 1823. Supplemental health benefits plans

"(a) As part of a VA health plan, the Secretary may offer to veterans—

"(1) supplemental health benefits plans (as that term is defined in section 1011(3)(B) of the Health Security Act) for the care and services described in subsection (b); and

"(2) cost-sharing plans consistent with the requirements of part 4 of subtitle B of title I of the Health Security Act.

"(b) The care and services referred to in subsection (a) are care and services that—

"(1) are not available under the standard benefit package; and

"(2) can be provided by the Secretary at reasonable cost.

"§ 1824. Limitation regarding veterans enrolled with health plans outside Department

"A veteran who is residing in a community-rated area in which the Department operates a health plan and who is enrolled in a health plan that is not operated by the Department may be provided the items and services in the standard benefit package by a VA health plan only if the plan is reimbursed for the care provided.

"SUBCHAPTER IV—FINANCIAL MATTERS

"§ 1831. Premiums, copayments, and other charges

"(a) Except as provided in paragraph (2), the Secretary may not impose on or collect from a veteran described in subsection (b) who is a VA enrollee a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) for items and services in the standard benefit package that a VA health plan provides.

"(b) The veterans referred to in subsection (a) are the following:

"(1) Any veteran with a compensable service-connected disability.

"(2) Any veteran whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in the line of duty.

"(3) Any veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such a veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

"(4) Any veteran who is a former prisoner of war.

"(5) Any veteran of the Mexican border period or World War I.

"(6) Any veteran who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(7) Any veteran referred to in subparagraph (A), (B), or (C) of section 1710(e) of this title.

"(c)(1) Except as provided in paragraph (2), in the case of a VA enrollee who is not described in subsection (b), the Secretary shall charge premiums and establish copayments, deductibles, and coinsurance amounts for care and services provided under this chapter. The premium rate, and the rates for deductibles and copayments, for each VA health plan shall be established by that health plan based on rules established under the Health Security Act.

"(2) The Secretary may not charge a veteran referred to in paragraph (1) a premium for any care or service that the Secretary provides the veteran under a supplemental health benefits plan offered under section 1823 of this title if the Secretary is required to provide such care or service under chapter 17 of this title.

"§1832. Medicare coverage and reimbursement

"(a) For purposes of any program administered by the Secretary of Health and Human Services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), a Department facility shall be deemed to be a Medicare provider.

"(b)(1) A VA health plan shall be considered to be a Medicare HMO.

"(2) For purposes of this section, the term 'Medicare HMO' means an eligible organization under section 1876 of the Social Security Act.

"(c) In the case of care provided under this chapter to a veteran (other than a veteran described in section 1831(b) of this title), or to a family member of a veteran, who is eligible for benefits under the Medicare program under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall reimburse a VA health plan or Department health-care facility providing services as a Medicare provider or Medicare HMO in the same amounts and under the same terms and conditions as that Secretary reimburses other Medicare providers or Medicare HMOs, respectively. The Secretary of Health and Human Services shall include with each such reimbursement a Medicare explanation of benefits.

"(d) When the Secretary provides care to a veteran, or a family member of a veteran, for which the Secretary receives reimbursement under this section, the Secretary shall require the veteran to pay to the Department any applicable deductible or copayment that is not covered by Medicare.

"§1833. Recovery of cost of certain care and services

"(a) In the case of an individual provided care or services through a VA health plan who has coverage under a supplemental health benefits plan pursuant to part 4 of subtitle B of title I of the Health Security Act, a Medicare supplemental health insurance plan, or any other provision of law, the Secretary has the right to recover or collect charges for care or services (as determined by the Secretary, but not including care or services for a service-connected disability) from the party providing that coverage to the extent that the individual (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(b) In the case of a veteran referred to in section 1831(b) of this title who is enrolled in a health plan other than a VA health plan and who is provided care or services for a service-connected disability by a VA health plan, the Secretary has the right to recover or collect charges for such care and services from the party operating the health plan to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(c) The provisions of subsections (b) through (f) of section 1729 of this title shall apply with respect to claims by the United States under subsection (a) or (b) in the same manner as they apply to claims under subsection (a) of that section.

"§1834. Health Plan Fund

"(a) There is hereby established in the Treasury a revolving fund to be known as the 'Department of Veterans Affairs Health Plan Fund'.

"(b)(1) Subject to paragraphs (2) and (3), amounts collected or recovered by the Department under this subchapter by reason of the furnishing of care and services to an individual by a VA health plan or the enrollment of an individual with a VA health plan (including amounts received as premiums, premium discount payments, copayments or coinsurance, and deductibles, amounts received as third-party reimbursements or reimbursements from Medicare, and amounts received as reimbursements from another health plan for care furnished to one of its enrollees) shall be credited to the revolving fund.

"(2) Premiums collected by the Department under this subchapter during fiscal year 1996 or 1997 by reason of the furnishing of care and services under a VA health plan to a veteran referred to in section 1831(b) of this title shall be credited to the revolving fund established under subsection (a) only if the amount of funds appropriated to the Veterans Health Care Investment Fund established under subsection (a)(1) of section 7346 of this title for the fiscal year concerned is less than the amount specified to be credited to that fund for that fiscal year under subsection (c) of such section 7346.

"(3) Premiums received by the Department under this subchapter in any fiscal year after fiscal year 1997 by reason of the furnishing of care and services under a VA health plan to a veteran referred to in paragraph (2) shall be credited to the revolving fund established under subsection (a) only if the cost of providing such care and services is not covered by appropriations. The amount so credited shall be the amount of such premiums received that is necessary to cover the difference between the cost of such care and services and such appropriations.

"(c) The Secretary shall establish in the revolving fund a separate account for each VA health plan. The Secretary shall credit any amount received under subsection (b) by reason of the furnishing of care and services in or through a VA health plan or the enrollment of an individual with a VA health plan.

"(d) Amounts credited to the account of the revolving fund for a VA health plan under subsection (b) are hereby made available to the VA health plan for the expenses of the delivery by the VA health plan of the items and services in the standard benefit package and any supplemental health benefits plan offered by the VA health plan.".

(2) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, is amended by inserting after the item relating to chapter 17 the following new item:

"18. Benefits and Eligibility Under Health Security Act .... 1801.".

(b) PRESERVATION OF EXISTING BENEFITS FOR FACILITIES NOT OPERATING AS HEALTH PLANS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new section:

"§1705. Facilities not operating within health plans

"The provisions of this chapter shall apply with respect to the furnishing of care and services by any facility of the Department when it is not operating as or within a health plan certified as a health plan under the Health Security Act.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1704 the following new item:

"1705. Facilities not operating within health plans.".

SEC. 8203. ORGANIZATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES AS HEALTH PLANS.

(a) IN GENERAL.—Chapter 73 of title 38, United States Code, is amended—

(1) by redesignating subchapter IV as subchapter V; and

(2) by inserting after subchapter III the following new subchapter IV:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"§7341. Organization of health care facilities as health plans

"(a)(1) The Secretary may, subject to the availability of appropriations, organize health plans and operate Department facilities as or within health plans under the Health Security Act.

"(2)(A) The Secretary may prescribe regulations establishing standards for the operation of Department health care facilities as or within health plans under that Act. In prescribing such standards, the Secretary shall ensure that they conform, to the extent possible under the requirements of section 1821, to the requirements for health plans generally set forth in part 1 of subtitle B of title I of the Health Security Act.

"(B) Not later than 30 days after prescribing such standards, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing the differences, if any, between such standards and the requirements for health plans generally referred to in subparagraph (A).

"(b) Health care facilities of the Department located within an area or region may be organized to operate as a single health plan encompassing all Department facilities within that area or region or may be organized to operate as several health plans.

"(c) In carrying out responsibilities under the Health Security Act, a State (or a State-established entity)—

"(1) may not impose any standard or requirement on a VA health plan that is inconsistent with this chapter or any regulation prescribed under this chapter or other Federal laws regarding the operation of this chapter; and

"(2) may not deny certification of a VA health plan under the Health Security Act on the basis of a conflict between a rule of a State and this chapter or regulations prescribed under this chapter or other Federal laws regarding the operation of this chapter.

"§7342. Contract authority for facilities operating as or within health plans

"(a) The Secretary shall designate a health plan director for each VA health plan organized and operated under this subchapter.

"(b) The health plan director of a VA health plan may enter into contracts and agreements for the provision of care and services to be provided under the VA health plan and contracts and agreements for other services (including procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) consistent with section 1821 of this title.

"(c) Contracts and agreements (including leases) under subsection (a) shall not be subject to the following provisions of law:

"(1) Section 8110(c) of this title, relating to the contracting of services at Department health-care facilities.

"(2) Section 8122(a)(1) of this title, relating to the lease of Department property.

"(3) Section 8125 of this title, relating to local contracts for the procurement of health-care items.

"(4) Section 702 of title 5, relating to the right of review of agency wrongs by courts of the United States.

"(5) Sections 1346(a)(2) and 1491 of title 28, relating to the jurisdiction of the district courts of the United States and the United States Court of Federal Claims, respectively, for the actions enumerated in such sections.

"(6) Subchapter V of chapter 35 of title 31, relating to adjudication of protests of violations of procurement statutes and regulations.

"(7) Sections 3526 and 3702 of such title, relating to the settlement of accounts and claims, respectively, of the United States.

"(8) Subsections (b)(7), (e), (f), (g), and (h) of section 8 of the Small Business Act (15 U.S.C. 637(b)(7), (e), (f), (g), and (h)), relating to requirements with respect to small businesses for contracts for property and services.

"(9) The provisions of law assembled for purposes of codification of the United States Code as section 471 through 544 of title 40 that relate to the authority of the Administrator of General Services over the lease and disposal of Federal Government property.

"(10) The provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), relating to the procurement of property and services by the Federal Government.

"(11) Chapter 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), relating to the procurement of property and services by the Federal Government.

"(12) Office of Management and Budget Circular A-76.

"(c)(1) Contracts and agreements for the provision of care and services under subsection (a) may include any contract or other agreement that the health plan director of a VA health plan determines is consistent with section 1821 of this title and appropriate in order to provide care and services under the VA health plan.

"(2) Contracts and agreements under this subsection may be entered into without prior review by the Central Office of the Department.

"(d)(1) The entry into a contract or agreement under this section for services other than the services referred to in subsection (c) (including contracts and agreements for procurement of equipment, maintenance and repair services, and other services related to the provision of health care services) shall not be subject to prior review by the Central Office if the contract is consistent with section 1821 of this title and the amount of the contract or agreement is less than $250,000.

"(2) The Central Office may conduct a prior review of a contract or agreement referred to in paragraph (1) if the amount of the contract or agreement is $250,000 or greater.

"§ 7343. Resource sharing authority

"(a) The Secretary may, consistent with section 1821 of this title, enter into agreements under section 8153 of this title with other health care plans, with health care providers, and with other health industry organizations, and with individuals, for the sharing of resources of the Department under a VA health plan.

"(b) The Secretary may, consistent with section 1821 of this title, enter into agreements with other departments and agencies of the Federal Government for the sharing of resources of the Department and such departments and agencies in order to provide care and services under a VA health plan.

"§ 7344. Administrative and personnel flexibility

"(a) Notwithstanding any other provision of law, the Secretary may—

"(1) appoint health care personnel to positions in any facility of the Department operating as or within a VA health plan in accordance with such qualifications for such positions as the Secretary may establish; and

"(2) promote and advance personnel serving in such positions in accordance with such qualifications as the Secretary may establish.

"(b) Subject to the provisions of section 1125 of the Health Security Act, the Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of VA health plans.

"§ 7345. Expenditure authority

"(a)(1) To the extent that appropriations are available, the director of a VA health plan may expend funds available to a VA health plan (including funds available under section 1834(c) of this title, funds available under section 7346(d)(2)(B) of this title, and funds otherwise made available to the VA health plan by the Secretary) for any purpose, and in any amount, that the director determines appropriate in order to ensure that the VA health plan meets the requirements and the requirements of furnishing care and services to veterans under chapter 17 of this title.

"(2) Funds may be expended under this subsection in order to cover the following costs:

"(A) The costs of marketing and advertising under a VA health plan.

"(B) The costs of legal services provided to a VA health plan by the General Counsel of the Department.

"(C) The costs of acquisition (including acquisition of land), construction, repair, or renovation of facilities.

"(3) The exercise by a health plan director of the authority provided in paragraph (1) shall not be subject to prior review by the Central Office of the Department.

"(b) Subsection (a) shall not apply to expenditures of funds provided to a facility by the Central Office of the Department exclusively for the purpose of the provision of the following services:

"(1) Services relating to post-traumatic stress disorder.

"(2) Services relating to spinal-cord dysfunction.

"(3) Services relating to substance abuse.

"(4) Services relating to the rehabilitation of blind veterans.

"§ 7346. Veterans Health Care Investment Fund

"(a) There is hereby established in the Treasury of the United States a fund to be known as the Veterans Health Care Investment Fund (in this section referred to as the 'Fund').

"(b) There is hereby authorized to be appropriated to the Department, in addition to amounts otherwise authorized to be appropriated to the Department for VA health plans, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirement of subsection (c).

"(c) For each of fiscal years 1995, 1996, and 1997, the Secretary of the Treasury shall, subject to the availability of appropriated funds, credit to the Fund an amount in that fiscal year as follows:

"(1) For fiscal year 1995, $1,225,000,000.

"(2) For fiscal year 1996, $600,000,000.

"(3) For fiscal year 1997, $1,700,000,000.

"(d)(1) Subject to paragraph (2), amounts in the Fund shall be available to the Secretary only for the VA health plans organized and operated under this subchapter.

"(2)(A) For each of fiscal years 1996 and 1997, the Secretary shall estimate the total amount to be collected or recovered under sections 1831, 1832, and 1833 of this title by reason of the provision of care and services through VA health plans under chapter 18 of this title or the enrollment of individuals in such plans under that chapter. The Secretary shall estimate the amount to be so collected or recovered with respect to each VA health plan and with respect to all VA health plans.

"(B) For each such fiscal year, the Secretary shall make available to each VA health plan an amount that bears the same relationship to the total amount available in the Fund for the fiscal year as the amount estimated to be collected or recovered by the VA health plan during the fiscal year bears to the total amount estimated to be collected or recovered by all VA health plans during that fiscal year.

"(e) Not later than March 1, 1997, the Secretary shall submit to Congress a report concerning the operation of the Department of Veterans Affairs health care system in preparing for, and operating under, national health care reform under the Health Security Act during fiscal years 1995 and 1996. The report shall include a discussion of—

"(1) the adequacy of amounts in the Fund for the operation of VA health plans;

"(2) the quality of care provided by such plans; and

"(3) the ability of such plans to attract patients.

"§ 7347. Funding provisions: grants and other sources of assistance

"The Secretary may apply for and accept, if awarded, any grant or other source of funding that is intended to meet the needs of special populations and that but for this section is unavailable to facilities of the Department or to health plans operated by the Government if funds obtained through the grant or other source of funding will be used through a facility of the Department operating as or within a health plan.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the item relating to the heading for subchapter IV and inserting in lieu thereof the following:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"7341. Organization of health care facilities as health plans.

"7342. Contract authority for facilities operating as or within health plans.

"7343. Resource sharing authority.

"7344. Administrative and personnel flexibility.

"7345. Expenditure authority.

"7346. Veterans Health Care Investment Fund.

"7347. Funding provisions: grants and other sources of assistance.

"SUBCHAPTER V—RESEARCH CORPORATIONS".

TITLE IX—WORKERS COMPENSATION AND AUTOMOBILE INSURANCE COORDINATION

Subtitle A—Workers Compensation Medical Services

SEC. 9001. APPLICATION OF INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The provisions of subtitle B of title V shall apply to the provision of workers compensation medical services provided by a health plan or health care provider in the same manner as such provisions apply with respect to the provision of services included in the standard benefit package.

(b) INFORMATION.—Subject to the provisions of subtitle C of title V, health plans and health care providers that render workers compensation medical services shall provide to the worker and to the workers compensation carrier, the employer or both, as appropriate, relevant health care information necessary to assist the worker in the safe and timely return to work.

(c) COMPLIANCE WITH DUTIES AND REQUIREMENTS.—A health plan to which this section applies and its providers shall comply with legal duties and reporting requirements under State workers compensation laws, and other Federal and State laws, including laws regarding the reporting of occupational injuries and diseases.

(d) RULES.—The Secretary of Labor shall promulgate rules to clarify the responsibilities of health plans and health care providers in carrying out the provisions referred to in subsection (a).

SEC. 9002. PROVISION OF CARE IN DISPUTED CASES.

(a) IN GENERAL.—In cases in which a workers compensation claim is challenged by the employer, the workers compensation carrier, or both, a health plan shall provide or pay for all medical care included in the standard benefit package according to the applicable workers compensation fee schedule, if any, until such time as a determination is made through the adjudication process that the claim is compensable as a workers compensation claim. If such a determination is made, the workers compensation carrier (or the employer, if self-insured) shall reimburse the health plan (for the cost of services delivered to the member for the work-related illness or injury) and the worker (for any copayments, deductibles or coinsurance costs incurred for such services).

(b) APPLICABILITY.—Subsection (a) shall not apply in a case where compensation has been accepted by the insurer or the employer, or paid without prejudice.

SEC. 9003. DEMONSTRATION PROJECTS.

(a) AUTHORIZATION.—The Secretary of Health and Human Services and the Secretary of Labor are authorized to conduct demonstration projects under this section in one or more States with respect to treatment of work-related injuries and illnesses.

(b) DEVELOPMENT OF WORK-RELATED PROTOCOLS.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor, in consultation with the States and such experts on work-related injuries and illnesses as each such Secretary finds appropriate, shall develop protocols for the appropriate treatment of work-related conditions.

(2) TESTING OF PROTOCOLS.—The Secretary of Health and Human Services and the Secretary of Labor shall enter into contracts with one or more community-rated health plans to test the validity of the protocols developed under subsection (a).

(c) DEVELOPMENT OF CAPITATION PAYMENT MODELS.—The Secretary of Health and Human Services and the Secretary of Labor shall develop, using protocols developed under subsection (b) if possible, methods of providing for payment by workers compensation carriers to health plans on a per case basis, capitated payment for the treatment of specified work-related injuries and illnesses.

SEC. 9004. COMMISSION ON WORKERS COMPENSATION MEDICAL SERVICES.

(a) ESTABLISHMENT.—There is hereby established a Commission on Workers Compensation Medical Services (hereafter in this section referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of 15 members appointed in accordance with paragraph (2). Members of the Commission shall include—

(A) one or more individuals representing State workers compensation commissioners;

(B) one or more individuals representing State workers compensation funds;

(C) one or more individuals representing labor organizations;

(D) one or more individuals representing employers (other than workers compensation insurance carriers);

(E) one or more individuals representing workers compensation insurance carriers;

(F) one or more members of the medical profession having expertise in occupational health; and

(G) one or more educators or researchers having expertise in the field of occupational health.

Eight members of the Commission shall constitute a quorum.

(2) APPOINTMENTS.—Members of the Commission shall be appointed by the President and shall include—

(A) three members appointed from among individuals recommended by the Speaker of the House of Representatives;

(B) three members appointed from among individuals recommended by the Minority Leader of the House of Representatives;

(C) three members appointed from among individuals recommended by the Majority Leader of the Senate; and

(D) three members appointed from among individuals recommended by the Minority Leader of the Senate.

(3) NO COMPENSATION EXCEPT TRAVEL EXPENSES.—Members of the Commission shall serve without compensation, but each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall study the relationship of workers compensation medical services to the new health system under this Act in terms of impact on the cost of workers compensation medical services, access to appropriate care for injured workers, and quality of medical care and its impact on functional and vocational outcomes for injured workers.

(2) EVALUATION ISSUES TO BE ADDRESSED.—In its deliberations under paragraph (1), the Commission shall consider the following issues in examining the relationship between health plans and workers compensation medical services:

(A) The impact of health reform on workers compensation medical costs and premium rates charged to employers for workers compensation insurance.

(B) The extent and impact of cost-shifting and price discrimination between the workers compensation medical system and traditional health insurers.

(C) The impact of experience rating adjustments resulting from workers compensation medical services on workplace safety.

(D) The advantages and disadvantages of maintaining separate financing, payment and delivery systems for workers compensation medical services, including the impact on—

(i) the quality of medical care delivered to workers injured or made ill on the job;

(ii) the incentives for employers to maintain safe work-places; and

(iii) workers compensation indemnity benefit costs, medical costs and the overall costs of the workers compensation system.

(E) The advisability and appropriateness of transferring financial responsibility for some or all workers compensation medical benefits to health plans.

(F) The impact of State-to-State variations in medical and rehabilitation benefits on costs, access and quality of care.

(G) The options that are available to accomplish the delivery of workers compensation benefits not included in the standard benefit package in integrated systems

(H) Whether capitated rates can be developed for workers compensation medical benefits, and the impact of using such rates on medical and indemnity costs, access, and quality of care.

(I) The impact of provider choice, with respect to an injured worker, on workers compensation medical costs, wage-loss benefits costs, and quality of care.

(d) STAFF SUPPORT.—The Secretary of Health and Human Services and the Secretary of Labor shall provide staff support for the Commission.

(e) REPORTS.—Not later than October 1, 2000, the Commission shall submit a final report on its work to the President, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall include a recommendation as to whether a transfer of financial responsibility for some or all medical benefits to health plans should be effected, and a detailed implementation plan should such a transfer be recommended. Prior to the submission of the final report, the Commission shall submit such interim reports on issues addressed by the Commission as the members of the Commission determine to be appropriate.

Subtitle G—Automobile Insurance

SEC. 9101. DEFINITIONS.

In this subtitle:

(1) INJURED INDIVIDUAL.—The term "injured individual" means an individual who has a bodily injury or illness sustained in an automobile accident and who is entitled to receive automobile insurance medical services from a certified standard health plan.

(2) AUTOMOBILE INSURANCE MEDICAL SERVICES.—The term "automobile insurance medical services" means services and items covered by automobile insurance that are medically necessary or appropriate for treatment of bodily injuries or illnesses sustained in automobile accidents and that are within the scope of the benefits to which an injured individual who is enrolled in a certified standard health plan is entitled under such health plan.

(3) AUTOMOBILE INSURANCE CARRIER.—The term "automobile insurance carrier" means an insurance company, employer, or fund that is liable for payment for automobile insurance medical services based either on a direct contractual obligation to an injured individual or an obligation on behalf of a

person responsible for causation of an injured individual's bodily injury or illness.

(4) CERTIFIED STANDARD HEALTH PLAN.—The term "certified standard health plan" has the meaning given to such term by section 1011(2)(A).

PART 1—REQUIREMENTS RELATING TO AUTOMOBILE INSURANCE MEDICAL SERVICES

SEC. 9111. PROVISION OF AUTOMOBILE INSURANCE MEDICAL SERVICES THROUGH HEALTH PLANS.

(a) IN GENERAL.—

(1) HEALTH PLANS.—An individual enrolled in a certified standard health plan shall receive automobile insurance medical services under the terms generally applicable to the provision (or arrangement for the provision) of such services by such health plan.

(2) MEDICARE AND MEDICAID.—Paragraph (1) shall not prevent a participating State from requiring automobile insurance carriers to make direct payment to health care providers for automobile insurance medical services that are covered both by (i) medicare under title XVIII of the Social Security Act or a State medicaid program under title XIX of the Social Security Act, and (ii) an automobile insurance contract that is required by law and provides for direct payment of medical services regardless of fault. Payment for automobile insurance medical services in such circumstances shall be made to the extent of the automobile insurance carrier's liability under the applicable contract.

(b) ALTERNATIVE PERMITTED.—Subsection (a) shall not prevent an individual and an automobile insurance carrier from agreeing that treatment for bodily injury or illness sustained in an automobile accident shall be provided other than by or through the certified standard health plan in which the individual is enrolled.

SEC. 9112. PAYMENT FOR AUTOMOBILE INSURANCE MEDICAL SERVICES.

(a) PAYMENT TO HEALTH PLANS.—Each automobile insurance carrier that is liable for payment for automobile insurance medical services provided to an injured individual by a certified standard health plan shall make payment to such health plan for such services to the extent of its obligations under the applicable automobile insurance contract.

(b) REIMBURSEMENT FOR COST-SHARING.—Each automobile insurance carrier shall be liable for the reimbursement or payment of any deductibles, copayments, or coinsurance paid or owed by an injured individual for automobile insurance medical services to the extent of the applicable automobile insurance contract.

(c) LIMITATION OF LIABILITY.—Except as provided in subsections (a) and (b), nothing in this subtitle or any other provision of law shall require an automobile insurance carrier or any person insured by such a carrier to make any payment to a health plan, health care provider, or any other person for (1) automobile insurance medical services, or (2) other health care services or items used to treat an injury or illness sustained in an automobile accident that are not medically necessary or appropriate.

(d) USE OF FEE SCHEDULES.—

(1) IN GENERAL.—Irrespective of the type of health plan providing automobile insurance medical services, payment by automobile insurance carriers for such services shall be made to the plan exclusively in accordance with any fee schedule or schedules established by the plan or the participating State for health care services generally.

(2) MEDICARE FEE SCHEDULES.—If the injured individual is a medicare beneficiary under title XVIII of the Social Security Act, an automobile insurance carrier may use the appropriate fee schedule for health care services established under such title.

(3) ALTERNATIVE PAYMENT METHODOLOGIES.—Fee schedules shall not be required in any case in which an automobile insurance carrier and a health plan have agreed on an alternative payment arrangement.

(e) REIMBURSEMENT FOR PAYMENTS MADE.—Nothing in this subtitle or any other provision of law shall impair the right of a certified standard health plan or automobile insurance carrier to seek reimbursement from any individual liable for a bodily injury or illness sustained in an automobile accident for payments made for automobile insurance medical services to treat such injury or illness.

(f) RIGHTS TO COVERAGE FOR ADDITIONAL TREATMENT.—Subject to the provisions of subsection (c), nothing in this subtitle shall impair any rights with respect to medically necessary or appropriate services and items to which an individual injured in an automobile accident is entitled that are not automobile insurance medical services as defined in this subtitle.

PART 2—ADMINISTRATION

SEC. 9121. PAYMENT FACILITATION.

(a) IN GENERAL.—Each participating State shall establish a system for payment of automobile insurance medical services by automobile insurance carriers to certified standard health plans, including mechanisms for prompt resolution of any issues or disputes that may arise in connection with such payment. Such systems shall require that automobile insurance carriers have an affirmative obligation to identify to such health plans the automobile insurance carrier or carriers liable for payment for automobile insurance medical services, through the use of computer data programs where appropriate and cost effective.

(b) SANCTIONS.—Each participating State shall authorize appropriate sanctions for the failure of a health plan, automobile insurance carrier, or any other person to comply with the requirements established pursuant to subsection (a).

TITLE X—PREMIUM FINANCING

Subtitle A—National Health Care Cost and Coverage Commission

SEC. 10001. NATIONAL HEALTH CARE COST AND COVERAGE COMMISSION.

There is established a commission to be known as the National Health Care Cost and Coverage Commission (hereafter in this title referred to as the "Commission").

SEC. 10002. COMPOSITION.

(a) COMPOSITION.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Members shall be appointed not later than 9 months after the date of the enactment of this Act based on their expertise and national recognition in the fields of health economics including insurance practices, health care benefit design, health care provider organization and reimbursement, and labor markets. In appointing members of the Commission, the President shall ensure that no more than 4 members of the Commission are affiliated with the same political party.

(b) CHAIRPERSON.—The President shall designate 1 individual described in subsection (a) who shall serve as Chairperson of the Commission.

(c) TERMS.—

(1) IN GENERAL.—The terms of members of the Commission shall be for 6 years to commence on January 1, 1996, except that of the members first appointed, 3 shall be appointed for an initial term of 4 years, 3 shall be appointed for an initial term of 5 years and the chairperson shall be appoint for an initial term of 6 years.

(2) CONTINUATION IN OFFICE.—Upon the expiration of a term of office, a member shall continue to serve until a successor is appointed and qualified.

(d) VACANCIES.—

(1) IN GENERAL.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Commission does not impair the authority of the remaining members to exercise all of the powers of the Commission.

(3) ACTING CHAIRPERSON.—The Commission may designate a member to act as Chairperson during any period in which there is no Chairperson designated by the President.

SEC. 10003. DUTIES OF COMMISSION.

(a) IN GENERAL.—The general duties of the Commission are to monitor and respond to—

(1) trends in health care coverage; and

(2) changes in per-capita premiums and other indicators of health care inflation.

The Commission may be advised by individuals with expertise concerning the economic, demographic, and insurance market factors that affect the cost and coverage of health insurance.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—The Commission shall report to Congress annually on January 1 (beginning in 1997) concerning trends in health care coverage and costs. Such reports shall categorize such information on a national basis, a State by State basis, and a community rating area basis.

(2) HEALTH CARE COVERAGE.—For purposes of this title, the term "health care coverage" means coverage under—

(A) a certified standard health plan providing a standard benefits package or an alternative standard benefits package;

(B) the medicare program under title XVIII of the Social Security Act;

(C) the medicaid program under title XIX of the Social Security Act;

(D) the health care program for active military personnel under title 10, United States Code;

(E) the veterans health care program under chapter 17 of title 38, United States Code;

(F) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code;

(G) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

(H) a State single-payer system approved under subpart B of part 3 of subtitle F of title I; or

(I) any governmental health care program for institutionalized individuals.

(3) CONTENTS OF REPORT.—Each report under paragraph (1) shall include the findings of the Commission with respect to the following:

(A) Demographics and employment status of the uninsured individuals, and findings on why such individuals are uninsured.

(B) Structure of delivery systems.

(C) Status of insurance reforms.

(D) Development and operation of purchasing cooperatives and other buyer reforms.

(E) Success of market and other mechanisms in expanding coverage and controlling health expenditures and premium costs among employers and families.

(F) Success of the tax imposed under section 4521 of the Internal Revenue Code of 1986.

(G) Success and adequacy of the individual and employer subsidy programs under title VI in expanding coverage through employers and families.

(H) Per capita cost of health care, including—

(i) the rate of growth in health care costs categorized by type of health care provider and type of payor in States and community rating areas;

(ii) the expected rate of growth in per capita health care costs;

(iii) the causes of such growth; and

(iv) proposed strategies for controlling such growth.

(I) The percentage of the resident population in the United States, and each State, that has health care coverage.

(4) BENEFITS ISSUES.—The Commission shall consult with the National Health Benefits Board in gathering data and in making recommendations concerning issues that effect the standard benefit package.

(c) AFFORDABILITY REPORTS.—

(1) IN GENERAL.—As part of each annual report under subsection (b), beginning with the report for 1999, the Commission shall include information on—

(A) the affordability of health care coverage for families and employers; and

(B) the success of market incentives and other provisions of this Act in achieving health care cost containment.

(2) DETERMINATION AND RECOMMENDATIONS.—If the Commission determines for any year that health care coverage is unaffordable (as described in paragraph (3)) or that cost containment efforts under this Act are unsuccessful, the Commission shall submit recommendations in the annual report for systematic improvements as provided for in paragraph (4).

(3) COST OF COVERAGE.—The Commission shall make a determination of unaffordability under paragraph (2) if the Commission finds that, with respect to the year for which the report is submitted, fewer than 35 percent of those eligible to enroll in community-rated health plans were able to enroll in plans with a premium that was at or below the reference premium for the community rating area involved.

(4) RECOMMENDATIONS.—If the Commission makes a finding under paragraph (3) with respect to any year, the Commission shall recommend to Congress a means of controlling health care costs in order to ensure that the growth in the per capita premium for community-rated plans is at or below the growth in the reference premium for the community rating area involved. The Commission may recommend alternative reference premium growth if the Commission determines that such alternative would be more appropriate.

(5) CONGRESSIONAL CONSIDERATION.—The recommendations of the Commission under paragraph (4) shall be submitted to Congress in the form of an implementing bill which contains such statutory provisions as the Commission determines are necessary or appropriate to implement such recommendations. Such bill shall be considered under the procedures established under section 10004.

(d) COVERAGE TRIGGER.—

(1) COMMISSION DETERMINATION.—By January 1, 2000, the Commission shall, on the basis of the most recent data available, make a determination as to the percentage of the resident population in the United States, and each State, that has health care coverage.

(2) ATTAINMENT OF COVERAGE GOAL.—

(A) IN GENERAL.—If, under paragraph (1), the Commission determines that health care coverage of at least 95 percent of the resident population in the United States has been attained, the Commission shall submit recommendations described in subparagraph (B) in its annual report to Congress on January 1, 2000.

(B) RECOMMENDATION REQUIREMENT.—The recommendations of the Commission under subparagraph (A) shall include methods to expand health care coverage to those who are not covered. Such recommendations shall address all relevant parties, including States, employers, employees, unemployed and low-income individuals, and public program participants.

(3) COVERAGE GOAL NOT ATTAINED.—

(A) IN GENERAL.—If, under paragraph (1), the Commission determines that health care coverage of at least 95 percent of the resident population in the United States has not been attained, the Commission shall submit recommendations described in subparagraph (B) in its annual report to Congress not later than May 15, 2000.

(B) RECOMMENDATION REQUIREMENTS.—The recommendations of the Commission under paragraph (1) shall include one or more legislative proposals for expanding health care coverage to cover the remaining uninsured population. Such recommendations shall address all relevant parties, including States, employers, employees, unemployed and low-income individuals, and public program participants.

(C) CONGRESSIONAL CONSIDERATION.—The recommendations of the Commission under subparagraph (A) shall be submitted to Congress in the form of one or more implementing bills which contain such statutory provisions as the Commission determines are necessary or appropriate to implement such recommendations. Such bill shall be considered under the procedures established under section 10004.

SEC. 10004. CONGRESSIONAL CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) IMPLEMENTING BILLS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an implementing bill described in section 10003(c)(5) or section 10003(d)(3)(C) shall be considered by Congress under the procedures for consideration described in subsection (b), except that with respect to an implementing bill described in section 10003(c)(5), the date described in subsection (b)(3) shall not apply.

(2) GAO CONSIDERATION.—With respect to an implementing bill described in section 10003(d)(3)(C), to be eligible for Congressional consideration under subsection (b), the General Accounting Office must certify that, if implemented, the legislative proposals in such bill would expand health care coverage to cover the remaining uninsured population.

(b) CONGRESSIONAL CONSIDERATION.—

(1) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementing bill described in subsection (a), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) INTRODUCTION AND REFERRAL.—On the day on which the implementing bill described in subsection (a) is transmitted to the House of Representatives and the Senate, such bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which the implementing bill is transmitted, the bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. If the implementing bill is not introduced within 5 days of its transmission, any Member of the House and of the Senate may introduce such bill. The implementing bill introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(3) PERIOD FOR COMMITTEE CONSIDERATION.—If the committee or committees of either House to which an implementing bill has been referred have not reported the bill at the close of July 1, 2000 (or if such House is not in session, the next day such House is in session), such committee or committees shall be automatically discharged from further consideration of the implementing bill and it shall be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE SENATE.—

(A) IN GENERAL.—Within 5 days after the implementing bill is placed on the calendar, the Majority Leader, at a time to be determined by the Majority Leader in consultation with the Minority Leader, shall proceed to the consideration of the bill. If on the sixth day after the bill is placed on the calendar, the Senate has not proceeded to consideration of the bill, then the presiding officer shall automatically place the bill before the Senate for consideration. A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) TIME LIMITATION ON CONSIDERATION OF BILL.—

(i) IN GENERAL.—Debate in the Senate on an implementing bill, and all amendments and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(ii) DEBATE OF AMENDMENTS, MOTIONS, POINTS OF ORDER, AND APPEALS.—In the Senate, no amendment which is not relevant to the bill shall be in order. Debate in the Senate on any amendment, debatable motion or appeal, or point of order in connection with an implementing bill shall be limited to—

(I) not more than 2 hours for each first degree relevant amendment,

(II) one hour for each second degree relevant amendment, and

(III) 30 minutes for each debatable motion or appeal, or point of order submitted to the Senate,

to be equally divided between, and controlled by, the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such amendment, motion, appeal, or point of order, the time in opposition thereto, shall be controlled by the Minority Leader or designee of the Minority Leader. The Majority Leader and Minority Leader, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal, or point of order.

(C) OTHER MOTIONS.—A motion to recommit an implementing bill is not in order.

(D) FINAL PASSAGE.—Upon the expiration of the 30 hours available for consideration of the implementing bill, it shall not be in order to offer or vote on any amendment to, or motion with respect to, such bill. Immediately following the conclusion of debate in the Senate on an implementing bill that was introduced in the Senate, such bill shall be deemed to have been read a third time and the vote on final passage of such bill shall occur without any intervening action or debate.

(E) DEBATE ON DIFFERENCES BETWEEN THE HOUSES.—Debate in the Senate on motions and amendments appropriate to resolve the differences between the Houses, at any particular stage of the proceedings, shall be limited to not more than 5 hours.

(F) DEBATE ON CONFERENCE REPORT.—Debate in the Senate on the conference report shall be limited to not more than 10 hours.

(5) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) PROCEED TO CONSIDERATION.—On the sixth day after the implementing bill is placed on the calendar, it shall be privileged for any Member to move without debate that the House resolve itself into the Committee of the Whole House on the State of the Union, for the consideration of the bill, and the first reading of the bill shall be dispensed with.

(B) GENERAL DEBATE.—After general debate, which shall be confined to the implementing bill and which shall not exceed 4 hours, to be equally divided and controlled by the Chairman and Ranking Minority Member of the Committee or Committees to which the bill had been referred, the bill shall be considered for amendment by title under the 5-minute rule and each title shall be considered as having been read. The total time for considering all amendments shall be limited to 26 hours of which the total time for debating each amendment under the 5-minute rule shall not exceed one hour.

(C) RISE AND REPORT.—At the conclusion of the consideration of the implementing bill for amendment, the Committee of the Whole on the State of the Union shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto, and the House shall proceed to vote on final passage without intervening motion except one motion to recommit.

(6) COMPUTATION OF DAYS.—For purposes of this subsection, in computing a number of days in either House, there shall be excluded—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain, or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday not excluded under subparagraph (A) when either House is not in session.

(7) POINTS OF ORDER BASED ON EXPANDING COVERAGE.—

(A) IN GENERAL.—It shall not be in order in the Senate to consider—

(i) any bill;

(ii) any bill prior to third reading; or

(iii) any conference report;

under the procedures described in this subsection if such bill or conference report has not been certified by the General Accounting Office under subsection (a)(2) as expanding coverage to cover the remaining uninsured.

(B) WAIVER OR SUSPENSION.—Subparagraph (A) may be waived or suspended in the Senate only by the affirmative vote of ⅗ of the members duly chosen and sworn. An affirmative vote of ⅗ of the members of the Senate duly chosen and sworn shall be required in the Senate to sustain an appeal of the ruling of the chair on a point of order raised under this paragraph.

(c) FAILURE TO ENACT LEGISLATION.—If Congress fails to enact legislation with respect to an implementing bill under section 10003(d)(3)(C) by December 31, 2000, the employer and individual premium financing provisions of subtitle B shall become effective on January 1, 2002 with respect to those States determined by the Commission under 10003(d)(3)(A) to have health care coverage for less than 95 percent of the resident populations of each such State.

SEC. 10005. OPERATION OF THE COMMISSION.

(a) MEETINGS; QUORUM.—

(1) MEETINGS.—The Chairperson shall preside at meetings of the Commission, and in the absence of the Chairperson, the Commission shall elect a member to act as Chairperson pro tempore.

(2) QUORUM.—Four members of the Commission shall constitute a quorum thereof.

(b) ADMINISTRATIVE PROVISIONS.—

(1) FACA NOT APPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(2) PAY AND TRAVEL EXPENSES.—

(A) PAY.—Each member of the Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(3) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(4) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS-15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) OTHER AUTHORITY.—

(A) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) LEASES AND PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Commission.

Subtitle B—Employer and Individual Premium Requirements and Assistance

SEC. 10101. APPLICATION OF SUBTITLE.

(a) IN GENERAL.—The provisions of this subtitle shall apply as provided in section 10004(c).

(b) ELIGIBLE INDIVIDUALS.—

(1) LIMITATION TO LAWFUL RESIDENTS.—

(A) IN GENERAL.—In this subtitle, the term "eligible individual" means an individual who is residing in a State involved and who is—

(i) a citizen or national of the United States; or

(ii) an alien permanently residing in the United States under color of law.

(B) EXCEPTIONS.—The term "eligible individual" shall not include—

(i) an individual who is an inmate of a public institution (except as a patient of a medical institution),

(ii) an individual covered under an equivalent health care program, or

(iii) an individual granted a qualified religious exemption.

(2) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—For purposes of paragraph (1), the term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is withheld under section 243(h) of such Act.

(D) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(E) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

(F) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(3) EQUIVALENT HEALTH CARE PROGRAM.—For purposes of paragraph (1), the term "equivalent health care program" means—

(A) part A or part B of the medicare program under title XVIII of the Social Security Act,

(B) the medicaid program under title XIX of the Social Security Act,

(C) the health care program for active military personnel under title 10, United States Code,

(D) the veterans health care program under chapter 17 of title 38, United States Code,

(E) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code,

(F) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and

(G) a State single-payer system approved by the Secretary under subpart B of part 3 of subtitle F.

(4) QUALIFIED RELIGIOUS EXEMPTION.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term 'qualified religious exemption' means an exemption granted by the Secretary to an individual—

(i) who is a member of a recognized religious sect or division thereof with respect to which such Secretary makes the findings referred to in subparagraphs (C), (D), and (E) of section 1402(g)(1) of the Internal Revenue Code of 1986,

(ii) who is an adherent of established tenets or teachings of such sect or division as described in such section, and

(iii) who submits an application for such exemption which contains or is accompanied by the evidence described in section 1402(g)(1)(A) of such Code and a waiver described in section 1402(g)(1)(B) of such Code.

(B) LIMITATION.—An exemption granted under this paragraph shall cease to apply beginning on the date such Secretary determines that the individual, or the sect or division, ceased to meet the requirements of subparagraph (A).

(c) INDIVIDUAL RESPONSIBILITIES.—With respect to a State to which this subtitle applies, each eligible individual—

(1) must enroll in (or be covered under) a certified standard health plan, and

(2) must pay any premium required, consistent with this Act, with respect to such enrollment.

SEC. 10102. DEFINITIONS.

For purposes of this title:

(1) DEFINITIONS RELATING TO EMPLOYEES.—

(A) QUALIFYING EMPLOYEE.—The term "qualifying employee" means, with respect to any contributing employer (as defined in section 10111(b)) for a month, an employee who is employed by the employer for at least 40 hours in the month.

(B) FULL-TIME EMPLOYEE.—The term "full-time employee" means, with respect to an employer for any month, an employee who is employed by the employer for at least 120 hours.

(C) PART-TIME EMPLOYEE.—The term "part-time employee" means, with respect to an employer for any month, an employee who is employed by the employer for at least 40 hours but less than 120 hours.

(D) FULL-TIME EQUIVALENT EMPLOYEES.—The term "full-time equivalent employee" means a full-time employee, except that a part-time employee shall be treated as that fraction of a full-time equivalent employee which bears the same ratio to one as the number of hours of employment of the part-time employee for the month bears to 120 hours.

(E) CONSIDERATION OF INDUSTRY PRACTICE.—As provided under rules established by the Secretary of Labor, an employee who is not a full-time or part-time employee (without regard to this subparagraph) shall be considered to be employed on a full-time or part-time basis by an employer (and to be a full-time or part-time employee of an employer) for a month (or for all months in a 12-month period) if the employee is employed by that employer on a continuing basis that, taking into account the structure or nature of employment in the industry, represents full or part-time employment in that industry.

(2) FAMILY ADJUSTED INCOME.—

(A) IN GENERAL.—Except as otherwise provided, the term "family adjusted income" means, with respect to a family, the sum of the adjusted incomes (as defined in subparagraph (B)) for all members of the family.

(B) ADJUSTED INCOME.—In subparagraph (A), the term "adjusted income" means, with respect to an individual, adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

(ii) increased by the amount of interest received or accrued by the individual which is exempt from tax.

(C) PRESENCE OF ADDITIONAL DEPENDENTS.—At the option of an individual, a family may include (and not be required to separate out) the income of other individuals who are claimed as dependents of the family for income tax purposes, but such individuals shall not be counted as part of the family for purposes of determining the size of the family.

(3) ENROLLING AND NONENROLLING EMPLOYEES.—

(A) ENROLLING EMPLOYEE.—The term "enrolling employee" means, with respect to any employer, a qualifying employee who enrolls in a health plan made available by the employer in accordance with the provisions of section 1301(a)(1)(A).

(B) NONENROLLING EMPLOYEE.—The term "nonenrolling employee" means, with respect to any employer, a qualifying employee who is not an enrolling employee.

(C) SPECIAL RULE FOR PART-TIME EMPLOYEES.—A nonenrolling part-time employee of an employer shall be treated as an enrolling employee unless such employee is enrolled in a health plan through the employer of such employee's spouse.

(4) REFERENCE PREMIUM.—The term "reference premium" means the reference premium established under section 4512 of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(6) SELF-EMPLOYED INDIVIDUAL.—The term "self-employed individual" means, for a year, an individual who has net earnings from self-employment (as defined in section 1402(a) of the Internal Revenue Code of 1986) for the year.

(7) WEIGHTED AVERAGE PREMIUM.—The term "weighted average premium" has the same meaning given such term in section 6002(b)(1)(C).

PART 1—EMPLOYER PREMIUM PAYMENTS

SEC. 10111. OBLIGATION.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, a contributing employer (as defined in subsection (b)) shall make health care coverage premium payments on behalf of the qualifying employees of the employer in accordance with this part.

(b) CONTRIBUTING EMPLOYER.—As used in subsection (a), the term "contributing employer" means an employer that—

(1) employs, on average, 25 or more employees; or

(2) employs less than 25 employees and elects under subsection (c) to be a contributing employer.

(c) ELECTION.—

(1) IN GENERAL.—An employer described in subsection (b)(2) may elect to be treated as a community-rated contributing employer under the procedures to be developed by the Secretary.

(2) TIME ELECTION TAKES EFFECT.—An employer making an election under paragraph (1) shall be treated as a community-rated contributing employer as of the first date of the first year following such election.

(3) SELF-EMPLOYED.—A self-employed individual that does not employ at least one full-time employee may not make an election under paragraph (1).

SEC. 10112. COMMUNITY-RATED EMPLOYERS.

(a) MINIMUM REQUIREMENT.—Each community-rated contributing employer for a month shall pay not less than an amount equal to the sum of the amounts determined under subsection (b) for each qualifying employee of the employer. Such payments shall be made in accordance with standards established by the Secretary.

(b) MINIMUM PREMIUM PAYMENT AMOUNT.—

(1) GENERAL RULE.—Except as otherwise provided in this subsection, the amount of the minimum employer premium payment under subsection (a) for a month for each qualifying employee of the employer who is residing in a community rating area shall be equal to—

(A) in the case of an enrolling employee, 50 percent of the weighted average premium (for the applicable class of enrollment) of the purchasing cooperative through which the employer offered health plan coverage with respect to employees in such area; and

(B) in the case of a nonenrolling employee, 50 percent of the weighted average premium (for the individual class of enrollment) of the purchasing cooperative through which the employer offered health plan coverage with respect to employees in such area.

(2) EMPLOYER COLLECTION SHORTFALL ADD-ON.—The minimum employer premium payment under subsection (a) for a month for any qualifying employee shall be increased by an amount equal to 50 percent of $\frac{1}{12}$ of the amount described in section 10134 with respect to each such employee.

(3) CREDIT FOR ENROLLED COUPLES.—

(A) IN GENERAL.—The minimum employer premium payment under subsection (a) for any month for each qualifying employee (other than a nonenrolling employee) in the couple or two-parent class of enrollment shall be reduced by the per capita nonenrolling employee credit for the month.

(B) PER CAPITA NONENROLLING EMPLOYEE CREDIT.—With respect to any community rating area, the term "per capita nonenrolling employee credit" means, with respect to each class of enrollment described in subparagraph (A), an amount equal to $\frac{1}{12}$ of—

(i) the sum of—

(I) the total of the employer premium payments in the community rating area for nonenrolling qualifying employees in that class of enrollment, plus

(II) the total of the employer premium payments in the community rating area which represent payments by employers in such area for part-time employees enrolling through employers in that class of enrollment, except that payments shall only be taken into account for purposes of this subclause with respect to any part-time employee to the extent they exceed 50 percent of the total premium for the employee, divided by

(ii) an amount equal to 12 times the monthly average number of qualifying full-time equivalent employees in that class of enrollment (determined under rules established by the Secretary of Labor).

(C) STATE ESTIMATES.—Each State shall estimate for each community rating area the amount of the per capita nonenrolling employee credit for each applicable class of enrollment for a calendar year and shall publish the amount of each such credit within a reasonable period of time before the beginning of the year. Such estimate shall correct any error in the estimate for the preceding calendar year.

(4) PART-TIME EMPLOYEES.—With respect to a part-time employee, the payment required under paragraph (1) shall be equal to the amount which bears the same ratio to the amount which would be required to be paid if the employee were a full-time employee as the number of hours worked by the employee for the employer for the month bears to 120 hours.

SEC. 10113. EXPERIENCE RATED EMPLOYERS.

(a) REQUIREMENT.—Each experience-rated employer that in a month employs a qualifying employee who is—

(1) enrolled in an experienced-rated health plan sponsored by the employer, shall provide for a payment toward the premium for the plan for such employee in an amount not less than the amount specified under subsection (b); or

(2) a nonenrolling employee, shall make employer premium payments with respect to such employee in an amount not less than the amount that is equal to 50 percent of the weighted average premium (for the individual class of enrollment) of the community rating area in which the employee resides.

(b) MINIMUM PREMIUM PAYMENT AMOUNT.—

(1) GENERAL RULE.—The amount of the minimum experience-rated employer premium payment under subsection (a)(1) for a month for each qualifying employee of the employer shall be equal to 50 percent of the weighted average premium for the applicable class of enrollment of the health plans offered by the employer.

(2) SELF-INSURED PLANS.—In the case of a self-insured health plan, the amount of the premium under subsection (a) shall be equal to the premium equivalent of the self-insured health plan.

(3) PREMIUM AREAS.—An experience-rated plan sponsor employer may, based on regulations promulgated by the Secretary, establish premium areas. Experience-rated employers may base their payments under this section on the weighted average premium of the health plans offered in such premium areas.

(c) CREDIT FOR ENROLLED COUPLES.—

(1) IN GENERAL.—The minimum employer premium payment under subsection (a)(1) for any month for each qualifying employee (other than a nonenrolling employee) in the couple or two-parent class of enrollment shall be reduced by the per capita nonenrolling employee credit for the month.

(2) SELF-INSURED PLANS.—In the case of a self-insured health plan, the employer shall receive a credit in an amount equal to the premium reduction otherwise allowable under paragraph (1). The Secretary shall provide for the method of payment of the credit under section 10114(c).

(3) PER CAPITA NONENROLLING EMPLOYEE CREDIT.—For purposes of paragraph (1), the per capita nonenrolling employee credit for any month shall be determined in the same manner as under section 10112(b)(3).

(d) PART-TIME EMPLOYEES.—With respect to a part-time employee, the minimum payment required under subsection (a) shall be equal to the amount which bears the same ratio to the amount which would be required to be paid if the employee were a full-time employee as the number of hours worked by the employee for the employer for the month bears to 120 hours.

SEC. 10114. PAYMENTS RELATING TO NONENROLLING EMPLOYEES.

(a) COMMUNITY-RATED EMPLOYERS.—Each community-rated employer shall make the minimum employer premium payment described in section 10112(b)(1)(B) for a nonenrolling employee to the purchasing cooperative or other entity in the community rating area in which the employee resides which is designated by the State as the entity to which such premiums are to be paid.

(b) EXPERIENCE-RATED EMPLOYERS.—Each experience-rated employer shall make the minimum employer premium payment described in section 10113(a)(2) for nonenrolling employees—

(1) to the entities described in subsection (a), or

(2) at the election of the employer, to one entity described in subsection (a) selected by the employer.

Any entity receiving payments under paragraph (2) with respect to any employees shall transfer such payments to the entities described in subsection (a) covering such employees.

(c) ALLOCATION TO HEALTH PLANS.—Payments received by an entity under subsection (a) or (b) shall be paid, pursuant to such method as the Secretary may prescribe—

(1) to health plans in amounts proportionate to the reduction in premiums to the plans by reason of the credits under sections 10112(b)(3) and 10113(c), and

(2) to self-insured health plans for payments described in section 10113(c)(2).

SEC. 10115. RULES OF CONSTRUCTION.

Nothing in this Act, or any amendment made by this Act, shall be construed—

(1) to allow any employer to reduce benefits or premium payments provided by the employer in excess of the minimum benefits or payments required under this Act or any amendment made by this Act, or

(2) to discourage employers from adopting or retaining health benefits programs that provide for benefits or premium payments by the employer that are greater than such minimum benefits or payments.

PART 2—FAMILY PAYMENT RESPONSIBILITIES

SEC. 10131. ENROLLMENT AND PREMIUM PAYMENTS.

(a) REQUIREMENT.—Each family enrolled in a community-rated health plan or in a experienced-rated health plan in a class of enrollment is responsible for payment of the family share of premium payable with respect to such enrollment. Such premium may be paid by an employer or other person on behalf of such a family.

(b) FAMILY SHARE OF PREMIUM DEFINED.—In this part, the term "family share of premium" means, with respect to each class of enrollment—

(1) in a community-rated health plan, the amount specified in section 10132(a) for the class; or

(2) in an experienced-rated health plan, the amount specified in section 10132(b) for the class.

SEC. 10132. FAMILY SHARE OF PREMIUMS.

(a) IN GENERAL.—The family share of premiums for any calendar year is an amount equal to—

(1) the total of the monthly premiums for the health plans in which any member of the family was enrolled in during the calendar year, reduced by

(2) the sum of—

(A) the required premium payments by employers for members of the family who were enrolling employees during the calendar year (as determined under part 1 without regard to section 10112(b)(2)), but only to the extent such payments do not exceed 50 percent of the amount determined under paragraph (1), plus

(B) any subsidy payments made under title VI on behalf of members of the family, plus

(C) any voluntary premium payments made on behalf of any family member by an enrolling employer or any other person.

(b) APPLICABLE COLLECTION SHORTFALL ADD-ON.—The family share of premiums under subsection (a) for any calendar year shall be increased by an amount equal to 50 percent of the amount described in section 10134 with respect to each such employee. For purposes of title VI, the amount of any premium subsidy shall be determined without regard to any increase in the premium under this subsection.

SEC. 10133. AMOUNT OF PREMIUM.

(a) COMMUNITY-RATED PLANS.—The amount of the applicable premium charged by a community-rated health plan for a class of enrollment under a community-rated health plan offered in the health care coverage area is equal to the product of—

(1) the final community rate for the plan; and

(2) the premium class factor established by the Secretary of Health and Human Service for that class under subpart D of part 1 of subtitle E of title I,

increased for any applicable plan marketing fees (described in section 1112(f)) and purchasing cooperative membership fees (described in section 1324).

(b) REFERENCE TO OTHER PREMIUMS.—The amount of the premium charged by an experience-rated employer for a class of enrollment under an experience-rated health plan shall be the premium charged by the plan (or in the case of a self-insured plan, the premium equivalent).

SEC. 10134. COLLECTION SHORTFALL ADD-ON.

(a) IN GENERAL.—The collection shortfall add-on for a community rating area for a class of enrollment for a year is a per enrollee amount (determined under rules developed by the Secretary of Health and Human Services), adjusted proportionately by the premium class factors described in section 10133(a)(2), such that the total of the adjusted per enrollee amounts in the community rating area equals the aggregate collection shortfall as determined under subsection (b).

(b) AGGREGATE COLLECTION SHORTFALL.—

(1) IN GENERAL.—Each State shall estimate, for each community rating area for each year (beginning with the first year for which this section applies) the total amount of payments which the State can reasonably identify as owed to community-rated health plans under this Act for the year and not likely to be collected during a period specified by the Secretary beginning on the first day of the year.

(2) EXCLUSION OF GOVERNMENT DEBTS.—The amount under paragraph (1) shall not include any payments owed to a community-rated health plan by the Federal, State, or local governments.

(3) ADJUSTMENT FOR PREVIOUS SHORTFALL ESTIMATION DISCREPANCY.—The amount estimated under this subsection for a year shall

be adjusted to reflect over (or under) estimations in the amounts so computed under this subsection for previous years (based on actual collections), taking into account interest payable based upon borrowings (or savings) attributable to such over or under estimations.

SEC. 10135. NO LOSS OF COVERAGE.

In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage.

PART 3—REPORTING

SEC. 10141. REPORTING REQUIREMENTS.

The Secretary shall require employees, health plans, and purchasing cooperatives to provide such information to such persons as are necessary to carry out the provisions of the subtitle.

TITLE XI—ENSURING HEALTH CARE REFORM FINANCING

SEC. 11001. ENSURING HEALTH CARE REFORM FINANCING.

(a) PURPOSE.—The purpose of this section is to ensure that the enactment of this Act does not result in unanticipated increases in the Federal deficit.

(b) LEGAL ENTITLEMENTS CONTINGENT.—Any entitlement provided by this Act, including those to premium assistance, shall be subject to the operation of this section.

(c) DETERMINATION OF UNFINANCED HEALTH SPENDING.—

(1) INITIAL HEALTH CARE ESTIMATE.—Not later than the date that is 60 days after the date of enactment of this Act, the President shall, using up-to-date estimates, issue an order setting forth the initial health care estimate for fiscal year 1995 and for each subsequent fiscal year through 2004, which shall consist of estimates (for each year) projecting the following:

(A) total direct spending outlays resulting from this Act and under the Medicare and Medicaid programs; and

(B) total revenues resulting from this Act.

(2) PRESIDENT'S BUDGET TO INCLUDE A CURRENT HEALTH CARE ESTIMATE.—When the President submits the budget for fiscal year 1997 (as required by section 1105 of title 31), and for each fiscal year through 2004, the President shall include—

(A) a current health care estimate (as specified in paragraph (3)) with respect to the current fiscal year, the upcoming fiscal year, and the 4 following fiscal years; and

(B) an estimate of the difference between the current health care estimate and the initial health care estimate for the current fiscal year, the upcoming fiscal year, and the 4 following fiscal years.

(3) CURRENT HEALTH CARE ESTIMATE.—The current health care estimate shall, for the applicable fiscal year, consist of—

(A) updated spending and revenue amounts contained in the initial projection (as set forth in paragraph (1)); plus or minus

(B) other outlays or revenue changes contained in legislation enacted after the date of enactment of this Act offsetting outlays or revenues resulting from this Act.

(4) COMPARING INITIAL AND CURRENT HEALTH CARE ESTIMATES.—Any difference between the initial and current health care estimates shall be adjusted so that it does not reflect any health care variable not attributable either to this Act or to any legislation described in paragraph (3)(B).

(d) OFFSETTING UNFINANCED HEALTH SPENDING.—

(1) REQUIREMENT FOR REDUCTIONS TO FULLY OFFSET UNFINANCED HEALTH SPENDING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the President's budget includes a determination that the current health care estimate exceeds the initial health care estimate pursuant to subsection (c) for the current fiscal year, the upcoming fiscal year, or both, such determination shall be accompanied by a proposed order to become effective on October 1 of that calendar year which fully offsets in the upcoming fiscal year and the following fiscal year the sum of such excess (for the upcoming fiscal year and the current fiscal year) in the manner provided in this subsection. Such proposed order shall be accompanied by such proposed regulations as the President deems necessary to carry out the reduction.

(B) ADMINISTRATIVE EFFICIENCY.—If, for any year, the Director of the Office of Management and Budget determines that the offsets described in subparagraph (A) would not be administratively cost efficient because the excess described in subparagraph (A) is such a small amount, such offsets shall not be made for that year.

(2) OFFSETS.—

(A) IN GENERAL.—The offsets required by this subsection shall be accomplished through a combination of—

(i) subject to the provisions of subparagraph (B), in the case of the premium assistance program, reducing the percentages otherwise in effect for the fiscal year under subparagraphs (A), (B), and (C) of section 6002(a)(2) of this Act;

(ii) increasing the percentage under paragraphs (1)(B), (2)(B), and (3)(B) of section 6104(a) of this Act (relating to employer subsidy program);

(iii) reducing the percentage under section 162(l)(1) of the Internal Revenue Code of 1986 (relating to deduction for health insurance costs of self-employed individuals);

(iv) adjusting the deductible for Medicare drugs as provided in section 1834(d)(1)(B)(i) of the Social Security Act; and

(v) reducing all other direct spending resulting from this Act by a uniform percentage,

to the extent (subject to paragraph (3)) necessary to accomplish all of the reductions necessary to fully offset the amounts required during the upcoming and following fiscal year.

(B) ELIGIBILITY PERCENTAGE FOR PREGNANT WOMEN AND CHILDREN REDUCED LAST.—Any reduction under subparagraph (A)(i)—

(i) shall be made first by reducing the percentages under section 6002(a)(2)(A) of this Act; and

(ii) to the extent sufficient offsets may not be made under subparagraph (A), shall then be made by reducing the percentages under section 6002(a)(2) (B) and (C) of this Act.

(3) PROPORTIONALITY.—The President shall apply the offset mechanisms provided in paragraph (2)(A) (i), (ii), (iii), (iv), and (v) proportionally (based on the ratio of the outlays caused by each program to the total outlays of all programs subject to reduction under paragraph (2)(A)), to the extent possible, in the upcoming fiscal year and the following fiscal year, but in no case shall the total amount of offsets be less than the amount required by paragraph (1).

(4) EFFECTIVE PERIOD.—For purposes of a fiscal year not subject to an order under this section following a fiscal year subject to an order under this section, this Act and the amendments made by this Act shall be assumed to continue as if the order had not been issued.

(5) CONSULTATION.—The President shall confer with the National Health Benefits Board and the National Health Care Cost and Coverage Commission in carrying out this subsection.

(e) FINAL REDUCTION DETERMINATION.—Using the same economic and technical assumptions as used in making the preliminary determination under subsection (c), the President shall reestimate the current health care estimates on September 15 based on legislation in effect as of September 10. If the President determines that the current estimates exceeds the initial estimates in the current fiscal year, the upcoming fiscal year, or both, the President shall issue a final order (and accompanying final regulations) following the procedure set forth in subsection (d) (including paragraph (1)(B) thereof).

(f) SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.—

(1) LOW GROWTH.—The President shall not issue either a proposed or final order under this section if the Office of Management and Budget notifies the Congress that—

(A) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, the Office of Management and Budget has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

(B) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than 1 percent.

(2) WAR.—The President shall not issue either a proposed or final order under this section if a declaration of war is in effect.

(g) RECOMMENDATIONS FOR ALTERNATIVE REDUCTIONS.—If the President's budget for a fiscal year is accompanied by an order under subsection (d)(1), the National Health Benefits Board shall, within a reasonable time, transmit to the President, the Speaker of the House of Representatives, and the President of the Senate a report including alternative proposals to offset the projected excess set forth in subsection (c)(4).

(h) GAO AUDIT OF REDUCTIONS.—If the President has issued an order under subsection (d)(1), the General Accounting Office shall report to Congress, as soon thereafter as possible following the date of transmittal of the President's budget, an analysis of whether the order has fully complied with the requirements of this section.

(i) ADDITIONAL OMB REPORTING REQUIREMENTS TO BE INCLUDED IN PRESIDENT'S BUDGET.—

(1) ADJUSTED ESTIMATE OF TOTAL FEDERAL HEALTH CARE COSTS.—

(A) IN GENERAL.—When the President submits the budget for fiscal year 1997, and each fiscal thereafter through 2004, the President shall include an estimate of total Federal health care costs as described in subparagraph (B).

(B) TOTAL FEDERAL HEALTH CARE COSTS.—Total Federal health care costs are—

(i) Federal spending in the current health care estimate (as determined under subsection (c)(3)); plus

(ii) discretionary health care spending on—

(I) the health care program for active military personnel under title 10, United States Code;

(II) the veterans health care program under chapter 17 of title 38, United States Code;

(III) the Civilian Health and Medical Program of the Uniformed Services

(CHAMPUS), as defined in section 1073(4) of title 10, United States Code;

(IV) the Federal Employee Health Benefit Plan under chapter 89 of title 5, United States Code (FEHB); and

(V) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(2) COST AS A PERCENT OF TOTAL REVENUES.—The President shall include with the estimate required by this subsection a calculation by the Director of the Office of Management and Budget of the percentage of personal and corporate income taxes needed to pay for total Federal health care costs, as adjusted by this subsection, in excess of dedicated health revenues. The Director shall assume that all dedicated health revenues resulting from amendments made by this Act will be allocated for total Federal health care costs, as adjusted by this subsection.

(j) ADDITIONAL COMMISSION REPORTING REQUIREMENTS.—Effective beginning in 1997, the National Health Care Cost and Coverage Commission shall report annually on how health care expenses are being financed. Among other things, this report shall include—

(1) how much is spent annually in premiums, out-of-pocket expenses, and third party expenses; and

(2) the number of businesses that provide health insurance and a profile of businesses that do not provide health insurance, including the earnings of such businesses.

DODD (AND OTHERS) AMENDMENT NO. 2561

Mr. DODD (for himself, Mr. KENNEDY, Mr. RIEGLE, Mrs. MURRAY, Mr. SIMON, Mrs. BOXER, Mr. WOFFORD, Mr. DASCHLE, Mr. MITCHELL, and Mr. LEVIN) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill S. 2351, supra; as follows:

At the end of section 1201, insert the following new subsection:

(d) APPLICATION OF INTERIM STANDARDS.—

(1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only issue or renew a health plan in a State if such plan covers clinical preventive services according to a periodicity schedule established under paragraph (3), including prenatal care, well baby care, and immunizations, for pregnant women and children without imposing cost-sharing requirements on such services.

(2) INTERIM STANDARDS APPLICATION PERIOD.—The interim standards application period is on or after July 1, 1995, and before January 1, 1997.

(3) PERIODICITY SCHEDULE.—

(A) IN GENERAL.—Not later than July 1, 1995, the Secretary shall establish a schedule of periodicity that reflects the general, appropriate frequency with which clinical preventive services should be provided routinely to children. In establishing the schedule under the preceding sentence the Secretary shall consult with the American Academy of Pediatrics regarding children's preventive care.

(B) EFFECTIVENESS.—The schedule established by the Secretary under subparagraph (A) shall be effective until the Board develops a periodicity schedule under section 1213(a)(2).

(4) APPLICATION OF RULES.—Paragraphs (4), (5), and (6) of section 1111(e) shall apply to this subsection.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Friday, August 12, 1994, after the first vote in Senator GEORGE MITCHELL's conference room to consider the nominations of José M. Amador, of Texas, to be Assistant Secretary of Agriculture for Science and Education and Roger C. Viadero, of Virginia, to be inspector general of the Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, August 12, beginning at 10 a.m. to conduct a business meeting to consider various agenda items.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation be allowed to meet during the session of the Senate on Friday, August 12, 1994, at 8:30 a.m., in SD–628, to review the administration's proposed legislation on meat and poultry inspection.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS COPYRIGHTS AND TRADEMARKS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate Subcommittee on Patents Copyrights and Trademarks of the Committee on the Judiciary and the House Subcommittee on Intellectual Property and Judicial Administration of the Committee on the Judiciary be authorized to meet during a session of the Senate on Friday, August 12, 1994, at 10 a.m., in room 2237, Rayburn House Office Building, to hold a hearing on implementing the intellectual property provisions of GATT.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Friday, August 12, 1994, at 11 a.m. to receive a closed briefing on the Moscow embassy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ASIANS FEEL BIAS BUILT ON PERCEPTIONS

• Mr. SIMON. Mr. President, recently, the Chicago Tribune ran an item on its editorial page titled, "Asians feel bias built on perceptions" written by Melita Marie Garza.

It tells a story that is not simply a story for the Chicago area but a national story.

It quotes Nancy Chen, a Chinese-American who runs my Chicago office, my largest office outside of Washington, DC.

Asian-Americans are contributing immensely to our country, and we can be proud of that contribution.

But we also ought to be sensitive to some special problems that they face.

I ask to insert this item into the CONGRESSIONAL RECORD at this point.

[From the Chicago Tribune, Aug. 7, 1994]

ASIANS FEEL BIAS BUILT ON PERCEPTIONS

(By Melita Marie Garza)

The constituent was irate about the service she was getting and wanted to complain to her senator's office. But when Nancy Chen appeared on behalf of U.S. Sen. Paul Simon, the woman balked at dealing with someone who was "not American" and had "bombed Pearl Harbor."

"While others may not be as insensitive and crude as this particular person, the perception that Asian-Americans are foreigners contributes to many problems," said Chen, director of Simon's Chicago office.

Vilified by some for appearing "foreign" and by others for appearing "too successful," Asian-Americans are in a Catch-22.

The image of achievement is reinforced by numerous studies—including one released last month by Northern Illinois University, the Chicago Urban League and the Latino Institute—showing that Asian-Americans as a group have experienced greater economic and educational success than other minority groups in the Chicago area during the last 20 years.

But such studies mask the racial discrimination and slurs Asian-Americans endure. And they hide the fact that when it comes to achieving corporate, political and academic power, Asian-Americans, like other minorities, still trail whites.

The numbers also tend to obscure the economic and cultural disparities within the Asian community, which encompasses numerous national and linguistic minorities, immigrants, refugees and those who have been in the United States for generations. The community's complexity often is lost on the rest of society, as in the case of Simon's constituent, who didn't even realize that Chen was Chinese-American, not Japanese-American.

"The feeling that Asian-Americans just do not fit into the vision of America keeps Asian-Americans behind in their professions, in politics and in their overall pursuit of happiness in a country to which they or their ancestors as much as five generations back have chosen to belong," said Chen, a Naperville resident who is a member of the Illinois Advisory Committee to the U.S. Commission on Civil Rights.

Often given short shrift, Asian-American civil rights issues were the subject of a committee-sponsored conference earlier this year that focused on the "model minority myth," "glass-ceiling" barriers, hate crimes and the lack of Asian-American political representation.

Kwang Chung Kim, a Korean-American sociologist at Western Illinois University, challenged the model minority label. After crunching census data, he revealed a different story about the economic and educational success of Asian-Americans.

The United States' six major Asian ethnic groups—Chinese, Japanese, Koreans, Filipinos, Asian Indians and Vietnamese—are frequently labeled as "model minorities" because unlike other minorities, their annual family income is similar to or exceeds that of white families, Kim said.

But according to Kim's analysis, Asian-American workers had greater educational credentials and worked longer hours to achieve the same income as whites in their professions.

Whites with a mean of 15 years of schooling earned $717 more per year for an additional year of schooling. However, U.S.-born Japanese-Americans, with a mean of 16 years of schooling, earned $577 more per year for an additional year of schooling and U.S.-born Chinese-Americans, with a mean of 17 years of schooling, earned $596 more for an additional year of schooling.

In other words, Asian-Americans' high income appears to come at a higher price—perhaps through longer workweeks and greater educational investment.

"Based on a fairness model, the success image of Asian-Americans is a myth," said Kim, adding that the phenomenon disguises discrimination against Asian-Americans in the workforce.

Chen pointed out that "the working status of Asian-Americans ranges from unskilled workers staying at the bottom rung of the job market to those highly trained professionals in the rut of becoming 'frozen talents,' forever stuck in their technical station."

One of those areas in which Asian-Americans face many barriers is the legal profession, according to Sandra Yamate, a founding member of the Asian American Bar Association of Greater Chicago.

Of the 3,279 lawyers who are partners in large Chicago firms, only 10 are Asian-American. Only 53 of 2,901 attorneys at the associate level are Asian-American, according to the 1994 Chicago Lawyer Diversity Survey Yamate said. According to the 1990 census, 1 percent of the 34,394 attorneys in the six-county area are Asian-American, but only 0.3 percent are partners.

The single Asian-American judge on the Cook County Circuit Court is Associate Judge Lynne Kawamoto, Yamate said. And despite burgeoning Asian-American enrollment in the six area law schools, only one, Northwestern University Law School, has a fulltime tenure track Asian-American law professor. Asians now account for about 10 percent of the law school's student body, Yamate said.

The growth in law school enrollment parallels the growth of the Asian-American community. Between 1980 and 1990, the Asian-American community in the Chicago area nearly doubled, growing to almost 300,000.

Nationwide, the Asian-American population grew dramatically in the last three decades, increasing from 1 million in 1965 to 8.8 million in 1993, according to U.S. Census Bureau estimates.

The larger numbers of Asian-Americans and the resulting higher visibility in key states, including California, New York and Illinois, are partly the reason hate crimes against Asian-Americans have been on the rise, said William Yoshino, Midwest director of the Japanese American Citizens League.

"The heightened visibility is accompanied by assumptions that Asian-Americans are foreigners—not American citizens or permanent residents," said William Yoshino, Midwest director of the Japanese American Citizens League, who noted that 60 percent of Asian-Americans are foreign-born.

The 50th anniversary of Pearl Harbor in 1991 led to increased anti-Japanese incidents on the West Coast, Yoshino said. Although there were no dramatic incidents in Chicago, he said, signs were taped to lampposts in the Loop declaring "the spirit of Tojo lives . . . the economic conquest of USA . . . Let's remember Pearl Harbor."

He cited an incident last April in which The Queenship of Mary Church in Glen Ellyn, which has a Vietnamese congregation, was painted with graffiti proclaiming "go home gooks."

Although the Asian-American population is growing quickly, they are still too few in number and too widely dispersed to exert much political influence, said Chicago Urban League Vice President James Lewis. Asian-Americans account for only 2.4 percent of Illinois' population and less than 6 percent of Chicago's. They are the only minority group more numerous in the suburbs than the city.

Moreover, the Northern Illinois University study showed a wide economic disparity between Asian-Americans in the suburbs and those in the city. Asian-American median family income was $53,500 in the suburbs, slightly higher than white median family income. However, Asian-American median family income in the city trailed that of suburban Asians by 40 percent and that of city whites by 10 percent.

In the city, large numbers of Asian-Americans reside in Chinatown, on the Near South Side, and on the Far North Side. Only four precincts in Chicago, however, are at least 50 percent Asian-American in voting age population, Lewis said.

In the latest political redistricting, Chinatown was divided to accommodate creation of the first Latino congressional district and a legally required black district, as well as maintain a predominantly white 11th Ward, Lewis said.

Asian-Americans, who tend to be less dependably Democratic and vote more like whites, likely will find it difficult to forge coalitions with other minorities, Lewis said.

Even within Chicago's Asian community, coalition-building among various ethnic groups has not extended tangibly beyond the Asian-American Coalition, whose principal activity since 1984 has been to sponsor an annual Lunar New Year Celebration dinner, said Calvin Manshio, a Japanese-American attorney.

Given that, the notion of joining forces with blacks and Hispanics on civil rights issues would appear a difficult task. But Chen, of Simon's office, believes it's crucial.

"To achieve full equality for Asian-Americans, we need a lot of allies to help work on common goals," Chen said.●

ACHIEVEMENTS IN MICROGRAVITY: TEN YEARS OF MICROGRAVITY RESEARCH

● Mr. GLENN. Mr. President, I ask that the article entitled "Achievements in Microgravity: Ten Years of Microgravity Research" be made a part of the Record.

The article follows:

ACHIEVEMENTS IN MICROGRAVITY: TEN YEARS OF MICROGRAVITY RESEARCH

(By S.J. Graham and R.C. Rhome, NASA Headquarters, Washington, DC)

ABSTRACT

An overview of microgravity research in space supported by the National Aeronautics and Space Administration during the period 1983 to 1993. Selected activities in the areas of biotechnology, combustion, fluid physics, and material science are discussed. The paper is not intended to be a comprehensive assessment of scientific experimental results.

I. INTRODUCTION

In 1992, the National Aeronautics and Space Administration's (NASA) Microgravity Science program conducted more peer reviewed, hands-on United States microgravity science research in space than performed cumulatively in all prior years since Skylab (1973–74). This was accomplished through the use of the European Space Agency's (ESA) Spacelab and the considerable capabilities offered by NASA's Space Shuttle. The period between Skylab and the present has seen a wide array of basic and applied microgravity research in ground-based and suborbital facilities, as well as orbital flight. The conduct of such experimentation has not been continuous over this period. The hiatus in flight opportunities following the 1986 Challenger tragedy resulted in a slowed evolution of in-space research. The ground-based program did provide steady advances during the late 1980s as preparations were made for the resumption of Shuttle and dedicated Spacelab flights, resulting in the flurry of research activity in 1992. This discussion of ten years of Microgravity research is an overview of selected activities in the broad range of microgravity science disciplines supported by NASA during the period 1983–1993 and is not intended to be a comprehensive assessment of specific results.[1]

Many experiments using the space environment have tested fundamental theories of physics, chemistry, and other disciplines. Data from these experiments have begun to deepen our understanding of these theories. A second class of experiments uses the scientific method to carry out investigations in areas where theories are incomplete. Space research has provided data that challenges our understanding of a particular phenomenon, paving the way for new research. Finally, research in preparation for space experiments has led to significant advancement in the way a large class of experiments are done here on the ground. Such studies lead to new techniques and technologies which can substantially change science and applications research in their respective fields.

II. PROGRAM EVOLUTION

NASA's Office of Life and Microgravity Sciences and Applications (OLMSA) is responsible for planning and executing the scientific research activities associated with

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Footnotes at end of article.

the Agency's goals.[2] Within OLSMA, the Microgravity Science and Applications Division undertakes the study of important physical, chemical and biological processes in a microgravity (ug) environment. Initial research into the effects of microgravity began in the early years of the space program, including space experiments conducted during the Apollo, Skylab and apollo-Soyuz programs. The advent of the Space Shuttle program enabled the development of microgravity research instruments that could be flown, modified, and re-flown, allowing scientists to design experiments based on the results of previous investigations. The microgravity research program is divided into two realms of experimental work; experiments that are in refinement stages (ground-based) and experiments that are considered ready and worthy of a space flight opportunity. The ground-based program is intended to select and foster research for those hypotheses that require reduced gravity for an ultimate experimental test. In the early 1980s, the presumption of the appropriateness of a NASA-sponsored research program was the ultimate need for space flight. Less than fifty Principal Investigators were in the NASA-sponsored microgravity research program, almost exclusively working towards a space flight opportunity. As the program has evolved, however, it has become more apparent that there are a broad range of hypotheses in which gravity is the experimental parameter that can and are being addressed by means other than space flight. The ground-based program has grown to become the intellectual underpinning of the flight program, with more than seventy-five percent of the 180 NASA-funded microgravity science Principal Investigators involved in ground-based research. It is anticipated that the ratio of ground-based to space flight investigators will continue to grow as the program heads for a 1998 projected research establishment supporting over 340 NASA-sponsored microgravity research Principal Investigators.

The Microgravity Science and Applications Division is responsible for guiding a comprehensive research program, currently concentrating on biotechnology, combustion science, fluid dynamics and transport phenomena, materials science, and selected studies in gravitational and condensed matter physics. The Division seeks out and coordinates an interdisciplinary science community to conduct the research and to disseminate the results of its science program. It also supports the science community's research through the development of suitable experiment instruments and by choosing the space carrier most suitable for its experiments. The results of the investigations, some of which are reported here, are used to challenge and validate contemporary scientific theories, to identify and describe new physical phenomena that can be uniquely explored in a microgravity environment, and to engender the development of new theories as a result of unexpected or unexplained discoveries often the most exciting part of the research.

III. BIOTECHNOLOGY RESEARCH

Protein Crystal Growth

Protein crystal growth (PCG) has been a promising area of microgravity research ever since early work by Walter Littke (University of Freiberg) aboard Spacelab-1 (1983) indicated that significantly larger and higher quality protein crystals could be grown in a low gravity environment. Now ten years later, with over 70 different proteins flown in orbit, this area of research has emerged as one of the most notable success stories of NASA's microgravity program. (Table 1)

Proteins are basic elements of life. These complex chains of amino acids not only form the physical substance of living organisms but also play an essential role in every biochemical process governing the body. Scientists seek to determine the molecular structures of proteins, and the relationship between protein structure and function. This information will provide a better understanding of living systems and help develop new drugs for medical treatments. The technique used to determine protein structure, X-ray diffraction, requires the use of relatively large, high quality crystals of the protein being studied. Quite often however, in spite of years of research in academic and industrial laboratories, crucial proteins fail to adequately form the needed crystals on Earth. In many cases this failure can be attributed to the effects of Earth's gravity, which not only generates fluid flows which may damage growing crystals but also causes the crystals to sediment to the bottom of their growth container. Once the protein crystal has settled on a container surface the protein solution can no longer reach all sides of the crystal and further growth can be severely distorted. It was these constraints which led early crystal growers to a low gravity environment where buoyancy driven flows could be eliminated and crystals could grow freely suspended in solution.

The first protein crystallization flight experiment was flown by Drs. Littke and John aboard Spacelab-1 in 1983 using two proteins of widely differing weights, betagalactosidase and lysozyme.[3] In microgravity these proteins respectively yielded crystals 27 and 1000 times larger than the ground control experiments. The publication of the results generated many new questions about the fundamental mechanisms of protein crystal growth and led to the organization of the first International Conference on Crystallization of Biological Macromolecules in 1986 at Stanford University. Prior to this, most scientists carrying out protein crystal growth research had grown crystals without great concern for the physics involved, using a primarily trial-and-error approach. The findings of this conference revolutionized thought among investigator in the field and resulted in a redirection of effort in a number of ground-based labs to understand and control the growth of protein crystals and to use the space environment as a means to gain insights into the growth process as well as a method of obtaining better crystals.

Table 1: Proteins grown in space

STS-51D—April 1985

Bugg—Human Purine Nucleoside Phosphorylase (PNP)—Protein for Immunosuppressive and anticancer drugs

Bugg—Lysozyme—Model Protein degrades bacterial cell walls

Bugg—Scorpion Toxin

Bugg—Sea Anemone Toxin

Suddath—Lectin—Binds blycames of glycoproteins on cell surfaces

Suddath & Delucas—Human Serum Transferrin—Iron transport to hemoglobin synthesizing red blood cells

Nagabhushan—Interferon alpha-2b—Stimulates immune system

Bugg—Bacterial PNP—Protein for immunosuppressive and anticancer drugs

Laver—Neuraminidase-Antibody Complex—Surface protein of the influenza virus

LU—Synthetic DNA—Artificial Model of DNA

Delucas & Volanakis—Human C-Reactive Protein—Plays a central role in the human immune system

Ward—Green Fluorescent Protein—Protein found in marine bioluminescent jellyfish

Hogle—Fab—Antibodies with specificity to antigens that occur on cell surfaces

Arnone—Human Nuclear TRNA—Associated with protein synthesis

STS-26—September 1988

McPherson—Canavalin—Major reserve protein of leguminous seeds

Nagabhushan—Gamma Interferon—Antivital agent, stimulates immune system

DeLucas—Human C Reactive Protein—Plays a central role in the human immune system

Bugg—Purine Nucleoside—Degrades anticancer drugs

Carter—Human Serum Albumin—Binds and transports drugs and other materials

Weber—Isocitrate Lyease—Target enzyme for fungicides

Einspahr—Phospholipase—Interacts with phospholipids associated with cell membrane functions

Navia—Porcine Elastase—Involved in lung disease such as emphysema

Einspahr—Renin—Involved in controlling high blood pressure

Krenitsky—Reverse Transcriptase—Enzyme essential to the AIDS virus

Weber—Synthetic Peptide (alpha helicin)—Involved in human cell regulation of electrolytes

STS-29—March 1989

Carter—Alcohol Oxidase—Enzyme involved in cellular metabolism

Eggleston—Aridicin Aglycone—Industrial antibiotic

McPherson—Canavalin—Major reserve protein of leguminous seeds

Rubin—Diacetinase—Glycerol ester hydrolase from bacillus subtilis

Nagabhushan—Gamma Interferon—Stimulates immune system

Jones—Human Growth Hormone—Used in treatment of unusually small children

Weber—Isocitrate Lyase—Target enzyme for fungicides

Lu—Lec Repressor—Regulates the expression of lactose operon in e. coli

Fontecilla—Lectin—Binds glycames of glycoproteins on cell surfaces

Laver—Neuramindase—Surface protein of the influenza virus

Navia—Porcine Elastase—Involved in lung disease such as emphysema

Elnspahr—Renin—Involved in controlling high blood pressure

Yonath—Ribosome—Plays major role in protein processing in cell

McPherson—Satellite Tobacco Mosaic Virus—First virus crystallized

STS-32—January 1990

Voet—12 Base Pair DNA—A segment of DNA which helps control protein synthesis

DeLucas—Aldose Reduciase—Enzyme connected to diabetic complications

Eggleston—Aridicin Aglycone—Industrial antibiotic

McPherson—Canavalln—Major reserve protein of leguminous seeds

McPherson—Catalase—Detoxifying enzyme

Weber—Cyanobacterium—Photosystem 1 Complex Membrane protein complex involved in light-drive electron transfer

Weber—Cyclosporin A-Cyclophillin complex—Used to suppress immune rejection during organ transplant

Rubin—Diectinase—Glycerol ester hydroiase from bacilus subtillis

Senadhi—Gamma Interferon—Antiviral agent, stimulates immune system

Jones—Human Growth Hormone—Used in treatment of unusually small children

Carter—Human Serum Albumin—Binds and transports drugs and other materials

Suddath—Human Serum Transferrin—Iron transport to hemoglobin synthesizing red blood cells

Weber—Isocitrate Lyase—Target enzyme for fungicides

Lu—Lac Repressor—Regulates the expression of Lactose operon in e. coli

Fontecilla—Lectin—Binds glycames of glycoproteins on cell surfaces

DeLucas—Lysozyme—Model protein

Laver—Neuraminidase—Enzyme connected with influenza virus

Einspahr—Phosphollpase—Interacts with phospholipids associated with cell membrane functions

STS-31—April 1990

Birnbaum—anti-HPr FAB Fragment—Provides picture of antibody blinding site

McPherson—Canavalin—Major reserve protein of leguminous seeds

Rubin—Carboxyl Ester Hydrolase—Catalyzes the breakdown of carboxylic acid exters like those found in fats

DeLucas—Factor D—Enzyme responsible for activation of the complement system

Reichert—Gamma Interferon—Antiviral agent, stimulates Immune system

Carter—Human Serum Albumin—Binds and transport drugs and other materials

Suddath—Human Serum Transferrin—Iron transport to hemoglobin synthesizing red blood cells

Weber—Isocitrate Lyase—Target enzyme for fungicides

Einspahr—Malic—Enzyme Enzyme Isolated for a parasitic nemalode

Navia—Procine Elastase—Involved in lung disease such as emphysema

Ward—Porcine Pancreatic Phospholipase—Protein involved in rheumatoid arthritis and septic shock

Fonteoilla—Turkey/quail Lysozyme—Model protein

Meyer—Type IV Collegenase—Enzyme obtained from snake venom

STS-43—August 1991

Long—Bovine insulin

STS-48—September 1991

Delbaere—anti-HPr FAB Fragment—Provides picture of antibody binding site

Weber—Apostreptavidin—Binds the vitamin blatin

Ward—Bacterial Luciferase—Protein responsible for bioluminescence in open oceans

Knox—Bets-Lactemese—Enzyme that destroys antibiotic

Navia—Bovine Proline Isomerase—Drug target for anti-rejection treatments

McPherson—Canavalin—Major reserve protein of leguminous seeds

Birnbaum—Fab YST9-1 of Brucella—Antibodies that have specificity to antigens that occur on cell surfaces

Nagabhushan—Interleukin-4—Potential antitumor agent

McPherson—Satellite Tobacco Mosaic Virus—First virus crystallized

Navia—Themolysin—Used in potential method for producing aspartame

Einspahr—Two-Domain CD4—Product being tested as AIDS treatment

STS-42/ML-1—January 1992

Albara—Lysozyme—Model protein

Einspahr—2 Domain CD4:FAB—Product being tested as AIDS treatment

Delbaere—anti-HPr FAB Fragment—Provides picture of antibody binding site

Weber—Apostrepavidin—Binds the vitamin blatin

Navia—Bovine Proline Isomarase—Target enzyme for immuno-suppressive agents

McPherson—Canavalin—Major reserve protein of leguminous seeds

Voet—DNA 12-MER Segment of Lac Operator—DNA sequence recognized by lac operon

Birnbaum—FAB YST9-1 from Brucella—Antibodies that have specificity to antigens that occur on cell surfaces

Stanmers—HIV Reverse Transcriptase—Chemical key to replication of AIDS virus

Arnold—HIV Reverse Transcriptase Complex—Chemical key to replication of AIDS virus

Carter—Human Serum Albumin—Binds and transports drugs and other materials

Ward—Recombinant Bacterial Luciferase—Protein responsible for bioluminescence in open oceans

Frankel—Recombinant Ricin A Chain—Component in immunotixs used as therapeutic drugs

Yonath—Ribosome-30S subunits—Ribosome subunit where genetic code is translated to proteins

McPherson—Satellite Tobacco Mosaic Virus—First virus crystallized

STS-49—May 1992

Long—Bovine Insulin

STS-50/USML-1—June 1992

Eggleston—Aridicin Aglycone—Industrial antibiotic

Ward—Bacterial Luciferase—Protein responsible for bioluminescence in open oceans

Knox—Beta Lactamase—Enzyme that destroys antibiotics

McPherson—Canavalin—Degrades anticancer drugs

Knox—DD-Ligase from e. coli—Enzyme which biosynthesizes bacterial cell walls

Knox—DD-Ligase from S. tymp—Enzyme which biosynthesizes bacterial cell walls

Sundaralingam—DNA Dodecamer CGTTTTAAAACG—DNA sequence of interest in fundamental research

Sundaralingam—DNA Dodecamer: CGAAAATTTTCG—DNA sequence of interest in fundamental research

DeLucas—Factor-D—Enzyme responsible for activation of the complement system

Sundaralingam—Flavodoxin—Involved in biological oxidation and reduction reactions

Carter—gp 41 antibody of HIV-1—Antibody recognizes component of AIDS virus

Ward—Green Flourescent Protein—Protein found in marine bioluminescent jellyfish

Arnold—HIV Reverse Transcriptase Complex—Responsible for copying genome of the AIDS virus

Navia—HIV-1 Protease—Drug target for HIV treatment

Meehan—Horse Serum Albumin—Most abundant serum protein

DeLucas—Human Aldehyde Reductase—Enzyme implicated in the development of diabetic complications

Weber—Human alpha-Thrombin—Serine protease involved in coagulation

Navia—Human Proline Isomerase—Drug target for anti-rejection treatments

Carter—Human Serum Albumin—Binds and transports drugs and other materials

Suddath—Human Transferrin—Major iron transport protein in serum

Nagabhushan—Interferon Alpha-2b—Potential antiviral and anticancer agent

Nagabhushan—Interleukin-4—Potential antitumor agent

Voet—Lac Operator DNA—Sequences involved in DNA expression

Lu—Lac Repressor—Regulates the expression of lactose operon in e. coli

Nauman—Lysozyme—Model protein

Elnspahr—Malic Enzyme—Enzyme isolated fro a parasitic nematode

McPherson—Mouse Monoclonal Antibody—Antibody against dog lymphoma

STS-47/SL-J—September 1992

Betzel—Epidermal Growth factor Receptor—Growth factor receptor associated with tumors

DeLucas—Factor D—Enzyme responsible for activation of the complement system

Albara—Lysozyme—Model protein

McPherson—Mouse Monoclonal Antibody—Antibody against dog lymphoma

Albara—Peroxidase—Enzymes that catalyze oxygen

Yang—TRP-RS-IRNA TRP Complex—Plays role in protein formation

STS-52—October 1993

Long—Interferon alpha-2b—Potent antiviral and anticancer agent

Frankel—Recombinant Ricin-A Chain—Component in immunotixs used as therapeutic drugs

Carter—Recombinant Serum Albumin—Binds and transports drugs and other materials

Naumen—Thermolysin—Model protein

Navia—Thermolysin—Used in potential method for producing aspartame

Einspahr—Two domain CD4—Product being tested as AIDS treatment

Meehan—Urease—Urease inhibitors might have agricultural applications

DeLucas—Lysozyme—Model Protein

Lu—Lac Repressor—Regulates the expression of lactose operon in E. coli

STS-57—June 1993

Carter—Human Serum Albumin—Binds and transports drugs and other materials

Cook—Interferon alpha-2b—Potent antiviral and anticancer agent

DeLucas—Lysozyme—Model protein

Naumann—Ribonuclease S

Einspahr—Malic Enzyme—Development of anti-parasite drug

Long—Human Insulin—Facilitates the incorporation of glucose into cells

Weber—Human alpha-Thrombin—Serine profese involved in the final step of the coagulation cascade

STS-51—September, 1993

Long—Interferon Alpha-2b—Potent antiviral and anticancer agent

After Spacelab-1, simple hand held devices were used by Charles Bugg (University of Alabama at Birmingham) and his collaborators to subsequently grow crystals on a series of space shuttle flights (1985–1986). These experiments contained only a fraction of a milliliter of growth solution and had no temperature control but excellent crystals were obtained for human serum albumin, human C-reactive protein, canavalin, and concanavalin B, which appeared to diffract to higher resolution than those grown on Earth. The hardware developed and repeatedly refined for these experiments utilized the vapor diffusion crystal growth technique, a more technically difficult method than the liquid/liquid diffusion technique of Littke's experiment. These was an important evolutionary step for the microgravity protein program. Since most ground investigators also used the vapor diffusion technique, space results could now be directly compared to the extensive protein data already collected from Earth laboratories.

While these early exploratory experiments indicated that larger protein crystals could be grown in space, the scientific community was not yet convinced that these space crystals exhibited significantly improved internal order. This resistance was due, in part, to the lack of a rigorous theoretical framework for understanding protein crystal growth in general and interpreting the spacelab results in particular. During the hiatus following the 1986 Challenger accident, an increased emphasis was placed on developing a fundamental understanding of protein crystal growth mechanisms. The field had also begun to attract the attention of investigators with considerable experience in fluid mechanics and crystal growth theory, and substantial advances were made in ground research during this period. As a result of lessons learned at the 1986 Stanford conference, many investigators suspected that temperature might be an important control parameter for PCG. This concern led to the search for a phase diagram and an in-depth study of temperature's influence over solubility. In 1987, Ed Mechan et al. at the University of Alabama published a landmark paper of the phase diagram of lysozyme including salt concentration, pH, and temperature as parameters.[4] This work illustrated that changes in temperature could alter the solubility of proteins under the right conditions. Mechan's work with lysozyme generated a great deal of interest in using temperature shifts to control protein crystallization and a later generation of flight hardware was designed to take advantage of this technique.

When PCG flights resumed in September 1988 aboard STS-26, the experiment hardware had been redesigned to allow it to be accommodated in a constant temperature incubator during the flight. The unprecedented success achieved in growing large, high quality protein crystals on that mission convinced many formerly skeptical protein investigators of the utility of the microgravity environment. In the STS-26 experiment, microgravity-grown crystals of gamma-interferon D, porcine elastase, and isocitrate lyase were larger, displayed more uniform morphologies, and yielded diffraction data to significantly higher resolutions than the best crystals of these proteins grown on Earth.[5]

By 1989 the microgravity protein growth program had undergone considerable expansion, with a large number of co-investigators from academia and industry participating. These investigators contributed a wide range of biological molecules that could be used for evaluating the effects of microgravity on protein crystal growth and for developing more advanced techniques for crystal growth in space. This trend has continued to the present time with over 50 co-investigators involved in the 1992 flight of USML-1.

Changes have also continued in the refinement of both flight hardware and crystal growth techniques as greater experience is gained on each mission. For example, the malic enzyme protein had repeatedly failed to crystallize in microgravity prior to 1992. Through a combination of ground and flight testing it was determined that, despite the mixing protocols used, complete mixing of the viscous experiment solution was not occurring in orbit. Then on USML-1 a hands-on technique, allowed by the presence of a glovebox and the abilities of the highly skilled protein cystallographer Larry DeLucas as Payload Specialist, enabled the growth of large high-quality crystals of malic enzyme. More recent modifications to the syringes used in the crystal growth hardware will produce more turbulent on-orbit mixing of experiment solutions, thus expanding flight opportunities for proteins requiring the use of viscous solutions.

Since 1988 ground research on proteins has continued to complement the findings of flight experiments in several ways. Knowledge gained from the space results has been used by investigators to develop more successful methods of growing proteins on Earth, and at the same time ground work has yielded new insights into the underlying mechanisms of crystal growth. The latter includes research such as that headed by Marc Pusey at the Marshall Space Flight Center on the nucleation and pre-nucleation stages of crystal growth, and by Franz Rosenberger (University of Alabama at Huntsville) on the temperature dependence of protein solubilities. Much of the ground-based work on the mechanisms of protein crystallization has been performed at the University of Alabama's Center for Macromolecular Crystallography which was established by NASA's Office of Commercial Programs in 1985 in order to promote commercial research in protein crystallography. As a result of ground and flight studies, a number of theoretical models have been developed to explain the beneficial effect of low gravity on protein crystal growth. Hardware planned for future missions will test some of these theories by allowing direct observation of crystal nucleation and dynamic control of crystal growth conditions.

Over the course of the last ten years, many more proteins have been flown aboard the shuttle and/or studied on the ground than can be discussed here. These range from an iron transport protein called human serum tranferrin, to antibodies expressed against the AIDS virus. American Bio-Technologies Inc., the major world supplier of synthetic HIV proteins, recently signed a cooperative agreement with NASA to conduct structure oriented AIDS related research. The structural biology research group at MSFC, which recently published the first structure of a human antibody that recognizes the AIDS virus, will use its expertise to grow crystals and perform structural analysis on the storehouse of HIV proteins provided by American Bio-Technologies. A few examples of other proteins for which exceptional results have been obtained, are given below.

Porcine elastase. A number of well-formed elastase crystals in the range of 0.5 to 2.1 mm were obtained from six crystallization experiments flown on STA-26 in 1988. Comparison of data for a space-grown crystal with Earth-grown crystals revealed that the space crystal yielded significantly more data at all resolution ranges. This data allowed significant improvements to be made in the understanding of the protein structure, which in turn has led to the use of porcine elastase in current research on a new class of inhibitors for treating emphysema.

Gamma interferon D. Two crystals of this protein were obtained from STS-26 which were larger than the best that had ever been produced on the ground; one was approximately 50% larger than the largest crystal that had been obtained previously. These large space-grown crystal also displayed an increase in resolution data, revealing that the space grown crystal did indeed have a higher internal molecular order, and allowing the protein structure to be determined for the first time. Pharmaceutical companies are interested in using gamma-interferon as a possible drug for cancer therapy.

Isocitrate lyase. On STS-26, these proteins formed prisms as large as 0.4 X 0.25 X 0.04 mm which yielded better intensity data throughout the resolution range than any previous Earth crystal.[6] The understanding gained from these results was used to redesign ground experiments, and the more compact protein crystals of isocitrate lyase seen in space have now been replicated on Earth by using vapor diffusion cells which limit the area available for evaporation.

Human Serum Albumin. The work done with human serum albumin (HSA), which is the most abundant protein in the circulatory system, provides a good example of knowledge evolving through the ground and flight programs. In 1986 high quality HSA crystals were grown aboard STS-24. In 1989, growth techniques developed in preparation for that flight resulted in the growth of similar crystals on the ground that allowed the 3-dimensional molecular HSA structure to be determined to a resolution of six angstroms. At a recent mission review Dr. DeLucas reported that exceptionally high quality crystals of HSA were grown aboard IML-1 in 1992, and the results have allowed the protein's structure to be further refined. The published results of this work, led by Daniel Carter at MSFC, are considered a breakthrough in rational drug design due to the potential utility of HSA for the transport of many biological and pharmaceutical molecules in the bloodstream. The structures of a number of other albumins have also been refined and comparisons of these structures are revealing a wealth of information regarding the evolution and chemistry of those important macromolecules.

Satellite Tobacco Mosaic Virus (STMV). STMV is a common plant pathogen and one of the smallest viruses known. In 1992, crystals of STMV were grown aboard IML-2 and according to the investigator, Alexander McPherson (University of California, Riverside) they yielded the "best resolution data obtained on any virus crystal, by any method, anywhere". The STMV crystals obtained were 15 times the volume of any seen in the laboratory and their morphology indicated that growth was still incomplete at the end of the eight day mission. Analysis of these crystals not only greatly extended the structural resolution of the virus but also allowed visualization of the nucleic acid contained in STMV for the first time. Some STMV crystals grown at 4°C in the Vapor Diffusion Apparatus formed hexagonal plates (a habit rarely seen in the laboratory) of exceptional size (1.5 mm) and quality. The results of the canavalin and STMV experiments were published in Protein Science, Oct. 1992.

Malic enzyme. Malic enzyme, which has potential use in the development of antiparasitic drugs, was among the proteins benefiting from the program's evolving understanding of how to optimize conditions for space PCG. After unsuccessful attempts to grow crystals of this protein on two previous flights, the 1992 flight of USML-1 yielded the best malic enzyme crystals ever grown.

Factor D. The longest crystal ever seen of factor D, was also grown on this mission. By combining data from USML-1 and ground-grown crystals, investigators have now successfully determined the three dimensional molecular structure of this protein. This represents the first structure of a type of immune system protein known as a complement protein, ever determined at atomic resolution.

Ten years of spacelab experiments have clearly established that *protein crystals of superior size and quality, capable of providing increased structural data, can be grown in microgravity*. Some investigators believe that the higher quality of the crystals grown in microgravity is linked in part to the slower rate of growth that is possible there. The improving technology and methods used in orbit have allowed investigators to make good use of the opportunities available on spacelab in the past. Aboard Space Station the much longer growth periods, and ability to perform continuing adjustments between experimental series, will provide the opportunities needed for the evolution of this science.

Tissue Culturing. Cell culturing, the growth of cells outside the body, allows many tests and studies that cannot be conducted on whole organisms. Concentrations of drugs that are toxic for the test animal as a whole can be readily studied in cultured cells, where the delicate physiology of the entire animal is not present to hinder or complicate the drug study. Separate cell types can also be examined in culture to isolate and characterize cell function.

Work on cell culturing systems during the last decade at Johnson Space Center (JSC) has led to a breakthrough in bioreactor technology that is advancing the state-of-the-art in growing normal and cancerous mammalian tissues. Through studies on the effect of fluid flow on tissue cultures, NASA scientists have developed a ground-based bioreactor that attempts to simulate microgravity's effects on growing tissues by randomizing the gravitational vector. This rotating bioreactor keeps cells suspended in a culture medium without the turbulence associated with standard cell culturing techniques, while still maintaining an adequate flow of oxygen and necessary nutrients. The low-shear culturing environment provided by the bioreactor promotes cell aggregation and differentiation, allowing the formation of three-dimensional tissue which more closely resembles in vivo tissue than cells grown using conventional culturing methods.

The NASA bioreactor is composed essentially of a cylindrical, hollow vessel that is filled with cells and microcarrier beads. This cylinder is continuously rotated around a horizontal axis. The liquid inside the vessel is coupled by viscosity to the rotating wall and begins turning with the wall as a single mass. The cells and carrier beads in the liquid media are carried along with the rotating liquid mass, and this randomizes the gravity vector experienced by the cells. This prevents them from sedimenting out, and they are maintained in a homogeneous suspension throughout the growth media without the use of shear-inducing impeller blades. The end result of this design is that very little shear stress is applied to the cells and beads so that the only residual shear forces in the culture vessel arise from the motion of microcarriers in the media and the contact that the microcarriers occasionally make with the wall and each other.[7]

Although a variety of other research cell culturing technologies currently exist, such as static matrix culturing, roller bottles and stirred suspension cultures; these technologies generally suffer from one or more serious limitations. These include monolayer cell cultures, limited diffusion of nutrients, difficult cell recovery, or excessive cell agitation. In contrast, the fluid dynamic principles upon which the bioreactor operates offer the advantages of 1) co-location of cells, including those with different sedimentation rates, 2) extremely low fluid shear stress and turbulence, 3) three-dimensional spatial freedom and 4) effective gas and nutrient transfer to the cells.[8]

The patent for the basic rotating wall vessel (RWV) design of the JSC bioreactor was issued to NASA in 1991. Additional patents have also been issued for a number of modified RWV designs, technologies incorporated in the RWV, and RWV culturing techniques. Investigators credited with important roles in the development of bioreactor designs include Ray Schwarz, Tinh Trinh and Thomas Goodwin of Krug Life Sciences Inc., astronaut David Wolf, J. Jessup of Harvard Medical School, and Mary Pat Moyer of the University of Texas at San Antonio. In recent years Glenn Spaulding of JSC has overseen further development of the bioreactor and the refinement of the associated cell culturing techniques in collaboration with a number of outside investigators.

Investigators performing medical research have been quick to recognize the enormous potential of the rotating wall vessel and have suggested a wide range of uses. In addition to the more standard cell studies, these have included the growth of large tissue masses for transplant, the cultivation of normal and cancerous cells together in 3-dimensional environment in order to observe their interactions, isolation of tissue specific growth factors, and the investigation of cellular signaling mechanisms. Since the development of the RWV a number of investigators have entered into collaborations with NASA in order to take advantage of the technology's unique features, and a wide range of cell types have been successfully cultivated. Some of the cell culturing accomplishments reported by JSC in 1991 were: (1) First *in vitro* Norwalk viral culture, (2) First normal human intestine culture, (3) First 80-day normal human lung culture and the (4) First advanced glioma culture.

Over the last few years investigators have used the RWV to study an increasing variety of cell lines ranging from skin tissue to brain cancer. The results of a few of these investigations are discussed below.

Glioma. Glioma cell culturing is one of the early successes with the rotating wall bioreactor. Glioma cells are cancers of the tissue which surround nerve cells in the brain. In 1991 JSC investigators Garry Marley and Steve Gonda of JSC and Mary Lou Ingram of Huntington Beach Medical Center in Pasadena, reported that a three dimensional model of a human glioma had been reproduced in a modified version of the NASA bioreactor.[9] In previous research with *in vitro* human tumor cultures, the features of a fully developed tumor, such as a central hypoxia, had failed to develop. However, when the NASA bioreactor was utilized, the spherical aggregates of cells (up to 2.5mm in diameter) achieved were at least 10 times the volume of previously reported cultured glioma colonies. When these spheres were sectioned, at least three different cell morphologies were discovered and the central hypoxia, characteristic of tumors, was evident.[10]

Skeletal Tissue. Large cartilage tissue masses (1 cm) have been grown in the NASA bioreactor, exceeding the previous limit of about 3mm obtained with conventional culturing methods.[11] Growth of mouse limb cells in the RWV have resulted in the formation of aggregates which continue to increase in size over the 65-day culture period. Of particular interest in those experiments, was the observation of cell characteristics that previously had only been seen in space-grown cells. This lends support to the argument that the RWV creates conditions similar to microgravity, and therefore may provide an opportunity to use a relatively simple, low maintenance system to study certain changes produced in microgravity. In the case of skeletal tissue, such a system would be especially useful since the human skeleton is profoundly affected by gravitational changes during space flight. Bone, Cartilage and ligaments of space-flown rats have shown significantly altered differentiation and bone demineralization; and negative calcium balance is observed in astronauts. Other investigators are studying the use of the RWV as a culture system to grow large cartilage tissue masses for implants. Cartilage implants would be created by growing cartilage from a patient on biodegradable scaffolding, and then implanting the final tissue mass back into the patient.[12]

Ovarian Cancer. Cancer of the ovary is the leading cause of death from gynecologic malignancy and investigators consider the development of *in vitro* models critical to its study.[13] Satisfactory culture systems for ovarian tumor cells have been limited in the past because of the poor survival of patient tumor cells grown in primary culture. In contrast to the results obtained from conventional culture methods, ovarian tumor cells cultured in a RWV formed three-dimensional cellular aggregates that were composed of multiple cell types, such as existed in the original tumor specimen. Findings from this RWV study were judged to have a fundamental impact on the theory of müllerian tumor development.

Intestinal and Colon Tissue. Perhaps the most successful culturing attempt to date has been the culture of intestine cells. Prior to the NASA RWV, all attempts to generate small intestine from normal primaries and get fully differentiated tissue had failed. However intestine cells grown in the RWV have exhibited a highly organized structure, including microvilli and crypts characteristic of this tissue. Appropriate biochemical markers were present as well. Two human colon adenocarcinoma cell lines, HT-29 and HT-29KM, grown in this culture system developed three-dimensional tissue masses 1.0-1.5 cm in diameter. Investigators reported that the masses displayed glandular structures, apical and internal glandular microvilli, tight intercellular junctions, desmosomes, cellular polarity, sinusoid development, internalized mucin, and structures akin to normal colon crypt development.[7]

While the RWV offers many advantages to cell growers, it can mimic the beneficial effects of microgravity only to a certain extent. After a maximum of perhaps three months, cell aggregates in the RWV become too large to remain suspended in solution. To address this issue, miniaturized flight versions of the RWV have been developed for use in the microgravity environment, where the decreased shear forces may allow even more extensive tissue development than on Earth. The only requirement for rotation in space is to drive the distribution of oxygen and nutrients to the cells, allowing the shear forces acting on the cells to be reduced by orders of magnitude. To date, space experimentation has consisted of test flights for the purpose of calibrating the bioreactor for use in a low gravity environment. In the future the bioreactor will be used to grow a variety of tissues in a low gravity environment where tissue masses may grow to sizes and cell differentiation far beyond what can be achieved on the ground.

IV. MATERIALS RESEARCH

The goals of materials research in space during the last ten years have been to use the unique characteristics of the space environment to better understand the processes by which various materials are produced and to manipulate the properties of those materials. The role of gravity-driven convection in materials processing has been studied for a wide range of materials (Table 2), including electronic and photonic materials, metals, alloys, composites, glasses, ceramics, and polymers.

Interest in materials processing in space began to evolve in the late 1950's from a number of different disciplines. In considering the likely behavior of liquids and solidification processes in the low-gravity environment of an orbital spacecraft it was recognized that this environment might be useful for a variety of unique processes. This prompted a number of experiments utilizing drop towers, research aircraft flying parabolic trajectories, and small "carry on experiments" on the last several Apollo flights. The knowledge gained from these early experiments was used to develop the more sophisticated investigations which later flew on Skylab, Apollo-Soyuz and Spacelab.[14]

The materials-processing flight experiment program began in 1971 with a set of demonstration experiments performed on the Apollo 14 lunar mission.[15] During the trans-Earth coast period of that flight, a set of experiments was performed which verified that, in low gravity, mixtures of materials of different densities remain separate in their combined liquid state and during solidification. In other words, the materials do not settle into different layers because of sedimentation as they do on Earth. This set of experiments, referred to as the composite casting demonstration, is of special interest because it was conducted in the first space processing furnace, a precursor to some of the Skylab apparatus.[14]

Drop tower tests also proved to be of considerable value in the verification of experimental concepts and the development of apparatus flown on Skylab in the early 70's. One experiment for example, involved the dispersion and solidification, in a drop tower, of the two normally immiscible elements gallium (Ga) and bismuth (Bi).[14] The experiment produced a solid mixture, of finely dispersed Ga and Bi particles, which exhibited a unique temperature dependence of the electrical resistivity quite unlike that found in the pure materials. These results suggested that immiscible materials processed in space could form an entirely new class of electronic materials and led to the development of similar Skylab experiments. The longer periods of microgravity achieved in parabolic aircraft flights (10–20 seconds) permitted investigators to verify the functioning of many Skylab experiments as they were being developed.

TABLE 2: MATERIALS FLOWN SINCE 1982

Date	Mission	Instrument	Material
3/22/82	STS–3	Monodisperse latex reactor	Monomer: styrene, water
6/27/82	STS–4	Monodisperse latex reactor	Polymer
4/4/83	STS–6	Monodisperse latex reactor	Monomer: styrene and water
6/1/83	SPAR 10	Casting Furnace	Aluminum-copper
6/1/83	SPAR 10	Low-Gravity exothermic heating cooling apparatus	$Cu–Cu_2O–O$
6/1/83	SPAR 10	Automated directional solidification system	Manganese-bismuth
6/18/83	STS–7	Single axis acoustic levitator	Al_2O_3, $Ga_2O_3–CaO–SiO_2$, $Ga_2O_3–CaO$, $Na_2O–B_2O_3$
6/18/83	STS–7	Gradient general purpose rocket furnace	GeSe, Xe
6/18/83	STS–7	Monodisperse latex reactor	Monomer: styrene and water
2/3/84	STS 41–B	Monodisperse latex reactor	Monomer: styrene, water
2/3/84	STS 41–B	Acoustic containerless experiment system	ZrF_4, BaF_2, LaF_3
4/29/85	Spacelab 3	Vapor crystal growth system	Mercury-iodide
4/29/86	Spacelab 3	Fluid experiment system	Triglycine sulfate
6/17/85	STS 51–G	Automated directional solidification furnace—1 (low temperature version)	Bismuth-manganese
10/30/85	STS–61A	Single axis acoustic levitator	Al_2O_3, $Ga_2O_3–CaO–SiO_2$, $Na_2O–B_2O_3$, $Ga_2O_3–CaO$
10/30/85	STS–61A	Gradient general purpose rocket furnace	GeSe, Xe
10/30/85	STS–61A	Gradient general purpose rocket furnace	Lead-tin-telluride
1/12/86	STS–61C	Automated directional solidification furnace—2 (high temperature version)	Colbalt-samarium eutictics and peritectics
1/12/86	STS–61C	Electromagnetic levitator	Nickel-Tin
9/29/88	STS–28	Automated directional solidification furnace—2 (high temperature version)	Manganese-bismuth
6/5/91	SLS–1	Gallium arsenide furnace	Selenium doped gallium arsenide
1/22/92	IML–1	Vapor crystal growth system	Mercuric iodide
1/22/92	IML–1	Fluids experiment system	Triglycine sulfate solution
1/22/92	IML–1	Fluids experiment system	Water, ammonia chloride
3/24/92	STS–45		Gallium arsenide
6/25/92	USML–1	Zeolite crystal growth furnace	Aluminum and silicon
6/25/92	USML–1	Crystal growth furnace	Cadmium-zinc-telluride
6/25/92	USML–1	Glovebox	Dow 200 silicone oils with varying surface tensions
6/25/92	USML–1	Crystal growth furnace	Mercury-cadmium-telluride
6/25/92	USML–1	Crystal growth furnace	Mercury-zinc-telluride
6/25/92	USML–1	Crystal growth furnace	Selenium doped gallium arsenide
6/25/92	USML–1	Glovebox	Water, teflon
10/22/92	USMP–1	MEPHISTO	Bismuth and bismuth-tin

In broad terms, one very important outcome of the numerous materials processing experiments performed on Skylab, was the realization that microgravity experiments were sensitive to a host of secondary and tertiary factors that were not normally significant in a one gravity environment. Space experiments have demonstrated that when the manifestations of gravitational forces (such as sedimentation and gravity-driven convection) are reduced other forces such as surface tension and the wetting characteristics of the materials for their containers become predominant. Since those early experiments, the improvements made in analytical techniques, theoretical treatments and experimental hardware, are allowing investigators to explore those sensitivities quantitatively.

During the last decade much of the materials science research sponsored by the Microgravity Science and Applications Division has been directed at improving material properties and creating new materials through an improved understanding of materials processes. Results from microgravity experiments have acted to focus attention on determining the importance of surface tension driven convection in industrially important processes, such as Czochralski crystal pulling, and the floating zone configuration for growing semiconductor single crystals. Virtually all of the world production of silicon produced in single crystal form is produced by these two techniques.

A portion of MSAD research is also funded to carry out investigations in areas where theories are incomplete. As a result of NASA sponsored research, present theories and models are extended to encompass a wider range of problems. For example, new algorithms and mathematical techniques were developed by Julian Szekeley of the Massachusetts Institute of Technology to model the behavior of metallic melts that will be electromagnetically levitated in microgravity. They have subsequently been applied in the metals and semiconductor industries for the purpose of equipment design and quantitative prediction of important materials processing parameters in induction furnaces, induction stirring processes, continuous casting of metal alloys, magnetic damping of turbulent convection in high temperature semiconductor melts, and cold crucible processing of materials with highly corrosive melts.

Metals and Alloys

Dendrites are tiny crystalline structures formed from molten materials during solidification. The size, shape, and orientation of the dendrites determine to a major extent the strength and durability of metallic systems including steel, aluminum, and superalloys. Because many industrially important metal alloys solidify by dendritic processes, enhancing the basic understanding of dendritic solidification is essential to improving industrial production techniques. During the 70's and 80's Martin Glicksman et., al. of Rensselaer Polytechnic Institute performed extensive work with succinonitrile (SCN), a transparent analog to metals, in order to test current theories of dendritic growth. In the course of this research such a large historical database was compiled that SCN has arguably become the best studied dendritic system in the literature and the reference standard for almost all other work on dendritic growth. Findings from the ground-based work demonstrated the limitations of prior growth models, which did not adequately account for the effects of gravity driven convection. Unfortunately it is only at small undercoolings, where gravity effects dominate, that kinetic conditions are suitable for checking dendritic growth theories (Fig. 6). The Isothermal Dendritic Growth Experiment (IDGE) was developed over the last several years in order to study the effect of undercooling or dendritic development in the absence of gravity-driven fluid flows. The space experiment, scheduled for March 1994 on the second flight of the United States Microgravity Payload series, should provide the critical test of these theories.

Other model materials for metals, such as ammonium chloride (NH4Cl), have also proven useful to investigators studying solidification behavior. Angus Hellawell (Michigan Technological University) used this system to study the formation of channels of low density materials during casting that produce "freckling" in metals, collecting considerable information on the interaction of dendritices with the mushy zone. The occurrence of freckling in commercial materials, such as stainless steel and super-alloys, tends to limit the useful composition range of many alloys. Mary Helen McCay and Dwayne McCay (University of Tennessee Space Institute) have also performed extensive optical studies of the liquid-solid interface region during alloy solidification by using NH4Cl. Experiments aboard suborbital rockets and parabolic aircraft flights revealed that the spacing of dendrite arms varies with g-level, indicating that gravity affects the concentration fields immediately adjacent to the dendrite arms. In order to better study solidification without the masking effects of gravity, the system was flown aboard IML–1 in 1992 as the Casting and Solidification Technology experiment. The growth rates of dendritic fronts were generally observed to be much faster in microgravity (factor of 2) and the dendrites developed a much finer, longer structure than seen on the ground. In fact the tip growth occurred at nearly the isotherm translation rate. Preliminary analysis of the results has indicated that, in microgravity, only shrinkage and solute diffusion effects cause mass flow. The enormous amount of data collected from the IML–1 experiment is still being sifted and comparison with ground-based studies is expected to yield considerable insight into the solidification process, including the phenomena which produce freckling.

Electronic materials

Non-silicon based materials often have unique properties not exhibited by the more mature, elemental semiconductor technologies. Examples include, bandgaps which allow direct conversion between light and energy, higher electron mobilities, and improved thermal and radiation tolerance. Much of the materials research sponsored by NASA's microgravity program during the last ten years has been concentrated in areas based on these newer materials, which include various Group III–V compounds (e.g. gallium arsenide) and Group II–VI compounds. However these compound semiconductors still retain stringent requirements for purity, uniformity and perfection. The results of numerous space experiments appear to confirm the expected advantages of growing semiconductor crystals in space, which include improved homogeneity, greater purity, and greater structural perfection.

Germanium Compounds. One area of long term interest in electronic materials research has been the study of vapor transport to grow semiconductor crystals. Herbert Wiedemeier of the Rensselaer Polytechnic Institute grew germanium selenide (GeSe) and germanium telluride (GeTe) crystals by chemical vapor transport on Skylab and Apollo-Soyuz, and by physical vapor transport on STS–7 in 1985 and STS–61A in 1985.[16] The space grown crystals generally showed greatly improved surface morphology and were nearly free of growth defects, leading to the conclusion that gravity-driven convection has a powerful influence on surface morphology. These experiments were among the earliest flight investigations to clearly demonstrate the superiority of spacegrown crystals over those grown on Earth.

Mercury Cadmium Telluride (HgCd(Tel). The results of Dr. Wiedemeier's early experiments were incorporated into further ground research using simpler model materials, which led to the development of a flight experiment using a material of technical interest, $Hg_{0.8}Cd_{0.2}Te$. HgCd(Te is important for its use in infrared detectors and thermal imaging arrays. The first direct measurement of Hg-vacancy concentrations in HgTc. $Hg_{0.8}Cd_{0.4}Te$ and $Hg_{0.6}Cd_{0.4}Te$ was accomplished in the course of the ground work. Such information is valuable for understanding and controlling the formation of defects during the crystal growth process. A layer about 80 micrometers thick of HgCdTe was successfully grown on a CdTe substrate during the 8 hour growth period for the primary sample aboard USML–1 in 1992. Preliminary analysis has revealed a greater than expected improvement in the surface structure of the flight samples compared to ground specimens, and also considerable improvement in both the crystalline perfection and chemical uniformity was measured.

HgCdTe was also used in solidification studies, such as those performed by Sandor Lehoczky and Frank Szofran of Marshall Space Flight Center, who studied methods of growing homogeneous HgCdTe crystals by solidification from bulk melts. Ground work greatly increased the understanding of gravitational limitations in the growth of bulk semiconductor materials such as HgCdTe. This knowledge was carried over to studies of materials with similar optoelectronic properties such as mercury zinc telluride. (HgZnTe) and mercury zinc selenide (HgZnSe). Zinc substitution appeared to stabilize the crystalline lattice and had the potential to lower defects densities in growing crystals. This work led to a directional solidification experiment, using $Hg_{0.84}Zn_{0.16}Te$, aboard USML–1 in 1992. Though this experiment was terminated prematurely, 5.5 mm of growth were achieved and this material is currently being analyzed.

Mercuric Iodide (HgI_2). Mercuric iodide, a nuclear detector material capable of allowing radiation levels to be measured over a range of wavelengths, is produced by a physical vapor transport process. Its utility as a room temperature, solid-state detector has generated a great deal of interest among agencies such as NASA and the Department of Energy, as well as private corporations. Potential uses cited by Lodewijk van den Berg of EG&G Energy Measurement Inc. include environmental monitoring and cleanup, detecting lead in the paint of old buildings, tracking radioactive isotopes in physiological tests, and the construction of large array x-ray and gamma ray telescopes. Thus far the use of HgI_2 has been limited by poor performance factors, such as low charge carrier mobilities and lifetimes, which are related to the structural perfection of the crystal. Research[17] prior to 1985 had indicated the HgI_2 crystal quality was degraded by the effects of gravity (mechanical deformation and irregular convection) during the vapor transport growth process. By growing HGI_2 in space it was hoped that higher quality crystals, with improved performance, could be obtained. Another goal of the experimental work led by Dr. van den Berg was to develop a system which could be used in space to perform critical vapor transport measurements, with the quality of the crystal serving as a test of the system's reliability.

Dr. van den Berg first grew a HgI_2 crystal in space about SL–3 in April 1985 using physical vapor transport. The initial characterization of the SL–3 crystal indicated a very high internal order and the measured charge carrier mobilities were at least a factor of two higher than Earth-grown crystals at that time. Detector efficiency was better than the best Earth-grown crystal by a factor of seven. As a result of the SL–3 experiment, investigators also learned that precise control of the temperature profile was extremely critical during the growth process. This knowledge was incorporated back in the ground-based work and in subsequent years considerable progress was made in improving the methods used to grow HgI_2, resulting in Earth-grown crystals comparable in quality to that obtained from SL–3. Advances were also made during that time in various crystal characterization techniques, such as synchrotron x-ray diffraction imaging. In 1991, a National Institute of Standards and Technology report was published on the use of this technique to re-evaluate several space-grown crystals, including HgI_2. The measurements indicated that lattice regularity might be of less importance to the performance of HgI_2 than the suppression of additional phases in the crystal. The report concluded that these results were so interesting that, "extraordinary efforts to thin samples of this material and to support them in innovative ways seems now to be justified."

A second HgI_2 experiment, performed on IML–1 in 1992, yielded a crystal of higher quality than crystals grown on the ground under the same conditions. Large improvements were also soon in the charge carrier lifetime and mobilities, helping to confirm the SL-3 results. The superior crystals obtained from the two space experiments and the more recent ground work, have recently led to requests by two commercial laboratories to transfer the crystal growth technology to the private sector for use in commercial apparatus development.

As a result of the IML-1 mission it was also confirmed that convective effects are created by gravity during the vapor transport growth process of HgI_2. Previously fluid dynamicists had not believed that such convection could exist due to the extremely low pressures involved. This finding has important ramifications to the field of vapor transport processing in general, and is also expected to lead to further improvements in HgI_2 crystal growth techniques used on the ground.

Magnetic Dampening. In some instances, research in preparation for space experiments in materials science has led to significant leaps forward in the way a large class of experiments and industrial processes are conducted here on the ground. The best known example of this is the use of magnetic damping to retard convective flows during the growth of electronic materials. August F. Witt and Harry C. Gatos at the Massachusetts Institute of Technology developed and applied this technique to an industrially important process for growing semiconductor single crystals (the Czochralski technique) while studying the potential effects of processing crystals in microgravity. Use of this technique by a number of American and Japanese electronic materials companies has brought a new dimension to industrial crystal growth research. It is considered by some to be the primary advance in terrestrial crystal growth research in the last two decades.

V. COMBUSTION RESEARCH[19]

The major objectives of the MSAD combustion research program during the last decade have been to develop understanding of, and define means of controlling and optimizing, combustion processes. Included in the program are studies of premixed gas combustion, gaseous diffusion flames, liquid fuel droplet combustion, particle cloud combustion, flame spread across liquid or solid fuel surfaces, smoldering combustion, and use of combuision processes to produce novel materials. To date, most of the NASA-supported activities have been ground-based, involving analytical modeling studies and testing in microgravity drop towers (2 and 5 seconds of available test time) at Lewis Research Center and in aircraft (LearJet and KC–135) flying parabolic trajectories to produce up to 20 seconds of reduced gravity. However, Robert Altenkirch's (Mississippi State University) Solid Surface Combustion experiment, which requires test times in excess of those which can be achieved in these facilities has been flown several times on the shuttle in order to gather a series of data points required for testing of modeling hypotheses. In those experiments flame spread was studied by igniting paper and plastic in a specially developed chamber and filming the resulting flame shape and propagation. Several other experiments to be flown on shuttle and/or in sounding rockets (which can produce micro-gravity test times of up to 12 minutes) are also in the development phase.

Microgravity combustion research has demonstrated major differences in structures of various types of flames in microgravity versus normal gravity environments. Significant differences in the sooting characteristics of diffusion flames under these two limiting gravity conditions (of major interest as regards pollutant production from everyday combustion devices) have been observed. Major differences have been documented between the ignition and flame-spreading characteristics of liquids and solids (e.g., plastics, wood, foams, pools of liquid fuels) in microgravity and normal gravity, of major importance as regards fire safety. Besides the immediate practical implications of these results as regards combustion efficiency (energy conservation), pollutant production (environmental considerations) and characterization of materials in terms of flammability (fire safety), these studies have established that better mechanistic understanding of individual processes making up the overall combustion process can be obtained by comparison of result gathered in microgravity vs. normal gravity tests. Potentially, this could lead to major redesign of combustion processes and combustor hardware to yield higher energy conversion efficiency, reduced pollutant production, and increased fire safety on Earth as well as in space.

Work to date has generated significant interest in the academic combustion community. Numerous publications generated under MSAD funding have been accepted in such prestigious journals as Combustion and Flame, Proceedings of the International Symposium on Combustion, and Combustion Science and Technology. Researchers have come to realize that they can obtain a much better understanding of combustion fundamentals through the extra "degree-of-freedom" afforded by experimentation at gravity levels other than normal; and through elimination of a major factor (buoyancy) which tends to obscure some of the more important fundamental phenomena under normal gravity experimentation.

Specific accomplishments of fundamental and widespread scientific interest and/or practical benefit under the Microgravity Combustion Research activity include:

(1) Between 1986 and 1991 several new phenomena related to droplet combustion were found in testing in the NASA Lewis drop tower. These included a new slow burning regime for droplets and disruptive burning in pure fuel droplets. Droplet combustion has been termed the most fundamental heterogeneous combustion problem by the combustion science community and is of longstanding interest.

2) Multiple discoveries, attainable only via microgravity experiments, related to premixed gas combustion (relevant to hazard control and the most basic combustion science) were made between 1986 and 1993. These include self-extinguishing flames, flame balls, flame cylinders, and dilution-enhanced flammability. These discoveries open a new recognition of the stabilization and extinguishment possibilities associated with combustion reactant absorption and product radiation.

3) The first low-gravity data on Burke-Schumann gas jet diffusion flames (a classical flame configuration treated in virtually all combustion textbooks) were obtained and analyzed in 1991. These data represent the first true verification of this zero-gravity theory available since its original development in 1928.

4) The first data on turbulent and transitional (from laminar to turbulent) gasjet flames in microgravity were recently obtained (1993) through droptower testing. Leading university researchers believe this type of microgravity investigation offers the most promising path toward development of understanding/prediction of turbulent combustion, of widespread practical interest since most commercial combustors operate in the turbulent regime.

5) A non-intrusive diagnostic instrument developed over the last three years, for the purpose of determining chemical species concentrations in drop-tower microgravity combustion experiments, has been modified for use in monitoring ammonia concentrations in power-plant smokestacks, an important environmental application.

6) Microgravity experiments (1988) revealing "chattering flame propagation" in freely suspended fuel particle clouds have led to theoretical developments regarding flame-acoustic interactions which have since been revealed to apply to triggering of acoustic instabilities in practical gas turbines.

7) Initial microgravity data were obtained in 1988 on smoldering combustion and air flow effects on solid and liquid material flammability and flame spread (both of great interest in the fire safety area) revealing a new extinction mechanism (radiative quenching) and a lesser-than-assumed margin of safety in acceptance criteria for use of flammable materials in microgravity environments. These data expand significantly the understanding of material ignition and flamespread phenomena.

8) A decades-old question about the ability of a candle to burn in near zero-gravity and the nature of the flame in that environment was addressed in a 1992 Shuttle experiment aboard USML–1. Surprising results included the observation of spontaneous flame oscillations prior to extinguishment.

(9) The first data on soot production (primary and aggregate soot sizes and quantities) in microgravity diffusion flames were collected in 1992; these data represent initiation of new studies on the effects of various parameters on soot generation, growth, and oxidation processes. The understanding which will be obtained from these studies has great potential practical benefits in combustor design and in many manufacturing processes such as carbon-black and carbon-fiber matrix production, and generation of new exotic materials such as fullerenes.

YN. FLUID PHYSICS

The objective of the microgravity fluid physics program during the last decade has been to improve the understanding of fluid dynamics and transport phenomena where fundamental behavior is limited or affected by the presence of gravity. The study of fluid physics in microgravity encompasses a broad range of topics dealing with such fluid behavior as interfacial phenomena, multiphase flow, and drop dynamics.

Fluid physics is often considered to be the central science with respect to microgravity research since nearly all processes studied or performed in low gravity involve a liquid phase and must manage liquid behavior. Thus the principles of fluid physics provide the foundation for most type of research performed in a low gravity environment. This includes biotechnology fields such as protein crystal growth, separation sciences, and cell culturing in space, which all involve the motion of either fluid buffers or electrolytes. Materials processing also relies extensively on melting and solidification processes, and these procedures generate complex fluid flows that affect the quality of the final product. Since gases are also fluids, combustion and fire safety in space requires a full understanding of fluid flow and transport. In addition to research considerations, the use of liquid fuels in space propulsion systems means that an understanding of the positions and motion of these fuels in tanks is critical for insuring proper spacecraft functioning. TThe development of future space technologies will also rely on improved understanding of fluid behavior. Welding in space and energy storage systems relying on solid-liquid transitions involve complex fluid flow issues that are not well understood.[20] In the future, efficient energy transfer and storage devices will require an understanding of how vapor-liquid systems flow and carry heat, and this requires improved understanding of multiphase behavior in liquids.

Although the surface forces in space are usually overshadowed on Earth, these forces remain important even at 1-g, making the field of interfacial phenomena in fluid physics highly significant for Earth-based processing activities. Welding and crystal growing from the melt on Earth are significantly affected by surface-tension forces which can effectively be studied only in space. Theoretical understanding of convection and mass transport behavior around growing crystals on Earth is also incomplete, and requires insights provided by space research into fluid flow.

Fundamental and applied studies on the effects of gravity on static and dynamic liquid-gas interfaces have provided information necessary to design and develop propellant management systems that can function effectively in a reduced gravity environment. For example, an Apollo 7 fluids experiment demonstrated that capillary forces could be used to move fluids in fluid management systems in space. This helped prove that scaling laws worked and could be extrapolated to design systems for fluid management which could only be tested on very small scales in 1-g. The use of this knowledge to design propellant systems such as that used in the Centaur vehicle, was considered it to be a major accomplishment of the early space program. While gaps in knowledge still require the use of conservative designs, the successful on-orbit operation of most propellant management systems in vehicles and satellites are directly dependent on many years of low-gravity fluids research.

Drop Dynamics. An area of fluids research which is particularly difficult to study on Earth is the behavior of free drops. Scientific interest in drop dynamics stems from the many scientific and technological areas in which liquid drops play a role, from studies of rain in the atmosphere to chemical processes. Some early work performed in this area at the Jet Propulsion Laboratory during the latter half of the 80's used drop tubes in order to study spherical shell formation, particularly methods of centering bubbles in liquid drops. Techniques were developed for forming shells from glass and plastics and a number of applications were suggested for such shells, including polymer cell encapsulation and bonding to form lightweight, energy absorbing structures. In 1988 a Center for Micrograyity Research and Applications was established at Vanderbilt University to further the study of free liquid drops. Taylor Wang of the Jet Propulsion Laboratory (later at Vanderbilt University) performed preliminary experiments aboard SL–3 in 1985, using acoustic levitation to suspend and manipulate drops. These experiments were successful in conforming classical theoretical assumptions about drop behavior, but investigators were also intrigued by some of the results which were not expected. For example, under certain conditions, the bifurcation point (when a spinning drop takes a dog-bone shape to hold itself together) occurred earlier than had been predicted. In order to resolve some of the differences seen between experiment and theory, a series of drop experiments were conducted in the more advanced Drop Physics Module flown aboard USML–1 in 1992. The USML–1 results agreed well with theory under static conditions and allowed previous flight and ground experimental results to be reconciled with theory as well. Dr. Wang also reported that the USML–1 experiment had produced new insights into other centering mechanisms, of spinning compound drops, needed for encapsulating cells. While difficulties with the drop injection system prevented full success from being achieved on this mission, further investigations using somewhat modified hardware are being pursued aboard USML–2 in 1995.

Surface Tension Driven Convection. Variations in surface tension along the free surface of a liquid, caused by uneven temperature distribution, creates a flow in the bulk liquid known as thermocapillary flow. Since the 1970's most of the advances in understanding the phenomenon of thermocapillary flow resulted from research sponsored by MSAD. Much attention has been given to the study of themocapillary flow in recent years due to its important role in such applications such as crystal growth from melts, two-phase flows with heat transfer and themocapillary migration of bubbles and droplets.[21] It is known that thermocapillary flow becomes oscillitory under certain conditions but its cause is not completely understood. A number of studies performed during the last decade by Simon Ostrach et al. of Case Western University have focused on this phenomenon. The results of that experimental work suggested that free surface deformability played an important role in the oscillations. Dr. Ostrach has since described the oscillation as a three-way coupled flow that is among the most complex fluid phenomena yet understood. In order to test these theories, experiments were designed for flight aboard USML–1 and USML–2. The highly successful Surface Tension Driven Convection Experiment, flown on USML–1 in 1992, studied the velocity and temperature fields in detail in non-oscillatory thermocapillary flows. STDCE represented a milestone experiment in NASA's fluid program; using state-of-the-art diagnostics as part of the first combined theoretical, numerical, and experimental study of the thermocapillary flow phenomenon. Preliminary analysis indicates that the temperature data is in good agreement with Dr. Ostrach's numerical predictions, and data collected during this mission also allowed a complete description of fluid flows which remained steady over an extended period of time.

Laser Light Scattering. A laser light scattering instrument specifically developed for space experiments on colloidal fluids (liquids containing small particles, such as paint, milk, drilling fluids used in the oil industry, and other suspensions or slurries) has been demonstrated to provide accurate, noninvasive measurement of the size distribution of protein molecules in the human eye. Such distributions are believed to be a direct indicator of the progressive stages of cataract development.

TABLE 3: FLUIDS EXPERIMENTS FLOWN SINCE 1983

Date	Mission	Instruments	Experiment title
6/1/83	SPAR 10	Acoustic levitation space processing rocket instrument	Containerless Processing Technology
6/18/83	STS–7 (MEA–A1)	Isothermal general purpose rocket furnace	Liquid Phase Misability Gap: Gradient Cooling Experiment & Isothermal Plunger Experiment
1/24/85	STS 51–C	Storable fluid management demonstration	Storable Fluid Management Demonstration
4/29/85	STS–51B (Spacelab 3)	Geophysical fluid flow cell	Geophysical Fluid Flow Cell Experiment
4/29/85	STS–51B (Spacelab 3)	Drop dynamics module	Dynamics of Rotating Oscillating Free Drops
7/29/85	STS–51F (Spacelab 2)	Super fluid helium experiment package cryostat and support electronics	Super Fluid Helium Experiment
10/30/85	STS–61A (MEA–A2)	Isothermal general purpose rocket furnace	The Diffusion of Liquid Zinc and Lead
10/30/85	STS–61A (MEA–A2)	Isothermal general purpose rocket furnace	Liquid Phase Miscibility Gap Materials
1/12/86	STS–61C (MSL–2)	Three axis acoustic levitator	Dynamics of Compound Drops
1/22/92	IML–1	Critical point facility with critical fluid thermal equilibration cell	Investigation of the Thermal Equilibrium Dynamics of SF6 Near the Liquid-Vapor Critical Point
6/25/92	USML–1	Glovebox	Nucleation of Crystals from Solutions in a Long-g Environment
6/25/92	USML–1	Drop physics module	Science and Technology of Surface Controlled Phenomena
6/25/92	USML–1	Glovebox	Interface Configuration Experiment
6/25/92	USML–1	Glovebox	Osciliatory Dynamics of Single Bubbles and Agglomeration in an Ultrasonic Sound Field in Microgravity
6/25/92	USML–1	Glovebox	Marangoni Convection in Closed Containers
6/25/92	USML–1	Surface tension driven convection experiment apparatus	Surface Tension Driven Convection Experiment
6/25/92	USML–1	Glovebox	Oscillatory Thermocapillary Flow Experiment
6/25/92	USML–1	Glovebox	Directed Orientation of Polymerizing Collagen Fibers
6/25/92	USML–1	Astroculture flight hardware	Astroculture
6/25/92	USML–1	Glovebox	Solid Surface Wetting Experiment
6/25/92	USML–1	Drop Physics Module	Drop Dynamics Experiment
6/25/92	USML–1	Drop Physics Module	Measurement of Liquid-Liquid Interracial Tension and the Role of Gravity in Phase Separation Kinetics of Fluid Glass Melts
8/12/92	STS–47 (Spacelab J)	Get away special	Nucleate Pool Boiling
10/22/92	USMP–1	Lambda point experiment	Heat Capacity Measurements Near the Lambda Point of Helium
6/21/93	STS–57 (Spacelab–1)	Get away special	Pool Boiling Experiment
11/10/93	STS–60 (Spacelab–2)	Get away special	Pool Boiling Experiment

The advanced technology development activities which enable much of this research is exportable to the U.S. economy. The National Institute of Health is currently considering how to modify this instrument for field tests by medical researchers.

Modeling Studies. As NASA investigators worked to solve increasingly complex problems in terrestrial and low gravity fluid behavior over the last decade, a need was created for highly sophisticated models of fluid behavior. Since 1986 a great deal of this fluid modeling work has been carried out at the Computational Research Lab at Lewis Research Center in support of various areas of both fluid dynamics and materials research. The lab frequently participates in technology transfer efforts as well, such as a recent consortium formed with B.F. Goodrich Aerospace Inc. and the University of Akron. The computational lab contributed is expertise on gas flows in physical vapor transport systems to a process improvement study on carbon/carbon brakes, which are an important export commodity of the U.S. Aerospace industry. In another recently concluded collaboration, this time with General Electric, the Lewis computational lab performed the necessary modeling for the growth of single crystal sapphire filaments. This work built on computational techniques initiated during the 1980's and currently being extended through MSAD sponsored research. The lab also serves as a source of in-house modeling expertise for other NASA or Government agencies which lack computational groups. From 1990 to 1993 the lab provided the training needed for research on silicon carbide as a replacement material for silicon in computer chips. Silicon carbide has higher temperature tolerances than silicon and has potential integrated circuit and sensor applications for use in airplane and high performance auto engines.

VII. SUMMARY AND CONCLUSION

Ten years of ground-based and in-space research in biotechnology, combustion science, fluid physics and materials science has allowed NASA's Microgravity Science Research Program to work toward preserving U.S. preeminence in critical aspects of space science, technology, and applications.

As a result of support and direction by the MSAD, a new paradigm for scientific investigations has been fostered in the microgravity science research community. It has been recognized since the days of Skylab that many of the key issues under investigation require an interdisciplinary approach to research. The close and coordinated efforts of investigators in materials science, fluid physics, chemistry, control systems, and a broad spectrum of engineering disciplines, bring to bear the rigor and expertise that is necessary to successfully address these problems in a meaningful way.

With the efforts of the past decade as a firm foundation, NASA's Microgravity Science and Applications Division will continue to seek to use the microgravity environment of space as a tool to advance knowledge; to use space as a laboratory to explore the role of physical phenomena, contributing to progress in science and technology on Earth; and to study the role of gravity in technological processes, building a scientific foundation for understanding the consequences of gravitational environments beyond Earth's boundaries.[22]

The authors would like to acknowledge the efforts of David Vu in collecting reference material for this paper and also give special thanks to Luisa Palting and Kristen Youngman for their assistance in document preparation.

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ORDERS FOR TOMORROW

Mr. MOYNIHAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Saturday, August 13, that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the period for morning business under the control of the Republican leader or his designee; that at 10 a.m., the Senate resume consideration of S. 2351, the Health Security Act, under the conditions and limitations as provided for in a previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MOYNIHAN. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition—I believe my colleague and friend agrees—I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:16 p.m., recessed until Saturday, August 13, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 12, 1994:

THE JUDICIARY

ROBERT J. CINDRICH, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GUSTAVE DIAMOND, RETIRED.

DAVID A. KATZ, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE ALVIN I. KRENZLER, RETIRED.

SEAN J. MCLAUGHLIN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GLENN E. MENCER, RETIRED.

DEPARTMENT OF STATE

ROBERT EDWARD SERVICE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. EDWIN E. TENOSO, [redacted], U.S. AIR FORCE.

EXTENSIONS OF REMARKS

MASS MIGRATION FROM CUBA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. SHAW. Mr. Speaker, in 1980 Fidel Castro opened Cuba's borders and 125,000 Cuban refugees flooded the shores of south Florida. Many outstanding Cubans escaped Castro's brutal regime, but the boats at Mariel were also filled with convicts and the mentally ill. As a result of Castro's despicable behavior, much damage was done to south Florida's people and the good name of the Cuban people.

Now the dictator has again threatened a mass migration of his long-suffering people. Mr. Speaker, earlier this week 19 Members of the Florida delegation sent a letter to President Clinton asking him to bring Navy and Coast Guard assets into play to forestall this impending crisis. Last night Attorney General Janet Reno announced that the United States would use Navy and Coast Guard vessels to keep the situation under control. I urge the President to put those assets in place now.

The first lesson from Mariel is that swift American action is needed to prevent another mass migration from Cuba. Everyone in south Florida is well aware of the consequences of Federal inaction and lack of resolve. Let us hope that this time our President acts first to protect our borders and our laws.

NELSON MANDELA AND JOE SLOVO

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BURTON of Indiana. Mr. Speaker, while all of us are very pleased that violence has been reduced in South Africa and that a government of national unity is in place, we must not allow the euphoria of the moment to cloud our sober assessment of potential problems in the South African transition.

I commend to my colleagues' attention this recent article from the Washington Times by William Stearman, formerly of the National Security Council staff, about the strong influence of the South African Communist Party within the new government.

NELSON MANDELA AND JOE SLOVO

The most significant result of the recent South African elections seems to have gone totally unmentioned in the world media: The emerging dominant role of the South African Communist Party (SACP) in the new government officially announced on May 11.

Known members of the SACP in the new government include: The first deputy president (probable successor to 75-year-old Nelson Mandela); minister of defense; minister of safety and security (the police); and minister of posts, telecommunications and broadcasting (a key position for controlling the media). This is a textbook example of how communist parties have always tried to secure control over the military, the police and the media as an essential first step to taking over entirely. SACP members hold other important positions: minister and deputy minister of foreign affairs; housing (which will probably dispense a large part of the state budget); transport; sport and recreation; and a minister without portfolio. Ten other ministers and six other deputy ministers are African National Congress (ANC) members who may or may not be in the SACP, but who owe their positions to ANC committees controlled by an SACP majority and, therefore, are beholden to the party. Thus, the electoral victory has, in effect, actually brought the SACP to power.

I first learned of the SACP's control of the ANC when, during my last stint in the White House, I prepared briefing material on the ANC for President Bush. My research revealed that, contrary to popular belief, there is more than just an "alliance" between the ANC and the SACP.

The ANC is run by its National Working Committee and National Executive Committee, the present members of which were elected in July 1991. The SACP controls majorities in both committees. This dominant SACP role was confirmed in a revealing speech, not reported on outside of South Africa, given by the late Cris Hani, immensely popular ANC leader and once a probable successor to Mr. Mandela, on Nov. 16, 1991: "We in the Communist Party have participated in and built the ANC. We have made the ANC what it is today, and the ANC is our organization."

The ANC ws founded in 1912, and the Communist Party joined it in 1921. For at least the last 50 years, the ANC has been essentially a front for the party, with, of course, the kinds of diverse groups fronts always put forward. A Communist, Bram Fisher, wrote the "new" ANC Constitution in 1943. The Freedom Charter, still the ANC's credot and manifesto, was drafted in 1955 by SACP members Joe Slovo (who now heads the party) and Moses Kotane. In testimony before a U.S. Senate committee, in November 1982, Bartholomew Hlapane, former member of the SACP Central Committee and of the ANC's National Executive Committee, stated: ". . . no major decision could be taken by the ANC without the concurrence and approval of the Central Committee of the SACP. Most major developments were, in fact, initiated by the SACP. On Dec. 16, 1982, Mr. Hlapane and his wife were murdered in their home in Soweto by an ANC assassin.

Where does this all leave Nelson Mandela, who stated he has been "influenced by Marxist thoughts" but is not a Party member? Although he has been masterful and charismatic in representing the ANC, he has never claimed to be running this organization. Just after he was released from prison in February, 1990, he quite accurately described his position: "I am a loyal and disciplined member of the ANC."

At that time, it would have been simple and logical to have had him replace ANC President Oliver Tambo, who had long been seriously ill, but instead, he was eventually given the largely honorific post of deputy president. After leaving prison, he was, in effect, on probation for a year and a half before he was "elected" president. During this period, his first major trial was entering negotiations with President de Klerk at Groote Schurr, May 2-4, 1990. In these meetings, Mr. Mandela's performance was closely monitored by a watchdog contingent of four senior SACP members headed by General-Secretary Joe Slovo, who is both white and reputed (but not proven) to have been a colonel in the KGB. The party obviously thought this proctoring necessary, despite the considerably political liabilities it entailed. At present, Mr. Mandela is clearly more than just a front man and must have no small amount of influence in the ANC, but he does not have the final say. The party has.

Unlike most of the reform-minded or disillusioned communists and ex-communists in Europe, the South African Communists are true believers, less than Stalinst, but certainly, pre-Gorbachev. This became abundantly clear from the positions taken at the last Party Congress in December 1991. Time magazine (May 9, 1994) quite correctly stated it: "While they [SACP members] have forsworn Stalinism, Slovo still argues that 'only under socialism could you have a combination of political and economic democracy'." Mr. Slovo has got to be the most influential and powerful mover and shaker in South Africa today. The Freedom Charter, mostly drafted by Mr. Slovo and still to this day gospel for the ANC, states: "The national wealth of our country . . . shall be restored to the people; the mineral wealth beneath the soil, the banks and monopolies shall be transferred to the ownership of the people as a whole; all other industry and trade shall be controlled to assist the well-being of the people."

When elections became certain, the ANC virtually dropped all the references to nationalization or any other "socialist" programs both to keep the favorable (to them) political process moving to encourage foreign investments and aid. The ANC did, however, briefly show its hand when it announced on Jan. 14 an economic program which seemed to harken back to the Freedom Charter in calling for the nationalization of the "strategic areas" of the economy. However, on May 1 Mr. Mandela insisted there was nothing about Marxism or nationalization in the ANC's economic program.

One can, indeed, expect the new ANC regime to move slowly and deliberately in changing the economy, except for massive expenditures on housing (which Mr. Slovo will directly supervise) and other social programs. At this point, they do not want to destabilize the economy, encourage white flight or discourage foreign investment. Eventually, however, any Marxist-Leninist regime can be counted on to give higher priority to attaining, exercising and maintaining political control than to fostering a free and healthy economy. Such political control inevitably requires the kind of state-controlled economy the SACP and ANC have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

been advocating for decades. Moreover, such a move is not likely to encounter much opposition from economically deprived voters who gave the ANC its smashing electoral victory.

While one can expect little change in the economic field in the near future, there are ominous signs that human rights might be affected much sooner by the new government. Bill Keller, New York Times correspondent in Johannesburg reported on April 24 that there were "nagging doubts about how devoted the next, presumably ANC-led Government will be to the rule of law. . . . Already the ANC has had minor skirmishes with human rights groups over its support for detention without trial and other extraordinary powers now that power is flowing into its hands." This recalls the revelation in October 1992 about widespread use of torture in ANC prison camps in Angola, Tanzania and Uganda. Geoffrey Wheatcroft, longtime British observer of the South African scene, warned in the Wall Street Journal on April 21: "Press Freedom is visibly under threat. Already there is a high degree of self-censorship by newspapers." He also noted increased ANC influence in the state-owned South African Broadcasting company now headed by an ANC member (who will now be working for a Communist minister.) In this regard, it is a fine irony that the SACP/ANC came to power only by being granted a freedom of expression and assembly rarely, if ever, enjoyed by such a powerful opposition in any other African country.

There are other things to worry about in South Africa. After the South African government announced, in march 1993, that it had a nuclear program, The Washington Post quoted a U.S. official as saying, "There are some members of the ANC who see all this (nuclear) materials as a large and useful toy, while there are others who would like to see it eliminated." (Under the new Communist defense minister, the former are likely to prevail).

The same Post piece also stated that, in this connection, the United States is concerned about the ANC's close ties with Moammar Gadhafi. As a matter of principle, one should not only worry about the ANC's ties with Mr. Gadhafi, but also with Fidel Castro and, in the recent past, with the Soviet union which, until 1990, had for decades been the ANC's main source of financing, arms, training and guidance. Such a long and close association had to have left its mark. The events now being set in motion by the ANC electoral victory should have become obvious when in a speech on Feb. 11, 1990, immediately after his release from prison, Nelson Mandela was so lavish in his praise of the South African Communists that a Washington Post editorial found his remarks "passing uncomfortable," and presently asked whether the ANC "is about to create another of the cruel, undemocratic and inefficient state-centered regimes that are collapsing in other parts of the world." Preventing this may well require at least as much international pressure as that which helped to end apartheid and to bring about the political process which brought the ANC to power.

INTRODUCTION OF REGULATORY REFORM LEGISLATION

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, last month, the Northeast-Midwest Congressional Coalition Manufacturing Task Force released its report on the state of manufacturing in the United States. This report contains over 40 recommendations to assist this vital sector of our economy. Today, I am introducing comprehensive legislation to significantly change the Federal regulatory process, a key component of the report.

The manufacturing task force spent the last year examining barriers which inhibit the manufacturing sector and economic growth. As my colleagues are aware, one of the most frequently cited obstacles to prosperity is the vast scope of regulatory schemes which have created the perception of a government hostile to business. Indeed, with the Federal Government publishing 69,688 pages of new regulations last year, the regulatory process has become so complex that the Federal Register now teaches classes just so individuals can better understand this rulemaking journal.

This legislation would require agencies drafting a major new rule to complete a regulatory impact analysis. Although President Clinton recently announced a change in the regulatory process that could increase agency coordination and implementation of timetables, additional improvements must be adopted. The first step in this process is to reform the Administrative Procedures Act, which governs all rulemaking activity undertaken by the Federal Government. Under my bill, an agency would be required to complete an assessment of the potential impact of its action by completing a detailed checklist found in the bill's regulatory impact analysis.

The regulatory impact analysis will require answers to a series of commonsense questions, which include: The number of persons affected by the rule; the factual, scientific or technical basis for the agency's determination that the regulation will accomplish its intended purpose; estimates of compliance costs including paperwork, burdens, fines, fees, registration, etc.; any alternative approaches considered by the agency or suggested by interested parties and the reasons for their rejection; and whether parties may have to retain or utilize lawyers, accountants, engineers or other professional consultants in order to comply with the regulations.

By requiring regulators to answer these and other questions, my goal is not to eliminate regulations, but to cause regulators and regulated parties, to have full knowledge of the likely impact of a regulatory action before it is made final.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this bipartisan regulatory reform measure.

RESOLUTION TO REMOVE THE PASSPORT RESTRICTION ON UNITED STATES TRAVEL TO LEBANON

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. RAHALL. Mr. Speaker, today I am introducing a resolution calling for the lifting of the travel ban to Lebanon, and replacing it with a travel advisory. In 1987 Secretary of State George Schultz issued a prohibition on the use of United States passports in Lebanon. The basis of such a ban came from "imminent danger to the public health or the physical safety of the United States travelers." (22 USC 211a). In 1987, the travel ban made sense, due to the ongoing civil war. Since the end of the civil war, the situation in Lebanon has dramatically improved. In particular, I would like to draw your attention to these important developments:

Despite the travel ban, Americans have traveled to Lebanon since last 1990, with more than 40,000 visiting in 1993. Most of these were Americans of Lebanese descent, the media, business people, and spouses and fiancees of Lebanese nationals. There have not been any hostile acts reported against these Americans, nor any kidnapings since the last hostage was released December 2, 1991.

On January 27, 1993, the United States Department of Justice announced that it would not extend Temporary Protected Status to Lebanese nationals in this country beyond April 9, 1993 due to improved security in Lebanon. this determination contradicts the State Department's rationale for maintaining the travel ban, instead of a travel advisory.

Reconciliation and reconstruction is underway in Lebanon. Between January 1993 and January 1994, Lebanon has awarded some 100 contracts worth $2.4 billion for both consultancies and redevelopment projects, mostly to French, Italian, and German contractors. For example, Alcatel-CIT of France and Ericcson of Sweden each received $22 million and Siemens of Germany $40 million for installing phone lines. Hyundai of South Korea was awarded $80 million and Clemessey of France was awarded $55 million for equipment and repairs to the Lebanese electric power system. American companies have the goods and the expertise that Lebanon needs for reconstruction. Unfortunately, U.S. firms are hindered in bidding for contracts because they cannot legally send American personnel.

In light of the above developments, a State Department travel advisory may be more appropriate than an outright ban on the travel of United States citizens to Lebanon. Take the cases of Algeria and Somalia where foreigners have been threatened and killed; and Bosnia where a civil war is still raging. For these countries, the U.S. State Department has only issued a travel advisory. Yet for Lebanon, as well as Libya and Iraq, there remains an outright ban on United States travel.

The safety of U.S. citizens is of paramount importance when considering a change in U.S. policy on the travel ban. Lifting the travel ban and replacing it with a travel advisory will enhance United States-Lebanese relations and bring about much needed stability for Lebanon. In particular, the participation of United States business in Lebanon's reconstruction can only further economic development and stability there. Such involvement will enhance United States-Lebanese ties to promote United States exports.

As you can see, the State Department's travel ban to Lebanon is no longer necessary in light of the above developments. The travel ban inhibits American businesses from participating in the reconstruction of Lebanon, slows the building of United States-Lebanese ties, and hinders much needed stability in the region. Such a ban serves no purpose to the United States or to Lebanon, and I strongly urge you to support this resolution to modify the travel ban to a travel advisory.

If you wish to cosponsor the resolution, or have any questions please call me or Mrs. Kyle on my staff at x–53452.

TRAGEDY IN THE STATE OF JAMMU AND KASHMIR

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to shed light on a terrible tragedy that is taking place in the Indian State of Jammu and Kashmir. This situation deserves the immediate attention of the international community. The Indian State of Jammu and Kashmir is being victimized by armed terrorists trained in Pakistan. This action is part of a proxy war being waged by Pakistan, which has had devastating effects on civilians, visitors, visiting diplomats, and Indian dignitaries.

One of the largest groups affected by the proxy war perpetrated by terrorists are the Kashmiri Pandits. These people are the original inhabitants of the valley of Kashmir. Since 1989, fundamentalists, under the influence of religious zealots in Pakistan and other terrorist nations, have pursued a murderous campaign against the Pandits in order to establish an Islamic state. Murder, arson, and rape have been used to terrorize this community, leading to a mass exodus. Leaving everything they owned, the Pandits have been living in subhuman conditions as refugees in their own country for over 4 years. These conditions have led to untimely deaths, physical and mental diseases, and a declining birth rate. Unless this problem is addressed soon, the Pandits' unique culture will become extinct.

Mr. Speaker, the United States should play a larger role in helping to bring peace to this region. We have always supported and defended democratic ideals. India, as the largest democracy in the world, deserves our support. Either through U.N. efforts or through congressional action, we should negotiate peace between India and Pakistan. In the meantime, we should condemn, as we have in past, the state-sponsored terrorism taking place in the valley of Kashmir.

HEALTH CARE REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. PACKARD. Mr. Speaker, as support for President Clinton's health care reform package continues to dwindle, the liberal leadership has cooked up a new proposal which landed on my desk just the other night. Advertised as "new and improved," the Clinton-Gephardt bill is different—it's worse.

My constituents continue to demand that I keep Big Government out of their doctor's office; and prevent bureaucrats from tinkering with their health care. However, the liberal leadership concocted a plan containing more Government—not less.

The Clinton-Gephardt bill creates a massive, new Government Health Insurance Program, called Medicare Part C. The Federal Government will have unprecedented control over health care delivery.

With more than half this country's population expected to enroll, the private sector will be driven out of the system, taking with it competition, choice, and quality.

Handing the Government more control over health care is ludicrous. The Federal Government already manages Medicare Parts A and B. Actuaries note that these parts of Medicare are technically bankrupt. Adding another layer to the Medicare boondoggle will only make the program more insolvent.

So while the liberal leadership tries to sell the Clinton-Gephardt bill as new and improved, more bureaucracy and more taxes are not the answer.

The American people are asking us to ensure access to health insurance, to protect them from losing their insurance, and to control costs by reforming malpractice laws.

I urge my colleagues and the American people to read the Michel plan and the Dole plan. These plans give the American people what they want.

NAPERVILLE AND HAROLD MOSER

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. FAWELL. Mr. Speaker, it is particularly appropriate, as the city of Naperville, IL, moves beyond the 100,000 population mark, to examine the dynamics that converted this drowsy farm and college town of 9,000 into a thriving super suburb which retains its small town charm. First, there was the Burlington Railroad which, in the early 1950's, moved its suburban terminal to the west, from Downers Grove to Aurora. Second, and more important to Naperville, there was Harold Moser, proprietor of a local lumber business, who recognized that with vastly improved suburban train service, the potential future of Naperville was as bright as if it had been lifted into a bountiful new land.

And so, in late 1954, the plat for Moser Highlands No. 1 was recorded, Harold Moser's first development in the community's vital new era. This was the first of many subsequent new developments, all of which reflected his resolute commitment to the highest standards of design and planning. Other developers later joined in, but all followed the Harold Moser standards of excellence in providing the amenities which convey to the new resident a pride of ownership and a sense of community.

Mr. Speaker, there is much more to Harold Moser than the gift of vision and keen business acumen. All through the years, he has involved himself personally and diligently in a wide range of community activities, so that his neighbors have always known that he was one of them, and that their vital interests were of serious concern to him.

At this time, Mr. Speaker, I ask that my colleagues join me in taking note of Harold Moser's approaching retirement by joining me in congratulating him for his many past accomplishments, wishing him a retirement that exceeds his greatest expectation, and extending our own salute and say, "Thank You, Mr. Naperville!"

IN HONOR OF THE 20TH ANNIVERSARY OF CROSSROADS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Ms. DELAURO. Mr. Speaker, I rise today to commemorate the extraordinary efforts of Crossroads, a remarkably successful substance abuse treatment program in my district.

Crossroads is a private, nonprofit residential substance abuse treatment program located in New Haven, CT. Since 1973, the dedicated staff at Crossroads has been serving the people of Connecticut, providing counseling and social services to substance abusers.

What began as a small substance abuse treatment program designed for the State's Latino population today has grown into a multicultural program for chemically dependent people from throughout the State. During its 20 years of service to the State, Crossroads established itself as the first facility in Connecticut to pioneer the treatment of chemically dependent pregnant women and women with children. At this time, Crossroads is providing treatment to over 100 clients at its two locations.

During these frustrating times of budgetary shortfalls and increasing program caseloads, Crossroads has proven that compassion, perseverance, and commitment can pay off in the effort to treat substance abusers. It is comforting to know that despite the disturbing trends in substance abuse, which depict more users starting at younger ages, treatment programs like Crossroads are not only rising to meet these challenges, but are actually succeeding in the face of such adversity.

The key to Crossroads' success has been its unique approach to treatment. Crossroads believes that an individual's path to recovery must involve counseling in all aspects of the person's life. To meet this goal, the devoted staff at Crossroads has instituted an effective treatment program that meets each individual's mental, physical, and spiritual needs. It is an impressive approach to substance abuse treatment that has withstood the test of time and made Crossroads a preeminent substance abuse treatment program in the State of Connecticut.

On this day, which marks the 20th anniversary of Crossroads, I want to take this opportunity to congratulate the people who have made Crossroads the model of success that it is today. In particular, I want to acknowledge Mr. Miguel Laguna, the executive director and cofounder of Crossroads, who has been with the organization since its inception. The people of Connecticut are indebted to Crossroads for the service it has provided the State, and I know that they join me in wishing the staff of this exceptional program another 20 years of good fortune and achievement.

FAMILY SERVICE CENTER ACT OF 1994

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. MENENDEZ. Mr. Speaker, today I have introduced the Family Service Center Act of 1994, a bill to reinvent the welfare office, and I invite my colleagues to join me in meeting this challenge.

My bill would authorize the creation of modern, efficient one-stop centers where families in need can have access to the Federal programs that can help them achieve self-sufficiency.

Regardless of how Members may feel about the effectiveness of these social programs, there is no down side to delivering them more efficiently. The time that welfare families spend going from government office to government office, waiting in line after line, leaves them no time and no opportunity to escape the welfare trap.

Working Americans have welcomed changes that cut the hassles of shopping, banking, and traveling, so we can do our work and spend quality time with our families. American industry has met our needs and cut its costs through neighborhood ATM's, and easy access to 24-hour 800 numbers, voice mail, credit cards, and automatic reservation systems. We need to use the American genius for good service in the world of welfare, so needy families can get on with the job of getting jobs.

Mr. Speaker, I believe the bill makes good, common sense. It cuts right to the heart of the redtape which holds people back from moving off of welfare, and wastes taxpayer dollars. I urge my colleagues on both sides of the aisle to join me in streamlining the system, and putting people back to work for less.

WELCOME TO PRESIDENT MELES ZENAWI

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BURTON of Indiana. Mr. Speaker, I would like to welcome Ethiopian President Meles Zenawi, Foreign Minister Seyoum Mesfin, and the rest of their delegation, who are here this week on an official visit. The young, dynamic, articulate President of Ethiopia and his government have instituted significant political and economic reforms in Ethiopia.

Three years ago, President Meles led the victory of the people of Ethiopia over Communist dictator Mengistu Haile Mariam and his murderous regime. Those of us who served on the Africa Subcommittee during the Mengistu era can appreciate the positive changes that have been wrought since 1991.

President Meles and his government have set themselves a daunting task: To build a democracy in a country that has never known democracy. They have made a very good beginning. We wish them well and offer our support for the furtherance of their mission.

COMMEMORATING NATIONAL MANUFACTURING WEEK

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing a resolution designating the week of March 12, 1995 as "National Manufacturing Week."

Last month, Congressman MARTY MEEHAN and I, as cochairmen of the Northeast-Midwest Congressional Coalition Manufacturing Task Force, released a national plan of action to revitalize America's industrial base. The 40 proposals in our report are designed to assist the manufacturing sector by pursuing the following five key objectives:

First, encourage the formation of private capital; second, reduce unnecessary regulatory burdens; third, create incentives to increase technology research, development, and deployment; fourth, enhance the skills of American workers; and, fifth, encourage companies to expand into international markets.

Our proposals will help supply the tools for investors to provide the capital; for manufacturers to develop the technology; for workers to obtain the advance training they need to secure high-paying jobs; and will assist small manufacturers by giving them the resources they need to compete more effectively in foreign markets.

The work of the task force represents the first time Congress has ever focused on the needs and problems facing the entire manufacturing sector. I am confident that this work lays out a blueprint for the revitalization of this vital segment of our economy.

Until recently, many in Washington and around the country believed that in the 21st century, the American economy would not need to rely on manufacturing as an engine of growth. This is simply not true. A few figures demonstrate the necessity of a vital industrial base. The manufacturing sector employs 17.8 million workers—16.2 percent of total U.S. employment. Manufacturers spend $30 billion per year on education and training. Manufacturing jobs pay, on average, 15 percent more than other jobs—with 98 percent of these workers receiving company-paid health benefits.

Manufacturers also are responsible for more than 70 percent of all research and development in this country.

However, over the past 15 years, the manufacturing sector has lost over 30 percent of its employment base. Congress needs to commit itself to ensuring that this vital sector thrives in a competitive world market.

It is for these reasons that I am introducing this resolution in creating National Manufacturing Week. I urge my colleagues to cosponsor this resolution in recognition of our Nation's manufacturers.

INTRODUCTION OF A BILL AMENDING THE RAILWAY LABOR ACT TO CLARIFY ITS APPLICABILITY TO WORK PERFORMED BY FLIGHTCREW MEMBERS OF U.S. CARRIERS ENGAGED IN FOREIGN FLYING

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. RAHALL. Mr. Speaker, today, along with a number of my House colleagues, I have introduced legislation to protect the public interest in uninterrupted international air service, and the stability of collective bargaining relationships between U.S. air carriers and their flightcrew employees—flight deck crewmembers and flight cabin crewmembers. It does so by confirming and clarifying that the Railway Labor Act applies to the U.S. air carriers and their flightcrew employees while operating to, from, or between points outside the United States.

Historically, air carriers and labor organizations have understood title II of the Railway Labor Act [RLA] to apply to U.S. Air carriers and their flightcrews when engaged in operations between the United States and foreign nations. Such carriers are increasingly engaged in providing service to additional points outside the United States by engaging in beyond operations from one foreign destination to another. For this and other reasons, the status of negotiated contractual work rules applicable to the overseas flight operations of U.S. air carriers, and the statutory scheme applicable to labor relations during such operations, needs to be clarified.

Recent court decisions have decided questions about the reach of the RLA by relying upon a presumption against extra-territoriality as well as the uncertain terms of the statute itself. But this approach does not effectively guide the courts or the parties in dealing with overseas flight operations of a U.S. carrier, which are essentially extensions of the carrier's domestic operations and are conducted by flightcrews who operate interchangeably throughout the system. As a result, neither the public nor the parties can be certain that the industrial stability fostered by the RLA will protect the public while traveling in the foreign operations of U.S. carriers.

This bill as introduced preserves the RLA's preference for systemwide collective bargaining agreements and permits such agreements to be enforced in the statutory adjustment board in accordance with the parties' intent. The bill also prevents either a U.S. carrier or a flightcrew labor organization from evading its obligations under the RLA by simply relying on the geographical location of a particular operation or event within the system.

Finally, in order to foster the prompt and orderly settlement of disputes, the bill if enacted will confirm that the RLA and agreements negotiated under it, apply to U.S. air carriers and their flightcrew employees when engaged in operations to and from, or between points, outside the United States.

It is well to note that U.S. airlines and their labor unions have, to date, proceeded as if the RLA and the labor contracts negotiated under it follow the aircraft of U.S.-flag airlines and their flightcrews in both domestic and international operations regardless of their point of operation at any particular moment in time. This is similar, if not identical, to the rules and procedures followed under Maritime law involving U.S. Flagships.

The bill will prevent either a U.S. air carrier or one of its flightcrew labor organizations from evading its obligations under the RLA by simply relying on the geographical location of a particular operation or event within the system. For example, a flightcrew labor organization could not conduct a work stoppage against the U.S. air carrier's foreign operations while such strikes are prohibited under the RLA, nor could the carrier fire or discipline flightcrew employees for engaging in union activities protected under the RLA simply because they are assigned in whole or in part to the carrier's operations outside the United States.

The provisions in the bill apply only to flightcrew employees—pilots and flight attendants—who are the employees engaged in the actual operation and service aboard the aircraft as they traverse international boundaries in global operations. The bill leaves untouched the labor relations arrangements applicable to foreign nationals employed by U.S. carriers to provide ground service and related services at foreign airports. Such ground service employees are frequently represented by unions in their home countries under the laws of those countries.

I hope that my colleagues will join me in cosponsoring and supporting enactment of this bill. If you have any questions, or wish to cosponsor the bill, please call me or Mrs. Kyle on my staff at 5/3452.

VETERANS' PERSIAN GULF WAR BENEFITS ACT

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Ms. BROWN of Florida. Mr. Speaker, earlier this week, the House of Representatives overwhelmingly approved H.R. 4386, the Veterans' Persian Gulf War Benefits Act, which was introduced by Congressman SONNY MONTGOMERY. I commend Chairman MONTGOMERY for all of his work to bring this much-needed bill to the floor and the members of the Veterans' Affairs Committee for responding to Persian Gulf veterans suffering from the Persian Gulf syndrome and their families.

H.R. 4386 provides compensation to Persian Gulf war veterans who suffer from chronic disabilities resulting from a combination of undiagnosed illnesses commonly referred to as the Persian Gulf syndrome. Although I strongly support this bill, I am very disappointed that a large group of veterans will not be eligible for this disability compensation because those Persian Gulf veterans who participated in the military's early separation benefits programs cannot receive disability compensation until they pay back their separation benefits.

During the Veterans' Affairs Committee's markup of H.R. 4386, I attempted to offer an amendment to make these veterans eligible for the disability compensation right now. The amendment was supported by the American Legion, Disabled American Veterans, Veterans of Foreign Wars, and Vietnam Veterans of America.

Unfortunately, I had to withdraw my amendment because the Congressional Budget Office [CBO] was unable to estimate its cost due to its backload of health care bills. It was clear from the discussion during the full committee markup that Members believe that this is a serious issue which needs to be addressed. As a result, I intend to continue my efforts to look for legislative vehicles to solve this problem.

This problem developed in the early 1990's, when Congress established early military separation benefits to help the Defense Department reduce the size of the Armed Forces. Congress included restrictions on these programs preventing military personnel who receive early separation benefits from receiving disability compensation from the Department of Veterans Affairs until the benefits are repaid.

When Congress approved these restrictions, it could not have foreseen the Persian Gulf syndrome and its devastating effects on these veterans and their families. Many of these disabled veterans are unable to work and their families are faced with financial hardship. It is only fair and decent that we provide these veterans with the same disability benefits as any other veteran.

I believe that this view is best summarized in a letter that I received from the Veterans of Foreign Wars supporting my amendment. "To disallow these heroic American from receiving the benefits dictated by H.R. 4386 until their separation benefits are repaid would be both cruel and unfair."

RUSSIA'S CAPRICIOUS ECONOMIC POLICIES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. SOLOMON. Mr. Speaker, "these days, most of Yeltsin's actions have nothing to do with establishing a market economy." This remarkable quote by the ousted Russian finance minister Boris Fyodorov appears at the end of an article by Peter Fuhrman which appeared in the August 15 issue of Forbes. The article describes the capriciousness of Russian economic policy and how this is severely disrupting the investment plans of Western oil companies. Indeed, many companies which were enthusiastically investing in Russia just 2 years ago are now ceasing operations and talking of pulling out altogether.

The reason is that the Russian Government, whether it be Boris Yeltsin's executive branch or the newly elected parliament, cannot make up its mind as to whether Russia should be a modern, market-driven country, or whether it should remain in the dark ages of statism. Lately, the government, including, and especially Yeltsin, has been choosing statism.

For instance, the Philbro Corp. invested in Russia 4 years ago under a guarantee that it would be able to export oil from Russia free of duty. Now, thanks to a few of the more than 3,500 decrees Yeltsin has issued in the past 18 months, Philbro has been slapped with retroactive taxes of up to 70 percent of revenues. Yes, that's revenues, Mr. Speaker. Additionally, Yeltsin stripped Philbro of a drilling license. Just like that.

It's no wonder foreign investment in Russia is drying up, Mr. Speaker. The markets are responding as they always do, swiftly and logically, to the uninviting business climate in Russia, which exists courtesy of the Russian Government.

It's interesting to note that the U.S. Government is responding as it always does too, Mr. Speaker—slowly and illogically. For, while the markets are already giving an emphatic thumbs down on Russia's performance, the Clinton administration and this Congress are still under the delusion that there is a serious reform effort going on in Russia.

By the time Government wakes up to this fact, billions of American taxpayer dollars will have disappeared without a trace.

I submit the Fuhrman article for the RECORD.

WHAT BORIS GIVES . . .

In 1990 Phibro Energy, a subsidiary of Salomon Inc., became the first large U.S. investor in the Russian oil business. Phibro formed a joint venture with a Swiss partner and a Russian partner, poured $115 million into a large field in western Siberia, and today the field is pumping 28,000 barrels a day. Half the production is being exported to Western Europe, at a profit, after transport costs, of around $10 a barrel.

An early success of capitalist investment in postcommunist Russia? No. Phibro is talking about pulling out. Blame the unpredictability of Russian law. In the three years since Phibro began doing business in Russia, Boris Yeltsin has issued thousands of decrees, some of which annulled terms of the contract Phibro signed. Annulled, for example, is a guarantee that Phibro could export oil free of Russian export taxes. In its place are new taxes—many applied retroactively—that effectively grab 70 percent of Phibro's gross revenues—not profits, revenues. Another Yeltsin decree retroactively stripped Phibro of one of its drilling licenses and transferred the license to a tribal group in Siberia.

"Our contract has been constantly breached, and we're being treated like a bunch of suckers," fumes an exasperated Phibro executive.

Phibro is not the only sucker. Gulf Canada is cutting off all additional investment in an oilfield near the Arctic Circle, where it has already committed $60 million. The company says its Russian tax bill exceeds 100% of its total revenues. "Where I come from," volunteers a Gulf Canada engineer, "that's called expropriation."

Expropriation and worse is the inevitable result of a system where the rule of law is not firmly established. Last year Yeltsin issued 2,300 decrees, and he is on course to top that number in 1994. He is using the decrees as currency to buy political support from the military and the bosses of Russia's large old-line industrial companies.

The decrees lavish benefits on the politically valuable: cheap government credits, lucrative export licenses, exemptions from privatization rules, protection from foreign competition and outright exemptions from tariffs and taxes. Andrey Illarionov, who recently stepped down in disgust as one of the Russian government's top economic advisers, estimates the total of Yeltsin's handouts at $40 billion.

Aeroflot and Avtovaz, the manufacturer of Lada cars, have gotten sweet deals—both receiving exemptions from import duties and taxes. The Russian Army wangled a decree allowing it to keep more of the money made from arms exports. The generals are using the windfall to invest in Moscow real estate.

The richest giveaways are in Russia's oil and gas industry. Yeltsin has kept domestic oil prices low—currently $6.50 a barrel—to hold down transport costs. But to make it up to the big Russian oil companies, he has raised taxes and export levies on foreign oil companies while eliminating them on Russian oil firms.

The new taxes on Western companies have brought in about $100 million so far, but the concessions to Russian oil exporters have cost the Russian Treasury ten times that amount in lost tax revenues. Worse, it has all but stopped the flow of badly needed foreign investment into the industry. Last year the U.S. Congress earmarked $2 billion for credits and guarantees to companies willing to invest in Russia's oil industry. So far not a penny has been claimed. Government credits or not, the oil companies don't trust Yeltsin.

Yeltsin is aware that his free hand with tax benefits was costing Russia badly needed tax revenues and badly needed foreign investment. So, a month before the recent G–7 summit in July that discussed aid to Russia, Yeltsin issued a decree that promised to exempt Western oil companies including Phibro and Gulf Canada from the $5-a-barrel export tax on July 1.

But when July 1 rolled around, nothing happened. The Western oil companies are still paying the tax, and the Russian companies are not.

Adding insult to injury, Yeltsin recently revoked a May decree doing away with special export licenses that channeled virtually all of the $12 billion in annual oil exports through a small group of Russian firms. According to a former minister of economics under Yeltsin, these licenses are the major source of government graft: To obtain one, Russian companies fork over to bureaucrats a bribe equal to 10 percent of the expected annual revenues from the license.

Yeltsin apparently gets many of his oil policy ideas from Russia's prime minister, Viktor Chernomyrdin. A former Communist Party technocrat, Chernomyrdin used to be the boss of Gazprom, the state gas monopoly that is now Russia's largest and most profitable company. Last December a Yeltsin decree exempted Gazprom from paying import duties and taxes. Gazprom also has a special deal that allows it to convert the dollars it earns on gas exports into rubles at double the official rate.

Instead of remedying the mess, Yeltsin apparently thinks he can paper it over with smart flackery. In June Chernomyrdin met with Bill Clinton in Washington and signed a production-sharing agreement with a consortium led by Marathon Oil to develop, at a cost of $10 billion, an offshore field near Sakhalin island. The White House hailed the agreement as history's largest investment in Russian oil.

In fact, the agreement was pure theater. Marathon executives say the signing was carefully staged. Marathon and its partners will invest nothing unless there are big—and irrevocable—changes in Russia's tax and property laws. Not likely.

"These days, most of Yeltsin's actions have nothing to do with establishing a market economy," an exasperated Boris Fyodorov, the former finance minister, tells Forbes. "It's a replay of the last days of Gorbachev, with the leader talking about reform while giving favors and privileges to the groups who most strongly oppose it."

TRIBUTE TO MARY BLOTNA

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. DURBIN. Mr. Speaker, I rise today to pay tribute to Mary Blotna, postmaster at Piasa, IL, in honor of her retirement from the U.S. Postal Service. For over 31 years, Mary Blotna has been working to enhance the quality of mail delivery in the United States and the quality of life in her community.

In addition to a long and successful tenure with the U.S. Postal System, she has been an active member of the National Association of Postmasters of the United States, serving as both State President and National Vice President. Mary has served in the Chamber of Commerce and the PTA, has volunteered for the Salvation Army and the Heart Fund, served as an adviser to the local 4–H Club, and has been a long-time Sunday School teacher.

Mr. Speaker, Mary Blotna is one of the most dedicated public servants I know, both on and off the job. She is to be congratulated for her many past successes and her continuing contributions to her community.

TRIBUTE TO GAYLE B. "SAX" SAXTON

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to honor an outstanding individual on his receiving the Michigan High School Athletic Association's Allen W. Bush Award. Mr. Gayle B. "Sax" Saxton, of Houghton Lake, MI, has served the community for over 30 years as an athletic instructor, teacher, administrator, confidant, and friend to the many people whose lives he touched.

Using athletic competition as one of his classrooms, he taught many students the lessons of sports and life. He served both as a friend and adviser to faculty, students, and community leaders.

Sax began his long and distinguished career in the early 1930's when, as a high school student, he began writing sports columns for local newspapers. His enthusiasm continued to grow as he pursued his interest in athletics and began coaching and competing in football, basketball, and track. His service to the community was interrupted when he answered the call to defend his Nation and entered the U.S Army during the Second World War.

For over 30 years, Sax has been synonymous with Houghton Lake sports. He is an honorary member of the Michigan High School Football Coaches Association and a member of the Alma College Hall of Fame for both track and football. Sax has also earned the respect of his peers for his play-by-play broadcasts of football and basketball games on a local radio station, and his weekly column, "Sax Says," which he continues to write for the Houghton Lake Resorter.

On September 2, 1994, during half-time of the Houghton Lake Bobcats football game, students, coaches, teachers, friends, and family will gather to honor Sax for his outstanding contributions and leadership to the community in his three decades of coaching and participating in interscholastic sports. His accomplishments will long be remembered with the Gayle B. Saxton annual elementary basketball Tournament, which he started over 25 years ago.

Although Sax retired as principal of Collins Elementary School in 1982, his presence is still felt throughout the community. Sax attends numerous sporting events throughout the area where he is recognized and greeted by fans, coaches, and players.

Mr. Speaker, Gayle B. Saxton is truly deserving of the Allen W. Bush Award. I know you will join me in congratulating Sax for his long and distinguished career as a sports enthusiast. His qualities help make Houghton Lake an outstanding community.

TRIBUTE TO EUGENE "GENE" MAYDAY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BILBRAY. Mr. Speaker, on August 10, 1994, my good friend Eugene "Gene" Mayday passed away. Gene and his wife Geraldine came to Las Vegas in 1964 and started a Checker Cab Co. which grew into one of the largest and most successful cab companies in Nevada. He also was successful in the gambling business and was renowned throughout the international gaming community as a gamer who would take any sports bet in any monetary amount, large or small.

Gene was a respected member of the Las Vegas community, a devoted husband and loving father and grandfather. Debbie, his daughter, and his two grandchildren, Tracy and Katie, were the light of his life. Every time

I spoke to him he would talk about his granddaughters and tell me about playing with them.

Las Vegas will miss Gene Mayday. I will miss my friend who was taken from us too early in life.

May God bless you and keep you.

TRIBUTE TO DAVID GURNICK

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BERMAN. Mr. Speaker, we are honored to pay tribute to David Gurnick, the outgoing president of the San Fernando Valley Bar Association. Under David's dynamic leadership, the San Fernando Valley Bar Association has had an outstanding year. His successors will have a hard act to follow.

David's record speaks for itself. During his tenure, the SFVBA adopted a long-range strategic plan, increased membership, accumulated an historic budget surplus and began publication of two new periodicals: The Valley Lawyer Magazine and Bar Notes. In addition, David displayed a keen sense of community when he organized the association's pro bono efforts following the devastating Northridge earthquake.

David is clearly a young lawyer on the rise. Since graduating with his law degree from Boalt Hall in 1984, he has become a partner in the firm of Kindel & Anderson, written numerous articles on franchise law, and is a member of the editorial staff of the ABA Franchise Law Journal. During his brief but busy career, he has also served as judge pro tem of the Los Angeles Municipal Court and is a trustee of the Los Angeles County Bar Association and the Olive View/UCLA Medical Center.

We ask our colleagues to join us today in saluting David Gurnick as he steps down after a highly successful year as president of the San Fernando Valley Bar Association. He is a man who cares deeply about his profession and his community.

INTRODUCTION OF THE MARITIME REGULATORY REFORM ACT OF 1994

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. TAUZIN. Mr. Speaker, I rise to announce the introduction of the Maritime Regulatory Reform Act of 1994. On August 10, Secretary Federico Pena, submitted the act as a legislative proposal and requested its introduction. This act is the product of a cooperative effort between the Department of Transportation, the Coast Guard, various members of the U.S. maritime industry and the Subcommittee on Coast Guard and Navigation. During the 103d Congress, our subcommittee has held three hearings on the maritime regulatory reform issue. I am pleased to see that our efforts have resulted in a bill that, in Secretary Pena's words, promises "to reduce the economic burden on United States-flagged vessels by streamlining certain requirements, by expanding the delegation of the performance of marine safety functions to third parties, and by broadening the Coast Guard's marine safety authority to accommodate these changes." This bill seeks to improve the efficiency and effectiveness of Coast Guard safety regulations; it is not intended to result in any reduction in the safety of life at sea or protection of the marine environment.

This bill hit the fast track within the administration because it is a specific example of the White House's goal to reinvent the way the Federal Government does business. On August 11, 1994, the Subcommittee on Coast Guard on Navigation heard testimony on the reform proposal. Within the varied interest represented on the witness panel, there was a consensus of support for the goals of the reform package. Because the administration's proposal has not had the luxury of a long period for its review, the subcommittee is seeking additional comments from those individuals who might be affected if this bill is enacted. I have tentatively scheduled a subcommittee markup of the bill in early September, and welcome any suggestions to improve the act.

U.S. INTERNATIONAL POSITION ON GLOBAL CLIMATE CHANGE TREATY

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. DELAY. Mr. Speaker, the Clinton/Gore administration is about to stumble into another foreign policy mistake. I'm not talking about Bosnia, Haiti, or North Korea. I'm talking about an important international environmental issue—global warming or global climate change.

In 1992, the United States signed an international treaty to reduce the emissions of gases which some claim may cause global warming. The U.S. Senate ratified the treaty in late 1993 and it went into effect only in March of this year. Already, however, the Clinton administration has concluded that this treaty is not adequate to deal with the issue of global climate change and that more needs to be done.

In a speech at the U.S. State Department on August 3, Under Secretary of State Tim Wirth asserted that the treaty is inadequate and that the first priority for the United States is to convince the international community to set a new aim to control emissions after the year 2000. This new "aim" is a code word, Mr. Speaker, for new international environmental standards, standards that the administration knows would not be approved if brought before Congress.

This simply does not make sense. According to John Shlaes, executive director of the Global Climate Coalition, "The President's voluntary climate action plan, which is just getting underway * * * indicates that the bulk of emissions reductions and energy savings will occur between 2000 and 2010." How can the administration have come to the conclusion now that new standards are needed for the years after 2000?

Furthermore, although the treaty went into effect just 4 months ago, the administration wants to make changes that cannot be justified by the state of the science on climate change. In fact, the U.N.'s next assessment of the state of scientific understanding of climate change is still in the process of being developed and is not scheduled for release until the fall of 1995.

Amending the treaty to include additional directives could also have dramatic negative consequences for the American economy. Some of the policies that could be necessary to implement new international environmental standards could dramatically raise energy prices and cost our economy hundreds of thousands of jobs. And we would be harmed more than some of our international trade competitors.

Mr. Speaker, we do not need a United Nations bureaucracy setting new environmental mandates for the United States. As the U.S. delegates leave this coming week for a round of talks in Geneva on implementing the Climate treaty, they should resist any calls for new limitations beyond what is in the treaty.

AMERICAN TAXPAYERS DESERVE BETTER CRIME BILL

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. GRAMS. Mr. Speaker, I rise in strong opposition to the rule for the crime bill's conference report. This so-called crime bill is nothing more than an election year feel-good measure designed to trick the American voters into thinking we have done something to reduce crime while picking the pocket of taxpayers to the tune of over $33 billion.

The American people have rightfully asked Congress to get tough on criminals and once again Congress has failed by providing a bill that only punishes law-abiding taxpayers and coddles criminals.

Look at the facts: The crime bill grants over 9 billion dollars' worth of failed social spending for our big-city mayors while not requiring criminals to serve their full sentences.

Mr. Speaker, the crime bill is soft on criminals and tough on taxpayers. Let's stop playing political games with our Nation's safety and vote "no" on the rule.

INTRODUCTION OF THE PRESIDENTIAL IMMUNITY ACT OF 1994

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. ROSE. Mr. Speaker, today I am introducing legislation that will provide civil immunity for the President of the United States against suits for money damages filed against him or her. This legislation will prevent time-consuming, legal harassment that is detrimental to the Office of the President, but will not prejudice any individual who has a valid lawsuit.

The election of the President is the ultimate exercise of democracy by the American people, and the President must be free to give undivided attention to the duties and responsibilities of the office. Unwarranted allegations harm the Office of the President. Our Chief Executive and Commander in Chief should not be preoccupied with arranging defenses to a multitude of lawsuits. The United States is best served by a President whose schedule is free of depositions and court appearances. The need to defend against even frivolous suits takes too great a toll on the President's energies, energies better put to use in guiding the Nation through crises abroad and at home.

The President of the United States, like any public figure, is vulnerable to unwarranted and frivolous lawsuits. A President is a likely target of headline-seekers and those looking to make a quick buck. Such allegations against a sitting President may eventually be proven false, or simply disappear, yet damage to the office may remain.

This is not a partisan issue. Presidents of both parties are just as vulnerable to unwarranted allegations and frivolous lawsuits. Every President should be free to conduct the business of the Nation without fear of this type of harassment.

My legislation frees the President from legal harassment and allows him or her to continue to do the job he or she was elected to do without distraction. It immunizes the President from any civil suit for money damages filed in any court, State or Federal, until 180 days after the President leaves office. Once the former President has settled back into private life, the immunity disappears.

Of course, my legislation does not assume that every lawsuit filed against a current or former President is frivolous, and I do not argue that any person is above the law. There will be instances where an individual has a legitimate complaint against the President. Because the period that the immunity applies is not counted as part of any statute of limitations, a person with a legitimate lawsuit will not be prejudiced by this legislation. He or she can file the suit after the immunity no longer applies.

It is unfortunate that there is a need for this legislation, but there is no denying the power of unwarranted lawsuits to dominate headlines, ruin reputations, and create distractions. Matters of national significance may not receive the attention so very necessary for the well-being of this country. For the good of our Nation, I urge my colleagues to support this bill.

RELIEF EFFORT IN RWANDA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BURTON of Indiana. Mr. Speaker, the humanitarian tragedy unfolding in Rwanda has rightly gripped our attention and our hearts. When human beings suffer, it is the responsibility of fellow human beings to help in any manner they can. I would like to take this opportunity to express my admiration and appreciation for all the tireless and selfless efforts of those governments, private groups, and individuals that have responded to the Rwandan catastrophe.

In particular, Mr. Speaker, I would like to commend the Government of the Republic of China on Taiwan for their commitment to the relief effort, and Tipper Gore, the Vice President's wife, whose sincerity, caring, and personal involvement during a recent visit to the refugee camps in Goma, Zaire so inspired the American people.

I would like to enter into the RECORD a letter I received from the representative of the R.O.C. about their relief effort, as well as an article from the Washington Times about Tipper Gore's moving visit.

COORDINATION COUNCIL FOR
NORTH AMERICAN AFFAIRS,
Washington, DC, August 1, 1994.

Hon. DAN BURTON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BURTON: I am writing to inform you of the decision of the government of the Republic of China (ROC) on Taiwan to donate U.S.$2 million to the refugees in Rwanda. It has been followed by a private campaign among ROC citizens to provide medical service and relief goods for the refugees.

The situation in Rwanda is an excruciating one. The tragedy of the Rwandan refugees is beyond comprehension. The Republic of China on Taiwan wishes to join the international community in extending our helping hands.

We have participated in such international humanitarian relief efforts many times, but lack of U.N. membership has always made it difficult for us to funnel our donations into concerted international efforts. This is one of the reasons why we are vigorously seeking U.N. participation.

I sincerely hope that in seeking our membership in the U.N., we could continue to count on your moral support of our just cause.

With warmest regards,
Sincerely,

MOU-SHIH DING,
Representative.

[From the Washington Times, Aug. 9, 1994]

TIPPER HELPS RWANDAN REFUGEES

GOMA, ZAIRE.—Doctors working among sick and hungry Rwandan refugees were assisted yesterday by Tipper Gore, wife of Vice President Al Gore.

Mrs. Gore spent nearly five hours in the largest refugee camp, Kibumbo, aiding Rwandans weakened by malnutrition and potential killers such as cholera and dysentery. On Sunday, she bathed and fed orphans.

"The situation has seemed to turn the corner in respect to the level of dying, but it's still very dire," Mrs. Gore said outside the hut of a woman near death from dysentery, now the principal cause of death among the nearly 1 million refugees around Goma.

Mrs. Gore helped the woman to a pickup truck and rode with her to a field hospital.

She insisted her visit was personal and said she did not intend to draft a report after returning to Washington.

Mrs. Gore said she was particularly moved by the plight of the children.

"They just need someone to hold their hand, love them and hug them," she said. "At least I can do that."

TRIBUTE TO ERIC SOLNIN

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. KING. Mr. Speaker, I rise today to welcome young Eric Solnin and his family to Washington, DC. They will be visiting our Nation's capital later this month. Eric, a young man from the village of Plainview in my home district, has indeed performed a mitzvah. He was so deeply moved by the plight of New York Jets quarterback Boomer Esiason's son, Gunnar, who is afflicted with cystic fibrosis, that he donated half of his bar mitzvah gift money to the Cystic Fibrosis Foundation. His selfless act is an inspiration to people everywhere, proving that each of us can have it in our hearts to reach out and do our part to help make a difference.

Eric not only helped to fight this dread disease through his generous donation, but through his action, helped to focus public attention on the fight to cure cystic fibrosis. He continues in that fight, and led a major walk-a-thon on Long Island to raise money for the Cystic Fibrosis Foundation this May.

[From the New York Newsday, Nov. 4, 1993]

BOOMER'S HERO: TEEN WITH HEART

(By Debby Wong)

After Eric Solnin became a bar mitzvah last month he wasn't quite sure what to do with all the money he received as gifts.

But then the 13-year-old Plainview boy saw Jets Quarterback Boomer Esiason on "Good Morning America," discussing cystic fibrosis, the severe and often fatal lung disease. Esiason's 3-year-old son, Gunnar, has cystic fibrosis, and after watching the show, Eric knew where some of the money would go.

Yesterday, Eric left Mattlin Middle School a bit early to head over to the Jets' training complex at Hofstra University where Eric gave Esiason a $4,176 check made out to the Cystic Fibrosis Foundation, about half his bar mitzvah money.

Eric said yesterday that he thought he had enough material things and was thankful he had escaped a fire at his summer camp without injury.

"I already had everything so I wanted to put it to a good cause," he said. "I saw a lot of coverage on Boomer and his son. I knew cystic fibrosis had to be a bad thing."

A grinning Eric got to watch an hour of the Jets's practice yesterday, and then handed the check to Esiason, who gave the boy a Jets jersey with his number 7 on it, along with an autographed football.

"He was little hero," said Esiason, "As a parent of a CF child, I can't say enough to thank Eric."

Eric's father Gil, said the donation was in character for his son. "Erie was always putting other people in front of himself. He was always willing to share with others not as fortunate as himself.'

Eric, whose chief sport is tennis, said he hopes to be a lawyer or news announcer when he gets older. As for the money, he hopes the donation will help with research and in finding a cure.

And the other half of his bar mitzvah gifts? "I'm going to give to everyone else's bar mitzvah that I'm going to."

[From the New York Daily News, Nov. 4, 1993]

JET FAN ON THE MONEY

(By Paul Needell)

In September, five months after his 2-year-old son, Gunnar, was diagnosed with the disease, Boomer Esiason created the NFL Quarterback Challenge for Cystic Fibrosis.

Since then, about $160,000 worth of donations have come in to help battle the affliction. After practice yesterday at Hofstra, Esiason was presented with one of the more touching contributions.

Thirteen-year-old Eric Solnin of Plainview, who was bar mitzvahed on Oct. 9, donated half of the monetary gifts he was bestowed for the occasion. His father's company chipped in with another $1,000, and Eric handed Esiason a check for $5,176.

Boomer, in turn, gave Solnin an autographed "ESIASON" Jets jersey, and autographed football and a tour of the locker room. With his arm around the teenager, Esiason introduced him to teammates as "my friend Eric."

"Well I thought about what I was going to do with the money, and I couldn't think of anything," Solnin said. "I didn't really need it, so I wanted to give it to people who needed it more than me."

Said Esiason: "I've received four or five gestures similar to this. It bodes well for the next generation. It's an amazing thing that's taking place. It's the nice part of this story. It's very heartwarming, to say the least."

[From the New York Post, Nov. 4, 1993]

YOUNG'S LONG WAIT ENDING

(By Mark Cannizzaro)

In a gesture of enormus generosity, 13-year-old Eric Solnin was so moved when he heard about Boomer Esiason's son, Gunnar, being afflicted with Cystic Fibrosis, he donated $5,176 to the Cystic Fibrosis Foundation.

Solnin, of Plainview, gave $4,176, which was half of his Oct. 9 Bar Mitzvah gift money, and Seagram's, where his father works, added $1,000 to it.

"I wanted to put it to a good cause and I didn't really need it, so I wanted to give it to people who needed it more than me," Solnin said.

The youngster yesterday visited Esiason at Jets camp, where he was given an autographed Esiason jersey, a ball and a tour around the complex after practice.

Several weeks into the season, Esiason formed the NFL Quarterback Challenge for Cystic Fibrosis. Mitzvah, by the way, means good deed.

JOBS THROUGH TRADE EXPANSION ACT OF 1994

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. GEJDENSON. Mr. Speaker, today I, along with several members of the House Foreign Affairs Committee, am introducing the Jobs Through Trade Expansion Act of 1994 which will improve the effectiveness of U.S. export promotion programs and create jobs here at home.

The bill will significantly enhance the ability of the U.S. Government to provide grants, loans, loan guarantees and risk insurance for U.S. export projects and investments overseas, provide specific programs for the expansion of U.S. environmental exports and protect U.S. intellectual property overseas. A conservative estimate of job creation from passage of this bill is 100,000 U.S. jobs.

The following is a summary of the bill:

TITLE I: REWRITE OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

Title I is a rewrite of the authorities of the Overseas Private Investment Corporation or OPIC. OPIC offers U.S. investors assistance in finding overseas investment opportunities, insurance to protect those investments and loans and loan guarantees to help finance projects. OPIC cannot insure or finance projects that would displace American workers.

This title rewrites sections 231–240B of the Foreign Assistance Act to update OPIC's original language and eliminate outdated provisions. Much of this title is identical to last year's rewrite of OPIC which passed the House. The primary differences are in the eligibility restrictions and in the authorization levels for insurance and financing.

We have amended the eligibility criteria for participating countries to reflect the changing structure of the current international environment. The new language is on page 4 of the bill regarding the process OPIC must follow when a country is no longer eligible for assistance. This provision is much more explicit and strict than past OPIC language on ineligibility. The cosponsors and OPIC believe that this language will remedy the fact that under current law it is difficult to tell when or if a country is ever ineligible for OPIC assistance. Essentially, if a country is no longer eligible for OPIC or foreign aid assistance, OPIC must cease its programs except (1) it does not have to terminate existing contracts and (2) if the President of the United States determines it is the national interest to continue OPIC in that country. This takes the decision out of the hands of OPIC and places it in the office of the President.

The bill provides OPIC with a 3-year authorization and, under this legislation, OPIC will use its own earnings to pay for its programs, instead of drawing funds appropriated from the Treasury. The cosponsors do not believe that the Congress should appropriate scarce foreign assistance resources for OPIC when the Corporation has close to $2 billion in assets. Therefore, wherever appropriate, we have authorized OPIC to use funds available in its noncredit revolving fund account to cover the subsidy costs of its programs.

The bill extends OPIC's program levels in order for the Corporation to work effectively in the former Soviet Union. Under this bill OPIC is authorized to offer up to $15 billion in insurance (current law is $9 billion), and no more than $14.5 billion (maximum outstanding liability) for financing. We break down the financing for direct loans and guarantees as follows: $3 billion for fiscal year 1995, $4 billion for fiscal year 1996, and $5 billion for fiscal year 1997.

There is a change under the financing section. In current law, OPIC can only provide direct loans to small companies. OPIC found that guarantees were very expensive to administer so it has asked for authorization to provide direct loans to medium and large sized businesses as well. They have asked to retain their guarantee authority, however, in the rare cases where it is sensible to offer guarantees over direct loans.

The remainder of the title is similar, if not identical, to last year's bill.

TITLE II: AMENDMENTS TO THE TRADE AND DEVELOPMENT AGENCY (SEC. 661 OF THE FAA)

The U.S. Trade and Development Agency or TDA simultaneously promotes economic development and the export of U.S. goods and services to developing countries. TDA provides funds for feasibility studies and other activities related to development projects which provide opportunities for the use of U.S. exports. In the last Congress the TDA's mandate was expanded to include architectural and engineering design to create a clear advantage in setting the standard for U.S. exports in overseas projects. In addition, TDA has the authority to provide technical assistance for project related activities. TDA conservatively estimates that for every dollar disbursed, the return to the U.S. economy is $25.

The authorizing language for the Trade and Development Agency [TDA] was completely reformed in the Jobs Through Exports Act of 1992. Therefore, TDA's language required minor editing only. Most of the changes reflect language in H.R. 3765, the bill Chairman HAMILTON introduced on behalf of the administration reflecting its vision of foreign aid reform. We also permit TDA to use its funding to do environmental assessments, much like OPIC. We provided TDA with the funding of $65 million for fiscal year 1995, and $90 million for fiscal year 1996, demonstrating the cosponsors continued confidence and support of the program.

TITLE III: REAUTHORIZATION OF FUNDS FOR THE EXPORT PROMOTION PROGRAMS WITHIN THE INTERNATIONAL TRADE ADMINISTRATION

The purpose of this title is to reauthorize the export promotion programs (International Economic Policy, Trade and Development and the U.S. and Foreign Commercial Service) within the International Trade Administration of the U.S. Department of Commerce. Our authorization of $250 million is higher than past years reflecting the need for increases in export counselors both domestically and overseas. We are authorizing $275 million for fiscal year 1996.

TITLE IV: PROMOTION OF U.S. ENVIRONMENTAL EXPORTS

The title promotes U.S. exports of environmental technologies, products, and services by:

(1) Requiring the annual designation of five countries whose markets have the greatest potential for U.S. environmental exports;

(2) Specifying that plans be developed outlining the steps the government's export promotion agencies will take to allow U.S. companies to capture the five priority markets;

(3) Establishing an Environmental Trade Advisory Committee to guide the Trade Promotion Coordinating Committee [TPCC] in carrying out export promotion programs;

(4) Placing environmental technology specialists within the U.S. and Foreign Commercial Service [U.S. & F.C.S.];

(5) Requiring the development of a calendar of significant overseas sales opportunities for U.S. envirotech firms; and

(6) Authorizing matching grants to regional centers which promote environmental exports.

This language is identical to the language passed by the House in H.R. 3813.

TITLE V: INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

Title V requires AID, in conjunction with Commerce's Patent and Trademark Office, to establish a program of training and technical assistance in intellectual property protection. This program is aimed at countries that have expressed a willingness to improve but lack the expertise or the resources to do so. Training assistance could be for patent and trademark examiners, and for law enforcement personnel such as judiciary, police, and customs officials. Technical assistance could include the provision of microfiche and computer software on patents and patent searches, legal advice to governments writing intellectual property law, guidelines on setting up a patent office, and training in the protection of emerging technologies such as biotechnology.

Funding required for this title is expected to be modest and will come out of AID's existing programs (no new authorization required). This language was also introduced as H.R. 4239 in April of this year.

CELEBRATING DEMOCRACY IN THE DOMINICAN REPUBLIC

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. RANGEL. Mr. Speaker, I congratulate the people of the Dominican Republic for proving once again that the democratic system is by far the best way to resolve political differences. The citizens of this key ally of the United States has demonstrated their love for democracy and their faith in their Constitution and the rule of law. Not only did they vote in record numbers in their May 16, 1994, election, but they have come together to reach a political consensus that resolves the controversy arising out of the election.

Last night, President Balaguer signed into law a bill convening a constitutional assembly to amend the Dominican Constitution to provide for a new election for President and Vice President on November 16, 1995; eliminate consecutive terms of the Presidency; create a run-off system; and establish a totally independent judiciary.

I also want to congratulate President Balaguer on his leadership in working with all the Dominican political parties to reach this historic agreement, The Pact for Democracy. President Balaguer's willingness to shorten his term for the good of the Nation is to be commended.

Finally, I want to congratulate President Balaguer upon his inauguration and communicate our best wishes for success in office.

HONORING MARCENE ELEANOR HOVALDT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. TORRES. Mr. Speaker, I rise today to honor Marcene Eleanor Hovaldt. On the morning of August 19, 1934, in the midst of a severe dust storm, a midwife was called to deliver the seventh child to Lily and Chris Hovaldt. Their small farm was located several miles out of town—Parker, South Dakota, population less than 800. Parker was a small farming community made up mostly of immigrants from Denmark, as were the Hovaldts. Thus was born Marcene Eleanor Hovaldt.

Marcene grew up basically as a lone child as her two older sisters were 15 and 17 years older respectively, and the youngest of the four boys was 5 years older. So Marcene played by herself and dreamt while lying under cottonwood trees; and dream she did.

An unfortunate childhood accident left her blinded in one eye, but this nor other hardships, such as epidemics of whooping cough and scarlet fever, even a bout with polio, prevented her from forging ahead. The first 8 years of her education was at country school, a one room schoolhouse. All eight grades were taught by one teacher. High School meant going to school in town. When Marcene graduated from Parker High School she was one of 21 graduates.

The dreams started to come true when Marcene attended Southern Teachers College, this got her off the farm and to the big city, Sioux Falls. Her working career started not as a teacher, but as an underwriter for an insurance company. Several years later, looking for greener pastures, she and a girlfriend headed for Denver, Colorado. Here she found four girls who not only became roommates at the time, but have remained lifelong friends. It was also in Denver that she was married and gave birth to Edward II and Mercedes.

This was a stressful time for Marcene as she lost both parents and due to a genetic heart problem, the premature death of all four brothers before their 45th birthdays. Each of her sisters also suffered multiple heart attacks, as well as bypass surgery with one sister passing in 1988. Marcene has been very fortunate that this malady has not affected her.

Marcie moved to the Washington, D.C. area in 1964. Her marriage ended in divorce and as a single parent, she raised Edward and Mercedes. In 1980 Marcie married Stanley Galkin who also brought to this union Kathleen, Robert, and Laura. Today the marriages of their five children have resulted in Marie's greatest joy, being "Grammy" to her seven wonderful grandchildren.

Marcie's working career led her to become Human Resource Manager of Inter Corporation's Federal Region, later to become the Human Resource Manager of the Lincoln National Life Insurance Co. H.M.O., Washington, DC region. She currently holds a position with the Prince George's County Hospice as director of human resources.

Marcie is always there for everyone, those she knows, as well as those she doesn't. She is not one to hold out a helping hand, it is always two helping hands. She is a good friend and confidante to many. Marcie's life like a pebble thrown into a pond: the ripples multiply and extend further and further.

Mr. Speaker, I ask my colleagues here assembled to join me in paying tribute to the many attributes of Marcie as a community leader and a true American.

TRIBUTE TO MERCY HOSPITAL OF PORT HURON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Mercy Hospital of Port Huron. Mercy Hospital is commemorating its 40th anniversary this weekend when the archbishop of Detroit, Adam Maida, concelebrates a Mass of thanksgiving with the auxiliary bishop, and the pastors and priests of the area.

Founded in 1954, Mercy Hospital was recently honored by being named one of the nation's top 100 hospitals. As an institution, Mercy Hospital of Port Huron has continually striven for excellence. Based on a foundation of respect, and honesty, everyone at Mercy Hospital has worked as a team to serve the needs of our community. With their beliefs in responsible stewardship and social justice, Mercy Hospital has demonstrated that it is possible to provide quality, cost-effective care while making investments in equipment and operations.

A special tribute will also be paid to the Sisters of Mercy who will mark their 150th anniversary next month. Dedicated to patient care, the development of healthcare systems, and higher learning, the Sisters of Mercy offer many needed services in our community.

On August 15, Mercy Hospital will have served the people of Port Huron and St. Clair County for 40 years. Over these years the hospital has earned recognition and enormous respect. I applaud those whose efforts have made Mercy Hospital a world class medical facility.

On the occasion of the hospital's 40th anniversary, I am pleased to pay tribute to Mercy Hospital of Port Huron. I ask that my colleagues join me in saluting a valued resource in my home community as it prepares for the next 40 years of service.

SINGLE PAYER WILL WORK FOR EVERYONE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. McDERMOTT. Mr. Speaker, Jack Gordon, a retired Florida banker, who is today president of the Hospice Foundation of America, recently asked an interesting question in a Miami Herald oped article. He wrote, "Doesn't it make sense that if Medicare works for our parents and grandparents—and maybe some of us—it would work for everyone? And if it is good enough for them, why isn't it good enough for everyone else?"

Mr. Gordon advocates the single payer approach after studying health care matters for 20 years as a member of the Florida State Senate, including time as majority leader of that body and as chairman of appropriations and other committees with health care oversight. He is a serious student of health policy having served also for 5 years as director of the public policy institute of Florida International University.

He notes that the market economy does not work in health care delivery, that the American people understand the Medicare approach, that $120 billion can be saved annually in administrative costs, and that paying for it is not complicated or confusing with the single payer approach.

I am inserting his short article in the RECORD and urge all of my fellow colleagues to read it seriously and with an open mind. They will, I hope, arrive at the conclusion that single payer indeed will work for everyone and that it is good enough for us all.

[From the Miami Herald, July 28, 1994]

EXPAND MEDICARE BENEFITS TO COVER EVERYONE

The delusion of "managed competition" in the current health care debate is based on an erroneous assumption that a market economy is at work in health care delivery. It presupposes (1) competition sets market prices, (2) willing buyers deal with willing sellers, and (3) none are under any constraints.

Health care, however, has no independent buyers. If you are sick, you need care. Indeed, if you don't get it, you may die. Beyond that it is the supplier of health services, your doctor, who creates the demand as well as supplies the services.

The doctor says, "Go to the hospital," and only to one where he has staff privileges. Then you become the passive user of ancillary services—laboratories, X-rays, anesthesia, drugs—all requisitioned by the doctor. Neither he nor you are in any position to shop around for alternatives. There isn't any true market.

What happens in the real world of competition among insurance company plans (or health maintenance organizations) is that services are often limited in order to lower costs—hardly a benefit to the patient. Managed care is a delusion ultimately fed by the greed of the large insurance companies. It means a system driven by the profit motive, and excludes your doctor as the basic determiner of necessary services. He is replaced by private enterprise bureaucrats—as real as the government kind but less likely to be held to any standard of public responsibility.

The obvious solution that is largely overlooked in this increasingly stalemated health care debate is to build on an existing system that is known to everyone and that works reasonably well: Expand Medicare to cover everyone.

This approach, partly included in the U.S. House Ways and Means Committee bill, is understood by most Americans, unlike other proposals. It preserves a personal choice of physician, an advantage that doctors are increasingly recognizing. And Medicare provides an administrative role for large or small insurance companies as contract administrators of its 70 regional districts at a cost of about 2 percent of expenditures. In contrast, private plans and HMO administrative costs range from 15 to 25 percent.

Cost control can be achieved by imposing a fee schedule on all providers. And instead of a government bureaucracy to enforce the fee schedule, why not make the provider liable for triple damages and attorneys' fees for excess charges? This might even be a trade-off to the legal profession for limiting malpractice claims.

Projecting from a study reported in 1991 in the New England Journal of Medicine of all 6,400 Medicare hospitals, a fee schedule and the attendant reduced administrative costs would produce an annual savings of some $120 billion. That would go a long way toward providing coverage for the currently uninsured.

Paying for the expanded Medicare system is not that complicated, either. It requires two simple trade-offs: an increase in the corporate income tax equal to the amount that employers are now contributing to their employees' health care, and an increase in either Social Security or personal income tax to equal the amount that individuals are currently paying for coverage.

This plan would save businesses the high cost of administering their own health plans and obviously would save the cost of private insurance. It would also preserve the privacy of employees, whose medical history would no longer be available to their employer.

We don't have to look to Canada or some other foreign country to find a workable single-payer system, because we already have one that can be easily expanded to include all. Doesn't it make sense that if Medicare works for our parents or grandparents (and maybe some of us), it would work for everyone? And if it is good enough for them, why isn't it good enough for everyone else?

CRIME BILL

HON. NYDIA VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Ms. VELÁZQUEZ. Mr. Speaker, yesterday I voted for the rule on H.R. 3355 and was prepared to vote for the conference report on the Violent Crime Control and Enforcement Act, despite strong reservations. I was and remain very distressed that the conferees dropped a major provision passed by this Chamber—the Racial Justice Act. Without exaggeration, that provision dealt with a life or death issue. It would have prevented people from being executed on the basis of their race.

By adopting the Racial Justice Act, this Chamber demonstrated that we would not let ignorance, bias, and intolerance send Latinos and African Americans to their death while their white counterparts got jail time. By dropping those provisions, we again turned a blind eye to a death penalty that is anything but colorblind.

Nevertheless, I had decided to support the conference report because it addressed the No. 1 concern of my constituents. I supported the conference report because it would have put 6,100 more cops on the beat in New York, and taken 19 types of assault weapons off the streets.

Even more importantly, the conference report would have provided 7.4 billion dollars for crime prevention. Opponents argued that the crime problem could be solved by building more prisons, and putting more people to death. They are wrong. It is much too late to start fighting crime when the defendant stands before the judge for sentencing. We have got to start much earlier. We must get to the kids and show them another way before the jailhouse door slams shut.

That is exactly what the conference bill would have done. It supported education, job, and substance abuse programs, and provided for intensive community services in high-crime areas. It increased recreational opportunities for youth, targeting neighborhoods with high youth unemployment rates, crime rates, drug use, or school drop-out rates. The conference report also put the full weight of the Federal Government behind the prevention of violence against women.

However, instead of a crime bill, what the American people got was a stark lesson on special interest politics at its worst. They got mugged by the National Rifle Association and their gang of gunlovers who pulled out all the stops to kill this legislation. The people want safer streets. What they got, care of the NRA, was Street Sweepers. I sincerely hope that next week we can return and take this Chamber back from the special interests, and return it to the people.

THE FREEDOM AND FAIRNESS RESTORATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. GOODLING. Mr. Speaker, the current tax system is in need of a serious overhaul. Most of the individuals I have spoken with will never state that it is simpler to file their tax forms today than it was before the 1986 Tax Reform Act. The only real reform we engaged in 1986 was to take many individuals off the tax roles by reducing the incentives for long term economic growth and savings.

The current Federal tax system is complicated and certainly not as progressive, nor as equitable as proponents of the 1986 tax changes promised. Based on the aggregate total 1991 tax returns to the Internal Revenue Service, the top 25 percent of income earners pay 77.2 percent of individual income taxes. In addition, the top 10 percent pay 55.3 percent, the top 5 percent pay 43.4 percent, and the top 1 percent pay 24.6 percent. Progressivity is an admirable goal, but based on our Federal returns, it is simply not evident in our current tax structure.

Our Nation is ready to enter into the 21st century, and yet we have a tax system based on the 19th century. The existing tax laws, rules, and regulations hold back needed investment and savings in our economy which could derail the inventors, and the innovators of the future.

I believe the Congress should consider reigniting the debate on tax simplification. A flat tax system should be considered as a viable option for real tax reform. A flat tax approach would simplify the current Federal tax system. I believe by having every American pay the same flat tax rate, individuals would agree to a more simple and equitable form of taxation.

Mr. Speaker, I am pleased to lend my support as a cosponsor of H.R. 4585, the Freedom and Fairness Restoration Act, introduced by Congressman DICK ARMEY. H.R. 4585 would establish a new flat tax system which would implement the use of a 17 percent flat tax rate for all Americans. This bill would only exempt those below the Federal poverty line. The Armey bill would reduce excessive spending by our Federal Government while also reducing the tax burden on the American people.

Our economy currently lacks the seed money to sustain long term economic growth. H.R. 4585 eliminates the double taxation on long term investments by repealing the current tax on capital gains, tax on Individual Retirement Accounts [IRA's] and tax withholding. I believe elimination of these provisions will provide more individuals with the desire to invest money, which in the end will create more available capital for businesses, and thus spur economic development and jobs.

H.R. 4585 is similar to legislation which I have supported in the past. In 1984, I cosponsored H.R. 2137, which like the Freedom and Fairness Restoration Act, proposed a Federal flat tax system. Under this legislation, a 10 percent income tax rate would have become effective for all individuals, and exempt only those whose income was under $10,000. This bill if enacted 10 years ago would have been much better than the changes in the Internal Revenue Code of 1986. However, I am concerned whether H.R. 4585 will be able to sustain the current level of receipts by reducing Federal tax rates and spending at the same time.

In recent history, Congress tried this approach before and found it was relatively easy to reduce taxes, but harder to reduce the size of the Federal Government. Finally, I also believe every individual should have an obligation to pay Federal taxes to better understand what this great Nation provides them in benefits, even if it is a nominal tax rate.

Mr. Speaker, I believe it is time to begin a discussion on reforming the current tax system. As George Santayana has stated, "those who speak most of progress measure it by quantity and not by quality." Our so called progressive tax system is not anything that the American people were expecting when they asked for reform. Enacting H.R. 4585 would be a step in the right direction. This bill would give the Federal tax system back to the American people and wrest the system away from the bureaucrats in Washington. While I do not agree with every proposal included in this legislation, I do support the need for reforming an inequitable Federal tax system and urge my colleagues to lend their support to this needed legislation.

TRIBUTE TO HENRY MROZ

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. MEEHAN. Mr. Speaker, I rise to note the passing of Mr. Henry Mroz, a former school superintendent and school committeeman of Lowell, MA.

Henry Mroz will be remembered for many great attributes; his professionalism, intellect and dedication to name a few. But more than anything else, Henry Mroz will be remembered for spearheading a $131 million school building and renovation program that is scheduled for completion next year. Mr. Mroz was the prime mover in securing the funding for these schools and in overseeing their construction. These schools will serve as a lasting monument to him for generations to come.

A Lowell High graduate, Mr. Mroz held a master's degree in education from Fitchburg State College and a law degree from the New England school of law.

In 1982 he became superintendent after serving as the director of Federal programs, for the Lowell schools from 1969 to 1981 and the assistant superintendent of the Lowell schools in 1981. He previously taught math, history, and science in the classroom.

Henry Mroz will be remembered for leading the schools through the sometimes turbulent 1980's, when the system's populations of southeast Asian youths skyrocketed from 1 percent to more than 25 percent. During this time, Mr. Mroz demonstrated his leadership skills, keeping the school system on track and guiding it through challenges it had never seen before.

His commitment to education in Lowell will never be surpassed. Mr. Mroz and his wife Theresa had no children of their own, but there was never any doubt that both regarded the 13,000 children of the Lowell public schools as their own.

Henry Mroz succumbed to a heart condition that he had struggled against with strength and courage. Friends and family, as well as the city of Lowell, will be forever in debt to Mr. Mroz for the many contributions he made to the Lowell schools during his long tenure. I join in paying tribute to this distinguished man. He will be missed by all who knew him.

A CONSTITUENT WITH WISDOM BEYOND HIS YEARS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. STARK. Mr. Speaker, I recently received a letter from a young man in my district who wrote after reading about debate on the elementary and secondary education bill. He was as shocked and disappointed as I have been by the fear mongering and grandstanding in both Chambers on the issue of gay and lesbian lifestyles.

Most of his letter is included below. This bright student is now heading off to college. Despite the best efforts of my colleagues who peddle intolerance and bigotry at every opportunity, he has already learned important lessons that can't be taught in the classroom.

The letter follows:

AUGUST 2, 1994.

Mr. FORTNEY PETE STARK,
House of Representatives,
Washington, DC.

DEAR MR. STARK: What I am writing about today is an issue that I have felt strongly about for many years, gay rights. Today when I picked up the San Francisco Examiner, I was shocked. I was literally so angry at the government, which I believe in strongly, that I could have screamed. Apparently, the Senate, and the House, have passed a bill which will cut federal funding to any school which "teaches acceptance of homosexuality as a lifestyle" (quoting the examiner). This is the first time I have read anything about this bill, and I am outraged!!!! How on Earth could this kind of bill be passed? Being gay (which I am not, by the way, so that you know that I am not biased in that sense) is just like being black or white, male or female. It doesn't matter. Gay people are just like you and me, no different. They have just chosen to live their life a slightly different way. There has been incredible amounts of discrimination against them, and now we can't even have a teacher tell our impressionable young minds to even "accept" homosexuals. I'm not saying to go out and tell everyone to become gay, all I'm asking for is to allow those teachers who want to teach their children that being homosexual is OK, not bad. Yet if this bill passes, no such message can get across.

If this bill becomes law, we must ask ourselves, "What kind of message will this give to our youngsters?" The answer is quite plain. It will send a message that gays are horrible, and weird, and different—not worthy of being in the same room as us, and certainly not worthy or our acceptance. We need more teaching of compassion and acceptance, not less. Apparently Mr. Helms said that the material used in schools was "disgusting, obscene material that's laid out before school children in this country every day." What I would like to know is, what material is he talking about. I have been through 12 years of public schooling, and have seen no such material.

I am not back in Washington, quite obviously, and do not know the political climate. What is the likelihood that these two bills will come together in the committee, go on to the president and be passed. If he vetoes it, what is the chance that it will be overridden? Frankly, I am scared when I think of this bill passing. It is frightening. I know some gay people, and I can assure you that they are quite normal. In fact, it is likely that you couldn't pick these guys out of a crowd as being gay.

I am sorry if I have rambled on, but I am quite distressed at hearing of this bill. I literally could not believe my eyes as I was reading the paper. Also, what is your opinion of this bill, and how did you vote on this issue? If possible, could you please clarify any points that I have wrong here (for example: please tell me that this is all a bad dream * * *) about this bill, and exactly what it says.

TRIBUTE TO THE LATE CLARENCE HUBERT STEINER

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. CALLAHAN. Mr. Speaker, this past Saturday the community of Bayou La Batre, AL, lost an outstanding citizen in the death of Mr. Clarence Hubert Steiner, a man respected and remembered for his contributions to business, his family, and his community. I rise to pay tribute to this great man and the life he led.

Born into a family with a tradition of fishing and boatbuilding, his passion for both was rooted in his childhood when he began helping his parents. At age 16 he quit high school to work with his father full time, and only a year later at age 17, he became master of the *Eagle*, a 46-foot vessel he and his father had built together. Today, this vessel is a familiar one in Bayou La Batre, AL, and surrounding communities where it is a regular participant in the annual Blessing of the Fleet.

A few years later, Mr. Steiner moved to Mobile, AL, with his new wife Dorothy Dukes Steiner, and worked as master carpenter for the U.S. Coast Guard base. Many years and six children later, and still working full-time with the Coast Guard, Mr. Steiner bought a small boat repair business which he and his sons built up during their spare time. He finally left the Coast Guard, and that small business eventually became Steiner Shipyard, Inc., one of the finest and most highly respected shipbuilding and repair yards on the entire gulf coast.

Clarence Steiner was described by those who knew him as a quiet, strong, and hardworking man who always wore a smile. He enjoyed the simple things in life, often gave others the credit, and was dedicated to his family, friends, church, business, and community. One of his favorite contributions to his community was cooking for civic events where he became famous for his shrimp and spaghetti.

Though he was hardworking and dedicated to so much, friends and family alike agree that his first priority was his family. He was a devoted husband for almost 60 years before his death and a devoted father of six children, Clarence Gene, Ronald, Russell, Roger Dale, Rebecca, and Carolyn. In turn, his children, along with 18 grandchildren and 24 great grandchildren, remain devoted to his memory and carry on the tradition by continuing to maintain Steiner Shipyard.

Clarence Hubert Steiner was an outstanding citizen who over his eighty years raised a wonderful family, turned his hard work and dreams into a successful and highly respected business, and still took the time to serve his church and community. Let us now take the time to honor this man who was truly a blessing to friends, family, community, and all who knew him.

RISK A AND RISK B

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. SAXTON. Mr. Speaker, the following speech before the New Jersey Society for Environmental, Economic Development offers another cogent argument for my legislation to create a National Institute for the Environment as an independent entity with a mission to improve the scientific basis for making decisions on environmental issues.

The NIE would increase scientific understanding of environmental issues by supporting extramural, competitive peer-reviewed research, providing ongoing comprehensive assessments of current environmental knowledge and its implications, broadening and facilitating current, user friendly information about the environment, and strengthening the Nation's capacity to address environmental issues by sponsoring education and training activities. These activities are lacking in the Federal arena and are desperately needed if policymakers are going to make environmental decisions that will not cause undue hardship on the private sector and economic growth.

I commend this speech to your attention and request your cosponsorship of the NIE bill.

RISK A AND RISK B

(By Merrick Carey, President, Alexis de Tocqueville Institution)

Good evening. In 1967, a U.S.-Soviet summit was being arranged and it was decided that LBJ and Premier Kosygin would meet half way between the White House and the U.N., where Kosygin was speaking. The halfway point is Glassboro, New Jersey, and the Soviet Premier was driven in his limo from Manhattan down the New Jersey Turnpike. He travelled across what is probably the most famous industrial belt in the world, from Jersey City to Newark, Elizabeth, Carteret, and Rahway. Speechless, he saw the amazing array of gigantic oil refineries, chemical factories and other heavy industrial facilities, the sights and smells we in this room know so well. Finally, he turned to his travelling aide and whispered, "Now I know why America is a great country."

It speaks volumes that a former communist leader instinctively knows what so many of our present political leaders have forgotten: that high levels of economic growth, output and productivity, potently mixed with self-government and democracy, have made America the most powerful nation on earth, and arguably in all of history. I think the vast majority of the American people understand this, and it gets to the core of all our current policy debates. What is your social or political goal? Do you want a powerful military? To fight poverty? To clean up the environment? To roll back crime? Those goals are probably not possible unless you pursue policies that foster a dynamic private economy.

Fast forward, if you will, to that same stretch of New Jersey in the late 1980s and early 1990s. A visionary businessman, Bill McCann, whom many of you know, came up with the idea to link all the commuter rail lines that flow through northeast New Jersey at one junction. By conservative estimates, this project will generate 3000 jobs and over a billion dollars in investment over a 7 year period. It has been endorsed, on site, by a myriad of elected officials, including former Governor Jim Florio.

What has become of Allied Junction? It has been stalled, held up, and delayed by unelected officials in the state environmental protection agency and the Army Corps of Engineers. If Bill McCann had not had the environmental regulatory hassles from these agencies, Allied Junction would have broken ground in 1990. They still have not broken ground in early 1994. Unelected staff people at regulatory agencies with uncontrolled authority can discount everything that makes sense, and ignore the actual statutes involved, and apply their own philosophies to monumental projects like Allied Junction. And those philosophies have little to do with generating growth and jobs.

From 1985–1987, I had the good fortune to serve as former Congressman Jim Courter's chief of staff, and I'll never forget driving up and down Route 206 past dozens and dozens of "help wanted" signs. It seemed they were in every window. New Jersey's economy was literally booming in the mid-80's, with full employment a reality, and a labor shortage a potential problem. The kind of problem you like to have. New Jersey's large corporations were hiring and training, at their own expense, handicapped people to undertake crucial corporate tasks . . . Not because the government forced them to, or because they were being sued, but because the companies needed their labor to grow.

I don't need to tell you what has happened in New Jersey since the late 1980s. In my opinion there are a number of reasons your economy has imploded. Top of my list would be the massive tax increases passed on labor and capital—by both Republicans and Democrats at the federal level and by Governor Florio at the state level—that have severely eroded incentives to work, invest and do business in the Garden State. Fortunately, Governor Whitman and the State Legislature have already begun to roll state taxes back.

A second area I would put the spotlight on is excessive environmental regulation and "the glut of special interest groups now vying for attention in Trenton and Washington that show little concern for insuring sound public policy," as NJ SEED says in its charter.

Somewhere along the way to the Endangered Species Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Federal Land Policy and Management Act, the Clean Air Act, the Environmental Education Act * * * I better stop in 1978 * * * Somewhere along the way the environmentalist train went off the tracks.

The top 20 environmental groups in Washington will spend an estimated $500 million this year to pursue their agendas. Aided by these interest groups, the EPA has imposed environmental regulations costing our economy over $150 billion per year. That figure is expected to rise to $185 billion by the year 2000. This outlay does not appear in the federal budget, but it is reflected in higher prices in stores and lower real incomes. It is a thoroughly regressive tax, hitting rich and poor equally, raising the costs of all goods, energy and transportation, and putting an annual burden of nearly $1500 on every American household.

As the level of regulation in the United States has grown in leaps and bounds—measured in number of laws or in pages of the Federal Register—we may be approaching the critical level where in fact the economy is being strangled—where enterprise is restrained, where entrepreneurship is stifled, where jobs are not created.

For this reason, one cannot stress enough the importance of sound science in issuing environmental regulations. Recent history is replete with policies begun on the basis of nothing more than press releases that were not backed up by peer-review scientific data. There are many examples where science is ignored or misused in order to push particular policies. There are even examples where science has reversed itself, yet the policies march on as if nothing happened. The scares over alar, dioxin, environmental tobacco smoke and pesticides are only a few of the more famous recent examples.

The New York Times has summed it best: "In the last 15 years, environmental policy has too often evolved largely in reaction to popular panics, not in response to sound scientific analysis of which environmental hazards present the greatest risks. As a result, billions of dollars are wasted each year in battling problems that are no longer considered especially dangerous, leaving little money for others that cause far more harm."

Consider the following examples of the tremendous cost of senseless environmental regulation on businesses, municipalities, and taxpayers:

An analysis of Columbus, Ohio officials found that the impact of complying with the weight of federal environmental mandates on the city's budget would cost every Columbus taxpayer an additional $856 per year by the turn of the century.

According to the National Center for Policy Analysis, EPA's regulation of coke ovens will cost $682 million to prevent a single instance of cancer. The cost of EPA's regulation of the chemical benzine and the Clean Air Act's regulation of air toxins would cost $5.8 billion and $6.5 billion per cancer death averted.

In New Hampshire, $9.3 million was spent a few years ago to make a dump safe for "children to eat small amounts of dirt" for 245 days a year, despite the fact that there were no dirt-eating children in the area—and the area was a swamp.

While EPA regulates 83 specific drinking water contaminants—many of which may not even be in a drinking water system—it does not regulate more dangerous contaminants that do occur such as the cryptosporidium that killed 40 people in Milwaukee last year.

Today's Wall Street Journal has a new item that beautifully captures how far we have descended into the anti-growth swamp: "Come fall of 1995, pleasant bakery smells may be a thing of the past as many communities throughout the country comply with deadlines set by the 1990 Clean Air Act to have industrial plants cut their emissions. The smell of baking bread, it turns out, is a form of air pollution."

It turns out the "yeast police," as bakers now call the EPA, want the nation's large bakers to spend millions of dollars to install new emissions controls. When flour, water and yeast are kneaded together and heated, they create ethanol, a non-toxic substance that contributes to ozone formation. State regulators admit that bread ethanol emission "is not very much" but they have to look everywhere to comply with the radical new federal standards.

The 1990 Clean Air Act is thus far the penultimate environmental act. One title of this law deals with air toxics, the emission of substances that could conceivably cause cancer. The problem is that the cancer risk is calculated for a susceptible person who is maximally exposed to the atmosphere for 70 years, and that the risks are computed based on dubious scientific data. Furthermore, the analysis neglects the obvious: the fact that the person, like you and me, will be indoors for much of his life exposed to an indoor air quality that is likely to be much more hazardous. Even so, cancer risk, normally about 25 percent, would be reduced to only 24.99999 Percent, but at a multi-billion dollar cost that could have been used to save many more lives by reducing more immediate risks. Or perhaps giving the beleaguered taxpayer or entrepreneur (or baker) a break.

In Greek mythology, the gods punished a man by making him too successful. It may be that the anti-growth environmental movement reached its zenith when the Clean Air Act passed in 1990—and the debacle that has resulted from its passage. Now every environmental initiative in Congress is being scrutinized and risk assessment and cost-benefit requirements are seeping into every environmental debate.

In response to the explosion in environmental regulatory costs and the government's practice of spending enormous amounts of money to reduce small risks instead of big risks, Senator Daniel Patrick Moynihan and Congressman Richard Zimmer have introduced the "Environmental Risk Reduction Act" to ensure that the billions spent by the American people on environmental protection is better targeted at reducing the "most serious and probable risks."

The Moynihan-Zimmer bill is designed to sharpen the public debate over risk assessments and require the EPA to set risk reduction priorities based on sound scientific analyses.

Specifically, the bill would create two expert commissions that would provide the EPA with advice on the ranking of relative risks and on estimating the costs and benefits of reducing risks to human health and natural resources. The bill also creates a risk reduction research program that would improve the data, methodology, and accuracy of the government's risk assessments.

For example, if the public knew that an average-sized plate of shrimp contains trace arsenic levels of 30 parts per billion, would they choose to continue paying for a costly EPA water quality rule limiting arsenic levels to no more than 2 to 3 parts per billion?

Similarly, would the public agree with the environmentalists' dream of banning the commercial use of pesticides (thereby raising prices of fruits and vegetables and throwing thousands of farmers out of work) if they were informed of the fact that there are more known carcinogens consumed by drinking one cup of coffee than the amount of potentially carcinogenic pesticide residues the average person eats in a year?

Right now, however, the public isn't aware that they have such a choice. "Relative risk ranking and cost benefit analyses are tools," according to Senator Moynihan. "Crude tools, yes, but perhaps sufficient in some cases to rank activity A as more risky than activity B. If the costs or political realities dictate that we should control B before A, then great!"

In recent months, the U.S. Congress has responded to the public's growing concern about excessive environmental regulation. Last spring, by an overwhelming bipartisan vote of 96 to 3, the U.S. Senate passed legislation sponsored by Senator Bennett Johnston and Congressman John Mica requiring EPA to perform extensive cost benefit and risk analysis to each regulation it issues. Earlier this year, the House of Representatives shelved the bill to elevate the EPA to a cabinet department because it did not include the Johnston-Mica provision.

Proponents of the Johnston-Mica legislation plan to offer it as an amendment to every piece of environmental legislation that the Congress considers until it is approved. Therefore, in order for the environmental movement to advance its ambitious legislative agenda in this Congress, it must accept some form of expanded cost benefit and risk analysis for environmental decisions.

This week, risk assessment language is being discussed in strategy sessions on the Superfund bill, and risk assessment language is in the Safe Drinking Water bill that is heading for the Senate Floor. If the Johnston-Mica legislation is too much for environmentalists to swallow, then they ought to consider the Moynihan-Zimmer approach. This bill could be the ticket to a sensible, bipartisan compromise that would help both the environment and the economy by prioritizing environmental problems and lessening excessive environmental regulatory costs.

I'm going to close with what some might consider a radical statement, but a view that I think gets to the heart of the current environmental debate. If you accept the fact that we have limited resources to deal with environmental problems, you need to make a choice between low risk, which is "A," and high risk, which we will call "B." You can make a choice for "A," to throw money at low risks, but if you make that choice, you will have to live with more suffering, more cancer and more deaths than if you choose "B."

That is a statement that will be categorically rejected by many in the environmental movement and at the regulatory agencies. But I believe it is very hard to refute.

IN RECOGNITION OF LT. COL. STANLEY A. NEWELL

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. EVERETT. Mr. Speaker, I am pleased to rise today to honor Lt. Col. Stanley A. Newell, who is retiring from the U.S. Army after 28 years of dedicated service. On September 14, 1966, Lieutenant Colonel Newell began what would be an active and meritorious career when he was drafted and sent to fight in Vietnam with the 1st Battalion, 12th Infantry, of the 4th Infantry Division, U.S. Army.

While serving in Vietnam, Lieutenant Colonel Newell was wounded in combat and taken as a prisoner of war, enduring almost 6 years of captivity in the infamous Hanoi Hilton. During that period of time, Lieutenant Colonel Newell displayed a fortitude that was an example and encouragement to his fellow POW's. In an unimaginable situation, he acted in a manner that demonstrated his loyalty, both to these men and to his country.

Upon his return home, Lieutenant Colonel Newell attended Officer Candidate School and in 1975 was commissioned as a second lieutenant in the Military Police Corps. An an officer in the U.S. Army, Lieutenant Colonel Newell has exhibited extraordinary service and leadership. He has served as a platoon leader with the 101st Airborne Division at Fort Campbell, KY; company commander and battalion executive officer with the Training Brigade at Fort McClellan, AL; course manager and instructor of the countering terrorism course, also at Fort McClellan, assistant operations officer and WESTCOM provost officer at Fort Shafter, HI; and as a faculty instructor at Air Command and Staff College at Maxwell Air Force Base in Montgomery, AL.

To compliment Lieutenant Colonel Newell's brilliant career, he has been decorated with such honors as the Silver Star, the Bronze Star with an Oak Leaf Cluster, the Meritorious Service Medal with Oak Leaf Cluster, the Combat Infantryman's Badge, the Parachutist's Badge, the Air Assault Badge, the Prisoner of War Medal, and a Purple Heart.

The perseverance that Lieutenant Colonel Newell displayed as a prisoner of war, and the fashion in which he has excelled as an officer in the U.S. Army are reflections of his dedication to serving his country. It is not often that we witness such displays of bravery and patriotism. I appreciate this opportunity to pay tribute to Lieutenant Colonel Newell, to thank him for his service, and to wish him the very best in the years to come.

WHATEVER IT IS, BILL CLINTON PROBABLY DID IT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. JACOBS. Mr. Speaker, I insert the following article from the U.S. News & World Report, August 8, 1994 edition.

It should be noted that the politics of personal attack is, in its essence, character assassination. Character assassination like physical assassination can be effective, that is, it can destroy if someone is willing to stoop to it.

One more conspiracy for the Merchants of Venom to contemplate: who slipped in that commandment on Moses, the one that says, "Thou shalt not bear false witness against thy neighbor."

Violent and destructive words are akin to violent and destructive deeds. They will inspire violence on the part of others. Here is how Kipling said it:

. . . And sure it keeps their honor clean
The learned court believes
They never gave a piece of plate
To murderers or thieves
They never told the ramping crowd
To card a woman's hide
They never marked a man for death
What fault of theirs he died?
They only said intimidate
And talked and went their way
By God, the boys who did the work
Were better men than they.

[From the U.S. News & World Report, Aug. 8, 1994]

WHATEVER IT IS, BILL CLINTON LIKELY DID IT

(By Greg Ferguson and David Bowermaster)

Sitting in a cozy parlor and wearing a red cardigan, Larry Nichols looks into the camera like an earnest Mr. Rogers and tells of "countless people who mysteriously died" after having run-ins with Bill Clinton. Nichols, an Arkansas state employee fired in 1988 for making hundreds of calls to the Nicaraguan Contras from his office, says it's all part of Clinton's "evil society."

So goes "Bill Clinton's Circle of Power," a video made earlier this year by Citizens for Honest Government, a California-based conservative group headed by television producer Pat Matrisciana. The video is filled with dark suggestions that as president and governor, Clinton was connected to the murders and beatings of several people, including political opponents. The Rev. Jerry Falwell promoted the video during a month of TV infomercials, and it has sold more than 100,000 copies, according to its makers. They hope its sequel, "The Clinton Chronicles," which repeats the charges at greater length, might outsell the first, even without Falwell's help.

Beyond last week's congressional Whitewater hearings and the ferment over Paula Corbin Jones' sexual harassment lawsuit, attacks against Clinton have taken a decidedly sinister turn. Televangelists, conservative talk-show hosts, political opponents and some computer bulletin-board aficionados are suggesting that Clinton could be tied to dozens of deaths, from a pneumonia case in Delaware to three of the four federal agents killed in the raid on the Branch Davidian compound in Waco, Texas.

WEIRD ERA

Even at a time of great national anxiety and confusion, the intense, fecund and often bizarre charges leveled against Clinton are startling. He has unusually high negative ratings in many polls, but even that fails to explain fully the extreme nature of the charges leveled at him. "These attacks have reached a level of inventive and viciousness that is unparalleled," complained White House counsel Lloyd Cutler during last week's Whitewater hearings. "There are a great many people who would like to bring President Clinton down who will stop at practically nothing."

No episode seems beyond Clinton's reach in the world of conspiracy buffs. A Wall Street Journal editorial in March chastised the "respectable press" for showing "little-to-no appetite for publishing anything about sex and violence" in Whitewater-related matters. It proceeded to report that while working on a story for the New Republic about incestuous relationships between business leaders and politicos in Arkansas, writer L.J. Davis opened the door to his Little Rock hotel room and remembered next awakening face down on the floor with a hefty bump on his head and "significant" pages of his notes missing. The implication was that some sinister elements had tried to quash Davis' piece. But Davis soon admitted drinking at least four martinis that night. No pages were missing from his notebook, and he had no idea how he ended up on the floor. "I certainly wasn't about to conclude that somebody cracked me on the head," Davis said at the time.

Even the most serious charges are characterized by serious deficiencies in corroborating evidence. In a letter to congressional leaders, former Rep. William Dannemeyer lists 24 people with some connection to Clinton who have died "under other than natural circumstances" and calls for hearings on the matter. On Dannemeyer's list is James Wilhite, a friend of White House adviser Thomas "Mack" McLarty who suffered fatal head injuries in December 1992 when he skiied into a tree in Colorado. Clinton was nowhere near the scene. Dannemeyer also mentions Paul Tully, a chain-smoking, overweight Democratic strategist who, according to Little Rock police spokesman Lt. Charles Holladay and the Pulaski County coroner's report, died of a heart attack in 1992. Next is Jon Walker, an administrator in the Resolution Trust Corp. office probing Madison Guaranty; Walker died last year when he jumped from a Northern Virginia apartment building. Tom Bell, a detective with the Arlington, Va., police says Walker was a "particularly clear case of suicide because there was a witness."

Others on the Dannemeyer list are more curious but completely lack evidence implicating Clinton. In March, a plane piloted by 72-year-old Herschel Friday, head of a prestigious Little Rock law firm, crashed on approach to a private runway near Friday's home. Friday served on Clinton's presidential campaign finance committee, and his widow, Beth, says the Clintons were "good friends." However, rumors about a link between Whitewater and Friday's death began circulating soon after the crash. The National Transportation Safety Board has not issued its final report on the crash, but so far investigators have given the family no indication the plane had mechanical problems. Mrs. Friday is confident her husband's death was "purely an accident." Dannemeyer admits that Clinton may have had no involvement in Friday's death and some of the others, but he insists that the "number goes beyond coincidence." He says he merely wants them investigated.

THE CLINTON BODY COUNT

Dannemeyer's list of "suspicious deaths" is taken largely from one compiled by Linda Thompson. She is an Indianapolis lawyer who in 1993 quit her one-year-old general practice to run her American Justice Federation, a for-profit group that promotes pro-gun causes and various conspiracy theories through a shortwave radio program, a computer bulletin board and sales of its newsletter and videos. Her list, called "The Clinton Body Count: Coincidence or the Kiss of Death?" and updated biweekly, now contains 34 names of people she believes died suspiciously and who had ties to the Clinton family. Thompson admits she has "no direct evidence" of Clinton killing anyone. Indeed, she says the deaths were probably caused by "people trying to control the president" but refuses to say who they were. Thompson says her allegations of murder "seem groundless only because the mainstream media haven't done enough digging."

Earlier this year, Thompson released two videotapes and a folksy music video purporting to show that the February 1993 shootout in Waco, Texas, was a conspiracy in which three agents from the Bureau of Alcohol, Tobacco and Firearms were "executed" in the Branch Davidian's armory by their own men because of what they might have witnessed as Clinton's bodyguards. Though the men did help the Secret Service guard Clinton a few times, the Treasury Department's report in the Waco standoff refutes the charge: "Contrary to some publicly disseminated accounts, none of the agents that entered the armory was killed." According to the report, the men were killed in different locations around the compound. ATF spokesman Les Stanford says, "Her videos are replete with falsehood and errors."

Of the "suspicious deaths" listed by Thompson and endorsed by Dannemeyer, many victims have only the most tenuous ties to Clinton—four members of Marine Helicopter Squadron One, for example. The unit is responsible for transporting the president. The four marines died in May 1993 when the Blackhawk helicopter they had taken out for a maintenance-evaluation flight crashed. According to a Marine spokesman, Chief Warrant Officer Robert Jenks, faulty installation of a spindle pin allowed the helicopter's engines to produce too much power until an overspeed protection device shut them down. There was no evidence of sabotage. Clinton had set foot in the aircraft on only one occasion, two months before, when he traveled from the White House to the USS Theodore Roosevelt. Thompson concedes, "I don't know what Clinton's motive was." But she speculates that they "could have been privy to information about Clinton's plan for Bosnia."

FOSTER'S DEATH

The starting place for all Clinton murder theorists seems to be Vincent Foster, the deputy White House counsel whose death last year unleashed a torrent of speculation. Jerry Falwell, Pat Robinson, Rush Limbaugh and others have suggested that Foster was probably murdered. On the anniversary of Foster's death, July 20, Foster's family made a public appeal to end the speculation. The death has been ruled a suicide in two separate investigations. Foster's family says they fully accept that verdict. That hasn't stopped Clinton's attackers, however. Many have dismissed the report by Whitewater investigator Robert Fiske Jr., a former U.S. attorney for New York under Presidents Ford and Carter and highly respected private attorney, calling Foster's death a suicide. In rejecting more macabre theories about Foster, these critics say, Fiske—a Republican—was simply doing Clinton's bidding. "Fiske was appointed by Janet Reno at the suggestion of Bernard Nussbaum," says Falwell. "It's like putting Hillary Clinton in there." Testifying last week before Congress, Nussbaum said he never mentioned Fiske or anyone else to Reno as a potential special counsel.

There are other suicides that the conspiracy buffs tie to Clinton. In May, Sherwood, Ark., police officer Bill Shelton found his live-in girlfriend, Kathy Ferguson, slumped on the couch in his apartment, dead from a self-inflicted gunshot wound. A month later, Shelton was found on Ferguson's grave, a bullet hole through his head, a gun by his side and a suicide note in his truck.

Less than a week before Ferguson's death, her ex-husband, Danny, was named as a codefendant in Paula Jones's lawsuit against the president. Rumors began swirling that her death—and later Shelton's—was tied to the president's alleged infidelities. But police have found no reason to think so. The relationship between Ferguson and Shelton had reportedly fallen on hard times, and Ferguson's daughter told police her mother had been upset about a note from Shelton. The only people hinting at ties to Bill Clinton are in the media, police say. "It's like they want me to say something [about a connection]," says Sherwood Police Department spokesman Ray Snider. "It was suicide, period."

Luther "Jerry" Parks's death last September is almost as disputed as Foster's. Indeed, Parks's case is the only murder on Dannemeyer's list that law enforcement authorities do not consider solved. Parks's security company guarded Clinton's campaign headquarters in 1992. His son, Gary, asserts in both "Circle of Power" and "The Clinton Chronicles" that his father collected a secret file of the president's alleged indiscretions. Shortly before the elder Parks was shot to death while driving his car, Gary says, the file was stolen. Lieutenant Holladay says there is no evidence of such a file, nor any evidence that Clinton had anything to do with Parks's death. Gary, he says, "is grasping at straws. We have found his allegations to be baseless." Jerry Parks reportedly had many enemies after he was fired from two Arkansas police departments and after a bitter falling out with a business partner. Still, Larry Nichols says he is helping Gary Parks bring a wrongful death suit against "someone close to Clinton who doesn't have presidential immunity."

One recent death is that of Stanley Huggins, who died in June. In 1987, Huggins examined the loan practices of the thrift, Madison Guaranty, at the center of the Whitewater storm. His 400-gage report has never been made public. But Dr. Richard Callery, Delaware's top medical examiner, says Huggins died of viral myocarditis and bronchial pneumonia. Lt. Joel Ivory of the University of Delaware police says his "exhaustive" investigation of Huggins's death turned up "no sign at all of foul play."

The flood of accusations shows no sign of abating. And to all conspiracy buffs, official sources are suspect. Falwell asks how the Arkansas police could investigate the deaths: "The police in Arkansas brought Clinton's girlfriends to him." He also says that guilty or innocent, Clinton encourages suspicion: "He's trying to get the courts to postpone his sex harassment suit. If he gets by with that, O.J. Simpson should run for president."

INTRODUCTION OF THE CONSUMER HEALTH QUALITY PROTECTION ACT OF 1994

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 12, 1994

Mr. WYDEN. Mr. Speaker, by now it seems that every major interest group has newspaper and TV ads and lobbyists fully engaged in the health reform debate. But in my opinion, the single most important voice in the health reform debate has also been one of the quietest vocies—the voice of the consumer.

In an effort to address this imbalance of influence, on May 10, 1993, I joined representatives of 30 national consumer organizations—the core members of what is not the Coalition for Consumer Protection and Quality in Health Reform—to launch a campaign for health care reform built on consumer protection and quality improvement.

We acted out of a shared conviction that there is nothing automatic about achieving quality and accountability in health care reform. I agreed with these consumer groups that the new health care system Congress is now designing must include specific provisions on health care quality. These provisions must not only protect existing quality safeguards from the financial pressures of the health care marketplace, but correct defects in the current system, establish accountability for health insurance companies, and expand opportunities for meaningful consumer choice.

Since we kicked off our campaign for quality care, this coalition of consumer groups has testified before all of the major House and Senate committees, as well as the Subcommittee on Regulation, which I chair, Over the past 18 months, representatives of these 30 organizations have worked closely with me and my staff to draft legislation to promote the health quality agenda.

The legislation I am introducing today was originally drafted as an amendment to health reform legislation marked up by the Committee on Energy and Commerce. Unfortunately, disagreements prevented our committee from reporting a bill. Subsequently, I have shared this language with the committee chairmen who drafted the House bill with the majority leader, and asked for its incorporation in that legislation.

Some of these provisions have been incorporated into the House and Senate health reform bills, and I am hopeful that all will find their way into the bill that emerges from conference.

As decisions are made on each of the consumer protection provisions, one key point I intend to emphasize over the next month is that consumer protections must be funded as fully and equally important components of the new health system Congress is now constructing. I say this because in the current declining budget for discretionary funding, quality assurance mechanisms that depend on new appropriations for funding are unlikely to be funded or to provide meaningful consumer protection.

My legislation funds these essential functions through the same kind of premium draw that is used in both House and Senate bills to fund medical research. I wholeheartedly support medical research, but there is little sense in a policy that gives researchers a more secure funding base than health care quality protections for consumers.

The bill I am introducing today will identify the policies that consumers feel are needed, and, I hope, will provide a useful reference point in evaluating the quality of care safeguards in any legislation considered by the House and Senate.

Here is a brief list of several quality safeguards high on the consumer agenda, which are incorporated in this legislation.

CONSUMER QUALITY INFORMATION

Within the next 60 days, the Congress will most likely finish its work on national health reform legislation that significantly restructures the health care system in this country. Many aspects of health reform are uncertain. But this much is clear: tomorrow's consumers are going to be asked to be more involved in the choice of their health care and their providers.

In my judgment, if the reformed health system is to be built on the principle of consumer choice, consumers must have ready access to reliable, comparative information on quality.

This is no radical, futuristic concept. The last Congress enacted bipartisan legislation I sponsored to publish infertility clinic pregnancy success rates, so consumers can choose which clinic, if any, to invest with their hopes and their cash. In October 1995 this first legally required comparative health outcomes information will hit the streets and start helping consumers to make better health care decisions.

This kind of performance report on health plans is sometimes called a report card. But some report cards provide objective information, and some do not. Health insurance plans are already starting to put out report cards comparing themselves with their competitors, without disclosing their financial interests. Because consumers need to know they are reading an advertisement, and when they are reading objective facts, my bill includes sunshine standards for advertisements masquerading as report cards, to head off a new category of consumer fraud.

But, Mr. Speaker, it's not enough to give consumers information on the quality of health insurance plans. A health plan may be the key component of the health care system to economists and providers, but consumers are more interested in the quality of care provided by doctors, hospitals, and clinics. In fact, when they can afford to, people choose their health plans because of which doctors the plan will let them see, not the other way around.

The sad truth is Americans today have more product performance information available to them when purchasing breakfast cereal than when choosing a heart surgeon. This means that additional measures of quality are needed. Consumers must have easy access to comparative information on plans, providers, and the success rates of the treatments they provide. My bill will provide for these measures, and set deadlines for their publication.

At the very least, consumers must be informed as to which doctors they may wish to avoid. The public has a tremendous appetite for information on disciplinary actions and other markers of poor quality care, and they are outraged to learn that such data exists for thousands of practitioners, but that it is now kept secret in a taxpayer-funded National Practitioner Data Bank. On April 21, 1994, I introduced a companion bill, H.R. 4274, legislation to open the data bank to the public and to close loopholes that allow doctors to avoid reporting to the data bank today. I have worked to persuade my colleagues in the House and Senate to include this important consumer protection provision in final health care reform legislation.

FREEDOM OF CHOICE

In my view, the freedom to choose one's medical providers will be a litmus test for any successful health reform plan enacted in this Congress. And the best information in the world is useless if consumers don't retain some freedom to choose their providers. At the urging of consumer groups and my personal appeals to the Clinton administration, the Health Security Act proposed requiring every HMO to offer a point of service option. Health plans with point of service features allow consumers to use out-of-network non-HMO providers, provided the consumer agrees to pay higher out of pocket charges.

This market-proven alternative shows that you can have real consumer choice and cost containment in peaceful coexistence. It balances personal responsibility with freedom of choice at the individual level—where such decisions belong. What's more, health plans pay close attention to setting up high quality networks of doctors and other health professionals, knowing that a significant number of their enrollees are free to go outside of the network if, for example, they are told they have to wait 6 weeks for an appointment because the plan has too few OB-Gyns or mental health professionals. In this way, the point of service option provides powerful economic feedback that gives plans an incentive to build high quality, accessible networks.

My bill would require every health plan that utilizes a provider network to make available to enrollees the option of going out of that network for care. Preferred Provider Organizations—PPO's—meet this requirement by their very nature; Health Maintenance Organizations—HMO's—would have to offer enrollees an opportunity to purchase a rider that grants coverage for out of network items and services.

People could still enroll in pure HMO's, without buying the point of service feature—but even those people would benefit from the careful management of the plan's provider network, made necessary by the existence of a substantial number of enrollees who are not locked in to the network for unsatisfactory care.

The point of service feature is attractive for one additional reason: it allows people in traditional fee-for-service plans to join HMO's or other managed care plans with provider networks, without fear of being trapped in an unsatisfactory relationship with a limited group of health care practitioners. It is a tool for dramatically expanding enrollment in managed care organizations.

For these reasons, I believe this requirement should be a feature of the House bill, along with specifying the level of out-of-network cost-sharing to rule out unreasonably high coinsurance requirements by some health plans. My bill would also adjust coinsurance requirements for low income consumers, to make these choices meaningful to them.

INDEPENDENT QUALITY OVERSIGHT

Comparative quality information has a long way to go before consumers can rely on it to make life or death decisions. At least for the forseeable future, therefore, consumers want and need reliable, independent oversight of quality. I am proposing the creation of two kinds of oversight organizations: a quality improvement foundation to work directly with doctors, and a consumer health care advocate to work with consumers.

Quality improvement foundations—QIF's—would work with doctors on quality problems, and try to spur a bona fide quality improvement program in every health plan.

The new quality improvement foundations would monitor and compare patient morbidity and mortality in HMO's, hospitals and clinics, looking for areas needing attention. And when they find evidence of quality problems, they can take their evidence to the hospital or HMO and ask that the issue be investigated and, if found to be genuine, corrected.

They can spur collaborative efforts between health plans to address broader public health problems. They could offer to get experts together with doctors who need help to upgrade their skills. If the hospital, health plan, or practitioner is unresponsive or is unable to improve, the quality improvement foundation has the option of referring that plan or provider to State licensing officials or to the appropriate accreditation organization.

CONSUMER HEALTH CARE ADVOCATE

Consumers will need someone in their corner to contend with the new system. Their representatives in Washington have asked for a national network of health care advocates, modeled on the successful long term care ombudsman program that relies on trained volunteers to improve nursing home care. The health care advocate would help resolve complaints and grievances, and work to kick-start public and private officials to ensure that it jumps when consumers call for help.

STATE MEDICAL BOARD REFORMS

Numerous studies and reports from consumer groups and the HHS Inspector General have concluded that State medical licensure boards are underfunded and hamstrung by lack of legal authority and staff expertise to investigate quality of care cases.

The legislation I am introducing today will require States, as a condition of receiving Medicaid matching moneys, to include public members on their governing boards, to utilize licensure fees charged to doctors to fund board operations, to provide the board with basic investigative and disciplinary powers lacking in too many States, and to report annually on the number and type of actions the board has taken with respect to problem practitioners.

Mr. Speaker, I have spent my career working in the health field, and I know how complex the health policy can be. But protecting and improving the quality of health care is too important to let it slip through the cracks, or to go unfunded. I respectfully urge my colleagues to review and compare the safeguards in this bill with the versions which are adopted by the House and Senate, and work with me to get these important questions fully and squarely addressed by the conference committee that takes up health reform this year.

SENATE—*Saturday, August 13, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Baruch Hashem. Blessed be the Name of the Lord.

God of Abraham, Isaac, and Israel, on this Sabbath morning give us ears to hear, minds to understand, and wills to obey the foundation of all teaching in the Torah.

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up. And thou shalt bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes. And thou shalt write them upon the posts of thy house, and on thy gates.—Deuteronomy 6:4–9.

Baruch Hashem. Blessed be the Name of the Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 13, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein, with the time to be controlled by the Republican leader.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, I understand that between now and 10 o'clock, there is time for morning business, and then at 10 o'clock, we return to the agreement that was outlined by the majority leader and agreed to, where we will have divided time during the course of the morning to address the health care issue; am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO BOB WIKLUND

Mr. DOLE. Mr. President, I have been on the floor several times recently to recognize members of my staff who were moving on to new jobs. Sometimes they were going to a new position on the Hill.

Sometimes they were headed to K Street to work in the private sector, or elsewhere on the east coast to return to school. I even had a staffer recently who moved all the way to Colorado. But I think Bob Wiklund, a loyal member of my staff for 4 years, takes the record as he prepares to move to Belarus in the former Soviet Union.

A native of Lawrence, KS, Bob began his work in my office as an intern. He did not say too much at first, but he sure turned out a lot of work. He stepped into the duties of a legislative correspondent for foreign policy and defense, and he did so well that I decided to hire him for that job when his internship was over and we could not get him to do it for free anymore. Hiring Bob turned out to be a smart move. As our resident Russian speaker, he was very helpful during visits to my office by Mikhail Gorbachev and Boris Yeltsin. And when President Yeltsin accepted an invitation to visit my home State of Kansas, Bob was invaluable in translating letters, helping coordinate details, and acting as a liaison between my office and the Russian delegation.

After 2 years as a legislative correspondent, Bob began studying for his master's degree in international economics at the Johns Hopkins School for Advanced International Studies, but he continued to work in my office part time. This spring, Bob completed his degree and was selected by the World Bank to act as an adviser on privatization in Belarus. If his work for me is anything to go by, he will do an outstanding job. I appreciate all Bob's hard work over the years, and I wish him and his wife, Carrie, all the best in this adventure.

SALUTE TO LAURA DOVE

Mr. DOLE. Mr. President, on behalf of all my Republican colleagues, I rise to say "Thank you and good luck" to Laura Dove of the Senate Republican Cloakroom.

Today is Laura's last day in the Cloakroom, as she leaves for graduate school at the University of Virginia.

It will not be too long before Laura rivals Senator THURMOND in terms of Senate experience. Not only has she worked in the Cloakroom since May of 1992, but she also worked there from May 1987 to September 1988, and she served as a Republican page from September to December of 1986.

While at University of Virginia, Laura will also be working as a sorority housemother, and I look forward to hearing if riding herd on a bunch of college students is easier than riding herd on a bunch of Senators.

BIPARTISAN CRIME BILL

Mr. DOLE. Mr. President, finally, I would just say on the crime bill, I know we are going to be off on health care here in about 10 minutes for several hours today. It is my hope that the President, as I said yesterday, will see this not as a defeat under some procedural vote in the House but as an opportunity to work out some of the differences with Members of both parties and to indicate again that bipartisanship means you start together and you

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

work together; you do not put it together and then ask the other party, whichever party it is, to come on board.

I am very hopeful that the President will consult with Members of both parties and take out some of the excessive spending in the package that went from a few billion dollars in the bill that passed the Senate by a vote of 95 to 4, I think it was, or 94 to 5 and then was increased, doubled, tripled, quadrupled on the House side, billions of dollars without any hearings and without much debate.

I think if that were done, and then some of the tough provisions that were dropped out of the crime bill were put back in, in my view, that would go a long way toward reaching strong bipartisan support for what is, what could be a very important piece of legislation. It is not a good bill, as the New York Times said today. It is not a good bill now, but it could be a good bill. It should be a good bill, and it should be bipartisan.

If the President is willing to work in that fashion, I think it would be helpful not only with reference to the crime bill but maybe other legislation that is pending and will be pending before we complete our work this year.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will call the roll.

Mr. KENNEDY. Mr. President, will the Senator withhold.

Mr. DOLE. I withhold.

Mr. KENNEDY. I thank the Senator.

Mr. President, I yield myself such time as I might use until other Members come over who wish to address the Senate in morning business, and then I will withhold the rest of my comments until later in the morning.

INSURANCE COVERAGE FOR CHILDREN

Mr. KENNEDY. Mr. President, the amendment that we will be considering today focuses on our Nation's most precious asset, our children. It improves what is already one of the strongest provisions of Senator MITCHELL's health reform proposal.

The Mitchell bill provides affordable insurance coverage for children in every American family beginning in 1997. People with incomes of less than 185 percent of poverty will be able to insure their children without any charge. Subsidies will be provided for people up to 300 percent of poverty. Comparable assistance will be provided for pregnant women.

For hard-working Americans, this bill guarantees that you will never have to choose between putting food on the table, paying a mortgage, and health care for your children.

Under the bill, if you are a family with two children and your income is less than $27,000, you will be able to insure your children at no charge. If your income is $35,000, you will pay approximately $230, less than 1 percent of your income. If you make $37,000, you will pay $1,000, but still less than 3 percent of your income. Families with $44,000 in income, the level at which subsidies phase out, will pay the full price of about $1,800, or about 4 percent of the family income.

The Mitchell bill recognizes that a health insurance card alone is not enough to guarantee timely health care for every child. So for children in the poorest school districts, the program provides Federal financial assistance for school-based or school-related health programs, under local control to make sure that children get the health services they need to do well in school and ultimately do well in life.

I must say on this point, Mr. President, one of the very, very important provisions in the Mitchell legislation, which was also in the President's program, is the development of health clinics in our schools. We have not been able to develop those kinds of programs for a variety of reasons in recent years. Anyone who has had the opportunity to visit schools, both in the inner cities, or out in rural communities, knows the kind of challenge that is out there for the children.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. KENNEDY. Yes.

Mr. DASCHLE. I commend the Senator for drawing attention to the fact that school-based health clinics are one of the major focuses of the Mitchell bill.

As the Senator so eloquently has stated, there are too many occasions when students have access to no other medical care than what they now get in their schools. In some cases they do not even have access to school-based clinics. So with clinics, whether they are in rural or urban settings, we can really put meaning to the word "prevention". We can finally catch children's medical problems prior to the time that they become severe and possibly untreatable. There is no other bill pending before the Senate that emphasizes prevention like the Mitchell bill.

I am glad the Senator pointed that out. I do not know what the situation is in Massachusetts. But I know in South Dakota it is an extraordinary problem. Students today go to school with illnesses that are left undetected and untreated. We have a paucity of nurses. We have a severe shortage of nurse practitioners. We have few clinicians. We have little ability to treat children in rural areas. Under this bill, for the first time, we will be able to give students the opportunity to seek primary and preventive care.

I think the Senator is absolutely right.

Mr. KENNEDY. I thank the Senator because he brings a perspective to this of the importance in terms of the rural communities. In Arkansas, for example, they have developed these health clinics. It has taken some period of time. There was a good deal of initial resistance and reluctance in the initial development of those programs. I believe it took probably 2 or 3 years to develop half-a-dozen of those programs, all which involve the parents in the fashioning and the shaping of these health clinics as well as the teachers and the health professionals. Now the demand for those clinics, in rural areas as well as in the urban areas, is dramatic. They have been an extraordinary success. They are expanding on the basis of very limited resources.

We have found in my own city of Boston, that the Cambridge Rindge and Latin High School is one of the few schools in an urban area in my State that has developed a health clinic. It has a rather interesting historical background, and I will not take the time of the Senate to point out how it got developed. But it has been an extraordinary success in helping children that are coming from homes where there is abuse, physical abuse, and substance abuse; the problems in terms of hunger; the detection for example in terms of many of these illnesses at an early stage so that the child can be cured and also be participating in schools.

Many parents, hard-working parents, even when they have the children who are sick, still send their children to school because they do not have any day care to provide for them. They are endangering the other children. If you are able to have interventions in the health settings in schools, it makes an important difference.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. KENNEDY. Sure.

Mr. DASCHLE. How many of those clinics does the Senator have in Massachusetts today? Does the Senator have any idea?

Mr. KENNEDY. I could probably count those school-based clinics on two hands, maybe three, but not any more.

Mr. DASCHLE. In South Dakota the situation is exactly the same. We have three or four of those clinics in the entire State. That is one of the key issues. I am glad the Senator has drawn attention to that in his remarks this morning.

Mr. KENNEDY. I want to point out to the Senator, we see our colleagues on the other side, that the provision passed 17 to nothing in our committee. It had unanimous Republican support, and Democratic support. We spent some time in fashioning and in shaping to make sure that it was really going to be reflective of local parents, local health care needs, age-appropriate kinds of interventions, but at the end of the day we were able to come together with virtually a unanimous proposal.

When we are talking, as we did briefly yesterday, about how this legislation, the Mitchell legislation, affects children, and it has been, I must say, a significant improvement over the course of the development of legislation over that which was even recommended by the President; and it is a great tribute to the work that was done by the Finance Committee, Senator MOYNIHAN, Senator RIEGLE, and others on that committee.

In addition to providing affordable coverage for every American child, the Mitchell bill establishes a standard benefit package that includes comprehensive preventive benefits for children, from prenatal care to immunizations to regular physical examinations. Every physician—and most parents, too—know that good preventive care is the best way to make sure that children get the healthy start in life that they deserve. Preventive care is cost-effective, as well. Every dollar spent on prenatal care saves more than three times as much in reduced medical costs for premature babies and other low birth-weight babies. Every dollar spent on DPT vaccinations save $30.

The Mitchell bill is really a health care bill of rights for every American child. But the Dodd amendment will make it even better. Most of the programs under the Mitchell bill are scheduled to begin in 1997, including the requirement that all insurance plans include comprehensive preventive benefits for children. This amendment starts that part of the program right away. It does not subsidize any family's purchase of insurance in advance of the 1997 implementation date. It does not add any new Government obligations. Instead, it simply says that every new insurance policy sold and every policy renewed, beginning July 1, 1995, must include comprehensive preventive benefits for children. Twenty-one States have already legislated this requirement. Many insurance policies voluntarily cover these services.

This amendment says: Let us not wait until 1997 to bring these benefits to every insured child. Let us not let a single additional child grow up disabled or suffer unnecessary illness or death because we failed to provide preventive care. The cost of this additional benefit for policies that do not already provide it is very small—about $2 per month per child, according to the Traveller's Insurance Co. But the potential value of that ounce of prevention to millions of American children is very great.

I know that many of my Republican friends in this body are strongly committed to better health care for America's children. I urge them to join us in making the Mitchell bill an even better bill for children by adopting this amendment. I urge them to buckle down and join us in the business of legislating. If they think the Mitchell bill needs improvement, let them offer amendments. If they think they have a better alternative, let them offer it—so that we can debate it in the full view of the American people.

When it comes to protection for America's children, the Republican plan simply doesn't measure up to the Mitchell bill. It doesn't achieve affordable coverage and it doesn't guarantee comprehensive preventive care without copayments or deductibles. The Mitchell plan requires coverage of clinical preventive services without any copayments or deductibles. The Republican plan requires only one benefit package to include any preventive services at all.

On the crucial issue of affordability, the Dole plan helps children in the poorest families—and, of course, the rich can always buy coverage—but it provides no assistance or protection for children in the middle-class families that work hard, play by the rules, but still can't afford the coverage they need. The Dole plan makes no coverage available especially for children, and a family earning $22,000 a year would have to pay approximately $5,900 to buy family coverage—more than a quarter of the family's total income.

I think we can do better than that for America's children. So I urge this body to adopt this amendment, and I urge my colleagues to work with us to make the Mitchell bill the best program possible for the American people—and especially for the children who are America's future.

Now before the Senate we have this very interesting proposal that has been introduced by Senator DODD and others that will extend the requirements for the inclusion of these preventive programs that were linked to children's needs in the schools.

So, Mr. President, I will come back and address this issue. I see a number of our colleagues that want to use probably the morning hour. I will come back at an appropriate time in the morning and address it.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

HEALTH SECURITY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Dodd amendment No. 2561 (to amendment No. 2560), to promote early and effective health care services for pregnant women and children.

The ACTING PRESIDENT pro tempore. The time until 5 p.m. shall be for debate only, to be equally divided and controlled by the managers of the bill or their designees. Who seeks recognition?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield such time as the Senator from Maine may need.

Mr. COHEN. Mr. President, I thank the Senator from Oregon. Mr. President, as the debate on health care reform rages on and Republicans are buffeted with charges of being obstructionists and incrementalists, I am filled with a sense of deja vu—perhaps in Yogi Berra's words, "deja vu all over again."

I must say I was disappointed, but not surprised, to see a story in the Washington Post that was headlined, "Senate Republicans Impede Health Care Legislation."

Mr. President, why did not the headline read: "Senate Republicans Halt Rush to Premature Amendments"?

The story also said that we spent 4 days on this legislation before the first amendment was introduced. We spent portions of 4 days. If you total up the hours spent, it might total one entire day.

As I understand it, only nine Republican Senators have had an opportunity to speak on this legislation—only nine of us. Yet, we are now accused of impeding progress on health care legislation.

Mr. President, this is legislation which we are told has been in the waiting now for some 40 or 50 years. It seems to me that taking several days to at least allow the Members to make opening statements on legislation that they and their constituents are deeply concerned about is not asking too much.

It should not be reported that we are being obstructionists just because we want to give Members the opportunity to speak, not to delay, but to at least express their opinions. Just because we want to have the opportunity to speak, we should not be labeled as obstructionists or incrementalists or accused of impeding health care legislation.

Mr. President, back in the summer of 1990, in response to what was then an emerging issue of increasing national concern, Senator DOLE charged Senator JOHN CHAFEE with the job of forming a Republican task force to develop a comprehensive proposal for national health care reform.

Over the next 3 consecutive years we met regularly—every single Thursday morning for an hour, an hour and a half, and sometimes even 2 hours—to define, discuss, and debate the problems plaguing our health care system. Sometimes we brought in experts to at least try to enlighten us about complex technical issues, such as risk adjustment. But more often than not, we talked among ourselves, discussing a multitude of issues raised by our constituents, and even about our own personal experiences with the health care system.

The problems were clear. Health care spending, which this year is expected to top some trillion dollars, was at an all-time high and rising daily, placing a strain on families and employers and governments alike. As health care costs skyrocketed, more and more Americans were being priced out of the market, leaving some 37 million or more Americans at any given time with no health care coverage whatsoever, and many more living in terror that they would lose their coverage if they became ill or changed jobs.

We all found it both ironic and tragic that under our current system, the very people who need health care coverage and treatment the most are the ones who cannot get coverage simply because they are already sick or suffering from a preexisting condition. We agreed unanimously that health care insurance should be portable; that insurers should be prohibited from denying, canceling, or limiting coverage on the basis of a person's health status.

We agreed that, rather than competing on the basis of their ability to attract the healthiest customers, insurers ought, instead, to be competing on the basis of price, quality, and service. We agreed that insurance market reforms—guaranteed eligibility and renewability, portability and limitations preexisting condition exclusions, should all be a part of any health care reform proposals.

We reached agreement on several other key components that we believed a bipartisan majority in Congress could agree upon; namely, access to health care for all Americans; subsidies for low-income individuals and families; full tax deductibility for the self-employed; encouragement of managed care and cost containment to make coverage more affordable; administrative reforms to reduce costs and paperwork and to make the system more efficient; malpractice reforms to reduce the costly practice of defensive medicine; expanded access to care in rural areas and incentives to encourage more physicians to enter primary care; stronger efforts to combat fraud and abuse which robs our health care system of as much as $100 billion a year; and, finally, greater emphasis on primary and defensive care.

These principles were part of my own legislation, which I offered back in 1990—4 years ago. It is a 76-page document. This bill which I introduced emerged as the major campaign issue in 1990 when I was running for reelection. My opponent, who favored a single-payer plan based on the Canadian system, said my approach was too complicated. This 76-page document was too complicated. We needed a simple system like the single-payer system. So it was dismissed as being too long, too involved, too convoluted and complicated. Most of the principles I just mentioned, that we have bipartisan support upon, were contained in this legislation, but it was dismissed.

Now, we have a new document which is not just 1,410 pages. I checked this morning. It has been amended for the second time and is now 1,443 pages.

Mr. President, I mentioned a moment ago that we incorporated provisions dealing with health care fraud. Over a year ago, I first introduced my health care fraud bill. As I recall, it was in May of last year. Nothing was done until November, when we passed an amendment to the crime bill, trying to come to grips with health care fraud, which, according to GAO, is costing us $100 billion a year. But even though the we passed it on our version of the crime bill, the House objected and dropped it in conference.

Maybe that was a wise thing to do in view of what happened with the crime bill. They said, "Let us save it for the health care debate." So we have saved it for a year and a half now. We may not finish this debate this year. Hopefully, we will. But we have already lost an opportunity to get some of that $100 billion a year that we are losing. We are losing $275 million a day—$275 million a day—to fraud, $11.5 million every hour to fraud. Yet, we have delayed almost 2 years now from taking any action to deal with it.

Mr. President, the key principles agreed to in the Republican health care task force were also contained in the bill submitted by Senator CHAFEE on behalf of some 20 of us who supported his efforts.

They are also contained in many of the Democratic proposals. Indeed, they are even contained in the latest version of the majority leader's amendment. Many of these principles were incorporated into Senator Lloyd Bentsen's proposal that was passed in the Senate—but later dropped in conference—as part of the 1992 tax bill.

So we had broad bipartisan support for those new initiatives.

In the fall of 1992, Senator DOLE, Senator CHAFEE, I, and several others, approached the majority with a list of what we called 11 points of commonality between Republican and Democratic proposals. We met with the majority leader's task force on more than one occasion to press for these reforms on which there was broad-based bipartisan agreement. These were significant steps that we believed could and should be taken immediately to slow the growth of health care costs and increase access to quality health care for millions of Americans.

We were rebuffed. We were told that reforms were not comprehensive enough and that anything short of comprehensive reform would not do.

Mr. President, let me say, very frankly, it was a stall. It was a stonewall. I believe it was a political tactic to delay any reforms until the elections were over in November. That is what happened. The Democratic majority wanted a perfect issue and not an imperfect solution, and it was a perfect political issue at that time. The point is, we had broad-based agreement and we could have passed something.

So here we are, 2 years later, still talking about the same principles on which we know there is broad-based bipartisan agreement: portability, no preexisting condition exclusions, affordable coverage, expanded access, emphasis on prevention, cost containment, administrative simplification, and stronger efforts to combat fraud and abuse.

We agree on those provisions, and they are part of the Dole-Packwood bill. They are also part of the Mitchell bill.

The problem is the majority leader's bill goes far beyond these areas of agreement and would drastically alter the delivery of health care in this country.

I have listened to the debate, and I must tell you I have been moved by the recitation of the tragic stories that have affected and have afflicted so many thousands and perhaps millions of Americans who lack adequate health insurance coverage under the current system. I cannot agree more that we must do everything we can to correct this situation for the families who are suffering on a daily basis.

But what is most tragic of all is that most of the situations that have been so poignantly described in this Chamber during the portions of the past 4 days that have been devoted to the health care debate would have been helped immediately by the proposals set forth by Senator CHAFEE, myself, and others.

Mr. President, health care reform has often been compared to two other major social reforms of the 20th century—the creation of Social Security in 1935 and then Medicare some 30 years later. However controversial they may have been at the time, both of these major proposals were ultimately passed. The House passed the Social Security Act by a vote of 371 to 33, the Senate by a vote of 77 to 6. The margin on the Medicare bill was somewhat narrower but still conclusive—68 to 21 in the Senate, and 307 to 116 in the House. As controversial as they were, these two measures enjoyed broad bipartisan support.

We are told that the President of the United States is now pursuing a 51-vote strategy. Let me suggest that it may—and I will talk about this at length in a moment—it may be in the political interest of the President to pursue that strategy. I think it is bad for the country. Let me just suggest why.

If we are to pursue a 51-vote strategy in this Chamber, or 52 votes or perhaps even 1 or 2 more, I can assure you that the very next thing that is going to happen after the election in the fall is that the reforms we pass now will begin to unravel.

In the fall elections, we on the Republican side expect to gain several more votes. It may be one; it may be two. Conceivably it could be 10. I do not want to alarm the chairman of the Finance Committee—let me compromise—let me say that we expect that anywhere from one to five may come to our side.

In any event, whatever the margin of increase, I can almost assure you that, from the day we come back into session next January, an effort will be made to undo legislation that passed by a 51-vote strategy. And the President will sit in the White House and he will exercise his veto, and, depending upon how many Members are added to this side of the aisle, he may be successful. He will spend the next 2 years of his administration vetoing legislation.

In the meantime, the country will be in a state of complete turbulence. Our constituents will want to know: Are we in? Are we out? Do we have a plan or not? Is it HIPC or non-HIPC? Is it voluntary or involuntary? What should we plan on?

I can guarantee you the effort will be made on this side to undo something that passes by that narrow a margin. That is not good for the country.

We need not do that. We have an opportunity to put together something that many of us, if not most of us, can support.

But if you are just looking to have 51 votes, and that is it, on a straight, narrow party line vote, you will get a short-term political victory, perhaps—and I am not even sure it will work in the short term to the President's advantage. It may be that it only causes more turbulence in the country prior to November, and it will not redound to his benefit or to anyone else's in this Chamber.

Mr. President, I have a profound sense of apprehension about any strategy that seeks to ram something this important through on a party line basis because there are people of good will on both sides. There are many good things in the Mitchell amendment, and there are many good things in the Dole-Packwood proposal as well.

The decisions we make in the coming weeks will have profound consequences for every single American and will control the future direction of one-seventh of our Nation's economy. We should not even begin to contemplate enacting such sweeping reforms unless they have broad based and bipartisan support.

To date, much of the discussion of Senator MITCHELL's plan has focused on the issues of universal coverage, mandates, and the search for the ever-elusive perfect trigger—what some have called the Goldilocks trigger, one that is not too hard and one that is not too soft.

Mr. President, Gertrude Stein once said, "A rose is a rose is a rose."

An employer mandate is still the equivalent of a tax on jobs, with a trigger or without. Whether you call it a mandate, it is a tax by any other name.

Employers are not going to bear the cost of that insurance—workers will, in the form of lower wages, lost benefits, and lost jobs. And CBO's analysis confirms that fact.

The trigger does nothing to change the essential problems with mandates. It just delays their impact until after the turn of the century. It is a slow-burning fuse that will trigger long-term damage and the loss of thousands of jobs.

Further, all of the focus on mandates and triggers has clouded the much more important issues that have to be decided with regard to what we are proposing to do with the health care system in the interim.

Even without the mandate, there is considerable new regulation in the majority leader's bill. This regulation will not only undermine the most effective and time-proven cost containment mechanism—competition—but it is going to add significantly to the costs of running a small business.

I am not sure those of us in this body appreciate the regulatory burdens that small businesses already face. I have the benefit of a private adviser on these matters. He is my father. He is 85 years old. He works 18 hours a day, 6 days a week. He has no pension plan. He has no investments, no stocks, no bonds. He just has to keep working to support himself and my mother and other members of the family. I know what he has to go through to make ends meet. And he could not do it, he could not stay in business if we imposed a mandate, as the Gephardt bill will do, upon him. It may be the majority leader's amendment's exclusion of employers with 25 or fewer workers will exempt him or others similarly situated.

But once you have a mandate in place, it is only a question of time until it starts to be applied along the line. We will have to deal with the arguments that a small business exemption allows employers with less than 25 workers to cost shift. One can see inevitably that the handwriting on the wall is not forgery. It will ultimately be applied down the line to every single employer.

Another person whose counsel I have taken and would urge others to take on this matter is, surprisingly, that of former Senator George McGovern.

Two years ago, Senator McGovern had printed in the Wall Street Journal what amounted to a mea culpa. He regretted that he never really understood the struggles of running a small business until after he left public service and opened a small inn in Connecticut.

He wished he had this experience before he entered the Senate. He said that he would have been a better Senator and a better Presidential contender. He said he would have been more sensitive to the impact Government mandates and regulations have on small businesses, driving up operating costs and even—as in his case—forcing many of them into bankruptcy.

Mr. President, I ask unanimous consent to have printed at the end of my remarks the article written by Senator McGovern for the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COHEN. Mr. President, as CBO has repeatedly testified and reported to us, no one really knows what the impact of the regulations contained in this amendment are going to be—no one, not the Members of this Chamber, not the other Chamber, not the country, not CBO. No one knows the impact of these regulations, and we ought to proceed with some caution.

I recall a few years ago when Congress instituted a tax on luxury boats.

The chairman of the Finance Committee is nodding.

It was perceived by many simply as a way of squeezing revenue from the rich and the famous. Instead they stopped buying large boats and the workers suffered. We aimed at the wallets of the rich and we hit the blue-collar, middle-class workers in the neck. We put them out of work. We put them out of work because we were trying to tax the rich. "Let's get the rich," we said, and we hit the people right in the middle.

And this legislation runs the risk of hitting those same people right in the middle by putting them out of work as well.

This is a very good example of how Congress often does not appreciate the ultimate consequences of its actions. We ought to keep this in mind as we continue to debate health care legislation.

One of the clear messages that I have received from my constituents is they are concerned about choice, about any plan that takes too much of the decision-making authority about health care out of their hands and puts it into the hands of the Government regulators or bureaucrats.

The majority leader's legislation creates dozens and dozens of new Federal and State bureaucracies that would have unprecedented authority to regulate the way health care is bought, sold and, to a certain extent, even practiced in this country.

We have a powerful new National Health Board that would be making decisions on what medical care is necessary and appropriate—decisions that one would think should be between the patient and his or her physician. A National Council on Graduate Medical Education will set quotas and tell medical students what specialties they can practice. And there is a strange system of mandatory voluntary purchasing cooperatives that is going to herd all employees of businesses that have less than 500 workers into large collectives and destroy their employers' ability to control their costs.

All of this focus has dismissed concerns about costs.

Mr. MOYNIHAN. Will the Senator yield?

Mr. COHEN. I am almost finished. At the end, I will yield.

Now, a key element of cost containment has to be more competition. The more regulated the health care industry becomes, the less competition can occur and the more costs are going to increase.

One of the best ways to control health care costs is to give consumers incentives to choose efficient, cost-conscious plans. However, the majority leader's legislation would impose a complex and convoluted tax on plans whose premiums are growing—no matter how low those premiums might be.

This would lock in existing price differences, penalize plans that have been efficient, and reward plans that are not. It is little more than a backdoor approach to price controls.

Finally, I am concerned that the so-called fail-safe mechanism in this bill—which is intended to ensure that health care reform does not add to the deficit—is too weak. It is almost certain that the spending associated with the new entitlements and subsidies in the bill are going to exceed all expectations and further fuel the deficit that threatens to cripple the economy right now.

And I might point out that when Medicare was first adopted, it was projected to cost, I believe, $500 to $600 million. Lyndon Johnson said, "That is something that we can afford," and we passed it. The cost of Medicare now runs—correct me, Mr. Chairman, if I am wrong—as high as $150 billion per year.

So again we have to exercise some caution when we are projecting what ultimately will be the impact of legislation that we are proposing.

A few days ago, I had lunch with my oldest son, who was recently married. He said to me during lunch, "I hope that Congress will pass something by the end of the year." He will soon be off to graduate school at Dartmouth. He said it would be helpful, he thought, to have a health care bill that we could pass this year.

I assured him that I hoped it was possible. I would like to see legislation passed. But he, like most of my constituents, has no idea what devils lurk in the details of this massive amendment. He has no concept. And, indeed, the Members of this Senate still have limited knowledge and comprehension of what is in here.

There is a group of us meeting as I speak, 15—I think yesterday it reached as high as 17—Members of the Senate who are sitting down, going through this bill page by page, line by line, all individuals who are highly intelligent, who have studied this for several years, and who are confused about the implications of what is contained here.

We are working today. We will start again on Monday. We will continue to work through all next week so we can at least make some constructive proposals in terms of how we think this legislation can be improved.

I also pointed out to my son that the proposal that President Clinton now supports—namely, the majority leader's proposal; and the bill that Mrs. Clinton now opposes, namely the majority leader's proposal—is likely to raise the insurance rates that he and others in his age group will pay in order to reduce the costs to older citizens.

Frankly, he was stunned. He was absolutely stunned. He had no idea that pure or flat community rating would cause such an increase in his own insurance rates, which he cannot even afford now.

There are other provisions in this bill which are likely to stun the American people upon their full disclosure. And, Mr. President, at a future time, I will have more extensive comments to make when we debate these specific provisions of the majority leader's bill.

I would like, in the meantime, to add my own comments of praise to those of Senator CHAFEE for the majority leader, and commend him for modifying the President's proposal in an effort to seek compromise.

The next few weeks give us a very narrow window of opportunity to enact meaningful health care reform legislation. I suggest that the principles—the key principles outlined at the beginning of my statement—could form the basis of a centrist reform bill that relies upon competition rather than Government regulation to control costs, expand choice, and to ensure that everyone has access to the health care they need.

I believe it is the kind of proposal that would attract the broad-based, bipartisan support that is necessary for health care reform to succeed, and it would take us in the direction I believe the American people want to go.

I resist the notion that has been articulated by the White House that it is the majority leader's bill or nothing. If that is the case, we may very well end up with nothing. I have been encouraged by my colleague from Maine and his statement that his proposal is just the beginning and that he welcomes constructive proposals to improve it. And that is the attitude with which I have spent the last 3 years, nearly 4 years, of my own life in this body, working to improve our current system.

Finally, Mr. President, let me say that President Clinton and Mrs. Clinton have, I think, justifiably complained about the negativity that seems to be pervasive in our society. I think that they have been, in many instances, unfairly criticized. I think that they have taken a lot of unneeded, unwarranted, unjustified assaults. This is something that all of us should struggle to overcome and try to do our best to eliminate from our proceedings.

But it also works in the same fashion for them. They cannot, in turn, point to individual Members of the Senate, Senator DOLE in particular, and try to demonize him, saying: "There; the Republican leader is seeking to delay, to impede, to destroy."

Senator DOLE, not alone in this Chamber, but perhaps more than any other individual, has suffered pain during his lifetime. He knows what health care means and what not having it means. He can tell you—and he will not tell you—from family history what it means to go without insurance, to go out and have to raise money to pay for treatment that is not available without it.

So I do not think anyone is in a position to be too pious and point their finger at Senator DOLE or anyone else in this Chamber in an attempt to undermine their motive or cast aspersions upon their character.

What we need to do is to continue a debate which is healthy, constructive, positive, and has respect for all the Members in this Chamber.

There are others who also suffered war wounds and other types of pain during their lifetime. And no one, be it in this Chamber, the other Chamber, or in the White House, ought to be pointing fingers at those who are seeking to come up with the best possible proposal for the American people.

Mr. President, I hope there will be a cease-fire, a white flag raised, no more ad hominem attacks on individual Members. I think there is good will in this Chamber and that we can work together to come up with something that the majority can support and the majority of the people of this country will rally behind.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, June 1992]

A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

Wisdom too often never comes, and so one ought not to reject it merely because it comes late.—Justice Felix Frankfurter

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns, and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the inn's 43-year leasehold. I also wish that during the years I was in public office, I had had this firsthand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgment that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford, Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubted the worthiness of any of these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape." It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employees. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed $150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While one cannot assess the merit of all these claims, I've also witnessed firsthand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today, despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy in the Northeast being a significant cause. But that reason masks the variety of other challenges we faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or anti-trust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel while on vacation, but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from New York.

Mr. MOYNIHAN. Mr. President, could I congratulate and thank the Senator from Maine for his remarks and tell him that there is much more I agree with than disagree? But the central point of what he has said is how much in common we have on both sides of the aisle. I would remind him that the Committee on Finance reported a bipartisan bill and that bipartisanship is still here. On the front page of the New York Times—that is my hometown—Mr. Adam Clymer this morning reports, "Mitchell Sees Room for Dealing on Rival Health Care Proposals." "Big Gain Toward a Compromise in the Senate."

> Mr. Mitchell, the majority leader, said today that issues raised by bipartisan moderates led by Senator John H. Chafee appeared to be negotiable.

And of course they are.

I think we all need to ask ourselves about this particular form of ineffectiveness, of almost an entropic decline in our capacity to produce results, whether it is institutional, systemic—I do not know. Twenty-five years ago a Republican President—we can say that now—proposed a guaranteed income, which twice passed the U.S. House of Representatives and died in the Senate from those who said it was too much and those who said it was too little and those who made the calculation that, my goodness, if a Republican will do this, think what the next Democrat will do.

That same Republican President proposed universal health care and employer mandate. And I am standing 3 feet from the Republican manager of the bill here, Senator PACKWOOD, who introduced it. And again the calculation was made. Some thought it was too much. But on our side, some said not enough, we can get more. Think; if that man would give us this, think of how much more we can get. And we got nothing. That is the record. We got nothing. It is a quarter century of impasse.

And I think it is only in the spirit of which he speaks that we will move on. Because we are not getting better in some respects. I have frequently spoken of the extraordinary advances in medicine—medical technology, medical science—that we have seen in the last 30 years. But on the subject of infant mortality, in 1960 the United States was 11th among 23 OECD countries in infant mortality, and 30 years go by and we are 21st. We have not been looking to our affairs very competently. And we continually miss these opportunities.

There is an element of the neurotic in this, an element of the individual who repeatedly states one desire and behaves in a way that thwarts that desire. It is a very common neurotic pattern. I do not have to tell a person of the insight into these matters of the Senator from Maine, but I thank him for his address.

Mr. COHEN. Will the Senator yield at this point?

Mr. MOYNIHAN. I yield the floor.

Mr. COHEN. Mr. President, I go back to what I think will be the problem. Articles have been written about "demosclerosis." That our democracy has become——

Mr. MOYNIHAN. Demosclerosis.

Mr. COHEN. Filled with special interest groups that are highly organized; that they will prevent not only attempts to adopt new legislation but prevent any modification of existing legislation. We are suffering from a sclerotic condition.

One of the reasons I feel so strongly about not pursuing this 51-vote strategy, or narrow, partisan strategy, is that what will take place in the country, if the country sees that we are divided virtually on party lines with some minor exceptions, they will then be divided along party lines as well. Our division will be replicated and reflected out in the country. And they, in turn, will mobilize forces to change what we have done. That will continue. I am persuaded that will continue into the future.

If we really want to do something constructive for the country, if we reach broad-based bipartisan support, we send the signal to the country that we are united. If the country and the groups that are out there feel we are divided, as we are today—publicly at least—in terms of these issues they will seek to exploit that. And, year after year, President Clinton—he will not enjoy the next 2 years, I can assure you. He will not enjoy the next 2 years. We will not enjoy the next 2 years. And the country will be in a state of confusion.

I am pleading for both sides to try to find some appropriate middle ground. I am part of the Chafee mainstream group. I have been so. I continue to work in that fashion. I just hope we can stop the attacks. Frankly, I think by going to the amendment—I understand what the strategy is: Let us go to the amendments. Let us get some momentum going, pass some amendments, and give at least the perception that we are doing something constructive, rolling along. And that will give the House the incentive to go ahead.

We are in a situation where we, for the first time, are proceeding on a major tax bill in front of the House because they do not want to go first now, something extraordinary in our history.

I understand the tactics involved. But I plead with my colleagues on the other side, do not believe Members over here are seeking to stall and delay for the purpose of stalling and delaying. There are people over here who have been working on this for years, who would like the opportunity to speak. I have waited 4 years to speak—what was it, 25 minutes? I only consumed 25 minutes. I wanted to make that speech before we got to the amendment stage. There are others who feel equally strongly.

So I just resent the notion that somehow the headline story is Senate Republicans impede progress on health care legislation. We are not seeking to impede. We would like an opportunity to explain our positions to our constituents, to inform them of what we believe to be some of the deficiencies in the proposals, to let them know that a number of us over here, and I would say Senator DOLE is in this category—he has encouraged us to see if we can come up with some constructive solutions.

So it ought not to be labeled obstructionist once again, and pure negativity on the part of the Republican Party. I think we are working to see if we can do something that is in the best interests of the country.

Mr. KENNEDY. Will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Let me, when Senator KENNEDY speaks, yield our time.

Mr. KENNEDY. I was listening—and I see others who want to address it. But as we are moving through the course of the debate, I think it is important that we try to find out, as we use these terms, how they are related to the legislation that is at hand. I know there was some question in the presentation of the Senator about the allocations of various residency programs. Of course the Senator understands that the American taxpayers pay for better than half of all the residencies, unlike the law schools where individuals pay or the law schools pay.

So there are those, of whom I am one, who think since the American taxpayer is paying half or even more in many situations across the country, that the idea that the public should have some interest in the percent of residencies in different kinds of areas is not all that radical. Particularly when the AAMC, which is the principal instrument for the medical colleges, supported various—this proposal.

I was wondering, since the Senator mentioned this in what I perceived as somewhat of a derogatory way about the Federal Government making decisions about who are going to be doctors and specialists, what does the Senator—what is the Senator's alternative?

Mr. COHEN. I ask whether or not the Senator from Massachusetts thinks it is in the best interests of the people of the State of New York to tell the State of New York how many orthopedic surgeons it might plan on?

Mr. KENNEDY. Of course that is not in the bill. That is not in the bill, in terms of allocating any kind of formula to any particular medical school. I know there have been those who have been out here for the past days who suggested that, but that is not the bill.

The other point I would make to the Senator and that is on the preexisting conditions. I was just looking through the Dole legislation on preexisting. We are all against preexisting conditions as well. It is in the Mitchell bill. Those provisions are illustrated in the Dole proposal on page 80 where it talks about the preexisting.

I do not question in my own mind that the Senator wants to eliminate preexisting conditions. We have been listening to debate on both sides saying how we all want to eliminate preexisting conditions. Of course, the Dole provision does not provide that. If you have any kind of serious illness, serious sickness, if you have diabetes, if you have cancer, if you have been diagnosed in those particular ways, you are excluded under the Dole proposal.

I am just wondering, as the Senator and the chairman of the Finance Committee has pointed out, in a spirit of comity, if the Senator's position would be whatever we pass will truly eliminate all preexisting conditions, in whatever will be coming through hopefully—prayerfully. I think, quite frankly, there are some provisions in terms of the complete elimination of the preexisting under the Mitchell proposal that might be adjusted to change as well.

But just in terms of where the Senator from Maine is coming out, do I understand he would be for the complete elimination of the preexisting condition and would like to see that changed in the Dole bill or perhaps modified in the Mitchell bill?

Mr. COHEN. I believe that there is quite a similarity between the Mitchell proposal and the Dole proposal, as far as preexisting condition. My own view—I go back to my personal view—is, I favor the elimination of preexisting conditions with perhaps some timeframe to make sure people do not wait until they actually get sick before seeking coverage. I think you will find broad-based support in the Chafee proposal, and I think the Dole proposal is not that far away from the Mitchell proposal on preexisting.

Mr. KENNEDY. There are other Senators waiting.

If you have heart disease today, if you have cancer today, if you have diabetes, juvenile diabetes, under the Dole proposal they are not considered to be eligible, under the language that is printed in there. I will join with the Senator in working to make sure, however, that as we come through this process that we do it.

I certainly know that the Senator—I have talked to him about health care policy on a number of occasions—his own position is the elimination certainly, and mine. And it is one, I think, as we go through this discussion and debate, it is important because I think that is one of the very, very important key items in terms of any health care policy reform: The elimination of that preexisting condition. We can talk about it. The real question, as has been pointed out by our colleagues, is whether the language conforms.

Mr. COHEN. May I say in response, that is one of the benefits of taking our time and going through the legislation so we are all sure exactly where the Mitchell bill is, where the Dole bill is, where the Chafee proposal may take us. That is the benefit of having this kind of debate without characterizing it as being obstructionist or anyone trying to engage in a filibuster. I have not heard anyone—virtually no one—on this side talk about a filibuster. We want to discuss this measure at length because it is not altogether clear what the distinctions are between the legislative proposals.

I might say, Mr. President, if I can just complete my remarks, it seems to me there is a philosophical approach that is quite different in how we have approached it and how those on your side have approached it.

I believe Senator MITCHELL takes the position, and that is reflected by the majority and Democratic side, that you must have universal coverage in order to reduce costs. Those on this side take the approach that we must reduce costs in order to get universal coverage. Hopefully, these two positions will move closer together. But those are the basic philosophical differences that divide us right now. I believe there is a middle course we can pursue to achieve our goal.

Mr. KENNEDY. If I can ask one final question. When you talk about the cost provisions in the Dole bill, as the Senators——

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield as much time as the Senator needs.

Mr. KENNEDY. There are other Senators here.

In looking through this—and I think this is another element in terms of the limitations on costs—I had a good deal of difficulty in identifying on page 82—it basically talks about rating limitations for community-rated plans. There is no limit on how much insurance companies can charge.

We have seen since 1986 that there has been a 117 percent increase in premiums with only a 24 percent increase in wages. We have seen the flow lines. Perhaps the Senator—maybe others on that side—as we go through the day can address that issue. I think it would be helpful. I think we are getting into the substance of preexisting conditions, the children's issues, how are we going to get a handle on costs.

I, quite frankly, think we are going to have to address the issues, at least for me perhaps, even more effectively than we have in the Mitchell bill. In looking through that, I do find that it is difficult to see where the costs would really be restrained in the Dole proposal.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I want to associate myself with the Senator from Maine with respect to what is in this bill.

Several days ago, a week ago, I offered the thought that it would be most unwise for the Federal Government to start lowering the number of medical graduates who were taking their residency in our hospitals. It would reduce the supply of doctors. It was agreed that this was not to be done, as I understood.

Yet, I open to page 483, "Health Professions Workforce and Public Health Initiatives, Workforce Priorities Under Federal Payments."

We turn here, Mr. President, and we find that we apparently have established a National Council on Graduate Medical Education. It says—the Senator from Maine might want to hear this—on page 491:

> ANNUAL AUTHORIZATION OF NUMBER OF POSITIONS.—In the case of each medical speciality, the National Council shall * * * designate for academic year 1998–1999 and each subsequent academic year the number of individuals nationwide who are authorized to be enrolled in eligible programs in each medical speciality. * * *
>
> (b)(1) REQUIREMENT ACROSS SPECIALITIES.—
>
> (B) REDUCTION.—For each of the academic years * * * total determined * * * shall be reduced by a percentage determined by the National Council.

If I may say, Mr. President, this is not my understanding of how science proceeds. I claim no special knowledge of this at all. But I have been a member of the President's Science Advisory Council. I have been a vice president elected to the American Association for the Advancement of Science, the largest organization of its kind in the world.

I feel scientists would recoil at the notion that work which is, by definition, unpredictable and follows extraordinary paths, collapses one discipline into another and then expands in five more—that sort of creative process—for the Government to reach out and require, but most importantly, to reduce.

Do we want fewer doctors in order that there be better health? This has never been debated, never been explained. It just keeps coming out in this legislation. There is a staff member somewhere who wants this. And no matter what we do, we keep getting it.

This is hubristic. This invites the wrath of the gods. This invites the death, the closing of a great moment of medical discovery, unprecedented on Earth. In the history of medicine, no such thing has happened in the advances in the last 30 years made in the United States. This is, if I may say—and I do not wish to introduce first amendment problems to this debate—but this is a sin against the Holy Ghost.

Mr. COHEN. If the Senator will yield——

Mr. MOYNIHAN. I have said all I have to say. I have to go back in the back room and read this again.

Mr. COHEN. I am told that the members of the Finance Committee, the so-called mainstream group that reported out the bill in the Finance Committee, when they saw the actual language of the bill, were stunned; that they found there were measures put in the bill that the committee reported out that there was complete disagreement upon. And the attitude was, well—staff's attitude was, well, since you did not discuss it, we had no prohibition against putting it in. We had members coming out and saying, well, I supported that bill—what I thought was the bill—but I do not support this legislation any longer; that is not what we thought we had agreed upon. Am I incorrect in that?

Mr. MOYNIHAN. I must say there is a staffer somewhere—not on the Finance Committee staff—who does dearly love quotas for thoracic surgeons. How he got that way, or she got that way, I do not know. But we are on the verge of adopting them and we will not know we have done so.

Mr. ROCKEFELLER addressed the Chair.

Mr. MOYNIHAN. Mr. President, I yield the floor. I see the Senator from South Dakota was going to speak but the Senator from West Virginia wants to speak on this point.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the distinguished Presiding Officer.

I thought the Senator from Maine just at the very end of his remarks brought up an extremely important point, and I think it is in fact the core of this whole debate. That is, he said that what the Democrats appear to want to do is to do universal coverage in order that you can reduce cost, and what the Republicans want to do, to the extent that there are differences, what the Republicans want to do is reduce cost and then proceed to universal coverage.

That takes me back to precisely the first subject that was discussed and debated in the Pepper Commission. Senator DAVID DURENBERGER was a member of that Commission. Senator EDWARD KENNEDY was a member of that commission. BOB KERREY was not a member but attended all of the Commission meetings.

And that is the core of the debate. We debated that on our very first series of meetings. They always began at 8 o'clock in the morning. What we decided was that you cannot pick one core or pick the other core, you have to do both at the same time to achieve both or other; that if you do not go for universal coverage in the Mitchell plan, it is not an immediate reach—it is a step-by-step reach—that you can by definition not control costs.

On the other hand, if you just simply control costs, or in the Dole plan, for example, as you cut from Medicaid and Medicare and things of that sort and do not return those into programs for seniors but for subsidies for the poor, that is not going to get you universal coverage.

We decided on a bipartisan basis—there was not a single dissenting vote in the group—at the beginning of the Pepper Commission, as we set our basic philosophy, we agreed that we had to do both. We had to work for universal coverage, which we achieved in our plan, and cost containment, which in my judgment we achieved but achieved insufficiently in our plan.

I agree with the Senator. I think that is fundamental, and I would lay down that stipulation as a major source of meritorious, substantive debate in these next several weeks. We have to do both, Mr. President. We have to both work toward universal coverage and we have to control cost if we are going to make the American health care system work.

I thank the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). Who yields time?

Mr. MOYNIHAN. Madam President, the distinguished Senator from South Dakota, the chairman of the Democratic Policy Committee, is on the floor equipped with diagrams, and I yield him such time as he may require.

Mr. PACKWOOD. Madam President, would the Senator yield for a unanimous consent request?

Mr. DASCHLE. I would be happy to yield.

Mr. PACKWOOD. I ask unanimous consent that Peter J. Levin, a fellow on health care on Senator MACK's staff, be granted floor privileges during the consideration of S. 2357, the Health Security Act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PACKWOOD. I thank my friend from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I, too, want to express my strong agreement with some of the points raised by the Senator from Maine just a moment ago.

He, like many of us, has expressed an interest in bipartisanship and trying to reach agreement on many of these difficult points. He indicated he, too, was concerned about the mischaracterization of much of what is being proposed here. He expressed his concern about impugning motives on the Republican leader, and I share that concern.

Like the Senator from Maine, I have immense respect for the Republican leader, as I know he has respect for the Democratic majority leader. Yet, I hear many remarks made on both sides of the aisle that mischaracterize his proposal and use hyperbole to make points.

Last night, as we ended the debate, there were many references made to the Mitchell bill. In fact, if they were just references, I would not be troubled. But many opponents of the Mitchell bill raised what they characterized as three versions of a Mitchell bill. They want us to believe that, somehow, the majority leader, using all of his imagination and legislative prowess, has come up with not one but three versions of his own bill.

That troubles me, frankly, because it is this type of mischaracterization, as the Senator from Maine correctly stated, that undermines our ability to have a substantive discussion of the real issues. Obviously, as concerned as I am with complexity and the need for a better understanding of what it is we are talking about, I asked the majority leader what was the basis for the changes made. His answer was surprising.

All of the changes in the version being characterized as a completely new bill are on one page. This is it. These are all the changes in the Mitchell bill—one page.

This legislation is a melding of the Labor Committee and Finance Committee bills. We have known that from the beginning. So no one should be misled into thinking we are redrafting the entire health care reform proposal and coming up with new versions daily.

The Republican manager of the bill, our colleague from Oregon, is probably as experienced a legislator as we have in the Senate. He has had to manage bills. He, like all of us, understands that as you develop legislation, there are technical corrections and other changes that must be made. He has had to do that himself on countless occasions. And so it makes a nice prop, but in my view it is a mischaracterization of what is going on here. And as the Senator from Maine so ably stated it, it does not serve the Senate or serve those who may be trying to understand this debate to imply that we have completely different versions coming out each day.

I think what is really important to the American people, what is important to this country, what is important to this body, is simply to try to do what we know has to be done. That is what we are here for, to address our health care problems.

I know, as the Senator from Maine also suggested, there are differences in philosophy. He cited one that I think is a very fundamental difference, though I do not think that it is necessarily a partisan difference.

I have a mentor who is no longer with us, who used to admonish the partisanship that often comes in heated debate and cautioned me on many occasions early in my public career not to view debates as Republican and Democrat, but as constructive and destructive. Oftentimes the debate becomes destructive for short-term political gain when, through constructive analysis and constructive debate, we can better realize our common goals.

One of those constructive debates that I hope will occur is how we do achieve the goals that we say we all want. We talk about universal coverage, and we talk about effective cost containment. And as the Senator from Maine implied, there are those who believe that you cannot achieve universal coverage until you have effectively controlled costs.

I believe, Mr. President, it is just the opposite; that until we include everybody in the system, we cannot effectively control costs. So many of the experts who came before the Finance Committee reiterated that point and elaborated on why it is important. All one has to do is think of an emergency room today. What happens when a person is not covered today? What happens is that person comes into an emergency room for what may be a bottle of aspirin costing somewhere between $2 or $3 in a pharmacy. But that trip to the emergency room for a bottle of aspirin for a young child with a fever costs $75. That is the kind of proliferation in costs that we are trying to deal with.

If that person walking into an emergency room had comprehensive insurance coverage, they would not have had to go to the emergency room. They would have been able to go to the pharmacy and get whatever pain relief may be required without exponentially increasing the cost of that one visit. That is how universal coverage affects cost containment. That is what we are talking about.

If people cannot get primary and preventive care, their costs are much higher in the long run. But it is not just running up the costs in a linear fashion. You also cost shift those costs. There are administrative costs involved in trying to figure out who is going to pay. Will it be the Government? Will it be the insurance companies? Will it be the hospital absorbing those costs? Somebody must cover those costs. That cost shift is what we are talking about.

Madam President, we will have many opportunities to debate these very consequential points. But I hope that, as the Senator from Maine suggested, we can do it with civility, that we can do it without impugning motives of those who may disagree with us.

As we have indicated, there is a profound admiration for many of those on the other side of the aisle who have studied this issue and who have come to different conclusions than some of us have on important points.

I hope that, as we try to resolve those differences, we can do so keeping in mind the best interests of this country and the credibility of the Senate.

Mr. REID. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from Nevada.

Mr. REID. I note the Senator indicated that the cost of emergency room treatment for someone needing aspirin is $75. I would say to my friend from South Dakota that may be the case in South Dakota, but in Las Vegas or Reno that same treatment would be closer to $300. That is going to the emergency room in Las Vegas, especially Las Vegas, and in Reno to a lesser degree. And the emergency rooms are filled with people who have no other place to go for health care. It may be a bad sore throat or a broken leg. But the fact is most of the people are there as a result of not of an emergency, not because of a motorcycle accident, but because they are sick and have no other place to go.

Mr. DASCHLE. The Senator makes a very important point. Obviously, the costs vary as you cross the country. Emergency room care is high-technology care involving extraordinarily high costs. In concentrated areas like Las Vegas, they are even higher than they are in rural settings like we have in South Dakota. So $75 may actually be the minimum charge for that kind of care. You could spend as much as $1,000 or $2,000 for emergency care, hundreds of times more than care provided in a traditional outpatient settings.

So I think the Senator makes a very important point. I was conservative with my $75 estimate. It could be much more.

Mr. REID. I would also say to my friend from South Dakota that I have followed this debate very closely. During the first days that we were working on this, our friends from the other side of the aisle rose and spoke on the Mitchell bill in a negative fashion.

Now, with the other bill that has been introduced, and we have stood to critique that bill, suddenly, it is no longer the way to do business here. We should not look at what is inside the Dole bill. Let us not look at the fact that it does not do anything for small business. Let us not look at the fact that it really is not a universal coverage bill. Let us not look at the fact that it does nothing for children or pregnant women.

I say to my friend from South Dakota that I think that is a responsibility we have, not in a mean-spirited fashion, but in an effort to find out what is in the Dole bill. I think we have a responsibility to do that, especially in light of the fact that the majority leader took considerable time before his bill was introduced. He took what he felt was the best out of finance bill, what he felt was best out of the education and labor bill, the best that he found in other plans that have been proposed by the mainstream group and others.

So, I think during the next few days and weeks, if it is necessary, we have to take a look at the bill that is being talked about as being the bill that is going to take care of health care in this country, and that is, namely, the bill offered by the distinguished minority leader. Does the Senator from South Dakota agree that we should take a look at that?

Mr. DASCHLE. Absolutely. I think the Senator from Nevada again makes another point that we ought to recognize. The purpose of this debate is to analyze the different approaches pending before the Senate so that we can come to some conclusions about which is the most appropriate course of action. I think that is the whole purpose of having a good, healthy debate about the different options available to us. We hope to do that again in a civil way, in a way that recognizes differences in philosophy and approach, but also recognizes the consequences of making the most appropriate decision.

The reason I have always felt the majority leader's bill was so critical to us is that, frankly, it does what we have said all along must be done if we are going to achieve meaningful reform and provide health care for all Americans. At the end of this process, we must accomplish our primary goals—offering greater choice, controlling costs, putting emphasis as the Dodd amendment does, on good primary and preventive care, especially for pregnant mothers and children, and providing opportunities for higher quality care.

In South Dakota these are all very serious concerns. How do we achieve good quality? How do we achieve meaningful cost containment? How do we achieve greater emphasis on primary and preventive care? How do we get universal coverage? The Mitchell bill makes a substantial contribution to that goal by melding the Labor and Finance Committee bills, which have been developed over many, many months.

Mr. KENNEDY. Will the Senator yield for a question? As the Senator mentioned, the melding together of the two different committee bills—is the Senator familiar with the fact that actually in the Labor Committee we had 51 hearings on health care since the introduction of the President's bill and a markup, and Finance held 30 hearings from September to June 1994. So those are 81 days of hearings with good representation of the Senate on that which has been included.

Mr. DASCHLE. I think the Senator is absolutely right. There has been an incredible amount of debate and analyses in both the Labor Committee and the Finance Committee. I know the Senator from West Virginia has held many hearings in the Veterans' Committee to explore how veterans would fare under health reform.

We have listened to witnesses from across the country—frankly, from all over the world; we have had people from other countries who have come to Washington to share their concerns and their experience with us.

Our colleague from Oregon has been a significant participant in those hearings. I do not know that he has missed a hearing. That demonstrates the kind of interest, the kind of thoughtful study that has gone into the process so far.

Mr. KENNEDY. Can I ask a question in one other area of public policy?

Mr. DASCHLE. Yes.

Mr. KENNEDY. I know the Senator has been interested in this. We were talking earlier today about the difference between the Mitchell bill and the Dole bill and how it treats preexisting conditions. I would just like to ask whether my understanding of the difference between the two bills is accurate—which is enormously important to families all over this country. There are about 44 million Americans who have some disability, and the 87 million American families have been touched by it. As I understand it—and correct me if I am wrong—under the Dole provision, if you are treated for an illness or a sickness anytime prior to the 3 months before you have an application or get your insurance, then the preexisting condition will not be treated for the next 6 months, will be excluded. As I understand it, that is the position of the Dole bill.

On the other hand, on the Mitchell bill, you have what is called the amnesty provision, so that anyone who has a preexisting condition can be covered. During the first enrollment time, the exclusion of preexisting conditions is waived, if it is the first time. Second, if that individual is receiving any kind of subsidy, which means that they are moderate-income working families, then that exclusion of preexisting conditions is waived, and the bottom line is that by the year 2000 all of it is eliminated, all preexisting conditions, as barring participation in the insurance program.

I am just asking the Senator if that is his understanding, because as we were talking before during the course of the debate, we are finding out many people are using these words: "We are for universality, cost containment, elimination of preexisting condition," but when it comes down to it, we are going to find out what is going to be in the different legislations. On the one hand, under Mitchell, by the year 2000, preexisting conditions are eliminated; and, second, if you have the subsidy, the preexisting condition is effectively eliminated. Third, for the first-time enrollment period, after this bill goes into law, it is a clean deck, an amnesty. You have those three protections for individuals.

I daresay I am sure the Senator would wish, as I do, that the day the bill is passed, we would have what exists in the Mitchell bill for the year 2000. Nonetheless, we are making a commitment to all Americans that may have heart disease, cancer, diabetes, juvenile diabetes, or may have had any range of health care needs, that those preexisting conditions are going to be out. On the other hand, I have difficulty in finding in the Dole bill any of these kinds of protections. And the one that I have stated—that is, if you have been treated for the 3 months prior to the time you are in, you are excluded for any kind of additional treatment for 6 months. Generally speaking, that is a time when you need help the most, because you have lost your job, because you are not able to perform your work, and you are going to be hard pressed.

That is something that I just ask the Senator, whether he agrees with me, and if that is his understanding of the difference; and second, if he agrees with me that it is a major, major difference between the approach of the majority leader and the minority leader.

Mr. DASCHLE. Madam President, I think the Senator characterized the bills accurately. In fact, I think that is exactly why we have the situation we have now with regard to the two bills. There have been many references made to the length of this bill—1,400 pages. Some reference was made to the fact that the Dole bill is a lot smaller. Well, it is half the size because it does half as much.

One of the most important things that it leaves out, in my view, is the very issue that the Senator from Massachusetts raises. If there is anybody who ought to be concerned about what we do in health reform, it ought to be those today with preexisting conditions. Most are hard-working American people, and they are the ones who would give almost anything to have greater access to doctors, hospitals, and insurance plans, but they are locked out and they and often their children have no access to health insurance.

So what happens, obviously is that the costs go up for them, for the system, for everybody involved. That is really one of the most important distinctions I would draw between the two bills.

We have to be able to say at the end of the day that we have addressed the concerns of all Americans with preexisting conditions. We cannot leave them out. The majority leader's bill does address their concerns, and I think that is one of the most important differences that ought to be recognized in this debate.

I yield to the Senator from Nevada.

Mr. REID. Senator DOLE's plan limits but does not eliminate preexisting conditions. Under the Dole plan, insurance companies would still be able to deny coverage for preexisting conditions for up to 1 year. That is section 21-111 of his bill. While most universal coverage plans use preexisting condition limitations as a necessary transition to them before universal coverage is reached, the Dole bill never achieves universal coverage. It never even comes close. Thus, there is no reason to believe the exclusion in the Dole bill, as indicated by the Senator from Massachusetts, will ever go away.

If I could ask the Senator from Massachusetts—if I can get the attention of the Senator from Massachusetts. We talk about preexisting conditions, and I think the American public thinks of someone in very, very bad shape, almost ready to die, like a heart attack or having cancer. But the fact of the matter is—I am asking the Senator if he agrees—preexisting conditions could be a skin problem. Someone may have had a skin cancer on their face, or they could have orthopedic problems and they are denied coverage.

Is the Senator familiar with cases like that?

Mr. KENNEDY. The Senator is absolutely correct. In so many of these instances, as we have heard in the course of those hearings, you have individuals who may have had a heart attack. And I can think of one woman in Belchertown, MA, Kathy Wojnar, who had worked in a vineyard in California, had a heart attack, then moved back to Massachusetts. She wants to work, but she not only cannot get work, but she cannot get any health insurance, either—and she would be glad to participate and glad to pay, and she has a pretty good prognosis. All of us would hope for her for the future. But she has worked all of her life, and she wants to work. She told us that she cannot get a job, because no one will hire her with her health condition.

Those are real-life stories. It is not only her circumstances, but scores of others, as the Senator has described.

Mr. DASCHLE. That is the point I think we need to constantly keep in mind. There are human faces behind all of this, and human experiences that go beyond statistics and reports and testimony.

Obviously, the Senator from Nevada is as sensitive as anybody in the Chamber to those faces and to the extraordinary implications of failure to act.

Madam President, I know that our time in this round is drawing near. I know the Senator from Illinois has a very important matter to which she must attend, and we have agreed here on the floor that she could utilize the remainder of our time in this round subject, of course, to the managers' agreement.

Mr. MOYNIHAN. So everyone will be clear, we do not have rounds. We just have 7 hours, equally divided. We would like to alternate, as we would do normally. But the Senator from Indiana graciously suggested that the Senator from Illinois might want to speak now as she has a very pleasant family duty to attend.

So I yield to the Senator such time as she may desire.

Ms. MOSELEY-BRAUN. Madam President, I thank very much the Senator from New York, the Senator from South Dakota, and Senator PACKWOOD, for their courtesy.

I mentioned earlier that the Senator from New York was kind enough 2 days ago to mention my son's 17th birthday, and it was the first time in 17 years that I was not with him on his birthday because we were here, engaged in this historic debate.

Madam President, I would like to share a story with you briefly, as I talk about health care reform in a context that to me makes all the difference and why this is so important. When I decided to run for the U.S. Senate, I had a conversation with my son Mathew, who was then 15, who said to me: "You know, Mom, your generation has left this world worse off than you found it."

That was like a body blow to me at the time. Of course, I disputed him about that. I said to him: "You are wrong. My generation does this and this."

For everything I had to say to him, he had a response as I guess one would expect from a 15-year-old who knows everything.

In any event, when I got here I made a point to take a look at some long-term issues that Mathew referenced in our conversation over dinner that night.

So following last year's budget debate, I asked and was appointed to serve on the President's Bipartisan Commission on Entitlement and Tax Reform. Just last week, that Commission issued its findings on the long-term trends this country is facing. Let me just talk about a couple of those findings in the context of health care reform.

Finding No. 1 states, that by the year 2012, "unless appropriate policy changes are made in the interim, projected policy outlays for entitlements and interest on the national debt will consume all tax revenues collected by the Federal Government" all by the year 2012.

It goes on to say that, by the year 2030, "unless appropriate policy changes are made in the interim, projected spending for Medicare, Medicaid, Social Security, and Federal employee retirement programs alone will consume all tax revenues collected by the Federal Government."

That finding also estimates that "if all other Federal programs (except interest on the national debt) grow no faster than the economy, total Federal outlays would exceed 37 percent of the economy. Today, outlays are 22 percent of the economy, and revenues are 19 percent."

Finding No. 4—and this is important with regard to this debate—goes into the trends in health care expenses. It states that "the growth of public and private health care costs poses an immediate problem that must be addressed."

It goes on to state that "Federal health care spending has been increasing at annual rates averaging 10 percent or more during the last 5 years, far in excess of overall economic growth. Private sector health costs have increased comparably."

Now, Madam President, I would like at some later point in this debate to go further in detail about why health care costs are rising so high and why they are so far outstripping the growth in our economy.

We have a chart which shows even if we control health care inflation, Federal health care spending doubles by the year 2030.

There are other charts in this regard—and again I will, at another time when there is more time, discuss the cost implications of the rising explosion in health care spending, address them.

However, Madam President, there has been a lot of discussion in the context of the health care reform debate about partisanship. I have to tell you that the findings of the Entitlement Commission are entirely bipartisan. The Commission's membership includes 12 Members of the Senate, 6 Democrats and 6 Republicans, and 10 Members of the House of Representatives, 5 Democrats and 5 Republicans. All but one of these Members voted for the findings I just quoted to you, because they are facts that we absolutely have to face up to.

It seems to me that in this debate that is the most important thing that we can do, to face up to the economic facts. The Entitlement Commission was formed because Congress and the President recognized that the current trends are not sustainable, and the only way to address those trends in a way that avoids imposing real pain on large numbers of real people is to act now.

Without action on comprehensive health care reform, without action to restrain the growth of private health care costs as well as public health care costs, the American people, including 85 percent of the American people who have health insurance now, face a future of less and less access to medical care, of higher and higher costs out of their own pocket, and of greater and greater risk of losing their health insurance altogether.

Madam President, let us make no mistake about the importance of this debate. Inaction will not protect Americans access to high-quality, affordable health care. In fact, just the opposite is true. Inaction will virtually guarantee that the access of most, if not all, Americans to high quality, affordable health care will be eroded and ultimately lost.

Again, I call you back to the conversation with Matthew. His perception at the time was actually supported by the findings of the Entitlement Commission, and that is why it is absolutely imperative that we move and do something specific about this issue now.

So, Madam President, if we are to keep a health care system of which we are justifiably proud, and I think it is fair to say that America has the greatest health care system in the world, if you can afford it and access it, if we are to keep a good quality health care system, if we are to keep health care affordable and available for the 85 percent of our population who now has insurance, and if we are to deal with the 15 percent of our population who does not now have insurance, if we are to reduce that figure, even if we simply want to keep it from growing dramatically, we must face our health care problems and face the long-term health care costs trends, we must act.

I would be the last one to say that the Mitchell bill represents the be all and the end all in terms of an answer to these cost trend problems. It is not. The cost controls in the bill can and need to be strengthened, in my opinion. The Mitchell bill, however, does represent a solid start in the right direction to put us on the road to achieving the goals that the Entitlement Commission spoke of. We need to work on it in a bipartisan way. We need to work with colleagues on both sides of the aisle to achieve the goals that are so important to rein in the growth in costs in health care and to preserve the kind of quality system that I believe we have.

We are right now in the midst of a historic debate, and I know everyone who has spoken to this issue has talked about that. Many believed that this time would not come. I listened to conversations and debate referencing all the years of trial and error in this regard.

Just in this session of the Congress, the Finance and Labor Committees of the Senate have held over 100 hearings on health care reform and, as Senator MITCHELL said the other day, President Truman proposed reform in 1940's, President Nixon proposed reform in the 1970's, and 50 years is not rushing anything. I agree it is an enormous task and a complicated one, but quite frankly that is what we were elected to do, to tackle enormous problems and to answer complicated questions.

We hear continually from people back home that they are happy with the health care and they are afraid of reform. They do not know what all this means. I would submit that quite frankly what we are dealing with in that regard is what I call the 1,000 points of fright. There has been an awful lot of misinformation out there about what is going on, and frankly, it stands to reason that you will have misinformation where there is complication. You always have people putting out road blocks and diversions and side tracks when you are on the road to genuine change.

But let me say this: I believe that we can achieve that change. I believe that that change is imminent if we work together in the best interest of the country to preserve a quality health care system and to address the long-term trends that the Entitlement Commission spoke of.

Madam President, from the beginning of this debate, I have referenced what I call the four cornerstones of reform, and those four cornerstones of reforms are universal coverage, which is so important I believe, cost containment, maintaining the quality of care, and retaining freedom of choice for the American people in terms of the health care delivery and the providers of health care.

I believe we can achieve those four cornerstones if we approach this debate in a bipartisan way, if we approach this debate with the view to the long-term trend, as well as a view to all that affects us not only in the global macroeconomic sense because it has this kind of implication, but also in the personal sense, how it affects people where they live, what actually is going on in the world of people who need health care.

I recently received a letter, Madam President, from a constituent that described her family's experience in obtaining insurance. The Pascals are self-employed people and they have three healthy children. Over the past 8 years they have been forced to change insurance carriers six times. The first company increased the rates on their individual family policy by 600 percent in a 5-year period.

Finding the cost of that plan prohibitive, the Pascals joined a group plan in order to lower their costs. Unfortunately, the group was dropped because one of the members of that group got sick. The family then moved back to an individual policy, but due to a 65-percent rate increase after the first year, they could not afford that any longer either. So in desperation they settled on a catastrophic coverage plan that has no preventive care in it, that requires a $5,000 deductible and that limits the providers they can go to.

So now the Pascals find themselves in the situation where they can no longer take their children to the pediatrician.

And that, it seems to me, is outrageous. This family has done everything right, they have even managed not to get sick, but affordable, comprehensive health care coverage is still beyond their reach.

Clearly, our system should not work this way, not for the self-employed and not for the employed with employer provided coverage.

Statistics indicate however that over half of employed Americans who receive coverage from their employer have had their health benefits cut back or had their employee contributions increased during the last 2 years.

No wonder, Madam President, a recent poll said that 60 percent of the American people were still worried about losing their current coverage.

Madam President, I used the Pascals as an example. I am sure we will hear and have heard many, many more individual stories. But the fact of the matter is that this system really is broke. It is not working for ordinary people. It is not working for working people.

It is something of an anomaly that we now have a system in which the very wealthy can have health coverage, the very poor can have health coverage, and everybody in the middle is worried about it, either they cannot access it or afford it because they are self-employed or in job lock because they cannot leave because of a preexisting condition or, alternatively, the cost of the health care that the employers are providing is going up and up and up, millions of Americans like the Pascal family cannot afford insurance. Our Government cannot afford it. Our Nation cannot afford it. We absolutely have to have an imperative to change.

Last year, our country spent $1 out of every $7 on health care. That amounts to about 14.3 percent of our GDP and a total of $898 billion. And we know, again, health care costs are rising at twice the rate of inflation still. Medicare and Medicaid take up almost a quarter of the entire Federal budget.

And so, we are looking at these escalating costs and wondering what, if anything, we can do.

I believe that we have now a window of opportunity to begin to correct the situation and fix this problem.

As I see it, we now have two options: One is to use the Mitchell bill as a base for building health security for the American people. The other is to use the Dole plan as the basis.

But in any event, we have to, I think, achieve the four cornerstones and we have to build on this bill, or a compromise of the two or a variation of the two, we have to build on what we have introduced here to come up with a plan that gives us universal coverage, that really, genuinely puts us on the road to universal coverage. Because, quite frankly, without it, we will continue with the cost shifting that has escalated the cost of health care in this country.

We have to maintain choice. We have to maintain high-quality care and we have to achieve cost containment. I hope the cost containment imperative of this issue does not get lost in the debate, because that, after all, has implications for the Matthew Brauns, Madam President, for your children, and for these pages sitting here. If they are going to have health care, we have an obligation to fix this nonfunctioning system.

Madam President, I believe the Mitchell bill puts us on the road toward universal coverage. According to CBO, it will reach 95 percent by 1997. And the employer mandate, of course, will result in universal coverage by the year 2002.

I do not think, frankly, the Dole bill achieves that to the same extent. I believe the Mitchell bill, based on my initial reading of it, significantly improves and expands coverage for millions of Americans. All children and pregnant women up to 300 percent of the poverty level will be covered. And that is $44,000, Madam President. That is a pretty elastic range.

Preexisting condition exclusions will be eliminated under the Mitchell bill. Coverage will be portable. In other words, a person can move from job to job and still not lose coverage.

Insurance discrimination based on age and geographic location will be eliminated. I do not believe, again, that Dole bill achieves that.

But I was delighted to hear my colleagues on the other side talking about wanting to work together to try to fine tune and do these things in a bipartisan way to achieve a bipartisan consensus on this issue.

The Mitchell bill also guarantees choice, which was one of my other cornerstones of reform. Every American will have a choice of at least three private insurance plans—fee for service, HMO, or point of service.

The Federal Employee Health Benefits Program, available now to Congress and to most Federal employees, will be available to many more Americans.

The Mitchell bill—and I think this is important, Madam President—will also maintain the high quality of care that we have in this country. Funds will be made available through assessment on premiums for graduate medical education, for biomedical research and for health care services research.

A National Quality Council will be established to keep the goals of high quality in place.

Consumer information and advocacy centers will be created to give people information about health care services and to hear grievances.

Query: Where do you go for a grievance about the way your insurance company treats you today or the health care services that you receive today? That is a step forward in regard to quality.

And the health plans must ensure that enrollees have access to specialty care, which is so important when it is your kid who needs something special that is not within the range of the generally provided services, when your kid has a special condition. That is so important.

The Mitchell plan, I believe, also has included cost containment measures.

Again, I would like to work with the chairman of the Finance Committee and others. We are going to have to strengthen cost containment. I think that is something that has to come out of this debate and I think will come out of this debate.

Madam President, I know everybody wants to speak on this issue. I have been saying for months that the Senate was going to act as a committee of the whole with regard to this important issue and I am sure that that is correct.

The chairman of the Finance Committee has been more than gracious with me. I have more to say. In fact, I have several pages more to stay, but I will not say it right now. I will wait until another more appropriate time in this debate. We will come back and I am sure I will have other opportunities.

But I wanted to thank my colleagues for this opportunity today to say that we owe it to the Mathews of the world to address this issue as Americans—not as Republicans, not as Democrats, not squabbling over every dot and tittle of every line, although the dot and tittles have to be worked out, because, after all, the devil is in the details, is it not?

But the fact is, we have an obligation as Americans to fix this nonfunctioning health care system, to provide coverage to every American, to maintain the high quality of health care that we have in this country, to maintain the opportunity for people to choose, and to get the cost containment that will preserve the future for these young people.

Madam President, I am just so delighted at all the hard work that has gone into this debate. I very much look forward to working with my colleagues in a bipartisan fashion to achieve the goals of this bill.

My assistant just passed me a note which said, "You forgot to speak about the Dodd amendment," which I have more pages on. I will defer until Monday to speak to the Dodd amendment specifically. I will support it. I hope Dodd will add me as a cosponsor of the amendment. I think it is the right direction.

Again, I congratulate my colleagues and thank them for the opportunity to have a few words about this issue.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Madam President, may I simply use this quick occasion to thank the Senator from Illinois for her able and thoughtful remarks and for the emphasis on a bipartisan approach. That is how we are going to get something that we are not only going to enact but is going to stay enacted.

It was a wonderful note on which to get off to that birthday celebration.

I thank the Senator very much.

Madam President, before I yield the floor, I would like to thank the Senator from Indiana for his courtesy.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield such time as the Senator from Indiana may consume.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Madam President, I thank the Senator from New York for his kind remarks, as well as the assistance that I have received over the last several weeks in trying to understand the health care legislation from the Senator from Oregon.

Madam President, not to be the skunk that spoiled the picnic in this wonderful spirit of bipartisanship this morning—the rhetoric obviously cooled down from where we were last evening.

Let me just comment briefly, before I give my statement, on some of the discourse that has taken place here this morning, because it does relate to the discussion that took place last evening relative to the implication and expressed charge that Republicans were attempting to deny the supporters of the Mitchell plan from moving forward with their bill when I think it is clear that what we are attempting to do is trying to understand the nature and the complexity of the bill that is before us and seeking time to understand what all of this means. Just this morning we have had two differences of opinion relative to what the legislation seeks to propose. One of the Senators from the other side of the aisle indicated that there were no specific quotas as to medical specialties. That was corrected by the Senator from New York when he pointed to page 491 of the bill that is now before us, the Mitchell III bill, which specifically states, in section 3013, under title I: "Annual Authorization of Number of Specialty Positions." Line 16 begins: "In the case of each medical specialty, the national council shall"—not may—"the national council shall designate for academic years 1998–1999, and each subsequent academic year, the number of individuals nationwide who are authorized to be enrolled in eligible programs in each medical specialty."

It then continues on for 16 pages describing how this is going to be applied and setting out specific percentages.

Beginning in 1998 and 1999 it says: "The percentage of the graduating class that completes the eligibility programs in primary care shall not be less than 39 percent; in 1999–2000, 44 percent; then in 2000–2001, 49 percent; then academic year 2001–2002, 55 percent."

It is interesting to note there is a requirement in here for a study of the impact of this, but that study is not due until January 1, 2005. So the decision, obviously, has been made without the understanding of Senators, as was indicated on the floor by the Senator from New York. The decision has been made to go forward with a quota system designating which specialties are eligible under this program. And then after it is implemented, we will have a study back to us in the year 2005.

It is this type of confusion, it is this type of mandate that exists throughout this entire 1,433-page piece of legislation that is precisely why many of us believe that we need to take our time, to analyze what is here, to analyze what it is this bill seeks to accomplish and what implications it is going to have, not only on our health care system but our economy as a whole and on all 250 million Americans that will be subjected to the provisions of this act.

We have struggled this week to understand what this bill purports to accomplish. We were delivered a copy of the original Mitchell bill. In fact, many outside organizations delivered pieces of paper to our office asking Members to pledge to read the entire bill before they vote on it. They said it is not fair to impose on all of us as Americans a new health care system unless you, the Representatives and Senators, understand what is in it and read it. I signed that pledge and I began reading the original Mitchell bill, only to be surprised that a second bill was then brought before us. I was part way through a massive tome, weighing 14 pounds, trying to understand the complexity of it and cross-referencing all the sections and then I was suddenly given a new 14-pound bill, "By the way we have made some changes."

The Senator from North Dakota said, "Those changes just fall on one page. It is unfair to imply that the Mitchell II bill, which is of the same size, is a completely new bill." In that respect he is correct, partially correct, because it is not a completely new bill. But that so-called "one page of changes" simply lists the titles that are changed and the sections that are changed. I point out that the changes are comprehensive, and take extensive cross-referencing and understanding to see what changes have been made.

In title I alone, 33 sections were changed. That means we have to check every one of those sections to see what the change is.

In title II, six sections were changed as well as subtitle D.

In title III, 27 sections were changed as well as subpart B of part 3 of subtitle D, and on and on it goes. The entire subtitle A changed of title VIII, subtitle B of title IX, and of title XI it says: "all." So in title XI it is all changed. Which means we have to discard title XI in the original bill, pick up title XI in the second bill and attempt to understand the difference.

This relates back to the question of the quotas under medical specialties, because it says here in title III that section 3012 is changed. Section 3012 is what I just quoted from; 3012 and 3013 is all part of subpart B, Authorized Positions in Specialty Training.

So this is the difficulty that we face. That is why we simply are asking for time to review and analyze the bill and understand the bill and understand its implications. What we learned this morning is that the floor manager of the Mitchell bill, the chairman of the Finance Committee, arguably the individual in this Senate body who knows more about health care than any of the rest of us, was astonished to find that this bill, indeed, despite what he thought were the Finance Committee recommendations to the staff, that this bill indeed includes a 16-page section authorizing specialties.

If that is a discovery to the chairman of the Finance Committee, who knows more about health care than anybody else in this body, you can imagine what that says to a relatively new Member of Congress who does not serve on that committee relative to what may or may not be in this bill. I think that is all the more reason why Members need to read and understand and staff needs to analyze exactly what it is we have before us in this legislation and why there should not be a rush to finish or move legislation in this body. We are up against a time pressure. Members have had to cancel plans with their families, cancel plans with their children who will be going back to school very shortly. The thought is we need to move ahead and get this thing out of here, we will put the finishing touches on it later, so we get at least some semblance of a break.

But we are dealing here with perhaps the most important piece of legislation that this body may have ever dealt with. It certainly has more implications for our economy and obviously more implications for our health care system—which encompasses one-seventh of that economy—than any other piece of legislation that we have ever faced. That is why we feel it is important to take some time to understand what it is we are dealing with and make sure we have a right to be heard, each and every Senator, on our sentiments regarding this bill.

I would also like to correct another misimpression that has been left. That is that the only Members of the Senate or of Congress who have a vision of health care for America—or who care about this issue—are supporters of the Mitchell bill or the Kennedy bill or the Clinton bill. The Republicans simply want to stop all changes, stop all reform. They are just simply naysayers who have no health care thoughts of their own. I think that implication is wrong.

As the Senator from Maine [Mr. COHEN], eloquently outlined this morning, he has been a proponent of health care reform for a number of years, even devised his own plan—even submitted his own legislation—and has been actively working, as many of us have, for a number of years to try to grasp what is going on in health care, to try to understand what changes need to be made and should be made to make it a more efficient system and more accessible to all Americans; and try to bring about those reforms which will preserve what is arguably and, I think, demonstrably the most effective health care system in the world, that provides more quality care to more people than any other system; to retain the benefits of that system, to retain what is good about that system and make reforms and fix those areas that are wrong.

Republicans have offered a variety of plans. Senator NICKLES offered a comprehensive plan. Senator GRAMM has offered a plan which I collaborated on and which incorporated the concept of medical savings accounts—which I will talk about in a moment—which I think truly goes to cost containment and may be perhaps the only concept that truly affects, in the longrun, effective cost containment.

We have had the Lott-Michel bill. We have had a number of other proposals floating around here from Republicans who are sincerely interested in making changes. Senator CHAFEE has spent years working with a group in proposing legislation. Senator PACKWOOD and Senator DOLE now have a plan on the floor before us.

So the implication that Republicans do not care, that Republicans just simply want to say no to anything, that we are just simply out to submarine and torpedo the President, no matter what is proposed for health care, that implication is wrong. I think those who have followed the issue know that it is wrong.

When I came to the Senate in 1989 and tried to evaluate the issues that we would be dealing with during my time here, at the top of the list was health care reform. I told my staff: "This is going to be a major—if not the major—domestic issue of the nineties that the Senate will have to grasp and have to deal with, and I don't feel I am prepared to deal with that. I think I need to do a lot of homework and we, as a staff, need to do a lot of homework." I employed people who had an understanding and knowledge of the health care system, and they have worked diligently to try to incorporate ideas and gather information and bring me up to speed on what is happening in health care.

I have traveled the State of Indiana visiting hospitals and emergency rooms and outpatient clinics, visiting community health centers and migrant health centers, talking with doctors and nurses and physical therapists, and ambulance drivers and patients and recipients of health care. I have visited nursing homes. I have held town forums and health care meetings, I have brought in experts, all in an attempt to understand this massive health care system that exists in the United States, and understand what might be right with it and what might be wrong with it.

Out of that effort, we produced a piece called "A Hoosier Model for Health Care Reform." This was published in 1990. It conceptually discusses what this Senator believes are the major problems in health care, and proposes solutions to those problems. It is a model based on my experience in Indiana and based on the experience of a number of health care providers and consumers in Indiana.

I will just read the table of contents to show how it addresses what I think are some of the concerns that have been raised here:

> The Coats health care plan confronts the fear of rising costs; section 2, How the Coats plan confronts the fear of rising costs; 3, How the Coats plan confronts the fear of losing coverage; 4, Supplements to the Coats plan, women, children, seniors and fighting disease.

It incorporates the models of the medical savings account, which I referenced just a few moments ago, as a cost containment measure and an innovative way of providing health care incentives for individuals to become actual consumers of health care.

So that it is not a third party making a decision about who pays the bill and how much that bill will be, but the actual beneficiary of the health care is an active participant in determining the cost of health care.

It is interesting that in this country, we shop, we are consumers for just about every product and every service in America. We would not think of going to the car lot to buy a new car without checking down the street or across town with a competitor to see if we could get a better deal. We would not think of buying a television simply by picking up the phone and saying, "Just send me a 35-inch, I don't care what it costs."

But in health care, the question is not is there a more cost-effective way I can receive the benefits of health care; is there an alternative treatment that will not cost as much; can I get the same drug or the same diagnostic procedure or the same treatment somewhere else for a better price? Those questions are never asked.

The only question asked is: Is it covered by my insurance? And if the answer is yes, it is covered by my insurance, then we do not care who provides it or how much it costs.

The medical savings account is a way of putting that decision in the hands of an individual. I will just give one brief example of how it works.

A woman in Indianapolis called me and said, "I finally understand the genius of the medical savings account." She said, "I have reached the age where it is important that I get an annual mammography, a mammogram." She said, "I called up the local hospital and said I would like to schedule a mammogram, how much does it cost?"

They said, "$250."

She said, "Wow, that seems like an awful lot of money." She said, "Do you guys ever have sales?"

And they said, "Well, no, we don't have sales, but we offer, in the week preceding Mother's Day every year as a special attraction to women to encourage them to get a mammogram, we offer it for $50 during that week before Mother's Day."

She said, "Sign me up." She said, "It suddenly dawned on me that if someone else is paying the bill, I don't care whether I get it in March or May, or whether it costs $50 or $250. But if I am paying the bill and I stand to benefit and save by getting the same procedure for a better price, then I'm going to look and shop for that procedure at an effective price." She said, "I would have saved $200 had I been a consumer under a medical savings account."

Medical savings account simply says that as an employer or individual, you can choose to go outside of employment and protect yourself with a catastrophic policy, protect yourself from the excess medical costs that can take away a lifetime of savings or run someone into bankruptcy.

So you buy a policy that covers all expenses over $3,000, and you take the $3,000 that you normally would have put into purchasing an insurance policy and you put it in an account in your name, just like an IRA, except this is an MSA, medical savings account, instead of an individual retirement account.

That medical savings account is in your name and your family's name, and it can be used for the first $3,000 of medical expenses. To the extent you do not spend it on medical expenses that year, that savings rolls over tax free and accumulates toward retirement. It can be used then to purchase a long-term care policy, it can be used to supplement Medicare or a number of other medical purposes.

To the extent that you use all that $3,000, you kick into the catastrophic coverage policy and that covers all your extra expenses. So the employee or the individual is not out any more money. They simply are spending it in a different way. But the difference is that they have a personal incentive to be cost conscious in terms of purchase of health care. It is the only way that I have discovered that truly will affect human behavior which will truly affect health care costs.

Right now about 10 percent of Americans, I think, eat shredded wheat without sugar on it in the morning, or some kind of fiber cereal which tastes like oats that you give to the horses. They choke it down every morning because it is good for their health. The rest of us are into all this sugar stuff that dominates the shelves, and so forth. Ten percent of us, I think for altruistic reasons, say I am going to do what is good for my health—eat right, exercise, so forth.

I met with one of the Nation's leading cardiologists. He said, "You know, Senator, 90 percent of the patients that come into my office are there because of bad choices that they have made. They are either overweight or underexercised, or they smoke too much or they drink too much or they engage in behavior that ends up giving them heart problems." Ninety percent.

As I said, about 10 percent of us will do those things necessary to substantially reduce the risk. Some of this is obviously genetic and some of it is just a fact of life with which we need to live. But most of us will not exercise the discipline because there is no financial incentive to do so.

But it is amazing how Americans respond to financial incentives. It is amazing how we can change behavior when it affects our pocketbook, when it affects the amount of disposable income we have.

A medical savings account provides that incentive. It seems to me, if we truly are going to get at health care costs in this country, we have to provide a means, a way for people to become consumers of health care.

Now, is this the answer to all the health care cost problems? No. It is simply one of the answers because this is an incredibly complex problem. I tried to outline some of that in this proposal that I issued in 1990. But it at least ought to be incorporated as an option, an option for employers and an option for individuals. I am pleased that I brought this idea to Washington. It was incorporated—it is the heart of the Gramm health care plan. It was incorporated in the Nickles plan. It was incorporated now in the Dole-Packwood plan as an option, as a way to help reduce health care costs and give us a more sensible health care spending provision in this legislation.

Unfortunately, it was not incorporated in any of the Democrat plans. It is not part of the Mitchell plan. It is not in the Gephardt plan. It was not in the President's plan. It was not in the Kennedy plan.

In fact, I may be mistaken there. I think we did incorporate it in the Kennedy plan in committee, but it is not part of the plan that is before us.

I also outlined in here the Indiana experience with medical malpractice. I do not know what the total figure is. Many estimate it at $25 to $30 billion a year of unnecessary medical expenses because doctors are ordering tests and conducting procedures and increasing and inflating their charges solely because it is—not because it is in the best interests of the patient but because their lawyer comes into the office and says, "Unless you do this you are going to find yourself in court."

Exercising your best medical judgment today is not enough. This is a litigious society. And there is a substantial portion of the legal profession that makes their living on filing lawsuits and settling them out of court, and you are a prime target because you are in a high-income area.

There are all kinds of gray areas in terms of judgment, in terms of diagnosis and treatment. The medical practice is not an exact science. It is still an art. Even though much of it is a science, it is still an art in terms of establishing the correct diagnosis and prescribing the right treatment. Obviously, human beings are involved and mistakes are made. Those mistakes ought to be paid for and ought to be covered.

What we have found in the malpractice area today is that about 70-some percent of the awards are not going to the patient who is injured but they are going to lawyers or going to the courts. So Indiana, more than 20 years ago, under our then Governor, Dr. Otis Bowen, who later became Secretary of Health and Human Services, implemented liability reform, and it is a model. Is it a perfect model? Probably not. Can it be improved on? I am sure it can, on a Federal basis. But that model ought to be incorporated because we are expending billions and billions, tens of billions of dollars on health care costs that are unnecessary simply because doctors are practicing defensive medicine, because they fear that they will end up in court under a lawsuit that in many cases are not suits that are grounded in negligence that ought to result in needed payments to individuals.

I can talk at length. When we get to that section of the bill, I will. I do not mean to take up time on it.

So the question before us is not whether or not Republicans care or Republicans have ideas or Republicans think there should not be solutions to health care. We have proposed solutions, and many of them I think are innovative solutions and we are disappointed they are not a part of the legislation before us.

But what divides us here, the real issue, is simply this: Can we find solutions to the problems that plague America's health care delivery system today without fundamentally changing the basic nature of a health care system which is, I believe, unarguably the best system in the world and that has provided the best quality care to citizens of any country anywhere in the world? I do not know of any Members of Congress that get on a plane and go to Canada or Sweden or anywhere else in the world for heart surgery or for specialized treatment, or for medical care.

(Mr. WELLSTONE assumed the chair.)

Mr. KENNEDY. Will the Senator yield on that point?

Mr. COATS. I would like to finish my statement, and when I finish my statement I will be happy to yield to the Senator from Massachusetts.

But I know that there are thousands and tens of thousands of people from around the world, who, if they could afford it, would get on a plane and come to the United States. I have a good friend who is a Congressman from upstate New York, from Buffalo, just across the line from Canada. He said, "Our number one industry in Buffalo is the provision of health care services by Americans for Canadians. They stream across the border because they do not want to wait for procedures and because they believe that the health care system in the United States gives them a better quality."

The basic nature of our system is that we as Americans have the freedom to choose our own doctors, choose our own facilities, choose drugs and methods of treatment. That would be limited under a Government-directed and Government-controlled program. We want to retain the freedom to say, "Doctor, I just don't feel confident that I want to pursue the course you have prescribed. I think I will get a second opinion. I think I will search out treatment somewhere else."

I was driving home the other day, and I heard an advertisement from Johns Hopkins, I think, arguably one of the better, if not one of the best, providers of health care in the Nation and maybe in the world. They were saying if you live in McLean or if you live in Springfield or if you live in Oxon Hill or if you live in Bethesda, or any of the Washington areas, or you live in Washington, DC, why not consider Johns Hopkins as the place to get your medical coverage? Why not consider Johns Hopkins Hospital and Johns Hopkins medical facilities as a place to provide even your primary care? Give us a chance.

That is a freedom that Americans want to retain, the right to seek out a second opinion, the right to go to Massachusetts Hospital or Johns Hopkins or the Mayo Clinic or the Cleveland Clinic or the Bluffton Clinic in Indiana, if they think that they can find a doctor or find a treatment that is going to be better in accord with their concerns about their health care.

I think our system, without a doubt, offers the technological innovations that not only improve the quality of our care, but also help curb health care costs that is unparalleled anywhere in the world. We lead the world in technological innovation. It is one of the things that has driven up our costs, but it has also driven down costs. We need to understand that the innovations that have taken place in health care have been dramatic in terms of reducing costs.

Medical innovation in the United States is a product of the system that we have. I know that the drafters of the Mitchell proposal are well intended, but I can guarantee you under that system many of the decisions in terms of how dollars are directed for medical research and drug research are going to be politically decided and not decided on the basis of market needs and not decided on the basis of medical needs, because it is an inevitable consequence of a Government involvement, whether it is State or Federal, that the political process will rear its ugly head and make decisions as to how money is directed.

We do that in every other program we are involved in, whether it is building a road or funding a college or equipping a military facility. Hundreds of millions, if not billions of dollars are directed by a political decision based on who sits on what committee, based on who can form a coalition, based on what interest group has the most influence, and oftentimes those decisions are not the correct decisions. The market has a way of sorting that out in a way that the political process never can.

I spent a day out at NIH not too long ago, and I discussed the funding that goes into medical research. I was told confidentially and privately, because they do not want to ruffle any feathers here on Capitol Hill, that hundreds of millions of dollars are misdirected into research projects that are overlapping and duplicative because Congress has dictated that that is where the money ought to be spent, and that is driven by interest groups pounding on our door; the ones that pound hardest and the ones that form the biggest coalitions and the ones that somehow tug our emotions the most are the ones that get the money.

They said we just are begging, we are crying out—we have areas where we think we are on the verge of breakthroughs that will make substantial, dramatic improvements in the health care of Americans. We cannot direct money there because it is directed to another area on the basis of a political decision, and our hands are tied.

That is going to be multiplied by who knows what factor, if we move further from a market-directed system to a Government-directed system? Just in drug therapy alone, we have had some dramatic breakthroughs in the last several years. Today, we are treating patients at costs one-tenth the cost of what the procedure was previously.

In asthma, a study in the use of an anti-asthma drug showed that it reduced trips to the emergency room by 96 percent, and hospital admissions were reduced by 62 percent, saving up to $2,250 per patient. The annual cost of this asthma medicine is $431.

Patients suffering from osteomyelitis, a bone infection, were often hospitalized in the past in order to receive intravenous antibiotic treatments that lasted several weeks. Now we have a new generation of antibiotics that can treat these people at home. A documented study shows that we have saved $6,000 per patient with this.

Bone marrow transplants, cancer, diabetes, depression, heart conditions, on and on it goes—gall bladder. Today we do laparoscopy. Who would not accept laparoscopy treatment to remove a gallstone or to remove a gall bladder rather than the open chest surgery that was formerly necessary, that kept patients hospitalized for a minimum of 6 days, that required a lengthy time of recovery? Today they go in with a little tube with a miniature TV camera in it, making an incision smaller than a pencil—a couple of incisions, one in the arm, and one in the chest.

Who would not rather sit in a bathtub and have ultrasound dissolve a kidney stone than to go through surgery or the extraordinarily painful process of passing a kidney stone? One of my staff members has had kidney stone problems, and he said it is an inconceivable difference between what he used to go through with a kidney stone, facing surgery to remove that stone or facing the excruciating pain of trying to pass that stone. And today he goes and sits in a bathtub for an hour, and they turn it on. It vibrates a little bit, and the stone is dissolved.

That is innovation that we do not want to stifle. That is innovation that can truly affect the health care costs. Is it the total answer? No. But it is a part of the answer that we do not want to stifle. I am afraid that we will stifle that for the reasons that I have stated.

Mr. President, I was reading the other day in the Washington Post—and there were three articles in that paper. I was fascinated by their relationship one to the other, even though it was not intended. The first article is on welfare reform. It described, "Mr. Clinton's $9.3 billion plan to reform the welfare bureaucracy . . . having now admitted welfare's utter failure . . ."

From HHS Secretary Donna Shalala, "There is no magic solution to the complex problem of chronic welfare dependency."

The article described, ". . . because of the difficulties of changing such an enormous bureaucracy."

The "bureaucracy" under the Mitchell health care plan, the Gephardt plan, the Clinton plan, whatever emerges from all of this, the bureaucracy will make the welfare but bureaucracy welcome. It will dwarf the bureaucracy that currently exists in the welfare system. Yet, the Secretary of HHS said, "We cannot change that system because of the bureaucracy." It is so massive they cannot change it.

The second article describes the problems being faced by European governments, and said it finally recognizes that social welfare spending and government-run enterprises do not work.

I quote:

> Western European countries are beginning to reshape longstanding economic policy such as cradle-to-grave welfare benefits, and government ownership of businesses presaging far-reaching changes in the way Europeans work and live. The largest economies in Europe are facing unacceptable levels of government debt.
>
> It says * * * unacceptable levels of high unemployment * * * eleven percent of the European union work force unemployment * * * forecast growing difficult in exporting their once prized goods. As a result, governments from Spain to Scandinavia are inching the way from the social democratic policies that have nourished their people and inspired generations of liberal politicians around the world.

Is it not ironic that at a time when Western Europe and socialized medicine and socialized government programs have created unacceptable unemployment in Europe which has created unacceptable costs of goods which are no longer competitive around the world, and when an abysmal future faces those countries which have engaged in what we are about to attempt? Is it not ironic that at a time when they have now concluded that has been a failure we are rushing to duplicate what they have done?

The third article in the Post that day describes the new U.S. Government bureaucracy that would be created under Mr. MITCHELL's plan to nationalize one-seventh of the American economy. Why is it that when all the world's nations, except maybe a couple of exceptions, are dismantling their government-run industries and social welfare bureaucracies in favor of private enterprise when we have recognized that social welfare programs have led not to prosperity but to dependency?

Why is it that we are now undertaking to enact into law a bill that represents the largest Government entitlement program ever devised?

Perhaps, Mr. President, the thing that concerns me the most is not necessarily just the details of this bill but the incredible establishment of bureaucracy that results in implementing the details of this bill. My staff, along with Senator GREGG's staff, spent an extraordinary amount of time putting together a booklet entitled, "A Primer to Clinton-Mitchell Health Care Bill, New Bureaucracies, New Mandates, and New Federal Powers." I did not number the pages—I should have. There are 81 pages. It is a very, very small print booklet. There is no political propaganda in here. It just simply lists item by item the bureaucracies, mandates, and new Federal powers that exist under the bill before us—81 pages, each one itemized and referenced to a section.

So Members can look at this, and then look in the bill and say there it is. There is no commentary in here.

What we found so far are 50 brand-new bureaucracies, 33 powers that run to the National Health Benefits Board, 177 new statements of responsibilities.

The Secretary of Health and Human Services will have under this bill 815 new powers and duties. How many offices is that? How many individuals, how many outside consultants, how many staff members, how many telephones, how many clerks, and how many lawyers will be needed at HHS to carry out the 815 new powers and duties granted under this legislation?

I have handed these out to Members. I ask them do not just take my word for it. This is not a Republican up here just throwing out some nice political rhetoric. Take the book, check the reference, look in the bill, read about it, and try to understand and grasp the implications of what this would do.

The Secretary of Labor gets 83 new powers, all listed in here. And just today, I have been handed a piece, and I guess I will have to add this. I do not know if I will bring out a coach, too. Maybe we will bring out an addenda sheet of the 49 new responsibilities that will flow to the employer or a plan sponsor—49 new responsibilities. I will get this printed up and have it available for Members on Monday, with reference to the section number so that you can check it out for yourself. Forty-nine new responsibilities that every employer and every plan sponsor in America will have to comply with. Who knows how much that is going to cost and how many new staff positions that will cost. We may see an explosion of employment under this bill, and it will all be Government employment. Maybe that is one of the intended consequences, I am not sure.

The Washington Post said—and it is not a publication, you know, that is necessarily a tool of the Republican Party. The Washington Post said, "The Mitchell bill would create dozens of new Federal and State agencies that would have the untested authority to centralize, reorganize, monitor and enforce the way medical care is being bought, sold, and to a lesser extent practiced in this country. The Mitchell bill substitutes Government bureaucracy for private."

Let me repeat that. The Washington Post concludes, "The Mitchell bill substitutes Government bureaucracy for private. It challenges States and Federal agencies to set up new agencies with complex responsibilities never before performed on the same scale by public or private enterprise. It would require States to enforce complex new insurance industry laws. It obligates States to verify that plans have had the ability to care for patients in the way the law requires, and forces the States to monitor the transfer of billions of dollars in insurance premiums paid by employers and individuals to private insurers."

A wise man once said, "All futures have one virtue: They never look the way that you imagine them." If the bill before us today passes, I do not believe that any of us can imagine what the future will be under this bill, and that is the problem. I do not believe it is a future imagined by the American people, and I believe that is why they are, in overwhelming numbers, calling our offices and writing to us and stopping us at the airport and stopping us on the streets at home and saying, "Do not pass that Government bill."

They do not know the details. We do not know the details. They do not know them for sure, but they have an inherent distrust in the ability of Government to deliver a service efficiently or cost effectively, and they have an inherent understanding that politics will so complicate and so misdirect resources under this bill, that it will become a political nightmare. They simply have lost confidence in the ability of this institution and in the ability of Government to provide services, particularly when it concerns the thing that is the very closest to them—that is, their health and the health of their loved ones. It is one thing for us to argue whether a road should be built north of the city or south of the city, or in Indiana or Ohio; it is another thing to argue whether or not a Government clerk, or bureaucrat, or Member of Congress, or a national health board, is going to decide the health future for your loved ones, your spouse and your children, and whether we are going to layer a bureaucracy on the health care system that we have never seen the likes of in this country.

Mr. President, several months ago, Mrs. Clinton came before the Congress in a joint meeting with the Finance Committee and Labor Committee. It was held over in the Russell Building in that big caucus room over there, a scene of the McCarthy hearings and Watergate hearings, and a scene of some very important battles. The room was filled, and cameras were there, and the press was there. Mrs. Clinton was introducing her bill and touting its virtues.

It occurred to me, as my time to question was coming, that rather than getting into arguing the details of the bill, we ought to at least question the underlying assumptions, the pillars that were the basis for the bill itself. So I raised those questions with her. I said, "Mrs. Clinton, first of all, I understand the prodigious amount of work that you have engaged in while putting this bill together, and your interest in health care." I said, "But it seems to me that it is based on faulty assumptions." I said, "Let me just raise four assumptions with you briefly, and you tell me where I am wrong." I said, "Assumption No. 1, to me, is that the bill is based on the fact that the Government can deliver services more efficiently than the private sector." I said, "Without going into all the details and the long list of examples as to why I do not think that is correct, if you have a package and it absolutely, positively has to be delivered where you want it by the next morning, do you take it to the post office, or UPS, or Federal Express, a private carrier? If it absolutely has to be there for the sale of a house, or the closing of the contract, or the signing of the legal document, or the birthday gift—absolutely has to be there—what do you instinctively do? Do you say I better not take it to the post office? Why? It is a Government-run monopoly, an entity that does not have a very good history of delivering the mail on time."

We learned the other day that there are truckloads of mail that have been sitting outside post offices for weeks and months that have not been delivered, and there is a huge post office scandal. I said, "It seems to me that the underlying assumption that Government can deliver more effectively than the private sector is just not based on experience."

The second assumption is that the Government is more cost-effective than the private sector. I said, "It seems like we cannot pick up the paper in the morning without reading about a new misuse or misapplication of funds, or cost overruns that occur."

Senator GLENN held a hearing in July highlighting some of the Government's inefficiencies. To quote from part of that:

> The Office of Personnel Management found that it needed to make a $54 billion adjustment to its retirement insurance account.

The Internal Revenue Service testified that, well, yes, it might be able to collect $29 billion more in taxes that are owed, but it cannot be sure because the question is, "Why do you not go out and collect it?" They said, "We are not sure that money is owed, but we think it is 29 million dollars." The State Department cannot account for $250 million it paid out.

The Customs Service says it could not account for 10 tons of illegal confiscated drugs.

The defenders of the Clinton-Mitchell plan say, well, you are comparing the post office to health care, and that is like comparing apples to oranges. Let us compare apples to apples. We recently passed and supported a vaccine for children program. The Government is going to buy one-third of the Nation's vaccine supply, package it, house it, and distribute it, starting this October. It is a well-intended program.

The GAO just gave us a report on the progress of that program. Here are the three findings:

The program is way behind in letting purchase contracts.

Two, GAO is unprepared to evaluate whether the system could efficiently process orders from the 70,000 doctors and clinics that are supposed to receive the vaccines.

Three, they are unprepared to adequately test whether the packaging and delivery system would retain vaccine potency. Vaccines require strict temperature controls.

> Our review indicates that it is unlikely that the Government can fully implement

the vaccine for children program by October 1, 1994, and raises questions about whether the vaccine for children program, when fully implemented, can be expected to substantially raise vaccine rates.

If we cannot run a vaccine-for-children program, how are we going to run health care for everything else?

Mr. President, the third assumption that I raised with Mrs. Clinton was: You know, the problem with this is that when you turn things over to Government, politics gets involved instead of the disciplines of the market where, if you do not make a profit, you are out of business and the shareholders are after your neck at the next shareholder business meeting or the stock plummets. Instead of the discipline of the marketplace, the Government does not have a competitor, the Government does not have to make a profit, and the political process always intervenes.

Already, we have seen the interest groups lining up. We have an amendment on the floor now that says—and it is a well-intended amendment, and I take nothing away from its sponsor, who has passionately defended and promoted the rights of children in a whole number of areas, and he cares deeply about that. But already on a political basis we are trying to make decisions that, well, this ought to be included. There are probably 100 areas, 100 items, maybe more, that Members feel just as passionately about for different reasons that they want carved especially in the program, and the decision is going to be made here on the Senate floor rather than in the national health boards or in a commission. It certainly will not be made in the marketplace.

This is not to say that there should not be some of those provisions. This is not to say there should not be a vaccine-for-children program. The question is how can we do this without skewing how the money is allocated, how the resources are allocated? How can we as political entities whose future depends on saying yes and whose career is thought to be terminated when we say no, how can we resist the temptation that we have not resisted, in my experience in Congress, to say, well, maybe we can work that into the next bill. You make a good case. You have an important lobby. That is a touching story. I will talk to the chairman of the Finance Committee to get it in the next tax bill.

Already the litany has started. The Labor Committee added $32 billion of benefits to the President's plan, and when the House Labor Committee took it up, they added benefits. They got a lot of pressure from the dental people, I guess, and they added more. They said they could not draw the line at 18, they had to make dental benefits available to everybody. Some others wanted additional programs for women and children. The mental abuse people are lining up saying, "What do you mean, 30 days? We need 60 days." When they get 60 days, they say they need 90 days of coverage. On and on it goes.

Whatever interest group is not covered right now I guarantee you, if they are not meeting today, they met yesterday, and they are devising their strategy to come and put pressure on us to add benefits and make decisions. We are not the best people to make those decisions. We do not have the expertise. We are politicians.

Everything in us says yes, and we will pay for it later, and if it does not fit, that is OK. You can walk out the door happy. Everything in us says, oh, if we say "no" we are going to have to look for another line of work.

So, I told Mrs. Clinton. I said, it just seems to me that the assumption that we can do this outside of politics undermining your best attempts, undermining the attempts of people who wrote this bill, I just do not think that is within our experience nor see how we can do it.

Her answer to that was kind of disturbing because she said, "Senator, I don't challenge what you have just said in terms of our experience, but I think this time we are going to do it differently."

I just do not believe that is the case.

I know Members are wondering when I am going to quit, and I am just about done. The question, I think, now is, Where do we go from here?

I believe a sensible health care reform bill could be put together on a bipartisan basis in this Chamber in a very short amount of time. We start talking about when Senator Bentsen introduced a bill a few years ago. We talked back and forth. I believe there was majority support for that. It will not solve all the problems, but it will be a huge step forward. It would give us time to analyze progress. It would give us the ability to pay for that progress. It would give us the ability to make changes next year or the following year if we have information back that there is more we could do.

But the President has stated, he has drawn the line in the sand, drawn a couple lines. I was in the Chamber when he said, "See this veto pen. Nothing that is less than 100 percent coverage will get my signature." And that line is now 95 percent. But just the other day he said, "Anything less than the Mitchell bill is totally unacceptable."

Well, we are starting to look at the Mitchell bill, and we already found out that, distressingly, in just one area it is going to set up a Government agency to tell us how many doctors we need in what specialty. Even the chairman of the Finance Committee finds that appalling and unworkable.

Any time we suggest anything less than what the President has outlined, we get nothing but resistance from the White House. So I have concluded that a sensible bill is not going to pass here this year. A bill that is achievable is not going to pass here this year.

I think that only leaves us with one option, and that option is to kill the President's bill, to send a message to the White House, "Mr. President, the American people, as expressed through their representatives in this Congress are not going to support your concept of health care for America."

Until the President gets that message and understands that message, we are not going to make any progress, because he is going to continue to insist that the leadership of the House and the leadership of the Senate pass what he wants. But what he wants has been rejected by the American people. I do not know how many times we have to say this. This thing has been killed six times. Maybe it is like a cat; it has nine lives. We have to kill it three more times. This proposal out of the White House has been dead more times, or thought to be dead more times, than we can count. Yet it keeps trying to resurrect itself.

The President has to understand that his vision of health care for America is not America's vision of health care for America, and unless he understands that, we will not be able to make any changes or any reforms in health care. We will not be able to make any progress.

So I have concluded we have to defeat the Mitchell bill. We have to defeat what essentially is the President's proposal. We have to defeat the Gephardt bill. And we have to send that message, and then and only then can we begin to put together the needed reforms that will truly preserve what is right about our health care system and make changes in those areas that do not work right.

The American people have said they do not want or they do not trust Government to take over the health care system of this country, which is one-seventh of our economy. They do not want or trust Government to make decisions about issues that are the most personal issues in their lives. That is the health of themselves and their spouses and their loved ones and their children.

They do not want most of the critical decisions regarding their health care settled on a political basis.

This is the fundamental issue: Do we as a people want Government-run health care? The American people are saying no. They do not know the details, but their instincts are correct. And those instincts are shaped by experience, time after time after time, with Government-run programs.

That message has to penetrate the White House and only when it does, only then can we begin the process of real health care reform.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, before the Senator from Indiana leaves the floor, could I, with great respect, suggest that either I misspoke or was misunderstood, and that is probably both as it frequently happens.

I mentioned surprise to find in Senator MITCHELL's bill provisions that indicate that the Federal Government will designate the number of specialists that will be trained for specific specialties and then will reduce the number of residents, and so forth. I said there must be some staffer who wants that because we had thought it was being taken out of the majority leader's bill. It never was in the Finance Committee bill, and the Finance Committee staff did not add it, as I am sure Senator PACKWOOD will agree.

Mr. COATS. I did not believe it was the Finance Committee.

Mr. MOYNIHAN. They were much concerned.

Mr. COATS. It was distressing. It was on someone else's staff.

Mr. MOYNIHAN. I wonder if the Senator might consider revising his remarks in that regard.

Mr. COATS. Mr. President, I am happy to revise the remarks, based on the statement made by the Senator from New York, implicating a member of the Finance Committee staff as being responsible for the quota system set up for medical specialties under section 3012. Apparently that was inserted by either staff of another Senator or some other staffer but not a member of the Finance Committee or the Finance Committee staff.

Mr. MOYNIHAN. That is right. I appreciate the courtesy.

Mr. President, this question of Government-run medicine, we are going to hear a lot about that.

May I just offer the thought in a bipartisan spirit—and I was happy to hear the Senator from Indiana speak of a bipartisan spirit; happy to hear him speak of Bluffton, where my grandfather, who dug pipelines from Jamestown, NY, around central New York, ended up.

Medicine, by the oldest experience of the Western civilization, is a socialized activity. Individual doctors, no; but hospitals, yes.

There are some for-profit hospitals in the country. Perhaps 15 percent of the patients are in them. But it is not a profitable activity. It is, by definition, socialized.

The largest activities, say, in my city of New York, the main hospitals are religious-supported hospitals. They are Catholic, they are Protestant; Columbia Presbyterian, St. Luke's, Mount Sinai, Montefiore, the latter being associated with a Jewish charity; as a Presbyterian charity; as a Catholic charity.

The Shriners run extraordinary burn centers around the country. There are Masons. And there is never a bill.

We have the hospital systems we have because of generosity from the charitable, the sharing concerns of Americans, not as an enterprise. And I hope we keep that in mind.

I quote my Republican friend, who accompanied the President to the Middle West yesterday, the mayor of New York, who said in a letter to the House, "America is debating universal health care. New York has given universal health care for most of the century."

It is a question of how much more, than whether. And I think we will see that.

I take the Senator's point about the vaccination program we authorized in the last budget. And Senator PACKWOOD and I realize that it is the responsibility of the Finance Committee. It has not gone well. We will have to hold a hearing, and we hope we can do better. But we have had free vaccinations provided by the city of New York in New York since 1890. And it has not turned us into a hopelessly communal society.

Mr. PACKWOOD. Will the Senator yield?

Mr. MOYNIHAN. I yield the floor.

Mr. PACKWOOD. I do not want him to yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield myself a couple of minutes.

We have reached the level of vaccinations that we had hoped to reach in the legislation that we passed. It is not only in the city of New York, but we have found this in any number of towns in major metropolitan areas where we have tried and tried and tried to vaccinate everybody. The problem is not the lack of vaccine. The problem is getting people to wherever your communal vaccination facility is to do it. And the cost has not been the deterring factor. We do not know why they will not. But it is not a question of the vaccine, which was free.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, I make that point. The determinants of health increasingly in the modern world has to do with personal behavior and community behavior.

The change in infant mortality in the world is really striking. How much better things are than they were.

I look at Portugal. In 1960, it had an infant mortality rate of 77.5 per thousand. One child in 13 died before reaching one year of age. It is now down to 11 per thousand or one child in 99.

The United States, which was never that good—it helps to be born in Iceland if you want to prosper as a child—but we were 11th among the 23 OECD countries in 1960. We are now 21st. Not because we have forgotten medicine; medicine roars forward. But, community behavior is less than it obviously once was.

Mr. President, I see my friend from Massachusetts and I yield to him for such time as he may desire.

Mr. KENNEDY. I thank Senator MOYNIHAN.

We are going to get back very quickly to the Dodd amendment on children, and also the comparisons between the Mitchell program and the Dole program, not only on children but on working families and seniors.

But I wanted to just take a moment, before yielding to the Senator——

Mr. REID. Will the Senator from Massachusetts allow me to ask him a question?

Mr. KENNEDY. I will be glad to. Could I just make one brief comment on a matter that I brought up earlier, and then I will yield for a question.

That is, we are hearing on the floor now about how we continue to study the different proposals and find new insights.

I must say that I share that experience, just in the past few hours in further study of the Dole proposal. Earlier I had spelled out the difference on one very key element of the Mitchell proposal and the Dole proposal on the exclusion of treatments for preexisting conditions, which is an absolutely essential part of the different proposals.

I mentioned in the comparison, when I was exchanging comments with the Senator from South Dakota [Mr. DASCHLE] about how the Dole proposal provides that if you are diagnosed or being treated during the 3 months prior to the time of the enrollment, you are therefore excluded, or you are limited in terms of any kind of help and assistance or medical attention for 6 months.

So I looked over on page 81 and found this 3-month period where you would be treated and the limitation of 6 months.

On the next page, it says, "Special rules for individuals." So in the case of an individual who is not enrolling as a member of a group but as an individual, 3 months in paragraph 1(a) is deemed a reference to 6 months. So it is not 3 months, it is 6 months. And in paragraph (b), any reference to 6 months is deemed a reference to 12 months.

So, I agree that 12 months without medical treatment is absolutely devastating for any individuals who are trying to get attention for a medical condition.

But then if you just read further, because we talked about an amnesty provision, which was included in the leader's provision, and also the first open enrollment where they can enter into a program without any exclusion of coverage.

And now we have heard our friend from Indiana talk about the bureaucracy in the administration of the leader's proposal.

Listen to this. Under the Dole proposal, there is also an amnesty provision, but in general this subsection shall not apply during an initial enrollment period described generally, but the participating State may establish a limit on the number of new enrollees a health plan must accept during the period described based on the plan's share of the applicable community-rated or experienced-rated population.

Now you talk about a bureaucracy. Here the Dole bill says they are going to give it to the State to develop some kind of agency when they are having this limited amnesty period, and then the State is going to decide—on the basis of what? Capacity—who is going to get in and who is going to be left out.

You talk about playing God. You talk about the Mitchell proposal, trying to include people and having administrative procedures to include people—here, under the Dole proposal they are creating a new State agency to keep people out; to keep people out.

This is wise, to try to get through exactly what is the bureaucracy in the two proposals.

Mr. DASCHLE. Will the Senator yield on that point just for a clarification? As I understand it, if that interpretation is correct, then you would have a State governmental agency deciding the eligibility for insurance for every individual with a preexisting condition? You could have someone in North Dakota who has a preexisting condition who would be eligible for care, but a person in South Dakota with the same preexisting condition where Government says you are not allowed any access to that insurance? Is that what that provision says?

Mr. KENNEDY. It is stated. The Senator is exactly correct. The participating State may establish a limit on the number of new enrollees a health plan must accept. So they decide who they are going to accept. There is no consistency in terms of trying to make sure you are making a commitment to those individuals, our fellow citizens who have a disability, and say they are part of this whole process; they are part of the whole process. Here it says the State will establish an agency. The State will decide who will come in and who will be left out.

I think the Senator's interpretation is correct.

Mr. REID. Mr. President, will the Senator yield?

Mr. KENNEDY. I will yield for a question and then yield whatever time, yield the floor.

Mr. REID. Mr. President, through you to my friend from Massachusetts, you will recall the junior Senator from Indiana said, and this is not an exact quote: I am not prepared to go forward on health care legislation. I ask my friend from Massachusetts, is it not true that we have been talking about health care, universal health care, for over 50 years in this country?

Mr. KENNEDY. The Senator is absolutely correct.

Mr. REID. Is it not true we have gone through about six Presidents, talking health care?

Mr. KENNEDY. Certainly Teddy Roosevelt, Franklin Roosevelt, Harry Truman, President Nixon——

Mr. REID. It is also my understanding the Education and Labor Committee and the Finance Committee have held more than 60 hearings on the legislation, the one reported out by the Finance Committee, the bill reported out by the Education and Labor Committee—much of which has been melded into the Mitchell plan? Over 60 hearings; is that right?

Mr. KENNEDY. Over 80 would be more accurate.

Mr. REID. And hundreds of witnesses, is that true?

Mr. KENNEDY. The Senator is correct.

Mr. REID. I am wondering, do you think the Senator from Massachusetts is ready to go forward with this legislation?

Mr. KENNEDY. I think the American people are ready to go. They are ready for the Congress to finally address the more important issues of our time.

Mr. REID. I would say to my friend from Massachusetts, talking, for example, about preexisting disabilities, preexisting conditions, in the small State of Nevada—and it is a small State—we have about 360,000 people with preexisting conditions. Now, under the Dole plan, as has been explained by the Senator from Massachusetts and the Senator from South Dakota, most of them are still out of luck; is that not right? Under the Dole plan, preexisting conditions—in the small State of Nevada we now have about 360,000 people with preexisting conditions. They would still basically be out of luck; is that not right?

Mr. KENNEDY. Certainly they would be out of luck if they have been getting any kind of treatment for 6 months prior to the time—they would be out of luck for the next year for any other kind—any kind of treatment and assistance. If you look at the nature of these kinds of diseases—cancer, heart disease, diabetes, HIV, the whole range of different kinds of diseases—that is the time when people really need the help and assistance. In effect, they would be excluded.

Mr. REID. I hope later on in this debate, we will have an opportunity to talk about some of the other things that need to be addressed, like helping the small business people in this country; like helping women who need prenatal care. I hope we will have the opportunity during this debate to indicate now is the time to go forward with health care legislation for the people of the State of Nevada, the people of the State of Massachusetts, and throughout the United States.

Mr. KENNEDY. I thank my colleague. We are back, hopefully, to the excellent amendment of the Senator from Connecticut.

I think for——

Mr. COATS. Mr. President, may I ask the Senator from Massachusetts to yield to me just to respond in 30 seconds to the Senator from Nevada?

Mr. KENNEDY. For 30 seconds.

Mr. COATS. I thank the Senator.

Perhaps the Senator from Nevada was not here when I spoke last evening. Or maybe he did not hear my entire statement today. If he misinterpreted my statement or if I misstated in my statement, I apologize for misstating it.

This Senator said—meant to say—I am not prepared to go forward with the Mitchell bill or even the Dole bill. I have not had time to analyze it all. I doubt if any Member here has. Certainly, I am prepared, as I indicated in my statement—I closed with it—to go forward with meaningful, sensible health reform legislation. I am not prepared. I do not fully understand—even the Finance Committee chairman said he did not realize the section was in the bill. I do not think any of us have had the chance to fully analyze the situation to the point where we can just do the bill now and get out of here and go home. That is what I meant to say.

But I say to the Senator from the State of Nevada, the premise of the Senator's statement, if it was based on my statement, I think the Senator was wrong.

Mr. KENNEDY. I see the Republican leader. I was wondering if there had been any decisions on the resolution of the two amendments that were going to be voted on—hopefully voted on—on Monday at 5 o'clock. I think the majority leader had indicated he was hopeful of being able to get some kind of response on that request.

Mr. DOLE. I will be meeting with Senator MITCHELL at 1:45 on another matter, and I will be happy——

Mr. KENNEDY. Fine. I thank the Senator. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield the Senator from Connecticut as much time as he desires or may require.

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Dodd amendment No. 2561.

Mr. DODD. Mr. President, I am glad to hear that. To paraphrase Daniel Webster: It is a small amendment, Mr. President, but there are those of us who love it. It is only two pages long. I proposed it last night at 5 o'clock. I gather we are not going to be able to vote on it until maybe Monday or Tuesday. But I just wanted to bring us back a little bit to the subject matter before this body, which I introduced going on 24 hours ago. It is not a difficult amendment to read.

I understand the overall bills are longer but this amendment is just two pages and pretty straightforward as to what it does. I am disappointed we cannot get a vote on it sooner. I just hope we will get a vote at some point.

Just to reemphasize the point that was being made by the Senator from Nevada a moment ago—I hear some people saying how we need a lot more time on this issue before we go forward.

I sit on the Labor and Human Resources Committee. We had 51 hearings on this subject matter in just that committee alone. There were some 30 or 35 different hearings, as I recall, in the Finance Committee. Roughly 40 Members of this body serve either on the Labor and Human Resources Committee or the Finance Committee.

If you add the Veterans' Affairs Committee and the Governmental Affairs Committee, each of which had hearings on this subject matter—and then you consider all of the network programming, all of the stories, the opinion page pieces done on this, the American public is now familiar with a language that I think a year and a half or so ago they would have been totally unfamiliar with; things like preexisting conditions, portability, and the various kinds of plans.

I just want to make the point here that we have had an endless amount of information made available to us. The subject matter of our discussion here should now be tremendously familiar to Members. We must not miss this opportunity. I hear some Members talking about not being ready to proceed. It reminds me of students the night before a school paper is due who have not done their homework. So, a student shows up the next day and says the dog ate his paper and he is very sorry he could not get it done. Or another student takes an incomplete at the end of the semester because he or she did not study.

We cannot take an incomplete on health care. We cannot just quit and go home. Congresses exist for a finite period: 2 years. We are coming toward the end of this 103d Congress after a significant amount of work on health care—including hearing from hundreds of witnesses in countless numbers of hearings.

So while I am certainly patient about people wanting to study and read a bit more, I think this may not pass the smell test, as they say. What we may be really looking at is just some good old-fashioned foot dragging.

So I am hopeful that we might get a vote on my two-page amendment at some point because it is pretty straightforward. It deals with children. It requires private insurance policies to cover pregnant women and children. I will go over it in a minute. That is all it is. It is not a Government program. It does not create some fancy new bureaucracy. It moves the date up for coverage for kids from 1997 to 1995. This should not be heavy lifting in terms of getting us to vote on this. People around here who think we need to study, study, and study some more are not convincing this Senator, and I believe other people, about why that is necessary.

So, let me come back again, if I can, to the subject matter before us because I think a critical point needs to be made over and over and over and over again.

If you are a family living on public assistance today in 1994, your family gets health care. What we are talking about when we talk about those who are not covered are families who are working. They get up every morning and go out the door and hold down a job and try to provide for themselves and their families. They are the ones that are being excluded from basic health care coverage in too high numbers. So we are trying to do what we can to see that they get drawn into the process. That is what this is really all about. Because people talk about this program as some sort of a giveaway, I would just like to share with you some testimony I heard when chairing a hearing before the Children's Subcommittee. My colleague from Indiana serves as the ranking minority member of that subcommittee.

Lynn Morrison testified before our subcommittee last November. Let me read a little of her testimony if I can, because we need to put a human face on the numbers and charts we have before us. While Lynn is only one woman, she speaks, I think, for literally hundreds of thousands in this country:

> My name is Lynn Morrison. I want you to know that I'm an average working person. I've worked since I was 14 years of age. But when I was pregnant with Desiree and needed help in getting health insurance, I couldn't get it.
>
> I'm here today to tell my story so that maybe other women won't have to go through what I did. Others won't have to be afraid when they can't get in to see a doctor before they deliver. Others won't get late prenatal care like I did and risk having a problem.
>
> This year money was tight, even though we were both working. We had just bought our first home and had a monthly mortgage to pay. My husband and I had not planned this pregnancy. This was not the best time to have a baby. But my husband and I were delighted to bring a new baby into the world, to care for her and to give Rachel a new sister.
>
> When I learned I was pregnant, I had just changed jobs to be closer to Rachel's kindergarten. I left my job at a pediatrician's office because it was a 1½-hour commute and I had difficulty getting Rachel to and from school. I like my new job, but they don't offer their employees health insurance.
>
> At first, I was not really worried because Rachel is school age and a pretty healthy child. I was feeling fine and healthy, too. When I learned I was pregnant, I tried to get on my husband's health insurance plan through his work. We learned they had been taking out monthly payments from his paycheck as if he had a family plan, but I was never enrolled. When he tried to enroll me with the health insurance company after I was pregnant, I was denied because my pregnancy was considered a "preexisting condition."
>
> I really wanted this baby to have a good start. I was a little nervous. I was 32 years old.

She goes on to say:

> Soon after that the welfare office—

She went and applied for welfare. I am leaving some of this out.

> told me that my income and my husband's income combined would be too high to be Medicaid eligible. So I tried to find a doctor who would see me without insurance. I found one clinic who would see me, but they wanted $250 to $350 for my first visit and hundreds of dollars for blood tests. We just didn't have it. I was very scared. We were stressed and my husband felt terrible that he couldn't take care of my health needs. I was exhausted from the whole ordeal.
>
> About this time, I was changing from sad and scared for my baby to mad. No one would see me. I thought, I've worked all my life and for what? No one will insure you if you need it, not even if you're pregnant. I have been putting money into the system for 18 years, and isn't it ironic that I can't get any health care when people who have not worked all their lives get Government help? My baby has a right to medical care. I don't understand why I can't get it just because I change jobs and we don't meet certain criteria.
>
> I took the initiative and got on the phone and called around to find help. No one would help me. Before I had the baby, I went into premature labor twice and was hospitalized. I felt scared, but with the help of wonderful doctors—

Which she talked about, her baby was born healthy.

> We are very lucky our baby doesn't have health problems. Everybody should be able to get health care if they need it. All this not only put our baby at risk, but we were afraid of losing our home and marriage. Because there is no guaranteed health coverage today, I couldn't get prenatal care until the fifth month of my pregnancy. I hope you hear my story and understand every American should have health care coverage, whether they change jobs, get sick, or have a baby.

I took the time to read that because I think as we go through this bill, we get up and read sections, subsections, talking a lingo and language that would glaze the eyes of an accountant, an actuary. Legislative language is difficult stuff to understand, to go through. We need to talk in terms of real people. Lynn is a real person and there are many, many more like her out there who are worried. This amendment tries to address her kind of situation.

(Mrs. FEINSTEIN assumed the chair.)

Mrs. MURRAY. Madam President, will the Senator from Connecticut yield for a question?

Mr. DODD. I will be glad to.

Mrs. MURRAY. I was startled, as I think most people were, when you read the story and talked about a woman who said pregnancy was a preexisting condition. I have had doctors tell me any woman over 16 has a preexisting condition. I think when we talk about that, we forget when a lot of women go to a doctor, try to find a new insurance plan, that preexisting condition is something they thought was just part of their life. I think it is imperative we remember that during this debate.

I want to ask the Senator from Connecticut, I have heard from my own ob/gyn that many times he has young women, or women in their twenties sitting out in a car and they are in their ninth month of pregnancy; they are in labor and they sit out in their car and in the hospital parking lot until the very last second to go in to deliver because their health care coverage would not cover pregnancy.

Is this something that you heard in your committee hearings?

Mr. DODD. I thank the Senator for her question.

Madam President, I will tell you, this is something we heard over and over again—the nightmarish stories that people go through. Again, each of us ought to be doing everything we possibly can and not just because we are a civil society and because we care about people, but must also I point out that there are some real dollar savings involved here. We are constantly talking about the fiscal implications, as we should, of the various health care proposals. But let me just share, if I may, the incredible dangers of having a low birthweight baby if you have no prenatal health care.

Each year, there are some 250,000 babies born to women who do not receive the necessary kind of prenatal care before the sixth month of pregnancy. These babies are twice as likely to be born with a low birth weight. More than 90,000 infants were born to mothers who did not see a health care provider during their pregnancy at all. These babies are three times more likely to be born with a low birth weight than those mothers who received the appropriate prenatal care.

What does that mean in terms of dollars and cents? Usually, you are looking at a child that ends up in a hospital—and I am sure many of my colleagues have been to these infant intensive care units. It is remarkable what they can do from a technology standpoint, but do not kid yourself, their work is very expensive. It is not uncommon for the cost to be $150,000 to keep one of those infants alive in one of those incubators. I am just stunned by the capabilities that we have in this area. It is wonderful. But it costs a tremendous amount.

Mrs. MURRAY. Madam President, will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

Mrs. MURRAY. The Senator mentioned the tremendous cost of low birthweight babies and mothers who have not had good prenatal care. As a former preschool teacher, my experience was that the young kids when they got to be 3, 4, and 5 and were in my preschool class were the ones that were further behind, took longer to learn, and were much more difficult. Do those costs reflect further in life as these low birthweight babies grow up?

Mr. DODD. It does. As the Senator has correctly pointed out, there are costs when that child enters school without the kind of learning capacity that they should have and a variety of other problems. The following numbers were developed by the Carnegie Foundation, the March of Dimes, and others. Every time a low birthweight delivery is prevented, it saves between $20,000 and $50,000. Every time a low birthweight delivery is prevented, it saves approximately $150,000 or more on neonatal intensive care costs per child.

Mr. REID. Will the Senator yield?

Mr. DODD. I would be glad to.

Mr. REID. I had two gentlemen from Nevada come to my office who were neonatalogists. They indicated—and I think it is a confirmation—I would like the Senator to respond—of what he is telling us here—it is not unusual in their facility to have women come who have never ever seen a doctor, and they are there for delivery, and that they do not have babies that cost $150,000; they have million-dollar babies. By the time the baby gets out of a hospital the first time, the hospital bill is $1 million. Has the Senator heard of cases of that nature?

Mr. DODD. Certainly. In years back, those children would have died. And today, because of our commitment to research and technology, we can now save those lives. But they are tremendously costly. And again, you will hear over and over about the low cost and savings from prevention. I called Travelers Insurance Co., by the way, and asked about my amendment and said, "How much will this cost?" It is 9 cents a day to cover children's care. That is 9 cents a day in premium costs.

By the way, my insurance companies do not oppose this amendment. We hear about the insurance industry and some of the things that are said about them, but I want my colleagues to know that they are behind this and believe it is an acceptable step. Many of them have it already in their plans. A lot of the HMO's have it in their plans and insist upon it. Some 20 States require it. So this amendment would just insist that any private insurance plan cover it as well.

Mr. REID. Will the Senator yield for one final question?

The Senator from Washington stated the problems that women have can be preexisting conditions. To indicate that this is not just a fallacy, I have an organization, a nonprofit organization in the State of Nevada that wrote me a letter—I talked about it once a couple months ago on the floor—the National Association of Latin Americans. They have 23 employees. They had health insurance, and the reason they were able to maintain employees is they had health insurance. The average wage was $4.50. They were glad to work; they had health insurance. They were unable to find someone that would renew or write a new policy because they had preexisting conditions that had developed during the year. Two of the conditions were pregnancies. One of the conditions was diabetes. They were canceled.

Is this what the Senator from Connecticut is talking about?

Mr. DODD. Exactly. Those are exactly the kinds of conditions and problems that people face. And I would like to, Madam President, if I could draw the attention of my colleagues to this chart or graph here. There are a lot of numbers and language here but let me briefly try to explain the comparison between the Mitchell plan and the Dole plan when it comes to children and how they are affected. We are talking about the children of working people here now.

These numbers here on the side of this chart are income levels starting at $14,000 going up to $44,000, which is 300 percent of poverty.

Under the Mitchell plan, the amount of premium you would pay for children is zero through 150 percent of poverty.

I would point out that under the Dole plan, the cost of a family policy does not cost you anything at $14,000, but when you jump up to $22,000, 150 percent of poverty, you don't do very well. Under the Mitchell plan, there is no cost. Under the Dole plan, you pay $5,883, in excess of 26 percent of that family's income.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. DODD. I will in a second. Let me finish the graph. You go to $29,000, $36,000, $44,000. These are working people. We have made a significant effort in the Mitchell plan to assist those families, particularly at that level.

The highest cost a family at the $44,000 level for these children is a little in excess of $1,700 a year—4 percent of that family's income.

One of the things we want to try to do here is not bankrupt people who are out there earning a living, trying to provide for their children's needs. And health care is costly. And so the Mitchell plan makes a significant effort to assist those working families with children and see that they get the kind of support and backing that they need.

With all due respect—as I said last evening—and I will repeat it here now because I do not want to hear it said later, there have been very few people in this Chamber who have fought harder and cared as much about kids as Bob DOLE of Kansas. Food stamps, WIC programs, he has been there.

Now, my reference here is the——

Mr. PACKWOOD. Will the Senator yield?

Mr. DODD. In a second I will. There is a significant difference and people ought to take note, a significant difference. If you are in that $22,000, $29,000, $36,000 range, under Mitchell you are paying less than 1 percent at $29,000, 2.7 percent of your income at $36,000, 4 percent of your income at $44,000. Under the Dole proposal, at $22,000, you pay 26 percent, at $29,000 you pay almost 20 percent, at $36,000, you pay almost 16 percent, and at $44,000, you spend 13 percent of your income for coverage.

Mr. PACKWOOD. I do have a question.

Mr. DODD. One quick question.

Mr. PACKWOOD. Yes. What benefit package is the Senator using to estimate the Dole-Packwood bill?

Mr. DODD. The Dole bill only covers the family policy. It does not pick up children separately. So there is a distinction. But this is how families are affected across the board.

Mr. PACKWOOD. Where does the Senator——

Mr. DODD. Let me finish. Then I will yield to my colleague.

Mr. PACKWOOD. Where does the Senator——

Mr. DODD. I will yield. Let me answer the question. The Mitchell plan provides for children specifically whereas the Dole proposal covers the family. The coverage and the cost is the same. That is why we have this amendment.

Mrs. MURRAY. Will the Senator yield?

Mr. DODD. I will be glad to yield.

Mr. PACKWOOD. My question is where did the Senator get——

The PRESIDING OFFICER. The Senator from Connecticut has the floor. He has yielded to the Senator from Washington.

Mrs. MURRAY. I thank the Chair, and I thank my colleague from Connecticut.

They probably heard me when I made my opening remarks the other day talk about a young child who I had in my preschool class who was unruly and disruptive, and after observing him I noticed he could not hear, he had ear infections. And I went to his mother and suggested she take him into the physician and help him. It did not occur, and after 3 weeks I went back to her and I said, "Have you taken him in?" And she looked at me in tears and said, "We don't have any health care insurance."

Now, there is a child who remained a problem in my classroom simply because of ear infections. His family did not have coverage. I would guess their income was probably in the $22,000 range. Under the Mitchell plan, what would be the premium she would have to pay?

Mr. DODD. As it is written now—it may be changed if people want to knock it out or modify it—but right now under the Mitchell plan, that family is protected up to 150 percent of poverty so that they would not have a premium cost for those children.

We understand the value of that. If their income falls into the $30,000 range, they participate and pay something. We are trying to help out working families in this area so that that woman——

Mrs. MURRAY. That child would then have gone into the doctor, had his ear infections fixed, and been back and been a nondisruptive member of the class.

Mr. DODD. That is absolutely correct. The Senator made a point. Again, in stating the statistics, Madam President, there are implications here—Lord knows, there are implications. We know now that a dollar invested in prenatal care can save on the average $3 to $4.

So the investment, in the case of a pregnant woman, with the kind of care that we can provide today, does a tremendous amount to save costs when you face the problems that these infants incur with low birthweights. Now, I would say my colleague from Oregon is absolutely correct, in my view, regarding vaccines. My State of Connecticut has a free vaccine program, and I have gone out day after day, in area after area, Hartford, Bridgeport, New Haven, with clowns and food and gimmicks and everything else to get people to come out and take advantage of it. And they do not.

We have a hard time with that. We have to think of more creative ways of doing it. But, nonetheless, it is critically important that these children get some assistance.

So this amendment that is the pending business, Madam President, does not create a bureaucracy. Very simply, it requires every private insurance policy in the country to include preventive services for children and pregnant women in their basic benefits package by next summer.

Let me conclude on this note. I see other colleagues want to address these issues. I come from Connecticut. I come from the insurance capital of this country. I have 55,000 constituents who work in the industry. I also have 23,000 constituents who lose their health insurance every month. Most of them get it back before the year is out. But God forbid something happens to them during that year.

I would not be standing here supporting a program that would destroy the private industry involved in health care. They have done a very good job, in my view. I know other colleagues may have a different point of view. But I believe they have done well. This bill builds on the existing program. It does not tear it down. This amendment specifically builds on the existing program. That is why I think it is important and why I believe it can make such a difference in these young children's lives and their families' lives.

Mr. KENNEDY. Will the Senator yield just on the question about the estimates? As I understand—I would be interested if he agrees—the benefits packages estimate is from the CBO for Mitchell, and both the Mitchell and Dole are estimated equal to Blue Cross standard under the Federal Employees Health Benefits Program. As I understand it, the Dole probably is actually higher because the community rating pool is smaller. It is outlined on pages 86 and 87. But as I understand, that is how the estimate came. Am I correct?

Mr. DODD. The Senator from Massachusetts is absolutely correct. We are talking about the children's features. In the Mitchell bill, we go beyond 150 percent of poverty and try to do something for those families.

Under the Dole proposal, there is an effort, and 100 percent and up to, I guess, 150 percent. It stops at 150 percent.

Mr. KENNEDY. Nothing above 150.

Mr. DODD. That is correct.

Mr. KENNEDY. There is no program in there for children?

Mr. DODD. That is correct. That is why, under the Dole proposal, at 150 percent of poverty—in excess of $22,000 a year—you are going to be in the same category as the person making $44,000 a year when it comes to children. In fairness to Senator DOLE, up to 150 percent the plans both help families. I happen to believe if you are making 200 percent in excess of poverty or 300 percent, you are not a wealthy American. You are a middle-income family trying to hold it together, pay mortgages or rents, clothes, God knows what else. These are not affluent Americans. To suggest that those families can afford 26 percent of their gross income for health care premiums is excessive, in my view. Maybe others do not think it is, but I think it is. That is why the Mitchell proposal is so much better.

Mr. KENNEDY. If I could just ask the Senator about this chart over here. The Senator has addressed the questions about what is happening under the Mitchell program, as I understand it, which has the unique program which is directed toward children. The Senator's amendment addresses this concept and accentuates the benefits of it at an earlier period of time. As I understand it, it has the support of many within the industry as compared to the Dole proposal.

The only question I would like to ask is whether the Senator agrees that we are basically talking about families of working men and women. The Senator has pointed out correctly that those are the most needy children of working families. The poorest are covered by Medicaid.

But does the Senator agree with me that there is a parallel in the difference between the Mitchell program and the Dole program, not just in terms of children, but also for working families;

that the effort of the Mitchell program was to again try to get a very, very affordable program for children, which are the ones that have been left behind in the special interests?

But does the Senator not agree with me that, if you look further down the road in terms of the Mitchell plan and the Dole plan with regard to working families, you see that dramatic difference again reflected in the amounts that would be required in terms of payment? Under the Mitchell program, we still try to keep that figure down. Here you see 4 percent, 6 percent, 8 percent, and 10 percent. Under the Dole program, it goes 12 percent and 26 percent. At $22,000 for a family of four, it is 26 percent, and, particularly since you are talking about the voluntary program, it is going to be virtually prohibitive and really not a program at all.

Mr. DODD. The Senator is absolutely correct. As I pointed out last evening, of the 37 million Americans who have no health insurance today, 12 million are children. They represent roughly 25 percent of the population of the country, yet closer to 36 percent of the uninsured. Eighty-two percent of the adult population are working Americans. If you are on public assistance, you get health care today in America.

As I pointed out last evening, if you are incarcerated in America today, you get health care. But if you are working, it is difficult. Most of the uninsured are working.

I do not have the chart with me, but let me make one last point which I think ought to startle people because of where the trend lines are going. In 1987, 64 to 65 percent of the children of working families, working either full time or part time, had employment related health care coverage. In 1992, that number is now around 59 percent. The number of children who are receiving insurance in families where there are full-time jobs or significant part-time work is declining. The trend lines are moving in the direction where fewer and fewer children are getting covered because of the tremendous costs.

So while you can say, "Well, Senator, look, 60 percent are still covered," you are right. But it is down from 65 percent of just a few years ago and heading in the wrong direction. So while that may be OK for you today, I just caution you. If you think the status quo is doing nothing, folding up our tent, going home, taking the incomplete, in effect, because we did not want to sit around and address these hard questions, you are going to be in potentially greater difficulty as a working family out there in meeting the health care needs of your children. That is statistically the case as you watch those numbers move in the wrong direction, I think, by everyone's estimate.

Mr. REID. Will the Senator yield for a question?

Mr. DODD. I yielded to my colleague from Minnesota.

Mr. WELLSTONE. I yield.

Mr. REID. Just a brief question: The State of Nevada has the highest teenage pregnancy rate in the United States. In addition to that, almost 50 percent of the teenaged mothers have never had prenatal care; zero. Would the underlying bill and the amendment suggested by my friend from Connecticut help the young women in the State of Nevada?

Mr. DODD. I say to my colleague, absolutely. What we are doing here is requiring the private carriers to have this kind of service, to make it available in July 1995. It does not seem like much to many people. But 18 months could make a big difference to these families.

Of course, under the Mitchell proposal, the subsidies go up to 300 percent of poverty. I am presuming that by and large, these teenaged mothers come from poorer families, and are poorer, obviously, given their age and their inability to earn higher incomes. They are going to be particularly assisted in this process, and they should be able to get help.

The Senator from Oregon brings up the point that we have to get them there, too.

So I think it is a critically important question.

Mr. WELLSTONE. Will the Senator yield? First of all, would the Senator agree with me? I have a chart. Actually, when you look at those Americans that are without insurance, a disproportionate number of them, in fact, are working middle-income families.

Mr. DODD. The Senator is absolutely correct. I am stunned that people do not see that. The notion out there, I think, is that the uninsured are all on public assistance, that these are welfare recipients who do not want to work and are just living off everybody else's labor. I am just amazed by this, because the fact is that 82 percent of those without health coverage are working Americans. They may be holding a low-wage or low-salary job but they are working. In a sense, we are trying to amend the welfare laws in this country. If you have kids, you would almost have to be out of your mind to get off welfare and take a $6 an hour job with no health care coverage.

We are trying to get people off welfare and into private sector jobs. What is the inducement if you go out there and take that job and you lose the health care coverage you get as a welfare mother? What is the inducement? You can almost argue that you are being irresponsible to your children if you go off welfare and lose all health protection for them.

We are trying to get people off of welfare without losing health coverage. That is the biggest incentive to decrease welfare dependency I know of. You talk to welfare recipients and they are scared about not having health care coverage for their kids. It is going to be hard to make any progress towards getting people off welfare if we do not provide a good health care system for those kids.

Mr. WELLSTONE. What the Senator is saying is that you actually can have a true welfare reform bill where women or men—usually women are the single parents—are able to work and support their children—although I believe he is saying being at home with the children is very important work. But unless we do something about health care reform to make sure they do not lose their Medicaid on AFDC. Is that what the Senator is saying?

Mr. DODD. The Senator is correct. I feel so strongly about it because we do not value enough those people who say: Look, I am going to try and do this on my own. I do not want to ask for anybody's help. I am going to take that job and try to provide for my family. They are going out that door and they do not get many good jobs, high-paying jobs, and they place their families at risk as a result. If you really claim to care about people and want to see them working, we must have health care.

I have always said the best social program designed by anybody anywhere is a job—a good old 9-to-5 or 8-to-4 job. Nothing does more for families, for one's sense of self esteem and self worth, then to be able to contribute to your family, your neighborhoods and community through a job. So if we are to try to get people to work, we have to do something on the health care issue.

We have about 20 legislative days left in this Congress. After all the work, hearings, discussion and debate, we are down to 20 days, and I am hearing people say, "I have not heard enough yet. I need to examine a bit more." Our various committees have held at least 80 hearings with hundreds of witnesses. Most of us in this body have attended hearings. In my case I participated in 10 days of markups in the Labor and Human Resources Committee as well, and I know there was a similar markup in the Finance Committee. The Presiding Officer may know, or my other colleagues may know exactly how much time was spent.

My Lord, my friends, what is the real situation here? We do not spend this much time on other complicated matters around here. To have somebody say, "I am sorry, I do not quite get it", is ridiculous. When I go home, the people in my State get it. They understand it. They want preexisting conditions eliminated; they want portability, and they want to see kids get covered in this country.

This is not magic. This is not that difficult. This is about rolling up our sleeves, deciding to work together and getting the job done. We have about 3 weeks left to do the job. The American public, I think, expects us to try. We may fail in the end, but let us not fail by filibuster. Let us try and get it done and try and work together. This tactic of 30, 40, 60 hours of general debate is not fooling anybody. This is the tactic of digging in your heels, slowing down the process, hoping the calendar runs out, hoping we go home, and hoping the American people lose.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. BENNETT] is recognized.

Mr. BENNETT. I yield such time as he may require to my friend, Senator SHELBY.

Mr. SHELBY. Madam President, "Who shall check the Parliament?" Yes, who shall check the Parliament? John Stuart Mill asked this question over a century ago, and it is appropriate today.

Mill subsequently notes that:

> An assembly, if the cry of the moment goes with it, however hastily raised or artificially stirred up, thinks itself and is thought by everybody to be completely exculpated, however disastrous may be the consequences. Besides, an assembly never personally experiences the inconveniences of its bad measures until they have reached the dimensions of national evils.

Those were the words of John Stuart Mill.

Madam President, Mill frames for us the fundamental question that the Senate confronts at this very moment: Will we, in haste, and in the heat of battle, lose our measured and our judicious temperament? Will we, with no sense of culpability and responsibility for our rash actions, pass bad measures that will become national evils for present and future generations?—to paraphrase Mill.

Madam President, in the Federalist Papers, No. 62, Madison informs us that the Senate's constitutional necessity is marked by "the propensity of all single and numerous assemblies to yield to the impulse of sudden and violent passions." Madison reminds us that the Senate "must be, in all cases, a salutary check on the Government."

In the United States, it is the Senate that must watch the Parliament.

The American people are anxiously waiting to see if the Senate—this Senate—fulfills its constitutional role and checks the popular passions that have been unleashed in the rush to pass health care reform.

This health care debate is one of the most critical moments in the economic and social history of modern America. This Senate, Madam President, will decide whether or not we will have the most massive expansion of Federal power and spending commitments since the Great Society programs—a decision that will decide the future of every American's health care, the tax and financial burdens on our children and grandchildren, and the fundamental role of Government in the free market.

The private sector in Europe has created no net new jobs in 20 years as a result of high burdens on employers, big government, and untenable social spending commitments. Furthermore, Western Europe suffers from structural 11 percent unemployment compared to under 7 percent in the United States. As a result, the leaders of the European Community agreed in 1993 that lower labor taxes were needed to enhance competitiveness.

Yet, Madam President, while Europe struggles to throw off the yoke of these big government burdens, this Congress is preparing to put another burden on private employers in the form of insurance mandates, increased taxes on the American people, expanding Federal spending by over a trillion dollars in the next decade and, yes, and give the Government the major role in managing 14 percent of our economy through so-called health care reform.

Throughout the world, governments are slimming down and loosening the shackles on private enterprise. Yet, like a dinosaur, the United States trods down the well-worn path of bigger Government and higher taxes—a path that is less and less attractive to the other advanced industrial societies in the world.

A recent poll taken in my home State of Alabama found that 57 percent of Alabamians believe that Congress should take more time to study the health care issue, rather than acting immediately to pass legislation.

This number reflects the belief expressed by 46 percent of the poll's participants that the net effect of health care reform on an individual's personal health care coverage will be negative. Only 12 percent of the poll's participants felt that their health care would improve under this type of legislation that is before the Senate today.

Madam President, there is deep anxiety in my State, and I believe across the country, that in order to meet an artificial deadline set by the date of congressional adjournment, Congress will pass an ill-conceived, politically compromised piece of legislation—legislation that imposes substantial new tax and fiscal burdens on the American taxpayers and makes our current health care system, a system that provides the highest quality health care in the world, substantially worse.

One-seventh of our economy is tied to our health care system. It would be irresponsible for this Congress to pass legislation making sweeping changes in our system without due consideration and examination of the consequences.

Few Senators have had a chance to adequately review the contents or to consider the consequences of the voluminous document that we are now considering. Only since last week have we seen the bill language of the pending measure. Even more astounding, we are now looking at our third revision of that bill during the past week.

This is no way to reorganize one-seventh of our economy. It would take years to adequately assess the impact of this plan on every American's health care and his or her pocketbook.

At present, all we have is a scant two dozen pages of analysis from the Congressional Budget Office, an analysis that the office itself admits is hardly reliable.

The rush to pass health care reform has failed to take a hard look at the new fiscal commitments that will be made as a part of reform, or to adequately discuss what has become the second major raid on the American taxpayers in this Congress.

I did not support the massive tax increases passed by this Congress last year. I worked actively to defeat that measure and I will oppose the new taxing and spending binge by a taxaholic Congress called for by the pending health care reform bills before the Senate.

The Mitchell bill would put the burden of nearly $300 billion in new taxes over the next decade on the back of the American taxpayer. Most of these taxes will be raised through the taxation of every working American's health benefits.

The 103d Congress has already raised more taxes than any Congress in history. Passage of the Mitchell bill will only ensure that this legacy will not be easily undone or overcome by future Congresses.

I am opposed to employer mandates in any form. I am opposed to price controls. And I am concerned about the impact of so-called reform on the quality of our health care in America. However, the fiscal issues involved in health care reform remain my overriding concern here today.

The Mitchell bill, this so-called moderate bill, will make almost half of the American people dependent upon the Federal Government for their health care. Through the year 2004, the subsidies for expanded coverage will cost the taxpayer over $1 trillion—$1 trillion in new spending, with or without employer mandates.

The Mitchell bill proposes to pay for part of this massive new entitlement by putting four separate taxes on the working American's health benefits taxes that Senator GRAMM, and others, and I will attempt to eliminate from this bill.

One tax would put a 35-percent assessment on any benefits that an employer provides to an employee over a Government-determined minimum level. Can you imagine?

A second tax would levy a 25-percent assessment on health care premiums that exceed 2 percent real growth each year.

The third tax is a 1.75-percent excise tax on every health care premium in the country.

The final health benefit tax is a very cleverly concealed provision that would prevent insurers from offering discounts—can you believe it—for a healthy lifestyle and good health.

This tax would instead require these plans to make payments to underwrite high-risk individuals.

I am going to discuss these taxes at length in the future.

But I want to state here and now that the American people did not count on health care reform being financed on the backs of their hard won and well-deserved benefits.

The high-growth plan tax is not only a tax on quality health benefits, but is also intended as a form of price control that would result in rationing of health care services offered by health plans.

However, despite the cynical intention for the tax to reduce the American worker's health benefits to one-size-fits-all health plans that provide fewer benefits for the same amount of money, the tax will not control costs.

According to the CBO, this tax would provide little incentive for cost containment. Instead, the tax is a monster $70 billion revenue raiser that will increase the cost of the working American's health care premiums.

The Mitchell bill also contains a 1.75-percent excise tax on every health care premium in the country. Like all consumption-based taxes, this tax is a substantial revenue raiser, and it will grow.

However, like all sales and excise taxes, the working people of America will feel the pain of the tax in far greater proportion than will the well-to-do. Is taxing the middle class's health benefits to pay for bigger Government health care reform? I say no, Madam President.

This is the Congress that promised to make the wealthy pay their fair share. Yet, once again it is the middle class who must pay the bills for the Federal Government's unchecked growth.

Furthermore, Madam President, the taxes on excess health benefits strike at the heart of our fundamental freedoms and the American spirit. I could never support a measure that would limit any American worker or employer to a Government-defined health plan if they desired to purchase better for themselves or their family.

The right of any American citizen to improve his or her circumstances is as fundamental as the right to free speech or trial by jury. This tax would not do that. It is not right.

Madam President, Congress can take a few simple steps to reform our insurance market, reduce administrative costs, and make insurance more affordable to small businesses this year without giving the Government control over our Nation's health care system or levying new burdens on an overtaxed economy.

A vote for a bad health care bill is not a vote for reform. Health care reform should not become an excuse for expanding the size and power of the Federal Government.

Consequently, I will vote and work against any measure that levies new taxes on the American people, makes unrealistic fiscal commitments for future Congresses to meet, imposes job killing mandates on small business, or threatens to reduce the quality of a health care system that works well for 85 percent of the American people.

I believe Congress must do health care reform the right way or should wait until the next Congress. The stakes are too high to do otherwise.

Madam President, I believe the Mitchell bill is unwise, unworkable, and unwanted by the overwhelming majority of the American people. I urge my colleagues to oppose the Mitchell proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I say in brief response to my friend from Alabama health care this year is going up over $100 billion. We have to do something about that cost of health care. Also the 17 percent of the people who have no health insurance are not the only ones who suffer. There are many people who have insurance who we call underinsured. It is a problem we must address.

I yield now 1 minute to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Madam President, I thank the Senator from Nevada and the Senator from Minnesota, who has kindly permitted me to go one place ahead of him.

Madam President, I rise today to support the amendment offered by my colleague from Connecticut, Senator DODD, which requires that new health insurance policies or renewals include clinical preventative benefits—without copayments—for pregnant women and children.

This is a very important amendment, because it goes right to the heart of what we're trying to do in this health care debate: spend health care dollars wisely and rationally, and expand access to health care to those who really need it.

I would argue strongly that spending money on preventive care for pregnant women is a good economic deal. I would rather pay for prenatal and postnatal care any day than pay the hundreds of thousands of dollars it can take to care for a child in a neonatal intensive care unit—and I have visited many of them.

Ensuring that children get adequate preventive care, immunizations, et cetera, should reflect what we stand for as a Nation.

Some of my colleagues have spent a great deal of time talking about Lyndon Johnson and his commitment to provide health care to poor Americans through Medicaid and to our Nation's senior citizens through Medicare. I can tell you, firsthand, that Lyndon Johnson was a magnificently generous human being who personally felt the pain and suffering of the people around him. He truly felt injustice. He felt inequities. He was a large man who believed that wrongs could be righted if you had a good product to sell and you worked hard enough.

His oldest daughter, to my own good fortune, is the same way.

As Governor, I established the Southern Governor's Commission on Infant Mortality—and I appointed my wife, Lynda, to serve on commission representing the Commonwealth of Virginia.

During the last decade, Lynda has traveled throughout Virginia, throughout the South, and throughout the Nation—later as a member of the congressionally mandated National Commission to Prevent Infant Mortality—working to make people understand that providing preventive health care to pregnant women is just plain the right thing to do from an economic standpoint, from a moral standpoint, and from an ethical standpoint.

I thank the Senator from Nevada for yielding the time and especially the Senator from Minnesota who will now be recognized.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Madam President, I yield 20 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 20 minutes.

Mr. WELLSTONE. Madam President, I wrote a piece for the Minnesota Star Tribune a couple of weeks ago. I would like to read from the beginning, because it sets the tone and framework for my remarks on the floor of the Senate today, which are a little bit different from everybody else's.

I quote from the piece:

> Citizens beware. Health care that is always there is out, and triggers are in. All of you who worry about losing your coverage, who have no coverage, who are not covered for the conditions you most need insurance for, who pay too much for too little, are in danger of being told to just sit tight, all because several health care proposals circulating in Washington are generating a lot more attention than they deserve.

Madam President, let me start out with the obvious, because I think it has been lost in some of the debate. The obvious point is that the Mitchell bill, which represents a lot of hard work on the part of the majority leader, nevertheless leaves out some 14 million Americans for a very long period of time. It is not a universal coverage bill.

Most people who are following this debate and who think about their own lives understand that when 14 million people are left out, that could very well be them.

Madam President, it is very interesting to me that, as we think about a hard trigger in 2002—if that in fact becomes necessary—that here in the U.S. Senate we are not waiting until 2002 for all of us to be covered.

And one more time, I do not think the Mitchell plan meets the standard set by so many of the speeches I have heard and so much of the rhetoric that I have heard that we ought to pass a reform bill that gives everyone as good a health care plan as we have for ourselves and our children.

Madam President, there is another issue—and this is far less a criticism of the majority leader's plan and far more a criticism of some of the alternatives or lack of alternatives we have heard from some other colleagues. I heard the Senator from South Dakota say he believes universal coverage is so important to cost containment. I heartily agree with his analysis.

Let me take it one step further. If we do not have universal coverage and we move to community rating, which we should do, the premiums for younger people go up, and then they do not participate because they do not have to. And then, in the language of actuaries, what that leads to is a death spiral where, in fact, people's premiums then go up for more people, and then more people drop out. It just simply is unworkable.

Madam President, earlier today we were talking about the Dodd amendment. I asked the Senator from Connecticut—and I appreciate his fine work—whether or not one of the most important aspects of his amendment was to go beyond very low-income people and get some early childhood care or prenatal care to a wider range of women and to their children; and was it not true that, among the 40 million people who have no health insurance, many of them were moderate income, working families? He said, yes. And I agree with him. That is why his amendment is so important.

But the fact of the matter is, whereas the President promised affordable health care, the majority leader's bill still leaves all too many families—when we get beyond this care and these services for women and children, but other services people need and other health care they need—still paying up to 20 percent or more of their family income just for health insurance premiums.

In other words, if you do not have employers paying their fair share—and please remember, colleagues, our employer pays 72 percent—then you have to go to subsidies. But if you want to keep the cost of subsidies down and only cover low-income or low- and moderate-income people, a lot of working and middle-income families do not receive any subsidy or any support. Thus, whether it be pretrigger or even posttrigger, you could still have families paying—and they do pay—20 percent or more of their annual income on premiums. And that is too much for middle-income people. As a matter of fact, I think we pay about 3 percent of our income, as Senators, for our plan. That is quite a difference, Madam President.

Third of all, there is another weakness in the majority leader's plan, for all the positive effort that he has made, and that has to do with low-income families and low-income people.

Madam President, I just would tell you that if we are going to continue to have a $10 copay in fee-for-service health plans, whether it be for Medicaid recipients or whether it be for low-income people, in the State of Minnesota and in many States with rural communities where we do not have HMO's, $10 will be too much.

We are all trying to emphasize family doctors and nurse practitioners and preventive health care. But if your child has a sore throat and you can't afford the $10, you will not go. It will not be universal coverage if it is not affordable. People simply will not go. And if we are talking about low-income families and children, I will just tell you that $10 copay is too much.

Finally, I worry to no end—and I wish this was more a part of the discussion—about two provisions in the majority leader's bill that I really think have to be dealt with in amendments.

Two points, Madam President: We set up commissions. We set up a National Health Benefits Board and we also set up a National Health Care Cost and Coverage Commission.

There is no requirement for consumer representation on these Boards. I will have an amendment saying we ought to make sure consumers are represented on these boards.

But what bothers me the most is the fail-safe mechanism that says that if we do not contain costs—and I am not at all sure we will be able to—automatically the National Health Care Cost and Coverage Commission will cut subsidies.

Well, if you are going to cut subsidies, you are going to cut subsidies for low- and moderate-income people. Are we going to privatize Medicaid, take low- and moderate-income off the coverage they have and offer them coverage in the private sector, only to find that if there is no cost containment, we are cutting their subsidies?

Why don't we really guarantee cost containment? What happened to insurance premiums caps? What happened to finding ways to overhaul health care costs? What happened to making cuts in our administrative load? Why would we want poor people to be the ones to be the first to be cut?

Another amendment is in order to strengthen that provision.

Madam President, the majority leader has really made an effort to bring a bill to the floor and I applaud him for that.

But then I see some of these other efforts.

Yesterday, we had the Boren-Nunn-Domenici-Bennett bill introduced. And I just would have to say—and maybe later on this will be a point of debate—there is no universal coverage in this proposal. It would cover only 90 percent of Americans. We are talking about leaving 24 million men, women, and children without protection. That is what CBO is going to say. That is what CBO has said about similar proposals.

I could raise questions about cost containment. I could raise questions about the comprehensive benefits. Where are the long-term benefits, where are the prescription drug benefits that are in the majority leader's bill?

Finally, just to signal what I think is going to be a very important debate, this proposal does not give States the option of implementing a single-payer program. Madam President, quite frankly, this is a little bit perplexing to me, because a good conservative principle—one, by the way, which I have shared almost all my adult life—is a critique of overly centralized and bureaucratized public policy. I have always felt conservatives have been right about that.

Decentralize health care. After we talk about some basic national goals and standards, let us let States decide on how they might finance and implement reform. Let the creativity and the development and the bargaining and the financing be at the State level.

Utah may not want to go single payer. In that case, Utah should not. But maybe Minnesota should. Or maybe Vermont would. Or maybe California might. And maybe Florida would do everything within managed competition. States are already laboratories of reform. Why would anybody be afraid of letting a State have an option to implement a single payer plan?

Then I read the New York Times today and I got the sense that the majority leader's bill—which does not have universal coverage, which does not include the same benefits that we have, which does not call for employers to contribute 70-some percent, all of which is what we have as Senators—may yet be even further weakened. Now there are all sorts of other discussions about how to water down the bill and weaken the bill. While at the same time, over and over and over again, the vast majority of people in the country say they are for universal coverage.

The vast majority of people in the country say they are for employers paying their fair share.

Madam President, these pieces of legislation are alternatives which further weaken the majority leader's bill, which is already quite weak in present form. I myself have made no decision whether I can support this bill in present form, much less if it is weakened. I think then support would be very problematical.

It will do nothing about the trends. In 1980, 24.2 million Americans were uninsured; 1992, 38.9 million. We cannot be talking about legislation that keeps things as they are or weakens the proposal given the kind of trends we see within our country.

(Mr. PRYOR assumed the chair.)

Mr. WELLSTONE. By way of conclusion, let me go to point A and point B. Today I sent a letter to the majority leader, with Senator SIMON, Senator FEINGOLD, Senator MOSELEY-BRAUN, Senator METZENBAUM, and Senator HARKIN. I will just read a paragraph.

> As we continue to support your efforts to achieve affordable health care coverage for every American, we want you to know that we are gravely concerned about several aspects of the bill you have introduced. Further movement away from the goals of universal, affordable coverage would cause us to question even more seriously our ability to support the bill.

Mr. President, I want to make it clear that we meant those words and will be meeting with the majority leader at 11 a.m. on Monday. I will not read from the rest of this letter, but I will tell you, Mr. President, that for myself—and I think I speak for some of my colleagues, although they have very important amendments as well—we are ready to come to the floor with amendments to strengthen this bill. I want to give some examples.

There is no reason why we cannot achieve universal coverage for everyone sooner by having an earlier timeline for insurance reforms triggering an employer mandate by 1999 if necessary. We would like to find a way to get to this commitment we made earlier.

No. 2, Mr. President, we ought to improve the contribution that employers make. If in our case our employer contributes 72 percent of the premium, then we should have an amendment that says that as a matter of fact in this health care reform plan that should be exactly the way we move to financing. The same quality plan, as good as what we have. By the way, another amendment on my part will be a vote on the sense of the Senate that the final plan should provide people with as good health care as what we in the U.S. Congress have. That should be a yardstick.

Mr. President, there ought to be effective cost control measures. But if we do not stay within budget, we should not automatically trigger cuts in coverage for poor people. We ought to trigger a cap on insurance company premiums. I guess the insurance companies have a little more power than low-income people. Maybe that is what is going on. But I assure you, I will have an amendment on the floor that will do that.

If we are talking about employer mandates and about universal coverage, then I would make another proposal. It would seem to me that we might also think about what happens if matters get worse. So we will have an amendment to say that if coverage goes below 1994 level, we will have an automatic trigger for an employer mandate. What if only 80 percent are covered as opposed to 83 percent in 1994? Then we ought not to be talking about year 2002, we ought to be triggering employers paying their fair share earlier.

We have to talk about some kind of maintenance of effort. There are many, many people in this country that worry about a trigger that leads to 50-50 coverage when their employers are contributing 80 percent. What are we going to do to prevent employers from ratcheting down coverage they now provide? We need to come to the floor with an amendment that makes sure that does not happen to so many middle-income and working-income people, the very people we have been talking about all morning.

There is no reason why we should not have disclosure of CEO salaries as a condition of tax deduction, or to get subsidies.

Let me also say that there are a whole range of other amendments which I think will strengthen this, including making sure that consumers have representation on health care boards. If we are going to set up these boards and they are going to deal with cost containment and they are going to deal with benefits, then we absolutely ought to make sure that consumers have representation. I think of amendments that will strengthen the long-term care. I think of amendments that are important in mental health substance abuse. I look forward to introducing one with my colleague, Senator DOMENICI.

But I want to say today on the floor of the Senate that we have now reached the point where the majority leader has brought out a bill. It has some fundamental weaknesses. He believes it is a first step. I hope it will be a first step. Right now I am not sure. But what I do know is that some of these alternative efforts just simply weaken it and water it down to the point where, I guess, all of us can have a fancy name and an acronym and say we have done something great. But certainly it does not live up to the commitment we began with which is: We ought to make sure that each and every citizen, each and every man, woman, and child can afford humane, decent health care for themselves, their loved ones and their children.

We ought to make sure that the health care plan that we pass is as good as the plan we have. We are all covered. Another amendment I am considering with Senator SIMON says if we are going to have 95 percent coverage, then we ought to have an amendment to figure out which five Senators will go without coverage.

We are going to see that health care for everyone is as good as what we have in the Congress. Everyone is covered here, there are no exceptions for preexisting conditions, our employers contribute over 70 percent of the premium, and it is a good comprehensive package of benefits—though it could be improved. I think that is the standard. Over the next couple of weeks to come, we will have the amendments to strengthen it. If this bill gets further weakened, if this reform effort is hijacked, then there are some of us in the Senate who I think are going to fight as hard as we know how to.

Certainly I view this meeting with the majority leader on Monday as being important. It is quite one thing to present your very best as a reform effort and say it is a step forward. It is quite one thing to say, do not make the perfect the enemy of the good. I agree. It is quite another thing to get to the point where you have a piece of legislation that is so weakened, so watered down, so hijacked, so blocked by all those huge interests that have poured all that money into Senators and Representatives with all their power and clout with the people who need this reform the most left out. It seems like the people who need the change do not have the power, and the people who have the power do not want the change.

Whether we reach that point—and I think we are close to it—I think there are a number of us in the Senate who will draw the line in the sand on that.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I yield myself such time as I may require.

Mr. President, I say to my friend from Minnesota, whose enthusiasm is one of the refreshing things about this place, that he need have no fear about voting for the Mitchell plan. Because I am convinced if the Mitchell plan passes, it will be such a disaster, bureaucratically and administratively, that his opportunity to take the opening to offer single payer will be hastened by the failure of the Mitchell plan. And there are some of us, frankly, who would prefer single payer to the disaster of the Mitchell plan. I say that as one who is opposed to single payer, but who, upon examining the Mitchell plan, says administratively single payer makes more sense.

Mr. WELLSTONE. Will the Senator yield for a moment?

Mr. BENNETT. I will be happy to yield.

Mr. WELLSTONE. I thank him for his remarks. I obviously do not agree with his analysis of the Mitchell plan, at least within the Senator's framework. We will not go into it now. But I am very interested in the second point he made. If that is the case—and I know the Senator from Utah to have tremendous intellectual integrity—then I am hoping that I will be able to enlist the Senator's support for at least some language that will enable the States to have flexibility to go forward with their different approaches.

In other words, that was one of the things, as I mentioned in my earlier remarks, which surprised me about the bill. And Senator DOMENICI, who is one of my best friends here, brought out language that would preclude States from being able to do that.

Why not let the States have an opportunity, and if it does not work, it does not work, but let the people and their representatives decide.

Mr. BENNETT. Mr. President, there are some reasons why we adopted the position we have, in our view. But I would be more than happy to sit down with my friend from Minnesota and go through that, because the main point I intend to make in this discussion that is coming up is that the notion that we are facing a window of opportunity here that will close within the next 20 days if we do not take it is a notion that is completely unacceptable to me.

I believe we will meet next year, we will meet the year after. I think we will be discussing this over a period of time, and what I am going to ask for is an intelligent, staged reform that does not rush to judgment or, in my view of the Mitchell bill, rush to disaster in the desire to meet an artificial deadline.

I would be happy to visit with my friend from Minnesota to talk about the place where a single-payer thing might be of some appropriateness, but do it in something other than the kind of frenzy that has been built up around this debate today.

Mr. President, I remember as a freshman Senator some months ago walking onto the floor and falling in step with the distinguished chairman of the Finance Committee, Senator MOYNIHAN. I first met Senator MOYNIHAN when we served together in the Nixon administration. Maybe neither one of us want to admit that now. But he served as domestic counselor to President Nixon, and I was in the Department of Transportation as the head of congressional relations. Ever since that time, I have had great respect for his intellect and his intellectual honesty.

As we stepped onto the floor of the Senate, I said to him, "Senator, are we going to get health care this year? Are we going to be able to pass something?" And he said, "Yes, I think so."

Then with his well-known understanding of history, he gave me the following history lesson:

He said, "Harry Truman tried to do it in the 1940's and the Republicans said no and we didn't get anything."

He said, "Richard Nixon tried to do it in the late 1960's and the Democrats said no and we didn't get anything. But now," he said, "both the Republicans and the Democrats are agreeing that we have to do something about the health care system, and I think we will get a bill."

That is what he was saying, and I was agreeing with him roughly a year, 14, 15 months ago.

Now, where are we today? I turn to the current issue of Newsweek under the head, "National Affairs," and read this headline: "Will Reform Bankrupt Us?"

> Health care: 65 percent of Americans say Congress should start over. Newsweek's economics columnist argues that they're right.

How did we get here, from a circumstance where a Republican and a Democrat could walk onto the floor of the Senate agreeing with each other that we are going to get a bill, to the point where a national publication says 65 percent of the Americans say we should wait and start over next year and they argue very persuasively, in my view, that the 65 percent of Americans are right.

What has gone wrong with the process? Have we not discussed this enough? Oh, Heaven knows we have discussed it enough. We heard on the floor of the Senate about the 80 hearings that have been held in the two committees, and that is just in the Senate. We talked about it on the House side. We spent time on the floor. Yes, we talked it through enough. What is left to discuss?

Well, I suggest that we have talked and we have talked and we have talked about the wrong things. We missed some very fundamental points that need to be addressed before we are going to come up with the answer to this. I would like to outline some of those.

No. 1: We have not talked at all, except in a glancing occasional reference, about better health. We have spent all our time talking about health care, but we have not talked at all about providing information or motivation for people to stay well in the first place. Of course, the best cost containment of all in the health care debate is going to be better health on the part of individual Americans. This is not a matter of universal coverage; it is a matter of education and motivation.

We do it in other kinds of insurance. I see the ads, so do you, for auto insurance: "Nonsmokers discount," we see. There is a clear economic incentive for somebody to do something intelligent about their own health and stop smoking.

When I go down for a life insurance physical, the first question I am asked: "Do you smoke? Do you drink? Do you engage in—" and they have a list of other high-risk activities. And when I say, "No, I don't smoke; no, I don't drink," so on, "No, I don't engage in some of these other things," they say, "Well, you will get a better rate."

When we stand on the floor and talk inevitably and incessantly about health care for all Americans that cannot be taken away, we wipe aside the notion that there might be some kind of incentive that could be built into our system that says that people who take better care of themselves should get a better deal when it comes to paying for health care than people who do not. That has not been part of the debate, and that is one of the reasons why we have gone astray in all the talk we have had and missed the point.

If I may quote from the Newsweek article with respect to this issue about better health, Mr. Samuelson says:

> We are slowly surrendering our economy to health care—for surprisingly modest gains in our health—and what we needed was a debate that confronted these relentless pressures. "The cost-control imperative has been lost," says John Inglehart, editor of the respected journal Health Affairs. Some day there may be frightful economic consequences. Business groups already say the costs of Government-dictated benefits will destroy jobs. Those would mount if health spending climbs and the costs are imposed on businesses by flat or payroll taxes. Europe's experience is sobering. Since 1974, its unemployment has risen from 3 to 11 percent and private job growth has been meager.

His first point, we have seen all this increase in health spending, but we have gotten very little benefit and results.

Here is the same article:

> Economist Charles Phelps of the University of Rochester studied the connection between higher health spending and Nations' improved health. The connection was "tenuous." The biggest health gains come from higher incomes—

If you earn more, presumably you take better care of yourself, not from health care,

> higher incomes, better education and inexpensive measures: Vaccinations, antibiotics against infections. Among individuals, diet and personal behavior (smoking, drinking, drug use) often explain who's healthy and who isn't. Even in societies such as England and Sweden, where everyone has insurance, the poor aren't as healthy as the middle classes.

You have not eliminated the disparity in health by eliminating the disparity in health coverage, and that is something I think we should have been talking about.

I keep hearing from my constituents: "As you address health care, Senator, address the issue of high-risk behavior and do something to see to it that there is some kind of economic incentive for people to take better care of themselves." But there is nothing in any of these bills, there has been nothing in any of the hearings that has addressed that issue.

No. 2: In all of the hearings we have had and all the discussions we have had, we have not, in my view, had a serious discussion of the importance of why market forces do not really work in health care.

I have already given a speech on this. I will not repeat it all. But let me summarize it.

First, the basic principle. When it comes to allocating scarce resources, market forces are always more efficient and fairer than Government's. That is a truth that has been established since the days of the ancient Egyptians and Romans, and on through the Renaissance and all through the Industrial Age.

Write it down. You can take it to the bank. When it comes to allocating scarce resources, market forces are always more efficient and fairer than Government's. So we are talking about allocating health resources and market forces do not work. Why do they not work? For one very fundamental reason. The customer has no power in the health care debate. The customer does not control what will happen. Who does? The insurance company. The insurance company is the controller, not the person who is consuming the health care.

I had that brought home to me very vividly during the campaign. I went to a hospital in Ogden, UT, the standard campaign circumstance. I was going through talking to people. I sat down in the boardroom with the administrators of the hospital, and we began talking about some of their problems.

They were commenting that the equipment in their hospital—I do now know whether it was an MRI machine, but let us take that as an example because everybody is talking about too many MRI's in the United States. This piece of equipment in their hospital was utilized about 20 percent of the time.

Well, being a businessman, I immediately said to myself the market is telling you something, hospital administrator. The market is telling you there is no more demand than 20 percent for that machine. You ought to do something to make a deal with the hospital down the street so that you could say, well, we are going to refer everybody who needs an MRI to the hospital down the street, and we will get full utilization of this machine.

My mind is saying we have to do something in Congress about the antitrust laws so the two hospitals can do that; they can talk to each other.

"No, no," they said. "Mr. BENNETT, you do not understand. We have this MRI in this hospital because the market insists on it."

And I say, "Now, wait a minute. You do not understand. With a 20 percent utilization, the market is sending you a message."

They said, "No. You do not understand. We have to have it in order to meet the market."

We stood there and argued back and forth fruitlessly for 4 or 5 minutes until suddenly they enlightened me as to what they were talking about when they said the "market." They said, "If we do not have an MRI machine in our hospital, insurance companies will not allow any of the people that they insure to come to our hospital."

I said, "Oh, wait a minute. You are telling me then that the market is the insurance company, not the sick person."

They looked at me like I was the dumbest guy in the block. "Of course, the market is the insurance company. You think we exist to serve sick people? We exist to serve insurance companies who send us sick people. And the insurance companies say we will not send anybody to your hospital unless you have an MRI, so we have to go out and buy an MRI, even if we do not get enough utilization for it and we have to cost shift."

The light began to go on in my head. Market forces do not work in health care because the consumer is not the customer, and we need to do something about that. But we have not had that point raised in any of these hearings. We have not talked about it in these hearings.

So someone else is making the economic decision for me as the consumer. And who is the someone else? Ultimately, it is the employer. Now, I have been an employer. I have been the CEO of a company. I have made the decision. I have had everybody come in. They make the presentation to me. I am the CEO. I get to decide. The insurance companies are coming to me. The self-insurance regulators are coming to me. The HMO's are coming to me: We want to sell your employees this thing. But really they want to sell me. I make the decision for all my employees.

What kind of market force is that, if one of my employees wants something other than I decide he or she should have?

We perpetuate this in this whole debate. We have never challenged that. We have gone willy-nilly from the notion that the employer should decide what people should have, to the idea that the Government should replace the employer deciding what people should have. And never in the debate have we raised the issue that maybe the people should decide what the people should have, at which point you begin to get market forces coming into the circumstance.

All that these various bills we have before us do is substitute the Government for the employer and leave the underlying problem still in place. We are never going to get true cost containment until we do something about that No. 3.

Never have I heard in all these hearings anybody challenge the absurdity of the notion of first-dollar coverage. Once again, let us look at insurance outside of health care and see how absurd this notion is.

Auto insurance. We all have auto insurance. Talk about mandates. We are mandated to have auto insurance in my State, and I assume every other State. I cannot get a driver's license; I cannot get a license for my car renewed if I do not have auto insurance. It is checked every year when I go in to get it renewed. There is a very firm mandate.

But my auto insurance does not provide first-dollar coverage. It would be absurd for me to think of it. What would it cost for an auto insurance plan that says we will cover through our insurance coverage the cost of changing the oil in your car. It cost me about, if I go to one of these Jiffy Lubes, $19.95 to change the oil and the oil filter in my car.

Suppose, along with the cost of changing the oil and the oil filter, I had to pay the cost of filling out an insurance form and sending it to a third party to scrutinize it to see whether it came under the terms of my policy, and then the insurance company would pay for changing the oil.

I rather suspect, based on various studies that have been made in the health insurance industry, that the cost of handling that insurance claim would be around $20. So what does that mean for the cost of changing my oil? Instead of $20, it is going to be $40. What kind of premium am I going to have to pay for that policy in order to have the insurance company pay for the changing of the oil?

Very quickly, I can put a pencil to it and say it is a whole lot cheaper for me to have an auto insurance policy that pays for catastrophic events like if I run into somebody in an intersection and get sued. But, frankly, I will pay for changing the oil myself.

The same thing in homeowner's insurance. What kind of homeowner's insurance policy would we have if the policy covered the cost of mowing the lawn? It is so absurd nobody even thinks about it. And yet in health care we have it in our heads that somehow, if the insurance is not there to pay for changing the oil in the car, or is not there to pay for the cost of mowing the lawn, then we are not covered.

It is the absurdity of the notion of first-dollar coverage that is driving the cost of medical insurance right through the roof. We need to change our thinking and start saying the insurance principle should be what it has always been in everything else, which is insurance covers catastrophic events and it is not there to pay for a $15, $20 office visit by adding a $15, $20 claim cost on top of the office visit.

No. 4—and it comes out of No. 3—the myth of other people's money. I have heard this on the floor today, and this again is something we have not talked about in this whole debate. The idea that you are paying for your health care with somebody else's money, the employer must pay for my coverage, somebody else's money, is nonsense. Actually, it is all your money.

We have had percentages kicked around. The original bill that we were thinking about that has been the subject of hearings says that 80 percent of the costs will be paid by the employer. We are going to have a mandate that says every employer has to pay 80 percent of the cost. No. There is a flashback against that. So along comes Senator MITCHELL. He says: I recognize that I cannot get an 80-percent mandate. I will go for a 50-percent mandate. So the employer will only pay 50 percent.

I am sure my friend from Minnesota would complain about that and say it ought to go back up to 80 percent. We just heard him say the Federal Government pays 79 percent of ours. Why should not every employer pay 79 or 80 percent? I would say to my friend from Minnesota, if he were here, that the Federal Government does not pay 79 percent. Employers do not pay 80 percent. I pay 100 percent. Every dime that goes for my health care is a form of compensation to me, and in the private sector particularly it represents a lowering of my taxable income by virtue of an employer decision to put the money in health care benefits instead of in my paycheck.

There is no such thing as other people's money here. It is the employee's money in every case. Again, I have been an employer. I know how it works. I explain to my employees, you may think you have a $20,000 a year job, but it is a $30,000 a year job because that is what it is costing me as your employer. I have to pay $30,000 to keep you working for me. I put $20,000 of that on your W-2 form that you take home at the end of the year that you pay taxes on. I put the other $10,000 into a variety of benefits for you. But they are still going to be part of the cost of having you on my payroll.

Indeed, we have heard some of the ads that have been running during this debate that make reference to that. Somebody says, "Hey, I want those benefits. I gave up wage increases to get those benefits." You have heard that on some of the commercials. That employee is beginning to understand that those are his dollars, not the employer's dollars. One hundred percent of the cost of health care falls upon the employee, because the employee is earning enough money for the employer to pay that $30,000 that I referred to in the example, not just the $20,000 he takes home.

So when Senators stand up on this floor and say, "If the Senate of the United States does not pass this health care legislation, I will move to take away their benefits," all he is really saying is, "I will move to cut their salary, cut their compensation, by the amount those benefits represent in dollars."

What will I do if that passes? I will do the same thing every other Member of this body will do. Having taken about a $300 a month salary cut, I will take the money that is left and go out and buy myself some coverage someplace else. The Government does not give me benefits. The Government spends my money for benefits which the Government has decided I need.

So, as I say, these two come out of each other, the myth of other people's money and the earlier point about the lack of market forces operating in health care.

So, Mr. President, I suggest these four things have been missing in this debate in spite of the debate's length and complexity:

No. 1, we have not discussed the impact of this whole thing on people's health, and what it will do to make them healthy.

We have, No. 2, not discussed the failure of true market forces to work.

No. 3, we have not discussed the impact of the absurdity of the notion of first-dollar coverage on health care.

And, No. 4, we have not discussed the impact of the myth of other people's money.

I think we need to do that if we are truly going to restructure the health care system around sound principles.

The end result of all of this, our failure to discuss these underlying points, is summarized again in Newsweek. I go back to the article and give you a few observations.

> President Clinton is right about the historic opportunity, and he blew it. Somewhere along the way, health care took a decisive turn towards fantasy.

I agree with that completely.

> If Congress passes sweeping health reform, as they urge, we will have compounded all our long-term budget and economic problems by force-feeding the monster of health care spending.

I agree with that completely.

We are headed in the wrong direction. We need to stop and start over again. We are left with a legislative mishmash of ideas cobbled together in the majority leader's office in the last few weeks, put into legislative language that has now been revised twice. So that we have three sets of ideas before us, under an enormous time pressure, pushed onto the floor with an artificial deadline, with no report language, no opportunity for a careful analysis of all of it, no chance to run some of these things by real-life scenarios before we have to vote.

And in the pressure cooker of floor debate, with the threat of a cloture vote designed to embarrass people politically hanging over us, we are told to legislate the most far-reaching piece of social engineering ever proposed since the Great Depression.

Mr. President, that kind of demand upon the Senate is irresponsible; it is dangerous and it is unnecessary. I say it is irresponsible because we are left with a bill that few, if any, have read—I tried, only to have to stop when the next version comes out and start all over again—a bill few understand, and no staff has really been able to summarize it or synthesize it to my satisfaction.

With respect to "one-seventh" of the economy, that statement has been made. I put it into chart form. For the sake of helping us understand just how big it is, we show here on the top line, the red line, the total U.S. health industry economic activity, which is $942 billion. That is a big number, by anybody's imagination.

But let us put it in some kind of context. How big is that? Is it bigger than a bread box, to go back to a phrase that comes out of my youth, on television? Is it bigger than the entire economy of Great Britain? This first yellow line shows the entire economy of the United Kingdom. Do you think that people in the Parliament would be restructuring their entire economy in a single bill in a single Congress, and be considered responsible? No. They would go about something like that very carefully.

Canada—here is the entire size of the Canadian economy. We are talking about nearly twice as much money as the entire Canadian GDP; Spain, The Netherlands, Australia, Belgium, Sweden, Austria, so on and so forth, all the way down. There are only five nations that have GDP's larger than the amount of money that we are talking about. They are Italy, France, Germany, Japan, and of course, the United States, because this represents one-seventh of our GDP. So our total GDP would be seven times bigger than this.

This illustrates the size of the stakes that we are playing with here. It is irresponsible, as I say, to be dealing with something that big in the manner in which we are.

I said that the bill was complicated. The bill is huge. It is almost impossible for anybody to understand it, including the staffs.

There is one group that probably understands it about as well as anybody, and are forced to by virtue of their profession and assignment; I am talking about the Congressional Budget Office. The Congressional Budget Office, after looking at how we would restructure $942 billion worth of economic activity, has this to say:

> For the proposed system to function effectively, new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and administrative capabilities created.

That is a pretty daunting task all by itself.

> In preparing the quantitative estimates presented in this assessment, the Congressional Budget Office has assumed—

They have not determined; they have assumed.

> not only that all those things could be done, but also that they could be accomplished in the timeframe laid out in the proposal.

Those are two rather significant assumptions. And then in what I consider one of the great understatements in the document, they say:

> There is a significant chance that the substantial ranges required by this proposal could not be achieved as assumed.

We are fooling around with something bigger than the entire GDP of Great Britain, and there is a significant chance that the underlying assumptions could not be reached.

What are the implications of this kind of haste to judgment, having, as I said, ignored some of the other things that are outside our normal view of the way this matter should be discussed? I think it is dangerous for us to proceed, because the first indications we have of what will happen can be very, very serious.

Going back to the Congressional Budget Office, it says:

> The subsidies for people who are temporarily unemployed would be particularly hard to administrate and monitor. It would be difficult, for example, to determine whether people had left their jobs voluntarily or involuntarily, or whether they would receive employer contributions for health insurance through an employed spouse. Moreover, because of the way these subsidies would be structured, significant horizontal inequities could result. That is, families with similar income could receive quite different subsidy amounts.
>
> Senator Mitchell's proposal, like many other reform bills, would encourage a reallocation of workers among firms in ways that would increase its budgetary costs. In addition to raising the Government's costs, the reallocation of workers could reduce the efficiency of the labor market.

Again, the ripple effect of bad decisions as it goes through the entire economy.

> The imposition of the mandate would raise the cost of employing workers at firms that do not currently provide insurance. Economic theory and empirical research both imply that most of this increased cost would be passed back to workers, over time, in the form of lower take-home wages. Such shifting would not be possible, however, for workers whose wages were close to the federally regulated minimum wage. Therefore, the net cost of employing those workers would be raised by the mandate, and some of them would lose their jobs.

Let me pause with a definition that does not come out of Webster's. I take full responsibility and blame for it. But I say here that my definition of a mandate that forces people to spend money is that it is "a tax." If you mandate something that causes people to increase their costs, it has exactly the same impact on the business as if you had raised their taxes. And we are talking about a whole bunch of mandates here. "Oh, no," we are told, "the Mitchell bill does not have any mandates." Oh, yes, it does.

The Mitchell mandates. Who gets hit? Or if I apply my definition, who gets taxed? There is a mandate on future Congresses. This bill tells future Congresses what they must do if certain things do not happen.

There is clearly a mandate on States. Clearly, there are requirements that the States are going to have to spend money—mandates on doctors, health care providers, big businesses, small businesses, independent contractors, individuals.

If the trigger kicks in, clearly there will be mandates all the way through. Who pays? Well, of course, as I said earlier, ultimately the individual pays all of these costs in the form of higher taxes, lower wages, fewer jobs, lower quality, and less choice.

The Mitchell mandates are clearly in the bill.

What will happen if the Mitchell bill passes? In my view, there are a number of things that can be fairly safely postulated. No. 1—and we have talked about it—costs will rise.

If I may turn to an article that appeared in the Wall Street Journal, written by Martin Feldstein, former Chairman of the President's Council of Economic Advisers, currently a professor of economics at Harvard. He is talking about mandates in much the same way I am. This an article entitled "The Hidden $100 Billion Tax Increase." I will repeat that: "The Hidden $100 Billion Tax Increase."

Professor Feldstein says:

> President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That is equivalent to raising personal taxes across the board by nearly 20 percent.
>
> Amazingly, the Senate Democratic leadership has managed to conceal this massive tax increase from the public. The legislative wrangling and public discussion have virtually ignored the cost of financing this spending explosion. Members of the business community have been so eager to avoid employer mandates that they have not considered the tax consequences of the pending legislation, and members of the general public have been so concerned about preserving their ability to choose their own doctors that they have not focused on what these plans would mean for their individual wallets.
>
> In short, buried in the CBO numbers is the projection that the Senate Finance Committee plan would have a $63 billion annual cost, at 1994 price levels, and that all but what the CBO estimates to be $14 billion in cigarette levies would be obtained by hidden taxes in the form of cost shifting through health care providers and insurance companies. It's remarkable that the same politicians who have produced this $49 billion in hidden cost shifting have the audacity to say that the public should support their plan in order to eliminate the much more limited cost shifting that occurs under the existing system as hospitals pass on the cost of free care.
>
> Indeed to the extent hospitals are already giving free care, the increase in formal insurance coverage gives that much less to the currently uninsured and confirms that most of the plan's cost is to achieve income redistribution, not expanded health insurance. Costs will rise, and the historic driving force primarily responsible for people being uninsured is high costs.

There are those who suggest, even if the press reports can be believed from Mrs. Clinton herself, that one of the main consequences of passing the Mitchell bill will be to increase the number of the uninsured. I think the fact that the costs will rise is a driving force behind that belief.

People in America are not stupid. They can figure out how to game a system. It is very clear that they will start to game this system. They will split into several companies with under 25 employees in each company. They will hire more temps. That is already happening. We see that phenomenon, clearly, through the economy. And it is cheaper for an employer to pay overtime than it is to pay benefits to a second employee when the benefits have been mandated at such a high level. We are seeing that happen in the economy now.

The community rating experience in New York shows that the number of uninsured raises and does not fall under the community rating system unless, once again, there is a very heavy-handed force that comes in and the Government gets involved more and more and more.

The net effect is that the number of uninsured will go up rather than come down. In my view, it is an absolute certainty that the Mitchell bill will fail to decrease the percentage of the uninsured so that we are certain that if we pass the Mitchell bill we are legislating for the Congress in the year 2002.

The trigger is not a hard trigger. It is not a soft trigger. It is, in fact, a certainty. The Mitchell bill will not work, and the trigger called for in the Mitchell bill will take place. That is inevitable.

So we find ourselves in the circumstance of being arrogant enough to say that this Congress, in the name of going through a window of opportunity that we are told will not reappear for another 30 years, has the wisdom to shape the form of health insurance and health coverage for this country 8 years from now, and that intervening Congresses will be frozen out of doing anything about it.

Well, the absurdity of this is what is causing the rising chorus of dissatisfaction within this Congress, House and Senate. We are getting new bills introduced all the time. I just agreed to go on one, along with my friend, Senator DOMENICI, on the Republican side; and it will be sponsored on the Democratic side by Senator NUNN and Senator BOREN. It will be along the lines of the bipartisan effort that is being introduced in the House. We will have formal introduction of it sometime early next week.

There is rising dissatisfaction with the options in front of us, a sense that somehow Mr. Samuelson is right. We have missed a historic opportunity. The debate has taken a decisive turn toward fantasy, and we probably ought to start over again next year.

I will say that I do not think we should despair of doing anything in this Congress. I would not be, along with the three Senators I have mentioned, sponsoring a new bill at this late point if I felt that way. We can do something this year. We can do something meaningful this year. We should just make sure we do not do something dangerous or irresponsible this year.

My friend from Minnesota gets all upset because the bill we are sponsoring does not provide universal coverage, and I say to him that he is absolutely right, and it is not designed to. But it is offered on the assumption that the Congress will meet next January. It is offered on the assumption that the Finance Committee will still be in business next year and can address the issues that I have talked about in something less than the pressure cooker we are in—can go back to the fundamentals that have been overlooked, that I mentioned in the beginning of my statement, and try to sift through those. And, in the meantime, we will have at least this year taken some steps to solve the problems we all agree should be solved.

I reject the notion that seems to underlie most of this debate that says if we do not do it in this Congress, we will not get another shot for 30 years. I had that exchange with Dr. Uwe Reinhardt when he appeared before the Joint Economic Committee and said, "Why can't we do it intelligently, one step at a time, and do what we now know we have to do and tackle some of the structural things next year?" He said, in effect, "Senator, that is clearly the right way to do it. But those of us who are junkies on this issue say that we get one opportunity every 30 years, and this is our only opportunity."

I said, "That is stupid," and he looked at me and he said: "Are you willing to commit to addressing this next year?" And I said, "Not only next year, but the year after and the year after, and however long it takes to try to get this thing solved."

He kind of blinked a little and said, "Well, if the Congress really would do that, maybe we do not have to do it all this fall."

So that is my plea. Let us abandon the imagery that comes out of the space program of a window of opportunity. In the space program—you will recall that is where the phrase came from—there is a window of opportunity in space when the weather and the placing of the moon and other things relating to a launch opens up, and it is open for a matter of a few hours, and then the moon moves on or the weather rolls in and the window closes. And the people at the Johnson Space Center in Houston realize it is going to be *x* number of months before they get another window. That is where the phrase comes from, and that is the imagery we have been going on that has been driving the debate.

Let us set that imagery aside and replace it with the understanding that President Clinton has, instead of pointing out a window of opportunity, given us an open door to walk out of the past, into an open, sunlit circumstance, where we can view all our options and make intelligent decisions, and the window will not close once. We are through that door, on the other side, committed to the idea of doing the right thing for health care. We can do it intelligently, gathering the data, waiting until we see what the data tells us before we take the next step, then watching to see what happens, and moving intelligently and soundly in the direction of solving this problem ultimately for all of our citizens.

Am I committed to the idea of universal coverage? If you will let me define what universal coverage is, I will tell you absolutely I am committed to the idea of universal coverage. Am I agreeing with the idea that we are rich enough to provide the proper kind of health care for every American? Absolutely, I agree with that. But I do not want to do it under an artificial deadline, working with a legislative mishmash that has been put together in a political atmosphere of debate that has ignored some of the very basic concepts that I have been talking about.

Back to my imagery. President Clinton has opened the door. I give him full credit for that. I always have. He has had the courage to take on an issue that many of his predecessors ducked. But we are walking into that sunlight on the other side of the door with blinders on, blinders that come out of the paradigm, if you will, that we have lived on this side of the wall, and we need to take the blinders off and look around. And we are not going to be able to do it in the present legislative circumstance.

That is why I say the folks in Newsweek have it right. Sixty-five percent of Americans have it right. We should not rush to judgment on this.

I conclude by quoting once again from the Samuelson argument. He says:

> What we have had this year was the chance to begin grappling with the basic questions. We squandered it. The Clintons imagined that health care will secure their place in history, and in a peculiar way, they may be right. History is written with hindsight, and when it is, it may judge them harshly, not simply because they led us in the wrong direction, but because all the evidence needed to go in the right direction was obvious, and they chose to ignore it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE.) The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I once again take this opportunity, as I have not had it sufficiently, to thank the Senator from Utah for his very thoughtful, important statement. And that statement we have been hearing from both sides of the aisle today. Universal coverage is a goal that this country can achieve and ought to commit to, and will, I think, do both.

That was a very fine statement.

Mr. BENNETT. Mr. President, may I thank my friend from New York for his kind remarks, and in the spirit of what he has just said, remind him of my opening statement. I do not think he was here when I made my opening statement. I quoted him, I hope correctly, at a time when he and I walked onto the Senate floor and I asked him, as a freshman at the feet of the experienced legislator, "Are we going to have health care this year?" And he said to me—he may well have forgotten, and he may now wish to repudiate the notion—but he said to me: "Harry Truman tried it in the 1940's, and the Republicans said 'No.' Richard Nixon tried it in the late 1960's, and the Democrats said 'No.' Now we have both Republicans and Democrats agreeing that it ought to be done, and I think we will get a bill."

If we can go back to the spirit of the Senator's comment to me there, I think we can get a bill, and certainly over time we can solve the problem.

I think it is very significant that every single Republican Member of this body has signed on to some kind of bill calling for basic restructuring of the health care system, and certainly the same is true on the Democratic side. That is a matrix that has not existed in previous growing seasons, and I hope we do not lose it this time.

Mr. MOYNIHAN. I thank the Senator.

And that is the extraordinary central fact of this debate.

Mr. President, the fact that this debate is taking place, the fact that we are here on the floor speaking about universal coverage with such a wide convergence of views on that essential principle, is owing, in more than any one thing, to the extraordinary efforts of the Senator from Pennsylvania.

He raised this issue in the most dramatic way almost 4 years ago in his State in that election. His success rang a bell that is still echoing across this Nation.

He has to leave for Pennsylvania, so his good friend and mine, the Senator from Michigan, has agreed to step aside for a moment.

I ask unanimous consent that the Senator from Pennsylvania be recognized for 15 minutes, followed by the Senator from Michigan.

But, once again, I state my great gratitude. We are indebted to you, sir.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Did the Senator from New York yield to the Senator from Pennsylvania?

Mr. MOYNIHAN. I do so.

Mr. LEVIN. If the Senator from Pennsylvania will yield, was the unanimous consent of the Senator from New York granted that after the Senator from Pennsylvania is finished, that I then be recognized for 15 minutes?

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. WOFFORD. I thank the Chair.

Mr. President, for the last couple of hours, I have been talking to 100 or more people from around Pennsylvania. And there was a great contrast between the clarity with which they saw some of these issues and the lack of clarity and confusion that we have had during part of this debate.

But I want to thank the Senator from Utah for the spirit in which he ended and he began his remarks. I take issue with some of the points in between, but we must find a way not to lose this opportunity. And it is not going to be all done this year. We will be back next year and the year after that.

One of the things I do agree with him on is that we should not focus entirely on an action or a trigger that takes place in the year 2000 and moves into the next century. I certainly do not think any of us should be proud that we are seeking to stretch it out, delay it, move beyond the next century. I hope very much, in addition to whatever happens in the year 2000, to see how far we have come on the way to universal coverage; that every year, once we have set up a health insurance structure charting the way to universal coverage, that every year we have an annual checkup in which we see how far we have gone and how far we have fallen short.

A doctor does not say, "Let's try aspirin, or this little medicine for a while and come back in 6 years." A doctor says, "Call me in the morning."

I think our national health commission, as soon as it comes into being, should report every year on how far we have moved toward coverage or slipped back, whether more employers are contributing or less, whether the burden is being shifted more onto the backs of families and individuals and working people—an annual checkup. And I hope the Senator from Utah will join me and our Presiding Officer and others of us who want to see that there is an annual checkup and a report to the Congress and the people so we can take action sooner rather than later.

I hope that on every key element of this bill we strive for the principle of sooner rather than later. For example, we should look at every element that takes no additional cost but could go into place now—the ending of the preexisting condition rule that excludes people when they change jobs, when they move; a condition my wife has that made her scared that if I lost my job we could not get health insurance, really scared at a time before she was old enough to qualify for Medicare. That rule ought to go on day one. It ought to go next year. That insecurity should be lifted. The shadow of death should be lifted from the people who have a preexisting condition.

And Senator DODD's amendment that is before us now, for children first, for something that, in basic private health insurance plans, preventive care for children and for pregnant women, comes into place sooner, not later; not the year 2000. Sooner rather than later.

But there have been so many myths and misrepresentations and my friends from Pennsylvania were seeing through them so clearly just a little while ago. A lot of them came from Washington, PA. And the contrast between how they understood it from Washington, PA and how some of my colleagues here understand it in Washington, DC was very stark and disappointing.

There were some of them that go back to Harry Truman, too. There was a man that was at Keesler Field, MS, in the Army Air Corps in World War II when I was there. He was out there telling me that he, like I, was there cheering Harry Truman on when he started the battle for universal health insurance.

Some of us in that crowd remember the studies and the hearings and the proposals and the care that went into trying to craft a good plan then, and the special interests and the fog of confusion that was laid down that beat Harry Truman.

There were a lot of people there that remember when President Nixon, aided by the Senator from New York—then not a Senator from New York—when the chairman of the Finance Committee, in a previous incarnation, helped President Nixon present a plan to us, a careful, thought-out plan, and we did not take that opportunity. A terrible lost opportunity then.

Others have heard the Senator from Massachusetts, the chairman of the Labor and Human Resources Committee, over the years, over decades, conduct hearings, present plans.

The Senator from West Virginia, Senator ROCKEFELLER, has been part of some of the most remarkable hearings as part of the Pepper Commission. A mountain of studies have piled up. And my friends from Washington, PA, know in their bones it is not more study that we need.

I have been in the Senate for 3 years. From the day I got here, I have been part of efforts—some of which I have pressed for and some of which my colleagues, who have been in this battle before I got here, were already planning—week after week, hearings, careful proposals, homework. In the Labor Committee, 151 hearings. In the Finance Committee, I think it is 32 hearings; the Veterans' Committee, and other hearings just in this body alone.

We are talking about the bill that has been crafted by the majority leader—the bill that drew on the careful work of the Finance Committee and the Labor Committee and blended those proposals together in a bill that is before us—as too complicated, too long, too heavy a document.

Well, I once on this floor assembled all of the NAFTA documents. I think there were five, it may have been six, volumes. They piled up this high. This Congress knew how to act on that. I did not go along with the way they acted. I opposed it. But it was not too complicated to pass that NAFTA bill. And now we hear this is too complicated.

Well, my friends from Pennsylvania, they have a very simple test. I agree with them. But it is a test that came out of the people of Pennsylvania. And that is, what is good for Congress ought to be good for the American people.

They do not understand why a Congress that has arranged for itself guaranteed health insurance—cannot be canceled, no preexisting conditions, comprehensive benefits, a choice of private plans, not Government-run plans, but Blue Cross-Blue Shield, HMO's, your own plans, choose your own doctor—why Congress can arrange that for themselves and for 9 million Federal employees and their families, with their employer contributing three-quarters of the premiums, why it cannot now move forward, after all this work in this Congress, to take the great step forward in arranging that kind of a private health insurance for the American people.

I think the people in Pennsylvania, through this confusing debate, have gotten the point. This is not new Government-run medicine. It is private health insurance. They have seen the charts that have been put up. I do not know what that chart really is about, but a far more complicated chart would be the chart of our present health insurance system. The doctor from Iowa has charted what the experience is for him. My wife tells me all the time what the paperwork and bureaucracy and back and forth and claims forms, the burden she carries as a patient, is like for her.

One day I was a billing clerk in Jefferson University Hospital. I do workdays in other kinds of work, closer to what people in Washington, PA, do than what we do in Washington, DC. One of those workdays was in a hospital. First, I was an admissions clerk.

I have seen admissions in a lot of hospitals, and there is this appalling experience of following somebody in a stretcher into the operating room saying, "How are you going to pay for it? What's your Social Security number?" Filling out the beginning of the forms.

And then I spent some hours as a billing clerk with the piles of bills, 9 months old, inch-and-a-half files, not just going back and forth with the Government, but with Blue Cross-Blue Shield, Aetna, Prudential, private insurance, dealing with 1,250 different plans and all the different forms. How in the world can the billing clerks figure out how to translate the doctor's notes into a bill? They do not succeed. The plans send it back saying, "You did not fill it out right, our categories are different from the Blue Cross or Medicare plan."

All those different forms. If we cannot have a simple claims form, simple standard system, simple information system—it does not have to be Government run. We put an amendment in the Labor Committee and the Finance Committee, that I pressed for and sponsored, which drew on the work from Senator BOND on the other side of the aisle and Senator RIEGLE on this side, that says the private sector can do the information system with standard measures.

Finally, I want to say the people in Pennsylvania see through to the central point. If Members of Congress can arrange it for themselves but do not believe it is time to have it for the American people, then get off the Government trough, get off the present plan that enables them to be shielded from the experience that the American people have, cease enjoying this Federal benefit plan with guaranteed insurance.

If they want to study it more—if they succeed in persuading us not to act now—if they want to study it more, then study it on a level playing field with those American people whose employer does not contribute and see what it is like to get health insurance in the private market.

I say practice what you preach. If you really believe that should not be what is possible for the American people, then do not require it of your employer, the taxpayers of the United States. And if you want more study, then study it while you feel some of the heat and some of the hurt that the American people are feeling while we delay.

They know, the people I have just been meeting with, just like justice delayed is justice denied, health care reform delayed is health care denied.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from Pennsylvania once again. As I keep track, every day of this debate he has stood up, added to the debate, and concluded with that point: Health care delayed is health care denied. It is unmistakable fact. We are deeply in his debt for keeping it before our eyes.

Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first, let me add my voice of thanks to the Senator from Pennsylvania in what he has done for this Nation, bringing this issue so dramatically to the Congress as he has in recent years. His being on the floor so constantly and his raising the issue of the importance, of the time urgency of this issue is a little bit reminiscent of a Senator from Wisconsin who used to be on the floor, I think, every day on the Genocide Convention, for year after year.

Mr. MOYNIHAN. Senator Proxmire.

Mr. LEVIN. Decade after decade, until finally this Senate ratified the Genocide Treaty.

We see in the Senator from Pennsylvania the same kind of tenacity. We are going to get universal health care or he will be up here every single day of his career here reminding us that we have that obligation.

Congress is famous for not being able to act quickly and expeditiously to meet some of the important problems of the day. But I have to tell you, when it comes to health care I think we are setting a new world's record. This is 50 years. We are told we are rushing to judgment? Fifty years ago, almost, Harry Truman sent messages to the Congress—I have them here and I am going to read from them in a minute—urging the Congress to adopt universal health care. We have been told how many hundreds of hearings we have had in our various committees, and we have, under the chairmanship of Senator MOYNIHAN—I do not know how many hearings the Finance Committee has had. I do not know how many hearings Senator KENNEDY's committee had. Together they total over 100 in the last 2 years alone.

But this goes back for decades. This is an all-time record we are setting here for nonaction if we delay this again.

Harry Truman sent up a message to the Congress in 1945. It was called Special Message To The Congress Recommending a Comprehensive Health Program. It was a Special message to the Congress, November 19, 1945, espousing the right to adequate medical care and saying the following:

> Millions of our citizens do not now have a full measure of opportunity to achieve and enjoy good health. Millions do not now have protection or security against the economic effects of sickness. The time has arrived for action to help them attain that opportunity and that protection.

"The time has arrived for action," that is 1945. He went on to say in his message:

> We should resolve now that the health of this Nation is a national concern; that financial barriers in the way of attaining health shall be removed; that the health of all [all—all] its citizens deserves the help of all the Nation.

That message went on to say:

> The American people are the most insurance minded people in the world. They will not be frightened off from health insurance because some people have misnamed it socialized medicine.

This is President Truman speaking:

> I repeat, what I am recommending is not socialized medicine.

He went on to tell the Congress.

> Socialized medicine means that all doctors work as employees of Government. The American people want no such system. No such system is here proposed.

He could be writing in 1994.

> Under the Plan I suggest, [President Truman said] our people would continue to get medical and hospital services just as they do now on the basis of their own voluntary decisions and choices. Our doctors and hospitals would continue to deal with disease with the same professional freedom as now. There would, however, be this all important difference. Whether or not patients get the services they need would not depend on how much they can afford to pay at the time.
>
> I am in favor [he wrote] of the broadest possible coverage for this insurance system. I believe that all persons who work for a living, and their dependents, should be covered by such an insurance plan.

He wrote another message to the Congress. That was not the only message that President Truman sent to Congress. He kept trying and trying, too, just like HARRIS WOFFORD.

> The truth is [Harry Truman wrote] that all except the rich may at some time be struck by illness which requires care and services they cannot afford. Countless families who are entirely self-supporting in every other respect cannot meet the expense of serious illness.
>
> Although the individual or even small groups of individuals cannot successfully or economically plan to meet the cost of illness, large groups of people can do so.

And the President wrote to Congress back then, in May 1947 when this message was sent:

> If the financial risk of illness is spread among all our people, no one person is overburdened. More important, if the cost is spread in this manner, more persons can see their doctors and will see them earlier. This goal can be reached only—

President Truman wrote—

> only through a national medical insurance program under which all people who are covered by an insurance fund are entitled to necessary medical, hospital and related services.

Fifty years later almost, we are moving in the wrong direction. We are actually seeing more and more people who are becoming uninsured. We are actually losing about one-half million people a year now from insurance coverage. So that about every 2 years, a million more Americans are losing health insurance. These are people who change jobs or now become ill or have someone in their family who has become ill, who are dropped from insurance, who become unemployed and, as has been pointed out so many times on this floor and it is so poignant and so dramatic, the great bulk of our uninsured 40 million Americans are working people.

If you are on welfare in America, you are insured. You have health insurance if you are on welfare. If you work in America—if you work in America—you may or may not have health insurance. There is something wrong with that system, and we have to change it.

We actually now have about 17 percent of Americans, most of them working, who do not have health coverage, and about 6 million children without health coverage. Fourteen years ago that figure was only 12 percent. So that in the last 14 years, the number of uninsured Americans, the vast majority of whom are working people, has grown from 12 percent of our population to 17 percent of our population

Under the existing rules, many people lose insurance when they become sick. They lose insurance when they change jobs. They lose insurance if a family member becomes ill or if a family member loses a job. Forty-six Americans lose health insurance every minute in America.

At the same time this is happening, and partly because of it, health care costs rise at the rate of 10 percent per year, way above the rate of inflation; $1 of every $7 of our economy goes to health care. The average family spent more than $5,000 on health care in 1993, three times what they spent in 1980, and the situation worsens.

Without reform of our health care system, the Commerce Department estimates that by the end of the century the average family will be spending $10,000 each year.

As we debate details—and details are important and they are worth debating—but as we debate the details of the various plans before us—so far the Mitchell plan and the Dole plan basically—we should remain focused on the principal goal, which is that every American be guaranteed health care that is affordable, health insurance which is portable from job to job and which they cannot lose. Every major country in the world does that for its citizens. We are the only advanced nation in the world that does not provide guaranteed health care for every one of its citizens.

Universal coverage is central to reform for many reasons.

First, simple justice. Again, every free democratic nation provides its citizens with a right to basic health care, at a cost which he or she can afford. But second, without universal coverage, prices are going to continue to rise sharply and costs are going to continue to be shifted to those who have insurance in order to pay for services which must be provided to those who do not.

Reforms like portability, allowing a worker to take his or her insurance from job to job, and the elimination of those restrictions relative to preexisting conditions, are not workable without universal health care. The closer and the faster we get to universal guaranteed health coverage, the faster we are going to eliminate the shifting of costs, this bizarre situation which we have in America, where half of the people typically who come to our emergency rooms do not have emergency problems. The reason they are going there is because they do not have health insurance.

I have visited emergency rooms across the State of Michigan. I went to the emergency room in Hurley Medical Center, in Flint. They had 52,000 emergency visits last year; 34,000 of them not emergency cases. Think of the waste, the sheer waste of the present system in that hospital—34,000 of the 52,000 visits in that hospital in Flint, MI, are nonemergency visits. And they go to the emergency room, using the most expensive equipment we have, some of the most expensive talent we have, and multiply that by hundreds of hospitals across this country.

Naturally, two different surveys reached different conclusions. GAO says 43 percent of emergency room patients do not have urgent needs. That is a GAO study. That is across the Nation. Why? They do not have insurance. They go to the emergency room because they cannot go to a doctor, to a clinic, because they do not have insurance. So they go to emergency rooms and use those facilities.

According to a more recent National Center for Health Statistics study in March 1994, 55 percent of the 90 million emergency room visits in this country were not urgent. That is the current system. We have to change it. We cannot change that without universal coverage.

I have a lady whom we have been trying to help in my office, who was covered by three different insurance policies. She cannot get any of them to cover her bills because each of them points to the other insurance company as being the principal company responsible. They all admit one of them is going to have to pay, but they all deny coverage and say go somewhere else. And the other company says go somewhere else.

This is a woman who had three policies covering and cannot get them to pay, and this is for a serious illness that she has.

We think the Mitchell bill is thick, and it is. As complicated as it is, she has a box of bills and a box of paper relative to her problem. The paperwork involving her illness makes this look like a single sheet of paper, this Mitchell bill. That is the current system where she is played like a ping-pong ball from company to company, each one acknowledging, "Yeah, she's covered by someone but not us."

That is eliminated under the Mitchell bill. That cannot happen under the Mitchell bill. Those companies have to pay and then argue among themselves who it is who is ultimately responsible, and not force citizens of this country to be inundated, swamped with paper in the mail, which is meaningless paper and the ultimate in waste.

How many folks go to a hospital and then open up the mail weeks later and get a ton of paper that says, "This is not a bill." Most of the new people that we hire in the health field are clerical people, now in America, not providing nursing care, medical care and health care, but typing out forms.

One insurance provider in my home State has 300 different varieties of policies. That is just one provider—300 versions of a health care policy. That is the current system.

Mr. President, let me close with some numbers that relate to my home State of Michigan. We have about 900,000 people in Michigan that do not have health coverage. Over 700,000 of them are working people. About 74,000 people in Michigan are losing their insurance each month. Those are the figures, the unacceptable figures, in my home State of Michigan.

I received a letter the other day from a man named Bill Carr who lives in the western part of the State. It is addressed to me. It is regarding, in his words, a hurting Michigan family.

> Dear Senator LEVIN: A year ago, I lost my job. For 45 years I worked and paid my dues. Through a quirk of time at the age of 55, there was no work, no unemployment, no place to live, and no medical insurance. During the next 365 days, my wife and I lived a tenuous life. We lived in fear that one of us would get sick, or worse, hospitalized, or God only knows what. We went to County Services for the Unemployed and the Underemployed. They put us on a rating schedule. In other words, we paid according to our income. My wife did become ill. The county treated her but did not know what was the problem, and she ended up going to a hospital. I explained to the hospital I was unemployed, and asked for treatment for my wife. The hospital refused to even talk to a doctor and turned us away.
>
> Today, we still have no insurance, even though I have been working for 30 days. My wife is still ill, and still has not been treated. We are in fear of cancer, but will not know until 60 more days when our insurance kicks in and I can take her to a hospital.

That is the status quo. It is typical of too many letters that come into every one of our offices. Here is a man who, in his own words, represents a hurting Michigan family; in his own words, a man who paid his dues, who is now 55 years old and has lost his job. He then was reemployed, but now is without insurance and they are afraid that his wife has cancer. But they have to wait 60 more days. Only then will insurance kick in and he can take her to a hospital.

That should not happen in America. We are better than that. We are strong enough, we are rich enough, we are decent enough so that need never happen in America.

And Harry Truman, back in 1947, asked the Congress to end that kind of shame. He closed one of his messages to the Congress asking for universal health care with the following words:

> The total health program which I have proposed is crucial to our national welfare. The heart of that program is national health insurance. Until it is part of our national fabric, we shall be wasting our most precious national resource and shall be perpetuating unnecessary misery and human suffering. I urge the Congress to give immediate attention to the development and enactment of national health insurance.

So President Truman wrote in 1947. It has been true ever since. We should not delay another year, because that will lead to another decade and to another five decades before we end the shame of this kind of a letter, where a person cannot find out if he or she has cancer because they do not have insurance.

I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as we all know, the rules of the Senate permit unlimited debate; that is, any Senator may speak as long as he or she wishes at any time. Under that rule, any one Senator, or group of Senators, can prevent the Senate from voting or otherwise taking action on measures.

Last night, I proposed to the distinguished Republican leader that we agree to debate the pending amendment, the Dodd amendment on children's health insurance, last night and today, and that on Monday we take up a second amendment, and that we agree to have votes on those amendments at 5 p.m. on Monday. Senator DOLE indicated that he was not able to agree to that, and we so stated last evening.

It had been my hope that we could reach that agreement today, but Senator DOLE has advised me that Republican Senators are unwilling at this time to do so. Senator DOLE is here and will, of course, speak for himself following my remarks.

Therefore, we are in a situation where debate will continue with no assurance, as of today, as to whether or not votes will be permitted on the pending amendment or any other amendment on Monday or at any other time.

Accordingly, I have concluded that no alternative is available to me other than to insist that there be procedural votes on Monday. While I do not have the ability under our rules to compel a vote on the pending amendment or on any other measure, I do have the authority to compel a vote on a procedural matter, and therefore I have concluded and now announce that at 5 p.m. on Monday, if we are unable to reach an agreement prior to then with respect to votes on the pending amendment or other amendments, there will be at least one and possibly more procedural votes.

My meetings with Senator DOLE, as always, have been amicable, and I retain the hope, as I believe he does, that we will be able to reach some kind of an agreement on Monday to permit votes on one or more amendments. So I do not believe that that possibility has been ruled out, simply that there is no ability to reach that agreement today. Therefore, so that all Senators can have full and fair notice of what will occur on Monday, I felt it necessary to make the decision and announcement that I just have this afternoon so that Senators will be able to plan their schedules for Monday accordingly.

Finally, Mr. President, let me say that in view of the fact that the stated reason for an inability to reach agreement on the votes is that several Senators wished to make opening statements, I want to repeat what I said last night, that we are prepared to remain in session today for as long as any Senator wants to stay and speak. So every Senator will have ample opportunity to do so. And on Monday, we will begin our session devoted to this bill and amendments at 10 a.m. and continue for at least 10 hours on that day and possibly 12 hours, and that it will be necessary thereafter to proceed in a similar fashion, subject always, of course, to adjustment pending discussions between myself and Senator DOLE and agreements to the contrary.

Mr. President, as I said, Senator DOLE is present on the floor, and I want at this time to invite him to make any comments he may wish on my remarks. If I have in any way misstated our discussion, I invite him to correct me and make any further remarks he may wish to make.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I do not have any serious, any real disagreement with the majority leader. We did have the discussion.

I think we have a little different view on this side. We think we should first, before we get into the amendment stage, lay the foundation by a discussion on what is a very important bill and one that we are still waiting on our side for CBO numbers. The House is not even going to take up the health care bill because they do not have CBO numbers.

The distinguished majority leader has numbers on his bill, at least on the first version of his bill. We do not have any numbers on our bill. I understand there will be another bill introduced by the mainstream group. They will be without CBO numbers. Then there is another bill that may come forward by Senators NUNN and DOMENICI and others, pretty much like the Rowland-Bilirakis bill on the House side.

So for a number of reasons, it seemed to us if we are going to get serious about amendments, then we at least ought to know, because we have had people discussing our bill, some people suggesting they had the CBO numbers. Well, if they have them, we wish they would let us have them because we do not have the numbers on our bill.

But having said that, we will, again, as I told the majority leader, have a meeting Monday morning, and I will get back to him after that meeting to see whether or not there is some way we can dispose of the pending amendment, either with a vote or whatever. And, if not, he did indicate to me that there would be at least one, perhaps more than one, procedural vote starting sometime—I guess the majority leader has now set 5 o'clock.

So I would just say that I do not know of anybody on our side who wants to talk 3 or 4 hours. I have said if that is true, I hope I am not here for all that time. In any event, there are a number of people who have not spoken at all. We are trying to keep a list so we do not have repeaters every day. Some may sneak in, but we are trying to keep the list so if you have spoken on the bill, then you have to wait until everybody else has spoken.

Of course, as the majority leader knows, you can speak in morning business or you can speak on some amendments, so you may have the same people speaking several times during the week. But I have conveyed the results of the majority leader's discussion to my colleagues. Senator PACKWOOD is necessarily absent this afternoon. I will visit with him on Monday morning.

Mr. MITCHELL. Mr. President, I thank my colleague. I agree on the importance of getting the CBO scoring on as many bills as are introduced. And the CBO is, of course, heavily burdened with the many respective bills.

I respect the right of any Senator or group of Senators to introduce a bill. And while I know all of the efforts described have been serious efforts so far, I think it is obvious to the minority leader and to all of us that if we adopted a process that we could not proceed so long as some Senator was going to introduce another bill that had to be scored, why, any Senator who did not want ever to do reform could simply indefinitely prolong the process by introducing a succession of bills that would require scoring, and there would be a new mechanism for delay.

I do not believe that to have been the case so far, as I think all of the bills introduced have been serious efforts and they represent Senators' genuine expressions of how they think we should proceed.

But I look forward to the results of the Republican leader's discussion with his colleagues on Monday and hope that we can resume our dialog and perhaps reach an agreement on Monday to permit a vote on one or more of these amendments.

Mr. DOLE. Could I just add—I think I did—we did make our request on July 25 on Dole-Packwood, and then again we sent a reminder on Tuesday, August 9. We are not faulting CBO. They have a great deal of work to do. But we do think, if we want to offer ours, say, as a substitute to the pending bill, I think other colleagues on the other side of the aisle will say, "What does your bill cost? What do these things cost?" If it is so serious the House cannot bring up theirs with numbers, we are somewhat at a loss to what we do if we reach that point. But maybe we ought to have the numbers soon—we hope.

ORDERS FOR MONDAY, AUGUST 15, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Monday, August 15; that following the prayer the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter the Senate resume consideration of S. 2351, the Health Security Act, with the time until 5 p.m. equally divided and controlled between Senators MOYNIHAN and PACKWOOD or their designees; provided further that at 5 p.m. the Senate vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, as I understand it, if there is some other disposition, we should get an agreement to vote on the amendment at 5 o'clock, the majority leader might change the order?

Mr. MITCHELL. That is correct. Yes. This will occur only if we cannot reach an agreement. I wanted to give the maximum notice possible to Senators with respect to that schedule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays on the motion to instruct.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I thank the Senator from Michigan for his courtesy.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. Leader time is reserved.

Mr. DOLE. Might I use about 2 or 3 minutes of that without upsetting the balance on the health care debate?

The PRESIDING OFFICER. The Senator may use his leader time.

ISSUES BEFORE THE CONGRESS

Mr. DOLE. Mr. President, I think it is pretty clear we have a lot of big issues we are trying to deal with, and one right now is health care. There are other big issues out there, such as crime. One that is coming up is the trade bill—particularly implementing legislation for the Uruguay round agreement.

Mr. President, there are a number of momentous issues before the Congress right now—each of them deserves thorough scrutiny and extensive debate before Congress acts.

I am certain that every office has been like mine. I have had more calls on GATT than I have ever had on NAFTA. For some reason, people say they do not have enough information, or they are just outright opposed to GATT. Maybe it is because they do not understand it.

Calls and letters have been flooding into my office—and I am sure to my colleagues' offices too—on the subject of the GATT. People are uneasy, Mr. President. They are concerned, they are afraid they do not have enough information, or they are just outright opposed.

My own office in Wichita is receiving more calls in opposition to this trade agreement than we received on the North American Free-Trade Agreement. I do not know whether opposition will build to the same national level. But I do know that the administration has done a poor job of explaining this bill, not to mention the underlying trade agreement, to the American people.

It is a big, big agreement. NAFTA, by comparison, is very, very, very small.

Mr. President, I want to make it clear that I favor free trade and opening of foreign markets. I fought hard for the North American Free-Trade Agreement. Overall, I favor the GATT agreement because I believe it will help the American farmer and American manufacturers by providing greater global market access. And it will help the American consumer, by lowering tariffs worldwide and thereby lowering the prices of products.

But, Mr. President, people have a right to know what else is in this agreement. People have a right to know how the World Trade Organization will function, what powers it will have, what authority it will have to tell the United States what to do. People have a right to know how the agreement will be paid for, and how it will benefit them in the long run. I know these are significant concerns to Members on both sides of the aisle here in the Senate.

In addition, people have a right to know how this trade agreement fits into the President's long-term trade strategy. President Clinton wants fast-track authority for future trade agreements.

I do not fault him for that. He wants language in the trade bill referencing all kinds of environmental and labor objectives and linkages of trade policy to environmental policy and labor policy. People want to know whether the President's strategy is to turn over our trade laws to environmental groups to be used as clubs over the heads of less-developed countries. They want to know whether labor unions will decide who we should trade with—based on the level of enlightenment in our trading partners' labor laws.

What disturbs me, Mr. President, is the failure of the administration to allow adequate time for the American people to get answers to these and other valid questions about this trade bill.

We have to ask ourselves, we have to ask ourselves right now: Is there a rush? Do we have to do this this year? I think everyone on the Finance Committee wants to be cooperative.

What is the rush? There is no rush. Yet we read in this morning's paper about a deal the administration cut yesterday with Members of the House that supposedly will allow this bill to move forward.

Maybe so; maybe not. I have talked to some of the House Members. They are not certain if they have any agreement. But it seems to me that with all the things we have coming up, if we are going to do this, maybe we ought to do it this year; maybe we ought to set the pattern for other countries. But we ought to make certain precisely what we are looking at and what we are dealing with and, I think, also, maybe listen to our constituents.

Again, they want to be heard. They do not maybe understand the fast track or all of these things. What they do not understand, they just do not understand why we are trying to move on something when they think there may be a problem.

So we still have some time. I know the chairman is on the floor. He has worked very hard. We have reported out implementing legislation. But I think what I would say is let us not race to complete a major trade bill before we can calm the doubts of almost everyone.

You are never going to calm the doubts of everyone until we can answer the questions of most people out there. Some are going to be critics forever. But I think for those who have legitimate concerns, they are certainly entitled to legitimate answers.

What is the rush?

There is plenty of time for Congress, and the American people, to take a close look at the results of the Uruguay round. There is no need whatsoever to force this bill through in the closing days of this session, when most Members of Congress are fully engaged in other, momentous issues. This is an important issue. This trade agreement will have a profound impact on our trade relations with every nation on Earth, on our rights as the largest trading nation on Earth and on our ability to resolve trade disputes as they arise with other countries.

I urge my colleagues to listen to their constituents, take the time to carefully consider this important legislation, and give the American people the chance to be heard on this issue. This bill gets fast-track treatment in Congress. That means that once the committees complete their work and the House and Senate work out their differences, the President can submit the bill any time and no amendments are permitted.

So let us take the time to get it right. The committees involved do not need to rush to wrap up their work on the GATT bill this week or next week or even next month. The worst thing that happens if we take time for careful consideration is that everyone, including the people who live outside the beltway, will understand what this trade bill is all about, and may even decide it is a good thing for the country.

For now, Mr. President, let us not race to complete a major trade bill before everyone's doubts are calmed and questions fully answered. We owe it to the American people.

I thank the Chair. I thank my colleague.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if I may just join with the distinguished and indefatigable Republican leader in commenting on the reports in the press this morning that an agreement has been tentatively reached between the administration and the Republican Members of the House, and that authorizing legislation has to be worked out in the Committee on Ways and Means.

The Committee on Finance has finished its work, pending a conference with the House Ways and Means Committee. This Uruguay round is a culmination of 60 years of American foreign trade policy that began literally 60 years ago, in 1934, with the Multilateral Trade Agreements Act under President Roosevelt and Cordell Hull.

The Uruguay round was commenced by President Reagan, and continued by President Bush, and finalized by President Clinton. It is an enormous undertaking. I would hope I could go out to Wichita and tell some of those people that it is the best opportunity for American agriculture that we have ever negotiated—an end to export subsidies.

We are the most competitive agriculture in the world, drowned out by subsidies, particularly in the European Union. We bring activities such as counter under the free trade rules, and 117 nations are brought into the system—well, half of them are—but truly into the system.

It is an enormous opportunity. A curious left and right alliance has risen up against it. I think we can answer their questions. We will certainly have an opportunity to do so in conference with the House. But when the President sends us back the bill, we will have an opportunity on this floor to set it forth.

We think that in the end we will be better off. There will be more jobs, more wealth, and more revenue for the Federal Government. That was the basis on which a substantially unanimous Finance Committee acted. And, of course, the Republican leader was one of the leaders of that action. I acknowledge his leadership and thank him. I say, Mr. President, the news this morning was good news.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. MACK], is recognized.

Mr. MACK. Mr. President, I yield myself whatever time I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MACK. Mr. President, this debate has been a difficult personal voyage for me. Over the years, my family, like so many others has been in and out of hospitals and doctors offices, as patients, visitors family members, and friends. I have experienced the spectrum of emotions—the grief and depression that set in after my brother Michael died of cancer; the highs and the lows—the roller coaster ride of his 12-year fight against melanoma; the euphoria that followed the delivery of my daughter's third son after her successful fight against cervical cancer; the pride I felt for my mother in her stoic and determined battle she won against breast cancer; the fear of loss, loneliness, and permanent separation that flashed through my mind when my wife, Priscilla, told me she had discovered a lump during a self breast exam; the terror that rocked me when I was told that I was diagnosed with melanoma, the same vicious cancer that had killed my brother 15 years ago.

In a matter of seconds, I relived the trauma, the pain and suffering my family endured during Michael's struggle. Michael's life was extended 12 years, and four of the five of us are alive today because of receiving services from the best health care system in the world.

I will fight the destruction of our system with everything I have because of my own very strong beliefs and because the people of America share these same ideals.

Let me take a few moments to talk about our present system. Our system provides us with the freedom to choose providers and benefits. We have the highest quality of care and lead the world in innovation. These are the defining features which make our system second to none. The quality of our system attracts patients from all over the world, whose own health care system has failed them.

We provide employers with positive incentives to provide health care for their employees. The decision is the employer's as to whether or not they are financially able to do so. We encourage Americans to take advantage of preventive services, such as periodic screening for diseases and immunization for our children. We advocate routine exercise programs and eating a balanced diet. We lead the world in research and development of pharmaceutical drugs and medical devices—products which have saved millions of lives and which have improved the quality of life for so many Americans—individuals with so much life still to live.

Is it a perfect system? No, it is not. There are indeed many reforms needed which would significantly improve opportunities for health care coverage.

While Mrs. Clinton says her opponents lack compassion, this could not be further from the truth. I want health care for all Americans. I just do not believe that big government is the answer. Later I will go over the legislative changes that are needed and should be passed.

Accomplishing specific reforms ought to be straightforward. In fact, the American people should know that these reforms could have been passed already. Two years ago, I served on a bipartisan health care task force to pave the way for passage of reforms. We all agreed it would enhance the opportunity for health care coverage for more Americans. These included: Insurance market reforms and small group purchasing organizations, as advocated in the Bentsen bill; community health centers; deductibility of health insurance premiums for the self employed and individuals; State experimentation; medical liability reform; reduced administrative costs, and primary and preventative care incentives—all would significantly improve the health care of our citizens.

Two years ago, Republicans were prepared to pass these needed reforms—incentives which could already be providing greater access to our health care system at affordable rates. So why did it not pass? Because Democrats informed us that it was all or nothing; either create a Government-controlled system or nothing. During the past 2 years, more people have lost their insurance because the Democrats said, "all or nothing." During the past 2 years, people have been denied coverage because of preexisting conditions because Democrats said "all or nothing." During the past 2 years, the self-employed have been financially disadvantaged because the Democrats said "all or nothing." During the past 2 years, administrative burdens have increased because the Democrats said "all or nothing."

History has a nasty habit of repeating itself. Guess what, folks. Two years later, we are confronted with that same choice: A Government-controlled, Government-dictated health care system with less quality, less choice, and less freedom on the one hand, or a market-driven health care system with high quality and more choice and more freedom on the other. The decision for me is simple—the American people do not want to be told where they must get care, from whom they must receive it, and the type of care they are entitled to, according to an all-powerful Government board.

Much of this debate has focused on the concept of universal coverage. People ask, "Are you for universal coverage or are you against universal coverage?" It has become clear that there is no single definition for the term "universal coverage." Does it mean 100 percent coverage? Does it mean 95 percent coverage? Does it mean 91 percent coverage or, perhaps, something in between? If universal coverage means that everyone is mandated to participate, what does that say about our commitment to individual freedom?

President Clinton continually stresses security as his No. 1 goal, along with universality. The Clinton-Mitchell plan would force everyone to participate in these plans—like it or not. I have friends on the other side of the aisle who want to push through a health care bill regardless of the views of the American people. I believe that a social system that is built on the idea of security and guaranteed benefits, separates consequences from action, separates freedom from responsibility, and will eventually reduce, restrict, limit, and could finally lead to the destruction of our liberties.

Recently, Thomas Sowell wrote an article entitled "Selling Freedom for Rhetoric." I would like to share some of his thoughts with you:

> Make no mistake about it. Your freedom and independence—what you celebrate on the Fourth of July—are precisely what must be taken away, in order that we may all become dependent on the largess of Washington and become the guinea pigs of the social experimenters * * * We are talking about the government telling you and your doctors what you can and cannot do, politicians and bureaucrats micromanaging medicine * * * Government is not about 'asking.'* * * It is about telling * * *

What about our freedoms as Americans? Thomas Sowell could not possibly have been more clear when he said: "No freedom can be more personal than the freedom to decide for yourself what should be done to preserve your health and your life."

Let us examine the destruction of our freedom envisioned in the Clinton-Mitchell health bill.

First, the issue of choice. Polls have consistently shown the American people want to choose the type of care they get and from whom they can get that care. A Government bureaucrat should not be making that decision for them.

I want to go back to my comments earlier about my brother's death due to melanoma in 1979. While that was 15 years ago, it seems as vivid today as it was then. I am going to talk about that in using this chart which shows the bureaucracy in the Clinton-Mitchell bill.

First, I want to say there are probably some who think this is just a chart that someone has made up, a figment of someone's imagination, but I assure you this chart, put together by Senator SPECTER was developed by going through the 1,400-and-some page bill. Senator COATS and Senator GREGG put this primer together which details the 50-plus new bureaucracies. Every one of these new programs, every one of these new bureaucracies is identified as to the section of the bill from which it comes.

I will just say to those who are listening, can you imagine what it must be like or could be like if you were sitting with me in a hospital room in Atlanta, GA, in 1979, when your brother, a brother you loved so dearly, was suffering so much. There you were working with his doctor trying to figure out what was the next best option, what procedure might be used, what medication might be available to reduce his pain, what new technology might be available that could possibly extend his life or improve the quality of his life. Right in the middle of that discussion, right between me and Michael's doctor is this massive new Government bureaucracy—a wall, in essence, that has been established that acts as a barrier, a group of bureaucrats, who I will say are well-intended, who would say to me or to the doctor that that medical procedure is not available any longer or that new technology has not been approved by the Board.

Now, I must tell you I do not believe that this is the kind of health care that the overwhelming majority of Americans want for this country.

(Mr. ROCKEFELLER assumed the chair.)

Mr. MACK. Mr. President, the Clinton-Mitchell bill provides no real choice of health care benefit plans at all. All plans will be cloned with the same set of standard benefits determined by the National Health Benefits Board. Oh, sure, you might be able to decide whether your health care benefits will be handled by an HMO or preferred-provider arrangement or a fee-for-service plan, but all benefits will be the same—fixed by Government. But, despite the rhetoric from my colleagues, you will not have the freedom to choose the physicians or treatment that you need. The Board will be given the power to determine whether health care is medically necessary and appropriate, not the physicians.

Representing a State of more than 13 million people, you can imagine the correspondence and phone calls that I have received on this issue. The other day I received a letter indicative of many others I have received. The writer stated:

> I do not delegate the right to take care of my health care and medical needs to the U.S. Government.

What does the national Board know about what is appropriate and medically necessary for families in Ruskin, FL, or a grandfather in Little Rock, AR? These decisions must be made by a patient in consultation with his or her medical provider—case closed.

What about this take-it-or-leave-it standard benefits package? The American people know that one size does not fit all. I want no part of a plan that forces Americans to change insurance plans they are satisfied with because the Government knows better than the American people what type of benefits they need.

Frankly, this reminds me of the catastrophic coverage debate of 1988 and 1989 when Medicare beneficiaries were being forced to give up the supplemental coverage they already have because the Government believed a one-size-fits-all package was better. Before the ink was dry, we had to repeal it. Americans rebelled then and, Mr. President, they are rebelling today.

One of the bills I sponsored is the Consumer Choice Health Security Act. This legislation is modeled after the Federal Employees Health Benefit Plan [FEHBP], the plan Congress and over 3 million Federal employees belong to around the country. It offers members the choice of more than 300 health insurance plans with a vast variety of benefit options.

The Dole bill encourages Americans to join FEHBP and choose the health care plan with benefit options that are best for them and their families. Unfortunately, the Clinton-Mitchell plan takes a good program full of choice and obliterates it.

Choice will be severely affected by the premium caps in the Clinton-Mitchell bill as well as the 18 new taxes proposed in the bill. As Government squeezes down on resources, we will be forced to give up choices of benefits, of plans, of providers—choices which we have always believed would be available to us in our health care delivery system.

Mr. President, that brings to mind a conference on health care that I held in Jacksonville, FL, several years ago. We had two physicians from Canada who came to talk about the Canadian system. They told us that there was overwhelming support in Canada for their system. But, one of the things that they said that I think is very, very important and should never be forgotten is, that you cannot take the ideas and plans that have created a health care system for society, for some other nation, and superimpose them on yours. They said to us: "You've got to develop a plan, you've got to develop a health care system based on the values of your society."

And that is why this debate is so important, and it is so important for us to listen to what the American people, in fact, are telling us.

Next, let us look at the issue of quality within the Clinton-Mitchell bill. The bill states that the National Health Benefits Board shall be authorized to establish guidelines as to what is medically appropriate. Furthermore, the bill mandates that a health plan has developed a treatment guideline or utilization protocol, then it must provide this in a written statement at least 60 days ahead of time to each affected provider and the Government entity which certifies the plan.

Can you imagine how this process could interfere in the practice of medicine and patient care? Let me give you an example. A person goes to a doctor to have a mole removed from his neck. The doctor discovers that more tissue needs to be removed because what first looked like a harmless mole may possibly be a melanoma. So the guideline for treatment is different. What should the doctor do or have done differently?

The doctor asks a colleague for a second opinion who suggests a different approach because of the appearance of the surrounding tissue. What may be very good medicine may not fit the protocol for the already approved procedure. Did they follow the guideline? Did they modify the guideline? Did the outcome fit with the expectation for the treatment? Is this the thought process we want physicians to go through apart from what they think is best for their patients?

Many of us, who have experienced our children coming down with the croup, can remember the anxious time we spent at night listening to that raspy and painful sounding cough while trying to decide whether to go to the emergency room. The August 4 edition of the New England Journal of Medicine describes how a new drug inhaled through a nebulizer allowed children with the croup to be discharged from the emergency room significantly earlier and needed less medication afterward than the children who had received a placebo.

I assure you, if my grandson had the croup tonight, I would want him to have the option to receive this treatment. How are pediatricians in health plans going to do this if a Government-preapproved guideline is not in place? After all, this is not a tried and true treatment but something new and innovative.

The next area I want to address is price controls. Price controls were originally advocated by President Clinton and are now being proposed by Senator MITCHELL in the form of taxes on insurance plans and a target for premiums which will threaten the quality of care.

Those who favor price controls, in whatever form, often do so without addressing the effects of those controls. For every action, there is an equal and opposite reaction. If we place a cap on how much is spent, there will have to be some reaction to it. The number of medical procedures will decline and rationing of services will occur. Specialty services will be terminated and consolidated with fewer services available to most people. Research and education will be slashed as a means to meet the cap. Development of new drugs will come to a standstill. The quality of our health care will be dramatically affected.

Soon after the Clinton health care bill was introduced, a letter signed by 562 leading economists was sent to the President. These economists wrote that the administration's government-run health care system "will produce shortages, black markets, and reduced quality."

The economists concluded that,

> In countries that have imposed these types of regulations, patients face delays of months and years for surgery, government bureaucrats decide treatment options instead of doctors or patients, and innovations in medical techniques, and pharmaceuticals are drastically reduced.

Finally, the economists concluded,

> Caps, fee schedules and other government regulations may appear to reduce medical spending, but such gains are illusory. We will instead end up with lower-quality medical care, reduced medical innovation, and expensive new bureaucracies to monitor compliance.

Unfortunately for all Americans, this same letter could have been written about the Clinton-Mitchell plan.

I would like to share with your some examples from other countries that have imposed price controls.

Last Christmas, in an effort to meet budgets, some 100 hospitals in Ontario—Canada's most populous province—shutdown wards and surgeries for 3 weeks with doctors going unpaid and nonemergency patients untreated.

On June 8, 1994, the Times in London featured a story entitled, "Patient with Indigestion gets April 1996 appointment."

Again, "Patient with Indigestion gets April 1996 appointment. Consultant serves 280,000 people, twice recommended level."

The patient, David Fullbrook, received a letter from the National Health Service Trust, which stated the following, "No guarantee can be given that you will be seen precisely at the time stated or by the consultant named."

The article discusses the doctor's frustrations with the fact that he is the only specialist serving a large area. A spokesperson for the British health care system acknowledges that these waiting periods need to be urgently corrected and a review of medical manpower is underway. Can you imagine what this gentleman must be feeling? Two years to see a specialist, but do not worry, he is told, his government is going to study how to speed things up for him.

A woman in Florida told me her father, who gets his care under Britain's Government-controlled system, had to wait so long for a cataract operation that by the time the surgery was scheduled, his eyes were inoperable. My father had cataract surgery when he needed it and I want to make certain our citizens have quality health care when they need it.

The Clinton-Mitchell bill wants to control the number of specialists in our country similar to the British system. The Clinton-Mitchell bill, in fact, creates a National Commission on Graduate Medical Education tasked with controlling the number of specialists in our country. This bureaucracy would require a ratio of 55 percent generalists to 45 percent specialists. So, if your life-long dream has been to be an ophthalmologist or to discover a cure for breast cancer, you might want to rethink your dreams. The Government may have other plans for you. This is an arbitrary ratio which will not only limit care but also reduce research. They have forgotten that specialists are the pioneers of medical innovation. Do we really want to set bureaucratic limits on the talent we allow into the system? I think not. Such limitations will forever change the quality of our care, and severely restrict our choice of providers and services.

Another victim of the Clinton-Mitchell bill is research. We are close to amazing breakthroughs in medicine—maybe the kind of discoveries that could have saved my brother Michael's life. The American spirit of innovation can only flourish with less government, not more government.

Innovations in American laboratories during the first half of this century have practically eradicated such killers as measles, tuberculosis, polio, and whooping cough. We are in danger of destroying that spirit.

The mere threat of price controls by the administration on the pharmaceutical industry has been decreased research and development at drug companies. From December 1992 to March 1994, the total decline of the industry stock value was approximately $50.5 billion, a decrease of 25 percent. This is capital that would be used to find cures that could affect your family members and loved ones.

Mr. President, this is a point I do want to focus on for just a minute, because I think its consequences could be extremely serious.

Before I make some other relevant points, I have read some rather interesting books on the subject of DNA, gene therapy, immunotherapy, and the work that is being done to identify genes related to specific diseases.

I refer to two books, "The Secret of Life," and the other, "The Transformed Cell," a book written by Dr. Steven Rosenberg, a physician-scientist out at the National Cancer Institute.

This book is of particular interest to me, since Dr. Rosenberg focuses in on the issue of melanoma. About the time Michael was diagnosed with the disease, frankly, there was no treatment. But today, at the National Cancer Institute, we are seeing remarkable things happen. We are seeing people who have, in fact, been cured of melanoma because of work done by Dr. Steven Rosenberg, in being able to turn on the immune system. Ironically, for some reason, the immune system sees cancer cells and believes that those cells are natural cells to the body and the immune system does not attack it.

What Dr. Rosenberg and others have been working on is how do you use a protein to identify that cancer cell which sends a signal to the immune system to turn on and attack it and kill the disease. And they are making real progress.

But, again, Mr. President, my concern is that under a Government-controlled system in which there will be some cap or some effort to control how much we spend on health care, what is going to happen, which is natural through the political process, is that we are going to take scarce resources and we are going to identify and target those to what most people would think should be done. And that is the day-to-day concerns of people in the hospitals, clinics, and doctors' offices around the country. In the end, money that will be available for research will dry up.

The loss in value of American drug companies is one cause among several to have had a profound effect on the ability of American scientists to bring the fruits of their genius and innovation into production for the benefit of patients. This slowdown has occurred for five major reasons. First, the loss of capitalization of American health care product manufacturers, that I just mentioned, affects their ability to borrow and invest in the development of new products. Second, the decline in research funding reduces the fuel to drive the NIH intramural and extramural intellectual scientific engine which is behind the phenomenal medical advances of the last 30 years.

Third, the costly maze of regulation required by the FDA inhibits bringing products to market. Fourth, the impact of the fear of liability by device manufacturers and their suppliers. This is no longer just a question of whether a device worked properly but includes the reluctance of suppliers to sell materials to manufacturers and then have to defend their product later on in court. And, fifth, the refusal by third party payers; insurance companies, HMO's, Medicare; to pay for new or improved technology.

For years university researchers created ideas that were supported by the NIH. Investors then funded these ideas so that they could be further refined into a product which then had to be tested, approved, and brought to market. All of this took place in the United States. Now, we see American companies first bringing products to market overseas. Europeans, South Americans, and others are quickly able to use American products that cannot make it through our regulatory maze. One leading midwestern manufacturer of therapeutic medical devices has not introduced a major new project first to the U.S. market in 10 years. There is a shift in the international center of gravity for medical device innovation out of the United States. Products are now introduced, then manufactured and ultimately developed in research and development facilities overseas.

I ask unanimous consent to print in the RECORD a statement on this problem by Dr. Pierre M. Galletti, professor of medical sciences at Brown University and current president of the American Institute for Medical and Biological Engineering.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BROWN UNIVERSITY,
Providence, RI, August 12, 1994.

Senator CONNIE MACK,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MACK: One neglected issue in the debate on health care reform is the impact of proposed legislation on innovation in medical technology and the resulting competitiveness of the U.S. medical product industry. I speak to these issues as an investigator in artificial organs and implants with substantial experience in technology transfer from the research laboratory to industry, and as chairman or member of Scientific Advisory Boards to several product manufacturers here and abroad.

There is no denying that the mere fact of debating health care reform with the dominant accent on cost containment has had a profound negative influence on technological innovation in medicine. The market valuation of U.S. pharmaceutical companies has been substantially diminished, and with it the capacity to invest in new product development. To maintain competitiveness, a counter-strategy has evolved whereby drug manufacturers seek to protect their market share by alliances with somewhat monopolistic distribution networks or investment in less expensive generic products.

No such strategy exists for medical device manufacturers. This branch of the U.S. industry consists primarily of medium size and small companies. They do not have the cash reserves needed for a major strategic shift and, because of their division in multiple market segments, cannot easily ally themselves with provider or consumer groups. As a result, the stocks of biotech companies have plunged by more than fifty percent compared to a year ago. The willingness of manufacturers to proceed with new products has been discouraged. The availability of private venture capital has been severely curtailed. Clinical product evaluation and, increasingly, production are shifting from the U.S. to Europe, where the business and regulatory climate are felt to be less stifling.

The net effect, after perhaps a short period of savings on health care costs because of unavailability of new products, will be a long term increase in health care costs. Think simply where we would be if there had not been products for one-day hospitalization for gall bladder surgery with minimally invasive technology; no intraocular implants for the treatment of cataracts; and no cardiac pacemakers for controlling chaotic heart action. None of these advances would have been possible without an investment of government funds in research, and a much larger investment of private capital to turn inventions into products. Most researchers are in this game for the satisfaction of being identified with medical advances. Most investors are in the game for turning out a profit. This synergy has worked to the advantage of the American economy: the U.S. medical product industry, particularly in the artificial organ and implantable device area, dominates the world market and has grown to a volume of several billion dollars, employing tens of thousands of people.

If we drive early stage research abroad, if we continue to let our regulatory apparatus delay authorizations to proceed with product evaluation with senseless queries, if we make capital investment in new medical products less rewarding, then we will effectively kill the U.S. leadership in bringing new medical products to the market. Exports will eventually become imports. An apparent short term saving will become a new health care burden, because the American people simply will not do without products which have demonstrably increased their quality of life and, in many cases, their actual life expectancy.

Cordially,

PIERRE M. GALLETTI, M.D., PH.D.
Vice President Emeritus, Biology & Medicine.

Mr. MACK. I also want to read just a bit from that. He says:

> There is no denying that the mere fact of debating health care reform with the dominant accent on cost containment has had a profound negative influence on technological innovation in medicine. The market valuation of U.S. pharmaceutical companies has been substantially diminished, and with it the capacity to invest in new product development.

He goes on:

> The net effect, after perhaps a short period of savings on health care costs because of unavailability of new products, will be a long term increase in health costs.

As we ratchet down on health care dollars to pay for an explosion in Government bureaucracy, we will ration technology innovation and, in the end, invest less resources to improve quality of life.

Researchers at the National Center for Human Genome Research and grant recipients from the Center are closing in on identifying the breast cancer gene. Once the gene is discovered, we will actually be able to let women know at an early age if they are predisposed to developing breast cancer due to genetic makeup.

The following are just a few of the many promising drugs in the final phase of FDA approval: Ropinerole, which shows great promise for people with Parkinson's disease; Arvin, which will be used for stroke, and affliction which kills more than 17,000 people a year; and Casodex for prostate cancer, which kills 38,000 men a year. The development of these and other future wonder drugs will be placed at risk by the Clinton-Mitchell Government-controlled medicine.

Let us take a look at innovation in delivery of services under the Clinton-Mitchell bill, specifically the ability to self-insure. The bill makes it illegal to self-insure if you have under 500 employees.

In my travels around the State, I have spoken with many employers who have instituted innovative ideas to ensure a healthy workforce—a company doctor, an onsite health clinic, incentives for healthy lifestyles such as an in-house jogging track and exercise room.

Many employers in my State who have self-insured plans have done a tremendous job in holding down health care costs for their employees. A citrus packer in Ocoee with 13 employees has been self-funded for 3 years and has saved $75,000 during that time. A law firm in Tampa, FL, with 26 employees has saved more than $75,000 over 4 years. How? By being innovative, encouraging their employees to seek preventive care, and by promoting individual responsibility in health care.

Under the Clinton-Mitchell bill these creative and cost-saving ideas as part of a self-insured plan would be outlawed for employers with less than 500. Why? Because Clinton-Mitchell rests on the premise that the Federal Government can make better choices than you can.

Before abdicating our rights to the Government, we should examine the Government's track record in estimating the costs and complexity of Government programs. It is not good.

Last year, Joseph Califano, Secretary of HHS under President Jimmy Carter wrote about the effects of the unintended consequences of Government actions:

> As the President, Hillary Rodham Clinton and Congress set out to reinvent health care in America, they are wise to consult widely, since we got into much of the current mess by acting on the best of intentions without foreseeing the worst of unintended consequences.

Medicare was estimated to cost $9 billion in 1990 when it was originally estimated in 1965. Instead, the actual cost in 1990 was off by 1,178 percent, nearly 12 times higher—the unintended consequenses of Government action.

The Mitchell bill contains at least 50 new bureaucracies designated to simplify the health care system—the National Health Care Cost and Coverage Commission; the National Health Benefits Board; the Mandatory State-based Alternative Dispute Resolution, and the list goes on and on—what will be the unintended consequences of these Government actions? The administration and my Democratic colleagues will try and tell you that the Republicans are using scare tactics.

Earlier I went through how we came up with this information. It is clearly and well defined. It comes right from the Clinton-Mitchell bill that has been introduced.

Finally, let us take a look at the disastrous effects of the Clinton-Mitchell bill when it comes to the employer mandate. Under the original Clinton bill, estimates on job loss ranged from 600,000 to 3.8 million. The new Clinton-Mitchell bill would also clearly result in substantial job loss.

A trigger for an employer mandate in the future is no different than an employer mandate today. A mandate is a disguised tax, making employers legally responsible for financing a huge Government entitlement program. CBO, in essence, acknowledged that employer mandates are taxes.

In the final analysis, a tax trigger as advocated by the Clinton-Mitchell bill will result in job loss, wage reductions, and major administrative paperwork nightmares for small business owners and their employees.

Small business owners are wise to Washington. They know what an employer mandate means—a disguised way to pay for a new social experiment. A recent NFIB survey recognized this truth when over two-thirds of the 600,000 members polled opposed Congress establishing a mandatory national health insurance program.

Since beginning this health care debate over 3 years ago, I have been actively pursuing ways to improve the best health care system in the world.

I have been an active member of the Senate Republican Health Care Task Force, and I worked with my colleagues, Senators NICKLES and HATCH and the Heritage Foundation in developing the Consumer Choice Health Security Act. Modeled after the Federal Employees Health Benefit Plan, the bill provides individuals and families the opportunity to purchase the health care plan that best addresses their individual needs. It empowers individuals with choice and individual responsibility.

Because of my strong interest in prevention and specifically, the issue of cancer prevention, I introduced legislation to provide refundable tax credits for all individuals to avail themselves of cancer screening procedures. The American Cancer Society says this one proposal alone could save up to 100,000 lives per year.

As a member of the Appropriations Committee, I have been a vocal advocate for increased funding for research and for the CDC breast and cervical cancer program for low-income women, a successful program with proven results.

We are on the verge of breakthroughs in many drugs that might one day eradicate cancer, Alzheimer's, and heart disease and cystic fibrosis. But when resources are squeezed to fund a $1 trillion explosion in Government bureaucracy, the prevention of those diseases could be put off to another generation.

I worked with the minority leader and Senator PACKWOOD to develop the Dole/Packwood bill. Forty Members have endorsed this legislation. The legislation recognizes the value of a free market approach and imposes no costly employer mandates that would cause job loss.

The Dole-Packwood bill does not impose a one-size-fit-all standard benefit package that limits the free choice of benefits and outlaws existing health insurance plans.

The Dole-Packwood bill does not create a national health board to oversee a government-run health care system;

Does not prohibit small firms from self-insuring and being innovative in delivery of health care services;

Provides all Americans with access to health insurance that is guaranteed to be renewable, portable, and available regardless of any pre-existing conditions;

Preserves unlimited choice of health care plans that are tailored to your needs;

Phases in tax equity for the self-employed and for individuals who do not have employer-sponsored coverage;

It creates medical savings accounts which can be used to pay medical bills or to meet long-term care expenses. The best cost control known to man is a system which allows individuals to make their own choices with their own money on health care;

Allows self-employed and small businesses, 2 to 50 workers, to enroll in the Federal Employees Health Benefit Plan [FEHBP], giving them the same choices among benefit packages that Members of Congress enjoy;

Provides premium subsidies for low-income people for the purchase of a health care plan;

Reforms medical malpractice laws, including capping awards for non-economic damages and sliding scale limits on attorney fees;

Allows for the development of truly voluntary purchasing pools.

In conclusion, I once again find myself thinking about the response I gave to the President's health care address to the Nation in September 1993.

The message I send my colleagues today is the same message I delivered almost 1 year ago: The American people don't want more bureaucracy, more mandates, and more Government control over their health care choices.

The Clinton-Mitchell proposal, which comes with a price tag of at least $1 trillion, creates a Government-controlled, Government-dictated health care system that will hinder quality, choice, and freedom. It imposes at least 17 new taxes, including a surtax of 1.75 percent on every health insurance policy, enacts price controls, requires employer mandates, and creates at least 50 new bureaucracies. In short, it's a prescription for disaster.

Two recent letters from my constituents express the concerns of many Floridians:

> Please do not reduce the quality and availability of health care by voting for the Federal Government to "improve" it by using price controls and redtape. The past "accomplishments" of the Government * * * have resulted in the tremendous cost overruns and recent and constant tax increases * * * I strongly feel that the private sector through market competition can reduce health care costs. Please, vote "no" to any proposed Government control of health care.

The second letter reads, and again I quote:

> I am very concerned about the Health care bills before you. The Mitchell bill I'm afraid will be used as a vehicle to get in Conference where Clinton-Gephardt can be inserted under another name and avoid Debate. * * * The best bill will be * * * the * * * simplest with the least Government involved and the most Free Enterprise as has served to make the Country Strong and Rich.

Mr. President, I want to see that other families, just like mine, have health care. While my Democratic colleagues may have the right motives for reforming our health care system, their method will destroy the best health care system in the world.

My vote, on behalf of my constituents, will be a resounding "no" on the Clinton-Mitchell bill. I will work hard with my colleagues to pass the reforms the American people want and I will not impose upon them a solution they do not want.

A Government controlled system? Never. I will never cast away our freedom for the sake of constructing a social experiment on a foundation of quicksand—the Federal bureaucracy. It is a formula proven time and time again to fail. We must look for solid ground to build any such reforms * * * that ground has always been free markets and free choice. They have served as the foundation for every great stride made by this country in the last 200 years. I will not abandon them nor will the American people abandon them either now or later.

I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, if I might inquire of the Chair, how much time is left on this side?

The PRESIDING OFFICER. Just about 28 minutes.

Mr. PRYOR. I thank the Chair.

Mr. President, I first want to congratulate my colleague from Florida for his very timely remarks. I also want to congratulate my colleague, Senator BENNETT, for his remarks earlier today. I thought it was a very, very constructive dialog, a very constructive part of this debate on this late Saturday afternoon in the U.S. Senate. I am glad that this debate is occurring, and I am glad also, Mr. President, that I have the opportunity, to correct some of the misimpressions—I know not intentionally made—by my very good friend and colleague from Florida, Senator MACK.

First, there is something I agree with. I agree with my colleague from Florida that we have the highest quality of medical care of any country in the world. I agree 100 percent. I agree 100 percent with my colleague from Florida that we have the highest quality system of medical care for those who have insurance, for those who are wealthy, for those who can afford it, for those who have not had their insurance canceled, for those who have not lost their jobs, and for those who have not been transferred to another State or to another company where they have lost their insurance.

We have a very high quality of health care. And I would like to further state that for those who are in the system, the system is good.

For those who are outside the system, the system is very, very bad. It is so bad, Mr. President, that we have a crisis, and unless we do something, we are going to see the great majority of American families in the next decade, one, not have insurance coverage and, two, not be able to participate in what our colleague from Florida refers to as the best system of health care in the world.

There is another misimpression that my colleague and others of his friends on his side of the aisle have been leaving for the last several days and weeks, and that is that the so-called Mitchell plan is a Government takeover.

It is just the opposite of a Government takeover. The so-called Mitchell plan is a plan to free up the individual to make their own decisions about health care. It is not a Government takeover, and to imply, to state that 17 new taxes—17 new taxes—are going to be imposed under the Mitchell plan is totally, absolutely in error.

Second, to imply that 50 new bureaucracies—50 new bureaucracies—are going to be created under the Mitchell plan? Mr. President, it is not true.

Earlier in the day I was looking at the chart of my friend from Florida. In fact, I went over to examine that chart. I have seen it on TV; I have seen it on the floor all week. So I took the time to go and look at it.

I looked down in the lower left-hand portion or quadrant, of that particular chart about how bad this Mitchell plan proposal is going to be, how many bureaucracies it is going to create. What I saw in the chart that we have seen displayed most of today on the Senate floor is basically part of the system that we have now, that we are trying to get rid of, that we are trying to replace with a new system that is going to be affordable and accessible to every American citizen. Most of that chart, Mr. President, was a chart and I repeat, of the system that we have now.

It is for this reason that we are using an example from the State of Iowa, a small town in the State of Iowa, Clive, IA. We have a chart of a Dr. Gleason's office before Senator Mitchell's plan. Here it is. Here is what happens in this small doctor's office in this small town in Iowa: The literally hundreds of forms and steps that must take place when a patient of Dr. Gleason receives service.

What do we have first? First, we have 1,500 insurance companies in America. The distinguished occupant of the chair knows all of this, probably better than any Member of this body. He has passionately—passionately—pursued this issue and tried to make those necessary changes that make this system not only the best, but keep it the best and make it accessible and affordable to every American.

Look, Mr. President, here we have Medicare, Medicaid. Here are the Blue Cross/Blue Shield programs right here. Here are all the different color codes that show—each different color code is a new form that must be filled out before Mary Jones has her examination or has her finger bandaged, or what have you. Then we have all of the other insurance companies. We could not put all the rest of them on here because there would be over 1,400 of them and they would encircle this entire Senate Chamber. For every one of those insurance companies, there is a different form to fill out.

Under the Mitchell plan, you are not getting more government, you are getting less government. You are not getting less service, you are getting more service. You are not getting a lower quality of health care, you are getting a higher quality of health care.

What you are ultimately getting, though, Mr. President, is efficiency in that system and you are getting simplicity in that system. Because after Senator Mitchell's plan is enacted—if those on the other side will let us enact it—we will see a much simpler plan with basically only three different forms that have to be filled out when

Mary Jones visits the office of Dr. Gleason in Clive, IA.

We think this is remarkable progress, Mr. President. We think it is progress because we think the Mitchell plan is very far superior to that plan offered by Senator Dole and Senator MACK and his colleagues on the other side.

Just one example. Because we think it is better, we will give you one reason we think it is better, among others.

The Senator from Florida represents a State with the highest percentage of elderly population. By the way, Arkansas is second or third in line. I am not sure we are second to Florida, but Florida is first. Florida has more elderly people than any other State percentagewise, yet, mysteriously, the proposal by Senator DOLE and Senator MACK does not include prescription drug benefits for seniors. It does not exist. It is not in the Dole plan. It is nonexistent. It is not even mentioned.

Whereas, in the Mitchell plan, we do begin for Medicare recipients a prescription drug plan that we think is a very, very good start. And we are proud of it. We are proud that we have a prescription drug proposal. We are proud of the fact that the elderly and the seniors and those on Medicare are no longer going to have to reach in their pockets and pay the highest conceivable prices for their prescription drugs.

We can do better as a country. We will do better as a country if we adopt the Mitchell plan for prescription drugs. I think this afternoon's debate has been a good debate because we are beginning to compare, really compare, without all the rhetoric, the Mitchell plan to the Dole plan. Another thing we like better about our plan is we have a proposal, as the Presiding Officer knows, because he was one of the instrumental forces in putting it into the Finance Committee bill, merged into the Mitchell bill, is something that we call long-term care. It is a beginning.

The distinguished occupant of the chair, Senator ROCKEFELLER, has worked for years and years to tell our country of the need for long-term care and to keep people as long as possible out of nursing homes.

Well, Mr. President, if we do nothing—and we have the opportunity here to do nothing, which would be the wrong opportunity to take, I might add, Mr. President, but if we do nothing and if we fail to seize upon this opportunity to do something, a once-in-a-lifetime opportunity to do something about a health care system that is unavailable to 37 million people, that is unaffordable to millions and millions of people, a system that is losing hundreds and hundreds of thousands of insured each year, if we fail that opportunity, I think we have failed in our obligation to the American people as Members of the Senate.

Look at this. We have more than 1,500 health insurance companies in this country, and today we see that we have to fill out 15 more forms for one patient's hospital stay. The lack of standardization of these forms is resulting in higher and higher administrative costs. The number of health administrators, for example, has increased by 300 percent during the past decade. The number of physicians has increased by only 18 percent.

The private insurance carriers in this country employ more than 2.4 million people, almost 2½ million. This is almost as many people as are employed in all of the legislative, judicial, and nondefense executive agencies of the American Federal Government, including all of the postal workers.

If we do nothing, this is going to continue to explode. If we do nothing, I say to my friend from Florida, we are going to see Children's Hospital bills not at the $2 million a year it costs to fill out reports today, but $10 million a year in the coming years. We are going to see the continued explosion of the health care bureaucracy in our country.

Mr. President, earlier this morning, one of the lead speakers, a very good speaker, a very good Senator, a good friend, the vice chairman of the Senate Special Committee on Aging, a real addition, a good addition to this body, stated—and I cannot quote him exactly—our friend, Senator COHEN, said he did not know why the newspaper headlines this morning "blamed us, the Republicans, for slowing down the health care bill" or "impeding the health care bill." I do not know exactly the term he used.

Well, I do not know why my friend the junior Senator from Maine, Senator COHEN, was surprised, because only last Wednesday on the floor of the Senate it was Senator PHIL GRAMM, and I quote, who declared "No one person will be able to comprehend the entire bill by next week," so he said he will divide up the measure, assign sections to individual GOP Senators, and have them explain their designated positions on the floor. He said then that process, and I quote, "will take a week, and," he said, "after that, the bill is dead."

"After that, the bill is dead."

So why would our friend from Maine be surprised to see that now the newspapers or the press people, the media, might be accusing or implying that the Republican side of the aisle would like to slow down and ultimately kill this bill.

Our friend from Utah, Senator BENNETT, spoke this afternoon—he gave a very, very good speech, I thought. He quoted from Newsweek regarding the so-called Mitchell bill and the Clinton plan, et cetera. But what he did not state was that Newsweek, in the same article, predicted, and I quote, Mr. President, "The Dole plan will increase premiums for middle-class people and could increase the number of uninsured."

What we are talking about, Mr. President, is 30 million people uninsured, left out of the system, forgotten, run away from should the Dole plan become law.

Mr. President, the other day—and I have used this before; this will be the second time—when we talked about delaying the vote, delaying consideration, stopping now and coming back in September, stopping now and coming back next year, when we do all of this, Mr. President, what I think we were saying is that we are giving up. I do not believe we can give up. I believe that we have to work harder. I do believe that we have to try to achieve a bipartisan proposal that we can take to the American people and say this is a better system than we have now.

When I thought about how to conjure up all the resources of the Senate, I added up the number of years that collectively all of us, all 100 of us that sit in this Chamber on a daily basis, how many years of Senate service have we had collectively. The answer is 1,236 years. I have been here 15 years. Senator THURMOND, I think, has been here over 35 or 36 years. Senator HATCH over there has been here over 20 years. Senator DASCHLE has been here since 1986, so he has not been here quite a decade.

But you add all of our service up together and, Mr. President, it is 12 centuries, over 12 centuries of public service in the U.S. Senate. And somehow I believe, with 12 centuries of experience, we do have the resources, we do have the ability; and hopefully, we have the will to come forward with a proposal that we can support, that we can take to the American people, and that we can be proud of as an institution.

Mr. President, I know that the time is late.

I know that we are all ready to go home. In fact, I would like to go home, Mr. President, and catch the last 30 or 40 minutes of the PGA Golf Tournament. That is where I would rather be this afternoon.

But I want you to know, Mr. President, it has been a high honor and a privilege to be here working with my colleagues today, this week, and this weekend on this proposal. We are going to continue to work on it until we do it, until we do it right. And we can do it, and we must do it, because if we do not, we will have failed our country, we will have failed our children, and we will have failed their children.

Mr. President, I thank the Chair, and I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Arkansas for an excellent statement. He has been a student of this issue now for many years. He is a member of the Finance Committee. He has represented those of us who favor strongly the Mitchell bill.

In closing our debate this afternoon, we thank him for his contribution, participation, leadership, and commend him especially for the excellent statement he has just made.

NATIONAL BREAST CANCER AWARENESS MONTH

The text of the joint resolution (S.J. Res. 185) to designate October 1994 as "National Breast Cancer Awareness Month," as passed by the Senate on August 12, 1994, is as follows:

S.J. RES. 185

Whereas breast cancer will strike an estimated 182,000 women and 1,000 men in the United States in 1994;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, and will kill an estimated 46,000 women and 300 men in 1994;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940's to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women who have been screened by mammography;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1994 is designated as "National Breast Cancer Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

CRIME PREVENTION MONTH

The text of the joint resolution (S.J. Res. 192) to designate October 1994 as "Crime Prevention Month," as passed by the Senate on August 12, 1994, is as follows:

S.J. RES. 192

Whereas crime prevention improves the quality of life in every community;

Whereas crime prevention is a cost-effective answer to the problems caused by crime, drug abuse, and fear of crime;

Whereas crime prevention is central to a sound criminal justice system at Federal, State, and local levels;

Whereas millions of United States citizens have demonstrated that by working together, they can reduce crime, drug abuse, and fear of crime;

Whereas all people of the United States, from preschoolers to senior citizens, can help themselves, their families, and their neighborhoods prevent crime and build safer, more caring communities;

Whereas it is important to honor annually those individuals throughout society who work to prevent crime and to build and sustain communities; and

Whereas the National Citizens' Crime Prevention Campaign (featuring McGruff the Crime Dog and sponsored by the Department of Justice, the Crime Prevention Coalition, and the National Crime Prevention Council) encourages effective partnerships to reduce crime and to improve life throughout the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1994 is designated "Crime Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

YEAR OF THE GRANDPARENT

The text of the joint resolution (S.J. Res. 198) designating 1995 as "Year of the Grandparent," as passed by the Senate on August 12, 1994, is as follows:

S.J. RES. 198

Whereas grandparents bring a tremendous amount of love and power for good into the lives of their grandchildren;

Whereas grandparents, in partnership with parents, help deepen every child's roots and strengthen every child's wings so that every child may soar into adulthood with a glad heart and a confident spirit;

Whereas grandparents are a strong and important voice in support of the happiness and well-being of children;

Whereas grandparents often serve as the primary caregivers for their grandchildren, providing a stable and supportive home environment;

Whereas grandparents should be acknowledged for the important role they play within families, and for the many and varied contributions they make to enhance and further the value of the family and family traditions;

Whereas public awareness of and appreciation for the contributions of grandparents should be strengthened;

Whereas grandparents should be encouraged to continue as a vital force in the shaping of American families today and into the future;

Whereas the Nation acknowledges the contributions of grandparents by celebrating National Grandparents Day each September; and

Whereas there should be a year-long national celebration of grandparents and grandparenting: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1995 is designated the "Year of the Grandparent", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that year with appropriate programs, ceremonies, and activities.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 248. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States versus Durenberger; considered and agreed to.

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 215

At the request of Mr. DOLE, the names of the Senator from Colorado [Mr. BROWN], the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], the Senator from New Mexico [Mr. DOMENICI], the Senator from California [Mrs. FEINSTEIN], the Senator from Alabama [Mr. HEFLIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 215, a joint resolution designating September 5, 1994, Labor Day, as "Try American Day."

SENATE RESOLUTION 243

At the request of Mr. LOTT, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Resolution 243, a resolution recognizing the Realtors Land Institute on the occasion of its 50th anniversary.

SENATE RESOLUTION 248—TO DIRECT THE SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE IN THE NAME OF THE SENATE IN UNITED STATES VERSUS DURENBERGER

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 248

Whereas, in the case of *United States* v. *Durenberger*, No. 94-3105, pending on appeal in the United States Court of Appeals for the District of Columbia Circuit, the powers and responsibilities of Congress and the relationship among the branches of government have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action which places in issue the powers and responsibilities of Congress under the Constitution: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *United States* v. *Durenberger*, for the limited purpose of requesting the Court to give plenary consideration to the contentions of the United States and Senator Durenberger in regard to the separation of powers questions presented by the appeal.

AMENDMENTS SUBMITTED

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1994

HATCH (AND HARKIN) AMENDMENT NO. 2562

Mr. HATCH (for himself and Mr. Harkin) proposed an amendment to the bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a definitive link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9)(A) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition; and

(B) nearly all consumers indicate that dietary supplements should not be regulated as drugs;

(10) studies indicate that consumers are placing increased reliance on the use of non-traditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose regulatory barriers limiting or slowing the flow of safe products and needed information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

(b) Purpose.—It is the purpose of this Act to—

(1) improve the health status of the people of the United States and help constrain runaway health care spending by ensuring that the Federal Government erects no regulatory barriers that impede the ability of consumers to improve their nutrition through the free choice of safe dietary supplements;

(2) clarify that—

(A) dietary supplements are not drugs or food additives;

(B) dietary supplements should not be regulated as drugs;

(C) regulations relating to food additives are not applicable to dietary supplements and their ingredients used for food additive purposes, including stabilizers, processing agents, or preservatives; and

(D) the burden of proof is on the Food and Drug Administration to prove that a product is unsafe before it can be removed from the marketplace;

(3) establish a new definition of a dietary supplement that differentiates dietary supplements from conventional foods, while recognizing the broad range of food ingredients used to supplement the diet;

(4) strengthen the current enforcement authority of the Food and Drug Administration by providing to the Administration additional mechanisms to take enforcement action against unsafe or fraudulent products;

(5) establish a series of labeling requirements that will provide consumers with greater information and assurance about the quality and content of dietary supplements, while at the same time assuring the consumers the freedom to use the supplements of their choice;

(6) provide new administrative and judicial review procedures to affected parties if the Food and Drug Administration takes certain actions to enforce dietary supplement requirements; and

(7) establish a Commission on Dietary Supplement Labels within the executive branch to develop recommendations on a procedure to evaluate health claims for dietary supplements and provide recommendations to the President and the Congress.

SEC. 3. DEFINITIONS.

(a) Definition of Certain Foods as Dietary Supplements.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement' means—

"(1) a product intended to supplement the diet by increasing the total dietary intake that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) another dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), (E) or (F);

"(2) a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement.".

(b) Exclusion From Definition of Drug.—Section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)) is amended by adding at the end the following new subparagraph:

"(3) The term 'drug' does not include a dietary supplement as defined in paragraph (ff), except that—

"(A) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was, prior to such approval, certification or license, marketed as a dietary supplement or as a food, may continue to be offered for sale as a dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was not prior thereto marketed as a dietary supplement or as a food, may not be considered as a dietary ingredient or dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article would be lawful under section 402(f) under the conditions of use and dosages set forth in the recommended labeling for such article.".

(c) Exclusion From Definition of Food Additive.—Section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(d) Form of Ingestion.—Section 411(c)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it is a dietary supplement that—

"(1) the Secretary finds, after rulemaking, presents a substantial and unreasonable risk of illness or injury under conditions of use recommended or suggested in labeling;

"(2) the Secretary declares to pose an imminent and substantial hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly thereafter convene rulemaking pursuant to section 701(e), (f), and (g) to affirm or withdraw the declaration; or

"(3) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this section, the United States bears the burden of proof on each element to show that a dietary supplement is adulterated.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

(a) Supplement Claims.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"Sec. 403B. An article, another publication, a chapter in books, or the official abstract of a peer-reviewed scientific publication that appears in the article and was prepared by the author or the editors of the publication, reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of dietary supplements to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement; and

"(4) if displayed in an establishment, is physically separate from the dietary supplements.

This section shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler. In any proceeding under this section, the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)) is amended by adding the following new sentence at the end: "For purposes of this subparagraph, a statement for a dietary supplement shall not be considered a claim of the relationship of a nutrient or dietary ingredient to a disease or health-related condition if the statement does not claim to diagnose, prevent, mitigate, treat, or cure a specific disease or class of diseases. A statement for a dietary supplement may be made if the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient.".

SEC. 7. CONFORMING AMENDMENTS.

(a) Section 201.—The next to the last sentence of section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) (as amended by section 3(b)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to section 403(r)(1)(B) and 403(r)(3) or section 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and nonmisleading statement is made in accordance with section 403(r)(1) is not a drug solely because the label or the labeling contains such a statement.".

(b) Section 403.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 8. ADMINISTRATIVE AND JUDICIAL REVIEW.

The Federal Food, Drug, and Cosmetic Act is amended by adding at the end of chapter III (21 U.S.C. 331 et seq.) the following new section:

"SEC. 311. WARNING LETTERS.

"Any warning letter or similar written threat of enforcement under the Federal Food, Drug, and Cosmetic Act constitutes final agency action for the purpose of obtaining judicial review under chapter 7 of title 5, United States Code, if the matter with respect to such letter or threat is not resolved within 60 days from the date such letter or threat is delivered to any person subject to this Act. In any proceeding for judicial review of a warning letter or similar written threat of enforcement under the Act, the United States bears the burden of proof on each element of each alleged violation of law described.".

SEC. 9. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

(a) In General.—The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700), the notices of proposed rulemaking concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33715–33731 and 58 FR 33731–33751), and the final rules and notices published in the Federal Register of January 4, 1994 concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements (59 FR 354–378 and 378–395) are null and void and of no force or effect insofar as they apply to dietary supplements. Final regulations and notices published in the Federal Register of January 4, 1994 concerning health claims for dietary supplements under the Nutrition Labeling and Education Act of 1990 (59 FR 395–426) shall not be affected by this section and shall remain in effect until 120 days after the date of the submission of the final report of the Commission established under section 11 to the President and to Congress, or 28 months after the date of enactment of this Act, whichever is earlier.

(b) Notice of Revocation.—The Secretary of Health and Human Services shall publish notices in the Federal Register to revoke all of the items declared to be null and void and of no force or effect under subsection (a).

(c) Issuance of Regulations.—Notwithstanding any provision of the Nutrition Labeling and Education Act of 1990—

(1) no regulation is required to be issued pursuant to such Act with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances; and

(2) no regulation that is issued in whole or in part pursuant to such Act shall have any force or effect with respect to any dietary supplement of vitamins, minerals, herbs, amino acids, or other similar nutritional substances unless such regulation is issued pursuant to rulemaking proceedings that are initiated by an advance notice of proposed rulemaking that is published no earlier than 2 years after the date of enactment of this Act, and followed by, at least, a notice of proposed rulemaking prior to issuance of the final regulation, except insofar as the regulation authorizes the use of labeling about calcium, folic acid, or other matters and does not prohibit the use of any labeling.

SEC. 10. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) Misbranded Supplements.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff) (1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) Supplement Listing on Nutrition Labeling.—Section 403(q)(1) of the Federal

Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(1)) is amended by adding at the end the following: "A dietary supplement may bear on the nutrition label or in labeling a listing and quantity of ingredients that have not been deemed essential nutrients by the Secretary if such ingredients are prominently identified as not having been shown to be essential or not having an established daily value.".

(c) DIETARY SUPPLEMENT LABELING EXEMPTIONS.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by adding at the end the following new clause:

"(H) The labels of dietary supplements shall not be required to bear the nutrition information under subparagraph (1), but shall be required to list immediately above the ingredient listing the amount of nutrients required by the Secretary to be listed pursuant to clause (C), (D) or (E) of subparagraph (1) or clause (A) of subparagraph (2) that are present in significant amounts in the supplement.".

(d) VITAMINS AND MINERALS.—Section 411(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins and minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

SEC. 11. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. No member of the Commission shall be biased against dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims for dietary supplements, including procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful and nonmisleading information to consumers so that such consumers may make informed health care choices for themselves and their families.

(d) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(e) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 12. GOOD MANUFACTURING PRACTICES.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) (as amended by section 4) is further amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with the Administrative Procedure Act.".

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 486 (42 U.S.C. 287c–3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 486E. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medical Practice;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health, and to provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 784, a bill to establish standards with respect to dietary supplements, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2562

Mr. HATCH. Mr. President, I send to the desk a substitute amendment on behalf of myself and Senator HARKIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. HARKIN, proposes an amendment numbered 2562.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I am concerned about several provisions of

S. 784 in its present form. I am hopeful, however, that this action by the Senate will bring us closer to enacting the kind of worthwhile compromise that is needed to protect the public health while dealing with the legitimate concerns of the large numbers of citizens who use dietary supplements and who deserve to have them available.

Recent Federal legislation, especially the Nutrition Labeling and Education Act, has created a great deal of concern and uncertainty about the status of these products. I believe all of us agree on the need to provide consumers with freedom of choice and access to these products. I believe we also agree on the need for responsible precautions to protect the public against dangerous products and false health claims.

There continue to be differences among us as to how to achieve these goals most effectively. For example, the Hatch legislation offers a definition of dietary supplements that many feel is too broad. It will allow certain products which are treated as prescription drugs in other countries, or as unapproved drugs in this country, to be treated as dietary supplements and therefore subjected to inadequate safeguards.

I addition, for safety purposes, I believe the legislation should contain a protective safety standard to assure the ability of the Food and Drug Administration to act quickly to remove products that are dangerous.

Similar concerns exist with respect to other issues, such as the accuracy of health claims made on behalf of dietary supplements, and the use of promotional literature in connection with the distribution of these products.

To deal with these concerns about the legislation in its present form, Members of both the Senate and the House of Representatives have been engaged in numerous bipartisan meetings over the past several months. We have made significant progress in refining the issues and working out a consensus solution that all of us can support.

I continue to hope that a reasonable compromise can be reached that will protect the public health against dangerous or fraudulent products, without interfering with the large number of legitimate dietary supplements that are now available or that will become available in the future as a result of the remarkable scientific progress that is taking place and the greater and greater knowledge we are acquiring about diets and health.

The issues that divide us are not insurmountable. We all have a responsibility to ensure a fair resolution of these concerns. I hope we can continue to work with our Senate and House colleagues to expedite final action on this measure.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HATCH. Mr. President, this is a momentous day in the U.S. Senate.

Today, we honor the wishes of 100 million people, consumers of dietary supplements, people who simply want the ability to lead healthy lifestyles without the constant intervention of one tiny agency which is possessed by a regulatory zeal equaling none.

It is entirely appropriate that we consider the Dietary Supplement Health and Education Act today, as the Senate completes another day of debate on the health care reform legislation. For there is no bill which can lead to improved health more than S. 784.

The substitute that I offer today embodies the text of the Dietary Supplement Health and Education Act as approved by the Labor and Human Resources Committee on May 11, with several important changes negotiated by Senator HARKIN and myself in response to concerns raised by several Senators immediately prior to the markup.

Our overwhelming consideration in considering this legislation today is that the legislative session is rapidly drawing to a close. The specter of our all-consuming debate on health care reform hangs over us. That debate will surely continue for days, if not weeks.

In the interim, we have a legislative proposal which is cosponsored by 66 Senators, two-thirds of this body, and supported by many, many more.

In the House, the counterpart legislation authored by our esteemed colleague, Representative BILL RICHARDSON, has over 250 cosponsors. Unfortunately, that bill has not been marked up yet, either in subcommittee or full committee.

Mr. President, Senate staff has been meeting on almost a daily basis with the staff of Chairmen DINGELL and WAXMAN; we have made some progress, but we have not been able to bring the negotiations to a conclusion after several weeks of discussion.

I am very appreciative of the great amount of time the House staff has devoted to this effort, especially at such a busy time in our legislative agenda. There is no question they have a strong desire to work this out.

Chairman DINGELL's most able counsel, Kay Holcombe, one of the best staffers on Capitol Hill in my estimation, and Chairman WAXMAN's counsel, Bill Schultz, a superb food and drug lawyer, have gone out of their way to make the time for these negotiating sessions. For that, I—and I believe I am speaking for Senator HARKIN as well—owe a great debt of gratitude.

Nevertheless, we have to realize that the situation is very different in the Senate with a bill which has been reported by the Labor and Human Resources Committee on a 13 to 4 vote. I have the greatest respect for our House colleagues, but I recognize that they do have differing views about the regulation of products which fall under the purview of the Food and Drug Administration. The issues surrounding the regulation of dietary supplements are tremendously complicated, and there are many details we have to work out.

I want to make very, very clear, that we recognize there will be no final bill without the participation and agreement of our House colleagues. We are not intending to act unilaterally here, but rather to show the Senate's eagerness to move this issue to a conclusion.

After this amendment passes, as I know it will, I intend that our staffs continue negotiations with the House, in an effort to wrap this up. I will be available any time, day or night, to meet with our House colleagues, as I am sure is the case with Senator HARKIN.

This dialog with the House is one I wish to continue; I want to make that abundantly clear.

As I mentioned, the language we offer today differs from the Dietary Supplement Health and Education Act in several crucial ways which I will outline.

As you know, S. 784 makes clear that dietary supplements are not food additives or drugs, and that the burden of proof shall be on the FDA to prove that a product is unsafe. That basic premise does not change.

Drafters of the legislation, though, were criticized for a definition of dietary supplement which some felt was overly broad. We have tried to tighten that up.

Some then believed that the language would allow drugs such as taxol to be marketed in the United States as dietary supplements. Senator HARKIN and I worked for some time after the markup to resolve that issue, and the language we present today addresses that concern.

Other concerns were raised about the safety standard in the bill; that is, the standard which FDA uses to gauge whether a product is unsafe and thus should be removed from the market.

I continue to believe that the safety standard in the law is adequate. However, in deference to concerns that FDA may not have the authority to remove potentially dangerous products from the market, we have inserted a provision giving the Secretary emergency authority to act against dietary supplements which pose an imminent and substantial public health hazard.

We took this language from a similar provision in the drug law.

Some have argued that this new provision would be ineffective, because the drug language has been in the statute since 1938 and has seldom been utilized.

I look at it the other way. The reason this emergency authority has been seldom used is that the threat of this tool is so effective; it is such a powerful enforcer that it doesn't need to be utilized to be effective.

Another issue about which much concern was expressed is health claims.

Under S. 784, as introduced, dietary supplement health labeling claims would be allowed as long as they are truthful and not misleading and are based on the totality of scientific evidence. Because of FDA's bias against dietary supplements and dietary supplement claims, I was not, and am not, comfortable in allowing the FDA the power to approve claims—simply because they won't approve claims, as history has shown.

However, in deference to concern raised by several of our colleagues, both on and off the Labor Committee, Senator HARKIN and I are willing to consider a fair claims process, on two conditions: First, that consumers will be guaranteed access to information about dietary supplements through truthful and nonmisleading third-party literature such as journals or newspaper articles; and second, dietary supplement manufacturers will be able to make so-called structure/function or nutrition support statements, statements about how a nutrient affects the structure or function of the body.

An example of a structure/function claim is, "Calcium builds strong bones." Manufacturers have the right to make such statements under current law, and our bill clarifies that they continue to have this right.

With respect to third-party literature, the Harkin-Hatch compromise states that truthful and nonmisleading information can be provided to consumers in connection with the marketing of dietary supplements, provided that information does not promote any specific product or brand, provided the information is balanced, and provided it is maintained in a location which is physically separate from the products.

It should be emphasized that these new provisions allowing the use of certain independent third-party literature in connection with the sale of dietary supplement products in no way detract from the right of a retail health food store or any other business or person to sell independently both dietary supplements and books or other literature about nutrients.

The United States Court of Appeals for the Second Circuit ruled in *United States* v. *Sterling Vinegar and Honey * * * and an Undetermined Number of Copies of * * * Books*, 333 F.2d 157—2nd Cir. 1964—that a health food store could, properly, sell both a honey-vinegar product and, separately, books about the purported health- and disease-related benefits of a honey-vinegar combination, without having the books be deemed to be labeling when there was no "integrated use" of the books and the honey-vinegar product by the store. That case remains good law, and nothing in this legislation would change it.

Instead, what the legislation would do would be to permit the use of certain types of third party literature in direct connection with the sale of dietary supplement products. The literature would need to meet certain criteria that would generally establish the independence and reliability of the material; that is, the bill would require: First, that any such item would need to be "not false or misleading"; second, that it "not promote a particular brand of dietary supplement"; third, that it be displayed or presented so as to present a "balanced view" of the available information; and fourth, that if displayed in a location in an establishment, it be displayed "physically separate" from the dietary supplements.

Thus, I want to make clear that our language in no way interferes with the current ability of retailers to maintain a library or literature section in their stores which contain both reference materials and materials for sale.

A major way in which this amendment differs from the original Dietary Supplement Health and Education Act is in the treatment of health claims.

This amendment makes clear that dietary supplements will be subject to the preapproval process and standard of Nutritional Labeling and Education Act for the 2-year period that a new, independent Commission determines the most appropriate process.

This is a major compromise, and I was not totally comfortable in agreeing to it. However, I do believe the provision is necessary if we are to get a bill signed this year. As long as the authority is time-limited and Congress has an ability to reexamine it in the future, I believe it is reasonable to include it in our compromise.

Two other changes are important to note.

At the request of our colleague from Washington, Senator MURRAY, we have included a provision requiring that all dietary supplements be labeled with an expiration date. Senator MURRAY's suggestion is a good improvement to our bill.

After S. 784 was introduced, the food industry expressed some concern that the language put them at a competitive disadvantage, since dietary supplement claims could be made under a lower standard than those for foods.

That situation is not the case under this substitute, since all dietary supplement claims during the 2-year period would be subject to the same process and standard as that for foods.

I am aware that some Members of this body sought additional provisions relating to foods in this bill. I sincerely regret that we could not bring together consensus on this matter in the Senate. Senator HARKIN and I tried very hard and we will keep working to pursue this in the House.

Finally, at the suggestion of Chairman DINGELL, the substitute supports the establishment of appropriate dietary supplement good manufacturing practice regulations. Dietary supplements currently are subject to the good manufacturing practices [GMP] requirements for foods.

We believe Chairman DINGELL raised a valid point that dietary supplements may require different manufacturing and quality controls and a provision addressing his concern is included.

The substitute continues other provisions contained in our original bill. One of those is the authorization for an Office of Dietary Supplements at the National Institutes of Health, so that we can encourage more focus on research into the health benefits of nutritional supplements.

Another is a provision allowing judicial review of FDA warning letters, if the issue giving rising to the letter is not resolved within 60 days. The bill makes clear that the provision only allows manufacturers to go to court to challenge the findings in the warning letter; it does not preclude the FDA from taking any action it finds necessary under law to resolve the situation.

Mr. President, I want to underscore here the wide range of support for this amendment.

Our efforts are supported by groups ranging from Citizens for Health, with chapters all throughout the Nation, to the Alliance for Aging Research, to the Utah Natural Products Alliance. Our substitute is supported by the National Nutritional Foods Association, the Nutritional Health Alliance, and the Council for Responsible Nutrition.

In particular, I want to cite the dedicated efforts of Citizens for Health, whose hundreds of members have worked tirelessly and unselfishly to make this an informed and successful debate. There is no question in my mind that the work of this citizen army makes today's victory possible.

Others have worked very closely with us and I want to recognize their special efforts, including the National Council for Improved Health, Michael Onstott and the others at the Alternative Treatment Committee of the AIDS Coalition to Unleash Power [ACT–UP], San Francisco, Dr. Julian Whitaker, a noted physician and president of the American Preventive Medical Association.

Let me also mention the valuable information that has been provided to me by several other individuals, including: the late Royden Brown, a leader in the alternative medicine community; Claire Farr, president of Claire Industries; Ken Murdock, chairman of Nature's Way; Richard Bizzaro, president of Wieder Foods; and Jeff Henricks, president of Solaray.

Finally, I want to cite the stellar testimony at our hearing by nutritionist and author Patricia Hausman, and by Dr. Michael Janson, who is a fellow and member of the board of directors of the American College for Advancement in

Medicine and the chairman of their scientific advisory committee.

These people and organizations have all done fabulous work in helping to bring the bill forward to the Senate floor, and I will be counting on them to help Representative RICHARDSON, Representative GALLEGLY, and me move the bill through the House as well.

These organizations recognize what two-thirds of the Senate has recognized: for over 30 years, the FDA has pursued a single-minded regulatory agenda which has stifled the ability of consumers to have access to safe dietary supplements and information about those supplements.

Despite a voluminous scientific record indicating the potential health benefits of dietary supplements, the Food and Drug Administration has pursued a heavy-handed enforcement agenda against nutritional supplements which has forced the Congress to intervene on two previous occasions, and yet again with adoption of this amendment.

In 1962, the FDA published regulations setting minimum and maximum levels for supplements. These regulations were withdrawn in the face of strong citizen protest.

Between 1966 and 1973, the agency issued proposed regulations on the labeling and content of dietary food products. FDA tried to classify vitamins as over-the-counter drugs if the product exceeded 150 percent of the recommended daily allowances [RDA]. Vitamins A and D would have been prohibited under most circumstances. Congress negated this action in 1976 when it approved the Proxmire/Rogers amendment to the Federal Food, Drug and Cosmetic Act.

Blocked by the Proxmire amendment, later in the 1970's, FDA tried to regulate vitamins by claiming they were toxic, and therefore their potencies could be regulated. The Federal courts rejected FDA's attempt to end-run the Proxmire.

In 1980, the FDA issued a proposed over-the-counter drug monograph for vitamins and minerals. The document supposedly dealt only with potency above the RDA, thereby implicitly placing a potency limit on vitamins and minerals. The proposal was withdrawn after strong opposition.

Beginning in the late 1970's, FDA turned from drug potency arguments to enforcement attempts utilizing the food additive theory to prohibit the sale of supplements which bore no claims. Essentially, the theory was that any ingredient added to a capsule or tablet rendered the resulting dietary supplement a food additive because the ingredient was added to the capsule or tablet. Under this theory, FDA could not lose, as it needed only to furnish an affidavit from one of its scientists stating that experts generally did not regard the product as safe. The actual safety of the product was never at issue.

Between 1986 and 1990, the FDA issued four health message documents for food products. This reflected FDA's initial policy with respect to the ability of food manufacturers to make limited claims about how a nutrient might prevent certain chronic diseases, such as fiber and cancer, without rendering those drug products unapproved drugs. FDA left a very narrow area for dietary supplement health messages. The level of proof required for dietary supplement claims was unrealistic in that the degree of scientific consensus and clinical data required eliminated almost all existing supplement claims.

With enactment of the Nutrition Labeling and Education Act [NLEA] of 1990, Congress directed the FDA to use the significant scientific agreement standard when deciding if foods could make claims about the relationship of the nutrient to a disease, so-called health claims. The statute specifically said that the FDA could recommend a different standard and approval procedure for supplements.

In December, 1991, FDA proposed rules implementing the NLEA, but rejected all but one claim for supplements—for calcium/osteoporosis in white and Asian women. Only one other claim has been approved since that time, the claim for folic acid and neural tube defects, and that claim was only approved after intense public pressure on the FDA.

Twice since 1991, FDA has proposed that it use the same standard and procedure for health claims for foods as on dietary supplements. In 1992, the Congress imposed a 1-year moratorium barring FDA from implementing the rule changes for 1 year. In 1993, the Senate unanimously adopted a second moratorium, but the House did not act on that legislation.

The FDA's policies on dietary supplements have not been sustained in the courts as well. FDA has asserted to Congress that in pursuing food additive allegations against dietary supplement ingredients, it is simply applying the current law in a reasonable manner and restricting its actions to products that present serious safety concerns. Two recent Federal judicial decisions, however, show that, in fact, FDA has been distorting the law in its actions to try to prevent the marketing of safe dietary supplement substances.

The FDA's efforts to ban the safe dietary supplement of black currant oil by asserting that it was an unsafe food additive were rejected last year by two unanimous decisions of two different three-judge panels in two different U.S. courts of appeals (*United States* v. *Two Plastic Drums—Viponte Ltd. Black Currant Oil—Traco Labs, Inc.*, 984 F.2d 814 (7th Cir. 1993), *United States* v. *29 Cartons of—an Article of Food—Oakmont Investment Co.*, 987 F.2d 33 (1st Cir. 1993).

In both of these cases, FDA asserted that black currant oil [BCO] was a food additive because it was added to gelatin capsules. The seventh circuit noted that "FDA has not shown that BCO is adulterated or unsafe in any way." The court described the FDA's effort as an "Alice in Wonderland" approach. Further, the decision by the first circuit described FDA's approach as nonsensical.

Despite these two setbacks in the court, the FDA recommended to the Department of Justice that petitions be filed to have these cases overturned in the Supreme Court. The Solicitor General did not file those petitions.

These examples show how the FDA has tried to protect the public against unsafe products for which there is no evidence that the product is unsafe. The FDA has also acted to restrict the information that the public may receive about dietary supplements. Folic acid is a clear example as was brought out at our Labor Committee hearing last October.

In September 1992, the Public Health Service issued a recommendation that all women of child-bearing age have adequate folic acid to prevent against birth defects. The Centers for Disease Control had made a similar recommendation 1 year before. Despite these two recommendations, and despite the fact that the FDA participated in the PHS proceedings leading up to the announcement, FDA did not issue a regulation proposing approval of a health claim for folic acid until October, 1993, 1 week before the committee's hearing on dietary supplements.

Absent approval of a health claim by the FDA, it was illegal for manufacturers or retailers to advise the public about the benefits of folic acid, even though those benefits had been endorsed by the leading Federal public health agencies.

If that isn't significant scientific agreement, I don't know what is.

What is ironic about this situation, Mr. President, is that the one element of today's health care deliberations on which there is unanimous agreement is the need for preventive health care measures and efforts to increase health promotion and disease prevention.

Unfortunately, millions of Americans do not have healthy diets and their nutrition deficit places them at risk. Senior citizens, pregnant women, infants, children, dieters, and smokers are especially vulnerable.

Debate on health care reform in the 103d Congress makes clear that improving the health status of all Americans ranks at the top of our national priorities. It is equally clear that good nutrition, which clinical research has shown to limit the incidence of chronic diseases and reduce health care expenditures, should also be an important national objective. Today, more than 100 million Americans supplement their diets through the regular or occasional use of vitamins, minerals, herbs, amino acids, or other nutritional substances. We have all heard from these consumers, and we all know how strongly they support this legislation.

Let us remember why this legislation is necessary.

It is not one Senator versus another, nor Democrat versus Republican, nor the Senate versus the House.

It is the U.S. Congress versus the Food and Drug Administration.

It is the majority of the U.S. Senate versus the continual harassment by one tiny agency which has constantly misled the American public through deliberately false and misleading statements.

It is the 250 Members of the House of Representatives against mindless Government bureaucracy, against continual overregulation, against an agency whose guiding principle has always been: One way—their way.

Here we are about to enter an unprecedented consideration of the Health Security Act, legislation which attempts to restructure one-seventh of the American economy in the name of good health for our citizens.

Here we are saying we want the American people to be as healthy as they can. Here we are meeting virtually round-the-clock to make this our top priority.

And at the same time, we are letting the FDA stand in the way of 100 million consumers' efforts to make themselves more healthy. It doesn't make any sense.

If we don't pass this bill and correct the situation, we will be parties to that charge of gridlock our constituents condemn.

There is no disagreement among us that consumers must have access to safe dietary supplements and to information about those supplements.

Any concerns that were raised about this bill, Senator HARKIN and I worked very hard to address, as I have outlined.

But let us not kid ourselves. We are starting debate on health care reform this week, and we will not have the opportunity for protracted discussion of the dietary supplement issue.

The Congress has moved a great deal on this issue since Senator REID and I introduced the original bill last April. All of this progress has been made despite the lack of cooperation by the Food and Drug Administration, an agency which, in my mind, has lied to the American public and the Congress.

And let us not forget that FDA has all the authority in the world to take bad products off the market; they just don't use it.

Critics say that the industry is misleading the public by predicting that the FDA will make dietary supplements prescription drugs, even though the FDA published a proposal soliciting comments on whether certain amino acids and herbs should be drugs. That regulation has never been withdrawn.

If you are talking about false and misleading statements, Mr. President, the FDA has a corner on the market.

I draw your attention to our Labor Committee hearing last October, when Dr. Kessler and I discussed his agency's "Unsubstantiated Claims and Documented Health Hazards in the Dietary Supplement Marketplace." I think many of us were astounded to learn of all the inaccuracies FDA made in the name of informing the Congress.

The report was so riddled with error, so flawed, that I think it calls into question the veracity of the officials who prepared it—34 of the 528 products on FDA's list simply don't exist, 142 were assigned to companies that neither manufactured nor sold the product; and 25 products were listed more than once.

At the hearing, I asked Dr. Kessler to withdraw the report; he did not.

After the hearing, BILL RICHARDSON, ELTON GALLEGLY, and I wrote to Secretary Shalala and asked her to withdraw the report; she did not. She said that the FDA would respond on my specific concerns. They sent me a report signed by a junior official which addressed none of my concerns.

At the hearing, I gave Dr. Kessler every opportunity to redeem his agency's credibility. I repeatedly asked him for documentation of his statements, even though his office had provided me with all the documentation which they said existed.

So, FDA said they would provide it for the record.

Well, that was October 21, 1993, almost 1 year ago. The record has been printed. Every single copy of the hearing has been snatched up by eager consumers. And still we have received no documentation. And at least 10 items that Dr. Kessler promised to follow up on for the record were never supplied.

Dr. Kessler brought the dog and pony show of bad products before the committee. I asked them to leave them so we could examine them and see what type of claims FDA thought were a problem.

Dr. Kessler refused, but said, "Senator, we would be happy to make copies of the labels and give you those."

That was almost a year ago and we're still waiting.

Let me tell you what has happened in those 10 months.

FDA has issued its final regulations, regulations so flawed that our only recourse, I believe, is to see them withdrawn.

And while the bureaucrats were over in FDA dotting all the i's and crossing all the t's on these regulations, what were they doing to discharge their authority under the law to protect consumers from false and misleading claims?

What were they doing? Nothing. Zippo. Zip.

You know how many seizures they have recommended against dietary supplement manufacturers since October? Zero.

You know how many prosecutions they have recommended? Zero.

And how many recalls? Just two.

I guess they were expecting us to take action against all those little bottles and boxes they brought up to the hearing, because the FDA sure didn't have any interest in doing so.

So, I go back to my original premise, Mr. President.

I have seen the enemy, and it is not anyone in this Chamber.

We have all worked long and hard. We have had to make compromises that none of us would have liked, but we have done it in the name of good public policy.

I urge that we move this issue forward and that we continue our efforts with the House to see a dietary supplement bill enacted as soon as possible.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2562) was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a definitive link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate

use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9)(A) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition; and

(B) nearly all consumers indicate that dietary supplements should not be regulated as drugs;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose regulatory barriers limiting or slowing the flow of safe products and needed information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the health status of the people of the United States and help constrain runaway health care spending by ensuring that the Federal Government erects no regulatory barriers that impede the ability of consumers to improve their nutrition through the free choice of safe dietary supplements;

(2) clarify that—

(A) dietary supplements are not drugs or food additives;

(B) dietary supplements should not be regulated as drugs;

(C) regulations relating to food additives are not applicable to dietary supplements and their ingredients used for food additive purposes, including stabilizers, processing agents, or preservatives; and

(D) the burden of proof is on the Food and Drug Administration to prove that a product is unsafe before it can be removed from the marketplace;

(3) establish a new definition of a dietary supplement that differentiates dietary supplements from conventional foods, while recognizing the broad range of food ingredients used to supplement the diet;

(4) strengthen the current enforcement authority of the Food and Drug Administration by providing to the Administration additional mechanisms to take enforcement action against unsafe or fraudulent products;

(5) establish a series of labeling requirements that will provide consumers with greater information and assurance about the quality and content of dietary supplements, while at the same time assuring the consumers the freedom to use the supplements of their choice;

(6) provide new administrative and judicial review procedures to affected parties if the Food and Drug Administration takes certain actions to enforce dietary supplement requirements; and

(7) establish a Commission on Dietary Supplement Labels within the executive branch to develop recommendations on a procedure to evaluate health claims for dietary supplements and provide recommendations to the President and the Congress.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement' means—

"(1) a product intended to supplement the diet by increasing the total dietary intake that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) another dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), (E) or (F);

"(2) a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement.".

(b) EXCLUSION FROM DEFINITION OF DRUG.—Section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)) is amended by adding at the end the following new subparagraph:

"(3) The term 'drug' does not include a dietary supplement as defined in paragraph (ff), except that—

"(A) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was, prior to such approval, certification or license, marketed as a dietary supplement or as a food, may continue to be offered for sale as a dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was not prior thereto marketed as a dietary supplement or as a food, may not be considered as a dietary ingredient or dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article would be lawful under section 402(f) under the conditions of use and dosages set forth in the recommended labeling for such article.".

(c) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(d) FORM OF INGESTION.—Section 411(c)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it is a dietary supplement that—

"(1) the Secretary finds, after rulemaking, presents a substantial and unreasonable risk of illness or injury under conditions of use recommended or suggested in labeling;

"(2) the Secretary declares to pose an imminent and substantial hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly thereafter convene rulemaking pursuant to section 701(e), (f), and (g) to affirm or withdraw the declaration; or

"(3) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this section, the United States bears the burden of proof on each element to show that a dietary supplement is adulterated.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

(a) SUPPLEMENT CLAIMS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"SEC. 403B. An article, another publication, a chapter in books, or the official abstract of a peer-reviewed scientific publication that appears in the article and was prepared by the author or the editors of the publication, reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of dietary supplements to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement; and

"(4) if displayed in an establishment, is physically separate from the dietary supplements.

This section shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler. In any proceeding under this section, the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)) is amended by adding the following new sentence at the end: "For purposes of this subparagraph, a statement for a dietary supplement shall not be considered a claim of the relationship of a nutrient or dietary ingredient to a disease or health-related condition if the statement does not claim to diagnose, prevent, mitigate, treat, or cure a specific disease or class of diseases. A statement for a dietary supplement may be made if the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient.".

SEC. 7. CONFORMING AMENDMENTS.

(a) Section 201.—The next to the last sentence of section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) (as amended by section 3(b)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to section 403(r)(1)(B) and 403(r)(3) or section 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and nonmisleading statement is made in accordance with section 403(r)(1) is not a drug solely because the label or the labeling contains such a statement.".

(b) Section 403.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 8. ADMINISTRATIVE AND JUDICIAL REVIEW.

The Federal Food, Drug, and Cosmetic Act is amended by adding at the end of chapter III (21 U.S.C. 331 et seq.) the following new section:

"SEC. 311. WARNING LETTERS.

"Any warning letter or similar written threat of enforcement under the Federal Food, Drug, and Cosmetic Act constitutes final agency action for the purpose of obtaining judicial review under chapter 7 of title 5, United States Code, if the matter with respect to such letter or threat is not resolved within 60 days from the date such letter or threat is delivered to any person subject to this Act. In any proceeding for judicial review of a warning letter or similar written threat of enforcement under the Act, the United States bears the burden of proof on each element of each alleged violation of law described.".

SEC. 9. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

(a) In General.—The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700), the notices of proposed rulemaking concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33715–33731 and 58 FR 33731–33751), and the final rules and notices published in the Federal Register of January 4, 1994 concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements (59 FR 354–378 and 378–395) are null and void and of no force or effect insofar as they apply to dietary supplements. Final regulations and notices published in the Federal Register of January 4, 1994 concerning health claims for dietary supplements under the Nutrition Labeling and Education Act of 1990 (59 FR 395–426) shall not be affected by this section and shall remain in effect until 120 days after the date of the submission of the final report of the Commission established under section 11 to the President and to Congress, or 28 months after the date of enactment of this Act, whichever is earlier.

(b) Notice of Revocation.—The Secretary of Health and Human Services shall publish notices in the Federal Register to revoke all of the items declared to be null and void and of no force or effect under subsection (a).

(c) Issuance of Regulations.—Notwithstanding any provision of the Nutrition Labeling and Education Act of 1990—

(1) no regulation is required to be issued pursuant to such Act with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances; and

(2) no regulation that is issued in whole or in part pursuant to such Act shall have any force or effect with respect to any dietary supplement of vitamins, minerals, herbs, amino acids, or other similar nutritional substances unless such regulation is issued pursuant to rulemaking proceedings that are initiated by an advance notice of proposed rulemaking that is published no earlier than 2 years after the date of enactment of this Act, and followed by, at least, a notice of proposed rulemaking prior to issuance of the final regulation, except insofar as the regulation authorizes the use of labeling about calcium, folic acid, or other matters and does not prohibit the use of any labeling.

SEC. 10. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) Misbranded Supplements.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff) (1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) Supplement Listing on Nutrition Labeling.—Section 403(q)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(1)) is amended by adding at the end the following: "A dietary supplement may bear on the nutrition label or in labeling a listing and quantity of ingredients that have not been deemed essential nutrients by the Secretary if such ingredients are prominently identified as not having been shown to be essential or not having an established daily value.".

(c) Dietary Supplement Labeling Exemptions.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by adding at the end the following new clause:

"(H) The labels of dietary supplements shall not be required to bear the nutrition information under subparagraph (1), but shall be required to list immediately above the ingredient listing the amount of nutrients required by the Secretary to be listed pursuant to clause (C), (D) or (E) of subparagraph (1) or clause (A) of subparagraph (2) that are present in significant amounts in the supplement.".

(d) Vitamins and Minerals.—Section 411(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins and minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

SEC. 11. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) Establishment.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) Membership.—

(1) Composition.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) Expertise Requirement.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific

training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. No member of the Commission shall be biased against dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims for dietary supplements, including procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful and nonmisleading information to consumers so that such consumers may make informed health care choices for themselves and their families.

(d) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(e) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 12. GOOD MANUFACTURING PRACTICES.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) (as amended by section 4) is further amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with the Administrative Procedure Act.".

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 486 (42 U.S.C. 287c–3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 486E. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medical Practice;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health, and to provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

Mr. DASCHLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 248, a resolution submitted earlier today by Senators MITCHELL and DOLE; that the resolution and the preamble be agreed to; that the motions to reconsider be laid on the table, en bloc; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senator DAVE DURENBERGER's appeal from the denial of motions to dismiss his indictment is pending in the U.S. Court of Appeals for the District of Columbia Circuit. The indictment alleges that Senator DURENBERGER submitted false claims to the Senate in regarding reimbursement for lodging in a Minneapolis condominium.

Senator DURENBERGER moved to dismiss the indictment, asserting that Senate rules underlying the indictment cannot be the subject of an adjudication in court and that a statute governing payment of Senator vouchers bars the prosecution. The district court denied the motions, and Senator DURENBERGER has taken an appeal.

The Government has moved to dismiss Senator DURENBERGER's appeal or, in the alternative, moved for summary affirmance of the district court's orders. Either action, on the basis of motion papers alone, may have the effect of limiting Senator DURENBERGER's opportunity to present the points of his appeal as fully as he believes is warranted, and is a form of consideration that the court utilizes sparingly, usually in clear-cut cases.

The Federal courts of appeals have historically given full consideration to claims in appeals by Members of Congress that civil or criminal prosecutions conflict with the constitutional separation of powers, including in a civil appeal the D.C. Circuit decided last month involving a Member of the other body. The Senate shares an interest with Senator DURENBERGER in the thorough consideration by the courts of appeals of cases presenting questions under the separation of powers.

This resolution would authorize the Senate Legal Counsel to file a memorandum as amicus curiae on the Senate's behalf solely in support of Senator DURENBERGER's receiving a full opportunity to brief and argue his appeal.

Senators may recall that the Senate appeared as an amicus curiae once before in this proceeding to support a claim that Senator DURENBERGER was making under the speech or debate clause. Senator DURENBERGER's initial indictment was dismissed because of speech or debate violations. Those problems have been cured in the present case.

In the present filing, the Senate would take no position on the merits of any of Senator DURENBERGER's claims or defenses, but only on his opportunity to be heard.

The resolution (S. Res. 248) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 248

Whereas, in the case of *United States* v. *Durenberger*, No. 94–3105, pending an appeal in the United States Court of Appeals for the District of Columbia, the powers and responsibilities of Congress and the relationship among the branches of government have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its Counsel to appear as amicus curiae in the name of the Senate in any legal action which places in issue the powers and responsibilities of Congress under the Constitution: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae in the name of the Senate in *United States* v. *Durenberger*, for the limited purpose of requesting the Court to give plenary consideration to the contentions of the United States and Senator Durenberger in regard to the separation of powers questions presented by the appeal.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I enjoyed listening to all of the Senators who spoke on health care today. As the President knows, I have taken a great interest in this matter through the 18 years that I have been in the U.S. Senate. I look forward to somehow or other crafting a health care bill that all of us can, or at least the vast majority of us, can join in.

The last thing on Earth I want to see is a health care bill that passes that only has 50 or 51 people in support of it. So all of us have to keep open minds, look for what we can and do what we can to try to bring about health care that will be beneficial for all Americans.

I was interested in the comments of the distinguished Senator from Arkansas and in the comments of the distinguished Senator from Florida that there were 17 new taxes in this bill. Actually, the Senator from Florida misspoke. There are not just 17, there are 18 new taxes in the Mitchell bill.

I am concerned about that. I have a rough time seeing how people in America are going to want to have to put up with 18 more new taxes.

I ask unanimous consent that a listing of these 18 taxes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 18 NEW TAXES IN THE CLINTON-MITCHELL BILL

(Prepared by the office of Senator Judd Gregg)

1. Standard health plans will be subjected to a risk adjustment assessment by a State organization using a methodology developed by the Secretary of HHS. This tax will be levied on large, experience-rated employers as well as community-rated plans. (Sec. 1504.)

2. States may impose a premium assessment on the insurance plans offered in the State of up to one percent of the total premiums collected, to cover administrative costs incurred by the State. (Sec. 6007.)

3. A series of tobacco taxes will be phased in, including a 45-cent per pack tax. (Secs. 7101–7103.)

4. A 1.75 percent tax will be paid by the self-insured, issuers of insurance plans, and individuals providing health insurance administrative services on the amounts received as premium and administration payments. (Sec. 7111.)

5. A premium cap is set in the form of a 25 percent excise tax that will be levied on the excess premiums of high-cost/high-growth health plans. (Sec. 7112.)

6. A "recapture" tax will raise Medicare Part B premiums for individuals whose income is above the threshold of $80,000, or $100,000 for a couple. An even higher tax is charged for those income exceeds the threshold be $15,000 single/$30,000 joint. (Sec. 7121.)

7. A 10,000% excise will be charged on some type of ammunition. (Sec. 7131.)

8. There is a 2.9 percent tax increase on certain S corporation shareholders and partners. (Sec. 7132.)

9. A 2.9 percent Medicare Hospital Insurance Trust Fund tax will be imposed on all State and local employees. (Sec. 7133.)

10. Any benefits richer than those included in the standard benefits package that an employer provides will be included in an employee's income and will be taxed as "nonpermitted" benefits. (Sec. 7201.)

11. Any benefits provided through a "cafeteria plan" or flexible benefit account will be included as part of an employee's income earnings and will be taxed. (Sec. 7202.)

12. The deductibility of payments for health insurance costs will be limited. (Sec. 7204).

13. A 35 percent tax will be assessed against the aggregate employer contribution for any insurance plan that do not conform to the standard benefit package, that vary in the amount of employer-provided contribution, or that discriminate under health status requirements. (Sec. 7211.)

14. The rules for tax-exempt status as a health care organization are restricted. (Sec. 7301, 7303–7304.)

15. A 25 percent excise tax is imposed upon beneficiaries of private inurement by tax-exempt health care organizations. Additional taxes will be levied against the management of such organizations, as well as beneficiaries under specific circumstances. (Sec. 7302).

16. Special tax rules that were applied to Blue Cross/Blue Shield are repealed. (Sec. 7305.)

17. Tax penalties are increased on incorrect information returns that are filed on nonemployees. (Sec. 7502.)

18. Post-retirement deductions on medical and life insurance are limited. (Sec. 7521.)

Mr. HATCH. Mr. President, today marks what would have been the first day of recess, but I am glad to be here. I am glad to be here, because health care reform should rank at the top of our legislative agenda. It must be a priority.

The only problem I have with being in session today is that I was not able to return to Utah and listen to the people there, whose valuable input is so essential to the success of our legislative process.

And never was such input more crucial.

One thing I can tell you about the people of Utah is that they are a smart bunch. They are not being fooled by the rhetoric of the Clinton-Mitchell-Gephardt health plans, plans which will ultimately provide the Government with total control over the greatest health care system there has ever been.

Utahns understand the fact that when they say "Free health care for all," it really means "Poor quality health care for all." And that is poor quality health care for all, paid for by large burdensome taxes on the hardest working Americans, the middle class.

Utahns also know the term "employer mandate" is only a fancy smoke screen for a very large payroll tax and that payroll taxes by any name mean fewer jobs.

Utahns define the phrase "shared responsibility" to mean the middle class pays more for their health care while receiving less. This is how the administration and my colleagues from the other side of the aisle would like to reward those who pay their fair share.

The people of Utah are not falling for the attractively packaged bomb of burdens known as the Clinton-Mitchell Health Security Act, and neither is the rest of America.

They did not fall for version one.

They did not fall for version two.

And they will not fall for version three which we just received today.

As you can see, these versions are not little versions. This is big stuff. And it is going to affect every American citizen for decades to come if we do not do it right.

Utahns see the Mitchell bill for what it is: a surefire way to dismantle our health care infrastructure and place the costs of renovation on the American people.

I was interested in the comments of the distinguished Senator from Arkansas saying there are not that many new bureaucracies being created. When we have had plans this big, no matter what they have been in the history of the U.S. Senate, tell me when it has not involved a tremendous expansion of bureaucracy. If anybody believes that it does not, then I have a number of things I would like to sell to you, because you sure are a sucker.

That is all I can say about it.

What is so bad about the Health Security Act? A lot.

Today, however, I want to concentrate my remarks on two of its most devastating provisions.

The first problem is that the bill promises things it cannot possibly deliver. Let us look at its impact on the elderly.

Architects of the Health Security Act promise senior citizens the peace of mind that improved access to long-term care and home-and-community-based services belong. No one can dispute the need for that.

But at what price?

When advocates of the Mitchell plan tout its improved benefits for senior citizens, they neglect to read the fine print.

The Mitchell bill is funded through incredible cuts in the Medicare Program, cuts which I predict will jeopardize the whole future of Medicare in this country.

Congressional Budget Office calculations indicate that Medicare cuts in the Mitchell bill between now and 2004 total $198.8 billion. How on Earth can Medicare absorb cuts like that and still be viable, and keep up the high quality of work and medical care and treatment that the elderly have come to expect in this country? There is no way they can.

How can doctors absorb $10 billion in payment reductions and still agree to participate in Medicare? We are already having substantial problems in Utah with physicians who do not want to participate in Medicare because of its low payment rates. This bill will drive physicians out of the Medicare Program.

And it is not just Utah; it is everywhere in the country.

How can hospitals and nursing homes absorb $97.2 billion in cuts and still remain open?

How can clinical labs and patients who use their services absorb $21.2 billion in cuts? How can the home health program—one that I helped to bring into existence, worked hard to get it into existence, and which means so much to people whose lives are coming to an end-and for families who have to watch over them but have to work and need somebody to care for them. How can home health care programs see costs cut $63.9 billion and still remain viable? The answer is simple. They cannot. I have a problem with provisions in any bill which cut too deeply into Medicare. How the Mitchell bill jeopardizes Medicare is one of the hidden stories in this debate, and we ought to get it in the open right now.

Indeed, at the same time we are cutting Medicare, we are offering our citizens a new entitlement: prescription drug coverage. This, too, is a heartless hoax which victimizes the elderly. The drug benefit promised by the Mitchell plan would cost almost $100 billion in its first 6 years of operation, from fiscal years 1999 to year 2004.

What are we getting for our money? Not what you think. Fifty-five percent of the elderly now have prescription drug coverage. The deductible for retirees is typically $100 or less. Contrast that with the Mitchell bill. Estimates indicate that it would cover only a fraction of Medicare beneficiaries, 35 to 42 percent, with a deductible of about $650 and a new cost of $100 billion. What a deal.

Mr. President, nothing is as certain as death and taxes. This bill proves that point: cuts that surely mean the death of a Medicare program, and taxes the public would not believe. The Clinton-Mitchell health care bill contains at least 18 outright tax increases. Most of these are hidden taxes on the middle class that will sneak up on taxpayers like thieves in the night.

CBO numbers show that in the next decade the bill would raise taxes by a net amount of over a quarter of a trillion dollars. This means that every family of five in Utah will pay more than $5,100 in additional taxes because of this bill.

One of the examples of the hidden tax is the 1.75-percent levy on all insurance premiums. This tax will raise $75 billion over the next decade and will be paid, directly or indirectly, by almost everyone. Individuals who buy their own insurance, or who share the cost of health insurance premiums with their employer, will pay the tax directly.

In the case of employer-provided insurance, the tax on premiums will be passed on to employees in the form of lower wages, reductions in benefits or lost jobs.

It is ironic that a bill designed to keep the costs of health care down should immediately raise those costs by assessing a tax on health care insurance premiums.

Another stealth tax in the Clinton-Mitchell bill is the complicated 25 percent tax on health insurance plans whose premiums grow faster than a targeted growth rate. This tax, estimated to raise over $70 billion, would apply to virtually all health plans, according to the CBO.

Although this tax is a barely disguised method of price control, it is obvious already that it will never work. If it were an effective way of holding down premium costs, it would not raise much, if any, revenue.

I was shocked to learn that analysts have forecast that the Mitchell bill will cost Utah businesses $547.6 million a year starting in the year 2002, the year that the employer mandate would be triggered. That says it all.

Mr. President, I am not here to oppose health care reform. As I said, I believe we ought to work together to try and come up with a workable solution. I am here to oppose a version of health care reform that will doom the greatest health care system in the world and, at the same time, suck America's economy right down the drain.

I believe health care reform is possible.

I believe health care reform is desirable.

I believe health care reform is necessary.

But not reform like this.

The architects of the Clinton bill, however it is packaged, should get back to the drawing board and maybe sit down with some of us and work this out, for surely this house of cards is going to tumble.

I am very concerned about it, because I have seen through the years how difficult it is to get small, but effective, health care bills through, from home health care to drug price competition, patent term restoration, to the orphan drug bill, to S. 784, the dietary supplement bill. It takes an inordinate amount of work to get these bills through, and they are part and parcel of the health care program. I can name dozens and dozens of others that I have helped pass or worked on to get through.

I am the only Senator on all three committees involved in the health care debate. The Finance Committee which my dear friend from Arkansas and my dear friend from West Virginia and dear friend from South Dakota are all on, and the Labor and Human Resources Committee which has worked long and hard and, I felt, came up with a horrendous bill which is now part of the Mitchell bill; and, of course, the Judiciary Committee, all three of which have a lot to do with health care.

The Judiciary Committee is really concerned about medical liability issues, about antifraud issues, about ERISA issues. The Finance Committee is worried about almost everything involving taxes, money, and things involving Medicare, Medicaid, Social Security, ERISA, and so forth. The Labor and Human Resources Committee has almost all the public health issues.

Frankly, I am very concerned about what we are doing. But I really believe that this bill would be an absolute albatross around the necks of everybody in America, if we pass it in its current form. Nobody believes we are going to do that. And I want to pay tribute to everybody who is working hard and trying to come up with something that might really work well.

I will not talk any longer today on this, but I wanted to make some of these points, because I am very concerned that we are leading America down a path that is going to be almost impossible to get out of once we start down it. If we do it the wrong way, we are all going to be sorry about it. Of course, we will probably be dead and gone while our children are saddled with this albatross the rest of their lives.

RECESS UNTIL MONDAY, AUGUST 15, 1994, AT 10 A.M.

Mr. HATCH. Mr. President, If there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 5:07 p.m., recessed until Monday, August 15, 1994, at 10 a.m.

SENATE—*Monday, August 15, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today, as the Senate offers prayer to the Supreme Lawmaker of the universe, we will be led by the Senate's Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

"The Senate is the living symbol of our union of states."—Inscribed on west wall of Dirksen Senate Office Building.

Eternal God, Lord of history, Governor of the nations, the present situation gives America an opportunity to observe democracy at its best. Sometimes the democratic process seems like an irresistible force meeting an immovable object; yet, however slow and tedious, it is infinitely more desirable than a monarchy or a dictatorship. In the words of Winston Churchill, "Democracy is the worst form of government * * * except for all the other forms of government." We thank Thee, Lord, for a political system which guarantees the best for the most.

Infinite Lord, the needs, desires, opinions of 250 million people, hundreds of cities and counties, 50 States, thousands of organizations and institutions—not to mention global crises—converge on the 100 Members of the Senate who must somehow find resolutions. We thank You, mighty God, for the 100 Senators representing 50 States, many different backgrounds, views, and convictions, who struggle, often under great pressure and frustration, to arrive at solutions.

We thank You, gracious God, for patient, fair, dedicated leadership during these highly pressurized days. It must have been like this during the Constitutional Convention with many resisting independence, many opposed, and many supporting a strong, central government. We recall that, at the suggestion of the wise Ben Franklin, they resorted to prayer. Cover the Senate with divine love, grace, and wisdom as the Members work their way through this very complex democratic process.

In Jesus' name who is the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE ●

Mr. MITCHELL. Mr. President, I say to Members of the Senate, the Senate today will continue debate on the health care reform legislation and the pending amendment by Senator DODD regarding health insurance for children. That amendment has been pending since late Friday afternoon.

I have repeatedly asked our Republican colleagues to permit a vote to occur on that amendment. So far, I have been unable to gain their assent. As every Senator knows, under the rules of the Senate, any one Senator or a group of Senators may prevent action from occurring by the tactic of unlimited debate and discussion.

While I welcome the opportunity for every Senator to make opening statements and to address any aspect of the bill that he or she wishes, I believe that it is appropriate and timely for the Senate now to begin to vote on amendments, and I hope very much that we will be able to proceed to voting on the pending amendment today.

I have invited Senator DOLE and our Republican colleagues that if they have any amendments that they wish to offer, we welcome those; if not, we have other amendments which we are prepared to offer.

In the event that we cannot reach agreement with respect to this amendment, the only recourse available to me is to require a vote on a procedural matter and, although that is not my preference, if no other alternative is available, that is what will be done. Under an order entered on Saturday, such a vote is scheduled for 5 p.m. today.

I will be discussing the matter further with our colleagues and hope to have an announcement with respect to the schedule during the day today.

The Senate will be in session Monday through Saturday on this legislation. As I have previously stated on many occasions, the Senate will take up the crime bill conference report when that is passed by the House. I do not know when that will occur and, therefore, cannot now state precisely anything with respect to the timing of that legislation. But that is a very important measure, and we will interrupt this debate for that measure after its passage in the House and after it is sent to the Senate.

Mr. President, Senator DASCHLE will be acting as manager on behalf of Senator MOYNIHAN, who is necessarily absent to attend a ceremony at the White House at which the President will sign into law legislation establishing the Social Security Administration as an independent agency. That is an important measure on which Senator MOYNIHAN has worked for many years, and I think it appropriate that the President pay tribute to him in connection with that signing ceremony.

Senator MOYNIHAN has for many years been the leader of our Senate and I believe our Nation in protecting and enhancing the Social Security System, and this legislation is further action in that regard.

Mr. President, I would like to make just one comment about my legislation, if I might, that has been the subject of a lot of debate here. Enough of our colleagues have made their opening statements, and they are identical in many respects, all of them focusing on a single theme that suggests that my bill creates a Government-run insurance system. Some heated rhetoric has been used which I believe has been inaccurate. But I want to and I will, of course, address the subject in a great deal more detail. But I myself am leaving to attend the White House ceremony of which I just spoke. But I just want to make one point in that regard: Saying something over and over again does not by itself make it true.

This is a desk before me, and if I repeat a thousand times that this is a horse, it will not become a horse. It might persuade some people of that, because we all know that repetition can create that impression, but it does not make it so.

We went through a similar exercise just a year ago when the President's economic plan was before the Senate.

Over and over again, our colleagues said of that plan that it would raise everyone's taxes and be a tax on small business. Neither of those statements were correct. Although I acknowledge they were successful in persuading the American people, because polls showed that a large majority of Americans believed their income tax rates would go up as a result of that legislation and believed that it would impose a tax on all small businesses. Neither statement was true. They were proven to be untrue, but the mere repetition of those

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● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

statements did persuade a majority of Americans even though the statements were incorrect.

Much the same thing is occurring now.

Let me make clear that my bill does not provide for a Government-run health insurance system. It is a voluntary system which builds upon the current private insurance market. Indeed, under my bill, one of the largest Government programs—Medicaid—would be virtually abolished and 25 million Americans who are now in the Medicaid program, a Government Program, would be taken out of that program, which would be virtually abolished, and would be encouraged to purchase private health insurance in the same system of insurance payment and coverage that most Americans are now in.

So not only is it not a Government-run program, it is just the opposite. It is a private program, a voluntary system, in which citizens are encouraged and assisted in the purchase of health insurance. In that respect, it is similar to the legislation offered by Senators DOLE and PACKWOOD. Both programs provide for insurance market reform; very similar in that respect. Both provide subsidies to people to assist them in purchasing insurance in the private market as most people do now.

The Congressional Budget Office has estimated that, if my plan is adopted, 95 percent of Americans will have health insurance by the year 2000. And if that occurs, as both the Congressional Budget Office and I believe it will, then there will be no requirement on anyone under any circumstances to purchase health insurance.

And so I want to make clear that, while it is going to be repeated over and over again, it is simply not correct. The fact of the matter is, I believe we should build upon the current system, take those steps to extend insurance to those who do not now have it, and provide health security to the millions of Americans who have health insurance but who do not have health security. Because right now, most Americans who have health insurance face the risk that if they get sick, their policy could be canceled. Incredible as that seems, that is what can happen under the current system.

A person buys health insurance to cover himself and his family in the event they become sick. And then, if they become sick—the very reason they bought the insurance—the policy can be canceled. It is an incredible catch-22 in which American families find themselves and which my legislation seeks to correct. And those same families, and others like them, do not know if the premiums can be doubled or tripled at any time. They have no assurance that the policy will be renewed. They may lose their insurance if they change jobs or if the employer chooses to discontinue coverage.

So it is important for Americans to understand that what is involved here is not just extending insurance to those who do not now have it.

Of equal, indeed of greater, importance, it provides security to those Americans who do have insurance so that they will know that their policy cannot be canceled at any time and they will have what all American families should have—guaranteed private health insurance to provide access to high quality health care in our system.

What we must do is adopt a mechanism which will permit us to fix what is wrong and to permit what is right to stay intact. I believe my legislation does that through a voluntary system in which 25 million Americans who are now in a Government program will be encouraged and assisted to buy private health insurance, and that Government program will be virtually abolished.

I know there will be arguments to the contrary, and I welcome the debate. But I hope all Americans will keep that in mind during this debate.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Chair seeks advice from the majority leader on two points.

Is the time that has been consumed to be charged against time under the control of Senator DASCHLE or is it to be charged against the majority leader's time?

Mr. MITCHELL. The time under the control of Senator DASCHLE.

The PRESIDENT pro tempore. The Chair also takes guidance from the majority leader on another point.

Is the time between now and 5 p.m. today to be used for debate only, or would an amendment to the amendment in the first degree be in order and would an amendment to the underlying legislation be in order?

Mr. MITCHELL. Mr. President, it was, I believe, Senator DOLE's intention and mine that this time is to be used for debate only, unless and until we reached agreement and announce an agreement to the contrary.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. There is, is there not, an amendment pending?

Mr. MITCHELL. Yes.

The PRESIDENT pro tempore. There is an amendment in the first degree, but it is open to amendment in the second degree.

Mr. MITCHELL. Although we did not address that in the order, I believe it was Senator DOLE's intention, and with which I am agreeable, pending discussions that he and I will have later in the day, that the debate will continue and then we will, if we can, reach an agreement and we will announce that probably sometime early this afternoon.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Chair thanks the majority leader for his clarification.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senate will now resume consideration of the bill, S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Dodd amendment No. 2561 (to amendment No. 2560), to promote early and effective health care services for pregnant women and children.

Mr. WALLOP addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I inform the Chair that I have been asked by Senator PACKWOOD to stand in for him while he goes to the same meeting.

With that, I yield such time to the Senator from Oklahoma as he chooses to take.

The PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES] is recognized for such time as he may consume.

Mr. NICKLES. Mr. President, I thank my friend and colleague from Wyoming. I just express my sadness that this is his last year in the Senate, because he has been an outstanding Member of the Senate on a lot of issues, including this issue. I appreciate his work and contribution not only on behalf of the State of Wyoming but also for our country, as well.

Mr. President, many have taken to the floor and many of us have had a great deal of discussion on the issue of health care. It is not a new issue, just because we now have a 1,443-page bill. It is a complicated issue. But we have been working on it for a long time. A lot of us have been working on this issue for a long time.

Last year, I introduced the consumer choice health care bill. We had 25 cosponsors, one-fourth of the Senate as cosponsors on that legislation to try to remedy some of the problems that the majority leader just discussed.

The majority leader mentioned problems where some people might have insurance and might lose it because they become ill. We addressed that in our bill. We addressed it in the Dole bill. I hope that we will pass legislation to solve that problem this year.

We addressed problems where some people might not be able to buy insurance because they have a preexisting illness. And I think a lot of us have found that is the case in our families.

A few years ago, I found out that I had a little cancer; no big deal. But I remember, I asked the doctor what that meant. He said, "Well, you won't be able to buy insurance."

Well, he was wrong, because I am under the Federal employee system.

And Federal employees' preexisting illnesses are covered, so I was covered.

They do that for 10 million employees and their families, why can we not do that for everybody in America? So we took care of that in the bill I introduced. It is taken care of, frankly, in the bill Senator DOLE offered and I believe in Senator MITCHELL's bill, and we ought to pass that this year. We ought to pass some things that would help solve some of the problems.

I know when President Clinton and Mrs. Clinton are on the road all the time they are talking about somebody who has a terrible health care problem and has a preexisting illness, they cannot get insurance or they lose their insurance because they really become ill, and they had a catastrophe, and the insurance rates go sky high. We ought to solve those problems and we can, and we can solve those in a bipartisan fashion.

I might mention, I think it was a couple years ago, now, we passed legislation that Senator Bentsen and others were working on that incorporated solutions to those problems. Those are positive, significant solutions. We hear people going to the floor and saying, "We have 37 million people who are uninsured, let us help those people." We should, and there are differences of opinion on how we should do that. Some would propose it through a mandate—that was in President Clinton's proposal. It is in Congressman GEPHARDT's proposal. Senator MITCHELL has a kind of delayed mandate. He says if you do not get to 95 percent, then the mandate would hit or would be triggered.

I might mention it would be triggered in a State like mine and probably West Virginia and a lot of States. You would have a big mandate, mandating on every business and every individual that they have to provide a Government-defined package.

I disagree with that solution. I do not disagree with the idea of trying to help those people who need help. I do not disagree with the idea, or the goal of trying to have everybody have some type of health care—which, frankly, they do have today. Not everybody has prepaid health insurance. Not everybody has a prepaid health care system. But everybody has some degree of health care.

Mr. WALLOP. Will the Senator yield for question on the mandate issue he just raised?

Mr. NICKLES. I will be happy to.

Mr. WALLOP. Is it not true that under the Mitchell-Clinton mandate provision, once it triggers, it triggers State by State setting up real distortions in job markets between States that are mandated and States that are not? Would that not be the case?

Mr. NICKLES. The Senator is correct. I will mention that in a moment. But the Senator is right. It is a State-by-State mandate, so if you have one State at 95 percent the mandate would not be triggered. If you have a State that is 90 percent, it would be triggered. And you can easily see a scenario where business becomes flexible and jumps from one State to another, in several States, where you would have businesses fleeing the mandate because, frankly, a lot of businesses cannot afford the mandate. It is very expensive. I will get into the cost of this in just a moment.

The problem I am trying to address is: Let us identify the problem and then let us try to solve it. If 37 million people do not have insurance, how long do they not have it for? Are these chronically uninsured people? Because we hear this term and it sounds pretty large in a population of almost 260 million people in the country.

I did a little homework on it. Actually I did not, the Urban Institute did the homework. It said the figure of 37 million uninsured is a snapshot, at one point. Their study found that most of the people who lose their insurance get it back within a very short period of time. The study found half of the uninsured go without coverage for less than 5 months. That is interesting: 70 percent get coverage back within 9 months. Only 19 percent are uncovered for 2 years or more.

So, 19 percent of 37 million people, that is probably about 7.5 million people who are what I would categorize as chronically uninsured or very hard to insure for whatever reason. I have already said let us solve some of those problems; let us make sure that if somebody has a preexisting illness, they can buy insurance. Let us make sure somebody is not dumped out of the insurance market because they have become ill. This will solve some of the problems.

Let us solve some of the portability problems so if somebody changes jobs or loses jobs, for whatever reason, they can continue to be insured. That is in the legislation I have cosponsored in Senator DOLE's package, and I imagine in most of the bills. We can pass that. We can pass that today or this year. So we can make some positive, constructive steps toward alleviating the problem for the people who are uninsured.

I might mention, too, for the people who are uninsured, the 37 million, 70 percent will have insurance within 9 months. What is the biggest category of people who are uninsured? Young adults, age 18 to 24, who are the most vulnerable to lapses in coverage. I could go on. Most of them had coverage within a month or couple of months of losing the coverage. They might be in a situation like I was. I had a daughter who turned 22. She graduated from college; she was going to go to graduate school. So there might have been a lapse had we not moved pretty quickly to get her enrolled. She was no longer covered under my family plan so we had to enroll her on her own coverage. We did that. But it would be easy to see how that coverage could lapse for a month or two.

But that is not really the problem. That is not the reason why we need a Federal solution. And that is not the reason why we need legislation today. What about some of the others? Not everyone who lacks insurance is poor. According to the Employee Benefit Research Institute, nearly half the uninsured have incomes of more than $20,000, and 17 percent have incomes of more than $40,000. So I think we can exclude those individuals who, for whatever reason, have decided they did not want insurance or they are going to wing it, they are going to gamble that they will be healthy forever. I do not think that is the need for a Federal program. I do not see that as the solution.

Let us solve some of these problems that would help it, but I hope, let us make a rule in the Senate, or try to make sure, that we do no harm. We have quality health care in this country. I know every person in this body—but I would also say in America today—has been a beneficiary to some extent of the best quality health care system in the world; or certainly their families have, for whatever reason. Let us try to make sure we do no harm to this quality health care system.

Some people say, "Wait a minute, we compare the United States to other industrialized countries and we spend more per capita, we spend more per person, we spend more in total amount of dollars—the amount of money we spend in health care today in the United States alone is bigger than the economies in many other countries." That is probably true. But we have an asset, we have a real quality health care system in this country. Let us not emulate countries that do not have quality health care. Let us not emulate countries that cannot give care. Let us not emulate countries that have care, it is cheap—I would guess they would say in the former Soviet Union they had health care for everybody. But I would also venture to say most people would say it is not very good; or in East Germany or some places. Some people say, "Let us emulate Germany or Canada or Great Britain." Again, they have care. They have a government program that covers everybody. But I venture to say if you looked at the waiting lists, if you look at the Government rationing, if you look at the delays that are involved, if you look at the Government improvement that is needed and so on, you find many of those people are coming to the United States as a last resort to get quality health care.

If we emulate their systems, where are Americans going to go? What kind of fallback do we have? The Canadians are coming south. They come into the United States to get health care if they really need it.

The doctor says, "You need a bypass but we have already had our quota. You need it within 6 months or 12 months. We know you are going to need it. We will get around to it, but we cannot do it in this Province now. This is in the fourth quarter of the year and, frankly, we are about out of money. So, elective surgery, we have said, in this Province in Canada, we are going to postpone until next year."

A lot of people might not be willing to take that risk so they come to the United States. If we get into that scenario, where would Americans go?

So I just make a final plea that we do no harm. Let us seriously consider the legislation we have before us. Let us take a look at it. Let us look at all the proposals and pass positive legislation. At the same time, let us not pass legislation that we are going to regret.

I was very involved in the debate—which was a few years ago—the so-called catastrophic health insurance for senior citizens that was going to provide catastrophic coverage. Basically, although we called it catastrophic, really it was a medigap policy. Medicare paid for some, but it did not pay for some of the deductibles. We said we will have a policy to cover that. And a lot of people already had it; actually 75 percent. Senior citizens had medigap policies through the private sector. Congress came in and said we do not care if you have it or not, some people do not, so we are going to mandate it on everybody.

We mandated a Federal program on all senior citizens, whether they wanted it or not. We did not give them an opt-in or opt-out. I might mention we passed it in the Senate and we did make it voluntary, but when it came back from conference, it came back mandatory for everyone.

I debated a couple of hours on that legislation, debated against our friend and colleague, now Secretary of the Treasury, Senator Bentsen. I said this is moving in the wrong direction. Why do we not target our efforts at the 25 percent of senior citizens who do not have Medigap policies and then target the portion of that one-fourth of the senior citizens group who did not have it and could not afford it? Some people did not want it who could afford it. Why should we have a Federal program to cover them? We did not need to.

But no, we did not do that. We did not put a means test on it. What we did do is have a big tax increase. We are going to cover everybody. We do not care if you have private coverage or not, we are going to duplicate it with a Federal program and pay for it with a Federal tax. And at least the Finance Committee was honest and direct and said this is going to be a tax; this is going to be a 25-percent surcharge on your income tax.

I predicted on the floor when we were debating that that when the bill comes due, senior citizens are going to rebel, and they did. Because they rebelled, we repealed it a year later, and I think correctly so.

I hope we do not make that same mistake in this legislation, but I also hope that we are very direct with the American people. I think we ought to tell people what it is going to cost. We ought to tell people what is in the legislation. We ought to do it now before we pass it, not after we pass it and find out, "Oh, I didn't know that was in the legislation." We ought to do it now. We ought to find out what is in the legislation.

Some of us have complained about this process. I have complained about the process and, I will say, going back from the moment of its conception within this administration. The process started out very partisan. Mrs. Clinton and President Clinton put together a task force of over 500 people. They met. Now it appears they met illegally and there is a lawsuit pending. I notice there was an article in the New York Times on Wednesday, August 10. It talked about the "White House Seeks Settlement of the Health Suit."

They have been sued and, frankly, it looks like they are going to lose. I will not read the entire article, but I will insert it in the RECORD.

It says:

> The Clinton administration urged a group of doctors today to agree to a swift settlement of their lawsuits seeking disclosure of the records and working papers of Hillary Rodham Clinton's task force * * *
>
> For more than a year, the White House has resisted disclosing the records. But administration officials said today they wanted the lawsuit settled as soon as possible, in part to avoid the need for having Mrs. Clinton and Ira Magaziner, a White House aide who coordinated the work of the task force, to testify.
>
> The 12-member task force and its staff of more than 500 developed most of the President's proposal to control health care costs and guarantee health insurance for all Americans. Major parts of the proposal have been incorporated in the legislation developed by the Democratic leaders of the Senate and House, Senator George Mitchell and Representative Richard Gephardt.

And it goes on in the article. I will just read the last part:

> The groups contend—

Talking about Mr. Magaziner.

> that he was wrong when he said in an affidavit in March 1993 that all members of the staff of the task force were Government employees. In fact, the three groups said, many staff members came from business in the health care industry that stood to profit from the President's plan.

Mr. President, I am troubled that Presidential adviser, Mr. Magaziner, who coordinated the task force, testified in an affidavit, a sworn statement, that these were all Government employees if they were not. If you had special interest groups who were writing this package and putting a lot of this together—and I am going to mention this in my speech a little later—if they were doing that against the law, that bothers me, and it bothers me that he would sign an affidavit saying they were all Government employees if they were not.

I know the Presiding Officer, the chairman of the Appropriations Committee and President pro tempore, believes people should speak the truth. I am bothered by Mr. Altman's statements before the congressional committee. I am bothered anytime anybody deliberately misleads Congress and does not state the truth, particularly when they are in high levels of power, or abuses that power, and particularly if they are trying to pass legislation or implement legislation that would have a significant impact on my constituents.

I see a lot of things in this bill that I am very troubled by. Where did they come from? We have not had a hearing on this bill. I am troubled by the process of where we are.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 10, 1994]

WHITE HOUSE SEEKS SETTLEMENT OF HEALTH SUIT

(By Robert Pear)

WASHINGTON, Aug. 9.—The Clinton Administration urged a group of doctors today to agree to a swift settlement of their lawsuit seeking disclosure of the records and working papers of Hillary Rodman Clinton's Task Force on National Health Care Reform.

For more than a year, the White House has resisted disclosing the records. But Administration officials said today that they wanted the lawsuit settled as soon as possible, in part to avoid the need for having Mrs. Clinton and Ira C. Magaziner, a White House aid who coordinated the work of the task force, testify.

The 12-member task force and its staff of more than 500 developed most of the President's proposal to control health costs and guarantee health insurance for all Americans. Major parts of the proposal have been incorporated in the legislation developed by the Democratic leaders of the Senate and the House, Senators George J. Mitchell and Representative Richard A. Gephardt.

NEGOTIATIONS ACCELERATE

Justice Department lawyers asked the plaintiffs to start discussing the possibility of a settlement last Thursday, and the negotiations have accelerated this week. The Government appears to be willing to disclose thousands of pages of task force records, but has been reluctant to pay lawyers' fees for the plaintiffs' lawyers.

It is not clear why the Administration is so eager to reach a settlement this week, although the Administration apparently wants to announce a settlement before Congress takes any votes on health care legislation. In addition, the Administration may also want to make sure that Republicans cannot use the litigation in political attacks on the White House.

The plaintiffs in the case, including the Association of American Physicians and Surgeons, have repeatedly asserted that "special interests" from the health care industry influenced the task force at meetings from which the public was excluded. The White House has rejected those assertions.

On July 25, the Administration told a Federal judge that the President's health plan had been devised by "an anonymous horde" of more than 500 people operating in creative confusion with no organized structure and no fixed roster of members. As a result, the Justice Department asserted, the task force was not a formal advisory committee and did not have to divulge its working papers or financial records.

The Judge, Royce C. Lamberth of the Federal District Court here, said last month that he would hold a full trial to examine the composition and operations of the task force. The trial would determine whether the panel and its staff operated legally in excluding the public from meetings from January to May 1993, when it was disbanded.

The plaintiffs, three groups of doctors and consumers, have also asked the judge for a contempt citation against Mr. Magaziner.

The groups contend that he was wrong when he said in an affidavit in March 1993 that all members of the staff of the task force were Government employees. In fact, the three groups said many staff members came from businesses in the health care industry that stood to profit from the President's plan.

Mr. NICKLES. Mr. President, I am concerned about the legislation we have before us. I read a lot. I took home the first print, and it was 1,400-some pages. I worked on it. I had my yellow magic marker. I was going through pages, as hard as I could, and I was marking pages. I was putting question marks down.

I have studied legislation a lot. I have introduced legislation. And I know it is not easy, and I know it is not simple. But last Monday, I believe, was the first day we had the first print. We call it the Mitchell-Clinton print 1. Then there was 2. Then there was 3. I am not sure if this is the amendment or modification of the second or third, but it has over, I think, 133 sections that were changed. I believe that is between the first print and the second print.

All it mentions is the section number and a change. "These following sections have been modified since initial printing." I was working off the initial printing. Mr. President, I invested a lot of hours on that initial printing, the first one that came out. I wanted to know as much about it as anybody. I signed a little card saying I am going to read this bill before I vote on it favorably, and I am going to. Now we have another bill. We have to start over.

There are over 100 sections that have been changed. What is in this bill? Was it reported out of the committee? No. Was this bill reported out of the Finance Committee? No. Was it reported out of the Labor Committee? Has there been a hearing on this bill? No. Does anybody really know what is in this bill? Maybe a few staff members; maybe some of the White House advisers. I am not sure. But I know there is a lot of garbage in the bill. There are a lot of provisions in the bill, in my opinion, that would be very, very negative.

Again, I said let us do no harm. Let us make sure that whatever we do does no harm.

I have listed several little things—I call them little things, I think they are rather significant—provisions in the Clinton-Mitchell bill that, in my opinion, are very bad. I want to talk about them just a little bit. I will go through each one.

First, it denies consumer choice. I know I heard my colleague and friend, Senator MITCHELL, say this bill is a voluntary system. I know if you read section 1003, it says "Protection of Consumer Choices." It makes you think you can keep your own plan. I will just run through this.

This bill imposes a one-size-fits-all benefit package on all Americans. That means people in West Virginia have to buy the same plan that people in Oklahoma buy or in New York City. The Government is going to define the benefit package for everybody in America. So if you want to have a little less, something a little more affordable, that is not an option. So you lose a lot of choices.

It imposes $300 million in new taxes. That is CBO's figure. Dr. Feldstein mentions it is $100 billion per year. I will talk about that in a minute.

It hurts the middle class.

It imposes a hidden tax on the young, a big hidden tax.

It results in substantial job losses. If you put this kind of mandate, this mandate, some people say, if it happens—and I guarantee you, in a lot of States that have 80-some percent of coverage, you are not going to get to 95 percent coverage under the terms of this plan, so you are going to have a mandate—that mandate will cost jobs.

It creates big incentives for people not to work. People are going to realize, "The Government is going to be providing this." We are going to be more than doubling the size of Medicaid. I wonder if people realize that. I know the chairman of the Appropriations Committee has wrestled with expansion of entitlement plans, the fact that Congress actually has less and less control over the Federal budget because we pass programs that grow on automatic pilot; that under the Clinton-Mitchell bill, we will have a massive expansion of people eligible to receive Federal assistance called subsidies. By the year 2004 there will be 117 million people subsidized under this proposal. That is a massive expansion and more than doubles the Medicaid population or people eligible to receive assistance from the low-income side.

It creates an enormous bureaucracy—some people have already talked about this, so I will try not to be too repetitive—over 250 new bureaucracies in boards and commissions, some of which are very, very powerful. Some of them have enough power to say this benefit will be covered and this benefit will not. Some will say we need cost containment and, therefore, this agency or commission is going to do something to contain costs.

Does that mean price controls? In all likelihood, it would.

It creates a huge new entitlement program, actually several new entitlements programs. I will touch on that in a moment.

It vastly increases the number of people on governmental assistance.

It promotes and subsidizes abortion. I know I heard Senator DOLE and others say we are going to have to talk about this for a while. There is no status quo on abortion. This is a program that says we are going to subsidize abortion, whether you want to or not. We are going to have the Federal Government pay for it. We do not do that today under our Federal system under Medicaid. We have passed language for years, and we call it the Hyde language. Basically, it says we are not going to use Federal money to pay for abortions unless it is necessary to save the life of the mother, or in cases of rape or incest.

This says, no; this is a fringe benefit and pays for everything. And it also says you have to have access to abortion everywhere in the country. I would say in West Virginia, and in 80 percent of the counties in the country, they do not provide abortion. This is going to mandate that every place in America or every person in America have access to the whole list of standard benefits coverage, including abortion. It massively promotes and subsidizes abortion throughout the country.

It also caters to special interests. And by special interests, I am talking about the AARP. I will talk about some provisions that were written, in my opinion, probably specifically for AARP, and for organized labor. They are getting a lot of support from those groups as well as from the groups that support and promote abortion.

It would even have some language, I will tell the Presiding Officer, that expands civil rights statutes to include protection for sexual orientation. That is interesting. Most people are not aware of that, but it is in the bill.

And it has no real malpractice reforms. Frankly, the bill, instead of having positive malpractice reform, would override about 20 laws that are on the books that try to limit abuses in the cost of providing limitations on insurance costs. It overrides those. It does more harm than good. And I think that is a serious mistake.

Mr. President, while I am going through the Mitchell-Clinton bill and trying to describe some of the things I think that are wrong with it, let me just state at the outset, again, I want some positive health care reform. I want to cover preexisting illness. I want to make sure that people do not lose insurance if they become ill. I want portability where people can take their insurance from job to job or have control of insurance.

I think one of the big problems we have today in health care is that individuals, the people who buy, the consumers, are not really at the table. Somebody else is paying for it—well, Government is paying for it or the employer is paying for it. So they do not care how much it costs.

I think the individual should have some responsibility, and, unfortunately, the Clinton-Mitchell bill, the Gephardt bill, President Clinton's original proposal move just the opposite direction. Instead of having individual responsibility, they make more people dependent. Instead of giving individual rights and choices, they have the Government making those decisions.

Mr. President, let me just start out by stating I think it is vitally important that all people always give the facts and tell the truth all the time. I am bothered by this statement. This was in the President's statement just recently, August 3. He said: "You can keep your own plan or pick a better one."

Well, that is not accurate, and it is unfortunate to have the President of the United States say you can keep your own plan or pick a better one, but he is not telling the complete truth, in my opinion, in that statement. And that bothers me a lot.

Let us just take this first part: "You can keep your own plan." Let me just give you an example. I hate to use personal examples, but I know not one better.

I used to run a company, Nickles Machine Corporation. We had a plan. Can I keep our plan? No. Why? Because we self-insure. Under the President's plan, firms that have fewer than 500 employees cannot self-insure. So the President's statement is false as far as DON NICKLES and Nickles Machine. We cannot keep our own plan because, under the Clinton-Mitchell bill, it says, if you self-insure and you have less than 500 employees, your plan is illegal. You cannot self-insure.

I think that is really wrong. I think self-insured plans have a lot to offer. We have been able to get our costs down, and we are able to do it a lot less expensively than the President's plan. I am bothered by that.

I mentioned the cost. I will just pull that out. One of the reasons why some people self-insure is they can do a better job for less expense. Under the Clinton-Mitchell package, the cost for a family estimated by CBO—these are 1994 dollars, and you know it will be higher later—is right at $6,000 for a two-parent family—$6,000. They are going to mandate that or tell everybody, if you are going to have insurance, here is what you have to have. They have a standard benefit plan that tells you you cannot buy something less.

In other words, in this little bill—it just happens to be section 1201 and 1202, I believe, unless they changed the sections on this, too. Oh, yes, "standard benefit package." "General description. Standard benefit package." Then they have given enormous power to the National Health Benefits Board, which is section 1211 through 1217. This board is going to determine what has to be in everybody's plan. And we give them about 20 pages that says what Congress says it should be in this plan, and it has a lot of coverage, a lot of coverage you may want, maybe coverage you do not want. I mentioned it has abortion. You have to have it in your plan whether you want it or not under this bill—no opt out, no choice, no conscience clause or anything. It says, you have to have it.

I object to that. I object to it on moral grounds, but I object to Government thinking they have to define every package in America. What in the world makes some of our colleagues and this administration think that they can design a health care package better than anybody else in America? What in the world gives them the right or the power to think they know best in what should be in everybody's health care plan? And we are not talking about a core benefits package. We are not talking about a minimal benefit package, just the bare essentials so that people just get by, something very economical.

No, we are talking about a comprehensive, extensive, expensive benefit package that lots and lots of people in America will not be able to afford. And they are going to mandate. It is mandated under President Clinton's original proposal, it is mandated under the Gephardt proposal, and it will be mandated under the Clinton-Mitchell proposal because we will not get to 95 percent. Maybe we will, but I doubt that we will. I know in a lot of States we will not get there.

To give you an example, I have heard people talk about Hawaii. Hawaii had 90 percent coverage before they went to an employer mandate. And now they have massive subsidies. They have 20 years under an employer mandate and they got up to 94 percent. They are still not up to 95. So I have some questions.

I know CBO says they think they can make it. I think they are doing a little wishful thinking. I think under Senator MITCHELL's package those mandates are going to happen and there are going to be consequences to those mandates.

I might mention, too, looking at the rest of these premiums, for a single adult, the cost of that plan is $2,200. That is pretty expensive. It is especially expensive for young, single adults, and I might mention that as well.

Well, again, going back to President Clinton's comments, he said: "You can keep your own plan or pick a better one."

I just noticed, under the President's bill—I hope people look at it—if you have a cafeteria plan—and I know there are some unions in West Virginia that have cafeteria plans where you choose from a multitude of benefits—health care cannot be in a multitude or menu of benefits. I think cafeteria plans are great because you are putting consumers at the choice: Do you want to spend more money on health care or do you want to spend more money on vacation? Do you want to have more money to take home? You get to choose from a multitude of fringe benefits where employees then recognize the cost of health care. That is a good benefit for putting people at the table to recognize the benefits.

Those are outlawed under the President's plan. You cannot keep your own plan if you have a cafeteria plan in health care.

Wait a minute, Mr. President. You said on August 3 you can, but you cannot. He did not tell the truth. That is not the case. And that bothers me. Those plans are illegal under this bill.

The flexible spending accounts, which a lot of Americans have today, health care is not included in those flexible spending accounts. Again, millions of people have these types of plans.

In the cafeteria plan, well, just by changing this tax and not allowing health care in, they estimate, will raise $52 billion in 10 years. So we are talking about lots of employees, lots of individuals are going to lose that. They are going to lose flexible spending accounts. Again, a lot of people have that today. They are not going to be able to have it tomorrow.

What about the people who have a high-cost plan and maybe these are union plans, maybe they are plans people have and they are designed and very generous.

The President says you can keep your own plan. What he did not tell you, there is a big tax on that plan, a 25-percent tax surcharge.

Well, wait a minute, you are not going to be able to keep that plan probably if you find out it is going to cost you 25 percent more. Think about that. And so maybe legally you could keep it, but the real results are economically, if you find out there is a tax surcharge on it of 25 percent, you are not going to keep it. And you have a lot of union plans, you have a lot of other plans in the country today, if they happen to be a little bit better than average, anything that is above that average that is determined by a beautiful bureaucratic disaster formula, they are going to have a big tax, a 25-percent tax. So the Tax Code is going to take away that nice benefit they have because people are going to design their plans away from it.

What about if you have a plan that does not conform to the Government plan?

I mentioned one-size-fits-all. What if you say, No. I don't believe in the one-size-fits-all in the Government package. We have a good package, and we are happy with it and we think we can do it more economically. I am going to opt out.

I heard Senator MITCHELL say this is voluntary. If this is voluntary in Nickles Machinery, since I am still involved, we opt out. I do not want any part of it. If it is voluntary, throw it away, and our employees are happy. Guess what? We can do it for $2,400 per family, not $6,000 per family. So I opt out.

What happens to us? If you do not conform to the standard benefit package, there is this 35-percent tax. Wait a minute. Think about that again. President Clinton said you can keep your own plan. He did not tell you that, if you keep your own plan, there will be a 35-percent tax if you did not conform to the Government standard benefit package. How can you keep your own plan, if you have a 35-percent tax?

Let us just assume that you have a plan that does not conform to the standard benefit package, but your plan is more generous. That is possible. You could have a tax surcharge because you do not conform, and you could have a 25-percent tax surcharge for excessive cost. That is a 60 percent additional marginal tax on the health insurance dollars because you said you do not want to play.

They said it is voluntary. Yes. It is a voluntary, with a gun at your head; big taxes; 25-percent tax if you have an expensive plan, and 35 percent tax if you do not conform.

You do not get to keep your own plan. It is not right. So you lose your cafeteria plan, your flexible spending account. If you have an expensive plan, you will be taxed for that. If you do not conform, they will tax you.

It has massive taxes in it. But they use the Tax Code to drive their idea that Government will control it. They will design your plan. This National Health Benefits Board will say what your plan is.

I know that most of our colleagues are not going to read this bill. I hope that they will just take a little time and read the powers that we have granted to the national health benefits board. That is just one of 50 new boards and commissions that are set up and have so much power.

I urge the Presiding Officer, it is not that many pages to read that one section. If we can get other colleagues to read about some of the powers that we are giving to this board and the cost containment board; enormous powers. If they make recommendations, we are telling Congress or future Congresses that we are going to consider this legislation on an expedited basis, in some cases without the right to amendment, and in some cases without the right to filibuster.

So here is this board, a seven-member board appointed by the President. It outlines all of that in here; a seven-member board with all this power to make their decisions. And then they are going to tell Congress we need legislation. Congress has to consider that legislation on an expedited basis without extended debate. That limits your right to amend it.

I know many of us feel we should have that right. Why in the world should we pass legislation today that is going to take away that right and obligate future Congresses? Not everybody is going to be here 5 years from now. I may or may not be here 5 years from now, I don't know.

I am bothered by trying to pass a law that is going to restrict future Congresses as this bill would propose. I think that would be a serious mistake.

This imposes new taxes. I mentioned a few of them; $300 billion in new taxes. I mentioned a couple of the taxes that are used as a hammer to make everybody conform. I hope people look at those because I know when I have heard taxes, I heard most of my colleagues mention the fact that, well, there is a tax of 1.75 percent tax premiums. That is going to drive excess premiums up in America.

So if you want to get health care costs down, this bill is not going to do it. It is going to drive them up. It is almost a 2-percent increase on every premium in America. So that means the costs are going up considerably.

If you have a health care plan that provides benefits that are more generous than what this commission says is appropriate, there will be a 25-percent tax. I might mention the tax is basically on incremental increases.

So if you have a pretty economical plan, and I mentioned that at my company it is $2,400. If we have to provide now this standard benefit, that will maybe cost about $6,000, as we increase. We will probably have to increase pretty rapidly. We are going to get hit with that 25 percent tax. If we have been more frugal, and more economical, we will be penalized. The more generous you have been and the more economically inclined you are, the more you will be taxed. This is a very interesting provision which I think is seriously wrong.

Mr. President, I heard some people who were discussing this bill say, "No. It has only four new taxes." There are 18 new taxes. I will not go through all of those. But I will put them in the RECORD so everybody can see them.

I cite code numbers, and the section number. Of course, they have changed bills on me three times. We are trying to put the latest code numbers in.

I mentioned premium tax, and excise tax. There is a big tax on part B premiums for upper-income people. There is an increase of 15.3 percent on the tax of income of certain S corporation shareholders and partners. There is a 2.9-percent health insurance payroll tax on all State and local work; Medicare coverage to such workers. They include employee income for Federal income and payroll tax purposes, and none is permitted for employer-provided health care coverage other than the standard benefit package and certain supplemental coverage.

So you have something that is not permitted under this standard benefit package. You are going to be taxed. Individuals are going to be taxed. They need to know it now. They need to know what is in this package now, not after it passes. They need to find out before it becomes law.

They are going to include employee income subject to Federal income payroll taxes for Federal benefits provided through a cafeteria plan for the flexible spending account. There are millions of people who have those benefits. They will now be taxed. They are going to lose those benefits because they are losing that tax incentive. We have not taxed health care costs in the past. But now, if you have that type of plan where an employee gets to choose what type and size of benefit they have, they are going to be taxed.

They place a limit on the deductibility of insurance for health insurance made in advance. I have already mentioned they impose a 35-percent tax, nondeductible excise tax, on employer-sponsored plans that do not conform to the standard benefit plan.

So again I go back to President Clinton who says that you can keep your own plan. You can, but you will pay a 35-percent tax if you do not conform to this plan, to this commission.

They make the decision and decide what benefits you should have or your employees should have. It is not you who decides it.

The reason I introduced the consumer choice bill is because I thought consumers should make that decision. They should not decide. You should. You know what is right for your family. I know what is right for my family, not some governmental panel that is also involved in social policy and other things. I want to buy what is the best deal. I want a good buy for my family. If I could it to for $2,400, or less, I want to do it. I am troubled by these costs because I will tell you, there are a lot of families that cannot afford $6,000 per year. I know others say, "Wait a minute. They subsidize those." I say this bill really hurts the middle class because maybe they have insurance policies but now they will be taxed. Maybe they have insurance policies but they cannot buy cafeteria plans because they have to pay a premium tax. So the premium is going up by 2 percent. It is a big hit.

There is a hidden tax on the young. This is close to my home because I have four kids. I have a 24-year-old son. He is out of the home and on his own. I need to check with him about what his premium is. I know what my daughter's is. She turned 22, is still at home and not out on her own. She has a supplemental policy, and she is not on the family plan. It is about $500. I think it is $40 a year at the university, and that is not a great plan. It covers my daughter. It is going to cover us if she has a serious problem. Most of those cover serious problems, but not everything.

CBO has scored the Mitchell bill at $2,200 per adult. My daughter is an adult. It would quadruple her premium. That is a hidden tax, an increase on my daughter of $1,700. She cannot afford it. Frankly, I would pay that insurance bill. She is not on her own. My son is on his own. Maybe he can afford it now. There are a lot of 24-year-olds, and 28-year-olds that cannot afford $2,200. They should not have to pay that. They should be able to buy another plan, if they can. Maybe they are young and healthy. Maybe they are not going to the hospital, or maybe they will not see a doctor. They should not have to pay over $2,000. But under the Mitchell bill they have to. We have community rating, and that is a serious mistake. It is a hidden tax.

Mr. President, I want to insert in the RECORD an article by Martin Feldstein who worked in the previous administration, and he talks about the tax increase in the Mitchell bill. It is entitled "A Hidden $100 Billion Tax Increase." Most of the figures we use are over a 10-year period of time. There are $300 billion in new taxes over a 9- or 10-year period of time.

Dr. Feldstein is talking about a $100 billion tax increase—that is per year, and these are direct taxes as scored by CBO. He adds that the hidden taxes are in community rating, which is in the Clinton bill.

I ask unanimous consent to have this printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 9, 1994]

THE SENATE'S HEALTH CARE FOLLIES—A HIDDEN $100 BILLION TAX INCREASE

(By Martin Feldstein)

President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The tax cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That's equivalent to raising personal taxes across the board by nearly 20%.

Amazingly, the Senate Democratic leadership has managed to conceal this massive tax increase from the public. The legislative wrangling and public discussion have virtually ignored the cost of financing this spending explosion. Members of the business community have been so eager to avoid employer mandates that they have not considered the tax consequences of the pending legislation. And members of the general public have been so concerned about preserving their ability to choose their own doctors that they have not focused on what these plans would mean for their individual wallets.

CBO ANALYSIS

Although the Democrats have yet to agree among themselves on the details of the final plan, it is likely to be closely related to the Senate Finance Committee bill. (The recent proposal by Senate Majority Leader George Mitchell that President Clinton said he would accept is essentially an expanded version of the committee's plan.) To understand the magnitude of the potential tax hike that would be required to finance such a plan, it's useful to look at the Senate Finance Committee bill and the recent analysis of it by the Congressional Budget Office.

Under the Senate Finance Committee plan, the government would pay the full cost of a standard private insurance premium for anyone below the poverty level and would provide a partial premium subsidy that declines with income between the poverty level and twice that income. The insurance premium would vary with family composition but would average about $2,000 per person. A single parent and child would receive a subsidy with income below $20,500, while a couple with three children would receive a subsidy with income up to $37,700.

More than 60 million individuals would be eligible for subsidies in addition to the 60 million already covered by Medicaid and Medicare. The Senate Finance Committee plan would raise insurance coverage by about 21 million individuals, bringing total coverage to 93% of the American population.

The budget analysis prepared by the CBO never states its estimate of the total additional cost that taxpayers would have to bear to finance the new insurance subsidies. But the CBO figures do imply that the public would be paying about $63 billion a year (at 1994 prices) by the year 2000 when the plan is fully operational, and estimates that I have made with the help of colleagues at the National Bureau of Economic Research indicate that the CBO figures understate the true cost by about $40 billion a year.

Most of the $63 billion tax burden implied by the CBO numbers is hidden in cost-shifting through insurance companies and providers of health services. Only a relatively small part of the financing plan is an explicit increase in the tax on tobacco products. A second small piece is a 1.75% excise tax on private health insurance premiums. Although this tax of $7 billion a year (at 1994 levels) would be paid by the insurance companies, they would pass it on in the form of higher premiums.

These higher premiums would be a direct tax on individuals who buy their own insurance. Companies would offset the higher premiums on the insurance that they provide to their employees by keeping wages lower than they would otherwise be. The true burden of the premium tax would therefore fall on everyone who is now privately insured.

The largest part of the financing is a hidden tax that is built into the plan to replace the current Medicaid program for the poor by subsidized private insurance. Medicaid provides much more generous benefits than the proposed standard insurance package, since Medicaid covers a broader range of services and has no out-of-pocket copayments. Although the government would pay the insurance companies the same subsidies for former Medicaid beneficiaries as it pays for everyone else, the proposed law would require the insurance companies to provide those who are currently eligible for Medicaid with the much more expensive coverage that they have today.

That complex maneuver would save the government about $29 billion a year on the current Medicaid program and would add that amount to the annual costs of the insurance companies. The insurance firms would in turn shift it to everyone who is privately insured in the same way they would shift the explicit premium tax.

A second very large hidden tax would result from reducing government payments to hospitals and other providers of Medicare services without any reduction in the care that they are expected to give. As a result, the hospitals and other providers would just raise their prices to patients and insurance companies. In the end, it would be the privately insured individuals who bear those costs in the form of higher insurance premiums and lower wages. At 1994 levels, this, cost-shifting burden is equivalent to at least a $13 billion annual tax.

In short, buried in the CBO numbers is a projection that the Senate Finance Committee plan would have a $63 billion annual cost (at 1994 price levels) and that all but what the CBO estimates to be $14 billion in cigarette levels would be obtained by hidden taxes in the form of cost-shifting through health care providers and insurance companies.

It's remarkable that the same politicians who have produced this $49 billion in hidden cost-shifting have the audacity to say that the public should support their plan in order to eliminate the much more limited cost-shifting that occurs under the existing system as hospitals pass on the cost of free care. Indeed, to the extent that hospitals are already giving free care, the increase in formal insurance coverage gives that much less to the currently uninsured and confirms that most of the plan's cost is to achieve income redistribution, not expanded health insurance.

The CBO report is careful to note that its estimates are "preliminary" and "unavoidably uncertain," and fully half of the report is devoted to discussing why there is "a substantial chance that the changes required by this proposal—and by other systemic reform proposals—could not be achieved as assumed."

My own analysis confirms that the CBO's caution is justified and that the CBO estimates understate the likely annual cost by at least $40 billion that would eventually have to be financed by higher taxes. A key reason is that there is no way to limit the premium subsidies to those who are currently uninsured. Those who are not buying their own insurance would automatically receive the government subsidy. Those who now receive insurance from their employers could qualify for an insurance subsidy by switching to an employment situation that paid higher cash wages instead of providing health benefits.

That subsidy would be worth a very significant $2,000 for a single mother with a child who earns $15,000; if she earns $10,000, the subsidy would be worth more than $4,000. It wouldn't take long for employers and employees to recognize that some combination of new pay arrangements, explicit outsourcing of some work, and individual job changes would be handsomely rewarded by the government.

There are now more than 30 million individuals who could qualify for a subsidy. The CBO estimate recognizes that the roughly six million of them who now buy their own insurance would receive government subsidies. But when it comes to those who are already insured by their employers, the CBO assumes that only about one-fifth of the income-eligible group would eventually choose to qualify for the subsidy, leaving $27 billion of potential subsidies (at 1994 levels) on the table. It seems totally implausible to me that employees and employers would permanently pass up subsidies of $1,000-plus per person that they could get by relatively easy changes in employment arrangements. When they do choose to qualify, taxpayers would have to pay an additional $27 billion to finance the plan.

The CBO calculation also ignores the effect of the subsidy phase-out between poverty and twice poverty on the incentives to work and to report earnings. The phase-out rule that gives a women with a child $4,660 of subsidy when she earns $10,250 and then takes away more than 40 cents of subsidy for every extra dollar that she earns is a powerful incentive to work less and to shift work to the underground economy.

The CBO's report acknowledges that "the effective marginal levy on labor compensation could increase by as much as 30 to 45 percentage points for workers in families eligible for low-income subsidies" so that "some low-wage workers would keep as little as 10 cents of every additional dollar earned." But then, quite incredibly, the CBO calculations do not take into account that this would reduce reported earnings, thereby cutting income and payroll tax receipts and raising the health insurance subsidies for which individuals are eligible. Estimates made at the NBER indicate that these reactions would reduce taxes and increase subsidies by a combined total of at least $17 billion a year.

This estimate makes no allowance for the impact of increased demand on health care costs in general. Extending insurance to at least 20 million people who are currently uninsured and giving private insurance to the more than 25 million nonaged Medicaid beneficiaries would inevitably raise the demand for health services and increase health care prices. But even without that, the analysis that I have laid out shows that the Senate Finance Committee bill would cost the American public more than $100 billion a year at today's prices. The Clinton-Mitchell plan for even broader coverage would cost even more.

INCOME REDISTRIBUTION

A cost of $100 billion-plus a year to increase the number of insured by 20 million means a cost to the taxpayers of more than $5,000 for each additional person insured—a cost of $20,000 for a family of four. Since the actual insurance premiums are $2,000 per person, it's clear that most of the tax dollars in these plans are for income redistribution rather than the expansion of insurance coverage.

The most fundamental social program in a generation should not be enacted without full and careful consideration of its costs. Once enacted, the benefits would be an irrevocable entitlement for nearly 100 million people.

The ability of the politicians to hide a $100 billion-plus tax increase is both amazing and frightening. Using mandates on insurance companies or mandates on all businesses as substitutes for direct taxes destroys the budget process and provides a ready way for politicians to deceive the voters. The politics of tax and spend has entered a new era when politicians can spend $100 billion a year and hide the taxes that we pay for those outlays.

If President Clinton and his congressional allies succeed in ramming this legislation through Congress in the weeks ahead, the American people will have lost not just $100 billion a year. We will also have lost our ability to check the excesses of the political process and to unmask the chicanery of the politicians.

If political leaders want to deceive the voters, the only safeguard is a democracy in which long and careful public debate and congressional hearings can expose such deception. Although Congress has held hearings on the now defunct Clinton plan and on the broad issues of health care, there has been no serious consideration of the cost and financing of the plans that have recently emerged. The American public deserves a chance to know what we are being asked to pay and what we will get for our money. We should be suspicious of any politician who says there isn't time for such a careful examination.

Mr. NICKLES. Mr. President, this bill would result in substantial job loss. That is very regrettable.

Mr. WALLOP. Before the Senator leaves that issue, would he yield for a question?

Mr. NICKLES. I would like to plow through, but go ahead.

Mr. WALLOP. Well, there is another tax in here that is pretty ominous, and that is the 15 percent tax on every health plan premium in the State where the Federal Government takes over a system. This is the voluntary program, of course, but if the Federal Government does not like what the State has done, it takes over the system and applies another 15 percent premium tax on health care plans.

(Mrs. FEINSTEIN assumed the chair.)

Mr. NICKLES. I appreciate my colleagues' work. As I mentioned in my introductory remarks, the Senator from Wyoming has done great work in the Finance Committee in trying to inform people of the potential harm in some of the taxes. He also stated—and I did not mention this one—there is also the provision that allows the States to have a tax on premiums as well. So you have a 1.75 percent Federal tax on premiums, but it says, States, you can tax the premiums, too; that power is yours. It results in substantial job loss. That is exactly right.

Mr. President, I used to have a janitorial service when I was working my way through school, and we did not provide health insurance for our employees. Our employees worked part time. Some were married. Under the Mitchell bill, a married couple with a child would be about $6,000. We had a couple of married couples in my janitorial service. The cost for that is about $4,400. I had single adults, students, which would cost me $2,200. I could not afford it, and they could not afford it. I know Senator MITCHELL and others say, "We are going to subsidize those people. We are going to provide them the same insurance everybody else has. We are going to subsidize them and take care of that problem so they do not need to worry."

I am on the Appropriations Committee and on the Budget Committee. We cannot afford that subsidy. We cannot afford to go down the subsidy trail that we are getting ready to take.

I mentioned that it is going to cost jobs. If you do not have the subsidies—that janitorial service did not earn enough money to pay those kinds of premiums. So if you are going to mandate something that costs $6,000 per family, figure the hours and divide that out, and you are talking about increasing the minimum wage by over $2.60 per hour—well, some of these jobs only pay a few dollars an hour. You are going to be pricing those jobs out of the marketplace. So not only will you not be giving people health insurance, you are basically passing a law that says unless you have a good enough income to pay minimum wage, other benefits and health insurance, which are enormously expensive, it is illegal for you to have a job. I will tell you that there are lots of jobs which some call menial jobs, sacking groceries, sweeping floors, or whatever—but I do not think any job is menial; I think it is preferable to no job. I would hate to pass laws in Congress that tell people it is against the law for them to have a job unless they meet a certain economic criteria. I would hate to pull that economic ladder up to where they cannot even get on it and climb that ladder. That is what we would be doing with the mandates.

Some people would say this is a mandate on employers and, therefore, it does not cost individuals. I just totally disagree with that. You put a mandate that costs $6,000 on a family, and if an employer has insurance and says, "OK, I cannot afford it, but I will go ahead and do it," I will tell you who pays for that; it is not the employers, it is the employees. They lose that money. That comes in the form of a pay raise that does not come or maybe in a direct reduction, but they will lose that money. So the employer mandate is 80 percent in the Gephardt bill, and it is 50 percent in the Clinton-Mitchell bill. It still comes out of employees' wages whether it is 20, 50 or 80 percent. If you are going to mandate that an employer has to provide this coverage, then you are looking at a very expensive provision that will cost employees. Does it cost employers? I doubt it. They will pass it on.

I also noticed the majority leader saying, "This is voluntary, we do not mandate anything on anybody." The company I used to manage provides health care, but we do it for a whole lot less than $6,000. So he is mandating that I provide a much more expensive health care plan. Eighty-five percent of the American people have health care insurance today, and maybe they can afford it, or barely afford it. But many have insurance that is a whole lot less expensive than this—$6,000. So maybe if they are paying $2,000, $3,000, you are going to mandate $6,000. That is a big increase. That is a hidden tax people have not talked about and that they have not looked at. If you mandate a Cadillac-type plan, or UAW-type plan, or AFL-CIO-type plan, a lot of businesses in California, Oklahoma, or wherever, cannot afford it. That is exactly what we are getting ready to do.

My little janitor service could not afford it. So if you had this kind of mandate—unless you greatly subsidize it—we would say, no way. Some people would say, wait a minute, we are not going to do that unless you have less than 25 employees. I do not think that is in the Gephardt bill. It was not in the original Clinton bill. They said, "We are just going to subsidize it." I am not looking for subsidies, and I know Congress cannot afford that.

I have mentioned that it creates an enormous bureaucracy of entitlement programs. Most people are not aware, and they really have not focused on the cost and expansion of Government that is in the Clinton-Mitchell package. The new entitlements are enormous. Let me just touch on them. The entitlement program of subsidies for health insurance premiums creates more than $1.1 trillion in 8 years. I would like my colleagues to think about that. We have had various expansions also in Medicare, Medicaid, and so on, over the years. But nothing has ever been proposed as large and as expansive as the proposal we are debating today.

This is a new entitlement program that will expand entitlements to 57 million new people over the next 10 years. Think about that. Fifty-seven million people will be receiving subsidies in 10 years that are not receiving subsidies today. That is more than doubling the eligibility of Medicaid. That bothers me. Where is that money coming from? It is going to be coming from taxpayers and, frankly, from senior citizens, because we take big reductions in Medicaid and Medicare to pay for these subsidies.

So we are creating new entitlements, and we are going to have a subsidy program for unemployed, a subsidy program for women and children. We are going to have subsidies for anybody at less than 200 percent of poverty. Well, 200 percent of poverty is about $30,000. So you are going to be subsidizing a lot of people. You are going to be subsidizing my daughter, and right now you are not. I pay for her insurance. It is $500, but you are going to be subsidizing her and charging her $2,200, when she can buy it for $500; but we are going to pay subsidies so she can help pay it. I would just as soon keep the Government out of it and let me buy her a $500 policy. We are going to mandate that she buy a $2,000 policy, and we are going to subsidize it and have the Government pay for it instead of the private sector, or myself, paying $500 as a family responsibility for my daughter. No, we are going to create a new Government program, and it will go up to $2,000. I think that is a serious mistake.

Under the Clinton-Mitchell bill, they have subsidies that go all the way up to people making $44,000 a year, which is 300 percent of poverty. Well, they have children. That is nice, but not everybody that makes $44,000 needs a Federal subsidy, but they are going to be on the Federal subsidy rolls. Again, it is estimated that 57 million new people will be receiving entitlements under the Mitchell bill by the year 2004. That is a massive expansion of Government.

So when I hear my colleagues say, "Oh, we do not have a Government program,"—no? We are going to be subsidizing 117 million people under the Clinton-Mitchell bill. Let me repeat that. Again, these are not my figures. These are figures that came from CBO. They said by the year 1997, only 3 years from now, we are going to be subsidizing 108 million people, and by the year 2004, 117 million people. CBO figures 117 million people will be receiving subsidies under the Clinton-Mitchell bill.

This is a massive expansion of Government, estimated to cost over $1.1 trillion, and people have not even looked at it. We make speeches that we need to balance the budget, we need to cut a couple hundred million dollars here and a couple million here, and talking about expanding entitlements $1.1 trillion over 8 years and bringing on 57 million new people to be subsidized, including my daughter, who does not need a subsidy, who did not ask for a subsidy, who wants to be left alone so she can buy a $500 policy instead of the Government selling her a $2,000 policy.

This is a ridiculous and massive raid on future generations. We cannot let that happen. Again, a lot of people just are not aware of the fact that it is in this program.

Mr. President, I mentioned as well this bill has a lot of things in it for various special interest groups, and it does. It makes you wonder who is supporting it and why.

One of the groups that has been very active in supporting passage of this bill is the abortion rights group, people who want to promote and encourage abortion, people who want everybody in America to have access to abortions. And that includes President and Mrs. Clinton. Unfortunately it is in the Mitchell package, and I am sure it will be in the Gephardt package. And I am sure in whatever package comes out of the conference committee, it will be in there as well.

This bill promotes, expands, and subsidizes abortion in a way untold of in our country. Let me just touch on a couple ways. I will even refer to section numbers.

A lot of people are not aware abortion will be covered as a part of every Federal benefit package. It is not today. Also, every worker will be required to pay for abortions with taxes and health care premiums. They are not today.

Federal employees can choose whether they want to have abortion coverage or not. Individuals can choose whether they want to buy a plan that covers abortion services or not. This says no. Under the Mitchell bill abortion services are covered whether you want them or not.

We might keep in mind this is supposed to be a health care bill. We also might keep in mind that abortion terminates the life of an unborn child. It kills an innocent unborn child, and this bill is saying we want it to be in every health care plan in America. That is serious. It is, whether you want it or not. There are no opt-out provisions—whether you want it or not.

Then it goes a little bit further and says we are going to subsidize it. Right now there is the Medicaid population, which is more than doubling under the Mitchell package. We do not subsidize abortion except for cases of rape and incest or in case of the mother's life in danger. In other words, for 99 percent of the abortions which are performed, we do not pay for them—we do not pay for them. We pay for very, very few on a Federal level, and I think that is appropriate.

This bill says no, no, you are going to pay for it; it is going to be in every health care package. Taxpayers, you are going to pay for it, too. Under the Medicare population, hey, we are going to put it in the plan. This is going to be a benefit. A lot of people will use it like a benefit. They will use it for birth control purposes. And just as in D.C. where the majority of abortions are performed on people who already had one, two, or three abortions, you will find this being the case if we put in this package.

That is really troubling, telling the people we are going to take taxpayers dollars to be used to pay to destroy an innocent unborn child. Unfortunately, it is in this package and it should not be in the package.

Then the bill has another massive expansion of abortion services that the bill requires. On page 77, section 1128, the bill requires federally-guaranteed services, including abortion, to be uniformly available across the Nation, and readily accessible within each service region in each State.

Madam President, most States do not have abortion services everywhere. Most States have them in big cities. They do not have them in rural counties. This is going to mandate those services be available whether people want them or not. They are going to mandate that those services be available. That is a massive expansion and that is a massive promotion of abortion.

I think again it is a very, very serious mistake. That again is catering to a special interest group that has an agenda in this legislation, and that bothers me.

Madam President, there are some other special interest provisions in this bill, one of which I almost find interesting, but I hope that someone will pay a little attention to. Last week the American Association of Retired Persons endorsed this package. We note in reading the bill—I hope I am reading the right bill and the right section because we have three different Mitchell bills. I find a very interesting proposal in the Medicare prescription drug benefit. Even in the last few days, I heard many colleagues talk about what a great benefit this would be for seniors. Madam President, I am not so sure that is the case.

Now, we have before us a proposal to add a benefit to Medicare that once again many seniors already have through Medigap coverage. The bill does not even tell us what the bill will be. We do not know what the deductible will be or how it will compare to policies most seniors already have. Again, keep in mind 75 percent of the senior citizen population already have a Medigap policy. Many or most of them cover prescription drugs. Here is what the bill says about the deductible.

> Section 2002 (a) state the deductible amount for purposes of subparagraph (a) the deductible amount is amount equal to the amount determined under iii.

That section begins on page 273. It states: For purposes of clause I the amount determined under the clause is (I) in 1999 the amount to be determined by the Secretary is such the amount determined will result in projected incurred spending administrative cost providing for payment under this for covered title outpatient I equal the intention target of $13.4 billion.

In other words, sometime in 1998 the Secretary will sit down and figure out how high to set the deductible. The overall cost of the new program to offer drug programming $14.4 million.

It means senior citizens will have to pay higher for a benefit that may be less generous than they now have under Medigap. Unless the organization understands this on the Mitchell bill—the AARP announced support for the bill on August 9.

My office, and I imagine other offices, was contacted by constituents who say that they want to share their belief that they do not agree with the AARP and they do not agree with this bill.

Mr. President, I do not know why they endorse the bill, but there is a very interesting provision on page 281. The provision authorizes the Secretary of HHS to establish a mail order pharmacy option under Medicare. Under this program the Secretary would solicit bids from various mail order pharmacies, enter into contract with one or more pharmacies to offer prescription drugs through the mail to beneficiaries.

In paragraph 6 (a) the payment amount for covered outpatient drug delivery through mail order pharmacy under such contract will be equal to the amount bid by such plan under the subparagraph instead of the payment limit determined in accordance with paragraph 4.

Paragraph 4 begins on page 277, line 13. This paragraph sets payment limits, price controls, for the maximum amount the Medicare will pay for prescription drugs, but mail order pharmacies are exempt from payment limits. In paragraph 4 they are exempt. So we are going to have price controls on drugs except for mail order pharmacies. That means mail order pharmacies who contract with the Secretary of HHS can charge Medicare more for a particular drug, than a pharmacy or other supplier.

So we are going to have price controls on everything else except mail order pharmacies. Mail order pharmacies would be given special treatment under this bill. They will be the only supplier of prescription drugs that charge more than the Government-imposed price controls.

What happens to a senior who ends up paying more for a drug through a mail order pharmacy?

Subparagraph 6(b) says on page 281, beginning on line 20: Such individuals receive from the Secretary a rebate or contribute toward individual cost sharing amount equal to 25 percent excess of payment limiting to reimburse seniors who get stuck, because we did not have price controls on mail order, and put it on everything but not pharmacy.

That is interesting. In other words, the Secretary which means, by the way, the taxpayer, will rebate 25 percent which the mail order pharmacy price exceeds the Government mandated price for the drug.

So every dollar that the mail order charges above the Government payment limit, the taxpayers are out 25 cents for rebate, and the Medicare beneficiary is out 75 cents. The mail order pharmacy pockets the dollar.

Madam President, I do not know why mail order pharmacies are made exempt from the stringent price controls imposed by Government in this legislation, nor why AARP endorsed the Clinton-Mitchell bill.

But I do note that the AARP operates one of the largest, if not the largest, mail order pharmacies in the country. It also is the case that any mail order pharmacy that wanted to contract with the Secretary will be exempt from price controls that apply to all other manufacturers and suppliers of prescription drugs. In this instance, with the special treatment of labor unions in this bill, a powerful special interest is receiving special treatment.

Does this go all the way back to the individuals who were putting this bill together in a cloud of secrecy and, quite frankly, in all probability illegally? Is this the reason this Times article alluded to the administration wanting to seek settlement of the health suit so people will not find out what went on behind closed doors? Is this the reason Ira Magaziner said all members of the staff were Government employees when they are were not? Is it a fact that there were actually people on the task force serving as staffers, putting this package together, working for special interest groups, maybe working for special interest groups like AARP, so they could exempt mail order pharmacies; maybe working for special interest groups like the National Organization of Women and other groups that are trying to promote and expand abortion access throughout the country; or maybe special interest groups like organized labor, which has certain exemptions from some of these actions I have alluded to?

Madam President, I will just mention one final comment, and that is in the area of medical malpractice reform. In the bill that I introduced originally, the consumer choice bill, we had medical malpractice reform. Senator CHAFEE's bill has medical malpractice reform. Senator DOLE's package has medical malpractice reform. The Clinton-Mitchell bill is a sham. It preempts State laws in 20 States, where they have done some good work to try curb medical malpractice. It preempts those.

Basically, it does nothing that would help to get down excessive litigation and excessive defensive medicine; again, a serious mistake.

I believe, again, it caters to special interest groups. The American trial lawyers support this legislation.

Madam President, I think there are several fatal flaws in this bill. I want to repeat one, this idea when I hear somebody say this bill is voluntary, but yet they tell me what benefits I have to provide. When I see CBO says the cost of this bill is $6,000 per family, I do not think that is voluntary. When they tell me if I have a benefits package that does not quite fit this one, that I am subjected to a 35-percent tax surcharge, I do not think that is voluntary. When they tell me that if I have a high-cost plan there is a 25-percent tax surcharge that would push me down to have the same benefits that Government deems appropriate, I do not think that is voluntary. When they mandate that you provide abortion service when you do not want to, mandate that this be subsidized, and mandate they be in rural communities in North and South Dakota and Oklahoma, that is not voluntary.

Madam President, there is an enormous bureaucracy, there is enormous taxes, over $300 billion in taxes. There is enormous new spending, $1.1 trillion in new spending and new bureaucracies, over 50 new agencies and boards and commissions, some of which are worthless and some of which have enormous power, enormous power, where boards will be determining what benefits everybody in America will have, where boards will be determining the power of price controls, and so on. That is a serious mistake. That is a Government-controlled plan that we have before us. This is doing harm.

And I opened my comments saying, let us do positive health care reform that helps the system. Let us take care of preexisting illnesses. Let us make sure people are not terminated from their insurance because they become ill, or see their insurance rates skyrocket. Let us put in some portability provisions. Let us put in some real medical malpractice reform. Let us simplify the paperwork. We can do a lot of things in a bipartisan fashion and we have this year, but this is not the solution. This is a prescription for disaster. This is a prescription for big Government. This is a prescription for the quality of health care to go tumbling down, and we should not let that happen.

Madam President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield to the distinguished Senator from South Dakota such time as he may desire.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for as much time as he will consume.

Mr. DASCHLE. I thank the distinguished Senator from the Finance Committee, the manager of the bill, and I appreciate having the opportunity to speak again on many of the issues that we began addressing last week.

I could not help but note the many references made by the distinguished Senator from Oklahoma to the Mitchell bill as a "Government plan." I would also note that last week a number of Members on both sides of the aisle expressed their concerns regarding the mischaracterization of either the Mitchell bill or Dole bill.

I was interested in a comment made by our Majority Leader just yesterday about references made on the other side of the aisle to a "Government health plan." I find it ironic that while the Republicans claim they oppose Government health plans they have not introduced, as far as I am aware, a bill to repeal Medicare, a Government plan. I do not know of any Member on the other side of the aisle who has proposed that we repeal FEHBP, the Federal Employee Health Benefits Plan, a Government plan. I do not know that anyone has introduced a plan or a bill or a proposal at this point to repeal the Veterans Administration, another Government plan.

As Members of Congress, when we visit the doctor, we go to Bethesda Naval Hospital or Walter Reed, both Government hospitals. When we need a doctor, we go to the Capitol physician, an employee of the Federal Government.

So, in essence, what my colleagues on the other side of the aisle seem to be telling the American people, is that Government is good enough for us but not for you. Government is good enough for us when we get sick, when our families get sick, when we have an emergency, but it is not good enough for you.

That would alone makes a very compelling argument about the kind of duplicity that occurs sometimes on the Senate floor, except for the fact that the Mitchell bill is not a Government plan. In fact, it is ironic that anyone would call it a Government plan since the 30 million Americans currently covered under Medicaid, a Government plan, would now be covered by private insurance.

What we are saying is that there ought to be some regulatory framework. And if it is not Government who creates that regulatory framework, who does?

Do we just turn over the entire system to the insurance industry for them to do whatever they wish? Do we turn it over to the doctors, the hospitals? How would it be if we let the airline industry run the entire system without any kind of oversight and regulatory control by the FAA. As we all know, because of this oversight the United States has one of the most safe—if not the safest—air control systems in the world today.

How would it be if our banking system did not have a regulatory framework? How would it be if we simply threw the entire system of highways open to the private sector and let them design roads for whatever purposes they deemed appropriate?

That is all we are saying, that we want that some framework, some standards and safeguards in our health care system. I think everyone recognizes the need for standards. To say that our banking system, our air traffic control system, our highway system is entirely run by the Government would be a gross exaggeration and an overstatement. The same is true when others characterize the Mitchell bill as a system run by the Government. So I hope we could properly characterize the Mitchell plan and recognize that we must have the kind of oversight and framework that we have been able to acquire in other sectors of our economy. I certainly hope, ultimately, when we pass the legislation that I know we can pass in the coming weeks, that it will recognize the importance of a private sector system in an appropriate governmental framework.

There are a number of provisions that we all indicate are important to us. We have heard speeches on both sides of the aisle about the importance of uniform coverage. We have heard statements about the importance of effective cost control. We have heard many statements from Members of both sides of the aisle that if indeed we do anything, we have to ensure that there be market reforms.

Finally I think I have heard Members on both sides of the aisle repeat with some frequency how important it is that we give the American people the same opportunities for coverage that we have in Congress. Those are statements made, I think, with similar frequency on both sides of the aisle. But when you really begin to compare what is offered by the Republican leader and what is offered by the majority leader, you begin to see there is a difference between rhetoric and fact, between statements of intent and the actual creation of a mechanism to accomplish what we say we all want.

So I would like to spend a little time this morning talking about the way both bills address those things that we feel are critical to meaningful health reform. When I say "we," I am talking about Members on both sides of the aisle, Republicans and Democrats, who acknowledge the importance of universal coverage, effective cost containment, who acknowledge the importance of meaningful insurance reforms, and access to a health system that we as Members of Congress take for granted.

Universal coverage, I think, is an important beginning. Universal coverage has certainly been the subject of a great deal of analysis and discussion and consideration for many years. The Clinton administration made universal coverage its No. 1 goal. Senator MITCHELL, the majority leader, has indicated that his bill would put us on the road to universal coverage by a date certain, reaching at least 95 percent coverage by the year 2000.

The Dole bill, as I indicated last week, is just beginning to be better understood. We have not had a chance to look at all of its provisions in great detail and subject it to the analysis of CBO, which will be performed at some point.

But we do know this: We do know that the Dole plan leaves millions of Americans uninsured. On that fundamental goal that we deem so critical, according to a Lewin-VHI analysis, the Dole proposal leaves out three out of four uninsured Americans by the year 2000. So, 75 percent of those who are uninsured today will be uninsured under the Dole bill in the year 2000—6 years from now. More than 6 million children will still be uninsured under the Dole bill at the end of the decade. Congress is not even required to consider recommendations for achieving the goal of universal coverage.

Madam President, if we enacted the Dole bill today, 30 million Americans would still not have health insurance 6 years from now. That is one of the biggest differences between the Dole bill and the Mitchell bill. Not only are we reversing the downward trend of insured Americans today under the Mitchell bill, going from 85 percent to 83 percent just in the last 2 years—the Mitchell bill would reverse that trend. According to the Congressional Budget Office, health insurance coverage would jump from 83 percent in 1994 to at least 95 percent by the year 2000. Attaining universal coverage, our most fundamental goal, is one of the real differences between the Dole and the Mitchell bills.

So what is the implication to that? It is not just an egalitarian motive. It is not just important we provide coverage to everybody simply because it is the right thing to do. What expert after expert has reported to the Congress, what Lewin-VHI has indicated in their reports to the Congress, is that if we fail to achieve universal coverage, the extraordinary problem of cost shifting will continue. An individual who is uninsured today will is most likely to get care in most expensive setting possible, in an emergency room. Despite their lack of insurance, the hospital will still provide care to them. However, the hospital will shift these uncompensated costs onto others. These uncompensated care costs will be shifted onto the insurance companies, shifted onto individuals, shifted onto businesses, shifted onto the Government. Everybody but that individual receiving the services will be required to pay something for the costs associated with uncompensated care provided in the emergency room or any other setting. This cost shifting has increased premiums by as much as 30 percent. Under the Dole bill, since it does not achieve universal coverage, cost shifting will continue.

So we have a very fundamental difference of opinion with regard to what ought to be the ultimate goal of meaningful health reform. The Mitchell bill, quite simply, says let us achieve 95 percent coverage in the next 6 years. And let us get onto the road to universal coverage sometime shortly after that. And let us end the very serious problem of cost shifting by achieving universal coverage.

The Dole bill says that achieving universal coverage is something we just cannot do. The best we can do is try to insure one out of every four Americans over the next 6 years, leaving three out of those four who are uninsured, still uninsured even in the year 2000.

So I think that is something everyone ought to fully appreciate as we are beginning to analyze how we compare and contrast the Dole and Mitchell bills in the coming days.

The second issue has to do with cost containment. If there is another very critical point upon which there is vast agreement in the speeches on either side of the aisle, it is that we must have effective cost containment. It is no secret that costs have skyrocketed over the last several years. We are now at 14 percent of GDP: CBO says if we do nothing we could reach 20 percent of GDP in the next 6 years. So clearly cost containment is something that we all recognize is critical to meaningful health reform.

Universal coverage is essential to cost control. You cannot really have one without the other. You cannot have meaningful cost containment if you leave a lot of people uninsured and out of the system because, again, cost shifting is going to drive up costs, both administrative and direct costs.

There is no cost containment anywhere to be found in the Dole bill as it is currently written. And for that reason alone, I think you could call the Dole bill the Insurance Industry Protection Act. Furthermore, the market reforms in Senator Dole's bill are riddled with loopholes and fine print and will not encourage competition on price and quality.

Many people have indicated the Mitchell bill is 1,400 pages; the Dole is about 700 pages. I think I happen to have both of them right here with me. It is half as thick because it does half as much. It does little, if anything, on universal coverage, and it does virtually nothing when it comes to cost containment. Cost shifting, as I indicated, has cost businesses more than $40 billion more per year than they ought to be paying—that $40 billion could be going into higher salaries, more profits, greater dividends for shareholders—$40 billion that makes us completely uncompetitive when it comes to our international competition.

There needs to be a recognition that cost-shifting costs the individual family 15 to 20 percent more in higher premiums to cover the uninsured. So without any doubt, employers are paying the price today for those without coverage. The free-rider competitors that are not required to contribute to health insurance are the ones shifting the costs of their employees coverage onto businesses that do not provide insurance.

If we do not have meaningful cost containment, if we do not have a way to ensure that businesses can control their health costs, then I have to tell you, Madam President, I think we will have failed as a country—we certainly will have failed in the U.S. Senate—to respond to those businesses who have made it very clear to us, that, while they want universal coverage, they also need more confidence they can control their future health care costs.

A family in 1998 making between $30,000 and $40,000 would pay $713 more in a nonuniversial system than with universal coverage, according to Lewin VHI.

So businesses and families beware, if we pass health insurance reform without effective cost containment, costs will continue to rise. That, Madam President, will be a tragedy not only for those families and businesses, but for the economy, for competitiveness, and for health security.

We should recognize that the Dole bill is substantially different when it comes to cost containment than the Mitchell bill. Time after time, we have heard on the other side of the aisle how the Mitchell bill fails to achieve the goals the Clinton administration has set out. Let me tell you, there is no comparison between the Dole bill and the Mitchell bill when it comes to cost containment. In the Dole bill, there simply is no cost containment. Everyone should recognize this as we deal with this issue over the next several days.

The third issue that we have discussed at some length has to do with insurance market reforms, and the fact that if, indeed, we are going to build upon the current system, we must recognize some of the inadequacies of the current system. Many insurance reforms have been proposed over the years.

But the Dole Insurance Industry Protection Act, leaves out many of these reforms. The Senator from Oklahoma earlier had made a point about the fact that both Dole and Mitchell eliminate preexisting condition exclusions. In fact, the Dole bill does not eliminate preexisting condition exclusions. They are still allowed.

Anyone who has had the chance to read the bill carefully will be concerned about the coverage that one is allowed to acquire if they lose their job, if they move to another State, if there is a change in their personal circumstances. There is no guarantee of portability, Madam President, in the Dole bill.

Third, the Dole bill contains, in effect, a 15-percent premium tax. It allows insurance companies to charge up to 15 percent in administrative cost to anybody who is in the community-rated pool; 15 percent over and above the standard premium.

Fourth, access to an FEHBP plan—something we say ought to be available to all Americans—is limited.

And fifth, there is absolutely no guarantee of choice. In fact, under the Dole plan, you may not even have a fee-for-service plan available to you.

I want to talk briefly about all five of those points, if I can, because I think they are very noteworthy and, again, a significant departure from what the Mitchell bill attempts to do.

As I said at the beginning of my discussion with regard to market reform, perhaps the only issue about which there is no disagreement, that we ought to do as much as we can to eliminate preexisting condition exclusions. The preexisting condition exclusion, precludes someone with any medical condition or disability from obtaining coverage for that condition—if they have heart disease, if they have cancer, if they have diabetes, if they have any one of a number of diseases today, often they cannot get insurance.

If they acquire those diseases after they have insurance, chances are at some point in the process, they will be dropped. As was indicated, there probably are differences with regard to how we would interpret preexisting conditions, but there is no difference at all in the stated determination on both sides of the aisle to eliminate preexisting condition exclusions. And yet if you look at the Dole bill, in spite of its stated intentions, coverage can be denied up to 12 months for individuals with preexisting conditions and 6 months for those purchasing coverage in a group. While the Mitchell bill phases out preexisting conditions entirely with universal coverage, during the transition period, the exclusion is only for 6 months.

Let me try to contrast the Mitchell and the Dole bills on this point.

Under the Mitchell bill, there is a 6-month exclusion allowed initially but it is phased out entirely over a 6-year period of time. Under the Dole bill, a 12-month exclusion is allowed for an indefinite period of time. So 10, 15, or 20 years from now, if you have a preexisting condition, you may be excluded from your insurance company's policy for whatever preexisting condition you may have.

What kind of coverage is that? What kind of protection, what kind of security, what kind of guarantee are we providing the American people if after 10 years, a preexisting condition can still preclude you from getting the kind of care that you ought to have?

Clearly, there is a significant difference between the Mitchell and the Dole bills when it comes to insurance market reforms, specifically regarding preexisting conditions.

The Dole bill also contains exceptions to portability. Senator DOLE's bill allows insurance plans to enroll individuals and firms on a first-come-first-served basis. Insurance companies and their agents can, therefore, control who they will insure. They may want to insure only a white collar group in the middle of a city. They may not be interested in insuring farmers or an agricultural co-op in South Dakota. Under the Dole bill, they will have that right to preselect, to enroll people that they might prefer to have in their plan, leaving vulnerable those who cannot enroll.

Madam President, the Mitchell bill does something entirely different in this regard. It guarantees everyone an equal opportunity to enroll in the plan of their choice, regardless of what point during the open enrollment period they sign up for coverage. The insurance plan must take everybody up to its capacity. If you want to enroll in Blue Cross/Blue Shield, that is your right. If you want to enroll in some other plan, that is your right.

So we talk a lot about the importance of having choice of plans and providers, but there is a substantial difference between what the Mitchell bill will do with regard to the opportunity for individuals to enroll in the plan of their choice and what the Dole bill does in this regard.

I mentioned another aspect of market reform, Madam President, the fact that the Dole bill includes a 15-percent insurance company premium tax. The Senator from Oklahoma talked a good deal about taxes in the Mitchell bill. I wish I had time to go through a clarification of many of those taxes he pointed to.

The Mitchell bill does say there will be a 25-percent tax, only on those plans whose premium increases exceed a target rate. That is, if a plan exceeds the CPI plus a certain percentage, there is an automatic mechanism to contain those costs in the future by levying an assessment on those plans. There is nothing like that in the Dole bill. If an insurance company wants to charge policy holders 15 or 20 percent in additional premiums, that is their right. There is nothing in the Dole bill to control insurance company premiums. There is no commitment to restrain growth in a given year.

The Dole plan says, "Go ahead, insurance companies, continue to increase your premiums at 15 or 20 percent; we're not going to stop you."

But we are going to let you charge 15 percent above your base premium for community-rated plans—we will allow a 15-percent administrative charge to be tacked on to all insurance plans.

Mr. WALLOP. Will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield at the end of my statement. I note that the Senator from Oklahoma preferred to continue with his statement, so I will do that, and I would be happy to open it up to the distinguished Senator from Wyoming if he so chooses afterward.

The fourth point that I make, Madam President, has to do with access to FEHBP, the Federal Employee Health Benefits Plan. The Dole bill does not provide everyone access to FEHBP, in spite of the fact we all have indicated that that is something we ought to provide. We talk about the importance of giving the American people the same coverage we have, and I think that is a fundamental difference, between what the Republicans have proposed and what we are proposing.

Under the Dole plan, the only people that would be allowed access to the FEHBP are those who are working for an employer who chooses an FEHB Plan. But there is a further constraint in order to be eligible for FEHBP. You must work for an employer with fewer than 50 workers. If you work for any employer with more than 51 workers, you are out of luck.

In spite of all the recognition of the importance of having access to the Federal Employee Health Benefits Plan, under the Dole bill any employer with more than 51 people is automatically excluded from FEHBP. And that is not the only constraint. Outside enrollment is limited to 5 percent of the health plan's overall FEHBP enrollment. If the Dole bill were to pass, FEHBP would be available only to 5 percent more individuals.

On top of that, the Dole bill suggests that people who are not Members of Congress or employees of the Federal Government would pay a 15-percent surcharge for enrollment in FEHBP. Apparently what we are saying is it is OK for us to have discounted premiums, but if you are going to enroll in the same plans that Members of Congress have, you may have to pay 15 percent more. You can be a worker with a limited income, working for a small businessman who for the first time may be offering insurance. You can have the same access to the plan we have if your employer chooses to give you access to an FEHB Plan, but if you go through all these hoops and hurdles, you still have to pay 15 percent more than what Members of Congress pay for the same coverage. That is the Dole provision on FEHBP.

Finally, under market reform, Madam President, let me touch on another matter that I think is very important. We have heard a lot of discussion about choice—choice of doctor and choice of health plan. Under the Dole bill, cooperatives and employers are not required to offer a choice of plans or a choice of doctor. They may offer their employees plans that do not include a fee-for-service plan. Employers do not have to make available a fee-for-service plan. You can offer anything you want. So if your employer decides to go for the least-cost plan, he may sign you up with an HMO, a PPO, or a plan with very limited options, and if you are the employee, you have to take that policy, or you do not take anything at all.

Where is the choice? We talk a lot about choice just as we talk a lot about universal coverage and cost containment and market reform. But where is the choice if an employer today can deny you the same choices that the Mitchell bill, the Clinton original bill, and all of those plans have said is so critical to meaningful health reform? Where is the choice when an employer can cut you out of a fee-for-service plan, and can restrict your choice of doctor? There is no choice, and that is something I hope will be well understood as we compare and contrast the Mitchell and the Dole bills.

The next point that I think has been made in the past but is worth repeating is the importance of cost when it comes to the working families.

I have a chart that outlines the average cost of a plan in terms of percent of income under the Mitchell bill. Under the Mitchell bill, if you have an income of $22,172—that is about 150 percent of poverty—your payment would be $1,471, which is about 6.6 percent of family income. Under the Dole plan, the average premium would be $5,883, or 26.5 percent of family income. That is the difference, Madam President. A working family of four with a reasonable income of $22,000 will pay 6 percent of their income under the Mitchell plan, and 26 percent under the Dole plan.

If you look at the impact on children, the situation is even more stark. Under the Mitchell bill, that same family with a $22,000 income, at 150 percent of poverty, would pay no premium to cover two children. Under the Dole plan, a family with children would pay 26.5 percent of their income in premiums.

As we go through these calculations, it becomes clear the Dole plan is an expensive plan. The Dole plan not only does not cover everybody, but costs will be very high for those it does cover.

Madam President, a question was raised today about why seniors would support the Mitchell bill and not the Dole bill.

I think it is pretty obvious why the Mitchell bill enjoys the support of seniors across the country. The Mitchell bill is endorsed by AARP and many individual seniors because it does something for seniors. It recognizes the importance of prescription drug coverage for seniors. It recognizes that more than 18 million Americans over the age of 65 would obtain drug coverage under the Mitchell bill, but would have no coverage under the Dole bill.

The Dole bill does not ensure drug coverage for seniors. It leaves seniors completely out in the cold.

It is not just seniors who are left out. I mentioned earlier the fact that businesses are going to absorb $30 billion this year to cover the uninsured. We are told by Lewin-VHI, if we do nothing or if we pass the Dole bill, the cost shift on American business today would go from $30 billion to $45 billion by 1998.

That is a substantial increase in the cost that businesses are going to have to absorb simply because there are currently free riders in the system today. Family coverage will still be one-third more expensive in 1998 than it is right now to pay for these free riders. Under the Dole bill, there are no employer discounts, no incentives to provide coverage, no guarantee that we are going to end the cost shifting. Businesses, small and large, are going to continue to absorb the costs that they are absorbing today. They are just going to absorb a whole lot more.

Finally, let me touch on an issue that is very important to the manager of the bill, the chairman of the Finance Committee. We have talked at length about research and work force training. These topics are important not only to the State of New York but to every State. Science is important. Medical research is perhaps the key to our long-term future. We must continue to send the message, not only to those in our country but around the world, that we are going to invest in technological innovation and medical research in a way that gives us the ability to respond to the medical problems that we have in the country today.

Under the Dole bill, there is no additional Federal money for research or work force training. Under the Dole bill, the only additional NIH research funding would be funded through a voluntary $1 tax return add-on. This is another reason why the Dole bill is slimmer than the Mitchell bill. The Dole bill leaves out research.

(Mr. BYRD assumed the chair.)

Mr. DASCHLE. Under the Dole bill, public support for academic health centers is reduced without any increase in coverage or funding to offset the loss from the reduced ability to cover costs from the private sector.

Mr. President, I hope that as we go through the coming days we will have the opportunity to compare the Dole and Mitchell bills, and that we will have the opportunity to prove that the Mitchell bill is a thicker bill because it simply does more. In fact, I believe it does more than twice what the Dole bill does. I hope that throughout the day today we will have opportunities to revisit many of these issues again.

I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I am about to yield to the Senator from Texas 3 minutes. But let me say to my friend that I do not know why anybody is talking about the Dole bill a lot of us have cosponsored. It has more cosponsors than any other bill around. But the fact of it is that we are not to be allowed to debate it or discuss it because we are not to be allowed to have CBO's estimate on it. We are not to be allowed because it is taking place behind the House's need for CBO's estimate. We have the CBO estimate on the Clinton-Mitchell bill. But we are not to be allowed. So whatever you say about the Dole bill may or may not be true. I suggest that I quarrel with most of what the Senator said. But the fact of it is, it is irrelevant because we are not to allowed to have that as a part of the debate.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized for 3 minutes.

Mr. GRAMM. Mr. President, in listening to our colleague from South Dakota, I am stunned that anybody could be against the Mitchell bill and be for the Dole bill. Listen to what our colleague said. He said if you are making $22,000 a year, under the Dole bill you will have to pay 26 percent of your insurance premiums. Somebody else is going to pay the rest of it. Under the Mitchell bill, you are only going to pay 6 percent, and somebody else is going to pay the other 94 percent.

Our dear colleague from South Dakota said that under the Mitchell bill, we are going to give $96 billion of new benefits to our senior citizens. How could anybody listening to those wonderful numbers be for the Dole approach and not be for the Mitchell approach? There is only one reason, and the reason is that the Mitchell bill cost $1.1 trillion over a 10-year period.

In 1950, the average American family with two children sent $1 out of every $50 it earned to Washington, DC. Today, that same family sends $1 out of every $4 it earns to Washington, DC, and under the Mitchell bill, in 10 years that family would send $1 out of every $3 it earns to Washington, DC.

So there is only one reason that someone would not think it is such a great and wonderful idea for the Government to give all of these benefits away. And the reason is the Government is broke. The reason is that when somebody gets something for nothing from the Federal Government, some working person somewhere gets nothing for something. Who is paying for all of these great subsidies? Who is picking up the cost of the other 94 percent of the cost of health insurance under the Mitchell bill? The taxpayer. Who is picking up the tab for all of these new and wonderful benefits that we all wish the Lord had simply provided? They probably were provided in the Garden of Eden. But having arrived in the state we are currently in, ultimately the only way we can give things away is to take them from other people.

There are literally tens of millions of Americans who believe that we have already taken away too much from the people who do the work, pay the taxes, and pull the wagon in America and that this process has to stop.

The big difference between the Dole bill and the Mitchell bill is that the Dole bill seeks to reform health care by promoting a more efficient system. The Dole bill will help working people by paying part of their premiums, not as much as the Mitchell bill—but without the 18 new taxes found in the Mitchell bill. The Mitchell bill has 40 new Government regulatory agencies, and over 100 unfunded mandates.

It is a miracle what you can do with $1.1 trillion, which is what the Mitchell bill would spend in a decade. There are only two problems, however. No. 1, it is not our money. No. 2, the only way we can get the money is by reaching into the pockets of the working men and women of America and taking it away.

So if all you want is more Government, then you are for the Mitchell bill because it gives you more Government, and it gives you more Government in a greater abundance than any other bill ever considered in the history of the United States of America.

The problem is that the American people do not want all of this Government. That is why the Mitchell bill is losing, why the Gephardt bill is losing, and why the Clinton bill has lost. The sooner we stop talking about all of the free things that are given away and start talking about how we are going to pay for them, the sooner we might actually be able to write a bill that would meet the needs, not just of all the people riding in the wagon, but meet the needs of the people pulling the wagon.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon, [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I believe the Senator from South Dakota has a statement. Are we under controlled time?

The PRESIDENT pro tempore. We are not under controlled time. The time is equally divided.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator does not have the floor.

Mr. PACKWOOD. I yield such time as the Senator from South Dakota may need.

The PRESIDENT pro tempore. Does the Senator from Oregon yield for a parliamentary inquiry to the Senator from Nevada?

Mr. PACKWOOD. Yes.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator will state the parliamentary inquiry.

Mr. REID. I was told by the manager of the bill on this side that we would go side to side, and that I would have time during today. That being the case, the Senator from Texas just completed his statement.

The PRESIDENT pro tempore. The Chair is not aware of any such provision in the unanimous-consent agreement.

Mr. PACKWOOD. I wonder if I might solve it in this fashion. I apologize to the Senator from Nevada. Senator GRAMM indicated that he wanted to respond to a point raised by Senator DASCHLE. When we were debating this last week, we went to one side and then to the other. I would appreciate it because the Senator from South Dakota has been waiting and was scheduled to go—his statement is not a long statement—if he could do it. Senator GRAMM says he spoke 2 minutes 20 seconds.

So I would very much appreciate it if the Senator from Nevada would indulge us. I apologize if that agreement was made. But Senator PRESSLER was from our standpoint scheduled to go next.

Mr. MOYNIHAN. Mr. President, I am sure we can work this out. Senator GRAMM's intervention was in the way of a response to a specific point that had been made by the previous speaker. I had fully expected that there would be a proper address on this side, and at the conclusion of which the Senator from Nevada will have as much time as he would like.

Mr. PACKWOOD. I thank the chairman. I thank very much the Senator from Nevada. I yield such time as the Senator from South Dakota may need.

The PRESIDENT pro tempore. It is the Chair's understanding now that no order has been entered for alternate recognition.

Mr. MOYNIHAN. Mr. President, I do not know that this would be necessary. I believe that as the respective managers we have worked this out on the basis of comity. It may be that a time will come when no speaker appears on one side and the attendance is not excessive, as is evidenced by the graciousness of the President pro tempore to preside. We do not request that.

The PRESIDENT pro tempore. The Chair understands. The Chair will have to make it clear that the Chair will accord recognition on the basis of the rules, unless an order is entered that there be alternate recognition.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, let me begin by saying that I welcome the debate which will occur over the next few weeks. It will be a spirited debate, and it will force us to take a stand on difficult issues. It also will require us to stop the rhetoric and begin voting. As we debate, we must not overlook one simple fact: Health care reform will literally affect every man, woman, and child in this country. We need to proceed with extreme caution. Our decisions will impact all of our constituents.

We all agree that our health care and health insurance systems need some reforming. Our differences are not about whether we need reform. Rather, this debate is about how best to reform those systems. The health care debate really boils down to one simple question: How much Federal Government do we want in our health care system?

Medicine is defined as the study, treatment, and prevention of disease. Our medical system is one of the best in the world. In 1920, the average life expectancy of an American was 54 years. Today, that has climbed to 75. In 1920, the 10 most serious diseases were tuberculosis, influenza, pneumonia, nephritis, sclerosis, cephalitis, diphtheria, whooping cough, measles, and gastritis.

Today, vaccines and medications have greatly reduced the occurrence of these disorders. Over one-half of all medical technology—the life-saving machines, treatments, and medications that make our system great—have been developed in the United States. Over 90 percent of our medical technology is developed in the private sector.

Despite its flaws, our medical system is the best in the world. It does work. Our system has enabled us to live longer and more productive lives. Change for change's sake must not be permitted to jeopardize this achievement.

The primary focus of the health care debate has been on those Americans who do not have health insurance. We need to help them. This can best be done, in my judgment, through insurance reforms and subsidies. However, the health care debate has failed to focus on those Americans who do have health insurance. An estimated 85 percent of Americans have health insurance. We cannot forget them in this debate. We must not jeopardize the health care of these individuals.

A poll conducted by a newspaper in my State indicated that 80 percent of all South Dakotans were satisfied with their health insurance. Poll after poll confirms that most Americans are satisfied with their health insurance. Consequently, I ask, why do some advocate a radical overhaul of the entire health care system?

Do Americans desire to pay less for their health care? Of course. Can steps be taken which will reduce medical costs? Of course.

Do Americans want some changes? Yes, they do. However, they do not want reform just for the sake of reform.

Mr. President, my point is this: We need to listen to all Americans. They are telling us to proceed with caution and to fix only the broken elements of the system. South Dakotans are letting me know how they feel. My office has been receiving over 100 calls and letters each day on this issue. Between the time the President introduced his health plan last fall and April 1 of this year, over 19,000 South Dakotans contacted me to express opposition to all or part of President Clinton's health plan. The message is clear—South Dakotans do not want a Government-controlled health care system.

I normally do not find myself quoting newspaper editorials. However, several papers in my home State have printed editorials that reflect the sentiments of South Dakotans. The Mitchell Daily Republic gives this advice:

> There's no question that changes in health care are needed. But to change for change's sake would be folly.
>
> Our advice: Slow down. Depoliticize. Do it right the first time.

The Yankton Press and Dakotan writes:

> Bulling through "something" that will get a majority vote in Congress may be good politics, but it's bad policy.

The Watertown Public Opinion writes:

> Gephardt, Gibbons, and others who favor employer mandates apparently feel the tremendous job losses and reductions in wages are not too high a price to pay for health reform. We suspect most working Americans feel differently * * *.

The Huron Plainsman writes:

> There are alternatives on the table that could do some good without starting from scratch—for example, portability of health insurance from job to job, insurance pools for preexisting conditions, and those struck by catastrophic illness * * *.

Mr. President, these articles reflect the views of my constituents.

I ask unanimous consent to insert the full newspaper editorials I have referred to in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily Republic, Aug. 10, 1994]

BAD HEALTH BILL WORSE THAN NONE

It was one of those sound bites television is known for, which means it's done in a flash, so we apologize for not attributing it.

But in essence, the voice was saying, "Passing a bad health care bill would be worse then passing no bill at all."

We couldn't agree more.

Why are some so eager to rush to judgment on health care? In a word, politics.

There is a theory making the rounds that if President Clinton and the Democrat controlled House and Senate can pass a health bill soon, it will help them during the November elections.

It's no secret that Republicans believe they can make inroads in the Democrat majorities in both houses. Maybe they will. If so, it would not be unusual in an off year election.

But political strategies should be left out of a reform measure that promises to be the most far-reaching legislation since Medicare. The key question should be if a hastily pasted-together health care bill would be good for the public. That's an easy one to answer.

Just the sheer complexities of the proposals are enough to boggle the experts, let alone Congress. And, the differing characteristics of each plan has splintered the support. For instance, the bill proposed by Senate Majority Leader George Mitchell last week, which was a far cry from Clinton's original bill, still has so many negatives that it has failed to attract the needed bipartisan support.

The bill proposed by House Majority Leader Richard Gephardt faces a similar fate. And for good reason. The mandates forced on businesses in the Gephardt proposal could cost thousands of jobs because it forces businesses with more than 100 employees to pay 80 percent of their employees' health insurance.

That aspect alone would run up $58.8 billion in new costs, or about $586 for each employee, according to some analyses.

What is deeply troubling is the mindset that "some" sort of health care plan must be passed this summer or fall. Never mind that no firm dollar figures have been attached to any of the administration's proposals; never mind that an increasing number of Americans are seeing that a blank check for a new federally administered program would be disastrous.

Thre's no question that changes in health care are needed. But to change for change's sake would be folly.

Our advice: Slow down. Depoliticize. Do it right the first time. It will be less costly in dollar and human terms and the end product will be of far better quality.

ANY FEDERAL HEALTH CARE PLAN DESERVES MORE TIME FOR IN-DEPTH STUDIES

Whether Sen. Larry Pressler has the best ideas on health care plans or the worst, the South Dakota Republican's comment recently to reporters on the subject is worth analysis.

Says Pressler, Democrats will try to blame Republicans for blocking health care reform efforts, but it's the Democrats themselves who can't get together on a single plan.

While an analysis by an opposing politician usually is poopooed, this one makes pretty good sense.

So also does Pressler's comment that, "This is a very important bill to South Dakota and the nation. I think we should have time to study it, at least."

Pressler is at least 100 percent right on that.

Whether the reader is absolutely convinced that the country really needs fully socialized medicine, or whether the preference is for no public involvement at any level, Pressler still is right.

There has been, and will continue to be, too much hype on health care.

The major problems have likely been ignored, anyway.

Assuming that "the wheels" are right in their figures that only about 20 percent of Americans aren't covered, and that surveys show that health care is not even a top issue for most of us, one wonders what is driving the health care legislation engine.

It might be that the worst problems are in urban areas where there is the most representation.

It might also be that hospitals and doctors are tired of messing with "charity" patients whose medical bills then must be paid for from inflating the bills of paying customers who have insurance of one sort or another.

It might also be that there are some folks who genuinely believe that socialized medicine, Soviet style, is the only fair way to offer treatment to Americans.

And don't forget the possibility that there are some folks who are looking at the trends, and figure that there is no way on earth for the country to pay for the highest level of medicine when the baby boom hits retirement age.

There are all kinds of disagreements on policy and philosophy to be found in any bill. The situation with various cost-inflation factors—$10 sneeze-tissue boxes, for example—is enough to make the most dedicated right-winger cringe and suggest federal regulation.

Also for example, those who sincerely object to abortion or blood transfusions should have their rights upheld along with those who fervently disagree. That won't be easy.

Anyone studying the question also agrees that, morally distasteful as it may be, there likely will be quotas on treatment and spending that will result in deaths when more treatment might have some slight chance of success.

As this column has said before, there are many deep philosophical questions on medical ethics that the country must generally agree to. Otherwise, no "federal health care program" can succeed.

That's why Pressler is right in suggesting more time to study any bill: Bulling through "something" that will get a majority vote in Congress may be good politics, but it's bad policy.

Bad, politically correct law is still bad law.

HEALTH CARE MANDATES APPEAR TO BE UNHEALTHY

House majority leader Richard Gephardt, D-Mo., is putting the last touches on a health reform bill that he expects to bring to the floor for a vote in the near future. Like so many issues coming out of Washington, the more we read about them the more confusing they become.

However, this much we know about the forthcoming bill: It is a derivative of a measure previously approved by the taxwriting House Ways and Means Committee. It would finance universal coverage of all Americans, primarily by imposing employer mandates.

Like President Clinton's original proposal, Gephardt's bill would require that employers pay 80 percent of workers' health insurance premiums. At the moment, it appears unlikely that a majority of the House will support such a crushing mandate.

Even House Speaker Thomas Foley, D-Wash., has backed away from full-blown support for the most controversial element of the Clinton plan. Recently, he floated the idea of setting the employer mandate at 50 percent with workers picking up the remainder.

But it matters not politically, whether the employer mandate is set at 80 percent or 50 percent. If liberal leaders want to pass a health reform bill this year, if they hope to win any support from conservatives, they must jettison the employer mandate altogether.

Of course, many of the liberal lawmakers continue to insist that employers be forced to pay much of the cost of health reform. The acting chairman of the Ways and Means Committee, Rep. Sam Gibbons, D-Fla., warns that even reducing the employer mandate from 80 percent to 50 percent would require the government to spend an additional $30 billion a year on health care subsidies.

The problem with Gibbons and other advocates of employer mandates is that they have too little appreciation for the dynamics of the American economy. They think they can hit employers with a mandate—essentially an indirect tax, costing upward of $100 billion a year—and that those employers will continue to conduct business as usual.

Of course they won't. If employers are forced to pay an expensive new mandate, they will have to cut costs. The likeliest way of doing that is by lowering the overall wages of their workers or paring altogether from their payrolls those whose productivity does not cover their salary plus the additional cost of their health benefits.

Harvard professor Martin Feldstein, who also presides over the National Bureau of Economic Research, estimates the employer mandate would result in a 6.4 percent reduction in average wages by 1997. That's a $115 billion net loss in worker income. This, in turn, would lead to a loss of $49 billion in tax revenue in 1997 alone, he reports.

Meanwhile, an analysis by the consulting firm of DRI/McGraw Hill estimates job losses stemming from the employer mandate at anywhere from 888,000 to 2.4 million.

Even the Clinton administration has conceded the mandate would eliminate at least 600,000 jobs.

Gephardt, Gibbons and others who favor employer mandates apparently feel the tremendous job losses and reductions in wages are not too high a price to pay for health reform. We suspect most working Americans feel differently. . .

[From the Plainsman, Aug. 9, 1994]

HEALTH-CARE BILL COMES DOWN TO THE WIRE

Eleven months after President Clinton unveiled his health-care reform package to Congress and the nation, the issue he has called the cornerstone of his presidency has all but crumbled.

The reason: The White House and Democrats have seriously misjudged the public's vital signs, while Republicans have forced the debate into a referendum on whether citizens want more government in their lives.

Everday Americans, who have the most at stake with legislation that would nudge medical insurance coverage to 95 percent of the population by 2000, are asking reasonable questions about cost and services. They want to know why government wants a substantial role in running the health-care system, which accounts for one-seventh of the U.S. economy. People naturally are skeptical—a necessary predisposition among those who want to keep their liberty. In fact, two-thirds in a Newsweek poll say it would be better to wait until next year to tackle health-care reform.

In response, the administration has lumped all who have doubted the benefits of the Clinton health care bill as nearly traitors.

This is what Mr. Clinton said over the weekend: "The violent, extremist interests in this country that are trying to keep health care out of the reach of ordinary American working people are a disgrace to the American dream."

Some would say this outburst was frustration borne of a struggle to make life better for citizens.

But why make excuses? It's uncalled for and shifts attention away from the merits of the case for reform.

There are alternatives on the table that could do some good without starting from scratch—for example, portability of health insurance from job to job, insurance pools for pre-existing conditions and those struck by catastrophic illness, and incentives to stay well instead of traipsing to the doctor with every sniffle. On these issues, there is near unanimity, and they are doable and affordable.

Still, some within the administration aren't reading from the same page of the hymnal. "Tinkering around the edges . . . will not work," said Health Secretary Donna Shalala.

Congress has time yet to use politics in the best sense—as the art of the possible. Compromise on health-care reform will serve the interests of most of the public. Congress should stay in Washington until they vote on a plan, and voters will decide in November whether they did too much or too little.

"Our View" is the opinion of the Plainsman's editorial board: Publisher Daryl Beall, Editor Cliff Hadley, Managing Editor Roger Larsen, Associate Editor Dave Harles and Regional Editor Crystal Pugsley.

Mr. PRESSLER. Mr. President, I have held several meetings in recent months on the issue of health care reform. As always, the advice obtained from these meetings is valuable. A comment from one farmer stands out in my mind. He told me a story about a farmer who had 10 pieces of farm equipment. Every spring he would take them out of the barn and get them ready for the spring work. He would overhaul only those machines that needed overhauling. He would just tune up the others. That is how we should proceed on health care reform. Let us fix that which is broken and leave alone the elements that work.

I want to air some of my concerns about the full-court press to pass a health care bill before the American people have adequate time to digest the details. I am not opposed to moving right along. A year ago in April, I said we should start voting on health care reform. In fact, I would like to start voting today, if we could, because we all have about as much information as we are going to get.

I am concerned that political motives are the driving force behind this push. I am concerned that the mission of the Democratic leadership has been to get a health care bill—any health care bill. As I mentioned, in April of 1993, Senator SPECTER and I came to the Senate floor and said, "Where is the bill?" President Clinton had failed to meet his goal of giving us a health care reform proposal within the first 100 days of his administration. Our point was simple: Health care reform had been debated long enough. It was time to start voting in the Senate.

Let me say that it is very ironic that the Senate has not had any real votes on this issue. It seems that the legislative process normally would be that the Finance Committee would pass a bill, which they did, and that bill would come to the floor, and we would have amendments—perhaps an amendment every hour—for several days, and the Senate would work its will. But that is not happening because the majority party's own Members would not vote for the bill. They would lose their own Members on the amendments. So, therefore, we are in the position of negotiating behind the scenes with different bills popping up here and there.

Why do we not start offering amendments and vote every hour, letting the Senate work its will, instead of negotiating behind closed doors?

Well, the reason is, the majority party does not have the votes. If the Mitchell bill were brought up on the floor this afternoon, it would be defeated, not necessarily by Republicans, but by a bipartisan coalition. Indeed, I have read in the papers that Senators from my neighboring rural and small city States have raised serious concerns about the Mitchell bill.

What if we brought a group of political science students to watch the Senate of the United States today, or this week, while we are debating health care reform?

This would be a very strange demonstration of our legislative process for them to witness.

It is the opinion of this Senator that we should have proceeded in the normal way, brought the Finance Committee bill to the floor, began to offer amendments on it, and voted on those amendments with a time agreement of an hour.

This is a very bizarre August situation in which we are staying in session longer, supposedly to pass a bill. But the people in the galleries and the people watching this process do not see any amendments, they do not see any votes being taken. What is going on here? Our side has not filibustered. Why does the Senate not work its will? The reason is because the majority party does not want to vote. They want to maneuver around to a position where they can blame the Republicans if they do not get a bill. It is not a constructive process.

I would much rather be recorded on votes every day than be giving this speech, after which there will be no vote. There will be one vote today, and that is essentially a bed check vote. We are going to be in session next Saturday. We were in session all day last Saturday, and there was not a single vote on anything. But, we are showing the country how hard we are working.

So let us remember who is doing this and how strange it is and how sad it is. This is not the way the Senate and the House are supposed to function.

We may not start voting until September, and then the bill would be brought to the floor in such a way that individual votes would not be allowed on certain issues.

The situation is similar in the House. The Rules Committee prevents the House from voting on a lot of tough issues, and then the bill is put into a big package in which the details are concealed. This is why the public is disgusted with Congress.

In any event, it is ironic that the biggest proponents of the Mitchell plan argue they need more time. They argue the issue is too complex and last year was not the time to vote.

Several weeks ago, the President and the Democratic leadership declared the

Clinton plan dead. They did not take a single vote on it. Why did they not bring it up for a vote?

They did bring the Clinton plan up for a vote over in the Ways and Means Committee in the House, and the majority of the Democrats voted "present" because none of them wanted to vote on record for it. That is what happened.

This is very strange in a democracy, for here in Congress we have all these negotiations going on behind closed doors with no votes. Let us face the facts. The Democratic Party controls the House, the Senate, and the White House. They can start votes any time they wish. I wish they would.

The Democratic leadership indicated they were taking a new approach to reform. This would be less bureaucratic and less confusing than the President's plan, we were told. The legislation we are debating now was unveiled a week ago. It is some 1,410 pages and weighs 14 pounds. No hearings have been held on this proposal. The American people do not know what is in the bill. Things have not changed. It calls for more Big Government and higher taxes. And the American people are not being told these facts.

President and Mrs. Clinton should be commended for their role in bringing the health care issue to the national forefront. In fact, the First Lady was in Lennox, SD, last February. She is impressive. She understands the issues. She listened tirelessly to hundreds of South Dakotans discuss the shortcomings of our current system, although I must say that the Clintons' exact proposals for changing it were not very clear.

The portions I have read of the Clinton-Mitchell bill convince me that it is bad medicine for South Dakota. It will hurt my State. Apparently the Democratic Senators from Oklahoma, Nebraska, and North Dakota have decided the same thing, as I as a Republican have decided, because they have raised serious concerns about the Clinton-Mitchell bill.

Does this mean that I oppose reform? No. Does this mean that every provision in the Clinton-Mitchell bill is flawed? Of course not. However, in totality, the Clinton-Mitchell bill is the reconstituted Clinton plan, which would result in more taxes, more bureaucracy, more government and lost jobs.

The bill is bad for South Dakotans for several reasons, including:

More government.

The Clinton-Mitchell bill would result in the creation of at least 50 new Government agencies and offices. The Multinational Business Services, Inc., completed a study of the original Clinton bill. This group concluded that the President's plan would result in the creation of 98,000 new bureaucrats, 59 new Government offices, and 4,348 pages of new Federal regulation.

Proponents of the Clinton-Mitchell bill claim that the new plan is less bureaucratic. Do not be fooled. It would create more Government bureaucracy.

More Taxes.

The Clinton-Mitchell bill includes 17 new taxes. Some examples include: a 1.75-percent tax on all health insurance premiums, a 25-percent tax on all high cost premium plans, and a requirement to force all State and local government officials to pay Medicare taxes. No one would be exempt from these taxes.

Rural areas.

The Clinton-Mitchell bill would hurt small cities and rural areas.

Why? The plan would cut Medicare by $278 billion over the next 10 years. The bill indicates this on page 723. South Dakota hospitals, particularly those in rural areas, are dependent on Medicare for their survival. Cuts of this magnitude would force hospitals to close.

The Clinton-Mitchell bill does not allow the self-employed to deduct the full cost of their health insurance premiums. Truckers, farmers, and ranchers tell me the best tool to help them purchase insurance is to make their insurance premiums tax deductible.

Finally, the Clinton-Mitchell bill does not allow individuals to set up medical savings accounts.

Employer mandate.

Regarding the employer mandate, any requirement mandating employers to pay the medical insurance costs of their employees would result in lost wages and lost jobs.

A study by the American Legislative Exchange Council projected 2,900 South Dakota jobs would be lost if the Clinton employer mandate were implemented.

Another study indicates that 52,545 South Dakotans would experience annual wage reductions of $1,200 for a family of four.

Standard benefits package.

All Americans would be required to obtain an identical benefits package. This package includes abortions.

There are many Americans, both pro- and anti-abortion, who do not want the Government to set up abortion clinics. They do not want taxpayer dollars to fund abortions on demand, which is essentially what the Clinton-Mitchell bill provides for. There are many people who are pro-choice who disagree with this massive new Government abortion program. We should consider this viewpoint.

More entitlements.

Under the Clinton-Mitchell proposal, some 100 million Americans, families and individuals with incomes under $35,520 or 240 percent of the poverty level, would be eligible for a subsidy to help pay for their health insurance. One out of every 2.5 Americans would receive a Federal subsidy.

In short, the Mitchell bill and the Clinton plan from which it is derived, is too costly, too bureaucratic, and will increase taxes.

We need to make some changes in our health care system. We do not need to overhaul the entire system. We need to fix what is broken.

Now let me say what I am for. I did not get elected to the Senate just to oppose things. I am for a positive program. In any event, the health care reform should include:

Universal access to health insurance;

Insurance reforms, including insurance coverage that cannot be canceled;

No denial of coverage for preexisting conditions;

Voluntary purchasing pools;

Revision of medical malpractice laws, including caps on attorneys fees and a $250,000 limit on noneconomic damages;

Abolition of unnecessary paperwork;

Reduction of Federal regulations;

Modification of antitrust laws;

Subsidies to help the poor purchase private insurance;

Establishment of medical saving accounts; and

Full tax deduction of medical costs, including insurance premiums, for the self-employed.

Mr. President, the health care reform legislation we are considering is extremely complex. We would be well-advised to be careful in writing this bill. As everyone should know by now, we are talking about one-seventh of our economy.

If we are at all unsure about the consequences of our votes on the cost an quality of health care, we owe it to the people to vote no or, at least postpone making certain decisions until more information is available to us. It is within our power to recognize and act upon those specific problems about which all of us agree.

We can have a bill that fixes those commonly recognized problems. We can set aside what is now caught up in extreme controversial—mandates new bureaucracies, and higher taxes.

In conclusion, Mr. President, let me say that this Senator believes the Senate should proceed the old fashioned way. We should have taken the Finance Committee bill, brought it to the floor, offered amendments and voted on it.

This Senator would not object to a vote every half-hour, with 15 minutes equally divided, so that the Senate can work its will. This Senator thinks it is very strange that the Senate and the House are proceeding in this manner.

I want to legislate. For a year, since last April, I have said, let us bring legislation to the floor and the Senate will vote. That is what we are supposed to do. That is my judgment.

Let me also say that we have the best health care delivery system in the world. I think it needs some reform, some fixing, some tuning up, but let us not throw the baby out with the bath. Let us proceed to come up with a bill that will solve the problems without hurting the main body of our health care system.

But let us begin to vote. Let us begin to legislate. That is what Senator SPECTER and I said on the floor a year ago in April. This Senator is ready to go.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, may I offer my congratulations to the Senator from South Dakota for his statement that it is time to start voting. And may he have much influence on that side of the aisle, which I know he does, although it may not be on this particular point. But we are in complete accord.

Mr. President, I have the great pleasure to yield to my friend, the learned Senator from Nevada, as much time as he may require.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. REID] is recognized for such time as he may require.

Mr. REID. Mr. President, you and other Members of this body were present today when the majority leader pointed to his desk and he said, "No matter how many times you call this desk a horse, it will never become a horse. Even though if you repeat it often enough, there will be some who believe this desk that stands in front of me now would be a horse, it is not. It is a desk. It is a wooden desk."

I say to my friend, through the Chair, the senior Senator from South Dakota, that he should check with the leadership on that side of the aisle. We are ready to vote. We have an amendment that is now pending to this legislation.

But I sat on this floor Saturday and Friday and heard the distinguished minority leader say, "We need more time. We have only had 11 or 14 Senators on our side that have been able to make statements about the bill. Therefore, go slowly."

In fact, one Senator stated he was not ready to proceed at this time. He needed more time to study it. And it was at that time that the dialog on the Senate floor came that there had been some 85 hearings on health care on this side of the Capitol; reams of reports.

We are ready to go forward, Mr. President. I have some amendments that I would like to offer. There are others that would like to offer some amendments to the bill that is pending before this body.

I also say that I disagree with my friend from South Dakota. I think a political science class from high school, college level, whatever level, would be very instructive for students to come to this body today, tomorrow, or had they been here last week. This is what our country is all about. The legislative process is the art of compromise.

We are trying to work out legislation based upon a bill reported out by the Labor Committee and a bill reported out by the Finance Committee. The majority leader has taken what he feels is the best of both bills. He has taken what he feels is the best of the Clinton proposal. He has been working with the House leadership and he has given us a bill, something that you can look to and read about.

That is much different than I hear on that side of the aisle. We have people on that side of the aisle stand up and say, as they have—not all of them, but most of them—"We want a bill that contains costs, that allows portability, that would not prohibit insurance being offered as a result of a preexisting condition," and all these buzz words. But where is the legislation?

What they have now, the bill offered by the Senator from Kansas, the minority leader, does not cover that, does not take care of that. So where is this ideal piece of legislation that they want?

And again, I refer, Mr. President, back to the majority leader. This is a desk. This is not a horse. And no matter how many times you say it is a horse it is not going to be a horse.

On the other side, one of my friends who I work with, the junior Senator from Oklahoma, I serve with him on the Appropriations Committee, work with him on the Interior Subcommittee; I have great respect for his ability. However, his saying that we do not have medical malpractice reform in the Mitchell proposal means that he has not read the bill or that staff has not advised him of what is in this bill.

Again, this Mitchell proposal relating to medical malpractice insurance does the possible, not the impossible. They can talk all they want about the ultimate in medical malpractice reform, but what we have in this bill on page 1,037 is medical malpractice reform.

Mr. President, I know a little bit about medical malpractice litigation. Before I came here, I did quite a bit of it. I defended doctors and I prosecuted claims for people that were injured.

This is pretty good reform; not the ultimate, but pretty good reform. It sets up a program. First of all, it limits contingent fees. People say, "What is that?" It is a lot. It limits contingent fees to one-third of a claim up to $150,000 and anything over that is 25 percent.

The reason that is important, in Nevada—and we are not different than a lot of States—in Nevada sometimes attorneys took 50 percent contingent fees; 40 percent on a medical malpractice case was not unusual at all. So this is significant reform.

It also set up, Mr. President, every State, it is mandated under the Mitchell bill that they set on a State basis, because one of the things we do not want to do in this area of the law is take away States' rights.

What this does is mandate in a State that they set up an alternate dispute system for medical malpractice cases. It does not tell them what they have to do, but that they set it up. And before you can prosecute a case, you have to file a certificate saying you have been attempting to comply with that.

I am not going to go into all that is in here with regard to medical malpractice. But it is significant reform. And no matter how many times on the other side of the aisle they say there is no medical malpractice reform does not mean it is true, because it is not true. There is medical malpractice reform

Mr. President, I have heard a number of people say today that we have the greatest health care delivery system in the world; what we need to do is tinker with the edges, refine it a little bit.

I acknowledge we have a great health care delivery system in this country. But it is in trouble because it is bankrupting us.

The State of Nevada has had to call two special sessions of the legislature because of escalating health care costs.

What is driving the deficit on the national level? Health care costs. So, we have to do something about it.

This year, Mr. President, health care costs in America will go up over $100 billion—not $100 million. This year, 1994, health care costs in our country will go up over $100 billion, and we will not have better health care as a result of that. It is going to bureaucratic redtape, Government and insurance company red-tape, and fraud, waste, and abuse. The Mitchell bill goes to the heart of that. The Mitchell bill will not cut out all the waste, fraud and abuse, but it will get to a big chunk of it. It will significantly damage those who like redtape.

It does a great deal. For example, I have heard a couple of people on the other side of the aisle complain about commissions being set up. It was interesting to see, from the first speaker to the second speaker, the number of commissions dropped by 28—not by 28 percent, by 28. They went from 48 to 20.

But regardless of that, we could look at each one of them, recognizing that the purpose of the Mitchell plan is to do away with Government inefficiency, to get Government out of health care delivery systems. For example, Medicare and Medicaid, that will be privatized under the Mitchell plan. I think that is important.

I think it is also important to indicate we want to do away with the power of the insurance industry as it relates to health care. I will bet every Senator, and certainly every Senator's office, has heard time after time from physicians saying, "I am tired of not being able to practice medicine. I have to get it cleared with an insurance clerk or some other clerk who is going to tell me whether or not I can do a procedure." We need to get away from that, and the Mitchell plan does that. For example, in the majority leader's legislation now pending before this body, there is something set up called the National Quality Council. This is important because we want to make sure, after this is all over with, we have better quality medicine delivered and the consumer is protected more than previously. This national council will establish performance measures for health plans, including measures of access, waiting times, patient-provider ratios.

What that means is help if you are going to choose a health plan. When I choose one, I am part of 9 million other Federal employees. That is how many are in this Federal plan that the Presiding Officer, I am sure, and other Senators and staff in this Chamber—that is how many people are involved in that, 9 million members. We have a so-called open season, when each year we can pick a new policy. I would like to think I am fairly sophisticated in being able to understand difficult things. I cannot understand it. I do not know what all those policies mean. But if we had this, I would be able to understand because I would be able to tell, for example, for open heart surgery, what is the survival rate. You can compare plans. Institutions would have to put that out. If you have a particular plan, there would be a determination as to how long patients have to wait, on an average. These are the kinds of things that are in the Mitchell plan. And these are the kinds of things that will improve health care in our country.

I was just responding to some of the statements that had been brought up by the two previous speakers on the other side of the aisle. I hope that, before this is all over with, we will have a coalition, a uniting of Senators on both sides of the aisle. I am very sorry he left—I saw the senior Senator from Minnesota, someone who will be retiring from this body at the end of this year. I know he has spent a lot of time on health care legislation in his career. I hope he will see fit to join with the majority leader in working out something in this legislation. He has the knowledge, and we really need his experience and counsel. I think it would be a shame if he left this body without having had an imprint on health care legislation.

I say that to other Senators on the other side of the aisle. This is the time to get health care legislation. It is not the time to talk about how good it could be, but to do the possible. What can we do to improve health care reform in America today?

What I wanted to talk about today is small business. On the other side of the aisle we hear the constant drone that the Mitchell plan is not fair to small business.

Again, this is a wooden desk. It is not a horse. And no matter how many times they say that health care reform is unfair to small business, it will not sell because it is wrong. An indication of that is a telephone call I had last week, Thursday or Friday of last week. I had never heard the name before, but I got on the phone with a man by the name of Edward Atwell, from Reno, NV.

Edward Atwell runs a business, a small business. He has 11 employees. He works awfully hard. It is the Big-O Tire Co. in Reno, NV. He sells tires and fixes tires. Again, I had never met him, did not know he existed. He called me and said, "Senator REID, I am a dyed-in-the-wool Republican, always have been. But I want you to know as my Senator that I want you and your colleagues to do something about health care reform for me." He said, "I have 11 employees and I have health insurance for my employees." He said, "It is very expensive, but I want to do that for my employees. But it is getting harder and harder to do it." And he said, "The tire companies that have no health insurance have a competitive edge over me. Do something about health insurance reform. Do it for the small business community of America."

Well, Edward Atwell wants health care reform. Why would he be concerned as a small businessman? He is concerned because he knows that it is hard for him to get insurance, and he knows that once he gets it, it is hard to keep it. He has been fortunate. He has not had one of his 11 have a heart attack, get pregnant, get cancer—because if they did, his policy would never be rewritten the next time. Just like my ophthalmologist in Las Vegas whom I went to see to get my new glasses. He says, "Harry, you have to do something. I have 27 employees. They will not rewrite my policy because one of my employees got cancer. I cannot get them to rewrite it. I cannot find anybody to give me a policy for my employees."

That is why Mr. Atwell is concerned. Mr. Atwell pays about 35 percent more for the same insurance policy that big business pays. The same coverage, he pays 35 percent more. And, if that were not bad enough, he pays increases of 50 percent more than big business. So the mere fact you have insurance, if you are a small business person, keeps you going further and further in the hole. Mr. Atwell expressed, to say the least, his frustration with the skyrocketing premiums he has and the fact that he is having a difficult time competing. Small business owners who, like Edward Atwell, do the right thing, are penalized under today's system. That is only one of a lot of reasons why we have to change the system. Because they are paying for the health care of their competitors who do not provide insurance for their employees.

If I marched in here with 51 Senators and we said, "We have a plan for the American public and here is what it is. Everyone who wants to buy health insurance, or is lucky enough to work for somebody who provides health insurance—everyone who has health insurance, no matter how they get it, are going to have to pay for those who do not." The American public would say, "What, are you out of your mind? What kind of system is that? I thought you were doing your best to represent us?"

And I would say, "That is the system we now have." And that is the system we have now. Right now, the insurance system we have in America for health coverage is one where those who have it pay for those who do not in the way of higher insurance premiums, higher hospital and doctor bills, and higher taxes for indigent care. That is an unfair system we have today and it should be changed.

Under the plan submitted by the majority leader, small businesses would no longer be forced to pay 35 percent more than big business. The Mitchell bill creates purchasing pools to give individuals and small businesses bargaining power to get high-quality care and coverage they can afford and they can count on and not be canceled at whim as was my ophthalmologist's. Small businesses and individuals will be able to get coverage at the same rates as big businesses, and insurance companies will no longer be able to pick and choose who to cover. The Mitchell plan, in effect, puts the consumer back in the driver's seat for a lot of reasons.

If health care costs had been kept under control—that is, if health care costs had increased at the rate of growth in our overall economy for the past 12 years—small businesses, if they had insurance, would be paying an average of about $1,300 a year less per employee for health care coverage. Small business premiums have risen as much as 50 percent a year. This is from the U.S. Department of Commerce, a report they did in January 1994.

More than 90 percent of small business owners agree that health care is becoming prohibitively expensive and is a serious business problem. There are 90 percent of small business people who feel like Edward Atwell of Reno, NV. About 60 to 65 percent of small businesses have health insurance, but those who have it say, help us some way or we are going to drop it. We cannot afford it.

Nearly 70 percent of small business owners want to offer employees better health care benefits and agree all Americans have a right to basic health insurance. Small businesses, as I have indicated, Mr. President, now pay from 35 to 50 percent more than large firms for the same insurance. Large corporations can offer more benefits at a lower cost, thus, putting smaller firms at a greater disadvantage.

Paperwork and administrative burdens on small businesses that offer employees coverage, costs firms as much as 40 percent out of every health dollar, while large firms average a nickel. So if you are a small business person, you have insurance, the administrative costs out of $1 paid eat up 40 cents; big business, a nickel. Small businesses can pay, as I have indicated, 35 percent more than large businesses for the same coverage. I mentioned that several times, but I have done it on purpose.

By the year 2000, if we do not do something, health care costs may eat up as much as 60 to 65 percent of businesses' pretax profits. In a poll, the NFIB, who is not, for a lot of reasons, excited about health care reform because of the way their institution is set up, found that 64 percent of small business owners would like to provide some or better health insurance to their workers.

Let us talk about the plan that is now up at the desk submitted by the minority leader. The Washington Post reported:

> The Dole proposal supports reform in name while largely avoiding it in fact.

Small business under that plan would face higher costs. Edward Atwell knows that and other small business people know that. It does nothing to protect small businesses with more than 50 employees who can still see premiums rise dramatically if a few of their employees get sick. Small firms can continue to pay more for administrative costs than large businesses.

The plan submitted by the minority leader exempts trade associations from community rating. This loophole, in effect, permits discrimination in premiums based on what the industry does. A small coal miner—there are lots of diseases involved in coal mining—they would have to pay more. No discounts for small businesses. Unlike that of the majority leader which provides millions of small business people the ability to have coverage for the first time, the plan of the minority leader offers no small business discounts.

There is continuation, under the plan of the minority leader, of discrimination against self-employed individuals. Self-employed individuals are denied 100 percent tax deductibility until the year 2000. Cost shift remains. Small business insurance rates would rise and small businesses are forced to share the cost of high Medicaid patients and other high-cost individuals.

There are incentives for small businesses not to take responsibility. Under the minority leader's nondiscrimination provision, if a business provides any insurance at all to any of its employees, they have to provide it to their low-income employees as well, without any discounts to help them pay for the coverage.

This will not work. And if it is a matter of choice, you know they are not going to have the insurance. If a business contributes any amount to their employees' insurance, even a minimal contribution, their workers would not be eligible for any low-income subsidies.

Mr. President, for those who have suggested that the best policy may be—and this is my term, not theirs—to muddle through with only small incremental changes, our analysis, my analysis, suggests that the number of uninsured workers in small businesses will continue to grow. In the publication "Health Affairs," they said:

> Thirty percent of small businesses currently providing insurance will drop their insurance coverage because of high cost.

It is only going to get worse.

We know that small businesses are the least likely to offer insurance today, in large part because insurance companies often limit small business access to insurance by refusing to cover some firms and dropping others from coverage whenever just one worker gets sick. And we have talked about that.

Mr. President, this is not a rare situation where small business decides not to carry insurance. In the State of Nevada, there is a woman by the name of Rose Dominguez. Rose is a woman who is involved in a lot of activities in southern Nevada. She is very interested in the community. She is interested in her employees. She has a travel agency. But she had to arrive at a point where she could no longer carry health insurance for her employees. The names are myriad in the small State of Nevada.

So, we know that small businesses pay at least three times for their insurance. They pay for their own employees, they pay for the dependents of their employees, sometimes, and third, they pay through higher premiums for the uncompensated care of other people. Higher insurance premiums, higher hospital and doctor bills, and higher indigent taxes for indigent care.

The system, according to the Wall Street Journal, will only get worse. I quote:

> By using their clout with health care providers to demand lower costs, big employers help squeeze out inefficiencies but also stop helping hospitals care for those with no insurance or with Government insurance. Those costs won't disappear, however. As big companies shed them, insurance premiums for smaller employers will be forced up.

I appreciate very much the Senator from New York yielding time to the Senator from Nevada. I have brought out two points: Malpractice reform, and I gave one example of a commission that will be set up so that consumers will have a better understanding of the health care that is provided to them.

I have also talked about small business. I have talked about small business because they need to be cut some slack, as told to me by Edward Atwell of Big-O Tires, Reno, NV. No matter how many times those who want to maintain the status quo, no matter how many times they say that we do not have health care reform in the matter now before the Senate, in the form of Senator Mitchell's bill, no matter how many times they say that, it will not work because it is not the truth. No matter how many times they say this desk is a horse, it does not matter, it is still a desk.

Mr. MOYNIHAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I congratulate the Senator from Nevada. I remarked earlier on his great learning in this field and I particularly thank him for the points about malpractice reform. It is so important to the medical profession, and not just the doctors, but the nurses and all the people involved that we take this opportunity to relieve them of a needless anxiety, but anxieties which can be pervasive. If anyone gets to know people in this work, you will find that is on their minds all the time.

Mr. REID. Mr. President, if I can respond to the manager of the bill, I think we are trying to do the possible. I am a great supporter of having consumers have the ability to file a lawsuit and have their grievances redressed in a court of law. But still there are things that need to be done to make the system better.

I have only talked about a few of the things in the Mitchell bill, but I think it is a significant step forward and I wholeheartedly support Senator MITCHELL's attempt to reform medical malpractice.

I appreciate very much the comments of the Senator from New York.

Mr. MOYNIHAN. I thank the Senator. I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield such time as the Senator from Mississippi may require.

The PRESIDENT pro tempore. The Senator from Mississippi [Mr. COCHRAN] is recognized for such time as he may consume.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for yielding me time.

It was interesting to me to read the accounts of the debates that we have had in the Senate in the New York Times and the Washington Post over the weekend. One writer for the New York Times talked about the misstatements and malapropisms and other errors that the writer perceived to have occurred in the debate during the discussion of the health care reform bill.

One very interesting story was written by Dave Barry: "The Power Trip. Washington Outsider Trashes Town." He talks about how there is nothing in Washington to make it look like the planet Earth. But then he talks about the health care debate and he did have this to say, which I am going to read. He says:

> For more than a year now, the Clinton administration, Congress, and scores of special interest groups have debated the health care issue with such intense passion that their photocopying machines routinely burst into flames. This debate, although bitter at times, has resulted in a broad national consensus on two fundamental conclusions: 1. The United States has the best system of health care in the world, and 2. Something needs to be done about this.

Well, he then goes on to talk in his humorous way, as only Dave Barry can, about many of the other things that have made it possible for us from time to time to laugh at ourselves. But this health care issue is not really a laughing matter. I will agree what Mr. Barry points out in his first conclusion and his assessment of the national consensus is right when he says the United States does have the highest quality health care—and, I might add, with more choices—than any other nation in the world. That will be put at risk by the Clinton-style plan proposed by the Democratic leader. That plan will result in higher costs, longer waiting lines, and endanger the health care choices of most Americans. The mandates, the taxes, the alliances, and the premium caps all mean sweeping new Federal controls over American medicine.

Before we vote, we should ask: Do we really want to create this new Government-controlled health care program? And we should ask specific questions about their plan such as: What would the new overhead costs be?

Senator MITCHELL's bill would set up a National Health Care Cost and Coverage Commission and a National Health Benefits Board that would make many decisions about the kind of health care that would be available in the future to all American citizens, including decisions about medical necessity and appropriateness. Under this bill, many new State and Federal agencies would be established.

We had first heard in a report, in an analysis from our distinguished colleague from Indiana, Mr. COATS, that there would be 20 new State and Federal agencies created under the Mitchell bill—now we are told that that could go as high as 70—and many mandates imposed on the States, 177 new obligations imposed on the States, by this new Federal law if it is enacted. No one has been able to tell us what the new overhead costs of the program would be at either the Federal level or the State level. We also need to ask, we should ask: What has happened to the costs of the Federal health programs we already have?

In 1990, Medicaid spending totaled $41.1 billion. In 1995, Congressional Budget Office projections indicate that Medicaid spending will total $105 billion. From 1990, $41.1 billion, to 1995, $105 billion; a program we already have. This could be an indication of the kind of cost spiral we will see if the Federal Government were to administer our entire health care system.

We should also ask about the costs of other entitlement programs and how much they have increased in costs during the past 30 years.

I have a chart here—and I apologize for using a chart, but it clearly illustrates better than I can in just my statements—showing how entitlement costs have grown over the last 30 years.

From 1963, if we look at this line here as illustrating 100 percent of the Federal budget—this is the total Federal budget line here from zero to 100 percent—the discretionary spending in 1963, that which the Appropriations Committee approved for allocation among all the Federal activities and programs, amounted to 70 percent of the total budget. Entitlement spending—Social Security, Medicare, Medicaid, other programs that were mandated by law, to which people were entitled as a matter of law—amounted to only 30 percent. In 1973, that had gone up to 45 percent, in 1983 to 56 percent, and in 1993, just last year, it reached 61 percent of the total Federal budget. And the projections are that even without this new health care plan, which will increase entitlement spending considerably, we will have a Federal budget that will require 72 percent of total outlays to go to support entitlement programs, and only 28 percent by the year 2003 that would be available for discretionary spending.

A recent article in my hometown paper, in Jackson, MS, the Clarion Ledger—it was written by Miles Benson for Newhouse News Service—talks about this entitlement spending trend and what it means in the context of the health reform proposals before the Congress. He says:

> Over the years, the Government has promised a lot of costly benefits to middle-class Americans and now it is trying to make one more big one—universal health care. But where is the money to pay for Social Security, Medicare, and a plethora of previous promises? Their fast-growing costs, along with interest on the national debt, add up to 60 percent of all Federal spending, even without the enormous added expense health reform will bring. Unless changes are made soon, the Government won't have enough money to continue even the existing programs. And that means either higher taxes or benefit cuts or both.

He goes on to say, in another part of this article, which I will ask unanimous consent be printed in its entirety at the conclusion of my remarks, that:

> The fastest-growing entitlement programs are Medicare, which helps 35 million elderly and handicapped people pay their medical bills regardless of their income from other sources, and Medicaid, which pays for doctors' care for 30 million. The costs of these two programs are expected to increase at a rate of 10 percent per year over the next decade, increases driven by the growth of the eligible population, the increasing intensity of medical services available to participants, and hyperinflation in the costs of health care.
>
> Medicare hospital insurance payments already exceed tax revenues dedicated to the program, and the trust fund dedicated to the program will run out of money within seven years unless something changes.

And he concludes by saying:

> President Clinton insists his health care reform plan would, over time, curtail the growth of health care costs, but he also seeks to extend health care coverage to 39 million uninsured Americans financed partly by new Federal subsidies. And he wants to broaden the benefits available under Medicare and Medicaid. Many experts believe expanding coverage will substantially drive up Federal spending on health care.

Mr. President, I ask unanimous consent that the entire article by Miles Benson of Newhouse News Service be printed at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COCHRAN. Mr. President, the Mitchell plan creates at least eight new entitlements. It commits the Federal Government to new entitlement spending which is estimated to be $1.5 trillion over 8 years. And, if it does not work to achieve the predetermined goal of coverage, then employers will be required by the new Federal mandate to pay one-half of the premium cost of their employees beginning in the year 2002.

Somebody asked me, "Why is this delayed? If you need the money now, why put it off for this long period of time?" I frankly think the reason is political. One reason is that people who have to pay this tax will not know who voted for it when they have to pay it. I mean, we are putting it over from now, if it is enacted this year, to the year 2002. And those folks who are going to have to pay this new payroll tax, which is what the employer mandate turns out to be, are not going to know who is responsible. As a matter of fact, somebody suggested that may be why they called it a trigger. The trigger means that if they do know who did it, they might shoot them. But the fact is, if States are not up to the 95 percent coverage rate by the year 2000, those businesses in that State with 25 or more employees are going to be required to pay the new payroll tax.

Who will that be? The National Federation of Independent Business has done a study trying to estimate and determine what States are going to be required to pay this added payroll tax. Not all States may be covered by it. But there is a way to figure out now which States are the most likely that have to pay. They did this list.

Mr. President, Mississippi and West Virginia are at the top of the list. Utah, New Mexico, Arkansas, Louisiana, South Carolina, Montana, Idaho, and Oklahoma, and it goes on down through a long list of 25 States that most likely will have to pay this tax. Ohio is the 25th.

As a matter of fact, we have done this in a graphic so you can get an idea just by looking at a map of the United States. Almost the entire South, except Florida, is covered, and the Southwest out to Arizona, including New Mexico and Arizona, and the upper Northwest, except for the State of Washington, will be covered; some of the heartland States right here in the industrial Midwest, Indiana, Ohio, West Virginia, Kentucky. The fact of the matter is, do not forget Maine. They are one of the most likely to have to pay this tax too.

What they have done is try to determine the number of people who are now covered by insurance in all of the States, and the per capita income of the residents of all those States to figure out for which States it will be hard to meet this predetermined 95 percent of coverage. These are the States. So they are the most likely to have to pay the tax.

Where do you need the economic growth the worst? It is in many of these States. We need new jobs. We need to be attracting new industry into these areas to help provide jobs. But if you are going to have a new requirement now that employers in those States have a mandate to pay premium costs for health insurance and the other States do not have it, what is that going to do to your opportunity to attract new business, to create new jobs? I say it hurts it. It puts you at a disadvantage. That is what this mandate does, as far as economic development and the attractiveness of certain States as compared to others.

Senators ought to think about that. Some say that the mandate is bad, it is bad for business, it may cost jobs, and it may be harmful to our entrepreneurial spirit as a country. If it is bad now, it certainly is just as bad in the year 2002 when it will be triggered, if this predetermined 95 percent of coverage is not achieved. Most think, obviously, that some States will not achieve it or cannot because of demographic differences, because of economic differences, and because of the realities that exist out there in the real world.

Senator MITCHELL's bill states that if a 95-percent coverage target is not achieved by the year 2000, the employer mandate would be triggered requiring businesses with 25 or more employees to pay 50 percent of their employees' health insurance premium costs.

Many experts tell us that these mandates, these new taxes, on selected States, would destroy jobs, threaten the survival of many businesses, and reduce wage growth. If mandates are a bad idea today, when they are triggered they will be a bad idea then.

A triggered mandate only in States that do not achieve that 95-percent coverage will hit the small business-intensive States the hardest. I do not know how many businesses will actually fold up. Nobody does. Those who cannot afford the new costs, because they are on a tight profit margin or maybe no margin of profit at all; there is no question that fewer new businesses would be started in those States that have to have the new tax. They have many other burdens imposed by the Federal Government already that cost money, that add to overhead.

Studies conducted by Consad Research, the Urban Institute, and others, forecast anywhere from 700,000 to 3 million jobs will be lost as a result of the new employer taxes. A Gallup Poll of small business owners indicates that a majority of them would either let some employees go, restrict wage increases, or increase prices as a result of an employer mandate. No matter which job loss study you look at, they all point in the same direction—employer mandates cost jobs.

I would suggest that another serious result could be that many small business owners will decide that it is just not worth the hassle to stay in business, and others who might otherwise consider starting a new enterprise would be discouraged from doing so, especially if they are in a State where the trigger has been pulled.

When these new taxes and new regulations are combined with other burdens that are placed on small business by the Government, the American entrepreneurial spirit surely will be dampened, and our economic vitality will be put at risk.

Mr. President, some of the rhetoric we heard has suggested that Republicans want to stop health care reform in its tracks. I think most Republicans in the Senate want to solve the problems in the health care system. We can do it by providing portability of coverage, and eliminating unfair underwriting practices, by providing subsidies and tax breaks to assist people in getting and keeping the coverage they want. Senate Republicans produced two comprehensive health care plans last year, one sponsored by Senator JOHN CHAFEE and the other sponsored by Senator DON NICKLES.

This year, 40 Senate Republicans joined in support of Senators DOLE and PACKWOOD when they introduced their plan that also confronts the real problems that exist in today's health care system.

The Dole-Packwood plan enhances quality, preserves health care choices, controls costs, and promotes security without imposing the new taxes that will unnecessarily burden small businesses and their employees.

The Dole-Packwood bill has the greatest support of any plan in the Senate, including the proposal of President Clinton and Senator MITCHELL.

The Dole-Packwood plan would provide choice to ensure that consumers, and not the Federal Government, decide how they get their care, and from whom; preserve American jobs by protecting small businesses from job-destroying mandates and taxes; increase access and remove the fear of losing insurance because of job loss or job change, moving, or a serious illness; maintain quality to ensure America's health care remains the best in the world, and consumers do not pay more for less care; be financially responsible, by phasing in financing of reform as other savings are available and not through deficit spending or increased taxes; achieve flexibility by allowing States and localities options to design plans best fitting their particular needs.

Mr. President, we should not adopt the Democratic leader's newest version of the Clinton plan, which would mean quotas on doctors and training; a premium tax on graduate medical education; Government spending limits that will lead to rationing of care, higher levels of taxation, new entitlements, and a big, new Federal bureaucracy.

Before passing the Clinton-Mitchell bill, we should remember the enactment and repeal of catastrophic insurance in the Medicare program in 1988 and 1989. The lesson of this experience is that it is not enough to promise health care benefits to Americans. We have to make it clear how any new program will affect them and how much it will cost them, and we need their support. Last time out, we forgot to do that. We should not make that mistake again.

I suggest when all the facts are understood, American citizens will prefer the Republican alternative, because it will mean less bureaucracy, less costs, more quality, more choices, and no new taxes.

I urge the Senate to reject the Mitchell bill.

EXHIBIT 1

UNLESS ACTION TAKEN, RETIREMENT MEANS POVERTY

(By Miles Benson)

WASHINGTON.—Over the years, the government has promised a lot of costly benefits to middle-class Americans and now it is trying to make one more big one—universal health care.

But where is the money to pay for Social Security, Medicare and a plethora of previous promises? Their fast-growing costs, along with interest on the national debt, add up to 60 percent of all federal spending, even without the enormous added expense health reform will bring.

Unless changes are made soon, the government won't have enough money to continue even the existing programs. And that means either higher taxes or benefit custs or both.

The middle class and the wealthy, who receive more than half the benefits, will feel the pain, as well as the poor, and there's very little anyone is going to be able to do about it.

The current generation of people in their 60s may be the last generation to collect the full benefits now available from Social Security.

Rising health care costs, longer life expectancy, and the advancing legions of 76 million baby boomers, who will begin retiring at the end of the next decade, are setting the stage "an economic and social disaster," said Sen. Robert Kerry, D-Neb., who wants President Clinton and Congress to begin dealing with the problem now.

The technical name for these benefits is entitlements, and Kerry chairs a 32-member Bi—Partisan Commission on Entitlement and Tax Reform. The commission will report its recommendations in December.

According to commission members, administration officials, congressional budget experts, and numerous outside economic experts, this is the reality the nation faces:

If allowed to continue without change, entitlements plus interest on the federal debt will consume all federal revenues by the year 2012, just 18 years off, leaving nothing for defense, disaster relief, law enforcement, air traffic control or anything else—including the salaries of federal workers who write the federal benefit checks.

Financing the entitlements in their present form could require a 50 percent increase in all federal taxes on current and future generation of taxpayers—increases that would be politically impossible to enact and, even if enacted, would probably be self-defeating. The economy would collapse under their weight.

Deficit financing would be equally unrealistic. Such deficits would dwarf even the monster deficits of recent year years. blocking investments needed to boost productivity, create jobs and raise living standards.

Some combination of increased taxes and reductions in benefit levels is inevitable, many experts, believe. These solutions could include caps on spending or reducing benefits to middle- and high-income people. Some economists are studying the feasibility of new taxes on consumption.

Today, entitlement programs automatically pump out benefits to every eligible person who signs up for them. The biggest are Social Security, Medicare, Medicaid and the federal retirement system covering both civilian and military retirees. These four programs account for 75 percent of entitlement spending.

The rest consists of much smaller programs that include, in descending order of cost, food stamps supplemental security income payments that go mostly to the disabled and to poor elderly people, veterans benefits, welfare payments to mothers and children, agricultural price supports and earned income tax credits for the poor.

This year, 1994, total entitlement benefits come to $800 billion. More than half of all entitlement benefits go to middle-class and affluent Americans. In the case of Social Security, the average retiree is getting back far more than he or she paid in plus interest,—on average $40,000 more per retiree over his or her lifetime.

And under this system, families with private incomes of more than $50,000 a year got $49 billion in Federal benefits in 1990. About $12 billion of those benefits flowed to families with income of more than $100,000.

Last year, the 2.2 million federal civilian and military retirees received benefits worth $65 billion.

Many experts say those now in the 60s are the last generation that will enjoy such a sweet deal. The generosity of benefits will subside because there won't be enough money to support them. And future retirees will have paid higher taxes for a longer time than current retirees.

Workers with average earnings who retired in 1980 got back their retirement taxes—the share paid by themselves and the share paid by their employers on their behalf-plus interest in less than three years.

When average-wage workers now in their late 20s retiree, they will need more than 18 years to recover their contributions—two years longer than their life-expectancy. And that assumes the money will be there to pay them, which it won't be if benefits aren't cut or the taxes aren't raised.

The fastest-growing entitlement programs are Medicare, which helps 35 million elderly and handicapped people pay their medical bills regardless of their income from other sources, and Medicaid, which pays for doctors' care for 30 million poor. The costs of these two programs are expected to increase at a rate of 10 percent per year over the next decade, increases driven by the growth of the eligible population, the increasing intensity of medical services available to participants and hyper-inflation in the cost of health care.

Medicare hospital insurance payments already exceed tax revenues dedicated to the program and the trust fund dedicated to the program will run out of money within seven years unless something changes.

President Clinton insists his health care reform plan would, over time, curtail the growth of health care costs, but he also seeks to extend health care coverage to 39 million uninsured Americans financed partly by new federal subsidies. And he wants to broaden the benefits available under Medicare and Medicaid. Many experts believe expanding coverage will substantially drive up federal spending on health care.

Social Security is the third rail for elected officials—touch it and you die.

Social Security means regular monthly checks to 42 million elderly and disabled and members of their families this year. For millions of Americans, the benefits are all that separates them from poverty. For additional millions of already affluent elderly, the benefits are merely gold-plating on an already secure and dignified retirement.

Thanks to lengthening life spans, the average couple retiring today can expect to collect Social Security checks for 25 years. The insurance value of that pension combined with Medicare benefits is more than half a million dollars.

Older people, one of the country's most potent blocs of voters, are organized to fight any attempt to reduce benefits. The flavor and intensity of the opposition is evident in the blizzard of mail already pouring into the entitlement commission's offices on Capitol Hill.

"If you intend to mess with Social Security, you all should be thrown out of office," wrote one enraged senior. "It's our money, not to be used by you or no one."

Said another: "Don't fool with Social Security. Don't try balancing the budget with my money."

For now, the tax structure of the Social Security system generates a surplus that reduces the federal deficit and helps pay for other federal programs.

But the surplus will disappear during the next 20 years as the baby boomers retire and the payouts to them surge. Unless changes are made, the Social Security trust funds will run out of money to pay benefits to today's 20- and 30-year-olds when they are ready to retire. Today's 40-year-olds would drain the funds dry by the time they are 75 years old.

Low birth rates and longer life expectancy mean that the ratio of workers to retirees is shrinking. In 1950 there were more than seven workers paying taxes to support the benefits of each retiree. In 1985 there were five workers for each retiree. Today there are four and by 2030 there will be fewer than three.

"What it really boils down to is that revenues and spending in our budget as a whole are out of whack, out of balance," said Robert Reischauer, director of the Congressional Budget Office.

"We can solve the problem by cutting back on entitlement programs or cutting back on non-entitlements or by raising revenues. The answer to the dilemma will be a little of all three," Reischauer predicted.

The problems are clearly visible now. They will be no surprise when they erupt as full-blown crises—if nothing is done now.

"If we do something modest and prudent now we can avoid taking more drastic remediation 15 years from now," Reischauer said.

For example, putting the Social Security system into balance for the next 75 years would require a 1 percent increase in payroll tax on employees and employers, if that is done now, Reischauer said.

Meanwhile, younger workers cannot expect they will get as much out of the system as current retirees.

"The system was very good to our grandparents and parents and people retiring right now, because it represented a huge intergenerational transfer," Reischauer said of the shift of wealth from the young to the old. "But that will not be true in the future unless life expectancy takes another big jump."

In the mid-1930s, when Social Security was established, the average life expectancy was 60 years. Today it is 76. Under current law, the age for full benefits retirement will increase gradually from 65 to 67 between the years 2000 and 2017.

Crusaders for sweeping entitlement reform, like Peter G. Peterson, former Secretary of Commerce, and former senators Paul Tsongas, D–Mass., and Warren Rudman, R–N.H., urges raising the retirement age to 68 to 2006, reducing Social Security and Medicare benefits to retirees with incomes above $40,000 a year on a sliding scale as incomes go up.

Reform of the Social Security System, in both the financing and the benefit, is "inevitable" said C. Eugene Steuerle, an economist at the Urban Institute, a public policy think tank.

"Social Security will be there and remain a fairly generous system, but we must cut back on some of the built-in growth," Steuerle said. The budgetary problems are self-induced, the result of the fact that people are living longer and getting better health care. "In a crazy way, it's a nice set of problems to have," Steuerle said.

But changes must be made, he warns.

"Every year of delay in resolving these issues will make the required changes harder and harder to bear," Steuerle said. "Expected liabilities are accumulating quickly relative to assets and anticipated revenues. The longer that reform is delayed, the greater the adjustments required of beneficiaries and taxpayers."

Mr. RIEGLE addressed the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. RIEGLE. I yield such time as I may consume off of the time of the majority.

The PRESIDENT pro tempore. The Senator is recognized for such time as he may consume from the time under the control of Mr. MOYNIHAN.

Mr. RIEGLE. Mr. President, let me just say that when the Senator from West Virginia assumes that position, there is no finer Presiding Officer.

This issue that we are here to try to deal with—namely, health care for our country—is a vital issue for our people. It certainly is in the State of West Virginia, where the President pro tempore comes from, and in my home State of Michigan. I know there is great frustration in the country as this debate has gone on now over several days in the Senate. I think citizens listening to this and watching think that probably all we do is talk and that nothing more than that happens, or at least not as often as it should.

I think we are reaching a point in this debate where a lot of the words are more for effect and have a purpose other than trying to settle the issue, because this question of health care reform has been around a long, long time. It goes back, in fact, for decades.

One of the prior Presidents had offered a plan very similar to the Mitchell bill or the Clinton bill that has been put forward. It was President Nixon, who at that time was a Republican President; but to his great credit, he saw the need to try to reform the health care system, to make it less expensive, less bureaucratic, and try to make sure everybody had a chance to have insurance, especially working families, so they could protect their children and all their family members.

I must say that over the last 2 or 3 days, the debate has taken on much more of the character and feeling of a filibuster—namely, a tactic of delay, rather than actually getting down to and voting on the basic aspects of a health care reform plan.

We actually have an amendment on the floor right now. It has been presented at the desk, and we are ready to vote on that. It is offered by Senators DODD, KENNEDY, and myself, and I believe there are other cosponsors. It is designed to expedite coverage of preventive health services for children and pregnant women in our country, to make sure these services are the first covered in the standard benefit plan—in July of 1995, instead of January of 1997. Those, today, in working families who do not have the protection of comprehensive insurance will get it under this plan. So that is the first amendment. It has actually been sent down to the desk. It is in writing and is down there right now. If this odd kind of filibuster were to stop, we could vote on that in the next 10 minutes, and we could find out where Senators are. There are 100 of us here, and we all have the chance to vote and settle that issue, and then we would be ready for the next amendment. And that might be an amendment from the Republican side. They could come to the floor and present it, and we could have a period of debate on that and then vote, it either wins or loses, and that issue is settled and we go on to the next issue. We can work through these issues, I think, and get them done this week, if Senators were willing to actually decide these questions rather than just use endless debate as a delaying tactic.

I want to talk a little bit about the amendment we actually have at the desk and what it is designed to do. I want to make reference, as I have before, to an article that ran some time ago in the Detroit newspaper in Michigan. It is a story about a woman named Cynthia Fyfe. There is a picture of her here, and this is her 6-year-old son Anthony in the lower part of this picture. He is wearing glasses. Obviously, he needs them and fortunately has them. This article says, "She Can't Pay Her Big Medical Bills." It goes on to explain in the text of this story her situation. She is a single parent, a working mother, as are millions of women in America today. She has partial insurance at her workplace for herself, but none for her 6-year-old son, Anthony. In fact, their health insurance is so inadequate that when she got sick, she had a lot of expenses associated with the care that she needed, and her health insurance did not cover most of it. So now she owes nearly $3,000 in medical bills, and she cannot pay.

It talks here about how they live very modestly, in a trailer park, and she uses just about every cent she has just on the bare essentials of food and clothing and shelter for herself and her son. But Anthony does not have any health insurance. This little fellow right here, and millions more like him in our country today, have no health insurance at all. So if he gets sick and she has to take him in for care, whether it is to a specialist or, God forbid, if he were stricken with something very serious like appendicitis or such and she had to take him to the hospital for acute care, she has no insurance that can cover those expenses. So, obviously, he is unprotected. And people in this situation are also oftentimes reluctant to take their children in for care when they need it, because they have no way to pay the bills. That is the situation here.

The irony of it is that if Cynthia Fyfe would quit her very modest-paying job and go on welfare, go on public assistance, then she would receive health care coverage; she would receive it under Medicaid, and so would her son, Anthony. So one way she could get health care coverage for her son is to actually quit her job and go on welfare and then, under our system, we would provide health insurance to this little 6-year-old boy in Detroit.

When you hear that, you almost wonder if you are hearing right. Can it be possible that in America we have things so upside-down that we say to a mother who is out there working, who obviously loves her child and wants to provide health care insurance coverage for her child, that if she cannot earn enough to be able to pay for it, that if she will quit her job and go on welfare, then we will see to it that she can have health insurance for herself and also for her son?

That is what we are trying to fix here. It is not that complicated. It is pretty darn simple, although we have heard a million words spoken here over the last 4 or 5 days since this amendment has been sitting down at the desk. But the amendment is very straightforward. It has to do with seeing to it that we provide comprehensive coverage for these children in America who today do not have comprehensive care.

We are not talking about frills. We are not saying let us enable this child to go down to a fancy department store and pick out a whole wardrobe or have some fancy house to live in or to give someone a big car to drive.

We are talking about something a lot more basic and a lot more important than that. We are talking about the question of making sure this little kid has a chance to grow up and be well and healthy in America, which every child in America ought to have the chance to do, because every child in this country is important. You should not have to be born into a certain family situation or to be in a favored status in some way or another to be important enough in this country as a child to have health care protection. Every child should have it, because every child is important.

If we were driving down a highway right now and we came upon the scene of an accident that had just happened ahead of us, a car had gone off the road and a terrible accident happened and people had been hurt, and if there was a child there by the side of the road needing help, would we just drive on by? Would we just drive right on by that child and keep going? Of course, we would not. We would stop, and we would get out, and we would help. You would try to save that child's life and see that that child got the care it needed.

But as a country right now we are driving right on by these children. It is as if they are not really there or—we obviously know they are there—it is as if they do not really matter or they do not matter enough.

But what is this country? What is America? Is it just this great big piece of real estate? Is it just something we call a country that we started over 200 years ago? That is part of what we are. We are a nation of people, and we are bound together in this Nation in a relationship to one another where the well-being of America, our country, in the future depends upon how our people are able to live. Can they work? Can they get an education? If they are living in West Virginia, do they have a chance to take the talents that they have within themselves and develop those talents? Or if they are in Michigan, or one of the other 50 States, do they have the chance to come forward and make of themselves what they can?

But if you need eyeglasses or you need to go to the doctor or you need your immunization so that you do not get some dread sickness, or as in the case that we have seen in my own family circle when my daughter Ashley, nine and half when it was found she had a terrible appendicitis, nearly died, the doctors could not figure it out for a while. Thank God, she got the care in the end that enabled her to survive.

There are kids across the country right now with problems like that. Anthony needs help. How important is he? Is he important enough for us to do something about?

I think we ought to vote on this amendment and do something about helping children like this, because this matters. This is important. It is real. It is tangible, and it will make a difference in terms of making our country stronger for the future.

You say, well, wait a minute. You are just talking about this little 6-year-old boy and are now talking about the country being stronger. What is the connecting link? The connecting link is that our country in the future is going to have this little fellow, and boys and girls all across this country—they are what our country is. They are our future.

So we want them well and healthy and strong. We also want them well educated. We want them to be able to go into the work force at a point in time to support themselves and to support the country and strengthen the country. That is what we want. I think that is why we came and formed this country in the first place. It was for those kinds of basic things.

Now, what is so ironic is that every other country in the world, every other advanced country in the world and many of the not very advanced countries in the world have decided this issue is so basic that they provide health insurance coverage one way or another for their children because they understand the importance that those children have to their Nation.

But there is another part to this. I mean, our people are the heart and soul of this Nation. We want them well and healthy and able to function at full potential. But there is another part to this, and that is just the basic humanity and decency of it and whether we care about whether other people suffer, whether someone else's pain matters to us.

Well, on that count, I am thoroughly one of those people who feels strongly about other people that I see who suffer needlessly. It bothers me. I do not have to know who they are. They do not have to be from my town. They do not have to be my race. They do not have to be my gender. Whoever it is, if I see that, I feel badly about it, and I want to do something about it. I want to help that person get out of that situation of pain or misery or danger to their own well-being.

I do not understand why everybody does not feel that way. But some feel it more strongly than others obviously. But I think we ought to help people who need help because it is the right thing to do. I do not think we ought to leave people in pain. Today we have an epidemic of breast cancer in this country. I do not think we ought to leave women in this country with undiagnosed breast cancers because they do not have the money to get regular preventive care and get mammograms and other things they need to find out if they have this problem so it can be dealt with in time to save their lives. The same with other problems, but especially with the children, because the children are very vulnerable, and they cannot fend for themselves quite the same way.

This little fellow right here, if he had the strength and the ability to give his mother two or three times the income that she now has so they could live at a higher standard and have health care, surely he would do it, but he is 6 years old. He cannot do it. He cannot do it for her, and he certainly cannot do it for himself. But we can do it for both of them, and we ought to because it is decent and because it is good for the country. It will make us stronger and better as a nation. We want this little kid to succeed. We want him to know his country cares about him.

Well, there is a way for us to let that message come through loud and clear, and it is to vote for this amendment that is at the desk right now that has been there for 4 days. Some tried to talk it to death. Let us vote on it. If you want to vote against it, vote against it. I want to vote for it. I think when people have to cast their votes on this, I think there will be more votes for it than against it, because I think most Senators understand the value and the moral and imperative aspect of seeing to it that children in this country have the kind of health care protection that they deserve.

So let us vote on it. If you want to vote it down, vote it down. But let us not just talk about it endlessly hour after hour, day after day, because there are needs out here. This little fellow is counting on us to get something done here and not just come in here and blow a lot of hot air at each other.

Cynthia Fyfe has just a little bit of coverage. But how does a child feel about the fact that his parents or parent is in a situation where they are going without health insurance coverage, let alone themselves? I mean, children love their parents. Think of the anxiety these people live with every single day.

Do we want to live with that anxiety, those of us fortunate enough to have health insurance coverage? Are we prepared to give ours away or to do without it? Of course not, because we know how important it is. We would not want to put our family members in that kind of position of insecurity and danger. If you do not treat health needs ahead of time when you can or promptly when they arrive, it is dangerous. People die.

I talked last week about Cheryl Eichler, a 29-year-old woman in Michigan, who was the manager of a 7-Eleven, with Crohn's disease; as lovely a person as I ever met. She came to testify before our committee one day on health care needs. She actually left the hospital to do it because she felt so desperately about the need for working people like herself to have health insurance coverage. She could not have it; did not have it; and could not afford to pay these medical bills. Oftentimes, she would delay going to the doctor when she was having terrible pains from this Crohn's disease.

She died 6 months after she testified before our hearing, not quite 30 years old. There is no doubt in my mind she would be alive today if she had gotten health care when she needed it. She should have gotten it.

Other people in the country should have it. I am willing to pay my share so that other people can have it, because I do not want their kids going without the things they need. It is not good enough in America that some of us have it and some of us do not, not in this area.

We are talking about something here that you need to have. We are talking about trying to keep people well and healthy.

It is so basic and it is so fundamental. Why is it that we have such a hard time understanding the need to do it?

I am open to the way to do it, quite frankly. If somebody can offer a better amendment than we have here, then I am willing to look at the amendment, as long as it covers the kids and the expectant mothers, as well.

Why do we include expectant mothers here? Because we know that if a woman is carrying a child, if she goes to the doctor and gets good prenatal care, that child is going to much more likely go to full term, the full 9-month term of the pregnancy, and be a healthy baby, and then have a prospect for a good life down the road because they got off to a good start during the pregnancy and during the birth process.

We know that we save many times over the money we spend on prenatal care for an expectant mother in terms of a good outcome from that birth, as opposed to denying that care and having the baby come early or having problems that could have been prevented and then spending tens of thousands of dollars, or even sometimes millions of dollars, to try to help these little tykes. Oftentimes, it is done through Medicaid, through the public assistance system.

But it makes no sense. It does not make sense economically and it does not make sense morally. So we have to stop doing that.

You know, that does not build a strong America. That hurts America. It hurts us in terms of our basic strength, because we are squandering people and squandering money and we are not holding ourselves out to a higher standard, which is what we ought to do in America. We sort of lift ourselves up to a higher standard of conduct with respect to what happens in our country that affects the lives of our people.

Do you want people to love America? Do you want people in the underclass to care about this country? Well, I think we better make it clear that the country cares about them, as well; that this is a two-way relationship. I think it is so fundamental.

You could go into any church or synagogue or mosque in America or around the world and listen to what is being said by the religious leaders about what our relationship ought to be to one another. If there is not a foundation, a moral and an ethical and a religious foundation, in looking after each other's health needs, I do not know where there is one. It is so manifest.

I have seen it, you know, in hospitals, as everybody here has. I lost both my mother and my father in the last 2 years. That has been a terribly painful experience, and I know what it is like for everybody else that goes through it.

I watched, in the intensive care ward in St. Joseph's Hospital in Flint during both of those occasions, the dedicated services of the nurses, particularly, and the doctors and other caregivers to try to help people in these extreme situations. And I saw families, in addition to my own, going through these terrible moments, the travail and heartache and loss; sometimes recovery.

Do we not want to be there helping? Do we not want to help each other? If we pass that accident scene by the side of the road, do we not want to help? I hope that we are the kind of country that, in our heart and soul, would say, "Yes. Yes, we want to help."

We do not want to just go to Somalia and help; we do not want to just go to some other country around the world. We help every other country in the world, and a lot of that is necessary, and certainly it is driven by a humanitarian impulse. But is it more important to help the rest of the world than it is to help our own people? Are we going to find the money to help somebody in some distant land that we will never see, and say to little Anthony Fyfe here, "I'm sorry; we can't get you up on the radar screen. You are not that important. We'd like to help, but we can't find the money. We can't, we can't, we can't, we can't."

Well, we can. We ought to start voting. The whole weekend went by with talk, even though there is an amendment right down at that desk right now. That reading clerk right now could call the roll on that amendment, and every one of the 100 Senators could say yes or no, and we could settle that issue. We could decide whether we want to cover the children or we do not want to cover the children. And then we could go on to other issues.

I will finish in just a moment here. I feel very strongly about it.

I think this is a very important moment for our country. There are times when we have a chance to sort of grow as a nation and grow up to a higher level of achievement and relationship of our Nation and ourselves to one another. This is one of those moments.

It would be nice if it were simpler. The health care system is, by its very nature, complicated. It is 14 percent of the economy. It touches everybody in the country in one way or another. We know that going in.

But there are some basic elements, some basic truths embedded in all of this, and one, sort of the bedrock is, are we going to see to it that people get the health care coverage and protection they need? Are we going to do that? Yes or no? Are we going to see that it gets done?

Right now, this amendment says, all right, let us just take one group in this society. Let us take the most vulnerable group. Let us take the children, because they are not, in many cases, able to fend for themselves; certainly not 6-year-olds or 2-year-olds or 6-month-olds. They need somebody else helping.

And if their families are in situations where they cannot get health care, cannot afford health care—now, if this little boy right now had asthma and his mother had money, she could not buy him a health insurance policy even if she had the money, because the insurance companies do not want to insure a kid who needs the insurance. That is a preexisting condition. They would say no, we do not want Anthony because he has an asthmatic problem.

He is part of America. I want Anthony insured. I want every kid in America insured so they can get the care they need when they need it because it is right and because every child in this country is as important as every other child in this country. You should not have to be the child of somebody who is rich and famous and powerful, with a lot of money, in order to get health care protection in America. It ought to be there for every last kid in our country because each one is important. Each one is important.

So let us vote. Let us vote—or at least let us set a time to vote. It is 10 minutes to 2 o'clock. What if we talk until 4? Or talk until 6? Or talk until 8? Or talk until 10? Or talk until midnight? Or talk all night, if people want to talk all night. But then let us have a vote down here. Let us let that reading clerk right there call the roll. Call the 100 Senators' names, and let us find out where people are.

If we do not have the votes then we do not have the votes. I think we may just have the votes. We will find out. But it is time we start voting and put an end to this filibuster and these delaying tactics.

Once we have dealt with this amendment we will take an amendment from that side because we are going to rotate amendments. This amendment has come off the Democratic side. The next amendment, once we dispose of this one, will come off the Republican side. We will debate that amendment. And we will all vote on that and we will settle that issue and then we will rotate back over to an amendment on this side.

But let us get at it. The country deserves an answer on this and not just a lot of additional hot air. We have an amendment at the desk. I have helped draft it. I think it is time that we vote on it.

I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. I yield to the Senator from Missouri such time as he may need.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. BOND] is recognized for such time as he may require.

Mr. BOND. Mr. President, my thanks to our distinguished ranking Republican on the Finance Committee. I wanted to congratulate my colleague and good friend from Michigan for his very compelling comments on why health care reform is needed. There are clearly some very, very good reasons for us to pass health care reform. That is why many of us on this side of the aisle have been working for better than 4 years to develop effective, responsible, and private-sector solutions to the problems that we face in health care.

It has been mentioned that we are engaged in endless debate. Let me point out to my colleagues and my constituents that we are seeing some very significant changes going on, literally as we speak. As we all know, there was a bill passed out by the Finance Committee and a bill passed out by the Labor Committee. Now our majority leader put forward, about 2 weeks ago, the Clinton-Mitchell I version. We started to work on that. And last week, then, another 1,400-plus-page bill, Clinton-Mitchell II, came out. And we had been working to understand what was in the first Clinton-Mitchell bill and we found out that there were some changes. Some of them were good. There were some outrageous things in the first one that were dropped out.

I think my colleague from Michigan would be interested to know that one of the things, unfortunately, that was dropped out of the second Clinton-Mitchell version was something that he and I have been working on, on a bipartisan basis, for several years. We believe that one element, an important one but just one element in health care reform, is to establish a system by which we can go to electronic filing for health care insurance claims file processing and paying. This was developed on a bipartisan basis with the active participation of the Department of Health and Human Services, the people in the industry who provide health care information, groups from health care providers to the American Civil Liberties Union. We were working because it makes no sense to have a quill and scroll kind of recordkeeping in health care when it takes up one-seventh of the American economy. We waste $150 to $180 billion a year just on pushing paper, and it is a headache for each one of us who are consumers. It takes up too much time, it wastes money, and besides, we do not have good information on which to base long-term decisions about the utility of various health care procedures. It is called outcomes research. You need to have a good data base.

We developed a proposal. We worked on it with the new administration, the Clinton administration's Health and Human Services. They signed off on it. We have groups from the ACLU to the AMA, the American Medical Association, American Hospital Association, and all the major data information groups which had come together on a good bill, and it was included in the Finance bill. It was included in the Labor bill. It was included in the first Clinton-Mitchell bill. But it got dropped out in the second Clinton-Mitchell bill. And that is part of the problem.

I was on a talk show in Missouri this weekend and one of the callers said, "Why are you saying you do not know what is in health care? You have been working on health care for over a year."

My answer on that is we have been working on health care a lot longer than that but we have had a different 1,400-plus-page amendment put in about every 3 or 4 days. And there was a third version that came out this Friday.

As we are talking about it, we are reading it and trying to find out what goes into it. I think it is important for us to look at some of the problems in the current amendment by the majority leader that he would have us substitute for the Finance Committee bill. And with apologies to the people who were on late nights, we just picked 10 reasons why, back at the home office in my State, the Mitchell bill should not be approved—the amendment by the majority leader.

First, starting out with No. 10, "Government-mandated purchasing groups are back." This was a feature of the original Clinton bill. They were called HIPC's, Health Insurance Purchasing Cooperatives. HIPC's became one of the first things that the public focused on, that is, a Government-designated purchasing organization. Every State that had talked about having a mandated or a Government-run purchasing cooperative, a HIPC, moved away from it. The American people moved away from it as we discussed the original proposal by President Clinton. They looked like they were dead; however, they have come back. They have come back in a new form.

The Government will now designate its official HIPC in every region of the country. It will designate an existing purchasing cooperative as one of its HIPC's. And every employer in that area will have to designate one. It puts the Government-run purchasing group at the head of the line and it gives them the power to run the health care market as a bureaucracy. There is no option for the businesses, the employers in that area. They have to offer it.

When they were first proposed the American people said, "No, we don't want them. You would either have a choice between a State-run store or a private enterprise operation, and we have found in this country that the private operations are the ones that provide the best service at the best price."

Reason No. 9, the plaintiffs' attorneys, the trial lawyers, will love it. Because there are, shot through this bill, all kinds of incentives for people to sue their health plan. This creates a new private cause of action on which we could award damages if the plan does anything that would deprive anyone or tend to deprive anyone of health care or adversely affected access to health care services. This is a tremendous expansion of the civil rights measures. We worked very hard and passed a civil rights law a couple of years ago. This includes, in the new amendment which is offered by the majority leader, a whole range of new remedies and new causes of action for the attorneys who want to bring suits.

We need real malpractice reform, not the encouragement of new suits. You can sue your health plan. The Attorney General can bring suits against health plans. And a recipient, a citizen, gets new grounds even to sue the State if they are not happy with the way the State operates.

The Congressional Budget Office, in analyzing the first Mitchell plan, says that the plan would have great incentives for people to sue the health care providers. It says that it would offer significant encouragements to lawsuits that would be disruptive and that would have an adverse impact on costs, because the litigation costs would wind up being passed along to the others who are participating in the system.

Reason No. 8, the States are given 177 new responsibilities and there are no grants for the States. If the States do not run the program the way the Federal Government wants it, they can take over the State programs. That is bad enough, but if this takeover occurs any time after January 1, 1997, then the Federal Government comes into that State and imposes a 15-percent surtax on all premiums. So that if a State does not like the way it is being told by the Federal Government to run it, the Federal Government has the ultimate club. The Federal Government takes over and the Secretary of Health and Human Services has the option to run it and impose a 15-percent surtax, driving up the cost of insurance to the people in the State.

Again, the Congressional Budget Office says that the difficulties facing the States would be tremendously high.

On page 11 of the Congressional Budget Office report, it states:

> The States have to certify standard health plans and health insurance purchasing cooperatives, establish separate guarantee funds for community rating and self-insured health plans, monitor variations in the marketing fees of HIPC's and other systems for purchasing insurance, and ensure carriers meet minimum capital standards.

These standards are largely federally determined, and the CBO said:

> It is doubtful that all States could develop the capabilities to perform these functions effectively in the near future.

They go on to say in the system of subsidies, again quoting from page 11:

> Integrating these three subsidies in a sensible and administrable fashion would be extremely difficult especially as some families could receive subsidies from more than one program.

And they point out several kinds of subsidies that would be very difficult to integrate.

This, to me, seems like an open invitation to have the Federal Government take over the State responsibilities and move even more directly into the job of running and controlling health care in our Nation.

Reason No. 7: Health care insurance premiums will skyrocket for young families. My colleagues, and those who have been following health care reform that has been implemented around this country, know that a real problem has arisen in New York because New York says everybody is going to pay the same insurance premium under their community-rating system, regardless of their age.

The fact is that those of us who are older require more health care coverage than those who are younger. Typically in this country, as people get older, their incomes go up, so they are better able to afford that higher cost health insurance. But to go to strict community rating without age adjustment means that young families just getting started with small children and the burdens of starting a family will have to pay a subsidy in their health insurance program for their parents and for others in their parents' generation who, because of their age, simply have higher health care costs.

We already have burdens on the working young today. They have to pay for the Social Security, they have to pay for Medicare for the seniors, and now there is going to be a windfall for the older wealthy who will be able to take advantage of the lower health care costs of the younger while the younger people are paying more in their premiums to take into account the fact that everybody has to be charged the same premium regardless of age.

That simply does not make sense. That is the one reason that is driving the New York system to force younger people out of the plan. It is moving away from universal coverage.

Reason No. 6: There are 50 new bureaucracies created in the Mitchell bill. I am not going to list all 50 here. But let me give you some of the most interesting.

There is a Government health insurance purchasing cooperative; a National Health Benefits Board; a National Council on Graduate and Medical Education, and I believe the chairman of the Finance Committee, the distinguished senior Senator from New York, has pointed out that the Federal Government would use that body to determine what kind of degrees students at medical schools should receive, a very frightening prospect if you have followed the record of other Government agencies in predicting what various professions are going to need in the future.

There is a National Council on Graduate Nurse Training; a National Advisory Board on Health Care Work Force Developments; there is the United States-Mexico Border Health Commission; there is a State Compliant Review Office; there is a Commission on Worker's Compensation Medical Services; and there is a National Health Care Cost and Coverage Commission.

I do not believe we need more bureaucracies. We do not need 50 new bureaucracies. We need to fix what is wrong with health care, not create 50 new positions from which problems can arise in health care.

Reason No. 5: Employer mandates will cost jobs. We have talked about that before. The Clinton plan went directly to employer mandates. Everybody knows that when you force a new cost on a business, there are several things that can happen: Either wages can go down or profits can go down, or, most likely, wages will either go down or people will be laid off.

Under the Clinton-Mitchell plan, there is a trigger. If you do not reach 95 percent by the year 2000, then either Congress acts or an employer mandate and an individual mandate are triggered into effect in that State. It is not just a burden on the employer; it is a requirement that you, the individual, have to get insurance. The combination of these, No. 1 sets up such a mixed scheme. The Congressional Budget Office thinks there is no way to implement a State-by-State trigger. Let me tell you what would happen.

If, for example, in my State, say Missouri was only at 94 percent—or it could happen in any other State; frankly, based on our experience, it might happen in most States—there would be a trigger and there would be a mandate that everybody in that State has to get insurance and employers would have the responsibility of providing 50 percent of their health care costs.

The Congressional Budget Office has pointed out that this is going to have a significant impact on employment. On page 17 of the Congressional Budget Office report on the Mitchell bill, it says:

> The imposition of the mandate would raise the cost of employing workers at firms that do not currently provide insurance. Economic theory and empirical research both imply most of this cost would be passed back over to workers in time in the form of lower take-home wages.

They go on to state that for people near the minimum wage, the likely outlook would be that they would lose their jobs or some of the employers could go out of business if, in fact, they were not able to pay those additional costs.

If that mandate went into effect in my State but not in surrounding States, it is quite likely that the jobs would move out of our State into other States, further worsening an economic problem. This happened, as we all know, during the last decade in the Massachusetts miracle, where Massachusetts came up with a delayed employer mandate. As it got close to the time, the economy was collapsing, implementation of the employer mandate was postponed again and again because everybody realized in Massachusetts that if they had an employer mandate and other States did not, the jobs would pick up and move to the other States.

Well, the people of Massachusetts imposed a remedy, a remedy I happen to believe was a sensible one. They elected a Republican Governor. But that, to me, is a recognition of the reality of employer mandates.

Hard triggers are imposed regardless of the economic or social stability in the State. These hard triggers are likely to create uncertainty and chill economic growth, and they are simply a way to go after an employer mandate and an individual mandate without having to vote for it. You can say, "Well, it is off in the future, so maybe I can get reelected before the people in my State feel the impact of the employer mandate and the burdens of the individual mandates, which would require major changes in the economy."

This hard trigger can produce irresistible demands for price controls, you can see workers being laid off—part- and full-time workers being laid off—delayed capital investment, hiring decisions and hiring of low-wage workers in a much less generous fashion.

Reason No. 4: This creates a new trillion-dollar Federal entitlement program. The total subsidies under the Clinton-Mitchell plans 1 and 2—and we have not had a chance to analyze fully the Clinton-Mitchell No. 3 to see if there are any changes in it—but under the first two, the subsidies in the entitlement plan would cost over $1 trillion over 8 years.

This is a new entitlement of subsidies for low-income people to purchase health insurance. It is likely that they will be overly expensive, and as we have seen time and time again in other entitlement programs, they tend to cost far more than we expected they would cost. That is why we have an entitlement reform commission headed by the distinguished junior Senator from Nebraska and the senior Senator from my State, Senator BOB KERREY and Senator JACK DANFORTH, who are warning us in this country that we are about to destroy our economic future, bankrupt the Federal Government, and put our children and grandchildren in a trick box that they can never get out of. That is by reason of the entitlements that grow like Topsy, and even worse. This is, I believe, a very frightening aspect of the Clinton-Mitchell bills 1, 2, and 3.

No. 3, moving down to this line, this new bill—if I recall, President Clinton said, when he introduced his tax bill in 1993, that health care reform will save $300 billion over 5 years—results in $285 billion additional spending on health care in the future.

One of the reasons we got into the health care debate was to get costs under control. Now, we have all heard, and we talked about—and I agree with the statements here—the problems with people who do not have health insurance and the tragedies of people who have been denied health insurance when they or someone in their family have had a serious illness.

That is something we have to remedy, but let us not forget the other side of the equation. We got into this health care reform debate because Medicare and Medicaid were eating the budget of the Federal Government, Medicaid was eating up State budgets, and health care costs were hitting businesses and the self-employed and retired people across this country.

The costs of health care are going out of control. That is why President Clinton as a candidate endorsed managed competition, because where we have seen some success in getting health care costs under control is through the use of market-based competition. It can work and it will work. But we cannot afford another $285 billion of spending.

Let me go back to what the Congressional Budget Office said about the spending. It says that there are going to be extremely high costs. They would have to be paid by taxes, a tax on high-cost health care plans. They are going to have a very complex system of generating the taxes and determining how much they cost. The expenses of the plan could be expected to grow with assessments, and such assessments would increase premiums, and in addition to costing more would discourage participation during the voluntary period.

In the analysis by CBO, they say there ought to be a tax cap, with which I agree, on the tax deductibility to get costs under control rather than having new spending built into the plan.

Reason No. 2—and this one is of concern to me because this one was in the original Clinton bill, as well as in this one—after the mandate clicks in, you do not have to pay your premiums. After the employer mandates, there are provisions in the bill that encourage freeloaders not to pay for coverage. Health plans cannot cancel health coverage for anyone who does not pay their insurance bill. That means once you go to a mandate, why bother to pay? Who pays? Well, the Mitchell bill imposes a collection shortfall add-on on honest workers and families to pay for freeloaders in the system. Now, freeloaders could get by with not paying their premiums and automatically passing on the payments to their honest neighbors.

Guess what happens? Honest neighbors will not be able to pay either. And then we get somewhere I expect to get—Government running the whole system.

That is one of the outcomes that I think is outrageous. It would not affect the low-income individuals for whom we are going to provide a 100-percent subsidy for their premiums if they are at poverty level or below. It would affect the working middle class. And those who are dishonest or wanting to shirk their duties and stick the bill on their neighbors just would not pay, driving the cost up to where everybody would be forced out of the payment of premiums because they would go through the ceiling.

Well, the first and best reason I think that the Mitchell bill will not fly is that it is longer than the Clinton bill. This latest volume is 1,443 pages long. I have talked about just a few of the problems in this bill. Every time we get a new version, we find new problems.

This is a bill which contains so much we do not need that I believe we should start afresh and work with something that has either been passed by the committees so every provision has had a chance to be fully aired or we ought to adopt a shorter substitute. With all the bureaucracies, with all the taxes, with all the mandates on the States, there are too many things bad about this bill.

I still believe, however, that we need health care reform in this country. I think the stage has been set. As I mentioned earlier, I have been working at Senator DOLE's direction on the health care task force with Senator CHAFEE and many of my colleagues for over 4 years. Week after week, we looked at what was wrong with health care and developed reasons and ways of improving the health care system. During that time, we fought battles with the Bush administration to try to get them to move forward with health care. Frankly, they did not do it, and I commend the President and Mrs. Clinton for making health care reform a priority because I think there are things that need to be done.

We need to make sure that people do not lose their health care if they get sick. We need to make sure that those who cannot afford it now can get resources to get health care. We need to cut down on expensive malpractice costs. But most of all, we need to get the system under the control that the marketplace will accomplish for us. We have lost track, when we are considering a 1,400-page bill, of doing the things that need to be done and not doing others.

I have been told by person after person in my home State of Missouri, as I have been back and talked and listened to them for the last several months: We do not want a Government bureaucracy running health care. Sure, we would like to see changes in health care, but do not hurt it. We do not want a system that does more harm. We do not want to see ill-considered, extensive, bureaucratic, overreaching Federal legislation.

The first principle of medicine is do no harm. In politics, the first principle ought to be if it is not broke, do not fix it. Well, I think that these 1,400-plus pages fix far more than is broken.

I believe the American people want us to have a bipartisan plan. I think they want to have something in which every American can have confidence. They want to have something with which they can go forward and say this has been fully considered and we have a good, sound basis for health care reform.

We have heard from the White House that, well, maybe it would be enough just to get a bill through here with 51 votes. Then they can take it to conference and no telling what will happen. As has already been pointed out on this floor, if we are going to make major changes in a program that affects every one of us and consumes one-seventh of our national economy, our gross domestic product, we better do it with broad bipartisan agreement so that the people of America can know that they are getting something that has been fully considered, fully aired, and has the best interests of the people of America at heart.

First, we need to get everyone into the system. We know that there are about 39 million people uninsured in this country today. If we are going to make sure that everyone gets into the system, we need to know who these people are. Who are the uninsured? Most of the uninsured are working adults—57 percent. There are 25 percent of them who are uninsured children, and the unemployed are 18 percent. Most of the uninsured are in families headed by a worker—84 percent. Perhaps most revealing is that most of the uninsured are farm families headed by a worker employed continuously throughout the year—never unemployed. That is 60 percent.

In fact, the largest segment of uninsured live in families headed by a full-time worker. Where do the working uninsured work? Well, most of them work in the retail trade, the services industry, or other areas. You have 7 percent in government, 18 percent in services, 23 percent are self-employed, 26 percent in retail, 32 percent in construction, and 46 percent in agriculture.

We need to eliminate barriers. First, we have to make sure that people are treated fairly under the tax laws. Most of the people in agriculture are farm families.

I listened to farm families throughout Missouri say, "Why don't we get to deduct 25 percent of our health insurance premiums? That is not fair." And I agree. Somebody working with a very wealthy corporation can have unlimited benefits, tax free to the employee and tax deductible by the employer. But the farmer and his or her family only get to deduct 25 percent. That is why the figures are so high in agriculture. That is a disincentive. That is a glitch in our tax system that we have to deal with.

People in the retail trade, if they work for a retailer—and the average profit margin for the retail employee in the country today is $1,700—if the employer does not provide health insurance, then the employee working full time in a retail establishment has to pay 100 percent—no tax deduction.

So the Tax Code itself causes, as some have estimated, as many as 9 million people to be uninsured.

Then next we would go to Federal subsidies to purchase insurance. Generally the subsidies that have been agreed on by a Republican and Democratic basis alike are from 100 percent of subsidy and 100 percent of poverty phasing out at 150 percent to 200 percent to 240 percent. This is a major undertaking by the Federal Government. This is something we have to pay for. But this is to make sure that no one is denied health access and health services because they cannot afford the insurance.

Once they get it, however—and one of the things that scares many people is that they will lose their health care insurance once they have it.

I have heard of too many problems, too many tragedies of families who thought they had good insurance policies, and, if they had a major, catastrophic illness to a parent or even to a child, they have found their health insurance canceled or their premiums jacked up through the roof. We cannot accept that. I think everybody in this body, on each side of the aisle, would agree that the time has come to stop that practice.

Health insurance reform ought to ensure that health insurance spreads the risk, not allow a sharp, practicing company to come in and cherry pick off very low premiums to healthy people, then throw them out, and somebody that they covered gets sick. This, to me, does not make sense.

The next major goal of health care reform is to contain costs. I believe that the marketplace will work. We have seen where groups of employers or groups in a community get together to purchase health care insurance. They have the information. They go to health care providers and get information on the quality and cost of care. They can make a tremendous difference in the cost of insurance.

I talked with people who are working in a small purchasing cooperative through a third party administrator in Springfield, MO. Some of them have been in the program for 7 years, and they find their health care costs are still what they were 7 years ago. They have not come back up to that height because they are exercising the discipline of the marketplace. It is the discipline of the marketplace that gives us the best standard of living in the world, whether it be for food, clothing, or anything else you want. It has made a success out of the rest of our economy. The reason that marketplace competition has not worked in the United States is because there have been impediments, first dollar coverage which takes away any incentive to purchase health care services wisely and at the best cost.

I believe we need more managed competition, not more Government bureaucracy. I believe that the Mitchell bill is Government run amok, with all the bureaucracies, with millions and millions of dollars in new spending only marginally relevant to the urgent health care needs of our Nation.

Here are just a few:

There is $50 million per year for school-based health education. I believe health education is important. But I believe that local communities and local school boards should decide upon the curriculum and fund the program, not the Federal Government.

There is $82 million a year for school-based services. The idea is to get the children into health care services so they are covered by a health plan.

We do not need to be paying more money for school-based services from the Federal Government. The Federal Government is going broke rapidly. Let us not start piling more expensive programs on it.

There is $200 million per year for the Department of Labor to retrain and deploy displaced health care workers.

We thought that when the Clinton bill was initially proposed, that there would not be any displacement or dislocation. In addition, there are about 154 different training programs in any event. So why do we need more training programs.

There is $92 million a year for OSHA, the Occupational Safety and Health Administration. A new program entitled "Occupational Injury and Illness Prevention." I thought that was the job of the agency already. What are we funding it for? Why do they need another $92 million?

Let us take these new spending programs out, consider them separately, and if they are really needed, if we need to tell OSHA what it is supposed to prevent, occupational illness and injury prevention, let us cut out some of the money we are now providing OSHA, and tell them you ought to be preventing occupational illness and injury. That seems to be what the agency was all about. I would like to see them go back and do that job.

Another problem is that it makes the women, infants and children spending program mandatory. It becomes an entitlement program. I support the women, infants and children, the WIC program, and have backed efforts in the Agriculture Appropriations Subcommittee to move the program towards full funding. Why do we set it up as a new entitlement that is called an entitlement which would join the others in growing without control, without legislative oversight?

I believe we need reform that puts Americans, not politics, first. I am committed to working to get a bill on this Senate floor that will do the job and that will do it right. We cannot walk away from families who desperately need relief from insurance company cherry picking. They need affordable coverage, and they should not have to wait as we fuss about the Government bureaucracy bill. We need to have both sides working together.

I think there is a lot we can agree on. I think we could get a solid majority in this body, and I would hope the other body would follow us—to say that these are the things that are wrong. Let us do what really is necessary, and what is pressing now. But let us throw the baggage overboard. There are too many burdens. There are too many costs. There are too many taxes. There are too many mandates. This Clinton-Mitchell bill in any of its transmogrifications from 1 to 2 to 3 is a far bigger bite than we can or should bite off because I do not intend to vote for a bill that would harm the health care system, that would further burden our Government, and that would put the people of American at the dependence of the Federal Government to get health care.

This is an effort to put big Government first. We do not need that. I think there are key features that a majority agree are essential to achieve real health care reform. I will work for a bill that includes those and leaves the rest out.

First, fair tax treatment for the self-employed and uninsured.

Second, insurance market reforms to ensure you do not lose your health care coverage or your insurance, or have your premiums escalated if you get sick or lose your job.

Third, provide subsidies for low-income individuals not covered by health care now.

Fourth, real malpractice reform.

I commend the majority leader because between transmogrification one and two, he knocked out a provision that would have preempted all State malpractice reform laws. The State of Missouri and the State of California have gone a long way. First, they were going to repeal all of the State laws. We do not need that. We need real malpractice reform.

Fifth, we need to move toward electronic filing of health care claims, information with privacy protection, security protections to the individuals, so their health information is not disclosed. We need electronic filing to lower costs, to provide better information on the effectiveness of health care procedures. I hope we can go back to the provision that, along with Senator RIEGLE in this body and with a bipartisan cosponsorship in the House, we have already worked on.

Finally, I believe that we need to rely on the market competition to keep health care costs under control.

Madam President, I believe these are the outlines of a bill we can pursue, and we can achieve great things. I will continue to work with my colleagues on both sides of the aisle. We do not need 1,400 pages of bureaucracy. We do need real health care reform. I stand ready to work with my colleagues to achieve it.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIME BILL

Mr. HATCH. Madam President, the most apt comment one can make about President Clinton on the crime bill is: There he goes again. Instead of taking up the good faith offer of myself and other Republican leaders to meet and negotiate a truly bipartisan, truly tough crime bill, he is playing the same old inside-the-beltway partisan blame game. The people of Utah and across the Nation will not benefit from the President's partisan tactics.

It is time for the news media to expose some myths in this crime debate.

First, President Clinton has not exerted leadership on this issue. He has exalted rhetoric over leadership. He has never submitted a remotely comprehensive crime bill to Congress. Indeed, his administration sat largely on the sidelines during the Senate's consideration of a crime bill last year.

Second, the Clinton administration is promoting the phony line that the crime bill emerging from conference had already received majority support in both Houses and that opposition to it is mere politics. In fact, the bill that I voted for and which passed the Senate 94 to 4 in November did not contain the $1.8 billion for the so-called Local Partnership Act, and open-ended social spending boondoggle which slaps an anticrime label on a liberal, 1960's-style Great Society Program. The money in this pork program can be spent on education to prevent crime, job programs to prevent crime, and drug treatment to prevent crime. What we need to prevent crime, however, is more support for local, State, and Federal law enforcement and more prison space.

The Senate bill I supported last November did not have $900 million in yet another job training program. What we need in the fight against crime is not to spend this $900 million on yet more job training, but to spend it on building new prison space.

The Senate bill I supported in November did not contain the $895 million Model Intensive Grant Program, which would spend precious crime fighting resources on transportation, public facilities, and yet more job programs. The conference report contains all of these social spending boondoggles.

The bill I supported in November did not provide for the release of as many as 10,000 or even 16,000 Federal convicts, many of whom are going to commit more crimes when they would otherwise be in Federal prison. The conference report supported by President Clinton provides for such early release. This is unconscionable. Yet, it has been ignored by the pundits.

The bill I voted for in November contained numerous tough provisions dropped in conference. For example:

Tough Federal penalties for violent juvenile gang offenses, the Dole-Hatch-Brown provision—dropped.

The Moseley-Braun-Hatch provision for mandatory prosecution for violent juveniles age 13 or older as adults in appropriate cases—dropped.

Tough mandatory minimum sentences for using a firearm in the commission of a crime, the D'Amato provision—dropped.

Mandatory minimum sentences for selling drugs to minors or employing minors in a drug crime, the Gramm provision—dropped.

Amending the rules of evidence to allow evidence of prior offenses of rape and child abuse in prosecutions for those offenses in appropriate cases, the Dole provision—dropped.

Allowing the notification of communities that a convicted sexually violent predator has been released into their midst, the Gorton provision—dropped.

Requiring mandatory restitution to victims of violent crime, the Nickles provision—dropped.

HIV testing of accused rapists, the Hatch provision—dropped.

Ensuring the swift removal of alien terrorists without disclosing national security secrets in the deportation process, the Smith-Simpson provision—dropped.

Ensuring that criminal aliens are swiftly deported after they have served their sentences, the Simpson provision—dropped.

The crime bill conference report, I might add, is not the same bill that emerged from the other body either. As one example, the bill sent to us by the other body contained $13.5 billion, at least ostensibly for prisons, compared to the conference report's $6.5 billion.

So it is time for the new media to call this administration's bluff and set the record straight—this crime conference bill is not the same bill either House sent into conference.

Let me turn to a third myth fostered by this administration and its congressional allies—that this bill contains billions for prisons. Nonsense. Not one dime in the bill the President supports must be spent on building one prison cell.

The other side of the aisle claims to spend $8.3 billion on prisons. Yet, $1.8 billion of that funding is simply to reimburse States for costs associated with incarceration of criminal aliens—funding that will go overwhelmingly to only a handful of States in any event.

The remaining $6.5 billion in so-called prison spending is in the misleadingly rugged-sounding program entitled "Violent Offender Incarceration and Truth in Sentencing Grants" section. Yet, not one dime of this money has to be spent on the construction or operation of prisons. The pundits should read that section and stop repeating this administration's misleading rhetoric about it. I say it again, not one dime of the so-called prison provision of the bill supported by the President must be spent on prison construction or operation.

Rather, the money can be spent on programs, including alternative confinement facilities and drug treatment, intended to free up existing prison space—not to build new prisons. These programs will ostensibly free up existing prison space through early release-type programs for some criminals, half-way houses for still other criminals, and similar alternatives to prison. This administration is hostile to a real buildup in new prison space. They do not really believe in new prisons—they believe in rehabilitation, job training, drug and sex offender treatment, and softer sanctions as alternatives to prisons. The American people know better: The best way to prevent crime is not to coddle criminals but lock them up for a long time.

Indeed, the so-called prisons section of the conference report requires States, as a condition to receiving any of this so-called prison money, to implement a "comprehensive correctional plan." The plan must include, among other things, "diversion programs, particularly drug diversion programs * * * prisoner rehabilitation and treatment programs, prisoner work activities, and job skills programs." What do any of these things have to do with locking up violent criminals?

In effect, in order for the States to qualify for the so-called prison grants, they have to spend much or all of it on a costly, liberal corrections scheme backed by the President. This is a shell game. And it is a waste of money that ought to be spent on the construction and operation of something this administration seems to feel is old-fashioned—bricks and mortar for prisons.

Myth No. 4: This conference report contains tough truth-in-sentencing requirements. Supporters of this bill claim it conditions 40 percent of the so-called prison grant funding on State implementation of truth-in-sentencing. The provision is a sham. State adoption of a determinate sentencing scheme will only apply to second-time violent offenders. Moreover, these grants are subject to the same condition I mentioned earlier—the State must implement a liberal corrections policy.

Myth No. 5: The conference report contains a tough three strikes and you're out. It does not. The impact of any such provision is directly related to the scope of its qualifying convictions. The conference report's provision is far too narrow, affecting as few as 500 cases a year.

The Senate-passed crime bill, on the other hand, contained a broad approach to dealing with recidivist, violent criminals. In fact, the Senate-passed bill provided mandatory life imprisonment for two-time losers who sell drugs to children, employ children in the drug trade, or who commit murder. But that was too tough for this administration, and it was dropped in conference. The Senate bill, which federalizes crimes committed with a firearm, would subject thousands of three-time violent offenders and drug traffickers to life imprisonment. But this was too tough for this administration, and it was dropped in conference.

Myth No. 6: The crime conference report is going to put 100,000 new police officers on the street. In the spirit of bipartisanship, Republicans have supported spending the money the administration's own analysis says would result in putting all of these new police officers on the street. But, frankly, independent analysts scoff at the administration's claims.

For example, consider the remarks of John DiIulio, professor of politics and public affairs at Princeton University, director of the Brookings Center for Public Management in Washington, DC, and self-described card carrying Democrat. He said, on August 8,

> The bill calls for 100,000 new cops. But when you read the relevant titles of the bill, what you discover is that that really means about 20,000 fully funded positions. And if you're stouthearted enough to look at this bill in light of the relevant academic literature, you know that it takes about 10 police officers to put the equivalent of one police officer on the streets around the clock. This is factoring in everything from sick leave and disabilities to vacations and three shifts a day to desk work and so on. So that 20,000 funded positions becomes 2,000 around-the-clock cops. And 2,000 around-the-clock cops gets distributed over at least 200 jurisdictions for an average of about 10 cops per city.

Indeed, Madam President, the irony of the other side of the aisle claiming that opposition to this conference report is political is this: President Clinton has treated this issue largely in a political way. He claims he will put 100,000 police officers on the street, which will sound good in 1996, but this bill will not produce anything close to that number of new police on the street by 1996 or 2006. He claims he backs the death penalty, but he apparently has cut a deal with death penalty opponents to implement unilaterally the concept of the so-called Racial Justice Act, which will end the death penalty. He claims he backs a three-time loser provision, but endorses a very weak version of such a law. In order to satisfy the liberal social spending interests in his party, he has endorsed squandering of billions of dollars in scarce crime-fighting resources to be spent, instead, on liberal social spending pork.

Madam President, again, I call upon President Clinton to meet with Republicans on this matter. We can get a good crime bill to his desk. But that bill must be a bipartisan bill, not one which merely tinkers with the conference report, and not one which only satisfies the liberal wing of his party.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Madam President, I ask unanimous consent that Lucia Giudici and Jeffery Geller, congressional fellows of my office, be granted floor privileges during the consideration of S. 2351.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I yield such time as he may consume to the distinguished Senator from Massachusetts, Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Thank you very much, Madam President. I have been listening over the course of the late morning and this afternoon to the various speeches about the Mitchell bill, and the Dole bill, and some general expressions of concern, particularly with regard to children.

It is important for the American people to understand that this is the third day that we have been debating the Dodd amendment, of which I am proud to be a cosponsor, to accelerate protections for preventive services for children in this country, up to 1995.

We have been trying to get the Senate to go on record to approve this particular measure, which is of such incredible importance to children in this country. I spoke earlier in the debate about the importance of Senator DODD's amendment, as did Senator RIEGLE, who offered a similar amendment to the Finance Committee bill, which was approved with bipartisan support. The Senator from Illinois, and a number of other Members also spoke in favor of this measure.

But we are trying now, in our third day, to come to a decision. Those who have put forward this amendment—which is not very complicated and is supported by a number of insurance companies—feel that we must build on the protections for children established in the Mitchell bill. If we are going to have a bill—and I believe we will have a bill—we ought to give priority to children, for all the reasons outlined in the earlier discussion.

But we are now in the early afternoon of the third day, and many of us would like to see a resolution of this matter, so that we can move on to other proposals to strengthen the Mitchell bill. Senator HARKIN has a proposal with regard to disability issues, which I think makes a great deal of sense. It will be cost effective and responsive to some of the very special needs of persons with disabilities. There will be other amendments to strengthen the bill that deal with rural health needs and mental health provisions.

In the brief discussion last week between Senator DOMENICI, Senator MOYNIHAN, myself and others, we talked about various provisions in this legislation dealing with mental health. The issue is parity of coverage for individuals with physical health care needs and mental health care needs.

We are eager to debate all these issues and to permit the Senate to go on record on these matters. Nonetheless, 3 days into the debate we are still discussing the first amendment. There are those who say "We are not trying to stall this proposal," and yet we cannot come to grips with something that is as basic, as fundamental as the amendment that is before us, which would improve coverage for the 12 million children who do not have coverage under Medicaid or through a working parent's health insurance policy.

The number of children without insurance is growing year after year after year. The Carnegie Commission estimates that by the year 2000 about half of all of the children in the country will not be covered by a parent's employment-based health insurance policy. We are talking about working parents, men and women who are playing by the rules, working 40 hours a week, 52 weeks a year, trying to provide for themselves and their families.

All this amendment does is say that beginning next year insurance policies are going to cover a range of preventive health care services for children. Contrary to what we heard from some of our colleagues, this amendment is not about subsidies. It is a very simple proposal that ensures that beginning in 1995 private insurance policies will provide preventive health care services for children.

That is what we would like to see the Senate decide this afternoon. I imagine we will have a chance this afternoon to talk about some of the other principal differences between the Mitchell bill and the Dole bill. We will discuss not only how these bills affect children but how they affect working families and senior citizens. The Dole proposal does not provide prescription drug coverage or home and community-based long term care services for our seniors, as the Mitchell bill does.

We are hearing the voices on the Senate floor saying that they care about the elderly and they care about prescription drugs. One bill covers it and the other bill does not.

We hear Members saying they care about community-based long term care services so that seniors are able, as a matter of choice, to remain home and get the health care services and support they need. Seniors may want to be able to receive community-based long term care services during the day, and then return home to receive the care, affection, and love of the members of their family. There are provisions in the Mitchell bill to provide these services to seniors and the disabled. There are no such provisions in the Dole bill.

I will take just a few moments to review once again why this particular amendment is important.

First of all, I will take a moment to describe the difference between the Mitchell proposal and the Dole proposal when it comes to protecting children. Families with income below 100 percent of poverty would be protected under either proposal. However, for a family with income at 150 percent of the poverty level, which is $22,000 for a family of four, you see that under the Dole proposal the family would have to pay $5,883 to provide insurance for their children, while under the Mitchell proposal the same family would receive a full subsidy to buy a health insurance policy for their children. We can see that the Mitchell bill targets subsidies to provide coverage for children. Working families earning $29,000 per year would have to pay only $232 for coverage for their children under the Mitchell bill, compared to $5,883 under the Dole bill. Families earning 250 percent of poverty, or $37,000 would be able to provide coverage for their children at a cost of only 2.7 percent of their income, compared to 15.9 percent under the Dole bill. For working families that want to provide insurance for their children, the cost is virtually prohibitive under the Dole bill, and that is unfortunate.

Mr. President, we have seen also in recent times that the percentage of children who are being covered by Medicaid has been increasing for the past several years. So we have a phenomenon where of more and more children are falling into the Medicaid Program. That is certainly better than no coverage at all. However, the percentage of children being covered by their working parents is going down, and the percentage with no insurance at all is increasing every year.

The majority of uninsured children, as I pointed out earlier, are from working families. I can not overstate the importance of providing preventive services for these children, and for all children. The Mitchell bill provides these necessary services for children without deductibles or copayments. Under the Dole bill, we can not be sure that preventive services for children will be available without copayments or deductibles. The Mitchell bill also provides vision care, dental care, and hearing care for children. Under the Dole bill, we can not be sure whether these services will be available to children.

We heard from our colleagues recently that they support the WIC Program, but they do not believe necessarily believe that we ought to fully fund the WIC Program. The WIC Program helps ensure that children will get the nutritious food they need to develop and grow. And yet some of our colleagues do not want to provide adequate funding for this program, which helps keep children healthy.

We heard one of our colleagues earlier in the day talk about the need for school-based health clinics that are to be developed with input from parents, school officials, and teachers. In the areas where they have been developed, this is enormous support for these clinics.

We passed this provision in our committee 17 to nothing. We had Republican support for it. We worked with our Republican friends who recognized the importance of making sure that we address the needs of America's children. We need to provide assistance not only to parents, but also to children, in the form of school-based health clinics, which can make such a difference in improving the health of children.

When you read through the Carnegie Commission report and other reports, you read about the problems facing many schoolchildren today. Many are suffering from hunger and malnutrition, and many have to deal with problems at home such as spousal abuse, or other violence or substance abuse. When a child is sick, many times a working parent can not stay home to care for the child. If a parent can not afford to pay someone to look after the sick child, the parent must send the child off to school. The child not only does not learn, but in many instances may pose a health threat to other children. School-based health clinics can make an important difference not only for the sick child, but also for his or her classmates.

The difference between how the Mitchell bill and the Dole bill treat children and families is quite apparent from that chart. You can see the difference in the cost to families that want to provide insurance for their children. Many families simply can not afford to pay 13, 15, 19, or even 26 percent of their income to provide insurance for their children.

Then if you go even beyond just the special program to provide coverage for children, you can see that the Mitchell proposal, which assumes shared responsibility at some point in the future, makes insurance coverage much more affordable for families than the Dole proposal, based on CBO estimates of the premiums.

The chart shows that families with income from at 125 percent of poverty pay only about 4 percent of income for family coverage under the Mitchell bill, compared to 12.7 percent under the Dole bill. Under the Dole proposal working families would be forced to pay 3 or 4 times as much as under the Mitchell bill.

And we can listen to our colleagues talk about how their proposal is going to deal with and solve the kinds of problems that the Mitchell program addresses, but the Dole approach it is just unrealistic. It is absolutely unrealistic to think that families will be able to afford coverage under the Dole proposal. Sure they will be able under the Dole proposal to participate in a health care program and a health care system, but this is what they are going to have to pay.

And does that really improve on the current situation for most families? In theory everyone has health care available to them today, but many people cannot afford it, and most of them will not be able to afford it under the Dole proposal either.

So, Madam President, just very briefly on this, I am hopeful that we will be able to get to a resolution this afternoon on the issue of the children's amendment. I hope we will also be able, as we move on through, to talk about how the different bills treat working families. This chart indicates at least what the cost of coverage would be for working families. We also must discuss the comparison between how the Dole and Mitchell bills treat senior citizens.

We must include a comprehensive program that to improve coverage for our seniors. We have studied that issue enough. We have the excellent bipartisan Pepper Commission report that made a series of recommendations. Some of those recommendations have been adopted in the Mitchell proposal, including additional asset protection to ensure that seniors will not be wiped out with an extraordinary, sudden illness that would basically swallow all of their savings.

There are also provisions in the Mitchell bill to ensure the integrity of the insurance programs that many individuals, the seniors, participate in. We find extraordinary facts that many of the long-term care insurance programs for our elderly, are not available to those who need them.

We have standards that have been established. I must say, those standards were worked out a year ago in a bipartisan way and have been included in this legislation. Senator HATCH and I reported it out of our committee. It is very, very important in terms of protecting those seniors who do have long-term health care needs.

We have important features. One, we have an asset protection for our seniors in the Mitchell bill, which the Dole bill does not provide. Second, we have the preservation of the integrity of the long-term insurance, which the Dole bill does not provide. Third, we have the prescription drug proposals that will be fully implemented by the year 1999. And beyond that, you have the home- and community-based long-term care program, which is phased in to help assist our elderly and disabled.

These are all very solid, responsible programs.

In each of these areas, we find a difference of approach between the Dole bill and the Mitchell bill.

So we are very hopeful, Madam President, that we will be able to have some early resolution of these particular amendments in an early way.

Madam President, I ask unanimous consent that certain staff members be able to have access to the floor during the consideration of this legislation. I send their names to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DASCHLE. Madam President, I yield such time as he may consume to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Madam President, I am pleased to speak again on this health coverage for all of our citizens.

We face now two choices: The proposal by Senator MITCHELL, the majority leader, that frankly is not as strong as I would like, but moves us in the right direction; and the bill proposed by the minority leader, that I think should be called the Insurance Industry and Tobacco Industry Protection Act, because that is what it does. It offers no taxes, no taxes whatsoever on tobacco, and it has a whole series of loopholes that are designed specifically for the insurance industry.

Let us take a look at where we are in this country. It really is incredible, when you think of it. We join other industrial countries in providing health insurance protection for one group and one group alone—that is people who are in our prisons. If you are convicted of murder and you go to prison, you will get health protection in our country. But if you are someone who is struggling at a job that may be a minimum-wage job, working 40 hours a week, two countries do not protect you in the Western World—South Africa and the United States of America.

If you work in France, you are protected. If you work in Great Britain, you are protected. If you work in Japan, you are protected. If you work in Italy, you are protected. But in the United States of America, you are not protected. Every one of those other countries protects all children. We do not.

I fear that we may not do what is right in this country and, in the next few weeks, as we make the decision, I fear we will not do what the American people want us to do, and that is to protect all of our citizens.

We are also unfair to employers. If you were to start with a blank slate, Madam President, and say: Let us design a system where you can volunteer as an employer to protect your employees and if you volunteer then you can also pick up the tab for those who do not volunteer, we would say that is a ridiculous system. And yet, that is precisely the system that we have. And under the Dole proposal, we will continue to shift that burden.

It is very interesting, as you look at the series of proposals made by the minority leader. In his bill, he says, just as the Mitchell bill says, if you want to get the same protection that Senator MURRAY from Washington has, Senator CRAIG from Idaho has, Senator WELLSTONE from Minnesota, Senator REID from Nevada, Senator DASCHLE from South Dakota, or PAUL SIMON from Illinois, if you want to get the same protection we have in the Mitchell bill, you have a 1.5-percent administrative fee that insurance companies can collect for this cost. The Dole bill says you can do that, but there is a 15 percent administrative fee, 10 times as much. That is a pretty nice largess for the insurance companies.

The American public wants coverage. I have never seen a poll like the New York Times poll that says 79 percent of the American people say it is very important that we have universal coverage for all of our citizens; 17 percent say it is somewhat important. That is a total of 96 percent. Three percent say it is not important and 1 percent do not know. Madam President, 96 percent—I cannot think of another controversial issue in which 96 percent of the American people are on one side, properly so. And the question is whether we are going to respond.

The bill that came out of the Labor Committee which Senator KENNEDY chairs by bipartisan vote says we are going to cover everyone. We had special breaks in there for small businesses. Employers who now cover everyone would be better off, clearly, under that bill.

The Clinton bill calls for universal coverage. Both of them do not attain it as rapidly as I would like but they cover it. The Mitchell bill covers 95 percent by the year 2000. That is not as strong as I would like but at least it moves us in the right direction.

The Dole bill—we are now at 83 percent coverage, 17 percent of all Americans not covered. That means if there are 100 people in the gallery right now, 17 of them are not covered. I do not think you will find 17 people in the gallery who do not want to have health insurance coverage.

Last week my secretary went to dinner with two friends and during the course of the dinner one of the people at the dinner—some of my friends, at least on this side of the aisle, know her because she has helped raise funds, she is a fundraiser and has been a professional fundraiser—and she started to perspire and turn pale and had some of the symptoms of a heart attack. They wanted to take her to a hospital. But she said no, she could not go to a hospital. They then got in a cab to take her home and she had nausea in the cab on the way home. Fortunately it turned out she had food poisoning rather than a heart attack. But she did not have health insurance and she was afraid to go to the hospital.

(Mr. BYRD assumed the chair.)

Mr. SIMON. We should not have that in this country. Every American ought to be covered. If we pass the Dole bill, we are not only going to stay at the 17 percent, we are going to slip further. I want to see every citizen of West Virginia covered, Mr. President. I want to see every citizen of Illinois covered. If that means that we have to have a tobacco tax—I am speaking for myself now, not any Senators from West Virginia—if we have to have a tobacco tax, I am willing to vote for it. If we have to have a payroll tax, I am willing to vote for it. I know you cannot do this on the cheap. We have to pay for it. There is no free lunch. But we are paying for it in the worst possible way right now.

Mr. President, 14 percent of our national income is going for health care. No other nation on the face of the Earth spends that much. And 38 million Americans are left out.

I want all Americans to be covered. That is what the American people want and I hope we do the right thing in this body.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator is recognized for such time as he may consume.

Mr. CRAIG. Mr. President, for a good number of days now, the Senate has been engaged in what I have to believe and what I think most Senators believe to be probably the most valuable debate or at least the most important debate that we have been about in a good number of years.

We are debating S. 2351, better known as the Clinton-Mitchell health care proposal. While at this very moment the Dodd amendment is pending on the floor, the one thing that became very obvious to this side of the aisle, to Republicans, was that we were not going to be openly granted the opportunity to debate the Clinton bill in its entirety before we started the amendment process. So we found it very important to come to the floor and, as best we could, to not only debate the Dodd amendment but, more important, to discuss with our colleagues here in the Senate and the American people the Clinton-Mitchell health care proposal.

I say that because I think most Americans agree with me, this is probably the most important and substantive debate that has occurred on the floor of the U.S. Senate in a good number of years. Why? Because it affects every American in the most personal of ways. It affects whether he or she, or they will be able to deliver to themselves or their families, the quality of health care that every American desires. That is the substance of this debate and that is why it is important and that is why it is more important that we are here today—not in the August recess—debating this issue.

So for the next few moments I would like to talk about the importance of that debate, talk some about the Clinton bill, but also to talk about a variety of other issues that I think spiral around this debate that certainly the citizens of Idaho have engaged me in over the course of the last several years and that I think are important.

This morning I attended a press conference with some citizens and business people and representatives of small businesses especially from the State of Hawaii. The reason I was with them was because they flew all night from Hawaii here to tell the American people in a press conference that the much-touted State-mandated health care plan in Hawaii is not what many have said it is, or that it has been ever since it was enacted in 1971.

The Governor of Hawaii was over, saying, my, this is a marvelous program and it just covers everybody. But State employees are exempt from it. Why are State employees exempt from it if it is such a wonderful program? The reason is because the State program is a better program. And that the employer-mandated program in Hawaii is causing great problems in the small business community today. You are finding a lot of employment that is part time simply because if it is over 20 hours a week, then it is full time, and the employer has to pay for the mandate.

So there are a lot of people working part time in Hawaii—maybe a great number of jobs—but not getting the kind of coverage because it is a mandated tax. It is a requirement if you are in business in Hawaii that you have to have this program. And if you have to have it, doggone it, the average human beings being what they are and trying to save a little money and oftentimes trying to just keep their business doors open are going to find a way around that kind of mandate, a legal way, if they can, so they can make ends meet so they can hire the people they can afford to hire. And that is an important issue that is embodied in the Clinton-Mitchell bill, and that is an employer mandate that a lot of people will be talking about over the course of the next several days that a good number of us are very concerned about.

Whether it is the Rand study that showed it could put 300,000 to 400,000 people out of work in this country or whether it is the NFIB CONSTAD study that showed nearly 800,000 people could be put out work by this kind of mandate, the very simple and often rhetorical comment back from the other side is, "Oh, well, but this program is going to hire a lot more people."

What about those who are put out of work? They are not saying they will be put back to work, because it is a different kind of work. It is a different kind of employment under a different kind of knowledge or understanding or training base than that which those people who were mandated out of work by this kind of legislation found themselves working at when they were put on the unemployment rolls. That is an issue we are all going to have to deal with in the coming days of this debate.

But I think what is fundamentally important here are some of the remarks that I want to pass on that are well beyond the general range of philosophy or attitude about whether we do or do not want a particular kind of health care reform. Because what I think is most significant is that every Senator that I visited with, that I have worked with here in the last several years as this issue of health care reform has emerged amongst the American people, has said they want health care reform. We not only want it, we not only desire it, we think it is important for our country to resolve the problems of the current health care delivery system, as numerous as they are.

But the question is, what kind of reform? That is why this debate becomes so important. That is why it is darned important that we have canceled the August recess because this is the time that the majority leader, Mr. MITCHELL, decided we are going to debate health care.

Then let us be here debating it. Let us put all of these bills out on the table, spread them out for the American people to understand, spread them out for them to leaf through and to read the fine print and to be able to make the individual determination as to whether this is going to affect them in the right way or the wrong way, whether it is going to give them the options that they need.

Mr. President, before I go any further, I would like to add that I am extremely frustrated, though, by this process, and I am frustrated because I am not quite sure where we are at this moment.

When I say that, I am not sure which version we are talking about, because when the debate began, we had Clinton-Mitchell 1, some 1,404 pages that we were to study, to understand and to spread upon the table, as I have just mentioned. But that is not the case at this moment. At this moment, we are on Clinton-Mitchell 3 or, as Senator PACKWOOD would say, Lethal Weapon 3. But we are on the third version in less than 1 week's period of time. I do not blame the American people for scratching their heads and saying, "What are you doing?" But more importantly, "Why are you doing it that way? Why aren't we being given the ample opportunity to see, to understand and to compare the differences of all of these programs and then to be able to call you or write you, Senator CRAIG, and say, 'we prefer this over this or this particular bill will affect us in this way, as this bill would cause us some problems.'"

That is the frustration we are dealing with, and my constituents have been clamoring to see the bills since they were originally introduced. The moment the Mitchell bill became available, we started getting phone calls. So we sent copies of those bills out to our district offices across the State. But as I just mentioned, the mail takes 3 days from the time you send it from the office here in the Senate to an Idaho office. And in that 3 days, that 1,400 page document that was in transit in the mail was obsolete because Leader MITCHELL had come to the floor with another bill.

As a result, we said to our district offices, "Cancel that bill; it is out of date, wait for the other bill. As citizens come in, they can take a look at it. Tell them the chapters, sections, and subsections will be different, because the new bill, version 2, is on its way."

Mr. President, before version 2 got to our district offices in Idaho, version 3 was on its way.

I am told that the first printing of this particular piece of legislation cost the American taxpayers about half a million dollars, give or take. If it is true that the first version cost a half a million dollars, I think it is reasonable to assume, when you look at the sizes of them, that the second version of Clinton-Mitchell, and possibly the third version of Clinton-Mitchell, cost about the same amount to print and to disseminate a given number.

So we are already well over a million dollars in costs just to print a concept or an idea, long before it gets debated, long before it gets amended, long before it arrives at the refinement process that then might be acceptable to you or to me or to anyone else serving in the U.S. Senate.

Why is this going on? I am not a veteran legislator compared to you, Mr. President, but I do know one thing: That normally this kind of activity happens in committees. When we get a bill to the floor, it is usually the final version, it usually has been worked over by all of the people of authority in a given committee or a committee of authority, or maybe two committees, and then it is merged into a final product that has had months and months of work before it ever comes to the floor for a final vote. We have not only saved the taxpayers a phenomenal amount of money, we have done the workings, the craftings of the legislative process in the right way.

I cannot say that that has happened here. I am not proud of this process, and I do not think the American people are proud of it and, frankly, I do not think they are very happy with it. But that is another matter. We are going to debate it and we are going to try to resolve the differences and, in the end, we will decide whether the product that is in process today is worthy of our support, worthy of the support of the American people or, in fact, it ought to be defeated and then we ought to go home and talk again with our constituency and come back and try to resolve it another day.

There is a bottom line, and that bottom line is that the American people believe, as I do, that the current health care system of our country deserves to be reformed; that it should not be a moving target; that it ought to be a very real, stationary, subject that we all know the pros and cons about, that we were given ample opportunity to see and work out, and then we decide in the appropriate legislative fashion that this Senate has become known for and respected for over the last 200-plus years.

For the next few minutes then, let me talk about the debate that has gone on in Idaho, in my home State, for the last several years, and what I have done as a participant in that debate and as a Federal legislator for the citizens of the State of Idaho.

Starting back in 1989 and working forward to today, I have been the sponsor of a variety of health care conferences. They have really ended up being quite large conferences, 300, 400, 500 people attending from all over the State. We have been able to draw in such speakers as former Secretary of Health and Human Services Lewis Sullivan; former Administrator of the Health Care Financing Administration, better known as HCFA, Gail Wilensky; from the Heritage Foundation, Stuart Butler; from the University of North Carolina, Kenneth Thorpe; and from Harvard School of Public Health, Dr. William Hsiao—all of these people, noted authorities of their time, of their day in health care. They have come to our State at my encouragement to explain, to debate and to answer questions for the citizens of the State of Idaho.

I have also held town meetings and health care conferences—in a smaller fashion—on reform across the State. I guess in the last year I have probably held six or seven of these kinds of conferences, providing for the citizens of Idaho just as much information as was available at the time.

And there has been one theme line that I have encouraged in Idaho—not that I showed a bias, or not that I suggested one program over another. I told them the programs that I was a cosponsor of, but I said, "It is time, Idaho, that you get involved in this debate, that you get to know as much as you can about President Clinton's plan or about the Heritage plan or about any other plan that is out there," because at that time, and very similar to what I said just a few moments ago, I used a very simple line, and that was, Mr. President, to the citizens of Idaho, I said: "This is the most significant piece of public policy that you will be involved in, in your lifetime. You deserve to know about it and, more importantly, I deserve to know what you think about it before I cast my final vote."

As a result of that, from the conferences to the town meetings to the publications, to all of these Mitchell plans that I have been sticking in the mail and shoving out to our district offices and letting the people know that they were there and they could come in and read them, sort through them, question them, call me back, Idahoans became engaged in this debate more than any other I have ever been involved in, in the 14 years I have represented them.

Thousands of cards and letters have come back, telegrams, faxes. We are receiving hundreds of letters a week now from them on the health care issue. That is what I hoped Idahoans would do. Their resounding message that comes back in almost all instances would be and is, Idahoans are saying to their Senator: We would prefer no bill to a bad bill.

So the question is, Mr. President, what, by the definition of the Idaho understanding, is a bad bill? In my opinion, in reading all of those letters, Idahoans define a bad bill as that which requires more Government involvement in the health care delivery system of their State. They want reform, because all of those letters that talk about getting a piece of legislation talk about reform.

But I am telling you, they understand very clearly the kind of reform they want. They recognize what needs to be done. But Idahoans also recognize a lot of other things, as I think most of our citizens do. Idahoans realize the importance of the fact that 84 percent of all Idahoans are now currently insured, are now currently covered under a variety of health care insurance programs. In anyone's book, that is an overwhelming majority.

Does that mean there are no problems? No, I have already said, Idahoans want reform because they recognize that there are problems, significant problems. But they also recognize that when you look at the figures of 84 percent insured, that means there are 16 percent that are uninsured. And guess what? As logical and conservative as Idahoans are, they say, "Why don't you work to solve the problems of the 16 percent instead of creating a whole new, large, Federal bureaucracy to deal with the whole system when 84 percent of Idahoans, like many other Americans, are already covered?"

That is the issue at hand.

So I think Idahoans have defined what they think is the problem. People are worried that they will lose their health care if they have a serious illness, because their insurance might be canceled. They think that is a problem in Idaho, and they want us to solve that problem, or try to work with them in solving it.

They worry that they would be kept from getting insurance if they were to change their jobs. I think we call that portability around here. And Idahoans say, "LARRY, fix that." They are concerned about whether they will be able to afford insurance by reason of the rate of increase in cost. And they say, "Can't you resolve some of the cost factors that are driving that?"

They have a strong desire to be able to purchase the services they want from a doctor or a health care provider they choose. In other words, Idahoans want choice of the kind they have felt they have always had. They do not want a Federal agency or a regional agency or some kind of federally created co-op saying no, here are the doctors that are going to provide you with this kind of care. We are not going to give you that kind of flexibility or choice. That is a concern that I think most Idahoans have.

And another thing I think they feel is most important is they do not want what they have changed. In other words, they say, "Take care of the 16 percent, adjust us around a little bit, deal with some of these problems, if you can, but do not change the system to an all-federalized system."

In other words, they are saying we do not have to sacrifice the quality that we are getting or pay billions more in new taxes to make that system accessible for those who are currently locked out.

Let me make it very clear, Mr. President, I am not saying we do not need reform. Idahoans are not saying we do not need reform. It is quite the opposite. We need reform, the kind that will solve the problems in the system. What we need is not a new Government program that costs us billions of dollars to resolve this problem. There are pieces of legislation, there are bills before us that approach it just exactly the way I think a majority of Idahoans would want us to deal with it.

Idahoans are not unique in their rejection of the Clinton bill or other Clinton-like proposals. Their concerns arise from the fact that most Government one-size-fits-all programs really do not fit Idaho.

Idaho and other frontier States have unique needs in health care delivery. For example, Idaho has one of the worst doctor-to-patient ratios in the Nation. Therefore, access to care is not merely a question of the ability to pay. Under the bill that we now know as Dole-Packwood, there are a number of very important provisions listed under title III, "Special Assistance to Rural, Frontier and Unserved Urban Areas."

There is a special word in the title, Mr. President. I have now used it twice. And that is the word "frontier." That word does not appear in the Clinton-Mitchell bill. According to my research and a run of the computer and a check in the way we can check things today, the word does not appear. It is alarming to me that the Clinton-Mitchell bill does not recognize, nor does it understand, what I call the rural West.

Frontier and rural are two very different situations because they, say, "Well, Senator, if you are talking about rural, then we are dealing with the question of frontier." But I will tell you that it means two distinctly different kinds of communities that we clearly have in our State of Idaho and that many other Western States have. Residents may have the benefit of a clinic but often they have to travel many miles to a larger community to be treated for a complex health problem.

It is important to note that in Idaho that drive is not 20 miles down a stretch of interstate. Rather, it is on a winding mountain road that is closed part of the year because of snow or ice. While that depiction may seem melodramatic, it is also very accurate and relates to the definition of frontier. And I suspect in the President's State of West Virginia that definition also applies, because oftentimes it is not 20 miles down the interstate but 200 miles to the nearest doctor or the clinic or to any environment in which health care can be delivered.

The question of access in Idaho is more than we can afford these medical services. It is can we get to a doctor or a hospital when we need help. Idaho and other frontier States face this and other very unique problems. The Dole-Packwood bill does more than reference our needs.

Now, remember, I have just said a computer check of the language suggests that those words do not even appear in the Clinton-Mitchell proposal. The Dole-Packwood bill speaks to rural or frontier provisions in title III, as I have mentioned.

For example, there are funding provisions to help providers and health plans establish networks in underserved areas. Subtitle A provides for demonstration grants, subtitle B provides for technical assistance grants, and subtitle C includes capital assistance loans and loan guarantees.

The Packwood-Dole bill also establishes safeguards to enhance access to local health care services and practitioners for vulnerable populations.

Under subtitle D, there is funding to increase the number of primary care providers in medically underserved areas which is critical to my State of Idaho and many of the, by definition, rural and frontier States of the West and other parts of the country where we have the worst doctor-patient ratio than any other place in the Nation.

Another important provision under this rural frontier title is subtitle F, which is on the emergency medical system side. This subtitle includes grants to States for aircraft in transporting victims in medical emergencies, and that is section 361. In Idaho, Life Flight and other similar services have saved many lives, and I think the President knows what I am talking about. A person injured in the back country can be brought out instantly, or nearly instantly, as fast as the helicopter can fly from the point where the person was injured to a major medical complex sometimes 200 and 300 miles away.

The Dole-Packwood bill addresses this issue very clearly. Again, it goes unaddressed in the Clinton-Mitchell proposal.

Now, I have also mentioned Idaho has a varied terrain and climate with many remote frontier communities that are unreachable during certain times of the year except by aircraft, and section 361 is critical in any kind of health care reform we do to make sure that all of America is served, not just the urban areas but certainly the rural and, by definition, the frontier areas of our country. Again, the continual reference to and focus on frontier health issues in the Dole-Packwood bill are two of the many reasons why I have been able to support it and why most Idahoans, after they have been given the opportunity to read it and understand it, begin to support it also.

As we work out a health care reform bill, we must address the unique needs of frontier States and acknowledge that a one-size-fits-all plan simply will not work in Idaho, and other rural or frontier States.

In light of some of these frontier access problems that I have mentioned, I would like to talk a little bit about how Idahoans are already working to solve problems in our State. I will be brief about these topics, but I think they are important to understand, because Idaho is not unique. Like many other States, they are working to solve their own problems. Proposals under consideration, and already passed by the Idaho Legislature, clearly begin to drive the issue of health care delivery in our State and make it more accessible to more people.

Specific strategies are being employed by the Idaho Legislature. Communities like Twin Falls, ID, are developing unique plans, and in the five northern Idaho counties, health care facilities, along with health care providers, are coming together in a very innovative community health care network.

So, Mr. President, my purpose in sharing these ideas and activities going on in Idaho is to encourage my colleagues to take a close look at what is happening in their own States.

In this Congress, we have the unique opportunity of developing an infrastructure that will empower people. Empowerment should be our focus, not restrictions and prohibitions.

Let me restate that. When we look at what our States are doing, Mr. President—and many of our States are being very innovative at this moment in health care delivery—what we do here ought to be played in the backdrop, or at least alongside, of what our States are doing. We ought to assure that what we do empowers our States and does not restrict them or prohibit them, and saying again that we know better and that one size fits all. Because of our very specific needs—and I have addressed some of them—the reforms in Idaho have been focused on increasing accessibility while containing costs.

Over the past few years, the Idaho Legislature has passed laws to improve health care accessibility and coverage by reforming the insurance industry. You and I both know that the insurance industry of our country is primarily regulated at the State level. We have not ever created a great national, federalized bureaucracy that controls that industry. We have said that is primarily a State responsibility. And, as a result, almost every State to my knowledge has an insurance commission. An insurance company, to do business in that State, has to conform with the rules and the regulations of the State.

Our Idaho Legislature, understanding that of course, then has worked inside the State to reform the insurance industry to develop a variety of things, but beyond that, to make sure that there is greater accessibility.

The Idaho Legislature has also allowed the development of medical savings accounts. Of course, that means you can put away pretax dollars, State tax dollars, to be used for the purposes of purchasing health care. Guaranteeing health care access to individuals in small communities has been improved by these kinds of approaches.

Other proposals under consideration include the development of incentives to further reduce health care costs and improve that doctor-to-patient ratio that I mentioned that in Idaho is the worst of any rural State in the Nation. Insurance reforms that passed the Idaho Legislature this immediate past session include the transferability of policies so that people will not lose insurance coverage simply because they change jobs. In other words, the Idaho Legislature has done what we are debating about doing. It is called portability. But let us make sure that our portability, if we can get that far, does not wipe out the kind of portability that the Idaho Legislature has provided for the citizens who live within that State and buy health care coverage there.

There is also an individual insurance plan called the Individual Health Insurance Availability Act, which guarantees access to health insurance for individuals. That legislation was passed a couple of years ago in Idaho. For the last year and a half, I have met with a variety of insurance companies that have worked together to build a basic policy that allowed people of lesser means to buy minimum health care coverage to gain access to that system. That policy is now available in the State of Idaho. It costs less but provides the kind of minimum coverage that many of our citizens are looking for. That is what health care reform is all about. The Idaho Legislature is doing that right now.

We should not, by our actions here, risk canceling out any of those kinds of activities. These provisions are similar to provisions included in many of the health care reform proposals that I have mentioned here. They are also real solutions to problems that cut people out of the current system.

That is what I think our reform should be dealing with, Mr. President. I am not saying that the Clinton-Mitchell bill does not deal with some of those because they attempt to in their own way. But they set up this vast bureaucracy around it that is going to create the Federal regulator determining what is good or bad for Idaho, instead of an Idaho Legislature or an insurance company working with an Idaho insurance commission to assure the portability or to ensure the minimum insurance policy that Idahoans can afford.

Reducing paperwork and establishing medical savings accounts are both proposals that I support and are included in legislation that I have cosponsored here in the U.S. Senate. The Idaho Legislature has already addressed those very items. But under a Clinton-Mitchell type bill, all those positive actions in most instances would be wiped out and in other circumstances could be wiped out.

In addition, new burdens would be placed on States both financially and administratively. Why should we do anything that would wipe out any action that any of our States would be taking to drive down these costs, to reduce the paperwork, and create the greater accessibility?

In recent reviews of the original language received on the Clinton-Mitchell bill, there were 175 new responsibilities that would be imposed on our States. I would suggest that probably the State of Idaho is not going to be able to afford to administer the kind of very simple, clean, and adequate proposals that it has brought about if it has to address the 175 new responsibilities that are involved in the Clinton-Mitchell approach.

The Idaho Legislature has taken major steps toward solving the State's health care problems. As I have already mentioned, Federal reform should enhance, rather than inhibit, what we are doing here. In other words, what I said before, let us empower people, let us empower our States, and let us empower the systems of government that are closest to the people to reform their health care instead of prohibit them from doing so or restricting them or burdening them down with bureaucracies through this legislation.

In the private sector, a number of voluntary actions have been taken to improve access to care in Idaho. Over the past 6 months, as I mentioned earlier, a group of community leaders in the Twin Falls area have adopted the vision to make their region the healthiest place in America. That is the program they are talking about. They are calling it the "Healthiest Place in America." County facilities are beginning to work together under the joint exercise of powers agreement, and physicians are beginning to form larger group practices to work with hospitals under physicians and hospital organizations. Why? To allow greater coverage, to drive down costs, to make access simpler. That is going on as we speak.

In Twin Falls, ID—and in the "Twin Falls" across this Nation—whether it is in your State of West Virginia or any other State, communities and providers are coming together saying they can solve a lot of these problems on our own, and they are doing it. The tragedy is: Is what we are doing here going to thwart that or wipe it out? More than likely, it could. However, for the Twin Falls community to develop its network, it cannot be obscured by Federal legislation.

Mr. President, I hope that the Senate will take into consideration the reform efforts already passed by State legislatures across this country.

In my opinion, after having read at least half of the Clinton-Mitchell bill now and having read all of the Dole-Packwood bill, I would say that the Dole-Packwood bill comes much, much closer to working as a cooperating partner with States and local providers than the large, Federal dictating bureaucracy that inevitably will be constructed coming out of final passage of a Clinton-Mitchell approach. The Congress needs to focus on establishing a framework in which the market can develop a process that naturally fits the States and that the States are working toward today.

I mentioned also the communities in the north end of my State. One-hundred-sixty physicians and north Idaho hospitals have come together to create what they have called the North Idaho Physicians' Association. They will serve as a discussion and an educational group. They are working together with a coalition of hospitals in the area. This association has performed a local study of the needs of the beneficiaries, the employers, and the providers. It is very likely that there is no other group that understands the health care needs of northern Idaho better than that association I have just mentioned and the residents of the communities they serve—certainly not the bureaucrats here in Washington, or certainly not a regional office or offices that would be established in Seattle, or Portland, or Salt Lake City, or some other place, that would dictate and begin to control under any of the plans being proposed that we call greater bureaucratic plans, much like the Clinton-Mitchell approach.

The north Idaho organization is dedicated to providing accessible, high-quality health care while containing costs in their communities. This confirms my belief that health care is most efficient when it is coordinated both locally and privately. And, again, I hope that this Senate in its debate and in the amendment process and in the final resolution of health care will clearly recognize that in communities and States around this Nation today, health care is being revolutionized not by a Federal edict, not by overpowering Federal legislation, but by the simple needs of the marketplace and the recognition that you can get quality health care if you deliver it privately, or if you cooperate with State and local units of government instead of a large Federal bureaucracy.

Propelled by a sense of community and desire to improve health care in their own area, I have just mentioned three major efforts going on in Idaho, whether it was the legislative effort, the community effort in north Idaho, or whether it is Twin Falls wanting to make themselves the healthiest place in the country.

Mr. President, these are examples of what we can do and, more importantly, what we are doing in our health care delivery system in this country. The pressure is on, or we would not be debating health care reform here today. But let us make sure that pressure does not drive us over the edge toward a greater Federal bureaucracy but, in fact, it causes us to work hand in hand.

Before going on to discuss legislation here in the Senate that I support, I would like to add that thousands of letters and phone calls have been pouring into my office stating opposition or concern about the Clinton-Mitchell bill.

I ask unanimous consent that two letters in opposition to the National AARP endorsement of the Clinton-Mitchell bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JAMES O. MCMAINS,
CERTIFIED PUBLIC ACCOUNTANT,
Lewiston, ID, August 11, 1994.

EUGENE LEHRMAN,
AARP, Washington, DC.

DEAR MR. LEHRMAN: I watched as you endorsed the Democratic Health Care bills on National TV yesterday on behalf of the members of AARP.

How dare you presume to speak for me without asking my opinion first!

I know there are many, many members who feel as I do; that the principal reason for the rise in health care costs over the past three decades has been the Government programs that are already in existence (including Medicare, Medicaid, Welfare, etc.).

The federal Government has no business mucking about in health care. This is solely a concern of the various states and individual citizens.

I thought AARP, because of the age and experience of it's members would have better sense. Apparently the leadership of the organization has concluded that money grows on trees and that the Government can give people something without taking it from someone else (your children and grandchildren).

Since the AARP does not represent my views, and since I was not even asked my views before the announcement of support for the Government takeover of the health care system, I hereby cancel my membership. My membership card is enclosed.

Sincerely,

JAMES O. MCMAINS.

BOISE, ID,
August 10, 1994.

ANNE MAY KINSEY,
President,
American Association of Retired Persons, Washington, DC.

DEAR MS. KINSEY: It may come as a surprise to the individuals at A.A.R.P. who took it upon themselves to announce their support, and by inference, my support of the Clinton/Mitchell health plan today, but I did not give them my proxy to do my thinking for me or to represent my beliefs to others.

Like millions of others, I have followed the health care debates for some months, and when the smoke and mirrors are eliminated, one must conclude, at least based on the information available to us to date, that the opposition's charges of political expediency, massive boon-doggling and a liberal dose of socialism are correct.

I can not believe that anyone at the A.A.R.P. has made a careful study of the two major bills presented by the administration, much less have an intelligent and objective opinion at this stage as to the merits and/or demerits of same.

You may be sure that the arrogance of the A.A.R.P. "leadership" in supporting the Clinton/Mitchell plans is resented by a large share of its membership. This is merely one more example of an unwarranted belief by may residents of the Washington, DC "beltway" that they possess superior intellect and judgemental capability, whereas just the opposite would appear to be the case.

Now that the A.A.R.P. has taken it upon its self to falsely represent my views, I have a right to insist that, following your "careful evaluation" of the Clinton/Mitchell plans, you tell me:

(1) How much will the Clinton/Mitchell plans cost me, including EVERY SINGLE HIDDEN COST, and

(2) What benefits will I receive as compared to what I am able to obtain from existing private health plans, including the A.A.R.P./Prudential Plan.

I look forward to a detailed early reply, complete with your SPECIFIC evaluations which caused you to arrive at your publicly announced decision to support the Clinton/Mitchell plans.

Sincerely,

VERNON B. CLINTON.

Mr. CRAIG. For the last several days, there have been a great deal said on the other side of the aisle about this AARP endorsement. I noticed that in the last few hours those comments have gone silent. Let me refer to these letters, to give you an example of why no longer do we talk so openly or do the Clinton-Mitchell supporters talk so openly about this kind of an endorsement.

Here is a letter from James McMains, in Lewiston, ID, to Eugene Lehrman, AARP, 1909 K Street, Washington, DC.

DEAR MR. LEHRMAN: I watched as you endorsed the Democratic health care bills on national TV yesterday on behalf of the members of AARP.

How dare you presume to speak for me without asking my opinion first!

The reason a member of AARP can say that is because, historically, that organization has been very good at polling its members before it took positions on a major piece of legislation.

Mr. McMains goes on to say:

I know there are many, many members who feel as I do; that the principal reason for the rise in health care costs over the past three decades has been Government programs that are already in existence (including Medicare, Medicaid, Welfare, etc.).

The Federal Government has no business mucking about in health care. This is solely a concern of the various States and individual citizens.

I thought AARP, because of the age and experience of its members, would have better sense. Apparently, the leadership of the organization has concluded that money grows on trees and that Government can give people something without taking it from someone else (your children and grandchildren).

Since the AARP does not represent my views, and since I was not even asked my views before the announcement of the support for the Government takeover of the health care system, I hereby cancel my membership. My membership card is enclosed.

Sincerely, James O. McMains of Lewiston, Idaho.

Here is a letter to Anna May Kinsey, President, American Association of Retired Persons. This letter is from Vernon B. Clinton of Boise, ID.

DEAR MS. KINSEY: It may come as a surprise to the individuals at AARP who took it upon themselves to announce their support, and by inference, my support, of the Clinton-Mitchell health plan today, but I did not give them my proxy to do my thinking for me or to represent my beliefs to others.

Like millions of others, I have followed the health care debates for some months, and when the smoke and mirrors are eliminated, one must conclude, at least based on the information available to us to date, that the opposition's charges of political expedience, massive boondoggling and a liberal dose of socialism are correct.

I cannot believe that anyone at the AARP has made a careful study of the two major bills represented by the administration, much less have an intelligent and objective opinion at this stage as to the merits and/or the demerits of same.

You may be sure that the arrogance of the AARP "leadership" in supporting the Clinton-Mitchell plans is resented by a large share of its membership. This is merely one more example of an unwarranted belief by many residents of the Washington, D.C. "beltway" that they possess superior intellect and judgmental capability, whereas just the opposite would appear to be the case.

Now that the AARP has taken it upon themselves to falsely represent my views, I have a right to insist that, following your careful evaluation of the Clinton-Mitchell plan, you tell me: (1) How much will the Clinton-Mitchell plans cost me, including every single hidden cost and, (2) What benefits will I receive as compared to what I am able to obtain from existing private health plans, including the AARP/Prudential Plan.

I look forward to a detailed early reply, complete with your specific evaluations which caused you to arrive at your publicly announced decision to support the Clinton-Mitchell plans.

That is signed Vernon B. Clinton from Boise, Idaho.

Well, at least this gentleman did not resign his membership card. But he does call upon that organization to examine thoroughly the very bills we are talking about.

Mr. President, you know, it is the same kind of call that many of us have made and why we are now here on the floor asking the questions and debating this issue. I know that, earlier on, Senator KENNEDY asked, "Why are we not debating the Dodd amendment?" I do not argue that that is not an important amendment. It is a critical amendment, as is any kind of legislation that we do.

Mr. KENNEDY. Mr. President, will the Senator yield just on that point?

Mr. CRAIG. I am happy to yield.

Mr. KENNEDY. Mr. President, I was listening with great interest to the Senator talk about the different initiatives that were taking place in the State of Idaho. I found those enormously interesting.

I was just reviewing the census figures on the number of uninsured children, because this is something which the Dodd amendment was addressing, and I thought at least I gathered from the Senator from Idaho he is indicating that Idaho was really just reacting, dealing with their own kinds of problems, and, therefore, we did not need or at least have the kind of comprehensive approach that might be included in the Mitchell proposal or perhaps even in the Dole proposal.

According to last census, which is March 1992, there are 13 States in the United States that have a higher percentage of uninsured children than Idaho.

The PRESIDENT pro tempore. The Chair will observe that the Republicans' time has expired.

Mr. KENNEDY. Mr. President, will the Senator yield 4 or 5 minutes?

Mr. MOYNIHAN. Of course, Mr. President. I am happy to yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, let me respond to the Senator from Massachusetts. He does bring up a very valuable point. That is why I said at least twice or three times during my discussion this afternoon that the Dodd proposal is a worthy proposal and ought to be debated.

This is why the Idaho legislature 2 years ago said by law to their insurance providers in the State you have to do better, and that is why those providers came together and are just introducing a new plan that is now on the ground in Idaho that is a comprehensive minimum plan that would allow hopefully increased coverage for many of those children the Senator talks about.

Idahoans are very aware and very concerned about that problem. That is why Idahoans say we want health care reform.

I have said that, Mr. President, today time and time again on the floor. We want health care reform. We want Idahoans to have that choice. We want to make sure that our children are covered.

The tragedy is Idahoans cannot pay for the 20 percent tax increase that the Clinton-Mitchell proposal would require of most Idahoans to be able to afford that kind of insurance.

We in Idaho believe that under the proposal of the Idaho legislature that is created and the portability issue that they are now addressing and the medical savings account issue that they are now addressing we can handle the issue of uninsured children in our State more adequately than can be provided under a larger Federal bureaucratic umbrella.

I thank the Senator for questioning. He is absolutely correct. It is of major concern in my State. We want to be responsive to it. But I think Idahoans under the choice of their plans would prefer to be responsive under a Dole-Packwood plan and a plan that would not cancel out the initiatives that are currently underway in our State.

Mr. KENNEDY. I thank the Senator for his comments.

There are several States that effectively have included what the Dodd amendment would achieve and accomplish. I was not aware that Idaho was one of those. But I appreciate the fact. In the Dole proposal, to which the Senator referred, according to the Lewin VHI assessment, there will be 6 million children that will be uninsured at the end of the decade.

I also heard the Senator talk about the value that Idahoans place on the freedom of choice proposal. I have examined the Dole legislation, all 600 pages of it, and I cannot find where the guarantee of choice is evident in that legislation. I do not know.

If the Senator wanted to review it and answer another time, I will be glad to defer. I do think, that one of the key elements of any reform is what is going to happen to children. The Dodd proposal does provide the requirement that States make available to children preventive health care services which quite frankly, according to other GAO studies, show just about every other industrialized society in the world provides except the United States.

Would the Senator reason with me about how we are going to try and deal with the needs of the 6 million children that will be left uninsured by the Dole proposal. Maybe there will not be as many uninsured children in the State of Idaho as might be even now. But if we are looking at how we are going to insure the total coverage of children, how would he expect that the Dole proposal would do it, and if he could help me locate within the Dole proposal where freedom of choice is guaranteed.

Choice is a major factor that is included in the Mitchell proposal, but as we move on through now in the third day of at least the debate on the children's proposal we would like to find out how you are going to address the studies that show there will still be 6 million that will not be covered, and there are no guarantees of freedom of choice under the Dole proposal. If the Senator could just respond to that.

The PRESIDENT pro tempore. The time has expired.

Mr. MOYNIHAN. Mr. President, I am happy to yield to my friend from Idaho such time as he requires to answer the Senator from Massachusetts and to finish his opening statement.

Mr. CRAIG. I thank my colleague for yielding.

The PRESIDENT pro tempore. The Senator from Idaho is recognized for such time as he may consume for such purposes.

Mr. CRAIG. Mr. President, the Senator from Massachusetts makes an excellent point, and I must restate again that the citizens of Idaho are very aware and very concerned about uninsured, uncovered, and underserved children. It would be wrong to suggest in any regard that the children are not being served. We all know that they are being served.

The question is, is it of the ongoing quality accessible in reasonable fashion that, first of all, creates a healthy environment for that child? By that I mean from the time of that child's birth forward, and of course through the mother's pregnancy, are those services being provided and do they get their necessary immunization, and all of that?

That is what concerns Idaho most. While I recognize that it is hard for the Senator from Massachusetts to realize that the Dole bill does not speak to choice, it is choice. It does not have to speak to choice because it does not control the marketplace. It only enhances the marketplace. So choice by itself is the bill.

The difference between the Dole and Mitchell bill is that in the Mitchell bill you create a restricted Federal bureaucracy that says you do thus and so and that guarantees certain kinds of things. The Dole bill says, and I refer to the section which talks about insurance reform and the standard applicable health care plans and the right of renewal, and all of that, and that was the very thing that Idahoans attempted to address was that when you make those kinds of programs available by driving costs down you bring uninsured families into the market. You bring them into coverage.

There is another issue that has to be spoken to here when you talk about uninsured children. Dad may be insured because he works under an environment in which he is covered, or mom may be insured, but the family may not be insured. That does not say that the children are not going to be cared for or that they are not being covered. By the very nature that their family can afford health care coverage, they are being covered.

So we know that those statistics, depending on how you break them out, always vary a little bit. But what I think we are talking about here are two fundamentally different proposals. I have not analyzed the Dodd amendment. I do not know how it fits inside the Clinton-Mitchell proposal or whether something similar could fit inside the Dole-Packwood proposal. I do recognize when you drive down costs and when you create the kind of reforms that are out there is a substantial chance that you are going to create greater coverage for children who are uninsured or you are going to create a much more affordable environment so that the parents of those children can provide for their children as, of course, most of them want to do.

Let me make a few closing comments because the chairman has been generous in his time with me in so doing.

Mr. President, this debate is one of the most significant debates our Nation has ever held. Now, the Congress will work to approve a bill.

It is my hope that we can work to represent the will of the American people and will end up with legislation that will change what is not working in the health care system, while retaining what is good in it.

There are numerous issues that will be debated over the next few days or weeks—as long as it takes to work through these issues. We should be here debating and developing a better understanding of what we do.

Mr. President, I have been dismayed by the remarks made regarding those of us who wish to clearly express our opinions on this issue and the bills before us prior to entering debate on amendments.

This bill is lengthy and has changed no less than three times as of today. The points of debate on the bill will likely range from major philosophical differences to more technical details.

As we work through this process we need to remember that what is done here will dramatically affect the lives of each and every American and deserve careful consideration. Therefore, our efforts should reflect what our constituents have been telling us. In the final days of the 103rd Congress—health care reform should not be used as a political tool to save a President. Health care—quality-accessible health care and its reform is more important than a President and his political life.

Mr. President, I would now like to talk a little about what the people of Idaho have been telling me about health care reform, and the position I have taken as a result of those comments and my study of this issue. It is also important that I explain the concerns I have about the Clinton-Mitchell bill.

Mr. President, before I go any further, I would like to add that I am also extremely frustrated that not only have we had very little time to review the very lengthy Clinton-Mitchell bill, but it remains a moving target.

We now have version three—Senator PACKWOOD would say lethal weapon III—of the Clinton-Mitchell before us. Numerous changes were made in version two and as I have begun to review version three, it appears that changes again have not been minor.

My constituents have been clamoring to see the bill since the original introduction. Copies of Clinton-Mitchell one were immediately mailed to my State offices so that Idahoans could come in and review areas of interest. Before those bills even reached my State, they were outdated.

In addition to being outdated, it came to my attention that the cost of that first printing was in the range of half a million dollars.

Again, Mr. President, we are on Clinton-Mitchell three—this bill is costing American taxpayers too much before it has even passed the Congress. We all knew these bills were costly—what we did not know is that millions would be spent before they ever became law.

IDAHO

Mr. President, in Idaho we have all been working to educate ourselves on this moving target called health care reform.

I felt that it was important to get information out to the State, and to help pursue this debate in Idaho.

Toward that end starting in 1989 I have sponsored health care conferences that have drawn such speakers as: former Secretary of Health and Human Services Louis Sullivan, former Administrator of the Health Care Financing Administration Gail Wilensky, Ph.D., from the Heritage Foundation Stuart Butler, Ph.D., from the University of North Carolina, Kenneth Thorpe, Ph.D., and from Harvard School of Public Health Professor William Hsiao.

I have also held town meetings on health care reform all over the State and spoken to a variety of civic and private groups on this issue, in addition to receiving thousands of letters.

A resounding message that has been coming from Idahoans is that:

They would prefer no bill to a bad bill. And Idaho defines a bad bill that requires more Government involvement in health care.

Reforms should focus on what is wrong with the system and leave what is good alone.

Idahoans realize the importance of the fact that 84 percent of Idahoans have health insurance.

In anyone's book that is an overwhelming majority.

Does that mean that there is no problem?

Not at all, but it does mean that some things in the system are working.

In reform, we need to focus on what is not working and resolve those problems—the problems that are keeping 16 percent of Idahoans and other Americans uninsured.

Many Idahoans have written in explaining problems they have experienced. Some of the biggest problems Idahoans have identified are things like:

People worrying they will lose their health insurance if they get a serious illness.

Worries we can not keep an insurance plan we like, or need, if we lose a job or decide to change jobs.

Concerns about whether we'll be able to afford insurance because the costs of health care go up too fast.

A strong desire to be able to purchase the services they want from the doctor or health care provider they choose.

Those are important concerns and important problems and they're what I want the Congress to address.

Mr. President, as we address these concerns, we must not lose what is good in the system—what takes care of most Americans—in order to get coverage for those without insurance.

We do not have to sacrifice quality or pay billions more in new taxes to make the system accessible for those who are currently locked out. Let me be clear Mr. President, I am not saying we don't need reform. Quite the opposite. We need reform, the kind that will solve the problems in the system.

What we do not need, Mr. President, is a new Government program that costs us billions in new taxes and doesn't meet our needs.

Idahoans are not unique in their rejection of the Clinton bill or other Clinton-like proposals. Their concerns arise from the fact that most Government one-size-fits-all programs don't usually fit Idaho.

Idaho and other frontier States have unique needs in health care delivery. For example, Idaho has one of the worst doctor-to-patient ratios in the Nation; therefore, access to care is not merely a question of the ability to pay.

Under the Dole-Packwood bill there are a number of very important provisions listed under title III: special assistance for rural, frontier and underserved urban areas.

There is a very special word in the title, Mr. President, and that is "frontier." That word does not appear in the Mitchell-Clinton bill, according to my research. This should be an alarming point for the rural west.

Frontier and rural are two very different situations. Idaho is a State of both rural and frontier communities. Some communities in Idaho do not have a physician.

Residents may have the benefit of a clinic, but often have to travel many miles to a larger neighboring community for treatment of more complex health problems.

Mr. President, it is important to note that in Idaho that drive is not 20 miles down a stretch of interstate. Rather, it is often a winding mountain road that is closed part of the year because of snow and ice. While that depiction may seem melodramatic, it is also very accurate and relates to this definition of "frontier." 200 miles to a doctor or a clinic is just not an unusual situation.

The question of access in Idaho is more than "can we afford these medical services?" It is, "can we get to a doctor or a hospital when we need help?" Idaho and other frontier States face this and other unique problems.

The Dole-Packwood bill does more than reference our needs. There are a variety of rural or frontier provisions in title III of Dole-Packwood:

For example, there are funding provisions to help providers and health plans establish networks in underserved areas. Subtitle A provides for demonstration grants. Subtitle B provides for technical assistance grants. And, subtitle C includes capital assistance loans and loan guarantees.

The Packwood-Dole bill also establishes safeguards to enhance access to local health services and practitioners for vulnerable populations. Under subtitle D there is funding to increase the number of primary care providers in medically underserved areas, which is critical for Idaho—where we have the worst doctor-to-patient ratio in the Nation.

Another important provision under this rural/frontier title is subtitle F, which is on emergency medical systems. This subtitle includes grants to States for aircraft for transporting rural victims of medical emergencies (Sec. 361). In Idaho, Life Flight and other similar services have saved many lives. As I mentioned before, Idaho is a State with varied terrain and climate, with many remote frontier communities that are unreachable during certain times of the year except by aircraft.

Again, the continual reference and focus on frontier health issues in Dole-Packwood are one of many reasons why I have supported it.

As we work out a health care reform bill, we must address the unique needs of frontier States and acknowledge that a one-size-fits-all plan simply will not work in Idaho and other rural or frontier States.

In light of some of these frontier access problems I have mentioned, I would like to talk a little about how Idahoans are already working to solve problems in our State. I will briefly address three specific topics today:

First, proposals under consideration and already passed by the Idaho State Legislature;

Second, specific strategies being employed in the Twin Falls area; and

Third, an innovative community health network developing in five northern Idaho counties.

Mr. President, my purpose in sharing these ideas and activities going on in Idaho is to encourage my colleagues to take a closer look at what is happening in their own States.

In this Congress, we have the unique opportunity of developing an infrastructure that will empower people. And, empowerment should be our focus, not restrictions and prohibitions.

Because of our specific needs, reforms in Idaho have focused on increasing accessibility while containing costs.

Over the past few years the Idaho Legislature has passed laws to improve health care accessibility and coverage by reforming the insurance industry, developing medical savings accounts, and guaranteeing health care access to individuals and small businesses.

Other proposals under consideration include developing incentives to further reduce health car costs and improve the doctor-to-patient ratio.

Insurance reforms that passed Idaho's legislature this session include the transferability of policies so that people will not lose insurance coverage simply because they change jobs. That's call portability, there is also an Individual Health Insurance Availability Act which guarantees access to health insurance for individuals. I have met with the insurance companies as they worked to offer this affordable approach. These provisions are similar to provisions included in many Federal health care reform proposals. They are real solutions to problems that cut people out of the current system.

Mr. President, in addition to these insurance reforms, Idaho has passed laws reducing the amount of paperwork required and establishing medical savings accounts.

Reducing paperwork and establishing medical savings accounts are both proposals I support and are included in legislation I have cosponsored here in the U.S. Senate.

Under a Clinton-Mitchell type bill all those positive actions would be wiped out. In addition, new burdens will be placed on the States both financially and administratively. Why should anything we do here wipe out what our States are trying to do.

A recent review of the original language revealed no less than 175 new responsibilities will be imposed on States under Mitchell-Clinton.

The Idaho State Legislature has taken major steps toward solving the State's health care problems. Mr. President, as I have already said, Federal reforms should enhance rather than inhibit what we are doing in Idaho.

In the private sector, a number of voluntary actions have been taken to improve access to care in Idaho. Over the past 6 months, a group of community leaders in the Twin Falls area has adopted the vision to make their region "The Healthiest Place in America."

County facilities are beginning to work together under the joint exercise of powers agreement, and physicians are beginning to form larger group practices to work with hospitals under physician-hospital organizations.

However, for the Twin Falls community to develop its network, it cannot be obstructed by Federal legislation.

Mr. President, I hope that the Senate will take into consideration the reform efforts already passed in the Idaho State Legislature.

The Congress needs to focus on establishing a framework in which the market can develop and progress naturally in the States.

Coinciding with the developments in the Twin Falls area, the 160 physicians of northern Idaho founded the North Idaho Physicians Association to serve as a forum for discussion and education.

Together with the coalition of hospitals in the area, this association has performed a local study of the needs of beneficiaries, employers, and providers.

It is very unlikely that any single group understands the health care needs of northern Idaho better than this association and the residents of the communities they serve—certainly not bureaucrats in Washington DC.

This northern Idaho organization is dedicated to providing accessible, high-quality health care while containing costs in their communities. This confirms my belief that health care is most efficient when coordinated locally and privately.

Propelled by a sense of community and desire to improve health care in their own area, the organization is implementing solutions to problems.

Mr. President, these examples I have mentioned clearly illustrate how the health care market can successfully respond to pressures when given the liberty to do so.

Before going on to discuss legislation in the Senate that I support, I would like to add that thousands of letters and phone calls have been pouring into my office stating opposition or concerns about the Clinton-Mitchell bill. I ask unanimous consent that two letters in opposition to the national AARP endorsement of Clinton/Mitchell be inserted into the RECORD.

They are talking about the endorsement a few days ago now they don't. Here is why.

The Congress can enhance what is already happening in Idaho, or it can put up obstacles and restrictions. It is my hope that the choice will be enhancement.

BILLS THAT PROMOTE CONSUMER CHOICE

Mr. President, the various reform bills that I have cosponsored in this Congress and in the previous Congress are designed to resolve the problems identified by Idahoans that I mentioned earlier, without throwing away what is good in the system.

I have heard some people criticizing Republicans saying we are not for reform. Or, Republicans have no bill. That is simply not true, Mr. President.

Just because many of us are not for Clinton-style reform doesn't mean we are opposed to reform or improving our health care system.

Quite the contrary, Mr. President, Republicans are for reform. Look at the numerous bill introduced this Congress on health care reform, and many of them have been sponsored or cosponsored by Republicans.

I have cosponsored several bills that are focused on resolving problems, improving access, retaining what is good in our system, and without increased Government involvement.

These bills have included provisions that would:

Establish medical savings accounts;

Require no new taxes or tax increases;

Reform medical malpractice; and

Reform antitrust laws.

They would reform the insurance market: People could not have their insurance canceled or their premiums increased because they get sick.

They would provide assistance to the poor through vouchers for low-income families: States would be allowed to privatize Medicaid, and low-income families would qualify for subsidies to purchase private insurance, at or below 150 percent of poverty.

They would retain the high quality of care we currently have in this country: There are no mandatory alliances or excessive Government involvement or other provisions that could contribute to a decline in quality.

They would not include employer mandates that would cost jobs;

They would not limit or standardize the benefits people could choose;

They would not limit our choice of health care provider; and

They would improve health care in our rural and frontier areas.

The goal of these private-oriented plans has been to empower the individual to improve the system by maximizing the ability to make choices.

Individuals are certainly better able to determine their needs than the Federal Government, just as experienced health professionals can best decide on the best method of treatment.

We do not need extensive Government intervention to reform our system and improve access to health care.

There are major differences between the Clinton-Mitchell bill and the Dole-Packwood bill. Some of the main concerns I have are as follows:

CLINTON-MITCHELL

Overall, I have concerns about the massive increase in the Federal Government's involvement in our health care system. In my review of the Clinton-Mitchell bill I found a continual theme of boards or commissions in all three versions that would be established to examine and evaluate all aspects of health care imaginable.

With each of the new Government bureaucracies comes a price tag that the American taxpayers will have to cover.

Conservative estimates on the increase in the Federal Government's involvement show that Clinton-Mitchell as originally introduced would create: 50 overall new bureaucracies; 83 new responsibilities for the Secretary of Labor; 175 new responsibilities imposed on States; and 815 new responsibilities for the Secretary of Health and Human Services.

These figures may have changed with the numerous changes that have been made to the bill since the introduction. But even a fraction of these numbers would be unreasonable and oppressive.

Other main concerns with the Mitchell-Clinton bill include:

New and increased taxes: Clinton-Mitchell imposes at least 17 new taxes, including a tax on every health insurance premium. These 17 new taxes will hit: health insurance plans, flexible spending accounts, Medicare beneficiaries, and State and local government workers—not good for the middle class;

The lack of a medical savings account provision: The Mitchell-Clinton does not allow for medical savings accounts [MSA's].

One of the most innovative ideas advanced during the debate on health care reform has been medical savings accounts, a portable fund that can be used to pay out-of-pocket medical expenses and control costs.

MSA's would provide a source of funds for people to keep their coverage continuous during periods of unemployment and would significantly reduce the numbers of short-term uninsured.

MSA's also represent the one idea that has the real potential to reduce health care costs without resorting to the rationing of care and artificial price controls.

Along the lines of cost containment, MSA's also would restore the patient-physician relationship, thus empowering people to become knowledgeable consumers of health care services and would make patients more cognizant of the cost and quality of their care.

Mr. President, early in the 102d Congress Senator Steve Symms and I introduced the Affordable Health Income Tax Act, which would have established medical saving accounts. It was a good idea then and is an even better idea now.

Also, as I mentioned before, my home State of Idaho has passed a statewide provision for medical savings accounts.

Less choice: The Mitchell-Clinton bill contains a Government-defined standard benefit package that will make existing health insurance policies illegal or taxable.

Current employer-sponsored and individual plans that respond to the varied needs of American families would be supplanted by a one-size-fits-all plan designed by the Federal Government, and many self-insured programs would no longer be allowed to exist.

Additional concerns are:

The impact it will have on jobs and our economy;

Price controls on health insurance that will impose taxes on some health insurance plans;

The establishment of a National Health Board;

The ban on self-insured plans for firms with fewer than 500 workers; and

The numerous mandates, including a "triggered" mandate on employers that would be triggered by State in the year 2000.

The Congressional Budget Office didn't seem to think it was such a great idea, reporting that:

> Because of the disruptions, complications, and inequities that would result [from the Mitchell triggered mandate], CBO does not believe that it would be feasible to implement the mandated system in some States but not others.

In fact, Mr. President, CBO's estimate includes a number of references to difficulties in implementing other provisions in the Clinton-Mitchell bill.

The mandate issue is a very important part of this debate, which I intend to discuss in greater detail at a later time on this bill. However, I would like to share with Senators the concerns of one of my constituents who is a small business restaurateur.

In short, he is concerned about maintaining the number of employees he has, the increased financial burden he would face with an employer mandate, and the lack of options to pay for the increased cost. He is in the fast food market, so raising prices is not an options. Mr. President, I ask unanimous consent that my constituent's letter be included in the RECORD.

The impact it will have on our budget deficit, safeguarding the Federal Treasury, not to mention taxpayers' wallets, is hardly the top concern in the Clinton-Mitchell bill. The so-called fail-safe provisions intended to prevent runaway spending are in the very last portion of the bill. They appear to have been tacked on at the end as a sort of hollow salute to questions about spending.

The Clinton-Mitchell bill attempts to control what will be runaway health care spending by requiring the President to make sequesters in health care spending if it goes over budget.

Sequesters are ordered every October 1, if necessary. What's the track record for Congress with October sequesters? This begs the question of what happened to the Gramm-Rudman law. The first cuts—if they ever actually occur—come in premium subsidies, the heart of the program:

Insurance premium subsidies for individuals;

Subsidies for small businesses paying for insurance;

Reduce the tax break for self-employed buying insurance;

Raise the deductible for Medicare prescriptions;

Reduce direct Federal health spending across the board.

Who's the main target when costs rise out of control? In an earlier draft authors of the Clinton-Mitchell plan tripped their hand—increasing Medicare deductibles was the No. 2 target.

SEQUESTER EXCEPTIONS

The Clinton so-called economic bailout package comes to mind. Though the Bush recovery was under way, the stampede for unemployment pork was nearly unstoppable.

Economic projections, on which sequesters could be suspended, can come from either the Department of Commerce or the President's OMB. If you were President, which would you pick?

The National Health Benefits Board is required to issue, "A report including alternative proposals to offset the projected excess." Can you read "higher taxes" between those lines?

Mr. President, there are many more issues to be covered, and in more detail, than I have included today. I fully intend to make further comments as this debate continues.

CONCLUSION

Mr. President, I cannot say strongly enough that this is one of the most important debates that we, as a nation, have ever entered into. There are some who feel a bad bill is better than no bill. I don't happen to agree with that philosophy.

It is important for all of us to be involved in this debate, and I mean the

American people, not just the Congress, because:

Health care is a very personal issue;

Health care reform touches each of our lives;

Health care reform could affect a large portion of our economy;

Health care means taking care of people and their needs;

Health care means jobs.

Mr. President, in closing, let us remember that when most of us were kids and caught colds, we'd stay home from school and get some rest, maybe take some common cold medicine.

That's the way you treat a cold. You take care of it so it doesn't get worse. You don't have x rays and other tests, or surgery. It's unnecessary and wasteful.

That's how I see the Clinton-Mitchell plan for health care reform. It's an amputation, when what we need is some commonsense treatment.

I would close by saying this afternoon that in all of those trips to Idaho and all of those health care conferences and town meetings there has been the emergence of what I believe most Idahoans recognize as the kind of health care reform they want. They want their own choice. They largely want to be able to control their own health care, but they do recognize that there are some overpowering consequences across the country that would cause them to have to ask us to deal with some of the issues.

And those issues they want are the establishment of medical savings accounts. They require no new taxes, so they could have more spendable income to deal with it. They recognize that medical malpractice is a very real problem and that there has to be some tort reform. There needs to be some antitrust law change. And they clearly recognize the need for insurance reform in the broad scale.

I had once said to me very clearly, "If you could get the U.S. Congress to do what the Idaho Legislature has already done, we think you would go a long way towards driving health care down so that it would be increasingly more affordable, not just for Idaho's citizens, but for the rest of the country."

In closing, I think something else that concerns Idahoans a great deal—and I am talking about the primary employer in Idaho, and that is a small business person—is that a Clinton-Mitchell-like bill is going to have to cause them to fire or to release several of their employees so they can provide health care for their other employees. That is a very high risk and, frankly, in my opinion, and in the opinion of an awful lot of others, that is the wrong approach.

So whether it is the Clinton-Mitchell bill, as amended, or whether it is another approach, let us stay here, debate these issues, and understand them in a way that the American people can respond to us as to the type of health care proposal that they want that will ultimately get the majority support here in the U.S. Senate and in the United States Congress, and that can be signed into law.

I thank the distinguished chairman of the Finance Committee for yielding the necessary time for me to conclude my remarks.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from New York.

Mr. MOYNIHAN. Madam President, I thank the Senator from Idaho for a thoughtful and factual account of the situation in the State of Idaho. And I note a thing that might not occur to an Easterner, that the term "rural" does not extend to the reality of the frontier. There are areas legitimately so described and we have to think about them.

But may I say, with respect to this business of bureaucratic organizations, just 3 days ago the Republican mayor of New York, a very distinguished and able man, Mayor Giuliani, in the company of two union leaders, wrote to Mr. GEPHARDT on the House side that: "America is debating universal health care. New York has given universal coverage for most of this century." I make the point that we have done. And that universal health coverage in New York City provides an extraordinarily diverse environment. There are municipal hospitals; there are for-profit hospitals—I think there are some. The greater part of the system is run by private, nonprofit hospitals, most of them either began or continue to be associated with a religious denomination.

We have a large municipal work force that handles these things. But the greater part of the workforce involved is in the private sector. And the coverage is not only good, it is, in fact, the best in the world—not for every individual. But the finest medicine practiced on Earth is practiced in the city of New York.

So there are ways of getting from where we are in the main in the country to universal coverage without a Federal dictate on every detail, and I hope we will find one.

I see the Senator from Hawaii, who made such a striking address the other day about the effects and about the fortunate fit that the universal coverage in health care has had with the growth and prosperity of small business, has risen. I want to note that I was struck by the statistics, by the data he brought to us. I look forward to his remarks and yield him such time as he may desire.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I thank the chairman for yielding time.

Madam President, it appears that there are those who feel afraid that the success of Hawaii's health care system represents too good an example when used by the proponents of meaningful health care reform. During the past week, we have witnessed the dissemination of misleading and erroneous information about the effectiveness of the Aloha State's health care system and, more particularly, its impact on small business.

The health care system is being blamed for supposedly some of the problems in businesses that Hawaii has had. I want to present some facts here that will allude to this. Let me give you just one example.

As they have in recent weeks, and they did again this morning, the National Federation of Independent Business cites a jump in 1992 business failures and 1993 job losses in Hawaii and implies that these events are somehow related to the Hawaii Prepaid Health Care Act.

Do you find this to be strange, to pick two different indices from two different years to illustrate the supposed evils of a 20-year-old program?

It is not so strange when you note that the NFIB fails to mention one other "very small" concurrent event of that unfortunate time for local businesses. That event was the September 1992 billion-dollar devastation of Hurricane Iniki, whose economic impact was felt well into 1993 and is still being felt today.

Let us get some basic perspective on this, Madam President. Hawaii is not the small business black hole of the universe. The facts are simply these: According to accepted small business indicators, Hawaii ranges from being far better than the national averages to—at the very least—on par with the rest of the country. At the same time, we are the only State that requires the employer and employee to contribute to health insurance coverage. The point is, shared responsibility is not the fear of some poison arrow it is characterized to be by those who oppose serious health care reform.

At this time I feel that I must address the scare tactic information being spread, so let me just direct your attention to two matters of Hawaii's Prepaid Health Care Act history that I believe are of special interest because they mirror so well what we are now going through on the national level today.

First, when Hawaii's Prepaid Health Care Act was being considered, it was opposed—it was opposed—by the Employers' Council, the chambers of commerce, and a raft of small business associations. They were afraid of the economic consequences, and no reasonable person could have blamed them at that time. Naturally, the greatest concern by far was the potential impact on small businesses, the lifeblood of our economy. As a result, the Hawaii Prepaid Health Care Act specifically sought to ensure adequate protection, especially protection for the most vulnerable of all small businesses, those with less than eight employees, the little mom-and-pop operations.

The act established the premium supplementation fund to provide small business relief, and $375,000 was set aside solely for that purpose. Today, in 1994, without any further appropriation having been made in the last 20 years, the fund now stands at $2.5 million. Assistance was applied for by only five businesses during that time, and paid for by the fund over two decades, and that amounted to a total of $110,000. There has been no apocalypse.

My second example of deja vu all over again is this. All of the groups I previously mentioned were joined in their opposition to the Prepaid Health Care Act by, among others, the Hawaii Medical Association. Here is an excerpt from the HMA's testimony in 1973:

> The national Government is already moving in the direction of a national health insurance program which seems likely to become law within the next year or two. It would seem foolish for the State of Hawaii to embark on a program that would perhaps be superseded by Federal regulation within a short period of time.

At that time, HMA, the Hawaii Medical Association, felt that a Federal national program was going to happen in 2 years. Here it is, in 1994, and we still have not had one. And we need it today.

The Medical Association recommended that we not proceed with such major reform, but that we defer action. Does that not sound familiar? You bet. Fortunately, Hawaii had the courage to act and not wait. And Hawaii, indeed, became the health State of our country.

Our country cannot afford to wait. We must have the courage to pass a universal health care act. Our people need it. It is the best thing for our country at this time. And I urge my colleagues to support this act.

Mr. MOYNIHAN. Madam President, may I once again thank the Senator from Hawaii, who comes to the floor with experience and with facts. Some have experience; some have facts. But singularly, the State of Hawaii represents both. And we are grateful for that.

I see the Senator from South Dakota. I am happy to yield him 5 minutes. Would that be helpful?

Mr. DASCHLE. I thank the chairman. I appreciate his yielding me time.

Madam President, what is the pending business?

The PRESIDING OFFICER. S. 2351, and the question is the Dodd amendment.

Mr. DASCHLE. The Dodd amendment is the pending business?

The PRESIDING OFFICER (Mr. AKAKA). That is the pending question, to the Mitchell substitute.

Mr. DASCHLE. Mr. President, I asked that somewhat rhetorically, there has been very little discussion today of the Dodd amendment. We have heard many long and very eloquent speeches about health reform. Members on both sides of the aisle have indicated their positions. But the amendment of Senator Dodd now has been pending 4 days. I think the message in all that is we have waited and waited, accommodated and accommodated. The majority leader has laid down a proposal, now 2 weeks tomorrow. He introduced the proposal 2 weeks ago tomorrow—2 weeks ago, August 2. On August 3, he introduced the bill. That was Wednesday, 2 weeks from this coming Wednesday.

On August 9, the floor debate began. That was Thursday. The Republican leader asked for a week's delay to be able to look at that. The majority leader accommodated that request. They requested no votes to be taken last Monday and Tuesday to study the bill. That request was accommodated. There was a request that no amendments to health reform be voted on last week. That, too, was accommodated. We were told that no votes would be allowed last Saturday; no votes would be allowed today. Yet, with speech after speech, requests are made to seek yet additional time to talk about the bill.

My question would simply be, if you do not like the bill, where are the amendments? I hope we can get to work. We have accommodated every single request from Members on the other side, every one. I hope we can go to some votes and finally get on with the real nuts and bolts of trying to improve the bill, change the bill, do whatever we are going to do with the bill. But let us get to work. We have waited now 2 weeks. The last time we went to war, it did not take this long.

So I hope we could get on with some constructive debate, that we could talk about amendments, we could have a vote on the Dodd amendment.

There are many other amendments pending, at least on our side. We could go to those votes. But let us get on with it. I think the American people expect us to finish this legislation. I hope we can do it sometime prior to Labor Day. But with each passing day, with each passing additional request, I become increasingly pessimistic, frankly, about whether we are ever going to be able to get to amendments. Let us vote.

Mrs. BOXER. Will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator from South Dakota for his leadership in bringing us back to the matter at hand. As a matter of fact, the Senator from Hawaii was kind enough to take the chair for me for just a moment so I can say to the Senator how pleased I am he reminded the Senate that we have been supposedly debating this first amendment for many, many hours.

I say to the Senator, according to the numbers I have, approximately 12 million Americans under the age of 21 do not have health insurance—12 million young Americans. I have been in the Senate for a couple of years, in the House for 10 years, and the Senator and I have served for a long time together. I have heard the most eloquent speeches from both sides of the aisle in all those many years about how children are our future, and if we do not care about the children, what is going to happen to America?

I would say this is the moment to stop the talk and start to vote for the children of this country. It is absolutely immoral not to cover the children. It is also economically insane not to do it. We know every dollar we spend on immunization saves $10. We know when we give prenatal care, we save money and we get healthy babies. This is an amendment that deserves to be voted on.

I just ask the Senator a question, since I must do that under the rules, and that question is: Does the Senator feel—and I ask because he has been in such a leading role in this, along with Senator KENNEDY—does the Senator form a sense from the other side of the aisle that we are moving together in a bipartisan way to begin voting on this bill?

Mr. DASCHLE. Mr. President, I wish I could answer in the affirmative to the Senator from California, but the fact is, I do not. We still do not have a commitment from the other side to allow us a vote on the Dodd amendment. This is the fourth day now that we have debated the Dodd amendment, although there is very little discussion about the Dodd amendment from the other side. This is an important amendment. Senator DODD made a very compelling case for its passage. I believe in other circumstances, there would be strong bipartisan support for it.

The Senator has indicated there are a lot of people who are really riding on the decisions we are making here; 48 people every minute lose their health insurance, so with every 10-minute speech, we have 480 additional people who have lost health insurance in that period of time.

How many people, day after day over the last couple of weeks, would have been covered, would have been protected, had we been able to enact this legislation months ago?

So I am pleading, at some point in the not-too-distant future, that we get on with it, we go to work, we offer amendments, we have votes. If there are differences of opinion, let us work them out. If there are ways by which we can improve the Mitchell bill, let us work them out. Let us offer amendments and resolve these differences. Let us go to work.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). Who yields time?

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. MOYNIHAN. Certainly, I yield for a question to my friend.

Mr. PACKWOOD. Madam President, the question is as follows: Did Senator MITCHELL not indicate—and I am quoting—"There will be ample opportunity to debate this bill. I have said many times no one will be rushed. We will stay here as long as it takes, as many days, weeks, months as necessary for every Senator to be able to consider the bill amply?"

I think Senator MITCHELL said that, and there are still many Senators who want to discuss this bill amply.

Mr. MOYNIHAN. Which we understand.

Mr. COATS. I wonder if I could also ask a question of the Senator from South Dakota.

Mr. MOYNIHAN. I am afraid our time is constrained by the 5 o'clock cutoff. The Senator from Missouri wishes to make his opening statement. So I yield 5 minutes to the Senator from Massachusetts, our champion from Massachusetts.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I want to join in the, I think, compelling question that has been raised by the Senator from South Dakota and the Senator from California. The issue about children is an issue that is well understood by the Members of this body.

We are a country that has one of the highest infant mortality rates in the world, and this has been stated and restated and restated on both sides of the aisle. We have one of the highest incidence of low-birthweight babies in the world and this has been stated by Republicans and Democrats. We produce about 80 percent of the world's vaccine, and we still have one of the poorest records in terms of vaccinating children throughout the country. And this is a real problem.

Time after time we have had demonstrated on the floor of the U.S. Senate what is happening in other countries of the world, countries that have standards of living similar to ours and have had health insurance, universal health coverage. What has happened when they have given focus and attention to preventive health care programs for their children? Their children grow, their children blossom, their children are healthy. They have seen the savings that have been out there in terms of financial resources and the savings that have been there in terms of health challenges. Day in and day out, it is uncontroverted.

What the Senator from South Dakota and the Senator from California and the Senator—I am sure—from New York and I are saying is, let us get about the business of just having the vote on that particular measure and then get on with other areas, get on to other provisions of the legislation. But the majority leader, when he was out here the other night, said, fine, all right, go ahead and have equal division of time on Saturday, but maybe we will get some kind of answer if we can talk and find out whether we can vote on the basis of either the Dodd amendment or the other three or four amendments which have been shared, as I understand it, with the minority leader; that we were prepared to move ahead on and we were hopeful that on Saturday we would get some indication.

Now we are here in the late afternoon on the floor of the U.S. Senate on an amendment that is understood by the Members, all the Members of this body, and unquestionably will make a significant and important difference to the children of this country. The only responses are: Other Members want to make opening statements; other Members want to talk at length; other Members want to get off their chest, and say what is on their minds on health care.

When are we going to say that the children are the important ones and call the roll on that issue, and let us get about the business of what this debate should be about, and that is making some judgments?

Maybe this amendment will not carry. I think the compelling case has been made for it by the Senator from Connecticut and the other Senators who have spoken for it.

All we are asking is, let us shorten our speeches and try to take some action. I think the American people would applaud that action. I understand what the Senator from Oregon is saying, that we are going to have day after day after day after day of long speeches, and we wonder why people back home do not believe that this institution is relevant.

The issue is children; the issue is preventive care; the issue is their future and whether they are going to have a bright and hopeful and healthy future, and do it in a way that is going to save money. We ought to be able to agree on that.

I would think that we could go shorter on the long and extended speeches that have been talked about, I think even threatened. Talk about Senators wanting to talk 3 and 4 hours—we have to ask ourselves, do the American people think this institution is better served by Senators speaking 3 or 4 hours on these matters of general subject, or taking action for children?

Mr. COATS. Will the Senator from Massachusetts yield to me for a question?

Mr. KENNEDY. Whatever time I have, I will gladly yield for a question.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes. The Senator from New York controls the time.

Mr. MOYNIHAN. I do not want to be in any way discourteous, but the Senator from Missouri has been very patiently waiting.

Mr. COATS. I will propound it at a different time.

Mr. KENNEDY. I will be around.

Mr. MOYNIHAN. He will be around. As soon as we vote at 5 o'clock, we resume debate.

Madam President, I am happy to yield the remainder of our time to the able and learned Senator from Missouri, who is one of those who helped pass the Finance Committee's bill out of committee.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 34 minutes.

Mr. DANFORTH. Madam President, I thank my chairman.

I will offer my view of where we are in the health reform debate and how I think we should proceed from here. Maybe I am the only person in the Senate who feels this way. But I will unburden myself of my thoughts.

Right now we are hopelessly bogged down. We, not only being the Senate, but the Congress and, indeed, the country. We are hopelessly bogged down on the question of health care reform legislation. I do not think we are going to get moving by continuing to spin our wheels on the floor of the Senate by proceeding from amendment to amendment.

I think that there is one answer, and that is that we regroup, and attempt to come up with a consensus health care reform proposal that can be passed. It is my judgment now—and it has been my judgment for a very long time—that where we are going to end up is approximately where Senator CHAFEE has been for about 4 years now. Therefore, I think that if we are going to pass health care legislation this year, it should be a bill which is somewhere in the neighborhood of the effort that is now underway in the various meetings being held by Senator CHAFEE and Senator BREAUX, and others, who have styled themselves as the so-called mainstream coalition.

Let me say that there are, obviously, a whole variety of opinions in the Senate. There are people who think that we should pass no legislation; either we should pass no legislation at any time or we should pass no legislation this year because when the election comes, the makeup of the Congress will be changed. On the other hand, there are people who think we should pass very sweeping legislation and the sooner we do it the better.

However, I believe there is a strong core group in the middle in this Congress and in the country that believes that we should pass legislation, that we should attempt to reform health care, but that what we should do is avoid the extremes that have been presented to us.

The interest in health care reform legislation on the part of Senator CHAFEE and those who have rallied around him is not something that has begun in the last few months. It did not even begin with the Clinton administration. It began 4 years ago.

Four years ago, our Republican leader, Senator DOLE, with, I think, great foresight, saw that health care was going to be a coming issue, and he asked Senator CHAFEE to chair a task force of Republican Senators to address the question of health care.

Senator CHAFEE has done that with great determination. Virtually every Thursday morning while the Senate has been in session, over a 4-year period of time, Senator CHAFEE convened a meeting in his hideaway office to educate Republican Senators on the question of health care.

Those meetings were held in a very systematic fashion, well prepared in advance. And normally there were 15, 20, 25 Senators who would show up at 8:30 on Thursday mornings for an hour to discuss health care and various aspects of health care.

Then, after a period of time—years really—we finally put together a bill. This bill was introduced by Senator CHAFEE and it had something like 19 or 20 Republican cosponsors.

The ideas in that bill have continued to be the views which have been held by the mainstream coalition, a group of people consisting of Republicans and Democrats. It is something of a changing group, but last week we had up to 16 Senators, just about evenly split between Republicans and Democrats, who showed up at our meetings. The basic ideas of the Chafee legislation have been at the heart of what we have been discussing and, in fact, were at the heart of the bill that was reported out of the Senate Finance Committee about 5 or 6 weeks ago.

What are those ideas? Universal coverage, but universal coverage achieved as and when Government can pay for the subsidies that would undergird universal coverage; insurance reform to assure portability and to assure that people who become sick are not dropped from insurance coverage; cost control, not by price control or premium caps, but cost control achieved by enhanced competition, with a view that a competitive marketplace works better than Government; control of Government spending through a fail-safe device which provides that we are not going to have the runaway spending by the Federal Government which has characterized Government health care spending for the past couple of decades; and significant medical malpractice reform.

These were the core concepts of the Chafee legislation, and these have been the core concepts of the mainstream group that has been meeting. I believe they are good concepts and sensible concepts, and I do not believe they are the kinds of ideas that frighten the American people.

One of the significant things about these meetings is the attitude that has been manifested in them. Go to the floor of the Senate and obviously there is a lot of contentiousness. But back in the hideaway office of Senator CHAFEE, when we meet for a couple of hours at a spell, Democrats and Republicans, the basic attitude is one of cooperation and attempting to seek mutual understanding.

But there is something else that characterizes those meetings, and that is nervousness, nervousness that we are dealing with something very big and very important, nervousness that we are dealing with the whole health care system of this country, nervousness in knowing that what we are touching is something that affects the lives of every American, nervousness and worry that maybe we are going to make our health care system worse, not better, and nervousness about the budget, the cost of health care, and the concern that already our Federal budget is spinning out of control.

So there has been a lot of goodwill in those meetings and there has been a lot of nervousness. And I think the nervousness is important as we proceed with this legislation because we do not want to do something that is terrible for the country. The basic feeling of the group, and the basic feeling that is obviously shared by a lot of Republicans because they have been making speeches on it in the last week, is we just do not think the Mitchell bill is a very good bill. We think it is too big, that it goes too far. And so I would like to talk about the Mitchell bill, not in a partisan way, but simply to point out where it differs from where we are and from what we think in our group.

Now, much of the discussion in the media about the Mitchell bill, and the Clinton bill, and the Gephardt bill, and the Dole bill has been on the subject of universal coverage, and particularly employer mandates. In about 1 minute I am going to stop talking about employer mandates.

One of the interesting things about our meetings is that almost no time have we spent talking about employer mandates. That may be an exaggeration, but I would say maybe 5 percent of our time, and no more than 5 percent of our time, have we spent on the subject of employer mandates. But if you read the newspapers, you think that is all we talk about, that is the only subject.

So when Senator MITCHELL introduces his new legislation, and he seems to be making compromises on the subject of employer mandates, the way that is covered in the media is, "Well, Senator MITCHELL has come our way, and he has met us halfway. Isn't that good? We are on the brink of compromise."

He has not met us halfway. We are light years away from Senator MITCHELL. He has come closer to us on employer mandates, but not on other subjects. Then, when, I have tried to make that point to the media, the conclusion is, well, these mainstream people do not care about the employer mandate idea, or they have given up on that. Well, there are a variety of opinions among our 15 or 16 Senators on the question of employer mandates. But I think it would be fair to say that most of us do not like the idea. We do not think it is a good idea. We do not think it should be included in the legislation. But my point is that that is a fraction, and a small fraction, of the total issues before us.

Now, what are these other major issues? I would like to talk about them.

The first question is cost. Cost. First of all, cost with respect to the Federal Government—the cost to the Federal Government of this program is thought to be in the neighborhood of $1.2 trillion of new Government spending on entitlement programs over the next 10 years—$1.2 trillion of new entitlement programs over the next 10 years. That is a lot of money. Every program that we are talking about—the Dole program, the Chafee-Breaux program, all of these have more spending on at least one entitlement, and that is subsidies for low income people to help them purchase coverage. But the problem with the Mitchell program is that it is just too much. It is too extreme. It does not start with one new entitlement program, a subsidy program for low-income people, but adds all kinds of other entitlements and some very big ones:

Prescription drug benefit. Is that a good idea?

Well, helping people pay for prescription drugs, who can argue with that? But it is expensive—$95 billion over the next 10 years.

Home health care. Is that an important thing to do? You bet it is. And I say that as the father of a home health care nurse. But can we afford $48 billion for home health care? I would suggest that the answer to that question is no, not now.

I want to point out with a chart that I have here why I think the answer to the question has to be no. Senator BOB KERREY and I are the chairman and the vice chairman of the bipartisan Commission on Entitlements. This is a very striking chart because it shows what is now happening in Federal Government outlays as a percentage of gross domestic product. The green line shows the rate of taxation in our country, which has hovered at about 18 or 19 percent since the 1970's.

What this chart shows is what is happening to Federal spending. The fact of the matter is that by the year 2012, entitlement spending plus interest on the national debt will consume all of the money that we raise in Federal taxes in our country. By the year 2012—18 years from now—entitlement spending and interest on the national debt will spend everything we raise. There will be nothing left, other than borrowed money, for everything else that we do as a country.

Take national defense, some people say we spend too much, some say we spend too little. Assume we spend nothing on national defense. We have a crime bill. Some people will say that is too much to spend on a crime bill. Assume you close down all the prisons; assume you close down the court houses and you close down the FBI. That is what we would have to do. There would be nothing for national defense, nothing for crime, nothing for highways, airports, the environment, and whatever else we do as a country. All of it would be consumed by interest on the national debt, plus entitlements.

By the year 2030, four entitlement programs—Social Security, Medicaid, Medicare, and the Federal retirement program—will consume all of our revenues. We will not even be able to pay for the interest on the debt. There will be nothing left over.

So that is why I think we have to be very careful about getting into new entitlement programs.

Are they popular? Of course, they are. That is why we do them. Yes, they are popular. But how much can we do? We cannot afford $1.2 trillion in new entitlement programs, no matter how wonderful they are.

So, from a cost standpoint, I believe that the Mitchell program is just too expensive.

A number of Senators have talked about the additional bureaucracy. More than 30 new Federal agencies or commissions are created by the Mitchell program. It is too much; it is just too much for us to choke down as a country. It is too much. It is too big. If we are going to pass health care legislation, we are just going to have to get off of this Mitchell bill. And I do not say that in a disparaging way to the majority leader. I am just saying it is too much. It is not going to be passed. We have to cut it down to a reasonable size, and to a reasonable concept. That is what Senator CHAFEE and Senator BREAUX and others, on a bipartisan basis, have been trying to do.

Let me make some additional comments about the Mitchell bill and where it differs from our legislation. Again, I am not even getting into the subject of employer mandates. But what I want to make clear is that there are other big areas where we believe that the Mitchell bill is just wrong. I want to underscore the fact that I do not think it can be amended back into shape. I think we are going to have to start with something new. I would recommend that it is the Chafee approach.

First of all, with respect to cost containment, cost containment has a couple of aspects to it. One is cost containment relative to the chart that is behind me now. The Federal Government costs: How do we contain the Federal Government cost of health care?

Senator MITCHELL has a proposal to do that, so he says. Senator CHAFEE and Senator BREAUX and the so-called "mainstream group" have a very different kind of proposal. The basic problem with Senator MITCHELL's proposal is that he excludes from the purview of cost containment existing Government health care programs, and the Chafee-Breaux approach includes within cost containment existing Government health care programs.

That is the big difference. Should they be included or should they be excluded? Should Medicare, which is the biggest one, just be excluded? Should there be a constant debate on whether or not the increased cost of health care is caused by the legislation that we may be about to pass, or by an existing program?

Should that kind of gaming of the system be part of the ongoing national debate on health care? Or, instead, should the so-called fail-safe device for making sure that whatever we do is not going to create a worse budget deficit than we have right now, should that apply to all of health care? That is the issue. Our view is quite different from Senator MITCHELL's view on the design of fail-safe.

The second big question pertains to the cost of health care, not just from the standpoint of the Federal Government, but from the standpoint of the Nation as a whole. Some people do not want any cost containment. Some of my Republican colleagues really do not have cost containment in their legislation. That is popular, I know. It is good politically. But it is not really responsible.

So if you believe that there has to be some way of containing the cost of health care, not only for the Government, but for the country as a whole, how do you achieve that cost containment? How do we put together the kind of legislation designed to control the cost of health care?

Again, there is a very different approach between the Chafee-Breaux idea and the Mitchell idea. The Mitchell idea is very close to price controls, to premium caps. Senator MITCHELL's bill would tax the increase in cost of health care. It would tend to lock in—almost grandfather—high-cost existing plans, ratifying them, and then create a Government formula for taxing increase over a set rate.

It is our view that low-cost plans would be penalized if that kind of calculation were put into place. It is also our view that to tax increases is very much like a premium cap. It is a premium cap using a tax mechanism as the device to accomplish the premium cap.

The Chafee concept is designed to enhance competition between plans, between insurance companies; to create competition so that insurance companies are competing with each other to try to keep the cost of insurance down for the American people.

That is a very shorthand way of explaining the difference between the two. The Chafee idea is closer to a tax cap. The Mitchell idea is closer to a premium cap. The Chafee idea builds on competition. The Mitchell idea builds on Government control. They are philosophically different. We believe that the Chafee plan is much, much better.

What are some of the other problems with the Mitchell proposal, as we see it? One set of problems is what the Mitchell plan does to health care networks such as health maintenance organizations.

One thing it does is to mandate that these health care networks have to contract with what are called the "essential community providers" and the essential community providers are defined in a very sweeping way. What it says is that these networks which are supposed to be competing and trying to keep prices down are required by Government to do business with various hospitals and health care organizations which they might not want to do business with.

You cannot have a market system that works effectively when you tell people who are trying to work within the market that you have to do business with people who you do not think are very good; or you have to have large numbers of institutions as part of our program that you do not necessarily want, or even very high-cost institutions. Furthermore, the Mitchell bill causes health plans to have to hire every type of specialist, even if the health plan does not think that the specialists are needed and even if they are costly.

There is another big problem we see with the Mitchell plan: Litigation. We thought that trying to get a handle on litigation was essential to health reform. It is estimated that defensive medicine costs $25 billion a year in the United States—just doctors and hospitals trying to prevent lawsuits. And access to medicine is affected by the litigation explosion. Take, Howell County, MO; the county seat is West Plains. Nine counties surround Howell County, some in Arkansas and some in Missouri. In these nine counties, there is nobody that will deliver a baby except at the West Plains Hospital. Nobody will deliver a baby because people who have done it are out of that business. It is the lawsuit explosion that has done this. To deal with this, we have real malpractice reform in our legislation. We provide real incentives for alternative dispute resolution. Senator MITCHELL does not. He has alternative dispute resolution, but it is add-on litigation. There is no incentive built into it to use alternative dispute resolution. We have that incentive.

We have caps for noneconomic damages. We have real reform for the punitive damage system so that it is something more than a windfall for attorneys. Senator MITCHELL scraps all that.

This is not just a matter of trying to further amend the Mitchell bill. His whole bill is wrong. And crammed into that bill are all kinds of incentives for litigation. He has so-called antidiscrimination provisions. He has major, major changes in the civil rights laws of the United States contained in his legislation. I know something about civil rights laws, because in 1990 and 1991 I spent the better part of 2 years of my life working on what became the Civil Rights Act of 1991. That whole legislation would be changed in this health care legislation. We took 2 years working on it and, believe me, it was tough going. Now we have in the health care legislation major changes.

For example, we cap both punitive damages and compensatory damages in our current civil rights law. In the Mitchell bill there is no cap—unlimited compensatory and unlimited punitive damages for lawsuits—and there is an expansion of the groups that are protected by civil rights laws in the United States. Under his bill, there would be causes of action on the basis of language, or income, or sexual orientation. That is a big change in the civil rights laws. Some people might say that is good. But what does it mean? Does it mean that, henceforth, hospitals have to have interpreters in the hospitals? Say, in California, where our Presiding Officer resides, are the hospitals supposed to have, for all the various nationality groups that live in California, interpreters or they will risk a lawsuit? How about income discrimination? We have had hospitals in my community of St. Louis that have moved. Saint Luke's Hospital, for example, and DePaul Hospital have moved from the city of St. Louis to St. Louis County. If they were to do that in the future, would they be sued because they were violating civil rights laws? I think that the answer is clearly, yes, they would be, under the Mitchell legislation.

And then there are the Section 1983 Actions. I spent 8 years of my life as a State attorney general, and Section 1983 was the biggest problem I had as State attorney general. These are civil suits against State and Federal officials. In 1993, there were 51,000 civil rights suits filed under Section 1983 against the Federal Government. In general, 10 percent of the cases pending in State attorney generals' offices are Section 1983 cases.

This Mitchell bill has a major expansion of civil rights causes of action, so that lawsuits will be filed against the Federal Government and the State government, as well as against insurance companies, insurance plans, employers and the like. And the so-called Mitchell-3 provided yet another new cause of action against health plans and purchasing co-ops if they fail to carry out their responsibilities under his bill.

Graduate medical education. Do we really want a national council on graduate medical education telling us how many physicians we should train and in what specialties and in what hospitals?

So, Mr. President, these are some of the problems with the Mitchell bill. I do not state them because I want to pick on the bill that is before us. I simply want to make one fundamental point: This thing cannot be passed. It cannot be passed. We could be here for the next 2 months. We could come back for a lame duck session and start again next year. It is too big, it is too much, it is too expensive, it is too bureaucratic, and it is way too litigious.

So where do we go from here? I believe that the answer to that question is within this mainstream group. I believe that it is not too late to put together a bill that can be enacted into law if we stick to the principles where we can build consensus, and that is my recommendation.

I think we should go back to the drawing boards. We are at the drawing boards and we hope to have legislative language, possibly tomorrow, with specific recommendations.

This underlying bill that is before us now is never going to be amended to a point where it is not something that scares the willies out of the people of this country, and for good reason. It is just too much for us as a country to choke down.

VOTE ON MOTION TO INSTRUCT SERGEANT AT ARMS

The PRESIDING OFFICER (Mr. FEINGOLD). Under the previous order, the hour of 5 p.m. having arrived, the Senate will now vote on the motion to instruct the Sergeant at Arms to request the presence of absent Senators.

The question is on agreeing to the motion of the Senator from Maine [Mr. MITCHELL] to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD, I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Georgia [Mr. NUNN], are necessarily absent.

Mr. DOLE. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON], are necessarily absent.

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—78

Akaka
Baucus
Bingaman
Bond
Boren
Boxer
Bradley
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—16

Bennett
Breaux
Brown
Dorgan
Faircloth
Gramm
Helms
Inouye
Lott
Mack
McCain
McConnell
Nickles
Smith
Specter
Wallop

NOT VOTING—6

Biden
D'Amato
Lautenberg
Murkowski
Nunn
Simpson

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, if I may have the attention of Senators?

Mr. LEAHY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

The majority leader.

Mr. MITCHELL. Mr. President, several Senators have inquired about the schedule for this evening and thereafter, with respect to this legislation.

First, to recapitulate, I introduced legislation on Tuesday, August 2, 2 weeks ago tomorrow. On Tuesday, August 9, 1 week ago tomorrow, the Senate began debate on health care reform. There were 4 hours of debate on Tuesday, 4 hours on Wednesday, 4 hours on Thursday, 4 hours on Friday, 7 hours on Saturday, and more than 7 hours today.

The first amendment was laid down on late Tuesday afternoon. Notwithstanding that, there have been no votes on any amendment. I initially requested that there be a vote scheduled on the first amendment on Saturday, but the distinguished Republican leader advised me that Republicans would use their right under the rules to prevent a vote from occurring by making statements. I then requested that there be an opportunity for a vote on that amendment today, and I received the same reply.

It is my desire to accommodate as many Senators as possible with respect to the schedule, but also to recognize that our paramount responsibility is to act on the matters before us. And, therefore, in an effort to reach a conclusion that gives all Senators fair notice of the manner in which we will proceed, and also attempt to make progress, there will be no further votes this evening. The Senate will remain in session for as long as Senators wish to debate. I want to emphasize that point because, although we were told last week that there were a large number of Senators who wanted to speak, not long after we announced there would be no more votes on Friday, all of those Senators left.

And then on Saturday, although I offered to stay in session for as long as Senators wished to speak, the session terminated at about 5 o'clock. So those Senators who have stated a desire to speak, please be aware that the Senate will remain in session for as long as possible—as long as anyone wishes to speak this evening.

We will resume the debate at 9:30 tomorrow. And if we have not been able to have a vote on an amendment by tomorrow evening, then the Senate will remain in continuous session thereafter, through the evening, through the night. If there is going to be delay, then those Senators who are going to delay will simply have to be here around the clock to do it.

I hope that does not occur. I hope we can get to the amendments; all Senators who have amendments will offer them.

But to repeat, in summary: In an effort to accommodate all of the conflicting concerns and interests here, and so as to give Senators full notice and not take any precipitous action, there will be no further rollcall votes this evening. The Senate will return to debate this matter at 9:30 tomorrow morning. And if, by tomorrow evening, we are still in a situation where no votes have been permitted on amendments, then the Senate will simply remain in session on a continuous basis thereafter.

I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, if I might respond to my good friend from Maine, at least the chairman of the Finance Committee and I were here until 9:30 on Friday night. And there were speakers going on. We were here 7 hours on Friday. I do not think there has been a quorum call.

This is not a question of delaying. But the majority leader indicated several days ago that we would have ample opportunity, and every Senator would not be rushed and they could say what they wanted on the most important bill we have seen in a quarter of a century. But we have not wasted time in quorum calls. We have had our people here to speak. As a matter of fact, we used up all of our time ahead of time today, and the chairman was very kind to give Senator DANFORTH part of his time.

If what you are saying is because Senators want to speak—and these are simply opening statements; they have not started to speak on title I, title II, title III, on taxes or mandates or risk adjustment or anything else—are you suggesting, if they want to speak, are you going to force them to speak 24 hours a day?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I think Senator PACKWOOD's position was made clear when he announced the other day that there were 27 Senators who wished to give speeches of 3 or 4 hours in length, opening statements.

Second, what I said with respect to Friday was that shortly after the announcement was made that there would be no more votes, that Senators left, indicating that the desire to speak was outweighed by the desire to leave——

Mr. PACKWOOD. Except we did speak——

Mr. MITCHELL. As soon as it was announced there would be no more votes.

Mr. PACKWOOD. There may have been no more votes, but——

Mr. MITCHELL. If I might finish? Then, as the Senator will recall, he and I had a colloquy with respect to the schedule on Saturday. I offered to remain in session for as long as Senators wished to speak. He indicated that he did not wish that we remain in session beyond 5 p.m.

I am not attempting to foreclose anyone from speaking. But if that is to be used as an excuse to prevent any action from occurring on any amendment on this bill, then I think we must recognize it as such and deal with it.

Second, the fact that we vote on an amendment or amendments does not mean that a Senator is thereafter precluded from speaking on the bill. We are going to be on this bill for weeks, and every Senator is going to have ample opportunity to address the matter.

But, of course, if, as the Senator said, 27 Senators want to give each a 4-hour speech, why, that is 110 hours right there, which is nearly 2 weeks of regular sessions. If that is the case, it seems to me there is no alternative but to stay in longer than 5 o'clock, 6:30, or 7 o'clock. Otherwise, we would be accepting a condition where we would have a period of several weeks in which there would be a series of 24-hour speeches, and I think that it is better to recognize the situation and deal with it as it exists.

So my view is that we ought to proceed. We have had a lengthy period of opportunity for statements to be made. No one will be precluded from making a statement after the first amendment is voted, between the first and second amendment, after the second amendment is voted and I believe that everyone will have that opportunity. But I do not think we can continue indefinitely in a situation where there can be no vote on any amendment and we simply continue with these statements.

Mr. NICKLES. Will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. NICKLES. This is the proposal—correct me if I am wrong—that just came out, the latest Clinton-Mitchell proposal 3. This has been in print, what, since Saturday? Saturday is the first day this it was available to Senators?

Mr. COATS. Friday at 5.

Mr. NICKLES. I am informed by Senator COATS Friday at 5. There are significant changes—correct me if I am wrong—there are significant changes between this proposal and the previous proposals.

Mr. MITCHELL. There were a total of five changes, some of them changing one word. All of the changes were listed on a single sheet of paper.

Mr. NICKLES. If the majority leader will yield, to give an example, I did a lot of homework on the leader's proposal, but it was on the first proposal on things like nonconformance to standard benefit plans and there was a 35-percent penalty for nonconformance. I have been told by my staff today that was replaced by a $10,000 civil penalty.

My point being, I have not raised that on the floor because I want to study it a little bit more. We have only had this, I guess, Friday evening—most of us have seen this proposal on Monday for the first time. This is the most expensive or extensive expansion of Government proposed in a long time.

I see a list of 133 changes that were made since the first proposal, sections anyway. I would like to know a little more about it before we start making amendments that are so vitally important.

There are other proposals as the majority leader knows. Some we are also looking at. I do not think we are trying to stall, and the implication that many of us are filibustering I do not think is correct. We are trying to learn what is in the proposal. I think we are trying to be serious in our deliberations in doing so because we have not had a hearing on this proposal that I am aware of.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the Finance Committee and the Labor Committee held more than 50 hearings between them. The Labor Committee completed action on its work more than 2 months ago; the Finance Committee more than 1 month ago. The overwhelming majority of provisions in that bill are drawn from the work of those two committees, which have been well known to most Senators for a very long period of time.

Mr. President, we can stand up here and talk about the length of the bill and how much study is necessary. We have had a survey made of legislation over the past several years, their length and how much time there has been to review them, and it provides some very interesting results which I will not bother to go into now.

The fact of the matter is, we are going to be on this for some time. There has been nothing to preclude Senators from carefully reviewing it. The reality is that we have been prevented from voting on any amendment, on a single amendment, over this period of time, and we believe that it is appropriate that we begin to do so.

I understand the Senator's concern, and I know that he is going to study the measure very carefully and perhaps have some amendments to it. We have been prevented from voting on any amendment and have been prevented from taking any action until now.

That is available to our colleagues under the rules, and there is only limited recourse that a majority leader has under those circumstances. One has been to call for procedural votes. I deliberately refrained from doing so on Saturday because I had not given prior notice of it to Senators, and I try very hard not to take any action without prior notice. I have limited the number of those votes to one today.

I simply want to make clear, so there can be no misunderstanding on anyone's part, if we have not been able to have a vote on an amendment or amendments by tomorrow evening, if we have been prevented from doing so, then the Senate will remain in continuous session; there will be procedural votes at any time without any prior notice so that we can get moving on this bill.

If Senators then wish to speak in an unlimited way, they, obviously, have that right under the rules, and I accept that fact. But we are not going to have a situation where one party uses the rules to the full extent without the other party responding within the rules in the only manner that is available.

So I simply say to my colleagues, we will stay in session this evening for as long as anyone wishes to talk. Perhaps some of the 27 Senators who want to give 4-hour speeches will grace us with them this evening. We will come back at 9:30 tomorrow morning, and if we are still in this situation by tomorrow evening—that is, prevented from voting on any measure—the Senate will remain in session on a continuous basis. And in the event that quorum calls are put in, then procedural votes can occur at any time thereafter without any prior notice.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me correct the record first. When I indicated we had, I think I had 27 left, as a matter of fact, to do opening statements at that time, I thought I said 2 or 3 who might want to speak 4 hours. Most have been speaking a half hour, 20 minutes, 45 minutes. My hunch is our opening statements, depending on how we divide up the time—if we did it straight, I would say in a day; if we divide up the time, 2 days, assuming the Democrats fill up an equal amount of time, and they have so far.

But here is the problem we face. This bill does change. The Senate may recall that I asked Senator MITCHELL what had happened to the number of residents and interns and general practitioners, and I was assured it had been dropped out of the bill. I then discovered it has not been dropped out of the bill; it has been changed to a commission, and the commission is directed to find certain numbers of how many people are going to be residents and medical students, even though two Senators assured me it was out of the bill. It was not.

It takes time to find it. Now I have heard—I do not know if it is true—that the 35-percent tax penalty you are assessed if you do not offer the standard benefit plan has been changed to $10,000 per employee. I do not know that. Those are not insignificant changes.

So in fairness, we should have time to do that. I am not going to argue with the leader for a moment on that. We will finish our opening statements in a day or a day and a half, but I hope the leader is not saying that he regard it somehow as an abuse of the rules—I am not going to say it violates them, because he clearly says we are within them—if we come over here and we want to spend a day on the tax titles of that bill and go down the taxes one at a time and say who it is going to affect and here is how it affects them. I hope just for the sake of motion—and that is what I sense it is—the majority leader says we will have procedural votes. That is just what we had. I suggest, a rollcall of absent Members, I say to the majority leader, if that is your idea of motion, Einstein is right.

That is not motion. That is a vote. It does not show us making any progress. Progress maybe is when we have a chance to argue this bill on the merits which is what we have been trying to do. I do not think there has been a speech yet on either side that was not addressing the issue. This was not Huey Long reading the telephone book. They are statements on the bill, which I would hope the leader does not think is an abuse of the rules.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I did not use the word "abuse" of the rules. Those are the words of the Senator from Oregon.

Second, I have seen and heard many filibusters in which the Senators talked about the bill. The fact that someone is talking about the bill does not mean that it is not a filibuster or a delay. There is simply no correlation between the two, and it is, in my judgment, wholly illogical to suggest that because someone has been talking about the bill they are not engaging in delay. The suggestion that the only way one can delay is to read the telephone book is, of course, inconsistent with both reality and the past practice of the Senate.

With respect to changes in the bill, the Senator from Oregon has repeatedly attempted to create the impression that that is somehow an unusual circumstance, that somehow there is something wrong or fishy with it.

I look forward to the time when the Senator from Oregon offers his bill as an amendment. I fully expect there will be changes in it, perhaps there will not. We will consider that at the time. But every Member of the Senate knows that legislation changes in process. It is an ordinary event. It occurs with respect to most of the legislation we have here. And that really in my judgment is not a serious argument.

I have described the circumstances as I believe they exist and have attempted to respond to them in a manner that I believe most fair and appropriate under the circumstances. The Senator is the one who has chosen to use other words, and that is his right, of course. I believe that we should proceed in a manner that I have suggested, and to the extent that I have authority to do so, that is the manner in which we will proceed. Senators are free to remain here this evening.

I would note that after I announced last Friday there would be no more votes, although we were told that there were 27 Republican Senators who wanted to make opening statements, only two chose to speak. And that is the point that confirms the point I was making, that there was ample opportunity then. Any 1 of the 27 who wanted to do so could have spoken then for any length of time. Other than two relatively brief statements, none chose to do so.

And so we are simply, I repeat, not going to get into a situation where, under the guise of wanting to make 27 statements of 4 hours each, we are not permitting action to occur on any amendment or any subsequent matter with respect to this bill and then being unwilling to stay to give those speeches when the Senate is in session and available to permit such speeches to occur.

Therefore, I believe that the decision I have made is the fair and appropriate one under the circumstances and I need not repeat it here.

The Senator from Ohio had asked, and then I will yield to the Senator from Oklahoma following that.

I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have been around here about 19 years, and in the 19 years I have been here I have seen filibusters and I have seen majority leaders on the floor of the Senate and with no exception, no disrespect to any of his predecessors, this majority leader has been more patient, more considerate, more concerned that everyone be given a fair opportunity than anybody I have ever seen in that position. And I do not say that disrespectfully of his predecessors. He leans over backward to be fair. He is patient. He is far more patient than any of us would be under the circumstances.

He is well aware of the statements that have been made by the Senator from Texas and other Senators as well that they will do everything possible to keep this bill from becoming law, or an amended version of this bill, who are determined that there be no health care legislation enacted by this session of the Congress.

He has been patient. When an amendment was offered by Senator DODD and many of us were anxious to move forward and vote on it, either vote it up or down, he was patient; he was restrained.

I just want to commend him for saying that he will keep us in session around the clock so that we can move forward on national health care. A filibuster by any other name is a filibuster. When you keep the Senate from moving forward and acting on the legislative process, that is a filibuster. You can say that you need all the time, that 27 speakers need to speak but the fact is you at some time let some legislation move forward, let the legislative process move forward.

But that is not what is happening on the floor of the Senate. It is one delay after another. And this cute idea of how much a bill weighs, well, many of you were here when the tax bill was here, which was much higher than that. You were not worried about what it weighed because you were taking care of some of the special interests who were being provided for in that tax bill.

This is a bill that does not take care of the special interests; it takes care of the interests of all of the American people who want a national health care program. And delaying it, delaying the Senate from moving forward on this legislation is irresponsible. We ought to move forward. If we have the votes, we have them. If we do not have the votes, we ought to lose. But all I hear is talk, talk, talk. And the American people say, "What are they doing there on the floor of the Senate?" They are not doing much.

I say to my colleagues on the other side of the aisle, if you have the votes and you have the amendments, come forward with them. You may win. I read all these different things in the newspapers about this group and that group and all the groups that are making special kinds of deals. If you have something and you have the votes, then vote it up or down and maybe you will prevail.

Let us get on with the business of the Senate, but let us—more importantly than the business of the Senate—move forward to enact or defeat, if that be the will of the Senate, a national health care program. Mr. President, 260 million Americans expect no less of us. What we are doing here is playing games. We are playing political games, games that are not of credit to the Members of the Senate, games that are of no credit to the political system. I think it is high time we get on with the business of the Senate, that we pass a national health care bill or defeat it.

I think the leader is to be commended for saying that we will stay in session. I hope we would stay in session as of tonight. I was prepared to start early. But it is his will—and he is the leader—that we wait until tomorrow night in order to start working overnight. We have worked overnight in the Senate on previous occasions, and it was productive; it really gets a lot of the attention of the Members of this body. They realize what is going on. Under the circumstances now, some do not know what is going on. They just know it is delay and delay and delay.

And so I say, Mr. President, I commend the majority leader. I am proud of him and to be on his team in trying to move forward a national health care bill. I think we have had too much delay already, and I think we ought to get about our business.

Mr. MITCHELL. I thank my colleague.

I yield to the Senator from Oklahoma.

Mr. NICKLES. If the majority leader will yield.

Mr. MITCHELL. May we have order, Mr. President, so the Senator may be heard.

Mr. NICKLES. If the majority leader will yield, we have had the Finance Committee bill, correct me if I am wrong, on the floor of the Senate for 2 weeks.

Let me amend that. We have had the Mitchell No. 1 proposal on the floor for 2 weeks. Is that correct? How long has the original Mitchell proposal been on the floor? I will ask the majority leader, how long have we had the original Mitchell proposal?

Mr. MITCHELL. I stated in my earlier remarks it was produced on Tuesday, August 2. That is my recollection.

Mr. NICKLES. Today is August 15, so it has been 13 days.

We have a list of section changes that were made to the original proposal. I might mention the original proposal was on the floor for some time, and I think I counted 139 section changes, including a change to every title in the bill. Has there been a list of explanations of what the changes were section by section so we would know?

Mr. MITCHELL. I am sorry; I was distracted.

Mr. NICKLES. Has there been a list or an explanation—there are 139 section changes from the original Mitchell proposal. Has that list of changes and an explanation of those changes been submitted so we can look at that without having to try to reread the entire proposal?

Mr. MITCHELL. The section changes are identified.

Mr. NICKLES. If the majority leader will yield, I know the section changes are listed. That is 139, but that does not tell us what change. I have tried to read the first proposal, and I sort of got started in the second proposal, and then was informed by staff last Friday that there was a third proposal which we had, I guess, received Friday evening. I was not aware of it. And I have started trying to study it.

I am trying to figure out if there is a list of changes. The majority leader said they were not significant changes from the second proposal to the third proposal. If we could have a list of those changes, that would help us because some of us—in contrast to my good friend from Ohio—some of us are trying to understand what we have on the floor so we know what we should be considering.

There are some big changes that have taken place between Mitchell 1, Mitchell 2, and Mitchell 3. I think it would help us if we could have an explanation.

Mr. MITCHELL. We will do our best. I want to note that some changes were made at the request of the Republican Senators. I feel it is an irony to be criticized by Republican Senators when we are trying to accommodate other Republican Senators. But I understand it is all part of the process. We will do the best we can to accommodate.

Mr. NICKLES. If the majority leader would yield, I am not being critical. I am trying to find out what is in the legislation. When you get a sheet which says 13 sections are changed, that means a very significant revision. I do not know how many revisions were made in Mitchell 3. But we only had Mitchell 3 on the floor of the Senate Saturday and today. I do not think we are being dilatory or prolonging the process to try to find out what is in this proposal if it is just laid down on Friday. And to insist on amendments specifically when we do not really know what is in this bill, I think is premature.

Mr. MITCHELL. Mr. President, we have had a lot of theater here in the Senate holding up bills and referring to the length and complexity.

This is a tax reform bill of 1984 when the Republicans were in the majority. The bill is 1,517 pages long, and 52 out of 53 Republicans voted for it. We searched the record, and we cannot find where a single Republican complained about the length and complexity. I am sure that all of those Republican Senators who are complaining about my bill read every word of this bill before they voted on it—[Laughter]—and could answer questions about every single provision in the bill. Let everyone outside this Chamber understand what everyone inside this Chamber knows is going on.

Mr. NICKLES. Would the majority leader yield?

Mr. MITCHELL. Such a long bill as this are common bills. We have had many of them. We have voted on them. The Senator has a perfect right to debate and criticize alternatives to the bill. But let us not go on with this kind of game that somehow the length of the bill or the changes to the bill are what is causing the events here.

Did the Senator vote for this bill?

Mr. NICKLES. I am not sure.

Let me ask the majority leader a question. Was that bill not reported out of the Finance Committee and did we not have more than 48 hours to look at the bill?

Mr. MITCHELL. Let me tell the Senator. He did vote for it.

Did the Senator read this whole bill?

Mr. NICKLES. No.

Let me ask the majority leader.

Mr. MITCHELL. Did the Senator know everything in this bill before he voted on it?

Mr. NICKLES. I doubt that, too.

If the majority leader would answer this question: Was this bill not reported out of committee and available with the committee report? Was that bill not on the desk of Senators for more than 48 hours, more than 24 hours before Senators were asked to vote on it?

Mr. MITCHELL. I do not know how long it was on the floor. But I know one thing. This discussion has gone from providing good information to no information.

I think we have all had—at least I have had all I care to say about the length and weight of the bill, and the changes. And the Senator had asked me to yield for that purpose. Is there anything further he wishes to add with respect to that?

Mr. NICKLES. I did ask the majority leader; I would like a section-by-section analysis or a definition of the changes on these 13 sections. That would help us in our analysis of the bill so we do not have to start all over on this new proposal which we have only had on the floor of the Senate basically for 1 day. If one is available—I would think somebody put these 139 changes together—it would be nice if they would share them with the minority so we may have a chance to analyze those changes as well. They may well be changes for the better. There may be changes and questions from both sides.

I would like to know what is in this bill to some extent, since it has only been on the floor basically for 24 hours, before we start amending.

Mr. MITCHELL. Mr. President, in the Senator's own words, the bill was available on Friday. By any calendar, that is more than 24 hours in the day. It is a small point. But I think it illustrates what is going on in this debate.

Mr. DOMENICI. Might I inquire? I did not get the nature of that bill you were holding. What is that?

Mr. MITCHELL. It says, "That the bill from the House of Representatives (H.R. 4170) entitled 'An Act to provide for tax reform, and for other purposes,' do pass with the following amendments:"

It says "Title I—Tax Reforms Generally," and "* * * may be cited as the 'Deficit Reduction Tax Act of 1984.' "

Mr. DOMENICI. So it is a reconciliation bill, not a freestanding bill like the one we have. It is not subject to amendments, only motions to strike, and debate is limited by operation of law, not by the normal rules of the Senate.

Mr. MITCHELL. Which is an even better argument. I thank the Senator for making my point.

Mr. DOMENICI. That is not a better argument. It means that we have an opportunity here to amend this bill, and debate is open on this bill.

Mr. MITCHELL. Mr. President, I have no desire to hold the floor. I made my statements. Unless any Senator has a further question, I would yield the floor.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. MITCHELL. Yes.

Mr. GRAMM. I would like to make a couple of points.

Mr. MITCHELL. Senator, I am going to yield the floor.

Mr. MOYNIHAN. Mr. President, will the Senator yield for parliamentary inquiry?

Mr. MITCHELL. Yes.

Mr. MOYNIHAN. Mr. President, is it not the case that Senators must address the Chair?

The PRESIDING OFFICER. That is correct.

Mr. MOYNIHAN. I thank the President.

Mr. MITCHELL. Mr. President, I have said what I intended to say, and I will repeat it now so there can be no possible misunderstanding.

There will be no further votes this evening. The Senate will resume consideration of this measure at 9:30 a.m. tomorrow. The Senate will remain in session this evening for as long as any Senator wishes to speak on the subject.

If by tomorrow evening we continue in a situation where no vote has been permitted to occur on any amendment to the bill, then the Senate will remain in session thereafter, and procedural votes may occur at any time without notice.

I want to repeat that. This is the notice to all Senators, that procedural votes may occur at any time with no further notice beyond the notice now being provided.

I thank my colleagues. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me make a couple of points.

First of all, we have been operating under a time agreement where each side has controlled half the time. I am not aware of there being a quorum call during this debate. Members have come to the floor, they have spoken on the bill, and they have had an opportunity to tell the American people where they stand on one of the most important issues considered by the Senate in a quarter of a century. We are now in the process of narrowing down the list of Senators who still would like to give their opening statements. Clearly the majority leader has every right to hold us around the clock.

I would like to make two points. First, when the amendments come, they will come in a torrent. I would predict that this week will not end without the distinguished majority leader standing up and trying to stop these amendments rather than inviting more.

Second, let me say that we all understand the rules of the Senate. When the distinguished majority leader opposed cutting the capital gains tax rate, he actually was willing to engage in a real filibuster. We disagreed with him, but we respected him for it, and he killed the capital gains tax rate cut. When the distinguished Senator from Ohio wanted to stop reform of product liability, he killed that bill through debate and through a filibuster. We did not agree with him, but we respected his right.

So here is my point. We are not in a filibuster now, and everybody knows it. We have been operating under an agreement where debate time has been equally divided. We have alternated from side to side, and Senators on both sides of the aisle have made opening statements. I do not see how anybody could call this anything remotely similar to a filibuster.

So simply asking that everybody have a chance to understand the bill and to make an opening statement is not, I believe, unreasonable. But if the Senate Majority Leader wants to hold the Senate in session 24 hours a day, he has a right to do that, and we will all be prepared. The point is that when the amendments come, they will come in a torrent, and they will not stop.

Third, when we have a filibuster—if that is what it takes to stop a government takeover of health care—people will know it, and they will not have to speculate about it. I am hopeful that we can adopt amendments, that we can fix this bill, that we can improve the system, and that we can preserve consumer choice. If we can do that, then I think we can move forward. I do not think we hasten the day we complete the bill by forcing Senators to begin voting on something when demonstrably the vast majority of the Members of the Senate are only now becoming conversant with this bill. I think that is the bottom line.

I think the American people understand that. The point I want to make is that we have been continuously debating this legislation. I do not remember there being quorum calls during this debate. We have an amendment pending, and people have a right to debate it. People have continued their opening statements. Maybe the process will speed up by staying in session 24 hours a day, and maybe it will not. I do not know. But the point is, I do not think anybody can make a reasonable argument that there has been a filibuster. There has been an orderly process, mutually respectful on both sides, where people have made opening statements.

But when people are ready for amendments, be ready. They will come, and they will come in a torrent. I want to make this point, having listened to our dear majority leader—my guess is that by the end of the week, the majority leader will be standing by the same desk with the same smile urging us to stop these amendments.

(Mr. MATHEWS assumed the chair.)

Mr. MITCHELL. Mr. President, I have listened with interest and attention, as I always do, to the Senator from Texas, particularly with his reference to trying to rush on the bill that people had not read. As memory often does, it took me back to my first year in the Senate when the House of Representatives took up a bill that bore the Senator's—and then Representative's—name. I think it was called Gramm-Latta.

I recall reading with interest the stories at the time about how it was slapped together too hurriedly in the House, and that someone had written down his girlfriend's phone number, and that appeared on one of the pages of the bill. It was a Xerox, not a printed copy. Dozens of House Members protested about trying to rush through this massive bill before anyone had a chance to read it, and it was put together in such slap-dash fashion that there were blank pages, blank sections, handwriting, girlfriends' phone numbers, and all other kinds of things.

I just remark with amazement at the Senator's words now about this bill, in the light of that history. But I thank him.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2178

Mr. EXON. Mr. President, I ask unanimous consent that in the engrossment of H.R. 2178, the Hazardous Materials Transportation Act, the Senate amendment be changed to reflect the technical corrections I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, if the Chair will hold that a moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have made a request as a part of the RECORD. I renew that request at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

In section 119(c)(4) of the amendment of the Senate—

(1) insert "(1)" after "Section 5127(b)", and

(2) insert "(1)" before "There" in the language inserted as new text for section 5127(b) of title 49, United States Code.

In section 211(b) of the amendment of the Senate—

(1) strike paragraph (2) and insert the following:

(2) Section 11501(e) is amended—

(A) by striking all but paragraph (5),

(B) by redesignating paragraph (5) as subsection (e), and

(C) by striking "paragraph" and inserting "subsection".

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I believe it is the case that there is no time agreement at this point, and the Chair will simply recognize Senators as they seek recognition.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. WOFFORD. Mr. President, I, first, commend the majority leader for his plan that beginning tomorrow, if necessary, we remain in session night and day to get this work done. For the people who do not have health insurance, they do not get to sleep easily at night. The people who are in fear of losing health insurance if they change a job, if they have a preexisting condition, they do not get much sleep at night. I think it is fitting that we not sleep at the switch and that we go ahead, and now that this is within reach that we reach it and get it done.

Mr. President, fortunately, there are Republicans and Democrats who are working together seriously on real health reform, but there are others who want only to block action. They seem to think it will help them politically. They do not put it that way. Instead, they say we must slow down because health care is too big to tackle for this Congress. Instead of acting, they say we ought to study some more. Call it what you want, but as Shakespeare and the Senator from Ohio would say a filibuster by any other name would still smell like gridlock.

Mr. President, we have had six decades of studies, rivers and mountains of studies. We do not need more study about what is wrong with our health care system. We need the backbone to face up to the special interests and take action to protect middle-class families from a health care insurance system which is out of control from those insurance companies who are charging them more and giving them less.

But if they want to study health care, let them study it firsthand, personally and directly what it is like to be a middle-class family caught up in the health insurance mess. Let them study what it is like when your employer cancels your insurance and you have to go out and buy it on the open market. Maybe then we would get action sooner rather than later.

That is why I warned the Senate last week that if the defenders of the status quo succeed in delaying action on health care I will propose an amendment to disqualify every Member of Congress from the Federal Employees Health Plan until we pass a health care bill for the American people. So I am saying support the plan you live under or live under the plan you support.

Americans deserve the same kind of guaranteed coverage and choice of affordable private health plans that Members of Congress have arranged for themselves. Why? Because taxpayers foot the bill for our health coverage and Members of Congress do not have Government-run health care. They have a range of private health insurance options. They do not have a one-size-fits-all system. They have a consumer-choice system, more choice than most Americans are getting today.

The Mitchell bill will make the Federal Employees Health Plan that Congress enjoys available to other Americans and make it a model for reform, Private health insurance that cannot be taken away. No exclusions for preexisting conditions—you take it from job to job. Affordable premiums paid by a shared contribution from employer and employee. A choice of doctor and health plans.

And what about the Dole bill?

First, unlike the Mitchell bill, the Dole bill will not put us on the path to universal coverage. It does not even pretend to.

Second, unlike the Mitchell bill, the Dole bill is a green light to employers to shift billions of dollars in costs onto the backs of working families.

Third, unlike the Mitchell bill, the Dole bill will not protect millions of people from being denied coverage because of preexisting conditions.

Fourth, unlike the Mitchell bill, the Dole bill will not guarantee that when you leave your job, you can keep your health insurance. It will let the insurance companies keep loopholes that they use to cancel coverage when people change jobs.

Fifth, unlike the Mitchell bill, the Dole bill will not guarantee a choice of doctor and health plan.

And sixth, unlike the Mitchell bill, the Dole bill will prevent most Americans from joining the Federal Employees Plan available to Members of Congress.

Beyond those fatal weaknesses, the Dole bill is especially punishing to older citizens and their families.

Unlike the Mitchell bill, the Dole bill would take billions of dollars in the Medicare program without investing any of this money, these savings, into protecting older Americans.

Unlike the Mitchell bill, the Dole bill has no coverage for prescription drugs.

Unlike the Mitchell bill, the Dole bill has no coverage for long-term care in the home and community.

Unlike the Mitchell bill, the Dole bill will not do anything to change today's absurd system that forces an older person to give up their life savings—and often their dignity—in order to pay for nursing home care and qualify for Medicaid, because it does not include a voluntary, long-term nursing home insurance program.

Unlike the Mitchell bill, the Dole bill will let insurance companies charge older citizens up to four times more than everyone else.

Of course, Americans are skeptical about health reform and about almost everything else we do in this body. After the millions that special interests have spent to mislead and misinform, to spread fear and smear, it is no wonder people are concerned. But they are even more skeptical about those in the insurance industry, not all but far too many, who are blocking this bill and who seem to exist to charge ever higher premiums and cancel coverage just when people need it most.

And they ought to be skeptical of any so-called reform which does not crack down on insurance company practices and policy loopholes that leave middle-class families out in the cold. If the Dole bill is so good, why do so many of those naysaying insurance industry forces like it so much?

Americans want to see a reform that protects above all middle-class families from losing the insurance they have today and a reform that puts us on the road to universal private health insurance coverage.

They want to have the kind of affordable coverage and choice of private health plans that Members of Congress have arranged for themselves. The Mitchell bill does that. The Dole bill does not.

Mr. President, there is hope for a truly bipartisan effort that will go a long way toward real reform. But to those who simply want to protect the status quo, to scare people about change, to use every tactic in the book to bring this reform effort to a grinding halt, I say you are on the wrong side of history.

People are tired of Washington's finger pointing and game playing. They do not want this Congress to squander this chance. They do not want special interests to hijack this reform. And they certainly do not want their health security held hostage to anybody's political agenda.

So on, Mr. President, night and day, let us go on to succeed in winning the battle that Harry Truman started nearly 50 years ago.

I yield the floor, Mr. President.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I yield to the Senator from Washington State as much time as he may require.

The PRESIDING OFFICER. The Chair would announce the time is not controlled, so the Senator can be recognized in his own right.

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the challenge before the Senate is whether we will approve changes that will be positive, acceptable, and affordable to the American people, or, on the other hand, are we going to pursue remedies that serve Big Government political agendas and endanger the very system of care on which we all depend for our families' health?

This debate is historical because it is about nothing less than the role of Government in the most intimate decisions and fearful moments in our lives—the times at which we are in need of urgent medical care to heal ourselves and those we love.

From the outset, this Senator admits to a presumption against Government expansion into areas in which market forces can operate more effectively and cost-efficiently. I am not against Government, but I believe that it should be limited, as the Framers intended, due to its often unaccountable, expensive, arrogant, and sometimes oppressive nature. Consistent with that belief, I am convinced that the Senate should restrain itself from arrogantly approving sweeping measures that will have unpredictable consequences. The Senate should limit itself to those measures we know are likely to improve the financing and delivery of health care. In short, we should fix only that which is broken.

I should like to begin briefly by stating my health care reform objectives and those of the people of Washington State, followed by a discussion of the majority leader's proposal, and then other alternatives to reach appropriate objectives.

I have been on an odyssey of sorts in looking for solutions to the high costs and market distortions of our current health care system. I have sought ways to achieve broad bipartisan reform that truly expresses the diverse concerns of the American people without jeopardizing the quality and choice that makes American medicine the best in the world. In pursuing these goals I have kept the physician's Hippocratic Oath in mind: First we must do no harm.

I have cosponsored proposals ranging from the earlier Chafee plan to the present Dole-Packwood proposal. While I have disagreements with elements of both plans, each includes principles that I believe will bring improvements to our health care system. While there is considerable disagreement over how we get there, there are good reasons that call us to act responsibly.

We need health care reform because the increasing costs of health care threaten to bankrupt both our Government and our families. Too often families facing catastrophic illnesses must first spend down by selling their assets to qualify for public assistance. Due to demographics and unrestrained entitlement spending, health care spending is likely to absorb an increasing proportion of State and national budgets until it makes up 20 percent of the gross national product within the next decade.

We need reform because too many Americans today do not have health care coverage. Millions of hard-working Americans are without health care insurance and their health expenses are paid for indirectly through a wide range of cost shifting.

Here are my objectives to meet the twin goals of affordability and access to health insurance:

We must allow workers to take their health insurance with them when they switch jobs. Too many Americans are locked in jobs because of a fear of losing good health insurance coverage.

We must protect small businesses from oppressive employer mandates, while we help them provide health insurance for their workers. Our current Tax Code includes absurd disincentives to the self-employed and small businesses that want to insure their employees. We can and should give them the same purchasing power as big corporations and provide meaningful incentives for them to cover their employees.

We must have meaningful medical malpractice reform dedicated to protecting legitimate victims of negligence and our legion of dedicated doctors and other health care professionals rather than providing unlimited business to trial lawyers. The average doctor has a 37-percent chance of being sued at sometime in his or her career. The odds are an incredible 52 percent for a surgeon and an even greater 78 percent for an obstetrician. Defensive medicine, the wasteful procedures performed to protect physicians from lawsuit, cost a good $25 billion in 1991. Meanwhile, the Rand Corp. found that legal costs account for 38 percent of medical liability claims and only 43 cents of every $1 spent on litigation reaches the injured patient. We cannot pretend to tackle waste in our health care system without meaningful medical malpractice reform.

We must promote individual responsibility for the health our people. While our system provides access to the world's finest health care when needed, the obligation to take care of oneself and to avoid preventable illnesses is vital to relieving the current stresses in our health care system. In all the talk of how the Government can help with health care security, we have forgotten the obvious fact that individuals are first and foremost responsible for avoiding their own preventable illnesses.

Similarly, we must promote preventive care so that our current system, which focuses on healing the ills, will save money by preventing illness in the first place. We must support biomedical research and the innovations in biotechnology that are an important basis for preventive care as well as for dealing ever more effectively with serious illnesses and disabilities.

We must insure quality and choice for families when they make their health care decisions. From every corner of the Earth, people come to the United States for the very best medicine and care the world has ever known. They come to train in our medical schools that provide the best education and residency programs. They come for miracles that occur on a daily basis, and must not be taken for granted.

Most important, we must acknowledge that increased coverage will cost money. To some that may be stating the obvious. To this Senator, the obvious deserves equal time in this debate.

Similarly, we must acknowledge that our health care system provides millions of good jobs for individuals who have dedicated their lives to the health of others. We cannot ignore the impact on these jobs that some health care reform proposals will have.

In addition, we must acknowledge the reality that our system of financing and delivering health care is radically changing as we slowly contemplate our own perhaps less proposed relevant changes. This Senator is convinced that by the time a national health care reform program is enacted, we will need to alter it just to keep up with a much more responsive and efficient marketplace.

Just look at health care inflation. While inflation was among the primary reasons for demanding the reform of our health care system less than a year ago, it is now hardly mentioned because health inflation is at its lowest point in 20 years. Some inside the beltway assert that it is only the threat of Government action that has restrained health care spending. While the threat of Government-run medicine has caused some health care stocks to plummet, it is primarily employers tightening their belt, negotiating with insurers, and eliminating waste that has slowed the increase in health care spending. Again, the marketplace has responded to inefficiencies and high costs much more quickly than the Government could imagine.

A major source of innovation and efficiency in the marketplace is the right of companies to self-insure. Self-insurance is possible only because of the Employee Retirement Income Security Act, or ERISA, which gives self-insured employers the flexibility to negotiate plan design without the expensive and explosive mandated benefits required by State governments. As my senior colleague from Minnesota so eloquently has informed us, ERISA has provided a national uniform rule that permits true competition in the health insurance marketplace to occur. Self-insurance and ERISA are not broken and therefore need not be fixed in health care reform.

Another example of market ingenuity that must be preserved and promoted in health care reform are medical savings accounts or medical IRAs. Under this option, employers establish an account for their employees to which they contribute monthly amounts for employees to spend on medical costs or premiums for health plans of the employees', not the employers' choosing. This promotes consumer awareness, value, and responsibility while guaranteeing flexibility and lower administrative costs for the employer.

Here is what we must avoid: Government run medicine that turns decisions between a physician and his or her patient over to Government bureaucrats rationing care under a global budget. The more obstacles you put in the way of a decision by a physician to determine the most appropriate care for his or her patient and the application of that care, the more you jeopardize the quality and add to the costs of the health care received. That is simply the reality of centralized medicine illustrated by literally thousands of Canadians who come south each week to the United States to pay out of their own pockets for health care when and how they want it. The fundamental goal for reform must be market-based or it will not have my support or the support of the American people.

Most important, we must not punish those States that have moved forward with health care reform, that have imposed new taxes, new regulations, new bureaucracies, and new mandates. My State of Washington has enacted a comprehensive plan for which the details are still being worked out. Enormous change is underway that may be positive or negative depending on the substance and timing of Federal and State action. Careful consideration must be given to these States so that ultimately their citizens do not pay twice for health care reform.

My goals are ambitious and my concerns are many. They are the product of an extensive listening process to the people of Washington State for the last 3 years. People, who, like the rest of the Nation want positive, affordable, and acceptable changes in our health care system. They, too, are skeptical that the current proposal by the majority leader will meet those goals and address those concerns.

My first impression of the 1,400-plus page Mitchell health care proposal reminded me of Mark Twain's description of how Tom Sawyer felt when he first approached that "thirty yards of board fence nine feet high."

Now, we all know how Tom finished the job. He convinced everyone who stopped by that this was the finest chore imaginable, almost a historic opportunity. Sooner or later, all the neighborhood kids were swapping their treasures just so they could have at that fence.

The Senate has before us in the Mitchell bill an enormous board fence.

The question is, in this case, do we have to whitewash the fence, or do we need to construct another fence altogether? After examining the costs, new bureaucracies, mandates, taxes, malpractice provisions, and regulations in this proposal, this Senator is convinced that reconstruction, not whitewash, is the only practical solution. This proposal is simply not affordable, constructive, or acceptable to the American people.

The Congressional Budget Office, the umpire given the dubious task of judging the economic impact of the majority leader's health care plan, recently came to the same conclusion. It found that between 1997 and 2004, the subsidy program to cover 26 million people in the Mitchell bill would exceed $1 trillion. The annual cost of this premium assistance would average $100 billion annually, or approximately $3,850 per person currently without insurance. In only its second year of operation, this new entitlement program would be the third largest Federal expenditure behind Social Security and Medicare.

Assuming that these projections are correct is itself a risky venture. Keep in mind that actual costs for Medicare spending in 1962 were 10 times higher than estimated. In any case, such an announcement came during the same week in which the Bipartisan Commission on Entitlement and Tax Reform announced its dire predictions of the future under our present spending habits, including the following:

> In 2012, unless appropriate policy changes are made in the interim, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the Federal government.

Of course, that did not include any of the new entitlements in this bill.

Yes, expanded coverage through subsidies will be expensive, but an even more important question is whether we would get our money's worth and a guarantee that this is not just another major expansion of government? We need to help make health insurance affordable to those in need, but another open-ended entitlement program is clearly not what the country needs or can afford. Difficult choices lie ahead, but the option of having the American taxpayer forking over more hard-earned pay is not an appropriate one. Everywhere but on Capitol Hill it is obvious that this option is not affordable. We can do better. CBO's analysis of the tax increases called for in the Mitchell plan raises serious doubts as to the plans level of acceptability to the American taxpayer. Of particular concern is the 25-percent excise tax on high-growth premiums. CBO found that the tax:

> * * * would be difficult to implement. In addition, its contribution to containing health care costs would be limited, and it might be considered inequitable and an impediment to expanding coverage.

What CBO has found is simply common sense. Those plans which currently are efficient and carry low costs will be penalized significantly more than those plans that are wasteful and expensive. In an effort to protect constituencies with Cadillac health care plans and to avoid a blatant tax cap, the majority leader suggests we punish those who have succeeded in keeping their costs low. CBO concludes:

> Such an assessment would increase premiums, and higher premiums would discourage participation in the voluntary period.

In other words, we may pay more and get neither cost control nor expanded coverage. That is not acceptable to the American people. These are tax increases which I believe to be unnecessary. And any tax increases certainly should have to be justified by achieving their intended ends.

We have often heard proponents of employer mandates make the following argument: Since our current health care financing system is employer-based, why not take it one step further and demand that all employers pay for health insurance and then give it a nice term like "shared responsibility." They neglect the obvious and vital fact that employers offer voluntary employer-based system insurance to attract and keep employees. That is like ignoring the difference between a draft and a volunteer army. It is not subtle; it goes to the very difference between market forces and Government mandates.

The results of our voluntary system have been impressive. In 1992, employers spent $252 billion for health benefits. Outlays for all health benefits have increased as a proportion of total compensation from 1 percent in 1960 to 7 percent in 1992. Even so, that is not good enough for advocates of employer mandates.

The goal of universal coverage in the majority leader's proposal rests on the false security of an employer mandate that would kick in 8 years from now and cover not only employees but their dependents as well. Although the mandate is claimed to be conditional on less than 95 percent coverage, it is actually inevitable due to another mandate: the one-size-fit-all benefits package. By forcing conformity to essentially one product, those employers who could not afford that product would simply opt out—increasing the number of uninsured.

The employer mandate does not affect the employer as one might imagine—it will be the employee who suffers. Even CBO agrees that:

> Economic theory and empirical research both imply that most of this increased cost would be passed back to workers over time in the form of lower take-home wages.

Moreover, the employee mandated share—50 percent—would amount to new payroll tax of up to 8 percent. How the individual mandate is enforced or monitored by the employer is a question the majority leader does not answer.

One needs to look no further than my own State of Washington to see the impact that employer mandates and mandated benefits packages will have on the job force. There small businessmen and women are preparing for an estimated 70,000 lost jobs by the time the State health care reform is fully implemented in 1999. While proponents espouse subsidies as a relief for small business, the reality is that most entrepreneurs do not care for assistance, do not believe that the funds will be there, and would rather go broke before taking their own tax money from the Government.

We must improve our current voluntary system by establishing purchasing cooperatives to ease the administrative and financial strain of finding health coverage for employees. Small businesses should have the same tax incentives to purchase health insurance as large corporations and be allowed to organize to their similar purchasing power. While some may argue that an employer mandate is a simple small step to universal coverage, this Senator simply does not accept the idea that we must trade jobs for health care reform.

While the new taxes, mandates, and costs of the Mitchell plan render it neither affordable or acceptable to the American people, it is the exceptionally large new role of Government bureaucracies weaved throughout the entire measure that alarm me the most. In its report, CBO acknowledges that:

> For the proposed system to function effectively, new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and administrative mechanisms developed, and new institutions and administrative capabilities created.

While the majority leader claims that this bill is based on a private system of delivery, his proposal creates no fewer than 50 new bureaucracies, including a National Health Benefit Board, State Risk Adjustment Organizations, Health Plan Service Areas, Prescription Drug Payment Review Commission, National Council on Graduate Medical Education, National Advisory Board on Health Care Workforce Development, Healthy Students-Healthy Schools Interagency Task Force, United States-Mexico Boarder Health Commission, Health Information Advisory Committee, Mandatory State-based Alternative Dispute Resolution, Compliant Review Offices per each area, and the National Health Care Cost and Coverage Commission, just to name a few.

Only after reviewing the duties and obligations of these new offices can one truly begin to understand the scope of radical change and expansion in the Government's role in health care we are contemplating. Some advocates of Government-run medicine believe that if you just "build it they will come"—

that somehow if you build an infrastructure of bureaucracies you can address all the needs of the people more efficiently than they can themselves. This Field of Dreams, however, is clearly a nightmare that should never be built.

CBO concludes with the following understatement:

> There is a significant chance that the substantial changes required by his proposal—and by other systematic reform proposals—could not be achieved as assumed.

In other words, these enormous and expensive changes may not prove positive.

As I have noted, this Senator is not anti-Government—I simply believe that Government must be limited and that empowered individuals can usher in positive change more readily than mandates and big Government. I subscribe to the theory Jefferson expressed when he wrote:

> I know no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.

We can address the shortfalls of our current system without creating an unprecedented growth in Government to control more and more elements of our health care decisions.

As I stated earlier, meaningful reforms in our medical malpractice system are a prerequisite for my support of any plan. The current medical malpractice system serves neither legitimate claimants or defendants well and is a source of unnecessary expense and waste in the health care industry. Only 43 cents of every dollar spent in medical malpractice litigation reaches injured patients, while the price of defensive medicine may well add as much as $25 billion to our national health care spending every year. Comprehensive medical malpractice reform could save as much as $35 billion over the next 5 years by curbing premium cost increases and many defensive medical practices.

The rear of frivolous malpractice cases and real increases in malpractice insurance premiums is taking a toll. The Institute of Medicine concluded in 1989 that the traditional tort system is a slow and costly method of resolving obstetrical disputes and that it contributes to the disruption of the delivery of obstetrical care in this Nation, especially in rural areas. Almost one out of eight obstetrician/gynecologists has dropped obstetrical practice as a result of liability risks. One study found that increasing liability costs and threats have led 70 percent of physicians to order more consultation, 66 percent to order more diagnostic tests, 54 percent to order more follow-up visits, and 28 percent to perform procedures they ordinarily would have delegated to other medical personnel. For health care providers, a frivolous or meritless malpractice claim can lead to personal and professional ruin.

Considering that the Washington Post reported by last April 20 that the majority leader was inclined against including medical malpractice reform in health care reform, I was pleased to see a section dedicated to it in his proposal. Unfortunately, after I reviewed the sections—providing open-ended litigation, and an entire new source of remedies—I concluded that these provisions alone would be reason to oppose the entire measure.

Instead of limiting the waste that zealous attorneys bring to our health care system, the Mitchell plan offers endless opportunities for trial lawyers to seek more causes of action and deeper pockets. He proposes State-mandated alternative dispute resolution mechanisms that have not been proven to save significant ligation costs, but do keep lawyers employed. He proposes certificates of merit that unfortunately are as easy to produce as an expert witness. He allows for periodic payments and studies on medical negligence, medical guidelines, and enterprise liability. Finally, the majority leader proposes limitations on attorney's fees at a level which regrettably only reflect the status quo.

But an entire new section on remedies for claims disputes will bring a smile to every medical malpractice plaintiffs' lawyer in America. Under the majority leader's plan an entire new source and process for remedies is mandated on the States. Section 5502 dictates that each State:

> shall establish and maintain a complaint review office for each community rating area established by such State.

Throughout the remedies sections, the Mitchell bill ignores attempts to deter frivolous cases by providing for "reasonable attorney's fees, reasonable expert witness fees, and other reasonable costs relating to such action." Section 5505 provides new civil money penalties available from the Department of Labor.

On top of all that, complete judicial review in a court of law is available, as well as private rights of action, in case the responsible bureaucracies do not pursue certain claims. Essential community providers are provided civil and administrative causes of action for "failure of a health plan to fulfill a duty imposed on the plan."

In a bizarre attempt to blur the doctrine of separation of powers and preempt a court's discretionary powers, section 5540 provides that the U.S. District Court for the District of Columbia, which has original jurisdiction over constitutional challenges to the measure,

> may not grant any temporary order or preliminary injunction restraining the enforcement, operation, or execution of this Act or any provision of this Act.

In addition to these measures, the Mitchell provisions relating to discrimination include some unprecedented litigation opportunities that may render the entire health care system unworkable. It is worth restating the entire section. Section 1602 provides that:

> The Secretary of Health and Human Services, and any State, health plan, purchasing cooperative, employer, health program or activity receiving Federal financial assistance, or other entity subject to this Act, shall not directly or through contractual arrangements—
>
> (1) deny or limit access to or the availability of health care services, or otherwise discriminate in connection with the provision of health care services; or (2) limit, segregate, or classify an individual in any way which would deprive or tend to deprive such individual of health care services, or otherwise adversely affect his or her access to health care services; on the basis of race, national origin, sex, religion, language, income, age, sexual orientation, disability, health status, or anticipated need for health services.

The section provides further that the section will apply, but is not limited to, the determination of the scope of services provided by a health care plan, and the provision of such services and determination of the site or location of health care facilities.

This section would have two predictable effects that undermine the entire delivery of health care and many unpredictable ones that will be litigated endlessly. First, a provider would always be vulnerable to a lawsuit if it chose to deny care that it felt was inappropriate or decided on a course of treatment that was not preferred by the patient. The result is the formation of an even more costly health care system based entirely on defensive medicine.

Second, for the first time, discrimination based on health status, anticipated need for health services, language, income, and sexual orientation would be actionable grounds for Federal civil rights claims.

Instead, we should pursue caps on noneconomic damages at $250,000, several liability for noneconomic and punitive damages, periodic payments, the collateral sources rule, limits on contingent attorneys fees, statutes of limitation, and effective consumer protection. Instead of weakening the relationship between doctor and patient by encouraging malpractice claims, we should strengthen the relationship. Instead of leaving injured patients at the mercy of attorneys and the courts, we should provide mechanisms for quick and fair relief.

The medical malpractice reform provision in the Mitchell bill provide clear examples of why the American people want us to proceed with caution in health care reform. They will make changes for the worse, cost more, and cripple a legal system already under strain from too much litigation.

My greatest concern is that the Mitchell plan will leave the people of the State of Washington paying twice for health care reform either through the new taxes, mandates, regulations, or additional layers of bureaucracy. Of particular concern is the tax on growing health care premiums that punish States like Washington which now have lower health care costs than average that will inevitably rise under community rating. The 1.75-percent tax on all plans does not spare Washingtonians who have already paid taxes for health care reform. As our State plan is implemented, this Senator will insist that the cumulative Federal and State changes ultimately provide changes that are positive, acceptable, and affordable to the people of Washington State and do not charge them twice for the same services.

Regrettably, all the whitewash in the world will not cover up the taxes, mandates, and bureaucracies. We need to build a different fence. Fortunately, there are other fences from which to choose.

In the next 10 days, my colleagues from New Mexico, Georgia, and elsewhere intend to introduce a Bipartisan Health Care Reform Act similar to the Rowland-Bilirakis measure in the House of Representatives. Unlike other proposals, the American people can at the very least trust its title.

This market-based, voluntary proposal builds on wide areas of agreement among members both Liberal and Conservative, Democrat and Republican. It focuses primarily on that which is broken in our health care system.

Specifically, it includes health insurance reforms so that employees won't lose coverage when they switch jobs. It limits preexisting condition exclusions and provides additional safeguards against harmful insurance practices. Employers would be required to provide, but not pay for, at least two options—a standard coverage and one high-deductible plan. Medical savings accounts would also be an option.

Small employers would be enabled to gain the same purchasing power as large corporations for the purpose of purchasing affordable health insurance for their employees. Medical malpractice reform, clarification in antitrust laws, fraud and abuse control, and administrative simplification aim to lower wasteful health care spending. The cost of the plan is estimated to be approximately $140 billion over 5 years, a fraction of the majority leader's proposal. Savings in Medicare and Medicaid are intended to make the plan budget neutral.

Quality and choice are preserved under this measure. Employers will not lay off employees due to coercive mandates. It does not trade jobs for health care. It helps those in need get assistance through limited subsidies. The entire spending side of the proposal is subject to a fail-safe mechanism that ensures an affordable outcome. This is a bare-bones, market approach for the 1990's—not a big government, taxpayer financed boondoggle of the 1960's.

Will it solve all the problems in our health care system overnight? Probably not. It does not pretend to. Is it revolutionary or radical? No. It builds on the successes of American medicine. It recognizes that market forces in the health care industry are moving more rapidly than we can respond. It recognizes that open-ended entitlements and employer mandates are not the legacy we want to leave our children.

I am anxious to see the cost estimates for this proposal from the Congressional Budget Office. Meanwhile, my impression is that it is the kind of health care reform that the American people will find to be positive, acceptable, and affordable. In fact, this proposal seems to build on the Better Access to Affordable Health Care Act of 1991 introduced by then-Senator Bentsen and Representative DAN ROSTENKOWSKI, which I cosponsored in the Senate.

The sponsors of the Bipartisan Health Care Reform Act truly reflect the concerns of the American people. They are fiscal conservatives devoted to improving the health security of American families. I trust their motives, commend their dedication for positive changes in health care, and look forward to hearing their arguments.

While advocates of more radical health care reform have called for immediate and revolutionary changes in our health care system, this Senator advises his colleagues to take a different course. Now is not the time for hurried consideration or blind faith in complex redesigns of something as important as our health care system. Now is the time for humility, not hubris.

As Adam Smith wrote in the Wealth of Nations:

> It is the highest impertinence and presumption, therefore, in kings and ministers to pretend to watch over the economy of private people, and to restrain their expense. They are themselves always, and without exception, the greatest spendthrifts in the society. Let them look well after the own expense, and they may safely trust private people with theirs.

Now is the time to trust the American people, who are making it overwhelmingly clear that radical exchange in their health care system is not their desire. The cameras are on and they cannot be fooled. They know that "shared responsibility" means mandates. They know "contribution" means "tax." They know that a product of a conference committee that rejects the consensus of a Chamber should be rejected. More than ever, and some for the first time, are watching because they are rightly concerned that we will do the very harm they want us most desperately to avoid.

Mr. President, I urge my colleagues once again to heed the words of my constituents for whom the future impact of some types of health care reform is happening now. Kim Ward, a small business owner in Kirkland, WA, offers the following advice:

> If there is one thing that I could pass along to the Senate it would be—take your time. It is important that the things Washington State is currently doing * * * be done prior to passing any law. If Washington State had talked openly about health care, its effect on business and their employees, the outcome may have been different than the law passed. Currently, everyone is trying to figure out how to fix the current law.

Mr. President, you and I both know that you can not fix comprehensive health care reform once it passes and impacts one-seventh of the Nation's economy. We have only one opportunity to do health care reform, and we must do it right or not at all. Right is more important than fast.

Mr. President, most of this I wrote or thought about before the remarks by the majority leader early this evening. Those remarks and my own I think are even more relevant at this point. This Senator is absolutely convinced that the proposal before us, all 1,400 pages, can only be passed if the people of the United States do not know what is included in it. They do not want the radical changes and governmentalization of this proposal. They want it and its alternatives thoroughly discussed. They want it discussed in the light of day, not in the middle of the night. They want to be able to have an influence over the major elements in that debate on amendments, on proposed changes, on total and complete substitutes.

Overwhelmingly, their advice to us is to make certain that we get it right the first time, not to pass something that we do not understand and they do not understand. If it takes another year to do it right, the American people want us to take another year. If we can take some steps forward now, if we can do some things to improve our health care system, they wish us to do it. But they do not wish the Senate of the United States, which alone of the bodies of our Government has the power, the authority, the right, and the duty to deliberate carefully, to pass this bill by the end of this week or the end of next week before the American people understand it at all. They want us to do this job right, and it is far more important to do it right than to do it fast.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, before I yield the floor to the Senator from Texas, may I make an observation as follows? Other than as a very small child when my grandfather worked for the then Great Northern Railroad and used to take me on trips to the great Pacific Northwest, I think about 1984 was the very first time that I returned to Washington State. I was there at the invitation of the then junior Senator who just finished speaking. I was there to talk about health care, and I was there to listen on the issue of health care because he was persistent that I do. I was impressed by the time and quality of the people in the State of Washington to health care and health care reform, and especially the quality of the commitment of the Senator who has just finished speaking.

I have not yet in this debate heard an explanation of what is at stake in health care reform that has been quite as complete, quite as thorough, and quite as on the point than the one we just heard.

I have welcomed the work of our colleague from Washington in everything that we have done in health care reform. And as he has pointed out, he has been in the middle of the debate in an ideological or philosophical sense. He participated with us though the mainstream having worked with Senator DOLE on his bill and now having expressed an interest in the similarities all of these bills have to what is in the House bill. I think out of that should come a message not only to the people of America but to the people of this Chamber as to where the consensus lies if we are to do health care reform this year.

I would suggest that the majority leader, and others in a position to do so, could do worse than open up the CONGRESSIONAL RECORD tomorrow morning and read the statement by our colleague from Washington State, and take his advice. He has been sent here by the people of that State because they are trying to do reform in the State of Washington. I think they passed legislation, as he pointed out. But they, as the people in Minnesota, recognize that you cannot do this a State at a time. We need a set of national rules by which health care markets can work. As he has already pointed out, it is impossible to believe that we need this much ruling from the National Government.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I thank my dear friend and colleague from Minnesota for those kind remarks.

As he knows, I have relied very greatly on him for advice during the course of not just this debate this year, but, as he knows, for the last 2, or 3, or 4 years during which we have tried to work on this issue. I suspect he shares the view that every time we work out a conflict and we have correctly answered one question, we find two or three other questions popping up. And the more we learn about this issue the more humility we have about it, and the more we want to make sure that we are absolutely right with every step that we take forward because we are dealing with perhaps the most profound of the concerns of each of our constituents.

Mr. DURENBERGER. Mr. President, I yield such time as she may require to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, the health care industry constitutes one-seventh of our Nation's economy. That cold fraction represents millions of jobs, and the livelihood of millions of families in our country. But even more sweeping is that every American's quality of life is at stake in this debate. The excellence and availability of health care determines the quality of American life.

I have heard so many moving stories of people struggling with illness, and I want to mention some of them. A Florida man employed seven people in his furniture store. Over the last few years his health care premiums have increased dramatically. Last year, he learned that he could no longer insure all of his workers because two of his employees had become high risk due to their older age.

A nurse here in Washington said that when a little boy asked her to sit with him during a chemotherapy session she had to leave that little boy alone to go to a mandatory class on how to fill out a form that had no direct bearing on the health of the children she was treating.

An elderly couple in New Hampshire had to sell food out of their refrigerator to pay for their medicine. Another woman had to quit her job and go on public assistance in order to afford expensive treatment for her sick son.

Another couple had a sick child, and their only source of insurance was one of their parent's employers, forcing the employer to either let that employee go or raise the insurance premiums on all 20 of that firm's employees by $200.

Do these stories sound familiar? They are all true, and they are all tragic. And they have all been told by the President of the United States in an attempt to incite a revolution that would cause a radical change in American life. These stories are a legitimate cause of action. They call for responsible actions, not impetuous experimental upheaval.

These sad stories should not be used to argue that a good but imperfect system should be destroyed. They should be used as an incentive to perfect the system.

Let me put this in perspective. Eighty-five percent of the American people have health care coverage, and most are happy with it. Of those who are uninsured, almost half will be covered within four months, and every plan introduced in this Congress would allow them to have continuous coverage. President Clinton, Senator MITCHELL, and Congressman Gephardt are asking the question, how can we bring the other seven or eight percent into the system? I think the better question would be how can we bring the other 7 or 8 percent into the system without harming the quality for the 85 percent now covered?

These are two very different questions, and they produce very different answers, as you can see, when you compare the Mitchell plan to the Dole plan.

The Clinton, Mitchell, and Gephardt plans have all a universal feature. They put universal coverage above everything, including quality of care. What will our universal coverage buy us under these systems? Is it the Canadian system, the system where you must wait 6 months for a heart bypass operation, 9 months for cataract surgery, 3 months for a mammogram?

What about the woman who wrote of her experience having a baby in Canada? There was only one anesthetist in the hospital. Since there was an emergency surgery in progress, when she went into labor he was not available. By the time the emergency surgery was over, it was too late to help the woman having the baby.

In America, any woman, regardless of coverage, can have anesthesia if she wants it when she is having a baby. That is because we have the best quality available.

I experienced this firsthand when I was a volunteer, a Red Cross nurse's aid, at Ben Taub Hospital in Houston, TX. Ben Taub was the charity hospital. I worked in the labor room taking their blood pressure, holding their hands, trying to make the women in labor more comfortable before they received anesthesia and went into delivery. The care they got was excellent. And it made me proud that in America everyone would be treated so well.

Mr. President, supporters of the Clinton-Mitchell plan say they want universal coverage. That is a noble goal and one that I share. But let us look at the method for achieving that goal.

The most important feature is mandates—employer and individual. What is wrong with mandates? Well, for one thing, they do not work. The Government of Canada mandated universal coverage, but Canadians do not have it. The government of Hawaii mandated universal coverage, but Hawaiians do not have it. Now the Government of the United States is debating a mandate and even its biggest proponent, President Clinton, admitted recently that it will not provide universal coverage here either. So why would we tear down our system for a goal of universal coverage when we know it cannot be achieved?

The President talked about employer mandates, to make everyone who is not an employer feel safe under the Clinton-Mitchell plan. But no one would be safe. An employer mandate is really a tax on employees. Many small business owners have told me that it will affect what they can pay in wages. The legacy of the Clinton-Mitchell plans would be more unemployment, less income, and less output.

The American people know what is best for their own families. If we make health care coverage accessible, affordable, and portable, those who have coverage now can keep it, and more will be able to come into the system and buy it. The American people are sick and tired of having decisions made for them by the Federal Government.

The individual mandates in this bill are onerous because the individual will be required to either contribute to an employer-offered standard benefit package, or individually purchase and fully pay for that standard package. The choice of what is best for you and your family will be taken away by this Government mandate.

Why are the Clinton-Mitchell bills so unresponsive to our Nation's needs? I think the answer is that the administration has failed to target the problem in our system. A faulty diagnosis leads to a harmful cure. So what are the real problems? I believe the major one is underinsurance. Eight to 15 percent of Americans have no insurance. Many have partial insurance that excludes serious, often expensive, major ailments. Both of these groups face severe financial costs if their conditions get worse. That is the major problem: not enough insurance.

There are other problems in our system: a malpractice explosion, too little prenatal and preventive care, and doctors and hospitals that are too far removed from rural Americans. We will be discussing these and others over the next couple of weeks, and I will support bills and amendments to address these problems. But the simple problem is access to care and access to insurance.

Before we rush to recommend a cure, we should examine the healthy parts of our system and make sure we protect those healthy parts. The Hippocratic oath that doctors have taken for centuries says, "primum, non nocere: first do no harm." So we need to look to our strengths and make sure to protect them.

In spite of its flaws, our hope is to improve the system. The United States does have the greatest health care system in the world and the finest doctors in history. We have the most advanced medical technology, the best drugs, the most intense research, and the best medical training. People from every other nation on Earth come to America for serious medical treatment because they know it is the best.

Our colleague from Georgia, Senator PAUL COVERDELL captured this truth a few months ago when he said, "If you are a cancer survivor, it is because, by the grace of God, you live in the United States of America."

Many of our colleagues have related experiences with constituents during this debate and I had one, too, that illustrates this point. I was at a town hall meeting in Irving, TX, and a beautiful, poised young woman, who was the picture of health, revealed that she had just survived a colostomy, another grave ailment, and she must wear equipment 24 hours a day for the rest of her life. None of this was apparent. She looked like any other person in the room, except that she was drop-dead gorgeous. I asked her to come to the front of the room so everybody could look at her as a walking symbol of the health care system in America.

Good quality also requires competition. That is the secret of our economy and why we are the strongest Nation on Earth. That is why we have been able to develop the best health care system in the world. Competition works throughout the system. Students compete to get into medical school, and the brightest are the only ones that get in. Medical schools compete for those students, and the results of this competition is outstanding medical training. Doctors compete for patients, hospitals, and HMO's compete for doctors, and again the system rewards quality.

This is not the first time that a nation built on competition has seen one segment of its society try to abolish competition. But it may be the most dangerous.

Why do you think most companies now offer health insurance? It is not because of a government mandate. Companies compete for workers. They offer health insurance because it is a good way to attract them. If it is customary for many Americans to purchase health care through their employers, it is not surprising that you will find that many uninsured people are among the unemployed. The latest estimates tell us that 58 million people are uninsured for an average of less than one month in a year. Half of all uninsured spells last less than 6 months, and three quarters last for less than a year. So among the chronically uninsured are those who do not file income taxes and do not have mailing addresses. We all know that if they walk into an emergency room, they will get care. But as for insurance, no version of the Clinton bill will cover them, and everyone knows it.

I represent a State that is largely rural. My constituents and their farms and ranches in the small towns across Texas are concerned that they have access to regular care without the burden of traveling to one of our large cities. The Mitchell bill has some good provisions aimed at helping rural Americans. But it also needs other parts to be added to really help rural America. The Mitchell bill lacks complete deductibility of insurance premiums for self-employed citizens. It lacks medical savings accounts which would help everyone, but especially those in rural areas. It hurts rural small businesses by outlawing their self-insurance. It would punish good insurance plans that seek to expand into rural areas.

The Mitchell bill also contains massive new taxes. There is a 1.75-percent tax on every American health insurance plan. The Mitchell bill levies a 25-percent excise tax on high-growth plans.

If you had any doubt about claims that the Mitchell bill would harm quality, lay them aside. It taxes quality. If the cost or value of a benefit plan exceeds the target growth rate, that plan will be taxed. So if you go beyond the Federal cookie-cutter benefit plan, a confiscatory 25-percent tax is levied. Studies show that taxing benefits does not control health care costs. It simply shifts more of the Nation's health care bill onto the middle class—the middle class. They seem to get it every time.

Benefits have always been designed to attract employees. But the Mitchell bill says loudly to employers: Do not be generous with your employees or the Government will punish you. This is a step backward from health reform.

Let us look at some projections about Clinton-style health care in the future. Last winter a staff report from the Joint Economic Committee projected that, in addition to the new taxes it would need now, it would run out of money so fast that Congress would face the following choices by the year 2000: Increase the deficit by $426 billion, or a $3,500 tax on every family in America, or a 15-percent payroll tax on every business in America, or rationed health care.

None of us wants to face that kind of choice, and we can stop that choice from happening today and this week and when we pass the bills that we are taking up right now and will be debating for the next few weeks.

If you look at the taxes and mandates in this bill together, you will see the full burden of the Clinton-Mitchell health care plans on business. The Heritage Foundation found that in the first year of mandates, Texas companies alone would pay an additional $5.6 billion.

I want to read a few letters from some small business people that wrote me about their concerns.

Danco is a small air-conditioning and refrigeration business in Waco, TX, employing six people. Kim Obenoskey says:

> We have been in business for 10 years. Presently our third largest expenditure following only the direct cost of labor and materials is the cost of insurance. We do not offer health insurance coverage to our employees because it is an expensive cost that has escalated at unpredictable rates.
>
> What we do not need is mandates on employers. We spend enormous amounts of

> money on government regulations at present. This is money we could and would be compensating our employees with.
>
> I do hope that Congress can see straight enough to know that there ought to be a guide not a dictator. The human race is not yet completely incapable of getting out of bed in the morning without government to tell us which side is best suited to our needs.

CPI Systems in Houston, TX, R. Bailey—no relation—writes to me:

> As a small business owner, I do not want the federal government to control or participate in any health care program. Any program or re-vamp of the existing health care system needs a deliberate view of all existing benefits. Not just any cobbled up program to meet a calendar deadline.

From S & S Enterprises in Hughes Springs, TX:

> DEAR SENATOR: Regarding President Clinton's plan for health care reform: I am convinced, as the owner of a small business, that enactment of such legislation would seriously cripple, if not kill, the operation of my business, thus eliminating employment for myself and my ten (10) employees.

I hope these figures and these letters put the problem into perspective, and by perspective I do not mean ignoring part of them. I share the goal of making insurance accessible to everyone. But there is a bill that will give access without harming our economy or our liberty, and that is the bill offered by the Republican leader.

Mr. President, the Dole-Packwood bill will make insurance portable from one job to another. People would no longer need to fear changing jobs or losing their job since they could take their policy with them.

Mr. President, the Dole bill, also called the American Option, will outlaw discrimination against the sick, the injured, and the dying—the very people who need health care and insurance the most. It will prohibit insurance companies from excluding preexisting conditions from their policies.

The American Option will create medical savings accounts, similar to IRA accounts, so that people can save money tax-free for their medical needs. Six States have changed their tax codes to accommodate medi-save accounts. They do not pretend to provide for catastrophes. But, by giving Americans the ability to save for their minor medical expenses, we can bring competition back into that system and bring down costs the real way. Medi-save accounts give patients the ability to use money that would otherwise be spent on insurance company overhead. The Clinton and Mitchell bills will not allow medi-save accounts.

Time and time again, Mr. President, the Clinton administration has used horrible stories to sell its plan. Yet the stark truth is that the Dole plan would prevent those horrible stories, and the Clinton plan would bring new horrors down on the heads of the people he has brought into his press conferences and all other Americans as well.

Our system is strong because we have good doctors. They are well-trained, they can choose a specialty, and they can choose the type of practice in which they can excel, and they can offer their patients their best professional advice, plus the security of a stable doctor-patient relationship.

Americans take their liberty to choose doctors for granted. This relationship, and doctors' freedom to offer the treatment they think best, is as old as the medical profession, and quite frankly, it is what makes medicine a profession. Certainly, if patients have concerns about one type of treatment, they can raise them with their doctor and the two of them can discuss the options confidentially and agree on a choice.

Mr. President, the Clinton and Mitchell bills insert the cold hand of Government into this private discussion and tell doctors and patients what sort of care will be covered and what sort will not. There will be an engineering from Washington, DC, engineering of the type of care and which doctors can go into a specialty area. The National Health Care Cost and Coverage Commission, the National Health Benefits Board, the Commission on Workers Compensation Medical Services, and the National Council on Graduate Medical Education are just some of the new bureaucracies that Clinton and Mitchell will create.

The administration said it was going to create new jobs in our country. Now we know what he meant—new Government jobs, new bureaucracies.

These bureaucracies will be powerful, and the power that we will give them now resides in the American people. It will be a massive takeover of the free enterprise system and a transfer of personal liberty to Big Brother in Washington.

When you turn to the Dole bill, you will find that it establishs no national health boards, no other Government agencies, because the Dole bill leaves those choices to doctors and patients. If we pass the Clinton-Mitchell type bills, we will have all of the new bureaucracies that I listed. If we pass the Dole bill, we will have none. A major problem in our system now is the growing crisis in medical liability. Medical malpractice suits have inflated the cost of health care delivery in the United States and it cuts access to patient care. Yet the only bill before us that seriously addresses this problem is the Dole-Packwood bill.

On this issue, as on so many others, the States are ahead of Washington; 21 States now have some limit on damages, and 12 States have limits on attorneys' fees.

The Dole bill caps noneconomic damages at $250,000. That is exactly the cap the State of California already has. But the Clinton and Mitchell bills not only fail to provide a Federal limit, but they also preempt the laws that are now in place in the State of California and every other State that has been able to rein in malpractice damages and the economic harm they cause.

I would like to read a few letters from individuals that I have received against the Clinton plan.

This is from Harry and Anita Kattegat from Grovetown, GA:

> By now I guess that you can imagine why we are so concerned about the current Health Care Reform efforts. In its rush to "fix the system," Congress must consider the millions of Americans who have insurance and how they will be affected by some of the proposed changes. Let's focus on the people who really don't have any health care, and not destroy or downgrade what the large majority of Americans have.
>
> Keep government out of the health care system. We must maintain "Freedom of Choice" and not resort to some form of health care rationing.

And from Jayne Hover, who signs it "Jayne Hover, Citizen," from San Antonio, TX:

> The issue of health care has greatly disturbed me. I totally agree that the current system is not efficient for every individual. But I strongly disagree that the answer is a federal system. To repeat what so many of you are saying on this issue. * * * Show me even one area that the Federal Government has taken over and done better than the private sector.
>
> As you have expressed your frustration over not being in closer contact with the people back here in Texas, I too am frustrated that we, the American people, are not being listened to in Washington, DC. I am amazed that folks who have been placed in office, I believe, to express the wishes of us who can't go to Washington would choose to not express the wishes of their people whom they represent. * * * It is regrettable that such an attitude prevails in Washington, DC. I am asking you as my representative * * * to please hear my voice and do everything you can possibly do to stop the health care profession from coming under the control of Washington. The amazing thing to me is that I have heard people say that they know the way things are now isn't perfect, but not one person I speak to is in favor of the federal government taking it over. Is anyone listening?! Just because a system is faulty doesn't mean big government can come in and make it better. We aren't asking Washington to do that! Who is?! There are clinics all over the United States. Walk into one and ask yourself if that's the way you want to see a doctor in the future. Right now it's bad for some folks (and that's not good), but if this program gets passed, we will all have equal care—equally bad care!

And this letter is from Austin, TX.

> DEAR SENATOR HUTCHISON: I am writing to tell you I am worried, no, more than worried, scared of what may happen to us if this Clinton Health Plan (or one like it) should be passed. * * * I am 68 years old, my husband is 70 years old. He is retired military enlisted. I have many health problems, but all are under control with medication and the supervision of a good doctor. I had hoped to keep him until I die. If this health plan should pass, I may not have that choice. * * *
>
> I know your job is not easy and I do not presume to tell you how to do it. I can only ask that you watch carefully that they don't push something through in a hurry and we will all suffer in the end.

From Mrs. Dorothy Tillman.

And this letter, from Hurst, TX, Natalie Cooper.

> Though I am just one of many residents in Texas, I ask that you please consider my experience with our health care system as you plan to influence its future. * * *
>
> I am a 23-year-old resident of Hurst who formerly pursued a music education degree at Baylor University before becoming seriously ill. I have been disabled for the last two years of my life and ill for the last five. I firmly believe I would not be on the road to recovery if I had been forced to receive care under the proposed health plan. * * * Instead, I would be on the road to death, if not there already.
>
> I have been through a series of tests and diagnoses ranging from multiple sclerosis to my illness being a figment of my imagination. * * *
>
> Yes, my insurance, like so many others, was canceled. Social Security denied me disability, and the medical costs have consumed my husband's and my financial resources. Our insurance system does need improvement, as does its availability, but dooming our successful medical system to one of socialistic demise is outrageous!
>
> The Clinton plan isn't about health care. It is about the lifeblood of America—Freedom! To know that such atrocities are even considered in this country is frightening beyond that which words cannot describe.

Mr. President, I would now like to address the charge of gridlock, which the President's supporters have frequently leveled against the Republican Members.

A study of the debate during the writing of our Constitution makes clear that the reason the legislative branch of Government was created was to consider closely, and debate carefully, legislation that profoundly affects our Nation. We are supposed to weigh the values and interests of the people we represent and do what we think is best for them. We were not elected, and this Chamber was not constituted, to be a rubber stamp for the President, no matter how impassioned his challenges.

A great legislator, Edmund Burke, said, "Where the great interests of mankind are concerned through a long succession of generations, that succession ought to be admitted into some share in the councils which are so deeply to affect them." Think, therefore, of the generations after us who will build businesses and raise families in the Nation we leave them.

If we think the Clinton-Mitchell plans are dangerous, and I do, then we are required by our oath of office not to pass such laws. If we think we have better ideas, and I think we do, then we must propose them.

And if our proposal is not passed and we face a choice between passing no bill or passing a bad bill—I believe it is my duty to object to passing a bill that I think will hurt future Americans.

If a good bill must wait until next month or next year, I will do everything I can to make sure that it waits.

No amount of bullying from the President will persuade me to sell my constituents into a world of long lines, new taxes, and bureaucrats rationing treatment. The President can rail against us from a bus, but I will not abandon my countrymen's liberty to a National Health Board.

Mr. President, the American people do not want a Government-defined standard benefits package. They want to choose their health care in the marketplace.

Our forefathers who founded this Nation were independent and self-sufficient. The Clinton-Mitchell plans would take away that individual choice and decision. While universal coverage is a worthy goal, it is also an impossible one. Hawaii and Canada have proven that. On the other hand, universal access is not impossible. Let us give the American people choices, not mandates. Let us give them the American option.

Mr. President, a few weeks ago we learned that the Vice President of the United States holds dinners for Washington luminaries to discuss Metaphor. Not metaphor in the sense of a correlation between literature and life, but succumbing to the notion that theories of subatomic physics can explain human social interaction. I find this not just amusing, but also illuminating. It may be a Washington disease to try to explain human action in other terms, and I think it is a good bet that the designers of the Clinton plan have been dining with the Vice President.

Mr. President, we are being asked to spend the next 2 weeks voting on a rapid series of detailed amendments to an enormous bill that will capture one seventh of our economy. We are taking up a plan that adds billions to the deficit, is anti-liberty, anti-small business and pro-bureaucracy, and we are trying to whip it into a good reform in 2 weeks.

Mr. President, when you have a horse with four broken legs, you do not ride it. You put it out of its misery and find a different horse.

I cannot stop this charge by myself. One of the oldest moral lessons in our civilization tells us always to act as though what we do makes a difference, even when we have no assurance that it will. That is why I stand here on the floor of the Senate opposing the efforts of the President of the United States.

We owe it to our Nation to make another choice. And there are really two options before us. We could put the clever commercials off until next year, and then begin the debate anew with a clean start and plenty of time to deliberate and study what we have learned during this Congress. Waiting, and building on what we have learned, would be far better than hastily passing a bad bill.

Or we can pass the bill offered by the Republican Leader. It is a good bill. It will provide access to affordable insurance for every American, rich or poor, young or old, sick or healthy. It contains sensible reforms and preserves liberty and quality. If its turns up a few weaknesses after a couple of years, we can address those with future legislation. But passing the Dole-Packwood bill will not put our growth and our security at risk. That is the choice I advocate today.

If we approve the Clinton-Mitchell approach, we enter a nightmare system of Government coercion, rationed health care, new taxes totalling $100 billion dollars, special punishment of Americans who have made sacrifices for good health plans, intrusion into the doctor-patient relationship, loss of jobs, reduction of wages, and harm to our Nation's fiscal, economic, and medical health—a harm, Mr. President, that can never be reversed.

We can reverse bad tax increases and we can reverse bad regulations, but, Mr. President, how can we put a broken health care system back together when the quality is gone? It would be like patching a broken egg.

President Clinton can go on television and tell truly sad stories from which he draws false conclusions. He can call those of us who oppose rationing, and mandates and new spending and new taxes and government control of health care, obstructionist. He can practice whatever desperate measures he wants to make radical changes in American life, but I will not yield.

Henry Wadsworth Longfellow, our great American poet, said that "We judge ourselves by what we feel capable of doing; others judge us by what we have done." I submit to my colleagues that we are capable of expanding access to health insurance for those who lack it, without consigning those who are insured to Governmental control, and without harming the quality of care, our economy, our liberty, our medical training, or research. If we pass constructive change like the Dole bill, then our grandchildren will look back on our choice with gratitude, and will be able to judge us by what we have done, and to believe that our course was wise.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota, Senator DURENBERGER.

Mr. DURENBERGER. Mr. President, I have a brief comment. Of course I do not know that I agree with my colleague from Texas about the possibility of putting health care reform off until next year. I hope we would do it this year. But I must say and must reinforce what she said about the importance of doing it right. I think that is the bottom line in her presentation.

Not only are we talking about one-seventh of the economy, we are talking about a system in which 50 States—some part of 50 States have been sending us messages and signals for a long time about the need to do national reform so they in their communities can respond. I do not think we are going to change the system if we found we have made a mistake—we are not going to change it.

The other thing I appreciate her reminding us of again, I just thought of this in the last 24 hours or so and was reminded of it an hour or 2 ago, this is not simple work we are doing. You do not just pick this thing up and pick through it and find your favorite solution. I recall President Clinton, when he came to office, promised he would do health care reform—would have a bill up here in 100 days. The bill did not get up here until almost 300 days after he made that statement. Why? Because he was lazy? No. Because he lacked commitment? No. Because it is a very, very complex issue. It is very difficult.

So no one should be too surprised, even though we have sort of been at this issue in one way or another, that on the floor of the Senate, a lot of us on both sides of the aisle who have not been involved in one or the other committees, want to spend some time not only reading the bills but discussing some of the principles that are involved, because they are of such critical nature.

So I compliment my colleague from Texas for that contribution and for all of the contributions which she has made and will continue to make to this effort.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota, Senator DASCHLE.

Mr. DASCHLE. I will yield such time as he may consume to the Senator from Nebraska and then I will yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska, Senator EXON.

Mr. EXON. Mr. President, before I make the remarks that I am about to make, I would like to repeat what I told the Senate Friday last when I discussed this matter. I said then, "I come here with rancor to none, with accusations against none, with an understanding of the passion that grips Americans and Nebraskans on this health care issue, and with the understanding of the strongly-held views by my colleagues of all persuasions."

I go on to say that I rejected the President's bill some time ago. I was looking at the other bills that are before us. I hope we could reach compromise. I pleaded for debate that would be informative, as truthful as possible, and not to get off on tangents.

I have been listening to the Senator from Texas. There are several things I think need correction. While I would say that there were many good remarks made by our colleague from Texas, in the remarks she has just finished, once again the Senator from Texas has been the typical case of several of the presentations made on that side of the aisle. They talk about mandates, mandates, automatic mandates, mandates. That is a scare tactic.

The representation of the mandates in the Mitchell bill—that I have not agreed to support—but I am looking at that bill and others, trying to be objective. Let us, once again, set the record straight on what mandates are in the Mitchell bill. The Mitchell bill has no mandates in it at all. It simply says that if the bill does not reach the goal of 95 percent coverage by the year 2002, then the board or commission would make recommendations to the Congress as to how we would reach that goal.

The board or commission at that time would not be unlike the Base Closure Commission, which makes recommendations to the Congress, and we are all familiar with that. It is very similar in nature.

It makes recommendations to the Congress to as to what we have to do, now that we have not met the 95-percent coverage that we hope we will meet at that particular time. It then goes on to say that if the board makes recommendations—and there is no assurance that the board would put mandates in there—to the Congress, and then if the Congress ignores the Board, takes no action whatsoever, then and only then would the mandates, that 50 percent of the cost by the employer and 50 percent by the employee, only then it would kick in.

I would simply emphasize once again that before mandates could go into effect there would be ample time, ample reason, every opportunity for either the House of Representatives or the U.S. Senate to step in at that time and say we are not going to have any mandates. So the mandates, way into the future on this bill, would only take over if the Congress of the United States fails to take action. But even at that time, I would point out that Senate and that House could overturn the mandates by a simple majority vote.

So mandates have been blown all out of proportion, as if they were the same mandates in the original Clinton bill, which they are not.

I also have heard some statement that we have a competitive system in the United States of America. We sure do. It is a competitive system. I agree, we deliver good health care to those who have coverage. But it is not good for all the citizens of the United States. Competitive system? It sure is. But I would simply say that too many people on both sides of the aisle are overlooking the fact that the Mitchell bill, the Dole bill, the Moynihan bill—and there are others—are trying as best they can to address the matter of costs. We have a competitive system but the costs are going right through the roof.

Just one example of that. Certainly the people of the United States who pay premiums monthly for their health care recognize that they are reaching a point when they cannot afford to pay for what they have. Medicare and Medicaid cost the U.S. Government $9 billion in 1970; $137 billion in 1990; and it is projected to go to $458 billion by the year 2000. We have to do something.

So let us continue to talk in a fashion that is reasonable, not making false claims and accusations as I indicated in my speech Friday, but to see if we cannot come to some kind of compromise and bring us all together.

There were statements made about the Canadian plan. I am not a supporter of the Canadian plan, that is a one-payer, socialized system. But I have talked to many Canadians that like their plan very, very much. My wife, when we were in Canada one time, went to the hospital under the Canadian system. We were treated very well.

The Canadian system is not as good as ours and the Canadians know that. They have never had as good a medical system in Canada as we have here, and we can be proud of that.

But talk on the floor of the Senate that seems to try to relate whatever failures there are with the Canadian system—and there are some—as part and parcel of what we will have, the same coverage like that in America if we pass the Mitchell bill, is nonsense. There is no real resemblance between the Canadian plan and the Mitchell plan. They are totally different. And I think it is not fair, it is not proper to try to use those kinds of tactics and statements, because I think they tend to confuse the issue rather than address it squarely.

I say again, in closing, that I am looking at all the plans. I think there are some good parts in all of the plans. I am not committed to vote for any one. I am going to see what amendments are put on to control the costs, above everything else. I cited the costs on Medicare and Medicaid. If those costs are high, what do you think has happened to the premium of Mr. and Mrs. John Q. Public?

We are trying to address costs. I have not decided yet which one of the plans best controls costs, or would continue to provide the health care that we want and expect and are going to have in the United States of America.

I simply say, Mr. President, that I hope that we can talk about these things objectively and fully understand some of the basic principles of the Mitchell plan and forget talking about mandates, automatic mandates. They are not in the bill, and we should have a clear understanding of that.

I thank the Chair, I thank the Senator from South Dakota. I thank my friend from West Virginia for allowing me to go first.

Mr. DASCHLE. Mr. President, let me thank the Senator from Nebraska for his clarification and for, once again, drawing attention to the fact that there has been a good deal of mischaracterization about the Mitchell bill and about many of the provisions in several of the bills that are currently pending before the Senate.

Obviously, that is one of the purposes of this debate: To be able to sift through fact and fiction, to be able to lay straight the mischaracterizations, the misinformation, and he certainly has contributed to that this evening. I appreciate his contribution a good deal.

At this time, I yield to the distinguished Senator from West Virginia such time as he may consume.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my very dear friend, the Senator from South Dakota, who is just pouring unlimited energy and integrity into this battle. I note, just before I make my remarks here, sort of a nice irony and circumstance, that the two gentlemen on the Republican side of the aisle who are here—Senator DURENBERGER and Senator CONRAD BURNS—are very, very dear friends of mine, people that over the years I have been able to work with very easily and very well on very important matters.

That gives me comfort, Mr. President. It gives me hope and comfort as I look to these coming weeks because I can remember the Senator from Minnesota who I admire very, very much and who taught me everything I know about health care. I have worked with him on a number of things. I can remember one, wonderfully obscure but very important piece of information called the Resource Base Relative Value Scale. We were working on it together and our staffs were together, and we came to a critical point in the negotiations against those on the other side of this issue. We were seated in the Senate dining room, and we decided to do nothing.

By the act of doing absolutely nothing at that particular moment, the other side caved in and we won. There have been many other examples—working on the Pepper Commission with Senator DURENBERGER, exchanging ideas on many, many occasions with him. It has been an honor to work with him, a pleasure to work with him and a very constructive experience for this Senator to work with the senior Senator from Minnesota. I enjoy the fact very much that he is here. I would like to think of that as emblematic of what could take place.

And I see Senator BURNS, who is clearly fascinated by what I am saying because he is lost in his newspaper there, but he and I have worked together on the Commerce Committee on a number of occasions. We work together all the time on NASA matters, on technology matters. I remember one of the bills that was most crucial to Montana, to West Virginia and to the country called S. 4. It has to do with competitiveness technology—a whole lot of things. It is a very, very important bill, not very well known.

The party Senator BURNS represents was not necessarily in full agreement with parts of this bill. But the people who Senator BURNS represents, he felt, could not get their just due unless this bill came to fruition. It was a remarkable experience just to watch him and to work with him as he just went ahead and did what he thought was right. We prevailed in the Senate. We worked together in the Senate on that, floor managed together in the Senate. It was another example of both parties working together and coming out with something that was constructive for Montana, for my State and for the country.

I just take note of that, Mr. President, and I am very happy with that.

Mr. President, I did some reflecting yesterday on what we have seen and heard—I guess particularly heard—over this past week. And I keep thinking about the millions and millions of Americans listening in, trying to figure out the accusations, the charts, the endless volleys of words that go back and forth like extended tennis rallies.

Out of all of this, I think one very clear, very simple fact has emerged; and that is that the Senate is divided over health care reform. In many ways honestly divided.

There is one group that wants to pass a bill to fix the wrongs of our health care system, and some of its Members have been here on the floor arguing for the majority leader's plan, the so-called Mitchell plan.

Others, we hear, are still trying to sort through what is most important to them in defining a bill that is worth passing, that deserves their strong vote.

And then I think there is clearly another group that feels very threatened by the very idea of a health care reform bill passing at all.

I hope, Mr. President, and I pray that we will discover that this group represents only a fraction of the Senate, and I believe in the end it will. I am optimistic by nature. I need to be that way. I have to be that way. I want to be that way. I know from years of working with Senators, like Senator DURENBERGER and Senator BURNS, on health care on both sides of the aisle, as well as the distinguished Senator from Nebraska, that there is a majority in this body whose hearts and heads are gravely concerned about real problems in health care facing our people.

You cannot be in the profession that we are in, the craft that we practice and not run into serious situations where one is genuinely moved by family circumstances that you see, people who are caught without health insurance or who are caught where they are really hopeless against forces far larger than they are, which is why we are here.

But, on the other hand, having reflected on this, there is really nothing very new about the fact, the very clear fact, that some Senators are determined to—and I emphasize some Senators, not all—prevent the rest of this body from working out something to deal with a very major social problem.

Most people, when they talk about the health care reform bill, refer to this as the most important piece of social legislation in the last 30 or 40 years, 50 or 60 years. Social Security was tremendously important but, in a sense, it was an add-on. Medicare was tremendously important, but it was an add-on. This is reform. This asks a lot from each one of us and is complex by nature, contentious on the merits intellectually and very difficult.

The Senate has had naysayers and delayers in the past on this floor trying to kill off virtually every major piece of legislation dealing with an important issue in the lives of Americans. There are some even on the Democratic side. You pore through the history books and CONGRESSIONAL RECORDS and you will find relief in that the current situation is by no means unique. I think the stakes are higher, but the situation is not unique.

Some or many Senators threw their verbal spears at Social Security, at New Deal programs, at Medicare, the civil rights bill. Senator DOLE, on television yesterday, indicated that he voted against Medicare a number of years ago in 1965 and still had that same view: That Medicare was not the right way to go at it; there was a better way, in his judgment. People balked at civil rights bills and environmental protection bills. At the idea of guaranteeing a minimum wage—the concept of increasing the minimum wage can create an enormous firestorm in this Chamber—a safe workplace, reliable prescription drugs, creating the Food and Drug Administration, uncontaminated food, even toys. Toys that will not kill children still demand the attention of Government. You have to step in sometimes to protect consumers, which is in a sense what Government has to do. Government protects our people as a whole from foreign enemies, and we have to protect practices within our own society; we have to protect our consumers from events and practices which are not safe or proper.

(Mr. AKAKA assumed the chair.)

Mr. ROCKEFELLER. The list goes on and on. I confess I really hoped that it would be different this time, particularly on this subject. I care deeply about health care. I care passionately about health care. And here we are, talking about a problem that preys on and threatens Americans in every single State with no exception, and in many places with not much variation, in every part of town, among every age group, from birth through the very last days of life, among business owners, minimum wage workers. Any group that you can think of, they are afflicted, preyed upon, and unsuccessful in dealing with something called a health care problem.

Now, what do all these people, all Americans have in common today? What they have in common is not being able to count on their health insurance when they need it. It is just as simple as that: Not being able to count on your health insurance when you need it, having the fear that the day the doctor says that you have a tumor, that you get pregnant, or that you need an operation is the day that the fine print in your insurance which you were given by your employer or which you negotiated but failed to read the fine print, that the fine print in your insurance plan takes over and, frankly, walks right over you—not being able to hold onto your health insurance when you change jobs or lose your job through no fault of your own. Perhaps your company is downsizing; you are out of a job, get wiped out of a job because of, perhaps, an unfair trade practice. These things happen, having to fear the day that you get the pink slip or the moving truck comes is the day that the footnote in your insurance plan takes over. And that little footnote says sorry, we do not have any need for you any longer.

Mr. President, the point of the Mitchell plan before this body is to put a stop to this. It is the main point and thrust of that bill, together with working toward universal coverage.

The only thing the Government is doing here is to say that health insurance should be there when you need it. And I think it seems not unreasonable for the Congress to insist on that, and insist on that in very clear terms. I think the American people expect that of us, and I think we should be expectant of ourselves to be able to deliver that to them.

So let me tell you in just a word what is good and sensible and sound in Senator MITCHELL's bill, and why this bill is the most reasonable and rational place to begin working on health care reform.

Start with the fact that the Mitchell bill provides a path to universal coverage and pursues it in gradual and moderate steps.

It allows, in a very definite timeframe and without burdens on business or Government takeovers, the market system to work. We want each and every American to count on reliable, effective, affordable health care coverage that can never be lost or never be taken away. Anyone fearing a massive overhaul by Government should listen up. There is no heavy Government hand at work here. There simply is not. And we will have a chance to discuss this as we get more into the debate.

So far, most of the attack has come from the other side, and relatively little of the defense has come from this side. But the defense will come at the right time and in the right way.

The Mitchell plan gives the health care market—the free market, the competitive market—the first chance to fix itself by allowing market forces and competition to keep prices down. The CBO believes that they can do that and at the same time achieve coverage for 95 percent of all Americans.

It penalizes abusers of the system in order to help phase in benefits for children and pregnant women. The Senator from Minnesota will remember very well on the Pepper Commission back in the 1980's, that was one of our top priorities. And that is where we ought to start on health care reform, with pregnant women and children.

It is absolutely amazing to me, astounding, stunning, unbelievable, that in America, not in every case but in most cases, if you are a young woman and you get married and you do not have health insurance and you become pregnant, you have a preexisting condition and most times you cannot get health insurance. If there is anything that requires health insurance it is being pregnant. But that is classified as a preexisting condition in most insurance policies and is an uninsurable event. In America, that is extraordinary, not something of which to be proud.

The Mitchell bill's plan has a foundation that rests very firmly on preserving the strengths of our current system. It does not turn it upside down—no Government takeover—but preserves the strengths of a private guaranteed, job based insurance market, just the way it is today, the way people are fundamentally comfortable with it, and then easing in reforms to fix the faults.

That is the major change between the Clinton bill and the Mitchell bill. The Clinton bill was much more aggressive. The Mitchell bill takes a more careful posture, trying to reach out to more people, to make itself more amenable, more comfortable, so people feel more free to embrace the idea as a plan that one can trust and put one's faith in.

If there is one general guide to the Mitchell bill, it is consumer protection. And that is a very proper guide and a very proper role. I come back again to misleading fine print. There is a lot of it in the land, Mr. President. The Senator from Minnesota and I and Senator DANFORTH and others were very involved in reforming medigap, a $15-billion industry at the time, a few years ago. The whole problem was that there was so much fine print, and people preyed on seniors, and people worked on commissions and so often seniors were buying much more insurance, medigap insurance, which in a sense fills in for what Medicare does not provide, and they were buying more than they needed.

Salesmen would come to the door and make a persuasive case. The senior would not necessarily agree, and like most of us might not agree with the fine print. So they were paying too much for overlapping, and in some cases simply absent, benefits.

So misleading fine print and deceptive practices are stopped cold by the Mitchell bill. "No lifetime limits." People are going to have to be very familiar with that phrase: "No lifetime limits." Most insurance policies these days have the amount of money that you can spend or your insurance policy will spend for you on your health care. But when that runs out, it stops. Well, we do not allow that in the Mitchell bill. "No lifetime limits," an extraordinary combination of three words, and a very powerful phrase; no refusal for serious illness. If you get cancer, the insurance policy stays right there. Nothing changes. Not even for one moment do you fear that somebody will come in and raise your rates or take your insurance away. The thought will not even occur to Americans because nothing will happen. The insurance will stay there. It will remain there, no matter what the disease or what the problem.

And for seniors, long-term care and prescription drugs is pretty basic stuff, but very, very important. Long-term care, particularly community and home-based care, is much less costly than hospital care, and much less costly than nursing home care. Sometimes hospital care is needed. Sometimes nursing home care is needed but very often it is not.

Whenever you go into a nursing home—I know the Presiding Officer has been to many to visit his constituents and others—the rooms in the nursing home are always made to look much like the rooms at the home that the person left. Of course, the reason for that is the person would rather be home. So in the Mitchell bill, we emphasize home-based and community-based care; and, especially, Mr. President, to those people who work so hard is all of this significant, who play by the rules, who pay premiums but still get dunked—inexplicable to them—and cut off when they need insurance the most.

We do not have to worry in Congress, do we? Our health care is paid for by a combination of ourselves and the American taxpayers. It is the same with Federal employees, and the same with the President. We have made that arrangement. We have made that arrangement for ourselves to take care of ourselves and our families. Then the

American people would have the right to ask, "Would it not be fair that we would get the same kind of arrangement that you, who work for us, and who receive our taxes so that you can have a salary; that we should have the same kind of arrangement?" Well, I think that is fair. I think most Americans feel very, very strongly about that.

For those families now struggling with the health care burdens, the Mitchell plan offers help to make ends meet. Rates cannot be arbitrarily jacked up. They can be now. An insurance company can unilaterally on its own decision simply take your rates and increase them by 20, 30, or 40 percent if you are a small business. They could do it because it is the end of a year, or they could do it because let us say one of the 10 people in that small business had come down with an illness and they wanted to minimize the risk, minimize the chance of losing profit. So they jack up the rates. That cannot happen under the Mitchell bill. Insurance will be affordable, and insurance will be dependable.

All of this adds up to a bill that is good for the American people, that is moderate and sensible, and not intrusive, and not punitive in any way; using the system that we have, building upon it, and then fixing some of the flaws that exist. It will be a private system of guaranteed health insurance, and not Government health insurance. People will not pay their premiums to the Government. They will pay to a private health insurance company just as they do today.

Still some are offering up Senator DOLE's, what I would call tinkering proposal, as a better alternative. I do not see it that way. I do not see how others could see it that way. For starters, it does very little to protect consumers. Again, that is an area where Government has a legitimate right. We protect the country from foreign enemies. We ought to be able to protect consumers of health care on basic matters. There is very little of that in the Dole bill. All of those loopholes, all those restrictions that work against consumers, all of these things which I have mentioned which are eliminated in the Mitchell bill will remain under the Dole plan were it to be passed.

There is no guarantee in that plan of decent coverage, and no assurance that coverage will remain portable. Remember I talked about jacking up rates. That can happen in the Dole plan. There is no preventive care coverage. It is gone with the Dole plan.

I listened to Senator DOLE and Senator MITCHELL yesterday on a Sunday television program, and the final thing that Senator MITCHELL said was that the thing which is closest to his heart, that he cares most about in health care, is primary care and preventive care. So it is carefully observed in his bill, and is widely ignored in Senator DOLE's bill. If you fall seriously ill, and need your insurance, do not count on it under the Dole bill. Under the Dole plan, the fine print which today lets insurance companies cut and run stays in place.

For seniors, the news is no better under the Dole plan. Medicare gets cut as it does under the Mitchell plan but you get nothing back for it; no new coverage. Under the Mitchell plan, of course, it is very different. In the Dole plan there are no prescription drug coverage. In the Mitchell plan there is prescription drug coverage. For seniors that is important. It is their major expense. There is no long-term care in the Dole plan. But there is in the Mitchell plan. For seniors, long-term care is everything. It is everything, and for all of us parents, grandparents, and friends, long-term care is perhaps the most essential, sustaining continuing, agonizing part of health care.

If you lose your job, or if you get too sick, or if you own your own business, or you just get old, I will tell you what BOB DOLE's health plan says to you. It says basically that you are out of luck. Health care should not be a matter of luck. It should not be left to quick-fix half-measures. I am afraid the Dole plan is in that category. Think about this. In the United States today we make sure that the electric company and the gas company and the telephone company cannot just operate recklessly. They are subject to a public service commission, cable—something so American as cable. We make sure that utility rates cannot be raised suddenly without review by a public body. That is called consumer protection, which is widely understood and appreciated. And we make sure that service cannot be cut off arbitrarily, because in America people are not left sitting in the dark and the cold to freeze to death. We do not do that with our people with utility bills, and we should not do that with health care, which is at least, and probably substantially more over the long-term, important.

Well, health care is just as essential. It should not be left to some inexact, ineffective certain rules. Consumers deserve as much protection and consideration when it comes to health care, and the Mitchell bill provides that consumer protection.

The Mitchell plan, as I have indicated, is moderate and thoughtful and uses, in many ways, a rather light touch. It is sensible as an approach, seeks to be effective but not intrusive. I would hope that approach would be appreciated, and I would think that that approach would be applauded. It is pretty rare around here to take such a reasonable tack, and it should be, I think, appreciated.

So, in conclusion, I just hope, Mr. President, on this evening that my colleagues can finally focus on the strengths, stop offering up lesser plans as equals, stop wasting time because time is now precious, and join me and many others in a determined effort to begin building on Senator MITCHELL's plan to pass health care in this Congress.

I thank the Chair and my friend from South Dakota.

I yield the floor.

Mr. DURENBERGER. Mr. President, I appreciate the opportunity to make a few remarks. Before I do—and I intend tonight to speak not only on the bill itself, but also the Dodd amendment, which I understand is the pending business.

Let me acknowledge not only the respect I have for my colleague from West Virginia, but acknowledge how much pleasure it has been for me to serve with him in not only some of the projects he has already outlined but quite a variety of others which he has not. It only serves to underline, I think, the fact that the appearance of partisanship in the health care reform debate masks a tradition around here, as long as I have been here, of bipartisanship. I was pleased to hear him talk about the way we, together, used Medicare as a way to begin to reform the health care system in the 1980's.

I, in particular, will never forget not the time we sat in the dining room doing nothing, but the time that the then-chairman of the Finance Committee, Lloyd Bentsen, said, "I cannot get this RBRVS thing approved by the folks at Ways and Means, and I think I am inclined to just drop it."

Senator ROCKEFELLER came to me and said, "What do you think about that?"

I said, "That is not the right question, I am in the minority. What do you think?"

He said, "I think we ought to fight him." And we did and passed the bill. I must say the credit is to him.

In addition to other things, he got PETE STARK and HENRY WAXMAN, who were either not speaking to each other, or speaking in four-letter words, to come to my office one Saturday. I guess I was neutral ground, and we spent the better part of a Saturday hammering out the agreement which became the reform part of part B of Medicare. I will always be grateful to him for that experience, and others which I would love to share tonight, but I will save them perhaps for next month. I appreciate very much his comments.

Before I begin my comments on the bill, on a related matter, the place I represent and the people I represent in Minnesota are always being very creative in one way or another, and they have made an incredible contribution to universal coverage and universal access. The latest is another accomplishment by the wonderful nuns who go by the name of Carondelet LifeCare Ministries of St. Paul.

Sister Mary Madonna Ashton, who is a nun of the Carondelet Order and CEO of Carondelet LifeCare Ministries, has opened another free clinic, serving this time the uninsured and underinsured residents of the Twin Cities area around Wayzata, part of our community most people do not think about as uninsured and underinsured.

I ask unanimous consent that an article that appeared in the Minneapolis Star Tribune, August 15, 1994, describing the launching of this clinic and putting it in the context of universal access in our community, together with comments by the CEO, Sister Mary Madonna Ashton about the need for universal coverage, which she has conveyed to me personally, and not all with which I agree, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Small Step for Reforming Health Care—New Wayzata Clinic Gives Uninsured a Place to Turn

(By Dan Wascoe, Jr.)

While Congress wrangles over whether to provide health insurance and adequate health care to those without coverage, a 10th free clinic serving uninsured and underinsured residents of the Twin Cities area is about to open, this time in Wayzata.

The clinics' doctors and nurses are all volunteers. Office space is donated. Patients need not pay a dime.

The St. Mary's Clinics, most of them open one afternoon a week, are sponsored by Carondelet LifeCare Ministries of St. Paul.

Since 1992, Carondelet has opened four clinics in Minneapolis, four in St. Paul and one in Spring Lake Park. Wayzata's will open Aug. 31 in the Interfaith Outreach and Community Partners center.

Why Wayzata, that tiny suburb on the shore of Lake Minnetonka?

"It isn't all riches and boats," said Sister Mary Madonna Ashton, the former Minnesota health commissioner who is Carondelet LifeCare's chief executive.

Cracks in the health insurance system appear everywhere, she said.

"That's something that people need to learn," she said.

The Wayzata clinic also will serve people in Hamel, Long Lake, Medicine Lake, Medina, Minnetonka Beach, Orono, Plymouth and neighboring communities.

Not all patients are expected to be chronically poor; many will be laid-off workers, employees of small businesses, single mothers and children.

The key is that they must not qualify for other health care programs.

St. Mary's Clinics are low-tech, low-budget operations. They offer such basic services as throat cultures, pap smears, ear checks, blood pressure readings, pregnancy tests and general physicals.

The doctors and nurses also have ties with specialists who provide free care when the clinics make referrals. The clinics also negotiate discounts for prescription drugs.

Even so. "Our Largest expense is medications, "Ashton said.

Some services, including emergency care, family planning and prenatal care, are not offered in order to keep the clinics' malpractice insurance rates lower.

Many clinics are located in churches, community centers and office buildings. LaDonna Hoy, executive director of the Interfaith center in Wayzata, said space normally used for the center's transportation office, volunteer coordination and newsletter production will be converted one afternoon a week to an examination room, a waiting room and a place to record weight and blood pressure.

Ashton, who was state health commissioner from 1983 to 1991 under Gov. Rudy Perpich, said Carondelet will open six to 10 more clinics in the Twin Cities area in the next year or two.

She and the state health department said they believe St. Mary's Clinics are the only strictly free ones in the metropolitan area. Others offer service on a sliding scale based on patients' income.

But she's less than confident that will happen, especially in light of last week's decision to delay the start of the health care debate in the House of Representatives. She's also irked by talk that "universal" coverage, even if passed by Congress, may mean 90 to 95 percent of the population instead of everyone.

She said she's "terribly worried" that those left uncovered will be the very people whom St. Mary's Clinics are trying to help.

If health insurance reform doesn't cover low-paid employees, temporary workers, the unemployed, employees of small businesses, women and children who aren't on Medicaid, then reform "is not addressing the problem," she said.

Even MinnesotaCare, the state-backed insurance plan that helps some residents who can't afford insurance, doesn't yet pay for dependents. And its premiums remain out of reach for some Minnesotans, she said.

Since the first clinic opened in 1992, Ashton said more than 4,000 people have been served—an average of 9 to 10 patients per four-hour day.

That's not much, compared to Ashton's estimate that 350,000 to 400,000 Minnesotans are without health insurance at any time. But Hoy said the care is particularly important to those who receive it.

Because of contributed space and services, the clinics's budget for next year will be only about $800,000, Ashton said. The volunteers' time is worth about $500,000, she said. The Sisters of St. Joseph provide about one-third of the total budget. The rest comes from donations from organizations such as United Health Care, the Phillips Foundation, the Woman's Club of Minneapolis and the North Suburban Hospital District.

A federal program provides money for breast and cervical cancer screening, and a state program underwrites pap smears, mammograms and colposcopy for vaginal examinations. An administrative staff of seven to eight employees in St. Paul takes appointments and performs other duties.

Pat Hein, the clinics' director of nursing, said St. Mary's has negotiated discounts of up to 100 percent for inpatient and outpatient care at five Twin Cities hospitals: St. Joseph's, St. John's, Unity, Fairview Riverside and Methodist. Negotiations are underway with North Memorial Medical Center. In any case, the care is free to patients; any hospital bills go to Carondelet, she said.

Although only a small minority of patients require surgery, "those who need it get it," Hein said. The most severe cases so far have been two patients who require mastectomies.

William McGuire, chairman and chief executive of Minnetonka-based United HealthCare Corp., said he strongly endorses both the idea behind the clinics and their performance. Although there's an abundance of hospital beds, doctors and specialized services, "we don't always have appropriate distribution of these things," he said "Importantly, it is not being executed other than through an organization like this."

Although Ashton would like to see the need for the clinics fade away, McGuire doesn't consider that realistic. Providing health services to specific uninsured groups will be necessary regardless of political health care remedies, he said. As evidence, he pointed to the founding of St. Mary's Clinics "in a state with one of the top two or three health quality measurements, one of the lower per-capita health-care costs,

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Mr. DURENBERGER. Mr. President, our colleague from Nebraska is not here, but while he was commenting on the statement by our colleague from Texas, he made quite a business out of saying there are no mandates in the Mitchell bill. Well, that just is not true. I am sure what he is talking about is the employer mandate to pay, although he was not that specific. I feel compelled—then, off the top of my head, without reading the Mitchell bill, remembering what is in the bill as I went through it—to say that he has to be talking only about this overt employer mandate to pay premiums, because in the Mitchell bill there are a lot of mandates.

I was informed by one of my colleagues today that the word "shall"—as in such and such an agency shall—appears over 2,200 times in the Mitchell bill—the latest version. To give you an idea of the mandates on employers and on working people, all employers in America, in groups of fewer than 500 employees, are mandated to join a cooperative. They are mandated to participate in community-rated risk pools. The employers are mandated to offer three plans, and they are mandated, if they make contributions, to make equal contributions to all three of the plans. They are mandated to offer the standard benefit package. For large employers, they are mandated to participate in the cost shift through risk adjustment. There is a specific provision in there that shifts risk from community pools onto large employers.

Large employers are required also—mandated—to offer three plans. Large employers are also mandated to withhold premium payments.

Having said all that and not having been totally complete in my description of mandates, I will add that mandates are not necessarily all bad. If a mandate means a national rule to which a market is going to have to adhere, then that is what we need. If mandates are a way to cost shift onto working people, or to cost shift onto businesses in implicit ways, then they are bad. That has been the consistent objection of everyone who has objected to employer mandates.

I will speak at another time probably to the issue of cost shifting. But the reality is that the cost shifting of doctor and hospital bills in America is not coming so much from the uninsured, the businesses that do not insure their employees; it is coming from this place. The money that we do not commit to Medicare and Medicaid for the elderly, disabled, and low income, go to Hawaii in reduced payments to doctors and hospitals, come to Minnesota in reduced payments to doctors and hospitals. And that shift keeps getting wider and wider all the time. Today, I understand that on $1 of services at the hospital level, Medicare pays—the Government—only 71 cents, and for a billed dollar of doctor services only 59 cents. Where do you suppose the rest goes? The rest goes on someone else's bill in the private system, not in the Government system.

An employer mandate is simply a way to say we cannot raise taxes, we cannot go deeper in debt. What we are going to do is guarantee everybody in America you can enroll in a health plan and the costs of that will be shifted onto all the working people in this country.

Again, I will say I will have more to say on that subject another time, but just a reality. Every working person in America today is carrying the cost of his own in what he pays at work. He is bearing the cost not only of his own medical expenses but of one other family's medical expenses.

Just keep that in mind. If you have a GDP today of 14 percent, those people are paying about effectively 28 percent into the system, and half of it is going for someone else's health care.

At least, the Germans are honest about that. In Germany it cost 13 percent, 6½ percent from the employer and 6½ percent from the employee, and they get 13 percent worth of service. The overall cost in Germany is about 7 percent of the GDP, but in America we are doubling the burden on every single working person.

So those of us who have resisted the notion of a mandate that all employees have to pay are resisting the notion in this Congress, in this Senate we can continue to reduce our obligations to pay our bills in the Medicare and Medicaid system and cause all of those extra costs to be shifted onto working people. That has to stop.

Mr. President, at this time, before I make any further comments, I yield such time as he may need to my colleague, Senator CONRAD BURNS from Montana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana, Senator BURNS.

Mr. BURNS. Mr. President, I thank my friend from Minnesota.

Finally, the time has come when we finally get to see a piece of legislation on the floor and being talked about even though it has only been here since Friday at 5 o'clock.

So, as we look at this, I was interested in some of the comments that were made earlier this evening as we started this debate tonight. Someone wanted to define gridlock awhile ago. Nobody has to define gridlock to us. We went through 4 years of it prior to January of 1993.

If you want to talk about scare tactics, what about the scare tactics that everything is going to run out and if the Government does not act to do something this country is going to come crumbling down on top of itself?

I do not think that is the case here in America. I think the American people are very inventive and have the ingenuity and the fortitude to take this country and go on.

I am reminded of my parents who bought a farm in 1931. I do not think there were very many white clouds in 1931. Not very many in this body can remember those times. I read a lot about and heard a lot about it. I was born in 1935, and I know the last thing you wanted was kids. But nonetheless those were pretty dark times. They did not have a thing called national health insurance. In the depth of the Depression there were scare tactics.

That this country would not survive without this Government acting I think is a little far-fetched. In other words, what are we going to do? Are we going to create the problem and then going to be the knight in shining armor to ride in and take care of it? But I am afraid that the solution is going to be worse than the perceived disease.

There are a couple of areas that I want to talk about tonight, and one of them is right here to my right, which is a map of my State of Montana.

My friend from Nebraska just now said that we are trying to address the costs of health care. That is what we are wrestling with. Nothing could be farther from the truth. We are trying to address the way to pay for it. At the heart of every one of these speeches is how do we pay for it? How do we come up with the money to pay for it? And how much do we want to spend on health care?

You can spend any amount that you want. But I think the patient and the people who need health care should make some of those decisions instead of the Government making it for them.

There are a couple of areas. This is the State of Montana. That is where I take my counsel. And to give you some idea what problems we have in our State, from way up here in Lincoln County in a little town called Eureka, down here in Carter County in a town called Alzada, it is farther than it is from Chicago to Washington, DC, and there are only 800,000 wonderful people who live in 58 counties in that great State.

So we have some problems to look at when you start talking about health care delivery systems. How do we pay for it? We have a lot to be concerned with, but mine primarily is, how do we cover all of this area where we have quite a lot of dirt between light bulbs?

I want to take a very close look at the rural health care provisions, the ability for patients to choose their services and their providers, their health care plans, the size of the new bureaucracy that will be created, the amount of taxes that are included in financing a huge big new entitlement, that is if it becomes a reality.

They say this is the greatest debate since Social Security. You know what I hear from some young folks who are saying, listen, you give me the amount of money that I put into Social Security and I can take care of my own retirement because the rate of return is not all that good for what it is starting to cost.

We also get letters about people who have been caught between a rock and a hard place and had some bad things happen to them, and you have to feel for those folks. You have to feel compassion for them, but there is a way to take care of those folks. But I am wondering, and I speak from being an auctioneer, how much emotion goes through when you sell out a person that has gone broke because maybe it is Government mandated, maybe its expenses got so high that they just could not stay in business. And when do we know where that breaking point is? It is not easy to go out and sell out a good friend in a bankruptcy. In fact, I think that is more crushing than anything that can happen to anybody in this country.

It is important that we not only read this bill but that we also have some kind of understanding of the impact that it will have on us. But more importantly, it is important that America gets the opportunity to read this bill and understand the impact it may have on them as individuals, because here in the United States we are still not to the point where they throw us all in a sack and shake us up and turn us all out and we are all equal.

Let me first say that I think the process we have gone through in the last 10 months has been very useful and very educational. I did not come from an area of the medical field. When I joined the task force on this side of the aisle to deal with some of the very problems that we are going to talk about here in just a little bit, I would say that I probably know more about it now than I ever cared to want to know.

Having a chance to understand what was in the Clinton bill, to review the impact on individuals and on companies in our State has led to maybe some positive changes, but it has also been mostly food for thought. It has tripped our trigger on curiosity. Maybe there is a different way to approach it. But that is what the democratic process is all about: Taking an idea to the public, getting their feedback, and proceeding with our constituents in mind, and that is called responsible legislating.

I honestly believe it was understanding the Clinton bill and what it would actually do that led to the demise of the Clinton bill. Americans got ahold of it, they read it, they had a pretty good grasp and understanding of it, and then they said "no."

Not just special interests, but the people who vote, people who want to maintain their quality of life, and people who vote to preserve their family, people who enjoy their freedom and independence, those folks are the folks that I have been hearing from. They said they did not like the Clinton plan.

But do you know what else they said? My State of Montana was no different. In a poll taken in my State by an independent firm here in Washington, DC, 70 percent of Montanans say Congress should take the time, study the issue, and take action next year.

I do not know whether this is a prudent way or not, and I think maybe we might be shirking our duties if we did not try to do some tune up on a system that sort of needs a tune up.

Dorothy Bradley, the Democratic nominee for Governor in Montana and now the Chairman of the Health Care Authority charged with designing reform within my State of Montana, made the statement recently. In all the hearings she has held around the State, she found that "people have become very cautious about reform."

She said, "You don't have to embrace a whole new package to make significant gains. We are not going to work this through overnight." They want meaningful reform, but not just for reform's sake. And that is what has me worried here, is the timing. We are coming to the close of the 103d Congress and we are not well positioned to serve this issue or the American people very well.

We have here now a bill that has been crafted behind closed doors and yet, it seems to me that this is the Clinton bill reincarnated. The first chance we had to see what is inside it was just a few days ago. That was last Friday. Yes, the leader said we have been able to examine this for months. Perhaps, in concept, we have. But it was not put into writing until last Friday. It has been changed already more than a hundred times. Now we are expected to debate it, understand it, and even vote on it—all in a matter of days.

I have a great staff. I would have to have a great staff, because they wrote it into my speech. No, I do not want to say that. But I have no doubt if they had been working night and day—and they have been working night and day on this issue, trying to see what is in this bill, to grasp it and how it affects our State of Montana—they might even have been able to call a few people in Montana to get some feedback on the key provisions. But there is no way that the folks in the mountain time zone can have any idea what we are trying to decipher and disseminate and make some decisions for them. This is legislating in the dark of night.

We do not want to make this decision for them. We want them to make the decision and then tell us what to do. That is what we were sent here to do. We were sent here to listen and to carry those views out, what they think is best.

So the feedback from this great State, this great 148,000 square miles, is what I listen to. They sent me here to represent them. I am supposed to work with them.

This health care reform bill promises to be the largest program ever—certainly the largest I have ever worked on or voted on in my history in the Senate. I think it is only right that we have time to let our folks back home take a look at just what we are doing. No one will fault us for caution, but it is darn sure they will fault us, though, if we pass something that they know nothing about.

So given that, we have no time to discuss this with the folks back home, I think we need to proceed with even more and more caution.

My colleagues, especially those who sat on the Labor and Finance Committees, have a deep understanding of the details. And that is where really the devil lies, in the details.

I do not serve on either committee, the Finance Committee or the Labor Committee. So we have to do our work as it is presented to us, go through it, make sure our people are informed and make our decisions from there. I must concentrate on those areas that I know are important to Montana. Let us start with those.

First, it is crucial that this reform addresses the challenges of the rural health. When the First Lady visited Montana, she coined a new term. She called it "mega-rural." There are a lot of issues that need attention if we are truly to expand the access all across America. We have eight counties in Montana that are without a health care provider.

Can you imagine that?

I am going to turn up some maps here to show you just what we are talking about.

Eight counties that have no doctors, no medical care whatsoever. And we have to travel huge distances, so we have a difficult time recruiting where there is no support, and even a tougher time keeping them there. And we have now areas served by a single physician who wants to retire, but there is no one to take his place.

By the way, this county right here is Garfield County, MT. Only 1,800 folks live in that county. It is bigger than Delaware. And then, of course, we have some more spaces. But these are areas where we have no doctors whatsoever.

To magnify the problem in my State of Montana, the counties in red are counties that we have that are without ob/gyn—no prenatal care afforded those people.

And I think this area right here, the central part of Montana, is larger than the State of Indiana. So that is what we are talking about here when I say I have to look at my State and rural health care and how we regard it; and are we going to do something to give some incentives for doctors and nurses and technicians to practice medicine in these rural areas.

Second, Montanans want choice. That is what we are looking at. We are very independent. We do not want the Government dictating to us what services to have or what not to have or where to go get them. I cannot imagine there is a State in this Union that does. But, regardless, there are provisions in many plans that dictate just what kind of health care we should have. If the Clinton-Mitchell bill limits choice—choice of services, of providers, of hospitals, of health care plans—and I believe that this does—I will tell you that I have to strongly oppose those parts of it.

Cost containment comes when people can take some personal responsibility for their health care decisions. When they are given the information, they need to make wise and educated decisions. They will take cost into account. If control over health care choices is in the hands of the Government or any other bureaucracy, there is no incentive to be cost conscious.

I know it is hard to walk into a doctor's office and be diagnosed. I have always said, you know, doctors have a terrible time. Sometimes they intimidate you a little bit. But you walk in there, and they say, "Well, CONRAD you have to have your tonsils taken out."

And it completely shatters their whole life if you ask them, "What's it going to cost?"

They come back and say, "Why do you want to know?"

"Because I am going to go down the street and I am going to find somebody else that does tonsils and I am going to ask him what he charges."

That kind of gets their attention. We must never take choice out of this thing.

Third, health care reform cannot be allowed to destroy jobs or businesses, large or small. Consider my State of Montana; 98 percent of our businesses are considered small. So that is where my focus is going to be.

Yes, we have heard those stories about those people who have been caught up in a very, very bad situation. Again, I want somebody from this body to go down the street and be responsible for selling out of bankruptcy of a family that has gone on the rocks and a business that has gone on the rocks. Those small businesses are the people I have heard from. And they are very, very loud. It has not been a whisper, Mr. President. They cannot handle more mandates; they cannot handle more taxes; they cannot handle the Government telling them how to run their business anymore.

The stories that have been relayed to me are real. They speak of laying off people. Those of us who have run businesses—and maybe some of them not too successful—know it is pretty easy to hire people. It is pretty hard to tell them that they have no job left, because an employer feels a responsibility to a family, not only to the working person they are involved with, but their whole family. They sort of take that personally—anyway, I do.

Let me remind you, this is the middle class. This is where the financial burden will fall, on these folks. The very folks we hit with tax increases last year are just about ready to be hit again.

There is no rational reason for businesses to bear the brunt of a new program. But if they think they can, they will—but it has to be voluntary. And given the choices, given the options, the vast majority of them do the right thing.

Fourth, and I have touched on this earlier, I want to keep the Government out of our lives. There are States where a strong presence of the Government is not there. In public lands areas, like the West, we understand bureaucracy—oh, do we understand bureaucracy, and what it takes to get things done. When you have to deal with the Forest Service, BLM, U.S. Fish and Wildlife, the Park Service, that is not to contend with OSHA, the IRS, EPA—just a host of Government entities, it seems like, are in your life every day. They do not run their bureaucracies very well, and I am wondering if I want them to run my health care system. Would it end up like the Post Office? Does my time to go get my hip replacement end up in a dead-letter office? I would sure hate for it to. I think Americans kind of worry about that, too.

So I don't like any plan that expands Government, that increases bureaucracy, or imposes more regulations on an already overburdened system. No new commissions—I do not like that very much—no new boards, no bureaucrats sitting in Washington, DC, this Government on the Potomac, deciding what is best for me in Montana.

The system needs streamlining; it needs simplification. But it does not need expansion. I have not heard one of my constituents say, "I wish I had more Government in my life."

Fifth is an issue that comes up with many farmers and ranchers in my State. I am from an agricultural State. I am from a natural-resource-based State. That is how we produce new wealth in this country. That is the only place we produce new wealth, is what comes from mother earth. The issue of allowing the self-employed to deduct 100 percent of their health insurance cost is very important to us. The last version I saw of the Clinton-Mitchell bill only increased this to about 50 percent. That is not enough. If we really want to help those folks who produce wealth, and I believe we all do, we need to give them a full break, and that is 100 percent. Large corporations get a 100-percent deduction for their health care costs, and the self-employed should have equal treatment. So let us do it. It is one big step toward making health care more affordable.

Sixth and last, and definitely not least, the bottom line is cost. This is one area that has caused numerous bills to stumble already. It is my understanding that the CBO has not yet figured out how much the Clinton-Mitchell bill will cost. We need a price tag on it. Without that, I am not going to go back home and even try to offer it to the people or try to sell it to the people of Montana. To establish brand new entitlements, brand new programs, expand Government, and impose new requirements on our States—and by the way, even with the majority leader's own words and with the communications with the Governors around the States, these mandates we put on the States to administer this are almost unworkable. They cannot get it done.

Those of us who worked in county government, where the rubber hits the road, understand, because it will finally fall at that level. Increased taxes, we got the biggest tax increase we have ever gotten in the history of this country last year. I am not really sure we can go through another one of those because I think that would be irresponsible. Montanans would oppose it, and I will join them.

I bring my concerns to the floor today because these are the concerns of the people of Montana that they are sharing with me. They want reform that makes sense in rural America. They want reform that guarantees choice. They want reform that does not jeopardize their jobs and small businesses. And they want reform without new Government bureaucracies, taxes, and mandates. Most of all, they expect and they want us to make wise decisions because what we do with health care reform will reach into their lives like no other piece of legislation passed in the last three decades.

I have reviewed the limited portions of this bill. I am glad to see the bill includes several provisions to increase access to health care services in rural and underserved areas. But is changing the graduate medical education focus to primary care important? It may be. But let me tell you, seeing those results is way, way down the road. I have a daughter, Keely. She is in her second year of medical school, and she is committed to returning to Montana, to work in rural Montana. But it will be years before she gets to that point. Rural America needs help now.

We need incentives to get physicians into the country: Repayment of loans, tax deductions, and peer support. The latter incentive can easily be accomplished by increasing the use of telemedicine. It is a new technology, a technology not only bringing specialty health care to areas where there is no specialist, but bringing much needed support to the providers. The technology is up and running in many States across the country, Montana being one of those. The only barrier is Government.

I was pleased to see the efforts to expand telemedicine included in this bill. I can remember when we just had to argue and fight and scratch and claw and fiddle around here to get a study done by the Department of Transportation on the impact that telecomputing would have on transportation. They did not want to do the study. And folks around here did not want them to do the study. But we got it in the bill. They did the study, and guess what? It is the centerpiece of transportation. Because there are going to be a lot of folks staying home 2 or 3 days out of a 5-day week and doing their work at home without filling our highways or using the gasoline and fossil fuels. Is it not funny how ideas take hold and all at once it becomes their idea? I have always had the idea around here if you do not care who gets the credit, you will get more done. That is usually pretty true.

These rural-specific provisions are important in this bill. But just as important is the rest of the package and what it will do to rural America.

What will it do to limit the choices we now make? If it has anything to do with making the right decision, taking that away from the patient, I will fight that. One thing that makes our current system the best in the world, besides the high quality, is the freedom the patient has to choose what they want. They can choose their doctor. They can choose their health insurance, their hospital, their pharmacy, and the services they want. Yes, the services may be unnecessary. Who knows? Who is going to make that judgment? Or some tests may be done for ease of mind. But is that decision not for a patient and a doctor? Do we still live in America? Somebody is going to make that decision.

I have a little cartoon here. There is one thing about this town; if you do not maintain your sense of humor around here, it soon goes away. What I am hearing—I think it is indicative here of the fears I am hearing about, the fears of what will happen if the Government gets involved, if patients and their doctors lose their ability to make their own decisions.

Let me read it to you. It is Doonesbury. It says:

Mmm * * * a lot of fluid here * * *
So what are we looking at?

Another person comes in:

I don't know yet. Could be a damaged anterior—

I do not know what that stuff is, but "I have a hurt knee."

Uh-hum. What's your plan?

But the second person ends up being the man's insurance agent. That is what we are looking at here. Government is already wondering about these kinds of things. That is what Montanans are telling me: They do not want a bureaucrat in Washington, DC, to make decisions for them.

You may think that some folks in the country do not know enough to make an informed decision. I think they do. They are very capable, hardworking people, trying to take care of their families. They do not like the folks inside the beltway making those decisions, and I realize the folks inside the beltway probably do not like that, but it is true.

Then there are the taxes. Taxes are taxes, whether you call them payroll contributions, revenue assessments, or whatever. It is all the same. They are taxes. I have seen a phony tax. Remember the old one: "How much did you make last year?" The next line says: "Send it in."

We may get to that point. We already took a big tax hit last year and, yes, you might say it did not hit the middle class. It did. It went a little bit deeper than we all think it did.

We live on the Canadian border. We heard some folks talk about the Canadian system, single-payer system. This comes out of the July 15 Calgary Herald. There are probably some Westerners here who probably understand what the picture is here. I will hold it up. But on that day when the Calgary stampede was on, they have a picture of a steer wrestler who is in a bit of a bind. He caught a horn in the chin. In other words, that is a plumb wreck. I thought what better thing to put across on the page than the headline: "Axe Falls on Calgary Hospitals."

Hospitals are being closed because they do not have enough money to make it to the end of the fiscal period so they closed the hospital. So you can say in the United States we have universal access but not universal coverage. They have universal coverage, but they do not have universal access.

In Montana, if you go down to the medical corridor in Billings, MT, one out of every five cars in the parking lot bears a Canadian license plate. They are not there for a social occasion, I can tell you that.

But the highlights of the story is that the Bow Valley, Holy Cross, and Grace Hospitals are to be closed, their programs are moving somewhere else. Holy Cross renovations and Bow Valley renovation plans have been canceled. Alberta's Children's Hospital remains open on the current site and continues to offer care but limited.

Of course, you can go all through this newspaper and even on the back where the unions are saying we have to have more money or we are going to close these hospitals. If you get sick, they are going to say, "Well, we didn't make it till Thursday. You've got to find another hospital to go to." All of this in this newspaper, and basically what you are looking at is a old steer wrestler and he is in a wreck, folks, and that is not funny. He catches one of those horns in the chops. I guarantee you that.

So we have a lot of folks here who want to offer their opinion on what it would do if we went to a single-payer or a big-Government bureaucracy or a Government-run plan and mandates. And they are in this bill, do not ever let anybody tell you any different because when you get to 2002, they are there. Even some of them will apply to South Dakota.

I also want to put in the RECORD "Government Health Care. Thanks Anyway, Says Libby, Montana." Libby, MT is a little town up in northwest Montana. They have had mill closings. They are completely dependent on public lands to make a living. I do not know of a tougher town in America, but they just take things. But there was a little article that came out of their newspaper up there, and I ask unanimous consent that it be printed in the RECORD because I think it deserves the attention of my colleagues who serve in the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT HEALTH CARE: THANKS ANYWAY, SAYS LIBBY, MONTANA

(By William Perry Pendley)

What were the odds that the Montana town of Libby would be hit with three catastrophic health care cases in such a short period of time?

In February 1992, Sally Sauer, 26 year old daughter of an unemployed forester, discovered she needed a heart transplant. In February 1993, 5 year old Amanda Johnson, daughter of an uninsured logging truck driver, needed heart valve surgery. Six months later, Kyle Rosling, 17 year old son of an uninsured sawyer needed heart surgery.

Libby is a tiny community of 2800 in Lincoln County where 78% of the land is owned by the U.S. Government. As a result of U.S. Forest Service timber harvest cut backs, to "protect" the grizzly bear, Libby's unemployment has been double digit for months.

Nonetheless, the people of Libby and neighboring Troy set out to save Sally, Amanda and Kyle. Through a variety of campaigns and through the generosity and hard work of the industries and individuals of northwestern Montana, the "Sally's Heart", "Hour Amanda", and "Kids for Kyle", campaigns raised more than $325,000. Today Sally can be seen jogging around town, Amanda is completely cured and Kyle is wrestling in the 152 pound class on the Libby Loggers varsity team.

What happened to Libby's Sally, Amanda and Kyle might well be cited, by the Clinton White House, as proof that America needs federal health care. Certainly Libby's experience is no less compelling than the other anecdotal evidence heard by Hillary Rodham Clinton's secret health care panel. At least that's what ABC's "Home Show" thought.

When ABC heard about Sally, Amanda and Kyle, it sent a crew to Libby to film men and women citing their ordeal as proof that America needs a federal health care plan. The film crew heard plenty about Sally, Amanda and Kyle, but the lessons the people drew from their experience surprised the folks from ABC.

Yes, Sally, Amanda and Kyle had been pretty sick. Yes, getting them well had cost a lot of money. Yes, many of the people in Libby didn't have their own health care plan. However, the people of Libby were unwilling to whine about their experience or to jump to conclusions about the state of the nation's health care and what ought to be done about it.

What the ABC crew heard was not the rhetoric of the Washington, D.C. crowd, but questions real people ask if given the chance. "What's all of that going to cost?" "Who's going to pay for it?" "Will we get to select our own doctors?" One viewpoint the ABC crew heard over and over was that the health care proposal the people had been hearing about was a very expensive program that the American people simply couldn't afford.

The ABC crew heard something else. Many of the men and women interviewed had been covered by a health care plan; that is, until environmental policy gone wild had taken their jobs. What many of them said was that if President and Mrs. Clinton wanted to do something about health care, the Clintons could get the environmentalist off the backs of the people and allow the harvesting of trees in the forests around Libby once again. Just let the mills reopen, they said. Then health care will take care of itself.

When people talk about a federal health care program, they forget about all the other things the U.S. Government can't seem to get right. The people of Libby aren't that forgetful. Perhaps it is because they know first hand how the federal government operates. Perhaps it is because they have seen what federal control means to their lives. Whatever the reason, the people of Libby, interviewed on the streets of their struggling town, have said "no" to federal health care. Having heard President Clinton's State of the Union Address and his commitment to health care in 1994, they wonder what the rest of the nation will say.

Mr. BURNS. Mr. President, I want to thank my colleague from Minnesota for the time. And as we move this through, we have great challenges. But a rush to judgment on this issue does not serve the issue or this country or its people very well.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, my colleague from Montana pointed out that there are two committees that deal with health care in the Senate, and he has not been fortunate enough to be on either one of them. I must say, I have had the misfortune, if you will, of being on both of them.

It also demonstrated something else to me, and that is, we do not have a health committee, as such, in the U.S. Senate. So we are working at it from a variety of other sources which makes the job very, very difficult.

I want to thank my colleague from Montana for his commitment. We have been going to breakfast together on Thursdays for 4 straight years down the Hall. He has been part of the Republican health reform task force, medical malpractice reform program, and a variety of others. I am really very appreciative of his comments.

I am reminded also of what he said about the Mitchell bill; that it took those of us who think we know something about it 4 straight days to get through the first draft of that bill and found in our efforts to try to come up with amendments, it is almost impossible to amend.

So I appreciate very much his comments, and as one who sees a lot of Canadian license plates—Ontario, in particular—in parking lots and hospital parking lots in Grand Forks, ND, Duluth, MN—a whole variety of cities. I am sure glad he told us what happened during the Calgary stampede to the hospitals in Canada. That happens in Toronto and other areas as well. It is not just in Saskatchewan.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I listened with great interest to our dear friend from Montana. I have a profound respect for him and admiration for his great sense of humor. But I must say, I must differ with him on a number of points. I have not seen license plates on either side of the border enough to count, but I know that there are plenty of U.S. license plates on the other side of the Canadian border because that is where they get primary care, good preventive care at times. I know there are those Canadians who tell us that it is cheaper for them to fly first class to the United States and use our high technology than it is for them to buy it.

So I know there are plenty of arguments on both sides. But I think the main point that I would make is the same point I made this morning, a point the majority leader has made so eloquently on so many occasions, most recently last Sunday. And that we talk about how concerned we are, or I should say some of our colleagues talk about the concern that they have with regard to Government health care. Yet I have not yet seen a bill or an amendment to abolish Medicare. I have not seen a bill or amendment to abolish the Federal Employees Health Benefits Plan. I have not seen a bill or amendment to abolish the Capitol physician, or our opportunity to use Walter Reed or Bethesda when we need health care.

The fact of the matter is every Member of Congress uses the health care that is so criticized on the other side of the aisle so frequently every time we get sick. The President uses it, Senators use it, Members of Congress use it. There are times, of course, when our families have to use the health care provided so well in the Federal Employees Health Benefits Plan.

We talk about how extraordinary a plan it is and how we really do want to give everybody else the same opportunity to have access to good quality care that we have through the Federal Employees Health Benefits Plan. That is a Government plan. I have not seen any effort to abolish the Veterans Administration or the defense hospital system that has done such a good job.

I think we need to be clear here. Every Member of Congress benefits substantially from a Government health program and has chosen not to offer any legislation that I am aware of to abolish it. So that is point No. 1.

Point No. 2 is that it is somewhat ironic, frankly, that we talk about a Government-controlled plan when Senator MITCHELL's bill does just the opposite in providing 30 million Americans who are now under Medicaid the opportunity to buy private insurance. So we shift away from Government insurance in that case to a private plan. We want to build as much as we can on the private system. Now, ought there be some regulation? I think every Member of the Senate would agree that as we regulate the air traffic control system, the banking system, our agricultural system, our highway system, there has to be some form of a regulatory framework within which the private sector works to assure us access and confidence and cost control and all of the things we say we want.

So I would hope that as we go through this debate, we can have an honest debate, recognize the differences that exist in philosophy and position. But I would hope that we also would acknowledge that there are Government systems that work pretty well or we would not avail ourselves of them so frequently, and that, indeed, while we understand how good Government systems can be, that is not the purpose of the Mitchell bill.

ANTITRUST AND THE HEALTH SECURITY ACT

Mr. HATCH. Mr. President, we have had a very informative exchange of information today, which has revealed a number of defects in both our current health care delivery system and in attempts by the majority to remedy those problems.

One area which our discussion has not touched upon in any great detail is antitrust.

I have been dismayed that, despite a clear need for antitrust reform, as evidenced by hearings in both the Judiciary and Finance Committees, neither the Mitchell, nor the Kennedy, nor the Moynihan bills contain any antitrust relief for the myriad actors in the rapidly changing health care marketplace.

As my colleagues are aware, in an attempt to address the need for antitrust reform, last year Senator THURMOND and I introduced S. 1658, the Health Care Antitrust Improvements Act. Our colleague, Representative BILL ARCHER, introduced the companion House legislation, which served as a model for amendments adopted by the House Judiciary Committee.

Since Senator THURMOND and I introduced S. 1658, a number of provider groups have expressed concern about provisions in this legislation which they believe would afford greater protection to doctors than to other health care providers.

As we have made abundantly clear on a number of occasions, that was neither our intent nor, we believe, the effect of the legislation we drafted.

However, due to substantial and continuing apprehension about that provision, Senator THURMOND and I offered to make changes in the legislation to address those concerns.

I think it would be useful for my colleagues to be aware of those changes, and for the health care community to be aware that I continue to believe that antitrust relief is a necessary part of health care reform.

For those reasons, I am inserting in the RECORD at this point a summary of our revised legislation, which I commend to my colleagues for their serious consideration.

SUMMARY OF HATCH-THURMOND HEALTH CARE ANTITRUST IMPROVEMENTS LEGISLATION

Following is a summary of the Hatch-Thurmond Health Care Antitrust Improvements legislation, which has been revised to address concerns raised about the "Health Care Antitrust Improvements Act" as introduced last November by Senators Hatch and Thurmond (S. 1658), and by Representative Archer (H.R. 3486). The principal changes made are indicated in bullet points.

The Hatch-Thurmond legislation is intended to resolve some of the uncertainty that surrounds the application of the antitrust laws to health care activities. The purpose is to save money and improve quality in health care, not for the benefit of providers, but for the ultimate benefit of patients and those who pay the bills. Four methods of achieving greater clarity in the antitrust laws are employed:

I. SAFE HARBORS

To reduce the costs of antitrust regulation in the health care marketplace and decrease the burden of repetitive review under the certificate process, the Department of Justice is directed to develop "safe harbors." DOJ must solicit input on possible safe harbors through notice and comment procedures. The safe harbors will be defenses in all federal, state and private antitrust suits, except for injunctive relief by the DOJ or FTC in "extraordinary circumstances."

The safe harbors to be developed must cover at least the following areas:

A. Joint Purchasing of Health Care Services;

B. Small Hospital Mergers;
C. Network Formation and Operation;
D. Medical Self-Regulatory Entities;
E. Provision of Information by Providers;
F. Participation in Surveys;
G. High-Tech and Tertiary Joint Ventures;
H. Market Power Screens;
I. Joint Purchasing Arrangements; and
J. Good Faith Negotiations.

The major change is that the safe harbors are not created by statute. DOJ may add to safe harbors it establishes, and may modify or eliminate them. This allows flexibility in the safe harbors, while giving meaningful legal effect to the standards established by DOJ.

Activitiy within a safe harbor is subject to antitrust actions for injunctive relief by DOJ or FTC. This encourages providers to monitor their own conduct to ensure that it does not cause anticompetitive harm even if it is technically within a safe harbor. Additional categories for safe harbors have been added.

II. CERTIFICATES OF REVIEW

Health care providers who seek greater certainty under the antitrust laws may apply to DOJ for a certificate of review, which will be granted (if appropriate) based on a review of the facts of the case. DOJ must take into account health care concerns such as access to care in underserved areas, in addition to conducting a traditional antitrust competition analysis. Activity covered by a certificate later found to be anticompetitive is subject to injunctive relief.

Certificates of review are not automatically approved by the end of a 90 day period. Private, state and federal antitrust actions for injunctive relief are permitted to stop anticompetitive conduct covered by a certificate of review. Judicial review of DOJ decisions concerning certificates of review is limited to abuse of discretion and must be brought in the U.S. District Court for the District of Columbia. "User fees" of up to $5000 may be collected to cover costs, on a sliding scale based on size of transactions proposed.

III. NOTIFICATION

Health care providers which form joint ventures may file a notification of their activities with DOJ and in return will, if sued under the antitrust laws, receive Rule of Reason analysis (analyzing procompetitive and anticompetitive effects of conduct) and be subject to actual damages (rather than treble damages).

Notification is restricted to joint ventures, rather than any collaborative activity. Provisions "deeming" notification without written submission of required information have been eliminated. Excludes "naked" price-fixing, bid-rigging, and market allocation from notification provision, but permits showing that conduct has procompetitive aspects. Authorizes collection of user fees of up to $250 to cover costs.

IV. GUIDELINES

DOJ is directed to issue guidelines regarding legitimate collaborative activities of health care providers to further health care reform, including:

Product and geographic market definitions;

Special rules for underserved areas, such as rural or inner city markets;

Provider networks;

Community health centers;

The subject matter areas of the safe harbors listed above. Additional categories for guidelines have been added.

Mr. DASCHLE. Mr. President, my friend, the Senator from Minnesota, has kindly consented to allow us to complete our work on a couple of the housekeeping chores, and I will do that at this point.

Mr. DURENBERGER. Will my colleague yield to me just a minute?

Mr. DASCHLE. I would be happy to yield to the Senator from Minnesota.

Mr. DURENBERGER. Before we leave the subject of Government-run programs, I think it is fair to make a distinction between the Federal Employees Health Benefit Plan, which is merely an OBM or human resource run process by which each of us can buy a private health plan, and access to a private system. The only role the Government plays in there is the role of the employer, and they pay 72 percent of the premiums.

On the other hand, Medicare and Medicaid are Government-run systems, where the Government pays a specific fee for a service much like they do in Canada. And I think it is appropriate to at least make that distinction. Where, in the private health plan that President Clinton promised to all Americans, that could not be taken away from them, the Mitchell bill does not give the elderly or the disabled the opportunity to get the same kind of health care through the same system that we can.

Mr. DASCHLE. I appreciate the Senator's clarification, but I would only say that I think it fits certainly my definition of Government program when it is limited to Government employees and their families. It is run by Government employees. It is designated to be a governmentwide system specifically designed for all agencies of Government and their employees, paid for by the Federal Government as the employer.

So from that perspective it would seem to me that it would meet the definition of Government. But that is, I suppose, a matter of interpretation, and I appreciate the Senator from Minnesota making his point.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million dollars would you say are in a trillion dollars? And when you answer that, just remember that Congress has run up a debt exceeding 4½ trillion dollars.

To be exact, as of the close of business this past Friday, August 12, the Federal debt stood—down to the penny—at $4,645,748,084,784.22, meaning that every man, woman, and child in America owes $17,819.53, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion—there are a million million dollars in a trillion dollars. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than 4½ trillion dollars.

CURIOUSER AND CURIOUSER

Mr. DECONCINI. Mr. President, I do not necessarily believe everything I read in the paper. And I certainly do not believe everything Mr. Greenspan has to say. But the overwhelming weight of what I hear is that Mr. Greenspan and the Federal Reserve are planning on raising interest rates again.

Do not do it, Mr. Greenspan. If you are bored down there at the Fed, if a rosy economic outlook makes you blue, get out of town, take a vacation, do anything, but just do not raise those interest rates.

There seems to be general agreement that we can expect another increase in interest rates at the Fed's August 16th meeting. This fact is seen as a done deal, in spite of economic indications that it is not necessary. The August 15 edition of Business Week notes that even the Fed's own August 3 survey of regional economies points to a slowing in the economy, but acknowledges that "it is unlikely to prevent another widely expected hike in short rates by the Federal Reserve in mid-August." Why not, Mr. President? Does Mr. Greenspan like bad news so much that he wants to create more?

The Commerce Department estimates that the first quarter growth rate was 3.3 percent and the second merely 3.7 percent—substantially below the 4½ to 5 percent that Business Week asserts was widely anticipated. But clearly this isn't gloomy enough for Mr. Greenspan. Following Mr. Greenspan's logic is a little like Alice in Wonderland—it gets curiouser and curiouser.

Do America a favor, Mr. Greenspan, defy conventional wisdom, do not raise interest rates. Economic growth is good. Americans working is good. Low interest rates are good.

Alan Greenspan reminds me a little of Shakespeare's Hamlet who said "Nothing is either good or bad but thinking makes it so." Hamlet was a tragedy, do not turn the American economy into a tragedy as well, Mr. Greenspan.

VERMONT LAWYERS HELP DEVELOP RULE OF LAW IN FORMER SOVIET UNION

Mr. LEAHY. Mr. President, Vermont lawyers have been volunteering their time and energies to help develop the rule of law in the emerging Democracies of the former Soviet Union.

They have been helping their counterparts in Russia and other democratic states learn the values of the American system of jurisprudence, lecturing, and providing videotape instruction on the conduct of jury trials and establishing the rule of law for civil disputes and criminal matters.

Many Vermonters are involved in this effort, including our esteemed Associate Justice of the Vermont Supreme Court, and my very good friend, John A. Dooley.

Mr. President, I ask that the following news report that appeared in the Times-Argus of August 10, 1994, be reproduced in its entirety in the CONGRESSIONAL RECORD so that the efforts of Justice Dooley, the Vermont Bar Foundation, and George Burrill, president of Associates in Rural Development of Burlington can be shared with the American people.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Times Argus, Aug. 10, 1994]

VERMONTERS HELP LAWYERS IN RUSSIA ESTABLISH RULE OF LAW, TRIAL BY JURY

Russian lawyers and judges will be getting legal advice from their Vermont counterparts under a contract signed Tuesday between the U.S. Agency for International Development and representatives of the Vermont Bar Foundation and a Burlington based company that specializes in third world development.

At a ceremony hosted by Sen. Patrick Leahy of Vermont, Associate Justice John A. Dooley and George Burrill, president of Associates in Rural Development of Burlington signed a $75,000 contract with AID to continue an exchange program with the Russian Province of Karelia that Vermont judges and lawyers have been pursuing on a voluntary basis since 1992.

Project Harmony, which has been part of Vermont's special relationship with Karelia since 1990, and the Vermont Bar Foundation, have created exchanges between the two countries on Vermont and U.S. Constitutional law, judicial systems and federalism, commercial law and environmental laws and regulations.

On July 26, Justice Dooley and Burril signed the first formal contract for staff services under the Freedom Support Act. The law, enacted two years age, establishes a rule of law exchange between the United States and emerging democracies in the former Soviet Union.

Nine regions of Russia now experiment with jury trials—but the first was held only last December.

The Vermont contribution to the establishment of a legal base in Karelia includes videotapes of a jury trial, lectures and detailed procedural advice on establishing the rule of law in civil disputes and criminal matters.

A delegation of Vermont legal representatives, led by former Gov. Phil Hoff, John Downs and Jan Eastman began developing a legal exchange with Karelia in 1990.

Justice Dooley, Downs, William Sessions, Mark Oetlinger, David Kelley, Eastman and the late Bishop John Marshall lectured to audiences of lawyers, government and business representatives in Russia.

A delegation of Karelian judges and Ministry of Justice staff visited Vermont in October 1993 to study the Vermont legal system. Upon their return to Karelia, the group formed a bar association similar to the Vermont model and the government began examining options to license and regulate the profession.

At ceremonies in Leahy's Agriculture Committee hearing room, the Senator praised the efforts of the Vermont Bar and Project Harmony for "helping the Russians understand the laws that govern our lives as Americans—and guiding them toward greater Democratic participation in the system."

TRIBUTE TO SHERIFF HENRY QUILLIAN EVATT, JR.

Mr. SASSER. Mr. President, today I rise to pay tribute to a shining star of Hamilton County—Sheriff Henry Quillian Evatt, Jr.—known fondly as "H.Q." He is retiring after 37 years of public service—including 22 years as chief law enforcement officer of Hamilton County.

H.Q. was born the youngest of four boys on September 9, 1929, to Hettie Lou Wallen and Henry Quillian Evatt, Sr. His father died when H.Q. was only eight, but he instilled in his sons a strong work ethic. H.Q. attended East Lake Elementary and Junior High Schools, where he was a member of championship basketball teams. After graduating from Central High School, H.Q. enlisted in the U.S. Marines and served in Camp Pendleton, CA, and the Island of Guam.

When he returned home in 1957, H.Q. was hired as the bookkeeper at the county jail. Due to the small size of the staff, he quickly took on the jobs of desk sergeant and dispatcher. H.Q. decided to further his education and completed training at the Tennessee Law Enforcement Training Academy and the Chattanooga Police Academy Law Enforcement Training School. In 1963, he became chief deputy to Sheriff Frank Newell. Following Sheriff Newell's retirement, H.Q. declared his candidacy for sheriff and was elected in September of 1968.

H.Q.'s accomplishments as sheriff are numerous. From his first term, Sheriff Evatt was committed to a high degree of competency for his officers. He instituted mandatory training for all officers, established an in-service training school for his own department, updated all recordkeeping systems for jail and crime reports, and utilized private contributions to start a fitness program for his officers.

Reacting to the diverse needs of the community, H.Q. created the first Community Relations Council and implemented a drug education program for youth. At the same time, he worked to enhance educational opportunities for inmates by providing counseling, literacy courses and a full-time chaplaincy program as part of prisoner rehabilitation.

In order to meet the increasing demands on the department, Sheriff Evatt expanded the uniformed and patrol detective divisions, started the first traffic division and expanded the major crimes division. He established a D.U.I. task force and school patrol division, and created a marine patrol division.

At a time when the crime rate is increasing and many people are frightened to leave their homes, we can all be proud of this public servant who has dedicated his life to ensuring the safety and well-being of the citizens of Hamilton County. On behalf of a grateful Nation and State, I extend appreciation to Sheriff Evatt and his family—his wife Bobbie and his children Mike Evatt, Ricky Anderson, and Sherry Swilling—for the sacrifices they have made over the years. H.Q., congratulations on a job well-done. Please accept our wishes for a healthy and fruitful retirement.

A MEETING WITH ARMENIA'S PRESIDENT

Mr. PELL. Mr. President, the Foreign Relations Committee just had a very productive meeting with the President of Armenia, Levon Ter-Petrossian. Just a few short years ago, President Ter-Petrossian was in a Moscow prison for his role in founding the Karabakh Committee, one of the first democratic movements in the Soviet Union. As one who helped to secure the Karabakh Committee's release, I was particularly gratified to welcome one of its founding members to the Foreign Relations Committee—as free, independent Armenia's head of state.

I told the President that I remember well our last meeting—in January 1992 in Yerevan—where I witnessed the terrible impact of the Azeri blockade of Armenia and the remaining effects from the devastating 1988 earthquake. I am very much impressed with President Ter-Petrossian and the notable progress Armenia had made in the face of such difficult circumstances.

During our discussion, the President brought us up to date on the ongoing conflict over Nagorno-Karabakh and the severe economic toll it is taking on the entire region. I very much welcome the news that the parties to the conflict have agreed to a formal cease-fire, and I hope that progress can be made on achieving a lasting peace.

Currently, two competing plans—one put forth by Russia and the other by the Conference on Security and Cooperation in Europe [CSCE]—are on the table. A unified CSCE-Russian approach might prove to be the best strategy. President Ter-Petrossian acknowledged that U.S. diplomatic involvement is key to this process and I would encourage the administration to heed President Ter-Petrossian's call for greater U.S. engagement.

On a related matter, I am pleased that the State Department has tapped Joe Presel, who I might add is a Rhode Islander, to be the Department's Coordinator for Regional Affairs in the New Independent States. His portfolio includes Nagorno-Karabakh, but that is just one of many issues that he must address. I also do hope that the administration will appoint a special representative to the negotiations on Nagorno-Karabakh. That position has been vacant since Ambassador Maresca retired this spring. Since that time, there has been a great deal of movement on the diplomatic front. I believe that in appointing a new representative to deal exclusively with the Nagorno-Karabakh issue, we can greatly contribute to the process of finding a lasting peace in the region.

ALLEGATIONS AGAINST A U.S. SENATOR

Mrs. FEINSTEIN. Mr. President, allegations have been made against me in my role as a United States Senator.

One of my greatest joys is to give young professionals a chance early in their career so they can become top notch, skilled professionals. Paul McDonald is just one of dozens of recent college graduates I have hired with the hope that they will learn a great deal about the Senate and serving constituents. It saddens me greatly that Paul, who chose to leave my office, has made charges against this office that are entirely untrue and false. There is not one iota of truth to his charges.

I take any charges of racial or sexual harassment very seriously. In no way did this office try to prevent Paul McDonald from pursuing his case. I have no way of knowing if his charges against Princeton and the U.S. Department of Education are valid, nor is it my place to make that determination. I know that Paul has followed a long course of legal action against Princeton. The truth is that my office never stood in his way.

Paul was not discharged from this office. He was not asked to stop pursuing his complaint of racial discrimination against Princeton and the U.S. Department of Education. He was only asked to not use office time to pursue his complaint and to not make it seem that his communication was connected to the official functions of the Senate office.

Paul joined my staff in September 1993. He competed in an application process and was selected among many other applicants for the job of legislative correspondent.

In December, Paul wrote to every member of the Senate Judiciary Committee, on which I serve, asking for an investigation into charges of racial discrimination he had made against Princeton University and the U.S. Department of Education. In his correspondence, Paul included his business card and asked members to contact him at my office.

This left the erroneous impression with my colleagues on the Judiciary Committee that this correspondence was officially connected to my office. In fact, my legislative director, Susy Elfving, received calls from the counsels of other members of the Judiciary Committee to ask if this was an official communication from my office. My staff said that clearly it was not official and that we learned about this at the same time as the other offices.

After my senior staff brought this fact up to Paul, he agreed to write a letter to each member correcting this impression. In addition, he agreed that if he chose to write similar letters in the future to Members of the Senate that he would simply notify the Senator that the communication was independent of the office.

Three weeks later, on January 25, Paul again wrote each Senator on the Judiciary Committee. In this letter, he called a response from Senator SPECTER to the earlier letter "racist." Paul threatened to hold a news conference during Black History Month in February and publicly expose the complaint if the Judiciary Committee did not respond properly. Just a few weeks earlier, Paul had agreed to attach to his letter a note explaining that his communication had no connection to my office. He failed to do so. This failure created the impression that my office had somehow condoned the communication.

After the second letter was sent to my colleagues, we simply reiterated our view that Paul not connect his complaint to this office and that he should not pursue it during office hours when he had other responsibilities.

On February 10, Paul notified us of his personal decision to leave this office and began looking for another job. He asked if he could stay on staff while he looked for a job. Three-and-one-half months later, on May 27, he voluntarily resigned to take another position on Capitol Hill.

I would like to submit the following documents for the RECORD to provide background on this matter.

January 4, 1994

To: Paul McDonald, Legislative Correspondent.

From: Michael McGill, Chief of Staff, Susy Elfving, Legislative Director.

Subject: Agreement to revise personal letter of 12/29/93.

Per our discussion of this morning, you agreed to personally retrieve all originals of the letter dated December 29, 1993, which you directed to Members of the Judiciary Committee and their staff. You will revise these letters to delete any reference to your employment by this office, including the name of your employer, your office address and phone number, so there is no implication that the issue which you are pursuing as a private citizen has been officially sanctioned by this office.

Since your employer is a Member of the Judiciary Committee, you further agreed that the copy of your correspondence that you direct to her will include a cover memo from you to her explaining that you are pursuing this action independent of your employment by this office and that you are not informing anyone involved in the process of your employment in this office.

Upon the successful completion of these actions, we agree that this entire affair will not be treated as a negative item in your personnel file. Rather, it represents a well intentioned but incorrect assumption on your part that such an identification would be useful merely for the purposes of communication between you and the addressees of your letter, and would in no way imply any sort of official sanction or support by this office.

We appreciate your positive response to this situation.

MICHAEL S. MCGILL,
Chief of Staff.
SUSY ELFVING,
Legislative Director.

ALEXANDRIA, VA,
January 7, 1994.

Sent to all Judiciary Committee Counsels:

Attached is a letter from my father and a revision of the first page of my December 29, 1993 letter requesting a meeting with the Committee on the Judiciary members and their counsel to discuss my family's call for a Committee investigation of our complaints of racial discrimination, harassment and bias against Princeton University and the U.S. Department of Education. The first page has been revised to delete the reference to my employment by Senator Dianne Feinstein in order to emphasize that my request is independent of my employment. The reference to my employment was informational and for the purpose of identifying how I may be contacted during working hours to discuss this request. I have made this request on behalf of my family and as a private citizen. Questions should be addressed either to my father, Walter E. McDonald, or to me. My father can be reached at these phone numbers: Home: (713) 265-2056, Work: (713) 656-6334.

The first page has also been revised to include Ruth Simmons, Vice Provost of Princeton University, in the list of administrators and trustees of Princeton University who supported or participated in acts of racial discrimination and harassment against me.

Please return to me the original first page to confirm receipt of this revision. I have enclosed a self-addressed, stamped envelope for your convenience.

PAUL MCDONALD.

ALEXANDRIA, VA,
December 29, 1993.

Hon. DIANNE FEINSTEIN,
Counsel,
Hart Senate Office Building.

I am requesting a meeting with Committee on the Judiciary members and their counsel to discuss my family's call for a Committee investigation of our complaints of racial discrimination, harassment and bias against Princeton University and the U.S. Department of Education. My request has been delivered to Chairman Joseph Biden and the Chief Counsel Cynthia Hogan; this letter is being delivered to each member of the Committee. Our complaints are based on:

Princeton University administrators' racial discrimination against and harassment of me, an African-American male student leader with the support and participation of: Harold Shapiro, President of Princeton University; Hugo Sonnenschein, then Provost of Princeton University, now President of the University of Chicago; Ruth Simmons, Vice Provost of Princeton University; R.H. Rawson, Chairman of the Board of Trustees; Senator John Danforth, Member of the Board of Trustees; Hodding Carter, Member of the Board of Trustees.

U.S. Department of Education's racial discrimination and bias against my family in repeated refusal to investigate discrimination complaints against Princeton University and mistreatment of my family with the support and participation of: Richard Riley, Secretary of the U.S. Department of Education; Norma Cantú, Assistant Secretary for Civil Rights, U.S. Department of Education; Paula Kuebler, Regional Civil Rights Director, U.S. Department of Education.

I am an African-American male, recent graduate of Princeton University and former President of the Princeton University Undergraduate Student Government (president of the student body). My accomplishments at Princeton University while I was being discriminated against and harassed by university administrators are described in my resume and a Princeton Alumni Weekly article which are enclosed. I am appealing to the Judiciary Committee because my family has made every attempt to resolve my complaints against Princeton University with the U.S. Department of Education. In our pursuit of equal justice and protection under Title VI of the Civil Rights Act of 1964, we have been misled, lied to, disrespected, patronized, and summarily dismissed by Office for Civil Rights Region II Director Paula Kuebler, Assistant Secretary for Civil Rights Norma V. Cantú, and Secretary Richard Riley. Each has demonstrated racial discrimination and bias against me and my family in their refusal to investigate my complaints against Princeton University's highest-ranking administrators.

My complaints against Princeton University administrators are serious; this is not just my family's belief.

In his January 15, 1993 letter to me, R.H. Rawson, Chairman of the Princeton Board of Trustees wrote, "Your allegations are serious and need to be addressed forthrightly and promptly. * * *"

In her May 2, 1993 letter to my father (attached at end of this letter), Senator Carol Moseley-Braun wrote, "The problem of discrimination in higher education is of great concern to me. * * * The allegations you raise * * * are very serious."

My complaints against Princeton University administrators address discrimination and harassment during my last four semesters at Princeton. The stress and frustration of fighting this racism had its toll. I had abnormal fatigue and migraine headaches that were diagnosed after my junior year in the summer of 1992; I had to take medication for the migraines during my senior year. I also had periods of depression and was often unable to focus or concentrate on academics because of the persistent and isolating nature of harassment I experienced. I had considered withdrawing from the university before my father made his first of two trips to Princeton to remove me from campus so that I could concentrate and complete assignments without harassment. Before the harassment began I had maintained a 3.6 grade point average while chairing the Undergraduate Student Government committee on undergraduate life, and I had been nominated for the Harry S. Truman Scholarship for which I later became a national finalist. The harassment and discrimination caused significant drops in my grades and effectively denied me opportunities for academic honors and graduate scholarships, influencing my decision to postpone law school studies. In my last semester, administrators placed me on disciplinary probation with a threat to expel me after I initially filed a complaint against them with the U.S. Department of Education Office for Civil Rights Region II and mailed information to fellow minority students advising them to do the same if they had complaints against representatives of the university.

That my complaints were found without racial discrimination or harassment by Office for Civil Rights Region II Director Paula Kuebler, Assistant Secretary for Civil Rights Norma Contú, and Secretary Richard Riley without investigation suggests they are more interested in closing my case against Princeton University than in enforcing the law. It is therefore my family's position that the U.S. Department of Education must not be involved in any forthcoming investigation or adjudication of my complaints against Princeton University. With this letter, I am filing racial discrimination and bias complaints against Paula Kuebler, Norma Cantú and Richard Riley for their actions as representatives of the U.S. Department of Education; it is my family's hope that their actions are not indicative of a general insensitivity to and condoning of racial discrimination and harassment of African-American males on the part of public officials who are charged with protecting our civil rights. To this point, my family has found that there are few advocates for young African-American males who commit themselves to excellence and demand equal justice and respect. It appears the only young African-American males whom public officials are concerned about are those who are incarcerated.

Proper and thorough investigation of my complaints against Princeton University is important in the struggle for equal protection and justice for African-American students on predominantly white college campuses across the nation. The racism I experienced on the Princeton University campus is indicative of the 'new age' racism confronting African-American students. The 'new age' racists on college campuses are administrators and faculty who use their positions of authority in the university community to demean African-Americans, treating us as if we have no reason to expect the same attention, treatment and respect white students receive and seeking to confine us to subordinate roles they have set aside for us. For African-Americans to challenge these administrators or faculty members instead of accepting or tolerating mistreatment is unacceptable. Their response is seldom to call us 'nigger'; calling us 'nigger' is often rejected in their circles as 'unsophisticated' and, for the purposes of punishing us for standing up to them, is often not considered damaging enough. Instead their response is to use their authority to undermine our academics and activities, intending to dismantle us from the inside as our frustration and feelings of isolation increase with the realization that in this environment they determine what is right and wrong and answer to no one. Some students transfer from one college to another. Some students take time off from college. Some students dropout and do not complete their degrees. All African-American students that have experienced this 'new age' racism are denied their potential—the grades, opportunities, experiences, and peace of mind they would and should have had.

The following are brief accounts of my experiences. More information is available upon request.

PRINCETON UNIVERSITY

Princeton University's highest-ranking administrators demeaned me as a person, stigmatizing me as an African-American male representing a threat to white females and stigmatizing my parents as "rude and inappropriate" when they challenged administrators' mistreatment of me. They demeaned me as a student, stereotyping me as an irresponsible and underqualified African-American student fortunate to attend Princeton in communications to professors, threatening to rescind the university's sponsorship of a colleague's nomination of me for the Harry S. Truman Scholarship (I became a national finalist for the scholarship) and causing a significant drop in grades from the psychological stress associated with their actions against me. They demeaned me as a leader, refusing to accept me as the legitimate and elected president of the student body and subverting my agenda at the behest of a white female student who held a lower position in the student government. Again, I ask you to look at my resume. Had I been white, administrators would have heralded me instead of harassing me; they would have lifted me up instead of trying to string me up.

Enclosed are complaints I filed in the Office of the Provost at Princeton University and the U.S. Department of Education Region II Office for Civil Rights. These complaints describe specific acts of racial discrimination and harassment committed against me by: Thomas Wright, Vice President and General Counsel; Ruth Simmons, Vice Provost; Nancy Weiss Malkiel, Dean of the College; Diane Balestri, Assistant Dean of the College; Eugene Lowe, Dean of Students; Joyce Clark, Associate Dean of Students; Kathleen Deignan, Associate Dean of Students; Sandy Silverman, Assistant Dean of Students; Michael Rodriguez, Director of the Third World Center.

These complaints also describe racist actions taken against me with the assistance or approval of administrators by Jennifer Weller-Polley '93, a white female student, and the student editors of The Daily Princetonian campus newspaper. The academic department I was enrolled in, the Woodrow Wilson School of Public and International Affairs, also discriminated against me in assigning me to a public policy conference.

President Harold Shapiro is implicated in these complaints because the McDonald family appealed to him, in person and in letters, to protect me from the racial discrimination and harassment of the administrators listed above. From our communications, Shapiro understood the injurious effects the actions of administrators had on me (academic, physical and psychological) but did nothing to stop the harassment. I appealed to Chairman of the Princeton University Board of Trustees Robert H. Rawson and Trustees Senator John Danforth and journalist W. Hodding Carter III asking that the Board of Trustees intervene since the highest-ranking administrators were involved. In his response Rawson acknowledged my charges were "serious and need to be addressed forthrightly and promptly by the University" but insisted the administration could handle my charges despite the fact top administrators had either committed, supported, or condoned the racist actions that I was challenging. Through their silence on the matter after I had sent copies of my complaint to them, the entire membership of the Board of

Trustees also indicated that their interest was not in addressing racism on campus but instead in covering up campus racism.

Princeton University's indifference and sometime hostility to student concerns of racial discrimination and harassment in the past and present (as I have documented in the enclosed race record and my open letters to the university community) and its failure to adopt a racial harassment policy despite repeated attempts by students to establish a policy as recently as this past March make it clear that minority students on Princeton's campus have no rights which administrators, faculty or students have to respect. The fact that no minority student has been successful in challenging administrators has permitted them to become more resistant and arrogant in their racism over the years. Minority students have no recourse on Princeton University's campus.

Administrators placed me on disciplinary probation with a threat to expel me after I had filed a complaint against the university with the U.S. Department of Education Office for Civil Rights and mailed information to fellow minority students advising them to do the same if they were unsatisfied with the university's handling of their racial discrimination and harassment complaints (see enclosed New York Times and Associated Press articles). They isolated me on campus with the assistance of student editors of the Daily Princetonian through their attempts to assassinate my character in campus newspaper articles. Vice Provost Ruth Simmons, an African-American female who was supposed to be an advocate for minority student concerns, took every opportunity to make false accusations about me in articles in an effort to discredit me. Frankly, she considered my statements on the university's lack of commitment on racial issues a threat to her career plans; the Provost Hugo Sonnenschein and announced he would be leaving to become president of the University of Chicago, and Simmons had been mentioned for the position because of her supposed efforts to improve race relations. The administration and editors of the campus newspaper made repeated personal attacks on my character, but one instance particularly stands out from others. The editor-and-chief of the newspaper decided to print a negative article about me written by the son of an administrator against whom I had filed a racial discrimination complaint. The editor printed this negative article after I had written a letter to President Harold Shapiro, Vice Provost Ruth Simmons, and her asking that the article not be run because of the personal bias of the reporter. The editor then refused to print letters written in support of me after running the negative article; two students even contacted me to tell me their letters of support had been refused by the editorial board.

Dean of Students Eugene Y. Lowe admitted to my father that there were, in Lowe's words, "several administrators" who were "upset" with me during my father's trip to Princeton in March 1993. Lowe's comment was remarkable—not just because it was so candid a statement of administrator's biases against me, but also because he even spoke with my father. After my father had arrived for a meeting scheduled in the previous fall semester with an Associate Provost to discuss my family's concerns about racial discrimination against me, he had been handed a letter informing him that Vice President and General Counsel Thomas Wright had "directed university administrators not to deal with you [my father] either by telephone, or in person, or in writing" and that the meeting had been cancelled. My father wrote a letter to Wright and President Harold Shapiro indicating that he had not been notified of the cancellation before he had arrived for the meeting. Wright refused to apologize or offer to reimburse my father for the expenses he incurred making the trip from Houston to Princeton. Furthermore, Wright wrote, "I regret that you believe a number of University administrators have treated you and your son unfairly on the basis of race. In light of the way you make these charges, I do not see any productive means of responding to them."

U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS

After the Princeton University Board of Trustees had failed to intervene, I filed racial discrimination and harassment complaints against Princeton administrators at the U.S. Department of Education Region II Office for Civil Rights (OCR) in New York City. I thought I had found an impartial agent that had authority by law (Title VI of the 1964 Civil Rights Act) to both adjudicate the complaints and impose sanctions upon those found to have discriminated against me. But OCR Region II demonstrated a lack of will and commitment to confronting racial discrimination. More importantly OCR officials in their insensitive questioning of whether the discrimination and harassment I had experienced was based on my race, their reluctance to either investigate complaints in a timely fashion (by their own official timelines) or investigate the most serious complaints at all, and their disrespectful treatment of my family in their communications to us have proven they are not qualified to investigate 'new age' racism and are in fact racist themselves.

Consider that in OCR's Annual Report to Congress: Fiscal year 1991 it is reported that their offices receive few if any alleged racial discrimination or harassment complaints brought by students against universities or colleges based on direct actions employees or representatives of the institution took against the complainant.

Seventy-nine percent of the complaints received in FY 1991 alleged discrimination in the delivery of services, while most of the remainder alleged discrimination in employment. As in previous years, nearly two-thirds of all complaints alleged discrimination on the basis of handicap.

Only 17 percent of complaints alleged discrimination on the basis of race. This is not because racism has declined on campuses across the nation; according to most reports, there has been an increase of racist incidents on campuses. The small percentage of complaints alleging racial discrimination can be attributed to the general lack of information about the U.S. Department of Education Office for Civil Rights and its purpose. Simply put, most minority students (it is possible 90 percent or more) do not know OCR exists because OCR has made no attempt to increase awareness among minority students. It appears that African-Americans whose grandparents and parents gave and risked the most for civil rights are among the last to be protected by OCR's annual $48 million efforts to insure compliance of civil rights laws. Yet members of Congress certainly assume, if for no other reason than the title "Office for Civil Rights," that OCR champions equal justice and respect for African-Americans. My experience proves otherwise and is strong argument that OCR should be investigated by Congress for condoning the racism the office is supposed to fight.

My father and I personally delivered a 30 page racial discrimination and harassment complaint to OCR Region II in New York City on January 21. This complaint, which I had previously filed in the Office of the Provost at Princeton University, fully detailed the racial discrimination and harassment that I had experienced at Princeton University in the previous semesters. Eddie Pinkney of OCR reviewed this 30 page complaint and told my father and me that it was too lengthy and detailed for purposes of filing a complaint at OCR. Pinkney did not indicate that the 30 page complaint lacked any information needed to initiate an investigation nor did he question the validity of my charges of racial discrimination. He did suggest I fill in one of the standard OCR discrimination complaint forms while in the office and submit this form instead of the 30 page complaint. The official discrimination complaint form has little space for detailed description of a complaint; Pinkney said simple statements to the effect "I was discriminated by * * *" for each instance of discrimination would be enough for filing a complaint. He also instructed me to request an extension of the normal six month OCR filing period in a letter to Paula Kuebler, Regional Director of OCR Region II.

I submitted a complaint and request for a waiver of the 6 month limit normally applied to complaints to Paula Kuebler, Regional Director of OCR Region II, on January 26 (enclosed). In a letter to me dated February 12 (enclosed), OCR Region II stated "We have carefully reviewed your complaint and determined that you have provided this Office with insufficient information concerning most of your allegations to initiate an investigation." OCR also stated "it will be necessary for you to request a waiver of the timeliness requirement [180 calendar days of the last act of alleged discriminatory conduct]." OCR listed nine requests for information.

A critique of OCR's requests for more information (enclosed) in light of the details in the complaint filed on January 26 reveals that OCR did not "carefully review" my complaint and that their claim of "insufficient information" had no merit. OCR's insincere response to my complaint intended to either postpone investigation or discourage me from further pursuing the entire complaint in their office. OCR hoped to appease me in stating that the complaint against instructors for refusal to grant class assignment extensions was complete; this complaint in fact had less detail than the other complaints against top Princeton University administrators, but appears to be the easiest complaint to resolve because at first glance there seems to be a possible compromise or conciliation, i.e. the granting of extensions and changing of grades. But the complaints against administrators do not suggest means of conciliation; these complaints require confrontation and strict sanctions to resolve. I am convinced that OCR never intended to investigate my complaints against Princeton University administrators.

I did not respond to OCR's requests for more information; as stated and demonstrated in the enclosed critique of OCR's requests, my original complaint was in fact complete. I was frustrated by OCR's insensitivity and incompetence and had more or less abandoned hope. University administrators had begun to retaliate against me for making minority students aware of the option of filing discrimination complaints against the university with OCR. In order to graduate in June, I had to research and write an 80 page thesis by April 5. I did not have the time or energy to conduct the investigation for OCR, which is what OCR seemed to expect me to do in their repeated requests for "factual information which would support your feeling that these actions were discriminatory because other individuals in similar circumstances were treated in a more favorable manner than yourself." The determination of discrimination—through the gathering of factual information from all parties and through considering both the treatment of others in similar circumstances and the potential that the circumstances affecting the complainant are unique—is OCR's job, not the complainants. This is so if for no other reason than the fact that the accused institution has no incentive to cooperate with the complainant and provide him or her factual information supporting his or her feeling that the institution's actions were discriminatory but must cooperate with OCR because OCR has authority to enforce Title VI of the Civil Rights Act of 1964.

My father and I called OCR and asked to speak with Regional Director Paula Kuebler, but she refused to discuss the original complaint with us. My father filed a retaliation complaint on my behalf on April 12 against Princeton University administrators for their placing me on disciplinary probation after I had informed minority students of their right to file discrimination and harassment complaints against the university with OCR; this complaint was sent with a cover letter to Secretary of Education Richard Riley and Attorney General Janet Reno (enclosed) requesting that they take action from their offices because of the incompetence and insensitivity demonstrated by OCR Region II. When my father called the Department of Education to inquire about the retaliation complaint, he was transferred to the office of Jeanette Lim, then Acting Assistant Secretary for Civil Rights. Lim's assistant said that she had prepared a letter to be sent to my father. My father asked if the letter could be faxed to him, to which Lim's assistant replied, "We don't fax letters and don't call here again." My father then faxed letters to Secretary Riley and Attorney General Reno requesting meetings to discuss all my complaints (the entire original complaint and the retaliation complaint) and OCR's mistreatment of us. On June 3, Norma Cantú, who had recently been appointed Assistant Secretary for Civil Rights, responded to my father's request to meet with Secretary Riley stating that "communicating with increasingly higher level Government officials will not affect the OCR regional offices' careful, deliberate evaluation * * *" She told us to direct questions about all complaints to OCR Region II despite the fact we had indicated reservations about the regional office's handling of the original complaints. OCR agreed to investigate the retaliation complaint after Senator Carol Moseley-Braun, whom my father had copied in his letter attached to the retaliation complaint, wrote Secretary of Education Riley in support of our request for a full investigation of all my complaints. But in her response to Senator Moseley-Braun, Cantú purposely misled the Senator, stating that "my staff have looked into your constituent's situation and advised me that Mr. McDonald's complaints are under investigation." In fact, the majority of the original complaints addressing the most damaging actions against me were still not being investigated.

When we finally spoke with Regional Director Paula Kuebler, we indicated that we wanted to appeal OCR Region II's determination that insufficient information had been provided on the complaints against Princeton administrators and OCR Region II's subsequent decision not to investigate these complaints; she said there was no appeal process and accused us of "asking for special treatment." On August 3, I wrote a letter to Norma Cantú appealing OCR Region II's decision not to investigate my original racial discrimination complaints against Princeton administrators; I included the critique of OCR's request for more information that is enclosed here. I requested that Cantú appoint a special counsel to investigate all my complaints and the mishandling of the original complaint by OCR Region II. In Cantú's response (signed by Jeanette Lim), she once again lied about the status of the original complaints against university administrators stating that the "regional office is currently investigating your complaint" in response to my specific inquiry about the original complaints against administrators. She again told us to direct further questions to OCR Region II despite the fact I had specifically called for an investigation of that office in my appeal. OCR Region II should have been disqualified from investigating or adjudicating any of my complaints based on their mishandling of complaints and mistreatment of me and my father. I delivered a letter to Cantú's office on August 24 requesting a meeting with her. Her chief of staff responded in a letter that Cantú would not meet with me and that OCR was "sorry if we have been unable to resolve this matter to your satisfaction."

I did receive an OCR letter of finding dated October 21 from OCR Region II Director Paula Kuebler. This letter of finding was considerably late in its issuance by OCR's official timelines for complaint decisions. The letter of finding addressed the complaint I had filed against two professors for denying me extensions on class assignments that conflicted with my attempts to resolve my racial discrimination complaints with the university. OCR Region II found the professors innocent of the charges I filed. My critique of the OCR letter of finding is included in my December 29 letter to Senator Edward Kennedy. This letter to Senator Kennedy also addresses a December 10 letter Cantú sent to him in response to his November 9 request for her report on the status of the appeal of OCR Region II that I had filed. These letters are all in the last section of the enclosures binder. I have still heard nothing from OCR on the retaliation complaint. The official deadline for a decision on the retaliation complaint has long passed. The fact that Cantú does not refer to it in her correspondence to Senator Kennedy suggests that OCR does not intend to investigate the retaliation complaint even though it was deemed complete and given a case number.

New age racists like the Princeton University administrators named in my discrimination and harassment complaints hold African-American students captive on college campuses. The university community is their plantation—and on this plantation African-American students have no rights these administrators, or faculty and white students, have to respect. These administrators do whatever they want to whenever they want to because they believe that African-American students have no recourse. Unfortunately, my experience with the U.S. Department of Education Office for Civil Rights supports this belief. It appears no one is willing to stand with young African-Americans who are committed to excellence and demand respect, equal justice, and equal protection under the law.

If you have any questions or need more information, please do not hesitate to contact me. I have accumulated extensive documentation, including letters to and from individuals involved in my complaints, in support of my claims. My family and I thank you for your time and consideration. We look forward to hearing from you.

Sincerely,

PAUL L. MCDONALD.

January 25, 1994.

Hon. DIANNE FEINSTEIN,
Counsel,
Hart Senate Office Building.

Attached is a January 12, 1994 letter Senator Arlen Specter sent to me regarding my December 29, 1993 request for a meeting with Committee on the Judiciary members and counsel to discuss my family's call for a Committee investigation of our complaints of racial discrimination, harassment and bias against Princeton University and the U.S. Department of Education. This letter in response is being delivered to each member of the Committee.

It is my family's hope that Senator Specter's response is not an indication of the Committee's position as we consider his response racist in its condoning of the U.S. Department of Education Office for Civil Rights' (OCR) actions to deny me due process and equal protection. We consider Senator Specter's response to be hostile to the plight of African-American students on predominantly white campuses, which I described in my December 29, 1993 letter to you as the 'new racism.' It is apparent Senator Specter is comfortable with assuming this public posture; as we have not received a response from the Committee on our request, it remains to be seen if the membership is also.

In his statement that my "administrative claim has been concluded" because of "[my] failure to file an * * * appeal within the time provided by law," Senator Specter conveniently chooses to ignore both my complaints against the U.S. Department of Education in my December 29 letter to the Committee membership and my critique of the Office for Civil Rights' findings in my December 29 letter to Senator Edward Kennedy enclosed with the materials sent to the Committee membership. In his attempt to clean his hands of the matter, however, he betrays his own reasoning. Senator Specter states, "The allegations you make regarding Princeton University * * * are quite serious." (Senator Carol Moseley-Braun had also stated that the "allegations you raise * * * are very serious" in her May 2, 1993 letter to my father attached to the December 29 letter to you.) But Senator Specter has concluded that my complaints are "serious" based on the same information that the U.S. Department of Education determined was insufficient to warrant investigation. In effect, Senator Specter acknowledges that my family has a complaint against the U.S. Department of Education for denying us due process. It is our complaint that the U.S. Department of Education has been more interested in closing our case against Princeton University than in enforcing the law. There is no other explanation for the U.S. Department of Education's decision not to investigate complaints two members of the Senate Committee on the Judiciary have characterized as "serious."

In my December 29 letters to the Committee membership, I stated that I had written to Assistant Secretary for Civil Rights Norma Cantú on August 3, 1993 to appeal OCR Region II's decision not to investigate my complaints. I critiqued OCR Region II's request for more information and maintained through point-by-point analysis that sufficient information had been provided in the original complaint I sent to OCR to initiate an investigation. OCR Region II had "administratively closed" the majority of the original complaint based on its reasoning that I had failed to provide sufficient information by a later deadline, but if enough information had in fact been provided initially as I maintain, the deadline is moot. I remind the Committee that Senators Carol Moseley-Braun and Arlen Specter characterized my complaints as "serious" based on the same information that the U.S. Department of Education determined was insufficient to warrant investigation. I also remind you that OCR Region II after "carefully reviewing" my original complaint had informed me in their February 12, 1993 letter that it would "be necessary for [me] to request a waiver of the timeliness requirement [180 calendar days of the last act of alleged discriminatory conduct]" and address this request to Regional Director Paula Kuebler. I had made this request in the third sentence of my January 26, 1993 letter to Paula Kuebler included with my original complaint. (The letters and critiques referred to here were enclosed with the materials sent to the Committee membership with my December 29 letter.)

Although the Office for Civil Rights has issued a letter of finding on my complaints against German professors (Case. No. 02-93-2051), i.e. "administratively closed" this case, OCR has not issued a letter of finding on the retaliation complaint my father filed against Princeton University administrators for their placing me on disciplinary probation after I had informed minority students of their right to file complaints against the university with the Office for Civil Rights. This retaliation complaint (Case No. 02-93-2092) has not been closed by any official regulations. OCR simply does not intend to investigate this complaint. It is incredible that Senator Specter could ignore this pending case, and it further suggests that he has no interest in insuring due process or equal protection for African-Americans.

In his closing, Senator Specter "question[s] the propriety of Judiciary Committee review over the issues [I] present." I came to this Committee because my family has been discriminated against by a federal agency responsible for enforcing civil rights laws. Senator Specter is suggesting that those responsible for enforcing the law may not be held accountable when breaking the law and, furthermore, that law enforcement officials may adjudicate and subsequently "administratively close" cases in which they have participated in the breaking of laws in order to escape appeals, scrutiny, and sanctions. Must there be an abuse of force on the part of the police before the Judiciary decides it has propriety over the issues? It appears that although Senator Specter has admitted that my complaints are serious, he has no moral qualms about condoning the U.S. Department of Education's decision to ignore them. My family and I are convinced he has not taken me seriously because I am an African-American male. If I were a woman alleging sexual harassment, the public officials with whom my family has dealt would have shown more sensitivity and concern. It seems the only African-American males whom public officials are concerned about are those of us who are incarcerated.

My family and I remain hopeful that Senator Specter's feelings are not shared by the Committee membership. We would appreciate a response from the Committee on our request by Wednesday, February 9 as we are now making preparations to publicly expose our complaints and experiences during Black History Month if it is necessary to continue our pursuit of equal justice. We have been fighting for more than two years now. We have not come this far to turn back.

Sincerely,

PAUL L. MCDONALD.
WALTER E. MCDONALD.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Environment and Public Works.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3208. A communication from the Principal Deputy Under Secretary of Defense, transmitting, pursuant to law, the Selected Acquisition Reports for the quarter ending June 30, 1994; to the Committee on Armed Services.

EC-3209. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing and Urban Affairs.

EC-3210. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to reduce the economic burden on United States-flagged merchant vessels by streamlining certain regulatory requirements, by expanding the delegation of the performance of marine safety functions to third parties, and by broadening the Coast Guard's marine safety authority to accommodate these changes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3211. A communication from the Secretary of Energy, transmitting, pursuant to law, a notice of delay in the submission of a report relative to energy management and conservation programs; to the Committee on Energy and Natural Resources.

EC-3212. A communication from the Deputy Associate Director for Compliance, Department of Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3213. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, a report relative to International Labor Organization Convention No. 174 and Recommendation No. 181; to the Committee on Foreign Relations.

EC-3214. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to international agreements other than treaties entered into by the United States within the sixty day period prior to August 11, 1994; to the Committee on Foreign Relations.

EC-3215. A communication from the Assistant Secretary of State, Legislative Affairs, transmitting, pursuant to law, a report relative to the authorized furnishing of defense articles to the Dominican Republic; to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM:

S. 2388. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of two vessels named *Gallant Lady*, subject to certain conditions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRYAN (for himself and Mr. GRAHAM):

S. 2389. A bill to reform habeas corpus procedures; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 2390. A bill entitled the "Mentorship for American Indian Small Enterprise Act"; to the Committee on Indian Affairs.

By Mr. SIMON (for himself, Mr. PRYOR, Mr. DECONCINI, Mr. METZENBAUM, and Mr. REID):

S. 2391. A bill to repeal the prohibitions against political recommendations relating to Federal employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JOHNSTON (by request):

S.J. Res. 217. A joint resolution to approve the location of a World War II Memorial; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself and Mr. DOLE):

S. Res. 249. A resolution to authorize testimony by an employee of the Senate and to authorize representation by the Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM:

S. 2388. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsement for employment in coastwise trade for each of two vessels named *Gallant Lady*, subject to certain conditions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION FOR THE VESSELS "GALLANT LADY"

Mr. GRAHAM. Mr. President, today I am introducing legislation which would grant a narrow waiver to the Jones Act for two vessels to operate in coastwise trade.

The vessels, both named *Gallant Lady*, would be authorized under the bill to be used to assist charitable organizations in their fundraising activities.

The waiver would expire if the owner sold the vessels. Further, the owner must agree prior to October 1, 1996, to have a vessel of at least 130 feet built by a U.S. shipyard.

I am hopeful the Senate will approve this legislation and look forward to working with my colleagues to ensure that the bill meets its narrow goals.

By Mr. PRESSLER:

S. 2390. A bill entitled the "Mentorship for American Indian Small Enterprise Act"; to the Committee on Indian Affairs.

MENTORSHIP FOR AMERICAN INDIAN SMALL BUSINESS ENTERPRISE ACT

Mr. PRESSLER. Mr. President, I rise today to introduce a bill creating the Mentorship for American Indian Small Enterprise [MAISE] Program. This legislation targets a portion of section 7(m) of the Small Business Act, the Small Business Administration's Microloan Demonstration Program, for Indian lands experiencing severe economic stagnation.

The concept of this legislation was born out of a hearing I chaired in Pine Ridge, SD, in September of 1993. The hearing, the first ever of the Senate Small Business Committee on an Indian reservation, was held on the Pine Ridge Indian reservation. Pine Ridge contains the Nation's poorest county on a per capita basis, vividly demonstrating the dire economic conditions that often have persisted on Indian reservations. The three panels of witnesses included tribal, State, and community leaders, as well as entrepreneurs and private lenders. While the testimony acknowledged and addressed the unfortunate circumstances existing on most Indian lands, witnesses focused on solutions to the problems that stunt job creation and entrepreneurial success.

Small business development will not and cannot be a panacea to the profound and complex problems that American Indians experience. Business opportunity, however, is a proven pathway to economic independence. My bill provides some of the tools necessary for American Indians caught in a seemingly endless cycle of economic dependency to break out of that defeating spiral. Although my greater MAISE concept will include welfare reform and tax incentives, committee jurisdictional complications prevent me from offering all of the program as a single piece of legislation. Nonetheless, the Microloan portion of the MAISE Program eventually could allow aspiring entrepreneurs to learn from established members of the local business community and put themselves firmly on the road to success.

As I mentioned earlier, there tools would be provided by modifying the SMA microloan Program, found under section 7(m) of the Small Business Act. This bill takes a comprehensive approach to stimulating economic growth on Indian lands by adding another tier of assistance to the existing Microloan Program. My bill would target a portion of the current program by requiring the SBA to select no less than the ten percent of participating intermediaries to provide loans and technical assistance to members of qualified Indian tribes. A qualified Indian tribe, as defined in the act, must have "an employable adult population of not less than 400 persons" and "an unemployment rate of not less than 40 percent." This reserve parallels a portion of the current program requiring at least 50 percent of intermediaries to serve rural areas. This reserve is not designed to act as a quota or mandate; rather, it is a primer for these particularly needy areas to become full partners in the SBA Microloan Program.

In addition to intermediary involvement, the legislation provides technical assistance grants to be awarded to institutions of higher education. Tribal, State, or private colleges or universities would provide training to intermediaries and established members of the business community—referred to as mentors in this legislation. With the cooperation of the intermediaries, these mentors would bolster their personal business knowledge with formal instruction so that they, in turn, could advise fledgling entrepreneurs.

The bill also amens the purposes for which microloans may be used. Under current statute, microloans may be used for "working capital or the acquisition of materials, supplies, or equipment." This bill would allow loans to be used for the purchase of commercial real estate in addition to these other purposes. Inexpensive real estate is readily accessible not only to businesses located on Indian reservations, but also to many businesses located in rural areas and cities. South Dakota's only participating intermediary in the SBA Microloan Program, the Northeast South Dakota Energy Conservation Corp. [NESDECC], recently informed me that almost half of the businesses seeking microloans from NESDECC would like to use such loans to purchase commercial real estate. NESDECC also stated that many buildings in the area it serves can be purchased for as little as $5,000. To allay fears that introducing real estate loans to the Microloan Program may jeopardize its revolving fund concept, my colleagues should know that this legislation does nothing to modify the $25,000 loan limit, or the $10,000 average loan portfolio requirement of the current law. I believe these two provisions provide an adequate safeguard against intermediaries making too many large, long-term loans.

Mr. President, I truly believe this program would be an excellent way for this Nation's Indian reservations to work their way out of economic stagnation. The Microloan Program was created specifically "to assist women, low-income, and minority entrepreneurs and business owners." By coupling intensive business assistance with access to credit, this program could be just the catalyst that budding American Indian entrepreneurs need to hone their skills and talents. Such a tremendous resource and such enormous potential must not continue to go to waste. The MAISE Program will transform ideas into reality and allow economically disadvantaged American Indians to declare social and economic independence.

The legislation I introduce today owes a great deal to the honest, straight forward testimony of people like Elsie Meeks, executive director of the Lakota Fund of Kyle, SD. At the Pine Ridge field hearing, Elsie explained the value of microenterprise development to Indian reservations. She stated that microenterprise development reaches out to the "poorest of the poor" and puts them on "the road to economic self-sufficiency." Despite the limited business skills and depressed economic conditions that surround these new businesses, the Lakota Fund maintains a default rate below 10 percent. Another microlender, the Sincangu Enterprise Center located on the Rosebud Indian Reservation, serves as another powerful example of how microlending can empower the once impoverished. Sincangu has been fortunate enough to have the support of Farmers State Bank of Mission, SD. Farmers State Bank, located just off of the Rosebud Reservation, has built a strong working relationship with the members of the Rosebud Sioux tribe, as well as with the Sincangu Enterprise Center. Cooperative efforts among this bank, Sinte Gleska University, and the people of the Rosebud area have allowed the Sincangu Enterprise Center to create over 30 new small businesses in the last 4 years.

Since last September, I have kept in close contact with many of the witnesses who testified at this hearing. They have been instrumental to the development of this bill. Their advice and assistance carries the utmost importance and credibility on this subject.

They are, after all, the individuals who live and work in these communities and deal with the problems there every day. Clearly, they know what it will take to make their communities prosper. I believe that this bill captures that spirit.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

(a) PURPOSES.—Section 7(m)(1)(A)(iii) of the Small Business Act (15 U.S.C. 636(m)(1)(A)(iii)) is amended—

(1) in subclause (I), by inserting "commercial real estate," after "acquisition of"; and

(2) in subclause (III), by striking "and" at the end;

(3) by redesignating subclause (IV) as subclause (VI); and

(4) by inserting after subclause (III) the following new subclauses:

"(IV) to make grants to eligible intermediaries that, together with non-Federal matching funds, will enable such intermediaries to provide marketing, management, and technical assistance to microloan borrowers that are members of qualified Indian tribes;

"(V) to make grants to institutions of higher education serving Indian lands that, together with non-Federal matching funds, will enable such institutions to provide instruction on marketing, management, and technical assistance to eligible intermediaries and to mentors, in order to enable such intermediaries and mentors to assist members of qualified Indian tribes to obtain private sector financing for their businesses, with or without loan guarantees; and".

(b) ESTABLISHMENT.—Section 7(m)(1)(B) of the Small Business Act (15 U.S.C. 636(m)(1)(B)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new clauses:

"(iv) in conjunction with loans made under clause (i) and subject to the requirements of paragraph (4), make grants to eligible intermediaries for the purpose of providing marketing, management, and technical assistance to members of qualified Indian tribes that are seeking to start or enlarge their small business concerns and that are borrowers under this subsection; and

"(v) subject to the requirements of paragraph (7), make grants to institutions of higher education serving Indian lands for the purpose of providing instruction on marketing, management, and technical assistance to eligible intermediaries and to mentors, in order to enable such intermediaries and mentors to assist members of qualified Indian tribes to obtain private sector financing for their businesses, with or without loan guarantees.".

(c) INTERMEDIARY APPLICATIONS.—Section 7(m)(3)(A)(i) of the Small Business Act (15 U.S.C. 636(m)(3)(A)(i)) is amended—

(1) in subclause (VII), by striking "and" at the end;

(2) in subclause (VIII), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause:

"(IX) with respect to eligible intermediaries serving Indian lands, any plan to work with—

"(aa) an institution of higher education that has received a grant under paragraph (1)(B)(v); or

"(bb) a mentor that has received training from any such institution of higher education pursuant to such a grant.".

(d) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended in the matter preceding subparagraph (A), by striking "subparagraph (B)(ii) of paragraph (1)" and inserting "clause (ii) or (iv) of paragraph (1)(B)".

(e) LOANS FROM ELIGIBLE INTERMEDIARIES.—Section 7(m)(6)(A) of the Small Business Act (15 U.S.C. 636(m)(6)(A)) is amended by inserting "commercial real estate," after "acquisition of".

(f) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) by redesignating paragraphs (7) through (11) as paragraphs (9) through (13), respectively; and

(2) by inserting after paragraph (6) the following new subparagraph:

"(7) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—Grants made in accordance with paragraph (1)(B)(v) shall be subject to the following requirements:

"(A) GRANT AMOUNTS.—For each eligible intermediary receiving a grant under paragraph (1)(B)(iv), 1 grant shall be made to a qualified institution of higher education serving the same tribal lands as the eligible intermediary. The amount of the grant to the institution of higher education shall not exceed the grant amount received by the eligible intermediary pursuant to paragraph (1)(B)(iv).

"(B) CONTRIBUTION.—As a condition of any grant made under subparagraph (A), the Administration shall require the institution of higher education to contribute an amount equal to 25 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

"(C) INDIAN MENTOR EDUCATION GRANTS.—Institutions of higher education receiving grants under paragraph (1)(B)(v) shall be eligible to receive grants to educate owners, managers, or employees of established small business concerns for purposes of providing additional technical assistance to small business concerns located on or near Indian lands that are borrowers under this subsection, as well as to other small business concerns seeking private sector financing.".

(g) INDIAN ASSISTANCE.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by inserting after paragraph (7), as added by subsection (f), the following new paragraph:

"(8) INDIAN ASSISTANCE.—In funding microloan programs, the Administration shall ensure that not less than 10 percent of the programs funded under this subsection will provide microloans to small business concerns located on or near Indian lands.".

(h) REPORT TO CONGRESS.—Section 7(m)(12)(F) of the Small Business Act (15 U.S.C. 636(m)(12)(F)), as redesignated by subsection (f), is amended by inserting "and to small business concerns located on or near Indian lands" immediately before the semicolon.

(i) DEFINITIONS.—Section 7(m)(13) of the Small Business Act (15 U.S.C. 636(m)(13)), as redesignated by subsection (f), is amended—

(1) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following new subparagraphs:

"(D) the term 'Indian lands' has the same meaning as in section 4(4) of the Indian Gaming Regulatory Act;

"(E) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act;

"(F) the term 'institution of higher education' has the same meaning as in section 1201(a) of the Higher Education Act of 1965;

"(G) the term 'mentor' means a business concern that demonstrates, to the satisfaction of the Administration, the capability to assist members of qualified Indian tribes to obtain private sector financing for their businesses, with or without loan guarantees; and

"(H) the term 'qualified Indian tribe' means an Indian tribe with—

"(i) an employable adult population of not less than 400 persons; and

"(ii) an unemployment rate of not less than 40 percent;

based on the statistics of the Bureau of Indian Affairs, Department of the Interior.".

SEC. 2. IMPLEMENTATION.

Not later than 270 days after the date of enactment of this Act, the Small Business Administration shall promulgate final regulations implementing the amendments made by section 1.

SEC. 3. REPORT TO CONGRESS.

Not later than 180 days after the effective date of the regulations promulgated in accordance with section 2, the Small Business Administration shall report to the Congress regarding the effectiveness of the amendments made by section 1 in improving the small business climate and promoting business development on or near Indian lands, as such term is defined in section 7(m)(13) of the Small Business Act.

SECTION-BY-SECTION ANALYSIS OF THE MENTORSHIP FOR AMERICAN INDIAN SMALL ENTERPRISE ACT

The Mentorship for American Indian Small Enterprise (MAISE) Act would stimulate job creation on or near Indian reservations through small business creation. This legislation would target a portion of the current Small Business Administration Microloan Demonstration Program (Section 7(m) of the Small Business Act) for small businesses located on or near Indian reservations. This legislation also would amend the existing statute to allow all microloans to be use for purchase of commercial real estate.

Section 1. Microloan Demonstration Program amendments:

(a) Purposes:

(1-2) Allows all microloans to be used for purchase of commercial real estate.

(3-4) Makes grants available to intermediaries for the purpose of providing technical assistance to prospective or established American Indian small business owners.

Creates grants for institutions of higher education serving Indian lands. These grants would be used by colleges and universities to educate intermediaries and mentors. Mentors would supplement intermediaries' efforts to assist new businesses and start-ups to offer technical assistance.

(b) Establishment:

(1–3) Establishes that technical assistance grants would be made available to intermediaries helping American Indian small business concerns to secure loans.

Establishes grants to higher education institutions for technical assistance to intermediaries and mentors to help American Indian small businesses secure loans.

(c) Intermediary Applications:

(1–3) Adds new intermediary application requirements for those serving Indian lands by asking for information regarding plans to work with colleges and universities that have received grants under this program, as well as plans to work with mentors.

(d) Additional Technical Assistance Grants:

Amends this reference to include new provisions for American Indian intermediaries.

(e) Loans From Eligible Intermediaries:

Allows all microloans to be used for the acquisition of commercial real estate.

(f) Grants to Institutions of Higher Education:

Establishes a new subparagraph (7) outlining provisions of the higher education grants.

Allows for one grant recipient serving an Indian land, which also has an eligible intermediary serving the same Indian land.

Requires the institution to supplement grants with non-Federal contributions of at least 25 percent of the Federal contribution.

Describes the purpose of the grant as a means of educating mentors.

(g) Indian Assistance:

Ensures that not less than ten percent of all intermediaries participating in the SBA Microloan Program provide microloans to small businesses located on or near Indian lands.

(h) Report to Congress:

Specifies that the SBA would report to Congress on the program's effect upon American Indian small business development.

(i) Definitions:

Provides definitions of Indian lands, institution of higher education, mentor, and

Qualified Indian Tribe—Indian tribe with a workforce of at least 400 persons and an unemployment rate of at least 40 percent.

Section 2. Implementation:

Regulations shall be promulgated by the SBA not later than 270 days after enactment.

Section 3. Report to Congress:

SBA would report to Congress not later than 180 days after regulations are promulgated.

By Mr. JOHNSTON (by request):

S.J. Res. 217. A joint resolution to approve the location of a World War II Memorial; to the Committee on Energy and Natural Resources.

APPROVAL OF THE LOCATION FOR THE WWII MEMORIAL

Mr. JOHNSTON. Mr. President, at the request of the Department of the Interior, I send to the desk a joint resolution approving the location of a World War II memorial.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the joint resolution, and the communication which accompanied the proposal from the Secretary be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 217

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas section 6(a) of the Act entitled "To provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99–652, 100 Stat. 3650), provides that the location of a commemorative work in the area described therein as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work may be located in Area I; and

Whereas Public Law 103–32, approved May 25, 1993 (107 Stat. 90), authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who served in World War II; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial may be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a World War II Memorial, authorized by Public Law 103–32, within either Area I or Area II as described in Public Law 99–652 (100 Stat. 3650), is hereby approved.

THE SECRETARY OF THE INTERIOR,
Washington, DC, August 8, 1994.

Hon. ALBERT GORE, JR.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft joint resolution, "To approve the location of a World War II Memorial." We recommend that the joint resolution be introduced, referred to the appropriate committee for consideration, and enacted.

Public Law 103–32 (May 25, 1993, 107 Stat. 90) authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who fought in World War II and to commemorate United States participation in that conflict.

The enclosed draft joint resolution would grant authority to consider location of the World War II Memorial in Area I, the area comprising the central monumental core of the District of Columbia as defined by Public Law 99–652 (November 14, 1986, 100 Stat. 3650; hereinafter referred to as "the Act".)

The American Battle Monuments Commission has made this request so that all sites within Area I and Area II as defined by the Act may be available for consideration as the site for the World War II Memorial. Section 6(a) of the Act provides that the Secretary of the Interior (the Secretary) may approve the location of a commemorative work in Area I only if he finds that the subject of the work is of preeminent historical and lasting significance to the Nation. That section further provides that the Secretary, after consultation with the National Capital Memorial Commission, shall notify the Congress of his determination that a commemorative work may be located in Area I. Further, the Act provides that an Area I location shall be deemed disapproved unless within 150 days of the notification it is approved by law by the Congress.

On September 2, 1993, the National Capital Memorial Commission recommended that the World War II Memorial is eligible for location within Area I. I agree with this determination, and find the subject to be of preeminent historical and lasting significance to the Nation. I recommend that the World War II Memorial may be located within Area I.

In accordance with section 6(a) of the Act approved November 14, 1986, notice is hereby given that I recommend the potential location of this authorized memorial in Area I, that through my designee, I have consulted with the National Capital Memorial Commission, and that I have determined that the World War II Memorial may be located in Area I. Under section 6(a) of the Act, the recommendation for Area I location shall be deemed disapproved unless, within 150 days after this notification, this recommendation is approved by law. Therefore, we urge prompt action on the enclosed joint resolution.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBITT,
Secretary.

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 1726

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Missouri [Mr. BOND], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1726, a bill to provide for a competition to select the architectural plans for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial, and for other purposes.

S. 1822

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 2081

At the request of Mr. GREGG, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2081, a bill to amend the Internal Revenue Code of 1986 to treat recycling facilities as exempt facilities under the tax-exempt bond rules, and for other purposes.

S. 2242

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr.

SIMON] was added as a cosponsor of S. 2242, a bill to establish a National Institute for the Environment, to improve the scientific basis for decision-making on environmental issues, and for other purposes.

S. 2288

At the request of Mr. GREGG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2288, a bill to amend the Internal Revenue Code of 1986 to provide that a foster care provider and a qualified foster individual may share the same home.

S. 2330

At the request of Mr. ROCKEFELLER, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. SASSER, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. METZENBAUM, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution expressing the sense of the Congress that any legislation that is enacted to provide for national health care reform should provide for compensation for poison control center services, and that a commission should be established to study the delivery and funding for poison control services.

SENATE RESOLUTION 249—AUTHORIZING TESTIMONY BY AN EMPLOYEE OF THE SENATE AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. FORD (for himself and Mr. DOLE) submitted the following resolution, which was considered and agreed to:

S. RES. 249

Whereas, the Department of Justice has caused a subpoena to be issued for the testimony of Mary Leblanc, an employee of the Senate on the staff of Senator George J. Mitchell, as a witness in connection with a pending investigation into potential fraud by private citizens in Farmers Home Administration programs;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas issued to them in their official capacities: Now, therefore, be it

Resolved, That Mary Leblanc is authorized to testify in conjunction with the law enforcement investigations or related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mary Leblanc in connection with the testimony authorized by section 1 of this resolution.

ADDITIONAL STATEMENTS

IN HONOR OF MS. GUADALUPE REYES AND EL VALOR: THE STRENGTH OF FEW THAT BENEFITS SO MANY

• Mr. SIMON. Mr. President, recently, I had the wonderful opportunity of meeting Ms. Guadalupe Reyes and visiting her organization, the El Valor Corp. Ms. Reyes founded El Valor, the first bilingual rehabilitation program for Hispanics in Illinois, to foster education and achievement for individuals with disabilities and their families.

El Valor works with government, business, individuals, and the community to prevent inner-city children and adults from falling behind and not reaching their fullest academic and intellectual potential. El Valor, under Ms. Reyes's leadership, continues to affect approximately 1,000 adults and children a year through positive and stimulating interaction.

Approximately 20 years ago, Ms. Guadalupe Reyes could not find a rehabilitation center for her son, Bobby, who had spinal meningitis. Since Ms. Reyes did not want to place her son in an institution and she could not find a center to help him, she took it upon herself to create one. Ms. Reyes believed that there were other families like hers, faced with a similar dilemma. She started an arts and crafts program in the basement of a church. When Ms. Reyes realized that the basement could not accommodate everyone who wanted to participate, she began to take out loans and El Valor gradually expanded to become the organization that it is today.

Since Ms. Reyes's first vocational programs in the basement of a church, El Valor has moved forward to address other concerns within the community. El Valor's latest undertaking is a program called Tocar el Futuro, or Touch the Future. Tocar el Futuro empowers the inner-city community to provide early intervention and educational awareness to benefit those who need it the most.

To grasp the strength of Ms. Reyes, one must look beyond El Valor. Ms. Reyes works with several other organizations to benefit her community and the rest of society. She works with the Harrison Parks Seniors. She recently was appointed to the Chicago Transit Authority Board. Her talents have passed onto her children; her daughter Mary Gonzales founded Pilsen Neighbors to motivate and unify her community.

Ms. Reyes has worked with companies and residents to expand vocational and rehabilitative services. Ms. Reyes is an advocate for her community and is driven to make a difference. She looks at her society and sees not what is wrong but what can be done.

I congratulate Ms. Guadalupe Reyes for her strength and care to create an extraordinary organization through her efforts. I congratulate those who work with Ms. Reyes and enhance the community through their own efforts. Imagine what could change in our society if every individual had the same spirit and energy as Ms. Guadalupe Reyes.•

COMMUNITY DEVELOPMENT BANKING ACT—H.R. 3474

• Mr. BOND. Mr. President, I strongly support H.R. 3474, the Community Development Banking Act. This conference bill reflects a true bipartisan compromise on legislation that addresses a number of key issues important to the American public and American businesses. The bill includes significant provisions intended to enhance the development of community development banking and small business capital formation, provisions designed to reduce bank paperwork requirements and provide bank regulatory relief, provisions to reform money laundering statutes, and provisions to reform the National Flood Insurance Program.

All titles of the bill merit support in my view. The community development bank provisions in title I of the legislation focus on helping to revitalize our distressed communities through the infusion of capital. These provisions also recognize the important contributions that traditional financial institutions can provide to distressed communities by allowing banks and other entities to form community partnerships with community development financial institutions.

Title II of the legislation is designed to increase the ability of small businesses to access capital by removing existing impediments to the securitization of small business loans. Small business is the backbone of our Nation's economy and part of the American dream. It is high time that we take steps to ensure the availability of credit to these businesses. I hope that these provisions will help create new jobs and stimulate economic growth.

Title III of the bill provides a number of important provisions intended to reduce paperwork and regulatory burden on financial institutions through measures which require the bank regulatory agencies to streamline rules and regulations, coordinate examinations, modernize reporting, and establish a regulatory appeals process. These provisions are a critical first step and I trust that we will be able to continue to address unnecessary regulatory burden on banks in future bills and in the next Congress.

Title IV of the legislation makes a number of reforms and changes to existing laws regarding money laundering. These provisions should reduce the regulatory burden on financial institutions while providing better safeguards against money laundering schemes.

Title V of the bill provides a number of comprehensive reforms to the National Flood Insurance Program. I have been deeply involved in the development of this legislation and consider its enactment critical. In particular, two of the largest rivers in the world run through Missouri, and the State also claims a number of major tributaries. Because of the tragic flooding of 1993, it should be clear to everyone that for Missouri to continue to prosper, our citizens must be able to insure against the possibility and, in a few cases, even the probability, of flooding. Currently, almost 15,000 Missouri policies provide more than $760 million in flood insurance coverage for homes and businesses.

The key elements of the flood insurance reform legislation include strict requirements to ensure the placement of flood insurance on properties in flood-prone areas; an increase in flood insurance coverage; the establishment of a community rating system to provide premium rate credits for communities that implement land use and loss control measures that exceed minimum criteria; and the establishment of new programs for mitigation assistance.

I, however, do want to make it clear that the National Flood Insurance Program is not intended to provide the Federal Government with a backdoor for implementing environmental policies by overriding local land use control and decisionmaking. In particular, the bill conferees specifically removed a House provision that would have established an environmental purpose for the National Flood Insurance Program. Again, I emphasize that the Federal Government should defer, whenever possible, to State and local land use decisionmaking.•

IN HONOR OF PROF. LOUIS STERN: THE 1994 AMA/ERWIN DISTINGUISHED MARKETING EDUCATOR

• Mr. SIMON. Mr. President, it is with great honor that I congratulate Prof. Louis W. Stern for receiving the AMA/Erwin Distinguished Marketing Educator Award for 1994. He received the AMA/Erwin Award on Sunday, August 7, at a ceremony held by the American Marketing Association. Mr. Stern is the 10th individual to have received this award.

As Representative PETER W. BARCA states, "Louis Stern is known as the father of modern channels research, having introduced the concepts of power and conflict to marketing channels."

Professor Stern shares his knowledge and creativity through his various publications that involve marketing management, behavioral science, and law. He continues to dedicate his talents to higher education at Northwestern University's Kellogg Graduate School of Management.

Again, I congratulate Prof. Louis Stern for his award and wish him well in his future endeavors.•

AUTHORITY TO TESTIFY WITH REPRESENTATION

Mr. DASCHLE. On behalf of the majority whip and the Republican leader, I send a resolution to the desk authorizing a Senate employee to testify with representation, and I ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that a statement by Senator FORD appear at the appropriate place in the RECORD.

Mr. DURENBERGER. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, the Department of Justice has caused a subpoena to be issued to a Senate employee on Senator MITCHELL's staff named Mary Leblanc to testify in connection with a pending investigation into potential fraud in Farmers Home Administration programs. The Justice Department's investigation is into possible wrongdoing by private citizens in connection with applications for Federal loan assistance. The Department has advised the Office of Senate Legal Counsel with regard to this subpoena that no wrongdoing by anyone on Senator MITCHELL's staff is in any way involved.

In response to this subpoena, this resolution would authorize Mary Leblanc to testify in this investigation and to be represented by the Senate Legal Counsel.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 249), with its preamble, is as follows:

S. RES. 249

Whereas, the Department of Justice has caused a subpoena to be issued for the testimony of Mary Leblanc, an employee of the Senate on the staff of Senator George J. Mitchell, as a witness in connection with a pending investigation into potential fraud by private citizens in Farmers Home Administration programs;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to subpoenas issued to them in their official capacities: Now, therefore, be it

Resolved, That Mary Leblanc is authorized to testify in conjunction with law enforcement investigations or related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Mary Leblanc in connection with the testimony authorized by section 1 of this resolution.

ORDERS FOR TUESDAY, AUGUST 16, 1994

Mr. DASCHLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m. Tuesday, August 16; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each, with Senator METZENBAUM recognized to speak up to 15 minutes; and that at 9:30 the Senate resume consideration of S. 2351, the Health Security Act; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. DASCHLE. Mr. President, I ask unanimous consent that upon the conclusion of the remarks by the Senator from Minnesota, the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank again my colleague from Minnesota and I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, I really appreciate the indulgence of the Senator from Hawaii, who is currently occupying the chair. The hour is late and the majority leader has already announced that we may be here all night and morning tomorrow. So I wish to express, as I begin my comments, my appreciation to him and maybe more particularly, since he is elected to do that, to all of the staff here at the same time who are not able to leave until I finish this statement.

The comment by my colleague from South Dakota about health care reform, about an understanding of Government's role, reminds me that we are going to be here for quite a while. If we cannot understand the difference between the Federal Employee Health Benefit Plan and Government-run programs like Medicare and Medicaid, I, for one, am going to spend a lot of time here educating my colleagues, and I do not want anybody to call it a filibuster.

The Federal Employee Health Benefit Plan, or plans, if you will, are a series of health plans which all of us have an opportunity to buy. But they are all private plans everybody in this community can buy if they have an employer who provides it to them or they can buy it in the open market.

There are Blue Cross/Blue Shield plans in that, and I think there is a Kaiser plan in this community, but they are private plans. What they do is ensure all of our access to the doctors, hospitals, and so forth, that we need in this area—Washington, DC, northern Virginia, Maryland, and so forth—but it is basically a private plan.

It is an American system. The doctors and hospitals set the fees. They charge the insurance companies. The insurance companies pay the bills. You pay your deductible or your cost share, something like that. That is an American system. This one happens to be very costly.

I can get the same health plan in Minnesota for half of what I pay for it here, for example, and you are all paying 72 percent of that bill. But it shows you that health care costs in one community can differ substantially from another.

My son and his wife just had a child by cesarean section in St. Paul, MI. It was about $6,000 for the doctor and hospital bill. Here in this community it is like $14,000, $15,000. That is why your health care expenses are so high in this community. But it is still basically your American system.

But inside that American system we run a Canadian system. We run it right here. For the poor, it is called Medicaid because they are welfare eligible. For the elderly, it is called Medicare. For people with disabilities, it is Medicare. But it is run by the Government. All the prices are set right here by the Government, just like in Canada. There are 7,000 procedures that doctors can use and each one has a dollar value, and we set that value, or it is set over here, just like Canada. There are 468 procedures in hospitals. Every one of them has a price put on it by a Government agency and that is what is paid. Every year we decide how much money we are going to spend on Medicaid—we, the Government—and Medicare. And to the extent that the cost to the doctors and hospitals goes up faster than what we pay, what do you suppose happens to the difference? The difference is shifted onto the private system here in the District of Columbia or back home.

So make no mistake about it, we are running a Canadian system right inside America, in every community in this country. It is called Medicare and Medicaid.

It is about time we stopped it. It is about time we stopped it. If we did not have an American system around onto which we could shift the bills, we would be in trouble because you cannot keep working for 59-cent dollars if you are a doctor. You cannot keep working for 71-cent dollars if you are a hospital. It does not work. So only the cost shift makes it possible to keep doctors and hospitals serving Medicare and Medicaid patients.

But suppose everybody were in a Government system and all doctors got paid 59 cents on the dollar and all hospitals got a buck on the dollar. You would not have doctors and hospitals. That is what is happening in Calgary, and that is what is happening in Canada. If the Canadians did not have a United States, there would not be any medicine in Canada, and it would cost a lot more.

So when people make these comparisons about how cheaply it is done up there, and so forth, versus what is done down here, remember, the same thing is happening right here in your own community.

Health care reform used to be, and maybe still is, possible. But Bill Clinton says we cannot find an immediate solution to the health care reform problem because BOB DOLE "never stops moving to his right." How many times have we heard that statement? BOB DOLE keeps moving to his right so we cannot get him to stop and get health care reform.

Well, BOB DOLE about 5, 6 weeks ago decided he was not moving anymore, if that is what they were accusing him of. He introduced a bill with 40 Republicans on it, and he stopped moving. There it is.

There it is. So we are waiting for President Clinton to decide how close to BOB DOLE he is going to come. That is what this whole issue is all about. The other fear in all of this, and let us say that is Bill Clinton's problem right now, he cannot figure out if he is fearful of what BOB DOLE might do. I doubt that he might fear BOB DOLE might move any further. BOB DOLE's concern is there are four Republican Senators who might sign on to a modified version of Senator MITCHELL's bill thus depriving him the power of the filibuster. That is the other side of this problem. If the Mitchell bill is as bad as we all say it is, and I believe it is—I will not take your time tonight to debate that, you can understand why the minority leader, the Republican leader, with the responsibility riding on his shoulder—83 percent of my phone calls from Minnesota, and over 2,000 we have gotten, are all negative on this health reform bill. Look at the responsibility he has. He has four Republican Senators that might switch, leaving him with only 40 votes. What does he do? So unfortunately, a lot of this debate is driven by leadership concerns.

Tomorrow those of us in the so-called mainstream rump group on our right will present our package of bills. It is very similar to the bill that Senator CHAFEE and others put together called S. 1770, as modified by the work we did on the Finance Committee, the learning curve that we have all been on; very bipartisan arrangement. We had 17 Members at the last meeting, Democrats and Republicans. It is no longer just a handful of us. It certainly is not just three Republicans who started out on it.

Tomorrow, I understand SAM NUNN and PETE DOMENICI and DAVID BOREN and BOB BENNETT will also put in a bipartisan bill. So you will have two major bipartisan pieces of legislation, and Senator DOLE's bill with 39 other Republicans on it. Then the question is going to be for the people on this side of the aisle, when are you going to move it? They are going to suggest to us that we ought to go through an amendment process in order to bring us to the middle. I am here to tell you that is not possible.

As I said earlier, I am on both of these committees. I have been through this several times already—the drafting process, and putting bills together. I am a cosponsor with JOHN BREAUX on a bipartisan bill which has now moved to its right, passing CHAFEE on its way, if you will. You cannot amend that bill. We would be here until the first of the year, if we were going to try to amend that Mitchell bill, not just because it is in its third iteration, because it was too complicated to begin with.

Our staffs for a dozen committees spent literally 4 straight days last Friday, Saturday, Sunday, and Monday—not this past week, but the weekend before that—going through the first iteration of the Mitchell bill. They came to us frustrated at the end of the day on Monday saying that you cannot amend it. You will not believe this language.

So it is not hardhearted filibustering over here. It is people for the most part with a genuine concern for doing health policy right who have looked at that bill, and said as a practical matter we cannot stand here, even if we got off of our opening speeches, finally, and got to the heart of this debate—we cannot stand here and make this bill what the American people deserve.

There is clearly a concern also articulated by an article today which I will ask unanimous consent be printed in the RECORD in full at the conclusion of my remarks, by Bill Safire in the New York Times called, "Why the Rush?" in which he talks among other things about, "The health care push, on the contrary, is now seen by voters for what it is: a return to Great Societyism." That is a characterization of Clinton-Mitchell.

After calling the Dole-Packwood insurance reform bill sensible, he says:

> Mitchell's first fallback position was launched as a bill to set up a compromise with a group headed by Republican Senator John Chafee of Rhode Island.
>
> Chafee had been placed at the head of the bipartisan group that has labeled itself "mainstream," not so subtly suggesting that conservative opposition to Government-dominated medicine is extremist.
>
> Obviously, Chafee is using Mitchell's liberal bill as his lodestar.

To that, I say bull. We have invested on this side of the aisle 4 years in reform breakfasts, every Thursday morning starting in August 1990, just down the hall; for an hour every Thursday morning with lots of Republican Senators. Last fall, 20 Republican Senators signed up on a John Chafee bill.

So this notion that somehow or other a rump group with CHAFEE put in charge of it is—what does he call it?—"using MITCHELL's liberal bill as his lodestar," that somehow or other we are here sneaking a Democratic bill through a Republican caucus just does not hold up.

So for those of you who think that everyone seems around this place as William Safire obviously does, maybe as some people hope, I am here to tell you there is no truth to it.

Partisan rhetoric, Mr. President, is what this debate has been characterized as. I would characterize it more as a lack of problem definition, and a substantial difference on solution as we have gone at the health care reform debate so far.

One issue in particular needs clarification. That involves what is called the standard benefit package. I have been reading since I discovered the material from the Progressive Policy Institute. Let me tell you what the Progressive Policy Institute is, although the current Chair may know what I am talking about. It is a project of the Democratic Leadership Council. It is a center for policy innovations, to develop alternatives, a conventional left-right debate. Thank God somebody is doing it.

Anyway, from the publication they put out in June of this year, let me read:

> The key issue in health care reform is this: Where should responsibility for restraining costs be lodged, in the Government or in market? PPI supports a decentralized approach, seeks to harness the power of choice, competition and market incentives to control cost, to enhance quality, to reward efficiency, to encourage innovation, and to empower consumers. It promotes individual responsibilities instead of bureaucratic micromanagement as the remedy for our current cost-unconscious health care plan.

It is a terrific presentation. They point out some of the problems in the current system. The main problem they say is what is called risk skimming in the insurance business. This is a process by which health insurance companies compete with each other by avoiding risks rather than managing them—risk skimming, in which health insurance companies compete by avoiding risks rather than managing them.

What is the answer to that? It says here on page 8: "Create a standard benefits package."

If you do not like risk skimming or risk avoidance, because it leads to cost unconscious health care financing, then the answer is to create a standard benefits package. This gives consumers a basis for comparing competing plans, like we do in the Federal employee health benefit plan, one of the few places in America where you can actually open up the book, and you can actually compare the plan. But you have to have a standard benefit package in order to compare these plans. It is not some Government scheme. It is simply a way to make a comparison, like opening up the catalog, whichever catalog you get in the mail, and see the statistics for your golf hobby, compare golf clubs, compare golf bags, and compare golf balls. That is basically what we are talking about here; competing, comparing, plans. It prevents insurers from segmenting the market by offering customized packages of benefits.

Alain Enthoven illustrates the problem of segmenting in this way: Imagine two health plans, one that offers vision care but no podiatry, and another that offers podiatry but no vision care. People with bad eyes and good feet sign up for the first plan; those with good eyes and bad feet sign up for the second. Differences in price will be irrelevant to people who choose a plan because it meets their particular needs.

Some Republicans have equated the standard package with the loss of freedom, loss of choice, loss of all of this sort of stuff we are going to lose.

Some Democrats have equated the standard benefit package with a giant entitlement program which describes every kind of a service you could possibly imagine jammed into this program. So no wonder it is confusing to people watching it.

So tonight I want to step back to the first principle and try to put a context on the discussion, and then I will suggest to my colleagues why the Dodd amendment, which is the pending business, is not good for the health of moms and babies, why a benefit package is part of insurance reform. I have already laid the ground work for this.

There seems one element of health care reform everybody wants included, and that is insurance reform. The idea of a standard benefit package is essential to insurance market reform. We all seem to agree on many of the elements—guaranteed issue, renewability, limits on preexisting conditions—but we cannot have informed consumers purchasing health plans on the basis of price, value, satisfaction with the services and quality, unless there is a similarity or a comparability about the product that is being sold.

There are 27,000—get this—in the State of North Carolina, there are 27,000 Blue Cross-Blue Shield plans. Every one of them is different. I do not mean 27,000 people with Blue Cross-Blue Shield plans; I mean 27,000 different Blue Cross-Blue Shield plans. They are going after the people with the good feet and this sort of thing. That is what is going on out there today. There are 1,400 insurance companies who are all looking for healthy people to sell insurance to.

Contracts present a confusing array of options, exclusions, and fine print. People are frustrated even if they have a choice when they discover what they bought is not what they thought it was. Let me tell you about a policy sold to the daughter of one of my staff in the State of Florida. It was offered to graduate students—she had become a graduate student at the University of Florida—by a private insurance company. She is a 24-year-old single woman. The policy excludes sports injuries, reproductive services, injuries associated with the use of drugs and alcohol, and has a lifetime limit of $200,000, and no coverage for outpatient services. The policy excludes 90 percent of what a 24-year-old woman is likely to use and, God forbid, she gets a serious illness, because in Florida, a $200,000 lifetime limit is not going to get her through a catastrophe. So the price is low, only $500 a year. She is going to discover that it is not real coverage when she experiences health problems.

We need some standardization so consumers can exercise real choice, and we need it so we can protect consumers from risk selection through benefit design.

The Senator from Texas said earlier that 85 percent of Americans have health insurance, and most of them are happy. That is not true. It is true they have health insurance, but they are not happy. Many do not have any choice. Others know they are paying a higher price for the same product than somebody who lives next door and works for another company in the same town. We would not have started doing health insurance reform 4 years ago if all the Americans who had insurance were happy with it. They are not.

My friend, DON NICKLES, has a 22-year-old daughter who bought one of those $500 plans. He does not know yet what she bought. I hope he is listening. What DON does not know if, in fact, the law permitted him to include her on the FEHB plan, or whatever it might be, it would probably cost him and his wife $100 a year, maybe not even that.

Whether people buy an HMO or PPO, or whatever it is, everyone choosing a plan in this program knows what they are buying. What am I talking about? I am talking about the Health Insurance Plan of California, HIPC. This is like the Federal Employee Health Benefit Plan, an HMO product. They have indemnity products, and so forth. This is the HMO product. What this has is a list of the benefits on the left-hand side, and then what you must pay to get that benefit, and what some of the services are that are described in that. But the important thing is over here on the left-hand side.

This is not a list of all the services available to you; it is a list of the basic benefits to which you are entitled. And all this does is help you as a consumer compare among all the plans that are offered. Somewhere in the back of this book it lists each of the plans. You can go through each, the Sharp Health Plan, the Qual-Plan, the Smart Care Plan, and so forth. And you can get the detailed information of those plans. This is the heart of it. This is the comparison. Benefits are over here—1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, up to 14 benefits. By comparison, the Mitchell plan has 16 benefits and myriad services. The Finance Committee bill has 12 benefits. But it does not have a whole lot of services listed.

Well, the benefit plan really got its origin around here in the Federal Employee Health Benefit Plan. While we are debating whether our benefits ought to be 61 pages in length, which is a whole list of services, or just one page in length, like the Finance Committee package. Let me remind everybody that the Federal Employee Health Benefit Plan, which all of us have, is described also on one page. We do not need 61 pages of services. We do not need—and I will get to this in a minute—all of this stuff the Senator from Connecticut wants us to ram into every health plan in America. Yet, the FEHBP benefit plan is pretty simple: Hospital, surgical, in-hospital, ambulatory, supplemental, and obstetrical. Under the indemnity benefit plan are similar categories. In the Finance benefit package, there are: Inpatient and outpatient care, including hospital and health professional services, emergency services, and clinical preventive services, mental illness and substance abuse, family planning services, family planning services and services for pregnant women, prescription drugs and biological, hospice care, home health care, outpatient lab, radiology, and diagnostic, outpatient rehabilitation services, vision care, dental and hearing aids for kids under 22. That is it.

Where do the services come? They sure do not come in here, if you are smart. The services come in the plan you buy in the District of Columbia, northern Virginia, or Maryland. That is where you find all of the services. Every year you determine how well your plan is doing with the services they have agreed to provide to you. But benefits are categorized like these 12 basic benefits for the purposes of comparison, not for the purposes of making sure the chiropractors get in every plan, or that we have, as the Senator from Connecticut suggests, a periodicity schedule in all of our insurance plans in America. That is not the purpose. The services come from the plan you buy. The services are developed by your relationship with the medical professionals in your community. The benefit package is put in the statute in its 12 components, and in the case that we recommend, elaborated on by a benefit commission.

A category of covered benefits is a general term, like I have illustrated—hospital, outpatient care, whatever. It incorporates thousands of items, such as bandages, pacemakers, cancer surgery, office visits. You do not have to put that in a statute in order for you to be entitled every year to a choice of plans that will give you that service. But you need a basic benefit set by which each of these plans can be described so that you can be protected from the skimming, so that you have the information to which you are entitled as a buyer at which you can compare all of these plans.

So what has happened to the concept of a basic or standard benefit package? It fell into the hands of the task force at the White House, and it was captured by special interests of all kinds. What was once a tool to help the market work better for people got subverted into a giant entitlement program.

Clinton had 61 pages of detailed and specific items and services. I am going to read to you just one of those pages. This is under "Durable Medical Equipment and Prosthetic and Orthotic Devices."

(a) COVERAGE.—The items and services described in this section are—

(1) durable medical equipment, including accessories and supplies necessary for repair, function, and maintenance of such equipment;

(2) prosthetic devices (other than dental devices) which replaces all or part of the function of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices;

(3) accessories and supplies which are used directly with a prosthetic device to achieve the therapeutic benefits of the prosthesis or to assure the proper functioning of the device;

(4) leg, arm, back, and neck braces;

(5) artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition; and

(6) fitting and training for use of the items described in paragraphs (1) through (5).

What is the point of all this? What is the point of all of this? What it does is handicap your doctor and your plan from being creative because once it is put in the law you cannot change it. We have not changed the statute and other descriptions of the health benefit plan since 1960. So once you decide colostomy bags are in and out that is it for colostomy bags.

So, this looks like Congress making promises to provide lots and lots of specific items and services. Whatever happened to the doctor making judgments? What happens to innovation? What happens when there is a new procedure or treatment?

My friend CONNIE MACK is right to be concerned about this. He expressed concerns on Saturday. It is bad enough that the President wanted Congress to draft benefit contracts in legislation, not satisfied with Congress creating a benefit contract in legislation. Senator MITCHELL goes even further. He has removed some legislative detail, but he creates a huge regulatory bureaucracy called the National Health Benefits Commission with a long list of powers and regulatory activity.

And instead of having all this detail, or quite all this detail, he creates his National Health Benefits Board which will:

First, promulgate regulations and establish guidelines;

Second, establish and update periodicity schedules for items and services, including clinical preventive services;

Third, design mental illness and substance abuse services;

Fourth, establish criteria for determinations of medical necessity or appropriateness;

Fifth, set up procedures for determinations of medical necessity and appropriateness;

Sixth, issue regulations and guidelines to be used to make determinations of whether items or services are medically necessary and appropriate;

Seventh, recommend to the Secretary specific areas for which priorities should be given to undertake clinical trials or establish practice guidelines;

Eighth, establish cost-sharing schedules;

Ninth, develop legislative proposals for modifications to the actuarial equivalence provisions;

Tenth, undertake studies on the costs of adding dental benefits for adults, in vitro fertilization coverage, substance abuse cost sharing.

This is not private insurance. It is a big Government bureaucracy just like all my colleagues have been describing it. It smells like HCFA, which is a huge bureaucracy employing over 4,000 people in Baltimore to price 7,000 medical services and nearly 500 hospital billing codes called DRG's.

What do we do now, Mr. President? We must go back to basics.

So do we junk the concept because it has been completely subverted by our left.

No, we go back to basic principles.

In his remarks Saturday my colleague CONNIE MACK praised the FEHBP program for the choices it provides.

FEHBP has a standard benefit package. I have just described it to you. It is one page in length, same size as the Finance Committee, only the Finance Committee has 12 amendments in it.

The FEHBP has an implementing body. It is called the Office of Personnel Management. OPM has approximately 118 people in it like the huge resources department in a large corporation.

It issues what looks like a set of guidelines or instructions. It is called a call letter. They take this one page that is in the statute and then they issue to all the health plans in this area, for example, something called a call letter, in which they invite plans to submit annually what their bids would be. That is the way it works.

It sets up the parameters upon which those health plans and insurers offering to see or compete in the FEHBP market, what conditions they must meet.

Lots of insurers bid to offer the categories of benefits along the parameters that OPM sets forth in their call letter. OPM is not a regulatory agency.

OPM has 117 employees working on all aspects of FEHPB. HCFA has 4,000. OPM does not decide what your doctor can and cannot do as to specific items and services, specific procedures and treatment. OPM is the human resources department of the company we all work for.

Thus, my friends CONNIE MACK and DON NICKLES see that program as one that is the epitome of choice.

So, Mr. President, this is the model for the mainstream moderate proposal. That was the intention in the original managed competition approach.

How does it work?

Congress sets forth the broad parameters—actuarial limits, broad categories of benefits, and a body like OPM to administer it.

That is it. The board does not regulate. The board does not substitute its decisions for those of doctors. The board, like OPM, defines the structure in which the choices are offered.

The result—the health plans, the doctors and the hospitals are free to provide the medically necessary or appropriate items, services, procedures that fall within the broad categories of benefits.

People can choose on the basis of price and quality, on the basis of satisfaction, proven performance—that is, results. They can choose with reasonable certainty that there is real coverage, not selection on the basis of gamesmanship which benefits only insurers.

No longer are people going to be cheated by insurers trying to cherry pick healthy people out of the pool and leave out the sick.

My colleague Senator MITCHELL assumes people cannot make choices of services in a health plan. It is true that they can't if we don't make benefits comparable, services understandable, and results public. This issue is not choice, the issue is informed choice through useful information.

The result: consumer protection; consumer information; more competition on price, quality, and satisfaction.

I want to point out to my colleagues that we are likely to have many, many amendments on the benefit package. They will likely require more items and services to be covered. These amendments came from the left and the right. On my side of the aisle, there was an amendment to include a specific service—flexible sigmoidoscopy—in the package. Later we heard angry voices from the barium enema supporters saying if you put in the flexible signoidoscopy benefit, you must put in the barium enema.

Others pushed to get specific providers groups into the benefit package. My colleague from South Carolina, Mr. THURMOND, had an amendment to include chiropractors.

On the Democratic side, mostly the push was for more specific benefits—more for women, more for children, more for the disabled, and so forth.

This is just a replay of State-mandated benefits elevated to the Federal level. States have already mandated that every benefit package include a whole series of benefits. States are telling DON NICKLES what he has to buy now. And many of those specific items and services—hair loss in Minnesota, for example, or massage therapy in Florida—are probably not high on DON's list or his family's list.

They will be packaged in politically irresistible ways—more for children, more for the disabled, more for women, more for mentally ill, more for whatever other group in the society has champions in Congress.

Members will be hard pressed to resist. We are not known for our ability to say no.

We are famous for mandating services, not paying for them. That is why the FEHBP and HMO and five pages of benefits are bound by dollar limitations. Guess which competing plans have to bid for services? Do not be fooled, Mr. President. This is politics as usual.

It is not surprising that the first two amendments that have been proposed are for more mandated benefits, one by our colleague from Connecticut, and the other by our colleague from Iowa, with whom I serve on the Labor Committee, and that one deals with people or persons with disabilities. That is where I want to conclude my remarks.

As I recall the amendment by my colleague, the amendment of the Senator from Connecticut reads as follows on behalf of himself, Mr. KENNEDY, and Mr. RIEGLE:

> (1) IN GENERAL.—During the interim standards application period, a health plan sponsor may only issue or renew a health plan in a State if such plan covers clinical preventive services according to a periodicity schedule established under paragraph (3), including prenatal care, well baby care, and immunizations, for pregnant women and children without imposing cost-share requirements on such services.
>
> The Secretary shall establish a schedule of periodicity that reflects the general, appropriate frequency with which clinical preventive services should be provided routinely to children.

Do you know what this is going to end up becoming, if she ever gets it out? It will probably take 10 years to get out the regulation, and by then, all of the rest of this bill will have been implemented. But if she ever gets it out, it is going to be the best guess about how many visits she ought to have to a doctor before a delivery, and how many you want to have afterwards.

I have to tell you, Mr. President, that is not the way the real world works. That is not the way the real world works.

And I am just a recent expert, having lived with my first grandchild, through my eldest son's first venture as a father. The poor kid is so nervous, and every day there is something wrong, where their kid is not doing this, not doing that; she is drooling at the mouth and they want to rush to see the doctor. Fortunately, they have a health plan and a relationship with the doctor that has a way to express that. They pick up the telephone, dial a number, describe what is wrong, and get some reassuring advice.

The Secretary is going to decide this.

There is a schedule of services and so forth. It is flexible, depending upon the kid, depending upon the language barriers, depending upon the culture, depending on so much.

Forty percent of Hawaii is Asian. I will bet you some of those children are somewhat different, and it is kind of different from the kind of clinic you are going to find in a predominantly Spanish-speaking area—not drastically different, but hopefully different, adjusted to the family, the individual involved, and so forth.

That is really what you want. You do not want the Secretary of HHS deciding this, when you have this precious little thing, whether it is not yet born or just born. You want a relationship between the mother and a caregiver to develop the kind of care that little kid needs. You want a health plan that is intended to help the mom carry that child to term. That is what you want.

U Care—a Minnesota managed care program specifically designed to meet the needs of low-income individuals—will call women who miss prenatal checkups and, if necessary, will pay for taxis or babysitters so they can make their appointments. If the woman does not have a phone, they will even have one installed during the pregnancy.

Why? Because if that baby delivers a couple of months short, a pound and a half, something like that, think of what the costs are to the health plan.

Health Partners of Philadelphia has a program called "Little Partners." Trained women from the local community—and this is why you take into this the race, culture, and community, in the most appropriate sense of the word—trained women from the local community make home visits to pregnant women and infants through their first year of life.

Other plans lure patients to their appointments by providing free diaper service, baby care seats, or baby bunting. Baltimore's Prudential Health Care Plan found that what works best for their enrollees is to pay low-income pregnant women $10—pay them $10—every time they come in for a prenatal visit.

Now, there are some folks over here who would say, "Why do they have to pay them to come in? They ought to pay to come in."

You know, this is the way it is. If you care about the kids, you have to go out of your way to care about the mom. And to have the Secretary of HHS decide by some rule and some regulation that all moms are alike and all pregnancies are the same and we can put it into law does not make any sense.

But you cannot tell that from the bleeding-heart rhetoric which we have been hearing for the last 3 days from our colleagues—we are not doing enough for mothers and children, and infant mortality.

I can show you infant mortality statistics that come down when you give a health plan—I got them from Kaiser; I can get them from other people—when you give the plan an incentive to keep moms healthy, they go out of their way to do it.

Mr. President, I know this little explanation went longer than I thought. I am very grateful to you and other Members, and I am grateful, particularly, to staff for staying through this whole thing and allowing me to finish my comments.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:55 p.m., recessed until Tuesday, August 16, 1994, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate August 15, 1994:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

KENNETH BURTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 2 YEARS. (NEW POSITION.)

D. MICHAEL RAPPOPORT, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 2 YEARS. (NEW POSITION.)

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 16, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 17

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1821, Comprehensive Fetal Alcohol Syndrome Prevention Act, S. 1781, Black Lung Benefits Restoration Act, S. 1037, Justice for Wards Cove Workers Act, proposed legislation to reform civil and criminal money penalties, and proposed legislation authorizing funds for the Nurse Education Act, and to consider pending nominations.

SD–430

2:00 p.m.

Judiciary

To hold hearings on the nominations of William C. Bryson, of Maryland, to be U.S. Circuit Judge for the Federal Circuit, Salvador E. Casellas and Daniel R. Dominguez, each to be a U.S. District Judge for the District of Puerto Rico, and Sarah S. Vance, to be U.S. District Judge for the Eastern District of Louisiana.

SD–226

AUGUST 18

9:30 a.m.

Armed Services

To resume hearings to examine the military implications of the Chemical Weapons Convention (Treaty Doc. 103–21).

SR–222

Judiciary

To hold hearings on the nomination of Lois Jane Schiffer, of the District of Columbia, to be an Assistant Attorney General, Department of Justice.

SD–226

10:00 a.m.

Foreign Relations

Business meeting, to mark up S. 1329, to provide an investigation of the whereabouts of the U.S. citizens and others who have been missing from Cyprus since 1974, and to consider H. Con. Res. 215, honoring James Norman Hall and recognizing his outstanding contributions to the U.S. and the South Pacific, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Doc. 103–24), and pending nominations.

SD–419

Judiciary

To hold hearings on the nominations of Nancy E. Gist, of Massachusetts, to be Director of the Bureau of Justice Assistance, Laurie O. Robinson, of the District of Columbia, to be Assistant Attorney General for the Office of Justice Programs, Jan M. Chaiken, of Massachusetts, to be Director of the Bureau of Justice Statistics, and Jeremy Travis, of New York, to be Director of the National Institute of Justice, all of the Department of Justice.

SD–628

AUGUST 29

10:00 a.m.

Environment and Public Works

Clean Air and Nuclear Regulation Subcommittee

To hold hearings to examine the potential health effects resulting from radium nasopharyngeal irradiation treatment.

SD–406

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES—*Tuesday, August 16, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. KLINK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 16, 1994.

I hereby designate the Honorable RON KLINK to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member other than the majority and minority leaders limited to 5 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD] for 5 minutes.

THE CRIME BILL

Mr. MOORHEAD. Mr. Speaker, I rise today to urge the House to vote against the Clinton crime bill.

We need a crime bill in America very badly, but we do not need a bill that is more friendly to the criminal than to their victims in the United States. The American people will not accept a crime bill that protects criminal rights more than it protects victim's rights.

Nearly one-third of this $33 billion bill is to pay for over 30 new social spending programs. More Government programs are not the answer.

Our criminal justice system has become a revolving door, and this bill fails to address the loopholes and inadequacies that continue to allow violent criminals to operate freely on our streets after serving only a portion of their sentence. In fact, it greases the revolving-door system by relaxing mandatory minimum sentences and watering down truth-in-sentencing requirements for prison grants.

There are many difficulties with this legislation. There are some fine points in it that I would like to see enacted into law such as building up the Boarder Patrol and doing something about some of the death penalty issues, but in this bill, we have approximately 60 new death penalties, and I wonder, when you go into this particular subject that deeply, whether we are actually going to see more people executed or only more delays and more opposition from the American people.

The people we need to bring to justice are those people that are out willfully killing our citizens on the streets with thousands of people killed each year throughout the United States.

We need to bring those people to justice and to bring them to justice as rapidly as we can. I know that during this debate many people have been misled about what this legislation does. The legislation provides that we have social programs, midnight basketball for areas that have 2 percent or more HIV-positive people, it provides some social programs that perhaps in the long run will do some good. But to spend $33 billion on a piece of legislation that really does not address the crime problems of our Nation the way they need to be addressed is a travesty of justice.

We need more people on our police departments, but in this legislation we are told we have 100,000 new positions that are created. That is a total fallacy. There is actually going to be money for about 22,000, and we are taking the money from our Federal drug programs and from the FBI, from our ability as a Federal Government to stamp out crime on a Federal level.

Much of the money we give to local police departments will be used for salaries, but over half of the cost that our police departments have is the need to provide the automobiles, the technical equipment, the guns, the uniforms, and the other things that police officers need. When you mandate a program of this kind, many of our departments are not going to be able to use them. If you gave them the money to build up the programs they have, they could really fight crime, but if you tell them that they have to use them in an area where they do not have the money to supplement their use to really make them effective, you are wasting your money.

I have been told by the head of the FBI, who was in my office the other day, that much of this money is going to come from their ability to enforce the Federal laws and from the money for the DEA and their drug enforcement programs.

I want to do something about crime very, very badly, but I want to do something with legislation that meets the problems and not one that only misleads the American people that something is being done when we are passing a pork-barrel bill that helps some people's special projects, like giving a little money to colleges here and there, a little money for other social programs. We need to fight crime and not to build up pork-barrel programs.

Polly Klaas was kidnaped and murdered in California by a hardened criminal who was allowed to go free under our current system. This is the system we must change.

I cannot support a crime bill that ignores the rights of victims of violent crimes and continues to allow violent criminals to rule our streets.

Let us correct this legislation. Let us get a bill that does something to fight crime in America.

THE CRIME BILL IS WELL BALANCED

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of California. Mr. Speaker, Members of the House, the gentleman that preceded me in the well talked about the tragedy of Polly Klaas when our community in northern California was rocked by her kidnap and her violent death and how somehow this bill would not be helpful in that situation, and yet her father was at the White House yesterday supporting this legislation because he recognizes that this legislation has a very tough provision on three strikes and you are out for serious violent crimes.

It also recognizes, as does the President and as do the people of this country, this bill is a well-proportioned bill that provides some $13 billion for law enforcement, for the needs that the law enforcement community has told this Congress, told the President, and told others that it needs in response to the crime on our streets. It provides over $8 billion for construction of new prisons, so that we can start to keep people off the streets for a longer period of time that have engaged in violent activity against our citizens. It also provides money for States to help them construct some prisons if those States enter into an agreement to provide that people will serve at least 85 percent of their sentences, and it also provides some $8 billion for prevention programs.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

I do not know what other Members of Congress have been doing, but I have been meeting with my district attorneys, with my chiefs of police, with my sheriffs, with other law enforcement individuals in the district that I represent, and they have demanded more prisons, they have demanded more resources for law enforcement, but they have also demanded that they be given additional tools where they can work in conjunction with recreational agencies, with our schools, with the boys' and girls' clubs to try to create activities to provide a diversion and to provide an outlet for young people in many communities where there simply are no resources for those people through most of the day. This is about prevention.

My colleagues on the other side of the aisle want to keep talking about the social workers. This is not about social workers. This is about coaches and teachers and recreational individuals that work in some of our toughest neighborhoods trying to provide some alternatives. Yes, it includes midnight basketball, which includes the requirements that you sign up to work for your high school equivalency, that you get engaged in a counseling program to try to help you find work, and you can also play basketball as the organizing principle to bring these young people together where we can start to provide and inform them of some alternatives to their life on the streets.

This legislation is tougher on crime, and it is tough on crime prevention. This bill provides that kind of balance. It recognizes the needs of our community.

Mayor Giuliani of New York was on TV today, and he made a very important point. He said he did not know a lot about the rhetoric surrounding this bill, but he knew the needs of his city and of most of the cities in this country, and what they needed was this legislation to provide them the tools of dealing with crime in our environment on a daily basis on the streets of America, not as we would like it to be in the Halls of Congress.

☐ 1040

Not as we would like it to be in the Halls of Congress, not as we would like to see it as we trade facts back and forth between the two parties, but based upon his experience as a prosecutor and now his experience as mayor of our largest city; joined in by Mayor Riordan of Los Angeles, supporting this legislation, the mayor of Philadelphia saying we need these programs; the mayor of Chicago.

We need these programs to try and provide some opportunity, to extend our school hours, to take the school buildings of our Nation and expand them as a resource after hours. But schools do not have the money to do that. School boards do not have the money. But maybe we can knit that together out of some assistance from the Federal Government, the States and local agencies, so that those schools can remain open, as they did when I was a young person.

There was no question where I could go after school. I could hang out at my school, play kickball, volleyball, baseball, I could go to tutoring, I could go to study hall. It was available.

It is not available today. That is why this program addresses those who prey on our society, by lengthening prison terms, by building more prisons, by making sure they serve their sentence and making sure that those who choose to do it more than twice pay on "three strikes and you're out" with a life sentence.

That is why this bill goes to the issue of making room for violent criminals, by deciding that those who are in jail because of a nonviolent, minor drug arrest can be let out of jail so we can put a violent individual who threatens our neighborhoods, threatens our families, away for a long period of time.

I would hope the Congress, along with the American public, will support this legislation.

CAUGHT IN THE ACT; ARRESTED AT THE SCENE

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. HYDE] will be recognized during morning business for 5 minutes.

Mr. HYDE. Mr. Speaker, on Sunday the President engaged in some rather unusual campaign strategy to pass his crime bill. He told us from a church in the District vicinity that God wants us to vote for this bill.

Now, if Pat Robertson had said that, or Jerry Falwell or even BOB DORNAN, I am sure that Mr. FAZIO and the other crusaders on the left against the religious right would not swing into high gear. But it is the President, and he, I suppose, by virtue of his office, has the right to tell us that God wants us to vote for a bill. And I just hope that Mr. FAZIO is not too tough on him, because he is the President.

Occasionally you encounter somebody who has written something that rings so true that it overwhelms your own idea of what to say. And I must say that that has happened to me on this crime bill.

Yesterday, Monday, in the Washington Times, Pat Buchanan, a favorite demon of the left, has a column on this crime bill. And when I read it, lights went on all over the room because it is so true. And I think the best thing I could do with my time is share it with you, parts of it anyway.

He says:

> The degeneration and defeat of the crime bill raises a question. Why is Congress incapable of getting it right? Stopping crime, like educating children, is not horribly difficult. The old America used to do it rather well. What happened?
>
> Well, some years ago, cultural and political power in America passed to a new elite that had come to believe the old America had to be made over. All the old notions had to go.
>
> From our public schools they effected the expulsion of all Bible-based ideas about right and wrong. On the streets, brutal cops were thought to be the real social problem, and in need of constant oversight to keep their natural instincts under check. In the courts, the balance of power was shifted toward the criminally accused, in the name of fairness. In society at large, traditional views on morality, the permanence of marriage, the importance of families, the indispensable role that religion plays in character formation, were tossed out. The new elite had decided to replace the pastors and preachers of old with themselves as America's moral tutors.
>
> Don't tear a fence down until you know why it was put up, Robert Frost wrote. Well, as we tore down the old fences with cheerful abandon, we forgot they had been erected over centuries as society's first line of defense against the return of barbarism.
>
> And barbarism returned with a vengeance.
>
> So, who is responsible for our crime crisis?
>
> Go back and discover: Who did most to discredit the two-parent family and bring about its collapse? Who did the most to purge all religious ideas and moral instruction from the public schools upon which the poor so heavily depend? Who worked ceaselessly to make it ever more difficult to arrest, prosecute, convict and incarcerate criminals?

Those are some very important thoughts for people to think about as we grapple with the idea of what to do about crime in this world, in this country.

Now, one of the reasons why this was a bad bill was the incorporation of nearly $9 billion in social programs. Are all the social programs bad? No. I dare say many of them are good. Many of them would be useful if we knew which ones they are. The trouble is they did not have hearings. They just took a wish list of certain things that people wanted, all Democrats, I might add, and put together a list about $9 billion, and said "Let's do it."

Now, midnight basketball is one of the programs that is funded. Now, I have an open mind on midnight basketball. It is certainly while someone is playing midnight basketball they are not mugging you—at least there is a referee there to blow the whistle if they do. But how do they get up the next morning and go to work or go to school if they are all geared up at 3 in the morning after a game? I do not know. I would like to know.

I would like to know which of these programs duplicate other programs, because we already have 156 job training programs at a cost of $25 billion a year already in place. And this bill superimposes 30 new programs, many of which are duplicative, triplicative of existing programs.

Now, we all promised our constituents we were going to be frugal and cut unnecessary spending. It is not responsible to vote for this bill as it is.

CRIME BILL EMPHASIZES PREVENTION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I am glad to have a little time on this floor to try to bring back something to the crime bill that has been lacking, and that is: facts and truth.

If you really look at what has happened, we in America won the cold war and we have lost the war on crime. And this crime bill does go a different direction. I think it is a very important direction. That is why we are having so much trouble getting it moving.

What do we have in this crime bill that we have not had in crime bills for the last 12 years? We have a prevention piece, a prevention piece. Why is it in this crime bill? Because even today, after 12 years of passing tougher and tougher and tougher and tougher crime bills, and this one also has even more tough provisions, believe me—the gentleman from California talked about those, they are there, they are real, "three strikes, you're out," all sorts of things. But we still know, after all of that, 95 percent of the crimes in America often there is no arrest for. The figures go between 91 percent and 95 percent.

So the idea is, if there is anything that could prevent the crime from happening in the first place, the average American citizen is much better off. In military terms we call that deterrence.

We looked around, we had all sorts of hearings. Midnight basketball was one of them. We had hearings on it. I am sorry it was named midnight basketball. Let us call it late-night. It can start at 8 in the evening if you want it to. There is nothing that says it has to be at midnight. But the reason that it was named that was because in order to get into the basketball league, you had to, A, be in school or a job training program and, B, come from the study hall first that lasted a couple of hours.

□ 1050

Mr. Speaker, I think to call it pork is really ridiculous because it is very targeted. It is only targeted to the neighborhoods that need it, the neighborhoods where they do not have a father presence, and that is what this is, coaches, volunteers, and study hall people trying to become a father presence. This program has been tried in both Chicago and Maryland. It had strong bipartisan support. In fact, it was unanimously supported by the Select Committee on Children, Youth, and Families.

And all this for $2,000; that is all of what it costs an average community to fund an eight-person team for midnight basketball, and that $2,000 just pays for the insurance, the rental of the place, and the kind of things that bother volunteers, so all the volunteers have to focus on is those kids, and get them to go the right way, and where it has been in effect we find there has not been the crime going on by these young people, many of whom had an arrest record, and had been in trouble and were doomed to do it again.

Mr. Speaker, I want to say to my colleagues, civilizations are known not by how many prisons they build, but by the next generation they build, and we have not been doing a very good job as a nation on this next generation.

So, yes, we put some prevention programs in there, and we have been tried and true, and we have had hearings, and they are so cost efficient that my colleagues may not be able to believe it because it is $2,000 for eight people on a basketball team versus $40,000 apiece for each of those kids per year if they go on to jail, not to even mention the crime costs.

What else did we put in this bill we have never done before? We put in things like assault weapon bans. Yes, those are military weapons. Those weapons do not belong in the hands of citizens out there. We do not even have them in the hands of our law enforcement officials. They are way overarmed. Again put it in cold war terms. The criminals are better armed than our policemen.

We need more policemen; we have it in this bill. We need more prevention because when we are only arresting people for about somewhere between 9 and 5 percent of the crimes committed, we got to do a better job of preventing it on the front end.

There is an old, wonderful Ben Franklin saying about an ounce of prevention is worth a pound of cure. That is what this bill is trying to tilt toward.

And we also have in there the Violence Against Women Act which is terribly important. When this bill left the House the people voted for, there was $500 million more in programs than when it came back, and people voted for it then. There was also a lot less money for violence against women that there is now.

Mr. Speaker, I think the excuses my colleagues are hearing are not based in fact. I think it is indeed criminal that we are having such a tragic factless debate on this, and I hope we get this crime bill back on track. America certainly needs it.

A BETTER CRIME BILL IS POSSIBLE

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, the problem is not the GOP and five dozen Democrats. The problem is the crime bill. We can have a much better crime bill, one that is paid for, and one that will get tough on crime, and one that will fix some of the problems that the conferees wanted to be fixed. The conferees took out four or five get-tough measures that the Senate put in. The conferees ignored seven motions to instruct that this House of Representatives put in. The conferees did sneak in, or at least Members in the conference snuck in, projects that neither body, apparently, knew about, what we call pure pork, $10 million for a university somewhere in Texas. The conference report required a rule to protect parts of this bill that we do not even know what it said, or did not know at the time we voted, and the other thing is that most Members of this Congress; in fact I think I can say every Member of this House, had not read the crime bill we voted on because there was not time to do it under the rule we reported out.

Mr. Speaker, the crime bill, as we had a chance to look at it, that we voted on in the past 5 days, had some good and some bad parts. There is quite a list of social programs, about 9 billion dollars' worth. Part of the problem with those, they are not high priority, and they are paid through the patronage system; they are not paid through competitive grants. They are done on the who-you-know-in-Washington basis.

There is also no accountability for a great deal of that money. Nine billion dollars; we do not know whether it is going to work. There is no standard, there is no measure, there is no come back, and report, and find out if this worked. Nine billion dollars is a lot of money.

Mr. Speaker, that talk about getting tough on crime sort of goes pale when we see that we are going to let something like 10,000 people who have been convicted of drug crimes, who are in jail now, out because they are lower priority and we need those prison spaces for higher priority. I have already been asked by some constituents in my district if one of those 10,000 is going to be the son of Joycelyn Elders who was recently convicted of such a crime. I do not know the answer to that.

This supposed 100,000 policemen on the streets that are going to be put in that we have heard so much about from the White House, actually there is only funding in this bill for about 20,000 policemen on the streets, and, if we were to divide that into three 8-hour shifts, which is what we have to do when we are running a police department at any given moment in America, right now that will be an additional 6,000 or 7,000 policemen. I say to my colleagues, "Well, when you divide that countrywide, you can see that's a help, but it's not going to be a gigantic help, and frankly most of those police are going to go into the urban areas that are decided by somebody else, and most communities are not going to get those policemen."

There is no habeas corpus reform in this bill, and this bill is not paid for. It is a budget buster. It is about $25 billion added to the deficit over the next 10 years or so, and we do not even know how much it will cost beyond that.

Nevertheless, Mr. Speaker, we need a crime bill, and we have the ability to get a crime bill and to deliver a crime bill, and, if we had, perhaps, little more help from the White House on focusing on a get-tough crime bill that would pass here instead of the demagoguery that is going on, I think we can accomplish it.

Some of the things that we are worried about is that my colleague and friend, the gentlewoman from Washington [Ms. DUNN], introduced an amendment for tracking sexually violent predators and community notification. Now, some of my colleagues may remember picking up a paper a few weeks ago and reading about a 7-year-old youngster in a town in New Jersey who was strangled is a sex crime by a known sexual offender who was living in that community, been no community notification. We wanted those requirements put in this bill so that that kind of thing cannot happen again, and I ask, "You know what? We instructed the conferees to put it in, and you know what? They left it out, and you know what? They're accountable-less to tell us why, and you know what? They didn't tell us." So, Mr. Speaker, that family was not invited to the Rose Garden yesterday by the White House, and I do not know why. I hope the President will correct that oversight. I feel very sorry for that family and all families in that situation, and we have the ability to fix that and make this crime bill right in this country.

We asked for $13.5 billion for prison funding by a vote of 338 to 81 in this Chamber, and do my colleagues know what? The conferees did not do that. They cut it by $5 billion, and they did not explain why. They just ignored the instructions of 338 Members of this House.

Mr. Speaker, it seems to me we can do better when everybody in America is saying, "Lock up the criminals. Please lock up the criminals. We want to be safe on the streets, in our houses, in our cars, when we go to the store, and, if you let those criminals out, we will not be safe."

Mr. Speaker, everybody in America understands that. Why did we chop out $5 billion? I do not know. We need to do better than that.

We had a provision to instruct the conferees for minimum sentences for crimes carried out with handguns. Now, my colleagues would think that would be pretty simple to do. We are having all this fuss about an assault weapons ban, but we cannot even get a provision in, in this crime bill, this supposedly get-tough-on-crime bill, that says, "If you carry out a crime with a handgun, that you get a severe minimum sentence." It seems to me that is pretty basic stuff if we are trying to do a bill on crime.

Mr. Speaker, we can do this better, and we will.

A LETTER IN SUPPORT OF THE CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from South Carolina [Mr. DERRICK] is recognized during morning business for 5 minutes.

Mr. DERRICK. Mr. Speaker, yesterday I received a faxed letter from Carlos and Sharon Luria of Salem, SC, a small town in my district. I would like to read it to you.

> Sharon and I would like to congratulate you on supporting the President's crime bill even though, as you were subsequently quoted as saying, there is little downside in saying "no" to him. You put the broader interests of the Nation ahead of narrow political concerns, and we admire you for it. I would also like you to know that I am a hunter who once supported the NRA but quit that organization in disgust over its obdurate stand on assault weapons.
>
> While so many seem to deride the social programs that are incorporated into the crime bill, we support these measures strongly. Building more prisons and putting more police officers on the street are necessary to stem the bleeding, but they don't keep the wounds from happening in the first place.
>
> We whole-heartedly support early intervention programs that work with kids when they first begin to evidence antisocial behavior. Sharon works with abused children in a local program called Helping Hands and sees the difference it makes at first hand.

It is good to hear from people like Sharon and Carlos, who understand the importance of hands-on community involvement and socially responsible action to prevent crime. I often hear from people opposing social programs that would fight crime. They do not see the use of such programs, or misunderstand their purpose.

Mr. Speaker, we need more prisons, more police, and stricter sentencing, but vengeance alone may be the least effective and most irresponsible method of stanching a crime epidemic. If we sanction the most excoriating punishments without addressing the cases of crime, we do no better than the most capricious despot.

In effect we will have abandoned any ideal of social redemption, the idea that men and women might improve themselves or their communities or that such things are even possible. We will have settled for writing off those who break our laws or might break them as redeemable human trash we can only rid ourselves of.

I cannot think of a more cynical approach. We would presuppose the worst human behavior, in which case we could only expect to get it. If we hope to stop crime in a socially responsible way that actually improves the daily lives of our communities, we must fight it with a judicious balance of punishment and prevention. The crime bill would have done that. We can do it still.

□ 1100

COMMENTS ON THE CRIME BILL

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. MICA] is recognized during morning business for 5 minutes.

Mr. MICA. Mr. Speaker, there are many wonderful people in my Seventh Congressional District that stretches from Orlando to Daytona Beach, FL.

We have people who have lived there all their lives, and folks who just moved there recently. We have young and old working and retired and, like other parts of America, we have people looking for work and new opportunities.

After meeting with many of my constituents again this past weekend I know how smart the people of my district are. I know a little bit more about their hopes and dreams.

Like me, they want something done about crime. But also they realize that Congress could do a better job in crafting a crime bill that addresses the real problems of crime in this country.

The people in my district work hard to make a living, struggle to pay their bills, try to lead an honest life and strive to educate and raise their children. They want to live in peace and with personal security.

They want to feel safe in their homes and on their streets. They do not want to sleep, shop, go to work, or drive in fear. They want their children and grandchildren to be raised in safe neighborhoods.

Now let me tell you what they have told me they do not want. They are tired of supporting people who do not care to work or contribute to our society.

They are sick and tired of seeing their hard-earned money support fancy prisons and those who rip off the system.

They are tired of the revolving door system of justice—where they pay for the cost of crime, they pay for the criminals' legal counsel, and they pay for the criminals' fancy prison surroundings.

They pay to support the criminal's family while he's in prison, they pay for the halfway house, they pay for the parole and counseling, and then they pay all over again when the system produces a repeat offender.

They are tired of supporting the small numbers who commit the large numbers of crimes. They are tired of it, and I am tired of it.

We know that 40 years of social programs have bred welfare dependency, destroyed the traditional family unit, discouraged work and self respect, and killed self-reliance.

The NRA did not kill this rule to bring up the crime bill and neither did the Republican Party or 58 Democrats. The American people finally rebelled.

The American people know that carelessly throwing more money at the crime problem is not the answer.

The American people know that 40,000 more social workers is not the answer and the American people know that releasing 10,000 convicted drug dealers in our neighborhoods is not the solution.

Mr. Speaker, we need a crime bill that gets tough on crime. Let us send this bill back to conference committee because we can do a better job.

Let us restore the good provisions stricken in conference.

Restore the provision to notify neighbors of sexual predators. Restore minimum mandatory sentencing that keeps drug felons behind bars.

Restore minimum mandatory sentences for selling drugs to minors. Restore HIV testing for rapists. Restore a provision to require criminal restitution to victims.

Restore the provision to deport criminal aliens immediately after they leave prison. Restore minimum mandatory penalties for commission of crimes with firearms. Restore provisions to help convict prior rapists and child abusers.

Let us be honest with the American people and restore these tough measures.

Then, Mr. Speaker, after the conference committee has restored these provisions of substance that were stripped from the bill, we ask for your help.

Please cut some of the $9 billion added to this bill for a bigger social agenda. Leave billions for prisons, billions for police, and even billions for good treatment and enforcement programs.

But let us be honest and cut the social programs that have not worked in the past, do not work now, and will not work in the future. Also Mr. Speaker, we ask that you contact President Clinton and tell him the House voted on June 16, with a vote of 264 to 149, to instruct conferees to delete the racial quota provision from the conference report.

Remind him that we did not want President Clinton to promise to restore this deleted provision by executive order. Remind him that we wanted to strengthen, not weaken, the death penalty.

Finally, there is no one in this Congress that does not want a crime bill—what we want is truth in legislating and truth in sentencing.

Our hearts ache for those who have been the victims of crime. But we have a responsibility to legislate both with our hearts and our minds.

GOOD ASPECTS OF THE CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Maryland [Mr. HOYER] is recognized during morning business for 5 minutes.

Mr. HOYER. Mr. Speaker, there has been much said on this floor today about the crime bill and on days before. There will be much said hereafter, because we know that the American public is very concerned about the issue of safety in their communities, in their homes, on their streets, and in their schools. That is a concern that every Member of this House wants to respond to. It is a concern that the President of the United States wants to respond to. It is a concern, I suggest to my colleagues, that we have responded to in very handily passing a crime bill through this House of Representatives.

It had in it prevention; it had in it punishment; it had in it more cops on the beat, more police in our communities to respond, to be a presence.

Last week, however, we fell short. Not in voting on the crime bill, but in allowing this House to vote on the crime bill. The rule became an issue of great magnitude, because those who oppose now the bill were not sure that they could garner the votes to vote against the crime bill and defeat it. In point of fact, they felt the opposite, that a large number, a great majority of this House, would in fact have supported the crime bill, had it been allowed to come to a vote on the floor of this House.

My colleague who spoke before me talked of social programs that have not worked. There is prevention in this bill. Law enforcement officials that I talk to know, citizens know, that it is not enough to incarcerate, it is not enough to arrest. That is important and critical. And to keep people who continue to threaten our communities and persons in jail, in some cases, for life. I was the sponsor, Mr. Speaker, of the three-time-loser bill in this House which is a part of the crime bill.

In opposition to the crime bill, some have said this is a pork bill. And in fact on the Republican side of the aisle, the minority whip leading the charge, the accusation has been that there is money in there for midnight basketball, and some are saying we do not need kids playing basketball at midnight. They need to be at home in their beds with their families at midnight.

□ 1110

I think most of us would agree with that. But most of us would also readily admit that that is not always the case.

Mr. Speaker, today I rise to share with my colleagues a quote by our President on midnight basketball, a major topic of discussion these past few days.

I quote: "The last thing midnight basketball is about is basketball." I am quoting our President now.

"It's about providing opportunity for young adults to escape drugs and the streets and get on with their lives. It's not coincidental that the crime rate is down 60 percent since this program began."

That was our President talking in Prince Georges County at our midnight basketball function. That was our President. He is not our President now. His name is George Bush. That is what he had to say about midnight basketball.

He said that in 1991, as he participated in recognizing the first midnight basketball program in the Nation in Glenarden, MD.

This crime bill, my colleagues, is not about midnight basketball. It is about 100,000 new cops on the beat to prevent crime. It is about three strikes, you're out, to punish repeat violent offenders and get them out of our communities so they can no longer threaten us. It is about programs to stem the violence against women.

As President Bush said, it is about providing opportunity for young adults to escape drugs and the streets by not only allowing them to play basketball but, between these games, providing academic seminars and vocational workshops and family counseling to keep them out of trouble.

Tonight, Mr. Speaker, I invite my colleagues to join me and the chief of police in Prince Georges County, David Mitchell, to the finals of our midnight basketball program, to see a successful crime reduction program in action; 8 p.m. tonight, my colleagues who would stand on this floor or have press conferences criticizing this program.

IN SUPPORT OF THE DUNN-DEAL MOTION TO INSTRUCT

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Washington [Ms. DUNN] is recognized during morning business for 5 minutes.

Ms. DUNN. Mr. Speaker, with the recent national media attention given to the sexual predator language in the crime bill in the New York and LA

Times, I want to take this opportunity to reiterate my support for opening up the conference to include the original Dunn-Deal motion. The language instructs conferees on the crime bill to encourage States to establish registration and tracking procedures and community notification with respect to released sexually violent predators. This same language was accepted by unanimous consent as a part of the Senate crime bill and overwhelmingly supported in the House by a vote of 407 to 13.

Mr. Speaker, the House sent a precise message to conferees on the importance not only of registration and tracking provision, but of notification when a sexually violent predator has moved into a community. But the will of the U.S. Congress was ignored. I believe that American women and families deserve better.

Mr. Speaker, community notification is a proven approach. The legislative language is modeled after a successful Washington State law and will monitor sexually violent predators—including those convicted of stalking—wherever they may locate once they are released from prison, even if they move across State lines. Washington State leads the Nation in coping with this small group of criminals who terrorize primarily women in their neighborhoods, homes, and workplaces.

When rapists, women-beaters, or convicted violent stalkers are released into the community, the women in that community have a right to know. In fact, the Washington State Supreme Court already has ruled that this type of law is constitutional.

Already, both the House and Senate have passed legislation that requires law enforcement officials to notify communities when child molesters and others who pose a threat to children are released. That is right and good: a warning that society owes to parents and their children.

In the same way, our society owes to its women some notification that a predator is being released. And law enforcement officials should be encouraged to track their movements just as they do for those who have committed crimes against children.

By contrast, Mr. Speaker, the language that is being proposed in the conference report unacceptably weakens community notification, and instead protects the rights of criminals. Law-abiding citizens, especially women, have a right to know when a predator is being released into their community.

What is the point of registering and tracking these convicted predators if we are not going to share that information with the very citizens who are at risk? How can we justify knowing where a sexual predator has located, and not notify the women and families in that neighborhood, especially when so many of them move across State lines to settle next door to one of our constituents. The rate of recidivism for these crimes is astronomical because these people are compulsive. We know that. And that is why it is incumbent upon us to ensure that community notification is encouraged. Without the community notification, the effort is reduced to the simple collection of data.

I would hope the House would recognize this fact and open up the conference report to strengthen this important language.

The next time a young girl is attacked by one of these repeat offenders it should rest heavy upon the conscience for every conferee who voted to weaken this provision. The problem of sexually violent predators has unfortunately become too widespread in our society. We need only recall the recent tragic case of young Megan Kanka, of New Jersey, lured to her death by a repeat sexual offender, who told her he had a new puppy in his house or of Polly Klaas of Petaluma, CA, who was snatched from her home and brutally murdered. Yet, the conferees felt it necessary to protect the rights of criminals instead of protecting the rights of the citizens from a predator.

Mr. Speaker, on behalf of the women who work here on Capitol Hill, on behalf of the millions of women across the country and in every congressional district represented here, I respectfully ask that the House open up the conference and give us a bill that we would be proud to take back to our constituents.

THE CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Mexico [Mr. RICHARDSON] is recognized during morning business for 5 minutes.

Mr. RICHARDSON. Mr. Speaker, I yield to the distinguished chairman of the caucus, the gentleman from Maryland [Mr. HOYER], to complete his very eloquent statement on the crime issue.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to me.

I had one additional quote I wanted to use of our President, Mr. Bush. As I said, he visited Prince Georges County, which inaugurated the midnight basketball. When he was there in Glenarden he said this, and I quote, "Here everybody wins, everybody gets a better shot at life," President Bush also said on that April evening in 1991.

That is what this crime bill is all about, a better and safer shot at life for our children and grandchildren.

Mr. Speaker, I hope that we can stop the partisan propaganda and pass a tough, strong crime bill. The crime bill that we failed to approve the rule on last week was such a bill. We need to pass it. We need to do what America sent us here to do, to act and respond to the problems that confront them every day.

Mr. RICHARDSON. Mr. Speaker, I thank my colleague for his eloquence. I want to echo it. We need to pass the crime bill this week. Politics wounded the crime bill last week. The Republican leadership and special interests and others have tried to kill this bill, but it is not dead yet.

It is our responsibility to bring it back, to stop the partisanship and to pass the crime bill. It is as simple as that.

I have never seen President Clinton get so mad as he did after the bill went down. I have never seen him so energized, as he crisscrosses the country trying to rally national support for the bill. He is energizing the country. He is using the bully pulpit and he has already changed some votes.

□ 1120

Most importantly, Mr. Speaker, he is sending a message that the National interest has to override parochial and special interests. There is no more important issue that the American people want us to deal with than crime. If we go home for our recess without a crime bill, I could not enter a town meeting in New Mexico with my head held high, because I know that I, for one, would be ashamed that we have not acted.

Mr. Speaker, let me make a comment about the social spending that some of my colleagues keep criticizing. The final passage of the crime bill, not the conference report, contained less social spending than the conference report. Why is that? Because in the conference report, the much-admired and positive program to fight violence against women was raised to $1.2 billion.

Again, this talk about too much social spending in the conference report rings very hollow when close to 260 Members of the House, including many on the other side, voted for some of these programs when it came to final passage of the bill.

Mr. Speaker, it is clear that politics killed this bill. Last week in my congressional district a 21-year-old woman was brutually strangled to death in her home in one of the smallest and most rural areas of my State. Years ago, shocking crimes such as this were unheard of in Portales, NM. Now these crimes are occurring in small towns like Portales throughout the country, without regard to race, population, or wealth.

The bottom line is that crime is everywhere, and I am amazed that some of my colleagues have not yet listened to the pleas of the American people, in big cities and small, that we do something about this.

How about those who say that this crime bill is not tough enough? With three-strikes-and-you're-out, death penalty statutes, money for more prisons, which mandates that violent offenders serve at least 85 percent of their sentence, I think that this anticrime bill is very tough on criminals.

Mr. Speaker, let us end the politics. Let us pass this crime bill. Let us get it done this week.

THE PRESIDENT'S HEALTH CARE REFORM PLAN DETRIMENTAL TO FEDERAL EMPLOYEES HEALTH BENEFIT PLAN

The SPEAKER pro tempore (Mr. KLINK). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Virginia [Mr. WOLF] is recognized during morning business for 5 minutes.

Mr. WOLF. Mr. Speaker, I rise to discuss the detrimental effects of the Clinton-Gephardt health care bill on the Federal Employees Health Benefit Plan [FEHBP] and what Federal employees and retirees and the groups that represent them should be focusing on.

For most Federal employees and retirees, health care security is spelled FEHBP: the Federal Employee Health Benefits Plan. Over the past year of health care debate, the FEHBP has been threatened with abolishment, by the Clinton plan, or dramatic changes that would alter the benefits that Federal employees have negotiated over the years—Clinton-Gephardt and Clinton-Mitchell.

The FEHBP, however, is not broken and does not need the Clinton or the Clinton-Gephardt fix. In fact, it is a shining example of what is right in our health care system and should be a model for reform of those things that are wrong in the private sector. The FEHBP is built on two solid principles: consumer choice and market competition. These principles work in concert to provide the best possible health care plan and the most inexpensive cost. In 1994, the average premium increase in the FEHBP has been 3 percent, far outperforming private, employer-based insurance, where employees have little or no personal choice over benefits or price. Moreover, about 40 percent of FEHBP enrollees benefited from a reduction in premiums.

The FEHBP should be the model for reform and is a splendid example of how the private sector could work given the appropriate market reforms and incentives. The FEHBP does not have a huge bureaucracy managing the almost 400 plans which provide a wide array of choice in the FEHBP. The 34-year-old law creating the FEHBP is only 26 pages long, with 83 pages of rules in the Code of Federal Regulations, and another 93 pages of instructions in the Federal Personnel Manual. Most Government-run programs could fill a library. Furthermore, there are only 144 administrative staff that implement the program and only 1 percent of each plan's premium costs are set aside for OPM's administration of the system. Little redtape and low overhead result in lower health insurance premiums which saves money for Federal employees and retirees and the American taxpayer.

Consumer choice and market competition provide the following key features of the FEHBP:

The FEHBP permits Federal workers to choose different plans as well as very different benefit packages.

The FEHBP allows the consumer to decide whether a plan is a too expensive or a good value for their hard earned dollar.

Federal employees with preexisting conditions are not denied coverage.

Federal employees pick and keep their plans. Those decisions are not reserved to administrative personnel.

The FEHBP is not burdened by premium caps or price controls.

Federal employees around the country should ask their Representatives and Senators to reform America's health care system in the image and likeness of the FEHBP—a proved effective, market-based, consumer-oriented system. Feds should not settle for the untested Clinton-Gephardt or Clinton-Mitchell plan. I understand that the House bipartisan legislation, the so called Rowland-Bilirakis bill, which came out yesterday, preserves the FEHBP as does the Michel bill.

Feds have recently received assurances that FEHBP will be preserved and they will have as good a plan or better under the new government scheme. But those proposals still include dramatic changes to the FEHBP: a mandated benefits package that alters what many employees currently receive, a different risk pool that could raise rates, and reduced hospitalization coverage to name a few. The Capitol Hill newspaper, Roll Call, accurately noted, "FEHBP is more attractive than Mrs. Clinton's own proposal . . . federal employees will lose their breadth of choice if the Clinton plan is enacted."

Proposals for Federal employees to get supplemental packages to compensate for what they would lose by being included in the Clinton-Gephardt plan are a risky gamble that could result in reduced benefits. Office of Personnel Management Director James King wrote to the First Lady last year, "I think it is important to FEHBP population be given the opportunity to see that national health reform is working before they are transitioned into it."

There are a number of commonsense health care reforms that enjoy broad-based support such as making insurance plans portable between jobs, eliminating preexisting medical conditions, allowing medical savings accounts, providing small market insurance reforms and reforming medical malpractice. All of these are a part of the Republican health care bills, and apparently they are included in the House bipartisan approach, and they do not touch the FEHBP nor threaten Federal employee.

The real issue is that the Government should not be fixing what isn't broken. Remember it is the Clinton administration which is sending out RIF notices by the thousands and cutting back on Federal COLA's. How confident are you of the fix Federal employees will get on health care? Should Federal employees really risk buying into the Clinton-Gephardt plan? I do not think so.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly, at 11:28 a.m., the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, we pray, to savor the moments of quiet when the intensity of the day is eased and the burdens of responsibility are laid aside. Teach us then, in the silence of meditation and reflection, to place before You our thoughts and ideas, our feelings and worries, so that You can forgive us and nurture us and strengthen us for the days ahead. O gracious God, as You have created the Heavens and the Earth and each of us, bless us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SYNAR. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. SYNAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arkansas [Mr. HUTCHINSON] come forward and lead the House in the Pledge of Allegiance?

Mr. HUTCHINSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4299. An act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 4554. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes; and

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4299) "An Act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. KERREY, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. JOHNSTON, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. GORTON, Mr. CHAFEE, Mr. STEVENS, Mr. LUGAR, and Mr. WALLOP; and appoints from the Committee on Armed Services: Mr. NUNN and Mr. THURMOND; to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4554) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes," requests a new conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BUMPERS, Mr. HARKIN, Mr. KERREY, Mr. JOHNSTON, Mr. KOHL, Mrs. FEINSTEIN, Mr. BYRD, Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. GRAMM, Mr. GORTON, and Mr. HATFIELD; to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4650) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. D'AMATO, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. HATFIELD; to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 784. An act to amend the Federal Food, Drug, and cosmetic Act to establish standards with respect to dietary supplements, and for other purposes;

S.J. Res. 185. Joint Resolution to designate October 1994 as "National Breast Cancer Awareness Month";

S.J. Res. 192. Joint Resolution to designate October 1994 as "Crime Prevention Month"; and

S.J. Res. 198. Joint Resolution designating 1995 the "Year of the Grandparent."

The message also announced that the Senate agrees to the amendments of the House to the resolution (S.J. Res. 153) entitled "Joint resolution to designate the week beginning on November 21, 1993 and ending on November 27, 1993, and the week beginning on November 20, 1994 and ending on November 26, 1994, as National Family Caregivers Week."

DISPENSING WITH CALL OF PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the private calendar.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the call of the private calendar be dispensed with today.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TAXPAYERS SHOULD BE CONSIDERED INNOCENT UNTIL PROVEN GUILTY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS said that the Congress should not mess with the burden of proof in a tax case: Taxpayers are guilty until proven innocent. And they say they need that, and it is justified, because it is a "voluntary compliance" system.

Voluntary: The dictionary says voluntary means behaving without force, threat, or persuasion. If that is the case, tell me, Mr. Speaker, if you do not voluntarily pay your taxes, why does the IRS take your bank account? Why does the IRS take your house? Why does the IRS take your kids, your lawnmower, your goldfish, your dog?

It sounds to me, Mr. Speaker, that voluntary compliance sounds an awful lot like voluntary manslaughter, if you know what I mean.

A national poll says that this bill, changing the burden of proof, that a taxpayer is innocent until proven guilty, is the highest-rated supported bill in almost 10 years. And the American people, 95 percent, say they want the law changed; they say the taxpayers should be considered innocent until proven guilty.

I say, Congress would be wise to listen to the American people once in a while. Sign discharge petition No. 12. If it's good enough for the "Son of Sam"—it should be OK for Mom and Dad.

NOT A TOUGH CRIME BILL

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, why is it that conservative Republicans and Democrats do not support the crime bill, but liberal Democrats do support it?

Does anyone believe if this was really tough anti-crime legislation that conservatives would not support the bill? Come on, let us get back to reality here. This crime bill is an ineffective response to an incredible problem.

Our criminal justice system does not work because criminals rarely face justice. And the frustration most Americans feel about that reality is what drives their desire for a tough crime bill. The liberal impulse on crime no longer resonates with the American people. It is not society's fault that criminals commit crimes: It is the criminals' fault.

But the crime bill perpetuates the myth that criminals are not at fault when they commit their heinous crimes. The crime bill seeks to build self-esteem. It gives social welfare workers more money for vague and poorly thought-out programs.

Write a good, tough bipartisan crime bill, Congress, and it will pass.

A PERFECT EXAMPLE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the battle over the crime bill is a perfect example of what is wrong with Democrat leadership in the Congress and in the country.

Instead of working with Republicans to craft a bill that would punish criminals, Democrat leaders ignored Republicans in the conference and produce a bill that would punish taxpayers. Instead of providing money to fund 100,000 new police officers, the conference report only provides enough money for 20,000. Instead of keeping tough language that would inform neighborhoods about sexual predators, the conference report radically weakened that language.

Mr. Speaker, President Clinton and House Democrat leaders have ignored, vilified, and condemned Republicans for trying to craft a real anticrime bill.

They have slapped away our efforts to work with them in an effort to find real punishments for criminals. They have politicized this issue for narrow partisan reasons, and that is a shame.

LET US PREVENT CRIME

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I thought it might be fun to just come and put a few facts out here about the crime bill.

The fact is when the crime bill passed the House the first time, it had half a billion dollars more, more in prevention spending than it had when it failed last week. And 65 Members on the other side voted for that.

So it was out.

We were lower on the violence against women Act. Guess what? The bill we turned down last week had more money for that. We also passed in this House an assault weapons ban, which I think a reasonably prudent American would think belonged in a crime bill.

So we have a crime bill that I think makes an inordinate amount of sense, adds all sorts of new punishment—in fact, we have had Members say they could not take all that punishment—but it also deals with the prevention part because until you deal with the prevention part, you are not going to stop crime in America.

Of the crimes committed in America today, 91 percent they never make an arrest for. So if you can work on that end, we are going to have much safer streets.

That is why this was such a smart bill. How tragic it is we did not have it passed.

CONGRATULATIONS DUE CONGRESSMAN BOB INGLIS ON BIRTH OF DAUGHTER

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, I rise today to offer hearty congratulations to my dear friend and colleague, Congressman BOB INGLIS of South Carolina, the proud father of a baby girl born Sunday, August 14, at 7:05 am at Greenville Memorial Hospital in Greenville, SC. Mabel Andrews Inglis weighed in at 7 pounds 13 ounces and she and Mary Anne are doing fine. This is their fourth child, so I join my colleagues in wishing them best wishes.

SUPPORT THE GUARANTEED HEALTH INSURANCE ACT

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the health care status quo keeps 38 million Americans uninsured and millions more underinsured. If Congress does not reform the system, we can expect these people to stay that way.

That is why America supports comprehensive reform. It is becoming clear that alternatives to the plan will not work. Half-way insurance reforms and subsidies only lead to higher premiums and less coverage.

That is why these long time advocates for health care reform support the Gephardt bill:

The Lupus Foundation of America; the American Counseling Association; Eldercare America, Inc., the AIDS Action Council; the National Osteoporosis Foundation; the Foundation of Behavioral, Psychological, and Cognitive Sciences; the Alzheimer's Association; the National Psoriasis Foundation; the American Council for the Blind; the Human Rights Campaign Fund, and the Association of Maternal and Child Health Programs.

Give America serious reform. Support the Guaranteed Health Insurance Act.

□ 1210

NO HELP NEEDED FROM MEXICO ON SOS

(Mr. CALVERT asked and was given permission to address the House for 1 minute.)

Mr. CALVERT. Mr. Speaker, yesterday, Mexican Deputy Foreign Minister Andres Rozental denounced the Save Our State proposition on the California ballot.

He said his Government would work closely with those in our State who oppose the proposition in order to bring about its defeat.

Well, thank you very much, Mr. Rozental, but the people of California are perfectly capable of determining public policy without the help of a foreign government.

If the Mexican Government wishes to be helpful to our state, perhaps their public officials will consider making a greater effort to keep their citizens from violating the immigration laws of the United States.

Mr. Speaker, the Save Our State or SOS initiative in California is not an anti-Mexican or anti-anybody proposition. It is a pro-American initiative. And, that means a pro-Irish American; pro-Japanese American; pro-Vietnamese American, and yes, Mr. Speaker, it is a pro-Mexican-American proposition.

SOS is not aimed against anyone. It is aimed at protecting the economy of California so that it will continue to be a land of opportunity for past, present and future legal immigrants.

So, thank you for your interest, Mr. Rozental, but the people of California will decide this issue, not the public officials of our neighbor and friend to the south.

WHAT THE CRIME BILL IS AND IS NOT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the President's credibility is being stretched beyond the breaking point, far beyond the debate over the crime bill. Let us remember that this is the administration that began by calling a tax a contribution, by calling spending an investment, and now we see a social welfare bill being called an anticrime bill, and the message is getting out to the American people.

Eight billion dollars in this anticrime bill is for arts and crafts, midnight basketball and other social welfare spending, all in the name of being anticrime, this at the same time when we are being told a hundred thousand new policemen are going to be put on the streets, yet we realize that only 20,000 policemen will be put on the street temporarily by this bill when all of that social welfare spending that I just mentioned is permanent by this bill.

Mr. Speaker, the American people can see what is in this bill and what is not in this bill. They can see that the provisions I worked for strenuously to deport criminal illegal aliens once they have served their term, that was taken out of the bill, as were other very heavy law enforcement, strong law enforcement, issues. Instead what we have is a social welfare bill that is being mislabeled, and I say, "If you believe that taxation is nothing more than a contribution, you'll believe this is an anticrime bill."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TRAFICANT). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today, but not before 5 p.m.

SATELLITE HOME VIEWER ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1103) to amend title 17, United States Code, with respect to secondary transmissions of superstations and network stations of private home viewing, and with respect to cable systems, as amended.

The Clerk read as follows:

H.R. 1103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Home Viewer Act of 1994".

SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a)(2)(C) is amended—

(A) by striking "90 days after the effective date of the Satellite Home Viewer Act of 1988, or";

(B) by striking "whichever is later,";

(C) by inserting "name and" after "identifying (by" each place it appears; and

(D) by striking ", on or after the effective date of the Satellite Home Viewer Act of 1988,".

(2) Subsection (a)(5) is amended by adding at the end the following:

"(D) BURDEN OF PROOF.—In any action brought under this paragraph, the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a network station is for private home viewing to an unserved household.".

(3) Subsection (b)(1)(B) is amended—

(A) in clause (i) by striking "12 cents" and inserting "17.5 cents per subscriber in the case of superstations not subject to syndicated exclusivity under the regulations of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations subject to such syndicated exclusivity"; and

(B) in clause (ii) by striking "3" and inserting "6";

(4) Subsection (c) is amended—

(A) in paragraph (1) by striking "December 31, 1992,";

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "July 1, 1991" and inserting "January 1, 1996"; and

(ii) in subparagraph (D) by striking "December 31, 1994" and inserting "December 31, 1999, or in accordance with the terms of the agreement, whichever is later";

(C) in paragraph (3)—

(i) in subparagraph (A) by striking "December 31, 1991" and inserting "July 1, 1996";

(ii) by amending subparagraph (D) to read as follows:

"(D) ESTABLISHMENT OF FAIR MARKET RATES.—In determining royalty fees under this paragraph, the Arbitration Panel shall establish a rate, for the secondary transmission of network stations and superstations, that reflects the fair market value of such secondary transmissions. The Arbitration Panel shall base its decision upon economic, competitive, and programming information presented by the parties, and shall take into account the competitive environment in which such programming is distributed.";

(iii) in subparagraph (E) by striking "60" and inserting "180"; and

(iv) in subparagraph (G) by striking ", or until December 31, 1994".

(5) Subsection (a) is amended—

(A) in paragraph (5)(C) by striking "the Satellite Home Viewer Act of 1988" and inserting "this section"; and

(B) by adding at the end the following:

"(8) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—

"(A) IN GENERAL.—Subject to subparagraph (C), upon a challenge by a network station regarding whether a subscriber is an unserved household within the predicted Grade B Contour of the station, the satellite carrier shall, within 60 days after the receipt of the challenge—

"(i) terminate service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household.

"(B) EFFECT OF MEASUREMENT.—If the satellite carrier conducts a signal intensity measurement under subparagraph (A) and the measurement indicates that—

"(i) the household is not an unserved household, the satellite carrier shall, within 60 days after the measurement is conducted, terminate the service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) the household is an unserved household, the station challenging the service shall reimburse the satellite carrier for the costs of the signal measurement within 60 days after receipt of the measurement results and a statement of the costs of the measurement.

"(C) LIMITATION ON MEASUREMENTS.—(i) Notwithstanding subparagraph (A), a satellite carrier may not be required to conduct signal intensity measurements during any calendar year in excess of 5 percent of the number of subscribers within the network station's local market that have subscribed to the service as of the effective date of the Satellite Home Viewer Act of 1994.

"(ii) If a network station challenges whether a subscriber is an unserved household in excess of 5 percent of the subscribers within the network's station local market within a calendar year, subparagraph (A) shall not apply to challenges in excess of such 5 percent, but the station may conduct its own signal intensity measurement of the subscriber's household. If such measurement indicates that the household is not an unserved household, the carrier shall, within 60 days after receipt of the measurement, terminate service to the household of the signal that is the subject of the challenge and within 30 days thereafter notify the network station that made the challenge that service has been terminated. The carrier shall also, within 60 days after receipt of the measurement and a statement of the costs of the measurement, reimburse the network station for the cost it incurred in conducting the measurement.

"(D) OUTSIDE THE PREDICTED GRADE B CONTOUR.—(i) If a network station challenges whether a subscriber is an unserved household outside the predicted Grade B Contour of the station, the station may conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household.

"(ii) If the network station conducts a signal intensity measurement under clause (i) and the measurement indicates that—

"(I) the household is not an unserved household, the station shall forward the results to the satellite carrier who shall, within 60 days after receipt of the measurement, terminate the service to the household of the signal that is the subject of the challenge, and shall reimburse the station for the costs of the measurement within 60 days after receipt of the measurement results and a statement of such costs; or

"(II) the household is an unserved household, the station shall pay the costs of the measurement.

"(9) LOSER PAYS FOR SIGNAL INTENSITY MEASUREMENT; RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households as unserved households—

"(A) a network station challenging such eligibility shall reimburse the satellite carrier for any signal intensity measurement that is conducted by that carrier in response to a challenge by the network station and that establishes the household is an unserved household; and

"(B) a satellite carrier shall reimburse the network station challenging such eligibility for any signal intensity measurement that is conducted by that station and that establishes the household is not an unserved household.

"(10) INABILITY TO CONDUCT MEASUREMENT.—If a network station makes a reasonable attempt to conduct a site measurement of its signal at a subscriber's household and is denied access for the purpose of conducting the measurement, the satellite carrier shall within 60 days notice thereof, terminate service of the station's network to that household.".

(6) Subsection (d) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) NETWORK STATION.—The term 'network station' means—

"(A) a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

"(B) a noncommercial educational broadcast station (as defined in section 397 of the Communications Act of 1934).";

(B) in paragraph (6) by inserting "and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations" after "Commission"; and

(C) by adding at the end the following:

"(11) LOCAL MARKET.—The term 'local market' means the area encompassed within a network station's predicted Grade B contour as that contour is defined by the Federal Communications Commission.".

SEC. 3. DEFINITIONS.

(a) CABLE SYSTEM.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "cable system" by inserting "microwave," after "wires, cables,".

(b) LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended in the

paragraph relating to the definition of "local service area of a primary transmitter" by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

SEC. 4. TERMINATION.

(a) EXPIRATION OF AMENDMENTS.—Section 119 of title 17, United States Code, as amended by section 2 of this Act, ceases to be effective on December 31, 1999.

(b) CONFORMING AMENDMENT.—Section 207 of the Satellite Home Viewer Act of 1988 (17 U.S.C. 119 note) is repealed.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (d), this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) of title 17, United States Code (as added by section 2(2) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

(c) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—The provisions of section 119(a)(8) of title 17, United States Code (as added by section 2(5) of this Act), relating to transitional signal intensity measurements, shall cease to be effective on December 31, 1996.

(d) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The amendment made by section 3(b), relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 1103, the Satellite Home Viewers Act of 1994.

House Resolution 1103 has several purposes. It extends until December 31, 1999, the compulsory license in section 119, Title 17, United State Code, which is now scheduled to expire at the end of this year. That license permits satellite carriers to deliver television programming to the public for private home viewing so long as they have complied with the conditions for the compulsory license.

The bill also clarifies that wireless cable television systems are entitled to avail themselves of the section 111 compulsory license. And, it amends the definition of "Local service area of a primary transmitter" in section 111(F) to correct an anomaly in the Copyright Act that has resulted in newer television stations being treated as distant signals while older stations in the same geographic area are treated as local signals, and I want to commend the particularly fine work of this committee's subcommittee on Intellectual Property and Judicial Administration. The chairman of that subcommittee the gentleman from New Jersey [Mr. HUGHES] has done an outstanding job, and I just want to say again that we deeply regret that he is retiring and we will no longer have the advantages of his fine service and his keen intellect. The gentleman from California [Mr. MOORHEAD], the ranking Republican, has worked tirelessly on this matter and deserves much credit as well. In addition subcommittee members, the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Virginia [Mr. BOUCHER], have played a very prominent role in developing a proper, workable policy in this area and will continue to do so, and I urge all Members to support passage of H.R. 1103.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES] for his hard work and leadership in this area; also the gentleman from New York [Mr. FISH] has been instrumental in drafting and moving this legislation to the floor. Also, the chairman, the gentleman from Texas [Mr. BROOKS] has been helpful.

Although the main purpose of this legislation is a 5-year extension of the Satellite Home Viewer Act which this subcommittee processed in 1988, this bill also contains a provision dealing with the definition of wireless cable which is very similar to a bill, H.R. 759, that the gentleman from Virginia [Mr. BOUCHER] and I introduced and which was part of the overall hearings on H.R. 1103. That bill was prompted by a 1992 ruling by the Register of Copyrights that would strip the industry of its compulsory license which it has enjoyed for a number of years under section 111 of the Copyright Act.

The bill before us today, provides that wireless and other cable-like systems will be made part of the compulsory license. I believe it is important to encourage these new technologies because they will become real competitors of cable TV in the marketplace. Competition is an important factor in keeping cable TV rates at a reasonable price. The consumer will be the ultimate benefactor of this increase in competition.

In 1988 when we drafted the original Satellite Home Viewer Act we intended that after 6 years the industry involved would be able to move into voluntary private contracts for the licensing of copyrighted programming. Although the act has worked very well we are not yet to that point where the marketplace can take over, so we still need the regulation provided in H.R. 1103. However, I am pleased to see that during the next negotiations that the arbitrators will at least be able to consider the fair market value of this copyrighted programming; that is, if the parties have been unable to come to an agreement on their own. But I think we have come a long way—it is important legislation, and I urge a favorable vote on H.R. 1103.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES] chairman of the Subcommittee on Intellectual Property and Judicial Administration.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 1103, the Satellite Home Viewer Act of 1994. H.R. 1103 will extend the current compulsory license in section 119 of the Copyright Act until December 31, 1999. This extension ensures that millions of Americans who cannot receive over-the-air television signals or cable will have access to network signals.

At the same time, H.R. 1103 makes a number of improvements in the existing statute, including a voluntary system of testing households for unserved status, and establishment of fair market value as the benchmark by which arbitrators will set the midcourse rate adjustment. H.R. 1103 also requires that the names of subscribers be provided. In some cases, current contracts between satellite carriers and their distributors regard these names as proprietary to the distributor. For this reason, network stations should work with the carriers during an expected transition period while these contracts are being redone. I would like to take the balance of my time explaining this last provision.

The section 119 compulsory license is a government set fee for the unconsented to use of copyrighted television programming: It is not a free market rate; it is, basically, a government-mandated subsidy by copyright owners for the benefit of satellite carriers. Having paid a subsidized rate, satellite carriers sell copyright owners' programming to consumers at whatever the market will bear.

The difference between the compulsory license rate paid by satellite carriers to copyright owners, and the rate they charge consumers is eye opening: For the three network signals, satellite carriers pay copyright owners a total of $2.16 a year. One carrier charges consumers $50 a year for these same signals, a mark up of $47.84.

I have heard concerns that H.R. 1103, by requiring the arbitrators to set a fair market rate in late 1996, will discourage satellite carriers from competing with cable. I don't agree. In most cases, there are no cable systems to compete with. Most rural Americans have a single source—the satellite carrier—and we've seen what satellite carriers charge in the absence of competition.

As importantly, cable has invested heavily in satellite carriers. TCI, our largest cable company, owns an 80-percent share in one of the two satellite carriers delivering network signals, and a 23-percent interest in the other.

This is not a dispute between copyright owners and rural dish owners. It is, instead, an understandable effort by cable companies and their satellite partners to hang on to a profitable government subsidy, a sibsidy they are receiving at the expense of copyright owners. If my colleagues are concerned about the prices home dish owners are being charged, and I believe there is reason for such concern, the source of that concern cannot be the meager $2.16 network copyright owners receive. One solution may be found in last Congress's Cable Act's price discrimination provisions. There may be others, and I will be pleased to explore any suggestions my colleagues may develop.

□ 1220

Mr. Speaker, this is a good bill. I do not think there is any great controversy, although we do have to resolve some differences in conference.

Mr. Speaker, I want to commend the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the full committee, and his ranking Republican, the gentleman from New York [Mr. FISH]. I want to thank in particular the gentleman from California [Mr. MOORHEAD], who is my partner and colleague on the Subcommittee on Intellectual Property and Judicial Administration, for his work. I commend also the gentleman from Virginia [Mr. BOUCHER], as well as the gentleman from Oklahoma [Mr. SYNAR], who has worked very hard on this particular legislation.

The staff has worked very hard on this and on other bills that are pending on the Senate side. I am referring to Hayden Gregory, the chief counsel, and his counterpart, Tom Mooney, on the Republican side, along with Bill Patry on the majority side, and Joe Wolfe on the minority side. I commend them for their work also.

Mr. Speaker, it is a good bill, and I urge my colleagues to support it.

Mr. MOORHEAD. Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Virginia [Mr. BOUCHER], a member of the committee.

Mr. BOUCHER. Mr. Speaker, I want to express my appreciation to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of our committee, for yielding this time to me, and also I wish to commend him for his leadership. I commend also the gentleman from New Jersey [Mr. HUGHES] for his leadership in bringing the Home Satellite Viewer Act through the committee process and onto the House floor.

In 1988 we enacted the initial version of this legislation for the very important purpose of assuring that owners of backyard satellite dishes could receive unscrambled signals from the major networks. In the 1980's networks were beginning to scramble their signals, and millions of backyard dish owners found that they could no longer receive the popular programming provided by CBS, ABC, and NBC, the major networks. The 1988 act was a response to the need of dish owners to receive that programming.

At the same time, in 1988 we took into account the entirely legitimate concern of local broadcast stations that carried the networks that they not lose viewers due to dish owners subscribing to network signals over the satellite rather than picking up the signal over the air from local broadcast stations. In striking a balance between these competing interests, the 1988 act assured that dish owners could subscribe to satellite-delivered network signals but only if they could not receive that signal by some other means, namely, over the air from the local broadcast station or by means of cable TV.

During the past 6 years millions of primarily rural viewers have benefited by receiving network-delivered satellite signals from the major networks. There has, however, been controversy, as local stations charged that many dish owners who subscribed to network-delivered signals could have received those same signals by means of a local broadcast from the local affiliate. Local stations argued that this practice deprived them of viewers and, therefore, deprived them of advertising revenues, and they pointed out that the problem could worsen as direct broadcast satellite services that transmit from a very high-powered satellite to very small 18-inch dishes become available nationwide and, therefore, expand the number of viewers who receive signals generally by means of satellite delivery.

The bill that we consider today contains new provisions written with the assistance of the satellite carriers and the local network affiliates that will specify how to ascertain whether dish owners are eligible to receive satellite-delivered network signals. The controversy between local affiliates and the satellite networks had threatened the long-term viability of the satellite license and the ability of people who live beyond the reach of local stations to receive network signals.

We have structured a workable agreement, and I want to thank the parties to it for approaching this reform legislation in such a constructive manner. I also want to express thanks to the gentleman from California [Mr. MOORHEAD] with whom I was pleased to introduce legislation at the start of this Congress to renew the 1988 license. It is always a pleasure to work with him. I also want to commend the gentleman from Oklahoma [Mr. SYNAR] for his very fine work on this measure.

Mr. Speaker, I urge the adoption of H.R. 1103.

Mr. SYNAR. Mr. Speaker, H.R. 1103, the Satellite Home Viewer Act is necessary legislation that will amend the copyright law to extend the satellite compulsory license. Compulsory licenses, first enacted for the nascent cable industry, and later for an infant satellite broadcast industry, allow the transmission of copyrighted television programming in return for a statutorily determined fee. The compulsory license mechanism has been essential for the development of the cable and satellite broadcast industry by facilitating the clearance of the thousands of copyrights related to television programming thereby ensuring access to that programming by cable system operators and satellite broadcasters.

H.R. 1103, which extends the satellite compulsory license for a period of 5 years, will also reform the arbitration process used to arrive at the statutorily determined copyright royalty fee charged to satellite broadcasters for retransmitting copyrighted programming. Under the legislation, future adjustments of the royalty fees payable under section 119 of the Copyright Act for secondary transmissions by satellite carriers are to be determined by arbitration panels applying a fair market value standard.

This concept, strongly favored by the chief sponsor of H.R. 1103, Congressman HUGHES, is an attempt to embody a worthy policy goal—to direct the arbitration panel to come up with a royalty fee that replicates, as closely as possible, the price two private parties negotiating on their own behalf would agree to. Unfortunately, while it is an honest attempt, fair market value as contemplated in H.R. 1103, will not result in a fair outcome of the arbitration proceeding.

I fear such an outcome because the arbitration panels are given very little guidance in H.R. 1103 as to what fair market value means. Aside from the business uncertainty this will foster, without any real direction in the statute itself, Panel members will necessarily have to look elsewhere to divine what fair market value is supposed to mean. Unfortunately, there is virtually no other place for the panels to look for the guidance they will need to set a fair royalty fee rate. They cannot look to current law because there is no concept of fair market value anywhere else in the copyright code. They cannot look to an already established private market to set the fee for broadcast signals because there is no existing private market to look to. And finally, the little guidance H.R. 1103 does offer discourages the arbitration panel from doing what they have always done in the past—take into account the royalty fees paid by the satellite industry's chief competitor—the cable industry.

Which raises the other serious concern I have with the concept of fair market value. Because the compulsory license under which the cable industry operates does not look to fair market value to set the fees charged to cable for the retransmission of programming, I fear that fair market value will put satellite industry at a competitive disadvantage to cable by charging satellite carriers more in copyright fees for carrying the exact same programming carried by cable. The satellite industry directly competes with cable right now.

Thirty to forty percent of all satellite dish households live in areas wired for cable. Already, satellite carriers pay higher copyright fees than cable for carrying the same exact programs carried by cable. If fair market value is enacted, I fear this gap will grow. For consumers who have a choice between satellite and cable, this will make satellite services a less attractive alternative to cable television, thus denying the benefits of effective video competition to consumers around the country.

Fair market value becomes even more troublesome when one considers the potential impact on the infant Direct Broadcast Satellite [DBS] industry which is expected to directly compete with cable in urban and suburban America in the coming years. DBS, whose copyright royalty fees will also be determined under the proposed arbitration reforms of H.R. 1103, could see its price of programming raised relative to the cost of programming for cable systems. This could immediately put this newborn industry at a competitive disadvantage to cable at a time when Congress is trying to encourage vigorous cable competition for the benefit of video consumers.

For these reasons, the Senate, in its consideration of similar legislation, rejected the concept of fair market value. Others, including the Consumer Federation of America and the House Rural Caucus have ratified the Senate's position by opposing H.R. 1103's ill-defined notion of fair market value.

It is my hope that if this bill reaches a House-Senate conference, the House will recede to the relevant Senate provisions and preserve the royalty fee arbitration process found in current law. While I agree with Mr. Hughes that Congress must move this process in a direction that more closely resembles the negotiations of private parties, I cannot support the concept of fair market value currently found in H.R. 1103. It's lack of guidance for the Copyright Office's arbitration panels will ultimately hurt competition in the video programming distribution industry and that is bad public policy.

For these reasons I urge my colleagues to vote against this legislation.

Ms. LONG. Mr. Speaker, I rise today in support of H.R. 1103, legislation to extend satellite broadcast retransmission rights.

As Chair of the Congressional Rural Caucus, I strongly support the provisions of H.R. 1103 to ensure that rural home satellite dish consumers will be able to continue to receive retransmitted broadcast programming. This is essential because in many rural areas satellite technologies represent the only way that rural families can receive the kind of information and entertainment programming that many urban Americans take for granted.

However, I remain concerned with provisions in the legislation which could result in unfair discrimination against these same rural families. Specifically, this legislation would sever the link between cable and satellite fees and instruct an arbitration panel to determine these fees based on fair market value. I, along with many other members of the Rural Caucus, believe that this could lead to unfair, and increased rates for our rural constituents.

Mr. Speaker, rural satellite television consumers are already charged higher retransmission fees than cable subscribers. On behalf of my rural colleagues, I respectfully request that the House conferees recede to the Senate on this matter. In addition, I have included following my statement a letter signed by 32 members of the Rural Caucus on this matter.

The letter follows:

Congressional Rural Caucus,
House of Representatives,
Washington, DC, June 14, 1994.

Hon. Jack Brooks,
Chairman, Judiciary Committee, Washington, DC.

Hon. William J. Hughes,
Chairman, Judiciary Subcommittee on Intellectual Property and Judicial Administration, Washington, DC.

Dear Chairman Brooks and Chairman Hughes: As Members of the Congressional Rural Caucus, we write to thank Chairman Hughes and his Subcommittee for their hard work on H.R. 1103. This legislation is essential to the many rural Americans who are unable to receive either cable or clear off-the-air broadcast programming; and thus rely on satellite technologies to receive the popular news, information, entertainment and other video programming that many urban Americans take for granted.

While we are supportive of the intent of H.R. 1103, we have specific concerns with the legislation that we hope can be addressed in an appropriate manner. In particular, we are concerned that as currently written, this legislation could impose an unjustifiable and disproportionate rate increase on rural satellite home viewers.

As you know, rural satellite home viewers are able to receive network and superstation broadcast programming through the compulsory license provided by the Satellite Home Viewer Act (SHVA) of 1988—which expires at the end of 1994. While H.R. 1103 extends the SHVA compulsory license, we are concerned with the provisions of H.R. 1103 that would serve to (1) sever the link between the rates paid for satellite retransmission compared with rates paid by cable companies, and (2) establish a new pricing approach for satellite rates while continuing the statutory formula for determining cable rates.

Although H.R. 1103 would not alter the formula used for determining cable fees, it would fundamentally alter the criteria used for setting these fees for retransmission to home satellite dish consumers. Under current law, fees for broadcast retransmission for the satellite industry are determined by an arbitration panel (established by the SHVA) based on several factors, the first of which is the "approximate average cost to a cable system for the right to secondarily transit to the public a primary transmission made by a broadcast station."

Under H.R. 1103 these satellite fees would no longer be based on the average cost to cable operators—which are determined by a statutory formula—but instead on the "fair market value" of the retransmitted signals. We believe that this unprecedented "fair market value" determination could result in substantially higher rates for satellite carriers compared to their cable counterparts.

Our rural constituents should not be asked to pay more money to receive the same network and superstation programming commonly available in cable-wired urban areas simply because they utilize satellite technologies. Satellite carriers already pay substantially more than the average rates paid by cable companies for retransmission of broadcast signals—with no difference in the costs to broadcasters or copyright owners providing these signals.

With this in mind, we respectfully request that you amend H.R. 1103 to continue the criteria of current law—which was recently approved by the Senate in S. 1485. We believe that this is an essential step to ensure that our rural satellite television consumers are not unfairly disadvantaged or used to test a mew pricing approach from which the predominately urban cable industry is exempted.

Again, we appreciate the work so far, and are hopeful that we can fully support this bill as it moves through Congress. In advance, thank you for your serious consideration of our views.

Sincerely,

Jill Long, Chair.
Martin Lancaster, Vice Chair.
Pat Roberts.
Bill Richardson.
Collin C. Peterson.
Charles Wilson.
Peter A. DeFazio.
Earl Pomeroy.
Tim Johnson.
Charles H. Taylor.
Karan English.
Pete Peterson.
James E. Clyburn.
Jim Chapman.
Thomas J. Barlow.
David Minge.
Eva M. Clayton.
Ike Skelton.
Steve Gunderson.
Michael G. Oxley.
Fred Upton.
Floyd Spence.
Barbara F. Vucanovich.
Charlie Rose.
John M. Spratt.
Jim Cooper.
Pat Danner.
Pat Williams.
Bill Orton.
Doug Bereuter.
John M. McHugh.
Mike Parker.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Traficant). The question is on the motion offered by the gentleman from Texas [Mr. Brooks] that the House suspend the rules and pass the bill, H.R. 1103, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 1485) to extend certain satellite carrier compulsory licenses, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Compulsory License Extension Act of 1994".

SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)(2)(C)—

(A) by striking out "90 days after the effective date of the Satellite Home Viewer Act of 1988, or";

(B) by striking out "whichever is later,";

(C) by inserting "name and" after "identifying (by" each place it appears; and

(D) by striking out ", on or after the effective date of the Satellite Home Viewer Act of 1988,";

(2) in subsection (a)(5)—

(A) in subparagraph (C) by striking out "the Satellite Home Viewer Act of 1988" and inserting in lieu thereof "this section"; and

(B) by adding at the end thereof the following new subparagraphs:

"(D) BURDEN OF PROOF.—In any action brought under this subsection, the satellite carrier shall have the burden of proof (in the case of a primary transmission by a network station) that a subscriber is an unserved household.

"(E) SIGNAL INTENSITY MEASUREMENT; LOSER PAYS.—

"(i) GRADE B CONTOUR.—(I) Within the Grade B Contour, upon a challenge by a network affiliate regarding whether a subscriber is an unserved household, the satellite carrier shall—

"(aa) deauthorize service to that household; or

"(bb) conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is unserved.

"(II) If the carrier conducts a signal intensity measurement under subclause (I) and the measurement indicates that—

"(aa) the household is not an unserved household, the carrier shall immediately deauthorize the service to that household; or

"(bb) the household is an unserved household, the affiliate challenging the service shall reimburse the carrier for the costs of the signal measurement, within 45 days after receipt of the measurement results and a statement of the costs.

"(III)(aa) Notwithstanding subclause (II), a carrier may not be required to test in excess of 5 percent of the subscribers that have subscribed to service before the effective date of the Satellite Compulsory License Extension Act of 1994, within any market during a calendar year.

"(bb) If a network affiliate challenges whether a subscriber is an unserved household in excess of the 5 percent of the subscribers within any market, the affiliate may conduct its own signal intensity measurement. If such measurement indicates that the household is not an unserved household, the carrier shall immediately deauthorize service to that household and reimburse the affiliate, within 45 days after receipt of the measurement and a statement of costs.

"(ii) OUTSIDE THE GRADE B CONTOUR.—(I) Outside the Grade B Contour, if a network affiliate challenges whether a subscriber is an unserved household the affiliate shall conduct a signal intensity measurement of the subscriber's household to determine whether the household is unserved.

"(II) If the affiliate conducts a signal intensity measurement under subclause (I) and the measurement indicates that—

"(aa) the household is not an unserved household, the affiliate shall forward the results to the carrier who shall immediately deauthorize service to the household, and reimburse the affiliate within 45 days after receipt of the results and a statement of the costs; or

"(bb) the household is an unserved household, the affiliate shall pay the costs of the measurement.

"(iii) RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households, a challenging affiliate shall reimburse a carrier for any signal intensity measurement that indicates the household is an unserved household.";

(3) in subsection (b)(1)(B)—

(A) in clause (i) by striking out "12 cents" and inserting in lieu thereof "17.5 cents per subscriber in the case of superstations not subject to syndicated exclusivity under the regulations of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations subject to such syndicated exclusivity"; and

(B) in clause (ii) by striking out "3" and inserting in lieu thereof "6";

(4) in subsection (c)—

(A) in the heading for paragraph (1) by striking out "DETERMINATION" and inserting in lieu thereof "ADJUSTMENT";

(B) in paragraph (1)—

(i) by striking out "December 31, 1992, unless"; and

(ii) by striking out "After that date," and inserting in lieu thereof "All adjustments of";

(C) in paragraph (2)—

(i) in subparagraph (A) by striking out "July 1, 1991," and inserting in lieu thereof "January 1, 1996,"; and

(ii) in subparagraph (D) by striking out "until December 31, 1994" and inserting in lieu thereof "in accordance with the terms of the agreement"; and

(D) in paragraph (3)(A) by striking out "December 31, 1991," and inserting in lieu thereof "July 1, 1996,"; and

(5) in subsection (d)—

(A) by amending paragraph (2) to read as follows:

"(2) NETWORK STATION.—The term 'network station' means—

"(A) a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

"(B) any noncommercial educational station, as defined in section 111(f) of this title, that is a member of the public broadcasting service."; and

(B) in paragraph (6) by inserting "and operates in the Fixed Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations," after "Commission,".

SEC. 3. CABLE COMPULSORY LICENSE.

Section 111(f) of title 17, United States Code, is amended—

(1) in the paragraph relating to the definition of "cable system" by striking out "wires, cables" and inserting in lieu thereof "wires, microwave, cables"; and

(2) in the paragraph relating to the definition of "local service area of a primary transmitter"—

(A) by striking out "comprises the area" and inserting in lieu thereof "comprises either the area"; and

(B) by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any subsequent modifications to such television market made pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

SEC. 4. TERMINATION.

(a) EXPIRATION OF AMENDMENTS.—Section 119 of title 17, United States Code, as amended by section 2 of this Act, ceases to be effective on December 31, 1999.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 207 of the Satellite Home Viewer Act of 1988 (17 U.S.C. 119 note) is repealed.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided under subsection (b), the provisions of this Act and amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) of title 17, United States Code, (as added by section 2(2)(B) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the Senate bill, S. 1485, and insert in lieu thereof the provisions of H.R. 1103, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend title 17, United States Code, with respect to secondary transmissions of superstations and network stations for private home viewing, and with respect to cable systems."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1103) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1485

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1485, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on S. 1485: Messrs. BROOKS, HUGHES, SYNAR, BOUCHER, FRANK of Massachusetts, MOORHEAD, COBLE, and FISH.

There was no objection.

□ 1230

CONCURRING IN SENATE AMENDMENT TO H.R. 1305, MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS ACT OF 1993, WITH AN AMENDMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 520) providing for the concurrence by the House, with an amendment, in the amendment by the Senate to the bill H.R. 1305.

The Clerk read as follows:

H. RES. 520

Resolved, That, upon adoption of this resolution, the bill (H.R. 1305) to make boundary adjustments and other miscellaneous changes to authorities and programs of the National Park Service, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table, and the same hereby agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1994".

TITLE I—MINOR BOUNDARY ADJUSTMENTS

SEC. 101. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001-B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION BY DONATION.—(1) Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 102. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in Section 28 to the park and to exclude the 5.51 acres in Section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Act.

SEC. 103. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on a map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625-80, 043A and dated July 1992.

SEC. 104. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 105. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131-80,008, and dated October 1987, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands, and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands, and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands, and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 106. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 107. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322-80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands, and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

TITLE II—MISCELLANEOUS SPECIFIC PARK AMENDMENTS

SEC. 201. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK, HI.—

(1) This subsection may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994".

(2) Notwithstanding section 505(f)(7) of Public Law 95-625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by subsection (b) of this section.

(3) Section 505(f)(7) of Public Law 95-625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1994.".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK, NY.—Section 1601(h)(5) of the Act of December 28, 1980 (16 U.S.C. 410ll(h)(5)), is amended by striking "ten years" and inserting in lieu thereof "twenty-five years".

SEC. 202. AMENDMENT OF BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z-1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

TITLE III—GENERAL AUTHORIZATIONS AND REPEALERS

SEC. 301. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 302. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j-2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 303. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Act shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Act, or section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft and helicopters, or contract for such use, in furtherance of the management of the National Park System, and the provisions of section 47(a) of title 18, United States Code, shall not be applicable to such use.".

SEC. 304. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum objects and museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 305. VOLUNTEERS IN THE PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,750,000".

SEC. 306. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SEC. 307. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 1691–1691–1 is amended by striking "Federal Lands Cleanup Day" each place it occurs and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 520.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 520 is a measure to provide for House consideration of the bill, H.R. 1305, with the Senate amendment and to concur in the Senate amendment, with an amendment. H.R. 1305 is a noncontroversial housekeeping bill making minor boundary adjustments and other miscellaneous changes in programs and authorities of the National Park Service. It is a bipartisan bill which I introduced along with the ranking minority member of the Subcommittee on National Parks, Forests and Public Lands, Mr. HANSEN of Utah. The bill originally passed the House on July 19, 1993. The Senate passed an amendment in the nature of a substitute on May 3, 1994. The Action before the House today is to concur in the Senate amendment with an amendment.

H.R. 1305 as passed by the House makes seven minor park boundary adjustments, extends the advisory commissions at two park units, clarifies the authority for the National Park Service to enter into agreements regarding cooperative park study units, provide the National Park Service with greater flexibility in handling museum objects and makes several other miscellaneous authorizations that in the past had been carried in appropriations bills. Nearly all of the provisions of H.R. 1305 were drafted and presented to the committee by the National Park Service and most were passed by the House in the 102d Congress as part of another bill. Unfortunately, action on this earlier bill was not completed prior to adjournment of the 102d Congress.

The Senate amendment to H.R. 1305 keeps all of the House passed provisions of the bill except one minor provision relating to Fort Pulaski National Monument. The Senate added two new sections to the bill. The first is a provision supported by Senator BUMPERS to designate Carl Garner Federal Lands Cleanup Day. The second section is legislation authorizing the construction of a new visitor center to interpret the siege and Battle of Corinth, MS. The Subcommittee on National Parks, Forests and Public Lands recently held a hearing on the Corinth visitor center issue, which was the subject of freestanding legislation by Representative JAMIE WHITTEN and Senator TRENT LOTT. While the hearing demonstrated the historical importance of the events surrounding the battle at Corinth, questions were raised by the National Park Service and others about the cost and precedent of building a new visitor center for an area not even in the National Park System. I will be working with the members of the Mississippi delegation to fashion a legislative initiative which addresses the historical resources of the Corinth area. However, the inclusion of such a proposal on this bill is not appropriate. H.R. 1305 is a bipartisan bill consisting of long delayed housekeeping measures proposed by the National Park Service, and the Corinth proposal, whatever its merit, is neither housekeeping nor a National Park Service initiative. The action we are taking today is supported by the minority and the National Park Service.

Mr. Speaker, H.R. 1305 as amended is a noncontroversial bipartisan bill which deserves our support and I urge the adoption of the resolution.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bipartisan effort which led to development of this measure actually began last Congress. The legislation was passed by the House last session, but was not acted on by the Senate because the long list of useful housekeeping measures included in this bill did not gather sufficient sponsorship in the Senate. My only concern today is that by sending this bill to the Senate a third time, there is a significant likelihood that time will run out before the Senate has another chance to consider the measure.

However, I do not intend to oppose the chairman's decision to modify this bill and return it to the Senate, and therefore I urge my colleagues to support this resolution today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and agree to the resolution, House Resolution 520.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENTS TO H.R. 2815, FARMINGTON WILD AND SCENIC RIVER ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2815) to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

The Clerk read as follows:

Senate amendments:

Page 4, strike out lines 4 to 23 and insert:

(6) the Colebrook Dam and Goodwin Dam hydroelectric projects are located outside the river segment designated by section 3, and based on the study of the Farmington River pursuant to Public Law 99-590, continuation of the existing operation of these projects as presently configured, including associated transmission lines and other existing project works, is compatible with the designation made by section 3 and will not unreasonably diminish the scenic, recreational, and fish and wildlife values of the segment designated by such section as of the date of enactment of this Act.

Page 6, strike out lines 2 to 4 insert:

(a) COMMITTEE.—The Director of the National Park Service, or his or her designee, shall represent the Secretary on the Farmington River Coordinating Committee provided for in the plan.

Page 6, line 5, strike out all after "ROLE.—" down to and including "(2)" in line 15 and insert: (1)

Page 7, line 7, strike out "(3)" and insert "(2)".

Page 7, line 10, strike out "(4)" and insert "(3)".

Page 7, line 21, strike out "Director" and insert "Secretary".

Page 8, strike out lines 23, and 24.

Page 9, line 1, strike out "(3)" and insert "(2)".

Page 9, line 7, strike out "(4)" and insert "(3)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2815, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2815 is a bill introduced by Representative JOHNSON of Connecticut and cosponsored by the entire delegation from that State, including our colleague on the Natural Resources Committee, Mr. GEJDENSON.

It would designate a segment of the Farmington River, in Connecticut, as a component of the National Wild and Scenic Rivers System.

The House passed H.R. 2815 back in March. More recently, the Senate returned the bill to us with some amendments that make minor revisions to one finding and clarify the role of the National Park Service in connection with the local coordinating committee provided for in the bill. After a review, we have concluded that the bill as amended by the Senate remains completely consistent with the original purpose and intent of the House-passed bill, as explained in the report of the Natural Recourse Committee.

Therefore, we are seeking to concur in the Senate amendments and send the bill to President Clinton for signature into law.

The gentlewoman from Connecticut [Mrs. JOHNSON] should be congratulated for her hard work and leadership on this matter. This is a good bill that deserves enactment, and I urge the House to concur in the Senate's minor amendments, and send the bill to the President.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2815 as amended by the Senate. This legislation, which has been fully explained by Chairman VENTO, already passed the House by voice vote several months ago.

I would like to commend the gentlewoman from Connecticut [Mrs. JOHNSON] for her hard work on this legislation affecting her district. I believe she has worked nearly 8 years trying to broker a compromise with the many diverse groups along the Farmington River.

I urge my colleagues to support H.R. 2815.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of H.R. 2815 and commend the Committee on Natural Resources for bringing this legislation to closure.

It has been a long road for this bill, Mr. Speaker, and this glorious day would not have been possible without broad local support of my constituents, the 17-member Farmington River Advisory Committee, the local Watershed Association, the Metropolitan District Commission, the Connecticut Department of Environmental Protection, and the National Park Service.

With today's action, this bill is cleared for the President's signature.

But, more notably for my constituents back home, we will at long last have a federally recognized natural asset protected for all time in an area that my western colleagues might not consider wild but would surely honor as scenic. Further, I want to underscore the precedent-setting nature of this bill, Mr. Speaker, because it gives hope to other people who wish to protect remarkable rivers in relatively densely populated areas of America, and particularly, New England.

As I have noted in earlier remarks, this legislation develops a new model for the governance of wild and scenic rivers. The goals of our Federal preservation program will be achieved through cooperative efforts that honor the tradition of local power that is embodied in our town meeting form of government. This new model will enable many New England areas to participate in the Federal preservation effort embodied in our Wild and Scenic Rivers Act.

I deeply appreciate the committee's work and especially thank the chairman of the subcommittee, Mr. VENTO, and its ranking member, Mr. HANSEN, for their tireless efforts to bring a complex process to conclusion.

I yield back the balance of my time.

Mrs. KENNELLY. Mr. Speaker, we are considering today a bill to protect one of Connecticut's most treasured resources—the Farmington River. This bill, sponsored by my good friend, Mrs. JOHNSON and supported by all of us in the Connecticut delegation, will protect 14 miles of the west branch of the Farmington River by including it in the National Wild and Scenic Rivers System.

A wild and scenic designation is the only protection that can permanently guarantee that no federally licensed or funded water project be allowed to harm the river. It will protect the waterway's fisheries, wildlife, and recreation potential, and contribute significantly to our enjoyment of the river.

Today's legislation will not only protect the Farmington River, but has the potential to help rivers nationwide. The bill contains important language to promote local autonomy and self-determination, which will help local governments settle the sometimes difficult issues which arise during consideration of preservation status.

This local stewardship approach states that the Federal Government cannot pursue land acquisition or management, ensuring that local authorities will retain significant influence. This can be particularly important when rivers abut private property. It is an important distinction which should contribute to greater preservation efforts.

This legislation is the result of cooperation among many different parties—Governor Weicker, the Connecticut Department of Environmental Protection, the Metropolitan District Commission, the Farmington River Watershed Association, and local municipal authorities. Many people have worked together on this project—this bill is testimony to their efforts and to the merits of their project.

Mr. Speaker, I would like to commend my colleague, Mrs. JOHNSON, for her hard work and encourage this Chamber to quickly pass this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspended the rules and concur in the Senate amendments to H.R. 2815.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENTS TO H.R. 2947, COMMEMORATIVE WORKS ACT AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2947) to amend the Commemorative Works Act, and for other purposes.

The Clerk read as follows:

SENATE AMENDMENTS:

Page 6, line 1, after "Administrator" insert "(as appropriate)".

Page 6, line 3, after "the" insert "Secretary or Administrator determines the fundraising efforts with respect to the commemorative work have misrepresented an affiliation with the commemorative work or the United States".

Page 6, strike out lines 4 to 13.

Page 6, lines 15 and 16, strike out "operations prepared" and insert "operations, including financial statements audited".

Page 6, line 18, strike out "work." and insert "work.".

Page 6, strike out lines 19 to 25.

Page 7, line 6, strike out "(1) Section" and insert "Section".

Page 7, strike out lines 12 to 16.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes of the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2947, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2947 as amended is legislation to extend for 3 years the authorization for the Black Revolutionary War Patriots Memorial, the National Peace Garden Memorial, and the Women in Military Service Memorial. It also makes several technical and conforming amendments to the Commemorative Works Act. The bill originally passed the House on November 23, 1993. It passed the Senate with several amendment on April 12, 1994. The action before the House today is to concur in the Senate amendments and send the bill to the President.

As originally introduced by Congresswoman NANCY JOHNSON, H.R. 2947 would have extended the authorization for the Black Revolutionary War Patriots Memorial, a memorial to those African-Americans who fought with the American Colonists for independence from Great Britain. As amended by the Committee on Natural Resources, the bill extends the authorization for two other commemorative works to be constructed here in the Nation's Capital. The Black Revolutionary War Patriots Memorial, the Women in Military Service to America Memorial, and the National Peace Garden have all been authorized under the Commemorative Works Act. All three obtained the initial site and design approvals as required by the law. But for various reasons, particularly because of the difficulty of fundraising, each of them has requested an extension for the completion of their commemorative works. This legislation extends their authorizations to 10 years—an additional 3 years for each. I support this extension with the understanding that there will be no further extensions.

H.R. 2947 also makes various changes to the Commemorative Works Act. Congress enacted the Commemorative Works Act in 1986 out of concern that numerous memorials were being proposed for the scarce public lands in the Nation's Capital and that a process for establishing those of the highest merit should be developed. The changes in H.R. 2947 were requested by the National Capital Memorial Commission and by those responsible for administering the act. The most significant changes are provisions to require an annual report including an audited financial statement and authorization for the Secretary of the Interior to suspend a memorial organization's activities if misleading fundraising tactics are used. These provisions were including to increase accountability and to ensure that the public's trust is not abused.

The Senate deleted a provision in the House-passed bill authorizing the Secretary to suspend a memorial organization's activity if there are excessive administrative and fundraising expenses. It is the committee's intent that the National Park Service develop guidelines which provide direction to memorial organizations on the subject of unreasonable or excessive administrative costs and fundraising fees. The committee believes that guidelines from the National Park Service would also be helpful to avoiding problems in the future. The committee expects the National Park Service to monitor the fundraising activities of the memorial organizations more closely and it intends that all of the provisions of H.R. 2947 apply to all commemorative works authorized under the Commemorative Works Act.

Mr. Speaker, H.R. 2947 as amended is a meritorious bill which will allow three important memorial efforts in our Nation's Capital to continue. It will also make needed changes to the general process used for evaluating and approving commemorative works. This bill has bipartisan support and is supported by the administration. I urge its passage today.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2947, the extension of the Black Revolutionary War Patriots Foundation. This legislation has been fully explained by Chairman VENTO and I support the changes made in the other body. This side of the aisle urges the Foundation to complete their work within the time period we are granting in order to avoid such an extension 2 years from now.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to endorse H.R. 2947, my bill to extend the life of the Black Patriots Foundation so that it may gather the resources necessary to establish a memorial to black Revolutionary War patriots.

Mr. Speaker, several years ago, a constituent of mine, Maurice Barboza, brought me the forgotten story of the thousands of black Revolutionary War patriots who fought and died for the birth of this Nation. Shoulder to shoulder with white patriots, these 5,000 18th century heroes sacrificed mightily so that we can stand here today, a free people and a beacon of hope in today's world.

Though the Black Revolutionary War Patriots Foundation has worked hard to accomplish its important goal, fundraising is never easy. Through the public notice of this legislation and in a period of greater ecomonoic growth, I hope more people will take part in the journey to full recognition of the Black Revolutionary War Patriots Foundation by contributing to the cause.

Again, I appreciate the understanding and support of Chairman VENTO and Ranking Member HANSEN and look forward to a successful drive, and construction of a fitting memorial to the black Revolutionary War patriots.

As generations of children visit our Nation's capitol and walk the mall, they should have a concrete reminder that America was born as a result of blacks and whites fighting together for freedom and justice for all. We are one Nation because people of all races and ethnic origins have been willing to fight for and then build a new nation of free and equal citizens. If we fail to understand our past, we cannot assume a future worthy of our visionary ancestors. Mr. Speaker, this monument is about cherishing, affirming, and comprehending our past each day we build our future.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 2947, a bill to extend the authorization for the construction of the Black Revolutionary War Patriots Memorial. I would like to thank the chairman of the Subcommittee on National Parks, Forests and Public Lands, Mr. VENTO, for his support of this legislation and the work he and his staff have done to make the extension possible.

It is a little known fact that in the Revolutionary War, approximately 5,000 African-American soldiers fought for the United States. It is a shame that these brave men have not yet received proper recognition, but now we have an opportunity to change that by allowing the completion of the black patriots memorial.

In addition, H.R. 2947 also provides for an extension in authorization for the Women In Military Service for America Memorial. This structure, which will be located at the gates of Arlington Cemetery, will serve as a monument to the approximately 1.8 million American women who have served their country in peacetime and in war, from the American Revolution to the Persian Gulf conflict. By extending the memorial's authorization, we allow the Women In Military Service for America Memorial Foundation to raise the rest of the funds needed to begin construction of this important monument. It is vital that this project be completed, because a comprehensive account of the contributions of servicewomen throughout our Nation's history has never been assembled. This is an oversight which must be corrected. We have had a long tradition of distinguished service by women and it is time they received due recognition. Once again, I stand in strong support of H.R. 2947, and I urge my colleagues to vote for this bill.

Mr. ALLARD. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to H.R. 2947.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMUNICATION FROM THE HONORABLE J. DENNIS HASTERT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable J. DENNIS HASTERT, Member of Congress:

HOUSE OF REPRESENTTIVES,
Washington, DC, August 10, 1994.

Hon. THOMAS FOLEY,
Speaker of the House,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the Circuit Court for the Sixteenth Judicial District, County of Kane, Illinois relating to a constituent casework matter.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
J. DENNIS HASTERT,
Member of Congress.

THE CRIME BILL

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, on Friday last I traveled with President Clinton to Minnesota as he addressed the National Organization of Police Officers and their association. I must say that the response at home with regards to the failure of the House to act on the crime bill was one of outrage. Universally, as I met with the police officers and other officials that were impacted by that decision, they and the general public in Minnesota were very concerned.

The fact is, that there has been a lot of complaints about the provisions of the bill referred to as being "porked up." I would suggest to my colleagues that this claim of pork is a cooked-up excuse to, in fact, disarm this bill, to take out the weapons ban, to, in fact, distort the provisions of the bill which has for sometime on regular basis been pushed forward.

I would suggest my colleagues ought to hit the books a little more in looking at what is in the bill; the design of the opponents is to defund the bill, taking out the important dollars for prevention, which goes for police training, for programs that have universal support in the Congress in terms of providing for prevention, small programs for sports that offer vision, that offer hope to youngsters and young people and others who live in troubled communities. The dollars that are spent for prevention in terms of eliminating or trying to prevent people that are incarcerated from using drugs and treatment afterwards and monitoring programs for individuals released.

Most of this criticism is simply a heat shield that is being put up in terms of suggesting these dollars are being wasted. These are noncontroversial programs, proven programs. They have been considered carefully.

Furthermore, each one of these programs are subject to be separately appropriated, although there is a trust fund, Congress would still have the right and responsibility to vote individually on those appropriations. Members would have the right to stand up on this floor and move to strike an appropriation in any appropriation bill that dealt with those particular topics over the next 5 or 6 years.

Mr. Speaker, I do not think it is asking too much to commit $30 billion over a period of 5 or 6 years in terms of fighting crime, which is a very important issue in this country. Twenty-two million people are affected each year by crime. There are provisions in that bill that each of us could look at and disagree with, the death penalty provisions I personally find objectionable and what the message is with regard to that issue and the dehumanization of how to address punishment and crime to resort to the death penalty. It illustrates to me the great frustration with crime in this Nation today. Members of this House could all find a basis to abandon or to rail against the crime bill. I think after 6 years of debate and failure to act the need persists. We need those 100,000 new police officers on the street. Sadly we need to construct the additional prison space to deal with the problems of overcrowding and the fact that there are mandatory minimum penalties that have been put in place by this Congress in recent years that have caused the overcrowding.

We need prevention dollars to provide hope, to offer vision, to offer alternatives, and to provide the special community-based organization assistance such as the Boys and Girls Clubs of America. We need those programs. I hope that after my colleagues have been home, after they have had a chance to read this crime conference report over more carefully, that we will rally together this week and finally pass this important new crime bill. All of us can find some things we disagree with in the crime bill, but I think the people we represent are telling us they want a crime bill, they want it to pass, they want the Congress to get on with its business and pay attention to the people, not just the special interests, the narrow special interest groups and partisan interests that rallied last week to prevent the crime bill consideration.

This tactic has backfired on Members that have tried to move in this negative direction and to oppose this particular bill last Thursday. I hope Members will come back this week with a different attitude and a changed vote.

□ 1250

SEMI-AUTOMATIC WEAPONS WITH EASE BECOME AUTOMATIC MACHINE GUNS

Mr. VENTO. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore (Mr. TRAFICANT). Without objection, the gentleman is recognized for 1 minute.

There was no objection.

Mr. VENTO. Mr. Speaker, on Saturday last, I had the opportunity to work with BATF special agents in charge of St. Paul Field Division, Bob Witzer and his colleague James Kuboushek who worked for the Bureau of Alcohol and Tobacco and Firearms, Department of Treasury, who helped me put on a demonstration of a number of the assault weapons that are included in the 19 weapons that are included in the proposed assault ban, and showing the power and danger of these particular weapons and the problem they pose.

Mr. Speaker, as my colleagues are aware with regard to this issue, very often when these weapons are sold as semiautomatic assault weapons they are, with ease and readily converted to an automatic weapon. Most of the assault models of weapons are produced abroad, and some were banned by President Bush under an executive order in 1989, banned in terms of the importation, they are, in fact, today being produced by U.S. manufacturers and-or sent into the United States as parts and than assembled.

I think the important point that is glossed over by opponents and what the public ought to understand is that many times they are sold as semiautomatic, but these weapons are, in fact, easily convertible and used as automatic weapons, so they literally can be turned into a machine gun. This is the normal mode of operation as an automatic weapon used in armed conflict by and for a military purpose.

It is surprising to me that this particular facet has not been well-recognized by the public, or even by some Members, because in the 1930's, when the then Thompson submachine guns were banned and other machine guns were banned in the mid-1980's in this country, and now in the 1990's we have these weapons that are brought in that have an automatic mode but are sold on a semiautomatic basis, they, in fact, are easily convertible, so we basically have circumvention of the law and the assault weapon present on the streets and rural routes across America.

That is why it is important, Mr. Speaker, to include this assault weapon ban in the new crime bill and finally in the law, so we can eliminate the future and prospective sale of these assault weapons and prevent these weapons from slipping into the hands of the naive or the hardened criminal.

CRIMINAL JUSTICE INFORMATION SERVICES PLACEMENT ASSISTANCE ACT

Mr. McCLOSKEY. Mr. Speaker I move to suspend the rules and pass the bill H.R. 4884, to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, WV, as amended.

The Clerk read as follows:

H.R. 4884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Justice Information Services Placement Assistance Act".

SEC. 2. NONCOMPETITIVE CAREER OR CAREER-CONDITIONAL APPOINTMENTS FOR NONRELOCATING EMPLOYEES OF THE CRIMINAL JUSTICE INFORMATION SERVICES OF THE FBI.

(a) IN GENERAL.—Except as provided in subsection (c), an individual described in subsection (b) may be appointed noncompetitively, under a career or career-conditional appointment, to a position in the competitive service if—

(1) the individual meets the qualification requirements prescribed by the Office of Personnel Management for the position to which appointed;

(2) the last previous Federal employment of the individual was as an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(3) the individual is appointed to such position within two years after separating from the Criminal Justice Information Services Division.

(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

(1) on the date of the enactment of this Act—

(A) is an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) is serving in an appointed position (i) to be relocated from Washington, District of Columbia, to Clarksburg, West Virginia, and (ii) that is excepted by law or regulation from the competitive service; and

(2) has not relocated with his or her position in the Criminal Justice Information Services Division to Clarksburg, West Virginia.

(c) APPLICATION.—This section does not apply to an individual serving on the date of the enactment of this Act in an appointed position on a temporary or term basis.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4884, as amended, which would grant competitive status to certain FBI employees. I want to commend my esteemed colleague, ELEANOR HOLMES NORTON, chair of the Subcommittee on Compensation and Employee Benefits for her hard work and leadership on this bill.

Due to disturbing trends which occurred in the Identification Division [ID] during the eighties, in 1989 the Federal Bureau of Investigation embarked on a plan to revitalize the Identification Division. In addition, a feasibility study was conducted on relocating the ID to address the attrition and hiring problems. In 1990, the Bureau identified a location in Clarksburg, WV, as the most feasible site to relocate the Identification Division.

Approximately 1,200 employees have been identified that do not wish to relocate to the new location in Clarksburg. Although the Bureau has been taking assertive steps to assist these employees in finding other jobs within the Bureau, an abysmal attrition rate, tight budgets, and the continued restructuring and downsizing of the Federal Government has led to problems in finding alternative employment. If further assistance is not provided, these 1,200 employees will be RIF'd by the end of fiscal year 1996.

However, all FBI employees are hired under the excepted service and do not have the ability to compete for jobs in the competitive service. Therefore, these employees cannot automatically apply for other Federal jobs.

This bill would authorize noncompetitive, career, or career conditional appointments in the competitive service for employees of the Criminal

Justice Information Services who do not wish to relocate.

H.R. 4884, as amended by the Post Office and Civil Service Committee, requires that each individual must meet the qualification requirements prescribed by Office of Personnel Management [OPM] for the position to which appointed. This authority would expire 2 years after the employee has been separated from employment with the FBI. OPM recommended replacing the September 30, 1999, deadline that was in the original Norton bill with a provision that the special appointment authority will expire 2 years from the date the employee is separated from the FBI. This would ensure that each employee have ample time to find a job in the competitive service.

The only other change that was made in committee is language clarifying that only permanent employees would be eligible for noncompetitive appointments. This change was also recommended by OPM.

I am interested in ensuring that the Bureau has every avenue available to assist its employees in finding other employment, and I urge my colleagues to support this bill.

Again, I want to commend Representative NORTON for her leadership and concern in this area.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4884, which was introduced by the chair of the Subcommittee on Compensation and Employee Benefits, the gentlewoman from the District of Columbia. As a cosponsor of the measure, I commend the gentlewoman for her unwavering support for Federal employees and her tenacity in bringing this measure to the floor.

I also commend the chairman of the Subcommittee on Civil Service, Mr. MCCLOSKEY of Indiana, the chairman of the Committee on Post Office and Civil Service, Mr. CLAY of Missouri, and the ranking member, Mr. MYERS of Indiana, for expediting passage of the legislation through the committee process.

The Committee on Post Office and Civil Service passed H.R. 4884 as amended on August 10. This measure grants competitive service to permanent employees of the Criminal Justice Information Services [CJIS], a division within the Federal Bureau of Investigation [FBI] which is being relocated from Washington to Clarksburg, WV. Presently, all employees of the FBI are employed under the expected service positions, because of the nature of their work.

The FBI plans to move the CJIS to West Virginia by 1999. There are many CJIS employees who cannot, or would opt not to, make the move. They would prefer to stay in the area and try to obtain work in the public or private sector. However, for these employees their years as excepted service employees would not transfer into the competitive service. This would affect them significantly if they were to apply for competitive service—it would not give them status. Many Federal jobs require status as a Federal employee in the competitive service to be considered for the position.

When this move was first contemplated, the gentlewoman from the District of Columbia got assurance from then-Director of the FBI, Mr. William Sessions, that these employees would be considered for jobs within the FBI. When Director Freeh took the helm at the FBI, there was concern that those promises could be rescinded because of changed circumstances, such as the austere budget conditions, low attrition rates resulting in nonavailability of jobs.

There has, additionally, been a downsizing within the FBI, rendering it difficult for all the 1,200 CJIS employees who decided to not relocate to West Virginia to be reemployed at their skill level within the Bureau. Though the Director gave assurance that he would seek to place these employees in vacancies which may occur in the FBI and that he would also provide training for them to increase their job skills to enter other jobs, he also sought legislative measures to assist in further placement of the CJIS employees. H.R. 4848 is a result of these concerns.

The measure before us, Mr. Speaker, provides the CJIS employees presently serving in a permanent position an opportunity to reenter Federal service noncompetitively without losing any of their Federal benefits if the employee reenters Federal service within 2 years after separating from the Criminal Justice Information Service Division position.

The Congressional Budget Office estimates that there would be no costs associated with this bill. During our subcommittee hearings, the Office of Personnel Management [OPM] and the FBI testified in support of the bill. I urge my colleagues to support this measure as well.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCCLOSKEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia [Ms. NORTON], the primary author of this bill.

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Ms. NORTON. Mr. Speaker, I sincerely thank the chairman of the subcommittee, the gentleman from Indiana [Mr. MCCLOSKEY] for yielding me the time, and I thank him for much more.

I thank him for the skill and the expeditious treatment with which he has approached this bill, and I thank the ranking member of my own subcommittee, the gentlewoman from Maryland [Mrs. MORELLA], who has been an invaluable Member on this and other matters affecting Federal employees and fairness not only to them but to the Government.

I am grateful to the chair and the ranking member of the full committee as well for facilitating the rapid movement of this bill to the floor.

Mr. Speaker, it is seldom that a bill we pass has an immediate effect upon individuals. More than 1,200 people who simply cannot pick up, pull their roots up and leave their homes throughout this region are affected. Many of these are women heads of household. Almost none of them are highly paid. They are, Mr. Speaker, the mirror image of civil servants in the Federal Government. Through no fault of their own, the FBI, the agency for which they work, is expected from the civil service. At a time when they cannot move their homes, they literally have no place in the Federal Government to go, even though many have had considerable years of service in the Federal Government. By no means do most of these employees live within my district. Ten congressional districts are involved. My district, the District of Columbia, is not where the highest number come from.

This matter proceeds from a good-faith promise made by the former FBI Director, Director William Sessions, that he would find jobs for these employees in the FBI, a promise repeated before a congressional committee, and also a good-faith attempt on the part of his successor, Mr. Louis Freeh, to deliver on that promise.

Our own Federal Government downsizing, however, has confounded even his aggressive placing of these employees in what positions do in fact become vacant. I commend him as well for the skills training he has offered these employees to increase their opportunities for employment. The fact is, Mr. Speaker, that Mr. Freeh himself has suggested to us that he needs the legislative help we are seeking to provide. The bill before us is the response of the Committee on Post Office and Civil Service to his request that in addition to his own efforts a bill be passed to help him fulfill his own promise and that of his predecessor.

Mr. Speaker, what this bill would have the Federal Government do what most decent companies do, anyway. If by no fault of their own a number of employees have to be let go these days, companies pull out all stops and do all that is within their own power to find positions. That is what this bill and the Federal Government would be doing in this case.

I remind Members that this bill does not involve a relocation of some of these employees to the suburbs or from the suburbs to the District of Columbia. Where they would be required to go is not a car ride away or a Metro ride away. For them the move might just as well be to California as to West Virginia.

I am pleased at the cooperation we have had from the other body as well. This bill will indeed find employment in the Federal Government. At the very least, they deserve an even chance. This bill grants them that even chance.

Mr. Speaker, I thank all who have been involved, especially the subcommittee chair, for facilitating the opportunity for that even chance.

Mr. Speaker, I want to express my sincere thanks to my good friend, Congressman Frank McCloskey, chairman of the Subcommittee on Civil Service, for responding favorably and quickly to my request to take action on H.R. 4884, the Criminal Justice Information Services Placement Assistance Act. FBI employees are excepted from the competitive service by law. As a result, their years with the Government count for nothing when they seek consideration for competitive service positions at other agencies. H.R. 4884 would authorize noncompetitive career or career-conditional appointments in the competitive service for employees of the FBI's Criminal Justice Information Services Division [CJIS].

The CJIS Division is being relocated to Clarksburg, WV over the next 4 years. However, over half of its employees in this area either cannot or do not wish to move there. This bill would make it easier for these employees to find other jobs with the Federal Government in this area.

In 1991, I contacted former FBI Director William Sessions and expressed my concern about the fate of the employees who could not relocate. Director Sessions promised me personally that these employees would be afforded other jobs with the FBI in this area at a comparable rate of pay. This promise was not made lightly, but as a matter of elementary fairness to the employees, especially those not highly salaried whose personal and family position made it impossible to move. It was a promise repeated by Director Sessions and Deputy Assistant Director Stanley Klein in testimony before the House Subcommittee on Civil and Constitutional Rights in 1991 and 1992.

Last year, when it was first brought to my attention that Director Sessions was considering reneging on his commitment, thereby placing many employees at risk of losing their jobs, I immediately wrote him seeking assurance that his commitment still stood. Shortly thereafter, however, Director Sessions resigned and left his position without having replied. Once his successor, Director Louis Freeh, was in place, I wrote to him and sought assurance that Director Sessions' commitment would be honored. Director Freeh responded that due to the mandate to downsize and low attrition rates, it might not be possible for him to guarantee job security for Bureau employees, as promised by his predecessor.

Earlier this year, the Director and I corresponded further over this matter. I pointed out to him that I was unconvinced that the Bureau's commitment could not be met by using early-out authority along with buyouts to create openings to meet the employment needs of the CJIS employees. I further indicated to him that the House Report on the Commerce, Justice, State and Judiciary appropriations bill for fiscal year 1994 stated that the "Committee expects the Director to make every effort to fulfill this pledge to employees." He in turn wrote me in February and advised that there were 1,200 CJIS Division employees who do not desire to relocate, and that if they could not be placed in other positions, would be involuntarily separated beginning in fiscal year 1996.

Director Freeh indicated that he would aggressively seek to place these employees in vacancies occurring throughout the FBI, and offer skills enhancement training to increase their marketability. He is to be commended for these efforts. However, the Director also expressed an interest in pursuing further legislative remedies beyond buyouts and asked for my support in that regard. The CJIS Placement Assistance Act is our response.

Mr. Speaker, I believe it would be unconscionable to permit the Bureau to step back from a commitment which was not only made personally to me, but to a Subcommittee of the House. But present circumstances have constrained the Bureau's ability to fulfill the pledge. It cannot do it alone. Assistance from the Congress is needed, and, with the enactment of H.R. 4884, CJIS employees will get the additional help they need to continue their careers competitively in the Federal service.

Earlier this month, Chairman McCloskey held a hearing on H.R. 4884. Representatives from both the FBI and the Office of Personnel Management appeared and testified in strong support of this measure. Finally, Mr. Speaker, I would like to point out that the Congressional Budget Office has determined that H.R. 4884 is budget neutral. Again, I thank Chairman McCloskey for his prompt and very fair consideration of the needs of these employees. I urge the House to approve H.R. 4884.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCloskey] that the House suspend the rules and pass the bill, H.R. 4884, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 4884, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

HIGH SPEED RAIL DEVELOPMENT ACT OF 1994

Ms. SCHENK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4867) to authorize appropriations for high-speed rail transportation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Rail Development Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premiere high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adoption, and integration of developed technologies for commercial application in high-speed rail service in the United States.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) AMENDMENTS.—(1) Part D of subtitle V of title 49, United States Code, is redesignated as part E, chapter 261 of such title is redesignated as chapter 281, and sections 26101 and 26102 of such title are redesignated as sections 28101 and 28102.

(2) Subtitle V of title 49, United States Code, is amended by inserting after part C the following new part:

"PART D—HIGH-SPEED RAIL

"CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

"Sec.

"26101. Corridor planning.

"26102. High-speed rail technology improvements.

"26103. Safety regulations.

"26104. Authorization of appropriations.

"26105. Definitions.

"SEC. 26101. CORRIDOR PLANNING.

"(a) CORRIDOR PLANNING ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly funded costs associated with eligible activities.

"(2) No less than 20 percent of the publicly funded costs associated with eligible activities shall come from State and local sources, not including funds from any Federal program.

"(b) ELIGIBLE ACTIVITIES.—(1) A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines it to be necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections preliminary to implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue, and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) coordination with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

"(2) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 mph or greater;

"(3) the integration of the corridor into metropolitan area and statewide transportation planning;

"(4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(5) the anticipated effect of the high-speed rail service on the congestion of other modes of transportation;

"(6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

"(7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(8) the estimated level of ridership;

"(9) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossings;

"(10) rail transportation employment impacts;

"(11) community economic impacts;

"(12) the extent to which the projected revenues of the high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

"(13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

"(14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

"SEC. 26102. HIGH-SPEED RAIL TECHNOLOGY IMPROVEMENTS.

"(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of developed technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"SEC. 26103. SAFETY REGULATIONS.

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail.

"SEC. 26104. AUTHORIZATION OF APPROPRIATIONS.

"(a) FISCAL YEAR 1995.—There are authorized to be appropriated to the Secretary $29,000,000 for fiscal year 1995, for carrying out sections 26101 and 26102.

"(b) FISCAL YEAR 1996.—(1) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1996, for carrying out section 26101.

"(2) There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1996, for carrying out section 26102.

"(c) FISCAL YEAR 1997.—(1) There are authorized to be appropriated to the Secretary $45,000,000 for fiscal year 1997, for carrying out section 26101.

"(2) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1997, for carrying out section 26102.

"(d) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

"SEC. 26105. DEFINITIONS.

"For purposes of this chapter—

"(1) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(2) the term 'high-speed rail' has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;

"(3) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'Secretary' means the Secretary of Transportation;

"(5) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(6) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters of subtitle V of title 49, United States Code, is amended by striking the items relating to part D and inserting in lieu thereof the following:

"PART D—HIGH-SPEED RAIL
"261. HIGH-SPEED RAIL ASSISTANCE 26101
"PART E—MISCELLANEOUS
"281. LAW ENFORCEMENT .... 28101".

(2) The table of sections of chapter 281 of title 49, United States Code, as such chapter is redesignated by subsection (a)(1) of this section, is amended—

(A) by striking "26101" and inserting in lieu thereof "28101"; and

(B) by striking "26102" and inserting in lieu thereof "28102".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California [Ms. SCHENK] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Ms. SCHENK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4867, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. SCHENK. Mr. Speaker, I rise in support of H.R. 4867, the High-Speed Rail Development Act of 1994.

I introduced this bill on August 1 with the most distinguished chairman of the full Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], and the distinguished chairman of the Subcommittee on Transportation and Hazardous Materials, the gentleman from Washington [Mr. SWIFT].

Mr. Speaker, high-speed rail is an idea whose time has arrived. H.R. 4867 represents the first commitment in the history of this great Nation to the development and implementation of a high-speed rail transportation network.

As any schoolchild studying American history can tell us, this country was shaped and built by its rail systems. However, over the decades, we have largely abandoned rail for autos, trucks, and airplanes. Decades have passed and we have begun to realize that our skies are becoming congested and our highways have become rivers of slow-moving red lights. Meanwhile, the booming economies of Europe and Asia were investing in, of all things, rail. No, not the trains of our nostalgia but new, high-tech, high-speed equipment zooming along cleanly, safely, quietly, and efficiently at speeds of over 125 and 150 miles per hour.

In this country, across the spectrum, transportation experts, public officials, and average citizens were beginning to think about and talk about high-speed rail for the United States. In the early

1980's, I was California's Secretary of Business, Transportation, and Housing. At that time I started to learn about the potential of high-speed rail. We were just breaking ground for our then newest and most expensive freeway, the Century Freeway. In 1980 dollars it was to cost $100 million a mile for 17 miles. For those who always stopped the discussion about high-speed rail at the dollar amounts involved, we now had some comparisons.

At the start of the Clinton administration and this 103d Congress, some old and new hands came together to provide the first real steps needed to bring about high-speed rail in this Nation. Long-time supporters such as our distinguished and esteemed full committee chairman, the gentleman from Michigan [Mr. DINGELL], and our distinguished subcommittee chairman, the gentleman from Washington [Mr. SWIFT], joined with newcomers such as me, with the ranking minority member, the gentleman from California [Mr. MOORHEAD], with our subcommittee ranking member, the gentleman from Ohio [Mr. OXLEY], and with our colleague, the gentleman from Michigan [Mr. UPTON], and we began to work on this issue.

The administration, especially Secretary of Transportation Peña, also gave us strong support. In April of last year, the adminstration's original high-speed rail proposal was introduced. That legislation, H.R, 1919, was reported out of the Committee on Energy and Commerce in late July. Meanwhile, we were visited here in Washington and across the country by the tilt train of Sweden and the ice train of Germany, two high-speed rail marvels.

Unfortunately, following our full committee markup, it became very clear that we could not provide the funding levels specified in that bill. There were also other problems.

For the past several months, we on the Committee on Energy and Commerce have worked with the Department of Transportation and the Federal Railroad Administration to resolve the funding and other issues and to forge a consensus bill that reflects the realities of a tight budget. H.R. 4867 is the product of those efforts. This is a very different bill from the one originally reported out.

Our ultimate goal is the construction of a safe, fast, efficient, and environmentally sound high-speed rail transportation system. H.R. 4867 establishes the policy framework and takes the first steps toward achieving that goal. It authorizes total appropriations of $29 million in fiscal year 1995, $70 million in fiscal year 1996, and $85 million in fiscal year 1997 for two primary purposes.

It is important to underscore again that these dollar amounts are vastly different than the original $1.8 billion in H.R. 1919.

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Section 26101 of the bill specifics criteria for Federal assistance to States for purposes of corridor planning.

In 1992, the Department of Transportation identified five high priority, high-speed rail corridors, including from my hometown of San Diego to Los Angeles, and San Francisco and Sacramento via the San Joaquin Valley. In addition to the five corridors specified, the existing New York State high-speed corridor is also eligible for Federal assistance.

Under H.R. 4867 the Federal Government can provide up to 50 percent in matching funds to States for a variety of corridor activities, including environmental assessments, economic analysis, feasibility studies, preliminary engineering and the acquisitions of rights of way.

Section 26102 authorizes the Secretary to provide funding for the adaptation and integration of developed technologies for commercial application in this country. This type of commitment to technology development is long overdue. High-speed innovations such as maglev and the tilt train are U.S. technologies that have been commercialized and applied overseas.

It is my hope that this bill will jumpstart the efforts of private industry and help create thousands of jobs in our country. For States and localities such as my own home State of California, high-speed rail can be one of the most important modes of transporting people and goods into the future. So today it is a special, indeed a momentous occasion for me, and I feel privileged to offer H.R. 4687.

Mr. Speaker, I would like to offer my most heartfelt appreciation to both Chairman DINGELL and Chairman SWIFT for moving with me on this issue and for providing me the privilege of offering the bill today. They and their outstanding staffs have been extremely generous. In particular I want to commend Chairman SWIFT for his tireless leadership on these issues. He is an inspiration to us all and his pending retirement is this body's loss. I also want to thank and commend our ranking member, the gentleman from California [Mr. MOORHEAD], and our subcommittee ranking member, the gentleman from Ohio [Mr. OXLEY], for their support, efforts, and cooperation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support approval of this legislation to advance the development of high-speed rail passenger service in the United States. This bill is a modest first step in a long-term process: It is aimed at assisting State and local governments with the costs of pre-construction activities such as planning, environmental assessments, and refinement of developed technologies for use in high-speed rail corridors.

Although I had hoped for broader legislation in this area, H.R. 4867 will help lay the foundation for actual construction of the various infrastructure improvements needed for future high-speed rail passenger service.

I want to commend Chairman DINGELL, Subcommittee Chairman SWIFT, and the subcommittee's ranking member, MIKE OXLEY, for their work on this legislation.

We in California are particularly conscious of the benefits of high-speed rail as part of our overall transportation strategy. It is energy-efficient, environmentally benign, and it helps alleviate traffic congestion and meet our Clean Air Act air quality standards.

We know that the Nation's freight railroads will be key players in the ultimate operation of high-speed rail passenger service, because they own most of the rights-of-way which will have to be used for high-speed corridors. In California, we have so far been successful in obtaining the cooperation of the freight carriers in making rights—of-way available for our conventional passenger and commuter service. As we move on to high-speed rail, it is quite clear that suitable liability arrangements will have to be made to assure access to needed facilities. I believe that this is an area where the Department of Transportation can perform a vital service in its planning processes-both under current law and under this legislation. DOT can help to suggest approaches to addressing the liability problem as part of the planning and other pre-construction preparations provided for in this bill.

Ms. SCHENK. Mr. Speaker, I yield such time as he may consume to our distinguished full committee chairman, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman from California for yielding me the time.

Mr. Speaker, I commend the chairman of the Subcommittee on Transportation and Hazardous Materials, Mr. SWIFT, for his leadership regarding this legislation. I also want to thank the ranking Republican member of the Committee, Mr. MOORHEAD, and the ranking member of the subcommittee, Mr. OXLEY, for their help and support. Finally, I want to offer special thanks to the author of this legislation, Ms. SCHENK, and to Mr. UPTON.

H.R. 4867 is not the same bill the Committee on Energy and Commerce passed last year. Due to budget constraints, this legislation has been scaled back significantly.

Given available resources, this is the best we can do at this time. H.R. 4867 is a corridor planning and technology development bill which authorizes activities to assist in the implementation of steel-wheel high-speed rail transportation. It focuses on practical and efficient use of limited resources.

High-speed rail transportation is a field of great potential public benefit. It is recognized increasingly as an economically viable and socially acceptable solution to problems facing many intercity corridors. Changes need to be made in our transportation priorities by encouraging interested State and local governments to facilitate the development of needed high-speed rail corridors.

Although H.R. 4867 contains no construction or corridor implementation, it does contain important provisions to provide the framework for future high-speed rail corridors. It allows the Secretary of Transportation to provide financial assistance to States or public agencies for eligible high-speed rail corridor planning activities. It also allows the Secretary to provide financial assistance for developed technology improvements to assist in the implementation of high-speed rail service in the United States.

H.R. 4867 is a modest step forward in the development of steel-wheel high-speed rail activities, but it is at least a step in the right direction.

I would like to thank FRA and DOT for their help and guidance in crafting this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4867.

Mr. SWIFT. Mr. Speaker, H.R. 4867, the High-Speed Rail Development Act of 1994, has been a long time in the making. It is the second piece of high-speed rail legislation that has been considered by the Committee on Energy and Commerce in this Congress. Last year, the committee passed very ambitious legislation which would have provided substantial funding for high-speed rail corridor implementation and technology development. Unfortunately, due to budget constraints, we were unable to proceed with that piece of legislation. However, the importance of high-speed rail and its potential role in our Nation's transportation system should not be ignored. The fact that rail passenger transportation is cost-effective, energy efficient, and environmentally friendly are just a few of the reasons why Congress should encourage States to include high-speed rail as part of their transportation mix.

H.R. 4867 authorizes preconstruction activities through appropriate Federal financing assistance for corridor planning activities and technology improvements. In providing financial assistance, the bill requires the Secretary of Transportation to consider a broad range of criteria including whether the corridor has been designated as a high-speed rail corridor. The legislation sends an important message that the Federal Government is going to be a partner with the States that desire to include high-speed rail in their transportation program. And that message will be welcomed in many States, including my own State of Washington, which has committed significant State resources for its rail passenger program.

I would like to commend the author of the legislation, Congresswoman LYNN SCHENK, who has been an ardent supporter and tremendous advocate for high-speed rail. Additionally, the leadership of Chairman DINGELL and the efforts of the ranking member on the Subcommittee on Transportation and Hazardous Materials, Congressman MIKE OXLEY, allowed for the expeditious consideration of this legislation. I urge my colleagues to support the High-Speed Rail Development Act of 1994.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, let me just say I rise in opposition to this bill. We have not been able to make our passenger rail system in this country work after 50 years of desperately trying to get it to work and still it does not work. It continually requires a subsidy. The gentleman from Michigan [Mr. DINGELL] and I come to the floor and debate every year on whether or not we ought to privatize the Amtrak system, and so far I have not prevailed in that.

But to throw $184 million at this kind of a concept when we are losing money like crazy just does not make any senses to me. The reality is in America no one wants to ride the train. I will not say no one. Some people do, particularly in the eastern corridor. Here the trains are used, but by and large across the country people do not want to ride the train. Why do we not accept that? In fact, even small percentages do in foreign countries where they consider it a great success.

We cannot make it work now, so we are throwing this money after somebody's idea, after a theoretical concept that we ought to make it work. I just do not think that is correct.

Yes, this is a scaled down version. This is not the $140 million in fiscal 1994 to $355 million in fiscal 1998 that was proposed by the committee last year. This is only $184 million.

Let us look at what we get for the $184 million. We get some planning. We do not get 1 mile of rail. We do not get a single car; we do not get a station. We get some planning for a high-speed rail system in this country that we do not even have a very good concept of whether we need it or want it.

So, Mr. Speaker, I would hope we would defeat this measure, save the $184 million.

Ms. SCHENK. Mr. Speaker, I would like to thank our extraordinary full committee chairman for his remarks.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. CANTWELL], with thanks for her hard work on this particular bill in an area that I think our speaker will particularly appreciate.

Ms. CANTWELL. Mr. Speaker, I rise today in support of this bill.

Let me begin by commending Chairman DINGELL and Chairman SWIFT for their tireless efforts to improve and upgrade rail transportation in this country and the gentlewoman from California [Ms. SCHENK] for her hard work over many months in the development of this legislation. This legislation moves us one step closer to implementation of a high-speed rail system.

The development of a nationwide high-speed rail network is a critical component of our work to create an integrated and efficient national transportation system.

Mr. Speaker, I would like to specifically highlight the positive impact that the development of a high-speed rail system should have on jobs and the work force. The report accompanying this bill:

> * * * directs the Secretary of Transportation to work closely with other governmental agencies to maximize the use of domestic workers in the implementation of developed high-speed rail technologies. The Committee believes that development of high-speed rail technologies offers increased opportunities for U.S. manufacturers workers.

I believe that the committee is correct. We have talented, skilled workers around this country who are ready and able to be partners with the government and industry in the development and manufacture of high speed transportation. We need not look any further than our domestic workforce to develop, build and maintain high-speed rail.

Today, the House can take an important step toward making a high-speed rail network a reality in this country. I look forward to working with my colleagues in Congress and in the administration to implement this legislation and keep our work force on track with the development of high-speed rail.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4867, the High-Speed Rail Development Act of 1994 and commend my colleague, Ms. SCHENK of California, for her hard work on this important piece of legislation.

This bill would allow the Federal Government to fund up to 50 percent of the costs of corridor planning and other preconstruction activities, thus allowing States to proceed forward on important high-speed rail planning initiatives. Such planning is crucial if our Nation is to proceed forward into the 21st century. Many of our Nation's transportation corridors are in need of updated technology to ensure economic growth, ease of travel, and a better standard of living.

As a Representative from New York I support high-speed rail initiatives as well as rail technology such as maglev. I believe that both of these projects can and should proceed forward in the hopes of providing New York as well as the rest of the Nation with a transportation corridor that is second to none.

Accordingly, I urge all of my colleagues, including those from New York to support this important legislation as well as maglev opportunities.

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 4867, a bill to move forward the process of selecting and planning high-speed rail corridors around the United States. This legislation is structured to assist State and local governments in planning and other preconstruction activities at eventual construction of high-speed rail rights-of-way. It provides for a matching program under which the Federal Government will assist the State and local governments in funding planning, feasibility studies, and the refinement of already developed technologies for use in high-speed rail passenger service.

One of these developed technologies that may well prove crucial to high-speed rail in corridors of lower population density is high-speed nonelectric locomotives, such as those powered by turbine. Amtrak has utilized first-generation locomotives of this type on certain routes outside the Northeast corridor, and improved versions hold the promise of allowing true high-speed operation on other routes where construction of a complete overhead electrical catenary system is not cost-effective. Under H.R. 4867, DOT is authorized to assist in the funding of improvement and adaptation of developed technologies for high-speed rail use, and turbine-powered high-speed locomotives should clearly be considered as one of these key technologies.

I want to commend Chairman DINGELL, subcommittee Chairman SWIFT, and our committee's ranking member, Mr. MOORHEAD, for their diligent work in moving this legislation forward. The bill is only a first step toward future rail service, but it is at least a beginning. We know that high-speed rail service must be part of any balanced national transportation policy.

One of the concerns that I raised with regard to the much more elaborate predecessor bill, H.R. 1919, and with respect to this bill as well, is the problem of the tort liability exposure of freight railroads who make their rights-of-way and facilities available for high-speed passenger service. This is a serious obstacle to actually getting high-speed trains up and running. The bill we are considering today is limited to planning and pre-construction activities, and so does not contain any direct solution to the liability problem. But any sound planning process must recognize the liability issue and deal with it.

To that end, I want to stress the importance of the Department of Transportation's focusing on the liability problem even in the planning phase of high-speed rail. Under section 1036(c) of the Intermodel Surface Transportation Efficiency Act—known as ISTEA—DOT is required to complete a commercial feasibility study of high-speed rail by mid-1995. That law already lists availability of rights-of-way as one of the key issues DOT is supposed to address. I want to emphasize that dealing with the liability issue is an essential prerequisite to obtaining the use of any right-of-way, and therefore should be prominently featured in the DOT study, and in DOT's policy when it implements H.R. 4867.

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Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SCHENK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentlewoman from California [Ms. SCHENK] that the House suspend the rules and pass the bill, H.R. 4867, as amended.

The question was taken.

Mr. HEFLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

RAILROAD UNEMPLOYMENT INSURANCE AMENDMENTS ACT OF 1994

Ms. SCHENK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4868) to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Unemployment Insurance Amendments Act of 1994".

SEC. 2. WAITING PERIOD FOR UNEMPLOYMENT BENEFITS.

Section 2(a)(1)(A) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(A) PAYMENT OF UNEMPLOYMENT BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period within a period of continuing unemployment.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of unemployment in excess of 7 during that employee's first registration period in a period of continuing unemployment if—

"(I) such registration period includes more than 4 days of unemployment; and

"(II) such period of continuing unemployment is the employee's initial period of continuing unemployment in the benefit year.

"(iii) STRIKES.—

"(I) INITIAL 14-DAY WAITING PERIOD.—If the Board finds that a qualified employee has a period of continuing unemployment that includes days of unemployment due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for such employee's first 14 days of unemployment due to such stoppage of work.

"(II) SUBSEQUENT DAYS OF UNEMPLOYMENT.—For subsequent days of unemployment due to the same stoppage of work, benefits shall be payable as provided in clause (i) of this subparagraph.

"(III) SUBSEQUENT PERIODS OF CONTINUING UNEMPLOYMENT.—If such period of continuing unemployment ends by reason of clause (v) but the stoppage of work continues, the waiting period established in clause (ii) shall apply to the employee's first registration period in a new period of continuing unemployment based upon the same stoppage of work.

"(iv) DEFINITION OF PERIOD OF CONTINUING UNEMPLOYMENT.—Except as limited by clause (v), for the purposes of this subparagraph, the term 'period of continuing unemployment' means—

"(I) a single registration period that includes more than 4 days of unemployment;

"(II) a series of consecutive registration periods, each of which includes more than 4 days of unemployment; or

"(III) a series of successive registration periods, each of which includes more than 4 days of unemployment, if each succeeding registration period begins within 15 days after the last day of the immediately preceding registration period.

"(v) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing unemployment ends when an employee exhausts rights to unemployment benefits under subsection (c) of this section.

"(vi) LIMIT ON AMOUNT OF BENEFITS.—No benefits shall be payable to an otherwise eligible employee for any day of unemployment in a registration period where the total amount of the remuneration (as defined in section 1(j) of this Act) payable or accruing to him for days within such registration period exceeds the amount of the base year monthly compensation base. For this purpose, an employee's remuneration shall be deemed to include the gross amount of any remuneration that would have become payable to that employee but did not become payable because that employee was not ready or willing to perform suitable work available to that employee on any day within such registration period.".

SEC. 3. WAITING PERIOD FOR SICKNESS BENEFITS.

Section 2(a)(1)(B) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(B) PAYMENT OF SICKNESS BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period in such period of continuing sickness.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of sickness in excess of 7 during that employee's first registration period in a period of continuing sickness if such registration period begins with 4 consecutive days of sickness and includes more than 4 days of sickness, except that the waiting period established in this clause shall not apply to the first registration period in any subsequent period of continuing sickness that begins in the same benefit year.

"(iii) DEFINITION OF PERIOD OF CONTINUING SICKNESS.—For the purposes of this subparagraph, a period of continuing sickness means—

"(I) a period of consecutive days of sickness, whether from 1 or more causes; or

"(II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.

"(iv) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing sickness ends when an employee exhausts rights to sickness benefits under subsection (c) of this section.".

SEC. 4. MAXIMUM DAILY BENEFIT RATE.

Section 2(a)(3) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(3) The maximum daily benefit rate computed by the Board under section 12(r)(2) shall be the product of the monthly compensation base, as computed under section 1(i)(2) for the base year immediately preceding the beginning of the benefit year, multiplied by 5 percent. If the maximum daily benefit rate so computed is not a multiple of $1.00, it shall be rounded down to the nearest multiple of $1.00.".

SEC. 5. MAXIMUM NUMBER OF DAYS FOR BENEFITS.

(a) In General.—Section 2(c) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(c) Maximum Number of Days for Benefits.—

"(1) Normal benefits.—

"(A) Generally.—The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be 130, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be 130.

"(B) Limitation.—The total amount of benefits that may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits that may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year, except that notwithstanding section 1(i), in determining the employee's compensation in the base year for the purpose of this sentence, any money remuneration paid to the employee for services rendered as an employee shall be taken into account that—

"(i) is not in excess of $775 in any month before 1989; and

"(ii) in any month in a base year after 1988, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) bears to $600.

"(2) Extended benefits.—

"(A) Generally.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving exhaustion of rights to normal benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under this paragraph, and extended unemployment benefits or extended sickness benefits (depending on the type of normal benefit rights exhausted) may be paid for not more than 65 days of unemployment or 65 days of sickness within such extended benefit period.

"(B) Beginning date.—An employee's extended benefit period shall begin on the employee's first day of unemployment or first day of sickness, as the case may be, following the day on which the employee exhausts the employee's then current rights to normal benefits for days of unemployment or days of sickness and shall continue for 7 consecutive 14-day periods, each of which shall constitute a registration period, but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 on the basis of compensation earned after the first of such consecutive 14-day periods has begun.

"(C) Termination when employee reaches age of 65.—Notwithstanding any other provision of this paragraph, an extended benefit period for sickness benefits shall terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of paying benefits for days of unemployment.

"(3) Accelerated benefits.—

"(A) General rule.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire, and (in a case involving unemployment benefits) did not voluntarily leave work without good cause, who has 14 or more consecutive days of unemployment, or 14 or more consecutive days of sickness, and who is not a qualified employee with respect to the general benefit year current when such unemployment or sickness commences but is or becomes a qualified employee for the next succeeding general benefit year, such succeeding general benefit year shall, in that employee's case, begin on the first day of the month in which such unemployment or sickness commences.

"(B) Exception.—In the case of a succeeding benefit year beginning in accordance with subparagraph (A) by reason of sickness, such sentence shall not operate to permit the payment of benefits in the period provided for in such sentence for any day of sickness beginning with the date on which the employee attains age 65, and continuing through the day preceding the first day of the next succeeding general benefit year.

"(C) Determination of age.—For the purposes of this subsection, the Board may rely on evidence of age available in its records and files at the time determinations of age are made.".

(b) Repeal of Deadwood Provision.—Section 2(h) of the Railroad Unemployment Insurance Act is repealed.

(c) Repeal of Expired Provision.—Section 17 of the Railroad Unemployment Insurance Act (45 U.S.C. 368), relating to payment of supplemental unemployment benefits, is repealed.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California [Ms. Schenk] will be recognized for 20 minutes, and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from California [Ms. Schenk].

GENERAL LEAVE

Ms. SCHENK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4868, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. SCHENK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Railroad Unemployment Insurance Amendments Act of 1994 embodies a comprehensive agreement reached between rail management and rail labor.

H.R. 4868 revises railroad unemployment and sickness benefits to bring them more into line with the benefits provided under State unemployment systems. As Members know, the railroad unemployment insurance system is an entirely self-funded system; there are no taxpayer moneys involved.

Railroad unemployment insurance currently has a 2-week waiting period before benefits begin to accrue. By contrast, 39 States have a 1-week waiting period and 11 States have no waiting period for benefits. H.R. 4868 reduces the waiting period from 2 weeks to 7 days.

As a partial offset to the increases in daily benefits and the reduction in the waiting period, the legislation reduces two of the advantages to workers covered by railroad unemployment insurance.

First, it reduces the limit on extended benefits from 130 days to 65 days.

Second, it introduces an earnings test that would disqualify workers whose partial earnings exceed the prior base year monthly qualifying earnings—currently $810—in a 2-week benefits period.

Mr. Speaker, H.R. 4868 is the result of long negotiations between rail labor and management.

It is strongly supported by both groups, and by the majority and minority of our Committee on Energy and Commerce. I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support enactment of H.R. 4868. This bill represents a much-needed updating of the benefit levels under the Federal railroad unemployment insurance system.

The bill represents a consensus approach suggested to the Congress by the management of the Nation's major railroads and by rail labor. It also represents considerable effort by our committee chairman, Mr. Dingell, our subcommittee chairman, Mr. Swift, and our subcommittee's ranking member Mr. Oxley.

H.R. 4868 builds upon the financially sound railroad unemployment insurance system that has benefited from a number of key improvements enacted by Congress in the 1980's. Although this legislation partially offsets the increases in daily benefits with changes to long-term benefits and other aspects of the RUI system, it will still increase overall costs by about 15 percent. However, because Congress placed the RUI system on "experience-rating" in 1988, any increase in benefits paid out will automatically produce a compensating increase in carrier premiums in the following year. Consequently, the fiscal impact of this bill is minimal, and no changes were necessary to the basic payroll tax system supporting the railroad unemployment insurance system.

Mr. Speaker, I strongly support approval of this bipartisan bill.

Mr. DINGELL. Mr. Speaker, I commend Chairman Swift, Mr. Moorhead, and Mr. Oxley for their hard work and support in crafting this piece of legislation. I also want to thank the Railroad Retirement Board and its staff for technical assistance.

This legislation is a bipartisan bill and a collaborative effort between rail labor and rail management. It makes several improvements to the current railroad unemployment insurance system by revising railroad unemployment and sickness benefits and bringing them more into line with benefits provided by State unemployment systems. The bill also establishes revised benefit and indexing formulas.

H.R. 4868 reduces the waiting period for benefits from 2 weeks to 7 days. Thirty-nine State unemployment systems currently have a 1-week waiting period and 11 have none. This legislation also increases the level of benefits and improves the indexing formula for such benefits. The railroad unemployment insurance system currently provides a maximum benefit rate of $36 per day. H.R. 4868 will increase the benefit rate to $40 per day.

H.R. 4868 creates a more uniform railroad unemployment insurance system. Many features of the current railroad unemployment insurance system emerged from legislation passed in 1988 when the old Railroad Unemployment System was in debt to the Railroad Retirement System. Since 1988, the system's financial health has improved greatly and rail labor and rail management support the changes reflected in H.R. 4868.

I urge my colleagues to support this legislation.

Mr. OXLEY. Thank you, Mr. Speaker. I rise in strong support of H.R. 4868. This is a bipartisan bill to update the Railroad Unemployment Insurance Act—the Federal system of unemployment and sickness benefits that applies to the railroad industry. I want to recognize and commend the efforts of Chairman DINGELL, Subcommittee Chairman SWIFT, and our ranking member, Mr. MOORHEAD, for their efforts in moving this bill forward so expeditiously.

H.R. 4868 is based on draft legislation jointly submitted to our committee by railroad labor and the management of the Nation's major railroads. It represents a consensus approach to increasing daily RUI benefits for those who need them most, and helping to offset some of the costs with modifications to long-term benefits and other features of the RUI system.

The bill has no significant fiscal impact, and requires no modification in the payroll tax system that supports the RUI system. This reflects the decision Congress made in 1988 to place the RUI system on an experience-rating basis, so that each railroad's premiums are based on its actual payout of benefits for the preceding year. Because of this feature, the increase in daily benefits provided for in H.R. 4868 will automatically be offset by increased carrier premiums. This is a sound and responsible approach to keeping the RUI system on a stable financial footing. In fact, I think it is a classic case of a sound private-sector insurance technique being applied to operations of the Federal Government. Since we hear a lot these days about "reinventing government," we might do well to look for other cases where the knowledge and experience of the private sector can be applied to improve Government efficiency.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SCHENK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California [Ms. SCHENK] that the House suspend the rules and pass the bill, H.R. 4868, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2178, HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS OF 1993

Mr. MINETA. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2178) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

TITLE I—HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Hazardous Materials Transportation Authorization Act of 1994".

SEC. 102. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 5127(a) (relating to authorization of appropriations) is amended by striking out "the fiscal year ending September 30, 1993," and inserting "fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997".

SEC. 104. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 5108(a) (relating to persons required to file) is amended by adding at the end the following new paragraph:

"(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.".

SEC. 105. PLANNING GRANTS FOR INDIAN TRIBES.

(a) AUTHORITY TO MAKE GRANTS.—Section 5116(a)(1) (relating to planning grants) is amended—

(1) by inserting "and Indian tribes" after "States" the first place it appears; and

(2) by striking "in a State and between States" and inserting "on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe".

(b) MAINTENANCE OF EFFORT.—Section 5116(a)(2) (relating to planning grants) is amended—

(1) by inserting "or Indian tribe" after "State" the first and third places it appears;

(2) by striking "the State" the second place it appears;

(3) by inserting "the State or Indian tribe" before "certifies"; and

(4) by inserting "the State" before "agrees".

(c) COORDINATION OF PLANNING.—Section 5116(a) (relating to planning grants in general) is amended by adding at the end the following new paragraph:

"(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.".

SEC. 106. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Section 5107(d) (relating to coordination of training requirements) is amended—

(1) by inserting "or duplicate" after "conflict with"; and

(2) by striking "hazardous waste operations and" and inserting "hazard communication, and hazardous waste operations, and".

SEC. 107. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 5125(g) (relating to fees) is amended—

(1) by inserting "(1)" after "(g) FEES.—"; and

(2) by adding at the end the following:

"(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

"(A) the basis on which the fee is levied upon persons involved in such transportation;

"(B) the purposes for which the revenues from the fee are used;

"(C) the annual total amount of the revenues collected from the fee; and

"(D) such other matters as the Secretary requests.".

SEC. 108. ANNUAL REPORT.

Section 5121(e) (relating to annual report) is amended—

(1) by striking "Annual" in the subsection heading, and

(2) by striking the first sentence and inserting the following: "The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.".

SEC. 109. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway system technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that 2 or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

(b) GRANTS FOR CERTAIN EMERGENCY RESPONSE INFORMATION TECHNOLOGIES.—

(1) In carrying out one of the operational tests under subsection (a), the Secretary of Transportation may make grants to one or more persons,

including a State or local government or department, agency, or instrumentality thereof, to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies that are used—

(A) to identify the contents of shipments of hazardous materials transported by motor carriers;

(B) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(C) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(D) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(2) Any project carried out with a grant under this subsection must involve two or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(3) To the maximum extent practicable, the Secretary of Transportation shall coordinate a project under this subsection with any existing Federal, State, and local government projects and private projects which are similar to the project under this subsection. The Secretary may require that a project under this subsection be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

SEC. 110. RAIL TANK CAR SAFETY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket HM-175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM-201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

SEC. 111. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act.

SEC. 112. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under chapter 51 of title 49, United States Code, (relating to transportation of hazardous materials) to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under chapter 315 of such title (relating to motor carrier safety) to prohibit the driver of any commercial motor vehicle,

from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

SEC. 113. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—

(1) The Secretary of Transportation shall prescribe regulations amending part 395 of title 49, Code of Federal Regulations, to improve—

(A) compliance by commercial motor vehicle drivers and motor carriers with hours of service requirements; and

(B) the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

(2) Such regulations shall be proposed not later than 12 months after the date of enactment of this Act and shall be issued and become effective not later than 18 months after such date of enactment. In prescribing the regulations, the Secretary of Transportation shall ensure that compliance can be achieved at a cost that is reasonable to drivers and motor carriers.

(b) CONTENTS OF REGULATIONS.—Such regulations shall include the following:

(1) A description of identification items (which include either driver name or vehicle number) that shall be part of a written or electronic document to enable such written or electronic document to be used by a motor carrier or by an enforcement officer as a supporting document to verify the accuracy of a driver's record of duty status.

(2) A provision specifying the number, type, and frequency of supporting documents that must be retained by a motor carrier so as to allow verification of the accuracy of such documents at a reasonable cost, to the driver and the motor carrier, of record acquisition and retention.

(3) A provision specifying the period during which supporting documents shall be retained by the motor carrier. The period shall be at least 6 months from the date of a document's receipt.

(4) A provision to authorize, on a case-by-case basis, motor carrier self-compliance systems that ensure driver compliance with hours of service requirements and allow Federal and State enforcement officers the opportunity to conduct independent audits of such systems to validate compliance with section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto). Such authorization may also be provided by the Secretary to a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary and that are subject to audit by Federal and State enforcement officers.

(5) A provision to allow a waiver, on a case-by-case basis, of certain requirements of section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto), when sufficient supporting documentation is provided directly and at a satisfactory frequency to enforcement personnel by an intelligent vehicle-highway system, as defined by section 6059 of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note). Such waiver may also be allowed for a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary.

(c) SUPPORTING DOCUMENT DEFINED.—For purposes of this section, a supporting document is any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.

SEC. 114. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 31302 of title 49, United States States Code (relating to limitation on the number of driver's licenses) after being found to have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) FORMER EMPLOYER.—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 115. RETENTION OF SHIPPING PAPERS.

Section 5110 (relating to shipping papers and disclosure) is amended by adding at the end the following new subsection:

"(e) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.".

SEC. 116. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.

SEC. 117. TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PACKAGING.—

(1) Sections 5102(3)(C)(ii) and 5102(4)(A)(iii) are each amended by striking "packages" and inserting "packagings".

(2) Sections 5103(b)(1)(A)(iii), 5121(c)(1)(A), 5125(b)(1)(E), and 5126(a) are each amended by striking "a package or" and inserting "a packaging or a".

(3) Section 5108(a)(1)(D) is amended—

(A) by striking "a bulk package" and inserting in lieu thereof "a bulk packaging"; and

(B) by striking "the package" and inserting "the bulk packaging".

(b) OTHER.—Section 5104(a)(1) is amended by striking "or package" each place it appears and inserting ", package, or packaging (or a component of a container, package, or packaging)".

SEC. 118. HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS.

Not later than 3 months after the date of enactment of this Act the Secretary of Transportation shall initiate a rulemaking proceeding to *determine whether or not the requirements of section 395.3 of title 49, Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops or farm supplies for agricultural purposes within a 50-mile radius of their distribution point or farm.*

SEC. 119. TRAINING.

(a) SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.—Section 5116 (relating to planning and training grants, monitoring, and review) is amended by adding at the end the following new subsections:

"(j) SUPPLEMENTAL TRAINING GRANTS.—

"(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

"(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

"(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

"(B) prioritize such needs and develop a means for identifying additional specific training needs.

"(3) Funds granted to an organization under this subsection shall only be used—

"(A) to train instructors to conduct hazardous materials response training programs;

"(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

"(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

"(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

"(A) a course or courses developed or identified under subsection)/(g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

"(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

"(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996. Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.".

(b) FUNDING.—Section 5127(b) (relating to appropriations for hazmat employee training) is amended—

(1) by inserting "(1)" after "TRAINING.—", and

(2) by adding at the end the following:

"(2)(A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to section 5116(i), $250,000 for each of fiscal years 1995, 1996, 1997, and 1998.

"(B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary for carrying out section 5116(j) $1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—

(1) The first sentence of section 5107(e) (relating to hazmat employee training requirements and grants) is amended to read as follows: "The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section.".

(2) The second sentence of such section is amended by inserting "hazmat employee" after "nonprofit".

(3) Section 5107 (relating to hazmat employee training requirements and grants) is amended by adding at the end thereof the following new subsection:

"(g) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.".

(4) Section 5127(b)(1) (relating to hazmat employee training funding) is amended to read as follows:

"(b) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—(1) There is authorized to be appropriated to the Secretary $3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e).".

(d) CONFORMING AMENDMENTS.—

(1) Section 5108(g)(2)(A)(viii) is amended by striking "5107(e),".

(2) Section 5116(i)(1) is amended by striking "and section 5107(e)".

(3) Section 5116(i)(3) is amended by striking "and section 5107(e)".

SEC. 120. TIME FOR SECRETARIAL ACTION.

(a) EXEMPTIONS.—Section 5117 (relating to exemptions and exclusions) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e) respectively, and

(2) by inserting after subsection (b) the following:

"(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the exemption is delayed, along with an estimate of the additional time necessary before the decision is made.".

(b) DECISIONS ON PREEMPTION.—Section 5125(d) (relating to decisions on preemption) is amended by inserting immediately after the second sentence the following: "The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.".

SEC. 121. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary's recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 122. USE OF FIBER DRUM PACKAGING.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation) as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) LIMITATIONS.—

(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

SEC. 123. BUY AMERICA.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) In providing financial assistance under this title, the Secretary of Transportation shall

provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) RECIPROCITY.—

(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2)(A) Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

TITLE II—TRUCKING INDUSTRY REGULATORY REFORM

SEC. 201. SHORT TITLE.

This title may by cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 203. PURPOSE.

The purpose of this title is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

SEC. 204. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;".

SEC. 205. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d),

(3) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier" in subsection (f), and

(4) by striking out "or" in subsection (g), and inserting after "subtitle" the following: ", (3) to relieve a motor carrier of property or other person from the application or enforcement of the provisions of sections 10706, 10761, 10762, 10927, and 11707 of this title, or (4) to exempt a motor carrier of property from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; antitrust immunity for joint line rates and routes, classification of commodities (including uniform packaging rules), uniform bills of lading, or standardized mileage guides; or safety fitness.".

(b) DEFINITION.—Section 10102 (relating to definitions) is amended by redesignating paragraphs (18) through (31) as (19) through (32), respectively, and by inserting after paragraph (17) the following:

"(18) 'non-contiguous domestic trade' means motor-water transportation subject to the jurisdiction of the Commission under chapter 105 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.".

(c) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting "and motor carrier" after "rail carrier".

(2) The chapter analysis for chapter 105 is amended by inserting "and motor carrier" after "rail carrier" in the item relating to section 10505.

SEC. 206. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting ", except a motor contract carrier of property," after "A contract carrier".

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13) or in noncontiguous domestic trade)" after "chapter 105 of this title", and

(2) by striking out "That carrier" in the second sentence and inserting "A carrier subject to this subsection",

(3) by inserting before the period at the end of the first sentence the following: ", except that a motor carrier of property the application of whose rates is determined or governed by a tariff on file with the Commission cannot collect its rates unless the carrier is a participant in those tariffs", and

(4) by inserting before the period at the end of the second sentence the following: ", except that a motor carrier of property the application of whose rates are determined or governed by a tariff on file with the Commission shall issue a power of attorney to the tariff publishing agent of such tariff and, upon its acceptance, the agent shall issue a notice to the participating carrier certifying its continuing participation in such tariff, which certification shall be kept open for public inspection".

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a) (relating to general tariff requirement) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "A motor common carrier" in the second sentence of paragraph (1),

(2) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "carriers" in the third sentence of paragraph (1),

(3) by striking the last sentence of paragraph (1) and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle. Except as provided in the Negotiated Rates Act of 1993 and the amendments made by that Act, nothing in the Trucking Industry Regulatory Reform Act of 1994 (and the amendments made by that Act) creates any obligation for a shipper based solely on a rate that was on file with the Commission or elsewhere on the date of enactment of such Act.", and

(4) by adding at the end the following:

"(3) A motor common carrier of property (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based. When the applicability or reasonableness of the rates and related provisions billed by a motor common carrier is challenged by the person paying the freight charges, the Commission shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In those cases where a motor common carrier (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Commission determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the original bill in order to have the right to collect such charges.

"(4) If a shipper seeks to contest the charges originally billed, the shipper may request that the Commission determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

"(5) Any tariff on file with the Commission on the date of enactment of the Trucking Industry Regulatory Reform Act of 1994 not required to be filed with the Commission after the enactment of that Act is null and void beginning on that date.".

(d) PROPOSED RATE CHANGES.—

(1) COMMON CARRIERS.—Section 10762(c)(1) (relating to proposed rate changes) is amended by inserting "(excluding a motor common carrier providing transportation of property other than household goods, under an individually determined rate, classification, rule, or practice defined in section 10102(13), or in a noncontiguous domestic trade)" after "common carrier".

(2) CONTRACT CARRIERS.—Section 10762(c)(2) (relating to proposed rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

"(j) Nothing in this section shall affect the application of the provisions of the Negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the Trucking Industry Regulatory Reform Act of 1994.".

(f) DEFINITION.—Section 10102 (relating to definitions) is amended—

(1) by redesignating paragraphs (13) through (31) as (14) through (32), and

(2) by inserting after paragraph (12) the following:

''(13) 'individually determined rate, classification, rule, or practice' means a rate, classification, rule, or practice established by—

''(A) a single motor common carrier for application to transportation that it can provide over its line; or

''(B) 2 or more interlining carriers without participation in an organization established or continued under an agreement approved under section 10706(b) for application to transportation that the interlining carriers can provide jointly over their lines.''.

SEC. 207. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as (c) through (m), respectively, and by inserting after subsection (a) the following new subsection:

''(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

''(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

''(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission under section 31144 of this title, and

''(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

''(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

''(3) The Commission shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety and safety fitness requirements under paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

''(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.''.

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking ''carrier of property'' in paragraph (1) and inserting ''carrier of household goods'',

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking ''carrier holding authority under paragraph (4)(D) of this subsection'' in paragraph (4) (as redesignated) and inserting ''motor carrier providing transportation of shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds'',

(4) by striking ''of property'' in paragraph (5) (as redesignated) and inserting ''of household goods'',

(5) by striking ''of property'' in paragraph (6) (as redesignated) and inserting ''of household goods'', and

(6) by striking ''Notwithstanding the provisions of paragraph (4) of this subsection, the provisions'' in paragraph (7) (as redesignated) and inserting ''The provisions''.

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting ''of household goods or passengers'' after ''motor common carrier''.

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting ''of household goods or passengers'' after ''motor common carrier''.

SEC. 208. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting ''of household goods or passengers'' after ''motor contract carrier''.

(b) MOTOR CONTRACT CARRIER PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

''(b)(1) Except as provided in this section and section 10930 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

''(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

''(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 31144 of this title, and

''(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

''(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

''(3) The Commission shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety and safety fitness requirements of paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

''(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).''.

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking ''motor contract carrier of property'' in paragraphs (3) and (4) and inserting ''motor contract carrier of household goods'',

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking ''motor contract carriers of property'' in paragraph (5) (as redesignated) and inserting ''motor contract carriers of household goods''.

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting ''of passengers or household goods'' after ''contract carrier'' in paragraph (1), and

(2) by striking ''each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)'' in paragraph (2) and inserting ''in the case of a motor contract carrier of passengers, the number of persons,''.

SEC. 209. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective period of certificates, permits, and licenses) is amended—

(1) by striking ''if a motor carrier or broker'' in subparagraph (A) and inserting ''if a motor carrier of passengers, motor common carrier of household goods, or broker'',

(2) by striking ''and'' at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

''(B) if a motor contract carrier of property, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10924(e), 10927 (b) or (d), or 31144, of this title;

''(C) if a motor common carrier of property other than household goods, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10702, 10924(e), 10927 (b) or (d), or 31144 of this title; and''.

SEC. 210. STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS.

(a) INTERSTATE COMMERCE COMMISSION REPORT.—The Interstate Commerce Commission shall prepare and submit to the Secretary of Transportation and to each committee of the Congress having jurisdiction over legislation affecting the Commission a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations concerning specific statutory and regulatory functions of the Commission that could be eliminated or restructured. The Commission shall submit the report within 60 days after the date of enactment of this Act.

(b) SECRETARY OF TRANSPORTATION STUDY.—The Secretary of Transportation shall study the feasibility and efficiency of merging the Interstate Commerce Commission into the Department of Transportation as an independent agency, combining it with other Federal agencies, retaining the Interstate Commerce Commission in its present form, eliminating the agency and transferring all or some of its functions to the Department of Transportation or other Federal agencies, and other organizational changes that lead to government, transportation, or public interest efficiencies. The study shall consider the cost savings that might be achieved, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall solicit comments from the public with respect to both the Department's and the Commission's findings. The Secretary shall submit the results of such study together with any recommendations to the Congress within 4 months after the date of the submission of the Interstate Commerce Commission report required in subsection (a).

SEC. 211. LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS.

(a) IN GENERAL.—Chapter 109 (relating to licensing) is amended by adding at the end thereof the following new section:

"§10936. Limitation on State regulation of intrastate passengers by bus

"A State or political subdivision of a State may not enforce any law or regulation relating to intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers over a route authorized by the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) Section 10521(b)(1) is amended by inserting "10936," after "10935,"

(2) Section 11501(e) is amended—

(A) by striking all but paragraph (5),

(B) by redesignating paragraph (5) as subsection (e), and

(C) by striking "paragraph" and inserting "subsection".

(3) The table of sections for subchapter IV of chapter 109 is amended by adding at the end the following new item:

"10936. Limitation on State regulation of intrastate passengers by bus.".

SEC. 212. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the enactment of this Act, except for sections 207 and 208, which shall take effect on January 1, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MINETA] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2178, the Hazardous Materials Transportation Authorization Act of 1994.

I want to thank my colleagues who have worked diligently to pass this important piece of legislation. The Chair and ranking minority members of the Subcommittee on Surface Transportation, Congressmen RAHALL and PETRI, who worked diligently with the Senate to craft the compromise legislation which is before us today. I would also like to recognize the ranking member of the full committee, Congressman SHUSTER, for his support of this legislation as well.

Also, I would like to extend my thanks to Congressmen SWIFT and OXLEY, chairman and ranking member of the Subcommittee on Transportation and Hazardous Materials of the Energy and Commerce Committee and Chairman DINGELL and ranking member Congressman MOORHEAD of the full Committee on Energy and Commerce, the committee with which we share jurisdiction over the transportation of hazardous materials.

Last, I would like to thank my Senate colleagues, the Chair and ranking member of the Senate Committee on Commerce, Science, and Transportation, Senators HOLLINGS and DANFORTH, and the Chair and ranking member of the Surface Transportation Subcommittee, Senators EXON and HUTCHINSON, who labored long and hard to not only resolve the issues in the hazardous materials legislation, but also to include, in title II, comprehensive regulatory reform for the interstate motor carrier industry.

Mr. Speaker, H.R. 2178 provides authorization levels for carrying out the Hazardous Materials Transportation Act through 1997. It further provides more funding for training of public and private sector employees; for making Indian tribes eligible for emergency planning grants; for ensuring that the National Intelligent Vehicle-Highway System Program addresses the use of its technologies to promote hazardous materials transportation safety; permits the Secretary of Transportation to waive registration and fee requirements for foreign shippers from countries that do not impose such registration and fee requirements for U.S. shippers; and provides for several studies and rulemakings to enhance public safety.

Title II of H.R. 2178 contains the Trucking Industry Regulatory Reform Act of 1994 which provides for improving surface transportation efficiency and saving taxpayer dollars, while continuing to protect the public interest and preserving transportation safety.

This legislation is part of a major effort by this Congress to reduce economic regulation in the trucking industry, to increase reliance on competition in the marketplace, and to reduce the size and role of the Government bureaucracy.

This is the third step in a process which began with the Negotiated Rates Act late last year, a bill that untangled a regulatory mess that burdened shippers all over America.

The Congress took the second step last Monday with the passage of the Aviation Conference Report when it preempted State regulation of price, routes, and services of motor carries, air carriers and carriers affiliated with direct air carriers through common controlling ownership when transporting property in intrastate commerce.

Today we are eliminating the obligation to file rates for individual carriers operating in interstate commerce; limiting entry requirements to safety matters and insurance; providing the Interstate Commerce Commission [ICC] with exemption authority for trucking matters under its jurisdiction; requiring the Secretary of Transportation to study and report to Congress future organizational options for the ICC with recommendations for further operational and regulatory efficiencies; and preempting intrastate bus rates for interstate carriers.

These three bills, taken together, constitute the largest regulatory reform in the motor carrier industry since the Motor Carrier Act of 1980.

We will have accomplished not just regulatory reduction, but also agency reduction as a result of cutting back the ICC's interstate regulatory functions with regard to motor carriers. This action should allow for the total size of the ICC to be reduced by one-third.

American industry will benefit both from the lower costs of a reduced regulatory burden and from the increased efficiencies of a more marketplace-driven transportation industry.

For the benefit of my colleagues, I have attached a section-by-section of H.R. 2178 to my statement for inclusion in the RECORD.

I now urge my colleagues to join with me in passage of H.R. 2178.

TITLE I—HAZARDOUS MATERIALS TRANSPORTATION AUTHORIZATION ACT OF 1994

SECTION BY SECTION ANALYSIS

SECTION 101—SHORT TITLE

Section 101 provides the short title of the Act.

SECTION 102—AMENDMENT OF TITLE 49, UNITED STATES CODE

Section 102 provides that unless otherwise expressly provided, all amendments in this title shall be considered to be made to Title 49, U.S.C.

SECTION 103—AUTHORIZATION OF APPROPRIATION

Section 103 amends Section 5127(a) of Title 51, U.S.C. to make appropriations for fiscal years 1994 through fiscal year 1997. The figures are $18 million for fiscal year 1994, $18.54 million for fiscal year 1995, $19.1 million for fiscal year 1996, and $19.67 million for fiscal year 1997.

SECTION 104—EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT

Section 104 amends Section 5108(a) of Title 51, U.S.C. to allow the Secretary to waive registration and fee requirements for foreign shippers who are shipping hazardous materials to the U.S. in international traffic only where the country of such shipper does not impose registration and free requirements on U.S. shippers. Foreign carriers operating in the United States are not covered by the waiver provision.

SECTION 105—PLANNING GRANTS FOR INDIAN TRIBES

Subsections (a) and (b) make amendments to Section 5116(a)(1) and (a)(2) of Title 51, U.S.C. to permit Indian tribes to be eligible for emergency planning conducted by adjacent States and Indian tribes.

SECTION 106—TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION

Section 106 makes technical amendments to Section 5107(d) of Title 51, U.S.C. to clarify the scope of training criteria by mandating that the Department of Transportation ensure that its requirements for employee training in understanding hazards associated with hazardous materials shipments, as well as hazardous waste operations are coordinated with, and do not conflict with or duplicate other training requirements.

SECTION 107—DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES

Section 107 amends Section 5125(g) of Title 51, U.S.C. by permitting the Department of Transportation to require State and local jurisdictions and Indian tribes to justify fees imposed in connection with hazardous materials transportation; including the basis on which the fee is levied, the purpose for which revenues from the fee are used, the annual total amount of revenues collected from the fee and other matters as the Secretary requests.

SECTION 108—ANNUAL REPORT

Section 108 amends Section 5121(e) of Title 51, U.S.C. by striking the word "annual" in the subsection heading and amending the section to require the Department of Transportation to submit a comprehensive report regarding hazardous materials transportation once every two years, in lieu of once a year, to the President for transmittal to Congress.

SECTION 109—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS

Section 109 amends the Intelligent Vehicle-Highway System Act in order to assure that the Secretary of Transportation ensures that the National Intelligent Vehicle-Highway System Program addresses the use of its terminologies to promote hazardous materials transportation safety. This section requires that at least two or more operational tests be made to provide information to persons who provide emergency response to hazardous materials transportation incidents.

The factors for making the grants are set forth in subsection (b), but they are designed to demonstrate the feasibility of establishing and operating a computerized telecommunications emergency response information technology. Any project must include at least two motor carriers of property. One should be a motor carrier that transports hazardous materials and the other must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements.

The Secretary to the maximum possible should coordinate this project with any existing Federal, State, local government and private projects which are similar and the Secretary may require that it be carried out in conjunction with such projects.

SECTION 110—RAIL TANK CAR SAFETY

Section 110 requires the Department of Transportation to issue final regulations, within one year of the date of enactment of this legislation, on two ongoing DOT rulemaking proceedings: (1) "Crashworthiness Protection Requirements for Tank Cars" (Docket HM-175A); and (2) "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks" (Docket HM-201).

SECTION 111—SAFE PLACEMENT OF TRAIN CARS

Section 111 mandates that the Secretary of Transportation conduct a study of current practices regarding the placement of rail cars on trains, with particular attention to the placement of rail cars, including tank cars, transporting hazardous materials. The study is to focus on whether placement practices (for example, placing heavy cars containing hazardous materials behind lighter weight or empty cars) increase the risk of adverse safety incidents such as derailments, rank ruptures, or hazardous materials spills.

SECTION 112—GRADE CROSSING SAFETY

Section 112 requires the Secretary of Transportation, within six months of the date of enactment of this legislation, to amend regulations issued under chapter 51 and chapter 315 of Title 49, U.S.C. to prohibit the driver of a motor vehicle transporting hazardous materials in commerce from driving the motor vehicle onto a highway-railroad crossing without having sufficient space to drive completely through the crossing without stopping.

SECTION 113—DRIVER'S RECORD OF DUTY STATUS

Subsection 113(a) requires the Secretary of Transportation to issue regulations amending 49 C.F.R. 395, to improve compliance by commercial motor vehicle drivers and motor carriers with ours of service requirements and the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance. The regulations must be proposed not later than 12 months after enactment and shall be final not later than 18 months after enactment.

Subsection 113(b) lists items required to be included in the regulations.

Subsection 113(c) defines, for purposes of this section, what constitutes a supporting document.

SECTION 114—SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

This section requires the Secretary, within 18 months after the date of enactment of this regulation, to amend 49 C.F.R. 391.23 to specify the minimum safety information that a motor carrier must request regarding a driver; require that such information be requested of the driver's former employers (defined as any person who employed the driver during the preceding 3-year period); mandate that these former employers respond to such inquiries within 30 days after receiving the request; and ensure that the driver has reasonable opportunity to review and comment on the information collected.

The safety information required includes: (1) any motor vehicle accidents within the preceding 3-year period involving the driver; (2) any failure of the driver, during the preceding 3-year period, to complete a rehabilitation program prescribed by the Commercial Motor Vehicle Safety Act of 1986, after being found to violate Federal alcohol or controlled substance laws or regulations; (3) any illegal use by the driver of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and (4) any other matters determined by the Secretary to be relevant to a driver's safety performance.

SECTION 115—RETENTION OF SHIPPING PAPERS

Section 115 amends Section 5110 of Title 51, U.S.C. by adding a new paragraph requiring that the person providing the shipping paper for hazmat shipment, and the carrier transporting that shipment, retain such shipping paper at their respective places of business even after the shipment has been delivered. Such a person or carrier, upon request, must make the shipping paper available to a Federal, State or local government at reasonable times and locations.

SECTION 116—TOLL FREE NUMBER FOR REPORTING

Section 1116 is a free standing provision that requires the Secretary to provide a toll free telephone number for transporters of hazardous materials and others to report to the Secretary any possible violations of the Hazardous Materials Transportation Act (HMTC) or any order or regulation issued under the Act.

SECTION 117—TECHNICAL CORRECTIONS

Section 117 makes certain technical corrections to the HMTA. The technical correction deals with the word "packaging."

SECTION 118—HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS

Section 118 requires the Secretary to initiate a rulemaking proceeding in order to determine whether the requirements of the hours-of-service provision contained in 49 C.F.R. 395.(3) may be waived for farmers and retail farm suppliers within a 50-mile radius of their distribution point or farm.

SECTION 119—TRAINING

Section 119 amends Section 5116 of Title 51, U.S.C. by creating a new subsection (j) to provide authority to the Secretary of Transportation to make grants directly to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training individuals with statutory responsibility to respond to hazardous materials accidents and incidents, subject to certain conditions included in the legislation on the use of the funds and to any other terms and conditions as the Secretary determines are necessary.

Section 5116 is further amended to create a new subsection (k) which directs the Secretary to submit a report to Congress on the allocation and uses of funds distributed under the training grant programs authorized in subsections (a) and (c) and existing training grant programs. The report is to cover existing grant programs and grants made pursuant to subsections (a) and (c) in fiscal years 1995 and 1996. This report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures of such recipients. The report shall also identify the numbers of employees trained under the grant programs and an evaluation of the effectiveness of the training programs carried out with such funds.

Subsection (b) amends Section 5127(b) of Title 51, U.S.C. relating to applications for hazmat employee training and authorizes the Secretary to fund these training grants in fiscal years 1995, 1996, 1997 and 1998 annually in the amounts of $250,000 from registration fees, and $1 million from general revenues, subject to appropriations.

Subsection (c) amends Section 5127(e) of Title 51, U.S.C. to authorize an expanded training grant program under which the Secretary would make grants to nonprofit hazmat employee organizations for the purpose of training all employees engaged in the loading, unloading, handling, storage and transportation of hazardous materials and emergency response.

Subsection (c) also amends Section 5107 of Title 51, U.S.C. to add a new subsection (g) which requires that no grant under subsection (e) shall supplant or replace existing employer provided hazardous materials training efforts or obligations.

Subsection 5127(b) of Title 51, U.S.C. is further amended to provide an additional authorization for funding the training grants in subsection 5127(e) in fiscal years 1995, 1996, 1997 and 1998 at $3 million annually from general revenues, subject to appropriations.

SECTION 120—TIME FOR SECRETARIAL ACTION

Section 120 amends Section 5117 of Title 51, U.S.C. to require the Secretary to issue, renew, or deny an application for exemption from regulations within 180 days or publish in the Federal Register the reason why the Secretary's decision was delayed.

Subsection (d) is amended by inserting a requirement that the Secretary shall issue a decision on an application within 180 days after the date of publication of the notice of having received such application, or why the decision was delayed in the Federal Register.

SECTION 121—STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS

Section 121 directs the Secretary of Transportation to conduct a study regarding the safety considerations of transporting hazardous wastes in close proximity to Federal prisons, particularly those housing maximum security prisoners. The Committee intends for the study to focus on the transportation of hazardous wastes over roads and highways.

Subsection (a) directs that the study focus on the particular safety concerns raised by any need to evacuate a captive population, particularly maximum security prisoner, in the event of an incident or accident involving the transportation of hazardous wastes. The study would also examine the ability of local emergency planning agencies to meet any potential exigencies.

Subsection (b) requires that the Secretary report the findings, together with any recommendations for legislative or regulatory change, within one year.

SECTION 122—USE OF FIBER DRUM PACKAGING

Section 122(a) directs the Secretary of Transportation, no later than 60 days after enactment, to initiate a rulemaking to determine whether the requirements of section 5103(b) of Title 51, U.S.C. may be met for openhead fibre drum packaging (with respect to the transportation of liquid hazardous materials in such drums) by any other standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in 49 C.F.R. 178.

Subsection (b) directs that if the Secretary determines that any other standard provides an equal to or greater level of safety than the level provided by the HM-181 standards, then the Secretary shall issue regulations implementing such other standard on or before October 1, 1996.

Section (c) directs that the rulemaking undertaken pursuant to this section be completed no later than October 1, 1995.

Section (d) limits the applicability of this section

SECTION 123—BUY AMERICAN

Section 123 directs compliance with the "Buy American Act," 41 U.S.C. Sections 10a-10c.

TITLE II—THE TRUCKING INDUSTRY REGULATORY REFORM ACT OF 1994

SECTION 201—SHORT TITLE

Section 201 states the short title of the Act.

SECTION 202—AMENDMENT OF TITLE 49, UNITED STATES CODE

Section 202 states that unless provided otherwise, all amendments will be to title 49 of the U.S.C.

SECTION 203—PURPOSE

Section 203 provides that the purpose of the bill is to enhance competition, safety and efficiency in the motor carrier industry and to enhance efficiency in government.

SECTION 204—TRANSPORTATION POLICY

Section 204 provides a new section to the transportation policy.

SECTION 205—EXEMPTIONS

Section 205 amends section 10505 of Title 49 U.S.C. with respect to exemptions. Two general exemptions are provided for this section; namely, motor carriers providing transportation of household goods or in noncontiguous domestic trade. That means these two groups are not subject to the provisions.

It then makes specific exemptions for types of transportation not subject to the Act. It exempts 10706 (rate bureaus), 10761 (transportation without a tariff as amended by this Act), 10762 (tariff filing as amended by the Act), 10927 (Security of motor carriers), and 11707 (Liability of common carriers under receipts and bills of lading). It also exempts a number of provisions from application of this Act.

Subsection (b) defines non-contiguous domestic trade.

SECTION 206—TARIFF FILINGS

Section 206 amends three sections Title 49, U.S.C. They are 10702(b), 10761, and 10762(a). The first provision amends Section 10702(b) of the Act which specifies authority for carriers to establish rates, classifications, rules, and practices. It eliminates motor contract carriers of property from the provision, thus, they are no longer required to file actual or minimum rates.

Section 206(b) amends 10761 as it applies to transportation prohibited without tariff. First, it amends the section to provide that motor common carriers providing transportation of property, other than household goods or those in non-contiguous trade, under an individually determined rate are eliminated from the requirements of this section.

In paragraphs (3) and (4) the law now provides that carriers cannot collect a rate determined by a tariff unless it is a participant in the tariff. This sustains a decision of the Supreme Court which stated that carriers not signing a power of attorney for participation in a rate could not enforce the rate.

Section (c) amends Section 10762(a) relating to general tariff requirements. In new paragraph (1) it excludes from the general requirement common carriers providing traffic under an individually determined rate which is a defined term in subsection (f). It also states that motor contract carriers are no longer required to file their rates. However, the amendments made in the Negotiated Rates Act still apply; i.e. carriers must keep copies of signed agreements.

New paragraph (3) makes certain changes with respect to individually determined rates.

First, it provides that a carriers shall provide to the shipper, upon request, a written or electronic copy of the rate classification, rules, and practices upon which the rate agreed to between the shipper and carrier may have been based. When the applicability of reasonableness of a rate is challenged by the person paying the freight charge, the Commission shall make a decision on whether the rates are reasonable and applicable based on the record before it.

Paragraph (4) is intended to modify the second sentence of paragraph (3) to ensure that all shipper rate challenges are brought within the 180 days statute of limitations which governs rate disputes.

In those cases where a motor common carrier seeks to collect charges in addition to those billed and collected which are contested by the payer, the carrier may request action by the Commission on this issue. The carrier must issue a bill for charges within 180 days if he is going to collect the charges. The same procedure applies to a shipper who seeks to contest charges.

New paragraph (5) provides that the old charges on file at the I.C.C., which are not required to be filed under this Act, are null and void. The key date is the date of enactment of this bill.

Subsection (d)(1) amends Section 10762(c)(1) of Title 49, U.S.C. to exclude motor common carriers from filing changes in their rates, if the rate change is covered by the definition of individually determined rate as set forth in Section 10102(13).

The rates for household goods and transportation of property in a non-contiguous domestic trade must continue to be filed.

Subsection (d)(2) amends Section 10762 (c)(2) of Title 49, U.S.C. relating to proposed rate changes to exclude motor contract carriers providing transportation of property from the requirement to publish, file and keep open for public inspection any notice to establish a new or reduced rate or change in a rule or practice related to such rate.

Subsection (e) amends Section 10762 of Title 49, U.S.C. by adding at the end a new subsection (j). New subsection (j) provides that nothing in this section affects the application of the provisions in the Negotiated Rates Act of 1993 for claims arising from undercharges for transportation provided prior to the date of enactment of this Act.

Subsection (f) amends Section 10102 of Title 49, U.S.C. relating to definitions by redesignating paragraphs (13) through (31) as (14) through (32) and inserting a new paragraph (13) that provides a definition of "individually determined rate, classification, rule, or practice" to mean those established by (A) a single motor carrier for transportation over its line; or (B) a rate, classification, rule of practice for two or more interlining carriers for transportation they jointly provide over their lines.

SECTION 207—MOTOR COMMON CARRIER LICENSING

Subsection 207(a) requires applicants for new or expanded motor common carrier operating authority to transport property other than household goods to make three identified showings. First, that the applicant is able to comply with all statutory, regulatory and ICC imposed safety requirements. Second, that the applicant is able to demonstrate safety fitness under standards developed by the DOT in consultation with the ICC pursuant to Section 31144 of Title 49, U.S.C. Third, that the applicant is able to provide adequate liability insurance or provisions for self-insurance under the financial responsibility provisions of Section 10927 of Title 49, U.S.C.

Subsection (b) frees applicants for authority to operate as a motor common carrier of property (other than a carrier of household goods) from the currently required showing that the proposed service will serve a useful public purpose, responsive to a public demand or need.

New paragraph (b)(1)(A) refers to the regulations of the ICC and safety requirements imposed by the ICC. These include, for example, policy statements and procedures for the submission and evaluation of safety fitness evidence in licensing and finance cases, such as *Rules Governing Applications for Operating Authority*, 5 I.C.C. 2d 94 (1988), *Transfer Rules*, 4 I.C.C. 2d 382 (1988); and *Pur., Merger, and Cont.-Motor Passenger and Water Carriers (Passenger Finance Rules)*, 5 I.C.C. 2d 786 (1989).

New paragraph (b)(1)(B) refers to the safety fitness requirements established by DOT, specifically citing the underlying statutory authorization. This citation emphasizes the ICC's reliance upon the procedure established by DOT for the safety fitness requirements against which applicants are to be evaluated. Section 215 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2512) directed DOT, in consultation with the ICC to develop a procedure (now at 49 CFR Part 385) "to determine the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under Section 10922 and 10923 of title 49, United States Code." 49 U.S.C. App. 2512.

New paragraph (b)(1)(C) refers to the ICC's minimum financial responsibility requirements pursuant to Section 10927 of Title 49, U.S.C.

New paragraph (b)(2) requires the ICC to consider and make findings on any evidence relating to these enumerated standards for granting operating authority.

New paragraph (b)(3) directs the ICC to deny operating authority to any carrier which does not meet these enumerated standards.

New paragraph (b)(4) restricts the grounds under which a person may protest an application made for operating authority to the regulations of the ICC, safety fitness or minimum financial responsibility requirements set forth in new paragraph (b)(1).

Subsections (c) and (d) make conforming changes as a result of these amendments.

SECTION 208—MOTOR CONTRACT CARRIER LICENSING

Similar to Section 207, Section 208 codifies the ICC's current practice in granting operating authority, but with respect to motor contract carriers.

Section 208(a) requires, with respect to applicants for motor contract authority to carry property other than household goods, the same three showings required by Section 207(a) for applicants for new or expanded common carrier operating authority to carry property other than household goods.

New paragraph (b)(1)(A) refers to the regulations of the ICC and safety requirements of the ICC.

New paragraph (b)(1)(B) refers to the safety fitness requirements established by DOT.

New paragraph (b)(1)(C) refers to the ICC's minimum financial responsibility requirements pursuant to Section 10927 of Title 49, U.S.C.

New paragraph (b)(2) requires the ICC to consider and make findings on any evidence relating to these enumerated standards for granting operating authority.

New paragraph (b)(3) directs the ICC to deny operating authority to any carrier which does not meet these enumerated standards.

New paragraph (b)(4) restricts the grounds under which a person may protest an application made for operating authority to the regulations of the ICC, safety fitness or minimum financial responsibility requirements set forth in new paragraph (b)(1).

Subsection (c) makes conforming amendments to the ICC's application filing requirements for permits for motor contract carriers as a result of these amendments.

Subsection (d) makes conforming changes to the conditions the ICC may prescribe for issuing a permit to a motor contract carrier as a result of these amendments.

SECTION 209—REVOCATION OF MOTOR CARRIER AUTHORITY

Section 209 amends Section 10925 of Title 49, U.S.C. to clarify the ICC's authority to suspend a certificate granted under Section 10922 or a permit granted under Section 10923, in light of elimination of the tariff filing requirements for rates set independently by motor common carriers of property (other than carriers of household goods and goods in non-contiguous domestic trade) and for all motor contract carriers of property.

SECTION 210—STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS

Section 210 directs the preparation of a comprehensive review of all of the ICC's functions and a study of possible changes to the status of the ICC.

Subsection (a) directs the ICC to prepare and submit a report to the Secretary of Transportation and the Congress within 60 days from the date of enactment which identifies and analyzes all of its identified statutory and regulatory responsibilities. In this report, the ICC shall make recommendations as to which of its statutory and regulatory responsibilities could be eliminated or restricted.

Subsection (b) directs the Secretary of Transportation to study the feasibility and efficiency of retaining the ICC in its present form, (i) merging the ICC into DOT as an independent agency, (ii) eliminating the ICC and transferring its functions to other Federal agencies, including DOT, or (iii) any other organizational change that may lead to governmental and transportation efficiencies. The Secretary shall report his findings to Congress within four months of the date of submission of the ICC report described in subsection (a).

SECTION 211—LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS

Section 211 adds a new Section 10936 to the Interstate Commerce Act which preempts States from regulating fares of intrastate bus service for interstate carriers. Subsection (b) makes conforming changes to current provisions of law, and strikes current Section 11501(e)(1) through (4) and (6) and redesignates paragraph (5) as subsection (e), which prescribes the current procedure for state action on rate changes and appeal procedures.

SECTION 212—EFFECTIVE DATE

Section 212 provides that all of the provisions of this Act shall take effect on the date of enactment, except the motor carrier licensing provisions contained in Sections 207 and 208. These sections shall take effect on January 1, 1995, to permit carriers and the ICC sufficient time to adjust their operations to accommodate this change.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2178, as amended by the Senate, will provide for a 4-year reauthorization of the hazardous materials transportation program and initiate certain regulatory reforms in interstate trucking.

Regarding hazardous materials, the provisions before us are relatively simple and are similar to those in the authorization bill passed by the House last year. A few additional provisions have been added by the Senate.

Title II will accomplish significant interstate trucking regulatory reform. One of the last remaining vestiges of Federal regulation following passage of the 1989 Motor Carrier Act is the requirement that carriers must file all tariffs with the Interstate Commerce Commission and that shippers must pay only those rates which are on file with the ICC.

This bill will remove all filing requirements and the obligation to pay only the rate on file for individually determined rates—which account for about 90 percent of the more than 1 million annual tariff filings. Household goods, rate bureaus and a few others will continue rate filings.

The repeal of the tariff filing requirement will result in operating cost savings for the ICC and will remove a substantial paperwork burden for motor carriers.

In addition, other regulatory procedures are streamlined and State regulation of fares for intrastate bus passenger travel on interstate routes is prohibited.

While I do not want to diminish the truly significant reforms in this bill, there is one area in which I am disappointed that we did not go further than the provisions in H.R. 2178. Section 210 of the bill mandates studies by the ICC and the Department of Transportation on further regulatory reform and on the long-term future of the Commission. When the House was considering the fiscal year 1995 Transportation appropriations bill earlier this summer, 234 Members of the House voted to eliminate all funding for the ICC.

There has been some debate since then as to the actual significance of that vote, but it seems to me that with 234 Members voting to cut off all funds for the Commission, we could be enacting something more than some open-ended studies which, undoubtedly, will lead to a repeat next year of the appropriations fight we experienced this year.

We do need to provide for an orderly transfer and it could take several years in order to do it right.

This bill could have started that process and I am disappointed that the study provisions were not strengthened to provide for a real reorganization and sunset at a specific time in the future. This is an issue we will have to continue to consider and struggle with in the months ahead. Nevertheless, we should not lose sight of the fact that major regulatory reforms are being made with passage of this bill.

Therefore, Mr. Speaker, I urge the House to approve H.R. 2178 today.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. President, I yield such time as he may consume to a very distinguished friend and colleague, the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce, with whom we have worked very closely on this and other matters.

Mr. DINGELL. Mr. Speaker, I thank the distinguished chairman of the Committee on Public Works and Transportation, Mr. MINETA. H.R. 2178 reauthorizes the Hazardous Materials Transportation Act and builds on the major work our two committees accomplished in the 1990 reauthorization.

I would like to focus my remarks on the effects of this legislation on the ICC. In June, the House voted to eliminate funding for the ICC. While I and others opposed the amendment to the appropriations bill, we have tried to move forward in a responsible and constructive manner to accomplish the will of the House.

Thanks to the work of the Public Works Committee, this bill eliminates certain motor carrier regulations of the ICC. Together with the appropriations bill now in conference, this bill will result in permanent budget and personnel cuts at the ICC.

H.R. 2178 provides a responsible way to examine how to restructure the ICC. It requires the ICC and the Department of Transportation to report to Congress within 6 months of enactment on: all regulatory responsibilities of the ICC; specific statutory and regulatory functions that may be eliminated or restructured; the feasibility and efficiency of merging the ICC into the DOT as an independent agency; combining it with other Federal agencies; retaining the ICC in its present form; or eliminating the agency. These reports will consider the cost savings to be achieved, the efficient allocation of resources, the elimination of unnecessary functions, the public interest, and responsibility for regulatory functions.

In the railroad area, which is within the jurisdiction of the Committee on Energy and Commerce, the ICC performs many necessary public duties, and those duties are increasing. As the recent report by the Government Accounting Office [GAO] clearly indicates, the statutory functions of the ICC relating to rail issues are important to the public interest and to a sound national transportation policy. For example, the ICC has the authority to approve, disapprove, or modify all railroad mergers. Since the House vote to terminate the ICC, major railroad mergers have been announced and more are probable. These mergers could affect every rail carrier, thousands of railroad employees, and shippers and communities in almost every State in the country.

This legislation is the first of a two-step process. I pledge to continue to work closely with Mr. KASICH, Mr. MINETA, and members of our committees to craft further legislation in the near future that will preserve the essential rail regulation functions now carried out by the ICC while determining whether those functions should be carried out by a different agency.

It is no secret that I have been an outspoken critic of the Commission's actions from time to time. But my criticism of its decisions does not take away from my strong belief that we must maintain the ICC's independence and unbiased decisionmaking in an open forum, regardless of whether the functions performed by the ICC remain there or are moved elsewhere. Congress needs to examine the evidence in this matter to best serve the public interest. This legislation is a strong first step in carrying out the will of the House.

☐ 1340

Mr. Speaker, I strongly urge my colleagues to support this legislation. I submit for the RECORD correspondence with the gentleman from Ohio [Mr. KASICH] on these matters.

The correspondence referred to is as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 11, 1994.

Hon. JOHN R. KASICH,
Member of Congress, Longworth House Office Building, Washington, DC.

DEAR JOHN: I am writing in response to your June 22 letter, written together with the co-sponsors of your amendments to the transportation appropriations bill to: (1) eliminate appropriations for the Interstate Commerce Commission (ICC) for fiscal year 1995, and (2) appropriate $18 million for the Department of Transportation, primarily for severance pay to ICC employees.

Under Rule X of the House of Representatives, the Committee on Energy and Commerce has exclusive jurisdiction of railroads and rail labor and thus has jurisdiction of the ICC's rail functions. The Committee has exercised its legislative and oversight jurisdiction of the ICC's rail activities in numerous instances over the years.

While I have been an extremely vocal critic of the ICC's decisions from time to time, I do not share the view that the agency should be abolished or that its independent authority should be transferred to another entity. As the recent report by the General Accounting Office (GAO) clearly indicates, the statutory functions of the ICC relating to rail issues are important to the public interest, to sound national transportation policy, to railroads (including Amtrak) and their employees, and to shippers, communities, state and local governments, and other varied interests throughout the country. While the Staggers Act, which was considered and adopted by the Committee on Energy and Commerce after lengthy and careful consideration, deregulated many aspects of the rail industry, the law retained many important regulatory and adjudicatory functions of the ICC of rail transactions and activities. Summarily abolishing the agency that has sole authority to perform these essential funtions—as the amendments adopted by the House would do—would be detrimental to numerous public and private interests and would violate public confidence in the manner in which governmental deliberations that affect a broad spectrum of interests are made.

Despite my personal views on the subject, I am certainly mindful of the results of the recent House proceedings. However, I am not clear as to what the votes really mean. During floor debate, proponents of the amendment clearly stated that some, if not all, of the ICC's statutory responsibilities are important and should be retained, notwithstanding the clear effect of the amendments. for example, you stated that, "[t]he only real activity that goes on in the Interstate Commerce Commission anymore essentially has to do with railroads . . . [comprising] about 37 percent of the operations." Later, you added that, "[W]e are going to be able to maintain the essential functions of this operation . . ." Mr. Condit went even further by stating: ". . . we are not going to weaken the regulations or the standards. We are not going to weaken those at all. Most of them have been eliminated, but the ones that have not been eliminated, that have not been eliminated (sic), will be carried out by the Department of Transportation."

These and other statements are at odds with the actual provisions adopted by the House in that they assume a transfer and preservation of some or all of the ICC's statutory responsibilities. As Rep. Oxley, the Ranking Republican of the Subcommittee on Transportation and Hazardous Materials, stated: "If this amendment succeeds, only two results are assured: One, the immediate termination of many ICC employees, and, two, the effective impounding of any remaining ICC funds without DOT being able to use them. That is due to the fact that even if DOT has plenty of money in its account after this amendment, DOT still will not have any legal authority to spend those funds on ICC functions. Only an authorization statute can do that."

As Mr. Oxley concluded, ". . . this amendment produces no real economy—just organizational chaos."

Your letter states that the recent proceedings represent only the first step in a two-step process and that you are willing to be "partners" in fashioning "a reasoned and orderly transfer of the ICC's functions." I appreciate your candor in conceding that the amendments offered and adopted in the appropriations bill will not result in a reasoned and orderly transfer of the ICC's functions. As you know, the amendments would produce highly undesirable and wasteful results.

In view of the House votes and in order to avoid the adverse effects of allowing your amendments to be enacted, I am willing to do what I can to fashion legislation that would produce a reasoned and orderly transfer of the ICC's functions. However, I believe there are several considerations that must be taken into account prior to proceeding.

First, I will not acquiesce or participate in a process that involves legislating in an appropriations bill. If you insist on a strategy that violates the Rules of the House, I trust you will understand my unalterable opposition to any such approach.

Second, I cannot speak in any manner for the Public Works Committee regarding these matters. Any "reasoned and orderly" consideration of these issues under the Rules clearly requires agreement and action by our sister Committee respecting such ICC authorities that are within its jurisdiction.

Third, I do not support using such transfer legislation to effect substantive changes in railroad law or regulation. Any authorizing legislation to be considered should achieve any transfer of authority without diminishing the ability to perform current rail functions. I also believe that the independent nature of the ICC is extremely important and believe any transfer of authority to another entity should allow for continuation of processes that preserve such independence.

I believe that any reasoned and deliberative legislative approach to these issues in our Committee likely will require more time than is available during the remainder of this Congress. While I understand your desire to resolve these matters expeditiously, I cannot in good faith assure you that our Committee or Subcommittee, not to mention the Public Works Committee, the House, the Senate, and its Commerce Committee, will be able to consider and process appropriate legislation given other priorities during an election year. A possible approach to demonstrate my commitment to moving forward might be a written request to the ICC, the Department of Transportation, and the Office of Management and Budget (consistent with provisions of your bill, H.R. 3127) to report to the Committee within a reasonable period of time on how to accomplish any orderly transition. I suspect that continuation of the ICC's appropriation for another fiscal year would be necessary under this scenario, but if we are working together toward a common goal, I hope this will not pose any problem. The alternative is a level of chaos that will pose serious problems for all of us.

Sincerely,

JOHN D. DINGELL,
Chairman.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 22, 1994.

Hon. JOHN D. DINGELL,
Chairman, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Last week the House voted to pass our bipartisan amendment to the Transportation Appropriations bill eliminating funding for the Interstate Commerce Commission. As you know, this amendment was just the first step in a two-step process to transfer the agency's functions to the Department of Transportation. The second step involves legislation implementing the transfer and authorizing the Secretary of Transportation to spend appropriated dollars for severance and other transition costs. Because the Energy and Commerce Committee has jurisdiction over the ICC, we are writing to express our willingness to be partners with you in fashioning a reasoned and orderly transfer of the ICC's functions.

By its vote last week, the House demonstrated its resolve to terminate one agency of the federal bureaucracy. It is imperative that the will of the House be realized. Although we recognize the complexities of such a transfer, we believe that by working together we can overcome whatever obstacles may arise. As you may know, Mr. Kasich has introduced H.R. 3127, which would complete the process that the House set in motion last week. We hope you will consider this legislation as you seek the best method of achieving the transfer.

If we can be of assistance in any way, please contact us. Our staff members are available at any time. They are the following: for Mr. Kasich, Marie Wheat at 6–7270; for Mr. Hefley, Brian Reardon at 5–4422; for Mr. Condit, Steve Jones at 5–6131; for Mr. DeLay, Glen LeMunyon at 5–5941; for Mr. Cox, Ben Cohen 5–5611; and for Mr. Kennedy, Phillippe Houdard at 5–5111.

Thank you for your cooperation. We look forward to hearing from you in the near future.

Sincerely,

JOHN R. KASICH,
TOM DELAY,
JOEL HEFLEY,
CHRIS COX,
GARY CONDIT,
JOE KENNEDY.

Mr. Speaker, I make the observation that we will be coming forward with changes in the way the ICC is positioned, where it is located, how it will function, but we will seek at the time we do so, first of all, to work together with my good friend, the gentleman from California, and with the ranking minority members both of the subcommittee and the committee, and with Members similarly situated on the Committee on Public Works and Transportation. It is important that we resolve those issues in a way which ends the turmoil and the discord which has existed on these matters, but it is important, as we do so, we come forward with a package which preserves the open, collegial consideration of important questions and preserves the independent way in which those decisions are made.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, last November, the House passed H.R. 2178, the Hazardous Materials Transportation Act Amendments of 1994. Today, we consider the legislation as amended by the other body which includes the text of S. 1640. It represents the efforts of the Committee on Energy and Commerce, the Committee on Public Works and Transportation and the other body.

Each year, the Department of Transportation estimates that over 500,000 movements of hazardous materials occur each day in the United States. This adds up to over 4 billion tons of hazardous materials moved each year. As such, the transportation of hazardous materials is a matter of great concern because of the serious threat it poses to the public, to property, and to the environment.

The legislation will assist the Department of Transportation in its efforts to regulate the transportation of hazardous materials. H.R. 2178 as amended provides a 3-year authorization and establishes important programs for the training of both hazardous materials employees and the emergency responders that handle the unfortunate aftermath of accidents.

In addition, it allows the Secretary of Transportation to exempt foreign offerors of hazardous materials from the registration requirements under the act. This was in response to concerns expressed by the administration that foreign governments would begin to impose registration requirements on U.S. companies that offer hazardous materials shipments overseas that might be far more expensive and cumbersome than our own. This could significantly hamper U.S. participation in foreign markets. In addition, the beneficiaries of this program—that is, the States, Indian tribes, and local governments—are already exempted from these fees. It would be inequitable to require foreign governments to register when the beneficiaries of the program do not have to. Take note that foreign carriers operating in the U.S. will still have to register.

Next, this legislation establishes time limits for the administration to respond to requests for preemption determinations and exemption applications. Until now, no limits have been in place and there has been concern that these administrative determinations were not being considered in a timely fashion.

Finally, this legislation asks the Department of Transportation to determine if open-head fiber drums can be safely used for domestic transport of liquid hazardous materials.

H.R. 2178 will allow the Department of Transportation to continue its efforts to ensure that the transportation of hazardous materials whether it is by rail or other means occurs safely.

Finally, I am pleased that the legislation reflects agreements reached by the Public Works and Transportation Committee and the other body with regard to the continuing and important regulatory responsibilities of the Interstate Commerce Commission as they pertain to the railroad industry.

Mr. Speaker, this is a good piece of legislation. I urge my colleagues to support H.R. 2178.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 2178. This revised version of the bill represents a House-Senate agreement on reauthorizing the safety activities of the Department of Transportation concerning transportation of hazardous materials. It also represents the product of very diligent work by our chairman, the gentleman from Michigan [Mr. DINGELL], our subcommittee chairman, the gentleman from Washington [Mr. SWIFT], our subcommittee ranking member, the gentleman from Ohio [Mr. OXLEY], and by our colleagues on both sides of the aisle from the Public Works Committee.

Hazardous materials transportation usually attracts attention only when there is an accident of some sort. What most of us fail to realize is that literally hundreds of everyday items vital to consumers and to American businesses could not exist without hazardous materials transportation to get the needed commodities to the manufacturing sites. Consequently, hazardous materials transportation is a vital link in the functioning of our industrial economy.

The reauthorization in this bill makes relatively modest adjustments to the Hazardous Materials Transportation Act, since Congress extensively overhauled that law in 1990. I am also pleased to report that the House-Senate agreement retains virtually all of the key features of the House-passed bill. The legislation addresses a number of issues, including the promptness of DOT rulings on preemption matters, railroad tank car safety, and how to apply international standards to hazardous materials packaging.

The second part of H.R. 2178 is a new addition from the Senate—a package of trucking deregulation provisions based on the Exon-Packwood bill. My colleagues from the Public Works Committee can best describe these provisions. But the bottom line is clear: it permits an immediate 30 per cent reduction in the funds for the Interstate Commerce Commission.

In addition, the bill mandates a study of the future of the ICC. The Department of Transportation is to make recommendations during Fiscal Year 1995 on the best disposition of the ICC's remaining regulatory functions. Any and all of the following options are available: elimination, transfer to DOT or other Cabinet agency, creation of an autonomous agency within DOT—much as the Federal Energy Regulatory Commission is affiliated with the Department of Energy—retention of functions in an independent agency, or combination with another agency. This will give the authorizing committees and the Congress a blueprint for an orderly process to deal with the ICC's regulatory functions. We will have eliminated almost one-third of its budget immediately in this legislation, and we hope that further economies can be realized in the future. when Congress turns to implementing the DOT recommendations.

Mr. SHUSTER. Mr. Speaker, I rise in strong support of H.R. 2178, the Hazardous Materials Transportation Authorization Act of 1994. I would like to take this opportunity to expand upon certain aspects of title II, the Trucking Industry Regulatory Reform Act of 1994.

The Trucking Industry Regulatory Reform Act completes the year-long series of reforms to the trucking industry undertaken by the Committee on Public Works and Transportation. The first was the Negotiated Rates Act of 1993, which settled the terrible undercharge crisis that faced our Nation's transportation industry. The second was preemption of State regulation of intrastate trucking contained in section 601 of the Federal Aviation Administration Act of 1994, which will save our economy billions in lower intrastate freight charges. And the third of course is the Trucking Industry Regulatory Reform Act of 1994, which we are considering today. Together, these three acts have restructured our Nation's trucking industry to eliminate costly and needless regulation and promote greater efficiency, thus benefitting our Nation as a whole.

The Trucking Industry Regulatory Reform Act modifies or eliminates numerous unnecessary and costly regulatory functions performed by the ICC. Most importantly, this act goes a long way toward eliminating the wasteful and unnecessary filed-rate doctrine at the Interstate Commerce Commission. The filed-rate doctrine—which required that all motor carriers file tariffs containing their rates with the ICC and obligated shippers to pay the rate contained in the filed tariffs—is one of the last vestiges of the past era of interstate trucking regulation. It was the existence of the filed-rate doctrine that led to the undercharge crisis that was resolved by the Negotiated Rates Act.

Section 206 eliminates tariff filings for individually determined rates; that is, all rates that are not set by rate bureaus. This will eliminate the tariff filing requirement for up to 90 percent of the 1.4 million tariffs filed annually. Most importantly, this section eliminates once and for all the filed-rate doctrine for individually determined rates.

The result of these changes is that for individually determined rates, there will no longer be an obligation for carriers to file any tariff containing rates with the ICC or anywhere else and there will no longer be any obligation on the part of a shipper to pay any filed rate. For effected rates, the link between tariff filings and charges is severed. Henceforth, all individually determined rates will be set by free market negotiations between carriers and shippers.

Section 206 also adds new subparagraphs (3) and (4) to section 10762(a) of title 49 to clarify the rights and responsibilities between carriers and shippers regarding billing disputes. First, the shipper is given the right to be provided with a copy of the rates applicable to his shipment upon his request to the carrier. Second, upon request of the shipper, the ICC shall resolve disputes over rate applicability or reasonableness. Third, in the event that a carrier seeks to collect charges beyond those originally billed and collected from the shipper, the carrier may request that the ICC resolve the matter, and in any case, such request for additional charges must be made within 180 days of the receipt of the original bill. Finally, new subparagraph (4) provides that a shipper which contests the charges originally billed must do so within 180 days from receipt of such original bill. Of course, the parties are free to settle any disputes without Federal intervention or having their settlement approved by the ICC.

In sum, new paragraphs (3) and (4) permit shippers and carriers to continue to have the ICC resolve rate disputes that arise from the market negotiations. There is no intention to create any new functions or responsibilities for the ICC, but instead to clarify rate dispute resolution mechanisms in light of the elimination of the filed-rate doctrine for individually determined rates.

Paragraph (3) does not anticipate the possibility of future undercharge claims merely because it contains a dispute settlement mechanism for instances when carriers seek to collect charges in addition to those billed and collected. Any claim for additional charges would not be the result of an undercharge, but rather because a carrier believes the rate it reached with the shipper is different than the rate the shipper believes was agreed to.

There is no possibility that a carrier—or its successor in interest—may seek additional charges from a shipper because the carrier had filed or possessed a tariff containing a particular rate and negotiated a lower rate with a shipper. Nor will an undercharge claim be possible because a carrier kept a rate on file with itself or elsewhere.

Simply stated, the possibility of a negotiated rate undercharge has been eliminated because there is no longer any obligation for a carrier to file a rate with the ICC or anywhere else and no further obligation for a shipper to pay that rate. All individually negotiated rates are to be determined and proven by evidence of market negotiations. Any rates kept or published by carriers are merely evidence of such negotiations.

Furthermore, new paragraphs (3) and (4) set a statute of limitations of 180 days for all rate disputes, thus shortening the timeframe for billing disputes to be raised at all. The purpose of this shortened statute of limitations is to streamline billing disputes and prevent claims by shippers or carriers that the amount billed was incorrect far in the future.

Two additional aspects of new paragraphs (3) and (4) require explanation.

First, the second sentence of new paragraph (3), which permits the ICC to hear challenges to rate applicability or reasonableness upon request of the shipper and new paragraph (4), which states that when the shipper challenges the charges originally billed, he must do so within 180 days of receipt of the original bill, are intended to cover exactly the same circumstances. Challenges to rate reasonableness and applicability are the same as shippers "contest[ing] the charges" and subject to the 180 day statute of limitations contained in paragraph (4). Paragraph (4) is intended to modify the second sentence of paragraph (3) to ensure that all shipper rate challenges are brought within the 180 day period.

Second, the third sentence of paragraph (3) which permits a carrier or its successor, in the event that it brings a claim for charges in addition to those billed and filed, to do so before the ICC, is intended to have the ICC determine undercharge claims at the election of the carrier or the shipper, and is not intended to restrict the election of forum to the carrier only.

Tariff filings remain for motor-water tariffs in noncontiguous domestic trade, household goods carriers, and rates filed by rate bureaus. Rate bureau filings were continued to permit smaller shippers the option of using rate bureaus. If carriers discount rate bureau tariffs, however, such rates will then become individually determined rates. For classifications, mileage guides, or other governing tariffs, a participating carrier must properly participate in the tariff in order to collect its rates. If a carrier does not have a proper power of attorney to participate in the governing tariff, no other rate can be collected.

Sections 207 and 208 eliminate all entry standards for the motor common and contract carriers other than compliance with Department of Transportation and ICC safety and insurance requirements. In particular, the granting of operating authority based on public convenience and necessity is ended. Since entry was eased in 1980, the ICC has rarely, if ever, found a proposed service inconsistent with the public convenience and necessity.

Section 210 directs the preparation of two reports to Congress analyzing alternatives to the current structure of the ICC. First, a comprehensive review of all of the ICC's functions and second, a study of possible changes to the ICC from its current status and integrating its functions into existing agencies.

These two studies are intended to formally examine the need and efficiencies gained from altering the ICC's current status as an independent agency. There has been substantial concern raised about statutorily eliminating the ICC before a comprehensive review of the need to sunset the agency and the formulation of a plan to continue all of its identified statutory functions. Thus, these studies are intended to identify the need for the ICC's functions, the efficacy of altering the ICC's current status as an independent agency, and to present Congress with a comprehensive summary of all issues and alternatives for its future consideration.

One final provision, section 211, merits highlighting. This section preempts State regulation of fares of intrastate bus passenger service on interstate routes. Currently, a State has 4 months to rule on a fare petition affecting intrastate bus passenger service being performed by an intercity bus operator as part of interstate service. If the State does not act or denies the carrier's petition, the carrier can appeal to the ICC, which must render a decision within 3 months of filing an appeal. Virtually all rate cases appealed to the ICC have been decided in favor of the carrier. While section 11501(e) (1)–(4) and 11501(e)(6) referred to a "rate, rule, or practice" and the preemption language in new section 10936 references "fares," no difference in meaning is intended. The preemption is intended to cover all the technical tariff issues included in a rate filing. At a time when intercity bus operators are struggling to survive due to intense competition from low-cost airfares and the automobile, elimination of this unnecessary procedural hoop to change fares is warranted. It will permit bus operators to respond to market forces immediately in terms of setting their fares and help to ensure the future of intercity bus service in this country.

Because all sections of this act—other than sections 207 and 208—are effective on the date of enactment of this bill, I urge the ICC to act as quickly as possible to establish transition rules for these new procedures.

Mr. DELAY. Mr. Speaker, I can hardly believe it. I have been working for trucking deregulation for 16 years—my entire political career—and lo and behold, over the last 2 weeks, two of the biggest deregulation measures pass this House under suspension of the rules. My, how times have changed.

Over 7 years ago, I introduced trucking deregulation legislation that essentially does exactly what the House has passed over the last 2 weeks. Improved efficiency, increased competition, and reduced paperwork resulting from complete economic reform of the trucking industry will save billions in business logistic costs and those savings will be passed on to the consumer.

Last week, during consideration of H.R. 2739, the Aviation Infrastructure Investment Act Conference Report, Congress basically made swiss cheese out of States' intrastate regulations. Essentially, through that legislation, Congress told State regulators to hang up their regulatory robes since there is nothing more to regulate. This is the best news for the American consumer since the trucking deregulatory efforts of 1980.

Today, the House considers a bill of equal importance, legislation that essentially eliminates all trucking functions from the ICC.

As you may know, this legislation came about because of the historic vote on the House floor several months ago when the House voted to eliminate the ICC and transfer its remaining function to the Department of Transportation. The House overwhelmingly voted to zero-out the ICC. After that historic vote, the Senate was the target for every special interest group in the country interested in saving the Interstate Commerce Commission. It became apparent that elimination of the ICC was not assured. At that point, Senator EXON and PACKWOOD offered legislation that essentially eliminated the trucking functions at the ICC and cut their funding by about one-third. The text of that legislation is included in the Hazardous Materials Transportation Act amendments under consideration today.

Mr. Speaker, these regulations that we are eliminating today have, in the past, been the life blood of Federal regulators. Times truly have changed since all sides of the issue have come together to create this deregulation legislation.

These subtle trucking deregulation efforts have not gone unnoticed. I commend the efforts of all parties responsible for bringing this legislation to the floor. The American consumer will benefit greatly from the passage of these deregulatory measures since the savings generated from the trucking companies will be passed on to the consumer. Trucking companies save because they will not have to spend their time, effort and money filing useless tariff documents with the ICC.

H.R. 2178 is an excellent compromise since it accomplishes all of the trucking deregulation I have been pushing for 16 years. I applaud the committee's efforts, look forward to working for more transportation deregulation next year, and urge the adoption of the legislation before the House today.

Mr. RAHALL. Mr. Speaker, the legislation pending before the House consists of two titles, the first of which is based on a bill previously passed by this body that would reauthorize the Hazardous Materials Transportation Act. The second title of the pending legislation deals with an issue which has not yet been considered by this body and involves the further reform of interstate motor carrier regulation. This second title is being considered as a means to begin to address the House vote, during consideration of the fiscal year 1995 transportation appropriations bill, to eliminate funding for the Interstate Commerce Commission.

It is important to note that title I of this bill contains all of the elements of the original House-passed version of H.R. 2178 relating to the reauthorization of the Hazardous Materials Transportation Act. In this regard, some modifications to the House language have been made by the Senate in consultation with the House Committees on Public Works and Transportation and Energy and Commerce. In addition, this measure contains a number of other provisions which originated with the Senate. Ultimately, however, the primary purpose of title I of the pending bill is to reauthorize the act through fiscal year 1997.

Among the amendments made to the Hazardous Materials Transportation Act by this legislation are three in particular which I have advanced in my capacity as chairman of the Subcommittee on Surface Transportation.

The first of these provisions modifies the training grant programs of the act. Currently, the act provides for two types of training grants: Under section 117A for training public sector hazmat employees like fire fighters and police through grants to the States, and under section 118 for training private sector hazmat employees, such as truckers.

With respect to the section 117A State grant program, the Surface Transportation Subcommittee received testimony that these grants are of an insufficient amount to provide for adequate training, and, that they are not always used by the States to train the public sector employee group that is in the front line in responding to hazardous material incidents: fire fighters.

For this reason, the bill proposes a new supplemental program through which the Secretary may make grants to qualifying organizations engaged solely in fighting fires for the purpose of training fire fighting personnel to respond to hazardous materials accidents and incidents. The International Association of Fire Fighters would be one such qualifying organization.

Further, the bill would greatly expand the current authorization for the section 118 grants used for training of hazmat employees engaged in the loading, unloading, handling, storage and transportation of hazardous materials and emergency response.

In my view, the existing authorization is simply inadequate to provide proper training for the thousands upon thousands of employees involved with hazardous materials in the motor carrier, railroad, airline and maritime industries.

The second provision seeks to further address the question of whether or not a centralized computer tracking system for all hazardous materials in transportation should be required.

Under such a system, shipper would enter information about hazardous materials into a computerized data center at both the commencement and completion of each shipment. In the event of an incident, this information would be immediately available to police and fire fighters.

The 1990 reauthorization legislation called on the National Academy of Sciences to study the matter. That study did not recommend the immediate establishment of a central reporting system and computerized telecommunications system. It did, however, recommend that the Department of Transportation test prototype automated information systems.

To advance this proposal, H.R. 2178 provides for the establishment of one or more pilot projects involving motor carriers in order to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies. These projects would be conducted under the auspices of the Intelligent Vehicle-Highway Systems Act of 1991.

In this regard, I would note that the Federal Railroad Administration is currently undertaking a pilot project of this nature involving a railroad in Houston, TX. Consideration should be given to expanding this project through the inclusion of motor carriers under the pilot project program provided for by H.R. 2178.

The third provision advanced by the Surface Transportation Subcommittee would require the Secretary of Transportation to initiate a rulemaking to examine whether fibre drums for the domestic transportation of liquid hazardous materials can comply with statutory safety standard, and provide an equal or greater level of safety, than the regulations promulgated by DOT which are scheduled to take effect on October 1, 1996.

In this regard, I would note that section 105(d)(2) of the Hazardous Materials Transportation Act gives the Secretary of Transportation discretionary authority to issue standards applicable to the domestic transportation of hazardous materials consistent with standards adopted by an international body, with the adoption of such international-based standards for the purposes of domestic commerce not required by law.

The Secretary has promulgated regulations applicable to the domestic transportation of hazardous materials in a proceeding known as HM–181 based on the recommendations of a committee of the United Nations formed to develop requirements applicable to international commerce, with such regulations effective October 1, 1996.

Pursuant to the HM–181 regulations, certain types of packaging, including open-headed fiber drum packaging used for liquid hazardous materials, will no longer be acceptable for domestic commerce in the United States, despite the demonstrated safety of such fiber drum packaging technology.

However, fiber drum packaging for liquid hazardous materials is an exclusive American technology, and due to the lack of experience with it among the international community, may not have been duly considered in the formulation of standards pursuant to HM–181.

In addition, several Nations other than the United States continue to provide for the regulation of hazardous materials transportation within their borders utilizing standards not based on the recommendations of the United Nations Committee.

Because of these concerns, we have included a provision in H.R. 2178 that requires the Transportation Department to reexamine the issue, and if it determines that fiber drums for the domestic transportation of liquid hazardous materials can comply with the statutory standards, and provide an equal or greater level of safety than the HM–181 regulations, the agency could decide to allow the drums to continue to be used for domestic liquid hazardous materials transportation.

Before I leave this issue, I do want to commend our colleague, JOHN SPRATT of South Carolina, for originally bringing it to the attention of the Surface Transportation Subcommittee. I would further note that during the Senate's consideration of this legislation on August 11, 1994, Senator HOLLINGS and Senator EXON engaged in a colloquy on this provision of the bill and I would like to note that the understanding they reached is one which I am in complete agreement with.

As I mentioned earlier, title II of H.R. 2178 concerns the further reform of interstate motor carrier regulation. While this provision originated with the Senate, it represents a position acceptable to the leadership of the House Committee on Public Works and Transportation and was devised in consultation with the administration as well as representatives of the trucking and shipping community.

Mr. Speaker, on June 16 of this year, the House by a vote of 234 to 192 eliminated all funding for the Interstate Commerce Commission in its version of the fiscal year 1995 Transportation Appropriation bill.

In my view, based on statements made on the House floor that day, the primary motivation Members had in seeking to eliminate funding for the Commission was grounded in reducing the budget deficit rather than invoking regulatory changes.

However, even the most casual observer of this issue understands that budgetary savings can only result by eliminating aspects of the Commission's responsibilities.

The fact of the matter is that eliminating funding for the ICC and further transportation regulatory reform are intertwined issues.

In the aftermath of the House vote, it fell to the leadership of the House and Senate authorizing committees to determine how to reconcile the House vote to terminate the ICC under the guise of budget deficit reduction, and the fact that budgetary savings would only result by the elimination of certain Commission functions.

The result of these deliberations, which included the administration, the Appropriations Committees and House sponsors of the amendment to eliminate the ICC's funding, was added by the Senate as title II of H.R. 2178.

The reforms envisioned by this legislation would eliminate the obligation of individual motor carriers to file rates with the ICC, eliminate the requirement of motor carriers engaged in interstate commerce to obtain a certificate of public convenience and necessity from the ICC as it relates to entry while preserving the Commission's authority to require compliance with safety and financial responsibility requirements; provide the Commission with limited authority to provide for other exemptions from motor carrier regulation; and preempt State laws governing interstate motor carriers of passengers as they relate to the regulation of intrastate fares. In addition, title II requires the ICC and the Secretary of Transportation to report to the Congress with recommendations on future organizational options for the Commission and its authorities.

With respect to these reforms, I would like to make it clear that this legislation in no way eliminates the ICC's authority as it relates to motor carrier safety fitness and insurance requirements. Further, the Commission would be prohibited from utilizing the exemption authority provided in the bill to eliminate regulation of these and a number of other areas, including those relating to antitrust immunity for joint line rates and routes, classification of commodities, uniform bills of lading and standardized mileage guides.

Finally, while the bill would preempt State regulation of intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers, it clearly provides for a continued State role with respect to proposals to discontinue service. Those of us from the rural areas of this Nation are painfully aware of the dramatic loss of intercity bus service that resulted after the enactment of the bus deregulation bill in 1982. However, in light of the financial difficulties major bus companies such as Greyhound are experiencing, with this legislation it is my hope that by providing for increased flexibility as it relates to fares, existing service to rural areas will be preserved and perhaps enhanced.

Mr. Speaker, the intention of these regulatory reforms is to reduce the ICC's budget by approximately one-third while providing for the public interest to continue to be served in the area of interstate motor carrier regulation.

This is indeed a comprehensive measure before us, concerning two distinct and separate matters, but it is one which deserves the support of the House.

Mr. OXLEY. Thank you, Mr. Speaker. I rise in strong support of H.R. 2178. This legislation to reauthorize the safety activities of the Department of Transportation with respect to hazardous materials transportation has had a strong bipartisan consensus behind it throughout the legislative process. The version we are considering today is the equivalent of a conference report, because it represents a House-Senate agreement on the final configuration of hazardous materials legislation the House approved last fall.

The Hazardous Materials Transportation Act was extensively revised in legislation enacted in 1990. Therefore, this new reauthorization makes relatively minor adjustments to the statute, recognizing that the 1990 law is still being implemented. Most of the improvements are to process—making DOT rulings on questions of State and Federal jurisdiction more responsive and correcting certain technical flaws that have been detected since the 1990 enactment.

I want to again commend Chairman DINGELL, Subcommittee Chairman SWIFT, and our ranking member, Mr. MOORHEAD, and our colleagues on both sides of the aisle from the Public Works Committee, for their work on this legislation. The safe transportation of hazardous materials is an essential ingredient to the successful functioning of our industrial system, particularly the manufacture of many goods that involve chemical ingredients. This legislation keeps DOT on course to maintain and improve the safety of such transportation, whether by rail or motor carrier.

A second part of the House-Senate agreement on this legislation deals with further deregulation of interstate trucking, based on the Senate's Exon-Packwood bill. I support the reduction of Federal regulation wherever feasible, and I leave it to my colleagues on the Public Works Committee to describe the trucking provisions of the bill, which lie within their exclusive jurisdiction.

One provision of the trucking legislation lies within the joint jurisdiction of both the Energy and Commerce Committee and the Public Works and Transportation Committee—a study of the future disposition of the various regulatory functions of the Interstate Commerce Commission.

This study, which will be carried out by the ICC and the Department of Transportation during fiscal year 1995, is aimed at identifying all functions of the ICC that can be eliminated, and also at analyzing the best location for the ICC's remaining functions. The catalyst for this in-depth analysis of the ICC was clearly the initiative of my colleague from Ohio, Mr. KASICH, who helped shake up the status quo approach Congress had adopted in recent years regarding the ICC. Because of his appropriations amendment, we now have substantial new trucking deregulation, plus a mandate for a complete and thorough analysis of the best future institutional format for the ICC.

In studying the ICC, DOT is directed to consider all the options—deleting functions entirely, transferring them directly to a Cabinet agency such as DOT, retaining them in an autonomous agency within DOT, keeping them in a traditional independent agency, combining the ICC's functions with those of another agency, or any combination of these.

This is a sound and constructive approach which will force the Congress to examine the economic regulation of transportation. Once DOT has carried out the study, it will be up to the authorizing committees to act promptly on the DOT recommendations. In my view, this kind of congressional re-examination of Federal regulation is something we do not do often enough, and I think my colleague, Mr. KASICH, deserves considerable credit for getting the process underway.

Mr. CLINGER. Mr. Speaker, I would like to commend my colleagues for all of their hard work on H.R. 2178 which reauthorizes the Hazardous Materials Transportation Act. This legislation is critical in that it will help ensure that the risks inherent in the transportation of hazardous materials are minimized, and that we provide precautions to protect our citizens.

I would especially like to express my deep appreciation to Public Works Chairman MINETA, ranking member SCHUSTER, Chairman RAHALL, and Mr. PETRI, and Energy and Commerce Chairman DINGELL and ranking member MOORHEAD, Chairman SWIFT and Mr. OXLEY, as well as the Public Works staff for incorporating in the final legislation a provision which I authored in the Committee on Public Works and Transportation. This provision requires the Secretary of Transportation to conduct a study to determine the safety considerations of transporting hazardous materials by motor carrier in close proximity to Federal prisons. Within 1 year of enactment, the Department of Transportation would report to Congress on the results of the study along with recommendations for any legislative or regulatory changes that might be needed to enhance safety.

The motivation behind the study is to prevent what could be a potentially very dangerous situation for Federal prison staff, prisoners, and the surrounding communities. We are all aware of the numerous accidents involving trucks carrying hazardous materials. In 1990 and 1991 there were over 7,200 incidents of releases of hazardous materials reported to the Department of Transportation related to highway transportation of these materials. If such a release were to occur in close proximity to a Federal prison, emergency procedures such as an evacuation could pose special problems.

This provision emanated from a problem facing Union County, PA in my own district. Allenwood Prison complex is a large facility which houses 3,000 prisoners, including maximum security prisoners, and has a staff of 700. Adjacent to the Allenwood correctional complex is Highway 15 which is a major truck highway, and there was quite a lot of concern by the community that the highway would be the main route used to transport hazardous waste to a proposed incinerator. There was no information available to indicate what steps would be needed to be taken to ensure safety. If there was a spill or other type of release it would be very difficult to evacuate the 3,000 prisoners or staff in a timely and safe manner—and the safety of citizens in the community would be jeopardized as well. According to the Bureau of Prisons, after Hurricane Andrew it took over 3 days to evacuate a smaller prison in Miami.

For other communities that may be faced with a similar situation, a large Federal prison that is located next to a major highway, the DOT study will serve to identify what steps that should be taken to enhance safety. These should include any special training, equipment, and personnel requirements that may be needed.

Mr. Speaker, it is my sincere hope that this DOT study will provide steps for necessary action that will prevent a catastrophe from occurring before rather than after the fact. Again, I would like to thank the leadership of the two communities for ensuring that this provision was included in the final legislation.

Mr. PETRI. Mr. Speaker, I have no further requests for time and, therefore, I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TRAFICANT). The question is on the motion offered by the gentleman from California [Mr. MINETA] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2178.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2178, and the Senate amendment just concurred in.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from California?

There was no objection.

CONCURRING IN SENATE AMENDMENT TO H.R. 4812, TRANSFER OF OLD U.S. MINT IN SAN FRANCISCO

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4812) to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, CA, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, after line 8, insert:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. MINETA], chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I wish to, first of all, thank the very fine friend and distinguished chairman of our Subcommittee on Public Buildings and Grounds, the gentleman from Ohio [Mr. TRAFICANT], for moving this bill expeditiously.

Mr. Speaker, this bill is basically the same bill that the House passed under suspension on August 8.

As I stated at that time, I would also like to commend the gentlewoman from California [Ms. PELOSI], my colleague, for joining me in cosponsoring this very important piece of legislation.

Mr. Speaker, H.R. 4812 would transfer title to the Old U.S. Mint located in San Francisco to the General Services Administration at no cost. It will enable GSA, through the Federal buildings fund, to repair and renovate this historic landmark building.

Mr. Speaker, the Old Mint Building was constructed between 1869 and 1974. It is one of the first stone buildings constructed in San Francisco and now remains as the city's oldest stone structure. It is on the National Register of Historic Places and has been designated a national landmark building. Today it houses the Old Mint Museum where thousands of tourists and schoolchildren visit each year, as well as various administrative operations for the San Francisco Mint.

Last year, Mr. Speaker, the mint was closed because of damage caused by the Loma Prieta earthquake. Now, as it approaches its 120th birthday in November, the Old Mint needs our help.

Mr. Speaker, the legislation before us is a simple transfer of title from Treasury to the General Services Administration to accomplish the goal of rehabilitating the Old Mint to preserve one of your Nation's most endangered landmarks. The Senate amendment, which is not controversial, simply provides that nothing shall be construed to force GSA to repair the Old Mint prior to repairs to other Federal buildings in greater need of repair.

Mr. Speaker, this is an important piece of legislation and worthy of this body's prompt attention. I urge its passage, and I thank the gentleman for yielding the time.

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Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4812, a bill which directs the Administrator of General Services to transfer, without monetary consideration, the Old U.S. Mint in San Francisco, CA, from the Department of Treasury to the General Services Administration.

The Old U.S. Mint possesses significant historical value. This building was constructed between 1869 and 1874 of granite, which has helped the structure withstand earthquakes and fires throughout the past century.

It ceased operation as a mint in 1937 and was transferred to the Department of Treasury in 1972. The building served as a museum until 1993 when damage from the 1989 Loma Prieta earthquake was discovered.

The structure requires extensive repair and a transfer of the building and property to the General Services Administration offers the best opportunity for these renovations to be achieved.

GSA will submit a detailed prospectus to Congress on the needed repairs. The committee will at that time have an opportunity to review the request and evaluate future possible uses for the Old U.S. Mint.

On August 11 of this year, the other body amended this bill to require that other Federal buildings in greater need of repair take precedence over this renovation project.

I support this no-cost transfer and urge the enactment of this legislation as it has been amended.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from California, Ms. PELOSI, who, along with Chairman MINETA, played a leadership role in this legislation.

Ms. PELOSI. Mr. Speaker, I join my colleague, the gentleman from California [Mr. MINETA] in commending the gentleman from Ohio [Mr. TRAFICANT] for his leadership in bringing this legislation expeditiously to the floor. I want to give my thanks to the gentleman from Ohio [Mr. TRAFICANT], to the gentleman from Wisconsin [Mr. PETRI], the gentleman from Tennessee [Mr. DUNCAN], the ranking member of the committee, and all the members of the subcommittee for their recognition and appreciation of the worth of the "Granite Lady," the Old Mint Building in San Francisco.

Mr. Speaker, in joining the gentleman from California, Mr. MINETA, I want to thank him for being the author of this legislation and for his leadership and his cooperation with Senator BOXER, who has taken the lead on this issue in our community and in the Congress.

I do want to inform our colleagues that my colleague representing San Francisco in the Congress, the gentleman from California [Mr. LANTOS] has been very involved in this issue as well. As many of us know, he has been under the weather these last few days. The message from him is that he is resting well and he is well enough to send his strong support for this legislation. So I wanted the record to show that only because Mr. LANTOS is not well could he not join us today in support of this legislation.

The gentleman from California [Mr. MINETA] has done a remarkable job in shaping this legislation which is creative, innovative, and sensible. As the gentleman from Wisconsin [Mr. PETRI] has noted and as others in the Senate have noted, we have passed this legislation before. The legislation was passed in the Senate, and the conference agreement contains an amendment which would simply assure that the mint would be prioritized by the GAO on the merits of its condition and not as a result of any special legislation. The Senate amendment offers a clarification that is acceptable to us, as it was to Senator BOXER. It is reasonable and acceptable, and I urge my colleagues likewise to accept the amendment and the legislation.

Chairman MINETA in his remarks presented a case for the Old Mint. The gentleman from Wisconsin [Mr. PETRI] referenced that it was damaged in the Loma Prieta earthquake. It did survive the earthquake of 1906.

Our community, Mr. Speaker, has closed ranks to preserve this endangered historic landmark, the Granite Lady, as it is called. We want it to be open to the public. In partnership with these efforts, H.R. 4812 would ensure that it would be repaired by the Federal Government.

The Granite Lady, as has been said, is a national landmark. It cannot be torn down. It is a safety hazard, and we must take action to prevent its becoming a hazard to the community. Once again, our community has closed ranks behind the Granite Lady. This Congress has once before showed its support for the Old Mint Building, and hopefully today we will do so once again.

Mr. Speaker, I again commend the committee for expeditiously bringing the legislation to the floor. I commend the gentleman from Ohio [Mr. TRAFICANT], the gentleman from Tennessee [Mr. DUNCAN], the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Wisconsin [Mr. PETRI], and especially the chairman of the committee, the gentleman from California [Mr. MINETA].

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Tennessee [Mr. DUNCAN] for his help in this matter, and I commend also the staff on both sides for this legislation.

For identification purposes, the Senate amendment is a clarifying amendment which addresses the prioritization of GSA projects.

H.R. 4812 was introduced for the primary purpose of transferring the title of this very special building in San Francisco, CA, the Old U.S. Mint, from the Treasury Department to the General Service Administration, at no cost. This legislation will enable GSA, through the Federal Building Fund, to repair and renovate this historic landmark.

Mr. Speaker, this is a good bill, and I urge its approval.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4812.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There were no objection.

MAKING CERTAIN TECHNICAL CORRECTIONS IN SUNDRY BILLS RELATING TO INDIAN AFFAIRS

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4709) to make certain technical corrections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASING AUTHORITY OF THE INDIAN PUEBLO FEDERAL DEVELOPMENT CORPORATION.

Notwithstanding the provisions of section 17 of the Act of June 18, 1934 (25 U.S.C. 477), the Indian Pueblo Federal Development Corporation, whose charter was issued pursuant to such section by the Secretary of the Interior on January 15, 1993, shall have the authority to lease or sublease trust or restricted Indian lands for up to 50 years.

SEC. 2. GRAND RONDE RESERVATION ACT.

(a) LANDS DESCRIBED.—Section 1 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended—

(1) in subsection (c)—

(A) by striking "9,879.65" and inserting "10,120.68"; and

(B) by striking all after

"6 8 1 SW¼SW¼,W½SE¼SW¼ 53.78"

and inserting in lieu thereof the following:

"6	8	1	S½E½SE¼SW¼	10.0319
6	7	8	Tax lot 800	5.5519
4	7	30	Lots 3, 4, SW¼NE¼, SE¼NW¼,E½SW¼	240 19
			Total	10,120.68.":

and

(2) by adding at the end the following:

"(d) CLAIMS EXTINGUISHED; LIABILITY.—

"(1) CLAIMS EXTINGUISHED.—All claims to lands within the State of Oregon based upon recognized title to the Grand Ronde Indian Reservation established by the Executive order of June 30, 1857, pursuant to treaties with the Kalapuya, Molalla, and other tribes, or any part thereof by the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor in interest, are hereby extinguished, and any transfers pursuant to the Act of April 28, 1904 (Chap. 1820; 33 Stat. 567) or other statute of the United States, by, from, or on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor interest, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including, but not limited to, the Trade and Intercourse Act of 1790 (Act of July 22, 1790; 25 U.S.C. 177, ch. 33, sec. 4; 1 Stat. 137)).

"(2) LIABILITY.—The Tribe shall assume responsibility for lost revenues, if any, to any county because of the transfer of revested Oregon and California Railroad grant lands in section 30, Township 4 South, Range 7 West.".

(b) CIVIL AND CRIMINAL JURISDICTION.—Section 3 of such Act (102 Stat. 1595) is amended by adding at the end the following: "Such exercise shall not affect the Tribe's concurrent jurisdiction over such matters.".

SEC. 3. CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON.

Section 2 of the Act of September 4, 1980 (Public Law 96-340; 94 Stat. 1072) is amended—

(1) by inserting "(a)" after "SEC. 2."; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Interior, acting at the request of the Confederated Tribes of the Siletz Indians of Oregon, shall accept (subject to all valid rights-of-way and easements existing on the date of such request) any appropriate warranty deed conveying to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon, contingent upon payment of all accrued and unpaid taxes, the following parcels of land located in Lincoln County, State of Oregon:

"(A) In Township 10 South, Range 8 West, Willamette Meridian—

"(i) a tract of land in the northwest and the northeast quarters of section 7 consisting of 208.50 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990; and

"(ii) 3 tracts of land in section 7 consisting of 18.07 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990.

"(B) In Township 10 South, Range 10 West, Willamette Meridian—

"(i) a tract of land in section 4, including a portion of United States Government Lot 31 lying west and south of the Siletz River, consisting of 15.29 acres, more or less, conveyed to the Tribe by warranty deed from Patrick J. Collson and Patricia Ann Collson on February 27, 1991;

"(ii) a tract of land in section 9, located in Tract 60, consisting of 4.00 acres, more or less, conveyed to the Tribe by contract of sale from Gladys M. Faulkner on December 9, 1987;

"(iii) a tract of land in section 9, including portions of the north one-half of United States Government Lot 15, consisting of 7.34 acres, more or less, conveyed to the Tribe by contract of sale from Clayton E. Hursh and Anna L. Hursh on December 9, 1987;

"(iv) a tract of land in section 9, including a portion of the north one-half of Government Lot 16, consisting of 5.62 acres, more or less, conveyed to the Tribe by warranty deed from Steve Jebert and Elizabeth Jebert on December 1, 1987;

"(v) a tract of land in the southwest quarter of the northwest quarter of section 9, consisting of 3.45 acres, more or less, conveyed to the Tribe by warranty deed from Eugenie Nashif on July 11, 1988; and

"(vi) a tract of land in section 10, including United States Government Lot 8 and portions of United States Government Lot 7, consisting of 29.93 acres, more or less, conveyed to the Tribe by warranty deed from Doyle Grooms on August 6, 1992.

"(C) In the northwest quarter of section 2 and the northeast quarter of section 3, Township 7 South, Range 11 West, Willamette Meridian, a tract of land comprising Lots 58, 59, 63, and 64, Lincoln Shore Star Resort, Lincoln City, Oregon.

"(2) The parcels of land described in paragraph (1), together with the following tracts of lands which have been conveyed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon—

"(A) a tract of land in section 3, Township 10 South, Range 10 West, Willamette Meridian, including portions of United States Government Lots 25, 26, 27, and 28, consisting of 49.35 acres, more or less, conveyed by the Siletz Tribe to the United States in trust for the Tribe on March 15, 1986; and

"(B) a tract of land in section 9, Township 10 South, Range 10 West, Willamette Meridian, including United States Government Lot 33, consisting of 2.27 acres, more or less, conveyed by warranty deed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon from Harold D. Alldridge and Sylvia C. Alldridge on June 30, 1981;

shall be subject to the limitations and provisions of sections 3, 4, and 5 of this Act and shall be deemed to be a restoration of land pursuant to section 7 of the Siletz Indian Tribe Restoration Act (91 Stat. 1415; 25 U.S.C. 711(e)).

"(3) Notwithstanding any other provision of law, the United States should not incur any liability for conditions on any parcels of land taken into trust under this section.

"(4) As soon as practicable after the transfer of the parcels provided in paragraphs (1) and (2), the Secretary of the Interior shall convey such parcels and publish a description of such lands in the Federal Register.".

SEC. 4. TRANSFER OF PARCEL BY YSLETA DEL SUR PUEBLO.

(a) RATIFICATION.—The transfer of the land described in subsection (b), together with fixtures thereon, on July 12, 1991, by the Ysleta Del Sur Pueblo is hereby ratified and shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including section 2116 of the Revised Statutes (25 U.S.C. 177)) as if Congress had given its consent prior to the transfer.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are more particularly described as follows:

Tract 1-B-1 (1.9251 acres) and Tract 1-B-2-A (0.0748 acres), Block 2 San Elizario, El Paso County, Texas.

SEC. 5. AUTHORIZATION FOR 99-YEAR LEASES.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended by inserting "the Viejas Indian Reservation," after "Soboba Indian Reservation,".

SEC. 6. WIND RIVER INDIAN IRRIGATION PROJECT.

Funds appropriated for construction of the Wind River Indian Irrigation Project in fiscal year 1990 (Public Law 101-121), fiscal year 1991 (Public Law 101-512), and fiscal year 1992 (Public Law 102-154) shall be made available on a nonreimbursable basis.

SEC. 7. REIMBURSEMENT OF COSTS INCURRED BY GILA RIVER INDIAN COMMUNITY FOR CERTAIN RECLAMATION CONSTRUCTION.

The Secretary of the Interior is authorized to pay $1,842,205 to the Gila River Indian Community as reimbursement for the costs incurred by the Gila River Indian Community for construction allocated to irrigation on the Sacaton Ranch that would have been nonreimbursable if such construction had been performed by the Bureau of Reclamation under section 402 of the Colorado River Basin Project Act (43 U.S.C. 1542).

SEC. 8. RECONVEYANCE OF CERTAIN EXCESS LANDS.

(a) IN GENERAL.—The Congress finds that the Sac and Fox Nation of Oklahoma has determined the lands described in subsection (b) to be excess to their needs and should be returned to the original Indian grantors or their heirs. The Secretary of the Interior is authorized to accept transfer of title from the Sac and Fox Nation of Oklahoma of its interest in the lands described in subsection (b).

(b) PERSONS AND LANDS.—The lands and individuals referred to in subsection (a) are as follows:

(1) To the United States of America in trust for Sadie Davis, now Tyner, or her heirs or devisees, the Surface and Surface Rights only in and to the SE¼SE¼SE¼SE¼ of Section 28, Township 17 North, Range 6 East of the Indian Meridian, Lincoln County, Oklahoma, containing 2.50 acres, more or less.

(2) To the United States of America in trust for Mabel Wakole, or her heirs or devisees, the Surface and Surface Rights only in and to the NE¼NE¼ of Lot 6 of NW¼ of Section 14, Township 11 North, Range 4 East of the Indian Meridian, Pottawatomie County, Oklahoma, containing 2.50 acres, more or less.

SEC. 9. TITLE I OF THE ACT OF JANUARY 12, 1983, PERTAINING TO THE DEVILS LAKE SIOUX TRIBE.

Paragraph (1) of section 108(a) of title I of the Act of January 12, 1983 (96 Stat. 2515) is amended by striking out "of the date of death of the decedent" and inserting in lieu thereof "after the date on which the Secretary's determination of the heirs of the decedent becomes final".

SEC. 10. NORTHERN CHEYENNE LAND TRANSFER.

(a) IN GENERAL.—Notwithstanding any contrary provision of law, the Secretary of the Interior or his authorized representative

("Secretary") is hereby authorized and directed to transfer by deed to Lame Deer High School District No. 6, Rosebud County, Montana ("School District"), all right, title, and interest of the United States and the Northern Cheyenne Tribe ("Tribe") in and to the lands described below ("Subject Lands"), to be held and used by the School District for the exclusive purpose of constructing and operating thereon a public high school and related facilities. The Subject Lands consist of a tract of approximately 40 acres within the Northern Cheyenne Indian Reservation, more particularly described as follows:

A tract of land located in the W½ SE¼ and the E½ SW¼ of Section 10, Township 3 South, Range 41 East, M.P.M., described as follows: Beginning at the south ¼ corner of said Section 10, thence south 89 degrees 56 minutes west 393.31 feet on and along the south line of said Section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500.0 feet on and along said Section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east 2382.26 feet, thence south 23 degrees 44 minutes 21 seconds east 622.56 feet, thence south 51 degrees 14 minutes 40 seconds west 2177.19 feet to the true point of beginning, containing in all 40.0 acres, more or less.

(b) DEED AND LEASE.—(1) The deed issued under this section shall provide that—

(A) title to all coal and other minerals, including oil, gas, and other natural deposits, within the Subject Lands shall remain in the Secretary in trust for the Tribe, as provided in the Act of July 24, 1968 (82 Stat. 424);

(B) the Subject Lands may be used for the purpose of constructing and operating a public high school and related facilities thereon, and for no other purpose;

(C) title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe, and the deed shall be of no further force or effect, if, within eight years of the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such eight-year period, but the facility subsequently permanently ceases operating as a public high school; and

(D) at any time after the conclusion of the current litigation (including all trial and, if any, appellate proceedings) challenging the November 9, 1993, decision of the Superintendent of Public Instruction for the State of Montana granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction ("Superintendent's Approval"), the Tribe shall have the right to replace the deed with a lease covering the Subject Lands issued under the Act of August 9, 1955, as amended (25 U.S.C. 415(a)) having a term of 25 years, with a right to renew for an additional 25 years.

(2) Under the lease referred to in paragraph (1)(D), the Subject Lands shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities thereon. The lease shall terminate if, within eight years of the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such eight-year period, but the facility subsequently permanently ceases operating as a public high school. In the event the Tribe seeks and obtains the Superintendent's Approval, it may tender a lease, signed by the Tribe and approved by the Secretary, which complies with the provisions of this subsection. Upon such tender, the deed shall be of no further force or effect, and, subject to the leasehold interest offered to the School District, title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe. The Tribe may at any time irrevocably relinquish the right provided to it under this subsection by resolution of the Northern Cheyenne Tribal Council explicitly so providing.

(c) EFFECT OF ACCEPTANCE OF DEED.—Upon the School District's acceptance of a deed delivered under this section, the School District, and any party who may subsequently acquire any right, title, or interest of any kind whatsoever in or to the Subject Lands by or through the School District, shall be subject to, be bound by, and comply with all terms and conditions set forth in subparagraphs (A) through (D) of subsection (b)(1).

SEC. 11. INDIAN AGRICULTURE AMENDMENT.

(a) LEASING OF INDIAN AGRICULTURAL LANDS.—Section 105 of the American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following:

"(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body."; and

(2) in subsection (c), by amending paragraph (1) to read as follows: "(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.".

(b) TRIBAL IMMUNITY.—The American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended by adding at the end the following:

"SEC. 306. TRIBAL IMMUNITY.

"Nothing in this Act shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.".

SEC. 12. INDIAN HEALTH AMENDMENT.

Section 4(n) of the Indian Health Care Improvement Act (25 U.S.C. 1603(n)) is amended to read as follows:

"(n) 'Health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, and other health professions.".

SEC. 13. SAN CARLOS APACHE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of title XXXVII of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

SEC. 14. RELATIONSHIP BETWEEN BUY INDIAN ACT AND MENTOR-PROTEGE PROGRAM.

Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47; commonly referred to as the "Buy Indian Act"), is amended by adding at the end the following: "Participation in the Mentor-Protege Program established under section 831 of Public Law 101-510 or receipt of assistance pursuant to any developmental assistance agreement authorized under such program does not render Indian labor or Indian industry ineligible to receive any assistance authorized under this proviso. For the purposes of this proviso, (i) no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f) of such section, and (ii) the terms 'protege firm' and 'mentor firm' have the meaning given such terms in subsection (c) of such section 831.".

SEC. 15. ACQUISITION OF LANDS ON WIND RIVER RESERVATION.

(a) AUTHORITY TO HOLD LANDS IN TRUST FOR THE INDIVIDUAL TRIBE.—The Secretary of the Interior is hereby authorized to acquire individually in the name of the United States in trust for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation or the Northern Arapaho Tribe of the Wind River Reservation, as appropriate, lands or other rights when the individual assets of only one of the tribes is used to acquire such lands or other rights.

(b) LANDS REMAIN PART OF JOINT RESERVATION SUBJECT TO EXCLUSIVE TRIBAL CONTROL.—Any lands acquired under subsection (a) within the exterior boundaries of the Wind River Reservation shall remain a part of the Reservation and subject to the joint tribal laws of the Reservation, except that the lands so acquired shall be subject to the exclusive use and control of the tribe for which such lands were acquired.

(c) INCOME.—The income from lands acquired under subsection (a) shall be credited to the Tribe for which such lands were acquired.

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prevent the joint acquisition of lands for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation and the Northern Arapaho Tribe of the Wind River Reservation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4709 makes technical changes to several different laws.

The bill provides for the leasing authority for the Indian Pueblo Development Corporation; adds 240 acres to the Grand Ronde Reservation in Oregon pursuant to an agreement with the Interior Department; it adds land to the Siletz Reservation in Oregon; and it provides for a land transfer for the building of a school on the northern Cheyenne Reservation.

Mr. Speaker, this bill was packaged so that we would not have to do 15 little bills. Suffice it to say that this bill, which contains leasing authorities, land transfers and other minor matters, is important to several tribes across the country including the Ysleta del Sur Pueblo of Texas, the Viejas Reservation in California, the Wind River Reservation in Wyoming, the Gila River Indian Community in Arizona, the Sac and Fox Nation of Oklahoma, the San Carlos Apache of Arizona and the Devil's Lake Sioux Tribe of North Dakota. It also makes minor technical changes to the Indian Agriculture Act and the Indian Health Care Improvement Act.

Mr. Speaker, the bill is noncontroversial and is supported by many Members of the House. The bill includes many amendments provided to the committee by the administration.

I urge my colleagues to support this bill.

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Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully support H.R. 4709, and I urge my colleagues to do likewise.

Mr. THOMAS of Wyoming. Mr. Speaker, I fully support and am pleased to cosponsor H.R. 4709, a bill to make certain technical amendments to various Indian statutes. We traditionally do one of two of these bills each Congress, as a catch-all for a series of minor amendments to various laws. I am very supportive of grouping these proposed changes into a single piece of legislation; it saves us both time and money.

The bill includes three provisions of import to the State of Wyoming, and the Shoshone and Arapaho Tribes of the Wind River Reservation. First, section 6 reaffirms that funds appropriated in fiscal year 1990 through 1992 for the rehabilitation of the Wind River Irrigation Project [WRIP] are nonreimbursable. Rehabilitation of the WRIP was very important to the tribes, and nontribal users. The irrigation project has deteriorated to the point that it hindered the ability of some irrigators to fully develop their lands. This resulted both in wasted water in a area that has recently suffered a string of dry summers, as well as underused land in an area with almost 60 percent unemployment.

It was the intent of Congress as expressed in various committee reports and floor statements that the appropriated funds would be nonreinbursable in order to avoid the jeopardy into which the system would be placed if forced to pay back the money. Yet the BIA has indicated that it now feels specific legislation is necessary to accomplish that intent. During consideration of the fiscal year 1991 Interior Appropriations Act, Members of the other body discussed the reimbursability issue. Senator WALLOP, in discussing the matter with Senator BYRD, stated that "the problem is that contrary to our intent, the Bureau of Indian Affairs has determined that the fiscal year 1990 appropriation in the amount of $1,000,000 is reimbursable and must be paid back. * * * My question is this, is it not true that in response to the request for these funds, the BIA prepared a capability statement in which they in no way indicated that the funds would be reimbursable?" Senator Byrd responded, "Yes, the Senator is correct. The BIA * * * did not indicate that the funds would be reimbursable." Section 6 of H.R. 4709 simply establishes once and for all what our clear intent has always been: That the funds be nonreimbursable.

The second Wyoming-specific section is section 15, which concerns the acquisition of lands on the Wind River Reservation. The Eastern Shoshone and Northern Arapaho Tribes share the Wind River Reservation in central Wyoming. The reservation was established by the Treaty of July 3, 1868, between the Eastern Shoshone Tribe and the United States. In 1878, the Northern Arapaho Tribe was also settled on the reservation. Pursuant to decisions of the Supreme Court, the tribes share an undivided interest in jointly held property. Section 15 will accord the Eastern Shoshone and Northern Arapaho Tribes the same right as other tribes to take fee lands acquired within the reservation into trust in the name of the tribe.

Over the years, each tribe with its own financial resources acquired fee lands within the reservation. Differing economic goals and financial resources over the years have resulted in each tribe acquiring separate parcels of land. Separate acquisition has occurred after the nonpurchasing tribe was given an opportunity to participate in joint acquisition of such lands. When the tribes requested the Department of Interior to place these lands into trust in the name of the individual tribe, they were advised that separately purchased lands could only be taken in trust in the name of both tribes. The Department interpreted provisions of the act of July 27, 1939 to mandate that lands on the Wind River Reservation could only be taken into trust jointly in the name of both tribes.

The 1939 act authorized land exchanges and spending $1 million of joint tribal funds in order to reacquire fee lands which were located on the then existing reservation. All lands opened to settlement on the reservation, except those within the reclamation project on the reservation and not actually sold were directed to be restored to their original status prior to their opening for settlement. Congress directed that all these reservation lands should be held in trust jointly in the names of both tribes. The congressional direction for taking the land into trust and restoration to complete and equal status with other reservation lands was directly only to the lands covered by the 1939 act. Congress never considered or took action on the issue of lands acquired with funds from an individual tribe.

This bill clarifies that the 1939 act requirement of joint trust status for Wind River Reservation lands applies only to lands held in trust pursuant to the provisions of the 1939 act. The ability to have these lands placed into trust will provided the tribes with trust protection for their separately acquired lands. The tribes are in agreement that these lands will retain their original reservation status will be subject to joint tribal laws which govern lands within the reservation. Both tribes agree, however, that each individual tribe will retain any income from its separately acquired lands and will control access to such lands.

Finally Mr. Speaker, section 14 of H.R. 4709 would address a concern I have with the Buy Indian Act that was brought to my attention by one of my constituents on behalf of American Eagle Industries [AEI] in Cheyenne. AEI participates in the Department of Defense's Mentor-Protege Program [MPP]. This program was designed to encourage larger military contractors to take smaller, minority-owned businesses under their wing in order to ensure the latter's greater participation in DOD contracts.

In 1993, AEI successfully bid with the BIA under the Buy Indian Act to perform some road construction work on the Campo Indian Reservation in California. After the contract was signed, however, the Phoenix Area Office of the BIA notified in the Sacramento Area Office that AEI participates in the MPP. For this and other reasons, the Sacremento office disqualified AEI from participation in the Buy Indian Act and terminated the contract "for the convenience of the Government." The cancellation of the contract was a source of significant logistical and financial complications for AEI.

If establishing such a relationship under the MPP would make a firm like AEI ineligible for award set-asides under the Buy Indian Act, such firms would be discouraged from taking advantage of the program, thereby undermining its purpose. This is presumably one principal reason why the MPP specifically bars using the mentor-protege relationship as the sole basis for finding that the two firms are affiliates for Small Business Act purposes and thus disqualified from SBA participation.

Even though the Buy Indian Act is directly analogous, there is no similar MPP exemption for that act. This section would remedy that oversight by providing that for Buy Indian Act purposes, a firm's participation in the MPP cannot be used as the sole basis to disqualify it from participating in the Buy Indian Act.

Mr. Speaker, while this issue was brought to my attention by a Wyoming firm, this problem could effect Indian-owned businesses in any State in the country. I hope that H.R. 4709 will preclude that from happening.

Mr. Speaker, I thank Chairman RICHARDSON for his cooperation in moving this bill to the floor today, and look forward to its swift consideration and passage by the other body.

Mr. ALLARD. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4709, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TRIBAL SELF-GOVERNANCE ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3508) to provide for tribal self-governance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Self-Governance Act of 1994".

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities intended to benefit Indians is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 3. DECLARATION OF POLICY.

It is the policy of this Act to permanently establish and implement tribal self-governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

(3) to coexist with the provisions of the Indian Self-Determination Act relating to the provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 4. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this title referred to as 'Self-Governance') in accordance with this title.

"SEC. 402. SELECTION OF PARTICIPATING INDIAN TRIBES.

"(a) CONTINUING PARTICIPATION.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) ADDITIONAL PARTICIPANTS.—(1) In addition to those Indian tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) to participate in Self-Governance.

"(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

"(c) APPLICANT POOL.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

"(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

"SEC. 403. FUNDING AGREEMENTS.

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior that are otherwise available to Indian tribes or Indians, without regard to the agency or office of the Department of the Interior within which it is performed, including (but not limited to) those administered under the authority of—

"(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

"(B) the Act of November 2, 1921 (25 U.S.C. 13); and

"(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

"(2) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and to reallocate funds for such programs, services, functions, or activities, or portions thereof;

"(3) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(4) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(5) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(6) allow for retrocession of programs or portions of programs pursuant to section 105(e);

"(7) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(8) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) ADDITIONAL ACTIVITIES.—Each funding agreement negotiated pursuant to subsections (a) and (b) may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

"(d) PROVISIONS RELATING TO THE SECRETARY.—Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

"(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

"(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset.

"(e) CONSTRUCTION PROJECTS.—(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act and Federal acquisition regulations in any funding agreement entered into under this Act. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

"(2) In all construction projects performed pursuant to this title, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

"(f) SUBMISSION FOR REVIEW.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

"(g) PAYMENT.—(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) The funding agreements authorized by this title and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

"(3) Subject to paragraph (3) of this subsection and paragraphs (1) and (3) of subsection (b), the Secretary shall provide funds to the tribe under an agreement under this title for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

"(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(h) CIVIL ACTIONS.—(1) Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(i) FACILITATION.—(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because that regulation is expressly required by Federal law. The Secretary's decision shall be final for the Department.

"(j) FUNDS.—All funds provided under funding agreements entered into pursuant to this Act, and all funds provided under contracts or grants made pursuant to this Act, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

"SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31, United States Code, any funds proposed to be included in agreements authorized under this title.

"SEC. 405. REPORTS.

"(a) REQUIREMENT.—The Secretary shall submit to Congress a written report on January 1 of each year following the date of enactment of this title regarding the administration of this title.

"(b) CONTENTS.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

"(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

"(4) include the separate views of the tribes; and

"(5) the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d).

"(c) REPORT ON NON-BIA PROGRAMS.—

"(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs for compacts under section 403(b)(1) and special programs under section 403(c) in agreements tribes participating in Self-Governance under this title, the Secretary—

"(A) shall review all programs, services, and functions administered by the Department of the Interior, other than the Bureau of Indian Affairs, without regard to the agency or office concerned, and

"(B) within 90 days after the enactment of this title, provide to the appropriate committees of the Congress a listing of all such programs, services, functions, and activities, or portions thereof, which the Secretary determines are eligible for inclusion in such agreements at the request of a participating Indian tribe.

"(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this title, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 403.

"(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this title. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

"(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this title, a revised listing and programmatic targets.

(d) REPORT ON CENTRAL OFFICE FUNDS.—Within 90 days after the date of the enactment of this title, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b), together with the views of the affected Indian tribes.

"SEC. 406. DISCLAIMERS.

"(a) OTHER SERVICES, CONTRACTS, AND FUNDS.—Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"(b) FEDERAL TRUST RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

"(c) APPLICATION OF OTHER SECTIONS OF ACT.—All provisions of sections 6, 102(c), 104, 105(f), 110, and 111 of this Act shall apply to agreements provided under this title.

"SEC. 407. REGULATIONS.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under of this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from new Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3508.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I have the honor of bringing a measure before this body, which may well be one of the most important pieces of legislation impacting Indian tribes and Indian people in many years.

The bill before the House today reflects agreements which were reached with the other body. It includes recommendations from the administration and the Indian tribes. The bill is a compromise which I firmly believe respects the recommendations and needs of the Indian nations and the Secretary of the Interior.

Mr. Speaker, tribal self-governance has been a demonstration project since 1988. Under the project, Indian tribes enter into compacts directly with the Secretary of the Interior to carry out Interior Department functions on reservations. The demonstration has been an overwhelming success. This bill makes tribal self-governance permanent.

There has been much confusion and some misinformation circulating lately over what this project is about. Let me set the record straight on this. This project does not mean that Indian tribes will take over the Washington Monument or the Gettysburg Battlefield. This project does not mean that Indians are free to raid the Interior Department budget. This project does not mean that the Secretary can waive tax laws or regulations for Indian tribes. This project does not mean the Secretary is cutting off his trust responsibilities to individual Indians with allotments.

What the bill does mean is that Indian tribes who voluntarily elect to participate in self-governance will sit down with the Secretary of the Interior and negotiate agreements on a government to government basis. If the tribe over-reaches and requests to negotiate for program or functions which have no relevance to Indian affairs, the Secretary can simply say "no."

There is an irrational fear in the Interior Department that tribes will get too much money under this program. Trust me on this, if that happens it will be a first in American history. Such allegations are based on ignorance or a lack of understanding of the Secretary's pervasive discretion which is intended under this bill. However, it is also this bill's intention that the negotiations be just that—bilateral government-to-government negotiations.

A more realistic fear is that there will be downsizing at the Bureau of Indian Affairs. This will happen under this project. Indeed, the goal of this bill is to channel the resources currently being chewed up by lazy Agency bureaucrats, mindless area office paper shufflers, and central office lackeys in the BIA—these funds will be channeled to the Indian tribes who will put these resources to the highest and best use.

Mr. Speaker, some new provisions were added to the bill. The first requires non-BIA agencies in Interior to list the programs that are available to Indian tribes. The second requires the Secretary to ascertain the level of central office funding which each tribe will receive under the program. These provisions were included to guarantee compliance by the Department of Interior which has been reluctant to cooperate with tribes under Indian self-determination and tribal self-governance.

Mr. Speaker, today let the word go forth that a new Bureau of Indian Affairs will result from this bill. It will be leaner and hopefully more efficient. More importantly, today the Indian nations take a giant step forward. Tribes have been building capacity to take control of their own destinies for decades. Let us usher in the era of tribal self-governance with respect for tribal sovereignty, a recognition of Indian self-determination, and a great hope that today we are laying the foundation for a better Federal Indian policy.

I urge my colleagues to support this important measure.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we fully support H.R. 3508.

Mr. THOMAS of Wyoming. Mr. Speaker, I believe my strong support for tribal self-determination is well-known, so I will keep my statement to a minimum.

I fully support H.R. 3508. It is an important step toward giving the tribes more control, flexibility, and decision-making authority over federal programs and financial resources. I have long been convinced that it is the individual tribal government, and not some bureaucrat in Washington with his or her own agenda, that is in the best position to know the needs of the tribe and how best to meet those needs. It is my hope that in this same vein we will also bring H.R. 4842 to the floor soon.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to state that none of these very positive initiatives would have been possible had we not had a chairman on the Committee on Natural Resources like the gentleman from California [Mr. MILLER], who has not only shown leadership on natural resources issues but has shown leadership on native American issues. Let me acknowledge again his outstanding contributions to this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 3508, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

THE HOUSE SHOULD PASS THE CRIME BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, again, as my colleagues know, this is going to be a very important week for the House of Representatives, because the crime bill is going to be coming up again.

Mr. Speaker, I know that many of my colleagues have had a very difficult weekend, regardless of how they voted. The right vote on the rule which will be coming up is aye. What we want to make sure of is that all our colleagues recognize the importance of this issue to the American people.

Very strong punishment provisions are in this legislation. There are very strong provisions that will add community policing around the country, 100,000 new cops.

Most importantly, there are very important provisions that deal with more prevention funds, to make sure our young people do not take to the streets, that they are active in many positive directions, to ensure that this crime bill is a bill that many of us can support.

Mr. Speaker, I would like to again stress that the prevention funds in this bill are not excessive. They are important prevention funds. Some on the other side have alleged that what we have here is more money spent on prevention funds than in the actual bill that passed the House a month ago. That is not the case.

□ 1410

There are less prevention funds in the conference report. What did increase, and I would not call it a social program, is one that deals with violence against women, programs to combat violence against women that have largely come into focus with the death of Nicole Simpson. So what I think has happened over the weekend is that an enormous amount of attention has come forth on the House of Representatives for that very unfortunate vote that took place. The President has rightly gone to the country and has exhorted us to make sure we correct our differences.

Mr. Speaker, I would like to acknowledge the fact that we have an important crime bill that needs to be voted on. We cannot possibly go home to our States and our districts without having passed a crime bill. It is critically important that on Thursday, when this vote takes place, that we vote strongly for a bill that is extremely important to the American people.

Mr. Speaker, I would like to once again stress to my colleagues that this crime bill, passing the rule, is probably the utmost priority that this body has in this session of Congress. We have got the health care issue. That is extremely important. But unquestionably, the American people would like us as much as possible, before we go home, to pass a strong crime bill that contains these components of more cops, that contains these components of more prevention funds, that contains this important component of more punishment provisions.

MORE ON THE CRIME BILL

Ms. PELOSI. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore (Mr. TRAFICANT). Is there objection to the request of the gentlewoman from California?

Mr. DOOLITTLE. Mr. Speaker, reserving the right to object, we can get up here and give our 1-minutes on why the crime bill is a terrible bill for the people of this country, why it increases the national debt while doing little to fight crime. We can do these rhetorical flourishes, too.

I thought we were here for the purpose of dealing with suspensions, no discourtesy to the gentlewoman from California, only that she happened to be the unfortunate victim when I got up to object to this. That is my concern, Mr. Speaker.

The SPEAKER pro tempore. The Chair would inform the gentleman that we are proceeding, waiting for suspensions. If he is on his feet in a timely manner the gentleman could be recognized as well.

Without objection, the gentlewoman from California [Ms. PELOSI] is recognized for 1 minute.

There was no objection.

Ms. PELOSI. Mr. Speaker, I rise for two purposes, one is following up on what our colleague from New Mexico was talking about in terms of the crime bill. I particularly wanted to address the issue of midnight basketball.

Mr. Speaker, I acknowledge the gentleman's concern about regular order, and I do not consider myself an unfortunate victim of his reservation in terms of my unanimous-consent request. But I did want to say, because my minute is fast going by, that in our community, midnight basketball is a giant plus.

In the western division, at the Illhutch Community Center, young people who have some disadvantages in their lives see this as something to say yes. In the Mission District of San Francisco, we have experimented with a successful demonstration of the effectiveness of midnight basketball. So I hope that it will not be trivialized, that Members will not take the matter lightly. It is an important part of saying yes and having the crime bill mean something directly to the lives of these young people in our streets who, as I said before, need something to say yes to.

ANOTHER VIEW ON THE CRIME BILL

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent to address the house for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Ms. PELOSI. Mr. Speaker, reserving the right to object, I am going to remove my reservation as a courtesy to the gentleman and look forward to hearing his 1-minute.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the gentleman from California?

There was no objection.

Mr. DOOLITTLE. Mr. Speaker, just to offer the other point of view on this very interesting subject, we have had phone calls pouring into our office. As far as I can tell there is no organized effort to cause this to happen. Yet they are running 10 to 15 to 1 against the crime bill. People really are clearly understanding that this is just a typical pork barrel type of approach using the politics that have failed to stem the 300-percent increase in the overall crime rate since 1960, during which time we had an 800-percent increase in social welfare spending.

Here is a bill that comes along with programs for midnight basketball, arts and crafts, dance lessons and projects of various kinds, good old-fashion pork.

People are just tired of it. They do not want that. They want a lean, mean crime bill, more prisons, more cops on the streets, habeas corpus reform which is completely missing from the bill, which will expedite the death penalty appeals. That is the type of criminal justice reform the people of my district are seeking.

I would like just to indicate that this bill that was rejected on the rule last week does not meet those criteria. It should have been rejected, and it will be rejected again unless it is changed.

WORLD AIDS CONFERENCE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, last week the world's AIDS conference was held in Japan. As Members may have noticed from the press, at that meeting there was some medium news, not good, and some discouraging news.

I call the attention of my colleagues to that meeting because the statistics that came from the meeting were discouraging in terms of the spread of AIDS through Asia. In India, the number of AIDS cases will be the largest in the world in a very short period of time. The prospects for a cure or for a vaccine are limited. Therefore, it makes prevention an absolute must, not only a must but a moral responsibility.

I also note that in the past few months we saw a meeting of the G–7. It has been on the agenda of some of us in the Congress to get AIDS on the agenda of the G–7 meetings. It seems to me logical that if the largest economic powers, industrialized countries in the world come together to meet about the future of the world, the economy of the world, that they must take into consideration what AIDS is doing to certain economies throughout the world and what it will do.

So I call again, enlist the support of my colleagues to call upon the administration to put AIDS on the agenda of the next G–7 summit.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 2 o'clock and 19 minutes p.m.) the House stood in recess until 5 p.m.

□ 1703

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. COLEMAN) at 5 o'clock and 3 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–705) on the resolution (H. Res. 521) waiving points of order against the conference report to accompany the Senate bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 4539, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1995

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. LIGHTFOOT moves that the managers on the part of the House, at the conference of the disagreeing votes on the bill, H.R. 4539, be instructed to insist on disagreement to provisions contained in any Senate amendment regarding the imposition of new or increased user fees, collections or taxes which may be established by the Secretary of the Treasury and which are authorized by law, to insist on disagreement to the amendment to the last proviso set forth in Senate amendment numbered 16, to insist on disagreement to the Senate amendment numbered 26, and to insist on disagreement to the Senate amendment numbered 29.

Mr. LIGHTFOOT (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LIGHTFOOT] will be recognized for 30 minutes, and the gentleman from Maryland [Mr. HOYER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a motion to instruct conferees on items which have been considered by the subcommittee, the full Committee on Appropriations, and the House. I think the motion is very straightforward. It instructs conferees to reject new user fees proposed by the Treasury Department. Our subcommittee chose to reject the proposed user fees, totaling some $258 million. They include: a $20 fee for tax filers entering into an installment agreement with IRS to pay taxes owed over time; A $12 fee charged to those persons who request photocopies of tax returns from the IRS; an $8 fee imposed to transmitters of electronic returns; and an increase in the merchandise processing fee and the special occupational tax assessed by the Customs Service and the Bureau of Alcohol, Tobacco and Firearms.

Frankly, many of us feel more user fees are not the answer—they are, quite simply, a roundabout way to increase taxes.

The Senate, however, has included language permitting Treasury to retain the proposed user fees if they are increased. While the language doesn't authorize any new fees, it gives the IRS clear incentive to raise and implement fees on taxpayers.

I would ask Members of the House to insist on the House position, rejecting new taxes and user fees. The Senate language encourages the IRS to boost fees for the activities I described a moment ago.

As I stated earlier, in my view user fees are just a back-door tax increase. Any time the Federal Government levies fees for services which are mandated, we are simply increasing taxes.

Let me point out a couple of other problems I have with the proposed fee increases. First of all, in imposing a fee on taxpayers for obtaining copies of their tax returns, I believe it is patently unfair to charge individuals for services mandated by the government—that is, in my view, an unfunded mandate. We are pretty good at that around here. Generally, taxpayers are requesting copies of their back returns because they must revise them or defend themselves in an audit—a government-induced action.

Mr. Speaker, I was also dismayed to learn the IRS has just announced that, effective October 1, 1994, the charge for furnishing copies of tax returns and related documents will increase by 300 percent—from $4.25 to $14. I have a hard time believing the $14 reflects the true cost to the IRS of providing the copy. Interestingly enough, the President had announced in his budget proposal that this fee would be increased to only $12. I would like to know why this figure has now been increased even further.

With respect to another of the proposed fees, the fee charged to those who file electronically, I am a little baffled by the proposal. The IRS is currently working to modernize its information systems, and has indicated there will be great savings down the road and fewer IRS errors as more taxpayers begin to file electronically. This proposed fee flies in the face of the IRS effort to increase electronic filing. Most members of the Ways and Means Committee would agree tax policy should encourage beneficial types of behavior, rather than have the opposite effect. It seems to me this proposed fee would discourage electronic filing, thereby reducing savings in the outyears to the IRS.

Finally, Mr. Speaker, let me say I have signed a pledge, as have many of my colleagues, to oppose any tax increases and I intend to continue doing so.

Mr. Speaker, the House rejected the fees requested by the President. The conferees should stick to their original position and reject these fees. They are opposed by the authorizing committees, and this opposition has been reflected in a letter signed by Mr. GIBBONS and Mr. PICKLE and received by the Treasury, Postal Subcommittee on July 25, 1994.

I believe there is no need to increase taxes to support additional spending. Reject these new taxes and vote aye on the motion to instruct conferees, and stay with the House position.

Mr. Speaker, I reserve the balance of my time.

□ 1710

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Although I am generally opposed to instructing conferees and would prefer that the conferees be free to make those decisions which can best be made and bring about reasonable compromise between the House and the Senate, I understand the gentleman's strong opposition to the imposition of fees, and as all Members know and as he has stated, the Subcommittee on Treasury Postal Service-General Government and the House did not include these fees as a part of its proposal to the House which the House passed. In point of fact, we believe at the fees should not be incorporated in this bill. Therefore, although I oppose generally the concept of instructing conferees, I do not intend to oppose the gentleman's motion at this time.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LIGHTFOOT. Mr. Speaker, I appreciate the comments of the chairman, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLEMAN). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from Iowa [Mr. LIGHTFOOT].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. HOYER, VISCLOSKY, DARDEN, OLVER, BEVILL, SABO, OBEY, LIGHTFOOT, WOLF, ISTOOK, and McDADE.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1994

Mr. HOYER. Mr. Speaker, on behalf of the gentleman from West Virginia [Mr. MOLLOHAN], I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2947, by the yeas and nays; and H.R. 4867, by the yeas and nays.

CONCURRING IN SENATE AMENDMENTS TO H.R. 2947, COMMEMORATIVE WORKS ACT AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 2947.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2947, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 397]

YEAS—378

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Costello
Cox
Coyne
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDermott
McHale
McHugh
McInnis
McKinney
McNulty
Meek
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Synar
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Volkmer
Vucanovich
Walker
Walsh
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wolf
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—56

Baker (CA)
Becerra
Bilirakis
Blackwell
Boehner
Borski
Brown (FL)
Clement
Collins (GA)
Cooper
Cramer
Crane
Dreier
Edwards (CA)
Flake
Foglietta
Gallo
Gejdenson
Gonzalez
Goodlatte
Gordon
Grams
Harman
Hoke
Huffington
Hunter
Lantos
Machtley
McCollum
McCurdy
McDade
McKeon
McMillan
Meehan
Menendez
Michel
Montgomery
Moran
Nadler
Reynolds
Ridge
Rush
Santorum
Schaefer
Slattery
Smith (TX)
Sundquist
Swift
Taylor (MS)
Thomas (WY)
Visclosky
Washington
Waters
Whitten
Wise
Woolsey

☐ 1734

Mr. KLINK and Mr. HANCOCK changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, I was unavoidably detained on rollcall No. 397, H.R. 2947. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 397 on H.R. 2947 I was unavoidably detained. Had I been present I would have voted "yea."

PERSONAL EXPLANATION

Ms. BROWN of Florida. Mr. Speaker, I was not present for the vote on H.R. 2947, rollcall

No. 397. Had I been present, I would have voted "yea."

HIGH-SPEED RAIL DEVELOPMENT ACT OF 1994

The SPEAKER pro tempore (Mr. COLEMAN). The pending business is the question of suspending the rules and passing the bill, H.R. 4867, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California [Ms. SCHENK] that the House suspend the rules and pass the bill, H.R. 4867, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were yeas 281, nays 103, not voting 50, as follows:

[Roll No. 398]

YEAS—281

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blute
Boehlert
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (OH)
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Ehlers
Emerson
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Hughes
Hutto
Hyde
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kim
King
Kleczka
Klein
Klink
Klug
Knollenberg
Kopetski
Kreidler
LaFalce
Lambert
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowey
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McHale
McHugh
McKinney
McNulty
Meek
Mfume
Mica
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murphy
Murtha
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schiff
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NAYS—103

Allard
Archer
Armey
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bliley
Bonilla
Bryant
Bunning
Burton
Buyer
Callahan
Chapman
Clinger
Coble
Combest
Cox
Cunningham
DeLay
Dickey
Doolittle
Dornan
Duncan
Edwards (TX)
Everett
Ewing
Fields (TX)
Frost
Gekas
Geren
Gingrich
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hutchinson
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kingston
Kolbe
Kyl
Lancaster
Laughlin
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Long
Lucas
McCrery
McInnis
Meyers
Miller (FL)
Myers
Nussle
Paxon
Peterson (MN)
Petri
Porter
Portman
Pryce (OH)
Quillen
Reed
Regula
Roberts
Rogers
Rohrabacher
Roth
Royce
Sarpalius
Schroeder
Sensenbrenner
Shuster
Skeen
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Vucanovich
Walker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—50

Baker (CA)
Becerra
Bilirakis
Blackwell
Boehner
Borski
Brown (FL)
Clement
Collins (GA)
Cooper
Cramer
Crane
Dreier
Edwards (CA)
Flake
Foglietta
Gallo
Gejdenson
Goodlatte
Gordon
Grams
Hoke
Huffington
Hunter
Lantos
Machtley
McCollum
McCurdy
McDade
McKeon
McMillan
Meehan
Menendez
Michel
Montgomery
Nadler
Reynolds
Ridge
Rush
Santorum
Schaefer
Slattery
Smith (TX)
Sundquist
Swift
Thomas (WY)
Visclosky
Washington
Whitten
Wise

□ 1752

Mr. KNOLLENBERG changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CRANE. Mr. Speaker, I was unavoidably detained and therefore was unable to cast my vote on two of the three recorded votes. I failed to vote on rollcall No. 397 relating to H.R. 2947, legislation relating to the Black Revolutionary War Patriots Foundation, and rollcall No. 398 relating to H.R. 4867, the High Speed Rail Development Act. I had intended to cast my vote on the legislation in question; however, my flight from Chicago to Washington was unavoidably detained due to weather. Fortunately, the outcome of the votes on H.R. 2947 and H.R. 4867 were not decided by a single vote and my vote therefore would not have been determinative.

THE JOURNAL

The SPEAKER pro tempore (Mr. COLEMAN). Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RICHARDSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 237, nays 147, not voting 50, as follows:

[Roll No. 399]

YEAS—237

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Boucher
Brewster
Brooks
Browder
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dornan
Durbin
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
LaFalce
Lambert

Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Myers
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Woolsey
Wyden
Wynn
Yates

NAYS—147

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bliley
Blute
Boehlert
Bonilla
Brown (CA)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Clinger
Coble
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Hutchinson
Inhofe
Istook
Jacobs
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCrery
McHugh
McInnis
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—50

Becerra
Bilirakis
Blackwell
Boehner
Borski
Brown (FL)
Carr
Clement
Collins (GA)
Cooper
Cramer
Dreier
Edwards (CA)
Flake
Foglietta
Gallo
Gejdenson
Goodlatte
Gordon
Grams
Hoke
Huffington
Hunter
Johnson (CT)
Lantos
Machtley
McCollum
McCurdy
McDade
McKeon
McMillan
Meehan
Menendez
Michel
Montgomery
Nadler
Reynolds
Ridge
Rush
Santorum
Schaefer
Slattery
Smith (TX)
Sundquist
Swift
Thomas (WY)
Visclosky
Washington
Whitten
Wise

□ 1809

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, due to official business, I was not available for rollcall Nos. 397, 398, and 399.

Had I been present I would have voted "aye" on No. 397, "aye" on No. 398 and "aye" on No. 399.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HOLDEN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, very soon, the House will pass the crime bill, and the liberal national media will proclaim it to be a great victory for President Clinton.

But will it be? Really?

The President has a 79-seat majority in this House—a huge margin.

Yet the crime bill, despite intense pressure and lobbying by the White House, and despite this 79-seat majority—lost by 15 votes.

This should tell the people how bad this bill really is. And this in a year when everybody wants to vote for a crime bill.

Once a bill is defeated in one Congress, it should not come up again until the next Congress is in place.

Yet we will soon vote on this bill again, after some of the most intensive lobbying, arm-twisting pressure, and power politics this Nation has ever seen.

This is what this bill is now about—politics—not crime.

I spent 7½ years as a criminal court judge before coming to Congress.

I tried primarily the felony criminal cases—the most serious cases.

Yet I voted against this bill twice—Why?

Well, let me tell you first, it had nothing to do with gun control.

This is another myth or falsehood perpetrated by our liberal national media.

They would have everyone believe that the only reason anyone would have voted against this bill was because of pressure from the NRA.

This is totally, completely, 100 percent false.

Most people voted against this bill because they want a real crime bill, a tough crime bill, not a Great Society social work bill.

Most people voted against this bill because what started out as a $22 billion bill ended up as a $33 billion monstrosity with everything but the kitchen sink in it.

Most people voted against this bill because of 9 or 10 billion dollars' worth of social programs, including hundreds of millions for dance lessons, arts and crafts, basketball leagues, and graffiti removal.

Now there is certainly nothing wrong with basketball leagues or graffiti removal. But the cities which need them should do them themselves.

As bad of shape financially as most of our States and cities are in, very few are in as bad fiscal shape as is our Federal Government.

Our Federal Government is presently over $4½ trillion in debt and still losing hundreds of millions more each day.

We are already spending billions we do not have, yet our President and his supporters want us to pass a health bill that will be the most expensive bill ever passed in the history of this country.

Most people voted against this so-called crime bill because the conference actually weakened provisions against our most serious drug dealers and against released sex offenders.

Most people voted against this bill because the President's own FBI Director said it would do more harm than good—at least he was against it until the White House got him muzzled.

Most people voted against this bill because most of the money goes to just a few of our Nation's largest cities. This is supposed to be because these are the areas of highest crime and highest unemployment.

But the bill very much shortchanges and is very unfair to our smaller cities and especially to our small towns and rural areas.

And many people voted against this bill because they want our crime dollars spent on the streets, fighting real crime. They know we will do more to fight crime by spending our crime-fighting dollars on local police and deputies, instead of on Federal bureaucrats and social workers.

They know, too, that most people who have really analyzed this bill say it will allow for the hiring of only a small fraction of the 100,000 officers its supporters claim.

People all over this Nation are asking why should we send 33 billion of our hard-earned dollars to Washington, DC, where so much of it is going to be lopped off, first by the Federal Government, then by the State governments, and then by our 15 largest cities.

Everyone who has ever dealt with the crime problem knows that by far the biggest single factor is broken homes.

The overwhelming majority of our serious crimes are committed by young men who come from father-absent households.

Already government is taking half of the average person's income in the form of taxes, counting taxes of all types, Federal, State and local.

Most marriages break up due to disagreements over finances—battles over money.

In 1948, the credit for children on tax returns was $600 each. According to the Heritage Foundation, if that had been indexed for inflation, it would be approximately $8,000 today.

What does this have to do with crime—quite simply, it is this: In 1940's and 1950's the Federal Government was really almost encouraging families through its tax policies.

Today, our government is taking so much from our families that it is helping cause them to break down, and thus our crime problem grows worse.

Now, we are going to take $33 billion more from our people to perpetrate a fraud, a cruel hoax—that it is being done to fight crime.

This crime bill will not even put a small dent in our crime problem. It will be passed solely because of politics in a desperate attempt to try to make people who really are not tough on crime look like they are.

□ 1820

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF A CERTAIN RESOLUTION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-707) on the resolution (H. Res. 522) waiving a requirement of clause 4(b) of rule XI with respect to consideration of a certain resolution reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

INQUIRY REGARDING PRIVILEGED REPORT ON RESOLUTION WITH RESPECT TO CLAUSE 4(b) OF RULE XI

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. I just wanted to know, Mr. Speaker, if this is a two-thirds rule for purposes of doing the crime rule.

Mr. MOAKLEY. Mr. Speaker, the gentleman is correct.

Mr. WALKER. The idea being, Mr. Speaker, that this gives us the ability, then, if some kind of an arrangement is arrived at, that we would take it up utilizing the two-thirds rule. Is that what the plan is here, Mr. Speaker?

Mr. MOAKLEY. If the gentleman will continue to yield, Mr. Speaker, I cannot hear the gentleman, but the two-thirds rule allows us to take up the rule the same day.

Mr. WALKER. Mr. Speaker, I assume that is predicated on the idea that we would arrive at some kind of arrangement acceptable to both sides, is that correct?

Mr. MOAKLEY. It does not say that, but I am sure it is.

Mr. WALKER. Otherwise, Mr. Speaker, it would be difficult to get two-thirds.

Mr. MOAKLEY. If the gentleman will yield further, this waives the two-thirds requirement.

Mr. WALKER. This waives the two-thirds requirement. So the fact is, what we are trying to do is make certain the House would not have a chance to look at the new bill?

Mr. MOAKLEY. If the gentleman will continue to yield, no, Mr. Speaker. This waives the two-thirds requirement, allowing the majority Members to vote on another rule that will be coming forward addressing the crime bill.

Mr. WALKER. However, Mr. Speaker, it does then, at that point, assure that the House can take up the rule very quickly on a conference report that may get rewritten as a result of some of the negotiations that are going on?

Mr. MOAKLEY. The gentleman is correct.

Mr. WALKER. That makes it, then, more difficult for us to have a chance to look at those new provisions, if in fact we are going to run it out here on a very quick basis, does it not?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield further, the reality is that we waived the two-thirds in order that if there is any chance we get out of here Friday, this is the only key we can use.

Mr. WALKER. So the idea is that this would be used to try to get the House out of here on Friday to go home, hopefully?

Mr. MOAKLEY. If everything falls in place, not waiving the rule on this would not allow us to take this matter up before Friday.

Mr. WALKER. I thank the gentleman. With all the controversy that has been surrounding the bill, there is some concern on the part of Members that they do want to have a chance to understand what is in this bill.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I was not going to talk on this, but I have some concern. How many pages are in the crime bill, 1,400 pages?

Mr. WALKER. Seven hundred pages, or something.

Mr. BURTON of Indiana. There is at least 700 pages.

Mr. MOAKLEY. If the gentleman will yield further, does the gentleman from Indiana [Mr. BURTON] mean to say that he has not read the bill?

Mr. BURTON of Indiana. If the gentleman will continue to yield, 700 pages, Mr. Speaker? I must admit, I have read the synopsis, but not all 700 hundred pages. That is why I am concerned about running this thing through without Members having a chance to look at the thing before taking it up.

Mr. MOAKLEY. If the gentleman will continue to yield, the rule may not come up until Friday, Mr. Speaker. This is just getting it ready in case all the other pieces of business fall into place. As the gentleman knows, his leadership is at the White House now trying to work out the crime bill.

Mr. WALKER. That is correct, Mr. Speaker, and basically what I am trying to do is figure out how this particular action fits in with the meetings that are taking place. If I understand the gentleman correctly, this is being done in hopes that arrangements can be made that will include a little bit of everybody, that we can move something expeditiously toward the end of the week, and we will move it at a point that everybody will understand what it is we are doing.

Mr. MOAKLEY. If the gentleman will continue to yield, Mr. Speaker, I cannot go that far, that everybody will understand what we are doing. Other than that, I agree with the gentleman.

Mr. WALKER. I thank the gentleman.

AMERICA'S FOREIGN POLICY CREATES MISERY FOR HAITIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I wanted to talk very briefly. While we have been having these very important debates here in this country about crime and health care, and are fully engaged in the U.S. Congress in business for the people of this country, we have a foreign policy that is making life pretty darned miserable in a neighboring country, a place called Haiti.

I have talked many times about this. We read about it almost every day. Today, Mr. Speaker, I had the opportunity to be on the telephone with some of the properly democratically elected members of their congress, their Chamber of Deputies, as it were, and got an update on what is going on down there.

It is really sort of pathetic that we are not following up the option to negotiate with our colleagues, who were democratically elected, in the Haitian Chamber of Deputies. There are a great number of them. They have invited us to come down and try and work out a negotiated settlement, instead of this threat of invasion, this talk of invasion, all of these Navy ships and Coast Guard cutters we have steaming around down there at this point, and the sword rattling that is going on.

Mr. Speaker, it is not working very well. It is costing us a lot of money. We have estimates of $1 billion or so, and boy, do we need that $1 billion. I would love to be able to plug that into more law enforcement officers for our Nation's streets, and to deal with some of these crime problems that we have been so engaged in.

Mr. Speaker, be that as it may be, we have a very misguided foreign policy in Haiti. It is very expensive. It is probably ill-conceived. It is not going to get results anybody is going to want, in all likelihood, but it has another factor.

Mr. Speaker, I think it is time we pause every so often here. We live very good lives in the United States of America, most of us. We are very fortunate and much blessed to be in this country.

While we are here, Mr. Speaker, have an embargo which is absolutely strangulating Haiti. It is absolutely devastating the poorest people in that country and the middle class in that country. Supposedly the rich can do for themselves, and some of those who are the target of that embargo are actually not feeling the pinch anywhere near some of these other folks are.

We heard today that we have a U.S. hospital up in Limbe, which is up near Cap Haitien, up in the northwest part of the country. That is completely now overwhelmed. They have no more supplies. They have nothing, no medical attention, which is desperately needed for HIV-positive people, TB people, and so forth.

All of this is on the rise. There are no treatments, there is no prevention. There is overcrowding. There is not even food. We cannot simply say, as we keep hearing from Bill Gray, who is the spokesperson for the administration on this, that "We are addressing the food crisis in Haiti by feeding 1 million people a day."

Mr. Speaker, if we are feeding 1 million people a day, we are not feeding them very nourishing food, I understand. Sometimes it is just sort of one bowl of thin porridge. There are some 7 million people in Haiti, and we wonder what is happening to the other 6 million, if we are feeding 1 million. It is very bad times.

Mr. Speaker, We understand that we have supplies that are rotting on the docks that are needed for food and medicine for places like this hospital in Limbe, or the 6 million or so that need the food so badly, and we discover that it cannot get anywhere because there is no gasoline, no transportation, because of the embargo.

□ 1830

We find infants are dying. We find that young women who had jobs before cannot have any jobs now because there is no manufacturing. They have had to shut everything down because of the embargo. Some have gone back to prostitution. Unfortunately, AIDS is a serious problem in Haiti and of course it is now on the increase as a result of all this.

All of this is happening because of the United States policy. It is our foreign policy that is causing these results. The people down in Jacmel in Haiti, a city more on the southern coast, go to a TB clinic, people who have TB who are being treated, and when they go to this clinic, they are not able to get any medication, any treatment for their TB because there is not any because of the embargo. So they sing and they pray instead and they ask the good Lord to save them because there is no medical attention available to them.

I admire that spirit, I admire that commitment, and I admire their trust in the Lord. But we could easily be providing them help for their TB to help correct the problem, and the medical attention that they need and had been getting up until this embargo came along.

What I am saying is that we have a policy here in the wealthiest nation in the world of absolutely devastating a poor country and making life miserable for so many people. It is hard to go to bed at night and think there are 6 million people who are not getting the kind of help, treatment, food, compassionate relief, and attention that I know every American would want to give. If Americans could see the face of poverty and the face of misery that is being directly caused by our foreign policy in Haiti, I do not think it would stand up for 1 second. There would be a revolution here and people would demand that we change our policy and do the right thing for Haiti instead of trying to victimize the poor and the middle class.

I have not spoken much about the middle class, but they are the people who make things work there. They are the managers, the manufacturers, the people who keep things running and provide employment for the working class. Those people are being devastated because there is no job, no investment, no employment for them, the factories do not work, no energy for the factories and so forth. So we are having a deterioration of the basic structure we need to rebuild that country while we are also starving the very poorest.

This is not a policy that makes any sense at all. Why are we doing this? We want democracy in Haiti, we want to see them grow, we want to see them have some prosperity, we want to see them have jobs, we want to see disease eradicated, we want to see starvation eradicated, and everything we are doing is counter to those directions.

I find it astonishing that our colleagues here who care so much about these things and will speak so eloquently and so much from the heart on these subjects when we are dealing with other countries that we talk about can somehow turn a blind eye toward what we are doing in Haiti, pretending it is not happening. It is happening. It is awful, it is happening, and we are responsible for it. How can we do this?

I challenge our administration, Mr. Speaker, to come up with a better policy, and one would surely be to follow this program of dealing with the duly elected members of the Haitian Parliament who are our counterparts duly elected and find a middle road. It is possible to do it. We should do it.

WHY THE CRIME BILL HAS NOT PASSED

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to talk for 5 minutes, just common sense, about the crime bill that is in front of us and some of the reasons why it was turned down. I hope the public and the Members of this body will think about what is in the bill and why many people voted the way they did.

First of all, this was not a Republican defeat of the crime bill. In the first place, we only have 178 votes in this body. It takes 218 to defeat. There are many people who opposed the crime bill and opposed the rule for the crime bill. First of all, the FBI chief criticized the bill in a recent newspaper statement and his reason was he was concerned that the President's approach toward crime cut the FBI, cut the DEA, cut the INS and cut law enforcement, basic Federal law enforcement agencies that are needed really to be tough on crime. That is the head of our FBI criticizing the bill. There were some 20 committee and subcommittee chairmen, these are all Democrats, who voted against the rule. Many of them voted because they felt that this rule was not proper, that a closed rule would not allow the amendments necessary to improve the bill, and that was a principal reason they opposed the crime bill. Some 58 other Democrats, Members of the House of Representatives, voted against that rule.

Many of them remembered the experience about the Los Angeles earthquake where we were told we needed $8 billion to take care of the people in Los Angeles during their trials in the earthquake. Most Members felt that was appropriate, that if they needed the money to help cure the problems in Los Angeles with the earthquake, they would vote for it. Then as we began to read the bill and later a major television network pointed out that over half of that $8 billion, some $4 billion or more, did not even go near California, it did not even get close to where there was a rumble, in fact. It wound up in Arkansas and West Virginia and places that had nothing to do with the California earthquake. So having been duped once, you can see that a lot of people were nervous about a $33 billion crime bill that so clearly does not address crime with a great portion of the funds.

George Will, a prominent writer and a personality who writes for the Washington Post and others, says:

> This crime bill is a bipartisan boondoggle because of the cachet that currently accrues to any legislation with an 'anticrime' label. But the bill sprays money most promiscuously at Democratic constituencies, the so-called (by themselves) 'caring professions'—social workers, psychologists, and others who do the work of therapeutic government.

He warns that it does not address tough problems on crime. He points out that even the midnight sports leagues—first of all, the leagues have to be made up of a specific population, those from specific areas with a prescribed number with HIV positive. He also points out that many of the other programs involved have nothing to do with crime but that are primarily social programs, many of them shopworn, that have come before this body before and have not been able to pass.

Then in my home State, we have a police organization that polled over 3,000 members of their officers and 86 percent opposed aspects of the crime bill because they called it phony, they said it does not address crime, it addresses other questions and it is bureaucratic and will not aid them in their fight against crime.

So there is a widespread concern in this country about this crime bill. It was not a partisan matter, it was a matter that came across party lines, and that is why the vote lost in this last week's attempt.

Is this a crime bill? Well, when you read it and you ask people, both committee staff and you ask prominent people who have been in this House, the first thing they say, "Well, not exactly."

You ask, does it ban 19 assault weapons as the press says? "Well, not exactly." It actually bans several hundred weapons, most of them sports weapons.

My son has a shotgun that he uses to turkey hunt with. It is a gun that I will have to admit, it is not a threat to turkeys much because we have tried for the last 2 years and we have not been able to hit one. It is, however, an assault weapon under the definition of this bill. It has to meet two criterias to be that. It meets three. First of all, it has six shots, it only has to meet five; second, it has a curved handle just before the stock as most shotguns would have; and third, you can affix a bayonet if you want to. You can affix a bayonet to any gun that the stock does not come all the way out to the end. Maybe he should affix a bayonet and try to bayonet the turkeys because he is not having much luck shooting them. But to think of that weapon is ridiculous. In fact most of what people think of as automatic weapons are already banned under Federal statute. Even Uzis and other types of guns that are changed to become automatic weapons violate the Federal statute.

WHY THE CLINTON-GEPHARDT BILL IS BAD FOR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise today concerning why the Clinton-Gephardt bill is bad for senior citizens. For the past 19 months since I first entered Congress, I have held over two dozen town hall meetings throughout my congressional district, I have received over 10,000 letters and phone calls, and I have talked to thousands of constituents, mostly senior citizens, because my district in Florida has the largest number of senior citizens of any congressional district in the United States. My area of Sun City, FL; Port Charlotte, FL; Venice, Sarasota, and Brandenton, FL has the largest percentage of seniors in the Nation, and they are upset.

□ 1840

They are concerned and they are scared. They like what they are getting under Medicare now, and they do not think the change is better for them.

Poll after poll has shown that the seniors are very concerned. It was very surprising last week when the AARP came out supporting the Clinton-Gephardt bill. Last year when Mr. Clinton first made his presentation on health care in September here in the House, and that was a point of popularity for the Clinton bill, the AARP in their bulletin had a little coupon to ask their members to send in to see what they said about the Clinton bill last September and October. They published the results in their monthly bulletin in December and 82 percent of the 25,000 people who had sent in response said they did not like Clinton, and that was when the bill was very popular in the country.

What I would like to do now is identify five very specific reasons why Clinton-Gephardt is bad for senior citizens.

First of all, we have global budgets and price controls, and this amounts to explicitly rationing health care. The plan mandates in 1999 to in effect have zero growth in Medicare spending. Even countries that ration their health care cannot get down to zero growth. What it mandates is that in 1999 that the growth in Medicare spending will be no greater than the growth of the gross domestic product, the GDP, which is about 3 percent or so right now. It does not take into account the fact that we are going to have more Medicare people eligible in 1999. No. It is just based on some economic factor that is based on the business cycle rather than on the needs of senior citizens.

Next is rationing of health care. Seniors are the ones most victimized by rationing of health care. In other countries where they have socialized medicine, in Great Britain, for example, they ration health care by, for example, kidney dialysis is limited to senior citizens over age 65.

The Congressional Budget Office, when they evaluated Mr. Clinton's plan, said, "There was reduced access to new high cost medical technologies in the Clinton plan."

This morning's Wall Street Journal had an interesting editorial by Robert Goldberg who talks very specifically about the rationing of drugs under the Clinton-Gephardt bill as a mere formulary identified under the Clinton-Gephardt bill, and they list drugs that are permitted, and if it is not on the list, senior citizens cannot have that drug unless the physician is willing to go through the bureaucracy and make special requests and such.

There are going to be drug caps put into effect by the year 2005, which sets the maximum amount of money that can be spent for drugs. That is rationing of health care for senior citizens.

The third issue is reduced choice. Under the Clinton-Gephardt bill States are given the option, they are given the option to make Medicare people go under the State-run program. If New Jersey decided to develop a State-run program, the State of New Jersey would have the choice to force all Medicare people to get out of Medicare and go into the State of New Jersey's program, no choice about it for senior citizens. That is not the type of choice seniors were expecting in this plan.

Also the plan under Clinton-Gephardt encourages seniors do get into HMO's, and this is going to really affect the lower income seniors.

Increased taxes. There is no free lunch. We would have thought Congress would have learned with the catastrophic back in 1988 and 1989 that you cannot just increase taxes and have senior citizens say OK, that is OK. For example, in this bill there is the drug coverage, which is a good idea. But what it is is a $500 deductible for seniors, and it is 80 percent coverage after the first $500 they have paid. They are going to pay $111 a year tax on that. Even if you have a great plan or supplement from say General Motors or someone else, you are still going to pay that $111 whether you use it or not. So there is a $111 tax that you are going to pay to get drug coverage.

There is a higher cigarette tax. I do not smoke, so it will not bother me. But if you are a senior and you smoke, be prepared to pay higher taxes.

And there is the employer mandate. In my district, there are a lot of seniors that have part-time jobs and the employers are going to be discouraged from hiring those seniors part time because they will have to provide them with health care.

The fifth reason is draconian Medicare cuts, $480 billion in Medicare cuts. We are at a very scary time in this health care debate, scary, so no one knows what they are going to do.

Let us put this off and have a rational, intelligent debate on how to have health care, and come back in January and make it the focus of the election in 1994.

COMPROMISING ON THE CRIME BILL

The SPEAKER pro tempore (Mr. HOLDEN). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I address the House tonight to talk about the crime bill. I do not know if we have said enough about that in America for the last 2 or 3 days. So I want to throw in my 2 cents.

The great moments we have had during the Clinton administration in the legislature, the times when the Clinton administration has passed items which it considers very high on its agenda, they have done so with bipartisan support. The only deviation from that would be the tax increase, but aside from that, NAFTA, family medical leave, and assault weapons ban were all passed on a bipartisan basis.

I think, Mr. Speaker, what we need to do is realize that the best of the Democrats', the best of the Republicans' ideas should always be combined together with the best of the administration's ideas so that we can have the best type of reform and the best type of legislation possible for the American people.

Last week, despite what the President said, there were 58 Democrats who voted against the rule on the crime bill. As I went home and read about it in the newspaper back in Savannah in the First District of Georgia, as I watched it on national news, I was not sure if I was in the same House Chamber that the President was talking about when he blamed his failure to pass it on the NRA and the Republican Party. I am against gun control. I believe in the second amendment. The President and I disagree on that. But I will say this: NRA never contacted me about the crime bill. I am sure they were contacting Members, but they never contacted me. The party leaders did talk, but where I got most of my direction was not from folks in Washington, and not from Republican Party members, and not from the NRA folks, obviously, not from other special interests, but from the sheriffs and police chiefs in the First Congressional District of Georgia.

As we in our office called them, as we faxed to them somewhat of a summary of the crime bill—it was hard to summarize 700 pages in a brief period of time, particularly when the bill had not been written until the day of the vote, but aside from that, from what we had understood we sent out a fax to our police officers. The majority, the overwhelming majority, and by that I mean 90 percent said vote no on this. There is lot of good in the crime bill, but there is a lot of bad in it too.

I think if we could say come up and admit, if the administration will say we can do a better job, the people of America are right, then what we should do tonight during the course of this debate and over the next couple of days is work on a compromise.

Here is my suggestion for the compromise. The bill is about $33 billion. It was about $9 billion in so-called special spending such as midnight basketball, arts and crafts fairs, and self-esteem programs. I think we ought to cut that. I would like to see it eliminated in its entirety, but I realize in certain areas of the country you may need that. For example, in New York City they probably need self-esteem programs. If I was living in New York I probably would too.

But we should reduce that level as much as possible, and then whatever balance we save, put it into the construction of new prisons. When the bill passed the House the construction level on the prisons was over $13 billion. When it came out of conference it was more in the $9 billion range. What we should do is put the balance into keeping our streets safe by keeping the criminal element off of the street so they do not harm your family members.

The other part is since out of 100,000 new police officers only 20,000 are paid for, what we should do is put the balance into that. I think that compromise makes sense.

But let us just say it does not. Why not then give the money back to the States and let them decide if they are going to put that money to self-esteem programs or a new prison construction or new police officers. I trust the great State of Georgia to make the decisions on that, and I am sure 435 Members of Congress trust their own home States to make decisions on that. I think that would give a great cooperative effort between the State and Federal levels of government, and it would promote I think a better harmony between the two entities as opposed to always handing down to the State government unfunded mandates. That is the first part of the compromise I would suggest.

The second part I would suggest is a separate vote on the assault weapons ban.

□ 1850

That way the President and everybody else who is against the second amendment can jump on gun owners of America and the NRA and all that and they could have a good old second-amendment bashing. But that way it would be a separate issue. We already passed the assault-weapon ban in the House.

The third thing, no retroactive appeals for people who have already been sentenced, which the bill would do. Let us eliminate that.

The fourth and final thing, Mr. Speaker, would be to promote the Byrne grant program more in rural America, which is an antidrug program which is helping rural America tremendously. It is kind of hidden in this bill. It is in there, but let us build upon it.

Mr. Speaker, I appreciate your time. I appreciate the Members of the House listening.

WHITEWATER DEVELOPMENT CORP. AND THE MADISON SAVINGS & LOAN DEBACLE

The SPEAKER pro tempore (Mr. HOLDEN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the minority leader.

Mr. BURTON of Indiana. Mr. Speaker, it appears that the White House, President Clinton, and his supporters continue to try to do damage control involving the Madison Savings & Loan debacle and the Whitewater Development Corp.

Last week I talked about Jean Lewis, who was the investigator with the Resolution Trust Corporation that was investigating Whitewater and the Madison Savings & Loan affair.

She sent two criminal referrals to the Justice Department, to the attorney in Little Rock investigating these allegations. She sent the first criminal referral to the U.S. attorney in Little Rock, I think, in September 1992.

At that time a gentleman named Charles Banks was the U.S. Attorney. Now, shortly after that, when President Clinton was elected, he fired all of the Republican U.S. attorneys across the country and replaced them with his own people, and he replaced the gentleman in Little Rock with his former law student. Her name is Paula Casey. She was appointed by Bill Clinton. He taught her when she was studying law. She worked for Bill Clinton in his campaign, and her husband was appointed to a State job by Governor Clinton. So obviously she had a bias toward President Clinton. I think she probably, because she was a friend of his and was appointed by him, wanted to protect him from any involvement in the Whitewater mess.

Neverless, Jean Lewis sent to the attorney in Little Rock, the U.S. attorney, a referral stating that over $100,000 in Madison funds were illegally funneled into the Whitewater Development Corp. to pay the company's bill. She identified at least a dozen companies that siphoned Madison funds to Whitewater. The Clintons, Bill and Hillary Clinton, were identified as "potential beneficiaries of the check-kiting scheme," her memo stated, and I went into this before, but tonight I want to go into it a little bit more, because there are some new developments that happened over the weekend.

Her memo stated that James McDougal and his partners in Whitewater, including the Clintons, were intelligent individuals, the majority of them attorneys, who must have concluded McDougal was making the payments for their benefit. She also said, "If you know your mortgages are being paid but you are not putting money into the venture, you also know the, venture is not cash-flowing, would you not question the source of funds being used for your benefit?" She also said, "It was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000."

Now, the second referral took place in September of 1993, and Mrs. Lewis' second criminal referral filed in that year charged Madison Savings & Loan had illegally diverted $60,500 to Bill Clinton's 1984 campaign for Governor.

Her referral charged that the campaign was an alleged participant in the illegal conspiracy. Obviously Bill Clinton would have known about that. The referral also contained additional information on the relationship between Madison Savings & Loan and the Whitewater Development Corp., and then in October 1993, Paula Casey, the U.S. attorney who was a law student taught by Bill Clinton, who was appointed by Bill Clinton, whose husband had been appointed to a State job by Bill Clinton, and who was a personal friend of Bill Clinton, she formally declined to investigate the first criminal investigation that was sent by Miss Lewis to Mrs. Casey.

After Jean Lewis' second criminal referral had been reported to the press, Paula Casey recused herself from the case. The Justice Department officials in Washington then determined an investigation had to be opened, and Mr. Fiske took over the entire investigation in January of 1994.

On November 10, 1993, Jean Lewis was removed from the Whitewater case allegedly because of a personality conflict. She was doing too good a job digging around and finding out things and bringing to the attention of the U.S. attorney violations of the law which could have resulted in several criminal indictments, and so she was removed from the case because of a "personality conflict" with the attorney on the case.

In a letter typed that day, she said she was ordered off the case by "powers that be."

In February 1994, on February 2, after both of her referrals were made public, Jean Lewis was visited by April Breslaw, an RTC attorney from Washington, DC; according to Mrs. Lewis, April Breslaw pressured her to change her conclusions about the criminal referrals in Madison Savings & Loan and Whitewater. Mrs. Lewis said April Breslaw told her people at the top would be happier if they had answers to the questions about Whitewater that would get them off the hook. Miss Lewis said two of the head people April Breslaw was talking about were the RTC Deputy Chief Officer, Jack Ryan, and RTC General Counsel Ellen Kulka. Jean Lewis recorded the meeting. Congressman JIM LEACH heard the tape and said it substantiated her account of the meeting that they were trying to get her off of everybody's back, particularly the White House. Both Kulka and Ryan worked directly under Deputy Treasury Secretary Roger Altman, the RTC's Acting Director and close friend of the President.

That very same day Roger Altman had a secret meeting at the White House with White House Counsel Bernie Nussbaum to discuss the Whitewater-Madison investigation.

Jean Lewis, even though she was taken off the case, refused to change her views or statements and sought protection as a whistleblower under Federal law.

Now we come to this weekend, and it was reported that Jean Lewis has been relieved of her position with the RTC, as well as two of her superiors. They have taken them, and not only taken them off this case, as they did with Miss Lewis, but now they have removed them completely from the RTC.

I quote now from the paper. "'They have been placed on leave, and I have no further comment,' said Gene Jankowski, a spokesman for the agency's Kansas City office. However, an agency official in Kansas City, speaking on condition of anonymity, said the three will be under investigation for 'certain matters pertaining to their job performance.'"

So because she has blown the whistle and sent two criminal referrals to Mrs. Casey down in Arkansas, the U.S. attorney down there, a friend of Clinton's, she is now losing her job.

Now, Miss Lewis wrote nine criminal referrals that are at the heart of the Whitewater affair, including the one that named Bill Clinton's 1994 gubernatorial campaign as a beneficiary. Some $12,000 in Madison Guaranty Savings & Loan Association funds were deposited into Clinton's campaign account at another bank. Those conclusions were being probed by Special Counsel Robert Fiske, replaced last week by former Reagan and Bush administration official Kenneth Starr. Starr is expected to investigate those matters and whether depositor funds were diverted from Madison to the Whitewater Development Corp., owned by S&L owner James McDougal and then Governor Clinton and his wife.

Lee Ausen, who supervises both Iatorio and Lewis, was placed on administrative leave as well. They are trying to get him out of his job. The document said all three were instrumental in forwarding the criminal referrals to the Justice Department in the face of initial opposition within the Resolution Trust Corporation.

The move drew immediate reaction from JIM LEACH here on Capitol Hill, the ranking Republican on the Banking Committee. Mr. LEACH said,

> I am sure the RTC wouldn't take this step lightly, but this would appear to be a blatant effort to discredit the work product of a criminal investigative unit that has embarrassed the powers that be,

That is, those at the White House and those who support the White House.

Beyond that, Mr. LEACH said it is a little early to say anything more about it.

However, the article goes on,

> Their performance was called into question by critics in recent weeks, particularly during the congressional hearings on Whitewater. During the hearings, RTC attorney April Breslaw complained that Lewis surreptitiously recorded a conversation in which Breslaw told her top agency officials would be happy to conclude that Whitewater had not caused a loss to Madison.

So she was upset because, when she went in there trying to get Miss Lewis off the back of the White House and was asking these tough questions and sending criminal referrals down to the U.S. attorney in Little Rock, Paula Casey, that she tape-recorded that conversation, and Miss Breslaw was very, very upset that her words were not only spoken but were recorded and that she could not back out and say she did not say it when she was trying to get all of this investigation stopped.

□ 1900

This whole case stinks to high heaven. This administration is doing everything they can to stop the investigation into Whitewater and into the

Madison Savings & Loan debacle. Now today they have gotten the three people who had the most to do with the criminal referrals to Paula Casey, the attorney in Arkansas, they are trying to get them fired. They are being removed from their job because they are doing their jobs.

This is—you could expect this in the old Soviet Union when the KGB was in charge over there, but you sure would not expect it in this day and age in the United States of America.

I want to talk a little bit about Paula Casey. She is the U.S. attorney in Little Rock. As I said before, she worked on Bill Clinton's Presidential campaign in 1992, she was also one of his law students. Her husband was appointed to a State job by then-Governor Bill Clinton. Jean Lewis, as I just said, made these two criminal referrals, and they did not do anything about them.

Paula Casey let them sit on her desk and would not do anything, even though it stated that $100,000 from Madison Guaranty Savings & Loan was illegally funneled into the Whitewater Development Corporation. After it sat on her desk all year, Paula Casey, who was appointed by Bill Clinton, refused to investigate it. And then the heat was turned up by the press.

In 1993 the second criminal referral from Jean Lewis was made, and it charged that the money was diverted, $50,000, to Bill Clinton's 1984 gubernatorial campaign for reelection.

After the second referral, things got so hot in Little Rock that she rescued herself from the case. But why did she not rescue herself from the case in the first place? Because that was the time when we could have gotten to the bottom of this thing. She let it sit there, sit there, sit there, so the coverup could continue.

So why did Jean Lewis's first criminal referral sit on Paula Casey's desk for over a year without any action being taken on it? We are talking about $100,000 of taxpayers' money.

Why did Paula Casey refuse to open an investigation into Whitewater and Madison Savings & Loan? Why did not Paula Casey, the U.S. attorney appointed by Bill Clinton, recuse herself from the first referral? She has a very serious conflict of interest. I mean it is so apparent. They would have investigated Bill Clinton's connection to Whitewater, Madison Savings & Loan. She was appointed by Clinton, taught by Clinton, her husband got a job from Bill Clinton, and yet she would not let somebody else investigate it. Why not?

Why did Paula Casey not recuse herself from the second criminal referral only after it had been revealed in the press? It is obvious why: Because it got too hot.

Are Paul Casey's actions on this case being investigated by the Justice Department's ethics office? And if they are not investigating that, then why are they not? Because the Justice Department should be looking into her nonaction for over a year in that first referral.

Now, David Hale, I want to talk about him and Paula Casey's connection here. At the time of the first criminal referral from the RTC was gathering dust on her desk, Paula Casey, the U.S. attorney appointed by Bill Clinton, was negotiating with David Hale. David Hale was the head of the Capital Management Services, Inc., a small-business investment company. He pleaded guilty in Federal court to making fraudulent loans. According to the Wall Street Journal, among his bad loans were $300,000 to a company controlled by Susan McDougal, a Whitewater partner with her husband, and Bill and Hillary Clinton.

Some $110,000 of this loan may have ended up in the Whitewater account.

He told reporters that he was pressured by then-Governor Bill Clinton to make the loan to Mrs. McDougal for the $300,000. Mr. Hale was a former municipal court judge appointed by Bill Clinton. Paula Casey, when she found out all about this, as U.S. attorney down there, should have recused herself from this case immediately. Once she found that out, she should have gotten out and had a special prosecutor start investigating this. There clearly was a conflict of interest in negotiating with a person who had information on the possible wrongdoing of Bill Clinton as Governor of Arkansas, but she chose to let it sit on her desk for a year and not do anything about it.

She was obviously trying to hold the lid on this thing. There was lively correspondence between Randy Coleman, Mr. Hale's attorney, and Paula Casey. Mr. Hale was seeking a negotiated plea bargain, as people who know they are going to go to jail do. That is a normal thing. I am not sure he should let him off, I do not think he should.

Nevertheless, he was trying to negotiate a plea bargain. What he was trying to do was say, "Listen, I will go under cover. I will not tell anybody about this. You don't have to tell anybody. You can wire me, you can put a wire on me and I will go out and talk to all the people involved in the scheme, this $300,000," including, I suppose, the Clintons, "and then if you think the information that I gather in this plea bargain agreement through the wire and the undercover investigation, then maybe you will give me a lighter sentence."

She would not negotiate with the guy. Evidently, she did not want him to go undercover to find out all the information on the Whitewater-Madison case and $300,000 loan.

In one of the letters Mr. Coleman wrote to her, Mr. Hale's attorney, he said, "I cannot help but sense the reluctance of the U.S. attorney's office to enter into plea negotiations in this case. I cannot help but believe that this reluctance is born out of the potential political sensitivity and fallout regarding the information which Mr. Hale could provide to your office, but at the same time, it is information which would be of substantial assistance in investigating the banking and borrowing practices of some individuals in the elite political circles of the State of Arkansas." Now, who do you think he was talking about there?

He was talking about Bill and Hillary Clinton.

"I can certainly understand the reluctance of anyone locally, to engage in these matters, political realities being what they are." In other words, because of all the political pressure down there and because of the political pressure he knew would be on the attorney appointed by Bill Clinton, Paula Casey as the U.S. attorney down there, he knew the political pressure would be so great that they would not try to get to the bottom of it.

And he said, went on to say, "Would it not be appropriate at this point for your office to consider terminating your participation in this investigation and to bring in an independent prosecutorial staff who are not so involved with the history of the personalities and circumstances of the case?" In other words, "let's bring somebody in from outside who will really investigate this thing and prosecute those who need to be prosecuted, who are not tied to all these political leaders down there, including Bill and Hillary Clinton, and who may be involved as direct beneficiaries, according to Mr. Hale, of this $300,000 loan."

Regarding Mr. Hale's offer of information, Mr. Coleman says, "I have offered an informal pro offer of Mr. Hale's information for evaluation of its quality and content, but it received absolutely no interest," from your office, "in the process." I added the words "in your office."

Now, in subsequent letters, Mr. Coleman reiterates Mr. Hale's willingness to provide information for an undercover operation.

In the view of Mr. Coleman, Paula Casey was not seriously interested in Mr. Hale's offer of information. When Mr. Hale was publicly indicted, any chances of an undercover investigation went right out the window because once it was made public, it was too late.

Again, Paula Casey should have recused herself from the case in the beginning, but since she did not, she should have obtained information from Mr. Hale in order to thoroughly investigate this case. Paula Casey recused herself in November, but by then it was too late to wire Mr. Hale, to have an undercover investigation, to find out who was involved in all this chicanery that led to this $300,000 loan, part of which he says went into the Whitewater Corp.

So here are some questions that need to be answered once again: Why did she not, Paula Casey, immediately recuse herself from the case? Why did she show so little interest in the information that Mr. Hale offered? Did Bill Clinton or anyone at the White House or the Justice Department pressure her not to recuse herself from the case? Did Bill Clinton or anyone else at the Justice Department tell her not to pursue the information Mr. Hale offered? And was Paula Casey's lack of interest in pursuing Mr. Hale's information in the best interest of the justice process and the American people?

You know, Mr. Speaker, the more we get into this, the more you can see, and I know the American people do not have the ability to look into this like Members of Congress do and like I have, but the more you get into it, the more it stinks. And the more you get into it, the more you see how they are moving people around trying to keep the lid on the Whitewater-Madison Guaranty Bill Clinton gubernational connection. It is just unbelievable.

And now they have gone so far as to take three people who sent criminal referrals to Paula Casey down in Arkansas and they are firing them. They are laying them off. Mr. Speaker, I will tell you, I hope the media will really dig into this. They have been starting to investigate it. I appreciate the media for doing that.

But there is so much to this that needs to be brought to the attention of the American people, I do not see how the White House can keep the lid on this much longer, I really do not. But they are sure doing their very best, dead-level best to do it.

So, Mr. Speaker, I want to say to my colleagues tonight I hope they will read the article that was in the paper today and start asking questions, and I hope many members of the media will. I will be back in the weeks to come to get into more questions about the Whitewater-Madison Guaranty, Paula Casey, Jean Lewis, Mr. Hale connection.

I would just like to say if Jean Hale is paying any attention to this, Mr. Speaker, she really deserves the accolades of the American people for sticking to her guns. She has been under so much pressure, she has been under so much pressure to back off in this RTC investigation. She has, I think, been physically and mentally hurt by all of the adverse pressure that has been brought to bear upon her. But she has hung in there. She is a tough lady. And if she happens to be paying any attention, at least some Members of Congress, some people in this country, think she is to be congratulated for being such a hardworking, patriotic person who is doing her job as an investigator for the RTC.

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Mr. Speaker, with that, I will end my special order, but I want to yield to the gentleman from North Carolina [Mr. TAYLOR] so he can conclude his.

Mr. TAYLOR of North Carolina. Mr. Speaker, I appreciate the appearance of the gentleman from Indiana [Mr. BURTON] here tonight in talking about this injustice. I would like to continue to point out a few things about the crime bill.

Mr. Speaker, we are talking about common sense. We are talking about a need to have tough crime laws, well funded crime laws, but we are not getting them in the billion-dollar crime bill.

A lot of people have asked, first of all, "Is this really a crime bill?"

The response is, "Not exactly."

You ask the question, "Doesn't this take out 19 assault weapons that are a scourge in the cities and causing crime all across the country?"

And the response is, "Not exactly."

The gun control portion of the crime bill goes far beyond 19 assault weapons. In fact, the assault weapons, Mr. Speaker, that most people think about, the automatic weapons of mass destruction, are already illegal under previous Federal law. One cannot make them more illegal. Even changing some of the semiautomatic weapons to full automatic weapons is a violation of Federal law, and here again you cannot make that more illegal. It does, however, affect hundreds of sports weapons and weapons that today most people do not think of as automatic weapons.

I mentioned earlier this evening that my son's shotgun that he hunts turkeys with is classified as an automatic weapon because it meets two criteria, and that is all it needs to meet of the list of criteria for shotguns that will determine that it is an automatic weapon. It holds six shots. It can only hold five. It has a curved stock, and it can fit a bayonet which has three.

As I pointed out, my son has not been bayoneting any turkeys, so he is not much of a threat with this weapon. I suggested he put a bayonet on it and try it, but I heard from the society against the bayoneting of turkeys that was formed this evening and objecting to that. I am saying that somewhat in jest, but, when we think that there are weapons that we think of as ordinary sports weapons that will be classified under this law as automatic weapons, you see that it is not exactly 19 assault weapons that it is going after, but a number of weapons that meet the criterion of assault, as defined, and we find that only a small fraction of the crimes in my State, less than one-hundredth of 1 percent nationwide, it is less than three-tenths of 1 percent of the crimes committed are committed with these large assault weapons, and then we ask the question:

"Did the President ask to increase law enforcement for this body?"

Well, not exactly. He came before the budget presented to the subcommittee on appropriations on which I sit on Commerce, Justice and State, and he asked to cut 847 FBI work force, he asked to cut 200 agents from DEA, and he asked to cut the INS. Now that is not exactly bolstering law enforcement.

But you say, "I read 100,000 police are going to be added to the streets of this country." Well, not exactly. When you look at the funding that was passed by Congress; in fact we passed it today already through the conference report, there is enough funding, about $13,000 per officer, and it is estimated the cost of maintaining that officer is between $45 and $65,000. It is estimated that you would be able to put approximately 20,000 officers on the street, not 100,000, and they are not there for long periods of time. First of all, they have to be recruited, not from reserves or necessarily officers that have applied at police departments already. The have to be a special quota of people based on race, and sex, and other sorts of things. This may meet the criterion of a given city, and it may not, but they will only be there for a few years, and then the Federal Government withdraws the funding. The funding runs out, and it is left up to the local communities then to fund those police, and so, if they cannot fund them today, it is not likely they will be able to fund them tomorrow, so even the 20,000 police disappear.

And then we ask the question, "Does this legislation give stronger sentences and tougher sentences?" You know, there was all the talk about three strikes and you're out, and stronger sentencing, and all that sort of thing, and so you ask that question, and the answer is not exactly. It releases 16,000 convicted drug pushers because it abolishes the mandatory sentences for those drug pushers.

In the racial quota section of it——

Mr. BURTON of Indiana. I would just like to say to my colleague I wish you would restate that because I think the American people really need to know that this bill is going to—it is a crime bill supposedly, and it is going to release 16,000 convicted drug dealers back on the streets, 16,000. That is amazing.

Mr. TAYLOR of North Carolina. By abolishing the mandatory sentence that is now in existence, all of these will have a chance to appeal and will probably be released on time served, and so it is expected that some 16,000 convicted drug pushers will be released, and in the future there will be no mandatory sentences, as there are today, for drug pushers. Now most people do not think of that as strengthening sentencing for crime.

Then, as the bill was originally presented, the racial quota section of it actually abolished capital punishment, if you can believe the National Association of District Attorneys. Their statement was that the racial justice quota system would abolish capital punishment. Now the conference has removed that, and so it is not part of the bill that came before us the other day, but it was in the original bill presented by the President, and most people would not see that as toughening sentencing by abolishing capital punishment.

And then there is the question of the truth-in-sentencing, and everyone wanted to see a situation where the sentences that were given in the States were required to be carried out. In other words, the provision called for 85 percent of the sentence to be served before the individual was eligible for parole.

The bill, as it is now before us, has been watered down substantially. To receive funding local States only have to make progress toward longer sentences. They are not required to see that the convicted felon serves 85 percent of their sentence, as was originally proposed. They only need to see that they make progress in that direction. Here again that is not what most people would think of in getting truth-in-sentencing and in toughening sentencing.

And then finally does the bill give $10.5 billion for prisons as the conference report claims? Well, not exactly. What it gives is $2.2 billion less than that because it is estimated that the conference report for purposes—that is $2.2 billion in the non-trust spending, and this has been referred to on Capitol Hill as funny money, and so the committee has said that it will never be spent, it can only be used as a figure to balloon that figure up to $10.5 billion. So, you are not getting $10.5 billion as the conference report suggests for prisons. You are getting $2.2 billion less than that.

Today's appropriation committee, the Subcommittee on Commerce, Justice and State, appropriated $15.567 billion for crime prevention and the judiciary. That is passed. It does not require the passage of the crime bill for that to be enacted. It puts back to 1992 levels the number of FBI personnel that were recommended to be removed, and even some removed in the last Congress, and it reinstates INS agents. It also puts back DEA agents. It adds substantial conference spending to stop illegal immigration. There is $284 million for illegal immigration initiatives. There is over $130 million to help the States offset some of the costs for jailing illegal aliens. There is $54.5 million, will allow the hiring of hundreds of additional Border Patrol agents and 100 new support personnel.

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There is additional funding for DEA and FBI to 1992 levels. So this Congress is making progress on real crime spending, on real crime control. I think the reason that both Democrats and Republicans killed the rule was because it is being pushed as something that it is not. When the American people ask, did we pass a bill that would be tough on crime, that would provide money for real crime prevention, I think this body wants to say something more than "not exactly."

Mr. BURTON of Indiana. Let me just add a couple of other concerns I had. I was not going to talk about the crime bill, but since my colleague has done such an eloquent job of discussing it, there is a couple of other concerns I had.

Both the House and Senate put provisions in the bill which dealt with sex offenders who would move from one State to another, convicted sex offenders that would rape women or molest children. There was a program that was to be initiated in the legislation which would inform communities through computerization if a person was a convicted section offender, if they applied for jobs in day care centers or in other places where they might have an opportunity to perpetrate those kinds of crimes or atrocities on women or children again

That provision was changed dramatically in the bill to where it really is not going to be able to do the job that we wanted. I think everybody in this country that is conversant with the child molesting that is going on, the rapes that are taking place, and the violent attacks on women, though that this provision was something that was essential and should have been in that bill. They watered it down in conference committee. So when the rule came back, I think many people, myself included, thought that that was something that should have been left in there, and that was one of the reasons why we voted against the rule.

The last thing that concerns many of us is the $9.3 billion, $9,300 million, that they have in there social programs.

Now, midnight basketball might be something that is beneficial in certain communities, and maybe we ought to do something like that. I do not know. But why not vote on that separately, on a straight up and down vote, instead of adding it into this bill as part of a social engineering program?

There is so much money that is being spent, at a time when our deficit is out of control and the national debt continues to rise in a very rapid manner.

So I think that what we should do, there was an article in the paper today talking about bringing these amendments up one at a time and allowing the American people to judge their Congressmen and Congresswomen based on the votes we cast on each one of these provisions. Do we wanted $9.3 billion for these social programs, midnight basketball and everything else? We should be allowed to be accountable for that, instead of having it in a 700-page bill. Do we want provisions in there to make sure every community in the country will know if a convicted child molester or rapist comes in that community and gets a job that might allow him to do it again? There are things that we should be talking about. These are things the American people would like to see us vote on. But we are not getting a chance to. They are bringing it out in a bill that thick that nobody has read. We are going to find out when we go home a lot of things we have not talked about are in that bill. That is doing a disservice to the American people.

We do not need any more omnibus bills, these Christmas-tree bills with everything under the sun in them that we cannot possibly read or understand until 3 or 4 days from the time we get the bill to the time we pass it.

So I agree with my colleague. There are a lot of things wrong with this bill, and I think we should defeat the rule and the bill in its present form. If we make some changes that make it palatable, let us have time to study it before we pass it.

Mr. TAYLOR of North Carolina. I would like to say just briefly, most people did not understand what the vote on the rule meant. The closed rule means that we would not be allowed to make any amendments, as the gentleman has suggested we should be making to this bill. The public would not see any debate, there would be no opportunity for amendment. It would have to be voted on, the entire $33 billion, up or down in one swoop. I think the public wants to see more deliberation by this body. They want to see more individual votes, and have some understanding of each part.

I appreciate the gentleman taking the time to point this out for the public.

Mr. BURTON of Indiana. I agree with you. If there is one thing the American people want, it is accountability. You do not get it in this bill.

CONFERENCE REPORT ON H.R. 4603

Mr. MOLLOHAN submitted the following conference report and statement on the bill (H.R. 4603) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. Rept. 103-708)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 5, 7, 9, 11, 12, 13, 14, 17, 36, 37, 43, 44, 47, 48, 49, 63, 66, 68, 71, 74, 76, 85, 86, 87, 89, 90, 91, 94, 96, 98, 99, 106, 109, 116, 117, 121, 124, 132, 133, 134, 135, 136, 137, 138, 142, 143, 151, and 157.

That the House recede from its disagreement to the amendments of the Senate numbered 8, 10, 18, 26, 30, 32, 39, 40, 42, 51, 54, 56, 69, 78, 79, 81, 83, 102, 103, 104, 113, 114, 120, 122, 128, 130, 146, 148, 149, 153, 156, 160, 161, and 162, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$98,100,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$62,000,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided, That of the funds made available in fiscal year 1995 under chapter A of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended: (a) $2,000,000 shall be available for the District of Columbia Metropolitan Area Drug Enforcement Task Force; (b) not to exceed $500,000 shall be available to make grants or enter contracts to carry out the Denial of Federal Benefits program under the Controlled Substances Act, as amended by the Crime Control Act of 1990 (21 U.S.C. 862); and (c) $500,000 shall be available to carry out the provisions of the Anti Car Theft Act of 1992 (Public Law 102–519), for grants to be used in combating motor vehicle theft, of which $200,000 shall be available pursuant to subtitle B of title I of said Act, and of which $300,000 shall be available pursuant to section 306 of title III of said Act: Provided further, That funds made available in fiscal year 1995 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles*

, and

on page 3 line 10 through and including line 12 of the House engrossed bill, H.R. 4603, strike "; (c) $6,000,000 shall be available for implementation of the Federal Bureau of Investigation's National Instant Background Check System"; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment

, and

strike all on page 4, line 10 of the House engrossed bill, H.R. 4603, and all that follows down through and including line 6 on page 5; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$120,185,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment, and delete the matter inserted by said amendment

, and

strike all on page 8, line 5 and all that follows down to and including line 10 of the House engrossed bill, H.R. 4603; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$417,202,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment

, and

strike all on page 11, line 9 and all that follows done to and including line 14 of the House engrossed bill, H.R. 4603; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$80,655,000: Provided, That notwithstanding any other provision of law, not to exceed $39,640,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reducd as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $41,015,000: Provided further, That any fees received in excess of $39,640,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995;* and the Senate agree to same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agreed to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$829,723,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *In addition, for all reasonable and necessary expenses to implement the Attorney General's Violent Crime Task Force Initiatives in the United States Attorney Offices, $15,000,000, to remain available until expended, including the reasonable and necessary expenses of intergovernmental, interlocal, cooperative and task force agreements, however denominated, and contracts with State and local prosecutive and law enforcement agencies engaged in the investigation and prosecution of crimes of violence and drug trafficking crimes.*

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$103,190,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), of which $62,593,000 shall be derived from the United States Trustee System Fund: Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, not to exceed $40,597,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended by section 111 of Public Law 102–140 (105 Stat. 795), shall be retained and used for necessary expenses in this appropriation: Provided further, That the $103,190,000 herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $62,593,000: Provided further, That any of the aforementioned fees collected in excess of $40,597,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$396,847,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$374,943,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,206,871,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$757,204,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,102,671,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and delete the matter inserted by said amendment , and strike all on page 22, line 12 and all that follows down to and including line 22 of the House engrossed bill, H.R. 4603; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$50,000,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$75,000,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$280,000,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 110. Paragraph 524(c)(9) of title 28, United States Code, is amended by adding subparagraph (E), as follows:

"(E) Subject to the notification procedures contained in section 605 of Public Law 103–121, and after satisfying the transfer requirement in subparagraph (B) above, any excess unobligated balance remaining in the Fund on September 30, 1994 shall be available to the Attorney General, without fiscal year limitation, for any federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.".

And the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 112. Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended by striking "1994" and inserting "1955".

SEC. 113. Notwithstanding any other provision of law—

(a) No transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code.

(b) No appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

And the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert the following: *SEC. 114.*

And insert the following:

SEC. 115.

(a) IN GENERAL.—Except as provided in subsection (c), an individual described in subsection (b) may be appointed noncompetitively, under a career or career-conditional appointment, to a position in the competitive service if—

(1) the individual meets the qualification requirements prescribed by the Office of Personnel Management for the position to which appointed;

(2) the last previous Federal employment of the individual was as an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(3) the individual is appointed to such position within two years after separating from the Criminal Justice Information Services Division.

(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

(1) on the date of the enactment of this Act—

(A) is an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) is serving in an appointed position (i) to be relocated from Washington, District of Columbia, to Clarksburg, West Virginia, and (ii) that is excepted by law or regulation from the competitive service; and

(2) has not relocated with his or her position in the Criminal Justice Information Services Division to Clarksburg, West Virginia.

(c) APPLICATION.—This section does not apply to an individual serving on the date of the enactment of this Act in an appointed position on a temporary or term basis.

(d) This section may be cited as the "Criminal Justice Information Services Placement Assistance Act".

And the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,000,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$233,000,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum "$166,832,000" insert: *$185,232,000* and in lieu of the sum "$50,432,000" insert: *$68,832,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$94,428,000: Provided, That notwithstanding any other provision of law, not to exceed $39,640,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $54,788,000: Provided further, That any fees received in excess of $39,640,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: Provided further, That section 605 of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$25,000" and inserting in lieu thereof "$45,000"*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum "$900,000" named in said amendment, insert: *$74,856,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$265,000,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and in lieu of the sum "$554,000,000" insert: *$525,000,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,835,000,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

Restore the matter stricken of said amendment, amended to read as follows: *That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, in addition to fees currently being assessed and collected, additional fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering marine sanctuary and aeronautical charting programs: Provided further, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1995, so as to result in a final general fund appropriation estimated at not more than $1,829,000,000: Provided further, That any such additional fees received in excess of $6,000,000 in fiscal year 1995 shall not be available for obligation until October 1,* *1995: Provided further*,; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided further, That hereafter all receipts received from the sale of aeronautical charts that result from an increase in the price of individual charts above the level in effect for such charts on September 30, 1993, shall be deposited in this account as an offsetting collection and shall be available for obligation: Provided further, That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $500,000, and any grant made in fiscal year 1995 to a State which did not receive funding under this program in fiscal year 1994 shall not exceed $800,000: Provided further, That of the total amount appropriated in this paragraph, $16,000,000 shall be available for the integrated program office for convergence of civilian and military polar-orbiting meteorological satellites*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$97,600,000; of which $2,500,000 is for a grant to the City of Kansas City, Missouri, for development of a weather and environmental center; and of which the following amounts shall be available to carry out continuing construction activities: $3,500,000 for a grant for construction of a Multispecies Aquaculture Center in the State of New Jersey; $1,000,000 for a grant to the Mystic Seaport, Mystic, Connecticut, for a maritime education center; $5,200,000 for a grant to the Center for Interdisciplinary Research and Education in Indiana; and $2,000,000 for a grant for the construction of the Massachusetts Biotechnology Research Institute in Boston; and all sums in this paragraph are*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: Provided, That none of the funds made available under this heading may be used to guarantee loans for the purchase of any new or existing fishing vessel.

And the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert *$136,000,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$266,450,000, to remain available until expended; of which $930,000 is for a grant to the Michigan Biotechnology Institute; $1,000,000 is for a grant to the Emerging Technologies Institute in Sacramento, California; $1,700,000 is for a grant to the Massachusetts Biotechnology Research Institute; $1,200,000 is for a grant to the Center for Global Competitiveness in Loretto, Pennsylvania; and $3,400,000 is for a grant to the Textile Clothing Technology Center*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$43,900,000, of which $31,872,000 shall remain available until expended: Provided, That $600,000 is available only for a grant for the NTTC to implement a Minority Apprenticeship Program in Technology Management; $100,000 is available only for a grant for a Minority Economic Opportunity Center in Cleveland, Ohio; and $200,000 is available only for a grant for the U.S.-Africa Trade and Technology Center in Savannah, Georgia*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$16,407,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$83,000,000, to remain available until expended, of which $6,000,000 is available only for the acquisition of high performance computing capability: Provided, That of the offsetting collections credited to this account, $2,195,000 are permanently canceled: Provided further, That the funds made available under this heading are*

, and

on page 48, line 23 of the House engrossed bill, H.R. 4603, strike "to remain available until expended,"; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum "$12,000,000" insert: *$8,000,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$29,000,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert *$64,000,000*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *and for trade adjustment assistance, $408,024,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$24,240,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,340,127,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$59,346,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$47,500,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$8,800,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$76,100,000*

, and

on page 63, line 4 of the House engrossed bill, H.R. 4603, after "priated." insert the following:

Of the budgetary resources available to the Maritime Administration of the Department of Transportation during fiscal year 1995, $360,000 are permanently canceled. The Secretary of Transportation shall allocate the amount of budgetary resources canceled among the Department's Maritime Administration accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. for the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

And the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$150,000,000*; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$258,175,000 of which $15,000,000 shall be available to implement section 24 of the Small Business Act, as amended, including $500,000 to be made available only to the City of Buffalo, New York: Provided, That section 24(e) of the Small Business Act (15 U.S.C. 651(e)) is amended by striking "fiscal years 1992 through 1994" and inserting in lieu thereof "fiscal years 1995 through 1997"; Provided further, That section 112(c)(2) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended by striking "October 1, 1994" and inserting "October 1, 1997"*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$77,375,000*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed in said amendment, insert: *$3,375,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$9,596,000*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$278,305,000 as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee program, and of which the following shall remain available until September 30, 1996: $15,990,000 for the Small Business Investment Company Debentures Program; $7,398,000 for the Specialized Small Business Investment Company Program; and $20,457,000 for the Small Business Investment Company Participating Securities Program, and of which $30,000,000 shall be used to pre-pay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act: Provided, that such costs, including the cost of modifying such loans, shall be as defined in section 602 of the Congressional Budget Act of 1974. In addition, for expenses not otherwise provided for, of the Small Business Administration, $27,350,000 of which: $750,000 shall be available for a grant to the North Carolina Biotechnology Center for a demonstration project which would integrate small business formation and preparation of a biotechnology workforce; $500,000 shall be available for continuation of a grant to the Van Emmons Population marketing Analysis Center, Towanda, Pennsylvania, for an integrated small business data base to assist Appalachian Region small businesses; $1,000,000 shall be available for continuation of a grant to the City of Prestonsburg, Kentucky, for small business development assistance; $375,000 shall be available for a grant to the State of Nebraska for establishing the Nebraska Micro Enterprise Initiative to include a clearinghouse and training and counseling programs; $3,000,000 shall be available for continuation of a grant to the National Center for Genome Resources in New Mexico to provide consulting assistance, information and related services to small businesses and for related purposes; $1,000,000 shall be available for continuation of a grant for the Genesis Small Business Incubator Facility, Fayetteville, Arkansas; $500,000 shall be available for a grant to an entity in Bozeman, Montana, to establish a small business assistance center to assist small businesses to qualify and participate in the Small Business Innovation Research (SBIR) program; $1,000,000 shall be available for continuation of a grant to Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for a small business consulting and assistance center for entrepreneurial opportunities; $1,500,000 for a grant to a consortium in Buffalo, New York, to provide assistance to small businesses for technical improvement of commercial industrial products; $250,000 shall be available for a grant to the Western Massachusetts Enterprise Fund to expand microlending to entrepreneurs and small businesses; $400,000 shall be available for continuation of a grant to the State of Ohio, Department of Development, International Trade Division to assist small businesses to expand export opportunities; $1,000,000 shall be available for continuation of a grant to assist the development of a small business consulting, information and assistance center in hazard, Kentucky; $2,000,000 shall be available for continuation of a grant to the WVHTC Foundation for buildout, equipment, and operations costs for a small business incubator facility and for an outreach grant program to assist small business economic development; $125,000 shall be available for a grant to an organization in Bowling Green, Kentucky, to establish a small business pilot program to convert municipal waste into a marketable product; $2,500,000 shall be available for a grant to the City of Carbondale, Pennsylvania, to establish and operate a small business incubator facility; $500,000 shall be available for continuation of a grant to the New York City Public Library for construction and related costs for the Industry and Business Library; $200,000 shall be available for continuation of a grant to assist the Small Business Institute program of the Small Business Administration to establish and operate a National Data Center Small Business Institute program in Conway, Arkansas; $4,000,000 shall be available for a grant to the Unified Technology Center in Cleveland, Ohio, the assist small businesses in the design of high quality environmentally sound processes; $1,250,000 shall be available for a grant to the City of Whitesburg, Kentucky, to develop and equip a facility to promote the development of small businesses and enhance economic development; $2,500,000 shall be available for a grant to the City of Wheeling, West Virginia, for the Oglebay Small Business Rural Development Center; $1,000,000 shall be available for a grant for a Small Business Development Institute in North Philadelphia, Pennsylvania, for a facility to assist and train minority small businesses; $250,000 shall be available for continuation of a grant to the City of Espanola, New Mexico, for the second phase of the development of the Espanola Plaza project to assist small businesses and enhance economic development; $1,000,000 shall be available for a grant to North Central West Virginia Community Action to establish a small business rural enterprise training interstate and microloan demonstration program; $500,000 shall be available for a grant to the Mississippi Delta Small Business Technology Project, Little Rock, Arkansas for technology education for small business owners and employees; and $250,000 shall be available for a grant to establish a small business incubator facility in West Charlotte, North Carolina*

, and

on page 68, line 5 of the House engrossed bill, H.R. 4603, strike ", as authorized by" and all that follows through "note" on line 6, page 68.

And the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

Delete the matter proposed by said amendment

, and

on page 68, line 6 of the House engrossed bill, H.R. 4603, strike "of which $30,000,000 shall be used" and all that follows down to and including the period on line 12, page 68.

And the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *SEC. 402*.

And the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$1,731,416,000*

; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *: Provided, That hereafter all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended: Provided further, That hereafter all receipts received from an increase in the charge for Immigrant Visas in effect on September 30, 1994, caused by processing an applicant's fingerprints, shall be deposited in this account as an offsetting collection and shall remain available until expended. Of the funds appropriated under this heading: not to exceed $4,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation and environmental and other scientific issues; not to exceed $600,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and not to exceed $300,000 shall be available to carry out activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated under this heading shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236.*

Of the funds provided under this heading, $28,356,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and $15,000,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service (DTS), except that such latter amount shall not be available for obligation until the expiration of the 15-day beginning on the date on which the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit the DTS planning report required by section 507; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *not to exceed $117,864,000*; and the Senate agree to the same.

Amendment numbered 125::

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$877,222,000, of which not to exceed $4,000,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

After the word "taken" in said amendment, insert: *, and anticipated,*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$533,304,000, of which not to exceed $288,000,000 is available to pay arrearages accumulated in fiscal year 1994 and not to exceed $23,092,000 is available to pay other outstanding arrearages: Provided, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for the United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: *$6,644,000*

, and

on page 82, line 11 of the House engrossed bill, H.R. 4603, strike "$15,000,000" and insert in lieu thereof *$10,000,000*.

And the Senate agreed to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In subsection (c) of said amendment, after "1994" insert the following: *and shall cease to have effect on October 1, 1997*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 507.(a) DIPLOMATIC TELECOMMUNICATIONS SERVICE FINANCIAL MANAGEMENT.—In fiscal year 1995 and each succeeding fiscal year—

(1) the Secretary of State shall provide funds for the operation of the Diplomatic Telecommunications Service (DTS) in a sufficient amount to sustain the current level of support services being provided by the DTS, and no portion of such amount may be reprogrammed or transferred for any other purpose;

(2) all funds for the operation and enhancement of the DTS shall be directly available for use by the Diplomatic Telecommunications Service Program Office (DTS-PO); and

(3) the DTS-PO financial management officer shall be provided direct access to the Department of State financial management system to independently monitor and control the obligation and expenditure of all funds for the operation and enhancement of the DTS.

(b) DTS POLICY BOARD.—Within 60 days after the date of the enactment of this Act, the Secretary of State and the Director of the DTS-PO shall restructure the DTS Policy Board to provide for representation on the Board, during fiscal year 1995 and each succeeding fiscal year, by—

(1) the Director of the DTS-PO;

(2) the senior information management official from each agency currently serving on the Board;

(3) a senior career information management official from each of the Department of Commerce, the United States Information Agency, and the Defense Intelligence Agency; and

(4) a senior career information management official from each of 2 other Federal agencies served by the DTS, each of whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS-PO for a 2-year term.

(c) DTS CONSOLIDATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of State and the Director of the DTS-PO shall carry out a program under which total DTS consolidation will be completed before October 1, 1995, at not less than five embassies of medium to large size.

(2) PILOT PROGRAM REQUIREMENTS.—Under the program required in paragraph (1)—

(A) each participating embassy shall be provided with a full range of integrated information services, including message, data, and voice, without additional charge;

(B) a combined transmission facility shall be established and jointly operated, with open access to all unclassified transmission equipment;

(C) an unclassified packet switch communication system shall be installed and shall serve all foreign affairs agencies associated with the embassy;

(D) separate classified transmission systems (including MERCURY) shall be terminated; and

(E) all foreign affairs agency systems requiring international communications capability shall obtain such capability solely through the DTS.

(3) PILOT PROGRAM REPORT.—Not later than January 15, 1996, the Secretary of State and the Director of the DTS-PO shall submit to the Committees on Appropriations of the House and Senate a report describing the actions taken under the program required by this subsection. The report shall include a cost-benefit analysis for each embassy participating in the program.

(d) DTS PLANNING REPORT.—Not later than January 15, 1995, the Secretary of State and the Director of the DTS-PO shall submit to the Committees on Appropriations a DTS planning report. The report shall include—

(1) a detailed plan for carrying out the pilot program required by subsection (c), including an estimate of the funds required for such purpose; and

(2) a comprehensive DTS strategy plan that contains detailed plans and schedules for—

(A) an overall DTS network configuration and security strategy;

(B) transition of the existing dedicated circuits and classified transmission systems to the unclassified packet switch communications system;

(C) provision of a basic level of voice service for all DTS customers;

(D) funding of new initiatives and of replacement of current systems;

(E) combining existing DTS network control centers, relay facilities, and overseas operations; and

(F) reducing the extensive reliance of DTS-PO on the full-time services of contractors.

And the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: *of which not less than $9,500,000 is available until expended only for activities related to the implementation of the Chemical Weapons Convention, and*; and the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

In lieu of the sum provides by said amendment, insert: *$42,500,000;* and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$238,279,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$500,000 is available for the Mike Mansfield Fellowship Program*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$468,796,000*

, and

on page 89, line 26 of the House engrossed bill, H.R. 4603 strike "$239,735,000" and insert in lieu thereof *$229,735,000*.

And the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That funds appropriated under this Act used by the Board of International Broadcasting or the Broadcasting Board of Governors to relocate offices or operations of RFE/RL, Incorporated, from Munich, Germany, to Prague, Czech Republic, shall be made available only from funds provided for the Board for International Broadcasting in this paragraph: Provided further, That none of the funds provided by this Act for the United States Information Agency, except for amounts made available for transfer to the Board for International Broadcasting, shall be available for any excess cost to implement the plan required by Sec. 310 of Public Law 103-236: Provided further, That no funds appropriated under this heading may be expended for the payment of retroactive operating costs, including rent on facilities, in Prague, or for the payment of operating costs prior to the date of signing a lease by RFE/RL, Incorporated: Provided further, That not less than the amount appropriated by this Act for the Office of Inspector General, Board for International Broadcasting shall be available for* *semiannual reviews of RFE/RL, Incorporated and that on-site review is maintained at the current level throughout the duration of the relocation transition*; and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

RADIO FREE ASIA

For expenses necessary to carry out the Radio Free Asia program as authorized by section 309 of the International Broadcasting Act of 1994 (title III of the Foreign Relations Authorization Act of 1994, Public Law 103–236), $10,000,000, to remain available until expended.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) and the International Broadcasting Act of 1994 (title III of the Foreign Relations Authorization Act of 1994, Public Law 103–236), including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert: *$4,000,000*; and the Senate agree to the same.

Amendment numbered 155:

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$34,000,000*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *SEC. 609*.

And the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the heading, "Sec. 611. Religious Liberty." in said amendment, insert: *SEC. 610*.

, and

in subsection (b)(1) after "guidelines", insert: *at this time*; and the Senate agreed to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert:

TITLE VIII—DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance to carry out the provisions of subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Acts of 1968, as amended, notwithstanding the provisions of section 511 of said Act, $450,000,000, to remain available until expended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program.

STATE CRIMINAL RECORDS UPGRADE

For grants, contracts, cooperative agreements, and other assistance authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, Public Law 103–159 (107 Stat. 1536), $100,000,000, to remain available until expended, of which up to $6,000,000 may be used for implementation of the Federal Bureau of Investigation's National Instant Background Check System: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

STATE CORRECTIONAL GRANTS

For grants to States to develop, construct, or expand military style boot camp prison programs which include coordinated, intensive aftercare services for inmates following release, $24,500,000, to remain available until expended: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

DRUG COURTS

For grants, contracts, cooperative agreements, and other assistance to implement drug court programs which combine intensive probationary supervision and mandatory drug testing and treatment as an alternative punishment for young, non-violent drug offenders, $29,000,000, to remain available until expended: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

For grants, contracts, cooperative agreements, and other assistance to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving crimes against women, $26,000,000, to remain available until expended: Provided, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

OUNCE OF PREVENTION COUNCIL

For grants by the Ounce of Prevention Council, $1,500,000, to remain available until expended.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

For necessary expenses, as authorized by section 501 of the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1365), $130,000,000, to remain available until expended: Provided, That the Attorney General shall promulgate regulations to (a) prescribe requirements for program participation eligibility for States, (b) require verification by States of the eligible incarcerated population data with the Immigration and Naturalization Service, (c) prescribe a formula for distributing assistance to eligible States, and (d) award assistance to eligible State: Provided further, That of the amount appropriated herein, one-third shall be distributed on a preliminary basis no later than 120 days after the beginning of the fiscal year, according to regulations promulgated by the Attorney General: Provided further, That the remaining two-thirds of the amount appropriated herein shall be distributed after final application for program participation to be submitted by the States by September 30, 1995: Provided further, That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

In addition to amounts otherwise made available in this Act, for necessary expenses of the Executive Office for Immigration Review associated with the President's Immigration Initiative, $17,400,000, of which not to exceed $6,000,000 shall remain available until expended.

COMMUNITY POLICING

For grants, contracts, cooperative agreements, and other assistance for the Cops on the Beat Program, $1,300,000,000 to remain available until expended, of which $200,000,000 shall be available to the Bureau of Justice Assistance to make awards to jurisdictions pursuant to the police hiring grant program provided in the supplemental appropriation for Justice Assistance contained in the Supplemental Appropriations Act of 1993 (Public Law 103–50, 107 Stat. 246): Provided, That not to exceed $11,000,000 of the amount appropriated herein shall be available for salaries and expenses for program administration, of which $900,000 shall be transferred to and merged with the management and administration program of the Justice Assistance appropriation.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

In addition to amounts otherwise made available in this Act for "Salaries and Expenses, General Legal Activities", $4,600,000 for necessary expenses of the Civil Division associated with the President's Immigration Initiative, of which not to exceed $1,500,000 shall remain available until expended.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

In addition to amounts otherwise made available in this Act for "Salaries and Expenses, United States Attorneys", $6,800,000 for necessary expenses associated with the President's Immigration Initiative, of which not to exceed $2,000,000 shall remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

In addition to amounts otherwise made available under this heading in this Act for "Salaries and Expenses", $100,600,000 to implement the President's Immigration Initiative, of which not to exceed $32,000,000 shall remain available until expended.

BORDER CONTROL SYSTEM MODERNIZATION

For the development, testing, evaluation and procurement of new automation and communications systems and other new technologies necessary for the administration and enforcement of the laws relating to immigration, naturalization and alien registration, not otherwise provided for, $154,600,000, to remain available until expended.

GENERAL PROVISION

Upon enactment of a bill establishing the Violent Crime Reduction Trust Fund and reducing *discretionary spending limits, amounts made available under each heading under this title shall be rescinded, and an amount equal to the amount under each such heading shall be made available from such Trust Fund under the same terms and conditions contained in this title. Obligations and outlays incurred prior to the establishment of such Trust Fund shall, after enactment, be recorded against amounts made available from the Trust Fund under the appropriate heading as if such obligations and outlays had originally been made from such Trust Fund.*

This title may be cited as the "Violent Crime Control Appropriations Act, 1995".

And the Senate agree to the same.

Alan B. Mollohan,
Neal Smith,
Bob Carr,
James P. Moran,
David E. Skaggs,
David E. Price,
David R. Obey,
Harold Rogers,
Jim Kolbe,
Charles H. Taylor,
Joseph M. McDade,
Managers on the Part of the House.

Ernest F. Hollings,
Daniel K. Inouye,
Dale Bumpers,
Frank R. Lautenberg,
Jim Sasser,
Bob Kerrey,
Robert C. Byrd,
Pete V. Domenici,
Ted Stevens,
Mark O. Hatfield,
Phil Gramm,
Mitch McConnell,
Thad Cochran,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement by the House and Senate in explanation of the effect of the action by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

The conference agreement provides a total of $315,350,000 from the General Fund of the Treasury for the programs administered by the Office of Justice Programs. The conference agreement also appropriates $2,066,000,000 in Title VIII for new grant programs authorized under the Crime Bill which are to be administered by the Office of Justice Programs. The disposition of each amendment under this heading and a detailed description of the agreement for each program follows—

JUSTICE ASSISTANCE

Amendment No. 1: Appropriates $98,100,000 instead of $96,600,000 as proposed by the Senate and $94,100,000 as proposed by the House for the following programs:

[In thousands of dollars]

	Fiscal year—				
	1994 enacted	1995 request	1995 House	1995 Senate	1995 conference
National Institute of Justice	22,500	22,995	23,000	25,500	27,000
SECURES Pilot Program	....	....	(500)	....	(500)
Defense/law enforcement technology transfer	....	....	....	(3,000)	(4,500)
Bureau of Justice Statistics	20,943	21,373	21,379	21,379	21,379
Emergency Assistance	....	....	....	....	....
Missing Children	6,621	6,621	6,721	6,721	6,721
Safe Return Program	(650)	(650)	(750)	(750)	(750)
Regional Information Sharing System	14,491	....	14,500	14,500	14,500
White Collar Crime Information Center	(850)	....	(850)	(850)	1,400
Management and Administration	25,550	28,586	28,500	28,500	27,100
Total	90,105	79,575	94,100	96,600	98,100

Defense/Law Enforcement Technology Transfer.—The conferees support the efforts of the Departments of Justice and Defense to identify defense and other advanced technologies for law enforcement purposes. To this end, the conference agreement provides $5,000,000 to assist the National Institute of Justice (NIJ) in its efforts to adopt technologies for law enforcement purposes. Within this amount, $3,000,000 is provided to establish a law enforcement technology information network in conjunction with the Regional Information Sharing System as discussed in the Senate report, $1,500,000 is provided for a technology commercialization initiative, and $500,000 to test the SECURES program in an operational environment as disccussed in the House report.

National White Collar Crime Center.—The conference agreement provides a total of $1,400,000 for the National White Collar Crime Center (NWCCC) for fiscal year 1995. This program, which was funded in previous years under the Regional Information Sharing System, provides assistance to State and local law enforcement and regulatory agencies in addressing multi-jurisdictional white collar crimes. Of the amount provided, $850,000 is for the ongoing operations of the NWCCC, and $550,000 is to allow for the establishment of an expanded research and training capability for the NWCCC in order to enhance the efforts of State and local criminal investigators and prosecutors against white collar crime.

Management and Administration.—The conference agreement provides for a total of $35,910,000 to manage and administer the programs of the Office of Justice Programs (OJP). The conference agreement for the various new grant programs to be administered by the OJP provides authority for the transfer of funds for such expenses. The agreement assumes that the OJP will be allowed to fill an additional 72 positions to administer these new grant programs, above the 365 positions requested for ongoing program administration. Funding for management and administration is derived as follows:

Program	Amount	Positions
Direct appropriation	$27,100,000	285
Transfer from juvenile justice programs	4,800,000	80
Transfer from community policying	900,000,000	20
Transfer from other new grant programs	3,110,000	52

Amendment No. 2: Deletes the Sense of the Senate provision concerning research on the crime of stalking. The conferees agree that the Department should make every effort to assist State and local agencies in their efforts to protect victims of stalking crimes.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS

Amendment No. 3: Appropriates $62,000,000 for discretionary law enforcement assistance grants instead of $68,500,000 as proposed by the House and $68,000,000 as proposed by the Senate.

Amendment No. 4: The conference agreement restores language designating $2,000,000 for the D.C. Metropolitan Area Drug Enforcement Task Force and $500,000 for the Denial of Federal Benefits program from the amounts provided for discretionary law enforcement assistance grants as proposed by the House and stricken by the Senate. The agreement also deletes a separate appropriation of $500,000 for the Anti Car Theft Act included in the House bill and stricken by the Senate, and instead designates $500,000 from within discretionary grants for this purpose. The agreement also includes language proposed by the Senate and not in the House bill concerning programs for the prosecution of driving while intoxicated charges. Last, the agreement deletes an appropriation of $6,000,000 for the FBI's National Instant Background Check System included in both the House and Sente bills because these expenses are funded under the Upgrade Criminal History Records appropriation in Title VIII.

Byrne Discretionary Grants.—The conference agreement provides for the full $50,000,000 authorized for the Edward Byrne Memorial Discretionary Grant Program, to include:

(A) $3,000,000 for the National Crime Prevention Council to continue and expand the National Citizens Crime Prevention Campaign (McGruff).

(B) $1,750,000 for a grant to DARE America to continue and expand the Drug Abuse Resistance Education program.

(C) $4,350,000 for a continuation grant to the Boys and Girls Clubs of America.

(D) $1,000,000 for Criminal Information Systems for a continuation grant to the SEARCH Group, Inc.

(E) $2,000,000 for a grant to continue the activities of the District of Columbia Metropolitan Area Drug Enforcement Task Force.

(F) $200,000 for a grant to develop automated speech storage and retrieval software for incident reports as described in the Senate report.

(G) $500,000 for Anti Car Theft Act grants.

The conferees are aware of a number of other projects which will enhance State and local law enforcement. Within the overall amounts provided in the conference agreement for discretionary grants administered by the Bureau of Justice Assistance (BJA), the conferees expect the BJA to examine the following proposals, provide grants if warranted, and report its intentions to the Committees on Appropriations of the House and Senate:

The projects described on pages 15 and 16 of House Report 103-552, and the following additional projects—

A continuation grant for the Organized Crime Narcotics (OCN) program.

A continuation grant for the Financial Investigations (FINVEST) program.

A continuation grant for the National Crime Prevention Council's drug abuse prevention programs in schools and communities.

A continuation grant for the National Association of Town Watch.

A grant to continue and expand the successful technical assistance provided by the Institute for Intergovernmental Research to the Interagency Criminal Alien Program.

A grant to the National Judicial College to provide drug legal education and training to State and local trial judges.

A grant to a statewide court system in a small jurisdiction to develop a cost-effective court delay reduction program through the increased use of magistrates and other judicial personnel.

A grant to an early intervention counseling program in Buffalo, NY, which works with the courts to assist young men and women between the ages of 16 to 21 charged with their first criminal offenses and who are at risk of stigmatization and recidivism.

A grant to study the effects of police officers bill of rights legislation, to be conducted in conjunction with an organization representing rank and file police officers.

BYRNE FORMULA GRANT PROGRAM

Amendment Nos. 5 and 6: The conference agreement for amendment numbers 5 and 6 deletes the entire paragraph appropriating funds for the Byrne Formula Grant program. The House bill provides $804,280,000 for an expanded Byrne Program, while the Senate bill provides $423,000,000 for the traditional Byrne program. The agreement provides $450,000,000 for the traditional Byrne program in title VIII of the bill under amendment number 163.

Amendment No. 7: Deletes the Sense of the Senate provision concerning use of Byrne Discretionary Grants for a grant to the National Victim Center. The conferees agree that the Department of Justice has authority to examine such a grant proposal and encourage the Department to give every consideration to such a proposal.

JUVENILE JUSTICE PROGRAMS

Amendment No. 8: Appropriates $144,000,000 for the Juvenile Justice and Delinquency Prevention (JJDP) Program and designates amounts for specific JJDP programs as proposed by the Senate amendment, instead of $146,500,000 and the designations proposed by the House.

Amendment No. 9: Appropriates $11,250,000 for programs authorized under the Victims of Child Abuse (VOCA) Act and designates amounts for specific VOCA programs as proposed by the House, instead of $9,750,000 and the designations proposed by the Senate.

The following chart compares the conference agreement to the amounts contained in the House and Senate bills for Juvenile Justice Programs for fiscal year 1995:

[In thousands of dollars]

Program/Activity	Fiscal year—				
	1994 enacted	1995 request	1995 House	1995 Senate	1995 conference
JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT					
Title II: Part A—Management & Admin	4,250	5,000	5,000	5,000	5,000
Part B—Formula Grants	58,310	68,600	68,600	68,600	70,000
Part C—Discretionary Grants	22,440	26,400	26,400	26,400	25,000
Subtotal	85,000	100,000	100,000	100,000	100,000
Part D—Youth Gangs	5.000	12,000	7,500	10,000	10,000
Part E—State Challenge		15,000	15,000	10,000	10,000
Part G—Juvenile Mentoring	4,000		4,000	4,000	4,000
Title V: Delinquency Prevention Grants	13,000	25,000	20,000	20,000	20,000
Total—JJDP programs	107,000	152,000	146,500	144,000	144,000
VICTIMS OF CHILD ABUSE ACT					
Subtitle A—Improve Investigation/Prosecution:					
Regional Advocacy Centers	500	500	500	500	500
Local Advocacy Centers	1,000	1,000	2,000	1,000	2,000
@Nat'l Center for Prosecution of Child Abuse	1,500	1,500	1,500	1,500	1,500
Nat'l Network for Child Advocacy Centers	(500)		500		500
Subtitle B—Court Appoint Special Advocates:					
Training/Technical Assistance	1,000	1,000	1,000	1,000	1,000
Expand local programs	3,500	3,500	5,000	5,000	5,000
Subtitle C—Child Abuse Training/Tech Ass't	500	500	750	750	750
Total—Victims of Child Abuse Act	8,000	8,000	11,250	9,750	11,250
Total, Juvenile Justice Programs	115,000	160,000	157,750	153,750	155,250

JJDP Discretionary Grants.—The conference agreement provides $25,000,000 for discretionary grants authorized under Part C of the JJDP Act, to include the following programs as described in both the House and Senate reports:

$600,000 for State Advisory Groups (SAGs);

$100,000 for the SAG Information Center;

$3,500,000 for the National, Coordinated Law Related Education (LRE) programs;

$2,300,000 to the National Council of Juvenile and Family Court Judges;

$1,000,000 to the Teens, Crime and the Community Program;

$500,000 for grants as described on page 20 of Senate Report 103-309, as follows: (a) to support a model multi-disciplinary crisis intervention program for child victims and their families, and (b) to study violence committed by and against juveniles in rural communities in the South.

The conferees are aware of a number of other projects which will enhance State and local law enforcement. Within the overall amounts provided in the conference agreement for Juvenile Justice and Delinquency Prevention discretionary grants, the conferees expect the Department to examine each of the following proposals and to provide grants if warranted, and to submit a report to the Committees on Appropriations on its intentions for each proposal:

The projects described on pages 18 and 19 of House Report 103-552, the projects described on page 20 of Senate Report 103-309, and the following additional projects—

A grant to the Henry Ford Health System to develop a model program of adolescent violence intervention and acute crisis intervention through school-based programs and other community advocacy initiatives.

A grant to the North Omaha Bears project described on page 19 of Senate Report 103-309.

COMMUNITY POLICING

Amendment No. 10: Deletes the appropriation for Community Policing proposed by the House and stricken by the Senate. Funding for this program is contained in title VIII of the bill.

NEW GRANT PROGRAMS

Amendment Nos. 11-14: Deletes the appropriations for State Correctional Grants, Drug Courts, Grants to Combat Violent Crimes Against Women, Community Schools Supervision Grants, and the Ounce of Prevention Council proposed by the Senate. There was no provision for these programs in the House bill. Funding for these programs is addressed in title VIII of the bill.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 15: Appropriates $120,185,000 for General Administration instead of $119,904,000 as proposed by the House and $121,267,000 as proposed by the Senate. The agreement provides for the following: (1) requested adjustments to base; (2) requested reductions for locality pay absorption, FTE reductions, and administrative savings; and (3) the requested increase of $281,000 for the Pardon Attorney. In addition, $17,400,000 is provided for this account in title VIII of the bill for the Executive Office for Immigration Review as part of the President's Immigration Initiative.

Amendment No. 16: The conference agreement deletes the entire paragraph appropriating funds for the Executive Office for Immigration Review associated with the

President's Immigration Initiative as proposed in both the House and Senate bills. Funding for this program is addressed in title VIII of the bill.

COMMUNITY POLICING

Amendment No. 17: Deletes language proposed by the Senate which would provide an appropriation for Community Policing. The House included no such provision. Funding for this program is addressed in title VIII of the bill.

WEED AND SEED PROGRAM FUND

Amendment No. 18: Appropriates $13,456,000 for the Weed and Seed Program as proposed by the Senate instead of $13,150,000 as proposed by the House. The conferees agree with the program direction provided in the Senate report concerning continuation of grant awards, expansion of the Weed and Seed strategy, and selection of additional neighborhoods.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

Amendment No. 19: Appropriates $417,202,000 for General Legal Activities, instead of $411,786,000 as proposed by the House and $428,664,000 as proposed by the Senate. In addition, $4,600,000 is provided for this account in title VIII of the bill for the Civil Division as part of the President's Immigration Initiative.

The conference agreement provides for the following: (1) requested adjustments to base; (2) requested reductions for locality pay absorption, FTE reductions (except for $2,206,000 for the Criminal Division), and administrative savings; and (3) program enhancements of $4,710,000, as follows—

Environment and Natural Resources Division	$3,138,000
Office of Legal Counsel	72,000
Immigration-related employer/employee education	1,500,000

Amendment No. 20: The conference agreement deletes the entire paragraph appropriating funds for the Civil Division associated with the President's Immigration Initiative as proposed in both the House and Senate bills. Funding for this program is addressed in title VIII of the bill.

SALARIES AND EXPENSES, ANTITRUST DIVISION

Amendment No. 21: Appropriates $80,655,000, instead of $85,155,000 as proposed by the Senate and $75,655,000 as proposed by the House. Provides for collection of $39,640,000 in offsetting fee collections in fiscal year 1995, instead of $33,460,000 as proposed by the Senate, and $35,460,000 as proposed by the House. Provides for a final (net) appropriation of $41,015,000 instead of $51,695,000 as proposed by the Senate and $40,195,000 as proposed by the House. Provides that any fee collections in excess of $39,640,000, instead of $35,460,000 as proposed by the House and $33,460,000 as proposed by the Senate, be available in fiscal year 1996.

The conference agreement assumes total budget (obligational) authority of $85,155,000 for the Antitrust Division for fiscal year 1995, of which $4,500,000 is derived from prior year unobligated balances. The agreement provides for the following: (1) requested adjustments to base; (2) restoration of requested FTE reductions associated with locality pay absorption; (3) a $227,000 reduction in GSA rent; and (4) a program increase of $16,533,000 and an estimated 100 positions for enhanced enforcement activities.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amendment No. 22: Appropriates $829,723,000 for the United States Attorneys instead of $820,177,000 as proposed by the House and $832,723,000 as proposed by the Senate. In addition, $6,800,000 is provided for this account in title VIII of the bill as part of the President's Immigration Initiative.

The conference agreement provides for the following: (1) requested adjustments to base; (2) restores $9,546,000 of the requested $12,546,000 in FTE reductions; and (3) requested reductions for administrative savings and locality pay absorption.

The conferees endorse the need to review the allocation of Assistant U.S. Attorneys as discussed in the Senate report.

Teamsters Union Election.—The conferees support the ongoing efforts of the Department of Justice to rid the International Brotherhood of Teamsters of mob dominance. While the conferees agree that it is in the best interest of the nation to have a mob-free union, it is most beneficial to the union itself. The conferees also agree that the Justice Department should not be bearing the full cost of the supervision of this upcoming election. As such, the conferees agree that $1,500,000 of the amounts available to the U.S. Attorneys for fiscal year 1995 may be allocated for this purpose. However, the conferees further agree that for fiscal years 1996 and 1997 the cost for the supervision of this election shall be shared by the Justice Department, the Department of Labor and the International Brotherhood of Teamsters.

Amendment No. 23: Appropriates $15,000,000 to implement the Attorney General's Violent Crime Task Force Initiative instead of $25,000,000 as proposed by the Senate. The House included no such provision.

The conference agreement also deletes language proposed by the House and stricken by the Senate which would appropriate funds to the U.S. Attorneys to implement the President's Immigration Initiative. Funding for this program is addressed in title VIII.

UNITED STATES TRUSTEE SYSTEM FUND

Amendment No. 24: Appropriates $103,190,000 instead of $100,469,000 as proposed by the House and $104,889,000 as proposed by the Senate. Provides that $62,593,000 of this appropriation shall be derived from the U.S. Trustees System Fund, instead of $61,593,000 as proposed by the House and $64,292,000 as proposed by the Senate. Provides for offsetting fee collections of $40,597,000 as proposed by the Senate, instead of $38,876,000 as proposed by the House. Provides for a final (net) appropriation of $62,593,000 instead of $61,593,000 as proposed by the House and $64,292,000 as proposed by the Senate. Makes any fee collections over $40,597,000 available in fiscal year 1996.

The conference agreement provides total new budget (obligational) authority of $103,190,000 for the U.S. Trustees for fiscal year 1995. The agreement provides for requested adjustments to base, request FTE reductions and locality pay absorption, $1,821,000 to reduce debtor/trustee fraud and mismanagement, and $900,000 to enhance supervision of chapter 11 cases.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

Amendment No. 25: Appropriates $396,847,000 instead of $390,185,000 as proposed by the House and $403,055,000 as proposed by the Senate.

The conference agreement appropriates $396,847,000 for the U.S. Marshals Service for fiscal year 1995, an increase of $32,142,000 above the request. These additional resources are provided primarily to staff new courthouses to be opened, and new judgeship to be filled, in fiscal year 1995. Specifically, the agreement provides for the following: (1) requested adjustments to base, FTE reductions and administrative savings, seized asset management changes and $92,000 for the D.C. Superior Court; (2) $12,000,000 related to new judgeships; (3) $3,648,000 for prisoner and court security; (4) $10,724,000 for staffing and $1,942,000 for non-personnel costs of new courthouses; (5) $2,000,000 for high threat trials; (6) $750,000 for U.S. Marshal pay disparity; and (7) $18,000,000 for the anticipated costs of law enforcement availability pay.

Law Enforcement Availability Pay.—As a result of receiving law enforcement availability pay, Deputy U.S. Marshals will be working an average of one additional hour of overtime per day. This amounts to a 10 percent increase in productivity, which has the same effect as adding on an additional 250 deputies. Because of this increased availability of on-board deputies, the conferees agree to provide $8,000,000 less for staffing new courthouses and high threat trials than the Marshals Service requested.

SUPPORT OF UNITED STATES PRISONERS

Amendment No. 26: Appropriates $298,216,000 as proposed by the Senate instead of $299,465,000 as proposed by the House.

The conferees understand that the $298,216,000 provided under the conference agreement, when added to the $31,046,000 in available prior year funds, will provide sufficient resources to allow the U.S. Marshals to handle current estimated jail days for fiscal year 1995.

ORGANIZED CRIME DRUG ENFORCEMENT

Amendment No. 27: Appropriates $374,943,000 instead of $383,250,000 as proposed by the House and $369,943,000 as proposed by the Senate.

The conference agreement provides the full budget request plus a $5,000,000 program increase for enhanced national drug intelligence activities. The conference agreement appropriates funds for agencies involved in OCDE efforts as follows:

[In thousands of dollars]

Agency	*Amount*
Drug law enforcement:	
Drug Enforcement Administration	$93,704
Federal Bureau of Investigation	95,571
Immigration & Naturalization Service	10,563
U.S. Marshals Service	1,172
U.S. Customs Service	28,133
Bureau of Alcohol, Tobacco & Firearms	10,300
Internal Revenue Service	37,147
U.S. Coast Guard	868
State & local overtime (reimb)	(5,300)
Subtotal	277,458
Drug Intelligence Activities:	
Drug Enforcement Administration	2,195
National Drug Intelligence Center	5,000
Federal Bureau of Investigation	11,403
Subtotal	18,598
Prosecutions:	
U.S. attorneys	75,287
Criminal division	755
Tax division	1,293
Subtotal	77,335
Administrative support	1,552
Total	374,943

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Amendment No. 28: Appropriates $2,206,871,000 for the FBI instead of

$2,178,218,000 as proposed by the House and $2,230,511,000 as proposed by the Senate.

The conference agreement provides an increase of $75,804,000 above the request for the FBI in fiscal year 1995, as follows: (1) $44,800,000 to restore special agent staffing back to the 10,475 peak on-board level reached in 1992, along with 301 associated support positions; (2) $7,500,000 to restore 250 field support positions; (3) $11,800,000 to hire 153 additional support personnel to replace special agents being transferred from headquarters to the field; (4) $6,360,000 to restore headquarters support personnel needed to ensure Brady Act compliance; (5) $4,500,000 for digital telephony requirements; and (6) $844,000 to continue the FBI's present policy of reimbursing for the travel expenses to train State and local law enforcement officers.

Background investigations.—Included in the amounts provided for restoration of FBI special agents are positions eliminated in prior years associated with background investigations. The conferees understand that it may be more cost-effective to contract out for some or all of this responsibility, and will entertain a reprogramming of funds for this purpose should the Director determine that it is more cost effective to do so.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 29: Appropriates $757,204,000 for the salaries and expenses of the DEA instead of $742,497,000 as proposed by the House, and $760,801,000 as proposed by the Senate.

The conference agreement provides an increase of $36,862,000 above the request, in order to restore DEA agent positions back to the 3,702 peak on-board level reached in 1992, as well as associated support positions. The conferees agree that these new agent positions are intended for domestic, and not overseas, enforcement activities.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

Amendment No. 30: Provides for the purchase of 813 motor vehicles as proposed by the Senate instead of 346 as proposed by the House.

Amendment No. 31: Appropriates $1,102,671,000 instead of $1,098,602,000 as proposed by the House and $1,164,856,000 as proposed by the Senate.

Amendment No. 32: Adds language, as proposed by the Senate, limiting overtime payments to INS employees to $25,000 for the calendar year beginning January 1, 1995. The House bill limited overtime payments to $25,000, but did not specify a starting date.

Amendment No. 33: The conference agreement for amendment number 33 deletes the entire paragraph appropriating funds for the INS associated with the President's Immigration Initiative in the Crime bill as proposed in both the House and Senate bills. Funding for this program is addressed in title VIII of the bill.

BORDER PATROL

The conference agreement for the Immigration and Naturalization Service provides for a total of almost 1,000 additional Border Patrol agents on the line in fiscal year 1995. The conferees agree that the INS should give first priority to the deployment of additional agents to "hot spot" areas along the border which are experiencing significant increases in apprehensions.

EXAMINATIONS FEE ACCOUNT

The conferees understand the INS will have a lower level of receipts in the Examinations Fee Account than originally anticipated in the 1995 President's Budget. Because of uncertainty of the receipt level in 1995, the conferees recommend approval of funding in the amount of $291,097,000 for the Examinations Fee Account. This spending level is based upon the 1994 reprogrammed level of $277,971,000, and an increase of $13,126,000 to provide for additional land border inspectors and related support associated with implementation of new fees for application processing services provided at land border ports. This level is based on estimated receipts to the Examinations Fee Account in FY 1995 of $292,060,000, of which, $14,683,000 is associated with the proposed fees for services provided at land border ports.

Assumed in the funding level is the conferees' recommendation to permanently transfer $6,569,000 in funding association with overseas enforcement efforts from the Examinations Fee Account to the Salaries and Expenses appropriation. This reverses a shift made to the Examinations Fee Account in FY 1991 and recognizes the growing importance of INS' overseas enforcement operations in deterring illegal entry into the United States. The recommended transfer will more adequately align expenditures from this account with adjudication and naturalization processes and their related support. The conferees expect the INS to utilize the $6,569,000 in fee receipts freed up by this transfer to reduce the backlog in adjudication and naturalization cases.

The conferees understand that the recommended funding level may not provide INS with the full cost of inflationary increases. Therefore, should INS realize higher Examinations Fee receipts in FY 1995 than the current estimate, the conferees expect INS to utilize those funds for base inflationary costs, as necessary, and, to the extent possible, provide additional resources for the processing of naturalization applications. The conferees expect to be provided appropriate notification of changes in spending plans as delineated by the reprogramming requirements in the bill.

CONSTRUCTION

Amendment No. 34: Appropriates $50,000,000 for the INS Construction account, instead of $100,000,000 as proposed by the Senate. The House had no such provision. The conferees recommend $50,000,000 in a new construction account for the border infrastructure requirements of the Immigration and Naturalization Service. The conferees understand that the Border Patrol strategy being developed by the INS recognizes different methods of gaining "prevention through deterrence" depending on location, terrain, and a mix of technology and agents. The conferees further understand that in certain areas such as Arizona, New Mexico, and South Texas, traffic checkpoints are utilized as a front line enforcement strategy as a result of difficult terrain. The conferees expect that the resources recommended for improving border infrastructure for the Border Patrol be prioritized in such a way that these and other front line enforcement efforts are enhanced. Therefore, the first priority for obligations from this account should be for Border Patrol stations, for station-related infrastructure, and for the front line enforcement activities described above. The agreement does not include funds for additional service processing centers as proposed by the Senate.

Traffic Checkpoints.—The conferees also understand that the INS is in the process of reviewing the need to continue traffic checkpoint operations in Southern California (San Clemente/Temecula) due to the enhanced front line activities in San Diego. The conferees agree that infrastructure improvements to these checkpoints should be considered only if results of these reviews indicate a level of effectiveness that enhances front line activities in these areas, and the Committees on Appropriations have been notified pursuant to normal reprogramming procedures. Should the INS determine that these checkpoints are no longer cost-effective, the conferees expect that associated Border Patrol agents be transferred immediately to the border.

IMMIGRATION EMERGENCY FUND

Amendment No. 35: Appropriates $75,000,000 for the Immigration Emergency Fund, instead of $8,500,000 as proposed by the Senate. The House had no such provision. The conferees agree to include this level of funding as a contingency against potential expenses arising from movement of immigrants toward our shores from nations in varied states of political and economic disintegration.

PRESIDENT'S IMMIGRATION INITIATIVE

Including amounts to be provided from the General Fund, the Violent Crime Trust Fund, as well as fee accounts, the conference agreement for this bill provides a total of $2,106,564,000 for the INS for FY 1995, a 29 percent increase above fiscal year 1994 enacted levels. These amounts allow for program enhancements of $475,299,000 to implement the President's Immigration Initiative, as follows:

General Fund/Trust Fund Appropriations:	
700 new/250 redirected Border Patrol Agents ..	$54,500,000
110 additional Land Border Inspectors	5,000,000
Enhanced automation/communications/equipment	154,600,000
Expedited detention/deportation resources	17,500,000
Enhanced asylum processing	24,000,000
Overseas enforcement activities	6,569,000
Enhanced employer sanctions	6,328,000
Naturalization pilot project	500,000
Border infrastructure enhancements	50,000,000
Immigration emergencies	75,000,000
Offsetting fee collections:	
168 new airport inspectors/support/detention	18,944,000
200 new land border inspectors	13,126,000

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

Amendment No. 36: Appropriates $2,356,404,000 as proposed by the House instead of $2,400,104,000 as proposed by the Senate. The conference agreement, when added to prior year carryover of $30,000,000 provides for requested adjustments to base, requested reductions for FTE, locality pay, administrative savings and closure of FPC Tyndall, and the following program enhancements:

Activation of new prison facilities	$107,858,000
Prisoner population increases	18,366,000
Contract confinement	15,591,000

NATIONAL INSTITUTE OF CORRECTIONS

Amendment No. 37: Appropriates $10,344,000 for the National Institute of Corrections as proposed by the House instead of $10,144,000 as proposed by the Senate. The agreement provides for the D.C. Corrections Department Study described in the House report.

BUILDINGS AND FACILITIES

Amendment No. 38: Appropriates $280,494,000, for the buildings and facilities of the Federal Prison System instead of $238,094,000 as proposed by the House and $243,324,000 as proposed by the Senate. The conference agreement provides for requested adjustments to base, FTE reductions and locality pay absorption, and provides for the following program enhancements:

Pollock, LA FCC security upgrade	$80,400,000
Edgefield, SC FCC security upgrade	15,000,000
Western Region FCC site/planning	10,300,000
Beaumont, TX FCC site/planning	7,500,000
Forrest City, AR FCI expansion	6,000,000
Mid-Atlantic FCI expansion	8,370,000
NE Region FCI expansion	7,250,000
Mid-Atlantic FCC EIS/Design	550,000
Cooperative Agreement Program	20,000,000
Marshals Service Holding Facilities	9,903,000
Oklahoma FDC Lease	8,655,000
Modernization and Repair	3,297,000

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

COMMISSARY FUND

Amendment No. 39: Deletes the words "and thereafter" as proposed in the Senate amendment. The House bill included these words in order to make permanent this provision (Sec. 107) to allow the Prison System to collect interest on unobligated balances in the Commissary Fund. The conference agreement makes this authority available only for fiscal year 1995 pending permanent legislation.

LITIGATION REIMBURSEMENT

Amendment No. 40: Adds language (Sec. 109) proposed by the Senate and not in the House bill authorizing the Department of Justice to be reimbursed by other agencies for expenses associated with litigation of extraordinary size and complexity on behalf of that agency.

ASSETS FORFEITURE FUND

Amendment No. 41: Adds language (Sec. 110), proposed by the Senate and not in the House bill, which provides the Attorney General with authority to allocate surplus amounts in the Assets Forfeiture Fund in fiscal year 1995. The conference agreement makes technical amendments to the Senate language to conform to existing law.

IMMIGRATION PILOT PROJECT

Amendment No. 42: Adds language (Sec. 111) proposed by the Senate and not in the House bill to allow for the creation of a land border inspections pilot project on the California border. Current law allows for such projects on the Northern border only. The conference agreement will enable the INS and Customs Service to test the feasibility of a commuter-type lane at a border crossing in the San Diego area.

SENSE OF THE SENATE

Amendment Nos. 43 and 44: Deletes Sense of the Senate provisions not in the House bill concerning immigration policies and enforcement of child support laws.

VICTIMS OF CRIME

Amendment No. 45: Adds language (Sec. 112) proposed by the Senate and not in the House bill, which extends from fiscal year 1994 to 1995 the formula for distribution of base amounts for crime victim assistance grants.

The conference agreement also adds new language (Sec. 113), not in either the House or Senate bills, which prohibits the transfer of Justice Department funds unless such transfers are authorized in this Act, in part II of 28 U.S.C., or in 42 U.S.C. 10601. This provision also limits authority to allocate Justice Department funds to the Department and the Office of Management and Budget.

MEETING WITH PRESIDENT OF MEXICO

Amendment No. 46: Adds a Sense of the Congress (Sec. 114) proposed by the Senate, and not in the House bill, that the President of the United States and the President-elect of Mexico should meet to discuss immigration issues.

The conference agreement also adds language, not in either the House or Senate bills, which would make employees of the FBI's Criminal Justice Information Services Division who choose not to relocate out of the Washington, D.C., area eligible for competitive service appointments in other agencies. This authority will assist the FBI in finding jobs for these employees thus avoiding costly and demoralizing reductions-in-force (RIFs). The language is supported by the Office of Personnel Management, and the Congressional Budget Office has scored the legislation at no cost to the Federal government. The conferees believe this authority provides the FBI Director with a prudent management tool, and will in fact save money since the Bureau will be able to avoid costly RIF proceedings for some employees.

Amendment No. 47: Deletes language proposed by the Senate to transfer $350,000,000 from Contributions to International Organizations and Contributions for International Peacekeeping Activities to reimburse states for the cost of incarcerating illegal aliens. No such provision was included in the House bill.

Amendment Nos. 48 and 49: Deletes a Sense of the Senate regarding the Case of United States v. Knox, and a Sense of the Senate regarding the escort of aliens being deported.

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

Amendment No. 50: Appropriates $9,000,000 instead of $9,500,000 as proposed by the House and $8,413,000 as proposed by the Senate.

Amendment No. 51: Deletes a provision proposed by the House and stricken by the Senate which would have limited the compensation of the Special Assistant to each of the Civil Rights Commissioners to 150 billable days per year.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

Amendment No. 52: Appropriates $233,000,000 instead of $238,000,000 as proposed by the House and $240,000,000 as proposed by the Senate.

The conferees are concerned about the lack of clarity with respect to the Commission's budget justification materials and expect the Commission to review this matter and consult with the Appropriations Committees and the Office of Management and Budget to insure that budget justifications developed to support the fiscal year 1996 budget request of the Commission strictly comply with OMB Circulars on this matter.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

Amendment No. 53: Appropriates $185,232,000, instead of $166,832,000 as proposed by the House and $198,232,000 as proposed by the Senate. Provides for $116,400,000 in offsetting fee collections as proposed by both the House and Senate. Provides for a final (net) appropriation of $68,832,000, instead of $50,432,000 as proposed by the House and $81,832,000 as proposed by the Senate. Restores language proposed by the House and stricken by the Senate which makes fee collections in excess of $116,400,000 available for obligation in fiscal year 1996.

The conference agreement provides total budget authority of $185,232,000 for the FCC for fiscal year 1995. These amounts provide requested adjustments to base to fully fund the increased staff hired by the Commission in FY 1994 to implement the Cable Act. The agreement also provides for a program enhancement of $15,800,000 to fund an estimated 225 additional personnel already approved by the Office of Management and Budget to handle the Commission's expanding workload, and an increase of $2,600,000 for infrastructure modernization.

Big LEO.—The conferees are concerned over ramifications of further delays in the low earth orbit technology (Big LEO) proceeding currently before the Commission (CC Docket No. 92-166). The conferees endorse the schedule for completion of the rulemaking discussed in the Senate report, and urge the Commission, consistent with its policies and regulations as well as the Communications Act, to take appropriate action on all pending applications and waiver requests at the earliest possible date.

Amendment No. 54: Adds language proposed by the Senate and not in the House bill which restores FCC funding restrictions contained in last year's Appropriations Act. The conference agreement prohibits the use of funds by the FCC to: (1) Change or reexamine changes of current policies governing comparative licensing, distress sales and tax certificate policies intended to expand opportunities for minorities; (2) diminish the number of VHF channels assigned for noncommercial education television stations; and (3) reexamine rules governing cross-ownership of newspapers and broadcast stations.

The conferees agree that the prohibition against FCC to change or reexamine changes of current policies governing minorities is intended to prevent the Commission from backtracking on its policies that provide incentives for minority participation in broadcasting. The conferees further agree that the prohibition does not prohibit the Commission from taking steps to create greater opportunities for minority ownership.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 55: Appropriates $94,428,000 instead of $95,428,000 as proposed by the House and $98,928,000 as proposed by the Senate. Provides for collection of $39,640,000 in offsetting fee collections, instead of $33,460,000 as proposed by the Senate, and $35,460,000 as proposed by the House. Provides a final (net) appropriation of $54,788,000 instead of $59,968,000 as proposed by the House and $65,468,000 as proposed by the Senate. Restores House language stricken by the Senate allowing fee collections in excess of $39,640,000 to be available in fiscal year 1996. Provides for an increase in Hart-Scott-Rodino premerger filing fees from $25,000 to $45,000 as proposed by the House, instead of $25,000 to $40,000 as proposed by the Senate.

The conference agreement provides total budget (obligational) authority of $98,928,000 for fiscal year 1995 for the Federal Trade Commission when prior year unobligated balances of $4,500,000 are included. The agreement provides the FTC with their full adjustments to base, including GSA rent reductions, and restores proposed FTE and administrative reductions. The agreement provides a program enhancement of $2,105,000 to allow for an additional 25 positions for the Commissions' enforcement activities. The conferees agree that since these additional positions are being funded from increased fee collections and not from the General Fund of the Treasury, associated FTE should be exempt from current FTE ceilings.

Amendment No. 56: Adds language proposed by the Senate and not in the House bill which restores FTC funding restrictions contained in last year's Appropriations Act. The conference agreement restricts the Commission as follows: (1) prohibits the use of FTC funds to engage in rulemakings concerning unfairness in advertising; (2) establishes limits on public participation; (3) prohibits the use of FTC funds to petition the Patent Commissioner for cancellation of a registered trademark; and (4) prohibits FTC from studying or investigating agricultural marketing orders or agricultural cooperatives. The agreement includes an exception to nullify the restrictions upon enactment of an FTC Authorization Act for fiscal year 1995. While the conference report for the Federal Trade Commission Act Amendments of 1994 has passed the House, it has not yet passed the Senate, and the conferees agree that these restrictions are too critical to remove from this bill pending Senate action and enactment of the authorization bill.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Amendment No. 57: Appropriates $74,856,000 instead of $900,000 as proposed by the House and $57,856,000 as proposed by the Senate. The agreement also deletes language proposed by the Senate, and not in the House bill, which would have raised section 6(b) registration fees from 1/50th of one percent to 1/29th of one percent.

The conference agreement, along with $50,000,000 in prior year carryover, provides the SEC with total budget (obligational) authority of $125,856,000, which the conferees understand is $155,144,000 below the amount needed to maintain current services in fiscal year 1995. The agreement is also $178,726,000 below the total budgetary resource level provided the Commission in the Senate bill.

The conferees were obliged to remove the language added by the Senate because of a jurisdictional dispute over allowing the SEC to retain offsetting collections derived from section 6(b) registration fees. The Ways and Means Committee of the House of Representatives has indicated its opposition to this fee language, even though it is similar to language included in Appropriations Acts for the past three years, and is the exact language contained in last year's Act. Under the Constitution, revenue measures must originate in the House, and the House may return to the Senate any bill containing a revenue provision, such as this fee language, that originates in the Senate. The conferees reluctantly agreed to remove the Senate fee language in order to avoid the return of the bill to the Senate, which could have delayed the emergency supplemental requested for the flooding in Florida, Alabama, and Georgia.

By removing the Senate fee language, the SEC will be unable to collect an estimated $238,000,000 in fees in fiscal year 1995. As such, this agreement only provides the SEC with sufficient budgetary resources to operate at current service levels for approximately 5 months. The conferees are confident that an agreement can be worked out by that time to resolve the fee issue so that the SEC can receive the funding it needs to fully protect the investing public. Failure to arrive at a compromise on this fee issue could endanger the securities markets and result in increased fraud and malpractice in the securities and financial markets. The nation needs a strong SEC and the conferees encourage a quick resolution to this problem.

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

Amendment No. 58: Appropriates $265,000,000 for the core research programs of the National Institute of Standards and Technology (NIST) instead of $279,420,000 as proposed by the House and $260,000,000 as proposed by the Senate.

The amount provided in the conference agreement fully funds the adjusted base program for this account, and provides an additional $39,000,000 for program enhancements. Within this increase, the conferees agree that $5,000,000 is for the international trade and standards program and $7,000,000 is for environmental technologies. The conferees expect NIST and the Department of Commerce to submit a reprogramming notification to the House and Senate Appropriations Committees, under the standard reprogramming procedures contained in section 605 of this Act, indicating the proposed distribution of the remaining program increase by research category.

INDUSTRIAL TECHNOLOGY SERVICES

Amendment No. 59: Appropriates $525,000,000 for NIST external programs, instead of $495,960,000 as proposed by the House and $554,000,000 as proposed by the Senate, and includes language proposed by the Senate which will enable NIST to continue support for manufacturing technology centers that have existed for six years. The House bill contained no similar provision. The conference agreement deletes language proposed by the House and stricken by the Senate which would have delayed the availability of certain amounts provided under this heading.

The conferees support the efforts of NIST to promote the awareness of the Advanced Technology Program (ATP) throughout industry, particularly among small businesses and in geographically dispersed areas. The conferees also support the language included under the manufacturing extension partnership (MEP) program in both the House and Senate reports regarding the needs of rural areas and other areas serviced by geographically dispersed manufacturers.

The conferees note the establishment of the Environmental Technology Initiative under the Environmental Protection Agency (EPA) to promote the development of environmental technologies. The conferees expect NIST to coordinate with EPA and other agencies to maximize the impact of all Federal funding for development and commercialization of environmental technologies and to ensure that there is no program duplication in this area.

The following table reflects the distribution of these funds by program category:

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

[In thousands of dollars]

	1994 appropriation	1995 Request	1995 House	1995 Senate	1995 Conference
Extramural research:					
Advanced Technology Program (ATP)	199,489	451,000	431,000	441,000	431,000
Manufacturing Extension Program (MEP):					
Manufacturing extension centers	27,235	38,065	38,065	85,200	69,000
LINKS		17,000	17,000	17,000	15,600
State extension (STEP)	3,000	6,000	6,000	8,000	6,000
Subtotal, MEP	30,235	61,065	61,065	110,200	90,600
Outreach/Baldrige Award	2,800	6,895	3,895	2,800	3,400
Total	232,524	518,960	495,960	554,000	525,000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 60: Appropriates $1,835,000,000 for the operations of the National Oceanic and Atmospheric Administration (NOAA) instead of $1,792,978,000 as proposed by the House and $1,850,000,000 as proposed by the Senate.

Amendment No. 61: Restores language proposed by the House and stricken by the Senate which allows for the collection of fees totalling $6,000,000 related to the costs of administering NOAA's marine sanctuary program and the aeronautical charting program, and reducing the final general fund appropriation to $1,829,000,000. The conference agreement does not include language proposed by the House and stricken by the Senate on fees related to living marine resources (fisheries) programs. The House bill allowed for the collection of fees totalling $41,000,000 and resulted in a final appropriation of $1,751,978,000.

Amendment No. 62: Restores language proposed by the House and stricken by the Senate allowing receipts resulting from an increase in the price of aeronautical charts above the level in effect on September 30, 1993, to be credited as an offsetting collection to this account; includes language proposed by the Senate setting a minimum and maximum level for Coastal Zone Management (CZM) grants and adds new language, not in either bill, allowing not to exceed $800,000 for grants to any new State entering the CZM program in fiscal year 1995; and includes language, similar to that included in the Senate amendment, designating that $16,000,000 of the funds provided shall be available for the integrated program office for the convergence of civilian and military polar-orbiting meteorological satellites. The Senate amendment designated $22,000,000 for this purpose; the House bill contained no provision on this matter.

The conference agreement does not include language proposed by the Senate designating $450,000 of the funds provided for the Great Lakes Fishery Commission. The conferees have included this amount in the total amount provided under NOAA for international fisheries commissions, but have agreed that it is not necessary to designate this amount in bill language.

The conferees concur with language included in the House report regarding the structure of NOAA's fiscal year 1995 budget submission, and encourage the Department and NOAA to work with the Committees on Appropriations of the House and the Senate, as well as the appropriate authorizing committees, to develop a budget structure which better meets the requirements of all concerned.

The following table reflects the conference recommendation for the programs and activities funded under this account:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	FY 1995 House	FY 1995 Senate	FY 1995 Conference
(Dollars in Thousands)					
NATIONAL OCEAN SERVICE:					
Mapping, Charting, and Geodesy:					
Mapping and Charting	$28,500	$29,005	$30,000	$33,000	$31,000
Automated Nautical Charting System II	1,300	1,300	1,250	1,250	1,250
Subtotal	29,800	30,305	31,250	34,250	32,250
Geodesy	17,900	19,332	18,762	18,762	18,762
SC Cooperative geodetic survey	554	0	0	1,000	1,000
Land Information System	1,200	0	1,000	0	1,000
Subtotal	19,654	19,332	19,762	19,762	20,762
Total, Mapping, Charting, and Geodesy	49,454	49,637	51,012	54,012	53,012
Observation and Assessment:					
Observation and Prediction	11,800	12,787	12,423	13,000	12,423
Circulatory survey program	700	700	700	700	700
California marine observation buoys	140	0	0	0	0
Chesapeake Bay observation buoys	400	0	400	0	400
Ocean services	4,442	4,442	4,442	4,442	4,442
COAP	400	400	375	0	0
Subtotal	17,882	18,329	18,340	18,142	17,965
Estuarine and Coastal Assessment	2,420	2,753	2,753	2,753	2,753
Coastal ecosystem health/ocean assessment	17,369	21,925	21,925	24,528	24,528
Damage assessment	1,200	1,200	1,200	1,200	1,200
Transfer from Damage Assessment Fund	29,796	8,500	8,500	8,500	8,500
S. Carolina Wetland Management Demo	500	0	0	0	0
Oil Pollution Act of 1990	1,395	1,395	1,300	1,395	1,300
Subtotal	52,680	35,773	35,678	38,376	38,281

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
Coastal Ocean Science					
Coastal Ocean program	10,200	11,433	10,000	11,433	11,000
Oil Spill Research	0	0	1,000	0	800
Nat'l Institute Environmental Renewal	800	0	500	0	500
Maui algal bloom crisis	0	0	0	0	0
Subtotal	11,000	11,433	11,500	11,433	12,300
Total, Observation and Assessment	81,562	65,535	65,518	67,951	68,546
Ocean and Coastal Management:					
Coastal Management					
CZM grants	41,500	37,966	42,000	49,000	45,500
Acquisition of estuarine sanctuaries	3,214	3,214	3,500	3,214	3,350
CZM program administration	0	3,671	0	0	0
Charleston,SC, spec.area mgt. plan	1,000	0	0	1,000	1,000
Nonpoint pollution control	4,000	4,000	5,000	5,000	5,000
Subtotal	49,714	48,851	50,500	58,214	54,850
Ocean Management	1,500	0	0	0	0
Marine sanctuary program	9,000	12,000	12,500	13,000	12,000
Hawaii humpback mar. sanct. institute	150	0	0	0	0
Subtotal	10,650	12,000	12,500	13,000	12,000
Total, Ocean and Coastal Management	60,364	60,851	63,000	71,214	66,850
TOTAL, NOS	191,380	176,023	179,530	193,177	188,408

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
NATIONAL MARINE FISHERIES SERVICE:					
Information Collection & Analyses:					
Resource Information	52,872	73,000	73,000	64,473	66,000
Conservation engineering by catch	1,416	716	1,216	716	800
Antarctic research	1,200	1,200	1,200	1,200	1,200
Fishery resource data error reduction	960	960	960	960	960
Oyster disease research	1,500	1,500	0	1,500	0
Marine mammal research	2,314	2,314	2,314	2,314	2,314
Protected species research	3,630	3,630	3,630	4,000	3,630
Chesapeake Bay Studies	1,890	1,890	1,890	1,890	1,890
Right whale research	214	214	214	214	214
Gear entanglement studies	651	651	651	651	651
MARFIN	3,780	3,780	3,780	3,780	3,780
SEAMAP	1,340	1,340	1,340	1,340	1,340
Aquaculture	2,500	2,500	2,500	2,500	2,500
Stuttgart	576	0	0	0	0
Alaskan groundfish surveys	661	661	661	661	661
Bering Sea pollock research	945	945	945	945	945
West Coast groundfish	780	780	780	780	780
New England stock depletion	1,116	1,116	1,116	1,116	1,116
Hawaii stock management plan	500	0	0	500	500
Yukon River chinook salmon	700	700	700	700	700
Winter Run chinook salmon	250	250	250	250	250
Atlantic salmon research	710	710	710	710	710
Gulf of Maine groundfish survey	567	567	567	567	567
Dolphin safe technologies	500	500	500	500	500
Habitat research/evaluation	470	470	470	470	470
Pacific salmon treaty program	5,587	5,587	5,587	5,587	5,587
Fish cooperative inst. enhancement	384	384	0	450	410

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
Hawaiian monk seals	520	520	500	520	520
Stellar sea lion recovery plan	1,440	1,440	1,440	1,440	1,440
Hawaiian sea turtles	240	240	240	240	240
Atlantic bluefin tuna research	300	0	300	0	300
Center for Shark Research	140	0	0	0	0
Halibut/Sablefish IFQ's	1,200	1,200	1,200	1,200	1,200
United States & Canada lobster study	300	0	0	0	0
Subtotal	92,153	109,765	108,661	102,174	102,175
Fishery Industry Information					
Fish statistics	10,500	14,000	14,000	12,000	12,000
Alaska groundfish monitoring	4,500	4,500	4,500	5,400	5,200
PACFIN/catch effort data	2,046	2,046	2,300	2,046	2,300
Rec. fishery harvest monitoring	2,395	2,395	2,400	3,000	2,900
Subtotal	19,441	22,941	23,200	22,446	22,400
Information Analyses & Dissemination	20,112	21,915	22,600	20,890	21,000
Computer hardware and software	1,500	5,500	5,500	5,000	5,000
Subtotal	21,612	27,415	28,100	25,890	26,000
Total, Info., Collection, & Analyses	133,206	160,121	159,961	150,510	150,575
Conservation and Management Operations:					
Fisheries Management Programs	13,500	19,954	19,954	15,000	16,000
Columbia River hatcheries	10,300	10,300	9,500	10,400	10,300
Colombia River smolt	100	0	0	0	0
Columbia River end. species studies	288	288	288	288	288
Regional councils	8,556	8,556	8,556	9,000	8,556
International fisheries commissions	800	400	400	1,250	1,250
Management of George's Bank	480	480	480	480	480

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
Rebuild Nations Fisheries:					
– Beluga whale committee	192	0	192	200	200
– Pacific tuna management	1,800	1,800	0	2,200	2,000
Subtotal	36,016	41,778	39,370	38,818	39,074
Protected Species Management	4,000	6,196	5,600	5,000	5,000
ESA listing & status review	930	930	930	930	930
Tissue bank & stranding network	295	295	295	295	295
Driftnet act implementatn/high seas salmon assessmt	3,278	3,278	2,500	3,000	3,000
Marine Mammal Protection Act	7,750	7,750	9,000	7,750	8,000
Endangered Species Act recovery plan	218	7,322	6,000	8,000	7,000
Fishery observer training	150	0	120	417	300
East Coast observers	700	700	700	700	700
Subtotal	17,321	26,471	25,145	26,092	25,225
Habitat Conservation	6,200	8,679	7,500	7,000	8,000
Enforcement & Surveillance	12,000	16,886	15,500	16,000	15,500
Total, Conservation and Mgmt. Opns	71,537	93,814	87,515	87,910	87,799
State and Industry Assistance Programs:					
Grants to States					
Interjurisdictional fisheries grants	3,156	3,156	3,156	3,156	3,156
Anadromous grants	2,108	2,108	2,108	2,108	2,108
Anadromous fishery project	250	250	250	250	250
Interstate fish commissions	295	295	1,000	4,600	4,000
North Atlantic fishery reinvestment	1,500	3,500	2,800	4,000	2,800
Subtotal	7,309	9,309	9,314	14,114	12,314

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
Fisheries Development Program:					
Fisheries trade promotion activities	1,700	1,700	1,500	1,500	1,500
Product quality and safety	9,000	9,021	9,000	11,010	9,250
Hawaiian fisheries development	750	0	0	750	750
Seafood Inspection	5,500	5,500	4,300	5,500	5,000
Marine biotechnology	1,750	1,750	1,750	2,200	2,000
Subtotal	18,700	17,971	16,550	20,960	18,500
Total, State & Industry Assist. Progs	26,009	27,280	25,864	35,074	30,814
TOTAL, NMFS	230,752	281,215	273,340	273,494	269,188
OCEANIC AND ATMOSPHERIC RESEARCH:					
Climate and Air Quality Research:					
Interannual & Seasonal Climate Research	7,945	8,015	8,015	8,000	8,000
Long-Term Climate & Air Quality Research	26,376	31,544	28,392	26,376	27,300
High Performance Computing	1,000	15,452	6,500	1,000	6,500
Subtotal	27,376	46,996	34,892	27,376	33,800
Climate and Global Change/GLOBE	63,000	84,012	66,000	74,000	78,000
Total, Climate and Air Quality	98,321	139,023	108,907	109,376	119,800
Atmospheric Programs					
Weather Research	30,356	33,874	33,370	30,870	33,670
Wind profiler	4,350	0	4,350	4,000	4,350
Federal/state weather mod. grants	3,000	0	3,300	0	3,100
Southeastern storm research	372	0	400	0	400
Subtotal	38,078	33,874	41,420	34,870	41,520

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

(Dollars in Thousands)

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
Solar–Terrestrial services and research	5,000	5,627	5,500	5,000	5,500
Total, Atmospheric Program	43,078	39,501	46,920	39,870	47,020
Ocean and Great Lakes Programs:					
Marine Prediction Research	9,200	9,572	9,572	9,572	9,572
GLERL	4,558	4,558	4,558	4,558	4,558
Great lakes nearshore research	200	200	200	200	200
VENTS	2,496	0	0	2,496	2,496
SE US/Caribbean FOCI program	500	0	500	0	450
GLERL/Zebra mussel	911	0	911	0	911
Lake Champlain study	290	0	0	200	150
Pacific Island technical assistance	190	0	190	190	190
Subtotal	18,345	14,330	15,931	17,216	18,527
Sea Grant					
Sea grant college program	43,200	43,238	44,000	55,000	49,000
Sea grant–oyster disease	0	0	1,500	0	1,500
Sea grant–zebra mussel	2,800	0	2,800	0	2,800
National coastal R&D instutute	1,100	0	1,000	1,000	1,000
Subtotal	47,100	43,238	49,300	56,000	54,300
Undersea Research Program					
NOAA Undersea Research Program	18,100	0	16,000	18,000	18,000
Maine marine research center	1,900	1,900	0	1,900	1,500
Subtotal	20,000	1,900	16,000	19,900	19,500
Total, Ocean & Great Lakes Programs	85,445	59,468	81,231	93,116	92,327
TOTAL, OAR	226,844	237,992	237,058	242,362	259,147

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994 Appropriation	FY 1995 Request	FY 1995 House	FY 1995 Senate	FY 1995 Conference
	(Dollars in Thousands)				
NATIONAL WEATHER SERVICE:					
Operations and Research:					
Local Warnings and Forecasts	319,868	322,640	322,640	333,900	323,140
MARDI	75,000	120,457	115,946	115,946	115,946
WSFOs – maintain 8 stations	752	752	752	752	752
Data buoy maint. for Hawaii	542	542	542	542	542
Pacific & Alaska Region HQ	366	366	366	866	366
Agricultural & fruit frost program	2,316	2,316	2,316	2,300	2,316
Fire weather services	449	449	449	449	449
Susquehanna River Basin Flood Sys	900	669	1,250	669	1,250
Aviation forecasts	35,596	35,596	35,596	35,596	35,596
Flood Warning System/Colorado River	288	288	288	288	288
Samoa	200	0	100	100	100
Regional climate centers	3,000	0	3,000	3,200	3,200
California data buoys	200	200	200	0	200
Subtotal	439,477	484,275	483,445	494,608	484,145
Central Forecast Guidance	28,555	31,217	30,000	29,169	29,169
Atmospheric and Hydrological Research	2,400	2,629	2,600	2,500	2,500
Total, Operations and Research	470,432	518,121	516,045	526,277	515,814
Systems Acquisition:					
Public Warning and Forecast Systems					
NEXRAD	120,000	79,641	79,641	79,641	83,141
ASOS	18,135	17,534	17,534	17,534	17,534
AWIPS/NOAAPort	43,564	49,550	39,550	35,000	35,000
Computer Facility Upgrades	8,000	13,874	10,000	13,000	10,000
Total, Systems Acquisition	189,699	160,599	146,725	145,175	145,675
TOTAL, NWS	660,131	678,720	662,770	671,452	661,489

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE:					
Satellite Observing Systems:					
Polar spacecraft and launching	139,000	159,078	151,370	147,678	146,675
Polar convergence/joint program office	0	0	0	22,000	16,000
Geostationary spacecraft and launching	123,746	138,047	133,000	134,562	132,610
Ocean remote sensing	0	0	0	10,800	6,000
Environmental observing services	49,443	51,798	51,700	51,161	51,500
Total, Satellite Observing Systems	312,189	348,923	336,070	366,201	352,785
Environmental Data Management Systems :	22,000	24,787	22,881	22,881	24,500
Data and Information Services	15,300	10,300	10,300	9,500	11,300
Total, EDMS	37,300	35,087	33,181	32,381	35,800
TOTAL, NESDIS	349,489	384,010	369,251	398,582	388,585
PROGRAM SUPPORT:					
Administration and Services:					
Executive direction and administration	25,000	26,456	25,500	25,500	25,500
GLOBE	0	7,000	7,000	0	1/
Systems Program Office (SPO)	1,100	2,588	1,800	2,500	1,800
Subtotal	26,100	36,044	34,300	28,000	27,300
Central Administrative Support	38,000	38,194	37,898	37,898	37,898
Retired Pay Commissioned Officers	7,706	7,706	7,706	7,706	7,706
Total, Administration and Services	71,806	81,944	79,904	73,604	72,904
Marine Services	62,037	62,599	62,599	62,599	62,599
Fuel pricing	0	0	0	−500	−500
Total, Marine Services	62,037	62,599	62,599	62,099	62,099

1/ GLOBE funding of $7 million included under the Climate and Global Change Program in the Office of Oceanic and Atmospheric Research.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

	FY 1994	FY 1995			
	Appropriation	Request	House	Senate	Conference
	(Dollars in Thousands)				
Aircraft Services	9,100	9,180	9,180	9,180	9,180
Critical safety & instrumentation	400	400	400	5,500	4,000
Total, Aircraft Services	9,500	9,580	9,580	14,680	13,180
TOTAL, Program Support	143,343	154,123	152,083	150,383	148,183
General Reduction	0	0	0	−450	0
DIRECT OBLIGATIONS	1,801,939	1,912,083	1,874,032	1,929,000	1,915,000
Rental cost reductions	0	−2,054	−2,054	−2,054	−2,054
REIMBURSABLE OBLIGATIONS	368,232	316,235	316,235	316,235	316,235
TOTAL OBLIGATIONS	2,170,171	2,226,264	2,188,213	2,245,235	2,231,235
FINANCING:					
Deobligations	−22,990	−15,000	−15,000	−15,000	−16,000
Reimbursable Obligations:					
Federal funds	−331,427	−280,626	−280,626	−280,626	−280,626
Non-federal funds	−36,805	−35,609	−35,609	−35,609	−35,609
BUDGET AUTHORITY	1,778,949	1,895,029	1,856,978	1,914,000	1,899,000
FINANCING FROM PROPOSED TRANSFERS & NEW FEES:					
Promote and develop American fisheries	−54,800	−55,500	−55,500	−55,500	−55,500
Damage assessment & restoration revolving fund	−29,796	−8,500	−8,500	−8,500	−8,500
B.A. Subtotal	1,694,353	1,831,029	1,792,978	1,850,000	1,835,000
Fisheries fees	0	−82,000	−35,000	0	0
Aeronautical chart fees	0	−3,000	−3,000	0	−3,000
Marine sanctuary fees	0	−3,000	−3,000	0	−3,000
APPROPRIATION, ORF	1,694,353	1,743,029	1,751,978	1,850,000	1,829,000

Activities funded under this conference agreement for the National Oceanic and Atmospheric Administration which were originally addressed in only the House report (H. Rept. 103-552) or the Senate report (S. Rept. 103-309), are provided in accordance with any direction given in that report, unless expressly modified in the following statement.

NATIONAL OCEAN SERVICE

Within the total amount provided for NOAA, the conference agreement includes a total of $188,408,000 for the National Ocean Service (NOS).

Of the amount provided for mapping and charting, the conferees intend that funds be used to support installation and operation of current, wind, tide, salinity and water level measuring devices in the Houston Ship channel and Galveston Bay as described in the House report.

Within the $11,000,000 provided for the Coastal Ocean program, $700,000 is for the continuation of research at the Baruch Institute as described in the Senate report.

NATIONAL MARINE FISHERIES SERVICE

The conference agreement includes $269,188,000 for the National Marine Fisheries Service (NMFS). The amount provided assumes no offsetting fee collections for living marine resources fees as proposed by the House. The conferees continue to encourage NOAA to work with the authorizing committees to examine appropriate fee proposals, particularly fees related to controlled access regimes and special management practices as required by Fishery Management Plans. It is the position of the conferees that if such fees were to be authorized, all revenues collected through new marine resource fees should be used only for enhancement of the fisheries management programs.

The conference agreement includes a total of $2,300,000 for the management of highly migratory species, such as bluefin tuna and swordfish, as proposed in the House report. This amount includes $150,000 for aerial surveys of bluefin tuna.

The conferees concur with the designation of funds provided under resource information for MARMAP and for the Hatfield Marine Science Center as stated in the Senate report. The conference agreement also includes $5,200,000 for Alaskan groundfish monitoring to be distributed according to the direction given in the Senate report.

The conference agreement includes $4,000,000 for interstate fisheries commissions, including $500,000 for the three interstate commissions and $3,500,000 for the implementation for the Atlantic Coastal Fisheries Cooperative Management Act.

The conferees support the use of funds provided for the aquaculture program in accordance with language included in both the House and Senate reports.

The conferees have provided $8,000,000 for habitat conservation. Within that amount, $1,000,000 is provided as a one-time grant to the State of Alaska for the protection and restoration of salmon habitat in the Kenai River watershed area of Alaska. The Kenai River and its tributaries support sport and commercial fisheries valued at $100,000,000 annually, and fish habitat degradation has become an increasing concern. The State of Alaska should use these funds to continue developing programs to restore and protect the Kenai River fish habitat, and to work with the appropriate Federal, State and local organizations in carrying out these programs.

The conferees are aware of public health concerns related to the consumption of raw molluscan shellfish by at-risk consumers, and believe that a comprehensive education program is the appropriate response to the problems of at-risk consumers. The conferees are aware that NMFS has identified $500,000 in Saltonstall-Kennedy funds (made available in previous years) which may be used for these purposes. The conferees support the use of these funds for a multi-year program, that includes industry participation, to educate at-risk consumers and the medical community regarding the public health concerns related to the consumption of raw molluscan shellfish.

Within the base funding for Marine Mammal Protection Act, the conferees intend that NOAA continue to fund existing programs at the fiscal year 1994 levels including $1,500,000 for marine resources observers in the North Pacific and $500,000 for harbor seal research by the State of Alaska. The conferees endorse the House report language requesting NOAA to fund a proposal for a coordinated response to the management of marine mammal populations off the coast of Washington State, and believe such a coordinated response should include the coast of Oregon as well.

The conference agreement includes $2,800,000 for the North Atlantic fishery reinvestment program. The conferees endorse the language included in the Senate report expressing concerns that the Department of Commerce should not bear the sole responsibility for the Federal government's response to socio-economic impacts arising from the crash in the New England groundfish fishery.

Amounts provided for the RECFIN program are provided in accordance with the Senate report.

The conferees note that both the House and Senate reports encourage NOAA to develop marking programs for salmon and other endangered fish stocks as an innovative management strategy. The conferees encourage NOAA to consider funding pilot programs for salmon marking and to submit a reprogramming of funds for such activities if necessary.

OCEANIC AND ATMOSPHERIC RESEARCH

The conference agreement includes $259,147,000 for NOAA's Oceanic and Atmospheric Research.

The conferees have provided a total of $78,000,000 for the Climate and Global Change program, which includes $7,000,000 for the GLOBE program as proposed by the Senate. The House report displayed this amount for GLOBE under a separate line item in the NOAA table. Within the remaining $71,000,0000 for the Climate and Global Change program, $26,800,000 is provided for research on the role of oceans on climate.

The amounts provided in the conference agreement under weather research include funding for the PROFS program as proposed by the House, $300,000 for a one-time grant to the University of North Dakota for an agricultural weather initiative, and $500,000 above the base for the Health of the Atmosphere program. The conferees would be willing to consider a reprogramming of base funds from within OAR to increase the amounts available for the Health of the Atmosphere initiative.

The conferees recommend $1,500,000 for the University of Maine Regional Marine Research Center. No funds are provided for additional centers or planning efforts. The amounts provided for the National Undersea Research Program (NURP) include $3,800,000 for the Hawaii center. The conferees also concur with the House report language regarding funding for the national office.

NATIONAL WEATHER SERVICE

The conference agreement includes $661,489,000 for the National Weather Service (NWS). Within the amount provided for local warnings and forecasts, $500,000 is included for a weather buoy and three monitoring stations in Prince William Sound, Alaska. The conferees concur with language included in the Senate report regarding an increase above base funding for the Stoneville, MS, weather station.

The conferees endorse the intent of NOAA to follow up on concerns expressed by the Congress with respect to the adequacy of coverage in certain areas of the country under the NWS modernization plan, by arranging for an independent review of the NWS implementation plan. The conferees expect NOAA to consider in this independent review the specific coverage concerns highlighted in the House and Senate reports, in floor debate and through other communication from the Congress, and to provide periodic updates to the Committees on Appropriations of the House and the Senate on the status of this review.

The conferees endorse the report language included in the House report regarding NOAA weather radio.

The fiscal year 1995 NWS Implementation Plan for Modernization states that the Jackson, Kentucky Weather Service Office will remain unchanged under weather service modernization and continue to provide services to Eastern Kentucky. The conferees believe the unique climatological and meteorological conditions of Eastern Kentucky made it necessary for the area to receive the highest quality of weather service to protect the life and safety of the residents. Therefore, the conferees expect the NWS to procure and install a NEXRAD system in Jackson, Kentucky, and have provided the necessary funding increases under NEXRAD system acquisition and under the NOAA construction account to carry out this direction.

NATIONAL ENVIRONMENTAL SATELLITE DATA, AND INFORMATION SERVICE

The conference agreement includes $388,585,000 for NOAA's National Environmental Satellite, Data, and Information Service.

The conferees endorse the Senate report language on the converged polar satellite program and have included $16,000,000, designated in the bill, for the integrated program office for a converged polar satellite system.

The conferees have provided $6,000,000 to initiate an ocean satellite remote sensing program, instead of $10,800,000 as proposed by the Senate.

The conferees are supportive of the National Performance Review recommendations directing NOAA to organize the implementation of a National Environmental Data Index. The conferees share an interest in seeing the Federal government coordinate and integrate the environmental data resources found in various Federal agencies in order to ensure maximum benefit from our investment and to avoid duplication of efforts. The conferees urge NOAA to initiate a plan for implementation of the National Environmental Data Index as part of its fiscal year 1996 budget request.

The conferees intend that NOAA continue to maintain fourteen coastal data buoys, as provided in the House report. The conferees expect NOAA to submit a long-term plan for funding these data buoys as part of its fiscal year 1996 request.

PROGRAM SUPPORT

The conference agreement includes $148,183,000 for NOAA program support. Within the amounts provided for aircraft instrumentation, $3,600,000 if for acquisition of doppler radar capability for the new NOAA hurricane reconnaissance aircraft.

The conference agreement assumes $16,000,000 in deobligations of prior year funds.

COASTAL ZONE MANAGEMENT FUND

Amendment No. 63: Restores language proposed by the House and stricken by the Senate which makes funds provided under this heading available for purposes set forth in 16 U.S.C. 1456a(b)(2). The Senate bill had proposed new language designating $3,671,000 for CZM program administration costs and $4,129,000 for CZM section 306 grants.

CONSTRUCTION

Amendment No. 64: Appropriates $97,600,000 for the NOAA construction account instead of $100,000,000 as proposed by the Senate and $52,000,000 as proposed by the House, and designates in the bill the following amounts: $2,500,000 for a grant to Kansas City, Missouri for the development of a weather and environment information and demonstration center; and continuations of the following ongoing construction projects funded in previous years: $1,000,000 for a grant to Mystic Seaport in Mystic, Connecticut for a maritime education center; $3,500,000 for a Multispecies Aquaculture Center in the State of New Jersey; $2,000,000 for the construction of the Massachusetts Biotechnology Center Research Institute in Boston; and $5,200,000 for the Center for Interdisciplinary Research and Education in Indiana. These designations were not included in either the House or Senate bills.

The conferees intend that funds provided under this account in previous fiscal years for the purpose of establishing a biotechnology innovation center in Boston be made available to the Massachusetts Biotechnology Research Institute (MBRI).

The conference agreement also includes a total of $32,800,000 for fisheries and oceans facilities, of which $11,000,000 is for the construction of the interagency Estuarine Habitats Research Laboratory in Lafayette, Louisiana. This facility is to be staffed, operated and supported by agencies other than the National Oceanic and Atmospheric Administration, such as the Corps of Engineers. Also, $2,600,000 of this amount is included for the completion of a wharf and support facilities at the Marine Science Center in Newport, Oregon. Another $7,500,000 is included within that amount to initiate expansion of the National Marine Fisheries Service Southeastern Laboratory. This new facility will house NOAA, State of South Carolina Marine Resources, and other agency personnel. The remaining funds provided under the fisheries/oceans facilities line are for ocean and fisheries facilities of NOAA, including the consolidation of NOAA facilities in Juneau, Alaska.

Within the amount provided for National Estuarine Research Reserves, $980,000 is for acquisition of real property to expand the ACE basin estuarine reserve in South Carolina.

The conferees concur with language included in the House report on the relocation of the NMFS Tiburon laboratory.

Within the amount provided for Columbia River hatchery facilities, $6,500,000 is included for irrigation screens as recommended in the Senate report.

The conferees agree with the Senate report language regarding the need for $4,000,000 within the funds provided for environmental compliance for cleanup and removal activities on St. George and St. Paul Islands, Alaska.

The conference agreement includes the following amounts for the NOAA construction account:

[In thousands of dollars]

Construction:	
NOAA Facilities Maintenance	$4,000
Sandy Hook lease	1,500
Environmental compliance	6,000
Boulder lab—above standard costs	2,000
NEXRAD WFO construction	20,300
Columbia river facilities	8,200
Silver Spring consolidation	2,300
NOAA research facilities	1,900
Fisheries/oceans facilities	33,200
Other facilities	14,200
Nat'l Estuarine Research Reserve	4,000
Subtotal, Construction	97,600

FISHING VESSEL OBLIGATIONS GUARANTEES

Amendment No. 65: Appropriates $250,000 in subsidy funding for the fishing vessel obligation guarantee program, instead of $459,000 as proposed by the House, and includes new language not in the House bill which restricts availability of these loan guarantees for the purpose of purchasing new vessels. The Senate bill contained no provision on this matter.

The conferees have included language which is intended to ensure that these funds are not used for purposes which contribute to the overcapitalization of the fishing industry. The conferees intend that the funds provided be available for the refinancing of existing debt, renovation and repair of existing vessels and facilities, and construction of new shoreplants for underutilized species, aquaculture and waste reduction.

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

Amendment No. 66: Appropriates $16,900,000 for the Department of Commerce Office of Inspector General as proposed by the House instead of $17,250,000 as proposed by the Senate. The conferees concur with language included in the House report (H. Rept. 103-552) regarding the transfer of funds from other Commerce agencies to support the audit activities of the Office of Inspector General. The conferees agree that the fiscal year 1996 Department of Commerce budget request should reflect a base transfer of these funds to the Office of Inspector General.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

Amendment No. 67: Appropriates $136,000,000 for salaries and expenses of the Bureau of the Census instead of $141,272,000 as proposed by the House and $135,000,000 as proposed by the Senate.

Within the amounts provided, the conferees expect the Census Bureau to begin the proposed efforts to modernize and restructure the standard industrial classification (SIC) code system. The conferees continue to be concerned about the number of statistical briefs on a variety of subjects released by the Census Bureau and expect a thorough review of the need for these reports to be conducted as soon as possible to identify possible savings which could be reprogrammed to cover other high priority programs.

PERIODIC CENSUSES AND PROGRAMS

Amendment No. 68: Appropriates $142,576,000 for the Census Bureau's periodic account, including the decennial census program, as proposed by the House instead of $145,000,000 as proposed by the Senate.

The amount provided in the conference agreement includes the funding recommended in the House report for the Bureau to continue its efforts to prototype high performance computing technologies necessary for the Year 2000 Census. The conferees also support the continuation of the program to develop intercensal poverty estimates.

The conferees expect the Census Bureau to continue examining its unliquidated obligations to identify amounts which could be deobligated and reprogrammed to cover other priority needs related to the Year 2000 Census. The conferees expect the Census Bureau to submit quarterly reports to the House and Senate Committees on Appropriations on the status of obligation of funds as described in the House report. The conferees expect the Census Bureau to submit a reprogramming notification to the House and Senate Committees on Appropriations before obligating any more than the currently anticipated $2,772,000 in recoveries of prior year obligations identified in the budget request.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

Amendment No. 69: Appropriates $46,937,000 for the Commerce Department's economic and statistical programs as proposed by the Senate instead of $48,615,000 as proposed by the House.

The conferees understand that there has been considerable debate over the years as to the objectivity, methodology, and applicability of "Integrated Environmental-Economic Accounting" or "Green GDP". The conferees understand that the Department has completed the development of Phase I of this initiative. the conferees believe that an independent review, by an external organization such as the National Academy of Sciences, should be conducted to analyze the proposed objectivity, methodology, and application of environmental accounting. The conferees expect BEA to use $400,000 under this account to fund this independent study, as suggested by the House report. The conferees expect BEA to suspend development of Phase II of this initiative until the review has been completed and the results have been submitted to the Committees on Appropriations of the House and the Senate, as well as the appropriate authorizing committees.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Amendment No. 70: Appropriates $266,450,000 for the International Trade Administration, instead of $268,723,000 as proposed by the House and $262,000,000 as proposed by the Senate, and adds language designating funds as follows: $1,000,000 for a grant to the Emerging Technologies Institute (ETI) in Sacramento, California; $930,000 for a grant to the Michigan Biotechnology Institute; $1,700,000 for the Massachusetts Biotechnology Research Institute in Worcester; $1,200,000 for the Center for Global Competitiveness in Loretto and Latrobe, Pennsylvania; and $3,400,000 for the Textile Clothing Technology Corporation. These designations were not included in either the House or Senate bills.

The following table displays the amounts provided for ITA by program component:

[In thousands of dollars]

	1994 Appropriation	1995			
		Request	House	Senate	Conference
US&FCS	136,598	152,102	....	155,102	149,420
Import administration	32,341	32,890	....	25,902	30,000
International economic policy	19,748	20,509	....	23,155	21,000
Trade development	59,903	56,289	....	57,841	66,030
Total	248,590	261,790	268,723	262,000	266,450

The conferees reiterate that the amounts displayed in the above table serve as a base for reprogramming. The conferees agree that any change in the use of funds from the purposes for which provided, including having one ITA component pay for the requirements of another, is subject to submission of a reprogramming notification in accordance with Section 605 of this Act. The conferees also expect to receive notification of reprogramming for any change in the use of carryover funds from the purpose for which originally appropriated.

The conferees have reviewed the Department of Commerce's response to the Senate report language regarding the expansion of export assistance centers/one stop shops, and reorganizing domestic United States and Foreign Commercial Service (US&FCS) along a "hub and spoke" concept. The conferees have concerns about the process which was used to carry out the notification of the Committees on Appropriations of the House and the Senate of the reorganization proposal. The conferees do not consider press releases to be an appropriate manner by which to respond to Appropriations Committee requests for information.

The conferees generally support the proposal put forward by the Department and the US&FCS. However, the conferees are concerned with and do not approve the proposed siting of some of the new US&FCS domestic offices. The conferees expect that the new export assistance center for the Carolinas, with three FTE, be established in Greenville, South Carolina, which is a center for foreign investment and American export firms. The conferees are also concerned that the most recent proposal for export assistance fails to include several states, including the State of Kentucky. The conferees expect US&FCS to locate a district export assistance center in Somerset, Kentucky.

The conferees agree that the US&FCS, as it expands its overseas network, should hire American citizens wherever practicable. The conferees understand that in some cases, hiring foreign nationals for these positions may be more practical or more cost efficient. The conferees expect a hiring ratio of one foreign national employee for every American citizen hired with the enhanced funding provided.

The conferees have been made aware of concerns that the effectiveness of the antidumping statute is being diminished by increasing instances of foreign companies engaging in subterfuges in order to avoid antidumping duties. The purpose of the antidumping statute is to prevent foreign companies from engaging in illegal pricing schemes by charging less in foreign markets than in the home market. The conferees understand that often, foreign companies operating in protected home markets will dump products in the United States in order to capture market share, while collecting profits in their closed home markets. The antidumping statute was enacted to ensure that American producers can sell their products at a fair price. The conferees also understand that in many cases, foreign companies found guilty of dumping will establish related party subsidiaries that import the dumped goods and absorb the duties, thus allowing the goods to still be sold at a dumped price.

The conferees believe that the Import Administration should publish, in its Administrative Reviews of outstanding orders, the amount of the dumping duty that is being absorbed by a related party. Furthermore, the conferees expect the Import Administration to report back to the Committees on Appropriations of the House and the Senate, as well as the appropriate authorizing committees, on what steps have been taken to prevent companies from circumventing dumping orders.

The conferees agree that up to $500,000 of the amounts provided for ITA should be used to establish an export center in Tokyo, as proposed in the Senate report (S. Rept. 103-309).

Within the funds available under this account for the market development cooperator program, the conferees encourage ITA to consider funding programs which assist American high technology firms in developing joint ventures and strategic alliances with overseas partners.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

Amendment No. 71: Appropriates $38,823,000 for the Bureau of Export Administration as proposed by the House instead of $36,161,000 as proposed by the Senate.

The conferees agree that funding for the Bureau of Export Administration is of the highest priority and would consider a transfer of funds under section 205 of this Act to cover any shortfalls in this account.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

Amendment No. 72: Appropriates $43,900,000 for the Minority Business Development Agency instead of $44,000,000 as proposed by the Senate and $42,428,000 as proposed by the House, and includes language, not in either the House or Senate bills, designating funds for the following items: $600,000 for a grant for the NTTC to establish a Minority Apprenticeship Program in Technology Management in cooperation with Historically Black Colleges and Universities; $100,000 for a grant to establish a Minority Economic Opportunity Center in Cleveland, Ohio, to assist minority businesses in the areas of business and financial development and exporting; and $200,000 for a grant to provide funding to the U.S.-African Trade and Technology Center at Savannah State College in Georgia to assist small and minority businesses in expanding trade-facilitating technology transfer.

The conferees support efforts within the Department of Commerce to coordinate the mission of MBDA with the Technology Administration in order to provide expanded opportunities for minority businesses and entrepreneurs.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 73: Appropriates $16,407,000 for the salaries and expenses of the U.S. Travel and Tourism Administration (USTTA) instead of $14,907,000 as proposed by the House and $17,907,000 as proposed by the Senate.

Amendment No. 74: Deletes language proposed by the Senate which would require USTTA to charge additional user fees for its services, products, and information to result in an additional $3,000,000. The House-passed bill continued no similar provision.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

Amendment No. 75: Appropriates $83,000,000 for the salaries and expenses of the Patent and Trademark Office, instead of $88,329,000 as proposed by the House and $75,000,000 as proposed by the Senate, and includes language, not in either bill, designating $6,000,000 of the funds provided for the acquisition of high performance computing capability for the PTO. The conference agreement also includes language, not in either bill, which permanently cancels $2,195,000 of offsetting collections in this account related to government-side GSA rental cost reductions.

The conferees believe that the acquisition of high performance computing capability will ensure that the Patent and Trademark Office is best able to serve its users in the future. The conferees are aware of the development of a metacomputing center in close proximity to the PTO headquarters. This center will be an open site that is easily accessible by the private sector and the Federal government. The conferees believe that the development of such a center will obviate the need for Federal agencies such as the PTO to individually purchase high performance computing equipment at a great cost to the Federal taxpayer and fee paying users of the Patent and Trademark Office.

The conferees expect the Patent and Trademark Office to use $500,000 from within available resources to develop a program to provide technical assistance to help foreign governments enforce intellectual property laws as proposed in the Senate report under the International Trade Administration.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

Amendment No. 76: Appropriates $10,000,000 for the Under Secretary of Commerce for Technology and the Office of Technology Policy as proposed by the House instead of $11,237,000 as proposed by the Senate.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

Amendment No. 77: Restores language stricken by the Senate appropriating $8,000,000 to the National Technical Information Service for the implementation of the American Technology Preeminence Act, instead of $12,000,000 as proposed by the House.

The conferees have been made aware of concerns that some of the programs proposed in the original budget request for this account were potentially duplicative of the responsibilities of the Government Printing Office (GPO). The conferees expect NTIS and the Department of Commerce to develop a proposal, to be coordinated with the Government Printing Office, describing the proposed uses of these funds and the delineation of responsibilities of both NTIS and GPO relative to the American Technology Preeminence Act. The conferees expect the Department to submit this proposal to the Committees on Appropriations of the House and the Senate by November 1, 1994, and expect that none of the funds provided under this heading will be expended until this proposal has been received and reviewed under the Committee's standard reprogramming procedures contained in section 605 of this Act.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 78: Appropriates $20,981,000 for the salaries and expenses of the National Telecommunications and Information Administration (NTIA) as proposed by the Senate instead of $21,056,000 as proposed by the House.

Amendment No. 79: Provides language proposed by the Senate which will allow NTIA to carry over reimbursable payments from other Federal agencies, such as the Department of Defense. The House bill contained no similar provision.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

Amendment No. 80: Appropriates $29,000,000 for the Public Broadcasting Facilities, Planning and Construction program (PBFP) instead of $26,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 81: Designates $1,500,000 for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT) as proposed by the Senate instead of $700,000 as proposed by the House.

INFORMATION INFRASTRUCTURE GRANTS

Amendment No. 82: Appropriates $64,000,000 for the Information Infrastructure Grants program instead of $70,000,000 as proposed by the House and $52,000,000 as proposed by the Senate.

The conferees concur with the language included in the House report noting the value of the creation of a national information highway to rural and remote areas, and urge NTIA to give particular consideration to applications which would lead to increased telecommunications access in areas where such service is not readily available.

The conferees support the competitive selection and award of information infrastructure grants. In this regard, the conferees endorse the review and consideration of the various proposals named in the House and Senate reports should applications be submitted. The conferees have been made aware of the following technical change in the description of a proposal listed as item number (5) in the House report, and encourage NTIA to consider an application as follows:

(5) a proposal by the NCexCHange and the Southeastern Regional Alliance in North Carolina to assist non-profit organizations and businesses in using the telecommunications infrastructure.

Amendment No. 83: Provides language proposed by the Senate clarifying that activities of the Advisory Council on National Information Infrastructure may be supported within funds provided for program support activities under this heading. The House bill contained no similar provision.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 84: Restores language proposed by the House and stricken by the Senate designating trade adjustment assistance as a use of the funds provided under this heading and provides $408,024,000 for the economic development assistance programs instead of $338,524,000 as proposed by the House and $412,198,000 as proposed by the Senate. The following table shows a comparison of the recommended conference agreement to the amounts provided by the House and Senate:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

[In thousands of dollars]

	Fiscal year—				
	1994	1995 request	1995 House	1995 Senate	1995 conference
Public works grants	160,000	130,924	175,000	174,000	195,000
Planning assistance	26,000	26,000	26,598	27,272	26,598
Technical assistance (including University Centers)	10,600	10,600	10,926	10,926	10,926
Defense Economic Conversion	80,000	140,000	80,000	140,000	120,000
Research and evaluation	500	500	500	0	500
Trade adjustment assistance	10,000	0	10,000	10,000	10,000
Economic adjustment grants	35,542	19,000	35,500	50,000	45,000
Total	322,642	327,024	338,524	412,198	408,024

The conferees are interested in EDA's proposed Competitive Communities concept to assist distressed communities in developing the necessary industrial base to compete in the global marketplace. The conferees expect EDA to submit a detailed plan for implementation of a pilot program for competitive communities. In this plan, EDA should address concerns expressed by both the House and Senate appropriations and authorizing committees that the program be structured in such a way that both defense conversion-impacted communities and traditional communities benefit equally from this innovative concept. Further, the plan should be structured so that it benefits rural areas as well as urban centers. The conferees expect the Department and EDA to submit this detailed plan no later than December 1, 1994. Upon review of the proposal by the appropriate committees, the House and Senate Committees on Appropriations would be willing to consider a reprogramming proposal for the Competitive Communities program, to be submitted by January 31, 1995 in accordance with the Committees' standard reprogramming procedures included in Section 605 of this Act. The conferees intend that any funds proposed for reprogramming for this purpose from amounts provided under defense conversion in this Act would be used to fund the competitive communities concept only in defense-impacted communities. Likewise, any reprogramming from other Title IX funds for this purpose should only be directed toward competitive communities programs in traditional, non-defense communities.

Amendment No. 85: Deletes language proposed by the Senate earmarking funds provided under this heading for the trade adjustment assistance program and the Title I Public Works grant program. The House bill continued no similar provision.

The conferees have agreed to provide funding for both of these programs; a table displaying the amounts provided for all EDA assistance programs is included under Amendment No. 84.

The conferees endorse EDA's review and consideration of all viable proposals named in both the House and Senate reports accompanying this bill, should those proposals be submitted. The conferees have also been made aware of the following additional proposals for economic development assistance, and encourage EDA to consider applications for these proposals within applicable procedures and guidelines:

(1) a proposal from the Southern Kentucky Economic Development Corporation for the implementation of a strategic plan for industrial recruitment and economic development within southern and eastern Kentucky;

(2) a proposal from the Wood County Development Authority to develop an industrial park;

(3) a proposal from the State of North Carolina and Pembroke State University for the development of a Regional Center for Economic, Community and Professional Development;

(4) a proposal from the City of Akron, Ohio, for exhibition development at the National Invention Center; and

(5) a proposal from the City of Pittsburgh for a grant for site assembly and infrastructure development for the Federal North Redevelopment Project.

SALARIES AND EXPENSES

Amendment No. 86: Appropriates $32,205,000 for the EDA salaries and expenses as proposed by the House instead of $36,000,000 as proposed by the Senate.

The conferees support the language included in the House report regarding the regional versus headquarters staffing.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

Amendment No. 87: Deletes language proposed by the Senate requiring that not to exceed $6,177,000 of the savings associated with procurement reform be assigned to the National Oceanic and Atmospheric Administration (NOAA). The House bill contained no similar provision.

The conferees agree with the intent of the Senate amendment that the burden of the procurement reform reductions to be taken by the Department not be borne disproportionately by NOAA and that NOAA should not be allocated more than one-half the total reduction required under this provision. The conferees expect the Department to notify the House and Senate Committees on Appropriations of the distribution of these proposed procurement savings under the reprogramming procedures contained in Section 605 of this Act.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

Amendment No. 88: Appropriates $24,240,000 instead of $24,157,000 as proposed by the House and $24,323,000 as proposed by the Senate.

CARE OF THE BUILDING AND GROUNDS

Amendment No. 89: Appropriates $3,000,000 as proposed by the House instead of $3,045,000 as proposed by the Senate.

United States Court of Appeals for the Federal Circuit.

SALARIES AND EXPENSES

Amendment No. 90: Appropriates $13,438,000 as proposed by the House instead of $13,362,000 as proposed by the Senate.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

Amendment No. 91: Appropriates $11,685,000 as proposed by the House instead of $11,765,000 proposed by the Senate.

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

Amendment No. 92: Appropriates $2,340,127,000 instead of $2,323,455,000 as proposed by the House and $2,409,318,000 as proposed by the Senate.

The following table reflects the net increase of $16,672,000 provided by the conference agreement above the House level:

[In thousands of dollars]

Base adjustments:	
Increased Article III judge vacancies	−$9,000
New space for FY 1995	−2,330
Annualization of space for FY 1994	+9,073
Program increases:	
Magistrate Judges/staff	+3,300
Clerks Offices:	
(1) Deputy Clerks/Courts of Appeals	+1,100
(2) Deputy Clerks/District Courts	+3,529
(3) Deputy Clerks/Bankruptcy Courts	−10,986
Probation and pretrial services:	
Workload Requirements	+15,486
Automation:	
Judiciary automation fund	+3,500
Facilities:	
Tenant alterations	+3,000

The conferees are agreed that the Judicial Conference of the United States should establish new United States Magistrate Judge positions on the basis of additional workload requirements and other additional, appropriate criteria. The conferees note that the conference agreement does not fully fund the budget request for additional magistrates. Therefore, the conferees expect that the Judicial Conference should reevaluate the need for new magistrate positions and establish such positions in the districts of greatest need.

FEES OF JURORS AND COMMISSIONERS

Amendment No. 93: Appropriates $59,346,000 instead of $62,692,000 as proposed by the House and $56,000,000 as proposed by the Senate.

COURT SECURITY

Amendment No. 94: Appropriates $97,000,000 as proposed by the House instead of $97,532,000 as proposed by the Senate.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

Amendment No. 95: Appropriates $47,500,000 instead of $46,500,000 as proposed by the House and $47,734,000 as proposed by the Senate.

The conferees are concerned about the lack of information available from the General Services Administration concerning the delivery of new space and facilities projects for the Judiciary. This information is critical to the Committees' funding decisions on the budget requests for the Salaries and Expenses account for Courts of Appeals, District Courts, and Other Judicial Services. The conferees expect that the Administrative Office of the United States Courts will develop its own data base to keep track of approved space and facilities projects in order to provide the Appropriations Committees with timely information on the status of such projects.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

Amendment No. 96: Appropriates $18,828,000 as proposed by the House instead of $19,739,000 as proposed by the Senate.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

Amendment No. 97: Appropriates $8,800,000 instead of $8,468,000 as proposed by the House and $9,200,000 as proposed by the Senate.

GENERAL PROVISIONS—THE JUDICIARY

Section 305

Amendment No. 98: Deletes a provision proposed by the Senate which would have extended the operating authority for the Judiciary Automation Fund for five years. The House bill contained no provision on this matter.

Section 306

Amendment No. 99: Deletes a provision proposed by the Senate which would have permitted the Judiciary's contributions to the Civil Service Retirement Fund to be paid back to the Judiciary when United States bankruptcy and magistrate judges elect to transfer their coverage from the Civil Service Retirement System or the Federal Employee's Retirement System to the retirement program established under the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988. The House bill contained no provision on this matter.

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORATION

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

Amendment No. 100: Appropriates $76,100,000 for the Maritime Administration's Operations and Training account as proposed by the House instead of $78,000,000 as proposed by the Senate, and adds language, not in either bill, which permanently cancels $360,000 of the budgetary resources made available to the Maritime Administration for fiscal year 1995 procurement and procurement-related activities.

READY RESERVE FORCE

(INCLUDING RESCISSION)

Amendment No. 101: Appropriates $150,000,000 for the maintenance and operations of the Ready Reserve Force instead of $179,415,000 as proposed by the House and $138,000,000 as proposed by the Senate.

Amendment No. 102: Rescinds $158,000,000 from the unobligated balances available under the Ready Reserve Force as proposed by the Senate. The House bill included a rescission of $27,000,000 from the funds made available under this heading in Public Law 103–121.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

Amendment No. 103: Appropriates $1,894,000 for the Commission on Immigration Reform as proposed by the Senate instead of $1,494,000 as proposed by the House.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

Amendment No. 104: Appropriates $1,384,000 for the Marine Mammal Commission as proposed by the Senate instead of $1,320,000 as proposed by the House.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 105: Appropriates $258,175,000 and inserts the following new provisions which were not in either the House or the Senate bill: an earmark of $15,000,000 to implement section 24 of the Small Business Act as amended, including $500,000 to be made available only to the City of Buffalo, New York; a provision which would continue to authorize the Natural Resources Development Program at $30,000,000 per year from fiscal year 1995 through fiscal year 1997; and a provision which amends section 112(c) of the Small Business Administration Authorization and Amendment Act of 1988 through fiscal year 1997. This provision concerns the interest rate on certified development company loans. The House had proposed only an appropriation of $258,900,000 for the Salaries and Expenses account, and the Senate had proposed only an appropriation of $233,468,000 for this purpose.

The following table shows the distribution of the funds provided in the conference agreement for the SBA Salaries and Expenses account, including the funds earmarked in Amendment Nos. 107 and 108:

SBA salaries and expenses—fiscal year 1995

[In thousands of dollars]

	agreement
7(j) Program	8,073
SCORE	3,250
SBI	3,000
Women's Business Ownership Act of 1988 demonstration grants	4,000
SBDC	74,000
SBDC central Europe	1,000
SBDC defense economic transition	3,375
Veteran's outreach	445
International trade	481
Advocacy research	1,533
PASS	1,098
Title IV of the Women's Business Ownership Act of 1988	200
White House Conference	2,490
Microloan technical assistance	9,000
Empowerment zones	1,786
Export assistance centers	3,202
BIC/OSCS	1,400
Natural Resources Development Program	15,000
Pittsburgh District Video Production	150
Paperless Procurement Program	500
Subtotal	113,620
Other salaries and expenses	133,742
Total program level salaries & expenses	267,525
Financing offsetting collections	−9,350
Total appropriation	258,175

The conference agreement includes $150,000 for the continuation of a Video Production

Program which was established as a pilot program for Western Region II, Pittsburgh District of the Small Business Administration. The conferees are agreed that these funds are to be used for the program which was established in Johnstown, Pennsylvania for the development of industry-specific video catalogs that showcase small businesses to prime contractors, export partners, and trade missions. The conferees understand that the pilot program engendered strong interest among small businesses who now wish to participate because of the potential they see in this program.

The conference agreement also includes $500,000 to establish a pilot program for small businesses designed to advance their transition to a paperless procurement environment. The conferees understand that the Department of Defense and the Office of Management and Budget are considering instituting an entirely new way to do business with the Federal government—a proposed evolution to an all-electronic system. While the conferees are advised that this initiative has the potential to save substantial amounts, conversion to a paperless environment is not without its costs and many small businesses have neither the funds nor the capability to insure their continued involvement in Federal procurement activities in such a new procurement environment. The conferees, therefore, expect the Small Business Administration to initiate a pilot program with the economic development entity currently involved with SBA in producing marketing videos in southwestern Pennsylvania and the WVHTC Foundation. To the extent practicable, small businesses should share in the costs of planning and implementing such an electronic procurement system and in modifying systems that may otherwise be critically needed to the marketing of their products.

The conference agreement includes $3,202,000 for expansion of the Small Business Administration's participation in the export assistance center/one-stop shops initiative of the Administration called for in the report of the Trade Promotion Coordinating Committee. The conferees are agreed that the Small Business Administration should locate its centers in the same locations/offices as the United States and Foreign Commercial Service of the Department of Commerce and the Export-Import Bank of the United States since these agencies are the other partners in this initiative.

Amendment No. 106: Deletes a provision proposed by the Senate which would have permitted the Small Business Administration to charge a user fee for some of the costs of the Small Business Development Center program. The House bill contained no provision on this matter.

Amendment No. 107: Earmarks $77,375,000 for the Small Business Development Center program instead of $73,300,000 for this purpose as proposed by the House and $72,000,000 as proposed by the Senate.

Amendment No. 108: Earmarks $3,375,000 for defense economic transition technical assistance instead of $5,000,000 for this purpose as proposed by the Senate. The House bill contained no provision on this matter. The conferees expect that not less than $500,000 of this amount shall be available for the South Carolina Small Business Development Center to assist in the reuse of the Charleston Naval Base, displaced employees, and related economic impacts from this realignment.

Amendment No. 109: Restores language proposed by the House and stricken by the Senate which prohibits any of the funds in this Act from being used to impose any new or increased user fee or management assistance fee for the Small Business Development Center program.

BUSINESS LOANS PROGRAM ACCOUNT

Amendment No. 110: appropriates $9,596,000 for the Credit Subsidy Budget Authority cost of Small Business Administration's direct loans program instead of $8,500,000 for this purpose as proposed by the House and $9,221,000 for this purpose as proposed by the Senate.

The following table shows the allocation of subsidy costs and program levels for the various SBA direct loan programs under the conference agreement:

SMALL BUSINESS ADMINISTRATION DIRECT LOAN PROGRAMS

[In thousands of dollars]

	Conference agreement	
	Subsidy appropriation	Credit/Program level financed
Handicapped	1,700	4,928
MESBIC	2,533	7,554
Microloans	5,363	45,642
Total	9,596	58,124

Amendment No. 111: Appropriate $278,305,000 for the Credit Subsidy Budget Authority cost of the Small Business Administration's Business Guaranteed Loans Program instead of $321,067,000 for this purpose as proposed by the House and $277,143,000 as proposed by the Senate. The conference agreement also adds new language which earmarks $1,216,000 for the Microloan Guarantee Program to be available until expended and earmarks the following amounts to remain available until September 30, 1996: $15,990,000 for the SBIC program; $7,398,000 for the SSBIC program; and $20,457,000 for the Participating Securities program. In addition, the conference agreement adds new language earmarking $30,000,000 to prepay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act. The conference agreement also provides that the costs of guaranteed loans including the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974. The conference agreement also includes new language appropriating $27,350,000 and designating amounts for certain grant activities. Finally, the conference agreement makes a technical change in the bill.

The following table shows the allocation of subsidy costs and program levels under the conference agreement for the small business loans guarantee program:

GUARANTEED LOAN PROGRAMS

[In thousands of dollars]

	Conference agreement	
	Subsidy appropriations	Credit/Program level financed
Section 7(a)	195,096	7,146,373
Section 502 companies	664	42,000
Section 504 companies	8,030	1,434,000
SBIC Program	18,389	115,000
SSBIC	4,453	15,000
Participating securities	20,457	227,553
Microloan	1,216	10,000
Section 503 prepayments	30,000	30,000
Total, new business loan guarantees	278,305	9,019,926
Section 7(a) budgeted carryover	[1] 38,450	[1] 1,450,000
Total	316,755	10,469,926

[1] Represents carryover projected in the President's Budget. The actual carryover is currently estimated to be $27.3 million in subsidy costs and $1 billion in program level.

The conference agreement provides a total of $27,350,000 for the following activities:

$750,000 for a grant to the North Carolina Biotechnology Center for a demonstration project that would integrate small business formation and preparation of a biotechnology workforce;

$500,000 for continuation of a grant to the Van Emmons Population Marketing Analysis Center, Towanda, Pennsylvania, for an integrated small business data base to assist Appalachian Region small businesses;

$1,000,000 for continuation of a grant to the City of Prestonsburg, Kentucky, for small business development;

$375,000 for a grant to the State of Nebraska for establishing the Nebraska Micro Enterprise Initiative to include a clearinghouse and training and counseling programs;

$3,000,000 for continuation of a grant to the National Center for Genome Resources in New Mexico to provide consulting assistance, information and related services to small businesses and for related purposes;

$1,000,000 for continuation of a grant for the Genesis Small Business Incubator Facility, Fayetteville, Arkansas;

$500,000 for a grant to an entity in Bozeman, Montana, to establish a small business assistance center to assist small businesses to qualify and participate in the Small Business Innovation Research (SBIR) program;

$1,000,000 for continuation of a grant to the Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for a small business consulting and assistance center for entrepreneurial opportunities;

$1,500,000 for a grant to a consortium in Buffalo, New York, to provide assistance to small businesses for technical improvement of commercial industrial products;

$250,000 for a grant to the Western Massachusetts Enterprise Fund to expand microlending to entrepreneurs and small businesses in Central Massachusetts;

$400,000 for continuation of a grant to the State of Ohio, Department of Development, International Trade Division to assist small businesses expand their export opportunities;

$1,000,000 for continuation of a grant to assist the development of a Small Business Consulting, Information and Assistance Center in Hazard, Kentucky;

$2,000,000 for continuation of a grant to the WVHTC Foundation, of which half is for build-out, equipment, and operations costs for a small business incubator facility and half is for an outreach grant program to assist small business economic development;

$125,000 for a grant to an organization in Bowling Green, Kentucky, for a small business pilot program;

$2,500,000 for a grant to the City of Carbondale, Pennsylvania, to establish a small business incubator facility;

$500,000 for continuation of a grant to the New York City Public Library for construction and related costs for the Industry and Business Library;

$200,000 for continuation of a grant to assist the Small Business Institute program of the Small Business Administration to establish and operate a National Data Center

Small Business Institute program in Conway, Arkansas;

$4,000,000 for a grant to the Unified Technology Center in Cleveland, Ohio, to assist small businesses in the design of high-quality, environmentally sound processes;

$1,250,000 for a grant to the City of Whitesburg, Kentucky, to develop and equip a facility to promote the development of small businesses and enhance economic development opportunities;

$2,500,000 for a grant to the City of Wheeling, West Virginia for the Oglebay Small Business Rural Development Center;

$1,000,000 for a grant for a Small Business Development Institute in North Philadelphia, Pennsylvania, for a facility to assist and train minority small businesses;

$250,000 for continuation of a grant to the City of Espanola, New Mexico, for the development of the Espanola Plaza to assist small businesses and enhance economic development;

$1,000,000 for a grant to North Central West Virginia Community Action to establish a small business rural enterprise training institute and micro-loan demonstration program;

$500,000 for a grant to the Mississippi Delta Small Business Technology Project in Little Rock, Arkansas, for technology education for small business owners and employees; and

$250,000 for a grant to establish a small business incubator facility in West Charlotte, North Carolina.

Amendment No. 112: Deletes the language proposed by the Senate which would have earmarked $1,216,000 for the Mirco-loan Guarantee Program and also makes certain technical changes in the remainder of the paragraph under the heading "Business Loans Program Account". The earmark for the Micro-loan Guarantee Program is addressed in Amendment No. 111.

The House bill contained no provision on this matter.

DISASTER LOANS PROGRAM ACCOUNT

Amendment No. 113: Adds the word "further" as proposed by the Senate. This is a technical change.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

Section 401

Amendment No. 114: Deletes a provision proposed by the House and stricken by the Senate which would have established certain prerequisites to funding the Small Business Investment Company Participating Securities program. SBA has satisfied these requirements by publishing final regulations governing this program.

Section 402(A)

Amendment No. 115: Inserts a provision proposed by the Senate which permits the SBA Administrator to propose up to five percent of any appropriation made available to SBA in the current year to be transferred between appropriations, but provides that no appropriation shall be increased by more than 10 percent by any such transfer. In addition, such transfers would be subject to the reprogramming guidelines in section 605 of this Act. The conference agreement also makes a technical change in the section number.

The House bill contained no provision on this matter.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

Amendment No. 116: Appropriates $415,000,000 with certain earmarks of these funds as proposed by the House instead of $400,000,000 with certain earmarks as proposed by the Senate.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

Amendment No. 117: Restores language proposed by the House and stricken by the Senate which provides that 50 percent of new basic field funds shall be awarded to grantees and contractors funded at the lowest levels per-poor-person so as to fund the largest number of programs possible at an equal per-poor-person amount. The provision also provides that 50 percent of new basic field funds shall be allocated to grantees and contractors in an amount that is proportionate to the number of poor people in such grantee or contractor service area as enumerated in the 1990 Census.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

Amendment No. 118: Appropriates $1,731,416,000 instead of $1,700,200,000 as proposed by the House and $1,780,439,000 as proposed by the Senate.

The conference agreement reflects an increase of $14,820,000 above the House allowance for adjustments to base, $14,000,000 in program increases to modernize the Department's information systems, $1,396,000 for operational costs related to reimbursement to the FBI for fingerprint checks on immigrant applicants at 10 overseas posts and $1,000,000 for international research activities.

The conferees are aware that following filing of the report accompanying the Senate version of H.R. 4603, the Department of Treasury informed the Department of State that it did not intend to pay its current bills under the Foreign Affairs Administrative System for Treasury personnel located overseas. The conferees, therefore, expect the Department of State will take no action to allow any increase in the number of Department of Treasury permanently assigned personnel overseas, including the Secret Service, until all interagency payments by the Treasury Department are paid in full. The conferees are further aware that United States ambassadors in several overseas posts have suggested that Treasury personnel, such as IRS employees, be relocated to the United States. The conferees strongly recommend that the Secretary of State support such efforts by Chiefs of Mission to reduce U.S. personnel overseas.

The conferees are agreed that the initiative of the Department of State's Bureau of Consular Affairs to modernize non-immigrant visa processing and automate the consular visa system is a priority and that funding for the new fingerprint requirement under Amendment No. 130 of this conference agreement should not impede the plan to upgrade the visa issuing capabilities of the Department of State at all overseas posts. Therefore, the conferees are agreed that funding for the new fingerprint requirement should be allocated from the increased amounts provided for this purpose under the conference agreement and from increased immigrant visa fee receipts in the 10 countries subject to the new fingerprint check requirement. The conferees are also agreed that none of the funds provided under this conference agreement for the modernization program should be used to fund the costs associated with the new fingerprint requirement.

The conference agreement includes $500,000 for continuation of a grant to the National Law Center for Inter-American Free Trade.

The conferees agree that the Department of State needs to pursue ways of increasing efficiency and conserving scarce financial resources. As one way to achieve such savings, the conferees urge the Department to study the feasibility of extending to other areas the "Vienna model" consolidating in one embassy certain administrative and support functions that can be performed on a more efficient shared basis in support of nearby stations or missions. The Department has established a joint administrative operation in Vienna that serves the various U.S. Missions headquartered at that location. The consolidated administrative support center in Brussels, Belgium is another successful example of allocating support services for United States missions abroad. Therefore, the conferees expect the Department to analyze the best means to replicating these models on a regional basis and submit a proposal to the House and Senate Appropriations Committees by October 1, 1994, providing for a pilot project for such a consolidated administrative operation for other areas during fiscal year 1995.

The conference agreement includes $300,000 for a grant to establish the International Center for the Study of Canadian-American Trade. The Center is to be established pursuant to an agreement between an institution or consortium of institutions of post-secondary education in the State of Michigan and a similar institution or consortium of institutions in Canada. The funds recommended will be supplemented in future years by private sector contributions and by contributions from the participating institution or institutions and will provide funding for research and education projects related to the promotion of trade between the United States and Canada with a special emphasis on trade in the Great lakes Region. Projects and programs will be designed to enhance cooperation between the United States and Canada in implementing the U.S.-Canada Free Trade Agreement and the North American Free Trade Agreement as they relate to the environment, labor markets, and labor standards, in the industrial and agricultural bases of the region.

The conferees are aware of efforts by the Cascadia Transportation/Trade Task Force to improve cross-border passage of people, goods and capital through enhanced public/private technology and border operational efficiencies. The conferees support these efforts and encourage the Department to continue its efforts in cooperation with the Department of Transportation authorities to implement the goals of this bi-national strategic alliance.

Because of the increasingly central role that the access to information is playing in the overall economic and political development of nations, the conferees expect that the Bureau of Economic and Business Affairs should receive, in accordance with the Administration's budget requests, $250,000 for each of fiscal years 1994 and 1995 from the Diplomatic and Consular Programs account to continue to support activities that promote international communications and information development (including support for related international institutional development in communications). Funds for this purpose have been provided for the last six years, but were not explicitly mentioned in either the Foreign Relations Authorizations Act, Fiscal Years 1994 and 1995 (P.L. 103-236) or the Department of State and Related

Agencies Appropriations Act, 1994 (P.L. 103–121). The conferees wish to clarify that funds for this purpose may therefore be provided for fiscal years 1994 and 1995.

Amendment No. 119: Inserts language which provides that all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended. The conference agreement also includes new language not in either the House or Senate bill which provides that all receipts received from an increase in the charge for immigrant visas in effect on September 30, 1994, shall be deposited as an offsetting collection to this account. In addition, the conference agreement includes language which establishes limitations of $4,000,000 for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues; $600,000 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and $300,000 for the Office of Cambodian Genocide Investigations. The conference agreement also provides that none of the funds appropriated for the Diplomatic and Consular Programs account shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236. Finally, the conference agreement includes new language not in either the House or the Senate bill which earmarks $28,356,000 for the Diplomatic Telecommunications Service for operation of existing base services and $15,000,000 for enhancement of the DTS and withholds these latter funds from obligation until the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit a DTS planning report required by section 514 of this Act.

The House had proposed a new fee provision for expedited passport service under certain conditions and would have limited expenditures from such fees to $18,000,000 during fiscal year 1995. In addition, the House had proposed limitations of $3,000,000 for grants, contracts, and other international research activities, $500,000 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy, and $300,000 for recruitment of Hispanic American applicants for the foreign service, and $300,000 to carry out the activities of the Office of Cambodian Genocide Investigations. The House also had proposed the limitation to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236 contained in the conference agreement.

The Senate had proposed the language contained in the conference agreement which provided that all receipts received from a new charge from expedited passport processing should be deposited in the Diplomatic and Consular Programs account as an offsetting collection. In addition, the Senate had proposed that of the total amount appropriated for the Diplomatic and Consular Programs account not less than $5,000,000 would be available only for payments to the Federal Bureau of Investigation pursuant to section 505 of this Act.

Amendment No. 120: Inserts the words, "*Provided*" as proposed by the Senate instead of "*Provided further*" as proposed by the House.

SALARIES AND EXPENSES

Amendment No. 121: Appropriates $385,000,000 as proposed by the House instead of $391,373,000 as proposed by the Senate.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Amendment No. 122: Appropriates $421,760,000 as proposed by the Senate instead of $396,000,000 as proposed by the House. The conference agreement includes $49,239,000 as requested to construct a new U.S. embassy in Ottawa. The conference agreement also includes up to $117,864,000 for facility maintenance and rehabilitation. The conferees are concerned that not enough resources are being invested in repair and maintenance of existing facilities by the State Department. The Department's backlog of facility maintenance and repair is currently estimated in excess of $413,000,000. The conferees expect the Department to develop a list of priorities along with a funding plan for these projects and submit such a list to the House and Senate Appropriations Committees no later than December 1, 1994.

The conferees have reviewed and approved the Department's plan for proceeding with a new chancery building in Moscow. The conferees expect the Department to avoid further delay on this project and to proceed with implementing its new plan for this project expeditiously. The conferees expect the Department to keep the House and Senate Appropriations Committees fully apprised of the cost of this project.

Amendment No. 123: Inserts a limitation which permits not to exceed $117,864,000 to be available for Maintenance of Buildings and Facility Rehabilitation instead of an earmark of $92,864,000 for this purpose as proposed by the House and $117,864,000 as proposed by the Senate.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Amendment No. 124: Restores language proposed by the House and stricken by the Senate which permits up to $1,000,000 of the appropriation for Emergencies in the Diplomatic and Consular Service to be transferred to and merged with the Repatriation Loans Program account subject to the same terms and conditions.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Amendment No. 125: Appropriates $877,222,000, of which not to exceed $4,000,000 is available to pay arrearages, the payment of which shall be directed towards special activities that are mutually agreed upon by the United States and the respective international organization. The House had proposed a total of $913,941,000 of which not to exceed $40,719,000 was available to pay arrearages. The Senate had proposed $873,222,000 with no funds available to pay arrearages.

The amount in the conference agreement includes $1,600,000 for payment of the United States assessment for the Nonproliferation Treaty Extension Conference to be held in fiscal year 1995. The President's budget included this item in the request for the Arms Control and Disarmament Agency. The conferees expect that sufficient funds will become available to pay this assessment through a combination of gains from currency fluctuations and changes from the estimates and actual bills received for the assessments funded in this account.

Amendment No. 126: Inserts a provision which requires that the Appropriations Committees and the Foreign Relations and Foreign Affairs Committees be notified of the steps taken and anticipated to be taken to meet the certification requirements for establishment of the United Nations Inspector General under section 401(b) of Public Law 103–236. The Senate had proposed similar language which required that these Committees be notified only of the steps taken to meet the requirements for certification. The House bill contained no provision on this matter.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Amendment No. 127: Appropriates $533,304,000 with limitations of $288,000,000 for arrearages accumulated in fiscal year 1994 and $23,092,000 for other outstanding arrearages. In addition, the conference agreement includes a provision which makes funds available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate congressional committees that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

The House bill had proposed the appropriation and limitations on the use of funds contained in the conference agreement. The Senate bill had proposed an appropriation of $500,000,000 with a limitation of $277,788,000 to pay arrearages and the provision contained in the conference agreement concerning the certification requirement that American manufacturers and suppliers are being given equal opportunities to provide equipment, services, and material for United Nations peacekeeping activities.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

SALARIES AND EXPENSES

Amendment No. 128: Appropriates $12,858,000 as proposed by the Senate instead of $13,947,000 as proposed by the House.

CONSTRUCTION

Amendment No. 129: Appropriates $6,644,000 for the Construction account of the International Boundary and Water Commission, United States and Mexico and appropriates $10,000,000 for payment to the Asia Foundation. The House had proposed $6,644,000 for the Construction account, and the Senate had proposed $7,733,000 for this item. Both the House and the Senate bills proposed $15,000,000 for the Asia Foundation. The conference agreement reduces funding for the Asia Foundation in order to fund other priority international programs.

The conference agreement for the Construction item reflects the sum of $1,000,000 for reimbursement to the City of San Diego for treatment of Tijuana sewage, to be derived from the carryover balances totaling $1,661,000. The amount of the carryover and the $1,000,000 reimbursement amount reflects reduced sewage flows currently being treated and projected for fiscal year 1995 at the San Diego Sewage Treatment Plant.

The conference agreement for Construction also includes the budget request of $2,000,000 to continue construction on a project to stabilize the Rio Grande channel between American Dam in El Paso, Texas, and the Caballo Dam, New Mexico. This amount together with $100,000 in carryover funds will provide a total of $2,100,000 for this project in fiscal year 1995.

GENERAL PROVISIONS—DEPARTMENT OF STATE

Section 505

Amendment No. 130: Inserts a general provision as proposed by the Senate, which amends the fiscal year 1994–1995 Foreign Relations Authorization Act to require the Department of State to conduct full fingerprint checks on immigrant visa applicants over 16 years of age in the 10 countries with the highest volume of immigrant visa issuance. The provision also requires that this program begin not later than March 31, 1995, and that the Department pay the FBI the required fee for each fingerprint card. The House bill contained no provision on this matter.

Section 506

Amendment No. 131: Inserts a general provision which amends the Immigration and Nationality Act to permit aliens to adjust their status in the United States upon payment of certain fees. The provision also establishes requirements for aliens who decide to adjust their status outside of the United States at a United States consulate. The provision also exempts spouses and children of aliens from these new requirements. In addition, the provision requires the Attorney General to deposit the sums collected pursuant to this provision in the Immigration and Naturalization Service's Immigration Examinations Fee account. The provision also requires INS to conduct full fingerprint identification checks through the FBI for all individuals over 16 years of age who are adjusting their immigration status in the U.S. pursuant to this provision. Finally, the provision includes language which sunsets the provision at the end of fiscal year 1997.

The Senate had proposed the provision contained in the conference agreement as a permanent change in law without any sunset provision. The House bill contained no provision on this matter.

The conferees are agreed that not later than December 31, 1996, the Secretary of State and the Attorney General should jointly submit to the House and Senate Appropriations Committees, the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report detailing for fiscal years 1995 and 1996:

(a) the total number of applicants processed pursuant to this provision, broken down separately according to country, immigrant visa category and terms of entry into the U.S.;

(b) the totals of additional expenditures and staff deployments by the Immigration and Naturalization Service to process such applicants;

(c) the total amount of additional fees collected by the Immigration and Naturalization Service pursuant to the provision;

(d) the number of applicants exempted from supplemental fees under the provision, by category of exemption, and by country;

(e) an estimate of Department of State workload changes abroad resulting from implementation of this provision, by country;

(f) estimated savings to the Department of State by virtue of implementation of this provision, and the disposition of such savings;

(g) an analysis of the impact on immigration fraud, if any, as a result of this provision;

(h) the total amount of fees paid to the FBI for fingerprint checks pursuant to this provision; and

(i) an estimate of INS workload changes, including effects on processing times for naturalization and adjustment applications, resulting from implementation of this provision by district.

Section 507

Amendment No. 132: Deletes a general provision which would have required the Director of the United States Information Agency to submit a report to the Appropriations Committees concerning the Au Pair program.

The conferees note the important role of American au pair agencies in operating exchange programs for foreign au pairs, some of whom might otherwise never have a chance to visit the United States. The au pairs make a valuable contribution in the child care they provide to American families, and they return to their home countries with a better understanding of American values and culture. The conferees are informed that the experience of the overwhelming majority of au pairs and their host families is positive. However, the conferees are concerned about reports that some au pairs have engaged in inappropriate, and in some instances unlawful behavior involving the American children in their care. The conferees are concerned that the procedures for screening and training prospective au pairs may be inadequate. In order to determine whether such procedures are adequate, the conferees request the Director of the United States Information Agency to submit a report to the House and Senate Committees on Appropriations and the House Foreign Affairs Committee and the Senate Foreign Relations Committee, within 60 days of enactment of this Act, containing the following:

(1) The number of persons accepted and the number of persons rejected each year for admission to the United States under a J Visa as part of the au pair program;

(2) The number of American host families that reported being satisfied with their au pair, and the number that reported being unsatisfied, for the most recent year for which such information is available and the reasons therefore;

(3) The guidelines and/or a summary of the procedures used by each au pair agency regarding screening of prospective au pairs for relevant information, such as personal character and employment references, and information about any prior unlawful activity involving children;

(4) The contractual relationship between au pair agencies and individuals located overseas who select and screen prospective au pairs, and the standards and procedures which apply to these individuals;

(5) The guidelines and/or a summary of the procedures used by each au pair agency regarding training of au pairs in child care and in relevant United States laws;

(6) The procedures used by each au pair agency and the United States Information Agency regarding au pairs who violate local, State or Federal laws;

(7) The mechanisms available to the United States Information Agency and each au pair agency to ensure maximum compliance with au pair agency guidelines and procedures;

(8) The procedures used by each au pair agency to deal with au pairs who are determined by their host family to be unsuitable; and

(9) A description of any efforts by the United States Information Agency or each au pair agency to strengthen or otherwise improve the above-mentioned guidelines, standards and procedures.

The House bill contained no provision on this matter.

Section 508

Amendment No. 133: Deletes a provision proposed by the Senate which would have permitted up to $100,000,000 of the funds appropriated in title V for the Department of State, the U.S. Information Agency and other international agencies and in chapter II of title VII to be transferred, at the President's discretion and subject to the notification procedures of the Appropriations Committees to support humanitarian relief for Rwanda.

The House bill contained no provision on this matter.

The conferees note that humanitarian assistance to Rwanda was included in the conference report on the Fiscal Year 1995 Foreign Operations, Export Financing and Related Agencies Appropriations Act.

Section 509

Amendment No. 134: Deletes a provision proposed by the Senate which would have required that not later than March 1, 1995, the Secretary of State submit to appropriate Congressional committees, a report on the technical cooperation activities of the International Atomic Energy Agency with countries on the list of terrorist countries, as determined under section 6(j) of the Export Administration Act of 1979. The House bill contained no provision on this matter.

The conferees expect that the Secretary of State will review this entire matter and submit a report to the appropriate Congressional committees on the technical cooperation program of the International Atomic Energy Agency.

Section 510

Amendment No. 135: Deletes a sense of the Congress provision proposed by the Senate that U.S. assessed contributions for UN peacekeeping operations could consist of contributions of excess defense articles or could be in the form of payments made directly to U.S. companies providing goods and services in support of such peacekeeping activities. The House bill included no provision on this matter.

Section 511

Amendment No. 136: Deletes a general provision proposed by the Senate which would have amended the Taiwan Relations Act to provide for cabinet-level contacts with Taiwan through exchanges of visits between cabinet-level officials of Taiwan and the United States. The House bill contained no provision on this matter.

Section 512

Amendment No. 137: Deletes a provision proposed by the Senate which would have amended the Immigration and Nationality Act to exclude from the United States any individual who is a member of an organization involved in terrorist activity. The House bill contained no provision on this matter.

Section 513

Amendment No. 138: Deletes a provision proposed by the Senate which would have prohibited the issuance of a visa to any alien who illegally confiscated the property of a United States citizen or converted for personal gain such property otherwise illegally confiscated from a United States citizen. The House bill had no provision on this matter.

Section 514

Amendment No. 139: Inserts new language establishing certain requirements for the Department of State's Diplomatic Telecommunications Service including financial management, the DTS Policy Board, a DTS Consolidation Pilot Program and a DTS Planning Report. The Senate had proposed a provision stating certain findings and expressing the sense of the Senate condemning the Government of Cuba for the sinking of the vessel "13th of March". The House bill contained no provision on this matter.

The conferees recognize the difficulties inherent in creating a viable, integrated, improved DTS network from a variety of previously separate networks, circuits, and systems controlled by various Federal agencies. The conferees note the progress that has been made, including savings realized by renegotiation of some circuit leases; establishment of a DTS training program; and installation and upgrade of transmission facilities in some embassies.

The conferees are deeply concerned, however, about the continued slow rate of progress made by the DTS Program Office (DTS-PO) in accomplishing the goals established for the DTS by Public Law 102-40. Very little progress has been made in the last two years toward true consolidation of DTS networks and operations, and some Congressional direction regarding the DTS has been ignored. Specifically, Conference Reports 102-918 and 103-293 directed that an amended DTS Five Year Strategic Plan be submitted to address specific shortfalls. The plan eventually submitted by the DTS Policy Board did not contain significant changes from the previous plan, despite clear Congressional direction to do so. Therefore, the following provisions have been included in the conference agreement to refocus the activities of the DTS Program Office, assure adequate funding, and provide balanced policy oversight, in order to achieve the efficiencies and economies envisioned by Congress based on the integration of the DTS networks and the provision of enhanced capabilities to serve all the foreign affairs agencies.

The stated intent of Congress was for the DTS-PO to have total control over the DTS baseline operating funds transferred from the Department of State (DOS), as well as the additional funds authorized by Congress for DTS enhancement, and these funds were to be used solely for DTS operations and enhancement. However, despite clear Congressional direction to the contrary, all DTS-PO financial transactions continue to be processed through Information Management (IM) and are subject to change by DOS. Further, efforts have been made by the DOS to use DTS funds for salaries of DOS employees and for other DOS facility operating expenses already funded by Congress. Commencing in FY 1995, all funds designated for the operation and enhancement of the DTS are to be passed directly to DTS-PO immediately upon appropriation via a separate allotment and unique DOS function code. Further, the DTS-PO Financial Management Officer is to be provided direct access into the DOS financial management system to enable that office to monitor and control the obligation and expenditure of these funds independently.

The DTS Policy Board now consists only of officials from DTS-PO and the two agencies whose assets comprised the bulk of the previous networks. A secondary DTS Management Council was also created, comprised of officials from the same organizations. Some of the reluctance to take action to bring about significant change in the configuration and management of the DTS could be attributed to parochial oversight by these officials. Within 60 days of enactment of the appropriation, DOS and DTS-PO officials are directed to restructure the DTS Policy Board to provide for permanent representation by: (a) the senior Information Management official from each agency currently serving on the Board; (b) the Director of the DTS-PO; (c) a senior career Information Management official from each of the Department of Commerce, the U.S. Information Agency, and the Defense Intelligence Agency; (d) a senior Information Management Official from each of two other Federal agencies served by the DTS, each of whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS-PO for a two-year term.

The conferees are agreed that a pilot program of total DTS consolidation is to be completed at not less than five medium or large Embassies before the end of fiscal year 1995. At each of these Embassies, DTS-PO will provide a full range of integrated information services to include message, data, and voice, without additional charge. A Combined Transmission Facility is to be created and jointly operated, with open access to all unclassified (black) transmission equipment. A black packet switch system will be installed and will serve all foreign affairs agencies associated with the Embassy. Separate classified (red) transmission systems, such as MERCURY, will be terminated, and all other foreign affairs agency systems will achieve international connectivity solely through the DTS. DTS-PO will submit a report to the House and Senate Appropriations Committees not later than January 15, 1996 on the pilot program to include a cost benefit analysis for each Embassy.

Obligation authority for the $15 million in the FY 1995 appropriation for the enhancement of the DTS is withheld, pending approval of: (1) a detailed plan to carry out the pilot program discussed above, including an estimate of funds required for this purpose; and (2) a comprehensive DTS Strategic Plan which contains viable detailed plans and schedules for: (a) an overall DTS network configuration and security strategy; (b) transition of the existing dedicated circuits and red networks to the black packet switch network; (c) the provision of a basic level of voice service for all DTS customers; (d) funding of new initiatives and replacement of current systems; (e) combining existing DTS Network Control Centers, relay facilities, and overseas operations; and (f) reducing DTS-PO's heavy reliance on full-time contractor services.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

Amendment No. 140: Insert language which earmarks not less than $9,500,000 of the appropriation for the Arms Control and Disarmament Agency only for activities related to the implementation of the Chemical Weapons Convention. The Senate amendment would have earmarked no less than $9,500,000 only for payment of United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons. The House bill contained no provision on this matter.

The activities covered by the conference agreement include payment of the United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons, the Organization on the Prohibition of Chemical Weapons, Training, the Office of National Assessments, and other activities as they relate to the Chemical Weapons Convention.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

Amendment No. 141: Appropriations $42,500,000 for the International Trade Commission instead of $43,500,000 as proposed by the Senate and $44,200,000 as proposed by the House. The conferees agree that any program reductions should be taken from the amounts requested for section 332 studies.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

Amendment No. 142: Appropriates $1,247,000 as proposed by the House instead of $1,000,000 as proposed by the Senate.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

Amendment No. 143: Appropriates $476,362,000 as proposed by the House instead of $480,362,000 as proposed by the Senate. The conference agreement does not include any funds to establish a new USIA post in Beirut, Lebanon. In addition, the conferees are agreed that the Agency should absorb within base amounts provided, any requirement for additional positions and resources for new activities in Vietnam.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Amendment No. 144: Appropriates $238,279,000 instead of $237,812,000 as proposed by the House and $242,388,000 as proposed by the Senate.

The following table shows the amounts in the conference agreement for the various programs funded in this account:

Educational and Cultural Exchange Programs Conference

[In thousands of dollars]

Fulbright & other academic programs	$134,000
International visitors	51,075
Pepper scholarship	1,000
Muskie Scholarship Program	7,000
Humphrey fellowships	7,977
Congress-Bundestag Program	2,500
Inst. representative government	550
NIS & Eastern Europe Training Program	4,000
Arts America Program	1,577
Citizen Exchange Program	10,000
American Studies Program	1,000
Exchange support	14,500
Mike Mansfield fellowship	500
South Pacific exchanges	900
United States-Mexico Conflict Resolution Center	500
Disability exchange clearinghouse	500
Center for Inter-American Free Trade	(1)
Paralympiad	1,500
Financing	(800)
Total	238,279

[1] Funded within Department of State "Diplomatic and Consular Programs."

The conference agreement provides $1,000,000 for the Pepper Scholarship program. Of this amount, the conferees agree that $300,000 is to be allocated as specified in the House Committee Report (H. Rept. 103-552).

The conferees note the role that private institutions are playing in assisting companies in Eastern Europe and the Newly Independent States of the former Soviet Union to meet the challenges associated with operating in more market-oriented economies. In particular, some programs such as those operated by the William Davidson Institute at the University of Michigan School of Business Administration, are based on multi-year partnerships involving faculty and masters-level students, top managers from U.S. industries and their counterparts from industries in transitional economies, and provide tangible benefits to all participants. The conferees commend such programs to the United States Information Agency as instruments of U.S. policy and urge USIA to consider applications for appropriate funding if such applications are merited.

Amendment No. 145: Designates $500,000 for the American Studies Collections program as proposed by the House and stricken by the Senate and deletes the earmarks of $600,000 for the Institute for Representative Government and $500,000 for the Mike Mansfield Fellowship Program as proposed by the Senate. Although the conference agreement does not earmark funds in the bill, the agreement includes $500,000 for the Mike Mansfield Fellowship program and $550,000 for the Institute for Representative Government in Amendment No. 144.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

Amendment No. 146: Appropriates $2,500,000 as proposed by the Senate instead of $2,100,000 as proposed by the House.

The conferees note that the conference agreement provides the remaining amount authorized for appropriation to the Eisenhower Exchange Fellowship Trust Fund as authorized by Public Law 101–454. The conferees also note that the Eisenhower Exchange Fellowships, Incorporated has raised $2,900,000 in private contributions which is more than the required matching amount under the law. The conferees are agreed that Federal financial support for this program is completed since the full authorization has been funded and this action represents the final appropriation.

INTERNATIONAL BROADCASTING OPERATIONS

Amendment No. 147: Appropriates $468,796,000 instead of $476,796,000 as proposed by the House and $475,478,000 as proposed by the Senate. The conference agreement also earmarks $229,735,000 of the total amount in the conference agreement for transfer to the Board for International Broadcasting. Both the House and Senate bills had earmarked $239,735,000 for transfer to the Board for International Broadcasting.

The conference agreement includes a total of $5,000,000 to continue and enhance the Voice of America's China Focus Program and other international broadcasting operations to Asia. The conferees are agreed that these existing United States Government international broadcasting operations are cost effective and should be maintained and increased, pending the submission of the report and plan for Radio Free Asia required by Public Law 103–236 and approval by the appropriate congressional committees.

Amendment No. 148: Inserts a provision proposed by the Senate which provides that funds made available for the expenses of the Board for International Broadcasting (BIB) in the International Broadcasting Operations account shall be made available for the new Broadcasting Board of Governors (BBG) established in the United States International Broadcasting Act of 1994, once the BIB goes out of existence. The House bill contained no provision on this matter.

Amendment No. 149: Deletes a provision proposed by the House and stricken by the Senate which would have prohibited funds provided for the Board for International Broadcasting within the International Broadcasting Operations account from being used to relocate the offices or operations of Radio Free Europe/Radio Liberty from Munich, Germany, to Prague, Czech. Republic.

Amendment No. 150: Inserts provisions which:

(1) Require that funds made available under this Act to relocate the offices or operations of Radio Free Europe/Radio Liberty from Munich to Prague shall be available only from funds provided for the Board for International Broadcasting in the International Broadcasting Operations account;

(2) Prohibit funds provided by this Act for the United States Information Agency, except for amounts made available for transfer to the Board for International Broadcasting, from being available for any excess cost to implement the plan required by section 310 of Public Law 103–236;

(3) Prohibit funds provided in this Act from being used for retroactive operating costs, including rent on facilities, in Prague or for payment of operation costs prior to the signing of a lease by RFE/RL, Incorporated; and

(4) Provide that not less than the amount appropriated by this Act for the Office of Inspector General, Board for International Broadcasting ($416,000) shall be available for semi-annual reviews of RFE/RL, Incorporated and that on-site review is maintained at the current level throughout the duration of the relocation transition.

The Senate amendment included the provision of the conference agreement concerning the relocation of the offices or operations of Radio Free Europe/Radio Liberty and the provision concerning the Office of Inspector General, Board for International Broadcasting.

The House bill contained no provision on this matter.

While the conferees support the decision to move Radio Free Europe/Radio Liberty from Munich to Prague, the conferees are extremely concerned about the preliminary cost estimates for the move and the ongoing operations of the Radios. The conferees are absolutely committed to supporting the phase-down of Radio Free Europe/Radio Liberty as proposed by the President and in limiting the cost of the move to Prague. The conferees agree that the relocation of the Radios and their ongoing operations must be accommodated within the authorized statutory caps for the Board for International Broadcasting for fiscal years 1995 and 1996, as contained in the foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236). In addition, the conferees are agreed that the plan for implementing the move and relocating the Radios, that the Administration is required to submit to Congress, should not permit the Radios to exceed these funding caps or to make any commitments about future operations or employee benefits that create liabilities which would make it difficult to achieve the goal of privatization as expressed by Congress in Public Law 103–236.

The conferees are concerned about the lack of cooperation of the Directors of Radio Free Europe and Radio Liberty during the course of a recent review by the Office of Inspector General of the Board for International Broadcasting about allegations concerning manipulation of news and other programming items. The Chairman of the Board for International Broadcasting requested the Inspector General review these matters in accordance with the Inspector General Act and the Board for International Broadcasting Act. The conferees expect full cooperation of all Radio Free Europe and Radio Liberty employees with the Office of Inspector General, the General Accounting Office and the oversight investigations of the House and Senate Appropriations Committees. Such lack of cooperation in this instance generates less than full confidence in the judgment and ability of such employees who refuse to cooperate with an authorized review. The conferees expect the Office of Inspector General to carry out a thorough on-site review of all Radio Free Europe and Radio Liberty activities throughout the duration of the relocation transition in order to keep the costs of the relocation to the absolute minimum. The conferees expect all Radio Free Europe and Radio Liberty employees to cooperate fully with the Office of Inspector General's on-site review and expect the Office to report any lack of cooperation or any refusal to provide documents and information concerning the transition to the Chairman of the Board for International Broadcasting and the House and Senate Appropriations Committees immediately upon the occurrence of such an incident.

RADIO CONSTRUCTION

Amendment No. 151: Appropriates $85,314,000 as proposed by the House instead of $93,165,000 as proposed by the Senate. The conference agreement includes $5,000,000 to begin construction of a Pacific Island shortwave facility for the Voice of America and Radio Free Asia.

Amendment No. 152: Appropriates $10,000,000 for Radio Free Asia and $24,809,000 for Broadcasting to Cuba instead of $10,000,000 for Radio Free Asia derived by transfer from the U.S. Information Agency's Radio Construction account and $8,625,000 for Radio Broadcasting to Cuba, as proposed by the House and $18,000,000 for Radio Free Asia and $24,809,000 for Broadcasting to Cuba, as proposed by the Senate.

The conference agreement provides $10,000,000 for expenses necessary to carry out the Radio Free Asia program as authorized by section 309 of the International Broadcasting Act of 1994. The conferees are agreed that none of these funds are available for obligation until the detailed plan for Radio Free Asia required under section 309 of Public Law 103–236 is submitted to Congress and a reprogramming request for the use of these funds is submitted to the House and Senate Committees on Appropriations in accordance with section 605 of the fiscal year 1995 Appropriations Act and is approved by the House and Senate Appropriations Committees. The conference agreement in Amendment No. 151 includes $5,000,000 in the U.S. Information Agency's Radio Construction account for beginning the construction of a Pacific Island transmitter facility to serve both the Voice of America and Radio Free Asia.

The conference agreement provides $24,809,000 for Radio and TV Marti under a combined Broadcasting to Cuba account as proposed by the Senate. This agreement provides the amount requested for this activity in the President's budget request within the International Broadcasting Operations account less $4,000,000 in unobligated balances, and provides $1,200,000 to convert TV Marti from VHF to UHF frequencies.

EAST-WEST CENTER

Amendment No. 153: Appropriates $24,500,000 as proposed by the Senate instead of $20,500,000 as proposed by the House.

NORTH/SOUTH CENTER

Amendment No. 154: Appropriates $4,000,000 for the North/South Center instead of $5,000,000 as proposed by the House and stricken by the Senate. It is the intent of the conferees that the Center will continue current levels of support for Latin American data bases at other universities.

NATIONAL ENDOWMENT FOR DEMOCRACY

Amendment No. 155: Appropriates $34,000,000 instead of $33,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

The conferees note that the Endowment implemented procedures providing for a more competitive process in its grant-making procedures during fiscal year 1994. The conferees endorse the Endowment's initiative and expect it to continue during fiscal year 1995.

TITLE VI—GENERAL PROVISIONS

Section 608

Amendment No. 156: Adds a provision as proposed by the Senate which prohibits funds in the bill from being used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion. The provision would prevent the EEOC, during fiscal year 1995, from implementing guidelines covering religious harassment that were included in proposed guidelines published by the EEOC in October 1993.

The provision in the conference agreement is identical to section 801 of the House bill which was included in Amendment No. 163.

Section 609

Amendment No. 157: Deletes a provision proposed by the Senate which would have prohibited funds in the bill from being used to approve export license applications for satellite launch vehicles of the People's Republic of China or Russia unless certain conditions were satisfied and certifications were made. The House bill contained no provision on this matter.

Section 610

Amendment No. 158: Inserts a new provision as proposed by the Senate which prohibits funds in this or any other Act from being used to deny or refuse entry into the United States of any goods on the United States Munitions List manufactured or produced in the People's Republic of China for which authority had been granted to import such goods into the United States on or before May 26, 1994, and which were on or before that date, in a bonded warehouse or foreign trade zone, in port, or in transit. The conference agreement also makes a technical change in the section number. The House bill contained no provision on this matter.

Section 611

Amendment No. 159: Inserts a provision concerning the Equal Employment Opportunity Commission's proposed guidelines on religions harassment. The provision makes certain findings concerning religious liberty and the proposed guidelines. The provision also requires that for the purposes of issuing final regulations in connection with the proposed guidelines on religious harassment, the Commission shall insure that—

(1) The category of religion shall be withdrawn from the proposed guidelines at this time;

(2) Any new guidelines for the determination of religious harassment shall be drafted so as to make explicitly clear that symbols or expressions of a religious belief consistent with the first amendment and the Religious Freedom Restoration Act of 1993 are not to be restricted and do not constitute proof of harassment;

(3) The Commission shall hold public hearings on such new proposed guidelines; and

(4) The Commission shall receive additional public comment before issuing similar new regulations.

The provision also includes a technical change in the section number.

The language in the Senate amendment is the same as that included in the conference agreement except that the Senate provision required the category of religion to be withdrawn from the proposed guidelines permanently instead of at this time.

The House bill contained no provision on this matter.

TITLE VII—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Amendment No. 160: Provides a fiscal year 1994 emergency supplemental appropriation for the Economic Development Administration of $50,000,000 in program funds and $5,000,000 for administrative costs, as proposed by the Senate. These funds would be used for grants to assist States and local communities in recovering from the flooding and damage caused by Tropical Storm Alberto and other disasters. The conference agreement also designates the entire amount as an emergency requirement by the Congress and requires the President to transmit an official budget request for a specific dollar amount, including designation of the amount as an emergency requirement. The House bill contained no provision on this matter.

The conferees are agreed that EDA should give special and expedited consideration to an application from the community of Lead, South Dakota for a grant from the funds provided for "other disasters" in this emergency supplemental appropriation to assist that community which has been severely impacted from a landslide that has forced the closure or relocation of businesses and threatens private residences.

The conferees are agreed that EDA should give special and expedited consideration to applications from communities in states which have been impacted by the devastating wild fires of the summer of 1994 for grants from the funds provided for "other disasters" in this emergency supplemental appropriation.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN PROGRAM ACCOUNT

Amendment No. 161: Appropriates $470,000,000 in fiscal year 1994 emergency supplemental funds as proposed by the Senate for the Small Business Administration's Disaster Loans Program account for the Northridge earthquake and flooding and other damage caused by Tropical Storm Alberto in Georgia, Alabama, and Florida, and other disasters (including the wild fires of the Summer of 1994 in the West), and associated administrative expenses. The House had proposed an emergency supplemental appropriation of $400,000,000 only for the Northridge earthquake and other disasters and associated administrative expenses.

Amendment No. 162: Inserts Senate language which provides that the $135,000,000 provided in the bill for administrative expenses of this disaster loan supplemental may be transferred to and merged with the Salaries and Expenses account and that up to $2,500,000 of this sum may be provided to the Small Business Administration's Inspector General for audits and reviews for disaster loans and the disaster loan program. The House bill contained no provision on this matter.

TITLE VIII—VIOLENT CRIME CONTROL APPROPRIATIONS ACT, 1995

Amendment No. 163: Deletes language proposed by the House and stricken by the Senate concerning EEOC religious harassment guidelines. This issue is addressed in Amendment No. 159.

The conference agreement also adds a new title VIII, the Violent Crime Control Appropriations Act, 1995. This title appropriates a total of $2,345,000,000 for various Justice Department programs which would be authorized in the Violent Crime Control and Law Enforcement Act of 1994 (The Crime Bill). Each of the programs funded was included in either the House or Senate appropriations bill under Title I—Department of Justice. The budget authority and related outlays provided in this bill equal amounts allocated by the Appropriations Committees for the Department of Justice from the Violent Crime Reduction Trust Fund which is contained in the Crime Bill. A general provision has been included which makes the amounts appropriated in this title available from this Crime Trust Fund upon enactment of the Crime Bill. The following chart identifies the amount for each law enforcement program which would be authorized in the Crime Bill for fiscal year 1995, compared to the amount appropriated in this bill.

Program	Crime Bill—	
	Authorization	Appropriation
Community Policing	$1,332,000,000	$1,300,000,000
Upgrade Criminal History Records	100,000,000	100,000,000
Immigration Initiative:		
Controlling the Border	181,000,000	181,000,000
Expedited Deportation	55,000,000	54,000,000
Enhanced Asylum Processing	64,000,000	49,000,000
Byrne Formula Grants	580,000,000	450,000,000
State Criminal Alien Assistance	130,000,000	130,000,000
Violence Against Women	85,000,000	26,000,000
Drug Courts	100,000,000	29,000,000
State Correctional Grants	175,000,000	24,500,000
Ounce of Prevention Council	3,000,000	1,500,000
Total	2,816,000,000	2,345,000,000

OFFICE OF JUSTICE PROGRAMS

BYRNE FORMULA GRANTS

The conference agreement provides $450,000,000 for the Edward Byrne State and Local Law Enforcement Assistance Formula Grant Program for fiscal year 1995, a 26 percent increase in funding over the previous year. The Senate proposed $423,000,000 for this purpose. The House bill included funds for this purpose under the Expanded Byrne program.

BRADY ACT IMPLEMENTATION

The conference agreement provides $100,000,000 for discretionary grants to States to upgrade criminal history records as proposed by the Senate. The House bill included funds for this purpose under the Expanded Byrne program. Included in this amount is $6,000,000 for the cost to implement the FBI's National Instant Background Check System.

BOOT CAMP PRISONS

The conference agreement provides $24,500,000 for discretionary grants to States to construct military style boot camp prisons as an alternative to traditional methods of incarceration. The Senate proposed $175,000,000 for grants to construct State prisons. The House bill included no funds for this purpose. The conferees agree that grants provided to States under this account should be for construction-related expenses only, and not for operating expenses.

DRUG COURTS

The conference agreement provides $29,000,000 for discretionary grants to States to implement drug courts, instead of $100,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

VIOLENCE AGAINST WOMEN GRANTS

The conference agreement provides $26,000,000 for discretionary grants to combat violent crimes against women, instead of $85,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

OUNCE OF PREVENTION COUNCIL

The conference agreement provides $1,500,000 to implement the Ounce of Prevention Council, instead of $3,000,000 as proposed by the Senate. The House bill included no funds for this purpose.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

The conference agreement provides $130,000,000 to reimburse States for their costs to incarcerate illegal aliens. The House bill included funds for this purpose under the Expanded Byrne program. The Senate amended the bill to allow for the transfer of $350,000,000 from amounts appropriated for Contributions for International Peacekeeping Activities and Contributions to International Organizations for this purpose, and also amended the bill to allow the use of Community Policing Funds for this purpose.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement provides $17,400,000 for additional immigration judges as part of the President's Immigration Initiative, instead of $24,069,000 as proposed by the House and $24,300,000 as proposed by the Senate.

COMMUNITY POLICING

The conference agreement provides $1,300,000,000 for Community Policing as proposed by the Senate, instead of $1,332,000,000 as proposed by the House.

The conferees agree that it is critical to provide these police hiring grants as expeditiously as possible. To that end, the conference agreement authorizes the use of $200,000,000 of this appropriation to provide grants for community policing applications submitted under the fiscal year 1993 Police Hiring Supplemental.

The conferees are concerned with the limited number of grants awarded to county sheriff departments during competition for the fiscal year 1993 Police Hiring Supplemental grant program. The conferees expect greater consideration be provided these critical law enforcement entities when making awards in fiscal year 1995.

The conference agreement also designates $11,000,000 for salaries and expenses of an anticipated 150 personnel to manage and administer the Community Policing program. Of these personnel, 20 would be assigned to the Office of Justice Programs.

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

The conference agreement provides $17,400,000 for additional immigration judges as part of the President's Immigration Initiative, instead of $24,069,000 as proposed by the House and $24,300,000 as proposed by the Senate.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

The conference agreement provides the INS a total of $100,600,000, instead of $134,315,000 as proposed by the House and $93,300,000 as proposed by the Senate, to implement the President's Immigration Initiative for the following program enhancements: (1) $54,500,000 to fund 700 new and 250 redirected Border Patrol agents, as well as 110 support personnel; (2) $17,500,000 to enhance detention and deportation programs; (3) $28,600,000 for expedited asylum processing.

BORDER CONTROL SYSTEM MODERNIZATION

The conference agreement provides the INS a total of $154,600,000, instead of $116,842,000 as proposed by the House and $170,900,000 as proposed by the Senate, for modernized automation and communications systems and other new technologies to improve control of the border.

GENERAL PROVISION

The conference agreement adds new language, not in either the House or Senate bill, which makes the amounts appropriated in this title available from the Violent Crime Reduction Trust Fund upon enactment of the Crime Bill. If the Crime Bill is not enacted into law, or if it is enacted without a Violent Crime Reduction Trust Fund, then the amounts appropriated in this title will be derived from the General Fund of the Treasury.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the Committee of Conference, with comparisons to the fiscal year 1994 budget estimates, and the House and Senate bills for 1994 follow:

Budget estimates of new (obligational) authority, fiscal year 1994	$670,000,000
House bill, fiscal year 1994	670,000,000
Senate bill, fiscal year 1994	795,000,000
Conference agreement, fiscal year 1994	795,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1994	+125,000,000
House bill, fiscal year 1994	+125,000,000
Senate bill, fiscal year 1994	

The total budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1994 budget estimates, and the House and Senate bills for 1995 follow:

New budget (obligational) authority, fiscal year 1994	$23,710,631,000
Budget estimates of new (obligational) authority, fiscal year 1995	27,730,230,000
House bill, fiscal year 1995	26,532,230,000
Senate bill, fiscal year 1995	27,206,886,000
Conference agreement, fiscal year 1995	26,838,356,000
Confernce agreement compared with:	
New budget (obligational) authority, fiscal year 1994	+3,127,725,000
Budget estimates of new (obligational) authority, fiscal year 1995	−892,226,000
House bill, fiscal year 1995	+306,126,000
Senate bill, fiscal year 1995	−368,530,000

ALAN B. MOLLOHAN,
NEAL SMITH,
BOB CARR,
JAMES P. MORAN,
DAVID E. SKAGGS,
DAVID E. PRICE,
DAVID R. OBEY,
HAROLD ROGERS,
JIM KOLBE,
CHARLES H. TAYLOR,
JOSEPH M. MCDADE,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
DALE BUMPERS,
FRANK R. LAUTENBERG,
JIM SASSER,
BOB KERREY,
ROBERT C. BYRD,
PETE V. DOMENICI,
TED STEVENS,
MARK O. HATFIELD,
PHIL GRAM,
MITCH MCCONNELL,
THAD COCHRAN,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Mr. GEPHARDT), for today, on account of official business in the district.

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of illness.

Mr. MCKEON (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DUNN), to revise and extend their remarks and include extraneous material:)

Mr. TAYLOR of North Carolina, for 5 minutes, today.

Mr. GOSS, for 5 minutes each day, on August 16, 17, 18, and 19.

Mr. SHAYS, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. EVERETT, for 5 minutes, on August 17.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Member (at the request of Ms. WATERS), to revise and extend his remarks and include extraneous material:)

Mr. KREIDLER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DUNN) and to include extraneous matter:)

Mr. BAKER of California.

Mr. SANTORUM.

Mr. SOLOMON in two instances.

Mr. PACKARD.

Mr. KOLBE.

Mr. GILMAN.

Mr. LEACH.

(The following Members (at the request of Ms. WATERS) and to include extraneous matter:)

Mr. MANTON.

Mr. TOWNS.

Mr. HOYER.

Mr. TAUZIN.

Mr. LEVIN.

Mr. CARR of Michigan.

Mr. MILLER of California.
Mr. BILBRAY.
Mr. ABERCROMBIE.
Mr. DICKS.
Mr. RICHARDSON.
Mr. SKELTON.
Mr. MAZZOLI.
Mr. LIPINSKI.
Mrs. MALONEY.
Mr. GEJDENSON.
Mr. FAZIO.
Mr. HAMILTON.
Mr. MORAN.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mrs. KENNELLY.
Mr. PICKLE.
Mr. BROWN of California.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 784. An act to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes; to the Committee on Energy and Commerce;

S.J. Res. 185. Joint resolution to designate October 1994 as "National Breast Cancer Awareness Month"; to the Committee on Post Office and Civil Service; and

S.J. Res. 192. Joint resolution to designate October 1994 as "Crime Prevention Month"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes;

S.J. Res. 153. Joint resolution to designate the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week"; and

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On August 15, 1994:

H.J. Res. 131. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day".

H.J. Res. 175. Joint resolution designating October 1994 as "Italian-American Heritage and Culture Month".

H.R. 1426. An act to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

H.R. 1933. An act to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.

H.R. 4453. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4277. An act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

H.R. 4426. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

H.R. 4506. An act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.), the House adjourned until Wednesday, August 17, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3695. A letter from the Acting Director, Office of Management and Budget, transmitting notification that the President intends to exempt all military personnel accounts from sequester for fiscal year 1995, pursuant to Public Law 101-508, section 13101(c)(4) (104 Stat. 1388-589); to the Committee on Appropriations.

3696. A letter from the Director, Congressional Budget Office, transmitting CBO's sequestration update report for fiscal year 1995, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-587); to the Committee on Appropriations.

3697. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Republic of Argentina, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3698. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-323, "Comprehensive Plan Amendments Act of 1994", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3699. A letter from the Secretary of Education, transmitting final regulations—Chapter 1 Program in Local Educational Agencies; Chapter 1 Migrant Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3700. A letter from the Chairperson, National Council on Disability, transmitting a copy of a report on the study of the implementation of the least restrictive environment provisions of IDEA in Massachusetts and Illinois, pursuant 29 U.S.C. 781(a)(8); to the Committee on Education and Labor.

3701. A letter from the Inspector General of the Department of Health and Human Services, transmitting a report on Superfund financial activities at the National Institute of Environmental Health Sciences for fiscal year 1992, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

3702. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification that the President has authorized the use of $1 million of funds made available for International Military Education and Training [IMET] to increase programs for the emerging democracies of Central and Eastern Europe and for the former Soviet Union (Presidential Determination No. 94-40), pursuant to 22 U.S.C. 2364(a)(1); to the Committee on Foreign Affairs.

3703. A letter from the Assistant Secretary (Legislative Affairs), Department of State, transmitting a report on the President's Determination (No. 94-42) on drawdown of commodities and services from the inventory and resources of the Department of the Treasury to support sanction enforcement efforts against Serbia and Montenegro, pursuant to 22 U.S.C. 2348a; to the Committee on Foreign Affairs.

3704. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Kenneth Spencer Yalowitz, of Virginia, to be Ambassador to the Republic of Belarus, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3705. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3706. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1993, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3707. A letter from the Assistant Attorney General, Department of Justice, transmitting a copy of the "Office of Crime Report" during the fiscal years 1990 and 1991, pursuant to 42 U.S.C. 10604(g); to the Committee on the Judiciary.

3708. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled, the "Maritime Regulatory Reform Act of 1994"; to the Committee on Merchant Marine and Fisheries.

3709. A letter from the Department of the Army, transmitting the Department's Rio Grande De Arecibo feasibility report; to the Committee on Public Works and Transportation.

3710. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of Safeguards Information for the quarter ending June 30, 1994, pursuant to 42 U.S.C. 2167(d);

jointly, to the Committees on Energy and Commerce and Natural Resources.

3711. A letter from the Chief Staff Counsel, United States Court of Appeals, transmitting one opinion of the United States Court of Appeals for the District of Columbia Circuit; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

3712. A letter from the Assistant Secretary (Legislative Affairs), Department of State, transmitting a report covering certain properties with the Panama Canal Treaty and its related agreements, pursuant to 22 U.S.C. 3784(b); jointly, to the Committees on the Foreign Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 934. A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture or extrajudicial killing occurring in that state; with amendments (Rept. 103–702). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 1103. A bill to amend title 17, United States Code, with respect to secondary transmissions of superstations and network stations for private home viewing, and with respect to cable system; with amendments (Rept. 103–703). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4709. A bill to make certain technical corrections, and for other purposes; with an amendment (Rept. 103–704). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 521. Resolution waiving points of order against the conference report to accompany the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 103–705). Referred to the House Calendar.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4422. A bill to authorize appropriations for fiscal year 1995 for the Coast Guard, and for other purposes, with an amendment (Rept. 103–706). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 522. Resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of a certain resolution reported from the Committee on Rules (Rept. 103–707). Referred to the House Calendar.

Mr. MOLLOHAN: Committee on Conference. Conference report on H.R. 4603. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–708). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. de la GARZA. Committee on Agriculture. H.R. 2866. A bill to provide for the sound management and protection of Redwood forest areas in Humboldt County, CA, by adding certain lands and waters and the Six Rivers National Forest and by including a portion of such lands in the national wilderness preservation system, with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than August 16, 1994, for consideration of such provisions contained in the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(m), rule X (Rept. 103–667, Pt. 2).

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 2680 to the Committee on Government Operations extended for a period ending not later than August 17, 1994.

Committee on Merchant Marine & Fisheries discharged H.R. 2866, referred to the Committee of the Whole House on the State of the Union and ordered printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COX (for himself and Mr. Calvert):

H.R. 4966. A bill to authorize the Secretary of Agriculture to enter into a land exchange involving the Cleveland National Forest, California, and to require a boundary adjustment for the national forest to reflect the land exchange, and for other purposes; to the Committee on Natural Resources.

By Ms. COLLINS of Michigan:

H.R. 4967. A bill to designate the Federal building and U.S. courthouse in Detroit, MI, as the "Theodore Levin Federal Building and United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. MOLLOHAN:

H.R. 4968. A bill to authorize extensions of time limitations in a FERC-issued license; to the Committee on Energy and Commerce.

By Mr. SCHUMER (for himself, Ms. Velazquez, Mr. Serrano, Ms. Lowey, and Mr. Owens):

H.R. 4969. A bill to amend the Communications Act of 1934 to limit the rates and charges that may be imposed on interstate and foreign communications made through providers of operator services; to the Committee on Energy and Commerce.

By Mr. SOLOMON:

H.R. 4970. A bill to amend vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. Jacobs, Mr. Deutsch, Mr. Manton, Mr. Gejdenson, and Mr. Swett):

H.R. 4971. A bill to amend the Animal Welfare Act to strengthen the annual reporting requirements of research facilities conducting animal experimentation or testing and to improve the accountability of animal experimentation programs of the Department of Defense; jointly, to the Committee on Agriculture and Armed Services.

By Mr. TRAFICANT:

H.R. 4972. A bill to amend the Public Buildings Act of 1959 to ensure that any lease entered into by a Federal agency for office, meeting, storage, and other space necessary to carry out the functions of the Federal agency shall be subject to the leasing requirements of the Public Buildings Act of 1959; to the Committee on Public Works and Transportation.

By Mr. GUTIERREZ:

H. Con. Res. 283. Concurrent resolution designating August 24, 1994, as "Ukrainian Independence Day"; to the Committee on Foreign Affairs.

By Mr. VENTO:

H. Res. 520. Resolution providing for the concurrence by the House, with an amendment, in the amendment by the Senate to the bill H.R. 1305; rules suspended, considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 778: Mr. Coppersmith.

H.R. 1080: Mr. Gunderson.

H.R. 1110: Mr. Gunderson and Mr. Skeen.

H.R. 1289: Mr. Barca of Wisconsin.

H.R. 1500: Mr. Andrews of Texas, Mr. Brown of Ohio, Mrs. Clayton, Ms. Eshoo, Mr. Fingerhut, Mr. Engel, Mrs. Mink of Hawaii, Mr. Payne of New Jersey, Mr. Torres, and Mr. Ford of Tennessee.

H.R. 2292: Mr. Levin and Mr. Gunderson.

H.R. 2355: Ms. Lambert.

H.R. 2467: Mr. McCloskey.

H.R. 2488: Mr. Ackerman.

H.R. 2588: Mr. Hamburg.

H.R. 2956: Mr. Coppersmith.

H.R. 3207. Mr. McDermott, Mr. Applegate, Mr. Johnson of South Dakota, Mr. Evans, Mrs. Schroeder, and Mr. Edwards of California.

H.R. 3523: Mr. Andrews of New Jersey and Mr. Gunderson.

H.R. 3712: Mr. Applegate, Mr. Pickle, Mr. Yates, Mr. Martinez, Mr. Engel, Mr. Beilenson, Mr. McCloskey, Mr. Hefner, Mr. Towns, Mr. Montgomery, Mr. Lehman, Mr. DeFazio, Mr. Clyburn, Mr. Hastings, Mrs. Meek of Florida, Mr. Blackwell, Mr. Synar, Mr. Frost, Mr. Rangel, Mr. Evans, Mr. Hilliard, Mr. Bevill, Mr. Johnson of South Dakota, Mr. Watt, Mr. Lipinski, Mr. Berman, Mr. Sabo, Mr. Clay, Mr. Ackerman, Mr. Emerson, Mr. Romero-Barceló, Mrs. Lowey, Mr. Kopetski, Mr. Kreidler, and Mr. Farr.

H.R. 3971: Mr. Emerson.

H.R. 4026: Mr. Waxman.

H.R. 4213: Mr. Meehan and Mr. Swett.

H.R. 4251: Mr. Hinchey.

H.R. 4321: Mr. King.

H.R. 4345: Mr. Dellums.

H.R. 4369: Mr. Calvert and Mr. Barton of Texas.

H.R. 4371: Mr. Camp.

H.R. 4423: Mr. Murtha, Mr. Klink, and Mr. Foglietta.

H.R. 4437: Mr. Nadler.

H.R. 4497: Mr. LEACH, Mr. KOPETSKI, Mr. HANCOCK, Mr. DE LA GARZA, Mr. SCHAEFER, Mr. FIELDS of Louisiana, Mr. HUTTO, Mr. WHEAT, Mr. SUNDQUIST, and Mr. TAYLOR of Mississippi.

H.R. 4566: Mr. KNOLLENBERG.

H.R. 4570: Mr. RIDGE, Mr. SAWYER, Mr. MILLER of California, Mr. HEFNER, and Mr. BEILENSON.

H.R. 4643: Mr. SCOTT.

H.R. 4654: Mr. LEVY.

H.R. 4749: Mr. RICHARDSON.

H.R. 4805: Mr. KLECZKA and Mr. STUMP.

H.R. 4831: Mr. FALEOMAVAEGA and Mr. KIM.

H.R. 4861: Mr. DELAY, Mr. INGLIS of South Carolina, Mr. KYL, Mr. HOBSON, Mr. PORTMAN, Mr. EHLERS, Mr. GILCHREST, Mr. FRANKS of Connecticut, Mr. FRANKS of New Jersey, Mr. HOKE, Mr. RAMSTAD, and Mr. LEVY.

H.R. 4919: Mr. BEREUTER and Mr. SYNAR.

H.J. Res. 365: Mr. HUTCHINSON.

H. Con. Res. 148: Mr. KASICH and Mr. STUMP.

H. Con. Res. 233: Mr. CARR, Mr. PRICE of North Carolina, Mr. DIXON, Ms. WATERS, Mr. TORRES, Mr. BRYANT, Mr. TUCKER, Mr. MATSUI, and Mr. FORD of Tennessee.

H. Res. 86: Mr. HUFFINGTON.

H. Res. 480: Ms. PRYCE of Ohio, Mr. BURTON of Indiana, Mr. MILLER of Florida, Mr. LIVINGSTON, Mr. CALVERT, Mr. GINGRICH, Mr. SMITH of Texas, Mr. GOODLING, and Mr. HASTERT.

SENATE—*Tuesday, August 16, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteousness exalteth a nation: but sin is a reproach to any people.—Proverbs 14:34.

Eternal God, Lord of Heaven and Earth, Ruler of the nations, help us comprehend the faith of our fathers upon which they founded this great Nation.

In his address to the first joint session of Congress in Washington on November 22, 1800, John Adams said, "I congratulate the people of the United States on the assembling of Congress at the permanent seat of their Government; and I congratulate you, gentlemen, on the prospect of a residence not to be changed * * *. May this Territory be the residence of virtue and happiness!" Adams said, "Our Constitution was designed only for a moral and religious people. It is wholly inadequate for the government of any other."

Patient Lord, history teaches us that great empires like Rome fell, not because they were conquered from without, but because they disintegrated from within. Awaken us to the sheer necessity for a mighty visitation of God which will lead to spiritual and moral renewal, lest our Nation perish as the great empires of the past.

In the name of God and for the renewal of our land. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 16, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. MOSELEY-BRAUN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Ohio is recognized to speak for up to 15 minutes.

JUDGE SENTELLE-KENNETH STARR

Mr. METZENBAUM. Madam President, last Monday I addressed my colleagues to express my strong concern over the replacement of Robert Fiske with Kenneth Starr as the independent counsel in the Whitewater matter.

Today I rise to elaborate upon that matter, to discuss further the whole question of Judge Sentelle and his remaining in the position of continuing to make appointments in connection with the Whitewater investigation or any other independent counsel appointment. I believe that Judge Sentelle does, himself, fail to bring to the process that aura of impartiality that is so imperative if this process is to proceed forward as was originally contemplated by Senators LEVIN and COHEN when they introduced the legislation, and it was passed.

My opposition to the appointment was not because there was anything particularly wrong with Mr. Starr when Judge Sentelle appointed him, but because the whole process just looked horrible.

In fact, when Mr. Fiske was replaced, no one alleged that he did anything wrong. Two letters, one sent by Senator FAIRCLOTH to Attorney General Reno and another sent by 10 conservative Republican Congresspersons to Judge Sentelle, argued that Mr. Fiske had to be replaced in order to prevent an appearance of impropriety. And that is the subject to which I wish to address myself: The appearance of impropriety.

It was the appearance of impropriety that was the problem. So how was this appearance problem resolved? I came to the floor last week to express my concern that the appointment of Mr. Starr by Judge Sentelle created its own appearance problems.

First, look at the man who was chosen to replace Mr. Fiske. Kenneth Starr is not just an ordinary Republican. He is a highly partisan Republican who recently considered running for the Senate and who has taken a highly visible legal stance against the President of the United States. He was appointed to the bench by President Reagan, was Solicitor General for President Bush, contributed heavily to House and Senate Republican candidates and currently is cochairing the campaign of a Republican challenger who has built his campaign on attacking President Clinton. What is the appearance of this?

Never before in the history of the independent counsel has an appointee had an active role in a political campaign at the time of his selection. Never before has an appointee been this politically partisan.

Now let us look at the judge who appointed Starr—Judge Sentelle—serving on the independent counsel panel at the request of Chief Justice Rehnquist, appointed to the Federal bench by President Reagan, sponsored by Senator JESSE HELMS and judicial protector of Oliver North.

As if these appearance problems with Mr. Starr and Judge Sentelle were not enough, recently we have learned even more. It appears that at the time Judge Sentelle was deciding who would be Mr. Fiske's replacement, he was meeting on Capitol Hill with two of the most vociferous critics of the Clinton administration and the Whitewater matter. Now, how does that look? We are talking about the appearance of impropriety, and how can you possibly explain that kind of contradiction, or at least that kind of meeting, in view of the so-called appearance of impropriety?

A judge who is charged with selecting an impartial and independent counsel—one free from political influence—should not appear to be subject to political influence himself. Surely, Judge Sentelle should have known better. He should have been sensitive enough to appearances of partisanship to realize that he had no business meeting with two conservative Republican friends, one of whom was spearheading the effort to replace Mr. Fiske. What are Americans supposed to think of a judge, who is charged with maintaining

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

impartiality, appearing to consort with the leading critics of the opposing political faction?

This meeting, regardless of what was discussed, destroys any remaining hope of an appearance of impartiality. Even if the independent counsel matter was not discussed—and I have no way of knowing whether it was or was not—the mere presence of these men together at that time raises a highly disturbing appearance of impropriety.

How in the world, I ask my colleagues, can this have the appearance of impartiality? How can the American people possibly have faith in the independence of the special counsel responsible for such a highly sensitive political investigation of the President under these circumstances?

That is now impossible. There is no other way to slice it. It is impossible to deny the appearance of—not of impropriety—of impartiality. It is clear that if what my Republican colleagues were concerned about with Mr. Fiske was the appearance of impartiality, then what we have here is an appearance problem from beginning to end. Judge Sentelle's pick of Kenneth Starr has a much worse appearance problem than anything—than anything—alleged about Mr. Fiske.

Perhaps even more important, Madam President, is the threat that this appointment process poses to the independent counsel law. That law was originally enacted in the best bipartisan spirit, a tremendous effort, led in the Senate by Senator LEVIN and Senator COHEN, and the Members of the Congress owe them a debt of gratitude for fashioning that law in such a way so that, indeed, there could be an independent counsel that was truly independent.

The whole thought behind the original act was to protect the independent counsel process from partisan influence and to promote the fairness of investigations. The whole reason judges were accorded the decision as to the selection of an independent counsel is because they are supposed to be immune from political influence and able to maintain public confidence in a fair process. The replacement of Mr. Fiske with Mr. Starr by Judge Sentelle makes a mockery of the independent counsel law.

We must act to protect the statute's purposes. We must start from a clean slate. In order to protect the appearance of impartiality, Kenneth Starr should either resign his appointment or be removed from the post.

In addition—and this, I believe, is probably as important as anything that I have said up until this point—before Judge Sentelle has another chance to taint the appearance of another appointment, he should either step down or be removed from the judicial panel that selects independent counsels, for the same reason.

I understand that Judge Sentelle is involved at this very time in selecting the independent counsel to handle the Mike Espy investigation and would continue to make such appointments in the future.

In light of the appearance of partisanship he has displayed in the Starr appointment, the American people cannot accept his continued involvement as head of the independent counsel panel.

I am sure that there are hundreds of eminent lawyers out there—Democrats and Republicans alike and maybe some Independents as well—who could be trusted as nonpartisan, independent counsel. And I am confident that Chief Justice Rehnquist would be able to find another judge—I do not care whether he or she is a Democrat or a Republican—who could fill Judge Sentelle's position on the panel without creating the appearance of partisanship.

I believe that Justice Rehnquist has some responsibility in this matter, and I would call upon him to reexamine the propriety of Judge Sentelle continuing to head up the panel choosing the independent counsel in this instance, as well as possibly future ones.

The American people can no longer trust in the integrity and fairness of this independent counsel investigation. The law was fashioned correctly, and the operation of the law was supposed to work well. But at this moment, there appears to be nothing independent about it. It reeks of partisanship, and the American people know it. Actions must be taken to restore the public's confidence in this most important matter and in the overall integrity of the independent counsel process.

Madam President, I yield back the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Madam President, I ask unanimous consent to address the Senate in morning business for 6 minutes, and I ask that the time be extended beyond 9:30 to that extent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF LT. GEN. MICHAEL RYAN

Mr. GRASSLEY. Madam President, I want to speak in support of a pending nomination that I do not know exactly when it is going to come up because nominations of this type come up very quickly and usually at the close of business.

Madam President, I would like to speak in support of the pending nomination of Air Force Lt. Gen. Michael Ryan.

General Ryan is currently the Assistant to the Chairman of the Joint Chiefs of Staff.

He has been nominated to be "dual-hatted" as commander, Allied Air Forces, Southern Europe, NATO, and commander, 16th Air Force, U.S. Air Force, Europe.

I would like to speak on General Ryan's nomination because it has a direct bearing on the pending nomination of Lt. Gen. Buster C. Glosson.

General Glosson got in hot water for allegedly having improper communications with three members of the 1993 major general promotion board and then allegedly lying about it when questioned by investigators.

Well, General Ryan was a member of that selection board.

He and two other senior officers formally complained that General Glosson had communicated with each of them separately regarding the integrity of a fellow officer whose name was before the board for consideration.

Improper communications with a promotion board are "expressly forbidden" by paragraph 11 of Air Force Regulation 36-9. The failure to obey this regulation could be a court-martial offense under the Uniform Code of Military Justice.

The Senate Armed Services Committee has worked very hard in recent years to bring some integrity to the military promotion process and most particularly to insulate promotion boards from improper influence.

The rules that were allegedly violated are a direct result of all the committee's hard work.

Because of the serious nature of complaints lodged against General Glosson, a joint investigation was launched by the Department of Defense inspector general and the Air Force IG.

The DOD IG was in charge and made all decisions regarding the scope and direction of the investigation.

All parties involved were questioned under oath. The evidence was evaluated and a joint report was issued on November 8, 1993.

The joint report was reviewed and approved by the Judge Advocate General and general counsel of the Air Force. The lawyers said: "The findings are supported by the evidence of record."

The principal evidence in the case against General Glosson is the testimony given by General Ryan and two other senior officers.

General Ryan testified that approximately 2 weeks after he had been officially notified and designated as a member of the selection board, General Glosson called him on the telephone.

General Ryan described the telephone conversation like this:

> LTG Glosson related to me the following: That [General X] had lied to the Chief of Staff [General McPeak], and that the Chief

> of Staff didn't want him promoted. I asked General Glosson, I said, let me see if I got this right. I was taken aback. [General X] lied to the Chief of Staff, and the Chief of Staff does not want [General X] promoted. And he says, That's it. And I said, I understand the message. And that was the end of the conversation. It was a very short conversation.

The IG investigators asked General Ryan if he thought General Glosson knew he was a member of the board when he called: "In your mind, were you convinced that he [General Glosson] knew you were a member of the board?"

General Ryan replied: "Oh yes, I'm sure."

The IG followed up: "No doubt of that."

General Ryan: "No doubt."

After General Glosson's telephone call, General Ryan testified that he felt "disturbed." He said:

> After a point, it started festering in me * * * It really started bugging me * * * I don't think I can get through it * * * I can't sign that piece of paper and swear that I know of no attempt to influence the outcome of the board.

Madam President, officers who are assigned to such boards take a solemn oath to act without prejudice or partiality. And they have a duty to request relief if they think the board's proceedings have been somehow compromised.

After considerable anguish, General Ryan asked to be excused from the board. He related the substance of his telephone conversation with General Glosson to Secretary Widnall, and she subsequently excused him from the board.

General Glosson's testimony presents a somewhat different picture of what happened. General Glosson admitted he had the telephone conversation with General Ryan. General Glosson admitted that he questioned the integrity of General X during the conversation. General Glosson said General X "had lied" to him in the past. And he even admitted saying that "the chief can't trust" General X.

But that is where the similarities ended. General Glosson denied telling General Ryan that he and the chief did not want General X promoted, and he denied knowing that General Ryan was a member of the promotion board.

General McPeak's testimony did not help General Glosson. General McPeak denied that he ever told Glosson that General X was dishonest and should not be promoted.

Madam President, as I said a moment ago, the principal evidence in the case is the testimony of those involved.

What did General Glosson say to General Ryan and the other two officers about the fitness of General X for promotion to higher rank?

Did General Glosson say that Chief of Staff McPeak did not want General X promoted?

Did General Glosson know General Ryan and the others were members of the board when he spoke to them?

These issues are the focus of the testimony.

The testimony of General Ryan and the other two officers is almost identical about what General Glosson supposedly said.

General Glosson, by comparison, gives a very different version of what was said.

Madam President, it comes down to this: His word against theirs. There is no room for a mistake or misunderstanding. There is no way to resolve the conflicting testimony.

What we have here are irreconcilable accounts of what happened. There is just one inescapable conclusion: Somebody is lying.

The inspectors general found that General Ryan's account of his telephone conversation with General Glosson was almost identical in "timing, substance, and intent" with General Glosson's alleged communications with the other two officers.

General Ryan's version of General Glosson's comments was corroborated by the testimony of the other two senior officers, who said Glosson made similar statements to them. There is no evidence that Ryan or the others had a motive to lie.

There is not one shred of evidence to suggest that General Ryan and the others conspired to fabricate the allegations against General Glosson. What benefit could they possibly derive from doing that?

Quite to the contrary, General Ryan and the others came forward at great personal risk and with no certainty about what the final outcome might be.

The inspectors general believe that General Ryan is telling the truth. Everything points in that direction.

For these reasons, Madam President, I support General Ryan's pending nomination.

JUDGE SHERMAN G. FINESILVER STEPS DOWN AS CHIEF JUDGE IN U.S. DISTRICT COURT, COLORADO

Mr. BROWN. Madam President, I want to turn the attention of the U.S. Senate to a distinguished American: Chief Judge Sherman G. Finesilver of the U.S. District Court of Colorado.

On June 1, 1994, Chief Judge Finesilver took senior status. He will be sorely missed and difficult to replace on the active trial bench.

This does not mean a retirement, merely a change of status. Judge Finesilver will continue to handle a substantial case load and lend his expertise as a settlement judge for other judges in complex litigation—a field in which he is nationally known.

Judge Finesilver's contributions are as many as they are valued. In addition to an unusually sharp mind and an impressive command of the law, Judge Finesilver has a judicious demeanor. In the imposing Federal courtroom, litigants are all too often faced with a process that seems to either threaten the social good for legal technicalities or disregard legal principles for more popular decisions. Judge Finesilver is crafting a jurisprudence worthy of praise both for its legal acumen and its social worth.

In his 39 years of service on the bench, Judge Finesilver has made his mark—by humanizing the court, by solving complex legal matters, by facing the difficult cases and by lucidly explaining his decisions.

Judge Finesilver has served in the Federal and State judiciary for 39 years, the past 23 as a Federal judge. His judicial career dates back to 1953, when at age 28, he was appointed a county judge in Denver. He was elected to the district bench in 1962 and again in 1966. At each election he led the ticket among all candidates for any office in Denver. Judge Finesilver was appointed to the Federal bench in 1971 by President Nixon and in the length of active service in May, 1994, he became a senior trial judge on both the Federal and State benches in Colorado and in the Federal Tenth Circuit.

He has served as chief judge of the important U.S. Federal court for the past 12 years and he has been effective and accomplished. He is widely known for his skill as a trial judge, a national leader in effective court management, a master of trial settlement of complex litigation. He is held in high respect throughout the country as an effective chief judge. He is a widely sought after speaker in judicial, legal, and medically-related subjects. Because of his skill as a settlement master and trial judge, he has been appointed by the Chief Justice to serve in that capacity in Florida, Idaho, California, Puerto Rico, and 10 other Federal Districts.

By election of all judges in the tenth circuit, he was elected to serve on the Judicial Conference in the United States—the highest policymaking body in the Federal judiciary; he also was a member of the Judicial Council of the Tenth Circuit, Chair of the Chief Federal District Judges of the Tenth Circuit, Coordinating Council of Federal Native American Trial Judges in the Tenth Circuit.

Judge Finesilver has tried over 7,000 civil cases in Federal court and an additional 3,000 while a State district judge. He handled literally thousands of cases in service as a county judge, where his program established the driving improvement school—a national model the format of which has been used by the National Safety Council and American Association of Retired Persons.

His legal rulings in such diverse fields as discrimination in employment, oil shale, water law, massive disasters including aircraft, securities law, intellectual property, have been heralded as learned, persuasive, and precedent-setting. Virtually all swine flu cases in the country are built on his opinions which resulted in development of the National Childhood Vaccine Act. His ruling in an harassment in employment case was the first of its kind in the Nation and prompted widespread changes to employment practices in the private and public sectors.

No doubt exists that Judge Finesilver's leadership in serving not only the intellectual demands of justice, but also the efficiency demands of justice mark his tenure as a widely known and respected jurist who has done much to humanize the Federal court system. His expertise at managing complex and difficult cases is renowned. He presided over 125 cases arising out of the swine flu vaccination program. Virtually all later cases built on the precedents he established. Judge Finesilver handled a major airplane crash case involving 28 fatalities and numerous injuries. The case was concluded within an unprecedented 1 year from the date of filing and 24 months from the date of the crash. The multifaceted Silverado litigation was brought to settlement within 12 months of filing. His managerial and judicial activity in a securities fraud case in northern Colorado resulted in investors receiving over 100 percent of their initial investments. This recovery is unparalleled in the United States. He concluded a massive environmental case at the Lowry landfill facility within 1 year.

In addition, his writings on legal, medical, and youth and citizenship-related fields have brought him a national reading audience. An excerpt of one of his speeches was published in Reader's Digest. His early career dealing with the legal rights of the deaf resulted in development of a model interpreter's law, which is a forerunner of laws in all State and Federal courts.

In his early years as a judge, Judge Finesilver was nationally recognized for his activity in dealing with enhancement of the legal rights of the deaf, physically impaired and aging, promoting their insurability and fair driver licensure. He was a driving force for the development of closed captioned television for hearing impaired persons on television broadcasting—a concept he began working on in the 1960's while dealing with the legal rights of the deaf and physically hearing impaired at the University of Denver College of Law.

Judge Finesilver, by Presidential appointment, has served on five national commissions and panels in aging, physically impaired, drunk drivers, traffic safety and recently, on the need for research in antisocial and aggressive behavior in the United States.

Judge Finesilver has been awarded honorary doctorates from Gallaudet College in Washington, DC, for his championship of the rights of the deaf, New York Law School for his pioneering role for the legislation of organ transplants, right of the deaf and physically handicapped, and the enlightened administrative justice. He has also achieved honorary doctorates from the University of Colorado and Metropolitan State College in Denver. He has also received the Norlin Award for outstanding alumni at the University of Colorado.

Colorado's Chief Judge also contributes to our State and our country when he leaves the bench and hangs up his robe. Outside the courtroom, Judge Finesilver has such notable accomplishments as the development of the Federal magistrate judge systems throughout the State of Colorado to make sure the courtroom door is always open, the establishment of a liaison between Federal and State judges and the drafting of a model criminal code for the Czech Republic.

These are just a few of the other noteworthy accomplishments.

Initiated community constituted naturalization programs—one featured former president Gerald Ford; youth were heavily involved in the program. The program was recognized by the Freedoms Foundation of Gettysburg, PA.

Served for over 20 years as chair, American Citizenship Committee of the Colorado Bar Association, which has as its focal point court visitations by school children with attorneys as tour leaders. One program contrasted United States judicial system with that of the U.S.S.R.; this program was honored by the Freedoms Foundation.

Principal author of monograph on community service—a new dynamic in criminal justice; monograph is used in all 94 Federal district courts and probation offices.

By personal involvement, encouraged manufacturer to donate 200 T-shirts to Denver low-income persons: shirts were confiscated from merchants who illegally obtained and distributed them.

One of the principal founders—and first chairman—of Minoru Yasui Community Volunteer Award, a monthly award given to recognize volunteer activities of Colorado residents. The monthly cash award is now $5,000, and the awardee determines the charity to receive this amount. Thus, many Denver charities have been beneficiaries of this unusual award. The M.Y.C.V.A. program served as a model for the J.C. Penney Community Award and television station KUSA's Nine Who Care Award.

Encouraged greater availability of judicial resources in ares of two Native Indian tribes in Durango and Cortez, CO; developed improved cooperation among tribal leaders, U.S. magistrate judges, U.S. attorney's office, Federal public defender's office, and local law enforcement.

Developed endangered species exhibit for display at Stapleton International Airport in Denver. Part of funds necessary for exhibit was obtained through fines assessed against persons convicted of Federal endangered species crimes. Exhibit was one of the first of its kind at an airport, seen by millions of travelers, and widely heralded by those interested in the preservation of endangered wildlife.

A Denver editorial noted his retirement as chief judge in these words:

> One of Finesilver's hallmarks on the bench has been proficient management—an uncanny ability to close cases and keep the docket moving—which he has seen as rapidly increasing in importance of late. Thus, not only did he keep the wheels of justice operating smoothly, he saved taxpayers some large sums of money.

Finesilver's career, however, cannot be adequately summed up in terms of quantity alone. The quality of his jurisprudence has been at least as notable. His emphasis on fairness, knowledge of the law, research skills, analytical acumen and articulation—all components of what is commonly called wisdom when applied to judges—are well known and respected.

It is also important to add dedication to that list of words. The son of a west side family of modest means who attended law school by night, Finesilver's judicial career began in Denver County Court in 1955, when he was only 28. He was elected to the State district bench in 1962 and 1966, and appointed by President Nixon to the Federal district bench in 1971.

Those two State elections were pivotal crossroads in his career. When he won those elections, Finesilver was considered one of Colorado's most electable individuals. That is to say, had Finesilver chosen to pursue politics at that time, the only likely direction for his career would have been upward.

But Finesilver avoided the greater visibility—and probably easier workload—of a political career in favor of his chosen calling. He is a man who believes not only in the need for law, but in the honor and nobility of the legal profession itself.

"My heart still swells with pride," he wrote to President Clinton this week, "at the beginning of each court session when the court crier opens the court with these words—'God save the United States and this Honorable Court'."

Fortunately, Sherman Finesilver will still be hearing that clarion call for some time. Although stepping down as chief judge, he will remain a senior Federal judge, characteristically looking forward to handling a substantial number of cases. Also characteristically, he will devote increased time to such projects as helping research Native American tribal law—one of his personal passions—and in assisting the Czech Republic draft a criminal code.

But Finesilver also hopes to spend more time with his grandchildren, and "fishing the mountain lakes and streams where over the years [he has] drowned, lost and snagged more than a million worms and prize fishing flies."

The following is a personal note by one of his former law clerks.

One can see him light up while performing the citizenship tasks of his judgeship. I'll never forget the truly special moments during my clerkship when Judge Finesilver performed the swearing-in ceremony for new American citizens, or when we conducted a mock trial to determine who stole the Halloween pumpkin for a local group of first graders. These are the acts of not only a sensitive and remarkable judge, but also a good citizen. Although, I have known Judge Finesilver for only a few of his thirty-eight years on the bench, I stand with the many who have known him much longer in congratulating him on a lifetime of achievement as a judge, a leader, and "citizen" in the word's best sense. Congratulations, and thank you, Judge Finesilver.

On May 31, 1994, Judge Finesilver completed his last day as the chief judge. On that day, when the court crier called out "God save the United States and this Honorable Court," I imagine he really meant it.

DIVERSITY; TOLERANCE

Mr. BOREN. Madam President, a college classmate of mine, Phil Johnson, has just written a very interesting and instructive article on the challenges of diversity and the need for tolerance in our society. It was recently published in the journal Telecommunications, a publication of the Alliance for Telecommunications Industry. I am pleased to share it with my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MULTICULTURALISM: ITS PROMISE AND CHALLENGE TO COMMITTEE T1

(By Phil Johnson)

It is obvious that Diversity, Multiculturalism, or whatever politically correct term is in vogue, is a part of our daily lives—at home, in the work environment, in the greater society. And it is equally obvious that these pluralisms have been embraced, rightly I think, by Committee T1 and have added to the decade of success for Committee T1.

But I also think that a pre-condition, not well understood and not brought to conscious recognition, lie at the basis of this success. This pre-condition is a value, shared across the pluralities, to bring different views to debate and to find, through compromise, a place where, not optimal perhaps, consensus can be reached for a time. The shared belief that this scenario can occur is a testament of faith to the founding fathers of Committee T1 and to the company members and representatives of those members who live this belief day-to-day.

Perhaps seeing "Schindler's List" recently reminded me that Drucker's "Tyranny of the Minority" are silent for only a moment and, because of the pluralism we jointly support, we of Committee T1 always need to be at the ready to respond. These are the people of an ideology, and it is the consequences of an ideology that we must deal with. Those circumstances where we forget our common moorings in our accumulated, common humanity are always ready to present issues for us.

The issue—the opposite of Burke's circumstances—is that when timeless dogmas are allowed to run unconnected in time (or, to the accumulated experience and contending currents of humanity) an ideology encourages murder as easily as encourages claim of nobility. But the experience in the world and ours in T1 say that not all options are equally likely and, in fact, our reason for being is the development of reason as to why certain path(s) are preferable.

Why does any ideology tend to be authoritarian? Perhaps it is that any system of ideas that consciously purifies itself to previous context and claims to contain all value must also wish for complete control. Any scheme for regulating life that systematically asserts that it is internally and systematically complete must logically will to exercise its power completely, or its claims for itself are invalid. This self-righteousness is a function of this inferred self-perceived completeness. And, as I have mentioned earlier in these newsletters, these closed systems seduce us as being attractive because they are simple. I say that they are simple only because they are manipulations and evasions of the contradictory, gray, complex reality of the plurality of Committee T1 (and the larger society). And those who operate such systems are compelling because they are never in doubt.

This, I think, underlies the reason why organizations use process to develop. Use of process, so common and yet so taken for granted within Committee T1 and elsewhere, allows solutions to develop in a plurality where, as Alex Bickal put it, "Where values are provisionally held, are tested and evolve within the legal order—derived from the morality of the process, which is the morality of consent."

This commitment to believing in process does in no way mean that one does not hold dear beliefs in equality, in social justice, in the reward of merit and in freedom itself. One must have convictions, but also must be willing to submit these beliefs to the testing and tumult of the process. What binds us together as free women and men—as Americans—is a shared faith in those processes by which we evolve and test our several beliefs and traditions. Fear the self-inflicted blindness of self-righteousness and find truth in that construct where means and process live.

"Circumstances * * * give in reality to every political principle its distinguishing color and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind."—EDMUND BURKE, "Reflections on the Revolution."

CARL ANDREW WARREN

Mr. MITCHELL. Madam President, on August 4, 1994, Carl Andrew Warren, an employee of the Sergeant at Arms and Doorkeeper of the Senate, passed away.

Mr. Warren served the Federal Government for almost 35 years. In 1958, he was drafted into the Army. After completing his tour of duty, he worked in the Senate Restaurant as a banquet porter. In 1964, Mr. Warren joined the staff of the Sergeant at Arms.

Initially hired as a skilled laborer, Mr. Warren was promoted to the position of assistant night foreman in the Environmental Service Department. Mr. Warren's primary responsibility was the care and maintenance of the Minton tile floors located throughout the Senate wing of the U.S. Capitol. He was a dedicated and loyal employee, who took great pride in his work. Countless visitors to the Capitol have admired the colorful tile floors and the fine maintenance Mr. Warren provided.

I know all Members of the Senate share my appreciation of Carl Andrew Warren's years of service and join me in extending our deepest sympathies to his mother, stepfather, and seven brothers and sisters.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Madam President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through August 13, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $2.6 billion in budget authority and $1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated August 9, 1994, Congress has approved for the President's signature the Aviation Infrastructure Investment Act (H.R. 2739), and the Foreign Assistance Appropriations Act (H.R. 4426). These actions changed the current level of budget authority and outlays.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 15, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through August 13, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated August 8, 1994, Congress has approved for the President's signature the Aviation Infrastructure Investment Act (H.R. 2739), and the Foreign Assistance Appropriations Act (H.R. 4426). These actions changed the current level of budget authority and outlays.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS AUG. 13, 1994

[In billions of dollars].

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/ under resolution
ON—BUDGET			
Budget authority	1,223.2	1,220.7	−2.6
Outlays	1,218.1	1,217.2	−1.0
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	311.7	−1.1
Debt subject to limit	4,731.9	4,558.4	−173.5
OFF—BUDGET			
Social Security Outlays:			
1994	274.8	274.8	
1994–98	1,486.5	1,486.5	
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level presents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS AUG. 13, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905.429
Permanents and other spending legislation[1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offseting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905.429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Federal Housing Administration Supplemental (P.L. 103–275)	(*)	(2)	
Total enacted this session	(2,748)	(645)	
PENDING SIGNATURE			
Aviation Infrastructure Investment Act (H.R. 2739)	2,170		
Foreign Assistance Appropriations Act (H.R. 4426)	99	99	
Total pending signature	2,269	99	0
ENTITLEMENTS AND MANDATES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	
Total current level[3,4]	1,220,664	1,217,153	905,429
Total budget resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under budget resolution	2,585	996	
Over budget resolution			80

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS AUG. 13, 1994—Continued

[In millions of dollars]

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,265 million in budget authority and $9,091 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

*Less than $500 thousand.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

TRIBUTE TO MARION CRANK

Mr. PRYOR. Mr. President, I rise today to pay special tribute to a great American and outstanding citizen of my home State of Arkansas, Mr. Marion Crank.

Marion has served in so many positions of responsibility that I cannot begin to list them all. He has spent a lifetime unselfishly sacrificing his time and energy for the betterment of his local community and his State. His untiring endeavors as a member of the Arkansas State House of Representatives won him the admiration of his colleagues and gained him the well-deserved position of speaker of the house. He has worked with legislative leaders from across the Nation to find solutions to difficult problems that have been shared by all our States.

Southwest Arkansas, in particular, owes a great deal of gratitude to Marion for his tireless efforts to recruit industry, to make safe drinking water available on a countywide basis, and to establish low-rent housing to those in need of a better place to live and raise their families. These are but a few examples of the projects and undertakings that Marion has cultivated, sustained, and helped to complete.

Marion, with his vision, prudence, and vigor, is an example of an exemplary public servant. As we strive to make a positive difference for the many generations to come, we would do well to learn from the example he has provided in his own career. I am proud to know Marion and even prouder that he is a true friend.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Madam President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congres—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,666,432,889,364.19 as of the close of business Monday, August 15. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,898.87.

SHANNON HASTINGS TO COMPETE IN MISS AMERICA PAGEANT

Mr. SMITH. Madam President, I want to congratulate Miss New Hampshire 1994, Shannon Heather Hastings of Newport, NH, as she prepares to take part in the 1994 Miss America Pageant in Atlantic City, NJ, on September 17. We in the Granite State are proud to have Shannon represent us at this prestigious event.

Shannon, a 21-year-old senior majoring in theater at the University of New Hampshire, won the Kingston State Scholarship Pageant in May to become Miss New Hampshire. She is interested in a career in stage and film and has been active in many volunteer programs across the State.

Working with local police departments, Shannon has volunteered with D.A.R.E. [Drug Abuse Resistance Education], a program which provides law enforcement officials and teachers with an opportunity to work together to prevent drug abuse. In addition, Shannon developed and implemented a drug and alcohol prevention program called "Steppin Out and Up" in many of New Hampshire's schools and made presentations to numerous civic groups. She has also volunteered with the Special Olympics.

In addition to her volunteer efforts, Shannon has pursued her interest in theater. She first performed the role of Annie at the age of 10 in a professional summer stock theater. At Newport high school, she had a major role in the musical "Assassins." She was also a member of the Tri-M Music Honor Society and the All-State Chorus.

Shannon was active in athletics at Newport High School where she broke a 12-year triple jump record and earned varsity letters in track and cheerleading. Through all of her civic, community and athletic endeavors, Shannon never let her studies fail. She was a member of the dean's list and graduated in the top 10 in her class.

Shannon is the daughter of Mr. and Mrs. Milton Hastings of Newport. She has a brother Jeffrey, age 24, who attends Plymouth State College. Her father is a production-control manager at Sturm Ruger Company in Newport and her mother has held lead roles in numerous community theater productions. Shannon has certainly followed in those footsteps.

Madam President, we send our best wishes to Shannon as she travels to Atlantic City next month to compete for the title of Miss America. She is an accomplished young woman and will be an outstanding representative of the Granite State. It is an honor to represent Shannon and her family in the U.S. Senate.

CRIME: SETTING THE RECORD STRAIGHT

Mr. DOLE. Madam President, I just want to take a few moments to set the record straight concerning a comment made by the distinguished majority leader, Senator MITCHELL, on last Sunday's "Meet the Press" news show and today by the distinguished Senator from Delaware, Senator BIDEN.

On "Meet the Press," Senator MITCHELL suggested that I had no right to complain about the huge amounts of social spending now contained in the crime bill since Senate Republicans offered prevention amendments to the crime bill last November. It is my understanding that Senator MITCHELL read from amendments offered by Senators DOMENICI, DANFORTH, and myself.

I will not speak of the Danforth and Domenici amendments, but I will say a few words about my amendment. My amendment had two purposes: First, to toughen the penalties for those who engage in gang-related violence, and second, to provide funding for "gang prevention" grants. The amendment passed by a bipartisan vote of 60 to 38.

As I understand it, the section of my amendment dealing with "gang prevention" was originally part of the crime bill reported out of the Judiciary Committee by the chairman of the committee, Senator BIDEN. The "prevention" language was crafted by Senator BIDEN, not by me or any other Senate Republican. In fact, I included the Biden language in my amendment in order to attract Democrat support for the tough antigang penalties.

Yes, there was a good deal of social spending in the crime bill passed by the Senate last November. But the Senate bill did not have the $1.8 billion local partnership act; or the $900 million model cities intensive grant program; or the $650 million youth employment and skills grant program; or most of the other multimillion-dollar social programs that have now become part of the conference report.

The bottom line is that the crime bill left the Senate with a price tag of $22 billion. The conference report now authorizes a staggering $33 billion, a 50-percent increase. Obviously, somewhere along the way, the crime bill was hijacked by the big-dollar social spenders. This is not the fault of Republicans. It is the fault of the liberal Democrats who dominated the conference committee.

WILLIAM D. WALKER RETIRES FROM THE FOREST SERVICE

Mr. BUMPERS. Madam President, I rise today to pay tribute to Bill Walker, an outstanding public servant from my State, who will soon retire from Government service after a distinguished 36-year career with the U.S. Forest Service in the Ouachita National Forest.

While in college, Bill began his career with the Forest Service as a forestry aide in the now-defunct Leaf River Ranger District in Hattiesburg, MS. After graduating from the school of forestry at Mississippi State University, Bill served as a forester in the Mena Ranger District in Arkansas, the Homochitto Ranger District in Mississippi, and TMA in the Neches Ranger District in Texas. In 1964, he was promoted to his first job as a ranger in the Oakmulgee Ranger District in Centerville, AL. He went on to serve as ranger on Boston Mountain in Ozark, AR, before landing in Hot Springs in 1974. One of his many accomplishments in the Ouachita National Forest was getting the timber program back on track after some difficult times in the late 1980's and early 1990's.

In addition to his commitment to public service, Bill is active in many civic organizations including the National Cubic Foot Committee, the Ozark Task Force Interdisciplinary Planning Team, the Lion's Club, the Society of American Foresters, the Arkansas Forestry Association, the Mississippi State University Alumni Association, the American Forestry Association, and the Elks Club. He also served as a member of the Arkansas Board of Registration for Foresters.

Because of his exemplary service, Bill received many honors and awards during his tenure with the agency. In 1992, he received both the Outstanding Forester of the Year for the Arkansas Division of the Society of American Foresters and the National Forest Products Timber Sale Award.

Madam President, it is truly a pleasure to recognize and honor the accomplishments of such a devoted public servant. Those of us who have worked with Bill over the years know he is the consummate professional. His hard work and dedication are legendary and has helped make the Ouachita one of the finest national forests in the system. I hope my colleagues will join me in extending our thanks and appreciation to Bill Walker.

STONINGTON BAPTIST CHURCH—200 YEARS OF MAKING A DIFFERENCE IN PENNSYLVANIA

Mr. WOFFORD. Madam President, I rise today to recognize the Stonington Baptist Church as it celebrates 200 years of service and faith in the Commonwealth of Pennsylvania.

This faith community was established on June 21, 1794 by Rev. John Patton and originally called Shamokin Baptist Church. The inspired theme of the founders' was Matthew 7:24–25:

> Anyone who hears my words and puts them into practice is like the wise man who built his house on rock. When the rainy season set in, the torrents came and the winds blew and buffeted his house. It did not collapse; it had been solidly set on rock.

In 1845 at a meeting held at the church the idea for establishing Bucknell University took shape. Having been president of Bryn Mawr College, I know well the tremendous impact Bucknell has had in Pennsylvania producing leaders in numerous fields.

Soon the Stonington Church will be dedicating a new addition under the able leadership of its pastor, Rev. J. Douglass Hallman, Sr. As it celebrates its bicentennial, I wish all of the congregation the very best and commend the church for its pioneering role in the history of our Commonwealth. Stonington Church has indeed been solidly set on rock and will continue to make a difference through a commitment to faith, service, and values for generations to come.

Madam President, I ask unanimous consent that an article from the Daily Item be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Daily Item]

CHURCH TO CELEBRATE ITS 200TH ANNIVERSARY

STONINGTON.—The Stonington Baptist Church, Hosta Road, will celebrate the 200th anniversary of its founding during a 10 a.m. service on Sunday.

Foster Furman of Northumberland, whose grandparents were church leaders in the late 1800s, will make a presentation of historic information. There will be music, and the Rev. J. Douglas Hallman will be preaching from the founders' theme verses, Matthew 7:24-25.

The church was founded June 21, 1794, by the Rev. John Patton who settled in Shamokin Township from Kent County, Del. He called it the Shamokin Baptist Church.

The first members were Edward Wilkinson, Benjamin and Mary Vastine, Joseph and Ann Richardson and John and Abigail Farnsworth. The congregation was affiliated with the Philadelphia Baptist Association.

In 1796, the first church building was erected along the Shamokin Creek on the site now occupied by the Deibler Station Bible

Church, Paxinos RD1. The land was donated by Edward Wilkinson. An offering of $62.02 was sent from the Philadelphia Association to help pay for materials. The nails were furnished by a local blacksmith.

In 1820, the Shamokin Baptist Church, along with several other newly founded Baptist congregations, formed the Northumberland Baptist Association. In 1845, the Northumberland Baptist Association's annual meeting was convened in the Shamokin Baptist Church.

During this meeting, a resolution was passed to "establish a Literary and Theological Institution in the State, soon afterwards located at Lewisburg," presently known as Bucknell University. The association also went on record as opposing slavery.

In 1865, the congregation voted to build a new church on the "Turnpike" now known as Hosta Road in Shamokin Township. It was built and dedicated in 1873 at the cost of $3,000.

In 1959, the name of the church was changed to Stonington Baptist Church, and incorporated under this name in 1982.

In 1983, the congregation dedicated a remodeled and enlarged sanctuary and Sunday School rooms. In September 1994 the congregation plans to dedicate the newest addition, now under construction, which will provide a fellowship hall, classrooms, kitchen, restrooms, nursery, foyer and offices.

Pastors of the church in recent years include the Rev. Russell Fry, the Rev. Forest Gass, the Rev. Warren Moyer, the Rev. Clyde Whary and the Rev. Clifford Bassett.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

HEALTH SECURITY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2351, the Health Security Act, which the clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 2351) to achieve universal health insurance coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell Amendment No. 2560, in the nature of a substitute.

Dodd Amendment No. 2561 (To Amendment No. 2560), to promote early and effective health care services for pregnant women and children.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, we do have an amendment dealing with children that is before the Senate.

I yield myself such time as I might use.

We have, as we understand, if not a time agreement, at least a general understanding that during the course of the debate we will have fair distribution of time. At least it would be my understanding that we would rotate back and forth with the Members who are here.

The ACTING PRESIDENT pro tempore. The Senator's understanding is correct.

Mr. KENNEDY. That would be the way I would urge my colleagues on this side to go through the course of the morning.

Madam President, we are still waiting to have some resolution or some conclusion to the amendment that has been offered by the Senator from Connecticut. I think many of us who are cosponsors and strong supporters of it hope that it would then be followed by measures in other areas where we could begin to develop some common ground, some common understanding, some bipartisan efforts.

We had in our own Committee on Labor and Human Resources about 15 major policy areas discussed in our mark up. On at least 11 of those we were able to develop bipartisan support, and I think even though we have had some differences on the floor as expressed over the period of the last 2 weeks as we have been debating this issue, many of us are still hopeful we will be able to find the common ground which the American people are expecting and which the American people deserve so that we can move forward.

I want to take just a few moments away from the issue of children to review very briefly with the Senate the central themes that we have been examining, Republicans and Democrats alike, over the period of these past 2 weeks and to see by identifying them and by also reviewing how the principal measures which are before the Senate—the Mitchell bill and the Dole bill—actually deal with those issues because they are central to the whole health care reform debate.

Hopefully, after we dispose of the issue of preventive health care for children in our country—something for which there is such a compelling need, and for which the case I think has been very convincingly made—and after we try to make some additional progress in the areas of disability, perhaps mental health, perhaps in some rural health issues, we then will come back and focus on really the overarching policy questions which we are going to have to debate.

It seems to me to be appropriate to begin to look at those issues as we have seen them being discussed over the period of the last 2 weeks, so that we can begin to focus on those measures more effectively and hopefully more thoughtfully and try to move ahead.

So, Madam President, the two overarching goals of health reform are strengthening our health insurance protection for those who have it now, and guaranteeing health security for all Americans. We want Americans who have health coverage now to know that it will be ongoing, that it will be continuing, and it will be strengthened with legislation that hopefully will be reported out of our Senate.

The central part of that effort must be insurance reform. We have talked about that so we can end the insurance companies' abuses and the flaws in the current system that have left too many Americans vulnerable. That is basically understood as cherry picking, the selection of the healthiest individuals and insuring those, and leaving others behind.

This is a goal shared by Republicans and Democrats alike. Virtually every speech which has been made on the floor has said that we should end preexisting exclusions, No. 1; guarantee Americans the right to choose their doctor, No. 2; end the cherry picking that allows the insurance companies to choose to insure only the young and the healthy, No. 3. No. 4, achieve affordability of coverage for all. No. 5, open up the Federal Employees Health Benefits Program so that every American can enjoy access to the same high-quality health plan that Members of the Senate have.

We Members have many plans available to choose from. I have a family policy. I pay $101 a month for that program, which is one of the best in this country. Many of us have felt, and felt strongly, that kind of availability ought to be there for other Americans. If it is good enough for the Members of the Senate and the House, and the 10 million other Americans who are Federal employees, including the President, it should be available to other Americans as well. In the Mitchell proposal we make that kind of program available to all Americans in the community rated pool.

When debate picks up today, we will hear discussions about layers of bureaucracy, and there will be maps and charts. But, access to the Federal Employees Program is one of the important features of the Mitchell proposal. We do not see a lot of charts or maps when any of our Members go and sign up for that program. We do not hear a lot of complaints about it. We do not hear a lot of complaints even in the course of this debate about how inadequate it has been for them personally or members of their family. So we have included that.

Another aspect was the guaranteed portability. So if you lose your job or change your job, you will not lose your coverage.

We must examine these lofty bipartisan goals: they have been repeated and repeated and repeated over the course of this debate. When we look at the two different proposals that are before the Senate, there really is only one that will achieve them. The Mitchell plan truly reforms health insurance to achieve these objectives. The Dole plan does not. In fact, if we read the fine print, the Dole plan is so riddled with loopholes that it should not be called the American Option Plan, but rather the "American Insurance Company Protection Act."

I would like to review those items that we have outlined, and that have been mentioned by almost every Member who has spoken during the course of the debate so far.

First of all, on preexisting condition exclusions, they are still allowed. This is a matter of such importance and consequence to American families. We speak to it, even as a Member of the Senate who had a son 12 years old with cancer, who lost his leg to cancer and is now well, healthy, happy, and the father of a wonderful young daughter, and has a very important and meaningful career in terms of community service. That young man would not be able to purchase insurance as an individual in my State, and I believe in all States, unless they are part of a group.

There are millions of families like that who have what is called a preexisting condition—cancer, heart disease, diabetes, juvenile diabetes, lupus. You can name those different items. What we want to do is, in our overall health care program, say we are going to eliminate the preexisting conditions restriction.

Mr. REID. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I will be glad to.

Mr. REID. It is my understanding that the State of Hawaii would not be one of those States without universal coverage, and the Senator's son and others similarly situated would be automatically entitled to coverage in Hawaii. Is that not true?

Mr. KENNEDY. The Senator is correct. I appreciate the intervention. We have had a good deal of discussion about the whole Hawaiian experience, particularly as it relates not only to preexisting conditions, but also to children, and how well they do with regard to children's issues.

Mr. REID. I ask the Senator if he agrees with this statement: Even though Hawaii is the State that costs more than any other State, with a very high cost of living in Hawaii, does the Senator acknowledge that it has the lowest cost of health care of any place in the United States?

Mr. KENNEDY. The Senator is correct. If you look at the trend, since the implementation of the Hawaiian experience—and as the Senator knows, for example, they have twice the incidence of breast cancer—but much lower death rates from the disease. They have twice the visitation in terms of doctors and hospitalization, and an excellent recovery level.

In the proposal introduced by the Republican leader, treatment of preexisting conditions is not assured; there are still exclusions for all services. It says on page 80 in paragraph 4: The health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the plan.

It provides, furthermore, in paragraph (a): The condition was diagnosed and treated during the 3-month period prior to the plan.

So if they were getting treated 3 months prior to the plan for heart disease or cancer, they are out.

Or, it says, limitation or exclusion extends for a period of not more than 6 months after the date of the enrollment. It means that if you get in the plan, and you need treatment for 6 months, all of your treatment that was related to the plan will not be included or paid for by the plan.

Then it continues. As we know, under the Mitchell bill, all the preexisting condition prohibitions are effectively eliminated. There is an open enrollment period where anyone will be able to enter without having consideration of any preexisting condition. There is an amnesty period where people would be able to come in, and then by the year 2000, the concept of preexisting condition is totally eliminated, as compared to the Dole proposal.

In the Dole proposal, they say the participating State may establish a limit on the number of new enrollees the health plan may accept during that amnesty period.

So not only do we have a situation which excludes individuals with preexisting conditions, but the number of individuals who will be able to enter the various plans are going to be subject to some State judgment, some agency that will be established within the State, that is going to make the judgment as to whether individuals will be permitted or will not be permitted to enroll in a health plan.

You can imagine who is going to have the ear of those various State agencies. Do you think it is going to be the public or the individuals that are going to be affected with preexisting conditions, or do you think that the insurance companies might have some interest in that particular question?

If you then go to page 81, they talk about: The reference to 3 months in paragraph 1(a) is deemed a reference to 6 months. So they have a description about 3 months, and then in a later page they say any reference to 3 months is 6 months, and any reference to 6 months is deemed a reference to 12 months.

So I daresay, Madam President, that those who are most concerned about the preexisting conditions, comparing the two different proposals, have to reach very simple and clear conclusions.

Second, on the issue of the guaranteed choice of doctor, we have seen in the Mitchell proposal that co-ops and employers must provide a choice of plans, including the fee-for-service plan, which is basically the choice of doctors. That is explicit on page 136.

In the Dole bill, you can examine all 600 pages and there is no reference to how individuals are going to be able to have the free selection of doctors. It is not mentioned on page 96 in the section on cooperatives. It is not mentioned in the references to employers on page 107.

Their requirement to offer a choice of plans, or a choice of doctors, is not referenced in the legislation. We hear a great deal about the importance of choice of doctors. The Mitchell bill has it; the Dole bill does not. The Senate wants it, more importantly, the American people want it.

Elimination of preexisting conditions. The Mitchell bill phases out any exclusions for individuals that have preexisting conditions in a very determined, conscientious way. I daresay that under the Dole provisions, in the areas I have referenced, that element is still retained. The American people want to have it eliminated.

We have heard, Mr. President, a good deal about the issue of affordability and the issue of taxes. Under the Mitchell bill, it allows a maximum of 1.5 percent surcharge or marketing fee for plans sold through co-ops. On page 85 of the Dole bill—and this is just beyond belief, Mr. President. I hope I have the attention of the Members and the American people—"Administrative Charges: in general, in accordance with the reform standards, a community-rated health plan"—that is what we are basically talking about, community-rated, social insurance. We talked about that with the Republicans. Senator CHAFEE talked about the importance of community rating. And we have provided it in different ways in the bills before the Senate.

Listen to this under the Dole bill:

> Administrative charges: In general, in accordance with the reform standards, a community-rated health plan may add a separately stated administrative charge not to exceed 15 percent of the plan's premium.

And to the plan's premium; $900, it could go for. $900. That is not even a tax. That goes to the insurance companies.

Let me point it out again. In general, in accordance with the reform standards, a community-rated health plan may add a separately stated administrative charge not to exceed 15-percent of the plan's premiums which is based on identifiable differences in marketing and other legitimate administrative costs. And then it goes on, and toward the bottom of the paragraph, "or a broker." A 15-percent additional charge under the comparison between the Dole and Mitchell bills. That would be $900. You talk about taxes?

Mr. DASCHLE. Will the Senator yield for a moment on that question?

Mr. KENNEDY. Yes.

Mr. DASCHLE. Let me ask the Senator if it is not also true that the Dole plan allows a similar 15-percent administrative charge to be added to FEHBP plans. In other words, any non-Federal employee who wanted to participate in the Federal Employees Health Benefits Program would also pay a 15-percent administrative charge; is that not also true?

Mr. KENNEDY. The Senator is exactly correct. That is over on page 117, section 9002, Applications to Small Business Participants.

On the top of that page it says, "A carrier offering a health benefits plan under this chapter may charge a fee to participating small businesses."

Have we not heard much about small businesses out here in the last 2 weeks, about the sensitivity to small businesses? Here, under this plan it says, "a carrier offering a health benefits plan under this chapter may charge a fee to participating small businesses." Right here, for the administrative expenses related to the enrollment of such businesses, and to Federal employees. Fifteen percent of the premiums charged each such business. That is another 15 percent, another $900.

We are talking about billions and billions of dollars here. It is wonderfully sanctimonious for those around here to talk about the Mitchell bill and the various provisions in here about comparing cigarette taxes when we spend over $21 billion a year in the health care system taking care of people that are using tobacco, and they are quoting about all those increases in taxes. Here, this tax isn't even a tax; it's $900 that goes right to the insurance company.

Let me just point out how they define this. So you have those two provisions in this measure. If you go to the issue of portability, as the Senator knows, under the Mitchell bill, access to the Federal Employees Health Benefits Program is for all individuals in what they call the community-rated pool, employees and firms under 500, nonworkers, the self-employed, 78 percent of all of the under-65 population.

So the great number of Americans will have access to the same coverage as we have—and we could talk about how we want to strengthen this and other proposals that came out of different committees. The Mitchell bill makes it available to effectively 80 percent of all Americans under 65.

We have talked on both sides of the aisle, and I have listened about the importance of making available to the American people what is available for us. I pay, with the family coverage, $101 per month. I would think most people would feel that is a very good deal. It is a good deal. We do not hear of many people around here talking about it. It is a good deal, the kind of deal we want to have for the American people.

We heard from the other side, so the Federal Employees Health Benefits Program is a good deal. Let us include it in our program. Look at the difference in the Dole bill on page 115. "Self-employed individuals and small-employer participants in the Federal Employees Health Benefits Program."

First of all, there is no mention of a choice of doctors in here whatsoever. But let us go on. "For the purposes of this chapter, the term 'small business' means any business entity which employs 50 or less employees, including businesses with self-employed individuals." And then it goes over the application to small-business participants on 116.

I would like to have my good friends from Nevada and Washington and Colorado listen to this description. "The Office of Personnel Management shall promulgate regulations to apply the provisions relating to health benefit plans, to the extent practical, to small businesses and individuals covered under the provisions of this chapter."

One would read that—any child would read it—as small businesses and individuals covered under this chapter.

Now, two paragraphs down, it says: "Notwithstanding the provisions of subsection (a)," which I have just read, "the provision shall not apply to individuals covered under this chapter, except the Office of Personnel Management shall establish a method to disseminate information relating to health benefit plans to such individuals through small-business participants and carriers."

In the one place they say it is going to be small businesses and individuals, and in the next paragraph they take it away, as the language does, from any individuals. Individuals can participate, but the only way you are described as an individual is if you are going to qualify for coverage from the small business participants.

Then it says: "The carrier offering the health benefits plan under the chapter may charge a fee to participating small businesses." That is what we talked about before. Basically, in one paragraph they talk about small businesses and individuals, and two paragraphs later they say that notwithstanding that paragraph, the coverage shall not apply to individuals.

So this is why, Mr. President, it is important that we consider exactly what is in this legislation.

Finally, I will just mention the issue of portability. This is enormously important so that families know if they move from one job to another, they are going to continue their coverage. Every worker that enters the job market today will have, unlike 35 or 40 years ago, seven different jobs.

Forty or fifty years ago if your father was a shipfitter or ironworker in the Quincy shipyards in Massachusetts, your father or grandfather had that job for life, and they made good money, so that their wives generally stayed at home. Of course, society and market forces have changed things a lot. Women are in the job market because they want to be, should be, and they need to be.

We found that in the change in our economy everyone who enters the job market is going to have seven different jobs. We are trying to have the portability.

Under the Mitchell proposal, you have a similar kind of a benefit package whether you live in Salem, MA, or Salem, OR.

So you move through the whole process. It may be a different company, but it is the same package.

But it is not within the Dole proposal. It is not within there. There is no requirement that your employer pay for the standard package. But, you are still going to find that individuals are going to be wanting to move. So the idea that you can say, well, it is somehow portable, is false. This program just does not meet the most minimal standards in terms of portability. If you change jobs and your employer does not pay for coverage or offer you a plan, you are out of luck. If you lose your job, you could be out of luck.

These are the essential elements that I think are just worthwhile reviewing very quickly. Under the Dole proposal we are permitting the insurance companies to charge a 15-percent tax. The Mitchell proposal is 1.5 percent. This is a 15-percent tax. The FEHB plan is still closed to most Americans. Under Mitchell it is open to 80 percent of all Americans under 65. Under the Dole proposal it is a fraction of that.

There are loopholes allowing insurance companies to limit portability of coverage. If you do not have a similar kind of a benefit package and access to the same doctors and plans in different companies, then the idea that if you move from one job to the other that you are going to have coverage defies rational explanation.

You have no elimination on the preexisting condition exclusions, as I talked about in the Dole bill. Under the majority leader's proposal, all the preexisting conditions for the initial phase, the initial enrollment, are phased out so that they are eliminated by the year 2000. That is still there in the Dole program. Under the Dole proposal, there is no mention, none in the 600 pages of the Dole bill, about guaranteeing access to your doctor. In every reference to the benefit package under the Mitchell bill it talks about the fee for service, which is the option with unlimited choice of your doctor.

It talks about the loopholes that allow the insurance companies to continue the cherry picking. The idea is the companies themselves will not be required to pick up or insure individuals or individual groups. There is the flexibility that will be available to the insurance companies to continue to select the healthiest individuals out there without responsibility in terms of coverage of anyone else.

(Mr. CAMPBELL assumed the chair.)

Mr. KENNEDY. Mr. President, I daresay that these are items which we ought to try and find some common ground—hopefully, we will later on in the day—in terms of the issues on children.

But it does seem to me that we ought to be able if we are serious, and the whole debate for the last several years has been about universality and whether we were going to be able to pay for it.

We were talking about preventive health care measures, and that is the issue that we will be addressing later on with regards to children. We have not even gotten into the very extensive programs in terms of prevention that are available in the Mitchell bill.

But we cannot tolerate any measure in this body that is going to continue to permit preexisting conditions and say to the 49 million disabled people in this country that we have passed legislation that has not attended to your needs. It will not be so. We have to say, if we are serious about the choice of a doctor or plan, we have to see it in the bill. We see it in the Mitchell bill, and we continue to ask where, where, where is it in the Dole proposal.

We have to make sure that the insurance companies' 15 percent tax—I read it in the RECORD the exact language that is included in the Dole proposal—that goes not to the Federal Government but goes to the private insurance companies at their will and they would be able to have that. The exclusion——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. KENNEDY. I will wind up in 2 minutes. Then I will be glad to yield.

There is the closing down really effectively of the Federal employees program to people outside the Government and the limitation on the portability. These are essential elements, Mr. President, and I have heard our colleagues talk about them as being desired. I think it is important at this stage of the debate as we are moving toward hopefully a resolution of the children's preventive programs to say that we are going to try and see if we cannot at the successful conclusion of this debate and hopefully the passage of the children's amendment, address those issues.

I am glad to yield for a question, and then I do not intend to hold the floor any more. I see the Senator from Wyoming on the floor.

Mr. HATCH. Mr. President, I ask my colleague a question because he worked very hard on this issue and I know he feels very deeply about it. Is it not true that under the Mitchell plan, other than for the purchasing cooperatives, there is an open-ended marketing fee that can be charged; there are literally no limits on how much they can charge under the Mitchell plan?

Mr. KENNEDY. Will the Senator clarify this?

Mr. HATCH. Let me read it to the Senator. This is on page 51 of the bill:

> Marketing fees. No. 1, plans offered outside purchasing cooperatives, the community-rated standard health plan may impose a market fee surcharge for community-rated individuals enrolling in a plan through agent, broker, or other otherwise sales method or direct enrollment process. Such surcharge shall be in addition to the weighted average of marketing fees for such plans for community-rated individuals enrolled in such a plan for any purchasing cooperative in the community-rating area.

I think the Mitchell plan limits the market fee to about 1½ percentage points in the case of purchasing cooperatives, but for plans outside the cooperative, it is a completely open-ended fee, which is ridiculous.

The Senator is criticizing the Dole plan. At least Senator DOLE limits whatever the market fee can be. Let me tell the Senator that if the market fee is too high, I guarantee you that insurance is not going to be sold or bought.

Mr. KENNEDY. That is the whole point. Under the Mitchell bill, they do not have to pay that because they can remain within the particular program. They do not have to pay that. What the Senator is saying is in order for the plan to be competitive, it can't tax the people and the plan itself it has to pay it. The Senator is making my point for me.

Mr. HATCH. No, I am not.

Mr. KENNEDY. Yes, the Senator is. He is saying under the Dole proposal anyone who goes on into a plan, into the co-op, is at the will of the insurance companies to be charged up to 15 percent extra for an additional fee to be paid to the insurance company. Whereas, we are saying that if you want to pay a tax to the insurance companies or brokers, you can or you can go to the co-ops where people do not have those additional kind of fees. So nobody has to pay the tax because every plan has to offer through the co-op and every individual can buy through the co-op.

Mr. HATCH. If I could ask one other question?

Mr. KENNEDY. I yield briefly.

Mr. HATCH. What the Senator is saying is that there is only going to be one plan that the HIPC, the health insurance purchasing cooperative, can offer, because nobody else is going to be able to compete. If they stay in that plan there will not be any marketing charge. But I have to tell the Senator I think the free market system will compete. They are going to compete well, and they are going to have to compete. This is a false issue at best.

Mr. KENNEDY. I do not know why you give that kind of flexibility to the broker. You have the language here that the 15 percent administrative cost can go to the broker. How is that serving the American people to say you can tack on another 15 percent on top of that premium to go to the broker? What we are trying to do is to squeeze out the inefficiencies and the costs of the health care system at the present time. The Senator is writing that inefficiencies right into it.

Mr. DASCHLE. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. DASCHLE. The Senator is absolutely right.

To clarify this point, is it not true that under the Mitchell plan every person has access to a purchasing cooperative, similar to what we have as Members of Congress through the FEHBP? Is that not accurate?

Mr. HATCH. That is certainly accurate. Of course, it is accurate. So you start with that premise that everybody has the same opportunity for access to the purchasing cooperative that we have. It is only things they are going to choose.

Mr. DASCHLE. The Mitchell bill guarantees that every single individual has access to a purchasing cooperative, which will make available to consumers many plans. One co-op may have 40 different plans. That is where the competition that we all say we want comes from. Is it not the case that, under the Mitchell plan, only if you choose not to participate in a cooperative that you could be subject to the 15 percent or higher tax that the Dole plan virtually guarantees? Is that correct?

Mr. REID. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. I yield for the answer.

Mr. HATCH. Basically, you are saying there is only going to be one way or one plan you can accept because you are not allowing insurance agents their ability to sell insurance. Let me tell you something. Unless they are competitive, they are not going to be able to do it.

But this business of the Mitchell plan saying that we are going to have a purchasing cooperative, we are going to allow them to sell insurance, we are going to allow free choice, we are going to allow a fee-for-service program, all that is rhetoric and words. You are going to force everyone into a purchasing cooperative run by the Government. That is the point I am making here.

Mr. KENNEDY. Mr. President, I will just say that we do have the competition within the co-op. The point you cannot get away from is the limitation under the Mitchell bill.

> In no event may the sum of the membership fee and the marketing fee charged by a purchasing cooperative with respect to a certified standard health plan exceed 1.5 percent * * *.

The Dole bill is 15 percent to a broker. This is 1.5 percent.

And you can cut it whatever way you want—but there's still an additional 15 percent to get the Federal employees program. Under the Mitchell bill, any business or any individual can join the Federal employees program.

I hope we will not be talking a great deal about additional taxes until we come to the explanation. That is $90 under the Mitchell bill versus $900 under the Dole bill. And that is not an insignificant amount.

Mr. HATCH. Could I ask one other question of the distinguished Senator?

Mr. KENNEDY. Sure.

Mr. HATCH. Do people pay the same premium under this program as they would for the Federal employees insurance?

Mr. KENNEDY. Yes.

Mr. HATCH. Actually, they do not for 6 years; am I wrong in that?

Mr. KENNEDY. Are you talking about the age adjustment provision?

Mr. HATCH. No.

Mr. KENNEDY. By the end of the phase-in.

Mr. HATCH. So you are talking about a 6-year phase-in before they can get the benefits of Federal employees program?

Mr. KENNEDY. That is exactly correct in terms of the premium payments, but the benefits are the same from day one.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. KENNEDY. Yes. Whatever time is going to be allocated on the other side. I saw the Senator from Wyoming earlier and I indicated to him I would not take long.

Mr. HATCH. I yield whatever time the distinguished Senator from Wyoming needs.

The PRESIDING OFFICER. Senators are not operating under a time agreement.

Does the Senator from Wyoming seek recognition?

Mr. WALLOP. Yes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, it is a curious thing indeed what is happening here. The first thing that is happening is that rather than defend the Clinton-Mitchell bill, the other side of the aisle is attacking the Dole bill. And the curious thing about that is, the Dole bill cannot be before us under the rules that the Senator from Tennessee and the Senator from Maine have established.

We do not yet have a Congressional Budget Office scoring of the bill. The House wisely has gone home until they do have a CBO score. But the Senate excludes having a score, and therefore there is no way we can talk about this bill.

I would also like to comment on the Senator from Massachussetts' claims. Only in the Senate of the United States is an option allowed to an insurance company called a tax. That is not a tax. It is an option. It is not mandatory. It is an option.

But what is mandatory, make no mistake about it, is that if the Secretary of Health and Human Services does not like the plan of a State, she imposes a 15-percent tax that goes not to the broker but to the Government of the United States. Therein lies the big difference.

But we are still in an irrelevant conversation, because, the way in which the majority leader has structured this debate, the Dole bill cannot come before us, because we have been denied, first, printing and then CBO scoring. So this is an exercise in parliamentary dominance by one person, the majority leader, who has foisted upon the Senate no fewer than 4,300-and-some pages over the last week and who insists that we all ought to know what is in this when he, himself, has not been able to know what was in it, or surely they would have included all that they needed to include in the first version of the bill. But some things have been taken out and some things have been put in and nobody knows what all of those are, and I include the majority leader himself.

So, let us be fair with the thinking in front of the American people.

Over the past week, we have heard the First Lady, the majority leader, the President of the United States, and others reproach the Republicans for not wanting to debate health care reform. Now we are being reproached for wanting to debate the health care reform. Now we are being reproached for not agreeing to the majority leader's request to begin voting on his timetable for amendments. We are called obstructionists. We are told we are undemocratic. We are told we do not care about the American people. We are told that the only thing we care about is politics but that the President's agenda is not political.

Mr. President, anybody watching American politics knows that the President's agenda is no less political than the agenda of everybody else. He is, after all, the leader of his party and he has chosen to make health care reform a political and nonbipartisan effort from the beginning.

Members on the other side of the aisle are being asked to vote out any health care bill to save and conserve the Presidency. The Democratic leadership wants to pass the bill before the November elections, and it does not really matter what the bill says or what it will do to the American people. The Senator from West Virginia, I think, explained it the best when, in an interview, he said, "The American people are going to have health care reform whether they want it or not."

Now all of these accusations are offensive to us in elected office who listen to our constituents and are here to represent their views and seek to do so even if those views do not happen to comport with those of the Senator from Maine or President Clinton.

The debate on health care reform is a philosophical debate. It is a debate which clearly delineates the differences between Republicans and Democrats over the role of Government in our individual lives. Republicans are unwilling to rush this debate, not because we do not want to have health care reform, as the Democrats cry, but because we are unwilling to vote for a health reform proposal that is philosophically opposed by our constituents.

Let me put, if I can, the issue of reform into some sort of perspective.

If I look back on nearly 18 years in the Senate, there are three defining moments in this period.

The first was in 1981, when the Senate approved the Reagan economic revolution, a program which included reductions in Federal income taxes, reductions in domestic spending, and increases in our national defense budget.

The second was the defeat of socialism, graphically illustrated by the fall of the Berlin Wall and the collapse of the former Soviet Union.

The third event is the current debate on national health policy.

All three are linked by a common thread. All are attempts to define and to limit or, in the case of the latter, to expand the role of central government planning in our lives.

Reaganomics was an attempt to let people keep the resources they created through their private initiative, rather than allowing the Federal Government to collect and expend these resources. By limiting tax revenues, it was hoped that we would limit the growth of Government, because taxes and taxes alone are the means by which the Government gains the power over the people of this country. We were frustrated by Democrats in Congress who insisted on expanding Federal spending through deficit financing.

The fall of communism was a repudiation by the people of Eastern Europe and of Russia of the failed ideology of centralized government planning; and the defeat of the philosophy was combined with the fiscal defeat of the centralized government when we faced a socialist regime in Baghdad during the gulf war.

And now we are being asked to approve, with minimal debate—and I say with minimal debate, notwithstanding the promises of the Senator from Maine, the majority leader, who, at the beginning, said no Senator would be curtailed and is now seeking to curtail us. But, most important, we are being given little time to analyze the most massive explosion of Government—maybe in this half century. The Clinton-Mitchell bill will transform one-seventh of our economy, by creating 50 new bureaucracies and at least six new open-ended Government spending programs; by creating new subsidized entitlement programs that will cost $1.4 trillion between the years 1995 and 2004—in that decade, $1.4 trillion.

It will increase Federal taxes by $300 billion over the next decade, paid for by 83 percent from middle-class Americans who will find themselves not only paying more taxes but higher premiums for their health insurance. It proposes almost $1 trillion in unrealistic cuts in Medicare and Medicaid.

These true costs do not vanish because we cut them. They go directly onto the backs of the rest of Americans who pay for health care. By cutting Medicare and Medicaid you just do not simply eliminate the fact that a procedure costs a certain amount of money. And if it is not paid for by the Government, then it is going to be paid for by the hospitals and doctors who perform them, and who ultimately transfer those costs onto the backs of the premium payers, insurance companies, and individual Americans seeking health care. It goes to the middle class; it goes to small business.

The health care proposal now in front of us represents a reversal of recent successes against Government centralized planning and control. There are some in Congress who believe that any issue arising in the country must be resolved by creating a new Federal program. There are some in America who, every time confronted with discomfort, say, "Why does the Government not do something?" There are others of us, however, in America, who believe that solutions cannot only flow from Washington; that neither the private sector nor the State government have the ability to solve problems because it is controlled by the Federal Government, and we have witnessed how successful the Federal Government is at the rest of its efforts.

There are, unfortunately, those in Congress who subscribe to a "big nanny" philosophy, and they are the same people who have drafted the health care plan now being debated. "That we Americans have not the ability wisely to choose what is good for our families, what is good for our employees, what is good for our country. We must have this group here in this Senate and in those bureaucracies doing it for us because we are not to be trusted. Only inside the Beltway resides wisdom"—so those people would think.

The health care reform debate is a true turning point in this country. That is why it is important to analyze it fully and accurately. And there is no going back. We step off this ledge into Government controlled health care and there is no turning back.

We have only to look at the amendment that is now before us to accurately predict what is going to happen. Once you get a standard benefit package there is no end to the bidding—no end to the bidding. There is always somebody who is going to want something in that standard benefit package. Ask those in Hawaii who now find their health insurance program too expensive for the State to support. Because year after year, session after session, everybody politically bids up what is contained in that package.

The fundamental issue, therefore, that we must decide, is whether we believe in a bigger Government, or in a wiser and more empowered people; whether we will be ruled by an anonymous bureaucracy which has the power to levy taxes or assign them, which has the power to limit choice—or whether democracy will continue to be our form of Government.

Those who believe the Federal Government is the solution of our health care problems will vigorously embrace the Clinton-Mitchell bill. Those who believe, as do I, that our health care problems can be solved better by relying on the common sense and abilities of the people, are the people who will support the Dole-Packwood health care alternative, or some involvement which solves the basic problems which face Americans—that of access, portability, preexisting condition, and the issue of malpractice and simplicity.

Government slowly, slowly, slowly has been overtaking our lives. In one generation, Government has doubled the amount of money that it takes from Americans and it has increasingly used that money to deprive us of control over our own lives. In the same time it has turned our public spaces over to criminals and our public schools into factories—yes, of ignorance. Government has driven us apart on the basis of race, and even of sex, and in the name of tolerance has made us almost the most intolerant country in the world.

Throughout the world, big government is in the crisis of legitimacy. In South America there is a rush to privatize Social Security and Medicare, to privatize the State corporate structure. The Japanese, recognizing that their industrial policy has bred corruption as well as inefficiency, are deregulating their economy. Europe's welfare States, that spend more than half of their GNP, are collapsing and dragging the mainstream parties down along with them. Look, for example, at Germany and its health care plan which is, in effect, the Godfather of the Clinton plan. And in fact, the First Lady is the one who has said that she would like us to look more like Europe.

According to remarks in a Wall Street Journal article by Wilfried Prewo, Chief Executive of the Hanover Chamber of Commerce in Germany, the German plan provides near universal coverage but at great losses of efficiency. The average premium payroll tax is 13.4 percent, paid for by every working individual. The German alliances, originally devised as nongovernmental health purchasing cooperatives, have degenerated into de facto government agencies with 112,000 employees working for these alliances.

The administrative cost of the cooperatives have risen 53.5 percent from the last decades—more than the measure of the alliances total health costs. As Prewo notes, "These costs reveal that the disease of bureaucracy is the real problem". Hidden taxes are also an integral part of the German plan. A 50-percent employer mandate results in labor costs that make Germany the second most expensive place to employ people in the world. It is also a country that has significantly higher unemployment rates than does the United States.

Financially, the German plan has vacillated between financial distress and collapse, and the Government has intruded with ever tighter regulations, including price controls and access rationing. The German health care costs are rising rapidly and Germany has taken some stopgap measures to control them. But major health care reform will be undertaken in the coming years. They have no choice. Germany is searching for a way out, to have less Government control and to establish some market orientation. Incidentally, many people are now going to the Eastern European States for their dental care because it is cheaper and you can get it right away, without waiting in line.

So, why is it, as other governments in the world move away from socialization and toward market-based programs, our Government is trying desperately to move toward it?

Let us talk for a moment about the issue of choice. For years, health reform has centered on the question of how health care can be provided efficiently and effectively. But there has always been something missing in this debate, which has doomed efforts at cost restraint and access. That is that we have focused so dogmatically on how we can expand access to care while controlling costs, that we forgot the critical element in a free market-based economy—choice. We have not had it.

If the market is to work, individuals must have the ability to choose, to make decisions, to accept responsibility—a key word in a democracy, Mr. President: Responsibility—accept responsibility for their health care.

Some would argue that responsibility and choice are unnecessary, that the Federal Government will assume all responsibility and make our choices for us. That will never work with the American people.

It may be what is imposed upon us, but because it is imposed, does not mean that it works. It is the focus of the Clinton-Mitchell bill. Government under that bill would assume responsibility for defining the standardized health package that we will have, for telling us how we must purchase it through mandatory HIPC's, or by forcing employers with less than 500 workers to buy at community rates instead of self-insuring, or by making experienced rate plans contribute to a risk adjustment pool supporting alliance.

Incidentally, this is where the President of the United States is absolutely wrong in his statement that we will have choice. You cannot have choice if you are to be fined for exercising it. You cannot have choice if your employer is to face a $10,000 per employee fine for offering either less or more. You cannot have choice by telling us that we must purchase insurance through an individual mandate, for telling businesses that they must provide insurance for us.

The Clinton-Mitchell bill contains at least 23 new mandates on employers, employees, individuals, and States. Public policy over the past 25 years has been driven by the demands called entitlements. We have established by the President of the United States an entitlement commission whose job is to seek ways to find relief for the American taxpayer, economy, and Government from the dictates of entitlements.

Incidentally, these are figments of Government fantasy, not the Constitution. Nowhere in the Constitution does it say that any American is entitled to the earnings of any other American. These are things we have done to ourselves. Yet, in this program, we are establishing a number of new entitlements.

People have been permitted to engage in whatever activity they choose without assuming responsibility for it under the health care system that exists in this country. Indeed, they have come to expect from the State and the Federal Government the performance of functions traditionally reserved for heads of households. The expanding entitlement society is destroying the sense of personal responsibility and of collective responsibility and of community responsibility. After all, if the Government is going to do it, why should I be charitable? If the Government is going to do it, why should I seek any other resolution? And why should I care who exercises the choice to be entitled to the money that I and my fellow citizens earn?

The expanding entitlement society has destroyed this sense of personal and collective responsibility, and there is no more evidence than in the area of health care. Under the Clinton-Mitchell bill, the individual is now entitled to standard benefits provided by the Government through new mandates on the society. The expectation exists that there is a right to health care. The President has stated it; advertisements have stated it. But there is no such right—there may be an obligation, there may be a sense of that obligation—but nowhere in the Constitution does it say that the Government of the United States must provide every American, no matter what that American does, with all he wishes in terms of health care.

Under Clinton-Mitchell, there are attempts to provide coverage to the 23 million uninsured by providing subsidies to benefit 100 million. How does that work, Mr. President? Twenty-three million are uninsured; subsidies for 100 million. Whose pocket is robbed to pay that? I guarantee you that many of those who are going to be subsidized will be having the other hand in their pocket taking it right back out on the other side.

The costs of these subsidies will be borne by those unlikely enough not to receive a subsidy, mainly the upper portions of the middle class. It is time, therefore, to restore the idea of responsibility to the health care debate. Responsibility means making decisions. For instance, each of us decides whether or not to maintain a healthy lifestyle, to exercise, to refrain from smoking, to drink moderately; or the opposite.

As a recent article in the New England Journal of Medicine indicates, such decisions to accept greater responsibility for what the authors call "demand reduction" would reduce annual health care expenditures by almost 20 percent. That means $180 billion.

Mr. President, the Government of the United States cannot have lifestyle police. It cannot. It cannot have somebody watching each of us in the closets and in our rooms to see if we sneak a cigarette or drink an extra martini or do not get enough sleep or eat too few carrots. They cannot do that to us. So by imposing all of this bureaucratic regime on top of us, competition and choice is eliminated—something which is available in the private insurance marketplace.

Another decision which most people cannot now make and which is a problem, and that has been cited by those on the other side as well as on this side, is that most people cannot choose the health insurance plans they are provided by their employer, or by their States. They can choose not to have the one by their employer. In fact, I, indeed, could choose not to have one by my employer and have one by my wife, who is self-employed and provides it for her employees.

But most Americans receive health insurance coverage through their employer, and the employer chooses that plan. But the employee has no choice on the benefits of which the insurer will provide. There is no choice; therefore, there is no responsibility, and little cost for the employee. But there is also no option. If a benefit is covered, use it; if it is not covered, forget it, I am not going to do it because nobody is going to pay for it.

No wonder individuals feel they have a right to health care, an assertion which ultimately turns free-market economics upside down. And the lack of choice is only exacerbated by the Clinton-Mitchell bill which has Government mandating the purchase of plans and defining the benefits included in those plans and not allowing us the options of choice as employers or employees—low-cost plans, high-benefit plans, one is taxed, the other is disallowed.

If the Government takes responsibility for all of these, how are we to expect individuals to exercise it on their own?

What must be understood in this so-called right, this false notion of security, is that it comes with a price: A price in freedom and a price in coverage. In exchange, individuals on a Clinton-Mitchell regime will be given reduced coverage, increased premium costs, and increased taxes—I will examine that now—but more importantly, freedom and liberty will be lost through the imposition of 50 new bureaucratic regimes that will impose so many rules and regulations that bureaucrats, not individuals, will tighten the existing controls that they have over our lives. And who knows where these people derive their power, or who they are when they exercise it?

There are a number of aspects in the Clinton-Mitchell bill which reduce coverage. A new high-cost premium tax I mentioned that CBO says, and let me quote—incidentally, CBO was not kind to the Clinton-Mitchell bill. It basically said that it would achieve some goals and it was revenue neutral, but thereafter, it slammed it in almost every corner it could find. Let me give you the first of those.

> The new high-cost premium tax would be difficult to implement. Its contribution to containing health care costs would be limited and it might be considered inequitable and an impediment to expanding coverage.

Some health care reform: Inequitable and an impediment to expanding coverage and difficult to implement.

> New Federal and State premium taxes will add 17 to 42 percent to the cost of buying a health plan.

Some cost containment.

> Standardized benefit packages would make illegal many cost-effective products now on the marketplace.

Small employers, those with fewer than 25 employees, who currently offer health insurance, would not be willing to offer more than 50 percent of the cost of the insurance because, otherwise, the employees become ineligible for the subsidies. What kind of a crazy thing is the Government going to do when it actually says that it wants employers to do these things—and many of them are, and those are the people they cite—and then turn right smack-dab around and say, "If you give them more than 50 percent, the Government will not subsidize." No rational employer is going to give more than 50 percent.

Another thing. In order to achieve this massive coverage by the Federal Government health care plan, we have the possibility of a State-by-State mandate. The distinguished President occupying the chair is from the State of Colorado. They might well make the Government requirement for coverage. There is no way that it can happen in the State of Wyoming or any other rural State. And those in my State go under a mandate and perhaps those in the State of Colorado do not, or perhaps both of our States and the States of Kansas and Nebraska do not. Our employers are going to be shopping the area to find the cheapest place to employ people. But what does that do to the economy of the United States when the Government by exercising a willy-nilly mandate begins to put inequitable positions on the employers in our several States?

Mr. President, there is this magnificent assumption somehow in the minds of socialists that society is ultimately perfectible and that we are all essentially sheep and we have no human responses to its efforts.

If firms with 25 employees or less are not to be covered, who will be so unwise as to hire the 26th employee? How does that add to jobs in America? If your penalty begins with the 26th employee, the best thing you can do is start another company, if you want more employees. People will respond to the artificial stimuli that are contained in this ridiculous piece of legislation because the Government is interfering, choosing amongst winners and losers, States, individuals, employers and all kinds of things. It chooses, chooses, chooses, and it assumes that none of us are wise enough to have a human reaction to the opportunities that are put in place by those choices.

We constantly hear that the Clinton-Mitchell plan is necessary to help the middle class. But under that plan direct new taxes and hidden taxes, still taxes, if you will, on premiums will both shift and increase the cost of health insurance onto the backs of the middle class.

There are at least 17 new taxes, some have said 18—and I believe that 18th to be the most insidious of them all—in the Clinton-Mitchell bill. They raise $300 billion. The one new tax that is not listed on here is that if the Federal Government does not choose to accept your health plan, it imposes its own and then charges a 15-percent premium on every insurance policy sold within that State. That is not the Congress levying that tax. That is the Secretary of Health and Human Services.

There are many other hidden taxes and State taxes that will add to the premium costs and increase these middle-class taxes. Two-thirds of the new Federal taxes, $200 billion, fall squarely on the shoulders of 83 percent of all Americans through higher costs on health insurance premiums. Two-thirds of it goes right on health insurance premiums that people now pay. The 25 percent high-cost plan costs $70.4 billion.

In other words, if your employer seeks to provide more health insurance than a target premium cost, you get a 25-percent tax on that premium. A 1.75-percent premium tax raises $74.3 billion, and the repeal of cafeteria plans and flexible spending accounts costs $46.8 billion. These are things that Americans now have for which they will be taxed.

Let us talk about them. The high cost premium tax, $70.4 billion. A 25-percent excise tax is applied to community-rated and experience-rated health plans that exceed a certain target cost. This is touted as cost containment, Mr. President. This tax, according to CBO, will do little or nothing to contain health care costs and might impose an impediment to coverage. Some kind of cost containment. Virtually all plans would be subject to the 25-percent tax. This tax is really a sick tax. You can use that in either way. It is a sick tax or a sick tax.

Perhaps someone from the other side of the aisle might in their time explain it differently. But it appears to this Senator that some of the plans which will pay the highest taxes are those that have an inordinately high number of sick and older individuals. These are the plans that by definition have to raise their prices the most to cover the high levels of provider reimbursements.

In other words, you are going to have certain levels. They have a certain inequitable portion of either the aged or the unwell, and they have to raise their premiums to cover that, or cease to provide it altogether. And guess who gets to pay it? The sick and the aged and the unwell. I understand that there is a risk adjustment mechanism to compensate plans that have adverse health selection, but it is my understanding that no such risk adjustment mechanism currently exists.

The American Academy of Actuaries, when analyzing the President's original risk adjustment mechanism, which may be actually less complicated than that of the Senator from Maine, stated:

> Such mechanisms can never be expected to be fully effective. Further, the current state of the art in risk adjustment falls short of meeting the requirements of the act.

So if risk adjustment does not work, Mr. President, then this tax clearly penalizes the elderly and the ill. But that is not all. The tax applies to community-rated plans in 1997 but will apply to large self-insured employers following in 2000. Most small businesses purchase insurance in the community-rated market.

I ask the supporters of the Clinton-Mitchell bill, why should small businesses have to pay the tax now when big businesses will not have to pay for another 3 years? Is this fair to the small business employers of America? Is this not a subsidy to big business by a Democratic administration claiming to be on the side of the little people in America? And since there are no constraints on large employers for 3 years and the premiums for those employers are based on their health expenditures during that period, you have to ask the question, will not this seriously undermine the incentives for these plans to economize before the year 2000, as CBO suggests?

In fact, the incentive does quite the opposite. Insurers have the right to collect 50 percent of the cost from providers as long as the amount does not exceed the provider's disproportionate share. That is a very interesting little complication in life right there. Maybe someone will be able to explain to me and the Senate how an insurer is going to go about collecting these fees. How is it possible, Mr. President, to recover 50 percent of the tax in a timely and efficient manner when the provider's proportionate shares are based upon factors not known until the time beyond the end of the next tax year? How is that going to be?

What we have done is not only provided an unfair tax, a monstrously complicated tax, but somebody is going to be fined for not complying with it when it is impossible yet to achieve compliance.

And then, Mr. President, why should the low-cost provider have to reimburse the plan's sponsor for 50 percent of the tax imposed because of the excess charges of high-cost providers?

So what you have done is you have simply said to everybody, go for the gold. Make it as rich and expensive and as nasty as you can because if you are a low-cost provider you are going to be subsidizing the high-cost providers and nobody is going to be able to figure out how to collect the tax.

How much additional administrative expense do you think will result from this giddy collection exercise? Even CBO stated that this tax will result in litigation expenses. And is it even appropriate for health plans to play tax collector when you are trying somehow or another to make the system more efficient, to bring the costs down? You are adding administrative and legal costs. There is no end to the complication and to the furor that this plan and this tax will impose on our society.

The fee-for-service plans, which allow unlimited choice of providers, are generally more expensive than network-based plans and this tax will make the fee-for-service plans even more expensive and potentially unaffordable all at the same time the President and Senator MITCHELL promise us we are going to have choice. So the fee-for-service plans under which you have choices are going to be driven up because the taxes are higher and potentially unavoidable. It simply denies consumer choice of providers. Overall, this high-cost plan tax will tax cost efficient plans more than inefficient plans. A funny thing in a country that seeks expertise. The worse you are, the less you pay and the better you are, the more you pay.

Mr. President, does the Senate really want to go down that road? Is that really what we are up to?

The sponsors of the tax claim that its purpose is to reduce health costs. But it is hard to see how raising premiums makes health insurance more affordable when talking about the 1.75 percent tax on every health plan to provide for more teaching hospitals. This tax is applied to all gross premiums. So straight across the board, everybody's health care costs in America goes up 1.75 percent. It raises $74.3 billion out of purchasers of health insurance over the decade, and falls directly on the middle class.

The Joint Tax Committee has prepared a distributional chart which shows this tax clearly falls more heavily on the middle class. In 1999, 54 percent of the tax increase will be paid by people with incomes of $50,000 or less and 79% by people with incomes $75,999 or less. The 1¾ percent tax will increase the taxes of individuals with incomes between $20,000 and $30,000 by $1,178; between $30,000 and $40,000, by $1,303; between $40,000 and $50,000, by $1,099; between $50,000 and $70,000, by $1,955, nearly $2,000. Some savings, Mr. President.

This new tax is not in any way related to making health insurance available to the uninsured. In fact, what it serves to do is further increase the premiums of the already insured. It has been linked to new spending for medical education. Yet, while it raises the costs of premiums for everyone by 1.75 percent, it more than doubles current funding for medical education.

Is the purpose of health care reform to tax Americans into doubling their contribution out of their own pockets to medical education, at the time as everybody is saying that we are producing too many doctors? It is bizarre, Mr. President.

It is my understanding that funds currently available under Medicare are transferred into new trust funds: The Academic Health Center Trust Fund and the Graduate Medical Trust Fund, and others.

These transfers total $71.1 billion over the next decade. But according to CBO, the tax raises almost $11 billion more than is claimed to be spent on these programs. So here is a nice, new little tax increase for Americans. Even if they support it going to medical education, it gives $11 billion more to Government; just to Government. It is not directed.

It is nothing more than a convenient revenue raiser that can be increased every time the Government runs out of money to meet its commitments, all while we are calling it "medical education." We will raise it another quarter percent. We are already $11 billion more than spent. What the heck, let us give you another $20 billion.

Mr. President, this is hiding real taxes from American people in a most irresponsible way.

So I find it extremely difficult to understand how the bill is supposed to cut costs when all it is doing is increasing the cost of private insurance. I had thought that the majority leader indicated that the plan was necessary to avoid premium increases. Yet inherent in the majority leader's plan are several provisions which drive premiums up.

Now we have a wonderful provision. Our States are allowed—the words used "are allowed" to raise their premium taxes by 1 percent to pay for new administrative expenses which they are not allowed to avoid.

Where is this Congress coming from that it says that our States are allowed to raise taxes to cover expenses that we impose upon them? What is wrong with the concept that the country was founded on the notion that these States are sovereign, and that we here in Congress derive our power from the States, not the States from the Congress? What a bizarre distortion of American political philosophy.

The Clinton-Mitchell bill allows them to cover the costs of administering, and nobody believes that what they will be allowed to do will be enough. So the States are going to raise premiums another 1 percent. But we will not be blamed for that. Clinton-Mitchell will not be blamed for that. The States will be blamed for paying for things that we are requiring them to do.

First, the Clinton-Mitchell health proposal would be forced on the States. As CBO states in their report, "[it] would place significant responsibilities on States for developing and implementing the new system." Then we tell them to raise taxes to pay for the cost of administering their new duties which we, who derive our power from them, are imposing upon them.

The States, Mr. President, will have 177 new responsibilities under this plan, including determining eligibility for the new subsidies and continuing their Medicare program. Administering the subsidy and the Medicaid programs, establishing the infrastructure for the effective functioning of health care markets, and regulating and monitoring the health insurance industry. According to the CBO report—again this very thin praise which accompanies the Mitchell bill—"it is doubtful that all States would be ready to assume their new responsibility in the time frame envisioned in the proposal."

So what happens, if they are not ready to assume their responsibilities? Guess what? The Secretary of Health and Human Services assumes those duties for them, and imposes a 15-percent tax on all the premiums. That is a 15-percent tax that goes on every health plan premium in the State where the Federal Government takes over. CBO says the States will have difficulty meeting their responsibilities, and yet we blithely go along, and say, "What the heck. They cannot do it. That is 15 percent more for the Federal Government. We will do it for them. We will run their plan and impose a tax on them." Goodbye States rights. Hello Washington.

If Secretary Shalala determines that a State health system does not meet requirements from her view of the insurance coverage, then she takes over the State system. If she takes them over and runs the plan, she increases the premiums by 15 percent to pay for the administrative expenses of the Secretary. The complaint the Senator from Massachusetts was making a little while ago is that the insurance companies might be allowed to impose a fee. That is a big difference. One is an option, and the other is a tax imposed by a nonelected, but appointed, bureaucrat.

Now we have the disallowance of current tax-free health care expenditures made through cafeteria plans and flexible spending accounts; another $47 billion out of the pockets of Americans who buy insurance. A few more billion out of cafeteria plans—plans that allow individual Americans to make the choice of the coverage they wish to have.

Mr. President, I have stated before that it is conceivable that my wife and I at this stage in our lives will not need obstetric care. It is even more conceivable that the care that I might want would be hair transplants and hearing aids. Should I not have the choice to have that instead of the obstetric care which we no longer will have use for? Not according to Clinton-Mitchell. Cafeteria plans are out. It is a sin to provide yourself and your family what you believe to be necessary to their well-being.

Flexible spending accounts, whereby some insured have a high-cost deductible, figuring that they can take care of the first $1,000 or $2,000 of their medical expenses, in exchange for a really good catastrophic plan. Oh, no. That will not be allowed. You are penalized $10,000 an employee if you provide your employees more than the Government says that you are entitled to have.

This is a fine Government that comes along and says to employees, and families, "I don't care if you want it."

(Mr. BYRD assumed the Chair.)

Mr. WALLOP. You may not have it without extraordinary, new penalties. Clinton-Mitchell eliminates those options and again increases the out-of-pocket costs of middle-class Americans, and eliminates their choice and their right.

Now, the risk adjustment. An egregious hidden tax is this adjustment which requires all employers with over 500 employees to participate in a risk adjustment pool with individuals and small employers in each State. The risk adjustment provision forces self-insured employers, who may have lowered their own costs, to pay higher insurance rates to subsidize the higher risk of other employers.

Why, if we have done something well within a corporation of mine, should we be required to subsidize the risk of the employers of another corporation that does nothing to contain their health care costs and the risk of their employees? By shifting these costs, it is no different from a payroll tax increase. Once again, the healthier the plan, the more efficient the plan, the better you are—under the Mitchell-Clinton bill—the more expensive it will be. Those who are good and efficient now had better see to it to get bad and inefficient. It certaily is in your own best interest, because it will be cheaper when it all rolls in.

The bottom line is that the middle class gets socked, and socked heavily, with the distributional impact of the four taxes in the Mitchell-Clinton plan—1.75-percent premium tax, increase in Medicare part B, disallowance of cafeteria and flexible spending accounts, the tobacco tax increase, offset by the 50-percent deduction for self-employed. Joint Tax found that 60 percent of all taxpayers with incomes of $50,000 or less will pay the higher taxes. Some 78 percent of taxpayers with incomes $75,000 or less will also pay the higher taxes. Incomes between $20,000 and $30,000 could pay $3,000 more a year. Between $30,000 and $40,000, you could pay $3,100. Between $40,000 and $50,000, $2,690. Between $50,000 and $75,000, $3,800. Those are big tax increases, Mr. President. And they do not reflect all of the tax increases mentioned above that will come from the States or the 25-percent premium taxes.

The Clinton-Mitchell plan does not stop at increasing premium taxes. It also includes a number of hidden taxes that will further increase the costs of health insurance. Companies with 500 or fewer employees are forced to purchase insurance through a community-rated pool. This means that smaller companies who may now self-insure, or may have efficient plans, will have to pay for insurance that will be significantly higher than they now pay and will not to be allowed to self-insure—that is too much independence from great Uncle Sam—will not to be allowed to do something on their own; will not to be allowed to be accountable and responsible and to work with their employees.

It increases costs on all the insured, everybody in America, by forcing them to cover more benefits for subsidized people than they receive from the subsidies. Guess what, Mr. President? Not only are these people from the healthier and more efficient plans being asked to subsidize other people, but the cost assessed them for that subsidy is more than the subsidies. So it is a cute, hidden little tax that is going on the middle class, and it is no small figure.

Under our current health care system, Medicare accounts for two-thirds of the cost shifting that occurs. Guess what? We are proposing to reduce Medicare again. Nobody does anything about the cost that Medicare incurs. Instead, the cost is just shifted onto the backs of those who are already healthy and employed.

The Clinton-Mitchell bill proposes to cut Medicare by $200 billion over 10 years, with all of the costs, or most of them, falling on the provider. Are the providers to shoulder that entire tax, or does anybody suppose they might portion it out to those to whom they provide? Look at the reality of this. Nobody is going to pick up $200 billion all onto themselves when they have the option of spreading it out. Guess who gets it when they do that? Middle-class America, employees and employers of the small and productive sector of this great country.

So instead of solving the cost shifting problem, as the majority leader is so quick to claim, his bill actually exacerbates the already existing problem.

A recent Wall Street Journal article by Martin Feldstein found that this will result in at least a $13 billion annual tax increase. But the cost-shifting problem does not stop there. Under the Clinton-Mitchell bill, Medicaid is cut $788 billion over 10 years. These two cuts total almost $1 trillion. Medicaid beneficiaries not receiving SSI or Medicare would be integrated into the Federal subsidy program. These recipients are placed in the community-rated pool with small businesses and individuals. Guess who shoulders that expense? By cutting Medicaid, it does not disappear as an obligation for somebody to pay it. That is the great boondoggle that is contained in this Mitchell-Clinton bill.

Incidentally, we have never been able to achieve the cuts claimed. My guess is that we will never see the day when we do. So, either way, it is going to be the Federal Government who is the biggest imposer of health care cost shifting, whether or not we pass this bill.

The Government would pay the subsidies for these beneficiaries, and if the subsidies do not meet the costs, guess what? The insurance companies and, therefore, everybody else they insure, will end up paying the difference. According to Feldstein, this cost shift could end up costing $29 billion a year.

Increased premium costs for younger workers. Perhaps one of the nastiest, most unfair, egregious hidden taxes of them all. As Robert Samuelson starkly stated in the Los Angeles Times on the 10th of August, it is a "multibillion dollar tax on younger workers." It occurs because of community rating, which requires everyone to pay the same rate of insurance regardless of age. Guess why AARP is so willing to support the Clinton-Mitchell bill? According to a recent Washington Post article, young adults under the age of 35 will pay at least $40 billion a year more to subsidize the middle aged, which translates onto the young workers as a 7-percent payroll tax increase—right smack dab out of the people just starting in life, wanting to buy a home or an automobile, or get married. A Neil Howe and Bill Strauss editorial in the Washington Post, called "A Hidden Tax on Young People," is the source of that information.

For example, a 27-year-old male who currently pays an average premium of $788 would find himself paying $1,485 under a pure community rating. That is an 88-percent increase. So I ask my colleagues, yes, we care about the aged and women and children; but do we care nothing about the young workers coming along and their hopes and dreams for houses and other things, along with the fact that they are inherently healthier than we are?

The administration, in its 1995 budget, declared that future generations could face taxes that are upward of 82 percent of income—82 percent of income—if spiraling health care costs and other entitlements are not brought under control. Yet the Clinton-Mitchell bill places the burden of health care reform squarely on the backs of future generations, without doing anything for cost containment. So what they have done is simply looked the other way and promised people something that cannot be provided.

We should not and cannot burden the future of America with today's health care costs. It is the job of this generation to leave to future generations a standard of living that was better than the one that was left to us. And we are dead set on denying people responsibility, choice, and most of all opportunity, by enacting this Clinton-Mitchell bill. We should not be squandering a standard, passing off costs we are too scared to face because they have political ramifications.

The American people are being deceived into believing that this Clinton-Mitchell bill will provide them security at no cost—security at no cost.

There is just a wonderful scam in the papers this morning, Mr. President, about a bunch of people who bought wonderful travel opportunities at below costs, huge numbers of Americans seduced into buying something below costs. They got an extremely expensive lesson, but they did not get travel below costs.

That is what we are about in this process right here. We are about to give Americans an extremely expensive lesson that their Government cannot deliver to them something that costs them nothing, and we will do that by charging 83 percent of them more for their health insurance, every one of them more for their taxes. And for what? To create a $1 trillion-plus Government subsidized program that will transfer the wealth of others to 100 million Americans.

We do not need to be subsidizing 100 million Americans, Mr. President. What kind of a country is it that says that 100 million of us are dependent upon our Government? Surely, we can reduce that figure to those who are truly in need.

Under the Clinton-Mitchell plan, health care costs do not decline but increase, according to CBO, not the Senator from Wyoming. They do not decline, but they increase according to CBO.

Is that where we want to go in the name of health care reform?

The Senator from Maine claims that the cost containment is when health expenditures remain at projected 21 percent of GDP and a few more people are covered. Medicare will have been slashed, taxes increased by $300 billion. Yet health care costs continue to rise.

It was the very need for cost control that started this debate, Mr. President, and the plan in front of us does not even address the issue. The working middle class, which the Democratic leadership is so quick to tout will receive benefits, receive the least.

To end my statement where I began, the debate over health care is a debate on the role of Government in our lives and in America. Care must be taken not to squander liberty and freedom for the elusive promises of Government benefits, and that is what we are being asked to do.

We are being asked to give up things that we now take for granted, for a promise of security that the Government cannot deliver on.

There are certain periods in America's history when pivotal decisions are made regarding the role of Government and society. Those decisions have had direct and dramatic impact on lives of Americans and set the course of the Nation for decades to come.

Many of the problems we face today arise from decisions that were made during those periods. I believe we are at another of those crossroads today. If we embark on the course that President Clinton and Majority Leader MITCHELL set for us, we will vastly increase both the scope of and the power of the Federal Government and the ability to wield influence in each of our individual lives.

Make no mistake, this Government does not seek to serve, but to control. Americans are frightened of it. We will let it control us at our peril.

Mr. President, I conclude my remarks and I ask unanimous consent that certain articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post]

A HIDDEN TAX ON YOUNG PEOPLE

(By Neil Howe and Bill Strauss)

At the core of health insurance reform lies an enormous hidden tax on youth. It's called strict community rating. Politicians don't discuss it, the media don't cover it, but this multisyllabic catch-phrase threatens to move at least $40 billion a year out of the wallets of young adults (under age 35) and into the wallets of the middle-aged (age 45–64).

If strict community rating is enacted, you can ignore the talk about all the special "winners and losers" of health-care reform. The real issue will be generational. The big winners will be Clinton-aged Boomers now entering midlife; the big losers will be the young men and women now entering the labor force.

Community rating is a much-heralded reform that would prohibit insurers from charging different premiums for different individuals. In its "modified" form, it would simply ensure that no one can be charged higher premiums solely due to poor health or pre-existing conditions. This reform appeals to our sense of fairness and entails no systematic income transfer. But in its "stricter" form, it would require insurers to ignore all distinctions among individuals—including age—and charge a single community-wide fee.

The premiums an individual pays out of pocket or the health costs companies take out of a worker's compensation generally reflect this differential. After strict community rating is enacted, however, people of all ages will pay the same premium—probably, around $2,000 per year for a single person. Presto! The 25-year-old pays 100 percent more and becomes a $1,000 yearly loser. The 60-year-old pays 40 percent less and becomes a $1,500 yearly winner. For family heads, the gap will be even wider.

If applied to everyone, strict community rating would mandate a total income transfer of at least $40 billion yearly—flowing away from the 55 million adults under age 35 and enriching the 49 million pre-Medicare adults over age 45. This "reform" would be equivalent to a 7 percent tax on a typical young couple's combined wages. That would make it about as large as their personal FICA tax (through which the young are already subsidizing the health costs of seniors).

Such numbers are by no means hypothetical. Last year New York State instituted strict community rating for all small-group and individual insurers.

* * * * *

Though not all the plans before Congress agree on this measure, the general outlook for young people is bleak. The Clinton, Kennedy, Gibbons, and McDermott plans all prohibit any age-based variation in the premium or taxes payable for all insurance policies covered by their plans. Average price tag: $1,000 per young adult. The Chafee and Michel plans allow a little variation, but would still cost young workers about $700 each. The Moynihan plan would allow an age variation up to a multiplier of two, thereby extracting roughly half as much ($500) per young worker. The Rowland plan and the Dole plan (which allows premiums to vary up to a multiplier of four, close to the actual cost variation) are the only major proposals that would hold the young harmless.

Few national leaders have bothered to bring this massive youth tax to the public's attention. President Clinton has said that premium variations are unjust. If so, why for health insurance alone? Teenage boys pay four times more than their parents for auto insurance because they're four times as reckless on the road—and nobody says that's unjust. Some politicians argue that community rating, like Social Security, won't take anything from the young that they won't get back as they grow older. But this argument assumes that such young-to-old income transfers are forever sustainable (something most twentysomethings already don't believe about Social Security). It ignores the trillion-dollar lifetime windfall that community rating will bestow on Bommers (who incurred no corresponding cost when they were young). And it implies that most 60-year-olds are economically needier than most 25-year-olds (which is patently false).

Hillary Clinton has advanced the brassiest argument for picking the pockets of the young. One of the big problems with the current system, she says, is the health costs that millions of uninsured young people shift onto insured older workers. In reality, this effect is trivial, certainly when compared with the cost shifting by seniors with Medicare discounts. It cannot justify talking about community rating as an appropriate penalty for the irresponsibility of youth.

Given the political invisibility of today's young adults, strict community rating could well pass Congress. If so, brace for three consequences.

First, today's young generation will become even poorer than they are now in relation to the old. Already, according to the Census Bureau, the real median income of households headed by people under age 30 is 15 percent lower than it was when Boomers were their age two decades ago. With strict community rating, their purchasing power could fall by another 7 percent.

Second, the new health law could defeat its own primary goal: universal coverage. Since adults under age 35 are currently the least insured age group in America, this goal will only be achieved if young people start purchasing more insurance. Huge premium hikes will have exactly the opposite effect. (Over the past 15 months, the New York experiment in community rating has caused a 30 percent rise in policy cancellations by young males.) The only practical remedy to this problem would be to combine strict community rating with universal mandated coverage—which would seal young people into the system, force them to buy vastly overpriced insurance, and make them even more cynical about government than they already are.

The final and most spectacular consequence of strict community rating may be political. Right now, few young adults are paying attention to health care reform. But once community rating becomes law and young wallets are emptied, that will surely change. Come 1998, people born in the '60s and '70s will comprise America's largest generation of voters. Once mobilized, they will start deciding elections. That's when those who taxed the young to enrich the middle-aged could get run out of office by those who find themselves stuck with the bills.

Everyone knows our health-care system needs change. Costs must be controlled. Poor families must gain access to doctors. Insurers must be barred from discriminating against the sick. All this can be done without forcing all young workers to pay far more for health care (and all older workers far less) than what they actually consume.

[From the Los Angeles Times, Aug. 10, 1994]

RUBE GOLDBERG WON'T YOU PLEASE GO HOME; HEALTH REFORM: THE PATCHED TOGETHER BILLS WILL HAVE TERRIBLE SIDE EFFECTS, WITH YOUNGER PEOPLE PAYING THE HIGHEST PRICE

(By Robert J. Samuelson)

Among other things, the Democratic health-care plans contain a large—and unjustified—multibillion-dollar tax on younger workers. You wonder whether most members of Congress know this or even care. The whole health-care debate is now completely out of control. The desperate effort to craft something that can be advertised as "universal coverage" means that Congress literally no longer knows what it's doing. Anything resembling the Democrats' bills, if enacted, would produce tremendous unintended side effects.

Apparently, most Americans grasp this. In a Newsweek poll last week, respondents were asked whether Congress ought to "pass reform this year" or "start over next year." By a 2 to 1 margin, they said start over. They sense that the versions of health reform crafted by House and Senate leaders are hodgepodges of conflicting provisions whose only purpose is to win passage. But what is clear to ordinary Americans is denied in Washington. In the capital, the fiction is that legislators know what they're doing and are debating rational alternatives.

House Majority Leader Richard Gephardt's plan, for instance, would create a Medicare Part C program for the unemployed, workers in small companies and many existing Medicaid recipients. The Congressional Budget Office estimates that the program might enroll 90 million people. But the projection could easily err by millions in either direction. More important, Medicare Part C emphasizes "fee for service" medicine (patients selecting individual doctors), while the rest of the bill emphasizes "managed competition" (reliance on health maintenance organizations and similar plans).

The bill would separate the under-65 population into two groups, mainly based on income and size of employer. Each group would be crudely steered toward a different type of medicine. In practice, this division may not be politically acceptable or economically workable. Gephardt doesn't know; no one does.

Now, consider the tax on young workers. It arises from "community rating." As people age, their health costs and insurance premiums rise. But community rating requires that everyone pay the same rate. This provision is included in the House bill and, in a modified version, in the Senate bill. The effect would be to raise insurance for younger workers (say, those below 45). If employers have to pay higher insurance, they will pay lower salaries. The invisible tax on young workers might total $25 billion annually.

Questions swirl around both Gephardt's plan and Senate majority leader George Mitchell's. It is hard even to describe Mitchell's plan. He says it's voluntary and lacks a "mandate." Wrong. True, it doesn't mandate companies to buy insurance for workers. But it does mandate a standard benefits package for firms—the vast majority—that offer insurance. Because the mandated benefits are above average, this would probably raise health spending. Companies below the new standard would increase benefits; those above would have trouble lowering them.

Next, Mitchell hopes to achieve 95 percent insurance coverage by offering subsidies for low-income workers to buy it. But there's a "fail-safe" mechanism to limit subsidies if the budget costs exceed projected costs. However, if 95 percent coverage doesn't occur by 2000, Congress could require employers to pay 50 percent of their workers' insurance. But this would apply only to firms with more than 25 workers. Got it? No one knows whether this would reach 95 percent coverage.

These plans are confusing because the health debate evaded the basic tension between expanding health services (universal coverage, etc.) and controlling health spending. It's hard to do both at the same time. The plans' complexities—as with the original Clinton plan—aim to disguise this conflict. Republicans haven't been especially constructive in this debate, because they haven't faced up to it either. But they are now correct that a bad bill would be worse than none.

Chaos is now the most important reality about the health-care debate. Dozens of provisions in these bills would have huge unappreciated consequences. John Sheils of Lewin-VHI, a health consulting firm, says premiums for small businesses in the Mitchell bill could be 25 percent higher than for big companies. The budget office puts the gap lower. Who's right? Do most members of Congress understand the gap? Probably not. Still, the pretense is that Congress is making conscious choices.

The pretense is sustained because in Washington politics is sport. All attention fixes on who wins and loses—and the deals that enliven the game. Rhetorical blasts are taken for reality; political reporters know little of how legislation would work and care less. This often leads to bad laws, and in health care, the potential for blunders is huge because Congress is tinkering with one-seventh of the economy and most aspects of medicine.

In May, Robert Reischauer, head of the budget office, warned that trying to find a compromise by combining provisions from different bills might make the health system worse. He compared it to building an auto engine with incompatible parts: "You can't say I want a piston from Ford, a fuel pump from Toyota . . . and expect the engine to run." Well, that's what's happened. The contraption is part car, part tractor and part rollerblades. Most Americans seem to understand this. Will Congress?

[From the Washington Post, Aug. 9, 1994]

A HIDDEN $100 BILLION TAX INCREASE

(By Martin Feldstein)

President Clinton is increasing the pressure on Congress to enact a massive and irreversible entitlement program to subsidize health insurance and redistribute income. The tax cost for this largest-ever welfare expansion would top $100 billion a year at today's prices. That's equivalent to raising personal taxes across the board by nearly 20 percent.

Amazingly, the Senate Democratic leadership has managed to conceal this massive tax increase from the public. The legislative wrangling and public discussion have virtually ignored the cost of financing this spending explosion. Members of the business community have been so eager to avoid employer mandates that they have not considered the tax consequences of the pending legislation. And members of the general public have been so concerned about preserving their ability to choose their own doctors that they have not focused on what these plans would mean for their individual wallets.

CBO ANALYSIS

Although the Democrats have yet to agree among themselves on the details of the final plan, it is likely to be closely related to the Senate Finance Committee bill. (The recent proposal by Senate Majority Leader George Mitchell that President Clinton said he would accept is essentially an expanded version of the committee's plan.) To understand the magnitude of the potential tax hike that would be required to finance such a plan, it's useful to look at the Senate Finance Committee bill and the recent analysis of it by the Congressional Budget Office

Under the Senate Finance Committee plan, the government would pay the full cost of a standard private insurance premium for anyone below the poverty level and would provide a partial premium subsidy that declines with income between the poverty level and twice that income. The insurance premium would vary with family composition but would average about $2,000 per person. A single parent and child would receive a subsidy with income below $20,500, while a couple with three children would receive a subsidy with income up to $37,700.

More than 60 million individuals would be eligible for subsidies in addition to the 60 million already covered by Medicaid and Medicare. The Senate Finance Committee plan would raise insurance coverage by about 21 million individuals, bringing total coverage to 93 percent of the American population.

The budget analysis prepared by the CBO never states its estimate of the total additional cost that taxpayers would have to bear to finance the new insurance subsidies. But the CBO figures do imply that the public would be paying about $63 billion a year (at 1994 prices) by the year 2000 when the plan is fully operational, and estimates that I have made with the help of colleagues at the National Bureau of Economic Research indicate that the CBO figure understates the true cost by about $40 billion a year.

Most of the $63 billion tax burden implied by the CBO numbers is hidden in cost-shifting through insurance companies and providers of health services. Only a relatively small part of the financing plan is an explicit increase in the tax on tobacco products. A second small piece is a 1.75% excise tax on private health insurance premiums. Although this tax of $7 billion a year (at 1994 levels) would be paid by the insurance companies, they would pass it on in the form of higher premiums.

These higher premiums would be a direct tax on individuals who buy their own insurance. Companies would offset the higher premiums on the insurance that they provide to their employees by keeping wages lower than they would otherwise be. The true burden of the premium tax would therefore fall on everyone who is now privately insured.

The largest part of the financing is a hidden tax that is built into the plan to replace the current Medicaid program for the poor by subsidized private insurance. Medicaid provides much more generous benefits than the proposed standard insurance package, since Medicaid covers a broader range of services and has no out-of-pocket copayments. Although the government would pay the insurance companies the same subsidies for former Medicaid beneficiaries as it pays for everyone else, the proposed law would require the insurance companies to provide those who are currently eligible for Medicaid with the much more expensive coverage that they have today.

That complex maneuver would save the government about $29 billion a year on the current Medicaid program and would add that amount to the annual costs of the insurance companies. The insurance firms would in turn shift it to everyone who is privately insured in the same way they would shift the explicit premium tax.

A second very large hidden tax would result from reducing government payments to hospitals and other providers of Medicare services without any reduction in the care that they are expected to give. As a result, the hospitals and other providers would just raise their prices to patients and insurance companies. In the end, it would be the privately insured individuals who bear those costs in the form of higher insurance premiums and lower wages. At 1994 levels, this cost-shifting burden is equivalent to at least a $13 billion annual tax.

In short, buried in the CBO numbers is a projection that the Senate Finance Committee plan would have a $63 billion annual cost (at 1994 price levels) and that all but what the CBO estimates to be $14 billion in cigarette levies would be obtained by hidden taxes in the form of cost-shifting through health care providers and insurance companies.

It's remarkable that the same politicians who have produced this $49 billion in hidden cost-shifting have the audacity to say that the public should support their plan in order to eliminate the much more limited cost-shifting that occurs under the existing system as hospitals pass on the cost of free care. Indeed, to the extent that hospitals are already giving free care, the increase in formal insurance coverage gives that much less to the currently uninsured and confirms that most of the plan's cost is to achieve income redistribution, not expanded health insurance.

The CBO report is careful to note that its estimates are "preliminary" and "unavoidably uncertain," and fully half of the report is devoted to discussing why there is "a substantial chance that the changes required by this proposal—and by other systemic reform proposals—could not be achieved as assumed."

My own analysis confirms that the CBO's caution is justified and that the CBO estimates understate the likely annual cost by at least $40 billion that would eventually have to be financed by higher taxes. A key reason is that there is no way to limit the premium subsidies to those who are currently uninsured. Those who are now buying their own insurance would automatically receive the government subsidy. Those who now receive insurance from their employers could qualify for an insurance subsidy by switching to an employment situation that paid higher cash wages instead of providing health benefits.

That subsidy would be worth a very significant $2,000 for a single mother with a child who earns $15,000; if she earns $10,000, the subsidy would be worth more that $4,000. It wouldn't take long for employers and employees to recognize that some combination of new pay arrangements, explicit outsourcing of some work, and individual job changes would be handsomely rewarded by the government.

There are now more than 30 million individuals who could qualify for a subsidy. The CBO estimate recognizes that the roughly six million of them who now buy their own insurance would receive government subsidies. But when it comes to those who are already insured by their employers, the CBO assumes that only about one-fifth of the income-eligible group would eventually choose to qualify for the subsidy, leaving $27 billion of potential subsidies (at 1994 levels) on the table. It seems totally implausible to me that employees and employers would permanently pass up subsidies of $1,000-plus per person that they could get by relatively easy changes in employment arrangements. When they do choose to qualify, taxpayers would have to pay an additional $27 billion to finance the plan.

The CBO calculation also ignores the effect of the subsidy phase-out between poverty and twice poverty on the incentives to work and to report earnings. The phase-out rule that gives a woman with a child $4,660 of subsidy when she earns $10,250 and then takes away more than 40 cents of subsidy for every extra dollar that she earns is a powerful incentive to work less and to shift work to the underground economy.

The CBO's report acknowledges that "the effective marginal levy on labor compensation could increase by as much as 30 to 45 percentage points for workers in families eligible for low-income subsidies" so that "some low-wage workers would keep as little as 10 cents of every additional dollar earned." But then, quite incredibly, the CBO calculations do not take into account that this would reduce reported earnings, thereby cutting income and payroll tax receipts and raising the health insurance subsidies for which individuals are eligible. Estimates made at the NBER indicate that these reactions would reduce taxes and increase subsidies by a combined total of at least $17 billion a year.

This estimate makes no allowance for the impact of increased demand on health care costs in general. Extending insurance to at least 20 million people who are currently uninsured and giving private insurance to the more than 25 million nonaged Medicaid beneficiaries would inevitably raise the demand for health services and increase health care prices. But even without that, the analysis that I have laid out shows that the Senate Finance Committee bill would cost the American public more than $100 billion a year at today's prices. The Clinton-Mitchell plan for even broader coverage would cost even more.

INCOME REDISTRIBUTION

A cost of $100 billion-plus a year to increase the number of insured by 20 million means a cost to the taxpayers of more than $5,000 for each additional person insured—a cost of $20,000 for a family of four. Since the actual insurance premiums are $2,000 per person, it's clear that most of the tax dollars in these plans are for income redistribution rather than the expansion of insurance coverage.

The most fundamental social program in a generation should not be enacted without full and careful consideration of its costs. Once enacted, the benefits would be an irrevocable entitlement for nearly 100 million people.

The ability of the politicians to hide a $100 billion-plus tax increase is both amazing and frightening. Using mandates on insurance companies or mandates on all businesses as substitutes for direct taxes destroys the budget process and provides a ready way for politicians to deceive the voters. The politics of tax and spend has entered a new era when politicians can spend $100 billion a year and hide the taxes that we pay for those outlays.

If President Clinton and his congressional allies succeed in ramming this legislation through Congress in the weeks ahead, the American people will have lost not just $100 billion a year. We will also have lost our ability to check the excesses of the political process and to unmask the chicanery of the politicians.

It political leaders want to deceive the voters, the only safeguard is a democracy in which long and careful public debate and congressional hearings can expose such deception. Although Congress has held hearings on the now defunct Clinton plan and on the broad issues of health care, there has been no serious consideration of the cost and financing of the plans that have recently emerged. The American public deserves a chance to know what we are being asked to pay and what we will get for our money. We should be suspicious of any politician who says there isn't time for such a careful examination.

[From the Wall Street Journal, Feb. 1, 1994]

GERMANY IS NOT A MODEL

(By Wilfried Prewo)

"We have a lot we can learn from the Germans," President Clinton said recently, trying to sell his health care plan. "The Germans are able to provide a very high-quality health care system at a much lower cost than we are, because they have much more discipline in the way it's organized and financed." In an address to the National Governors Association yesterday, German Chancellor Helmut Kohl said that in the "run-up" to America's health care reform, "there was an intense exchange of opinions between American and German experts.

On the surface, the German system does indeed look good: It insures society comprehensively and gives individuals quality coverage that is permanent and portable from job to job. Germany spends about 10.6% of its gross domestic product on health, as opposed to about 14% spent in the U.S.

But simple comparisons are misleading. Germany and the U.S. differ greatly in aspects not controlled by doctors and hospitals, such as crime-related injuries, malpractice insurance and nursing care for the elderly. It is worth noting, too, that the costs of Germany's plan have risen by a sharp 23%, after inflation, over the past three years. It pays to take a good look at the German system before prescribing it in the U.S.

STRIKING SIMILARITIES

The similarities between the Clinton plan and the German systems are striking. The president wants universal coverage; Germany has nearly achieved that. German law mandates that everyone enroll in the health insurance system, with the important exception of higher income earners making more than $3,300 a month. The opt-out income level is set relatively high so that about 14% of Germans must join. Another 14% voluntarily join or stay in the statutory health system although their income has risen beyond the cutoff. About 10% (high-income employees, self-employed) have private insurance, and fewer than 1% have no insurance.

Regional health alliances, a big Clinton idea, are the cornerstone of the German system. Companies with more than 1,000 employees (5,000 in the Clinton plan) have the option of forming a corporate alliance. These roughly 1,000 regional or other alliances are the monopoly buyers of medical services for the 88% of Germans who belong to the statutory system.

The Clinton team wants a system that guarantees identical benefit standards for all alliances: the American debate over coverage for mammograms and prostate cancer tests already gives a whiff of how controversial the contents of this list will be. In Germany, which already has such unified standards, the contents of the list are so important they can affect elections: coverage of abortions, for example, will play a role in elections this year. The net result, Germany shows, is that the list simply grows over the years.

Germans pay for their plan through what is essentically a payroll tax, just as the president would have Americans do. Employers and employees in Germany each pay half of the tax [rather than the 80%-20% split proposed in the Clinton plan]. The tax rate differs among the alliances, ranging from 8% to 16.8% of payroll (aggregate of employer and employee share), with an average of 13.4%. Yet Germany's program gives us clear evidence of the degree to which this system lends itself to abuse. Once their tax is paid. Germans graze themselves to obesity on medical services. The Clinton plan has the same bias toward excessive individual use of medical services—at the expense of all members of an alliance.

The German system's major fault is that it doesn't put people first, in the sense of building on individial responsibility and control through effective copayments and other incentives to save. It is interesting that corporate alliances, organized by companies that have an interest in holding their own 50% share down, typically have premiums far below the average regional alliance.

The Clinton plan's critics believe that this system also strengthens bureaucracy. The German plan proves them correct. While the alliances were originally devised as nongovernmental health plan purchasing cooperatives, they have degenerated into de facto government agencies. Some 112,000 employees in western Germany alone work for alliances, their administrative costs per member having risen by 53.3%, adjusted for inflation, from 1982 to 1992. This is more than the increase in the alliances' total health costs, revealing that the disease of bureaucracy is the real problem.

The Clinton plan's critics also fear that it will quickly become a single-payer system. In effect, Germany's has already become one, financed by the payroll tax (for the 88% in the statutory system). Patients do not see a doctor's bill. Thus, they have no way of realizing whether the charge for a service has been particularly expensive, or even whether the service has actually been rendered. The doctor sends his bill to his regional association of physicians as the financial clearing house and counterpart of the patient's alliance.

Hidden taxes, a flaw in the Clinton plan, are already part of the German plan. Because the average German carries only 50% of his health care costs directly, he is aware of only his 50%, and increases may not bother him too much. But the 50% the employer carries is reflected in overall labor costs that make Germany the second-most-expensive country in the world to employ people (after Switzerland), and one with higher unemployment than the U.S. Under the planned 80% employer costsharing in the Clinton plan, this labor-depressive effect would even be more pronounced in the U.S.

Cost-sharing and lack of incentives to save form a potent drug driving health costs up. Unobserved, hidden taxes grow. The German payroll tax rose from an average of 6% in 1950 to 8.4% in 1960 and 11.0% in 1980, before reaching its current 13.4%.

Financially, the German plan is also no model. For 20 years, it has vacilated between financial distress and collapse, and the government has intruded with evertighter regulations. Since 1977 alone, there have been nine federal laws trying to curb costs. German measures to control costs foreshadow the results of the Clinton plan: price controls and control of supply.

Last year, physicians, dentists and prescription drugs were each, as a group, subjected to narrow budget caps, and tight regional quotas now limit the number of doctors allowed to practice under the system. The physician associations have to police their members with respect to "excessive," above-average services. More cost-effective—particularly corporate—alliances now have to cross-subsidize high-cost alliances, thus rewarding inefficiency in the name of solidarity. Prudent insured people and prudent doctors are still not rewarded for cost savings in the form of lower premiums or bonuses. Needless to say, all reform attempts have missed their targets.

Although only 10% of Germans are covered by private insurance, it offers some obvious lessons for everyone. First, payroll taxes in the statutory system are 25% higher than private premiums, since private insurers compete vigorously. Their benefits are better, and the administrative cost per insured person is only half. Second, the private alternative forces the statutory system to improve, within limits, since otherwise its voluntary members would opt out for private insurance. This beneficial effect is indirectly evidenced by the larger inefficiencies in countries that force everybody into a statutory system.

Maybe the Clinton team looked at various statutory systems and concluded that Germany's looked best. The one-eyed is king among the blind. But why does the president want to emulate the 90% of the German system that is failing instead of the 10% that is effective?

WRONG ABOUT COSTS

Perhaps the most interesting revelation from the German plan, though, is that it shows how unrealistic Mr. Clinton's is. In the U.S., the maximum premium to an alliance will be about 10% of payroll. This is supposed to pay for health costs that now amount to 14% of GDP, set to rise to 17.3% in the year 2000 under the Clinton plan's reform projections (18.9% otherwise).

If a 13.4% payroll tax in Germany is needed to finance 10.6% of GDP, it is hard to conceive how, in the U.S., a much smaller payroll tax of 10% can finance U.S. health care costs at a much larger share of 14% to 17% of GDP. The missing gap is too large to be filled by the designated subsidies and sin taxes. If you want to copy pages out of the German social policy book, have your checkbook handy.

Mr. WALLOP. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, before the Senator necessarily leaves the floor, may I tell him how much I have enjoyed his critique. It is a careful and analytic tradition that deserves to have a place in this body, and it has been very ably filled for 18 years now by the Senator from Wyoming.

Could I make just one comment about the point he makes of the 1.75-percent tax on health care premiums for academic health centers and research? This originates in the Finance Committee, as he knows, and knows well—he is a very distinguished member—and it comes about in one of those ironies of progress.

I cannot doubt that the Senator has followed the works of Joseph Schumpeter over the years and his particular notion of creative destruction of capitalism, that as advances are made existing institutions find themselves bypassed and indeed often destroyed.

One of the things we learned, and as we learned this, it took a while for it to sink in on the chairman. I must say that, because the health maintenance organizations are making such progress, because cost containment is becoming a large managerial function in the United States—cost containment and health care, an activity that probably did not exist 20 years ago but now firms traded on the stock exchange do this, and they do it and they perform and they are rewarded in relation to their performance and very conscious of cost.

This has made them reluctant to send patients to hospitals associated with medical schools. Academic health centers is the term we use. There are States in the Nation which we associate with being advanced as regards coverage in health care, and whose universities are world renowned, whose medical schools may close because of this new situation.

The cost containment is good, but it will not last long if those medical schools close and the people who bring about the new technologies and the extraordinary advances in medicine are not trained.

We had—I hope my memory serves correctly—the director of the hospital for the University of California in Los Angeles, Dr. Shultz, who said their occupancy ratio now is about 45 percent. There is a spot market in southern California for bone marrow transplants, and a vast university is half empty.

It is in response to this that we felt that there has to be, there needs to be, and a case can be made for, providing a trust fund with a steady stream of income to our academic health centers so that we shall have coming out of them a steady stream of doctors, nurses, and research scientists that has made this moment the greatest moment of discovery in the history of medicine. It is this moment, and it is taking place in this country and in those institutions.

I want to make that point.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to. I yield the floor.

Mr. WALLOP. I do not quarrel with the goal of the Senator from New York. I do quarrel with Government's role. I made three points earlier. One is that it doubles the money now being spent by the Government, and still $10.8 billion is not accounted for. That is being tossed off into just general revenues, I guess.

Mr. MOYNIHAN. That is where we are going to have that one in Casper.

Mr. WALLOP. In Casper? I am brought on.

But there is another problem. First of all, Government may be better at this—and I will accede that to the Senator—than it is in many things that it contributes money to. But it is a long way from perfect, and the problem is that it says to the great private contributors of this country: "Forget it, boys. Government's role is to do that now. We are out."

I have said more than once that the more secular this country becomes, the more we pray to Government to do that for which we used to pray for our Maker to do or to provide. What happens is that as we have increased welfare programs and everything else, the private community conscience has diminished co-equally. We spend less in taking care of the disadvantaged in our little homes and houses and communities than we did, because it is Government's job.

I just do not think it is wise at this moment in time to tax every American 1.75 percent to take care of teaching hospitals. I do not quarrel with even keeping where we are at the present level, although we seem to be doing that without a premium tax. But it strikes me that the worst thing we are doing is saying, OK, you do not have to worry anymore, Government will. Government picks up all the worries that are there. Therein becomes the kind of losses that I think are inherent in a system—too much and too corrupt.

So it is a difference of opinion as to what Government's role is. It is certainly not a difference of opinion on the goal.

Mr. MOYNIHAN. No.

The PRESIDENT pro tempore. The Senator yields. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I again thank the Senator from Wyoming for his balance and courtesy and clarity in these matters.

My purpose was not to dispute that he has a case. I do not know but if we quantified charitable giving, I think we would find it goes up. I think we would find it is more a function of total resources than individual sense of obligation.

ADDITIONAL REMARKS BY SENATOR WALLOP

Mr. WALLOP. I would like to clarify for the RECORD that the figures quoted from the Joint Committee on Taxation distributional charts were misinterpreted. Instead of individual numbers, they are aggregate numbers. I hope to have individual numbers available in the next few days that should clarify the amount.

As I noted, however, with respect to the 1.75-percent premium tax, taxpayers with incomes of $50,000 or under will pay 54 percent of the net tax increase, while taxpayers with incomes of $75,000 or less will pay 79 percent of the increase. Regarding the four taxes mentioned, the Joint Committee's distributional charts show that taxpayers with incomes of $50,000 or less will pay 60 percent of the net tax increase, and taxpayers with incomes of $75,000 or less will pay 78 percent of the new taxes. Hefty sums, in either case.

But leaving that aside, I just want to draw attention to something which is in our report I have here, "The State of America's Health Care System and Health Care Crisis." I am going to make a bet that one crisis you will not read about is the crisis of the financial viability of the teaching hospitals and the medical schools. It has come about right suddenly, unexpectedly, and it is important. And as long as we know about it, I think we will, in the end, make some useful efforts to deal with it.

Mr. President, I yield the floor. I see a number of my colleagues have been waiting. The Senator from Washington has been patiently waiting to address the Senate for some time now.

The PRESIDENT pro tempore. The Senator from Washington, Senator MURRAY.

Mrs. MURRAY. Mr. President, I have listened very carefully and I have waited patiently as we have debated the health care reform bill. I know the majority leader laid down this bill 2 weeks ago, that we have had 6 long days of debate, and I know that the Dodd amendment has been on this floor for 4 days.

I came to the Senate a year and a half ago and I was eager and anxious to get to the heart of the problems that many of the families that I talked to throughout my campaign told me about, and health care was at the top of their list. I am frustrated today that, despite having this bill on the floor for 2 weeks, not one amendment has been voted on on this floor.

I have heard many of my colleagues state that they disagree with parts of the Mitchell bill. That is part of the political process. I have heard their criticisms of cost containment or benefits packages or new programs, and that is their right. But it was my understanding that when someone disagreed with a part of a bill on the floor, that they had the alternative to propose an amendment and it was up to us to look at that, debate that amendment, and agree or disagree—vote amendments up or down and ultimately come to a final bill that we would either pass or not pass, depending on what was in it.

But so far, we have not gotten there. For 4 days, the Dodd amendment that would provide benefits for pregnant women and children has been on this floor. And this delay has not been without cost. In the 4 days that this amendment has been on the floor, 2,544 babies were born to mothers who received late or no prenatal health care. I urge my colleagues to get on with this debate.

Even more troubling to me as I have listened to many of the speeches over the last 6 days is the people who say, "Just say no." I think it is time we remember why we got to this health care debate and why it is a critical topic in this country. There has been an increasing number of hard-working families in this Nation who cannot afford health care in today's world. It is not provided by their employer, they have been opted out because of preexisting conditions, they have changed jobs, they have moved, and they have found themselves in a position where they cannot purchase health care.

They call up an insurance agent and he says to them, "No, sorry; you are out of luck." Under the Mitchell plan, we seek to reduce that risk for families so if a preexisting condition exists, you can still purchase health care. Under the Mitchell plan, there will be subsidies for families who do not have the means to go out and purchase health care. These are important steps in the right direction that this Nation needs to get on with.

We are here in this debate today because of the increasing cost to everyday families out in the real world. As they get their health care insurance bills—and these are people who have insurance today—they see that their deductions have skyrocketed, their copayments have risen, their premiums have gone up, and their benefits have been reduced. And there is no security that that is not going to change when they get their next bill. The Mitchell bill seeks to provide some security and assurance to those people who have health care insurance today, and it is time to take that step.

We are here in this debate because of the increasing cost health care is to our entire system, to families, to businesses, to government. As a former State senator, I know we were unable to provide more teachers for our classrooms and policemen for our streets because an increasing part of our State budget was going to health care costs. None of the plans are perfect but certainly it is time to take a step in the right direction.

What has troubled me the most throughout this debate is the statements I hear that, "Well, only 15 percent of the American people do not have health care, so let's not mess it up for the 85 percent."

Mr. President, we have a responsibility to assure that those 15 percent of Americans have health care insurance. But we also have a responsibility to those 85 percent who have insurance today, to provide them security. And that is what the Mitchell bill seeks to do.

I hear statements if health care reform, any health care reform passes, we will have long, long waits. We do not now? Ask any parent who sat in an emergency room on a Friday night, like I did recently with a daughter who sprained her ankle in a Friday night soccer game. We sat there for 6 hours. Those are not long waits today, under the current system?

I looked around that health care emergency room as we sat there. I would urge all of my colleagues to go sit in an emergency room and watch what comes in the door. I saw young mothers with young children who were there because their child had a cold. I saw others who were there with general health care problems who should have been seeing a physician in the doctor's office during the day. But I talked to a few of them and they were there in the emergency room because they did not have health care coverage. This bill will eliminate some of those long lines in our emergency rooms, and it will save money at the same time. It may not be perfect, but it is a step in the right direction.

What is most troubling to me are some of the statements that I have heard about how bad government is, "Government has taken over everything; isn't that awful?" Mr. President, I am very afraid for this country if we continue to denigrate government as we have heard over and over again. If the people of this country do not make the decisions for ourselves through a representative democracy, let us ask who will make the decisions? Large corporations? The insurance companies? The wealthy? It is time for us to be a part of that representative democracy and forge a bill together that assures all Americans have access to health care reform. That is the kind of democracy I believe in. That is the kind of government I believe in. And I believe that is what this debate is all about.

And, bureaucracy—what a word. It is intimidating, it is frightening, it is scary. But I submit, one man's bureaucracy is another woman's assurance of quality health care in this country.

I hear the word "bureaucracy" thrown out and I look in this bill to what we are referring to. And perhaps we are talking about the long-term health care provisions in this bill that provide grants to States, matching grants, so that they can put in place long-term health care for our elderly citizens, so that instead of having to go to a nursing home as they get older or become sick, they can stay in their homes and have the kind of care that will provide them the dignity that they deserve.

Mr. President, I believe it is time to remember the American people. I came here to bring change, and change means we listen to the American people. Maybe change is not comfortable for everybody, but it does mean renewed hope for thousands and thousands of American citizens. And we should take some risks and put a program out there to provide hope for thousands of Americans today.

People are tired of waiting because the current system does not work for too many of us. Like many of my colleagues, I have received hundreds and hundreds of letters over the last years about the health care crisis, and I want to share a few of those with you.

I have one from Kent, WA, a young mother who says:

> A year and a half ago, just as most people in our Nation were beginning to look closely at the issues of national health care, our family plunged head first into our own health care crisis and was forced to meet many of those questions head on.
>
> At that time, our daughter, Tara, who was 8 months old, was diagnosed with severe combined immunodeficiency disease, which is a rare genetic disorder.

She describes in her long letter the painful decisions that she had to make. She talks about preexisting condition; the fact that her daughter, 8 months old, will never be able to change policies in this country because she now has a preexisting condition. And she says they will not be able to move or change our jobs because of what has occurred in our lives. She talks about the fact that she had to fight with her health care insurance company to get coverage for her child. If that is not bureaucracy, what is?

She says:

> No parent or patient should be forced to argue these kinds of issues, especially in the middle of a crisis.

But instead of caring for her daughter, she found too often that she was having to fight with her insurance company, and that is a sad note in this country.

There is much in the Mitchell bill that we agree with or disagree with. But, Mr. President, I submit to all of my colleagues, it is time to move on. It is time to get to the amendment process, and it is time to make a difference for thousands and thousands of Americans in this country.

It is time to get on with this long-winded debate, Mr. President, because, frankly, it has become more painful than my last 6-hour wait in the emergency room.

I thank my colleagues.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. GLENN].

Mr. GLENN. Mr. President, I rise to comment on the Dodd amendment and also on the Mitchell proposal on health care reform.

I am pleased to have this opportunity to speak in support of the amendment offered by our colleague, Senator DODD, which would increase health care for our Nation's children and, at the same time, help curb unnecessary health spending.

Our distinguished colleague from Washington talked about being in a hospital waiting room. I do not know how many of you may have visited a children's hospital recently. But if you have, you have seen the underweight babies, the preemies, those with birth defects, those who are starting out in their first days of life with one strike against them, those at risk, those for whom enormous expenditures will be incurred and could have been prevented with a little better health care.

Talk to some of the parents who are there with terror in their hearts at seeing some of these problems with their newborn, with whom they looked forward to sharing a new life. They literally have terror in their hearts because they know the problems that lie ahead, and we know that many of those situations could have been prevented.

The amendment we are considering improves upon Senator MITCHELL's health care reform bill by accelerating the date on which insurance companies would be required to include preventive services for pregnant women and children in insurance policies.

This is not something new. This is not some untried, fictional-type proposal. It is used now in 16 different States and the District of Columbia. This is something that I think could well be supported on both sides of the aisle. I note in the list, the State of Kansas has had a provision like this in its own law since 1978; Louisiana, 1992; Wisconsin, 1975.

So this is something that has been tried. It is already mandated in insurance packages in those States, they are provided in plans offered through the Federal Employees Health Benefits Program also.

One of the basic reasons they are provided is very simple: They are cost effective. By providing low-cost prenatal care and well-baby care and immunizations, we can avoid the human suffering and the high cost associated with low-birth-weight babies and children whose illnesses become more severe and ultimately more costly when they are left undiagnosed and untreated.

An important goal of our health care reform debate is to ensure that all Americans have private health insurance which emphasizes primary and preventive care. By providing these services to pregnant women and young children, we can reduce our intolerably high infant mortality rate and ensure a healthy start for all of our children.

Mr. President, we have in this country the finest health care in the world.

We have the finest health research in the world. We have the finest pharmaceutical companies in the world. Yet, our infant mortality rate ranks 22d among nations of the world. There is a great disconnect here. We have the best of everything except it does not get to everybody. It is not distributed, so it is never used in those particular cases. All this amendment does is say that those in the first stage of life will get a shake at the best health care and the best preventive health care that we can offer.

Twenty-second in infant mortality, let me repeat that again. We should be absolutely ashamed of that. We are the greatest, the richest, the strongest economic nation in this world, and yet we are 22d in infant mortality.

Along with the reforms in the Dodd amendment, we need to work to ensure that all Americans are able to purchase private health insurance. I believe Senator MITCHELL's bill would make this possible by making insurance more affordable and providing subsidies to help low-income individuals and employers purchase insurance.

So I urge my colleagues to complete debate on the Dodd amendment. Let us adopt it and move on to other important amendments to Senator MITCHELL's health care reform proposal. I think the time to act is now.

Let me back this up with some other statements. What is the price of delay? The Senator from Washington touched on a couple of these items. I would like to give a couple more.

Just during the time the Senate has been considering the children-first amendment, as it is called, children across this country have continued to suffer. Just in the 4 days the Senate has considered this pending amendment, it is estimated that 2,544 babies were born to mothers who received late or no prenatal health care, and 3,204 babies were born at low birth weight. That means less than 5.5 pounds.

Two hundred twenty-four babies died before they were a month old and 440 babies died before they were a year old. That is just in the last 4 days.

Prevention does pay off. It is estimated that for every $1 spent on prenatal care, it saves $3.38 on the care of low-birth-weight infants. Every time a low-birth-weight delivery is prevented, it saves between $20,000 and $50,000 in costs, and every time a very low-birth-weight delivery is prevented, it saves approximately $150,000 or more on neonatal intensive care costs. Routine preventive checkups can avoid hospitalizations that may cost as much as $600 a day.

So, Mr. President, I urge my colleagues to complete debate on the Dodd amendment. Let us pass it and let us move on to the other important amendments. The time to act truly is now.

Mr. President, I would like to continue by making some general remarks not just on the amendment of Senator DODD but on the proposals by Senator MITCHELL.

I guess we all have our views formed to a large extent by our own personal experiences, our background. We have many examples of this. We have heard time after time on the Senate floor in the last few days from people who get up and say something about their own personal family experience or their own personal experience of having cancer themselves of one kind or another and how they had to deal with it. So I guess we are all a product, at least in part, of our past experience. I can go back to my own days as a younger person in New Concord, OH. I knew a couple there. This was back in the early 1960's, I might add, just before the Medicare came into being.

Of the couple I knew, the husband ran a plumbing shop in New Concord, OH, and worked very hard. His wife took care of the plumbing shop while he was out working. They saved a very modest amount for retirement, retired, and 2 years later one of them came down with cancer. That man and his wife saw all their lifetime savings go in the first 2 years. A lifetime of hard work that went down the tubes.

Well, I put this in the third person, but it is not really a third-person story because that couple was my father and mother. So we take some of these things very personally and they affect our views for the rest of our lifetime, and I have thought ever since that time that we can do so much better in sharing some of these dangers together.

Now, granted, we have Medicare and that protects some of the people in their senior years, but how about people who have not quite reached their senior years yet? How about people that cannot afford insurance? I cannot imagine a more horrible feeling than having a child or a father or a mother and seeing that person in need of medical attention and not being able to get it. Knowing that health care is down the street but not being able to afford it, or seeing a child or a family member suffer and maybe die because of not being able to afford it. I cannot imagine anything much worse than that.

So we see these personal experiences, and do they affect our views on health insurance? Yes, they certainly do. They affect mine because I have believed ever since those days we could do better than we are doing with regard to health insurance.

Why do we need reform? Some say we do not need it or we need as little change as possible; we have the best system in the world; we have the best research in the world; we have NIH; we have the best medical schools in the world; we have the finest drug and pharmaceutical companies; they are doing research; they are providing medicines. We must do no harm to a system that is the finest medical care system in the world.

Then we have to look into it a little bit, and what is going on with the coverage that we have for this finest medical care system in the world. Well, 218 million Americans do have health insurance. That is fine. Some are not adequately covered but they have a policy. They have something. We have 37 million Americans who do not have health insurance. They are the havenots or they are between jobs or they are locked in. They have a preexisting condition and cannot get insured, or they have all the reasons why they do not have insurance.

Well, if we look at that overall ratio, maybe that is not so bad for a country like ours, 218 million Americans have insurance, 37 million Americans do not. But I submit that is not very good compared with our industrial competitors around the world. Do you know how long the Germans have had full coverage health insurance? It is 110 years—into the last century; Japan, since 1920; France, since 1928. These are basically government plans, single payer. I am not proposing that we go to that. Our system did not develop that way. We did not develop that kind of a system in this country. We developed along an insurance route. We developed an independent insurance industry to do some of these things.

So when we say the Germans have had their plan since the last century, Japan since 1920, and France since 1928, so what? We do not have to follow them, that is true, no matter what their basis is. We have developed our own system in this country, and it has been a good system. It has worked pretty well up to now.

Up to now. This is the important point. We are truly at a crisis stage, and that is not something that is manufactured by those who are promoting health reform. The problem is that costs are escalating, and for those 218 million Americans who have policies, they are not going to cover their family adequately into the future.

That is what is really driving this. It is not necessarily the concern that we all have for the 37 million Americans who have no insurance. It is the 218 million Americans who write in and say, "I just looked at my policy, and it does not cover my family anymore. What am I going to do about this?" Costs are going up. The 37 million Americans who do not have health insurance, if they have a problem, they go to the emergency room. That costs something. They cannot pay. The costs of running that emergency room then are put back on the other 218 million in their insurance policies and increased costs.

So the costs are driven up for the 218 million. Where do we stand? Why is this a crisis? Health care costs now as a proportion of our gross national product are estimated to be just approaching 15 percent. Do you know that by the year 2003 it is estimated to go up to almost 20 percent? That is of our whole gross national product, everything.

What does it do just to Federal expenditures? Right now, it is at 17 percent. It is estimated that by 1999, just in 5 years, it will go up to 24 percent.

Now, that is a 41 percent increase at the Federal level and almost a one-third increase as a percent of our GNP. They say, well, these are just figures, but I will tell you the one area where the figures have been reasonably accurate in the past has been estimates of health insurance costs.

Let me quote from an editorial in yesterday's paper because this points out exactly the point I just made, that costs are going to go up for everybody, not just for the 37 million Americans who do not have health insurance. They are not going to be the only ones who have a problem. I quote from yesterday's editorial:

> Meanwhile, the cost of health care continues to soar—and the higher it goes the greater number of people who lose insurance because neither they nor their employers nor the Government can afford it. A seventh of all the money Americans have available to spend today goes into a health care system that leaves a seventh of Americans uncovered. Both numbers are rising. Two years from now, or 4, or 6, they will only be higher and harder to reverse. In the meantime, millions of people who could have been helped will still lack coverage. There will indeed be risks and costs if this Congress acts. It is important to remember that the cost will be enormous if it does nothing as well.

Mr. President, I ask unanimous consent that the entire editorial be printed in the RECORD at the conclusion of my statement.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1).

Mr. GLENN. Mr. President, reform is necessary to make sure that we do not price too many of our people out of business. If we do nothing, then we approach a catastrophe just a few years down the road. I do not think it is an option for us to do nothing. As these costs increase, fewer than 218 million Americans will have insurance; 37 million Americans will still be out there and their numbers will be added to. So doing nothing is not one of the options that we have.

How can we assure affordable health care to all Americans to the year 2000 and beyond into the next century? Well, we have a lot of systems proposed: Single payer; eliminate the insurance industry—basically, let the Government take it over—cover everyone; Government subsidies to 37 million Americans; a combined system covering certain areas; specific programs that would deal with the newborn or the elderly; an expansion of the Medicare system. All of these are things that have been considered in the past.

Mr. President, I would not propose that we dump our insurance-based system. I think we need to improve it. The President was criticized in his plan that he put forward because of some of the mandates and the requirements in that bill.

Let me digress just a moment to give the President some credit. The President seems to be a bit beleaguered lately. If we have health care reform in this country, it will be because we finally have a President who saw this as a requirement, saw the dangers of doing nothing, went at it, stuck with it and pushed and pushed. If his policy, if his program, if his proposal is not to be what is going to be enacted, then he still was for what we could get that was going to improve the system, because he believes in it—and I am convinced he believes in it, and Mrs. Clinton believes in it. She has worked on it. They believe in the future of this country and that the future of this country should have health care for all our citizens included. So the President has stuck with it. I have to give him credit for that. When we have health care reform, when we have health care for all one of these days, it will be in large measure because the President and Mrs. Clinton believed in it and they acted and they stuck to it.

We are proud of saying that every President since Harry Truman on up to the present time, with one or two exceptions, has proposed health care. But what have they done? They proposed it, and as soon as the political flak started, they backed off. I have to give this President a lot of credit for sticking with this.

We need reform. But what and how? We want to cover everyone. We want to have cost control. We want to have portability. We want to have coverage for preexisting conditions, which may come from some of the lack of prenatal care that I mentioned a moment ago. We have to figure out a way to pay for all of this.

What is full coverage? Is it 95 percent? That would certainly be a good step in the right direction because we are going downward now. I think only about 83 percent of people are covered now, and the coverage of our overall population has been going down instead of up.

We cannot have an absolute 100 percent. That is not going to happen. Just people coming across as illegal immigrants is going to ensure that we will never have 100 percent absolute coverage. Social Security, for all the years it has been in, is not 100 percent. So of all of this semantic argument about what full coverage is, what it is not, and whether we consider 95 percent to be full coverage, or 97 or 98, we know one thing—95 percent coverage would be a lot better than we are doing right now. So let us go for it.

We have different bills. They are very complex. They are all over the lot. We have different provisions. We have different coverage, different percentages, and different ways to pay for it. We stand here on the floor arguing about whether one bill is 1,400 pages or not. Another bill is trotted out, and we say it is great progress, this one is only 780 and some pages.

I think the American people are not going to be very much impressed with what size the bill is when it goes from 780 to 1,400 pages. We have bills proposed by a lot of people. We have bills proposed by Senator CHAFEE, Senator DANFORTH, Senator DOLE, Senator PACKWOOD, and Senator MITCHELL. All of these bills have a lot of merit in them, but they take different approaches.

I think the bill that Senator MITCHELL has put forward is an excellent compromise. It accommodates the views and the major concerns that were expressed earlier concerning health care reform. It takes a little different approach.

Some of the earlier proposals put the mandates up front. They were heavy. An 80–20 split on the cost between the employer and the employee. These were mandates, and they were up front as a forcing mechanism to say we are going to do it and do it now. There was a lot of objection to that.

All of the industry comes in. They come to our offices, and say, "Look. We are making a lot of progress. Why upset things right now because we are making a lot of progress? States are putting new plans into effect. We have new affiliations. We have new groups. There is a new awareness out there that the President has helped to spawn, and all this discussion has helped push it along. So why do we want to wreck things now? Let us do no harm to the system the way it is right now."

Let us go at this thing. There are affiliations. These things are actually happening. There is a lot of progress being made out there in the country with regard to health care reform.

What does Senator MITCHELL propose in his bill? He basically says he challenges these people to say, "OK. Let us go ahead. You are making progress. We realize that. It is not as fast as a lot of us would like, but we are making progress in these areas. Let us go ahead and do that kind of a job. Let us do it, and we will give you several years to accomplish this."

There is no mandate in the Mitchell bill. I repeat, there is no mandate in the Mitchell bill unless the industry fails, unless these objectives are not being met, unless the Congress refuses to act at that point and take other action. Only then is there a mandate. Then it is cut back to a 50–50 sharing. But only after industry has failed to improve the system enough, and only after Congress has failed to act. Only then as a third order backup do we say that a mandate will cut in. Then it is only 50-50.

Even then it protects small businesses who cannot afford it, who might be put out of business. If they cannot afford it, it helps them out. It has a subsidy for them to help them out. In this whole process we do not dump the system that has built this health care system for the country. We do not dump the private insurance industry.

I think Senator MITCHELL has bent over backward to try to accommodate those who had legitimate concerns about some of the proposals that were being made. It keeps the private insurance system, and it builds on it. It is not sudden. It provides time for this to occur. It has been a long process. There have been hearings by the Labor and Human Resources Committee and the Finance Committee. The House has had hearings and has given a lot of consideration in this area. Think tanks have been done with innumerable studies in this particular area. It gives something to all of these areas. It picks the best of all of them. It is affordable. It guarantees high-quality care through our private health insurance system.

If it expands coverage, as the CBO says in their independent analysis, then there will be no mandate. If the 95-percent coverage is not achieved, then Congress can act on the advice of the monitoring commission that is set up to monitor what goes on during that period. They can make recommendations, and the Congress can act on those recommendations if we are not at 95 percent at the end of that period. If Congress has not acted, only then does this 50-50 mandate cut in as a last resort.

I think that is a reasonable approach. In fact, we have some people that say that it is too reasonable. They do not like the plan because it has gone too far.

Mr. President, we have heard a lot on the floor here the last few days about some of these new taxes—17 new taxes. I will not go through each one of them. That would take a couple of hours to go through and define each one of them. But on closer analysis, actually of those 17, you could say that 9 of those really are tax cuts. There are revenue increases in some of the others, such as a tax on tobacco products, and so on. But the 17, on close scrutiny, do not turn out to be the case.

Mr. President, we have a lot of doomsaying when something as big as this comes up. They say it is going to wreck the economy. It is always easy to say no. We can always find a reason to be against something. It is easier to tear down than it is to build up. It is easier to swing a wrecking ball at a building than it is to build that building.

We heard many of the same arguments against Social Security in its time, and we heard some of the same arguments against Medicare in its time, also. The health care doomsayers have had a field day with this. They have said it would wreck the economy, kill millions of jobs, and would cause taxes to rise on middle-class Americans.

That is what was said about the largest deficit reduction program in history that we enacted last summer. The doomsayers were out in full force on that one. The doomsayers said the plan would wreck the economy, kill millions of jobs, and cause taxes to rise on middle-class Americans. Yet, here we are one year later, and the economy is the brightest it has been in decades. According to Alan Greenspan, 4.1 million new jobs have been created during this administration. Income taxes have not been raised on the middle class. For the first time in a generation, Government deficits are going down, not up.

So for the doomsayers who are prodding out the old lines and charging that health care will wreck the economy, kill jobs, and raise taxes—well, I think the American people are smarter than we give them credit for. I do not think they are going to be scared to death by the buzz words of fear and obstructionism. They want health care reform, not delay. They want health care reform and not fear mongering and ramblings that have been discredited time and time again. The time to act is now.

So these same arguments were used in the old days against Social Security and Medicare. We got to speaking about Medicare, and I heard somebody in the cloakroom talk about receiving a phone call in their office about someone who was talking about—an elderly gentlemen, apparently, who said that Government programs are just bound to be bad, but "whatever you people in Washington do, do not mess around with my Medicare," as though that was somehow not part of a Government program.

I think this is a historic opportunity. I think it comes not even once every generation. I think it may come once every other generation. Costs are now at 15 percent of GNP, going up to 20 percent of GNP by the year 2003. Federal expenditures now of the total Federal budget are 17 percent on health matters, going up to 24 percent within 5 years by 1999. So one of our options is not to sit back and do nothing.

Mr. President, I deplore the political rancor that has gotten into this debate. If we started at the other end of the medical problem, if I go into an emergency room or you come with me to a hospital and I need treatment for something, you go in and the doctor asks you questions. Has the doctor ever asked anybody in that situation: Are you a Democrat or Republican? Before I treat you, I want to know whether you are a Democrat or a Republican.

If they did that, we would certainly think that was outrageous. That would be the worst thing you could be asked, to have a health problem and people arguing about whether you are a Democrat or Republican. Yet, the Senate is not being constructive in this matter, at our end of this, in providing a health care system. At the user end, it is not a Democrat and Republican issue; it is just a matter of health, and an individual's relationship to that health care system in getting treated.

Yet, we are not being constructive here. We are sometimes opposing just to oppose, no matter what. We find people getting up and saying they will oppose whatever comes up, no matter how good it is, or whatever the provisions are. They will use any means to defeat any proposals that are made, and they make that statement in public. It is quoted in the papers. To me, that is politics at its worst. That is not working together; that is not trying to work together to get health reform. Is health reform Republican? Is health reform Democratic? No, it is not. Whatever views are held, I hope that we can get together and say that we will start amendments, start votes, and we will go ahead with this. A good place to start, to me, is the Dodd amendment.

I hope we can have votes before the day is over today. Mr. President, I think this is so important and I think it is maybe once every other generation that we have something like health care reform come along—like Social Security did in its day and like civil rights did in its day, and so on—that is going to affect the lives of every single American into the indefinite future. We want to do it right. To those who say, "Let us not rush into this thing," I ask, let us not rush after 60 years of consideration? Let us not rush after piles and piles of studies and reports and committee hearings on this matter?

Now is the time to act. I hope we get on with it and vote before this day is over.

I yield the floor.

EXHIBIT 1

STILL TIME FOR HEALTH CARE?

The argument is now being made by a lot of people that Congress has let health reform go too late; that not even the authors know what is in the giant bills, some portions of which would likely be unworkable or do more harm than good; and that the problem, while important, isn't so urgent as to require risky action now when measured action can be taken later. In some respects the system may even be in the process of correcting its own defects. Better to wait and try to get it right, this critique goes.

Clearly, some of those taking this position are doing so for purely political reasons—just as some of the opposite pressure, that for hurrying up and passing a bill in the next two months, is political. But a heavy substantive argument can be made on behalf of delay as well, and most of the complaints have at least some basis, some merit. We continue to think, nevertheless, that there is still time, though barely, to repair the problems and produce what would be a valuable bill and that Congress ought to try. The next Congress will be no better disposed to do a serious job, and may well be less disposed. It will probably be more sharply divided along partisan and ideological lines; it will be heading into a presidential election year; and, anyway, all Congresses are dilatory, so that it too will be unlikely to act until it is forced to do so by the prospect of adjournment, by which time this issue will be election fodder.

Meanwhile, the cost of health care continues to soar—and the higher it goes, the greater the number of people who lose insurance because neither they nor their employers nor the government can afford it. A seventh of all the money Americans have available to spend today goes into a health care system that leaves a seventh of Americans uncovered. Both numbers are rising. Two years from now, or four or six, they will only be higher and harder to reverse. In the meantime, millions of people who could have been helped will still lack coverage. There will indeed be risks and costs if this Congress acts. It is important to remember that the cost will be enormous if it does nothing as well.

The question is whether there is in prospect any kind of legislation that would significantly improve the situation without creating ominous new problems for either the economy or the health care delivery system itself. The answer has several parts. First: None of these bills is perfect; far from it. But some of their flaws are being greatly exaggerated. And, importantly: most could be fixed before enactment and in such a way as to justify enactment.

The bill that was put together by Senate Majority Leader George Mitchell, though certainly not itself without problems, does seem to offer the most promising framework for compromise. The measure was drafted in hopes of meeting a lot of the objections that continue to be leveled at it. The original Clinton administration bill was rightly criticized for laying far too heavy a federal hand on the health care system while pretending not to. It turned out to be, in fact, upon inspection, a flow-chart-gone-mad kind of health bill. This conclusion was reached not just by Republicans but by thoughtful members of both parties who felt the government should rely instead on the most modest combination of insurance market reform, government subsidies and government-structured competition to achieve its goals of broader coverage and cost containment. Mr. Mitchell attempted to meet these objections. However, some prospective supporters believe that he did not go far enough. Are the differences negotiable? We believe so. Is there more potential agreement in the conflicting positions than meets the eye? We believe that is true as well.

To take an example, consider the argument in favor of delay made on the op-ed page the other day by the respected columnist Robert J. Samuelson. Mr. Samuelson began by noting that "the Democratic health care plan," meaning the Mitchell bill, "contains a large—and unjustified—multibillion-dollar tax on younger workers" which he doubted most members of Congress even knew about. The "tax," however, turned out to be a staple of insurance market reform that is in not just the Democratic health care plan but practically every plan—including Bob Dole's. The problem it seeks to address is that too many insurers "cherry-pick." They try to sell separate, low-cost policies to the healthy, including the young. The effect is to relegate higher-risk buyers to costlier pools; the people who need insurance the most are left least able to afford it. Market reform seeks to spread the risk and cost instead across a broader pool, in part through so-called community rating: Everyone in a community pays, if not the same for a given policy, at least closer to the same than now.

The debate is about how far to go in this regard. The Mitchell bill would continue to allow some rate variation according to age; the Dole bill would allow more; but both would limit current practice on grounds of equity and in hopes of making insurance more accessible. That's the tax. It is one of the (many) constructive principles on which, beneath the rhetoric, Congress appears to agree—and one of those that leads us to believe that with good-faith negotiation a useful bill could still be passed.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I appreciate the comments of the distinguished Senator from Ohio, and all who have spoken thus far. I personally pay tribute to Mrs. Clinton in the efforts she has put forward in trying to come up with something that would help solve what many think is a health care crisis in our country. One of the problems, of course, is who is going to pay for all this? All of us want to solve this problem. All of us want what is called universal coverage, which is defined in various terms and in various ways.

All of us would like to make sure everybody has coverage. We would all like to stop the cost shifting onto certain segments of our society. But it comes down to who is going to pay for it? Anybody who believes that by having a huge, additional Federal Government program on top of everything else that we have today is going to solve these problems and reduce costs, they just do not know what they are talking about.

Why are we all here? We are here because we want to help people. We want to help people who are not receiving the health care coverage that they need and deserve. We are here because of admirable citizens like Helen Roth of Utah, who came to my office and implored the Congress to make sure that the disabled receive the care to which they are entitled. We are here because of two articulate teens, Ryan Van Dyke of Brigham City, UT, and Jason Brown of West Valley City, UT, both diabetics who are struggling to get the care they need. We are here because of Travis Carlson, born blind and deaf, whose parents have struggled to get him the care he needs. We are here to help these people, not hurt them.

When this debate opened, the distinguished majority leader took to the floor and made a very eloquent statement. He talked about the need for a bill. He said that providing health insurance to all Americans "was a matter of simple justice."

Yet, the Clinton-Mitchell health care reform bill is not simple justice. There is nothing simple about this bill—nothing. It is complex. I want to talk about the justice in this bill. Is it justice to take almost $200 billion out of the Medicare Program, severely jeopardizing its future? Is it justice to cut Medicare on the one hand and then propose to expand it with new programs such as a prescription drug benefit which may help only a very few?

Is it justice to impose 18 new taxes on our people?

As I walked over to the Capitol this afternoon, I thought back to all the conversations I have had with my constituents who are so interested in health care reform.

I have had a chance to meet with people from all walks of life to discuss every conceivable aspect of health care reform.

It has been reported that the so-called special interests are lobbying Capitol Hill on this issue.

The fact is, on health care reform, every person in America is a special interest.

Each and every American is a special interest, and rightfully so—we all have so much at stake.

My own feelings about this legislation have been shaped by the many conversations I have had with the citizens of Utah. And I will say, in all candor, I have learned a lot from them.

I have learned that the people of Utah care about health security for their fellow citizens. When a health crisis strikes a family member or friend, all of us want to know that the best possible care will be given to that individual.

The people of Utah care about quality. They know that our Nation leads the world in technological advancements in medical science. The University of Utah Medical Center in Salt Lake City is one of the preeminent centers in the world for innovations in the treatment of such complex medical conditions as heart disease and cancer, as well as being one of the world leaders in genetic research.

The people of Utah also care about choice. They believe that all Americans should continue to have the freedom to select the medical care that best meets their individual needs. They know all to well that the role of Government has a finite place in the larger scheme of health care delivery.

The people of Utah sent me to the Senate as their representative to make decisions that benefit all the people. And as my colleagues know all too well, there are no easy solutions to the complex issues addressed in reforming health care.

This legislation will ultimately impact the lives of every man, woman, and child in our great country. No one will be spared. The practical implications of this bill are simply staggering--one-seventh of the U.S. economy is going to be restructured. If the

Mitchell bill passes, it will be one-fifth of the GDP, by the year 2000 or shortly after. It is nearly $1.2 trillion.

Its impact would likely be felt for generations to come—well into the next millennium.

The bill has been described as the most significant piece of legislation since the establishment of the Social Security Act. Some say that it may be the most important piece of legislation considered in this century.

Indeed, we should not underestimate the magnitude of the task before us. It has been an extraordinary endeavor. In spite of what ultimately happens in the next several weeks, I believe that the American people have benefited from the enormous amount of time and energy Congress has devoted in examining our health care system.

As a member of the Labor and Human Resources Committee, the Finance Committee, and the Judiciary Committee, I have had a unique opportunity to be involved in the development of health care reform legislation. Each of these committees played a major role in developing the various proposals that have not brought us to this moment on the Senate floor.

As my colleagues, particularly those on the Labor and Human Resources and Finance Committees know all too well, this has not been an easy process by any stretch of the imagination.

The Labor and Human Resources Committee held 46 days of full committee hearings over the past year and heard the testimony of countless witnesses. We held hearings on issues ranging from the consolidation of the 19 different Federal core functions of the public health programs, to the issue of creating new categorical grant programs aimed at addressing the needs of medically underserved populations—an issue, I might add, that is of critical importance to Utah.

We focused on the merits of a standard Federal benefits package as well as the categories of provider services covered in a benefits package. We focused on the methodology that would be needed to determine how those services would be included in such a package.

On June 9, 1994, after nearly 3 weeks of marathon markup sessions that began on May 18, the Labor Committee reported the Clinton-Kennedy Health Security Act by a vote of 11 to 6.

I was one of the six Senators who voted against reporting the bill. It was unfortunate that the Democrats on the committee, who comprise a majority, repeatedly rejected amendments to lessen the regulatory and bureaucratic grasp this legislation would have on America's health care system.

Following the action by the Labor Committee, the Finance Committee began its markup of another version of the Clinton bill. There was considerable expectation and hope that a bill with fewer Government controls, fewer Government mandates, and fewer taxes would be adopted.

The Finance Committee held 36 days of hearings and heard from 143 witnesses representing all aspects of health care.

We heard about the imposition of Government mandates on individuals and businesses, about the effects of so-called global budgets on the delivery of health care, about cuts in the Medicare and Medicaid Programs, on insurance reforms and the effects of guaranteed issue and renewability, as well as limits on preexisting condition exclusions.

We heard about quality from the Nation's leading health care quality scholar, Dr. Brent James.

We heard about the establishment of low-income subsidies for individuals and families; about cost-containment including the imposition of taxes on individuals, on companies, on insurance premiums, and on guns, bullets, and tobacco.

On July 2, 1994, the Finance Committee reported its version of the Clinton health care bill by a vote of 12 to 8. And, once again, the same kind of Government-run approach to reform, as proposed by President Clinton, was embodied in the legislation as reported by the Finance Committee. The prospect for meaningful reform was, once again, thwarted.

I believe that true reform should rely less on Government control and more on economic incentives that leave health care decisions in the hands of individuals, and not with someone in Washington, DC.

We should address the problems in the system and fix what is broken. We should not overhaul the entire system in the name of reform. To do so will jeopardize the standard of excellence which is the hallmark of American health care.

The distinguished Senator from Ohio said there are some who are saying "no," they are naysayers; they do not want anything. I do not know of anybody on the floor in the Senate right now who is saying "no." Everybody agrees we need to do something to help the 14 percent who do not currently have health insurance. The question is, how do you do it with more Government, with more governmental programs, with more Government approaches, more mandates, more controls over the States, and less incentives for free market reform? That is what these bills do. Yet none of the bills reported by the House and Senate committees, as liberal as they are, went far enough for the President and the First Lady, I might add. And so, we find ourselves on this day in August not with a bill reported by the Finance or Labor Committees, but with an entirely new piece of legislation which is only days old.

This is a brand new bill, a melding, if you will, or attempt to meld from the Labor and Human Resources Committee and the Finance Committee what they had done.

The latest version of this bill is 1,443 pages long—79 pages longer than President Clinton's original legislation. And yet, we are being forced to make decisions, of historic importance, with as little as 1 week in which to analyze the bill's full implication and costs ramifications.

This is not how the legislative process should work. It is the legislative process at its worst. The manner in which this bill has been hurriedly drafted and presented to the American people, and to the U.S. Congress, has been more out of the need for political expediency by the President, than by a need for reform. In a very real sense, our actions may serve to irreparably damage the viability and integrity of the world's preeminent health care system which the proponents of this bill claim to be reforming.

I would remind my colleagues, it was not by government intervention that the health care system of the United States became the finest in the world. It is the world's finest because the system has evolved in an environment relatively free from excessive government control and social engineering.

I do not subscribe to the proposition that a Federal takeover of health care is what the American people want. I am fearful that the shouts for reform by the President and his lieutenants in the Congress will drown-out reason and prudence in addressing the real problems of our health care system.

The Clinton-Mitchell bill is fundamentally flawed. It will unravel the very fabric of health care as we know it, and by then it will be too late to correct the damage we have done.

Make no mistake about it, the Clinton-Mitchell bill is health care reform. But I can assure you, it is not the kind of reform that the American people need, or want.

This bill contains sweeping and contentious provisions. Many of the key elements were cobbled together at the last minute during hurried committee markup sessions and are barely understood even by their sponsors—let alone the American people.

The distinguished majority leader has stated that his bill is nothing new. He said his bill encompasses many of the same provisions in other bills as reported from the Finance, and Labor and Human Resources Committees. Well, when I see the Mitchell bill, the Gephardt bill, the single-payor bill, and all the others which seem to be coming down the pike daily, I am reminded of that old saying: "It's sad when cousins marry."

The Clinton-Mitchell bill proposes to expand health care coverage to millions more Americans which is a goal I certainly share. But the bill's prescription for health care reform includes massive doses of new taxes as well as new levels of spending and government intrusion which I believe most Americans will find totally unacceptable.

The bill imposes at least 18 new taxes, including a tax on health insurance premiums. These 18 new taxes will hit health insurance plans, flexible spending accounts, Medicare beneficiaries, and State and local government workers with hundreds of millions of dollars in new taxes.

And who do you suppose is ultimately going to bear the burden of this tax? I will tell you: It is going to be the person who cannot pass the cost increase on to anyone else—health care consumers and employees all over America.

This bill contains what amounts to price controls on health insurance. The bill imposes several taxes on health insurance premiums, including a complicated levy on plans whose premiums grow at rates faster than the government prescribes.

The Clinton-Mitchell bill bans self-insurance for companies with fewer than 500 employees. Self-insurance is a classic success story of how companies control health care expenditures. This is working for an estimated 21 million employees and their dependents at over 400,000 small- and medium-size companies throughout America.

These beneficiaries are very happy with their current insurance arrangements. Yet, under the Mitchell bill, all of those plans will be terminated, and these individuals will be forced to purchase their health care through government sponsored health alliances that will establish a one-size-fits-all benefits plan.

If we have programs like self-insurance that are successfully controlling health care costs, and serving to expand health care coverage to more Americans, then I simply cannot understand the logic in not allowing these programs to continue. And I can assure my colleagues on the other side, that once these plans are terminated, you will certainly be hearing from those individuals.

I received a fax just last week from the Seniors Coalition expressing their concern over this legislation. They are concerned about the Medicare cuts in the Mitchell bill, as am I. The sponsors say these cuts are only in reimbursements to providers and not in benefits. As the fax for this organization clearly points out:

> Reducing reimbursements to doctors and hospitals will lead to a simultaneous degradation in the quality and quantity of care to Medicare patients which will exacerbate the cost-shifting problems already caused by Medicare.

We all know doctors are refusing to take Medicare patients because of their low reimbursement rates and that is going to get worse if this bill passes. And the Medicare recipients will be the ones hurt.

These are just a few examples of the so-called reforms, showing the pay-more-get-less effect of this legislation.

I hope all Americans become familiar with the other provisions contained in this massive piece of legislation, which has been crafted in the name of reform.

As I stand here today on the Senate floor, I can look up to the gallery where I see hundreds of people observing these proceedings. Most of them are visitors from across America.

And, like many Americans during these long, hot days of August, they are spending more time with family and friends, and taking some time off from otherwise hectic daily schedules.

Millions of other Americans are watching these proceedings on television. All of us are united in our concern over the outcome of this historic debate.

But I can assure you that the crescendo of public concern over health care reform has not waned during this traditional time for family vacations. Thousands of letters from citizens in my State and from across the country continue to pour in.

The overwhelming message is for reform, but against a Clinton-like structure as embodied in the legislation before us today. There is also overwhelming support, nearly 64 percent in recent public opinion polls, for Congress to take a careful and deliberate course of action that will not harm our current system.

I have been impressed with both the number and substance of the letters I have received on the issue of health care reform. Some have been very direct and short. Other letters have afforded me with an opportunity to learn first-hand the thoughts and feelings of people who have truly been affected by the strengths, and weaknesses, of our health care system.

One such letter in that category was from Rodney Ririe of Provo, UT. He is a young man with many hopes and ambitions. He is not unlike any one of us in this Chamber. Yet, his life has been filled with the kind of pain only few people can imagine and, indeed, most of us fear.

On June 10, 1994, he wrote to me regarding his views on health care reform. It was a five page letter—typed—and single-spaced. I am not going to read the entire letter. But I am compelled to share an excerpt with my colleagues in the Senate.

I do not ask that you agree or disagree with what he says. I only ask that you listen to what he says.

He writes:

> I am writing with regard to some serious concerns related to health care issues that currently face our Government. Before proceeding, however, let me give you a brief idea of my background, so that perhaps you might better understand where I come from.
>
> Currently, I am a college student attending Brigham Young University, where I have been for the past five years. Part of the reason I have not yet graduated is because of my health. You see, when I was five years old, I suffered a near-fatal heart attack.
>
> Before that time, doctors thought of me as a normal, healthy five-year-old child. Doctors diagnosed me as having a form of "cardiomyopathy" or disease of the heart which affects the development of the muscle walls. Four years later, I had another heart attack, three more at age eleven, and two at age twelve—a total of seven heart attacks in my brief life.

He continues:

> At age 17, I underwent a heart transplant operation. Since that time, I have been mostly healthy until about a year ago. Doctors have recently discovered that I am suffering from a form of coronary artery disease commonly found in transplant recipients, for which they say I will need a second transplant within the next several months.
>
> As you can imagine, paying for these things has been a burden on my parents and family. Fortunately, we have had good insurance in the past, but with my pre-existing condition, premiums have been all but inexpensive, and in an effort to keep the premiums as low as possible, we chase higher deductibles. My father will retire in two years (at age 68) a poor man, devoting nearly all his savings to help pay for my care.
>
> In May of 1995, I will turn 26 years old which will disqualify me as a dependent on my parent's insurance policy. With my current medical expenses costing between $40,000 and $60,000 a year, the onslaught of another transplant, and the fact that no insurance company in the country will pick me up, this places the entire financial burden on me, a part-time college student who works in part-time job making $5.90 an hour.

Finally, at the end of his letter, he states:

> With this background in mind, I write you not seeking sympathy of any kind, but rather to express my heart-felt opinion on the subject of health care. From one who has experienced so much, you might expect this letter to be from one in favor of President Clinton's health care proposal. In fact, there could not possible be a greater opponent of this plan.
>
> It's sad, but in the past when my government has made a decision I disagreed with, I passively did nothing, thinking that the decision would not really inconvenience me, or affect me directly except for having to pay a few more dollars in taxes. But with this issue, I cannot be silent.
>
> I oppose the plan for several reasons—many of them personal—but most of them out of simple common sense. For as long as I can remember, the United States has always been on the cutting edge of the latest advances in medicine. Truly, had I not been born and raised in this country with the problems I have had, I know I would not be sitting here now.
>
> With the plan Mr. Clinton proposes, I feel strongly that with a lack of research funds, the U.S. will quickly fall from its prestigious place in the world of medicine. The plan does not yet acknowledge how to pay for itself, let alone further research in health care.

The PRESIDENT pro tempore. The Chair will interrupt the Senator to say that, unless the time is extended by unanimous consent, there is an order for recessing the Senate after this hour.

Mr. HATCH. Mr. President, I ask unanimous consent through the Chair, then, that we be granted another 10 minutes.

The PRESIDENT pro tempore. Would the Senator speak just a bit louder, please?

Mr. HATCH. I ask for another 10 minutes by unanimous consent.

The PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Reserving the right to object and I shall not object, I wonder if the Senator from Utah would do me the courtesy, as he extends his time, including in his unanimous consent, that I be recognized to speak when the Senate reconvenes at 2:15?

Mr. HATCH. I apologize, but we do have an objection here because there have been three speakers over there to one over here. I have no personal problem.

Mr. MOYNIHAN. No, no, there have been two. We are alternating as we can.

Let me make the request. We are alternating.

Mr. HATCH. I think the Senator ought to be able to speak at 2:15, then maybe we can go to a Republican after that.

Mr. MOYNIHAN. Sure.

The PRESIDENT pro tempore. Unless the Chair be misunderstood, there is no order for alternating.

Mr. MOYNIHAN. Yes.

Mr. HATCH. We have been following that.

Mr. MOYNIHAN. Mr. President, would it be in order for me to ask unanimous consent that at the conclusion of our recess for the caucuses that Senator DORGAN be recognized?

The PRESIDENT pro tempore. It would be in order.

Mr. COATS. Reserving the right to object, and I am not going to object either, I just want to make note of the fact that yesterday evening, the majority leader——

The PRESIDENT pro tempore. Let the Chair interrupt the Senator. The first request is before the Senate and has not been acted upon; that request being that the time at this point be extended 10 minutes. Is there objection? The Chair hears no objection. The Senator from Utah is recognized for 10 minutes.

Now, the second request, if the Senator from Utah will yield for that purpose.

Mr. HATCH. I do yield for that purpose.

The PRESIDENT pro tempore. The second request is that Mr. DORGAN be recognized upon the reconvening of the Senate, following the recess, at 2:15 p.m. today. Is there objection? The Chair hears no objection, and it is so ordered.

The Senator from Utah is recognized.

Mr. COATS. Will the Senator from Utah yield for 30 seconds?

Mr. HATCH. Sure.

Mr. COATS. Mr. President, I thank the Senator from Utah. I want to make the point that last evening the majority leader said on a number of occasions that Republicans were filibustering the bill, and yet we seem to be proceeding here in the same way we proceeded for the last several days, and that is, we have been alternating between Republicans and Democrats who wish to speak on the bill, who are doing that again today.

The Senator from North Dakota has asked for time, as have several of his colleagues today. The Republicans have granted that. We are all trying to understand this bill which has immense implications for the people of this country. I do not see any semblance of what was described last evening as a Republican filibuster. I thank the Senator from Utah.

Mr. HATCH. Mr. President, I have been reading from a letter of this young man, who has had seven heart attacks and now is facing a second transplant, as to why he opposes the Clinton health care program. You would think that he would not.

Let me continue.

He further states:

> Senator, I cannot emphasize enough how extremely important this issue is to me. It is important for me and for many others, I'm sure, to be able to choose the doctors they want to see and to be assured the same quality health care they've been expecting and received for so long. I honestly fear the passage of this bill; I know it is not the answer, and I hope you do to.

This is a young man who has gone through so much all of his life and, to be honest with you, I was very touched by his letter.

Mr. President, I ask unanimous consent that his full letter be printed at the conclusion of my formal remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, as Rodney clearly and so eloquently states, this issue is just too important for "politics as usual." As Rodney Ririe further states at the end of his letter, "I pray you will remember why I sent you to Washington—to represent me not the President."

For Rodney Ririe, and many others like him, we can act and correct the fundamental problems with the system.

For instance, most of us agree that we need insurance market reform. On this one issue, there is almost unanimous support to provide for guaranteed issue of all health insurance plans regardless of the individual's health status, or other risk factors.

We need to ensure portability so that persons do not lose their insurance if they change jobs or are faced with unemployment. These few steps along would lead to greater health care coverage for millions of more Americans.

Another area of reform concerns medical malpractice and antitrust reform. Both of these issues involve costly regulation of the health care market which, in turn, serves to drive up the costs of health care services for all of us.

Unlike most regulation, though, the regulation in these areas is left largely to the courts where decisionmaking is incremental, often unpredictable, and always expensive. The results are often inconsistent, and not just across jurisdiction.

There is widespread agreement on the need to reform our medical malpractice laws. The estimated 1991 costs of defensive medicine range from $4 to $25 billion according to the National Medical Liability Reform Coalition. More recent estimates place this year's impact at close to $30 billion.

Medical liability premiums contributed an estimated $9.2 billion to the cost of health care in 1991. What is more staggering is that only 43 percent of each dollar spent on liability litigation reaches the patients; the rest is spent on so-called overhead, such as attorneys' fees.

And yet, the medical malpractice provisions in the Clinton-Mitchell bill have rightly been called the Mitchell Trial Lawyer's Full Employment Act. This bill creates, at least 15 new Federal causes of action and 7 new Federal crimes.

In addition, the bill as drafted proposes to undo any reforms that have been achieved in the States while imposing new costs on the litigation system. These so-called "reforms" will, in effect, hurt malpractice victims as well as all patients, by driving up the costs of health care, and escalating liability litigation.

Antitrust works in the same way and has the same problems as the malpractice system. The antitrust laws are intended to ensure that markets are free to function in their most efficient ways. But make no mistake, antitrust is regulation. Too much antitrust enforcement is just as dangerous to health markets as too little.

Antitrust is a complicated area of the law, and violations carry large penalties. Antitrust counsel is expensive, and antitrust litigation costs can be crippling to small entities. Providers, especially small and rural providers, are very concerned about the dangers of antitrust litigation.

As we consider massive restructuring of the health care market, we need to reduce antitrust uncertainty that will, undoubtedly, be exacerbated by reform.

We are all aware of the problems. At the hearings in the Finance Committee earlier this year, Senators MITCHELL, BAUCUS, and ROCKEFELLER pointed out the real concerns of rural providers in their States. Senator CHAFEE expressed to witnesses from the Federal Trade Commission about the frustrations providers feel.

For example, if two rural hospitals decided to discuss the mutual allocation of special services in order to achieve some economies of scale, they could be liable to an antitrust challenge simply because they had established a possible conduit for sharing price and billing information.

Many other providers face the same kinds of risks if they wish to come together to compete with other groups. Home health care providers, nurses, and nurse anesthetists all equally face the challenges of a changing market in which competition itself will force greater consolidation.

Small groups of rural providers—in fact any small group—simply cannot be expected to hire expensive antitrust attorneys to review and approve every cost-containment option considered. I believe it is in our best interests to see health care providers improve their efficiency by allowing them to eliminate duplicative services.

In my home State of Utah, two hospitals had to spend over $7 million to prove to the Justice Department that their world-renowned work in pediatrics helped patients—and not harmed them. We have seen millions of dollars—including millions of taxpayer dollars—spent on expensive antitrust litigation. These dollars should have gone toward patient care. Whatever the outcome, the process is too costly and we need to do something about it now.

I think what I am trying to say is this: That we could do a reasonable reform of the health insurance system of this country that will solve most of the problems that we have and get the universal access well above 90 percent and possibly as high as 95 percent. I remember about 3 or 4 months ago, maybe 5 months ago, Roger Altman came to me and met with me in my office. The first words out of his mouth were: "Senator, we know our bill is not going to pass." They knew it then.

But he said one thing: "We have to have 'universal coverage.'" And I mentioned to him, universal coverage happens to be a set of relative terms. He acknowledged that. I said the last 5 percent is so expensive to cover that it is almost impossible to have total universal coverage, and he acknowledged that.

And then I said, "If we would reform the insurance system in this country and make insurance portable, noncancelables, except for fraud or failure to pay, so that we take care of preexisting conditions, we would resolve most of the problems our society has and we would please well over 90 percent of the people in our society and make insurance available to them."

I said that would be a big win for the President, we would all support him, we would get it done, it would be a step toward universal coverage that you probably are not going to be otherwise able to make.

And he looked wistfully at me as though "I wish we could do that."

The fact of the matter is, the reason why we have this huge, massive, convoluted piece of legislation that nobody here fully understands and, frankly, is an amalgamation—and a poor one at that—of a variety of plans, is because those who are for that basically want to be able to make the claim that they are taking care of every man, woman and child in America. In fact, they know they are being taken care of now and that we can do a better job of providing care without bankrupting the country or turning all health care over to a one-size-fits-all Federal health care system. Anybody who believes that approach is going to save money really, really does not understand the last 60 years. Anybody who believes that is going to bring health care costs down, is not thinking. And anybody who believes that will make a better health care system than we have today with the partnership between Government and the private sector, I think is loco, to be honest with you.

Another issue that has attracted widespread support is in the area of enhancing our network of community health centers. The Federal costs of community health centers are estimated to be around $100 per patient per year. It seems to me that we should expand the role of these centers to provide needed care to underserved areas of the country.

As we address the issues of rural health care we should be guided by a simple formula developed by Pamela Atkinson, a vice president at Intermountain Health Care in Utah. Ms. Atkinson is an expert on rural health care. She advises me that the problems associated with the delivery of quality health care in rural America must be guided by the four A's.

They are: affordability, accessibility, availability, and awareness.

We need affordable and accessible services in rural and in urban areas. And, we need available services that include providers, facilities, and the equipment to provide services in a culturally sensitive manner.

It is the awareness issue, however, that has not been discussed much. Pamela informed me that there are normally 950 visits scheduled a month in Intermountain Health Care's community health centers. However, between 150 to 200 patients never show up for their scheduled visits. They just do not understand the importance of early diagnosis and treatment.

I do not know if my other colleagues have heard similar statistics, but I was surprised to learn the extent of this problem. This is especially troubling when you recognize that we are talking about scheduled visits, with so many more individuals who never make the effort to visit in the first place, and who, therefore, never receive needed care.

Obviously, we need to improve health services in these areas by increasing awareness in the community and emphasizing health promotion, health prevention, and early detection.

I would also like to comment about the proposed legislation that has been developed by the distinguished Republican leader, Senator DOLE. I strongly support the Republican leaders' bill. It has many important features that go a long way in addressing the needs of those Americans without health insurance.

The bill provides for positive insurance reforms so that people would not have their insurance canceled or their premiums increased because they got sick or lost their job. Individuals would be able to obtain insurance regardless of their medical condition.

The legislation contains many important incentives to control the costs of health care and ensure that all Americans have access to quality and affordable care.

The bill provides for medical savings accounts so that individuals would have greater control over the expenditure of their health care dollars. Third-party insurance would cover catastrophic expenses.

The bill provides for tax fairness so that people who purchase their own insurance would receive the same tax relief as those who obtain insurance through an employer.

Self-insurance by small- and medium-size employers would be permitted to continue. This has become one of the most cost-effective mechanisms employers use to control health care costs. The Dole bill allows that to continue; the Mitchell bill does not.

Overall, Senator DOLE's legislation offers a commonsense solution to the Nation's health care problems. The bill provides health security to the middle class through insurance and market reforms while expanding coverage to low-income and middle-class Americans.

It accomplishes these goals without increased taxes, without expanded bureaucracies, without spending limits imposed by global budgets and price controls, and without employer mandates that ultimately lead to wage and job reductions.

The bill does not contain Government mandates on employers, or individuals, that would require them to purchase insurance whether they want to or not.

There are no mandatory Government health alliances that give Federal and State control over the insurance marketplace.

There are no Federal price controls or global budgets that inevitably will lead to health care rationing, particularly for those most in need.

Mr. President, I look forward to the debate, and I call on all Americans to listen carefully. Your future is at stake.

For the sake of the country, I hope our actions will be guided by the wisdom to do what is right, not what is expedient.

I yield the floor.

EXHIBIT 1

RODNEY E. RIRIE,
Provo, UT, June 10, 1994.

Senator ORRIN G. HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing with regard to some serious concerns which I have related to health care issues that currently face our government. Before proceding, however, let me give you a brief idea of my background, so that perhaps you might better understand where I come from.

Currently, I am a college student attending Brigham Young University, where I have been for the past five years. Part of the reason I have not yet graduated is because of my health. You see, when I was five years old, I suffered a near-fatal heart attack. Before that time, doctors thought me to be a normal, healthy five-year-old child. Doctors diagnosed me as having a form of cardiomyopathy, or disease of the heart which affects the development of the muscle walls. Four years later, I had another heart attack, three more at age eleven and two at age twelve—a total of seven heart attacks in my brief life. Shortly thereafter I became a candidate for a new form of technology known as an Automatic Implantable Cardiac Defibrillator (AICD), and had surgery to implant the experimental device, which I carried inside me for more than five years. At age 14, I suffered a stroke which completely paralyzed my left side for several weeks. And, finally at the age of 17, I underwent a heart transplant operation. Since that time, I have been mostly healthy until about a year ago. Doctors have recently discovered that I am suffering from a form of atherosclerosis (coronary artery disease) commonly found in transplant recipients, for which they said I will need a second transplant within the next several months.

As you can imagine, paying for these things has been a burden on my parents and family. Fortunately, we have had good insurance in the past, but with my pre-existing conditions, premiums have been all but inexpensive, and in an effort to keep the premiums as low as possible, we chose higher deductibles. I am blessed to have had a father who practices dentistry in my home state of California, that we have had the means to pay for these expenses. However, bills were not paid without sacrifice. My father will retire in two years (at age 68) a poor man, devoting nearly all of his savings to help pay for my care.

In May of 1995, I will turn 26 years old which will disqualify me as a dependent on my parent's insurance policy. With my current medical expenses costing between $40,000 and $60,000 a year ($10,000/year for medication alone), the onslaught of another transplant, and the fact that no insurance company in the country will pick me up, this places the entire financial burden on me, a part-time college student who works a part-time job making $5.90/hr.

With this background in mind, I write you not seeking sympathy of any kind, but rather to express my heart-felt opinion on the subject of health care. From one who has experienced so much, having seen the inside of literally scores of different hospitals, and observing (and participating in) the system for so long, you might expect this letter to be from one in favor of President Clinton's health care proposal. In fact, there couldn't possibly be a greater opponent of this plan. It's sad, but in the past when my government has made a decision I disagreed with, I passively did nothing, thinking that the decision wouldn't really inconvenience me, or affect me directly except for having to pay a few more dollars in taxes. But with this issue, I cannot be silent. It is also sad that such an issue has become so politically polluted, becoming nothing more than a Washington boxing match between the isles of Congress. Health care—people's lives—are not to be used as pawns for a political battle for power on Capitol Hill.

I oppose the plan for several reasons—many of them personal—but most of them out of simple common sense. For as long as I can remember, the United States has always been on the cutting edge of the latest advances in medicine. Truly, had I not been born and raised in this country with the problems I have had, I know I would not be sitting here now. With the plan Mr. Clinton proposes, I feel strongly that with a lack of research funds, the United States will quickly fall from its prestigious place in the world of medicine. Evidences of this are everywhere. The plan does not yet acknowledge how to pay for itself yet, let alone further research in health care.

The plan boasts "security" by "providing every American with comprehensive health benefits." This obviously means everyone is guaranteed coverage whether one can pay for it or not. I fear there will be many who will take the attitude that "if I'm going to be covered no matter what, then why pay for it at all? After all, it's guaranteed."

Not only will there be a flagrant misuse of the system, but it will bankrupt many small business owners as well. Businesses large and small will find the burden of paying for employees' health care overwhelming, and will opt for layoffs over benefits. From what I understand, the Clinton's conservative estimate on unemployment will be "minimal"—perhaps only 600,000 people will lose their jobs. Recently, my father returned from a meeting with his accountant where the topic was the governmental health care system. The accountant admitted that he didn't have all of the information available, but with the estimates had at that time, he forecast costs in the neighborhood of $400 per month per employee. With my father's small business of only eight employees, that figure translates to a whopping $38,000 per year—enough to seriously damage my father's business, forcing him to not only lay off competent employees, but also raise his dental fees, which many complain are too high now.

And what happens when we do run out of the amount budgeted for the health-care year? Do we begin rationing care by closing hospitals and denying citizens the care we promised them? I read an article recently from a Toronto newspaper (sent to me by a friend) that reported the Canadian government was running low on funds for their health care program, and that to remedy the situation, they were not only rationing care (postponing badly needed treatments), but closing hospitals—denying their citizens the care promised and paid for. A recent article in the March 1994 Reader's Digest confirms this and further informs readers that the Clinton bill "specifies heavy criminal penalties (fines, seizures of property, long prison terms) for 'bribery and graft in connection of health care.'" Surely, if they are anticipating bribes, they must also undoubtedly be anticipating shortages and rationing. Why else would they impose such stiff penalties?

Besides the monetary aspect, there are the new bureaucracies that will undoubtedly be formed. Some conservative estimates place the number at 105 new government entities with a minimum of 50,000 new public employees to further enlarge our already over-sized government. If this is true, then the plan promises to be nothing more than another agency of red-tape, long lines, and bureaucratic mumbo-jumbo. This country needs less government * * * NOT more.

Basic economic principles tell us that nearly every time you take something away from the government and give it to the private sector to operate, free enterprise prevails offering individuals a greater quality of a product or service, better prices, and the choices we Americans demand. If this plan goes through, the opposite will no doubt take effect. The choices will be severely limited (regardless of what they say—the plan basically spells it out). The prices may be controlled (lowered) by the government, but with all of the governmental agencies, alliances, paperwork, and other inefficiencies the government has shown throughout the years, the overall costs can't help but be more than what they are today. And, I believe, and this is the main point I wish to stress in this letter—the one point I feel more concern for over any other—the quality of care will drastically decline.

Under the managed care (or HMO) system proposed by the President's plan, patients' choices will be minimal and the care itself will deteriorate. In a traditional managed care system, doctors are paid a flat rate for each patient they see each month. Therefore, they have no incentive to see the same patient, sick as he may be, more than once a month. Surely this keeps costs down, but who really comes out ahead? Under similar plans in California, doctors hired by HMOs are paid a flat salary, regardless of the number of patients they see, or the number of procedures they perform. With this way of thinking, doctors could easily adopt a careless attitude, reasoning that they can give quality work, or "shoddy" work, and either way, they still get the same pay. Essentially they are worry free when the employer pays all their malpractice and other expenses. I feel strongly that while HMOs do save money in preventative care and other budget-cutting programs, the quality of care is severely compromised, and care is what health care is all about.

To illustrate this point: My roommate recently had two visitors from Great Britain. Being their first time in the United States, they had many questions about government, etc. and were especially interested in the direction the country was heading with the health care issue. We discussed this at length and they explained that in Britain, people have the choice of private or government health care providers. Ironically, one of the visitors had frequently chosen the government form of care to save money, and the other had chosen private. As they spoke, it became very evident that the visitor who had the private providers, was much more satisfied, and had had quality care, while the other spoke of long lines, poor care (her dental work was visibly bad), and a genuine lack of personalized service and caring that we are so accustomed to as Americans. Again and again she told us how fortunate we were to have a private system of health care.

Senator, I cannot emphasize enough how extremely important this issue is to me. I have seen hundreds of doctors in my lifetime. Each time I find one I'm not satisfied with, I have the option of going to another. Obviously, we as Americans want the best possible care available. And if doctors have no incentive to work harder, or to go the extra mile, to "produce the best possible product," the care itself can't help but become compromised.

I have a doctor I see every six or eight months for a procedure known as a biopsy, where small pieces of heart tissue are pulled out through a vein in my neck to be analyzed for possible rejection. The procedure takes only 10-15 minutes, and is fairly uncomfortable. Over the past seven years I have had my new heart, I have watched the doctor's fee for this procedure rise from $550 to over $1400 (aside from the hospital charges). At first, this upset me to think that he does exactly the same thing each time, and in only a seven year period, the fee had more than doubled! But the more I thought about it, the more I had to agree with it. Although it is very difficult to pay these fees and would be next to impossible without insurance, I have to admire him. Those fees are his incentive for continuing to do a quality job with the least amount of physical discomfort, providing the most comfortable atmosphere possible for the patient, and maintaining a good, strong, positive attitude all along. I have had dozens of different doctors perform this procedure on me. While serving a two year mission for the LDS church in Boston, I was seen at Harvard Medical School's Brigham and Women's Hospital, where I never saw the same doctor twice. While attending BYU, I've been to University Hospital in Salt Lake City and had the same procedures performed there. But each time I see someone else, I always go back to my original doctor. Why? Because he cares! He knows my condition, my fears, my history—everything about me, and does everything in his power to make me feel comfortable. So I pay him for that.

It is important for me and for many others, I'm sure, to be able to choose the doctors they want to see and be assured the same quality health care they've been expecting and received for so long.

I truly think that if you were to take a random sample of Americans, they would agree that something has to be done. We can't continue to let these costs soar. I believe they would also tell you that the White House's plan is not the cure to what ails this problem. I certainly don't have any answers nor do I propose any solutions, but I do know this: that President Clinton's plan is not the answer. It simply won't work. It will cost billions and billions of dollars we don't have, and will place the health care of Americans in jeopardy.

Lately the news media has reported that things are slowly coming to a head on Capital Hill and the vote is likely to occur sometime in August or September. I get the impression from these reports that a majority of Congress is leaning in favor of the President's plan hoping that by simply voting on the issue, the problem will go away. Truly something of this magnitude needs to be studied much more carefully. We need more brainstorming, more proposals, and not simply jump at the first plan but before us. As I look back on President Clinton's track record, I must admit it is an impressive one. He has narrowly passed nearly every major bill he has proposed. His strategy seems always to be the same: pull the fence-sitters into his office (behind closed doors) and push push push until he gets the one vote he needs to pass.

Now I realize that nothing I have written is new to you, that you must get thousands of these letters each day, but Senator, I fear for the future. I honestly fear the passage of this bill. I urge you to please consider the needs of this great nation before any personal political agenda you may have regarding this issue. As I mentioned before, this issue is just too important for "politics as usual." I urge you to please vote against the Clinton Health Security Act, and hope that you will urge your colleagues to do the same. And if by chance, the President calls you to his oval office and does whatever he does behind those closed doors, I pray you will remember why I sent you to Washington—to represent me—not the President.

As for me, I honestly don't know what I'm going to do when next May rolls around and I lose my insurance. I have faith that something positive will happen and my needs will be met. But I do know that this plan is not the answer, and I hope you do to.

Respectfully yours,

RODNEY E. RINE.

RECESS UNTIL 2:15 P.M.

The PRESIDENT pro tempore. Under the order, the Senate will now stand in recess until the hour of 2:15 p.m. today, at which time the Senate will resume consideration of the pending matter and the Senator from North Dakota will be recognized.

Thereupon, at 12:40 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BYRD).

The PRESIDENT pro tempore. Under the order previously entered, the Senator from North Dakota [Mr. DORGAN], is recognized.

Mr. DORGAN. Mr. President, thank you very much.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I am told by my young son—and I believe him to be accurate because he knows more about dinosaurs than most anyone I know—that the largest living thing ever to have roamed the Earth is a dinosaur called the Brontosaurus. The Brontosaurus was apparently as large or nearly as large as an 18-wheeler truck with a brain no bigger than the size of my fist.

Using dinosaurs as a comparison, the Federal Reserve Board, which is a remaining dinosaur on our Government, today, took action to increase interest rates by one-half of 1 percent once again. I will not describe the brainpower it took to do that because we have a lot of people who have good academic credentials, and I think they are plenty smart, down at the Federal Reserve Board. But it surely is an institutional dinosaur. It is a large central agency accountable to no one in this country.

The Federal Reserve Board met this morning in secret, behind closed doors, and took action to hike interest rates by one-half of 1 percent. The Fed's best friends are the big-money central banks, and they serve that constituency faithfully, I guess.

This is the fifth time in 7 months they have increased interest rates in our country. It is an outrage. Do they live in a different world down at the Federal Reserve Board? Do they breathe different air or lack oxygen when they make decisions? What on Earth would allow them to conclude that what we need to do is increase interest rates at a time when—coming out of a recession—we have gotten toward cruising speed in our economy, but are beginning to slow down because of previous actions of the Fed? Nevertheless, they take more action to put the brakes on the American economy. It is exactly the wrong solution at the wrong time.

There is no credible evidence of inflation. For 4 successive years inflation has decreased, and it continues today. The action by the Fed is wrongheaded, and it will hurt this country.

Inasmuch as we created this institution early this century, I hope that enough of us care about what they are doing to decide to reform the Federal Reserve Board. It is now a strong central bank accountable to no one. It recognizes and pays homage to the big money center banks and to those vested interests in this country that have wealth. They take action to support and to nurture their interests at the very time the action injures the interests of most American families, and Main Street businesses.

Mr. President, I needed to say that because the Fed just in the last hour, raised interest rates which will be a tax on every American family. It is bad public policy. We cannot do much about this at this moment because it is unaccountable. But we ought to do something in the long term to reform this institution so it is more accountable to the American people.

HEALTH CARE REFORM AND THE HEALTH SECURITY ACT

Mr. DORGAN. Mr. President, let me go on to the subject for which I sought time today in the U.S. Senate. The subject of health care, hospitals, and all of the issues that surround the issue is very difficult for me to talk about because of the significant tragedies in our family that are attached to the health care system; sitting night after night and day after day in intensive care waiting rooms, and praying for miracles and the breathtaking and spectacular changes in medicine that will save someone you love, and it does not work and does not happen.

I cannot talk very much about it except to tell you that I fully understand that when someone you love is in trouble and has a health care problem, cost is not an issue. The cost of the operation, the cost of the surgeon, the cost of hospitalization, the cost of the very best technology available anywhere in the country is not an issue. It does not matter. You want someone to save the life of someone you love. That is kind of what health care is today, breathtaking, spectacular advances to do things we never before thought possible. People whose lungs are not functioning and whose heart is gone get a double lung and heart transplant. The definition of a dead person was once somebody whose heart was not working and lungs were gone. Now we can transplant a new heart and lungs all at once. It is breathtaking.

Those are the spectacular successes we read about and know about. There are just as many spectacular failures. All along the way, enormous amounts of money are spent in various ways to try and advance medical care. Some of it is routine, the ordinary daily health care services people need. Some is on the cutting edge of new technology, trying to save lives that we before could not save.

I grew up in a town that had a doctor—one doctor. There were 350 people in my hometown. He was old Dr. S.W. Hill, a wonderful man, who came there and stayed 55 years. Our neighbor took his kid, Alton Ivy, to the doctor because his tooth ached. We did not have a dentist in my hometown. Doc Hill looked at Alton and got him to open his mouth, and he decided he had to have a tooth pulled, so Doc pulled out Alton's tooth. The problem was Doc Hill pulled the wrong tooth. Alton's dad was pretty upset, and the doctor explained that he did the best he could; he was not a dentist, and he sometimes made mistakes. With Alton, he pulled the wrong tooth.

My opinion about health care in this debate is that there is clearly a national ache of significant proportions. You cannot ignore that. But, we have to be careful not to pull the wrong tooth. I am worried that may be what we are about to do.

I would like to present some information today that I hope my colleagues will consider as we try to respond to this issue and decide what to do with respect to health care reform. There are those around here who say, well, let us essentially do nothing and let the market system take care of this. Let us be happy and do nothing. That is the easiest possible solution, to do nothing. That would not be the right approach. We must do something.

Too many people are without coverage. Too many people are sick for whom health care is not readily available. We must especially do something about costs. We are responding when the issue is skyrocketing costs in health care by talking largely about coverage. And that, I think, is the weakness of our approach. Is coverage important? Absolutely. Health care coverage is essential. I will talk more about that in a minute. But cost is what is driving this problem. As health care costs skyrocket month after month and year after year, it takes health care out of the reach of far too many American families. If we do not do something about the skyrocketing costs we are chasing, we will not succeed in expanding health care coverage because health care will always cost too much.

It is not that coverage is not a problem. It clearly is. We need, it seems to me, to make certain every American has access to health care. I believe health care ought to be a fundamental right. Some particular child today ought not to have a circumstance exist where whether that child gets to a hospital or clinic is a function of how much money that child's mother or father has.

So coverage is an issue. Yes, we ought to address coverage, and we ought to have universal health care coverage. There is no question about that. But the relentless, gripping, nagging problem of escalating, skyrocketing health care costs, if ignored, will mean we will never attain universal coverage in our country. It will mean that families and employers and the governments that finance the Medicare and Medicaid programs will simply not be able to contain the monster that is eating away at our ability to pay for health care, and that is skyrocketing costs.

In short, we are answering the wrong question first. People want something done to bring down the cost of health care. And we are telling them that with a new program, we can increase the coverage of health care now. But can we do that without controlling costs? No, I do not think so. I do not think it is possible.

The appetite for health care in this country is inexhaustible. We all know that. If you have breast cancer and have a 10- or 20-percent chance of a cure with an experimental operation, a bone marrow transplant that will cost $250,000, if it is you, do you want somebody to pay that $150,000 or $250,000? Of course, you do. There is an inexhaustible demand for health care.

If you go to the cafe in my hometown and ask people about health care, I will tell you what you will discover: A discussion and a conversation about cost. They will ask, "Why does it cost $300 to get three stitches put in your index finger?" That is what one North Dakotan asked. "Why did it cost $18,000 for 3 days in a hospital?" The hospital bill including the use of an operating room for 4 hours without the physician fee, was $18,000. Why did it cost that much? "Why did it cost," they will ask, as Judy did, "$10,300 for a 3-day stay in a hospital last month?" Or "Why did it cost," Tricia asked, "for outpatient surgery, with a hospital stay from 8 a.m. to 2 p.m. on the same day, $13,000?"

How did hospital prices increase 413 percent from 1980 to 1991? The average total charge per day for inpatient care in hospitals for a Medicare beneficiary is $1,230. Yet, a third of our hospital beds are empty, and many of those hospitals that are not full are expanding and building. A 1993 study found hospital expenditures per day to be over $1,000 in the United States; $400 in Canada; and less than $250 a day in France, Germany, Japan, and Great Britain. And physician fees are extremely high as well.

In 1989, U.S. physicians, on average, had incomes more than three times their British, French, Swedish, and Japanese counterparts. In 1990, the Canadian Province of British Columbia arranged for some Seattle hospitals to do open heart surgery for some Canadian patients. The surgeons were paid $4,500 for the heart surgery done in Seattle. A surgeon would have gotten $2,500 for exactly the same surgery in Canada. And actually, the fee for a United States consumer in Seattle for that same surgery would have been $6,000, but the Canadians were able to negotiate a better deal. I note that the ratio of physician income to an average person's overall income in the United States is 5 to 1; compared to 3.7 to 1 in Canada; 4.3 to 1 in Germany; and 2.3 to 1 in Great Britain.

I asked if I could get some information on the comparative costs of procedures, operations such as a tonsillectomy, appendectomy, or a hysterectomy, here in the United States and other nations. There is not much information but CRS was able to find this comparison of Canada to the United States. A coronary artery bypass cost $16,000 in Canada and $38,300 in the United States. A cesarean section was $3,700 in Canada and $6,700 in the United States. An appendectomy, uncomplicated, was $2,500 in Canada and $5,700 in the United States.

I have mentioned this before, and I will do it again very quickly. I have talked several times about prescription drug costs. Let me just refer to a couple of charts that I have shown Members of the Senate before. Valium is certainly a drug that is familiar to a lot of the American people. The same drug, by the company, selling the same pill, in the same bottle, costs $4 in Sweden, $4 in Great Britain, and $9 in Canada. For the same dose of the same pill, made by the same company, they charge $49 in the United States. They say to the U.S. consumer: If you need Valium from us, we have a separate way we charge. We are going to charge you 10 times more than we charge other consumers.

Here is another comparison. I have a grid sheet of wholesale price ratios for 20 of the 100 top-selling drugs in the United States. Inderal is $34 in Sweden, $43 in the United Kingdom, $122 in Canada, and $428 in the United States for exactly the same number of pills produced by the same company and sold in these different countries.

There is Xanax, a drug prescribed for anxiety. As you can see on the chart—$10, $15, $20, but for the U.S. consumer, a special deal, they overprice it.

I have many of these charts. When I offer an amendment on this subject I intend to go through them in some detail.

Finally, Premarine, an estrogen replacement, the largest selling drug in this country, as a matter of fact. In Sweden it wholesales for $93, the same bottle, the same pills produced by the same manufacturer; $100 in Great Britain; but they say to the United States consumer you get a special price from us—triple—we triple the price.

Physician fees, hospital costs, prescription drug costs—people are worried about prices. The cost of health care keeps rising. The salaries of hospital administrators—but first, the salaries of prescription drug manufacturers. They say they need these prices for research and development. The CEO of one major drug company makes as much in a year as the combined salary of every Senator serving in the U.S. Senate. He makes as much money by noon in one day as the average American worker makes working all year long.

One insurance company executive is paid $52.8 million. The CEO of one Blue Cross/Blue Shield plan, an empire that was losing money hand over fist, was making $600,000 a year. Another CEO of a Blue Cross/Blue Shield plan was making $800,000 a year. Another one made $1 million last year. Another Blue Cross/Blue Shield CEO got a $4.6 million retirement package.

Cost is the issue. In every stage of this debate, why does health care cost so much?

The fact is we do not have a system in which price is the competitive regulating mechanism that is normally associated with the market system.

I have studied Adam Smith. Most of us studied Adam Smith. The cloak of the invisible hand established price as a mechanism by which competition existed.

It does not exist in health care. There is an inexhaustible demand for health care services. The fact is we do not have typical price competition. In my home State, we have 640,000 people; and guess what: Six separate locations where you get open heart surgery. Do we need that? Of course, we do not. But the providers compete based on adding additional services, not price. One does open heart surgery, the other provider says, "We have to do that in order to compete." One gets an MRI, and the other says, "We have to get an MRI." One has a CAT scan, and the other says, "We have to have one."

Competition in health care means duplication of services, and, therefore, higher prices. You do not hear a Tom Bodett advertise like Motel 6 to keep the light on 24 hours a day for you. You do not hear, "Come over to the hospital; we have a cheaper room for you." Competition in health care is not based on price. It is a fact. Those who stand on the floor ad nauseam talking about competition, how some sort of managed competition is going to magically drive down prices or costs in health care, are simply wrong. It is not going to happen.

With all of that as background, let me turn to some information I have developed about all of the plans that exist. Let me say at the start this President deserves a lot of credit. We would not be talking about health care if it were not for this President. Health care costs are gobbling up the Federal budget, the family budget, and business budget, which we must do something about. We would not be discussing it had we not elected Bill Clinton. So I give him credit for this. Let me credit also the majority leader for bringing the plan to the floor. The easiest possible thing do is to bring nothing to the floor; let us obstruct, wait and do nothing.

Most important to me is let us do the right thing. The right thing is to do something to put the brakes on skyrocketing costs. None of the plans now discussed—none of them—effectively does that.

Let me explain the problem with this chart. This chart shows health care costs as a percentage of gross domestic product. Our gross domestic product or GDP is the sum total of everything we produce in the country, the income, in effect that we are able to use. If you add it all up and compare it to health care costs, we spend far more on health care than any other country.

In fact, President Clinton during the State of the Union Address said we spent 14 percent of our GDP on health care costs, Canada spends 11, and no other country spends 10. In Germany they had a special session of the German legislature when health care costs went up two-tenths of 1 percent of GDP. I believe it was somewhere around 7.6 or 7.8 percent. They called a special session. It was a calamity for them. We are not at 7, 8 or 9 percent. We are at 14 percent and rising, and rising quickly. We are far, far above any other country in the claim health care costs have on our total resources.

Let me show you a chart that says if there is no health care reform and we just go on like we have been going along, according to the Congressional Budget Office, health care costs will go from 14 percent of gross domestic product to over 20 percent in 10 years. In other words, we are going to increase by a third the claim on our national income for health care. That is if we do nothing.

If we pass the Clinton plan, which I think is no longer before us, but nonetheless, if we pass the Clinton plan as is, what we have is we go from 14 percent up to close to 19 percent, and the Clinton plan, incidentally, has cost containment in it that is tougher than any other plan we have considered. If we pass the Finance Committee plan, which was guided by the mainstream or moderate group, we go from 14 percent of GDP to over 20 percent of the gross domestic product. If we pass the Mitchell plan, health care increases as a percent of our gross domestic product from 14 percent to over 20 percent. The Dole plan is not yet scored by the Congressional Budget Office, but I cannot believe it would have any better numbers than any of the others because it probably will have the least amount of bite in it as far as controlling cost. Essentially, I think it mirrors where we are today in inexhaustible growth of health care costs.

This chart is a summary of all the plans. What you see from this chart is that no matter what plan we pass that currently exists, we are off debating coverage and not biting on cost control. If we do not have the opportunity to and do not have the will to say that we are going to do cost containment and put some cost controls in place that bite, we will not be able to get costs under control. We must do something in order to keep this country's health care costs at somewhere around 14 or 15 percent of gross domestic product. Otherwise, our health care reform efforts we will surely fail.

Now, the answers that come in this debate are fairly predictable. This is politics, fortunately or unfortunately. I do not happen to think politics is bad. John Kennedy said every mother's hope was that her son would grow up to be President as long as they do not get involved in politics. Politics is the process by which we make decisions.

The politics of the Senate increasingly these days is we tend to retreat into familiar terrain, into familiar campgrounds. The campground on that side of the aisle is retreating to positions of saying let us really do nothing, or let us do nothing and pretend we did something, but let us do very little and make it seem like it was a lot. That is very familiar ground for that side of the aisle.

Our side of the aisle tends to try to put our suit right away and say let us immediately help people. There is no more laudable goal than that, because we have a lot of people suffering and a lot of people who need help.

But going to a spending program immediately without addressing rising costs will not solve this problem. Some say to me when I show them these charts, you know what you are missing? We are putting 30 million people more into this health care system. Of course, it would cost more. I say they do not understand. The whole debate about health care is that the 30 million people are now getting health care, at least some semblance of health care, and there is an enormous cost shift. They are already in this system to a large extent. We ought to, it seems to me, be able to construct a system with cost containment that bites in a real way. That is the toughest thing we have to do around here, because it is going to offend everybody. But if we do not do that, we will not ever, in my judgment, be able to provide adequate coverage because we will not have constrained costs.

When we get up to 20 percent of our GDP committed to health care, we are not going to be able to deal with that in the Federal budget. Families are not going to be able to deal with that in the family budgets.

It is my hope, as we move along here now, in the midnight hours tonight, or whenever we are going to try to wrap this up, that we will understand a couple of things.

One, this President and this majority leader have decided an important element in this health care debate is coverage. And they are absolutely right. Too many people today are sick and are not getting adequate care. No mother in this country should worry that when her children get sick she may not be able to get them to a doctor because she does not have enough money in her wallet. Coverage is important.

But we will not advance the interests of coverage unless we do something in health care reform that bites on cost containment. We cannot have a health care system that eats up from where we are today an additional one-third of its claim on our gross domestic product and finish this job and say we did a good job. If we pass a bill that deals only with coverage and go home, we will have left the most significant challenge in front of us.

As I was coming over today I pulled something out of my files, because when my mother passed away she had left, in a series of files for us children, things that she had kept and collected. I suppose everyone has something like this. My mother had kept a hospital bill from St. Joseph's Hospital in Dickinson, ND. When I was a little tyke just able to walk, I had a burst appendix and nearly died. They said another hour or so I would not have made it. I got to the hospital and had emergency surgery—fairly significant surgery in those days. I was hospitalized for 6 days. I had extensive care. And my mother kept the bill for that extensive hospitalization. It was $71.81.

It was 6 days in the hospital, 6 days of room charges at St. Joseph's Hospital in Dickinson was $39. But then you add to that—that is not all they charged—they wanted to charge for the operating room as well, and this was surgery, I understand, that took many hours because it was very difficult surgery at that time. And they charged $10 for the use of the operating room and $10 for anesthesia and $3 for an x-ray.

When people talk of the good old days, I suppose there were some aspects of the good old days we would like to go back to. And $70 hospital bills might be one. But we cannot reclaim the good old days, nor would we want to with respect to some of the miracles and advances and breakthroughs and the breathtaking changes that have occurred in health care.

Breathtaking changes and miracle cures are important to all of the American people only to the extent that they have access to them. That is why I think my colleagues—my colleague from Minnesota is on his feet about to speak. No one is more aggressive than he is to talk about coverage. He is absolutely right, coverage is essential. But I am just telling him, he and others, that if we do not effectively deal with costs, with cost controls and cost containment that really bites, then we will not succeed.

I might say to folks on the other side of the aisle who come here and talk about competition and so on, the last thing, in my judgment, they would ever embrace would be anything that restrains in any way anyone's ability to charge any amount to any American. I just cannot believe that. Because this is not a market system that works in the traditional market ways.

So I guess I would close pretty much as I began. I full well understand the necessity of health care from a personal standpoint and I hope that no one will believe in the next few days the solution is for us to do nothing. That is not a solution. The solution is for us to do something and to do the right thing. The right thing in my judgment is two steps: Decide together that the market system does not work to control health care costs; and to find an effective way—fair to everyone, fair to providers and fair to consumers—to put us on a course of restraining, in an adequate way, health care costs.

And second and importantly, make sure we finish when we are on a track and give every American family the assurance that they will have health care coverage, coverage they can afford and coverage that represents quality health care.

I hope if and when we can put the brakes on skyrocketing health care costs, the American families will once again give this institution the credibility that I think this institution can have by tackling tough problems in a timely way.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, first of all, let me thank my colleague from North Dakota. One of the things I most appreciate about Senator DORGAN, since I come from Minnesota, a neighbor of North Dakota, is all of the ways in which Senator DORGAN is so rooted in the people that he represents.

The kind of sensitivity toward and feel for regular people he demonstrates is rare. I do not think there is anybody in the U.S. Senate, whether we are talking about the Federal Reserve System and interest rates or the ways in which those kinds of decisions can make or break people's lives, or health care, who does a better job of really representing a lot of people who quite often do not have a voice here. I thank the Senator.

The other thing I would say, and I promised my colleague from Iowa that I would be relatively brief so I do not want to get started on this, but I wanted to say to my colleague from North Dakota that I believe he is absolutely on target. He said I was a fierce advocate for universal coverage—yes. But I think unless we have cost containment—I mean, if 37 percent of our gross domestic product by the year 2030 is spent on health care, it is going to bankrupt us. I think we have to be very serious about cost containment.

The question is how to contain health care costs. I just simply do not buy the argument that the way we contain the costs is by essentially undercutting services for people, or not covering people, or denying people care that they and their loved ones really need.

I have to say to the Senator from North Dakota, one of the things that attracted me to the single payer option from the very beginning—since everybody keeps talk about the Congressional Budget Office—is that there is simply not another proposal that has been presented that does nearly as well by way of CBO scoring. CBO's latest scoring of the single payer bill pointed out that single payer, 1997 to 2003, has the potential to save up to $700 billion as compared to the status quo, projected over that 6-year period. That is not an insignificant amount of money, especially when you are talking about a health care bill that would make sure that everyone was covered with a comprehensive package of benefits, including catastrophic care. So I think he is right on target and I hope we get serious about universal coverage. All of which is a bridge to what I would like to really focus on, Mr. President, for maybe a few minutes.

Mr. President, let me start out by saying that I recognize that I tread on sensitive ground, and I want to make sure my colleagues understand the analysis I am trying to make, and that they know it is not an analysis that attempts to criticize any particular Member of the U.S. Senate or the House.

First of all, I ask unanimous consent that a Washington Post piece dated Monday, August 15 titled "Health and Insurance Contributions to Senators" be printed in the RECORD.

And second, I ask unanimous consent that a New York Times piece titled

"Lawmakers Feel the Heat From Health Care Lobby," which is dated Tuesday, August 16, today, be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, I am pleased that these two major newspapers have really analyzed this mixture of money and politics in the health care debate. I have to say that much of the struggle over whether or not we will have a fundamental health care reform has to do with our failure to yet enact fundamental campaign finance reform legislation. I want to talk about that campaign finance reform bill in a moment.

Citizen Action came out with a study recently—an analysis of Federal Election Commission data. From January 1993 to May of this year, the health care industry made $26.4 million in political contributions to Representatives and Senators. In March, it was a staggering $4 million, just in that 1 month alone.

Other data, Mr. President: During Presidential and congressional elections, the 1990–92 cycle, the health industry, broadly defined, spent almost $42 million. Common Cause just came out with a study of these contributions, which I mentioned the other day on the Senate floor, Mr. President. This is a study of PAC contributions—just PAC contributions—to the U.S. Senate over a 6-year period, January 1987 to December 1993. During that time, business PAC's contributed $72 million; labor PAC's, $16 million. That is about a 4-to-1 ratio.

I want to just make three more points. First, I think that we have to figure out a way of financing our campaigns so that people can have more faith in our process. By the way, again, I am not talking about the wrongdoing of individual officeholders, I am talking about something different. I just think that when this kind of money is contributed at the same time that we are dealing with an issue that is so important to people's lives, it is difficult for people to have confidence that we are representing the public interest, that we are representing them.

I think part of the reason there is such anger in the country is many people feel ripped off and they think this process is just driven by a big money game. It is not just that. But I do not think it looks right, and I do not think it is right. I said before on the floor of the Senate, and I say it one more time: it is comparable to the referee of a soccer game or football game receiving contributions from the two teams before the game starts. People would say, "We're not sure that referee can make rigorous, objective decisions that would be best for everyone." That is my first point.

My second point, Mr. President, is that I think it does have a bearing on policy. From the New York Times front page today just a few figures: From January 19, 1993, through May 31, 1994, the American Medical Association gave $977,000; the American Dental PAC gave $630,000; the National Association of Life Underwriters, $612,000; American Hospital Association, $551,000; American Nurses Association, $444,000; Independent Insurance Agents of America, $371,000; American Family PAC, $345,000.

We have before us some important decisions we have to make on policy. I would like to talk about the ways in which I fear that this virtual wall of money sometimes stands between the people we represent and Senators and Representatives. For example, how do we contain costs? My colleague from North Dakota just spoke eloquently about the need to contain costs.

Mr. President, do you know what the CBO has said rather clearly? If we want to have cost containment, if we want to make sure that health care costs do not continue to skyrocket, the CBO always focuses in on the importance of insurance company premium caps. That is now off the table. For some reason that is off the table. Does it have anything to do with the power of the insurance industry? Does it have anything to do with their ability to effect the tenure or lack of tenure of Senators and Representatives? I hope not, but I think this is a way in which people have every right to be skeptical as to whether or not the insurance industry perhaps is better represented than the vast majority of people.

Second example. Employer mandates. Every time I am in a debate with my colleagues on the other side of the aisle, they talk about how people now are beginning to question whether any health care reform bill should be passed. That is true; $100 million will be spent on TV and other advertising before this is all over and plenty of people are frightened and scared, and people have a right to raise questions. I would not deny any citizen in this country that right.

But the polls also show overwhelmingly that the vast majority of people, throughout all this attack, still say that they believe each and every person should be covered, because they know that if some people go without coverage, it could be them if they become sick or lose their job, and people are absolutely convinced that employers should contribute their fair share.

But when we talk about anything close to what we in Congress have, with our employer contributing 72 percent, or when we talk about employers contributing 80 percent, making sure that small businesses have a subsidy so they can afford that, that now seems to be off the table. Could that have anything to do with the fact that over the last 6 years $72 million in political contributions has come from business PAC's?

Finally, my last point—and this one bothers me to no end. I was in a debate today, a radio discussion, and I asked the host, a conservative, good person with an interest in federalism—you have to have a twinkle in your eye, you have to enjoy debates and discussions with people. I asked him: "Would you not agree with the proposition that if a State wanted to go forward with a single-payer plan, it would be wrong for Senators and Representatives to try and knock out of the Mitchell bill the option for States to go forward just because the large employers want to be carved out, just because the insurance industry does not want it to happen? Should it not be the case that if the people of Minnesota or Oregon or New York or Iowa themselves vote people into office who represent them and the decisions are made at the State level that they want to go with a single-payer option, should we not let States have that opportunity?"

I thought the States were to be the laboratories of reform. I thought we were a grassroots political culture. I thought we were in favor of decentralizing public policy. And, frankly, I just think there is a lot of fear about this because I think the evidence is irrefutable; that, as a matter of fact, if some States go forward, they will be able to cover everyone, it will be good coverage, comprehensive coverage, more comprehensive than in any plan that is before us right now and they will be able to contain costs. But there is this fierce opposition lining up to enable States to have the flexibility to do this.

Mr. President, could that have anything to do with the huge amounts of money that have been poured into the U.S. Congress from health care special interests? And not just by health care PAC's. There is too much emphasis on political action committees; I also mean individuals within the industry, broadly defined, who make the huge contributions.

I heard one of my colleagues the other day say, "You know, the problem is we have to contain costs and we just don't know when to say no. You have all these special interests that are asking for coverage, and we don't know how to say no to those special interests."

What special interests? People who are uninsured? What special interests? Children? What special interests? My colleague from Iowa is here. People with disabilities who are saying we hope that you will pass a reform bill that will enable us to live at home in as near normal circumstances as possible with dignified home-based care, what special interests are we talking about?

I do not see anything in the Washington Post piece yesterday or in the New York Times piece today or in any of the analyses I have made about the mix and money in politics that tells me any of these people are the special interests. But I see a lot of evidence that there are a lot of people in this industry, a lot of large companies, a lot of hospital supply and equipment companies, a lot of the professionals, the insurance companies and all the rest that have poured an unprecedented—unprecedented—amount of money into the Congress at exactly the time we are debating this piece of legislation. I do not hear my colleagues on any of these talk shows talking about those special interests at all.

My final point, Mr. President—and, by the way, I think it would be a profound shame if those interests were able to hijack this reform effort and if we did not come through with a bill that led to the positive improvement in the lives of people.

I think this health care issue, this debate, and what is happening on the floor of the U.S. Senate speaks in as strong and powerful and direct way than anything for the need to have tough, comprehensive campaign finance reform.

I will say it just one more time. I am not talking about the individual wrongdoing of any office holder. We are all trapped in this system. People run for office and you have to raise—what is it?—over a 6-year period the standard now is $13,000 a week. You have to raise this money to be a viable candidate, so we are told. The campaigns are hugely expensive.

So people try to raise the money, and they raise the money from the people who have the money to give. But it undercuts representative democracy. If the standard is each person counts as one and no more than one—and it should be— we have moved dangerously far away from that.

So I hope that Senators and Representatives will get going on this conference committee. We passed a campaign finance reform bill. It is deadlocked. That deadlock should be broken.

Now, Members of the House say to Senators, you all want us to abolish PAC's. How convenient it is for you to say that, Senators, because about 60 percent of the big money you raise is through individual contributions, large contributions. We raise it from labor and women's groups and environmental groups and other groups as well, but we would like to focus on how you raise the money.

It seems to me there can be a compromise. At the very minimum, the bill we passed called for an agreement upon spending limits. That is a huge first step. Talk about getting rid of soft money, talk about having some debates, having some vouchers for being able to buy advertising, talk about ways in which we can begin to get some of this big money out of politics.

Now, if the House of Representatives, Mr. President, is willing to phase out PAC contributions, then it strikes me that Senators should be willing to begin to limit further some of our large contributions. As I understand it, one of the proposals is that no more than a third of the money Senators raise should be in small contributions. I would not settle on a particular figure. I would want it to be something that worked. But it does seem to me, Mr. President, that we could drop some of our contributions or percentage of what we raise overall in exchange for the House being willing to phase down PAC contributions. This conference committee could finally meet and bring back to the floor of the Senate, and the House a campaign finance reform bill.

I cannot think of a better reason to do it than what is happening in this health care debate right now. All this money pouring in, the same imperative of running for office, the same money chase, which undercuts representative democracy and undermines people's faith in this process.

I have come to know colleagues after 4 years here, and there are a lot of people on both sides of the aisle who are very committed to public service, very committed to doing the right thing, some of whom at this moment do not agree with me on this particular issue. That is beside the point.

The point is we ought to really demand that this conference committee get moving. We ought to demand that there be some kind of campaign finance reform bill passed this year. We ought to demand that we get some of this big money out of politics. We ought to demand that we move toward a system of representative democracy.

Mr. President, at this point I yield the floor.

EXHIBIT 1

HEALTH AND INSURANCE CONTRIBUTIONS TO SENATORS

An analysis released last week by the advocacy group Citizen Action shows that health and insurance companies have contributed $40.1 million to members of the U.S. Senate over the last 15 years. The analysis summarizes campaign contributions received from health and insurance political action committees (PACS) and from individuals giving more than $200 during the same period. The figures are derived from Federal Election Commission reports and include donations from PACs such as those affiliated with health care professionals, hospitals, pharmaceutical firms, clinical laboratories and insurance companies. The individual donors counted identified themselves on FEC reports as being affiliated with either the health or insurance industry. Citizen Action supports a single-payer Canadian style plan for health care reform:

Phil Gramm (R–Tex.)	$1,235,520
Bob Packwood (R–Ore.)	1,027,218
Dave Durenberger (R–Minn.)	1,021,054
Bill Bradley (D–N.J.)	978,761
Orrin G. Hatch (R–Utah)	958,299
Dan Oates (R–Ind.)	913,273
Arlen Specter (R–Pa.)	895,786
Christopher S. Bond (R–Mo.)	733,011
Connie Mack (R–Fla.)	732,383
Richard C. Shelby (D–Ala.)	724,496
John H. Chafee (R–R.I.)	721,098
Frank R. Lautenberg (D–N.J.)	717,192
Robert J. Dole (R–Kan.)	707,794
Alfonse M. D'Amato (R–N.Y.)	693,903
Daniel Patrick Moynihan (D–N.Y.)	670,578
Bob Graham (D–Fla.)	639,243
John D. 'Jay' IV Rockefeller (D–W.Va.)	638,645
Charles E. Grassley (R–Iowa)	638,169
Thomas A. Daschle (D–S.D.)	620,822
Christopher J. Dodd (D–Conn.)	612,154
Kay Bailey Hutchison (R–Tex)	611,009
Tom Harkin (D–Iowa)	607,423
Richard G. Lugar (R–Ind.)	602,772
Jim Sasser (D–Tenn.)	568,671
Dianne Feinstein (D–Calif.)	534,356
Don Nickles (R–Okla.)	530,658
Trent Lott (R–Miss.)	524,303
Max Baucus (D–Mont.)	523,364
John C. Danforth (R–Mo.)	522,599
Strom Thurmond (R–S.C.)	514,512
Mitch McConnell (R–Ky.)	513,436
Joseph I. Lieberman (D–Conn.)	494,730
George J. Mitchell (D–Maine)	491,633
Richard H. Bryan (D–Nev.)	478,227
William V. Roth Jr. (R–Del.)	467,402
Donald W. Riegle Jr. (D–Mich.)	458,167
John Breaux (D–La.)	450,707
Ernest F. Hollings (D–S.C.)	443,763
Kent Conrad (D–N.D.)	440,853
Slade Gorton (R–Wash.)	428,956
John McCain (R–Ariz.)	421,253
Bob Kerrey (D–Neb.)	417,999
Jesse Helms (R–N.C.)	416,530
Howel T. Heflin (D–Ala.)	413,313
Paul Simon (D–Ill.)	403,270
Harry M. Reid (D–Nev.)	398,722
Dennis DeConcini (D–Ariz.)	396,683
Hank Brown (R–Colo.)	369,243
Jeff Bingaman (D–N.M.)	347,695
Byron L. Dorgan (D–N.D.)	343,846
Harris Wofford (D–Pa.)	342,921
Carl M. Levin (D–Mich.)	342,170
Larry Pressler (R–S.D.)	338,687
Wendell H. Ford (D–Ky.)	332,440
J. James Exon (D–Neb.)	326,825
Charles S. Robb (D–Va.)	325,677
Barbara A. Mikulski (D–Md.)	313,912
Edward M. Kennedy (D–Mass)	308,689
John Glenn (D–Ohio)	293,312
Thad Cochran (R–Miss.)	292,217
David Pryor (D–Ark.)	290,914
Alan K. Simpson (R–Wyo.)	287,123
Pete V. Domenici (R–N.M.)	286,579
John F. Kerry (D–Mass.)	282,109
Malcolm Wallop (R–Wyo.)	262,754
James M. Jeffords (R–Vt.)	250,791
Dale Bumpers (D–Ark.)	250,185
J. Bennett Johnston (D–La.)	247,066
Barbara Boxer (D–Calif.)	244,282
Judd Gregg (R–N.H.)	238,749
Daniel K. Inouye (D–Hawaii)	236,300
Mark O. Hatfield (R–Ore.)	231,665
John W. Warner (R–Va.)	223,690
Robert C. Smith (R–N.H.)	205,700
Larry E. Craig (R–Idaho)	198,676
Paul Coverdell (R–Ga.)	197,807
Frank H. Murkowski (R–Alaska)	194,950
William S. Cohen (R–Maine)	193,091
Ted Stevens (R–Alaska)	188,750
Sam Nunn (D–Ga.)	183,037
Paul S. Sarbanes (D–Md.)	177,100
Robert C. Byrd (D–W. Va.)	170,167
Lauch Faircloth (R–N.C.)	165,960
Conrad Burns (R–Mont.)	165,700
David L. Boren (D–Okla.)	162,260
Joseph R. Biden Jr. (D–Del.)	158,393
Claiborne Pell (D–R.I.)	156,430
Howard M. Metzenbaum (D–Ohio)	145,587
Daniel K. Akaka (D–Hawaii)	129,488
Ben Nighthorse Campbell (D–Colo.)	126,919

Patrick J. Leahy (D–Vt.)	104,000
Carol Moseley-Braun (D–Ill.)	97,442
Dirk Kempthorne (R–Idaho)	92,352
Russell Feingold (D–Wis.)	87,033
Robert F. Bennett (R–Utah)	84,700
Nancy Landon Kassebaum (R–Kan.)	83,448
Patty Murray (D–Wash.)	33,052
Paul D. Wellstone (D–Minn.)	24,875
Herb Kohl (D–Wis.)	23,960
Harlan Mathews (D–Tenn.)	3,000

NOTE.—Period covered for PACS is through the most recent filing, usually June 30, 1994. Includes large donor contributions through March 31, 1994.

LAWMAKERS FEEL THE HEAT FROM HEALTH CARE LOBBY

(By Katharine Q. Seelye)

WASHINGTON, August 15.—The telephone callers to Senator John B. Breaux, a Louisiana Democrat and an influential voice in the debate over health care, are stacked up like planes over National Airport. "Senator Breaux's office. Can you hold?"

The Senator's phones are ablaze from dawn until well past dark, with the answering machine collecting at least 200 more messages overnight. Clogged phone lines are one price that he and some of his fellow legislators pay for staking out an independent position on what many say is the most heavily lobbied issue in the nation's history.

Sentor Breaux and three members of Congress talked recently about their experiences with the health care lobby, painting a picture of special interests overwhelming the decision-making process.

At least 650 groups spent more than $100 million from January 1993 to last March to influence the outcome of health care legislation, according to a recent study by the Center for Public Integrity, a nonprofit Washington group that examines public issues. The spending has only intensified since then.

"There is no issue of public policy in which the sheer strength of those special interests have so overwhelmed the process as in the health care reform debate," the center said.

Most of the money goes to the brigade of lobbyists who buttonhole members of Congress on behalf of their clients; some of the money goes directly into the campaign coffers of senators and representatives whose votes they hope to influence. Most of the clients, including many hospital and doctors' associations, oppose comprehensive changes in the nation's health care system, but others, like the leaders of some labor unions and the American Association of Retired Persons, are pushing for the Democratic leadership's bills.

"This is the biggest-scale lobbying effort that's ever been mounted on any single piece of legislation, both in terms of dollars spent and people engaged," said Ellen Miller, executive director of the Center for Responsive Politics, another Washington-based nonprofit research group. "It is more fully engaged across the country and at a higher profile inside the Beltway than ever before."

The Annenbery School for Communication at the University of Pennsylvania predicts that by October the amount spent by lobbyists on television advertising alone will exceed $60 million—more than the $50 million spent on advertising in the 1992 Presidential campaign.

Citizen Action, a consumer group, has examined the campaign contributions made by lobbyists for health and insurance interests over the years. It reports that for the last 14 years, the political action committees representing those interests contributed more than $150 million to Congressional re-election campaigns to "keep health reform off the national agenda."

Citizen Action says these political action committees are spending more than $2 million a month to modify a health care overhaul or kill it outright. They contributed $26.4 million to campaigns from January 1993 to last May, with the biggest donations going to members of committees that produced health care legislation.

For example, Citizen Action said, members of the House Ways and Means Committee and the Energy and Commerce Committee received, on average, $27,000 more in this session of Congress than in the previous session, while their colleagues who served on no health-related committees received an average increase of $3,000 over the same period.

In the Senate, the report said, members of the Finance Committee, which produced a proposal that George J. Mitchell of Maine, the majority leader, drew on for his bill, received the biggest contributions, averaging $600,000 since 1979. Four members of Congress received more than $1 million from the health and insurance industry since that time. They were Senators Phil Gramm of Texas, Bob Packwood of Oregon and Dave Durenberger of Minnesota, all Republicans, and Representative Richard A. Gephardt of Missouri, the House majority leader.

Given the amount of money and the intense competition, "the Oval Office is reduced to just another trade association," said Charles Lewis, executive director of the Center for Public Integrity.

Senator Breaux said the lobbying "makes it more difficult to find middle ground." He added that pressure from unions, political parties, hospital associations, doctors and the Chamber of Commerce had already pushed some members of Congress to make commitments.

One of the most effective groups has been the National Federation of Independent Business, which represents 607,000 small-business owners. "The N.F.I.B has more people on the floor of the House than the White House has," Mr. Lewis said. "They are spending millions because billions are at stake."

Terry Hill, a spokesman for the federation, says the livelihoods of his members are at stake. "This is one of the biggest issues we have ever worked on, and it's the most irate and incensed I've ever seen the membership," he said.

In the bill introduced by Senator Mitchell, the federation has helped to stave off any requirement that employers pay their workers' insurance, at least for a few years. On the House side, the small-business lobby has helped rouse opposition to the requirement the employers pay 80 percent of the cost of their workers' insurance, as proposed in the bill offered by Mr. Gephardt.

Big business, which at first applauded President Clinton's efforts to change the health system, now generally sees less urgency in change and is pretty much against it.

"With the economy stronger and a temporary slowdown in inflation for health care, many companies believe they don't need a systemwide solution, that they can solve their own problems," Mr. Wiener said.

He added: This has clearly been startling for the Clinton Administration, which larded up its health care proposal with a lot that was very favorable to big business. But the distrust of government triumphed."

This distrust has undermined efforts by unions and other groups that have been lobbying on behalf of health care changes. While union leaders have been pushing for universal coverage and cost controls, Mr. Wiener said, many of their rank-and-file members fear they will suffer if the Government fiddles with the good coverage they enjoy now.

The lobbying has become so fierce, fractious and well-financed, said Mr. Lewis of the Center for Public Integrity, that it can "overwhelm the decision-making process."

JOHN B. BREAUX

A Must-See for Everybody

John B. Breaux says he has been hit on by "everyone from A to Z." This means not just the big, professional interests, but also musical therapists, witch doctors and wart removers, all of whom want their specialties covered.

His office, with its row of colorful football helmets and his case of tennis trophies, is now a must stop on the lobbying circuit. This is partly because Senator Breaux has yet to commit himself to a specific health care plan. It is also because he is one of the mainstream group producing its own set of amendments to the Mitchell bill. Some on Capitol Hill think this bipartisan group may provide the needed heft to get a health care bill through the Senate this session.

"Liberals want to do everything all at once and hope they got it right, and conservatives want to do nothing and take a long time to do it," he said. "I'm trying to take one step at a time and make sure we get it right. When you're in the middle, you get beat up by both sides."

Mr. Breaux, who was elected to the Senate in 1986, is not unfamiliar with the ways of Washington. He came to the House in 1972 as its youngest member—he was then 28—to replace Edwin W. Edwards, on whose staff he had served. (He came from the same small Cajun town as Mr. Edwards, who is now Louisiana's Governor.

At the start of the debate over health care, the Senator said, many of the lobbyists were useful because they provided details on subjects that lawmakers did not have time to delve into on their own. But now things are more intense.

"We've long passed informational lobbying; now we're at break-your-arm lobbying," he said.

Many are callers from orchestrated campaigns who tell him to vote yes or no. "I try to hang up on the ones not from Louisiana," he said. "People will really badger you. People will call up and be really ugly sometimes, and threatening."

"People have been scared," Mr. Breaux continued. "That's a great tactic if you want to get people to be against something. You instill the fear that Congress is going to do something to you rather than for you."

Moreover, President Clinton's initial proposal "was technically do-able, but politically not do-able," the Senator said. "It was too much, too soon, too complicated, too bureaucratic, too Washington-oriented."

Reforming health care may be extremely complex, but Senator Breaux has set what may be an even higher goal for himself. "I'm trying to achieve survival," he laughed. "I'll do well if I survive."

BILL BREWSTER

Lone Pharmacist Far From Lonely

Bill Brewster is the only registered pharmacist in the House. This makes him particularly sensitive to the pitches from the multifaceted pharmaceutical lobby that has been patrolling Capitol Hill.

But Mr. Brewster, a 52-year-old Democrat who represents a sprawling rural district in southern Oklahoma, is also a small-business owner, a cattleman and a hunter. He is a man of many interests, and many interests have been seeking him out.

"We've heard from more groups than I knew there were in America," he said of the health lobbyists, many of whom represent hospitals, doctors and pharmacists.

"There's a lot of different pharmacy groups," he said, "and they're all at each other's throats."

The main issue within the pharmaceutical industry, Mr. Brewster said, is drug pricing. "The pharmaceutical manufacturers are on one side, and they've got every lobbyist hired in town," he said. "The ones they haven't hired are working for the National Association of Retail Druggists and pharmaceutical associations."

As a member of Ways and Means, Mr. Brewster said, he was lobbied most heavily from February until late June when the committee passed its proposed bill. "Obviously they worked the members on the committees prior to the committee votes," he said of the lobbyists. Partly because the Gephardt bill has stalled, he said, "I'm having fewer contacts right now."

Mr. Brewster was identified by Citizen Action, the watchdog group, as the ninth top recipient in the House of money from all health and insurance industry political action committees from January 1993 to May 1994. And the Center for Public Integrity identified him as among those who took the most trips sponsored by the health-care industry. Mr. Brewster took 10; the top member took 11.

"Who contributes to me has nothing to do with it," Mr. Brewster said. "I figure, anyone who contributes feels like I'm doing a decent job and wants to have good government. I try to look at an issue first off, how it affects my district."

The economy in his district is based on small businesses, farms and oil and gas interests. He said he was getting "a tremendous amount of pressure" from small-business owners, who oppose any provision to require employers to pay for workers' health insurance. He said he had received numerous letters saying, "I don't have insurance but I do have a job—please don't mandate insurance coverage that puts my boss out of business and puts me out of a job."

He is unhappy with both the Gephardt bill and a rival plan proposed by Representative Jim Cooper of Tennessee, which has attracted some Republican support, on the grounds that they try to do too much. "If we try to provide a plan that's not intrusive to the 85 percent who have insurance, provide access to preventive care for the 15 percent who don't and went home, the public would be very happy."

PAUL MCHALE

Former Marine Faces New Battles

Paul McHale of Bethlehem, Pa., has approached the health care debate with the order and determination of the most serious student in the class. A 44-year-old former marine who left the Pennsylvania Legislature to return to active duty for the war in the Persian Gulf, his mission is to conquer every detail and do the right thing.

"To do justice in evaluating any of the pending comprehensive health care plans," said Mr. McHale, a first-term Democrat, "it is absolutely essential for a member of Congress to have done an extensive amount of mind-numbing reading prior to the examination of any individual bill.

"Once you know the basic building blocks, once you know the concepts, you can quickly recognize how they're being fitted together. Now when I'm lobbied—by ordinary constituents, businessmen and women and professional lobbyists—when they come in, the dialogue becomes whether or not my position comes close to theirs and whether either of our positions can be found in one of the pending bills."

For the moment, Mr. McHale's cannot. An original backer of the alternative discussed by Representative Jim Cooper, the Tennessee Democrat, Mr. McHale said he was disappointed in the plan's final, conservative shape.

He is also unhappy with the Gephardt plan. He opposes making small-business owners pay for their workers' insurance, and he does not like expanding Medicare, which he says would not control costs.

All of which makes him a legislator in search of a bill to support. "The best way to affect my vote is to provide me with information," he said. While all the usual suspects have inundated Mr. McHale with information—last week alone, he was visited by at least two dozen lobbyists, including representatives of three drug companies, six of the largest businesses in his district, two unions, including the steelworkers, local health care plans, and four hospital associations—he is still in search of more.

This has left him open to attacks from all sides. "Yesterday a very good friend who is a well-respected leader of organized labor said I was too conservative," he said. "And right after that, the National Federation of Independent Business conducted a press conference back in my district where they criticized my position as too liberal."

"In the final analysis, I'm going to pull back in, find a quiet corner, think about what's good for our country and vote on the issue as if it were a secret ballot," he said.

With that, it is time for a House vote. Mr. McHale checks his watch and steps briskly out the door. "It takes me six minutes and 35 seconds to get there," he said. "I've got this route timed out."

JOSÉ E. SERRANO

A Caucus Leader Feels the Pressure

José E. Serrano represents the South Bronx, one of the poorest districts in the nation, its striking poverty and vast expanses of rubble made famous by visits by Presidents Jimmy Carter and Ronald Reagan. A full 60 percent of the district is Hispanic, which helped catapult this 50-year-old, two-term Democrat to the chairmanship of the 19-member Hispanic caucus in Congress.

Thus Mr. Serrano has not only the interests of his district to worry about but also the interests of his caucus. He said they are generally one and the same. But he also has to worry about the interests of New York City, and that can be cause for Angst.

The health care industry in New York provides 300,000 jobs, the city's biggest segment of service-oriented jobs, and it has been one of the fastest-growing sectors of the economy. Mr. Serrano has to worry about those jobs—many hospital workers are Hispanic—as well as ensure that the hospitals will continue to treat poor patients, regardless of their immigration status.

Another big concern is how New York's teaching hospitals, among the nation's most eminent, will fare under any new health care legislation. The bill offered by Representative Richard A. Gephardt of Missouri, the majority leader, proposes a limit on the number of medical residents at such hospitals; Mr. Serrano wants to make sure that whatever the number, Hispanics are fairly represented.

Mr. Serrano said the caucus was worried about preventive care and about whether a national health insurance system would require people to carry identification cards and what uses those cards might be put to. But it has supported the most controversial provision of the Gephardt legislation, the requirement that employers pay 80 percent of the cost of their workers' health insurance.

Mr. Serrano hears most often not from insurance companies or other giants of the health care debate, but from fellow caucus members and strictly local interests, particularly the teaching hospitals.

Mr. Serrano is sympathetic to some of the hospitals' concerns, but he wants them to admit more local residents into their training programs. "Maybe it's time for me to do a little lobbying," he said, clearing his throat, pinching his collar and straightening his tie.

In his office, which features portraits of Robert F. Kennedy and Martin Luther King Jr., Mr. Serrano pointed out that "not all the lobbying is done right here. Anywhere you are, you get lobbied."

He added, "It's people saying, 'Listen, you want this? You want that? You want this? You want that? Fine.'"

He reached for a piece of paper. "This is the White House lobbying," he said. "It has my name on it. They ran off a beautiful computer thing that singles out your district. It gives me information I didn't have, that there are people in my district who are not covered by Medicaid and Medicare and who need universal coverage."

The analysis said that 94,000 people, including 36,000 children, in Mr. Serrano's district had no health coverage. It also said that with universal coverage, the 72,000 middle-class families in his district earning $20,000 to $75,000 annually would save an average of $612 a year on insurance premiums.

The grass-roots groups, he said, "remind you of what it is they do and their value to society and why we have to be careful not to hurt them."

He said insurance companies are the "toughest" lobbyists "because they're very negative in their approach. They say, 'Everything is O.K. Why don't we leave things the way they are?' It's hard to negotiate with someone who believes no change is needed."

The leading health and insurance political action committee contributors, Jan. 1, 1993, through May 31, 1994.

American Medical Association	$977,704
American Dental PAC	630,553
National Association of Life Underwriters	612,301
American Hospital Association	551,266
American Nurses' Association	444,446
Independent Insurance Agents of America	371,260
American Family PAC	345,850

Source.—Citizen Action, a consumer group that supports a Canadian-style health system.

KEEPING TRACK—WHO GETS THE MOST

Recipients of campaign contributions from the health and insurance industries political action committees from Jan. 1, 1993, through May 31, 1994.

Top 10 Senate Recipients

1. Kay Bailey Hutchison (R-Texas)	$611,009
2. Joseph I. Lieberman (D-Conn.)	294,020
3. Connie Mack (R-Fla.)	293,455
4. Daniel Patrick Moynihan (D-N.Y.)	280,485
5. John H. Chafee (R-R.I.)	272,549
6. Orrin G. Hatch (R-Utah)	267,141
7. Dianne Feinstein (D-Calif.)	235,755
8. Bob Kerrey (D-Neb.)	223,299
9. Edward M. Kennedy (D-Mass.)	221,439

10. Kent Conrad (D-N.D.)	216,200
John B. Breaux (D-La.)	5,250
Top 10 House Recipients	
1. Jim Cooper (D-Tenn.)	$540,145
2. Richard A. Gephardt (D-Mo.)	228,476
3. Jon Kyl (R-Ariz.)	201,758
4. Pete Stark (D-Calif.)	190,245
5. Jack Fields (R-Texas)	190,215
6. Michael A. Andrews (D-Texas)	176,925
7. Dan Rostenkowski (D-Ill.)	169,050
8. Newt Gingrich (R-Ga.)	141,611
9. Bill Brewster (D-Okla.)	130,614
10. Robert T. Matsui (D-Calif.)	129,354
Paul McHale (D-Penn.)	8,540
Jose E. Serrano (D-N.Y.)	7,000

Source.—Citizen Action, a consumer group that supports a Canadian-style health system.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Chair. I will not take too much time, I say to the Senators seeking recognition.

Mr. President, I wish to compliment and thank again my friend and colleague from Minnesota for his very eloquent words. He is right on the mark on the issue of trying to get back to representative democracy, and we will not do it until we have adequate campaign finance reform. So I thank the Senator for his contribution in that area.

ACTION BY THE FEDERAL RESERVE

Mr. HARKIN. Mr. President, I wish to depart for just, hopefully, no more than 5 minutes from the debate that has been ongoing about health care to talk about something that happened just about 2 hours ago that in all of the discussion and debate we are having about health care I think may have a more drastic impact than some of the things we are doing right now, with more immediate impact on Americans and their lives.

Less than 2 hours ago, the Federal Reserve Board announced that there would be another hike in interest rates. There will be an increase in the Federal funds rate and the Federal discount rate by a full half point. I believe that is going to be very damaging to our Nation's economy. While that increase may be beneficial to those with substantial direct interest in the bond market, it is going to be harmful to average, ordinary Americans.

There are three things on which I think the Federal Reserve Board is wrong. First, inflation is not a threat at this time.

Second, the economy is not overheating.

Third, increasing interest rates will without a doubt reduce economic activity, particularly in very sensitive sectors like housing and autos. Agriculture where borrowing is necessary will also be harmed.

The Fed seems to think that inflation is likely, but the facts do not bear this out. Inflation is under better control now than it has been for decades. The Producer Price Index has only increased by six-tenths of a percent over the last year. The figure that came out on Thursday for July showed a substantial increase, 0.5 percent. But almost all of that was due to two things: Fuel, partially caused by an oil strike in Nigeria; and food, largely caused by a huge increase in the cost of coffee, which rose by 22 percent. This rise in coffee prices accounted for four-fifths of the increase in food inflation. But poor coffee crops do not mean generally higher inflation. Crude goods actually dropped by 0.9 percent in July.

Another key indicator, the Consumer Price Index, has increased only 2.7 percent over the past year. Wage increases, which could be the greatest threat to serious inflation, if it ever should occur, has risen a paltry 0.4 percent adjusted for productivity.

In other words, inflation is under control. While we are seeing certain specific commodities with significant price increases—I mentioned coffee and oil—real inflation is lower now than it has been in decades.

I think the second point that the Federal Reserve is overlooking is that the economy is slowing down. Cyclical industries are already showing serious softness because of earlier Federal Reserve actions. New housing starts have been moving down since the Federal Reserve started increasing rates in February.

Mr. President, this is the fifth increase in interest rates by the Federal Reserve Board since February. And what has been happening? Housing starts are now 6.8 percent below their March level. Auto sales are soft. The unemployment rate rose to 6.1 percent last month. There are over 8 million people counted as being unemployed, 4.4 million people forced to work at part-time jobs due to unavailability of full employment and large numbers who have left the job market altogether because they have given up.

The argument by some that we must dampen down the economy now to avoid the possibility of future inflation does one thing. It guarantees a sure loss in jobs and growth in order to assure that the smallest possibility of inflation is wiped out.

But the cost to our economy is great. Some say that the bond market is only happy in a recession. Well, it appears to me that the chairman of the Federal Reserve system is happy only when the bond market is happy. I might be a bit too strong, but I think it is correct. What they are looking for is the effective elimination of all true inflation but to achieve that they are almost willing to have the economy in a continuous stall, and that is what we are coming into right now.

So what are the economic and social results of the Federal Reserve policy? Well, if you are in the bond market, it is great. But if you are an average American working hard to try to raise your children, you are worried about losing your job and no growth in income. In fact, you are probably losing ground. Your ability to buy a house has been sharply reduced.

A 30-year conventional mortgage has risen by about 1.5 percent since February. If you have an adjustable-rate mortgage, your monthly payments are going to go up $100 to $150 a month compared to the rate based on February's interest levels. That hurts working families. If you are a farmer with significant loans to cover the cost of buying materials you need to feed your hogs or other livestock, your interest rates will rise and your profits will shrink. That is the real world out there. That is what is happening.

The bottom line is that the Federal Reserve has taken action which is clearly not in the Nation's interest. They have decided on a very narrow agenda, effectively captured by the narrow interests of the bond market rather than balancing the bond market's needs with that of the Nation as a whole.

Plain and simple, Mr. President, the Federal Reserve Board is out of touch with ordinary Americans and what is happening in our economy. This is something that needs to be talked about further.

I will close with this, Mr. President. In a recent article in the Washington Post, the writer, Jim Hoagland, made these points. He said:

> One man's job is another man's basis point in the brave new economic world of the central bankers.
>
> Being unemployed may be bad for you, but cheer up. It cools inflation, and should be good for the markets. That is part of the unspoken and unspeakable philosophy that lies behind the manipulation of interest rates in the world's leading industrial economies in recent months. Because of the central bankers' abiding and unbalanced fear of inflation, declining unemployment rates have become a hair trigger for raising interest rates.

Mr. Hoagland went on to say:

> The bankers and fund managers resemble old generals refighting the last war after the battlefield has changed. They build an imaginary line of high, long-term interest rates instead of adapting monetary policy to a world in which the greater barriers to economic renewal are unemployment and the lack of public investment in productive enterprises.

Mr. Hoagland closed by saying:

> Growth is measured in jobs, as well as in stock and bond prices. Low inflation rates purchased by high unemployment will turn out to have been a very dubious bargain.

Mr. President, I did not mean to interrupt this ongoing debate about health care, but I do believe that the action taken by the Federal Reserve Board earlier this afternoon is going to further stall our economy, further raise interest rates, and create higher unemployment than we would otherwise have out there. It is going to start slowing this economy down even more, and I do not believe the Federal Reserve Board really had the basis for raising those interest rates, once again—five times since February.

Mr. President, I have been supportive of the independence of the Federal Reserve Board. But I think we have to get some people on that Federal Reserve Board that really understand what is happening to ordinary working Americans out there. Their action today is going to hurt people. It is going to cause working families to have a reduction in their income and their standard of living.

It all may be lost in the debate on health care that is going on here right now. But I did not want the afternoon to pass without at least one Senator getting up and challenging the Federal Reserve Board on the actions they took today because I believe the actions they took will truly hurt the working Americans.

Mr. MOYNIHAN. Will the Senator yield for one question?

Mr. HARKIN. Yes.

Mr. MOYNIHAN. Knowing the standards of courtesy and integrity which he embodies, I wondered if he would not want to modify the remark about the Chairman of the Federal Reserve which could be taken as personal. Dr. Greenspan is a person of deep, utmost integrity, of great learning, and a genuine concern for what he thinks is best for the American economy. He would not have any partiality to bondholders any more than to stockholders. The concern about inflation has sort of for half a century been a concern of the successive Chairmen of the Federal Reserve. No one had to deal with it more dramatically than the predecessor in 1982 who had to bring us into a deep recession because we had gotten to the point of double-digit inflation. That was a dramatic act. We would never want to see that repeated. So we would never want to see a situation where it was necessary.

Mr. HARKIN. If the Senator will yield, I said in my remarks that "it seems"—I will check the RECORD. But I said "it seems" to me that the Chairman of the Fed is only happy when the bond market is happy. I said it appears to be.

I do not deny that Mr. Greenspan—I did not use his name. But he is the Fed Chairman. I do not know him personally. But I understand that he is a man of high character, high integrity. I accept the judgment of the Senator from New York.

Mr. MOYNIHAN. He is surely that.

Mr. HARKIN. I accept the Senator's judgment on that.

Obviously, I do not know him personally. I am just looking at the record of what has happened since February. I do not believe that what is happening in our economy warrants five increases in the interest rates from, I think, if I am not mistaken, 3 to 4.75 in the Federal funds rate since February. I think it bodes ill for our economy. I think that perhaps the Federal Reserve Chairman, perhaps others on the Federal Reserve Board, have too narrow of an approach in looking at our economy.

I think we have to understand some other things going on in our economy other than just the possibility of future inflation. I do not believe the Senator from New York means to say that the present situation that we have encountered over the last 18 months at least, perhaps even 2 years, is in any way near what we were facing in the late 1970's.

Mr. MOYNIHAN. No.

Mr. HARKIN. Or eighties. We are not anywhere close to that. I said we do not have serious inflation out there, to speak of, right now. Yet, because there is a possibility that at some future time we might see inflation going up—Federal Reserve action is taken to raise interest rates. I am just making the point that this is not something that just takes place in the financial pages of the Wall Street Journal. It has real effects on working people throughout this country.

So I apologize, and I do so if my words cast any aspersion at all upon the character of or the integrity of the Chairman of the Federal Reserve Board. It is not my intention to do that. I do not mean to do that. I just meant to say that I think his focus has been somewhat too narrowly focused just on the bond market, and it ought to have a broader focus than that. But, no, I did not in any way mean to impugn his integrity or loyalty to his country or anything else. But I think the Fed needs to take a broader view of the economy.

Mr. MOYNIHAN. I thank the Senator.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Thank you, Mr. President.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Mr. President, I do not intend to speak for hours in an opening statement on health care. But I do intend to reflect my feelings and those of an overwhelming number of my constituents in New York, at least those who have taken the time to call my office or write to us either here in Washington or in one of the offices that I have throughout the State of New York.

I think, Mr. President, that there probably is no area that is more important than the area of health care as it relates to each of us individually, as it relates to our families, as it relates to the American people. It is an area that no one can doubt needs reform. We need to improve it. But despite its flaws, it is still the best health care system in the world, bar none, the best. I daresay that if the poorest of the poor in this country had a problem, they would get better medical treatment here than Boris Yeltsin gets in Russia. Indeed, if Boris Yeltsin had a severe medical problem, he would probably come to this country, if he could, to get medical treatment.

So let us not take that choice away from Boris Yeltsin. More importantly, let us not take that choice away from the American people.

I have a piece of advice because I have been hearing a lot of people offering advice. I say to the President and to the First Lady, passing bad legislation that the American people do not want is not good politics, and it is not good government. Take it either way. It seems to me that what is taking place—at least that is the feeling that I get—is that some would have us act such that we would not make corrections that we all know need to be made, and not improve the system that we know can and should be improved. But, no, they say you must take the whole thing. Otherwise, we will accuse you of playing politics. Otherwise, we will say that you are holding captive this important piece of legislation.

I say we were not sent here by the people to surrender good judgment on the altar of political expedience, or under threat of being kept in session around the clock. We were sent here to work to bring about a better system if possible, but not to destroy the best system that exists in the world.

Less than 2 weeks ago, we got our first look at Senator MITCHELL's health reform package.

That was a bill of some 1,410 pages, 46 pages longer than even the 1,364-page Clinton bill. That was less than 2 weeks ago. The ramifications in that legislation—and it is voluminous—reach right into everyone's home. And the people have a right to know, how does this legislation affect them, and how does it impact the plan that they have at the present time? The people have a right to real answers.

I daresay that there are many of my colleagues who do not have those answers. I do not have all of the answers. I am still learning.

That was 2 weeks ago when the first bill was placed on our desks. Then when I checked my desk Wednesday, I found that the bill had grown, and this new bill—call it Mitchell 2—was 1,448 pages long, 84 pages longer than the Clinton bill. And, yes, on this Saturday we were presented with the third Mitchell bill, 1,443 pages long, actually 5 pages less than the second one. There is a rumor that there may be Mitchell 4; I do not know. But I do know that we cannot implement 1, 2, or 3 without doing significant harm to our American health care system and the American taxpayers. I do know that it is a flawed bill, deeply flawed.

Whichever bill you choose, the result is the same: More taxes, more new entitlements, and much more Government intrusion into our health care system.

Mr. President, I do not intend to tie up my colleagues on the floor, but I think these things have to be said. I do not intend to speak for 2 or 3 or 4 hours on this. This is not an attempt to impede, but it is an attempt to educate. I have to tell you that as the days go by, more and more people call, and some call and say: You know, we want there to be changes, but we want you to do it the right way. Do not just rush this through. Take your time. That is what the sentiments of these people are, and it is the gist of the numbers which I am going to share with you in a little while.

This bill contains hundreds of billions of dollars in new taxes—taxes that could have a devastating impact on middle-class America, taxes and costs on existing health plans that go well beyond what people have ever imagined. Let me just cite two of these new taxes. There is a 25-percent tax on health insurance premiums that grow faster than a premium cap. Who establishes this cap? Some board on some vague principles that no one knows about. If you turn to page 1170, section 4511(a)(1), it states:

> If a community-rated certified standard health plan is a high-cost plan—

I do not know what this high-cost plan is. It very well could be that the plans most people have would be rated high-cost.

> for any coverage period beginning after December 31, 1996, there is hereby imposed a tax equal to 25 percent of the excess premiums of that plan.

Mr. President, this tax could force millions of Americans to pay more taxes on the plans that they have already chosen. That is not me saying this. That is the Congressional Budget Office. They say:

> Virtually all plans would be subject to the assessment called for in Senator Mitchell's proposal.

The words have meaning. We are talking about something of some tremendous significance. So someone who has worked and has bargained and who has achieved a plan that in December 1996, may be considered to be one of these so-called high-cost plans, finds him or herself in a situation where their premiums are raised 25 percent. Let me suggest that all the legislation in the world that says the insurance company cannot pass the cost on is not worth anything. Do you mean to tell me that you are going to raise a tax of 25 percent on the excess of that part that you say is too rich? Since when should people be penalized for buying health care insurance, whether or not they have bargained for it, that is excellent and fully comprehensive.

I thought this was the United States of America, where people had the right to invest in those plans that would give to their families the best protection. Now we are going to penalize them. It is absurd to say that insurance companies are not going to pass that extra cost on and, indeed, some insurance companies, in order to beat that, will raise their costs between now and December 1996. This tax will apply regardless of the reason the plan was considered high-cost. But it is most likely to affect desirable plans which seek to provide the highest quality benefits and the broadest choice of providers—or those that cover the sickest individuals.

I cannot understand that. That is under the name of cost containment. That is Government regulation at its worst. If we want to get ourselves into deep trouble, let us adopt this kind of philosophy. We could be debating this principle alone, and its cost and implications, for days, and for anyone to suggest that we adopt this whole thing, take it or leave it, within a period of hours, days or weeks, is simply wrong. That is not why we were sent here. Take it or leave it, or we are going to keep you in like little children. You will not be able to go home. So what, that is our job. Are we supposed to be cowed by that and ignore our rights, and ignore the fact that we were elected to come here to look at these provisions, to examine them? These are important, these are critical, these are life and death issues.

I suggest to you that any plan that is so important to the life and health of the people of this country should never have been designed in a back room with the 600 people in the task force that came together, without the benefit of real, comprehensive hearings, and without the benefit of a full examination of all of the details that are critical to the life of this country and its people. I think it would be a political charade if we pushed something through for the sake of saying we pushed it through. That is politics and government at its worse.

CBO estimates that this tax would cost American taxpayers $70 billion over a 10-year period of time. Just that 25 percent tax. I have to tell you that if you look at CBO estimates, if you look at what they estimated the cost of Medicare would be, you would find out that it has increased about seven times more than their original estimate. It was seven times more. I do not know whether this is going to be $70 billion. It is certainly not going to be less than $70 billion.

Here is another tax. There is a 1 percent tax on health insurance premiums levied by the State to fund "administrative expenses." That only amounts to $50 billion. We take that tax and the other taxes levied in this bill and we come out to a total of over $300 billion in new taxes.

Then again when we have people say, "Oh, well, do not worry; Government can do it better, faster, more efficiently, and more effectively." On what planet? That must be a planet I am not aware of. That is certainly not true in this country, and I know of no other country on the planet where it is.

This bill creates and empowers dozens of new Government bureaucracies.

And there is one in particular that would have devastating consequences for my home State of New York, one which the senior Senator from New York, Senator MOYNIHAN, eloquently addressed—a new Council on Graduate Medical Education. We are going to take a bunch of bureaucrats, and they are going to determine for us how many doctors we should have and what their specialty should be.

I wonder who it is going to consist of. Will Hillary be on that council? Will she tell us how many thoracic surgeons, how many specialists there will be in various specialties? Incredible. We are now going to micromanage the health of America so that the Federal bureaucrats will determine who the specialists in America will be and how many. Fabulous. Fantastic.

They even had a hard number in their original bill. They effectively said that you are going to have to eliminate right off the bat in New York over 3,000 residents, specialists who come in and get the best training, specialists who, by the way, are dispersed throughout this country and through parts of the world.

Let me tell you what this would mean. New York trains 11 percent of all the country's medical students and nearly 16 percent of the medical residents. Imagine. They have already determined—and I do not know where or how this was determined—that they are going to reduce the total number of medical residents across the board by one-fifth, and that results in a loss of 3,000 medical residents in New York City alone.

Well if we are going to talk about Government deciding how many specialists we are going to have—how many cancer specialists, how many heart specialists—do you not think that we should have some thorough and comprehensive debate as to how this is—testimony not from politicians, but from leading educators, from people in the field, as to whether or not that is an idea we should even contemplate? Do you not think that would be deserving of some kind of introspection, some kind of close examination? And I do not mean on the floor of the Senate with no facts, with no basis by which to make our judgments. This procedure is an absolute sham. We should not be proceeding on this bill in this manner.

I have just touched on two items, and they are pretty doggone important to the health of this country.

And there are thousands of items that are as critical if not more critical jammed into this bill that affect the lives of every American. That is why Americans are on the telephone and why they are calling. And I have these numbers I will submit as a representation of the calls that have come into our office from August 8 to August 16 up to 12 o'clock.

New York City, against implementing a health care bill this year—by the way, most of these people have expressed that they want reform, but they say do it right, do not rush it this year, wait until next year, and then go ahead—against, 475; in favor of going ahead and enacting the Mitchell bill, 291. Even in New York City the ratio is clearly 3 to 2 against going forward.

Rochester, NY, 162 against; 12 for—14 to 1 against going forward.

Our Washington, DC, office—and most of these people call from New York City—691 against; 258 for going forward, almost 3 to 1 against going forward.

Albany, NY, 190 against going forward; 25 for going forward, a ratio of 7.5 to 1 against.

Buffalo, 563 against going forward and adopting this bill.

I tell you if we began to examine this bill in the kind of detail that we should in terms of discussing just some of the issues that I have brought up here, you will find these numbers will go off the chart, and I will assure you that this Senator will look to discuss, even in as limited and circumscribed a manner as this body prescribes, that we examine the issues, that we examine them. They are too important just to be shoved through without debate.

Syracuse, 452 against to 35 for, a ratio of 13 to 1 against.

All in all, it is almost 4 to 1 against, 2,534 to 750.

Mr. President, I ask unanimous consent to have printed in the RECORD, the tally of health care calls with reference to the Mitchell bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEALTH CARE CALLS IN MITCHELL BILL: 8/8–8/16, AS OF 12:00 PM

	Against	For	Ratio
New York City	475	291	1.65:1
Rochester	162	12	14:1
Washington, DC	691	258	2.7:1
Albany	190	25	7.5:1
Buffalo	563	129	4.4:1
Syracuse	453	35	13:1
Total	2,534	750	3.5:1

Mr. D'AMATO. Mr. President, as I have said, the loss of these residents to New York will have devastating consequences on New York, but it is also devastating to the Nation when one stops to think that we train almost 16 percent of the medical residents in this Nation.

It would cost us 3,000 residents. I tell you that the cost would be incalculable as it relates to the quality of medical care in the New York urban area. The financial cost alone would be well over $500 million. The quality of care that our people would have would diminish tremendously just in this one area.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. MOYNIHAN. When the Senator speaks of a resident in a hospital, he is talking about a doctor?

Mr. D'AMATO. Correct.

Mr. MOYNIHAN. The doctor.

Mr. D'AMATO. Fully certified doctor who is getting his specialty—his training—and some going on into the specialties. And so we would be taking out—and I thank my colleague for making the point—3,000 fully trained doctors, some of them working in their specialties. We would be removing them from servicing the needs of the urban poor. It has been estimated that to replace them would cost somewhere in excess of $566 million annually in New York alone. You would have the same kinds of consequences in other key centers throughout this Nation.

Again, I would emphasize the absurdity of thinking we are going to turn it over to a Federal bureaucrat or a board to determine how many doctors in the various specialties there will be. Have we not ever learned about the law of supply and demand? While the rest of the free world is looking to come to a market-oriented economy, here we are moving in the other direction, with Big Brother determining the allocation of medical specialists in our Nation. We are not talking about plumbers and carpenters and saying maybe we have to increase the emphasis on them in our trade schools. We are talking about life and death matters. We are talking about people who want to dedicate themselves to the service of others. And some bureaucrat is going to determine this.

Mr. President, the Federal Government, to be parochial, does not have the right to tell New York, or any other city for that matter, how to run its medical schools and teaching hospitals and does not have the ability to do that. I spoke to Dr. DeBakey, the great surgeon, the great pioneer at Baylor College of Medicine in Houston, and he absolutely could not believe it and made reference to what a blow this would be to science and to medical care if we were to attempt to implement this. By the way, this board's decisions would be final. They are the arbiters.

Mr. ROCKEFELLER. Will the Senator from New York yield?

Mr. D'AMATO. No; I will not. I have been waiting for days and days. I am not going to speak for hours. I want to make my point.

Young Americans who grow up wanting to be doctors should not be told by a Government bureaucrat what career they will be placed in. They should not be told we have too many doctors in this specialty or that specialty. If they want to try to make it and they have the ability to make it, then they have the right to try. There is something called the law of supply and demand.

Government bureaucrats should not have the right to tell any American what health plan is best for them, and that if you have one better than the standard benefits package we are going to assess you, we are going to tax you for it, you are going to pay more for it. The American people do not want a Government-run health care system. They want Congress to fix what is broken and to leave alone what is not. And we have an obligation to fix what is broken.

We can easily identify it, and we have. But for some reason, we do not want to just fix that which is broken. We want to go beyond. We can fix what is broken by enacting commonsense reforms that Members of both parties already agree will help solve the biggest problems in our health care system, reforms like portability, so those who move or change jobs can take their coverage with them; insurance protection, so people with preexisting medical conditions will not be denied coverage and those who fall ill will not have their coverage dropped; and tax reforms. My gosh, why should someone who is self-employed lose the ability to deduct his cost if we say that is an essential part of America? Let us do that. Let us give small businesses and individuals the same tax relief for buying health insurance as people with employer coverage. It is common sense.

But, no; some people want to create a political campaign, a political storm, and say we are going to fix it all; you are going to take it all whether you like it or not, whether you have a good health care plan or whether you do not, because we know what is good for you. What the American people do not want, is for us to adopt the Mitchell bill—or any bill—for political reasons. No bill should be adopted for political reasons. No bill should be stopped simply for political reasons. Congress should not pass a bill simply to pass one. That is wrong. And that is what the American people are telling us. They are saying take your time and do it right.

If I have to come down to this floor as we proceed, and go through section after section, not to nitpick but to raise issues that are critical, it is my obligation to do so if I see we are just determined to ram this bill through. That is not a filibuster, and it is not intended as one. But it will be intended to explore and to develop all of the facts. I suggest this is the wrong forum to do it. These matters should have been gone over in detail.

I know the Labor Committee had their hearings. They did not go over these things in detail. I say to my learned colleague, the chairman of the Finance Committee, some of these provisions have to be new to him and he, too, has to be very concerned about them. We all should be.

This is just the tip of the iceberg. Tomorrow I intend, for a short period of time, to come down to the floor and touch on at least one other critical area. We are talking about the health of the people of this country. People do not want us to abdicate our responsibilities.

I broke my shoulder in three places. I was able to pick the best doctor, and thank God he did not have a bureaucrat who determined whether or not he could or could not go into his specialty. That is the last thing we need. When my dad had an open heart procedure—fortunately, it was an angioplasty—we picked the doctor. He had an insurance plan he subscribed to. He went to the hospital of his choice. Americans should have that right. No one should lose the ability to pick their doctor and the hospital of their choice because we allowed Big Brother Government to say, "Oh, no, that is too good a plan."

I hear about this great Canadian plan. Is that why so many people come over to use the hospitals in Buffalo, because they do not want to wait 6 months, 8 months, a year, a year and a half, for some of the optional services that here in this country our people get when they are sick or in pain? Are we going to have a bureaucrat say, "Wait a minute; we cannot do any more hip replacements"? Is that what we are talking about?

Let me share two letters that have come to me, one dated August 8 from a constituent from Honeoye Falls:

> DEAR SENATOR D'AMATO:
>
> The thought of a health bill being pushed through the Congress in the next two weeks sends shivers through my spine. How can you people digest the huge amount of information being stacked before you and make a responsible decision on what is best for the people of America?
>
> I want to know what is being promised in the various bills, what it will cost, who will be covered, how will it work, who will pay for it, how it will affect the health coverage I already have . . .
>
> I want you to know that is the dominant thing so many people call about. They say: I like my health care coverage. I want to continue it.
>
> I urge you to wait until we know all the answers to these questions before considering such sweeping changes to the American health care system—1995 is soon enough!
>
> Sincerely,
>
> ELINOR W. FISK.

I ask unanimous consent a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> HONEOYE FALLS, NY, *August 8, 1994.*
>
> Senator ALFONSE D'AMATO,
> *U.S. Senate,*
> *Washington, DC.*
>
> DEAR SENATOR D'AMATO: The thoughts of a health bill being pushed through the Congress in the next two weeks sends shivers through my spine. How can you people digest the huge amount of information being stacked before you and make a responsible decision on what is best for the people of America?
>
> I want to know what is being promised in the various bills, what it will cost, who will be covered, how will it work, who will pay for it, how it will affect the health coverage I already have, why the whole system has to be changed.
>
> I urge you to wait until we know all the answers to these questions before considering such sweeping changes to the American health care system—1995 is soon enough!
>
> Sincerely,
>
> ELINOR W. FISK.

Mr. D'AMATO. I have another very short letter from Laurrie Brinckerhoff, 15 Charles Street, New York, NY.

> Please! No Health Care Plan should be rushed through the Senate this year. If there is a plan, we need a carefully studied and well thought out plan.
>
> Sincerely,
>
> LAURRIE BRINCKERHOFF.

Mr. President, passing any bill without the public's informed consent is not good government. It is not good health care. It is not responsive to the will of the people. We are pushing this piece of legislation through at this time, and there is that momentum behind it, because of the political ramifications. That is wrong. The American people are telling us take your time. They are telling us do it right. They are telling us they want change. But they want it done the right way.

I think as people listen to the debate and to the areas of concern—not just amendments that are put forth, but the various areas of concern and the ramifications that this legislation contains—they will say resoundingly, "Don't just push it through." That is exactly what is taking place here.

I thank my colleagues and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise not to speak to the health care debate, but something else that is impacting on the health care debate. One of the problems on the health care debate is that a lot of people engaged in the debate either have not been around or paid attention for the last 2 years that we have been discussing the health care problem, or have not paid any attention to the committees in question that have held probably hundreds of hours of hearings, all told, on the problem, and now stand and wave around a bill as if this, whatever number of pages it is, is something that was dropped from heaven or come up from hell, and that they have never seen before.

The criticisms made of this bill in the generic form could be made about every piece of major legislation that ever passed through the Senate. I remind my colleagues who have had no problems voting on major communications legislation, major legislation relating to anti-trust measures, major legislation relating to a thousand other areas—the Clean Air Act, the Clean Water Act—larger than this. They could have said the same exact thing. That is why we have a committee system. That is why we have the staffs we have. That is why we are supposed to pay attention. That is why we are supposed to understand some of what has been done. But it astounds me how little is understood by people who engage in this debate—and I am speaking of no one in particular—but how little is understood. I will just say one thing to my friend from New York. He is my friend, as we say. He and I truly are good personal friends. He gave the example of his father wanting to be able to choose his own doctor and wanting to be able to choose his own hospital.

I think that is a phenomenally important right, whether we pass health care or not. The vast majority of Americans do not have that chance. If they work for major corporations, the corporations decide, and by the time this decade is over, I predict there will not be any plans that allow that. They will all be HMO's with preferred providers. They are coming along.

Just look at all the people in Washington today, the people who are in the galleries, in this city, and the people listening to this debate. I ask you: How does your employer change yours—if you are lucky enough to have health care plans—how have they changed those plans in the recent past? I happen to have chosen a plan that does not. I am not in an HMO. HMO's are cheaper. You can spend less money if you want to be in an HMO. The point is, a lot of this is changing whether or not we do anything at all, and a lot of the choices the Senator is worried about are going to be eliminated if we do not do something.

I will not take the time to discuss it now, but I have a summary of responses that have come into my office—I am from a very small State, unlike a large State like New York. New York literally has counties bigger than my State and New York City has a population that is probably somewhere around 13, 14 times as large as my entire State.

But roughly 7,000 people have written to me in response to a series of questions I asked them.

Mr. President I might point out, the answers have come to very different conclusions than the 2,200, or thereabouts, phone calls my friend from New York who represents a State with—what?—18, 19, 20 million people in it? I would not call those calls particularly representative.

CRIME BILL

Mr. BIDEN. Mr. President, one of the things that the health care debate is reflecting is the same kind of, in some cases, nonsense that the crime debate is generating. I think that in this town, if you say something often enough, repeat it often enough, people actually begin to believe that it might be true, if you just say it.

What I have learned of late when the House failed by a margin of eight votes to pass the crime bill on a technicality; that is, they did not even allow a vote up and down, as they say, for or against the crime bill. They had a procedural vote to hide the "no" votes so they would not have to say I am against it for politics or I am against it because I am against assault weapons being eliminated, roughly 19 of them. It was a procedural vote, not unlike a cloture vote we have in the Senate.

What I have heard in the last week about what is in this crime bill and the conference report I find truly astounding. I doubt whether there is anybody on the floor of the U.S. Senate—it does not mean I am any better, but I am stating a fact—anybody who has put as much time and effort into fashioning these crime bills over the last 20 years, the last 6 in particular, than me. I have a distinct disadvantage and advantage. The disadvantage is I have done nothing but this issue, it seems, for God knows how long it is. The advantage is I think I know as well as anybody what is in the bill and in great detail.

So for my colleagues who are acting in—and I always assume my colleagues act in good faith, who truly believe some of the stuff that they have heard and said, and this is the purpose of my rising now to sort of set the record straight and lay out the facts. I am not sure it will change anybody's mind, but I just think it is important that when one is against something, they have the right reasons; that is, they know what their reasons are for being against something.

Let us start off with pointing out what the bill is. It sets up a trust fund with no new tax dollars—no new tax dollars; no new tax dollars to fund this. You say, how could that be? We are going to spend $30 billion over 6 years and no new taxes.

The real issue is whether or not we reduce the deficit by $30 billion or spend the money on crime prevention and crime enforcement, law enforcement. That is a legitimate debate. But this red herring out there that this is going to cost $30 billion in new taxes is simply wrong.

Let me tell you how we fund the bill, again. All of you know this because you helped put this together. We voted this 95-4 when we voted it out of the Senate. The way we fund it is, we trade bureaucrats for cops, bureaucrats for prisons, bureaucrats for law enforcement, bureaucrats for drug treatment in prisons, while someone is locked up in prison, bureaucrats to fund the violence against women initiative.

You say, what does that mean? What we did, what this President did and we codified, we said we are going to reduce the Federal work force by over a quarter of a million people over the next 6 years. I might point out, by the way, that under this President there are fewer Federal Government employees today than at any time since John Kennedy was President. It rose under every Republican and every Democrat prior to this. This President has actually reduced the number of people working for the Federal Government.

We are going to reduce it by a quarter of a million people more. We cannot spend this money for crime until we fire or we do not rehire someone or fill a position. So what happens here is this savings, to use the Senate jargon, has been scored. We talk about OMB, the Office of Management and Budget, and we talk about the Congressional Budget Office, which means nothing to the voters at large. What they are is a bunch of bureaucrats sitting there with sharp pencils and computers and deciding whether or not what we say is savings or not savings or actually real dollars. Are they real or are they phony?

All of the organizations have pointed out—Democrat, Republican—everyone acknowledges that this is an actual savings that will occur by reducing the Federal work force, which we have already done in the last 2 years and will continue to do. Unless we reduce the Federal work force, we cannot increase the police force. Unless we reduce the Federal work force, we cannot increase the prison space. Unless we reduce the Federal work force, we cannot increase the number of drug courts, and so on.

So if my Republican friends want to stand up and say—which is totally legitimate—"Look, JOE, this bill you all put together and that I voted for before and I might not vote for now, this bill, instead—I have thought about it—instead of setting up a trust fund to take the savings that come from firing or reducing the Federal work force and put it in a trust fund to hire cops, instead of doing that, what I would like to do is take the savings from firing or reducing these Federal workers and I would like to reduce the Federal deficit even more"—I might add, by the way, this is the only President who has reduced the Federal deficit in the last 2 years. The Federal deficit has actually gone down. That is, the amount of the deficit that was projected, it has gone down. It is less each year under this President than anyone had predicted and less than under the Republican Presidents, and it is going down.

If they say we want it to go down even further, and we do not want 100,000 more cops, I respect that. That is OK, you can say that, then go to the voters and say, "I rather the deficit be down lower and not hire more cops." That is fair. That is honest.

Or if you say, "BIDEN, you have money in here for the operation, maintenance, and construction of over 105,000 new prison cells in the various States—not Federal prison cells—State prison cells. I do not want to spend the money for that, BIDEN. I want to go out there and reduce the Federal deficit over 6 years by $6.5 billion," well, that is fair. Let us debate that and let us let the people in our home States decide whether we should reduce the Federal deficit by another $6.5 billion or let us spend the money to build 105,000 new prison cells and maintain them.

That is a legitimate debate. But it is an illegitimate debate to suggest, and it is factually not true to say, this bill that BIDEN and others cobbled together is going to raise taxes $30 billion beyond what we are now paying. Not true. Not true.

So the first important point about this crime bill—and I see the chairman of the Appropriations Committee is on the floor. This trust fund was something that really was his idea. I was not smart enough to think about it. He is the smartest guy in this outfit. Truly. I am not being solicitous. He is. And he is the best legislator in this outfit. He is the guy who thought of this. I did not think of it. I wish I could take the credit. I did not think of it.

But this is not $30 billion in new taxes. This is $30 billion we are not going to reduce the deficit by and spend it on law enforcement. That is true, but it is not $30 billion in additional taxes.

(Mr. BYRD assumed the chair)

Mr. BIDEN. Now, the second point, in this bill over 6 years, for law enforcement there is $10.7 billion for local law enforcement and community policing. Not Federal cops. We go to the States and say we are going to give you *x* number of dollars if you do two things. No. 1, if you do not cut the number of local police. As the Senator from West Virginia, the President of the Senate, knows, we used to have a thing called LEAA, Law Enforcement Assistant Program, out there.

What we found out the States did, we would send the money, and States, to try to make their budget look better, and counties—and I used to be a county official. I remember when our county tried to do this. If you had 100 county police officers, you would go out and you would fire 25 of them, take the Federal money and hire them back with the Federal money. Then the States and localities would go to their taxpayers and say: You see how responsible we are. We cut your taxes. Those big-spending guys down in Washington. And we still had the same number of police.

We got smart to that down here. So in this bill we said, look, you want 1 new local cop paid for by the Federal

Government, if you now have 100 cops at home, if you reduce it by even 1, you do not get any Federal money. But if you maintain—maintenance of effort—if you maintain the 100 cops you have, we will give you money for more cops.

There are roughly 545,000 State and local police in all of America. This bill will add 100,000 additional local police. So you will have almost 650,000. We will increase by roughly 20 percent, a little less than 20 percent, the total police force in all of America that is not Federal.

The reason we know that is you do not get any money if you reduce your police force, if you do not maintain your effort. We are making a promise to the people back home. We are going to put more cops on the street. This is called truth in legislating.

Now, if you local folks back home do not want the money, do not ask for it.

My Republican friends say, well, there are strings attached to this money. Strings, malarkey. Nobody has to come and ask for this money. But if they ask for the money, I say to the Presiding Officer, they have to do two things. Promise, No. 1, that they are not going to fire their existing police force, and, No. 2, that they take all their police, not just the ones we are adding for them, but all their police and involve them in community policing so they are not just in squad cars, so many more are walking around on the beat, because, guess what?

Those of you from Houston, TX, those of you listening who are from cities like New York City, and all the places where they have done community policing, the violent crime has dropped roughly, in Houston by 19 percent.

This is not rocket science, folks. There are some things we know about crime. We know that if there are two street corners in the same city, one has a cop standing on the corner and one does not have a cop, the chances of a crime being committed where one has a cop is less than the one where there is not a cop. Again, not rocket science. Cops prevent crime as well as arrest perpetrators of crime.

So we are basically, I say to the Presiding Officer, getting a big bang for the buck. For the 100,000 cops we are providing, we are leveraging that to get 640,000 community police out there. Right now, of the 550,000 cops, there are perhaps 100,000 involved in community policing.

So that is a string. That is right. If you want the money, then what you have to do is you have to have your police in community policing.

Now, there is another criticism I hear from our Republican friends, who I might add all voted for this—all voted for this before. I do not know what happened between now and the time this will hurt the President if you vote against it. I do not know what strange thing happened. But they say, "Well, wait a minute. Is it not true after 6 years, BIDEN, the city or the county or the State is going to have to pick up the tab for this police officer?"

That is a condition? What is every other program? Are my Republican friends saying we should federalize the local police force? Does any one of them have an amendment with which they are going to stand up here and say, "I promise from this day forward we in the Federal Government will fund every local cop now and forever." Does that make any sense?

What do we do in every single program? There is a program out there now that started last year. It is $150 million in supplemental money to help local communities buy additional police officers. It is only, roughly, a 50-50 grant. They are falling all over themselves to come and say, "Please, you will pay for half a new cop for us." Wonderful.

It only lasts for 3 years. This lasts for 6 years, and it is $75,000 per cop. How are we hurting the communities by doing this?

When I was a young student in law school, I remember a professor saying, "Well, that's a red herring." I thought, "What is a red herring?" I thought a red herring was a fish or something. Well, these are not red herrings. These are things that do not have anything to do with the merits of the subject. These are smokescreens.

Now, what else is in this legislation? I can see my friend from West Virginia is standing up, so I am going to not go through all I was going to go through because this really should be a health care debate, but there is so much out there being said, I say to the Presiding Officer, that is simply not true I feel I have to say something now so at least I can engage my Republican friends in a little truth in debating as we go down the road.

What are the major arguments used against this bill?

I ask unanimous consent that the totality of all that is in the crime bill conference report broken out in terms of how much is spent for each item be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF CRIME CONFERENCE REPORT

TOTAL TRUST FUND DOLLARS—$30.2 BILLION

Provides $30.2 billion over six years through the Violent Crime Reduction Trust Fund. Savings from the President's reductions in the federal workforce, as calculated by the Congressional Budget Office—and locked in by reductions in the budget caps—will fund $30.2 billion in crime bill initiatives as follows:

LAW ENFORCEMENT—$13.2 BILLION

State and local[1]—$10.7 billion, including:

Community Policing: $8.8 billion to put 100,000 police officers on the streets in community policing programs.

Rural law enforcement: $245 million for rural anti-crime and drug efforts.

Technical automation: $130 million for technical automation grants for law enforcement agencies.

Brady bill: $150 million for Brady bill implementation.

Drug enforcement: $1 billion in Byrne formula grants.

DNA: $40 million for DNA testing research and programs.

Courts, prosecutors, and public defenders: $200 million.

Federal—$2.6 billion, including:
FBI: $250 million.
DEA: $150 million.
INS and Border Patrol: $1 billion.
United States Attorneys: $50 million.
Treasury Department: $578 million.
Justice Department: $300 million.
Federal Courts: $200 million.

PRISONS—$8.3 BILLION

Grants to States: $6.5 billion to states for prisons and incarceration alternatives such as boot camps to ensure that additional prison cells will be available to put—and keep—violent offenders behind bars. 40% of monies to be set aside for states that adopt truth in sentencing laws.[2]

Alien Incarceration: $1.8 billion to states for the costs of incarcerating criminal illegal aliens.

CRIME PREVENTION—$7.4 BILLION, INCLUDING:

Ounce of Prevention: $100 million to create an interagency Ounce of Prevention Council to coordinate new and existing crime prevention programs.

Community Schools: $630 million for after-school, weekend and summer "safe haven" programs to provide children with positive activities and alternatives to the street life of crime and drugs.

F.A.C.E.S.: $270 million to provide in-school assistance to at-risk children, including education, mentoring and other programs.

YES: $550 million for the President's Youth Employment and Skills crime prevention program, to provide jobs to young adults in high crime areas. Conditions program involvement on continued responsible behavior. Authorizes an additional $350 million from non-Trust Fund sources.

Violence Against Women Act: $1.8 billion to fight violence against women.

Includes funds to increase and train police, prosecutors, and judges; to encourage pro-arrest policies; for victim services and advocates; battered women's shelters; rape education and community prevention programs; a national family violence hotline, and increased security in public places.

Provides first-ever civil rights remedy for victims of felonies motivated by gender bias.

Extends "rape shield law" protections to civil cases and to all criminal cases to bar irrelevant inquiries into a victim's sexual history.

Requires all states to honor "stay-away orders" issued by courts in other states.

Requires confidentiality for the addressees of family violence shelters and abused persons.

Local Partnership Act: $1.8 billion for direct funding to localities around the country for anti-crime efforts, such as drug treatment, education, and jobs.

Model Intensive Grants: $895 million for model crime prevention programs targeted at high crime neighborhoods.

Community Economic Partnership: $300 million for lines of credit to community development corporations to stimulate business and employment opportunities for low-

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Footnotes at end of article.

income, unemployed and underemployed individuals.

Drug Treatment: $425 million for drug treatment programs for state ($300) and federal ($125) prisoners. Creates a treatment schedule for all drug-addicted federal prisoners. Requires drug testing of federal prisoners on release.

Anti-gang grants: $125 million for programs to give young people positive alternatives to gangs (such as academic, athletic, artistic after-school activities, mentoring programs, scout troops, and sports leagues).

Sports Leagues: $40 million for midnight sports leagues to give at-risk youth nightly alternatives to the streets, and $50 million for the U.S. Olympic Committee to develop supervised sports and recreation programs in high-crime areas.

Boys and Girls Clubs: $30 million to establish clubs in low income housing communities, and $10 million to encourage police officers to live in those communities.

Triad: $6 million for partnerships between senior citizen groups and law enforcement to combat crimes against elderly Americans.

Police Partnerships: $20 million for partnerships between law enforcement and social service agencies to fight crimes against children, and for the creation of youth councils to combat crime.

Visitation centers: $30 million for supervised centers for divorced or separated parents to visit their children in "safe havens" where there is a history or risk of physical or sexual abuse.

DRUG COURTS—$1.3 BILLION

Provides $1.3 billion for drug court programs for at least 600,000 nonviolent offenders with substance abuse problems over the next six years. Participants will be intensively supervised, given drug treatment, and subjected to graduated sanctions—ultimately including prison terms—for failing random drug tests.[3]

FIREARMS

Assault Weapons: Bans the manufacture of 19 named military-style assault weapons, assault weapons with specific combat features, "copy-cat" models, and high-capacity ammunition magazines ("clips") of more than ten rounds.

Kids and Guns: Prohibits the sale or transfer of a gun to a juvenile, and possession of a gun by a juvenile.

Domestic Abusers: Prohibits gun sales to, and possession by, persons subject to family violence restraining orders.

Gun Licensing: Strengthens federal licensing standards for firearms dealers.

GANGS AND YOUTH VIOLENCE

Gang Crimes: Provides new, stiff penalties for violent and drug crimes committed by gangs.

Using kids to sell drugs: Triples penalties for using children to deal drugs near schools and playgrounds.

Recruiting, encouraging kids to commit crimes: Enhances penalties for all crimes using children, and for recruiting, encouraging children to commit a crime.

Drug free zones: Increases penalties for drug dealing in drug free zones—near playgrounds, schoolyards, video arcades, and youth centers.

Public housing: Increases penalties for drug dealing near public housing projects.

Adult prosecution of violent juveniles: Authorizes adult treatment of 13 year olds charged with the most violent of crimes (murder, attempted murder, aggravated assault, armed robbery, rape); authorizes grants to states for bindover programs for violent 16 and 17 year olds.

DEATH PENALTY

Expands the federal death penalty to cover about 60 offenses, including terorism, murder of a law enforcement officer, large-scale drug trafficking, drive-by-shootings, and carjackers who murder.

OTHER PENALTIES

Three Strikes: Mandates life imprisonment for criminals convicted of three violent felonies or drug offenses.

Miscellaneous: Increases or creates new penalties for over 70 criminal offenses, primarily covering violent crimes, drug trafficking and gun crimes, including:

Drive-by shootings; use of semi-automatic weapons; drug use, trafficking in prison; gun, explosives possession by convicts; sex offenses, assaults against children; crimes against the elderly; interstate gun trafficking; aggravated sexual abuse; gun smuggling; arson; hate crimes; and drunk driving.

TERRORISM

Death penalty: Creates new terrorism death penalty, and extends the statute of limitations for terrorism offenses.

Increased penalties: Increases penalties for any felony involving or promoting international terrorism.

Treaty implementation: Creates new offenses implementing treaties regarding crimes against maritime platforms and in international airports.

Informants: Creates new authority for the Attorney General and the State Department to bring witnesses to the United States to testify in terrorist crimes.

CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT—$1 BILLION

Deportation of criminal aliens: Provides a new summary deportation procedure to speed deportation of aliens who have been convicted of crimes.

Increased penalties: Increases penalties for smuggling aliens and for document fraud.

Funding: Provides a total of $1 billion for new border patrol agents, asylum reform, and other immigration enforcement activities.

CRIME VICTIMS

Right of allocution: Allows victims of violent and sex crimes to speak at the sentencing of their assailants.

Mandatory restitution: Requires sex offenders and child molesters to pay restitution to their victims.

Protection of Victims fund: Prohibits diversion of victims' funds to other federal programs.

FRAUD

Telemarketing fraud: Enhances penalties for telemarketing frauds targeted at senior citizens and multiple victims.

Computer fraud: Revises and expands computer crime offenses.

Insurance fraud: Creates a new federal offense of major fraud by insurance companies against their policyholders.

Credit card fraud: Revises and expands credit card fraud offenses.

FOOTNOTES

[1] Police Corps: Also authorizes $400 million from the general Treasury for college scholarships for students who agree to serve as police offers, and for scholarships for in-service officers.

[2] An additional $2.2 billion is authorized for prison and boot camps grants from the general Treasury (non-trust fund sources).

[3] The combination of prevention and drug court monies brings the total trust fund dollars for prevention and rehabilitation to $8.7 billion.

Mr. BIDEN. Let me just point out some of the recent criticisms that I have heard on television or on this floor from my Republican friends. One is that the crime conference report funds social welfare programs that have nothing to do with fighting crime. You have all heard that one, right. You heard that on the TV, read the paper lately. The crime prevention programs in the crime conference report are all, I might add, supported by law enforcement organizations. I ask unanimous consent that all the law enforcement organizations that have endorsed this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT FOR THE CRIME BILL

POLICE GROUPS

Fraternal Order of Police [FOP].

National Association of Police Organizations [NAPO].

International Brotherhood of Police Officers [IBPO].

National Sheriffs' Association [NSA].

International Association of Chiefs of Police [IACP].

National Organization of Black Law Enforcement Executives [NOBLE].

National Trooper's Coalition.

Major Cities Chiefs.

International Union of Police Associations [IUPA].

Police Foundation.

Police Executive Research Forum [PERF].

Federal Law Enforcement Officers Association [FLEOA].

PROSECUTOR GROUPS

National District Attorneys Association.

National Association of Attorneys General.

WHAT POLICE ARE SAYING

"* * * the FOP strongly believes that the crime bill will benefit the citizens of this nation and provide a strong safety mechanism for our officers doing the tough job on the streets * * * The Fraternal Order of Police believes that this Crime Bill has a balance of enforcement, prosecution/courts, prisons, and prevention, which will make a real difference in the incidence of crime over the next five years."—Fraternal Order of Police.

"* * * NAPO strongly supports the crime bill conference report * * * As law enforcement officers, it is our job to fight crime and now we are finally being given the help we so desperately need. We cannot win the war on crime unless we are given the additional resources contained in the conference report."—National Association of Police Organizations.

"The IBPO's strongly supports and endorses the Crime Bill Conference Report * * * The IBPO has long advocated comprehensive efforts to address violent crime where it occurs: at the state and local level. This crime bill represents historic achievements to accomplish this goal * * * The crime bill is an appropriate balance of police, punishment and prevention * * * critical to a long term cure * * * The Crime Bill Conference Report is the most comprehensive legislation Congress has ever proposed to combat violent crime * * * We urge you to take action now."—International Brotherhood of Police Officers.

"We need to do everything possible to stop the rising crime, especially in rural America where sheriffs have the vast majority of the responsibility. We support swift passage of the Conference Report * * * and hope that Congress will see to it that law enforcement and our entire criminal justice system gets the help it so desperately needs."—National Sheriffs' Association.

"We strongly support the bills' provisions and desire to have it passed as expeditiously as possible."—International Association of Chiefs of Police.

"* * * we are convinced that the comprehensive legislation * * * is a monumental milestone in assistance to local jurisdictions in reducing crime * * * we at NOBLE are fully supporting the passage of the crime bill. * * *"—National Organization of Black Law Enforcement Executives.

"* * * we believe that the compromise crime bill legislation just sent forward by the conference committee is necessary and we urge all members of the House and Senate to support it and the President to sign it."—National Troopers Coalition.

"We urge you to pass the crime bill * * * the legislation contains initiatives of great help to federal, state, and local police in their quest for safer streets."—Major Cities Chiefs.

"* * * the passage of this bill would be a landmark in balancing broad social interests while addressing the real day to day needs of street level law enforcement officers * * * with its immediate passage, the officers on the street will move forward knowing they now have the support they have needed for so long."—International Union of Police Associations.

"The failure of this bill to pass would represent a terrible blow to citizens who are besieged by crime and violence."—Police Foundation.

"PERF believes that this Crime bill is a balanced and reasonable response to the crime PERF members face in cities across the country. We urge every member of Congress to support police by voting for passage of the crime bill as outlined in the conference report."—Police Executive Research Forum.

"It [the Crime Bill Conference Report] is the most comprehensive piece of anti-crime legislation in the history of this country * * * FLEOA urges you and your colleagues for the quick passage of this very important piece of legislation. It is important to note that laws alone don't make people safe, law enforcement officers with adequate resources do!"—Federal Law Enforcement Officers Association.

PROSECUTOR GROUPS

"The National District Attorneys Association wholeheartedly supports the efforts of you [letter addressed to Senator Biden], and your colleagues, in structuring a Crime Bill that promises to make significant inroads in our national fight against crime * * * we believe that the final effort provides a balance of programs that hold the potential for making a vast difference for our nation in reducing the crime rate. We would urge that the Crime Bill be enacted."—National District Attorneys Association.

"* * * we are pleased to add our endorsement of your efforts and pledge the support of the Association in implementing the provisions of this bill."—National Association of Attorneys General.

Mr. BIDEN. I might add, every law enforcement and prosecutorial organization I am aware of, Mr. President, supports this legislation.

But let us talk about many of these programs they are calling prevention programs and pork.

The violence against women bill, $1.8 billion, for the first time making a concerted effort to deal with domestic violence and violence against women by strangers in this Nation. It is outrageous what is happening to American women, outrageous in terms of being the victims of violence. With bipartisan support, that Violence Against Women Act, although I wrote the bill, is supported by not only Senator BOXER on this side as a major cosponsor but also by Senators HATCH and DOLE on that side; the legislation was voted for by almost everybody in this Chamber, Democrat and Republican.

You know that Virginia Slims commercial, "You've come a long way, baby." That is the good news, "You've come a long way, baby." The bad news is, we have come a long way. More women now walk out of their offices at midnight, working for major law firms, newspapers, and corporations. They get raped in parking lots, and they get mugged at bus stops.

One of the things we found out—again not rocket science—is if you put intense lighting, just lights, shed light on places like that, crime drops. So we put millions of dollars in here for States to be able to put lighting in high crime areas where women are victimized. Big deal. It is a prevention program. I challenge my Republican friends to stand up and introduce an amendment to take it out.

Another one, community schools: $900 million; $125 million, antigang grants, a Hatch amendment and a Dole amendment; $425 million for drug treatment in prisons endorsed by William Bennett, former drug czar, now keeper of the principles of all Americans. The list goes on.

By the way, midnight basketball, my friends like to talk about midnight basketball. Do you know where we got the idea? It was one of those "thousand points of light" that President Bush shone upon all of us. It was a Bush idea. And it shone with such brightness that it was hard to resist. Guess what else? It is not midnight basketball to just go play basketball.

How many of you in the Chamber have helped the communities to try to raise money for Boys Clubs, Girls Clubs, the YMCA to try to take kids off the streets? Why do we close down schools at 5 o'clock in the afternoon? Why do we need to build new gymnasiums? Tell me. Why? The reason why is we close down the schools.

So communities have had some pretty good ideas. They found that when they keep the schools open, bring in social workers and keep the school open until midnight, and take kids off the street. Guess what? You do not have to build a new building. Guess what? Crime rates drop among juveniles. Big deal. Is not that a touchy feeling social program?

I hear my colleagues talking about the return of the Johnsonian era. What are they talking about? Which Johnson? This century or last? What are they talking about?

By the way, guess what, Mr. President? These kids, in order to get into many midnight basketball programs, have to be in school. They have to have their grades up. Guess what? They do it. Guess what? In cities with midnight basketball, those kids are in the gyms instead of out on the streets doing drugs and committing crimes. So $40 million for midnight basketball was a good, solid Republican idea. Now it is a bad idea.

By the way, there are people in this room, people listening to this, who want to know how we hang them. We have a whole list of "hang him high." We have $21 billion of "hang him high" stuff in here; $21 billion dollars for cops, law enforcement, and prisons.

Let us talk about a few other facts versus fiction. This is a good one. By the way, I was handed a little card that was like a monopoly card where you play monopoly. It says "Get out of jail free," and they have a fat little guy in tails who looks like he is fleeing the jail. I have to give my Republican friends credit. They are very good. I have been here only 22 years. I marvel at how much better they are than we are. One of them handed me a little yellow card. I wish I had it in my wallet. I gave it to the conductor on the train on the way down. It is a little yellow card with a guy getting out of jail free.

It has release—what is it, 10,000?—10,000 drug felons. That is what this crime bill will do. Oh, man. When I heard that, I thought how could I be for that? I wrote it. How can I be for that? I am letting out 10,000 of those people. Then you look at what is in the bill. I went back and read it. Maybe I missed something here.

Let us talk about what it is. Let us talk about who sponsored it. HENRY HYDE, that liberal Republican from the House side, and Mr. MCCOLLUM of Florida, that other liberal Republican from the House side, along with Democrats as well, came up with a thing called a safety valve. Over here in the Senate, Senators THURMOND and SIMPSON also came up with a safety valve with Senators KENNEDY, LEAHY, and SIMON.

That is what we are referring to hear about this 10,000 people who get out of jail. The safety valve passed in the House says that, if you have been sentenced to jail on a flat sentence, a minimum mandatory sentence, or a drug offense, that you have an opportunity to petition to determine whether or not you could have that flat sentence looked at, reduced, even though it was a flat sentence. I was not for it. Some of my Republican friends were for it, not all; the lead Republicans, on the conference in the House; some of my Republican friends and some Democrats. Let us talk about what it does.

No one gets out of jail under this narrow so-called safety valve which applies only to nonviolent drug offenders; it permits them to ask to be sentenced under the sentencing guidelines, not be set free. Most offenders will not have to be resentenced because the new sentence they receive under the sentencing guidelines would be longer than the sentence for which they were sent. The Bureau of Prisons estimates that if this were law, 100 to a maximum of 400 nonviolent drug offenders would be eligible for release under this provision. That is the truth of the matter and what this bill says.

But, yet, when I heard on television my friend saying—I will not mention his name—"I cannot be for this bill. There are going to be released 10,000 violent drug offenders," I thought, Oh, my God. Maybe AL D'AMATO was right. We slip things into these bills that we do not know. It is simply not true.

Another one that is sort of the currency now—a few more of these, and then I will sit down. I will be doing a lot more of this over the next week or so. It will not be as informative as the Presiding Officer's speeches on the history of the Senate. But it will have the same intent—to educate.

The crime bill, we are told by my Republican friends, does not allow communities to be notified when a sex offender is released from prison. I heard that, too. I turned to Cynthia Hogan, chief of staff, and a very bright lawyer, and I said, "Cynthia, did we have this in my bill? Did that not happen to get in the bill? What happened here?" They said it just factually, that it was not in there. She said, "No. It is in the bill. It is in the conference report."

Let me tell you what is in the conference report. It requires the State to create registries of sex offenders; requires law enforcement to keep track of those offenders' whereabouts after the release from prison; and the provision explicitly permits law enforcement to give notice to the community to serve law enforcement purposes and to give the police immunity from releasing that information.

When my friends found out it was not in the bill—maybe those criticizing were not sure it was, in fairness to them—and we pointed out it was in the bill, they said, "Oh, we want it changed." I said, "What change do you want?" They said, "We want to make it mandatory"—we make it mandatory that there be a registry, that the police be informed; when the sex offender, after having served time, moves from one community to another, the scarlet letter follows them, and the next community is informed; we make all that mandatory. I said, "What do you want mandatory?" They want it mandatory that the police notify the community. I said, "They can do that now." They said, "No, we want it explicit, something in law saying they must." I said, "What do you want to do, take out television ads, hand out fliers?" What is the indicia you are going to put in there to demonstrate that they did not? I said, "Do you have language? I will take it." And they still go around saying that sexual predators, having served their time, are not required to be part of a registry, and now and forever, every community where they move will be notified.

By the way, it sounds pretty draconian from a civil libertarians viewpoint, Mr. President, and the reason is that the only place where the evidence seems to indicate that we are totally incapable of rehabilitating is in the area of sex offenders, repeat sex offenders. So the fact that they have served a prison sentence, I am told—and I do not consider myself an expert here—I think I know a fair amount about the criminal justice system, but I do not pretend to have all the information on this point. But I am told by the experts that these people are the toughest to rehabilitate. So it makes sense to notify communities that sexual offenders, having served their time, are in the community.

My Republican friends keep running around saying—by the way, a tragic thing happened in our neighboring State of New Jersey. A young girl was murdered, allegedly by a released sex offender who moved into the community across the street, a neighbor, and the family or the neighborhood never knew that a sex offender was living in that house. It created an uproar, as it should. But we already took care of it in this bill that the Republicans are preventing us from being able to pass. They keep saying, "It is not in there." It is.

Another fact—and we will go through three more and I will yield the floor and come back another time. The two other things we most often hear is the crime conference report will fund only 22,000 police officers, not 100,000 new cops. That is the refrain I hear. Where they come up with 22,000, I do not know. Let me tell you what the facts are. The crime bill does provide for 100,000 new cops. It provides $8.8 billion in a trust fund for that. It provides $7.5 billion—$75,000 per cop over a 6-year period totaling 100,000 cops; the $1.3 billion that is remaining is for implementing and administering community policing, which is new to most communities and costs money. They need help doing it.

The program requires that the State match this commitment in Federal dollars over a 6-year period. But under the fiscal year 1994 budget, $150 million in police supplemental money, having exactly the same matching requirements for cities and States, and your cities and your States, I say to the Presiding Officer—Delaware, California, Florida, Texas—fell all over themselves to try to participate in this $150 million program, which the distinguished chairman of the Appropriations Committee funded for the fiscal year 1994 budget. And we are funding $8.8 billion over the next 6 years. What is different? Mayors and local officials today strongly support this program because they know it is real help for putting cops on the street.

The last point I will mention for the time being is that we are beginning to hear a slow rumble that I am counting on—and I say this seriously—when the debate takes place, that the debate will be led by the President pro tempore on this point, which is that we are hearing now, as if it is a new notion, that a point of order will lie to the conference report when it comes over here, as if we did something in the conference that generated a "point of order."

Well, as people on this floor know, the violent crime reduction trust fund is, and always has been, subject to a budget point of order objection, because it is within the jurisdiction of the Budget Committee, but did not go through the Budget Committee before being offered on the floor of the U.S. Senate.

Let me be crystal clear. When the trust fund was offered as an amendment on the floor of the Senate last November, sponsored by Senators BYRD, MITCHELL, HATCH, GRAMM, DOLE, DOMENICI, BIDEN, and others, this same point of order was in order then, as it is now. And the reason it was in order then, as it is now, is that this trust fund notion did not go through the Budget Committee. Indeed, since that time, my Republican friends—at that time, my Republican friends ardently insisted time and time again, as we moved toward conference, and they even passed a resolution instructing the chairman of the Judiciary Committee, yours truly, to insist in the conference that we keep the trust fund. Is that not strange? They said: BIDEN, we do not want you jimmying around over there, doing what those House guys do. The House guys did not have a trust fund. They did not have this in a trust fund. This was not real money. We insisted on it.

So the Senate and my Republican colleagues insisted that I go to conference and keep the trust fund. I was all for keeping the trust fund. Like I said, it was not my idea. I wish I could have claimed credit for having thought of it. This is the best thing we have done on crime, in my view. So I kept it in the conference. The House yielded to the Senate. Now I am being told by my Republican friends that they are going to insist on a point of order. Translated for the listeners, that means 60 votes are required before we can move forward.

Well, that is good politics, but it is not totally consistent with what Barry Goldwater used to say when he served here: "In your heart, you know I am right." Remember that phrase? In their hearts, they know they are wrong. In their hearts they know. They asked me to keep the trust fund in, and in their hearts they know the trust fund is a good idea, and in their political soul, they are going to ask for a point of order requiring me to get 60 votes. Funny thing, we do not have 60 Democrats. So it is going to be hard.

But let us be honest. Why are we hearing about the point of order now? This is pure partisan politics, pure game playing by those who would rather see and score political points than give the American people help in fighting crime.

Mr. President, I thank my colleagues, who are here to discuss health care, for their indulgence. But there is no other time in the midst of this public debate that is going on to set the record straight. I stand ready to debate any one of my colleagues, not because I am any smarter, better, or any less or more informed, but because I know what I said here to be correct. I stand ready to debate them on any of the points raised here, and I challenge them to suggest to me why what I said here is not true. It is possible that I could have made a mistake, but I have spent 6 years on this.

The criticisms being made to the bill by my Republican friends are simply not real. The real criticisms of the bill that are occasionally made are that this bans assault weapons, military style assault weapons, less than 20 in number. There are Senators like my friends from Idaho, two Senators from Idaho, who feel very strongly that it is unconstitutional to do that.

I respect their point of view. I respect that. I disagree with it.

I teach the second amendment in law school in the course I teach. I believe the second amendment is real. You cannot ban all weapons. We are not trying to do all that. If you acknowledge that you can ban any weapon, then you already acknowledge it is not absolute.

For example, I wonder how many people think someone with enough money can buy an F-15 loaded with ordnance, or someone should be able to buy a theater nuclear weapon, or someone should be able to buy a hydrogen bomb? Obviously, it is crazy. People should not be able to buy those things. The second amendment says they have a right to bear arms. They are arms.

If you say you cannot ban those, why is it so outrageous to say something that has no utility other than to kill a person should be able to be banned? But there are some who believe it is unconstitutional. I respect them for that.

So, that is a legitimate argument against this bill. But you should have the courage to stand up and tell the American people: I am against this bill because I do not want to ban assault weapons, even though I know it means 100,000 cops down the drain, 105,000 prison cells down the drain, 600,000 people now walking the street won't go into intense supervision. I think all that should go down the drain; 30,000 violent offenders in the States last year who were convicted but never served a day behind bars because there are no prison cells. They should continue to walk the street because the principle on the second amendment is important to me.

I respect you for that if that is your view. Say it. Do not say this releases 10,000 drug offenders. Do not say this is $30 billion in new taxes. Do not say that this is pork. Do not say that there are not 100,000 cops.

By the way, I have less respect for—but I have been around long enough to have a serious appreciation for—a party that says, hey, look, our way back is to make sure we decimate this fellow in the White House. I understand that. I am a big boy. I have been around awhile. I am getting to be an old guy. I am 51 now. I have been here since I was 29. It took a while to learn. I learned. It is called hardball politics. A lot of people play hardball politics, Democrats and Republicans. I do not suggest they do not have a right to play hardball politics.

How many times have you heard the Republicans say and Democratic friends echo if the President loses the crime bill health care is in trouble? If the President loses the crime bill, he is in deep trouble.

That is stating the obvious. He is. If you want this crime bill to go down, because it is going to bring the President down, thereby enhancing the chances a Republican President will be elected, thereby from your standpoint the country will be in better hands and, therefore, what you are doing is for the good of the country, that is OK. I understand that argument. But make it straight up. Make it. Make it. Do not do what the Republican national chairman did so it was reported in the press—contact Republicans in the House and say that if you vote for this, you are going to be in real trouble—I am paraphrasing—you are not a loyal party person.

Now they say that was not done. Why was there a requirement on the part of the House leadership to hold up a letter coming from the Republican national chairman saying, "By the way, you can vote for this bill if you want"? Is that not an unusual thing? Who was it? I would yield to the Presiding Officer except he cannot respond. He would know. Which one of Shakespeare's characters said "He doth protest too much?" I think the national committee chairman doth protest too much when he has to write a letter shown on the floor of the House saying: "It is OK. You can vote for this Democratic crime bill and we will not do anything to you."

He doth protest too much. I am not even sure I got the quote right. But I got the principle right. I got the facts right. And I got my Republican colleagues right in the political crosshairs. I understand that.

Say it. Sing it. Be proud of your party discipline. But do not tell me you are letting out 10,000 drug felons to maraud the community. Do not tell me we are raising $30 billion in new taxes.

This bill went down in the House last time because of the RNC and the NRA. Forty-eight Democrats voted against the bill because of guns. I respect their view. I think they are dead wrong. I respect their view.

Anyway, I think it is time for a little bit of truth in legislating. We want to debate the facts of this legislation. I stand ready to do that. Hopefully, I will be up for the task. I know my blood is up for that task. I know I have never been as frustrated, I must say with anything in my whole life. This is a bill that every police agency that I am aware of, Republican and Democratic alike, is for this bill. It is the toughest crime bill we ever drafted. It has serious, serious efforts in there to deal with violent offenders, and it has a serious and rational effort to deal with prevention programs that work.

A FEW EXAMPLES OF CRIME PREVENTION PROGRAMS AT WORK

Boys and Girls Clubs:

A 1992 evaluation by Columbia University and the American Health Foundation found that public housing projects with clubs experienced 13 percent fewer juvenile crimes; 22 percent less drug activity, and 25 percent less crack presence than projects without clubs.

Communities in Schools, Houston, TX—this program aims to keep at-risk kids in school—as opposed to out on the streets committing crimes. Professionals set up shop in the schools and provide one-on-one counseling, mentoring, tutoring, job training and crisis intervention.

An independent evaluation reported that approximately 90 percent of the kids served by the program are still in school at the end of the school year. In contrast, one-third of students entering high school statewide fail to graduate.

Police athletic teams [PAT], Birmingham, AL—the Birmingham Police Department sponsors softball, basketball, baseball and golf teams for kids from disadvantaged neighborhoods. The catch: The kids must study for at least an hour every night (the program supplies tutors) and must maintain a C average in order to play.

The Police Department reports that juvenile crime has dropped 30 percent in neighborhoods served by the program.

Southwest Key Day Treatment Program, Austin, TX—southwest Key caseworkers provide round-the-clock tracking of kids who have had a brush with the law, and who are out on probation or parole. The program counsels the kids and their parents, and also requires the kids to attend daily work-related, social skills and recreation sessions.

The Texas Youth Commission reports that the kids who complete the program have a 65 percent lower re-arrest rate than kids released from institutions directly into standard parole services.

Project First Class Male, Fort Lauderdale, FL—in this program, counselors meet with at-risk young boys at school and in their homes with an eye toward promoting sexual abstinence and reducing teen pregnancies.

An independent evaluation reports an 85 percent success rate in preventing new pregnancies.

The Phoenix House, New York, NY—Phoenix House provides live-in high schools for juvenile drug abusers. In addition to traditional curricula, the program helps kids kick their habits and develop self-esteem, discipline, and personal responsibility.

Phoenix House reports that 85 percent of its graduates remain drug and crime free for the 3 to 5 years that the program charts their progress.

The Juvenile Diversion Program, Pueblo, CO—this program for nonviolent first time offenders requires kids to sign a behavioral contract and become involved with a nonprofit agency; the kids are also tutored, counseled, and required to pay restitution to their victims.

The program reports that 83 percent of its graduates are not re-arrested in the 2 years the program follows them.

"STARS"—Success Through Academic and Recreational Support, Fort Myers, FL—STARS, which has received accolades from Republican Senator CONNIE MACK, provides at-risk kids with positive, adult-guided tutorial and recreational programs.

The Fort Myers chief of police reports that, in the last 3 years, the program has led to a 27 percent reduction in juvenile arrests and a dramatic reduction in repeat-offender arrests.

Specialized Treatment Services, Mercer, PA—this program targets delinquent kids with mental health problems for intensive counseling and academic services.

The program reports that more than 80 percent of the kids who complete the program do not get into serious trouble during the 5 years that they are tracked upon release.

Mr. President, I used to have a schoolteacher and a grandmother who used to use the following phrase when she looked at me. I remember back when I was a kid in the fifties Boys Town was a big deal. You know, "He ain't heavy, Father. He's my brother."

Coming from a large Catholic family that was a big deal thought. It was one of the things my grandfather Finnigan talked about, so on and so forth. I am proud of that. That is not belittling. I was very proud.

I never forget, in addition, one of the other phrases that Father Flannigan has. "There is no such thing as a bad boy." I am not so sure he is right about that. But I am prepared to accept that.

One of the things my grandmother said seems to be proven true by all the studies we have done and all the hearings we had. She used the phrase that is used probably in 50 different ways by 50 different cultures and a million different people. She always used to say: "Joey, an idle mind is the Devil's workshop." An idle mind is the Devil's workshop. Sounds kind of corny, does it not, Mr. President?

Like I said this is not rocket science. These are kids who are about to enter the drug stream and the crime stream, and one of the few things that stands between them and entering those drug and crime streams is an opportunity to be diverted—not converted—diverted from the idle mind that lets them sit in the projects up against the school brick walls on those hot summer days and decide whether or not to take that crack vial and try it or go into a basketball gymnasium or go into a system where they have people from the community, Big Brothers and Big Sisters, who are tutoring kids. That makes a difference.

Nothing in here is new under the Sun. And $3.7 billion dollars of the prevention programs my Republican friends now call pork they supported on this floor, and many of them are Republican initiatives, like Senator DOLE's initiative.

I am going to read Senator DOLE's quote from his legislation. He is the one talking about all this pork. It is one sentence, if I can find it quickly here. It is a $100 million juvenile drug trafficking and gang prevention program which I had in the bill, which he amended and wanted to make his legislation, which we did. Let me tell you what it says. It says:

This is Senator DOLE-sponsored legislation that was originally the bill that he amended. He said, $100 million to

> * * * develop and provide parenting classes for parents of at-risk youth.

Not a bad idea; pretty good idea.

> * * * to develop and provide training in methods of nonviolent dispute resolution to junior high school and high school age children.
>
> * * * to establish sports mentoring and coaching programs in which athletes serve as role models to juveniles. To teach that athletics provides a positive alternative to drug and gang involvement

That is ROBERT DOLE, the man who stands here and belittles midnight basketball, and what does he call it? Tap dancing in prison. Where that came from, I do not know.

If for midnight basketball you were required to be in school, where you are required to maintain a C average, where you are required to be in a study hall, et cetera, if that is some flaky program, what is this thing? What is this thing that he voted for, put his name on, that all those folks over there voted for?

It went from here to there—they are wonderful alchemists, I would say to my friend from West Virginia. It went from a substantive program—as it made its way up that aisle, it got halfway down that corridor on the way over to the House of Representatives and it got midway and fell into a conference and it became pork. How did that happen?

I think it got politically barbecued as it made its way out this door. So I will not use the phrase, "what is one man's pork is another man's politics"—paraphrasing, "What is one man's meat is another man's poison." But it seems to me that there is a little alchemy 20th-century style going on here.

It is politics. So far it is very successful politics. So far obstructionist politics works better than constructionist politics. But it is politics. Just so the American people know what it is, that is all I care. If they conclude that team is right, that is what they want to do—well, that is what democracy is about. I will be back here next year. I am here for at least another 2 years, God willing and the creek not rising and my health maintained. I will come back at it again. But it is outrageous to suggest that this bill should go down for some of the reasons that are suggested by my Republican friends.

I thank my friend from West Virginia for his indulgence, allowing me to enter in the middle of this health care debate. But it seems to me, the same kind of shenanigans are going on on the health care debate that are going on on this crime debate, and, as I said, a little truth in legislating and debating might be useful.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from West Virginia.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. ROCKEFELLER. Mr. President, I want to compliment the Senator from Delaware on his remarks and say I agree wholeheartedly with not only what he said but with the thrust of what he said.

It is very obvious now that Senators who want to pass a health reform bill are going to have to spend many long days and nights in their effort to do so. This is not happy news for our families—our own families. I shudder to think of some of the conversations—I know the one that took place in my own house last night—many of us with spouses and children have had about canceling plans. Many who are not so fortunate financially have had to lay down nonrefundable tickets to places and they cannot get their money back. They want to go camping or visit relatives.

Nevertheless, we are here to do the work that the people want us to do. So we shall stay until this health care reform bill is passed, 24 hours a day if that is the right amount of time. And I am delighted, personally, that we are doing it. I think it is the kind of leadership and toughness which is correct.

But then we also have to remember why so many of us are unwilling to give in to the faction that is arguing for delay, or for postponement, for doing nothing, for ignoring the problems, for accepting things exactly the way they work and accepting them for the way they do not work.

Mr. President, I have a stopwatch here, and I arrived on the Senate floor about 90 minutes ago and have been waiting to speak since that time. I have made a simple calculation that during that time, the 90 minutes I have been waiting to speak, that 4,698 Americans have lost their health insurance and that 1,368 American children have lost their health insurance.

Yes, the voices for delay and obstructionism are right when they say that in that same time, other Americans, other children got back their health insurance. That is true. It proves the point about one distinctive feature of America's so-called health care system and that is that it is the ultimate revolving door. Yes, we are a country where health insurance can be returned. But for the most part we all know when we talk about 39 million Americans being uninsured, we are really talking about 60 to 64 million Americans who, for some significant part of a year, do not have health insurance.

Yes, we are a country of researchers, doctors, nurses, hospitals, vast medical complexes, drugs, medical discovery and breakthroughs. And that we all celebrate.

But we are also a country that leaves basic health security for its people, for its children, to something called "pure chance." If you work in Germany or France or Japan, you can count on basic health security in the same way that you can count on the Sun coming up. It does not fail. If you work in the United States of America, you cannot count on health insurance, whether you have it or whether you do not—unless you are lucky enough, that is, to live in Hawaii.

In America, playing by the rules, working full time, paying your taxes, does not mean that you can stop worrying even for one second about whether you can take a child to the doctor for a checkup or get some tests when a serious ache or pain sets in—unless, that is, you are lucky enough to live in Hawaii where they are approaching universal health insurance coverage.

If you have health insurance in the United States of America but have to change jobs, that is when you better start worrying. You better make sure you do not have something called a preexisting condition on your records, because in America that means that any insurance company can slam the door in your face—and they do. I said last night—I see the Senator from Connecticut here—that it is absolutely beyond my wildest imagination that in this country called America, a young woman who is married and becomes pregnant but who does not have health insurance—becomes pregnant and then goes to try to get health insurance, cannot get health insurance because she has something called a preexisting condition; to wit, she has become pregnant. Only in America. That is why so many of us feel we have absolutely no choice but to go on and on and to persist and to persist.

Here we are trying to advance a bill—it happens to be the majority leader's bill—that does exactly what the vast majority of Americans have said over and over and over again that they want from this Senate and from this Congress and from this town. They want their health insurance to be there when they need it. They want their health insurance to be there when their children need it. They want their health insurance to live up to its word, to its printed word, and not hide dirty secrets like lifetime limits, exclusions for past illnesses, in a sea of fine print. And how many times have we seen that in our various States?

Americans want the revolving insurance door to stop. They want to focus on raising their kids, saving up for college, doing a good job at work instead of worrying that one false move, one accident at school or at the school playground—one lump will pull the rug out from underneath them.

I repeat, since arriving here this afternoon in the Chamber, more than 4,698 Americans have lost their health insurance and more than 1,368 children have lost their health insurance. That is in the 90 minutes that I have been waiting to speak. The revolving door turned them out. A few of them may get back in, but the revolving door has now turned them out, so even if they get back in, they could go out again, and they know it.

Now to turn to the very specific question before us. I also want to say something about the amendment from the good Senator from Connecticut, Senator CHRISTOPHER DODD. Talk about an idea that is as clear as day. This amendment calls on insurance plans to remember children when figuring out what it will cover and what it will not cover.

As my distinguished senior colleague knows, I was proud to Chair the Bipartisan National Commission on Children just a few years ago, and it gave me the opportunity to travel across this country, across our State of West Virginia and meet with thousands and thousands of parents and children in all different kinds of situations, in the worst housing development slums in Chicago, to barrios in San Antonio, to all kinds of places.

Those of us who served on the Commission were incredibly diverse—diverse in our background, diverse in ideas, diverse in our philosophies, diverse in our professional backgrounds. There were, in fact, three members of the Bush administration, acting officials of the Bush administration, on that Commission.

But after 3 years of studying life of families and children in America, we reached the same unanimous conclusion. Fortunately, no one tried to keep us from concluding our work through filibusters. Our conclusion was that America has to turn what we say about children into deeds in terms of what we do about children and families.

The amendment before us, the Dodd amendment, tries to do precisely that. One of the essential ways to help families is to make sure that their insurance covers the most basic kind of health care for their children. It is a simple proposition. If you have private health insurance, it should cover what counts the most. If you are a family with children, the amendment says that your insurer has to cover the basics—prenatal care for pregnant women, essential care for babies, immunizations, and the like.

If we care about children and families, as we all say we do, we must come together on health care reform. How can we pretend that basic care for children should be left to chance—that is what we do today—left to economic chance, left to circumstantial chance? Even the insurance companies are not fighting CHRISTOPHER DODD's amendment.

Five million women in America have private insurance policies this day that do not cover maternity care—5 million. That might just be a reason that so many pregnant women do not get the prenatal care that they should be getting. Not the only reason, but certainly a very big one.

One out of every 10 under the age of 10 in America, I am embarrassed to say, is uninsured. Talk about costs. These are children whose earaches can turn into lifelong disabilities, probably will turn into lifelong disabilities, who develop diseases that can be prevented with medicines and vaccines, all things which are readily available to us as an advanced industrial society, and who head for school, therefore, without the benefit of all of these things are already behind. We talk about Head Start, these children are starting way behind.

We have to do something about this, Mr. President. We have to weigh and measure and contrast the Mitchell plan, or any other plan, with the costs and the consequences of doing nothing. The numbers of uninsured children can be absolutely numbing, if you try to see them in your eye. I think of certain ones in West Virginia, Minnesota, and other places that I have been, but when you think in terms of the numbers of millions of children, it just becomes numbing, and then you know that in no other industrial society are any children uninsured, except in our own.

So let me share one story of a West Virginia family, that I visited recently, with the Presiding Officer and my colleagues who might be listening, the Bosworth family in Wheeling, WV.

The Bosworths are good people who are struggling. They have two daughters, Stephanie, who is 23 years old and who has cerebral palsy, and Nicole, who is 15. Steve, the father, was a salesman but became unemployed and is working odd jobs whenever he can find them. His wife, JoAnn, works part time at their church. No insurance involved in either case.

The family, in fact, tried to buy insurance, but because Stephanie has cerebral palsy, the cheapest plan that they could find to buy was $400 a month; hence, $5,000 a year, way out of reach for the Bosworth family, just out of the question. They could not afford it and, therefore, could not get it.

Medicaid covers Stephanie's health care, but the rest of the family is uninsured. Steve and JoAnn—the father and mother—and Nicole simply cannot get the health care that they need because they have no health insurance. Remember, they are both working as best they can. Nicole, the younger child who is 15, recently had a seizure and the family has no idea what the cause was. Without insurance, this young teenager has the seizure and does without medical analysis.

Our system is unfair, Mr. President, for Nicole Bosworth. Our system is unfair for the Bosworth family. The father is working and the mother is working as best they can, but they cannot scrape together enough money to buy health insurance.

They are fortunate that the child with cerebral palsy has Medicaid, but they are unfortunate in every other aspect of their life, as far as health care is concerned.

Under the Mitchell bill, over 7 million children will get insurance. Under the Dodd amendment, coverage for preventive services, children and pregnant women would begin in July of next year, less than a year from today. In West Virginia, the Mitchell bill would give 74 percent of children who are uninsured today coverage by 1997 and coverage for the rest would be phased in over the next few years.

Forty-eight thousand children will get private health insurance coverage—not Medicaid—but private health insurance coverage through this bill. At the end of our debate, I want to be able to go back to Wheeling, WV, and I want to tell the Bosworth family that they can sleep this night, or maybe tomorrow night knowing that their Nicole will have something called reliable, affordable health insurance coverage. I think that is a dream that ought to come true, and it just so happens that that is a dream that we can make come true if we adopt the Dodd amendment.

Mr. President, I thank the Presiding Officer, and I yield the floor.

Mr. McCONNELL. Mr. President, having been here a couple of hours and having listened to debate on other subjects than health care, I am here principally to talk about health care reform but I did want to make one observation before beginning.

I listened with considerable interest to my friend, the junior Senator from Minnesota, earlier this afternoon railing about the contributions from political action committees and asserting that somehow that was slowing the process of health care reform. I am not here to make a campaign finance speech, but I want to make a couple of observations.

No. 1, political action committees—of which Republicans are no fan, I might add. And, as a matter of fact, I was the first Senator to suggest that we get rid of PAC's altogether, a proposal which was subsequently adopted as the Senate position in the campaign finance bill last summer. But it is interesting to note that the PAC's, which my friend from Minnesota believes are slowing down the process, in the last cycle in Senate races gave 57 percent of their money to Democrats and only 43 percent to Republicans, and in the House 67 percent to Democrats and only 33 percent to Republicans. In the House of Representatives, the political action committees gave 67 percent of their money to Democrats, only 33 percent to Republicans.

My own view is that the PAC's are not buying influence on this issue. I think this is an issue much too important to the American people to be sort of kissed off in terms of political contributions. If anything buys votes in the health care debate, it is promising big taxpayer-funded solutions to these problems. There are those on the floor of the Senate who would seek to buy those votes with tax dollars by promising this group or that group or this group that the Treasury is going to pick up the tab for your problems. If anybody could rightly be accused of trying to buy votes on health care reform with dollars, it would seem to me it would be those who use, not their money, not the money of the political action committees, but the money out of the Treasury, out of the Treasury I repeat, to promise benefits to one group after another.

Of course, those are largely the same people who would like to dip into the Treasury to pay for political campaigns as well—the ultimate perk, the ultimate entitlement. There are those who seriously believe that we ought to start a new taxpayer entitlement program for each of us as we sit here on a multitrillion dollar debt.

That is a subject for another day, and I raise it only by way of observation after listening to my friend, the junior Senator from Minnesota, whose position I believe is that we should have a single-payer system. That is the ultimate, total, final Government takeover of health care, the ultimate buying of influence, if you will.

With regard to the subject before us today, I want to start by reiterating a point the Republican leader made very effectively in his opening statement just the other day. It bears remembering as we move down the road toward some kind of health care reform.

America has the best health care system in the world. America today has the best health care system in the world. Right now, every other nation on Earth looks to the United States as the quality leader in health care, the leader in surgical innovation, the leader in pharmaceutical breakthroughs, the leader in medical technology, the leader in health care education, the leader in hospital design, and the leader in health care management.

Now, Mr. President, the second point I wish to make is equally important. The reason why America has the best health care in the world is not because of some mammoth legislation enacted by Congress. It is not because of any regulation implemented by the U.S. Department of Health and Human Services, and it is not because of some health care task force put together by the White House. It is because the free market system and the forces of competition gave an incentive to hundreds of thousands of individuals and companies to improve the quality and availability of health care services for every single American.

The Government did not make our health care system the best in the world. People did, people who are highly trained, totally dedicated, and thoroughly experienced—and free to make a fair and honest wage from the work they do so well.

Yet, we have before us today a massive, 1,400-page social experiment based on the dubious premise that the Government can do a better job of managing our health care system than the hundreds of thousands of dedicated experts who do it every day, 52 weeks a year.

Somehow, the Government that purchases $200 toilet seats and $60 nails is going to bring cost efficiency to hospitals and doctors' offices.

Somehow, the Government that leaves millions of postal letters languishing in warehouses in the District of Columbia is going to make millions of delicate decisions about who gets what kind of health care services and when they get them.

Somehow, this same Government that absorbs more and more of our paychecks every year is going to give us a bargain, a bargain on our health care.

The President and his allies in Congress would have us believe that if we just turn our health care system over to the Government, we will get a Neiman-Marcus product, with Tiffany's accessories and Nordstrom's service, all at K-Mart prices. What is not to like about that? But when you test this dubious premise against the daily practical experience of most taxpayers, it just does not hold any water.

Because of that, the American people have become deeply fearful of what Congress may be about to do to the best health care system in the world, deeply fearful about what we may do to the best health care system in the world. By an overwhelming margin, Americans are telling us that Congress should not pass a radical, top-to-bottom restructuring of our health care system. According to a USA Today-CNN survey conducted just a few days ago, voters favor a gradual, multiyear approach to health care reform instead of the radical Democratic leadership bills, by a margin of 68 to 28 percent.

I heard the Senator from New York, Senator D'AMATO, talking about the phone calls he had gotten in his office, various offices in New York over the last few days. Just looking at the mail count in my office just since last Saturday—looking at only the mail now, not the telephone calls; I have received 68 pro Clinton-type reform letters; 1,011 against. And again looking at letters since the last week of July, 250 letters in favor of the Clinton approach; 4,251, against.

Now, looking back at the USA Today poll, which assesses the mood across the country, nearly 60 percent of our constituents believe that the middle class, as usual, will be hurt the most by the steep tax increases and the social engineering contained in both the House and the Senate Democratic bills. And even more than the important issue of universal coverage, voters are concerned that Congress will pass a bill that gives the Government too much control over their health care.

Are the voters just misinformed, as the White House spin doctors claim? Folks out there, I guess, are not smart enough to know what is going on. That seems to be the White House position. Perhaps they are simply unable to comprehend the great public policy issues which the administration has so thoughtfully resolved for them. Just a communications problem, the White House says. People do not understand what is going on. And apparently they have been preaching to members of their party to rise above those nasty people. The way to be a profile in courage is to go against your constituents.

It is an interesting argument, Mr. President. The American people, I do not think, see it that way. They do not think they are misinformed. They do not think they do not know what is going on. They would like for us to respond to their desires on this issue. In fact, the American people are a lot smarter than the Democratic leadership gives them credit for. I think they have figured out the Clinton bill and its Democratic offspring.

They figured out that it was putting the Government in charge of their personal health care. They figured out that the Democratic leadership bills would set spending caps through global budgets that would eventually result in health care rationing. They figured out that these bills would herd them into Government purchasing monopolies, and force one-size-fits-all policies on everybody, whether they like it or not.

Our elderly constituents have figured out that these bills would cut deeply into Medicare spending. They have figured out that a Government-run health care system would be more expensive, more bureaucratic, and less responsive to each individual's medical needs than the system we have today. And the American people clearly do not want any part of it. I mean virtually every phone call coming to my office here and into the six offices in Kentucky are about this. They do not want it. Nobody can orchestrate this kind of telephone contact. I have never experienced it before in my 10 years in the Senate.

Could it be that the majority leadership is right, and millions of Americans are all wrong? Let us take a look at the bill before us to attempt to answer that question.

First of all, this bill would radically change our entire health care system from top to bottom, radically change it. It would change the way Americans obtain insurance, what kind of benefits they would be allowed, and how much they would have to pay in premiums, not to mention new taxes and how much the Government would be involved in deciding all of that.

The bill before us contains 8 new entitlements, 17 new taxes, 50 newly minted bureaucracies, 177 new State mandates, and nearly 1,000 new Federal powers and responsibilities. The Great Society is over. Welcome to the "Great Bureaucracy."

If this bill becomes law, the competitive free market character of our health care system would be radically transformed into a top down, highly centralized regime. It is clear that the proponents of this legislation want to go far beyond our shared goals of making health care more accessible and affordable for all Americans, and increasing the number of individuals who have adequate health care insurance.

We could accomplish both of these important goals without 17 new taxes or a single new bureaucracy. But the goal of the bill before us is not increased coverage but increased control; I repeat, not increased coverage, but increased control, Government control. The manifestation of this control agenda is the mandated, standardized benefits package that would be designed by Federal bureaucrats and forced on every single American citizen.

For the average person who already has insurance, this mandated approach is a sure way to increase the cost of health care. Many Americans will see their premiums rise dramatically to compensate for the added benefits they must purchase in a compulsory one-size-fits-all package. For many middle-income families, the cost of health insurance will balloon even more under the Mitchell bill's community rating provision. The bill stipulates that premium rates may vary only by family size and by age. Lifestyle habits cannot be taken into account. Geographic location cannot be considered, and no incentives are offered to use services in a responsible, cost-efficient manner.

Can you imagine what would happen to automobile insurance rates if insurers could not take driving records into account? That is essentially what this bill does. It charges the mild-mannered Sunday driver the same rate as the drag racer with three drunken driving convictions.

Moreover, the bill requires all cost differences to be phased out by the year 2002. As a result, younger, lower-income families will be hit the hardest as their premiums skyrocket to subsidize coverage for older and frequently wealthier Americans.

The other side of this legislation's control agenda is the burden it puts on small businesses, as well as their employees. Under the Clinton-Mitchell bill, every employer must provide a choice among three Government-designed plans. Keep in mind that the bill does not require choices among benefits packages, but rather choices of how to pay for the plan. This three-option requirement will add considerably to the administrative costs that businesses will face in offering insurance.

Many businesses today are using an insurance funding mechanism called self-insurance to keep their costs down. The Mitchell plan bans self-insurance for companies with less than 500 employees. Some predict that 400,000 businesses will be impacted by this provision alone.

For example, I recently heard from an independent broker in Fort Mitchell, KY, among whose client is a self-insured steel mill with just under 500 employees. He told me that the administrative cost of this plan, the Clinton plan, is less than 4 percent of the plant's total cost. But by prohibiting this company from self-insuring and forcing it to offer three different plans, this legislation will add hundreds of thousands of dollars to the annual cost of providing health care for its employees. Basically, this company and thousands like it will have only two choices: cut wages or cut work force. That is the painful decision that employers all across America will be faced with because of this bill.

In general, however, Americans have relatively few decisions to make under the Mitchell bill because the Federal Government will make most of the decisions for them, at least as they pertain to their personal health care.

The most powerful and intrusive monolith envisioned by this legislation is the National Health Benefits Board. This board would have the authority to unilaterally decide what medical services Americans should receive.

Just looking at the section on the Board in the bill, as you can see, this is not exactly a small bill:

A, the Board shall be authorized to establish a criteria for determinations of medical necessity or appropriateness; B, procedures for determinations of medical necessity or appropriateness; and C, regulations or guidelines to be used in determining whether an item or service, under categories of items and services described in another section, is medically necessary and appropriate.

Suffice it to say, Mr. President, this is a very powerful Board. This National Health Benefits Board is going to have enormous authority.

Federal bureaucrats ensconced in their marble-lined office suites will be making the most personal, life-or-death decisions for each and every American family, stamping out cookie-cutter health plans as if they were just another mass-produced widget. Not only will this board have unprecedented powers over every single American citizen, it will also be completely unaccountable to those who are impacted by its decisions.

The members of this health care junta will be unelected and by the terms of this bill, they will also be exempt from the Federal Advisory Committee Act. The Federal Advisory Committee Act establishes some basic management and oversight criteria for commissions to keep them from becoming a law unto themselves. Coincidentally, it is the same law that Hillary Clinton's health care task force may have run afoul of, and that issue is now the subject of intense litigation.

Under the Federal Advisory Committee Act, each and every Federal Commission must be rechartered every 2 years. They have to be rechartered every 2 years. I understand, however, that this bill takes the liberty of exempting the National Health Benefits Board and its companion, the National Health Care Cost and Coverage Commission, from such troublesome obligations. Under this bill, these faceless agencies are established as permanent—I repeat, permanent—fixtures on the bureaucratic landscape. So what we have is an all-powerful Federal agency, created through a process that may have violated the Federal Advisory Committee Act, and which is, itself, exempted from the very same accountability and safeguards. You can say one thing about this bill: it sure is consistent.

It is important to note here that this National Health Benefits Board, which is totally unaccountable to the American people, will be easily accessible to special interest lobbyists who want special treatment for their clients.

But there are a few things this Jabba-the-Hut board will not be able to do. For example, it will not be able to authorize medical savings accounts, which are a flexible and innovative way for Americans to finance their medical needs. That is because medical savings accounts are not an option under this legislation. That is really too bad, because experience shows that people who have medical savings accounts tend to become more cost conscious about the services for which they are paying.

This bill also does not allow self-employed Americans, like most of our Nation's farmers, to deduct all of their health costs from taxable income. The bill does raise the deduction to 50 percent, but that hardly amounts to equitable treatment for those in this country who are self-employed. I had supposed that equitable treatment was one of the goals of real health care reform.

Mr. President, one should not conclude, however, that this bill does nothing but take away and restrict and limit and reduce. It does all of those things in spades, but it also vastly increases opportunities for one very special group of Americans: lawyers.

Lawyers are going to love this bill, Mr. President. While many Americans will be heading toward the unemployment line as a result of this bill, such as the employees of the steel mill in Kentucky I talked about earlier, the lawyers of our country will be heading to the courts in droves and laughing all the way to the bank. Medical schools will be heavily regulated under this bill, with a Commission on Medical Education breathing down their necks, while law schools will not be able to turn out lawyers fast enough to meet the demand for litigation.

Let me pause on that point. This legislation's ham-fisted regulation of medical schools throughout the country stands by itself as a monument to congressional hubris. What we are saying through this particular provision is that the Government knows better than all the health care educators and administrators in America. We up here in the Government know better about this than you educators and administrators. We are going to fix it for you. We are saying to all those aspiring to be health care professionals: Forget your dreams, forget your desires; the Government can tell you what to do from now on. We are going to be in charge of your life if you are going to be a health care provider. We will decide for you.

This provision does not belong in a bill that is being considered in what is usually thought of as a free country. I can only imagine what the response would be if we had a provision in this bill that contemplated regulating the numbers and specialties of lawyers. Imagine that, Mr. President. Imagine what the reaction would be if we had provisions in this bill regulating the numbers and the specialties of lawyers. There would be great breast-beating and stirring speeches, not to mention intense lobbying by the American Trial Lawyers Association, all arguing the point that such a heartless provision would deny people the one thing they need most: legal services. Legal services. What if some national commission discovered there was a shortage of corporate tax lawyers in the Rockies? Imagine that—a national commission decided there was a shortage of corporate tax lawyers in the Rockies. Would we then use the heavy hand of the Government to force some of those Gucci loafers out there into the Rockies?

As it stands, this bill is very good to lawyers. It will employ lots of them and compensate them quite well. A little advice to you parents who may be watching: if this bill becomes law, send your kids to law school, not medical school. Leaving aside possible legal claims for fraud, medical malpractice, and privacy violations under this bill—now listen to this—this legislation will create no less than 16 new varieties of lawsuits, Mr. President. Just what our country needs, some new causes of action to pursue in the courts of America. We will have a shortage of lawyers. We will need to produce new lawyers, and we will have new causes of action and go out and clog up the courts of America. If you think that is what America needs, by golly, you will love this bill. It may ruin your health care, but this may put an extra BMW in the garage of every enterprising lawyer in America—maybe two BMW's in the garage of every enterprising lawyer in America. Well, at least somebody will benefit from this thing.

Of course, we are already paying an enormous litigation tax on most goods and services we buy, including health care.

Let me say that there was an article today in the New York Times on this question of increased lawsuits under this bill, entitled "U.S. Judges Warn of Health Lawsuits," written by Robert Pear.

There is great concern among the judges who have to wrestle with all of this increased litigation and the impact of this legislation.

I ask unanimous consent that today's New York Times article entitled "U.S. Judges Warn of Health Lawsuits" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 15, 1994]

THE COURTS: U.S. JUDGES WARN OF HEALTH LAWSUITS

(By Robert Pear)

WASHINGTON.—The top policy-making body for the Federal courts has expressed concern that health care bills pending in Congress would generate a flood of litigation by people trying to enforce new rights to medical benefits and insurance payments.

The judges said they were worried that many of those disputes would end up in Federal courts.

The organization, the Judicial Conference of the United States, took no position for or against the legislation, which is intended to control health costs and widen access to health insurance. "Policy decisions concerning health care reform are properly within the province of the other branches of Government," it said.

But the judges noted that Federal courts were already inundated with drug cases, which have caused delays for civil cases in many regions. The anti-crime bill now pending in Congress would give Federal courts jurisdiction over many additional offenses, including gang violence.

The Judicial Conference laid out four principles that it said would guarantee that disputes over health benefits were resolved quickly and efficiently, without clogging Federal courts. In general, it said, these disputes should be handled through administrative proceedings and then, if necessary, in state courts.

President Clinton's health care plan and the bills offered by the Democratic leadership are, in many ways, inconsistent with the judges' recommendations. For example, the bills would give consumers more immediate access to Federal courts than the judges consider appropriate. But these provisions have drawn little attention for lawmakers.

MORE LAWSUITS?

In several decisions over the last decade, the Supreme Court has severely restricted the rights of consumers to recover damages when their claims were improperly denied or delayed by insurers.

Senator Howard M. Metzenbaum, Democrat of Ohio, said, "It's ridiculous to suggest that the legal floodgates will be opened merely by giving people the right to sue if they have been wrongfully denied badly needed coverage."

Gwen Gampel, president of Congressional Consultants, a health care consulting company, said the experience of Medicare suggested that the Federal courts would not be flooded with new lawsuits.

But Barbara J. Rothstein, the chief judge of the Federal District Court in Seattle and the chairwoman of the Judicial Conference subcommittee on health care, said any bill guaranteeing a right to health care or health insurance would increase litigation.

"It could have a drastic impact on the courts," she said in an interview today. "That's what we're concerned about."

Judge Rothstein, who was appointed in 1980 by President Jimmy Carter, said that if the courts were overwhelmed with new cases, people with urgent medical needs would be unable to have their claims resolved promptly.

ADVICE FROM JUDGES

In its statement of principles, the Judicial Conference said:

"The full exhaustion of administrative remedies for benefit denial claims should be a requirement for any health care legislation. Claimants should not be permitted to bypass administrative remedies and to proceed directly into a court.

"Following the exhaustion of administrative remedies, and consistent with the general principles of federalism, state courts should be designated as the primary forum for the review of benefit denial claims.

"Traditional discrimination claims and actions should be handled differently from benefit denial claims based on issues such as medical necessity.

"To insure the effectiveness of the enforcement provisions of any health care legislation, it is critical that sufficient resources be provided to the responsible administrative and judicial entities."

The same principles were endorsed this month by the Conference of Chief Justices, representing the top judges of the nation's state courts. The group said many state courts were already "struggling with inadequate resources to meet the demands of ever-increasing caseloads."

The bills proposed by President Clinton, by the Senate majority leader, George J. Mitchell, and by the House majority leader, Richard A. Gephardt, would allow consumers to go into Federal courts to challenge the denial of health benefits. Consumers could pursue their claims in mediation proceedings or in administrative hearings at complaint review offices, but they would not have to use such alternatives.

The bills would also permit consumers to sue health plans, state governments and the Federal Government for failure to carry out duties established by the legislation.

The bills generally say courts should take such cases "without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law."

Victims of discrimination could file Federal or state lawsuits to get compensatory damages, punitive damages, punitive damages and injunctions. Plaintiffs could also seek "reasonable attorney's fees" at the prevailing rates.

Under the Mitchell and Gephardt bills, thousands of community health centers, public hospitals, family planning clinics and doctors in inner-city neighborhoods would be designated "essential community providers," and health insurance plans would generally have to sign contracts with them. An essential community provider "aggrieved by the failure of a health plan" to obey this requirement could file a lawsuit in Federal or state court to compel compliance and to recover damages.

DIARY—HEALTH CARE DEVELOPMENTS

Yesterday: After a day of long Republican speeches and Democratic rebukes, Senator George J. Mitchell, the majority leader, threatened to keep the Senate in session 24 hours a day starting tonight if Republicans do not allow the first votes on amendments to his health care bill.

Congress: Senator Bob Packwood of Oregon, who is orchestrating the Republican opposition on the Senate floor, contended that Mr. Mitchell had promised that senators "would not be rushed." Republicans denied that they were filibustering, although many of them spoke for hours. Mr. Mitchell said that if by this evening, no vote had taken place on an amendment to bolster private coverage for pregnant women and children, "then the Senate will remain in continuous session thereafter, through the evening; through the night."

White House: A doctors' group has rejected a proposed settlement in a lawsuit over whether the Clinton Administration's 1993 Federal health care task force must make its records public. Charles McDowell Jr., president of the doctors' group, the Association of American Physicians and Surgeons, said in a brief Monday that its board of directors voted 13 to 4 reject a settlement. He asked a Federal judge to delay further action on the case.

Mr. McCONNELL. We already pay an enormous price for the litigation under today's laws without adding these 16 new causes of action that are going to be made available under this legislation before us, if it passes. Just taking a look at the situation today, we have a chart up here called "The Price of a Suit." We are not talking about a suit of clothes, but the price of a lawsuit. Experts have calculated that hidden litigation tax for insurance, lawyers, and trials built into the price of consumer goods today.

Mr. President, we are not talking about what is going to happen under this bill. Under this bill, we are going to get 16 new causes of action. This is going to be a two-BMW bill for every lawyer in America.

For an 8-foot aluminum ladder, the average retail price today is $119.33.

Now the true cost of that ladder is only $94.47. The litigation tax is $23.86.

Picking out a couple of products here that are more related to the health care debate which we are having here in the Senate, let us take a look at a heart pacemaker. The average retail price is $18,000, but the true cost $15,000. Mr. President, that is a $3,000 litigation tax on every heart pacemaker, and that is today. That is before we get into the 16 new causes of action created under the Clinton-Mitchell bill.

A motorized wheelchair, average retail cost $1,000, true cost $830, $170 litigation tax on a motorized wheelchair.

Tonsillectomy—let us pick out two more health care items here—doctor's fee, average retail price $578, true cost $387, a litigation tax of $191. So of the doctor's fee on a tonsillectomy of $578, $191 goes to the lawyers, the litigation tax.

Let us look at a 2-day maternity stay: $3,367, for 2 days in the hospital, but, Mr. President, the real cost is only $2,867. A $500 lawyer's tax, litigation tax of $500 on a 2-day maternity stay.

Mr. President, that illustrates the nature of the problem today. Certainly, what we need in this country are a few more causes of action. Certainly, what we need in this country to be more productive is a little more litigation. If you think America has a problem because it has too few lawyers, you are going to love the Clinton-Mitchell bill, a boondoggle for lawyers if one ever existed.

Looking at the Clinton-Mitchell bill, section 1602 of the bill—now we cannot be sure that the current version of the bill lists this provision as section 1602 because there have been several different versions floating around here the last few days. It could be that the reason for all these different versions is to show America how efficient health care is going to be after it has been redesigned by Congress and run by the Government.

Anyway, this provision, if it is still called section 1602, adds a number of new protected categories to the traditional discrimination classifications of race, sex, national origin, religion, age and disability. Those are the traditional categories, but we have some new ones here.

The result is that a person could bring a lawsuit against his or her employer, or against a health plan or provider, or even against a State, alleging discrimination on any of the following additional bases.

We just outlined the litigation tax today on a number of different products, many of them health-care related. But under the Clinton-Mitchell bill, there will be new causes of action possible in the following categories: a plaintiff could allege discrimination based on language, based on income; based on sexual orientation; based on health status; or alleging discrimination based on anticipated need for health services.

Counting these up, that is five new causes of action right there alone, Mr. President, five new causes of action.

The lawyers are out there licking their chops right now just thinking about the potential. As I said, it is not going to be one, but it is going to be two BMW's per garage for every plaintiff's lawyer in America. And, of course, the Clinton-Mitchell bill gives access to any court, any court Federal or State, for anyone to bring a lawsuit alleging discrimination.

Now, there is no doubt that every employment decision in America will be affected by this provision. In that regard, section 1602 is really a civil rights provision, and we should not be using health care reform to change well-established civil rights laws.

Although this bill radically changes discrimination laws in a way that will generate a lawyer's feeding frenzy, there is one large area of the law where the Mitchell bill quite literally turns the clock back, and that is medical malpractice.

In the last several years, there has been enormous progress among the States in ensuring fair compensation to victims of medical malpractice, while at the same time curbing the excesses of malpractice litigation, which we all end up paying for.

This bill guts those important reforms. It turns back the clock on malpractice reform by preempting State law and effectively repealing the work of over 20 States to get health care costs under control.

This is unacceptable, Mr. President. It is antireform, and it must be reversed.

I have heard for many years opponents of any kind of tort reform at the Federal level say that it ought to be left to the States, suggesting that the States should be free to pursue this area if they chose on a State-by-State basis, but this takes that away, Mr. President. It takes away that innovation and says you cannot legislate in this area any longer.

Instead of doing this, Mr. President, we need to build upon what the States are doing, not turn back the clock on their progress. For example, we should abolish the collateral source rule to stop wasteful double recovery. We need controls on sky-high punitive damages. We need to modify joint and several liabilities so that those who are responsible for the harm pay their fair share.

Mr. President, I am sure that every Senator wants injured patients to be fully and fairly compensated for the harm they suffer. That is not in debate. We all want a system to deter negligence, and we all want the few incompetent health care providers that exist to be held accountable. But the bill before us merely perpetuates and even spreads the worst in the current malpractice system. Clearly, we can do better than that.

That brings me to my final point about how we ought to go about health care reform. My view is we should be focusing how to fix our current problems and how to reduce costs, not how to expand Government control and bureaucratic interference.

As I said at the outset, our system is the best in the world because of its reliance on private sector competition and market driven innovation. The Clinton-Mitchell bill, on the other hand, will move American health care in the exact opposite direction. It will create a system where bureaucrats, politicians, and lawyers have more authority over health care than doctors, nurses, and researchers—let alone the patients. As government control expands under the Clinton-Mitchell bill, the incentive—as well as the power—to cut costs, improve care, find new medicines, and treat patients in a personal manner will decrease by inverse proportion.

We just need to look across our northern border, or over the Atlantic to our European neighbors, to see the effects of Government-run health care. These results are not something I believe our country wants to emulate. Citizens are often taxed at 50 percent or more of their income. Structural unemployment persists at 10 and 12 percent. There are waiting lines for medical services, and there is rationing of the use of medical technology that can detect diseases and save lives.

We have all heard these numbers and facts, but let me put a human face on the results we can expect from a Government-run health care system on living, breathing people:

A young woman from Scottsville, KY, the daughter of a friend of mine, was spending a semester abroad studying in London England, this past winter. Unfortunately, she awoke in the middle of the night with excruciating abdominal pains. She went to the hospital, was given medication, and at the time was very impressed that everything was free. However, her condition deteriorated; so she went to a local health clinic 2 days later. She was examined by a doctor whom she described as overworked and preoccupied with other problems. This doctor gave her more medication, but still her condition deteriorated.

Waking in the middle of the night with a fever, chest pain and labored breathing, she decided to use the house call service which the National Health Service requires of all its doctors. Despite the house call, she became more and more ill, and decided the next morning to return to the second doctor she had seen. By this time, her very worried father had contacted my office to ask whether we could be of any assistance.

My office contacted the United States Embassy and obtained a list of several private doctors for the family to call. The young woman quickly made an appointment with one of these physicians, who soon diagnosed the cause of her illness and treated her properly.

Let me read an excerpt from a letter which this young woman sent me afterward—because I think she speaks very well to the issues we must resolve in this debate. That is what she had to say:

> Senator MCCONNELL, I always thought it might be a good idea to have free medical coverage for all citizens. And in an ideal world, it could be. But the reality is that socialized medicine is not successful. It leads to crowded clinics and hospitals, with overworked and underpaid physicians and staff who cannot spend enough time with any one patient. Yes, I eventually did find a good doctor, but I had to pay much more for him than I would have in the U.S.. My experience has led me to the conclusion that socialized medicine, if adopted by [our country], will result in a society of doctors who do not have the time, money, or interest to spend enough time with their patients.

I also heard recently from the president of a hospital in London, England, who shared his perspective on our struggle over health care reform. We would do well to listen to this voice of sober experience. He writes:

> If a plan passes that has a global budget, or contains price controls, a National Health Service-style health care system will eventually evolve in the United States. I, for one, would not like any member of my family being told that they cannot get a service, or will have to be put on a waiting list stretching more than a year because of lack of resources. The market . . . has shown time and time again that it is far better at determining prices and directing capital to where it is needed. The government's record is abysmal in this regard.

Those are just two glimpses of how government-run health care has fared in other countries. Unfortunately, examples of the disastrous consequences of government-run health care can be found right here in America, too.

As most of us are painfully aware, the Federal Government operates its own medical care system for our Nation's veterans, through the Veterans Administration. I say painfully aware, because many of us in this body devote a lot of time and energy on behalf of veterans in our states who simply cannot get the care they need without long waits and pointless bureaucratic hassles.

I remember a few years ago, to give an example, my office was contacted by a Vietnam veteran who had lost his leg in combat. He desperately wanted a replacement leg, so that he could work and enjoy a whole life again—but the VA made him go through one bureaucratic hoop after another. At one point during his ordeal, he heard from some other veterans that my office had a good track record in helping people like him get results from the VA. So he called my office and we went to work.

After a lot of calls and letters back and forth, we eventually got the VA to give this man a replacement leg. In the process, we discovered that one factor in the VA's refusal to help this gentleman was plain-and-simple retribution: The VA saw this patient as a troublemaker, someone who rocked the boat—and for that reason they decided to jerk him around on medical treatment that he needed.

Is that the kind of health care system we want for all Americans? Where faceless bureaucrats can get even with patients who raise too much of a fuss about the health care they are getting—or not getting? And as much as I was pleased to help this veteran and all the other veterans who call me, do we really want to create a health care system where you need to have a U.S. Senator get involved before you can get the medical care you need?

Imagine that. Every American, in this new world brought to us by the National Health Benefits Board, has to call his Senator to get his or her Senator to intervene with the Government to get the care that is needed.

Let me give you another example of what I'm talking about. I recently heard from another veteran in Madisonville, KY, who had contacted the VA office in Louisville to request a medical examination for back pains that he was experiencing due to an injury he had suffered on duty. The VA told him that he could not simply make the request over the phone; he had to put it in writing.

So the gentleman wrote a letter, and one month later, he still had not received a response. So he called again and the VA told him to wait for 30 more days. A month and a half later, he still had not heard. Of course, his back was causing him intense pain throughout this entire ordeal. So as a last resort, he contacted my office and now we are working to help this man schedule an appointment for an examination.

He is just trying to get an appointment for an examination and he is in intense, excruciating pain—brought to you by Government medicine.

Is that where health care in America is headed? When you want an appointment, will you be able to just call your doctor—or will you need to wait for months on end and then, in desperation, call in your U.S. Senator.

The kind of shoddy treatment I have been describing is happening in this country today to our veterans—men and women who are courageously serving our Nation. Yet they wait over 2 months to hear about a request for an appointment.

This is the kind of garbage that is going on today—in America—in a Government-run health care system. Long waits. Faceless bureaucracy. Retribution against patients who dare to complain. So I would say, Mr. President, if we really want to pass meaningful health care legislation this year, we ought to try to reform the VA health care system. That would be a good place to start, rather than spread it to the rest of the country.

I can hear the proponents of this legislation protesting that I am comparing apples and oranges; that the VA is really a single-payer system, whereas their bill makes everybody pay through the nose.

The problem with this legislation is not just who pays and how much they have to pay, but who regulates. This bill gives unprecedented, plenary powers of regulation to the Federal Government. Unprecedented.

If it becomes law, the Government will effectively control every single important facet of our health care system. Directly or indirectly, it will regulate the financing of health care decisions about benefits, costs of policies and reimbursement rates for all medical services.

Under this legislation, the Federal Government will even decide whether a physician may enter a particular speciality and which geographic areas should be entitled to certain kinds of health care providers. So make no mistake, this may not be a single-payer bill, but it is without question a single-regulator bill—a single-regulator bill—and the end result is likely to be just as disastrous.

We can reform our health care system without giving the Government monopolistic control over one-seventh of the economy and over a very important and extremely personal part of each of our lives.

We can reform health care and actually make it better instead of less responsive, more expensive and more bureaucratic. We could, for example, make some simple changes in the way health insurance is marketed—to improve access and guarantee that coverage is portable and renewable. We could restrict the practice of exclusion from preexisting conditions and limit the ability of insurers to drop policy holders like a hot potato after they incur some costly illness or accident.

We could reduce health care costs enormously in four easy steps: enact meaningful medical malpractice reform; create private sector purchasing alliances that are truly voluntary; simplify administrative procedures; and allow the market to eliminate services that consumers, rather than bureaucrats, do not want.

We can help family farmers and others who are self-employed by letting them deduct 100 percent, not 50, but 100 percent of their health insurance costs. All of the measures I have described, as we all know at this point, are in the Dole-Packwood bill. They almost certainly are supported by the vast majority of Americans.

Yet, we are debating today a bill that is largely despised—despised—if not feared by most of those we represent. They hate it. We know that because they are calling our offices and we see the polls. So we ought to stop listening to the special interests, stop listening to the White House political shop, stop listening to the party bosses, and start listening to the calls we are getting from home, listen to the voters, listen to the families in our States.

They are telling us by an overwhelming majority that they do not want this bill. They do not want a Government takeover of their health care system, whether it be single payer or single regulator or whatever. They want control of the health care decisions that affect them, and they do not want to give that control away to a faceless, passionless bureaucracy in Washington.

So we better listen to our constituents' views on health care now or we will certainly hear from them loud and clear in November.

Let us pass a bill that brings real reform to health care without letting Big Brother in the door.

So where does that leave the bill before us? We will need to diagnose it first to answer that question.

First of all, we observe that the bill is plainly overweight. One could even say obese. In fact, the bill suffers from legis-sclerosis, a condition which is caused by unhealthy levels of bureau-cholesterol. It also shows symptoms of "Clintonitis," such as swollen entitlements and acute taxation.

The bill has inflamed constituents, and according to samples that have been taken very recently, it appears to have a dangerously low vote-count.

Evidently, the attending Senate Democratic physician has attempted to treat the patient with heavy doses of "mandatol" with its predictable side effects of impaired autonomy and severe economic contractions.

The other drug which is being administered liberally is "spenditol," which as we all know, merely aggravates the patient's fiscal deficit disorder.

So what course of treatment should we prescribe for this ailing piece of legislation? First, we should note that its intended beneficiaries, the American public, have hung a large sign on the bill which reads: "Do not resuscitate."

That being the case, the first thing we should do with this bill is put it on a strict diet. We need to reduce the intake of bureau-cholesterol, cut out all the administrative fat, and help it shed some of its socialized cellulite. If that does not work, we may need to consider major surgery: a "mandate-ectomy," for example. Otherwise, this flabby bill is going to keel over under its own weight.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate vote on or in relation to Senator DODD's amendment No. 2561 at 6:30 p.m. this evening with the time prior to that vote equally divided in the usual form, and that no amendments be in order to Senator DODD's amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the time will be equally under the control of the Senator from New York and the Senator from Oregon.

Mr. PACKWOOD. That gives us about 7 minutes apiece roughly.

Mr. MOYNIHAN. It means the Senator had better hurry.

Mr. PACKWOOD. I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas [Mrs. KASSEBAUM] is recognized.

Mrs. KASSEBAUM. Mr. President, I rise to discuss for a few moments the amendment put forward by the Senator from Connecticut [Mr. DODD].

It is hard to argue against this amendment because who here does not want to offer what health services we can to pregnant women and to children? No one has been more committed to this issue than the Senator from Connecticut.

But, as my colleagues know, women's and children's benefits are included in the standard benefits package. Under the Mitchell bill, all insurers would be required to offer such benefits beginning in 1997. The Dodd amendment would speed up required coverage for prenatal and well-baby care. Given the poor health status of many of our Nation's children and the high infant mortality rates in many areas of the country, it is difficult at first glance to oppose the amendment.

However, this amendment, I would suggest, goes to the core of the question of who should design and arbitrate benefits package issues? Should it be Congress? We have found it impossible to do that in any reasonble or measured way. The Senator from Minnesota [Mr. DURENBERGER] made an eloquent statement last evening regarding the endless controversies we invite when Congress attempts to define the specific benefits to be offered. Not only can Members of Congress never say "no" to any particular benefit, but we also quickly find ourselves in a situation where new technologies and procedures can render our decisions obsolete.

I am concerned that the Dodd amendment will be just a preview of the future congressional tinkering with and expansion of the benefits package. I have serious reservations about this precedent, Mr. President. Where does it end? Should we move up earlier mammograms to the front of the line? Should we move up prostate cancer screening to the front of the line? There are serious health concerns in preventive medicine that we should consider. Do they not deserve priority as well?

I support a standard benefits package. But that is not what this debate is about. This debate is just the beginning of a process Congress is ill-suited to handle.

Like many others, I have advocated that an independent, nonpolitical commission should be responsible for designing a benefits package which makes sense and which we can afford.

On the surface, the Dodd amendment has enormous appeal. We cannot, however, risk having that appeal blind us to the precedent it sets and the serious questions that remain regarding how a benefits package should be shaped.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN. I yield 1 minute to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I was particularly interested in the comments by my good friend from Kansas, since Kansas was the second State to have legislation that was similar to that which we are considering this evening and was a real leader in terms of children's issues.

Mr. President, I have just two thoughts. This is an important moment for the children of America. Under the leadership of the Senator from Connecticut and others, we start this great debate on national health putting children first, those that are the most vulnerable who have been left out and left behind. That is point No. 1.

Second, Mr. President, this is a good moment for the American people, for at last we are beginning the serious process of the serious debate on national health insurance. It is appropriate that children are first, and it is appropriate that we begin this debate with meaningful votes on the direction that we are going to take on health care for all Americans.

I yield.

Mr. PACKWOOD. I yield 2 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I agree with my colleague from Kansas and my colleague from Massachusetts, if that is possible. I think we are debating what is best for women and children in this country.

I regret that I made this argument last night at an hour which probably was not available to a lot of people. But I think the argument is fairly basic. Is the best care, both prenatal care and well-baby care, that which is determined by the doctor and the health plan in conjunction with the doctor, the obstetrician or the pediatrician? Or is it going to be determined by the Secretary of HHS? I do not have a problem with the first part of this amendment because it is basically what has been debated and argued here in the last 3 or 4 days. And that is that we ought to cover clinical preventive services, including prenatal care, well-baby care, immunizations for pregnant women and children. We all agree on that. The problem for me is when you direct the Secretary of HHS by July of next year to have come up with a schedule of the routine services that are going to be required in every single health plan in America for every single child and every single mom in America.

They talk about the Academy of Pediatrics. I tell you, the Academy of Pediatrics will tell you it depends on the family history of the child, on whether there is a history of disease, it depends upon some of the cultural background, and it depends on a whole lot of factors as to what is the best care in a particular case. There is no way that the Secretary of HHS is going to be able to promulgate by regulation what service is the most appropriate in a given case for every kid. You cannot have one standard for every pregnancy and every child in America.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN. On our time, I would like to state that New York is one of the States which already has the provisions of the Dodd amendment, and they should be available to all Americans in every State.

I yield 1 minute to the undaunted champion from Pennsylvania [Senator WOFFORD].

Mr. WOFFORD. Mr. President, Senator DODD worked with women and children in the Dominican Republic in the Peace Corps, and it is very fitting that he has carried that work forward to the American people and American children and American women sooner rather than later. That is the lesson of this amendment. Let us not be proud of dragging this process out into the next century. Let us be proud of how we find the ways and means to give health security and preventive health care to children sooner rather than later.

This amendment was not so complicated. We were able to get to work on it. It is a page and a half. Implemented not later than July 1, 1995. Harry Truman, who started this fight, would be proud of us. Remember his words:

> Where there are differences remaining as to the details of the program, we should not permit these differences to stand in the way of our going forward. They should be thrashed out with honesty and tolerance, as is our democratic fashion. We should enact the best possible program and then all of us should get behind it and make it work.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. PACKWOOD. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I want to congratulate the Senator from Minnesota. I share his sentiments. What are we trying to do here? The goal is to cover all of these services in the uniform benefit package that we are going to come up with. I do not think we want to be so specific that what is put into regulation then has to be changed in the following year.

I suppose the proponent of the amendment would say that this is just for during the interim period. This will come out by July of 1995. But we all know that once we start down that track, once the Secretary of HHS comes out with this very detailed schedule—and everybody is familiar with this, and I presume it has been read before—she shall establish a schedule of periodicity that reflects—and so forth and so on. This is just the path I do not think we want to go in. To me, it is reminiscent of Medicare. In Medicare we have every possible contingency covered by regulation, and it is chaotic. I have had a hand in all of that. I think I mentioned in the remarks I made the other evening that you find the bizarre situation of Senator CHAFEE and Congressman PETE STARK, both in part of the conference on Medicare at 2 a.m. in the morning deciding in some remote part of this Capitol who will get paid for reading an EKG. I am totally—and I might speak for Representative STARK in the same manner—incompetent to do that. We were beyond our realm on that. That is not in our job description.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHAFEE. Mr. President, I just want to say that these are decisions that should be made by doctors, and the plan, and by individuals, and not by the Secretary of HHS.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time do we have left?

The PRESIDING OFFICER. There are 21 seconds remaining.

Mr. MOYNIHAN. I yield 42 seconds to the gallant and learned Senator from Connecticut [Mr. DODD].

Mr. DODD. If you keep talking like that, I would ask you to come to Connecticut and say those words.

Let me just say how pleased I am, Mr. President, that at long last we are finally going to have a vote on this proposal.

Let me repeat for the benefit of my colleagues what the amendment does. It is very simple. It merely says that all private insurance policies—private insurance policies—must include coverage for preventive care for pregnant women, children, and infants as of next July, to expedite and accelerate that coverage. It creates no new Government bureaucracy. It builds on our current system of private insurance to make certain that we start giving our children a good start right away.

Why is this so important? Why is it important to start providing these benefits earlier? I think the facts and statistics, Mr. President, speak for themselves. Every time that a low-birthweight delivery is prevented, it saves between $20,000 and $50,000. Every time a very low-birthweight delivery is prevented, it saves approximately $150,000. Not much more needs to be said.

Clearly, if we can accelerate the coverage of these children by a year and a half or 2 years, we will eliminate significant future costs. We mandate well child care already in 22 States. The Senator from New York pointed out that his State has had this type of program for some time. The first State was Wisconsin and the second, Kansas. These programs were started under Republican Governors, I might add, that insisted that we reach out to children as quickly as possible.

There is a legitimate debate about individual proposals to deal with the benefit package, but I think there ought to be some consensus here about children and pregnant women, that it is in our collective interest to see that we do everything to prevent—not treat but prevent—these problems from occurring.

If we can prevent these health problems from occurring, more promptly and earlier, we all win and all gain. Therefore, Mr. President, I think this amendment is critically important. Of course, I think all of us agree that we must figure out a way to reach the 12 million uninsured children.

I want to stress that this amendment does not create any new Government organization. It is all done under private carriers. HMO programs in this country require this, and have insisted upon it, to their credit.

I believe that Republicans and Democrats, on the very first issue addressed in this body on national health care reform, on the issue of pregnant women and children, ought to be able to come together. We may divide in the days ahead on the issue of mandates, and alliances, and cooperatives and whatever. But on children and pregnant women, let us say to the American people tonight that as far as those citizens are concerned, we unite and stand together to see to it that they will at least get the basic kinds of health care coverage that they deserve and need to make this a stronger and healthier and better Nation.

Mrs. HUTCHISON. Mr. President, I rise to oppose the Dodd amendment. This amendment would have the effect of changing insurance laws throughout America, starting immediately, preempting State laws and requiring every person to take this coverage regardless of whether or not they will have children in their families. It is a mandate on people to take a standard benefits package whether they need it or not. This takes away the freedom of choice, and the cost requirements are a tax which will have to be borne by each individual and his or her employer. This is what is wrong with a standard benefits package mandated by the U.S. Congress, and why I do not support it in the Mitchell bill.

Mr. THURMOND. Mr. President, before beginning my statement on this bill, I wish to acknowledge the efforts by the President and Mrs. Clinton to focus the Nation's attention on the need for health care reform. While they have worked very hard to reach this point, I cannot support the far-reaching plan which we are now considering. Hopefully, during debate on this issue, we can agree on reforms which will improve our health care system without burdening our society and economy.

We all agree that our health care system needs repairing. Our primary goal should be fixing the current system without losing the advantages of choice and quality coverage we presently enjoy. We must not forget that the American health care system is the envy of the world. Foreign leaders and dignitaries come here for treatment because their own systems simply do not provide the same quality and advanced care.

Last year the United States spent approximately $900 billion on health care.

This is 14 percent of our gross national product. Obviously, any reform in health care will have a large impact on our economy. However, it is our responsibility to assure Americans that any reform will benefit the finest quality health care system in the world.

Mr. President, I believe the best starting point for health care reform is prevention. If Americans have ample information and incentives concerning preventive health care, many of the health care problems can be avoided. Proper diet, reasonable exercise, self-discipline, and an optimistic attitude toward life promote health. It stands to reason that such sensible measures are cheaper and cause less suffering than curative medicine.

Prevention programs are especially needed in the maternal and child health fields. The lack of prenatal care causes thousands of easily avoidable birth defects each year. For example, many women who smoke do not realize that smoking during pregnancy may contribute to low-weight births. Also, many Americans do not know that the use of alcohol or drugs during pregnancy may result in a child with fetal alcohol syndrome or addiction. Simply providing obstetrical and gynecological services can prevent these and other infant health problems.

We can save an immeasurable amount of suffering if we simply promote and practice preventive health care, starting with prenatal health and continuing throughout the life of a child.

Prevention programs are also needed in the areas of substance abuse and mental health. As you know, the cost to our Nation caused by substance abuse and mental illness are tremendous. In 1990, Americans spent $314 billion on health and social problems created by drugs, alcohol, and mental disorders—$100 billion more than the cost of AIDS and cancer combined. We pay not only in medical care costs, but also in a rising crime rate; an overburdened social welfare system; productivity losses; premature deaths; and emotional suffering that cannot be measured.

The importance of helping those who suffer from addictive and mental disorders is evident. Studies have shown that treatment programs can reduce the enormous social and economic costs of these disorders. For example, half of the patients receiving treatment for schizophrenia, either completely recover or can function with minimal support; thereby cutting rehospitalization rates, preventing homelessness, and improving employment outcomes for those patients.

Mr. President, for every dollar spent on treating someone with substance abuse problems, $11.54 is saved in social costs. For example, the estimated 10 million alcoholics in this country spend two times more on health care than those without alcohol problems.

Costs associated with substance abuse are not limited to health care. Addictive and mental disorders have added to our society's greatest problems: crime, joblessness, and welfare. Therefore, we can not ignore the beneficial effects of prevention and treatment.

Mr. President, there are issues on which I believe we can agree. For example, we should not allow the cancellation of health care coverage because of illness, or allow coverage to be denied because of a pre-existing condition. Further, I believe we all agree that coverage should be portable. If individuals lose their jobs or decide to change jobs, they should not fear a reduction in their health care coverage, nor that they may lose it entirely.

I am pleased that there is some common ground in these areas. Unfortunately, this legislation reaches far beyond these common issues. It creates one of the greatest social spending programs in history. It also creates one of the greatest intrusions into the rights of the States and the rights of individuals.

No one wants to be denied health care when it is needed. However, there are distinct and subtle differences between what is called universal coverage and universal access.

Universal coverage essentially means that the Government will run our health care system. Everyone may have coverage, but at what price? Some of the looming prices include less quality, less access to needed services, less freedom, more government, and more taxes.

Universal access means that a person cannot be denied coverage because of a preexisting condition or on the basis of employment or wealth. It is founded on personal responsibility which means it is not a free ride.

Many Americans are disgusted with the free ride welfare system in place today. Is it because people do not want to help their fellow Americans? I doubt it. We prove time and time again that we are the most generous Nation on Earth. Americans traditionally come to the aid of those in need. Everyone recognizes that some help is needed every now and again. However, people are willing to give someone a hand-up but not a hand-out. That is why people are upset with welfare—it is a handout. It is a self-perpetuating cycle of dependency. The American people are tired of hearing that their hard earned income goes to some wasteful and inefficient program.

Yes, there are problems with our current health system, but they will only be made worse if this plan is enacted in its current form.

I have a number of specific concerns surrounding the Clinton-Mitchell bill. My first concern is the issue of the guaranteed basis benefits package.

The Clinton-Mitchell bill would entitle all Americans to a package of guaranteed national health benefits. This guaranteed benefits package includes mental health services, substance-abuse treatment, and some dental and clinical preventive services. The mandatory package includes not only major medical services, but also incorporates routine eye and ear examinations and even elective abortion services.

The Clinton-Mitchell bill would require every health plan to provide this standardized package of health care benefits. This requirement will take away the consumer's ability to choose benefits. Moreover, as the Government aggressively promotes managed care, the ability of doctors to treat patients according to their independent professional judgment will be severely circumscribed. These limitations will make it difficult for Americans to take advantage of new or specialized medical services.

The National Health Board will set national guidelines for determining which treatments can be provided or upgraded, which treatments are medically necessary, and even how often approved treatments or tests can be conducted. New benefits, including new treatments, medical procedures, or devices used in the treatment, prevention, or cure of disease will have to be approved by the National Health Board, or Congress, before they can be covered in a basic benefit package.

New benefits will be approved slowly and with great difficulty. I am concerned that there will be extended bureaucratic delays and major political debates surrounding any attempt to alter benefits. For medical specialty groups, or groups afflicted with particular medical conditions, the National Health Board and, inevitably, Congress will become the central focus of intense lobbying over the addition or subtraction of medical benefits, further politicizing the health care system.

I believe we can avoid these problems by allowing consumers their own choice of doctor and health care plan. We can do this by ensuring portable, universal access to health care, regardless of pre-existing conditions and without mandating specific benefits.

Another area of concern is the treatment of the system for graduate medical education. I agree that we have a shortage of primary care physicians and providers in America. Many people are concerned that there are too many physicians, that our distribution of specialists is poor, and that there is no government control on training programs. However, we have the best health care system in the world. I believe that is due in part to the fact that we allow our students and medical professional to choose their fields of endeavor and to pursue their careers without interference.

Unfortunately, this legislation will directly interfere with the career choices our students will make. This legislation directs that National Council on Graduate Medical Education to decide how to cap the physician supply by not allowing students to enter a nonprimary health care training program. This commission will define the goals for specialty mix, the number of residency training positions, and where residency programs will exist.

This legislation dictates that the national council shall ensure that 55 percent of the students in primary care programs will pass. I am concerned that this will lessen the quality of the education received by these students.

I believe we are approaching the shortage of primary care providers from the wrong angle. We should be encouraging our students to pursue careers in primary care. We should not limit the number of positions available in specialized areas.

Mr. President, a third area of concern is the expansion of prescription drug coverage, and the potential for price caps and shortages in this area. There is no question that all Americans need access to affordable prescription drugs. Unfortunately, too many Americans are supporting this plan because they believe it will expand their drug coverage.

They must think this through. At what cost will drug coverage be "expanded"? Some of the costs will surely be: Reduced research, reduced choice of medications—many of our senior citizens prefer to use certain products—premium caps, shortages in drug supply, and taxes.

Mandated Government prices controls or price review boards would penalize pharmaceutical research, and eventually drive companies out of the industry. Recent studies of the pharmaceutical industry indicate that the free market, along with strong safeguards to ensure quality help, contains price increases.

As you know, in 1993, the pharmaceutical industry spent an estimated $12.6 billion on research and development. The Office of Technology Assessment estimates that in 1990 the average cost of research and development for each new drug marketed in the United States was $359 million.

The best hope for treatment and possible cures for many of the health problems we face today is in the area of pharmaceutical and biotechnology advances. If we try to establish price discipline, we will see a decrease in pharmaceutical research and development, and fewer pharmaceutical and biotechnology breakthroughs.

I am also concerned that the Workers' Compensation Program has been included in this legislation. The proponents of this legislation will argue that it is only establishing a system of data collection and a commission to study whether workers' compensation should be incorporated into health care reform. This is true for the Senate version of this legislation. Unfortunately, it is fully incorporated in the House version. My concern is that the Senate version will be dropped before the conference even begins.

Let me address my reasons for this concern.

As you know, workers' compensation was created over 80 years ago and is the result of a common compact between business and labor. If a worker is injured on the job, the financial burden of an industrial accident is shifted away from the injured worker and charged to the employer. All of an injured worker's medical expenses are covered, and the work-related disability payments are made until the worker returns to the job. In addition, workers' compensation insurers attempt to manage treatment and rehabilitation in order to minimize an injured worker's loss of earning capacity and/or physical function. In return, the injured worker agrees not to sue his or her employer to receive compensation for the injury.

The House's inclusion of workers' compensation in this legislation will jeopardize the current freedom and flexibility of States to experiment with new ideas and approaches to improve the system. A number of States have had recent successes controlling the growth of workers' compensation costs. In the last few years, Massachusetts, Florida, Oregon, New Mexico, and Washington have all undergone efforts to reform workers' compensation. Dozens of workers' compensation legislative proposals are also pending in various State legislatures. Each State has taken a different approach in its reform, and we should not impede this progress.

Mr. President, the goal of workers' compensation is simple: Get an injured worker back to work and normalcy as soon as possible. Much of the success in achieving that goal is due to the fact that insurers and employers who foot the bill for medical care should continue to have significant decision-making authority. The House version will prevent the employer and the State workers' compensation agency from questioning whether appropriate medical treatment is being received. Employers and insurers are concerned about separating the responsibility for medical management from the financial responsibility for cash benefits, and losing control over the medical portion of the workers' compensation premium which amounts to approximately $24 billion a year.

Inclusion of workers' compensation would also eliminate the benefit of experience rating. Experience rating encourages employers to directly influence their premiums by implementing workplace safety programs to reduce the number of accidents among their employees. The integration of workers' compensation would seriously and adversely affect employer safety incentives by moving workers' compensation from an experience-rated to a community-rated system, and the public would bear the cost of an employer's unsafe workplace.

I believe the workers' compensation system is unique in its mission and its approach. I also believe that including it in this reform package would be a mistake. Workers' compensation has always been a successfully State-managed system, and I believe it should remain with the States.

Another concern I have with this bill is the inclusion of the antidiscrimination provisions. Under current law, employers, schools, and places of public accommodation are not allowed to discriminate on the basis of race, sex, age, national origin, religion, or disability. The Clinton/Mitchell bill would add five new categories that have never been considered as protected groups under our civil rights laws. They include: Language, income, sexual orientation, health status or anticipated need for health services.

This language is simply not needed to ensure that there is no discrimination. Section 1002 clearly establishes that all health plans shall "accept all eligible individuals for coverage." There is no room for discrimination in this section.

I believe our employers, health plans, States, and other entities will be exposed to unlimited damages and lawsuits that will further raise the cost of health care and further overwhelm our judicial system.

This is an unprecedented expansion of law. We do not know how broad these new categories are. We also do not know what effect this new expansion will have on our employment policies. Therefore, we must question why these new categories have been included.

Mr. President, as the ranking member of the Senate Judiciary Subcommittee on Antitrust, Monopolies and Business Rights, I have two additional concerns that relate to the antitrust laws.

First, I oppose the attempt in this legislation to repeal the McCarran-Ferguson Act for the provision of health benefits by insurers. This repeal would be bad for both competition and consumers and would interfere with State control over the regulation of insurance.

The repeal applies to "health benefits," which might appear quite narrow, but in fact encompasses many lines of insurance. The term is far broader than mere health insurance, and could cover workers' compensation, homeowners, auto, medical malpractice, and general liability insurance.

Any repeal of McCarran-Ferguson will inevitably lead to a decrease in competition rather than the increase proponents claim. The insurance industry is now highly competitive with thousands of firms competing for business. Without the ability to engage in certain joint activities, especially sharing of information, many of the smaller companies may go out of business and competition will be diminished.

If McCarran-Ferguson is repealed, I believe it would only be a matter of time before Federal regulation crept in. Federal regulation is generally cumbersome, slow, and unresponsive to local and individual needs, while the State regulation encouraged by McCarran-Ferguson is better suited to the needs and interests of the consumer and the industry. The net effect of McCarran-Ferguson repeal in this legislation is that consumer welfare will not be enhanced. The uncertainties associated with such a change will likely decrease competition as regulation increases, to the detriment of the consumer and the marketplace.

My other antitrust concern is that this legislation makes no attempt to address the many uncertainties of the antitrust laws, which are worsened by health care consolidation under this legislation. Last November, Senator HATCH and I introduced the Health Care Antitrust Improvements Act to establish a framework for adjusting the antitrust laws to health care reform. We have recently modified our proposals to address concerns which had been raised, but continue to pursue the key goal of clarifying how the antitrust laws apply in the health care industry. The purpose is to save money and improve quality in health care, not for the benefit of providers, but for the ultimate benefit of patients and those who pay the bills.

Saving money through lower antitrust costs is achieved by greater antitrust certainty so that fewer questionable cases are brought, by giving more responsibility to the Federal antitrust agencies to determine what conduct is desirable and what is not, and by focusing antitrust enforcement on the areas that truly need it rather than on areas that generally do not.

Quality is improved by removing unnecessary and artificial antitrust barriers that prevent medical providers from organizing themselves to achieve the combinations which can deliver the highest quality of care. The antitrust laws currently chill much desirable conduct by medical providers. This has a negative effect on quality but can be avoided by greater certainty about the applicability of the antitrust laws in the health care field.

In order to permit desirable activities and organization by health care providers, the Hatch-Thurmond provisions direct the Justice Department to develop safe harbors for specific categories of conduct which need not be subject to the antitrust laws. Because of the difficulty in determining where to draw the lines in changing markets, the Attorney General is authorized to review applications and issue antitrust waiver covering individual situations. In addition, our provisions permit health care joint ventures to be disclosed to the Attorney General in exchange for single damages, following the pattern of the production joint venture bill that passed the Congress and was signed into law last year. These provisions establish a framework for adjusting the antitrust laws to changing health care markets, to achieve the ultimate goal of more efficient, higher quality medical services at reasonable prices for the benefit of all Americans.

Finally, Mr. President, perhaps the most pressing issue is that of the mandates included in this bill. This legislation will require each State to submit a health care reform plan to the National Health Board detailing how the State will comply with the Federal rules and regulations established by the Board. The States will have to demonstrate to the Board how they will certify health plans, administer subsidies for individuals and small employers, collect data on health plan performance, and meet Federal quality and management requirements.

There are at least 50 new mandated bureaucracies created under this legislation. I believe the American people can do without more bureaucracy.

Also contained in this legislation are 17 new federally mandated taxes. When you tax someone it means less money in that person's pocket. It means that person has less freedom to do what they wish with their hard-earned income. It often means that person must also try to get by with less money to pay for food on the table, diapers for the baby, the utility bills, or any other necessary expenses.

Mr. President, this legislation sets the goal of coverage at 95 percent. If that goal is not reached, an employer mandate is triggered that requires the employer to pay 50 percent of the costs of an employee's health plan.

The employer mandate imposes additional labor costs on our economy, and when businesses are faced with an increase in labor costs they first look to the employee to make up the difference. This will take the form of lower wages, fewer benefits, and job loss.

What small business is going to want to hire another employee when they are facing a 50-percent tax on health care? That is what it is. It is a tax business. You can call it shared responsibility or employer contribution, but the simple fact is that the Federal Government is directing the private sector to spend its money in a particular way. That is a tax.

Webster's Dictionary includes among its definition of the word tax "to impose a burden on; put a strain on". The employer mandate places an enormous burden on the individuals and businesses of this great Nation.

According to a preliminary study done by the Heritage Foundation, businesses in South Carolina may suffer an additional $806 million a year in additional taxes. That is $806 million that will not go toward creating new jobs or to support existing jobs.

The people of my State do not want a federally imposed employer mandate. The American people do not want an employer mandate. They know it is not good for business and, in the long run, it is not good for the economy.

Many of the proponents will advocate that this trigger will only happen if the reformed free market fails. These advocates say they are going to give business a chance. That is like tying my hands behind my back and asking me to box 15 rounds with Mohammed Ali.

The result is obvious. The system is designed to fail; and the trigger will be pulled. Even in the highly touted Hawaiian system—with employer mandates—coverage has only reached 94 percent.

This trigger is on a gun placed at the head of American business entrepreneurs and Americans themselves.

Mr. President, the Charleston Post and Courier, a local newspaper in South Carolina, recently reported the results of a poll taken by Mason Dixon Political/Media Research, Inc. When asked, "what issue will be most important to you when deciding how to vote in the congressional race?" only 7 percent responded "health care." Twenty-six percent responded that taxes and government spending were most important to them, followed by crime and drugs with 24 percent, education with 14 percent, and employment with 8 percent. Health care was fifth on the list, barely out-polling deficit reduction.

The results of this poll are telling. The American people want health care reform done for the right reasons, not for political gains. Also, based on thousands of handwritten constituent letters and phone calls, I know the people of South Carolina do not want this legislation. The people of my home State do not want bureaucrats in Washington, DC, making decisions on the best way to treat patients in Allendale, Walterboro, Pomaria, Taylors, and the other towns and communities in South Carolina.

It is our responsibility to the American public to ensure that health care reform will be truly beneficial and not harmful to the finest quality health care system in the world. I urge my colleagues to oppose this legislation and work for real health care reform that works and not for another government entitlement program.

Mr. DODD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

The floor leader controls 1 minute 5 seconds.

Mr. MOYNIHAN. Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. The Republican floor manager has 21 seconds.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, there will be no further roll call votes this evening after this vote.

I have discussed the matter with the managers and the distinguished Republican leader and following this vote, I ask unanimous consent that Senator FEINGOLD be recognized to complete his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Following Senator FEINGOLD's statement, which he had begun prior to this debate and vote and for which I again thank him for his courtesy in permitting an interruption, there will be 2 hours for debate, which will be equally divided and under the control of Senators MOYNIHAN and PACKWOOD, and after those 2 hours the Senate will remain in session for as long as Senators wish to speak but without any specific division of the time. The managers will take care of that. I put that in the form of a unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Mr. President, reserving the right to object, my understanding was I was to have the floor for an opening statement following the Senator from Wisconsin.

Mr. MITCHELL. I made this suggestion as the request of Senator PACKWOOD.

Mr. PACKWOOD. I think we will work this out. We are going back and forth under controlled time, and I will recognize the Senator from Colorado.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we will be happy to have the Senator from Colorado as the first speaker following the Senator from Wisconsin.

The PRESIDING OFFICER. There is a unanimous-consent request propounded.

Without objection, it is so ordered.

Mr. MITCHELL. Then, Mr. President, on tomorrow Senator PACKWOOD has indicated to me that he or one of his Republican colleagues will have an amendment to offer, which will be the subject of debate and we hope vote tomorrow, although we are not attempting to reach an agreement on time. Senator PACKWOOD has indicated that he hopes to be able to let us see a copy of that amendment this evening so that we have a chance to review it and be prepared.

With respect to the pending amendment, we provided a copy of that amendment several hours before it was taken up.

I thank colleagues for their cooperation, and I now yield the floor.

VOTE ON AMENDMENT NO. 2561

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement heretofore entered, all time having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Georgia [Mr. NUNN] and the Senator from Tennessee [Mr. SASSER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—55

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Wellstone
Wofford

NAYS—42

Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kassebaum
Kempthorne
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—3

Hatfield
Nunn
Sasser

So the amendment (No. 2561) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. DOLE, the following statement was ordered to be printed at this point in the RECORD:)

● Mr. HATFIELD. Mr. President, today I was necessarily absent for the vote on the Dodd amendment No. 2561. Had I cast my vote, I would have done so in opposition to Senator DODD's amendment because I do not believe the Secretary of Health and Human Services should be designating specific benefits to be provided in health insurance plans. I have always had a strong commitment to preventive efforts, including maternal and child health, and I would hope that any health care reform package we enact will favor these services without the imposition of Federal mandates.●

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, before turning to the distinguished Senator from Wisconsin, who so courteously allowed us to interrupt him for this rollcall, may I make the point——

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senator from New York claims the floor.

Mr. MOYNIHAN. May I simply make the point, sir, that we have been on this bill for almost 2 weeks and we have not lost an amendment yet. Thank you.

The PRESIDING OFFICER. With that observation noted, under the previous order the Senator from Wisconsin, Senator FEINGOLD, is recognized.

Mr. FEINGOLD. Thank you, Mr. President. I thank you for all your extremely hard work on this piece of legislation.

Mr. President, I had the opportunity on Sunday morning to see some of the talk shows about the Federal Government and national issues, and I happened to watch the McLaughlin Group. One of the panelists on the McLaughlin Group said something about what was wrong with the Democrats' approach to health care. His conclusion was that we had made two big mistakes. One mistake, he said, was proposing the idea of a health security card for all Americans and waving the card around. He thought that was a terrible mistake strategically.

The other terrible mistake he said was for the President to have held up a pen and say that he would veto legislation that did not provide universal coverage. I was somewhat amused by these remarks because these two symbols—the card and the pen—have been among my favorite aspects of the health care debate. These were symbols of hope, that all Americans at the end of the 103d Congress would have health care guaranteed for them.

So I waited a while before I spoke on the floor. Many Senators have already spoken on health care. Many more will later on. But I wanted to get an initial impression of whether my original view of the importance of this legislation held up after listening to all the speeches.

I still think the reason for this legislation holds up, and that is the central proposition that every American should be guaranteed health care. The problems with the legislation, the controversy, is not about that principle. There is a tremendous amount of debate about employer mandates and whether we should have a premium tax or the mix of generalists versus specialists, and other very important issues. But it still seems to me that a reasonable centerpiece of the health care debate is whether or not we are going to provide a guarantee of health care for all Americans.

So, Mr. President, I wonder why that issue has seemed to have dropped from view, relatively speaking. To me it is still the most important issue, and that if we do anything with the Mitchell bill, we should strengthen the provisions for universal coverage.

I have felt this way for a while and, naturally, we all campaigned in 1992 on the notion that we would provide health care for all Americans. I think everybody, on both sides of the aisle, probably said something along those lines.

But we did not stop there. We went beyond that into the legislative period, and the words from the famous campaign of the Senator from Pennsylvania have been repeated in many different ways, but they still hold true:

> If criminals have a right to a lawyer, sick people ought to have a right to a doctor.

Those words are, to me, still the basis of a hope and an expectation that we have presented to the American people over the last few years, but in particular in this year. I give credit—tremendous credit—to the President and the First Lady for repeatedly making that known.

The President said in his famous speech on September 22, 1993:

> So I say to you, let us write that new chapter in the American story. Let us guarantee every American comprehensive health benefits that can never be taken away.

I was grateful to have both the President and the First Lady travel to my State of Wisconsin. They did not just visit the big cities. They came to some of our middle-size communities, like Wausau and Janesville, and they repeated over and over again that proposition: That if nothing else, the end of this process will be that every American will have one of these cards to guarantee them health care coverage.

I remember sitting next to my friend, the junior Senator from West Virginia, during the President's State of the Union. Senator ROCKEFELLER and I were chatting now and then during the President's speech, and Senator ROCKEFELLER let me know that he was wondering if the President was going to hold up that pen. He hoped he would, and so did I. We thought it was a critical moment to see whether the President of the United States would say, "If you don't give me universal coverage, I will veto this bill."

So those two symbols gave a lot of people hope—maybe a lot of expectation, but they gave a lot of hope. And to me it is not a case of overpromising. To me this card and this pen are some of the best examples of leadership and strength that the people of this country have come to look for in their President and in their Congress.

The President said in his speech, "I have no special brief for any specific approach, even in our own bill, except this. If you send me legislation that does not guarantee every American private health insurance that can never be taken away, you will force me to take this pen, veto the legislation, and we will come right back here and start all over again."

So, Mr. President, I think the card and the pen are very powerful symbols. One expresses the promise of guaranteed health care for every American that could never be taken away. The other gives meaning and force to that promise. And I can tell you, having been all over Wisconsin holding town meetings and listening sessions, the card and the pen meant a lot to the people of the State of Wisconsin, and they expect us to act on it.

We have not seen much of those symbols lately. For many, the comfort and the reward of the status quo have been a little too tempting. The very interests that have fattened themselves on the inequities and inefficiencies of the current system have understandably fought to keep those defects and weaknesses in place.

To date, I am sorry to say, those interests have been successful in obscuring the debate, and many who have aligned themselves with these interests have done a tremendous job, a masterful job of misstating our health care problems. The other side has a tremendous skill. The other side knows how to keep it simple. They weigh a bill. They say it is Big Government. They bring out a chart that looks complex but is actually less complicated than the current system. They are darned good at that.

We need to get good at it, too. We need to talk about the simple message that this card and this pen are about a commitment that this side has to every American that the other side does not.

I remember well last year during the deficit reduction debate there was another symbol. In fact, some Boy Scouts handed me this symbol. It was a false symbol but it had been mass produced. It said, "No middle-class tax increase." Some of the folks on the other side had everybody in this country including Boy Scouts in Ripon, WI, believing that everybody's income taxes were going to go up under the President's deficit reduction bill.

It was not true. And the statistics show that only 1 percent of the people in this country had their income tax rates increase. But the symbolism worked. That little card misrepresented the deficit reduction bill and it took us months to undo, the consequence of people being misinformed of what the bill really did.

Mr. President, we need to return to talking about guaranteeing every American this health security card.

I am struck by the sort of having-your-cake-and-eat-it-too attitude that I heard out in the Chamber during the last 10 days. Just about everybody in this body says they are for universal coverage, but they say it is a question of how and when you get there, and whether or not somebody is willing to vote for the tough law that is necessary to make that kind of health care coverage possible.

Now, of course, there are some people who take the view that universal coverage is a bad concept. Some say it is an example of socialism—it is socialism to talk about letting every American have health care cards. Others pay lip service to the concept of universal coverage but say what we really need is universal access. But universal access is different than universal coverage. Universal access means if you have the dough, if you have the money to pay for it, you get coverage. It does not guarantee coverage.

Perhaps this problem of terminology was best shown yesterday when I had the chance to hear the junior Senator from Texas indicate that she believes that universal coverage is a noble goal and one that she said she shared. My question for you, Mr. President, and my colleagues is, how did we get from a guarantee of health care coverage and a right of health care coverage to the idea that it is simply a noble goal, like eliminating poverty or eliminating all environmental pollution.

For me, universal coverage has long been the core issue of health care. That does not mean there are not other terribly important issues. One is cost containment, the fact that this system, a combination of private and public health care, is going to go over $1 trillion this year for the first time; another is, the issue of comprehensive benefits including mental health benefits and it is extremely central to this debate; the issue of home and community-based long-term care for the elderly and people with disabilities is the issue I have spent the most time on and talked to most every Member of the Senate about.

All of these are important and all of these should be addressed, but all of these are part of a larger reform which has its first principle in this, universal coverage. Sometimes I fear that there is not much talk about universal coverage or guaranteeing health care and that all these other issues are raised so that that issue does not have to be discussed. It is too central. It is too obvious. It is too simple that this country has come too far to still be one of the few industrialized countries in the world that does not guarantee health care.

For me, this goes back all the way to 1972. I was 19 years old at the time. I bought and read a book by the senior Senator from Massachusetts. It was called, "In Critical Condition." It was one of the first and most important articulations on the notion that health care should be a right for all Americans. And I admit I was young at the time. I also believed in 1970 that when we started Earth Day, we would not have much of a problem with environmental pollution some 20 years later, but we still do. But that was youthful optimism, and I really believed that when Senator KENNEDY's book came out it would not be long before we could say that health care is a right of all Americans.

I am embarrassed that this country has not achieved that goal. I am embarrassed that the most powerful and rich country in the world still cannot say that each and every person in this country has a right to coverage. I am very proud of my country, but I am embarrassed by that.

This has been an article of faith for me and has been throughout the years until 1988 when I held hearings in Wisconsin on long-term care. And it was all supposed to be about home and community-based care. But it was interesting; some people came to the hearing, some representing labor, some representing health care groups, and they said, "State Senator Feingold, would it be OK if we talked a little bit about health care in general?" They taught me something I did not know. I did not know that 500,000 people in Wisconsin were uncovered. I knew that some were, but I was astonished to know that over 10 percent of the people in the State of Wisconsin did not have that coverage. Growing up in Janeseville, WI, I believed and I assumed that all kids had health care coverage, whether they were rich or poor. And what really got me was learning at these hearings in 1988 that the only other industrialized country in the world that did not have that commitment to universal coverage was South Africa. Why the United States and South Africa? Why our country?

How can it be that we have the best health care system in the world, as the other side is so fond of saying, if 37 million Americans are not covered?

So that is why this card and this pen are so important. They are the key to showing all Americans that we are committed to each and every one of them. As the President said on November 20, 1993, under this legislation every citizen and legal resident will receive a health security card that guarantees the comprehensive benefit package.

So the question before us, that I think ranks above all other questions, is, do all Americans have a right to one of these cards? And will the President use the pen to enforce it? I certainly hope so.

But I have been a little disappointed lately. I made note of it at the time to read a headline in the Washington Post: "Clinton Backs 95 Percent for Health Care." To me, 95 percent is not 100 percent. That is a disappointment. The problem with the analysis of the 95 percent figure is that it involves a confusion, a confusion between the practical problem of making sure that everybody uses their right to coverage, and the legal notion that everyone should have a right to health care. In other words, you can have universal coverage for all Americans, but only 95 percent of the people may actually make use of that protection.

I am not saying that this is a constitutional right. Perhaps you could make that argument. The Founding Fathers talked about life, liberty, and the pursuit of happiness. That is not what we are talking about here. What we are talking about here is whether we are going to provide a statutory right, a public law that creates a statutory right, for every American to have health care. That is not in the Constitution, but the act of the Congress and the President.

Part of the problem with the sort of have-your-cake-and-eat-it-too added to universal coverage is that, if you believe that universal coverage for all Americans is impossible, you get statements like, "It is a noble goal." And many Senators come out and say it just cannot be done, that there is no such thing as universal coverage. That is not the case. It is based on a misunderstanding. I hope that misunderstanding is accidental.

The junior Senator from Texas said yesterday on the floor of the Senate that Canada did not have a guaranteed right to universal coverage. I have before me the provisions of the Canadian law.

Mr. President, at this point let me say that I could not be more delighted with the outcome on the amendment just preceding. I congratulate the Senator from Connecticut.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate is not in order. Senators are encouraged to carry their conversations off the floor.

The Senator from Wisconsin, Mr. FEINGOLD, retains the floor.

Mr. FEINGOLD. Mr. President, I again thank the Chair and would like to say again that amendment was an important moment in this health care debate. It took us a long time to get to it. The other side did try seriously to defeat it, but they were not able to because the force behind this effort to provide health care to all Americans, including children, will prevail. In that spirit I would like to take a moment to cite a statement of the senior Senator from Massachusetts, from 1972, from his book, "In Critical Condition."

Senator KENNEDY said:

> I believe good health care should be a right for all Americans. Health is so basic to a man's ability to bring to fruition his opportunities as an American, that each of us should guarantee the best possible health care to every American at a cost he can afford. Health care is not a luxury or an optional service we can do without.

Senator KENNEDY said:

> Every child who is retarded or whose arms or legs remain twisted because his parents could not get care, every family that faces financial disaster because of the cost of illness or is broken by unnecessary suffering or death, is kept from fulfilling the right to life, liberty, and the pursuit of happiness that we cherish in America.

Those words are 22 years old. But today, a few minutes ago, the U.S. Senate began the long march to making sure that dream can become a reality for all Americans.

Mr. President, let me reiterate that when you say health care is a right for all Americans, or that we guarantee health care for all Americans, you are not necessarily saying it is a constitutional right. It may be. You could argue that. But what we are about here in this effort, in this Congress, is to try to create a law, a national law, a Federal law, a statutory right for all Americans to basic health care benefits.

But again, there are those who want to have their cake and eat it too on this issue. They want to say universal coverage is a noble goal but that it cannot be done; there is no such thing as universal coverage in any country or in any place. But that is based on a misunderstanding of what the notion of guaranteeing universal coverage is all about. I hope it is an accidental misunderstanding. Too often during this debate I fear it has become a convenient misunderstanding; an effort to confuse the American people and make them think that it is literally impossible to guarantee every American the right to health care. That is not the case.

The junior Senator from Texas said yesterday, "Look at Canada. They do not have universal health care in Canada."

That is incorrect. In Canada universal coverage is not a goal. It is not a hope. It is a right.

All residents of a province must be entitled to insured health services.

That is what I mean by a statutory right. As a matter of law in Canada, every Canadian has a right to health care. I know of no exceptions.

The Senator from Idaho yesterday tried to point out that in Hawaii not everyone is covered, even though they, apparently, have an excellent system based on an employer mandate. It is the case that a certain small percentage of the people of Hawaii are not covered. But that is because they have not chosen to make health care a right for all Hawaiians. There are statutory exceptions—apparently for State employees and for certain part-time employees. So they have not made that commitment, although they have made a tremendous effort in the absence of it.

Others have said universal health care coverage is impossible. They say look at the Social Security system. We have had it for many, many years but not everyone is part of Social Security. Mr. President, that is because we have chosen to exempt as a matter of law, as a matter of statute, certain people from the Social Security system. We have never said in this country that Social Security is a right of every senior citizen or every individual.

The PRESIDENT pro tempore. Will the Senator suspend? The Senate will be in order.

The Senator will proceed.

Mr. FEINGOLD. I thank the Chair.

In all candor, Mr. President, colleagues, I have to say that even under Senator MITCHELL's bill, the statement by some that we can never get to 100 percent and therefore we will go to 95 percent does not really add up. If that is the case, why is there a provision in the Mitchell bill saying that if we have reached 95 percent by the year 2000, that a congressional commission will be formed in order to make recommendations so we can go that final mile, so we can get the next 5 percent, the 100 percent coverage? I think a lot of this confusion again comes from not understanding the distinction between the practical problem of actually delivering health care to all Americans and the existence of a statutory right. The difference is between coverage and usage. Everyone can and should be covered by law. But that does not mean that everyone will use health care services. That is a practical problem. Maybe we can compare it to the right to vote. All qualified electors in this country have the right to vote.

Mr. President, we all know painfully that not everyone exercises that right to vote. We have one of the worst records in the world in terms of the exercise of that right. But that does not make it any less the right. Every person 18 years old who is qualified and is not disqualified for reasons of having committed a felony has a right to vote. That is the difference between a right and the effective problems of trying to get everybody out to vote. So too is there a difference between coverage and actual usage.

I believed, and I am not ashamed to say anywhere, that I think in the United States, health care should be available on demand for a person who seeks it. No one should be able to be turned away. Yes, Mr. President, I say it is a guarantee that should be given to all Americans, and I use that word in a positive sense.

I will go further. It is an entitlement. I will stand here on the floor of the U.S. Senate and say health care should be an entitlement. Well, you are not supposed to use that word these days. It is a bad word, and I agree we need entitlement reform in a lot of areas. There are programs that need to be looked at. But I am not afraid to stand here on the floor of the Senate and say when it comes to the notion that every American should be guaranteed basic health care coverage, that is an entitlement that stems from being an American, and the fact that we have not made it an entitlement for every American is a shame on this country, not something to be proud of.

So, Mr. President, you cannot force someone to go and get a checkup. We are not going to put a gun to their head and say, "If you don't get a checkup, you're in violation of the law."

But if someone wants a checkup, if any American in this country feels they need a physical, they should have a right to do it, they should be entitled to it as a result of their being Americans citizens. So the key distinction here is between coverage, 100 percent coverage, and a 100-percent right to coverage.

Let us try to break it down briefly. It is very hard to examine all the provisions of the bills that have been introduced from the beginning, from the President's bill all the way through. And, yes, some of them are 1,500 pages and some are 700 pages.

But on this issue of whether health care is established as a right, that is basically a yes or no answer for each of the plans. Let me run through them.

Under the President's plan, the answer is yes, health care is a right.

Under Senator WELLSTONE's excellent plan for a single-payer system, health care is guaranteed and is a right.

Under the Labor Committee bill, health care is guaranteed for all Americans; it is universal coverage.

Under the Finance bill, that is not the case.

Under Senator GRAMM's bill, the Senator from Texas, the answer is no, it does not provide for universal coverage.

Under the bill of the Senator from Oklahoma, Senator NICKLES' bill, the answer is no, it does not include universal coverage.

One of the members of the Republican caucus, Senator CHAFEE, has a bill, frankly, which does provide universal coverage.

The bill from the House, from the other body, by one of the Representatives from Tennessee is a no. That bill, the so-called Cooper bill, does not provide universal coverage.

The Mitchell bill is not entirely clear. There are two scenarios under the Mitchell bill where universal coverage could occur, where that right would be guaranteed. One is if all the States did not achieve 95 percent coverage by the year 2000, then the mechanisms would kick in that would, in effect, require universal coverage. The other scenario is if we do not achieve 100 percent coverage by the year 2000, then a commission is supposed to make recommendations to Congress that would provide for the type of legislation and rules that would get us to complete coverage.

I think this aspect of the Mitchell bill needs to be strengthened, but at least there are provisions in that bill that could move us in that direction if it worked out right.

Finally, let me say the bill proposed by the majority leader in the other body does provide universal coverage.

So I say to my colleagues and anybody who is watching, this is not all that complicated, this piece of the issue, this central issue. Some of the bills make the commitment to every American and some do not, and to me there is no more important issue than whether that is provided.

To me, giving health care coverage to all Americans is the touchstone of this entire issue, regardless of how we implement it.

Mr. President, we supporters of universal coverage run into a little bit of a problem if we start talking about trying to get close to 100 percent coverage, if we start playing the numbers game. One problem that the President and the majority leader both identified very clearly is that if you do not cover all Americans, there is cost shifting involved. Somehow the system works in a way that the costs get shifted and those who are not covered or choose not to be covered actually cause those who are covered to pay more.

Insurance reforms, such as banning restrictions based on preexisting conditions and guaranteed portability, extend coverage to the sick and other high users of the health care system. What happens, Mr. President, is the newly insured sick drive up the premiums for the currently insured and this, in turn, causes higher premiums because some healthy individuals who are currently part of the health care plan of the insurance company drop coverage. They decide to go without that coverage because it is getting too expensive.

This shrinks the insurance pool. Because the sick and the high users of health care remain in the pool, the average costs for the pool increases and it drives up the premiums again. Higher premiums again cause more healthy individuals and firms to drop coverage, and it keeps going. The costs of the system go up rather than down if you do not have complete coverage.

There is also a problem with saying that we are going to try, as the Mitchell bill suggests, to get to 95 percent.

That is sort of the new goal that was identified. The problem for me is that in Wisconsin, a pretty good-sized State—not one of the biggest, but I think 16th or 17th in the country, about 5 million people—if we only get to 95 percent, 250,000 people will not be covered, a quarter million people in the State of Wisconsin alone will not have health care coverage.

Finally, what troubles me about this numbers game, saying we will never get higher than 95, let us go for it and try for 96, 97, or 92, is that it leads us down the slippery slope that the Republican leader wants us to go down. Obviously, he knows what he is doing. He gets up on the floor and says during his opening statement, which I had a chance to witness here in the Chamber, "What is all the argument about?" He thinks his bill will get to 92 percent, we will get to 95, so what is all the hullabaloo about 2 or 3 percent?

Two or 3 percent does not sound like very much. But 2 or 3 percent is a lot. Fifty-eight million Americans were uninsured for some part of last year. But what is the difference between 92 and 95 percent? Three percent of the Republican leader's State of Kansas is 75,000 people. Three percent of Wisconsin is 150,000 people. Three percent of the United States of America is 7.5 million people. That is not a little number, that is the combined population of Kansas and Wisconsin. Ninety-five percent is not universal.

The difference between 95 percent and 100 percent is 5 percent. Five percent of Kansas is 125,000 people. As I have said, 5 percent of Wisconsin is about a quarter million people, about 250,000. Five percent of the United States of America's population is 12.5 million people, five times the size of Kansas, 2½ times the size of Wisconsin, and it equals the combined populations of 13 States and the District of Columbia: DC, Wyoming, Vermont, Oklahoma, Mississippi, New Mexico, Delaware, Nevada, Alaska, Montana, Rhode Island, Idaho, Nebraska, and Utah. That is what the Republican leader says is only a little 2- or 3-percent difference; "What is all the arguing about?"

Well, that is very significant. We cannot allow the moral force that we have on this issue that Americans have a right to coverage to be trivialized by the use of percentages.

We have to confront it head on. We have to confront the fact that we are talking here about 12 to 15 to 16 million Americans, depending on which bill you are talking about.

To put it in more human terms, I have to ask, who are these people? Who are these 12.5 million people who will not have health care coverage? And what am I supposed to tell them after we get this done? What am I supposed to tell them? Am I supposed to say, "I am sorry; you don't get one of these cards. Better luck next time, 50 years from now, when we do health care again."

Am I supposed to tell them that the homeless people will have the coverage—they will under any one of these plans—but that the working poor will not? Am I to tell them that somebody who is on welfare gets this card but they do not? Am I to tell them that all the Members of the Senate will have the coverage but they will not?

My good colleagues from Minnesota and Illinois, Senators WELLSTONE and SIMON, the other day put on a little performance where they picked out 5 Ping-Pong balls out of a group of 100 and said, "I wonder which 5 Senators will not get health care coverage if 5 percent of the American people are not going to get health care coverage."

We know very well that no Member of this body and no Member of the House will have that consequence. So the question really becomes who are these 12.5 million Americans that are not in on the deal, that are not going to get one of these cards?

Recently, in the Washington Post, there was an article making light of the fact that the Members of the Senate come out here and give human examples of this health care issue almost as if to say when are they going to stop telling about their mom or dad. But that is the only way it can be done, by putting it in human terms. So, forgive me, but I think it is appropriate to talk about the fact that I believe these 12.5 million Americans are, by and large, lower and lower middle-income people, a lot of them women, who work for small businesses, who make, let us say, $15,000, $20,000 a year. My analysis is that this is the largest share of the people who will not get health care under this bill—not the very poor; they are covered; they are covered now, but the working poor.

I encountered two examples of this back in Wisconsin in recent months. I was sitting on the airplane going back to Wisconsin on our own Wisconsin airline, Midwest Express, and I started talking to a young woman who told me that she was on her way to law school. She had been divorced. She has two children. She told me during the course of our conversation that she had had cancer, but, fortunately, she has had a clean bill of health for 5 or 6 years.

So I asked her, "Do you think you will be getting health care coverage?"

Answer: "No." In part, because of the preexisting condition issue. But even if we eliminate barring coverage for existing conditions she still may not be covered. That is because she did not have the economic wherewithal to buy insurance. She has some child support. But she is trying to go to school. She is trying to get that law degree. And what this does, because she makes too much for a subsidy but not enough to pay for the health care, is leave her out in the cold. This person who has had some rough breaks along the way already is trying to make something of herself, and in this country we cannot deliver her this health care.

One other example. I was in a beautiful place in the State of Wisconsin earlier this year, Buffalo County, WI, on the Mississippi River. It has had the great experience of having bald eagles restored there that were once gone. I went there to hold a town meeting. It was going fine, and near the end of the town meeting, one lady got up and said that her job was to be an elderly benefit specialist which is a program in Wisconsin where people help older people try to figure out their tax forms and health care benefits. It is an excellent program and I had the good fortune to help create it in the State of Wisconsin.

She was telling me about the program. But all of a sudden she sort of broke down in tears. She told me that she was probably going to have to leave that job where she tried to help other people understand the health care system and she was going to have to become a receptionist at another place of work because she did not have health care. Here is a person serving the health care system who is going to have to leave that system and will not be covered under many scenarios under this plan.

What are we to say to these people? "You are not part of the American dream." Are we supposed to say, "Sorry about that." Are we supposed to say, "Sorry about the lack of coverage for you and your children, too." I do not look forward to the prospect of doing that.

It leads me to yet another problem, sort of the flip side of the issue. I have heard the Republican leader and others all across the country say, hey, this is only an issue for 15 percent of the people of the country or 38 million Americans. Why not just take care of that group. Why not just give them health insurance.

That sounds pretty good. It is really simple, just like holding up a bill and weighing it. Really simple. But the problem is it is so simple that it oversimplifies the issue so as to make it not accurate. The health care crisis is not about some fixed group of people. That 15 percent or that 38 million is just a snapshot. It is the number of people at any one time that are uncovered, and it is constantly changing. It would be like trying to remove a flaw from a movie by correcting only one frame. That particular frame might look better, but the rest of the movie will still be flawed.

As I have said before, during any particular year, we can expect that 58 million Americans will be without any health insurance for part of that year. And the coverage appears to be slipping.

The First Lady, in continuing her hard and courageous fight for this legislation, announced today that since we started working on this bill, 500,000 more Americans have had their coverage dropped. And those businesses that continue to provide coverage for their employees are subsidizing more and more of their competitors.

Beyond that, the health care crisis is also about controlling costs. And here again it is well established that the only way you can control costs is through universal coverage. As I have said, another tempting diversion is the refrain that we should, of course, strive for universal coverage as a goal but that 95 percent or 92 percent or 90 percent is acceptable. Again, it sounds reasonable on its face. Let us do what we can for the President may be the notion. After all, 95 percent or 92 percent or even 90 percent coverage is better than what we have now.

But this goes to the heart of the issue, both in the general perception of our health care problem and the underlying philosophy of reform.

First, there can be no effective cost containment without universal coverage. So the failure to guarantee health care coverage that can never be taken away means that costs will go up. And as costs go up, certainly coverage will go down. But, Mr. President—and this is really the central point—even if costs could be contained without universal coverage, the failure to guarantee health care coverage that can never be taken away means that health care coverage can be taken away. As long as there is any gap in coverage, everyone, every American, is at risk.

Let me move to the last part of my opening statement by just presenting a couple of analogies to illustrate this. A couple of them are a little more lighthearted. The first one is appropriate for Wisconsin. It has to do with mosquitoes.

In Wisconsin, in August, there is nothing more compelling than the notion of mosquitoes. Some have even suggested that, given the size of mosquitoes in Wisconsin at this time of year, instead of the robin, the mosquito should be our State bird. The analogy is to good mosquito netting. Guaranteed coverage is like good mosquito netting. Anything less than 100 percent is not much good. It does not matter if the hole is an 8 percent hole or 10 percent hole. Unless the mosquito net gives you 100 percent coverage, it is not very pleasant camping in Wisconsin at night.

Let me try a different analogy for our coastal States. It is like a lifeboat in the middle of the ocean. If there is a hole in the bottom, it does not much matter if it is a 7-inch hole or 10-inch hole. Unless you completely plug up the hole to get 100 percent coverage, you are going to get pretty wet.

The final analogy is that health care coverage is kind of like a chain, Mr. President. It does not matter much if 10 percent of the links are weak or only 5 percent are weak. Unless 100 percent of the links are strong, the chain will break.

Mr. President, in this case, it is a human chain of Americans who should all be linked together in one respect, that each and every one of them knows, as a right of their birth as an American citizen, that they have that coverage.

Mr. President, let me come to the final part of my statement by pointing out the simple fact that there are two major bills being discussed out here now: The bill of the Republican leader and the bill of the majority leader.

There is no comparison between the two with regard to the issue of universal coverage. The bill of the Republican leader leaves such a gaping hole that there is no chance of achieving universal coverage.

According to the Lewin-VHI analysis of the Dole proposal, three out of the four uninsured Americans would be left without coverage in the year 2000. That same analysis of the Dole bill found that 6 million children will still be uninsured at the end of the decade. Under the Dole-Packwood bill, Congress is not even required to consider recommendations for achieving the goal of universal coverage, as does the bill of the majority leader.

As I have said before, I think the universal coverage provisions of the majority leader's bill need to be improved, but at least there is a serious effort there to create mechanisms that can lead to universal coverage. In this respect, there simply is no comparison between the Mitchell bill and the Dole bill. The Mitchell bill has its goal of achieving universal coverage for all Americans.

To conclude, let me just say I again want to return to these two symbols, a card that every American should have and the pen that the President should be ready to use if this bill does not provide universal coverage.

I saw a cartoon in one of our major newspapers in Wisconsin of a couple of days ago. It is lighthearted, but sort of lets us know how far away we have come from this simple symbol of a universal health care card. What it shows is President Clinton on the ground holding a crime bill, and he is pretty battered. He has been treated pretty harshly by a couple of elephants. There is even a donkey behind him with sunglasses. One of the elephants says to the other, "What did you find?" After he looked through the President's wallet, the other elephant says, "No cash, just one of those cards supposed to guarantee health care coverage."

I am concerned that is all that is going to become of this card, that it will end up being a subject of humor for political cartoons.

It is sobering for me to think that 22 years ago I read the book by the senior Senator from Massachusetts. But I think he was right then, and I think he is right now. This country has to provide universal coverage to all Americans.

He said in his conclusion:

> We have a choice of conscience to make in America. It is a choice of whether we will assure each other and all Americans good health care at a cost they can afford. The pages of this book are filled with the tragic stories of the people who have been hurt because we do not make this assurance. We can put an end to such stories, and I believe we should. I urge Americans to search their hearts to choose and to make their choice known. To take so major a step the government needs your support.

Mr. President, I say today, some 22 years later, we need the support of this body. We need the support of the U.S. Senate to finally guarantee to all Americans health care that can never be taken away.

Mr. President, there ought to be a law. Mr. President, there ought to be a law that guarantees every American—every American—a right to health care coverage before the end of the 103d Congress.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I want to thank my colleague from Colorado for permitting me to proceed next. I do not have a lengthy speech, but I do have a few comments I would like to make. I know he has been waiting for some time. I am grateful for his courtesy, as I am of the earlier courtesy of the Senator from Wisconsin for permitting his remarks to be interrupted.

Mr. President, during the course of this debate so far, my bill has been the subject of many misrepresentations, distortions, and some outright untruths.

There have been so many that I have not been able to respond to all of them. But I want now to respond to statements made today which were categorically untrue for which I believe a response is necessary.

It is clear that the tactic of the opponents of this legislation, at least many of them, is to confuse and frighten the American people, and they are attempting to do so by making statements about my bill that are untrue.

This is a document distributed today by several Republican colleagues criticizing the legislation under the headline "Clinton-Mitchell denies consumer choice." It then states, "You can keep your own plan unless your plan is less generous; you can keep your own plan unless your plan is more generous." And the text that follows is intended to clearly convey to the American people that there can be no plan other than the standard benefits plan contained in my legislation. That is untrue. I repeat. That is untrue.

Mr. President, my bill, like many of the bills introduced by Republican Senators as well as Democratic Senators, provides for a standard health benefits package, the purpose of which is to provide uniform coverage and to make it easier for consumers to choose between competing health plans based upon price and quality, as opposed to different types of options.

The bill requires employers to make three types of delivery plans available to each consumer so that, although the benefits package would be the same. There would be a traditional fee-for-service plan, a health maintenance organization type plan, and other plans commonly referred to as "preferred providers." And the individual would choose among the three plans. But—and this is an important but—under my bill, individuals can purchase supplemental benefit coverage above the basic benefits plan if they choose. If they want to have additional benefits or different types, or different types of cost-sharing protection, they are free to do so. So the suggestion that no one could purchase better coverage than the basic benefits plan is incorrect.

Second, my bill also includes an alternative standard health benefits package which would cost less because, although the coverage would be the same, the deductibles and copayments to be paid by the consumer would be higher.

So an individual, therefore, could choose an alternative benefits package with lesser coverage in the sense that the deductibles and copayments would be higher. So the suggestion that a person could not buy anything less than the benefits package is also untrue.

I want to repeat that so there can be no misunderstanding. Every person would be offered three types of delivery plans of the standard benefits package. But any person could choose either to supplement that with additional benefits coverage if he or she wishes to do so, or an alternative standard package which would cost less because the deductible to be paid by the individual or the copayment to be paid by the individual would be higher than in the standard benefits package.

On this question of choice, that it denies consumer choice, the fact is that the legislation would increase choice, and it would increase it in the following way: Right now, most Americans receive their health insurance through employment. A person gets a job, the employer makes health insurance available in some form or another, and the employee is, therefore, covered. But for the overwhelming majority of Americans, the only choice of plan is to accept or reject a plan which the employer negotiates with the insurance company. So the employer meets with the insurance company, agrees on a plan, then makes it available to employees, and the employee must then choose to participate in that plan or not. One plan.

Under this legislation, employers would be required to make available to employees three different plans. Although the benefits package would be the same, the method of delivery would be different and, therefore, the price and cost would be different. And so the employee could choose, for example, a traditional fee-for-service plan, in which the employee retains the right to choose any doctor he or she wishes to visit, or the employee could choose an HMO-type plan in which the employee agrees to be treated by the organization and the physicians who are in the employ of the organization. The individual then gets the choice, and each individual will be able to make it based upon price and what he or she sees as important to them.

I repeat and emphasize that if that individual does not think that the coverage provided in the standard of benefits package is broad enough, he or she can go out and buy supplemental benefits. And if he thinks that is a good plan, but he cannot afford to pay that premium and is willing to take a chance of having to pay a higher deductible, he can choose the alternative standard benefits package and, accordingly, pay less but be subject to higher deductibles and copayments if the person becomes ill.

So, Mr. President, I hope very much that we can have a good debate on this bill. But I hope it will also be accurate.

Finally, I will conclude with one further point, and that is this: Over and over and over again, the statement has been made that this bill provides for a "Government-run" health insurance system. That has been said dozens, if not hundreds, of times. A "Government-run health insurance system." I make two points on that. First, the bill does not so provide. It does not provide for a Government-run health insurance system. It provides for a voluntary system in which Americans would purchase private health insurance. Indeed, in that respect, my bill does the opposite of what has been suggested, because right now, there are 25 million Americans who receive coverage under Medicaid, which is a Government program. And, under my bill, that portion of Medicaid would be abolished, and those individuals would be encouraged and assisted in the purchase of private health insurance. So they would receive health insurance coverage in the private market on the same basis that other Americans are now receiving. So it actually reduces one of the largest Government programs and has those people enter into the private insurance market. And so I hope that people will look beyond the rhetoric.

I know the mood in our country today is that a popular way to attack anything is to say it is "Government-run" and to suggest somehow that it is therefore inefficient. Of course, our colleagues who make these statements all support the Veterans Administration health care system. It is the largest health care delivery system in the country, and it is a Government-run system. Not only do they support it, they go around to veterans parades and veterans facilities and veterans meetings, and they tell the veterans how they are going to protect their health care system, and they run television ads when they are up for reelection saying how they are going to protect the Veterans' Administration health care system. They do not go around to their States and say, "I am against Government-run systems, and the Veterans Administration system is a Government-run system, so we ought to abolish it." They say just the opposite.

The same is true of Medicare. Medicare is a Government-run system. Not one of our colleagues who stood here and said, "I am against Government-run health programs" goes back home and says to the elderly citizens, "I am against Government-run health insurance systems, so I favor abolishing Medicare." They say just the opposite. They go to the senior citizens homes and coffees and stand up and say to our elderly citizens, "I am going to protect your Medicare system," and they run television ads promising to protect the Medicare system, a Government-run health insurance system.

Of course, the largest Government-run program in the country is Social Security. It is a Government-run program, and it includes health insurance with Medicare, Part A. Not one of our colleagues goes back to their States and goes around to senior citizens centers and says to those people there, "I am against Government-run programs, so I am going to vote to abolish Social Security." They say and do just the opposite there as well. They go and they say to the senior citizens, "I am going to protect Social Security," and they run television ads telling people how they are going to protect Social Security.

So while they stand here and say they are against "Government-run programs," when they go back home to their constituents, they spend a lot of time and effort and money telling their constituents how they are going to protect those very Government health insurance programs. I hope people will keep that in mind as they listen to this debate.

I want to say that Senator MOYNIHAN happens to be sitting here, and we had a ceremony at the White House yesterday in which the President signed into law the legislation to make Social Security an independent agency. Senator MOYNIHAN is the author of that bill and the person who has done more in our Nation to protect and enhance and improve Social Security than any other. This legislation is the latest in a series of achievements in that regard. I think, better than any of us, Senator MOYNIHAN understands the importance of Social Security to our Nation.

I conclude by saying that the arguments made today against this legislation are almost word for word the arguments made against Social Security, and almost word for word the arguments made against Medicare—almost word for word.

Mr. President, those items did not prevail then, and I hope they will not prevail now. I thank Senator BROWN again for his courtesy. I think I went on longer than I had anticipated. I apologize, and I thank him for his courtesy.

Mr. BROWN addressed the Chair.

Mr. PACKWOOD. Mr. President, out of curiosity, how much time is on our side?

The PRESIDENT pro tempore. The Senator from Oregon has 60 minutes under his control.

Mr. PACKWOOD. I yield such time as the Senator from Colorado wishes.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for such a time as he may consume, within the 1 hour that is under the control of Mr. PACKWOOD.

TRIBUTE TO ABNER MIKVA

Mr. BROWN. Mr. President, I rise to pay tribute to a recent appointee of the administration. Last week, Abner Mikva was sworn in as counsel to the President. He takes the place of Mr. Cutler, who had held that job temporarily.

Mr. President, I want to comment on this because I know Abner Mikva, and while we do not share the same political party and while we do not share the same political philosophy, I know him to be a person of exceptional integrity, of great intelligence, and of great character.

He was a Phi Beta Kappa, Order of the Coif, distinguished scholar, cum laude graduate of the University of Chicago Law School, Phi Beta Kappa graduate of the University of Wisconsin. He has had an exceptional career of public service, including 10 years in the Illinois State Legislature, five terms in the U.S. House of Representatives, and serving until recently as the chief judge on the D.C. Circuit Court of Appeals, where he had served from 1979 forward.

Mr. President, I pay tribute to him because he is an individual who not only has achieved great things in his lifetime, but he is an individual who clearly indicates by his conduct and his demeanor and manner that he places truth and integrity above all other considerations in public discourse.

He is exactly the right person at the right time for the White House. I do believe this, that some of the problems that are surfacing about Whitewater, or at least the way it has been looked at and investigated, would not have occurred if Abner Mikva had been there. I think he will make a difference.

Ultimately, he will do great service for the President of the United States, and I believe he will do great service for the country as well.

It is this kind of exceptional integrity and commitment that this Nation so urgently needs, and it is a great privilege for me to commend the President for this appointment that I think will serve us all well.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. BROWN. Mr. President, the discussion on the health care bill has involved a large number of terms, and it must be confusing to people. But I want to cover just a couple of them at the outset, because I think they go to the very heart of the matter.

We have heard discussed repeatedly that we need to have universal health care coverage, and the suggestion is that without universal health care coverage, people will go without health care. Everyone listening should know that is not accurate. Health care coverage is dramatically and significantly different than health care. How so? You may not have health care coverage in the form of an insurance policy, but you do qualify for health care treatment at a low-income health care clinic. Those clinics are spread across the Nation.

When people do not have an insurance policy, it does not mean they suffer from a lack of health care. It means they do not have that mechanism for paying for it. You may not have an insurance policy, but you can go to an emergency room in a hospital and receive the treatment. If you are unable to pay for it, ultimately that debt will simply be written off. Again, you do not have an insurance policy but you can receive health care treatment.

Someone asked me why in the world are we debating and talking about health insurance when what we ought to be concerned about is health care.

Mr. President, I do not know if there is an easy answer to that. Some of the folks who brought this bill to the floor are interested in Government control of health care because they feel it will improve it. That by forcing people to have health insurance, the vision of Government control is accommodated, the need to control health care met. The focus on insurance is merely a device, not to provide health care, but to control this portion of our economy. That is what this is all about, a sincere and honest belief that this country would have better health care if indeed we had more Government control.

I thought tonight it might be worthwhile to spend a few minutes and simply take a look at what our experience has been in that area. The view is widely held that more Government control, dominance, and regulation of health care and its cost can improve the situation. It is clear that many of the legislators who favor the bill before us sincerely and deeply believe this.

Mr. President, we should not have amnesia. We ought to be willing to at least look at the facts and face them honestly and see whether or not that thesis holds water.

One of the major moves after the World War occurred in 1946 in the area of health care. It was the Hill-Burton bill. The Hill-Burton bill was designed to provide grants for construction and modernizing health care facilities. Many of the grants ran from one-third to two-thirds of the entire cost of the project. The thesis was if you have Federal Government assistance, then you would be able to provide additional health care through those facilities. It was a very large program, and between 1946 and 1974, $4 billion was spent in it.

Now, did it solve the problems of health care? Well, read what the Democratic-controlled committee said about it in 1974. This is the House Interstate and Foreign Commerce Committee. The Democrat-controlled committee found that after $4 billion of public funds had been spent on Hill-Burton, about 60,000 unnecessary hospital beds had been built, costing as much as $20,000 a year in overhead.

Mr. President, this is what happened with Government intervention that was meant to solve the problem. The Government came up with money to hand out to solve the problem and what they did is by their own evaluation was build 60,000 unnecessary hospital beds costing in overhead alone, not the costs of the bed, in overhead alone, up to $20,000 a year. The overall cost was over $1 billion a year in extra overhead costs.

Members of this body will remember, because many of them were members of the State legislature in 1974 and thereafter, when the Federal Government passed new laws to correct that problem. But did we do away with all the Federal grants that had caused the oversupply? No. What Congress passed was a new act, a national health planning bill "to prevent unnecessary development, establish priorities for development of needed facilities, and monitor the use of Federal dollars."

Appreciate what happened. You have a Federal program to solve a problem which instead it makes it worse, and the answer is another Federal program with more Federal control. You cause a problem with Federal control, and then to solve the problem you created with Federal control, you go with more Federal control.

Why should I mention this? It is because this is a pattern. What we have done on a regular basis for the last 50 years is interfere arbitrarily in the controlling of health care, cause a problem, and use that problem as an excuse for additional Federal interference instead of going back and solving the problem to begin with.

It is as if this Chamber and some of its Members had amnesia, that they forgot that it was the Federal action that caused the problem.

Many will remember the health planning program because it involved the certificate of need process. It involved spending millions and millions of dollars on new regulations, on new controls. But incredibly the big cost did not come at the Federal level. It came tragically and incredibly on the State and local level to try and comply with the Federal bureaucratic requirements.

Mr. President, just an example, because I think it speaks for itself, in 1975 the health care planning legislation authorized $125 million for construction and modernization grants to help build facilities. However, the health care planning legislation in 1975 also authorized $119 million for planning processes—red tape, bureaucrats, paperwork, offices.

What did we really get for the $119 million of paper shufflers? How many people were cured of their illness because of the new bureaucracy, the new offices and the new paperwork? Mr. President, none were. Almost as much money as was authorized for the grants for construction and modernization, was authorized for the bureaucracy. Federal action, Federal control, developing a problem, using it as an excuse for more Federal control.

In 1965 Medicare was enacted. It was designed to provide health care coverage for our senior citizens. Our distinguished majority leader referred to the program earlier and characterized some of those who have criticized his plan.

Mr. President, I will not deal with that other than to say that the distinguished majority leader has not been with me in my State. He did not accurately characterize what I say to my constituents. I would hope that we would not be involved in personal attacks.

It seems to me, the question here ought to be to deal with the facts and the issues, not question the character of others. The question before the body is the legislation and I think that is the appropriate approach.

One should not forget what happened in 1965. When the Medicare Program came up and was passed, legislators rightly asked how much is it going to cost, not just that year but the next year and the years out. The figures are there. Medicare part A—not part B, just part A—alone was estimated to cost $9 billion a year by 1990. Some will remember it actually cost $66.9 billion in 1990, more than seven times greater than what had been estimated; seven times greater.

We also ought to look at what happened along the way. As the costs in the Medicare Program began to go out of control, skyrocket out of control, Congress tried to act. In 1983, as the CPI and the medical CPI diverged and the medical CPI grew much faster than the regular CPI, Congress began to realize that there was a problem.

Let me just for a moment mention those CPI figures because they tell an interesting story. For those who honestly believe that Federal regulation is the answer to control costs, please look at the facts. Before Hill-Burton, going back as far as we have separate figures for the overall CPI and the medical CPI portion, we see this.

From the period of 1939 through 1946, before Hill-Burton, the average annual increase in year-to-year figures from the Department of Labor was 4.2 percent for the overall CPI. But the medical portion of this, before the Hill-Burton law was enacted, for the same years averaged 2.5 percent. The medical portion was 1.7 percent under what the actual CPI was. That is fairly logical, when you think about it. Medical care was dragging dramatically. Industry, where you have rapid advances in technology, tends to have a lower increase in the cost. But that is 40 percent less, comparing 4.2 percent annual average increasing cost generally to 2.5 percent in medical cost for those 8 years.

What happened when we went to more Government regulation and more Government control under Hill-Burton? For those of you who honestly believe that regulation is the answer, please look at it.

From 1947 through 1965, the average CPI increase was 2.6 percent. But this time, the medical CPI, instead of being below the average overall CPI, was not less, it was more. It was 3.8 percent, 1.2 percent higher, or 46 percent more. The facts are this: Before you had the added Government regulation, the medical CPI averaged 40 percent less than the regular CPI. After you added the Hill-Burton programs and the regulations, it was 46 percent higher.

What happened when you passed Medicare and Medicaid? Did it hold down the costs? Because that is what they talked about. Take a look at it.

In 1965, the medical CPI was 2.4 percent. In 1966, it almost doubles to 4.4 percent. In 1967, up to 7.2 percent. In the years since we adopted Medicare and Medicaid, the average CPI has been 5.6 percent. The medical CPI was 7.6 percent. That is 2 percent a year higher on the average.

For those who honestly believe that regulation from the Federal level is the answer to controlling costs, please look at the facts. They indicate exactly the opposite. They indicate clearly and unequivocally that the greater regulation that is involved in this enormous bill is not going to hold down prices. It is going to increase them. And I am going to go into exactly why it will increase them in just a moment. But it should not be lost on Americans, as we consider even more regulation, that the medical CPI has been 36 percent higher than the full CPI since we passed Medicare and Medicaid.

By the time we got to 1983, it became clear that the Medicare costs were simply out of control, that we had to do something.

Federal failure; problem. What is the answer? Congress decided what was needed in 1983 was more Government regulation, and they enacted the Medicare Diagnostic Related Groups, the DRG's, designed to control the payment to hospitals by prospectively setting rates based on similar diagnoses. So DRG's were held out as the new regulatory tool to control costs.

For those who are watching, they can see the chart. This is the increase in Medicare outlays, and here is where DRG's came in. It was meant to stop the increase. That is how it was billed—more Government regulations to stop the increase.

What happened? In 1984, the consumer price index was up 4.3 percent, but the medical CPI was up 6.2 percent. The medical CPI was up almost 50 percent more than the regular CPI.

In 1985, the regular CPI was 3.6 percent and the medical CPI, 6.3 percent, almost double after you passed the 1983 DRG Act.

In 1986, the regular CPI was 1.9 percent. The medical CPI was 7.5 percent, more than three times as much.

Mr. President, please, please, our Members should take a look at the results of more Federal regulation and the impact on this process. To believe, as I know many Members do, that if we simply have more regulations, more controls, more statutes, that we are going to reduce costs is simply fantasy.

Let me share something with the Members, because I think many of us come from various walks of life and have not had a chance to deal with operating a medical office or a hospital. But, Mr. President, let me share one thing with you that I think is typical in every Member's hospitals at home.

Twenty years ago, the Greeley Hospital in my hometown, or the Northern Colorado Medical Center, as it is now called, had more beds than it has now. With more beds, they had five full-time people in medical records. Mr. President, after reducing the number of beds in the hospital, they now have 50 people in medical records. They have gone from 5 to 50.

Why have they gone from 5 to 50? Because the flood of new Federal regulations and the variety of ways in which they have responded to get paid and expand their income. If you want to reduce costs, you do not reduce it by increasing the number of people in medical records from 5 to 50.

Let me just share with the Members one quick thing. If you are trying to comply with the regulations we already impose on people, just for Medicare and Medicaid, not for Blue Cross/Blue Shield, not for the private insurers because those are additional to it—just for Medicare and Medicaid, one of the items you are going to want to have is a Medicare Topical Law Reports. They are put out by the Commercial Clearinghouse. These are simply the laws and regulations and practice guidelines. There is no fluff in here. These are simply what we impose on people. For those of you who have used these volumes you know they are on extremely thin paper and very small print. This is simply the regulations and the laws and the practices put forth. I put them here because I hope Members will take a look at them. On very thin paper with very small print, there are almost 15,000 pages of laws and regulations and practices. Why do the health care costs go up? Why does Greeley Hospital go from 5 to 50 in their medical records division? Why is it almost impossible to monitor this in a proper way? It is because we have buried the health care profession in paperwork and red tape.

The thesis that the way to deal with costs is through another giant bill and more regulations and more Federal control is just plain goofy. Before Members impose this on the American people, please take a look at what we have done to the American people already. Please take a look at what the system has to respond to. The reason costs go up is because of what the Federal Government has imposed on them in the mistaken belief that if we just add some more Government regulations we will solve the problem.

There are 5 volumes here on thin paper with small print; 15,000 pages. As I count it they average about 915 words per page, probably a little more. That is kind of a low average. If you read regulations and statutes at 300 words per minute—Mr. President, I know you are an attorney. I know there are many attorneys here. I do not know of an attorney who would dream of reading a statute or regulation at 300 words per minute; a novel, perhaps. But let us say you could and you did, and you read at 300 words per minute for these laws and these regulations, and you read 8 hours a day without a coffee break, and you read 5 days a week with no holidays, and you read week after week after week with no vacations. It would take you 5 months to simply go through this once—not memorize it, not know it, not work with it—simply to skim through it.

Can anyone honestly believe that what we need is more regulation to control cost? What has happened is we have added to the cost.

Congress did not stop after their failure in 1983, and after their answer of more regulations. In 1986 Congress came back to it again and they noted the huge continuing increase of medical costs higher than the CPI. In 1986 Congress responded once again—a Federal failure, a problem—responded with more Federal controls. In an attempt to control physician charges under Medicare, Congress passed a reconciliation bill which establishes maximum allowable actual charge limits, MAAC's. I am sure all Members are intimately familiar with that.

How can we even talk about more of this stuff? We cannot even remember the names or the acronyms that we use. MAAC's, here it is on the chart. In 1986, did it stop the increase in prices? Of course not. Prices continued on up. In 1987 the CPI went up 3.6 percent, but medical costs went up 5.6 percent, 2 percent higher. More regulation meant more cost, not more control. So, in 1989, after experiencing the failure of 1946 and the failure of 1967 and the failure of 1983 and the failure of 1986, in 1989 we came back and Congress, in response to the Federal failure and the problem, responded by adding more Federal control. Congress instituted the Resource Based Relative Value Scale. For those who like acronyms, it is the RBRVS. And the Medicare Volume Performance Standard, MVPS. This was to cover payments to physicians.

(Mr. ROCKEFELLER assumed the chair.)

Mr. BROWN. The RBRVS is a fancy fee schedule. It takes into account time, skill, overhead differences. MVPS was an attempt to control costs by discouraging volume increases for services Medicare was paying less for under the RBRVS's. Did this solve the problem? The effort in 1989 resulted in this: In 1990 the CPI was 5.4 percent and medical CPI was 9 percent. That is right—it was almost double. Far from reducing the cost of medical care it increased it. Why did it increase it? It increased it because it added more regulations, more controls, more paperwork, more bookkeepers.

In 1991 the regular CPI was 4.2 percent and the medical CPI was 8.7 percent. In 1992 the regular CPI was 3 percent, medical CPI 7.4 percent, well over double, almost 2.5 times as high.

To contend that the answer to our problems is yet more Federal control and regulation simply is to ignore the cold, hard facts in front of us. When the President came to office he promised four things. He promised the American people health care reform, welfare reform, deficit reduction, and the downsizing of our Government.

It appears he may scuttle all three to achieve health care reform. To pretend that this is a downsizing of the Government is silly. It is a dramatic increase. Distinguished speakers on this floor have talked about how this is not socialized medicine. But no one has said that it is not intimate Government control of the very details of the way almost every aspect of health care is administered and provided. To suggest this fits with downsizing of Government is simply not true.

Mr. President, here are the facts. The Clinton-Mitchell bill provides 55 new bureaucracies. Does anybody really think that is downsizing? It involves 177 new State mandates. It involves 815 new powers for the Secretary of Health and Human Services. It involves 83 new duties for the Secretary of Labor. It involves 6 new responsibilities for the Office of Personnel Management. It involves 49 new responsibilities for employers to comply with.

Let me repeat that. Employers who are trying to be competitive in a world market now have a list of 49 new responsibilities that they have to comply with. There are fines and penalties and potential prison sentences if they do not get the paperwork right.

Does anybody honestly believe that will make America more competitive in the world marketplace? Does anybody understand what it takes to comply with this?

To suggest this is the way to reduce cost is a joke. Here is what CBO says. These are not Republicans. The CBO folks are appointed by the leadership of both the House and the Senate and that leadership as everyone in this Chamber knows are both Democratic. Here is what CBO says:

> For the proposed system to function effectively new data would have to be collected, new procedures and administrative mechanisms developed, and new institutions and new administrative capacities created.

They conclude by saying:

> There is a significant chance that the substantial changes required by this proposal and other strategic reform proposals could not be achieved as assumed.

That is what CBO says. That is not what Republicans say. That is what CBO says. Under the Clinton-Mitchell bill, the Federal Government would regulate virtually every aspect of health care. Let me repeat that.

Under this bill, the Federal Government would regulate almost every aspect of health care, from what kind of insurance package people are allowed to buy, to where they get it, to how many specialists can be trained in a given year.

It restricts the choices of health care benefit packages. Earlier, the distinguished majority leader talked about what he felt were inaccurate descriptions of his package. Mr. President, there is no doubt that it does restrict the choices of health care benefit packages.

Under the Clinton-Mitchell bill, small employers are required to join a purchasing cooperative, and employers with fewer than 500 employees are prohibited from self-insuring.

Under Clinton-Mitchell, medical students may not be able to choose their future. The Government will decide how many of any specialty are trained in any year.

Under Clinton-Mitchell, health plans may have to accept certain providers, even though they are not the best or most efficient provider of a service.

Under Clinton-Mitchell, many people will have to give the Government details about their most intimate personal lives to qualify or continue to qualify for subsidies. Are the American people ready for that? This is a country that balks at having an ID card.

Mr. President, one of the things that concerns me most is a discussion we have had with regard to insurance coverage. I have already talked about the commitment we have to health care and the way insurance coverage is used as a mechanism to expand Federal control. But one of the concerns I have is the language we use.

I have served 10 years in the House and 4 in the Senate. Every year I have been here, I have fought and urged and cosponsored measures that would extend to small businesses the same breaks that the giant corporations get. Under the Democratic Congress, large corporations can deduct 100 percent of their health care insurance costs. There are some limits with regard to policies, but big corporations can deduct it all. But under the Democratic Congress, small businesses that are unincorporated can only deduct 25 percent.

That is not fair. When I say "Democratic Congress," I say it because that has been the controlling mechanism, but one should not believe that Democrats in this country do not want that change, and many Democratic Members of the Senate want that change, as well as Republicans.

But each year that I have cosponsored that bill, it has gone to the Finance Committee in the Senate or the Ways and Means Committee in the House, and they have turned it down. The majority of people without insurance in this country today work for small businesses or have a member of their family work for small businesses. The number one thing we could do more than anything else to expand insurance coverage, if that is the goal, is to give small businesses the same deductibility as giant corporations get. It is not only fair but it is good policy. It is not overwhelmingly expensive, but it makes a big, big difference in insurance coverage.

How is it, how can it be that the Clinton-Mitchell bill does not give that equal deductibility to small businesses? If that is really the goal—if that is really the goal—to expand insurance coverage, why is it this bill does not have 100 percent deductibility for small businesses that big companies have? Once again, small entrepreneurs, individual entrepreneurs are being discriminated against. Ironically, giving them the same deductibility would do more to expand insurance coverage than all the mandates we can talk about here.

The Congressional Budget Office notes as follows:

> Senator Mitchell's proposal would discourage certain low-income people from working more hours or, in some cases, from working at all because subsidies would be phased out as family income increases.

Here is one of the problems with the bill. If you work for a living, in many jobs, particularly if they are with a corporation, you get health care insurance. Some of the plans are good and some are not so good, but generally they have health care insurance. But if you do not work for a large business, chances are you might not have health care insurance unless you buy it yourself.

You might have health care and you might have Government assistance for health care, but you do not have health care insurance. One of the reasons to go to work, one of the reasons to get out of bed in the morning, one of the reasons to roll up your sleeves is because you are better off and your family is better off if you go to work.

This takes one of the advantages of going to work and staying off welfare and shoots it right in the head. The clear message of this bill is if you are lower middle income, the Government has come up with a new way to discourage you from getting a job and getting out of poverty. That does not make sense.

We have talked about the desperate need to change the welfare system, and this is the biggest welfare program that has ever been talked about, in this bill. What it says is if you work for a living, you are going to get treated the same way as if you do not work for a living, even though you are able bodied, even though you are able to work. Mr. President, if you are able to work, I think you ought to live better than if you do not work. To destroy one of the incentives for people being productive and creative is foolish policy. The CBO, I think, has it right when they criticize it this way.

The CBO analysis goes on, and I quote again:

> CBO estimates the effects of this proposal are unavoidably uncertain.

It is a giant bill. I can understand that. It is a difficult process. We can all understand that. But look back at what happened with Medicare part A. It was supposed to be $9 billion by 1990, and it ends up being more than seven times that high.

In 1987, Congress created a disproportionate share program to assist hospitals serving the disadvantaged. CBO estimated that in the third year after enactment, the program would cost less than $1 billion. In reality, it actually cost $10 billion. That is a 1,000 percent mistake. Let me repeat that. The program 3 years out was literally 10 times what the CBO estimate was. And we start off with a CBO estimate in which they say that their estimates of the effect of the proposal are unavoidably uncertain. Is that good management? Is that good government?

The costs that are identified in this bill for businesses in the State of Colorado in the year 2002 are over $1 billion. Let me repeat that. In Colorado, in the year 2002, Colorado businesses will be hit for over $1 billion just to cover their portion of the cost of this bill. $1,015,439,000. Colorado is a small State, Mr. President, certainly in population, not in area.

The cost of this bill is gigantic and it is uncertain. The impact of more regulations, I believe, is going to be to increase costs, not to reduce them or control them. The history of Government action makes it very clear that this is not going to slow down costs. And why do costs go up as we regulate and regulate and regulate? We have already looked at the CCH reports, the Commerce Clearing House reports.

The CPT–94 is for reporting service codes for services and procedures performed for fees. It is 859 pages. In other words, if you are going to bill somebody, you cannot say I saw Mr. Jones and I treated her. You have to look up the codes, 859 pages of it.

The Medicare part B answer book, 1,600 pages of regulations. If the bill passes, this goes up, not down. The ICD–9–CM—does that sound like Martian talk?—two volumes of it, approximately 1,143 pages. These are simply classifications of diseases—a code book of classifications of diseases. Does anyone wonder why costs are skyrocketing? We cannot even get all of these things on a desk.

The HHCPCS-Cannons, Procedures and Codes, 226 pages. Does anybody think this is an efficient way to run a railroad? Medicare Physicians ID Number Manual—this is simply to identify them, and it is only for a few States—172 pages. Physicians' Desk Reference, this is a drug compendiums. These are not the Library of Congress. These are simple things that physicians and health care providers have to deal with every day if they are going to provide health care and bill Medicare. What we have done is take the greatest medical minds in the world and see if we could bury them in paperwork. Drug Evaluation Subscriptions, three volumes, 1,720 pages.

Mr. President, if regulation was the answer, if more laws were the answer, if Federal control were the answer, surely our health care would be free by now. How many more of these books and volumes do we have to impose on people before we figure out that they are part of the problem.

What we ought to be doing is not repeating the mistake we have made in 1946, in 1965, in 1983, in 1986, and in 1989.

We should not be recognizing the problem and deciding to deal with it by more Federal control.

What we ought to do is sit down for a moment and go back and get real solutions. What are they? I sponsored five major health care resolutions, legislation that was offered here, but I want to go through quickly a couple of the proposals that I think are important.

It would be inappropriate for me not to mention at this moment that last year, on April 27, 1993, after continuous delays by the majority in bringing up health care, Senator SPECTER brought forth his amendment to S. 171. Senator SPECTER was ready and able and willing to debate health care right then and there. He had asked continuously and repeatedly, and repeatedly the leadership of this body had turned him down.

Finally, he came to the floor and, in spite of their wishes, offered his amendment to reform health care, and I joined him, not because I agreed with everything in his bill but I agree with much of it. This body decided more than a year ago that they would not consider it. All this gnashing of teeth because we have not finished a bill that we just simply received the final copy of last Friday seems strange when you understand that more than a year ago the leadership of this deliberative body refused to let Senator SPECTER even bring the subject up.

Senate 1865 by Senator MCCAIN and S. 493 by Senator COHEN are bills to enable health care facilities' cooperation to better serve their markets, either allowing them to join or to form joint ventures to share equipment or by forming community health authorities. In other words, Mr. President, the proposal which is picked up in a number of other bills is to modify our antitrust laws and to see if we cannot get people to share facilities and equipment. It increases the usage and reduces the cost. That is a good idea and that will reduce cost. We ought to do it.

Senator GRAMM has talked about insurance reforms to address the problems of portability, and that is a good idea. I think that can make the system more efficient.

Senator CHAFEE has introduced a bill that I joined him to have ob/gyns be designated as primary care givers. I believe that should be passed.

We have already talked about how we ought to change our tax laws to allow full deductibility for small businesses. That should be passed.

There is a proposal in a number of these bills to provide for a medical savings account. What it does is simply allow people to have some discretion about how their health care money is spent, and that should be passed. I believe it would help reduce cost.

We ought to allow small businesses to pool together to get health care insurance buying power, just like large corporations do, and that can help reduce cost.

We ought to have meaningful tort reform, and every Member here knows it. That would help reduce frivolous lawsuits, speed up the time for payment when there is medical malpractice, and eliminate some of the waste and abuse in the system. And yet this bill, instead of making progress on medical malpractice, would take it the other way. It would gut a number of proposals that Colorado has made which are more advanced than the Federal level.

Colorado has made real progress in this area. In 1988, Colorado enacted a package of medical malpractice reforms that assured that the resources are available if the provider injures a patient but puts appropriate limits on how such claims are brought. Physician malpractice premiums have fallen by 53 percent since Colorado enacted its reform.

Mr. President, let me repeat that. Since Colorado enacted those reforms, the physician malpractice insurance has dropped 53 percent. This bill would have the effect of repealing some of Colorado's reforms. That is not progress. That is not reducing cost. It is increasing it.

Mr. President, I am convinced that we ought to provide incentives in the way we administer Medicare and Medicaid for providers to reduce cost. We ought to be smart enough to provide real incentives so if someone really does reduce the cost of a health care procedure, they share in that cost savings. Incentives will do much more than regulation to get us back on the right track.

We ought to reduce unnecessary paperwork requirements. Senator BOND has introduced a bill that will do just that, to simplify it. And I am glad to see some other proposals have picked out a portion of that.

Mr. President, this body voted on and all but one Senator in this body voted for legislation on the blood pathogen regulations. For those Members who remember that vote and remember how they voted, I urge them to review those regulations. Does someone going to medical school for 4 years or 7 years know enough to wipe off the table his patients change on?

Well, I hope so. Yet we passed these regulations that mandate and check on it and require more paperwork. Those blood pathogen regulations were some of the nuttiest, wasteful, abusive procedures that we have passed. If you talk about unnecessary paperwork and ridiculous expenses, they epitomize it. There was only one vote in this Chamber against those silly regulations. But if we were serious about controlling costs and expanding real medical care to people, those are the kinds of things we ought to look at.

But we should not look at another flood of regulations and statutes and controls and guidance. We ought to look at real reform. We ought to look at real medical malpractice changes. We ought to look at real incentives to reduce the cost. We ought to fight for ways to make this system more efficient, not less efficient.

I am in favor of medical reform, but it is not this bill. It is a bill that has a dramatically different purpose. It is one that recognizes the answer to problems created by Federal regulation is not more Federal regulation. I do not know how anyone living in the latter half of this century could look around at what has happened in the world and come to the conclusion that central Government planning and regulation is the answer to economic problems.

The simple fact is in every country on the face of the Earth that has tried it, it has been a failure. What is needed are incentives for individuals to be productive and creative. This bill does the opposite. In short, I believe we ought to put our faith in the hands and the minds and the creative spirit of individuals and expand their freedom and opportunity and choices, and that we ought to turn our back on the efforts to regulate the minute details of how our medical system works.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, by previous agreement, I yield the remainder of our time, indeed, the time equally divided this evening, to the distinguished Senator from Florida, a former Governor, deeply involved in these matters.

May I say, Mr. President, that the Senator from New Jersey [Mr. LAUTENBERG] may come to the floor and may wish to speak. But after the 2 hours has expired, the floor is open for those who wish to speak.

Mr. MURKOWSKI. Mr. President, I am just going to make an inquiry.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. If I may ask the Chair, what is the remaining time?

Mr. MOYNIHAN. I believe 47 minutes. Well, I will ask the Chair.

The PRESIDING OFFICER. The Senator from New York controls 45 minutes.

Mr. MOYNIHAN. Forty-five.

The PRESIDING OFFICER. And the Senator from Oregon controls 8½ minutes.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, in the past few days we have had a chorus of pronouncements that national health care reform was moving from the intensive care ward to the morgue, that Congress is hopelessly gridlocked, that partisan bickering has escalated into warfare, that the American people have given up in disgust in our collective inability to accomplish anything significant, and that we have fundamentally abandoned any expectation that we can act in their interest.

Mr. President, I disagree. The distinguished majority leader has, in my opinion, skillfully moved the debate forward by introducing a solid and constructive proposal that moves the Nation forward toward the goal of universal coverage. And many reasonable people, on both sides of the aisle, are now recommitting themselves to work toward a nonpartisan prescription for the widely acknowledged ills of America's health care system—excessive cost, inadequate personal, and family health security, and gaps in services provided, particularly those which maintain health.

Some examples: Senator JOHN CHAFEE, a long-time leader in the area of health care reform, and now a leader of the Senate's mainstream coalition, has said:

> It is essential that any health care reform measure pass by a very, very strong majority in this body * * * I seek a program that is going to pass here 80 to 20 or 70 to 30, a healthy, strong, bipartisan support for that measure on the floor of the Senate.

Senator BOREN agrees when he says.

> * * * the only way we're ever going to get the deficit under control and sustain a long-range approach is to have a bipartisan plan, one that will have the support of a vast majority of the American people in both our political parties. And the only way * * * that we're going to have health care reform carried through in an efficient and effective way is to reach a bipartisan consensus so that the plan can be sustained for many years* * *

And to quote one additional of our colleagues, Senator COHEN has stated:

> The decisions we make in the coming weeks are going to have a profound consequence for every single American. They are going to control the future direction of one-seventh of our Nation's economy. And we shouldn't even begin to contemplate enacting sweeping reforms unless they're broad-based and bipartisan.

Mr. President, I believe there is a clear formula for this bipartisan prescription, the basis for which is already in the majority leader's bill. We should build upon the genius of the Federal system. We should equip States and localities with the appropriate tools so that they, working with their citizens, can tailor health care reform to their unique circumstance. The role of the national Government should be to establish goals and to monitor the attainment of those goals.

The case for a decentralized health care system is compelling. Some of the points which make that case compelling include diversity as the key underpinning of the American health care system. Health care is particularly suitable to the establishment of national goals with decentralized implementation, and sensitivity to local cultural, geographic and institutional variations. States, and communities within States, have different health care needs based on societal factors such as the quantity and nature of health care providers.

For example, Nebraska, North Dakota, and South Dakota have twice the number of hospital beds as Alaska, New Hampshire, and Hawaii. Varying demographics, especially among the most health intensive populations—for example, Florida, Pennsylvania, Iowa, Rhode Island, and the State of the Presiding Officer of West Virginia—have 50 percent more elderly than do Alaska, Utah, Colorado, and Georgia.

Current levels of insurance coverage is another area of extreme difference. In Nevada, Oklahoma, Louisiana, Texas, and Florida, approximately one-quarter of the population under 65 is uninsured. Whereas, in Hawaii, Connecticut, and Minnesota, less than one-tenth of the population under 65 is without insurance.

Mr. President, clearly State circumstances require different solutions and different timeframes. For example, what would work in a rural area would not work in a highly urbanized area. The means of achieving universal coverage and access are undoubtedly different in Florida than they are in Wyoming.

Another point which I think makes the argument for a federalized system compelling is that the Federal Government is frankly ill-equipped to build or operate a unitary health care system.

The experience of nations with a long history of universal access health care systems—just to mention two, Germany and Canada—have shown that implementation requires decentralization. Our Nation is significantly more populated, geographically larger, and infinitely more diverse than either Germany or Canada. A successful plan would have to accommodate the broad diversity of the United States through decentralization.

Yale professors Theodore Marmor and Jerry Mashaw make this point in a July 7, 1994 Los Angeles Times editorial:

> Given the diversity of States, their varied experience with health care and intense local preferences, why enact a single brand of national health care reform, especially if it's the poorly-considered compromise that we seem to be headed towards? By moving compromise in the direction of preserving goals rather than defining means, we can allow States the further thought and experimentation that are needed for effective implementation.

Mr. President, States have also demonstrated their creativity and ability to implement complex health care initiatives, often in the face of stiff resistance from the same Federal agencies that would be placed in charge of a proposed unitary system.

In health care reform, States have significant experience and success. The summer 1993 issue of Health Affairs chronicles health care reform successes at the State level in Hawaii, Maryland, Minnesota, Oregon, Washington, and Florida. Significantly, each of these States have adopted reforms that differ in terms of scope, anticipated outcome, and processes. These variations reflect the diverse needs, ideology, and stage of health care evolution in each of those States.

So should national reform. Only then will we have real accountability, and responsiveness to the needs of consumers, businesses, and providers. Only then will we have health care reform that actually is able to deliver sustained accessibility to high-quality, affordable health care for all Americans.

Hawaii offers the best example of a State's creativity and ability to accomplish the goals of positive health care reform. In 1974, Hawaii passed a comprehensive health care reform proposal that included virtual universal access, financing through a shared responsibility between employer and employee, and a serious commitment to the prevention of illness.

As we celebrate the 20th anniversary of this State's initiative, we should take note of the following: Hawaii has the highest percentage of its citizens covered by insurance—over 96 percent. In Hawaii, the cost of insurance coverage for small businesses is 30 percent below the average for small businesses in the United States. Hawaii's infant mortality rate is 6.7 deaths per 1,000 live births. This compares to 9.2 deaths per 1,000 live births for the Nation as a whole. I believe the President would agree that those are compelling statistics of a success which started at the State level, started with citizens in a particular State responding to that State's circumstances to meet the goals and aspirations of its citizens.

Hawaii was fortunate in being able to develop and implement its health care reforms with the cooperation of a Federal administration also committed to health care reform—that of President Richard Nixon. Hawaii's reform system was also implemented prior to the enactment of significant restraints on the State's ability to innovate, such as the Employee Retirement and Income Security Act [ERISA].

Other States have not been so fortunate. My own State of Florida has experienced the frustrations of many States that have attempted to innovate, to be a center for reform, to be that laboratory of experimentation which is at the heart of the Federal system.

In the mid-1980's while I was Governor, Florida was unsuccessful in its attempt to receive a waiver from the Federal Government for a Medicaid buy-in program. The purpose of that program was to allow the working poor who were otherwise without insurance to be able to share with the State and the Federal Government in accessing the Medicaid Program. The waiver that would have been necessary to make that possible was denied by the Reagan administration.

The current Governor of Florida, and our former colleague, Lawton Chiles, is making a similar effort, called Florida Health Security, to provide health care coverage again to the working poor. Florida Health Security would provide subsidies to uninsured working Floridians to purchase private health insurance. Participants would contribute a portion of their premium based on their incomes. Employers could voluntarily contribute a portion of their employees' premiums. The program would be paid for using Federal and State savings in Florida's Medicaid Program, realized primarily by enrolling Medicaid recipients in managed care plans. Florida Health Security would provide 1.1 million uninsured Floridians with health insurance coverage, and through this single initiative, this one initiative, raise the percentage of Floridians with coverage from the current 82 percent to 92 percent.

However, just as was the case a decade ago, Governor Chiles is now faced with foot-dragging and ho-humming from the Health Care Financing Administration, the agency that must grant the waiver. Why? Why has there been this reticence to allow States to innovate? A New York Times article dated June 12, 1994, may provide an answer. According to the article, Mr. Bruce Vladeck, administrator of the Health Care Financing Administration, warned in a June 1993 memorandum:

> The waiver authority could become a way of relaxing statutory or regulatory provisions considered onerous by the States.

He added that waivers "will be used to slow down nationwide reform."

Mr. President, after over 6 months of review, Florida's waiver application is still pending in the Health Care Financing Administration bureaucracy.

Mr. President, I applaud the majority leader for his able leadership in moving the Senate toward consensus on health care reform. I believe his proposal provides the basis for a decentralized health care reform system. His bill allows for compliance with the national intermediate goal of 95 percent coverage by the year 2000 on a State-by-State basis. The majority leader's proposal rejects the concept that there must be a single national standard by which compliance is judged.

Specifically, Senator MITCHELL proposes that by January 1, 2000, 95 percent of the population in each State must have health care insurance coverage. In those States that fail to meet that goal, businesses would be required by the year 2002 to pay half of the cost of insurance for their employees and their families. Businesses with fewer than 25 workers would be exempt from that requirement.

I applaud the architecture of the majority leader's proposal. This State-by-State evaluation will fundamentally shift incentives and challenges. The plan will motivate States to develop their own reforms exactly to avoid the Federal prescription, while at the same time providing health care insurance coverage to their citizens.

Again, if I could, Mr. President, I believe there is a case study of this in Florida. Ask any provider, insurance, or business association in the State, and they will tell you that it was the threat of Federal action which was the impetus that brought all of the parties to the table to develop Florida's health care reform plan. Fifty individual State triggers, rather than a single national trigger, will cause States to accelerate their activities in order to achieve a 95 percent objective and avoid falling into a Federal mandate. States will also clearly understand that they cannot adopt policies which tolerate, much less contribute to, additional health care costs, without jeopardizing their ability to achieve the prescribed 95 percent level of coverage by the year 2000.

Senator MITCHELL's call for a State-by-State approach acknowledges variations among the States and recognizes that innovation must be tailored to the circumstances of individual States and communities.

Mr. President, this State-by-State evaluation gives States substantial control over their own destinies. Only through a decentralized evaluation of performance will States feel compelled to take aggressive action to reach the 95 percent coverage by the year 2000.

While Senator MITCHELL's bill lays the groundwork for a decentralized system, some modifications are necessary to reach his proposal's maximum potential. Such modifications could be grouped around the following principles: We should avoid Federal action which increases health care costs and then shifts those costs to the States. For example, S. 2357, the majority leader's proposal, would create three subsidized programs. One would be for mothers and children. A second would be for individuals who were formerly served through Medicaid, and a third would be a general subsidy program. These three would be in lieu of a single streamlined subsidy program. States would be required to administer the subsidy programs without Federal assistance for administrative costs. The Congressional Budget Office estimates that States will be required to spend an additional $50 billion to administer these three programs over the next 10 years. We should also avoid policies that restrict the abilities of States to chart their own course.

For example, S. 2357 would calculate State maintenance of effort payments using an annual growth factor based on the rate of increase in national health care spending.

Using a national calculation rather than a State-by-State calculation penalizes those States that have already taken steps or will be encouraged to take steps to reduce health care costs and rewards those States that have not acted to control costs.

Also, States should not be held accountable for cost factors that are beyond their control, including federally prescribed increases in benefits and increases in the quantity of health care services due largely to the population's aging.

We should also avoid measures which have the unintended effect of punishing States which are implementing or proposing initiatives to expand coverage, to move toward that goal of universal coverage.

Under S. 2357, currently eligible Medicaid beneficiaries would not have their benefits reduced under the new subsidy program. While this is a laudable goal, I believe this provision penalizes States which have chosen to provide optional services beyond those required of Medicaid.

Such States would then be locked into those benefits while States that provide only the minimal Medicaid services would not.

In addition, States would be required under the majority leader's bill to provide benefits over and above the standard benefits package to individuals currently enrolled in the Medicaid program. These so-called wrap-around benefits would be matched by the Federal Government at the State's Medicaid match rate.

This requirement will add to State administrative costs, but more importantly, it raises a fundamental equity question by subdividing the low-income population into two groups, one group those who had previously been under the Medicaid program, the other group those who had not been under the Medicaid program, and provides a differential level of benefits at State administration and significant State cost to the former Medicaid eligible population.

We should, also, Mr. President, provide broad waiver authority from Federal statutes and regulations to facilitate State innovation.

This is not a new concept. In 1992, our colleagues, Senator LEAHY and Senator PRYOR, introduced legislation that would provide incentives to States to achieve comprehensive, State-based health care reform. I was pleased to be a cosponsor of that legislation.

This proposal should serve as a basis for an expanded waiver authority in S. 2357 so that States who want to take control of their destiny different from the Federal plan would be permitted to do so.

Mr. President, we should also eliminate requirements for which national uniformity is not essential.

Federal preemptions of State laws and Federal standards should meet the following fundamental test: Does the desired goal require national uniformity in process or procedure, or can the desired goal be accomplished without Federal mandate and prescription?

Two examples within S. 2357, in my judgment, fail to satisfactorily answer this question. They are the essential community providers provision. This is a provision which will require a certain group of providers to be covered under all plans. I see no reason why States should not have the flexibility to determine whether there are within that State essential community providers and, if so, who they are. There is also a preemption of State licensure laws for medical professionals. States have traditionally exercised authority in this area. I see no reason why that authority should be shifted.

Mr. President, States should also be given a broader range of options should they fall short of the 95-percent coverage goal by the year 2000.

Under S. 2357, a State that fails to meet the 95-percent goal would be subject to new Federal standards adopted by Congress after considering recommendations from the newly created National Health Care Commission.

Should Congress fail to enact such provisions, the State would be required to adopt an employer mandate with employers paying half the cost of coverage for employees and their families. Employers with fewer than 25 employees would be exempt.

I believe a State which fails to achieve the 95 percent goal should have an opportunity to present a corrected plan to the Health Care Commission. The plan would be subject to Commission approval and would detail how the State would reach the 95 percent goal by the year 2002.

Under this construction, the employer mandate would be triggered if, and only if, the State plan is rejected by the Commission or if approved by the Commission the State fails to accomplish the goal of 95-percent coverage in its implementation.

States that take this second chance option would have the opportunity to learn from those States that had been successful in meeting the 95-percent goal. The Health Care Commission could also use these success stories of those States that had met the 95-percent goal to evaluate and assist deficient States in achieving the goal of 95-percent coverage.

Mr. President, health care reform is too important to the fundamental objectives of individual Americans and our Nation as a whole to languish or to be lost. I believe that we are close to a course of action which offers considerable promise of accomplishing our collective goals.

However, our goals will only be realized if we allow for maximum decentralization in their implementation. It only will be realized if we avoid impeding the imagination and the commitment of millions of Americans to health care reform in their communities and in their States.

These are good citizens who, with a spirit of community and common sense, will find not one but a thousand roads which will merge at the common national destination of an affordable health care system that will provide quality health care services for all Americans.

Thank, you Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

(Mr. GRAHAM assumed the chair.)

Mr. MURKOWSKI. Mr. President, let me note for the RECORD, as this debate continues, everybody on both sides of the aisle is truly supportive of health care reform. So really the issue is, how to achieve that in the best interests of the American public.

I am sure that many who have followed this debate are somewhat concerned with the mechanics of the health care proposals because indeed they are quite complex, but there are a few things that the American public understands.

They understand availability of health care. They want availability of health care, and they want that availability at the minimum cost with the most coverage. Availability also is synonymous, of course, with portable. They want the assurance of being able to have their health care insurance follow them from job to job.

But the American people are also concerned about aspects of the Mitchell bill, which is before us. And one aspect that certainly has caught the attention of a lot of people is the suggestion that approximately 100 million people will be subsidized by the Mitchell plan. That is out of a population in 1990 in the United States of 248 million people. Approximately 100 million will be eligible for some type of subsidy.

That does not ring very well with the American people because they are also concerned about the expanded bureaucracy. They do not want to see any more agencies. They do not want to see some 34 new Federal boards and commissions. They are concerned about just what 117 new mandates really mean, and the States are concerned because some of these mandates are directives to the States that are unfunded.

What the public really wants in a health care plan, in addition to cost control and availability, is the assurance that there is some accountability. You know how Government responds with accountability. Government runs off and hires more compliance officers in each agency as opposed to holding the head of that agency accountable for the actions of that agency.

And the public is concerned, of course, about the Government going into the health care business. The point has been made sometime in this body that if you like the Post Office system in Washington, DC, you will love the Government once it takes over health care.

What can we learn from observation of our neighbors in Canada? We can learn some interesting things, Mr. President. One that strikes me is that approximately 21 percent of the budget in our neighboring nation of Canada is interest on their debt. What is that attributed to, Mr. President? That is attributed to escalating health care costs associated with the Canadian system.

They are also concerned with the realization that in Canada today, in Saskatchewan, many hospitals are being closed. Many Canadians come from Vancouver to Seattle, come from Toronto and other areas to Buffalo, NY, for health care simply because of availability and quality.

So as we embark upon this effort, Mr. President, let us keep in mind what the American public wants. They want availability. They want cost controls.

And the task before us is a monumental one in trying to achieve that. We are achieving that in the sense of working in a bipartisan manner for health care reform. But it is how we go about this task. And we must continually remind ourselves that good intentions are not enough, because good intentions will not make up for bad policies.

In our desire to improve access to what is already the highest-quality health care system in the world, we cannot afford to turn that system over to an army of bureaucrats and well-meaning idealists. We have to look very carefully at the reform proposals before us before we leap into a full-scale change.

What we want to do is obviously maintain the quality that we have and make the improvements when they are needed. But we do not want to throw out the baby with the bath water, so to speak.

The health care reform debate has evolved dramatically over the last 9 or 10 months. It is kind of interesting to reflect on the public approval of the President's reform proposal, because the fact is that public opinion for approval of the President's program has fallen steadily, as the implications of a major overhaul become more and more clear. As a consequence of this extended debate and the efforts of my colleagues to try to bring out the particulars, the public is beginning to understand and is becoming more concerned with availability and escalated costs and Government bureaucracy. And it has affected the President's reform proposal and its acceptance.

A majority of Americans now want incremental, targeted reforms or no reforms at all until we better understand the sweeping social changes that we are proposing.

The fact is that none of us can fully understand the implications of this legislation without this extended debate. The Clinton-Mitchell bill is predicted now to cost up to $1.1 trillion over the first 8 years in new entitlement spending, becoming the third largest entitlement program in our budget.

How do we fund that, Mr. President? Well, if the past is any indication, we fund it by deficit financing. What is deficit financing? It is simply everything else you need to add to the deficit and you pay interest on it as part of the budget process. You could not do it with your own checkbook, Mr. President. But we can do it here in Government.

Have we not learned from the Medicaid and Medicare spending explosions of recent years that we cannot accurately predict the true burden of this massive new entitlement and what effect it is going to have on our future generations? We are mortgaging the future of our children and grandchildren, Mr. President.

The bipartisan Commission on Entitlement and Tax Reform, cochaired by my colleagues, Senator KERREY and Senator DANFORTH, reports that, by the year 2012, existing entitlements and interest on the debt will consume all of our Federal tax revenues.

Think about that for a minute. By the year 2012, existing entitlements—we are not talking about entitlements for health care—existing entitlements and interest on the debt will consume all of our Federal tax revenues.

Mr. President, you and I both know at that stage, we are broke.

A major new Government-run health care program will, in all likelihood, bring us to the point of national bankruptcy even sooner than the year 2012 if we do not address up front just how we are going to pay for it.

As Robert Samuelson of the Washington Post recently stated, the "something for nothing" deception being played out on the American people regarding new health care entitlements is an "exercise in national make-believe." Well, he is right on target, Mr. President.

The proposal before us would create at least 34 new or expanded federally run boards and commissions—and they cost money—to determine what benefits each American would be allowed, with the burden of implementing as many as 117—you have heard it before—new mandates passed on to individuals States. The bipartisan National Governors Association warns that:

> Under this bill, States will take on significant new responsibilities to administer, monitor and enforce compliance of a new restructured health care system * * * set entirely by the Federal Government. It is expected that States will have to administer * * * but have little flexibility to set their own standards.

This is tragic, because States are the laboratories for change and innovation in health care reform. It is critical that reform proposals recognize State autonomy and the need to be flexible.

My State of Alaska, for instance, is carefully considering comprehensive health reform legislation, and already has in place high-risk insurance pools to make insurance accessible to those who would otherwise be uninsurable under the current system. Alaska law currently prohibits denying coverage because of pre-existing conditions and we have established a Small Employer Reinsurance Association and several small business reinsurance pools. There is broad recognition, in my State, that some of the central principles being put forth in the Clinton-Mitchell plan, such as encouraging managed care models of health delivery, do not work in areas where there is limited or no access to even the most basic health care services. Alaska is not the only State with unique circumstances. Every State has unique qualities that can make Federal dictates counter-productive.

But the plan before us does more than establish new bureaucracies and State mandates.

While almost everybody agrees that one of the factors forcing health care costs up is the cost of litigation, it is my understanding that the Clinton-Mitchell bill actually provides funding for lawyers to help people sue their own States if, in fact, federally mandated health plans are not implemented properly. No wonder the American people are nervous.

The premise behind the bill is misguided. It proposes to meet the need of insuring the 37 million people in this country who do not currently have health insurance by providing a Federal subsidy to more than 100 million people. I cannot understand the logic behind creating an entitlement program that will cover more people than are now covered by Medicare, Social Security, and Medicaid combined in order to resolve the uninsurance problem for 37 million people, many of whom will find insurance on their own without Government assistance.

In creating this new system, the Clinton-Mitchell bill actually raises the cost of insurance to middle-income families. The bill raises the price of all insurance policies in this country by $145 billion through a new taxes on, of all things, health insurance. Even the Congressional Budget Office [CBO] finds one of these taxes—the 25-percent tax on so-called high cost plans—so poorly designed that it will effect virtually all plans, and increase premiums so much that it will discourage participation in the health insurance market.

That is a diplomatic way of saying that the taxes in the Mitchell plan will force more people to become uninsured. What is even worse is that the health insurance plans that will pay the biggest tax are plans that insure a large number of sick and old people, and efficient managed care plans. What is the logic of such an ill-conceived tax?

And while the middle class pays more taxes, others get a free ride. In fact, starting in the year 2002, if the employer mandate is triggered, it appears that the cost of health insurance for individuals will become free. It may surprise my colleagues to know that, but according to section 10135 of the bill, which deals with health insurance premium payments, it states: "In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage." In fact, the bill assumes that many enrollees will stop making payments and sets up a system known as the Collection Shortfall Add-On which will raise premiums for all participants in the plan to cover the cost of those who fail to make payments.

Mr. President, it is obvious to this Senator that many will simply not pay their health insurance premiums once they realize that their coverage cannot be canceled and they are assured that they will be covered for any health related expenses.

I believe there is a better alternative to the legislation before us. An alternative which would make great strides in providing access to care for the uninsured, without sacrificing individual choice, State flexibility or radically restructuring one-seventh of the American economy. I heard my thoughtful colleague, Chairman MOYNIHAN, comment on the floor last week that it would certainly be a shame if Congress did not at least act on those reforms which we know have a broad consensus of agreement—reforms such as making insurance portable, removing restrictions on preexisting conditions, voluntary insurance pooling for small business, and subsidies to help the most needy purchase private insurance. I agree. I think we may have lost sight of the areas where most of us agree, where we can tackle problems of rising costs and inadequate access today rather than spinning fragile webs of government run health care that don't go into effect for years down the line.

Mr. President, I want to comment on a critical area of our health care system that also tends to get lost in the shuffle in the debate over national health care reform—that area is our Federal medical programs. Today the Federal Government is not just a payer of health care bills, as in Medicare and Medicaid, but is also a direct provider of health care through programs in the Departments of Veterans' Affairs, and Defense, the Indian Health Service, and the Public Health Service. In Alaska, 34 percent of total health care spending is for Federal health programs. As the ranking Republican on the Senate Committee on Veterans' Affairs, I notice that these programs, and the lessons we can learn from them, have largely been overlooked in the debate over reforming the private health care system.

As most of you know, the Department of Veterans Affairs [VA] health care system is the largest single health care system in the United States. The VA health care system consists of 171 hospitals, 353 outpatient clinics, 128 nursing homes, and 37 domiciliaries. The annual budget for VA health care is currently $17.6 billion, which provides care for approximately 2.2 million veterans and employs over 209,000 health care workers. In addition to basic health care services, the VA provides specialty services like spinal cord injury, blind rehabilitation, post traumatic stress disorder and other mental health services, comprehensive homeless programs, and long-term care and geriatric programs. These are all excellent programs—their equals cannot be found in the private health care system.

Because of our commitment to our veterans, taxpayers have made a huge investment in VA health care, an investment that we do not want to waste. But proposed health reforms may well provide those who now use the VA with alternative choices of care—GAO predicted that if universal coverage was passed, up to 50 percent of current VA users would go elsewhere for care. The effect is that the VA will have to compete with other providers or die on the vine—to consolidate and better manage care or lose patients.

Unfortunately, the VA is not now in a position to compete—nor are they used to competition. The VA does not know basic cost and other information needed to establish premiums, sell services, or operate in other basic business ways. It will take 3 years before the VA has a system installed nationwide to determine even basic information on what it costs VA to provide specific medical procedures. The VA remains too facility oriented, as oppose to health care delivery oriented. It is burdened with underutilized inpatient hospitals, and lacks the outpatient capacity and the community presence to adequately meet the comprehensive needs of veterans and their families.

Until we know what final product Congress will produce, be it the Clinton-Mitchell plan, the Dole-Packwood plan, the Gephardt plan, or a little bit of everything, it is difficult for us to say what is needed for the VA. In the Veterans' Committee markup of VA health reform, I offered an amendment that would have delayed implementation of VA reforms until we knew what national health reforms looked like. While I did not succeed in passing this amendment, I believe its purpose still holds true—we are moving into uncharted waters.

The Mitchell health plan does not clear up any of these unknowns—in fact, it creates new ones. Under the Mitchell plan, in order for veterans to receive a comprehensive benefits package, they would be required to enroll in a VA health plan. Core group veterans—such as the service-connected disabled and the poor—would receive free care. For veterans and their family members who have outside coverage, the VA would retain Medicare reimbursements and private third-party reimbursements. These reimbursements, in addition to regular health care appropriations, would supposedly pay for the comprehensive benefits for all core group veterans.

The problem is that there is no way to know if the increased reimbursements will offset the increased costs. There are currently 2.2 million users of the VA health care system. But as many as 7.5 million veterans would qualify for free care under the Mitchell plan. Most of these veterans do not currently use the VA system, but might if benefits were free. Third-party reimbursements and regular health care appropriations together may not be sufficient to cover the increase in enrollment and the extension of new, free benefits to those who are currently not eligible to receive them.

I am also concerned that, the Mitchell bill, on the one hand seems to create a new entitlement program for veterans health care, while, on the other hand, it also makes expenditures subject to the ordinary appropriations process. The effect is that the Mitchell plan could result in a reduction of care to veterans. If appropriated dollars were not sufficient to pay for each veteran's care, then all benefits would be reduced to make up the shortfall. In essence, a veteran signing up for a VA health plan that promises a certain level of benefits would not be assured that those benefits will remain available. Furthermore, veterans who now receive comprehensive benefits from the VA might see their level of care reduced. Again, we are speculating because we have no idea how many new users a VA health plan would attract into the system. But a thorough reading of the Mitchell plan would suggest that the so-called reformed VA health system could be detrimental to the VA by not even protecting the level of care certain veterans enjoy today. I understand that the majority leader and Senator ROCKEFELLER are considering an amendment to fix this problem and I look forward to seeing their solutions.

That said, there are simple ways that we can help VA run its programs to better serve veterans and not break the bank. Earlier this year, the Senate passed a bill to let the VA participate as a provider in States that are undergoing health reform. The point of this legislation is to free up VA facilities from VA Central Office control, to let them innovate, to contract freely for health care and other services, to give directors of the medical centers more freedom from personnel regulations. In short, the pilot bill was designed to make VA more businesslike, more managed-care oriented, and therefore more competitive by placing considerable authority in the field. The Dole-Packwood proposal includes many elements of this proposal and would expand it's scope to include any VA facility which wishes to participate in the plan, and allow the VA to collect from Medicare for non-core group veterans.

These reforms hold promise. Minnesota now allow any department or agency of the Federal Government to organize an Integrated Service Network to compete with other health plans in the state. The Minneapolis VA Medical Center currently leases excess space to a private HMO for an outpatient clinic. Montana is also studying ways to integrate Federal health programs like VA, IHS, DOD, and Public Health. And there are other examples of states that are moving on their own. We want VA to be able to adapt to these changes.

Mr. President, America's health-care system is the best in the world. It is the product of collective genius, scientific advancement, and modern technology, flourishing in America's private sector. There is no doubt that Government has aided and even fueled some of this progress, particularly in technology and science, but never before has government, especially the Federal Government, advocated to so directly manage the system, as the Clinton-Mitchell proposal would do, if it were to become law.

As many others have stated and written, this is a historic time for the Senate and for the country. I disagree, however, with the pundits and some of my colleagues who say that it is time to abandon America's privately managed health care system.

So we have many questions to answer with regard to the Mitchell bill, and just that one aspect of VA health care and how that is going to fit in as well. I could comment at great length as well on how the Indian Health Care Service is going to fit in to the proposed national health care plan because these, indeed, are going to provide groups that previously had utilized these systems exclusively with the opportunity to go out and have the choice of other alternative types of care.

In conclusion, let me say what we want to do is what is right for the American people. But the voters are going to be our judge. I fear the judgment will be harsh, should we take the wrong course at this time, a course that, once taken, cannot be reversed.

So I remind my colleagues the concerns of the American people, indeed, are health care reform but not at any price. Health care reform that addresses costs. Health care reform that addresses availability and portability.

Not an expanded bureaucracy, not a subsidy for 100 million American people. Not a program that establishes another 34 new Federal agencies. Not a program that establishes 117 mandates. And not a program that mandates to States certain policies that are unfunded.

The public is concerned about health care. The public is concerned about the bureaucracy. Let us address a pattern of uniformity here that addresses the concerns of the American people.

We should enact a bill that fixes what is wrong—and fixes only what is wrong. Let us not get in the way of what is right. Moderation and prudence are what the people expect of us, and no less. If we—with all good intentions—move America's wonderful, unique health care system down the road to a rationed, poor quality, one-size-fits-all system, what good have we done? Have we then fixed what is wrong or have we wronged a great system? Our voters will be our judge, and again, I fear that judgment will be harsh should we take the wrong course; a course that, once taken, cannot be reversed.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, we made progress today. I think we can all be pleased at the passage earlier this evening of the Dodd amendment. It sends the right message as we begin debate about health care reform. It says to the country, it says to all of those who are watching, it says in particular to children that, indeed, they are a priority.

There is some symbolism in the passage of an amendment dealing with children as our first amendment, a statement that as we consider building a better health care system, we consider children. We are told they are 33 percent of our population but 100 percent of our future.

Just last weekend my oldest daughter had her birthday. She is now 23. I cannot think of a better present than to say to her and to say to all of those who are beginning their young adult lives: We can promise you a better future, a more secure future, a future with an appreciation for the importance of preventive care.

So as we begin this debate I hope it is an indication, not only of the symbolism that I believe it represents, but clearly a constructive beginning in a debate that ultimately will lead us to meaningful health reform.

Earlier today many assembled not far from here to remind all of us that as we now debate this issue, since the beginning of the debate, since the day the majority leader laid the bill down, 500,000 additional Americans lost their health insurance; 100,000 children were included in that 500,000 Americans. People from all over—people from Florida, people from South Dakota, people who are wealthy, people who are not, people who are sick, people who are healthy—but 500,000, half a million people have lost their health insurance since this debate began. About 48 a minute now lose their health insurance.

During the time the Senate has been considering the children-first amendment, the amendment offered by the distinguished Senator from Connecticut, children, too, have continued to suffer.

In those 4 days, 2,544 babies were born to mothers who received late or no prenatal health care; 3,204 babies were born at low birth weight, which was less than 5 pounds; 224 babies died before they were 1 month old, just in the last 4 days; and 440 babies died before they were 1 year old just in the last 4 days.

So, Mr. President, this is a problem that ought to be very clear to all of us. The ramifications of failure are stark. These profound statistics speak with an exclamation point that we must deal with this issue effectively.

About 9 million children in the United States went without health insurance 2 years ago. It is about 15 percent of all the Nation's children. About 80 percent of uninsured children have at least one employed parent, and over the last 5 years, between 1987 and 1992, the number of children with employer-based coverage decreased by almost 5 percent. Children now under 21 comprise almost 30 percent of the population, but 36 percent of the Nation's uninsured. And that affects utilization.

Children without insurance are less likely than those who are insured to use the health services or to have any usual source of medical care. In 1992, the vaccination levels for children between the ages of 19 and 35 months of age were 83 percent for measles containing vaccines and diphtheria, tetanus and pertussis, DPT, shots and 72 percent for polio.

Three-fourths of the children in this country between the ages of 19 and 35 months were able to achieve some meaningful vaccination levels, but one-fourth did not. In 1990, an estimated 3 million children under the age of 6 had unacceptably high levels of lead in their blood. And as of June 30 of last year, over 4,700 children in the United States had been diagnosed with AIDS. AIDS is now the fastest growing cause of death for adolescents.

Deaths of children due to homicide have tripled since 1960, now becoming the fourth leading cause of death among children ages 1 to 9, the third leading cause for children ages 10 to 14, and the second leading cause of death for adolescents ages 15 to 19.

Every dollar spent on measles, mumps, rubella vaccine saves $17.80 in direct health care costs according to the Department of Health and Human Services. It costs about $20 for a doctor's office visit to treat a child with strep throat, but thousands to hospitalize a child whose untreated strep throat develops rheumatic fever. Between 1989 and 1991, a measles epidemic struck over 55,000 Americans, more than 11,000 were hospitalized, costing lives and millions of wasted dollars.

An estimated 3 million children under the age of 6 had blood levels so high that CDC considered it dangerous.

So, it is very clear, the cost of preventive care has an astounding effect on the population, both in cost as well as healthwise. It returns tremendous investments to vulnerable children as well as their families.

Improving health of infants and children early and comprehensive prenatal care alone saves $3 for every $1 invested according to a study by Health and Human Services. Children who receive regular health screening, such as those provided through Early and Periodic Screening, Diagnosis and Treatment Program, have health costs 7 to 10 percent lower than other kids.

Cases of measles, polio and other diseases have decreased by over 99 percent since the introduction of vaccines.

The estimated benefit/cost ratio of vaccines—that is, dollars saved for every dollar spent—is over 21 to 1 for measles, mumps, rubella, and 30 to 1 for diphtheria-tetanus-pertussis. It is over 6 to 1 for polio vaccine.

So given these facts, it is very difficult for me, or anybody else, I am sure, to understand our country's acceptance of such large numbers of uninsured children and families today.

Yet, each year nearly one-half of all pregnant women go without health insurance at all. Nearly all of these are women in working families. About 5 million women have private insurance policies that do not cover maternity care, and so, therefore, pregnant women without health insurance are likely to have inadequate prenatal care, inappropriate arrangements for delivery and less than adequate care for their newborn babies.

Fifty-one percent of teen mothers and 24 percent of all mothers in the United States last year received inadequate prenatal care. There cannot be a better argument for the Dodd amendment. I am surprised, given all these statistics and given the ramifications of what the Dodd amendment could really do, that it was not 100 to 0 tonight.

Infant mortality in the United States has declined to 8.9 per thousand live births. The United States, however, still has a higher rate of infant mortality than 22 other industrialized countries, a rate more than double that of Japan. Over 90,000 babies were born to mothers who did not see a health care provider during pregnancy—90,000 just last year alone. These babies are three times more likely to be born with low birth weight than those whose mothers received a timely prenatal care.

Unfortunately, Mr. President, close to 40,000 infants die each year because their mother had no prenatal care and because there were complexities and difficulties that they did not anticipate because they had no place to go, because they had no insurance and no options. That is what we are talking about tonight: An opportunity for pregnant mothers, for families to say never again, to say at long last we are going to do what we said we were going to do for a long period of time. We are going to cover them right from the start. We are going to do what other industrialized countries have done now for so long. We are going to try to improve that infant mortality rate, we are going to do better than being number 22 and we are going to start doing it this year.

Mr. President, that is really what the Mitchell bill begins to do. It proposes that all children be covered with full coverage by the year 1997. Almost immediately it begins to cover 6 million children. It covers additional millions of families with children who would be given discounted premiums for the first time, premiums recognizing that prenatal care in that basic benefits package is so important to us and to all of those who are struggling today.

There are 2 million people who today are kept from obtaining health insurance because they have preexisting conditions, and the Mitchell bill says we are going to put an end to that. Upon passage of this legislation, that will no longer be allowed.

So all told, Mr. President, we add those who have no coverage, we add those who have some coverage but cannot afford the pregnancy care that ought to be in every plan, along with those who have preexisting conditions, and we now total more than 9 million children who ultimately, if this legislation passes, will be covered.

The coverage is designed for children with preventive services that include the immunization that I just discussed, with special services that recognize special needs, such as rehabilitation services for those who need them, an essential nutrition through the WIC program, recognizing first and foremost that with good health will come good nutrition, with good nutrition comes an opportunity to send the right message to young families today, that preventive care is dependent upon good nutrition, good meals, and healthy children.

Mr. President, the Dole bill leaves out more than 6.2 million children. If that bill were to pass, there would be no insurance for more than 6 million of the 9 million uninsured today. Lewin-VHI, the analytical firm in Virginia, upon whom we have turned on many occasions for good evidence or good analysis of what plans will do under different circumstances, has reported to us that the Dole bill, at most, covers 2.8 million of the current 9 million children who are uninsured. But by 1997, as I said, the Mitchell bill covers them all. Children under 19, pregnant women living in families with incomes below 185 percent of poverty will receive full premium subsidies. In other words, they will be given the full opportunity to acquire meaningful health care right from the beginning, phased in, as I said, through the year 1997.

Under Dole, however, the insurance companies will dictate which coverage children will have. Insurance companies would be in the driver's seat. They decide which benefits to cover and which to exclude. Therefore, many children will still be prevented from getting the well-child visits, the prescriptive medicines, or the preventive services that are so critical if, indeed, we turn around the statistics that I outlined just a moment ago.

Many children, though their parents' work, will continue to be excluded from coverage since parents will be covered by employee-only policies that do not cover dependents. But under the Mitchell bill, children are guaranteed solid coverage regardless of circumstances, regardless of for what employer their parents may work. Health plans cannot be terminated, limited, or restricted. They cannot charge more based upon a child's health status. Insurance companies cannot charge more for a medical condition. They cannot charge more for claims experience or a medical history. They cannot charge more if a child has a disability. Insurance companies have to treat all of our children the same. Nor can they limit, restrict, or terminate coverage, or charge more because a child has used a lot of health care services in the past for whatever reason.

The bill closes loopholes that leave children uncovered today. It spells out coverage for children even if they are adopted, even if they live with grandparents, even if they have stepparents or other guardians. In all circumstances, Mr. President, children are covered. The priority that we laid out in the Dodd amendment is extended, enhanced, and completely covers the children that are left out in the cold today. It guarantees that no matter what, we will have an insurance policy that at long last covers them all, regardless of circumstance, regardless of age, regardless of health.

The Dole bill provides no help for children in need of long-term care. It offers no new long-term program that provides for opportunities for children to live outside of institutions today. So without that opportunity to live in alternative care settings, many children under the Dole bill will be restricted to the institutions that they try to avoid now because they will have no other option.

But the Mitchell bill creates a new long-term care program that provides individualized care for disabled children, provides for a Federal-State, home/community-based, long-term care program with emphasis on individual needs.

So here again, Mr. President, as we have talked about the many differences between the Dole bill and the Mitchell bill, there is a recognition of the stark difference. We have talked on many days now about why it may be that the Mitchell bill is twice as long as the Dole bill. Simply put, it does twice as much—for children, for seniors, for working families, for small businesses, for insurance reform and creating the opportunities to do the real kinds of things that we all say we want: Containing costs, providing good universal coverage, making sure that we have meaningful insurance reform, and doing the kinds of things that we have all spoken about the need for for many months now. That is what the Mitchell bill does.

So as I said at the beginning, Mr. President, we have made a good start today. We passed an important amendment. We recognize that there are 100,000 children today who had insurance when this debate began. How many more children will lose their coverage during the course of this debate? Will it be another 100,000, 200,000, a couple million? That all depends upon us.

When all is said and done, when we have an opportunity to say at long last to those who wait for action, to those who truly believe that we can solve this problem, let us answer affirmatively, let us say that what we did today is more than just symbolic; that, indeed, it is indicative of the kind of strong belief we must demonstrate that we can solve this problem for children, for families, for all Americans.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, what is the state of debate in the Senate at this moment?

The PRESIDING OFFICER. The 2-hour time period which had been allocated has expired. Any Senator is able to be recognized and to speak on the legislation.

Mr. GORTON. Mr. President, I ask unanimous consent to speak for roughly 10 minutes on a different subject, on the crime bill.

The PRESIDING OFFICER. The Senator has that right.

CRIME BILL CONFERENCE REPORT

Mr. GORTON. Mr. President, earlier today, the distinguished chairman of the Committee on Judiciary of the Senate spoke on the so-called crime bill which still is pending in the House of Representatives. The chairman stated that he could not understand why Republicans claimed that community notification of sexual offenders was dropped from the conference report. The chairman claimed that the conference report does, indeed, include community notification.

So that I can be entirely accurate, I wish to quote briefly from the statement made by the distinguished chairman of the Judiciary Committee. He stated that the conference report, and I quote:

> Requires the States to create registries of sex offenders; requires law enforcement to keep track of those offenders' whereabouts after the release from prison; and the provision explicitly permits law enforcement to give notice to the community to serve law enforcement purposes and to give the police immunity from releasing that information.

The chairman of the Judiciary Committee's attempt to correct the RECORD on the contents of the crime conference report, Mr. President, itself needs correction. As a sponsor of the community notification language legislation in the Senate that was attached by this body by unanimous consent, I totally and completely disagree with his statement. Instead of providing for notification to communities when convicted sexual predators are released from prison and into individual communities, the conference report provides for a section expressly establishing privacy protections for those very sexual predators.

And I want to state precisely what appears in the crime bill. Under the title "Privacy of Data," it says:

> The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for law enforcement purposes or to Government agencies conducting confidential background checks with fingerprints. A law enforcement agency may release relevant information concerning a sex offender required to register under this section when such release of information is necessary to carry out law enforcement purposes or to notify the victims of the offender.

Mr. President, if this were not so serious, that would be gallows humor. The only member of the public ever entitled to notification of the presence of the sexual predator is a victim of that offender, and that victim very frequently, Mr. President, is in fact dead. The general public has no such right under this legislation, and in fact, under these privacy provisions, the general public may not validly be given that information even presumably by the authorities of those States such as my own which already have such provisions in their law.

My amendment, adopted unanimously by this Senate in November of last year, entitled the "Sexually Violent Predators Act," the acceptance of which was instructed upon the House Members of the conference by a rollcall vote of 407 to 13, but which was dropped by the conference committee, is based on a successful registration and community notification law in the State of Washington that has provided protection to countless potential victims of these monsters.

The community notification element, letting a community, a neighborhood know when these predatory men are released into their neighborhoods, is crucial to the success of preventing repeat offenses. Had such a provision been in effect in the State of New Jersey, the recent notorious and terribly regrettable Megan Kanka murder almost certainly would not have taken place. Her parents did not know that three sexual predators were living across the street from them, one of whom eventually brutally murdered that 7-year-old victim.

It is true that the conference committee report provided for registration and tracking of sexual offenders in a certain fashion. It failed to include language, however, expressly providing for the notification of the community without which the registration and tracking is almost useless. In fact, as I have already indicated, for all practical purposes, it forbade any such community notification except of previous victims, either already traumatized or perhaps dead.

The term "law enforcement purposes," which is included in the conference committee report, is not defined. Perhaps the chairman of the committee suggests that this includes the ability to notify the community of the presence of a released sexual offender. That certainly is not clear to this Senator, and certainly it should not ordinarily be included in a section, the title of which is "Privacy of Data." It would take enormously good faith for a law enforcement agency to believe that "law enforcement purposes" clearly permits community notification other than notification of a previous victim.

There is a phrase, a section on immunity, for law enforcement agencies for good-faith conduct in the conference report. But that immunity is going to be meaningless if the law enforcement agency goes beyond the explicit language of the act itself.

This was not the only thing that the conference committee did to strip the provision of any effective meaning for communities and for potential victims. It also weakened other sections of my amendment. Rather than requiring these repeat sexual offenders who, the chairman of the Judiciary Committee and I agree, often have the least possibility of rehabilitation, the least percentage record of rehabilitation of any of our major criminals, to register indefinitely and to verify their addresses every 3 months, the conference report limits the registration to an arbitrary 10-year period and only requires registration once a year. Again, Washington State and the other States that have adopted such provisions find that those provisions and the tightness of those provisions are absolutely essential for success in monitoring these very, very dangerous criminals.

I believe, Mr. President, that we must be absolutely clear if we are going to provide law enforcement agencies with the authority and the direction to share this information, and if we are going to provide citizens with the protection that they need and deserve. And I believe that the rights of those peace-loving, law-abiding citizens and their children are greater than the privacy rights of convicted sexual predators.

We have to include expressed community notification provisions like those in the Senate amendment which was adopted on my suggestion here last November.

Let me tell you what people in the State of Washington think about these various provisions. Catherine Dodd, of Families and Friends of Violent Crime Victims, writes to me:

> The highest obligation of our government is to protect its citizens. We ask that you do everything in your power to retain Senator GORTON's community notification provision for sexually violent predators. The Nation as a whole needs this provision.

Bob Ross of Citizens Against Violent Crime, writes:

> We believe firmly the lives of our children will be saved if you support this measure. We ask that you please retain this provision regarding sexually violent predators.

And Kelly Rudiger of The Crime Victims Bureau writes:

> A crucial component of the Federal crime package is the community notification provision for released sexual predators. Our organization is in support of this measure and requests that you retain this provision in the pending crime package.

All of that advice was ignored. Once again, the purpose of the amendment in the first place was to encourage the establishment of a national registration and tracking system so that interstate movement of these sexual predators could be followed, and then to see to it that communities and neighborhoods knew it when their new neighbors were released, convicted sexual predators.

My amendment did so by withholding a small amount of law enforcement money from the States that did not establish such a system. The conference report, on the other hand, gives the Attorney General complete discretion over whether a State can be denied these funds. They have far less incentive, therefore, to comply than they did under the original amendment.

Finally, the conference committee report does not make it clear whether or not States can take more significant and more drastic measures to notify communities. They need that authority very, very specifically.

Mr. President, notification of communities and the broad use of the knowledge about the presence of sexual predators was a vitally important part of the Senate version of the crime bill. For reasons which are still obscure, in spite of instructions from the House of Representatives, it has been dropped from the present bill. It is one of the great shortcomings and great defects of the crime bill pending before the House of Representatives today.

The attempt by the chairman of the Judiciary Committee to justify what was done and to say that community notification remains in the bill, is simply incorrect. It is not there. To make this bill even remotely or minimally acceptable to many persons concerned with what happens to their children, concerns with the repeat sexual predator, it must be restored in its complete and in its original form.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

I wanted to deal with the subject of health care. But since our distinguished colleague from the State of Washington talked a bit about the crime bill and his concern for a section of the bill that has to be strengthened, referring to notification of communities, that someone who has had a history of sexual attacks on young children has to be made public so that the people in the neighborhood can be aware, is a very important addition.

I was called today by the President of the United States—twice, as a matter of fact—and he announced that he was fully supportive of the so-called Megan Kanka law. He directed his call to me because I am from New Jersey where we have had two horrible incidents in very recent weeks where very, very young children were attacked by a depraved sexual predator who not only raped these children but killed them.

So our communities are on high alert, very nervous, and parents are concerned about what is happening. The President of the United States told me that he is determined to see that the crime bill includes a very strict notification process so people in the communities can be alerted to the danger that may exist for their children. So I was pleased to hear that discussion. I am fully supportive. Senator GORTON and I were the lead sponsors in this, and we intend to push it until it becomes a matter of law.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. LAUTENBERG. Mr. President, I want to talk for a bit on the health care debate that has finally started. I am pleased to see that it has begun in seriousness. The moment has been a long time in coming.

Responding to the real needs of our people, the President and Mrs. Clinton proposed that we add security, universality, and cost containment to the high quality that already characterizes our health care system for those who are covered. I must confess that my own personal experiences influence the way I look at this issue. One experience is defined by what I have now. As we all know, we in the Congress are covered by health insurance largely paid for by our employers and partially by ourselves, a good health insurance, paid for principally by the people we work for, the American people. That experience makes me think that we ought to give the American people what they now give to us: Quality health care any time it is needed at an affordable price.

The second experience, Mr. President, is defined by what I used to have. Back in 1943, after I had enlisted in the Army, before I ever heard of something called health care, my father was stricken with cancer. He was 42 years old. My parents worked hard. They did not have health insurance. It was fairly uncommon at the time. As my father's illness progressed, the bills mounted. After he died, when my mother was left with what to her were enormous hospital and doctor bills, she was not able to mourn free of her obligation, free of conscience; she was forced to worry about these bills at a time when she needed to try to adjust to her life as a 36-year-old widow—I was 18—she was forced to work two jobs to pay our debts. It took her almost 2 years, month by month by month, to finally put those bills behind her. I remember it vividly, Mr. President.

A third experience is defined by what I hear from the people of New Jersey. I have listened to families in their middle age trying to help their kids get a start in life, while at the same time still often having to bear the responsibility for their parents' medical bills, or even long-term nursing home care. They cannot make it, no matter how hard they work. I have listened to the small business people, who cannot afford to buy insurance for their own families, much less their employees.

I come from a business background, and I know how pained those business people are when they find out they cannot get insurance because of skyrocketing costs or preexisting conditions or a recent illness that sends premiums through the roof.

I have listened to seniors on fixed budgets, people who are watching every penny they spend, who are afraid they may need long-term care that they cannot afford, or who already cannot afford the medicines they need. They deserve better than that. I have listened to families who have no health insurance and heard them tell me that they cannot afford to take their kids to a doctor. They have few options. They can go down to an emergency room when the illness is acute, and wait in line while everybody has their needs cared for.

Unfortunately, it is true there are 8 million American children who are not covered by some kind of a health care plan. They do not get regular checkups. They need immunization. They cannot help themselves not be exposed to sickness or disease, because they are unable to get the traditional care that most of us are accustomed to in our own families.

No family should be forced to choose between putting food on the table and taking care of their children's health, or choosing between helping with a college education or health care, or jeopardizing their own retirement to take care of parents stricken with Alzheimer's disease. But that happens in New Jersey and in our country every day of the week.

Mr. President, that is what this debate is all about. It is listening and responding to the real needs of our people and being sensitive enough and committed enough to meet those needs by undertaking fundamental reform—reform that builds on the strength of our existing system and addresses its weaknesses.

And so, Mr. President, it has been said by many here that this truly is a historic debate. But it is not a debate about a radical notion. Over the past 60 years, comprehensive health care reform has been proposed three times and defeated three times. President Roosevelt first proposed it as part of the original Social Security Act, and then President Truman proposed it and, more recently, President Nixon proposed it, and that was some years ago. Each time it was offered, those who favored the status quo prevailed, and the Congress failed to act. And now our time has come.

I agree with the majority leader when he says that we ought to stay in session as long as it takes to enact a bill. I disagree with those whose goal it is to talk as long as it takes to kill this bill, to talk it to death, or threaten to bury us with a hundred amendments. Mr. President, that tells the American people a story. "We have 100 amendments," kind of cute with a twinkle in their eye. What is that saying? It is saying: We are going to derail this health train no matter what it takes to do it. That is the message. It does not say: We will put out 100 amendments because we want to improve the bill. It does not say: These 100 amendments are going to make sure everybody has care and the children are cared for, and we will give pregnant mothers prenatal care. It says: You bring up this health bill, and I am going to make sure it goes down.

I disagree with those people; I disagree with those who choose to deride or scorn attempts to solve this problem, who trivialize the needs and concerns of the American people. They deserve an honest debate and a real decision, a vote on amendments, and a vote yes or no on the bill itself.

Mr. President, the health care debate has centered around two major issues: Security and cost. While almost 85 percent of Americans have some type of health care coverage, an enormous percentage of us are only one pink slip or one preexisting condition away from losing that coverage. People should not lose their health insurance because they change jobs or because they become unemployed. They should not lose their health insurance because they get sick, and they should not have to pay more for insurance for these reasons.

There are 37 million Americans—over 800,000 in my State of New Jersey—who do not have health insurance coverage. Mr. President, it is important to understand something about the uninsured. They are just the homeless and the unemployed, the other people who drift around the edges of our society; they are our neighbors, they are our friends, and they are us.

Approximately, 84 percent of the uninsured work full or part time. These are people who play by the rules, work hard for a living, pay their taxes and are forced to wait to be treated in emergency rooms or go without care altogether. They have not failed to be responsible; the system has failed to respond to them. That is not what America is about.

Mr. President, perhaps the most unfair thing about our current health care system is this: both the very poor and the rich have health insurance. The rich typically get access to health insurance through their employment or their own wealth; the poor get access to health insurance through Medicaid. It is the rest—in my State, people with incomes up to $60,000 per year—that make up the bulk of the uninsured. We have created a system which provides health security to the rich and the poor, but not for middle class, not for ordinary working Americans.

If we are to continue to reduce the Federal deficit in a meaningful way, we must control health care costs. And the only way to do that is through real and comprehensive health care reform.

And it is not just the Federal budget that is affected—it is the family budget as well. Last year, the average American family spent approximately $5,000 for health care. This is three times the amount they paid in 1980. If we do nothing, our families will spend approximately $10,000 annually in the year 2000 for health care coverage.

Now, Mr. President, it is obvious to me that we have three choices.

First, we can do nothing—just leave things as they are.

Second, we can adopt a bill that Senator DOLE has proposed, which makes some needed reforms in the system but still leaves 20 to 25 million Americans uninsured. Third, we can move toward universal coverage by adopting legislation that not only reforms the insurance system, but contains costs and provides affordable access to care for the uninsured, the self-employed, and small businesses.

Doing nothing is unacceptable. It also cost too much.

National health care spending has grown by over 10 percent per year for the last 10 years. In 1994, we are projected to spend almost $1 trillion dollars on health care—approximately 14 percent of our Gross Domestic Product [GDP]. As bad as that is, it gets worse in the future. If we do not act now, then by the year 2003 we will be spending twice that much $2 trillion per year on health care, 20 percent of our GDP. In 1980, health programs consumed 16 percent of the Federal budget. Left alone, by 1998 they will be 35 percent of Federal expenditures.

One of the problems we have in the present system is called "cost shifting." That simply refers to the fact that you and I pay the costs that hospitals and doctors shift to patients with insurance in order to cover the cost of their unreimbursed care. So if you are working, and you and your employer are paying for health insurance, you are not only paying for your own health care, you are also paying for those without health insurance. The only way to prevent that—the only way to keep your premiums affordable and fair, is to cover everyone.

And when we cover everyone—which the Dole plan does not do—people will get the care they need sooner, before illnesses become more acute, more difficult to treat, and more expensive to cure. Those 20 to 25 million Americans the Dole plan leaves out will increase the costs that you and I pay as health care costs continue to climb.

The third alternative is to move toward universal coverage, which is what the President proposed and what Senator MITCHELL is aiming for.

Senator MITCHELL's plan is simpler and less bureaucratic than that which was originally proposed by the President. It builds on our private system of health care delivery and insurance. It preserves patient choice and provides a cushion for small businesses and less affluent Americans seeking to insure themselves and their employees. It would stop the kind of cost shifting we now experience, and put an end to the insured picking up the tab for the uninsured. It seeks to cover at least 95 percent of all Americans by the year 2000; the Congressional Budget Office has confirmed that the bill should reach that target.

This bill will move toward universal coverage more slowly than the President's original, because it depends more on reform of the insurance system and competition in insurance rates rather than taxes and bureaucracy. But it does promise to extend quality health care to our people at affordable prices, whether they work for a large corporation, a small company, or are self-employed.

If these reforms do not achieve the goal of health insurance for 95 percent of the citizens in each State by the year 2000, the Congress will be required to find additional ways to expand coverage or employers will be asked to share in the responsibility of providing health care insurance. Small business will be exempt.

Mr. President, while I support the general approach of Senator MITCHELL's bill, I do want to highlight at least two areas where further review is needed.

First, the bill contains a new tax which would be imposed on higher cost health care plans. While I understand that this measure is included in this bill to help contain costs, I feel it is a punitive charge which is unnecessary and unfair to workers who have chosen jobs with generous health benefits in lieu, perhaps, of higher wages. It is also unfair to high cost States, where premiums and health care costs tend to be higher. If we have to raise new revenues—estimated to be $35 billion over 5 years—I think there are better ways to do it.

For example, I would like to increase the cigarette tax. A recent study revealed that smoking related illness costs Federal and State governments $21 billion a year. The tobacco industry should help pay for those costs rather than the taxpayer. The same can be said of an ammunition tax. Gun related injuries impose a heavy cost on our health cares system and fill our emergency rooms. All of us pay those costs. It would be more appropriate for those who profit from firearms and ammunition to share in paying for the costs they impose on society than for average Americans to pay a tax on their health care plans.

My second major concern relates to the failure to include a regional cost adjustment in the formulas in this bill so that the assistance provided to individuals and small businesses is indexed to the cost-of-living in a State. Recent figures in the New York Times listed New Jersey, along with only two other States—Hawaii and Alaska—as having a cost of living which is 20 percent or more above the national average. The relative cost of living should be taken account of in providing assistance under Federal programs for citizens of each State.

I have joined with Senator LIEBERMAN in calling for indexing of certain Federal programs to take account of the cost of living in each State. Senator MOYNIHAN, the chairman of the Senate Finance Committee, is working on a proposal to introduce a cost-of-living adjustment into health care reform. I strongly support his efforts. New Jersey has suffered from a low return on our Federal tax dollar because of the relative affluence of our citizens. Adjusting Federal formulas to take into account the cost of living in a State makes sense and would help address this inequity.

Mr. President, while we debate health care policy, we have to remember that more than "policy" is involved here. People are involved. People who need health care. We all want to make sure that our families have health care, our mothers and fathers, children, and grandchildren—because everyone gets sick.

We have made enormous progress since 1943 when my father died. Now 85 percent of our population has health insurance. Our seniors have Medicare, the poor have Medicaid and many of us have private health insurance. But we have left a segment of society behind without health security. They are in the same situation my mother was in over 50 years ago. For the most part, they work, pay taxes, raise their families, and play by the rules. But they lack health care coverage through no fault of their own. They deserve better than what our current system provides.

Mr. President, I hope that at the end of this debate, Congress will approve a bill that moves us toward universal coverage and that President Clinton will sign it. It will be a great day for America. I look forward to working with my colleagues to accomplish this goal.

I yield the floor.

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE U.N. OFFICE OF INTERNAL OVERSIGHT SERVICES: A CRITICAL EVALUATION

Mr. PRESSLER. Mr. President, over the last several weeks, I have raised many concerns regarding the management problems at the United Nations. On July 29, 1994, the U.N. General Assembly adopted a resolution to create a reform office charged with the cleanup of U.N. management and budgetary malfeasance. Repeatedly, I have waged my concerns about this office [OIOS]. I do not believe that the OIOS will possess the independence necessary to offer true reform at the United Nations.

Recently, former U.N. Ambassador Jeane Kirkpatrick wrote an editorial in the Washington Post critical of this OIOS. I agree wholeheartedly with her assessment of the office as well as an assessment offered by the editorial board of the Washington Times newspaper. Additionally, the U.N. Association documented the events leading up to the U.N. adoption of the resolution mandating the creation of the OIOS in its weekly report. I ask unanimous consent to place these articles in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 28, 1994]

AT THE U.N., DISPENSING WITH REFORM

(By Jeane Kirkpatrick)

How, you may wonder, could an organization acquire 850 minibuses that it did not need, buy a water purification system that never worked, purchase dozens of extremely expensive computers that never were used and hire highly paid, top-level bureaucrats for nonexistent jobs?

These and dozens of similar things can happen because efficiency is not a central value at the United Nations. Reform is not popular in this culture that features high salaries and lifestyles like those of the rich and the famous.

Waste, fraud, double-dipping, overstaffing and mismanagement have dogged the United Nations from its founding. By now these practices are habits in an organizational culture that protects mismanagement in the name of multiculturalism and sees efforts at reform as hostile to the organization.

The last two Americans who made a serious effort at reform (Richard Thornburgh and Melissa Wells) were forced out of the U.N. system, their recommendations ignored, their efforts unappreciated. The report of former U.S. attorney general Thornburgh on mismanagement was shredded on the instructions of the secretary general, but a few copies survived and circulate today in Washington and New York. And of course, the abuses Thornburgh described persist.

Over the years, various parts of the U.S. government have tried various tactics to deal with the waste, fraud, mismanagement and sexism endemic in the U.N. system. In the '80s the "Kassebaum Amendment" (by Sen. Nancy Kassebaum, R-Kan.) successfully used the threat to withhold 20 percent of U.S. regular contributions to gain some reform in the United Nations' budget-making process. It was a step, but only a step.

President Clinton made a personal appeal to the General Assembly for appointment of an independent inspector general with broad investigative powers. Clinton's long-delayed presidential decision directive on peacekeeping noted its concern that the United Nations "has not yet rectified" management deficiencies, and promised the administration would work for "dramatic" improvements in management of the U.N. system, beginning with the "immediate establishment of a permanent, fully independent office of Inspector General with oversight responsibility that includes peacekeeping."

The Clinton administration's top U.N. delegate, Ambassador Madeleine Albright, warned the U.N.'s Fifth Committee that "poor management can be the Achilles' heel of the United Nations," saying, "I cannot justify to the taxpayers of my country some of the personnel arrangements, the sweetheart pension deals, the lack of accountability, the waste of resources, the duplication of effort and the lack of attention to the bottom line that we often see around here." Of course, she was right. Such practices cannot be justified to taxpayers whose hard-earned dollars are being wasted.

Albright, too, called for establishment of an independent inspector general's office. But no serious move was made toward establishing the post until a bipartisan coalition in the U.S. Congress passed the "Pressler Amendment" (so called for its author, Sen. Larry Pressler, R-N.D.), which put teeth in the request. Failure to establish "an independent and objective office of Inspector General" by the end of July would result in the United States withholding 10 percent of its total (non-peace-keeping) contributions ($420 million) for fiscal 1994, and 20 percent in fiscal 1995.

The Pressler Amendment got the attention of the General Assembly, which negotiated a resolution it hopes will satisfy Congress. But the resolution calls for an inspector general who would not be independent. Instead the "compromise" provides for an inspector general appointed by the secretary general on the basis of geographical rotation and expertise, who will report to the Secretariat and can be fired by the secretary general with the approval of a majority of the General Assembly. It also does not give the inspector general an independent budget, or jurisdiction over all U.N. agencies or broad investigatory powers.

U.S. negotiators, it is reported, tried but failed to win greater independence for the proposed inspector general and lacked the time to achieve more.

One might have thought the General Assembly would feel the pressures of time more acutely than the U.S. team. But this team cannot bear the thought of withholding $420 million from its U.N. contributions and is acutely uncomfortable with threats of punitive action. So the Clinton team at the United Nations is doing what the Clinton administration so often does in its foreign policy: It is making major concessions to reach an agreement that does not really achieve the administration's goals, then presenting that agreement as a victory and further undermining U.S. credibility in the process.

Apparently the Clinton team would rather offend Congress than U.N. colleagues. The General Assembly's "acceptance" of the terms of the Pressler Amendment is rather like the Serbs' "acceptance" of the last peace plan for Bosnia. It offers the form but not the substance of compliance—and hopes that Congress did not really mean it.

[From the Washington Times, August 2, 1994]

HALF A NEW BROOM FOR THE UNITED NATIONS

Last year, when the United States pulled out most of our troops from Somalia, the idea was that U.N. troops would take over the task of peace keeping. That's generally the scenario these days, whether the talk be of Rwanda or Haiti. It's solution that has the appeal of promising Western powers like the United States or France a way out of a quagmire they do not particularly want to get stuck in. However, what happened in Mogadishu suggests the limitations of this approach. No sooner had the Americans turned over the operation than it was discovered that Egyptian troops guarding a U.N. depot were allowing Somalis to walk in and remove whatever objects they liked.

The instance is not an isolated one, of course. Last year, former Attorney General Richard Thornburgh produced a report on the staggering waste, fraud and corruption going on at the United Nations, based on his stint there as undersecretary general for administration and management. Now, Mr. Thornburgh did not set out to produce this document as an enemy of the organization, but rather as someone who would like to see the United Nations saved from itself. He suggested that an important step would be to institute an office of inspector general to monitor the United Nation's many far-flung operations and vast, sprawling bureaucracy—according to the best estimates available, some 50,000 people, though no one knows for sure.

At the time. Mr. Thornburgh's recommendations did not evoke much of a response. In fact, he never received an official reply from U.N. Secretary General Boutros Boutros-Ghali. Nor was the report distributed in the organization. Most of the copies there were reportedly shredded. "This is not an institution that takes kindly to criticism," he told The Washington Times' editorial page. No, indeed.

An amendment offered by Sen. Larry Pressler, Republican of South Dakota, in July to the Foreign Operations Appropriations bill seems to have had more of an impact. Mr. Pressler proposed to withhold 10 percent of the U.S. contribution for 1994 and 20 percent for 1995 unless President Clinton by Sept. 30—the end of the fiscal year—can show that the United Nations has established an office of inspector general. Accountability for American taxpayers' money, and a lot of it, too, is what the Pressler Amendment is all about.

This Saturday, the U.N. General Assembly voted to give Mr. Pressler some of what he wanted. It agreed to establish an office of Internal Oversight Services, the head of which would serve one five-year term and hold the rank of undersecretary general.

While this is certainly a step on the right direction, it is a step that does not go far enough. A real question remains on how independent this office will be. This is not so much because, according to the resolution adopted, the inspector general can be removed by the secretary general backed by a vote in the General Assembly. Such a move, if politically motivated, would meet with an outcry from major donor nations. No, the problem is that the office will not be independently funded, but be part of the budget drawn up by the secretary general. That gives him considerable power over its operations.

It's too early for the White House to declare victory in the debate over the U.N. inspector general. If Mr. Clinton believes the United Nations to be as important as he says he does, he'll have to send his negotiators back to the bargaining table.

[From U.N. Association, Washington Weekly Report, July 22, 1994]

SENATE ADOPTS AMENDMENT RESTATING U.S. POSITION

(By Jeffrey Laurenti)

Reacting to reports to an impending breakthrough in the negotiations in New York, the Senate on 14 July adopted an amendment to the foreign assistance appropriations bill, H.R. 4426, that restates US requirements for the creation of an independent Office of Inspector General (OIG). Sen. Larry Pressler (R-SD), who led the successful effort to mandate the withholding of some US assessed contributions to the UN regular budget and peacekeeping operations unless the inspector general's office were created, told the Senate that the new post "would not be independent. This is an unequivocal violation of the language in the Foreign Relations Authorization Act (Public Law 103-236, Section 401)," he said. Pressler called on the Senate to adopt the amendment restating the US position to show that "the United States will not stand idly by while the United Nations slaps us in the face."

In a related development on the same day, Pressler and two Republican colleagues, Sen. Robert Dole (R-KS), the minority leader, and Sen. Jesse Helms (R-NC), senior minority member of the Foreign Relations Committee, dispatched a letter to US Permanent Representative Madeleine Albright insisting on a "stringent" interpretation of the criteria in the foreign relations authorization act, which they said "the terms of the draft resolution do not currently meet." According to the signers, "The terms establishing the office must demonstrate unequivocally the independence of the OIG and define clearly its specific oversight activities." They concluded, "The stakes are high, the opportunity fleeting. Without significant and immediate action to improve the efficiency of UN operations, congressional willingness to fund UN activities will dminish further."

SEEN AS CLINTON ADMINISTRATION SUCCESS

In New York, the creation of the inspector general post in the face of deep suspicion of Washington's motives was credited by many UN delegates as a significant success for the Clinton Administration. During the Negotiations, UN delegates frequently expressed exasperation over perceived divergences in positions within the United States Mission to the United Nations, and they complained of uncertainty about whether they were getting the views of the US Government or the Clinton Administration's critics on Capitol Hill. The resolution's drafters took much of its language from US law and US position papers in order to ease the certification the President is required to make to Congress.

LABOR RESEARCH CENTER CELEBRATES 10TH ANNIVERSARY

Mr. PELL. Mr. President, I would like to pay tribute today to one of the great educational and research facilities in the State of Rhode Island, the Labor Research Center at the University of Rhode Island.

This year marks the 10th anniversary of the founding of the Labor Research Center. The center is dedicated to teaching, research, and service programs on labor, the labor market, and labor relations.

In these last 10 years the Labor Research Center has flourished and is now considered one of the Nation's premier centers for the study of labor/management relations. Since its creation in 1984, the center has had 624 students enrolled for graduate courses who had previously studied at undergraduate institutions in 7 foreign countries, 14 States and Puerto Rico. The student body has included recent college graduates, government employees, managers in private enterprise, and many involved with labor unions.

The distinguished faculty, including Dr. Diane Disney, who has taken a leave of absence to serve as Deputy Assistant Secretary of Defense, research issues ranging from the working class during the Gilded Age to work/family conflict in the present day. Especially important to the creation and success of the Labor Research Center is center director and professor of industrial relations Ted Schmidt. Mr. Schmidt worked for 12 years for the creation of the Labor Research Center and continues to lead the center and provide undying support for the faculty.

In this age of budget cuts and funding reductions it is good to hear about an educational and research program that has thrived. So on this the 10th anniversary of the Labor Research Center, I commend the students and faculty on their success and thank them for the service they are doing for labor and business.

NAMING OF VETERANS' ADMINISTRATION BUILDING AFTER THE HONORABLE CLAUDE HARRIS

Mr. HEFLIN. Mr. President, I rise today in support of the bill offered by my Alabama colleague, Senator RICHARD SHELBY. This bill, which designates building No. 137 at the Tuscaloosa Veterans Center be named after the Honorable Claude Harris, Jr., deserves the full support of the Senate.

Claude Harris, Jr., was born in Bessemer, AL, attended the University of Alabama, and became assistant district attorney for Tuscaloosa at the tender age of 25. He later served as a circuit judge and was presiding judge of Alabama's sixth circuit for 1980–83. He was a practicing attorney from 1985 through 1987, when he began his first term in Congress. He is currently serving as the U.S. Attorney for the Northern District of Alabama. I would also like to add that he is a colonel in the Alabama Army National Guard, of which he has been an active member since 1967.

Congressman Claude Harris of Alabama's Seventh District retired in January, 1993, after serving in the House of Representatives for 6 years. During his three terms he accomplished much for his district and the Nation's veterans. I can safely say that Alabama's veterans know Congressman Harris to be a true friend. As an outspoken member of the House Veterans' Affairs Committee and third ranking Democrat on its Hospitals and Health Care Subcommittee, the work he did was instrumental in preserving the funding for, and enhancing the quality of veterans health care facilities.

Because of these years of service, I feel that the naming of this soon to be completed building at the Tuscaloosa Veterans Center is a fitting tribute to a great man and a great friend. I hope all my colleagues will join me in this small expression of gratitude and support this bill.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:57 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4907. An act to reform the concept of baseline budgeting.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1406. An act to amend the Plant Variety Protection Act to make such act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes.

S.J. Res. 153. Joint resolution to designate the week beginning on November 21, 1993, and ending on November 27, 1993, and the week beginning on November 20, 1994, and ending on November 26, 1994, as "National Family Caregivers Week."

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. BYRD).

At 6:17 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2178) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997.

The message also announced that the House agree to the amendments of the Senate to the bill (H.R. 2815) to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two House thereon; and appoints Mr. HOYER, Mr. VISCLOSKY, Mr. DARDEN, Mr. OLVER, Mr. BEVILL, Mr. SABO, Mr. OBEY, Mr. LIGHTFOOT, Mr. WOLF, Mr. ISTOOK, and Mr. MCDADE as the managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4812) to direct the Administrator of General Services to acquire by transfer the old U.S. Mint in San Francisco, CA, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3216. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to require executive agencies to verify for correctness transportation charges prior to payment, and for other purposes; to the Committee on Governmental Affairs.

EC-3217. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the 1994 Federal Financial Management Status Report and Five-Year Plan; to the Committee on Governmental Affairs.

EC-3218. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-323 adopted by the Council on June 21, 1994; to the Committee on Governmental Affairs.

EC-3219. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of an evaluation of the pilot program of off-campus work authorization for foreign students; to the Committee on the Judiciary.

EC-3220. A communication from the Director of Communications and Legislative Affairs, Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Program Operations for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-3221. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Labor and Human Resources.

EC-3222. A communication from the Comptroller General, transmitting, pursuant to law, the report of proposed and enacted rescissions through June 1, 1994; referred jointly, pursuant to law, to the Committee on Appropriations and to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 2392. A bill to amend section 18 of the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2393. A bill to eliminate a maximum daily diversion restriction with respect to the pumping of certain water from Lake Powell, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 2394. A bill to establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. 2395. A bill to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. LOTT:

S. 2396. A bill entitled the "Affordable Health Care Now Act"; read the first time.

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 2397. A bill to designate Building Number 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, Alabama, as the "Claude Harris, Jr. Building"; to the Committee on Veterans Affairs.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 2398. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois and for other purposes; to the Committee on Armed Services.

By Mr. EXON:

S. 2399. A bill to promote railroad safety and enhance interstate commerce; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 2392. A bill to amend section 18 of the United States Housing Act of 1937, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC HOUSING LEGISLATION

• Mr. BREAUX. Mr. President, today I am introducing a bill in the Senate that will promote the restoration and availability of affordable housing in this country in a cost-effective way. At the same time, it will protect the right of low-income tenants to affordable housing. A companion provision is included in the recently passed Housing and Community Development Act of 1994, section 124, H.R. 3838, in the House of Representatives.

The objective of this bill is to build flexibility into any day-to-day applications of the so-called one-for-one-law. The essence of the rule is that for every demolished or otherwise disposed of public housing unit a new unit must be built. In practice, in an era of prolonged scarcity in Federal funding and changing urban housing demographics, this law forces the Housing and Urban Affairs Administration [HUD], to pour large sums of money into renovating run-down public housing projects when it would be less costly in many cases to tear them down and start over. That is the case at some public housing projects in New Orleans, LA.

As described in a July 25, 1994, New York Times article by Adam Nossiter, "Rule Pumps Dollars Into Decayed Housing," the impact of the rule at a housing project in New Orleans, LA, is repeated in housing projects around the country. The article relates particularly severe problems in Newark, Cleveland, and Washington, DC. Mr. President, I ask that the full text of this article, and that the entire bill be printed in the RECORD.

According to the Times, a renovation of one New Orleans project will cost $14 million more than costs of tearing it down. But you guessed it, Mr. President, work is already underway on plans to renovate that housing project at a cost of $90 to $100 million.

Under present law, HUD is handicapped if it finds that it is more cost-effective to tear-down public housing than renovate it in its entirety. Mr. President, a law that at one time may have been necessary to preserve public housing stock, makes less sense in circumstances such as those surrounding the Desire Public Housing Project in New Orleans. Three thousand people live in a project designed for 6,000 or more; and, as reported by the New York Times, the housing vacancy rate in New Orleans, at 16.6 percent, is the highest in the country.

Mr. President, there are other reasons why HUD should hesitate to pour large sums of Federal dollars into rebuilding some housing projects. Many projects were originally built as segregated colored housing. As described by the Times, "The Desire Housing Project in New Orleans is located 2 miles east of the French Quarter, and is cut off from the city by two sets of railroad tracks, the New Orleans Industrial Canal and acres of warehouses and factories. The irony of Desire is that its location is not a desirable area for any residential community. Moreover, there were 86 murders in the complex from 1989 to 1993, more than in any of the city's other housing projects in the same period, even though some of the others are larger."

Mr. President, the chairman of the Subcommittee on Housing in the House of Representatives, Representative COLLIN C. PETERSON, visited the Desire Project this year, and I commend his legislative efforts to make the one-for-one-law effective in today's circumstances. That legislation, which I am introducing in the Senate today, is a workable solution to a very serious problem.

This bill presents carefully developed procedures that will permit a public housing agency to apply to the Secretary of HUD for approval to demolish or dispose of all or parts of a federally assisted public housing project. At the same time, its provisions will protect an adequate supply of public and affordable housing for low-income Americans. Mr. President, it also protects the right of displaced tenants to assisted relocation to decent, safe, sanitary, and affordable housing. Moreover, any public housing agency's plan to demolish or otherwise dispose of public housing must be developed in consultation with tenants and tenant councils.

Mr. President, we need this important legislation, and I urge my colleagues to join me in sponsoring this bill.

I ask unanimous consent that the accompanying article and the full text of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended to read as follows:

"SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

"(a) CONDITION OF HOUSING.—The Secretary may approve an application by a public housing agency for permission to demolish or dispose of a public housing project or a portion of a public housing project only if the Secretary has determined that—

"(1) in the case of—

"(A) an application proposing demolition of a public housing project or a portion of a public housing project, the project or portion of the project is obsolete as to physical condition, location, or other factors, and it is more cost effective to replace the project or portion of the project than to rehabilitate the project or portion of the project; or

"(B) an application proposing the demolition of only a portion of a project, the demolition will help to assure the remaining useful life of the remaining portion of the project;

"(2) in the case of an application proposing disposition of real property of a public housing agency by sale or other transfer—

"(A)(i) the property's retention is not in the best interests of the tenants or the public housing agency because—

"(I) developmental changes in the area surrounding the project adversely affect the health or safety of the tenants or the feasible operation of the project by the public housing agency;

"(II) disposition will allow the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as low-income housing and which will preserve the total amount of low-income housing stock available in the community or housing sufficient to address the needs of the community as described in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; or

"(III) because of other factors which the Secretary determines are consistent with the best interests of the tenants and public housing agency and which are not inconsistent with other provisions of this Act; and

"(ii) for property other than dwelling units, the property is excess to the needs of a project or the disposition is incidental to, or does not interfere with, continued operation of a project; and

"(B) the net proceeds of the disposition will be used for—

"(i) the payment of development costs for the replacement housing and for the retirement of outstanding obligations issued to finance original development or modernization of the project, which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition; and

"(ii) to the extent that any proceeds remain after the application of proceeds in accordance with clause (i), the provision of housing assistance for low-income families through such measures as modernization of low-income housing, or the acquisition, development, or rehabilitation of other properties to operate as low-income housing; or

"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed of during the 10-year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of changes in the area surrounding the project or other circumstances of the project, as determined by the Secretary.

"(b) TENANT INVOLVEMENT AND REPLACEMENT HOUSING.—The Secretary may approve an application or furnish assistance under this section or under any other provision of this Act with respect to the demolition or disposition of public housing only if the following requirements are met:

"(1) TENANT CONSULTATION AND EMPLOYMENT.—The application submitted by the public housing agency—

"(A) has been developed in consultation with tenants and tenant councils, if any, who will be affected by the demolition or disposition;

"(B) includes a plan to employ public housing tenants in construction or rehabilitation, to the extent practicable, pursuant to section 3 of the Housing and Urban Development Act of 1968; and

"(C) contains a certification by appropriate local government officials that the proposed activity is consistent with the applicable comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) RELOCATION ASSISTANCE.—All tenants to be relocated as a result of the demolition or disposition will be provided assistance by the public housing agency and are relocated to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under section 8.

"(3) REPLACEMENT HOUSING.—The public housing agency has developed a plan that provides for additional decent, safe, sanitary, and affordable dwelling units for each public housing dwelling unit to be demolished or disposed of under such application or provides additional dwelling units sufficient to address the needs and demographic characteristics of the number of applicants on the waiting list of the agency equal to the number of units to be demolished or disposed of or the needs of the community, as described in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act, which plan—

"(A) provides for the provision of such additional dwelling units through—

"(i) the acquisition or development of additional public housing dwelling units, which may be units in housing owned (or leased for a period to be determined by the Secretary) by a partnership of a public housing agency and other entity in which the agency has a controlling interest;

"(ii) the use of 15-year project-based assistance under section 8;

"(iii) in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 having a term of not less than 5 years;

"(iv) units acquired or otherwise provided for homeownership (including cooperative and condominium interests) by public housing residents under section 5(h), subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act, or other programs for homeownership that have program requirements substantially equivalent to the requirements established under section 605 of the Housing and Community Development Act of 1987;

"(v) affordable housing homeownership units assisted under title II of the Cranston-Gonzalez National Affordable Housing Act and sold to public housing residents;

"(vi) rental units that are—

"(I) assisted under title II of the Cranston-Gonzalez National Affordable Housing Act (notwithstanding section 212(d)(2) of such Act); or

"(II) assisted under a State or local rental assistance program that provides for rental assistance over a term of not less than 15 years that is comparable in terms of eligibility and contribution to rent to assistance under section 8, except that this subclause shall only apply in cases provided under subparagraph (C);

"(vii) housing assisted by a tax credit under section 42 of the Internal Revenue Code of 1986;

"(viii) housing acquired from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation;

"(ix) housing acquired under section 203 of the Housing and Community Development Amendments of 1978;

"(x) other methods of providing housing units approved by the Secretary; or

"(xi) any combination of such methods;

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 having a term of not less than 5 years;

"(C) if it provides for the use of tenant-based assistance provided under section 8 or otherwise, may be approved—

"(i) only after a finding by the Secretary that replacement with project-based assistance is not feasible, and the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of families in the community assisted with tenant-based assistance after implementation of the plan and that such supply is likely to remain available for the full term of the assistance; and

"(ii) only if such finding is based on objective information, which shall include rates of participation by owners in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing meeting the section 8 housing quality standards with rents at or below the fair market rental, the number of eligible families waiting for public housing or housing assistance under section 8, and the extent of discrimination against the types of individuals or families to be served by the assistance;

"(D) may provide that all or part of such additional dwelling units may be located outside the jurisdiction of the public housing agency (in this subparagraph referred to as the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary; and

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location that such alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H);

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(V) allow that preference for admission to any such additional units may be provided to residents of the severely distressed public housing dwelling units replaced under this subparagraph pursuant to section 24;

"(E) includes a schedule for completing the plan during a period consistent with the size of the proposed demolition or disposition and replacement plan, which—

"(i) shall not exceed 6 years, except that the Secretary may extend the schedule to not more than 10 years if the Secretary determines that good cause exists to extend the implementation of the replacement plan under this subsection; and

"(ii) the demolition or disposition under the plan can occur in phases necessary to provide for relocation of tenants under paragraph (2);

"(F) includes a method of ensuring that the same number of individuals and families will be provided housing;

"(G) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act;

"(H) prevents the taking of any action to demolish or dispose of any unit until the tenant of the unit is relocated to decent, safe, sanitary, and affordable housing; and

"(I) permits the Secretary to intervene and take any actions necessary to complete the plan if the public housing agency fails, without good cause, to carry out its obligations under the plan.

"(c) LIMITATION ON DEMOLITION AND EXEMPTION.—

"(1) MAXIMUM PERCENTAGE.—Notwithstanding any other provision of this section, during any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.

"(2) SITE AND NEIGHBORHOOD STANDARDS EXEMPTION.—Notwithstanding any other provision of law, a replacement plan under subsection (b)(3) may provide for demolition of public housing units and replacement of such units on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished and the balance of replacement units are provided elsewhere in the jurisdiction or pursuant to subsection (b)(3)(D).

"(d) TREATMENT OF REPLACEMENT UNITS.—With respect to any dwelling units developed, acquired, or leased by a public housing agency pursuant to a replacement plan under subsection (b)(3)—

"(1) assistance may be provided under section 9 for such units; and

"(2) such units shall be available for occupancy, operated and managed in the manner required for public housing, and shall be subject to the other requirements applicable to public housing dwelling units.

"(e) APPROVAL OF APPLICATIONS.—

"(1) IN GENERAL.—The Secretary shall notify a public housing agency submitting an application under this section for demolition or disposition and replacement of a public housing project or portion of a project of the approval or disapproval of the application not later than 60 days after receiving the application. If the Secretary does not notify the public housing agency as required under this paragraph or paragraph (2), the application shall be considered to have been approved.

"(2) DISAPPROVAL AND RESUBMISSION.—If the Secretary disapproves an application, the Secretary shall specify in the notice of disapproval the reasons for the disapproval and the agency may resubmit the application as amended or modified.

"(3) ANNUAL REPORT.—The Secretary shall annually submit a report to the Congress describing for the year the applications under this section approved and disapproved, the number, general condition, and location of units demolished or disposed of, and the number, general condition, location, and method of provision of units of replacement housing provided pursuant to this section.

"(f) ACTION BEFORE APPROVAL OF APPLICATION.—

"(1) PROHIBITED ACTION.—A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and satisfying the conditions specified in subsections (a) and (b).

"(2) ALLOWABLE RELOCATION.—A public housing agency may relocate tenants of public housing into other dwelling units before the approval of an application under this section for demolition or disposition, or prior to implementing a plan for modernization under section 14 or 24, if units to be demolished or disposed of are not decent, safe, and sanitary, or if the units to be rehabilitated cannot be maintained cost-effectively in a decent, safe, and sanitary condition.

"(g) ASSISTANCE FOR REPLACEMENT HOUSING.—The Secretary may provide assistance under this subsection for—

"(1) providing replacement public housing units pursuant to subsection (b)(3)(A) for units demolished or disposed of pursuant to this section; and

"(2) providing assistance under section 8 for replacement housing pursuant to subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.

"(h) INAPPLICABILITY TO PUBLIC HOUSING HOMEOWNERSHIP PROGRAM.—The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III.

"(i) EXCEPTION TO REPLACEMENT RULE.—

"(1) REQUIREMENTS FOR WAIVER.—The Secretary shall waive the applicability of the provisions of subsection (b)(3) with respect to any application under this section by a public housing agency for the demolition or disposition of public housing dwelling units if—

"(A) the Secretary determines, based on information provided by the public housing agency in the application and the request under paragraph (2), that—

"(i) the requirements under subsection (b)(3) are preventing or interfering with the development or acquisition of new public housing dwelling units by the agency;

"(ii) the long-term goal of the agency in requesting the waiver under this subsection is to increase the number of habitable public housing dwelling units of the agency;

"(iii) maintaining and operating the dwelling units to be demolished or disposed of is not cost-effective; and

"(iv) sufficient financial assistance is not, and will not be, available to the public housing agency to rehabilitate or replace all or some of the units;

"(B) the Secretary determines that replacing the dwelling units to be demolished or disposed of under the application is unnecessary because other affordable housing is available in the area in which the units are located, and in making such determination the Secretary considers the assessment submitted by the public housing agency under paragraph (2)(C); and

"(C) the public housing agency requests a waiver under this subsection in accordance with the requirements of paragraph (2).

"(2) REQUEST FOR WAIVER.—To be eligible for a waiver under this subsection, a public housing agency shall submit to the Secretary a request for a waiver under this subsection that includes—

"(A) a comprehensive plan for demolition, disposition, and replacement that describes additional dwelling units to be made available by the public housing agency;

"(B) an identification of the dwelling units for which the waiver is requested; and

"(C) an assessment of the need of replacing such dwelling units including the unit size, age, general condition, and length of time such units have been vacant, the condition of the neighborhood in which the dwelling units are located, and the availability of dwelling units affordable to low-income families within the jurisdiction in which the dwelling units are located, during the implementation of the replacement plan.

"(3) SUBMISSION TO SECRETARY.—A request for a waiver under this subsection may be submitted at any time. The request shall be submitted to the Secretary by certified mail or any other equivalent means that provides notification to the public housing agency making the request of the date of receipt by the Secretary.

"(4) NOTICE OF DISPOSITION OF REQUEST.—Except as provided in paragraph (5), the Secretary shall notify a public housing agency requesting a waiver under this section of the approval or disapproval of the request not later than 45 days after receiving the request. If the Secretary does not notify the public housing agency as required under this paragraph or paragraph (5), the request for a waiver shall be considered to have been approved.

"(5) REQUEST FOR ADDITIONAL INFORMATION.—If the Secretary determines that more information is needed to make the determinations under paragraph (1) than has been provided by the public housing agency, the Secretary shall notify the agency in writing not later 30 days after receiving the request for the waiver that additional information is necessary. Such notice shall describe specifically the additional information required for the determinations and establish a deadline for the submission of the information by the agency, which shall be determined based on the difficulty of obtaining the information requested. If the agency submits such additional information requested before the deadline established in the notice under this paragraph, the Secretary shall notify the agency requesting the waiver that the request is approved or disapproved not later than 30 days after the submission of such additional information.

"(6) STATEMENT OF REASONS FOR DENYING OR APPROVING REQUEST.—The Secretary shall include, in each notice under paragraph (4) or (5) of the denial or approval of a request for a waiver under this subsection, the specific reasons for denying or approving the request. The denial of any request for a waiver for public housing dwelling units shall not prejudice the consideration of any other subsequent request for such a waiver for any of such dwelling units.".

RULE PUMPS DOLLARS INTO DECAYED HOUSING

(By Adam Nossiter)

NEW ORLEANS, July 25.—Roofless buildings yawning to the sky, gaping windows without glass, inside walls stripped to rough planks, outside walls pitted with holes: it isn't the emptiness of the Desire public housing development that is disconcerting, but the presence of any residents at all. About 3,000 people live in a project that was designed for more than twice that number.

In March, the Inspector General for the Department of Housing and Urban Development, Susan Gaffney, told Congress that renovating the isolated 97-acre reservation for the poor would cost $14 million more than tearing it down and starting over. Yet work is under way on a renovation plan that is expected to cost $90 million to $100 million. The housing agency has already approved the first $12 million.

The project, which is on the street immortalized by Tennessee Williams in his play "A Streetcar Named Desire," is a case study of what critics say is an irrationality of the Federal housing policy, one that has also affected cities like Newark, Cleveland and Washington. The root of the problem, the critics say, is a Federal housing agency policy that funnels large sums of money into decrepit apartments but provides little for new construction, and a law requiring that for every demolished apartment, a new unit be built, to keep the supply from dwindling.

This "one-for-one" law, as it is known, seems particularly irrational in New Orleans, which has the highest housing vacancy rate in the country, 16.6 percent, the Census Bureau says.

On Friday, the House overwhelmingly approved a bill that would revise the policy and ease the law. It would allow the demolition of the most decrepit public housing while freeing money designated for renovation to build new apartments. A housing bill is also before the Senate but it does not discuss the "one-for-one" law.

A leader in the drive for the House legislation was Representative Collin C. Peterson, Democrat of Minnesota, who toured Desire this year, and cited the project as an example of waste produced by the current policy. Mr. Peterson is the chairman of a House subcommittee on housing.

In the grim universe of decaying housing projects, Desire is "probably one of the worst in the country," a district inspector general for the housing agency, D. Michael Beard, said in a recent interview. Mr. Beard was in charge of an agency audit of the New Orleans Housing Authority completed last month.

The sprawling complex of two-story barracks-like buildings, built from 1953 to 1956, sits atop a landfill that was once a swamp. The ground is sinking beneath it, so that in many places porches have fallen away.

EXODUS BEGAN A DECADE AGO

Since the early 1980's, when Desire was almost full, residents have been moving out steadily as the project deteriorated and violence grew. The project is about 58 percent vacant. Of the 810 households there, 745 are headed by single women.

The project, two miles east of the French Quarter, is cut off from the rest of the city by two sets of railroad tracks, the New Orleans Industrial Canal and acres of warehouses and factories.

The complex was deliberately built of wooden frames, susceptible to the area's high humidity, as opposed to concrete and masonry, because the Federal Public Housing Administration, as it was known then, said it wanted to save money. It was built "as a colored project," according to the housing agency report completed last month, and only blacks still live there.

VIOLENCE AMID WRECKAGE

Today, some of the apartments look as if they have been pillaged by marauding armies. Remains of plaster walls lie heaped on rotting wood floors. Vandals have taken everything, down to the window frames and copper piping.

There were 86 murders in the complex from 1989 to 1993, more than in any of the city's other housing projects in the same period, even though some of the others are larger.

But even before the first tenants moved to Desire, a public housing tenants' association report called it a "waste of public money" and "unsafe for human habitation." Those words have echoed through the years and were heard yet again as the New Orleans Housing Authority considered the renovation.

In addition to the public housing laws, the pride of local housing officials and some of the tenants were behind the renovation.

"The neighborhood should exist," said Shelia Danzey, manager of the New Orleans Housing Authority. "It's like preservationists saying these 1832 houses should exist."

Ms. Danzey also questioned the credentials of the independent consulting concern that advised against rebuilding Desire, even though it is the same one hired by her agency in 1990. The concern, EA Technical Services Inc. of Atlanta, said renovating the project was neither "viable nor feasible."

The decision by the New Orleans housing authority to push the renovation plan was essential for getting it approved by Federal officials. Yet the Federal audit of the New Orleans agency called its operations "inefficient, ineffective and uneconomical."

Joseph Shuldiner, the Assistant Secretary for public and Indian housing, said of the renovation plan, "There are legitimate questions here, but in our judgment they didn't outweigh the official policy of going along with the local request."

$12 MILLION COMMITMENT

In the first phase of the renovation, about $12 million has been awarded to the Rex K. Johnson Company, a Lampasas, Tex., concern that specialized in public housing work, to rebuild about 180 apartments. They have been redesigned as town houses, with each apartment having its own access to the street.

The overall plan calls for spending $71,000 to $78,000 for each apartment, which exceeds the housing agency's own spending limit for a new apartment by as much as 37 percent. The amount being spent to renovate each apartment could buy comfortable three-bedroom dwellings in many parts of New Orleans.

Under the renovation plan, a third of Desire's 1,800 apartments would be demolished and the rest would be gutted and rebuilt. The tenants would remain during the renovation. To conform to the one-for-one rule, for each Desire apartment demolished the housing authority will subsidize the rents for the same number of apartments.

LAW BEHIND THE REBUILDING

In 1987, the tide had long since turned against construction of big public housing projects when Congress mandated that every housing unit torn down had to be replaced with a new one. In practice, the rule forced local authorities to leave deteriorating housing projects standing.

In addition to limiting money for new constructions, the housing rules bar new developments in areas that already have large poor and minority populations. Neighborhood opposition to new public housing is often intense.

For the current fiscal year, Congress appropriated $559 million for new housing against $3.2 billion for renovation. It also appropriated $7 billion for rental vouchers to be used for private housing. But there are limits on the number of vouchers that can be used to replace housing that has been demolished.

The national landscape is littered with decaying, empty housing projects. Newark has long wanted to demolish 21 high-rise apartments. The one-for-one rule made this difficult, so the city's housing authority received $17 million in Federal housing operation subsidies for closed and sealed buildings from 1985 to 1992, enabling the authority to accumulate reserves of $31 million and "become financially sound," in Inspector General Gaffney's words.

The Cuyahoga Housing Authority in Cleveland has received $47.3 million in operating subsidies for vacant units since 1987, and the Washington authority $5.5 million in 1992.

These accounts of subsidies for empty apartments, recited in March before Mr. Peterson's subcommittee, led to the legislation passed on Friday. It would allow all local housing officials to sue up to half their renovation money for new housing. It would also allow them to ask the Federal housing agency to waive the rule requiring one new housing unit for each one demolished if it interfered with the development of new public housing.

An amendment to the bill would also allow New Orleans housing officials to use money designated for the renovation of the Desire in other ways, including renovating some of the city's many vacant dwellings for housing the Desire tenants.

The new Mayor of New Orleans, Marc Morial, who inherited the Desire renovation plan, says he supports the amendment that would give the city more discretion with its Federal housing money. He suggested that some of the $100 million may be better spent repairing the city's many abandoned houses, some of them with distinctive Creole architectural features still intact. But he said he wanted the first phase of the Desire renovation to be completed.

At Desire, there is suspicion of politicians, anger about the conditions and, in some residents, no interest at all in moving somewhere else. Charlene Slack, for one is glad to see the construction crews. "I'm happy about it," she said. "But I wish they would hurry up."

Bonnie Rodgers, vice chairman of the tenant council, said: "Don't send us somewhere else. Let us change where we live."

But others don't see much hope in change. Penny Jones stood by the rotting wood of her kitchen floor, near the bathroom where the sink was coming off the wall, and by the stairwell that looked like an elongated piece of Swiss cheese.

"I think they should tear it all down," she said. The summer heat, had aggravated the stink of the sewage beneath her building, she said. Indeed; the Atlanta consulting firm found that the "subsidence of the soil has caused continuous problems with the sewer and water systems."

There were a "million" mice in the apartment. "They need to just tear it all down and start from scratch," Ms. Jones said. "They can fix it up. I don't care. I'm going to move."•

By Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2393. A bill to eliminate a maximum daily diversion restriction with respect to the pumping of certain water from Lake Powell, and for other purposes; to the Committee on Energy and Natural Resources.

LAKE POWELL DIVERSION RESTRICTION ACT OF 1994

• Mr. DECONCINI. Mr. President, I am today introducing a bill that removes a maximum daily water diversion restriction imposed upon the city of Page, AZ, by the Reclamation Development Act of 1974. Although the bill removes the daily pumping limitation, it retains the limit on the city of Page's annual consumption amount.

I am very pleased that the bill is being cosponsored by my colleague from Arizona, Senator MCCAIN.

The city of Page receives its water solely from the Colorado River that is impounded within Lake Powell. Lake Powell is impounded behind the Glen Canyon Dam which was constructed by the Bureau of Reclamation.

The 1974 Reclamation Development Act severed the Federal Government's ownership and management of an area within the Colorado River project in Coconino County, AZ, creating a self-governing city. That city, Page, AZ, required water to survive in the desert environment. The 1974 legislation ensures that Page's water need is met by providing for an annual supply of water with a daily pumping limitation.

For a number of years after this legislation was authorized, the Bureau of Reclamation had varying degrees of responsibility and liability for operation and maintenance of the municipal water system. As the Bureau's authority was phased out, the city became responsible for all costs for the operation, maintenance, and replacement of the municipal water system beyond Glen Canyon Dam and the powerplant.

The city is concerned that they may need to exceed the daily pumping limitation during peak use periods in the summer months. As the city's population grows and national park tourism increases, this daily pumping limit will place an unrealistic burden on Page, especially during the summer season.

I urge my colleagues to give this bill serious consideration. I have been advised that the removal of this daily pumping limitation will not affect any other water users. I ask unanimous consent that the text of the bill and a letter from the Bureau of Reclamation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF 24-HOUR RESTRICTION.

The second sentence of section 104(c) of the Reclamation Development Act of 1974 (Public Law 93–493; 88 Stat. 1488) is amended by striking "or three million gallons of water in any twenty-four hour period,".

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Salt Lake City, UT, August 12, 1994.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington DC.

DEAR SENATOR DECONCINI: Officials in Washington, D.C. reviewed the proposal with Mayor Scaramazzo of the City of Page (Page), Arizona, to eliminate the daily pumping limitation of 3,000,000 gallons per day from Lake Powell for the City of Page, Arizona imposed by subsection 104(c) of the Reclamation Development Act of October 27, 1974, (P.L. 93–493). Mayor Scaramazzo was informed that since the maximum annual depletion of 2,740 acre-feet reserved to Page will not change under the proposal, the concept does not appear to adversely affect any other user of the Colorado River, and Arizona's use of 50,000 acre-feet of annual depletion under the Upper Colorado River Basin

Compact is unaffected. We have no objection to this concept.

We have reviewed the draft Bill language and it appears to match the proposed concept. However, our review should not be construed to reflect the Administration's position on the final Bill when sent to Congress.

Sincerely,

RICK L. GOLD
(For Charles A. Calhoun, Regional Director).•

• Mr. McCAIN. Mr. President, I am in full support of the measure being introduced by my colleague from Arizona. The problem affecting the city of Page is a simple one, as is the measure we have introduced to correct it. The bill would remove the daily pumping limitation without affecting the city's overall allocation.

As my colleague noted, the city's sole source of water is a Colorado River allocation through Lake Powell. The city's enabling legislation limits the daily pumping rate from Lake Powell to 3 million gallons per day.

It is my understanding that the limitation was applied because of limitations on the Bureau of Reclamation's ability to pump at the time of enactment. However, that rationale no longer applies because the city is now responsible for both the pumping equipment and the cost of pumping water from the lake to the city.

The amendment would merely remove the daily pumping limit from the enabling legislation without affecting the city's overall allocation of Colorado River water. This is a very important point.

The Colorado River is the life blood to many communities along its path. Although it is clear that the bill will not affect other Colorado River users, we must ensure that the appropriate users are contacted and consulted. Especially, the Navajo Nation which has a significant interest in Colorado River water. Since the river is such an important resource, decisions affecting its management, even minor ones, should be discussed in an open process. I am confident that this bill is something all parties will support.

I hope my colleagues will give this measure serious consideration and that we can enact it quickly. While it is a minor change, it is one that is very important to the city of Page and its residents who depend on this vital source of water.•

By Mr. CAMPBELL:

S. 2394. A bill to establish a National Physical Fitness and Sports Foundation to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports; to the Committee on Labor and Human Resources.

NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ACT

• Mr. CAMPBELL. Mr. President, I am introducing legislation to establish a National Physical Fitness and Sports Foundation bill. This proposal is designed to support the President's Council on Physical Fitness.

The President's Council on Physical Fitness currently operates on a shoestring budget of $1.4 million. The establishment of a non-profit foundation would permit the Council to have an independent source of funding to expand its scope and activities. This proposal will not conflict with existing efforts to provide funding for the U.S. Olympic Committee as moneys that would flow through the corporation to the Council would not be public funds.

Once established, the National Physical Fitness and Sports Foundation would be a charitable, non-profit organization designed to encourage and promote the solicitation of private funds for the President's Council on Physical Fitness. After the deduction of administrative expenses, the foundation would annually transfer the balance of the contributions to the U.S. Public Health Service Gift Fund.

The foundation would have the following specific powers:

It could accept, receive, solicit, administer, and use any gift, devise or bequest, absolutely or in trust.

It could acquire by purchase or exchange any real or personal property or interest; and

It could enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions.

A nine-member board of directors would govern the foundation. Three board members must have experience directly related to physical fitness, sports or the relationship between health status and physical exercise. The remaining six board members would be leaders in the private sector with a strong interest in physical fitness. Ex officio members of the board would include the Assistant Secretary of Health, the Executive Director of the President's Council on Physical Fitness, the Director of the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung and Blood Institute, and the Director of the Centers for Disease Control.

Board members would serve for 6 years. Three board members would be appointed by the Secretary of Health and Human Services; two by the majority leader of the Senate; one by the minority leader of the Senate; two by the Speaker of the House; and one by the minority leader of the House of Representatives. The chairman would be elected by the board members to a 2-year term. No individual could serve more than two consecutive terms as a director.

Board members would serve without pay, but would be reimbursed for traveling and subsistence expenses. The board would be empowered to appoint officers and employees, once the foundation had sufficient funding to pay for their services; and adopt a constitution and bylaws. Officers and employees of the foundation could not receive pay in excess of the annual rate of basic pay in effect for Executive Level V in the Federal service.

I think that this bill will help further an important national goal—encouraging and fostering physical fitness and well-being—and I urge my colleagues to support it.

Mr. President, I also ask unanimous consent that a complete copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2394

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Physical Fitness and Sports Foundation Establishment Act".

SEC. 2. ESTABLISHMENT AND PURPOSE OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Physical Fitness and Sports Foundation (hereinafter in this Act referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—(1) in conjunction with the President's Council on Physical Fitness and Sports, to develop a list and description of programs, events and other activities which would further the goals outlined in Executive Order 12345 and with respect to which combined private and governmental efforts would be beneficial.

(2) to encourage and promote the participation by private organizations in the activities referred to in subsection (b)(1) and to encourage and promote private of money and other property to support those activities.

(c) DISPOSITION OF MONEY AND PROPERTY.—At least annually the Foundation shall transfer, after the deduction of the administrative expenses of the Foundation, the balance of any contributions received for the activities referred to in subsection (b), to the United States Public Health Service Gift Fund pursuant to section 2701 of the Public Health Service Act (42 U.S.C.-300aaa) for expenditure pursuant to the provisions of that section and consistent with the purposes for which the funds were donated.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of nine Directors each of whom shall be a United States citizen; and

(1) Three of whom must be knowledgeable or experienced in one or more fields directly connected with physical fitness, sports or the relationship between health status and physical exercise;

(2) Six of whom must be leaders in the private sector with a strong interest in physical fitness, sports or the relationship between health status and physical exercise. The membership of the Board, to the extent practicable, shall represent diverse professional

specialities relating to the achievement of physical fitness through regular participation in programs of exercise, sports and similar activities. The Assistant Secretary for Health, the Executive Director of the President's Council on Physical Fitness and Sports, the Director for the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung, and Blood Institute and the Director for the Centers for Disease Control and Prevention shall be ex officio, nonvoting members of the Board. Appointment to the Board or its staff shall not constitute employment by, or the holding of an office of, the United States for the Purpose of any Federal employment or other law.

(b) APPOINTMENT AND TERMS.—Within 90 days from the date of enactment of this Act, the Directors of the Board will be appointed. The Directors shall serve for a term of six years; three of whom will be appointed by the Secretary (hereinafter referred to in this Act as the "Secretary"); two by the Majority Leader of the Senate; one by the Minority Leader of the Senate; two by the Speaker of the House of Representatives; one by the Minority Leader of the House of Representatives. A vacancy on the Board shall be filled within sixty days of said vacancy in the manner in which the original appointment was made, and shall be for the balance of the term of the individual who was replaced. No individual may serve more than two consecutive terms as a Director.

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members for a two-year term and will not be limited in terms or service.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and the vacancy filled in accordance with subsection 3(b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation, subject to the same limitations on reimbursement that are impose upon employees of Federal agencies.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provision of this Act. In establishing bylaws under this subsection, the Board shall provide for policies with regard to financial conflicts of interest and ethical standards for the acceptance, solicitation and disposition of donations and grants to the Foundation; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for Executive Level V in the Federal service.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer, and (ii) shall be knowledgeable and experienced in matters relating to physical fitness and sports.

(C) No Public Health Service employee nor the spouse or dependent relative of such an employee may serve as an officer or member of the Board of Directors or as an employee of the Foundation.

(D) Any individual who is an officer, employee, or member of the Board of the Foundation may not (in accordance with the policies developed under subsection 3(g)(1)(B)) personally or substantially participate in the consideration or determination by the Foundation of any matter that would directly or predictably affect any financial interest of the individual or a relative (as such term is defined in section 109 (16) of the Ethics in Government Act of 1978) of the individual, of any business organization or other entity, or of which the individual is an officer or employee, or is negotiating for employment, or in which the individual has any other financial interest.

SEC. 4. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several State, territories, and possessions of the United States;

(3) shall have its principal offices in or near the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation. The serving of notice to, or service of process upon, the agent required under paragraph 4(a)(4), or sailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 2, and subject to the specific provisions thereof, The Foundation shall have the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) except as otherwise provided herein, to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom.

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(6) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) DEFINITIONS.—For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

SEC. 5. VOLUNTEER STATUS.

The Foundation may accept, without regard to the civil service classification laws, rules, or regulations, the services of volunteers in the performance of the functions authorized herein, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

SEC. 6. AUDIT, REPORTING REQUIREMENTS AND PETITION TO ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101-1103, the Foundation shall be treated as a private corporation under Federal law. The Inspector General of the Department of Health and Human Services and the Comptroller General of the United States shall have access to the financial and other records of the Foundation, upon reasonable notice.

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Secretary of the Department of Health and Human Services and to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation:

(1) engages in, or threatens to engage in, any act, practice or policy that is inconsistent with its purposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threaten to do so; the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized such sums as are necessary to carry out the purposes of this Act, Provided that, such sums are only available to the Foundation for organizational costs.•

By Mr. RIEGLE:

S. 2395. A bill to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse," and for other purposes; to the Committee on Environment and Public Works.

THE THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE ACT OF 1994

• Mr. RIEGLE. Mr. President, I introduce legislation which officially designates the U.S. Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse."

Theodore Levin was a man of high morals and exemplary dedication. Born in Chicago in February 1897, he received a bachelor of law degree from the University of Detroit in 1920 and was admitted to the bar.

In the years that followed, Theodore Levin worked to preserve the integrity of the law through his numerous public appointments. In 1933, he was selected to serve as special assistant attorney general of Michigan to conduct grand jury proceedings relating to the closing of Michigan banks. During the Second World War, he was a member of the State Selective Service Appeals Board. And, in July 1946, President Harry Truman nominated Theodore Levin to the U.S. District Court for the Eastern District of Michigan.

Theodore Levin served the bench with fortitude, distinction, and honor. He was recognized and respected for the effort he made to ensure unbiased sentencing practices. Adamantly opposed to the disparity he saw in sentences given for similar crimes, he developed sentencing councils in the Eastern District of Michigan and encouraged groups of judges to join. These councils contributed greatly to achieving equity in sentencing.

Throughout his life, Theodore Levin was committed to the good and welfare of the community. He offered leadership to the people of Detroit in his service at the Detroit Community Fund, the Council of Social Agencies, the Big Brother Conference, the United Health and Welfare Fund of Michigan, and the Detroit Round Table of Catholics, Jews, and Protestants. He served as a member of the board and as president for the United Jewish Charities of Detroit, was chairman of the executive committee and president of the Jewish Welfare Federation of Detroit. Further, he was an active member of the board of trustees of the Jewish Publication Society of America, and served on the board of the National Council of Jewish Federations.

Theodore Levin's service was honored in 1961 with a doctor of laws degree from Wayne State University, and, in 1970, he was awarded a doctorate of humane letters by Hebrew Union College.

In 1925, he married Rhoda Katzin and together they had three sons a daughter. Theodore Levin was a noble man who, until his death in 1970, devoted his life to his family and to his work.

Mr. President, I am pleased to introduce this bill today honoring this remarkable man and his life. I urge my colleagues to join me in paying tribute to Theodore Levin by moving promptly to enact this bill, officially naming Detroit's Federal building and courthouse after him.•

By Mr. SHELBY (for himself and Mr. HEFLIN):

S. 2397. A bill to designate Building No. 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL, as the "Claude Harris, Jr. Building"; to the Committee on Veterans' Affairs.

THE CLAUDE HARRIS, JR. BUILDING ACT OF 1994

• Mr. SHELBY. Mr. President, I introduce legislation that designates building No. 137 which will soon be completed at the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL as the Claude Harris, Jr. Building. I am jointed by the senior Senator from Alabama.

My good friend and colleague Claude Harris, who is currently the U.S. attorney for the Northern District of Alabama, represented the people of the Seventh District of Alabama for three terms in the House of Representatives. While in the House, Representative Harris served with eminent distinction on the Committee on Veterans' Affairs and became an expert on issues that affect both veterans and the Armed Forces.

Mr. President, I had the pleasure to serve the people of the Seventh Congressional District for four terms before being elected to the Senate. I was also a member of the Committee on Veterans' Affairs and can truly appreciate all that Claude Harris accomplished for veterans in Alabama and across America. Claude, who has risen to the rank of colonel in the Alabama National Guard, is a true friend of all veterans and richly deserves this honor.•

By Mr. EXON:

S. 2399. A bill to promote railroad safety and enhance interstate commerce; to the Committee on Commerce, Science, and Transportation.

RAILROAD GRADE CROSSING SAFETY ACT OF 1994

• Mr. EXON. Mr. President, I am pleased to introduce the Railroad Grade Crossing Safety and Research Act of 1994.

Most deaths and injuries which occur in the rail industry are as a result of trespassers and motorist violation of railroad grade crossing laws. About 600 people a year die as a result of railroad crossing accidents and about 600 people a year die as a result of trespassing on railroad property.

An automobile and a train collide once about every 90 minutes in the United States. In 1992 approximately 2,500 people were either killed or seriously injured as a result of railroad grade crossing accidents.

This is one area of death and injury which is preventable. The bill I introduce today is meant to complement the rail safety legislation I introduced at the administration's request earlier this year. I intend to recommend that the Senate Commerce Committee approve this legislation, the Rail Safety Act and rail crossing legislation introduced by Senator DANFORTH earlier this year as a single comprehensive rail safety initiative.

The legislation I introduce today is in response to surface transportation hearings I chaired earlier this year. Those hearings indicated that although significant progress has been made in reducing the number of rail-related deaths, there is still room for improvement, especially when it comes to grade crossing safety.

States and local governments must be encouraged to enforce their laws against grade crossing violations and must be encouraged to finally close crossings. The split jurisdiction between the Federal Highway Administration, the Federal Rail Administration, States, local governments, and railroads has led to a gridlock of responsibility. This legislation, particularly when combined with the two bills I mentioned earlier and the administration's grade crossing safety initiative currently before the Senate Public Works Committee will shatter that gridlock.

It is time to make the places where rails meet roads safer for rail workers, drivers, pedestrians, and industry. The legislation I introduce today has that goal in mind.

Mr. President, these are the highlights of the Railroad Grade Crossing Safety and Research Act. This important legislation: First, establishes an Institute for Railroad and Grade Crossing Safety to research, study, and test improvements in railroad and grade crossing safety devices. There is no clear procedure to test the effectiveness of new crossing devices. The Institute will research, develop, fund, and test measures for reducing the number of fatalities and injuries in rail operations and focus on railroad grade crossing improvements, trespassing prevention and enforcement;

Second, requires the Secretary to coordinate a trespassing and vandalism prevention strategy with Federal, State and local governments as well as the private sector;

Third, establishes a maximum $5,000 civil penalty for vandalizing a railroad grade crossing device, a maximum $2,500 penalty for trespassing on railroad right-of-way, and encourages the railroads to warn the public of potential liability to deter illegal and dangerous acts;

Fourth, provides for the establishment of a toll-free 800 number for the public to report crossing malfunctions;

Fifth, prohibits local whistle bans unless certain grade crossing improvements or actions have been taken;

Sixth, requires the Secretary of Transportation to initiate a rulemaking on rail car visibility;

Seventh, makes grade crossing safety, trespass prevention, and vandalism prevention Department of Transportation research priorities; and

Eighth, establishes a statewide crossing freeze combined with a trade-in program where States are required to trade in up to three old crossings for every new crossing built after the effective date of the regulations required by this legislation.

I encourage my colleagues to review this legislation and welcome their support.

Mr. President, I ask unanimous consent that the text of the Railroad Grade Crossing Safety and Research Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Grade Crossing Safety and Research Act of 1994".

SEC. 2. INSTITUTE FOR RAILROAD AND GRADE CROSSING SAFETY.

The Secretary of Transportation (hereinafter Secretary), in conjunction with a university or college having expertise in highway driver and railroad safety, shall establish within one year of enactment of this Act, an Institute for Railroad and Grade Crossing Safety (hereinafter Institute). The Institute shall research, develop, fund, or test measures for reducing the number of fatalities and injuries in rail operations. The Institute shall focus on improvements in railroad grade crossing safety, railroad trespass prevention, prevention of railroad vandalism, and the improved enforcement of laws in such areas. There is hereby authorized to be appropriated an additional $1,000,000 for each of the fiscal years 1996 through 2000 for the Institute, which will make periodic reports to the Secretary of Transportation and the Congress.

SEC. 3. RAILROAD GRADE CROSSING, TRESPASSING AND VANDALISM PREVENTION STRATEGY.

(a) Not later than one year after the date of enactment of this Act, and in consultation with affected parties, the Secretary shall evaluate and review current local, State, and Federal codes regarding trespass on railroad property and vandalism affecting railroad safety and develop model prevention and enforcement codes and enforcement strategies for the consideration of State and local legislatures and governmental entities.

(b) Within one year of enactment of this Act, the Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, Federal Rail Administration-certified State inspectors, railroad police, and State and local law enforcement, for the purpose of addressing trespass and vandalism dangers on railroad property, and strengthening relevant law enforcement strategies. This program shall increase public and police awareness of the legality of, dangers inherent in, and the extent of, trespassing on railroad right-of-way, to develop strategies to improve the prevention of trespass and vandalism, and to improve the enforcement of laws relating to railroad trespsss, vandalism, and grade crossing safety.

(c) For purposes of this Act, a trespasser is defined as a person who is on that part of railroad property used in railroad operations and whose presence is prohibited, forbidden or unlawful.

SEC. 4. CIVIL PENALTY FOR VANDALISM.

Not later than six months after the date of enactment of this Act, the Secretary shall amend the Secretary's regulations under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to make subject to a civil penalty of up to $5,000 under such Act any person who defaces, disables, damages, vandalizes or commits any act that adversely affects the function of any railroad grade crossing related signal system, sign, gate, device, sensor, or equipment.

SEC. 5. CIVIL PENALTY FOR TRESPASS ON RAILROAD PROPERTY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall amend the Secretary's regulations under section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to make subject to a civil penalty of up to $2,500 under such an Act any person who trespasses on a railroad owned or railroad leased right-of-way, road, or bridge.

SEC. 6. WARNING OF CIVIL LIABILITY.

The Secretary shall permit and encourage railroads to warn the public about potential Federal civil liability for violations of Federal regulations related to vandalism of railroad crossing related devices, signs, and equipment and trespass on railroad property.

SEC. 7. WHISTLE BAN PROHIBITION.

Upon the date of enactment, no State or political subdivision thereof shall impose a whistle ban with respect to any railroad grade crossing or series of railroad grade crossings unless one of the following actions has been taken:

(a) The affected crossing is closed during the pendency of the ban;

(b) Crossing gates and median barriers have been installed and are operational at the affected crossing;

(c) Four quadrant gates have been installed and are in operation at the affected crossing;

(d) An automated horn system crossing device has been installed; or

(e) The Federal Rail Administrator has granted specific, time-limited permission for such ban.

SEC. 8. RAIL CAR VISIBILITY.

(a) The Secretary shall conduct a review of the Department of Transportation's rules with respect to rail car visibility. As part of this review, the Secretary shall collect relevant data from operational experience of railroads having enhanced visibility measures in service.

(b) Not later than June 30, 1996, the Secretary shall initiate a rulemaking proceeding to issue regulations requiring substantially enhanced visibility standards for newly manufactured and remanufactured rail cars. In such rulemaking proceedings the Secretary shall consider at a minimum—

(1) visibility from the perspective of automobile drivers;

(2) whether certain rail car paint colors should be prohibited or required;

(3) the use of reflective materials;

(4) the visibility of lettering on rail cars;

(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

(6) the ratio of cost to benefit of any new regulations.

(c) In issuing regulations under paragraph (b), the Secretary may exclude from any specific visibility requirement any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with rail safety including railroad grade crossing safety.

(d) As used in this subsection, the term "railcar visibility" means the enhancement of driver, pedestrian, and railroad worker ability to observe trains consistent with public safety with particular consideration of enhancing safety at railroad grade crossings.

SEC. 9. STATEWIDE RAILROAD GRADE CROSSING FREEZE.

Not later than two years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to issue regulations which:

(a) impose a freeze on the total number of railroad grade crossings in each State of the United States of America;

(b) after the effective date of the regulation require any new railroad grade crossing opening to receive the specific approval of the Federal Rail Administrator;

(c) require that unless otherwise in the public interest, or necessary to facilitate interstate commerce, three existing railroad grade crossings be closed in the requesting State for each new railroad grade crossing opened after the effective date of this regulation.

(d) permit the Federal Rail Administrator to waive the application of this regulation once a State has achieved significant and sufficient reductions in the total number railroad grade crossings or has an optimal number of railroad grade crossings for the entire State.

SEC. 10. RESEARCH PRIORITIES.

The Secretary of Transportation shall incorporate the enhancement of railroad grade crossing safety, the prevention of trespassing on railroad property, and the prevention of vandalism to railroad grade crossing safety devices, signs, and equipment into the research, technology development, and testing priorities of the Department of Transportation. In carrying out activities authorized by this Act, the Secretary shall consult with such other governmental agencies concerning the availability and affordability of appropriate technologies, especially defense related technologies for application to railroad crossing safety, trespass and vandalism prevention and other rail safety initiatives.

SEC. 11. EMERGENCY NOTIFICATION OF GRADE CROSSING PROBLEMS.

TOLL FREE TELEPHONE NUMBER.—The Secretary of Transportation shall designate not later than one year after the date of enactment of this Act, and thereafter maintain an emergency notification system utilizing a toll free "800" telephone number that can be used by the public to convey to railroads, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings.•

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1677

At the request of Mr. HATFIELD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1677, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 2068

At the request of Mr. PRESSLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2068, a bill to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes.

S. 2183

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2272

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2272, a bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes.

S. 2273

At the request of Mr. HOLLINGS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2273, a bill to reduce Government spending by $100,000,000,000 each fiscal year until a balanced Federal budget is achieved.

S. 2283

At the request of Mr. SHELBY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2283, a bill to amend title XVIII of the Social Security Act to provide for coverage of prostate cancer screening and certain drug treatment services under part B of the Medicare Program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such screening and services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

S. 2347

At the request of Mr. SASSER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

S. 2380

At the request of Mr. METZENBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2380, a bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series.

SENATE JOINT RESOLUTION 178

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to proclaim the week of October 16 through October 22, 1994 as "National Character Counts Week."

SENATE JOINT RESOLUTION 209

At the request of Mr. COCHRAN, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating November 21, 1994, as "National Military Families Recognition Day."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

AMENDMENT NO. 2404

At the request of Mr. EXON the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Amendment No. 2404 intended to be proposed to S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

AMENDMENT NO. 2561

At the request of Mr. DODD the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Amendment No. 2561 proposed to S. 2351, an original bill to achieve universal health insurance coverage, and for other purposes.

ADDITIONAL STATEMENTS

BUILDING FOR PEACE

• Mr. MACK. Mr. President, the Middle East peace process has progressed at a truly unbelievable pace over the course of the past year. We were all moved when Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasser Arafat came to the White House last September 13 to sign the historic Declaration of Principles.

Since then, agreements have been signed between Israel and the PLO on April 29 to coordinate their economic relationships and on May 4 to facilitate Israeli withdrawal from Jericho and Gaza. The agreements with the PLO set the stage for King Hussein to come to Washington to sign an agreement ending Jordan's state of belligerency with Israel.

Talks are underway to determine if Israel will be able to reach an agreement with Syria. Hopefully, these talks will eventually lead to another historic signing in Washington.

Mr. President, these diplomatic accomplishments are great and will, hopefully, set the stage for real peace in the region. But diplomatic agreements can only provide the outlines of peace. The real test will come in the daily lives of the people who live there. Israeli citizens and Palestinians and Jordanians must see that the peace will benefit their daily lives for this process to have any hope of ultimate success.

To a large degree, this will be measured in improvements in the well-being of the lives of these people. The first step in this will be to improve the economic conditions and create stability and prosperity in the territories.

Two steps have been undertaken to accomplish these goals.

First, those nations with a stake in this peace process, led by the United States, have pledged funds to the Palestinian Authority to help them build infrastructure projects—roads, telecommunications, housing, waste removal systems and water projects.

Second, efforts are underway to assist the Palestinians to build their private sector. We must focus upon the private sector so that the Palestinians do not come to rely in the long-term upon international contributions. They must be able to develop their own business ventures capable of providing meaningful employment for their people.

Only when the underlying socioeconomic discontent is addressed at the grassroots level, can the peace process flourish. Without the basic dignity that jobs provide, people could easily continue to fall prey to the wishes of extremists.

A new organization called Builders for Peace was established last November in order to promote these economic objectives. This nonprofit organization was set up to foster relationships between the United States and Palestinian commercial communities.

Builders for Peace is an important contribution to help develop the economy of the region and assist in the overall peace process.

Builders for Peace is a unique organization. It has two copresidents, former Congressman Mel Levine and Dr. James Zogby, the president of the Arab-American Institute. These two former adversaries are now working together to promote American investments in the Palestinian territories.

The organization has boards of directors and advisers comprised of leaders of the American-Arab and Jewish communities. Again, many of these people have been adversaries for years and now they are also working together.

Builders for Peace has helped to stimulate a number of projects that will soon be underway. These projects will serve as tangible evidence of the support for the peace process by the American private sector.

Mr. President, Builders for Peace is an organization that deserves our support, just as it has the support of this administration, the Israel Government, and the PLO leadership.

Its potential to assist the peace process is enormous and I hope that the Congress will lend its support to these endeavors.●

AFFORDABLE HEALTH CARE NOW ACT—S. 1533

● Mr. LOTT. Mr. President, I would like to take this opportunity to introduce a refined version of the Affordable Health Care Now Act. I ask to include an analysis of the changes made in S. 1533.

The material follows:

CHANGES IN S. 1533

Language providing clarification and additional standards governing purchasing groups.

Eliminate pre-existing condition exclusion if employee elects coverage when first eligible.

Update insurance reform language, moving away from rating band approach to community rating and using basically the consensus standards developed by the insurance industry, large and small. Include language allowing discounts for wellness programs, etc.

Require small employers of 50 or fewer employees who self-insure to have re-insurance (stop-loss) policies. Allow small self-insuring employers to be included in state-established risk adjustment programs.

Require insurance companies currently serving the individual market to serve all individuals.

Include "patient protection" standards for managed-care plans.

Increase funding for rural care programs.

Eliminate the Federal retirement age increase section of the bill.

Standards for long-term care.

Allow Medicare recipients a greater choice of health plans.

Establish marketing standards setting forth information insurance companies must make available regarding their plans.

Adjustments in anti-trust reform language.

Eliminate the following tax breaks for long-term care: Tax-free exchanges of life insurance for LTC policies. Use of IRA and 401(k) funds for LTC insurance. Permit exclusion for accelerated death benefits.

Limit SSI and Medicaid for resident aliens.

Repeal duplicative vaccine program.

Limit SSI for drug abusers.

Extend current law setting Medicare Part B premiums to cover about 25% of average benefits (sunsets in 1999).

Extend current law requirements for Medicare secondary payers (sunsets of 1996).

Establish a program of assistance for low-income individuals, to be operated through the states. Priority will be given to children from families below 185% of poverty, pregnant women below 150% of poverty, and other individuals below 150% of poverty, in that order. Federal assistance would amount to approximately $90 billion over 10 years and would be financed by the offsets in the bill plus a 25% reduction in disproportionate share payments.

AFFORDABLE HEALTH CARE NOW ACT

IMPROVED ACCESS TO AFFORDABLE HEALTH CARE COVERAGE

I. All employers must offer, but are not required to pay for, insurance to their employees.

II. Small group insurance reform:

A. Insurers must offer small employers standard and catastrophic plans with an actuarial value range as determined by the National Association of Insurance Commissioners. They may also offer a Medisave Plan.

B. Small ground is defined as employers with between 2-50 employees.

C. Risk pools would be established to spread insurer risks.

III. Employee Insurance Security:

A. Employees cannot be excluded from insurance coverage because of preexisting conditions.

B. Employees are assured of continued insurance coverage when changing jobs.

IV. Promoting More Affordable Insurance Coverage:

A. Increase tax deductions for the self-employed to 100% and provide deductions for employees who purchase their own insurance.

B. Exempt all group health plans from state benefit mandates.

C. Prohibit state restrictions on managed care.

D. Establish standards and incentives for multi-employer insurance purchasing groups.

E. Eliminate current IRS regulatory barriers which prevent employer groups from being able to offer tax-exempt health insurance.

V. Family Medical Savings Accounts (Medisave).

VI. Reforming Medicaid:

A. Permit states to utilize private insurance for Medicaid beneficiaries.

B. Permit uninsured people to buy-in to the Medicaid program, with graduated subsidies up to 200% of poverty.

VII. Expansion of Community Health Center Program.

VIII. Expanded Rural Health Care Services.

IX. Long-term Care.

HEALTH CARE COST CONTAINMENT

I. Malpractice Reform.

II. Administrative Reform:

A. Streamlined Paperwork.

B. Electronic Billing.

C. Merge Medicare Parts A and B.

III. Anti-trust Reforms.

IV. Anti-fraud provisions.

V. State Medicaid flexibility.

THE AFFORDABLE HEALTH CARE NOW ACT, S. 1533, REAL REFORM, THE COMMONSENSE WAY

IMPROVES ACCESS TO AFFORDABLE HEALTH CARE COVERAGE

Insurance Security:

Employees are assured access to affordable health insurance through their employer.

Employees cannot be excluded from insurance coverage because of pre-existing conditions.

Employees are assured of continued insurance coverage when changing jobs.

Bridges the gap for low-income workers and early retirees by allowing States to establish group insurance plans available for purchase, with subsidies for the low income.

Promoting More Affordable Insurance:

Encourages and makes it possible for employers to obtain affordable health coverage through group purchasing arrangements.

Requires insurers who sell in the small group market to offer health plans, including a Standard Plan, Catastrophic plan, and a Medisave plan, to all companies who employ 2 to 50 employees. These plans must meet a minimum coverage level as determined by the National Association of Insurance Commissioners.

Limits the insurance premium rate variations charged to small businesses and will limit the annual increases in insurance premium rates.

Encourages group purchasing arrangements by easing paperwork and other regulatory burdens and by eliminating the current IRS regulatory barriers which prevent employer groups (the American Farm Bureau, for example) from being able to offer health insurance.

Tax Fairness:

Increases the tax deduction for self-employed individuals to 100 percent from 25 percent.

Provides 100 percent tax deductibility of the cost of health insurance premiums for all individuals who purchase their own insurance.

Medical Savings Accounts (Medisave):

Allows tax-free deposits to Medisave Accounts to reimburse medical expenses and pay for a long-term catastrophic, Medigap and Medicare premiums.

Reforming Medicaid:

Permits states to use private insurance for Medicaid beneficiaries.

Permits families with incomes up to 200 percent of poverty to buy-in to the Medicaid program.

Expands the Community Health Center Program as the disadvantaged Americans will have access to vital preventive and primary care.

Expands Rural Health Care Services:

Improves emergency medical services in rural America.

Establishes Rural Emergency Access Care Hospitals.

Expands Long Term Care Options.

Provides the same tax benefit for long term care insurance as for other insurance plans.

Allows Americans, the option of using IRA's, 401(k) plans, and life insurance—tax free—to purchase long term care insurance.

Allows states to offer seniors asset protection plans.

PUTS THE BRAKES OF SKYROCKETING COSTS

Reforms the Malpractice and Product Liability System to limit frivolous lawsuits, adequately compensate victims, and reduce defensive medicine costs.

Requires Administrative Reforms to establish a single, standard claim form and encourage the development electronic billing.

Increases enforcement of current laws and closes loop-holes to prevent medical fraud and abuse.

Creates personal Medical Savings Accounts, integrated into the insurance system, that allow you and your doctor to determine the most appropriate course of treatment.

Allows States to establish managed care plans for Medicaid beneficiaries.

Reforms antitrust laws to allow sharing of facilities and equipment by providers, thus reducing overhead.●

MEASURE READ THE FIRST TIME—S. 2396

Mr. LAUTENBERG. Mr. President, I understand that S. 2396, the Affordable

Health Care Now Act, introduced earlier today by Senator LOTT, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. LAUTENBERG. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2396), entitled the "Affordable Health Care Now Act."

Mr. LAUTENBERG. Mr. President, I ask now for its second reading; and, on behalf of the Republican leader, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR TOMORROW

Mr. LAUTENBERG. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Wednesday, August 17; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator BENNETT recognized to speak for up to 10 minutes and Senator CAMPBELL for up to 5 minutes; and that at 10 a.m., the Senate resume consideration of S. 2351, the Health Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M

Mr. LAUTENBERG. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 10:12 p.m., recessed until Wednesday, August 17, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 16, 1994:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JORGE M. PEREZ, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998, VICE NINA BROCK, TERM EXPIRED.

STATE JUSTICE INSTITUTE

JOSEPH FRANCIS BACA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE JAMES DUKE CAMERON, TERM EXPIRED.

ROBERT NELSON BALDWIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE CARL F. BIANCHI, TERM EXPIRED.

JENNIFER CHANDLER HAUGE, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE SANDRA A. O'CONNOR, TERM EXPIRED.

FLORENCE K. MURRAY, OF RHODE ISLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE MALCOLM M. LUCAS, TERM EXPIRED.

THE JUDICIARY

ELAINE F. BUCKLO, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE JOHN A. NORDBERG, RETIRED.

DAVID H. COAR, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE ILANA DIAMOND ROVNER, ELEVATED.

ROBERT W. GETTLEMAN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE JOHN F. GRADY, RETIRED.

PAUL E. RILEY, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3383:

To be colonel

THOMAS J. ANDERSON [redacted]
AUGUST A. BAILEY, [redacted]
RONALD A. BAKER, [redacted]
KENNETH PENTTILA [redacted]
EDWARD ZGLENSKI, [redacted]

CHAPLAIN CORPS

To be colonel

STEPHEN R. BARTELT [redacted]
JUNIOR J. BRELAND [redacted]
RICHARD N. MAUGHAN, [redacted]

MEDICAL CORPS

To be colonel

RICKY D. WILKERSON, [redacted]

MEDICAL SERVICE CORPS

To be colonel

THOMAS C. HEINEMAN, [redacted]
ROY D. MCKINNEY, [redacted]

To be lieutenant colonel

ROBERT B. MORGAN, [redacted]

To be lieutenant colonel

DOUGLAS B. BOCK, [redacted]
RITA M. BROADWAY, [redacted]
FREDERICK G. BROMM, [redacted]
PHILLIP R. BURCH, [redacted]
MICHAEL W. COLBERT, [redacted]
JOHN D. CULP, [redacted]
CRAIG DEUTSCHENDORF, [redacted]
MICHAEL R. EYRE, [redacted]
CLARENCE C. FREELS, [redacted]
THOMAS E. GORSKI, [redacted]
MICHAEL C. GRAY, [redacted]
ELLIS E. JOHNSON [redacted]
GARY W. JONES, [redacted]
WILLIAM C. JONES, [redacted]
WILLIAM KIRKLAND, [redacted]
JAMES E. LOUIS [redacted]
CHARLES F. LUCE, [redacted]
RICHARD L. NORMAN, [redacted]
PHILLIP G. PICCINI [redacted]
ALFRED E. POOLE, [redacted]
JAMES W. RAFFERTY [redacted]
DALE P. SAYSET [redacted]
MATTHEW STALLINGS [redacted]
RICHARD M. TABOR, [redacted]
JOHNNY R. TREVINO, [redacted]
JAMES W. UTLEY, [redacted]

VETERINARY CORPS

To be lieutenant colonel

MARK D. MARKS, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 593(A) AND 3383:

To be colonel

MICHAEL FOSS, [redacted]
TERRENCE J. NELSON [redacted]
PAUL M. SHINTAKU, [redacted]
ROBERT R. SIMMONS, [redacted]
CLIFFORD W. WHALL, [redacted]
GLENN K. YOUNG, [redacted]

ARMY NURSE CORPS

To be colonel

SARAH L. GILES [redacted]
CHRISTINE A. WYND, [redacted]

To be lieutenant colonel

TERRY K. CORSON, [redacted]
REBECCA A. COULTER, [redacted]
SHANNON L. GOMES, [redacted]
DENNIS R. KAI, [redacted]
BRADFORD M. KARD, [redacted]
JERRY L. LAND, JR. [redacted]
GREGORY W. LEONG, [redacted]
JAMES B. MALLORY, [redacted]
JOHN C. MCCORMICK, [redacted]
SHARON MIYASHIRO, [redacted]
STANLEY SHURMANTINE, [redacted]
JAMES B. TAYLOR, JR., [redacted]
JOSE USON, JR. [redacted]

EXTENSIONS OF REMARKS

PASS THE CRIME BILL: KEEP THE ASSAULT WEAPONS BAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mrs. MALONEY. Mr. Speaker, earlier today, I was privileged to stand side by side in New York City with the Attorney General of the United States, Janet Reno, the Governor of New York, Mario Cuomo, the police commissioner of New York City, William Bratton, the U.S. attorney for the southern district, Mary Jo White, and our colleague CHUCK SCHUMER, to urge the House to pass the omnibus anticrime bill with the ban on assault weapons.

I want to congratulate Attorney General Reno for her strong fight to pass the crime bill. She came to a town meeting I hosted in Manhattan way back on Valentine's Day to promote the anticrime legislation. As I said back then, what better Valentine's present could she give to New York than safer streets for ourselves and our children?

Clearly, in New York and across the country, guns and crime are out of control. Most New Yorkers have feared for their lives at one time or another.

A few years ago, three armed thugs broke into my home, physically attacked my daughter, my husband, and me, and put a cold knife to my back. We escaped that attack with our lives. Others have not been so lucky.

We remember all too well the horrible massacre on the Long Island Rail Road. It was carried out by a crazed man with an assault weapon that the crime bill would ban.

Crime is so bad that one of New York's daily newspapers publishes a daily count of how many of our citizens were shot and killed the day before. This year, 621 have been gunned down. Five people were killed just yesterday. One was a 13-month old infant while he slept in his mother's arms.

But last week, the House turned a deaf ear to those victims and their families by rejecting the Federal crime bill on a procedural vote. The crime bill contained an assault weapons ban and more than $850 million in Federal aid to New York City to fight and prevent crime. After 12 years of declining Federal aid to the cities under previous administrations, this crime bill is undoubtedly the best piece of Federal legislation for my city in more than a decade. And I want to congratulate Mayor Giuliani for putting partisan politics aside and recognizing that in our Nation's cities, fighting crime is simply job No. 1.

Thanks in part to the mayor's input, the crime bill would provide millions of dollars to upgrade police equipment and computer systems that will allow more cops to get out from behind desks and into our streets, and will cover overtime costs.

The crime bill will provide millions for new prison construction. This will ensure that the bill's "truth in sentencing" provision can be enforced so prison will not be a revolving door. The bill will root out crime with prevention programs, including keeping schools open after hours and on weekends, and providing job training and job creation in high crime areas.

To fight domestic violence, the bill will fund the Violence Against Women Act.

Mr. Speaker, some people say that the crime bill needs to be changed so that it will pass. Some have suggested stripping the assault weapons ban out of it. But I think this bill does not need to change. It is Congress that needs to change. It is time to send a message to criminals and the NRA and pass the crime bill as it is.

It would be a crime to vote against it.

LENA HICKMAN, OLDEST LADY LONGHORN AT 100

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. PICKLE. Mr. Speaker, last week Mrs. Lena Hickman passed away at 100 years of age. She was preceded in death a few years ago by Judge John E. Hickman, who served as a Texas Supreme Court Justice.

Judge and Mrs. Hickman have made an indelible mark on Austin's history. For over 80 years, this lovable couple has influenced the life of citizens directly and individually. He was chief justice of the Texas Supreme Court, and Lena Hickman graduated from the University of Texas where she excelled at sports and later became an outstanding teacher.

Enclosed is an article from the Austin-American Statesman.

OLDEST LADY LONGHORN, HICKMAN, DIES AT 100

(By Rebecca Thatcher)

Lena Hickman, the widow of Texas Supreme Court Justice John Hickman and a University of Texas basketball and tennis player in the 1910s, died Sunday after a short illness. She was 100.

Hickman—who had been heralded as the oldest living Lady Longhorn—was a friendly, outgoing woman who stayed active until her last days, said a friend, Nancy Young.

More than 300 people, including UT Women's Athletics Director Jody Conradt, celebrated her 100th birthday at a party in March at the UT School of Law.

"She loved young people. That's why, I think, she stayed so young." Young said. "She gave totally and unselfishly of herself."

Hickman was the official greeter at University United Methodist Church for many years, said another friend, Joan Holtzman.

Holtzman said she met Hickman while looking for a church after moving to Austin in 1949. Holtzman said she thought many members of the church joined because of Hickman's greetings, as she did.

"She was just a wonderful person," Holtzman said. "People of all ages just admired and respected and loved her."

Young said she remembered how Hickman, who moved to the Westminster Manor retirement center about 15 years ago, had a retirement party for her Oldsmobile at the center.

The party was on Groundhog Day, and the guests were asked to bring pictures of their former cars or, in some cases, their old horses and buggies, Young said.

"She loved to have a good time, and she loved for people to have a good time," Young said.

Hickman was born in Waxahachie in 1894. She grew up in Dallas and attended UT, where she lettered in tennis and basketball.

After graduating in 1915, she taught school in Dallas until she married John Hickman, then a Breckenridge lawyer, in 1923.

They moved to Austin when he was appointed to the Supreme Court in 1935. He retired in 1961 and died a year later.

The couple had no children.

Services will be at 1 p.m. Tuesday at University United Methodist Church, with the Rev. J. Charles Merrill officiating. Hickman will be buried in the State Cemetery.

Memorial contributions may be made to the Lena and John E. Hickman Scholarship Fund, UT School of Law, Austin, 78712, or University United Methodist Church, 2409 Guadalupe St., Austin, 78705.

VILLAGE OF RED HOOK, NY, CELEBRATES 100TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. SOLOMON. Mr. Speaker, the village of Red Hook will celebrate its 100th year of incorporation on August 20.

A promotional pamphlet written in 1894 described the area as "a land of plenty this, where health and good living reign," and where "the air is light, clear, and invigorating."

Mr. Speaker, that still describes Red Hook, one of the most delightful, picturesque, and historically rich communities in mine or any other district in the country.

Nestled along the Hudson River in the northeast corner of Dutchess County, Red Hook is a village filled with quaint houses and historic churches. It's a virtual museum of American architecture.

And though we may have come a long way from the days when a week at the Red Hook Hotel cost as little as $6, Red Hook has retained its small-town look and the small-town virtues which have made America great. Despite its small-town character and despite its quiet country charm, Red Hook still has access to every conceivable convenience.

On July 17, 1894, an election was held to determine whether Red Hook was to be incorporated as a village. Of the 195 votes cast, 138 voted for incorporation, 56 against, with 1 blank. On August 21, the same voters returned to the polls to elect a president, two trustees, a treasurer, and a collector. Two days later, the village board met for the first time and elected a clerk.

The first village president was Dr. Harris L. Cookingham. The title of president was changed to mayor in 1928.

Mr. Speaker, I ask all members to join me in wishing the village of Red Hook and all its residents all the best as it begins its second century.

HONORING GARY E. STRONG

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. BAKER of California. Mr. Speaker, public service is a unique calling, one deserving of the highest standards of professional competence and dedication. These attributes are found to an unusual degree in California's State Librarian, Gary E. Strong.

Gary Strong has served the people of my home State since 1980 as State Librarian. As he moves on to serve the people of New York as director of the Queens Borough Public Library, his remarkable career in the Golden State has included many highlights that merit acknowledgment. A few of these achievements include:

Initiation of the California State literacy campaign, now functioning in 84 libraries statewide;

Passage of the Library Construction and Renovation Bond Act and the California Library Services Act;

Creation of the California Research Bureau;

Establishment of 81 California Library Campaign programs;

Service as a consultant to the Library of Congress.

He has been committed to innovative, long-range programs designed to make libraries more user-friendly for all of California's citizens. First appointed by Governor Jerry Brown and reappointed by Governor Pete Wilson, his service has transcended partisan allegiance and has been devoted to helping ordinary Americans discover the life of the mind and the renewal of the spirit in the printed word.

Recognized by his peers for his stellar accomplishments, he is a distinguished alumnus of the University of Michigan School of Library Science and has been a leader in the American Library Association for years.

Mr. Speaker, on behalf of the people of California, it is my great pleasure and privilege to recognize Gary Strong in the CONGRESSIONAL RECORD. A public servant of the first order, his service will be as missed in California as it will be valued in New York.

TRIBUTE TO DON AND MONA RUSSELL ON THEIR 50TH WEDDING ANNIVERSARY

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. DICKS. Mr. Speaker, I rise today in honor of a very happy occasion. On August 1, Don and Mona Russell of Tacoma, WA celebrated their 50th wedding anniversary. Don and Mona have made their home in Tacoma since 1971 when Don retired from the U.S. Army at Fort Lewis, where he was the executive officer of the 3d Armored Cavalry Regiment.

Don Russell had a distinguished Army career of more than 30 years. He served his country in Europe during World War II and at posts in the United States and Korea. He served two tours in the 3d Armored Cavalry Regiment while the unit was in Germany in the 1960's and led the planning and operations for the smooth and efficient redeployment of the regiment to Fort Lewis during Operation Reforger in 1969. For his service in the regiment and at Fort Lewis, Don was awarded the Legion of Merit upon his retirement. After leaving active duty, Don attended Pacific Lutheran University where he earned a master's degree, and he subsequently became a teacher and counselor at schools in the Tacoma area. He was a valued faculty member until his second retirement not many years ago.

Mona Russell also served the United States in uniform. Following completion of studies for a bachelor's degree at the University of Illinois at Champaign, she joined the Women's Army Corps. It was during wartime service in Italy that she met Don Russell, who brought a wounded comrade to the hospital at which she was on duty. After a wartime courtship, they were married in Italy on August 1, 1944, 50 years ago.

The end of the war and brought a short stint in civilian life, and then Don re-entered the Army. Mona turned to the task of raising their young sons, Barry and Brian, while the Army moved the family to posts in the United States and Germany. Like many Army wives of the day, she carried more than her share of the family burden while Don was on duty in Korea. Following Don's Army retirement, Mona re-entered the workforce, fulfilling various duties in the transportation office at Fort Lewis.

Mr. Speaker, Don and Mona Russell have been outstanding members of the Tacoma community for more than 20 years. It take great pleasure in bringing to the attention of my colleagues in the House their story of citizenship, service to our Nation and our community, and their strong family commitment.

OBSERVANCE OF THIRD ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. LEVIN. Mr. Speaker, on August 24, 1991, the Parliament of Ukraine ended 300 years of autocratic rule by proclaiming the independence of Ukraine and establishing itself as a separate nation. The enormity of this endeavor, and subsequent ratification of the proclamation by 90 percent of Ukraine's population, cannot be understated. Over 50 million Ukrainians finally knew the freedom Americans have long enjoyed.

This August 21, I will join my Ukrainian neighbors in Warren, MI, for an observance of the third anniversary of this historic event. The Ukrainian Cultural Center will be the site of a festive celebration of liberty in Ukraine, and I will be honored to be a part of that celebration.

I urge the entire U.S. Congress to take a moment to recognize the independence of Ukraine. It is a rare opportunity to honor a country that has overcome Communist domination and established itself as a full partner in the world's free-market economy.

Mr. Speaker, it is truly remarkable that a society burdened by communism for the last nine decades has not lost one iota of its cultural pride and heritage. And those Ukrainians who have chosen to make their home in the United States have embraced and promoted their ancestral culture, while contributing to America's ethnic diversity.

Mr. Speaker, I am pleased to have the opportunity to recognize both the anniversary of Ukraine's independence and honor the activities of Ukrainian-Americans.

SALUTE TO HONOLULU FIREFIGHTERS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. ABERCROMBIE. Mr. Speaker, I rise today to recognize the important contribution the Honolulu Fire Department has made to promote safety in our community. National studies show that young children along with the elderly constitute the group at highest risk to fatalities caused by fires. The Honolulu Fire Department has developed a unique program to reach children and educate them about fire safety.

Recognizing the role that schools play in reaching young people, the Honolulu Fire Department Fire Fighter Safety Guide [FFSG] promotes fire safety through a planned, pictorial program originating at the elementary grade school level. The FFSG Program, originated and implemented in 1985, reaches approximately 150,000 students each year. The FFSG is designed to foster education, awareness, and pride in a fire safe environment. The primary focus is to encourage all parents, students, and teachers to draw up a fire escape plan for their homes and learn about fire prevention and response.

Prior to Fire Prevention Week in October of each year, FFSG's are distributed by firefighters to all private and public Hawaii elementary schools. Teacher distribute and explain the FFSG's to students. Students then design an escape route from their homes and indicate assembly points outside of their homes for accountability of family members.

Parents assist children in drawing escape plans and sign them before submittal to teachers, who add their signatures of approval.

Each school administrative coordinator notifies the nearest fire station when all the guides are complete, compiled, and ready for pickup. Included with the completed guides is the name of one finalist per class per grade selected by the teacher to be represented for a special student grand prize drawing. Selection of the finalist is based on completeness of the escape plan, correct answers, and coloring ability.

Firefighters review the 150,000 FFSG's with a special interest toward the student's fire escape plan, affix a signature of approval, and attach an FFSG Award poster. The poster is bordered by 18 free incentive coupons by various sponsors. Free airline tickets, admission to museums and restaurants, and redeemable coupons are provided to every student that completes the FFSG.

The Honolulu Fire Department's Fire Fighter's Safety Guide has proven to be the most effective fire safety project for the State of Hawaii. Cases of children being responsible for saving their families and neighbors from fire, due to fire safety awareness, have been documented in Hawaii. In addition, the awareness of children and their families has reduced fire hazards and prevented fires entirely.

Again, I commend the Honolulu Fire Department for their efforts to promote safety and save lives in this ninth year of the FFSG Program. From myself and all the citizens of Hawaii I want to recognize and salute the Honolulu Fire Department's achievements.

A TRIBUTE TO DANFORD B. CRANE

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. BILBRAY. Mr. Speaker, I rise today to pay homage to a man revered by myself, the Mormon Church, and the Las Vegas community. Danford B. Crane moved to Las Vegas at the age of 28 and as one of the founding pioneers of Las Vegas, he became involved in missionary work for the church. Upon his arrival in Las Vegas, Mr. Crane apprenticed at a barbershop in the old Apache Hotel and later opened three of his own barbershops on East Charleston Boulevard, Second Street, and Fifth Street. Mr. Crane's true passion was for the Mormon Church and after becoming bishop of the first ward, he later went on to be appointed as a counselor in the Las Vegas stake presidency to supervise the work of several local wards. Later, Mr. Crane became a patriarch in the Las Vegas stake which permitted him to bestow special blessings on members of the church. He and his wife, Lila, who passed away in 1991, visited St. George, UT, weekly for 7 years to work at the Mormon Temple. Mr. Crane's charity and service work also includes several years of work for the Boy Scouts Club in Las Vegas. Danford Crane's attributes of loyalty and service to the community will be sorely missed and I appreciate this opportunity to honor him in the RECORD.

COMMEMORATING THE THIRD ANNIVERSARY OF THE INDEPENDENCE OF UKRAINE

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. CARR. Mr. Speaker, next Wednesday marks the third anniversary of the declaration of Ukrainian independence. This is an occasion for great celebration in this large and ancient European nation, which had been denied self-rule for nearly 300 years.

The newly independent Ukraine encompasses an area and population larger than Poland, Hungary, and the former Czechoslovakia combined. The people of Ukraine have their own distinct and rich language and culture, which they have proudly preserved through the many years of Russian, Polish, Hapsburg, and Soviet rule. Ukrainian Americans have also kept that language and culture very much alive in this country, a constant reminder to each of us of the value of treasuring our own heritage.

As the fourth year of Ukrainian independence begins, we must renew our Nation's commitment to helping this young country strengthen its democratic institutions and its free market economy. The transition from Soviet Republic to independent democracy is not an easy one. As a nation fervently committed to freedom and democracy, we must continue to help Ukraine grow and flourish.

I ask you to join me today in celebrating the third anniversary of Ukrainian independence, as Ukrainian Americans all across our own great country celebrate the unique culture which they have treasured and preserved, and which once again has a place to call home.

HUMAN RIGHTS IN UKRAINE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. HOYER. Mr. Speaker, Ukraine, one of the most important countries in Europe today, is in the midst of a profound transition from a colony of a multinational empire to a full-fledged state. One relatively bright spot, despite considerable political and economic difficulties, has been in the critical area of respect for human rights.

By all standards, human rights are much more widely respected now than they were during Soviet rule, and citizens generally are free to speak, act and believe as they see fit. The Government's positive attitudes and policies toward its minorities have kept Ukraine from facing the kinds of interethnic conflicts that plague so many other countries in the region. Despite this real progress, however, there are several issues that cast a cloud over Ukraine's generally positive record.

Ukraine's newly elected President Leonid Kuchma has issued an anticrime edict, similar to that of Russia's President Yeltsin, which violates international human rights standards and basic notion of due process and fairness. Under the edict, which is in effect until January 1, suspects who have not been charged with a crime may be held in custody for up to 30 days. This is especially troubling in the context of a criminal justice system that already has serious problems. A recent review of criminal procedures by the General Procuracy of Ukraine, for example, pointed to numerous procedural violations, including that of 250 detained individuals whose cases have not come to trial for at least 18 months.

Mr. Speaker, I am deeply concerned about the recent appointment of Volodymyr Radchenko as Interior Minister. Mr. Radchenko, a lieutenant-general in Ukraine's Security Services, served in the KGB; in the 1970's, he interrogated several notable political prisoners, including some members of the Ukrainian Helsinki monitoring group. While reputed to be tough on crime, an obviously critical issue in Ukraine and virtually all post-Soviet countries today, Radchenko's appointment in a country where the rule of law is not yet deeply rooted cannot help but raise flags of concern for the direction that Ukraine is set on.

Mr. Speaker, on August 24, Ukrainians worldwide will celebrate the third anniversary of their declaration of independence. Against great odds, and confounding its detractors, Ukraine is not only surviving as a state but, with new leadership, increasingly confronting its many challenges. It is my hope that as Ukraine works to overcome the legacy of the past, its leadership will remember both the importance of human rights in crushing the Soviet empire and in building a genuinely democratic and prosperous state.

TRIBUTE TO DAN RAMIEREZ

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to a truly outstanding athlete, Mr. Dan Ramierez of Oceanside, CA. Mr. Ramierez recently competed at the U.S. Olympic Festival in St. Louis. He won a gold medal in the 105.5 pounds freestyle wrestling event.

Mr. Ramierez has competed in numerous national competitions. His career is distinguished with such accolades as finishing second at the University National Competition in 1994, finishing third at the University National Competition in 1993, finishing sixth in the U.S. Open in Las Vegas, NV, finishing third in the 1993 Olympic Festival, and finishing seventh in the California State Championships. Further, he is a two time Master Champion and a university PAC–10 qualifier.

Mr. Dan Ramierez will complete his undergraduate university education at California State University Fullerton this May. He will graduate with a B.S. degree in business. I commend Dan for his achievements thus far and wish him the best in his future endeavors.

Mr. Speaker, I hope you and my colleagues will join me in recognizing the accomplishments of Dan Ramierez. It is my sincere belief that Mr. Ramierez will further distinguish himself in the sport of wrestling. I join friends and family who salute him.

1994 ENVIRONMENTAL EDUCATION AWARDS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. MILLER of California. Mr. Speaker, a broad public appreciation of the importance of sound environmental policies has grown up in America over the past quarter century. Despite the rhetoric and partisan efforts of late to stigmatize environmental policy—by calling it antiproperty, antijobs, and bad for the economy—most Americans rightly reject this narrow point of view. In fact, as the recent survey by Roper for Times-Mirror indicates, a clear majority of Americans continues to place a high priority on enactment and enforcement of sound environmental policies, and also believes—correctly—that a strong economy and a well-managed environment can proceed mutually.

Americans believe in the importance of environmental policy because they have seen, first hand, the effects of ignoring air pollution, of destroying forests and wetlands, of allowing hazardous and toxic materials to run into our rivers and streams. They want the magnificence of our natural resources to be protected for the enjoyment and the use of future generations. They want a responsible and managed use of our resources, and they strongly support recycling and environmentally friendly products.

We must also assure that those future generations understand and appreciate the critical importance of sound environmental policies. And that was why, in 1990, I introduced the National Environmental Education Act, which was passed by Congress and signed into law by President Bush. A national policy and goal for environmental education was set, and the national environmental education and training foundation was created to join the efforts of the private and public sectors.

The National Environmental Education and Training Foundation supports proactive environmental education projects to leverage existing resources and bring focus to the diffuse environmental education world. With grant money the Foundation receives from the Environmental Protection Agency's Office of Environmental Education, challenge grants are made to encourage the private sector to participate in environmental education. The environmental education and training activities funded by the Foundation are intended to be innovative and to increase the current levels of environmental knowledge.

The Foundation has funded more than $2,000,000 in environmental education programs since its inception. In their 1994 spring grant cycle a total of $960,826 in matching grants were awarded. Today, I would like to give recognition to the organizations awarded grants and submit their names into the CONGRESSIONAL RECORD.

I know that all Members wish to join me in commending the National Environmental Education and Training Foundation for its efforts.

	Matching grant (dollars)
Colorado Environmental Education Master Plan, Colorado Alliance for Environmental Education, Denver, CO	78,000
Project CROAK!, Metropolitan School District of Perry Township, Indianapolis, IN	75,426
Neighborhood Environmental Leadership Institute, Citizens Committee for New York City, New York, NY	75,000
Earth Service Corps: Environmental Education and Action, YMCA Earth Service Corps, Seattle, WA	75,000
Urban Environmental Education and Training Program, Clean Air Council, Philadelphia, PA	60,000
Satellite Delivery of Environmental Education for Professionals, National Technological University, Fort Collins, CO	60,000
Rural Education on Non-point Pollution, Utah State University, Logan, UT	60,000
Business Environment Learning and Leadership (BELL), Management Institute for Environment and Business, Washington, D.C.	50,000
Solar Energy Research & Demo Project, Rising Sun Energy Center, Santa Cruz, CA	48,000
Environmental Career Orientation, Foundation for Youth, Columbus, IN	40,000
High School for Environmental Studies, Council on the Environment of New York City, New York, NY	40,000
Waste Reduction Demonstration Project, Harlem Environmental Impact Project, New York, NY	40,000
Wonders of Wetlands (WOW!) Training Program, Environmental Concern Inc., St. Michael's, MD	38,000
Project CEE (Culture, Environment, & Education), Prescott College, Prescott, AZ	30,000
The Urban Education Project, Denver Audubon Society, Denver, CO	25,000
Windows on the Wild, World Wildlife Fund, Washington, D.C.	25,000
Octobus-2 Outreach Program, Friends of Cabrillo Aquarium, San Pedro, CA	24,000
Multi-Cultural & Urban Environmental Education, North American Association for Environmental Education, Washington, D.C.	20,000
Toxic Fingerprints, Alliance for Acid Rain Monitoring (ALLARM), Dickinson, PA	15,000
Green Gardens, Alliance for Community Education, Bowie, MD	10,000
To The River, Anacostia Watershed Society, College Park, MD	10,000
National Envirothon, NC Association of Soil and water Conservation Districts, Raleigh, NC	10,000

WHAT MAKES AMERICA GREAT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. SKELTON. Mr. Speaker, often, we wonder about the greatness of our country and what makes America what it is. An intern in my office, John Carr, composed an essay entitled, "What Makes America Great." He was assisted by two other interns, Sean Fahey and Julie Gibson. I am convinced these young people will, in their day and time, add their full measure to our country. I commend this essay to the Members of this body:

WHAT MAKES AMERICA GREAT?

How did it happen? Why is it that the United States—from more than 130 nations—has come to possess the greatest society in the history of human civilization? A society which has not only endured, but continues to progress through decades of unparalleled world transformation. Quite simply, we earned it.

The people of America possess a unique spirit . . . a gleam in the eye which is not found anywhere else in the world. It is a Show-Me-Attitude. Show-me what needs to be done and move aside. It is this reason why we, as Americans, have constructed the greatest civilization in the history of the world. President John F. Kennedy was correct when he stated, "after the dust of centuries has passed over our cities, we, too, will be remembered not for our victories or defeats in battle or in politics, but for our contribution to the human spirit."

Personally, I believe our contribution to the human spirit has been, and will continue to be manifested through our unique American character. This character has been forged by centuries of hardwork and dedication. This effort has not been, nor will it be in the future, easy.

A few people in America today assume that a productive and enjoyable life should be easy. I can assure you that such is not the case. The hardy pioneers who settled my home state of Missouri, did not emerge from the wilderness to find the fields cleared and planted—the cabins built and stocked. What they did find was a wild land of promise and excitement. Years of intense labor . . . produced for their children and grandchildren fields which were cleared and planted—cabins which were built and stocked. But from our greatest sacrifices come our greatest accomplishments.

Examine the early history of our country. The summer of 1776—The Founding Fathers, gathered in Philadelphia, expressed the ideals and spirit of the most enlightened human beings of their time. With an understanding of the tremendous importance of the experiment which was about to begin, the founders of this nation established a government based on the rule of law—not men—which guaranteed for the first time basic, fundamental human rights.

The spirit which charted the course of Democratic government for the world also challenged American men and women to great achievements in all endeavors—health, science, government, and space . . . reflected in names such as Walter Reed and Clara Barton, the Wright Brothers, Amelia Earhart, Andrew Jackson and Harry Truman, John Glenn and Neil Armstrong.

Americans are free to pursue and enjoy the essence of the human spirit—OPPORTUNITY. Immigrants—by the millions—from the far reaches of every continent—flocked to this land of opportunity in search of the "American Dream." . . . the hope that dedication and achievement would be rewarded with the simple betterment of life. They, and we, succeeded.

Our contributions to the human spirit have been immeasurable. For more than 218 years, America has served not only as an example, but an inspiration to the rest of the world. Why? Because our individual liberties, thwarted only by the guidance of our conscience, have sparked periods of achievement and innovation never before imagined. From the settlement at Jamestown—to the lab of Thomas Edison—to the beachhead on the shores of Normandy—to the launch pad at Cape Canaveral—Americans have protected, maintained, and advanced.

With the European discovery of the New World, to the exploration of the western frontier, to the 49'er goldrush, this land was explored and settled by individuals dedicated to the betterment of their nation, community, family, and themselves. Never has a country been settled by such a diverse mix of individuals and families united by the quest for a better life.

The proof of our tenacity is in the pudding. Take, for instance, the troops at Valley Forge. Camped during the winter of 1777, hundreds of Continental soldiers voluntarily endured extreme hardship—below-zero temperatures, lack of shoes and blankets, outbreaks of pneumonia, shortages of food—their one goal the establishment of a fair and equitable government for their families and their neighbors.

The Homestead Act. Passed in 1862 during the heart of the War Between the States, this Act provided the anxious pioneers an opportunity—go west with your family, settle a piece of land, and you could keep it. Thousands of Americans took advantage of this opportunity, wrought with extreme hardship, to provide their families with a better life. The classic story of Laura Ingalls—a childhood favorite—provides a moving recollection of one such journey.

Indeed, the Westward Movement was what made our nation unique. The conquering of the western frontier was a different kind of struggle, a movement without parallel in world history. Nowhere else has an area of equal size been settled in so short a time entirely as a result of quiet courage and initiative of small groups.

America is about taking risks, taking bold steps. At times, these risks have led to failure. We, as a nation, have many faults, many shortfalls. But the only thing worse than failing is not to have tried. Teddy Roosevelt said it best: "Far better is it to dare great things . . . than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory nor defeat."

EVERETT HUTCHINSON—SERVED THREE PRESIDENTS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. PICKLE. Mr. Speaker, the dedicated life of Everett Hutchinson, the first Deputy Secretary of Transportation, has enriched in the lives of every citizen of our country.

During his years of service as Commissioner of the Interstate Commerce Commission and later as Chairman of the ICC, followed by his appointment as Deputy Secretary of the Department of Transportation and finally as a prominent attorney of Washington, DC, Everett Hutchinson has been one of Washington's leading attorneys, as well as been a generous public servant and civic leader.

My friendship with this good man goes back to my University of Texas days when I was fortunate to be associated with Everett Hutchinson, as well as his energetic and dynamic wife, Elizabeth Stafford Hutchinson. Together these two individual have been prominent citizens of the Washington community for over 40 years.

An evening with Everett Hutchinson is an experience of history, literature and high humor. There just hasn't been a better man born than Hutch, as we affectionately called him, and it is a good feeling to know that this graduate of the University of Texas would be recognized by Presidents Eisenhower, Kennedy, and Johnson. Hutch was old reliable, a steadfast individual, and Elizabeth Hutchinson has been the Pearl Mesta of our town.

Mr. Speaker, I am attaching the program from the services of this good man held on Sunday, April 10, 1994 at St. Alban's Episcopal Church, Washington, DC.

EVERETT HUTCHINSON

Everett Hutchinson, 79, a partner since 1968 in the Texas law firm of Fulbright & Jaworski L.L.P., who served three Presidents in various capacities, died of a heart attack April 6, 1994, at his home in Bethesda, MD. A native of Hempstead, Waller County, Texas, who received his B.B.A. and J.D. degrees at the University of Texas, Hutchinson was appointed by President Lyndon Johnson as the first Deputy Secretary of Transportation when the Department was created in 1967. He was president of the National Association of Motor Bus Owners at the time of the appointment. Prior to his assignment with the motor bus industry, Hutchinson served as Commissioner of the Interstate Commerce Commission for 10 years, first appointed by President Eisenhower in 1955, and became Chairman of the ICC in 1961, under President Kennedy.

In April, 1961, President Kennedy appointed Hutchinson a member of the Administrative Conference of the United States. In 1962, he was appointed to the President's Special Committee to study passenger transportation in the Boston-Washington corridor and later served on the High Speed Ground Transportation Advisory Committee. In October, 1961, he headed the U.S. Delegation to the International Conference on River Navigation in Paris, France.

Hutchinson served in the United States Navy during World War II, including active service in the South Pacific, and held the rank of Captain, U.S. Naval Reserve (Ret.), as a Judge Advocate. He was a member of the 1941 and 1943 sessions of the Texas Legislature and, in July, 1949, was appointed Assistant Attorney General of Texas. Hutchinson was president of the Texas Breakfast Club in 1970 and was 1964-65 president of the Texas State Society of Washington.

While at the University of Texas he was a member of Friars, a group which annually honors the eight outstanding members of the senior class. As a member of Sigma Phi Epsilon Fraternity, "Hutch" was inducted into its Hall of Fame in 1981.

Survivors include his wife of 49 years, Elizabeth Stafford Hutchinson; a son, Stafford, of Dallas, Texas; a daughter, Ann Hutchinson Slattery of Corpus Christi, Texas; a granddaughter, Chantal Slattery of Corpus Christi, Texas; and a sister, Mrs. Lois H. Cullen of Houston, Texas.

CLINTON'S MILITARY: HOLLOW, AND POOR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. SOLOMON. Mr. Speaker, I submit for the record a June 12 New York Times article which describes how poverty is invading the ranks of our Nation's military. Listen to these disturbing facts: Three-quarters of our enlisted people earn less than $30,000 a year, and the gap between military and civilian pay is increasing. Last year, use of food stamps at military commissaries increased by $3 million, more than a 10-percent increase over 1992. In certain regions and within certain subgroups, the picture is far worse. For instance, 45 percent of Army enlisted and 46 percent of Marine Corps enlisted earn less than $20,000 a year. And in Liberty County, GA, near Fort Stewart, 30 percent of the households receiving food stamps are military.

These facts have the military leadership very worried, Mr. Speaker, and with good reason. A force that faces such increasing economic problems is bound to be afflicted by declining morale and too rapid a turnover rate. This situation is a direct threat to readiness, Mr. Speaker.

And what has been the Clinton administration's response to this? A proposed military pay freeze. Yes, the Clinton administration tried to freeze military pay this year and proposed only a 1.6-percent increase for next year. Fortunately, Congress had the foresight and sense of fairness to rebut the administration and approve a 2.2-percent increase, which itself is inadequate.

Mr. Speaker, it is high time we stop the slide toward a 1970's, Jimmy Carter-style force. Recent defense budgets are simply inadequate to maintain the force size and structure we need to continue our global leadership role. They are simply inadequate to maintain our equipment in safe and battle-ready condition. They are simply inadequate to keep our forces honed, trained, and ready. And they are simply inadequate to retain the highest quality personnel we can find. As this article points out, even honor, patriotism, adventure, and specialized training cannot overcome the necessity of feeding one's family.

We are going hollow, Mr. Speaker, and that is why I intend to vote "no" on this week's DOD authorization conference report.

NATIONAL CONFERENCE ON RESEARCH SYNTHESIS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. BROWN of California. Mr. Speaker, through my years in Congress, I have become convinced that many of our Nation's serious problems are social and behavioral in nature. The problems that most concern the public, and take most of our tax dollars, often have no technical solutions but rather human solutions which must be developed through working with the ability and attitudes of the people involved. Consequently, greater knowledge of behavioral and social sciences is a true necessity.

More work in these disciplines can give us important insights into the solutions for many of the social problems that have eroded American society. Progress in these sciences could make a great difference to those in Washington responsible for the public policies and programs that seek to create more opportunity and improve the human condition in America.

We cannot escape the fact that social and behavioral research is funded almost exclusively by the Federal Government. At the same time, this research is often costly because gathering data from large numbers of people is expensive. It goes without saying that we have to do everything possible to get the greatest return possible from funds invested in these areas.

Within the social and behavioral sciences, the developing field of research synthesis has particular potential. Through its focus on reworking original data already gathered and developed by multiple previous research efforts, research synthesis can often deliver more powerful and useful conclusions. By re-evaluating previously developed data in different ways—even from studies that appear to differ in their result—research synthesis can often bring clarity, strengthen findings, and provide new insights.

Policies affecting problems like job training, education, and criminal rehabilitation can benefit greatly from fresh perspectives on existing data. Research synthesis has also proven especially useful in health care where data gathered in the past can yield new insights with tremendous leverage on cost. For example, the effectiveness of aspirin in preventing certain heart conditions and the finding that modest behavioral steps in preparing a patient for surgery can significantly reduce the length of hospital stay where both discerned from already existing data that had been gathered and kept for different reasons.

A National Conference on Research Synthesis was held in Washington last June sponsored by the Russell Sage Foundation and organized by the American Psychological Society. This conference brought together more than 130 senior Federal officials concerned with improving public policy to learn about recent developments in research synthesis. I was especially pleased that the Office of Technology Assessment and the General Accounting Office participated. They should both be encouraged to explore the potential of this area of social science in view of the importance of their role in advising the Congress.

The conference featured the use of synthesis techniques to evaluate research in education, juvenile delinquency, health, and job training with presentations by Frederick Mostellar of Harvard University; Eric Wanner, president of the Russell Sage Foundation; Harris Cooper of the University of Missouri; David S. Cordray and Mark Lipsey of Vanderbilt University; Elizabeth Devine of the University of Wisconsin-Milwaukee; Larry Hedges of the University of Chicago; Richard Light of Harvard University; and Thomas Louis of the University of Minnesota. Eleanor Chelimsky, Assistant Comptroller General of the General Accounting Office, Iain Chalmers, director of the U.K. Cochrane Centre, and M.R.C. Greenwood, Associate Director of the Office of Science and Technology Policy, gave keynote presentations.

The conference was an outgrowth of a decade-long effort to further the field of research synthesis by the Russell Sage Foundation, which since the late 1940's has been dedicated to strengthening social science research as a means of improving social policies. The American Psychological Society, the American Sociological Association, the American Statistical Association, the American Evaluation Association, and the Society for Research in Child Development cosponsored the event.

The field of research synthesis offers new ways to increase our ability to solve some of the hardest, most challenging issues confronting the Nation today. I commend the Russell Sage Foundation and the cosponsoring organizations for their leadership in confronting the issues.

CONFERENCE REPORT ON H.R. 3481, THE INTERSTATE BANKING BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. MAZZOLI. Mr. Speaker, even though I voted for final passage of H.R. 3841, the interstate banking bill, I continue to have reservations about the statute of limitations language included in the conference report. I expressed those same reservations as a Judiciary Committee conferee on the bill.

The House bill did not change State statutes of limitations affecting actions which can be brought against bank directors, officers, and advisors whose actions or inactions contributed to the collapse of the institution involved.

However, the Senate's version of the interstate banking bill retroactively extended State statutes of limitations allowing actions to be brought by the Federal Deposit Insurance Corporation [FDIC] and the Resolution Trust Corporation [RTC] as receivers of failed institutions, against those who brought about the collapse. The Senate language would have permitted claims involving simple negligence to be revived.

During the conference, the House Conferees offered to the Senate Conferees a counterproposal which extended State statutes of limitations for 5 years on expired claims against bank insiders. The standard in the House offering was intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. Bank regulators could not reopen cases barred by State statutes of limitations involving simple negligence or even gross negligence on the part of bank officials.

The Conference Committee voted to accept the House proposal. However, I voted against this language because I feel it could hamper—as stated in letters to the Conferees by bank regulators—the RTC and the FDIC from prosecuting claims against directors, advisors, and officers of failed banking institutions and recovering, on behalf of the taxpayers of the Nation, money advanced to reimburse depositors and investors of failed institutions.

Mr. Speaker, I realize that some of these bank officials were innocent bystanders and not responsible for the skullduggery and the fraud which allowed financial institutions to be treated as the personal piggybanks of the insiders, to be looted and left empty awaiting bailout by the taxpayer. Nevertheless, I could not tie the hands of the Federal regulators—which is what the language now in H.R. 3841 does according to them—so I opposed the House position.

Mr. Speaker, I believe Congress should assist the RTC and FDIC in prosecuting those responsible for bank failures, as the Government can recover money advanced by the taxpayers of America to close these institutions. To do this, the Senate's position on State statutes of limitations should have prevailed.

HONORING NORMANDY'S HEROES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. RICHARDSON. Mr. Speaker, this year's 50th anniversary of the Normandy invasion has once again reminded us about the countless number of heroes who have served our country in war. The hundreds of veterans who traveled to France for the D-day anniversary were warmly greeted by grateful French citizens who were well aware their very existence was due to the American servicemen's heroics.

One such hero, Louis Scheinbaum, was accompanied by his wife Rhoda and son David. David, the owner of a Santa Fe, NM, photography gallery, chronicled his father's historic return using his photographic and literary skills.

The Santa Fe New Mexican presented an excellent summary of the Scheinbaums trip to France. I urge my colleagues to read writer Denise Kusel's outstanding summary as it presents us all with a new appreciation for America, sacrifice and patriotism.

[From the Santa Fe New Mexican, July 4, 1994]

IN THE PRESENCE OF HEROES

(By Denise Kusel)

War was a mystery that permeated his childhood. For Santa Fe photographer and gallery owner David Scheinbaum, the mystery was defused when he accompanied his father back to a tiny French village in Normandy for the 50th anniversary of D-Day.

Once there, the people he met—those who had survived the war and children who have only known peace—touched him deeply. It also gave him a new understanding of his father.

"I knew my father was a medic and that he was awarded the Bronze Star for his courage," Scheinbaum said. "But what I didn't know was that my father was a hero."

Scheinbaum eventually spent nine days in France, some of them with a family in La Haye du Puits, a small town south of Cherbourg liberated by his father's 79th Infantry Division. Once there, he became a witness to a chunk of history that continued to unfold as a tour bus filled with WWII veterans rolled into the town.

"Everyone on the bus was welcomed by this town," Scheinbaum said. "The scene was incredibly powerful. Right here, you realize that these guys had come back to a town and they were being welcomed by people who knew that if it were not for these men, there wouldn't be a town. The town's people credit these men with their very existence."

During his visit to France, Scheinbaum kept a journal and watched the events through the lens of his camera. The words he wrote and the photographs he made as a witness to history tell a powerful story.

From his journal:

"When you hear them talk about the battles and hear them describe scenes of death and fighting and then look at these men, it doesn't correlate. They are not the John Waynes or rednecks we imagine the soldiers might be. They are these old grampas. . . . What besides the wrong of war—the Nazis, etc.—could make them able to kill? . . . But I'm really in the presence of heroes and I'm sure proud my father is one of them."

In stark black and white, Scheinbaum's photographs are eloquent in their simplicity. A child playing in the crater left by a bomb, now an inviting grassy knoll. Two old men, their arms linked for support, placing flowers at a monument to the 79th Infantry Division. A lone veteran on the Normandy beach.

From the get-go, David Scheinbaum will tell you war is not his thing. He protested during the Vietnam Era, and at 43, he doesn't remember World War II; no memories, that is, except the stories his father told him at bedtime.

When he decided to accompany his father to Normandy for the D-Day anniversary celebrations in early June, it was a trip he wasn't looking forward to.

"Those nine days will be the longest year I ever spent," he quipped to his wife, Janet Russek, as she dropped him off at the Albuquerque airport for the first leg of his trip.

Three days later, in the very town his father, Lou Scheinbaum, 75, helped liberate 50 years before, David Scheinbaum, the owner of a Santa Fe photography gallery, witnessed another chunk of history. This one touched him directly and left him a changed man.

"There was always this mystery about the war when I was growing up in Brooklyn. It was very much part of our lives," Scheinbaum said. "There were objects in the house we never touched. A Nazi flag. A German beer stein. Don't touch that, was the rule. That's from the war.

"I never understood it, the war. It was this thing my father did. The places and people he remembered were things he spoke about fondly, with pride and humor.

"We never talked about the dreams he would have; the times when he'd wake up screaming in the middle of the night. If I close my eyes, I can still hear this howl thing he would do in his sleep. My father never told us the horror stories.

"As a child, it added to some kind of confusion in my mind. My own involvement with war (in Vietnam) was as a protester. The images of war I was exposed to were nothing like the stories I heard from my father."

Scheinbaum squeezed his eyes shut. "I had my father's war pictures, his snapshots," he said. "As I grew older, I had less understanding of how my father had this sense of pride. I knew my father was a medic and that he was awarded the Bronze Star for his courage. But what I didn't know was that my father was a hero."

For Scheinbaum, that reality changed when the bus pulled into La Haye du Puits, a small town south of Cherbourg. On it were Scheinbaum, his mother and father and other World War II veterans. Lining the streets, the townspeople stood, waiving American flags, and cheering.

"I was in awe. I was moved. Everyone on the bus was crying. I don't cry, but I was crying, too. Just minutes before, I was on this bus filled with senior citizens. It could have been an Elderhostel tour. Suddenly, I was on a bus filled with heroes.

"Everyone on this bus was welcomed by this town. Just being there, it made me one of the group. I was one of them. I could hardly focus the camera. I was just totally blown away.

"I knew this welcome wasn't for me. I was just there with my parents, but this was for Americans. For all Americans. The scene was incredibly powerful. The church bells started ringing. Everyone on the bus was overwhelmed. I began looking at everyone a little differently. They weren't old; they were soldiers returning to a town they had liberated. Right here, you realize that these guys had come back to a town and they were being welcomed by people who knew that if it were not for these men, there wouldn't be a town. The town's people credit these men with their very existence."

Scheinbaum paused, wiped his glasses and smiled shyly. His eyes brightened as he again was caught up in the excitement of that moment, and he ran his fingers through his long, black hair.

"My father has Parkinson's. This past year, he hasn't had a whole lot of facial expression, but in this picture (on the cover of this section) there is more facial expression than I've seen in a year. And sitting on the bus, I just wasn't used to such an open show of emotion.

"We were being treated with such honor and respect. You knew this was love. It wasn't out of a sense of duty. It came right from inside. For me, when I looked at my father, it was like a light going on. That's when I suddenly understood what this war thing was all about for him.

"One of the things that stayed with me long after I returned home was that these people in La Haye du Puits were celebrating 50 years of peace. There's a strong feeling that they want their children to know what happened so that it will never happen again. A lot of the children were involved in every single part of the ceremonies. I had the feeling that the monuments and parades were for their children as much as for the returning soldiers.

"There were these children who have grown up with this image of American heroes. And the way they looked at the returning soldiers, it was as if they were finally meeting the people their parents and grandparents had told them about. They were wide-eyed as they approached these men. They had autograph books. And here I was the son of one of these men and I had no idea about what the importance of what my father did during the war."

Two days later, at official D-Day ceremonies at Omaha Beach, Scheinbaum trained his photographer's eye on the cliffs and beaches.

"When I saw these beaches, it was unbelievable they were so narrow," he said. "The cliffs almost came right down to the sea. It was like White Sands meets the Sangre de Cristos and the war's on top.

"That afternoon, there were these great ceremonies, pompous and elegant, but the biggest ceremony came after when I would watch these men walking alone on the beach, maybe replaying that battle 50 years ago in their heads. Only they know what they had to deal with there. And they would stand on this beach at Pointe du Hoc (a cliff head that juts out between Utah and Omaha Beach) beneath these 100-foot cliffs where so many of their comrades had lost their lives and reach down a pick up a stone or a little sand and put it in their pockets and walk away in silence."

Scheinbaum's photographs tell this story. In stark black and white, they are eloquent in their uncensored simplicity. A child playing in the crater left by a bomb, now an inviting grassy knoll. Two men, their arms linked for support, placing flowers at the base of a monument to the 79th Infantry Division—the famed Cross of Lorraine Division, disbanded after World War I, the so-called war to end all wars, but reactivated for the invasion of Normandy.

In another photograph, two cemeteries—one German, dark with its Germanic iron crosses, the other American with row upon row of white crosses and an occasional Star of David, but both graveyards dressed with freshly cut flowers.

And finally, a photograph of a labyrinth of barbed wire awesome in its silence and rust and left behind by the Germans some 50 years before at the very top of a cliff above Omaha Beach.

"I knew I wanted to bring my father back for D-Day," Scheinbaum said. "I knew he was ill. I know soon he won't be able to travel much. He's never been back (to France). My mother had never been to Europe. I'd been saving up for about a year to take them.

"In La Haye du Puits, we would be staying with a French family, and to tell to you the truth, I was not looking forward to these three days with a strange family. As it turned out, it was one of the best things that's ever happened to me. Suddenly, I had a new family and I'm a different person because of it.

"It absolutely changed my life. All this stuff just clicked and came into place. I never had strangers treat me like that and love me like that," he said, touching his heart.

Scheinbaum, an associate professor of art with a specialization in photography, typically spends years on a photographic project. The event changed the way he works, helping infuse him with a new sense of immediacy. "I shot 16 roles of 36-exposure film," he said. "When I got home, I developed all 16 roles in one day. This has brought back a certain passion for photography I haven't had in a long time.

"It'll take me awhile to process my feelings, but I feel that when it's all sorted out, it gets down to one thing—people. The men who returned and those who honored them, giving thanks for a generation that's known peace."

A TRIBUTE TO GARY STRONG

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Mr. Gary E. Strong, State librarian of

California for the past 14 years. Gary recently accepted the position as the director of the Queens Borough Public Library in New York City.

Appointed as State librarian by Gov. Edmund G. Brown, Gary has been instrumental in establishing popular literacy programs throughout the State of California. Under Gary's direction, the California State Library created the California Literacy Campaign and the Families for Literacy Program. Further, Gary Strong was instrumental in working to make the California Library Literacy Services Act law.

Under Gary Strong's leadership, the library has developed the California Research Bureau which is located in the California State Library. The bureau conducts public policy analysis and serves as a valuable instrument for the California Legislature, the Governor and his Cabinet, and other elected State officials. Gary is also responsible for expanding the library's historical collections and its state-of-the-art computer platform that links access to the library from all over the State.

Gary Strong's work as the librarian of the State of California has not gone unnoticed. He was recognized this year at the Government Technology Conference, where he was awarded the Governor's Award for Exceptional Achievement. In 1984, Gary was named Distinguished Alumnus of the University of Michigan School of Library Science and in 1992, received the Exceptional Achievement Award—1992, from the Association of Specialized and Cooperative Library Agencies. His hard work and dedication serves as a model for California's next State librarian. Gary has also been consulted frequently by the Library of Congress on national library issues, and has provided valuable input to the U.S. Congress on Library of Congress matters.

Mr. Speaker, I ask my fellow members to join me in recognizing the important contributions that Gary Strong has made to the California State Library.

SALUTE TO WALT DISNEY'S SUPPORT FOR MINORITY BUSINESS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. TOWNS. Mr. Speaker, we are all aware that the spark which ignites our economy is small business. Historically, minority firms have not been recipients of the lucrative contracts available with large companies. Walt Disney has been a pioneer in developing a program designed to increase opportunities for minority owned businesses, and to maximize the volume of goods and services purchased from those businesses. I want to advise my colleagues of the commendable strides accomplished by the Walt Disney Co. in the area of promoting and utilizing services and products generated by minority firms.

The driving force behind Disney's minority program is Disney Chairman Michael Eisner. His fervent support of the program has been infectious, and each division within the company competes with other divisions to determine which one has generated the best results based upon achievement goals. To put this point in perspective, in 1983 the Disney Co. did less than $1 million in business with minority-owned firms in this country. In 1994 that amount will grow to $100 million. The results generated by the Disney Co. warrant recognition. Disney's success should serve as a model and catalyst for other companies that could benefit from doing business with minority-owned companies.

Recently, a trade publication, The Minority Times & Small Business News highlighted Disney's support of minority- and women-owned businesses. Although the article focused on Disney's success, the underlying message was, a lot more needs to be done by the corporate community. African-Americans comprise 12 percent of our Nation's population, however, minority businesses represent only 9 percent of total business, 4 percent of gross receipts, and 1 to 2 percent of total corporate purchases. The National Minority Supplier Development Council [NMSDC] has more than 15,000 certified minority businesses which currently handle major contracts for corporations. The Disney Co. has worked closely with NMSDC to maintain its minority business profile.

I am happy to advise my House colleagues that the company that has entertained hundreds of millions of movie fans and theme park attendees, is engaged in socially responsible and mutually beneficial business contracts with minority firms. I hope other companies will follow Disney's lead and contribute to an enhanced national and minority buisness economy.

A FEW GOOD MEN WHO HAPPEN TO BE LAWYERS

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. LEACH. Mr. Speaker, one of the most interesting precedential aspects of the new independent counsel designation is that the three judge panel that selected Judge Kenneth Starr ruled that, to avoid the appearance of partiality, it could not appoint Robert Fiske as independent counsel because he had originally been selected as special counsel for the same probe by the executive branch. As someone who has closely followed the Whitewater investigation, I would like to emphasize that the criteria of individual independence established by the judicial panel was a surprise to me. In my floor statement on passage of the independent counsel statute I indicated my high regard for Mr. Fiske and my assumption that most in the legislative branch presumed his reappointment. Nonetheless, the panel's decision appears rooted in a desire to underscore that the judicial branch is itself independent. As the panel noted, its decision was not intended to reflect on the personal integrity of Mr. Fiske or his philosophical or political leanings.

What is missed in the hullabaloo of some in my party who doubted Robert Fiske and some in the Democratic Party who doubt his replacement, Kenneth Starr, is that the facts of the case, or cases, will speak for themselves and that the facts are being marshalled by a group of exceptional attorneys assembled by Mr. Fiske and a larger number of FBI agents provided by the Department of Justice. The top man has the responsibilities of organizing the probe and for leading prosecutorial efforts if appropriate. But I would be extremely doubtful, at least with regard to the Arkansas aspect of this investigation, that Mr. Starr will reach any substantial conclusions Mr. Fiske wouldn't have.

It is key to understand that the issue isn't whether one counsel has a political background more liberal, moderate or conservative than the other. Nor whether one was well acquainted with the former White House counsel and the other with the chief judge of the ad hoc panel that named him. The issue is how qualified and how honorable the individuals chosen for the tasks assigned them are.

In this regard, the reputations of Robert Fiske and Kenneth Starr are each impeccable. Mr. Fiske is a former U.S. attorney with extensive prosecutorial experience; Mr. Starr, who like Archibald Cox was a former Solicitor General of the party out of power, has greater judicial experience. Each has an impressive background; each is of unimpeachable character.

In his tenure in office, Mr. Fiske met his constitutional obligations well and faithfully. Mr. Starr can be expected to as well. Just as Mr. Fiske refused to be swayed by critics in the Republican Party on his judgment about the suicide of Vincent Foster, Mr. Starr is unlikely to be deterred from a straightforward assessment of the evidence by the comments of Democratic partisans or presidential lawyers.

Good men and women can be expected to do a good job and to do so in such a way that accountability is provided for wrongdoing and reputations are protected for those who have not violated the law. The probe should continue without further second guessing of the motives of the individuals who have been given such heavy responsibility for such a sensitive investigation.

In this regard, it is impressive how loyal the staff Mr. Fiske put together has been to him; but it would be tragic if, as is hinted, many feel obligated to resign due to the judicial panel's decision. This would be unfortunate because not only is continuity of effort at issue, but so is confidence in the independence and integrity of the probe. It is believed that much of the underlying investigatory effort related to the failure of Madison Guaranty has been completed and that decisions on how to proceed will soon be at hand. Hopefully the majority of the investigative team will remain to see the process completed.

Finally, a note about the new White House counsel, Abner Mikva. While on a political spectrum Mr. Starr might be described as a conservative, Mr. Fiske a moderate, and Judge Mikva a liberal, each share extraordinary personal qualities that have garnered the respect of all who have worked with them. Of these, the only one I have come to know on a personal basis as a colleague is Abner Mikva. He is an individual who will bring to the White House intellect, integrity and, not inconsequentially, experience. Mr. Cutler, at personal sacrifice, helped stabilize the White

House with his mature judgment and steadfast calm. Judge Mikva, who comes from the same D.C. Court of Appeals that Mr. Starr served on, can likewise be expected to bring it new strength.

The Whitewater circumstance has unique thickets. Therefore, it is important that the American people have confidence they are served by people of integrity.

It may be the fashion to make jokes about the legal profession, but these four attorneys—Robert Fiske, Kenneth Starr, Lloyd Cutler, and Abner Mikva—bring great credit to their profession. They ennoble public service.

TRIBUTE TO SPORTS ILLUSTRATED

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 16, 1994

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Sports Illustrated, our Nation's only sports newsweekly, on its 40th anniversary. For the past 40 years, men and women of all ages have turned to Sports Illustrated every week for their sports information. Today more than 24 million men and women are readers of this magazine. I commend Sports Illustrated today for the effort they have put forth to give this country a weekly magazine filled with entertainment and information surrounding sports.

Sports Illustrated has been the recipient of a number of prestigious writing awards including the National Magazine Award for Feature Writing in 1992; National Magazine Award for General Excellence in 1989 and 1990. Sports Illustrated was the first magazine in the one-million-plus category to win the award twice. In addition, Sports Illustrated was the winner of the Magazine-Week Publishing Excellence Award in the News category in 1990 and 1991; winner of the 1990 Excellence in Sports Journalism Award for Print, sponsored by the Northeastern University and the Center for the Study of Sports in Society; and named the "best men's magazine" in the Washington Journalism Review "Best In The Business" readers poll for 1991.

Forty years ago, Sports Illustrated photographer mark Kauffman introduce the new readers to a scene during a night game at County Stadium in Milwaukee between the Braves and the New York Giants. Included in this scene were Braves third baseman Eddie Mathews, Giants catcher Wes Westrum, and umpire Augie Donatelli. The lead story, written by Paul O'Neil, was about the "mile of the century" where England's Roger Bannister and Australia's John Landy became the first two men in history to break the 4-minute mile mark in the same race. Sports Illustrated continues to bring its readers award winning photography and high quality sports writing.

Although Sports Illustrated had its shaky beginnings, its circulation rate base today of 3, 150,000 reflects the following they have accumulated in the past and continue to keep today.

The importance of the Olympic games as a significant sporting event not only in the eyes of advertisers but in the American public was reflected by the coverage of Sports Illustrated. The magazine was a sponsor of the 1980 Winter Games in Lake Placid as well as the Winter Games in Sarajevo and Olympic Games in Los Angeles in 1984. In addition, Sports Illustrated joined The Olympic Program [TOP] in 1988 as a worldwide sponsor of the Winter Games in Calgary and Olympic Games in Seoul. In 1992, Sports Illustrated for Kids became a sponsor of the Winter Games in Albertville and the Olympic Games in Barcelona. Recently, Sports Illustrated renewed its affiliations with TOP and signed on as sponsors for the 1994 Winter Games held in Lillehammer and the 1996 Centennial Olympics to be held in Atlanta.

In addition to its award winning photography and sports journalism, Sports Illustrated has touched on some very important social issues facing our Nation and our world. The magazine over the years has done stories such as the series in 1968 entitled "The Revolt of the Black Athlete" as well as stories exposing the dangers of steroid use, drug abuse, and eating disorders faced by our young athletes. Articles such as these are examples of how Sports Illustrated has enabled their readers to become aware of the social impact of sports and those who are involved in them.

As Sports Illustrated moves into the future, it employs the latest in high-tech production equipment not only to provide readers with dynamic graphic presentations, but also to afford its audience more late-breaking news coverage. Special commemorative issues honoring championship teams in all sports—college and professional—have also been introduced to its readers including one for the New York Rangers after they won the Stanley Cup this year.

Sports Illustrated for Kids is celebrating its 5th anniversary this year as well. This is a magazine geared toward children 8 years old and up. The "Reading Team" is the largest literacy program of its kind in the country in which 250,000 copies of the magazine are donated to 10,000 fourth, fifth, and sixth grade classrooms nationwide during the school year.

Other innovations have allowed Sports Illustrated to expand well beyond the pages of their magazine. Sports Illustrated Television is responsible for television programming for Sports Illustrated Kids and Sports Illustrated as well as for Time Warner, Inc.'s impending full service network. This year, ABC's Wide World of Sports has aired Sports Illustrated news and feature reports produced by Sports Illustrated Television. Sports Illustrated hopes to be an essential source of information to their viewers just as they have been to their readers in the past 40 years.

Mr. Speaker, Sports Illustrated symbolizes the importance of sports in the lives of so many Americans. I know my colleagues join me in congratulating Sports Illustrated today for 40 years of successful journalism and for continued prosperity into the future.

SENATE—*Wednesday, August 17, 1994*

(Legislative day of Thursday, August 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led in by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

In a moment of silence, let us remember in prayer the family of David Farley, 27-year-old Capitol Police officer who took his life last weekend. We pray for his family, his wife, Kimberly, their 4-year-old daughter, Megan Elizabeth, as well as his parents, Gene and Diana Farley.

Let us also remember a member of the Senate staff whose father-in-law recently took his life.

"If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land."—II Chronicles 7:14.

Almighty God, Ruler of history and the nations, the words of President Franklin Delano Roosevelt are relevant to our present situation. In a radio address to the Nation, he said, "No greater thing could come to our land today than a revival of the spirit of religion—a revival that would sweep through the homes of the Nation and stir the hearts of men and women of all faiths to a reassertion of their belief in God and their dedication to His will for themselves and for their world. I doubt if there is any problem—social, political, or economic—that would not melt away before the fire of such a spiritual awakening."—Brotherhood Day, February 23, 1936.

God of truth, justice, and love, every problem the world faces—economic, social, educational, crime, moral, and ethical—derives from a secular, materialistic, godless rejection of spirituality. In the words of G.K. Chesterton, "If we do not believe in God, the danger is not that we will believe in nothing, but that we will believe anything."

Lord, help us in our unbelief. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President, Members of Senate, as the distinguished presiding officer has just noted, there will now be a period for morning business in which Senators may address the Senate on any subject for up to 5 minutes each. That period for morning business will conclude at 10 a.m., at which time the Senate will resume consideration of the health care reform legislation.

I am pleased that the Senate was able finally to begin voting on amendments last evening, pleased at the adoption of the Dodd amendment. We will now proceed to receive an amendment to be offered by Republican colleagues today. We have not yet had an opportunity to see or review that amendment. I hope we get the chance to do so shortly. And then we will debate that amendment during the day.

Without knowing what the amendment will be, it is not possible to estimate when we will be able to proceed to vote on it, but Senators should be prepared for debate and the possibility of voting during the day, depending on the nature of the amendment and the length of debate.

Mr. President, I note the presence of the distinguished Senator from Utah on the floor who is, I believe, here to be recognized in morning business, and I yield the floor.

The PRESIDENT pro tempore. The Senator from Utah [Mr. BENNETT] is recognized for not to exceed 5 minutes.

Mr. BENNETT. Mr. President, I ask unanimous consent I be able to proceed for up 10 minutes if my statement requires that much time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

GOLD

Mr. BENNETT. Mr. President, in this morning's Washington Post the lead story on the front page had to do with the action of the Federal Reserve Board, raising the interest rate yet again. This is a deserving spot for such news because it is very important to our economy.

During the debate on health care, we had a great deal of conversation about the entitlement commission and the fear that sometime in the next century the Federal Government will run out of money. This is tied to the size of the deficit. In my view, this morning's news and concerns about the deficit are tied together. Because as the interest rate goes up, the cost of financing the national debt goes up. When interest rates are low, we save a tremendous amount at the Federal level in terms of debt service payments. For every 1 percent on $4.5 trillion—if I get my decimal right—that is $45 billion in annual savings. So if the cost of servicing the debt can be brought down by holding interest rates down, it has implications for everything we are talking about here with respect to the budget deficit and health care costs and everything else.

In that context then, I would like to call the Senate's attention to an exchange I had in the Banking Committee with the distinguished Chairman of the Federal Reserve Board, Mr. Alan Greenspan. Some portions of that exchange were outlined in an editorial piece that appeared in the Wall Street Journal last week by Jude Wanniski.

I ask unanimous consent that article be printed in the RECORD at the conclusion of my statement.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. The subject I discussed with Chairman Greenspan was the question of tying the dollar to gold, that is the price of the dollar to the price of gold. Chairman Greenspan said, in response to my questioning, that the price of gold was, in his view, a very valuable indicator of forthcoming inflation. When the price of gold starts to rise, that is an indication that there is inflation on the horizon. When the price of gold remains stable, that is an indication that inflationary pressures are under control.

Why is this? This is a question I tried to explore with the Chairman. In the format of the committee we did not have an opportunity to get into it as deeply as I would have liked.

It seems to me the reason is that gold is the closest thing we have in this world to a universal currency. If I were

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

to leave the United States and go to some far-flung place and try to buy a suit with dollars, they might refuse my dollars, saying "That currency is not good in this society." I might reply, "All right, I will bring you something of intrinsic value, then. I will bring you food." In the terms of the Commodity Exchange, "I will bring you a pork belly." And it may well be they would say, in that part of the world, "We don't eat pork. We are not interested in your pork belly." But almost everywhere in the world, if I say, "I will give you this small bar of gold," they would say, "We will sell you a suit for a bar of gold."

All the way back to biblical times and the mythical King Midas, gold has caught the imagination of the human race as the one commodity that seems to have intrinsic value, regardless of what else changes. Let us stop and think about, then, the implications of tying the dollar to gold. It would mean, if we were on some kind of a system where the price of gold did not change in dollars, that you could predict the economic future with far greater certainty than you can today.

For example, if we were still in a circumstance where a dollar would buy one thirty-fifth of an ounce of gold—as we were through the vast majority of our historic years—that would mean that if you lent me $1,000 for a period of 10 years, you would know that at the end of the 10 years when you got your $1,000 back, every one of those dollars would still buy one thirty-fifth of an ounce of gold.

No matter what had happened to the prices of any other commodities, you knew you would get your $1,000 back in terms of gold without any erosion of the purchasing power of that $1,000.

What would this mean to interest rates? This would mean that you could depend upon getting your purchasing power back; therefore, the interest rate would not have to be so high as to compensate you, Mr. President, for the loss of purchasing power that would occur during that 10-year period.

If you assume that the $1,000 you lend me is only going to be worth $500 in purchasing power at the end of 10 years, you understand that the interest I pay you must not only compensate you for the use of the money, but that the interest I pay you must also allow you to recoup the $500 loss of purchasing power.

So instead of a 2- or 3-percent interest rate on the $1,000, you have to have a 6- or 7-percent interest rate so that you recover both principal and interest at the end of 10 years.

I have been in business. I understand the value of being able to project into the future the value of dollars. If we had a circumstance that gave us constant dollars, it would have a tremendous impact on the ability of businesses to plan for the future, as well as governments.

There are lots of arguments that I have heard from people saying we must return to a gold standard and, frankly, almost all of them strike me as being mystical and occasionally nonsensical. But the idea that I was exploring with Chairman Greenspan is neither of those if, indeed, it has merit. If, indeed, we could get to the point where there was no erosion in the purchasing power of the dollar and finance the Federal debt with that understanding, we could save up to $200 billion a year.

Mr. President, stop and think of all of the efforts we go through on this floor to try to cut the budget up to $200 billion a year. If, in fact, we could cut the debt service costs up to $200 billion a year, it would be more significant than all of the debates we have had on all of the other budgetary issues that we discuss here.

So I think it is appropriate on a day when the Federal Reserve is raising the interest rates and thereby raising the deficit because of the cost of financing our debt, that we, once again, spend some time thinking about the possibility of getting some kind of standard, some kind of stability in the unit of account, the money with which we pay our bills. I know of no historic standard that has the stability over centuries that gold has had.

So I hope, Mr. President, that as a result of this brief statement, economists around the country, people in the Federal Reserve System, people on the staff of the various committees that deal with these issues in the Congress will, once again, begin to explore the possibility that we could return to a historic stance with respect to our currency and tie it to some kind of stable commodity that will say borrowers can know with a certainty that when they are paid back, their dollars, at least in terms of this commodity, will still have the same purchasing power at the end of the transaction that it had at the first.

Chairman Greenspan said to me in the exchange we had in the Banking Committee, that a nation who had the most stable currency in the world would be the nation that had the lowest interest rates in the world, and that statement intrigues me tremendously.

That is my only purpose here this morning, Mr. President. Not to offer any specific solutions but simply to raise the issue in what I hope is a sober and thoughtful way so that we, as a people, can begin to address this question and find that commodity that will give us that kind of stability.

As I say, historically, the only commodity that has approached that kind of an impact on economies has been gold. And I think as we search for that kind of stability, gold is the place where we should begin. I thank the Chair.

EXHIBIT 1

HELP GREENSPAN, COMMIT TO GOLD

(By Jude Wanniski)

In hearings before Congress in July, Federal Reserve Chairman Alan Greenspan reaffirmed that he valued gold as an indicator of inflation expectations. He also readily agreed with the reasoning of Sen. Robert Bennett (R., Utah) that if the dollar was again fixed to gold, the U.S. probably would have the lowest interest rates in the world.

The Fed chairman's words were important. the lowest interest rates in the world would mean that America would boast rates lower than Japan—currently on the order of 3%. If the U.S. could refinance its $4.5 trillion national debt at 3%, as it matures, the annual savings in debt service would amount to perhaps $120 billion a year. This is a painless way to eliminate more than half the federal budget deficit.

Why does this important information get so little attention? It is because Mr. Greenspan's views on gold are held in disdain by the great majority of this fellow economists. Over the past 30 years, Mr. Greenspan has consistently made the case for a monetary role for gold—especially as a means of economizing on government finance of its debt. In the last two years, he has repeatedly dismissed the importance of money-supply statistics as reliable signals of future inflation. Yet he as often insisted that it is the gold price that has always been best at anticipating inflation.

Look at our own era. It was only after President Nixon on Aug. 15, 1971 severed the dollar's link to gold that inflation raced out of control, interest rates soared and the federal budget deficit and the national debt spiraled. The price of gold, at $380 an ounce, is almost 11 times higher than its official price of $35 in 1971. The general price level is roughly 10 times what it was back then. The national debt of $4.5 trillion is 11 times higher. The cost of debt service, at $210 billion, is 12 times the $17 billion of 1971.

The reason gold has this special utility as a standard of value is that for at least 3,000 years, until 1971, it has served as civilization's primary money. Throughout history, gold has been the benchmark used in almost every marketplace of the world, against which the people measured the official money of governments.

The truth is that, in a certain sense, we never went off the gold standard. The people of the world did not stop using gold as this benchmark simply because the U.S. led all the world's currencies away from gold in 1971. Since 1971, governments whose currencies have performed worst against the gold benchmark have been those most punished by their creditors—for the most part their own citizens. The price of gold in Japanese yen has risen only threefold, the best performance of any government in the world in that time. Hence the low interest rates enjoyed by the Japanese government.

Since 1987, when Mr. Greenspan was named chairman of the Fed, the fluctuations in the gold price (between $320 and $420) have been in a much narrower range than they were under his predecessor, Paul Volcker (between $240 and $850). This is no coincidence. Mr. Greenspan has kept an eye on gold from the day he arrived, as a reality check on his performance.

Indeed, the creditors of the U.S. rewarded the Greenspan Fed with steadily declining interest rates, especially insofar as he seemed able to keep the gold price in the range of $350—10 times the Bretton Woods target. It has only been since last September, when gold began another climb from that level, that the bond markets have turned cold.

Mr. Greenspan undoubtedly had hoped the tightening the Fed began on Feb. 4 would chase gold into retreat. This would assure the owners of the nation's $4.5 trillion national debt that the value of their holdings would not suffer the 10% devaluation implied by the higher gold price. That's a $450 billion loss—big money indeed. Again and again, Mr. Greenspan has raised the overnight interest rate—the only rate over which the Fed has direct control. Still, gold has not dropped much below $380.

Academic economists hostile to gold dominate the entire Federal Reserve system. The chairman has only one of 12 votes on the Federal Open Market Committee. Absent a political consensus, it is therefore very difficult for Mr. Greenspan to simply aim his mighty monetary weapon at gold without legislation to back him up. If the Fed could fix the gold price at $350, it would simply do so by adding or subtracting dollars from the banking system, adding when it falls below that level, subtracting when it rises above it.

Gold would quickly sink to $350 and interest rates on government debt would resume their fall toward the 3% range. The value of all financial assets, stocks as well as bonds, would quickly rise, anticipating robust, noninflationary growth ahead.

Yet, to keep the academics happy, the Fed must target overnight interest rates, hoping the higher rates will cause bank reserves to fall to a certain level, in a way that eventually causes the gold price to fall and bond prices to rise. This is the equivalent of trying to kill a mouse by shooting a dog, so it will fall on a cat, which eventually will fall on the mouse. Maybe.

Politicians like Jack Kemp have lately recommended targeting gold, rather than simply hiking rates again. It's time to legislate instructions to the Fed to commit to gold. Academic economists argue that this is "price fixing," and that only the market should establish the price of gold. They fail to appreciate that it is the value of its debt that the government is fixing, not the value of gold.

In World War II, after 150 years of keeping the dollar defined as a specific weight of gold, the U.S. financed the largest deficits in its history, bigger than any since, with 2% bonds. When it is as good as gold, the dollar will once again be as good as it can get.

Mr. CAMPBELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized for not to exceed 5 minutes.

NATIONAL PHYSICAL FITNESS AND SPORTS FOUNDATION ACT

Mr. CAMPBELL. Mr. President, yesterday, I introduced S. 2394 to establish a National Physical and Sports Foundation. This proposal is designed to support the President's Council on Physical Fitness.

The President's Council on Physical Fitness currently operates on a shoestring budget of $1.4 million. The establishment of a nonprofit foundation would permit the Council to have an independent source of funding to expand its scope and activities. This proposal will not conflict with existing efforts to provide funding for the U.S. Olympic Committee as moneys that would flow through the corporation to the Council would not be public funds.

Once established, the National Physical Fitness and Sports Foundation would be a charitable, nonprofit organization designed to "encourage and promote" the solicitation of private funds for the President's Council on Physical Fitness. After the deduction of administrative expenses, the foundation would annually transfer the balance of the contributions to the U.S. Public Health Service Gift Fund.

The foundation would have the following specific powers:

It could accept, receive, solicit, administer and use any gift, devise or bequest, absolutely or in trust.

It could acquire by purchase or exchange any real or personal property or interest;

It could enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions.

A nine-member Board of Directors would govern the foundation. Three Board members must have experience directly related to physical fitness, sports, or the relationship between health status and physical exercise. The remaining six Board members would be leaders in the private sector with a strong interest in physical fitness. Ex officio members of the Board would include the Assistant Secretary of Health, the Executive Director of the President's Council on Physical Fitness the Director of the National Center for Chronic Disease Prevention and Health Promotion, the Director of the National Heart, Lung and Blood Institute, and the Director of the Centers for Disease Control.

Board members would serve for 6 years. Three Board members would be appointed by the Secretary of Health and Human Services; two by the majority leader of the Senate; one by the minority leader of the Senate; two by the Speaker of the House; and one by the minority leader of the House of Representatives. The Chairman would be elected by the Board members to a 2-year term. No individual could serve more than two consecutive terms as a Director.

Board members would serve without pay, but would be reimbursed for traveling and subsistence expenses. The Board would be empowered to appoint officers and employees, once the foundation had sufficient funding to pay for their services; and adopt a constitution and bylaws. Officers and employees of the foundation could not receive pay in excess of the annual rate of basic pay in effect for executive level V in the Federal service.

I think that this bill will help further an important national goal—encouraging and fostering physical fitness and well-being—and I urge my colleagues to support it.

Mr. President, yesterday when I introduced this bill, I did not have a copy of Griffin Joyner and Tom McMillen, who serve as co-chairs of the President's Council and support this legislation. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was orderd to be printed in the RECORD, as follows:

THE PRESIDENT'S COUNCIL ON
PHYSICAL FITNESS AND SPORTS,
Washington, DC, August 12, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: Thank you for the opportunity to share our excitement about the important work of the President's Council on Physical Fitness and Sports (PCPFS).

The leadership of the PCPFS would appreciate your support of proposed legislation to form a national foundation that would assist with the programmatic activities of our Council. Its formation would require no federal dollars. The PCPFS feels that Congressional backing of this important legislation is essential.

As all of us are currently discussing issues that involve protecting and improving the health of every American, the PCPFS continues to play a key role in this important dialogue. We are the only federal office that is solely devoted to programs involving physical activity, fitness and sports. The support of every member of Congress will send a powerful message indicating an understanding of how significant the role fitness and sports play in the daily lives of our youth, seniors, minorities and disabled. This is a bipartisan message about lifestyle and personal responsibility. Clearly with a budget of $1.4 million, the Council needs assistance in touching and motivating our country's most valuable asset: its citizens.

The foundation, established in collaboration with the Department of Health and Human Services (DHHS), would be a nonprofit, private corporation. It would encourage the participation by, and support of, private organizations in the activities of the Council.

Congressional support would add to the prestige of our mission and the significance of our goals. As you may know, Congress has also provided legislative authorization for the Secretary of DHHS to create two foundations—one in support of the National Institutes of Health and the other in support of the Centers for Disease Control and Prevention.

We would appreciate your help with this important piece of business.

FLORENCE GRIFFITH
JOYNER.
TOM MCMILLEN.

Mr. CAMPBELL. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The minority leader is recognized.

CRIME

Mr. DOLE. Mr. President, I was encouraged by last night's White House meeting involving Republican whip NEWT GINGRICH and a delegation of House Republicans. Perhaps this is a signal that President Clinton now finally understands that last Thursday's vote was not a procedural trick or a politically inspired attempt to hurt his Presidency, but rather a vote to improve the crime bill to make it stronger, tougher, better.

This is not rocket science. If the President is serious about passing a tough, no-nonsense crimefighting plan for America, here are some of the improvements he should support:

First, increase prison funding to the House level of $13.5 billion; tighten the language so that prison funds will definitely be used to build new prison cells, rather than half-way houses and other prison alternatives; and require truth-in-sentencing for first-time violent offenders.

Second, cut at least half of the spending on social programs, including the Local Partnership Act, the Model Cities Intensive Grant Program, and the so-called Yes Grant Program. When the crime bill left the Senate last November, it had a price tag of $22 billion. But, now, 9 months later, the conference report authorizes a staggering $33 billion, a 50-percent increase. Obviously, somewhere along the way, the crime bill was hijacked by the big-dollar social spenders.

Third, plug the so-called safety valve provision, which could result in the early release of 10,000 convicted drug offenders—a get-out-of-jail-free card brought to you by the U.S. Congress.

Fourth, no cuts for the FBI or the Drug Enforcement Agency. No crime bill should cut staffing at our Nation's top law enforcement agencies.

Fifth, restore some of the tough provisions adopted last April by the House, including Congresswoman MOLINARI's proposal on similar-offense evidence in sexual assault cases, and the Megan Kanka law, requiring State law enforcement agencies to notify the public when violent sexual predators are living in their communities.

Sixth, restore some of the tough provisions adopted by the Senate, including mandatory minimums for those who use a gun in the commission of a crime; mandatory restitution for crime victims; and Senator SIMPSON's provision requiring the swift deportation of criminal aliens.

And finally, Mr. President, give the States and localities more flexibility over how to use the funding for more cops. I have heard from many police chiefs, including Chief Fred Thomas of Washington, DC, who have indicated that what is needed most is not more police officers but better technology. We should provide that flexibility.

The ball is now in President Clinton's court. He can adopt a one-party strategy, trying to muscle his way up to 218 votes. Or he can continue to do what he started last night.

The President is wise to reach out to Republicans, but political lipservice will not do it alone. The President must publicly support real, meaningful, tough-on-crime improvements to the conference report, so that we can pass a bipartisan bill not with 218 votes but with 435 votes, if necessary, in the House and all the votes in the Senate.

If, however, the President wants to tinker around the edges, making small adjustments here and there to win over 8 or 9 or 10 votes, then he will be making a big mistake. In the end, that may be a successful strategy for the House, but you can bet it will not be a winner here in the Senate.

I think many in the Senate are going to wonder how it ballooned from $22 to $33 billion and what happened to a lot of the tough enforcement provisions that had broad bipartisan support. Keep in mind, this bill passed the Senate by a vote of 95 to 4 or 94 to 5. We had a lot of tough provisions in it, and suddenly they have all disappeared, or many disappeared. I think the American people will support a good crime bill. But keep in mind, also, that this only applies to Federal crimes. Many people see crime bill, they immediately believe it is going to have a big impact on their States and localities. I do not believe that is the case.

HEALTH CARE REFORM

Mr. DOLE. Mr. President, I would just add one thing in response to the majority leader's statement on health care. We are going to do all the business we can on health care. We are going to try to explain it to the American people, try to explain all the plans that are out there—the Gephardt plan, the Clinton plan, the Mitchell plan, the Dole plan, the mainstream plan, the Nunn-Domenici plan.

There are a lot of plans and some have similarities. Many of us think we ought to take all the common parts of these plans, put them together and pass that bill. Many of us are wondering, and certainly the Presiding Officer may have wondered, too, how are we going to—if we are going to spend $1.5 trillion over the next 10 years, what effect is it going to have on other appropriations, and how are we going to be able to find that money, and what will happen in the process.

So I would say to the majority leader, we are prepared to move ahead. We are not going to be rushed, but we are prepared to move ahead. This is the most important issue that will be around this year or maybe for many years, and we certainly welcome the debate.

CRIME BILL CONFERENCE REPORT

Mr. HATCH. Mr. President, today I wish to thank the minority leader for his comments about crime and also about health care as well. He is right on in those comments.

Today, Republicans renew their call for a bipartisan crime bill. Simply employing a bare knuckles strategy to turn a few votes in the House will not produce a tough bill, nor will it win passage of this bill. If President Clinton wants to pass a true crime bill, then Republicans will deliver the necessary votes, provided our suggested improvements are incorporated. And they have just been outlined by the distinguished Republican leader.

Ramming the crime bill through the House with a coalition of social liberals and big spenders will surely threaten the bill's passage in this body. The Senate will not accept the crime bill in its pork-feeding frenzy. Comprehensive changes must be made.

The Republican leadership has produced a list of changes for the President's consideration. I must concede that every change I would prefer is not on this list. There are literally dozens of Senate tough-on-crime provisions that were dropped or substantially weakened by the conference committee. However, we want to undertake a serious effort to reach a bipartisan compromise on the crime bill, and this list of changes is our bottom line.

Should the administration refuse to work in a bipartisan manner but still manage through arm twisting and obfuscation to squeeze the crime bill conference report through the House, we then will take up our concerns on the floor of the Senate. We will then offer a budget point of order because of the wasteful spending in the bill, and I believe that we will prevail with bipartisan support. Then we will offer a tough compromise package, a balanced proposal which adequately funds prison construction and restores the Senate's tough-on-crime provisions.

I hope we do not have to reach that point. I hope we can work together.

Incidentally, some of our colleagues on the other side, including our chairman of the Judiciary Committee, have suggested that our criticism of this wasteful spending in this bill is relatively recent. This is certainly not the case. I took the floor on May 19 of this year to criticize the wasteful spending in the House-passed crime bill. That was only a few weeks after the House passed the measure.

So I ask unanimous consent that a copy of my remarks on May 19 be printed in the RECORD immediately following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. In those remarks, I criticized virtually every one of these big spending, pork barrel, boondoggling aspects which have been adopted in that conference report, plucked right out of the pork barrel filled House crime bill.

We simply have to face the fact that the fight against crime does not permit the hiding of billions of dollars in pork barrel spending boondoggles under the guise that they are trying to do something about crime.

Mr. President, this is an important issue. I would like to see a bipartisan issue. I would like to see us march together and do what we should do. Frankly, the Senate-passed crime bill passed 94 to 4, and that included the antigun provisions, which shows that that is not the sole, or even the most significant reason, why the fight over the crime bill right now. The significant reasons involve the pork barrel, boondoggle spending of the social liberals in both bodies who literally want to continue their spending practices and bring the rejected financial stimulus package back into law hidden in the crime bill, as though they are doing something against crime.

So, Mr. President, I appreciate the distinguished Republican leader's comments today, and I back him 100 percent, and the leader over in the House, NEWT GINGRICH. I appreciate his meetings at the White House yesterday and his offer to the President to have Republicans help resolve these problems. If we do not have a bipartisan bill, I do not think we are going to accomplish very much against crime in the ensuing number of months and years.

I thank the Chair. I yield back whatever time I have.

EXHIBIT 1

Mr. HATCH. Mr. President, what drives the emotion of the distinguished Senator from Florida and his counterpart on the Democrat side of the floor is that people out there are tired of the average sentence time served in the States being 40 percent. And they are specifically tired of it when it comes to violent criminals. When a murderer gets a sentence of 15 years on the average, and serves less than 7, the average murderer in this country, it does not take many brains to realize that there has to be something done to keep these people off the street.

When the average rapist gets sentenced to 8 years in prison and serves less than 2, a rapist—our daughters are at risk—it is not hard to understand why some of us would like to see those sentences, at least 85 percent, carried out. That is what the truth in sentencing is. Whether it should be triggered by the regional prison concept or some other concept, it is almost irrelevant to me. But we want to get the violent criminals, and lock them up and throw away the key for at least 85 percent of that time that they are sentenced. If they use a gun, then they ought to get it doubled.

That is the way to stop the unwise, the unlawful, and the dirty, rotten use of guns in this society, not some ridiculous, idiotic, 5-day waiting period that has caused almost everybody to go out and buy their guns now—the typical liberal solution to things. "Let us have a 5-day waiting period. That is going to solve all of our problems." All that has done is increased gun sales like 300 percent across this country because people could not wait to go out and get their guns now that they are going to have to wait 5 days.

These liberal solutions have never worked. Of course, now they have Brady II. Brady I was supposed to do everything for us. It has not done a doggone thing. In fact, it is going to undermine law enforcement in this country.

Now they want an assault weapon ban. They are going to ban 19 weapons. But they have defined them in such a way that over 100 will be banned, but they are going to exclude, exempt, 650 that have basically the same firing mechanism as these so-called 19—to take away the rights of American citizens, as defined in the second amendment to keep and bear arms, which is certainly more than a militia right as defined by some today. That is the national guard right. That is not what the Founding Fathers meant. That is not what they meant when they wrote that amendment. The militia was every American citizen who felt inclined to support our country.

So we can moan and groan about truth in sentencing all we want. But that is what the American people want. They want the violent criminals put away.

I happen to agree with the distinguished Senator from North Dakota that we should not be spending all of our expensive jail time for those who are not violent people. I happen to agree with the Senator from Delaware that boot camps may be a solution for people like that. We should not make prison a very nice time for people. Unfortunately, our do-gooders on the liberal side of the equation want to make sure that everybody is treated beautifully in prison. Frankly, I think it is time to get tough on these people.

I have another part of this I would like to spend a few minutes on.

Mr. President, the two Houses of Congress are soon going to go to a conference on the crime bill. I regret to report that the crime bill passed by the other body contains several billion dollars in ill-defined social programs—I might say ill-defined 1960's Great-Society-style social spending programs in the guise of anticrime legislation.

As such, these wasteful social spending boondoggles will rob the people of Utah and every other State of scarce resources which would be aimed at fighting crime, building prisons, hiring local, State, and Federal law enforcement officials and officers, and similar law enforcement measures.

Take, for example, the Local Partnership Act contained in the House bill. This program will give local governments $2 billion for fiscal years 1995 and 1996 to use for four purposes: education to prevent crime, substance abuse treatment to prevent crime, coordination of Federal crime prevention programs and, job programs to prevent crime. There are no other standards in the House bill. That is it—those four broad-based standards. We just have these four general purposes.

In plain English, this is just Federal money for local government social programs with the crime label put on them for cosmetic purposes. By slapping the phrase "to prevent crime" on these purpose clauses, this provides the cover to hijack $2 billion of precious crime fighting resources for anything at all that localities will label "education to prevent crime," or for drug treatment, or for more Government jobs programs.

The $2 billion would be much better spent in really fighting crime by spending it on prisons, law enforcement officers, and equipment.

Let me take another example of wasteful social spending in the House bill, the Model Intensive Grant Program. This program allows the Attorney General virtually total discretion to spend $1.5 billion over 5 years in grants for up to 15 chronic high-intensive crime areas to develop comprehensive crime prevention programs. This money apparently can be spent on anything that can arguably be said to attribute to reducing chronic violent crime.

The House bill says this includes but is not limited to youth programs, "deterioration or lack of public facilities, inadequate public services such as public transportation," substance abuse treatment facilities, employment services offices, and police services, equipment, or facilities.

I believe in spending wisely on crime prevention, although most of that funding should not come from the crime bill, where we should focus very heavily on enforcement.

But this open-ended Model Intensive Grant Program allows spending on just about anything that can be remotely described as crime prevention, however tenuously, including public transportation. We are supposed to be sending the President an anticrime bill. Let the Department of Transportation offer some of its existing funds for transportation services for preventive crime. Let us not take it out of our crime bill.

Mr. President, you can bet that conferees from the other side of the aisle will propose inadequate funding for new prisons in the crime bill. We will undoubtedly need to spend more on prisons. We need to spend more on prisons for two interrelated reasons. We can talk about ensuring that children do not go astray, and we should be concerned about that. But we have many vicious criminals right now who are not serving enough of their sentences. And speaking of crime prevention, one of the best things we can do to prevent crime right now is to take violent criminals off the streets for long periods of time so that they cannot commit anymore crimes.

Another social spending program in the House bill is $525 million for a Youth Employment and Skills Crime Prevention Program which funnels cash to State and local governments for job training and make-work programs.

This is a duplication of the programs I have just mentioned, except this one is run by the Department of Labor. Despite the fact that there are already over 150 Federal job training programs at a cost of over $20 billion a year, the Attorney General announced this week that the administration supports this program and has asked that Congress increase the program to $1 billion.

Frankly, the best crime prevention program is one that ensures swift apprehension and certain and lengthy incarceration for violent criminals. The more than $4 billion in these three boondoggle programs in the bill the other body sent belong in prison construction and other measures.

These social spending programs are neither tough nor smart on the fight against crime. We can and must spend our moneys more wisely, and in the process we have to move to truth in sentencing.

I want to point out a little bit about just how these programs work. This lists seven Federal departments who sponsor 266 programs which serve delinquent and at-risk youth—266. These are already existing programs. This is Federal departments on this side and the number of programs each department has.

The Department of Education has 31 programs already in existence without the crime bill. The Department of Health and Human Services has 92 programs already in existence. We are doing a lot in this area without the crime bill. The Department of Housing and Urban Development has 3 programs; Department of Interior, 9 programs;

Department of Justice, 117 programs; Department of Labor has 8; Department of Transportation, 6, for a total of 266 Federal programs for at-risk youth.

Yet, we would add $4 billion more. In other words, every time you try to do something about crime, those on the liberal side of the equation load the bill up with more social spending programs that are not working anyway, rather than do the things that have to be done against violent crime in our society.

So I repeat this. The GAO recently reported to Senator DODD, who heads our Family and Children Subcommittee on the Labor Committee, that there are 7 Federal departments fostering 266 prevention programs which currently serve delinquent or at-risk youth. Like I say, of these 266 programs, 31 are run by the Department of Education, 92 by HHS, and 117 by the Justice Department.

GAO found that there already exists a massive Federal effort on behalf of troubled youth," which spends over $3 billion a year. GAO went on to report that:

> Taken together, the scope and number of multiagency programs show that the Government is responsive to the needs of these young people * * *. It is apparent from the Federal activities and response that the needs of delinquent youth are being taken quite seriously.

That is in the GAO report, Federal Agency Juvenile Delinquency Development Statements, August 1992.

Despite the findings of the GAO, the House crime bill throws even more money at State and local government under the prevention label, while failing to acknowledge our ongoing efforts. Listening to the House bill supporters, one would assume the Federal Government has done nothing in the area of crime prevention.

They load up the House bill with almost $10 billion of prevention. I believe there are some legitimate areas where we can do something about prevention, but I have to tell you right now that we are doing plenty without loading up this crime bill with more than we need. We need the prisons; we need the police; we need to get tough on crime; we need the mandatory minimum sentences; we need the beefing up of Quantico, of our DEA, of our FBI, of our Justice Department prosecutors, rather than cutting back on them. We need tough antirural crime initiatives, antigang initiatives, violence-against-women initiatives, the scams on the senior citizens, against telemarketing fraud. All of that in this bill would make a difference against crime in our society.

Mr. President, I have to say that we have a lot of problems in going to conference on this crime bill, not the least of which is the gun ban and, of course, not the least of which is this racial justice act, which would virtually outlaw all implementations of all death penalties in our society today, and would cost the American taxpayers billions, if not trillions of unnecessary dollars, as the whole capital punishment system would come to a screeching halt and be embroiled in all kinds of litigation, all kinds of statistical analysis, all kinds of social welfare work, to the point that people will throw their hands up in the air and say we really cannot get tough on criminals, especially those who commit willful, violent, heinous murders against the public.

Mr. President, I wanted to make a couple of these points during this debate today, because I have to go back to the truth-in-sentencing provisions. If we do not get tough on the violent criminals, we are not going to make headway in this society. All of the prevention programs in the world are not going to help us.

With that, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The time for morning business will shortly expire.

Mr. KENNEDY. I ask that this Senator be able to proceed for 5 minutes as if in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CRIME BILL CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I was here on the floor prepared to move ahead, as were Senator MOYNIHAN and others, on the issue of health care. Then I heard our good friend, the minority leader, talk about the crime bill conference report. Listening to him, I did not recognize the bill he was describing.

Just yesterday, my Governor, a Republican, indicated that he was prepared to ensure matching funds for all the communities of Massachusetts to make sure that we would achieve the goal of adding 100,000 more police officers nationwide. He identified many different points of the crime bill that were worthwhile and valuable, and seemed eager for those measures to be supported here in the Senate. In frankness, he did not express a specific view on passage of the overall bill. He said he had not studied the issue well enough to be able to make a judgment in terms of its overall features, but he indicated that crime was an area of great priority and he wanted us to move forward, and the people of Massachusetts certainly do as well.

Second, the people of my State want action on the banning of assault weapons that have no purpose whatsoever for hunting, and only for killing individuals.

It is interesting that, with the exception of the 10 members of the Black Caucus, who have a longstanding history of voting against the death penalty, most of the members who voted against the rule also supported eliminating the assault weapon ban when that separate vote occurred in the House. That is basically what was going on over in the House of Representatives.

We listened to these protestations that have been made here earlier today, but these issues of public policy were resolved during earlier debates. We heard on the floor of the U.S. Senate when we were debating the funding of various prison cells—the issue was, are we going to have truth in sentencing? As the author of the Sentencing Reform Act, I believe in truth in sentencing.

But are we going to require truth in sentencing for the States before they will get the funding?

The Senator from Delaware spoke very eloquently about this issue. If we make it a very strict standard, many States will be unable to compete for the money. Many of those on the other side of the aisle wanted it stronger and stronger, even though most correctional and law enforcement officials say that will not work. So the conference report had a more balanced position.

I did not hear any complaints from our Republican conferees when we added additional money for border control and other law enforcement programs involving illegal aliens. I did not hear any of the conferees on that side of the aisle complain about adding more than $1 billion in the conference report to try to assist States that are incarcerating illegal aliens. I did not hear those complaints as a member of that conference committee. I did not hear complaints when we increased funding for police officers.

Mr. President, the Senate minority leader also spoke about 10,000 individuals who are going to be released from jails. His numbers are wrong and he has misstated the safety valve provision, but I would point out that this proposal was supported by Congressmen HENRY HYDE and BILL MCCOLLUM, leading Republicans. They know that the proposal will affect only a small number of nonviolent, low level drug offenders. And we need those prison cells for the violent rapists and murderers and those that are committing other crimes of violence. This was supported by Republicans on the conference. Now we hear other Republicans say they do not want that now.

I would say finally, Mr. President, we should listen to the majority leader who read into the RECORD some of the various proposals which have been advocated by our Republican friends under the concept of prevention. Many of their programs were included in the conference report. It is amazing that Republicans were willing to add them to the proposal here in the U.S. Senate, and now these measures are being railed against here on the floor by other Republicans.

I am hopeful we will get a good crime bill. I remember very well that we spent close to 2 days on the floor before the Senate adopted the Brady bill, and there was great uncertainty on that side of the aisle whether they were going to continue a filibuster or not filibuster. I think the President is going the extra mile to get a good bill. I know the leadership is trying to get a good measure. I thought that the explanations by the Senator from Delaware responded fully to these questions and I commend those remarks to my colleagues.

TRIBUTE TO MAJ. GEN. JOHN G. SMITH, JR.

Mr. DECONCINI. Mr. President, I rise today to enter into the CONGRESSIONAL RECORD a eulogy for an Arizona citizen, outstanding soldier, and American patriot.

Maj. Gen. John G. Smith, Jr., served his country, his State, and his God with unswerving devotion and dedication. As the adjutant general for the State of Arizona, his record was one of excellence and commitment to the public welfare. His untimely death is a loss for Arizona and the Phoenix community.

I ask unanimous consent that a eulogy given at General Smith's funeral by Gen. Curtis A. Jennings be included in the RECORD at this point.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

GEN. JOHN GRADY SMITH, JR.—EULOGY PRESENTED BY CURTIS A. JENNINGS AT HIS FUNERAL ON JULY 11, 1994

We are here today to honor the memory of our colleague and friend LTG John Grady Smith, Jr. It is impossible to render a proper eulogy to Gen. Smith in a few words and capture the full and rich tapestry of his life and a complete catalogue of his accomplishments. He was an extraordinary individual who had a lasting impact upon the Arizona National Guard, the community and State and his friends and acquaintances. His passing leaves a void in the lives of all those who knew him. On behalf of the officers and enlisted persons of the Army and Air National Guard, both active and retired, Gen. Smith's friends and acquaintances, I convey deepest sympathy and profound condolences to Mrs. Jane Smith, their three children and their families.

John Smith was born on November 19, 1919, in Statesboro, Georgia, where he grew to manhood. He attended Georgia Southern College in Statesboro where he met, in 1940, his future wife Norma Jane Simpson, affectionately known to all of us as "Jane."

His military career began in April of 1938 when he enlisted in the Georgia National Guard. In November 1940, his Guard unit was called into Federal Service due to the winds of war which were sweeping over Europe and the concern that the United States would soon be involved. He was in a coast artillery unit and received training at and was assigned to Camp Fisher, Fort Stewart and Fort Bragg before being commissioned as a 2nd Lieutenant Infantry in August 1942 through the Officer Candidate Program at the Infantry School, Ft. Benning, Georgia. He was assigned to the 104th Infantry Division nicknamed the "Timberwolf" Division which had been activated and was in training as a combat division at Camp Adair near Corvallis, Washington.

After a period of courting as only a southern gentleman can court, he won the hand of Jane, and they were married on April 4, 1943. Jane says he kept asking her by letter, telephone and in person so she finally said "yes." Clearly they must have both meant the vows they exchanged since they celebrated their 51st wedding anniversary last April. He enjoyed telling the story that after he and Jane were married and were traveling across the country as a very young couple, they would stop at a motel or hotel and he would tell the clerk to register him as John Smith. The clerk would look at Jane and say, "and I suppose you are Jane Smith," and she would answer, "that's right," much to the hotel clerk's amusement. Jane is an outstanding ideal of an officer's lady. She followed her soldier from camp to camp until his unit was deployed overseas, and then waited to join him when he returned.

In the fall of 1943 the 104th Infantry Division moved from Camp Adair, Oregon, with its wet and rainy climate, to the dry desert of Camp Hyder, Arizona. The division's encampment was known as Camp Horn, and the location was described as in the Arizona Desert on the Southern Pacific Railroad somewhere between Phoenix and Yuma, Arizona. Then Lt. Smith and his lady Jane found a rooming house in Phoenix where they rented quarters from a couple who became lifelong friends, Guy and Esther Gaston. Here they spent weekends when Lt. Smith was not in the field on maneuvers. Having bought their first car, Jane learned to drive on the dusty unpaved streets and roads of west Phoenix, Gila Bend and Hyder. This was their first experience in Arizona, and they must have liked it since they returned after the war.

From Arizona, the Division went to Camp Carson, Colorado, and then to Camp Kilmer, New Jersey, for overseas deployment. In late summer 1944, the Division landed in Cherbourg, France and was transported soon thereafter to the Belgium/Holland area where it was committed to combat attached to the First British Corps of the First Canadian Army. Its mission was to assist in clearing the approaches to the Port of Antwerp. Jane, of course, stayed in the United States, where she bore their first daughter, Norma. John did not see his daughter until he returned from Europe in the summer of 1945 after V.E. Day.

The 104th Infantry Division had an outstanding combat record in Europe, serving continuously in combat for 195 consecutive days. It served under British and Canadian command, as well as under the First and Ninth United States Armies. It inflicted over 18,000 casualties and captured 2,000 towns and communities, including the great cities of Cologne, Eshweiler and Halle. It took 52,000 prisoners in the great sweep across Germany to the Elbe and Mulde Rivers where it met the Russian forces on April 26, 1945. It also liberated two Nazi concentration camps where, in addition to the stark reality of combat, Gen. Smith saw and experienced some of the worst examples of man's inhumanity to his fellow man.

During these campaigns, Gen. Smith was awarded the Combat Infantry Badge, the Bronze Star with Oak Leaf Cluster, and the French Croix de Guerre with Palms. MG Terry de la Mesa Allen, Commanding General of the 104th Infantry Division specifically commended him and other officers for the fine performance in the European Theatre of operations. As most combat veterans, he spoke little of his wartime experiences.

In June 1945, after V.E. Day, the Division moved to Camp Lucky Strike near Dieppe and La Havre, France, and then sailed to New York for redeployment to the Pacific Theatre of operations. After leave, the men of the Division reassembled at Camp San Luis Obispo, California, on August 1, 1945, for combat refresher training and deployment in the Pacific. Through the use of its nuclear power, the U.S. compelled the surrender of Japan on August 15, 1945, and the Division, no longer needed in the Pacific, was thereafter deactivated.

Gen. Smith was separated from active duty as a Major in November 1945, and he, Jane and Norma journeyed from Camp San Luis Obispo, California, to Statesboro, Georgia. After seeing family and friends, he went "job looking," as he put it, and found that Georgia was not a good place to find a job. He contacted his friend Guy Gaston in Phoenix, Arizona, and through contacts with the American Legion, he became a contact officer for the Veterans Administration and settled his family permanently in Phoenix where his second daughter Sharon and son Guy were born.

He was in the organized reserve following his separation from active duty until May of 1949 when he joined the Arizona Army National Guard. He remained employed with the Veterans Administration until 1952, when he became Executive Officer of the National Guard serving under Adjutants General Frank Frazier and later J. Clyde Wilson. I first met Gen. Smith on one of his trips to Washington with Gen. Wilson in 1957 when they came to see Senator Carl Hayden from whom I was working at the time.

In June of 1960, Gen. Smith became the U.S. Property and Fiscal Officer for Arizona, and served in that position for the next 15 years, with Adjutants General J. Clyde Wilson, Joe Ahee, Jackson Bogle and Charles Fernald.

In July 1975 he was appointed Adjutant General of Arizona by Governor Raul Castro and promoted to Major General. He was reappointed twice by Governor Bruce Babbitt and retired in November 1983, at which time he was given his third star and promoted to Lieutenant General.

He was an enthusiastic and cheerful individual with a "can do" attitude. During his tenure as the U.S. Property and Fiscal Officer, it operated smoothly and efficiently, providing the troops with all logistical needs. As Adjutant General, he presided over a major expansion of the Arizona Army National Guard that almost doubled its troop strength and placed new units in a number of Arizona's rural communities. A number of new armories and facilities were started during his tenure. He also supported major expansion and new missions for the Air National Guard. While Adjutant General, he convinced the Pentagon to put the Arizona National Guard in command of the Navajo Army Depot near Flagstaff and to operate the munitions storage facility with Guard troops. This was the first time an active Army installation came under control of a state National Guard.

General Smith had outstanding characteristics of leadership. Unlike so many of his contemporaries who chose Patton as their model, Gen. Smith chose to emulate General Omar Bradley. He was a soldier's General—a diplomat, courteous and compassionate in even the most difficult situations. He was honest and sincere. He never played a part; he was always himself. He made ordinary people feel good and that they were important. He always had time for anyone who wanted to talk to him. As Adjutant General, he established an "open door" policy that was followed throughout the command. He got along well with private soldiers, generals, senators and cabinet members.

When he was Adjutant General and I served as his Troop Commander, I would go to see him on some difficult policy or personnel matter, and when we were through, he would always thank me for coming to see him. This always surprised me. Jane tells me that it was his habit to thank her and the children for the smallest thing, like passing him a glass of water. This character of southern gentleness—one might say almost chivalrous conduct—made him stand out as if he were from an earlier and more noble time. This manner earned him the loyalty and respect of his peers and subordinates alike. He was well respected and highly regarded by his fellow Adjutants General and the officers with whom he worked in the National Guard Bureau. Every Arizona Governor with whom he worked had the highest regard for him, including Governors Pyle, McFarland, Williams, Fannin, Goddard, Castro Bolin, Babbitt and Mofford. The Arizona Congressional Delegation always looked to him for advice on military issues and reserve and national guard matters. Even with his abilities, he could not have succeeded without the help of others. In this regard, I know he would have wanted special mention made of three ladies who took care of him as his assistants and secretaries during his service in the Guard and of whom he thought so highly. These ladies are: Helen Glenn, Marilyn Pomerenke and Anna Kroger. Another friend of long standing whose acquaintance with General Smith goes back to their days with the 104th Division in Germany is now retired Sgt. "Pinky" Martinez. Mention should also be made of individuals who have gone before him and on whom be counted during those busy years. Special mention should be made of General Bob Pettycrew, Sam Krevitsky, Norman Erb and Dr. Mark Westervelt.

During his years as Adjutant General when a crisis would arise, General Smith would assemble a small staff to advise him, which he would call his "crisis staff." Although others might be involved, depending upon the issues, always there was Gen. Jay Brashear, this eulogist and Bob Pettycrew, in whom Gen. Smith had such confidence and on whom he always relied.

Even though he had a busy career, he always had time for his family. He was a loving husband and father. His children recall his playing ball and other athletic events with them. They recall picnics and his love of a backyard barbecue and cookout. Although they mention that sometimes the meat was cooked a little too well, he would tell them that was the southern way. He took his family on trips and taught them the history and heritage of our state and nation. He was a firm believer in the biblical commandment to honor thy father and mother. We have all heard him speak of his family in Georgia, especially his mother whom he worshipped. He was faithful in his pilgrimage to Georgia every year or so to see her until her passing a few years ago.

General Smith also found time for civic activities. He was Chairman of the Arizona State Fair Commission, a member of the Phoenix Urban League, Federal Executives Association, Arizona Emergency Services Association, and Military Affairs Committee of the Phoenix Chamber of Commerce. He was also a lifetime member of the Timberwolf Association, the Association of the United States Army, American Legion and National Guard Associations of Arizona and the United States. He enjoyed life. When I last saw him just before he went into the hospital, he told me "I have had a good life. I have enjoyed all of it."

General Smith did have a fine and successful personal and military career. In addition to his combat decorations previously mentioned, he was awarded the Distinguished Service Medal, the Legion of Merit, Army Commendation Medal, the Arizona Distinguished Service Medal, and many other medals and decorations. He was inducted into the Infantry Hall of Fame at the Infantry School at Fort Benning, Georgia.

General John G. Smith passed away on July 6, 1994. In describing him and his career, I think of the words duty, honor, loyalty and integrity. He will be sorely missed. Although he has answered that final bugle call, he will not be forgotten. As the poet Angelo Patri said:

"In one sense there is no death. The life of a soul on earth last beyond his departure. * * * He lives on in your life and in the lives of all others that knew him."

And so it will be with General John Smith. This kind and gentle man left the world a better place than he found it. He touched all of our lives and we are all richer for having known him.—Curtis A. Jennings, Brigadier General (ret.) Arizona Army National Guard.

THE 100TH ANNIVERSARY OF ROGERS DEPARTMENT STORE

Mr. HEFLIN. Mr. President, September 4, 1894, marked the beginning of a legacy for Maj. Benjamin Armstead Rogers, for the small town of Florence, AL, and indeed for the entire northwestern region of the State. On that date, nearly 100 years ago, Major Rogers and his two sons, Thomas McLemore and Benjamin Armstead, Jr., opened the Surprise Store at the corner of Court and Mobile Streets in Florence. As recorded in the Florence Gazette, the opening was accompanied by Ben Rogers, Jr., leaving for New York to buy stock.

The Rogers family had arrived in Florence confident of the town's and area's future, and they wanted to play a part in its development. The family's ideas and vision about retail merchandising varied significantly from those of the average tradesmen of the day. They marked each and every item with its exact price and their policy of "One price-plain figures" led to their success. The store that still stands at the corner of Court and Mobile Street today is a living testament to the Rogers' success over the last century.

Five generations of the Rogers family have now worked at this location. A large part of the vitality of downtown Florence today is a direct result of the Rogers' commitment to maintaining the life of the central business district. Like most major department stores in recent decades, they have had opportunities to relocate to modern, state-of-the-art suburban shopping malls, but have chosen to remain as one of the anchors of downtown business. There are now Rogers stores in Decatur and Muscle Shoals, AL, as well.

Rogers family members have also taken a leading role in community service and have played pivotal roles in the progress and development of north Alabama. They have served as members of the chamber of commerce, the Rotary Club, United Way, Boy Scouts of America, the YMCA, and the Alabama State Legislature. Corinne Rogers Zaccagnini, a great-great granddaughter of the founders, presently works for Senator DECONCINI on the Security and Cooperation in Europe Commission.

I salute the Rogers family and congratulate them on the 100th anniversary of Rogers Department Store. It has become a legendary institution in this part of Alabama, and is poised for an even brighter future.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, as of the close of business on Tuesday, August 16, the Federal debt stood at $4,667,394,077,182.19, meaning that on a per capita basis, every man, woman, and child in America owes $17,902.56 as his or her share of that debt.

IN MEMORIAM—MANFRED WOERNER

Mr. BIDEN. Mr. President, I rise today in praise of Manfred Woerner, Secretary General of the North Atlantic Treaty Organization and a true friend of the United States, who died on August 13 at the age of 59.

Manfred Woerner was the first German to hold the highest civilian post of NATO. Born in Stuttgart, he won a seat in the German Parliament in 1965 and rapidly established himself as a security expert. In 1982, Chancellor Helmut Kohl named Mr. Woerner Defense Minister at a time of great debate in Germany about the proposed stationing of American medium-range nuclear missiles in that country to counter a massive Soviet missile buildup.

Mr. President, this issue was a grave one, which caused mass demonstrations in Germany and threatened to split the Atlantic alliance. It was largely because of Manfred Woerner's determined efforts that the American initiative succeeded. The Atlantic alliance survived its most serious crisis, and less than a decade later the West had won the cold war over the Soviet Union.

In 1988, Manfred Woerner succeeded Lord Carrington as NATO Secretary General and in doing so became a symbol of democratic Germany's ultimate acceptance as a leader of the alliance. In his new position he once again proved his far-sightedness, advocating the strengthening of NATO's conventional forces and, more recently, calling for a firm response to Serbian aggression in the former Yugoslavia.

Manfred Woerner was a distinguished German politician, a leading European statesman, a fine gentleman, and a loyal, steadfast friend of the United States of America. He will be sorely missed by this country, which is deeply in his debt.

WOMEN IN COMMUNICATIONS

Mrs. HUTCHISON. Mr. President, I rise today to celebrate the 85th anniversary of Women in Communications, Inc.

In 1909, it was founded as Theta Sigma Phi by seven female journalism students at the University of Washington in Seattle. Women journalists had few opportunities at that time, but by the 1920's a Theta Sig, Dorothy Thompson, became the first overseas bureau chief for an American newspaper, and women have been creating new opportunities ever since.

The organization has grown rapidly since then, and has been renamed Women in Communications, but its mission has been consistent; to advance women in all fields of communications, to protect first amendment rights and responsibilities of communicators, to recognize distinguished professional achievements, and to promote high professional standards throughout the communications industry. Its members have included women in many fields, from Barbara Walters, to Eudora Welty to Helen Thomas.

Mr. President, as Women in Communications celebrate its anniversary, its members have dedicated themselves to extending their work to future generations by speaking and mentoring to high schools, colleges, and business groups. I congratulate them on their milestone, and invite my colleagues to observe October as National Communications Mentoring month.

STATEMENTS OF AUGUSTO RODRIQUEZ AND MICHELLE EDWARDS, BOARD OF YOUNG POLICE COMMISSIONERS, NEW HAVEN, CT

Mr. DODD. Mr. President, yesterday, I had the extreme pleasure of meeting with Augusto and Michelle, who are in town attending the National Youth Violence Conference. They had compelling stories to tell about how violence has affected their young lives. Their experiences put a face on the terror facing so many young people in our Nation—a terror that just a generation ago would have been impossible to imagine in our country.

But their stories are also laced with hope for what can be done to end the carnage. And, this is why I felt it was so important to include their statements in the RECORD. Both Augusto and Michelle are officers of the Board in New Haven. This unique program brings young people and their schools together with the New Haven police department to try and do something to stop the violence.

The program has worked wonders for the young people, police and citizens of that city and is exactly the type of program that could be expanded if we would just pass the crime bill. These kids understand the simple truth that we will never stop crime in this Nation until we give our kids some positive alternatives to the streets. So, I encourage any of my colleagues who think that prevention programs should not be a part of tough crimefighting legislation to read the words of Michelle and Augusto. Their stories illustrate the wisdom of this approach better than any of the rhetoric we hear in this town. Mr. President, I ask unanimous consent that the enclosed statements of Augusto Rodriquez and Michelle Edwards from New Haven, CT be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SPEECH TO NATIONAL YOUTH VIOLENCE CONFERENCE

(By Augusto Rodriguez)

Good morning! My name is Augusto Rodriguez. I am the proud President of the Board of Young Adult Police Commissioners. On behalf of the city of New Haven and the thousands of youth who reside in my city I wish to compliment you for providing us with a chance to face reality. I feel that this National Conference provides us with a necessary opportunity to voice our opinion on the fatal issue of youth and violence, which is taking away my friends and family.

I have an investment in New Haven as a resident and a senior at Career High School. I come from a single parent family who survives on a fixed income. My role has been that of a surrogate father to a good mother and family. The demands have added to my responsibilities while making me stronger.

Career High School has a valuable asset, its principal Mr. Williams. He demonstrates a keen interest in the student body as well as being approachable, friendly and very helpful. The student population is about 400. The most violent act during my junior year was when one female struck another in the face over what she said. Career High does not represent anywhere near the amount of violence that occurs in our city.

In the 1980 census, New Haven was ranked the 7th poorest city in the nation among cities with more than 100,000 people. Twenty-eight percent of New Haven's children under the age 18 live below the nation's poverty level. However, African Americans and Hispanics account for 41% of those living in poverty. While the 1990 Census indicates that New Haven ranks 39th now, we still continue to suffer the blight of being in dire need of economic growth.

In just the last year I have seen what this adds up to.

On my way to the store I saw a car drive by my brother and his 21 year old friend. I was half a block away when 2 windows rolled down. Six or seven shots where fired. The friend was hit in the left abdominal region and the right thoracic area. The friend hid behind a tree. He looked around and was shot again. This time he collapsed. My brother and I ran to him. When I got there, I heard the friend say, "It burns! It burns! Forget it I'm gone." He then started gasping for air. Police showed up and dispersed the large crowd. The paramedics ripped open his clothes and placed him on a stretcher. He died in the ambulance.

I was at a club with a group of friends. When I saw a female about 27 pull out a switch blade. She slashed my friend from the ear to the top of her lip. Her whole epidermis was hanging out. She said, "My face is shrinking. It burns." She was so beautiful at 21. But no longer.

I was visiting Fair Haven Middle School and saw three 8th graders beating up a 7th grader outside. One of the 8th graders had a bottle in his hand and struck the 7th grader in the head. He fell to the ground, and all 3 began kicking him. The school security guard grabbed two of them. the 7th grader ended up with 7 stitches.

During my sophomore year Chief Pastore visited my high school. My peers and I listened to the Chief's message about empowerment of youth. Before the Chief's departure he stated, "If you have any questions or concerns please feel free to call me."

At a drug raid next door, a narc pushed my younger brother and was disrespectful to him. I was really angry. This was not the message the Chief gave. I made an appointment to see him. My brother, the Chief, the narc and the youth coordinator were there. We all had a chance to talk and make our point. At the end of a good meeting my brother and the narc apologized and shook hands. They gave their word they would be more respectful. The Chief suggested I speak with the youth coordinator Detective Morrissey. We talked about the Board of Youth Adult Police Commissioners. He gave me information. I called him back. I said I was interested in joining. I now know that the Board was not just a front, but a real beginning. That was over a year ago.

Our Board is looking forward to interviewing the 60 community police recruits who will be coming on the next year. The Crime Bill, which I hope passes soon will help us with more police and drug/alcohol prevention and treatment. Over 80 community policy officers have been interviewed already by other commissioners. Now it's our turn. I am convinced this helps us bridge the gap between policy and youth. Lasting friendships have been made with commissioners and police.

My first committee assignment on the Board was planning the Holiday Jam. The Board met with our Chief to bring youth together for fun and a fund-raiser. We decided on the Thanksgiving weekend dance. I and other commissioners visited Hospice and meet with the President. The decision was made. Youth our age are dying right now from AIDS. Hospice allows them to die with dignity. Over 300 students from all over New Haven showed up paying $3 each. Three stores donated prizes to the dance contest. No cursing, no problems and a lot of respect. The only complaint afterwards was that people wanted to come but didn't know about it. We raised $800 and are planning the next dance.

The Board is composed of a President, Vice President, Secretary, Treasurer and 18 members. We are fully chartered and legitimate body of elected and appointed young people, representing the full cross section of the population in New Haven. Our Board meetings are run by Robert's Rules of Order.

Special committees are set up when needed. Six commissioners are elected from their respective high-schools. Sixteen others must submit a resume and be recommended by a commissioner. The Board then votes. All are sworn in by the Mayor.

We are serious about the quality of life. We know time has been wasted. Excuses are not the answer. You've have been leaving us out of this war far too long, that's why we're losing it. Only together can be win. Please don't ignore the facts.

Nick Pastore is more than a Chief of Police. He is our friend. He listens and works with us when it counts. Together we are improving life in New Haven for everyone. We are ready to spread the solution and are available.

Thank you for allowing our group to be heard today. It is commonly assumed that adults fail to listen to our age group. Your presence here has proven that assumption to be incorrect. We are a prime example that police and youth can work together and make a difference.

I would now like to introduce our Vice President, Michelle Edwards.

AUGUSTO RODRIQUEZ,
President.

SPEECH TO NATIONAL YOUTH VIOLENCE CONFERENCE

(By Michelle Edwards)

Good morning! My name is Michelle Edwards and I am the Vice President of the Board of Young Adult Police Commissioners, and on behalf of the Board I want to thank you for inviting us to this very prestigious conference. Which we all know is addressing the urgent issue of youth and violence. The commissioners appreciate the respect you have shown the youth of this nation by hosting this important conference.

I am a resident of New Haven, CT. My father is a retired Msgt. of the United States Air Force. My mother works at American Linen. I am a 16-year-old junior at Wilbur Cross High School. There I am a member of the National Honor Society and captain of the volleyball team. I also have a part-time job at a local Shell gas station.

A positive aspect of Cross High School is it's diversity—with 17% Caucasian, 40% Latino, 40% African American, and 3% Asian American and other nationalities. Cross also has a number of dedicated teachers who provide students with a worthwhile education. However, in the 2 years of attending Cross, I have witnessed or have had direct knowledge of violent acts by students which has ultimately disrupted and destroyed social and educational opportunities. On one occasion, we had 4 students attack one of our assistant principals and rob him of a mere $18. Another time a 17-year-old young man who had a gun in his possession accidently shot himself during gym class. I remember sitting in my social development class and hearing chaotic screams and yells of "Oh my God," "He has a gun!" Within an hour, we had 4 television crews, 2 radio stations plus local newspapers ready to cover the incident. Unfortunately, during the National Honor Society Induction, a news crew could not be found. Two days before the final closure of school, 3 female students viciously attacked another female student with a mule bone, which they confiscated from a biology class, sending the victim to the emergency room. This incident was provoked because one of the 3 female students didn't like the other student's cousin. These random acts of violence have become so frequent that I and my classmates have become conditioned to expect them and accept them as normal behavior. Good teachers close and lock their doors in fear and continue on with their daily lesson plans. For the adults who are here today, I want you to think back on your high school days. Did you ever fear the gun or knife in your school? We do. If our roles were reversed and I were your parent I wouldn't let you go through this. Too many innocent people are being hurt. We need real action and genuine help now!

I was recommended and elected by the students of Cross to represent our school on the Board of Young Adult Police Commissioners. At first I was quite critical of the Board. I thought that the Board was a front for teenagers to just hang out. Now that I am a member of the Board and aware of it's accomplishments, I realize that I was mistaken. I understand that my fellow peers want to have a say in the decision making process. Being a Young Adult Police Commissioner makes this possible.

An example of this is the Board's Standing Committee on Residential Drug Treatment for Adolescents, which was formed in November of 1991. It's main purpose is to try to educate, prevent and treat drug abuse among the youth in New Haven. This committee conducted research and discovered that there were only 110 beds available in the entire state of CT. However, only 20 beds were available for non-insured (keep in mind that this is the ENTIRE state!). Our Standing Committee also discovered that the cost of placing someone in jail for a year, approximately $42,000 was far more expensive than putting someone through Residential Drug Treatment which is approximately $24,000. That's when the committee took action to get more treatment beds for adolescents. Two thousand students signed a petition to encourage more beds and we presented it to the General Assembly's Appropriations Committee. We also spoke in front of the Appropriations Committee asking for their help. Then we learned after seeing the Annual Budget that no more beds would be added. Instead that 10 beds would be taken away from the youth population creating more victims. We then decided to call Mr. Dyson, the co-chairperson for the Appropriations Committee, to ask for his personal help. We were successful in saving the 10 beds. Our question is how long does the line of victims have to get before funding for more treatment beds are available?

Since the Board's founding we have supported and continued to encourage Residential Drug Treatment. Glenn Johnson, a student at Amhurst, and also the first chairman of the Residential Drug Treatment Committee and the president of our Alumnae Association, along with 3 other commissioners, met with four recovering drug addicts in November of 1991. They discussed the reasons for needing treatment; it had to do with life or death. Recently former Vice President Melissa Annunziata and I attended a graduation of recovered addicts in Newtown CT (which is about an hour from New Haven). What we saw were 9 recovered addicts who went through with Residential Drug Treatment, received their diplomas and in turn changed their lifestyle. The Board feels that Residential Drug Treatment is the best transition from a negative environment into a positive atmosphere.

Recently, we have hired two consultants from Massachusetts to assist us with needs assessment, strategy planning, documentation and fundraising. We wrote a proposal to CSAP (Center for Substance Abuse Prevention) in September of 1993. We received 16 resumes from as far as California. We then narrowed our selection down to New England consultants only, We interviewed 3 consultants at the New Haven Police Department and hired Dan Jaffe and Hal Phillips. Since then we have organized two all day Sunday meetings. During these meetings we discussed ways to improve the Board's standing with the community, national linkages, fundraising, and community and police relations. Our main purpose of working with these consultants is to find strategies to achieve these goals.

President Augusto Rodriquez, Secretary Maya Castellon, Treasurer Chris Greene and I will be available until Wednesday to discuss real youth inclusion and empowerment within our system of government. Please feel free to come to me or any of the other officers. Once again, I want to thank those who worked so hard to put this conference together for this rare opportunity to be listened to intimately from a distance. I hope our words turn into action soon. We want to help that happen. Thank you.

MICHELLE EDWARDS,
Vice President.

CRIME

Mr. DOLE. Mr. President, one of the most extravagantly oversold provisions in the crime bill is the proposal that allegedly would put 100,000 new cops on the street. While few dispute the merits of adding to the ranks of our State and local police forces, it is also important to level with the American people.

The Heritage Foundation has concluded that the crime bill provides full funding for only 20,000 new police officers, not the 100,000 claimed by President Clinton.

This 20,000 figure is consistent with the analysis of Princeton University Prof. John Diiulio, who recently had this to say about the crime bill:

> The bill calls for 100,000 new cops. But when you read the relevant titles of the bill, what you discover is that that really means about 20,000 fully-funded positions * * * and if you are stouthearted enough to look at this bill in light of the relevant academic literature, you know that it takes 10 police officers to put the equivalent of one police officer on the streets around the clock * * * so that 20,000 funded positions becomes 2,000 around-the-clock cops. And 2,000 around-the-clock cops gets distributed over at least 200 jurisdictions for an average actual street enforcement strength increase of about 10 cops per city.

But, Mr. President, let us put Professor Diiulio's comments aside for a moment and assume that 100,000 new cops will, in fact, be hired as a result of the crime bill.

The Heritage Foundation estimates that creating 100,000 new police positions through the crime bill will saddle the States with a $28 billion unfunded liability over the next 6 years. Twenty-eight billion dollars is the difference between the total cost of hiring 100,000 cops for 6 years—$37 billion—and the amount of funding actually provided in the crime bill, nearly $9 billion.

Heritage estimates that the crime bill could result in 875 new cops for my own State of Kansas. While the crime bill would provide $77 million for this purpose, Kansas would still be stuck with a $250 million tab.

So, Mr. President, let us not oversell the crime bill. Let us not sell the American people a crime bill of goods.

Again, I support trying to put more cops on the street. More police generally means more security. But the crime bill will not put 100,000 new police officers on the street, as the President claims. It fully funds only a fraction of this amount—about one-fifth; 20,000 new cops. And even if we assume that 100,000 police positions will be created, it is the States and localities who will pay the lion's share of the cost.

Mr. President, I ask unanimous consent that the Heritage Foundation study be reprinted in the RECORD immediately after my remarks.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE CRIME BILL'S FAULTY MATH MEANS A $28 BILLION UNFUNDED LIABILITY TO THE STATES

(By Scott A. Hodge)

President Clinton is making a last-ditch effort to revive the $33 billion crime bill that Congress rejected last week on a procedural vote. Among the arguments Clinton is using to sway lawmakers is the claim that if Congress passes this measure, the bills' $8.8 billion Community Policing grant program will add 100,000 new cops to local police forces over the next six years.

Clinton is wrong. The numbers just don't add up. The crime bill provides full funding for only 20,000 permanent new cops. Meanwhile, it saddles state governments with a $28 billion unfunded liability over the next six years if the bill is to result in 100,000 new officers. States such as California and New York will have to raise some $3 billion each to meet the Administration's promise.

The reason this happens is that the Community Policing grant program is intended only to provide "seed" money to local governments to hire new police officers, not to fully fund these positions. So the bill assumes that once these new officers have been hired with Washington's help, state and local governments will find the billions of new dollars needed to keep them on permanently. The bill provides just one-fifth of the funds needed over six years to hire and keep 100,000 new cops on the street in high-crime areas.[1] Thus, if cities do not cut back on their services or raise taxes, the funds provided in the bill can keep at most just 20,000 permanent cops on the street over the six-year life of the bill. Even more problematic for state and local officials, if they use federal funding to hire the new police officers and then cannot raise the funding needed to keep them, officials will have to start laying off cops after the first year of the bill.

Another way to look at this financial sleight-of-hand is to calculate how much funding the bill provides per police officer per year. On average, the bill authorizes $1.475 billion per year for 100,000 new officers. This amounts to just $14,750 per cop per year—roughly the poverty level for a family of four. Police officers cannot, of course, be hired for minimum wage salaries, and so state and local governments would have to absorb the remaining cost of hiring and keeping each of these new cops.

To give taxpayers a better understanding of the total cost of the crime bill, Heritage Foundation analysts have calculated the amount of new resources states will have to raise over six years if they choose to apply for the federal Community Policing grants. As is seen in the following table, these calculations show that state governments will have to raise a total of over $28 billion of their own funds to meet Clinton's promise.

Eight states (California, New York, Texas, Florida, Illinois, New Jersey, Pennsylvania, and Ohio) will have to absorb more than $1 billion each in new costs over the next six years to fully fund their share of the 100,000 new cops. At the bottom end of the scale, the fourteen states likely to receive the minimum amount of federal aid for new police officers—and, of course, the fewest number of new cops at 500 per state—will still find themselves liable for over $143 million each in added expenditures to meet the bill's lofty goal.

Large states, such as California and New York, will be particularly hard hit. Although California is estimated to receive 10,827 new cops, it will have to absorb some $3.1 billion in new costs to keep them on the street. Similarly, New York is estimated to receive 10,407 new cops but will be burdened by some $3 billion in new costs. Neither of these states is in the fiscal condition to bear this expense. Texas could hire nearly 6,400 new officers but would face an unfunded liability of over $1.8 billion by doing so.

In reality, the unfunded liability for some large states will be even higher than these estimates suggest. This analysis assumes that the Community Policing grants will be distributed proportionately according to a state's share of the national police force (see technical notes in the appendix). But the crime bill allows 75 percent of the Community Policing funds to be distributed at the discretion of the Attorney General. This means that the Administration may play politics with these funds and reward loyal mayors and local politicians in politically important states—or House members the White House needs to win passage of the bill.[2] But, ironically, this will raise the taxpayer liability in these states even higher.

The dirty little secret of the crime bill is that it will not put 100,000 new police officers on America's streets unless the states raise taxes or cut other spending to finance a massive $28 billion unfunded liability. Once most states realize the magnitude of these new costs it is likely that far fewer permanent cops will actually be hired. However the computation is made, the result is the same: Bill Clinton's crime bill actually funds only a fraction of the promised 100,000 new cops.

THE CRIME BILL'S UNFUNDED LIABILITY TO THE STATES

State	Estimated new cops added per state by crime bill	Crime bill's contribution for new cops over 6 years	Liability to State taxpayers for new cops over 6 years
California	10,827	$958,224,360	$3,102,048,353
New York	10,407	920,993,894	2,981,522,608
Texas	6,386	565,124,889	1,829,472,098
Florida	5,630	498,252,127	1,612,985,699
Illinois	5,488	485,723,575	1,572,427,165
New Jersey	4,327	382,895,805	1,239,544,047
Pennsylvania	4,129	365,378,435	1,182,835,273
Ohio	3,683	325,952,244	1,055,201,331
Michigan	3,106	274,917,767	889,988,026
Massachusetts	2,707	239,592,416	775,629,687
Georgia	2,605	230,502,758	746,203,844
North Carolina	2,484	219,847,031	711,708,184
Maryland	2,190	193,805,079	627,402,882
Virginia	2,148	190,075,574	615,329,401
Missouri	1,885	166,859,004	540,170,675
Wisconsin	1,808	159,981,217	517,905,294
Indiana	1,743	154,217,437	499,246,278
Tennessee	1,732	153,281,024	496,214,842
Louisiana	1,651	146,128,771	473,060,936
Alabama	1,443	127,674,988	413,320,725
Washington	1,399	123,767,888	400,672,317
Arizona	1,380	122,137,239	395,393,435
Connecticut	1,324	117,132,276	379,190,929
South Carolina	1,273	112,660,100	364,713,205
Minnesota	1,266	112,062,733	362,779,357
Colorado	1,225	108,446,244	351,071,739
Oklahoma	1,157	102,391,853	331,471,932
Kentucky	1,046	92,543,378	299,589,580
Oregon	898	79,498,185	257,358,530
Kansas	875	77,415,474	250,616,196
District of Columbia	830	73,459,939	237,810,989
Iowa	818	72,394,366	234,361,423
Mississippi	762	67,453,984	218,367,981
Arkansas	696	61,561,043	199,290,835
New Mexico	595	52,648,980	170,439,920
Nevada	565	50,001,194	161,868,271
Nebraska	514	45,496,727	147,286,015
Utah	500	44,250,000	143,250,000
Hawaii	500	44,250,000	143,250,000
Rhode Island	500	44,250,000	143,250,000
West Virginia	500	44,250,000	143,250,000
New Hampshire	500	44,250,000	143,250,000
Maine	500	44,250,000	143,250,000
Idaho	500	44,250,000	143,250,000
Montana	500	44,250,000	143,250,000

Footnotes at end of article.

THE CRIME BILL'S UNFUNDED LIABILITY TO THE STATES—Continued

State	Estimated new cops added per state by crime bill	Crime bill's contribution for new cops over 6 years	Liability to State taxpayers for new cops over 6 years
Delaware	500	44,250,000	143,250,000
Alaska	500	44,250,000	143,250,000
South Dakota	500	44,250,000	143,250,000
Wyoming	500	44,250,000	143,250,000
North Dakota	500	44,250,000	143,250,000
Vermont	500	44,250,000	143,250,000
Total	100,000	8,850,000,000	28,650,000,000

TECHNICAL NOTES

These calculations have been made using a conservative estimate of the average cost of hiring and keeping a police officer on the beat in small and large cities. In small cities, such as Elkhart, Indiana, the total cost of putting a permanent cop on the beat is $50,000 to $55,000 per year. In large cities, such as San Francisco, this cost rises to $70,000 to $75,000. The average used in this analysis is $62,500. This figure includes salary and fringe benefits, training, and some administrative costs. It does not include equipment costs such as police cars and radios. In most cities, a new police cruiser is needed for every three or four officers hired.

This analysis assumes that the Community Policing funds and, thus, the 100,000 new cops, will be distributed proportionately among the states according to the current state-by-state distribution of roughly 534,000 police officers nationwide. The source for these data is the "Sourcebook of Criminal Justice Statistics—1992," published by the Justice Department's Bureau of Justice Statistics.

The crime bill requires that no state receive less than 0.5 percent of the Community Policing funds. Thus fourteen small states, whose share of the nation's police force is less than 0.5 percent, were automatically allotted this minimum share of funds for new officers. The remaining funds and new cops were then distributed proportionately among the other states.

The federal contribution per state for new cops is based upon the $14,750 per cop per year the bill authorizes. The state liability is then based upon the residual amount of $47,750 ($62,500–$14,750).

[1] For more information on these calculations, see Scott A. Hodge, "The Crime Bill: Few Cops, Many Social Workers," Heritage Foundation Issue Bulletin No. 201, August 2, 1994.

[2] Last year, Congress passed an emergency supplemental bill which included $150 million in aid to hire 2,000 new police officers. Nearly 45 percent of these funds went to four key states: California, Florida, Illinois, and Texas.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. There being no further morning business, morning business is closed.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senate will resume consideration of the bill, S. 2351, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2351), to achieve universal health insurance.

The Senate resumed consideration of the bill.

Pending:

Mitchell Amendment No. 2560, in the nature of a substitute.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, yesterday we enacted a guarantee that every insured child in America would receive comprehensive preventive benefits as a matter of right. Today we will be considering whether every child in America and every adult also should have at least the same reliable comprehensive benefits that every Member of Congress receives. The Mitchell bill is a triple guarantee.

First of all, in the Mitchell bill, you will not be cheated out of what you have today by insurance company fine print or loopholes in your policy that do not protect you when serious illness strikes. The examples of how that fine print has excluded the insurance companies from covering, whether it has been infants in their first days of life, or whether it is other individual families members that are in great need, has been illustrated time in and time out during the course of this debate. And the Mitchell bill addresses that particular feature of existing abuse that is taking place in too many insurance policy issues today.

Second, as long as you buy a standard insurance policy, you will never have less than the comprehensive benefits provided to every Member of Congress, and the President, too.

That has been the stated policy of the Mitchell proposal. There is a very similar concept in terms of even the Dole benefit package to make it actuarially similar to what we have in Federal employees health insurance. That is I think a standard which the American people would certainly be willing to accept. For 10 million Federal employees, including obviously the Members of the Senate and the House, it is a good program. I with a family pay $101 a month. It is an excellent program to provide for my family with two children. I daresay that most Americans having heard that would pretty much sign on for that program even today. It is certainly the objective of those of us who support health insurance reform to make that kind of a possibility for other Americans.

Third, the Government would never require you to buy less comprehensive coverage than you have today. You can always buy greater coverage if you want it. The basic concept is that a standard, not a Cadillac standard, or even a Gramm standard, but a minimum standard. In this case it is about the bottom quarter of the Fortune 500 in terms of the benefit package which would be the kind of minimal standard which can be added to, which can also be enhanced by individuals if they so desire because of certain kinds of needs; but a standard that would be available to Americans without the fine print of insurance policies that exist today.

I would like to review for the Members what the Mitchell bill does, and to contrast it to the alternatives. First of all, it establishes the comprehensive lists of benefits that must be covered. That is done on pages 95 to 104. In measures that were reported out of our human resource committee, we identified very, very precisely the benefits. The Federal employees programs are more general in terms of the types of benefits that ought to be provided. The leader reached I think a worthwhile adjustment in terms of those two ways of approaching this. It is illustrated on pages 95 to 104.

Second, it requires that these must be equal in total value to the Blue Cross-Blue Shield policy that covers most Members of Congress today. That is written into law at page 93.

It allows the vast majority of Americans to buy their coverage from the Federal Employees Health Benefits Program, the same program that provides coverage to every Member of Congress. That is at page 158. We will in terms of the two various pools be blending those, phased in over a limited period of time. But effectively that benefit package of benefit programs will be available to Americans and be consolidated in the next several years.

It also allows you to buy additional coverage if the standard benefits alone do not meet your needs. That is on page 88. It provides coverage for cost-effective preventive services without copays and deductibles. That is on page 123. We reviewed those in some detail over the period of the past days when we were considering the Dodd amendment.

I see the Senator from Delaware who supported that amendment on the floor at the present time. Basically, we were trying to ensure the kinds of preventive health care benefits which result in an enhanced health condition for individuals—particularly in the instance of the Dodd amendment for children—which would enhance health conditions for all Americans. And the results have been illustrated several times by the excellent presentations that have been made by the two Senators from Hawaii, where they have very extensive preventive health care programs.

It is designed to better meet the special needs of women, children, and the disabled in many current insurance programs and insurance policies. This is addressed on various pages. The coverage as it relates to preexisting conditions is illustrated on pages 61 through 64. The Mitchell bill prohibits such abuses as the preexisting condition limits, lifetime limits, denial of coverage, rate hikes if you get sick, and exclusion of essential services.

The lifetime limits are addressed on page 124, and the other part is on pages 60 and 61 and the pages following. I daresay you could ask how many of the Members of this body would know what the lifetime limits are, or whether there are lifetime limits in their own Federal employees insurance. We had a meeting earlier in the morning talking about this with our colleagues here. And there are some tragic incidents where some of our colleagues talked about insurance policies that were available to their constituents, and then they would find out that they had some serious health needs and suddenly the insurance company would say, well, look, you have the lifetime limit and you have exceeded it. We found that particularly in examples used involving children—the kind of hardship was placed upon that family.

It guarantees you the right to choose a plan that provides free choice of doctor and hospital. This is included in both if you go through the cooperatives, page 151, or through employer programs at page 137. This is an essential part of the Mitchell proposal. Under the Dole provision, there is no reference to the choice of a doctor or a hospital.

So here is the contrast of the Mitchell bill to the status quo.

Today, any insurance company can, first of all, deny you coverage.

Secondly, they can impose a preexisting condition exclusion. They can say if you have a preexisting condition, we can exclude you for that coverage.

They can limit your lifetime benefits so that your protection runs out when you need it the most.

They can cancel your coverage when you get sick. We have had several examples in very recent weeks of employees with good companies that had their health care canceled for all of their employees because of the incidence of illness among just a few of their employees effectively canceled out within a 2- or 3-month period.

There is also the exclusion of any service from coverage, even a service that might turn out to be most important to you if someone in your family becomes seriously ill.

No American is guaranteed choice.

I think these following points are worthwhile to keep in mind. If your employer does not offer a plan you like, you can be out of luck. Eighty-four percent of employers offer only one plan. Of the employers that make available health insurance to their employees, they provide one plan, and you are effectively out of luck if you want an alternative choice. You can take it or leave it.

Second, if your employer does not offer a plan that allows you to keep your family doctor, you are also out of luck.

You say, look, I want to be able to keep my family doctor. The real life, real world today says: This is your plan. If your family doctor is not covered by that particular kind of plan, you are out of luck.

The Dole plan is better than the status quo alternative, but I do not believe it is good enough. The insurance companies can still impose preexisting condition limitations, and they can sell you a policy that does not cover the service you may need the most, because policies are not required to provide comprehensive coverage. You do not have the guarantee of choice.

We are likely to see an amendment offered sometime, perhaps today, or sometime in this debate, that will claim to protect the benefits the American people have today by effectively scrapping the requirement that every insurance policy must offer basic comprehensive benefits.

What it will do is effectively gut the protections that the Mitchell bill provides. It will allow every insurance company the abuse that exists today to continue with the preexisting condition limitations or the right of the company to terminate or not renew the policy.

There may very well be lifetime limits, inadequate protection for children and the disabled. One of the favorite provisions for many insurance companies, particularly those covering young families, is the exclusion of a child's coverage for the first 10 days of life. That is where about 93 percent of all medical complications arise.

I think of the scores of young couples that looked over the insurance policy and saw they got prenatal care, and then had these difficulties in the first few days of life, found out there was no coverage. That has been one of the continuing tragedies in too many instances.

Mr. President, any kind of an amendment that effectively would undermine the guarantee of at least a minimum package of benefits would undermine the amendment that we passed yesterday to protect children, because the guarantee of preventive services will turn out to be no guarantee at all.

The widely respected Actuarial Research Corp. estimated that because of adverse selection, if these benefits are available but not standard, it could cost a family an extra $450 a year. If they are included in what everybody buys, they would cost only $2 per month per child.

The supporters of this amendment will say that they are trying to preserve choice. But that is the same old argument that has been used to protect the profiteers of the status quo since the beginning of time. The opponents of change have always hid behind choice. Child labor laws deny children the choice to work 12 hours a day in mines and factories.

We will hear: Why should we have this standard benefit package available? Why do we know better than the people back home in local communities? Well, that debate was there at the time of the child labor laws.

In my own State of Massachusetts, in Lawrence and Lowell, you could go into the various plants and factories—and they still have museums up there containing little poems of children 10, 11, 12 years old, who used to work 10 or 12 hours a day, 6 days a week, and they would describe looking out the window at the parks, and so forth. Their life experiences had passed them by. They would generally last 8 to 10 years in those plants and no longer, for a variety of different kinds of tragic reasons. So when we hear, "We want to preserve choice," we can say that issue was addressed years ago. We had the child labor laws. They said, "Why should you in Congress pass child labor laws?"

Why do not we permit those who are in charge of the children have the choice of working more extensive time? Why deny us that kind of choice?

We have the same argument with the Fair Labor Standards Act which denies men and women the choice to work at less than the minimum wage. Why do not we permit men and women the choice of working less than the minimum wage?

There is basically a social compact which has been accepted by Republicans and Democrats alike that men and women who want to work 40 hours a week, 52 weeks a year ought to not be put in a position of poverty in this society. They ought to be able to have sufficient income to provide for their families, put a roof over their head, food on the table, afford a mortgage for their home, and live in some peace and in dignity. That was the concept.

We could say, well, let us eliminate any minimum wage laws. Let us just let the market go. Why do we know more than what is happening out in these local towns? We can find people who will work for less than the minimum wage.

We say, well, on the issues we have a sense of a common good about what our society is about. We care about men and women who want to work, will work and will work for low wages, but they ought to be part of the American experience that they are going to live in some kind of peace and dignity.

We address the issues of choice on the Social Security Act, which denied people the choice to forgo pensions. Why not say, well, we had that debate. We are going to say under Social Security we are going to make that an option for people. We will give them the choice of having no Social Security, no pensions when they retire. Why not give them the choice of that so that they do not have to conform?

We have accepted the concept that we have a respect for those who have really been the architects of this great wonderful blessed land who really toiled in the fields and worked in the factories, fought the wars, built the country. They are part of our society. They are our parents. We are their children. And as a society, the only way that we could get it was the development of a Social Security system that was part of the social compact.

We have accepted in recent years what we call the lemon laws and deny the people the choice to buy cars that broke down all the time. Why not let anyone go out and buy whatever car they want, let it break down, touch the fender and it collapses, drive out of the parking lot and the engine is no good? Why not permit everybody the free choice to be able to do that? Why expect that there ought to be at least some requirement that would represent what the seller and the purchaser understand to be the value of it? We could say why have that kind of law, why have that kind of legislation, why have that kind of requirement? Let us just let the buyer beware when they go back out to those parking lots.

We had it for a period of time in the medical device legislation. We just said let women beware. Let women beware. We had 2,700 women who died from a perforated uterus. Let women beware, until we finally had some at least protection in terms of medical devices that were going to be implanted to show they were going to be safer and efficacious. We said there is at least some requirement and some responsibility.

So now the opponents of change want to give the American people the choice of substandard insurance coverage. They want to give the families the choice of denying their children preventive health care. They want to give mothers the choice of going without preventive prenatal care. They want to give people the choice to buy policies that will turn out not to cover the very people that it will need the most if they become sick. This kind of choice is really no choice at all. It is effectively an excuse to defraud the American people of the health security they deserve, and I believe it will be rejected.

Several days ago, one of the opponents of the Mitchell bill called it a health scare bill, and that is exactly what the proponents of this amendment are trying to do. They are trying to scare the American people into rejecting change. It did not work with Medicare a generation ago, and it will not work with the Mitchell bill now.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. ROTH].

Mr. ROTH. Mr. President, for the first time in its history, the U.S. Senate has before it legislation to reform the Nation's entire health care system. Without a doubt, this is a historical debate. We must not lose sight that what we are debating will have tremendous repercussions on health care as we know it today.

The bill before us is immensely complex, in part, because it deals with an immensely complex issue. Even at this stage of the legislative process, it is not clear what direction the debate will take, and the final implications of whatever shape the legislation takes on are, therefore, unpredictable. In any event, let me make very clear that I strongly oppose the Clinton/Mitchell bill in its present form. Even the way this legislation was put together concerns me. And I am not alone.

In a recent column, Robert J. Samuelson quoted CBO chief Robert Reischauer, who warned that trying to find a compromise health care bill by combining provisions from different bills might make the health system worse. "You can't say I want a piston from Ford, a fuel pump from Toyota, and expect the engine to run." That is precisely what has happened with this bill.

There is a great deal that concerns me in this proposal. And I intend to look for answers, because what is contained in this legislation will not only dramatically affect the American people, but almost $1 trillion in medical services and about 15 percent of our economy.

At the top of my list of concerns is how this bill will affect the people of Delaware. In our State we have a population of about 660,000 people living in 3 counties. Right now, we have important and good health care services, delivered through partnerships and community involvement. Certainly, there are steps that we can take to improve access and affordability to these services, but they are delivering quality care—state-of-the-art care—to men, women, and children who depend on them.

Frankly, I am concerned with the effect this legislation will have on the balance of care now being provided—and, I am concerned with the effect the tax increases contained in the proposal will have on the economy and jobs in Delaware. This bill—one way or another—will have a dramatic impact on the system that currently exists. It will have a dramatic impact on employees, employers, as well as family security.

For example, in Delaware, the New Castle Chamber of Commerce, in cooperation with the University of Delaware's Bureau of Economic Research, conducted a study that shows:

> Mandated health care could lead to the loss of 27,800 jobs in New Castle County, due to layoffs and workers displaced by employers going out of business.

A second study, recently issued by the Family Research Council, states that families with children in Delaware bear the brunt of job losses due to employer mandated health care proposals. I would like to read from that study:

> Employer-mandated health care refers to the Federal government's requirement on employers to purchase 80 percent of their employees health insurance. * * * The impact of job losses in families is particularly acute when children are involved. The maximum number of impacted children would be in excess of the number of jobless parents with dependent children * * * Under the Clinton plan, 1,500 of the estimated 2,600 jobs lost in Delaware would be shouldered by families with dependent children * * *. Under the Senate Labor Committee plan, * * *, 3,200 of the estimated 5,600 jobs lost—would be shouldered by families with dependent children.

A third study, conducted by two Ohio University economists for the American Legislative Exchange Council [ALEC] projects that "Delaware would lose 3,200 jobs under the Clinton health care plan."

And a fourth study, conducted by CONSAD Research Corp., a firm that performs economic studies, estimates that "2,593 Delaware workers would lose their jobs, and another 72,977 would face reduced wages, hours or benefits" under the Clinton mandate.

These are real Delawareans with families that depend not only on a strong economy, but on competent health care providers. And as we consider legislation that will literally rearrange their environment we must see them in the most personal way and honestly determine how these 1,400-plus pages will alter how they live and do business. We must understand how this legislation will impact their health care providers. It is interesting to note that Delaware serves as a microcosm of America. In our State we have about every kind of health care practitioner, about every kind of hospital with their own unique services, characteristics, and needs. Rural hospitals, urban hospitals, religious, philanthropic, research hospitals, educational hospitals, veterans and childrens hospitals—we have them all. And it is revealing to assess this Mitchell-Clinton plan according to how it will affect these providers.

Let me give a few specific examples: In our State, we have the Medical Center of Delaware, our largest facility which has a special relationship with

Jefferson Medical School in Philadelphia. I want to know how the medical education requirements of this proposal that will limit the total number of physicians in the United States will effect our medical center's ability to attract and retain new physicians-in-training.

We have Riverside Hospital, an osteopathic hospital serving northern Delawareans. I want to know the effect the bill has on osteopathic facilities.

We have St. Francis Hospital, which has a strong bond with the Catholic Church. The facility has a religious mission not to perform abortions. Again, this matter has not been clarified in the legislation before us.

We have Kent General Hospital in Dover and the military hospital on Dover Air Force Base—both of which serve Kent County. How will this legislation affect access to health care offered in both of these facilities for military personnel—active and retired?

We have a children's hospital heavily funded by an endowment from the Alfred I. du Pont Institute. In addition to the care it delivers to hundreds of children in the hospital, it has taken on a partnership with the State to expand access to care for Delaware's children. This is a creative partnership between public and private institutions. How will incentives for private groups to continue to donate and contribute toward providing needed health care be affected by both the tax and health policies contained in this legislation?

We have a veterans' hospital caring for thousands of veterans who have valiantly served our country. How will this legislation affect the continuity of care provided in that facility?

We have Beebe Hospital near our Delaware beaches which has an emergency room which must be able to serve both the year-round residents as well as the thousands who visit to our beautiful coastline each summer. Beebe serves a community where there has been an immense growth of individuals over the age of 65. Medicare reimbursements to the hospital have been, and continue to be, critical. How will the Medicare costs reductions included in this legislation affect Beebe's need to meet the needs of our seniors?

We have Milford Memorial and Nanticoke Hospitals serving rural populations in very innovative ways. It does not appear that this legislation will facilitate their abilities to create partnerships to share medical equipment and high-cost technology. Will this legislation continue to perpetuate the virtual medical arms race that is needlessly increasing the cost of health care delivery?

And, finally, we have the State hospital, which serves Delaware's chronically ill. What will be the State's future requirements to meet the needs of those now being cared for? Will there be an unafforable disruption in services?

In addition to these hospitals, we have many other organizations and people actively involved in the delivery of health care—three federally qualified community health centers, hundreds of physicians, nurses, chiropractors, psychologists, several medical research facilities, nursing homes, home health care agencies, hospice care givers, and many, many others. The list is very long—only exceeded by the numbers of men, women, and children who depend on the health care services they provide.

I am pleased to say that I have heard from Delawareans from top of the State to bottom; I have heard from these organizations. I have heard from many of our families. And I have benefitted from hearing their concerns. Their primary question is quite simple: How will all the new changes included in the Clinton-Mitchell plan affect me? Beyond this, they want to know how much will it cost. How many new Government employees it will require to run it. They want to know if it will limit their ability to choose the physicians they feel comfortable with. They are concerned about the future growth of such a program. Will it grow into an enormous and possibly unfundable entitlement with a life of its own? They want specifics concerning how Congress intends to pay for it with the deficit already so large. Others have asked if it is necessary to change the entire U.S. health care system—a system that currently covers 85 percent of all Americans—to reach the last 15 percent. They want to know if those remaining 15 percent could be covered in other ways.

These are all legitimate questions that must be answered as we move forward with this critical debate. And it is critical. We do need to make some important changes to our health care delivery system. The costs of providing health care are high. There are vulnerable Americans who are not receiving the coverage and medical care they need. Something must be done to control costs, to make health care coverage more affordable, to provide needed coverage to those now uninsured. I agree with this. As I have said many times, there are several very important steps that we should take to reform our Nation's health care system. Specifically, there are five points that we need to keep in mind as we move forward with health care reform.

First, that while there are major improvements that need to be made in our health care system, these improvements must be made without putting at risk the many good features that are working in our current system. As all doctors know, as we treat those conditions ailing the current system, we must first do no harm. Our health care system may have some shortcomings, but it is not broken. Consequently, it needs to be fixed or improved, not eliminated and substituted.

Second, acknowledging that improvements can, and should be made, we must focus on making those improvements. The areas that must be improved concern insurance coverage, removing the barriers that now exist. Reform should eliminate preexisting condition exclusions, and it should guarantee portability. Reform should empower small businesses in the marketplace and make coverage more affordable. These are all important steps, and I would like to address them individually:

Elimination of preexisting conditions: if a person has an illness or once was sick, they should still be able to get health care coverage;

Portability: Americans must not be locked into jobs, unable to change employment, because they may not be insured elsewhere;

Small business empowerment: small groups have very little leverage in the marketplace; any reform must provide them easier access;

Affordability: through the combined effect of cost containment measures—malpractice reform, cutting fraud and abuse, and administrative simplification—and an appropriately financed subsidy, real reform must assist low-wage workers in the purchase of health care insurance.

The third point we must keep in mind is that competition and choice have been fundamental influences in making our health care delivery system the world's flagship. Reform must build on market principles. Injecting more Government, creating more mandates, and hiring more bureaucrats is no way to make the system more efficient and effective.

Does this mean that Government has no place in this debate? Absolutely not. In fact, I have introduced a proposal that would put the strength and size of Government to work to benefit the small business man and woman. The Federal Government has the largest pool of privately insured individuals in the current system. Nine million Federal employees, retirees, and their dependents participate in the Federal Employees Health Benefits Program [FEHBP]. My proposal would put this pool to work by opening it up to others.

Small businesses and groups could buy into the Federal program, receiving the same rates that Federal employees receive. I understand that Senator MITCHELL's bill does contain a provision to use my idea to open up FEHBP, but as written, his utilization of my plan raises some concerns that I will address a little later.

Another measure that Government can and should make at this time is to give Americans the incentive to establish medical savings accounts, or MSA's. I have proposed legislation to establish medical savings accounts, and it has found broad support. Similar legislation was even voted out of the House Ways and Means Committee.

A medical savings account is a savings account that is designed to pay for medical expenses. Under my legislation, individuals or families can convert the money that they and their employers spend on their health insurance policy into a less expensive catastrophic insurance policy, and put the balance into a medical savings account. For example, if a family has an average insurance plan costing $4,500 annually, they could convert those funds as follows: Part of the money would be used to buy a catastrophic policy for $2,000 to cover big expenses from, for example, cancer treatment or a heart attack. The balance of $2,500 would be put in a medical savings account. As long as the family spends less than $2,500 for routine health costs that year, all of their health expenses would be paid with pre-tax dollars from the MSA. In case of a medical emergency, the high deductible health insurance policy would begin paying the health costs once they exceed $3,000.

After a few years of low health expenses, excess MSA funds would be available in the account to pay for unexpectedly high health costs, for long-term health insurance or to make COBRA payments to extend coverage in case of unemployment. In fact, workers can use the money to pay for braces or eye care for their children, which often are not covered in a normal health care policy.

What makes my amendment work is the fact that Americans will know that whatever they do not spend on health care expenses, they can keep for themselves. Beyond offering patients choice, MSA's will help control health care costs.

The reason why is simple: it will encourage consumers of medical care to shop wisely, reject unnecessary treatment and conserve scarce medical resources because it is the consumer, not a third party such as an insurance company or the Government, who will be paying the bills.

In testimony before the Finance Committee, one company testified that in only 8 months after initiating an MSA program the average employee had savings of $602, and total savings for the company was $468,000. They stated that employees have been able to save because they are shopping around for medical care. In fact, one employee negotiated close to $4,000 off her hospital stay before she entered.

Already, six States have passed legislation enacting tax-favored medical savings accounts. They are Arizona, Colorado, Idaho, Mississippi, Missouri, and Michigan. Jersey City has implemented them as an alternative for their city employees, and the State of Ohio is contemplating a test program next year for State employees. Clearly medical savings accounts offer Americans a choice about their health care that should be fundamental in a country built on free market principles. It is the Federal Government that must now move ahead with this new idea.

Opening up FEHBP and creating incentives for Americans to participate in medical savings accounts—this is what Government can, and should, do. This is positive; it is achievable. It builds upon the proven strengths of the current program without creating mandates, without increasing taxes, and without creating large, overbearing government bureaucracies.

The fifth and final point we must remember is that America can ill afford new and higher taxes, new mandates, and new bureaucracies. The bureaucratic age is over. Small, lean, and efficient organizations—they are the future. It is no surprise that the engine of economic growth in America is small business. These businesses and the trends they set must be nurtured. Creating more Government won't do that; opening the benefits of a government program already in place to include them will.

Our answers to the the problems that do exist in our current health care deliver system must be innovative. But again, they must build on those principles within the system that are working. We must remember that in an entirely voluntary system, Americans still have reached a rate of almost 85 percent insured population.

Almost 20 million of the reported 38 million uninsured individuals are working, or are in a family where someone is working for a business which has 1 to 100 employees. What Government must do is make health care coverage more affordable for these small businesses.

One of the primary contentions of those supporting comprehensive national health care reform is that if we do nothing, our health care system will self-destruct. This is not true; it is a scare tactic. The truth is that in the past year, growth in health care costs have been at a 20-year low. Delivery of care is changing and efficiencies are emerging indicating that this is not a temporary trend.

The secret to successful health care reform is to build upon these trends and the principles that have made the American health care delivery system the foremost system in the world.

Mr. President, I would like to conclude by reading into the RECORD a letter of endorsement I received from the National Federation of Independent Business that supports my plan to open up the Federal Employee Health Benefit Plan. It reads:

> On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I am pleased to support your efforts to allow small business owners to purchase health insurance through the Federal Employees Health Benefits Program (FEHBP).
>
> Since 1986, the cost of health insurance has been the number one concern of small business. Small firms often pay at least 30 percent more than large businesses for health insurance for their employees.
>
> Your proposal to allow small businesses to voluntarily buy into an insurance pool with approximately 10 million people that offers a variety of plans is a terrific opportunity for many small businesses. It gives small businesses access to affordable health insurance.
>
> Small business owners voluntarily buying insurance through the large FEHBP would have more purchasing power and lower administrative costs, leading to lower premiums. Pre-existing condition exclusions, sudden cancellation and rate hikes would no longer be problems—the risk would be spread over millions of people. In a recent survey of NFIB members, 70 percent believe small business owners should be permitted to buy health insurance through the federal program.
>
> NFIB cannot support attempts to mandate small business participation in FEHBP. Additionally, businesses choosing to buy into the FEHBP should be able to purchase the same benefits at the same cost as federal employees and retirees, there should not be separate, higher rates for small business.
>
> Thank you for leading the fight to help small business owners obtain affordable health insurance. We look forward to working with you. Sincerely, John J. Motley III, Vice President, Federal Governmental Affairs.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, for a couple weeks now, the newspaper articles reporting on the debate in the Congress about health care reform have been permeated with the politics of Capitol Hill. There is always going to be some politics on Capitol Hill on almost any issue.

I would imagine that the people out there at the grassroots really do not care about the politics of this issue. By politics, I mean Republican and Democratic sides of the issue.

I firmly believe that the people do not care whether a Democratic bill passes or a Republican bill passes or a bipartisan bill passes. I think what the American people are concerned about is that if we are going to pass legislation—and I say if because there seems to be a growing tendency on the part of people to be a little more skeptical about what we do and whether we should do anything. But I think the American people feel that if we are going to pass something, that the measure of whether or not it is good is not whether it is Republican or Democratic or bipartisan, but whether it is, in fact, a good piece of legislation. I think that is what they want us to struggle to accomplish, passing a good piece of legislation.

On the other hand, I think there is a political situation in Washington in which the strategy for this bill is that the other side of the aisle, the Democrats, along with the White House, must pass a bill that the President will sign and that we will stay in session long enough during this summer break to do that, or we will stay here long enough until the other side can blame the Republicans for not passing such a bill.

That sort of strategy does not produce good legislation. It is not going to enhance the credibility of our institution, and it is not a very good position to be in and one that I hope we can get out of but probably cannot. So this sort of strategy could bring us to a position where we pass a more partisan bill rather than a good bill.

I hope that if we pass a bill that is as massive as this 1,400-plus page bill, that everybody in the country who thinks about their health care and their health insurance, on that day that it is passed, would write down in their diary—and tell the truth in your diary—of how you yourself view the health care system in the United States in 1994. Write it down. Write it down for yourself, write it down for your children and grandchildren. Describe your view of the American health care system and everything that is associated with it, including insurance, your doctor, your hospital, because you may look back in your diary and compare what you wrote in 1994 to what you have in 2000 or 2010 and find that in the future, you do not have anything of the quality or the quantity and the satisfaction that you had in 1994.

I think we owe it to ourselves to write that down because when you talk about passing a piece of legislation this size, do not forget it deals, to some extent, with veterans care paid for by the Government, Medicare, and Medicaid. All of these costs of Government, plus the cost of the private sector, add up to $900 billion plus in costs. One dollar out of every $7 of our gross national product is spent on health care in America, and a bill this size—and a lot of other bills that have been introduced, as well, some of them even Republican—is going to redirect every one of those dollars, to some extent.

That is Congress passing one piece of legislation, attempting to do it for a segment of the American economy that equals the entire economy of the country of Italy. Think of the U.S. Senate since March or April 1789 being in session 205 years. I do not think the Congress of the United States has ever before in the history of our country passed one piece of legislation having such sweeping impact upon the economy, both the private sector and the public sector.

We have tried in health care areas to do a lot less, and we have come up short of accomplishing what we wanted to accomplish. Remember in 1988, we passed catastrophic health care reform, just a small segment of some of the things that we are trying to accomplish in this legislation. I voted for it. It passed, I think, 87 to 11. I voted for it feeling I was doing not only what was right, but I voted for it doing what I felt my constituents wanted me to do.

It was not long when we went home and all of us ran into a buzz saw of discontent about that legislation, and we were back here within 1 year repealing that by almost the overwhelming margins by which we passed it in the first place.

So in another area of health care reform legislation, we passed a lot less in the 205-year history of our country and were not successful at it. I think the public is skeptical of Congress' ability to pass such a massive piece of legislation and do good in the process and do good for everybody. I think that skepticism has permeated the thought that has been filtering up to us from the grassroots from our townhall meetings, from our telephone conversations and, most particularly, from our mail.

Whether or not Congress can pass such a sweeping piece of legislation, guaranteed for everybody, and move forward, redirecting $1 out of every $7 spent in America and they have questions about it, I believe those questions lead to skepticism, and that skepticism at the grassroots has been affecting the debate on Capitol Hill over the last several months.

That is why I feel that if we do pass a piece of sweeping legislation like this, that perhaps you ought to write in your diary your thoughts about health care today.

It is my view that you will look back and say you wish you had those days with you again, that sort of environment for the quality and quantity of health care in America, albeit not perfect, not equitable, not entirely fair, as some people might view it.

Massive pieces of legislation like this, 1,400-plus pages are being promoted by people who have great faith that Government always does good. People who have opposition to this sweeping enactment, plus, I think, a majority of the people at the grassroots, are skeptical, question that faith in Government and probably have a greater faith in the marketplace. And I will just use one example that has been thrown out here of one approach in this bill of an employer mandate or a trigger that could bring an employer mandate that is working so well.

It is thrown out to us that Hawaii for 20 years has had an employer mandate, and that sets a good example for us as a nation as a whole to have one. My State of Iowa does not have an employer mandate, and by the Current Population Survey of 1993, Hawaii has 80.1 percent of its population with private health insurance. Iowa, without an employer mandate, has 80.3 percent; 80.1 for Hawaii, 80.3 for the State of Iowa. So you can get high participation in health insurance without an employer mandate, because we do not have one in my State. I think that is probably why the Iowa poll, which is a Des Moines register poll, shows high opposition to an employer mandate. I believe that is why our Governor Branstad of my State and his health task force have come out against an employer mandate. But an employer mandate is an example of having great faith in Government as opposed to having great faith in the marketplace.

Well, as has been said so many times, Mr. President, this big bill that I have held up, 1,400-page bill, is the third 1,400-page bill, or I should say the third draft of a bill that has appeared since its original introduction 2 weeks ago, I believe. It is difficult for staff and members to keep up with these changes. Senators are often heard to say that complicated legislation should not be done on the Senate floor, that that is the job of committees.

Now, of course, we have a completely now wrinkle in the process here. Legislation is being made in some never-never land between the committees and the Senate floor, and I suppose it is proper; the majority leader wants to develop majority support for his bill both inside the Senate and outside, and I suppose that is why it is necessary for some of these changes to be made.

But there is a question that is very pertinent to the debate, whether it is on the first draft, the second draft, or third draft. Why is it, when we are about to act on reform of our health care system, which has so much potential for good, that so many Americans are fearful of what we might do? And they are uncertain and they are fearful, Mr. President. Recent polls show it.

The Wall Street Journal/NBC poll released August 2 found that 52 percent of the respondents disapprove of health care reform, only 40 percent approve. To the question of whether or not Congress should pass a bill this year or debate now but act next year, 61 percent in that poll said we should act next year. And a more recent Newsweek poll found fully 65 percent want us to come back to this matter next year.

On last Wednesday afternoon, CNN reported that 54 percent of their respondents had said they thought they would be worse off if Congress passed a bill, and 32 percent—only 32 percent—said that they would be better off. Other Senators have cited other polls with similar results on this floor.

It is not only the polls that are showing this uncertainty. I have heard it loud and clear in over 25 listening posts, or town meetings as some of my colleagues call them, that I have had in towns, large and small, all over my State. In many of the meetings I have had, not devoted just to health care reform but to any issue that might come up, this issue is always raised, and it is always raised with the same kinds of concerns. I do not believe that this uncertainty and fear is just the result of propaganda campaigns of interest groups devoted to preserving the status quo. Certainly, such efforts are underway and have been made for some time on both sides of the issue. We know that. Certainly such campaigns can confuse and mislead. Maybe they are meant to confuse and mislead. But there are a number of reasons why our fellow citizens are justified in their concerns about this legislation. Our fellow citizens are asking whether we can possibly know what is in this big bill and, more broadly, whether we really know what we are doing with such a comprehensive proposal.

The Presiding Officer knows Chancellor Bismarck's quip about legislation-making and sausage-making being similar. That remark was made over 100 years ago, but it is pertinent today maybe even with this legislation.

As our fellow citizens focus upon this legislative sausage factory at work on health care reform, they have every right to wonder what in the world is going on in the Senate. And some of us wonder why the public holds people who are in politics in low esteem.

But citizens are also concerned about the fundamental changes that would result in our health care system were the Clinton-Mitchell bill or the Gephardt bill in the House enacted.

Maybe the way to begin is to remind those who are listening what it is that Americans value in their health care. I am referring to the choice of personal physician. I am referring to the physician's traditional patient-centered ethic. I am referring to ready access to the most advanced diagnostic methods and to quick and easy access to the most competent specialist. I am referring to easy and convenient access to high quality care in general, and I am referring to the flexible private health insurance tailored to individual and family needs.

Now, remember, surveys of the American people have always found that, whatever their concerns with the way the system as a whole works generally, large majorities say that they are satisfied with their doctor. Large majorities say that they are satisfied with their hospitals. And, yes, most are even satisfied with their insurance companies. Our citizens are concerned because they understand that very fundamental changes are being proposed that could profoundly affect these things that they value so highly. They understand that the Clinton-Mitchell bill is going to lead to too much Government involvement in health care as well as higher taxes, lost jobs, and rationing. They realize that there is a very big question as to whether these changes can really work in the real world. And the people are completely justified in their concern, Mr. President.

When I read the review of the Congressional Budget Office of the Clinton administration's health reform plan last year, I was struck by the skepticism that the writers exhibited in the face of the nationalization of health care system that plan called for. I want to say I have spoken about the skepticism from the grassroots, but now I am referring to the skepticism of Government analysts, people inside the beltway.

The CBO asks:

> . . . whether it would be possible to implement the Clinton purpose fully in the timeframe envisioned, and whether there might be unintended consequences that could affect the system's viability.

This is CBO-speak for: "Is it really possible to implement such a scheme, and could it possibly ruin the health care system?"

They went on to say, and these are their words:

> Policymakers and analysts can only speculate about such questions because of the magnitude of the institutional changes being proposed.

Continuing to quote:

> Thus, the potential for unforeseen consequences, both favorable and unfavorable, would be significant.

If I can put that into CBO speech, it would say this: "All we can do is guess what might happen if we implement this plan."

More recently, the CBO and the Joint Committee on Taxation finished reviewing the health reform proposal of the Committee on Finance, not the one that is before us. I do not want to mislead you; I am speaking of the committee's proposal.

I was struck in reading this analysis by the same note of skepticism that the earlier authors displayed about the Clinton plan last year.

The authors seem to appear as doubtful that the reform plan as envisioned, even by our Senate Finance Committee, could actually be carried out. What they said was that in CBO's judgment, however, there exists a significant change that the substantial changes required by this proposal and by other systematic reform proposals could not be achieved as assumed.

If I can put those words into CBO speech, it would say this: We have no real world example of this managed competition system, and it will not work.

So now we have Senator MITCHELL's bill before us, this 1,400-page bill, the third printing of it. Mr. President, it is another risky proposal to comprehensively transform the American health care system, redirecting $1 out of every $7 in America, to some extent, greater or less. Great effort has been made to claim that this bill has no relationship whatsoever to President Clinton's original bill that I quoted CBO's analysis of. But the Mitchell bill seems to have more than a passing resemblance to what President Clinton offered. The health insurance purchasing cooperatives are back. They are not in this bill mandatory. But let me predict on this very day that they will end up being mandatory.

A national board, which the President created, with very major and sweeping powers is in the Mitchell bill. The mandates are there, even though they would only be invoked if certain target levels of coverage were not achieved. The standard benefit package proposed by the President is in the bill. The budgets and the premium caps are there, or something darned close to them. The complicated subsidy schemes for individuals and families are there. When you talk about subsidies for business, and lower-income people to buy health insurance, remember when it comes to the Government they want you to accept a mandate because there is a subsidy connected with it. Remember that mandates are forever, but subsidies tend to be temporary.

Subsidies are supposedly going to soften the blow of the mandates. But after a period of time, the mandates continue. The subsidies are fleeting.

The Mitchell bill is at least as complicated as earlier bills. It is even longer than President Clinton's bill, 1,410 pages compared to 364 pages. I forgot, because now the bill is up to 1,443 pages.

There are at least 30 major health-care related topics on which the bill proposes major changes. I want to list them to give our listeners some idea of the scope of this legislation.

Major change No. 1, employer mandates with triggers;

Major change No. 2, new subsidies for 100 million people;

Major change No. 3, a number of new taxes or tax increases, 18 at last count;

Major change No. 4, many new Government bureaucracies, 49 last count. That is my count. Yesterday I saw another count that it was up almost to 60;

Major change No. 5, a new Medicare prescription drug benefit;

Major change No. 6, abortion coverage;

Major change No. 7, administrative simplification requirements;

Major change No. 8, antitrust and medical malpractice law changes, including repeal of McCarran-Ferguson as it relates to health insurance;

Major change No. 9, changes in the employee benefits law;

Major change No. 10, new rules for health insurance plans;

Major change No. 11, proposals for rural and urban underserved populations;

Major change No. 12, proposals for Medicare reform;

Major change No. 13, integration of the Medicaid program into the private sector health care system;

Major change No. 14, major changes in the way that our medical teaching institutions do their work;

Major change No. 15, new proposals for medical research;

Major change No. 16, long-term care provisions;

Major change No. 17, antifraud and abuse provisions;

Major change No. 18, expansion of many existing public health programs, and the creation of some new ones;

Major change No. 19, changes in the workers compensation programs;

Major change No. 20, some changes in health insurance as related to automobile coverage;

And major change No. 21, for the Federal Employees Health Benefits program.

Each of these topics—and there are more, but I do not want to continue the list. All of these topics has any number of major topics. So we are in fact, Mr. President, contemplating literally hundreds of major changes that will affect our health care system.

In any normal legislative session, passage of a bill with provisions similar to those of Senator MITCHELL's bill on any one of these topics would be a major legislative achievement.

Do we all know what major items might be buried among these hundreds of subchapters? For example, how many of my colleagues are aware of the fact that the national benefits board created in this bill is specifically exempt from the Federal Advisory Committee Act? You want to remember that what that means is that the board is going to make decisions about what benefits Americans are going to receive through the standard benefits package. And this is the same Federal Advisory Committee Act the First Lady's health care task force refused to comply with, and the White House is now being sued in Federal court over because the meetings and records were not open to the public. This means that some of the most basic decisions of health care can be made in secret proceedings, with no notice of meetings and no access to information.

This might be Star Chamber health care, Mr. President, but it is not surprising coming from those who believe in Government-run health care, because they do not want that to be scrutinized by the public.

There is a question of access to the courts raised by the legislation. I do not know whether this has been discussed yet on the floor, but access to the courts ought to be very important to anybody. When you are passing this sweeping piece of legislation, it ought to be more of a concern. Colleagues who vote for this bill will have to tell their constituents that if those constituents believe that they have had a constitutional right violated, they are going to have to come all the way to Washington to vindicate that right—not there in the local district court of their particular State, but right here in Washington, DC.

I think that provision has some implications that ought to be elaborated on, because if a person believes that some part of this bill is unconstitutional, the first thing he or she will have to do would be to come here to Washington, DC, to appear before the U.S. district court here, and even if that person demonstrates that he or she will suffer immediate or irreparable harm as a result of some part of this act, and even if that person shows that there is a substantial likelihood that the act or one of its provisions is unconstitutional, this bill renders the court powerless to grant temporary relief.

When it comes to health care, Mr. President, I am sure that we can all think of examples where an individual might suffer irreparable harm. Maybe it is some needed treatment that this bill curtails; some may be denied choice of a particular physician. Whatever the case is we are talking about, we are in fact talking about people's health and their lives, and any delay could prove critical. But this bill prevents the court from granting immediate temporary relief by limiting its power to grant "any temporary order or preliminary injunction restraining the enforcement or execution of this act or any provision of this act."

So one whose health may be impaired will have to wait until a panel of three judges can convene, wait until they finally decide the merits of the case—wait, Mr. President, for who knows how long.

Yes, as unbelievable as that might sound, the Clinton-Mitchell bill engages in court-stripping and forum-shopping of the rankest kind. It even deprives the court of authority to issue injunctions against operations of the act that might be unconstitutional. So now we will have health care that can never be taken away, not even by a court that might think some parts of this bill violate the Constitution. Whether you are a liberal Democrat or liberal Republican, there are a lot of my colleagues who have spoken eloquently against similar attempts to strip court jurisdiction and to eliminate form shopping. I hope that those people will be consistent and read through this legislation and speak just as loudly against those provisions, whether they are in this bill or some other piece of legislation.

There is even more, Mr. President. How many know that squirreled away among these hundreds of provisions is what can only be described as a naked power grab by the American Trial Lawyers Association and its high-priced lobbyists? Although it is titled "medical malpractice reform," it would be more accurate to label this as medical malpractice "deform." Written of, and by, and for the trial attorneys, it would arguably preempt the laws of 21 States which placed some limit on noneconomic and economic damages and replace it with no limit on damages. I say arguably because the provision has changed in Clinton-Mitchell three.

Apparently, the trial lawyers' greed went too far and was too obvious, and they hope no one would be able to read this bill, the third version, and notice what they were up to. Make no mistake about it—because you should be concerned about the intent of this provision—it is a stealth preemption of State law, and those States with malpractice reform laws will be the ones which suffer.

While this bill may be a windfall for trial lawyers, it would be a disaster for the health care system and the American people. It would stifle medical innovation, reduce the accessibility of health care, particularly in rural areas, and keep more money out of the hands of injured patients. Those States like California, which have enacted progressive liability reform that has succeeded in reducing health care costs, would see their efforts go up in smoke under this bill. But even that is not enough. These lawyers have succeeded in putting into this bill new civil actions with unlimited punitive damages, which creates the potential for explosive litigation—again, to the benefit of the trial lawyers and to the detriment of cost containment within the health care system.

It just goes to show that those who scream the loudest about special interest groups are the ones who have the most to hide.

I want to make my position clear on this issue. While there is some genuine, meaningful medical malpractice reform language in the health care bill, it will have failed to address one of the primary causes of escalating health care costs, and for that reason alone, it should be opposed.

There is another provision in this 1,443 pages about which I am concerned, and that is the proposed modifications of McCarran-Ferguson. And as far as health insurance reform and workman's comp and hospitalization as it relates to car insurance, there is a preemption—I should not say a preemption—there is a repeal of those provisions of McCarran-Ferguson. This act recognizes that certain cooperative actions were essential to the nature of the insurance business and provided for State regulation of such actions. The enormous growth of State insurance laws and regulations show that the States have been performing that function, as intended by Congress 49 years ago, very well.

There are few industries as competitive as the insurance business: over 3,400 companies selling insurance with no company having more than 9.2 percent of the market. In my State of Iowa, the insurance industry is a thriving component of the State's economy with many, many small firms competing for business. The net effect of repeal of this part of McCarran-Ferguson would be to drive the small- and medium-sized insurers of Iowa and other States out of business, leaving insurance concentrated in the hands of a few giant companies. Without industry-wide data collection and rate advisory services, smaller companies will not survive. This would be a severe blow to my State, and I am opposed to that provision.

Mr. President, there are some good provisions in this 1,410 page health care proposal, no doubt about it. But that is not really the point. Do we really have even the foggiest idea of how any of this would actually work in the real world were we to pass it? And I think, just like CBO said several months ago, we ought to stop kidding ourselves. We have absolutely no idea at all, because again I think we need to emphasize again that, in the 205-year history of the Senate, there has never been legislation that would redirect $1 of every $7 in the American economy.

Remember again what the Congressional Budget Office found in their analysis of Senator MITCHELL's bill. These are their words: "There is a significant" chance that the "substantial changes required by this proposal . . . could not be achieved as assumed."

As many Senators have pointed out, we really have not had sufficient time to study and analyze Senator MITCHELL's bill. But a quick review suggests that it has any number of provisions that are going to create serious problems for many Americans.

A quick review also suggests that it is very likely that the original bill proposed by President Clinton would have those same problems and that this bill is very much like that bill.

The bill includes a delayed employer mandate which we have to assume will go into effect and will have a negative effect on small business and the employees of small business.

It includes a complicated tax on the rate of increase of health care premiums. This tax on the rate of increase in health plan premiums is really the Clinton global budget and premium cap concept, however, in disguise.

It is a global budget concept because aggregate national per capita health care expenditures in 1994 would become the total amount of spending from which national health care spending could increase in the future.

Then the Congressional Budget Office at that time would determine the acceptable rate of increase for the years until 1997. Thereafter, control of health spending would be on semiautomatic pilot. When finally implemented, it would be allowed to increase only at CPI plus 2 percent, restricted by what the Congress said in this bill the country can spend on its health care.

These cost containment features of the bill are almost surely going to drive right out of the market plans that allow you to go to any doctor you want and pay, through your health insurance, for the care you and your doctor decide you need.

I heard the author last night take some exception to our reading of his legislation that way. I heard every word he said. I still stand by this statement.

Even if health plan sponsors are required by the Mitchell bill to offer such fee-for-service plans, such plans may cease to exist, or people will not be able to afford them. People are going to be driven by economic pressure into low-cost managed care plans, or insurers will no longer be able to offer fee-for-service plans. The remaining managed care plans are going to be under great pressure to vigorously economize in the delivery of health care services, and that is the beginning of rationing.

The health insurance purchasing cooperatives called for in this bill have been described as voluntary, but they are not really going to end up that way. They probably will end up in reality as mandatory. All employers with under 500 employees must enroll their employees in this cooperative and may offer a choice of 3 private plans. But why would an employer attempt to negotiate with other plans if the employees can take the employer contribution and join any plan in the local cooperative?

If I understand the bill correctly, no insurer may charge a premium different than that negotiated for that insurer's plan through any purchasing cooperative. So why would an insurer even bother to offer a plan outside of the purchasing cooperatives?

Mr. President, Iowa is a rural State, and I want to digress just a moment to view this legislation from the perspective of my State and any rural State of America. From this standpoint, I believe that Senator MITCHELL has worked hard to include in this bill many provisions designed to help rural areas. We on this side of the aisle may have some problems with this or that rural-specific provision, but those differences can probably be worked out between us. In fact, many of the rural-specific provisions that have found their way into Senator MITCHELL's bill were developed earlier by both Democratic and Republican Senators, including myself, and were included in the Finance Committee bill and the Labor Committee bill.

Many of these same or similar provisions, by the way, are in the Dole-Packwood bill.

Unfortunately, I have to say to my colleagues that the question for those of us who represent rural areas has to be whether the major elements of Senator MITCHELL's bill are good for rural States, even though some of those specifically directed to certain specific problems in rural America are very good. Are those good provisions offset by some bad aspects of this major bill? I think the answer to that is yes, that they will. I think Senator MITCHELL's bill, as a whole, will not be good for rural areas.

I wish I could say otherwise as an answer to that question. I want to tell you why I cannot give a confident yes to this question.

The bill continues to discriminate against the self-employed. It fails to provide 100 percent deductibility of health insurance premiums for the self-employed.

A greater percentage of people in rural areas are self-employed than in urban areas—around 13 percent compared to 7½ percent of urban workers.

In farm areas and all over main street, small town, America, there are ordinary self-employed people who buy individual insurance and pay for it out of pocket after tax dollars. Now there is that 25 percent deductibility today, but even that ran out at the end of last year. We have let it run out before so that cannot even be counted on.

So these people's ability to afford their health insurance would be considerably enhanced with 100 percent deductibility. For instance, the American Farm Bureau Federation has estimated that for a typical family of four at the 15-percent tax level a full tax deduction could generate over $1,200 in savings per year.

Now, as a matter of fairness, large businesses get to deduct what they pay for employee health insurance. The employees of large businesses get a health insurance benefit tax free. Why should not our rural citizens and small business people get the same tax treatment?

In addition, the bill does not include medical saving accounts, and the distinguished Senator from Delaware spoke well about that issue before so I will not go into that. But medical savings accounts would help very much, maybe even more so in rural America than in urban America.

The bill outlaws self-funding of insurance for any business with fewer than 500 employees. Many small businesses found in rural towns now self-fund and are doing a good job offering insurance to their employees and cost containment. This ban on self-funding for employee groups of that size is going to disrupt health care coverage of all of them. Why should we not retain the self-funding option for rural areas as one more way of getting people covered?

I just cannot understand when we have such a high percentage of people in America and particularly employers self-insured that we want to hurt that approach. It seems to me what we ought to do is build on what private initiative has already accomplished in America and not do harm to it.

If the mandates laid out in the bill do get triggered in and are eventually required of small businesses, I think it could be devastating for more fragile lower wage economies of rural areas.

The cost of private health insurance in rural areas is almost certainly going to rise as a consequence of this bill. If I understand how some of the features of this program are going to work, it looks as though they will conspire together to seriously disadvantage rural residents.

Fee-for-service plans are still more common in rural areas. And they probably will be for some time to come. Medicare payments tend to be a bigger factor of health care life in rural areas than in cities. Under this legislation, the Government is going to continue cheating on what it owes for Medicare services even more than it does now. Thus, providers are going to cost-shift to the fee-for-service plans more common in rural areas. The premiums of those plans are going to go up. As the premiums go up, the total amount of money taken by the 1.75-percent tax and shipped away to the east coast increases. As the premiums go up, they run right into the 25-percent excise tax called for by Senator MITCHELL's bill.

Furthermore, this 25-percent tax is really a global budget and premium cap provision. This is going to unfairly freeze providers in low-cost States at low levels of reimbursement. It seems to me that the same thing is going to happen to some of these States, including my own State of Iowa, that happened when the Medicare Cost Containment System was put in place. Unfairly low reimbursement levels were put in place and held in place by Federal law and Federal agencies. Only this time it would be not just the Medicare Program that is affected, but the entire private health care system in some of these States.

This provision is probably going to kill any hope of private investment in health care systems in rural areas. It is well understood here in the Senate that a substantial investment in rural health infrastructure and in rural health workers is needed. In fact, most of the bills recognize this by including provisions designed to do exactly that, including Senator MITCHELL's bill and Senator DOLE's bill.

The problem is that private health plans are not going to want to incur the additional cost of investment in health care if they face a tax on their premiums when they try to achieve a return on those investments. This is going to be true generally, not just in rural areas.

But the problem is going to be more acute in rural areas. Those areas do not have the population density that could make it easier for health plans to get back a return on the investments they make. They will almost surely face higher costs if they wish to invest their own resources in rural areas. Those costs will have to be reflected in their premiums.

Why should a private insurer take the risk of investing in an underserved rural area if they are going to face a 25-percent excise tax on the premiums they have to charge to cover the higher cost involved in investing in such areas?

So I hope that we can do something about making that very clear.

I would like to call the attention of my colleagues to two letters, one from the American Farm Bureau and the other one from 115 other organizations. Those organizations have concluded just the Mitchell bill is not going to be good for rural areas. They include some of our most important national farm organizations.

Mr. President, I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 12, 1994.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of more than 100 farm and rural organizations we would like to voice our concern with the Health Care Reform Proposal offered by Senator Mitchell, as presently written.

We have spoken forcefully in favor of 100 percent tax deduction for the self employed and against an employer mandate * * * and against mandatory alliance.

We cannot support any plan that:

1. Does not achieve a 100 percent deduction.
2. Lays out the foundation for an Employer Mandate.
3. Sets up "required" participation in purchasing alliances, a "de-facto" Mandatory Alliance.

But there are other rural concerns that require bi-partisan attention.

Paperwork. It sets up administrative and reporting requirements that will be highly burdensome for small employers.

Cost of insurance may rise. Farmers traditionally buy plans with high deductibles. The Mitchell Plan limits this option. Community rating pools are broadly defined so that—in many instances—rural citizens will subsidize the health costs of their urban and suburban cousins, places where medical costs are not only higher, but so is utilization. In addition, age banding is unnecessarily restrictive. States have the option of setting up a community rate for the entire state.

It limits choice. It would allow states or the D.O.L. to determine, based on unstated definitions, that there is insufficient competition in certain rural areas so they are not required to even offer more than one plan to their employees. That one plan must always be the HIPC, and the HIPC must always include the FEHBP. This amounts to a potential back-door single-payor system for rural states.

Cost-shifting. It cuts into projected Medicare expenditures, which will hurt many rural hospitals, and because it shifts billions in Medicaid costs to private insurers, cost-shifting will take place. Net result: a massive, unintended cost-shift that will fuel insurance costs of fee-for-service plans—the primary insurance vehicle for rural communities.

Taxes. The new tax on plans with fast growing health premiums will hit fee-for-service plans hardest, especially those in rural areas, for reasons already noted in previous paragraph.

Association Plans. About 1 in 3 farmers and very-small rural small businesses have their health insurance through "association plans", which pool businesses or individuals in a form of voluntary cooperative. These plans are more likely to have begun to negotiate PPO and cost-savings with providers. However, these plans are essentially made ineffective by making them a part of a community rated pool, and not part of an experienced rated pool, despite the fact that many of these plans have more than 500, and some more than 5,000 individuals enrolled. Solutions: allow large association plans to be experienced rated, but require an annual open enrollment for members. The long-range impact of weaker private sector pooling arrangements is to eventually force very small businesses, and the self-employed into the state or federal-directed HIPCs—which may be the insurance of last resort for the poor.

Subsidies. Subsidies do not clearly distinguish the realities of farm income, in which it is true that farmers have relatively high "gross income" but "low net income". Careful consideration should be made for agricultural producers, especially young farmers, because "gross incomes" may not be the best determination.

Health Board. It gives enormous power to several new agencies, especially the National Health Board, but it does not include provisions that would guarantee rural representation on those boards. Health care is not necessarily better, or worse in rural America, but it is different. The composition of any agency with important health powers should include stronger rural representation.

Medical Savings Account. It does not include Medical Savings Accounts. Farmers would benefit from MSAs, and have been pioneers in the use of the MSA concept by blending high deductible plans with personally-funded tax deferral savings vehicles. MSAs are a proven "concept", the Mitchell Plan does not acknowledge their value in any way at all.

There are many positive enhancements to the recruiting of health professionals to rural areas and grants for demonstration projects, but on balance is not a plan we can embrace.

Sincerely,

American Agri-Women; American Dry Pea and Lentil Association; American Sod Producers Association; Communicating for Agriculture; Farm Health Care Coalition; Farmers Health Alliance; International Apple Institute; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Contract Poultry Growers Association; National Cotton Council; National Cotton Council of America; National Council of Agricultural Employers.

National Council of Farmers Cooperatives; National Christmas Tree Association; National Christmas Tree Nursery; National Grange; National Milk Producers Federation; National Pork Producers Council; United Agribusiness League; United Egg Producers; United Fresh Fruit & Vegetable Association; Women Involved in Farm Economics; Agricultural Council of Arkansas; Agricultural Producers; Alabama Contract Poultry Growers Association; AZ Cotton Growers Association.

Arkansas Association of Wheat Growers; Arkansas Contract Poultry Growers Association; California Association of Wheat Growers; CA Cotton Ginners Association; CA Cotton Growers Association; California Farm

Bureau Federation; California Grape & Tree Fruit League; Colorado Association of Wheat Growers; Florida Contract Poultry Growers Association; Florida Fruit & Vegetable Association; Florida Nurserymen & Growers Association; Georgia Contract Poultry Growers Association; Idaho Grain Producers Association; Idaho Onion Growers Association.

Illinois Cattlemen's Association; Kansas Association of Wheat Growers; Kentucky Contract Poultry Growers Association; Kentucky Small Grain Growers Association; LA Cotton Association; LA Cotton Producers Association; Louisiana Contract Poultry Growers Association; LA Ginners Association; LA Independent Cotton Warehouse Association; Delmarva Contract Poultry Growers Association; Minnesota Association of Wheat Growers; Mississippi Contract Poultry Growers Association; Mississippi Delta Council; Montana Grain Growers Association.

Nebraska Wheat Growers Association; New England Apple Council; New Mexico Wheat Growers Association; North Carolina Apple Growers Association; North Carolina Small Grain Growers; North Carolina Sweet Potato Commission; North Dakota Grain Growers Association; North Dakota Stockmen; Ohio Contract Poultry Growers Association; Oklahoma Contract Poultry Growers Association; Oklahoma Wheat Growers Association.

Plains Cotton Growers Association; South Carolina Contract Poultry Growers Association; South Dakota Wheat Incorporated; Southern Cotton Growers Association; Southeastern Cotton Ginners Association; Tennessee Contract Poultry Growers Association; Texas Cattle Feeders Association; Avian Cooperative of Texas; Texas Citrus & Vegetable Association; Texas Wheat Producers Association; South Texas Cotton & Grain Association; Rolling Plains Cotton Growers; Virginia Agricultural Growers Association; Virginia Contract Poultry Growers Association.

Virginia Small Grain Growers Association; Washington Association of Wheat Growers; Washington Cattlemen's Association; Washington Growers Clearinghouse Association; Washington Growers League; Washington State Horticultural Association; Washington Women for the Survival of Agriculture; Western Growers Association; Western Pistachio Association; Wisconsin Christmas Tree Producers Association; Wyoming Wheat Growers Association; Curtice Burns Foods/Pro-Fac Cooperative; Dovex Fruit Company; Eastgate Farms, Inc.

El Vista Orchards, Inc.; Florida Citrus Mutual; Forrence Orchards, Inc.; Grainger Farms, Inc.; Grower-Shipper Vegetable Association of Central California; Hood River Grower-Shipper Association; Johnny Appleseed of Washington/CRO Fruit Company; Knouse Fruitlands, Inc.; Lyman Orchards Country; Newman Ranch Company; Nyssa-Nampa Beet Growers Association; Princeton Nurseries; Rocky Mountain Apple Products Company; Torrey Farms, Inc.

Valley Growers Cooperative; Ventura County Agricultural Association; Wasco County Fruit & Produce League; Yakima Valley Growers-Shippers Association.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, August 11, 1994.

Hon. HOWELL HEFLIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HEFLIN: The Senate is poised to begin voting on the most important social question of this Congress and probably of the last 30 years. You have the responsibility to represent the views and best interests of America and your state's portion of the 4.2 million members of the Farm Bureau. Your constituents expect and deserve a health care reform law that remedies what is wrong and protects what is right with our present system.

Farm Bureau has closely followed and has attended numerous meetings on the subject of health care reform, from the early efforts by the White House to those of many members of the House and Senate, as well as with various organizations and coalitions. We have intentionally not joined any formal coalitions nor have we aligned ourselves with any of the many proposals that have surfaced. We have instead pointed out what, in our view, would be valuable or detrimental to the needed improvement of our system.

Farm Bureau members have made this a priority issue and are obviously users of the present health care system. As users, we have benefitted from the unbelievable advances in medicine and also have suffered through the unrelenting double-digit medical cost inflation of the last 20 years.

The farmer delegates to the American Farm Bureau Federation's annual meeting approved two full pages of policy regarding health care. The essence of Farm Bureau policy is expressed as follows.

We favor:

1. Reform of the current health care system;
2. Financial assistance to those unable to afford it;
3. One hundred (100) percent tax deductibility of health insurance costs paid by the self-employed;
4. Medical savings accounts;
5. Sensible insurance reform dealing with portability, prior existing conditions and modified community rating;
6. Malpractice tort reform;
7. Targeted rural benefits, such as incentives for medical professionals to locate and stay in rural areas, fair reimbursements on Medicare and Medicaid, and greater use of technology for modern "telemedicine."

We oppose:

1. Employer mandates, including triggers to impose them at some future date unless the Congress must vote for the imposition;
2. Government-imposed price controls on the various components of the health care delivery system;
3. Massive new taxes; and
4. Repeal of the McCarran-Ferguson Act.

We are not opposed to any of the proposals in their entirety and do not criticize any proposal completely. However, some of the proposals have more points with which we agree than others. Thus, we will support or oppose bills, amendments and substitutes accordingly.

The reform of health care in America is not a sporting event that has one side winning or losing. We will all win or we will all lose based on the outcome of this debate. We don't believe either the next congressional election or the next presidential election can be predicted based on this issue. Therefore, a purely political vote will benefit neither you nor America.

We urge you to consider AFBF's policy as you vote on this important question and support constructive change.

Sincerely,

DEAN R. KLECKNER,
President,
American Farm Bureau Federation.

[From Farm Bureau News, Aug. 15, 1994]

CONGRESS BEGINS DEBATE ON HEALTH CARE REFORM

Debate on legislation to reform the nation's health care system began last week in the Senate. It had been scheduled to start in the House this week, but House leaders have now postponed it for at least another week.

At the center of the debate are plans crafted by Sen. George Mitchell (D-Maine) and Rep. Richard Gephardt (D-Mo.) that contain controversial provisions requiring employers to pay part of the cost for their employees' insurance.

In the House, a bipartisan alternative that does not include employer mandates has been put forward by Reps. Roy Rowland (D-Ga.), Michael Bilirakis (R-Fla.), Jim Cooper (D-Tenn.) and Fred Grandy (R-Iowa).

Because of different rules in each body, the Senate is expected to consider dozens of amendments while the House plans to consider only a handful of major proposals. The first battle in the House will be a decision on the rule that governs debate. Farm Bureau is urging House members to adopt a rule that will give alternative plans a fair opportunity to be considered.

American Farm Bureau Federation President Dean Kleckner, in a letter to all members of Congress, noted that Farm Bureau does not oppose any of the proposals in their entirety but "some of the proposals have more points we agree with than others."

"The reform of health care in America is not a sporting event that has one side winning or losing," Kleckner told lawmakers. "We will all win or we will all lose based on the outcome of this debate. A purely political vote will benefit neither you nor America."

The Gephardt and Mitchell proposals as they are currently written fail to meet Farm Bureau policy, according to Hyde Murray, an American Farm Bureau Federation governmental relations director. The Rowland bipartisan measure comes closer to meeting Farm Bureau's objectives, he added.

Farm Bureau supports health care reform that provides financial assistance to those unable to afford it; 100 percent tax deductibility of health insurance costs paid by the self-employed; medical savings accounts; sensible insurance reform dealing with portability, prior existing conditions and modified community rating; malpractice tort reform; and targeted rural benefits including greater use of technology for "telemedicine."

Farm Bureau opposes employer mandates, government-imposed price controls, massive new taxes and repeal of the McCarran-Ferguson Act, which provides an antitrust exemption for the insurance industry. A provision to repeal the act is included in the Gephardt bill.

Mr. GRASSLEY. Mr. President, I believe that many Americans are concerned about losing some of those features of the American health care system that they value so highly which I listed at the beginning of my statement.

If the Clinton-style global budgets and premium caps go into effect, these things we now value so highly could be threatened. Health plans will have to strenuously economize in order to remain profitable. Economizing means that the quality of care could decline, access to care could be reduced and rationing could result.

Doctors are at risk of becoming employees of big insurance companies. In the new managed care plans, there could certainly be at work a financial incentive to underserve. Those who serve as the gatekeepers through which people will have to pass to get health care will be under instructions to make people wait, to delay or deny access to specialists, to delay or deny access to sophisticated diagnostic procedures.

I do not fear for the young and healthy, the kind of people found disproportionately in health maintenance organizations. I fear for those with costly and life-threatening or handicapping illness. I do not want to see a state of affairs come about in which such people find that their care is delayed, or their access to advanced diagnosis is put off, or their access to the best specialists is restricted.

We all agree on the need for cost containment, Mr. President. I think all of us have presumed that cost containment is one of the major goals of reform.

But there is an obvious tension between vigorous cost containment and these things we value so highly in our health insurance and health care arrangements. This tension cannot be sidestepped just by claiming that we are going to eliminate unnecessary care and drive out waste, fraud, and abuse, as worthy as those goals are and as necessary as it is that they be accomplished.

Remember, in my opening comments, I said to write down in your diary the day this 1,400-page bill passes the Congress and is signed by the Senate what you think of your health care system. Because I do not think you will ever see it this great in the future.

I want to quote Rudolph Penner. We all know him, unless you are a recent Member of this body. I think everybody knows him anyway; a scholar today, but former director of the Congressional Budget Office and a respected economist. He gave an assessment of price controls in health care for the Alliance for Management Competition. He cited a comment from the Congressional Budget Office that puts this tension pretty well, the tension that I cited between cost containment and the reduction of the quality of care and access to diagnostic treatment and to specialists; in other words, where we do not have rationing today, where we might have rationing in the future. This is what Rudolph Penner quotes from CBO.

> In the process of changing the present health care system to achieve greater control over costs, some of the desirable features of the current health care system would be adversely affected. In particular * * * less spending on research and development, longer waiting times for access to new technology, and limitations on our existing choices of providers, health insurance coverage, and treatment alternatives.

Now, again, this person I quote is a person who understands Government. He understands the shortcomings of Government. If he has questions about these massive changes in our health care system, then is it any wonder people at grassroots America are skeptical of our deliberations and what we might do to that health care system with the passage of this legislation?

If there is one thing of which I am very confident, it is that the American people—that broad stratum of well-insured Americans who are pleased with their doctor, their hospitals, and their insurance companies—are very much not of a mind to give up these things that they value so highly.

With the power of Government behind you, it is possible to dream up practically anything in the mind's eye. It is possible to put those ideas down on paper. It is even possible to write legislation based on those ideas. Whether they will come even close, though, to working out there in the real world, that is a completely different matter. The plans offered by President Clinton, by the congressional committees which have reported bills, and by Senator MITCHELL, would launch our people on a wildly experimental venture.

As much as they want to see changes in our health care system, I am confident the American people do not want to be laboratory rats for some grand Government-dominated national social experiment. When people answer polls about wanting some changes made in the system I think it is summed up best by people in my State—and I will bet there are people like them in every State —who would say, in a very common sense approach, to their Senators or their Congressmen, something like this: "Well, we know that you have a problem out there in Washington. You want to do something about the health care system. You want to do something about cost containment. You want to do something about the people who do not have insurance."

In making that statement they are really asking a question: "If you have to deal with those things, can't you find a way of doing it where you do not screw up our health care that we have today?"

Many of our fellow citizens are, thus, trying to tell us they want improvements in the way our health care system works but they do not want to revolutionize that system. They want to see the uninsured are insured. They are moved, I think, by the plight of the uninsured. There was not one of us who listened to Mrs. Clinton last night, or listened to the people she had on the podium there with her, who had special problems, who would not be moved by that. But the people at the grassroots believe that these problems can be solved without vastly increasing the role of Government in the workings of the health care system. They believe these problems can be solved without throwing the entire system into turmoil. They want a reform that is done right. They do not want a contraption hurriedly stuck together with baling wire and chewing gum so we can throw something out to the voters this year to satisfy the electoral needs of politicians and that the bureaucrats in the Department of Health and Human Services will have to finish for us, fill in the blanks with regulations next year and for every year thereafter.

The American people are telling us they want to put this entire health care reform project off. That is what a majority of people are now saying in those polls. A year ago they did not say that. A year ago they did not know any more than we did what we were talking about in a 1,400 page bill. We know that they have now had a chance to look at it. I still do not think it has to be put off. I think we can pass some incremental legislation this year and build on it. We can have some useful reform this year, a good bill: Not a Democrat bill, not a Republican bill, not a bipartisan bill—but just a good bill. I am of the view we should not proceed with what might be called a big bang approach to health care reform. We should pass those limited reforms that will do some good. Then see what happens. Then we should return to the task next year and the year after, making adjustments that seem appropriate in light of what incremental reforms have been accomplished.

In other words, not to make the mistake we did in 1988, as sincere as that was. We had the ability to do this up right, pass one big bill redirecting $1 out of every $7 spent in America—the most massive impact on the economy of any piece of legislation ever passed in our history. If we could do that and people had confidence we could do it, that is one thing. But the people are skeptical about it now. That should cause us to be skeptical. But more so the track record of 1988 ought to signify to us we should make changes where there is very wide agreement among us on those things that can pass almost unanimously and then in the future—in the very near future—do more; in that very near future do some more. But do it slowly so we do not make mistakes.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. Mr. President, this has been and will continue to be a long, extended debate on an issue that is very, very important to the American people. As we look at where we are and why we are here, we started, of course, with health care being an issue in the last Presidential campaign. To the credit of the President and the First Lady, they made it an issue, and because of that we now have this debate at center stage.

Like most of my colleagues, I go out and get involved in the process, trying to understand the issue as much as possible. It is a very complex issue and takes a lot of work to do it. My office has received thousands of phone calls and letters—more phone calls and letters, I think, on the issue of health care reform, both sides, than on anything since I have been in the Congress. I hosted a statewide health care conference earlier this year, in April, that featured leading policy experts from every facet of the health care delivery system. There were doctors, there were providers, nurses, patients—everyone who in some way had an impact or was impacted by any change or legislation in the health care industry was there. It was a fascinating seminar, to say the least, to listen to the concerns and the recommendations that were made by these people.

In addition to that I have 10 counties in my State. I held a town meeting in each of those counties. We do not call them town meetings in New Hampshire. There is only one town meeting in New Hampshire and that is the one held by the town. But I called them citizen forums. In these forums we were there to hear directly from constituents regarding the issue of health care reform. They spoke out. There were hundreds of them there in all of those town meetings, more than attended any of my citizen forums on any other issue.

In addition, as I said, I have met privately with numerous doctors, nurses, administrators of hospitals, insurance executives, private citizens and patients, as we have all done. This is not something that has been unique to me. All of us here in the Senate have tried to do this because of the complexity of the issue. In short, I guess the fairest thing to say is I have heard New Hampshire speak to me, and with me, on this issue. Overwhelmingly what they are saying is they do not want the Government any more involved in health care than it is already involved now. In other words, less Government involvement. I think there is a concern, unfortunately, that comes through as we listen to these constituents and providers and all of those who are in any way affected by this pending legislation—there is a concern that the Government is going to do something to me on this issue. I think that is coming through loud and clear, and it is a very valid concern. Rather than helping us, they are going to do something to me that may cost me my good quality health care.

The national polls—which have changed dramatically from overwhelming support for what President Clinton had proposed to the opposite, now—show America shares those same feelings as the people in New Hampshire.

(Mr. KERREY assumed the chair.)

Mr. SMITH. Mr. President, I do not think there is a great difference between the States—no matter what State you represent—on this issue.

I believe, based on what I have heard from the people I have talked with, that most Americans would oppose not only the underlying finance bill, which is technically on the floor, but also the Clinton-Mitchell-Gephardt or Clinton-Mitchell bill as we have here.

Fifty-three percent, according to the polls, worries Congress will pass a plan that gives the Federal Government too much control. And that is a very valid concern. They are suspicious because Government has proven again and again that it is not efficient, it is not compassionate, it is not thrifty; therefore, should not be trying to provide health care needs of people—least of all health care.

If a mistake is made by a Government official in perhaps the administration of the IRS or some other program, or the Post Office is late delivering the mail, it is a problem, maybe, but it is a minor problem compared to some slipup in the treatment of your health.

I think of the thousands of times—we all have done it—I tried to do an estimate, but it is in the thousands of people that have contacted my office in the past 10 years in the Congress to seek help with the Government bureaucracy. Sometimes we help them, and sometimes we cannot. It is as simple as that. It is a complex maze that citizens have to go through.

I think of those huge numbers of cases—veterans, Social Security, immigration—all of the things that we deal with. I think, OK, it is a hassle, it is a problem, it is a mess. We try to straighten it out. We go here, we go there and help them get straightened out to get them out of the country, back into the country, get their Social Security check, whatever. And they are important to them, but they are not as important as their health.

I cannot imagine having the caseload of our offices increased because somebody was having problems with the Federal Government's involvement in health care and seeking our office's help, or any help, to try to help them when they have been denied access or some other problem which may crop up.

They are worried. People are concerned. They are worried that they are going to lose their choice in their health care providers, they are worried that the quality of their health care will go down, they are very worried that their personal freedom will be diminished, and they are worried that they will be denied access to health care under certain circumstances, and that their costs will go up. These are very, very legitimate concerns: Costs, access, personal freedom, quality. These are concerns, and they are legitimate concerns of every single American.

I would also point out that this type of legislation we are discussing today is something that is going to impact every single American in one way or another. Very few people go through life from cradle to grave without having to meet a doctor along the way. It may happen, but not too often, if it happens at all. So somebody is going to be affected at some point in the chain. We need to understand that people are very concerned about that.

So that is why this is a controversial issue; it is a tough debate. People with good intentions on both sides have brought it to the forefront. The debate has been, I think, fair and pretty spirited at times, but I think it is necessary.

Let me talk a little bit about the process and what brought us here, and then get into the substance of the issue.

Because it affects every man, woman, and child in America in one way or another, I am a bit concerned about how we have gotten here in the process. I mentioned the fact it was brought up in the campaign. Then we had the White House Task Force on Health Care Reform, which essentially met in secret, as you all know, and for the most part precluded many who would like to have been involved, from being involved.

As a matter of fact it is now, probably, a violation of law and will be before the courts for a while to see how that will be resolved as to whether or not any laws were violated. Then after that, the so-called Clinton bill gets knocked around for almost a year, taking a downward spiral in the polls because of the debate that ensued. Then we have a meeting. Some decision is made by some in the Government—not on our side of the aisle from what I have been able to understand—that this bill, the Clinton bill, cannot make it, is not what the American people want. It is obvious. So there is a secret meeting or some type of meeting at the White House between the President and the majority leaders in the House and Senate, and then the decision is made to present two bills to the Congress: One the so-called Gephardt bill and one the so-called Mitchell bill.

I will just say, and I know there has been a lot of debate on this and I am not going to go into it to any degree, but this is a big bill. There are a lot of big bills that come through here, as Senator MITCHELL said the other day, and he is right. Do we get a chance to read them all? No. This is a bill with a huge impact on the American people. I might tell you, I started going through this thing. This is not a Tom Clancy novel we are talking about here, and it certainly is not John Grisham either.

This is tough reading. You need to have the television off and the music off and the kids in bed when you start reading this baby because this is really complex stuff. It takes a lot of time and it takes a lot of focus. It is 1,400 pages.

I just feel that when we talk about immediately moving to the bill, talking about threatening all-night sessions if we do not get amendments offered, if we do not do this, do not do that.

To the President's credit, his bill was debated for a year or longer out there. We knew pretty much what was coming down. Then suddenly the doors close, the President's bill is declared dead and out comes this one, out comes this thing. We now are told if we do not get to this thing and get it voted on shortly, we are going to stay in session all night until we do it. Then there was some blinking, and we wound up with some amendments being offered.

I do not have a problem with amendments being offered, but I want to make sure this thing is debated fully and every Member of the Senate has a chance to read it. What disturbs me even more, I would like to have the opportunity after I read it, after this debate, and before the vote, to go back to New Hampshire and talk with my constituents about it, because they have no idea what is in it.

They had some idea what was in the Clinton bill. That was done in a correct way. That was debated. This is not the Clinton bill. Not exactly. There are a lot of Clinton provisions in it. We do not know exactly what this bill is, nor do we know what the impact of it is.

I think the people all over the country—not just New Hampshire—ought to know what is in it. The only way that is going to happen is if we have the opportunity to go back and speak with them, after having read it and learned what is in it.

So we are now going to move to this bill, which we have done, with the threat of all-night sessions. So here we are. It is clear the push for health reform now has acquired a life of its own. It is no longer just a simple piece of legislation. It is breathing on its own.

Robert Samuelson pointed out in a Washington Post column last week that the Democrats are much more interested in putting together a bill that can pass for political reasons than doing what is right for our country. I do not know that I would totally subscribe to that, but I do think that the point is that what is politically expedient is not always necessarily what is right for the country.

So, again, I hope that reason will prevail; that perhaps those of us who have had to cancel plans might have the opportunity to get back home, talk with our constituents about this, come back here, take a few more weeks to allow this thing to be debated fully and make an intelligent decision. I am not optimistic that is going to happen, but I hope that it happens. We have to wait and see how that plays out.

Let us take a look at what some of the concerns are on this legislation. We know that this bill contains employer mandates. We know that the majority of businesses in this country, especially the small businesses, are opposed to that; that it is a problem. Whether you are talking about Clinton or Gephardt or Mitchell, they all have the employer mandates in one form or another.

The bill introduces a Government-chosen standardized benefits package. That is another provision. The Mitchell bill allows a commission to set the package with certain guidelines, so Americans will never know, really, until after the law is passed what is in there. This is another situation where we have not dealt forthrightly with the issue up front. We have just created a commission, and this commission now is going to establish some guidelines. So we are not going to know what is covered and is not covered until after the bill becomes law. That is not a good way to legislate.

The Mitchell bill does pave the way for direct Federal control of health care. There is no question about that. Any reasonable look at this is obvious. The Federal Government, under Mitchell, establishes an exclusive alliance for certain workers in areas where States do not create their own alliances and rules governing this system would be drawn up in Washington.

Washington. Why is it always Washington? The Mitchell bill introduces price or spending controls. It gives vague powers to a new national health care coverage and cost commission, which is going to recommend ways to hold down costs and require Congress to vote on its recommendations in an expedited up-and-down process. And then the bill claims a fail-safe provision to prevent any increase in the deficit. But if the bill's sequester mechanisms actually were invoked, according to CBO it could make previously eligible people ineligible for subsidies and would reduce the extent of health coverage.

Some problems. The bill is going to discourage self-insurance. No question about it. And the bill will create a huge new bureaucracy and place unfunded mandates on the States.

When we are courted, and we all are, on our votes, whether or not it is by the majority leadership—for the most part it would be the majority leadership courting votes, and not too many of us are getting courted on our side, although some are—there are claims being made that this is not the Clinton bill; this is something different. But do not be fooled by that because it is essentially the same. Supporters of the Clinton plan are trying desperately to gain votes for bills which in isolation and by careful reformulation have problems obtaining access to health services and need community health centers and other safety net programs. So there is a problem.

Now, this standard benefits package is a real problem. By adopting a comprehensive standardized benefits package approach rather than trying to assure that all Americans can obtain at least a basic catastrophic plan, this bill has chosen to ignore the fact that millions of Americans, millions of Americans, most notably the younger and the healthier ones, may not want and possibly cannot even afford such a "standardized" generous package. And those who need service not included in the standardized benefit package would have to buy the service out of their own pockets or buy supplemental coverage without any tax relief. Americans should be wary of a Congress or a commission to establish a comprehensive benefit system for all Americans especially in an era where medical technology is improving and making rapid advances. Senator DURENBERGER gave a very good statement on that point earlier in the debate.

There is a heavy burden on States under the Mitchell bill. For instance, the Mitchell bill requires States to oversee and enforce the complicated rules governing health plans under the new system. It would also require them to operate a risk adjustment system designed to transfer billions from health plans primarily serving healthier families to an unusually higher proportion of sicker Americans. So States would also have to assemble vast amounts of insurance and health data, would be responsible for creating a network of health purchasing cooperatives.

Here again we have essentially an unfunded mandate. Nobody really knows, nobody really knows how the Gephardt bill, the Mitchell bill or, for that matter, the Clinton bill, or the conference bill, how it is actually going to work. Some say pass Mitchell, pass Gephardt, whatever, get it to conference, and we will take care of it.

Well, you saw what happened with the crime bill. We passed that out of here, and that went to conference and look what happened. It is now the subject of national debate. Many Members of Congress are getting dinner invitations to the White House now to be pressured to change their votes. This thing fell to pieces because what passed the Senate was not what turned out in conference. A tough crime bill became a weak crime bill, and now they are trying to put it together.

What happens in conference, frankly, is a far cry from what the Founding Fathers thought about democracy. What happens in conference, my colleagues, is secret meetings, closed doors. We do not call them smoke-filled rooms anymore because not too many smoke cigarettes in the Senate. But they go into the conference and they close the door and nobody knows who put in these provisions. You cannot find out. You ask every conferee and nobody knows the answer. It just appears.

With all these changes, we are not going to know what is going to come out of conference. So if you are going to vote for Mitchell to get it into conference, good luck. That is the bottom line.

The more the American people found out what the Clinton bill did to their health care, the less they liked it. So my sense is that with the best of intentions, a bill moves into conference and then it is changed dramatically from what passed on the floor, and I would say dramatically changed for the worst.

So the very fact that this debate has inertia of its own that runs counter to the feeling of the vast majority of Americans —I did not talk to every American. I did not talk to a majority of Americans, but I talked to a large number of citizens from New Hampshire, and I have talked to some from around the country who have called, and they say that anything resembling the Clinton bill, anything resembling it—and regardless of your feelings on the majority leader's bill, it certainly resembles the Clinton bill —they say would be disastrous for the country.

Well, maybe they are wrong and maybe they are right. But they are the American people, and they are talking to us. They are talking with us. They are asking us to listen to them. It ought to at least give us a chance to pause, to step back and say, "Hold on. Wait a minute. Maybe we are going too fast. Let us not be concerned about moving too quickly."

Remember, 85 percent of the American people are covered by insurance, 15 percent are not. I saw Mrs. Clinton last night. As Senator GRASSLEY talked about, those people need help, and we can help them. There is not a person in the Senate who does not want to help them, or in the country for that matter, as far as I know, who would not like to help those people. But why do we have to throw out the entire system to make unhappy 85 percent of the American people to help the 15? Would it not be better to reform gradually and help the 15 percent? Does that not make better sense? That is what the American people are asking us to do. That is all they are asking us to do—to go slowly, help the 15 and leave the 85 percent alone that are covered. That is what they are asking us to do.

Now, given that fact, let me specifically discuss several things about the Clinton-Mitchell bill that I find particularly onerous and things that I cannot support and frankly I believe the majority of the American people do not support.

No. 1 is the bureaucracy. And again this publication has been put together by Senator COATS and Senator GREGG. It is entitled "Primer to the Clinton-Mitchell Bill, New Bureaucracies, New Mandates and New Federal Powers." It is something that has been shown here on the floor, and I am not going to read from it other than to simply say that just looking at the table of contents would give you some indication of what kind of a bureaucracy we are talking about here. We do not even have to read the book.

But I have heard it said on the floor that this is not a Government bureaucracy. Here is the table of contents. There are 50 new bureaucracies within the bill, there are 33 responsibilities for the national health benefits board, there are 25 responsibilities for the national health care cost and coverage commission, there are 177 State responsibilities, 815 powers and duties of the Secretary of Health and Human Services, 83 powers and duties of the Secretary of Labor, and 6 powers and duties of the Office of Personnel Management.

That is just the table of contents. You can read all about it. There will be more discussion on that at the appropriate time. But with 175 new mandates on States, this bill creates these 50 new bureaucracies. These bureaucracies range from the very trivial—I grant that some are very trivial and relatively meaningless and harmless—and go to the very powerful. They run the whole gamut. Let me pick one.

The National Health Care Cost and Coverage Commission; section 10002 of the Clinton-Mitchell bill establishes that the commission shall be composed of seven members appointed by the President and confirmed by the Senate.

That sounds relatively innocuous; another commission, seven people. Big deal. OK. Let us quote from the bill. The general duties of the commission are to—

> * * * monitor and respond to, one, trends in health care coverage; and, two, changes in per capita premiums and other indicators of health care inflation.

Then, the commission will also have the responsibility to determine whether or not mandates will be necessary to meet the coverage goals of the Mitchell bill. Then the recommendations of the commission would have to be considered by Congress under fast-track rules, which means there will be no opportunity for amendment on the floor of the Senate, and there will be limited debate. It is the fast track.

So my question is—I do not think anybody here can answer it—will seven people be able to do this all by themselves? What kind of people are they? Who are they? What is their stake in this? How much is this going to cost? Where will the commission be housed? Where are we going to put them? How many staffers does this commission need? How much research? How many dollars for research? What kind of research? How many computers? What do we need? Are we willing to invest such a huge amount of power to a bureaucratic entity not accountable to the taxpayers? We are going to create this commission. Who are they going to be accountable to? The President appoints them, we confirm them, and there they sit, a bureaucracy growing.

That is one bureaucracy out of the ones that I have cited. That is only one. I only picked one just as an example.

Are we willing to invest the power to the other 49, including a National Health Care Cost and Coverage Commission, a National Advisory Board on Health Care Work Force Development, a National Quality Council, and a Health Information Advisory Committee, and on and on?

In short, and, in fact, the Clinton-Mitchell bill will turn over the sensitive health care decisions of millions of Americans to bureaucrats, pure and simple. There is no other explanation for it. There is nothing else that you can say to deny it. It turns over the health care decisions of millions of Americans to bureaucrats. If those are efficient bureaucrats, if they do a good job, maybe it will not hurt you. Are you sure? Is there anybody out there who would want to take a chance when you watch some of the problems that we have seen in the Post Office, the IRS, the other agencies, and the EPA where there are problems which are constantly harassing towns and communities all over this country? Do you want those bureaucrats in between you and your doctor? Do you? If you like Uncle Sam, you will surely love Dr. Sam.

In the process, there is the bad news. Americans will lose choice. They are going to lose quality, they are going to lose access. They are going to lose their personal freedom, and they are going to see their costs go up. Not everybody; there will be some on the receiving end whose costs will not go up because they do not have any costs because they are receiving some type of entitlement from the bill.

But those who are working and carrying the load, it is going to happen. Those costs are going to go up. Clinton-Mitchell creates 17 new taxes. That is all I can find. There may be more. There is a 25-percent tax on plans to exceed the Government-set spending limit; 1.75 spending tax on all of the health plans. It is another tax. And there is a 45-cents-a-pack increase on the cigarette tax.

Then we have the Clinton-Mitchell community rating, which would raise rates on young Americans, which is, in effect, a hidden tax that forces the young to subsidize coverage for older Americans. It forces them to do it. They do not do it voluntarily here.

I have heard it said on the floor that this bill is a voluntary bill. Come on. There is nothing voluntary about this. It forces the young to subsidize the coverage for older Americans. Community rating is going to force insurance companies to charge all of their customers, everybody, the same rate, regardless of their age. This means that older Americans will pay less for their coverage at the expense of younger Americans who lose care by comparison. It is not light. It is a bad plan. It does not work. It will not work.

How are you going to enforce it? Are you going to fine some 25-year-old young guy who says, "I am going to buy a Porsche. I am going to have fun. I am not going to get insurance. I am going off and do my thing." What are you going to do, chase him down with another Porsche, and, say, "You are going to pay some dollars in fines because you do not have health insurance"? Will you do that because he does not want to buy a plan that subsidizes somebody else who is 85 years old? Is that American? How are you going to do that? Are you going to have a bunch of bureaucrats chasing these people down?

I cannot imagine what this America is going to be like under this thing. Neither can the American people, and that is why they are opposed to it.

In addition, the issue of entitlements. Clinton-Mitchell creates, through new entitlement programs, subsidies covering those with incomes up to 300 percent of poverty, or $44,000-plus for a family of four. So, if you are a family of four making $44,000 roughly, you get a subsidy. That sounds great. Boy, that will pull in the votes, will it not? Because there are a lot of people out there in that category. So, if I can get something from the Government and I am making up to $44,000, I can vote for the plan. That is basically the rationale.

The American people are smarter than that. They can see through that.

There is prescription drug coverage for older Americans. It sounds great. Every drug is paid for. Who is going to pay for that? Who do you think is going to pay for that? Is it growing on trees? That is what we seem to think around here. We can pluck if off the trees like an apple. It is just Government money. Just send it down there, and everybody gets a free prescription. It does not cost anybody anything. Just ask them.

That will cost the taxpayers, for long-term care, prescription drugs, and subsidies, about $172 billion. That is with a "b." Add that onto your national debt, which is about $4.5 trillion now. Just keep adding it on.

The Senator who is occupying the chair right now is working on an entitlement commission for entitlement reform. I have thousands of postcards about him. I am depending on him, I might say, to do the job and to make a recommendation.

Here we are again with three new entitlements in this bill alone. At least 100 million people out of 260 million are going to receive some form of subsidy from the Government in this health care bill, the Mitchell bill, 40 percent. We are talking about entitlement reform because it is driving our country to economic ruin. And we are going to create this thing? Forty percent of Americans are going to have to deal directly with the Government when it is paying their health care. I hope they like it. I hope they like it. I hope they like their doctor. I hope they like wherever they are sent for that care. I hope they like the paperwork. I hope there is no objection to any of that, especially when you are sick, because you get what they give you. That is it. You cannot complain.

At a time when we recognize again that entitlements—and we have to recognize it, we know it, and every Member knows—are sucking the country dry; 50-plus percent of the budget of America is entitlements, and 16 percent is interest on the national debt. There is not much left for anything else.

What are we going to do about it?—adding three or four more entitlements, and adding billions of dollars, tens of billions, perhaps hundreds of billions of dollars more in Government spending in entitlements because it is all free. It is free. Just pick it off the trees, and send it down to somebody down there who will have their hands out eagerly waiting for some benefit.

We hear a lot of talk about special interests around here. The only people that do not have a special interest around here are the taxpayers. There is no taxpayer that gets a chance to testify before committees around here. It is always some other special interest. It would be nice to just pull a taxpayer off the street, and say, "Hey, Mr. Brown, would you like to testify today since you pay all of these bills?" That would be nice. That would be refreshing. But I have not seen it happen.

The obligations of these entitlements are going to be borne by our children. That is who is going to pay for this, if they can. I doubt that they can. Who do you think is going to pay for all of this debt that we keep piling and piling on? Who is going to pay for it? It is so sad and so irresponsible and so un-American to pass our debt on to our children.

As a father, I like to think that maybe, if I have anything left, when I die, if Uncle Sam has not gotten it all, I would like to say I would like to leave something of my assets to my children, not my debts. Not my debts, I would just as soon pay the mortgage off and leave my kids the house. They will fight over it, but I would rather leave it to them debt free.

That is not what we are doing here in the United States of America. We have run the debt now to $4.7 trillion, and it is rising. Every time we pass another entitlement, we raise it a little more. The entitlements and the interest are squeezing everything else down to this very thin little sliver of pie—about 30 percent it is now—and it is getting squeezed further and further every day. What is in that sliver of 30 percent? That is, you add the interest and entitlements and get approximately 70 percent. What is left in the 30 percent? What is it? Environment, education, national defense. And it is not getting any better. It is getting smaller and smaller.

How far do you want to squeeze? Do you want to bring it down to 1 percent? Do you want to increase interest to 90 percent? Where do you stop? If we do not stop, we are going to bring this country to its knees economically, and then nobody will get any health care—nobody—because there will not be any money left for anybody for health care, for national defense, for environment, for education, or anything. We will be broke, and our creditors will be in here picking up the pieces.

If that is what we want, that is what we are doing. We are creating a massive entitlement program, a massive new Government involvement in our lives. We are creating it here on the floor of the Senate if we vote for this bill. It will come back to haunt us for years and decades to come, I guarantee you.

I am willing to let my word stand on the record right now and say that this will come back to haunt us. It will haunt us in less quality. It will haunt us in larger expenses. It will haunt us with more debt. It will haunt us with rationing, and on and on and on and on. It will. A lot of people in here know it.

Samuelson, today, in the Washington Post had another very interesting article. But before going to that, I would like to read from a letter sent to me by a constituent regarding entitlements. I will not read the entire letter, but it is a sample of the hundreds of letters and phone calls I get. And I think the American people ought to be heard. I will not name the writers, but I think in concept they should be heard:

> DEAR SENATOR SMITH:
>
> I am writing to you to express my great fear that Congress will pass a health reform law that will harm our children. What I see at play in Washington is a desperate need by a group of elected officials to pass a law that, good or bad, they can claim shows they are so hard at work. The proposals that are on the table ignore the fiduciary responsibility we have as adults to the next generation. We will break our children's backs with new obligations. We cannot even meet our current obligations without borrowing from the rest of the world. The Clinton plan, the Mitchell plan, and the Gephardt plan are bonanzas to our industry.

He is a hospital CEO.

> I suppose I could be crucified by my colleagues for writing you this, but the reason we have given so much support to health reform is partly because it will flood our coffers with new money. The health cost controls the Government has tried do not work.

The market forces that business and managed care are generating are working, however. For a real change in costs under Government's direction, health care must be nationalized, and we are not ready for that. I implore you to do everything you can to slow this process down.

And on and on. That is the point, and that is what we are hearing. What does Robert Samuelson say today? He is somewhat critical of the press in the sense that the press seems to have missed the point as to what is exactly happening. He points out:

In July, the bipartisan Committee for a Responsible Federal Budget issued a report warning that all health plans could involve huge spending increases. "Common sense tells us," the report said, "that everyone cannot consume more health care and pay less."

"Common sense tells us that everyone cannot consume more health care and pay less."

The committee includes two former heads of the House Budget Committee (both Democrats), five former heads of the Office of Management and Budget (three Republicans and two Democrats) and the ex-head of the Federal Reserve. The report wasn't covered by The Washington Post, the New York Times, the Wall Street Journal or any major TV network news programs.

It was not even covered.

To go on a little more, Samuelson says:

Unfortunately, the Times' coverage the following week ignored health costs. In midweek, the CBO issued a report on Senate Majority Leader MITCHELL's health plan. Previously, the CBO had estimated that health spending could increase to one-fifth of the Nation's income (gross domestic product) by 2004, up from a seventh today. The Mitchell plan, the CBO said, would increase it slightly more. The Times didn't report that.

Then he goes back to the CBO report:

The CBO found that much of Mitchell's plan is probably unworkable. States couldn't easily determine who would be eligible for insurance subsidies. A tax on insurance would be "difficult to implement." It would not "be feasible to implement" Mitchell's so-called "mandate" without causing severe "disruptions, complications, and inequities."

That is quoted out of the CBO report. Samuelson makes the point that he thinks that is "news" since this is the most significant piece of legislation to come before the Senate in 25 years, according to some. So he thought it should be covered.

"The New York Times ignored it," according to Samuelson, "and The Washington Post brushed it off with a couple of paragraphs . . .." And, "To their credit, the Wall Street Journal and Washington Times ran major stories; likewise, NBC 'Nightly News' reported these findings." But, the major media treat this as a coherent plan without practical problems. So be it.

So there is a paradox here. Samuelson says:

Many reporters seem infatuated with "reform" even when, by personal experience, they ought to know better. Journalists are supposed to be seasoned skeptics, and most Washington reporters are familiar with Government's defects. We have covered agencies captured by "special interests." We know of many worthy but unkept promises. We know that Congress evades difficult choices and, as a result, tends to march off in five directions at once.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DID THE PRESS FLUNK HEALTH CARE?

As Congress debates health care, the press ought to be asking itself whether it has blown this story just as it blew the savings and loan scandal. The answer is yes, I think—though in different ways and for different reasons. We have not ignored this story, as we initially ignored the S&L crisis. But our vast reportage has not made health care any more understandable. We have not clarified in our own minds or the minds of our readers what the debate is ultimately about or shown sufficient skepticism about whether "reform" can work as intended.

In some ways, our problem is that health care is too many stories. It's about personal care, the economy, technology (high-tech medicine), ethics (who deserves expensive care?), styles of medicine ("fee for service" vs. "managed care")—and of course, politics and interest groups. We have written thousands of column inches on all these subjects and in the process have overwhelmed our readers and obscured some of the larger issues.

The most important of these is health spending. With good reason, this is what the "health crisis" was once about. Ever-higher spending is squeezing other government programs and, through employer-paid insurance, take-home pay. For example, Medicare and Medicaid now represent 17 percent of federal spending, up from 5 percent in 1970. President Clinton harped on high health costs in the 1992 campaign, and his initial plan did—on paper at least—deal with them. But the spending issue vanished as the Clintons focused on "universal coverage."

The press went along; the major media stopped listening to concerns about spending. In July, the bipartisan Committee for a Responsible Federal Budget issued a report warning that all health plans could involve huge spending increases. "Common sense tells us," the report said, "that everyone cannot consume more health care and pay less." The committee includes two former heads of the House Budget Committee (both Democrats), five former heads of the Office of Management and Budget (three Republicans and two Democrats) and the ex-head of the Federal Reserve. The report wasn't covered by The Washington Post, the New York Times, the Wall Street Journal or any major TV network news programs.

Sometimes editors and reporters don't even seem to read their own papers. On Sunday, Aug. 7, Robert Pear of the New York Times wrote a front-page piece saying that "the goal of cost control has been eclipsed by the furor over universal coverage." A solid story. Unfortunately, the Times' coverage the following week ignored health costs. At midweek, the CBO issued a report on Senate Majority Leader George Mitchell's health plan. Previously, the CBO had estimated that health spending could increase to one-fifth of the nation's income (gross domestic product) by 2004, up from a seventh today. The Mitchell plan, the CBO said, would increase it slightly more. The Times didn't report that.

Now obviously, I have a point of view. I think health spending matters and doubt that these "reforms," if enacted, would work as promised. But it is not necessary to share my views to think that these are legitimate issues that haven't been adequately aired in daily coverage. If a major "reform" is adopted and doesn't operate as advertised, people will ask: Where was the press?

Good question. There have been warnings. Return to that CBO report. The CBO found that much of Mitchell's plan is probably unworkable. States couldn't easily determine who would be eligible for insurance subsidies. A tax on insurance would be "difficult to implement." It would not "be feasible to implement" Mitchell's so-called "mandate" without causing severe "disruptions, complications and inequities."

This strikes me as "news." The New York Times ignored it, and The Washington Post brushed it off with a couple of paragraphs in a small story. To their credit, the Wall Street Journal and the Washington Times ran major stories; likewise, NBC "Nightly News" reported these findings. But in general, the major media tend to treat each of these health proposals as a coherent plan without practical problems. This makes the story a neat combat between "reformers" (implicitly good) and opponents (implicitly bad).

There is a paradox here. Many reporters seem infatuated with "reform" even when, by personal experience, they ought to know better. Journalists are supposed to be seasoned skeptics, and most Washington reporters are familiar with government's defects. We have covered agencies captured by "special interests." We know of many worthy but unkept promises. We know that Congress evades difficult (a k a, unpopular) choices and, as a result, tends to march off in five directions at once. Yet the skepticism that this ought to breed withers in the face of an appealing "reform."

What also has been missed is the basic political nature of this debate. Once government decrees what insurance must cover (by creating a standard insurance "benefits package"), it has effectively nationalized insurance. The obvious way of doing this would be a single-payer system that taxes people and provides government insurance. But that looks too much like a government takeover. The use of "mandates" and regulation disguises this and seems to have fooled many reporters. Hundreds of billions of dollars of spending would still come under federal control.

By now it's clear that the public is deeply puzzled by the whole debate. The responsibility for this falls mainly on our political leaders, President Clinton and his critics have not been candid. They won't acknowledge that the goals that most Americans share—better insurance coverage, personal freedom in medical choices and cost control—are, to some extent, in conflict with each other. In this sense, there can be no ideal reform; somehow, incompatible goals will have to be balanced.

But the conflicts will not vanish just because Democrats and Republicans refuse to discuss them. The press's job is to bring candor and clarity to issues where political leaders haven't shown much of either. We don't make society's choices, but we can illuminate what those choices are. On health care, we haven't.

Mr. SMITH. In conclusion, Samuelson says:

What also has been missed is the basic political nature of this debate. Once Government decrees what insurance must cover (by

> creating a standard insurance "benefits package"), it has effectively nationalized insurance.

That is absolutely right. You can say it is not a Government-run system if you want to, but, in effect, you have nationalized the whole insurance situation when Government decrees what insurance must cover by creating a standard benefits package.

> The obvious way of doing this would be a single-payer system that taxes people and provides government insurance. But that looks too much like a government takeover.

So we use the words "mandate" and "regulation," and this seems to disguise, basically, the issue of Federal control or takeover.

So it is clear that the public is deeply puzzled by the whole debate.

The responsibility for this falls mainly on your political leaders. "President Clinton and his critics have not been candid," Samuelson said. "They won't acknowledge that the goals that most Americans share—better insurance coverage, personal freedom in medical choices and cost control—are, to some extent, in conflict with each other. In this sense, there can be no ideal reform; somehow incompatible goals will have to be balanced."

Mr. Samuelson has gone right to the heart of the whole issue. He hit it right on the head, 100 percent accurate.

I urge my colleagues to take a look at that article.

Let us look at the benefits under Clinton-Mitchell. The Clinton-Mitchell bill will create a one-size-fits-all standardized benefits package and make most existing plans totally illegal. The plan that you have will be illegal in most cases. If you have a plan out there now, you like it, you have good coverage, forget it. Hopefully, it will be as satisfactory as the Government plan because you are going to lose it. So if you like what you have, you may want to let your Senators know how you feel before the vote because this bill is going to radically, radically diminish consumer choice.

We include in this so-called standard benefit package abortion coverage. I am not going to get into the abortion debate today. But a lot of the American people do not want abortion in the health care bill. It is stretching it a bit to call abortion health care.

In June 1994 a Gallup poll found 59 percent of Americans are against including abortion in the Federal health care benefits package. Again, this goes to the heart of choice—freedom. Is that not what America is all about? Is that not what for 200 years people have died for?

Think about this. A Catholic church cannot provide a health care plan for its parishes or its employees if it so chooses without having abortion in the package.

That is exactly what is going to happen under this bill. That just is not right, pure and simple. It is wrong.

You can bet that we will be down here in the future—we have already done it once—voting under fast-track rules to add more services. We just did it yesterday with the Dodd amendment, and tomorrow it will be the chiropractors or someone else. There is always going to be someone trying to get in here saying, "I have been left out. I want to get in here."

So what we are doing is the same thing we did with Social Security, Medicare, Medicaid, and all of it. It is just like taking a balloon and blowing it up. It is going to get bigger and bigger and bigger until it bursts.

It all sounds good. Get the kids covered. Get pregnant women covered. Get all these people covered, get everybody covered, because we cannot resist it. Congress could not resist yesterday. The Senate passed the Dodd amendment. So already we have found the first amendment mandating insurance companies cover specific services for pregnant women and children passes, whatever it was, 58 to 42, something like that.

There will be more. They are going to be coming. Believe me. That is just the beginning, and the Senate will find it very difficult, as it did yesterday, to vote against them, because these are services for the people who need them. Of course, there are people who need. But is this best way to help those people by breaking the United States of America with a huge entitlement that has no end, that according to Samuelson, and many others, is going to go from one-seventh to one-fifth of the economy? Is that what we want?

How can you vote against kids? I heard that yesterday. How can you vote against pregnant women? I heard that yesterday. How can you vote against immunizations?

How can you bankrupt the future of our country for all the children in all the future, who are going to have to pay for all of this? How can you do that?

I did not hear that stated by the supporters of that yesterday. We will be back here again and again and again and again, not just in this debate. We will be here for a while. Lord knows how long everybody has given up vacations? Anyway what difference does it make? We will be here as long as it takes until there is some blink and we decide to wrap it up and go home and come back. After that, after this thing passes, that is just the beginning. Wait until we try to implement this little guy. This is going to be really something. When we start implementing this thing and we find out what we have to do and how much it is going to cost, then we are going to be back here. We are going to be back here quite a few times, believe me.

Let me tell you what is going to happen. Either premiums are going to go up or care is going to be rationed because we cannot promise the American people more care for less money. You cannot do it. You cannot bring everybody into the system, into the package, into the care, and do it for less money. It is impossible. Common sense will tell you that.

If you do it, you are going to decrease quality, or you are going to ration it. Sure, you can put a cap on it. You can cap costs, and you can bring the quality down. You can cause rationing. And that is exactly what is going to happen. The American people better understand what this Senate and what this Congress is going to do to you and to your health care today and your children tomorrow if this thing passes.

They are going to be forced to obtain benefits that they do not need in the standard plan, and they are going to be forced to take benefits that they do not want.

Let us go to employer mandates. Millions of middle-class Americans, the very people that the President ran to help, millions of them are going to find their salaries cut, their benefits cut, and if they are not, most without a doubt in many cases will have their jobs lost. That is what is going to happen to middle-class America, because who do you think is going to pay for this? The poor do not pay for this. They are on the receiving end. They are not paying. The rich—do you think the rich are going to pay for it? Come on. Middle-class America is going to pay for it. That is who is going to pay for it. That is where all the dollars are. Only 1 percent of the people in America are rich. Look, the poor get the money. So who else is left? It is the middle class. That is who is going to pay for it. Do not be fooled by the debate how it is going to help the middle class. Come on.

As to employer mandates, in my State alone in New Hampshire, according to estimates it is liable to cost anywhere between 4,800 and 4,900 jobs. That is a lot of jobs in a State with a million people that has been hit hard in the past years. Over 100,000 New Hampshire workers face reduced wages or benefits if they did not lose the jobs. That is basically a decision the employer is going to have to make. Do I reduce the benefits, reduce the wages, or cut some jobs and leave the wages and benefits for the survivors as is.

I have two letters I would like to read that would make that point. I think they make it better than I do.

> DEAR SENATOR SMITH: I am writing at this time regarding the ongoing battle over health care reform. As a small business owner, I was appalled by the recent remarks made by Hillary Clinton with regard to free loading small businesses. While it is understood that neither Mrs. Clinton nor the President has ever had to run a business, it seems hypocritical of them to ignore the very real concerns of small business owners who have risked everything to build a business. Employer mandates will cripple many

> small businesses by adding a constantly escalating non-voluntary expense to operations. In addition, much time and expense will be lost to paperwork, regulatory compliance and administration. I fear the present administration has little regard for those of us who have already carried an excessive share of the tax burden.

Another letter:

> DEAR SENATOR SMITH: Normally, I am not one who gets involved in the political process. However, since you will soon be voting on several different bills involving the reform of the health care industry, I feel it is necessary for my Representatives and Senators to know my opinion about the likely impact on small business if some of these bills passed. I am classified as small business. At present I employ eight people in various roles from administrative to technical design work. I am proud of the fact that I have been in business since 1988, and I have always tried to keep layoffs to a minimum even when it was not in the best interest of the company. For 5 of the 6 years I have been in the business, I provided company paid life insurance and made health insurance available to my employees with the company paying 50 percent of the premiums. I am currently in the process of adding disability insurance in a benefits package. You see health insurance and welfare of my employees is not something I consider lightly. However, I am concerned about the ramifications of instituting mandatory health insurance. Small companies with under 25 employees should not be forced to implement an insurance package for their employees. The end result will be increased company expenses by way of premiums and taxes which will yield an increase in layoffs, business failures, and decreased wages which in turn result in overall lower standard of living for all.

New Hampshire under these mandates of this bill will lose approximately a half a billion dollars in personal income, almost $1,500 for a family of four. The State of New Hampshire would lose over $60 million in much needed tax revenue. Clinton-Mitchell would ban self-insurance for companies with under 500 employees, and this will mean that 18 million middle-class Americans will suddenly find themselves without insurance and end arrangements that save some firms thousands of dollars in premiums.

Is that really what it intended? Of course it did not. It is not the intent of the majority leader to have people without insurance. The intention is to have them covered by insurance. But what is going to happen is suddenly 18 million middle-class Americans—I emphasis middle-class Americans—will suddenly find themselves without insurance.

There are 32,254 businesses, as best that I can count, in my State. Of these, 32,186, or 99 percent, have under 500 workers. Several of these are currently self-insured, with great success, I might add, that would no longer be able to do so.

Again, a brief comment from a letter I received from a constituent:

> Our company provides insurance for its employees through a self-insurance plan. We are concerned that self-funding may no longer be an option for small businesses like ours if a 100-employee cap, or any cap, is imposed. By eliminating self-funding and increasing cost of health care, it is possible that many jobs will be lost. The same is likely if employee caps are imposed, which would also raise costs and jeopardize employee coverage.

He basically goes on to say small employers should not be penalized.

Mr. President, there are alternatives to this. We should not stand here on the floor and be totally critical of the majority leader's bill. He wrote the bill and brought it up in good faith, and we have to criticize it, if we are going to, in a responsible manner and have some alternatives.

I think those of us on our side of the aisle and many on the other side of the aisle are united in their support for actions that would help millions of Americans right now, today. You can do it without throwing out the best health care system in the world. You can do it by prohibiting insurance companies from dropping individuals due to sickness. You can do it by dealing with preexisting conditions.

If someone in my home area, the Lakes region of New Hampshire, in Wolfeboro, for example, has a daughter with cancer, that person should be able to get insurance at a reasonable rate. That insurance should not be canceled if that person moves to another job because his or her daughter or their daughter has cancer. We can stop that and that is what we should do. You do not have to throw out the entire health care system in America to do that.

Portability. If a person in Nashua, NH, wants to switch their job and move someplace else, they take their policy with them, just like you take your auto policy or your life insurance policy. You can extend help to the working poor through vouchers, which both bills provide for.

And perhaps, most importantly, and missing from the Mitchell bill—and this is something I feel passionately about; it is so important, and it is totally ignored by the Mitchell bill—and that is the establishment of a medical IRA, an IRA account; or, another way to say it, a medical savings account. It is one of the best ideas that has been brought forth in any of the debate, and it is totally ignored in the Mitchell bill—not a word.

The medical savings account would do more to help contain medical costs in our country than anything in the Clinton-Mitchell bill, anything at all, and would do so by relying on the market rather than Government bureaucracy.

People with medical savings accounts could purchase high deductible coverage to guard against catastrophic costs and they would pay for those out-of-pocket costs in the account that they set up. Most health care expenses would, therefore, be paid by the individual who set up the account, rather than a third party.

Let us get into that a little bit further. I believe that the main reason our current system fails to rein in runaway health spending is that it removes the consumer from the decisionmaking process.

When the tab for health care is picked up by somebody else, not you, a third party, either employers or the Government, for the great majority of Americans, the consumer has no incentive, none whatsoever, to keep his or her own health costs in check.

For most Americans, there is no financial reward for staying healthy. What is the reward? What is the reward for staying healthy? What is the reward for seeking preventive care? What is the reward for shopping around for the best available price? None. And under the Clinton-Mitchell bill, absolutely none.

To put this in perspective, let us compare health insurance just for the sake of debate—and we will probably hear some of my adversaries in the media say, "Now, Smith says auto insurance and health insurance are the same thing." Lest there be some temptation to do that, I will say up front, they are not, and I recognize that health insurance is more important to our well-being than auto insurance.

But I use the comparison for this reason. If I drive recklessly, get several speeding tickets, and cause an accident, my irresponsible behavior will be greeted with a higher premium. That is what is going to happen, and rightfully so. It is to my financial advantage to drive carefully, drive safely, avoid speeding, wear my seatbelt, whatever.

But if somebody else were paying for my auto insurance, I might not have the same incentive. What is my incentive? My insurance is not going to go up. If somebody else pays, I could care less if it goes up. I am not paying for it.

It is the same thing in health care. With another party bearing the responsibility for any costs, individuals have no incentive to keep themselves from incurring expensive health care bills. That is what medical savings accounts are all about. And they are totally ignored in this bill. Responsibility. Is that not what America is all about, responsibility?

Think back to the Founding Fathers and what they did when they founded this great country, and the numbers of people who were wounded and died in 200 years of war. Responsibility. Why cannot we take on some responsibility for our own well-being if we have the capability to do it?

And for those who say, "Yeah, but there are those who do not," I am willing to help those 15 percent. I am talking about the 85 percent right now.

It places the responsibility for health care costs where it should be—on you, on the consumer. With a medical savings account, the consumer, not a third party, will have to make decisions that will have a direct financial impact on themselves.

If you want to drive a Porsche, you want to go out every night and drink, you want to spend your money, go ahead. If you want to buy a health premium, you want to buy an insurance policy, set yourself up a medical IRA and say, "I'm going to assume responsibility for me. I'm responsible for me. Not the Government, not my neighbor, me. I'm responsible."

Exercise some responsibility. Set up the medical IRA account. And then lead a healthy lifestyle, and you will save money, big time. If you lead a healthy lifestyle and you seek routine preventive care, you will be rewarded with accruing balances in your medical IRA.

Now, sure, something can happen. That is why you have an insurance policy. That is why you buy the policy, to protect yourself from injury or accident. However, you will accrue balances in that IRA if you take preventive care and you will have enough in there to pay for your insurance and still have money left over. Let it accrue, and this will defray future medical costs and even allow you to buy a catastrophic policy at some point when you are ready. You are holding down your personal health costs; individuals will help our country hold down our overall health costs. We will all do it as individuals.

Not a word, not a mention of medical savings accounts in this plan. This is too American. I guess it makes too much sense. It is common sense. God forbid, we could do anything that makes sense around here in Washington inside the beltway.

And, in addition, and in conclusion on medical IRA's, medical savings accounts will also unleash the market forces onto the health care delivery system; unleash, and that is exactly what we need to do, unleash the market forces on the health care system. Today's system encourages providers to bill for as many services as possible. With millions of individual consumers shopping around for quality care at low prices, providers are going to have to find ways to cut overhead costs and provide care in an efficient manner. That is the market.

And these adjustments in the marketplace could be made today as we speak, and they would help millions of Americans to obtain less expensive health care insurance.

In closing, we have heard many stories, many horror stories, about those who are not covered, about our current system and how tragic it is that 37 million Americans lack health insurance. And there are some horrible cases. There is not a person in the Senate or in the Congress that does not want to help those people, including this Senator. And we can.

There is a right way and a wrong way to do that. It is wrong that people are suffering because they cannot get coverage. But who are these 37 million people? They are people, sometimes, who are between jobs. They lost their job, they move to another job, their insurance gets canceled so they need portable insurance. We do that. They are people who have a preexisting condition, either themselves or someone in their family has perhaps a terminal illness, something that involves a lot of medical costs, they lose their job and the next provider says, "I am sorry, that is a preexisting condition. It would cost us too much and we are not going to insure you." That is going to need to be changed. And we do that in our bill. That is a large group of that 37 million.

We can take care of these cases through providing insurance market reforms and providing assistance to the working poor. But for some reason—I do not know what the reason is; I am not going to make any allegations about political reasons—but for some reason we are concentrating on disrupting the entire health care system which 85 percent of the American people are happy about for the sake of 15 percent. Why not just help the 15 percent when you can do it without disrupting the other 85 percent? It is going to be a grave mistake if we do this. We are going to regret the decision made in 1994 on the floor of the U.S. Senate, because we have the finest health care delivery system in the world. We know it because people come from all over the world to receive it. Doctors come from all over the world to learn medicine, to practice medicine. Everybody knows it. If you are sick, if you have a problem, where do you want to go? Guatemala? Mexico? Russia? Canada? Or the United States of America?

Let us take advantage of the quality and the innovation and the creativity of the best physicians and health care providers in the world. Let us take advantage of it. Let us not throw it out.

So now we stand, as I speak, at a fork in the road—and it is a fork in the road. We can go to the left, as the Senate considers a massive restructuring of one-seventh of the economy, which will probably make it one-fifth Government involved. We can take that path toward a health care system controlled by an inefficient, uncompassionate, expensive government bureaucracy. We can take that path. That is one choice we have. Or we can go this way, to the right, which will lead us to a more efficient marketplace that can meet the needs of all Americans. The left fork gives us bureaucracy, more taxes, job-killing mandates, rationed care, diminished quality. The right fork will help those who are truly needy while preserving the world's best health care for everyone. Access, low cost, personal freedom, quality, choice. That is what we get when we go to the right. Bureaucracy, mandates, less personal freedom, more controls, less quality, less choice—to the left.

What is the decision?

Let me read just a couple of lines from two more letters.

> DEAR SENATOR SMITH, I am writing to you to advise in my opinion that health care as presently espoused by Washington will not work. We all would cherish an umbrella of universal care, but at a reasonable cost and especially at a cost which is no greater than we presently pay. This means no additional taxes. Unfortunately, the record suggests programs managed by the Government are many times barely effective or efficient.

Then he cites a couple of examples and goes on to say:

> The warmth and general concern for our well-being are not well known as priority attributes in our Federal employees, IRS, FBI, et cetera. To have a government manage anything as important as health care is ludicrous. And to be bullied into this legislation is akin to lemmings heading with a blind eye for the cliff.
>
> The first step, it seems to me, would be to analyze the problem of health care. The major problem is not the quality of health care. We have the best in the world. The problem is associated costs which are and have been out of control.

The last letter:

> SENATOR SMITH, I am writing about my concern on the current health care proposal now in Congress. Improvements in health care are needed and desirable but I feel many of the plans include restrictions and mandates that are contrary to a good health care system and a free enterprise system that has made our country so successful and great.

I take the time to read these letters because these are the American people who are going to be impacted and affected by the decision that we make, sitting here inside the beltway, without talking with them, without having the opportunity to go out and speak with them. We are here making this decision that impacts them. They ought to be heard on the floor of the Senate. That is why I am taking the time.

> Restrictions that would prevent you from choosing your choice of doctors is a horrible thought. Before I go to a doctor I check his dossier and I talk to people that know him. Let's face it, all doctors are not equal. Some are better than others. Not all ailments or illnesses fit into a standard mold. A doctor has to have a keen analytical or diagnostic ability to accurately identify, in a timely way, what is ailing a patient and what medication or treatment is best for that patient. It is not uncommon to change doctors when his or her prognosis does not render relief, or to get a second opinion before a serious medical or surgery procedure. Some doctors are more skilled than others and you want the doctor with the best track record and the one you can get along with.

These people are concerned. They are concerned. Let me put it even stronger—they are scared. They fear.

I am going to close with a quote from a gentleman who came to one of my 10 county meetings. We talked about health care, and he said to me, "Senator, I have known you more than 20 years. But let me tell you what bothers me. I am afraid of my Government. I am afraid of my Government. I don't want to be afraid of my Government. I want the Government to be afraid of me."

I yield the floor.

The PRESIDING OFFICER (Mrs. BOXER). The majority leader.

Mr. MITCHELL. Madam President, I want to address two subjects that were raised by the distinguished Senator from New Hampshire and several of our Republican colleagues with respect to the pending health care legislation. One involves the question of choice in health care. The other involves the role of Government in health care and the reaction of our colleagues to that.

The statement of the Senator from New Hampshire was filled with references to less Government involvement, no Government control, and fear of Government by Americans. That has, of course, become the dominant theme of the statements made by our Republican colleagues seeking to capitalize on a public sentiment of disillusionment with Government and even hostility to Government.

I would like to make two points with respect to that argument as it relates to this debate. First, it does not describe my bill. The statements are not correct as they relate to the bill which is pending before us. My bill does not provide for a Government-run health insurance system. It provides for a voluntary system of private health insurance. Indeed, in a significant respect, my bill is the opposite of what our colleagues are trying to portray it as. A large Government program is Medicaid, a Government program which provides health insurance to those Americans whose incomes are below the poverty line. Under my bill, that program would be virtually abolished and 25 million Americans who are now in one of the largest Government programs would be out of that Government program and would purchase their health insurance on the private market as do most other Americans.

It is simply inaccurate to characterize legislation which would virtually abolish one of the largest Government programs in existence and encourage and assist the people now in that program to purchase private health insurance, it is simply inaccurate to describe that as a Government-run program. It is not.

I recognize that our colleagues are having some success in this false portrayal. It is a pattern we have seen before. But success does not mean accuracy. We went through it just a year ago when we debated the President's economic plan, when the very same Senators now saying that this bill is a Government-run health insurance system said to the American people that the President's economic plan would raise everyone's taxes and was a tax on small businesses. They said it over and over again, it was reported by the press and, as a result, the American people believed it. Polls showed overwhelming majorities of Americans believed that their income tax rates would go up as a result of the President's tax plan, even though those statements were untrue and the beliefs were unfounded. It was an aggressive effort at misinformation which regrettably did succeed and, therefore, creates incentives for a similar campaign of misinformation now.

But I want to state clearly, so there can be no misunderstanding, the characterization is incorrect. My bill creates a voluntary system building on the current system of voluntary private insurance. It virtually abolishes one of the largest Government programs and takes 25 million Americans now in such a program and has them enter the private insurance market. So that is my first point. It is not a Government-run health insurance system.

But now my second point deals with the attitude of our colleagues toward Government insurance and Government health care and the vast gap between their rhetoric about it and what they do about it when it affects them and their families.

First, they say they are against Government health insurance and Government health care. Well, the largest Government health care system in the country, indeed the largest health care delivery system in the country, is the Veterans' Administration health care system. If they truly believed what they are saying here about Government health care systems, they would abolish the Veterans' Administration system. But, of course, they do not say that and they will not say that.

In fact, with respect to that Government health care system, their actions directly contradict their words. The very same Senators, our Republican colleagues who stand here and say, "We are against Government health care systems," when they go back to their home States, they go seek out the veterans and they run television ads promising the veterans that they will protect the veterans health care system, even though it is a Government-run health care system and it is the largest health care delivery system in the country. Their actions contradict their words.

The same is true with respect to Medicare. Medicare is a Government-run health insurance system, and nearly 40 million Americans, most of them elderly, participate in that system. And the Republican Senators who stand here and say they are against Government-run health insurance all support the Medicare system. They go back home and they seek out elderly citizens. They go visit senior citizens' centers and fall all over themselves in promising to their senior citizens that they will protect Medicare, and they run television ads seeking reelection, promising their senior citizens that they will protect Medicare, even though it is a Government-run insurance system. Their actions contradict their words.

The same is true with respect to Social Security, the largest of all Government programs, a Government-run system which includes health care by virtue of incorporating Medicare part A. Our Republican colleagues go back home and also seek out senior citizens and also run television ads promising to protect Social Security, which is a Government-run program.

So I hope the American people will not be fooled by the rhetoric they are hearing here today. And I hope the American people will also think about the irony of these Republican Senators getting up here day after day after day and denouncing Government health insurance and Government health care as bad for their constituents, even as they benefit from it themselves as individuals and their families. Every Member of this Senate participates in the Government-run health insurance system that is available to all Federal employees, and the Government pays 72 percent of the cost of that health insurance for these Republican Senators who are standing here telling their constituents that it is bad for the constituents even as they participate in it for themselves and their families.

You, American taxpayers, are paying through the Government 72 percent of the cost of health insurance in a Government-organized health insurance system for the very Republican Senators who are now telling you that you should not want Government-run health insurance. And you are entitled to ask yourselves: If it is so bad for you, why is it so good for them and their families?

Has one of them stood up and said, "My constituents, Government health insurance is bad for you, and to prove how much I believe that statement, I'm going to voluntarily drop out of the Government insurance system, and I'm going to put my family in the same place where your family is"? Have you heard one say that yet? No, and you are not likely to.

I urge you to listen to the debate, and as these Republican Senators stand up and tell you, Mr. and Mrs. America, that Government health insurance is bad for you, ask yourself, "If it is so bad for me, how come it is so good for them and their families? And if they really believe it is bad for me, if that is what their conscience and conviction tells them, why do they not drop out of it for them and their families and put themselves in the same position I am, an average American who doesn't have access to that?"

That is just the insurance. Now let us talk about direct care. If one of these Republican Senators does not feel well, if he gets a headache, or stomach ache, he walks a few feet down the Capitol and he goes to the Office of the Capitol Physician, a Government employee. He is greeted by a clerk who is a Government employee, checked by a nurse who is a Government employee and then goes in to see the doctor who is a Government employee.

If Government health care is so bad, why do these Republican Senators insist on having it for themselves? And then if they get sick, if the doctor says, "You've got to go to the hospital," they go to the Bethesda Naval Hospital or the Walter Reed Army Hospital—Government hospitals.

Well, my gosh, ask yourself, Mr. and Mrs. America, if these Government facilities are so bad, why do these Republican Senators want to go there themselves? And it is not just Senators. President Reagan and President Bush were, in their capacities as President, the most powerful men in the world. They were independently wealthy, and they could have gone anywhere in the world when they got sick. And where did they go? Why, they went to these Government hospitals. And who can forget the photographs taken of them waving out the window to the public and the press in those Government hospitals. Why are you telling us that it is good enough for Presidents but it is not good enough for ordinary Americans?

Mr. and Mrs. America, leave aside politics. Leave aside health care. When a fellow walks up to you and says, "I've got something, and its good for me and my family, but you really don't want it for your family," you ask yourself: Who is he thinking about? You or him?

This debate has not been about health care reform. This debate has been about slogans. When the first Republican Senator stands up and says I believe so much in my conviction that Government health insurance is bad that I am going to withdraw myself and my family from the Government-organized health insurance system and I believe so much that Government health care is so bad that I am going to promise if I get sick never to talk to a Government doctor and, if I have to go to the hospital, never to go to a Government facility, when that happens, pay attention to what they say thereafter.

But until that happens, you can take what is being said as slogans, separated from the reality of daily lives. If they want it for their kids, if they insist on having it for their kids, if they will keep it for their kids, then why is it so bad for your kids?

I want to repeat what I said at the outset. My bill is not a Government health insurance system. It is not a Government health care system. It is the opposite. It is a private system, voluntary, in which people are encouraged to purchase private health insurance. And I have mentioned this debate about individuals and health insurance here only to make the point of the inconsistency of the arguments being made by our colleagues.

To summarize, they are all for the Veterans Administration, which is a Government health care system. They are all for Medicare, which is Government health insurance. They are all for Social Security, which is the largest Government program. Therefore, their statements here against Government participation simply do not ring true because they will not stand up and say they oppose those programs, they want to abolish them. And then their actions in placing themselves and their families in a Government-organized health insurance system and getting direct Government health care for themselves, even as they say to their constituents, "That is not good for you," I say be aware, on guard, listen carefully.

Now, just the other day one of our colleagues came out here and said, well, the insurance program we are under is not a Government program because although it is organized by the Federal Government and 72 percent of the cost is paid by the Federal Government, it is really a mechanism where private insurance plans can be made available to Federal employees.

Mr. President, the denial negates the original claim, because that is essentially what my plan would do. It would create a mechanism whereby employers would offer to their employees a minimum of three different types of private insurance plans, and employees would choose among them. There would be no requirement on the employer to pay for any part of the cost unless we did not reach 95 percent coverage by the year 2000, as I believe we will.

And so it is ironic that the explanation about the Government insurance plan effectively negates the original allegation about my plan being Government insurance in the first place. So our colleagues cannot have it both ways. If my plan is not Government health insurance, then their original argument falls. On the other hand, if the Government-organized, Federal employees program is Government health insurance, they are all participating in it, willingly, taking it for them and their families while they tell their constituents it is bad for them.

Madam President, I will have more to say on that subject. I now want to mention just briefly the subject of choice. The Senator from New Hampshire said if our plan is adopted, "Americans will lose their choice."

That statement is untrue, categorically untrue. There are two types of choice in health care. The first is in choice of health care plans. How much choice does the individual American have in selecting a health insurance plan? Right now, almost none. Most Americans are insured through employment. The employer negotiates a plan with the insurance company and presents it to the employee, and the only choice the employee has is to accept or reject that plan, to either participate in it or not to participate in it.

Under my plan, the individual employee will be offered a minimum of three different plans. They will have the same standard benefits package, but they will deliver care in three different ways: either in the form of traditional fee-for-service, or a health maintenance organization, or in some other form. So in the first dimension of choice, that of health plans, my bill will dramatically expand choice for almost all Americans. For the first time, individual Americans will be able to choose from more than one health plan.

Second, the element of choice in physician or other providers. It is simply not true that choice will be denied under my plan. Since everyone will be offered at least three types of plans, one of which must be traditional fee-for-service, every American will have the opportunity to continue to have the fullest freedom of choice with respect to physicians. No one will be denied that opportunity.

Interestingly enough, the current trend in the country is in the other direction. As costs of health care rise, employers are increasingly turning to managed plans, HMO-type plans in which the individual's choice is limited. So if we do not adopt health care reform, more and more Americans will be denied choice in provider. So you have a reduction of choice in the one area where it now exists and continuing lack of choice with respect to health plans.

So I think it is important that Americans understand that my bill will do the opposite of what our colleagues have alleged. It will greatly increase choice in health plans and it will preserve fully choice of providers. Anyone will still be able to see any doctor they want, choose anyone they want to see in nurses or any other form of provider.

I hope that we all understand that.

Finally, the statement was made, "Don't throw out the entire system," thereby creating the implication, since the remarks were on my bill, that my bill does throw out the entire system. Madam President, it does not. It builds on the current system. It says that most Americans now receive their insurance through employment, and we should continue that. We should encourage those who do not have insurance to get it. And what we ought to do is to try to increase the number of Americans who have health insurance through a voluntary system of guaranteed private health insurance.

Now, what my bill does do is to provide health security for the 85 percent of Americans who now have health insurance but do not have health security.

Right now many of them face the incredible situation where their health insurance could be canceled if they become sick. Think about that. A person buys health insurance to protect himself in case he becomes sick, and then when he becomes sick the policy is cancelled. My bill will prevent that from occurring. It will prohibit that from occurring.

Second, right now, a person can be denied health insurance on the basis of a preexisting condition, something that affects millions of Americans. My bill will prohibit denying on the basis of preexisting condition. By contrast, the Republican bill would permit that to continue on an ongoing basis. My bill will phase out the preexisting condition exclusion completely by a time certain in sharp contrast to the Republican bill which permits the denial for preexisting condition to continue.

My bill will make it possible for a person to change jobs without the fear of losing his or her insurance. That is a real problem today. My bill will make it possible for people who are between jobs, temporarily unemployed, to continue with insurance. The insurance will be private, it will be guaranteed, it will be renewable, and it will not be able to be canceled. I think that is what Americans want who have health insurance. Yes. They are happy to have health insurance. But many of them are concerned about their lack of security, the fact that they do not know for sure whether it is going to be canceled tomorrow, whether the premiums are going to be doubled, or whether it will cover what they want when they become sick.

So, Madam President, I emphasize that my plan will increase choice. It will prohibit current insurance practices which leave Americans who have insurance insecure, and it will encourage those who do not have insurance to get it. It will abolish one of the largest Government programs that have those people enter the private insurance market. It is a voluntary system. And I ask Americans to keep that mind as they listen to the debate.

Madam President, I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, I would like to comment briefly on the majority leader's remarks, at least a few of them.

I think that it is the duty of the leader, as the majority leader or as the minority leader, to represent a party position or a political perspective. I admire both Senator MITCHELL and Senator DOLE for their able and professional way of carrying out those duties.

But I also think that the American people are alert enough and wise enough to know that the leadership of the U.S. Senate on either side of the aisle cannot easily categorize, as the majority leader has today, the Republicans all in one position and the Democrats all in another position. That is just an inaccurate portrayal of this issue, and the things that divide us on this issue.

I happen to be participating with what we call the mainstream coalition. These are at least nine Democrats who are not happy with the Mitchell bill. These are at least 9 or 10 Republicans who are not happy with the Dole-Packwood bill. But nevertheless, they are trying to seek to join together in a bipartisan effort to create a piece of legislation to lead us to wise, effective, economical health reform.

So I just want to clarify the record on that point, that my leader, Senator DOLE, as much as Senator MITCHELL's contingent of Democrats, are not easily divided as has been portrayed this afternoon.

Second, I would like to indicate just for clarification that somehow we have a coverage that is a Government operation, our own medical coverage. I would like to clarify that record to say that Blue Cross-Blue Shield is one of the many contractors with the Federal Government. I gain my health care from Blue Cross-Blue Shield where the Federal Government has a contract with the plan, and like many private industries, pays a portion of our health care premiums. Portraying that somehow the Members of the Congress, in particular Republican Members, are getting this great benefit out of the Government operation, as we have heard today, is just not accurate. So I want to clarify the record on that point.

I might also say we have thresholds, or we have deductibles. We have copayments. And yes we may go to see the Capitol physician but we pay a premium. I pay a fee for that kind of service. So this is not some broad-based freebie as that is being portrayed here today.

Madam President, the Senate has embarked on a very historic debate, and health care is probably one of the most important social issues that I think we will probably debate this entire century. During the last several months, we have heard a lot about the need for health security, that health care is a right that can never be taken away. I subscribe to that. And we have all heard the tragic stories of those who have fallen between the cracks in our health care system and have faced huge financial losses when faced with a health crisis. We have heard about the uninsured, and the cost shifting that occurs as between those of us who are insured to those who are uninsured who seek their health care services in hospital emergency rooms.

There is no doubt that our current health care system is not meeting the needs of a large segment of our country. We all share a commitment to achieve the finest health care delivery system possible in the United States to be extended to all in the United States. That is the purpose of this debate.

I would like to take the perspective as an appropriator. Let me use the old jingle that is often used, that authorizations—and that is what both the Mitchell bill and the Dole-Packwood bills represent, authorizations—are but a hunting license for an appropriation. We on the appropriations committees have found that there has been much action to authorize many programs in this century by the U.S. Congress, and then somehow it ends up in our lap to try to find the money for it. It is awfully easy to make promises. It is awfully easy to paint great broad brushes of new credits or new entitlements or new subsidies or new coverage. But someone at some point has to provide the money.

Let me say also that having been involved in Government for a few years, I am not willing to put my entire expectation and hope and trust on some kind of prospective savings. We have been through many of these experiences in the past. Under President Franklin Roosevelt, we had the Browley Commission; under President Truman we had the Hoover Commission I; and, under President Eisenhower, Hoover Commission II, studying the reorganization of the executive branch of Government and projecting the savings that could be achieved out of those reorganization proposals.

The first year out we found there were some savings that could be directly attributed to those reorganization efforts. But as time went on in the outyears, those savings disappeared pretty quickly.

So to undertake a program that is so heavily dependent upon prospective savings, of changes, and so forth, I am a little bit dubious. I am not saying we have not achieved some, of course, but to say that we are going to fund a portion of this health care program under the Mitchell bill out of those savings I think is a little risky business. And I know what will happen. If those proposed or prospective savings do not occur, it will be back on the Appropriations Committee to come up with the money to fund the commitments that have been made.

So I would like to focus a few comments on two key areas: The cost analysis of health care reform; and second, the nonmonetary issue as the legacy we are leaving for our children and our grandchildren. "Legacy" might be translated, also, into the word "indebtedness." We began this debate more than 4 years ago when it became apparent that health care costs were rising at a rapid rate and would endanger the financial stability of our country. We are now at a point where national health care expenditures make up more than 14 percent of our gross national product and near $1 trillion.

By the year 2000, national health expenditures, at this continuing rate, are expected to reach more than $1.6 trillion; and by 2004, they will exceed $2 trillion. According to the estimates released on Tuesday of this week by the Congressional Budget Office—the legislative arm of the Congress—the legislation proposed by the majority leader, Senator MITCHELL, will exceed these estimates. I can only draw a conclusion that this does not represent cost containment.

Yes, we need health care reform, but we cannot forget the impact new Federal spending and new entitlement programs will have on our children and our grandchildren, who will be faced with paying the bills associated with these increases of today.

We have a bipartisan commission on entitlements and tax reform that recently released findings which showed that even if increases in health care costs were held to the growth of the economy by 1999, due to the aging and changing demographics of the aging population, Federal outlays for Medicare and Medicaid will still double as a percentage of the economy by the year 2030. In fact, they will increase from 3.3 percent of the economy today to 11 percent of the economy. Mark you, these findings and projections do not include the effect of the new health care entitlements envisioned by the Mitchell bill.

Let me stop here a moment and say, as I indicated in the very beginning, no leader in this body can speak for all the Members on his respective side. You have heard a lot of talk about Republicans saying "no new taxes." Well, this is one Republican who will vote for new taxes if it is to fund the high priority that I place on health care reform. I am not talking about depending it on the cigarette tax or the sin taxes; I am talking a basic tax increase, because I want to remind ourselves today that when we went through the throes of getting catastrophic illness and everybody wanted catastrophic illness, led by the AARP, when the people of this country found it was going to cost them $3 to $4 more a month in premiums, there was almost a stampede into the well of this Chamber to see who could be down there with the first bill to repeal the act passed by the previous Congress, in order to respond to the American public's outcry that they were not willing to pay a $3 to $4 increase for coverage of catastrophic health care. I am one Republican—and I am sure there are others—who will say that we put such a high priority upon covering all Americans with decent health care access that we are willing to stand and vote the tax to support it and to guarantee it and not make promises that cannot be guaranteed by saying prospective changes or prospective reforms are going to provide us with the money.

Let me also say that under the Mitchell bill, many are going to find themselves paying more for their health care. By the year 2002, all Oregonians will be paying the same rate for premiums regardless of age. According to a recent editorial in the Washington Post written by Neil Howe and Bill Strauss, this so-called pure community rate will increase costs for young people by 100 percent. Essentially, this means that we will be taking at least $40 billion yearly out of the pockets of young adults—those under the age of 35—and putting it into the pockets of adults over the age of 45. It is a cost shift.

While there is no doubt that reform needs to be made in the insurance industry—for example, to make insurance portable so you can take it with you when you change jobs and available to you regardless of your health status. In fact, I was recently chatting with a gentleman in my office who is now among the ranks of the uninsured. He changed jobs and became self-employed. Due to the change, he lost his employer-provided health insurance, and in the meantime he learned that he had diabetes and now cannot find health insurance because nobody will insure him with this preexisting condition. These are the kinds of problems we must address in our current insurance system. Yet, we must do so in a way that does not bankrupt our children and grandchildren. This is the challenge that makes this debate so difficult, because there is no easy answer. Again, what is the legacy we want to leave to the future generations?

As many of my colleagues know, the State of Oregon has taken substantial steps to enact health care reform which controls health care costs and achieves universal coverage. The Mitchell bill could negate the innovative Oregon health plan. Although Oregon's Medicaid waiver appears to be grandfathered, none of the other reforms Oregon enacted into law receive such protection against Federal preemption or Federal prescription.

For example, Oregon has developed a standard benefits package under the Oregon health plan. This unique benefits package explicitly recognizes that we cannot afford to provide every service to every person.

Madam President, there is not a plan out here that has taken the tough position to say we cannot provide every service to every person. What we are trying to do in Oregon is to provide everybody with standard primary health care. We are not going to separate every Siamese twin born in Oregon. We are not going to guarantee, in a sense, that everybody has a right to any medical procedure—over 9,000 of them under Medicare alone. We have prioritized them. People say, oh, that is rationing health care. Well, we are rationing health care, yes, but we are doing that today based on economics, which is certainly discriminatory, far more than saying to a person who is 80 years old, if you have a life expectancy added to your life by 1 year, are we going to engage in a very costly medical procedure as against covering 100 women with prenatal care? No, we cannot afford to do it. That gets down to where the real rubber hits the road in terms of having to make the tough decisions that somehow we are going to offer everyone any medical procedure or access to any medical procedure. That is the implication, because we have not addressed those thousands of medical procedures, and we have the attitude that any one of them—it is very clear—would be open to anybody.

Oregon focuses on the position of preventive health care services and provides an access to primary health care before serious health problems develop. It looks at the effectiveness of treatment and draws lines to exclude payments of services that are noneffective or add to the individual's quality of life.

I think we have to face this reality in the national picture as well. It was difficult for Oregon. It was complicated. But they gathered the best brains and representation of the people, theologians, philosophers, doctors, lawyers, humanists, people from all walks of life, people from all incomes, and they sat down and worked out this dialog.

Under the Mitchell bill, will Oregon be permitted to continue to offer this unique benefit package to all Oregonians? Oregon has also taken steps in the private insurance market which have completely changed the nature of health care in the State, and has contributed to a significant lowering of health care costs in Oregon compared to the national average. Oregonians are familiar with managed care, where they join a network of providers through whom they can access health care services.

These networks include primary care physicians, hospitals, specialists, and other health care providers. In fact, more than 60 percent of the 1.1 million Oregonians who have coverage through Blue Cross/Blue Shield of Oregon are enrolled in managed health care plans. And in addition to that, Kaiser Permanente has more than 400,000 subscribers in Oregon out of a total population of 2.9 million.

However, there is a provision in the Mitchell bill that threatens the ability to health plans, such as those that are covering the majority of Oregonians, to manage health care costs by limiting ineffective treatment and care. Under the claims dispute mechanism which would be established if the Mitchell bill is passed in its current form, health plans will have no incentive to manage cost because every decision, every claim—and there are millions every year in this country—could be reviewed through an administrative process, or in Federal or State court where damage awards available would be "any appropriate relief"—underscored—"any appropriate relief" possible, a true lawyer's paradise. This could be called in a sense a lawyer's economic development act.

Let us be clear about this. The disputes we are talking about here are contractual disputes over service coverage in health plans. These are not malpractice claims, not malpractice claims. They are not disputes that arise over negligent medical care. The implications of this provision for our ability to control costs through managed care are erroneous and they become also more enormous. It will completely undermine cost containment efforts.

I have long advocated that we give States more flexibility to develop a database to assist us in formulating a Federal role in health care reform. Certainly, I agree that there need to be certain Federal standards that assist us in achieving the goal of universal coverage. However, I do not believe the Federal Government should be dictating a regulatory and prescriptive process to the States and that each State then must follow to reach these Federal standards.

This approach penalizes States such as Oregon that are progressive. Many States have been working on these issues for many years, and I believe it is wrong for the Federal Government to come in and undo the reforms that we have already established and are experiencing.

For example, the Mitchell bill includes a provision that will preempt all State laws in the area of medical liability reform that are different from the new Federal laws established if the Mitchell bill is passed. In Oregon, that would mean that our medical liability law which includes a cap on noneconomic damages and has contributed to a significant lowering of costs would be preempted because the Mitchell bill does not include a similar provision of a cap. The Federal Government should not be paternalistic in this realm. Some States, like mine, are years ahead in their reform efforts.

So you ask, what about the States that are not as progressive as Oregon? How do we get them to do the right thing?

I believe we must set minimum Federal standards and then provide those States with guidance—not mandates—about how to reach those standards. We should provide incentives and credits for innovation, not more regulation. In all areas, our Federal system penalizes States that are more progressive and reduces them to the standards of the lowest common denominator. Our citizens expect better, they deserve better, and Oregonians certainly demand it.

Madam President, I want to make it clear that I am committed to reforming our health care system. The concerns I have raised must be addressed before we pass comprehensive health care reform. This is not a stalling tactic. This is asking for the data and information. Let me digress for just a moment. I happen to have been Governor when Kerr-Mills was first established as a precursor to the Medicare Program. Under Kerr-Mills, the Federal Government indicated the States should develop a database upon which to designate, to define, and to analyze the health care needs of the elderly citizens. Oregon, I am proud to say, was the first State out there to start the process of developing this database to know what the Federal role legitimately and rightfully should be. There were those who wanted to rush through a Medicare bill which came to be known as the King-Anderson bill superseding the progress that was established under Kerr-Mills, and they pronounced as the ultimate statement of costs in 25 years it would not cost more than $10 billion under King-Anderson.

Madam President, in 25 years it was $65 billion, and it is going sky high. It is going to eat up our whole budget if we do not do something about cost containment.

My point is simply this, that we can prove at the State level and if we had the time to develop the base I am sure we would have a finer and a better, more efficient Medicare system than what we are now experiencing. Concerns I want raised must be addressed. We cannot legislate in the dark, afraid to face the reality that we may not be able to afford unlimited health care for everyone in this country. However, we must assure that everyone has access to preventive and primary health care.

As a Member of the Appropriations Committee, I have directly experienced the struggle we face to allocate funds for our complex array of domestic programs. This discretionary funding funds the operation of those all three branches of the Government. It pays for the roads and the bridges of our transportation infrastructure, the loans that go to provide public housing, student loan assistance and small business startup, our national parks, and many more purposes which have nearly universal support. These funds have been drastically diminishing over the years as the entitlement programs have grown. The programs authorized under health care reform will put further pressure on the Appropriations Committee to make funding decisions.

And do not forget that the budget caps we are now under require us to cut discretionary spending next year by $5 billion. And as entitlement programs continue to grow, less and less will be available to discretionary programs. We are literally facing choices between running the Government and paying for our biggest entitlement programs—Social Security, Medicare, and now a new health care bill.

I return to the premise with which I began—what kind of a legacy are we leaving for future generations? Because I have this in common and have this with many of my colleagues and I share their concern. I made a commitment to work with this bipartisan mainstream coalition, which includes Democrats and Republicans, to try to improve upon the reforms in the Mitchell bill.

We are not rejecting either bill. We are just saying we cannot accept either bill in its current form.

I want to repeat again that I am one Senator who is willing to pay the bill to improve our health care system. But let us face the responsibility for paying for it now rather than later. We have an obligation to future generations to approach this issue of cost up front. We have all seen the illusory nature of projected savings over the years. This time we cannot afford to saddle future generations with mistaken cost estimates and glossed-over realities of the fiscal tradeoffs.

We must be conscious of the costs of such a system and make a commitment to control these costs. If we are up here getting ready to adopt a new health care plan and engaging in all sorts of rhetoric, political and otherwise, I think we have to understand that we have an obligation to tell the American public precisely how it is going to be funded. To only dodge that issue to me represents more a fraudulent approach than an honest approach.

We must make a commitment also in this or any other bill we adopt to funding medical research. We must assure that we make sufficient provisions to address the needs of our rural and underserved areas.

It is very interesting to note that rural America was left out of the original proposals that were called upon to be adopted in the Congress. It was only after pressures from within the Congress that rural America was seen as having a very special problem of rural health care because of the gravitation of medical resources to the urban centers.

We must enact meaningful malpractice reform. We must pass a bill that is less prescriptive and regulatory on State Government. And finally, we must encourage innovative and creative approaches to health care that are occurring in our States and private health care markets now. We are not going to write a bill in concrete. We cannot do so because of those changes that are occurring now, even before legislation is adopted. Meaningful reform is possible if we keep these goals in mind.

I look forward to working with my colleagues to fashion a bipartisan solution that addresses these goals.

We cannot afford to pass a health care bill that has 51 votes from one side of the aisle or 50 plus 1.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I would like to speak today about an amendment I intend to offer, or a couple of amendments, to the health care reform bill.

I will not go on at great length. I know that others wish to speak.

The PRESIDING OFFICER. The Chair would note that the Senator from North Dakota stood on his feet and his voice was heard and he was recognized. He was on his feet first and that is the reason the Chair recognized him.

(Mr. WELLSTONE assumed the chair.)

Mr. DORGAN. Mr. President, I would observe that I have been here since 12 o'clock, with the exception of about 10 minutes when I left the floor, and I believe I watched for about an hour and a half or an hour and 45 minutes on the other side and about 15 minutes on our side.

But, nonetheless, I will be very brief.

I want to talk about an amendment that I intend to offer with my colleagues—in fact, two amendments.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, before I do that, let me say again, just on another subject, the Federal Reserve Board action of yesterday is very disappointing. Today, we have all read the newspapers about that.

I was thinking about maybe suggesting we cut off the air conditioning down at the Federal Reserve Board. Somebody suggested if I did that legislatively, somebody would get up and suggest that we cut off the air conditioning in the Capitol Building.

But clearly we need to push some different air into the Fed to see if we cannot get some better decisions on interest rates.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, let me discuss briefly the amendment that I and a couple of my colleagues will offer to this piece of legislation.

I discussed yesterday the number of health care proposals that are before the Senate. I discussed the fact that there is great merit and need in discussing universal coverage. Universal coverage is essential. No American should wonder whether they have the ability to take their child to a doctor when their child is sick. It should not be a function of how much money you have in your pocket when you decide to get health care for a sick child. So it is clear we need better access to health care.

We need universal coverage. That is not something that I question. It is a goal we must move to, and as quickly as possible.

It is also clear to me, as I mentioned yesterday, that we must do something about the cost of health care. If we do not put the brakes on skyrocketing costs, we will be chasing the target of coverage forever and we will simply not be able to obtain it.

Yesterday on the floor I used a chart which shows what is happening to the cost of health care and I would like to show the chart again. The United States spends much more on health care than any other country in the world. We spend more than 14 percent of our gross domestic product on health care; Canada is at 11 percent; and no other country is even at 10 percent.

The fact is U.S. health care costs are growing and growing exponentially. And every single plan that is before us—the Dole plan, the Mitchell plan, the Clinton plan, the mainstream plan, the Finance Committee plan—every single plan, at the end of it, in the year 2004, will see the cost of health care as a claim on the gross domestic product of this country increase by nearly one-third.

Instead of keeping health care at 14 percent or 14.5 percent, which is much more than any other country in the world spends on health care, at the end of every plan, by the year 2004, according to the Congressional Budget Office, we will be at 19 or 20 percent of gross domestic product.

That is not success. We will not achieve universal coverage unless we find some method by which we put the breaks on skyrocketing costs. We, I think, need a thoughtful debate about how to do that. I think there would be great differences. Some would suggest cost controls, cost containment mechanisms that are real; others would suggest a market that might incentives cost containment. The fact is, if we do not dig in with cost containment devices that work, whether it be in the private or the public sector, we will not obtain universal coverage under any condition.

Again, let me say, every plan that I am aware of, including the Republican plan, will, at the end of the plan, mean that we will spend a third more than we now spend on health care as a percent of our gross domestic product. That cannot and will not be viewed as a success by the American people.

On one part of this issue, I am going to offer an amendment that I want to discuss today. It is an amendment on the issue of the cost of prescription drugs. It would be hard to find a better heeled industry than will fight this amendment, I am sure.

The pharmaceutical industry is a very, very large industry with an enormous amount of resources. They do a lot of good things. They produce wonder drugs, manufacture life-saving drugs, invest a lot of money in research and development. And I salute them for that.

On the other hand, they produce products that are a necessity, not a luxury. People need, as a matter of course in their daily living, to take the medicines and prescription drugs that are prescribed by their doctor.

The way they price prescription drugs in this country in my judgment defies all good sense. And I have used these charts before. I am going to use a couple of them again, just to describe why this amendment is necessary.

The biggest selling drug in America is Premarin, used for estrogen replacement. Here is the price for Premarin by the same manufacturer, for the same pill, put in the same bottle. I have held up on the floor before the bottle of pills for which it is $93 in Sweden, $100 in England, $113 in Canada, and nearly $300 to the U.S. consumer. Why? Why would we be charged more than triple the price for the drug Premarin when compared to Sweden or England?

Xanax, for anxiety, $10 in Sweden, $56 in the United States.

Zantac, a drug that is used for ulcers; a wonder drug, as a matter of fact, saves the need for a costly operation. But why do we pay $133 for the same size bottle, for the same pills, produced by the same manufacturer, when it costs $64 in Sweden and $84 in England?

When I offer the amendment, I will show chart after chart after chart that shows exactly the same thing—two different sets of pricing data. A price for people who live in Italy, Germany, France, England, Sweden, and Canada, and then a separate price, a higher price, for the United States consumer. Why? By what justification should we believe the U.S. consumer should be charged double, triple, 5 times or even 10 times the same price than other consumers around the world pay?

I intend, with my colleagues Senator PRYOR, Senator SASSER, and Senator FEINGOLD, to offer two amendments, one which would have the Secretary of Health and Human Services do a survey, to collect information, and require the pharmaceutical companies to furnish the information, on the wholesale prices at which they market their drug in various countries. And from that, construct an index that is released periodically to the American people so that we know what price we are paying for the same drug that is being consumed at a lower price by other people in other countries.

That is number one. It simply requires the drug companies to provide the information and requires the Health and Human Services Secretary to get it, to compare it, and to produce an index so that we have public information and allow the public to put the pressure on the pharmaceutical manufacturers for fair pricing.

The second amendment would be exactly the same step leading to the acquisition of these prices and the comparison of these prices, and then a determination based on the results. If they find that a drug is sold in this country for 25 percent more than the average price at which it is marketed in other countries, more than 25 percent above the average price at which it is marketed in the rest of the world, then it would result in a show cause hearing at HHS. If the drug companies could not show cause that was justifiable, then the Federal Government would only pay, under the Medicaid contract, the average price of which that drug is marketed in all the rest of the world.

Those two amendments, I assume, will provoke a substantial amount of debate. There is certainly room for disagreement about drug pricing. But I do think that we ought to have a discussion about that component piece of the cost of health care.

I would like to make one final comment, and then yield the floor.

There is, I know, great rancor, anger, cynicism by some about this health care debate, about Congress generally, about the Government, about Washington. All of us see it and hear it. We feel it every day from the phone calls we get and contacts when we are back home. Times have changed, and part of it is understandable and very real. Part of it bothers me some—I listened carefully this morning to some of the discussion—the notion by some in this Chamber that somehow Government is awful, Government is untrustworthy, Government cannot do anything. The fact is, Government is a system by which we put together the schools and educate our kids, we construct our roads and a police force to keep us in safety, and a force of firefighters to fight fires. Government is all of those things. Government was, when it constructed REA, and rural telephone system, the instrument by which we electrified rural America and brought telephone service to rural America. We have done a lot of remarkable and good things through our Government, together—things that work. Things that work well.

I respect the fact that there is great disagreement about how to respond to the health care issue. I do hope that, as we move down this road, we will, in a thoughtful way, disagree without being disagreeable. Even though there are substantial differences in public policy between us, all of us now serve in government. I hope we all aspire to make government effective. Whatever we do, let us make it effective. Let us do it right.

It may be, some think, we should do less of it. That is perfectly legitimate. But we ought not make it our fulltime occupation to denigrate everything done. I am telling my colleagues, there are plenty of people doing that these days. I hope those of us who work here, Republicans and Democrats, and who care about public policy will tone down some the description of what we are. I was told recently by a person that we are all liars and all a bunch of frauds in Congress.

I said, "You know, I do not think that". I work with the Senator from Arizona, Senator McCAIN. I work with Senator DOLE. I work with Senator COATS. I do not know of one person in this Chamber I work with that I think that of.

Every person here, in my judgment, is here because they care a great deal about public policy. They might have widely divergent views about what that policy may be, but they come early in the morning and work late at night because they care about public policy and honestly want to address it in the right way. I hope, as we move forward in this health care debate and as we talk about crime and other things, we can always keep in mind that all of us are trying in our own way to do the right thing.

I have indicated yesterday that I desperately believe when we turn out the lights for a recess—if we have a recess here—and we have done something about health care, if we do not do something about the cost of health care, then we will have failed. Costs are skyrocketing. I frankly do not think any plan presented at this point will get costs under control. I have indicated that. I have some notions about how we should try to do it.

But no one in this Chamber, in my judgment, has the divine wisdom to come here with a piece of paper and say, "Here is the answer. Here is the right answer. Here is the only answer. Here is the answer that works for America." It is just not possible that one person has that kind of wisdom.

What we ought to expect from this Chamber is a debate in which we get the best of what everyone has to offer instead of the worst of what each has to offer. If we can get the best of the ideas from the Republicans and the Democrats and the conservatives and the liberals and the mainstreamers and the upstreamers and whoever else is out there streaming these days, maybe we can construct something that the American people will respect and say: Yes, they did a pretty good job. They understood the problem. They searched for the best possible solution. We respect them for that.

I hope that will represent the tone of the debate.

Mr. McCAIN. Will the Senator yield for a comment?

Mr. DORGAN. I will be happy to yield.

Mr. McCAIN. First, I express my apologies for my impatience to the Senator. I was unaware he was on the floor since noon. When I came to the floor he was not there, and I expressed some impatience. I hope he understands I have waited a number of days to give my opening statement.

Second, regarding his statements concerning the level of rhetoric. There should be a statement that each of us, even though we may take different approaches to this very critical issue, we should be partisan but not personal in our remarks and in our debate. I think it is a fortunate admonition, since most of us had anticipated being home at this time with our families, and from the looks of things, things are going to get perhaps more tense around here rather than more relaxed. I hope all of us can take the words of the Senator from North Dakota to heart. I thank the Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate those remarks. Senator COATS is on the floor, and he and I have talked about the fact that this is not a family-friendly place. When people say that Government cannot be trusted and we are all lazy—the people like Senator COATS and Senator McCAIN, like so many others who work late at night and come in early in the morning and spend half their weekends back in the home State make enormous sacrifices. I think all of us with young children would prefer to be able, during an August break, at least in some small measure be able to spend some time with them. But this is not a very family-friendly place. I hope we can change that, too, at some point in the future.

I will be happy to yield the floor. I appreciate the patience of the two Senators.

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS].

PRIVILEGE OF THE FLOOR—S. 2351

Mr. COATS. Mr. President, on behalf of Senator WELLSTONE, I ask unanimous consent Alexandra Clyde, E. Richard BROWN, Ellen Weissman, and Mark Anderson be accorded the privilege of the Senate floor for the duration of consideration of health care reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I only intend to take a few moments. Then I trust my colleague from Arizona could be recognized, who has waited very patiently for a number of days in order to make his comments and statement regarding the health care bill that is before us. I want to take a brief amount of time to respond to the comments just recently made by the majority leader.

The majority leader has on several occasions now, the latest of which was just moments ago, come to the floor in defense of the bill that he has introduced, which is obviously his right. And we would expect him to do that. What I am responding to, however, is that the rhetoric of the majority leader does not seem to square with the reality of the legislation. I am one of those Senators who took the pledge, the pledge to read the entire bill. I wish I could say I have completed the reading and understand every line and every word of this 1,448-page document. I am well into it. I think I understand a great deal of it. But much of it is technical and references other sections of the United States Code and other sections of the bill.

So I am still plowing through it. But as I listened to the majority leader make his rhetorical statements, I began to scratch my head and think, are the statements relative to the same bill that I am reading? I know we have had three bills submitted by the majority leader. We label them Mitchell 1, Mitchell 2, Mitchell 3. I have been focusing my efforts now on the bill that is before us, Mitchell 3.

But as I hear comments made by the majority leader and then try to square it with what I have just read, there seems to me somewhat of a disconnect. For instance, on the subject of consumer choice, yesterday and repeated again today, Senator MITCHELL came to the floor and attacked Republicans claiming that Republican Senators had misrepresented the facts about an individual's choice of plans under his bill. But in reading the bill, it is clear, at least to this Senator, that employers are severely penalized for offering health plans that are more generous or less generous than the standard benefit package that will be determined by the National Health Board and that employers of under 500 employees are prohibited from self-insuring. Those are limitations on choices.

So while the majority leader says, and I quote from a floor statement made on August 2, 1994, "The bill would expand the choices Americans have for their health care," the bill that I have read, Mitchell 3, says this on page 145, section 1309: Employers are subject to a civil penalty of $10,000 per employee if they offer a health plan that is more generous than the standard benefit package.

Let me quote from that directly. I want to make sure I am not mischaracterizing, or attempting to misrepresent, what the majority leader has said. The majority leader said this would expand choices for Americans in health care. But on page 145, section 1309 it says:

In the case of a person that violates a requirement of this subtitle, "the Secretary of Labor may impose a civil money penalty in an amount not to exceed $10,000 for each violation with respect to each individual."

The requirements under this subtitle are that a standard benefit package, determined by the National Health Board, be offered. And, if anything less or more than that is offered—if it is more, it has to comply with the supplemental plan— there is a $10,000 fine that may be imposed by the Secretary of Labor.

That does not sound like an expansion of choices to me. On page 1,170 in section 7112, the bill imposes a 25-percent excise tax on high-cost, high-growth health plans. That 25-percent tax is assessed on the difference between the premium and the reference or target premium.

On page 137, section 1301 of the Mitchell bill, despite what the majority leader said about expanding choices for Americans, it says "Employers with fewer than 500 employees are prohibited from self-insuring, cost-sharing benefits." Their provision alone would deny choice to the 400,000 firms in America that insure 16 million Americans today under self-insurance plans. This is when the employer sits down with the employees and says, "We're going to write our own plan. We will form our own group. We will determine what benefits best fit this company, and we will self-insure."

Those firms under 500 employees will now be prohibited from doing that. They will be prohibited from offering plans they now offer that cover 16 million Americans. That is not expanding choices.

It seems to me, Mr. President, that consumer choices are severely limited under the Mitchell bill because employers are strongly penalized for offering anything other than the one-size-fits-all-Washington-designed standards benefits package.

Senator MITCHELL has claimed that his bill would not raise taxes, nor tax small business. On August 15, 1994, on this floor, just a couple of days ago, he said, and I quote:

> Over and over again, our colleagues said of that plan that it would raise everyone's taxes and be a tax on small business. Neither of these statements are correct.

That is the majority leader's statement. But the words of the majority leader do not conform with the words of his own bill. This bill contains numerous new taxes and tax increases. Let me just name three.

In section 7111, page 1,158, the bill imposes a 1.75-percent tax on all health insurance premiums for insured and self-insured plans. So whatever your plan now is, as an American, you are going to have a 1.75-percent tax on that plan.

Section 7112, page 1170, imposes a 25-percent excise tax premium cap on high-cost, high-growth health plans. Section 7132, page 1205 imposes a 15.3-percent tax increase on income of certain service-related subchapter S corporations, shareholders and partners.

Mr. President, these are three of the 17 taxes included in the Mitchell bill. I will not take the time, in deference to my colleague from Arizona, to go through the others, but I have a list of all the taxes imposed under the Mitchell bill.

Senator MITCHELL, when he spoke about the impact on business, was correct when he spoke about the plight of small business owners. In a floor statement on August 9, he said, and I quote:

> These are typical small business people trying to create their own stake in society, building their own enterprise and doing what the rhetoric of entrepreneurship is all about. And yet their efforts are being devastated by something entirely beyond their control.

I agree with those words. But what is entirely beyond their control is where I disagree. What is entirely beyond their control are the 49 new responsibilities that they are being burdened with. I have a list of employer responsibilities under the Mitchell bill. I will not take the time to read them, but I ask unanimous consent to print them in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EMPLOYER/PLAN SPONSOR RESPONSIBILITIES UNDER THE MITCHELL BILL

RESPONSIBILITIES AS AN EMPLOYER

Sec. 1301: Offer at least 3 certified standard health plans.

Sec. 1301: Forward the name and address of each employee to the certified standard health plan in which the employee is enrolling.

Sec. 1101: Maintain records and provide states with data to audit certified standard health plans.

Sec. 1301: Provide payroll withholding of employee premiums upon request.

Sec. 1301: Provide employees with information on all certified standard health plans in the community rating area.

Sec. 1301: Provide employees residing in other community rating areas, information on all certified standard health plans in these other community rating areas.

Sec. 1111: Provide 180 day notice to participants of plan non-renewal.

Sec. 1111: Comply with regulations concerning transfer of plan sponsorship from one employer to another due to acquisitions.

Not available: Modify plan documents and SPDs to reflect legislative requirements.

Sec. 1486: Maintain certified Wellness Programs to be eligible for premium discounts.

Sec. 4522: Comply with Nondiscrimination regulations.

Sec. 1302: Maintain data on standard health plan premiums and employer contributions.

Sec. 10113: If trigger mechanism goes into effect, employers must contribute 50% of premiums for all employees.

Sec. 7202: Loss of Section 125 FICA exclusion.

RESPONSIBILITIES AS A STANDARD HEALTH PLAN SPONSOR

Sec. 1001: File application for plan certification in each State.

Sec. 1201: Comply with Standard Benefits Package.

Sec. 1111: Comply with regulations concerning guaranteed issue, availability, and renewability.

Sec. 1113: 6 Tiers of premium rates required.

Sec. 1002: Open enrollment required.

Sec. 1111: Allow disenrollment for cause.

Sec. 6006: Provide enrollees with individual subsidy applications.

Sec. 6006: Forward subsidy applications to states.

Sec. 5001: Supply data to the National Quality Council at both a state and national level for:

Sec. 5002: Quality of health care service and procedure measurement;

Sec. 5002: Determination of access to care;

Sec. 5002: Determination of appropriatenes of care;

Sec. 5002: Determination of population health status;

Sec. 5002: Health promotion/disease control initiatives;

Sec. 5004: National surveys of plans and consumers;

Sec. 5005: Consumer report cards;

Sec. 5007: Additional information requests for health care researchers; and

Sec. 9000: Workers' Compensation data must also be supplied.

Sec. 5009: Supply data to the State and National Centers of Consumer Information and Advocacy on plan performance and consumer report cards.

Sec. 5111: Comply with the standards of the National Health Information Network for electronic transmission of the following health information:

Sec. 5112: Standard unique health identifiers for each enrolled individual, employer, health plan, and health care provider;

Sec. 5121: Eligibility data;

Sec. 5121: Enrollment data;

Sec. 5113: Enrollee and provider signatures;

Sec. 5114: Claim forms;

Sec. 5114: EOBs;

Sec. 5121: Premium Payments;

Sec. 5121: First Report of Injury;

Sec. 5121: Claims Status; and

Sec. 5121: Referral certification and authorization.

Sec. 5301: Comply with Attorney General data requests for fraud and abuse enforcement.

Sec. 1124: Issue Health Security Cards to all enrollees.

Sec. 1101: Participate in state guaranty funds.

Sec. 1101: Comply with grievance procedures.

Sec. 1117: Participate in National Reinsurance Program for multi-state employers.

Sec. 1118: Comply with solvency requirements.

Sec. 1122: Comply with performance standards.

Sec. 1122: Communicate quality outcomes to enrollees and providers.

Sec. 1125: Provide enrollee communciations in a variety of languages.

Sec. 1126: Provide information on patients rights.

Sec. 1128: Coordinate additional payments to providers for individuals with cost sharing subsidies.

Sec. 1128: Verify provider credentials and licensing.

Sec. 1128: Demonstrate that sufficient providers are available both in and out of network.

Sec. 1129: Demonstrate that sufficient specialized treatment expertise is available.

Sec. 1129: Disclose utilization review protocols to enrollees and providers.

Sec. 1129: Disclose provider incentives to enrollees to make them aware of potential quality of care issues.

Sec. 1141: For supplemental plans, maintain a loss ratio of at least 90 percent.

Sec. 1305: Complying with requirements in single payor states.

Sec. 2106: Conduct quality case review of sample records.

Sec. 2106: Reporting instances of abuse, neglect, and exploitation.

Sec. 2106: Reporting of enrollee/provider complaints.

Sec. 3093: Special reporting requirements for employers of health care workers.

Sec. 7111: Pay 1.75 percent Premium Tax.

Sec. 7112: Conduct test for 25 percent assessment on high plans.

Mr. COATS. Mr. President, 49 new responsibilities, mandates on business under the Mitchell bill. Yes, small business people are being burdened by health care, but they are being burdened by the mandates that are being placed on them on the so-called proposal to undo that burden. Those are the new responsibilities that are beyond their control.

I will skip naming some of those, but there are 49 of them. Senator MITCHELL said in regard to bureaucracy, and he has said it over and over and over again, this bill, he says, the Mitchell bill, is not a Government-run program. I heard him say that just a few moments ago.

Believe it or not, we have counted the word "shall." The word "shall" means it is not discretionary, you do it. If a piece of legislation enacted into law and codified into law says "shall," you have to do it. If you do not do it, there are penalties, and this bill is full of the penalties.

We have counted the number of "shalls" in this legislation—2,681 times it does not say this is what we recommend insurers do, this is what we recommend businesses do. It says this is what "shall" happen; this is what "shall" take place. The States "shall" comply with these requirements. Small business "shall" comply. The National Benefits Board "shall" do these items.

So when we say this is not a Government-run program, it does not square with the bill.

I have compiled a primer to the Clinton-Mitchell health care bill's new bureaucracies, new mandates, and new Federal powers. This list identifies by section number the mandates, the requirements, the new agencies, the bureaucracy that is outlined in this 1,448-page bill. This is 81 pages of print so small that my eyes can no longer read it, but this lists the 55 new bureaucracies that are created, a mixture of Federal and State government bureaucracies that are required under the Mitchell bill—55.

This lists the 815 new duties that are given to the Secretary of Health and Human Services; probably a new office for every one of those and who knows how many employees and how much money to fund that; 815 duties and powers, new to the Secretary of Health and Human Services; 83 new duties and powers to the Secretary of Labor.

I could detail what some of those are—overseeing State plans, requiring certain submissions by medical providers, and on and on it goes. If that is not a Government-run program, I do not know what is.

Mr. President, I hope every Member will have a chance to leaf through this. This is not political rhetoric. This is language taken directly from the bill and referenced to section numbers. Every word in these lists is taken directly from the bill and referenced to the section number. So Members do not have to see this as just Republican rhetoric, Republicans trying to scuttle the Mitchell health care proposal. This is factual, it is there for everybody to see, it is there for everybody to reference for themselves.

The worst thing I have ever done and the best thing I have ever done, relative to the legislation that is before us, is to take the pledge to read this bill, because the rhetoric sounds wonderful and there is plenty of rhetoric to go around on both sides. Oftentimes, that just is lost in the discussion, and pretty soon it all starts to sound alike and everybody is saying the same thing.

The reality is this legislation. The reality is this legislation, and I just challenge every Member of the U.S. Senate to read this bill. If you read this bill, you will see it as the single greatest expansion of Government in the history of this Nation. You will see it as Government control run amok.

The goals of the majority leader are honorable goals. They are goals shared by Republicans. The reforms that are outlined in terms of health security, of keeping your plan, of not losing it when you change jobs, not being denied coverage when you are sick, of the small business reforms and the insurance reforms, they are all incorporated in ideas and plans submitted by Republicans. We all agree on that.

Senator Bentsen, not a Republican but then Senator Bentsen, a Democrat, leader of the Finance Committee, submitted legislation 2 years ago. Had we enacted that, the rhetoric would have been solved. The problems that the rhetoric discloses would have been solved. Would it have solved every problem in the health care field? No. But it would have taken us a long way towards health care reform. Millions and millions of Americans today would have health security they now do not have because we are presented with this or nothing.

The President has drawn the line in the sand and said, "You enact this and nothing less or I will not accept it." And so those of us who have worked together to provide meaningful reform and health care for millions of Americans have nowhere to go. This is the bill before us. So if it is this or nothing, then we are determined to show the American people and our colleagues what this is. And this has been detailed now and outlined in section-by-section form for Members to check for themselves. I just think that the rhetoric needs to match the reality of that with which we are faced.

With that, Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, first I would like to note the presence of my friend from California, Senator BOXER. I would say to the Senator, I intend to speak for about 25 minutes, if that is agreeable to her, so that she could adjust her schedule accordingly. And I appreciate her many courtesies which have been extended to me for many years. I wish to assure her that if I am ever in the majority I will try to extend the same courtesies to her that she has to me. And I am very appreciative not only of her courtesies but her friendship. She and I came to the House of Representatives together longer ago than she would care for me to recollect. So I thank the Senator from California.

Mr. President, one of the most oft-used adages I know is that those who ignore the lessons of history are doomed to repeat them. History teaches us many things about the prospects for this legislation, and in my view none of them are favorable. For the sake of our Nation, I believe we should avoid the errors of the past.

Among history's most important lessons—and I would cite five of them—as far as health care legislation is concerned are, first, a major piece of legislation that fundamentally alters our basic institutions requires strong bipartisan endorsement, not a narrow 51-percent majority; second, any major health care bill must be understood and endorsed by the public before it is passed if it is to have any chance for successful implementation; third, Government-run approaches to providing health care are overly bureaucratic and do not result in quality services or consumer satisfaction; fourth, health care access problem is fundamentally a cost problem, and any bill that does not strongly address the cost of health care through market forces in my view will be doomed to fail; and fifth, the cost of entitlements are always underestimated when first proposed, and it is politically impossible to remove them once they are enacted.

I would like to discuss each of these lessons to ensure that we do not ignore them in the course of this debate.

First, health care reform requires strong bipartisan support. Mr. President, this is not an issue that should be decided on a party-line vote with 51 votes in favor and 49 against. This is an issue that will affect every American in a very personal manner. It will fundamentally alter an industry that comprises one-seventh of our economy, and history shows us that from major civil rights legislation to the creation of new Government social programs, if we are to truly succeed in changing the status quo, it must be done in a manner that is supported by the broadest cross section of Americans.

It is clear that this bill is not bipartisan. The objective is to pass it, even by a single vote. The Clinton-Mitchell bill does not have a strong bipartisan support because it does not have the support of the American public.

To try to force through a bill that the public does not understand, in my view, will result in disaster and will further undermine the credibility of the Congress in the eyes of the American people.

A second lesson of history is that the public must understand and support the health reform bill that ultimately becomes law. History assures us that a bill that is not understood by the public will not be successfully implemented.

I would like to remind my colleagues of the last time we passed a major health care bill that the public did not understand that was when the Congress enacted the Medicare Catastrophic Coverage Act of 1988. Once senior citizens learned that they were being forced to pay substantially more for benefits that did not meet their top priorities and were not worth it for many, they stormed our offices with angry letters and calls, and I am proud to have been the sponsor of the bill that repealed this legislation.

I think it would be useful to review the political history of that doomed legislation. In 1987, the Medicare Catastrophic Coverage Act was introduced to provide seniors with protection against the spiraling costs of illness requiring long-term or frequent hospitalization.

On July 22, 1987, the Senate passed the measure by an overwhelming 86-to-11 vote, the House measure bearing the same title was passed 302 to 127. As the bill moved through the legislative process, what happened? Benefit after benefit was added. The scope and cost of the legislation changed dramatically from the original legislation. Good intentions were once again paving a road to a destination the public did not understand, want or support. But that did not matter to the Congress. We did not seek the consultation and endorsement of the American people who would have to live with our reforms. We were going to give them what we decided was best, and we did, with the aid and abetment and efforts of the AARP. The conference report on the catastrophic bill passed the Senate 86 to 11 and the House by 328 to 72. I voted against the conference report even though I was a prime cosponsor of the original bill. I did so because I listened to the seniors of Arizona.

I was looking back in the RECORD of the congressional debate at the time of passage of the conference report on June 8, 1988. I said at that time—now, nearly 6 years ago, over 6 years ago:

> In a speech in my State earlier this week at a typical middle-class mobile home park I came to find that none of the 80 to 100 seniors present supported the conference report. First, they protested the fact that the cost of the supplemental premium had risen by 50 percent over that of the supplemental premium under S. 1127.

That is the original legislation.

> Second, they were extremely upset about the fact that participation in the benefit was mandatory, regardless of whether or not they already had private coverage. Third, 80 percent of them cited a desire to seek coverage of long-term care and they were willing to pay an additional $500 to $600 a year for such coverage. And last, only 5 percent of them supported the prescription drug coverage provided in the bill.

That is what I learned back in 1988. That is why I voted against the catastrophic bill, and that is why inside the beltway, by overwhelming numbers, this bill was passed. And what happened? What happened, Mr. President, 1 year later, after the seniors realized what the bill did not do, a veritable revolt ensued. Still Congress balked. Notwithstanding the public outcry, amendments offered to delay implementation of the catastrophic bill on April 1, June 7, and July 27, 1989, were defeated. Each vote, however, received broader support as public reaction swelled. By October of that year, public outrage had reached a fever pitch. On October 4, I introduced a bill to repeal the onerous portions of the bill. The measure was passed on October 6 after 11 hours of debate and after the defeat of 8 substitute amendments by a vote of 99 to nothing.

Why was the repeal passed, Mr. President? Because the American people demanded it. Democracy may take time but inevitably it works. So we have a very clear example of how a major change in our health care system started and how it ended.

That is history, Mr. President. We should all learn from it. I will tell you what I am hearing from the seniors and younger people and middle-aged people in Arizona, and that is they do not understand this bill. They do not understand it. They do not know what it is about. They want it explained to them before they sign on to it. And by a 2-to-1 margin they are saying we prefer a gradual approach. We prefer a gradual approach because we do not want to be saddled with Government intervention in our health care systems that we do not understand.

Now, maybe, Mr. President, in the long run the American people and the people of my State may accept something along these lines. I doubt it. I do not think so. But right now they clearly do not understand it. How can you possibly ask the average American, who is working, 8, 10, 12, 16 hours a day, 5, 6, 7 days a week to understand the ramifications of this bill?

Now, Mr. President, they did not understand catastrophic. It was done inside the beltway, with AARP. They do not understand this. And I do not know if this is going to pass or not.

I do not think anybody in this body knows whether this legislation is going to pass. If it does, I can predict one thing. It will have the same result as the catastrophic bill did, only it is not going to be the seniors who will be lying on the hood of the car of the chairman of the House Ways and Means Committee. It will be not be seniors who knock the chairman of the House Ways and Means Committee over the head with a sign in protest. It will be all the American people.

So I strongly suggest that we learn the lesson of history concerning catastrophic.

While we do not know how much more senior citizens will have to pay for these new benefits, preliminary estimates suggest that over 50 percent of beneficiaries will still have to pay for their prescription drugs out-of-pocket because they will never exceed the cost-sharing requirements. They, and the many other seniors who currently have prescription benefits from other sources than Medicare, will still pay higher part B premiums for the new benefit. This is just one of the thousands of new provisions in the Clinton-Mitchell bill that we do not fully understand.

I would note that the catastrophic bill had even more public debate in open forums than the current bill. Yet, it failed.

During debate on catastrophic, CBO estimates of the cost were woefully inaccurate. The costs of a new skilled nursing benefit was increased by 642 percent in just one year from the original CBO estimate. Standard benefits packages and making people pay for benefits that they may not want like the catastrophic bill is a recipe for disaster. All of these concerns are applicable to the Clinton-Mitchell bill.

Mr. President, the American public must know what is in the Clinton-Mitchell bill. We cannot afford another fiasco like the Medicare Catastrophic Act.

The third lesson of history is that Government-run approaches to providing health care do not work well. They are overly bureaucratic and do not result in quality services or consumer satisfaction. Supporters of the Clinton-Mitchell bill are fond of asking Republicans whether we would want to repeal Medicare, which is a Government-run program. Well, of course we would not want to repeal Medicare. However, if we were to pass Medicare over again, we certainly would have designed it very differently. Every day, I receive letters and calls from seniors about problems they have with the Medicare bureaucracy and the arbitrary rules that it imposes.

Perhaps as important, the original estimates of the combined costs of Medicare and Medicaid for the 1990 was $18 billion. The reality was that the actual costs had been 10 times that. There has not been an entitlement program in history that has not vastly exceeded the estimated costs at the time of passage. Sometimes, as in the case of Medicare and Medicaid, by a factor of 10. I have had the opportunity to deal with other Government-run health care systems.

Other Government-run health care systems are even worse. As a member of the Armed Services and Indian Affairs Committees, I am constantly informed about the horror stories associated with the veterans health care system and the Indian Health Service and their bureaucracies. The Clinton-Mitchell bill would make their bureaucracies pale in comparison. It includes 50 new bureaucracies, 17 new taxes and penalties, 177 underfunded State responsibilities, 818 powers and duties of the Department of Health and Human Services, 83 powers and duties of the Department of Labor, and hundreds of new Federal regulations.

I am not sure we can fit all of these on the T-shirt that we made up in response to the Clinton health care bill. We may have to make sure they are all extra, extra large.

Fourth, history tells us that any bill that does not strongly address the cost of health care through market forces will be doomed to fail. Our access problem is basically a result of rising health care costs. Costs are simply not affordable for many Americans. There is nothing in the Clinton-Mitchell bill that significantly addresses the problem of rising health care cost, and, in fact, it actually makes the situation worse.

For example, the way in which community rating is achieved in the Clinton-Mitchell bill, which substantially limits premium differentials based on age, will dramatically increase the cost of coverage for younger individuals. This enormous cost shift to those who can least afford it will induce many young people to drop their coverage.

Also, the Clinton-Mitchell bill will do very little to address our malpractice crisis, which is an important cause of rising health care costs. Our malpractice system is seriously dysfunctional. Only 43 cents of every dollar spent in the system goes to injured patients. The majority goes to administrative expenses and legal fees. The cost of malpractice insurance has grown dramatically, increasing by 15 percent each year from 1982 to 1989. It may increase by 19 percent this year. These costs, which exceed $6 billion annually, are passed on to patients. They are creating major access problems in certain areas, particularly underserved rural areas.

Thus, it is clear that we need serious malpractice reform in this country. Unfortunately, the Clinton-Mitchell bill does not include any significant malpractice reform, and may actually move the country backward at least a decade. Incredibly, it could negate positive State laws that have significantly addressed our malpractice crisis.

The first version of the Clinton-Mitchell bill contemplated a total preemption of State malpractice law. Such complete preemption of the malpractice laws of every State would be incredible.

It basically says that Congress knows better than all the State legislatures in the country.

It is unclear from its language whether the current version of the Clinton-Mitchell bill totally or partially preempts State malpractice law. The language implicitly suggests that it totally preempts the field, and nothing in the bill states explicitly that it does not preempt State law.

Whether or not it preempts State law, the malpractice and medical liability reforms that are proposed are extremely weak. They only apply to cases against a health care provider or professional, but not to claim concerning a medical product. The most significant reforms limit lawyer contingency fees to about what lawyers are now charging, and permit periodic payments of awards.

While these particular provisions are also in the Dole bill, the difference is that they are the strongest provisions in the Mitchell bill. The Dole and Gramm bills contain other vitally needed reform.

Mr. President, everyone knows the status quo. Some unfortunate individual becomes injured, files a lawsuit and seeks compensation in court, wins, and before he or she is able to use the money to pay medical bills or put his or her life back together, the lawyers get paid. The fact is that while the injured party is still suffering and trying to make better his or her lot in life, the lawyers get paid first and foremost. They often receive large contingency fees for settling a case with a minimum amount of effort.

The most egregious example I know of was the agent orange case where millions of dollars were awarded in the case of victims of those who suffered from agent orange in the Vietnam war. The lawyers got paid first. Many of the victims of agent orange died before they ever received a penny in compensation for the damage that was done to their health as a result of agent orange. You tell me, Mr. President, why the lawyers should have been paid first while American veterans were suffering.

And what does the Clinton-Mitchell bill seek to do: Codify the status quo. Are our priorities that misguided? The status quo is not in anyone's interest, except for the trial lawyers. It is the injured, not the lawyers, who we should help and protect. The medical malpractice sections of this bill are wrong and must be corrected.

The Clinton-Mitchell bill requires each State to set up alternative dispute resolution mechanisms and requires exhaustion of these mechanisms before a court action may be brought. While alternative dispute resolution, such as mediation and arbitration, is generally a good idea if engaged in voluntarily, the mandatory way in which it would be imposed in this bill would be highly inflexible and bureaucratic.

While the President is fond of lashing out at the so-called special interests, such as the NFIB which represents the many small businesses that create jobs in our country, it is interesting that he has not spoken out against the enormously powerful trial lawyer lobby or its well-funded political action committee.

In fact, President Clinton is only concerned about those special interests that are not supporting his plan or contributing to his political interests. Groups such as the Trial Lawyers Association that support him are interestingly exempt from the pejorative classification as special interests. Coincidentally, the largest contributor to the Democratic coffers is also the largest beneficiary of their ineffectual malpractice provisions.

Compare the Mitchell bill's weak or negative malpractice reforms with the powerful reforms in the Republican alternatives, which include limits on noneconomic and punitive damages, statutes of limitations for brining claims, improvements in standards for bringing claims, and consumer protections. Our reforms are based on precisely the innovative State laws that the Mitchell bill could nullify. These reforms are working, and should be allowed to continue to work and to be expanded throughout the country.

In addition, the Clinton-Mitchell bill is replete with new and unjustified burdens on both the private and public sectors, including new taxes, mandates, regulations, and legislative pork or other waste.

The Senator from Indiana has described many of those in detail. So I will not.

One of the most important innovations with respect to cost containment that is in the Dole bill and many of the other bills is the medical savings account. Medical savings accounts are a market-oriented approach which would substantially increase the cost consciousness of consumers while allowing them to stay in control of their health care decisions rather than having some government bureaucrat make the decisions for them.

Unfortunately, the Mitchell bill does not authorize medical savings accounts. Overall, the bill does nothing to contain costs and therefore, in my view, will fail in the long run in its goal to enhance access.

Fifth, Mr. President, history teaches us that the cost of entitlements are always underestimated when first proposed. When Congress passed Medicare in 1965, it predicted that Medicare costs in 1990 would be under $10 billion. In fact, they were over $100 billion. The estimate was wrong by a factor of 10. I cannot think of an entitlement program that we have passed that has not cost substantially more than originally projected. Once they are in law, they develop powerful constituencies that ensure they are never, ever, cut back.

It is particularly ironic that we are considering a bill with $1 trillion of new entitlements just as the entitlements commission is submitting its recommendations to do precisely the opposite. I can understand specifically targeted subsidies for low-income individuals to obtain coverage, but a new entitlement for medical schools is incomprehensible. What is the American public going to think when they learn we are trying to increase their taxes to pay for this nonsense? I commend the Senator from Nebraska for his leadership on the entitlements commission and his warnings about the new entitlements in the Clinton-Mitchell bill.

Again, let us learn from history. The exercise we are going through today is frighteningly similar to the catastrophic bill, with one very important exception: The reach, scope, and impact of the Mitchell health care bill dwarfs the Catastrophic Coverage Act.

While I am on the subject, I wanted to again mention the entitlement in this bill which is for graduate medical education accounts—a new entitlement for graduate medical education. For that account, the Mitchell bill authorizes expenditures as follows: For the academic year 1997, $3.2 million; in 1998, $3.6 million; in 1999, $5.8 million; in 2000, $6.1 million; in 2001, $6.5 million. In this section of the bill, we are authorizing a staggering $23 million for graduate medical education and physician training. It appears as if our goal here is to make every medical school in America a public school. It also helps explain why there is so much academic support for this legislation.

Our medical schools are the finest in the world and 62 percent of all medical students already receive financial aid from guaranteed student loan programs. Yet, here we are appropriating money for medical research, and we are creating a multibillion-dollar entitlement program to supplement our medical schools.

Just like with catastrophic, we started this effort with good intentions to address real and fixable problems with our health care system.

Just like with catastrophic, and in the classic fashion of Congress, we are seizing an opportunity to address difficult and complex problems with the same old and ineffective answers, more taxes and more bureaucracy.

Just like catastrophic, we are ignoring the will of the American people. Polls show that Americans want us to tread lightly, go slowly, and do this right. But the answer they receive is best summed up in the words of one of our colleagues that the American people were going to get health care reform whether they liked it or not.

Just like catastrophic, politicians are lauding the plan with great fanfare and moving speeches which are long on rhetoric and short on reality.

Just like catastrophic, those who question whether the American people would support the new programs it would create seem to be voices crying in the congressional wilderness.

But I am afraid that, unlike catastrophic, staying the present course is not something we can undo. Drastically changing the way one-seventh of our national economy operates is an enormous undertaking. The changes Congress would effect with this bill—17 new taxes, vast entitlements, 50 new bureaucracies, a job destroying employer mandate, and extensive new State mandates—are enormous changes that, once started, will be very difficult, if not impossible, to undo.

History demonstrates that the Clinton-Mitchell bill would be a major mistake for this country. Before we make this mistake, we should take the time to fully understand the bill, educate the public about what is in it, and when it is rejected, like the original Clinton health care reform bill, pass a sensible bill that has the support of the Nation. We can still pass a good bill this year that enhances access by containing costs. There is much that we all agree on. However, we must not pass legislation that places our excellent health care system in the hands of the Government.

As we debate the Mitchell health care reform bill, I implore my colleagues to remember history and not doom ourselves to repeat it. The American people deserve better.

I appreciate the patience of my friend from California.

I yield the floor.

Mrs. BOXER. Mr. President, before my friend from Arizona leaves, I want to thank him for his kind remarks. The Senator from Arizona and I sometimes disagree, and sometimes we agree. But in either case, we never are disagreeable with one another. I think that says a lot, because these are difficult times and these are rough issues. I appreciate his friendship and his decency to me at all times.

Mr. President, the reason I decided to speak this afternoon—and it was not in my plan—is I was carefully listening to the debate and listening to the words of the Senator from New Hampshire, my Republican friend from New Hampshire, for whom I also have a great deal of respect. He used a word in his speech, and he said it really from the heart, and I believe he feels it. What he said is, "I am afraid of my Government." He said, "I think people are beginning to fear their Government." He said, "I want the Government to fear me." In other words, he wants the Government to fear the individual. He does not want the individual to fear the Government.

Mr. President, I find that a very disturbing statement. America is not about fearing one another. It is not about us being afraid of our Government or our Government being afraid of us. We are the greatest country in the world, and the reason that we are the greatest country in the world is because we come together to solve our problems. We come together as a community, as a nation, to set aside our partisan differences and to find answers to the problems that plague us.

So I was very disturbed to hear all this talk about fear and, unfortunately, Mr. President, a lot of fear is being injected into this debate, somehow setting up the Mitchell bill as something to be afraid of.

I think it is important to, once in a while, take out the preamble to the Constitution. I do it a lot because I think it sets out the reasons why we have a Government, and they are the most beautiful words. I am going to read them. Why do we have a Constitution? Why do we have a Government? Here is the answer:

> We the people of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity * * *

That is why we have a Government. That is why we have this U.S. Senate and the House of Representatives over on the other side, where I was proud to serve for 10 years. And together we work—men and women of goodwill—and we compromise, and we debate and argue, and we do the best we can for those reasons: "to form a more perfect Union, establish Justice, insure domestic Tranquility," and all of the other things I just read.

When we say that we fear our Government, I think that kind of talk undermines what we are. We are a Government of, by, and for the people. What is domestic tranquility? I have already said that it is one of the main reasons that we have a Government. Domestic tranquillity, to me, means peace at home, peace in our own homes, peace in our cities where we live, in our counties, our rural areas, peace in our Nation, and peace in our States. Domestic tranquillity.

How does the health care reform debate coincide with the reasons that we are here for domestic tranquillity? Mr. President, you have long worked to bring about health care reform for this country, and I think you and I, and many Members on both sides of the aisle, understand that it is very difficult to have domestic tranquillity when we have the kind of crime that we have in our country today. That is why it is so important to pass that crime bill. You and I know it is hard to have domestic tranquillity when you cannot get a job for your family and provide for them and you cannot afford a decent education for your kids.

And, yes, Mr. President, it is hard to find domestic tranquility when you are so afraid that you are going to go broke if someone gets sick because your insurance for health is canceled. Or when you go to the doctor and find out you have "a preexisting condition," say, high blood pressure, and then the insurance company says, "Sorry, we cannot take you until you pay an inordinate premium," which you cannot afford. It is very hard to find domestic tranquility under those circumstances.

How about when an insurance company disappears out of your life when you need it most? Can you find domestic tranquility when you counted on health insurance and suddenly the company walks out on you because you get sick? That is what happens to a lot of our people. I have met them. I have seen them. I bet every one of us knows such a case.

It is hard to have domestic tranquility when you suddenly find out that in the small print of your health insurance policy it says that there is a lifetime limit. So if someone gets sick in your family and it is a catastrophe and it bleeds every dollar, you are told by your insurance company, "Sorry, you are out; you have reached a lifetime limit."

I have seen people who have had that problem. They did everything right. They paid their premiums. They are hardworking. All they did was get sick, and the sickness was a devastating one, and they reached the lifetime cap.

I have seen it where little children who get a serious illness reach the lifetime cap at age 6, 7, or 8.

It is hard to have domestic tranquility when you may be forced to divorce your spouse so that one of you gets to keep some assets and then the other one appeals to the Government for help. You cannot have domestic tranquility under that circumstance.

So I say that if we are about anything here, it has to be about the Constitution. How can we avoid a situation that leads to our families being worried, if they have insurance, worried that they lose insurance; if they have a job that gets insurance, worried if they change their job they will not get insurance; worried if they get sick they will be kicked out.

I say it is our constitutional obligation to fix this problem. And, yes, we have been debating for 50 hours—50 hours—one amendment, a good amendment. We are ready to amend this bill. We are ready to make it better. Senator MITCHELL himself voted for the Dodd amendment. He is willing to amend his bill. He is willing to make it better.

(Mr. REID assumed the chair.)

Mrs. BOXER. Mr. President, I remember when I was over in the House, a young man came to see me. I have told this story a couple times. His name was Andy Azevedo, 16 years old, a strapping young man. I was so proud that the majority leader actually told the story when the majority leader introduced his bill. At that time —it was many years ago—I did not know that much about the insurance crisis. This young man came to see me, and he said: "You know, Congresswoman"—I was a Congresswoman at that time from the San Francisco Bay area. He said:

> Congresswoman, I am worried. I have had cancer, but I am OK now. I know when I am off my parents' policy when I graduate from college I will not be able to get insurance because they will say I have a preexisting condition. Can you help me with this? Can you do something about it?

That is when I got involved in this issue.

Later, Andy had an occurrence of the cancer. His insurance policy would not cover certain treatments that he needed. I went to bake sales in Petaluma, CA, to help his family raise money for him.

This is a proud family. This is a farm family. This is a hardworking family. They did not have domestic tranquility for a long time, and then they lost Andy. I promised his mother that we would, in fact, pass health insurance reform.

It is hard to be tranquil when you watch the talking day after day. And why am I doing it? Why am I participating in it? It is because I feel it is important to answer some of the words on the other side that deal with fear, because I know people are watching this debate. I want to have a chance to tell people, if we do nothing, you should be afraid. If we do nothing, you should be afraid. If we do something, you should have heart because we know what the problems are. Everyone knows what the problems are. It is not the sole province of a Democrat to know what the problems are. The Republicans know. They know what it is like to worry about a child. They understand.

The question is, when do we write this bill? You know in the Senate we amend every bill that comes before us.

I have yet to see a bill, very few—maybe on very small issues—I have yet to see a major bill that was not amended and made better or sometimes made worse. And then we decide if we think it was made better or made worse and do we feel it is worth voting for. That is what legislating around here is about.

You know, I was also interested the other day when the Senator from Missouri, a very respected Senator, took to the floor and said that he was upset about the Mitchell bill because it provided a new benefit to Medicare recipients. It provided actually two new benefits, and he did not think we could afford to do it. One of them was prescription drugs, the other inhome care. And he felt even though he knew these were important benefits, we simply could not take that on. It was too difficult.

I remember when my kids were young I read them a little book about the Little Engine That Could. Everyone said, "It can't be done, it can't be done, it can't be done." But the Little Engine That Could said, "It can be done, it can be done, it can be done."

Yes, it is hard. It is hard for a little engine to go up a steep hill. It is hard for this Congress to solve the health care reform battle. But we are in it, and I think we can figure out a way to do it in a cost-effective manner. And if there are those who feel we should not have a prescription drug benefit to our elderly, let them vote against it. Let them make the amendment. But let us not hear them say we cannot work with the Mitchell bill. We can amend the Mitchell bill.

I like the prescription drug benefit. I like the fact that we will have inhome care for our seniors. Yes, they will pay for some of it. But let us help them. I do not want to see grandmas and grandpas have to go to a nursing home when it is actually more humane and more cost effective to keep them in their homes. And the Mitchell bill starts us on that road. That is sensible.

You know, it is hard to see our people feeling tranquil—and we talked about domestic tranquility—when they see Senators on this floor, who belong to the Federal Employee Health Benefit Plan, stand up here and say it is good for us but we do not think you ought to have it. And I think the majority leader pointed that out in a brilliant fashion. We have it. It is a good plan. What is it? It is organized by the Federal Government. It is private insurance. We can choose the plan we want. We get options and choices galore. Our employer pays 72 percent of it. We pay the rest. And we have peace of mind.

I want to see that for my constituents. I want to see that for all Americans—a chance to get access to that plan. In the Mitchell bill, you get access to that plan if you want it. It does not force you to, but it makes it available.

So I have to say that I welcome reasonable debate, and I see some of my colleagues are here so I will finish up in the next few minutes, probably another 5 or 6 minutes. I welcome reasonable debate and we all do. I want to start debating amendments. We debated a good amendment last night. As I said, the majority leader voted for that amendment; so did the Senator from New York, Senator MOYNIHAN; so did the Senator from Massachusetts, Senator KENNEDY. They did not say we are not going to vote for this amendment because it did not come out that way in our committee. The Senator from South Dakota, another leader in this battle, supported the Dodd amendment. We are open to change. We are open to amendment. We are open to making this bill better.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senator from California is right. The Senate is not in order. Senators will refrain from speaking in the Chamber unless addressing the Chair.

The Senator from California will continue.

Mrs. BOXER. So we need to solve the problems of our Nation. Read the preamble of this Constitution. It is real clear on what we are supposed to do. In short, the message is tranquility. Very important. And part of that is making sure our people are not scared—scared that they many lose their health insurance; and, by the way, Mr. President, scared that they will not be gunned down in the street by an assault weapon.

And we have our Republican friends over on the House side, except for 11 of them, voting against the rule to bring up the crime bill, saying that there was pork in it. One-hundred thousand police on the streets, is that pork? I say it is a necessity. Billions of dollars for prisons? I say it is a necessity.

The violence against women act, which is included in that bill, is an absolute necessity. Every 6 minutes a woman is raped in our country. Every 15 seconds a woman is beaten; 1,400 a year are killed by a boyfriend or a spouse, and they are stalked. The crime bill is a comprehensive solution, Mr. President, to a national disgrace.

So they talk and talk over there, but they do not get to the guts of it. The guts of it is, they are afraid of the National Rifle Association. That is the guts of it. And they want to bring down our President. That is the truth of it. I hope the American people are waking up, waking up to the truth, the reality of what is going on here.

In closing, Mr. President, let me say this. The majority leader has set out a framework. It is not a perfect framework. I have some amendments I am going to offer. I am looking forward to making the bill better.

But I have to tell you, from the largest State in the Union, when you look at numbers like this: 6 million uninsured Californians. Nearly one in four Californians under the age of 65 is uninsured. Of the uninsured, over 5 million are from families in which at least one spouse works. So we are talking about working people who do not have insurance. We are talking about 1.3 million uninsured children in California.

So I will tell you, I will stay here night and day, I will stay here around the clock for those children and those women and those men and those hardworking families. I will work. I will support some of the amendments that come forward. I will work against others.

But, it is time. It is time to vote on the crime bill. It is time to fix a broken health care system.

Let us stop injecting fear into this debate. We should not fear our Government and our Government should not fear us, because we are a Government of, by, and for the people.

It is our job to get on with it, and provide the domestic tranquility for each and every American.

Thank you, Mr. President.

I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, the Senate's effort to reform the American system of health care has important consequences for all Americans. It will determine the availability and the extent of health care for each of us. It will determine in part how long our parents will live and how healthy our children will be.

As we debate this issue, let us remember what brought us here in the first place. We are not debating this issue by chance. There is a reason why we all speak of this effort as health care "reform." In dozens of living rooms and conference halls, in emergency rooms of hospitals, and on the street corners, the message that I hear from the people of New Jersey is that we need reform. Our current system is not working as it should. Those who have health coverage are paying too much for it and those without health coverage deserve it.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator from New Jersey may proceed.

Mr. BRADLEY. Mr. President, what people want the most is some control of escalating health care costs. What people fear the most is losing their health care if they change jobs or get laid off or lose a job because of a corporate bankruptcy. What perplexes them, as well, when they are confronted with all of these escalating costs of health care, is the power of the insurance industry.

Want coverage for your heart problem? The insurance company says no, because it is a preexisting condition. In other words, the insurance company will insure you for everything but the heart condition that is most likely to generate the health costs for your family.

In confronting skyrocketing health care costs, small business is left to the mercy of insurance companies. Small businesses have no leverage to negotiate with insurance companies. Too often, they are presented with a take-it-or-leave-it choice that only offers exorbitant costs for health care coverage.

Each of us can enumerate countless occasions in our States when we have had interactions with small business people who simply said they cannot afford to cover the workers in their particular small business. They cannot afford to cover because they were told by the insurance company that it is $6,000 or $7,000 a person and they have no leverage to negotiate with the insurance company.

If you get open heart surgery, the tab is $49,000; a caesarean section birth, $7,500. Remarkably, women of higher income have more cesarean section births. I do not think that is related to a differential in the size of the birth canal. It is related to the ability to afford to pay.

And a visit to an orthopedist, $300 for the first visit, $175 for each visit after that.

Most people have become accustomed to good health care, even with these costs, but health care simply costs too much; more than it should cost.

When President Clinton proposed health care reform last year, none of us thought he was imagining the problem. There was a consensus that we should act; that we should do something. The political noise of the last 12 months aside, health care reform is as needed today as it was then. The families who need it are still in New Jersey and all of our States. The families that do not have the health coverage need it as much today as they did a year ago. All of us who are paying health costs are paying too much today just as we were paying too much a year ago.

Real problems—and these are real problems—deserve and demand real reform. But just as we cannot forget what brought us here, neither can we forget how our political economy optimally functions. To allocate resources and services through the market ensures the greatest efficiency. It gives the consumer the highest quality, the greatest selection, the lowest price.

To ask the Government to replace the market generates bureaucracy and reduces individual freedom, as the state makes decisions that previously were made by the individual. At the same time, it is the responsibility of the State to ensure that the market's destructive effect does not wreck the lives of human beings. The so-called creative destruction, as Schumpeter referred to the phenomenon of inefficient firms being put out of business by efficient ones, cannot be translated to the individual level when it comes to health care, workers who lose their jobs, or move to another job. Workers who lose their jobs, or move to another job, or for whatever reason have lost their health insurance, should in fact not lose their health care.

These individuals need some help, some assurance that their health and lives will not be endangered by unfettered market forces. It is the job of Government to protect the public health and welfare in the short and long term of its citizens. How to do this in the area of health care is the essence of what this debate is all about.

Our fundamental goal should be to enable a competitive health care marketplace to keep people healthy but take care of them when it does not. By and large, America's health care system is an excellent system, but it does have a few glaring faults. We should not block or undermine those elements that work in our current system. We should fix those areas that do not work and, in so doing, improve the overall system.

Recent trends suggest the health care markets are becoming more competitive and efficient. We can spur that process by ensuring that insurance companies compete on price and quality, not on their ability to omit high-risk patients. Managed competition is beginning to bring better health care at lower prices to many Americans.

The bill that is before us at this moment, offered by Senator MITCHELL, is really the result of many conversations with many individuals and builds on the work that was done in the Finance Committee, addresses some of the persistent problems. For example, it eliminates preexisting conditions from insurance coverage considerations. It assures portability so that the loss of a job or the pursuit of a better job will not mean the loss of health care benefits. It allows small businesses to bargain for insurance as purchasing units, giving employers and employees needed leverage to drive their health care costs down.

These are good steps but they do not attain the level of reform that is needed. Two specific problems are foremost in defining the health care crisis. I stated them earlier. Too many people do not have health care coverage, too many people cannot afford to get health care coverage, and costs are accelerating.

The greater the number of people who are not covered, the more the rest of us pay. It is a fairly simple elemental principle of insurance. When an uninsured person shows up at an emergency room, he is not turned away. He receives care and the rest of us pay his bill in the form of an increase of our premiums. It is as simple as that.

The only real answer to the crisis of 37 million uninsured Americans is universal health care coverage. It is the only answer for the nearly 1 million uninsured individuals in the State of New Jersey. There is human misery of enormous proportions in our country because people cannot get health care coverage. In all the talk about CBO, HMO's, fee for service, triggered mandates, premium caps and so on and so forth, we must not forget our simple moral obligation. Expanding coverage and making health care affordable are the only ways to address the crying need of our fellow citizens for basic health care coverage.

The bonus here is that by assuring coverage, we will also reduce costs by eliminating the shifting of costs from the uninsured who show up at the emergency room, to all those of us who are lucky enough to have health care plans but have to pay for the uninsured through our higher premiums.

I also believe the only proper way to achieve universal coverage is through a system of shared responsibility. I have said this from the beginning of this debate. That means everyone contributes: Employers and employees. No one is solely responsible for our health care crisis and no one should be solely responsible for solving it.

The bill before us has a provision that does embody that shared responsibility. Nor is the promise of the shared responsibility and universal coverage an empty promise in this bill. The bill provides subsidies that will make coverage a reality for millions of Americans who today do not have any. It recognizes that without these subsidies, millions of American families simply cannot afford the coverage and do not have the coverage; 37 million Americans, and more each year.

Still, there will be difficulties with the overall cost of health care coverage if we do not properly contain these spiraling costs. The rest of our good work could be in jeopardy. Without cost containment, the promise of universal coverage is a hollow promise. Without cost containment, our workers will continue to see their take-home pay stagnate. But the issue of cost containment is the elephant in the room that everyone knows is there but no one wants to acknowledge.

You can stand up on this floor and promise this new benefit and that new entitlement and this new program and pledge to cut this tax, and that tax, and pledge to cut this spending program, and that spending program, but no one wants to address the reality that stares us in the face, which is the need for cost containment. It is an issue that is simply not going to go away.

In that context, the proposal before us offered by Senator MITCHELL addresses the issue of cost containment, and he deserves credit for attempting to do so. I have a number of concerns with the bill that is before us related to bureaucracy, related to the unintended consequences of well-intended provisions, related to the method of cost containment put forward in the proposal, and the number of people upon whom it could place a financial burden.

I hope it is possible over the next several days and weeks to work with Senator MITCHELL and others to craft an alternative that is more equitable and more efficient in containing costs. I have spent a lot of hours meeting with the so-called mainstream group in which I participated from the beginning. I agree with some of the things that the group has discussed. I disagree with other things the group has discussed.

I have worked with Senator MITCHELL in putting forward his bill. I agree with some of the things he has suggested and disagree with other things that he suggested, as I have enumerated. The fact is, we have come up to the issue of national health insurance any number of times in the last 50 years and every time that we have gotten close to doing it—meaning a White House that is interested, whether it is a Republican or a Democrat, and a Congress that seems to be amenable to considering some of the tough choices embodied in providing national health insurance—something has happened and we always have backed away. We have always backed away in my opinion because the people who say "my way or no way" have always won.

At some point in this process, the dialog that is necessary for successful legislation has broken down. Maybe it is partisanship in some cases. Maybe it is the strength of a particular interest group in other cases. Maybe it is personality conflicts in some cases.

For whatever the reason, whether it was 1977 with modest hospital cost containment, whether it was 1972 with catastrophic health insurance for all Americans, or whether it was any other time when the issue has reached the point where it actually was within our grasp, one of several things has occurred.

It is my hope that there will be no non-negotiable demands and that we will recognize the legislative process for what it is, which is a chance to address the basic questions. If you rigidify and confront, you have neither the fluidity nor the flexibility to get to the answer that is at the core of the problem, which in this case is cost and coverage.

So, Mr. President, our challenge is complex, but our purpose is clear and simple: It is my hope that the Senate will rise to this challenge and fulfill this purpose, and that when our work is done, we will have produced legislation that works for New Jersey and for the Nation. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

Mr. KERREY. I wonder if the Senator will yield. I wonder if the Senator from New Jersey will answer a couple of questions.

The PRESIDING OFFICER. If the Senator from Nebraska will withhold, the Senator yielded the floor and the manager of the bill sought recognition.

Mr. MOYNIHAN. If my good friend will withhold a moment, I would like to propose a unanimous-consent agreement, and then we will resume this matter. Is that agreeable to the Senators?

The PRESIDING OFFICER. The Senator from New York, the manager, has the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that upon the completion of the exchange of questions between the Senator from Nebraska and the Senator from New Jersey and a 10-minute statement by the Senator from Colorado on an unrelated matter, that we proceed to the Nickles-Moynihan amendment; that Mr. NICKLES, in the first instance, be recognized to offer that amendment striking section 1309 of the Mitchell substitute; that there be 3 hours for debate on that amendment, equally divided between Senator PACKWOOD and myself; that no amendments to the language proposed to be stricken be in order; that at the conclusion or yielding back of time, the Senate vote on Senator NICKLES' amendment with the expectation that that will be the last legislative business of the day with respect to the bill before us.

The PRESIDING OFFICER. The Senator from New York has propounded a unanimous-consent request. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I just wanted to ask the distinguished Senator from New Jersey, who has just given a thoughtful presentation on health care and I think a very powerful argument for using the forces of the market to control costs.

The market in the last 3 years has done an unprecedented job; in fact, there has been an unprecedented shift in the marketplace to managed care and that management of care has produced reduction of costs. I have sat here and listened to people come to the floor, particularly I say with all due respect to my friends on the other side of the aisle, with whom I think I agree on this issue, that we should move away from Government regulation and Government controls, but I hear some statements being made on the other side of the aisle that I think are, in fact, in conflict with other principles that they are espousing.

I ask the distinguished Senator from New Jersey, if we move to the marketplace, does it necessarily mean—using market forces—that an individual is going to have a complete and unrestricted choice of doctor or any other sort of thing that they want?

Is it not true that for those on the other side of the aisle, with whom I agree I believe on this issue that we ought to allow the market to work and move to managed care and use the management of care, that we need to disclose that part which means that we do accept in a voluntary fashion, presumably, some limitation, some restriction of our choice of doctors? Is that essentially what goes on if we use the marketplace? Are we not to a certain extent accepting that there is going to be some limitation on choice?

Mr. BRADLEY. Mr. President, I say to the distinguished Senator from Nebraska, it depends on the ultimate form of this legislation. If we were to lock people in to managed care with no point-of-service option, then they would have a restriction on choice. If we have a point-of-service option, it means that they can join a large group based upon the doctors that are in the group. They will often make the choice as to which group they would like to be a part of because their family physician is in the group, or good heart doctors are in the group, or whatever. That group could be as large as the Mayo Clinic; it could be as small as a major urban area. If they join, they join because of the doctors that they see in that group; therefore, they have chosen to join the group because of the doctors.

If you have point of service, you have the option. God forbid something strikes and you get a disease that none of the doctors in the group you feel are adequate to treat you, and you want to go see somebody else someplace else in the United States. You have that option, under a point-of-service plan. You will pay a little bit more, but you will have that option.

But the basic thought involved, as the Senator has suggested, that managed competition forces the consumer to make choices is correct.

Mr. KERREY. Just to be clear on this so my colleagues understand what I am talking about, I am a service-connected disabled veteran. I was injured in the war in Vietnam in March 1969 and lost the lower part of a limb. As a consequence of that disability, I am considered to be eligible for care from a Veterans' Administration hospital.

The Government does not make my prosthetic devices. I am allowed to choose and go wherever I want. They authorize it. I have to wait in line sometimes. I hear people talking about that. It is true. I cannot just go and get whatever I want. I have to get it authorized, I have to get it approved, but I choose wherever I want to go.

If I was in an HMO without that point-of-service option, which is a market alternative—to be clear to my friends on the other side of the aisle, understand, I intend to come here and challenge you every single time if you come here and say that I want the market to take care of it. If you are not prepared to engage in a discussion of what that market does, that market taking care of it means as people move to managed care, somebody, not in the Government, but somebody in the private sector is going to say no to them, is that not true?

Is it not true what happens? It is not a Government bureaucrat? I heard my friends on the other side of the aisle come down and blister the Mitchell proposal—and I am not a supporter of the Mitchell proposal. I have identified a number of areas where I think it does vest too much power in the Federal Government to make decisions—but do not come to this floor and expect to be unchallenged with a statement that says that the market gives you unrestricted choice. It does not.

I have an increasing number of citizens in Omaha, NE, for example, that are finding themselves choosing HMO's or PPO's. They are finding themselves all of a sudden not with a Government bureaucrat saying no to them, they are finding a private sector bureaucrat saying no to them.

I just want to make it clear that the point I am trying to make with the distinguished Senator from New Jersey—with whom I agree; I agree we ought to use the market to control—but is not inherent in that that somebody is going to be managing the care and making some decisions independent of what I might think I want?

Mr. BRADLEY. If the so-called managed care providers in my State are any example—and New Jersey is not as well developed as a State like Minnesota, for example, or Oregon—there is a phase this goes through. First there is a managed cost. That is a dangerous phase because you are telling people you cannot continue to spend the way you have spent on health care. Then you move through that to managed care, where the group has as its purpose maintaining and enhancing the wellness of its members. And that is the hope of the market, as a mechanism to improve the health of the American people.

Now, you should not be under any illusion, and the Senator's example of the Veterans Administration is one example—the other example is the continued existence of Medicare. No one is proposing eliminating Medicare. That is a very big Government program.

Mr. KERREY. It is $160 billion a year.

Mr. BRADLEY. It is a very big purchaser out there. So we are going to end up with a mixed system where you have a managed competition, but you also have Government as a very big purchaser of health care, either in the Veterans Administration or through Medicare, and as a result because it is such a large purchaser, it will have an influence on all of health care in the country.

So I would say to the Senator that we will end up with a mix of private managed competition as well as Government involvement.

Mr. KERREY. Mr. President, I say to my friend from New Jersey that I find myself almost equally irritated sometimes with Democrats who are willing to vote for things that provide new benefits without any money attached—I voted last night against the Dodd proposal because I saw it doing that—and Republicans who come to the floor and suggest somehow that the market is going to increase choice. It does not necessarily follow that that is the case. If we believe that costs are the number one problem, that cost containment needs to occur, you cannot contain costs without affecting either somebody's income or somebody's desire for unrestricted opportunity in the health care marketplace.

I think it is very important in this debate that we come to the American people and try to tell them not only the truth about what works and what does not work, but it seems to me the truth about where Government's role ought to be in all this.

Mr. BRADLEY. I thank the Senator for his question, and I agree with him. As I tried to say in my statement, cost containment is the elephant in the room that nobody wants to acknowledge. It is there. And I think before this debate has concluded, we are going to have some very interesting discussion about cost containment because we will not be able to avoid it. Right now we are avoiding it.

We will not be able to avoid it because it is my prediction that there will not be enough votes in this Chamber to pass a bill if it is avoided, because the old days of simply adding more and more benefits without worrying about costs are, frankly, over. I do not think you are going to find 51 votes saying let us move ahead with a lot of new benefits but not pay for them. I think that there will then be several options, several opinions as to how best to control those costs, and that will be a debate for another day. But right now I have to yield the floor to the distinguished Republican manager, my colleague from Oregon.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. BROWN. I thank the chair.

U.S. VISIT BY GENERAL XU

Mr. BROWN. Mr. President, let me express my appreciation for being allowed to interject into this debate. I wanted to make comments with regard to the visit of General Xu to Washington, DC. And I rise because I think this is a matter that freedom-loving people around the world have a right to be concerned about.

General Xu arrived in Washington yesterday. He is attending meetings at the Pentagon, our Pentagon, both today and tomorrow. After leaving Washington, he will travel as a guest of our Defense Department to tour our Naval and Air Force facilities. General Xu will then visit the U.S. Naval Academy in Annapolis and will conclude his trip with a stop in Hawaii, meeting with the U.S. Commander-in-Chief of the Pacific.

Mr. President, according to the Defense Department press release, on August 15 General Xu will be met upon his arrival at the Pentagon by our Secretary of Defense Perry, who will host an honor cordon.

An honor cordon is literally a red carpet arrival ceremony in General Xu's honor.

Who is this general that we honor? General Xu fought with the Chinese and the North Koreans in their invasion of South Korea. He has held the No. 2 position in the Communist Chinese army since 1987. And even though he is No. 2 in the army, he is considered by many Chinese experts to be the most powerful officer in the Chinese People's Liberation Army. He literally has day-to-day responsibility for the PLA operations, and has primary responsibility for the People's Liberation Army plans with regard to Taiwan and Hong Kong. He was the primary drafter of the Chinese defense law.

Mr. President, we are trained from the time we are children to be gracious as hosts, to welcome visitors to our home and our country. But this individual, General Xu, is one of those who bears primary responsibility for ordering the Tiananmen Square massacre of peaceful Chinese prodemocracy demonstrators.

Mr. President, to welcome into this country the Butcher of Beijing, to literally roll out the red carpet at the Pentagon for someone who masterminded the slaughter of innocent children in Tiananmen Square when they spoke out for democracy, is an outrage. It is a mark of shame upon everyone associated with this kind of ceremony.

I have enormous respect for our Secretary of Defense, and I cannot believe that he would be comfortable with this decision if he were familiar with General Xu's background and past. It is an almost unparalleled flip-flop of policy. The President of the United States said this in "Putting People First."

> We will condition favorable trade terms with repressive regimes—such as China's Communist regime—on respect for human rights, political liberalization, and responsible international conduct.

How do you square this red-carpet welcome of the Butcher of Beijing with that statement? Mr. President, you cannot do it. This Nation is entitled to have our leaders act respectfully toward foreign leaders. I have no question about that. But to roll out the red carpet for the Butcher of Beijing, when we have just gotten through refusing to allow the democratically elected President of Taiwan even to stay overnight in this country, is incredible.

Over 20 major U.S. newspapers have editorialized in favor of allowing President Lee, the President of Taiwan, to visit, including the New York Times, the Washington Post, the Los Angeles Times, the Wall Street Journal, the Rocky Mountain News, and the Baltimore Sun. To welcome to this country with a red carpet the Butcher of Beijing and to refuse to allow the democratically elected President of Taiwan to stay overnight is the kind of foreign policy I do not understand, and I do not think the American people understand. It is duplicitous and it adds shame where there should be honor.

Mr. President, more important than anything else, we need to be true to ourselves in the conduct of foreign policy. The Butcher of Beijing does not deserve the red-carpet treatment, and our friend in Taiwan, who stands side by side with us, does not deserve to be prohibited from visiting.

I yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the time is now allocated equally between the two managers of the bill, with the Senator from Oklahoma to offer an amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2563

(Purpose: To provide for general enforcement of employer requirements)

Mr. NICKLES. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. CRAIG, Mr. COATS, Mr. GREGG, Mr. D'AMATO, Mr. GRASSLEY, Mr. DASCHLE, and Mr. STEVENS, proposes an amendment numbered 2563:

The amendment is as follows:

On page 145, strike lines 1 through 5.

Mr. MOYNIHAN. Mr. President, might I ask to address the Senator. That is to be an amendment for himself and for the Senator from New York.

The PRESIDING OFFICER. The record will reflect that the amendment is offered on behalf of the Senator from Oklahoma and the Senator from New York, Senators NICKLES and MOYNIHAN.

Mr. NICKLES. Mr. President, I thank my friend and colleague from New York for cosponsoring this amendment and also for his cooperation on it.

I ask unanimous consent that Senators PACKWOOD, GREGG, COATS, D'AMATO, GRASSLEY, and DASCHLE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, on August 3, President Clinton had a press conference and had an opening statement encouraging enactment of health care. And in his opening statement he stated:

> You can keep your own plan, or pick a better one.

Mr. President, that statement was not correct if you read the Mitchell-Clinton bill. That statement has bothered me a lot because I think it is awfully important when we talk about health care that we be factual. I know a lot of people maybe have said that one side or other distorts the facts. I would like to talk about that.

I had a press conference yesterday where I was critical of this statement because I think the statement is flatly incorrect. It is not true, because, frankly, under the bill we have before us, there are a lot of health care plans and a lot of proposals—actually the majority of the proposals—that are in the country today that would be illegal under the Clinton-Mitchell proposal. They would not be allowed. I will mention several of these.

One, if you have a plan that is less generous—in other words, if you do not offer the standard benefits package, something significantly less than the standard benefits package, you cannot keep it. I refer to the bill.

I would like to keep my comments very factual. I would just refer my colleagues to page 137 of the bill. It says an employer shall make the plan available which provides the standard benefits. It does not say less than the standard benefits.

Keep in mind that under the Mitchell-Clinton plan, you can offer a standard benefits package, and an individual can also buy an alternative standard benefits package with the high deductible. But it is still the Government-defined standard benefits package. You cannot come up with a different plan, one that is less expensive than this package.

I make mention of that because I think it is important. I know some people said that statement is not correct. It is correct.

I also said you cannot offer a plan that is more generous. If you have a plan that is more generous, it still has to be a governmental plan. It has to be a standard benefits plan or it has to be a Government-approved supplemental plan.

So, again, you lose a lot of flexibility. Right now you could offer a multitude of different plans. You really cannot do that under the Mitchell-Clinton plan.

Also, the President said you can keep your own plan. That is not the case if you have a cafeteria plan because in the bill, if you look at page 1224, section 7202, cafeteria plans which offer health benefits will be hit with a heavy tax. Four million Americans currently have cafeteria plans. They like them. They are happy with them.

Under the bill that we have before us, you lose your flexible spending account. We have a lot of Americans who do not have the exact number, but now have flexible spending accounts that include health care. On pages 1218 through 1221, section 7201, the Clinton-Mitchell bill states that if an employer provides health benefits under a flexible spending account, those benefits would be taxable to the employer at the highest corporate rate and to the employee at their own individual rate.

If you happen to be self-insured and you have less than 500 employees, you cannot keep your plan. Your plan is illegal. I feel kind of strongly about this because I used to manage a company. We had a self-insured plan. I designed the plan.

I remember asking Mrs. Clinton a long time ago when she had her first meeting with a Republican group. I said, "Can we keep our plan?" The answer was no. She said "No." It is still no under this bill.

Just to recite the section, on page 137, section 1301 of the Clinton-Mitchell bill, if your company has less than 500 employees, you cannot self-insure. So I mention that.

I will just add the final one.

If you have benefits that are different from the Government-mandated benefits, you cannot have it. Your plan will not be allowed. That is under the provision that I am dealing with. This bill is very clear. It says the employer shall have the standard benefits package. Under the standard benefits package, you can have an alternative, if you are an individual, that costs maybe a little less because it has a higher deductible. It still has the same benefits. You have to have the Government benefits.

It also says you can have a supplemental plan to provide additional benefits. But, again, that has to be a Government-approved plan. That very much limits your ability to offer additional benefits, maybe with a different deductible.

There are limitations, too. If you have a supplemental plan that deals with cost sharing, you cannot self-insure for that cost sharing. Let me give you an example.

This is something that should drive unions crazy, it is something that should drive anybody crazy that has a plan that offers a little extra benefits. If they want to sell self-insurance for those extra benefits, they cannot do it. They have to purchase insurance to provide for those extra benefits.

So, again, the President's proposal, the Clinton-Mitchell proposal, eliminates a lot of optional plans and optional benefits. It eliminates plans that have benefits different than the Government-imposed, mandated benefit plans. And it eliminates cafeteria plans and, as I mentioned before, the flexible spending accounts.

The self-insured plans. There are over 400,000 employers that carry self-insured plans, covering 16 million people. They lose their plan. They are not going to be able to have a self-insured plan. They will have to buy a Government-designed benefits package. They have no option, no choice. That is their choice. They have to buy what Government deems appropriate. Whatever they had, they cannot keep. I disagree with that.

I heard the majority leader, Senator MITCHELL. I looked at his comments from the floor yesterday. He talked about his plan was voluntary and so on. This is not really the case. If the company that I manage self-insures, I do not have a choice. If I am going to have insurance, I have to have the Government plan. I have to buy the so-called community-rated plan. I do not have a choice. I do not get to continue self-insuring. That is not voluntary.

I thought, what if I did not participate. What would happen? What is Government going to do to me or my company, or when is the Government going to tell me I cannot do this?

There is a little section in the bill which says,

> In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty in the amount not to exceed $10,000 for each violation with respect to each individual.

So if you are an employer—and my company has about 65 people—well, if we did not comply, if we wanted to stay with our self-insured plan, our penalty is $650,000. Mr. President, that is more money than we made last year. That is more money than we made the last several years, probably. Unfortunately, we turned into a good, nonprofit organization, not by design.

An employer that has 100 employees, that is a $1 million penalty. That is a big penalty.

In other words, the heavy hand of Government is coming in and says you have to offer this standard benefits plan designed by Government. You have no choice whatsoever.

The reason a lot of people have different plans is because they want economy. They think they can do a better job.

I look at the cost under the Clinton-Mitchell health care bill. The cost for a two-parent family, according to CBO, is $5,883, almost $6,000. Those are 1994 figures. I will tell you that cost exceeds what a lot of us are paying in the private sector. A lot of people in the private sector pay a lot less than this. Yet they would have no option under this bill. They are going to have to have this Government-imposed standard, mandated benefit package as designed by this bill.

This bill turns enormous power over to the benefits commission to design the deductibles, the copayment and so on. But the package estimated by CBO is going to cost about $6,000.

I again do not want to use personal examples. But in our company, we provide insurance for about $2,400. I just met with the president of a major university in my State. They provide benefits for their employees. I think he said they have 1,100 employees. It is a private university. He said they were providing health care benefits for the teachers, professors, staff, and so on, I think for an average of about $2,800. Wait a minute. We are all ready to mandate something like $6,000. You are going to have to provide that. He said, "What if I don't?" I said, "Well, there is a little section in here called 'enforcement' where the Secretary of Labor can fine you up to $10,000 per person if you do not offer the standard benefits package."

If you do not do what Government says you should do, then you will be subjected to those kinds of fines and penalties. Mr. President, there are a couple of other things that people would be shocked to find are in this bill. There is a prohibition on offering an alternative package. This gets confusing. But under the bill, it says you have the standard benefits package, and we will make this available, and everybody is going to have to have it. Everybody is going to have the same benefit. But for individuals, we are going to allow them to have an alternative benefit package, as defined in the section. It has a higher deductible, and it presumably will be cheaper. That is availability to individuals, but it is not available to companies. If you read on page 138, it says no employer may offer an alternative standard benefit package established under subtitle (c).

That is a high deductible plan. So an individual can have a high deductible plan and presumably save on some premiums. But a company—if anybody is working for a company, they are out of luck. They do not get to have the high deductible plan. They have to have the more expensive plan. The employer cannot offer a higher deductible plan. If they did, they are subject to a $10,000 fine—per employee.

I mentioned that in my company we self-insured. We happened to have a high deductible plan. We self-insure for that portion. Those plans are illegal under the section that says you cannot have a self-insured plan, because on page 138 they prohibit an employer from even offering an alternative benefit. So you lose freedom, and you lose your choice and, frankly, you do not get to keep your own plan.

Again, I think it is important that we go back and think of statements that are made on the floor. People say these plans are voluntary. They are not voluntary, not if there is a $10,000 fine if you do not comply and certainly if you do not get to keep your own plan, if you have a cafeteria plan or if you have a plan with different benefits than those mandated under this proposal.

Mr. GREGG. Will the Senator yield for a question?

Mr. NICKLES. Yes.

Mr. GREGG. Am I to understand what you are saying here is that there are approximately 200 million Americans today plus who have an insurance plan or participate in an insurance plan; that to the extent that their insurance plans do not conform with the standard benefits package and they pursue the use of that claim, they would be fined, or the businesses they work for would be fined $10,000 for each one of those 200 million Americans, adding up to $20 billion in potential fines?

Mr. NICKLES. The potential would be there. I tell my colleague that it says the Secretary "may," not shall. But it gives the Secretary the discretion if anybody does not provide for the standard benefits package or—I will saying standard benefits package, when you consider there is a standard, alternative and supplementals. If you do not provide what the Government says you can, or if you can provide more or less, you would be liable to a $10,000 per-employee fine.

Mr. GREGG. If the Senator will yield further. To take this to specifics, under the standard plan package that originally came from the President, and as it was originally introduced here, the President's plan, there was only one mammogram allowed for people who are under age 50. I think that was the rule. If, for example, your company had enrolled in—let us say that was the standard plan that was settled on—but it probably would not be because it was such a ridiculous proposal—but say that was settled on by some Federal bureaucracy that designed what the standard plan would be. If your employer decided that one mammogram under age 50 is not appropriate, that there really should be two or three, or the opportunity to have two or three, you or your employer offering a greater benefit in this area would be subject to, potentially, a $10,000 fine per employee because they had not met this precise, one-size-fits-all plan proposal?

Mr. NICKLES. The Senator is correct. The only way that you can provide that extra benefit is if you purchased a supplemental benefit through a carrier. But I will mention that you cannot provide a supplemental that duplicates coverage that is in the standard benefit plan. So it is a heavily regulated supplemental benefit option. One can buy some additional benefits on top of the standard benefit, but again it is a Government-approved benefit package that is very constrictive.

I will go a little further. Most people do not understand the supplemental plan, and I have spent a little time trying to figure it out myself. If you want to buy additional benefits, you can, but it has to meet the Federal regulation and also the State's, and then likewise, if you want to say, wait a minute, in our plan we want to have greater cost share, so I will help pay some of the deductible, because most of the supplemental is on an 80-20 basis, and I worked it out with my employees over the years and we do 90-10; so I want to have a lower deductible, and it was agreed to in collective bargaining or something. According to the cost-share agreement, you cannot self-insure on the supplemental cost share. Crazy. Under this bill, you cannot self-insure for the cost-sharing supplemental. I just cannot believe some of the provisions that are in this bill. You are prohibited by law. If you did self-insure, you would be subject to a $10,000 fine.

Mr. President, I want to be clear that I am not eliminating all of the abuses that are in this bill. I am trying to eliminate—and will with the concurrence of the Senate—the $10,000 penalty for noncompliance. We are going to take away some of the heavy Government hammer that is in this bill. When I say in this bill—a lot of people were not aware of this provision. I was not aware of it until not too long ago. This provision, or part of this provision, was included in the Labor Committee bill, but not in the Finance Committee bill. I understand in the Finance Committee bill when they originally had a mandate to keep on standard benefits, they were going to say that if you do not have a standard benefit, you ought to be subjected to a 50 percent premium penalty. But that was dropped in the Finance Committee. It was in the markup, but it was dropped. That is a very punitive penalty, but that is a lot more reasonable than a $10,000 penalty. That is a penalty of $1,500, or something, for most people; $1,500 is still too heavy, in my opinion, but it is a lot more reasonable than $10,000.

Again if you look at a small employer with 100 employees, maybe they are self-insuring and want to continue doing so. Maybe they are self-insuring and doing it for $3,000 an employee, and the employees are happy with it, and the employers are happy with it; it is working well. They may say: Oh, no, I am not going to go with this Government-designed standard benefits plan. We have a good package of benefits. We worked it out, and it is successful, and we are keeping costs down. The Government is saying you cannot keep that package, and if you do, we are going to sock it to you with the $10,000 fine.

Mr. President, I plan at a later time to offer an amendment that is going to allow employers and employees to keep the plans they have that they like. That is the so-called grandfather amendment. I am working on that, and I want that to pass. One of the reasons we decided to go with this amendment first was to educate some people, because a lot of people were not aware it was in here. A lot of people did not realize that, wait a minute, the Government has so much power that if you did not comply, you could be subject to a $10,000 per-employee penalty. That is a very heavy penalty.

I am delighted that it looks as if—since Senator MOYNIHAN cosponsored this amendment, and others—it will be deleted from the package. My concern is that we have a lot of amendments, a lot of provisions in this bill, and the people do not know about them. When they find out about them, I am thinking that a lot of people will be quite upset.

Mr. KENNEDY. Will the Senator yield?

Mr. NICKLES. I think I have the floor.

Mr. KENNEDY. I was wondering if the Senator would yield on my time for a question.

Mr. NICKLES. I will be happy to.

Mr. KENNEDY. Just following the issue of the amendment and also the presentation the Senator has made, I know about the standard benefits package. I know that S. 1743, the Nickles bill, outlines the standard benefit package. You have a standard benefit package in your own bill. The only way that you receive any tax credit for any of the employers is to receive a tax credit to purchase insurance, but only if they get the standard benefit package.

I am just trying to understand why you are arguing—I appreciate the fact of the elimination of the $10,000 penalty, which I am going to support, because I believe there are other provisions in the legislation that will provide sufficient remedy. I think what is actually going to happen is that they will be offering the standard benefit package. But you appear to be arguing against the standard benefit package here on the floor of the Senate, and the bill that you introduced requires it and indicates that the only way you are going to get favorable tax treatment is if you use it.

Mr. NICKLES. The Senator asked me a question.

Mr. KENNEDY. I just asked how the Senator can possibly rationalize that position with his presentation here.

Mr. NICKLES. I appreciate the Senator's question.

Mr. President, I will be happy to answer my colleague, and I also want to finish and conclude my statement.

Mr. KENNEDY. On whose time, if we can just agree?

Mr. NICKLES. This will be on my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. The Senator alluded to the plan I cosponsored on consumer choice of health plans. We say give everyone a tax credit who qualify for the tax credit. You have to offer something. We do not give tax credits for people doing nothing. So you had to have some kind of health expense, basically defined by IRS, to qualify for a tax credit, just like you qualify for a tax deduction right now. You have to have a certain health care benefit operation to get the tax deduction. You also have to do certain things to get the tax credit.

The Senator's question is not relevant. What my bill did not do is say everyone in America had to replace their insurance with Government-defined insurance.

Mr. President, this is a big issue because the whole title of my bill was consumer choice. The whole purpose of my bill is to give consumers lots of choices with different options, different benefits. Under the bill I sponsored with 25 of my colleagues, we have a multitude of options.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. NICKLES. I will not yield. I want to finish.

Mr. KENNEDY. Will the Senator yield just on this point?

Mr. NICKLES. I will not yield.

My bill made a multitude of options. We called it consumer choice for a purpose because we wanted everyone in America to have the maximum number of choices.

Unfortunately, some alluded to the Clinton-Mitchell package and say it has choices. Let me tell you the choices you have under the Clinton-Mitchell package. You have Government plan A, Government plan B, and Government plan C, and they are all the same, one fee-for-service, one HMO, and one preferred provider. But they are all the same. They all have exactly the same benefit. You could not offer a different benefit if you wanted to because the Government defines that benefit package. The benefit advisory group defines the package, and you could not offer something different.

There are thousands of companies, hundreds of thousands, millions of Americans who have health care a lot less expensive than what is mandated under the Clinton-Mitchell bill.

I am trying to preserve peoples' rights to be able to buy less expensive insurance or more expensive insurance.

They cannot do it under this package. And under the package we have before them, if they do not do it, they are subject to a $10,000-per-person penalty. Big Government is here. Big Government is saying no. "This is voluntary. If you do not participate, here is a $10,000 fine."

I just happen to disagree with that. That fine happens to be more than double the cost of insurance for most people.

So the heavy hand of Government is here. I know it passed the Labor Committee, and maybe that is not surprising. But it should not become law.

(The PRESIDENT pro tempore assumed the chair.)

Mr. NICKLES. Mr. President, the reason I offered this amendment is it is saying two things. I want to educate people because, as I stated before, people do not know what is in the Clinton-Mitchell package. They do not know what kind of freedoms they are going to lose. They do not realize that under this bill, if they have a cafeteria plan those plans are taxed heavily. They do not realize if they have a flexible spending account those plans are taxed heavily. They do not realize if they have a self-insured plan that covers 16 million people, those plans are illegal. I said cafeteria plan. The cafeteria plan covers 4 million people. The self-insured plan covers 16 million people. And those plans under the Clinton-Mitchell package—there are lots of people in West Virginia and Oklahoma who are happy with the plans and like the plans.

Mr. President, they are a whole lot less expensive.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. NICKLES. No, I will not yield. I want to continue.

They are a whole lot less expensive. They do not cost $5,800. As a matter of fact, $5,800 is a lot of money in West Virginia and a lot of money in Oklahoma.

I am interested. The company we have or I have been involved with provides insurance for $2,400. If we follow this prescription for disaster, those plans are going to cost $6,000. Maybe we will be subsidized, or maybe some of our employees will be subsidized. I do not want to be subsidized. We are doing a decent job providing health care for our family and our company. Why in the world should the Federal Government get involved?

I make a comment that a lot of people do not realize this. This is a massive mandate. I have heard people say the Clinton-Mitchell bill does not have a mandate. It does. It mandates you have a very expensive package. If you cannot afford that package, guess what some employers are going to do? Employers in West Virginia and Oklahoma are going to say, "I cannot afford it. I am going to drop it. It is not mandatory now, so I am going to drop it. Employees, you are on your own."

Some of those employees will qualify for subsidies. I heard the majority leader say we are going to eliminate the Medicare plan and replace it with the private plan. What he is also not telling you is under his bill 57 million new people will be eligible for subsidies; 57 million people will be eligible for subsidies in a few years that are not eligible today, more than double the number of Medicaid people who receive subsidies, but they will be receiving Federal subsidies. You are having a massive Federal subsidy program because people cannot afford this.

So employers will be dropping the plan. Employees will be getting subsidies to buy health care. And then guess what, Mr. President? And this is very interesting. Then an employer can come back and say, "I want a subsidy so I can start this over." And they can start again, and the employer can get 5 years of subsidy with the Federal Government paying about half of their health care costs.

This is almost an encouragement plan for people to drop their health care, put people out on subsidies to get their health care on their own, and then the Federal Government will come in and subsidize that employer for them to pick it back up.

I think that is a disaster. We should not be making those mistakes.

What does this amendment do? It does not eliminate the standard benefit package. I wish we would, and we will probably try to do that later. I am going to try to allow all the missing plans to stay in existence. If the people and employees are mutually satisfied, they ought to be able to keep the plan. We should not have the heavy hand of the Federal Government saying your plan is good enough and we are going to replace it with a Government-knows-best plan; we are going to replace it with a plan that costs $6,000 per family.

We should not do that. This is a serious mistake and serious infringement on freedom. And that is exactly what happened in this bill. Then they have the heavy hand of the Federal Government coming in and saying, "There is a $10,000 penalty if you do not comply. So we are going to make you comply whether you want to or not."

Then I read in the RECORD where Senator MITCHELL stated this is voluntary. How is it voluntary? "It provides for a voluntary system in which Americans would purchase private insurance." That statement was made yesterday. How could it be voluntary if you had a $10,000 penalty if you did not comply?

I just cannot believe that we would go down this route. So I am delighted that we will delete this one section. We are deleting section 1309. That is one paragraph on page 145 of a bill that is 1,443 pages long.

Mr. President, I think this is vitally important. I thought it was vitally important for a long time. This section that we are deleting, this section 1309, page 145, I will read again:

> In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual.

So if you have 100 employees, that is equal to a $1 million penalty that the Secretary of Labor could impose.

Mr. President, we need to strike this section. I am delighted that the Senator from New York and the Senator from Oregon are cosponsoring this amendment. I look forward to improving the bill, at least by taking this very serious mistake out of the bill.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I thank the Senator from Oklahoma for taking this initiative.

I point out that we join him in it in a bipartisan manner. We considered the matter at some length most of this morning.

Mr. President, we came to this judgment, which was that in the legislation that Senator MITCHELL has put forward it is clearly in the interest of employers to provide the standard benefits package. It makes them a more attractive employer and more attractive to employees they would hope to have, but most important, elementary and indispensable, providing the standard benefit package is the condition of receiving the subsidies that the bill provides for low-wage employees. With that package you get the subsidies. Without it you do not. We have incentives. This is an incentive-driven bill. We think that it is in the best interest of firms and their employees to have health care.

The Senator from Massachusetts speaks with great emphasis on the importance of preventive care, and, indeed, if there is anything salient in our medical situation today, it is the degree to which behavioral patterns lead to illness as against the random disasters of typhoid fever or cholera of the past.

Professors of medicine teach behavior, inculcate behavior that makes for health. And already we begin to see some of this effect being shown up in the slackening of the health care cost increases. But, most importantly and essentially, the subsidies are the incentive to which we are absolutely convinced employers will respond.

I regret to hear my friend from Oklahoma has established a nonprofit activity. That was not the plan, and it need not be the case once this legislation is enacted. I look forward to a thriving, healthy, and profitable work force in Oklahoma.

And so, Mr. President, there is no great need to expand on this position. The Secretary of Labor does not need this particular sanction, and when a sanction is not needed it is best excised.

We are not in the business of running around and policing the health care plans of the Nation's employers. We set the standards, we provide incentives, and we expect to see a response. And we will know that response and we will keep track of the coverage, but not in a mode that is threatening or indeed punitive. We are not trying to hurt anybody here. We are trying to help our country and help its employers and its workers.

So I think this is a nice bipartisan note on which to conclude today's behavior.

I see we will alternate, but would the Senator from Oklahoma mind if my friend——

Mr. PACKWOOD. I believe I am controlling the time.

Mr. MOYNIHAN. Would the Senator from Oregon mind if the Senator from South Dakota speaks now?

Mr. PACKWOOD. I am happy to have him speak now.

The PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. Will the Senator from South Dakota yield?

Mr. DASCHLE. Yes.

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senators DURENBERGER, SHELBY, MACK, GORTON, ROTH, and LOTT be added as cosponsors of this amendment.

The PRESIDENT pro tempore. There being no objection, it is so ordered.

Who yields time?

Mr. MOYNIHAN. Mr. President, I yield to the Senator from South Dakota such time as he may require.

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE] is recognized for such time as he may require under the control of Mr. MOYNIHAN.

Mr. DASCHLE. Mr. President, I will be brief. I thank the distinguished chairman of the Finance Committee, the manager of bill, for yielding me some time.

Let me make several points as quickly as I can.

First of all, let us make sure what this amendment does and what it does not do. What this amendment does is to strike the reference to $10,000.

I have indicated that I intend to support the amendment because, as the chairman stated so well, there are other ways with which to ensure that we can achieve the compliance we want. There are carrots and there are sticks. Let us try the carrot approach. Let us do as much as we can to ensure that throughout this bill, whatever it is we do, we encourage using the incentives that are in the bill. We are certainly willing to try that approach in the manner of this bipartisanship cooperation, and I think that ought to be stated up front.

But the Senator from Oklahoma makes a second point in defense of his amendment that I frankly do not support. I think that most members on this side of the aisle, in fact, I would guess many Senators on both sides of the aisle, would have difficulty supporting. Namely, the deletion of some need for standardized benefits.

It is very clear in the bill offered earlier by my friend, the Senator from Oklahoma, that on three pages—pages 33, 34, and 35—there are direct references to standardized benefits and a recognition of the need for compliance with those standardized benefits.

Senator CHAFEE, with all of his cosponsors, had a bill that specifically delineated a number of standardized benefits. The Finance Committee, the Labor Committee, all of the bills, for the most part, even Senator DOLE's, have references to standardized benefits. At least for the past several months, every one of us has been working under an understanding that standardized benefits are a good thing.

In fact, I will go back and find what the record states with regard to the Medigap proposal we passed several years ago. As the author of that amendment, I clearly recall there was a widespread recognition that Medigap policies—that is, policies in addition to what we get through Medicare—were standardized. I recall there was virtual unanimity that standardization of Medigap policies was a good thing. There was strong bipartisan support, I think unanimous support, in the Finance Committee. But I will go back and check the record on that.

Now, why is standardization of benefits important? It is important because if we do not have it, this bill might as well be called the Fine Print Protection Act. That would be exactly what we would be doing. We would allow the insurance companies to do what in many cases they are doing right now. Not all of them, but many of them are putting in the fine print contingencies that can scare people to death. That fine print keeps people from getting the benefits they oftentimes thought they had.

I do not know about most of the Members of this Chamber, but I know I am not as familiar with my plan as I wish I were. I frankly cannot tell you this afternoon whether I have a lifetime limit in my plan or not. But they are in a lot of plans. People are caught by complete surprise once they bump up to that limit, because they did not know the fine print, buried somewhere in the plan itself, had a limit on what the insurance company would pay.

Exclusion of important services, including durable medical equipment, rehabilitation services, mental health treatment, and preexisting conditions clauses are all there. Exclusions of preexisting condition clauses are in many plans. That is something else we are trying to eliminate. There is widespread recognition of the importance of eliminating preexisting condition exclusions.

Service limits, such as a limit on days in the hospital or no more than a certain number of physician visits per year—these are also in a lot of plans.

Hidden gaps in coverage are also there. For example, no coverage for congenital conditions and no coverage for illness in the first 10 days of life are major exclusions. In fact, a high percentage of the plans covering pregnancy have a provision that limits coverage in the first days of life after a baby is born.

Exclusions of certain providers can also occur, like coverage for psychiatrists or other mental health practitioners.

Mr. President, the point is that one of the reasons we are here in the first place is that people are just caught unaware too often. So many times, when we need the benefits the most, they are not there. We are surprised. We find out only too late that the plan we were counting on, the plan we paid thousands and thousands of dollars for, is not there when we need it the most.

And so, let it be understood that what is in the fine print is really what we are talking about here. There is no discussion, no debate about eliminating the $10,000 fine. I suspect that a majority of Members on both sides of the aisle will probably agree that, as the chairman said, there are other ways to ensure we get as much compliance as we can.

But I can give—and I will do this for the RECORD—a number of examples. Allen Fuller lives right here in Washington, DC. He allowed his name to be used in discussing his own situation. His family lost their insurance when his wife started her own business. Eventually they bought private insurance for the family. Two weeks later Allen thought he had pulled his back out. When he went to the doctor, tests showed he had cancer of the lungs and spine.

Allen started chemotherapy immediately and found that his insurance policy only covered accidents in the first month but did not cover illnesses. The insurance company said his cancer was a preexisting condition and refused to cover his bills. Allen Fuller was left out, in spite of the fact that he had paid thousands and thousands of dollars for a policy he thought was going to be there when he needed it the most.

Barbara Elsas-Patrick, another person here in Washington, DC, has health insurance through her professional association. She is a teacher. She paid $500 a month coverage for herself and her daughter. The policy had waivers for preexisting conditions. She was not aware of that. It was buried in the fine print. Barbara is reluctant to go to the doctor now because every time she has another condition, according to this particular policy, it is not covered the next time she goes to the doctor.

This is really what we are trying to avoid here. The point is very clear. Do we want to protect the fine print in plans in the future? If we do not, then let us recognize, as Senator NICKLES recognized, as Senator CHAFEE recognized, as Senator MITCHELL has recognized, that there ought to be some recognition of a need for standard benefits and elimination of the fine print in this bill.

I yield the floor.

Mr. LOTT. Mr. President, under this bill, any business that tries to provide health insurance for its employees, but not the high-priced, Government-mandated insurance plan, could be fined $10,000 per employee.

Now, we have heard many speeches in support of the Clinton-Mitchell bill, saying how the bill would help all Americans, and help businesses.

If you read the bill though, the situation is quite different. The Clinton-Mitchell bill makes the Secretary of Labor a bounty hunter, searching for firms who are doing the right thing, but not the Government-mandated thing.

We are not talking here about mean old businesses that do not care about their employees. We're talking about small, sometimes struggling firms, which under the Clinton-Mitchell bill could be destroyed by fines or have to lay off workers.

That is why I rise today in support of the Nickles amendment. This amendment says the Government should not penalize businesses for doing the right thing. The amendment nullifies this $10,000 per employee bounty.

Again, the Secretary of Labor under Clinton-Mitchell will be able to destroy businesses at will without the Nickles amendment. Let us say you have a small business. You are struggling to make payroll, and pay for, say, a catastrophic insurance for your employees, so they would not be left holding the bag of unlimited health care costs.

Under Clinton-Mitchell, the Government comes along and says, hey, that is not enough insurance you are giving your employees. They need drug counseling services. They need abortion services. They need psychiatric coverage. The Government's telling you that your business has to buy a Cadillac insurance plan, when you only can afford a Pinto health plan.

If you cannot afford it, and even if your employees do not want all of these benefits, the Government under Clinton-Mitchell will make it very expensive for you.

In fact, the Secretary of Labor could assess your business at $10,000 per employee fine, if you do not go out and buy the Government's standard benefits package. Now think about this: If you do not buy the expensive, Government-mandated plan, then you are fined heavily, and your corner store, or computer startup, or farm, goes belly-up. If you do buy the plan, you probably would have to lay off workers. Again, if your employees like the insurance plan you provide them, then that is too bad. You have to go out of business, or you have to lay some of these happy employees off.

Under the Clinton-Mitchell bill, you would have to make a choice between the Government, and your employees, probably middle-income employees who need work.

The Nickles amendment says you will not have to make that choice.

But the Nickles amendment is about choice. If employees for a small company like their insurance plan, but it is not the plan the Government has mandated, they should be able to keep that plan.

Most Americans are happy with their health insurance—85 percent to be exact. Everyone agrees that whatever reform we try to achieve in this Chamber, choice in health plans should be maintained. This is what the American people want.

Several times in his Presidency, President Clinton has promised the American people that the insurance they have, that they are happy with, will not be taken away.

We see in Clinton-Mitchell, though, that choice is taken away.

The President has been telling Americans that the Government would not take away the insurance plans Americans are pleased with.

The Clinton-Mitchell bill does not maintain consumer or business choice—at least not the type of choice Americans are used to. The Clinton-Mitchell bill says yes, you can have choice—if you have the money. If you are able to pay $10,000 per employee, if you are able to cough up a 25-percent surcharge, if you are able to swallow the cost of a nondeductible health plan—yeah, you can have choice. Some choice.

Americans in general, and middle-income Americans and businesses who employ middle-income people specifically, can not ante up the money the Clinton-Mitchell bill would squeeze out of people. Under the Clinton-Mitchell bill, the Government will take away choice, and will force Americans to pay for a government plan—or pay through the nose.

That is why I rise today to support the amendment by my friend from Oklahoma, Senator NICKLES. His amendment does what the President says he wants done—maintenance of consumer choice. The amendment takes the Secretary of Labor out of the bounty hunter business.

This is an amendment for all Americans, especially middle-income Americans. The Clinton-Mitchell bill, with its 17 new taxes, 55 new bureaucracies, and its almost $1.4 trillion cost is not middle-income friendly. The Clinton-Mitchell bill penalizes those who work hard and play by the rules.

The Nickles now Moynihan amendment is a little bit of sanity and fairness. This amendment does not nullify those few good aspects of the Clinton-Mitchell bill: aspects like allowing Americans with preexisting conditions to get and keep insurance, and allowing portability of insurance.

The Nickles amendment does nullify this anti-middle-income and anti-business part of the Clinton-Mitchell bill. The way to better access to our health system is not to destroy families or businesses. The Nickles amendment, with that maxim in mind, seeks to maintain choice.

Several Senators addressed the Chair.

Mr. NICKLES. Will the Senator from Oregon yield me 4 minutes?

Mr. PACKWOOD. I have a number of other speakers who want to speak and I would like to speak.

Mr. NICKLES. Four minutes?

Mr. PACKWOOD. All right.

Mr. NICKLES. I thank my friend and colleague from Oregon.

Mr. PACKWOOD. Could I ask the indulgence of my good friend from New York? Would he mind if I spoke after the Senator?

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized for 4 minutes.

Mr. NICKLES. Mr. President, I wanted to respond because both Senator KENNEDY and Senator DASCHLE alluded to the plan I was the principal sponsor of, the consumer choice plan, and said that we have a standard benefit.

What we had in our bill was strictly voluntary, that said if you want to qualify for tax credits you had to have at least catastrophic, which is basically hospitalization, which makes sense. We were telling everybody we want individuals to have their opportunity to choose whatever they want so they would have a tax credit. But to qualify for the tax credit they had to have at least hospitalization. But they choose the benefits. They could have anything above that they want. They could choose from any of a multitude. There was an unlimited number of choices under our proposal for individuals to choose. That was the whole idea, consumers could choose and the tax credit would go directly to them. It would not be just tied to their employer.

This is in stark contrast to the Clinton-Mitchell proposal that says it is illegal for somebody to buy a benefit that is outside the standard benefit package; you cannot offer less, you cannot offer more. You can offer a supplemental but only if it is Government approved. You have to have every benefit that they determine, and some of the benefits are not very popular; to some of the benefits there are a lot of objections. To some of the benefits some have moral objections. They are going to mandate everybody buy those. We did not do those. We said individuals should be able to choose the benefits, have maximum number of choices on the benefits in stark contrast to the Clinton-Mitchell proposal.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield myself such time as I may need.

I was going to use this chart until the Democrats agreed to this amendment. "Warning to employers: Providing health insurance to employees may be hazardous to your financial health." The reason I was going to use that is I do not think this provision, as it was originally in the bill, Senator MITCHELL's bill, was put in by accident. And now that it has been accidentally discovered, it is being taken out in a great spirit of comity. As a matter of fact, I think the finding that—it takes almost a Houdini, as we go through this bill.

But I think perhaps the more analogous story is one that relates to Winston Churchill.

He was at a dinner party one night and an admiral was there, an admiral of significance in the British fleet. The admiral, admiring the flatware, pocketed a rather expensive gold spoon, which bothered the hostess no end because she had seen it but she was not quite sure how to approach the admiral and suggest that he give back the spoon. So she went to Winston Churchill, explained her situation, and asked what she should do.

He thought for a moment. He went over to the table and he took another gold spoon off the table, a larger one. With the handle sticking out of his pocket he walked over to the admiral and said, "Oh, Admiral, I think we have both been discovered. We will have to give the spoons back."

What has happened here is, we have caught the Democrats with the gold spoon in their pocket. Now they have to give it back. We have heard them say, "Oh, well, there are other ways to enforce this. We do not need this." Why was it ever in the bill to begin with if they do not need it?

Did they know it was there? You bet they knew it was there because when this bill, Mitchell 1—when Mitchell 1 was drafted there was not only this $10,000 penalty but, in addition to the $10,000 penalty, a 35 percent tax. And it was levied upon your health insurance premiums. If you have six employees, you are a little laundromat paying $2,500 apiece for health insurance, $15,000, 35 percent tax, roughly a third, roughly $5,000 you were going to pay in addition $10,000 times six employees. That is $65,000 for a little laundromat owner. Now you can say you do not have to offer the standard benefit package, but $65,000 is a whale of an incentive not to offer anything else.

What happens when we get to Mitchell 2? The 35 percent has been dropped out, so they knew it was there. The $10,000 was not dropped out. Now the poor little laundromat owner is only going to have to pay $60,000, instead of $65,000; the $5,000 incentive removed, he can go ahead and offer what he wants—and pay the $60,000. Did they know it was there? You bet. They knew it was there.

Why was it there? It was there so the argument can be made, you do not have to offer the standard benefit plan. You can offer anything you want. You can have any plan you want under this bill. There is no employer mandate until the year 2005 or 2002 or whatever it is, and up until that time the employer can offer anything he wants. But if he wants to offer anything other than the standard benefit package it is going to cost him $10,000 an employee.

Let me give another example. The little laundromat owner with six employees is paying $2,500 a year for health insurance for his six employees. The standard benefit package, husband and wife with a couple of kids, is $5,500-$6,000. So now comes along this bill and the little laundromat employer cannot afford $5,000 or $6,000 for the standard benefit package. And if he offers any insurance and does not offer the standard benefit package, he gets fined $10,000 per employee.

What does the little laundromat owner do? I will tell you what he does. He drops his health insurance. He cannot afford $6,000 per employee and he certainly cannot afford $10,000 per employee penalty, so he drops it. Now they have no coverage.

This $10,000 was designed deliberately to be, not an incentive—coercion, Mr. President; $10,000 an employee is not an incentive, it is coercion. And because the Democrats have been caught with the gold spoon in their pocket, they are now allegedly giving it up and saying we never needed it anyway.

As we go through this bill, Houdini like, looking for other gold spoons, my hunch is they will agree with many other amendments we bring up because they knew they could not defend this. They knew they could not defeat it. So they co-opt it.

I am delighted to have them on board. I would be interested, if they have an explanation, as to why the $10,000 was ever in there to begin with. They knew it was there. Why they took out the 35 percent penalty, having gone through this bill themselves, but never took out the $10,000.

There is only one answer. We are going to force you to voluntarily provide the $6,000 standard benefit package or nothing. For too many employees the answer will be nothing. I thank the Chair.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I yield to the Senator from Massachusetts such time as he may require.

The PRESIDENT pro tempore. The Senator from Massachusetts, [Mr. KENNEDY], is recognized for such time as he may require.

Mr. KENNEDY. Mr. President, we have been involved in this debate and discussion on the bill for some 2 weeks, now. And we had a good debate and discussion on the children's amendment over a period of several days. Then the Senate went on record to advance the protections for children.

I think that was an important improvement over the Mitchell bill. And I think we understood that after we had the consideration of an amendment on this side, we were going to go to the other side in order to consider an amendment. So many of us who have a desire to get into the substance of these measures—and there are strong policy differences on many of these measures—we were hopeful that we would be able to reach some kind of accommodation.

I think all of us are still hopeful we will, even with those individuals who have expressed reservation about the Mitchell proposal. I think most of us were somewhat hopeful that we would have a proposal or an amendment here that really was going to be at least somewhat defining in terms of the direction of this debate.

When I first saw the amendment of the Senator from Oklahoma earlier in the day, I was somewhat interested in the fact that he was going to make an amendment to strike the $10,000 penalty that employers might be required to pay if they did not provide the standard benefit package. We reviewed that measure and reviewed the other provisions of the legislation. Those of us who are for universality of health care are not into just trying to find areas where we are going to penalize employers. We are interested in universality and cost containment and trying to develop some consumer protections.

As far as that $10,000 requirement, I felt that if you are going to have—and we can come back to this in a moment—a standard benefit package and you are going to have to have some kind of remedy. I did not think, quite frankly, that $10,000 was an unreasonable penalty. I was persuaded in the spirit of bipartisanship that we ought to try and find some common ground. So I indicated, at least as far as this Senator is concerned—and, of course, all of the Members have views and their views are entitled to an equal amount of credit—that this was something that I could support.

I was listening earlier to the debate on what we are really talking about here—on whether we are going to have a standard benefit package or whether we are not going to have a standard benefit package; whether the Mitchell bill is going to require it, or not require it, and then the reasons for it. Then there were charts pulled out to talk about what the costs were for the standard benefit package.

It is interesting that what those figures basically reflect is the actuarial value of the benefit package that Members of the House and Senate have in this institution. Obviously, we know the values change in different parts of the country, so we know using those charts might alarm people in different parts of the country. They were intended to illustrate what the costs were in an actuarial way for programs that we have in the Congress of the United States, that we have as Senators, and to emphasize that we are trying to make those same kinds of benefits available to the American people.

Ten million Americans have them, including Members of the House and of the Senate of the United States and the President of the United States. In the Mitchell bill, we give the same opportunity to working families and other families across this country so they will have these benefits, too. I pay $101 a month for a program as a Member of the U.S. Senate. I bet most Americans who are watching this program with very comprehensive protections—I doubt there are many other programs that are any better, and I think most Americans would say, "I'd like to have what you have, Senator," or what any other Member here has.

That is in the Mitchell bill. Just store that away as we are talking about all of these other factors and that program is evaluated because it costs differently for Federal employees in different parts of the country to reflect local costs. We have what is considered to be at least a standard package. It can vary a bit in terms of the copayments and deductibles, but the essential elements are there.

Now we have a debate on the question of the role; why are we requiring a standard package and raising the serious question of whether any bill at all ought to have a standard package.

I was somewhat interested in the remarks of my friend from Oregon who was the principal sponsor of President Nixon's program, which had a standard package. As one of the principal cosponsors of that program, I do not remember him saying at that time, as it was being debated and discussed, "Oh, no, we don't want a standard package." That was an essential part of the Nixon program. But time moves on, and we have to consider that.

Then I was interested to hear my friend from Oklahoma, Senator NICKLES, say, "We don't want a standard benefit package. How are we going to deal with the problems that many of the businesses are going to have to deal with?"

So we looked through the Nickles legislation, cosponsored by 25 Republicans, and we found out that it outlines a standard benefit package on page 33. I referenced this in some earlier comments. The Nickles legislation talks about providing for all necessary acute medical care described in subsection B; it talks about physician services; it talks about patient cost sharing, deductibles and copayments. He has a standard benefit package effectively described in words. And his legislation said that you had better conform with his standard benefit package or else you will not get the favorable tax treatment. The message better go out to all Americans that unless you have the Nickles proposal and his standard benefit package, your taxes are going to go up. The message better warn every American that the only way to keep their taxes down is to adhere to the Nickles standard benefit package.

It is so interesting how some people use these hot-button items like taxes, the Mitchell program on taxes. I think most of us believe that, with $68 billion a year in health care costs that are directly related to smoking, there ought to be some increase in taxes relating to cigarettes.

Well, here it is, right here in the Nickles proposal. Unless you provide the Nickles standard benefit package outlined in the Nickles bill with 25 Republican cosponsors, you do not get the tax consideration. And yet, they say, isn't it terrible under Mitchell when they say you have to provide the standard package, make sure you make it available to consumers, because if you do not conform with the law, there will be a penalty. And now under the Nickles proposal, if you do not do exactly what Senator Nickles wants you to do, you are not eligible for the favorable tax considerations and it will continue to go up.

Now we look over to what happens in the Chafee proposal.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. When I finish. I will be a few minutes and then I will be glad to yield.

On S. 70, on the Chafee proposal, each plan must offer one or more of the following: Standard benefits package or a catastrophic package. That is on page 89, and that is section 1301.

I am going to be interested in how Senator CHAFEE is going to do it, because if you do not conform with the Chafee proposal, you pay $100 a day in penalties. Is that not interesting, $100 a day in penalties under the Chafee proposal? That could certainly add up.

Many of us have been willing, as a matter of conformity, to say, "All right, we will eliminate the $10,000." But yet under the Chafee proposal, it provides under the standard package a catastrophic package. It has covered items: Medical surgical services, medical equipment, prescription drugs, preventive services, rehabilitation services, substance abuse services, hospitals services, emergency transportation, and it goes on and on.

If you do not conform with his proposal, you are penalized.

And under Breaux-Durenberger, you must offer the uniform set of effective benefits, and that is effectively a standard benefit package. I am not surprised, Mr. President.

One of the thoughtful members of our community on health policy, Alain Enthoven, has followed these issues closely, and there may be those of us who differ with some aspects of it, but we have enormous respect for Mr. Enthoven. He served in the Defense Department in the early 1960's. I can remember his very considerable public service in the Defense Department.

He has taken on this issue and written extensively about how to reach universal health care. I have had the opportunity to listen to him and to read his comments.

He has been very much involved, I think, in helping to shape the thinking of many Members. Here is Alain Enthoven:

> There are powerful reasons for as much standardization as possible.

This is the free marketeer.

> The first is to facilitate value for money comparisons and to focus comparisons on price and quality. The second is to combat market segmentation, the division of the market into groups of subscribers who make choices based on what each plan covers, such as mental health, efficient care rather than price.
>
> The third is to reassure people that it is financially safe to switch plans for a lower price, with the knowledge that lower-price plans do not realize savings by creating hidden gaps in coverage.

Hidden gaps in coverage. Hidden gaps in coverage. That is the point that the Senator from South Dakota has made. That is the point which other Members have made, the hidden gaps in coverage.

What are those hidden gaps? Those are the gaps which exclude from the prenatal services any complications for children for the first 10 days after birth. Mr. President, 93 percent of infants' health needs come when? Interesting. The first 10 days after birth. Those are the kinds of life limits, those are the other kinds of exclusions, the hidden lines, the fine print, all of the things that we have talked about which our Republican friends have talked about, which we have talked about over here, all of which I thought about as we listened to those eloquent statements for the past few days—talking about eliminating preexisting conditions, eliminating the kinds of unfairness in the various standards under insurance reform, that all of us were attempting to try to address, that Alain Enthoven, who is one of the key thinkers in terms of the whole market force approach on health care, has identified as one of the very great dangers.

Mr. DASCHLE. Will the Senator yield for just a minute?

Mr. KENNEDY. I will be glad to yield and then I was asked to yield over here. I will yield here, just make a very brief final concluding comment, and then either yield the floor or respond.

Mr. DASCHLE. I would only ask the Senator from Massachusetts whether Mr. Enthoven also mentioned that part of the cost shifting occurs through lifetime limits? The Senator mentioned the lifetime limit problem. What happens when people bump up against lifetime limits? They have catastrophic illnesses with costs that their insurance plans do not cover. Who pays for this? Is it the taxpayer? Is it the insurance company? Is it the individual? Is it the small business? Is it another family? Somebody is going to pay for those costs.

So ending cost shifting is an added benefit in having coverage delineated in all health insurance policies, is it not? Unless you eliminate these fine print provisions, unless you eliminate things like lifetime limits, do you not continue to prolong the cost shifting that goes on in the system today?

Mr. KENNEDY. The Senator is absolutely correct. When you begin to have these exceptions, and these loopholes written into it, and then you run into these other kinds of costs associated with these illnesses and sicknesses, someone ends up paying for it. And it will be those that have played the game by the rules and received the standard benefit package.

I see others waiting, and the time is moving along, so let me just be brief in a final comment or two.

The logic that we have heard from our friends on the other side of the aisle is basically the same logic that was heard in the Senate years and years ago when the Senate was considering the child labor laws. Why should we here in the Senate take action to protect children? Why should we? It is an argument today you find difficult for even the best of Members to try and be able to make. No one would absolutely buy it.

You read the history. Do we know something here on the floor of the Senate that people do not know back in local communities? The same argument. The same argument was made in the debate on the lemon laws. Why should we be establishing some standards? If the purchaser of an automobile drives it out of the lot and it falls apart, why should we care anymore? Why should we make sure that the representations that are made to that consumer be accurate in terms of the sale of a particular commodity? Is that so unusual? The same arguments are being made over here. They say, look, I bet we could get people to work below the minimum wage. Why do we say that we want $4.25 an hour to be a minimum wage? The reason that we do is we say we are a caring society and we believe that men and women who want to work 40 hours a week, 52 weeks in the year ought to be able to have sufficient revenue to live in some dignity and some peace with a roof over their house and food on their table and be able to afford a mortgage.

We do not say, why do we establish that floor? Republicans and Democrats alike have moved the minimum wage up. We are not saying we can find people that will work for a buck an hour and if they want to go for a buck an hour why not let them work for a buck an hour. Why should we in the Congress interfere with that? And if they want to exploit children, why not let them do it? Why should we in the Congress do it? And if someone wants to sell a lousy car, why not let them do it? Why should we in the Senate provide protection?

It is the exact same argument, Mr. President. What we are establishing is the standard benefit package. And it is interesting, when we were discussing and debating this issue in our Labor and Human Resources Committee, the principal difference between Republican and Democrat was not essentially what was going to be in it but whether we were going to outline it in detail or describe what was going to be in it and give greater flexibility to the national health boards so that there could be adjustments and squeezing of those elements in case of the economic exigencies that might occur.

But we did not have any debate, any real discussion about the nature of the preventive services or hospitalization. There may be some difference in terms of some of the aspects of mental health. But we did have agreement conceptually about what should be in that standard package.

To hear in the Chamber of the Senate this afternoon, when we are just entering this program, that those who have been either principal sponsors or cosponsors of legislation, piece after piece of legislation going back historically even to the 1970's, who have supported a standard benefit package, come out and say, well, we really do not need it, we are not going to provide those protections, Mr. President, we know the reasons for that in terms of providing the protection so that the consumers can have real choice, so that they are able to compare, so that they will be able to compare quality, so that they will be able to do the evaluation on the basis of medical report cards, so they can talk to other consumers and find out whether they are getting good quality, so that there is no fine print in there, so that they will know what the real costs are, so they will know the various elements of that program. It can be a standard package. You can have different deductibles. You can have different co-pays. You can have different features, but you and I know the competition will not be on the basis of the standard opinion. It will on the delivery of services, the efficiency of the services and the quality of the services. And that is what the consumer ought to have the ability to buy.

I will be glad to yield briefly, and then I see two or three of my colleagues on the floor, to try to respond.

Mr. PACKWOOD. Mr. President, is the Senator done?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, how much time would the Senator from New Hampshire like?

Mr. GREGG. Ten minutes.

Mr. PACKWOOD. I yield 10 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 10 minutes.

Mr. GREGG. I thank you very much, Mr. President.

We have just heard a speech by the senior Senator from Massachusetts which has been one which really has not been material to the issue at hand, which is not too surprising because when you consider what has happened here it is that a point within the bill has been discovered, of which there are, I suspect, hundreds like this, that has a devastating impact on the American people and on the way they relate to their Government, a $10,000 fine that could be assessed against up to 200 million Americans if they refuse to follow the dictates of a small cadre of bureaucrats directed by people here in Washington. People would be outraged, and they are outraged when they learn of this.

So when it is discovered and brought to light, it is immediately abandoned because the folks who put this language in here recognize that it is not defensible in the public eye. That is, of course, what the debate over the last few days has been about, trying to analyze what is in this massive document, which will have a dramatic impact on the day-to-day lives of Americans, about which we have not been told. Regrettably, there is a lot of it in here.

The Senator from Oregon used the nice story, the very fine story, about the golden spoons being discovered now. I would look at it more as something my children are involved in recently that I have noticed. They bring these pictures home. I think they are called Magic Eye pictures. You hold them up, and they are a maze of different designs. As you move that design closer to you or back from you, you suddenly see the pictures within the design. I understand this is a best selling book, called Magic Eye.

That is what this it. That is what it takes to use this document. You have to use a Magic Eye approach. As you move it closer to you under section 1,300, what you see is a great, big, huge truck coming at you which is going to run you over if you happen to be an employer in this country who wants to maintain a plan that is not consistent with the plan that you were told to comply with by some bureaucrat here in Washington.

Let me point out some other things that this fine applied to that has not been mentioned. We have been talking about the standard benefits package. This is just one of the items that this hit before it was discovered.

Think of some the other things this fine did. There is a section 1331, and a $10,000 fine will apply, if you as a commuter go to another job in another community-rated area and do not take the community-rated plan in that area. So what does that mean in real terms? It means that you are going to get stuck with $10,000?

What it means is, if Mary Smith and John Smith lived in Nashua, NH, and John Smith worked in Boston and Mary Smith worked outside of Boston, in Nashua, which would be reasonable—and I suspect it would be reasonable in many parts of this country—they would be in two different community-rated areas. If John Smith wanted to be on Mary Smith's policy in Nashua, because it was a cheaper policy or because they were more comfortable with that provider group in Nashua, he would be subject to a $10,000 fine. He does not have that option. He has to take the plan in Boston.

That is one point where the $10,000 fine kicks in. It does not happen to be mentioned. It just sort of appears.

Another point where the $10,000 fine appears to kick in, under section 1308, under this section, there is some language put in for the purposes of litigation relative to losing benefits. The way this works, the section establishes two different standards of proof and requires that courts without the requirement of any additional showing to promptly order the retiree's benefits to be reinstated. The practical effect of this is that the Secretary of Labor could fine a judge, who did not comply with this section, $10,000.

There is another point that this $10,000 fine affects if you are running a cooperative, and there are a whole series of obligations which you need to undertake, and you do not undertake. There are sections 1322, 1323, and 1324. They involve things like membership agreements, agreements with plans, allowable fees. Under this section, the cooperative could be subject to a $10,000 fine for every member that it had in it—remember, a cooperative could have hundreds of thousands of people in it—if it did not meet one of these technical requirements on an issue of membership agreements.

The list really goes on and on in this area. For example, one of the ironies is the way this $10,000 fine was designed. It is a compliance obligation which is enforced by the Secretary of Labor against regulations created by the Health and Human Services Secretary. The practical effect of that is that the Secretary of Labor could theoretically fine the Health and Human Services Secretary for not going forward in a manner that the Secretary of Labor thought was reasonable. I do not think that would happen. But that is the way this is drafted.

The point I am making here is that within the language of this bill there are many complex, unintended consequences generated by this language. There is one little paragraph that is in here that the pond into which this stone has been dropped of a $10,000 fine causes ripples to occur throughout the society generally, and they are unanticipated. Yet, they are in this bill.

So when we go through this bill section by section, and ask let us take a harder look at this section, let us take a harder look at that section. I think it is a reasonable request. It is not reasonable for other people to say, "Well, you are just delaying the process." In fact, we are not delaying the process. What we are trying to do is point out to the American people some of the very serious flaws in this piece of legislation.

I think it is nice that when we point these out on occasion and raise them as an amendment, the drafters on the other side recognize immediately that the golden spoon has been found in their pocket, that the picture has come into focus on the Magic Eye, and that people have figured out what they are up to.

What they are up to in this $10,000 fine is essentially to create an act of intimidation and coercion against employers in this country, the purpose of which is to make it unalterably clear that if you do not comply with the bureaucratically demanded health care structure, you would basically be put out of business or be threatened with such a fine of such an extended nature that your business and the viability of your business would be seriously threatened.

So that is the issue, the issue of the fact that you have a situation where Government has reached the point where in order to assert this plan, it feels it must intimidate, it feels it must coerce by threatening this level of fine. It is a philosophy that runs through this entire bill, Mr. President, a philosophy of we know best here in Washington. If you do not agree with us, that is because you are not just smart enough to understand it, or compassionate enough to sense it. And therefore, please American people, stand back, and let us design your lives for you, and specifically let us design this health care plan. If you do not stand back, we are going to run over you with that truck that just appeared as a result of analyzing the bill that looks like a Magic Eye.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I know the Senator from New York wants to yield to the Senator from Delaware. I wonder if 2 minutes might be given to Senator NICKLES to respond.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senators BURNS, EXON, MURKOWSKI, and SMITH be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, the Senator from Massachusetts has alluded to the bill that I am the principal cosponsor of as the consumer choice bill, and said it has a standard benefits package. That is not correct. What we did in this bill, just to clarify, is we replaced the tax exemption that people now have for their health care plans with tax credits. But we said if people want to get tax credits for health care, they have to have at least a catastrophic health insurance plan that covered primarily hospital and physician patients. We did not define everything else but they had to have this.

The individuals could have a maximum choice. It would be the individuals that would choose. That is kind of a new concept. They would not have to take what the employer offered. They could choose anything they wanted. But, they have to have it to have the tax credit. They to have to have the health care. We had a nice tax credit, a 25-percent tax credit, so the Federal Government would help everybody.

Frankly, the Federal Government uses the Tax Code right now to subsidize your health care by saying you do not have to pay taxes on it if you are an employer that subsidizes. A lot of people do not have a job. So they do not get any benefit from the tax credit. That is not fair.

We said the tax benefits really should not be dependent on whether or not somebody has a job with a generous employer. They should be universal to everyone, just like we give tax benefits to people who buy a home. We do not define the size of the home, but we allow them to deduct the interest expense. But it has to be on the home.

Likewise, we said only a tax credit. We are willing to help everybody buy health care. We will give everybody a tax credit. But they have to buy health care with it, and in health care we said hospital and physician services.

They had an unlimited number of options. That is unlike the proposal that we have before us, the Mitchell proposal. That is unlike the proposal we had before us that says it is illegal for you to offer different benefits.

The Government mandates a very expensive package. You have to have this. If you do not have the benefit in your package, you are out of luck, or you are subjected to fines and penalties and excessive taxes.

That is not what we had. We said we will give everybody a tax credit, and we will not define your package. You can choose your package. That is consumer choice.

I think that is significant reform.

I thank my colleague.

Mr. MOYNIHAN. Mr. President, I yield 30 minutes to the distinguished chairman from Delaware, who wishes to address the Senate on another matter, but one of equal urgency.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Delaware is recognized.

THE CRIME BILL CONFERENCE REPORT

Mr. BIDEN. Mr. President, I realize that I have been on the floor in the midst of this health care debate speaking about the crime issue more than once, and with the indulgence with my colleagues—at least on this side—I will continue to do that for a few more days.

Mr. President, my friend from New Hampshire said that in relation to the health care bill, it is important to go section by section to look at the bill and see what it means and debate the meaning of the bill. I wish my Republican friends would go section by section on the crime bill, because if they were going section by section in the crime bill, they would understand that what they are saying—unintentionally, I am sure—is inaccurate.

The distinguished Republican leader spoke on the floor this morning, and I assume a copy of the speech I have before me was the one that was delivered or placed in the RECORD. If, in fact, I am incorrect in that assumption, I apologize, but I am told by staff, and by the Republican staff, I believe, through the Democratic staff, that this is what the Republican leader delivered this morning. I think that today I am going to be speaking to what the Republican leader said. Tomorrow I would like to speak about what the hired actor for the NRA on television is saying, which is even more inaccurate.

Let me take Senator DOLE's statement as written here and respond to pieces of the statement, or all of it, if I may.

Mr. President, on page 2 of the statement—and I do not know where that will appear in the RECORD—the Senator says:

> I hope we have signaled and that President Clinton now finally understands that last Thursday's vote was not a procedural trick or a politically inspired attempt to hurt his Presidency, but rather a vote to improve the crime bill.

Mr. President, if that is true—and I am sure the Republican leader believes that—I ask my friends why 65 Republicans in the House voted for the House-passed crime bill that had approximately a half billion more dollars in spending for programs they now call pork and social programs than the conference report that I negotiated and sent back to the House and they voted against?

Said another way: How could we go from 65 Republicans voting for a bill that had more than a half billion dollars more in exactly the programs they now say are the reason for voting against the bill. Sixty-five of them voted for that. Only 11 voted for the bill that I negotiated with the chairman of the Judiciary Committee in the House, which had more than a half billion dollars less of what they say they do not want.

The Republicans over there are saying that this is not about guns or about assault weapons. I do not want somebody back home to think I want you to manufacture all these Uzis and street sweepers. It is not that. It is that there is this awful social spending in there. Well, I cut the social spending they voted for by half a billion dollars, and then they decided they were still against the legislation.

So I respectfully suggest that the Republican leader on the Senate side should ask the 54 Republicans who voted for more pork, as they characterize it, and now are saying they voted against the conference report because it has too much pork, what happened if it was not politically inspired? Maybe there is another reason. Maybe they did not know how to read the first bill. Maybe they did not know. Maybe they did not understand the House bill they voted for the first time. That is possible—regrettable but possible. But just maybe I am right when I say it was politically inspired. Just maybe.

The Republican leader says that they want a no-nonsense crime-fighting plan for America.

I am quoting from his statement:

> And here are some of the improvements he should support * * *.

Meaning the President, I assume.

> Number one, increased prison funding to the House level of $13.5 billion and tighten the language so the prison funds will definitely be used to build prison cells rather than halfway houses, or other prison alternatives, and require truth in sentencing for first-time violent offenders.

Again, maybe I have an incredible disadvantage. I have been responsible for managing this legislation for 6 years. But one of the advantages is that I have the requirement of having to know the bill inside and out. I do not know the health care bill inside out, or any other bill. So I can understand how Senators may not know every provision, and if a staff person tells them something is in it, they may think it is in it or not in it.

To set the record straight, the bill that the distinguished Republican leader and almost all of his Republican colleagues voted for that we passed in the Senate—the Senate crime bill—which Senator HATCH stood up on the floor and referred to, if I am not mistaken, as the Biden-Hatch crime bill, which I was delighted to hear. For one, I was delighted to have it be called the Biden-Hatch crime bill. I think the Republican leader voted for that bill.

That bill that we passed out of here that went to conference had $6.5 billion in it. That bill did not have $13.2 billion, nor did anyone ever suggest, to the best of my knowledge, nor did any Republican ever suggest, that there was a need for more money for prisons than $6.5 billion. As a matter of fact, the distinguished Senator from Texas [Senator GRAMM], if I am not mistaken, negotiated the number with me.

All of a sudden, this thing that they all voted for is now flawed because it has something in it they never asked for, never wanted, never spoke to. So we went to conference, and what did we do? We added $2 billion more; to be precise, we added $1.8 billion more than any Republican ever asked for on the floor of the Senate.

So now the total is $8.3 billion for prison construction, $6.5 billion of which will provide 105,000 new hard prison cells, paid for, given to the States to build and maintain. I find it fascinating that one of the things that would prove we have a real tough crime bill is that we need $13.5 billion. Were they weak in November?

Did these Republicans all of a sudden see God and say,"Oh, my God, this is not tough enough; we were mistaken," as we say in my church, "mea culpa, mea culpa, mea maxima culpa?" Is that what happened to them? Or did the little political bird fly into their window and say, "Hey, the Democrats are going to pass a bill"?

I will let you all be the judge of which it is.

Now, the Senator also says that he wants tougher language, truth in sentencing. Let me remind everybody what truth in sentencing was.

Right now, there is no parole in the Federal system. If you get nailed in the Federal court, you go to jail. Why do you go to jail? Because Senator KENNEDY, myself, and others, including Republicans passed a law a decade ago saying no parole federally.

We want the States to do that, too. They should. But guess what the States do? The States only keep their violent criminals in prison about 42 percent of the time to which they are sentenced. In the State of X or Y, when you get sentenced to 10 years in jail in a State prison, you serve on average 4.2 years. In the Federal system you serve a minimum of 8½ years.

So the Republicans said, "We want a tough bill—truth in sentencing." I made it a commitment on this floor, and I never break a commitment. I said it is a crazy idea to force the States to do this, because they will never spend the money because they will have to double the number of prison cells they have out of their own pocket before they get to seek Federal money. If that is what you want, I promise I will do it. Then, not that they did not trust me, to reinforce it, we had an instruction, as we say on the floor of the Senate. We had a vote. My Republican colleagues instructed me as the leader of the conference on the Senate side to insist on that language staying in.

So guess what? We went to conference. We got to this issue. We raised the spending by almost $2 billion, and I insisted and asked for a vote on truth in sentencing.

That is what the Senator from Kansas says he wants. He says he wants more truth in sentencing. OK, great. I insisted on it.

Guess what happened, Mr. President? The Republicans in the conference voted against it. I offered it, and Senators HATCH, THURMOND, GRASSLEY, and SIMPSON voted against it. On the House side, the House Republicans voted against it. They did not even get to vote, quite frankly. We rejected it. I supported it; the Republicans knocked it down.

Now, out of the blue, I am told go back to conference and put in truth in sentencing because that will make a tough crime bill.

If we do go back to conference, pray the Lord that they instruct the Republicans, the conservative Republicans to be for it now. They were against it, not me, not the Democrats. They voted it down. With good reason, by the way. Republican Governors throughout the country says this is crazy. So apparently they listened to the Republican Governors instead of the Republican national chairman.

So we have this straight now. One of the first conditions is for a tougher crime bill, want more money spent, and want truth in sentencing.

I put in another $2 billion beyond what we had. We got more money than anybody voted for here, and the Republicans rejected truth in sentencing.

What is the second point to make this a stronger crime bill according to Republican leadership? Well, cut at least half of the spending on social programs. And they cite some, they call, social programs. They, first of all, start off with the Model Intensive Grant Program. The Model Intensive Grant Program is the same program as the Drug Emergency Areas Act that Senators D'AMATO and GORTON, and other Republicans, have cosponsored in the past.

I wish they would make up their mind. It is not the same exact thing, not called the same thing. I think what makes them angry, and I am surmising here, is that the Model Intensive Grant Program is the name given to the program by Mr. SCHUMER, a Democrat, and we do not have the name Drug Emergency Areas Act, which we have had in every crime bill I have introduced. There are some marginal differences, but we are talking roughly the same money and for the same purposes.

What happened here? What happened between the time it left here that it was a good idea and the Republicans asked me to put this in the bill? I supported it. By the way, I still do, and now it has to be out.

We also have midnight basketball. Gosh, we are going back to midnight basketball. I hope everybody saw CNN last night. They went out to a place in suburban Washington, DC, in Maryland, and guess what? It works. Let me quote. I am quoting. This was stated in 1991.

> The last thing midnight basketball is about is basketball. It is about providing opportunity for young adults to escape drugs and the streets and get on with their lives. It is not coincidental that the crime rate is down 60 percent since the program began.

You might ask yourself who said that, who made this outrageous claim that where they had this midnight basketball program the crime rate dropped among youth by 60 percent? I never made that claim when I put it in this the legislation. I just said it will get better. Who made this claim, which I think is probably accurate? Let me tell you who made the claim. His name was George Herbert Walker Bush. It was his 124th point of light. Remember those points of light. Well, every once in a while even he was right. He was right a lot of times. So I took his point of light and I put it in the bill.

[Disturbance in the visitors' galleries.]

Mr. MOYNIHAN. Mr. President, may we have order in the gallery.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator is correct. The Sergeant at Arms will see that there is order in the gallery.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I put this point of light in the bill, the Republican point of light.

Now, I understand it sheds darkness and doom. It is a terrible thing, $40 million to have basketball leagues where kids not only play basketball, and they must stay in school, and some programs even require they keep a C average, and they must be off the street. There are other programs to keep the high schools open, so you use the gymnasiums—a Republican idea, not a Democratic idea.

Senator DOLE goes on to say, and I quote: "But now 9 months later, the conference report authorizes a staggering $33 billion, a 50 percent increase," over the Senate bill, "a 50 percent increase" that is over the Senate bill, he means. "Obviously, somewhere along the way the crime bill was hijacked by the big dollar social spenders."

Boy, they love this language. Let me tell you what the big dollar social spenders did. We went in, and we added $1.8 billion for prisons. Remember now. His first point he wants more money for prisons. So we added $1.8 billion more for prisons. What did we do next? We added another billion dollars for the Byrne grants. Remember what the Republicans did when the President said he was going to cut the Byrne grants? They came to the floor. They said it was outrageous, that the best thing that happened at home was the Byrne grants. They are great, by the way.

What did we do? We put in these big social spending Byrne grants. Do you know where the Byrne grants are? They are where the Federal drug enforcement agents work with local law enforcement agents and nail drug dealers. That is a big spending social program.

Now, we are up to $2.8 billion, we added.

What else did we do? We added to the Treasury Department for enforcement, $380 million for new T-men. Folks, men and women, with guns, who go out and get bad guys, counterfeiters, bad guys, $380 million. We added $1 billion for the INS to go and nab illegal aliens. It is a big social program, is it not? Tell that to the illegal aliens. They think it is a great social program.

In total for Federal law enforcement we added $815 million.

Then we added another $100 million for drug courts.

Do you know how the drug courts work?

And my friend from New York—and I am not being solicitous—knows more about this issue than any person that I know. I might add, by the way, when we all stood and watched New York and other cities burn, figuratively speaking, he said nearly 10 years ago, "The crack epidemic is coming. We better do something about it." And nobody did anything about it. They did not listen to him.

So what happened? It used to be for every four men that used drugs, there was only one woman. Along came crack and, to use that Virginia Slims ad, "Women have come a long way, baby," because crack now has made it about 1 to 1. It is about 1.4 to 1.

Guess what. Now we have more homeless children. Now we have more AIDS. Now we have more prostitution. Because these women cannot afford this, what do they do? They go to a pimp. He gives them crack, they do his dealing, they get drugs. AIDS spreads.

No one listened to the Senator from New York.

We added money in here for drug courts. Now drug courts do not deal with the crack dealers. It deals with another aspect of the problem. There are 600,000 young people, adults, who last year were drug addicted offenders, convicted for a nonviolent offense, who never saw a day of prison, a day of counseling, a day of anything. There were a total of 1.4 million arrested and convicted; 800,000 got something, probation, or random drug tests or something, 600,000 because there are no counselors, there are no probation officers, there is no prison space, got nothing.

So we put in money for drug courts. Big social program.

Do you know how that works, Mr. President? The way it works is that if you get arrested and convicted in a drug court—you are a first-time, nonviolent offender, you are a young person, you are an adult, but your in your twenties. What happens is, you must either demonstrate that you are in school, in a job, be subject to random testing, and employment counseling. If you do not do any one of those things—you either drop out of school, you lose your job, or you flunk the test—you go to jail. Now, I have never heard that of a social program.

But so we are talking about billions of dollars added.

Let me tell my friend that more than $7 out of every $10 in this bill are for cops, prisons and Federal and State law enforcement.

So I think someone should tell him that did not get hijacked by big dollar social spenders. It got hijacked by the FBI, as it should. It got hijacked by the DEA, the Drug Enforcement Agency. It got hijacked by drug courts. It got hijacked by police SWAT teams in cities and counties and rural areas, working with State people. It got hijacked by $1.8 billion for more prisons.

I guess you did not know that, but that is where the hijacking came in.

Now, the third point that is necessary, I am told, for us to have a tougher crime fighting bill is:

> Third, plug the so-called safety valve provision which could result in the early release of 10,000 convicted drug offenders. A get-out-of-jail-free card, brought to you by the United States Congress.

Let me tell you what that is.

First of all, the so-called safety valve was insisted upon by the Republicans in the conference. I did not have it in the bill. When it passed the Senate, it was not in the bill. But, Mr. HYDE and Mr. MCCOLLUM, both fine men—and substantively they are right on the issue, by the way—insisted that this be in the bill.

Now let me tell you what it does.

No one gets out of jail under this narrowly drawn safety valve, which applies only to nonviolent drug offenders and permits them to ask that their sentence be reconsidered under the guidelines.

As the Senator from New York knows, the guidelines are now tougher than the minimum sentences in most of the cases.

And do you know what the Bureau of Prisons says about who will qualify for this, this get-out-of-jail-free card as my Republican friends call it? As my Republican friends tell me 10,000 convicted drug people?

Do you know what they say, the Bureau of Prisons? Minimum, 100; maximum, 400 people will be eligible for release.

Do you hear what I just said? Minimum, 100; maximum, 400. Ten-thousand? Kind of interesting.

And, by the way, those who get out will all be nonviolent, no crime involving a minor—and this is all listed in the bill, but in the interest of time I am not going to take the time now to go through it—no use of a weapon, no threat of force, no threat of deadly force or any force. On average, they will have served 4 to 5 years already. And all they get to do is ask to "reconsider my sentence" under this mandatory requirement that was built in. And the Bureau of Prisons says, first batch out of the box, the only people that qualify now, 100 to 400 people.

Now, I am told then the fourth thing that makes this bill tough—I am reading now from the leader's statement, the minority leader.

> Fourth, no cuts for the FBI or drug enforcement agency.

I am quoting now.

> No crime bill should cut staffing at our Nation's top law enforcement agencies.

Guess what? We agree with him. That is why it is in the bill.

Now, I am a strong supporter of the FBI and the DEA. I want to increase it. But let me give credit where credit is due. Senator DOMENICI insisted that this be in the Senate bill, and I insisted that it be in the conference report.

So, the crime conference report specifically provides money to the FBI and the DEA for additional agents; $250 million for the FBI will buy approximately 500 additional agents and $150 million for the DEA will buy approximately 300 agents.

In addition, the conference report, in section 320915, specifically states that we should exempt Federal law enforcement personnel from the Federal work force reduction fund that supports the crime reduction trust fund.

So the way we are funding this bill is cutting bureaucrats. We explicitly say in the law we are asking them to pass, "When you cut, do not cut the FBI or the DEA." And then we add $400 million to hire 800 new agents. So I am sure the Republican leader will be happy to know that we have also met point four that he insists upon.

Now, No. 5. "Restore some of the tough provisions adopted last April by the House, including" —and then they go on to say, "Megan Kanka's law."

Now, there was a God awful thing that happened in the neighbor State of New Jersey, my neighboring State and the neighboring State of the distinguished chairman from New York.

This young woman, because sexual offenders—I will call them predators—who had already served their time were released into the community and were in a house across the street, living across the street from young Megan. Everybody thought they were regular old people who moved in the neighborhood.

One of them, allegedly—the trial has not been held yet—allegedly brutally murdered young Megan. There was an uproar. The distinguished Governor from New Jersey is insisting that there be a registry—as she should.

Well, let me remind everybody. This is something—I guess people just have not had time to read this bill.

In the conference report, the thing that the House would not let get voted on because all but 11 Republicans and 48 progun Democrats and 10 members of the Black Caucus, adding up to enough to defeat the bill—there is a provision we put in the bill, tougher than either the House or Senate passed. It says anybody who is convicted of a sex offense against anybody any age—not just a child—must, when they are released from prison, appear on a State registry. The States are required to set up statewide registries. If they do not, they lose Byrne grant money. It costs them millions of dollars. That is the incentive, the only one we have available to us, federally. And we say, "Set up a registry."

Then, when John Doe is released, the sex offender—he does not have to be a violent predator, just flat out having been convicted of any sex crime, he goes on a registry. Then what happens? As we wrote the law that is in the bill the Republicans killed, they are required to then notify the local police agency. And they are required wherever they move to wear the scarlet A. And every time they move, they are required to notify the registry. And, we made sure that when the police tell the community—as they are allowed to do—they would not be subject to prosecution. This is something incredibly unusual. We gave immunity to the police department.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN. I have 4 additional minutes.

Mr. BIDEN. Could I ask for 1 additional minute?

Mr. MOYNIHAN. You may have 4.

Mr. BIDEN. I thank my colleague. Anyway, it is in the bill. It is in the bill.

No. 6, the leader says restore some of the tough provisions, minimum mandatory for those gun laws. He should read title XVIII. There is already minimum mandatory. Do you realize if you commit a crime that is under the Federal jurisdiction, and you have a gun, whatever crime you committed if it has 10 years, you automatically get 5 more? Minimum mandatory, no probation, no parole, no discussion.

Now he also says we have to have mandatory restitution for crime victims. It is in the crime bill that the Republicans voted down. There is a provision allowing, for the first time, victims to show up at the sentencing procedure to say, "Judge, by the way, when you are sentencing that guy I want to remind you what he did to me"—giving some empowerment back to the victims. There is mandatory restitution, where the person who committed the crime committed the crime of violence against a woman or against a child.

And then he says, "And we have to restore Senator SIMPSON's provision requiring swift deportation of criminal aliens."

We do.

The conference report includes the summary deportation provision from the Senate bill—with slightly modified language. This provision would speed deportation by eliminating the requirement that a hearing be held and by eliminating layers of appeals.

The conference report also includes $160 million for the Immigration and Naturalization Service to hold deportation hearings in prisons—so criminal illegal aliens will be ready to be deported as soon as they have finished their sentences.

Last, he says we need flexibility and quotes Chief Fred Thomas of Washington, DC, saying there is not enough flexibility for the cop money coming into the cities. I called the chief. It surprised me. Let me quote the chief. He said, "I support the bill a thousand percent. Senator DOLE must have misunderstood me."

So I hope I have set the record straight for my friends and made it very clear that now that they know that all they wanted is in the bill, they can be for it. They can be for it. Let us find out. Let us find out whether this is politics or whether it is not.

Let me tell you, had they not delayed for 6 years, had we passed the registry law, which is in that bill, maybe, just maybe, young Megan would be alive today. Had the registry existed—she got killed the day after the House finished the conference. In fairness, she would not be alive because we could not get it done in time. But let me tell my colleagues something. If we delay, there are going to be more Megans, there are going to be more people in that situation because the bill now has those provisions.

I sincerely thank my friend. I know I keep intruding into this debate, but I want to tell him something, it is frustrating. If it is this frustrating on the crime bill, getting the facts out, I cannot fathom the difficulty my friend from New York as chairman of the Finance Committee is going through.

Mr. MOYNIHAN. Keep intruding.

Mr. BIDEN. I yield the floor and thank my colleagues.

The PRESIDING OFFICER. Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, much has been said that the Mitchell bill does, in essence, not upset anybody's present plans, is not compulsory, or nobody has to change very much. It overlooks, however, three groups that between them have someplace between 35 million and 40 million people covered with insurance, almost all of whom are satisfied with their current plans.

First, employers with 500 or fewer employees who self-insure. I will explain the difference on that.

You can cover your employees in, really, one of two ways: You can go out, buy insurance from Metropolitan Life or Continental Casualty or Blue Cross or Kaiser. They provide the benefits. You pay an insurance company to carry them.

Or you can do what is known as self-insure. You think to yourself, I am a stable enough employer. Rather than paying premiums to an insurance company, I, the employer, will pay the benefits myself. I will run that risk. Sometimes on occasion the employer will say, I cannot afford a catastrophic loss, and maybe they will insure for a loss over $15,000 or $20,000 or $25,000 or even $100,000 and say we will pay under that amount. They do not worry about negotiating with the insurance company. They manage their own plan. They can have their own wellness policies. They do not have to live with others' dictates. You have about 20 million employees who get their insurance from businesses with under 500 employees who self-insure.

Under the Mitchell bill, they will not be allowed to self-insure. That is out. They will have to buy through what is known as the community-rated pool. I am not going to get into a discussion of that tonight. But in essence it says, "all small employers will have to be thrown in. Five hundred, it is not small—500 or less, it has that pool. It has an interesting—I do not know if it is an intended or unintended effect, certainly on California. But my guess would be on other States also. Because this rule of 500 or less also applies to cities and counties and fire districts and school districts. California has Los Angeles and San Francisco and Oakland and San Diego and San Jose. California in many respects is like many States of the Union. They have scores and scores and scores of towns that have 5,000, 10,000, 15,000 people in them and they do not have 500 employees working for that town or that fire district or that school district. Yet they may be self-insured or they may buy insurance. They are out. They are going to have to come into this community pool.

I think most local governments are unaware of that in this provision, because most States do have some kind of a program that allows all of the municipal employees in the State from all kinds, big governments and small governments, to insure through one plan.

So there are 20 million people who are going to have to change.

Second, you have, and we refer very frequently with acronyms around here, MEWA, M-E-W-A, multiple employer welfare arrangements.

These are basically health plans that are offered by businesses, similar kinds of businesses. In my State, for example, the Timber Operators Council has a multiple employer welfare arrangement. We have about 26,000 enrolled people in it from all kinds of different companies—big companies, small companies. These are prohibited. They are out under the Mitchell bill. It does not matter what size they are, they are out. This has nothing to do now with the standard of 500. They have to go into the community pool, and buy their insurance.

And then you have association plans—Association of Building Contractors, Coca-Cola Bottlers. Here you have a community of interest, maybe franchise employees, but they are all in the same franchise as opposed to a MEWA where you have all kinds of different businesses. They have some business relation. But here you will have—Chamber of Commerce can have one, if they want. They are out. There are in some places between 10 and 20 million people in the multiple employer welfare associations and the trade associations that are now covered that will lose their form of insurance and have to go into the community pool.

I do not think most of them know this yet. So when the argument is made there is not going to be much change under the Mitchell bill, there is significant change for roughly 35 to 40 million people—employers with 500 or less, multiple employer welfare associations, trade associations—that are simply written out of existence and thrown into a common pot pool.

Mr. President, I yield to the Senator from Texas—how much time would he like?

Mr. GRAMM. I would like 10 minutes.

Mr. PACKWOOD. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, let me thank my colleague from Oregon for yielding. I want to thank him for what he has done to let America understand the health care bill currently before us. I am a firm believer in the old Biblical admonition: You shall know the truth and the truth will make you free.

I am convinced that the more the American people know about this bill, the more they are going to be against it. I think we are going to see the same phenomenon we saw with the original Clinton health care bill. With the original Clinton bill, the President's rhetoric was so reassuring and so wonderful that it took time for the American people to discover that there was no relationship between his rhetoric and the provisions of his bill. What we are finding here, as we look at the health care bill pending before us now, is that the rhetoric continues to sound good, but the actual bill language continues to be bad.

Mr. President, I would like to focus on what the Nickles amendment is about. We know now the amendment is supported by the other side. They are not willing to defend the provision in the Mitchell bill that the Nickles amendment will strike, and for good reason: It is indefensible. But the amendment is important, nonetheless, because it focuses our attention on one of the two major issues in this debate.

One issue, as we all know, is the incredible cost contained in the Mitchell health care bill, a bill that when fully implemented will cost the American people $194 billion a year. Except for Ross Perot, nobody knows what $1 billion is. I know eyes glaze over when people at home hear me say that this bill, by Senator MITCHELL's own numbers, costs $194 billion a year when fully implemented. Their eyes glaze over when they hear that it provides taxpayer subsidies to 110 million people, when they hear that it sets up 45 new Government agencies, when they hear that it has over 170 mandates on people and local government and State government, when that hear that it imposes 18 new taxes to fund all of this new spending, and then it imposes costs directly on the consumer.

But since nobody knows what $194 billion is, let me give you a number that people will understand. For every family of four in America, that is over $3,200 a year that they are going to pay in taxes and indirect costs imposed on them to fund the Mitchell bill.

So the relevant question for people back home is not whether it be wonderful to give all these new benefits to 110 million people? Certainly it would be wonderful to provide these benefits. But the question that working Americans have to ask back home is, is providing these benefits worth $3,200 a year to me and to my family? And will the benefits be worth $3,200 a year to me?

Mr. President, I believe that when the people who do the work and pay the taxes and pull the wagon in America—not the people who have organized groups here clamoring for the passage of this bill—but the people who are calling up our offices opposing this bill, the people who are writing in overwhelming numbers against this legislation, when these people come to understand that—when fully implemented—the Mitchell bill is going to cost their family roughly $3,200 a year, they will conclude that this bill will not be a good buy for them. They will still pay for their health insurance, and the new mandated benefit will be between $5,000 and $6,000. I am talking about new costs for all the new government created in this legislation. Most Americans I know, especially those in Texas, already think we have too much Government.

The second issue is freedom. The second issue is whether this bill allows people to make choices? The President used to argue that his old bill preserved consumer choice. But the American people came to understand that under the original Clinton bill that was not so. If you did not work for the Federal Government—people in the Government were going to be treated differently than everybody else—or if you did not work for a company with 5,000 or more employees, which for a 1 percent tax could ransom you out of the system, your health insurance was going to be canceled and you were going to have to buy health care through a Government-run cooperative.

And the final kicker that finally awakened America was the $10,000 fine. I am sure my colleagues remember the $10,000 fine in the original Clinton bill imposed on anybody who tried to sell you private health insurance in competition with the Government.

The President went on and on about how free choice existed in his bill. But because the President was so convinced people would buy, given the choice, a private alternative, he put a $10,000 fine in his bill to prevent people from going outside the Government program to buy private health insurance. Once people came to realize that, despite the fact that many of our colleagues for a long time denied that that provision was in the bill, the Clinton plan was deader than Elvis.

The Nickles amendment has pointed out a new $10,000 fine, and this $10,000 fine is in the Mitchell-Clinton bill. It is a $10,000 fine imposed if you and your employer decide against the health insurance policy that the Government says you ought to have.

Let me explain basically how this works, and if this is what free choice for you and your family is about where you are from, then probably you do not have a problem with the Mitchell bill. But if the American town in which you live—not Washington—does not define free choice this way, maybe you have a problem with the Mitchell bill.

Under the Mitchell bill, the Government will tell you what has to be in your insurance. If you are a 64-year-old widower, the Government is going to tell you what coverage you will have to carry in your insurance policy. You will have to pay for pregnancy services and for newborn services. Even if you do not smoke and you do not drink, you are going to have to pay 12 percent more for alcohol and drug rehabilitation coverage. The Government is going to make you buy all of this insurance whether you want it or not.

Second, if you and your employer are buying other benefits, the Government is going to tax those benefits. It is going to impose a 35-percent tax on the benefit that you got in your health plan that the Government says you do not need. Then over time it is going to impose an income tax on you by treating your health benefit as income.

For example, if you were in the 31-percent tax bracket, and you already had an insurance policy you liked better than the Government's plan without alcohol and drug rehabilitation coverage because you do not drink and you certainly do not use drugs, you will have to pay 12 percent more for that coverage anyway. But if your plan covers services you do want, like orthodontist care for your children, the company that provides that benefit to you is going to have to pay a 35-percent tax on it, and if you are in the 31-percent tax bracket, you are going to have to ultimately declare it as income. You are going to have to pay a tax. So the Government is going to impose a 66-percent tax on that benefit.

Now, tell me if in your hometown this is freedom of choice. The Government tells you what you have to have. Whether you want it or you do not want it, you have got to buy it. The Nickles amendment takes out the $10,000 fine for not buying it, but you are still required to buy it. If adopted, the Nickles amendment simply removes the $10,000 fine, but it is still illegal not to do it.

Third, if you want health benefits the Government says you should not have, you can pay as much as a 66-percent tax on those benefits.

I was thinking, Mr. President, what do I own that I would be willing to pay a 66-percent tax to keep. Well, I do not want to get in trouble by saying I own my children and I own my wife, but I do own my dog, and I would pay a 66-percent tax to keep my dog. But there is nothing else I own—and I am a U.S. Senator—on which I would choose or could afford to pay a 66-percent tax to keep. I would not keep my house if there were a 66-percent tax imposed on it. I would not keep my truck if there were a 66-percent tax imposed on it.

Now, you could say that I am free to keep my benefit if I am willing to pay that tax. But am I really free? Is the average working American really free when you say you can keep it but you have got to pay a 66-percent tax on it? I do not think so.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. That is why this bill needs to be defeated.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the manager on this side, Senator PACKWOOD, has authorized me to speak up to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 10 minutes.

Mr. SPECTER. Mr. President, I have sought recognition to support the amendment offered by the Senator from Oklahoma because I think it is excessive and punitive in calling for a $10,000 penalty for each violation with respect to each individual, and that the appropriate remedy here comes from the incentives in the bill on the subsidies and not from this kind of a punitive measure.

Having been involved for a long period of time as a district attorney, this kind of a punitive measure is very excessive compared to what we do when we talk about willful, deliberate criminal violations.

Perhaps of even greater importance, Mr. President, than an analysis of the punitive measure here, is the limitation on choice, a limitation on what the free market does by way of having individuals and employers and insurance carriers fashion policies which meet the needs of specific people far beyond what can be contemplated by Government on an elaborate statute or by a national health board.

The benefits which are outlined in the Mitchell bill on the benefits package do not include what some people might want to have if they are given freedom of choice.

We are struggling through as this debate is proceeding to analyze and figure out exactly what the consequences of this bill would be. As I understand the bill there are limitations on the benefits package offered by the Mitchell bill on dental care, on vision care. There is no provision for chiropractic services, podiatry, and there is no provision here for long-term care.

Now, some of these might be obtainable in a supplemental package, but why not allow people—employees and their employers—to structure a plan which people might want under what is called a cafeteria approach, which simply means that people can pick and choose from a longer list of options?

If someone is not of childbearing age, why have the limitations which would be for people who are of childbearing age?

This goes back to the amendment which was considered last night, the Dodd amendment, which was another example of bureaucratic limitations where the Government is going to tell people what they are going to buy, instead of allowing people to make their own choice for what their particular needs might be. The Dodd amendment provided that there could not be any policy sold which did not cover maternal care and child care. Now, that is fine for people who are of childbearing age, who need maternal care and who need child care. But if someone is out of that category, is beyond the age of giving birth or does not have that requirement, why should the Government mandate that no insurance policy can be sold unless it covers those kinds of services?

Now, on its face, you would think that it really does not mean what I have just described, but as we analyzed this bill, as best we can figure it out, that is precisely what it does.

Now, what is the rationale? What is the reason for that?

The reason would be to require people who were in their seventies to have an insurance policy which provides for maternal and child care, so as to lower the cost for other people who may want those services. But in a democratic free society we really ought to let people choose what it is they want.

The Congressional Budget Office—getting back to the Mitchell plan—has estimated that the costs of the Mitchell plan are considerably higher. For example, on a two-parent family, the Mitchell plan would cost $5,883 contrasted with $5,565. This increased cost, which does not include any of the premium taxes in the Mitchell bill, is primarily for the cost on a group of services which many people may not want.

The Mitchell plan also has total costs which are estimated, as best we can determine, at 30 percent higher than what the average American is currently paying, what employers are currently offering. So that an employer may be offering a lesser plan and be making up the difference to the employee in real wages.

Under the Mitchell plan, if you offer any health care at all, it has to conform to the rigid proposal of the Mitchell plan. So that an employer might decide that he is going to offer nothing at all rather than pay 30 percent more. So instead of getting more health care, we are actually receiving less health care if that choice is made. The mandate, that is, the requirement that the employer have coverage, does not become effective until a later date if 95-percent coverage is not achieved in a given State.

Mr. President, as I worked through the amendments and as I worked through the Mitchell plan, there is an amazing degree of complexity as opposed to the tradition in our society where an employer, in consultation with his employees, decides to offer a certain line of benefits. The employer then deals with an insurance company which can offer a wider variety of benefits than those which are enumerated in the Mitchell plan.

Then you have the discretion in a national health board to make certain changes with the benefits under the Mitchell bill.

We have all had experience in trying to deal with the bureaucracy. When individual needs, or an individual's desires, change, it would be nearly impossible to have to deal with a national health board. These are some of the inevitable consequences which arise when you have elaborate statutory requirements which establish rigid patterns instead of letting the market take care of itself, instead of letting people make their own individual choices.

So why not have people with the option to choose a basic benefits package of long-term care instead of prenatal care, if somebody is in the 65 to 70 age category instead of being bound by what this statute provides?

Similarly, with the Dodd amendment from last night where as a matter of statute there cannot be any cost-sharing requirements, it may well be that the Secretary of Health and Human Services might want to have some level of copayment. So that, if someone is very, very wealthy, they ought to have to contribute for services. Every time we turn around and take a look at the fine print, we discover that there are limitations on what people will be able to do by way of their own individual choice.

The Nickles amendment, which focuses only on the penalty which is excessive, comes back, analyzes the underlying provisions where there is a basic benefits package, which may not suit a given individual or a given employer. And under the present system, that kind of choice might be allowable.

As we speak, Mr. President, there are other plans which are in the process of being formulated, proposals by the so-called "mainstream group" where I have attended their meetings—some 19 Senators were present yesterday and today—trying to find something which is less bureaucratic than the Mitchell proposal, less bureaucratic than the 140 new agency boards and commissions created by the legislation advanced by Senator MITCHELL even more than the legislation proposed by President Clinton last October 27.

There are other proposals which are under consideration. The so-called Nunn-Domenici legislation which would be a much less onerous bureaucratic scheme. These proposals are designed to try to allow the maximum of choice so that people can buy the kinds of programs they want without having some rigid standard imposed by the bureaucracy, and by the Federal Government.

So I support the Nickles amendment. I hope as we work through the complexities of the underlying legislation that we can improve upon it and give more people more choices with less rigidity and less bureaucracy.

Mr. President, I ask unanimous consent that Senator THURMOND be listed as cosponsor to the Nickles amendment, and that I also be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I yield the floor.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. All time is allotted on our side. Will Senator SPECTER yield 5 minutes on his side?

Mr. DECONCINI. Will the Senator yield 7 minutes?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MOYNIHAN. Mr. President, may I ask that the Senator from Pennsylvania [Mr. WOFFORD] be added as cosponsor?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I thank my colleagues. I did not think the time had all been allotted on our side.

I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2401 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NICKLES. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. NICKLES. Mr. President, I have a couple comments about the underlying amendment. It strikes the section that imposes civil penalties up to $10,000 for violations of this section. And that section would include offering a plan other than the standard benefit plan as defined by the Government.

It also has a couple of other sections that I want to let my colleagues know about, because I think I will try and do an amendment on this as well. Individuals that work for employers are prohibited from being offered a so-called alternative package. That is a package that has a high-cost deductible. Individuals can buy it, but employers cannot provide it for their employees. That is absurd. Yet, it is in this bill. It needs to be eliminated. I thought about doing that amendment first, but we decided to go with the fines. We need to remove that provision, which is on page 138.

I noticed with interest that my colleagues say it is the fine print. It is fine print, but it is one of the reasons that we have said we need to spend a little time on this bill. This bill was introduced—or at least brought to the Senate floor Friday at 5 o'clock. I believe only a couple of copies were available. The copies were produced en masse, I guess, and available on Saturday. The majority leader wanted to vote on Saturday and Monday, and that did not happen. So he was insisting on a vote on Tuesday. Some of us were saying we were not so interested in voting, not because we wanted to filibuster or hold the bill up, we wanted to find out what was in the bill.

This is a provision I found that troubled me, mainly because I was an employer. I had a self-insure plan, and I find out that if that plan is illegal, then if I tried to do some cost sharing on that self-insure plan, I would be subjected to a $10,000 fine per employee. We have about 65 or 70 employees. That is about $650,000 because I was not complying with this so-called section.

I am delighted that we are going to be successful in cleaning up this one amendment, but we still have not removed the provision that would prohibit an employer from offering an alternative package, one that has a higher deductible. We need to fix that. We still have not fixed the fact that we are going to tell everybody in America, no matter how happy they are with their plans, frankly, they have to be replaced with a Government-designed plan, the so-called standard benefit package.

I also want to respond to my colleagues who said some of these plans have standard benefit packages and some do not. The plan that I am a principal sponsor of is not a standard benefit package. It says, wait a minute, let us reform the Tax Code and give everybody a tax credit. That makes sense. If you are going to get the tax credit, you have to provide health benefits. We replaced the current income exclusion that excludes—if you are a generous employer and have health care, you do not have to pay a tax. That benefits people working for generous employers. But it does not do anything for anybody who does not subsidize the employees' health benefits, or anybody who does not have a job. The Tax Code, if it is going to help subsidize insurance, should be able to subsidize it for every American, whether they have a job or not. They need health care.

So that was the purpose of our bill. Well, to qualify for the tax credit, you have to provide health care, and we said, basically, just any catastrophic plan that would cover basic hospitalization and physician services.

Mr. President, as I mentioned, it is important to read the fine print because you might find something you do not like, like this enormous fine that was imposed if you did not comply with the dictates in the standard benefit package. Hopefully, we will take that out. I noticed in looking through the bill—and this will be subject to an amendment that I or one of my colleagues will offer. Maybe it will be a bipartisan amendment, and we can be successful in deleting this. I hope my friend from Massachusetts, who is on the floor, will join me in this amendment. That is section 10135 on page 1432. It says "no loss of coverage."

In no case shall the failure to pay amounts owed under this act result in an individual or family's loss of coverage.

In other words, individuals do not have to pay their premiums and they do not lose their coverage. That is an interesting concept. I think a lot of people will find out that is in the law. If you do not pay, you do not lose your coverage. I think that may be very attractive. It may encourage a lot of people not to pay.

Who does pay? This bill calls for——

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. NICKLES. Mr. President, let me finish my point and then I will be happy to yield.

On page 1430, it says, "The shortfall will be paid half by the family," and on page 1422 "the other half by employers."

I think that is a ridiculous provision. It needs to be taken out. We have an amendment to take it out. I hope it can be done in a bipartisan fashion.

This bill requires a lot of reading. I have been reading quite a bit. I have not read it all yet. I am still working on it. There is a lot of fine print and a lot of provisions in this bill that really do not make sense, that really do not work very well.

Again, it is a conglomeration between the Labor Committee package and the Finance Committee package. We do not even have a report on the legislation. Most significant legislation that is reported out of committees has a committee report. The committee tells the Congress and tells the American people what it is comprised of. What does it mean? What does it mean in layman's language? We do not have that for this bill.

So the American people really have not had an explanation. When I had a press conference yesterday and I said under the Clinton-Mitchell package as presently drafted you are subjected to a $10,000 fine if you do not have your plan conform to the Government's standard mandated package, that is fact. We are going to eliminate the $10,000 fine but still have not eliminated that standard, mandated package.

So the cost of that package, which I alluded to earlier, is $5,888 per family. That is enormously expensive. A lot of plans in Tennessee, a lot of plans in Oklahoma, a lot of plans all across the country are not that expensive.

When I hear my colleagues say this bill does not have a mandate in it, an employer mandate, until the year 2000-something, I disagree because this is telling every employer that has a health care plan they have to have a very expensive health plan, one more expensive than many of them have today. And many employers are used to providing health care for employees. They want to continue to provide health care for employees. All of sudden now they are mandated the plan, the Government-defined package, which is enormously expensive, and they do not have lesser expensive options. They do not even have the option that individuals have as far as buying the alternative standard plan, one that has a bigger deductible. Individuals have that option under this bill, but employers do not.

I think that is a serious mistake. Who pays? Someone might say you are doing that trying to protect employers. No, because, frankly, if we do not make it more affordable for a lot of employers, a lot of employees are going to lose their jobs. A lot of employees will see a reduction in their take home pay because the Federal Government is mandating the plan that costs $6,000 per family and that business does not generate enough economic reward for that to happen or economic return for that to happen.

So the net result is either the individual loses the job, they have fewer employees, or have a reduction in pay. They do not get an increase or maybe even have a pay reduction to pay for this high Government mandate, this expensive plan.

I think that is a serious mistake. So we have eliminated it. If we are successful with the amendment—I expect we will be—we will eliminate the $10,000-per-employee fine, or at least we will eliminate it when it goes through the Senate. I am always concerned what will happen when this bill goes to conference and what will come back. But we eliminate the penalty.

But if we still mandate to employers, if you are going to provide health care, you have to provide the Government-designed plan, that is a mandate on all employers and in many cases it will dramatically increase their costs.

I know a lot of employers who have health care for families that costs $2,400 or $3,000, and if you mandate they provide insurance that costs $6,000, you have just increased it. That is the same thing as a tax of $3,000 per family, or per employer. It is a tax on jobs. It will cost jobs, and that is a mistake.

We have not remedied that with this amendment. We will eliminate the penalty, but we have not eliminated the mandate.

What happens if we do not eliminate the mandate is a lot of employers will find that it is in their interest to drop the plan. There is nothing to keep them from dropping the plan, so they will drop the plan.

What happens then? Well, unfortunately, when they drop the plan, a lot of those employees will go on subsidies, and the number of people who are subsidized under this bill rises by 57 million. I hope people are aware of that. Under this bill we will have 57 million more people on subsidies.

What about those employers who drop the plan? They can come back later, and the employer can qualify for subsidies and Uncle Sam will start paying almost 50 percent of the employer's cost share of those premiums. So there is a great incentive for employers to drop plans, employees to go on subsidy, and then the employer to come back and be subsidized later.

I think that is a serious mistake, and I hope we will not follow that.

I am delighted and hopeful that our colleagues will adopt this amendment. At least eliminate this very punitive, unfair fine that is in this proposal of $10,000 per employee if you do not conform to this plan.

Mr. President, I yield to the Senator from Kansas 3 minutes.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me say that given the broad support for the Nickles amendment, obviously bipartisanship is still alive and well in the Senate.

I think this is a very important amendment because they have been saying this plan is voluntary and what it boils down to is, if you do not volunteer for the one-size-fits-all standard benefits package, you can be fined $10,000 per employee.

Let us get this straight. The bill as presently written tells employers who are already providing coverage to their employees—coverage employees bargained for and may be completely satisfied with—that maybe they are in the wrong and they should be punished. You must provide coverage that carries the National Health Board seal of approval. It is not enough that you are satisfied.

I think the point that he is making with this amendment, I might say to the Senator from Oklahoma, is not that the fine is too high—it would be too high if it were 10 cents—it is just another example, it is just one small fix in this 1,400-some-page bill, that I do not think we will have time to fix. Every time we stumble across or someone reads about it and someone calls about it, oh, yes, that is right. We ought to fix this. And I just do not know how you do that in a few days.

I also want to include in the Record—it may already have been included in the Record—that in the crime bill we use the word "criminal" 437 times and 30 times in health care. We use the word "limit" 211 times in the health care and 33 times in the crime bill. We use the word "penalty" 112 times in health care and 53 times in the crime bill. We use the word "require" 755 times in the health care bill and only 207 times in the crime bill.

There are a lot of numbers in there. I thought maybe we were on the crime bill. This is the health care bill, right?

I want to put in the Record these figures put together by the National Taxpayers Union, because they use all these restrictive words. The crime bill uses 1,361 restrictive words and the Clinton-Mitchell health care bill uses 1,488 restrictive words.

Maybe the crime bill is not tough enough. I have to believe the health care bill is tough enough. If you violate or do not do this or do not do that, we have a penalty for you.

I think we ought to put those in the Record because I think a lot of taxpayers might like to know what they might expect, if by some strange event this bill should pass.

Mr. President, I ask unanimous consent to print this information from the National Taxpayers Union in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

NATIONAL TAXPAYERS UNION FOUNDATION—NEWS

RESTRICTIVE LANGUAGE: THE CLINTON-MITCHELL HEALTH CARE BILL VS. THE CRIME BILL—AUGUST 15, 1994

An analysis by the National Taxpayers Union Foundation has uncovered a possible reason for last week's failure of the crime bill and the grave difficulties for the Clinton-Mitchell-Gephardt health reform bills: the health bill is too focused on criminalizing medicine, while the crime bill is too focused on providing care and services to criminals. Word counts on the different bills reveal that in many ways the Clinton-Mitchell health bill introduced 10 days ago uses much more restrictive language than the crime bill.

Highlights on the textual analysis include:

The "Crime" bill uses 1,361 restrictive words, while the Clinton-Mitchell Health Care Bill uses 1,488.

While the "Crime" bill uses the word "limit" 33 times, the Clinton—Mitchell health care bill uses it 211 times.

The "Crime" bill uses the term "penalty" 53 times, but the Clinton-Mitchell health care bill uses it 112 times.

While the "Crime" bill uses the term "require" 207 times, the Clinton-Mitchell health care bill uses it 755 times.

The term "restrict" was found 3 times in the "Crime" bill and 34 times in Clinton-Mitchell.

"Sanction" was found eight times in the "Crime" bill and 22 times in Clinton-Mitchell.

The word "violate" occurs 63 times in the "Crime" bill and 113 in Clinton-Mitchell.

WORD COUNTS: CLINTON-MITCHELL HEALTH CARE BILL VERSUS CRIME BILL

	Clinton-Mitchell Health Care Bill	"Crime" Bill
Ban	0	1

WORD COUNTS: CLINTON-MITCHELL HEALTH CARE BILL VERSUS CRIME BILL—Continued

	Clinton-Mitchell Health Care Bill	"Crime" Bill
Criminal	30	437
Enforce	104	221
Fine	13	46
Limit	211	33
Obligation	44	9
Penalty	112	53
Prison	14	219
Prohibit	36	61
Require	755	207
Restrict	34	3
Sanction	22	8
Violate	113	63
Total	1,488	1,361

NTUF uncovered last week that besides substantial use of this language of control, the Clinton-Mitchell health care bill also imposes seven new federal racial, ethnic, and geographic quotas on those going into medicine, and the specialties; creates 109 new crimes and penalties (compared with 89 in the original Clinton bill); and implements price controls.

JOHN E. BERTHOUD,
Vice President for Research.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield 5 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, let me just make sure everyone understands what it is this amendment does.

First of all, it deletes the reference to $10,000. That is all it does. We have all cosponsored this particular amendment because we believe that there are other ways in which to achieve compliance, in the hope that we can begin working together on many of the issues. We will continue to find ways with which to try to work on many of these things together.

Mr. President, I want to go back to, again, the concerns expressed by many of our colleagues on the other side with regard to Federal requirements. Let me read again from the bill offered by the distinguished Senator from Oklahoma. I have great admiration for him, but it is as clear as clear can be. They eliminate the entire exclusion for employer-provided health insurance in this bill, page 31, probably the single biggest tax increase of any bill offered on health this year. If we are going to eliminate the entire deductibility for employers for health insurance, I cannot think of a bigger tax increase than that.

Second, I am reading now from the bill, subtitle B, federally qualified health insurance plan.

> A federally qualified health insurance plan is a health insurance plan offered, issued or renewed on or after January 1, 1997, which is certified by the applicable regulatory authority as meeting the minimum requirements of sections 112 and 113.

Mr. President, if that is not what we are talking about here, benefits delineated, benefits required to be observed and adhered to, I do not know what is.

Let us go to the bill offered by our distinguished colleague from Rhode Island, Senator CHAFEE. I am reading the following from page 217. They were talking earlier about the concerns about taxes and the fines imposed for failure to comply. Here is what Senator CHAFEE would propose. I am reading from the bill:

> There is hereby imposed a tax on the failure of any person or plan to comply with the requirements of section 1004 or 1201. The tax is $100 a day for lack of compliance.

Here it says the amount of the tax imposed shall be $100 per day, per employee.

Mr. President that is a $35,000 tax per year for failure to comply. So I think we better understand.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. Yes.

Mr. KENNEDY. That means, if they had 10 employees, if they eliminate that for 10 employees, just that 1 employer, under this provision, it would be some $36,000.

Mr. DASCHLE. That is what it says on page 217 and 218.

Mr. KENNEDY. They describe that as a tax.

Mr. DASCHLE. And they call it a tax. The point is, in fact, we do not disagree, necessarily, with the need for some compliance. The bottom line is, we all recognize that we have all written bills that state the importance of having some minimal expectation of what these plans will do. Why do we do that? We do that very simply because we have been told over and over again, "If you fix one thing, take out the fine print. Take out the big surprises."

Let us make sure we do not pass a fine print guarantee here in the legislation we are passing. That is really what we are trying to do here.

There are too many cases where people have been adversely affected by the surprises that they are encountered with every time they need their insurance. We want to take the surprises out. We want to make sure there is competition, not on how we can confuse the public but how we can take benefits side by side and compare them adequately, just as we did with Medigap, just as we have done on other occasions, other consumer protections.

We recognize the need for forthright information, for truth and honesty in marketing. And that really is what this standard benefits plan will do.

Again, let me emphasize that is not the issue in this amendment. This amendment is simply one which deals with the $10,000 fine. We will deal with it. We will find other ways with which to ensure compliance. But let us make sure we all understand the importance of having minimal expectations for whatever plan we pass for health reform this year.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, my friend, the Republican manager, was generous in yielding time to the Senator from Ohio for discussions on another matter.

Their time having effectively expired, I would like to yield the balance of our time to the Senator from Oregon.

Mr. COATS. I do not know how much time we have, but I wonder if the Republican manager of the bill would yield me 1 minute.

Mr. PACKWOOD. The chairman has been very generous in yielding the rest of his time. I just want to find out how much it is.

The PRESIDING OFFICER. Four and a half minutes.

Mr. PACKWOOD. I want to yield some time to respond for the Senator from Oklahoma. I yield 3 minutes to the Senator from Oklahoma and the remainder of the time to the Senator from Indiana.

Mr. NICKLES. Mr. President, I would like to respond to my friend and colleague from South Dakota.

He alluded again to our consumer choice plan. I appreciate the attention it has received today and I hope it receives a lot more.

He said, "Well, he eliminated the tax exclusion. That is a large tax increase." What he fails to mention is we replaced it with a tax credit, a tax credit that was more generous than the tax exclusion. The tax exclusion on health care applies to people who work for employers. And if your employer subsidizes your health care, you do not have to pay taxes on what they pay. It is a nice benefit, if you have a generous employer. But it does not do anything for somebody that does not have a job and it does not do anything for somebody that works for an employer that does not pay or subsidize your health care.

So we say, let us replace that exclusion that has only been to a certain portion and make it a tax credit and make it universal, so I would like to correct my friend and colleague.

Then we say, to qualify, you have to offer tax benefits, but we do not define the benefits. We let people choose whatever they want.

Unfortunately, under the Clinton-Mitchell plan, you have to offer a Government-defined, mandated standard benefits package and if you offer something else, you are subject to a $10,000 fine. We are going to get rid of that $10,000 fine. But we still have the Government mandating that you have to provide a very expensive, extensive health benefit of about $6,000 per family, which, unfortunately, a lot of families cannot afford.

I thank my friend and colleague from New York for yielding the time.

Mr. President, I ask unanimous consent that Senator COVERDELL and Senator THURMOND be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. COATS. Mr. President, I find it somewhat ironic that, just a couple of days after the majority leader and others of our colleagues criticized the Republicans for trying to take some time to find out what is in the bill, now we are told that we ought to find out what the surprises are in the Mitchell bill and eliminate those surprises. I think that is what we were trying to do. We were trying to work through this 1,443 page bill.

We have learned that graduate medical education is a potential serious problem. We have learned now that there is a $10,000 fine that no one even knew about.

It is hard for me to understand how our colleagues, on the one hand, can say you have had plenty of time to understand all of this, and now they are standing up, saying, "Well, we did not know about this, either, so we will join with you in taking it out." I just do not think you can have it both ways.

The bottom line is, this is a massive bill, full of surprises. The more we read it, the more surprises we find.

And so, our request for some time to understand what is in this bill before we impose it on the American people, I think, is a legitimate request. I am glad we are now working through the process. I just wonder how many more surprises we are going to find.

But I am pleased that our colleagues are joining us in exposing the problems in the Mitchell bill and beginning, piece by piece, to eliminate those surprises so that we understand what it is we are voting on when we finally have this vote.

If there is any time remaining, I am happy to yield it back.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield back the remainder of the time I have.

The PRESIDING OFFICER. All time is yielded back.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2563

The PRESIDING OFFICER. The vote now occurs on amendment No. 2563, offered by the Senator from Oklahoma [Mr. NICKLES].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—100

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

So the amendment (No. 2563) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I would just like to observe that on this, the second vote on the Mitchell amendment, we have had a bipartisan vote of 100-0. A bipartisan measure has been adopted. It is a good sign.

I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of calendar Nos. 568 and 574; that the bills be read three times, passed, and the motion to reconsider be laid upon the table en bloc; further, that any statements relating to these calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

WARREN B. RUDMAN U.S. COURTHOUSE

A bill (S. 2073) to designate the U.S. courthouse that is scheduled to be constructed in Concord, NH, as the "Warren B. Rudman United States Courthouse," and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time and passed as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WARREN B. RUDMAN UNITED STATES COURTHOUSE.

The United States courthouse that (as of the date of enactment of this Act) is scheduled to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

THOMAS F. EAGLETON U.S. COURTHOUSE

A bill (H.R. 4790) to designate the U.S. courthouse under construction in St. Louis, MO, as the "Thomas F. Eagleton United States Courthouse," was considered, ordered to a third reading, read the third time and passed.

Mr. FORD. I thank the Chair, I thank my colleague and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SECURITY ACT

The Senated continued with the consideration of the bill.

AMENDMENT NO. 2564

(Purpose: To improve the access of individuals in rural areas to quality health care)

Mr. DASCHLE. I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. HARKIN, Mr. ROCKEFELLER, Mr. BAUCUS, and Mr. REID, proposes an amendment numbered 2564.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 112, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural

Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 664, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to federally qualified health centers, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 673, line 3, insert "and rural health clinics" after "Act)".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks that integrate the medicare population of the area served.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population .

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one rural underserved area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served, as described under subparagraph (A), are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

" '(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.' ".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services",

(3) by inserting "physician assistant, nurse practitioner, or a clinical nurse specialist" after "physician",

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of physicians' services that are primary care services, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would be physicians' services that are primary care services if a physician furnished the services, a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

Mr. DASCHLE. I have a lengthier statement that I wish to make, but I will yield to the Senator from Iowa because I understand his time constraints and would yield at this time whatever time he may consume.

Mr. HARKIN. Mr. President, I first want to compliment my friend and my colleague from South Dakota for introducing this amendment. I am pleased to be a cosponsor of it.

I wish to thank again Senator DASCHLE for all of his hard work not only on the whole issue of health care reform in America but for his paying especially close attention to the needs in rural America to be addressed specifically in any health care reform that we pass.

Rural America is not like urban America, and too often we lose sight of the fact that what may work in New York City or Boston or other places like that will not necessarily work in a rural State like South Dakota or Iowa or many of our rural States. And so the amendment offered by the Senator from South Dakota builds on the provisions in the Mitchell bill that will expand coverage for Americans in our rural towns and communities.

Mr. President, perhaps nowhere else is the health care crisis more acute than in rural America. Rural Americans are more often poor, more often uninsured, and more often without access to health care.

Now, the Mitchell bill provides funding to build up the health care infrastructure in rural areas. It provides grant money and loans to help local communities develop health care networks and plans. There are many provisions in the underlying Mitchell bill and in the Daschle amendment that speak to the different needs in rural America. There are many provisions in the Daschle amendment that strengthen those underlying provisions.

I wish to focus my remarks particularly on one of those provisions included in the Daschle amendment, and that is that part which provides funding for a grant program that will expand access to health services in rural areas through the use of telemedicine.

Over a year ago, I introduced similar legislation and have worked with Senator CONRAD from North Dakota to develop what is now in the underlying Mitchell proposal. The amendment now under consideration will ensure that this grant program is funded.

The grant program in the Mitchell bill would encourage the development of telemedicine networks which can play a critical role in ensuring that people in rural areas have access to high quality health care. Telemedicine puts technology to work to improve the delivery of health care. It uses technology to link patients and their doctors in rural or remote hospitals with highly trained medical specialists in state-of-the-art medical technology located hundreds or even thousands of miles away. These linkages will allow more patients to receive care in their community and will ease the burden on specialists in underserved areas. By increasing the education and training opportunities for providers in these areas, these links will also help underserved communities recruit and retain physicians.

Telemedicine will help ensure that people who live in small towns and rural communities have the same access to quality health care as people living in Beverly Hills or in Palm Beach. As I said, Mr. President, by having these telemedicine networks, it will certainly help provide for the training, the education, and I think, the recruitment and retaining of physicians and other health specialists in rural areas.

Too often, doctors who might otherwise want to serve in a rural area feel they do not have access to the latest technology and the latest diagnostic services. They are sort of out there on a limb in many cases when people need emergency medical care and they may not have that kind of ready access to the special care that they would otherwise be able to get in an urban area.

Well, telemedicine can provide to that primary care physician or a physician's assistant or a nurse practitioner, a nurse midwife, other health care professionals can provide for them that kind of backup they need.

Rural hospitals and other facilities can benefit from the cost savings and the access to specialists that telemedicine provides.

For example, a family doctor in Muscatine, IA, could immediately consult with a specialist at the University of Iowa for an instant diagnosis in a life or death situation. A specialist at Mercy Hospital in Des Moines could provide emergency advice and even help oversee a difficult surgery taking place in a small hospital in Centerville, IA, and a radiologist at Methodist Hospital in Des Moines could help examine x rays just taken in the small town of Jefferson, IA.

My home State of Iowa, Mr. President, has developed a world-class fiber-optic system that holds great potential in the area of telemedicine. These fiber-optic cables greatly enhance the potential of telemedicine because they carry not only more information than traditional copper wires but they also provide more clarity—clearer pictures, higher resolution—than copper wires.

The Iowa Legislature just this year, Mr. President, voted to extend our fiber-optic system to all of the hospitals in Iowa. That should be done I think by next year sometime. With that kind of system, here is what telemedicine will provide, for example.

Let us say that there was a car accident in a remote, rural area of Iowa. They had access to a small clinic or a small rural hospital but with no special care there. X rays could be taken, and those x rays could be sent over fiber-optics to be read immediately by a radiologist, say, in Des Moines or Omaha, maybe even at the Mayo Clinic in Rochester for northern Iowans and a decision could be made whether or not that person needed to be moved to a more intensive care unit or whether that person could remain in the smaller rural hospital, thus saving great amounts of money.

There are all kinds of possibilities for rural doctors to use telemedicine to ensure that they get the latest information and the latest diagnostic techniques to a rural clinic in a small town.

Telemedicine will allow patients to stay close to home for support. For most people, one of the most traumatic times is when they are sick or injured, and we should be helping them stay with their family and friends.

I am not saying there will be times when people will not have to go far away from home for treatment, nor am I saying that telemedicine will replace local doctors or the need for specialists. But whenever possible, telemedicine will facilitate local care and provide needed relief for overworked small town doctors, nurses, and other health care providers.

I have looked over very carefully Senator MITCHELL's bill because on the Labor and Health Committee I was very much involved with other Senators in putting in very strong provisions for rural health care, and those provisions basically have been adopted in the Mitchell bill—not all of them, most of them. Those positions are strengthened now by the Daschle amendment.

Senator MITCHELL's bill will expand access to care for rural Americans, access to the Federal Employees Health Benefits plan, or another purchasing cooperative will help keep the cost of coverage down for rural residents. Many people in the rural areas are either self-employed or work in small businesses, and currently pay much more than big businesses for the same benefits. And they face much higher administrative costs.

The insurance reform provisions in the Mitchell bill are critical for rural residents, particularly for our farmers. Farming is now the most dangerous occupation in America with annual death rates at 52 per 100,000 workers, almost five times the national average. Under the Mitchell bill, farmers will have access to a community rated plan. This means that farmers in a given area will be charged the same premium for health insurance regardless of their occupational risk. In addition, health plans will not be able to deny coverage because of preexisting conditions.

Under the current system, the self-employed can only deduct 25 percent of the cost of health insurance while, of course, corporations can deduct the full cost of coverage. The Mitchell bill would raise the deduction for the self-employed to 50 percent. I support this increase. Senator WOFFORD, who I see is on the floor, and I intend to offer an amendment that will raise this to 100 percent.

I again want to compliment the Senator from Pennsylvania for his leadership. He understands that our farmers and our self-employed ought to have the same kind of tax deduction as a large business would have in providing for their own health insurance. I congratulate Senator WOFFORD for taking a leadership position in this area.

Allowing the self-employed to deduct the full 100 percent of the costs of the premium is critical in rural areas where the only health plan available is often a more expensive fee-for-service plan. It is time that we put the self-employed and corporations on equal footing. Again, that is not addressed in this amendment but will be addressed in the amendment to be offered by Senator WOFFORD.

To address the critical need for health care providers in rural areas the Mitchell bill focuses on training more primary care doctors, and also provides incentives for health providers to locate in rural areas.

The Mitchell bill would increase funding for the National Health Service Corps, which places about 55 percent of their providers in rural areas. The amendment offered by Senator DASCHLE would expand support for this program. Forty National Health Service Corps members are currently providing care in 20 sites in Iowa. And yet there is still a shortage of providers in many of our Iowa communities. We have 18 counties in Iowa that do not have a doctor that will deliver babies, and an additional 14 counties have only one doctor who will deliver babies. Right now with the National Health Service Corps we have 47 bases in Iowa right now. These are communities who are eligible, and who have applied, and are on the waiting list to get a National Health Service Corps provider.

The need to expand funding for the National Health Service Corps is very clear. Last year there were 4,000 applications, and yet we were able to fund only 406 of those applications. The funding provided by the Daschle amendment will allow us to return the National Health Service Corps to its strength prior to 1980 when the program was gutted.

Again, I point out that there are provisions in the so-called Dole bill that would provide authorization for expanded funding for National Health Service Corps.

Mr. President, with the budget caps and the ceilings that we have on right now, that authorization is worthless. It is meaningless. It sounds nice. But it does not do anything. So the Dole bill really does not address the need to fund the National Health Service Corps. The Daschle amendment does. It provides a stream of funding for the National Health Service Corps.

So some get up and say perhaps this is the same as in the Dole bill. It is quite a bit different, Mr. President. This provides the funding. The Dole bill only provides the promise.

In order to recruit doctors and nurses to rural areas, the Mitchell bill also provides tax credits for primary care providers serving in underserved areas.

I am also pleased that the amendment offered by Senator DASCHLE would expand support for rural health clinics. Rural health clinics are located in health professional shortage areas, and are often the only source of care in a community.

I have visited a number of these in Iowa, including the Redfield Clinic in Redfield, IA. Most of the patients in this clinic are seen by Ed Friedman, a physician's assistant, who also sees patients in five area nursing homes. Physicians visit the clinic once a week, and are always available by phone.

Over one-half of the patients seen in this clinic are Medicaid or Medicare patients. Of course, with telemedicine, Ed Friedman, a physician's assistant, will have ready access at all times to specialists in Iowa, and perhaps even in other States to back him up.

This rural health clinic in Redfield is an essential element of the health care system in rural Iowa. I am pleased that the amendment offered by Senator DASCHLE will provide assistance for clinics such as this one.

Mr. President, I am pleased to support the amendment offered by Senator DASCHLE.

I urge its adoption by my colleagues.

Again, I will close my remarks by complimenting the Senator from South Dakota by focusing our attention on rural health care.

I believe the bill that we reported out of the labor and health committee addressed these issues. Now for whatever reason they were not as tightly formed in the Mitchell bill. But this amendment addresses that, brings them up to speed, and brings these back up to the level we had in the labor and health bill, but for the provision of the 100 percent deductibility, and for which, as I said earlier, an amendment will be offered to correct that by Senator WOFFORD from Pennsylvania.

Mr. President, as we continue the debate on the health care reform bill, and we continue all the talking about this amendment, and that amendment about employer mandates and other things that we are going to be talking about, let us not lose sight of the fact that people who live in rural America, as I said, are more often poor and more often underserved than anywhere else in this country.

If any group of Americans need health care reform, it is the people who live in our small towns in rural America. They are not getting access because they do not have the providers. They do not have the providers because the system is skewed against providers being able to serve in underserved areas.

The Mitchell bill addresses all of that. It does it in a very forthright manner. The Daschle amendment enhances that and strengthens that, especially, as I point out one more time, in funding for the National Health Service Corps. That is most critical to make sure that our people in rural areas have the kind of access and quality of care that they not only need, but they deserve.

Mr. President, I thank the Senator from South Dakota for yielding this time.

I yield the floor.

STATEMENT UNDER SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, on behalf of the Committee on the Budget, under section 27 of the concurrent resolution on the budget, House Concurrent Resolution 218, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and revised aggregates in connection with the Daschle amendment to the Mitchell substitute amendment (number 2560) to S. 2351, the Health Security Act.

Section 27 of the budget resolution states, in relevant part:

> **SEC. 27. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE.**
>
> (a) * * *
>
> (2) BUDGET AUTHORITY AND OUTLAY ALLOCATIONS AND REVENUE AGGREGATES.—In the Senate, budget authority and outlays may be allocated to a committee (or committees) and the revenue aggregates may be reduced (as provided under subsection (c)) for direct-spending or receipts legislation in furtherance of any of the purposes described in subsection (b)(2) within that committee's jurisdiction, if, to the extent that this concurrent resolution on the budget does not include the costs of that legislation, the enactment of that legislation will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—
>
> (A) fiscal year 1995; or
>
> (B) the period of fiscal years 1995 through 1999.
>
> * * * * *
>
> (b) * * *
>
> (2) PURPOSES UNDER SUBSECTION (a)(2).—Budget authority and outlay allocations may be revised or the revenue floor reduced under subsection (a)(2) for—
>
> * * * * *
>
> (B) to make continuing improvements in ongoing health care programs, to provide for comprehensive health care reform, to control health care costs, or to accomplish other health care reforms;
>
> * * * * *
>
> (c) REVISED ALLOCATIONS AND AGGREGATES.—
>
> (1) UPON REPORTING.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on that legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates to carry out this section.
>
> (2) ADJUSTMENTS FOR AMENDMENTS.—If the chairman of the Committee on the Budget submits an adjustment under this section for legislation in furtherance of the purpose described in subsection (b)(2)(B), upon the offering of an amendment to that legislation that would necessitate such a submission, the chairman shall submit to the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised aggregates, if the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—
>
> (A) fiscal year 1995; or
>
> (B) the period of fiscal years 1995 through 1999.
>
> (d) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates submitted under subsection (c) shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this concurrent resolution on the budget.

On August 9, 1994, I submitted an adjustment under this section for S. 2351, the Health Security Act. Within the meaning of section 27(c)(2) of the budget resolution, the Health Security Act constitutes "legislation in furtherance of the purpose described in subsection (b)(2)(B)."

The Daschle amendment to the Health Security Act also meets the other requirement of section 27(c)(2) of the budget resolution that

> the enactment of that legislation (as proposed to be amended) will not increase (by virtue of either contemporaneous or previously passed deficit reduction) the deficit in this resolution for—
>
> (A) fiscal year 1995; or
>
> (B) the period of fiscal years 1995 through 1999.

As the Daschle amendment to the Health Security Act complies with the conditions set forth in the budget resolution, under the authority of section 27(c)(2) of the budget resolution, I hereby submit to the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised aggregates to carry out this subsection.

Note that, as this reserve fund submission accommodates an amendment, it covers the time that the amendment is either pending or adopted (if the amendment is adopted). If the Senate rejects the amendment, this reserve fund submission shall lapse, and the allocations and aggregates shall revert to the levels they would have in the absence of this reserve fund submission.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

RESERVE FUND FILING PURSUANT TO SECTION 27 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FY 1995—DASCHLE RURAL AMENDMENTS

[Adjustments to aggregates and allocations; dollars in billions]

Aggregate totals	1995	1996	1997	1998	1999
Budget authority	$0.000	$0.125	$0.165	$0.180	$0.205
Outlays	0.000	0.060	0.130	0.168	0.190
Revenues	0.000	0.060	0.130	0.168	0.190

	1995	1995–99
Finance Committee allocations:		
Budget authority	$0.000	$0.675
Outlays	0.000	0.548
Revenue allocations	0.000	0548

AMENDMENT NO. 3: DASCHLE RURAL AMENDMENTS (NO.)

[In billions of dollars]

	1995	1996	1997	1998	1999	15-year
MANDATORY CHANGES						
Budget authority	$0.000	0.125	0.165	0.180	0.205	0.675
Outlays	0.000	0.060	0.130	0.168	0.190	0.548
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Deficit	0.000	0.060	0.130	0.168	0.190	0.548
SOCIAL SECURITY						
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Outlays	0.000	0.000	0.000	0.000	0.000	0.000
Deficit	0.000	0.000	0.000	0.000	0.000	0.000
RESERVE FUND ADJUSTMENT						
Finance:						
Budget authority	0.000	0.125	0.165	0.180	0.205	0.675
Outlays	0.000	0.060	0.130	0.168	0.190	0.548
Revenues	0.000	0.060	0.130	0.168	0.190	0.548

AMENDMENT NO. 3: DASCHLE RURAL AMENDMENTS (NO.)

[In billions of dollars]

	2000	2001	2002	2003	2004	6–10 year
MANDATORY CHANGES						
Budget authority	0.249	0.015	0.000	0.000	0.000	0.264
Outlays	0.223	0.132	0.034	0.002	0.000	0.391
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Deficit	0.223	0.132	0.034	0.002	0.000	0.391
SOCIAL SECURITY						
Revenues	0.000	0.000	0.000	0.000	0.000	0.000
Outlays	0.000	0.000	0.000	0.000	0.000	0.000

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the bill before this body that was introduced by the majority leader I believe provides a sound strategy for addressing many of the health care problems that face rural Nevada and rural America. Senator MITCHELL's bill will guarantee a comprehensive set of standard benefits for all Americans. It will expand coverage—extremely important for rural America where there is a disproportionate number of underinsured people, and Medicare and Medicaid populations—and will channel resources to rural areas.

The Mitchell bill also increases access to care by designating rural health clinics as essential community providers and in providing funding for enabling services like transportation, education, and outreach.

The bill also provides funding for community health programs, increases funding for the National Health Service Corps, and encourages cooperative relationships among urban and rural providers.

Mr. President, the amendments that are being offered today will build on the strong foundation laid by the majority leader's legislation. This amendment that is authored and sponsored by the Senator from North Dakota, and the junior Senator from West Virginia, the senior Senator from Montana, and the Senator from Nevada and, of course, Senator HARKIN who just spoke so eloquently about a provision of the rural amendment that is certainly the wave of the future—that is, telemedicine, so that people in rural America can have access to the finest care available.

These amendments are necessary because the health care crisis facing this Nation is felt every day by the millions of people across this country who live in rural areas, where there are few, if any, primary care physicians. The lack of access to qualified primary care providers in rural areas is a critical symptom that our current system is badly broken.

Unfortunately, Mr. President, for the rural population in the State of Nevada, health profession shortages are a daily fact of life. Nevada is much different than many of the other States in the Union. Even though it is the seventh largest State, including Alaska and Hawaii, in area, it is a small State in population. I think we are 36th or 37th in population. But unlike many of the other counties—I hear my colleagues here in the Senate talk about going back to their States and visiting dozens of counties on a weekend. Well, you cannot do that in Nevada. Nevada is about 80 million acres, consisting of only 17 counties. We have many counties larger than States. Thirteen of these seventeen counties are identified as health profession shortage areas. Eleven of our seventeen counties are classified as frontier. What does that mean? It means there are six persons or fewer per square mile, and more than 45 miles between medical service sites.

The loneliest road in the United States has been designated to be in Nevada. Four of the seventeen counties are classified as rural. So we have, Mr. President, 11 counties that are classified as frontier and 4 counties that are classified as rural. So we have 15 of the 17 counties that are sparsely populated, and most of them are very large. The only two counties in the State of Nevada that have large cities in them are the counties of Clark and Washoe. Clark County is where Las Vegas is located. Washoe County is where Reno is located. The rest of our counties are—except for Storey—large in area and sparsely populated.

In the State of Nevada, distances between major rural towns average 100 miles, with distances of 180 to 200 miles in more isolated areas. There are some people within the sound of my voice who have driven from Las Vegas to Reno or vice versa, and that is a long, lonely drive. But as long and as lonely as that is, it is still not the loneliest road in Nevada. We have a number of roads that are longer and more isolated than that area.

As an example, Pershing County, encompassing greater than 6,000 square miles, has only one physician and no physician assistants to service this population of almost 5,000 people. Recruitment efforts have been complicated by intense competition for the limited number of primary care graduates. Esmeralda and Storey Counties have no resident physicians. Other health professionals are also scarce. Rural acute care hospitals have experienced nursing vacancy rates of 17 percent.

I have given this illustration about rural health, Mr. President, and especially focused on Nevada, to indicate that we do have problems in Nevada and in our country with rural health. But no one should think that rural America is only the western part of the United States. There are many rural communities in a State like Massachusetts. There are rural communities in almost every State of the Union. So this legislation is not select legislation for the people of the State of Nevada or the State of Idaho, the State of West Virginia, the State of Montana, or the State of Iowa.

Mr. President, because of the unique characteristic of rural areas and the geographical and resource limitations faced by rural providers, I believe it is imperative that rural providers, consumers, and patient advocacy groups are represented on all of our national advisory committees. One of the amendments in this package, submitted as the rural amendment, deals with that.

Rural health care needs are much different than those of urban areas. A recent study done by the National Rural Electric Cooperative shows that although both urban and rural residents average 7 restricted-activity days resulting from illness, rural residents miss more days from major activity than those in urban areas. Rural workers experience more health problems at work.

As the Senator from Iowa stated, agriculture is a very dangerous occupation. But, also, in Nevada we know how dangerous mining is. It is not as dangerous as it used to be because there is limited underground mining in Nevada. In the State of South Dakota, though, there is a very deep underground mine, and that is very dangerous. Agriculture and mining are America's most dangerous occupations and, of course, they are done in rural areas. Rural residents are also more likely to lack health care coverage than their urban counterparts. These differences should be understood and taken into account when developing policy recommendations and implementing quality standards.

Part of this package that was written by the Senator from Nevada deals with this. That is, when we develop health plan and policy recommendations and implement quality standards, there should be some input from rural America. That is what my part of the amendment deals with.

This amendment would require at least two rural representatives, one representing rural physicians and health care providers, and one representing rural consumers and members of patient advocacy groups on the Advisory Committee on Medical Technology and the National Quality Council. The Advisory Committee on Medical Technology is made up of experts in medical technology assessment, health statistics, and economics, as well as representatives from the durable medical equipment industry, pharmaceutical industry, and the biotechnology industry. The advisory committee must also have representation from consumers, members of patient advocacy groups, and health professionals, two of which must be from rural areas. This committee will assist in preparing a study of the impact of medical technology and treating disease.

Certainly rural America should be involved in this. The use of medical technology in treating disease and injury is especially important to rural areas. As an example, defibrillators are rarely used in urban areas. Why? Because they can get them to an acute care facility, emergency room, so quickly. But in rural America, our emergency medical technologists must know how to use defibrillators. Why? Because it takes them a long time to get the patient to an emergency room. So this is just one example of why we need input from rural America.

Rural input on the advisory committee would ensure appropriate consideration of the accessibility, impact, and use of medical technology in rural areas. The National Quality Council, consisting of 15 members, 2 of which must be from a rural area, will oversee a national program of quality management and improvement designed to enhance access and quality of care. The council is made up of individuals representing consumers, insurers, States, and health care providers. Many of the quality components in Senator MITCHELL's health care proposal are private, nonprofit-based programs.

Again, I repeat, the programs generally speaking, in Senator MITCHELL's legislation, do not create Government bureaus, agencies, but rather they are, generally speaking, private, nonprofit, State-based programs, a design that will streamline quality measures, and because of its local nature, will benefit from rural input on quality issues facing rural America.

This rural package of amendments will also place at least one rural representative on the seven-member National Health Care and Coverage Commission.

Rural America must be actively involved in the delivery of health care services assessing the role of medical technology and ensuring health care and recommendations regarding coverage and health care costs. The perspective of rural America is necessary to guarantee quality and affordable care to rural residents.

Let me say one more time the Mitchell bill does work to get rid of Government agencies and activities. I do not want to get into a debate at this time over comparing Mitchell's rural proposals and the Dole rural proposals. If anyone cares to enter into that debate, I will be happy to participate in that because clearly the Mitchell bill favors rural America as compared to the Dole bill.

In addition to that, while we are talking about boards and commissions, if you compare, as I would be happy to do it at some subsequent time, if someone cares to do so, if you want to compare the commissions and boards established in the Mitchell proposal, you will find that he has done a great deal to eliminate bureaucratic redtape.

But this is not the time to debate that. Perhaps one of the most important amendments in this package that I would comment on in addition to that that I talked about rural representation on boards and commissions is the one which provides full funding for the National Health Service Corps.

As I stated, there are two Nevada counties with no resident physicians and one county with only one physician for its residents spanning 6,000 miles. Recruitment efforts have been extremely difficult. Currently Nevada has 11 National Health Service Corps participants providing health care services to rural residents. They are essential. They are very important. They are imperative.

Fully funding the National Health Service Corps will greatly increase the availability of primary care health care providers to the underserved areas in my State and across this country.

In closing, let me say that rural health care delivery in America is important. There are 7.7 million rural Americans who now lack basic health insurance. Fourteen percent of rural residents are without health insurance at some point during the year. Almost 27 percent of the rural uninsured are children. Thirty-two percent of the non-elderly rural uninsured have family incomes below the poverty level.

We can make a case as to why we must reform our health care delivery system simply for rural Americans. If we came to this body and said we want to reform health care only for rural Americans, I think it would and should pass overwhelmingly. But we are coming with a package that not only takes care of rural Americans but urban Americans as well, and the amendment that we have submitted, Mr. President, will improve greatly the Mitchell bill as it relates to rural America.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to speak on the pending amendment and the subject of rural health care which relates to the entire issue of the Mitchell bill.

Mr. President, on the subject of the pending amendment I have not had a chance to study it all in great detail, but large portions of it are provisions that have been worked on by the Rural Health Caucus over a long period of time and are in fact very necessary to make sure that rural areas are treated fairly. in any massive reorganization of health care reform that we could pass yet this year.

However, I think we ought to consider why we have to give some special consideration to rural America in almost any bill that we pass. I do not care whether it is a Republican bill or a Democrat bill or a bipartisan bill, any massive reorganization of health care in America that is proposed by the most comprehensive bill, including President Clinton's own bill, ought to raise a red flag for people in rural America.

The reason is, very simply, without change of the health care delivery system in America, there are problems of the quantity and quality of the delivery of health care in rural America. There is already a problem. OK, maybe you would think, well, if you are passing a comprehensive bill, you are going to solve these problems.

There is too much in a comprehensive approach of health care reform that fits into the "one size fits all" pattern of things that we attempt to do in Washington, DC, I think, not only by some of the things we have done in past Congresses that have had a negative impact on the delivery of health care in rural America, and one of those is putting restrictions on Medicare reimbursement—that has had a very negative impact on rural America—but also if you look at national schemes in other countries, you find in these countries, as you have seen in some of the slight things we have done in rural America on Medicare and the impact on rural America, that rural areas of these countries come up short.

And so, I think a long time ago, when we first started talking about comprehensive reforms, even in 1992, as we were working, some of us Republicans were meeting every other Thursday morning for breakfast to work on what eventually became the CHAFEE bill and what we were hoping to get President Bush interested in doing, we felt that we had to have some special considerations for rural America.

Mr. REID. Will the Senator from Iowa yield for a question?

Mr. GRASSLEY. Mr. President, I would be glad to yield for a question.

Mr. REID. Mr. President, I say to my friend from Iowa, I have listened to the few minutes he has spoken. I think it is important that, on this issue alone we do not talk about the underlying bill, but on the issue of rural health care. It is something that those us of who represent States that have rural populations should recognize. During the last 10 years we have had 330 hospitals in rural America that have gone out of business.

Is the Senator aware of those figures like that that are prevailing?

Mr. GRASSLEY. Mr. President, I believe that the Senator from Nevada is making a case with statistics that I am prepared to agree with and make as well.

As I was saying, it is it is a situation in rural areas of any country that have adopted national plans. I can show you a newspaper article I have here that, within the last 10 months, there was a major reorganization of health care in Saskatchewan because of the limit on funds that were available, that they just closed 52 hospitals in one move, one decision by the Health Minister of Saskatchewan.

Mr. REID. Will the Senator yield for one further question?

Mr. GRASSLEY. Yes.

Mr. REID. I believe, as the Senator's statement indicated, one of the reasons we had 330 rural hospitals closing between 1980 and 1990 is how we have handled Medicare. The fact of the matter is that hospitals have not been reimbursed properly. They have gotten less for doing the same procedure in a rural hospital. They are given less money than if it were done in an urban hospital, and it should be just reversed.

So I really very much appreciate the Senator's statement. I think, if the Senator looks closely at our amendments, that consists of this one amendment, he will find significant information in the amendment that came from the work that he and some of the others have done on the rural health care caucus.

So, through the Chair, to the Senator from Iowa, I express my appreciation for the statement and the work that he has done in the years gone by in rural health, and I look forward to working with him on this issue. I think the importance of this issue to a lot of us is evident in the fact that this is one of the first amendments we brought up to make sure that rural health is taken care of if, in fact, we do major legislation dealing with health care.

(Mr. CAMPBELL assumed the chair.)

Mr. GRASSLEY. I do not disagree with anything the Senator from Nevada has stated. I think, for the most part, as we have read the outline—we have not studied the language of the amendment yet—that most of what is in there we would agree with.

I was hoping to set the stage for the fact that when you have massive reorganization of health care, as is evidenced by this 1,400-page bill that we have before us, you do, in fact, have to commit yourself to taking very special care for rural America or, with that massive reorganization of health care, we are going to come up further short than rural America already is when it comes to the delivery of health care in rural America, both from a quantity and quality standpoint.

I referred to the situation in Canada where, because of lack of money and reorganization, they found it necessary to close 52 rural hospitals. It is a situation you get into when you have a potential for limiting the amount of money that is going to be spent on health care in America.

Even though there is not in this bill before us, as there was in President Clinton's bill, proposals for global budgeting and premium caps, there are some things in the bill, like the 25 percent assessment on high cost plans, which are going to eventually work like premium caps and which are eventually going to lead us to a point where there is going to be limits on what can be spent and plans are going to have to live within those limits.

And those plans are going to lead to some rationing. And the impact of that rationing is going to be much more seriously impacted in rural America than in urban America. I think that is what we want to take into consideration.

I have a letter that I want to refer to about the impact of some of these bills and the bill before us on rural America.

And, the letter says:

> On behalf of more than 100 farm and rural organizations we would like to voice our concern with the Health Care Reform Proposal

offered by Senator Mitchell, as presently written.

We have spoken forcefully in favor of 100 percent tax deduction for the self employed and against an employer mandate * * * and against mandatory alliance.

We cannot support any plan that: 1. Does not achieve a 100 percent deduction. 2. Lays out the foundation for an Employer Mandate. 3. Sets up "required' 'participation in purchasing alliances, a "de-factor' Mandatory Alliance.

But there are other rural concerns that required bi-partisan attention.

Paperwork. It sets up administrative and reporting requirements that will be highly burdensome for small employers.

Cost of insurance may rise. Farmers traditionally buy plans with high deductibles. The Mitchell Plan limits this option. Community rating pools are broadly defined so that—in many instances—rural citizens will subsidize the health costs of their urban and suburban cousins, places where medical costs are not only higher, but so is utilization. In addition, age banding is unnecessarily restrictive. States have the option of setting up a community rate for the entire state.

It limits choice. It would allow states or the D.O.L. to determine, base on unstated definitions, that there is insufficient competition in certain rural areas so they are not required to even offer more than one plan to their employees. That one plan must always be the HIPC, and the HIPC must always include the FEHBP. This amounts to a potential back-door single-payor system for rural areas.

Cost-shifting. It cuts into projected Medicare expenditures, which will hurt many rural hospitals, and because it shifts billions in Medicaid costs to private insurers, cost-shifting will take place. Net result: a massive, unintended cost-shift that will fuel insurance costs of fee-for-service plans—the primary insurance vehicle for rural communities.

Taxes. The new tax on plans with fast growing health premiums will hit fee-for-service plans hardest, especially those in rural areas, for reasons already noted in previous paragraph.

Association Plans. About 1 in 3 farmers and very-small rural small businesses have their health insurance through "association plans", which pool businesses or individuals in a form of voluntary cooperative. These plans are more likely to have begun to negotiate PPO and cost-savings with providers. However, these plans are essentially made ineffective by making them a part of a community rated pool, and not part of an experienced rated pool, despite the fact that many of these plans have more than 500, and some more than 5,000, individuals enrolled. Solutions: allow large association plans to be experienced rated, but require an annual open enrollment for members. The long-range impact of weaker private sector pooling arrangements is to eventually force very small businesses, and the self-employed into the state or federal-directed HIPCs—which may be the insurance of last resort for the poor.

Subsidies. Subsidies do not clearly distinguish the realities of farm income, in which it is true that farmers have relatively high "gross income" but "low net income". Careful consideration should be made for agricultural producers, especially young farmers, because "gross incomes" may not be the best determination.

Health Board. It gives enormous power to several new agencies, especially the National Health Board, but it does not include provisions that would guarantee rural representation on those boards. Health care is not necessarily better, or worse in rural America, but it is different. The composition of any agency with important health powers should include stronger rural representation.

Medical Savings Account. It does not include Medical Savings Accounts. Farmers would benefit from MSAs, and have been pioneers in the use of the MSA concept by blending high deductible plans with personally-funded tax deferral savings vehicles. MSAs are a proven "concept", the Mitchell Plan does not acknowledge their value in any way at all.

There are many positive enhancements to the recruiting of health professionals to rural areas and grants for demonstration projects, but on balance is not a plan we can embrace.

Mr. President, I am not going to read the 150-some organizations from rural America who have signed this letter. I ask unanimous consent to have the letter printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 12, 1994.

Hon. CHARLES GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of more than 100 farm and rural organizations we would like to voice our concern with the Health Care Reform Proposal offered by Senator Mitchell, as presently written.

We have spoken forcefully in favor of 100 percent tax deduction for the self employed and against an employer mandate * * * and against mandatory alliance.

We cannot support any plan that: 1. Does not achieve a 100 percent deduction. 2. Lays out the foundation for an Employer Mandate. 3. Sets up "required" participation in purchasing alliances, a "de-facto" Mandatory Alliance.

But there are other rural concerns that require bi-partisan attention.

Paperwork. It sets up administrative and reporting requirements that will be highly burdensome for small employers.

Cost of insurance may rise. Farmers traditionally buy plans with high deductibles. The Mitchell Plan limits this option. Community rating pools are broadly defined so that—in many instances—rural citizens will subsidize the health costs of their urban and suburban cousins, places where medical costs are not only higher, but so is utilization. In addition, age banding is unnecessarily restrictive. States have the option of setting up a community rate for the entire state.

It limits choice. It would allow states or the D.O.L. to determine, based on unstated definitions, that there is insufficient competition in certain rural areas so they are not required to even offer more than one plan to their employees. That one plan must always be the HIPC, and the HIPC must always include the FEHBP. This amounts to a potential back-door single-payor system for rural areas.

Cost-shifting. It cuts into projected Medicare expenditures, which will hurt many rural hospitals, and because it shifts billions in Medical costs to private insurers, cost-shifting will take place. Net result: a massive, unintended cost-shift that will fuel insurance costs of fee-for-service plans—the primary insurance vehicle for rural communities.

Taxes. The new tax on plans with fast growing premiums will hit fee-for-service plans hardest, especially those in rural areas, for reasons already noted in previous paragraph.

Association Plans. About 1 in 3 farmers and very-small rural small businesses have their health insurance through "association plans", which pool businesses or individuals in a form of voluntary cooperative. These plans are more likely to have begun to negotiate PPO and cost-savings with providers. However, these plans are essentially made ineffective by making them a part of community rated pool, and not part of an experienced rated pool, despite the fact that many of these plans have more than 500, and some more than 5,000, individuals enrolled. Solutions: allow large association plans to be experienced rated, but require an annual open enrollment for members. The long-range impact of weaker private sector pooling arrangements is to eventually force very small businesses, and the self-employed into the state or federal-directed HIPCs—which may be the insurance of last resort for the poor.

Subsidies. Subsidies do not clearly distinguish the realities of farm income, in which it is true that farmers relatively high "gross income" but "low net income". Careful consideration should be made for agricultural producers, especially young farmers, because "gross incomes" may not be the best determination.

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There are many positive enhancements to the recruiting of health professionals to rural areas and grants for demonstration projects, but on balance is not a plan we can embrace.

Sincerely,

American Agri-Women; American Dry Pea and Lentil Association; American Sod Producers Association; Communicating for Agriculture; farm Health Care Coalition; Farmers Health Alliance; International Apple Institute; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Contract Poultry Growers Association; National Cotton Council; National Cotton Council of America; and the National Council of Agricultural Employers.

National Council of Farmer Cooperatives; National Christmas Tree Association; National Christmas Tree Nursery; National Grange; National Milk Producers Federation; National Pork Producers Council; United Agribusiness League; United Egg Producers; United Fresh Fruit & Vegetable Association; Women Involved in Farm Economics; Agricultural Council of Arkansas; Agricultural Producers; Alabama Contract Poultry Growers Association; AZ Cotton Growers Association; and the Arkansas Association of Wheat Growers.

Arkansas Contract Poultry Growers Association; California Association of Wheat Growers; CA Cotton Ginners Association; CA

Cotton Growers Association; California Farm Bureau Federation; California Grape & Tree Fruit League; Colorado Association of Wheat Growers; Florida Contract Poultry Growers Association; Florida Fruit & Vegetable Association; Florida Nurserymen & Growers Association; Georgia Contract Poultry Growers Association; Idaho Grain Producers Association; and the Idaho Onion Growers Association.

Illinois Cattlemen's Association; Kansas Association of Wheat Growers; Kentucky Contract Poultry Growers Association; Kentucky Small Grain Growers Association; LA Cotton Association; LA Cotton Producers Association; Louisiana Contract Poultry Growers Association; LA Ginners Association; LA Independent Cotton Warehouse Association; Delmarva Contract Poultry Growers Association; Minnesota Association of Wheat Growers; Mississippi Contract Poultry Growers Association; and the Mississippi Delta Council.

Montana Grain Growers Association; Nebraska Wheat Growers Association; New England Apple Council; New Mexico Wheat Growers Association; North Carolina Apple Growers Association; North Carolina Small Grain Growers; North Carolina SweetPotato Commission; North Dakota Grain Growers Association; North Dakota Stockmen; Ohio Contract Poultry Growers Association; Oklahoma Contract Poultry Growers Association; and the Oklahoma Wheat Growers Association.

Plains Cotton Growers Association; South Carolina Contract Poultry Growers Association; South Dakota Wheat Incorporated; Southern Cotton Growers Association; Southeastern Cotton Ginners Association; Tennessee Contract Poultry Growers Association; Texas Cattle Feeders Association; Avian Cooperative of Texas; Texas Citrus & Vegetable Association; Texas Wheat Producers Association; South Texas Cotton & Grain Association; and the Rolling Plains Cotton Growers.

Virginia Agricultural Growers Association; Virginia Contract Poultry Growers Association; Virginia Small Grain Growers Association; Washington Association of Wheat Growers; Washington Cattlemen's Association; Washington Growers Clearinghouse Association; Washington Growers League; Washington State Horticultural Association; Washington Women for the Survival of Agriculture; Western Growers Association; and the Western Pistachio Association.

Wisconsin Christmas Tree Producers Association; Wyoming Wheat Growers Association; Curtice Burns Foods/Pro-Fac Cooperative; Dovex Fruit Company; Eastgate Farms, Inc.; El Vista Orchards, Inc.; Florida Citrus Mutual; Forrence Orchards, Inc.; Grainger Farms, Inc.; Grower-Shipper Vegetable Association of Central California; Hood River Grower-Shipper Association; and the Johnny Appleseed of Washington/CRO Fruit Company.

Knouse Fruitlands, Inc.; Lyman Orchards Country; Newman Ranch Company; Nyssa-Nampa Beet Growers Association; Princeton Nurseries; Rocky Mountain Apple Products Company; Torrey Farms, Inc.; Valley Growers Cooperative; Ventura County Agricultural Association; Wasco County Fruit & Produce League; and the Yakima Valley Growers-Shippers Association.

Mr. GRASSLEY. The letter was initiated by the Farm Bureau but signed by 150 organizations.

I will yield the floor in just a minute. But the purpose of reading from that letter is, under a massive 1,400-page bill like this, making these changes, I am asking our colleagues to be cognizant that we already have problems in rural America under the status quo. If we make the massive changes like those in this 1,400-page bill we are going to have terrible consequences for the delivery of health care in rural America. The Daschle amendment legitimately is taking care of a lot of those problems. But the point I want to make is, and it is not the intention of Senator MITCHELL or any of the people working closely with him, but it is just a fact of life—when you have a massive rewrite of legislation like this, some of the good you want to accomplish for the Nation as a whole has negative consequences in rural America. I do not think that the things that are in the Daschle amendment and other amendments that will be offered for rural America are going to make up the difference.

We want to be prepared, to make sure that we take care of those. I hope we have, in the process, corrected some of those things that are in the original Mitchell bill, the underlying piece of legislation, so those negative impacts will not exist for rural America.

Tomorrow on this side of the aisle we look forward to considerable discussion. Many of my colleagues want to speak on the impact of this legislation on rural America. I do not think too many of my colleagues will disagree with what Senator DASCHLE is trying to accomplish in his amendment. But we want to go through some provisions in the underlying legislation to point out where we feel that it has a very negative impact upon the delivery of health care in rural America.

One of those would be what Senator HARKIN has already mentioned. Self-employed people, farmers, et cetera, are not going to have equity under this legislation. We have to have 100 percent tax deductibility for the self-employed.

The impact of Medicare cuts is further going to increase the number of rural hospitals going out business, above the 330 that Senator REID just recently referred to. There are other things in this underlying legislation that is negative to rural America.

So I yield the floor and look forward to the debate tomorrow.

Mr. BINGAMAN. Mr. President, I rise in support of the amendment pending before the Senate. I worked with my distinguished colleagues from the Senate Finance Committee, Senators DASCHLE, ROCKEFELLER, BAUCUS, and my distinguished colleague on the Labor and Human Resources Committee, Senator HARKIN on this package, and I am pleased that we are discussing health care in rural America tonight.

This package of amendments is straightforward, aimed at helping to develop a health care infrastructure and improve the health care delivery system in our five States—New Mexico, South Dakota, West Virginia, Montana, and Iowa—and throughout rural America. I urge my colleagues to support this package.

Mr. President, there are many features of the majority leader's bill that would significantly improve the standard of health care for rural Americans. We have moved closer to really taking seriously the health needs of farmers, ranchers, small business owners, their families, and their employees. This is an important accomplishment.

I. RURAL FEATURES OF HEALTH REFORM BILL

The majority leaders's bill will, contrary to some assertions, make it easier for all small businesses to buy health insurance, whether those businesses are located in the inner city of Chicago or the rural towns of Mora County, NM.

A. INSURANCE REFORM RULES

This is because the proposal limits the ability of insurance companies to discriminate against Americans with preexisting conditions. Many small businesses in rural areas would be protected from escalating costs and arbitrary charges.

B. WORK FORCE: MORE RURAL PROVIDERS

The bill will increase the number of primary health care providers, which will significantly ease burdens on doctors, nurse practitioners and other health care providers in States like New Mexico. By increasing the number of health care providers nationally, the bill will make health care for rural Americans more accessible and more affordable.

Last week, Senator BAUCUS told us that urban America has 2½ times as many doctors per 100,000 people as rural areas. By offering tax credits to doctors and other providers who practice in rural areas, we can ensure both continuing excellence in specialty care and improved access to primary care.

C. TELEMEDICINE

The bill before us today also provides grants for telemedicine, or high-technology networks between rural health care providers and specialists. Many believe these cutting-edge programs are among the most efficient and promising developments in rural medicine.

D. COMMUNITY HEALTH ADVISERS

I am particularly pleased that the majority leader's bill contains a provision I authored in the Labor and Human Resources Committee health reform bill. This provision authorizes a new community health adviser program as part of the Public Health Service's priority National Initiatives on Health Promotion and Disease Prevention.

Through this initiative, the Public Health Service will assist States, local governments, and nonprofit organizations in establishing and maintaining vital community health adviser programs.

The advisers are specially trained local community residents who deliver preventive health information to their communities, in homes and larger groups. They help encourage access to critical primary and preventive care; in particular, this program would be aimed at helping to achieve the Healthy People 2000 goals. These programs can play an important role in reducing overall health care costs.

Community health advisers and the provision in Senator MITCHELL's bill are widely supported by public and women's health organizations, including the American Public Health Association; Children's Defense Fund; the National Breast Cancer Coalition; the New Mexico Public Health Association; the National Women's Health Network; and dozens of other national organizations.

E. ASSISTANT SECRETARY FOR RURAL HEALTH

Finally, this bill takes a step toward acknowledging the health care needs of rural Americans by creating a permanent position of Assistant Secretary for Rural Health within the Department of Health and Human Services.

II. TWO AMENDMENTS

Mr. President, the majority leader's bill is a beginning to improved rural health. But there are also some real opportunities to strengthen this legislation and make it even more responsive to the needs of rural Americans. I would like to briefly describe two of the provisions contained in the amendment pending before the Senate.

B. RURAL RESIDENTS ON BOARDS

First, we believe it is critical that rural residents be included on any board or commission authorized under this bill. Rural residents, rather than rural experts or rural representatives must be specifically included in all board membership lists to ensure that rural people assume a fair and proper role in all issues of governance.

C. RURAL FRONTIER AREAS

Second, we need to make sure that in the very definition of "rural," we do not exclude the people who most depend on us. A provision of title IV (section 4111(d)(2)(B)(i)) gives States the authority to designate medical assistance facilities in frontier areas.

Under the current criteria of this section, States can only designate these special facilities if the entire county has fewer than six residents per square mile. This disadvantages Western States.

Many of our counties are larger than some States in the east. In addition, they encompass both urban and very remote areas. As the bill stands, these counties would be disqualified even though many of their residents live in areas far more remote than eastern rural counties.

We propose that an equivalent unit of local government or subcounty unit designated by the Governor or chief officer of the State be an acceptable criterion for designating the medical assistance facilities.

Only by making this change can we actually conform to the true intent of the provision: To improve medical services in rural America.

Mr. President, these are all vital provisions. They are essential to building the health care infrastructure and networks that are desperately needed in rural America. I urge my colleagues to support this package of amendments and to continue to work with us to improve the quality of life for all of our rural constituents.

HEALTH CARE REFORM

Mr. HATCH. Mr. President, both yesterday and today, our colleague from North Dakota, Senator DORGAN, spoke in this Chamber about spiraling medical costs in the hospital and drug sectors. He pointed to specific drugs and compared the prices of those drugs in other countries with their prices here.

He did not mention that all of those drugs have cheaper, generic counterparts. Nor did he mention that Congress specifically passed legislation—legislation that I sponsored—to accelerate the entry of generic drugs to the market as a cost-saving alternative to branded drugs.

I think it would be useful for my colleagues to look at some relevant facts, starting with the latest figures from the Bureau of Labor Statistics [BLS].

According to the BLS, drug prices, at the producer level, rose 2.8 percent during the 12-month period that ended in July 1994. That increase can hardly be characterized as skyrocketing. If NASA's rockets rose at that rate, we would have never reached the Moon.

In fact, this 2.8-percent increase is a new low, the lowest in 20 years. That is a trend this Congress should encourage, not discourage.

Drug prices have fallen steadily since 1989, when the rate of increase was 9.5 percent. I simply do not think this could be characterized as relentless inflation. On the contrary, I think it shows that drug inflation is under control.

And this is a very important point. Because it is the result not of anything the Government has done, but because the market is working.

In a June 1994 report, "How Health Care Reform Affects Pharmaceutical Research and Development," the Congressional Budget Office stated:

> The market is changing. On the supply side, sales of generic drugs are increasing. On the demand side, buyers exercise more market power to reduce the profits of the pharmaceutical companies. * * * in view of the increasing competition within the pharmaceutical market, drug prices could easily decrease regardless of the Administration's proposal.

This competition—which some of my colleagues seem to ignore—is also controlling the introductory prices of new drugs. The Boston Consulting Group looked at the prices of new drugs approved and launched during 1991 and 1992 and found they were, on average, 14 percent lower than the market leader in their category.

I recently saw a cartoon in the Wall Street Journal. It showed a receptionist telling a visitor: "Can you come back tomorrow? Mr. Ferguson is in deep denial today."

I think some of my colleagues must be in deep denial, Mr. President.

Marketplace reform is for real.

The figures show it.

The experts confirm it.

Instead of denying this competition, as I have said, I think we ought to encourage it.

Nor can we deny the fact that there are people, especially among the elderly, who are forced to make desperate choices between medicine and other necessities.

There are the people we need to help, the elderly poor, not millionaires and billionaires who would be eligible for the new Medicare drug benefit in the Mitchell bill.

No matter how much Congress tries to regulate drug prices, there will be some patients who cannot afford them. And the more we talk about artificially controlling prices, the more we hurt drug research. Seven out of 10 drugs lose money for the manufacturer.

What we should be doing is targeting efforts on those who need assistance. Then, we can help those who need help the most, and we can do it without hurting drug research and without discouraging the market forces which are working.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. ROCKEFELLER] is recognized.

Mr. ROCKEFELLER. Mr. President, I want to echo the concerns of Senator REID, the Senator from Nevada, about what the Senator from Iowa said. I have always thought of the Senator from Iowa as being sort of a quintessential westerner in the farm sense, and I have told him so. So that is not unnecessary flattery. He is very independent. It is my understanding that Senators from Iowa do not usually get reelected to second terms but this Senator has, Senator GRASSLEY. I think it is because he has an independent streak. I think when he feels about something deeply, as he does about rural health care and rural matters, it comes through. I think it comes through partly because if you shake his hand it is usually pretty rough, because he owns a farm. His son runs it for him but he is there to help on weekends if it is needed.

So this Senator, the junior Senator from West Virginia—very junior Senator from West Virginia—wanted to add his praise of the remarks the Senator from Iowa has made.

Mr. DASCHLE. Will the Senator yield?

Mr. ROCKEFELLER. Of course.

Mr. DASCHLE. I appreciate very much the comments made by the distinguished Senator from Iowa. I have had the good fortune to work with him on both Agriculture and Finance. He and I had the opportunity to work with the distinguished Senator from West Virginia on rural health issues during the ongoing consideration of health in general over the last several months.

As is always the case, he is an extraordinary student of the issues relating to rural health and is a tremendous partner. I associate myself with the remarks made by the distinguished Senator from West Virginia. He is absolutely correct, he has been someone that I hope we can continue to work with on many of these issues mutually.

I thank the Senator for yielding.

Mr. ROCKEFELLER. I thank my friend from South Dakota.

Mr. President, I rise with a great deal of passion, interest, and fervor and good feeling because we are discussing something which I think is at the core of what we need to do, and that is to try to be helpful to rural America—which the distinguished Presiding Officer also represents—in any way we can in terms of health care. My colleague Senator DASCHLE, Senator BAUCUS, Senator REID, and Senator HARKIN and I have offered a number of amendments that I think are very important.

It is late in the evening. Not many people are here, but that does not make any difference because our work here is significant.

From this Senator's point of view, Mr. President, Senator MITCHELL's bill already offers substantial hope for rural America. It contains important provisions to make very sure that the promise of health care is more than just an empty promise. That is very much on the minds of people who live in rural parts of this country.

Nationally, 25 percent of all Americans live in a rural area. In West Virginia, that figure is 64 percent. We are 77 percent forest, so the fact we are 64 percent rural should not be surprising. In addition, all or part of 43 of our 55 counties in West Virginia are designated as "medically underserved"—a seriously bad designation.

I should say, Mr. President, that my senior colleague, Senator BYRD, is not a fan of charts and neither is his junior colleague. In the nearly 10 years that this Senator has been in the Senate, I have never used a chart or a graphic entity on the floor of the Senate because I do not have a good feeling about them. But on this matter of rural health care in America, I feel strongly enough that I have broken my habit this one time, hopefully.

One can see very easily, if I simply describe that all of the yellow that one sees on this map are areas that have enough doctors and all of the red, which is obviously the great majority of the map, are areas that do not have enough doctors. I will explain more of what I mean by enough doctors. These are basically underserved areas.

Senator MITCHELL comes from Maine. There is just a very small, little area here. Look at California. People think of California always as being—I do—as being urban with sort of rural intervals. Of course, that is not true and this proves it. Ninety percent of California is underserved.

Look at Arizona, almost entirely, 95 percent underserved; New Mexico, 98 percent underserved. My own State is right here. You can see there are just very few areas which are yellow which means that they are adequately served medically. Look down to Florida. I would have thought Florida would be substantially served for many reasons—its climate, its population, its way of life. But entirely to the contrary. It is hurting medically in terms of health care professionals and opportunities to get health care.

Indeed, if you look at North Dakota, South Dakota, more toward the west than toward the east, but then look at Louisiana, it is really quite distressing; Mississippi; Hawaii, even with its universal health care plan, has substantial service problems. So they must be doing a remarkable job to overcome that.

This map leads me to want to know more. I find this a distressing map. All the red—is not enough health care. It is the great majority of our country and it also describes, I think, that a lot of our country is rural. It certainly describes that my State of West Virginia is not alone.

More than half a million Americans live in a county, Mr. President, that does not have a single doctor, and 34 million Americans live in areas with a thoroughly insufficient supply of physicians, or other health care providers. That all adds up to a situation that makes it extremely difficult for the rural areas, which the Presiding Officer, myself, the Senator from South Dakota, and others represent, to get health care in any form, much less when they need it and where they need it.

Less access to primary and preventive care means more costly and serious illness that have to be treated later. I will give you an example in my own case.

My wife and I and our four children have a farm right on the West Virginia border in the Allegheny Mountains in a beautiful county called Pocahontas County.

And in the northern part of the county, we had, I can remember, a number of years ago when our children were still young a Dr. and Dr. Jones, a couple. They were two wonderful young physicians who graduated from West Virginia University and decided to come and live in that extremely rural area. The county where we live is one of the largest counties east of the Mississippi, Mr. President, and has only 6,000 people, which, of course, my family and I love because of the solitude and the beauty of the West Virginia hills.

But Dr. and Dr. Jones, husband and wife, came there with the full idealism, the full expectation of being able to make it. They both were family physicians. They both happened to love railroads, and we have some old logging railroads that still exist from earlier days. I suspect they do in the Presiding Officer's State also.

They made the best of it for about 3 or 4 years, but then they just could not hang on, could not get the payments, could not meet their own bills, and they were forced to leave. So there we are with a building and with a doctor who visits from time to time and, basically, without health care in an enormous county, which in itself is a vast area of wilderness.

Most of us realize that an insurance card is, in fact, meaningless unless there are doctors and hospitals and nurses and physician assistants who are actually available in an area to provide health care services. They have to be there or be close by. People understand that.

In many parts of West Virginia, access to health care is simply wishful thinking. The problems of rural health residents in buying insurance are similar to the problems of small business owners, because so many of them are self-employed or employees of very small firms or, in many cases, not employed at all.

Rural Americans generally have to pay insurance premiums that are higher than nonrural Americans because they are buying small-group or individual policies which are generally 35 to 40 percent more expensive than what larger companies can pay for the same product.

It is not fair. It is part of what is wrong with our health insurance system. But it is a fact in rural America.

Rural families are subject to the most abusive kinds of insurance underwriting practices because they are purchasers of small-group insurance policies.

What I mean by that basically is that they are more or less helpless as they face the insurance company. Many rural residents are not familiar with terms like "lifetime limits," "preexisting condition." I would think that many rural residents, as many urban residents, would not know that if you are a young woman, get married and get pregnant and you do not have health insurance, you cannot buy health insurance. By the act of becoming pregnant, being pregnant, that itself constitutes a preexisting condition, and therefore you cannot get health insurance.

Most people do not know that. Rural people are more likely to be subject to that kind of underwriting practice. They wind up having their policies canceled the minute that they or a family member has a serious medical condition. Most of them do not know that that is going to happen because they would tend to trust the insurance policy, because in America, if something is institutional, you tend to trust it.

Well, sometimes that trust is not well placed. So a family member has a serious medical condition. No more health insurance. Or they might get to keep the health insurance but their premiums would rise very sharply in order for them to keep health insurance. Just because they are farmers. Just because they are loggers. Just because they are coal miners. Just because they are older, or just because they have something called a preexisting condition. And thus it is in rural America.

Rural residents will gain significant health benefits under Majority Leader MITCHELL's bill because they are so disadvantaged under the current system. Very stringent insurance reforms; the availability of purchasing cooperatives—something which is understood by farming families—the targeted subsidies to purchase private health insurance, all of these are ways that the majority leader's bill will substantially benefit rural Americans. I am very happy about that, and I am very excited about that. That is important and significant news.

Before describing the exact provisions that I have worked on and authored in this amendment, I would like to just take a moment to emphasize that while an insurance card alone does not guarantee the actual delivery of health services, it is one of the single, most important things that we can do to try to encourage doctors and other health providers to move to a rural and underserved area, because if a physician or other provider understands that people have insurance, they are going to understand that they are going to be reimbursed, that life financially is going to be different.

The proportion of people without insurance is higher in rural areas than in urban areas. Without a stable source of reimbursement that can only come with an insurance card, many doctors and nurse practitioners and physicians' assistants and others cannot sustain a viable practice in a rural area. My example of Dr. Jones and Dr. Jones that I talked about a moment ago applies here. If the vast majority of their patients are uninsured, a health practice is simply not sustainable—a fact of life, and a very painful one in rural America.

Mr. President, the amendment we are offering, and that the distinguished Senator from South Dakota, TOM DASCHLE, is leading, offers several important provisions to make health care a reality for millions of Americans across this country. So I want to take a moment to describe a couple of these provisions.

Especially important to me is the provision to provide improved funding for the National Health Services Corps. This is something about which I care deeply. VISTA, which is similar to the National Health Service Corps, changed my whole life. I did in social work what physicians and other providers will be doing in the National Health Service Corps. I know that if you get a young American in their mid twenties studying medicine, or in my case trying to learn more about their country and having the rudiments of social work in my head, when those folks get to the rural places or to the urban places, inner-city areas, they are going to be challenged. They will see things that they have never seen before. They are going to understand the importance of their presence to the people in that area.

When I went to West Virginia as a VISTA volunteer, I had no intention of staying in West Virginia as a VISTA volunteer because all of my training had been in Japan and China and Asian affairs. I had worked in the Peace Corps and State Department and had lived in Japan for a number of years. VISTA just turned my life upside down because it put me in contact with real people in rural areas where there were real needs and where I thought I could make a real difference.

If you are young and in your mid twenties or mid thirties and your life is before you, this is exciting. It is extremely exciting. So under this amendment, we will move towards restoring pre-1980 award levels in the National Health Service Corps. At that time 3,000 to 7,000 scholarship awards were made on an annual basis. So imagine that, physicians, in return for payment of part of their medical school years, spreading out, 3,000 to 7,000, all across America in rural and inner-city areas.

A very good friend of mine did that in eastern Kentucky, and it changed his life. It just totally changed his life. Eastern Kentucky is like southern West Virginia. He went there, practiced medicine there, fell in love with the place, with the opportunity, could not leave and has had a remarkable career—a fellow named Harvey Sloan.

The amendment Senator DASCHLE and I have proposed would provide sufficient funding to place at least one doctor, nurse practitioner, or physician assistant in every single county in America that is currently designated a shortage area. In every one of those red areas, in every county in California, in every county in North Dakota, South Dakota, Montana, Wyoming, in every one of them, there would at least be one health care provider. That seems to me very reasonable, a very exciting prospect. And it can be done and is done under the amendment that Senator DASCHLE, myself, and others are offering.

Now, last year, Mr. President, there were 2,492 primary care shortage areas.

That is a big chunk of this country. A health professional shortage area is an area that does not have at least 1 primary care provider for every 3,500 residents. That is what is reflected on this map; there is not 1 physician or nurse practitioner or physician's assistant or other health provider for every 3,500 residents. That is pretty slim coverage.

If we want to do the ideal—which, of course, I would—but we cannot because of the finances, the ideal percentage is 1 doctor for every 2,000 people. That is what it ought to be. That is what this country ought to have. We do not. It is a mystery that we do not. We continue not to. But, nevertheless, that is the fact.

The National Health Service Corps Program has been extremely successful in providing essential services in remote areas, which are very familiar to the Presiding Officer, and rural areas, and, again let me repeat, in inner cities.

I am a member of the board of the Children's Health Fund. It was started actually in New York City by a wonderful pediatrician, a physician by the name of Dr. Irwin Redliner. The Children's Health Fund's purpose is to put pediatricians in areas of the country where they are not.

So in New York City, which is surrounded within 10 blocks by doctors of every variety, there is an enormous shortage of physicians, a shortage in New York City, not to speak of upstate New York.

The National Health Service Corps would place health care providers in rural areas and in the inner-city areas. It is so popular as a concept, and well thought of, in fact, that Senator DOLE and Senator PACKWOOD in their summary also list a provision to fully fund the National Health Service Corps Program. That is what we intend to do. That is what they said they intend to do.

A total, Mr. President, of 43.5 million people in America live in medically underserved areas. Last year, the National Health Service Corps had only 1,200 providers in the field providing care to only about 1.2 million of those 43.5 million people who need their help. So you can see the disparity between availability and need.

The corps received over 4,000 applications last year, Mr. President, to fill awards for 406 slots. So do not tell me that medical students are not ready to do that, that idealism is dead in America.

This demonstrates the tremendous interest by medical students, by nursing students, by physician's assistants to have their training paid for in return for making a commitment to practice in an underserved area, urban or rural, after completing their training. I cannot think of a better deal for those young students, and for America.

For many students, especially minority students, and low-income students, this is the only way that they can afford to go to medical school or to go to nursing school—a major factor to bear in mind.

I constantly get calls from West Virginia clinics and hospitals who are desperate to find a physician or other health care provider. In 1986, Mr. President, 26 corps doctors were placed in West Virginia. That was 8 years ago. In 1987, 28 came to West Virginia. In 1988, 5 came to West Virginia. Since then, between one and three physicians or other providers have been placed in West Virginia on an annual basis. I am appalled. I am appalled at our willingness to so ignore underserved areas of America. Needless to say, the need for these folks has not declined.

Funding in our amendment will give all underserved areas, rural and urban, a tremendous boost. In fact, I want to note that of the 43.5 million people that live in designated medically underserved areas, 50 percent are urban residents. The funding for the corps in this amendment will help millions of people from Appalachia, Montana, Colorado, South Dakota, Massachusetts, Chicago, and Los Angeles.

Mr. President, a lifeline in many, many rural counties in West Virginia and rural areas across the country are something called local health centers, rural health centers. Some of them are designated federally qualified health centers. Some are rural health clinics. Some are just primary care clinics. While the names and the designations may vary, their missions are all exactly the same, and their importance is all exactly equal.

I have probably visited all, certainly most, of our clinics in West Virginia. I am always not just impressed but in many ways overcome by their dedication, by their commitment—the doctors, the nurses, the administrators, the physician's assistants who staff these clinics. They are not big hospitals. They are small places. One place I am thinking of in a small county in West Virginia is in a grocery store that closed down in a shopping center. But it is comfortable. People are familiar with it. There it is. I am so proud of what they do. I cannot say that strongly enough. They are performing miracles every day with very meager resources and without notice from the rest of the world.

The majority leader's proposal establishes several special accounts to help rural providers improve, expand, and reorganize themselves, to deliver services efficiently and to deliver them effectively.

One account provides funding for network development and expansion into shortage areas, including recruitment and training, upgrading equipment purchasing, and as Senator HARKIN mentioned, telemedicine systems.

A second account provides grants and loans for capital needs. And a third account provides funding for supplemental or enabling services, such as transportation services, home visiting, case management, and outreach.

Our amendment would expand the list of providers eligible to apply for funding from these accounts to include rural health clinics. That is my point.

Under the majority leader's proposal, federally qualified health centers, or FQHC's, are automatically eligible for funding opportunities. But rural health clinics with the same mission, same miracles, the same people, and the same need, are not eligible, except if they are part of something called a consortium.

Mr. President, I support the notion of various rural providers banding together to promote integration and coordination of services. But I do not think the participation of rural health clinics should be restricted.

Under this amendment, rural health clinics would be able to qualify and compete for funds in each of the separate accounts, without being a part of a larger consortium. For profit, rural health clinics would be eligible to apply only for capital funding for loans. Nonprofit rural health clinics could compete for funding under all three separate accounts.

In my own State of West Virginia, the majority of clinics and centers are already designated federally qualified health centers. West Virginia has about 38 of them, and about 14 rural health clinics. My point is that the rural health clinics do the same work, serve the same people, and have the same needs, and provide the same miracles as the federally qualified health centers.

Of those 14 rural health clinics, a few are in the process of qualifying as a federally qualified health center. But a few are not. And they cannot. The reasons they are not designated federally qualified health clinics has nothing to do with the quality of the service they provide or the qualifications of the people providing those services. A few clinics cannot qualify because they do not meet the very specific criteria required of a Federal qualified health clinic. I am not quarreling with the criteria, but I do want to make sure that all essential rural providers in West Virginia have equal access to all of the available funding sources in Senator MITCHELL's bill.

For example, the Belington Community Medical Services Association, in Belington, WV, a very small community, often flooded, cannot qualify for FQHC status because one full-time physician is not a permanent staff member. That is part of the FQHC criteria. The Belington clinic is run by a physician assistant named Tom Harward, and physician coverage is provided on a rotating basis. That is the best they can do, Mr. President. And they do it well. But they do not have a permanent physician on staff and, therefore, the Belington clinic cannot nor will they ever receive FQHC status. I think you understand that is not fair.

I do not think that fact alone should disqualify the Belington clinic, along with other rural health clinics across this country who are in a similar situation, who cannot meet the criteria for reasons which they cannot overcome, from applying for all available funding to help clinics in underserved areas.

Tom Harward, who runs the Belington clinic, was honored several years ago by his professional association as the Outstanding Physician Assistant of the Year. At that time, Tom described his typical week. This is what his week is.

He sees 20 to 30 patients a day and makes house calls 2 days a week. That still happens in places like West Virginia, and I expect South Dakota and Colorado. I, frankly, do not know when he would find the time to even fill out an application for new rural health funding. But if he can find the time, I want to make sure that he is not automatically disqualified because his clinic is something called a rural health clinic as opposed to a federally qualified health clinic.

Another example is the Children's Health Care Clinic in Pineville, WV, in the southern part of the State. They cannot qualify for federally qualified status because they only serve children. They only serve children. Yes. Therefore, they do not qualify. One of the criteria for federally qualified status is that they must provide a full range of services to people of all ages, not just pediatric services.

Again, we are not talking about a quality problem but rather a criteria issue. Children's Health Care Clinic in Pineville, WV, should also be able to compete for any and all funds made available under the majority leader's bill. I intend to fight to make sure that it happens.

A final provision would clarify that the current set-aside for nurse practitioners for National Health Service Corps funding includes physician assistants—the same Tom Harward I have just been talking about. I think it was a drafting oversight. I think it was nothing more than that. The current National Health Service Corps program already includes a 10 percent set-aside for nurse practitioners, nurse midwives, and physician assistants. The majority leader's bill increases the set-aside to 20 percent, and my provision merely clarifies that physician assistants are included in the corps set-aside, as they are under current law.

So, Mr. President, Senator MITCHELL's bill would go a long way to assure financial and physical access to health services for rural residents that are on my mind very much, as I speak. I see faces and I see families, as I speak. Our amendment—mine, Senator DASCHLE's, and others'—builds on some very important improvements that the majority leader already proposed. Taken altogether, I believe rural residents will gain real health security from health care reform. There will still be challenges. There will still be bumps in the road. There always are in places like West Virginia. But I believe that, on the whole, I can tell the majority of my constituents that the legislation we are considering will make a real difference in their lives. I have no other reason for being here. That is what I am hired on to do by my people of West Virginia—to try to make a difference in their lives. I believe this bill and this amendment will do that. For rural doctors and rural hospitals, this bill, frankly, is a long-awaited relief package that will provide them with additional resources and stable financing.

Mr. President, I look forward to the adoption of this amendment by my colleagues.

I thank my patient colleague from South Dakota and the distinguished Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from West Virginia for an extraordinarily complete explanation of our amendment.

I think it is appropriate that as we begin this debate we have a better understanding of why it is necessary to introduce this amendment, and how it addresses the critical shortage of rural health providers that the Senator from West Virginia so ably depicted on his chart.

I commend him. He has been an extraordinary partner in this whole effort and, as a cosponsor, has been a real leader over the years in rural health care reform. It has been my privilege to work side by side with him for virtually as long as I have been here, and I cannot think of a greater privilege I have had in the Senate.

I commend him for his statement and appreciate very much his contribution to this effort.

Mr. President, I ask unanimous consent that Senators WOFFORD and LEAHY be added to the list of cosponsors, which includes Senators BAUCUS, HARKIN, ROCKEFELLER, and REID.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, the Senator from West Virginia, as I indicated, has described our amendment very well. He, too, publicly commended our majority leader for including in his bill a substantial set of rural health provisions.

Senator MITCHELL has listened to the concerns that many of us have expressed about how rural areas would be affected by changes being proposed in our health care system. The bill he introduced, as the Senator from West Virginia has indicated, truly reflects his commitment to ensuring that rural health reform does not pass by rural communities.

The amendments that we are proposing tonight build upon the solid base that the majority leader's bill establishes for rural America.

From the very beginning of this debate, many of us have insisted that we would not vote for a bill that did not include substantial recognition of the need for improvements to rural health care access. I do not think anyone who has cosponsored this amendment is prepared to back off that determination. We are not going to abandon that principle now.

Thankfully, efforts to enhance access to rural health care have always had strong bipartisan support, as the statement from the Senator from Iowa indicated this evening.

Earlier this year I cochaired a bipartisan working group that recommended a series of rural provisions that should be included in health reform. I am very pleased that many of the suggestions we recommended were included in the Senate Finance Committee bill and now in the legislation Senator MITCHELL has presented to us.

Our efforts have been for a good cause. Indeed, both Republican and Democratic health reform bills frankly have included similar strong rural provisions. It gives me hope that the majority of Senators on both sides of the aisle share our insistence that health reform benefit rural and urban areas alike.

We have come together on this issue in the past, and I am hopeful that we can be united again on this debate. Let the same bipartisan spirit of cooperation prevail as we consider this set of amendments.

We all want to make health care reform a guaranteed winner for rural people.

The amendments that we are proposing tonight would encourage doctors, nurse practitioners, and physician assistants to practice in rural underserved areas, to ensure that financial and other assistance is available to help rural facilities adjust to the changing health care environment, and to assist rural providers in forming their own health care networks.

Among the provisions we are proposing, including some the Senator from West Virginia described so ably tonight, is a proposal to increase funding for the National Health Service Corps, one of the most important, respected workforce programs in the country today.

This program was nearly eliminated in the 1980's despite the fact that many rural communities are completely dependent upon corps doctors as their only source of physician care. While the program has been slowly built back up over the last couple of years, rural America badly needs more of these providers.

Another amendment we are proposing would provide Medicare bonus payments to nurse practitioners and physician assistants who practice in rural areas. This incentive money will help rural America attract and retain these important practitioners.

Another series of provisions included in this amendment would ensure that clinics in rural areas are eligible for loans and grants that can help them upgrade their services, form networks with other providers, and help better serve rural areas.

Finally, to help rural communities determine how to develop their own health care plans, we have established 10 demonstrations projects for the development of rural-based managed care.

Simply put, rural America's most significant problem is that we do not have enough providers. We see that in rural Colorado. We see it in rural Idaho. We see it in rural South Dakota. We have attempted to address that problem through a number of different provisions in our amendment.

Why do we need these provisions, some may ask. Does not universal coverage solve the problems facing rural America? It is true that if we move closer to universal coverage we could enhance access to care in rural America.

The problem we have is that guaranteed health insurance in rural America is defined differently than it is in urban America. In my home State of South Dakota, 145,000 residents had no health insurance at some point in 1993.

We must ensure rural residents have the same opportunities as urban dwellers to buy the range of insurance plans that will be required under the Mitchell bill.

Because we know that, compared to their urban counterparts, rural residents are less likely to be insured and tend to be older, sicker, and poorer with higher rates of uneconomic and chronic ailments and disability. This will remain so in spite of the fact that rural Americans may have improved coverage under the Mitchell bill.

Universal coverage is the most important building block to ensuring health security in rural America. But providing health coverage is not and cannot be the whole solution for what ails rural America today.

In far too many rural areas a health insurance card does little good because there are simply no providers to care for patients. Increasing the supply of primary care practitioners and attracting them to rural communities is by far the biggest challenge facing us today.

This is a serious issue in South Dakota and in many States throughout the Midwest and West. South Dakota currently ranks 47th in the country in terms of physician-to-population ratio with 1 primary care doctor for about every 1,500 people. In fact, 16 counties in my State have no hospital at all. Equally important is increasing the number of nonphysician providers practicing in these rural areas and enhancing their ability to practice independently.

More recently, we have seen a new problem. The increased competition for primary care physicians and nonphysician providers from urban-managed care plans is complicating life in rural America today. Rural areas are seeing a drain of primary care physicians from rural to urban areas, where employment packages offered by HMO's provide a shorter, more predictable work schedule and a much higher guaranteed income.

In other words we exacerbate the problem of a shortage of practitioners by encouraging doctors to leave underserved areas to go to those areas where there is no shortage.

We try to address that problem, Mr. President, with a number of the provisions to encourage providers, both doctors and other health care practitioners, to move to rural areas, and stay there, once they are there.

Coordinating care in rural areas is another major challenge. While urban residents can join a number of health care plans and have available to them a network of primary care doctors, specialists, nursing homes, and home health care providers, we have very limited access to integrated networks that can help patients manage their care.

These arrangements rarely exist in our part of the country. Managed care plans have been hesitant to enter rural health care markets and few rural providers have formed no networks at all.

So we need to do everything we can to encourage providers to cooperate and form integrated service delivery networks.

We should not wait for an urban-based HMO to set up shop in rural America. We can form our own community health plans and networks. All the providers need are the proper incentives.

In sum, this package of amendments makes the statement that rural America should no longer be asked to settle for less health care than their urban counterparts. What better message can we send as we debate health reform?

I certainly hope that, as we debate this amendment over the next day, Mr. President, we appreciate fully the unique set of circumstances that we have in rural America today; that we understand, we also have a unique responsibility to be sensitive to those circumstances. We simply cannot allow health reform to pass rural America by.

This amendment is a concerted effort on the part of a number of Senators from different States, all with the same appreciation of the need to respond more effectively to rural health care needs, recognizing very well how much the majority leader has already done in his bill to address many of the concerns we have expressed to him.

So I am hopeful, Mr. President, that before the end of the day tomorrow, perhaps, we can have a good debate and a good discussion about these needs and about ways to respond more effectively to these needs. This is our best effort to do so in a concerted and very sincere way.

I also ask unanimous consent, Mr. President, that the junior Senator from Colorado, Senator BEN NIGHTHORSE CAMPBELL, be added as a cosponsor to this amendment.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, the distinguished Senator from Idaho has shown remarkable patience tonight. So while I have a much longer statement and full explanation of what our amendment would do, I would like to elaborate more tomorrow on each of the provisions. We got a good start tonight from the Senator from West Virginia, so there is no need to further delay this evening.

I am aware that a number of housekeeping chores are required, and I will do that and then yield the floor to the distinguished Senator from Idaho.

MORNING BUSINESS

SENATOR CAROL MOSELEY-BRAUN REMEMBERS CECIL PARTEE

Ms. MOSELEY-BRAUN. Mr. President, many of the actions I have taken in my life have been heralded as firsts. But, people like Cecil Partee were firsts before I was even born and made my way possible. Mr. Partee was an example to me—an example of how to be an excellent legislator, an example of how to use the political system to make people's lives better, and an example of how to reach goals and hold on to dreams.

Cecil Partee believed in the Dream of America, and he proved, time and time again, that excellence and merit and hard work could overcome the odds and barriers he faced as an American of African descent. He was always a gentleman, and personified the dignity and class that are borne of struggle and achievement.

When I first ran for the general assembly, Cecil Partee was one of the first to become a friend and resource. Sometimes I would go down to his office just to sit and talk with him, and learn from his intelligence, his patience, and his experience. He was a mentor to me, and to countless others who saw public service as a noble calling.

Mr. Partee was born in Arkansas in 1921. He attended Tennessee State University for his undergraduate degree and then chose to pursue a career in law. The University of Arkansas would not accept him, however. They did not admit African-Americans at the time. The university agreed to pay his way to a northern law school. He chose Northwestern University Law School in Evanston. We can be thankful he came to Illinois and even more thankful that he stayed.

He passed the Illinois bar in 1947, but was not allowed to attend the congratulatory dinner with the other new lawyers, because the hotel where the dinner was held did not allow African-Americans. A year later Mr. Partee started his public career as an assistant state's attorney. In 1956, he was first elected to the Illinois House of Representatives.

Mr. Partee went on to serve for 10 years in the Illinois House of Representatives and for 10 years in the Illinois Senate. He was the first African-American to be president of the Senate, a post he held from 1971–73 and 1975–77.

He had a reputation as an astute and able legislator who fought to make the lives of ordinary citizens better. He worked to eradicate discrimination in the public and private sectors. He wanted to make sure that people could get good jobs and decent homes, whatever their race or nationality. He worked to ensure that consumers were treated fairly under the law. Most importantly, he worked to bring people together, and to eliminate barriers to real communication. He was a warrior in the battle to make the American dream a reality for all.

In 1989, Mr. Partee was named state's attorney. He took over the position from Mayor Daley, and served in that capacity for a year. He also served as city treasurer in Chicago for three terms.

The people of Illinois owe a great debt to Cecil Partee. He spent many of his years serving us, leading us, and making our lives better. His legacy is inspiring and tangible.

Partee's wife and their two children and two grandchildren have much to be proud of and much to miss. He was a good man, a pioneer, and a great politician. I will miss him. We will all miss him.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 1121, Ricardo Martinez, to be Administrator of the National Highway Traffic Safety Administration; Calendar Order No. 1122, Dharmendra K. Sharma, to be Administrator of Research and Special Programs Administration, Department of Transportation; Calendar Order No. 1124, Harold J. Creel, Jr., to be a Federal Maritime Commissioner; Calendar Order No. 1125, Delmond J.H. Won, to be a Federal Maritime Commissioner; Calendar Order No. 1127, Alexander Williams, Jr., to be a U.S. district judge; Calendar Order No. 1128, Charles Redding Pitt, to be a U.S. attorney; Calendar Order No. 1129, Larry Reed Mattox, to be a U.S. Marshal; Calendar Order No. 1130, Walter Baker Edmisten, to be a U.S. Marshal; Calendar Order No. 1131, Thomas Joseph Maroney, to be a U.S. attorney; and all nominations placed on the Secretary's desk in the Coast Guard.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's actions; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF TRANSPORTATION

Ricardo Martinez, of Louisiana, to be Administrator of the National Highway Traffic Safety Administration.

Dharmendra K. Sharma, of California, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

FEDERAL MARITIME COMMISSION

Harold Jennings Creel, Jr., of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 1999.

Delmond J. H. Won, of Hawaii, to be a Federal Maritime Commissioner for the term expiring June 30, 1997.

THE JUDICIARY

Alexander Williams, Jr., of Maryland, to be United States District Judge for the District of Maryland.

DEPARTMENT OF JUSTICE

Charles Redding Pitt, of Alabama, to be United States Attorney for the Middle District of Alabama for the term of four years.

Larry Reed Mattox, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

Walter Baker Edmisten, of North Carolina, to be United States Marshal for the Western District of North Carolina for the term of four years.

Thomas Joseph Maroney, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE COAST GUARD

Coast Guard nominations beginning Roger K. Wiebusch, and ending Robert W. Montfort, which nominations were received by the Senate and appeared in the Congressional Record of May 17, 1994.

Coast Guard nomination of Kay L. Hickman, which was received by the Senate and appeared in the Congressional Record of May 17, 1994.

Coast Guard nominations beginning Mark L. Everett, and ending Euill W. Long, III, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 1994.

STATEMENT ON THE NOMINATION OF RICARDO MARTINEZ

Mr. HOLLINGS. Mr. President, I urge my colleagues to support the nomination of Ricardo Martinez to be Administrator of the National Highway Traffic Safety Administration [NHTSA]. His nomination was unanimously approved by the Committee on Commerce, Science, and Transportation at its executive session on August 11, 1994.

NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from traffic accidents on the Nation's highways. Armed with that mission, the agency plays a vital role in reducing health care costs, by promoting safety of cars and light trucks.

If confirmed as Administrator, Dr. Martinez will bring a fresh perspective to the agency with his extensive medical background in trauma services and injury control and prevention. The nominee is currently serving as a consultant to Secretary of Transportation Peña on health issues. Prior to this, he most recently served as associate professor of surgery and emergency medicine at Emory University school of medicine. From 1985 to 1993, Dr. Martinez served in various positions at Stanford University, including associate director of trauma service at the university's hospital, and clinical assistant professor in the Department of surgery at the school of medicine. In addition, Dr. Martinez has written extensively on medical issues, and his works have been published in numerous medical journals, magazines, and books.

At his confirmation hearing on April 21, 1994, Dr. Martinez stressed his commitment to injury prevention, and the need to reinvigorate NHTSA to prepare it for the challenges of the next century. He also acknowledged NHTSA's role with respect to consumer education, as well as the important mandate the agency has to set CAFE [Corporate Average Fuel Economy] standards, and to analyze and disseminate data concerning fuel economy issues.

This nominee deserves our support, and I urge my colleagues to join me in approving Dr. Ricardo Martinez to be NHTSA Administrator.

STATEMENT ON THE NOMINATION OF DHARMENDRA K. SHARMA

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering the nomination of Dharmendra K. Sharma to be Administrator of the Research and Special Programs Administration [RSPA] of the U.S. Department of Transportation [DOT]. At its executive session on August 11, 1994, the Committee on Commerce, Science, and Transportation unanimously ordered this nomination reported favorably.

The position of Administrator of RSPA is a critical one. RSPA is responsible for hazardous materials transportation and pipeline safety, transportation emergency preparedness, safety training, multimodal transportation research and development activities, and the collection and dissemination of air carrier economic data. Two of the more significant offices within RSPA are the Office of Hazardous Materials Safety, which develops and issues regulations for the safe transportation of hazardous materials by all modes, and the Office of Pipeline Safety, which establishes and provides for compliance with standards that assure public safety and environmental protection in the transportation of gas and hazardous liquids by pipeline.

The nominee brings to this position a broad range of technical, research, analytical, and management abilities. He has demonstrated expertise in the fields of energy, science, and technology. For over 10 years Dr. Sharma has served as a Manager with the Electric Power Research Institute [EPRI], and prior to that he worked for the General Electric Co.

This nominee has demonstrated his understanding of the critical issues facing RSPA. He understands the need for greater vigilance over RSPA's pipeline safety program and the need for some form of comprehensive "one-call" legislation so that the number of pipeline accidents may be reduced. In addition, Dr. Sharma's background and expertise will allow him to assist Secretary Peña in the area of transportation technology development, a cornerstone of this Administration's plan for the future.

Mr. President, I am confident that Dharmendra K. Sharma's professional background and experience have prepared him well for the tremendous challenges confronting DOT and our Nation's system of transportation. I welcome this opportunity to recommend Dharmendra K. Sharma's confirmation as RSPA Administrator, and I urge my colleagues to join me in approving this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous, the Senate will now return to legislative session.

REPORT ON THE CONTINUATION OF THE EMERGENCY RELATIVE TO THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA [UNITA]—MESSAGE FROM THE PRESIDENT—PM 139

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola ["UNITA"] is to continue in effect beyond September 26, 1994, to the Federal Register for publication.

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolution 864 (1993) continues to oblige all Member States to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the Angolan peace process. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to UNITA to reduce its ability to pursue its aggressive policies of territorial acquisition.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

REPORT ON BELARUS AND UZBEKISTAN RELATIVE TO THE GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT—PM 140

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am writing to inform you of my intent to add Belarus and Uzbekistan to the list of beneficiary developing countries under the Generalized System of Preferences [GSP]. The GSP program offers duty-free access to the U.S. market and is authorized by the Trade Act of 1974.

I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, and particularly the level of development and initiation of economic reforms in Belarus and Uzbekistan, I have determined that it is appropriate to extend GSP benefits to these two countries.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

MESSAGES FROM THE HOUSE

At 3:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3508. An act to provide for tribal self-governance, and for other purposes.

H.R. 4709. An act to make certain technical corrections, and for other purposes.

H.R. 4867. An act to authorize appropriations for high-speed rail transportation, and for other purposes.

H.R. 4868. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes.

H.R. 4884. An act to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, West Virginia.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1305) to make boundary adjustments and other miscellaneous changes to authorities and programs of the National Park Service, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2947) to extend for an additional 2 years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two houses thereon; and appoints Mr. STOKES, Mr. MOLLOHAN, Mr. CHAPMAN, Ms. KAPTUR, Mr. TORRES, Mr. THORNTON, Mr. OBEY, Mr. LEWIS of California, Mr. DELAY, Mr. GALLO, and Mr. MCDADE as the managers of the conference on the part of the House.

At 7:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 285. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 2182.

ENROLLED BILLS SIGNED

At 8:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

H.R. 4812. An act to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second time by unanimous consent and referred indicated:

H.R. 4907. An act to reform the concept of baseline budgeting; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

H.R. 4709. An act to make certain technical corrections, and for other purposes; to the Committee on Indian Affairs.

H.R. 4868. An act to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 4884. An act to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, West Virginia; to the Committee on Governmental Affairs.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on August 17, 1994, she had presented to the President of the United States, the following enrolled bill and joint resolutions:

S. 2099. An act to establish the Northern Great Plains Rural Development Commission, and for other purposes.

S.J. Res. 153. Joint resolution to designate the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week."

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3223. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of the Joint Military Net Assessment for calendar year 1994; to the Committee on Armed Services.

EC-3224. A communication from the Acting Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure of Safeguards Information for the period April 1, 1994 through June 30, 1994; to the Committee on Environment and Public Works.

EC-3225. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the Federal Housing Administration for fiscal year 1993; to the Committee on Governmental Affairs.

EC-3226. A communication from the Assistant Attorney General (Office of Legislative Affairs), transmitting, pursuant to law, the report of the Office for Victims of Crime for fiscal year 1992; to the Committee on the Judiciary.

EC-3227. A communication from the Secretary of Education, transmitting, pursuant to law, the report of final regulations—Strengthening Institutions Program; to the Committee on Labor and Human Resources.

EC-3228. A communication from the Secretary of Education, transmitting, pursuant to law, the report of final regulations—State Independent Living Services Program and Centers for Independent Living Program; to the Committee on Labor and Human Resources.

EC-3229. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the sequestration update report for fiscal year 1995; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-617. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"JOINT RESOLUTION 40

"Whereas, The United States Passenger Services Act allows only United States-flagged ships to sail between United States ports, while foreign-flagged vessels are permitted to sail between California ports only as part of a longer journey; and

"Whereas, Historically, United States-flagged cruise lines were prohibited from offering gambling on board their vessels, while foreign-flagged vessels have always had gambling on board their vessels; and

"Whereas, The United States-flagged cruise industry has had difficulty in competing with foreign-flagged cruise lines; and

"Whereas, In order to level the playing field, in 1992 Congress amended the federal Johnson Act to allow United States cruise ships to offer gambling; and

"Whereas, Congress left the right to regulate or prohibit gambling on voyages or segments of voyages that are intrastate to the individual states, and

"Whereas, California's efforts to prohibit gambling cruises to nowhere have had the effect of prohibiting gambling on cruise ships traveling between California's ports, even as part of a longer journey; and

"Whereas. Cruise ships are declining to visit California ports, citing a ban on cruise ship gambling; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of California jointly*, That tourism is an important and vital industry to California, and that passengers disembarking from cruise ships in California ports add significantly to our economic base; and be it further

"*Resolved*, That California memorializes Congress to amend the Johnson Act to remove California's authority to regulate gambling on cruise ships traveling to foreign ports or on segments of voyages going to another state or country; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-618. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"JOINT RESOLUTION 52

"Whereas, Providing the American people with safe and wholesome drinking water has long been an important national objective; and

"Whereas, State and local water suppliers have attained this national objective by developing water systems that provide some of the safest drinking water in the world; and

"Whereas, The water suppliers of this country have worked with state and federal officials to ensure this safe water at a reasonable cost; and

"Whereas, Water treatment techniques applied in this country have eradicated waterborne organisms that have historically resulted in widespread disease and death; and

"Whereas, Federal legislation and legislation enacted by many states aims to ensure that the quality of drinking water remains at a level that will protect the public health and safety from the threats posed by contaminants, both naturally occurring and those introduced by human activity, with particular legislative emphasis on significantly reducing public exposure to substances that may cause cancer of birth defects; and

"Whereas, The federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) is the foundation for this nation's drinking water protection, including an aggressive federal regulatory program administered in most states by the United States Environmental Protection Agency (EPA) and, in states that have qualified for "primacy," by state regulatory agencies; and

"Whereas, The technical ability to detect and monitor the presence of substances in drinking water has, in some cases, outstripped scientific understanding of the impact of those substances on public health and safety; and

"Whereas, On at least one occasion, in commenting on proposed federal regulations regarding radon in drinking water, the EPA's own Science Advisory Board criticized the regulatory principles that the EPA has relied on in promulgating regulatory requirements, questioning whether those requirements will significantly improve the public health; and

"Whereas, Increasing regulatory requirements and concomitant costs threaten to make water a very expensive commodity, with the potential to place a significant financial burden on many Californians; and

"Whereas, The use of financial resources to promulgate and enforce water quality regulations, some of which may be of minimal protective value, occurs at a time when the people of this country, particularly those in California are having difficulty providing funding for many government programs and for needed improvements in our public infrastructure; and

"Whereas, National and state water organizations, associations of public health officials, the National Governors Association, and the National Association of State Legislatures, have proposed amendments to the federal Safe Drinking Water Act that will both maintain a program to protect the public health and minimize some of the negative regulatory impacts on the water systems and the water consumers of this country: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States, when the federal Safe Drinking Water Act is reauthorized, to adopt amendments to that act that will preserve the federal requirements that ensure the protection of the public health and safety but will reduce the regulatory burden on drinking water providers and, in turn, reduce the financial burden on the citizens of this nation; and

"*Resolved*, That the Legislature respectfully memorializes the President and Congress to adopt amendments to the federal Safe Drinking Water Act recommended by various state and national water organizations, associations of public health officials, and the National Governors Association, that do all of the following:

"(a) Revise present law that requires the EPA to establish water quality standards for 83 specified contaminants and requires the EPA to establish standards every three years thereafter for 25 additional contaminants, to, instead, require standards to be established in addition to the original list of 83 contaminants only when it is determined that a substance present in drinking water poses a potential public health risk.

"(b) Require the EPA to revise the list of regulated substances or the standards applicable to those substances if new scientific findings indicate that a regulated substance does not pose a threat to the public health or safety or does not require as stringent a standard.

"(c) Revise monitoring requirements so that the frequency of routine testing and reporting is reduced to a minimum when a public water system demonstrates that a substance is not, and has not historically been, present in its water supply.

"(d) Replace existing public notification requirements that may cause undue public concern with more flexible rules that allow for adjusting the content of a public notice to the degree of health risk present.

"(e) Recognize that, while some substances that pose a health hazard, such as radon, may be present in water, remediation efforts should be more heavily focused on the medium that poses the greatest risk of exposure, such as indoor air in the case of radon exposure, where those remedial efforts are more likely to provide the greatest public health benefits; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Environmental Protection Agency."

POM–619. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"JOINT RESOLUTION 51

"Whereas, The Metropolitan Water District of Southern California, Upper San Gabriel Valley Municipal Water District, Three Valleys Municipal Water District, San Gabriel Valley Municipal Water District, and the Main San Gabriel Basin Watermaster jointly studied conjunctive use as a means to control the migration of groundwater contamination in the Main San Gabriel Groundwater Basin; and

"Whereas, The Federal Environmental Protection Agency published the Baldwin Park Operable Unit Feasibility Study Report and Proposed Plan; and

"Whereas, The feasibility study includes an analysis of four project design alternatives to remedy contaminated groundwater in the Main San Gabriel Groundwater Basin, with two of the four project design alternatives incorporating the elements of conjunctive use; and

"Whereas, The Federal Environmental Protection Agency selected an alternative in the Proposed Plan that did not incorporate conjunctive use as the plan's preferred remedy; and

"Whereas, The Region IX Administrator of the Environmental Protection Agency is scheduled to sign the Record of Decision (ROD) for the Baldwin Park Operable Unit Cleanup Project in late March or early April; and

"Whereas, Following the signing of the ROD, negotiations to compel the responsible parties to design and construct the selected remedy will begin; and

"Whereas, The Board of Directors of the Metropolitan Water District of Southern California has committed financial support for a Baldwin Park Operable Unit Cleanup Project that incorporates conjunctive use; and

"Whereas, Public Law 102–575 authorizes 25 percent cost sharing from the Bureau of Reclamation for a Baldwin Park Operable Unit Cleanup Project that incorporated conjunctive use; and

"Whereas, The combined funding provided by the Metropolitan Water District of Southern California and the federal Bureau of Reclamation could potentially provide cost savings for the responsible parties; and

"Whereas, The Metropolitan Water District of Southern California and the Main San Gabriel Basin Watermaster, the court-appointed entity having the responsibility for managing the Main San Gabriel Groundwater Basin, are working to develop the Conjunctive Use and Basin Cleanup Agreement to govern the operation and management of conjunctive use in the Main San Gabriel Groundwater Basin; and

"Whereas, The incorporation of conjunctive use into the remedial design would accomplish the objectives of controlling the migration of groundwater contaminants and maximizing contaminant removal; and

"Whereas, The California Legislature concludes that the incorporation of conjunctive use into the remedial design would provide broad benefits to the Main San Gabriel Groundwater Basin and the affected region that are superior to those that would be realized by the alternative selected by the federal Environmental Protection Agency in the Proposed Plan; and

"Whereas, The California Legislature believes that the incorporation of conjunctive use into the remedial design would be the preferred means by which to remove significant contamination and to augment the region's water supply: Now therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Administrator of the Environmental Protection Agency to incorporate conjunctive use into the remedial design for the purpose of remedying groundwater contamination in the Main San Gabriel Groundwater Basin; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Environmental Protection Agency."

POM–620. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"JOINT RESOLUTION 1

"Whereas, The closing of Norton Air Force Base in March of 1994 will result in the loss of more than 4,000 jobs in the San Bernardino area; and

"Whereas, The site of Norton Air Force Base is ideally suited for the location of a foreign trade zone center and the existing base airport and surrounding facilities could be easily adapted to accommodate a foreign trade zone; and

"Whereas, Foreign trade zones are designated sites licensed by the Foreign Trade Zones Board under the United States Department of Commerce that permit domestic transactions involving foreign products to take place as if those transactions were conducted outside United States Customs territory, thus offsetting trade advantages available to foreign producers who export in competition with United States producers; and

"Whereas, Foreign trade zones facilitate and expedite international trade, assist in state and local economic development efforts, and create new employment opportunities; and

"Whereas, A foreign trade zone center at Norton Air Force Base, in addition to the Lockheed Corporation facility and a proposed Department of Defense Finance Accounting Center, would serve as anchor tenants employing nearly 10,000 people: Now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Foreign Trade Zone Board under the United States Department of Commerce to designate the airport located at Norton Air Force Base in San Bernardino County as a foreign trade zone center; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Commerce, the Chairman of the Foreign Trade Zone Board, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–621. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION 69

"Whereas, the lingering recession has hit California families hard through the loss of jobs and deflation of the housing market; and

"Whereas, many Californians have had sizable amounts of money invested in their homes; and

"Whereas, many Californians have suffered from deep depreciation in the value of their homes and are being forced, by circumstances, to sell their homes for a loss; and

"Whereas, the Internal Revenue Code treats nonreinvested profits from the sale of a home as capital gain; and

"Whereas, the same tax code makes no comparable allowance for those who realize a capital loss on the sale of a home: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to provide tax relief to homeowners caught in the largest housing market depression in many years by providing for the recognition of a capital loss on the sale of a principal residence; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–622. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION 70

"Whereas, the federal income tax burden during the past four decades has increased by more than 300 percent as a share of family income; and

"Whereas, measuring average after-tax per capita income, families with children are the lowest income group in America, with average after-tax income below that of elderly households, single persons, and couples without children; and

"Whereas wage stagnation and an ever-increasing tax burden has forced a growing number of families to rely on two wage earners to make ends meet; and

"Whereas, in 1948, a family of four at the median family income level paid just 2 percent of its income to the federal government in taxes; and

"Whereas, in 1989, that same family paid nearly 24 percent of its income to the federal government in taxes; and

"Whereas, the personal exemption for children was intended to help offset the costs of raising a child; and

"Whereas, in 1948, the personal exemption was six hundred dollars ($600), or roughly 20 percent of the median income for two-parent families, and for a family of four shielded 80 percent of personal income from taxation; and

"Whereas, to have the same value to families today as it did in 1948, the personal exemption would have to be raised from two thousand three hundred fifty dollars ($2,350) to eight thousand dollars ($8,000) and continue to be indexed to inflation; and

"Whereas, the effect of this ever-shrinking exemption penalizes the most vulnerable members of our society, our children; and

"Whereas, our children are the most likely members of our society to live in poverty, in part because their parents are not able to keep enough of their wages after taxes to properly feed, clothe, and shelter their children; and

"Whereas, in 1948, as much as 80 percent of personal income was exempt from federal income taxation, and this relatively low level of taxation helped to fuel the growth of the strongest economy in the world; and

"Whereas, our economy would be strengthened by returning substantial tax dollars to our citizens; and

"Whereas, American families are struggling to make ends meet; and

"Whereas, the fact that an increasing number of our children grow up in single-parent households makes it all the more imperative that we relieve the tax burden on their parents: Now therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to reduce the tax burden on children and families by restoring the inflation-eroded value of the personal exemption by increasing that exemption from two thousand three hundred fifty dollars ($2,350) to eight thousand dollars ($8,000), and continuing to index the exemption to inflation; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–623. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

POM–624. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION 75

"Whereas, the President of the United States and the President of Mexico signed an agreement on August 14, 1993, entitled 'Agreement Between the United States of American and United Mexican States in Cooperation for the Protection and Improvement of the Environment in the Border Area'; and

"Whereas, the Board of Supervisors of Imperial County and the Mexican State of Baja California Norte, on December 14, 1993, entered into a memorandum of understanding concerning environmental matters; and

"Whereas, the recent approval of the North American Free Trade Agreement (NAFTA) strengthens the economic and environmental ties between Mexico and the United States; and

"Whereas, the New River, which originates in Mexico and flows northward across the international boundary into California's Imperial County, is the most contaminated river in the United States, and is aesthetically repulsive to the residents of, and visitors to, Imperial County; and

"Whereas, the Governor, on October 6, 1993, documented the health and public safety dangers associated with the unregulated discharges into the New River in a state of emergency proclamation; and

"Whereas, due to the international nature of this problem, it is the obligation if the United States, on behalf of the residents of the State of California and Imperial County, to implement adequate measures to correct the contamination of the New River caused by discharges within the Republic of Mexico; and

"Whereas, the contamination of the New River is caused by uncontrolled discharges of raw and inadequately treated sewage, highly toxic industrial, chemical solid and geothermal waste and seepage from major garbage dumps slaughter houses, and industrial refuse within or near the City of Mexicali into the New River; and

"Whereas, the contaminated waters of the New River flow into the Salton Sea, which discharges are incompatible with the ecological, recreational, and other beneficial uses associated with the Salton Sea; and

"Whereas, Federal, state, and local public officials have documented the clear and present danger that the contaminated New River presents to residents of, and visitors to, Imperial County; and

"Whereas, immediate action to clean up the New River is essential for the health and safety of the public: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to implement measures in cooperation with the Republic of Mexico and state and local public officials, to correct the contamination of the New River caused by discharges within the Republic of Mexico; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, each Senator and Representative from California in the Congress of the United States, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Governor of California."

POM–625. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION 77

"Whereas, the prison system in California is seriously overcrowded and is currently operating at 180 percent capacity; and

"Whereas, approximately 16,000 or 15 percent of all prison inmates who are imprisoned in California are undocumented aliens who have been convicted of felony offenses under state law; and

"Whereas, the cost of imprisonment in California is twenty-two thousand dollars ($22,000) per prison inmate per year, which totals approximately three hundred fifty million dollars ($350,000,000) per year to imprison undocumented alien criminal offenders; and

"Whereas, the federal government is responsible for immigration policy and should bear the cost of imprisonment for undocumented alien criminal offenders; and

"Whereas, the Congress of the United States is considering the construction of 10 new regional federal prisons as part of the Omnibus Crime Bill: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to immediately enact legislation to construct new federal prisons and to transfer undocumented alien criminal offenders who are presently imprisoned in state prisons to the new federal facilities as a first priority in order to relieve California and other states from the financial burden of imprisoning dangerous convicted criminals who have entered the country illegally; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Attorney General of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM–626. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION 84

"Whereas, the Armenians, among us, have contributed to the progress and betterment of life through agriculture, commerce, teaching, the professions, churches, and community and worldwide organizations; and

"Whereas, the United States of America has repeatedly gone on record in support of human rights around the world; and

"Whereas, it is well documented that approximately 1,500,000 Armenians were massacred in Turkey during the years 1915 to 1918, although this genocide has been consistently denied by the Turkish government; and

"Whereas, by their own resolute Christian faith and will to survive and live again, and the generosity of many in the United States of America resulting in relief operations, a fraction of the survivors were rescued and subsequently immigrated to this country; and

"Whereas, the Armenians in some other countries must continue to endure daily acts of oppression, such as denial of their basic human rights, confiscation of their churches and schools, and punishment for speaking their native language openly; and

"Whereas, April 24, 1915, is the date historians have marked as the beginning of the massacre and consequently this day should be a day of reflection by all Armenians and other Americans; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to designate April 24 as 'National Day of Remembrance' and requests the President of the United States to issue a proclamation calling upon the people of the United States to observe that day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-627. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION 78

"Whereas, Congress has proposed to create the 'Public Safety Partnership and Community Policing Act of 1993,' establishing a program of grants and assistance to the states for a period of six years for the hiring and rehiring of additional career law enforcement officers; and

"Whereas, the purpose of this program is to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and to otherwise enhance public safety; and

"Whereas, the ability of state and local law enforcement agencies to qualify for these grants is dependent on their ability to provide matching funds; and

"Whereas, these nonfederal matching funds must provide 25 percent of costs of the program, project, or activity provided under a grant; and

"Whereas, for a grant for a period exceeding one year for hiring or rehiring career law enforcement officers, the federal share shall decrease from year to year for up to five years when state or local grant recipients shall be required to fully fund the program, project, or activity provided under a grant; and

"Whereas, the State of California has been experiencing a severe, persistent, and continuing recession that has resulted in four successive years of contraction of the state and local budgets; and

"Whereas, as a result of the recession, most California law enforcement agencies have seen a reduction in their budgets; and

"Whereas, declining revenues will make it impossible for many California law enforcement agencies to meet the matching funds requirement contained within the proposed 'Public Safety Partnership and Community Policing Act of 1993' without impacting existing programs; and

"Whereas, those California communities suffering the most severe budget shortfalls are experiencing the greatest impact of crime and would benefit most from access to the federal grant program; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to include in the 'Public Safety Partnership and Community Policing Act of 1993' an exemption for California law enforcement agencies from meeting the matching funds requirement; and be it further

"*Resolved*, That if no exemption for California law enforcement agencies is forthcoming, the President and the Congress should give the Attorney General broad authority to waive the matching funds requirement; and be it further

"*Resolved*, That local officials should also be permitted to use the funds in the most flexible manner so that they may be applied to the most pressing local needs, which include using the funds to keep existing police officers on the streets longer, for improved communications technology, and for necessary equipment; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-628. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"JOINT RESOLUTION 46

"Whereas, An estimated 18,000 illegal aliens who are convicted felons are being housed and fed in California's state prisons, five times more than any other state, have cost California taxpayers more than one billion dollars in the last five years, and will cost a projected $375 million during the 1994-1995 fiscal year; and

"Whereas, California's prisons are overcrowded at 180 percent of capacity; and

"Whereas, California's current inmate population is over 120,000 inmates as of March 1994, which is nearly double the system's design capacity; and

"Whereas, The state prison population is projected to grow to at least 141,000 by 1997-1998; and

"Whereas, California is suffering from a severe fiscal crisis; and

"Whereas, The United States Congress is making trade agreements with other countries: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to negotiate with countries to whom the United States gives foreign aid or with whom the United States enters into trade agreements, for an agreement to require that nationals convicted of felonies in the United States, when they have entered the United States illegally, serve their prison sentences in their country of origin and that the term of each sentence to be served in a country of origin shall be comparable to the sentence imposed in the state within the United States wherein the crime occurred; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-629. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"JOINT RESOLUTION 81

"Whereas, United States Senator Dianne Feinstein (D-California) has introduced a bill (S. 1522) which would direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes; and

"Whereas, United States Congressman Charles E. Schumer (D-New York) has introduced a bill (H.R. 1152) which would direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes; and

"Whereas, Those two bills combine to make up the 'Hate Crimes Sentencing Enhancement Act of 1994'; and

"Whereas, The Sacramento area has witnessed and is still recovering from a series of racially motivated violent incidents, including the firebombings of the local National Association for the Advancement of Colored People headquarters, the Japanese-American Citizens League headquarters, the office of the Department of Fair Employment and Housing, the home of City Councilman Jimmie Yee, and the B'Nai Israel Synagogue; and

"Whereas, California is a multiracial, multicultural state which expects to have a majority of communities of color by the year 2010; and

"Whereas, The Legislature has demonstrated repeated dedication to the abolition of hate crimes by passing major pieces of hate crimes legislation that have come before them: Now, therefore, be it

"*Resolved, by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to swiftly pass and sign into law the "Hate Crimes Sentencing Enhancement Act of 1994"; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-630. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"JOINT RESOLUTION 60

"Whereas, Persons who lawfully reside in the United States, whether they be American citizens, immigrants, or persons working or studying in the United States on a visa, have traditionally been assured their spouses and children could also lawfully reside in the United States; and

"Whereas, Family unity has always been a cornerstone of American immigration policy; and

"Whereas, The spouses and children of persons who have become permanent residents, through the amnesty provisions of the Federal Immigration Reform and Control Act of 1986 (IRCA) do not enjoy the same derivative rights; and

"Whereas, The result is that the spouses and children of many of the nearly 1.5 million persons in California who have become permanent residents of the United States are subject to deportation as undocumented persons even though their spouses or parents may lawfully reside and work in the United States; and

"Whereas, The federal Immigration and Naturalization Service has deported or has begun procedures to deport the spouses and children of persons who have in good faith secured amnesty under the laws of the United States; and

"Whereas, It is a waste of taxpayer funds to commence deportation proceedings, resulting in costly litigation, when virtually all of the children and spouses of persons granted amnesty under IRCA will eventually become lawful permanent residents through petitions filed by their spouses or parents within a few years; and

"Whereas, The two separate amnesty provisions of IRCA were available to applicants for the period of May 5, 1987, to November 30, 1988, inclusive, and thus, the persons and families affected are necessarily limited in number; and

"Whereas, It would not be in the sense of fairplay and justice to destroy families; and

"Whereas, It is nonsensical for American society to grant amnesty to parents and leave their children subject to deportation: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to do all of the following: (1) Review the actions of the Immigration and Naturalization Service with respect to deportation procedures for the children and spouses of permanent residents who were under the amnesty provisions of IRCA and (2) amend Section 301 of the Immigration Act of 1990 to ensure that the spouses and children of permanent residents who are legalized under the amnesty provisions of IRCA are afforded family unity protection; and be it further

"*Resolved*, That the President is strongly urged to issue an executive order that will direct the Immigration and Naturalization Service to cease any deportation actions that it may be taking against the spouses and children of permanent residents until the effective date of the amendments to Section 301 of the Immigration Act of 1990 described above; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-631. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION 80

"Whereas, it is estimated that one of every nine women in the United States will develop breast cancer, with more than 36,000 women in their 40s dying each year from this disease; and

"Whereas, there were 175,000 new cases of breast cancer diagnosed and 44,500 breast cancer deaths reported in 1991; and

"Whereas, the five-year relative survival rate in women whose breast cancer is detected early when the disease is localized is over 90 percent, while the five-year relative survival rate drops to 18 percent when the disease is not detected early; and

"Whereas, breast cancer is a critical health concern for women, not only because it threatens life itself, but also because of its impact on the self-image and quality of life of women; and

"Whereas, women are more likely than men to have no health insurance because they are concentrated in small businesses and low-wage, part-time, or temporary work and their health needs and the illnesses that are more prevalent in women, such as breast cancer, have historically been ignored in clinical research: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the state of California memorializes the President and the Congress of the United States to include the provision for mammograms and other women's health care needs as an integral part of any nationwide health care benefit reform package; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-632. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION 44

"Whereas, today, over 37 million Americans and over 6 million Californians lack health insurance, constituting a public crisis that adversely impacts the quality of our health as well as our economy; and

"Whereas, title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) has brought relief to approximately one million Americans every year who face the loss of group health insurance through termination of employment, the death of a spouse, or other qualifying event; and

"Whereas, the Consolidated Omnibus Budget Reconciliation Act of 1985 requires employers to offer, at the employee's expense, the continuation of group health insurance at group rates, to enrollees and their eligible dependents whose group coverage would otherwise end due to termination of employment, death of a spouse, or other qualifying event; and

"Whereas, the terminated employee, the spouse of a deceased employee, or other dependent, may continue coverage for 18 to 36 months after a change in work or family status; and

"Whereas, the rate for coverage is not to exceed 102 percent of the applicable premium charged for that employee's coverage for the applicable period preceding that employee's termination of employment; and

"Whereas, a gap exists in this continuation coverage, to wit, terminated employees or dependents of employees cannot continue their COBRA coverage beyond 36 months; and

"Whereas, Americans between the ages of 50 and 64 who lose group health insurance often have difficulty replacing it with affordable insurance and are disproportionately affected by this gap in COBRA coverage; Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Congress and President of the United States are respectfully memorialized to extend the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) to enable individuals 50 years of age or older to continue participating in their employer provided group health plan after a qualifying event until the qualified beneficiary or beneficiary's spouse has attained the age to qualify for Medicare, or a beneficiary's dependent minor has reached the legal age of adulthood; and be it further

"*Resolved*, Consistent with existing law, continuation coverage shall provide for health care benefits at a rate not to exceed 102 percent of the premium charged for that employee's coverage for the applicable period preceding that employee's termination of employment or change in work status without medical qualification or exclusions for preexisting medical conditions; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Majority Leader of the United States Senate, and to the United States Secretary of Health and Human Services."

POM-633. A resolution adopted by Board of County Commissioners, Okaloosa County, Florida relative to Federal mandates; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following report of committees were submitted on August 16, 1994:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment:

H.R. 734: A bill to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes." (Rept. No. 103-338).

The following report of committees were submitted on August 17, 1994:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2329. A bill to settle certain Indian land claims within the State of Connecticut, and for other purposes (Rept. No. 103-339).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 2400. A bill to establish the Northern Yukon-Arctic International Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 2401. A bill to establish the National Commission on Major League Baseball, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 2400. A bill to establish the Northern Yukon-Arctic International Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

NORTHERN YUKON-ARCTIC INTERNATIONAL WILDLIFE REFUGE ACT

• Mr. ROTH. Mr. President, I address our needs as well as our opportunities for international cooperation to protect our world's circumpolar region.

During my years in the Congress I have expressed my sincere ideology concerning mankind's responsibility to the environment. Simply stated, it is that man is bound to serve nature through an environmental ethic. Mankind has the responsibility to pass on a life-giving, life-sustaining environment to future generations. Our natural and cultural heritage rank high among our most priceless and irreplaceable possessions. To lose any of these possessions would be a loss to all of mankind.

It is often exhibited that all ecosystems—from Alaska to Africa, South America to Saudi Arabia—are inextricably connected. Not only can destruction in one small area bruise the conscience of man, but it can affect the fragile ecological balance of a tiny world appear more vulnerable with each passing day. Perhaps this environmental transcendentalism is nowhere more apparent than in the circumpolar region which serves as a sink for global pollution. It gathers the wastes and fallout from all that surrounds it, and we all know the tragic consequences befalling the fragile ecosystem and biosphere. The wind, water, fish, fowl, caribou, and other animals and plants know no political boundaries. Whether the pollution that threatens their pristine and fragile environment comes from the Soviet Union, Brazil, Eastern Europe, or the United States is of little consequence—especially when the contamination begins to affect the native peoples who depend on the ecosystem.

Likewise, the contamination of this precious international resource poses a threat to the Arctic region as scientific laboratory for comparisons of the Earth's health. As someone recently put it: "if the Arctic systems fail, the health and the understanding of the health of the entire planet fails." It is for those and other reasons that I commend proposals that encourage international cooperation to protect the precious Arctic area. The Finnish and Pisces initiatives and the Beringia Cooperative Agreement are very important steps in this process. Likewise, I'm proud to announce my own piece of legislation, that I am introducing today.

Mr. President, today I am introducing legislation to establish a Northern Yukon-Arctic International Wildlife Refuge. Its purpose is to bring these two great nations together in historic cooperation to permanently protect the last complete Arctic ecosystem in North America, North America's serrengethi, to fulfill our responsibility as stewards of our land, its resources and the life that depends on it.

This effort will protect all shared wild bird resources native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act. Likewise, it protects wetlands, marine mammals—including seals, walruses, whales, and polar bears; and it maintains our commitment to the principles of caribou management as prescribed under the Porcupine Management Agreement. And it provides for continued protection of marine and anadromous fish species that inhabit the coastal waters of the Beaufort Sea. Finally, it reaffirms the commitments we made to the residents of these lands, to continue to provide them with the opportunity for subsistence uses for the resources of these lands.

Each of these objectives is worthy, and this bill is an important step toward caring for our stewardship in the entire Arctic National Wildlife Refuge as it is currently administered under the National Wildlife Refuge Administration Act. However, most important is that this bill demonstrates the willing spirit and many opportunities nations can take advantage of toward the objective of protecting our environment. It is a first step—an important first step. But it is my hope that it serves as an example of what nations can do with shared objectives, a spirit of cooperation, and little bit of effort.

It is also my hope that we can build on this effort to actively pursue arctic agreements that lead to an arctic refuge protection plan. Such a plan should include international protection for shared lands and waters, cultural and historical sites, and management of fish, birds and wildlife, as well as international cooperative efforts to control the sources of pollutants that affect this fragile environment. The legislation that I am introducing today should be one of the building blocks for this effort.●

By Mr. DECONCINI:

S. 2401. A bill to establish the National Commission on Major League Baseball, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL COMMISSION ON MAJOR LEAGUE BASEBALL ACT OF 1994

Mr. DECONCINI. Mr. President, I know that we all are very much consumed on the health care. The debate has been going on for some time.

There is something that is really, really important that people are missing in this country, and that is baseball. I want to talk about it for a moment.

Today I am introducing legislation that would establish a five-member, National Commission on Major League Baseball. The purpose of this Commission is very simple. This panel will do for baseball, and the baseball fans of America, what baseball has been unable to do for itself—that is keep the focus on the game and not on the lawyers, and more importantly make the game accountable to the millions of Americans who call themselves baseball fans.

This Commission will have oversight and regulatory control over major league baseball. In particular, the Commission will have the ability to investigate many areas of major league baseball, including expansion, ticket prices, stadium financing, television revenues, and marketing and merchandising. Most importantly, however, is the Commission's power to conduct binding arbitration in the event of a labor impasse. Given that we are currently in the eighth work stoppage in the past 22 seasons, it is unfortunate, but obvious, that baseball cannot put its own house in order. The need for this authority has never been more clear than it is today.

Once again, the players and the owners have betrayed the American public and put their own self-interests above those of the fans. To the average fan, salary caps and labor negotiations do not matter. The average fan feels no sympathy for either the multimillion-dollar players or the multimillion-dollar owners. All the average fan wants to do is enjoy baseball. This Commission is intended to give them that opportunity.

While developing this Commission, I envisioned a panel which could act as an impartial commissioner of the national pastime. Unfortunately, baseball does not have a commissioner at this time despite the repeated promises to appoint one. With all due respect to Mr. Selig—I know him, he is a fine man, and a very good businessman—this game needs a strong, impartial leader who can be guided not solely by the interests of the players or the owners, but by the best interests of the game. Accordingly, this must involve the views of the fans.

Under the legislation, the President will select three individuals from the millions who proudly call themselves baseball fans to serve on the Commission. This Commission may not resolve the myriad of problems which plague the game, but it will give the fans a much needed voice in the debate. Additionally, the Commission will have a member chosen from among the players and a member chosen from among the owners. The panel will have the power to hold hearings and to obtain all relevant documents and other evidence in order to make their review as comprehensive as possible. If the parties will not unilaterally disclose their positions then this legislation will compel them to do so. The distrust and secrecy between the players and the owners has made reaching a compromise all the more difficult. If we are to address these issues and the concerns of the respective parties, it can only be done through complete disclosure. This Commission has the power to make certain that reality and not rhetoric is the basis for any discussion of these issues.

Many people might wonder why, or if, Government should involve itself in this matter. But the Government is already involved and has, in effect, created a baseball monopoly. Baseball is special and receives special treatment through the antitrust immunity.

This exemption allows baseball to operate as one large entity which operates free of the threat of competition, despite the fact that competition is the hallmark of American free enterprise. In other instances where we create a monopoly, such as utilities, no one questions the Government's authority to regulate the industry. In essence we grant the monopoly, but we do so with the understanding that this rare exception has conditions, one of which is the Government's right to regulate.

And the players are just as much at fault. They could settle this but, no, they have three or four agents that hold out and really do not care about the fans.

Many will argue that we should simply repeal the exemption. Frankly, that day may be coming, but at this point I think the larger issue is whether or not the game can police itself—I have not seen much recently to suggest that it can. Proponents of the exemption cite the unique place of baseball in American society. This raises the obvious question of how many times will the game which claims to be uniquely American walk away from the American public? My legislation is a compromise between the two positions which lets the exemption remain for the time being, but subjects the monopoly to regulation. Furthermore, my bill requires the Commission to study the need for the anti-trust exemption and the effects of its possible repeal and report to Congress on their findings within 3 years. This study will allow Congress to better understand the consequences of continuing or repealing the anti-trust exemption. That decision, when and if it is made, should be an informed one, and the Commission will help in that regard.

Critics will argue that this Commission is ill conceived, that it places complex issues in the hands of those who lack the knowledge or understanding to resolve them. To those critics, I suggest that what this situation desperately needs is a little perspective and a good dose of reality. Who better to provide it than the very people who fill the coffers of the players and owners by going to the games, by purchasing the merchandise, by supporting the advertisers who pay the enormous television contracts? One thing is clear, the current system has failed and it is time for new ideas.

It is true that baseball is a uniquely American game. But with that special place in American culture comes a responsibility to the American public. The select few who constitute the ownership and players of major league baseball must preserve the game for the enjoyment of all fans. When the games stopped last week, fans were enjoying perhaps the finest season in many years. Matt Williams, Ken Griffey, Jr., and Frank Thomas were all chasing Roger Maris's home run record. Houston Astro Jeff Bagwell might have become the first triple crown winner since 1967. On the field the game was living up to its proud tradition. But now this fine season has been taken away and replaced with sound bites of lawyers from both sides who always find a new way to say, "we've made no progress." The baseball fans of America are the most loyal and dedicated in all of sports, they deserve better. They deserve a chance to watch the game they love—this Commission will give them that chance.

Mr. President, I compliment the Senator from Ohio here, who has tried to bring public attention to this in a different way, by lifting the exemption. I have not been a supporter of that because I am not convinced that it is going to solve the problem. I have given it a lot of thought, and I came to the conclusion that we need to regulate this monopoly, not just open it up by taking the exemption away. Critics will argue that the commission is ill-conceived and places complex issues in the hands of those who lack the knowledge or understanding to resolve them. To those critics, I suggest that what the situation desperately needs is a little perspective and a good dose of reality.

Who better to provide it than the very people who fill the coffers of the players and the owners by going to the game, by purchasing the merchandise, by supporting the advertisers who pay the enormous television contracts?

You know who that is: the baseball fans.

One thing is clear, the current system has failed, it is broken, it is not working.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "National Commission on Major League Baseball Act of 1994".

SEC. 2. ESTABLISHMENT.

There is hereby established the National Commission on Major League Baseball (hereafter in this Act referred to as the "Commission").

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of five members, all of whom shall be appointed by the President. The President shall appoint—

(1) one member after consultation with the Major League Baseball Players Association;

(2) one member after consultation with the owners of Major League Baseball; and

(3) three members (after consultations with baseball fan organizations and the informal solicitation of recommendations from the general public), one of whom the President shall designate as Chairman of the Commission.

(b) TERM.—Members of the Commission shall be appointed for a six year term. No individual may serve as a member for more than one term.

(c) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than three members of the Commission.

(d) APPOINTMENT DATE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of enactment of this Act.

(f) PUBLIC MEETINGS.—All Commission meetings shall be open to the public.

(g) VACANCY.—If any member of the Commission is unable to serve a full term or becomes unqualified to serve in such position, a new member shall be appointed to serve the remainder of such term of office, within 45 days of the vacancy, in the same manner in which the original appointment was made.

SEC. 4. DUTIES OF THE COMMISSION.

The duties of the Commission are to oversee and regulate any aspect of Major League Baseball, where, in the opinion of the Commission, it is in the best interests of baseball to intervene, including but not limited to the—

(1) conduct of binding arbitration in the event of a labor impasse;

(2) setting of ticket prices;

(3) expansion and relocation of franchises;

(4) financing of any stadium;

(5) regulation of television revenues;

(6) regulation of marketing and merchandising revenues; and

(7) revenue sharing disputes among the owners of Major League Baseball.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a panel of at least three members of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) OBTAINING DATA.—The Commission may secure directly from any Federal department, agency, or court information and assistance necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such agency or department shall furnish such information or assistance to the Commission. In addition, the Commission may request any relevant information from any appropriate parties with an interest in Major League Baseball.

(c) SUBPOENA POWER.—

(1) ISSUANCE.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within a judicial district at any designated place of hearing within the judicial district.

(2) ENFORCEMENT.—If a person issued a subpoena under paragraph (1) refuses to obey the subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which the person is found or resides or transacts business may (upon application by the Commission) order the person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(3) MANNER OF SERVICE.—A subpoena of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) PLACE OF SERVICE.—All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(d) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this Act.

(e) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriations Acts.

(f) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

SEC. 6. COMPENSATION OF THE COMMISSION.

(a) PAY.—Each member of the Commission shall be a full-time Federal employee and shall be paid at an annual rate of basic pay payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 7. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The Chairman of the Commission may appoint and terminate no more than ten staff personnel to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 8. REPORT TO CONGRESS.

No later than three years after the date of the enactment of this Act, the Commission shall submit a report to the Congress on the need for continuing the antitrust exemption for Major League Baseball and the possible effects resulting from the elimination of such exemption.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this Act.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date of enactment.

Mr. METZENBAUM. Mr. President, I rise to applaud Senator DECONCINI for proposing legislation to deal with the horrible problems that result from the Major League Baseball's exemption from our Nation's competition laws. As a consequence, today, baseball is not operating. Baseball games are not being played in the major lesion. Because baseball functions as an unregulated cartel, fans throughout the country have suffered as the season came to a crushing halt.

Senator HATCH and I have introduced a bill that will limit baseball's exemption from the competition laws. We hope for speedy passage of that bill, and we hope that it will convince the players to end their strike and management to sit down and negotiate, without imposing any one-sided conditions on the players.

I prefer this free market solution, as opposed to regulation.

However, I applaud my colleague for his effort to remedy the inequities in baseball, and I agree with him that we should not stand for an unregulated cartel.

I hope to work with my friend from Arizona to combine our legislative efforts in the hopes of letting the season continue for the benefit of all fans.

There is no secret about it that the situation that presently exists, where the owners are in a position to impose, on their own, conditions on the baseball players, has brought baseball to this condition in this country. That is not what the fans want, not what the country wants, and I do not think it is good for baseball or for the country. I think perhaps Senators DECONCINI, HATCH, and I, and others, who have a strong interest in the subject will be able to move forward and bring our some legislative resolution of the issue. Hopefully, the parties themselves will be able to resolve the issue and get baseball back on the field rather than in the U.S. Senate.

ADDITIONAL COSPONSORS

S. 1887

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Connecticut [Mr. DODD], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 2255

At the request of Mr. GORTON, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2255, a bill to amend the Budget Enforcement Act of 1990 to establish a new budget point of order against any amendment, bill, or conference report that directs increased revenues from additional taxation of Social Security or Railroad Retirement benefits to a fund other than the Social Security trust fund or the Social Security Equivalent Benefit Account.

S. 2257

At the request of Mr. DURENBERGER, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2257, supra.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

SENATE JOINT RESOLUTION 214

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution designating August 9, 1994, as "Smokey Bear's 50th Anniversary."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 73

At the request of Mrs. FEINSTEIN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to the announcement of the Japanese Food Agency that it does not intend to fulfill its commitment to purchase 75,000 metric tons of United States rice.

AMENDMENTS SUBMITTED

THE HEALTH SECURITY ACT OF 1994

NICKLES (AND OTHERS) AMENDMENT NO. 2563

Mr. NICKLES (for himself, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. CRAIG, Mr. COATS, Mr. GREGG, Mr. D'AMATO, Mr. GRASSLEY, Mr. DASCHLE, Mr. STEVENS, Mr. DURENBERGER, Mr. SHELBY, Mr. MACK, Mr. GORTON, Mr. ROTH, Mr. LOTT, Mr. BURNS, Mr. EXON, Mr. MURKOWSKI, Mr. SMITH, Mr. THURMOND, Mr. SPECTER, Mr. WOFFORD, and Mr. COVERDELL) proposed an amendment to amendment No. 2560 proposed by Mr.

MITCHELL to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

On page 145, strike lines 1 through 5.

DASCHLE (AND OTHERS) AMENDMENT NO. 2564

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. REID, Mr. LEAHY, Mr. WOFFORD, and Mr. CAMPBELL) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill S. 2351, supra; as follows:

On page 112, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 664, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to federally qualified health centers, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 673, line 3, insert "and rural health clinics" after "Act)".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks that integrate the medicare population of the area served.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population.

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one rural underserved area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d–51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served, as described under subparagraph (A), are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

" '(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.' ".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services",

(3) by inserting "physician assistant, nurse practitioner, or a clinical nurse specialist" after "physician",

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of physicians' services that are primary care services, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of services furnished by a physician assistant, nurse practitioner, or a clinical nurse specialist described in such paragraph that would be physicians' services that are primary care services if a physician furnished the services, a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

GRASSLEY AMENDMENTS NOS. 2565–2567

(Ordered to lie on the table.)

Mr. GRASSLEY submitted three amendments intended to be proposed by him to amendment No. 2560 proposed by Mr. MITCHELL to the bill S. 2351, supra; as follows:

AMENDMENT NO. 2565

On page 263, between lines 15 and 16, insert the following new section:

SEC. . LIMITATION ON FULL-TIME EQUIVALENT POSITIONS.

Nothing in this Act, or an amendment made by this Act, shall be construed as permitting the total number of full-time equivalent positions in all agencies to exceed the limitations contained in section 5 of the Federal Workforce Restructuring Act of 1994.

AMENDMENT NO. 2566

On page 817, strike lines 14 through 24, and insert the following:

(a) COVERAGE IN OUTPATIENT SETTINGS; DIRECT PAYMENTS TO NURSE PRACTITIONERS.—

(1) IN GENERAL.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2))K)) is amended—

(A) in clause (i)—

(i) by striking "or" at the end of subclause (II); and

(ii) by inserting "or (IV) in an outpatient setting as defined by the Secretary" following "shortage area,"; and

(B) in clause (ii)—

(i) by striking "in a skilled" and inserting "in (I) a skilled"; and

(ii) by inserting ", or (II) in an outpatient setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(2) DIRECT PAYMENTS TO NURSE PRACTITIONERS IN OUTPATIENT SETTINGS.—(A) Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended by

inserting "or for services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services in outpatient settings)," after "rural area),".

(B) Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "clauses (i), (ii)(I), or (iv)".

On page 820, line 4, strike "(a)(2)" and insert "(a)(1)(B)".

AMENDMENT NO. 2567

On page 1226, beginning with line 4, strike all through page 1227, line 13.

On page 1227, line 14, strike "(B)" and insert "(A)".

On page 1227, line 19, strike "(C)" and insert "(B)".

Mr. GRASSLEY. Mr. President, I want to speak and have it placed in the proper place in the RECORD—so it does not interfere with the debate on rural health care—a discussion of three amendments that I am going to offer later on in this bill's debate, and I want to send those amendments to the desk for file.

I am going to offer these amendments at such time as the managers of the bill see fit. In the meantime I want to have them on record so people will know what I am thinking about doing. I do not want to play any games with anybody. There is no reason to keep these amendments secret.

One of the amendments deals with one of the subject matters that is going to be involved with the Daschle amendment anyway.

The first amendment would ensure that the effects of the Mitchell bill would not supersede the provisions of another law that was passed earlier this year, Public Law 103-226. That law established ceilings for the numbers of Federal workers over the next 6 years.

Based on an amendment that Senator PHIL GRAMM and I offered, the ceilings are set forth in the Federal Workforce Restructuring Act of 1994. Section 5 of the act is entitled "Reduction of Federal Full-Time Equivalent Positions." The ceilings are set for fiscal year 1994 through fiscal year 1999.

The purpose of the amendment originally offered by Senator GRAMM and myself was to put teeth in the administration's program to reinvent Government. I am a strong believer in the reinventing Government program. I support the efforts of the Vice President and have indicated that many times here on the floor.

The Congress is also on record strongly supporting the program, because the Senate voted 82 to 14 in support of the Gramm-Grassley amendment.

The amendment that I intend to offer to the Mitchell bill would preserve what Congress did earlier this year. It would say that the Mitchell bill would have to be consistent with section 5 of Public Law 103-226. In other words, the Mitchell bill could not add to the overall full-time equivalents, or what we call FTE's, established in law.

This amendment is relevant, I believe. The short answer of why is that is there is a great fear on our side of the aisle that the Mitchell bill would lead to new, flourishing bureaucracies, even though the author denies this. So my amendment is a way to keep the author of the legislation consistent with what this Senate previously had done, not to increase the number of employees. If there are not going to be bureaucracies, there will not be bureaucracies. I want to make it clear that my intention is not to call into question the author's assertion. Rather, my intention is to ensure that the statutory ceilings are protected.

As our side has analyzed the Mitchell bill, it would create 50 new Federal bureaucracies. They would include, among others, a National Health Benefit Board and a National Health Care Cost and Coverage Commission. It would also give hundreds of new powers to the Secretary of HHS as well as the Secretary of Labor.

The point is that, if you have new bureaucracies, then new bureaucrats would have to do this new work. Presumably, they could be shifted from elsewhere within the Federal work force. Such a zero-sum shift would be acceptable from the standpoint of protection of the limits of employment under current law as long as the overall totals established in the law are not breached.

However, when I say acceptable, I want to make it clear I am talking about from the standpoint of protecting current law. I am not accepting the motion that all these bureaucracies are either wise or needed.

The second amendment that I am filling is also a portion of the amendment that is before this body. It deals with the direct Medicare reimbursement to nurse practitioners providing services in outpatient settings. I first introduced this legislation in November 1991. I was successful in adding this legislation to the Senate version of H.R. 11 in 1992, which was eventually vetoed by President Bush.

I offered this amendment again in the Senate Finance Committee's version of OBRA fiscal year 1993. And I was successful in adding this legislation to the Finance Committee's health reform bill. Senator MITCHELL has included this legislation in his bill. But it appears that some drafting errors make it necessary to refine it. I think that is what Senator DASCHLE is trying to accomplish, because it would not in original bill permit direct reimbursement of these providers. The amendment I file separately would also deal with that issue.

Finally, Mr. President, my third amendment that I want to present to the Senate for consideration over the next few days would do two things: It would strike what is a de facto employer mandate on the self-employed as well as the resulting tax penalty for noncompliance. This is in section 7203 of the Mitchell bill.

Mr. President, I want to make sure my colleagues are made aware of my intentions to offer these amendments to the Mitchell bill, and I would urge their cooperation and support.

As I indicated, Mr. President, I want these amendments placed or filed or sent to the desk merely for printing in the RECORD and for everybody's consideration over the next few days.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research Conservation, Forestry, and General Legislation and the House Agriculture Subcommittee on Environment, Credit and Rural Development will hold a joint field hearing concerning the future of the Conservation Reserve Program. The hearing will be held on Thursday, September 1, 1994, at 9:30 a.m. in Aberdeen, SD, at the Ramkota Inn. Senator TOM DASCHLE will preside.

For further information, please contact Tom Buis at 224-2321.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. AKAKA. Mr. President, I would like to announce that an oversight hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production.

The hearing will take place on Thursday, September 22, 1994, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the question of immigration in the Commonwealth of the Northern Mariana Islands.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Building, Washington, DC 20510.

For further information regarding the hearing, please contact Dionne Thompson of the subcommittee staff at (202) 224-5925.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 17, 1994, at 2 p.m., in room 226, Senate Dirksen Office Building, to hold a hearing on the nominations of William Bryson to be U.S. circuit judge for the Federal circuit, Salvador Casellas to be U.S. district judge for the District of Puerto Rico, Daniel Dominguez to be U.S. district judge for the District of Puerto Rico, and Sarah Vance to be U.S. district judge for the Eastern District of Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise today to announce to my Senate colleagues, as has been my custom each week during this session of the 103d Congress, that during the last week, 18 people were killed by gunshot in New York City, bringing the 1994 total to 621.•

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. KEMPTHORNE].

Mr. KEMPTHORNE. Thank you very much, Mr. President.

May I also acknowledge and thank for his courtesy the Senator from South Dakota, who is always a gentleman in all floor debate I have ever seen. I appreciate that.

I often read comments from Idahoans here on the Senate floor, because they reflect down-to-earth common sense. This is such a case. I am going to share with you three quotes from Idahoans relating to this current health care debate:

> I do not believe that we have a crisis in the health care system. We have a good system, it just needs to be amended, says Missy Hunsucker of Boise.

Dr. Andrew McRoberts of Pocatello says:

> What I fear now is they're going to rush something through with very little thought or planning and when it's done they're going to say, 'Oh, my God, what did we do'

And Jim Guthrie, a small business owner in McCammon says,

> When you look at what the government is doing with some of the other things they've got their hand in, it's scary. I think something needs to be done, but I don't think this is it.

These are comments from hard-working, thoughtful and practical Idahoans. Real people, not policy wonks or "inside-the-beltway" analysts. These are the thoughts of the people whose lives will be impacted by the decisions we make in Congress. I hope we keep their comments in mind when we examine the whole question of health care reform.

The mail, faxes, and phone calls that come into my State offices and to my Washington office are almost unanimous in opposition to government-run health care and the Clinton-Mitchell bill. These are not part of any organized campaign, they are honest comments from concerned Americans.

There is no dispute that our country's health care system is the best in the world. Americans enjoy the best physicians, the best hospitals, and the best research facilities. There are changes that need to be made, but not a complete overhaul in our health care delivery system.

Is the Clinton-Mitchell plan, all 14-hundred-plus pages, the way to go? I do not think so. Veteran Senators tell me this is one of the most complex pieces of legislation they have ever seen. And what compounds the problem is the fact that we are now working on the third version of the bill—a bill that has not had the benefit of a complete committee markup and review, and a bill that frankly, not many people totally understand. The non-partisan Congressional Budget Office says this bill will cost more than $1.1 trillion over 8 years. In 1998 alone, it would cost nearly $104 billion, making it the third largest program in the budget.

My personal preference is to have Congress do what Idahoans tell me they would do: Implement local innovations and ideas, reform elements of the system, and let the private sector work.

When I first looked at the Clinton-Mitchell bill, one of the first phrases I saw was, "A participating State shall." A version of that phrase is repeated at least 85 times in the bill. What does that mean? Does it mean a State can opt out of the program? Far from it.

Under the Clinton-Mitchell bill, States would have to choose one of three options: Comply with the bill entirely, including the mountains of new rules and regulations; become a single-payer socialized medicine State; or let the Federal Government totally control health care in the State. None of these are attractive options.

State governments should not be forced to comply with the overly restrictive nature of this bill when they are doing a lot on their own, right now—and without Federal intervention.

The State of Idaho is not immune to the problems in health care. While Idahoans pay less for care than others, costs are going up and there are not enough doctors. That is making health care more difficult to get than in the past. Mr. President, 84 percent of Idahoans have health care coverage, but there are still more than 100,000 without coverage. Of those with coverage, 15 percent still do not have access to a primary care physician. That is because in a State with a large land mass and a small population, doctors tend to live in population centers, not in small, remote towns.

The Clinton-Mitchell bill makes provisions for rural communities. But that does not go far enough to meet the needs of a lot of towns in Idaho.

There are communities like Warren or Atlanta, ID—I could name dozens—that have no doctors or health care facilities. They are truly western frontier towns. They may be 25 miles or 100 miles from the nearest doctor, often isolated in the mountains and accessible by, at best, a gravel road. In the winter, they are lucky if that road is even plowed. They do not fit within the definitions of the Clinton-Mitchell health care bill for rural communities. We need to acknowledge these towns and their conditions and make allowances for them.

How important is a hospital to small town Idaho? It is often the difference between life and death, and is critical if there is an accident or sudden illness. Larry Lee, chief financial officer at Harms Memorial Hospital in American Falls is scared of the Clinton-Mitchell plan. He says isolated hospitals without cost efficiencies found in more urban areas are at risk. He says his greatest fear is that, "this small hospital will cease to exist—everything will be centered around the large hospitals with no consideration given to distance. Everything will be based on cost." In Emmett, a farming community northwest of Boise, the emergency room at Walter Knox Hospital treated 4,292 patients last year. That is roughly equal to the population of the town, and about one-third of the total number of people living in the entire county. The community can ill afford to lose its immediate care. There are other advantages of a hometown hospital beyond the medical needs of the community. An economic impact report presented to the local officials found that the hospital attracted three physicians to the valley, employs 92 people, and contributes more than $2 million annually to the economy. The report also stressed the importance of indirect revenues from related medical and service industries. So you can see that if small towns like Emmett, ID, lose their hospitals, they lose much more than health care—their economic health is also jeopardized. I do not want any part of a plan that causes rural hospitals and doctors to close their doors and abandon small towns. I doubt very much whether my colleagues do either.

Will the farmer in Idaho benefit from the Clinton-Mitchell plan? I mentioned that Idaho does not have enough health care providers. While the Clinton-Mitchell bill contains funding for outreach into rural underserved areas, it also creates disincentives to practice there. One example of such a disincentive may be the 25-percent tax for noncompetitive areas. The tax on so-called high cost plans is to be paid, partially, by physicians.

Rural doctors already face low reimbursement rates—the additional burden may force some into more urban areas where there is a larger patient base and reimbursements are higher.

The 25-percent premium tax on high-cost plans is such a disincentive. My staff has prepared an analysis. This is how it works.

Your insurance policy will be taxed if your WAP is greater than the WARP. That is, if your Weighted Average Premium is greater than the Weighted Average Reference Premium. This is from the Clinton-Mitchell bill. The WARP is figured out this way: You take the total of all U.S. health care payments and subtract from that the Medicare beneficiaries, Supplemental Security Income recipients, worker's compensation, automobile or other liability insurance. To that amount you add the projected expenditures for underinsured and uninsured people and increase that amount by the estimated percentage reflecting the proportion of premiums required for administration and State premium taxes. Decrease that amount by a percentage that reflects the estimated average percentage to total amount payable for items and services covered under the standard benefits package that will be payments in the form of cost sharing under a certified standard benefit plan with a high-cost option. Then, divide that amount by your community rating area difference—which is actually the percentage of difference in health care expenditures, in rates of uninsurance and underinsurance and in the proportion of expenditures for services provided by academic health centers.

Sound simple? Not at all.

It will require an army of Washington bureaucrats to figure all this out, and this is just one small section of the Mitchell bill. The bill is a jobs bill for bureaucrats.

There are other complexities of this provision. The fact that you will not know when you buy insurance if your policy is going to be taxed. The fact that your doctor might very well be getting a bill for half of the tax at the end of the year. We all know who ends up paying this tax. Individuals and small businesses.

Is it so important that we enact this type of legislation and cause such disruption in the lives of many Americans? Isn't there a better way to improve health care? I think there is, and it is being done by the States and private sector already.

The Idaho legislature adopted health care reforms the last two sessions.

These are State, not Federal solutions.

Idaho has enacted legislation which guarantees access to health insurance, regardless of preexisting conditions or current health status.

At the same time, the legislature created true portability of insurance by allowing the insured to transfer coverage from one plan to another without a loss of coverage.

Administrative simplification was next on the list. Idaho now requires insurance companies to use a uniform claim form to reduce administrative costs and simplify the insurance process for the patient, the doctor, and the insurance companies.

Finally, the lawmakers took a step toward increasing the affordability of insurance by establishing Medical Savings Accounts. Contributions to these accounts are tax deductible from State income tax and may be used tax-free for medical expenses.

Idaho State Senator Dean Cameron says lawmakers recognized the need to do something, and he added, "We've accomplished everything they (the Federal Government) are trying to accomplish."

The private sector has also acted on its own. Moscow, Idaho, and Pullman, WA, are towns only 8 miles apart. They face a rural health care delivery problem, and they are doing something about it. Pullman Memorial Hospital and Gritman Medical Center have formed an alliance to keep costs down, improve care, and keep doctors and services available to the Palouse region.

The physician hospital organization, called a PHO, is voluntary—not mandated. Gritman's administrator, Robert Colvin, says, "We think we're doing this ahead of the curve, before it's do or die." This arrangement should be able to reduce costs and improve service by reducing the amount of duplicated services. Again, this is something these two communities, their hospitals, and doctors decided to do. The Federal Government did not tell them to do it.

I might add with no small amount of pride that I was an orderly at Gritman Medical Center when I was a student at the University of Idaho.

Because of the actions taken by the Idaho legislature, and innovations by private-sector health care providers, health care insurance and coverage in the State will be more affordable and accessible to many people. This was done without increasing taxes or more bureaucracy. The U.S. Congress could learn a lot from the Idaho State legislature.

Instead, the Senate is now debating a piece of legislation which will increase our taxes and dramatically increase the health care bureaucracy. Early reports indicate the Clinton-Mitchell bill will impose 17 new taxes and create 25 new bureaucratic regimes.

Over 90 percent of all employers in Idaho are small businesses. They employ almost two-thirds of the State's workers. People who currently receive their insurance through their employer, a small business, would be forced to change their current health plan. The business would be required to purchase a plan through the proposed Health Insurance Purchasing Cooperative, and the plan would have to provide the standard benefits package. Even if the worker preferred the old plan, he or she could easily be stuck paying for a plan that contains unneeded items or does not provide benefits that fit the worker.

Employees would suffer, and so would employers. Businesses would be negatively impacted by the Clinton-Mitchell plan. We are all aware of the serious impact the so called employer mandates will have on small business. Under this bill, there is little doubt that the mandate would likely be enacted. Willard Wood was in the restaurant business in Idaho for 58 years before retiring. He's managed both large and small restaurants, and he says employer mandates could be lethal to mom-and-pop businesses. "If health care reform goes through and the employer has to pay for all the employees, it will mean the loss of thousands of small businesses. I am talking about where the owners are working long hours just to make a living." After 58 years in business, I think Mr. Wood could be considered an expert in the field.

Chris Nye, who manages a business in Pocatello, says if employer mandates are forced onto his business, he will have to change his hiring practices because he won't be able to hire part-time help.

With examples like that, I can foresee where this bill will only serve to increase welfare rolls and lengthen unemployment lines because this health care bill will put people out of work.

Even before the mandates kick in, this bill is bad for a number of businesses—the small companies that have chosen to self-insure. They have taken the time and often the investment to carefully study their insurance needs and options and have decided that self-insuring provides them with the most efficient and most cost-effective way of providing coverage for their employees. Under the Clinton-Mitchell proposal, this would no longer be an option. The businesses would either have to buy insurance through those purchasing cooperatives I mentioned earlier or not provide insurance for their workers. I doubt we want to create a situation where a company is discouraged from providing coverage for its employees.

So how do we help small businesses across this country? What areas of reform are important to address right now?

There are insurance market reforms, providing portability, so a person can take insurance with them even between jobs.

Such reforms would also do away with limitations on insurance caused by preexisting conditions.

Antitrust reform is needed to allow hospitals and doctors to communicate and cooperate to provide the best care for a community.

St. Alphonsus Regional Medical Center and St. Luke's Regional Medical Center in Boise are only about 3 miles apart. Boiseans are truly fortunate to have two such fine facilities in their community. There have been times when people in Boise have wondered why each hospital provides the same specialized treatment or service. Would it not make sense to combine efforts? Normally, yes. But current antitrust laws make cooperation difficult. However, the hospitals have decided to push the edge of those laws and have combined their diabetes treatment centers. In doing so, the hospitals decided that several factors are more important than possibly risking violation of antitrust.

Both hospitals have diabetes centers. Both centers lose money or barely break even. So instead of passing the losses on to their patients in the cost of other services, the hospitals have combined efforts to improve delivery and cut costs. In the end, the community wins with a better quality of service in a facility that does not run the risk of closing down because it is losing money. It is a small step with two small programs, but could lead to more. Administrators at both hospitals say it could mark the beginning of more cooperative efforts. But they are nervous that the cooperation could run afoul of antitrust provisions. Enactment of antitrust reforms could remove the hurdles and provide incentive for the two hospitals to work together, not against each other, for the good of the community. Antitrust reform is not included in the Clinton-Mitchell bill.

One hundred-percent deductibility of health care premiums would give farmers, ranchers, and small business owners the same kind of advantages large corporations get. If you want to help rural and frontier areas, this would go a long way.

Congress should enact medical malpractice insurance reform. Bob Seeheusen, executive director of the Idaho Medical Association, says the current Clinton-Mitchell bill would preempt State laws on medical malpractice. In Idaho's case, he says this would undo what the State has already accomplished, and would likely push malpractice premiums up in price. It is unfortunate that even hospital equipment manufacturers need to buy malpractice insurance. Hospital administrators tell me that is what increases the cost of equipment, and the cost of care. If a hospital or doctor has to pay more for equipment, the cost is passed to the patient.

We need to enact anti-fraud and abuse control provisions; and administrative simplification. Nurses spend too much time filling out forms, taking away from the time they would like to spend with the patients.

I introduced a health care reform bill earlier this year that contained these reforms. I do not claim total authorship of the measure—I was able to take these items that are common to a variety of health care bills that had been introduced, and put them in one bill. I believed then, and I believe now, that there are reforms that most of us agree on and put in one bill and enact immediately and begin the reform of health care in America. Those should be put in a bill and enacted now so we can get started on the real reform Americans want.

Finally, it seems appropriate to remind everyone of the old adage, "Haste makes waste." It may seem trite, but it fits. With issues as detailed and complex as health care, it is vital that we not proceed too rapidly. We should not pass any piece of health-related legislation until we are sure we fully understand the consequences of our actions. Otherwise, we may find that we create more problems than we solve.

Larry Lee at Harms Memorial Hospital in American Falls has an interesting suggestion. He believes that before Congress jumps into something that is unproven, we should authorize pilot programs and test these theories. He says the health care reform proposals should go through the same kind of scrutiny, testing, retesting, and sampling that drugs undergo by the Food and Drug Administration.

There are many aspects of health care reform that I have not talked about today. They will be discussed by my colleagues on both sides of the aisle. But I look forward to that exchange. Only through extensive and thorough debate of the issues will we be able to unravel all the questions facing us, and only then will we hope to be able to pass legislation that Americans say they want and need.

The Clinton-Mitchell bill is not the right prescription for Idaho. Health care is too important an issue to pursue in this manner.

We would be wise to follow the advice of Missy Hunsacker, Dr. Andrew McRoberts, and Jim Guthrie when they say Congress should not move toward a hasty, big-government solution to our Nation's health care.

Mr. President, that completes my remarks. I thank you for your courtesy and the courtesy of all who have remained here this evening. I yield the floor.

ORDERS FOR TOMORROW

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, August 18; that when the Senate reconvenes on that day, the Journal of proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions over under the rule; that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes, with Senator HATCH recognized to speak for up to 10 minutes; and that at 10 o'clock, the Senate resume consideration of S. 2351, the Health Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate now stands adjourned until 9:30 a.m., Thursday, August 18.

Thereupon, the Senate, at 9:29 p.m., adjourned until Thursday, August 18, 1994, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 17, 1994:

DEPARTMENT OF TRANSPORTATION

RICARDO MARTINEZ, OF LOUISIANA, TO BE ADMINISTRATOR OF THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

DHARMENDRA K. SHARMA, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1999.

DELMOND J.H. WON, OF HAWAII, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1997.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALEXANDER WILLIAMS, JR., OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

DEPARTMENT OF JUSTICE

CHARLES REDDING PITT, OF ALABAMA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS.

LARRY REED MATTOX, OF VIRGINIA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF 4 YEARS.

WALTER BAKER EDMISTEN, OF NORTH CAROLINA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS.

THOMAS JOSEPH MARONEY, OF NEW YORK, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF 4 YEARS.

COAST GUARD

COAST GUARD NOMINATIONS BEGINNING ROGER K. WIEBUSCH, AND ENDING ROBERT W. MONTFORT. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF MAY 17, 1994, FOR COMPLETE LIST.)

COAST GUARD NOMINATION OF KAY L. HICKMAN.

COAST GUARD NOMINATIONS BEGINNING MARK L. EVERETT, AND ENDING EUILL W. LONG III. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF JULY 27, 1994, FOR COMPLETE LIST.)

HOUSE OF REPRESENTATIVES—*Wednesday, August 17, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our eyes, O God, so that our sight will be raised and our vision increased; open our minds so we will fathom the complexities of daily life; open our hearts so we will be touched by wisdom and courage; open our hands so we will do the works of justice and mercy. Breath into us such a faith, O God, that our spirits will be knit together in Your spirit and we will so gain that peace that passes all human understanding. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. DELAURO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. DELAURO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Illinois [Mr. DURBIN] will please come forward and lead the House in the Pledge of Allegiance.

Mr. DURBIN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

VETS SERVICE-CONNECTED DISABILITIES ENTITLEMENTS

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. COOPER. Mr. Speaker, we have to get Federal spending under control and balance the Federal budget. Sometimes that means we must make across-the-board cuts in Federal spending; nearly every Government program must be examined in order for us to put our economic house in order.

But as we make these cuts, one program needs special protection, the health benefits we provide for veterans who have service-connected disabilities.

Health benefits for these brave veterans are essential. When we recruited the soldiers, we promised them good health care for life, and that is a promise we cannot break. That is why in our bipartisan health bill we put in $4 billion, exactly the amount the Veterans' Affairs requested to help our veterans.

Our men and women of the armed services risked their lives for this Nation. We made a pledge to take care of them. This is a pact that we must keep. I urge my colleagues to consider and respect the interests of these veterans as we attempt to reform health care and put our own economic house in order.

THE CLINTONS' PERSONAL ATTACKS ARE BELOW THE BELT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I am personally offended by the First Couple's remarks on the crime bill over the past few days.

First, on Thursday night, the President suggested that I and my colleagues who voted against the rule did so to put our own political interests ahead of the Nation's security. Then on Sunday, he implied that we voted against the will of God. Finally, on Monday, the First Lady said that we "don't seem to care that our children don't feel safe in school."

Mr. Speaker, this is outrageous. Every Member of this body—regardless of party—regardless of their vote on the rule—cares deeply about the personal safety of their constituents.

It is out of line and just plain wrong for the First Couple to suggest otherwise.

This is not a debate about motives, it is a debate about policy. Let us talk about using some of that pork money to put more cops on the street. Let us talk about strengthening the sexual predator provisions. Let us talk about getting rid of the provisions which would release thousands of drug dealers from prison.

Mr. Speaker, we need to lift this debate to an honest level. We owe it to the American public. But we cannot unless the President and First Lady stop hitting below the belt.

CRIME BILL SILENCES THE DEAFENING DRUMBEAT OF CRIME

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week we had the opportunity to act on the most sweeping anticrime measure ever to come before the Congress. We had the opportunity to begin to silence the deafening drumbeat of crime: Violence in our homes, drugs in our schools, gunfire in our streets.

The Congress failed when it listened to the NRA rather than the country. Congress failed to give the American people the "three strikes and you're out" provision that puts violent repeat offenders behind bars for good.

Congress let down our families when it failed to put 100,000 more cops on the beat and increase safety in our neighborhoods.

Congress failed law enforcement when it failed to ban dangerous assault weapons, the weapon of choice of gang leaders, drug dealers, and cop killers, and it let down our children when the opposition used its procedural position to block investing in smart prevention programs that help them to steer clear of crime and drugs.

Our families and our communities need our help, and last week our institutions failed them.

Congress this week must take a different course; vote "yes" on the rule and "yes" on the crime bill.

NO CHOICE SHOULD HAVE NO CHANCE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the Clinton no-choice health care plan would be the no-chance health care plan if the White House and Congress just listened to the American people.

The problem is the Democrats are not listening, they are preaching—telling America that big government, Big Brother knows what is best.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Well, America is not buying the plan, which is why its public approval rating continues to sink southward.

With this lack of support, it is no wonder that the President wants to give America a lack of choice in choosing his plan.

In the marketplace of medical care, President Clinton wants to establish a monopoly.

Imagine going to the grocery store, the car lot, or airport, and just finding one brand, one make of car, or just one airline.

That is what you will find when you go to the hospital, the doctor, or the pharmacy if President Clinton gets his way.

Americans, remember, if you choose the Clinton health plan it may be the last choice in health care you will ever make.

PREVENTING FRAUD IN THE EARNED INCOME CREDIT

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN. Madam Speaker, I rise to draw the attention of the House to H.R. 4225, a bill that I introduced to eliminate fraud in the earned income credit for low-income working Americans.

The earned income credit [EIC] was established to increase the amount of income which low-income workers keep after taxes. However, there is ample evidence that EIC is being abused when filers provide incomplete or erroneous information to receive the credit.

While studies have shown that the earned income credit is an effective means of boosting low-income earners who work, they have also shown that nearly 1 in 3 of the 12.6 million families who received the EIC in 1990 were not eligible for it. As the EIC's cost nearly doubles to $25 billion in 1998, we must be sure that only eligible workers are receiving this tax break.

Specifically, this legislation requires the IRS to verify the taxpayer and dependent identification number before they can receive the credit—no number, no credit. A recent cost estimate by the IRS and OMB determined that this commonsense fraud-detection contained in the bill would save an average of 7.8 billion dollars. We cannot stand idly by while a flawed program continues to sap public funds.

Madam Speaker, I urge my colleagues to cosponsor and support this timely legislation.

TRIBUTE TO A GREAT LEADER: CECIL PARTEE

Mr. DURBIN. Madam Speaker, Illinois and the Nation lost a great leader yesterday, Cecil Partee, the Illinois Senate's first black president, died in Chicago.

As the first African-American in Illinois' history to preside over a chamber of the State legislature, he was truly a pioneer. Cecil Partee's life story traces the progress we have made in race relations in America. Cecil Partee was born in Arkansas in 1921, the son of a teacher. He was a brilliant student in high school and college. When he graduated from college, he applied for admission to the University of Arkansas Law School. He passed the admission test, but that law school was all white, so the State of Arkansas told Cecil Partee that they would pay his tuition for any law school he could be admitted to outside of the State of Arkansas. It turned out that he was admitted to Northwestern University Law School in Chicago. Arkansas' loss was Illinois' gain.

□ 1010

Cecil Partee graduated from Northwestern Law School and was admitted to the bar in Illinois. He served five times in the Illinois House, and then served in the Illinois Senate, and was president of the State Senate for two terms. During that time Cecil Partee sponsored fair employment legislation, open housing consumer rights legislation. He was the first black in Illinois running for attorney general in 1976.

Cecil Partee was my friend and my boss. I count myself fortunate to have learned the craft of politics at his side, and, equally important, to have learned that there is real happiness to be found in fighting the good political fight.

Cecil Partee is survived by his wife, Paris, granddaughters, and family. We join today in celebrating his life and mourning his loss.

STUFFING THE CRIME BILL WITH PORK

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Madam Speaker, like Santa Claus stuffing a stocking on Christmas eve, President Clinton and the Democrat leadership stuffed the crime bill with pork.

The result: a crime bill with over $9 billion in social welfare spending. For example, $270 million for social workers, guidance counselors, administrators, et cetera, to design social programs; $630 million for arts, crafts, and music activities; $5 million for youth anticrime councils to, and I am not kidding, sit around and talk about crime.

Some estimates are that for every police officer this bill funds, it also funds two new social workers. That is not crime fighting. That is more Washington, DC, politics as usual.

Our message to the President and the congressional leadership is simple. Let us stop dilly-dallying, cut the pork, put real teeth in this bill by really cracking down on criminal thugs, and let us pass a crime bill that protects American families instead of creating jobs for Government bureaucrats.

ROUND-THE-CLOCK NEGOTIATIONS AND BAKED BEANS CAN RESOLVE THE BASEBALL STRIKE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, baseball is treated like a game, but baseball is a business, and in business there are strikes. In baseball there is a strike, and it is job action just like any other strike, pure and simple, and there is only one key method to really resolving this strike, and that is face to face, round-the-clock, continuous negotiations with an objective third-party mediator. I recommend that.

I further recommend that the mediator put them in a small room, shut the doors and the windows, turn off the air conditioner, and give them a big meal of baked beans, fried cheese—think about it—hard boiled eggs, chocolate kisses, and in about 8 hours they will be pleading and shouting, "Play ball."

It is time for them to sit down, Madam Speaker, and I think that recommendation should be heard by all the interested people in America that follow baseball.

YOUNG AND HEALTHY NEED HEALTH CARE REFORM, TOO

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHEPHERD. Madam Speaker, $1 million. That is what one young family in my district owes for the care of their daughter. Ken and his wife were young and healthy and figured they had no need for health insurance. One of their two children was born with a problem with her heart and one of her hands. The cost of caring for this child has put this young family $1 million in debt.

Fortunately, the State of Utah is helping them pay this bill. What that means of course is that we are all paying the bill. The freedom to not purchase insurance is a free ride at the taxpayers expense that our Nation can no longer afford.

GUESS WHOSE BILL?

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Madam Speaker, we are now getting to the 11th hour on the crime bill, and there is lots of talk of compromise and other things in the air, and that is good as long as the President's four immutable principles stay strong, but one thing we have talked about is the prevention programs, and all of a sudden many from the other side, many from the other party, have done an about-face. We know that there were more prevention programs in the bill that passed the House in April which 65 Republicans voted for than there are today, and let me give my colleagues some of the programs that have come in for criticism and play a little game show: Guess Whose Bill?

Olympic youth centers, 125 million for, quote, sporting and recreational equipment, meals, first aid, nutrition guidance; July 1994 Republican Senate crime proposal.

Child centered activities, 400 million for supervised sports programs, work force preparation, horror of horrors, tutoring and mentoring programs which may involve social workers; July 1994, Republican Senate crime proposal.

Juvenile drug trafficking, boys and girls clubs, all in the Republican Senate proposal that now so many on this side seek to oppose.

HONORING ALFREDO CRISTIANI, EL SALVADOR'S FORMER PRESIDENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, I rise to honor El Salvador's former President, Alfredo Cristiani.

As an active participant in the democratic efforts of many Latin American nations, I had the unique opportunity to meet and forge a great friendship with one important political figure, Mr. Alfredo Cristiani.

As we witnessed, El Salvador's 12-year civil war left the country in shambles. However, it was the strong leadership and guidance coupled with the courage demonstrated by Mr. Cristiani that rescued the country. The political, economic, and social progress that has taken place in El Salvador over the last 5 years is tremendous. Mr. Cristiani instituted land reform, electoral reform, and fostered free-market enterprise. But, it was the remarkable reconciliation between military and political rivals through the Mexico Peace Accords that brought harmony to El Salvador. Even in the midst of threats on his life, Mr. Cristiani helped to bring peace to a war-torn country.

Mr. Cristiani ended his term of office on June 1, 1994, with a peaceful transition of power. Although he will be missed, he will not be forgotten. His achievements are a part of history. Please do not let this man's endeavors to restore democracy to El Salvador go unnoticed. Join me and Representative LEE HAMILTON in cosponsoring legislation commemorating Alfredo Cristiani and honoring his role in rebuilding El Salvador.

PLAY BALL

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Major league ball players, big league owners, play ball.

MEXICO RAID

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Madam Speaker, last year when this House voted on NAFTA, we were told trade would bring democracy in Mexico's one-party State. So, we are all watching very closely the Presidential elections that are to occur in Mexico this Sunday, August 21. Quite frankly, the news leading up to the election does not bode well for a fair and peaceful outcome. The Catholic News Service reported recently:

> Mexican Jesuits say a raid by heavily armed men on a recent house run by the order near the Pacific resort of Acapulco may have been in retaliation for the order's efforts to train poll watchers for the upcoming August 21 elections. On July 15, "six heavily armed men" broke into the Jesuits' De Colores retreat house in the town of Guerrero state, at around 8 a.m., cutting electrical lines and ransacking the premises. The assailants have been reported to be Guerrero State and Judicial Police agents.

Madam Speaker, free trade cannot benefit ordinary people without free elections. How this Congress could approve free trade without guarantees of free elections is beyond me.

□ 1020

WILLIAM H. NATCHER BRIDGE

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Kentucky. Madam Speaker, currently under construction in my home State is a four-lane bridge spanning the Ohio River from Daviess County into Rockport, IN. At home, we think of this span as the "William H. Natcher Bridge." But here in Washington we have never formally honored Congressman Natcher in this way.

So today I am proud to introduce legislation naming this project in honor of my predecessor, Congressman Bill Natcher. Joining me on this legislation is the entire Kentucky delegation.

This, of course, is a fitting tribute to a man who for over 40 years gave his heart and soul to the people of the Second District through his service in this Chamber. It will be a visible reminder of one of our district's best friends.

But in a larger sense, Madam Speaker, William Natcher's greatest monument is not made out of concrete. It is in the thousands of lives he touched and his example of integrity and character. These things stand as his memorial in every community in the Second District, big and small.

I urge all of my colleagues to join with me in this tribute.

AMERICANS TERRORIZED BY CRIME LOOK TOWARD HOUSE VOTE ON CRIME BILL

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Madam Speaker, the stability of the institution of Government in this country has always been taken for granted. While other nations have seen their hopes of government changed and confidence lost, this country has continued generation to generation. But now indeed in hundreds of American cities the relevance of this system of government is in question.

Children sleep on the floor to be safe from gunfire, citizens dare not venture out into the streets, businesses close and leave cities without vital services. Americans are held hostage in a reign of terror on her own streets.

This House will soon vote on whether or not this Government, whether or not this system still provides security for ordinary Americans in their homes and in their places of business.

Some have called this a fight between the two political parties or simply a question of a special interest against a larger public interest. Indeed it is more than that. The question is, can this Government, can this country still provide basic security for our people?

CLINTON'S BARNEY BILL

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Madam Speaker, I yield to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Madam Speaker, the President never bothered to bring a crime bill to Congress when this issue was still being debated.

Yet once crime became America's primary concern, suddenly, like an archeologist, President Clinton went digging to find something he could call his own.

And just like archeologists, the White House unearthed a dinosaur of a crime bill.

It was a huge, lumbering monstrosity weighted down with unneeded spending but with a crime-fighting brain about the size of a walnut.

Not only did the Clinton administration unearth a dinosaur of a crime bill, but the dinosaur they got was Barney.

It was not even a ferocious dinosaur of a crime bill. No, it was a big warm, fuzzy, purple one—as soft on crime as the logic that billions of dollars for arts and crafts, self-esteem, dance, and midnight basketball programs deter murders, rapists, and robbers.

Americans want a crime bill that will make criminals extinct, not taxpayers. The Clinton administration should bury this bill where they found it and start over.

INTRODUCTION OF THE WELFARE TO SELF-SUFFICIENCY ACT OF 1994

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Madam Speaker, today I rise to inform my colleagues that I am introducing legislation that will give Americans a hand up instead of a hand out. The Welfare to Self-Sufficiency Act of 1994 will end the quagmire that faces those now on welfare. No longer will men and women be trapped by a welfare system that does not reward work, promote the family, or instill personal responsibility. The legislation I have introduced will fortify these three fundamental values. It will move people from dependence to independence, from a welfare check to a paycheck, and from a sense of hopelessness to one of opportunity.

Madam Speaker, this legislation will give people the opportunity to enter into individual contracts with the State not a one-size-fits-all plan. It encourages AFDC families to work by allowing them to keep more of their earned income and encourages saving by raising resource limits. States will have the option to implement wage supplementation programs in which the value of the AFDC grant and food stamp benefits is added to the minimum wage of the worker.

This legislation will strengthen child support enforcement by referring collection of certain delinquent child support evaders to the IRS. Additional savings will occur by reforming and controlling the rate of growth in Federal payments for the administration of AFDC, the food stamp program, and Medicaid. Finally, illegal aliens will not be eligible for welfare benefits, except for emergency medical care.

Madam Speaker, I agree with the President it is time to "end welfare as we know it." It is time to break this cycle and pass welfare reform legislation that will give every American an opportunity to become self-sufficient.

SPECIAL INTERESTS THREATEN RIPOFF OF INVENTORS UNDER GATT PROVISIONS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Madam Speaker, seeing that we are discussing crime, I thought it would be appropriate for me to come to the floor and discuss the coming GATT Treaty and the ripoff of American inventors that the current GATT implementing legislation represents.

Little do the American people know and little do the Members of this House know that buried deep in the GATT implementation legislation is language not required by GATT but put in by special interests that will dramatically reduce the amount of time that our inventors are protected. If this passes, hundreds of millions of dollars that now go from Japanese corporations to pay royalties to American inventors will stay in the pockets of those big multinational Japanese corporations. It is one of the biggest ripoffs in American history.

I am a free-trader. I supported NAFTA. But I ask my colleagues, please look at the provisions of the GATT implementing legislation and let us not allow this ripoff of American inventors to take place.

FIXING THE CRIME BILL IN CONFERENCE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Madam Speaker, questions have been asked, why are so many Members of the House opposed to the crime bill, which has sometimes been called the President's crime bill? It is not the President's crime bill; it is the conference committee's crime bill, and there are good reasons to be opposed to it on both sides of the aisle.

The important point is that there are opportunities to fix what is wrong, and that is the process that is going on now.

The bill we voted on last week had inadequate funding for building prisons, it had inadequate funding for having more policemen to put them on the beat, and it had weakened the sexual predator provision. It had various pork barrel projects, the most celebrated of which was the $10 million that was stuck in there surreptitiously for some kind of a project in Chairman BROOK's district, at Lamar University.

We estimated that the bill would have released as many as 10,000 convicted drug felons and put them back on the streets. It did not include the victims restitution provisions of the Senate-passed bill. It did not include the strengthened death penalty procedures to end the endless appeals process. It did not include tough penalties for violent gang offenses, mostly juvenile offenses. It has $9 billion in it for social programs. There was much that was wrong in the bill, and it can be fixed.

APPOINTMENT OF CONFEREES ON H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Mr. STOKES. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Ms. DELAURO). Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conferees: Messrs. STOKES, MOLLOHAN, and CHAPMAN, Ms. KAPTUR, and Messrs. TORRES, THORNTON, OBEY, LEWIS of California, DELAY, GALLO, and MCDADE.

There was no objection.

EMERGENCY SPENDING CONTROL ACT OF 1994

Mr. MOAKLEY. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 513 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 513

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4906) to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour divided and controlled by the chairman and ranking minority member of the Committee on Rules. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in the report are waived. If more than one of the amendments printed in the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been finally adopted. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1030

The SPEAKER pro tempore (Ms. DELAURO). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 513 provides for the consideration of H.R. 4906, the Emergency Spending Control Act of 1994. The resolution waives all points of order against consideration of the bill and allows up to 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Rules.

After general debate the bill will be considered as read, and no amendments will be in order except the four amendments in the nature of substitutes printed in House Report 103-690. The amendments will be considered in the following order under a king-of-the-hill procedure: First, the amendment by Representative SAM JOHNSON or a designee; second, the amendment by Representative CASTLE or a designee; third, the amendment by Representative STENHOLM, Representative KASICH, or Representative PENNY or a designee; and fourth, the amendment by Representative SPRATT or a designee. Should more than one amendment be adopted, only the last amendment adopted would be reported to the House.

Each amendment is debatable for 30 minutes, equally divided and controlled by the proponent and an opponent. The amendments are not subject to further amendment, and all points of order against the amendments are waived.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Madam Speaker, the Emergency Spending Control Act of 1994 is designed to improve the budget process and control emergency spending.

This Government is now operating under a 5-year budget plan passed last year by this Congress with the President's leadership. As a result of that plan, the deficit is plummeting even faster than expected.

As a result of that plan, jobs are being created faster than before. Unemployment is lower than before. Consumer confidence is higher than before. Interest rates are still low. Inflation is extremely low. According to the Republican Chairman of the Federal Reserve, Mr. Greenspan, "the outlook for the U.S. economy is as bright as it has been in decades."

Madam Speaker, one of the features of the 5-year economic plan was a freeze through 1998 on discretionary spending. Discretionary spending funds most of the Government itself and most Government programs.

When Congress first imposed caps on discretionary spending in 1990, we realized that from time to time sudden, nonrecurring, catastrophic events take place which increase demands for Government services. These events are typically natural disasters like floods, hurricanes, earthquakes, droughts, and so forth. Such emergencies cannot usually be predicted with any certainty. Consequently they cannot be easily or accurately estimated and budgeted for in advance.

If the budget process were so rigid as to require cuts in other programs before Government could meet the needs of Americans left homeless by floods, hurricanes, or earthquakes, it would in effect force Congress to shift the suffering caused by the emergency in question from one group to another. Congress could debate for days or weeks about what programs to cut while thousands of Americans suffered from homelessness, disease, and lost income brought about by the emergency.

So, the Budget Enforcement Act allows Congress and the President to provide emergency assistance to those in need without fighting a bruising political battle over what programs to cut and whom to inflict suffering on instead. Basically, if the Congress and the President can agree that an emergency exists for which additional spending is required quickly, then that spending will not count against the spending limits.

Unfortunately, at times additional items, which were arguably not emergency items, have found their way into emergency bills. It is this problem H.R. 4906 is designed to cure.

The bill would amend the Budget Act to provide that, during consideration of any bill containing emergency spending, any Member could offer an amendment to strike out any provision which is not designated as an emergency.

And, Madam Speaker, H.R. 4906 would make it easier for the American people to determine who supported these additional, nonemergency items in the emergency bills by facilitating recorded votes on amendments to strike them out. Under the bill, a recorded vote would be ordered on amendments striking out nonemergency riders if demanded by a Member and supported by only nine other Members. That is a total of only 10 Members to get a vote, instead of the current 25 in the Committee of the Whole or 44 in the House.

Finally, the bill ensures that any nonemergency provisions in enacted emergency legislation will in fact count against the applicable allocations of spending under the Budget Act. Madam Speaker, I urge all Members to support the bill.

I also urge Members to support the rule. It makes in order all the amendments which Members asked the Rules Committee to make in order. The rule provides for a king-of-the-hill procedure so all the substitutes can be considered and debated thoroughly. It does not restrict the motion to recommit in any way. It is a fair rule that will expedite this important legislation, and it deserves our support.

Madam Speaker, I reserve the balance of my time.

Mr. GOSS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the distinguished chairman, the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me this time.

Madam Speaker, because deficit growing emergency spending is a real problem that needs to be addressed and because all Members who sought to offer amendments have been allowed to offer them on the floor, I am not going to call for a vote in opposition to the rule that we have before us. But that is not to say it is a good rule or that it has not got some problems with it.

I think it is sort of appropriate we are here today on the leading edge of a weather event which has caused serious problems to our south down in the area which I represent and other areas of Florida and Georgia and the Carolinas, and once again, we have gone a long distance of time without providing for these acts of God or these unforeseen disasters that come upon us.

Weather-related disasters are predictable in the sense we know they are going to happen. It is just we do not know the date. It seems to me we ought to be a little bit smarter about getting ready for the fact we know we are going to have these kinds of problems. That is one of the things that the Government can do, is to try and buy relief for people in need, for our citizens in need in this country, and we need to find a way to do it better.

I would point out as we start this that we had assurances, if not promises, from the Democrat leadership, I believe it was a little over a year ago when we were debating the Mississippi flood problem, that we would come to grips with this problem. Well, we have not come to grips with the problem, and today we have a very modest Band-

Aid patch which really does not do anything different than what we are really doing now, and the real purpose of why we are here today is to vent on the A to Z issue rather than accomplish a really solid proposal that will lay some funds aside for these predictable problems that we are going to have helping out Americans in need as a result of natural disasters and other emergency spending needs that this body and the other body and the President and the communities deem truly worthy of relief from the Federal Government.

□ 1040

Going back to the rule, first the rule waives all points of order against the bill. That is a red flag for most Members now, especially after we have discussed the crime bill at such length and seen the kinds of minefields that can be in there when we protect things and we are not sure what we are protecting, sometimes there are some nasty little surprises. And I think we have gone through that process.

One more time, we have got a rule that waives all points of order against the bill.

While we at least took the sensible step of waiving all points of order against the amendments as well, and the reason I say that is so that they are treated fairly, if we are going to protect one part of the process, then we may as well protect it all. I think that is justifiable as long as we know what is there. In this case we generally do know what is there. So it is not quite as upsetting as not knowing what is there.

I must comment once again that this is a dangerous trend, however, and one we on the minority side would like to get away from. We think Members should know what is in the bill and what is being protected and what is not.

The Committee on Rules now seems to be in the business of providing blanket waivers as sort of a normal way that we do stuff. I do not think that is a good idea. We are going to continue to resist that. I will admit there are times when there are items that need protection. I am not saying that we should not use judgment and wisdom. I am just saying, providing blanket protection all the time for everything that might be hidden in one of these reports is not a good way to do business.

It has actually reached the point where we are not even told what provisions in this bill might need protection. I think we do know in this bill more than we do in others. I am not as concerned about this bill because this bill does not do a whole lot. But I do not like that uncertainty and I do not think Members want that uncertainty. I find it, frankly, a little bit ironic that as we are about to consider a bill that seeks to use points of order to control future spending, and that is what this does, we are demonstrating why such a measure is impotent because we are violating the very thing we are seeking to outlaw.

In addition, this rule calls for a king-of-the-hill procedure. We have had much debate on that. It is a complex machination that in this case, as in every case, stacks the deck against the adoption of any of the amendments offered. What generally happens is this, we go back to where we started, and we tilt the deck so where we started is the choice that will normally come up. This is because even if an overwhelming majority of Members vote in favor of a substitute, it would only take a bare 218 votes to restore the language in the base bill which will be considered as the final amendment. So we go through a long process of maybe debating for half an hour on each side, or whatever the time allowance is, worthy amendments. And we do two or three, and we have votes on each one. Then the last amendment we always put back in as shall we go back to square one?

What that does is it allows everybody to say, gee, I voted for one of those great amendments but at the end, I also voted for the bill because that was the best I could get. So it is sort of a charade. We are giving cover to Members to say they voted for something that they thought their people wanted back in their district. But when it came really to the end, the last vote they had to vote for is the one that the majority party wanted in the first place, the party position, and that is the one they vote for to be members of the party and adhere to the discipline in their party position.

So we end up not with a merit but we end up with sort of a partisan approach to the debate. We have advocated in the minority for an alternate approach to this. Instead of it being the going back to square one when we go through the amendment process, that instead of that, that we allow the amendment which gets the most votes to win. I think any American would say that makes sense.

The proposition that the most people vote for is the one that should come up as the winner. That is not the case when you are king of the hill, unfortunately. It could happen that way, but it usually does not.

In committee, we have offered a motion to allow the amendment that garnered the most votes to carry the day. We do that on the Committee on Rules. And we think that is a more democratic way to go and a more common sense way to go but, unfortunately, it gets rejected. And I would point out it gets rejected in the Committee on Rules. And one of the reasons, there are usually party line votes. I would point out the majority has nine positions in the Committee on Rules and the minority has four. So it takes a mighty effort to overcome a 9 to 4 tilt.

Finally, as we shall see during the general debate, this Emergency Spending Control Act of 1994, as it is called, does not provide for greater control over emergency spending than is currently provided for under the standing rules of the House. What we are doing today does not provide for greater control over emergency spending than is currently provided for under the standing rules of the House. In other words, we already can do in this House what it is we are trying to legislate today. So we are going to have this wonderful, long debate about are we worried about emergency spending while those folks in Carolina are having so much trouble, those folks down in northern Florida are picking stuff up off their streets and wondering where their house rests, and those folks in Georgia are digging out from another flood. There is going to be the appearance that we are really serious about laying funds out to help these people in situations like that.

The truth of the matter is, under the rules of the House what this little bit of legislation does today could actually come to pass. So it is not going to add a whole lot to their relief. I am afraid that this just is another empty part to that A-to-Z buyoff we have talked about so much. Members will recall that A to Z was the program where we could have some time set aside to have real opportunities to debate spending cuts here. Members would have the opportunity to offer individual cuts they felt worthwhile in order to achieve an even further plummeting of the deficit and a closer balancing of the budget here. And we were going to go through that process and let those proposals stand on their merit.

The majority leadership has felt that would be a poor idea and they have looked for other ways to deal with the problem, and this is one of the solutions that they have come up with.

I use the term "solution" lightly because this does not accomplish, as I say, anything we cannot already do. But we will have a fun debate about it.

Frankly, I think we would do better if we were debating A to Z or other substantive matters because the American public is asking us to come to some kind of a reasonable conclusion on the crime matter and the health reform matter and all of those issues which are absorbing us. And here we are, on a Wednesday, during time that many had thought we would be in our recess, talking about something that is really not going to accomplish anything. One wonders why.

The distinguished chairman has mentioned that economic times are relatively good, relative to where they have been. I agree they are relatively good. It is a precarious situation, and I hope they stay relatively good. The outlook is that they will become relatively not quite so good. I think we had an indication of that as interest rates climbed up half a point yesterday. I think that anybody who studies the numbers realizes that a plummeting deficit is a very temporary downturn in what appears to be a very serious uprise in the deficit that is scheduled in the years after 1996, a significant rise in the deficit. So we do have to come to grips with this deficit question.

I mentioned at the beginning of my remarks that we had a promise from the Democratic leadership that we would have a task force that would deal with this subject of emergency relief spending. I understand there is such a task force. I do not believe that it has delivered any kind of a product so far. Surely, had it delivered a product, we would be having a request for time for Members of that task force to speak today. I have no such requests for time. I may get them. But I do not have any yet. I think that we have one or two speakers who want to address the subject, but not a report.

The final thing that really concerns me very much about this, when we have these disasters, it appears that it is too much of a temptation to let a must-pass relief bill go through without adding a whole bunch of what we will call "Christmas tree items." There has been outrageous abuse on that, as we have seen in the past. That is a process that we just seem not to have been able to bring under control. And even though this legislation talks a little bit about that, I do not think it does as firm a job as we need to do.

I guess it is like having a leaky roof and wanting to sell your house and then you paint the wall to cover up the leak stains before any new customers come in. It is not any good to keep painting the wall. You have to fix the hole in the roof, and this legislation is not going to fix the hole in the roof.

The final part of it is that, yes, we are going to continue to have a need for emergency spending. And sadly enough we are going to have emergencies, and we will have victims of emergencies in our country and it is going to be appropriate for us at the Federal level to help out. We are going to have to find a way to shift resources to do that. But we just cannot keep adding up immense amounts of debt on the burden and say that every time we have an emergency, a storm or a fire or something of that event, a flood, that we just simply have to step back and say, well, we will just have to add it to the deficit.

□ 1050

Frankly, Madam Speaker, that is what we do now too much. Madam Speaker, I have outlined some of the problems with the rule and the bill. I hope we have generated a little interest among our colleagues and we will get some more requests for time.

Madam Speaker, for the RECORD I include this chart depicting open versus restrictive rules:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	91	25	27	66	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 12, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A: Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MO	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	
H. Res. 516, Aug. 10, 1994	MO	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, it seems we have a lot of time to consume in Washington this week when we were supposed to be back in our districts speaking with our constituents about issues like health care. We have before us now what we call another one of those king-of-the-hill rules. It gives us what I call a double Spratt on the windshield of life, with all due respect to my good friend. Not only is the Spratt bill the base text for amendment purposes, it is also positioned as the last of four substitutes to be considered here today.

Under the king-of-the-hill process devised by the Democrats, the last substitute adopted is the one reported back to the House as finally adopted, even though an earlier substitute may have been adopted by a larger vote.

Madam Speaker, let us just picture the University of Notre Dame playing Slippery Rock Teachers College. They go through three-quarters of the football game and Notre Dame is leading 60 to nothing. It gets into the last 10 seconds of the fourth quarter, and lo and behold, because a wind storm comes up and there is a punt, Notre Dame gets the punt and they down the ball on their own 2-yard line. There is one last play to go, and Notre Dame starts the play but the center centers the ball over the heads of the backfield.

It goes out of the end zone, Madam Speaker. That is a two-pointer—a safety—for Slippery Rock Teachers College. The game ends, and lo and behold, the score is 60 to 2, but Notre Dame loses. That is what king-of-the-hill is all about.

Mr. MOAKLEY. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my friend, the gentleman from Massachusetts.

Mr. MOAKLEY. Madam Speaker, the gentleman from New York may know something about football, but that is a terrible analogy in this case.

Mr. SOLOMON. I do not think it is a terrible analogy at all. What it means is, the last team to score wins. That is what happens under king-of-the-hill.

Mr. MOAKLEY. If the gentleman would yield further, that Slippery Rock-Notre Dame thing, Madam Speaker, that is like a substitute against the base bill. If the substitute wins, so be it. Now that substitute has to go against another substitute, so it is not the same game. There are different votes on every one of those measures, so the king-of-the-hill does not pit every bill against the base text, it is usually the substitute prior to it. The gentleman knows that. Therefore, I wish the gentleman would cancel that Slippery Rock game.

Mr. SOLOMON. Madam Speaker, maybe it was Boston College.

Mr. SPRATT. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from South Carolina.

Mr. SPRATT. Madam Speaker, just last week Slippery Rock won. Just last week this very process produced a victory for the particular bill that the gentleman voted for, notwithstanding this process.

Mr. SOLOMON. Once in a while we underdogs do win.

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania, the deputy chief whip.

Mr. WALKER. Madam Speaker, what struck me about the explanation we just got is, what has happened, the gentleman described a game between Slippery Rock and Notre Dame. Then what they do is, they have a process by which Boston College, that is not even in the game, would win. They all of a sudden come back with somebody that was not even considered a part of the game and they win.

Mr. SOLOMON. The gentleman is absolutely right.

Mr. WALKER. It is absolutely ludicrous, the gentleman is right.

Mr. MOAKLEY. If the gentleman will yield further, Madam Speaker, as one of the sports writers on that side of the aisle said, I have heard some pretty good analogies, but I have not heard them today yet.

Madam Speaker, everybody knows that the king-of-the-hill is not the same vote over again. It is not A against Z, it is A against B and B against C and so forth, so they are votes against different substitutes. It may very well be that the last substitute that wins would be the product that we would go with.

For example, Madam Speaker, the most favored nation issue with China, one bill that the gentleman is very interested in, the most favored position was given to the gentlewoman from California [Ms. PELOSI].

However, Hamilton won, so this is the same situation we have here. It might be a little favored position, but that does not really make all the difference in the world. If one has a good amendment or a good substitute, a good amendment in the House, vote that way, and you will vote that Notre Dame thing all the way through the football schedule, instead of just playing Slippery Rock.

Mr. WALKER. If the gentleman will continue to yield, that is a good explanation. Now I understand what it is. What it is, Madam Speaker, it is Notre Dame playing Slippery Rock gets to start with a 20-point advantage, and then if Slippery Rock happens to score 18 points in the game, they still lose because Notre Dame started off with a 20-point advantage under the rules. Suspiciously, that is the favored position they are getting.

Mr. MOAKLEY. If the gentleman will yield one more time, Knute Rockne may be spinning in his grave with the explanation the gentlemen are making here today.

Mr. SOLOMON. Madam Speaker, I do not want the gentleman to feel bad, but does he know who told me that story back in 1951? It was somebody named Harry Agannis. Does the gentleman remember him, the Golden Greek, All-American? He played for the Camp Lejeune football team, and I recall him giving me this analogy of Notre Dame and Slippery Rock, only it was Boston College, or Boston University, that he played for.

Mr. MOAKLEY. If the gentleman will yield further, Boston College. The gentleman is not going to tell me that Harry Agannis was talking about king-of-the-hill back in 1951, is he?

Mr. SOLOMON. Madam Speaker, he was a pretty forward-looking guy.

Madam Speaker, let us get back to seriousness here, for just a minute. As I started off saying, not only was the Spratt bill the base text for amendment purposes, it was also positioned as the last of four substitutes to be considered.

Madam Speaker, here we have the bill itself, and then we ordinarily, under the normal rules of the House, would have the opportunity to debate the bill and then offer amendments to it, or offer substitutes to it. But should we happen to win, should we happen to pass one of those substitutes, then we would take the Spratt bill, put it way over here to the right, and then it becomes a final substitute. It might pass by much fewer votes than the other substitutes did, but it is the one that becomes the law. That is what is wrong about king-of-the-hill.

Madam Speaker, we Republicans often propose what I would call a true king-of-the-hill process. My friend, the gentleman from Florida [Mr. GOSS] alluded to it a few minutes ago. The strongest substitute should be the winner, just as the true king-of-the-hill game was played when we were kids, the substitute which gets the most votes should be the winner.

Madam Speaker, can the Members imagine the ridicule we would have gotten as kids if we had proposed that the rules of the game be changed to award the honors to the last kid up on the hill, instead of the one who can overpower all the others? Here we go, back to Notre Dame-Slippery Rock, again. Yet around here, nobody blinks any more when the Committee on Rules brings these rules to the floor that allow for a weaker amendment to be the winner. We are so used to this undemocratic game of Democrat dock-stacking that we merely go on our way thinking that this is just fine and dandy. It is not just fine and dandy, Madam speaker.

I think in today's game of king-of-the-hill that there should be no dispute over the winner, since all three of the other substitutes are far superior, in my opinion, to the Spratt bill and to the Spratt substitute, which is going to come up for votes later.

Madam Speaker, the first superior substitute to be considered will be offered by the gentleman from Texas [Mr. SAM JOHNSON]. He proposes that emergency spending bills which exceed their allocations be financed by reducing the spending caps for the next fiscal year by the amount in excess. That makes a lot of sense.

The second superior amendment to be considered will be offered by the gentleman from Delaware [Mr. CASTLE], the former Governor, someone who has had a lot of experience in budgets. His amendment would establish a reserve fund from which emergency spending bills must be financed. Again, this is planning for emergencies that will be coming up in the future.

Madam Speaker, let us budget for these matters and pay for them, rather than just assume that they must be budget-busters. That seems to be the norm around here, bust the budget. That is why we have a $4.5 trillion debt.

Finally, Madam Speaker, the third superior amendment to be considered will be offered by that dynamic trio of the gentleman from Ohio [Mr. KASICH] the gentleman from Texas [Mr. STENHOLM], and the gentleman from Minnesota [Mr. PENNY]. They are truly people who try to bring some fiscal responsibility to this body. Their substitute amendment would establish a point of order, now get this, establish a point of order against any bill or any joint resolution designated as an emergency spending measure if it contains any nonemergency items.

Madam Speaker, we all know how a certain Member in the other body always likes to stick all kinds of things into emergency bills that have nothing to do with emergencies whatsoever. Madam Speaker, we need a tough enforcement mechanism to ensure that extraneous pork is not piggybacked onto urgently needed disaster assistance supplemental appropriation bills.

The Spratt bill and substitute, on the other hand, simply says that we will operate under existing procedures when it comes to nonemergency items that are stuck into emergency bills.

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The Spratt proposal allows for a motion to strike any such provision and prohibits any nonemergency items that exceed a committee's budget allocation. Well, good morning, Madam Speaker.

Madam Speaker, those are the rules that we have now. So all we would be doing is just reaffirming the rules of the House that we have now. But we would still have this terrible, terrible fiscal mess that we are in today.

Under the House rules, appropriation bills are already considered in the Committee of the Whole under an open amendment process. Under the Budget Act, a point of order can already be made against measures that exceed a committee's 602(a) or 602(b) allocations. Those are the rules of the House today. The only thing different in the Spratt bill is a provision that allows—listen to this carefully—9 Members instead of 25 to demand a record vote on striking nonemergency items. But as my colleagues are aware, we can easily get 25 Members to call for a vote on anything now by making a point of order that a quorum is not present.

Madam Speaker, we all know the Spratt bill is one of several that was promised to a group of what I call deficit chicken hawks, not deficit hawks. They are called deficit chicken hawks in return for their not signing a discharge petition on real spending cuts, the so-called A to Z plan. We are going to paper the walls of this House with piddly budget process amendments, but they are not going anywhere in the other body, and we all know it.

I ask the gentleman from Pennsylvania [Mr. WALKER], how many legislative days are left between now and the time we adjourn on October 6? Would the gentleman say about 18?

Mr. WALKER. Twenty.

Mr. SOLOMON. Eighteen or twenty. That tells us where this bill is going. There is no window of opportunity for this bill to be considered in the other body and everybody knows it. Do not be fooled.

I will again point out that we could have been better off considering this and the other measures as part of a comprehensive congressional reform bill, and we know which one that is, H.R. 3801. H.R. 3801 already has various budget process reforms in it, but we will never get a chance to vote on them and certainly will never get a chance to enact them into law. Instead, we are wasting the time of this House and the Committee on Rules with little dribs and drabs of what I call budgetary birdseed that would not even fill a bird feeder.

Madam Speaker, when will we get our priorities straight around here and take up the kind of bold, meaningful and sweeping congressional reform that the people overwhelmingly support and that all Members went back home and told constituents they would vote for?

Madam Speaker, this vote today is on an Emergency Spending Control Act that does nothing to control spending. It is another one of those feel-good votes that will leave Members wondering in the morning what it was they really accomplished.

I would urge my colleagues to support one or more of the alternatives being offered here today if we really want to make this exercise meaningful. I am not going to ask for a recorded vote, but I am going to go on record as opposing this rule. This king-of-the-hill process creates a Notre Dame-Slippery Rock situation which lets the losers win.

Mr. MOAKLEY. Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Madam Speaker, I thank the distinguished chairman, the gentleman from Massachusetts, for yielding me the time.

Madam Speaker, let me respond to what my good friend has just laid out as the scenario for consideration of the bills before us. There is a single legislative measure before us, but in effect we have four bills before us. The origin of this is a bill called Common Cents. It is not A to Z, it is H.R. 4414 which contains a number of budget process reforms. The basic reform here proposed was we take emergencies one at a time, that an emergency spending bill, according to H.R. 4434, would only contain emergency spending related to one single emergency.

When I took up this matter several weeks ago to try to break down parts of this and bring budget reform measures to the floor, I looked into this particular provision and what we found was that over the last 5 years, from 1991 through 1994, both years inclusive, we had funded 150 emergencies if we include Desert Storm. If this particular provision in H.R. 4434, the Common Cents bill, had been in effect, we would have been required to enact 150 separate laws to provide for emergency funding whereas only 15 had to be enacted to provide for these 150 emergencies. There were nine supplemental appropriation acts, five regular appropriation acts, and one continuing resolution. With those pieces of legislation, we covered all 150 emergencies.

Madam Speaker, I prepared a bill which said basically that Stenholm-Kasich says today. Namely, that emergency bills can only include emergency spending. If they include nonemergency spending, they cannot exceed the discretionary spending cap. But basically the object was to keep emergency spending bills limited to emergencies, although they could include multiple emergencies. I was prepared to file that bill and I had shared it with my colleagues, the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH] when the Committee on Appropriations convinced me that there at least is a argument, a strong argument to be made for the existing procedure because there is a need for flexibility. They gave me two very current, contemporary examples.

For example, Rwandan aid. The foreign appropriations bill that is moving through Congress right now includes Rwandan aid, $350 million. It was a useful vehicle for loading that emergency spending item on and it is completely germane to the subject of the bill.

The second example. Aid for Georgia flood relief.

The Labor-HHS Appropriations bill was amended in the other body to include aid for Georgia flood relief, and I am sure the Georgians are glad that that vehicle was available because we are near the end of the fiscal year and I am sure FEMA has probably drawn down substantially on its available obligatable balances. So that vehicle was used, which is a nonemergency spending bill, to include emergency spending which is desperately needed in Georgia. The Committee on Appropriations said this sort of flexibility on occasion more often than not is a very, very desirable convenience to have. We tie our hands, we make our process very inflexible when we need it most responding to emergencies and disasters if we strictly and religiously limit emergency spending bills or nonemergency bills so that the two cannot be mixed.

Consequently, I filed H.R. 4906 to allow that position to be argued on the floor. What we have today is an array of all the logical positions on the spectrum concerning emergency spending. First of all, that is that particular position. It is basically current law, but it provides and underscores and emphasizes that nonemergency items should not be included if they are truly extraneous, if they are simply being piggybacked, and it does so by allowing an expedited, easy procedure for a motion to strike when nonemergency items are included in emergency spending bills that come to the floor.

Second, the Committee on Rules has made in order the Johnson amendment. The gentleman from Texas [Mr. SAM JOHNSON] would have us when we appropriate emergency spending in 1 year, in the next fiscal year look back, take anything in excess of the caps for that year and take it out of that year's discretionary spending. He has a look-back provision.

The Castle amendment has a look-forward. The Castle amendment, which is a third alternative, has a look-forward provision. It says, let us determine the average over a certain period of time, 5 fiscal years, which we have spent upon emergency and disaster projects. Let us average that out and let us reserve that amount as a likely contingency every year. He would have us put away into a reserve account and appropriate out of that reserve account when and if emergencies occur.

Stenholm-Penny-Kasich is still another alternative. It provides that emergency spending bills shall be related exclusively to emergencies. But unlike the original version which they were supporting here under the Common Cents bill, they agree that there could be multiple emergencies include in a single bill.

Madam Speaker, we have before us today 4 clear choices. The reason I filed H.R. 4906 was to complete the spectrum, to allow the Committee on Appropriations to come here and make the argument they made to me that this flexibility is needed and anyone who has ever faced a disaster and found FEMA with no money in its pocket, no expendable balances on its books, knows that we need flexibility in the face of an emergency. That argument will be made in the well of the House today because H.R. 4906 is the base bill, but other arguments will be made.

The procedure that we have laid out is completely logical, completely fair for the consideration of each one of these. With 4 alternatives before us, I do not know a better procedure that the king-of-the-hill procedures for taking each one of them in its own term.

Madam Speaker, I think what we have here is a fair procedure and one that allows for full consideration of the whole spectrum of ideas of how we should budget for emergency spending.

Mr. GOSS. Madam Speaker, I yield such time as he may consume to the distinguished gentleman from greater San Dimas, CA [Mr. DREIER], a member of the Committee on Rules.

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Mr. DREIER. Madam Speaker, I thank my friend from Sanibel for yielding the time.

Madam Speaker, I was listening to this fascinating play by play of the slippery rock in the Notre Dame game in which Boston College got involved, and I was struck with the fact that we have once again been discussing this issue of king-of-the-hill on a rule. I ask a very simple question, rhetorically on this convoluted king-of-hill process which has been standard operating procedure around here, and that is, Why is it that one bill has to have a favored position?

As the distinguished chairman of the Committee on Rules said last week as we debated the MFN issue on China, clearly the Pelosi position did have a favored position. But the correct measure, the Hamilton measure, which pursued human rights through more trade and exposure to Western values prevailed.

But it prevailed obviously because it was the right thing, overcoming the fact that it was in a less than fair favorable and equal position to the Pelosi proposal. So that is the reason we have said consistently on our side that as we look at the king-of-the-hill structure what we should have is a provision which simply says that the measure which receives the highest number of votes is the one that carries, rather than the last standing measure, and unfortunately the present situation creates a position where the last standing measure could have received many fewer votes than the measures that had been carried before. So I think it is the only fair way for us to proceed, and that is why I think we should stand firmly on that issue.

As we look at this legislation itself, I am going to urge a "no" vote on the previous question. The reason I say that, Madam Speaker, is that as we look at this measure, it is a very integral part of congressional reform. H.R. 3801, in fact, includes provisions which deal with this, and it seems to me that we have continued along the line with our divide and conquer strategy which has emanated from the majority leadership. So I am going to urge a "no" vote on the previous question, and I hope very much we can make in order H.R. 3801, which is the congressional reform package that was promised last year and several times this year, and then proceed with the kind of changes in the budget structure which the American people want and we can include in the whole issue of congressional reform, which continues to be a top priority.

Again I thank my friend for yielding the time.

Mr. GOSS. Madam Speaker, I yield myself such time as I may consume. I would like to simply quote from a distinguished Member of this body who is unable to be with us in this debate, but was here for the early part of it, but had to go to other duties. His observation to me was this:

> This appears to be the rule to give the appearance of modifying our rules so that we can live under the rules we can live under now if only we would enforce the rules that we adopted as rules at the beginning of this Congress.

I think that is actually what we are doing. I do not think anybody in America understands that, and I doubt many Members of this body understand that. But I actually feel no matter how far one travels from home, under the king-of-the-hill process it is stacked so you always return home, whether it is a short distance or a long distance. Today we have three amounts, so it is a fairly long distance. But the prediction is we will try to get home, because that is the favored position.

Madam Speaker, I yield back the balance of our time.

Mr. MOAKLEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I urge all Members to support this rule so the House can consider this meritorious legislation.

Members from both sides of the aisle have expressed frustration about nonemergency items finding their way into emergency bills. When that happens, Members can often face a rather grim choice: They can vote against the whole measure, including the funding for the real emergency, or they can vote for the emergency and for whatever nonemergency items go with it.

This bill will guarantee Members another option, an opportunity to offer amendments to strike out individual nonemergency items in the bill and make it easier to get recorded votes on those amendments. That will be an improvement over the status quo, and I urge Members to support it.

This rule is also a good one. It makes in order every substitute the Rules Committee was asked to make in order. It provides a king-of-the-hill so every substitute offered can be debated fully and voted upon. Had the Rules Committee not provided king-of-the-hill, the first substitute adopted would have been the last considered, and maybe some of the amendments would not even been offered and discussed.

I urge all Members to support the rule and the bill.

Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Ms. DELAURO). Pursuant to House Resolution 513 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4906.

□ 1115

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4906) to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes, and the gentleman from Florida [Mr. GOSS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted to bring to the Committee H.R. 4906, the Emergency Spending Control Act of 1994. This legislation is designed to improve the budget process by providing Members a solution to a problem associated with the consideration of emergency spending bills.

This Government is now operating under a 5-year budget plan passed last year by this Congress with the President's leadership. As a result of that plan, the deficit is plummeting even faster than expected. The economy is strong. Jobs are being created. According to the Republican chairman of the Federal Reserve, Mr. Greenspan, the outlook for the U.S. economy is as bright as it has been in decades.

One of the features of the 5-year economic plan was a freeze through 1998 on discretionary spending. Discretionary spending funds most of the government itself and most government programs.

When Congress first imposed rigid annual caps on discretionary spending in 1990, we realized that from time to time sudden, nonrecurring, catastrophic events take place which increase demands for government services.

These events are typically natural disasters like floods, hurricanes, and earthquakes. Such emergencies cannot usually be predicted with any certainty. Consequently they cannot be easily or accurately estimated and budgeted for in advance.

If the budget process were so rigid as to require cuts in other programs before Government could meet the needs of Americans left homeless by floods, hurricanes or earthquakes, it would in effect force Congress to shift the suffering caused by the emergency in question from one group to another. Congress could debate for days or weeks about what programs to cut while thousands of Americans tried to nurse their wounds, rebuild their lives, and recover their lost income brought about by the emergency.

So, the Budget Enforcement Act allows Congress and the President to provide emergency assistance to those in need without bruising political battles over what programs to cut and whom to inflict suffering on instead. Under the act, if the Congress and the President can agree that an emergency exists for which additional spending is required quickly, then that spending will not count against the spending limits.

Unfortunately, some additional items, which were arguably not emergency items, have at times found their way into emergency bills. It is this problem H.R. 4906 is designed to cure.

The bill would amend the Budget Act to provide that, during consideration of any bill containing emergency spending, any Member could offer an amendment to strike out any provision which is not designated as an emergency.

And H.R. 4906 would make it easier for the American people to determine who supported these additional, nonemergency items in the emergency bills by facilitating recorded votes on the amendments to strike them out. Under the bill, a recorded vote would be ordered on amendments striking out nonemergency riders if demanded by a Member and supported by only nine other Members. That's a total of only 10 Members to get a record vote, instead of the usual 25 Members in the Committee of the Whole or 44 in the House.

Finally, the bill ensures that any nonemergency provisions in enacted emergency legislation will in fact count against the applicable allocations of spending the Budget Act.

Mr. Chairman, H.R. 4906 is a carefully crafted solution to the problem of nonemergency provisions appearing in emergency-spending legislation. I commend my colleague from South Carolina, Mr. SPRATT, for his ingenuity, diligence, and hard work in bringing this legislation before this body. It deserves our support. I urge all Members to vote for the bill.

Mr. Chairman, I reserve the balance of my time.

□ 1120

Mr. GOSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished gentleman from Massachusetts [Mr. MOAKLEY] again referred to the 5-year plan. I am always worried about these 5-year plans. I am mindful in the Soviet Union they used to call these 5-year gosplan, the economic future plan, and I used to have to deny that they were any kin to me. They spell it differently.

Fortunately, this plan is no comparison to what they were doing in the Soviet Union. But what we are doing does need a little modification. That is what we are about here today, trying to get a handle on the emergency spending and to account for it properly and truthfully, and make sure that emergency spending is truly emergency spending. Frankly, what we have today is a new part to buy off the A-to-Z program, which we seem to be unable to get forward in its purest form on the floor. Many of us think we should do that. I think that would be something worthwhile doing if we are not going to spend time on more substantive matters, such as crime and health.

Like the so-called Budget Control Act we passed several weeks ago, this bill has no substance. So I do not think we need to waste too much time on it.

It does have two main provisions. The first allows Members to offer as a motion to strike nonemergency items in an emergency spending bill and, second, provides a point of order against any nonemergency items if they violate current 602(b) allocations. Good idea. We could already do it. But it is a good idea.

While it may come as a surprise to those Members who are largely unfamiliar with the open-rule process, the standing rules of the House already provide for both these measures. My friend from Massachusetts, the distinguished chairman of the Committee on Rules, confirmed this fact to me as we were marking up this legislation on last Tuesday.

Under an open rule, any Member can come to the floor and offer a motion to strike nonemergency funds in an emergency bill. In addition, under an open rule, one that does not contain a blanket waiver, that is an important point, one that is not protected by the Rules Committee, there is already a point of order against nonemergency provisions that violate the spending caps. So why waste time debating this measure? We have already accomplished what we set out to do if we just obey our own rules.

I for one am hopeful that the House will adopt one of the substitute amendments to be offered, and that is the possible area of progress today. Each of these would bring us closer to establishing some fiscal responsibility in the emergency spending process, which is what we should be doing rather than giving the appearance of changing our rules. Although each one of these amendments comes from a slightly different point of view, thus each one would be an improvement over the base bill, they go about the legislation in a different way.

To wit: The Johnson amendment would require that all emergency funds be subject to budget limits, and it includes a lookback measure which provides that if an emergency appropriation goes over the budget allocation for that year, then the discretionary spending limits for the next fiscal year shall be reduced by that amount.

Now, that is not exactly a brand-new idea. Most American families who operate on a budget understand if the roof falls in this year and they have to spend the money that they were going to use for a vacation to fix the roof, there is not going to be money to spend for the vacation. We do not want the roof to fall in, but occasionally that does happen. And when that does happen, as we just saw did happen in northern Florida and Carolina and Georgia, where this little storm is coming up the coast now, we have people in need. We set out to bail them out, and that means that there may not be money for vacations. That is sort of a moot point anyway because we seem to have cancelled vacations this summer.

But I think the analogy is clear for most Americans. If you spend it some place else on an emergency basis, you do not have it left to spend on what you thought you were going to spend it for.

The second amendment today is the Castle amendment, which would similarly require emergency spending to be subject to budget limits. It would require Congress to set aside adequate funds within current discretionary caps to pay for natural disasters and other emergencies. Again, not a brand-new idea, called a rainy day provision or a rainy day fund in most family budgeting exercises. A good idea to plan ahead.

Finally, the Penny-Kasich-Stenholm amendment would end the practice of loading up emergency bills with pork, such as bridges or train stations or some of the other things we have seen in the last year, by imposing the commonsense requirement that the emergency spending bills contain only emergency spending. Not exactly a new idea. Why not have emergency spending in emergency spending bills, and only emergency spending?

I think we all remember the acrimonious fight over the midwest flood bill last year, which was sparked when the House leadership told the Members we could not vote on an amendment to simply pay for the funds we were providing. That just did not work. We got in quite a fuss about it.

It took quite some time, and there was some question as to whether the relief would be provided on a timely basis. It was delivered on a timely basis, but only after a great strain here, which was not necessary.

I am sure the Los Angeles earthquake bill, which was loaded up with nonessential items in the other body, is still fresh in many Members' minds. We have an opportunity here to address some or all of the problems we encountered with these bills, but only if we reject, reject the base Spratt bill and adopt one of the substitutes. Now, we have to reject the base Spratt bill in every instance, at the beginning in general debate and that when we get through with the king-of-the-hill process, we come back to the Spratt bill to vote on, and we have to reject it at that time as well.

I think it is unfortunate that we are considering these measures before the National Disaster Task Force has reported its findings. It has been over a year since that task force has been working, and frankly we should have had a report back by now.

I urge my colleagues to support the substitute amendments that will improve this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. FROST. Mr. Chairman, I yield 6 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise to explain and urge support for the base bill, H.R. 4906, which is called the Emergency Spending Control Act. In a nutshell, this bill would make it more difficult to fold nonemergency spending into emergency spending bills. At present, when emergency spending bills come before the House, nonemergency spending items are often included. Some of these, I will have to admit, would not stand scrutiny in the normal process but they got folded into these bills and enacted because these bills are must-pass emergency bills.

This bill, H.R. 4906, would not make it impossible to include nonemergency items with emergency projects because there are occasions, as I explained, when that flexibility is needed. But it would make it more difficult to piggyback unwarranted, extraneous items into emergency spending bills. Let me cover in some detail the provisions of this base bill.

First of all, H.R. 4906 provides that when the House takes up an emergency spending bill that includes a nonemergency spending item, any Member may move to strike the nonemergency item and demand a recorded vote. If nine others support the request, a rollcall is ordered. That is a way of underscoring, I believe, that these should be exceptional procedures, inclusion of nonemergency items in emergency spending bills. In essence, the bill reduces the number needed to demand a vote from 25 to 10, but it is here to emphasize the principle.

Second, the bill requires that all nonemergency spending proposals, when included with emergency spending bills, have to fall below the discretionary spending cap provided under both 602(a) and 602(b) of the Budget Enforcement Act of 1990. This only reaffirms current law and practice, but I think it is worth emphasizing because in a "Dear Colleague" put out by the Penny-Kasich-Stenholm supporters, it indicates that when nonemergency spending is included in an emergency spending bill, it somehow becomes transmuted and becomes exempt from the discretionary spending caps. Indeed, their letter says this spending is also exempt from the discretionary spending caps which, when proposed in 1990, were a key instrument of deficit reduction. This exemption adds to the many temptations of these matters. That is an erroneous statement. All nonemergency spending included in an emergency spending bill is subject to the spending caps by law. But this bill, to make it clear to everybody, including Penny, Kasich, and Stenholm, makes the principle explicit.

Third, this bill would for the first time create a point of order when nonemergency items exceed the 602 (a) or (b) outlay allocations. Under current rules, a point of order can be made only when 602 (a) or (b) budget authority is exceeded.

□ 1130

Now I think, taken all together, these are reasonably rigorous conditions, but more flexible than procedures laid out in any of the alternatives, and I think, for example, flexibility is in order when we are dealing with disasters and emergencies.

The Castle substitute would mandate a budget reserve account, which would have to be taken out of the discretionary spending, carved out below the line, below the cap which is already a tight cap. It would have to be taken out of that $540-plus billion allocation, reducing it, according to Castle's best estimates, by over $5 billion, because that is the average we have spent on emergencies over the last 5 years. This $5 billion will be stored away in a budget reserve account, and then we would appropriate out of it when the case or requirement arose. If it was not needed, if we did not draw down the full account in any fiscal year, then it would revert to Treasury for deficit reduction at the end of the year. There would be no carryover of the unexpended balance, so next year we would have to whack another 5 billion, plus or minus, out of the discretionary spending allocation. But, on the other hand, if the reserve account were inadequate, the Castle amendment would repeal the dispensation for emergency spending that we now have in the Budget Enforcement Act of 1990, which allows it to be made over and above the discretionary spending allocation. At least this is my reading of it, and Castle leaves us to then figure out what happens if we have a deep recession or war and we need emergency spending. Then we either have to take it out of discretionary spending, which is already strained, pressed tight, or we have to somehow or another invent a statutory mechanism for exceeding the limit.

The Johnson substitute contains another provision which I think could create havoc in the House. This substitute would allow emergency spending in a given year, but it would force a reduction in the discretionary account for the next year in an amount equal to any emergency spending over the cap in the prior year, but because of the way it is drafted the Johnson substitute would force sequestration in the amount equal to the amount of emergency spending. In other words, if Congress appropriated $5 billion in emergency spending, the Johnson substitute would require a $5 billion reduction in the spending cap for the following year.

Johnson would require, first of all, the $5 billion reduction in the spending cap for the following fiscal year, but, as drafted, it would also force a $5 billion sequestration in the year the emergency money is spent. So, that means that the $5 billion in emergency spending could really require a $10 billion cut in discretionary spending. This happens because the Johnson substitute repeals section 251(b)(2)(D) of Gramm-Rudman which exempts emergency spending from sequestration. This may be an unintended consequence, but, as I read the substitute, it is a consequence nonetheless.

Finally, Mr. Chairman, Stenholm-Penny-Kasich is the least onerous of the three substitutes, but it, too, could have regrettable results because it would prevent us from ever, ever taking up emergency spending as part of a nonemergency spending bill. Does this matter? It matters. Just last week, when we put Rwandan aid in the foreign operation bill, a germane bill, a moving vehicle, and, in light of the dire humanitarian need, the best way to ensure timely approval, it mattered in the other body when we were able to add Georgia disaster relief.

So, this flexibility is needed, and that is why I think the base bill is a better choice or the best choice of the three, and I urge support for it.

Mr. GOSS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. NUSSLE] a member of the committee.

Mr. NUSSLE. Mr. Chairman, I thank the gentleman from Florida [Mr. GOSS] for yielding this time to me.

Really what we have today with regard to emergencies is five issues. We want to prevent, we want to plan, we want to provide, we want to pay, and we want to eliminate pork, and that is the reason that the special task force was appointed by the leadership last year to deal with emergencies because we were not preventing disasters from happening when we knew we could mitigate problems. We were not planning ahead as a country recognizing that, hey, folks, earthquakes happen, hurricanes happen. We were not providing assistance to victims quickly enough. Everyone from an affected area can tell us that. We were not paying for our disasters, and we know now about all the pork barrell that was hidden in the bill.

The task force was established by the leadership, and the Republicans, I will tell my colleagues, are ready to come forward with a report. Their report will include the provisions that we discuss here today. But the House needs to explain today to the people of this country our position on whether or not we should plan, and whether or not we should pay, and whether or not we should have pork.

I say to my colleagues, "I understand that the gentleman says that there will be panic in the House, but imagine yourselves sitting around the kitchen table dealing with a flood, maybe the flood up to the rim of that kitchen table, panicking, trying to figure out how to now pay your bills, how to deal with this disaster. We do not have a disaster pending right now, the likes of which we saw last year, although there are people in peril around our country. They want to know we are not going to panic, but we are going to plan, provide and pay."

Mr. Chairman, we need to explain to victims that have been shaken to death, or have been blown away, or flooded up to their hip boots, why we have no coordinated plan for prevention, why this country is in shock that disasters even happen. We do not plan ahead. We need to explain to victims why they are held hostage to politics, to CNN and to pork barrell spending, and of course politicians with wrinkled brows like to walk around fields that have been flooded and promise victims help when they know full well that their colleagues are going to have pork. We have to explain to them why in the world, why in the world that a fingerprint agency, or that a Union Station, or some kind of special project for some election-worried politician is more important than flood assistance, why that with no hearings, and no committee meetings, and no public disclose, how these bills just kind of slip through. People want to know that. They want to know how those decisions are made.

Under this rule, which has been called king of the hill, it has really stacked the deck. We cannot explain to that person who sits around their kitchen table and worries, but for that family that does sit around the kitchen table, and wants to be responsible and accountable, we need to plan, and we need to eliminate the pork. These bills here today do that. We should do more than just tell them, "Well, we may just vote on these bills." That is not good enough.

Mr. GOSS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman from Florida [Mr. GOSS], my colleague, for yielding this time to me, and I want to briefly revisit the discussion that took place under the rule because, although the substance of this particular bill is important, I think far more important is the underlying understanding of the public and its growing awareness of the concept of the so-called king-of-the-hill. It is important because we are going to face other very extreme and important measures in the near future; the health bill is the first one that comes to mind. I have been intimately involved in building health care, so I am very concerned about the kind of rule that it will come to the floor under.

In Sunday's New York Times, August 14 edition, there was an editorial about king-of-the-hill, and of course we know that it is a misnomer, it is not king-of-the-hill. It is whichever measure was voted on last that passes wins.

The Democratic leadership has complained mightily about what has happened to the discharge petition process. I can say that the reason the discharge petition process is now in its current state of a number of bills at the desk getting signatures to be discharged is because the Democratic leadership would not respond to the will of the House. I say, "You keep that lid on the kettle as it tries to boil over, and what you get is the result of the discharge petitions at the desk. I can tell you the king-of-the-hill is next."

□ 1140

The arguments that I heard in terms of support for the king-of-the-hill, if you were the average American listening to this debate, are absolutely absurd. It clearly is an enormous advantage for the Democrats, with the control they have in the House and on the Rules Committee, to place a bill which may not be the best bill in an advantaged position under the rule, and providing that whichever one passes last wins—not that it got the most support, but the one that was voted on last passes.

That was exactly the point of the New York Times editorial, although it refers generally to the health care debate. But the last paragraph of that article is a general statement about the king-of-the-hill process, and it says: "Before the House can begin to create an acceptable bill"—any bill, including this one—"Members need the freedom to amend the bills that their leaders will put before them. If the leadership insists on imposing king-of-the-hill procedures, the outcome will be anything but lordly."

Let me tell you, you act as though you are in a conundrum and there is no other way to deal with this issue. There is clearly another way to deal with this issue, which is another problem that the leadership of this House has not fairly or fundamentally addressed, and that is what we call in the world I used to be in, the academic world, plagiarism. If you want to find out which bill should be the underlying bill, take the bill that was introduced first dealing with the concept.

Interestingly enough, the Democrats have argued that this underlying bill, with the king-of-the-hill structure from the Rules Committee, is H.R. 4906. This bill was crafted in the Rules Committee.

The gentleman mentioned another bill, H.R. 4434, which is called the commonsense bill. Well, guess what? H.R. 3266, A-to-Z, came first, and this is what happened: What happens a lot of times around here is that if somebody has a good idea and they introduce it as a bill—for example, the A-to-Z bill, introduced as H.R. 3266—the first bill that goes in gets H.R. 1, and the second bill gets H.R. 2, so at least in this congressional session, H.R. 3266 was introduced before any of the other bills that were discussed.

What happens is that the Democrat leadership sees a good idea coming along and they are afraid that it may gain momentum, so they introduce their own bill in an attempt to circumvent, cut off, deny that earlier original idea.

I think we need some kind of an understanding that the House needs to honor intellectual property rights, just as we are doing in these international treaties, General Agreements on Tariffs and Trade, and others, so that if somebody gets an idea first, you ought not play games in the Rules Committee and come up with a weakened version, a modified version, and give it a preferential position in the discussion, as they have done.

If you are looking for a way out of the conundrum you have built for yourself in terms of how to deal with these issues, why not show a little respect for intellectual honesty and say the first bill introduced is the underlying bill? All other bills coming later, those that try to modify, would be considered later. If you want to hang onto king-of-the-hill, at least be intellectually honest about it and get the numbers of the bills that were introduced first as the underlying bills.

Mr. FROST. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I have the dubious distinction of cochairing a task force on emergencies with the gentleman from Missouri [Mr. EMERSON]. He and I will be able to tell the Members, after months of deliberation, that this is an extraordinary subject and although many of my colleagues and those listening will view this topic as dry as dust—in fact, it deals in very real terms with human tragedies and disasters that come to the United States that must be dealt with—I am afraid that some of the suggestions that are being made today are being made in a vacuum. Some of the amendments that will be offered on the floor today do not take into consideration our past experience. I think we as legislators have a responsibility, when we deliberate serious topics like this, to consider our past experience before embarking on what appears to be a very simple answer.

When it comes to dealing with disasters in the United States, I can tell the Members that it is a very complicated situation. Let me give a couple of examples. One of my colleagues—I believe it is the gentleman from Delaware [Mr. CASTLE]—has suggested that we should set aside some type of an emergency reserve account, a rainy day fund. To most people who try to put a little savings in the bank to take care of unforeseen circumstances, it is a perfectly reasonable thing to do, and I frankly think it is a reasonable thing to do. But how much money should we put into this account? If we use past experiences as a guide, if we use an average, we might say that we spent about an average of $3 to $5 billion a year on disasters in the United States. But I would say, from the testimony before our task force, that the potential for future liabilities resulting from disasters is way beyond that.

In fact, we have had testimony before us to suggest that a major earthquake in San Francisco could result in a liability of some $60 billion, and $88 billion in Los Angeles. If Hurricane Andrew had struck Miami, we would be dealing with a price tag of about $50 billion. We have been very lucky in this country. We have had disasters, and people have suffered, but the potential for losses is even greater.

The potential for disasters cannot be overlooked when we talk about these so-called rainy day funds and get very honest and serious about how far they will go.

There is another suggestion from my colleague, the gentleman from Texas [Mr. SAM JOHNSON] that we should be reducing the spending in next year's budget cycle by whatever we spent for disasters in the previous year. On its face, it sounds like a perfectly reasonable suggestion, but there are two very serious problems here.

In the first instance, if we accept his approach, we would have to cut out in next year's spending about $12 billion if we are going to take out what was spent this year on disasters. Half of that money will come from the Department of Defense. I wonder if the gentleman from Texas knows that. About $6 billion under the gentleman's bill would have to be cut from next year's defense appropriation in order to conform with his amendment.

Let me also suggest to the gentleman that the problem goes far beyond that. We have a situation here where creating this reserve account and trying to guess what is going to occur in the future is a very difficult thing to do. The gentleman from Texas may recall when he considers the implications of his amendment that we went through Desert Storm and Desert Shield several years ago. The Bush administration declared it an emergency. We then appropriated over $42 billion for Desert Storm and Desert Shield. Eventually, we were paid back by our allies, but the gentleman from Texas with his amendment would have required us in the next fiscal year to cut that much out of spending even though we knew we were going to get the money paid back to us. So on the surface what the gentleman says sounds very reasonable, but our human experience and our experience here in the Congress suggests that it is a little more complicated.

I urge my colleagues—who, when told that there is a bill on budget reform, say, "I'm for it; what is it?"—to stop and take a look at it. I think frankly the gentleman from Texas has a good idea, but in practical application it has some very serious flaws and problems with it. Perhaps we can work on improving it. But until then, I hope that my colleagues will read this very carefully and understand that we are dealing not with a very simple issue here but a very complicated one.

Mr. GOSS. Mr. Chairman, I yield 5 minutes to the very distinguished gentleman from Ohio [Mr. KASICH], our chief budgeteer.

Mr. KASICH. Mr. Chairman, I appreciate the gentleman's yielding time.

Mr. Chairman, I would first of all tell the Members that this bill that we have today, the Penny-Kasich-Stenholm bill, is our third effort to try to bring some significant budget reforms to the House of Representatives.

I do appreciate what the gentleman from Illinois had to say about the difficulty of trying to plan for emergencies and providing a separate fund, and I think it probably is a difficult process. That is why I believe that we ought to keep these emergency bills clean, as a starter, and that is essentially what we are trying to do today in the proposal that the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and I are offering.

□ 1150

Let me just show you that in the last emergency bill that passed this House, as that bill left the House of Representatives to provide money for the earthquake in Los Angeles plus a number of other earthquakes, and, by the way, I would tell you our bill is slightly modified, because we do provide that more than one emergency can be in an emergency bill. What we want to say though is the only money that should be in an emergency bill is money for the emergency. Any nonemergency money should not be attached to an emergency bill.

Why? For a number of different reasons, one of which is you get these nonemergency items on this fast moving emergency bill, you do not have the scrutiny you ought to have, and then we wake up on Monday morning and in the paper are stories like I am about to tell you.

The emergency bill that provided money for the earthquake in California, after it came back from the Senate, it added $1.4 million to fight potato fungus. It added $2.3 million for FDA pay raises. It had $10 million for a new Amtrak station in New York. It had $40 million for the space shuttle. It had $20 million for a fingerprint lab. It had $500,000 for U.S. Trade Rep travel. It also contained some other items like $5.2 million for the Bureau of Public Debt.

What we are saying is these programs, whether they are good or bad, ought to be done in the normal appropriation process. They should not be included on the fast track with emergencies.

I think the public clearly wants this. I hope that the House clearly wants that the only thing we are going to say is when we have an emergency, we will provide money for that emergency, and we will attach no other riders to that bill. That is what we are asking for.

Now, people can say, for example, in the Spratt amendment, which we have to defeat under this king-of-the-hill rule, well, you can come to the House floor and you can try to eliminate these programs if you do not like them. But let me explain to you, to the Members of this House, the difficulty that we have.

As you can see, the potato fungus and the FDA and the Amtrak and the Space Shuttle and the fingerprint lab and the U.S. Trade Representative were all added in the Senate. So what happens is these get added in the Senate. We end up in a conference committee, the bill comes back to the House of Representatives, and the only way for us to fight any of these additions is to kill the conference report, which would mean that we would have to come to the House floor and we would have to vote against aid to earthquake victims in California in order to strip out the potato fungus funding, if we felt it was not necessary.

That is a choice that no one wants to be in. I can tell you that even the efforts made by my courageous colleague, the gentleman from Iowa [Mr. NUSSLE], and my colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY], in an effort to try to pay for the last earthquake, many of our colleagues were upset because it appeared as though we were trying to slow down aid to the earthquake victims, which clearly no one in this House was interested in doing. But there was no way to fight this, coming back from a conference committee, other than to defeat earthquake aid. That is not a choice anybody wanted to make.

How do we avoid this? How do we avoid loading these bills up with items clearly not related to the emergency?

The way in which we do it is we say we are going to have a clean emergency. If there is an earthquake in California, let us meet day and night and get the money provided. Let us not load it up with a bunch of other things. If we need these other provisions, let us put it in a separate supplemental bill, put it on the regular track, and then approve it separately.

I think this is a very big step in restoring public confidence in the credibility of the spending patterns of this body and the U.S. Senate.

So what I would argue is that you all need to come to the House floor, if you are concerned about riders, which I know your constituents are, you should vote for the Kasich-Penny-Stenholm amendment. You should defeat the Spratt amendment, which is nothing other than current law. If you want to go against the status quo, if you want to suggest that emergencies only ought to contain emergency funding, that we ought not put potato fungus or FDA pay raises in an emergency bill, vote for Penny-Kasich-Stenholm. Reject Spratt. And that way we can make a significant difference in public credibility when it comes to our spending patterns in this body.

Mr. MOAKLEY. Mr. Chairman, I yield 8 minutes to the gentleman from Wisconsin [Mr. OBEY], the chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I have very seldom in the history of the House seen a more misleading presentation than I just witnessed in this well, and I will explain in a moment why it is misleading. But first I want to put in context what it is we are being asked to do today in this seance.

Let me start by saying that I think everybody in this House recognizes that there has been a terrible deficit problem facing this country. We never had a deficit larger than $74 billion until Congress passed the Reagan budget proposals in 1982, which took us to deficits of almost $300 billion. We have been trying to get out from under ever since.

But I think it is safe to say that anyone who analyzes the budget understands that the root of the fiscal problems facing the United States cannot be found in the appropriation portion of the budget. Because whether you look at appropriated funds in real dollar terms, or as a share of the budget, or as a portion of the economy, you will see that they have declined—in contrast to entitlements, which is the problem in creating the deficits that we deal with today.

A decade ago discretionary spending, which is what we appropriate, equalled 11 percent of gross domestic product. It will be 8 percent this year. It will be 6.5 percent by the end of the decade.

Under the 5-year budget agreement we are living under, we are under a 5-year freeze in nominal dollars. That means that we will be, in real dollar terms, shrinking what we spend in the appropriations process by 10 percent over the next 5 years. That is going to require some draconian reductions.

The House this year in the appropriation bills which we passed cut 395 programs below last year's level. And I am not talking about cutting the rate of increase; I am talking about cutting actual spending below the amount that was spent last year. Three hundred and ninety-five programs. Thirty-six Federal programs were eliminated altogether. Those bills were $10.8 billion below the 1993 budget, $5 billion below the President, and $3.9 billion below this year's budget resolution.

Now I want to get to the specific amendments at hand. We are told that to deal with this problem we ought to pass the Johnson amendment, for instance. The Johnson amendment claims that what it does is that if we have to appropriate $10 billion in emergency supplementals, it claims that we will then in the following fiscal year have to cut a similar amount out of the next fiscal year's appropriated amounts.

That, however, is not what the Johnson amendment does. Because the Johnson amendment has a drafting error, as everybody knows. That drafting error means it requires you to double cut. It requires you to take a $11 billion cut this year, and another $11 billion cut next year if that amendment passes. So it requires you to cut $2 out of the budget for every dollar that you spend in an emergency supplemental. That may make sense to somebody on this floor; it does not make sense to me.

Second, the Castle amendment has a grain of sense to it. I, frankly, of the three amendments, would prefer a version of the Castle amendment to any of the three before us today.

But the Castle amendment is also flawed. The Castle amendment says we ought to have a rainy day fund. I agree with that. We do have one this year of about $800 million. I think it ought to be larger. If I have anything to say about it next year, it is going to be larger.

But the problem with the Castle amendment is that it says OK, we are going to have a rainy day fund, and if we have emergencies, we are going to fund them out of that fund. But there is no limit to the amount that has to be put into that fund.

In other words, if you have a nuclear war, you can still not make an exception. You still have to reduce funding to accommodate for the emergency spending. So what starts out as a reasonable idea becomes ludicrous on its face, because you make no exceptions. You put no limits above which we will recognize it is a genuine emergency, which has to be funded as such.

The Stenholm amendment is merely inconvenient, because the Stenholm amendment is meant to do something which is good. The Stenholm amendment is meant to avoid some of the riders that we sometimes see attached around here. But because of the way it is drafted, it goes way too far.

What it says, for instance, is we cannot put an emergency item in a regular appropriation bill, even if there are no other riders.

□ 1200

We just got done doing that, because we felt that the fastest way to deal with the Rwanda disaster problem was to put it in the foreign assistance bill which was moving through here at that time.

What harm was there in that? We simply solved the problem in the most expeditious manner possible.

Now I want to get to the comments of the gentleman from Ohio [Mr. KASICH].

The gentleman from Ohio [Mr. KASICH] has pointed to a number of additional items that were added in emergency bills and would lead Members to believe that that meant that the deficit went up because of that. The fact is that what he did not tell Members is that every single one of them was offset by a rescission.

If Members take a look at what CBO says, this will spell out that between 1991 and 1994, including the time period mentioned by the gentleman, that we provided $700 million more in deficit reducing offsets than were provided by add-ons of a nonemergency nature. So even if we argue with an individual item, and I certainly do, do not be deceived by the prior speech. Do not believe that we have not offset those funds; we have. We have, in fact, cut the deficit by an extra $700 million below the amount that we would have been required in order to offset fully all of the items cited by the gentleman.

I do not mind it when anybody tries to make a point in legislative debate. I do mind when in the process they do not let facts get in the way of their making a point. Facts ought to govern, not ideology and not political claims.

The fact is that in the supplemental that the gentleman was talking about last year, in the 1994 supplemental, we offset every single dollar that he had on that chart and then some. And I think that good faith requires that that be made quite clear on this House floor.

In summary what I would simply say is that I think the Castle amendment offers us the possibility of eventually working out a rational compromise, because I do believe in the principle of having a rainy day fund. The question ought to become, what is a reasonable size and at what point do we recognize we have a legitimate emergency on our hands?

I do not believe it is rational for this House to say that even in time of a nuclear war, we are going to require offsets. How far do Members think we would have gotten in World War II, if we had had to operate under those budget items? I do not think we would have won the war that way, my colleagues. So it seems to me that if we want to pursue these ideas, fine, but pursue them in a constructive, rational, and disciplined way.

What is going on here today is these are three free votes. Members get a chance to vote three times in a "let's pretend" manner, to pretend they are cutting the deficit. We all know these bills are not going anywhere. I agree with the gentleman on that side of the aisle who said this is a colossal waste of time. I think it is an outrageous waste of the House time. I really believe we ought to get down to the serious business of designing that a rainy day fund really ought to look like.

Mr. GOSS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, first of all, no one ever argued that these were not paid for in some way. They should not be included on the fast track with an emergency bill and not undergoing the general scrutiny like the rest of the appropriation bills.

No. 2, I resent the fact that the Senate adds potato fungus and I have to kill the whole earthquake in order to strip it out.

No. 3, CBO came out and they studied supplemental appropriations in 1980's, the way in which we paid for them.

Do Members know what CBO said? Over half of the rescinded funds were unlikely to have been spent if they had remained available and were scheduled to lapse in the near future. In other words, these rescissions are a sham. They are a sham. This money would not have been spent, and now they are trying to claim they are paying for it. The simple fact of the matter is that if we had not loaded it up, we would have had lower deficits in this country.

The bottom line is, do not attach, do not attach these programs to emergencies. Do not let the Congress of the United States attach riders to bills like earthquake assistance. That is really the bottom line.

Mr. MOAKLEY. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I point out the $1.4 million item the gentleman is talking about was not added by the Senate. It was in the President's budget. It was not an add on. I do not mind if the gentleman wants to make the fact, but I wish it had something to do with the truth.

Mr. MOAKLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, while it is in fact true that the potato fungus, I am not against fighting potato fungus, was added, was in the President's budget, it was added in the Senate when the emergency bill went.

Mr. OBEY. Mr. Chairman, at the request of the President. It was in the budget.

Mr. KASICH. Mr. Chairman, if the gentleman will continue to yield, I said that this was put in in the Senate. That is exactly right. The gentleman is not correct. That is what I said.

Mr. OBEY. Mr. Chairman, the gentleman is wrong.

Mr. STENHOLM. Mr. Chairman, I am pleased to come to the floor to debate proposals to reform the process by which we consider emergency spending. There clearly is widespread concern about the current process of enacting emergency appropriations bills. Today, the House will have an opportunity to consider several proposals to improve this process.

The Budget Enforcement Act of 1990 established a "safety valve" to allow Congress and the President to meet unexpected needs. When we passed the Budget Enforcement Act in 1990, few of us anticipated that we would utilize the emergency provision 16 times to spend $90 billion within 4 years. Excluding the funds for Desert Storm that were ultimately offset by foreign contributions, we have added over $30 billion to the national debt through emergency spending legislation. In addition, as the Washington Post noted in an editorial earlier this week, "emergency bills have been vehicles to which (appropriators) have often been able to add other projects that might have failed to withstand scrutiny on their own."

We will have the opportunity to vote on two thoughtful proposals that would end the practice of adding emergency spending bills to the deficit. I personally support both of these amendments because I do not believe that we should add more than $6 billion to the deficit each year for unexpected emergency spending. It seems to me that if we are going to pass several bills spending billions of dollars in disaster relief each year, we should set up a procedure to provide funding for disaster assistance through the regular budget process instead of relying on an unrestricted, ad hoc process.

Representative SAM JOHNSON will offer an amendment based on legislation he and I have introduced which will effectively require Congress and the President to offset increased spending for emergency spending through spending cuts in the next year. This will give Congress and the President time to come up with offsetting spending cuts through the regular process instead of being forced to find offsets in the relatively short window in which emergency spending bills are considered.

Representative MIKE CASTLE will offer an amendment replacing the current process of exempting emergency spending from spending restraints with a reserve fund for the regular funding of disaster assistance. This proposal will force Congress to plan for emergencies when we put together the budget resolution each year instead of pretending that the need for disaster assistance can't be anticipated and included in the regular budget.

Since emergency spending is exempt from budget constraints, there is a temptation to spend money in emergency appropriations bills with less review than normally occurs. Requiring that Congress pay for emergency spending bills instead of adding the costs to the deficit will force us to be more responsible in appropriating disaster relief. We will be less likely to pass emergency appropriations for items that may not truly deserve the emergency designation and will subject expenditures for emergency relief to greater scrutiny.

Both of these bills will be criticized for not providing Congress with the flexibility to deal with large, unexpected emergencies that cannot be funded within regular budget constraints. The criticism ignores the fact that if a crisis occurs, requiring that we spend beyond the discretionary spending caps, we could enact legislation increasing the caps. Disaster relief should be provided outside budget rules and added to the deficit only as a last resort, instead of as an automatic matter of course.

If we take our votes on the Johnson and Castle amendments and the House is not willing to take the step of requiring that we pay for emergency spending bills, we should at least stop these bills from becoming a vehicle for unrelated items to piggyback on. At the Rules Committee last week, there was widespread agreement that there is a problem with unrelated extraneous items being slipped into emergency appropriations bills. None of us like to read on Monday morning about pork-barrel items that were included in emergency appropriations bills after they were signed into law. Public cynicism about Government is increased by reports of stories of questionable spending items that sailed through Congress as part of an emergency spending bill. We need to deal with this problem for the sake of the institution.

The base bill reaffirms the ability which Members of the House currently have to strike nonemergency items from the bill. However, the base bill suffers from four fundamental flaws.

First, the provisions of the bill can be waived by the Rules Committee. Current House rules allow a motion to strike items from appropriations bills, but supplemental appropriations bills often are considered under rules that strictly limit amendments. For example, the rule for consideration of the supplemental appropriations bill for Midwest flood relief did not allow any amendments. The base bill would still allow the Rules Committee to report a rule preventing members from offering amendments to strike nonemergency items from emergency appropriations bills.

Second, the base bill creates the presumption that nonemergency items should be included in emergency appropriations bills. Since emergency appropriations bills usually are considered rapidly, members rarely have the time to review the merits of individual nonemergency items. The result will be to allow spending to continue to flow to nonemergency items through emergency appropriations bills with little or no review.

Third, the base bill does not apply to extraneous legislative, nonspending items that are slipped into emergency appropriations bills. Although this abuse is not as common, there have been several substantive policy changes made through emergency supplemental appropriations bills.

Finally, and perhaps most importantly, the base bill lets the other body off the hook because it does not apply to conference reports. The base bill does not address the issue of extraneous items added to emergency bills in the other body at all. Since the only opportunity the House has to vote on these items is as part of a conference report, the base bill before us today would have no effect on extraneous spending items added to emergency spending bills by members of the other body.

In contrast, the Kasich-Stenholm-Penny substitute would significantly clean up emergency appropriations bills. Our amendment would prohibit extraneous items from being included in emergency appropriations bills and conference reports. We would prevent the other body from embarrassing us by adding extraneous items to emergency spending conference reports.

Mr. Chairman, if we are serious about cleaning up the emergency spending process, we must pass the Kasich-Stenholm-Penny amendment and defeat the Spratt substitute.

□ 1210

Mr. GOSS. Mr. Chairman, I am happy to yield 3 minutes to the distinguished gentleman from Delaware [Mr. CASTLE].

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. HEFNER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message from the President of the United States.

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

EMERGENCY SPENDING CONTROL ACT OF 1994

The Committee resumed its sitting.

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding time to me, and I appreciate the opportunity to address this issue. I also appreciate the opportunity to have the President deliver a message at the point I speak.

Mr. Chairman, some people say this is a waste of time, and perhaps in terms of legislative accomplishments it will be, but my view is we are focusing today on a problem which has plagued the Congress of the United States probably since its founding, but certainly since the last 10 or 12 years, since these appropriation bill pieces of legislation have come before us, and we have spent money without much discipline and, frankly, not being within the budget caps that have been set by the various Congresses.

Mr. Chairman, if nothing else, we are starting a debate which hopefully will culminate in some form of legislation which will help address this particular problem. I have an amendment, and I will be speaking to the amendment and answering some of the questions which have been asked about that amendment later today.

Mr. Chairman, I would just like to state that there are basically, as I see it, two approaches to reform emergency spending which are going to come before the House today, the Spratt bill and the Penny-Kasich-Stenholm amendments, which, by the way, I think are basically improvements, and seek to prevent nonemergency projects from being added to emergency spending bills.

Mr. Chairman, the Castle amendment and the Johnson amendment seek to address a larger problem of not only making sure that we limit what we appropriate, but paying for disaster assistance within our budget limits. As the gentleman from Wisconsin [Mr. OBEY] has already said today, that will be basically crating rainy day funds. I think the House should tackle the real problem of emergency spending and adopt the Johnson or Castle amendments.

The Penny-Kasich-Stenholm amendment is clearly superior to the Spratt bill because it would allow a point of order against nonemergency spending in emergency spending bills. The Spratt bill would only allow a motion to strike which could be blocked by the Committee on Rules.

However, the only real way to improve the emergency spending process is to require Congress to pay for disaster assistance within our budget limits. Only the Johnson and Castle amendments would achieve this critical reform.

Mr. Chairman, the amendment which I have proposed, the Castle amendment, would insert some much needed planning into the emergency spending process by setting up a budget reserve account to hold funds for natural disasters. These funds would be included in the annual spending limits. This is the only responsible way to pay for emergencies.

Mr. Chairman, I would just point out in response to what the gentleman from Wisconsin [Mr. OBEY] stated, and I will be talking about this more at a later time, if indeed we had an emergency of a nuclear holocaust or something else, a wartime emergency that was an indication for more than this, and we could not do it without other cuts within the budget, we could certainly go back and waive all requirements and appropriate at that point in a different sense.

Mr. Chairman, the bottom line is that the ordinary domestic emergencies that we anticipate from year to year to happen in the United States of America should be done within the budget caps, should be appropriated each year, should be under a disciplined process, should be addressed in terms of what those expenditures are going to be, and it will help with our budget-balancing process. I think for that reason this is a good debate, and one which will ultimately be fruitful.

Mr. MOAKLEY. Mr. Chairman, I reserve the balance of my time.

Mr. GOSS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I come to the floor here today because I know there are a lot of sincere people here on the floor who want to change the rules to tighten up the spending on emergency spending. It certainly needs to be tightened up, but as I sat here this morning and listened to the debate, I began to think about what happens on the floor almost each and every day.

That is, the Committee on Rules, when they send legislation to the floor, decides to waive all points of order, decides to waive certain rules, and so, as I listened to the serious debate and the well-intentions of all of the Members who are involved in it, I scratch my head and wonder, why are we doing this? If the Committee on Rules is going to continue to waive points of order, waive certain rules on each day, then none of this makes any difference whatsoever.

Mr. Chairman, I say to the Members, as important as this debate is, as important as the amendments are, the amendments of the gentleman from Texas [Mr. SAM JOHNSON], the gentleman from Delaware [Mr. CASTLE], the gentleman from Texas [Mr. STENHOLM], and the gentleman from Ohio [Mr. KASICH], they are good, but until we do something about reforming the Committee on Rules where we will actually abide by the rules of the House, all of this is nothing more than a waste of time.

Mr. GOSS. Mr. Chairman, I would like to advise the chairman and the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules, that we have no further requests for time, and after a few remarks, I am going to yield back the balance of my time, on the understanding that the gentleman from Massachusetts only has 2½ minutes remaining, and one speaker.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had a lot of things said in this debate. I think what this really boils down to is that the U.S. Congress, the House of Representatives, has not yet come up with a way to find real funds for emergencies, and, as well, not to spend those funds once we do find them on nonemergencies.

That is the task we have set out to do. We do not have a place to go to get emergency funds now. We generally load them up on the deficit, or create some kind of a might-work pay system, revenue system.

Mr. Chairman, that is not satisfactory. We have set aside a task for ourselves, at the pledge of the leadership, of the majority, to deal with this issue. We just do not have a satisfactory result yet.

Then regarding loading up stuff, Mr. Chairman, the nonemergencies on the emergency vehicles that go through, we have not solved that problem, either. What is sad about that is, today we have victims, we have new victims. While I am standing here, there are victims in South Carolina, there are victims in Georgia, there are victims in Florida, and perhaps elsewhere, as this storm Beryl goes through and we still have not solved this problem.

I will make a prediction, Mr. Chairman, that we will not have solved it before the next storm, catastrophe, natural disaster, happens. That does not take a lot of courage to make that prediction. It does take some sadness. We just are not getting on with this job.

Mr. Chairman, the distinguished chairman of the Committee on Appropriations said "We can always add something to an appropriation bill." That, really, frankly, makes about as much sense as having your house on fire and waiting for a passing firetruck to go by and say "I have a fire here. Would you come in and put it out," rather than providing for a fire department that can respond to a fire when your house is on fire.

□ 1220

I do not think just because we might happen to have appropriation bills waiting in the wings is a good way to say, "Boy, we've solved the problems of emergency spending." Equally I think it is true that sometimes we can do harm to an appropriations bill by adding something to it. Some would argue that we add a sweetener or some would argue that we add something sour to it. The Rwanda issue was relatively easy compared to some. I can think of some appropriations for foreign ops appropriation that would be a lot harder.

Mr. Chairman, I do not think that is a good way to do it. I think we are trying to identify emergency spending for what it is, provide a fund for it, and provide that that is not abused for nonemergency spending. That is a real simple proposition and we really have not solved that issue today.

I suspect the answer to that lies in the joint reform proposals embodied in H.R. 3801 which we are not hearing, which we should be hearing, which have been split, divided and scattered as far as I can see, and I think that is a shame and all those people who have worked so hard on reform of Congress basically are very disappointed about that. I do feel that we do have a possibility of rescuing something from this debate today if we can pass one of the substitute amendments. But if we end up with the base Spratt bill, we have really done nothing except go around like a big circus and use this time, where we could get right back to square one to do just what we can do as the rules permit us to do now if we have the courage to use the rules properly.

Mr. Chairman, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I yield the balance of my time for closing general debate to the gentleman from Alabama [Mr. BEVILL], the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations.

Mr. BEVILL. Mr. Chairman, I would like to point out that we are trying, it seems to me for the sake of offering amendments, to make something complicated out of something that is very simple. The procedure is set up, it works, and as the old saying goes, if it works, why should we be trying to fix it?

If there is any nonemergency money in an emergency bill, we have got the right, any Member on either side of the aisle, any Member of this House, has the right to stand up and ask that it be stricken. That is all we have got to do. Get a vote on it. How can be beat that?

On the minority side, Members also have the right to make the motion to instruct the conferees, so they are protected in every way right now.

Why do we want to adopt these amendments that are going to change the allocations for this year and that are also going to affect the next year?

What these amendments are going to do is knock out projects in my bill. For example, they would knock out many of the flood control projects in this country and these projects are actually an investment and time has proven that the benefits of the projects are six times what the cost of the investment is. We are not even talking about the lives it saves. We are talking about property damage. History has proven that. I am just using that as an example.

You want to make it complicated. You want to change the allocation for this year, and it does not make any sense. I say that we do not need to fix something that is working, we have got all the remedies we need. Just with my bill, you can see the impact that it would have.

Mr. Chairman, I know that is not what the intentions are, but for many projects throughout the country that are necessary, that are already underfunded, this is going to be a means of cutting them even more. We have got a 5-year plan on the books that is working, and it is actually reducing the deficit. Alan Greenspan, the Chairman of the Federal Reserve Board, says that our economy is in the best condition it has been in in decades, and I am quoting exactly what he said.

So why are we trying to do this, because all we are really going to do is knock out some projects that are very important to this Nation and important to the people. I urge everyone to support the base bill, H.R. 4906, and oppose these amendments and support the gentleman from South Carolina [Mr. SPRATT].

The CHAIRMAN pro tempore (Mr. RAHALL). All time for general debate has expired.

Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule.

The text of H.R. 4906 is as follows:

H.R. 4906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Spending Control Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to restrict the inclusion of nonemergency spending proposals in emergency spending bills.

SEC. 3. TREATMENT OF EMERGENCY SPENDING.

(a) MOTION TO STRIKE.—Title VI of the Congressional Budget Act of 1974 is amended by redesignating section 607 as section 608 and by adding after section 606 the following new section:

"SEC. 607. TREATMENT OF EMERGENCY SPENDING.

"Whenever the House of Representatives considers a bill or joint resolution containing an emergency designation for purposes of section 251(b)(2)(D)(i) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, any Member of the House may move to strike any appropriation in that bill or joint resolution or any provision providing direct spending in that bill or joint resolution that is not so designated as an emergency, and a recorded vote shall be considered as ordered if demanded by any Member and supported by 9 other Members of the House.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Improvement Control Act of 1974 is amended by striking the item relating to section 607 and by inserting after the item relating to section 606 the following new items:

"Sec. 607. Treatment of emergency spending.
"Sec. 608. Effective date.".

(c) Limitation on Non-Emergency Spending in Emergency Legislation.—If any bill or joint resolution contains an emergency designation for purposes of section 251(b)(2)(D)(i) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 and it also contains an appropriation or any provision providing direct spending for any matter, event, or occurrence that is not so designated as an emergency, then that non-emergency appropriation or other provision providing direct spending must fall within the most recently applicable allocations under sections 602 (a) and (b) of the Congressional Budget Act of 1974.

The CHAIRMAN pro tempore. No amendment shall be in order except the amendments printed in House Report 103–690 which may be offered only by the Member designated in the report, shall be considered as read, and shall not be subject to amendment.

Debate on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

If more than one of the amendments printed in the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

It is now in order to consider amendment No. 1 printed in House Report 103–690.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute offered by Mr. Sam Johnson of Texas: Strike all after the enacting clause and insert the following:

SECTION 1. TREATMENT OF EMERGENCIES.

(a) Repeal of Emergency Rule.—Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) Special Look-Back Treatment for Emergency Appropriations.—Section 251(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(A)" before "If" and by adding at the end the following new subparagraph:

"(B) If—

"(i) an appropriation that the President designates as emergency requirements and the Congress so designates in statute is enacted for the fiscal year in progress and that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category); and

"(ii) that bill is approved upon final passage by each House of Congress by at least three-fifths of those voting; then the discretionary spending limits for the next fiscal year shall be reduced by the amount or amounts of that breach.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. Sam Johnson] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. Sam Johnson].

MODIFICATION TO AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, pursuant to an agreement with the gentleman from South Carolina [Mr. Derrick] and the gentleman from South Carolina [Mr. Spratt], I ask unanimous consent that my amendment in the nature of a substitute number 1 made in order under the rule be modified to state that which is at the desk now and be considered in lieu of the amendment printed in the Record.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Sam Johnson of Texas, as modified: Strike all after the enacting clause and insert the following:

SECTION 1. TREATMENT OF EMERGENCIES.

(a) Elimination of Cap Adjustment for Emergency Appropriations.—Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(b) Special Look-Back Treatment for Emergency Appropriations.—Section 251(a)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "(A)" before "If" and by adding at the end the following new subparagraph:

"(B) If an appropriation that the President designates as emergency requirements and the Congress so designates in statute is enacted for the fiscal year in progress and that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for the next fiscal year shall be reduced by the amount or amounts of that breach.".

Mr. SAM JOHNSON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute, as modified, be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. OBEY. Mr. Chairman, reserving the right to object, would the gentleman explain it?

Mr. SAM JOHNSON of Texas. Mr. Chairman, if the gentleman will yield, certainly.

Mr. Chairman, in filing the amendment, the wrong copy was inadvertently given to the Committee on Rules and the modification would simply delete subsection ii. It is the provision that requires a three-fifths vote.

Mr. OBEY. That is the only change? The gentleman is eliminating the three-fifths voting?

Mr. SAM JOHNSON of Texas. That is correct.

Mr. OBEY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas that his amendment be modified?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I have to leave the floor to go to a meeting, but I just wanted to state my very, very strong support for the gentleman's amendment, and I urge every Member to vote for it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I thank the gentleman from New York [Mr. Solomon].

Mr. Chairman, I rise today to ask Members to cast a tough vote. A vote that will put accountability, respectability, and responsibility back into Congress. For too long we have routinely voted to add billions of dollars to the $4.5 trillion public debt. We must stop the upward debt spiral.

That is why I am asking Members to vote to put emergency spending on budget. For some Members this will be a tough vote. Although tough, it is necessary because this vote is directly tied to the future of this country.

Members should realize that this is the only chance to vote for real reform because we all know that after November the momentum to drastically change how we address emergency supplementals will disappear.

While I agree with Mr. Kasich and Mr. Spratt that Congress should have the authority to strike nonemergency spending from emergency bills, I believe they only solve half the problem.

Mr. Kasich has stated that approximately $150 million of nonemergency spending was in the California earthquake bill and under his bill this would have been struck. I applaud and support this effort. But what about the $10 billion that is left?

It is great to go home and tell our constituents that we saved them $150 million this year or that we eliminated the pork, but we must also tell them that we are still going to add $10 billion onto the national debt.

My colleague, the gentleman from Delaware [Mr. Castle] also has an amendment to reform emergency funding. The Castle plan, if I understand it, states that if there is an emergency and it exceeds the trust fund the money would then be added to the debt. So we still have not paid for it.

The Johnson amendment solves these problems while reaching the very worthwhile goal sought by my colleagues.

My bill amends section 251(c)(2) of OBRA 1993 to allow the lookback provision to be applied to emergency supplementals. This provision states that any breach in the discretionary caps during the current fiscal year would be paid for by reducing the caps in the next fiscal year. Simple enough. If we pass a $2 billion emergency this year, we reduce the discretionary caps in the next fiscal year by the amount of the breach.

What else will this accomplish?

Having listened to past debates I know that Members want to pay for emergencies but not at the expense of disrupting and jeopardizing programs that have been appropriated in the current fiscal year. This bill would allow projects to continue in that year with no disruption.

Members also argue that past attempts to pay for emergencies was hastily put together and the impacts were not known. This amendment gives Members the time, while they are drafting next year's budget, to thoroughly discuss, propose, and draft rescissions that will pay for the emergency.

It also ends the argument by some that debating how emergency supplementals will be paid for delays aid from reaching those devastated in the disaster. Congress, under this amendment can now quickly pass the bill and send money and aid to those in need.

And by requiring Members to find cuts in next year's budget is quite a deterrent from adding nonemergency items or pork to the bill, and the most important point for voting for the Johnson amendment is that it keeps money from being added to the debt. I know that all Members would agree that we must stop any increases to our debt.

Mr. Chairman, we all recognize the necessity of providing funds to those whose lives have been affected by a natural disaster but is it fair for Congress to then endanger the future of these same people and their children by increasing their share of the debt? I think the answer is no.

I believe if the Congress and the President declare an emergency, it is our responsibility to pay for these bills. It is not the responsibility of future generations. Help Congress help itself, vote for the Johnson substitute.

□ 1230

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. RAHALL). Does the gentleman from South Carolina [Mr. SPRATT] rise in opposition to the amendment?

Mr. SPRATT. I rise in opposition, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from South Carolina [Mr. SPRATT] is recognized for 15 minutes in opposition to the amendment.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY], chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding me the time.

I would ask the gentleman from Texas this question: In the unanimous consent request he just made, he removed the first two lines of (ii) but left remaining the requirement that discretionary spending limits for the next fiscal year shall be reduced by the amount or amounts of that breach. The gentleman left the language in, did he not?

Mr. SAM JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I am not sure where the gentleman is looking.

Mr. OBEY. The item just knocked out, if the gentleman will take a look at the report of the bill.

Mr. SAM JOHNSON of Texas. I am looking at it.

Mr. OBEY. The gentleman struck the last two sentences on the first page, as I understand it?

Mr. SAM JOHNSON of Texas. The gentleman is correct.

Mr. OBEY. And retained the first two sentences on page 2?

Mr. SAM JOHNSON of Texas. The gentleman is correct.

Mr. OBEY. I thank the gentleman. That is what I was afraid of.

The problem with it, Mr. Chairman, is that that means that the amendment does not do what the gentleman just described. The gentleman indicates that the intent of this amendment is to take whatever is spent on an emergency in a current fiscal year, that happens to be $11 billion this year, and to then deduct it from the next fiscal year's appropriations in the same amount, $11 billion. However, because on page 1 in section (a) the gentleman also repeals the emergency rule under which emergency funding is provided, the effect of the gentleman's amendment is to take $11 billion out of the budget for this fiscal year, and to take it out again for the next fiscal year. So in other words, the gentleman has a double hit. I do not know if the gentleman intends it or not, but we cannot legislate on the basis of intent around here. We have to legislate on the basis of what is called for in black and white.

In fact, the gentleman is requiring us to cut out $2, one dollar in the current fiscal year and another dollar in the next fiscal year for every dollar that is requested to be expended because of an emergency from something like a natural disaster. I submit there is absolutely no rational reason to do that. I submit that in addition to the budget effect which this amendment would have, it would have a disastrous economic effect on the country because if we have an earthquake or a major flood which is going to depress the economy of the country and to cost jobs and cost economic growth, what we are going to do is in fact double the hit on the economy by the amendment offered by the gentleman.

I think the gentleman tried to correct one defect in his language when he removed that language that he asked to be removed, but he did not correct the problem. I cannot believe that this House is going to in effect say that if the country is unlucky enough to experience a major economic disaster in the form of a flood or an earthquake that the Congress has a compulsion to double the negative economic effect by passing the Johnson amendment.

So I would urge Members to vote against it and to look for a more rational way to deal with national emergencies.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from the great State of Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I am pleased to rise in support of the amendment being offered by my friend and colleague, Representative SAM JOHNSON.

As we all know, the Budget Enforcement Act of 1990 established a safety valve to allow Congress and the President to meet unexpected needs. By declaring something an emergency Congress and the President can provide for spending to be placed automatically outside of the budgetary caps. In real terms, this means adding debt directly to our enormous shortfall which already exists.

When we passed the Budget Enforcement Act in 1990, few of us anticipated that we would utilize the emergency provision 16 times to spend $90 billion within 4 years. Excluding the funds for Desert Storm that were ultimately offset by foreign contributions, we have added over $30 billion to the national debt through emergency spending legislation. In addition, as the Washington Post noted in an editorial earlier this week, "emergency bills have been vehicles to which (appropriators) have often been able to add other projects that might have failed to withstand scrutiny on their own."

The amendment which Representative JOHNSON offers is the most direct way I know to state clearly and indisputably that our deficit can no longer withstand that sort of attack. The Johnson procedures would allow Members to carefully discuss a sensible plan to pay for our natural emergencies, placing the spending in the context of the entire next fiscal year's budget. There is a legitimate criticism about a hasty process of paying for emergencies. This amendment avoids that pitfall.

I do not believe that we should add more than $6 billion to the deficit each year for unexpected emergency spending. It seems to me that if we are going to pass several bills spending billions of dollars in disaster relief each year, we should set up a procedure to provide funding for disaster assistance through the regular budget process instead of relying on an unrestricted, ad hoc process.

The bill which Representative SAM JOHNSON and I have introduced would effectively require Congress and the President to offset increased spending for emergency spending through spending cuts in the next year. This will give Congress and the President time to come up with offsetting spending cuts through the regular process instead of being forced to find offsets in the relatively short window in which emergency spending bills are considered.

I commend my colleague from bringing this amendment to the floor and I encourage support of the amendment.

I did not read into the legislation that we were taking two for one. I am of the assumption that the unanimous-consent request that my colleague made in which he stated his intention in fact will do that which it did, and if not I would anticipate we would have an additional unanimous-consent request to make certain that it does that. If that is too complicated, then I do not understand the rationale.

But clearly, my support of this amendment goes back to some of the votes that we have taken in the past of suggesting that when we do have disasters that we should pay for them, that the deficit should not go up as a result of declared emergencies, unless the Congress on a specific vote makes such determination as we talked about before in regard to various ideas on how this should proceed.

I do not believe that we should add more than $6 billion to the deficit each year for unexpected emergency spending. It seems to me that if we are going to pass several bills, spending billions of dollars on disaster relief each year, we should set up a procedure to provide funding for disaster assistance through the regular budget process instead of relying on unrestricted ad hoc processes.

The bill which the gentleman from Texas [Mr. SAM JOHNSON] and I have introduced would effectively require Congress to offset increased spending for emergency spending through spending cuts in the next year. I do not understand why that is not very clear. I do not understand why under a unanimous-consent request if there is some language that needs to be clarified so we are debating the intent of the amendment that it could not be done.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to my friend, the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think this is an incredible way to legislate. We have already seen the author of the amendment ask to make one change in the amendment because it is imperfect. Now it is being suggested we should consider another. It seems to me it is mighty dangerous to be passing a moving target. I would kind of like to know when I come to the floor what it is we are going to be voting on.

It seems to me if no more thought has gone into this amendment than the though that has produced two mistakes in the base amendment, we ought not to pass it, and move on to something that is more rational.

Mr. STENHOLM. Mr. Chairman, the response of my colleague is a commonsense response. Again, I am here speaking on behalf of an amendment that I believe does that which we are all saying that it does.

□ 1240

If it does not, then the gentleman has every reason to oppose the amendment, to vote it down, this amendment should not pass because of the legitimate opinions of the gentleman from Wisconsin that he is expressing.

I have read the same language. I understand the intent. I do not read it as you read it. I could be wrong.

Mr. OBEY. Could I read the language that does what I claim it does?

Mr. STENHOLM. Certainly.

Mr. OBEY. "Section 1, repeal of emergency rule, section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed." That means that you have got to have sequestration in the current year, if you have any emergency.

Then if you take a look at the language in the last two sentences of the bill, which says, "The discretionary spending limit for the next fiscal year shall be reduced by the amount or amounts of that breach," that says that you have to also make the same reduction in the next fiscal year. It seems to me it is written in plain English, and it is very clear.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I would like to say at the outset I have the highest regard for my colleague, the gentleman from Texas [Mr. SAM JOHNSON]. Although I disagree with his amendment, he is a very valuable Member of the House.

I am afraid this amendment today should be defeated for the reasons that have been stated and others that I will enumerate at this moment.

First, put this in context: As chairman of the Disaster Task Force, you cannot view any of these amendments in the context of previous disasters. We have on average spent about $3 billion a year on disasters: the flood in my part of the country, a hurricane in Florida, an earthquake in California.

But on the Disaster Task Force, we have been told that the so-called big one could occur at any moment in California, and certainly a Hurricane Andrew, had it gone a few miles north and hit Miami, would have cost $50 billion in 1 year, so whatever we are about to do should be put in the context of a reality that the cost of disasters could go up dramatically in any given year. There is no flexibility in Mr. Johnson's amendment.

Let me tell you four reasons why we should vote against the Johnson amendment: The gentleman from Texas [Mr. SAM JOHNSON] quite wisely says we should pay for our disasters, but as has been stated on the floor, he wants to pay for them twice, once in the year when the disaster occurs by cutting spending, then in the following year pay for it again. Well, that frankly is unnecessary and could be counterproductive.

Second, the gentleman from Texas fails to take into account that the good Lord does not pay any attention to our fiscal year deadlines. If a disaster occurs in the United States in August or September and our fiscal year ends on September 30, we somehow have to come up with the disaster funds in the remaining 2 months of that fiscal year to pay for it. That is unrealistic. We found that in last year's Midwest flood.

So the gentleman, by sticking to the strict definition spending cuts only in the year disaster occurs, really looks beyond the fact that the disaster may be so late in the fiscal year that we cannot cut enough spending to pay for it.

The third point I raised in my earlier comments, the gentleman fails to take into account that in fiscal year 1991 President Bush declared an emergency to pay for Desert Storm and Desert Shield. President Bush was right when he said we are going to take care of the men and women in our Armed Forces serving in the Persian Gulf, and we are going to pay for it on an emergency basis; we are not going to scrimp and cut when it comes to the safety of our kids. He was right. Forty-two billion dollars was spent on the Desert Storm emergency.

Under the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] we then would have had to cut the next year's appropriation bills by $42 billion to pay for it, except for one fact he left out in his thinking. Our allies came back and paid that $42 billion. Under the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] we would have still had to cut the next year's spending, and that cut would have taken place despite the contribution of our allies.

Finally, if you take the amount of disaster in 1 year and then spread that amount in cuts and spending the next year, almost half of those cuts come from the Department of Defense. I say to the gentleman from Texas [Mr. SAM JOHNSON], you are going to hear from the gentleman from Pennsylvania [Mr. MURTHA] in a few moments the disastrous consequences on America's military strength if you make that sort of a cut in this day and age, and I would also add it would call for cuts, for example, next year of $1.6 billion in veterans' hospitals and another $314 million in agriculture programs.

I urge my colleagues, look at the Johnson amendment, consider the flaws in it, defeat it.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I am from California. I support this legislation very strongly, and I do so because my constituents are terribly concerned about the future of this country economically, as am I.

Our national debt, not the deficit, but the debt, which is what really counts, is $4.5 trillion. That is $18,000 for every man, woman, and child in the United States. It is $72,000 for your average family of four. This is a problem.

The gentleman from Texas [Mr. SAM JOHNSON] is advocating a policy which will impose more fiscal restraint than we have. All we hear about, "That is a lot of talk." The fact of the matter is we have been vastly increasing our spending over whatever the increase in revenues is. That continues to go on today. It has gone on for years.

Mr. Chairman, I would like to strongly support the Johnson amendment, and let me just say disasters are somewhat foreseeable. We now know that we are going to have every year "X" amount of dollars we can count on. For that reason, I say put it on budget, build it onto the budget, and bring down the spending.

I urge support of the Johnson amendment.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I would just like to put this in perspective to what this really does.

I chair the Military Construction Subcommittee, which has been in decline for the past several years. We have not been able to do the things that we want to do for quality of life, which has been one of the strong things that I have tried to do in my years as chairman of the Military Construction.

This year we were unable to do what we needed to do in family housing for our troops. We had some $54 million that we could not even touch in family housing that was direly needed for our troops.

Now, let me tell you what would happen if the Johnson substitute had been in effect this year: The 1995 discretionary cap would have to be reduced by $12 billion. Now, that means the military construction 602 allocation for 1995 would have been reduced by some $208 million, and a lot of people that deal in billions might not say that is a lot of money, but let me tell you this type of reduction that we would have had to have taken would have resulted in cuts in the Guard and Reserve projects of some $50 million, and these are very important and strategic family housing projects that I mentioned.

We would have had a further cut of some $70 million in family housing and child care centers, which goes to the very heart of quality of life for our people in the military. We would have had to cut $20 million, and that is just a few of the things we would have to cut.

There are some 70 Members of this body on both sides of the aisle who came to me during this last budget series and asked for projects in my military construction budget. I am assuming that they were very vital projects. They would have had to have been drastically cut at a time when we are building down in the military, and I serve on the Defense Subcommittee, and I feel sure the gentleman from Pennsylvania [Mr. MURTHA] will speak in depth about this.

This is no time, in my view, for us to be considering what I consider to be an irresponsible amendment.

I urge strongly that you vote against this amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise today in strong support of the amendment offered by our colleague, SAM JOHNSON, to the Emergency Spending Control Act.

What a novel idea, to actually require Congress to pay for any emergency supplemental bill we pass.

This amendment is a good idea for a couple of reasons. First, it will make Congress be more selective when drafting emergency spending bills. I suspect Congress would be less likely to include completely unrelated, nonemergency pork spending in emergency bills when next year's appropriations would be lower by that amount.

Also, it is simply good public policy to begin paying for the bills we pass. With the budget deficit over $200 billion and national debt over $4½ trillion, we simply cannot afford to continue putting off our bills onto our children and grandchildren.

It is time we realize that the fiscal crisis is the biggest emergency facing this country.

Unless we get our financial house in order, we literally won't be able to afford the next hurricane, the next flood, or the next earthquake.

The Johnson amendment is the best way to ensure that Congress will pay for these emergencies now, and will be able to continue paying for them in the future. I urge all of my colleagues to support this important amendment.

□ 1250

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CARR].

Mr. CARR of Michigan. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. I am sure this was not the gentleman's intention, but I am afraid his amendment is mean spirited. It has the ironic effect of punishing the American people for their humanity and generous nature. The willingness of Americans and by extension, the Congress, to provide for others in their time of need is one of the most admirable traits of this Nation. But, providing emergency relief to citizens whose lives in many instances have been devastated by natural disasters should not mean, Mr. Chairman, that in the process we gut important road, transit, and aviation improvement programs that are also important to the American people in their everyday lives.

Mr. Chairman, in the supplemental enacted earlier this year in response to the earthquake in southern California, the Congress provided swift and decisive relief to repair the crushed interstate highways, collapsed bridges, and other devastated arterials caused by the earthquake. Under the terms of the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON], the Transportation Subcommittee would be required to produce savings in ongoing programs in the fiscal year 1995 transportation appropriations bill to offset the approximately $325 million cost of providing that much needed emergency transportation relief. In other words, we would have to rob Peter to pay Paul. And I might add that the savings would have to be made in both budget authority and outlays.

Mr. Chairman, the negative impact of the Johnson amendment is very real. Let my give just one example of what we would have to do to achieve savings of this magnitude. If the reduction were applied entirely to the Federal program that finances the construction of our Nation's highways, we would have to reduce the program by nearly $2 billion below the $17.2 billion provided in the 1995 transportation appropriations bill.

Mr. Chairman, in order to stay within our restrictive budget allocation, the 1995 transportation appropriations bill already funds the primary Federal highway construction program at less than last year's level. Let me repeat that: We have already cut spending on the Nation's premier transportation funding program below the 1994 level and we have been criticized by some Members of Congress and the administration for doing so. And that is without the Johnson amendment. With the Johnson amendment, we would have to slash Federal aid for highways by nearly 14 percent below the current level. Every State with critical needs for highway construction and repairs would have to pay a severe price under the gentleman's amendment.

I am sure some are thinking, "All they would have to do is stop earmarking funds for highway demonstration projects and everything would be fine." But, Mr. Chairman, a careful examination of the facts proves this statement to be false. Even if the 1995 transportation appropriations bill as passed by the House contained not $1 for specially earmarked highway projects, the Johnson amendment would force deep cuts in other transportation programs. Once again, if the remaining outlay savings needed were taken from the formula highway program, Federal spending on roads and highways would still have to be reduced by more than $1.5 billion. The other alternatives are even less attractive. It is unlikely that we could achieve savings of this magnitude in other programs within affecting important safety functions in the Federal Aviation Administration or the Coast Guard.

I am sure the gentleman's amendment is well intended, but I think you can see the disastrous effects it would have on transportation funding in this country. I strongly urge defeat of the amendment.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of legislation to reform and control emergency spending. I also strongly support the Johnson and Castle amendments.

I believe that this measure is a critical component in the range of budget process reforms which the House has considered this month. Every year, we go through an elaborate procedure to pass a budget resolution setting discretionary spending limits, allocating those limits among the 13 appropriations subcommittees, and living within these limits.

We then go out and bust the budget almost every year, through the process of supplemental emergency spending bills. There is widespread support for passage of these emergency spending bills. After all, who could oppose humanitarian assistance for Americans whose lives have been devastated by unforeseen natural disasters like earthquakes, hurricanes, and floods.

The problem is while each such disaster is unforeseen, the fact that disasters occur each year is not only foreseeable, it is almost a certainty. Therefore, prudent budgeting would take the likelihood of natural disasters into account and provide a mechanism to pay for them—within our budget.

I believe the Castle and Johnson amendments both accomplish this, and I will support both of them. In fact, I believe we should combine the two into one bill. The Castle amendment would eliminate the waiver of emergency spending from the discretionary spending caps. In order to accommodate this change, the Castle amendment also establishes an emergency budget reserve funds. It would be expected that each year we would appropriate funds into this reserve account, in order to meet emergency spending. The concept of a contingency or emergency reserve fund is a basic budgeting concept that virtually every State and local government in this country uses.

However, a legitimate issue is raised under the Castle amendment. What happens if actual emergencies exceed the amounts funded into the reserve fund? Under Castle, we could either offset this excess with rescissions of other spending, or could vote to raise the caps.

The Johnson amendment would resolve this issue by allowing a third option of paying for this excess spending by reducing the discretionary spending cap in the subsequent year. This mechanism provides a safety valve to fund emergency spending levels that exceed the spending cap in the current year. That is why I believe that the Castle and Johnson provisions would work so well combined as one amendment.

Finally, I would like to address the Kasich-Stenholm-Penny amendment. This amendment, as well as the Spratt bill, focuses the issue more narrowly than the Castle or Johnson amendments—dealing only with the scope of individual items within each spending bill.

I believe that both the Castle and the Johnson amendments deal with the problem of emergency spending in a more comprehensive manner than either Kasich or Spratt. However, if the issue is simply limiting the consideration of emergency spending bills to true emergencies, I believe that the Kasich-Stenholm-Penny amendment is preferable to the Spratt bill.

Finally, in any event, I believe all four of these proposals are preferable to doing nothing. Therefore, I urge my colleagues do pass this legislation, to take at least some action on the problem of emergency spending.

Mr. SPRATT. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me talk about the practical impact of what the gentleman from Texas [Mr. SAM JOHNSON] is trying to do.

I remember when Secretary Weinberger used to come before the Committee on Appropriations and tell us about supply-side economics. He said despite increased spending in defense and decreasing taxes, we would decrease the deficit. I said to him that it would not work.

Mr. Chairman, during that period of time, during that 12 years of Reagan and Bush, we increased the deficit by $3 trillion, from $900 billion to almost $4 trillion. So these easy quick fixes don't always work and can have really negative consequences.

Mr. Chairman, we have done our share when it comes to cutting discretionary spending, particularly defense discretionary spending. Defense money used to be 27 percent of the budget in fiscal year 1984, and it is now down to 19 percent of the budget 10 years later. Further cuts in discretionary spending will not solve the deficit problem, but will greatly exacerbate the problem for defense because defense will take one-half of the total discretionary cut.

For instance, if you were to reduce the defense budget by $5.7 billion, which is half of the 1994 emergency disaster appropriation, there would be a 2.4-percent across-the-board reduction for defense assuming you applied it uniformly. This would eliminate the entire pay raise for the troops.

Now, why did I pick the pay raise? Because the Pentagon did not allow for that in their budget because they said that was not something that needed to be done. Well, I disagree with that. I think a pay raise is absolutely imperative for the welfare and morale of our troops and we included it in our recent bill.

Our troops right now are deployed more often than they have been in years. They are worn out, frustrated. I just visited Guantanamo, and a number of them are going to get out because they spend too much time away from home.

So the first thing that would go is the pay raise for the troops.

Next, the readiness enhancement voted by the House would be totally eliminated.

What I did in the budget that we sent over to the other body was decrease some of the long-term programs and increase the amount of readiness. For instance, there is a $12 billion backlog in defense for real property maintenance. There is a $2 billion backlog for depot maintenance. Both of these are absolutely essential to the readiness and quality of life of our troops.

Under this Johnson amendment we would also have to cut the medical care for 205,000 personnel if the reduction was applied across the board.

Now, why do I mention the medical program? I will tell you why. For 7 years I personally have taken an interest in trying to improve the medical quality of life, the medical care for the military. In the military, one of the first things they cut when they start to cut the budget is the medical personnel available to active-duty dependents. That is a mistake because it reduces the quality of life.

Recently I went to Camp Lejeune, where they were waiting 5 hours to see a doctor. That is a practical impact of what we are doing in making these kinds of cuts.

So there is no way that I can support this kind of a cut, because it has such a dramatic impact on our national security.

Now, I could not agree more that they should come to the Congress to ask for supplemental money for operations such as Rwanda. But I doubt very much that this Congress would turn down the President on money for Rwanda. I certainly know we would not turn down money for hurricane Hugo, the flood disaster that happened down there. I know he would not turn down the money, Congress would not turn down the money for Los Angeles where the earthquake occurred. Nor should he.

The premise of the Johnson amendment is that the emergency money has to come out of the overall spending. That would be disastrous to defense, and I strongly urge the Members to defeat the Johnson amendment.

☐ 1300

Mr. SPRATT. Mr. Chairman, do I have 1 minute remaining?

The CHAIRMAN. The gentleman from South Carolina has 1 minute remaining.

Mr. SAM JOHNSON of Texas. Mr. Chairman, do I have the right to close?

The CHAIRMAN. The gentleman from South Carolina [Mr. SPRATT] has the right to close debate.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as my colleagues know, I would hope that we could cut spending in other areas as much as we have already cut defense.

The CHAIRMAN. Will the gentleman from Texas [Mr. SAM JOHNSON] suspend?

The Chair is in error. The gentleman from Texas [Mr. SAM JOHNSON] has the right to close debate, and the Chair would now recognize the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. I was not going to look that gift horse in the mouth. I thought I was the next up.

Mr. Chairman, I yield myself the balance of my time.

Let me just basically summarize the problem, the flaw, in this bill and the reason we urge its defeat.

First of all, Mr. Chairman, this bill repeals those provisions of the Budget Enforcement Act of 1990, which exempted emergency spending from the discretionary spending cap. Second, the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] would create something he calls a look back requiring that in the later fiscal year all emergency spending above the discretionary spending cap in the prior fiscal year be offset by an equal reduction in discretionary spending in that second fiscal year. A look back.

However, Mr. Chairman, because emergency spending would no longer be exempt, due to this bill, from the emergency spending cap, emergency spending in excess of the cap in the first fiscal year would trigger sequestration, so we would have a cut in that year by virtue of sequestration.

Second, in the following fiscal year the Johnson look back provisions would mandate, dictate, that this same breach, this same excess, be cut again, reduced again, from discretionary spending, so what we have here, unintentionally, I am sure, but nevertheless it is the plain consequence of this bill, flawed in the drafting, is a double cut, a double dip, which certainly we do not wish to decree by passing this amendment.

So, I urge defeat of this amendment and the creation of a serious mistake.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as I was saying, I believe that we have already taken too much money out of the defense budget, and it is terrible to me that we even talk about thinking about it. However it is important that we consider paying for our finances as we go along. We have to realize there are two emergencies facing this country, those that are caused by circumstances out of control and one the body has created itself, and that is the $4.5 trillion national debt. We do not have the power to stop unforeseen emergencies, and so we can only offer help to those in need. But we in Congress have the power to reduce our national debt, and so far we have ignored the task. Members have said the deficit is going down, but that is short term. We need to focus our sights on the long term, and by the President's own predictions the deficit and debt will rise in the outyears.

Mr. Chairman, over the past 4 years, $90 billion has been added to the debt through emergency supplementals. The President's proposed spending, $320 billion for new programs and figures, show that by 1998 $1.5 trillion will be added to the debt. This is not how a responsible Congress acts. We have got to reduce our expenditures, and change our spending habits, and show the American people that we are accountable for our actions and care about the future of this country. That is why Members ought to vote yes on this amendment and start us down the road toward fiscal responsibility.

In answer to some of the questions today, today's rules already preclude any point of order on spending over 602(b) limits, so, when we waive all points of order, which Rules does on every supplemental report, and conference report, then there is not any way for spending to be addressed except by the Johnson amendment.

Vote for the Johnson amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. FRANKS of Connecticut. Mr. Chairman, during this Congress we have approved two emergency spending bills, one in 1993 for the Midwest flooding and one earlier this year for the earthquake in Los Angeles. Even though these natural disasters did not take place in Connecticut, my constituents were willing to have the Federal Government provide needed relief to the victims. We can assume that Connecticut residents would receive disaster relief should a serious disaster ever occur in my State.

Unfortunately, Congress took advantage of this goodwill and added wasteful spending to the emergency spending bills. Fungus research and a program to pay for grooming expenses of Los Angeles youth would not have been approved if these programs had to stand on their own merits. That is why they were included in the emergency spending bills. Even more disgraceful, the rules of the House did not allow this waste to be deleted from the bill.

In addition, the two emergency spending bills approved during this Congress were never paid for. Congress chose to add the amount spent in these bills to the Federal deficit.

Today, I will support amendments to the emergency spending control Act to end the abuse of emergency spending bills. The amendments offered by Congressman SAM JOHNSON of Texas, Congressman CASTLE, and Congressmen KASICH, STENHOLM, and PENNY would all effectively address the abuses that have plagued previous emergency spending bills. Under these amendments, emergency spending would no longer be added to the deficit and nonemergency items would no longer be inserted in emergency bills. The Castle amendment would provide for unexpected emergencies by setting aside emergency funds in the annual budget process. The Kasich-Stenholm-Penny amendment would outright prohibit nonemergency spending in emergency spending bills.

If these three amendments fail, I will vote for the Spratt amendment, which allows any Member of the House to try to eliminate the wasteful nonemergency spending in an emergency spending bill. This amendment is not as strong as the other three amendments being offered. I feel that the nonemergency spending should not be in the bills in the first place. But the Spratt amendment is better than the current situation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from Texas [Mr. SAM JOHNSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SAM JOHNSON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 258, not voting 21, as follows:

[Roll No. 400]

AYES—160

Allard
Andrews (NJ)
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bunning

Burton
Buyer
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoekstra
Hoke
Horn
Houghton
Huffington
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Linder
Lucas
Machtley
Maloney
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Nussle
Orton
Oxley
Pallone
Parker
Paxon
Penny
Peterson (MN)
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Upton
Walker
Weldon
Young (FL)
Zeliff
Zimmer

NOES—258

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Bateman
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Lambert
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Reed
Regula
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—21

Andrews (TX)
Archer
Becerra
Dicks
Flake
Grams
Hunter
LaFalce
Lantos
McCurdy
McDade
McMillan
Mfume
Michel
Moran
Reynolds
Slattery
Spence
Sundquist
Thomas (WY)
Washington

□ 1324

The Clerk announced the following pair:

On this vote:

Mr. Grams for, with Mr. Becerra against.

Mr. VALENTINE and Mr. EVERETT changed their vote from "aye" to "no."

Mr. KLUG and Mr. TAYLOR of North Carolina changed their vote from "no" to "aye."

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. RAHALL). It is now in order to consider amendment No. 2 printed in House Report 103–690.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CASTLE: Strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT OF BUDGET RESERVE ACCOUNT.

(a) ESTABLISHMENT.—A budget reserve account (hereinafter in this section referred to as the "account") shall be established for the purpose of setting aside adequate funding for natural disasters and national security emergencies.

(b) PRIOR APPROPRIATION REQUIRED.—The account shall consist of such sums as may be provided in advance in appropriation Acts for a particular fiscal year.

(c) RESTRICTION ON USE OF FUNDS.—(1) Notwithstanding any other provision of law, the amounts in the account shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(2) Funds in the account that are not obligated during the fiscal year for which they are appropriated may only be used for deficit reduction purposes.

SEC. 2. CONGRESSIONAL BUDGET PROCESS CHANGES.

(a) CONTENTS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) total new budget authority and total budget outlays for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account;".

(b) SECTION 602 ALLOCATIONS.—(1) Section 602 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(f) COMMITTEE SPENDING ALLOCATIONS AND SUBALLOCATIONS FOR BUDGET RESERVE ACCOUNT.—

"(1) ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution) of total new budget authority and outlays to the Committee on Appropriations of each House for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account.

"(2) SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under paragraph (1) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(2) Section 602(c) of the Congressional Budget Act of 1974 is amended by inserting "or subsection (f)(1)" after "subsection (a)" and by inserting "or subsection (f)(2)" after "subsection (b)".

SEC. 3. REPEAL OF ADJUSTMENT FOR EMERGENCY APPROPRIATIONS.

Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

SEC. 4. REPORTING.

Not later than November 30, 1996, and at annual intervals thereafter, the Director of the Office of Management and Budget shall submit a report to each House of Congress listing the amounts of money expended from the budget reserve account established under section 1 for the fiscal year ending during that calendar year for each natural disaster and national security emergency.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by it shall apply to fiscal year 1996 and subsequent fiscal years.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Delaware [Mr. CASTLE] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last July floods in the Midwest drove thousands of people from their homes and wreaked millions of dollars worth of damage to property in many States. This disaster caused a controversial debate in the House.

The debate was not over whether our Government should provide aid to the victims of the flood. Virtually every Member of this body agreed that we had to respond immediately to that disaster. The debate was over whether we should try to pay for the cost of flood assistance or just add another $5 billion to the deficit.

As my colleague will recall, the House initially defeated the rule for the emergency appropriations bill because a majority of the Members of the House believed that we should offset the cost of the aid with cuts in other programs. There were accusations that Members did not care about the suffering of the flood victims because they wanted to do the responsible thing and pay for the aid within our budget limits.

The frustration of Members on both sides was understandable, but the real fault lies with the flood emergency spending process. The current process does not allow us to plan for the natural disasters which are almost sure to occur.

When a flood, earthquake, or hurricane does occur, we simply add the cost to the deficit and justify it by saying that we have to get the relief to the victims as soon as possible.

□ 1330

Mr. Chairman, the simple solution is that we must plan for emergencies. If we held some funds in reserve, we could respond to disasters promptly within our budget limits.

My amendment would require Congress to annually set aside funds in a budget reserve account to pay for emergencies. The funds in the reserve account would be within the annual discretionary spending limits. Many of us who have a background in State government know this as a rainy day fund.

The annual budget resolution would set a total amount to be set aside in the account. Congress and the administration could consult on what funds were needed in previous years and determine a realistic amount for the fund.

The average cost of domestic emergency spending bills since 1989 has been $5.2 billion. If that amount were set aside in fiscal year 1996, we would have a significant amount of money to deal with most emergencies within our annual spending limits. My amendment would give Congress the incentive to set an adequate amount of money aside, because it would eliminate Congress' authority to appropriate emergency funds in excess of the annual spending caps.

Mr. Chairman, what happens if a disaster exhausts the reserve account? There is always the chance that a disaster or a series of disasters could require more emergency funds than are available in the reserve account.

If such a serious situation occurred, there are a couple of steps Congress could take. First, we could make cuts in other programs to free up funds for additional disaster relief within the spending caps. This is often what we try to do under the current budget rules.

Mr. Chairman, the second remedy we could follow if a disaster exhausted the reserve account is that if a natural disaster was so severe or there was a national security emergency, like Operation Desert Storm, there would surely be agreement in Congress to pass legislation waiving the budget reserve account law to respond to a special situation.

However, the reserve account would allow us to respond to the vast majority of emergencies within our spending limits. We do not even attempt to do this under the current process.

In addition, Mr. Chairman, the funds in the reserve account could only be used for specific natural disasters and national security emergencies designated by acts of Congress. This will prevent funds for nonemergency projects from being paid for with funds from the reserve account. In addition, because emergency funds would be within the annual budget limits, Congress would be more careful in spending these funds.

Mr. Chairman, it should be stressed that the funds would be held in the reserve account until an emergency occurred, and then the Committee on Appropriations would allocate the funds to the appropriate Federal agencies to respond to the disaster. No executive agency would be given any additional discretionary funds.

Mr. Chairman, my amendment will also improve the monitoring of how emergency funds were spent. The Office of Management and Budget [OMB], would be required to report annually to Congress on how the funds from the account are allocated for each emergency.

If we are fortunate enough to escape some marginal disasters in a particular year, and there are funds left in the reserve account, they would be returned to the Treasury to reduce the deficit. I know Members will argue that the discretionary spending caps are already very tight, and we cannot afford to return $5 billion to $6 billion to the Treasury. I would argue that the deficit is still in excess of $200 billion and that any savings should go to reduce the deficit.

Mr. Chairman, the purpose of reforming the emergency spending process should be to save money that is not needed to respond to disasters. My amendment will accomplish that.

There is no perfect solution to the problem of emergency spending, Mr. Chairman. There is always the potential for a disaster or a war which would require special spending. However, we can make real progress if we set aside money for the most likely disasters. The budget reserve account would bring emergency spending within the annual budget process and enable us to plan for them in a fiscally responsible manner. Mr. Chairman, I urge my colleagues to support the Castle amendment to H.R. 4906.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from South Carolina [Mr. SPRATT] is recognized for 15 minutes.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Delaware [Mr. CASTLE], and if I have time at the end of my remarks, I would like to ask a question of him.

Mr. Chairman, we cannot create a rainy day fund by looking in a rearview mirror and saying that over 10 or 20 years we have needed an average of $3 billion to $5 billion, because the gentleman from Delaware, in his amendment, not only creates this fund, but ties our hands as to what we will do to deal with disasters of much greater magnitude.

We can speculate forever what might occur if there would be a hurricane that hits Miami, an earthquake, or some type of natural disaster, in California or in Hawaii, and we know that the cost of these could go far beyond $3 billion or $5 billion. The gentleman's approach, is really silent to that possibility.

That could raise a serious problems for us. What will we do when we have expended all the money in his reserve account? The gentleman, in his "Dear Colleague" letter, merely speculates that Congress will rise to the occasion, but the gentleman, with his amendment, ties our hands.

If the gentleman wants to go beyond it, we are talking not just about natural disasters, but about items of national security. When we went in

Desert Storm and Desert Shield, we needed quickly, under President Bush, $42 billion to protect the men and women in uniform. We did not have time to come and debate some sort of budget reform experiment. We had to move quickly, to protect the men and women in our armed services.

Mr. Chairman, I am sure the gentleman supported President Bush's decision to fund our military effort at the time, and I did, too. We did not want to shortchange them. Had we been living under the gentleman's approach, Mr. Chairman, restricted to a rainy day fund of $3 to $5 billion, we would have spent all that in a moment, and still had a responsibility to find some $35 billion to $40 billion very quickly. Mr. Chairman, the gentleman does not suggest how we would do that.

I would tell the Members that I think the gentleman from Delaware is on the right track. Our disaster task force would like to work with him and others to come up with this fund, but we have to create the flexibility to respond to real human needs, such as protecting our men and women in uniform. We cannot entangle our national security in a budget reform experiment.

I urge my colleagues to vote against the Castle amendment, to work with the gentleman from Delaware [Mr. CASTLE] and everyone on our task force to find an approach that is sensible, flexible, and really serves the needs of this country.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to respond to what my good friend, the gentleman from Illinois [Mr. DURBIN] said. He makes a valid point. I appreciate the work he does on the disasters task force, if that is the correct name. I think we have to address this issue. I appreciate this debate in general because I think it is so important.

The gentleman does raise the issue of emergency spending. There is no way we can state, obviously, exactly what the emergencies are going to be. The States cannot do it, the local municipalities cannot do it, none of us can do it at this time.

I believe that the proposal which I have put before this Congress today comes as close to that as we possibly can; that is, a look back to determine what it has been over the last 5 years, averaging it out and trying to work it into next year's budget, for example.

The gentleman does raise a valid point. There could be situations which are going to go above whatever that emergency appropriation is going to be in any particular year. If so, there are a couple of things we can do.

One is, if it is within reason, if it is an extra half of a billion dollars or $100 million, or whatever reason may be, we could go back into the budget under the caps and try to fit it in, with reductions of other expenditures, depending on the circumstances, the year or whatever it may be.

Second, we could pass special legislation overriding the budget reserve account. In other words, it sets a higher standard, if you will, for this than we have presently, in which we simply appropriate emergency expenditures and automatically raise the caps by doing that. So I believe it does set a higher standard to do it in this way. I think we will find in most years, Mr. Chairman, we will not have that problem.

One other thing I would address. I think by putting this money in the budget itself that we do, indeed, address the issue that I do not think we have focused on very much here, and that is how we regulate the amount of money which is spent and how much money we should be spending, and doing more to help with flood insurance, earthquake insurance, and some of the other areas that would have private offsets to some of these disasters. I hope your committee would look at that as well.

□ 1340

I would hope your committee would look at that as well. I appreciate your comments, but I do think it is addressed.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I agree with the gentleman completely in his conclusion. But would we not face a practical problem if we had a national emergency, a security emergency, some problem in Korea or a Desert Storm situation where Congress would be forced to come in here and engage in a debate over whether we ought to cut the Veterans Administration, whether we ought to cut the FBI, where is the money coming from? Is it not more sensible to respond more quickly to a national security need and a national disaster?

I am afraid the gentleman's amendment will tie our hands and have Congress engaged in a debate when the American people want us to act quickly to protect men and women in uniform and to respond to an emergency.

Mr. CASTLE. Mr. Chairman, I agree with the gentleman. It is just a question of what the language actually does, because he is absolutely correct. I want us to be able to respond quickly as well. As I indicated, if it is a small amount of money, we could go back into the budget caps. If it is a large sum of money, a war in the Middle East, for example, which clearly does not fit into this rainy-day fund/budget reserve, if you will, we could in that situation pass special legislation overriding the budget reserve account legislation and we would actually add it to the budget in that particular way. But it would happen automatically. We would have to pass the legislation to do it.

Mr. Chairman, I believe it makes us focus more crisply on what we are doing. I think it is the best way we can handle it. It is not perfect. I am not sitting here saying that we have perfection. I have not been able to find that yet. If I had, we probably would all be in agreement and we would not have to worry about this. But I think it is the best thing we can do. It makes us focus on the emergencies we know we can handle and bring them within the budget.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, we have a specific example of why this is not a good amendment. Before 1990, we had a reserve fund for the small business disaster loan fund. In those years when there were less than a normal number of disasters, the reserve was built up, and the reserve was there then when we had more than a normal number of disasters. It was abolished in 1990 out at Andrews Air Force Base at that big deal out there.

Since that time, they have been trying to ask for an average of the amount that would be needed in the fund. They take the last 5 years, or I believe in this case it was 10 years, they dropped the high year and the low year and request an average. If the disasters for that year are less than the average, they are all funded. If they are above average in total, they are not going to be funded, if we have got an emergency. It is the ones that are above average, it is in those years we need the money faster, not slower.

Mr. Chairman, this does not solve anything. We have already tried it now in the last 4 years with the SBA disaster loan fund and it just does not work. This ought to be turned down.

Mr. CASTLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am rising in support of the Castle amendment. I want to speak first of all to the question about speed and being able to get to these things quickly. If we think about the events that went on last summer when we did not have this kind of a fund and we were trying to deal with the problems that we had in Iowa, we spent several weeks trying to come up with some sort of a rule, first of all, that would even allow us to get to the floor on the question of disaster relief. So I think that speed becomes something of a bogey in this when what we are to do is to get to something quickly. I do not think that that is really the issue.

Mr. Chairman, I think what we ought to talk about is what is the purpose or what is the purpose of the gentleman from Delaware in creating this bill in the first place? That is essentially fiscal responsibility, so that we instead of having to go the Federal budget without funding that has already been appropriated in advance, we are doing it on a happenstance, after-the-fact basis. It is just not good business. It is not the way that business prepares for itself. It is not the way that we ought to be preparing for ourselves in the United States Government.

It is common sense to plan ahead. It is common sense to create a contingency fund. Most importantly what will not happen is we will not have the kind of abuse, the kind of exploitation of the emergency supplemental that we have seen repeatedly over time after time after time where we used that as an excuse to generate some extra spending for particular districts.

I think that that is particularly why the Citizens Against Government Waste has written to endorse this bill. We say, "Why are they endorsing it?"

Because the base bill, according to them, is "meaningless, it lacks even the cosmetic changes to solve the problem of uncontrolled pork-barrel spending on emergency appropriations. It deserves strong bipartisan support."

It goes on, "Not only is its planning fiscally prudent but it also removes the incentive for Congress to use the events of human suffering and tragedy to add pork to congressional portfolios."

Finally, with respect to the concern that the gentleman from Illinois [Mr. DURBIN] has about Desert Storm funding, it would be part of the same debate, it would all take place at the same time, so that it could be dispatched at that time.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I rise in opposition to the Castle amendment. I do not want to cast aspersions on it, but it is actually worse than the Johnson amendment, because we are talking about specific numbers. We are not talking about a formula. This would directly affect the allocation for military construction as it would for defense spending.

Mr. Chairman, I am chairman of the Subcommittee on Military Construction and serve on the Defense Subcommittee. The gentleman from Pennsylvania [Mr. MURTHA] spoke very eloquently about what the Johnson amendment would do to defense.

We saw military construction last year, they asked for $1.6 billion that was asked to be cut from military construction. We talk about quality of life and we talk about things that we can do. But under this amendment, we would have to take drastic cuts in military construction. We had some 70 Members of this body, both Democrats and Republicans, that requested what I assumed to be legitimate projects in the military construction budget. The gentleman from Delaware [Mr. CASTLE] requested a project in his district. But under this amendment, we would not have been able to do these projects for Members. I am assuming that they were legitimate, needed projects.

Mr. Chairman, I think that this is very ill-advised and I would urge Members to take a very close look at it and how it affects especially what I am focusing on, our military establishment, our quality of life for our men and women who served in the Gulf, who serve us in these peacekeeping efforts, look very closely, because military spending is discretionary spending, and we are going to have to take the hit on half of whatever it is that goes into these amendments.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman for his statement. We serve together on the Subcommittee on Defense of the Committee on Appropriations. This would have a dramatic impact at this point, especially when we have reduced defense spending by over $100 billion in the last 10 years. I commend the gentleman for his statement. He is absolutely correct.

Mr. HEFNER. Mr. Chairman, I would like to remind Members that would have a tendency to vote for this amendment, there are some 70 Members on both sides of the aisle that requested projects. Some 70 of them got projects. I assume they were legitimate. But we cannot have it both ways, fellows. We cannot have it both ways.

Mr. Chairman, I would urge people to take a very close look and vote against this amendment.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman has made some very astute comments, and I think they deserve discussion and I think it is part of the discussion we have to have in general to come up with a solution to this

First, we are talking about on average now, without dictating obviously what the budget committees might do in the future, around $5 billion total that would have to go into a rainy day fund or budget reserve account that we are dealing with here. This would come out of funds that already exist.

In a budget of $1.5 trillion, we are dealing with about $500 billion or so that may relate to some of the discretionary spending. Clearly not all of this is military spending, although some of it is military spending. Each year we have a number of appropriations. Just last week we were debating the crime bill on which we are dealing with some $33 billion, for example, over a 6-year period, I believe, that would be spent to try to reduce crime.

We make decisions on a regular basis. Once we have made the decision to include this amount of money in our budget appropriations each year, I do not think we will have any trouble fitting it in, and I do not think for a minute it is all going to come out of the military. I for one am not wanting to reduce that any more than we have to as it is. And it has been reduced dramatically in recent years.

Curiously enough, if this proposal has been before us 4 or 5 years ago when we started to reduce the military budget, we could have resolved the problem by putting it in at that time based on some of those reductions. I think that has probably gone far enough at this point.

Mr. Chairman, I do believe we can go through that budget and find other areas where reductions could be made, where expenditures could be saved, in which we could fit in a budget reserve account, and then we would not have the problem of adding to the deficit each year and to the debt of the United States of America.

Mr. Chairman, that is all I am driving at, for this amendment and some of the other things I have talked about here, simply trying to make the budget process of this Congress work in such a way that we are attacking the problem with the deficit and we are attacking the problem of the debt of the United States of America.

☐ 1350

I believe this is one step we are going to have to take.

So far I have not heard a better solution or suggestion. If there is one, then by God I am going to back that one as well.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, could the Chair advise how much time is remaining on each side?

The CHAIRMAN pro tempore (Mr. RAHALL). The gentleman from Delaware [Mr. CASTLE] has 2½ minutes remaining and the gentleman from South Carolina [Mr. SPRATT] has 7½ minutes remaining.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to this amendment. There are a lot of concerns expressed here, but my concern is the speculative nature of this amendment. If Members like to gamble, then I think they would love the uncertainties associated with this amendment. First we have to guess at what number will turn up, what number to put in this jackpot, if you will, and guess what natural disasters and national security emergencies are going to occur during the next year. Then everybody after that loses, just like in most gambling.

Money for this emergency jackpot, if you will, is taken from the 602(a) allocations, and that is reducing the total amount now available under previously negotiated, tight caps, tightly negotiated by the gentleman from Minnesota [Mr. SABO] and the Committee on the Budget. That takes money away from defense, make no mistake about it, and it takes it away from all discretionary spending.

For example, let us assume that this emergency jackpot amounts to $11,900,000,000 already spent for declared disasters this year. Just taking one category of funding, crime fighting, Mr. Chairman, the crime fighting fund category would lose a total of at least $347 million. That is significant. We are going through a process right now, the gentleman from Kentucky [Mr. ROGERS] and our fine subcommittee and this whole Chamber of trying to apply resources to this national emergency.

This reduction, under the Castle amendment, would undo the law enforcement enhancements appropriated in fiscal year 1995. The FBI, for example, is provided an increase over fiscal 1994 levels to restore agent strength back to the 1992 levels. This amendment would cut an estimated $60 million from the FBI and prevent the hiring of approximately 400 badly needed agents.

The Drug Enforcement Administration is provided an increase over fiscal 1994 levels to restore agent strength back to 1992 levels, and this amendment would cut an estimated $20 million from DEA and prevent the hiring of an anticipated 300 badly needed agents.

With regard to Border Patrol agents that we worked so hard to enhance, in order to beef up the southern border of the United States to keep out illegal aliens, this amendment would cut $40 million and drastically reduce the thousand agents that we are adding in this bill.

That is not all, Mr. Chairman. Under this proposal, any additional emergency money needed in excess of the jackpot fund, a fund we are going to guess at how much we are going to need, would have to be offset, another uncertainty, another gamble, further reducing crime fighting monies.

Finally, if there happens to be any jackpot money left over, it cannot be applied to crime fighting. It goes back to the treasury, Mr. Chairman.

Ladies and gentlemen, I consider this to be budgetary extremism, not intended to be—but still budgetary extremism. It is a kind of budgetary one-upsmanship, and we cannot just be stampeded into voting for budget proposals which are essentially gambles. The only real unknown here is how much are we all going to be losers, how much are we going to reduce crime fighting, national defense, and make no mistake about it, to significantly reduce all discretionary spending.

I hope this amendment is defeated.

Mr. CASTLE. Mr. Chairman, I believe I have 2½ minutes remaining and I have no other requests for time. I would like to reserve the right to close; I think I have that right.

The CHAIRMAN. The gentleman is correct, he has the right to close debate and reserves the balance of his time.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. OBEY], chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I urge Members to vote against this amendment, because while it claims to be a rainy day amendment, it provides no exception if you have a flood or a hurricane or a truly draconian disaster.

It is a good idea to have a rainy day fund. I do not have any objection to that. I am willing to work with Members in trying to strengthen that idea. But to say that there will be no exceptions, to say that regardless of the disaster incurred by this country, regardless of whether we are hit by a nuclear attack, regardless of whether or not we wind up having a war in Korea, or a Desert Storm, to say that regardless of any national security consideration we will not have an exception to this rule is, in my view, muddleheaded.

I would also suggest when the gentleman says do not worry, if it is a real emergency Congress can always pass more legislation to fix it up, I would suggest that demonstrates the fallacy of this amendment. We cannot put this country at risk. We cannot put ourselves in a position where we will have to count on being able to get through a Senate filibuster, for instance, and say well, do not worry about that, we will take care of it at the time. We ought to see ahead, we ought to recognize that there are some emergencies which are unknowable. We cannot expect that God himself must ask for a budget waiver. We have to be reasonable.

Members can be reasonable by rejecting this amendment, sitting down and working with the committee to try to work out what is truly a rainy day fund. But to suggest that somehow we ought to put an average number in this account does not take into account the fact that one year we have an $11 billion problem and the next year we have a zero billion dollar problem. It makes no sense. This country does not live on averages.

I urge Members to vote against the amendment.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me talk about what the Castle amendment would do to defense. The gentleman from Delaware [Mr. CASTLE] mentioned the fact he did not want to cut defense. I know he and I feel exactly the same way about that. However the reality is that his amendment would have a dramatic adverse impact on the national security of this country.

All of us would like to see a fund set aside for emergencies. But if we take an across-the-board cut for such a fund, it would amount to perhaps $5 to $6 billion out of defense. What are the things that would be cut? The first thing would be pay. Why do I pick out pay? The Pentagon this year did not send a pay raise down to us. The Congress had to insist on it and rightly so. It is something that the troops deserved. They are deployed away from home more often. They are away from their families, and it is something that certainly they deserve. The raise we included was not adequate, but at least it was a little bit to help out.

The second thing to be cut by this proposal would be medical care for the families and for the people in the service. I have taken a personal interest in trying to increase the quality of medical care for the people in the military.

The other thing that would be depleted, reduced, is the readiness of our American Forces. We right now have a backlog of real property maintenance, a backlog of $12 billion. We have a backlog of $2 billion in depot maintenance. These are the accounts for maintaining war-fighting facilities and equipment used by our military. They are the heart of readiness for the military. If we take another $5 to $6 billion across the board from the military, those are the programs that would have to be reduced in order to get the money to make the expenditures for day-to-day operations to keep the military going.

An extremely high percentage of our military budget is for personnel costs. So they have fewer places to get funds for reductions. Our readiness would be affected by this amendment. With this amendment the way it works we can say we are going to look someplace other than defense, but 50 percent of the discretionary money in the budget is for the military. So there is no place else to look.

We have to be realistic and practical about this. If we are going to offer an amendment like this, it is going to affect the military. We cannot afford any cuts in the military. We cannot afford any cuts in the military because it will affect readiness dramatically.

I urge Members to vote against this amendment.

□ 1400

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am just going to speak as plainly as I can to what we have heard today.

First of all, there are some very knowledgeable and erstwhile Members of this Congress who have taken the floor to oppose this amendment, something I do not particularly like, but something which I appreciate.

They have articulated their message, I think, extraordinarily well. Their argument basically is it would be very difficult to do this even though it might be a good idea simply because we would have to make reductions in areas that we do not want to make reductions in.

I think the problem is a little bit broader than this. The people at home are saying, "What is wrong with the Federal Government? Why cannot the Federal Government actually get its expenditures to the level that they are balancing the budget, that they are dealing with the problems which they have?"

In my view, there are many mechanisms by which we can do this. One which I serve on is the entitlement commission. It is meeting, and while that is not the money we are necessarily talking about here, if we reduce those entitlements, we may eventually free up other money to go into discretionary accounts.

Secondly is dealing with all discretionary accounts, not just the military budget, which is a substantial part of it, but all other accounts which are there. There is a substantial amount of money there. I am sure we can go in and do something about that, perhaps dealing with some of the areas of cost of living, some of the other things which are done in that particular circumstance.

Most States recognize their problems. They, too, had problems balancing their budgets. Most States have adopted rainy-day funds so they are able to take care of these problems.

I think when we talk about putting the country at risk, are we putting the country any less at risk every time we have some sort of emergency just adding onto the deficit for that year and ultimately adding onto our debt so our children and their children are going to be paying higher and higher debt, and as of yesterday, a higher interest perhaps on that debt?

That is huge problem in the United States of America today, one the average family or the average municipal government simply cannot carry.

We have to address this problem, and we have to address the amount of spending that comes into these emergency appropriations.

I believe this legislation addresses that. We are saying set aside a sum of money, be very careful about your spending on emergencies, if you have a small amount you have to go back in for, you can go back in and make adjustments and do something about that and, indeed, if you have a substantial problem, then we could pass legislation which would go beyond the budget restraints which are there. So we could address the problems of emergencies in the United States of America.

This is not calculus. It is relatively simplistic, a relatively simplistic solution, one which is extraordinarily workable.

Mr. Chairman for that reason, I would ask each and every one of us to think about what we campaigned on back home, think about how we are trying to balance the budget, be conservative in our spending, vote for this amendment.

Mr. DERRICK. Mr. Chairman, the fundamental problem with the Castle amendment is that it requires us to foresee and budget for the unforeseeable. If we could foresee emergencies, we could budget for them. If we knew a hurricane was going to strike Delaware and other States on the east coast next month an cause several billion dollars in damage, then we could indeed set aside the money to help the victims. But we do not know that. It may be a decade before we have such an event. It may be next week. Whenever it happens, we have no idea what it will cost. Under these circumstances it is difficult to budget accurately—the reason the emergency exception was included in the first place.

In the meantime, the money which the Castle amendment would require be set aside for catastrophes could address the ongoing needs of our citizens for education, national defense, environmental cleanup, and so forth. We have countless very real needs in this country which we can identify. We have roads that need repair. We have hungry children who need food. We have diseases afoot that cry out for more research dollars. We have many more children who need head Start than we have places for. There is no shortage of needs for scarce Federal resources.

We can take money away from these real, identifiable needs and set it aside on speculation that we will have a disaster somewhere worthy of Federal help. If we want to neglect the needs we know we have in an attempt to advance-fund needs we may never have, we can do that. But I do not think it makes sense.

In addition, Mr. Chairman, setting aside annually a pot of money to fund emergencies may actually lead to even more requests for Federal disaster money. We all understand that pots of money are very enticing. People want to get their hands on it. Since the amendment says the funds in the reserve account may be used only for emergencies, all one has to do to get into the pot of money is declare an emergency.

We all know what emergencies are as we use the term today. There are things like natural disasters, which strike without warning on a nonrecurring basis. But with a pot of money around, we will undoubtedly start to have emergencies. Will we be able to resist political pressures to enlarge the scope of what we call emergencies and spend the money? In other words, Mr. Chairman, is it not likely that by budgeting for emergencies we will ultimately have as many emergencies as we budget for until the money is gone, every year? It seems to me that is what we risk by making emergencies a line item in the budget, as the amendment proposes. At least now they are unusual occurrences and treated as such.

Mr. Chairman, I urge Members to oppose the Castle amendment. In the long run it could end up costing more money. It would definitely shortchange the needs we know we have to fund needs we do not know we have. That is not the best way to serve the citizens of this country. The base bill addresses the problem of nonemergency items in emergency bills. Support the base bill.

Mr. QUINN. Mr. Chairman, I rise today in strong support of the amendment offered by my friend and colleague, the former Governor of the State of Delaware, Mr. CASTLE.

I am a cosponsor of Representative CASTLE'S amendment, H.R. 4189, because I believe it is a sound approach to improve the way this body deals with national disasters.

For too long, several Members of this body have attached unnecessary, nonemergency spending to emergency funding bills, which provide crucial assistance to thousands of Americans in need every year.

Congress can not protect Americans from natural disasters such as earthquake and floods. However, the Castle Amendment will supply the tools necessary to aid those affected by such devastating events.

The Castle amendment will require the Federal Government to prepare for emergencies the same way that State and local governments do.

Congress would set aside funds in a budget reserve account every year so that it would be prepared for inevitable emergencies. This account would be on-budget and part of the annual appropriations process.

If these funds were not used during a particular year, they would be returned to the U.S. Treasury.

Simply put, the Castle amendment will force us to plan ahead.

I urge my colleagues to vote to restore accountability to budgeting for natural disasters. Vote for the Castle amendment.

The CHAIRMAN pro tempore (Mr. RAHALL). The question is on the amendment in the nature of a substitute offered by the gentleman from Delaware [Mr. CASTLE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CASTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 235, not voting 20, as follows:

[Roll No. 401]

AYES—184

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Crane
Crapo
Cunningham
Deal
DeLay

Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
English
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoagland
Hoekstra
Hoke
Horn
Houghton
Huffington
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meehan
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Penny
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Valentine
Walker
Weldon
Wolf
Zeliff
Zimmer

NOES—235

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
Eshoo
Evans
Everett
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hobson
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
LaFalce
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Rangel
Reed
Regula
Richardson
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—20

Becerra
Chapman
Derrick
Flake
Grams
Hunter
Kaptur
Lantos
McCurdy
McDade
McMillan
Michel
Moran
Reynolds
Romero-Barcelo (PR)
Slattery
Spence
Sundquist
Thomas (WY)
Washington

□ 1423

The Clerk announced the following pairs:

On this vote:

Mr. Grams for, with Mr. Derrick against.
Mr. Spence for, with Mr. Becerra against.

Mr. YATES and Mr. MFUME changed their vote from "aye" to "no."

Messrs. LEWIS of Kentucky, PALLONE, DEUTSCH, and GILMAN changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. THOMAS of Wyoming. Mr. Chairman, earlier today I was en route to Washington from Wyoming, where we held our primary elections yesterday, and missed several rollcall votes. Had I been present, I would have voted "aye" on rollcall No. 400, the Johnson amendment, and I would have voted "aye" on rollcall No. 401, the Castle amendment.

The CHAIRMAN pro tempore (Mrs. LOWEY). It is now in order to consider amendment No. 3 reprinted in House Report 103–690.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KASICH

Mr. KASICH. Madam Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KASICH: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Spending Control Act of 1994".

SEC. 2. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.".

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.".

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 408. Point of order regarding emergencies.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. KASICH] will be recognized for 15 minutes, and a Member opposed to the amendment will be recognized for 15 minutes.

Does the gentleman from Wisconsin [Mr. OBEY] rise in opposition?

Mr. OBEY. Yes, Madam Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM], a coauthor of the amendment.

Mr. STENHOLM. Madam Chairman, the Kasich-Stenholm-Penny substitute before us now would significantly clean up emergency appropriations bills by prohibiting extraneous items from being included in emergency appropriations bills and conference reports.

This amendment is not as far reaching as the previous two substitutes that have been considered today. While I am disappointed that the proposals by the gentleman from Texas [Mr. SAM JOHNSON] and the gentleman from Delaware [Mr. CASTLE] to require that we pay for emergency spending through the regular budget process did not receive majority support today, I hope that the support that they received will underscore to the members of the Durbin-Emerson task force on emergencies the desire within this body to establish a process for funding emergency relief within normal budget rules.

Under the Kasich-Penny-Stenholm amendment, a point of order would be established against the consideration of any emergency appropriations bill or conference report that included extraneous items. As a backup enforcement, our amendment would prevent the Office of Management and Budget from adjusting the caps to reflect the spending in an emergency appropriations bill if the bill included extraneous items. This backup enforcement provision could not be waived.

By prohibiting extraneous items from being included in emergency spending conference reports, this amendment will prevent the other body from embarrassing us by slipping pork barrel spending into emergency appropriations bills. Anyone who is familiar with the appropriations understands where most of the embarrassing items have been slipped into emergency appropriations bills. The funds for the FBI fingerprint facility in West Virginia, $10 million for a new Amtrak station in New York, $1 million for employee-management at the Office of the Senate Legal Council—all of these questionable items were added to the California earthquake relief bill in the Senate. The Spratt substitute does not address the issue of extraneous items added to emergency bills in the other body at all. Since the only opportunity the House had to vote on these items was as part of a conference report, the provisions of the Spratt substitute would have had no effect on these and other extraneous spending items.

There are some who argue that we should not be concerned about the extraneous items included in emergency appropriations bills because they have been offset by spending cuts. Some of us, however, would have preferred that the $14 billion in offsets that have been included in emergency appropriations bills since 1990 be used to offset the $30 billion in emergency spending that we have added to the national debt over that period instead of being spent on extraneous items. In addition, the fact that these items are offset does not change the fundamental fact that we do not have the time to review the merits of unrelated items while emergency spending bills are rapidly making their way through Congress.

Some of the opponents of this amendment have criticized us for preventing Congress from including emergency funding in regular appropriations bills, as we did when included emergency spending for Rwandan aid in the foreign operations appropriation bill. Our amendment would not have prevented Congress from providing emergency assistance to Rwanda if that was the will of the majority. We simply would have required that the decision about whether or not Rwandan aid should have been declared emergency spending be subject to greater scrutiny by considering it on its own merits instead of including it in a larger general appropriations bills. In fact, that is what this amendment is about—providing greater scrutiny of emergency spending.

Madam Chairman, I urge Members to take another step in improving the image of Congress by voting for the real reforms of the emergency spending process in the Kasich-Penny-Stenholm substitute and voting against the Spratt substitute.

☐ 1430

Mr. OBEY. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, I would like to ask the sponsor of this amendment a question, if I could get the attention of the gentleman from Ohio [Mr. KASICH] and the gentleman from Texas [Mr. STENHOLM].

I would simply like to ask this question: Since I have become chairman of the Committee on Appropriations, can you name one single extraneous item that has been added to an emergency bill?

Mr. KASICH. Madam Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Chairman, I think the answer to that is that most of the extraneous items that have been added were in the Senate.

Mr. OBEY. Madam Chairman, reclaiming my time, has any item been added by the Senate or House to an emergency bill since I have been chairman? Any item that was not requested by the administration?

Mr. KASICH. The answer is yes.

Mr. OBEY. I suggest to the gentleman the answer is no. There is not a single amendment that was added to an emergency bill by either body that was not requested by the administration.

I would ask a second question: Was any harm done to the——

Mr. KASICH. If the gentleman is asking me a question, is the gentleman saying that because the President made a request and we added it in there, that somehow that does not count?

Mr. OBEY. I am simply asking, because the gentleman has focused his firepower on the past tendency of the other body to add items, what I am simply asking is can you name an item which was added as a matter of pork by a Senator rather than being an item which was requested by the administration, such as the flood relief for Alabama, the flood relief for Georgia, the flood relief for Florida?

Mr. KASICH. Let me say to the gentleman, I do not remember exactly the date when the gentleman took over the chairmanship, but I am prepared to demonstrate a number of items added to the Los Angeles earthquake bill.

Mr. OBEY. As the gentleman well knows, I was not chairman of the committee when the Los Angeles earthquake occurred.

I will reclaim my time, because I am trying to get a straight answer, and I am not getting a hard front answer. So I will move on.

Let me simply make two points: Since I have become chairman of this committee, to the best of my knowledge there has not been a single extraneous item added by either the House or the Senate to an emergency vehicle that was not requested by the administration.

I would make a second point. I would like to know what harm has been done to the Republic because our committee chose to respond to the Rwandan emergency in the fastest possible way, by putting it into the regular foreign aid appropriation bill, rather than taking the time on going through the House and the Senate with a separate bill, to which I would point out any number of items could have been added by the Senate?

I would ask what harm was done when in the middle of winter, when people were freezing, our committee decided last year to add the emergency appropriations for the low-income heating assistance program to the regular Labor-HEW appropriations bill, rather than doing a separate appropriation?

I would suggest none.

I would also ask what harm was done to the Republic when we were told that SBA was running out of funds and so to try to avoid a shutdown of those programs in States like California, Georgia, and Florida, we simply chose in the regular State-Justice appropriations bill to add that emergency item to the regular bill?

Again, I would submit no harm whatsoever.

I would make this point: The gentleman from Ohio [Mr. KASICH] and the gentleman from Texas [Mr. STENHOLM] would like to see these baubles which are usually added to emergency bills eliminated. So would I. As chairman of the Committee on Appropriations, no one is more enraged and no one is more embarrassed when a Member of the other body decides to try to use one of our vehicles to add a twinkie for his own district. I do not appreciate that, and I am going to do my darnedest to keep them off.

But I would suggest that there is an added complication provided by this amendment which we ought not incur. I think it is perfectly legitimate for the sponsors of this amendment to say, "Look, if we are going to have an emergency, fine, let us deal with the emergency. Let us not use that as an excuse to add candy for somebody else."

But I would suggest that there is nothing wrong with, if we have the opportunity, having one of these emergency amendments attached to a regular appropriation bill.

The problem with this amendment is that in addition to going after the legitimate target, which these gentleman to after, they also preclude us from using the fastest possible route to meet an emergency when one arises by saying in effect that if we happen to add Rwandan aid to the foreign assistance bill, then every other item in that bill is subject to an independent action by the House.

Now, I do not see any reason to require that that be done. In that case, you would have the tail wagging the dog, and I do not think you would accomplish the purpose that the gentleman talk about.

So I would simply suggest if you want to keep extraneous items off, be my guest. I am happy to cooperate in devising such a procedure. I have only been chairman of this committee for a few months.

But I would point out that to say that we cannot meet an immediate human disaster, such as we have in Rwanda, by moving along the fastest possible track, as we did by attaching it to the foreign assistance bill, is I think a major mistake.

To suggest that we should have had to run through a separate appropriation bill in order to deal with the fact that SBA was running out of money and we needed to keep them in business to deal with the problems in Georgia, in Florida, and in California, is I think ill-advised, and I would urge you not to do it.

Mr. KASICH. Madam Chairman, I yield myself 4 minutes.

Let me say, first of all, the emergencies that we are referring to are emergencies that occurred before the present chairman took over. But let me also say that I have no doubt in my mind of what will happen when we get emergencies. In fact, if we have an emergency for aid for Rwanda, or for people who are having difficulty, we can pass an emergency bill or something like that in 24 hours. To argue that we do not have time to do that is false.

When the LA earthquake relief bill came, it was introduced as an emergency bill to do four things: One was to provide $7.8 billion for LA earthquake relief; $1.2 billion for DOD, which many Members objected to in this House; $436 million for Midwest flood relief, and $315 million for a 1989 earthquake. But the simple fact is these were the four emergency requests as introduced.

I am about to show you the list of items, the nonemergency items that were added to this bill.

All of these items right here were added to this bill. The $1.4 million to fight potato fungus; the $23 million for FDA pay raises; the $14.4 million for the National Park Service; the $12.4 million for the Bureau of Indian Affairs; $550,000 for the U.S. Trade Rep Travel Office; $13.1 million to copy White House electronic messages; $300,000 for the Council on Environmental Quality personnel; $698 million for pension and disability benefits; $103 million for readiness benefits; $56 million for NASA; $20 million for the fingerprint lab in West Virginia; $40 million for the space rehap module; $61 million for job training; $10 million for a study measuring employment; $1 million for the office; and $10 million for an Amtrak station in New York.

□ 1440

This was all added. Now, do I object to all of these items? The answer is no. I do not object to them. But they do not need to be put on the fast track in an emergency bill.

What I am asking the House to do today is to approve these items in an emergency bill and leave all these off. These ought to be done in the normal course of doing things when it comes to appropriations.

When we go home to our districts, our constituents say to us, "Why do they have to attach all of these riders to these bills?" The simple fact of the matter is, we do not have to, and we can strike a very strong blow for saying if we have an emergency that affects people in this country, let us not hold that bill up by squabbling about the nonemergency items that have been added.

Furthermore, if the items get added in the U.S. Senate, where a number of them were added, we get faced in the House with voting on a conference report. We have to reject the conference report to send money to people who are in trouble and be forced to accept all these items, many of which we may not agree with. That does not make sense.

The simple fact of the matter is that these emergency bills should not be loaded up. If we have an emergency, we should work day and night until we produce the money to help fix the emergency.

But to argue that we ought to add it up with all this, that is not what the people want.

Our efforts here in the Congress now are designed, the efforts of the gentleman from Minnesota [Mr. PENNY] and the gentleman from Texas [Mr. STENHOLM] and I are designed to restore a little credibility to the issue of spending in this House. And the first big blow that we can land to restore that credibility is to chop this list off and do it with a regular process, not having it carried by a vehicle that involves true difficulties and true problems that affect people that need to be considered on a very aggressive time schedule.

The bottom line is, if we do not want the riders, if we do not want the extra things considered, if we want it to be done in a thoughtful, normal route, we have got to vote for Penny-Kasich-Stenholm.

Once Members do that, once they vote for Penny-Kasich-Stenholm, we will then have to come to the floor and defeat Spratt which essentially says that we can come to the floor and do what we currently do.

The bottom line is, folks, come to the floor on a bipartisan basis, strike a blow for an elimination of riders to bill. Do what our constituents want. The bottom line is, keep it clean. Take care of people that have trouble and do not load up the bills with these kind of lists.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to simply make two points or to make one point and ask one question.

As I indicated earlier, that chart refers to something that happened last year. I was not chairman last year. I want that clear.

Second, I have no objection to the gentleman going after that list. I do not think that list ought to be on that chart.

My question is this: Why in going after that list, why in going after the illegitimate add-ons that the gentleman sees in the process, why does he also insist in preventing us from meeting a lifesaving obligation, if we are faced with one, by adopting the fastest possible route and adding an amendment to the regular appropriation bill? What does adding a supplemental emergency to a regular appropriation bill have to do with that list?

Why does the gentleman have to mix the two? I would be happy to join him if he did not do the latter.

Mr. KASICH. Mr. Chairman, I yield myself 45 seconds.

The answer to that is simple. If we have a crisis in Rwanda, I am the first person on the floor working with anybody on the other side of aisle to take care of that crisis. We do not need to take care of that crisis by sticking it in an appropriations bill. There are too many problems. That is how we get that big, long list.

What I am saying is, let us hold everything. If we have a crisis in Rwanda or if we have a crisis with anything in this country, hold the horses, stop the House and pass the emergency bill. That is the quickest way to do it. Then the gentleman from Minnesota [Mr. PENNY] and I have to come to the House floor and we are trying to take the extraneous items out and we get into debate. Are we trying to slow down earthquake aid? The simple fact of the matter is, we are not.

The bottom line is, the chairman has not bought a bill yet but there is a bill coming that is going to of that attached to it. What I will say to the gentleman is in order to prevent it, if the gentleman agrees we should not have these extraneous items, then let us just consider emergencies clean. The message here is, keep it clean. Do not load it up with riders.

Mr. OBEY. Mr. Chairman, I yield myself 30 seconds.

We have had two emergency supplementals. We have had the SBA emergency supplemental last week. We had the Rwandan supplemental. The gentleman may think that dealing with Rwanda in an independent bill would have been faster. I would suggest to the gentleman the way the Senate operates, we could have been slowed down for weeks. There were lives at stake. We moved on the vehicle that we knew could get through here the fastest. That happened to be the regular bill. That may not always be the case. But it certainly was in that instance.

We did not have to take the time to go through eight committees to get approval before the Members dealt with the problem.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, there are fundamental imperatives at stake on this issue today. Among them the need to be respectful of the people who pay the bills, the taxpayers. In this instance we are talking about borrowing money.

Obviously, at some point this money has to be repaid. But in the meantime, if we are to ask American taxpayers to shoulder a debt burden, to finance the very real needs of those faced with a natural disaster or some other emergency, we ought not disrespect the American taxpayers by then larding these bills up with unrelated items.

The earthquake measure referred to earlier started out at about $8 billion. By the time we were done it was $11.2 billion. We disrespect the American taxpayers by not restraining ourselves better in times of a real emergency.

I have no quarrel with the current chairman of the Committee on Appropriations. He has throughout his career objected to this kind of pork barrel spending. I trust that under his leadership we will not see this kind of activity on emergency spending measures. But a decent chairman though he is, he will not be the chairman forever. And consequently, we need to talk about the underlying policy on these emergency spending measures.

Furthermore, larding up these bills disrespects the majority of the membership in this institution. Those handful who serve on a conference committee or serve on the powerful Committee on Appropriations are in an advantageous position because they are the ones that take the pork home.

The list just recited by the gentleman from Ohio can be identified district by district and in most cases my colleagues will find it reflects projects that benefit Members who served on the conference committee. That behavior disrespects the entire membership here, by taking advantage of an emergency bill and our vote for that emergency situation in order to pork up the bill for their own home districts. It is not right. It is disrespectful.

And finally, we disrespect the victims of these natural disasters, because we demonstrate to them that even in the time of their greatest need,we cannot resist the temptation to lard up these bills with projects important to our home State that have nothing to do with the disaster and have nothing to do with an emergency situation.

We need to convey to the American public a far more serious process here in Congress, if we want Americans to once again respect the U.S. Congress. One small step in that direction is to clean up the process by which we handle real emergencies.

Let us keep it clean. Let us keep it simple. Let us do right by the membership. Let us do right by the taxpayers. Let us do right by those victims of these natural disasters. Vote for the Kasich-Penny-Stenholm substitute.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, could I engage the gentleman from Ohio in a colloquy.

The list that the gentleman just displayed there on his chart of nonemergency items. There is a statement in the gentleman's "Dear Colleague" from him and the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] to the effect that this spending also is exempt from the discretionary spending caps imposed in 1990 as a key instrument of deficit reduction. This exemption adds to the many temptations of these measures.

☐ 1450

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, that statement was inaccurate.

Mr. SPRATT. It is incorrect. I simply wanted it made clear that everything that was added has to come in under the 602 (a) and (b) allocated. It cannot come in as emergency spending and transmuted somehow.

Mr. KASICH. If the gentleman will continue to yield, that is correct. The point we would make, of course, is when we go to rescissions and expirations to try to pay for it, we question, as CBO did, whether the money is really there to be saved in order to pay for these programs. We sent about a dozen "Dear Colleagues," and I have to tell the gentleman that one got out and it is not accurate.

Mr. SPRATT. I appreciate the gentleman's clarification.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would also like to reiterate the message we are trying to convey today. That is to keep it clean.

I would suggest to the distinguished chairman of the Committee on Appropriations that in fact, under his watch, it may be true that we have not had an emergency spending bill that has been larded up with pork, but contrary to the historical trend in the House of Representatives, the distinguished chairman may not be chairman for life. We have to make sure that when we have the opportunity to clean up the process, we take that opportunity.

Last year, Mr. Chairman, I took the floor with many Members of flooded districts, and we suggested it was time to clean up the process then. We were told by many distinguished colleagues that now was not the time. This is last year. They said "Wait until next year. Wait until we are dry. Wait until we do not have a disaster. Then we can clean up the process."

Mr. Chairman, I would suggest to the Members today, what is wrong? Why can we not do it today? What are we worried about? We have eloquent, very credible statements here today that it will never happen again. Then what is wrong with putting proof into the rules, and to suggest to all of us that we should keep it clean, that we should not have all of these add-ons?

Somebody described it to me once very simply. They said "You know what these emergency spending bills are like? It is like putting a Christmas tree in the rotunda of the Capitol and letting every Member of Congress run past and hang on their little special ornament."

Heaven forbid anyone would vote against Christmas. Heaven forbid anyone would stand up here and say that we cannot get spending and money to victims, but if you try and attack those amounts, if you try and attack those special projects, then you are beaten down.

Mr. Chairman, I would suggest to the gentleman that it took a long time last year to get through flood relief. It took a long time this year to get through earthquake relief. There is only one reason why it took that long time. There is only one reason, because we needed time in the conference committee to add on all these special projects.

It is time to keep it clean, and it is time to bring some honor back to the process of getting hard-earned tax dollars to the victims of this country.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO], the distinguished chairman of the Committee on the Budget.

Mr. SABO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I frankly was not planning on speaking on this amendment, but I hear some of this rhetoric that goes on and I think the rhetoric does a disservice to the Congress and to the elected Representatives.

I think there are legitimate issues that are raised in the discussion on this amendment, on whether emergency appropriations should at times have nonemergency appropriations that are within the spending limits, or which are paid for by rescissions or, as the chairman of the Committee on Appropriations asked, whether we should be able to add emergency appropriations to a normal, ongoing appropriation bill that is about to be passed. That is a legitimate debate. I happen to personally think that we make a mistake when we tie our hands in the legislative process, so that I will vote against the amendment, but that is not why I speak.

Mr. Chairman, I hear speaker after speaker come up to this podium and talk about the Congress exercising any of its independent judgment as being larding and as pork. To me, that degrades this institution. The gentleman is right, the gentleman from Ohio [Mr. KASICH] has not used those comments. His debate has been legitimate.

We exercise judgment as the elected people representing our districts and the people of this country. There are times our judgment is different than the appointed people in an administration. Sometimes they are right, sometimes they are wrong. I would never claim that we are 100 percent right, but I have watched this body for over 16 years, and when we make our independent judgments, I think we are more often right than the administration is.

Somehow there is this theory that Members who serve here have no judgment, have no sense of public duty, but if you get appointed by the President, get confirmed by the Senate, become a Cabinet position, appoint other people to work under you, you have divine judgment. I have never observed that happening.

Mr. Chairman, we make judgments and administrations make judgments. Neither is larding or pork. It may be the case occasionally, but that happens historically, I expect, more often out of the administration and by political appointees and the executive than it does in Congress.

Let me suggest also, Mr. Chairman, that maybe the things that skew what happens and where money flows in this country is more heavily dependent on distribution formulas written into big bills at times than specific actions of either this Congress or the executive.

Mr. Chairman, I would plead with Members to not make their case with those inflammatory remarks, because they are not accurate. Mr. Chairman, I will oppose this amendment because I think it limits flexibility that is needed, but I rise to speak not because of that opposition, but because of rhetoric which I think degrades this elected institution.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Kasich-Penny-Stenholm amendment to H.R. 4906. As cochairman of the bipartisan Porkbusters Coalition, I have been a staunch opponent of extraneous spending provisions in emergency supplemental appropriations bills. In the past, some Members of Congress have consistently tucked unrelated nonemergency projects which would be unable to receive funding through the regular budget process into emergency spending proposals. Opponents of these projects are then left with the Hobson's choice, of voting against much needed aid to the victims of earthquakes, floods, or other natural disasters; or voting for adding the costs of nonemergency pork-barrel projects to the budget deficit. Not everyone will be able to handle the Senate.

As mentioned, we last experienced this phenomenon, earlier this year, during House consideration of the emergency supplemental for earthquake victims in Los Angeles, which was loaded with funding for unrelated projects far from the earthquake epicenter such as a new $10 million Amtrak station in New York, sugar cane mill projects in Hawaii, and a $20 million fingerprint lab in West Virginia. Nor are we repentant once it is done. Going after them is useless. I am the lead sponsor of legislation to rescind funding for just three: the most outlandish: the Amtrak station, sugar cane mills, and the fingerprint lab. However, despite the cosponsorship of 65 Members of Congress and the rhetorical support of many others, this bill will likely never make it to the House floor due to the opposition of a few powerful Members. We need to pass the Stenholm-Penny-Kasich amendment to give Members the ability to simply strike these unrelated projects on a point of order, and ensure that all future emergency spending measures are pork-free.

Mr. Chairman, I urge all members to vote for the Stenholm-Penny-Kasich amendment, and against the Spratt proposal.

Mr. OBEY. Mr. Chairman, I would ask how much time each side has remaining.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] has 1½ minutes remaining. The gentleman from Wisconsin [Mr. OBEY] has 3½ minutes remaining.

☐ 1500

Mr. OBEY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I do so to acknowledge that I concur with his remarks that there has been no instance that I can recall since he has been chairman that this is a problem.

Mr. Chairman, I have appreciated the fact that the gentleman and his statements have agreed with most of what our amendment is progressing to do today.

The only point I would make and would hope it would influence those who might vote with us is that this takes away the temptation in conferences from the other body absolutely so that the integrity of this institution will in fact be restored by supporting the Penny-Kasich-Stenholm amendment. It does not cast any disparagement whatsoever on the appropriators in the House.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, a minute ago we received a lecture from a Member about the necessity to be respectful of the taxpayers. I take a back seat to no one and neither does my committee in our respect for taxpayers. That is why our committee recommended to this House 395 spending cuts so far this year. That is why we eliminated 36 programs entirely. That is why we knocked out $26 billion in outmoded spending to try to make room for higher priority spending and use some of the rest of it for deficit reduction. It is because of our respect for the taxpayers and the burden they bear that we have seen the appropriated portion of the budget decline from the 1960's when it was 13 percent of our total national income to 7.7 percent today and to 6.7 percent by the end of next year.

Mr. Chairman, we have also been told that we could get emergency aid to people who need it by simply producing an emergency bill, that we could do that just as fast as the process which we sometimes use now. I want to point out that in the case of Rwandan aid, people were dying. Frankly, I did not give a damn about procedural niceties in the House at that time. I cared about getting help to people as fast as possible so we could save lives and save lots of them.

So the very night that the President asked us for emergency help, we gave it to him and we put it in the regular appropriation bill, the very night we were asked to do so. If we had tried to put in a special appropriation bill, we would have been hung up for a couple of weeks, and anybody who has an ounce of knowledge about what happens in the other body would understand that.

When Hurricane Andrew was passed, when we provided emergency assistance for that, we provided it by attaching that amendment to a vehicle which had already been sent over to the Senate. That came back to us in the fastest possible manner. We could have begun the long drone of the usual congressional process, but we decided that the emergency situation dictated otherwise. We got that help to people immediately. I am sorry that offends the procedural sensibilities of some Members around here, but frankly I think results are a whole lot more important than your feelings. That is why I oppose this amendment.

Mr. KASICH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me say first of all I am not sure whether we think the Senate is good or we think the Senate is bad. If we think the Senate is bad, which is what the indications are, then this is designed to prevent them from doing bad things.

Secondly, there is nothing that prevents us from precipitously passing an emergency. The gentleman from Minnesota [Mr. PENNY], the gentleman from Texas [Mr. STENHOLM], and I will work day and night. Should we have a crisis when it comes to anything involving these United States or anything like this Congress and the President believes is an emergency, we should stop all business and we should pass that emergency. We will work and we will do it.

Mr. Chairman, what this bill does is it says to our constituents, we can go home this weekend and we can eliminate the riders. This is what our constituents are frustrated about. They are frustrated about this getting on the fast track and being tied in with an emergency and letting the emergency crisis be used as a vehicle to pass all of these items that have not undergone the normal process. People want the line item veto at home, and the reason they want the line item veto is they are sick and tired of the riders. The bottom line is we can take care of emergencies, we can take care of people's problems, and we can stop these bills from being added up.

Come to the floor and vote for responsible budgeting. Vote for Penny-Kasich-Stenholm.

Mr. DERRICK. Mr. Chairman, the Stenholm-Penny-Kasich amendment is our second-best choice today, in my judgment. If the problem is nonemergency items in emergency bills, at least that is the problem the amendment addresses.

It is one thing to create a point of order against consideration of emergency bills containing non-emergency items. At least that is an internal matter, and under the Constitution both Houses can waive or modify that rule in the ordinary course of business.

But the amendment goes too far when it tries to prevent Congress from including non-emergency items in emergency bills by prohibiting OMB from adjusting the caps if emergency bills include non-emergency items other than rescissions. I believe Congress should make the decision of how it should legislate, of what we include in our bills, and leave OMB and the executive branch out of it.

Congress needs to be flexible. Why can't a majority of the Members of both Houses be trusted to decide, collectively, what provisions they want to put into emergency bills? Under the pending amendment, even if every Member of this Congress voted to enact a non-emergency provision on an emergency bill, even something innocuous like congratulating the distinguished minority leader on the occasion of his receipt of the Presidential Medal of Freedom, that inclusion would have consequences. OMB could not adjust the caps. Any resulting spending breach would lead to a sequester. What sense does that make?

By contrast, the Spratt bill would simply write into the Budget Act a provision designed to guarantee Members an opportunity to offer amendments to strike out non-emergency provisions if they chose. A majority could get rid of the provisions. The Spratt bill would make it easier to get a recorded vote on the amendments. But it would not involve OMB in what is and ought to be a purely congressional prerogative.

Nor is there anything wrong with including a single emergency in another bill, such as emergency aid for Rwandan refugees, in a regular appropriation bill. Yet the amendment would prevent OMB from adjusting the cap if we did it that way. I submit that makes little sense, at least not when compared to the Spratt alternative.

Mr. Chairman, I urge the committee to reject the amendment. It is the second-best alternative before us, the best being the Spratt bill. We ought not settle for second best.

Ms. SHEPHERD. Mr. Chairman, the Congress must reform procedures for enacting emergency spending legislation. When natural disasters strike, when Americans watch as their homes are engulfed by flames, or stand on their rooftops as flood waters continue to rise, the Federal Government must provide immediate assistance. Regrettably, too often emergency or supplemental appropriations bills have either added to the deficit or been laden with extraneous, nonemergency spending. Though natural disasters by definition defy prediction, we can prepare for these emergencies and ensure that the only spending we approve goes to those in need.

The Congress should, as part of its annual budget resolution, establish an emergency, or rainy day spending account within all applicable spending caps. Virtually every State has established such a fund and it's time the Federal Government follow suit. This account should be used to pay for any crisis designated as an emergency by the President, in that fiscal year. Any remaining funds should be returned to the Treasury for deficit reduction. This process will ensure that any emergency checks are not signed with red ink, adding to the Federal deficit.

In addition, the Congress should enact legislation which prohibits the Office of Management and Budget [OMB], and the legislative branch from waiving any budget ceiling for emergency spending which contains non-emergency funding. When natural disasters are of such a magnitude as to exceed the funding in the reserve account, budgetary restrictions should not stand in the way of helping fellow Americans in need. This should not be an opportunity, however, for other extraneous riders to be attached, which have nothing whatsoever to do with the emergency at hand. As such, an automatic point of order should be upheld.

For far too long some have used the common good to hide blatant self interest and the legitimate to conceal the questionable. That practice must end. The American people deserve no less.

The CHAIRMAN pro tempore (Mr. RAHALL). The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. KASICH].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 99, not voting 18, as follows:

[Roll No. 402]

AYES—322

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brooks
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Filner
Fingerhut
Fish
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grandy

Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murphy
Myers
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Ramstad
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Torricelli
Traficant
Tucker
Underwood (GU)
Upton
Valentine
Volkmer
Vucanovich
Walker
Weldon
Wheat
Williams
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—99

Abercrombie
Applegate
Barlow
Berman
Bevill
Blackwell
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Clay
Collins (IL)
Collins (MI)
Conyers
Coyne
de Lugo (VI)
DeLauro
Dellums
Dingell
Dixon
Durbin
Edwards (CA)
Engel
Evans
Faleomavaega (AS)
Fazio
Fields (LA)
Foglietta
Ford (MI)
Frank (MA)
Gallo
Gejdenson
Gephardt
Gibbons
Gonzalez
Hall (OH)
Hastings
Hilliard
Hoyer
Jefferson
Johnson, E. B.
Kopetski
Lewis (CA)
Lewis (GA)
Manton
Markey
Martinez
Matsui
McDermott
Meek
Mineta
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Pickle
Rahall
Rangel
Romero-Barcelo (PR)
Rostenkowski
Roybal-Allard
Rush
Sabo
Serrano
Skaggs
Skeen
Slaughter
Smith (IA)
Stokes
Studds
Swift
Synar
Thompson
Thornton
Torres
Towns
Unsoeld
Velazquez
Vento
Visclosky
Walsh
Waters
Watt
Waxman
Whitten
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—18

Becerra
Derrick
Flake
Grams
Hunter
Lantos
McCurdy
McDade
McMillan
Michel
Moran
Quinn
Reynolds
Sharp
Slattery
Spence
Sundquist
Washington

□ 1524

The Clerk announced the following pairs:

On this vote:

Mr. Grams for, with Mr. Becerra against.

Mr. Quinn for, with Mr. Derrick against.

Messrs. BEILENSON, NEAL of Massachusetts, CARR of Michigan, PETERSON of Florida, HEFNER, and ORTIZ, and Mrs. LLOYD changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. RAHALL). It is now in order to consider amendment No. 4 printed in House Report No. 103–690.

Mr. SPRATT. Mr. Chairman, in light of the substantial vote in favor of Stenholm-Penny-Kasich, the last vote, I decline the right afforded me under the rule to call up the base bill as the final substitute.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS) having assumed the chair, Mr. RAHALL, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 4906) to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation, pursuant to House Resolution 513, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BILBRAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 406, noes 6, not voting 22, as follows:

[Roll No. 403]

AYES—406

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty

Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—6

Bonior
Gonzalez
Nadler
Obey
Rahall
Yates

NOT VOTING—22

Becerra
Derrick
Fields (LA)
Flake
Glickman
Grams
Hansen
Hunter
Hyde
Lantos
McCurdy
McDade
McMillan
Michel
Moran
Pombo
Quinn
Reynolds
Slattery
Spence
Sundquist
Washington

□ 1546

The Clerk announced the following pair:

On this vote:

Mr. Spence for, with Mr. Derrick against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on House Resolution 513 and H.R. 4906, the measures just considered and adopted.

The SPEAKER pro tempore (Mr. HASTINGS). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

CONTINUATION OF EMERGENCY WITH RESPECT TO UNITA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-292)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to the National Union for the Total Independence of Angola ("UNITA") is to continue in effect beyond September 26, 1994, to the Federal Register for publication.

The circumstances that led to the declaration on September 26, 1993, of a national emergency have not been resolved. The actions and policies of UNITA pose a continuing unusual and extraordinary threat to the foreign policy of the United States. United Nations Security Council Resolution 864 (1993) continues to oblige all Member States to maintain sanctions. Discontinuation of the sanctions would have a prejudicial effect on the Angolan peace process. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to UNITA to reduce its ability to pursue its aggressive policies of territorial acquisition.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 521 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 521

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

□ 1550

Mr. Speaker, House Resolution 521 provides for the consideration of S. 2182, the conference report to accompany the Department of Defense authorization for fiscal year 1995, by waiving all points of order against the conference report and against its consideration.

Mr. Speaker, this conference agreement is one that all Members of the House should support: it provides $263.8 billion for defense programs in fiscal year 1995 which is $2.9 billion more than current appropriations levels and which provides funding levels for major weapons systems, operations and maintenance, and personnel costs which will allow our Armed Forces to fulfill their mission today and in the future.

Mr. Speaker, this conference report includes $2.4 billion for the procurement of six C-17's and advance funding for eight additional aircraft in future years. The agreement also provides funding for overall C-17 research and development as well as funding for nondevelopmental alternative aircraft. The House, in its version of the fiscal year 1995 DOD authorization, supported the continued production of this important component of our overall military readiness, and the conferees are to be commended for including the procurement and long-lead funds for the C-17 in the conference agreement.

The conference report also retains the House and Senate language providing $497 million in research and development funds for the V-22 *Osprey* tiltrotor aircraft, which will serve as a complement to the heavy airlift capability of the C-17 by providing medium lift capability for the Marine Corps and special operations forces. The conference agreement also provides $2.9 billion in funding for ballistic missile defense and included in this amount is $284 million for the extended range interceptor missile [ERINT] which will provide advanced hit-to-kill warhead capability for the PAC-3 system.

Mr. Speaker, this conference agreement also contains provisions relating to the lifting of the arms embargo against Bosnia as well as language requiring the Department of Defense to submit to Congress one report listing proposals for the United Nations to improve its management of peacekeeping operations as well as a second report on the status of those recommendations. The agreement also includes language that requires the Defense Department to report to Congress on the readiness of United States forces due to peackeeping operations in Bosnia as well as the readiness of South Korean forces in the event of an attack by North Korean forces.

Mr. Speaker, while the cold war may be over, the need for a strong, capable, and ready military is not. This conference agreement provides our Armed Forces with the funding necessary to meet its needs for the coming year. This agreement is vital to our national defense and our national well-being and I urge adoption of this rule so that the House may consider the conference agreement.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas has provided Members with a good explanation of this rule, which waives all points of order against the conference report and against its consideration.

I hope that Members will not oppose this rule, so that the House may then proceed expeditiously to consider the conference report on the national defense authorization.

Mr. Speaker, a word needs to be said about waivers.

Unlike the Democrat managers of the conference report for the crime bill, for example, chairman DELLUMS and the managers of this defense bill were forthcoming with the Rules Committee in advising us on where points of order would lie.

Moreover, the full contents of this conference report were made public last week and printed in the RECORD. That is practically unprecedented compared to how things have been around here lately. And it means, of course, that the 3-day layover has been observed.

The contrast between the way this conference report was handled and the cloak of secrecy and chicanery that surround the crime bill could hardly be more striking.

Finally, Mr. Speaker, I would note that Republicans were consulted about this rule and agreed that this approach is best in order to bring this important conference report to the floor.

So for these reasons, I am willing to forego my usual opposition to waiving points of order, and I ask Members not to oppose this rule. Turning now to the substance of this conference report, I would like to make a number of observations.

Certainly, any Member can go through this 861-page conference report and find many things that have a great deal of merit and which should be supported.

Certainly, any Member should be able to find many things that he or she does not support. A bill of this size and complexity is not going to leave any Member entirely satisfied, but neither should it leave any Member entirely opposed. And all Members should be appreciative of the tremendous effort that the Members of the Armed Services Committee, and especially its chairman and the ranking Republican, have put into this conference report.

They do not have an easy task, but they perform it well. My chief concern, however, is with the larger context in which this legislation is presented. Our colleagues on the Armed services Committee have done the best they could with what they have to work with, but that is the problem: They have not been given enough to work with.

The Clinton administration has outlined a 6-year phased reduction in the defense budget that will cut $156 billion through fiscal year 1999. That is a 35-percent cut in defense spending, on top of the 35-percent cut, in real terms adjusted for inflation, that has already been made since 1985.

So far, in the first 2 years of the Clinton 6-year plan, Congress has enacted only one-tenth of the cuts that are called for.

When you consider the accelerated pace at which defense cuts will have to be made over the next several years in order to meet the demands of this plan, it becomes clear that we are headed in the direction of nothing less than unilateral disarmament.

I used that term at the Rules Committee yesterday, and I will use it again here today—unilateral disarmament.

And lest anyone think that is too harsh a term to use, I would simply ask when any Member has ever heard a member of the administration claim that this plan meets the minimum requirements necessary to protect the security of the country as defined by the administration's own bottom-up review.

The fact is that such a claim has never been made. Indeed, the estimates of how far short this plan falls, run anywhere from $20 to $100 billion.

Then there is the very real possibility that the bottom-up review itself may be flawed—having overstated the savings to be realized by personnel cuts and modernization, while having understated the costs of peacekeeping missions and adequate compensation for an All-Volunteer Force. Nobody believes more than I do that an all-volunteer military is the best option for a free society.

But our service men and women must be compensated at a level that honors their commitment to the country and the all-important role they play in providing for the common defense. Every Member's stomach should turn when we hear reports of service personnel having to supplement their income with welfare and food stamps, and every Member really ought to question the larger issue of where the defense budget is headed.

Before concluding, Mr. Speaker, I would like to thank the conferees for including two of my amendments in this conference report. One amendment would prohibit Defense Department research grants from going to universities that deny access to their campuses by military recruiters.

I believe the logic behind such a prohibition is self-evident.

The other amendment expresses the sense of Congress about the North Korean Nuclear Program, and it represents the only concrete statement Congress has thus far made, concerning this controversy. And, believe me, that situation is a long way from being resolved, so we will really have to stay on top of that in the months ahead.

In conclusion, Mr. Speaker, I urge support for the rule so that this debate on this important conference report can proceed. And as Members consider this legislation, I would ask that they keep in mind General Norman Schwarzkopf's observation that it is far better to sweat in peace than to bleed in war.

□ 1600

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Philadelphia, PA [Mr. WELDON].

Mr. WELDON. Mr. Speaker, first of all let me say that I rise in support of the rule and I will be voting for the bill.

Let me start out by saying as a member of the Committee on Armed Services for 8 years and as a conferee in this process that the reason I support both the rule and the bill is because the process has been totally fair.

That is due in no small measure to the leadership our of our chairman, who I have the highest respect for. We may disagree ideologically from time to time and philosophically. But no one on the committee can stand up and say that he has not been fair and the process has worked the way it is supposed to work.

I applaud our distinguished colleague, the gentleman from California [Mr. DELLUMS], for that. Let me also applaud our ranking member, the gentleman from South Carolina [Mr. SPENCE], who is not here today because of a tornado in his district. We all understand that. He has worked tirelessly to bring this bill to the floor, and he has also helped in this cooperative mode. The staff also on the committee has been extremely cooperative, and we appreciate the assistance of both sides on the staff support that has been necessary for this.

Let me say, Mr. Speaker, I rise now and I will rise again on the bill to basically call to the attention of our colleagues in the House the fact that we are in for severe problems with the national security of this country. We have made the best of an impossible situation in terms of the budget numbers that we were given this year. The process was fair. We all had a chance to have input.

But, Mr. Speaker, I can tell Members, many of us, the Committee on Armed Services, are very frustrated and very fearful of what is going to happen next year and the year after because of the numbers that we have been given.

Unfortunately, across America the perception is that we are spending more and more on our military, when one only has to compare the two major ways that industrialized nations compare their military spending, compare our defense spending in the 1960's during John Kennedy's era before the Vietnam war, when we were spending 9 percent of our GNP on the military and 55 cents of every Federal dollar on the military. In this year's budget, we will spend about 3.5 percent of the GNP on the military and somewhere around 17 cents of every Federal dollar.

Mr. Speaker, I am not one who thinks we should pull numbers out of the air as we were given this year. I think we should base our military spending on the threat.

The problem is that is not happening. And even the President's own Bottom-Up Review is now showing the tremendous weaknesses that we have in the out years in meeting the $128 billion of defense cuts that are called for in President Clinton's 5-year budget agreement.

Many of us in this Congress on both sides of the aisle said that would be the case. We said we could not cut defense by $128 billion and still have the readiness and the capability to meet the demands that are placed on our military. We are now living with that.

And guess what, Mr. Speaker? Many of our colleagues in both this body and the other body are saying that we are at a critical point in time in terms of our defense.

Listen to what Senator DANIEL INOUYE said, from the chairman of Senate Appropriations. He said:

> This bill will only buy 17 combat aircraft. The Army will buy no tanks. The Navy will buy four ships. We are staving off the collapse of the defense industrial base.

He also mentioned the special task force on readiness that was convened by the administration to report to Secretary of Defense Perry. That report already writes of pockets of unreadiness erupting in the Air Force, the Army, the Marine Corp, and the Navy.

We all know the General Accounting Office has come out with a study that has said that the Pentagon is $150 billion short of paying for the troops and weapons that the Bottom-Up Review called for.

We are now hearing people in the Pentagon talk of the possibility of a hollow force as we heard during the 1970's. And now we see Secretary Bill Perry, as he testified before the Committee on Appropriations in the House just this year on the issue of additional money for Rwanda relief efforts, he said;

> We are an army, not a salvation army. We need to have additional dollars to support the missions that you are placing on us.

So now we have key leaders from both parties, including the Secretary of Defense, coming up and saying publicly that we are in deep trouble.

All of our colleagues who are involved with defense know that next year is going to be an impossible year. There are many on the appropriations side who are saying we are already $8 billion short without any contingencies, without paying for Haiti, Somalia, Rwanda, and any other place that we are going to commit our troops.

Mr. Speaker, this kind of budget cannot continue. We have to have a sustainable level of Federal funding for defense that allows us to meet the commitments that this President makes, and that is now happening.

During debate on the full bill, I will talk about the real peace dividend and what it is doing to the American people and workers.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY], another distinguished member of the Committee on Armed Services.

Mr. HEFLEY. Mr. Speaker, I am not opposed to this rule.

I do want to commend the chairman and the ranking member. This is a committee with great philosophical differences among its members, and yet I do not think any member of this committee can say this is a committee that is not handled in a fair and even-handed way or a committee where everyone does not have say. We go in and we thrash it out, we do it in an open manner, and decisions are made. We march forward with that.

I have seen the chairman of this committee march forward with decisions that he did not agree with personally, but it was a committee decision. I commend the gentleman from California [Mr. DELLUMS] for his forthrightness where this is concerned.

I guess what I am opposed to is the philosophical base that we are building a defense budget on. There are some good things in the bill.

The conference report adequately provides for several important areas:

a. COLA equity—the bill provides for COLA equity with regard to military retirees. At least for this year, military retirees will not be singled out.

b. Active duty pay raise—the bill provides for a 2.6-percent pay increase for our active duty soldiers.

c. Language asking DOD to take another look at the bottom-up review—Language similar to language I offered in committee is in the conference report. This language points out some of the shortcomings of the bottom-up review, and asks the Secretary of Defense and the President to take another look at future years defense spending.

Unfortunately, this bill is the second step of a five step plan to dismantle our military.

a. Our military is on the edge of readiness. Some might think we have even fallen off that edge.

b. Last month, Americans heard on the nightly news about President Clinton ordering 2,000 marines to sail off the coast of Haiti in the event of an invasion—an ill-conceived invasion, I might add.

c. But what Americans did not hear about on the nightly news was the story of those 2,000 marines.

d. Normally, troops returning from 6-month deployments receive 30 days leave and remain at their home port for up to 9 months before being sent out again.

e. However, those same young men and women who Bill Clinton ordered to Haiti had just come home from a 6-month deployment 10 days before they were ordered to go to Haiti.

f. Mr. Speaker, these are soldiers who have families. They had been gone for 6 months, were home 10 days, and now will be gone for who knows how long.

g. These 2,000 marines were re-deployed so quickly because they had the highest state of readiness.

We have gone from a 600-ship navy in the 1980's to a 400-ship navy today.

a. Former Secretary of the Navy John Lehman said:

> Basically, you have almost 200 fewer ships to send around to these crises now. You have fewer ships and men, they have to stay out longer. It's simple arithmetic.

b. Mr. Speaker, what effect does this drawdown have on our soldiers?

c. Just listen to the soldiers themselves. One of those 2,000 deployed marines said:

> I'm going back to that darn ship, I guess that's the only home I've got.

Another one of the deployed marines said:

> My wife is upset. I'm supposed to be home nine months. I haven't seen my daughter yet. She's visiting in-laws. She will be over one year old before I even meet her.

Mr. Speaker, the President and Congress are going to have to make some tough choices in the coming years.

We are extremely close to having a hollow military. If we do not increase defense spending, the next deployment these marines make may be a family vacation after they get out of the military.

We are losing our readiness and many good soldiers.

When we lose those two things, our ability to fight and win wars will also be gone.

□ 1610

Mr. SOLOMON. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. CUNNINGHAM], another distinguished member of the Committee on Armed Services.

Mr. CUNNINGHAM. Mr. Speaker, I am going to support this rule, and I think it has, like a lot of bills, a lot of good things in it. However, let me talk about some of the things that scare this Member in the future.

The bottom-up review, which was a review in which our military could fight two consecutive conflicts, in testimony before the House Dr. Newman even said then that we were short from the bottom-up review, and we could not get there. That was estimated between $40 and $50 billion.

Now the GAO has come out and said we are $150 billion, not million but billion, billion dollars short. What does that mean? What does that mean to your sons and daughters, because many of my colleagues on the other side of the aisle, and Republicans also, have sons and daughters in the military.

The famed movie, "Top Gun," right now, this weekend, Top Gun is not flying in an air show at NAS Miramar, where it is stationed, because it does not have any fuel. The Navy Fighter Weapons School at Miramar is standing down the entire month of August, saving what little fuel it has, so they can fly against their class. That class goes out to the squadron members that have not had the opportunity to go to Top Gun and trains them in a doctoral level course. They do not have the money to do that.

I know the Members probably cheered when they saw the movie, cheered at what they do, but right now, we cannot even fund those. Large percentages of F-14's, F-15's, F-16's, F-18's are grounded because they do not have the fuel and the parts.

The President said he wants a well-trained force. Let me tell the Members, if you cannot train in the machine, you need a minimum of 20 to 40 hours flying those machines to be competent. Some of those squadrons are getting less than 5 hours a month. When we see that happen, what does that mean? It means people die, accidents happen, machines are not exercised, the equipment is improper. It means the lives and deaths of our men and women.

Mr. Speaker, we asked some other ways to cut defense in what is happening in this country. We are ordering the demise and not funding the upgrades for F-14's, F-15's, F-16's, F-18's. We are doing away with A-6's. Yet, we push beyond the year 2000 the joint airplane for all the services to use.

What does that mean? I do not care who is President in 1996, there is no way to make up that inventory for that shortfall in defense of our fighters in any service. That is a crime, Mr. Speaker.

BRAC, all of us were part of BRAC 1993. In many of our districts, bases were closed and realigned. Guess what, 1994 it was funded minimally; 1995 and out depends a lot on the closing of those bases, but this House is not fully funding BRAC, so they are having to take it out. We give them money for defense and training and they are having to take that training money and use that to close down the unfunded mandate we have given to the military.

A classic example, a captain at NTC in San Diego, is called "Fingers". Why? Because the North Vietnamese cut off his thumb as a prisoner of war. He is called "Fingers." "Fingers" had to take $30,000 out of his training money and use it for plywood to board NTC up because it was ordered closed, because we will not fully fund BRAC to close it, and we are cutting out of there as well.

I have personally flown the F-14, F-15, F-16, and F-18 and I would not be afraid to fly those against any fighter in the world. We have got a technological edge over any other country, but we have done that through our defense base.

Just like in the health care bill, if we cut back the R&D, the incentive to produce medicines, the same thing in defense. If we cut back that R&D, we are going to lose that technological edge. It is going to mean, again, life and death. We are not competing for six gold medals, like on many other committees here; we are talking about life and death in combat situations.

Mr. Speaker, we need certain things to keep our military in. We do not, in a budget bill, cut their COLA. These are the same people you ask to deploy 6 months, come back for 10 days, and then go overseas for another one, and then say "By the way, we are going to cut your COLA. We are going to give it to other people, but for the military, I'm sorry."

You do not deny armor when they need it in combat and cost the lives of 22 Rangers. You do not have our military under the control of United Nations forces.

In Desert Storm we used a multitude of other countries to help us, but our forces were under Dick Cheney and Colin Powell and the Generals that led. We did not lose many people. However, when we commit aircraft, and the last people to know about it are the President and the Secretary of Defense, when we go to war in Bosnia, which just recently happened, we cannot keep our military strong and trained doing that.

Mr. Speaker, the thing that frosts me the most, the committee chairman and every member on that committee has been fair and open in debate, but the thing that gets to my heart the most, there are people on that committee, on the Committee on Armed Services, that are there for the sole purpose of dismantling the defense forces. That is the worst crime of all.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, I want to commend the previous speaker, as well as the others who have spoken before him, in calling attention to the inadequacy of the funding for the national defense of this country. If we read the preamble of our Constitution, we find that this Republic of States was formed for the specific purpose of providing a common defense for our people. We, I am afraid, are not doing that.

Mr. Speaker, I ask to include in the RECORD this article from the New York Times which appeared back on June 12. The headline of the article reads "As Military Pay Slips Behind, Poverty Invades the Ranks."

Mr. Speaker, this is all so reminiscent of what happened back in the late 1970's, in 1977, 1978, and 1979, when members of our military were on food stamps. If they were serving in Germany under NATO, or in South Korea, wherever they might have been, it was a pathetic situation. We were losing all of our highly skilled commissioned and noncommissioned officers back to the private sector, because they could not afford to stay in the military. The salary and benefits were so low.

That was also the time when we tried to rescue the hostages that were being held in Iran, and we had to actually cannibalize about 14 helicopter gunships so then we could come up with 5 that would work. Three of those failed, and so did the rescue mission. We cannot afford to go back to those times, to that period of having a hollow military.

Mr. Speaker, in the 1980's we rebuilt our military through a philosophy called peace through strength. In doing so, we attracted the most highly skilled, most highly motivated, best trained young men and women from a cross-section of America who have ever served. We had an all-volunteer military that we were proud of, right up through the Desert Storm operation. They also had the best equipment.

Mr. Speaker, we need a strong military. We need to have benefits that are high enough so that we can attract these good kind of young people again and keep them in our military, so that it will be an honorable, well paying career that will compete with the private sector. I just hope that we can do that in future years.

As far as this particular rule is concerned, Mr. Speaker, I urge support of it.

Mr. Speaker, I include for the RECORD the New York Times article:

[From the New York Times, June 12, 1994]

AS MILITARY PAY SLIPS BEHIND, POVERTY INVADES THE RANKS

(By Eric Schmitt)

WASHINGTON.—Like other airmen at Hickam Air Force Base in Honolulu, 21-year-old Jason Edwards worries about tensions far away in North Korea that could erupt into fighting and involve his base.

But Airman Edwards has more immediate concerns as well. He is worried about how to feed his 22-year-old wife, Beth, and their two small children on his total pay and allowances of $1,330-a-month. In desperation, the Edwardses last month began drawing $228 a month in food stamps to get by.

"It's a very tight squeeze for us," Mrs. Edwards said. "We haven't bought any steaks since we've been here, and whenever I want to cook something with ham, I substitute Spam for it."

In a trend that has senior Pentagon officials deeply troubled, an increasing number of military families are turning to food stamps to make ends meet. Three-quarters of America's enlisted forces earn less than $30,000 a year, and the gap between civilian and military wages is growing.

To be sure, no one ever joined the military to get rich. But neither did they expect to have to go on welfare. Military officials worry that a growing demand for food stamps and other Government assistance may signal larger personnel problems in a culture that preaches self-reliance and self-discipline.

The overall number of troops on food stamps is very small and difficult to measure because the Government does not track military recipients.

About 3 percent of the 1.7 million service members qualify for food stamps and 1 percent, or about 17,000 personnel, receive them monthly, according to a 1992 study by the Defense and Agriculture Departments. The Agriculture Department manages the food stamp program.

Nonetheless, the Defense Department said the total value of food stamps redeemed at military commissaries increased to $27.4 million last year from $24.5 million in 1992, including retired military recipients. Food donation centers are bustling at bases from Hawaii to Florida. And in Georgia's Liberty County, which serves Fort Stewart, 30 percent of the 2,400 households receiving food stamps each month are military families.

Top military officials voice concern that Pentagon budget cuts to quality-of-life issues like pay could impair both morale and retention of service personnel. The Clinton Administration tried to freeze military salaries this year and increase them only by 1.6 percent for next year. Congress instead approved a 2.2 percent increase for this year and will probably approve a 2.6 percent raise for next year, but neither will keep pace with inflation, which is about 3 percent. "We cannot expect service members to lay their lives on the line when back home their families have to rely on food stamps to make ends meet," said Adm. William A. Owens, the vice chairman of the Joint Chiefs of Staff.

The vast majority of service members on food stamps are sergeants or below in the Army, Marine Corps and Air Force and petty officers or below in the Navy. The families usually have more than two children, and the spouse does not work. Very few officers qualify for food stamps.

In a culture that promotes a fierce ethic of taking care of one's own, soldiers' reluctant embrace of food stamps and other financial assistance has wounded military leaders.

"We've always told our soldiers that we'll provide for them a quality of life that's at least equal to the civilians for whom they serve," Richard A. Kidd, the Sergeant Major of the Army, the senior enlisted soldier, said in an interview. "It's getting tough to do that now."

For most people who join the armed forces, the lure is not money but adventure, education and patriotism. The military also offers good medical and commissary benefits.

But since 1982, the gap between civilian and military wages has widened to 13 percent, and is projected to be near 20 percent by the end of the decade. The military wages include housing and other allowances.

Meantime, the rising pace of deployments abroad is placing greater strains on the shrinking number of service members and their families. "There's only so long you can ask them to do more without recognizing it before people just start to leave," said Sydney T. Hickey, associate director of government relations for the National Military Family Association in Alexandria, Va.

In addition, more young people than ever are entering the military with spouses and children—and added financial burdens. Between 70 to 80 percent of all enlisted men and women earn less than $30,000 a year, including housing and food allowances, according to a study by Senator John McCain, an Arizona Republican on the Armed Services Committee. Among those, 45 percent of the Army and 46 percent of the Marine Corps earn less than $20,000 a year. Mr. McCain coined a new term for what he calls these people: "the new military poor."

Spec. Kimberly Southworth, a 29-year-old Army truck mechanic stationed at Scholfield Barracks in Oahu, Hawaii. She is separated from her husband and living with her three children on post. Specialist Southworth said her monthly income was $1,700, but after taxes and bills, including $6 an hour for babysitters, she has about $50 left over each month.

"I don't like having to apply for food stamps, but I don't have a choice," said Specialist Southworth, who has received $390 a month in food stamps since January 1992. "The cost of living is so high in Hawaii and the pay for my rank is so low. If I didn't have food stamps, I'd be in debt up to my neck."

At the Navy base in Norfolk, Petty Officer First Class Gary Benfield and his wife, Suzanne, said they and their four children—ages 5 months to 7 years—rely on another Federal program for nursing mothers and children under 5, the Women, Infants and Children program, for $100 a month in food coupons.

Overall, the value of W.I.C. coupons redeemed at military commissaries increased to $15.2 million last year from $12.4 million in 1992. "It bothers me because no employee of the Federal government should qualify for Federal assistance," Mrs. Benfield said.

Eligibility for food stamps is based on a combination of income, other financial resources and household size. Federal officials say as many as 40 percent of military families on food stamps live in free military housing. They qualify for stamps because their incomes are not raised above the cutoff by the housing and food allowances that service members living off-base receive.

Pentagon spokesmen say the issue is not strictly pay, but individual family circumstances. "We don't compensate people for having nine people in their family," said Maj. Bill Buckner, an Army spokesman.

Military officials say they encourage service members with financial problems to take advantage of food stamps, and a range of other programs, from emergency loans to financial planning seminars. Many families, however, balk at stepping forward for what they consider a handout.

"We've tried to identify them, but they just don't come forward," said Chief Master Sgt. Eddie Morgan, the senior enlisted airman in the 33d Fighter Wing at Eglin Air Force Base in Florida. "It's a pride thing."

To get around that, the senior enlisted airmen at Eglin manage a fund called Operation Care that distributes $10,000 in yearly donations from other service members to needy families, usually around the holidays. Last year, 247 families, some with as many as seven children, received grants of $25 for each family member.

Some branches of the military are reluctant to discuss the subject at all. When asked to help contact families on food stamps who would be willing to talk about their plight for this article, a Marine Corps spokeswoman, Lieut. Col. Robin Higgins, declined, saying, "The commandant prefers to emphasize the positive things about the quality of life in the Marine Corps." She was referring to Gen. Carl E. Mundy Jr., the Commandant of the Marine Corps.

So painful is the perceived stigma of using food stamps that some service members pay more to avoid being seen using them. A highly decorated chief petty officer in Norfolk, who received $200 to $400 a month in food stamps from 1982 until 1993, said he and his wife shopped in supermarkets rather than Navy commissaries, even though commissary food prices are on average about 25 percent cheaper.

"We didn't want to be seen by anyone we knew, so we went to the community store even though it was more expensive," said the chief petty officer, who spoke on the condition of anonymity.

Defense Department officials say that about 50 percent of military spouses have full-time jobs to help pay the bills. Since military personnel transfer frequently, however, spouses often must start over each move and miss out on promotion opportunities.

Many service members work part time as fast-food servers, gas station attendants, grocery baggers and hotel-room cleaners. A 22-year-old combat medic in an artillery unit at Fort Carson, Colo., started his second job today as a security guard in a city park. The medic said he needed the $4.25-an-hour weekend job to supplement his $1,000 monthly base pay to support his wife and their three children, a 2-year-old boy and year-old twin boys.

"When I joined the Army, I expected good benefits, decent pay and job security, just like the commercials say," said the medic, a Persian Gulf war veteran who spoke on condition of anonymity. "But it's been a lot harder than I ever imagined."

Commanders expressed concern that working two jobs could hurt military performance. "It's something we pay attention to," said Chief Master Sgt. Mike Burbage, the senior enlisted adviser at Eglin Air Force Base. "But it's tough to tell a guy to quit a job if he needs it to feed his family."

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

□ 1620

CONFERENCE REPORT ON S. 2182 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. DELLUMS. Mr. Speaker, pursuant to House Resolution 521, I call up the conference report on the Senate bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, August 12, 1994, at page H8055, as contained in Issue No. 113 published on Saturday, August 13, 1994.)

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] will be recognized for 30 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me preface my remarks first by thanking my distinguished colleagues for their very kind and generous remarks in the previous discussion of the rule. Second, I would simply point out to my colleagues that the remarks of a number of my colleagues who spoke in the well, that it simply points out that at the end of the day there are different points of view and different perspectives, we arrive at different analyses, and we attempt to embrace different policies. That is what this process is all about, an honest and open exchange of ideas strongly felt in the marketplace. That is what this is all about.

We find ourselves, Mr. Speaker, in a different world. As I have said on more than one occasion, to the point of redundancy, the cold war is over, the Berlin Wall is down. We now find ourselves in the context of a post-cold-war era. It is very difficult for some of us to march into the future boldly, so many of us march cautiously. Some of us give up old ideas reluctantly. But I would suggest that this period in which we find ourselves is pregnant with enormous potential and enormous possibilities. It seems to me that we can paint bold strokes across the canvas of time and move boldly into a new world. We can also fritter away this moment, tinker at the margins of change because we are tempered by our caution, by our fear, and by our predilections to old ideas.

Mr. Speaker, I would challenge my colleagues to grasp new thoughts, new ideas, and move to new paradigms. The previous discussion simply points out that we come to this moment and view the world with different eyes. My hope is that we can all take off the old glasses of the cold war and put on the new spectacles of the post-cold war and march boldly into the future. With those remarks, Mr. Speaker, let me proceed to the conference report.

The conference report that we consider today would authorize approximately $263.8 billion in budget authority for fiscal year 1995, a defense top line equivalent to the President's original request.

Mr. Speaker, I would be remiss if I did not indicate that we received outstanding cooperation in our efforts with our colleagues in the other body, ably lead by the chair and the ranking member of the Committee on Armed Services of that body, and from the leadership of our own committee, including all of the membership, specifically my colleague and friend, the gentleman from South Carolina [Mr. SPENCE] who cannot be with us at this time because of devastation that has been visited upon his constituency; and the subcommittee chairs and ranking members across the total spectrum of the committee's jurisdiction. As usual, the House was well-served by our excellent committee staff who deserve our thanks for their tireless effort over these weeks.

I might digress and say, Mr. Speaker, that I do not make that statement to simply cast out words. There are often disparaging remarks made about staff people who serve this country. I would suggest that this institution could not work if it were not for the able, dedicated, brilliant, hardworking staff people. I happen to be fortunate enough to chair a committee where the level of staff capability is extraordinary, and every single day I see them working diligently, sometimes around the clock, to make sure that we meet our time deadlines and deal with our responsibilities. Words are not adequate enough to thank the staff for their very tireless effort. Sometimes the phrase "thank you" seems to be a trite phrase, but on behalf of myself and my colleagues, I would like to thank the staff for their extraordinary effort.

Finally, let me note that our outside conferees also played a constructive role and I appreciate their cooperation in this large and complex effort.

Mr. Speaker, the conference report continues the necessary reconfiguration of national security spending priorities in the post-cold-war era, a period of transition during which perceptions of our national defense needs were altered as a result of both significant continuing changes in world affairs and further analysis of the Department of Defense, the Congress of the United States and others regarding requirements for this period and the time beyond.

In this gentleman's humble opinion, Mr. Speaker, more could be done to reorient ourselves to this new reality more quickly. For example, more emphasis on preparation for peace operations, broader conversion efforts, the elimination of some redundant systems, and excessive force structure. But because periods of change create special challenges, it is understandable that most of my colleagues and the conference have chosen to proceed cautiously.

Mr. Speaker, we provide sufficient operations and maintenance funding, but our caution against change may leave us with too large a force structure and an acquisition program to guard against degradation of readiness. While some point to humanitarian and peacekeeping operations as financial draws on readiness, we can, Mr. Speaker, effectively reimburse the services for these operations. The same cannot be said for permanent expenses on unneeded equipment or force structure that misallocates resources that could more effectively maintain readiness.

In this regard, the conference rejected the effort to preserve explicitly the capability to produce additional B-2's and maintained the current cost and numerical caps on the B-2 program. The Secretary will study the bomber force capabilities and report back to the Congress in 6 months as to whether or not a shortfall exists for the near, mid, or long term and how it might be remedied, if indeed a shortfall exists.

During that process, Mr. Speaker, the Secretary may explore the range of options that are before him.

I believe, Mr. Speaker, is this gentleman's humble opinion that any reasonable course of action will not require a future purchase of B-2's, the actions that would represent the kind of excessive acquisition program that threatens our readiness. But in the future we will learn from the administration whether they share this gentleman's view or not.

Mr. Speaker, we must not let excess caution impede worldwide efforts to reduce forces and arms and the instability and danger that they create. Given our extraordinary superpower status, we are the last superpower standing, Mr. Speaker, we must exercise by example as well as words, the leadership necessary to create new strategies for conflict resolution, establish new arms reduction agreements as well as to secure our counter and nonproliferation goals.

We have made some important steps in this direction, such as the prohibition on backfitting the D-5 missile on our earlier Trident submarines and requiring that any antiballistic missile work be compliant with the ABM Treaty.

The report seeks to ensure that our men and women in uniform are able to serve in an environment that is free from sexual harassment and discrimination and makes clear that the Congress expects the services to end the discrimination, to end the harassment against our service personnel.

We have also sought to provide a dignified quality of life for our personnel and their families by providing a pay increase that reflects a full cost-of-living adjustment as well as other important measures.

The conference report ensures that we have significant assistance programs for communities that face economic dislocation as a result of the decisions to close bases, shut down weapons manufacturing lines, or scale back our nuclear weapons program.

Mr. Speaker, in the international affairs arena, the conferees confronted three contentious issues:

We sought to bring pressure on the Bosnian Serbs to agree to a peace agreement in Bosnia and Herzegovina that would guarantee a viable Bosnian Government capable of exercising its rights in the community of nations.

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The report would achieve this goal by the process of moving promptly towards a multilateral lift of the arms embargo on the Government of Bosnia and Herzegovina, if the Bosnian Serbs do not accept the Contact Group agreement by October 15.

With regard to NATO burdensharing, the conferees agreed to maintain the current limits on overseas troop deployments and establish a 2-year goal for NATO burdensharing requirements at 37.5 percent.

However on peacekeeping, the third and significant contentious issue before the conference, the conference could not bridge the gap, Mr. Speaker, between authorizing $300 million from DOD accounts for peacekeeping assessments and prohibiting such expenditures. These two positions were miles apart. The House could not proceed to the Senate, the Senate could not proceed toward the direction of the House. So we agreed to drop both of these provisions and live to fight this battle another day.

Our committee leadership agrees that developing a comprehensive peacekeeping program that can someday become law is vital to our national interests, and we have begun discussions as to how to proceed. It would be this gentleman's hope, and my statement to the Members, Mr. Speaker, that in the next Congress we will address the issue of peacekeeping and all of its ramifications in the hope that we not only can stimulate our own thinking but stimulate the thinking of our colleagues and the administration so that we can come to terms with the issue of peacekeeping. We have not adequately laid out the appropriate intellectual and political base for us to move forward in peacekeeping. This gentleman's opinion is that peacekeeping is a reality, it is an integral part of our national security apparatus as we march boldly toward the 21st century. But all of my colleagues do not agree, and when there is not a consensus, then we have to be part of the educative process, and then move our colleagues toward some consensus.

We could not do that in the context of this conference. It would be this gentleman's hope when we return to this point next year that we will have some kind of consensus in this post-cold war era.

Mr. Speaker, the House Committee on Armed Services will continue to work with the administration and our colleagues in both Chambers to achieve these and other lofty and outstanding goals. In the meantime, I believe that the report that is before the body deserves the support of Members on both sides of the aisle in that it provides sufficient reserves to meet our defense needs and properly moves to realignment of our Nation's forces to meet current needs.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from South Carolina [Mr. SPENCE], our ranking minority member of the Committee on Armed Services, has asked me to manage the bill in his absence this afternoon. As everyone has heard, a series of devastating tornadoes swept through South Carolina yesterday, and as we debate this conference committee report he is on his way back to South Carolina to meet with the officials to take care of the many problems caused by that storm.

Mr. Speaker, I would like to take this opportunity to commend the gentleman from California [Mr. DELLUMS], chairman of the full committee as well as the chairman of the Subcommittee on Research and Technology, for all of the fairness that they have shown this side of the aisle. While we disagreed many times, we have always had ample time to express that disagreement, and we want the Members on this side of the aisle to know we appreciate that consideration very much.

Mr. Speaker, before commenting on the conference report, I want to commend the chairwoman of the Subcommittee on Research and Technology, the gentlewoman from Colorado [Mrs. SCHROEDER], on the bipartisan manner in which she has conducted the work of the subcommittee during the 103d Congress.

Mr. Speaker, there is no question that through the bipartisan efforts of the members of our committee that the conference report we bring to the floor is a better bill than requested by the administration. However, this bill fails to address the monumental shortfalls in the funding needed to support the administration's own national military strategy. The administration is long on strategy and short—incredibly short—on resources to support that strategy.

Let me cite a few examples of where this administration falls far short of adequately supporting its strategy and our military men and women so necessary to support our Nation's military strategy:

The General Accounting Office recently confirmed what many of us have been saying ever since the administration announced its two major regional contingency strategy—that the Clinton military strategy is underfunded by as much as $150 billion.

Pay is not the principle reason our soldiers, sailors, and airmen decide to serve their Nation. However, they don't expect to have to resort to food stamps to be able to adequately feed their families. While it is incredulous to believe, we continue to hear more and more about this phenomenon. The Clinton administration's Department of Defense budget for the next fiscal year and for the remainder of the 5-year program only compounds the problem of inadequate pay. This year it requested only a 1.6-percent pay raise. The President talks a good game about supporting our military men and women, but it took our committee and the Congress' support to ratify a 2.6-percent pay raise for the next fiscal year. It is hypocritical in the extreme for the Commander in Chief to, on the one hand, demand more of his military personnel and their families while at the same time providing less in resources to do their missions and to expect some of those families to have to use food stamps to feed their own families.

There are continuing signs of the hollow force structure of the 1970's being revisited as the defense budget continues to suffer the Clinton cuts. The administration's rhetoric again fails to match reality. While claiming increased readiness funding, the reality is that funding that we have provided for training and readiness is being diverted by the administration for other purposes. Further, our military people are being run ragged trying to meet the increased operational tempo required to meet ever-increasing administration deployment requirements. The recent case of a Marine Corps amphibious ready group having to redeploy after only 12 days of shore time after returning from 6-month deployment off Somalia is a prime example. The ill-fated F-15 Army helicopter friendly fire incident in northern Iraq is a case where ever-increasing demands on our people could have contributed to this tragic accident. The Undersecretary of the Air Force recently stated that as many as four times as many Air Force members are deployed overseas today as were deployed in 1989. The Air Force reports that some crews are on their fourth rotation to the Persian Gulf.

Finally, while the defense budget is being slashed, what is authorized and appropriated for the Department of Defense continues to be diverted by the administration for other purposes. So, while the American people are being told they are paying $263 billion for national security for next year, the reality is that billions upon billions of dollars are being used by the administration to fund non-DOD programs. A recent study by the Congressional Research Service estimates that nondefense spending by DOD has quadrupled from $3.5

billion in fiscal year 1990 to a projected $13 billion in fiscal year 1994. DOD funding of foreign assistance programs, traditionally funded within the State Department's budget, has gone from almost zero in fiscal year 1990 to over $550 million in this bill. The Department of Defense has become the administration's piggy bank to fund programs in the other departments. In this bill alone there is over $25 million for the Department of Justice; $50 million for the Small Business Administration; $43 million for the Farmer's Home Administration; $71 million for civilian youth programs; an estimated $300 million for Department of Commerce, Energy, Transportation, National Science Foundation, and NASA technology programs; and $13 million for summer and special Olympics.

Mr. Speaker, the Clinton defense strategy is not real. It is rhetoric. The budget cannot begin to fund the claimed strategy. The budget does not take care of our military men and women. The budget falls short of providing sufficient resources and people to meet deployment requirements. And the administration continues to try and fool the American people by claiming continued support for DOD budgets while it uses that very same budget for non-defense-related expenditures.

For these reasons, I cannot support this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, before discussing this conference report, I first want to thank Chairman DELLUMS for his cooperation and his fairness during these past months of deliberation over this legislation. Regardless of any substantive problems I may have with elements of this conference report, as a whole, it is a stronger piece of legislation as a result of being forged in a bipartisan manner.

Mr. Speaker, if I limit my attention to just the specifics of this conference report, I believe we have clearly made a number of important improvements to the President's request. For example:

We have ratified a year-long effort to provide a full 2.6-percent military pay raise instead of the 1.6-percent raise proposed by the President. As I have stated on many occasions, I remain confounded by the mismatch between the President's rhetoric concerning his commitment to our people in the military and his proposals to deny these same personnel the pay increases they deserve.

We have readjusted the schedule on which military retirees receive their cost-of-living allowances in fiscal year 1995 to make it consistent with other Federal civilian retirees. Although I am concerned with using discretionary funds to adjust an entitlement program, this was an issue of fundamental fairness that had overwhelming support in both bodies. I hope we can work with the administration to find a smarter way of addressing the retiree COLA issue in fiscal year 1996 and beyond.

We have approved an emergency fiscal year 1994 supplemental appropriation for ongoing United States operations in Rwanda that fully funds DOD's costs through the end of this fiscal year. We will have to address DOD's fiscal year 1995 costs in Rwanda once we have a better picture of the operation's overall duration and cost.

We have added approximately $300 million into a number of underfunded readiness accounts. As has become evident over the past year, the services are having to operate well beyond their budgetary means and Congress is having to repeatedly come up with ways to "make whole" the increasingly stressed operations and maintenance accounts.

We have tried to enhance the administration's dramatically underfunded modernization program. Despite General Shalikashvili's testimony that "modernization is the key to future readiness," in essence the administration's long-range modernization strategy is to do little more than delay important and costly decisions until such time that a future administration will be confronted with the need to breathe new life into the remnants of our defense industrial base in order to modernize the military services. The administration's "not on my watch" approach to investing in modernization is cause for great concern, and this bill's modest enhancements represent at least a small step in the right direction.

Finally, we have unequivocally rejected the administration's misguided plan to use the defense budget to pay for the U.S. share of U.N. peacekeeping operations. First, these costs have always been borne by the State Department and there is no logical reason why this practice ought to change. Second, the services are already spending hundreds of millions of precious O&M dollars each year to support global peacekeeping and humanitarian operations. Requiring DOD to also start paying the U.N. assessed fee is unacceptable in a budgetary sense and from a policy perspective, and could actually encourage the United Nations to continue expanding its global peacekeeping agenda if they believe the U.S. defense budget is their piggy bank. As a result of our decisive action on this front, I urge the President to reconsider this controversial cornerstone of his new blueprint for peacekeeping operations—PDD–25.

Unfortunately, Mr. Speaker, when you move beyond specifics and consider this conference report in the broader context of President Clinton's plan to cut the defense budget by more than $150 billion, this bill represents another downpayment on the administration's fundamentally flawed budgetary and strategic blueprint for our national security and our military forces in the turbulent years ahead.

It is increasingly apparent that the forces recommended by the Bottom-Up Review will not be capable of executing the two-war strategy, and if they could, even a fully funded Clinton defense budget plan would prove inadequate to support this force structure. The fact that the GAO recently reported that the Clinton defense budget is underfunded by as much as $150 billion only reinforces these troubling conclusions. The defense budget is headed toward post-World War II record lows as a percent of GDP and of Federal outlays; the services are being asked to do more with less and are therefore overextended; and as a consequence we are beginning to see problems across a wide-range of readiness indicators. We may not have a hollow force today, but the Clinton defense plan is heading us inextricably down this slippery slope that many of us remember from the late 1970's.

The solution to these growing problems is as obvious as it is apparently unattainable in the current political environment—that is to reverse the Clinton defense cuts.

I hope the day is not far off when enough of my colleagues on the other side of the aisle will join with a strong majority of Republicans in supporting a halt to the 10-year real decline in defense spending we have witnessed since the mid-1980's and insist on more robust funding for the Department of Defense in the outyears. The inevitable costs of waiting to reverse our current course far outweigh the investments we could and should be making today.

History has taught us time and time again that gambling with a penny-wise and pound-foolish approach to defense never pays long-term dividends but, instead, all but guarantees extraction of a painfully high human and monetary cost.

Mr. DELLUMS. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER], chairperson of the Subcommittee on Research and Technology.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding the time. I must say our chairman, I think, is one of the most patient and tolerant Members around as we have tried to craft a new bill for new times, and that has been very hard and very painful. But I think everybody on the committee has tried very hard to figure out how we make a smarter bill, because we know we cannot keep making larger bills. How do we really plan for the contingencies of the future and not let future generations down?

One of the things we have been doing in research and technology is trying very hard to figure out how we reconfigure the industrial base out there, because unlike any other time where we have downsized, there has been no civilian industrial balance equal to downsize into, so we have been trying to do all of the transferring of initiatives and every other thing we can think of.

This bill builds on some of the innovative things that were done last year and worked so well last year. We added loan guarantees this year so that small- and medium-sized companies could fast forward, and hopefully retain more jobs in that area that is so critical.

We did some other very exciting things this year. I honestly think we are going to do more for fighting crime in this bill than the whole crime bill that is being debated at the same time, because what we did last year was ask the Department of Justice and the Department of Defense to get together and find out what we had in the Department of Defense that could help the average law enforcement officer. We found almost everything in the Department of Defense would help the average law enforcement officer. In fact, the average law enforcement officer looked like Wyatt Earp, only he had a car instead of a horse. They really never had thought of the concepts that we talk about so much in the armed services about how to achieve force enhancement measures.

When only 9 percent of the crimes committed in America ever have any arrest made, it is very clear, while we won the cold war, we are losing the war on crime, because if 91 percent of the crimes do not have any arrests made, the idea gets around that crime pays. So we started looking at everything possible that would be transferable to the police.

Last April a memorandum of understanding was signed between the Department of Justice and the Department of Defense. This bill funds that memorandum of understanding. I think it is going to make a terrific difference, and it is going to create tremendous jobs because there are so many different entities out there that would like to buy into this.

We also have some very exciting concepts on telemedicine. The Department of Defense is way ahead of the civilian sector in telemedicine, mainly because they do not have to deal with some of the rules we have in the private sector. But once again, they are creating the way that we are going to be delivering medicine in the 21st century, and we are still looking at it like it is the late 19th.

So I think all of these things are very exciting, and we are looking forward to continuing to be smarter since we cannot just keep getting larger.

Mr. STUMP. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. HUNTER], the ranking member of the Subcommittee on Military Installations and Facilities.

Mr. HUNTER. Mr. Speaker, I want to thank the ranking member, the gentleman from South Carolina [Mr. SPENCE]. I know he has had to leave for a disaster in his area, and the chairman, the gentleman from California [Mr. DELLUMS], for what I think was a conference that process-wise was extremely fair, offered a platform for every Member that wanted to make his voice heard. The chairman has talked about many, many systems that were worked on, issues that were addressed and resolutions that came of those issues. I think we had a good working conference.

However, Mr. Speaker, I would be remiss if I did not say that the issue and the problem from my perspective with our national security apparatus is not the process but it is rather the top line. That is how much money are we going to allocate to national security, to national defense. We are slashing national defense $129 billion below the $50 billion cut that then-President Bush, then-Secretary of Defense Dick Cheney, and then-Chairman of the Joint Chiefs Colin Powell made several years ago.

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And that $129 billion cut, make no mistake about it, no matter how well we massage the process, no matter how well we shift, cost shift, shift funds, streamline programs hurts national security, and to some degree it impacts on the quality of life for the men and women in the armed services, and to a large degree it impacts on readiness.

Let me just tell you, from the Military Construction Subcommittee chaired by the gentleman from Oklahoma [Mr. MCCURDY], upon which I am the ranking member, we are spending a ton of money on nonmission-related programs. Most of those programs have to do with the environment, with environmental compliance. We are spending billions on environmental compliance, much less on military housing, much less on mission-oriented programs.

We have a military today which reminds me of the military that I saw when I came into Congress in 1980. At that time in San Diego we had thousands of young military families that were on food stamps. This year 27 million dollars' worth of food stamps are being consumed by the uniformed services, because our folks do not make enough money. We had a lot of people getting out of the military then, about a thousand petty officers a month. I have not seen the last figures, but I know it is getting more and more difficult to retain high-level leadership in the armed services.

We had a large number of fighter aircraft, over 50 percent at that time, that were not fully mission-capable. We now have about 50 percent of the fighter aircraft that we had 7 or 8 years ago, and we are moving downward in readiness. Our depot-level maintenance this year was about 62 percent of the requirement. We met about 62 percent of the requirement of depot-level maintenance. We have a lot of systems, some of which came back from Desert Storm and still have not been repaired, still have not been refurbished.

Every time we ask our military leaders to comment on this, none of them, of course, being respectful of the civilian government and the Clinton administration, none of them say, "We are making a horrible mistake this year." What they all say is if we go 1 inch lower, if we do not have a budget next year that is robust, we are going to be in trouble.

My colleagues, I feel we are in trouble now. I feel that we face, while the Soviet Union has dissipated, we face a world which in the words of Jim Woolsey, CIA Director, is full of poisonous snakes, the pending problems in Korea with the development of nuclear systems, continuing problems in the Middle East, continuing problems in Bosnia, the emergence of China as the superpower that will replace the Soviet Union, and all of those issues mandate a continued strong national defense.

We have not met that mandate this year.

Mr. DELLUMS. Mr. Speaker, I yield 4 minutes to my distinguished colleague, the gentleman from Florida [Mr. HUTTO], chairman of the subcommittee on readiness.

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this conference agreement. I want to also commend our chairman for his leadership and his fairness in the committee and in the conference, and likewise the ranking minority member, our colleague, the gentleman from South Carolina [Mr. SPENCE].

Mr. Speaker, I have been one of those who has been saying that I think that we are drawing down our defense too much too quickly.

As the leader of the free world, we have to maintain a strong defense, although there have been a lot of changes, and thankfully we can move to a lower level. But still we have to be vigilant and to maintain a strong defense.

But we have to live within reality, and that is the proposal that comes from the administration and the budget resolution that is passed by this Congress, but working within that framework, I think we have done a good job to provide for the armed services of the United States.

In the Readiness Subcommittee, which I chair, we have the largest segment of defense spending. This year we are providing $91.5 billion for the forthcoming fiscal 1995 for the operations and maintenance and the readiness of our forces.

One of the things that our subcommittee has been in the forefront of from many years ago when the late Dan Daniel was chairman of this subcommittee, and that is to improve the financial management of the armed services, and I believe that we have a strong commitment from the Secretary of Defense, Bill Perry, and the Comptroller of the Department of Defense, John Hamre, in improving that. They are committed to that and are working hard, and I believe it is going to improve significantly.

One of the things in this area that we dealt with has been the concerns of the Defense Business Operations Fund, or DBOF. This measure lifts the termination date of that, prohibits the accumulation of excess cash, requires DOD to notify Congress of transfers of money in and out of DBOF, and terminates the practice of advanced billing beginning October 1 of 1995.

DBOF consolidates the separate stock in industrial funds in the various service and defense commissary agencies to create one consolidated revolving fund controlled by the Defense Secretary. The services then make purchases from DBOF using their annual appropriation. DBOF also uses the capital budgeting principle under which depreciated costs of machinery are billed to the service that uses that machinery. The former system did not bill these costs to the services, so we have seen improvement. We are demanding improvement here.

We also have authorization for $141 million for the Inspector General that is meant to strengthen the I.G. criminal investigation, procurement, fraud, and auditing capabilities.

This House time and time again has voted to ask our allies for a greater share of the burden. We have adhered to that and authorized $400 million less than requested for overseas activities and trying to make sure that we move toward 37.5 percent that the chairman mentioned earlier.

Mr. Speaker, I am pleased that we have identified in our subcommittee nonreadiness areas where we can provide a pay raise for our troops and also to close the gap in funding on COLA's for our military retirees to provide equity for our military retirees.

All in all, I think that we have a good bill. I ask our colleagues to support this conference report.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, first, I would like to commend the outstanding work of the ranking member of the Armed Services Committee FLOYD SPENCE and Chairman RON DELLUMS in concluding a successful conference with the Senate. I would also like to thank their respective senior aides, Mr. Andy Ellis and Ms. Marilyn Elrod, for their expertise, counsel, and hard work throughout the process.

Mr. Speaker, I applaud the hard work of the conference committee in making some difficult choices within severe budget constraints. Chairman DELLUMS and his staff deserve tremendous credit for providing an open and fair process for Members on both sides of the aisle in an effort to craft the best possible piece of legislation.

While I will vote against this conference report, I do so not because of any displeasure with the work of the Armed Services Committee but because of the lack of budget resources the administration has dedicated to our national defense. I join with Congressman STUMP in believing that our defense budget is inadequate given President Clinton's stated goal of being able to fight and win two near-simultaneous major regional wars.

As I have said in this Chamber before, the dissolution of the Soviet Union, while reducing world tension, has not ushered in an era of tranquility. Instead, the demise of the cold war has ushered in a period of ethnic antagonism, civil strife, and regional conflicts that have contributed to wide-scale killing, starvation, and migration problems. As a result, the United States is challenged to develop a force structure that meets the full spectrum of near-term and future threats to the United States.

The Bottom-Up Review developed by the Clinton administration outlines a strategy that hedges against future threats to U.S. national security interests. It is a stopgap strategy with an insufficient budget. Unfortunately, the current administration is more concerned with cutting our defense capability—not building it up or ensuring that our forces are adequate to meet whatever challenges may surface.

It is ironic that at a time when the demands on our armed services continue to increase in areas like Haiti, Rwanda, Somalia, and no-fly zones over Iraq and Bosnia that we are debating further cuts to our national defense. As a member of the Armed Services Committee, I urge my colleagues to seriously consider the national security implications of this overcutting and vote "no" on this conference report.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, there is not enough money to go around for the Federal Government to perform its basic functions. There is not enough money for it adequately to provide for the national defense, one of the most fundamental responsibilities of any government.

The General Accounting Office recently reported that the Bottom-Up Review, the administration's basic document on defense strategy, policy, and structure, is underfunded by $150 billion over the next 5 years. The Department of Defense Comptroller says its only $40 billion. Only $40 billion?

Are we going to fund the Clinton force structure or not? If so, we need more Defense funds. If not, we need to change our national military strategy.

Mr. Speaker, this House, this Congress, this administration, this Nation, have got to come to grips with what is happening to this Nation's defense posture. I have made this point many times and I shall continue to do so.

Although the Congress and the administration have again refused to confront the fundamental defense issues this year, the conferees on the defense bill have done a good job within the funding limitations they were given. I am particularly pleased with the outcome with respect to military forces and personnel matters.

The conference agreement includes a number of important provisions—both for the effectiveness of the total force and for the welfare of the individual soldier, sailor, airman, and marine.

First and foremost is the pay raise for the troops. Although the budget proposed an ill-advised cap on military and civilian pay, both the House and Senate approved a 2.6-percent pay raise—the maximum authorized under current law.

The conference approved a House provision authorizing a cost-of-living allowance for servicemembers stationed in high cost areas of the United States, similar to the cost-of-living allowance overseas. This new CONUS COLA, as it's called, will be targeted toward enlisted personnel with dependents and will provide an important assist to young families who cannot afford the high cost of living in cities like Boston, New York, and San Francisco.

Concerned about the inequity between military and civilian retiree COLA's, the conferees approved moving the 1995 COLA payment date from October back to April, thereby conforming it to the Federal civilian COLA timing. This COLA equity provision is subject to similar action in the Defense appropriations conference deliberations.

The conferees agreed to a House provision that would provide the same protection to members of the military who report sexual harassment and unlawful discrimination that is given to military whistleblowers and also strengthened a Senate provision establishing a procedures for the review and implementation of the recommendations of the DOD Task Force on Discrimination and Sexual Harassment.

The conferees took a number of actions to enhance the viability of the Total Force:

The conference agreement increases the President's Selected Reserve call-up authority from 90 to 270 days. During Operation Desert Shield, DOD was reluctant to activate the Army National Guard round-out brigades because of the necessary train-up time. With this longer initial call-up period, the conferees have paved the way for increased reliance on the reserve and guard in the future as the size of the active forces continues to decline.

Members of the House should applaud conference approval of the Reserve Officer Personnel Management Act [ROPMA], which has already passed the House several times. This landmark legislation will standardize reserve officer career management and bring the reserve system more in sync with the active duty officer management system.

Reflecting the growing importance of the reserve component, the conferees also approved legislation which requires the Secretaries of the Army and Air Force to prescribe a charter for the National Guard Bureau. The provision also specifies the rank of the chief and vice chief of the bureau.

In today's tough budget environment, the conference agreement is a positive step toward watching out for our most important asset—our men and women in uniform.

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Mr. DELLUMS. Mr. Speaker, for the purposes of entering into a colloquy, I yield an additional minute to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to engage the chairman of the Armed Services Oversight and Investigations Subcommittee, Mr. SISISKY, in a colloquy related to one section of the conference report. Section 818 provides for the payment of restructuring costs under defense contracts. It requires a certification by an official at the level of Assistance Secretary or higher. My question is whether such a certification is required if the Government review and audit substantiates that savings in each fiscal year exceeds the restructuring costs in each fiscal year and the Government is never out of pocket?

Mr. SISISKY. Mr. Speaker, will the gentleman yield to me?

Mr. SKELTON. I yield to the gentleman from Virginia.

Mr. SISISKY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the conference report states that the certification must be signed by a senior level official when you are dealing with "projections of future cost savings." In the instance you describe, you are not dealing with projections of cost savings delayed to years after the Government pays the restructuring costs, you are dealing with savings to the Government realized from the inception of the restructuring project. In such a case, the Government would never be out of pocket and there would be no requirement for a certification by an official of Assistant Secretary-level or higher.

Mr. SKELTON. As I understand it, the purpose of section 818 is to protect the taxpayer in instances where the Defense Department is looking at savings down the road that are estimated or projected based on a large number of assumptions.

Mr. SISISKY. That is correct. We built in the requirement for a certification by a high-level official in order to assure that these projections got high-level attention. If we are not dealing with projections of future costs savings exceeding current restructuring reimbursements, but rather with a savings to the Government in each fiscal year that are captured in the contractor's restructuring agreement with the Defense Department, then there is no need for the extra bureaucratic step of high-level certification since there is no threat that the savings might not materialize.

Mr. SKELTON. Mr. Speaker, I thank the chairman of the subcommittee for that clarification.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from the State of Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to address the House today to pay personal tribute to the chairman of the Committee on Armed Services, the gentleman from California, Mr. DELLUMS, and also the 210 Members of the House of Representatives who sent Chairman DELLUMS a letter about our bomber force.

One of the things that I have been concerned with is the condition of our bomber force. And, as usual, Chairman DELLUMS responded openly. This is not a subject that he necessarily agrees with this gentleman from Washington about, but he listened to my case and he came up with a provision which, frankly, I think is very good for our country.

That provision will allow us to look at all the alternatives, including improvements in the weapon systems on all of our bombers, and I believe that the compromise that was worked out between Chairman DELLUMS and the chairman of the committee in the other body is one that will serve our country very, very well.

So again I want to thank the chairman for his professionalism, for the way he treats everybody in this House.

I told him the other day that without the other chairmen in the past, once they made up their minds, that was the end of the case. RON DELLUMS always listens, and I appreciate that.

Mr. Speaker, I rise in support of this conference report for the fiscal year 1995 Defense authorization.

One of the most important issues before this Congress is how to achieve the greatest return from restrained resources available for the defense of this country. In a new era, where conflicts emerge frequently with little or no notice, these difficult choices will determine whether we can, in fact, continue to provide for and maintain the best Armed Forces in the world.

I would like to commend the chairman, and the full membership of the Armed Services Committee for their outstanding efforts on this defense bill. I am particularly pleased that the conference report includes provisions to maintain readiness and provide fair compensation for the men and women in our armed services.

This authorization bill supports our defense posture of maintaining a sufficient military capability to address the two near-simultaneous regional conflicts. Inherent in this policy is the ability to project power unilaterally, at a moment's notice, anywhere in the world. This task becomes increasingly more difficult in a climate of reduced funding and as we reduce our forward deployed forces. In many cases, the only way we will be able to project power quickly and effectively is to capitalize on the military's most capable and responsible system, our long-range conventional bomber force.

Unfortunately the Bottom-Up Review did not adequately address the bomber force structure, other than to recommend a minimal number of 184 aircraft. And the Air Force budget request for this year goes even further to erode the conventional bomber force by supporting only 107 aircraft.

This conference bill addresses this very important problem by establishing an Enhanced Bomber Capability Fund. This provision reflects the Congress concern that the current bomber force structure is in fact inadequate.

The conference directs the Secretary of Defense to conduct a study on the military's bomber force structure requirements, and is directed to report back to the Congress on these requirements. If the Secretary determines that the current bomber force structure cannot meet these requirements, the Secretary is then directed to recommend alternative strategies to improve bomber force capabilities. I am convinced that any objective analysis will lead the Secretary to recommend an enhanced bomber force that builds on the synergistic advantages of long range, survivability, and smart precision weapons. I believe the B–2 smart bomber now in production is the right bomber for these difficult times. Those 210 members of this House wrote Chairman DELLUMS asking him to provide $650 million to preserve the bomber industrial base. As usual Chairman DELLUMS gave us a fair hearing and a fair outcome. Let the bomber study begin.

I am also pleased that the conference agreement provides for an aggressive program to provide more capable conventional weapons systems for whatever mix of bomber forces we ultimately decide upon, and authorizes up to $100 million to preserve core bomber industrial base production capabilities.

Again, I commend Chairman DELLUMS for his support of this program, and I urge Members to support the passage of this very important conference report:

ENHANCED BOMBER CAPABILITY FUND

(SEC. 133)

The Senate bill contained a provision (sec. 141) that would provide $150.0 million for a bomber industrial base fund and exempt those funds from the existing B–2 bomber cost cap.

The House amendment, contained a provision (sec. 132) that would provide that any expenditures by the Department of Defense to preserve the B–2 bomber industrial facilities would be charged against the B–2 bomber cost cap.

The House recedes with an amendment.

The conferees agree to recommend $125.0 million for an enhanced bomber capability fund. The conferees further agree to require the Secretary of Defense to conduct new analyses of both bomber requirements in the near term and long term, and, should the Secretary conclude that the planned bomber program does not meet those requirements, examine alternative strategies to enhance bomber capabilities to meet those requirements and report his results to the congressional defense committees no later than April 15, 1995. Requirements would be defined, and bomber capabilities measured, for three time periods: 1998, 2006, and 2014.

In the event the Secretary determines that additional bomber capabilities are required, he shall examine alternative strategies for acquiring them, including, but not limited to:

(1) acceleration of planned upgrades to existing bombers and additional munitions and support for them;

(2) initiation of a program to develop a new, lower-cost "next generation" bomber oriented toward conventional warfare; and

(3) a resumption of low-rate production of additional B-2 bombers, or variants thereof, oriented toward conventional warfare.

As part of these analyses, the Secretary shall determine those core capabilities, which would take extended periods of time or substantial expense to regenerate and which are in imminent danger of being lost, that are needed to maintain the ability to design, develop, and produce bombers in the near term or long term.

While the analyses are ongoing, the Secretary may obligate up to $100,0 million both to conduct these analyses and to preserve those parts of the core capabilities described above. The conferees believe that the Secretary should report to Congress where and why such funds are to be spent before obligating them. The conferees understand that, because these assessment of the bomber industrial base will proceed over time, the Secretary may determine at various times throughout the study periods the need to fund appropriate core capabilities of the base.

Following completion of these analyses and an interim report on bomber issues from the Commission on Roles and Missions, but not later than July 1, 1995, the Secretary shall report the results, and his recommendations thereon, to the congressional defense committees. Thereafter, he may obligate all remaining unobligated balances to implement his recommendations, including funds for further preservation of core capabilities, if he so recommends.

Should the Secretary conclude from his analyses that a new "next-generation" bomber is required, he may obligate up to $25.0 million for requirements formulation and conceptual studies for a conventional-conflict-oriented, lower-cost next-generation bomber.

The conferees agree that none of the enhanced bomber capability funds may be used for advance procurement of new B-2 bomber aircraft, including long-lead items, and that subsection (c) and (d) of section 131 of the National Defense Authorization Act for Fiscal Year 1994, which established cost and numerical caps on the B-2 programs, are unaffected by any provision in this act.

Mr. DELLUMS. Mr. Speaker, I yield 3 minutes to my distinguished friend, the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. I thank the distinguished chairman of the Committee on Armed Services, the gentleman from California [Mr. DELLUMS], for yielding, and particularly I would like to thank him for his cooperation throughout the conference on many issues, many pertinent to weapons programs that are very high priority for me.

But, of course, nothing was as challenging and probably as stressful, in all candor, for either of us as to the dialog. It was really positive. Sometimes it was hard-hitting dialog as to our concerns about the ongoing carnage in Bosnia. I think Members of the House know that the House was on record with a strong vote, with a 66-vote majority, for what, in essence, was a unilateral lift. The Senate at the time, in their wisdom, did not do such but came out, I believe it was 52 to 48 for a multilateral lift that was only in the form of a resolution at the time.

Obviously, that posed a challenge vis-a-vis the House position and the position of the other body. Before going into that a little more, I want to pay special thanks to the ranking member on the Committee on Foreign Affairs, the gentleman from New York [BEN GILMAN], and also other leaders, as to the unilateral lift effort, the gentleman from Michigan [Mr. BONIOR], and the gentleman from Maryland [Mr. HOYER].

I think with the chairman's cooperation and understanding and, I think, particularly some creative innovations put on the other side by SAM NUNN, I think in all reality and modesty it is safe to say that I think the Congress has achieved a major breakthrough as far as ultimately eliminating the horrible policy and the horrendous anachronism of imposing arms embargo on a sovereign state which is under massive international siege.

In essence, it is more complicated than this, but President Clinton has pledged for the first time to actively go to the United Nations to argue for a multilateral lift. If that does not work out by November 15, not as a matter of suggested policy or sentiment, if you will, but by binding legislation, there would be agreed to by the President nearly all U.S. active participation particularly, or military and other administrative efforts in the region, enforcing the arms embargo, would be eliminated permanently. That is the real message to the world, to the French, the British, and others, that we are not interested in going on with this policy.

I would say nothing in our legislation precludes the President from taking much more immediate action and asserting leadership, assuming the horrible, almost certain reality that the ongoing siege against Sarajevo and Bosnia goes on.

Just from today's wire service:

> Bosnian Serbs, under pressure to accept the international peace plan, have tested to resolve of the United Nations in the past month, raiding U.N. weapons depots, cutting off the main commercial route into Sarajevo and shutting down the humanitarian airlift into the city for weeks, by shooting at U.N. Cargo planes.

Even the Pope, John Paul II, has made frequent appeals for an end to the war in Bosnia. He has often condemned ultranationalism in the former Yugoslavia and has urged the international community to do all in its power to disarm the aggressor.

□ 1700

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in support of the conference report on the defense authorization bill.

This agreement provides the authorization for programs critical to our country's defense, including CVN-76; the new attack submarine, the Navy's F/A-18 and E-2 aircraft; the Air Force's F-22 Fighter; the Army's Apache and Comanche helicopters; and the Marines' V-22 tiltrotor and maritime prepositioning ship enhancement programs.

In addition, it provides a much-deserved 2.6 percent COLA for our military personnel, strengthens guidelines on sexual harassment, and equalizes COLA treatment for military retirees.

Though the conference report contains these positive elements, I must register my continuing deep concern about the downward spiral in defense spending. This is the 10th year in a row that real spending on defense will decline.

Meanwhile, the President's future years defense program—which in my view is inadequate—requires far more spending than his current budget plans allow. According to the GAO, this underfunding may reach $150 billion over the next 5 years.

This trend cannot continue. Reduced spending jeopardizes our country's security and puts the fine men and women of our military at greater risk.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I am pleased to have been a member of this committee for the past 6 years. I have been honored to serve with great leaders like our current chairman and ranking Republicans. As I leave here, Mr. Speaker, I consider this committee one of the finer of the committees in the House.

Mr. Speaker, I am pleased to support this committee bill this year. I believe it is a fair bill. It was one that recognized the need to reduce our defense budget, but the tough years are ahead, and I would implore my colleagues who serve on this committee and who serve in this House to recognize that we have, in fact, preserved peace by having a strong military.

In fact, we probably only made about a 20-percent cut in what will be a need for a $150 billion reduction. As my colleagues know, this is the 10th consecutive year where we have had a downward spending pattern. We must make sure that we do not repeat the errors of the past and create a hollow force. It takes 9 to 12 years to create a good sergeant or petty officer. It takes 6 years to complete a submarine.

We must make sure we are preparing for the future. While we must be stewards for peace, we must also protect the democracy and the freedoms which we have.

This is an easy year relative to what we will face in the future. It is my hope that, as we move forward making difficult choices, that we do not sacrifice industrial bases for expediency in funding, that we do not sacrifice our people in uniform for lack of training dollars, that we do not sacrifice the research and technology for the willpower to make sure that our men and women in uniform in the future will have the highest technology. This is not a peaceful world. As we look at Korea, Iraq and the rest of the hot spots of the world, Mr. Speaker, let us never forget our duty here as members of the Committee on Armed Services in Congress is to preserve peace, but to protect our men and women in uniform.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], the ranking member of the Subcommittee on Oversight and Investigations.

Mr. HANSEN. Mr. Speaker, as a member of both the Armed Services and Intelligence Committees, and as a conferee to the bill now before us, I want to inform our colleagues that I am worried about the direction that we are headed.

In good conscience, I could not sign the conference report—even though there are some positive provisions in the bill.

My main objection is that we are continuing the 10th straight year of real defense cuts. And, there is no end to the hemmoraging.

The administration's 5-year defense plan, which is already, in my mind, inadequate to defend against a two-region conflict scenario, is underfunded to the tune of $150 billion dollars. Don't take my word for it—the GAO has said as much just last week.

No amount of finessing the figures and adjustments for inflation is going to make-up that kind of a shortfall. Serious action needs to be taken by the administration—in conjunction with the Congress, in coming up with a plan to address the shotfall in next year's budget, and future budgets—before it is too late.

Our military readiness has already slipped to alarming levels in many areas—we are quickly returning to the days of the hollow force of the 1970's. We are once again seeing many of our personnel having to rely on food stamps to get by. We are seeing a large drop in the number and quality of recruits into the service, and a large exodus of our most qualified and experienced personnel.

We are seeing troops being asked to deploy for longer periods of time, taking them away longer from their families and working them nearly to the breaking point.

Our service leaders are having to cut back on training and flight hours—because of a lack of funds. They are having to cut many weapons modernization programs.

Critical depot maintenance and facilities repairs are going unfunded and the backlog increases every day.

Projected savings from base closures have not materialized—and is actually costing the Government money.

Ballistic missile defense is the victim of cut after indiscriminate cut, and is not receiving the appropriate amount of attention and support needed to counter the increasing threats of missile proliferation and terrorism—leaving our troops and populations vulnerable to such attacks.

Finally, the defense budget is being treated more and more like a giant cash cow—to be milked to fund programs and operations of other Federal agencies. this is another disturbing trend that must be stopped.

The bottom line is that we are cutting too much, too fast, and many of the cuts are turning out to be indiscriminate.

We seem to have forgotten the lessons of the past, rushing quickly to disarm ourselves and setting ourselves up to be unprepared for conflicts which are certain to arise in the future.

Sure, we all recognize that the end of the cold war allows for defense reductions—no one is arguing that—but I am here today to sound the warning to my colleagues that we have gone way too far.

Mr. Speaker, I have the utmost respect for my colleagues on the Armed Services Committee, and the chairman who is a hard-working and dedicated member.

I only hope that we can start now, to put together a strategy and plan to turnaround the trend for next year, and to recognize that we need to take action in order to prevent the coming train wreck in defense.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP] for yielding this time to me, and I want to compliment the chairman, as always, for being undoubtedly the most fair chairman in all of Congress, possibly ever, the staff for the great work they have done, but I think I would be mistaken not to mention my deep concern about the inclusion of language that the other body insisted upon that would allow the U.S. Marine Corps to buy three foreign-built ships in this budget when there are American ships in the ready reserve fleet already available for that purpose and also the change to the sealift account that would allow ships that were intended to be built in this country to be built overseas and merely converted in this country. This chairman in particular has done a stellar job of working to pass the national shipbuilding initiative to maintain this Nation's industrial base for shipbuilding, and it is particularly disturbing to see the good work of this committee and this committee staff taking one step forward being undone by the work of the other body taking three steps backward.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, there is a clear and present danger, a combined failed foreign policy, looking at 22 dead Rangers and 77 wounded in Somalia, left there to die without armor. There is a clear and present danger, defense cuts that are going to leave much of our military defenseless in the future. There is a clear and present danger, the Soviet Union building and increasing the number of nuclear submarines, typhoon class, and also increasing the number of their subs that cut our Atlantic communications cables.

I say to my colleagues, "Ask yourselves why there is a clear and present danger. You invade Bosnia, you're going to be looking at Russian troops. There is a danger."

Mr. Speaker, defense is being but too much, and, like the crime bill, socialized spending is not the answer.

□ 1710

Mr. STUMP. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from Arizona for yielding me the time.

Mr. Speaker, as we consider the DOD authorization conference report, I would like to stress the importance of the language it contains on Bosnia and Herzegovina.

In some respects, I am very disappointed with the language on lifting the arms embargo on that country. It falls short of the amendment to the original bill, which the House easily passed in June. However, last week's vote in the Senate on this issue indicates that that Chamber is moving toward a stronger position than before.

I also believe it is unfortunate that, in the face of genocidal aggression, we are willing only to go as far as stating the right of a country to self-defense. Selected but substantial airstrikes against Serb militant positions in Bosnia and Herzegovina would be a more effective option, and I for one support that option in addition to lifting the arms embargo.

We need only look back at what has transpired in the two months since the House voted for the unilateral lifting of the arms embargo. The Bosnians unconditionally accepted and the Serbs effectively reject a plan offered on a take-it-or-leave it basis. Then, the Serb militants clearly violate the exclusion zone around Sarajevo. They brazenly closed corridors to the city and attack relief flights and U.N. convoys. They renew shelling of Gorazde, a safe haven allegedly protected by an exclusion zone. They renew ethnic cleansing in the North, in areas the settlement plan allows them to keep. These acts in the context of more than 2 years of aggression, justify doing something more.

That said, I commend the conferees—both House and Senate Democrat and Republican—for agreeing to useful language that moves us forward. The language calls for specific action to be taken by certain times. First, we will seek a multilateral lifting of the arms embargo; that is preferred by everyone. But, if it does not happen, we should not be bound to support an embargo that is considered by many to be completely illegal in the first place, especially if the Serb Militants continue to refuse to accept a settlement. It gives meat to the comments of Secretary of State Christopher, who noted that we cannot let this go on indefinitely," while innocent people are slaughtered because they cannot defend themselves.

Let me also acknowledge the efforts of the administration for working with the Congress on this issue, and seeking to accommodate the concerns of us who want to see greater action taken in regard to Bosnia-Herzegovina. While I believe some risks are worth taking, I recognize that these risks have to be considered carefully and that we have to work with our friends and allies in Europe and around the world, many of whom hold positions and opinions different from our own.

Mr. Speaker, I would like to say that I hope this report sends an important message—that we have not abandoned our principles and that we must therefore do something more than sit back and watch genocide occur. This language on Bosnia-Herzegovina, at minimum, expresses the view that something more has to be done than what we see now. The clock is ticking.

Mr. STUMP. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. DORNAN], an able member of the committee.

Mr. DORNAN. I thank the distinguished gentleman from Arizona for yielding.

Mr. Speaker, this is "compliment" afternoon for our distinguished chairman, and it is richly deserved. In my 18-year span here, 2 years sitting on the sidelines because of reapportionment, I have served on many committees where there have been great bipartisan relations. It has been the byword of committees like the Committee on Science, Space, and Technology, most of the time with the Committee on Foreign Affairs, and certainly upstairs in the closeted Permanent Select Committee on Intelligence.

But this committee is a tough one to maintain cordial relations. We come at defense from so many different positions, particularly the liberal philosophy and the conservative philosophy. Our chairman has been someone who has kept a steady hand on the tiller and let all sides be heard. I do join in all of those compliments for him today.

I did not expect to be here today. I think most of us did not expect to be here until about 2 weeks ago. I had hoped to be in southern France. It would not have been vacationing, it would have been attending the memorial ceremonies for Operation Dragoon, which had for months been called Operation Anvil. It is where United States forces landed in southern France to begin, with all of our hard fighting forces in the 80-day Battle of Normandy, an end to the reign of terror of Nazi Germany across the face of Europe. And Audie Murphy, a young lieutenant, Medal of Honor winner of the Third Division fame, was taking his exploits from North Africa, Sicily and Italy, up to the coast of southern France. He went with the 45th Thunderbird Division on one side and with the 36th Division, which had more continuous combat time than any division in the United States, on the other side.

They were today, 50 years ago, securing the beach and letting the French forces land. The French had used paratroopers, just as we had at D-day a few weeks before. This is not to forget our men in the South Pacific, where our paratroopers were wrapping up the last Japanese resistance on Noumea Island. In the Marianas, as well as on Guam and Tinian, bloody fighting came to an end.

What wonderful forces we had then. We had a nation with a population of only 130 million-plus people. Here we are today with literally twice that population, 260 million people. Again that dreaded six-letter word is creeping back into those councils at the Pentagon about our military forces. That word is "hollow."

It is only beginning, but the signs are there that we are getting back to those dreaded times after World War I, after World War II, after the Korean war, and after the Vietnam war, when we started ax-cutting our military in order to funnel more money over into domestic programs of an uncertain destiny. And here we go again.

In Mr. DELLUMS' second term, his sophomore year, second year thereof, 1974, we crafted a budget, cutting back drastically for fiscal year 1975, as a result of a defeat inflicted upon ourselves in the Halls of this building, never having lost on the battlefield and totally dominating the seas over the coast of North and South Vietnam. Air supremacy, there wasn't a SAM missile left to be fired at the end of that conflict. But here we were, gutting our military. Yet in the 1975 fiscal year period, we purchased 273 new combat aircraft for our military forces.

Yet what are we doing this year? We are purchasing only one model type, 24 of the superb C and D models of the F-18 Hornet and 24 fighter or attack aircrafts. That is it.

Here are some other indications of the problems we have developed for ourselves. There is good defense staff work here by Andy Ellis. President Clinton campaigned all of 1992 on a promise of $60 billion in defense cuts, no more. Once in office, as a typical liberal Democrat, doubled it to $120 million. Then he began to bleed off readiness money into various causes.

This is a recent study that Andy Ellis found by use of the Congressional Research Service. We have quadrupled non-defense spending from fiscal year 1990, which was George Bush's first defense budget that he guided through with our committee's help here and in the Senate in 1989. It has gone from $3.5 billion in fiscal year 1990 to a projected $13 billion in fiscal year 1994.

Mr. Speaker, I include for the RECORD the entire report on non-defense DOD spending.

NON-DEFENSE DOD SPENDING: FURTHER COMPOUNDING THE CLINTON CUTS

As the defense budget decreases, the amount of non-defense activities and programs funded out of the defense budget continues to dramatically increase. This practice, historically limited to unrequested Congressional add-ons to the defense budget, has been embraced by the Clinton Administration as a means of furthering domestic and foreign policy goals at the expense of military readiness.

A recent study by the Congressional Research Service (CRS) estimates that non-defense spending by DOD has quadrupled FY 90 from $3.5 billion in FY 90 to a projected $13 billion in FY 94.

For example:

The Administration has requested $300 million in the FY 95 defense budget to pay for the U.S. share of U.N. peacekeeping costs. Heretofore, such costs have always been paid for out of the State Department's budget.

The costs of environmental cleanup have grown from $1.6 billion in FY 90 to almost $6 billion in FY 95.

Foreign assistance programs has grown from virtually nothing in FY 90 to over $500 million in FY 95.

Depending on how it's counted, defense conversion and reinvestment programs have accounted for somewhere between $2.5 to $3.4 billion in every Clinton defense budget to date.

DEFENSE JOBS: THE HUMAN COST BEHIND THE CLINTON CUTS

The FY 95 defense budget cuts more than 180,000 active duty, reserve and civilian personnel.

Put in perspective, DOD will cut, on average, 15,000 active duty, reserve and civilian personnel every month in FY 95. This is an increase over the average monthly cut in FY 94 of 12,000 personnel.

The FY 95 defense budget proposes to cut 86,000 active-duty personnel, following on the heels of a 464,000 cut in active duty personnel over the last four years.

By FY 99, DOD will have nearly 1.2 million fewer active, reserve and civilian personnel on the rolls than it did in the mid-1980s.

The Clinton Administration Bureau of Labor Statistics (BLS) estimated last year that defense-related private sector jobs declined by 600,000 as a result of the 1987-92 Bush defense cuts. Under the Clinton-planned defense cuts, BLS estimated the loss of an additional 1.2 million defense-related private sector jobs by 1997.

Put in perspective, this translates to an average loss of private sector defense jobs over a ten-year period of 10,000 per month under President Bush, and 20,000 per month under President Clinton.

The aerospace industry has not employed so few workers since Jimmy Carter was President.

PERSONNEL READINESS AND MORALE: THE MOST IMPORTANT ELEMENT

According to Army Chief of Staff General Gordon Sullivan, "The quality of the Army will surely decline unless something is done about the way soldiers are compensated. Our compensation is considerably eroded. This loss of benefits, coupled with other aspects of downsizing, sends a negative message to our soldiers and their families. Long term readiness will suffer if we allow it to continue."

Last year, the President proposed to deny the military a 2.2% pay raise as required by law. At that time, the gap between military pay and comparable private sector pay was already at 12%. Congress rejected the pay cut proposal and fully funded the pay raise.

This year, the President proposed another military pay cut—requesting a 1.6% COLA instead of the 2.6% COLA endorsed by Congress last year and required by current law.

H.R. 4301, as reported out of the Armed Services Committee, categorically rejected the President's proposal and once again fully funded a military pay raise.

According to the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, "Our structure is getting smaller and smaller with each year, but our commitments remain global in scope, and the range of activities we engage in are expanding."

From 1989 through 1993, the number of U.S. military personnel operationally deployed (excluding commitments to Desert Storm, Korea and Europe)—grew from 26,000 to approximately 154,000—nearly a 600 percent increase. At the same time, military end strength dropped 20 percent (from 2.1 million to 1.7 million).

Increased operational commitments result in lengthier and more frequent deployments of personnel.

MODERNIZATION: PASSING THE BUCK

According to the Chairman of the Joint Chiefs of Staff, General John Shalikashvili, "modernization is the key to future readiness."

Unfortunately, the Clinton Administration proposes to spend $93 billion less than the Bush Administration on modernization (i.e., research, development and procurement) over the next five years. The Clinton modernization cut follows on the heels of a 67 percent real reduction in procurement spending and a 20% real reduction in R&D spending since the mid-1980's.

The Administration's "strategy" actually delays modernization until the next century, increases the costs, and passes the responsibility for building a political consensus and securing the funding on to some future Administration.

This "strategy" does little to maintain a viable defense industrial base and even less for the near-term modernization of our forces.

The FY 95 procurement request is $12 billion below FY 93 spending levels—a reduction of 22% in just two years.

The FY 95 Research and Development represents a 9% reduction from FY 93 spending levels and request is $2.4 billion less than last year's FY 94 request.

Moreover, an increasingly large portion of the R&D budget is being spent on non-defense initiatives such as conversion, medical and environmental research.

While DOD procured 20 ships, 511 aircraft, 448 tanks and 175 strategic missiles in FY 90, DOD will procure only 6 ships, 127 aircraft, 0 tanks and 18 strategic missiles in FY 95.

Mr. DORNAN. Mr. Speaker, here are further dissenting views.

It is with great regret that I offer the following views on our work in conference with the Senate on the fiscal year 1995 Defense authorization bill. While there were some very positive steps taken by both the House and Senate Armed Services Committees toward maintaining and even improving U.S. military combat readiness, I fear we in Congress have again lost a golden opportunity to influence the short-sighted policies of this present administration with regards to the U.S. Armed Forces.

The military policies and budget set forth by this administration simply do not make sense. During a time of drastically declining defense resources, when we should be requiring the highest standards of performance and capability from those few retained on active duty, this President has decided to turn the military into a social laboratory. From lifting the ban against homosexuals to opening up combat positions to women to opposing efforts to discharge those who are AIDS/HIV positive and therefore nonworldwide assignable, the President has sought to use our Armed Forces as a domestic political tool rather than even addressing whether or not such policy decisions would improve combat readiness.

In addition to these narrow-minded political decisions, there is a dangerous hypocrisy resulting from a mismatch between the President's vague but growing foreign policy initiatives and continuing cuts to already reduced defense forces. Without clearly defining U.S. national interests or specific military objectives, the President has decided to offer U.S. military forces as the on call 911 forces of the United Nations and the rest of the world. Meanwhile, as the tempo for operations for our military continues to increase, including time away from home and family, the resources devoted to rewarding, training, and equipping these personnel continue to diminish at alarming rates.

This administration supposedly cannot find enough funding within the Federal budget to provide our military with a modest 2.6-percent pay raise; it cannot provide enough dollars for Army tank battalion commanders to exercise units above the platoon level; it cannot buy additional B–2 bombers to replace aging B–52 aircraft. However, in spite of these defense budgetary constraints, the President can find more than enough funding from the Department of Defense for humanitarian assistance, foreign aid, and defense conversion projects. How do these programs directly improve U.S. combat readiness? How do these programs help our forces cope with the ever increasing tempo of operations as a result of increased foreign commitments? If the President wants to use our military forces as instruments of his foreign policy, then he must give them the funding necessary to perform their mission including adequate pay, adequate training, and new and improved weapons systems. If the administration continues to gut the defense budget, then it must not continue to offer the U.S. military as the 911 force of the United Nations and the world.

What then, should our role be here in Congress to correct such shortcomings on the part of the executive branch?

First, we as members of the armed services committees should demand that the administration utilize some type of solid criteria before using military force and endangering lives. Any time we send troops abroad, whether it be for peacekeeping, humanitarian assistance, or direct combat, we must anticipate that the result could eventually be armed conflict. While we do not want to prohibit the President from acting as Commander in Chief, we do want to ensure that U.S. troops are not sent into areas where there are no vital interests or specific military objectives, that is Somalia and Haiti. I suggest the following 10 criteria, which I expanded on from a November 28, 1994, speech by then-Secretary of Defense Casper Weinberger, be used as the criteria for use of military force:

CAP WEINBERGER'S/BOB DORNAN'S 10 COMMANDANTS ON COMMITTING U.S. COMBAT FORCES

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.
2. Thou shall not commit U.S. combat forces unless all other options already have been used or considered.
3. Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory.
4. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.
5. Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objective change.
6. Thou shall not commit U.S. combat forces unless the American people and Congress support the action.
7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.
8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress.
9. Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information including human intelligence.
10. Thou shall not commit U.S. combat forces unless the Commander-in-Chief and Congress can explain to the loved ones of any American soldier, sailor, Marine, pilot or aircrewman killed or wounded, why their family member or friend was sent in harm's way.

Next, we must address the growing threat of proliferation of ballistic missiles and nuclear, biological, and chemical [NBC] weapons/warheads. No other weapon can so directly threaten the United States, our allies, and forward deployed forces, as can these devastating weapons of mass destruction. Fortunately, the only direct defense against such weapons is now without our grasp, ballistic missile defense [DMD]. However, both this administration and this Congress have failed to provide funding for even near-term/low-cost BMD systems such as sea-based missile defense. We should immediately provide additional dollars for the handful of promising technologies that could deter, and if necessary defeat, the growing threat of ballistic missile attack from North Korea, Iraq, and elsewhere. Upper-tier sea-based systems on board Navy Aegis ships, Army theater high altitude area defense [THAAD], and Air Force boost phase intercept systems, are all near-team/low-cost technologies that should be developed and deployed now, not later when it may be too late.

in addition, we should immediately seek to repeal the outdated Anti-ballistic Missile [ABM] Treaty—a treaty with an evil empire that no longer exist—which threatens, as an obsolete political document, to limit the capability of even these modest BMD systems.

Finally, we as members of the Armed Services Committees must be more selective in approving which programs will receive scare defense funds. We should evaluate every defense dollar and policy decision in terms of combat readiness. If a program or proposal does nothing to enhance our military's ability to deploy, fight, win, and survive on the field of battle, we should consider opposing the program. In a tight budgetary period and a rapidly evolving world political environment, we cannot afford nondefense issues or programs to interfere with the much more pressing demands of troop morale, combat training, and weapons modernization. These should be our proper roles as members of the House and Senate Armed Services Committees.

Perhaps George Washington, our first President and first great military leader, said it best: "To be prepared for war is one of the most effectual means of preserving peace."

We in Congress should heed his advice and make sure that every precious defense dollar is used to train, equip, maintain, and prepare our brave soldiers, sailors, airmen, and marines for war.

Mr. DELLUMS. Mr. Speaker, I yield myself 1 minute for the purpose of entering into a colloquy with the distinguished gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. If the gentleman will yield. I would like to join in the praise for the distinguished gentleman from California [Mr. DELLUMS] for the work he has done as chairman of the Armed Services Committee.

Mr. Speaker, the Navy recently approved Milestone III for the submarine acoustic device countermeasure Mark IV program. The Navy originally intended to include funds for the program in their fiscal year 1995 request but because the Milestone III approval came too late the item was absent from the President's budget request. The approval was made in time, however, for the Armed Services Committee to include full funding, $12 million, in the House-passed authorization bill.

Funds were provided last year and I believe the Navy will request continuing funds next year. Fiscal year 1995 funding was problematic only because of the timing of the operational evaluation. It is my hope that the necessary funding may be provided in the fiscal year 1995 Appropriation Act and I seek clarification that, if we are successful, there will be no objection from the authorizing committee.

Mr. DELLUMS. I thank my colleague from Massachusetts and would like to reiterate the Armed Services Committee support for the ADC Mark IV program. I agree with the gentleman's account of the legislative history and I would add that if the defense appropriations conference report provides funds for the ADC Mark IV program, the Armed Services Committee does not object. I will also add that if the funds are appropriated, the item should not be treated as an unauthorized appropriation.

Mr. STUMP. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WELDON], a member of the committee.

□ 1720

Mr. WELDON. Mr. Speaker, I thank my distinguished colleague, the gentleman from Arizona [Mr. STUMP], for yielding time to me and for his leadership in managing this bill for our side and, once again, to our distinguished chairman for his leadership in a very fair process that has allowed us to reach this point. I will be voting for the bill today, but with grave reservations.

I spoke earlier during the rule and talked about my concerns in terms of where we are going with our defense number. Because I feel our defense should be based on the threat that is out there, not some arbitrary number handed to us. In fact, that is what we were given. We were given an impossible task this year to try to meet the needs that we have around the world with a set number that was given to us by the administration. That, in fact, will cut $128 billion over 5 years.

Mr. Speaker, a year and half ago we heard a lot of rhetoric in this room and inside the beltway about a word that I have not heard used for the last year. Remember the words "peace dividend"? Remember how the President talked about how we were going to have such a peace dividend that could be used for so many other purposes?

That peace dividend has now come to light in terms of what it is doing to American people. I want to talk about that. Because as we cut defense spending, even though we are committing our troops to more and more places, whether it is Rwanda or Somalia or Haiti or Bosnia or wherever we are going to send them, we are committing our troops at a time when we have less and less resources and also at a time when we are spending more on environmental remediation and more on defense conversion, of much of which I support. But in the end, Mr. Speaker, we have to cut the troops. And we have to cut people. That is happening.

This defense bill on the floor today will cut on a monthly basis 15,000 men and women per month next year from our military. These are men and women who voluntarily signed up to serve our country, and we are saying, "so long, we will see you later," 15,000 a month. But, Mr. Speaker, let us look beyond that. What is the economic impact? And we projected this 1½ years ago.

The Office of Technology Assessment and the Congressional Budget Office say if we make the cuts Clinton has called for it is going to have a devastating impact on the economy. Mr. Speaker, some would call that the peace dividend.

Let us look at those Americans who can now say that they are benefiting from the peace dividend. McDonnell Douglas, 67,000 Americans out of work, laid off in the last 2 years, Financial Times, August 11, 1994. Raytheon Corp., 4,400 workers in March of this year, over the next 2 years an additional cut will be made, Wall Street Journal, March 10, 1994. Boeing Corp., 28,000 people going out the door, 17,000 additional laid of in 1993, Aerospace Daily, January 20, 1994, 2,200 more in my home State of Pennsylvania the next 2 years.

Westinghouse Electric Corp., 6,000 workers in 1994, Washington Post, January 12, 1994. Martin Marietta Corp., 11,500 workers laid off since mid-1993, Washington Post, October 1, 1993. Texas Instruments, 11,300 workers from its peak of 24,500, Aerospace Daily, August 25, 1993.

General Electric Co., 750, 3,900, and 1,600 workers respectively; another round in 1994 will eliminate 4,000 more jobs, Aerospace Daily, August 23, 1994.

Pratt & Whitney Aircraft, they plan to reduce their work force by 38,800 employees and an additional 3,000 coming up next year, Aerospace Daily, June 14, 1994.

Hughes Aircraft and General Motors Corp., a subsidiary of GM, 34,000 employees, an additional cut this year of 3,200, Wall Street Journal, June 21, 1994. In California alone, the estimate is 200,000 workers, Wall Street Journal, June 21, 1994.

Mr. Speaker, this is our peace dividend. None of us have said that we could not cut defense to some extent. We have all said that. But we cannot make these wholesale Draconian cuts that hurt real people. Where are we going to put these people? Are we going to put them in retraining programs selling fast food hamburgers? Are we going to put them into retraining programs developing some new technology we do not have?

Mr. Speaker, this President is leading us down a bad path. Mr. Speaker, my career is as a teacher. I am not a lawyer. I spent my years teaching in the public schools of Pennsylvania, running a chapter 1 program outside of Philadelphia. There is nothing I would rather do than spend all of my money on helping with our domestic problems. But, Mr. Speaker, if we look at the lessons of history, we can never eliminate the Ayatollah Khomeinis, the Mussolinis, the Hitlers the Stalins and all of those other people who have risen to power to threaten our security.

Mr. Speaker, this President does not understand that. He is giving us an internationalist foreign policy with an isolationist defense budget. Cut our budget by dramatic means, end our resources, cut our readiness, cut our operating accounts but commit our young men and women to Haiti, to Bosnia, to Somalia, to wherever they are needed for U.N. operation.

The two things just do not go hand in hand.

Mr. Speaker, this has got to be the last year of this madness. We as a body have to stand up and say no. We have to stand up and say, let us base our security needs on the threats that are there. When our intelligence resources tell us that there is 70 hot spots around the world, 30 of which could involve this country, we have to able to respond. We are not doing that at this time.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DELLUMS] in return for the fairness that he has shown us.

The SPEAKER pro tempore (Mr. HASTINGS). The gentleman from California [Mr. DELLUMS] has 4 minutes remaining.

Mr. DELLUMS. Mr. Speaker, I yield myself 1 minute.

Mr. BROWDER. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Alabama.

Mr. BROWDER. Mr. Speaker, I rise to engage the chairman in a colloquy, and I will abbreviate my remarks.

Mr. Speaker, in the conference I understand that the conferees recommended a total of $520 million for the chemical-biological defense program with specific programs to improve our chemical and biological defense.

Is that the gentleman's understanding?

Mr. DELLUMS. Mr. Speaker, yes, the gentleman is correct in his understanding.

Mr. BROWDER. Mr. Speaker, if the gentleman will continue to yield, in our conference we have a pilot program called the reutilization initiative for depot-level activities. Is it the gentleman's understanding that this program will achieve, still achieve the goals of the House language?

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for his question. I would say that the conference committee has included the gentleman's concerns. They have been met to the best of this gentleman's knowledge.

Mr. BROWDER. Mr. Speaker, I thank the gentleman for his leadership and consideration.

Mr. Speaker, in the conference on the fiscal year 1995 Defense authorization bill, I understand that the conferees recommended a total of $520 million for the chemical-biological defense program; fully funded the budget request for the joint biological defense program by providing $52.9 million for research, development, test, and evaluation and $20.4 million in procurement; and recommended an increase of $16.6 million in Army chemical-biological defense research and development. I further understand that in accordance with the priorities submitted by the Army and considered by the conferees, the increased funds would be used to complete the upgrade of the Fox NBC reconnaissance vehicle, accelerate the advanced development of chemical warfare agent standoff detection systems, and increase exploratory development in biological and chemical agent detection technology. I also want to commend the conference for its support of a robust chemical-biological warfare defense program for our Armed Forces.

Mr. Speaker, in the House passed bill, there was a provision titled "Reutilization Initiative for Depot-level Activities." This provision directed the Secretary of Defense to carry out a pilot program to encourage commercial firms to enter into partnerships with depot-level activities for the purpose of demonstrating commercial uses that are related to the principal mission of the depots. Some of the major purposes for this program are to preserve employment and many of the unique skills currently in the depots, and provide for reemployment and retraining for employees who become unemployed as the result of downsizing.

It is my understanding that the conference committee agreement on this provision will still achieve the goals that the House intended.

Mr. DELLUMS. Mr. Speaker, the gentleman from Alabama [Mr. BROWDER] is correct in his understanding of the conference action. The conferees also provided additional funds under the counterproliferation technology program for field demonstration of promising and existing technologies for biological agent detectors and alarms, improved chemical-biological decontamination equipment and improved individual chemical-biological protective equipment. The allocation of funds for this latter effort will be determined by the Department of Defense as a part of the overall counterproliferation program.

Mr. Speaker, the conference committee has included language addressing the reutilization initiative for depot-level activities. As many members of the committee know, I, too, have been greatly concerned with finding ways to maintain many of the specialized skills and capabilities of our depot work force during this time of downsizing. The agreement contained in the conference report on this provision expands the original provision to all depot-level activities. I have also been assured by the Department of Defense that they fully support this provision and will take steps quickly to put this program in place.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, I rise in strong support of S. 2182, the 1995 Defense Authorization Act. I congratulate Chairman DELLUMS on bringing a bill out of conference that takes great strides toward establishing a blueprint for defense after the cold war. His leadership helped make the negotiations a success, and I was honored to be part of the conference committee.

The collapse of the former Soviet Union and the need to reinvigorate our economy presents an opportunity to reduce defense spending without damage to our Nation's security. As we set new priorities to reflect the fact that the United States is the only remaining superpower, we must keep in mind that maintaining readiness remains crucial.

The choices will be painful, and we will have to terminate obsolete weapons programs staunchly defended by parochial interests. We have started this process by killing exotic strategic defense systems and designating the bulk of missile defense funds for theater-level programs.

This is a step in the right direction, but as the defense budget continues to shrink, we must be prepared to make more difficult decisions about allocating scarce resources in a way that protects both our economic and national security interests.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. DELLUMS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, I rise in support of the National Defense Authorization Act conference report. This report is the result of long hours of work by my colleagues and our staff. Our task in finalizing this legislation has been difficult in these times of diminishing financial resources and growing diversity in situations around the world that require the attention of our Armed Forces. We have compromised, cut, and toiled to come within the budget limits demanded by the citizens of this Nation. At the same time, we have sought to give deserved compensation to our All-Volunteer Force and provide them with the best equipment possible.

In addition, this report continues to support our work in the North Atlantic Treaty Organization, the most successful alliance in history. And that provides us with important opportunities to sustain friendships with our cold war allies and build new alliances with former Soviet bloc countries through NATO's partnership for peace.

This legislation also takes positive steps in addressing servicemembers' needs, such as the program to assist our veterans suffering Persian Gulf syndrome and a provision to protect our servicemembers who report sexual harassment and discrimination. Finally, we have shown our men and women in uniform their service is worthy of the same 2.6-percent pay raise scheduled for Federal civilian employees in January 1995.

Mr. Speaker, I am proud to have worked with the conferees of the House and the Senate to write this legislation. We have succeeded, once again, in providing the United States with the finest Armed Services in the world.

Mr. DELLUMS. Mr. Speaker, I yield 90 seconds to my distinguished colleague, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference report on the DOD authorization bill for fiscal year 1995.

This bill provides the minimum funding for our national security. However, I would prefer a higher level of funding for defense. I still believe that we have cut too much too fast when the world is still a very dangerous place. I still believe we need 12 army divisions, 22 fighter wings, and 12 operational carriers. We approved the requested end-strengths for all components except for the Naval Reserve and Coast Guard Reserve which we increased slightly. However, the end-strengths of both the active and the reserve components keep going down and any further reductions in future years will impact on our capability to meet our national security requirements. I think we have already made the necessary adjustments for the post-cold war world and a further analysis is needed for the future structure of our military.

Let me talk about some of the good things in this bill. The Reserve Officers Personnel Management Act, also known as ROPMA, is included. This is major revision of how we manage or National Guard and Reserve officers. The House has passed this act three different times and finally the senate has agreed to our bill.

Also included is a charter for the National Guard Bureau which defines the organization and responsibilities of this joint bureau for the management of the National Guard. We included language that freezes the number and the grades of the general and flag officers that manage the reserve components. We modified the mobilization authorization of the President to call up the Guard and the Reserves for a period of up to 270 days.

This should be ample time for National Guard brigades to be mobilized and deployed and not have a repeat of the situation in Desert Storm where these brigades were never used.

In the personnel area we approved a 2.6-percent pay raise, a Conus COLA, a 50 percent increase in the ROTC stipend, and we adjusted the military retiree COLA to take affect at the same time as Federal civilian retirees. We corrected a provision that recouped transition benefits from some of the Guard and Reserve members. We also corrected the law so that enlisted Reserve component members would compute their retired pay the same way as the officers.

Included in this bill is $510 million in direct procurement of equipment for the National Guard and Reserves. We also included in other accounts an additional $200 million in equipment.

We included extensive legislation to identify and treat veterans of Desert Storm who have been afflicted with Desert Storm illnesses. I totally support this effort. However, I do have a concern that some of the funding of this effort is wrapped up with the DOD-VA cooperative research funding. I don't want the ongoing program of joint medical research to be adversely affected by combining the programs.

I am also concerned about the provisions that transfer M-1 tanks to the Marines. This was done without the analysis and advise of the Joint Chiefs of Staff. It impacts on the Roles and Missions Commission which will be reporting back to the Congress in December. It prematurely decides that there are excess tanks in the Army and that all the National Guard requirements are a lower priority than both components of the Marine Corps. All of this was done without the JCS validating the Marine requirements. I am concerned that the Marines will now want Bradley vehicles, the refueling trucks, the ammo carriers, and the multiple launch rocket systems that normally go along with the Army M-1 tanks in combat. This tank transfer should be the end of this issue. I will oppose any further transfers of combat equipment.

All in all, this is a good compromise bill and I urge my colleagues to support it and vote for final passage.

□ 1730

Mr. Speaker, I want to thank the gentlewoman from Tennessee [Mrs. LLOYD], who is the chairman of the subcommittee. This is the last time she will be handling a conference of that subcommittee, and we commend her for the wonderful job she has done.

Mr. STUMP. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me once again express my appreciation to the chairman of the committee, the gentleman from California [Mr. DELLUMS], and also the gentlewoman from Colorado [Mrs. SCHROEDER], the chairman of the Subcommittee on Research and Technology of the Committee on Armed Services. I appreciate all the fairness they have shown me.

Mr. Speaker, a lot has been said about the inadequate funding in this bill today. I have to concur in that. I think one of the trends that disturbs me most was mentioned by the gentleman from California [Mr. DORNAN], and that is spending by the Department of Defense for nondefense purposes, which has grown to an astronomical $13 billion in 1994. I simply think we should not do this.

This defense budget is not real, the Clinton strategy is not real, it is mostly rhetoric, and we simply cannot provide sufficient resources and people to meet the deployment requirements.

Mr. DELLUMS. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, first, let me, at the conclusion of this debate on the conference report, thank all my colleagues and the staff on both sides of the aisle.

Mr. Speaker, let me finally, on behalf of myself and members of the committee, thank several of my colleagues who will not be returning to this place. This is a point of departure for a number of my colleagues: the gentlewoman from Tennessee [Mrs. LLOYD], the gentleman from Florida [Mr. HUTTO], the gentleman from Oklahoma [Mr. MCCURDY], the gentleman from Maine [Mr. ANDREWS], the gentleman from Rhode Island [Mr. MACHTLEY], the gentleman from Oklahoma [Mr. INHOFE], the gentleman from South Carolina [Mr. RAVENEL], and the gentleman from Arizona [Mr. KYL].

Some of them may be in the other body, Mr. Speaker; some of them may become Governors. Others will seek other vistas and other lives, and move in very different directions.

On behalf of myself and members of the committee, I would like to thank all those colleagues who came this way, who assumed the awesome responsibility and the extraordinary honor of serving their fellow human beings in the life and death issues that we grapple with here on a daily basis. I would say goodby to them and thank them very much for their services.

Mr. ABERCROMBIE. Mr. Speaker, I am pleased to support the final passage of the National Defense Authorization Act for fiscal year 1995. I believe that this measure moves toward a sensible and flexible defense structure which is necessary as we continue to battle the budget deficit and address a changing world order.

I commend the House Armed Services Committee under assiduous and adept leadership of Chairman DELLUMS for taking the bold step toward ushering in a new era with the end of the cold war. Indeed there are no experts in post-cold-war theory. We must continue to evolve with the changing world situations. Our opportunity to transition toward a defense structure which will provide for the changing roles and missions of the armed services is here and to ignore it would be to live in the past. I also laud the chairman for being a fair leader in hearing the concerns of all members of the committee and for working toward bipartisan cooperation in drafting this measure.

While I feel that we have produced a suitable bill for that we were provided, I do have some concerns. I am delighted to see that this measure provides for a 2.6-percent pay increase for military personnel; however, I am still troubled by the fact that there are many service members living in substandard quarters and subsisting on welfare and food stamps, especially at the junior enlisted level. The men and women of the our Nation's armed services deserve to have, at the very least, a decent home and enough money to feed their families. Our priorities need to be shifted from funding redundancy in weapon systems to taking better care of our personnel and their families.

During the past year, my staff was able to tour many of the military facilities in the State of Hawaii. They were appalled to find that the condition of many of the military housing projects would not meet code and were in violation of EPA standards. The base officials indicated that the funding for operations and maintenance did not allow them to make repairs or respond to environmental concerns as required. We have made tremendous investments in these facilities without providing the funding to maintain them. Our personnel need to become a priority. For this reason, I am very pleased to see that the committees have approved funding for military family housing in Hawaii in excess of the DOD request.

As we draw down our forces, I am also troubled by the substantial cut in the number of Reserve and Guard personnel. I believe that we may be cutting this resource too far, too fast. The Reserve and Guard forces provide us with a cost effective response to future contingencies.

Finally, from a global perspective, consolidating our military bases overseas also merits closer scrutiny. I am especially troubled by the situation in Okinawa, Japan. Okinawa, a prefecture of Japan, makes up less than 1 percent of the total land mass of Japan, but hosts more than 75 percent of all United States military bases in Japan. The people of Okinawa have spoken through my constituents in Hawaii to inform me of their predicament. Although they do not oppose U.S. forces being there, they are in dire need of land to develop their economy. For over 50 years, the people of Okinawa have been tolerant hosts.

I believe that the report requested of the Secretary of Defense in this bill will shed some light on the circumstances in Okinawa. Through this report, the DOD should see that certain key land areas remain underutilized, and that training missions such as the live-firing range which currently utilizes live ammunition to shoot over a densely populated village are hazardous to the health and well-being of the people in the neighboring community and should be relocated. If it would not be allowed in our neighborhoods, we should not be exploiting the goodwill of other countries. While I understand that action of this type requires negotiation with the Government of Japan, I do not see that as a obstruction. Military leaders in the area have assured me that some of the concerns of the Okinawan community can be alleviated without jeopardizing troop readiness or strategic objectives.

I also extend my gratitude to the staff of the House Armed Services Committee for their professionalism in assisting Members with the sundry provisions and initiatives that have come before them in the process of drafting this measure. I look forward to working with my colleagues as we continue down the road of redefining our military force structure and its changing role in the post-cold-war era.

Mr. PORTER. Mr. Speaker, I rise today in support of the conference report on S. 2182, the fiscal year 1995 Defense authorization bill. This legislation contains an important provision to limit spending on the Nation's two existing *Seawolf* submarines. Representative TIM PENNY of Minnesota and I authored similar legislation which passed the House as part of the first en bloc amendment offered to the House version of the legislation before us.

This legislation is vitally important given the recent developments in the *Seawolf* program. When TIM PENNY and I drafted and passed our cost cap, the estimated cost of these vessels was $4.673 billion, an amount over $330 million above what these vessels were originally expected to cost. Shortly after passage of our legislation, however, Navy Secretary Dalton revealed in a letter to Senator JOHN MCCAIN that the cost had gone up an additional $120 million, to $4.799 billion. This latest cost overrun—just one of the many problems which have practically defined the *Seawolf* program—will result in further gouging cuts in the budgets of important defense programs both inside and outside the Navy which find themselves today in tight budget straits. In an era of deep and increasing defense cuts, we cannot afford runaway programs like the *Seawolf.*

Mr. Speaker, it is my sincere hope that the legislation contained in the conference report will send a clear message to the Navy and the contractors involved in the *Seawolf* program that they need to improve their performance. If not, they will most certainly face additional interventions from Congress in the future.

I thank Chairman DELLUMS and Ranking Member SPENCE for their support of the Porter-Penny legislation and thank Representative PENNY for his leadership as well.

Mr. LAZIO. Mr. Speaker, I rise today to support the conference report on S. 2182, the fiscal year 1995 Defense authorization bill.

This conference agreement authorizes $264 billion for programs and weapons systems essential to our Nation's defense. In addition, it authorizes 2.6-percent military personnel pay increase, and directs the Department of Defense to establish programs for veterans suffering from the Persian Gulf syndrome.

However, it is disappointing that the conferees did not include a Senate-passed provision authorizing an additional $150 million to maintain the B–2 production line through fiscal year 1995.

The dismantling of the B–2 industrial base would leave the United States without strategic bomber production capability for the first time in 70 years. If for some unforeseen reason the United States would need to restart its bomber production, it would require billions of dollars to rebuild.

An ongoing study, requested by Congress, to determine the future role of land-based bombers should be completed early next year by the Commission on Roles and Missions. By preserving the production line for 1 additional year, Congress would be able to make a better informed decision regarding the B–2 industrial base.

Should the study find that it is in our Nation's interests to maintain the B–2 production, it is my hope that Congress will revisit this issue next year.

While I support passage of the fiscal year 1995 Defense authorization conference report, I do not support the exclusion of the $150 million proposed by the Senate Armed Services Committee.

Mr. GLICKMAN. Mr. Speaker, one of the provisions of the conference agreement authorizes $100 million for the reactivation of the Air Force's SR–71 surveillance aircraft. The conferees from the Intelligence Committee opposed this provision which represents, in my judgment, an unwise use of resources which will not address reconnaissance deficiencies, but may lengthen the time needed to develop the systems which can.

Nearly 5 years ago, a decision was made by the Congress and the Department of Defense to terminate the SR–71 program. This decision was based on the realization that, while the aircraft was capable of providing coverage of a wide geographical area in good weather, the information collected could not be transmitted quickly to those who needed it. Commitments were made to develop successor systems which are to combine all-weather broad area coverage with the ability to both stay over a target for an extended period of time and relay images to the ground immediately. Regrettably, an adequate level of support for the successor systems was not provided when needed, ironically as a result of actions taken by some who now argue strongly that the SR–71 needs to be brought back to bridge the gap those actions created. Delays in fielding those systems have resulted but are now being addressed. The fact remains, however, that the limitations which led to the retirement of the SR–71 remain, which perhaps explains why the aircraft was not reactivated for the gulf war, and why officials at the Department of Defense do not support its reactivation now.

The $100 million authorized by the conference report is a victory for nostalgia but will not provide a reconnaissance platform capable of responding to either current or anticipated intelligence needs. As pressure is applied to meet the high maintenance costs associated with the SR–71 and upgrade its sensors, more and more funds will be diverted from the development and procurement of the satellites and unmanned aerial vehicles which represent the future of airborne reconnaissance. In a time of severe budgetary constraints, it does not make sense to spend money on programs which have so clearly outlived their usefulness.

Ms. SNOWE. Mr. Speaker, while I remain concerned about the future of our Armed Forces, I rise in support of the fiscal year 1995 defense authorization conference report.

The strategy drawn from the Pentagon's 1993 Bottom-Up Review envisioned a much smaller military than the one that existed at the end of the cold war. However, many of us in this body, on both sides of the aisle, have serious concerns that the force structure outlined in the Bottom-Up Review is not sufficient to deal with two simultaneous major regional conflicts. Moreover, there is increasing evidence that the Bottom-Up Review force structure is underfunded. If so, then this seriously threatens the readiness and capability of our Armed Forces.

Yet, there is one thing that we can all agree on—that our military, regardless of its size, should be the best trained and equipped one that this country can field. The finest fighting force in the world requires nothing less, and the security of our Nation depends on it.

I support this conference report because it includes two key programs that are essential not just to national security but to the State of Maine as well.

Two of our military's premier weapons systems are made in Maine—the Aegis destroyer by Bath Iron Works in Bath, and the Mk–19 grenade machine gun by Saco Defense in Saco, ME. These two systems represent the best in Maine quality and craftsmanship, and they are vital to ensuring that our forces retain their technological superiority.

This conference report authorizes the procurement and construction of three new Arleigh Burke-class Aegis destroyers. The

Navy plans to build more than 50 of these versatile warships which will be the backbone of our Navy's surface combatant fleet well into the next century.

The decline of the Soviet threat has created a dangerous and widespread misperception of an equally declining global threat. But the post-cold-war world is turning out to be one of great instability with numerous potential threats to our national interests. The men and women of our Navy will be asked to go in harms way to face those threats, and they deserve to be on the most modern and capable ship that we can build.

Bath Iron Works [BIW], with approximately 8,700 workers, is the largest private employer in the State of Maine and it is only one of two shipyards in the country capable of building these extremely sophisticated warships. These Aegis destroyers are not only important to our national security, they are crucial to BIW's economic security.

The construction of these destroyers is also vital to the health of our Nation's surface shipbuilding industrial base. As we struggle to help our private shipyards become competitive again in the world commercial shipbuilding market, the continued production of these Aegis destroyers ensures that we will preserve our critical shipbuilding skills.

In short, there is not only a national security need for these Aegis destroyers, there is a long-term economic need as well.

The same can be said for the Mk–19 grenade machine gun. The Mk–19 machine gun system has demonstrated its unsurpassed capability in Operation Desert Storm and during the U.S. deployment to Somalia. There is no other weapons system like it in the world. The Mk–19's unmatched versatility permits it to be mounted on a wide variety of Army vehicles, thus significantly enhancing a unit's combat capability.

Saco Defense makes the Mk–19, and it has about 400 employees. Saco Defense is also a world leader in its field.

This conference report recognizes the contribution the Mk–19 makes to modernization and readiness of our ground forces and it acknowledges the importance of preserving our small arms industrial base.

Earlier this year, an independent assessment panel of the Army Science Board completed a report entitled "Preservation of Critical Elements of the Small Arms Industrial Base." That report compared the U.S. Army's small arms inventory to the requirements expressed in the Army acquisition objectives and noted some serious shortages in four types of small arms.

One of these was the Mk–19 machine gun. The Army Science Board's report noted that the end State shortage of Mk–19's will be approximately 13,000 after completion of the planned procurements. This serious shortfall strongly suggested that the administration's fiscal year 1995 request for Mk–19's be reevaluated and revised. I am pleased that Congress has validated the importance of the Mk–19, and has revised the administration's request accordingly. our soldiers want and need the Mk–19, because they know that it could mean the difference between defeat and victory on some future battlefield. And Maine's workers need the jobs that these Mk–19's represent.

It is our responsibility as Members of Congress to ensure that when our military forces are deployed overseas that they are adequately trained and equipped. It is imperative that we ensure that these forces are as combat-capable as possible. I urge all of my colleagues to support this conference report.

Ms. MOLINARI. Mr. Speaker, I want to express my sincere disappointment that the conferees of this legislation did not keep the McCloskey-Gilman language to unilaterally lift the arms embargo on Bosnia and Herzegovina.

My colleagues, when this bill was sent to conference last June, the House had overwhelmingly supported requiring the President to end this embargo unilaterally by a vote of 244–178. Since that time, it has become evident that the Bosnian-Serbs are far from stopping their campaign of ethnic cleansing and human rights abuses. Need I remind my colleagues that these same Bosnian-Serb militants continue to kill and terrorize innocent citizens in Sarajevo on a daily basis. Meanwhile, any hopes for a peaceful settlement by the contact group have also been summarily rejected by these militant thugs.

Mr. Speaker, I sincerely hope that the conferees of the Defense appropriations bill—which contains a provision to unilaterally terminate the embargo by November 15 regardless of any action taken by the U.N. Security Council, the Clinton administration, or the Serbs—will follow the clear will of Congress on this issue.

Mr. MINETA. Mr. Speaker, I want to call attention to title XXXIV of the conference agreement on the National Defense Authorization Act for 1995. That title, by repealing the Civil Defense Act of 1950 and placing its authorities in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, transfers jurisdiction over the Federal Emergency Management Agency civil defense program from the House Committee on Armed Services to the House Committee on Public Works and Transportation.

That transfer, initiated by the House Armed Services Committee, means that effective for fiscal year 1995 the Public Works and Transportation Committee will have both legislative jurisdiction and oversight authority over the civil defense program for purposes of rule X, clause 1 of the Standing Rules of the House of Representatives. Thus, all bills dealing with this issue will be referred to our committee exclusively.

Mr. Speaker, I want to commend Chairman DELLUMS for taking the initiative on this matter and for acknowledging our Committee's new role in the future (see Committee Rept. 103–499, pp. 382–383). The conference agreement confirms this and programmatically, given our Committee's current jurisdiction over FEMA's activities, such a transfer makes sense.

Lastly, we will be working with the Armed Services Committee, the Office of Management and Budget, the National Security Council, and the Committee on the Budget to ensure that OMB transfers the non-defense—i.e., civil defense—portions of the FEMA budget out of the 050 budget function and into the appropriate budget account. Again, I thank the distinguished Chair of the Armed Services Committee, Congressman DELLUMS, and the conferees for their favorable resolution of this issue.

Mr. MCCURDY. Mr. Speaker, I have decided, with some reservations, to vote for this defense bill. It contains much that is important to the readiness and fighting ability of our Armed Forces. Our troops need these funds, and it is crucial that we move forward with this legislation.

But I am also here to issue a warning. We must take the actions necessary to preserve a strong defense. We must not cut too far, too fast.

As we all know, the Bottom Up Review simply does not have enough money to support its forces. Estimates place this shortfall at a minimum of $20 billion over 4 years.

Meanwhile, we continue the practice of front-loading, filling our defense plans with weapons systems without providing sufficient money to procure them when they mature.

And we continue to use the operations and maintenance budget as a cash-cow for everything from budget shortfalls to disaster relief. These extraneous activities are already undermining the readiness and combat ability of our forces.

We cannot cut more from our defense budget if we want to preserve a high-quality military. In fact, I predict that we will soon begin expanding the administration's defense budget requests in Congress rather than reducing them.

Make no mistake: we are reaching the end of the rope on military readiness, quality, and modernization. As a moderate Democrat committed to a strong defense, I have to be clear in my commitment that I will not support future defense bills that continue the present trend of defense cuts.

Ms. FURSE. Mr. Speaker, it is a great privilege to serve with Chairman DELLUMS on the House Armed Services Committee and I commend his visionary leadership as we move into the next century.

This conference report continues the reconfiguration of national security spending priorities called for in the post-cold-war era. There is, however, much more we can do to orient ourselves toward this changed reality. I remain concerned that we have not made the necessary adjustments in force structure and acquisition programs to enable us to respond to today's priorities. I look forward to addressing these issues in the coming years.

I was successful in my effort to require Nuclear Weapons Council approval of DOE study, development, production, and retirement of nuclear warheads and an annual report of those activities to Congress. This will end DOE's authority to unilaterally initiate this R&D and will put more sunshine on these activities.

I am very supportive of the enhancements made to the independent Roles and Missions Commission that was established last year. In their work through the coming year, I am hopeful they will make a comprehensive new analysis that we can use in our policymaking for today's realities, rather than relying on those developed for yesteryear.

One of my priorities this year has been to make sure we get the airlift we need at a price we can afford. The sense of Congress language in this bill regarding the importance of maintaining our aggregate airlift capacity should be made mandatory next year since our current plan to rely on a C–17-only procurement strategy will cause an airlift deficit for several years as we retire our core airlifter, the C–141.

I have been a strong supporter of efforts toward a comprehensive test ban and was pleased to see the House's language included in this bill urging the Conference on Disarmament to make all possible progress toward a CTB.

International peacekeeping is one key way to share the costs of defense and makes a great deal of sense if the United States does not want to play the role of top cop. If we engage in more international cooperation, we should be able to lower our defense costs. I am disappointed that House conferees refused to include any of the Senate's $300 million funding for peacekeeping.

Representatives FRANK, SHAYS, and UPTON and I sponsored an amendment in the House requiring increased burdensharing by our European allies that would have saved $5 to $10 billion over 5 years. The vote in the House was 268–144, yet this bill only states the goal that NATO allies pay 37.5 percent of nonpersonnel costs of U.S. presence there by the end of fiscal year 1996. According to DOD's calculations, they pay 36 percent now although their actual cash contributions are only 4 to 6 percent. The U.S. taxpayers are not being well-served by this massive subsidy to nations whose economies are, in many cases, healthier than our own.

The commercial derivative aircraft pilot program included in the bill is important in order to pursue the policy of acquiring nondevelopmental airlift aircraft that is so vital to maintaining adequate airlift. Keeping the cap on the B–2 program at 20 planes as this bill does makes sense, as does putting aside money to study future bomber needs.

Two other prudent steps taken include prohibiting the backfit of Trident II missiles into submarines currently carrying Trident I missiles and a reduction in funding from the administration request for ballistic missile defense.

The language I offered authorizing funding for a battlefield surgical tissue replacement technology was included; this holds tremendous promise for civilian medical applications as well, in cases of trauma wounds.

I am very excited about the potential for sharing with the Department of Justice the nonlethal technologies that have been developed by the Department of Defense. Support for that cooperation is contained in this bill. Law enforcement officials in my district found it very helpful to learn about those technologies at an event I sponsored there earlier this year where representatives of the Departments of Defense and Justice demonstrated some of these items.

There is substantial funding for advanced lithography in the bill even though it was reduced from the House-passed level. This successful cooperation with our private semiconductor industry has helped us regain our competitiveness in the world marketplace.

Our highly capable National Guard was given authority to serve medically underserved areas and a communication and electronics training facility at Camp Rilea in my district was funded.

I was pleased to see my request included for the Marine Environmental Research and Training Station. It will provide educational and training opportunities in environmental, marine industrial, and maritime studies to help foster regional economic prosperity and environmental integrity.

Funding at near the request level was included for environmental restoration and waste management activities at DOE defense sites. We have a responsibility to clear up after the excesses of the nuclear age.

I was particularly pleased that my amendments were included reauthorizing the Hanford Health Information Network and prohibiting disclosure of information gathered by the network.

I requested language that is in this bill funding market diversification feasibility studies, requiring notice for employees related to adverse budget actions, directing the Secretary to encourage greater participation in the technology reinvestment project by labor organizations, and requiring the Secretary to ensure that job creation resulting from TRP awards accrue to the U.S. economy. I also assisted in gaining loan guarantee assistance for small- and medium-sized defense firms to engage in dual use technologies.

I cosponsored legislation that was included in the bill assuring equity between military and civilian retirees as to when they receive their cost-of-living-adjustments. This restores deserved fairness.

The deadline was extended for a health maintenance organization-type program to be considered under the CHAMPUS reform initiative and several actions were taken to improve DOD's medical treatment of Persian Gulf war veterans.

Funding was added for the Defense Women's Health Program that we established last year. I cosponsored legislation that supports this bill's authorization on a reimbursable basis construction of the Women in Military Service for America Memorial. Programs on discrimination and sexual harassment are enhanced by this bill. As was demonstrated in this year's hearing with victims of sexual harassment, it is imperative that we strengthen those programs; we are losing too many outstanding members of our military forces.

Finally, we did two helpful things for families of Korea/cold war missing. A single point of contact within the Defense POW/MIA Office was established and policies for Vietnam era POW/MIA's regarding information disclosure were extended to Korea/cold war missing.

Mr. DELLUMS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. HASTINGS). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HANSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 137, not voting 17, as follows:

[Roll No. 404]

YEAS—280

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (NE)
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (GA)
Collins (MI)
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hutto
Hyde
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Mfume
Mica
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moorhead
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Snowe
Spratt
Stenholm
Stokes
Strickland
Studds
Stupak

Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Visclosky
Volkmer
Waters
Watt
Weldon
Wheat
Williams
Wilson
Wise
Wynn
Yates

NAYS—137

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (WI)
Bartlett
Barton
Bentley
Bilirakis
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Camp
Clinger
Coble
Collins (IL)
Combest
Condit
Conyers
Crane
Crapo
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Frank (MA)
Franks (CT)
Franks (NJ)
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Huffington
Hunter
Hutchinson
Inglis
Johnson, Sam
Johnston
Kasich
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Leach
Levy
Lewis (FL)
Lightfoot
Linder
Maloney
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McHugh
McInnis
McNulty
Meyers
Miller (FL)
Minge
Molinari
Nadler
Nussle
Packard
Paxon
Penny
Petri
Pickett
Pombo
Portman
Pryce (OH)
Ramstad
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Smith (TX)
Solomon
Stark
Stearns
Stump
Talent
Taylor (NC)
Thomas (WY)
Torkildsen
Vento
Vucanovich
Walker
Walsh
Waxman
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Becerra
Cox
Derrick
Flake
Gallo
Grams
Lantos
McDade
Michel
Moran
Quinn
Reynolds
Slattery
Spence
Sundquist
Washington
Whitten

□ 1754

The Clerk announced the following pair:

On this vote:

Mr. Quinn for, with Mr. Grams against.

Mrs. ROUKEMA and Mr. GUNDERSON changed their vote from "yea" to "nay."

Mr. BARCIA of Michigan changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 2182, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. DELLUMS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 285) directing the Secretary of the Senate to make technical corrections in the enrollment of S. 2182, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. HASTINGS). Is there objection to the request of the gentleman from California?

Mr. STUMP. Mr. Speaker, reserving the right to object, I shall not object and I yield to the gentleman from California [Mr. DELLUMS], chairman of the committee, for an explanation of the concurrent resolution.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding.

By way of explanation, section 3136, as passed by the House would have prevented the Department of Energy from spending more than 50 percent of its program direction funds for Environmental Restoration and Waste Management until DOE had submitted to Congress the three reports comprising DOE's environmental baseline. Since these reports are due to Congress by March 31, 1995, if DOE delivered the reports on time, this fence on DOE's program direction funds would have had no actual effect.

The Senate bill contained no similar provision, Mr. Speaker.

In conference, the Senate and House agreed to reduce the fence on DOE's program funds from 50 to 20 percent. However, while the Statement of Managers, language reflects this intent, the language of section 3136 itself prohibits DOE from spending more than 20 percent of its program direction funds until it has submitted the reports. What it should say, and what the correcting enrollment does say, is that DOE shall not expend more than 80 percent of its program direction funds until submitting the reports.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 285

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 3136, strike out "20 percent" and insert in lieu thereof "80 percent".

(2) Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.".

The concurrent resolution was agreed to. A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill. S. 2182, and the conference report thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–709) on the resolution (H. Res. 523) waiving points of order against the conference report to accompany the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. BENTLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 154, not voting 52, as follows:

[Roll No. 405]

AYES—228

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Beilenson
Berman
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clyburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Greenwood
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Klein
Klink
Kopetski
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Velazquez
Vento
Volkmer
Waters
Watt
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—154

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Clay
Clayton
Clinger
Coble
Cox
Crane
Crapo
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Hunter
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McKeon
McMillan
Meyers
Mfume
Mica
Miller (FL)
Molinari
Morella
Nussle
Oxley
Packard
Paxon
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Towns
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—52

Andrews (NJ)
Andrews (TX)
Applegate
Becerra
Blackwell
Brown (CA)
Canady
Coleman
Coyne
Derrick
Edwards (CA)
Fish
Flake
Ford (MI)
Gallo
Gejdenson
Grams
Green
Hall (OH)
Hayes
Hefner
Huffington
Hutchinson
Johnson (SD)
Kleczka
Lantos
Livingston
McCurdy
McDade
Michel
Moorhead
Moran
Murphy
Murtha
Petri
Quinn
Reynolds
Sangmeister
Schaefer
Sisisky
Skaggs
Slattery
Smith (OR)
Spence
Sundquist
Valentine
Visclosky
Washington
Waxman
Whitten
Williams
Yates

□ 1822

Mr. GILCHREST and Mr. KIM changed their vote from "aye" to "no."

So the Journal was approved.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 140

Mr. ZIMMER. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 140.

The SPEAKER pro tempore (Mr. FARR of California). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SENTELLE PANEL FAILED TO MEET ITS OWN STANDARD TO ACT IMPARTIALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, yesterday I sent a letter to Chief Justice Rehnquist asking that a new panel be appointed to determine whether the Sentelle panel, first, met its own "perceptions standard" by removing Special Counsel Robert B. Fiske, Jr., and appointing Kenneth W. Starr and, second, whether the judicial function of the panel has been tainted by political influence.

Mr. Speaker, when the three judge panel of the U.S. Court of Appeals replaced Fiske with Kenneth W. Starr it stated that it was not their "intent to impugn the integrity of the Attorney General's appointee, but rather to reflect the intent of the act that the actor be protected against perceptions of conflict. (T)he court therefore deems it in the best interest of the appearance of independence contemplated by the act that a person not affiliated with the incumbent administration be appointed."

Notwithstanding their own stated purpose for removing Mr. Fiske, the Sentelle panel has failed to meet its own standard and to act impartially.

In fact, they appointed an opponent of the incumbent administration.

At a minimum, the objective of instilling public confidence in the process by avoiding any appearance of partiality has not been achieved. At worst, it could be concluded that partisan politics played a significant role in the panel's decision.

Mr. Speaker, the Independent Counsel Act was enacted over 15 years ago in the wake of Watergate, following revelations of abuses and illegal activity by Nixon administration officials. The stated purpose of Congress was to establish a statutory scheme by which a special prosecutor outside the Department of Justice could be appointed to investigate and, if necessary, prosecute violations of criminal law by high-ranking executive branch officials. What was sought was a person free from divided loyalties and of actual and perceived conflicts of interest.

A second point and just as important, Mr. Speaker, is that the law established a process by which a rather unique legal entity—a three judge panel—would be set up with the sole function of selecting the independent counsel. It is arguable that the process is as important, if not more so, than the individual who is selected to serve as independent counsel.

For, it is that panel which is entrusted with, First, ensuring that public confidence is maintained; second, insulating the decision from political influence; third, making an unbiased judgment as to who can best carry out the mandate of the law fairly; and finally with fourth, acting with judiciousness.

The appointment of the three-judge panel was a further safeguard to make sure that, First, the public officials who are investigated are treated equally and fairly under the law and second, that the investigations of public officials be done by an individual whose judgment would inspire public confidence.

It almost goes without saying that even though the Sentelle panel is a rather unique creature of law, it is subject to the rules of judicial conduct governing officials of the court.

For example, statutory mandates and ethical guidelines require judges to recuse themselves from participation in cases where they may have special relationships with the parties or issues in a given case—or where there is a real or even apparent conflict of interest. It is not so much an act of questioning the integrity of the judge, as it is a matter of enhancing the public's confidence in the integrity of the decision.

Indeed, Mr. Speaker, it was for this purpose that the Sentelle panel stated that it was removing Mr. Fiske and installing Mr. Starr. Yet, we know that very serious questions have been raised about contacts that occurred between Judge Sentelle and Senator FAIRCLOTH, a leading critic of the administration and of Mr. Fiske, at a pivotal time during the panel's determination of who should serve as independent counsel.

Mr. Speaker, Bruce Fein, a conservative constitutional scholar who is no friend of President Clinton's, concluded in yesterday's Washington Times that "appearances are critical, especially in proceedings bristling with partisan ramifications. The Faircloth lunch, even if only trivialities were discussed, should have prompted Judge Sentelle's recusal." (Washington Times, August 16, 1994)

Mr. Speaker, in light of Mr. Starr's well-known political positions as well as the panel's means of selecting him, any conclusions that Mr. Starr may come up with will be questioned and the panel's stated intent to build confidence in the investigation will be undermined.

Both the process and the newly independent counsel are engulfed in a cloud of suspicion and cannot meet the level of public trust that are critical to such an important legal mandate as investigating the President of the United States.

□ 1830

HEALTH CARE REFORM: GOOD FOR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. KREIDLER] is recognized for 5 minutes.

Mr. KREIDLER. Mr. Speaker, older Americans spend more today on health care, out of their own pockets, than they did before Medicare was enacted.

That's an astonishing fact. It shows what the relentless growth in medical costs has done, over three decades, to seniors' pocketbooks.

And it shows why senior citizens are so vitally concerned with the health care debate we will have on this floor. We must slow the inflation in health care costs for all Americans. And we must make sure every American has affordable coverage, guaranteed, with choice and quality. Senior citizens, who have worked all their lives, paid their taxes, and played by the rules, deserve no less than the rest of us.

The Guaranteed Health Insurance Act, which our Democratic leader DICK GEPHARDT has proposed, helps fill some of the biggest gaps in Medicare for our senior citizens:

It adds coverage for prescription drugs. This is one of the most devastating gaps in senior citizens' coverage today. Doctors can't treat patients effectively if they can't afford the drugs the doctor prescribes. And too many seniors on fixed incomes must choose between daily medicine or daily means.

It covers annual screening mammography for women over 65, to detect breast cancer so it can be treated early. Right now, Medicare only covers this procedure every 2 years.

It covers colorectal screening to detect colon cancer.

It improves mental health coverage.

It eliminates the limit on lifetime hospitalization.

It will put a cap on how much seniors have to spend each year from their own pockets, a feature of many private insurance plans which Medicare has not had. Seniors will know what's the most they might have to pay, and they can plan accordingly.

It expands managed-care plans under Medicare, offering additional benefits to seniors with no additional cost.

Finally, the Gephardt bill addresses the biggest worry for millions of families—long-term care. The bill includes a program of grants to States for home-and community-based long-term care services. It also sets standards for private long-term care insurance, so people can invest in this coverage with confidence and security.

These are all important and long overdue improvements. They will bring Medicare up to the standard of the best private insurance plans. That's what older Americans need and deserve.

But we also have to deal with the cost of Medicare. Senior citizens know, better than anyone else, that there's no free lunch. Medicare is the fastest-growing program in the Federal budget. Health care inflation is eating up the family budget and the Federal budget. Unless we find a way to control this inflation, we will never make a dent in the Federal deficit, no matter how many programs we cut.

That's why every health care bill on the table includes provisions to hold down future Medicare spending. The Gephardt bill reduces the rate of growth from 11 to 8 percent a year.

What does that mean? Some people will tell you that it means seniors won't get the health care they need. That's baloney.

Some people will tell you it's impossible to control health care costs—they just have to keep rising out of control, year after year. That's baloney too. If we can put the defense of our Nation, and the education of our children, on a budget, then we can put the health care system on a budget too.

Finally, we hear some people talk about Government-run health care—the worst thing in the world, they tell us. Medicare is not perfect, but it provides health security for people who worked hard, raised their families, and paid their dues.

I don't know anyone who would prefer to go back to the days before Medicare, not even those who voted against it 30 years ago. But I guess all those who complain about Government-run health care are really saying they want to get rid of Medicare.

All Americans will benefit from the Gephardt bill. But seniors will be real winners. The bill adds much-needed Medicare benefits. It controls costs, so seniors don't have to keep paying more and more out of their own pockets. And it provides security and peace of mind—not only that they will have medical care, but so will their children and their children's children.

I'm proud to be on their side as this historic debate begins and I urge my colleagues to support the Gephardt bill.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, at this time I would like to yield to the distinguished gentleman from California [Mr. COX].

WHITEWATER INDEPENDENT COUNSEL

Mr. COX. Mr. Speaker, I thank the gentleman for yielding.

I rise in response to remarks made by my Democratic colleague from Maryland, who took to the floor to complain about the appointment of an independent counsel to investigate Whitewater matters. I wonder, with issues of health care and crime weighing so heavily on the Chamber at the moment, why it is that a Member would take time out to focus on Whitewater, to complain about the fact that it is being investigated by an independent counsel appointed by, not the Congress directly, but by judges, a panel of judges convened at the request of Attorney General Janet Reno under a law supported by the Clinton administration and recently passed by the Democratic Congress.

I voted against the independent counsel law. I think the independent counsel law puts Congress and judges in the position of directing prosecutions, where we should not be. That is a violation of our notion of separation of powers. But the independent counsel law was urged upon us by the Clinton administration, by Janet Reno, and by the Democrats that control the Congress.

A three-judge panel was convened at the request of Janet Reno. Instead of leaving Mr. Fiske in his position, which would have been the result if Janet Reno had not requested that a three-judge panel be convened, they chose to appoint someone who did not have Mr. Fiske's conflict of interests.

□ 1840

We know not only that Mr. Fiske was appointed by the Justice Department and that he had announced in recent weeks that his investigation was leading into the Justice Department and the Justice Department's own involvement in Whitewater, but also that Mr. Fiske contributed to Democratic candidates for Congress; that Mr. Fiske had a 20-year relationship with Bernie Nussbaum, the White House counsel who, himself, had to resign as part of the Whitewater matters; that Mr. Fiske's clients had, in fact, borrowed money from Bill Clinton's State agency in Arkansas; and they had, in fact, sold land to the Whitewater Development Corp.

Nobody seemed to complain about these rather obvious conflicts of interest at the time. But now that there is a truly independent counsel appointed by three judges, not by Janet Reno, we are told that this is a terrible thing.

Who is this man Ken Starr? He was the Solicitor General of the United States. He was a judge of the U.S. Court of Appeals, approved unanimously by the U.S. Senate. In fact, he was selected just very recently by Democrats and Republicans on the Senate Ethics Committee to handle the very politically sensitive matter of going through the Packwood diaries. He was on Janet Reno's short list to be the special counsel, the position to which she named Mr. Fiske.

Why is it that we are hearing complaints that now, he is somehow a partisan figure? Perhaps it is because there is concern that a truly independent counsel will get to the bottom of Whitewater. Perhaps there is some concern that the coverup in the House Whitewater hearings was not total and complete and that more of this might come out.

I would hope that that is not the case, but it seems to me that it makes Congress look bad—and Congress already looks bad in its handling of Whitewater—to have Members of the body take to the floor and complain about the independent counsel who is just now beginning his work when, after all, he was appointed at the behest of the Attorney General who convened this three-judge panel.

Frankly, I have no idea whether Judge Starr will be a tiger or a pussycat. I do know that there is no member of the American bar with better legal credentials, and no member of the bar with a better reputation for fairmindedness and unimpeachable integrity—so much so that the Democratic and Republican members of the Senate Ethics Committee unanimously named him to the extraordinarily sensitive task of reviewing the Packwood diaries. I could go on at length about his credentials—a clerkship for the Chief Justice, partnerships in two national law firms, the youngest judge ever appointed to the D.C. Circuit, the Nation's second highest court. And I could go on about his character—his work for his church and for charities, his devotion to his family, the fact that after 15 years in Washington, and a longer time than that at the pinnacle of his profession, he is known as a man with no enemies, and—until now—virtually no critics.

But all that changed overnight when the court appointed Judge Starr to be the Whitewater independent counsel. Now we're told that Ken Starr is too partisan to serve because he is a prominent Republican lawyer who has contributed to political campaigns. Sounds a lot like Leon Jaworski—or Bob Fiske, who is, as the Clinton administration has reminded us ad nauseam, a very prominent Republican. And Mr. Fiske has given money to several political campaigns as well—including Democratic campaigns for, among others, the Republican Senate seat in New Hampshire. And, like Judge Starr, Mr. Fiske served in a key post in the Justice Department, during the Carter administration. Bob Fiske has yet another similarity with Judge Starr: they both were on the short list for special counsel that Bill Clinton's attorney general, Janet Reno, put together in January. Judge Starr was nonpartisan enough for Janet Reno then; he is also nonpartisan enough for the Bill Clinton now. On Tuesday morning Lloyd Cutler said categorically that, and I quote, "We have no reason to doubt the fair-mindedness of Ken Starr." The administration has said, and again I'm quoting, "The President does not think that Starr should step aside." And Mr. Fiske himself has publicly stated, "I can absolutely guarantee you nothing is endangered by the switch." Let me repeat that: Bob Fiske said that he could "absolutely guarantee you nothing is endangered" by Judge Starr's appointment. What do my Democratic colleagues know that Bob Fiske, Janet Reno, Lloyd Cutler, and the Clinton White House don't know? Why are they being more royalist than the King?

Then there is the court that appointed Judge Starr. Mr. Speaker, I'm no fan of the way the Ethics in Government Act provides for appointing independent counsels, and I voted against the law in part on that basis.

I think it is anomalous and in tension with the delicate balance created by our constitutional separation of powers. But the Clinton administration and the Democrats in Congress loved that law, and there was nothing about it they loved more than the way it allowed judges to pick the prosecutor. I could quote to you for hours from Democratic floor statements and committee reports calling that provision the linchpin of the bill; it was statements like that which led the court to find that continuing the Attorney General's appointee in office as independent counsel was contrary to the fundamental purpose of the law. But as soon as they reached that decision—as soon as an independent court actually had the temerity to appoint a truly, visibly independent prosecutor, the majority changed its mind.

The cataract of vilification and uninformed abuse that has fallen on those judges, and on Judge Starr, is truly astounding. I will not try to answer every one of the laughable criticisms that have been made. I will only point out that the court that appointed Judge Starr was composed of both Democratic and Republican appointees, and that these judges unanimously agreed that Mr. Fiske needed to go, and that Judge Starr should replace him.

The panel including Judge Butzner, appointed by President Kennedy to the district court and by President Johnson to the court of appeals, who has also served with distinction on the Judicial Ethics Commission. And Judge Butzner is no potted plant: he dissented from his colleagues' ruling on the Walsh report.

The panel includes Judge Sneed, who taught at Texas, Cornell, Stanford, and Duke before being named to the Federal bench, where he has enjoyed an enviable reputation for scholarship and integrity. As for the chief judge of the panel, Judge Sentelle, who has been singled out for particularly offensive abuse, he has served as a Federal prosecutor, a State and Federal district court judge, and—like Judge Starr—a unanimously confirmed judge of the D.C. Circuit, the second highest court in the land. I have a copy of the letter that the American Bar Association sent the Senate, unanimously attesting to Judge Sentelle's outstanding credentials for the bench. It is signed by Robert Fiske, who also joined in the ABA's endorsement of Ken Starr for the D.C. Circuit Court of Appeals.

The American people know why the Democratic Party has launched an indiscriminate smear campaign against four distinguished judges of both parties. They are aware that this is nothing but well-poisoning—an effort to discredit, in advance, whatever evidence of misconduct the independent counsel may unearth. It speaks volumes about my colleagues' confidence in their President that they feel this effort is needed.

Mr. Speaker, I was asked on "Crossfire" the other night how I would feel if the shoe were on the other foot, and Jimmy Carter's Solicitor General had been appointed to serve as an independent counsel during the Reagan administration. I think it is a revealing parallel. There were Carter administration lawyers, as there are Bush administration lawyers, whose roles in Government involved an engagement in policy and politics that would make their appointment as independent counsels inappropriate. The Solicitor General is not one of them.

The post has frequently been held by judges, or by people who went on to be judges. And it is known throughout the legal profession as a position of unique responsibility, untainted by partisanship. The Solicitor General during the Carter administration, the late Judge Wade McCree, was, like Ken Starr, a widely respected Federal judge who resigned from the bench to serve in that post. Like Judge Starr, he was known for his fairmindedness. And I can attest, as one who served in the Reagan White House, that neither I nor anyone I knew in the administration would have said or believed that such an appointment was inappropriate, or anything other than a faithful execution of the mandate of independence required by the law. I certainly do not believe that we would have unleashed against him, or the judges who appointed him, the shameful campaign of ill-informed abuse and invective that has been directed at Judge Kenneth Starr.

[From the Washington Post, Aug. 10, 1994]

STARR, FISKE MEET AS DEMOCRATS CONTINUE TO PROTEST APPOINTMENT

(By Ruth Marcus)

Kenneth W. Starr, the new independent counsel investigating Whitewater, met in Little Rock, Ark., yesterday with his predecessor, Robert B. Fiske Jr., as the Democratic outcry over the appointment of a partisan Republican continued.

As evidence that Starr's partisan ties make him a bad choice to investigate Whitewater, one Democratic activist yesterday cited Starr's $1,000 contribution to a candidate for Texas lieutenant governor, Tex Lezar. Lezar has run "Whitewater update" radio spots criticizing the Clinton administration.

In one spot, Lezar says Deputy Treasury Secretary Roger C. Altman should resign, saying he "is caught in the middle of an apparent coverup by the Clinton administration." Lezar and Starr are longtime friends who worked together in the Reagan administration Justice Department before Starr was appointed to the federal appeals court here. Starr made his contribution to Lezar's campaign Feb. 14, before Lezar began the Whitewater attacks, and Lezar said yesterday he did not believe Starr was aware of the ads. James Carville, one of President Clinton's closest political advisers, yesterday called on Starr to withdraw from the investigation. "I think he should never have been appointed," Carville said.

Referring to federal appeals court Judge David B. Sentelle, who headed the panel that selected Starr, Carville said, "What is a political protégé of [Sen.] Jesse Helms [R-N.C.] doing appointing a potential senatorial candidate to a position like that? * * * Partisan politics is driving this whole thing." Starr had considered running for the Republican Senate nomination in Virginia. One of the authors of the new independent counsel law yesterday called on Starr to withdraw or make a full disclosure of his political activities to the court panel that appointed him Friday to investigate Clinton and Whitewater.

Sen. Carl M. Levin (D-Mich.) said the panel should explain "why it is that they've concluded that all of these political activities on his [Starr's] part do not create the very type of appearance problem which caused them" to decide not to reappoint Fiske.

Fiske had been named special counsel by Attorney General Janet Reno when the earlier independent counsel law expired. After the law was revived, Reno asked the court to reappoint Fiske under the law, but the court declined, citing the need for the "appearance of independence" in an independent counsel.

Another Democrat, Sen. Patrick J. Leahy (Vt.), said Starr should pledge not to enter electoral politics or to accept a political appointment after serving as independent counsel. "Here's a man who is talking about running for the U.S. Senate, who has always been named as a potential [Supreme Court] appointee if there's a Republican administration, and I think that if he's going to take this he ought to make it very clear that in doing so he's forgoing political ambitions."

Levin and the chief House sponsor of the independent counsel legislation, Rep. Barney Frank (D-Mass.), said they believed letters to the special panel that appoints independent counsels should be public record.

A group of Republican House members and a conservative group headed by one of Clinton's chief political opponents wrote the court to urge that Fiske not be reappointed. But there is no indication of the letters in the court file on the case, which contains only the four-page ruling naming Starr. Under the independent counsel law, no information about a case is released unless ordered by the special court in charge of appointing the counsels. The appeals court clerk, Ron Garvin, said Monday he was unaware of any letters. Through a spokeswoman, Sentelle declined to make public any letters sent to the court. "The general rule should be that if they're read they should be made part of the public record," Levin said of the letters.

"This is a public matter," Frank said. "This isn't some private deal between these wackos and the judges * * *. This is a pending case. I don't think you should be able to write secret letters to judges about pending matters." Frank said he did not believe Starr should step aside from the case.

I thank the gentleman for yielding to me.

Mr. GOSS. Mr. Speaker, I was going to speak about Haiti. I thought that it was very important that that timely response in response to the distinguished gentleman from Maryland be made.

The situation in Haiti is still terrible. We are now having a situation of rebellion going on in Guantanamo, disorders. We have the military police officers; 20 of them have been hurt in a melee down there. We have economic refugees asking to be taken back to Haiti. We have got asylees in Haiti trying to get out of harm's way. They cannot because of the sanctions that we have put on in that country.

We have taken a bad situation, and we have made it worse for true political asylees. We have made it worse for all Haitians, and we have certainly made it worse for the refugee problems which is now basically concentrated in a very miserable situation in Guantanamo.

I wish I could stand here and say we did not predict this, but we did predict this. This is a very bad policy. And we have got now the next potential coming up of this invasion which today's Washington Post said, "U.S. officials acknowledge that an invasion would be staged almost exclusively by U.S. troops."

That is absurd. There is no consensus for such an invasion. Even the United Nations is now trying to negotiate and sending an envoy to Haiti to negotiate a peaceful solution to the problem. This is the same United Nations that authorized anything we need to do to solve the problem in Haiti at our behest, at the United States behest so we could justify an invasion. Things are coming apart fast. We need a new policy in Haiti.

MIDDLE-INCOME AMERICA: PAYING MORE FOR LESS UNDER CLINTON-GEPHARDT HEALTH BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. EVERETT] is recognized for 5 minutes.

Mr. EVERETT. Mr. Speaker, President Clinton is now trying to dupe the American people into believing that the real group to benefit from the Clinton-Gephardt health plan are middle-income Americans. Sounds familiar—doesn't it—I believe candidate Clinton made a similar pledge about taxes.

In truth, the Clinton-Gephardt bill is a bad deal. Middle-income Americans will pay more for less. Let me repeat that; middle-income Americans would pay more money for less coverage under Clinton-Gephardt.

Mr. Speaker, if a businessowner wants to be successful and make a profit, he will offer his customer more goods or services at a lower price than his competitors.

But, unlike the real world, the President thinks he can fool the American people into paying more for less care. Apparently, Mr. Clinton missed the class on basic economics when he was at Oxford.

But, isn't this the same President who promised middle-income Americans a tax cut and then gave America the greatest tax increase in history? That's called a bait and switch. Let's take a closer look.

Under a Clinton-Gephardt system, middle-income Americans would be forced to buy a Government-sanctioned health care plan, regardless of whether they like their current policy or not.

These families would also be required to purchase benefits, many of them quite expensive such as drug and alcohol rehabilitation or abortion benefits, that they may not need or want.

Under global budgets and spending caps, there will be a tremendous amount of cost-shifting away from Medicare and Medicaid-eligible patients to those who have private insurance—hospitals and other providers will have little choice. The current Medicare reimbursement rate is on the average about 59 percent of what private insurers pay for the same procedures or treatment. In view of the funding limits and cuts in Medicare spelled out in the bill, the disparity in reimbursement rates will only widen. The bottom line is that middle-income Americans will pay the toll through higher premiums, higher taxes, and less care.

Mr. Speaker, this entire discussion could really be boiled down to one simple question, "Who pays?"

Who pays for creating Medicare part C which will expand the total number of Medicare-eligible individuals to roughly half the entire population?

Who pays for the approximately $170 billion a year in low-income subsidies provided for in this bill?

Who pays the 2 percent on health insurance premiums?

Who pays for the Clinton-Gephardt bill in lost or depressed wages, or with their jobs?

Who pays? The answer is simple—who pays now for the waste and fraud in our welfare system?

Who always pays? The middle-income American.

According to a study by the American Legislative Council, the average middle-income American worker who earns between $14,000 and $30,000, will lose anywhere from $660 to $2,300 per year in lost wages, under a Clinton-Gephardt-type employer mandate.

Why is that? Well, it's something that I don't think many policy wonks in the administration have had much experience with—it's called meeting a payroll. I have had to meet a payroll for more than 30 years now as a small business owner. Should a Clinton-Gephardt mandate be enacted, small business owners would be forced to pay 80 percent of the cost of a Fortune-500 equivalent benefits package whether they can really afford to or not. That leaves the small business owner with very few options at the end of the day. Either reduce the hours employees work, reduce their wages or eliminate their jobs altogether.

To highlight this point, an August 8th study by CONSAD Research indicates that in my State of Alabama, employer mandates in the Clinton-Gephardt plan will result in 18,824 people losing their jobs. What about the impact on the local economy? Mr. Speaker, I don't know about your State, but Alabama simply cannot absorb job losses of this magnitude.

In closing, let me say to my colleagues and to the American people watching tonight, Congress cannot seriously ask middle-income Americans to pick up the tab on more time. The alleged advantages of the Clinton-Gephardt plan for middle-income Americans ring hollow just like the ever-elusive middle-income Americans tax cut promised by the Clinton administration and the promise to "end welfare as we know it." Judging from the calls and letters I have received in my office, middle-income Americans are tired of being Washington's "fall guy."

The White House and the Democrat leadership have put on their best "trust us" faces regarding the benefits of the Clinton-Gephardt bill. This brings to mind a bit of wisdom from Abraham Lincoln about fooling all of the people all the time. But, the American people won't be fooled. The Clinton-Gephardt plan is based on paying more for less.

□ 1850

EXCHANGE OF SPECIAL ORDER TIME

Ms. McKINNEY. Mr. Speaker, I ask unanimous consent to exchange my time with that of the gentlewoman from Florida [Mrs. MEEK].

The SPEAKER pro tempore (Mr. FARR of California). Is there objection to the request of the gentlewoman from Georgia?

There was no objection.

THE TASK FORCE ON THE RADICAL RIGHT

The SPEAKER pro tempore (Mr. HASTINGS). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, there was formed by the majority party a task force called the Task Force on the Radical Right. They met for the first time last Thursday. They selected a chairwoman, the distinguished gentlewoman from New York, LOUISE SLAUGHTER, who is on the floor at this very moment. It was formed by the gentleman from California, VIC FAZIO, who has been my friend of almost 20 years, but he wears two hats.

The gentleman from California is the director or chairman of the Democratic Congressional Campaign Committee, whose principal job is to raise money to defend incumbents. He is responsible also to try and win all open seats and to try to defeat every Republican in the House. He also wears the hat of codirector, with the gentleman from Maryland, STENY HOYER, of the Democratic Caucus, which is the caucus of all the Democrats in the House. He is a very important man. So he forms this task force on the radical right immediately on the heels of a rather offensive speech given at the National Press Club in which he talked about fire-breathing Christians.

Then the gentleman from California [Mr. FAZIO], my friend, says he was not really talking about Christians, just the radical right. However, at this task force meeting on government ground, funded by taxpayers, taxpayers paying for the lighting, the air conditioning, said room, HC–7 downstairs, they had their meeting and they used up the time and taxpayers money of eight Capitol Hill police. Maybe that was to convey the impression that maybe some Operation Rescue unit was going to try and infiltrate the Capitol and make noise outside the hearing room.

Mr. Speaker, when they came out, one of the nine Members of Congress who showed up for this task force meeting said the following:

> We think that religion should not be involved in politics. We are trying to figure out how we can dissuade churches from getting involved in partisan politics. Issues that ought not to have something to do with religion are being targeted by religious coalitions for partisan purposes.

Mr. Speaker, that was said by a gentleman seeking his third term, the gentleman from Virginia, JIM MORAN, of across the river. I drive through his district every night to get to the district of the gentlewoman from Virginia, LESLIE BYRNE, where I live when the House is in session.

Mr. Speaker, there was a Mormon at that meeting, a good friend of mine. We had three fellow Catholics, albeit they are Catholics who are in disagreement with the Magisterium of the church. They must certainly be in disagreement with Mother Teresa, on pro-life issues, and with Cardinal Connor, Cardinal Law, Cardinal Hickey, and all other Cardinals in the Nation, on special rights for homosexuals. But they are nevertheless proud to put "Catholic" after their biographies in the book.

Then there was a good Baptist from North Carolina, along with three Esipcopalians representing some pretty big churches.

Just last week, it just so happens that I passed by a poster shop in Alexandria, in Old Town. I saw in the window this poster that I remember from my youth, painted by Norman Rockwell, to inspire all of his fellow Americans during the Second World War, so that we had a clear focus on what we were fighting for. We were fighting the warlords of Tojo, the fascism of Benito Mussolini, and even Nazi jackboots of Adolf Hitler. We were fighting for freedom of worship, freedom of speech, freedom from want, and freedom from fear.

Mr. Speaker, I remember collecting as a 10- or 11-year-old each one of the covers of the Saturday Evening Post as these paintings came out. Here it is, the most important one of all, freedom of worship. I am sorry it is curling, but this cost me a couple of C-notes, because it is an original, printed during the war, on canvas-type paper. Look at that beautiful picture.

Let me help my colleagues, there. I know the gentlewoman from Georgia, CYNTHIA MCKINNEY, is on the floor now. She was at that task force on the radical right. There it is, the Norman Rockwell, one of the originals: "Save freedom of worship, each according to the dictates of his own conscience." Then there is a little pitch at the bottom about buying War Bonds. I wish I had this mounted on an easel.

Mr. Speaker, when I showed it to the gentleman from California, VIC FAZIO, this afternoon, being a good-natured fellow, VIC said, "There I am in the back row." No, it does not look like VIC at all. One woman in the front has her rosary through her fingers. It reminds me a lot of the nuns and the people I have seen on the front row of some of the Operation Rescue units in front of those mass-killing abortuaries.

Mr. Speaker, here is my problem. They all had this meeting. Not 70 hours later, Bill Clinton, at taxpayer expense, in either a limousine or Marine helicopter, comes down from Camp David, deep in Maryland, where there are plenty of nice churches. He goes to one of the most beautiful churches in this town. The title is a mouthful, but it is fun to say, because it covers the Christian waterfront: The Full Gospel African Methodist Episcopalian Zionist Church. It is a big, beautiful church, and it has a choir as good as any in the entire United States, and there is Clinton in front of that choir, Mr. Speaker, saying that God wants us to vote for this soft on crime, hug-a-thug bill.

Mr. Speaker, I ask you to take a deposition down at the White House from the First Family and ask why they used that beautiful church Sunday.

Mr. Speaker pro tem, since you were at that infamous meeting, I add this article to my remarks:

[From the Washington Times, Aug. 12, 1994]

HOUSE 'RADICAL RIGHT' SUMMIT HAS CONSERVATIVES CRYING FOUL

(By Cheryl Wetzstein and Laurie Kellman)

The "Radical Right Task Force," a closed-door summit of House Democrats, yesterday evoked calls of religious bigotry and misuse of public funds from Republicans and conservative groups barred from the meeting at the Capitol.

"This is a pathetic action of the Democratic leadership of Congress to continue their assault on people of faith and people who want to change Congress," said Rep. Bill Paxon of New York, chairman of the National Republican Congressional Committee.

"Why are they meeting on the taxpayer's dime to develop strategies against people of faith being involved in the political process?" asked Marshall Wittmann, director of legislative affairs for the Christian coalition. "I'm sure there's plenty of rooms at the DNC [Democratic National Committee]."

The meeting was arranged by Rep. Vic Fazio of California, vice chairman of the House Democratic Caucus.

"Given Fazio's well-publicized anti-Christian sentiment, these meetings smack of religious bigotry," said Andrea Sheldon, director of government affairs for the Traditional Values Coalition.

But Rep. James P. Moran, Virginia Democrat, who attended the 40-minute meeting, said it was "to discuss the issues that the radical right has focused on and how it will affect the legislative agenda for the rest of the year."

"We think that religion should not be involved in politics," said Mr. Moran, who is running for a third term. "We're trying to figure out how we can dissuade other churches from getting involved in partisan politics.

"Issues that ought not have something to do with religion are being targeted by these religious coalitions for partisan purposes," he said, adding that the "radical right" is partly responsible for yesterday's scuttling of President Clinton's anti-crime bill.

"They have a responsibility to define who is the 'radical right,'" Mr. Paxon said, adding that the task force's agenda and goals should be likewise clarified.

On Tuesday, Mr. Fazio sent a memo inviting "Democratic colleagues" to the meeting, which was to include "a general update and discussion on recent Radical Right activity."

The meeting was held in a House conference room in the Capitol and was attended by Democratic Reps. Louise M. Slaughter of New York, Mike Synar of Oklahoma, Richard J. Durbin of Illinois, Dick Swett of New Hampshire, Cynthia McKinney of Georgia, David Price of North Carolina and Sam Farr of California, among others.

Democratic House staffers guarded the door to the "members only" meeting, and, by special request, Capitol Hill police patrolled the halls and checked identification badges.

Members of the Traditional Values Coalition and the Christian Coalition waited outside the meeting door.

A spokesman for Mr. Farr, who won a special election for the seat vacated by White House Chief of Staff Leon Panetta, said "the main thrust of the meeting" was "non-profit groups vs. advocacy groups" and "When do [non-profits] cross the line and become advocacy groups?"

Nonprofits receive tax exemptions under the law, whereas advocacy groups do not.

According to House ethics rules, use of "official resources" for campaign purposes is prohibited and use of meeting rooms is restricted to "congressionally related purposes."

In recent months, many Democratic leaders—including Mr. Clinton, Surgeon General Joycelyn Elders, outgoing DNC Chairman David Wilhelm and Mr. Fazio—have denounced broadcasters and groups of the "radical right."

And, Mr. Speaker, to clarify Mr. Clinton's hypocrisy, I include the Washington Times editorial:

[From the Washington Times, August 16, 1994]

GOD AND THE CRIME BILL

So God wants the crime bill passed, does He? President Clinton didn't say where he had gotten the Word, but in an appearance at the Full Gospel A.M.E. Zion Church in Temple Hills Sunday he demanded that Congress "do the will of God" and pass the crime bill. Not a version stripped of the more controversial and wasteful provisions that led to its defeat last week, mind you. No, God, like Mr. Clinton, apparently wants the whole thing.

One can just imagine the outrage that would have resulted if, say, Ralph Reed of the Christian Coalition had headed for the pulpit to announce that his legislative agenda had the Almighty's imprimatur. Obviously, there's a certain amount of hypocrisy involved here. But this holier-than-thou approach to politics, so typical of the First Family, is also another unpleasant reminder that the Clintons simply do not believe there is room for reasonable people to disagree with them. Anyone who does is profane—meaning set apart from God.

For the more secular-minded out there, Mr. Clinton claims that critics have set themselves apart from police. "Now the Republicans say, well, there's too much money for prevention in this bill," he said in his weekly radio address. "They call it pork. Well, all I know is, all the police officers in this country know we need to give kids something to say 'yes' to."

Well, what do God and the police think of the bill's $10 million handout for a new National Criminal Justice Center in the district of Democrat Jack Brooks? It's an important question because the handout won't end there. As a press release from Lamar University, recipient of the $10 million, put it, "In 1986, Brooks and then-Senator Lloyd Bentsen had written into the Superfund Bill language that authorized $5 million to create the Gulf Coast Hazardous Substance Research Center. Since that time, the research center has received more than $16 million in federal funding."

Then there is the $20 million "Hope in Youth" program mentioned in this space previously. Actually the word "youth" appears exactly twice in the entire section, including the title. "Hope in Left-wing Activists" is more accurate, since it would fund "advisory organizations" to provide, among other things, a "multi-issue forum for public policy discussion." This is walking-around money for liberal activists to lobby for still more money.

And what about the $125 million for Juvenile Drug Trafficking and Gang Prevention Grants? The grants are supposed to "reduce juvenile involvement in organized crime." But aside from a few references to sports activities and "artistic enrichment," it's not clear how the $125 million is supposed to do that.

To Washington Post reporter Kenneth Cooper, complaints about pork-barrel spending in the crime bill are just cover for the real objections of the Republicans and 58 Democrats who voted against the crime bill last week. Their real problem is the crime bill's gun-control provisions, he "reported."

No doubt it's true that many lawmakers doubt that taking guns from law-abiding citizens will do anything to reduce crime. But complaints about pork are not new. Wisconsin Republican James Sensenbrenner Jr. wrote an April 6 column in the Commentary pages of this newspaper noting that the "House crime bill has several defects, but perhaps the worst defect is the $8 billion going to social-welfare programs. . . . I say they are a waste of money." Apparently a lot of Republicans agreed because more than 100 voted against the bill that month even though it included no assault-weapons ban.

The respective Senate and House crime bills cost $22 billion and $28 billion. Conferees "compromised" and settled on a total of $33.2 billion. So if anything there was even more pork than before.

If Mr. Clinton wants to turn his moral minority into a majority, he ought to strip out the pork and the gun control measures and give lawmakers a chance to vote on a measure that could really do something about crime. Editors here can't claim a higher authority for such a bill, but one suspects voters would say, "Amen."

URGING MEMBERS' SUPPORT FOR THE OMNIBUS VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ESHOO] is recognized for 5 minutes.

Ms. ESHOO. Mr. Speaker, I rise this evening to urge my colleagues in the House of Representatives to support the Omnibus Violent Crime Control and Law Enforcement Act of 1994, Americans know today that this is called the crime bill, and insist that this bill retain the major provisions of penalties and prevention, and, Mr. Speaker, it must include a ban on assault weapons.

Mr. Speaker, as Members of this House, we know the cost of crime in our districts. We see the cost in broken homes, we see the cost in broken bodies, we see the cost of the emotional and physical trauma of the people that we are privileged to represent.

In my district, Mr. Speaker, there is a community by the name of East Palo Alto, in California. In 1992 this small community beat out the District of Columbia as being the murder capital of our Nation, per capita.

Today people are still frightened to leave their homes. There are many other parts of my district that are very well known for their wealth, but this is still part of the 14th Congressional District of California.

Mr. Speaker, just last night this small community of 24,000 people endured an armed robbery, a grocery store shooting, and a shooting in a local tenant complex. We must take every step possible to stop this random, senseless violence which plagues our neighborhoods and our communities, and we can do this by passing the crime bill, which will ban 19 specific assault weapons. These weapons, which include the Streetsweeper, which, by the way, was invented for use in South Africa for crowd control, at, thank God, another time in our history, are designed to kill people, not wildlife, not targets, but people, human beings, and now small children riding their bikes to and from school.

Mr. Speaker, what has this country come to? Does the NRA have no shame? They don't want prevention money in a bill to prevent crime, and they fight and pay for Members here to vote their way to continue to have these assault weapons on our street. I do not think they are on the side of America, and I do not think that is American. That is not something I ever want to stand next to.

Mr. Speaker, I am proud to have supported the rule last week, and I want to make sure that Members stand next to this abiding principle. If there was a time during this second year of the 103rd Congress that I believe the American people felt that their voices had been heard, that a special interest had been passed over, it was when we voted on the assault weapon ban. I think we need to climb that mountain again this week, and I think we need to stand tall and prove to the American people that our own political careers are not what we are here for, but the oath of office that we took when we stood on the floor of this House in this Chamber, that it was for them that we have come here. They deserve better.

Mr. Speaker, we had a press conference yesterday, and they were all women, women Senators and women House Members. We heard the stories of constituents who have lost their spouses as a result of these assault weapons being sold like candy on our streets, available to anyone that wants to use them for whatever insane purpose they may have in mind.

□ 1900

I wish that the NRA was there. I wish that they could have stepped up to a microphone and given an answer to these citizens as to why they would lobby the way they do.

So, America, do not be fooled. This is not about pork. It is about another kind of pork. Prevention is not pork.

If you talk about community centers and what we can do for our children of this Nation, I know what I gave to my children, and you know what? It worked. That may be pork in Beverly Hills, but it is not pork in my community of East Palo Alto. Whether they are black or brown or yellow or white, regardless of what their background is, our children deserve a vote that is going to offer them the kind of prevention that law enforcement from around the Nation have come together and have come to the Capitol this week and said, "This is what we need."

Make no mistake about it, this word pork has had some contagiousness to it. But examine it, America, and listen to really what this is all about. It is about the money that is made on assault weapons. We want to ban them. That must be part of the crime bill. I urge my colleagues to put aside partisanship and what they think is best for their political careers. Do what we were supposed to do in coming here and taking our oath of office. Stand next to every American. Do the right thing and pass a bill that is going to do well by every citizen in America.

TRIBUTE TO OFFICER DENNIS N. GLIVAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. FINGERHUT] is recognized for 5 minutes.

Mr. FINGERHUT. Mr. Speaker, I rise today and invite the Members of the House of Representatives and all people across our country to join with me and the people of the 19th District of Ohio in honoring and paying tribute to the memory of Police Sergeant Dennis N. Glivar of Garfield Heights, OH who was killed in the line of duty August 14, 1994. Mr. Speaker, I also rise today to pay tribute to a civilian who was killed in this awful incident, John Bryant.

In the House of Representatives we are in the midst of a debate about how best to stop crime. While each Member of this body may have a different solution, all of us unite behind the brave men and women who put their lives on the line every day to protect their fellow citizens. Our police forces are the first line of defense against criminals who commit heinous acts of violence.

This past Sunday, Sergeant Glivar was fatally shot during a six-hour standoff with a gunman who was holed up in his apartment after shooting and killing John Bryant. Glivar and his fellow police officer, Lt. Thomas Kaiser, approached the home of the gunman in the hopes of peacefully disarming him. They knocked and ordered the gunman to open the door. The gunman fired several shots, killing Sergeant Glivar and injuring two other officers—Sergeant Thomas Kaiser and Patrolman John Mackey.

Sergeant Glivar, who was 44, joined the Garfield Heights Police Department in September 1972. He was promoted to sergeant in 1990 and was a supervisor for basic patrol. He was a lifelong member of the community, graduating from Garfield Heights High School in 1972. He attended Cuyahoga Community College and John Carroll University. He also served in the Coast Guard and Coast Guard Reserves.

Sergeant Glivar married his wife Debbie in 1983. They had celebrated their 11th anniversary the day before Sergeant Glivar was killed. Glivar always went home for lunch; he was devoted to his wife and family. He is also survived by his mother Helen Glivar, and his sister, Cheryl Janoviak.

Sergeant Glivar loved playing the drums and once played in a band with his late father. He was an avid scuba diver, an amateur meteorologist and had earned a black belt in karate.

Mr. Speaker, this tragic incident began with the shooting of a civilian, John Bryant, who was murdered in cold blood by the same killer who murdered Sergeant Glivar. Mr. Bryant was a 28-year-old man with his life in front of him. He and his girlfriend were walking home from the supermarket when the gunman emerged from a nearby apartment building. The gunman stopped about 10 feet from the couple, uttered a racial slur, and then shot Mr. Bryant in the chest. We cannot find words to express our grief and sorrow at this senseless death.

It is particularly shocking that John Bryant was singled out by this madman because of his race. Mr. Speaker, we know we cannot banish hatred from the hearts of angry men, but surely incidents like this should cause us to redouble our efforts to fight racism of all kinds.

Mr. Speaker, the deaths of Sergeant Dennis Glivar and Mr. John Bryant remind us of our duty to both police officers and civilians in our community. Sergeant Glivar was willing to give everything, including his life, in the line of duty to protect his community. His family, all of Garfield Heights and our community have suffered an enormous loss.

Mr. Bryant's girlfriend, his family and friends, along with Garfield Heights and the entire community have likewise suffered because of Mr. Bryant's death. We mourn with both sets of families and friends.

We can only hope that these senseless acts of violence will teach us all that we must do everything in our power to prevent the killing that we have witnessed in the last few days. We pray with the families of these victims that they will find peace everlasting and that we will work for peace in our own communities on earth.

COMMON SENSE AND THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I am here again tonight to talk about the crime bill and the area of common sense.

Some months ago we did a special order on the area of deception, pointing out what many times this body passes is nowhere close to what the advertisement and the press headlines are about that particular piece of legislation. I recalled, for instance, the $8 billion that was supposed to be spent for earthquake relief for Los Angeles and all the hype that was given for the earthquake relief for Los Angeles. All of us felt a great deal of concern about the victims of the earthquake, and that $8 billion was passed. Then we found that almost $4 billion of it turned out to not even be close to Los Angeles, nor even close to a rumble of an earthquake. It went to Arkansas and West Virginia and various other places. I think one television network did, 3 weeks later, a special on that pointing out how much pork had been rushed in under the guise of being earthquake relief for Los Angeles.

We are finding it here again in the crime bill, or the so-called crime bill. Most of us in this country are seriously concerned about crime. The gentleman who just spoke before me gave evidence of a tragic situation where a police officer had been killed and a citizen before that police officer had been killed and I think all of us sympathize with the family of both of those victims, and we sympathize with victims all over the country. But we need to point toward what counts.

If you read a recent article in the National Review, they did a several-page study on the way we are releasing violent criminals. In fact, they pointed out nationally almost one-third of all violent crimes are committed by criminals on parole or pretrial release. They pointed out the shortness of time one gets for murder, the shortness they get for violent crimes such as assault or automobile theft or breaking and entering. They point out that we are 8 times more likely today to be put on parole for a violent crime than we were 30 years ago in this country for crimes committed.

So those are the areas I would like to see us focus on, rather than focus on a $33 billion bill that has such questionable crime prevention measures as a $10 million gift to the chairman of the Judicial Committee's alma mater. It is hard for me to find the crime-fighting aggression there, but it must be. But if you look at the weaknesses of the bill, and that is all I have time to point out at the moment, none of the prison funding in the bill must be spent for prison construction or operation. There is over $8 billion of prison construction money in the bill, $1.8 billion of it is money to alleviate the cost associated with incarcerating illegal aliens, so it is not directly construction for new prisons. But even if you take that remaining, a little over $6 billion, none of that has to be spent for funding prison construction or operation.

Then we look at the truth in sentencing law. The conferees' bill conditions as much as 40 percent of the so-called prison funding on States' implementation in the truth in sentencing and this is what we are talking about in trying to get sentences carried out rather than parole or pretrial release. But they merely have to make progress toward that goal of truth in sentencing, that is, completing sentences. They do not have to really serve the time that they are given.

I think most people in this country want those sentences served, or at least the great portion of them served, and this bill does not do it.

□ 1910

Then, last, we talk about the funding for the 100,000 police officers that has been touted so much. In the first place, that money has already been appropriated this year. It is coming back from conference. It appropriates $13,000 per officer, one shot, $13,000.

Most law enforcement agencies say that it will take close to $70,000 to put policemen on the street. So this $13,000 will go toward that $70,000, and from then on the local police have to pick up the cost.

The past chairman of the National Sheriffs Association, a Democrat, has said, and he is in a metropolitan county, he does not intend for his office to use that process because first of all it provides no equipment. Second, it is too bureaucratic, and third, it provides $13,000 and then leaves them in the county in a lurch for the policemen they may need, and if they had the funds they would already be putting the policemen on the streets, and $13,000 is such a small impact it will hardly pay for the bureaucratic trouble of the national grant. This is from the National Sheriffs Association, the past chairman, a Democrat.

So Members can see why many of us, Mr. Speaker, are skeptical about this so-called crime bill.

THE CRIME BILL

The SPEAKER pro tempore (Mr. FARR of California). Under a previous order of the House, the gentleman from Georgia [Mr. BISHOP] is recognized for 5 minutes.

Mr. BISHOP. Mr. Speaker, on Wednesday, August 10, more than 600 law officers from two States came to my hometown to pay their last respects to a Columbus, GA police officer who was gunned down in the line of duty.

Early that Sunday morning, officer Ed Osborne, a 31-year-old, 4-year veteran of the force, made what originally appeared to be a routine pickup of two youngsters violating the local curfew. As officer Osborne took the young men home, a gunshot shattered through the back of his head and took his life. A 15-year-old stands accused of murder and officer Osborne leaves behind a widow, two children, his parents and other family members. Officer Osborne is the 23d member of the Columbus police force to be killed in the line of duty.

In his eulogy, the Reverend Creede Hinshaw of the St. Mark United Methodist Church said:

> A hero is a person who wears a uniform and drives a patrol car through the streets * * * who after the city has gone to sleep and after the parents care no longer, is there to take two juveniles home after curfew.

I would add to that:

> A hero is a legislator who sets aside political wrangling to provide the necessary protection for police officers who risk their lives each day and night and for the people that legislator serves.

As Members of the House continue to send smoke signals with this bill, we are wasting precious time posturing and playing politics with a crime measure of life-saving importance to each and every individual and neighborhood in this Nation. This is not a measure to be used as a platform on which we should campaign or attempt to weaken the President. This is not a bill we can afford to withhold from the people for even just one more day. As we waste this precious time posturing and politicking, we risk losing more officers like officer Osborne. And we risk losing to our crime-plagued streets more 15 year olds like the one in the back of his patrol car by not banning the sale of handguns to minors who will take somebody's life and at the same time subject his own to a life of imprisonment.

Are the lives of the people we are sent here to represent not sacred enough to set aside the status quo of political posturing and politicking for this life-saving package that will also restore safety and sanity to the streets of America?

This is the first bill of its kind, Mr. Speaker, to evenly distribute funds for punishment, more police officers, and prevention programs. It is the first anticrime bill to come this close to becoming law in 6 years. A balanced approach that evenly provides protection and prevention approaches already tested on the streets will, I am confident, help us reclaim our streets and win the war on crime and is worthy of our approval.

Nevertheless, some Members, particularly from the other side of the aisle, have attacked this bill—claiming its preventive measures are nothing but pork.

For instance, the minority leader, Mr. MICHEL of Illinois, just last week called this measure, and I quote "an unholy trinity of pork, posturing, and partisanship."

During their rounds on this weekend's network talkshows, we heard Republicans blast as pork the prevention programs such as midnight basketball, and gang prevention grants, which I thought—based on what I was hearing—were nothing but partisan proposals put forth by Democrats.

But what is odd, Mr. Speaker, is that the Republicans, in their malicious attempt to divide this House and sink this proposal, favored these programs less than 1 month ago.

Let's look at the facts. Title 10, subtitle E of the Republican anticrime proposal offered just last month called for $128 million for, and I quote "sporting and recreational equipment * * * meals * * * an initial basic physical examination * * * first aid * * * and nutrition guidance." The same subtitle calls for even more money for, and I quote "supervised sports programs."

And there's more. The same section of the Republican's anticrime proposal calls for, and I quote "sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement."

First, I want to applaud my colleagues on the other side of the aisle for including these preventive programs. These initiatives show that Democrats and Republicans are in fact on a more common ground than the public seems to have been hoodwinked into believing in terms of finding solutions to the problems that confront America's youth. However, this language runs contrary to this "trilogy of pork" pontification we heard preached by Republicans throughout the past week. Sporting and recreational equipment? Supervised sports programs? Sports mentoring and coaching programs to teach that athletics provide a positive alternative to drug and gang involvement? The creation of boys and girls clubs in public housing? Sounds like midnight basketball to me! In fact, I don't know whether to be angry or elated. These are the type of programs we democrats have been defending for the last week when in fact they are bipartisan proposals.

Now is the time for Republicans to come out from under the Rocks where they have been hiding—while their leadership has allowed but a few of their leaders to speak their untruths—and accept and endorse the programs they have in fact supported and now run from.

Republicans not only will accept preventive measures like midnight basketball, Mr. Speaker, in fact they have proposed them. However, rank and file Republicans can only support them when their leaders unshackle them from silence and allow them to speak for and embrace what they know is right. To remain muzzled so as to gain political ground and attempt to cripple our President at the expense of our communities, constituents and law enforcement officers is wrong. Republicans, take off your muzzles. Come out and publicly support these preventive measures you have proposed.

Crime is not a partisan issue. Safe communities free from crime and drugs are nonpartisan, and I call on Democrats and Republicans alike to pass this crime bill and restore sanity and security to our streets in the name of Officer Osborne and even the life of the 150-year-old whose life is now lost to life imprisonment.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. BARRETT] is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I will vote in support of the crime bill because it is the right thing to do, and I urge my colleagues to respond to the pressure and support this bill.

I am not talking about the pressure exerted by the President. I am not talking about the pressure exerted by lobbyists or special interests, and I do not mean the political pressure whether passage of this bill will be good for one's reelection. Anyone who makes a decision on this bill based on those pressures does not deserve to be back here next year.

I am talking about the pressure we should all feel because there are kids dying in violent ways in the streets of my hometown in Milwaukee and on streets throughout our country. Members of Congress should feel the pressure because the people of our country sent us here because they have faith in our ability to get something done. They did not send us here to use every procedural trick in the book to stop progress on the one issue they have said is most important: to safely walk the streets at night and to feel safe in their homes.

We all know that this bill or any other bill is no panacea. Congress will never be able to fashion a bill that completely obliterates crime, but a comprehensive approach to crime fighting is our only shot at making a difference, and this bill attacks crime from many important angles.

□ 1920

First, the bill would put an additional 100,000 police officers on the streets of America. For my home State of Wisconsin, that translates into another 2,000 cops walking the streets. It is plain and simple, more police on the beats means safer neighborhoods. We all know that.

Second, the bill increases penalties for violent crimes and puts repeat violent offenders behind bars for life. The "three strikes and you are out" provision counts State crimes as the first two strikes, thereby expanding the number of criminals the law covers.

The crime bill toughens penalties for gang activities and drug crimes.

Third, the bill bans the sale and manufacture of military assault weapons. I have heard the claim that the second amendment rights are being violated, but there is no doubt in my mind that following enactment of this law all the citizens of the United States will remain free to exercise their right to bear arms. The second amendment does not give anyone the right to have a big fighter jet parked in their driveway or a nuclear sub in the backyard pool.

I come from Wisconsin where hunting is very important. In fact, it is an integral part of the history, culture, and economy of my State. I have heard claims these weapons are needed for sport. I have studied this bill carefully. I believe it will not prevent hunters and sportsmen from engaging in legitimate hunting pursuits.

With over 650 weapons specifically exempted by name in this legislation, I am confident there remains ample opportunity for hunting and sport.

I have also heard the claims this provision will do nothing to reduce crime. While these weapons make up less than one-half of 1 percent of the firearms in this country, they account for 8 percent of the firearms that can be traced to crimes. The weapons prohibited under this measure are military weapons. They are not designed as toys. They are not designed for sport. They are designed with only one purpose in mind: killing people.

I talked to a constituent in my office recently who is opposed to the ban on assault weapons. He said the number of crimes committed with assault weapons is statistically insignificant. I told him to look in the eyes of a woman whose husband had been killed by an assault weapon, a police officer near our home, and tell her that her husband was statistically insignificant. He could not do so.

Fourth and finally, this bill also funds important crime prevention programs. We have heard a lot in this Chamber about the basketball program. I will tell you that I think the basketball program is a good program. When I look at basketball and what it can do for young people or any other sport, for that matter, I think it can provide positive outlooks.

I recently held a youth summit with the youth in my district and asked them, as the experts on what we could do for them, what they recommended. What they told me is they need positive outlets for their energy. They need positive things to do where they can work with other teens, and if you look at a team sport like basketball or baseball or football or any other team sport, I look at that sport and it teaches teamwork. It teaches hustle. It teaches determination. It teaches effort. It teaches a young person the value of winning, and it teaches a young person that they can get up after losing and go on.

In my mind those are all-American values that I think we should be pushing as hard as we can so that the young people in this country learn how to work with other young people. For me that is very important.

The United States has a higher incarceration rate than any advanced nation in the world. That tells me that the answer to our crime problem goes beyond just tougher penalties. It tells me there is something fundamentally wrong with the way many of our children are growing up.

Again, we have to provide ways to prevent them from committing crimes in the first place, and by having programs like the basketball program we can do so.

Many of these prevention programs are designed to provide positive alternatives for our youth. Included in these programs are education, job training, drug treatment, mentoring, and recreation initiatives. These activities do not coddle criminals at all. Rather, they seek to prevent children from growing up and becoming criminals.

We owe it to the American people to pass a crime bill. What higher responsibility do we have here than to work together to improve the safety of American families?

I respect the right of Members of Congress to disagree with some of the provisions of this bill. I don't agree with everything in it either. But Members of Congress must not abdicate their responsibility to work together to put new Federal laws on the books that put criminals out of business.

Let's stop playing politics with the crime bill. Let's show the American people we can work together to get something done for them.

THE CRIME BILL: PREVENTION PROGRAMS ARE NECESSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, as we debate the crime bill, it is critical not to lose sight of the purpose—to act upon the causes as well as the effects of crime.

This crime bill is not a perfect bill and there are things in this bill that I do not support—such as the 50 additional death penalty offenses, the three strikes and you're out; and the omission of the Racial Justice Act. But in spite of these limitations this bill has value for the American people and their communities; it includes law enforcement, jail construction, stricter sentencing, and prevention resources.

Some of my colleagues would have you believe that the only way to fight crime is to build more jails and more jails. We do need more jails and at the rate we are preventing crime—we will need many more jails, more jails than the Federal budget can support.

It is all well and good to spend the taxpayer dollars upon construction programs for additional prison space nationwide to house those already convicted of a crime. However, some on the other side of the aisle would have you think that all prevention programs are pork, frivolous and unnecessary, but why should prisons be the only beneficiaries of the Federal funding appropriated through this legislation?

I do not believe that tack to be in the best interest of the Nation. The cost-benefit analysis reflects that the smart and prudent legislator should support prevention programs because they give the most bang for your buck. It costs the State of North Carolina over $24,000 a year to incarcerate a prisoner while it costs the Federal Government over $20,000 dollars per year to incarcerate a prisoner—that $20,000 is more effectively spent, I feel, in efforts to keep our youth from becoming criminals in the first place through educational programs, training programs, after school programs, boot camps, and recreational programs, including basketball leagues during the day as well as the evening.

Given the rate of construction jails—that seven billion dollars designed for prevention only goes so far—it will only pay to incarcerate 350,000 people—a finite number—the funds, if spent on prevention programs, have the potential to reach millions more of Americans—as well as to make them productive members of society, free, contributing to their Nation—not in jail, supported by society. Thus, I believe it is in our Nation's best interest to reach out and help as many young people as we can, and that is through prevention programs.

Ms. FURSE. Mr. Speaker, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentlewoman from Oregon.

Ms. FURSE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, yesterday I looked into the eyes of two people whose loved ones were gunned down by a madman with an assault weapon. Mr. Speaker, we need a strong crime bill.

I would like to ask people: Do not listen to the talk-show hosts. What do they know about law enforcement? What do they know about crime prevention? Do what I do, talk to the experts, the police chiefs, the sheriffs of the First District of Oregon. They support this crime bill. Listen to those who dedicate their lives to protecting our communities.

I ask my colleagues, let us not posture on this bill. Let us legislate. That is what we are paid to do.

□ 1930

HEALTH CARE REFORM: REMARKABLE EROSION OF SUPPORT AMONG MIDDLE-INCOME AMERICANS

The SPEAKER pro tempore (Mr. FARR of California). Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX. Mr. Speaker, there has been a remarkable erosion of support among middle Americans, that is to say Americans of middle-income, for the Clinton health care bill and for the Clinton health care bill in its legislative form in the other body, where it is the Clinton-Mitchell bill, and in the House, where it is the Clinton-Gephardt bill. The same phenomenon occurred last year during consideration of the Clinton tax bill. During the 1992 campaign as a candidate he talked about middle-class tax cut, but in fact we know how quickly that evaporated once we got down to brass tacks. Instead this Congress pushed through the biggest tax increase in American history, one that directly impacted the middle class, for example, seniors receiving Social Security making $14,000 got a 70-percent effective rate increase on their Social Security benefits. That is how much their income taxes went up on Social Security benefits.

That record-breaking tax increase passed by the Congress will pale in comparison to the Clinton-Gephardt bill that we are likely to take on here in the House, although it is difficult for us to talk about it as Members of Congress because while we have looked at the press releases and press statements about the bill, we are still waiting, we are still waiting for a bill even though we are just days away from adjournment. And the Congress hopes to act on health care before we adjourn. But we do not have a bill. The Congressional Budget Office has not been able to give us an estimate of how much precisely in the way of new taxes the bill contains and precisely how much in the way of new spending the bill contains. We simply have not read it. This is more than a trivial point. Health care comprises one-seventh of our Nation's economy. It is also on a more personal level a matter of life and death for every American. One would think that a new health care plan prescribed by the Federal Government for the whole country would therefore be the most carefully studied document since the Constitution. But instead when, as, and if this Congress and House get around to seeing and voting on a bill, we are going to find that Members have not had a chance to read it, that in fact when we vote Members will know more about O.J. Simpson's blood type than they will about the content of our own health care legislation. But we operate necessarily in an environment of uncertainty. We do not have a bill, but we must debate what it is we anticipate because after all the vote will be upon us and that will be it and we will have an election. We must adjourn at some point, and that point is arriving rather quickly.

Why are people skeptical of what they have been seeing? The Heritage Foundation did an analysis of the Clinton-Gephardt bill as it was released. What they found is that the new taxes, and there are many of them in the Clinton-Gephardt bill, would amount to $42.6 billion in the first full effective year of the plan in 1999, on top of the current costs on the system. People who are saying these new taxes are only going to displace existing health care costs or somehow limit the growth of health care costs must face this fact; $42.6 billion in new taxes will be imposed by the Clinton-Gephardt health care bill on top of our current estimates for how much the existing system is going to cost.

Now, the average additional tax burden per individual as a result of the Clinton-Gephardt bill, according to the Heritage Foundation is $430 per individual on average. The Clinton-Gephardt bill unquestionably is going to offer Americans less choice. It does not quite do justice to the fact to say less, almost none compared to what presently an insured American has available.

Congress and the Federal Government are going to prescribe a standard health care plan. And that is going to be the norm for the country, like it or not. If your existing plan is different than the standard plan, if you continue to get those benefits, you will pay a tax, not only will you pay a tax but your employer will pay a tax. The new taxes imposed by the Clinton-Gephardt bill are going to be split 80 percent by the employer and 20 percent by the individual. So 20 percent of these new taxes will come directly out of the paycheck of the American worker. There will be far more bureaucracy in this plan because for a substantial part it is going to rely upon something called Medicare Part C. Medicare Part C is, in effect, a Government-run insurance plan that will extend, together with the existing Medicare program to over half the entire population or to about half the entire population, according to our best estimates. Half of the American people at that point will be getting their health care from a Government plan, as compared to the current system.

The more Americans learn, it seems the more likely they are to realize that instead of providing Americans with greater health security the Clinton/Gephardt plan, Clinton/Mitchell plan over in the other body, and whatever congressional cousins are aboard or are just now being written in so many different staff offices, will create greater uncertainty, especially for middle-income Americans. Middle-income Americans will pay more in both taxes and health care premiums for less in both taxes and health care premiums for less in both quantity, availability of health care and the quality of that care. Why will they be paying more in premiums? We discussed why they pay more in taxes under the Clinton/Gephardt bill, why pay more in premiums, because of the community rating system. That is where factors like age cannot be taken into account. Senior citizens incur about 4 times on average in the way of health care costs as younger working Americans. If you are under 45 years old, you will have a steep increase in your health care premiums under a community rating system. So for all Americans under 45 years old, the Clinton/Gephardt plan, the Clinton/Gephardt health care plan, is going to represent a big increase in premiums on top of the payroll tax increase. It is not surprising then that the strategy of the Democrat leadership is to, in the words of Senator ROCKEFELLER, pass health care regardless of the views of the American people. I would hope we would not handle it that way. I do hope instead of a legislative version of blindman's bluff we will get at least 30 days to read any health care bill that will come forth for a vote.

DO NOT CHANGE THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, yesterday, I was privileged to stand side by side in New York City with the Attorney General of the United States, Janet Reno, the Governor of New York, Mario Cuomo, the police commissioner of New York City, William Bratton, the U.S. attorney for the southern district of New York, Mary Jo White and my colleague CHUCK SCHUMER, to urge the House to pass the omnibus anti-crime bill with the ban on assault weapons.

I want to congratulate President Clinton and Attorney General Reno for their strong fight to pass the crime bill.

Clearly, in New York and across the country, guns and crime are out of control.

Most New Yorkers have feared for their lives at one time or another.

A few years ago, three armed thugs broke into my home, physically attacked my daughter, my husband, and me.

We escaped that attack with our lives.

Others have not been so lucky.

Many of us remember all too well the horrible attack on religious leaders driving across the Brooklyn Bridge.

This attack was carried out by a crazed man with an assault weapon; a weapon that the crime bill would ban.

Crime is so bad that one of New York's daily newspapers publishes a daily count of how many of our citizens were shot and killed the day before; 621 have been gunned down this year; 5 people were killed on Monday. One was a 13-month-old infant shot to death while he slept in his mother's arms.

But last week, the House turned a deaf ear to those victims and their families by rejecting the Federal crime bill on a procedural vote.

The crime bill contained more than $30 billion in Federal aid to localities to fight and prevent crime.

After 12 years of declining Federal aid to the cities under previous administrations, this crime bill is undoubtedly one of the best pieces of Federal legislation for my city in more than a decade.

And I want to congratulate Mayor Giuliani, who was here in Washington today to fight for this bill, for recognizing that there is no Republican or Democratic way to fight crime.

Thanks in part to the mayor's input, the crime bill would provide millions of dollars to upgrade police equipment and computer systems and pay for overtime costs. This will allow more cops to get out from behind desks.

The crime bill will provide millions for new prison construction. This will ensure that the bill's truth-in-sentencing provisions can be enforced so prison will not be a revolving door.

The bill will root out crime with prevention programs, including keeping schools open after hours and on weekends, and providing job training and job creation in high-crime areas.

To fight domestic violence, the bill will fund the Violence Against Women Act. Right now, if you assault a stranger, you go to jail. If you assault your spouse, you get therapy. The Violence Against Women Act brings an end to this backward system. It provides new Federal penalties for interstate spousal abuse and stalking.

And it includes provisions to train the police in how to deal with domestic violence.

Out of 178,000 radio calls to the police relating to domestic violence, less than 7 percent result in arrests.

Clearly, we need to train our police better then we have been doing. This crime bill will accomplish that goal.

The bill will fund model intensive grants that enable high-crime areas to implement comprehensive and intensive anticrime efforts.

The bill requires mandatory drug treatment for prisoners; almost every expert agrees that drug rehab drastically reduces the number of repeat offenders.

The bill requires drug courts for nonviolent drug offenders, freeing up court space for trying violent crimes.

The bill creates local partnership grants that will provide Federal support for the unique, successful programs developed by each community to combat crime within its jurisdiction.

This is not pork, it is prevention. And those who refuse to distinguish between the two are engaging in the most cynical kind of politicking.

Mr. Speaker, some people say that the crime bill needs to be changed so that it will pass.

Some have suggested stripping the assault weapons ban out of it. I say no, a thousand times no. It is a travesty that a narrow special interest, far out of step with the will of most Americans, is able to block this provision. If this Congress is unable to take assault weapons off the streets, then we should fly the white flag of surrender over the Capitol dome instead of the Stars and Stripes.

I think this bill does not need to change. It is Congress that needs to change.

It would be a crime to vote against it.

□ 1940

PASS THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, the crime bill has been kidnaped. The toughest, most balanced plan this Congress can pass has been hijacked and held hostage by the special interest terrorists. I want to take this opportunity to salute the brave Republicans who stood up to an enormous amount of pressure from the NRA and from within their own ranks. They put partisanship aside and did what was right for this country.

I am sure that those who voted against the rule had their reasons. The American people should make the distinction between those who voted against the rule out of moral objection to the death penalty and those who voted against the rule out of fear or partisan politics.

The forces that have kidnaped the crime bill threatened individual Members where it hurts the most, in their bid for reelection. There were threats to cut funding and run real Republicans against any that voted for the rule. The American people need to know that the crime bill is being held hostage by the propaganda of partisan politics.

The kidnapers' ransom note says that they want to cut the prevention money that goes to programs like midnight basketball, gang prevention grants, and other programs that get at the root causes of crime in our young people. The kidnapers believe that the only way to solve crime in America is after the fact. In other words, a crime has to be committed and that person be caught before anything can be done. The ransom note should read, "We don't want children to have a book or basketball in their hands. They should have an Uzi or an AK-47 instead."

By delaying this crime bill the special interests have done more than put our children at risk. They have kidnaped the Violence Against Women Act, the child pornography provisions, rural drug enforcement grants, the death penalty provisions, 100,000 new police officers, and the prevention programs. As many as 100,000 new police officers will be the first line to prevent crime. Police Chief Dan Norris of the Monticello Police Department wrote to me about the need for additional police officers to help turn the tide of the drug war in Jasper County. What am I to say to Police Chief Norris and my constituents that live in the crossfire? Sorry, your policemen have been kidnaped?

There has been a lot of talk about this crime bill being a social spending bill. Let us look at the facts and let the American people decide: 72 percent of the money in the crime bill will go to police and prisons. Another 13 percent goes to programs like the violence against women and drug courts. The prevention programs add up to less than 15 percent of the entire bill. So, contrary to the Republican line, this bill is not laden with pork. This bill is carefully crafted with an ounce of prevention and pound of punishment.

Now I would like to thank the Members of the freshman class of the 103d Congress for joining me here tonight in support of the crime bill. I would like to thank the freshmen who participated in this series of crime bill special orders: The gentleman from Georgia [Mr. BISHOP], the gentleman from Wisconsin [Mr. BARRETT], the gentleman from Ohio [Mr. FINGERHUT], the gentlewoman from North Carolina [Mrs. CLAYTON], the gentlewoman from California [Ms. ESHOO], the gentlewoman from New York [Mrs. MALONEY], and the gentlewoman from Oregon [Ms. FURSE]. I would also like to take a moment to congratulate the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. SCHUMER], Chairman BIDEN and all of the Republicans who worked in good faith to pass this crime bill. This hour has been dedicated to the young people and their parents, to the policemen and to all Americans who live every day and night in fear and who merely want to feel safe once again.

Mr. Speaker, America deserves this crime bill. We encourage our colleagues to hear us, to hear the pleas of average, ordinary Americans and pass this crime bill.

THE HEALTH CARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, even though the official debate on health care has not begun in the House, it is extremely important to provide the American people with as much information about this legislation as possible.

American families and businesses will experience a dramatic change in the way they receive and pay for health care if the Clinton/Gephardt bill is adopted.

Despite claims by the Clintons that their proposal—reincarnated in the Clinton-Gephardt package—is designed to help middle-income people, a commonsense analysis of the plan shows that is simply not true.

In fact, instead of improving the health insurance and financial health of middle-income families, the Clinton-Gephardt bill provides expensive and inefficient coverage for a relatively small number of people, charging hardworking, middle-income Americans for the massive program.

As economist Martin Feldstein noted in a recent Wall Street Journal column:

> If President Clinton really wanted to help middle-income people, he would focus on the health insurance issue that he knows is its primary concern: the ability to maintain existing coverage after a job change or the loss of an employed spouse.

Instead, the Clintons and the Democrats in Congress have devised a system that forces the employers of middle-income Americans to provide costly insurance policies designed by Congress or Federal bureaucrats.

Imposing this implicit payroll tax on employers and employees will hit small businesses—which shouldered the bulk of the Clinton tax hike last year—especially hard.

It does not matter whether employer mandates are employed now or triggered at some point in the future—they are wrong.

Even with employers paying 80 percent of premium costs, employees will be left to pay substantial premiums out of their own pockets because the plan mandates such a benefit-rich health care policy.

For the typical married couple, the required out-of-pocket premium would be $872 a year. The administration itself has acknowledged that more than 40 percent of Americans could face higher out-of-pocket premiums under the Clinton plan than they do today.

The high-priced benefit package that the Clinton-Gephardt will would force all Americans to buy would also reduce wages as employers would be forced to find a way to cover cost of the more expensive plan.

But as study after study has shown, the impact on middle-income workers will not end with lower wages. A recent JEC compilation of studies shows that an employer mandate—like the one the Clintons are trying to sell the American people—will kill jobs outright.

While the studies vary widely in their methodologies and assumptions, they all point to massive job loss. According to the survey, those at greatest risk of losing their jobs are low- and middle-income workers.

The cost of the proposal—seen in both lower wages and higher out-of-pockets costs—will hit young Americans just entering the work force and those beginning families particularly hard.

Mr. Speaker, instead of adopting a jobs-destroying, government-controlled health care plan, we should enact meaningful reform which includes malpractice reform, a reduction in administrative costs through streamlining and eliminating unnecessary duplication, and relief from many of the burdensome State mandates.

To expand access, we need to equalize the tax advantages of buying insurance, provide tax credits for low- and middle-income taxpayers, and vouchers for the very poor to purchase insurance.

In addition, everyone should be allowed to save, tax-free, for future medical expenses. Through a medical savings account, individuals and families could save for minor medical costs such as annual checkups and minor illnesses and purchase a catastrophic insurance policy for major expenses.

Mr. Speaker, as we begin the debate on this critical subject, we must keep in mind our overriding goals.

Instead of adopting policies that rob hardworking middle-income Americans through higher taxes and premiums, we need to act responsibly to give all Americans security and work to expand coverage to those who do not have it, without jeopardizing the quality of care now available.

□ 1950

HEALTH CARE REFORM AND THE MIDDLE CLASS

The SPEAKER, pro tempore (Mr. FARR of California). Under a previous order of the House, the gentlewoman from Ohio [Ms. PRYCE] is recognized for 5 minutes.

Ms. PRYCE of Ohio. Mr. Speaker, when the American people voiced support for the President's call for health care reform, I joined then but, they didn't mean they wanted to pay more to receive less. But, that is just what will happen under the Clinton-Gephardt plan to "reform" our Nation's health care system. In fact, this attempt to expand coverage to the 15 percent of Americans who are uninsured, will leave the vast majority of Americans who already have insurance coverage far worse off. These Americans, largely referred to as the middle class, will pay more for less care, less choice, and less quality under the Clinton-Gephardt proposal.

By requiring employers to pay for up to 80 percent of their employees' health insurance premiums, the Clinton-Gephardt bill posses an enormous economic threat to the middle class. Let's be honest. Employees don't get a free ride when employers are forced to pay for benefits they can't afford. As employers struggle to pay for yet another costly government mandate, they will reduce wages for middle-class workers and raise prices for middle-income consumers.

While the middle-income Americans and hardworking employers pay more, low-wage firms and low-income employees will be subsidized under the Clinton-Gephardt plan. Low-income workers might be better off, but the middle class will pay for it in the form of lower wages and increased taxes. Is this the reward for working hard and playing by the rules? We want to restore the American dream, not tear down what's good and right and honest.

Not only will the middle class pay more for their own coverage and the coverage of others, they will get less. The Clinton-Gephardt bill will restrict choice for middle income Americans, requiring every person regardless of age, sex, and income, to purchase a one-size-fits-all, government-defined benefits package. That means the Government will force even those Americans who are happy with their insurance coverage to pay for benefits they may not want or need. Don't we have enough bureaucracy? Our Government is already to big and spends too much. Why are we even considering allowing it to expand?

Perhaps most troubling is that the middle class, and all Americans for that matter, will be forced to accept a reduced quality of care under the Clinton-Gephardt bill. You see, their bill would place a limit on the amount that Americans can spend on health care, including medical and pharmaceutical research and development. Simply stated, there will be less money available to provide more medical care to more people. In order to pay for the increased demand, the middle class will be forced to spend more and receive less.

Canada's attempt to impose spending limits has had tragic results. There are countless stories, but I have in my hand a letter from one of my constituents who recently visited Niagara Falls, Canada. Mr. Anders was unfortunate enough to have had a small stroke during his stay there. He went to the local emergency room but, he received no treatment or care in this Canadian emergency room where he was left alone in seizures totally unattended for over 4 hours. You see, the hospital had more patients than beds and was extremely understaffed. Upon finding out that he was an American, a doctor advised Mr. Anders that he could be transferred to the United States where "they have good health care." In my view, and the view of Mr. Anders, the United States doesn't have a crisis in health care, Canada does.

Mr. Anders says this in his letter:

> I think every liberal that wants a single payer system should spend a night with a stroke in a single payer system.

Mr. Speaker, clearly the President and the democratic leadership are out of touch with middle-class Americans. These folks don't want to pay more to receive less choice, less quality, and less care. They want health care security so that they can keep the care they already have.

Fortunately, there are alternatives to the Clinton/Gephardt bill. These proposals, including Republican and bipartisan bills, address the real needs of Americans, making health care and health insurance more affordable and ensuring that coverage can never be taken away due to illness or a change in jobs. Consumers will continue to have choice and quality without new taxes, without increased bureaucracy, or without rationed care.

THE BUDGET SHOULD BE BALANCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, the budget should be balanced, the treasury should be refilled, public debt should be reduced, the arrogance of officialdom should be tempered and controlled, and the assistance to foreign lands should be curtailed, lest Rome become bankrupt.

These words were written by Cicero in Rome in 63 B.C. Yet today they still are instructive to the United States Government. And I would like to tell you that I am an intellectual erudite who reads these kinds of things in his spare time, rather than Michael Crighton and Tom Clancy, but I do not want to say that.

This letter was sent to me by a man named Thomas McCaw, of Corpus Christi, TX. And why a gentleman from Texas would be writing a Representative from Georgia who he cannot vote for and really in most cases letters like this get thrown away, at first puzzled me.

Then when I think about it, I think about the public debt and the country.

You know, we are elected from one district, but we are not elected to represent that district only. We are elected, all 435 of us, to represent the United States of America. And the public debt is everyone's business. There are 435 of us who must have a plan, individually or collectively, or in a unified approach, to balance this debt and do something about it.

Now, Mr. McCaw in his letter said the Roman Empire took four centuries after Cicero's prediction to become bankrupt. With modern communications, the USA will require less than four decades. You can stop this by matching outgo with income, paying off the debt, eliminating your excess expenditures, and eliminating all foreign expenditures.

Well, of course, one of the things we debate about is how we spend money and what is excessive and what is not. I think if you go back to his first point, matching the outgo with the income, one of the things that I have learned as we debate the budget and the debt is that in 1980, the total revenues were about $500 billion. Today I believe they are about one million. During that time, unfortunately, we have outspent the revenues every year, including this one, and this one we are going into. Certainly during that period of time, there were Republicans in control of the White House, but the Democrats were in control of Congress. The Republicans and the Democrats had joint control of the Senate.

So anybody who says it is a Ronald Reagan legacy or it is a Bill Clinton phenomenon is fooling his or herself. This is an American problem. It has been going on in a bipartisan fashion now ever since I believe 1969, when we had the last balanced budget under President Richard Nixon.

We need to deal with this thing. We are dealing right now with crime, it is front and center stage, health care is center stage. But as we make these decisions, we have to say, OK, the crime bill is good or bad, but we also always need to ask who is going to pay for it and how.

Health care, a lot of proposals are on the table right now. Some of them call for massive new taxes, some of them call for cuts in Medicare. But they all call for new spending.

As we look at $4.4 trillion and realize that each year we have a deficit we are adding to that debt, we need to do the responsible thing and make sure that the centerpiece of every bill that we look at, every piece of legislation, is how is it going to affect the deficit and how is it going to affect the debt.

So as we have these important debates going right now, Mr. Speaker, I thought it was important for us to be mindful of our debt, and the people like Mr. McCaw from Corpus Christi, TX, and the fact that I have 589,000 people in the district that I represent is important, but what I guess is more important is the 260 million across America that will be paying that debt, either by being forced to or by default or voluntarily. But we as Members of Congress need to take the lead.

THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I would like to talk about the crime bill during my 5 minutes. I would like to express some real concern that in the process of debating this bill, a lot of misinformation has been discussed that has really I think distorted the issue. Candidly, I have tremendous concern that in the end what we have been doing is bashing up on the cities.

□ 2000

I believe we need a crime bill. I believe we need to have a strong law enforcement component. I believe we need more prisons. I also believe that we need a preventative part to this legislation.

I represent a district that includes some of the wealthiest in the country, and yet it has one of the poorest cities in the country, Bridgeport, CT. A few years ago it attempted to go bankrupt. It simply was running out of resources. And it is coming back from the brink, and we are real proud of what Bridgeport is doing.

But it is really a tale of two cities, a Fairfield or a Greenwich and a Bridgeport. In my suburban communities, it would be hard for many constituents to imagine what it is like to raise a kid in an urban area like Bridgeport. During the Memorial Day parade, I had the incredible pleasure of marching in the parade at Fairfield, and there were so many people on both sides of the street.

It was about 2 miles in length. It was just filled with people. And we were at the beginning of the parade. By the time the parade ended and when I had reached the destination, I got to review the rest of the parade. It went on for about 2 or 3 hours.

The parade consisted of one group of children after another: Indian guides, Boy Scouts, Girl Scouts, soccer teams, little league teams, football teams, just a plethora of organizations for young people.

That would not happen in my city of Bridgeport. There would not be this kind of community involvement. There would not be these kind of activities for my young kids.

In a town like Fairfield, the young children have to decide what not to do. Their problem is getting overloaded. In a city like Bridgeport, when a kid is out after 2:30 at school, there is simply nothing for him to do or her to do. There are no activities at all. If you go to a public housing project, you might see an improved situation because we are improving this public housing. But inside you will see a mother trying to make a home. But on the door will be padlocks and chains. The kids are arrested at night.

I just make the point to you that I believe with all my heart and soul that we need to build more prisons and we need more police. And I argue for that and I want it part of the bill. But I just do not see how we can leave out the preventative side of this legislation. We simply have got to deal with the young people in these urban areas.

So there have been tremendous complaints about what is on the preventative side. I take strong exception to those who talk about it as being pork. The general public has accepted this is more of a pork bill than a crime bill.

In judgment it is a crime bill with some strong preventative measures. I just plead for this country to have some sense that we have got to deal with our young children in our urban areas.

I weep for our kids in our urban areas. And if this debate is about pork and it forgets about the kids in these areas, one of the things that just amazes me, it is true, the bill grew by the time it went for the Senate, from the Senate to the House to the conference. I mean, it was 27.8 in the House. And by the time it came back from the conference, it was 33. But I submit that the 33 was not in the prevention side. It is not on the side that it has been accused of having all these programs that people, some people, particularly in suburban areas, do not want kids in urban areas evidently to have.

I just make the point to you, those numbers did not go up. What went up in the bill from the House to the conference was 5.5 in law enforcement to 13.9. What made the bill more expensive was more law enforcement and not preventative.

I just conclude by saying that I just hope in the next day or two we get to focus back on how we can deal with crime both from an enforcement and a preventative side and what can we do to help our cities. The mayors came down and they presented their case. They are in there. They are working day and night on these issues. Congress cannot turn a deaf ear to it.

EXTENSION OF GSP BENEFITS TO BELARUS AND UZBEKISTAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-293)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am writing to inform you of my intent to add Belarus and Uzbekistan to the list of beneficiary developing countries under the Generalized System of Preferences (GSP). The GSP program offers duty-free access to the U.S. market and is authorized by the Trade Act of 1974.

I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, and particularly the level of development and initiation of economic reforms in Belarus and Uzbekistan, I have determined that it is appropriate to extend GSP benefits to these two countries.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 17, 1994.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FARR of California). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Oregon [Mr. WYDEN] is recognized for 60 minutes as the designee of the majority leader.

HEALTH CARE

Mr. WYDEN. Mr. Speaker, I intend this evening to focus my remarks on health care. But before I go to those comments, I just would like to come back to the extraordinarily gracious and important statement that we have just heard from the gentleman from Connecticut [Mr. SHAYS].

CRIME BILL

It seems to me that in this time of really over-heated rhetoric and extreme partisanship, what the gentleman is really trying to do is heal and bring together Members of both political parties so we can get a good crime bill passed.

I think what he has done is exceptionally important, because I am of the view that you only get to write a perfect crime bill in your dreams. The fact of the matter is, we will never have a crime bill in this institution that is not opposed from one quarter or another. That is always going to be the case.

So what we are going to have to do is look to the best in the law enforcement area and put a special focus on more police. My community has one of the country's most innovative community policing programs. This legislation lets us build on that.

We ought to focus, as the gentleman has, on additional prison space, because that is an important deterrent. And we also have to focus on preventive kinds of services.

We know, for example, and the gentleman represents an urban area, as I do, that crime feeds on poverty and despair. And so when you have an opportunity for good preventive programs, for example, that train young people, for employment in the private sector, it seems to me, as the gentleman from Connecticut has just indicated, what the Congress ought to do is move and move quickly to pass that legislation and make those resources available to the American people.

We know that the Federal Government does not have all the answers to the crime problem. But what we know is that the Federal Government can be a better partner to local communities.

I yield to the gentleman from Connecticut [Mr. SHAYS] for a few additional moments of discussion on this matter, because what he has done, in my view, is especially important at this time, as Congress looks to possibly adjourning for the summer recess, but doing it in a way that ensures that before Congress goes home, a strong crime bill, built on tough deterrence, so that those who perpetrate violence on our streets are dealt with, but also a bill that focuses, as the gentleman has correctly said, on preventive programs, such as job training that can get our young people in the private sector.

I yield to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding and also to have a bit of a dialog.

I just do not think we can emphasize enough that there is almost $14 billion for what we would call straight law enforcement, cops on the beat. Policemen went up in the House bill to the conference $5.4 billion.

The overall bill went up 5.6. It is true there was a reduction of about $3.5 billion from prisons, but we still left over $10 billion for the construction of prisons.

My problem in our State is not the building of prisons right now. It is how do we pay to operate them once they are built? We have so many. But we do need to make sure that people who are sent to prison stay there, and we need to help local governments as well as State governments.

I believe strongly, as I know the gentleman does, that law enforcement is essential.

□ 2010

There are some of us who would like to see the sexual predator bill put back in, which passed the House, and the issue of rape penalties, which also passed both the House and Senate.

We would like to see some reduction in this bill, because as the gentleman points out, this is not a perfect bill. We had our day. The rule failed, and there has to be some adjustment. The question is, where do these adjustments go?

I just do not want the whipping boy to be the programs that are preventative, that are absolutely essential to helping young children have meaningful activities. I cannot emphasize enough that our children in our suburban communities have the opportunities they have to lead constructive lives, plus in many cases they have two-parent families, and in our urban areas we see a big difference.

I think both you and I could agree that to some measure the welfare state has failed us. I certainly think 12-year-olds having babies and 14-year-olds who are selling drugs and 15-year-olds killing each other and 18-year-olds that cannot read their diplomas is in part the legacy of the welfare state, but that is not something we can solve in this bill.

We have a short-term need to address activities, meaningful, whether they are employment, recreational, tutorial. After-school programs in Bridgeport do not exist unless we have some help from either the State or Federal Government. If we have that kind of help, the gentleman will see many of these young kids who find themselves choosing to be part of a gang for fellowship and protection choosing to reject it.

Mr. Speaker, my sense is the gentleman's point is well taken. We will not find the perfect bill. In our dreams we will, and we could write it, and probably our bills would differ, but I would just like to see the rhetoric of bashing the municipalities, bashing programs that we know are working—and in some cases, we are not creating these new programs. They exist. We are taking programs that work.

Midnight basketball has taken a great hit. It starts at 9 o'clock. You cannot participate in these programs unless you are willing to hear a lecture from the police chief or a police officer or a social worker or someone who wants to talk about job opportunities, getting these young kids to dream. I would like to think that someone would choose to be in their community with activities, instead of be in jail because there are activities there.

I really thank the gentleman for yielding, and also for being so extraordinarily generous, which is kind of the way in this House, sometimes. I just want the gentleman to know I have tremendous admiration for him and his kindness in having this dialog.

Mr. WYDEN. I thank my friend. Let me just pick up for a moment on a couple of the points the gentleman has made, and continue this a bit.

First, Mr. Speaker, I think the gentleman is absolutely right about the importance of the sexual predator provision that is being discussed. I think many of us are especially concerned about this. We see these kinds of problems across our country. They are not isolated and rare aberrations. I as a Democrat am very hopeful that it will be possible to get that addressed in the bill.

Mr. Speaker, I would also like to talk for a moment on the point the gentleman has made about the importance of these after-school programs for young people who are at risk and are getting involved in gangs.

What we know, and there is substantial evidence on this, is that a lot of the young people that are getting in trouble, that are getting caught up in the gangs and involved with drugs and violence and sexual promiscuousness and all of the problems that we see our young people facing, they go home to an environment where there is no parent there. Very often these are single-parent households. You have a parent, for example, struggling very often at two jobs until 7, 8, 9 o'clock at night.

Mr. Speaker, at home in my hometown, in Portland, OR, the schools get out at 2:30, 3:00, somewhere in that vicinity. You do not have to be a rocket scientist to figure out that if the youngsters have nothing to do between 3 p.m. and 8 or 9 o'clock in the evening when the parents get off work, that that is an invitation to trouble, an invitation to the kinds of gang activities and drugs and violence that the gentleman is talking about.

Mr. Speaker, I am very pleased that he has hammered at the idea of after-school programs. To tell you the truth, I would like to see this country go far further in terms of after-school programs.

We have in my district a situation where in a number of schools, the students that are doing well, that have been lucky enough to come from good families and good upbringing, they actually stay after school and help the youngsters that have not been so fortunate, help the youngsters with antidrug counseling and things of that nature. I am told by school administrators that in our district, if they could have a faculty member even part-time to go even further in the after-school programs that the gentleman is talking about, that that would save us a whole lot of money down the road in terms of welfare, public assistance, juvenile justice, these kinds of problems.

I am happy to yield further to the gentleman from Connecticut.

Mr. SHAYS. You have hit it. In the city of Bridgeport we have a school called Longfellow School. The principal, with the community and some of the parents and some of the adult organizations, set up a Saturday school program. They were curious.

They said: "We are going to have some academics and we are going to have some more recreational kinds of activities. They might learn karate, they might do dancing, but they will learn how to look for a job. They will learn skills about why it is important to show up on time and so on, things that some might just take intuitively in your own family environment, you pick it up."

They were amazed with how many young people signed up. There were so many, there were hundreds of young kids who signed up for this program on a Saturday, to come to school. They were in school Monday through Friday, and yet they wanted to come to school on Saturday and do academic programs, but they also did other things, like chess. I have to tell you, one of the great joys was to see this chess team play one of the suburban schools and win. It was really precious to see that.

It is also touching to see a very well-dressed, well-trained suburban football team, and then see one of the urban schools come and play them. They do not have the uniforms, they do not even have a bus. They come in sometimes in cars, or in a few vans, and I saw a few of these kids after they had lost pretty badly to the suburban team have to hitchhike back to their school district.

Mr. Speaker, I just have to tell you, I felt so darned guilty with the fact that we have allowed this debate to deteriorate to the point where we are forgetting what we are talking about. It is like someone, all they have to do is say "pork, pork, pork"; they do not have to document—they do not have to talk about it. They can give people the feeling that this bill became expensive because of pork.

If they are talking abut why it became expensive, the reason it did was all the enforcement side. I am repeating myself, but the preventative side stayed at about $6 billion.

Mr. Speaker, I just thank my colleague for giving me this opportunity to have more than 5 minutes, because I needed that, and I just think that those of us who represent urban areas have got to be more willing to speak out about this. It is almost like because you don't like to spend a lot of money, and I vote to cut a lot of programs, we have got to be willing to step up here and say "enough is enough."

We have got to pay attention to what is happening to our urban areas. We have got to realize that you need strong enforcement, you need prisons for people who break the law, and you need preventative activities to get these kids to be productive members of society.

If I could just indulge a little more on the gentleman's time, I would like to say that ultimately I think the solution of the cities is not all that complex. We need to rebuild them, not bail them out. We need to bring businesses back into our urban areas so businesses can pay taxes and create jobs. That is what we have to do, but we cannot do that overnight.

In the meantime, let us start with some of these programs, which are not new, which are working, which are out there. There just need to be more of them.

Mr. WYDEN. The gentleman is absolutely right. There is no question that effective anticrime programs in the inner city are a prerequisite to growing businesses. It is not very likely that folks are going to locate or folks are going to be willing to put risk capital on the line for expansion if they fear that their employees are going to get clubbed over the head when they try to come in for work in the morning.

To me, what the gentleman has done that is so helpful is, first, indicate the desire to help bring the House together and heal some of the divisions that we have seen over the last few days, and second, and equally important, simply set the record straight.

□ 2020

I was watching one of the CNN shows yesterday, one of our colleagues was debating, and the debating partner said, the majority of money in the crime bill goes for pork and prevention. It was repeated and it was repeated. So I assume millions of viewers got the sense at the end of the show that this was the case and the vast majority of money was spent for prevention.

As the gentleman knows, more than 70 percent of the money in this bill goes for the deterrence side of the law enforcement effort—police and prisons and assistance to local communities.

Mr. Speaker, I hope that folks that are listening and watching the effort to bring Democrats and Republicans together will also pick up on that figure, because I think it is so important. The majority of the dollars in this bill is not even open to question in terms of it being for law enforcement. That is where the money goes.

Mr. Speaker, I am happy to yield to the gentleman for any comments.

Mr. SHAYS. I would just like to thank the gentleman for using some of his time to discuss health care to discuss what truly is an extraordinarily important issue, and to say that who knows what is going to happen in the next few days, but I hope in the end our country wins.

Mr. WYDEN. I think the country can win if the Members just pick up on the spirit and the concerns of the gentleman from Connecticut.

I came tonight to talk about health care. I will spend a few minutes on that. But I think the country is better off because we have heard a little bit more from the gentleman from Connecticut who is so anxious to bring this House together and help us get a good crime bill. I thank him for participating.

Mr. Speaker, let me turn just for a few moments to the health issue. I am fortunate also to have the gentleman from Hawaii [Mr. ABERCROMBIE] here, who comes from a State where they have universal coverage, where we have seen that it is possible to cover all citizens.

I am going to begin with just a few comments on the matter of senior citizens and how senior citizens fare in the health reform debate.

I think that all of us know, and I have a special interest in this area, going back to the days when I was codirector of the Oregon Gray Panthers at home, we know that Medicare, which was enacted in 1965, was just half a loaf. It did not cover prescription drugs and long-term care and eyeglasses and hearing aids and many needs of the senior citizens. In fact, health costs have gone up so dramatically that now many senior citizens pay more out-of-pocket for their health care than they did when Medicare began in 1965. This is especially the case because prescriptions, a substantial number of seniors, millions, pay more than $1,000 out of pocket each year for their pharmaceuticals, and millions more need long-term care; cannot even get decent care in their own homes.

I think it is especially important in this health reform effort that any bill, and particularly the bipartisan bills which in my view are so critical to getting this job done right, adequately address the concerns of the Nation's senior citizens.

The majority leader, the gentleman from Missouri [Mr. GEPHARDT], has taken an approach which I think has a strong consensus behind it. What the majority leader is saying in his approach to dealing with the concerns of the elderly is that there are savings to be found in the Medicare Program. There are areas where we can make the program more efficient without harming existing Medicare services. What the majority leader, the gentleman from Missouri [Mr. GEPHARDT], seeks to do is to take those dollars saved by making Medicare more efficient and, in effect, reinvesting them in new benefits and new services for seniors, such as long-term care and prescription drugs. I happen to think that that makes a great deal of sense, and I have heard the majority leader, to his credit, indicate that he is very open to hearing suggestions from Members of Congress of both political parties on how that might possibly be improved upon.

There is another approach that is being discussed. It is the one that was drafted and developed by our colleague, the gentleman from Georgia [Mr. ROWLAND]. I have served with the gentleman from Georgia [Mr. ROWLAND] on the Health Committee for a number of years and a more decent and caring individual in my view simply cannot be found than the gentleman from Georgia [Mr. ROWLAND]. But I think we have to do better for our senior citizens than the approach that is being offered in the Rowland bill. What the gentleman from Georgia [Mr. ROWLAND] and a number of our colleagues on the other side of the aisle propose doing in their bill is, in effect, taking a substantial portion of the Medicare trust fund, more than $60 billion, and simply spending it on matters unrelated to the elderly.

So here we are in a situation where we have a very rapidly growing, aging population, the demographics are relentless, we will have many more seniors in our country; yet the approach offered by our colleague, the gentleman from Georgia [Mr. ROWLAND] simply takes $60 billion out of the Medicare trust fund and spends it on unrelated matters. Instead of taking the approach that our colleague, the gentleman from Missouri [Mr. GEPHARDT] has taken, who wants to find Medicare savings and reinvest them in long-term care and prescriptions, the approach offered by the gentleman from Georgia [Mr. ROWLAND] takes the $60 billion out of the Medicare trust fund and at the same time offers not one dime for prescription drug coverage and not one dime for long-term care. As far as I can tell, the only reason one would go and take money out of the Medicare trust fund and not use it for prescriptions and long-term care is you basically subscribe to the theory that Willie Sutton gave for robbing banks. As you will recall, Willie Sutton said, "That's where we're going to look, because that's where the money is."

I can see why someone might offer that kind of theory, but I think we can do better on a bipartisan basis for our country's senior citizens, I think we can do better by our elders who so often are getting clobbered by these rising prescription drug bills, by long-term care costs, and the key to doing better is to build on the efforts of the majority leader who is saying, "Let's find savings in the Medicare Program, there are efficiencies to be found," and in order to help our Nation's seniors when we find those efficiencies, we will take those dollars and plow them back into the Medicare Program to provide some relief to vulnerable seniors faced with crushing long-term care and prescription drug bills.

Mr. Speaker, what I would like to do and wrap up, if I might, is describe a situation where we have one of the Nation's senior citizens who currently receives coverage through the Medicare Program describes how she would fare under the approach taken by the majority leader, the gentleman from Missouri [Mr. GEPHARDT] and describes how I think it would be possible for us in the kind of spirit that the gentleman from Connecticut [Mr. SHAYS] has brought to the House this evening, work together to kind of build a coalition in both political parties to make sure that in health reform, our Nation's senior citizens get a fair shake.

Under the proposal offered by the majority leader, the gentleman from Missouri [Mr. GEPHARDT] the Nation's senior citizens would continue to get coverage through the Medicare Program.

So right away we have a plank that I think both political parties can support, there is no need to frighten the Nation's elderly, no need to tear up the sidewalks and cause confusion, but to start, as the majority leader does, by in effect building on the Medicare Program.

□ 2030

The second part of his effort is to make sure that our senior citizens continue to have a choice of plan with unrestricted choice of physicians or a managed care program. This too is exceptionally important. This too is something that I think Members of Congress of both political parties can support, because I think if there is one thing the American people agree on it is that senior citizens and others in our country must have access to a widespread range of providers. And plank No. 2 that Mr. GEPHARDT pursues in his legislation is also an effort in my view to try to bring together a consensus to make sure that seniors are well cared for.

The third area is the matter of prescription drugs. Under this legislation the majority leader tries to balance the need for concern about cost with making sure that our seniors start getting some relief from the skyrocketing prescription bills. His proposal would add approximately $8.50 per month to a senior citizen's premium so that there is going to be an additional cost. But never again would a senior citizen have to pay more than a thousand dollars a year on prescription drugs.

I would like to emphasize how important I believe this benefit is, because I remember from my days with the Gray Panthers constantly seeing instances where senior citizens could not afford their pharmaceuticals and seeing very detrimental health effects as a result. Many have heard the phrase that seniors are choosing between food and prescriptions. I found in my years working with senior citizens is what was more likely to happen is not that senior citizens would have to give up all of their meals to cover prescriptions, but what would happen is they could not afford to take all of their pills and their prescriptions in a timely way. So if a physician told them to take three pills, for example, for 2 weeks, maybe they would take three pills for the first 3 days of the prescription, but faced with the prospect of not being able to afford their pharmaceutical bills, after 3 days they would then have to cut back to two pills, and then eventually to one pill. Because pharmaceuticals can be so cost effective in terms of a treatment arrangement, when senior citizens are in that kind of situation, not able to take their prescriptions in a timely kind of way, what is very likely to happen is that their health problems will get worse. Some may eventually need hospitalization, and it is simply not cost effective to ignore the need for some prescription drug relief for our Nation's senior citizens.

So I am very hopeful in the days ahead on a bipartisan basis the Congress will build on the third plank of the majority leader's program for senior citizens, and that is to ensure that is a fiscally responsible way a prescription drug program is started for our elderly.

The majority leader in his plan goes on. There is coverage for annual mammographies. There is mental health benefits. There is not a total limit on the amount senior citizens would have to pay beginning in the year 2003. All of these, in addition to the slowdown in the part B premium are I think very welcomed and measures that Members on both sides of the aisle can support and support enthusiastically.

But I think it is also important to focus on the last part of the proposal for seniors offered by the gentleman from Missouri [Mr. GEPHARDT] and that is the creation of a new home and community-based long-term care program for seniors. I emphasize this again as much out of personal experience as anything else.

During my years of codirector of the Oregon Gray Panthers I had a chance to work with seniors for many years in developing what I think has come to be regarded as really one of the Nation's finest long-term care programs At home in Oregon we have a program known as Project Independence. It is a program designed to keep our seniors at home. As a result of this program we are saving money, we are saving money while at the same time having one of the lowest rates of nursing home stays in the country. We have in effect revolutionized geriatric care, revolutionized health care for seniors, in effect turned the system on its head by putting such a strong emphasis on cost-effective home health care.

What this legislation does, the legislation offered by the majority leader is in effect build on the model developed in Oregon, the Oregon Project Independence Program. The majority leader did not start from scratch. The majority leader did not make this up out of whole cloth. He in effect looked to the models across this country like we see at home in Oregon through Project Independence, and that is what he modeled his home health care program around.

So I am of the view that if the Congress and Members on both sides of the aisle look to a new home and community-based program built around what we have done in Oregon, and now a number of other States have come up with other very sensible kinds of models, we will have a chance to do the best in health care for our seniors, which is to do more of what they want, which is to stay at home and be in the community and do it at a price tag that is less than what we face today when seniors are unnecessarily institutionalized in nursing homes.

So let me wrap up by saying it seems to me we are in effect presented with two kinds of alternatives. One is the approach that we have from Dr. ROWLAND which in effect takes $60 billion over the next 5 years and takes it out of the Medicare trust fund. At a time when we are going to have many more seniors, at a time when the demographics are so clear, it takes $60 billion out of the Medicare trust fund and instead of spending it on prescriptions and long-term care it spends it on matters unrelated to the concerns of the elderly that we are discussing tonight.

On the other hand, we have the approach that the majority leader has zeroed in on which is in effect to find cost-effective savings in the Medicare Program, find savings in the Medicare program that can be routed out without in any ways cutting existing Medicare services. The majority leader has said let us take those savings and reinvest them in the home and community-based services for the elderly and prescription drugs.

I am very hopeful that in a bipartisan way, as the gentleman from Connecticut [Mr. SHAYS], has done for us tonight on the crime bill, I am very hopeful that I and the gentleman from Hawaii [Mr. ABERCROMBIE], and other Members of Congress can work together in a cooperative kind of fashion, in a bipartisan fashion, so that we can make sure that our seniors have a dignified retirement, so they are not wiped out by the crushing costs of long-term care and prescriptions, and we do this in a bipartisan way as the country wants, and we do it in this session of Congress.

□ 2040

Mr. Speaker, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE], who has been such a strong advocate of health care reform, because I know he believes it in his heart, but also because he has seen it work day in and day out in his home State. I am happy to yield to my friend.

Mr. ABERCROMBIE. I thank the gentleman for yielding.

I am very appreciative, and I am appreciative even more so because your last statement is, in fact, what I would like to dwell on for the remainder of the time in this special order hour.

Not everyone has had the opportunity to actually see a health plan in action. The description that the gentleman from Oregon [Mr. WYDEN] has given, Mr. Speaker, I think deserves a bit more attention in terms of the reason for it.

He has very ably given what the plan would be in terms of the kind of coverage, but I think we deserve to have, and the people of the country deserve to have, a bit more of an explanation, a bit more perspective, if you will, minus the heated rhetoric that has been expended on the health care bill. I would like to do that at the present time.

I think that the tone, if you will, that was established in the colloquy that, in effect, existed between the gentleman from Connecticut [Mr. SHAYS] and the gentleman from Oregon [Mr. WYDEN] with respect to the crime bill offers us a bit of a model to address this question of long-term care and the overall health costs.

I want to draw on some material that has been presented by the director of our executive office on aging in the Governor's office in the State of Hawaii, Dr. Jeanette Tacamora, an old friend, an expert in the area of aging, gerontology, and geriatrics, who testified here before the Subcommittee on Housing and Urban Development last year.

What do we mean, in fact, by long-term care? What is it that we are trying to do? I hope some of our colleagues who may be observing and listening in and those Americans who are observing and listening in to what we are saying this evening will give us the opportunity to go into that in a little more depth.

Mr. Speaker, one of the things that I have learned in my political life is that it is the obvious that needs to be repeated most often, because it is the obvious we tend to take for granted and forget first.

The obvious in this instance is that we all know what long-term care means, that we all, after very substantive understanding as to what is involved in long-term care, that we have a response to the phrase "long-term care" that is, in fact, meaningful for us and allows us to have a presentation for the average American that is comprehensible, that is understandable, something that we are able to deal with in a manner that does not need further explication.

I would submit to you, Mr. Speaker, that is not the case. Think about it. Long-term care refers to the full range of rehabilitative, medical, and supportive social services needed by an individual who is dependent upon others for assistance with one or more basic activities of daily living, bathing, dressing, eating, ambulating, toileting. These are in fact, Mr. Speaker, what we are talking about. This is not an abstraction. We are talking about human beings. We are talking about human beings who now have a life expectancy beyond that which was ever thought to be achievable by any other society.

Mr. Speaker, we are, in fact, in an era unimaginable even 50 years ago. As the United States of America approaches the new century, as we approach the turn of this century and enter into a new era, we literally will be having before us a situation in which millions, not hundreds, not thousands, millions of people will be living 10 and 20 and 30 years longer than we ever expected, and many, if not most, will be dealing with the financial condition and circumstance which was fixed 10 and 20 and 30 years ago which did not anticipate in any respect the kinds of costs that will be associated with this new life expectancy.

Mr. Speaker, I was the chairman of the Human Services Committee in the Hawaii State senate and privileged to serve in that capacity for a number of years. I can recall when we made the first attempts to put together long-term-care insurance, in fact, I put out the first bill offering businesses in Hawaii the opportunity to have a tax deduction if they would put forward, as part of the benefit package in our health care plan, a plan which has existed since 1974, more than 20 years now, if they would put into that health plan a long-term-care insurance benefit. Mr. Speaker, you will be interested to know, and Members and the public will be interested to know, that I was defeated in that effort in great measure because, among other things, our own tax department thought that they might lose revenue. They did not want to give the businesses, and we are talking in the mid-1980's now, here we are less than 10 years later, at a crossroads, financial crossroads and social crossroads in our Nation's history, and in fact, the world's history; they thought they were going to lose revenue. My argument then, based more on instinct, and I hope educated projection, as I hope in turn as a responsible chairman of my committee, I said at that time to them, "We are going to have to expend funds beyond that which is now imaginable. If you think you are going to lose revenue now because we would be encouraging businesses to provide an insurance benefit and long-term care," I said, "just think what is going to happen 10 years from now."

Mr. WYDEN. Mr. Speaker, the gentleman is making a very useful and important statement.

Mr. Speaker, I ask unanimous consent that the gentleman from Hawaii [Mr. ABERCROMBIE] may control the balance of my time this evening.

The SPEAKER pro tempore (Mr. FARR). Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I would be delighted to do that.

Mr. Speaker, I believe I was at a point where I was indicating that as chair of the human services committee in the Hawaii State Legislature I was observing some dozens of people who were reaching an age in which we were, in fact, Mr. Speaker, having to come up with a new category. It was not just the elderly or senior citizens any longer, the euphemisms that were popular in the vernacular of the time. We developed a designation for people as aging elderly.

Mr. Speaker, I want to indicate for those who may not fully comprehend what is involved in that, when you have what we called the Medicaid spenddown, what that meant was that a lifetime's worth of work, generally in partnership with one's spouse, could be wiped out because of the necessity of meeting the criteria established for being poverty-stricken and eligible for Medicaid. In other words, your principal assets had to be expanded, had to be transferred, disapproved. Often that was, for most people, their home.

And there was an additional element, Mr. Speaker. This was gender-related. Women outlived men, and so women found themselves in a situation of having all of the assets expended of the couple, and then finding themselves poverty-stricken, and this category of aging elderly came in not only to existence but into an expanded realm beyond which we had no comprehension previously.

So now we find people, many female, widowed, made poor, their assets stripped from them, now living under circumstances of dependency, medically speaking, in terms of rehabilitation, in terms of support of social services, in the tens of thousands, in fact into the millions.

□ 2050

Mr. Speaker, long-term care may be provided either in an institutional setting or home- or community-based care, as the gentleman from Oregon [Mr. WYDEN] indicated. Long-term care is provided most often by paraprofessionals, such as homemakers, personal care and home health aides, and families.

We now find ourselves in a situation again which I anticipated in the middle eighties, and here we are less than 10 years later having to deal with it, where family leave does not just mean taking care of a child, it may mean taking care of a parent as well. Yet we find situations in which the newspapers are now regaling us with commentary on how people are not just holding down two jobs but three jobs just in order to make ends meet.

How is it possible for people to hold two or three jobs and at the same time take care of their parents let alone take care of their children? This is what is happening in the country. This is why it is needed. This is why the rhetoric has to start meeting reality.

People say, "Who is paying for it?" We are paying for it now. Why should those people who have worked all their lives, sacrificed their lives, particularly those who have come through the Depression—as the President said, played by the rules and worked hard—why should they be stripped of every asset at this point? Why are we as a national legislature not capable of dealing with this in a straightforward way?

Is it your mother, Mr. Speaker, my mother, your father, my father, one of these statistics? They are not statistics to me. No one in this Nation should be a statistic.

We pride ourselves in looking out for the individual. The only way we can do that is on a communal basis. We have to look out for each other. We have a choice of whether we are all in this together or whether we are all on our own.

According to the 1990 census—I will give this, I hope, a human context—31 million Americans, 12.6 percent of the total population were 65 years or older. That is in 1990, 31 million Americans. Think of it in terms of individual human beings and their needs, comprising the fastest growing segment of the American population as well as the segment most likely to require long-term care.

One of the discouraging parts about some of the health plans, all of them put forward in good faith, I am certain, but nonetheless there are still health plans coming forward or amendments coming forward which differentiate whether or not the plans will be more expensive or less expensive, depending on one's age, depending on what the likelihood of disease or incapacity is.

In other words, just at the time when you are most vulnerable financially and physically, we say at just precisely that time we are going to make it more difficult for you to have health care insurance.

What has happened?

One of the reasons I went to Hawaii, Mr. Speaker, was the sense of family. One of the reasons I am proud to represent Hawaii, one of the reasons that I have such deep feeling about Hawaii, is that we have always had a tremendous sense of family, extended family.

We have what we call ohana, and that means family, that is Hawaiian for family. It is an expansive word, we take in everybody. They took me in.

There are no children in Hawaii going to go without a parent, their hanai.

If you have a hanai mother or a hanai father, they take children because they love children. It is the Polynesian way. They love the kapuna.

Mr. Speaker, I was at our dinner for the kapuna in the valley in which I live, on Malama. We have an organization, Malamao Manoa. Malama is where I live. We honored our kapuna. Our kapuna are our elderly, the people we look to for guidance, the people whom we respect. There were 40-plus people whom we honored. And the criteria is that you are at least 65 years of age and have lived in the valley for 50 years.

We are doing an oral and written history of the valley by going to our kapuna, going to our elders, to those who have come before us and who are sharing the rich heritage and legacy of life in Hawaii with those of us who are here now so we can pass it onto those who are coming; the sense of balance, the sense of continuance that we have.

The person living the longest, 86 years, speaking to us and speaking about being in the valley for 86 years. Another person, 95 years. My mother, now 86 years of age. They have much to share, and yet we want to differentiate on the basis of age in a way that disadvantages our seniors? How is that possible? How is it possible for us to have that attitude?

No, I want to talk about long-term care and about seniors and about our plans in the human context.

Mr. Speaker, that segment which is growing most and most quickly in our country, most likely to require long-term care, individuals 65 and older, are expected to number more than 67.5 million people, more than 22 percent of the population, by the middle of the next century.

Mr. Speaker, you and I may be—maybe you, but I will not be—here by the middle of the next century. There is no statistical possibility of that, I am sure.

But, Mr. Speaker, are we not required as members of a national legislature, is it not incumbent upon us to provide for those who are coming by the middle of the next century?

No one, no one has a deeper feeling about the privilege of serving here in the House of Representatives, the people's House, than I do.

I am sure we all share that. And I feel every moment that I am on this floor that it is my duty as well as my privilege to be able to legislate in a way that reflects the high honor that has been given to us by the people of this Nation, the opportunity to legislate on behalf of the common good, on behalf of the people of this Nation and in fact the world.

That is what our duty is. That is what we need to do in terms of long-term care in the health bill. We do not need to have the rhetoric of division, we do not need to have the rhetoric of confrontation. What we need is more collaboration, what we need is more cooperation on behalf of those who sent us here, on behalf of all the kapuna, on behalf of all the grandmothers and grandfathers, all of those who are our parents, all of those who have come before us and worked so hard and put their faith and trust in us.

By the year 2010, analysts project that the number of elderly Americans in need of long-term care will have grown from 6.2 million to at least 9 million. I can go on with these statistics.

I want us to see it in human terms. In the time remaining to me, Mr. Speaker, then I want to discuss a bit further what it is we are going to try to do to try to meet this necessity. I want to emphasize that word, this is a necessity, it is a national necessity. It is not something that NEIL ABERCROMBIE thinks would just be desirable in a manner that is electorally something which can be beneficial to me electorally or to any Member here on the floor. It is a matter of trying to be straightforward and honest about what it is we have to do. It is not going to be easy.

It does in fact have to be paid for, and I think we can do that. We can do that in one of two ways. We can do it where everyone, as I said, is left on their own to try to struggle with it as best they can, or we can do it as a Nation, all pull together. We are going to expand the Medicare benefit. We are going to have a prescription drug benefit that would be added to the Medicare program. You have to have it. My mom has to have it right now. We are struggling to find a formula right now to deal with some of the physical circumstances that my mom has to deal with, at 86.

Everybody has got a story. It is only a statistic until it hits you. Then, oh, yes, we as individuals, then we feel it; but we have got to feel for each other. The prescription part of it is one of the things that has to be addressed.

□ 2100

There is not anyone listening to me who does not have, or had at one time, their mom, or their dad, or their grandma or grandpa saying to them, "I don't want to be a burden to you, I don't want to be a burden." Is that what this country has come to? We will have our own mothers and fathers concentrating their emotional and psychological time as they approach the end of their life on not trying to be a burden? Think about it.

Mr. Speaker, that is not the best that is in America. That is not the best that we are as Americans. That is not the best that we can offer as national legislators. Far from it.

An unlimited prescription drug coverage with the cap that has been mentioned by the majority leader, that is what we need as a minimum start. We need to cover long-term care, home and community based, home and community based. We want to keep people in their homes as long as we can, and we want to have such services they need that I have described being provided out in the community.

We can do this by giving people a maximum amount of choice in the process. That is just exactly what our proposal is all about.

Those who have suggestions to make it better, I cannot imagine that we would not be open to it. I know the majority leader well, as my colleagues do, Mr. Speaker, and we both know that he is open to any suggestion with respect to expanding our capacity to provide these services.

I do not really want to get into, although I am quite prepared to talk about, the inadequacy I see in some of the other bills that have been offered: no prescription drug benefits for seniors, the utilization, as the gentleman from Oregon [Mr. WYDEN] indicated of presumed Medicare savings to pay other bills, no long-term-care plans, no out-of-pocket caps for seniors, no protection for continuing to limit cost increases. All of these things have come up, and all of these things can be criticized. I rather concentrate though on what we can do and what we should do in this area.

In Hawaii the population over 65 is expected to grow dramatically in the coming decades. We expect it to go to more than one quarter of our population, possibly as much as 30 percent. Mr. Speaker, this is a sobering statistic when you put it in human terms.

One of the things we are criticized, Mr. Speaker, in Hawaii for is that we are so healthy. In fact, in another special order I will be doing in the near future on small business and health care I will point out some people even refer to our climate as being the principal factor in longevity. The fact of the matter is on a per capita basis we probably have more people living longer and living healthier lives than virtually any place in the Nation, but there is a cost to that where long-term care in Hawaii is concerned. Those who are older than 80 years of age will triple by the turn of the century, triple. The cost, of course, has to be dealt with accordingly. Escalating costs and increasing utilization are a potent and ominous combination for Hawaii and its people and for the United States and its people.

The Federal Government, Mr. Speaker, as I draw to a close this discussion of the need for long-term care and its role in our health program, has been hesitant to this point to deal with this phenomenon, this unprecedented social phenomenon. Long-term costs, if left to drift on their own, Mr. Speaker, will increase expenditures dramatically, and the average family will be unable to cope with the situation. If there is anything, Mr. Speaker, that cries out for a national plan, if there is anything that demands of us that we address something on a nationwide basis, it is long-term care, and the only way we can do that, the only effective, efficient way we can do this in human terms, in social terms and economic terms is to see to it that long-term care is part of a national health plan, something that we can all be proud of as legislators, something that we can facilitate as national legislators because it is, in fact, our duty and out time to see that that is accomplished.

I appreciate this privilege of being able to address our colleagues this evening.

UNDERSTANDING THE REALITY OF HEALTH CARE LEGISLATION

The SPEAKER pro tempore (Mr. FARR of California). Under the Speaker's policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 60 minutes as the designee of the minority leader.

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is a pleasure to be here this evening a little late, but it is important to talk about aspects of the health care bills that are before the Congress because people need to know.

I am endlessly fascinated that, as I work in my district, people will say to me, "You know, I don't like what I hear," and, as they talk about it, you can see that they are, A, afraid; B, concerned, and that their fear and concern are for the quality of their health care first and their jobs second.

So, their concerns are real. They are not light. They are not little. They are very deep. And they are very significant, and what interests me is that through what they say to me it is clear they get it, they really understand, that there is something about the macro bills, the big Clinton look-alikes, that does endanger their health care and their jobs. They do not understand quite why, and that is why I am here. I want people to understand the reality of these bills, the impact they will have on our lives to the extent that we currently understand it, and through that I want them to have the confidence that not just they have the intuition of fear but that their concerns are legitimate in this area or perhaps not legitimate in that area.

So, we are here tonight to kind of lay out some of the problems with the Gephardt health care bill. These were problems with the Clinton proposal. They are for the most part problems in the Mitchell proposal. But they are problems that follow from Government mandating health care on employers of all sizes and all levels of profitability.

Now, before we get into the issue of employer mandates, what is being mandated on whom, and what will be the consequences, I want to indicate the level of my concern by illustrating the fact that some of the consequences of the bills before us are going to create profound unfairness, and in 5 years, and 8 years, and 10 years our constituents are going to look at us and say, "You did this? On purpose?" Let me give you one example:

In the Gephardt bill companies under 100 cannot self-insure. Companies over 100 can self-insure. That sounds innocent enough. What it means to you and me and the guy working next to you is this:

If you work for a company under 100, and I work for a company over 100, and we get paid exactly the same wage, and we get exactly the same benefit package, after health care reform I will get paid less because I work for a company who has fewer than 100 employees and, therefore, pays a community-rated premium for its health care package which is high. My friend who works for an employer who has over 100 employees, earning the same wage, getting the same benefit package, still will get higher wages because his premium will be experience rated and, therefore, lower.

□ 2110

So reform will mean to those two people different wages and an unfair impact, an unfair premium cost, just because we did it from Washington.

I think we have to be real careful that what we do from Washington does not make it worse for people in America, does not give you less health care, does not make you pay more for it, does not erode your wage base. It is those unintended consequences, or those consequences that are less easy to see, that are part of what we want to talk about here tonight.

But in order to understand why bills clearly introduced by well-intended people, clearly introduced by people who do care about individual working Americans, could have these effects, we really want to start from the beginning.

I and my colleagues are going to start out by talking a little bit about what is being mandated in these bills, and who they are being mandated on, and what are going to be the consequences.

First of all, what is being mandated. It is not simple.

First, it is a national benefit package. With every committee that the national benefit package goes through, it grows. We are now up to a national benefit package in most of the Clinton-type bills that is more generous than all but 100 companies in America.

Now, that is nice, but there ain't no free lunch. And if you are being mandated to provide that level of benefit package, it is going to have consequences.

The premium of that kind of benefit package is high. Remember, every year Congress is going to enlarge it. But that national benefit package is not the only thing that we are mandating. There are other aspects to this benefit package that are part of the sneak attack that I was talking about.

My colleague from Louisiana was talking earlier about some of the provisions of the Gephardt bill that have the effect of expanding this national benefit package, not for everyone. Not necessarily for your competitor, but possible for you.

JIM, if you would talk a little bit about the maintenance of efforts provision in the bill.

Mr. McCRERY. I thank the gentlewoman for yielding. In fact, what is not generally known is that there is really a double mandate in the Gephardt-Clinton bill, and that is an employer currently provides insurance for his employees, under the Gephardt-Clinton bill that employer must, for a period of several years, maintain the level of benefits for his employees. Even if that level of benefits is greater than the standard level of benefits set in the bill, which is fairly generous, as you pointed out, that employer, nevertheless, cannot get a policy of insurance for his employees at that level of the standard benefit package. He must continue to provide a more generous package to his employees.

That is regardless of his profitability, regardless of his cash flow, regardless of his income as an employer. That is just not the real world.

As you know, particularly with small businesses, they live on a year-to-year basis, if not a month-to-month basis. And a package of benefits that they purchase for their employees this year may cost too much the next year. And in order to stay in business, because their profit margin is very, very slim, they must cut back on some of the benefits. That may be in paid vacation time, it may be in health care benefits. They may have to reduce the level of benefits in order to stay in business, in order to continue to employ as many people as they now employ.

That is the real world, and those are the types of decisions that employers, particularly small business employers, have to make every year.

So for the Federal Government to tell a small business person, who is really trying to do his best for his employees, who is really trying to attract and keep quality employees, for the Federal Government to tell that employer, I do not care what you have done in the past, how good a citizen you have been, how good an employer you have been, we are going to make you, regardless of your profitability, regardless of how your business fares in the next 5 years, we are going to make you continue to spend exactly what you have been spending on that fringe benefit.

That makes no sense in this society, no sense in a free society, no sense in a free-market economy, and I just think it is important for people to know that not only is there a mandate in this bill for a standard set of benefits, there is a double mandate. And that is, Mr. Employer, if you now provide a more generous package of benefits to your employees, you are going to have to keep providing that more generous package of benefits.

Mrs. JOHNSON of Connecticut. To give an example of that, because it really hit home with me in talking with a small employer in my district who provides some dental and some vision. Now, he does not provide any substance abuse or any mental health, but he does provide some dental and some vision.

Under reform, he will have to continue the dental and vision, but add also in the substance abuse and mental health and all the other things in the national benefit package. And there is one more thing he will have to add.

Now, to show you how difficult this is, as a member of the Committee on Ways and Means, I sat through two series of markups, I read all the material. We were all there, and it was not until the end of the second markup that we happened to ask the right question to find out that in addition to the national benefit plan and any maintenance of effort benefits you are providing, you will also be obliged to provide all State-mandated benefits.

So the cost of this is going to be extraordinary for our businesses. Most businesses now self-insure in order to go around and get out from under the State mandates. In Connecticut we have an organization that is providing packages to small businesses, which has just come out with some new and exciting and lower cost packages. And I said to them, how much could you cut your premiums if you did not have to comply with State mandates? The answer was 25 percent.

So we are going to now mandate a national benefit package. Then we are going to mandate maintenance of effort. In addition we are going to require all State mandates now to be met. So the total cost of this benefit package is going to be larger than most employers understand, and almost all employers will have to pay more for health care, and most will pay a lot more.

We have also been joined tonight by my colleague from Florida [Mr. STEARNS] and my colleague from Michigan [Mr. KNOLLENBERG]. CLIFF, I would like to yield to you.

Mr. STEARNS. Mr. Speaker, I thank the gentlewoman for yielding, and I commend the gentlewoman from Connecticut for what she is doing tonight. We did this some time ago when we talked about the Clinton plan. This might be like Yogi Berra said, deja vu all over again, because the Clinton-Gephardt plan certainly resembles the original Clinton plan.

As you will remember, when I talked about the mandates last time, I talked about some of the outside accounting firms, the outside different interest groups that scored this, not just CBO or OMB. And I asked them, what impact would the Gephardt-Clinton bill have on the amount of people that would be employed? And they looked at it, and I would like to share with you some of the statistics from that.

Consad, a research organization that is reputable, estimates that between 850,000 and 1.3 million jobs will be lost with the Clinton-Gephardt bill. Laura Tyson, the chairman of the President's Council of Economic Advisors, estimates that 600,000 will be lost.

Citizens for a Sound Economy tells us according to a McGraw-Hill study commissioned by the CSE Foundation, such mandates could increase unemployment by as much as 900,000 when fully implemented.

The NIFB, which we all respect, looked at this and projected the State of Florida, my State, would lose almost 67,000 jobs due to the employer mandate. I have state-by-state how many jobs will be lost.

So we hear a lot of talk about the importance of health care and how it could affect our families, but we must realize that if this mandate as projected by the Gephardt-Clinton plan is instituted, we are going to have a huge amount of job loss across this country, and we should take that into consideration.

In fact, I think most of us agree that the Clinton-Gephardt plan is even more draconian for small businesses than the original Clinton plan. So that is hard for many of us up here to understand, how we could have a bill that is more draconian than the Clinton plan, when the majority of people out in the United States say they are against what they perceive as the Clinton plan.

Mrs. JOHNSON of Connecticut. I think that is a very important point. The burden in the Gephardt-Clinton bill is heavier than the Clinton bill on small business. One reason it is heavier is because in the Gephardt bill, they create what is called Medicare Part C.

☐ 2120

They are going to put 55 percent of Americans into a government-run health care program. We all know that those government-run programs, Medicare and Medicaid, under-reimburse. They pay less than the cost of care and right now they are the biggest source of cost shifting, that is of putting costs on the private sector from the public sector.

When they put 55 percent of all Americans into government-run programs, they are going to increase that cost shift $16 billion. Which means that all of these businesses we are talking about, they are going to have this very large mandate put in their shoulders, are going to have also the cost of the under-reimbursement for Medicare Part C shifted onto them, that $16 billion. They are going to have the new costs of the stealth repeal of State malpractice reform laws shifted onto them.

In other words, in this bill, surprisingly enough, they actually repeal State malpractice reforms. And when those get repealed, costs will go up, both of defense of medicine and of malpractice premiums. And so that cost is going to be shifted into the premium base.

And lastly, there is a 2-percent tax on all premiums that will again raise the cost of the very employers. That is why the jobs will hemorrhage out of the system.

I yield to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. I thank the gentlewoman for conducting this special order, with her background and expertise in that subject area. It has been invaluable to a whole lot of us in the conference.

I just want to relate to what you just said. My State of Michigan just passed a malpractice reform bill, and you are saying to me that even though that did lower to the satisfaction of most people, of course, obviously certainly the physicians and the medical community, as well as doing, I think, justice for the entire State, what you are saying to me, by virtue of the Gephardt-Clinton bill, there is a repeal mechanism that is calculated or incorporated into this process so that even though they do have a program in effect that that will be repealed or downsized or removed?

Mrs. JOHNSON of Connecticut. Absolutely. In all the years, and people do not realize that actually Congress has been studying this subject for years, not all of Congress, but some significant groups in the Congress and outside groups, there has not been a single health reform proposal from any credible group of Members or outside experts that has not recommended good, solid, extensive, comprehensive malpractice reform at the national level. The President's proposal was very weak in that area. The Republican proposal, to its credit, was very strong. The bipartisan bill is very strong in that area.

But to everyone's sort of shock and amazement, not only is the Gephardt bill not strong, but it actually repeals progressive malpractice reform proposals that have been adopted at the state level. And yes, Michigan would have to abide.

Mr. KNOLLENBERG. I thank the gentlewoman for making that clarification. I know the gentleman from Louisiana had another point.

Mr. McCRERY. I just wanted to follow up on the gentlewoman's point of creating a system in which maybe half the population would be in a Government, direct government-controlled system like Medicare. You and I are not the only ones who fear that.

I want to quote to the gentlewoman from a letter written by two democratic Governors, two Governors who are Democrats, and two Governors who are Republicans. Governor Howard

Dean and Governor Romer, Democrats, and Tommy Thompson and Carroll Campbell, Republicans, wrote Congressman GEPHARDT on August 1 expressing concern about the Medicare Part C program which would put all these additional millions of Americans into a government program.

They said,

> We believe that America's health care system must remain responsive to market conditions and should operate only with selective regulation by both the Federal and state governments. Medicare, a government run, price-controlled system, does not meet that goal. Moreover, expanding the use of Medicare reimbursement rates to major additional portions of the health care system would have disruptive, if not disastrous, effects on the health care delivery system. The Medicare program is also highly bureaucratic and unresponsive to local needs and has been ineffective at controlling overall costs.

That is a quote from two Democratic Governors and two Republican Governors who clearly agree with you that to force maybe half the population of the United States into a Medicare-like program is not the answer to solve our problems in health care.

Mrs. JOHNSON of Connecticut. I hope that one of these evenings we will take a special order and just talk about the implications of Medicare Part C. But for this special order on the impact of mandates, an employer mandate on both the job-creating capability of our economy and the quality of health care for our citizens, as well as the cost, it is important to recognize that just that portion of the Gephardt bill will have the effect of shifting billions of dollars of additional costs onto small businesses. That is why the job impact is going to be so steep.

It is the combination of the mandate, of the maintenance of effort that it puts even more benefits in there, of the State mandates that now come into play, of the cost shifting, which is billions, of the 2-percent extra in premium, 2-percent extra in all premiums, and the malpractice reform implications. What you end up mandating is, indeed, a very big package of costs.

Mr. KNOLLENBERG. I just wanted to, in terms of letting to the States, and Michigan is just one of the 50, but in my first town hall hearing on health care, and I have had 9, I had some 450 business people. It was billed as a business owners, small business-type forum. Over 450 people showed up. That was some months ago. At that time they told me the very same thing that you have been repeating and the gentlemen from Louisiana and Florida, that mandates are really a tax. It is going to do one of several things.

Any employer, small business employer facing a mandate in effect is facing a tax. That works, as I think you pointed out, several ways. It works as, for example, it either means that they have to increase prices to their customers. They have to cut profits. They have to reduce wages or benefits or reduce employees. And then, finally, if all that does not work, they have one option: get out of the business.

Mrs. JOHNSON of Connecticut. That is right.

Mr. KNOLLENBERG. Those folks made it very clear to me that those were the options. And the last one might be one that they would have to consider. Small businesses that are threatened with those kinds of concerns do have to look at their bottom line. Many of the retail operations work on a very slim margin, and that favorite shop or store or restaurant might just go out of business because of mandates of this type that does not help any of us. It does not help any of our people on our States. And it certainly does not help the economy.

We seem to have a little bit of a building economy in Michigan these days, despite whatever might be taking place countrywide. What we should not want to do there, and I know across the country, is establish a mandate that is a tax that will do or create those kinds of problems for the small business people.

I just wanted to cite a couple of things. There was a survey done by Governor Engler in Michigan, who has done, I think, a number of remarkable things. But the survey that they conducted was with a number of businesses, small businesses around the State.

I just wanted to indicate some quotes that came out of the surveys that came back. Incidentally, it was heavily responded to, much more so than average. And these were mailed out to some 1,800 businesses.

Here is one quote from the Michigan Grocers Association:

> The net effect would be fewer employees, both part and full time. Overtime would end up being cost effective or more cost effective than having people work 40 hours only and end up, therefore, with more employees. There will be less jobs, both part time and full time, in our company with these mandates in effect.

And then they also say in another case:

> If all the government red tape restrictions and controls continue to be put on small business, which employ most of the people in Michigan, we cannot pay for it due to the competitiveness of our business.

Pricing, you can just raise the price a little bit, that may distort your sales. It may create some other problems. So it is not as easy as they say.

☐ 2130

They are going on to say that "We cannot run our business like government runs theirs because we cannot run a deficit," so you look for those areas that you have to cut, one of which would be wages, or employees.

Mr. Speaker, this is something that came out of a survey, and I think it serves to point out exactly what the gentlewoman has been pointing out.

Mrs. JOHNSON of Connecticut. I want to stay with this issue, so I'm not cutting you off, but I want to stay with this issue of the impact for a few minutes. It is complicated. People know it is a problem. They do not understand why, really, they are so afraid of it, but they know they are afraid of it.

As you go around your district, now Connecticut has been through probably as tough a recession as any State in the post-World War II era in the last 5 years. We have had a truly hard time, because we not only had the recession that the Nation went through, we had the banking crisis, we had defense downsizing, all at the same time.

We have been through very hard times. There are a lot of employers who have said to me "I would not have made it, but I went from a first-dollar-coverage plan to a catastrophic plan." They said "It was really hard to do that, but I saved those jobs, and in 2 years, I'm going to go back up, I'm going to have that full complement of people, and I'm going to be back up to a good, solid health plan for my folks."

One of the things people are not realizing is that if we mandate a rigid plan and an 80-percent employer cost, a recession comes, your orders drop off, and then you cannot reduce your costs by going to a lower cost plan. You can only reduce your costs by laying people off. Finally, you can only reduce your costs by going out of business.

Making a mistake by mandating too big a plan on businesses that cannot bear it will not only cost jobs, which, of course, is true, but more importantly, it will stop the development of the very kinds of small businesses that make that next generation of employers. Connecticut is an excellent example.

Defense is going down. Our big manufacturers are going to be smaller and smaller because they are primarily defense related. Our big insurers are never going to be as big in numbers of employees in the years ahead as they are today, and they are not as big now as they were last year. Banks are not going to be as big employers in the future as they have been in the past.

If we are going to build the companies of the future, you have to let the little guy with 5 employees become some guy of 10 employees, become some guy of 25 employees, and you make it harder and harder and harder when you put a heavy burden on them, and then they cannot make it when orders get down.

Mr. STEARNS. Just to follow along on that point, when you talk about mandating to employers that "You have to pay for it," you touched on the mandate that the employer has to pay for a mandated plan.

This particular plan, as you point out, is rigid and is expensive to the employer. They cannot have the flexibility that they need, particularly depending upon the kind of health service they want to provide across the gamut, so they are forced to pay for this plan, which is really not tailored, maybe, for their small business or for their large business.

When we talk about mandates, we are not just talking about the employer mandate to pay it, but we are talking about the mandate of this rigid package. I think we should touch a little bit on this plan, because this is sort of the main part of it which causes this increased cost.

Mr. Speaker, the NFIB, the National Federation of Independent Businesses, says that "The mandated benefits package is estimated to increase dramatically under the Gephardt-Clinton plan" than it did under the Clinton plan, and it is going to work out to the detriment of businesses. They have put together a comparison sheet. It says "The annual cost is going to go from $2,000 to $4,000 average for a person," for a firm. This is not for the employee, but for a firm.

So when we are talking about Connecticut having a hard time because of the cutback in defense and the other things up there, what is going to happen when you say to the employer, "Regardless, you are going to have to take this rigid plan, you are going to have to pay for it, and the employee is going to pay 20 percent and you are going to pay 80 percent," and they are going to look at this plan. You and I both know that Congress might again come back and mandate a bigger type of plan, a more rigid plan. We have seen Congress do that again and again.

What happens to this employer who has a sound business and he has a good bottom line? That is just going to deteriorate, and what is going to happen is going to be high unemployment, which is going back to the original statistics that I quoted.

Mr. McCRERY. Will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Louisiana.

Mr. McCRERY. I thank the gentlewoman for yielding.

NFIB did a survey of their membership back in 1990 and found out that of their members whose owners took more than $70,000 out of their business, so in other words, if the owner made $70,000 on his business, 90 percent of those provided health insurance to their employees. The ones who did not provide insurance to their employees were business owners who took out less than $10,000 a year for their own income.

So that means that an employer mandate is not going to hurt the small businesses who are successful, because they, most of them already provide health insurance, so they are already providing that cost, meeting it. But it is the small—it is particularly the new small businesses, the ones that are just getting started.

You have a man and his wife who put their life savings into a business and they are struggling to make it work in that first year, the first 2 years. They are not taking much out of it for income, because they cannot. Now here we come and we are going to say "It does not matter that you don't make any money off of your business, we are going to impose another cost of doing business on you." And as you pointed out, it could be as much as $2,000 per employee, or if that employee has a spouse, it could be $4,000, or if that employee has a spouse and a child, it could be $5,700, according to the estimates of the Clinton-Gephardt plan.

Mr. Speaker, it is important to know what kind of businesses are going to be most hurt by this mandate. When you look at it closely, you will find that it is the smallest businesses, the businesses that are struggling, the businesses whose owners do not take very much money out of the business. They are not making very much money, but they are struggling to keep afloat, they are struggling to keep those 2, 3, 4, 5, 10 jobs in their community.

What we are about to do if we pass the Clinton-Gephardt bill is to tell those people "Keep struggling. In fact, we are going to make your struggle even harder, because we are going to impose a cost of doing business on you that you cannot get around. You must pay, regardless of if you make a profit, regardless of what your income is, regardless of your cash flow. You have got to pay this."

What that is going to do is exactly what the gentlewoman from Connecticut suggested. It is going to drive out of business a lot of those small employers, or it is going to cause them to lay off one employee to be able to absorb those additional costs of doing business, or maybe two employees. So then what happens to those folks? They do not have—not only do they not have insurance, they do not have a job. That is no answer. So I appreciate the gentlewoman bringing that up and encourage her to continue.

Mrs. JOHNSON of Connecticut. That certainly is no answer, and it is certainly no answer to controlling costs. Remember, what really is creating our problems is rising costs. When you mandate a plan on the employer and you mandate the employer to pay 80 percent and the employee to pay 20 percent, you create a rigid system that denies us as innovative Americans the opportunity to do, for instance, what Knox Semiconductor did.

Knox Semiconductor of Rockport, ME, has an insurance plan called Health Wealth, which is marketed by Progress Sharing Co., an insurance broker in Saco, ME. Under the plan Knox raised employees' deductibility and copayments, lowering their premium costs. Then it put the money saved into a mutual fund account for each employee. Employees who make matching contributions can use the money in their accounts to pay for their deductibles and copayments. If they don't, they pay taxes on the money and keep it. Knox has had just one rate increase in the past 4 years.

Remember, at the beginning of this I talked about the 100 mark and how in the Gephardt bill, after a lot of fighting in the committee, we at least got the right to self-insure down to 100. This is a 32-employee company, and they are self-insuring through their own pool like this. It is saving them money, benefiting their employees.

I have to give just one more example, because all of these creative, inventive solutions to health care that employees cover costs, but help them do it in a way that reduces the overall costs in the society and rewards people for thinking health, for thinking wellness, will be literally wiped out by Washington, and sometimes our arrogance is simply astounding.

□ 2140

Forbes offered its employees in 1991 a great deal: If during the year an employee filed major medical and dental claims totaling less than $500, Forbes would pay that person double the difference between the $500 and the claims that they filed.

Suppose an employee and his family had $900 in medical expenses. If the employee filed them, the most the insurer would reimburse him would be $900 minus his deductible and copayments, the portion of the bill the employee is responsible for beyond the deductible. He would be out a few hundred dollars and since his claims were over $500, Forbes would pay him nothing.

However, if he filed no claims for those expenses, $500 minus zero for no claims comes to $500 double, that is $1,000. This would put the employee $100 ahead. So he would be ahead if he filed no claims, which means no administrative costs for the company, he pays the whole $900, he gets a bonus of $1,000 and he is up $100, and the whole system has not had to pay the costs of all of the reimbursements that go with insuring, and he has meanwhile shopped around looking to see who will charge me what for what health care service which now the people are beginning to do. They are finding that charges vary in health care just like they vary for sofas and couches and automobiles and everything else.

One of the aspects of the employer mandate and one of its impacts is that it will destroy any plan that is not the national health benefit package plus the maintenance of effort on the State mandates, that is, the wisdom of Government, and is not set up with an 80/

20 split dictated by Government. And really when you think how innovation, how being people-centered, how important one's own personal responsibility is to real health and wellness, we are actually about to adopt, if we adopt a solution like the Gephardt bill or the Clinton bill or the majority leader's bill in the Senate, if we adopt those kinds of plans, we will wipe out the very innovative, creative responses that are controlling costs, reducing the burden on society but providing quality health care. I just wanted to get those two examples on the record because if there is one thing that makes America unique and different, it is her remarkably resilient and creative people.

Mr. ABERCROMBIE. Will the gentlewoman kindly yield for a moment or two?

Mrs. JOHNSON of Connecticut. I would be happy to yield.

Mr. ABERCROMBIE. I thank the gentlewoman very much.

I have listened with some degree of interest to your concerns about particularly where small business is concerned and in employer mandates, and I recognize not only the sincerity of the presentation but the real and vital concern that I think is felt across the Nation. I just simply wanted to share with you just for a moment or two that the employer mandate which we put in really quite frankly at the heart of the bill we passed in Hawaii 20 years ago has not had that effect. In fact, we have increased the number of our small businesses, and the principal concern for staying in business today in Hawaii has less to do with health care than with other circumstances like workers' compensation, et cetera, that might be the basis of a discussion at some other time, some other piece of legislation or even special order.

But I just wanted to indicate that while your concerns, in fact I would say anxieties I think is a fair word, about launching a national program in this respect is, of course, quite pertinent, I can assure you that the health care mandate for employers in small business is not cited by small business people who have dealt with them for a number of years as the principal threat, if you will, to their financial bottom line.

Mrs. JOHNSON of Connecticut. I was very interested in the gentleman's special order before ours and was on the floor and did listen.

Mr. ABERCROMBIE. Yes, I saw you.

Mrs. JOHNSON of Connecticut. I have studied the situation in Hawaii, because Connecticut is a State with 91 percent coverage. According to the Employee Benefit Research Institute, which is I think the most unbiased source of these figures, they put Connecticut at 91 percent coverage. They put Hawaii at 93 percent coverage. Indeed most of the figures showed that Hawaii is not at 100 percent coverage. They are somewhere between 93 percent and 95 percent coverage. Furthermore, Hawaiians have the choice, primarily 80 percent of them have the choice of only two insurers, Kaiser Permanente, an HMO, or Blue Cross-Blue Shield. Most of us who have dealt with Blue Cross-Blue Shield and some of the other big plans find that they are often inadequate. One of the things that keeps them honest on the mainland is that there is a lot of smaller companies and there are a lot of creative employers like I just quoted who frankly provide far better plans.

Then the other thing that is real interesting about Hawaii, two other things I should just mention about Hawaii, is that between 1980 and 1990, total health care costs in Hawaii rose 191 percent. The national average in the mainland was 163 percent. So the Hawaii system has not succeeded in controlling costs.

Lastly, I would comment that 4 in 10 employers had to reduce the number of employees when the mandate first went into effect; 1 in 10 employers hired part-time workers instead of full-time workers because part-time workers were not covered; 55 percent restricted their wage increases; 33 percent reduced other benefits; and 6 in 10 raised prices. But 1 in 5 of the firms knew other firms that had gone out of business because of the mandates. That is the unseen consequence.

So while I respect Hawaii's decision in this regard, I would also point out that Hawaii has a rather different population than the rest of the Nation. I do not think that you can say because Hawaii has an employer mandate that that makes an employer mandate good. It has not provided much more coverage for Hawaii than Connecticut has. It has not provided the diversity of insurers that the mainland has. It certainly does not allow the diversity that the system over here allows in self-insured and, therefore, it has not been the State in which things like medical savings accounts and other approaches have developed.

Mr. ABERCROMBIE. Will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I will be happy to yield since I threw all those things at you that are rather negative to your State.

Mr. ABERCROMBIE. If you would allow me just a moment or two to respond.

One of the reasons I came down, I have heard this, and I must say, you are the mistress of the information that has been given to you and present it very effectively.

One of the reasons I did want to come down because of the small business discussion is that virtually nothing of what you have been told is accurate as far as Hawaii is concerned, and it is important to us for those of us who do live there to at least get the information on the record.

Mrs. JOHNSON of Connecticut. I think it is accurate that you have primarily Kaiser Permanente and Blue Cross-Blue Shield. Is that not accurate?

Mr. ABERCROMBIE. No. If you would just give me a moment or two. By the way, I am very familiar with the Small Business Hawaii executive director because we went to school together and we have been having a discussion about business and business regulation for the better part of three decades. So I know fully what the approach is.

Just very quickly, the original law was never intended to provide full coverage. It was based on employees who worked full time by definition of the law, which was 20 plus or more hours per week. That was to start it. We never did amend the bill for all intents and purposes except for a couple of benefits because virtually right away, with the mandate in operation even when there was a period of time when there was a dispute over whether we were going to have a waiver, the ERISA waiver, coverage was virtually universal. There are several plans that are put forward and choices to be made in addition to Kaiser and HMSA.

What happened almost immediately was many of the other businesses left because they were taking premiums out, and I think you are familiar with the phrase "cherry-picking." They would go in in those areas where they could maximize their profit and minimize their payout, and they left. Kaiser and Hawaii Medical Services Association, which is in fact the Blue Cross and Blue Shield, do in fact have the major part of the business because of the choice of the people. I think if you surveyed the people in the State, they are very well satisfied with it, although other competition has come up. For example, to try and achieve 100 percent coverage in our Health Quest program, there are five different plans including Kaiser and the Hawaii Medical Services Association, and three others that have come into the competition and succeeded and they are part of our plan toward achieving it.

I just want to conclude by citing to you the latest opportunity for small businesspeople to express themselves, and this was August 1 of this year, 1994, in the Honolulu Star Bulletin. The focus is on imperiled entrepreneurs, "Risky Small Business," is the title.

In the entire article, which focuses on three small businesses, as well as an overall portrait of the 29,000 businesses we have in Hawaii, 98 percent of them with less than 100 employees, and the overwhelming majority, less than 50 employees, only once does the question of health care costs come up. And the citation there is that over the past 12 years, the coverage went up approximately $5 a year.

□ 2150

So there are genuine concerns. Let me rephrase that and I will conclude. The gentlewoman has been very generous to give me the time she has. I did not mean to imply at all that your concern was not genuine on the question of employer mandates. Obviously that has to be not only discussed but a conclusion has to be reached.

What I meant to say was that I believe that with respect to the dangers for small business and the difficulties for small business in Hawaii, there is much more of a problem with respect to Workers' Compensation, with respect to location and costs of actually being able to have a lease, et cetera, in Hawaii, factors which do in fact make it different and unique from some other areas, although I think Workers' Compensation is a difficulty shared by virtually all small businesses today. But you will find that being cited virtually 100 percent of the time with respect to the difficulties and health care coverage being cited occasionally or only when people are reminded of it.

So what I would ask is as we continue the conversation I hope over the next few days and weeks that we give some consideration to what the positive effects of health care and employer mandates might be in the sense of achieving cooperation in a national health care bill that we can all if not be happy with, feel that it is at least minimally fair one to another.

Mrs. JOHNSON of Connecticut. I would certainly say that I think there is a good, solid bipartisan health care reform bill that we ought to have on the President's desk this year that would do a lot of things that would be very important to all Americans that would eliminate the discrimination that currently exists against people with preexisting conditions, that would prevent companies from cherry-picking, as the gentleman alluded to that they used to do in Hawaii, and would prevent them from doing that nationwide. So there are lots of good things that we can do.

I also respect and am interested in Hawaii's decision to adopt an employer mandate, and I am glad it is working for them. I do not want Washington to force Connecticut to adopt an employer mandate when we are within two percentage points of Hawaii without one, and when we need small businesses to grow and take advantage of our manufacturing work force and of our plant capacity to produce new products, and when I know perfectly well that the majority of the uninsured in my State are in the big cities where there not only are lots of people without health insurance, but there is not a good health insurance infrastructure. And I know if we create an expanded community health center network so those people can get to providers, and we turn Medicaid from a fee-for-service compensation program into an insuring program so people can have the doctor of their choice and establish relationships that they have chosen, I believe that Connecticut can get to 95 percent every bit as fast as every other State, including Hawaii. So I just do not want Washington to mandate on my State Hawaii's solution, which seems to be working nicely for them in many ways.

Mr. ABERCROMBIE. I appreciate the gentlewoman giving me the time.

Mrs. JOHNSON of Connecticut. It is nice to have you with us, and I thank you.

I would say you ought to go through and compare what the benefits plan is in Gephardt plus the maintenance of effort, plus the State mandates and see how that works out, how many of your employers would actually experience an increase in costs, because I believe it is correct to say that the national benefit plan is considerable richer than Hawaii's plan. We have to check that out.

Mr. ABERCROMBIE. We can discuss that at another time, and I thank the gentlewoman again for the opportunity.

Mrs. JOHNSON of Connecticut. I thank the gentleman from Hawaii.

Mr. McCRERY. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Louisiana.

Mr. McCRERY. Mr. Speaker, I appreciate the gentleman coming to the floor and sharing with us his experience in Hawaii. I too had the opportunity to hear his remarks on the floor in the previous special order, and I know that he is sincere in seeking answers to some of the problems that plague our health care system.

With respect though to the data that the gentlewoman from Connecticut cited, with respect to Hawaii the gentleman should know that the figure of 93 percent coverage comes from the GAO, which is a fairly well-respected government watchdog, and the data that she cited with respect to the impact of the Hawaii plan on businesses, 4 in 10 employers had to reduce the number of employees and so on, that data came from a 1993 Kaiser family foundation study. So these are not things she just pulled out of the air.

Mr. ABERCROMBIE. May I just respond very briefly. You are right about that.

Unfortunately, as with everything else, it requires perspective and context. After hurricane Aniki came through you will find that both the failure of businesses and people being laid off, which was cited there, had virtually everything to do with the hurricane. I will not take your time tonight, but I can assure you that the latest statistics show that our health care costs are going down and our hiring is going back up as our economy recovers.

Mr. McCRERY. I do not mean to criticize Hawaii. I think if Hawaii wants to do that, that is fine, and it has achieved 93 percent coverage. But there is another element to this that we have not talked about tonight, and I think we need to hit it because it is not just job loss that is the result of employer mandate. It is not just an increase to the cost of doing business. It is not just laying off employees or converting from full-time employees to part-time employees to try to avoid the full cost of the mandate. I think more important than all of that is the fact that when the government, the central government, the Federal Government chooses to impose a mandate on all employers in this country to provide health insurance, they are taking the first, the most important, the biggest step toward government control of our health care system. That should not be overlooked in this debate on employer mandates, because only through a mandate, short of a single-payer system where the government controls everything and pays all of the bills, short of that, an employer mandate is necessary for the government to control our health care system.

Think about it. Once the government says, "Mr. Employer, you must give your employees health insurance," then the government says, "Mr. Employer, you must give your employees this health insurance, these benefits," that the government prescribes, and then the government says, "We are also going to impose global budgets on health care spending on a State by State basis." If your State exceeds that global budget, guess what? "We are going to impose price controls and tell you what you must pay for that set of benefits." Then you have government control of health care.

I do not think anybody, well, there are a few in this country who want the government to control health care, but I would submit that the vast majority of Americans, the vast majority of the people in my district for sure do want the government to control their health care system.

So be careful, those of you who promote employer mandates, be careful because that is the first step to government control of our health care system.

Mrs. JOHNSON of Connecticut. I do think that it is absolutely true, and those of us who have been on the committee that have marked up this bill two times now, both the Subcommittee of Ways and Means and in the full committee, we saw how deeply interlocked mandates and price controls are. And once government adopts a price control policy, with it they do things like this: In the Gephardt bill there is a provision in law that says the Secretary of Health and Human Services shall have the power to decide whether a drug is being used appropriately, and if she does not think that drug is being used appropriately she can deny reimbursement for that drug.

When you look at the future where drugs are going to be more expensive, and there are going to be fewer operations and more use of pharmaceuticals, you can see why the government in this bill is taking control over what drugs you will be able to have reimbursed under your health care plan.

It is the details that reveal the depth of the power shift from people to government that lies behind a bill whose fundamental structure is employer mandates and price controls.

Mr. STEARNS. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to my colleague, the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, I just wanted to add a few comments to the debate from the gentleman from Hawaii. I think perhaps we should take a special order and point out the fallacies in the health care program that exists in Hawaii, because there have been many articles written upon it talking about how it has increased the tax base and how a lot of the research for health care comes from the mainland and the type of economy over there versus the economy that might be in Connecticut.

□ 2200

There are so many comparisons we could do to show that what the gentleman was talking about does not apply here and, in fact, that the Clinton-Gephardt bill is vastly different than that, and so I think at another time we might want to explore that.

But I wanted to make one final argument concerning this employer mandate. And I have heard this by the administration saying, "What is the big deal? You have minimum wage. We have increased the minimum wage, and it did not amount to a flick on the economy." It does.

This is a little different. If I am an employer or employee, the minimum wage applies to a very small segment within that corporation.

Mrs. JOHNSON of Connecticut. Just a few employees.

Mr. STEARNS. Just a few people. Now you are not mandating just that small group of employees. You are mandating all employees, all employers, all across the United States, and the impact is dramatic in comparing it to just raising the minimum wage and making the same comparison is the fallacy, and in the end the employer lots of times cannot control his health care if Government is going to mandate increased standard benefit packages. With all the bureaucracy that comes in with this bill, it is going to affect the employer. He will not be able to control the costs like he could with a small, narrowly segmented group of individuals who are on minimum wage.

I just wanted to bring up the fallacy about comparing this to minimum wage.

Mrs. JOHNSON of Connecticut. Not only are you imposing a cost for each employee, but each employee's spouse and each employee's children. At least, in the Clinton plan, President Clinton was going to have the employer have the spouse pay something and send it back to the employer who paid the family coverage, but this is so typical of Washington. Honestly, you have to have a sense of humor. It is not very funny if you have to pay the bill.

In the Gephardt plan the employer of the spouse is going to pay a premium, but it is not going to go back to the employer who provides the family coverage. It is going to go to the Government to pay the subsidies for small business and low-income workers. So remember, we talked about how small business is going to have to carry the cost of this big benefit plan and of the maintenance of effort benefits and of the State mandated benefits. They are also going to have to carry the costs of the subsidies necessary to subsidize the premiums of low-income workers and small businesses. So you are not going to be paying just for your employees' mandated benefits; you are also going to be paying for other employees' mandated benefits, and that is why the costs are going to go up far higher than they are now.

And then you get into what Europe has gotten into where they said in 1993, when President Clinton got them all together to look how we can make the economies grow, the European Community leaders said, "We must lower taxes on labor to enhance Europe's industrial competitiveness." By that, they meant lower the fringe-benefit costs on labor, not the wages, and in truth, since in the last decade, Europe has created, the last 20 years, Europe has created no new net jobs, no new net jobs. We have created lots of new jobs, because we create them in the small business sector.

Mr. STEARNS. I wanted to interject one thing. Is it not true in some of the European countries the employer health benefits are half of what the labor wage is? In other words, they are increasing so dramatically the labor wage itself is just about twice, but the whole health care is just increasing so dramatically in these countries that it is taking a bigger and bigger share of the employer benefits to the employee.

Mrs. JOHNSON of Connecticut. I thought we had 10 minutes left, but I am told we only have 2 minutes left.

So I yield to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. I will take one quick minute, then you can close. I just wanted to say that one of the things I do not think we had talked about this evening is the fact these mandates do something else beside affecting existing businesses.

Think of the businesses, and I ran a business for years before I came to Congress. I had a small business. I had to borrow money to meet payroll sometimes. That is how it goes. That is how you do it. How about all the businesses that have not started because they cannot or will not be able to fund the requirement of the mandate to buy health coverage for those people in their employment? I would suggest to you that people are not blocks of wood. They behave normally. They understand what the liabilities are of going into business. Believe me, it is tough. I have seen people sweat and strain.

I think the gentleman from Louisiana pointed out that some have less than $10,000 to show for it. That is not a livelihood, I can assure you.

These mandates, this is the hidden factor. I think it does impact greatly the startup of new businesses where all the net new jobs have come from.

I thank the gentlewoman from Connecticut.

Mr. STEARNS. I commend the gentlewoman again for the special order.

Mr. MCCRERY. I appreciate the gentlewoman inviting me to join her this evening, and I think we have done a good job in exposing the employer mandate as nothing but a new payroll tax.

Mrs. JOHNSON of Connecticut. That is important. I do want to just close with this comment that 90 percent of people who take home $70,000 out of their business do provide health insurance for their employees. One-third of those who take home only $10,000 provide health insurance. They want to do it. Those who do not, for the most part, cannot afford to do it, and mandating it on them will not make them able to afford to do it. But it will force them to reduce the number of jobs or go out of business.

So this has big implications both for people's jobs, the strength and vitality of our economy, as well as the quality of health care in America.

I thank the Members for joining me tonight.

A SENSE OF PURPOSE OF OUR COUNTRY

The SPEAKER pro tempore (Mr. FARR). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BUYER] is recognized for 60 minutes.

Mr. BUYER. Mr. Speaker, I come to the House floor tonight because I have pondered and given analysis to a sense of purpose of our country.

Our Nation was dedicated to basic principles of God's will. Our Founders called these rights to be self-evident and forged a great country from the wilderness.

Two hundred and eighteen years later the ambiance of America is defined by the soul of her people. While many are filled with goodness, there is a lack of godliness, reverence, and direction among the American people.

When pillars of Christianity in a society are weakened, so are the fruits and blessings which flow from such a nation. The liberals mock George Bush for the "vision thing," and they also mocked Dan Quayle for preaching family values. You see, they were both right, the liberal goal is to replace Christian principles of our Republic with humanistic principles in that the human being can do whatever they want so long as they feel good and it does not hurt others.

We must, as a country, ameliorate our society neither by sanitizing her nor by living in her past, but by restructuring our Government and shoring up her originating foundations. These efforts will give direction and reignite the power of the American dream.

It will happen from those of us who are principled and exercise the courage of conviction with passion. You see, we will succeed, because there are so few of us who compete with their whole heart.

The reason I have made that comment is because I would like to discuss crime tonight. You see, all of this passion that a lot of people like to speak about on the crime issue really is about emotion into the issue.

Having been a former prosecutor, a Federal prosecutor, for 3 years out of the United States attorney's office, crime is an issue I know something about. You see, what we should be talking about here is the United States Code. That is what this is, Federal jurisdiction.

You see, there were four great landmarks in the history of the Federal criminal legislation. The first criminal law was enacted by the Crimes Act of 1790. The act defined back in 1790, among others, such offenses as treason; it also had forgery, bribery, and many of these punishments have not even been changed to today.

Then there was a revision in 1866; another revision in 1897; and the most recent revision was accomplished in 1948.

I think what we must remember is in the preface of title 18 a quote by Roy Fitzgerald of June 30, 1926. He said, "The scrutiny of this code is invited, constructive criticism is solicited. It is the ambition of the Committee of the Revision of the Laws of the House of Representatives," at that time, "was to perfect the code by correcting errors, eliminating an obsolete matter, restating the law with logical completeness, with precision, brevity, and uniformity of expression."

You see, the crime issue: We should be talking about the law. A successful judicial system needs a proper balance between restitution, retribution, deterrence, rehabilitation, and prevention.

What has occurred with the crime bill that came out after conference report is that it is completely out of balance.

□ 2210

The crime bill that was defeated here on a procedural vote for the rule, the message sent was to send that bill back to conference to correct it, because this body voiced the will of the American people to say that the bill that was submitted for us was an obscene injustice of public responsibility.

You see, the responsibility that we have as Members is to come forth with political morality. Political morality is whatever bill that you bring forth, whether it is on welfare reform, on crime, whether it is on the space station, whether it is on many different appropriations, we need to begin paying for what we do. When we have approaching a $5 trillion national debt, which is moving forward at a clip of $870 million a day, that is what this deficit is costing us, money that could go to infrastructure of this country, to improvements in education, advanced technologies.

No, we have to pay it on the Nation's debt and our budget deficit. That is what this is causing to us. We cannot ignore it. We cannot stick our head in the sand and say we can continue on.

We must exercise political morality.

For many, many years, you see, there was not a cry among America for a balanced budget amendment, there was not a cry for a line-item veto. Only recently has there been the lack of responsibility.

That act of public responsibility is also involved in the crime bill because when there is not enough funding to go around, we must exercise public responsibility to spend dollars wisely, prudently, effectively, focused so that they are effective programs; not to just on the crime issue, to spend money as if it is a starburst without realizing what impact those funds are being made, if any.

The message I received from the State of Indiana has been very clear, it is to stop the revolving door on violent crime and to, yes, place more police on the streets. You see, the people in Indiana are very pragmatic. They exercise good common sense. They say we realize that 7 percent of the violent criminals in our society are committing between two-thirds to 70 percent of the violent crimes, yet only serving 37 percent of their terms.

So what they are asking for is a tough crime bill with true truth-in-sentencing provisions. Now I understand that the President likes to get out there and say there are truth-in-sentencing provisions in the bill; but, you know, they are tremendously watered down and weakened. The President knows that. But he knows that the American people want to stop the revolving door on crime. So he throws out the terminology at the same time while he knows that States can access prison funding without even having to access—excuse me—having to activate truth-in-sentencing provisions.

You know, since the House defeated the rule, the President did try to seize, Mr. Speaker, the initiative with numerous attacks upon the GOP. And the NRA. Of course, he has forgotten about 58 Democrats who also opposed him on that rule.

I, on Friday, after hearing the majority leader state that he would place the crime bill back on the docket, I immediately wrote a letter to the Speaker of the House, saying, "Let's move forward in a bipartisan fashion." I was one of 38 of the Republicans who voted for the crime bill that came out of the House. I very much would like to vote on a crime bill. But the crime bill that came out of the conference report is not a report of a bill for which I can support. I asked them to meet in a bipartisan fashion to send this bill back to the conference, so that, yes, the will of the American people can be served.

My fears are that rather than negotiate with individuals such as myself, who has not been contacted by the White House, is that they would rather try to find eight individuals, take them to the back rooms and negotiate back there, either by using the Mutt-and-Jeff routines offering enticements and deals or outright punishment, threats, verbal coercion.

I am hopeful that my colleagues will exercise courage of conviction that I spoke in my opening because I see the trust deficit that is real between the American people and this Congress is there because they see a Member of Congress being nonresponsive to the will of the American people.

I also have mentioned what it felt like to be back at home at Monticello, IN, sitting on the couch with my son, to then see President Clinton on TV on the nightly news asking the American people from the pulpit of a church to pray for Members of Congress who voted against his crime bill.

I must say, Mr. President, that that was a tremendous statement to make from someone that, yes advocates the present statements of Christian bigotry that is occurring out there, not only you yourself, but also members of your Cabinet, talking about the unreligious Christian right.

Let me move to the President's comments that have been conclusively stated that the bill contains the "three-strikes-you're-out," 100,000 cops on the beat, prison funding and, as I said earlier, truth-in-sentencing provisions. You see, those are things which appeal to the American people. Clinton has not given the details about the plan in any of his statements. He has only repeated that what defeated the bill was a, I quote, "procedural trick." He has not explained how the bill was so drastically weakened in the conference. And I wonder why.

If the bill was so wonderful, why does he not let the American people in on the big spending secret?

You see, many of us are upset. We are upset because the crime bill got away from its original intent. Many of you are upset because, yes, we want to build more prisons; but what happened to that House version of the bill was that there was a decrease in funding of prisons by 50 percent.

Now, someone on the other side of the aisle would say, "No, STEVE, it is not 50 percent. There is $10.5 billion in the funding of prisons." But, you know, folks, it is less $1.8 billion for the housing of illegal aliens and $2.2 billion of that is non-trust-fund spending, which is a nonappropriated fund. You may as well call it funny money.

Attached to the prison funding were the truth-in-sentencing provisions. Yes, that is a Federal enticement to say to the States, "Let's stop the revolving door." But as I said earlier, now they cannot access the funds without having to enact truth-in-sentencing provisions.

One of the funding mechanisms of this bill I would like to discuss is that there is no true, accurate funding mechanism of the crime bill. The crime bill is to be funded with a trust account.

You see, there is no requirement that Federal spending actually meet all the crime bill funding commitments. You see, what that does is set the stage for possible nonbudgeted supplemental appropriations.

Next I would like to discuss retroactive applicability of the waivers of minimum mandatory sentences for first-time drug felons. Yes, you have heard many talk on the House floor about the possibility of that impact, of the release of up to 10,000 drug felons.

Now, it is difficult to say what the exact number is going to be. But what we do know is the impact of that measure. The impact of the measure is very real.

According to the preliminary estimates developed by the Federal Bureau of Prisons, somewhere between 5,000 and 10,000 Federal prisoners could meet the eligibility requirements, as stated in the bill, section 201. A sentence reduction hearing would likely be required to reduce a prisoner's sentence each costing the judiciary about $2,500 per case. If 5,000 or 10,000 hearings were conducted, the cost to the judiciary could be between $10.5 million and $25 million, which would likely be incurred in the first 2 or 3 years of the enactment of the provision.

□ 2220

So, you know when the President gets out, and he talks about this being a tough crime bill, I do not think the people have in mind the releasing of so many Federal prisoners back into the circulation of society, and you know it is not just the individual that decided to experiment with marijuana for the first time. This also could be the moles, those individuals who are running drugs, and in Indiana that impact is real because they are running drugs up from the South, whether it is from the gulf, or from Miami, up I–75, and cut across I–69, or up I–65 to Chicago or to Detroit, and it is real, and to think we would take those drug felons and place them back on to the street is not my idea of a tough crime bill. When the American people say they want a tough crime bill, I believe they have in their image, in their mind, something of the Terminator, but what we have is something that looks more like Mr. Whipple squeezin' the Charmin.

Part of the bill which has also upset many is the social side. They call it the prevention. Yes, it is heavy in the prevention side, and we do need a balance with prevention. But what we do not need is the out of balance. You see, earlier when I had mentioned that we need a system that balances between prevention, restitution, retribution, rehabilitation, and deterrence, the American people have stood up and said, "Enough is enough. For 25-plus years we have had tremendous focus on the rehabilitative side, poured money into the prevention side, and what has the spending of $5 trillion of social programs since 1965 done for this society? It has escalated violent crimes by almost 500 percent."

It is almost like what happened to individual and personal responsibility. Yes, some of the prevention side of the spending is good. I think that the statements by many about the midnight basketball and a lot of those provisions are silly, and the American people view them as being silly. I think what upsets a lot of us here is the placing of $1.8 billion of the Local Partnership Act of the failed stimulus package in a crime bill. It has no place in this crime bill.

You see, earlier when I opened up, when I talked about title 18 and the law, it is because we should be talking about a focus in on the deterrence, the retribution, the law, and then seek the balance on the preventive side. Now I think the message of the American people has been very clear, and their clear message is:

What happened to deterrence?

What happened to retribution?

What happened to victims' rights?

We have had enough about the civil rights of criminals. Let us stop coddling the criminal with hug-a-thug type programs. Enough is enough.

You see, I stand here and view this through the dimension of a Federal prosecutor, and I say, "Will this crime bill, if I were still in the U.S. attorney's office, would this bill help? Would it help me? Would it help members of the community to have the streets, and the schools, and the parks, and the communities safer?" I could not look at an individual back in Indiana in the face and in their eyes and state with the passion and my conviction and say it will.

Let me mention about the funding of 100,000 police because I know many like to talk about the 100,000 police. I know what many have already talked about, that it really does not fund the 100,000 police on the street that the President and many others claim.

I think the American people would like to see more police. I know that there are communities that are strapped in the high tax, high crime areas that have high unemployment. I know that they are reaching out.

Sure, we would love to have better efficiencies of their local government. I do not want the Federal Government to be a bailout for the inefficiencies of the local communities. But on this issue of the 100,000 cops on the beat you almost have to say, "What's the catch?"

You see, I view this provision as an entrapment of police funds. The simple examination of title one of section 1003 of the conference report on page 20779 of the CONGRESSIONAL RECORD shows there is now a way that this bill could possibly fund police for our streets. You see, the bill provides $8.8 billion to be doled out at the discretion of the Attorney General for both new police—now think of that, at the discretion of the Attorney General. You see, there are some of us that believe that not only these cops on the beat, but other preventative programs should be handed out in block grants, not to be spent at the discretion of the Attorney General, or at HUD, or at other Federal governmental agencies.

You see, my fear is that politics will permeate on the issue. Just go to Massachusetts, for example, and go ask two Republican Congressmen in Massachusetts by the name of PETER BLUTE and PETER TORKILDSEN. Ask them what happened to the Federal grants for more police in the State of Massachusetts. You see, the money went to other Congressional districts who are Democrat Congressmen in Massachusetts, and no money went to the two Republican districts in the State of Massachusetts.

Now, I have not analyzed where the funds have gone in other States, but that bothers me a whole lot because what that tells me is that politics are permeating the issue of where moneys will be doled out.

So you say, "STEVE, just allow the discretion of this $8 billion-plus to be held in the hands of the capricious hands of the President's Cabinet." I think not. We have had enough of federalism, federalism, the Federal Government, moving into the States and local communities as if this body has all the answers. I disagree.

You know, I noticed earlier one of my colleagues commented that the leader of the sheriffs' association here in the United States is a Democrat sheriff from a county in South Carolina who said he is not going to access this. He is not going to access it because the application process will be too bureaucratic and that he cannot, their county cannot, afford the expense.

You see, I was on the phone today also with a president of a county council in Marshall County, IN, by the name of John Zentz. He is president of the county council, and he said, "STEVE, we cannot afford this program." You see, they understand at the local community that it is an entrapment. In order for them to access these funds they must put up 25 percent of the costs of that new police officer, and then they are going to have to pay for, they, the counties, will have to pay for, the benefit package, health care and health care insurance, any kind of life insurance, their retirement programs. They will pick up the expense. So, they fund 25 percent. They are going to have to pay for the equipment if they are going to have to go out and buy new squad cars. The local communities are going to have to pick that up. The Federal Government will kick in the 75 percent. But the kicker is at the end of the 5 years the local communities have to pay it all.

Now at the end of 5 years what magically happens? Vesting. Vest. You see, that police officer has vested.

□ 2230

He becomes a permanent employee. It is a hidden tax increase to the local communities, who cannot afford it, and they know it. That is why I received a call from the president of the county council, to say Steve, I do not agree with that carrot-and-stick approach.

What I am hopeful for is that this body will move forward in a bipartisan fashion to address the crime issue. I think if they listen to the will of the American people, and I am very careful not to judge America by what happens in my district. Sometimes we get caught in that. I have to remember about the concerns of my colleagues that come from big cities. I recognize that this body at times, the Nation's agenda gets driven by the concerns of the big urban centers.

I am keenly aware of that, because I come from the rural areas. The rural areas are individuals who are very pragmatic, who are steeped in traditions and have great reverence. They have known what it is like to do more with less. They are not the ones with their hands out, looking for a handout, when they have poorly run their own local governments. So that is why earlier I said the Federal Government should not be the bailout. I recognize that as we discuss the issue of crime, we must remain responsible, exercise public responsibility, and public political morality.

What I hear from my district has been very clear on the issue thus far. The Fifth District of Indiana, the calls into my district are 16 to 1 against the President's crime bill. When I did a survey of my district, I asked a few questions, and this is how they responded.

Over 5,300 responses, from July 1 to July 31 of this year, to the question do you feel that crime control legislation should include truth-in-sentencing guidelines which require criminals to serve at least 80 percent of their sentences? 4,858, 92 percent, said yes, we want truth-in-sentencing provisions. So you see, when I want to stand up here on the House floor for truth-in-sentencing provisions to stop the revolving door, it is not stating just what I want. It is the will of the people that I represent in the Fifth Congressional District of Indiana.

On the issue of do you support the notion that gun control is crime control? 4,416, 84 percent of the 5,300 responses said no, they do not buy into that notion.

Now, there has been a lot of talk that it is the NRA that is stopping the crime bill. The NRA has played a part, but that is not the sole cause. You see, the crime bill got far away from its original intent. I voted against Brady. I voted against the assault weapons ban. I am a strong supporter of the second amendment.

But, you know, I recognize that what we must go after is the criminal intent. You see, if I hold a knife in my right hand, and I hold a weapon, a gun which they seek to ban in my left hand, can you tell me which is the assault weapon and which is the defensive weapon? No.

You see, what defines them is the criminal's intent. If I choose the knife in my right hand to either maim, disfigure, wound, or kill, and I come at you, and you choose the weapon that they seek to ban, the knife is the assault weapon based only on my intent, and the defensive weapon is the gun.

So the real assault weapon is the thug, is the criminal. That is what defines the assault weapon.

So I get a little upset when I hear the "assault weapons ban." Does that mean we are going to ban anything that is used? Are we going to ban feet? Are we going to ban hands? Are we going to ban an ink pen, if somebody uses an ink pen and stabs it into someone's heart? All of those are assault weapons. Tire irons, screwdrivers, ice picks. There are many things that could be classified as an assault weapon.

So I do not give in to the renaming. You see, there is that notion of gun control is crime control, and I do not question the sincerity of the Members of this body that believe that, because they believe it with all their sincerity. President Clinton believes that with all his sincerity.

But that which really gets me is to have in this crime bill gun control. And at the same time this conference stripped out the Senate provisions to get tough on criminals who use a weapon, a gun, in the commission of a crime.

On the floor of the Senate, PHIL GRAMM offered an amendment requiring 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, 20 years imprisonment without parole for discharging a firearm during the commission of a violent crime or drug felony, life imprisonment without parole for murder, and the death penalty in aggravated cases.

You see, this was stripped in conference. Now, think of that disconnect. They want to take guns away from law-abiding citizens, but, at the same time, let us not punish criminals who use a gun or discharge it or kill someone in the commission of a crime. Let us not increase that.

Now, you see, the President is not saying that. He is not out there saying that, because if the American people knew that, they would be tremendously upset.

So that is why I am here tonight. I am here tonight to get the American people to understand there are many of us in this body who are upset that the crime bill was weakened.

Now, I understand what happens here. That in order to get a crime bill through this House, it is an incredible juggling act. It is a juggling act because you have Members who do not believe in the death penalty. You have Members who only want to do the social side or the preventive side. You have got those who really believe in the coddling of the criminal. You have got those who say well, that is really not a mugger, that is just a socially disadvantaged person who is reaching out for help. So he is not really a mugger. Allow him to complete his transaction so he can get back to a midnight basketball game.

Come on. The American people have seen through this crime bill. They do in fact want a tough crime bill. And being one of the 38 Republicans who voted for the crime bill, I want a tough crime bill. But I cannot support a crime bill that does not move back to conference and move in a bipartisan fashion. I cannot do it, and go back to Indiana and look at Hoosiers in the face and say "good deed."

Mr. Speaker, I include for the RECORD the following newspaper article.

[From the New York Times News Service, Aug. 17, 1994]

A VOTE AGAINST CRIME BILL IS A LESSON IN NEW POLITICS

(By R.W. Apple, Jr.)

WASHINGTON.—Rep. Lee L. Hamilton carries the look and the sound of small-town America with him. He uses the phrase "visit with" to mean "talk to," he still wears his hair cut short and he has the same soft Hoosier manner that once made Herb Shriner a popular humorist.

But Hamilton, an Indiana Democrat, has spent 30 years on the Potomac, and he is now a major player on Capitol Hill as chairman of the House Foreign Affairs Committee. He is invited to the bigtime parties in Georgetown and at the White House (he was there for dinner recently with the Emperor and Empress of Japan). He regularly gets approval ratings in the 70s and 80s from most liberal groups and ratings in the 30s from most conservative organizations.

Hamilton is admired for his intellect. President Clinton, it is said, considered him last year for secretary of state and has thought of him, along with Walter F. Mondale, as a candidate to succeed Warren Christopher in that position. In short, he is someone the Democratic establishment considers one of its own.

So perhaps the most surprising element of last week's surprising defeat of the crime bill on a procedural motion was Lee Hamilton's "no" vote. It is understandable only in terms of the two worlds he inhabits and which one exerts the stronger influence in today's politics.

"It doesn't give me any joy to cast a vote against President Clinton or any other president, for that matter," he said Tuesday. "Would I like to see him get a victory when he obviously needs one? Yes. Do I make that my first or my second priority? No.

The basic nature of American politics has changed. I don't get elected because of what Bill Clinton thinks or what the House leadership thinks. The electorate makes up its own mind. That inevitably means that presidents have a lot less clout with Congress than they used to have. All presidents, I mean.

It's also true, of course, that when a president is riding high his influence goes up, and when a president is in the dumps, the way Clinton is, his influence declines."

Hamilton lives in Nashville, Brown County, Indiana (population 873) and represents most of southeastern Indiana, an 18-county region whose biggest town is Jeffersonville, across the Ohio River from Louisville, Ky.

People there tend to be conservative Democrats; many trace their roots back to the "Butternut" Democrats from the South who settled in the area. And they are much more suspicious of government spending and gun control and social engineering than people in Washington or, for that matter, Indianapolis.

"They elect Lee Hamilton," an old friend said, "because they know that deep down, there's a wide streak of Scottish conservatism in there."

Hamilton certainly sounded conservative as he discussed his vote in an interview Tuesday morning. He said he liked some things in the bill, such as the provisions for more police officers and more prisons, but he argued that Congress "can do better" and that if it did not, no bill was preferable to one he considered deeply flawed.

How? Well, the congressman said, he found the financing of the new programs "very shaky," in fact "largely phony," because they would be paid for by savings within the federal bureaucracy that would never be made.

There was "a lot of stuff that doesn't belong in a crime bill," he added, like $300 million for economic development, and "another job training program, when we already have about 20 and the vice president has been running around saying we need to consolidate them."

But he spoke with special emphasis about the ban on assault weapons, which he voted against when it first passed the House, although he had voted in favor of the Brady law, which requires a five-day waiting period before handguns can be purchased.

Such laws are far more popular in cities, he conceded, than in the small towns and rural communities he represents; "In Indianapolis a gun is a threat, but in DuBois or Spencer County it's a security device."

"This is an exceedingly divisive issue," Hamilton said, "but no one has shown me any evidence that a ban would cut the crime rate."

He pictured his vote as a matter of principle, but at the White House, it was seen as a cave-in to political pressure. Asked why Hamilton had voted as he did, a senior adviser to Clinton answered.

"Guns. That's all it is."

In fact, Hamilton appears to be under no great pressure from anyone. Despite widespread talk of stripping him of his chairmanship as a disciplinary measure, something that would have been almost automatic 20 or 30 years ago, he said he had received no threats from House colleagues and no calls from the White House since the vote. (Beforehand, he was called by Vice President Al Gore, whom he told that he had already publicly pledged to vote "no.")

His hold on his district appears solid. He took 69 percent of the vote in 1992 and 70 in 1994, and his opponent this year, State Senator Jean Leising, is given little chance.

There has been no burst of editorial comment on his vote, and John Gilkey, managing editor of The Evening News in Jeffersonville, said that even the assault-gun ban "is not really an overwhelming concern to people here," The main complaints have come from local police chiefs. Dean Marble, the chief in Clerk County, said he was "really disappointed" because additional officers were "desperately needed in the country" and money was not available.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MORAN (at the request of Mr. GEPHARDT) for today, on account of illness in the family.

Mr. BECERRA (at the request of Mr. GEPHARDT) for today, on account of official business in the district.

Mr. DERRICK (at the request of Mr. GEPHARDT) from 2 p.m. today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ZIMMER) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.

Mr. DOOLITTLE, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. TAYLOR of North Carolina, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, on August 18.

Mr. WOLF, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. COX, for 5 minutes, today.

Mr. HEFLEY, for 5 minutes, today.

Mr. RAMSTAD, for 5 minutes, today.

Ms. PRYCE of Ohio, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, on August 18, 19, 20, 21, and 22.

(The following Members (at the request of Mr. BARLOW) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. KREIDLER, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Ms. ESHOO, for 5 minutes, today.

Mr. FINGERHUT, for 5 minutes, today.

Mr. BISHOP, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MEEK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ZIMMER) and to include extraneous matter:)

Mr. SAM JOHNSON of Texas.

Mr. LEWIS of Florida.

Mr. PACKARD.

Mr. SOLOMON.

Mr. DELAY.

Mrs. MORELLA.

Mr. SANTORUM.

Mr. CRANE.

Mr. ZELIFF.

(The following Members (at the request of Mr. BARLOW) and to include extraneous matter:)

Mr. NADLER.

Mr. BRYANT.

Mr. OBERSTAR.

Mr. MILLER of California.

Mr. REED.

Mr. MARKEY.

Mr. GORDON.

Mr. HAMILTON in two instances.

Mr. RUSH in two instances.

Mr. UNDERWOOD in two instances.

(The following Members (at the request of Mr. BUYER) and to include extraneous matter:)

Mrs. SCHROEDER.

Mr. KREIDLER.

Ms. BROWN of Florida.

Mr. BUYER.

ENROLLED BILLS SIGNED

Mr. ROSE from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

H.R. 4812. An act to direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

ADJOURNMENT

Mr. BUYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Thursday, August 18, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3713. A letter from the Secretary, Department of Defense, transmitting the 1994 Joint Military Net Assessment, pursuant to 10 U.S.C. 113(j)(1); to the Committee on Armed Services.

3714. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement with the Republic of Korea (Transmittal No. DTC-27-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3715. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement with Finland (Transmittal No. DTC-26-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3716. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed approval of manufacturing license agreement with Japan (Transmittal No. DTC-28-94), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3717. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Robert Edward Service, of California, to be Ambassador to the Republic of Paraguay, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3718. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 94-32: RFE/RL Relocation, pursuant to Public Law 103-236, section 308(k)(2)(B) (108 Sta. 439); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 523. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103-709). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 2680 to the Committee on Government Operations extended for a period ending not later than August 18, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. DUNN:

H.R. 4973. A bill to amend title 18, United States Code, to make it unlawful for any person to knowingly possess stolen firearms or stolen ammunition; to the Committee on the Judiciary.

By Mr. EVANS (for himself, Mr. CLAY, Mr. JEFFERSON, Mr. BARLOW, Mr. LIPINSKI, Mr. LEACH, Mr. GUTIERREZ, Mr. COSTELLO, Mr. OBERSTAR, Mr. WHEAT, Mr. BAKER of Louisiana, Mr. SANGMEISTER, Mr. MONTGOMERY, Mrs. LLOYD, and Mr. FORD of Tennessee):

H.R. 4974. A bill to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the Commission established by such act; to the Committee on Natural Resources.

By Mr. DREIER (for himself and Mr. KOLBE):

H.R. 4975. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to exclude changes in tariffs from the paygo scorecard and to amend the Congressional Budget and Impoundment Control Act of 1974 to exempt changes in tariffs from certain points of order; jointly, to the Committees on Government Operations and Rules.

By Mr. HANSEN (for himself, Mr. SKEEN, Mr. BILBRAY, and Mr. PASTOR):

H.R. 4976. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner; to the Committee on Natural Resources.

By Mr. KREIDLER (for himself, Mr. MURPHY, Mr. FRANK of Massachusetts, Mr. BARLOW, Mr. MARTINEZ, Mr. OBERSTAR, Mr. JACOBS, Mrs. UNSOELD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. VENTO, Mr. WYDEN, Mr. SYNAR, and Mr. JOHNSTON of Florida):

H.R. 4977. A bill to change the appeals process in the workers compensation provisions of title 5, United States Code; to the Committee on Education and Labor.

By Mr. KREIDLER (for himself, Mr. MURPHY, Mr. FRANK of Massachusetts, Mr. BARLOW, Mr. MARTINEZ, Mr. OBERSTAR, Mr. JACOBS, Mrs. UNSOELD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. VENTO, Mr. WYDEN, Mr. SYNAR, and Mr. JOHNSTON of Florida):

H.R. 4978. A bill to require the administrative agency responsible for adjudicating claims under the workers compensation provisions of title 5, United States Code, to follow certain procedures in seeking medical opinions; to the Committee on Education and Labor.

By Mr. KREIDLER (for himself, Mr. MURPHY, Mr. FRANK of Massachusetts, Mr. BARLOW, Mr. MARTINEZ, Mr. OBERSTAR, Mr. JACOBS, Mrs. UNSOELD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. VENTO, Mr. WYDEN, Mr. SYNAR, and Mr. JOHNSTON of Florida):

H.R. 4979. A bill to require the administrative agency responsible for adjudicating claims under the workers compensation provisions of title 5, United States Code, to select board-certified physicians to provide second opinions; to the Committee on Education and Labor.

By Mr. LEWIS of Kentucky (for himself, Mr. BUNNING, Mr. ROGERS, Mr. MAZZOLI, Mr. BAESLER, and Mr. BARLOW):

H.R. 4980. A bill to designate the bridge on U.S. Route 231 which crosses the Ohio River between Maceo, KY, and Rockport, IN, as the "William H. Natcher Bridge"; to the Committee on Public Works and Transportation.

By Mrs. SCHROEDER (for herself, Mr. MARKEY, and Ms. MARGOLIES-MEZVINSKY):

H.R. 4981. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discriminaton based on race, color, religion, sex, national origin, age, or disability; and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. TORKILDSEN:

H.R. 4982. A bill to improve the enforcement of child support obligations in both intrastate and interstate cases by requiring the imposition and execution of liens against the property of persons who owe overdue support; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 4983. A bill to amend title IV of the Social Security Act by reforming the Aid to Families with Dependent Children Program, and for other purposes; jointly, to the Committees on Ways and Means, Education and Labor, Energy and Commerce, and Agriculture.

By Mr. DREIER (for himself, Mr. GINGRICH, Mr. ARMEY, Mr. ARCHER, Mr. CRANE, Mr. KOLBE, Mr. ROBERTS, Mr. SAXTON, Mr. EWING, Ms. DUNN, and Mr. KNOLLENBERG):

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress with respect to funding for the Uruguay round of GATT negotiations; to the Committee on Ways and Means.

By Mr. DELLUMS:

H. Con. Res. 285. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 2182; considered and agreed to.

By Mr. BALLENGER (for himself and Mr. HAMILTON):

H. Con. Res. 286. Concurrent resolution recognizing the contribution of President Alfredo Christiani of El Salvador to achieve peace and national reconciliation in El Salvador; to the Committee on Foreign Affairs.

By Ms. DUNN (for herself, Mr. DEAL, Mr. HYDE, Mr. SMITH of New Jersey, Mr. KYL, Mrs. FOWLER, Ms. MOLINARI, Mr. ZIMMER, Mr. CUNNINGHAM, Mrs. ROUKEMA, Mr. SAXTON, Mr. FRANKS of

New Jersey, Mr. MANZULLO, and Mr. CRAPO):

H. Res. 524. Resolution providing for the consideration of the bill (H.R. 3990) to provide protection from sexual predators; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

460. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to Norton Air Force Base; to the Committee on Armed Services.

461. Also, memorial of the General Assembly of the State of California, relative to women's health care; to the Committee on Energy and Commerce.

462. Also, memorial of the General Assembly of the State of California, relative to the Federal Safe Drinking Water Act; to the Committee on Energy and Commerce.

463. Also, memorial of the General Assembly of the State of California, relative to human rights violations and political oppression in Vietnam; to the Committee on Foreign Affairs.

464. Also, memorial of the General Assembly of the State of California, relative to law enforcement; to the Committee on the Judiciary.

465. Also, memorial of the General Assembly of the State of California, relative to the imprisonment of undocumented alien criminals in Federal prisons; to the Committee on the Judiciary.

466. Also, memorial of the General Assembly of the State of California, relative to deportation of the spouses and children of permanent U.S. residents; to the Committee on the Judiciary.

467. Also, memorial of the General Assembly of the State of California, relative to hate crimes; to the Committee on the Judiciary.

468. Also, memorial of the General Assembly of the State of California, relative to illegal aliens; to the Committee on the Judiciary.

469. Also, memorial of the General Assembly of the State of California, relative to gaming on cruise ships; to the Committee on Merchant Marine and Fisheries.

470. Also, memorial of the General Assembly of the State of California, relative to the New River; to the Committee on Public Works and Transportation.

471. Also, memorial of the General Assembly of the State of California, relative to recognition of capital loss on the sale of a principal residence; to the Committee on Ways and Means.

472. Also, memorial of the General Assembly of the State of California, relative to the Federal income tax personal exemption; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. BEREUTER, Mr. COPPERSMITH, Mr. FROST, Mr. COYNE, Mr. MILLER of California, Mrs. VUCANOVICH, and Mr. DE LUGO.

H.R. 1110: Mr. DELAY.

H.R. 1164: Mr. KENNEDY.

H.R. 1190: Mr. DORNAN.

H.R. 2420: Mr. SOLOMON.

H.R. 2586: Mr. SYNAR.

H.R. 2910: Mr. BEREUTER, Mr. CANADY, and Mr. HANSEN.

H.R. 3251: Mr. CRANE, Mr. SENSENBRENNER, and Mr. BARCA of Wisconsin.

H.R. 3270: Mr. ANDREWS of Texas.

H.R. 3722: Mr. UNDERWOOD.

H.R. 3782: Mr. KLUG, Mr. DEUTSCH, Mr. ZIMMER, and Mr. WYNN.

H.R. 3897: Mr. FINGERHUT.

H.R. 4116: Mr. JOHNSON of South Dakota.

H.R. 4210: Ms. MARGOLIES-MEZVINSKY, Mr. HOLDEN, Mr. HUFFINGTON, Mr. RIDGE, and Mr. MANTON.

H.R. 4260: Mr. GUNDERSON.

H.R. 4375: Mr. EVANS.

H.R. 4411: Mr. VISCLOSKY.

H.R. 4449: Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BOEHLERT, Mr. DELLUMS, Mr. EVANS, Mr. ENGEL, Mr. FOGLIETTA, Mr. HILLIARD, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. OWENS, Mr. SERRANO, and Ms. VELAZQUEZ.

H.R. 4541: Mr. HAMILTON, Mr. BURTON of Indiana, Mr. ACKERMAN, Mr. HASTINGS, Mr. EDWARDS of California, Mr. ENGEL, Mr. BERMAN, Mr. GEJDENSON, Mr. LANTOS, Mr. BACCHUS of Florida, Mrs. MEEK of Florida, Mr. PENNY, Mr. BARRETT of Wisconsin, Mr. DELLUMS, Mr. WYNN, Mr. OBERSTAR, Mr. WASHINGTON, Mr. HUGHES, Mr. MCCLOSKEY, Ms. BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, Mr. DE LUGO, Mr. HOUGHTON, Mr. HILLIARD, Mr. REYNOLDS, Mrs. CLAYTON, Mr. CONYERS, Mr. JEFFERSON, Mr. HALL of Ohio, Mr. WALSH, Mr. KLEIN, Mr. RUSH, Mr. LEACH, Ms. FURSE, Mr. MFUME, Mr. BONIOR, Mr. DURBIN, Mr. WATT, and Mr. SYNAR.

H.R. 4548: Mr. ABERCROMBIE.

H.R. 4643: Mr. SMITH of Oregon.

H.R. 4699: Mr. MINGE and Ms. DELAURO.

H.R. 4780: Mr. ORTON, Mr. MORAN, Mr. PRICE of North Carolina, Mr. KLINK, Mr. PARKER, Mr. DINGELL, Mrs. KENNELLY, and Mr. MILLER of California.

H.R. 4792: Mr. GUNDERSON.

H.R. 4802: Mr. SANDERS, Mr. SCHUMER, Mr. GENE GREEN of Texas, Mr. CALVERT, Mr. POMEROY, and Ms. KAPTUR.

H.R. 4810: Ms. VELAZQUEZ and Mr. FILNER.

H.R. 4851: Mr. PARKER, MR. APPLEGATE, Mr. CLAY, Mr. MCNULTY, Mrs. COLLINS of Illinois, Mr. ACKERMAN, Ms. FURSE, and Mr. REYNOLDS.

H.R. 4860: Mr. VISCLOSKY

H.R. 4902: Ms. PRYCE of Ohio.

H.R. 4944: Mr. DORNAN and Mr. RICHARDSON.

H.J. Res. 338: Mr. MCDERMOTT, Mr. ROEMER, and Mr. VISCLOSKY.

H.J. Res. 362: Mr. MEEHAN, Mr. JOHNSON of South Dakota, and Mr. THOMPSON.

H.J. Res. 382: Mr. BISHOP and Mr. MURTHA.

H.J. Res. 397: Mr. EMERSON, Mr. THOMPSON, Mr. PASTOR, Mr. FROST, Mr. TOWNS, Mr. MCNULTY, Mr. FOGLIETTA, Mr. COPPERSMITH, Mr. REYNOLDS, Mr. REED, Mr. QUINN, Mrs. MEYERS, of Kansas, Mr. MCKEON, Mr. MANN Mr. LAROCCO, Mr. PETE GEREN of Texas, Ms. WOOLSEY, Mr. SCHIFF, and Ms. WATERS.

H. Con. Res. 148: Mr. GILMAN.

H. Con. Res. 251: Mr. LANTOS, Mrs. MEYERS of Kansas Mr. ROHRABACHER, Mr. MCCLOSKEY Mr. SMITH of New Jersey, Mr. OBERSTAR, Mr. TRAFICANT, Mr. HALL of Texas, Mr. SERRANO, Mr. MILLER of California, Mr. LIPINSKI, Mr. PORTER, Mr. MORAN, and Mr. MCNULTY.

H. Con. Res. 255: Mr. SHAYS and Mr. DUNCAN.

H. Res. 430: Mr. GINGRICH, Mr. MENENDEZ, and Mr. MANTON.

H. Res. 472: Mr. WELDON and Mr. BALLENGER.

H. Res. 485: Mr. LEWIS of Florida, Mr. TALENT, Mr. GRAMS, Mr. COOPER, and Mr. FRANKS, of New Jersey.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 140: Mr. ZIMMER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

118. By the SPEAKER: Petition of the attorney general of the State of Arizona, relative to State health care fraud control units; to the Committee on Energy and Commerce.

119. Also, petition of the attorney general of the State of Texas, relative to State health care fraud control units; to the Committee on Energy and Commerce.

120. Also, petition of the attorney general of the State of Michigan, relative to State health care fraud control units; to the Committee on Energy and Commerce.

121. Also, petition of the attorney general of the State of New Mexico, relative to State health care fraud control units; to the Committee on Energy and Commerce.

122. Also, petition of the Department of Public Safety of the State of Utah, relative to State health and care fraud control units; to the Committee on Energy and Commerce.

123. Also, petition of the attorney general of the State of Minnesota, relative to State health care fraud control units; to the Committee on Energy and Commerce.

124. Also, petition of the attorney general of the State of North Carolina, relative to State health care fraud control units; to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

HOW TO START REFORMING THE OWCP

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. KREIDLER. Mr. Speaker, in Colorado, there is an injured Federal employee who is contemplating suicide because he sees his insurance policy as his only apparent means of providing for his family.

In California, a Vietnam war hero came close to bankruptcy twice, lost a chance at buying a home, relinquished his military reserve pay, and lost thousands of dollars in wages—thanks to a dog bite while delivering the mail.

In New Jersey, a Federal employee went 3 years without pay or compensation, liquidated all his financial assets and "sold anything I could" to get money, and was then fired, over a herniated disk.

In Washington, a trusted naval shipyard employee is threatened, lied to, humiliated, interrogated, called names, spied on, and fired, because he injured his back on the job.

In Georgia, the undercover agent who cracked the biggest bribery case in IRS history saw 11 doctors who declared him totally and permanently disabled, linking his problems to the stress of undercover work. And still the Government insisted he see more doctors. "This [harassment]" he said, "is killing me."

In Michigan, a Federal employee requires ongoing physical therapy to have a relatively pain-free life following an on-the-job injury. Denial of therapy leads to severe pain, but her therapy is constantly hindered by the Government's failure to approve continued treatment.

This is the dark side of the Federal Employees' Compensation Act, a side filled with tremendous amounts of pain and suffering, with inexcusable chaos, with an overwhelming and under prepared bureaucracy, a tangle of procedures, overly protective managers, and a clientele all too frequently living on the very edge of harrowing personal tragedy.

It is also a side the Department of Labor would prefer you to ignore.

The Department of Labor, which administers the Federal Employees' Compensation Act, instead wants you to focus on the generosity of a program which pays out nearly $1.7 billion a year in compensation, death and medical expenses. The Department is proud of the role it plays in helping 260,000 Federal workers with job-related injuries or occupational diseases, and that 88 percent of all workers' compensation cases are approved either initially or on appeal.

But all across our country, congressional caseworkers know there is an entirely different story of how the Department administers the program through its Office of Workers' Compensation Programs.

Through my office, I've been communicating with caseworkers who say, with unmistakable clarity, that the OWCP has serious structural and procedural problems that need to be reformed. They say the OWCP is structured and administered to receive a high volume of relatively routine cases expeditiously. The OWCP, they say, is competent at this task, and the vast majority of its work force handles this function with a high level of professionalism.

But once a case evolves beyond the routine, the OWCP's procedures and administration disintegrate to the point where many caseworkers, and many medical specialists, believe the rights and the needs of injured Federal employees are routinely placed in jeopardy.

I've prepared three bills to begin addressing this situation. These bills are only a beginning; a comprehensive package is required, but should be preceded by oversight hearings into the entire scope of OWCP operations—hearings which we haven't seen for years. These bills get at a variety of problems, including:

First, appeals and judicial review: The bill makes statutory changes in the operation of the Federal Employees' Compensation Act, generally by borrowing from the Social Security program a series of statutory and regulatory policies designed in part to accomplish the following:

Shorten the time it takes to pay compensation.—One of the major flaws in the current administration of OWCP is the time it takes to begin payment of compensation. For far too many claimants, the wait is from 6 to 12 months for approval, with an additional 3 months to receive retroactive compensation. Some cases I know of are approaching 4 years in length for a decision on the initial claim—incredible, but not unusual. Because of these delays, many injured workers have their cars repossessed, their homes foreclosed upon, and their credit reputation ruined. Several provisions of my bill shorten this period.

Expedite appeals.—The Employees' Compensation Appeals Board has jurisdiction over any appeal filed by a person adversely affected by a final OWCP decision. However, according to a 1992 memorandum from the House Education and Labor Committee, the Employees' Compensation Appeals Board "seems to lack both the will and authority to impose its decision on OWCP." Further, the committee memo said, "the perception of unfairness in the FECA program is exacerbated by the fact that appeals are conducted by the same organization [OWCP] that initially reviewed and denied a claim." My bill eliminates the Appeals Board and replaces it with hearings before Administrative Law Judges.

Judicial review.—Federal employees are the only employees in the United States who are not entitled to access the courts to contest an adverse denial of workers' compensation claims. My bill gives the fundamental right of judicial review to Federal employees. The right to access the court will provide finality and clarity in the OWCP claims process. And it would serve as a check on arbitrary decisions by the Employees' Compensation Review Board.

Physician fees.—The OWCP pays high fees to the Government physicians who evaluate the claims for the agency. In many cases, these fees are four to five times as high as the fee paid to the attending physician. My bill requires that the fees paid to Government physicians shall not exceed the fees paid for the claimant's physician. It also requires the Government to make payments to claimants' physicians within 60 days; currently, many physicians wait over a year to be paid.

Second, hand picked doctors: The General Accounting Office, in a February 1994 report, noted that when the OWCP assigns a physician to conduct an initial examination of an injured Federal employee, it is legally required to use an impartial selection process. This, however, is not the case for a second-opinion examination. Instead, the GAO found that while there is no conclusive evidence of bias, three out of five OWCP districts "used either a manual card file, their own automated database systems, or other sources to select second-opinion physicians." These practices give rise to the belief that in some cases the OWCP handpicks physicians in the hope of achieving predetermined outcomes to the detriment of the claimant.

The second-opinion physician plays a crucial role in the OWCP process. Following a review of the second-opinion physician's report, a claims examiner may find that the second-opinion physician and the claimant's physician agree and, in these cases, continue with the adjudication process. If, on the other hand, the views of the second-opinion physician and the claimant's physician disagree, OWCP is required to appoint yet another physician to resolve the medical issues.

My second bill, therefore, requires the OWCP to use a strictly impartial system for the selection of all second-opinion physicians, to eliminate any allegation that a second-opinion physician had been handpicked by the OWCP. Indeed, the GAO wrote in February that unless the OWCP moves to an unbiased selection process there will be "continued perceptions of bias by claimants whose benefits are terminated."

Third, medical certification: When an OWCP examiner has questions about medical evidence following case file reviews, the examiner can request additional information from a claimant's physician or by scheduling the claimant for exams by second-opinion physicians. Second-opinion exams may also be conducted first, when surgery is recommended for certain medical conditions, and second, to determine the extent to which an injured worker has lost the partial or complete use of a body part.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Remarkably, considering the important role played by the second-opinion physician, the OWCP does not require second-opinion physicians to be certified by a board of medical specialties. My third bill requires this certification.

Again, these bills represent only a start—but a much needed start—at reforming the Office of Workers Compensation Programs.

I introduce these bills today with an outstanding group of original cosponsors, and I very much appreciate the support of Representatives AUSTIN MURPHY, BARNEY FRANK, TOM BARLOW, MATTHEW MARTINEZ, JAMES OBERSTAR, ANDY JACOBS, JOLENE UNSOELD, EDDIE BERNICE JOHNSON, ESTEBAN EDWARD TORRES, BRUCE VENTO, RON WYDEN, MIKE SYNAR, and HARRY JOHNSTON.

TRIBUTE TO VINCENT BRUNHARD, SR.

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. LEWIS of Florida. Mr. Speaker, today it is my pleasure to honor a distinguished citizen from my district. Mr. Vincent Brunhard, Sr., of Lake Worth, FL, has made many outstanding contributions to all of Palm Beach County, particularly in the Polish-American community.

His entire life, Mr. Brunhard has actively contributed to American society and the entrepreneurial spirit by establishing and operating many successful businesses.

As an active member of the Polish Cultural Society of the Palm Beaches, he served as one of the first presidents of the society. His commitment extended to serving as an officer for the next 10 years. In addition, he has been an active member of the Knights of Columbus, and many other civic organizations, contributing to the quality of life for all Palm Beach County residents.

One of his most notable achievements is the organization of the first gala event, "A Night in Old Warsaw," which is recognized as a special event throughout Palm Beach County.

Mr. Brunhard will be honored this November 13, 1994, for his lifetime of accomplishments. The Polish Legion of American Veterans honors Mr. Brunhard with a national honorary membership.

Mr. Speaker, I am proud today to recognize Vincent Brunhard, on behalf of Post 202 of the Polish Legion of American Veterans, U.S.A. He is truly an exemplary citizen, and I am proud to represent him in the House of Representatives.

TRIBUTE TO NELLO BIANCO

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to an old friend and supporter, Mr. Nello Bianco, who is retiring in November as the longest-serving Bay Area Rapid Transit [BART] director on the current board.

Nello has been a fixture, a voice for mass transit and for creative management and planning since he was first appointed to the board by the Contra Costa Board of Supervisors in 1969. He has won election after election since.

Nello has resided in the bay area for over 50 years, where he has made contributions as a businessman, community leader, and as an exemplary citizen. Nello has been associated with the Richmond Boys Club, the National Safety Council, the Salvation Army Advisory Board, and the American Public Transit Authority.

Nello also served on the Richmond City Council, as well as on numerous citywide commissions. His contributions to the bay area have been substantive and lasting, but none more so than his 25 years of public service on the BART Board of Directors.

Nello has served in a variety of capacities for BART. He has served as the president and vice president of the BART Board of Directors five times during his quarter century on the board. During his tenure on the board, Director Bianco has been the chair and vice chair, and served on every BART committee.

He has been instrumental in implementing many changes to the BART system, particularly the extension projects that will bring service to eastern Contra Costa County and portions of Alameda County. He headed the committees that negotiated San Mateo County's unique $200 million buy-in to BART, which initiated construction of the long awaited BART extensions in east bay cities—Martinez, Pittsburg, and Antioch—and the San Francisco International Airport.

Nello was also instrumental in bringing the Morrison-Knudsen BART car construction plant to Pittsburg. Once the company won a contract to build new BART cars, Bianco encouraged the company to manufacture the cars in an old steel plant in Pittsburg. This will create hundreds of jobs in the Pittsburg community, as well as a needed economic boost.

Director Bianco's long reign as BART director comes to an end in November with the expiration of his term. His dedication and commitment to the people of the bay area will be missed by all. The contributions he has made have affected nearly every resident of the area, as well as many others. His efforts and hard work will be missed, but his many accomplishments will be enjoyed by bay area residents for years to come.

Nello Bianco and I have been engaged in local politics in the east bay for many years together, sometimes in opposition, but generally working together in mutual support of candidates and initiatives to improve the lives of the residents of the bay area. I treasure Nello's friendship and I salute his decades of service to BART and to California.

HEALTH CARE REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. PACKARD. Mr. Speaker, like those old-time snake oil salesmen, President Clinton and the liberal leadership hawk the Clinton-Gephardt bill as a health care system cure all. But just like snake oil, their remedy for reform is a sham.

They claim that the Clinton-Gephardt bill is a cost-containment measure. But if you look at the ingredients, you find the same old prescription the liberals in Congress always dole out: More government bureaucracy mixed in with higher taxes.

If the American public is forced to swallow this brew, the side effects could be deadly: health care rationing and reduced quality. This is hardly, what the American people want from health care reform.

The proposal calls for a national health cost commission to monitor the growth of health care expenditures. A group of unelected bureaucrats would decide what care they feel is appropriate for Americans. Mr. Speaker, I always thought that was the doctor's job.

The cost of global budgets and price controls would fall squarely on middle-class patients. Meeting the Clinton-Gephardt global budget goals would require a 24 percent reduction in available health care resources by the year 2000—effectively rationing one quarter of our health care system.

This will reduce quality and access to care. Doctors and hospitals would no longer provide the best, most advanced, most sophisticated care. Instead, patients can look forward to long lines and delays, if they can get health care at all.

Mr. Speaker, what the American people need is not more feel-good tonic, but real medicine. They need health care reform that will work. I urge my colleagues to read the Dole plan and the Michel plan. They contain real cost-containment measures which will not threaten the quantity and quality of our health care resources.

SALUTE TO GEOFFREY B. AVILA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Geoffrey B. Avila of Troop 6 in Bristol, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Geoffrey located homes in Bristol, RI, that had no number designation for 911 rescue purposes.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Geoffrey B. Avila. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 64 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Geoffrey B. Avila will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

INTRODUCTION OF CIVIL RIGHTS PROCEDURES PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mrs. SCHROEDER. Mr. Speaker, last week, the House voted 427–4 to extend to congressional employees coverage under Federal labor and civil rights laws, correcting a longstanding deficiency in these laws. Today, together with Representatives EDWARD MARKEY and MARJORIE MARGOLIES-MEZVINSKY, I am introducing legislation to address another serious problem that deprives many Americans of the legal protections Congress intended them to have when these laws were passed.

Our legislation, the Civil Rights Procedures Protection Act, would prevent the practice of requiring employees to agree to submit any claims of job discrimination that may arise to binding arbitration. The willingness to sign such an agreement is often made a condition of hiring, continued employment, or promotion. The practice of mandatory arbitration, which is already in widespread use in the securities industry, is growing in popularity among many individual corporations especially in the construction, insurance, banking, and information technology industries.

The Wall Street Journal profiled the handling of a sexual harassment case by the securities industry on June 9. The article described the case of Helen Walters, a secretary subjected to obscene name-calling, physical threats, and unwanted gifts of condoms from her boss—actions most reasonable people would agree constitute a hostile work environment. Her case was ultimately dismissed; not by a court or the Equal Employment Opportunity Commission, but by a three-member arbitration panel hired and paid for by the securities industry. A recent GAO report on the subject found that arbitrators employed by the securities industry are typically white males, averaging 60 years of age, with little or no specific training in employment law. In Ms. Walters' case, she did not realize that the agreement she signed when she became a registered securities agent contained the mandatory arbitration clause, nor did she know that barring fraud the arbitration panel's decision could not be overturned in court.

The Civil Rights Procedures Protection Act would amend seven Federal statutes to specify that the powers and procedures provided under those acts could not be overridden by any contract, Federal statute of general applicability or other mechanism. Our legislation specifically permits employees to voluntarily elect to resolve an employment claim under arbitration after the claim has arisen.

The Federal statues amended by our bill are: title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the Revised States, which encompass the damages provided under the Civil Rights Act of 1991, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act. The amendment to the FAA extends the protections of the bill to claims of unlawful employment discrimination that arise under State or local law as well as to any other Federal statute under which similar charges of job discrimination may be brought.

Congress passed each of these laws with the intention of extending its protections to all Americans. No one wants to believe at the time of hiring that he or she may one day be in a position to bring an employment discrimination claim against an employer. Mandatory arbitration represents a disturbing trend in employment law, one that forces many workers to choose between a job or promotion and their civil rights. This is a choice no one should be forced to make. I hope my colleagues will join us in cosponsoring the Civil Rights Procedures Protection Act.

INTRODUCTION OF THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1994

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. MARKEY. Mr. Speaker, today I am introducing, along with Congresswomen SCHROEDER and MARGOLIES-MEZVINSKY, legislation that responds to a growing threat to American employees' civil rights. Specifically, our bill would prevent employers from forcing their employees to give up their right to pursue employment discrimination and sexual harassment claims in courts of law. This bill responds to the burgeoning practice, engaged in most prominently by the securities industry, but also increasingly relied on by employers in information technology and other fields, of compelling employees to sign contracts that require all employee-employer disputes to be resolved through binding arbitration. This practice has resulted in an important—and, by all accounts, growing—segment of corporate America simply opting out of the anti-discrimination laws on the books.

Signing away one's right to pursue a discrimination claim in court may be a condition of employment or advancement, or may be required in order to gain certain employee benefits such as stock options. In the securities industry, securities firms require that certain employees, as a condition of their employment, register with one or more stock exchanges, thus becoming registered representatives. As part of that process, they must submit a so-called U–4 application, which is a standard contract used by each of the securities exchanges. The U–4 agreement requires, somewhat elliptically, that all disputes or controversies with the employee's firm be arbitrated if the rules of the exchange with which the employee is registered requires them to be arbitrated. The exchanges, in turn, have rules that require registered representatives and member firms to arbitrate all controversies that arise between them.

Thus, in order for brokers to have a license to do business as employees of brokerage houses, they must sign or resign. The employee has no choice in the matter, and indeed, even if he or she were to have offers of employment from more than one firm, shopping around to find one that does not require arbitration would be to no avail: it is an industry-wide practice, with no opportunity for individual modification.

This practice, however, flies in the face of the spirit of the antidiscrimination laws passed by Congress and on the books of States and municipalities across the country. When Congress passed the various civil rights and fair employment practices laws, it established access to the courts as the means of enforcing the fundamental rights those laws sought to safeguard. The judiciary is the objective arbiter of these rights; without access to the courts, the employee has no clear means of establishing them. The employer, in turn, has less incentive to follow the letter of the law. The existence of an unassailably neutral forum in which to vindicate these basic rights is therefore critical to their vitality. For private employers to forcibly interpose instead a substitute forum—with a distinct set of procedures, no access to a jury, no right to appeal, and no requirement that the arbitrators even follow the letter of the law in rendering their decision—constitutes a constructive denial of the right to a nondiscriminatory workplace.

No industry has practiced such constructive denial of rights as consistently as the securities industry. Not only is the practice pervasive, but the impartial and independent judicial forum envisioned by Congress is exchanged for a captive one where neutrality and independence are in serious doubt. Securities industry arbitration is run by the industry selfregulatory organizations [SRO's], with industry members represented on each arbitration panel, and with arbitrators with little or no expertise in the area of employment law sitting in exclusive judgment. As the GAO discovered in its recent report to my subcommittee, the vast majority of arbitrators at the major SRO's are white males, above the age of 60. At best, such a setting has the appearance of unfairness; at worst, it is a tainted forum in which an employee can never be guaranteed a truly objective hearing.

Procedurally, securities arbitration is a far cry from adjudication, with substantial limitations on discovery and no obligation on the part of the arbitrators to even explain the reasons for the final outcome. The secretive nature of the proceedings, combined with arbitrators' ability to follow whim rather than precedent, and not have to justify their decision either in writing or to an appellate tribunal, result in a system poorly adapted to the vindication of fundamental civil rights. Moreover, the broad public policy purpose behind individual enforcement of the civil rights laws is undermined. In addition to their remedial function, the antidiscrimination laws serve an important deterrent function. This purpose requires both a public forum and one that can bind employers through precedent, the fore of law, and moral suasion. Forcible industry-sponsored arbitration provides none of those.

At its best, arbitration is an efficient and low-cost alternative to the courtroom. If conducted fairly, both parties to the arbitration proceeding can benefit. But even at its best, arbitration is not suited to disputes over fundamental rights unless both parties, once a claim has arisen, decide that it is an appropriate means of resolving the dispute. The bill we are introducing today would invalidate all predispute agreements to arbitrate claims raised under Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; section 1977 of the Revised Statutes of the United States; the Equal Pay Act of 1963; and the Family and Medical Leave Act of 1993. It would also amend the Federal Arbitration Act by rendering it inapplicable with respect to a Federal, State, or local claim of unlawful discrimination based on race, color, religion, national origin, age, or disability. Together, these changes will ensure that all employees can enjoy the fundamental protections offered by the civil rights laws.

TRIBUTE TO UNITED MINORITY MEDIA ASSOCIATES

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. RUSH. Mr. Speaker, I rise today to honor the achievements of the United Minority Media Association as it celebrates its 20th anniversary.

The UMMA has been a leader in calling for increased minority participation and ownership in the telecommunications, print, broadcast, advertising, and public relations industries. For over 20 years, through many and varied programs such as professional skill enhancement and recruitment opportunities, UMMA has worked tirelessly to bring about changes that benefit black Americans.

Mr. Speaker, I am proud to salute and honor the kind of commitment and dedication shown by the UMMA.

SURGICAL PROCEDURES PATENTS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. BRYANT. Mr. Speaker, putting aside for a moment all of the problems which exist in our Nation's health care delivery system—and they are legion—most of us would agree that the United States leads the world in the development and practice of state-of-the-art medicine.

Unfortunately, the U.S. Patent and Trademark Office may be erecting a barrier to providing the most up-to-date surgical procedures.

The American Society of Cataract and Refractive Surgery has brought a serious matter to the attention of Congress: the approval of patents for purely surgical procedures. For most of our history, medical procedures, independent of a medical device, were not considered patentable. In 1952, new and useful processes were added to the list of subject matter that could be patented, a move that was intended to codify existing policy, not change it. At the time, surgical procedures were not considered patentable.

In more recent years, however, the Patent and Trademark Office has issued process patents for purely surgical procedures and the holders of those patents have actively sought to enforce them. One example is a 1992 patent issued to a doctor for a particularly shaped incision for eye surgery. No patentable devices, instruments, or drugs were claimed. I have been told that this doctor is now suing and threatening to sue other surgeons for using the same or similar incisions.

Such patents pose a serious problem, both in terms of health care costs and medical treatment. License fees and infringement litigation would increase the cost of providing health care. In addition, the threat of litigation places a pressure on doctors to refrain from using surgical techniques or delay using surgical techniques, for non-medical reasons. Many foreign countries do not permit surgical procedures to be patented.

The American Society of Cataract and Refractive Surgery has presented to Congress its view that medicine has long had an alternative incentive system to promote surgical innovation and sharing of information: the recognition and prestige that flows from publishing in medical journals and presenting papers at medical conferences. The Society has pointed out that the extraordinary progress in surgical procedures during the past century has been accomplished with virtually no encouragement from the patent laws and that injecting patent law into this field is unnecessary and harmful.

Mr. Speaker, I would like to encourage my colleagues on the House Judiciary Committee to look into this matter. There is little to be gained and a great deal to be lost from a policy that discourages physicians from practicing state-of-the-art medicine.

AMENDMENT TO ANTI-HEAD TAX ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. OBERSTAR. Mr. Speaker, the recently passed conference report on the Federal Aviation Administration Authorization Act included (section 112) an amendment to the Federal Anti-Head Tax (49 U.S.C. section 40116 (d)(2)(A)) to make it unlawful for States or their political subdivisions to levy or collect new taxes, fees, or charges imposed exclusively upon any airport business, if the tax, fee or charge is not used wholly for airport or aeronautical purposes. I would like to clarify that this provision was not intended to limit the grandfather authority of airports under 49 USC section 47107(b). That section permits qualifying airport operators to spend airport revenues for certain off-airport purposes. The recently passed amendment to the Federal Anti-Head Tax Act was not intended to prohibit airports from spending new taxes, fees or charges in accordance with the grandfather provisions of 49 USC section 47107(b).

RECOGNITION OF THE SERVICE OF E. GENE KEIFFER

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to recognize and commend the accomplishments of an exceptional individual who has worked for the strengthening of our national security and aerospace industry for 44 years.

On August 25, 1994, Mr. Gene Keiffer will retire as chairman of the board of E-Systems. E-Systems is headquartered in Dallas, TX and is vital to the national intelligence community in protecting our country.

He joined E-Systems as an antenna and microwave design engineer and was subsequently promoted to the vice president, general manager oi the Garland Division located in the Third Congressional District. His managerial skills were further recognized in 1989 when he was elected to the position of chairman and chief executive officer. The selfless character and innovative skills that he has brought to the management of highly classified programs have made our country a safer and more democratic nation.

His service is exemplified in his support and participation in the Institute for Electrical and Electronic Engineers, American Defense Preparedness, the Association of the U.S. Army and the Space Advisory Board at Texas A&M University.

Keiffer is a graduate of Southern Methodist University with a degree in Electric Engineering where he went on to receive his Master's degree in the same discipline. In 1989 he was the recipient of the SMU Distinguished Alumni Award.

Fortunately, he and his wife Carole, who has been very supportive during his quality years of service to our country and industry, will continue to reside in the third district. I thank him for his dedication and commend him on a lifetime of invaluable service to America.

COLLEGE FACILITY TO BE NAMED FOR COMMUNITY PILLAR HY ROSENBLUM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. SOLOMON. Mr. Speaker, I think it would be appropriate for this body to add its voice to the chorus of tribute being prepared in honor of Hy Rosenblum of Rensselaer County in upstate New York.

Hy Rosenblum was born in East Schodack in 1911. This one-time product of a one-room schoolhouse graduated from the St. Lawrence University School of Law in Brooklyn and began his legal practice in 1937.

For over 50 years, Mr. Rosenblum became increasingly involved in community life. He was attorney for many years for the towns of East Greenbush and Schodack and the village of Castleton. In 1943, he created the Consideration Award, which he presents to local high school students judged by faculty members to have shown the highest regard for the personal and property rights of others.

In 1946, he incorporated the Hudson Valley Broadcasting Corp., the forerunner of WROW radio and WROW–TV. For many years he served on the company's board of directors.

In 1953, Gov. Thomas Dewey appointed Mr. Rosenblum to the original board of trustees for Hudson Valley Community College, a board he served for many years as secretary.

Mr. Rosenblum has also chaired the Rensselaer County Park Committee, during which time he played a major role in developing what became the Grafton Lakes State Park.

In addition, Mr. Rosenblum worked hard to secure additional state troopers for improved highway safety, to prevent the closing of the Fort Orange Paper Co. in 1973, saving hundreds of jobs, and the drive to close the Dunn Memorial Bridge during rush hour. He also served on the town of Schodack's advisory committee to develop a master plan for the Castleton Island State Park. And finally, he is a former assistant attorney general for the State of New York.

Mr. Rosenblum is a member of the Rensselaer County and New York State Bar Associations, the Kiwanis Club and Schodack Businessmen's Association, and a former member of the civic affairs committee of greater Albany Chamber of Commerce and the board of directors of the Daughters of Sarah Nursing Home.

In honor of his vital contributions to Hudson Valley Community Center, a former local monastery will be named the Hy Rosenblum Administration Center. The dedication will take place on Friday, September 9, 1994, and I hope to be there to pay my respects.

Meanwhile, Mr. Speaker, I ask this House to join me so that we may forward our respects as a body to a great American and good friend, Hy Rosenblum, who has worked tirelessly to improve the lives of his neighbors.

BEWARE OF U.S. TROOPS ON THE GOLAN HEIGHTS

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. DELAY. Mr. Speaker, despite repeated assurances by administration officials that any discussion of deployment of United States soldiers to the Golan Heights is premature, there is reason to believe that in the event of a peace agreement between Israel and Syria, American troops will be dispatched to the Middle East. In fact, when Secretary of State Warren Christopher was asked whether United States troops on the Golan might be part of any Israeli-Syrian agreement, his response was, absolutely. This would be the first major stationing of U.S. forces there since the catastrophic 1983 Beirut deployment.

The possibility of such a deployment raises serious concerns about the safety of United States troops, the sustainability of such a mission, and the longterm security of Israel. I would like to submit for the CONGRESSIONAL RECORD an article that appeared in the Houston Chronicle on August 5 by Yoram Ettinger entitled, "Doubt a U.S. Presence on Golan is Sustainable." I encourage my colleagues and administration officials to read it, as it makes a number of very important points about the risks of such a plan.

[From the Houston, Chronicle, Aug. 5, 1994]

DOUBT A U.S. PRESENCE ON GOLAN IS SUSTAINABLE

(By Yoram Ettinger)

Former U.S. Defense Secretary Les Aspin suggested at a June meeting in Tel Aviv that a current proposal to deploy U.S. troops on the Golan Heights—following total evacuation by Israel—will have to be in the magnitude of a brigade in order to be significant. Under current Pentagon guidelines, he noted, such an initiative would constitute a strain on the U.S. military, since it would require preparing a division—one-tenth of all American forces. Aspin indicated that if the scope of the deployment would be limited to the monitoring presence in Sinai, "then it would be trivial."

In addition, Rep. Lee Hamilton, D-Ind., chairman of the House Committee on foreign Affairs, has recently indicated that a survey is already under way to determine the specific locations of a U.S. peacekeeping force on the Golan.

Such a force would, supposedly, constitute an essential reassuring component. It would ostensibly be essential in light of:

(a) Syrian leader Hafex Assad's military potential and his record of brutality and unpredictability.

(B) The short-lived tenure of hundreds of Mideast inter-Muslim political agreements.

(C) The violently abrupt nature of their abrogation.

(D) Israel's risk-taking by giving away the Golan.

However, in order to bolster a potentially vulnerable accord, a U.S. presence on the Golan is required to be a durable, long-term and political/military sustainable undertaking. Moreover, it is required to be compatible with U.S. interests, lest it be summarily withdrawn, thus upsetting a fragile arrangement and undermining the prospects for real peace. Is the deployment of U.S. peacekeepers (monitoring or combat, unilateral or multinational) consistent with such requirements?

A Washington power broker agreed with me last week that the question of a complete withdrawal from the Golan should be decided by Israel voters. He stated, however, that the fate of U.S. peacekeepers and their implications for U.S. national security should be debated by the American public and the appropriate congressional committees, independent of Israel's stance. I believe that public debate should go forward with the following in mind.

Unlike U.S. observers in Sinai (22,000 square miles of empty desert), U.S. personnel on the Golan (450 square miles) would be situated about 25 miles from two of the most notorious training/operational centers of international terrorism and narco-terrorism: Damascus and the Damascus-controlled Beqá Valley ("Medellin Drug Cartel East"). Unlike ordinary U.N. forces, U.S. servicemen on the Golan would serve as a lightning rod for these terrorists.

U.S. observers in Sinai are located on the Red Sea across from Saudi Arabia, a relatively predictable ally of the United States. On the other hand, a Golan contingency—stationed in a neighborhood the size of a small U.S. congressional district—would border Lebanon, a microcosm of Mideast volatility, violence, fragmentation and Islamic and Arab nationalist, anti-U.S. sentiments.

Moreover, the Sinai presence is situated between Israel and Egypt, which is ruled by a pro-U.S., relatively moderate Arab regime. However, a Golan contingency would separate Israel from Syria, a traditional ally of Iran, North Korea, Cuba and Somalia's Col. Mohammed Aideed. Damascus has also demonstrated its capability to defy the United States, as evidenced by the devastation of the Marine headquarters in Beirut, the bombing of Pan Am Flight 103, etc.

Furthermore, the safe location of the Sinai monitors and their distance from Israeli and Egyptian military forces, puts them out of the line of fire should a clash occur. On the other hand, the Golan forces would be geographically sandwiched between Israel and its mightiest Arab neighbor, Syria, a few miles away from its armory, infantry and artillery.

Moreover, terrorist proxies of hostile, radical regimes (Syria, Iran, Iraq, Libya, etc.) could target U.S. servicemen. They could also preserve the element of deniability, while intimidating Washington, constraining its ability to respond to provocations elsewhere (e.g. the Persian Gulf area) and extorting political concessions.

In the absence of an effective U.S. combat force (which is precluded—even theoretically—by the diminished overall size of the U.S. military), one may predict a possible withdrawal of the peacekeepers in the face of hostage-taking and casualties. Such a withdrawal would be perceived as another retreat following Beirut, Somalia and Haiti. It would further erode the U.S. posture of deterrence, shrinking its public support for future well-thought-out and globally essential overseas military involvement.

While on the Golan, U.S. presence would constrain Israel by forcing her to coordinate preemptive and reactive operations with the United States, thus inadvertently shielding terrorists operating outside the Golan. It would also deny the United States the benefits from Israel's "unauthorized actions" (e.g., the 1981 bombing of Iraqi's nuclear reactor).

In fact, requiring Israel to seek prior approval in countering belligerence would strain U.S. relations with Israel. At the same time, appearing to have enabled Israel to act freely would damage U.S.-Arab ties. However, as demonstrated by the precedent of the 1982/83 U.S. episode in Lebanon, and as is evidenced by Mideast complexities, one can expect the undermining of the relationship between the United States and both sides, which is essential to the achievement of a genuine peace.

In addition, a U.S. presence at a stormy junction bordering Israel, Lebanon, Syria, Jordan and numerous terrorist groups, could draw the United States unwillingly into regional and costly inter-Arab and inter-Israel disputes, expanding the scope of these conflicts, otherwise confined to local significance (e.g., Somalia). It would certainly deepen the involvement of Russia (which has resumed strategic cooperation with Syria), France (which still views Lebanon as a French auxiliary) and other powers, further exacerbating global and regional tensions at the expense of U.S. concerns.

Keeping in mind the American public reaction to the U.S. military involvement in Lebanon and Somalia, and recognizing the likely pitfalls of a U.S. force on the Golan, such an undertaking would probably be neither durable, nor long term, nor politically/militarily sustainable. Thus, a political arrangement predicated upon such a tenuous component would ultimately imperil regional stability, threaten U.S. interests and jeopardize the quest for a solid, long-term peace in the Middle East.

TRIBUTE TO HOWARD H. PENUEL

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. GORDON. Mr. Speaker, I rise to thank a devoted resident of my hometown of Murfreesboro and a great friend, Mr. Howard H. Penuel, for his 16 years of outstanding service as Rutherford County trustee and to congratulate him for serving longer than any other trustee in the history of Rutherford County.

A lifelong Middle Tennessean who was born in Wilson County, Mr. Penuel moved in 1941 to Murfreesboro, where he began his public service by driving a school bus and then serving the community as a salesman at Haynes Hardware Company.

Seeking self-employment, Mr. Penuel later formed a partnership and opened a business that he would later own, Seventy-Nine Auto Body Repair. After selling this business, Mr. Penuel opened Penuel's Surplus Sales, a furniture and general merchandise store in Rutherford County.

Mr. Penuel was an active force in State and county Democratic campaigns for several years, working tirelessly and selflessly for causes and candidates he believed in. This experience paid off for Mr. Penuel himself when he ran for—and won—his first political office in 1978: Rutherford County trustee.

His service made quite an impression not only on natives of Rutherford County but on all Tennesseans, who elected him "Trustee of the year" after he served just one term. The County Officials Association of Tennessee, for which he served as president, also named him Outstanding Trustee of the Year.

Mr. Penuel displayed both foresight and vision as a trustee. Because he developed the county's first idle money investment program, the only debt Rutherford County owes is a debt of gratitude to Mr. Penuel. His initiative held the property tax rate low by earning the county millions of dollars in interest.

Rutherford County is indeed losing a valuable leader who has shown all of us what it means to serve and undoubtedly will continue to do so. Rutherford County's loss, however, is a big gain for Mr. Penuel's seven grandchildren and two great-grandchildren, who will be the new beneficiaries of his energy and attention. The golf course beckons him as well.

Please join me and all other Middle Tennesseans in wishing him well in his retirement.

EDUCATION IN THE 103D CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 17, 1994, into the CONGRESSIONAL RECORD:

EDUCATION IN THE 103D CONGRESS

This is an exciting time in education. Major reform efforts are underway at all levels of government. The 103d Congress has approved several initiatives with broad support from educators, parents' groups, and members of Congress from both parties. The federal government has always played an important role in postsecondary education, but these efforts focus on elementary and secondary education. Congress has made two things clear: its commitment to education reform, and its belief that state and local governments must continue to take primary responsibility for education.

NEW INITIATIVES

Congress has passed bills aimed at improving educational opportunities for students in preschool to high school:

Head Start: This program, which provides educational and social services to disadvantaged preschool children, has been widely acclaimed. However, there have been concerns about the quality of some Head Start programs, and Congress enacted a law aimed at improving their effectiveness. The law sets aside a portion of Head Start funding for quality improvements, and requires evaluations before Head Start providers can expand services. Head Start programs will now identify highly skilled teachers to supervise and advise less experienced ones. The law also requires the creation of more stringent quality standards for Head Start programs, and evaluations of each provider at least once every three years. Providers are now required to make greater efforts to involve parents in the development of their children's program. Moreover, the law seeks to expand services for children under three, and calls for a study on the need for full-day and full-year Head Start instruction.

Goals 2000: Considered the centerpiece of President Clinton's education reform efforts, Goals 2000 establishes a framework for federal support of stats' comprehensive reform efforts. Participation in the program is strictly voluntary. The law codifies the National Education Goals, first drafted by President Bush and the nation's governors. It continues the National Education Goals Panel, which will monitor the nation's progress toward meeting the eight goals by the year 2000. In addition, a new board is charged with identifying the skills that students will need to pursue certain occupations so that they can better plan their course of study. A separate panel will develop recommended curriculum content, pupil performance, and opportunity-to-learn standards, which states can use as guideposts for their own reform efforts.

States wishing to participate in Goals 2000 must develop plans for systemic reform, and are not required to adopt the national standards. Most of the funding for reform must be passed along to local school districts. Goals 2000 fosters flexibility by allowing states and local schools to apply for waivers of federal regulations and by permitting the use of reform funds for public school choice.

Elementary and Secondary Education Act (ESEA): The House and Senate have passed different bills to reauthorize the ESEA, the law through which elementary and secondary schools receive most federal aid. Originally enacted almost 30 years ago, the ESEA primarily provides assistance for four purposes; to help meet the special needs of disadvantaged students; to improve instruction in certain subject areas, such as math, science, and drug abuse prevention; to support teacher training and development; and to provide aid for a variety of other resources, such as library books and computers.

By far the largest portion of ESEA funds are devoted to programs for disadvantaged students. Most congressional debate has focused on the degree to which funding should be concentrated on those schools with the highest proportion of poor students, and on allowing these funds to be used for schoolwide programs. Both the House and the Senate have sought to expand on the flexibility initiated in Goals 2000 by allowing schools to seek further exemptions from federal regulations. Greater emphasis is also placed on providing more extensive professional development for teachers.

School-to-Work Transition: Targeted at the 50% of students who do not go to college, this law provides aid to develop programs to prepare students for the workplace. Students will be able to integrate school-based and work-based learning in a course of study providing them with a high school diploma as well as additional certification in an occupational area. The program will be operated by local partnerships including employers, educators, and labor.

ASSESSMENT

I have never been pessimistic about the education system in the United States. There is always plenty of room for improvement, but I believe that we do a reasonably good job of educating our young people and preparing them for work. There isn't any doubt that we have to lift the performance of youngsters coming out of schools so that they have the skills required in today's world. No one of us should be satisfied with an educational system that is average or even just above average. The test is really whether we have the knowledge or skills to prosper in the arena of increased global competition.

The last thing we need is federal control of schools. But we do need to give expression to legitimate national concerns about revitalizing and supporting local efforts to improve schools. Developing ideas about what constitutes high-quality education does not entail a national curriculum or standardization curriculum or standardization. Standards represent goals, and imaginative teachers will find a wide variety of ways to reach them. All of us want to see every student have a qualify education and achieve proficiency in basic skills. We want every student to be economically productive and a good citizen. And we would like every school to have a healthy climate for learning. All of us want to give more dignity and status to our teachers. And we want each school to be free to shape creatively its own program.

I believe that states and localities are primarily responsible for providing the services that will help us achieve our educational goals, but I also believe that the federal government has an important role to play. All levels of government need to contribute to making America a nation of learners. The new education initiatives continue the ongoing national conversation about what our children will need to know in the 21st century.

COMMENDING CAPT. JUAN TUDELA SALAS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. UNDERWOOD. Mr. Speaker, I would like to commend Capt. Juan Tudela Salas of the U.S. Coast Guard, a native son of Guam and a distinguished graduate of the U.S. Coast Guard Academy, for the exemplary manner in which he has discharged his duties as commander of the Marianas section and as the marine safety officer of the U.S. Coast Guard on Guam.

Since assuming this post 2 years ago, Captain Salas efficiently dealt with an unusual heap of natural and manmade disasters which have struck Guam and its neighboring islands. Five typhoons, including typhoon Omar, which passed directly over Guam with winds in excess of 150 miles an hour, battered the island within the span of 3 months in 1992. The careful precautions that Captain Salas took assuming command of instructing his personnel and their families in typhoon preparations helped hold to a minimum the damage to Coast Guard personnel and facilities during this exhausting period. Under his command the Coast Guard was able to respond promptly and efficiently to the typhoon related emergencies in Guam's Apra Harbor. These included the grounding of 2 U.S. Navy vessels, the sinking of 13 fishing boats, oilspills caused by damage to these various vessels and damage to various navigational aids. Additionally, Captain Salas was able to alleviate the strains of water and power outages experienced by Coast Guard personnel and their dependents after Typhoon Omar by making arrangements for the use of shower and laundry facilities and obtaining portable generators from California and Hawaii.

The Coast Guard headed by Captain Salas responded once again on August 8, 1993, when a substantial portion of the island was damaged by an earthquake measuring 8.1 on the Richter scale. Water and electricity was again cut off and the same prompt and immediate response of the Captain and his team directly helped in the island's swift recovery. He and his personnel were duly recognized with the award of special certificates for volunteer service by the First Lady's Committee for Special Projects in 1993 and 1994 for the assistance they gave their Sister Village of Merizo in the aftermath of typhoons and the earthquake.

Captain Salas has also proven himself a formidable commander beyond the scope of these natural disasters. The Marianas section, under his command, has responded to more than 300 search and Rescue missions during the past 2 years. Seventeen persons who had abandoned their ship at sea were rescued on one of these missions leading to the winning of the Controller of the Year Award for the entire Coast Guard in April 1993 by the Operations Center staff under Captain Salas. In the same respect a Reserve Coast Guard unit proposed to be disbanded just a few months before the captain assumed command was revitalized by this leadership to such an extent that it was nominated for the ROA Congressional Unit of the Year Award. The active command was also nominated for the Total Force Award and a Certificate of Appreciation was awarded to Captain Salas in May 1994 from the National Committee for Employer Support of the Guard and Reserve.

Advances in the field of environmental protection and maritime safety were also implemented through the Captain's efforts. Efforts initiated by him in the Coast Guard's enforcement of maritime and other Federal laws have led to the detection of numerous violations of the Lacy Act and the collection of substantial fines through the U.S. attorney's office for illegal fishing activities by foreign vessels within the U.S. Exclusive Economic Zone. Marine life, a valuable natural resource to the people of Guam was afforded significant protection as a result of this. Oilspill contingency plans for Guam, the Northern Marianas, and Palau, under the Captain's direction, have also improved. He has chaired and establishment of an oilspill response organization in Guam that had acquired 1.5 million dollars' worth of oilspill response equipment for Palau and Rota, formerly isolated and neglected locations. On top of these, he has assisted the Guam and the Northern Marianas legislatures in the preparation and enactment of oilspill responder immunity laws. He also has implemented with the governments of Guam and the Northern Marianas memoranda of understanding that delineate responsibility in the case of major oilspill, the first and third of such signed in the entire United States.

I commend Captain Salas for these accomplishments and the service he has given to the U.S. Coast Guard, the people of Guam and the Marianas. We all look forward to all the good things that will surely materialize during the next 2 years under his leadership.

THE 200TH ANNIVERSARY OF THE TOWN OF BROOKFIELD, NH

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. ZELIFF. Mr. Speaker, this weekend is a special time for the town of Brookfield, NH, as residents there are celebrating the town's 200th anniversary.

The people of Brookfield can be proud of the strong heritage they have created over the past 200 years. Their town has been a positive example to others of a cohesive working community. And, these traits have made the town a landmark and a welcome home to people of all ages.

Without the benefits of carriages or wagons, families such as the Lyfords, Wiggins, Chamberlains, and Robinsons made their way to what was then wilderness and now the establishment of Brookfield. These pioneers of New Hampshire carved their permanence from Governor's Road to the mighty slopes of Tumbledown Dick; a mountain named for Oliver Cromwell's ill-fated son.

This town relishes its ancestry and honors its history. In fact, the proud citizens of Brookfield still hold their annual town meetings and other community functions in the town hall that was built in the 1820's. Moreover, the National Register of Public Buildings retains Brookfield's town hall in its listing of historic places. Indeed, the residents of Brookfield find their future firmly rooted in the past.

Mr. Speaker, the good people of Brookfield have reason to take pride in their heritage and I join with them in paying tribute to the spirit, hard work, and vision of the towns ancestors. I'm confident that when Brookfield celebrates another 100 years, our grandchildren and great-grandchildren will look upon this time with optimism and prosperity.

SOUTHWESTERN PENNSYLVANIA GIRL SCOUTS

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. SANTORUM. Mr. Speaker, I rise to recognize an outstanding organization in our country today—the Girl Scouts of America.

Since 1912, when Juliette Gordon Lowe founded the Girl Scouts, they have actively developed self-esteem, values, and leadership skills in America's young women. As the preeminent organization for school-aged girls, the Girl Scouts bring together young women from all walks of life and introduce them to new and dynamic experiences. for a Girl Scout, receiving the Gold Award, their highest achievement, is no easy task. Along the way, girls are required to complete difficult tasks to prove their abilities in leadership, citizenship, and outdoor skills.

Girl Scouts practice and offer the skills they learn by volunteering in local schools and organizations, and by enriching the community in which they live. Currently, the Girl Scouts of southwestern Pennsylvania have achieved a membership of 21,063 girls and 6,155 adults. Additionally, their membership has risen consistently since 1986. On September 8, the Girl Scouts of southwestern Pennsylvania will celebrate the grand opening of their new headquarters in Pittsburgh. I rise today to acknowledge this upcoming event.

Mr. Speaker, I ask you, and my colleagues in Congress, to salute the valiant job the Girl Scouts have done in promoting the maturation of America's young women. In its 72 years, the Girl Scouts have consistently promoted leadership skills, and a commitment to public service in America's young women.

It is my sincere belief that the Girl Scouts will continue their service to our communities and further distinguish their members. I join all those in southwestern Pennsylvania and across the Nation in saluting the Girl Scouts of America.

CELEBRATING THE WORK OF SCULPTOR GREGG WYATT

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. NADLER. Mr. Speaker, last year, a constituent of mine, Greg Wyatt, sculptor-in-residence at the Cathedral Church of St. John the Divine, New York City, was honored to exhibit his bronze sculptures in the Senate Russell Building rotunda. Three dimensional works by studio apprentices under Mr. Wyatt's tutelage were also displayed at that time. Mr. Wyatt previously exhibited his works in the Cannon House Office Building where I maintain my Washington office.

CBS–TV has informed Greg Wyatt that on Sunday, August 21, 1994, on "Sunday Morning," WCBS–TV will rebroadcast the interview by Charles Kuralt, filmed in the cathedral crypt studio in Manhattan. The program will show Mr. Wyatt's famous work at New York's Cathedral of St. John the Divine, the 40-foot-high "Peace Fountain," and feature his apprenticeship for art students. I am proud to have this accomplished artist living and working in my district.

At this time, Mr. Wyatt's bronze sculpture entitled "Eternal Spring" is featured at the Kennedy Galleries in New York City. Additionally, he informs me that a retrospective exhibit of his bronze sculptures was selected by the Newington-Cropsey Foundation trustees to join the permanent Jasper Cropsey painting collection at the foundation's new Gallery of Art at Hastings-On-Hudson. As you may know, Jasper Cropsey was the American master of the 19th century Hudson River School of Painting.

As the representative of New York's vital arts community, it is my privilege to commend the outstanding work of an inspirational artist. I believe that every Member of this House will recognize, after viewing Mr. Wyatt's work, that the arts matter, and merit continued support by Congress.

YOUNG BETHESDA ENTREPRENEURS EXPERIENCE ADVERTISING WORLD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mrs. MORELLA. Mr. Speaker, starting a small business has been the first step on the path to success for tens of thousands of Americans, but seldom is that first step taken when the entrepreneur is only 10 years old. However, two of my constituents, that age, have decided this summer to take a leap forward into the world of small business and, specifically, into the world of advertising.

Rachel Marx and Elizabeth Whitman of Bethesda, MD, have chosen to start an advertising business as their summer venture, and this has earned them not only profits in the bank and publicity in the Washington Post, but also a letter of encouragement from Hal Shoup, vice president of the American Association of Advertising Agencies [AAAA]. In his letter to the young entrepreneurs, Mr. Shoup applauds their creativity and invites them to apply, when they are a little older, for the AAAA's LEAP program. This initiative, the Loaned Executive Assignment Program, provides for young advertising executives to spend a year in Washington learning about public service and Government operations.

These two young advertising executives and budding small business women will no doubt consider this future invitation seriously, but for now, they are experiencing an exciting summer. Excerpts from their story in the Washington Post follow:

TWO GIRLS PURSUE AD VENTURE, AND THE PERFECT JOB

[By Caroline E. Mayer]

Rachel Marx and Elizabeth Whitman are just 10 years old, but when it comes to making money, they don't kid around. They've tried the traditional lemonade stand. "But there's no money in that," said Marx. The two Montgomery County six-graders are after bigger bucks. So three months ago, the pint-size entrepreneurs launched a grown-up advertising business, called Kidz' Koupouns. The venture got started when Marx was sick with chicken pox. One afternoon, when Whitman visited the convalescing Marx, the friends decided they needed more spending money. Marx came up with the advertising idea. They would buy a page of advertising from a weekly community paper, then divide the page into smaller advertisements and sell space to local retailers who wanted to offer discounts. With a childhood enthusiasm that didn't take "no" for an answer, the two began calling businesses frequented by kids.

The product of their first endeavor was published in Washington Parent newspaper. The cost was small said Katherine Newell Smith, vice president of communications for Sutton Place Gourmet. What's more, Smith added, the money went to "a good cause—developing entrepreneurial spirit." "The girls were as efficient as any person I've ever dealt with," said Deborah Benke, Washington Parent's editor. "The copy arrived on time, in an envelope with a check and with camera-ready art. It was great—no hassle. I have many writers and advertisers that I have to call more than once." Sutton Place owner, Debora Shalom, was impressed with Marx and Whitman. "It's amazing to me what they accomplished," she said. "they were able to do something a lot of adults can't pull off."

CONGRATULATING CAPT. EULOGIO C. BERMUDES ON HIS APPOINTMENT TO THE U.S. NAVAL SHIP REPAIR FACILITY, GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 17, 1994

Mr. UNDERWOOD. Mr. Speaker, I would like to commend and congratulate Capt. Eulogio Bermudes of the U.S. Navy on his command appointment to the U.S. Naval ship repair facility on Guam.

The distinguished captain is the son of the late Juan L.G. Bermudes and Maria Concepcion. He is married to the former Carmen Meno Paulino and is the father of five children: Florina, Tanya, Vincent, Eloy, and Renee. He graduated from George Washington High School as valedictorian of his class in 1965 and subsequently attended the University of Guam. Receiving his appointment from the late Governor Manuel F.L. Guerrero, he had the prestigious honor in 1970 of being the first Chamorro to graduate from the U.S. Naval Academy in Annapolis where he was awarded a degree in mechanical engineering. He also holds a master of science degree in mechanical engineering from the U.S. naval postgraduate school.

Captain Bermudes built upon his educational training through a wide range of assignments. Prior to his present assignment on Guam, Captain Bermudes served at the Pearl Harbor Naval Ship Yard, the Mare Island Naval Ship Yard, the U.S. Naval Ship Repair Facility at Subic Bay in the Philippines, the U.S.S. *Samuel Gompers*, the CINCPACFLT at Pearl Harbor in Hawaii, the Naval Reactor's Representative's Office at Pearl Harbor, the U.S.S. *Henry W. Tucker*, and the U.S.S. *Benecia*. Upon his recent appointment, Captain Bermudes became the first Chamorro to take command of the U.S. Naval Ship Repair Facility on Guam, the only U.S. facility in the Western Pacific to provide vital repair, maintenance, overhaul, and shore support to naval ships, to the Government of Guam, and to other agencies.

Through his distinguished military service and outstanding achievements, Captain Bermudes has brought recognition upon himself, the island, and its people. On behalf of the people of Guam, I congratulate and welcome home an exceptional native son.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily

Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 18, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 29

10:00 a.m.
Environment and Public Works
Clean Air and Nuclear Regulation Subcommittee
To hold hearings to examine the potential health effects resulting from radium nasopharyngeal irradiation treatment.
SD-406

SEPTEMBER 13

2:00 p.m.
Veterans' Affairs
To hold hearings on the nomination of Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs.
SR-418

SEPTEMBER 14

2:00 p.m.
Veterans' Affairs
To hold hearings on pending legislation.
SR-418

SEPTEMBER 21

2:00 p.m.
Veterans' Affairs
Business meeting, to consider the nomination of Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs.
SR-418

SENATE—*Thursday, August 18, 1994*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer to the great God of the Universe, Creator of man in His own image, will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

Thank You, God, for this beautiful promise and invitation from our Lord.

Almighty God, Thou knowest better than we the weariness, the frustration, the pressure and tension under which Your servants labor. Thou knowest their minds and hearts, their families, their canceled plans, circumstances which are difficult to bear.

In a way that only God can do it, grant to Your faithful servants a special dispensation of love, grace, mercy, and peace. Encourage them, strengthen them, grant them the "peace that passeth understanding." Demonstrate the reality of Your presence in this place.

In Jesus' name who is Love incarnate. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the order entered yesterday, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

Also under the previous order, the Senator from Utah [Mr. HATCH] is to be recognized for up to 10 minutes.

The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the Chair.

CRIME BILL CONFERENCE REPORT

Mr. HATCH. Mr. President, the more people learn about this crime bill, the more opposition to it grows. Now it seems the President's own prosecutors have serious troubles with parts of this crime bill. The President's frontline Federal prosecutors have announced that they are "very much opposed" to the crime bill's mandatory minimum reform provision. The National Association of Assistant U.S. Attorneys, which represents nearly 4,000 Federal prosecutors, has written a letter to me opposing the crime bill's mandatory minimum reform.

As I have stated on a number of occasions, this provision of the crime bill will decrease penalties for many drug dealers, conspirators, and drug traffickers. It will also result in the early release of as many as 16,000 Federal drug dealers, and it will clog our courts with frivolous litigation. Our Nation's Federal prosecutors know that such a provision is not tough and it surely is not smart.

Republicans support the passage of a crime bill which is both tough and smart. And I might add, a number of Democrats do as well. Unfortunately, the crime bill conference report is neither. It is larded with pork barrel spending. It provides too little money for prisons. It drops several tough-on-crime provisions which were part of the Senate bill. It permits the early release of as many as 16,000 Federal prisoners. It fails to prevent the administration's planned implementation of a racial quota which will eliminate the Federal death penalty, and it increases the deficit by at least $13 billion.

Notwithstanding our repeated calls for bipartisanship, some Members on the other side of the aisle have questioned our motives and the sincerity of our objections. Frankly, I was particularly troubled by some recent remarks on the floor of this body which called into question our distinguished Republican leader's candor in his call for bipartisanship.

Yesterday, Senator DOLE took the floor and discussed some areas for possible compromise. Rather than responding in a constructive manner, his proposed changes were assailed by the other side of the aisle.

For example, he suggested that the administration should agree to drop the get-out-of-jail-free mandatory minimum provision that the prosecutors have just said should be changed. Republicans have expressed strong opposition to this provision because it is simply too broad and it will permit the early release of as many as 10,000 to 16,000 Federal prisoners—criminals.

Yesterday, one of our colleagues from the other side of the aisle claimed that only 400 offenders would be released as a result of this provision. Yet, the figure he cited was the Clinton administration's Bureau of Prisons estimate. The fact is the neutral Administrative Office of the U.S. Courts has concluded that as many as 10,000 Federal prisoners will be eligible for early release. Furthermore, respected Princeton University professor, John DiLuilio, a self-professed card-carrying Democrat, has estimated that as many as 16,000 prisoners will qualify for early release under this provision.

I ask unanimous consent that relative documents supporting my position be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDICIAL IMPACT STATEMENT—VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

(Prepared by the Judicial Impact Office, Administrative Office of the U.S. Courts)

APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES (TITLE II, SECTIONS 201 AND 203)

Section 201 would permit Federal judges to impose sentences below mandatory minimum levels under specific conditions. More encompassing than the version in the Senate crime bill, this provision would apply to the drug offender who: (1) does not have more than 1 "criminal history point" under the United States Sentencing Commission Guidelines Manual; (2) did not use or threaten violence or possess a dangerous weapon during the offense; (3) was not an organizer, leader, manager, or supervisor of others in the offense; and (4) discloses all information known about the offense. This provision would not apply if the offense caused death or serious injury to another person.

Based on data from the United States Sentencing Commission's February 22, 1994 report on the Senate crime bill, this provision could affect about 150 to 900 defendants annually. This should not have a significant impact on the Judiciary's resource needs. It could however, impose costs on the Federal probation system earlier than planned since prisoners could be released from prison and placed under supervised release earlier than they would otherwise.

Section 203 would allow the retroactive application of proposed Section 201 to an individual already sentenced and serving prison time, provided that the individual has demonstrated good behavior while in prison. According to preliminary estimates developed by the Federal Bureau of Prisons, somewhere between 5,000 and 10,000 Federal prisoners could meet the eligibility requirements of Section 201. A sentence reduction hearing would likely be required to reduce a prisoner's sentence, each costing the Judiciary about $2,500. If 5,000 to 10,000 hearings were conducted, the cost to the Judiciary could be between $12.5 million to $25 million, which would likely be incurred within the first two to three years after enactment of the provision.

This provision may create other adverse resource consequences for the Judiciary. First, it is possible that some court time could be unproductively spent hearing frivolous motions for reduced sentences. Second, similar to what could occur under proposed

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Section 201, this provision could result in an influx of prisoners released early from prison and placed under supervised release, which could impose substantial costs on the Federal probation system earlier than anticipated.

EXCERPT FROM SENATE AMENDMENT TO CRIME BILL

SEC. 2404. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

[From the Wall Street Journal, Aug. 11, 1994]

THIS BILL IS A CRIME

(By Jay Apperson)

The so-called anti-crime bill crafted by House-Senate conferees appears headed for a crucial vote in the House this week, possibly as early as today. The bill is a bad bill and should be defeated. While I do not speak for the Justice Department, I do speak as a veteran front-line prosecutor. Based on my experience, the crime bill does little to strengthen law enforcement and wastes hundreds of millions of dollars on soft-headed gimmicks that don't work.

More important, the bill is the drug dealer's best friend. It guts one of the most effective law enforcement tools to induce cooperation against high-level drug traffickers—"mandatory minimums"—and, incredibly, authorizes the wholesale release from prison of potentially thousands of convicted drug traffickers, putting them back on the street.

The legislation is the result of intense and sustained lobbying by the criminal defense bar and other critics of tough mandatory-minimum drug sentences enacted in the 1980s. These critics have painted a picture of federal prosecutors who round up helpless drug addicts and throw then in jail for 10 years with no change for parole. The reality is far different. Mandatory minimums apply (with a single exception) to drug dealers, not users. Simple possession by a user is only a misdemeanor which carries a sentence of no more than one year.

What the critics don't tell you is that mandatory minimums for those assisting in drug distribution are part of a comprehensive scheme which allows the government to move to reduce a defendant's sentence below the minimum term if he provides "substantial assistance" in the prosecution of others. In other words, if low-level dealers, drug couriers or "mules," arrested on federal drug offenses, cooperate with prosecutors, identify their sources and higher-ups, testify against them at trial, and help put them out of business, then those low-level defendants can have their own sentence reduced. It is a common-sense "carrot and stick" approach which represents perhaps the single most effective law enforcement tool in convicting high-level drug suppliers and traffickers.

Congress should think long and hard before returning us to the old days when narcolords could successfully insulate themselves by having others handle the drugs. Before mandatory minimums, underlings served very little jail time for their scutwork. Often paid for their prison time by their bosses, the low-level guys didn't finger increasingly violent higher-ups. Their short sentences were simply the cost of doing business.

However, faced with the certainty of a 10-year mandatory sentence with no parole, it's amazing how defendants' loyalty or fear is suddenly put into perspective. They very quickly realize they will be giving up a huge chunk of their lives for someone else. And they usually decide to cooperate with prosecutors.

Federal prosecutors have utilized mandatory minimums to successfully convict increasingly sophisticated high-level traffickers and racketeers—people who would otherwise still be in business. Responsible defense attorneys have zealously represented their clients by getting them to cooperate with the United States to earn reduced time. It is a system that works—both for society, which is rid of some high-level dealers, and for low-level defendants, who earn a reduced sentence.

Yet you'd never understand how this system works from reading press accounts, which have been shaped by critics of mandatory minimums. A good example is a Feb. 20 Washington Post article, which portrayed a young black man named Derrick Curry, who had been convicted on federal drug trafficking charges. The Post reporter lamented the "incomprehensibly severe" 20-year sentence for this "small-time dealer." The story noted, almost in passing, that Curry steadfastly refused to cooperate by "ratting on his friends." For those who think that's noble, remember Jesse Jackson's admonition to young blacks: "It's like seeing your apartment building in flames and not telling anybody about it because * * * the guys who set the fire are black. They think they're being disloyal to the race if they tell it. No: They will burn the race up unless they tell it."

Unfortunately, the crime bill removes the incentive to "tell it" by gutting mandatory minimums for a large number of low level defendants. These "low-level" defendants—a term defined by politicians not prosecutors—would be eligible to escape the mandatory minimum sentences without ever providing meaningful cooperation to prosecutors. The escape provision applies regardless of the amount of drugs involved. A person who distributes hundreds of kilograms of cocaine or heroin can qualify. It applies even to people who have engaged in repeated and ongoing trafficking, not just small fry who get caught for a single lapse in judgment.

The bill actually allows the escape hatch to apply retroactively, allowing release of those already convicted and sentenced. What's more, these convicted criminals may qualify for release even if they continue to protect higher-up drug traffickers. Convicted criminals may be released simply by having admitted they did it even after they have been convicted by a jury. They can also be released by telling the government what happened years after their arrest and conviction, when that information is useless. There is no requirement that they testify against anyone.

Passage of this legislation will reward the dangerously false nobility of the Derrick Currys of the world. And the punks whom they have protected will be waiting to put them back in the drug business when they get out.

If Congress is serious about fighting crime, it will defeat this bill. If President Clinton is serious, he will veto it. It's a bad bill.

EXCERPT FROM HOUSE AMENDMENT TO CRIME BILL

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 201. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act or section 1010 or 1013 of the Controlled Substances Import and Export Act, the court shall impose a sentence pursuant to guidelines established by the United States Sentencing Commission, without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point under the United States Sentencing Commission Guidelines Manual;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others (as determined under the United States Sentencing Commission Guidelines Manual) in the offense; and

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement.".

(b) SENTENCING COMMISSION AUTHORITY.—

"(1) IN GENERAL.—The United States Sentencing Commission (hereinafter in this section referred to as the "Commission") may—

(A) make such amendments as the Commission deems necessary to harmonize the sentencing guidelines and policy statements with this section and the amendment made by this section; and

(B) promulgate policy statements to assist in the application of this section and that amendment.

(2) PROCEDURES.—If the Commission determines it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of the enactment of this Act.

SEC. 202. DIRECTION TO SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines with respect to cases where statutory minimum sentences would apply but for section 3553(f) of title 18, United States Code, to carry out the purposes of such section, so that the lowest sentence in the guideline range is not less than 2 years in those cases where a 5-year minimum would otherwise apply.

SEC. 203. SPECIAL RULE.

For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner the court determines has demonstrated good behavior while in prison, the changes in sentencing made as a result of this Act shall be deemed to be changes in the sentencing ranges by the Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

EXCERPT FROM CONFERENCE REPORT ON CRIME BILL

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 80001. LIMITATIONS ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection.

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines; and

"(5) not later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement, and a defendant sentenced before this subsection takes effect shall be deemed to have satisfied the requirement of this paragraph if such defendant—

"(A) received an adjustment under the sentencing guidelines for acceptance of responsibility;

"(B) received a sentence below the applicable guideline range for having provided substantial assistance in the investigation or prosecution of another person who has committed an offense; or

"(C) provides to the Government, after moving for resentencing and before determination of that motion, all information that the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the "Commission"), under section 994(a)(1) and (p) of title 28—

(i) Shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section and the amendment made by this section; and

(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of enactment of this Act.

SEC. 80002. SPECIAL RULE.

(a) OFFENSES SUBJECT TO SENTENCING GUIDELINES.—For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner who, as determined by the court, has demonstrated good behavior while in prison, the changes in sentencing made as a result of this title shall be deemed to be changes in the sentencing ranges by the United States Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

(b) OFFENSES NOT SUBJECT TO SENTENCING GUIDELINES.—Notwithstanding any other provision of law, a defendant serving a term of imprisonment who—

(1) was convicted of an offense that occurred prior to November 1, 1987, or was sentenced as if the offense had occurred before such date:

(2) meets the criteria set forth in section 3553(f) of title 18, United States Code; and

(3) has demonstrated good behavior while in prison; shall be eligible for release consideration under the provisions of chapter 311 of title 18, United States Code (as such provisions remain applicable to an individual who committed an offense prior to November 1,

1987). Such a release determination shall be made pursuant to the guidelines and policy statements issued by the United States Sentencing Commission.

Mr. HATCH. I thank the Chair.

Perhaps recent developments will open the administration's eyes to the fact that our concerns about that provision are legitimate. Over the last several days the administration has been focused on turning a handful of votes. Consumed with this bare-knuckle strategy, they ignored their own prosecutors who attempted to broker some modest changes to the crime bill. Having been overlooked, President Clinton's prosecutors have been forced to publicly announce their opposition to this provision. That is no small thing. These are Democrat and Republican prosecutors.

The National Association of Assistant United States Attorneys, in a letter dated yesterday, has taken the position that they are "very much opposed" to the crime bill's mandatory minimum reform proposal. They note that the crime bill would permit as many as 20,000 petitions for early release. This sort of litigation will clog our courts and "dilute" Federal prosecutors' ability to do their jobs and would eliminate the leverage they need in order to nail certain types of drug traffickers.

Mr. President, I appreciate the courage of the administration's frontline prosecutors to publicly oppose the President on this issue, and I have no doubt that there are those up here and those down there who will threaten them from here on in and will try to hurt the careers of some of these people. So it took guts to do what they did, and we ought to be listening to them.

One can only wonder whether this step would have been necessary had the administration worked with the Republicans in a bipartisan manner.

Nevertheless, these men and women who represent the United States in all criminal prosecutions felt that they had to take this stand in the face of significant pressure from supporters of the crime bill. It is a testament to their fidelity to justice that they came forward. To continue to suggest, in the face of this sort of growing opposition, that our concerns about mandatory minimum reform in the crime bill are illegitimate, is ludicrous.

I have been an advocate for responsible mandatory minimum reform. I authored the Senate-passed provision. Indeed, the President's prosecutors support responsible reform. Nevertheless, this administration and the Congress owe it to our Nation's Federal prosecutors to listen to them and consider their suggested changes. After all, it is our prosecutors who will bear the burden of this so-called reform.

Mr. President, I ask unanimous consent that a copy of their letter to me dated August 17, and their policy brief, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
ASSISTANT UNITED STATES ATTORNEYS,
Alexandria, VA, August 17, 1994.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The National Association of Assistant United States Attorneys has as its members front-line litigators. Our members represent the United States in all civil and criminal matters. We are our nation's lawyers. Most of our members are prosecutors who work very closely with federal and local law enforcement agencies.

In 1987, Congress enacted the Federal Sentencing Guidelines, which, in part, had stiff but appropriate sentencing provisions, incorporating mandatory minimum sentences for certain drug traffickers. Those mandatory minimums have given our prosecutors the ability to get drug dealers to cooperate by forcing them to work with us in giving up their source(s) of supply or face years of incarceration. When their cooperation is deemed to be "substantial" by a committee of Assistant United States Attorneys (or, in some cases, the United States Attorney), their sentences may be reduced by a federal Judge. In fiscal 1993, almost one-fifth of convicted defendants benefited by having their sentences reduced because they cooperated with law enforcement authorities. The results of that cooperation led to the arrest and conviction of numerous drug suppliers and their sources.

The present Crime Bill contains a provision which not only severely negates the benefits of "mandatory minimums" for a certain class of offenders, but also would permit the filing of 10,000 to 20,000 frivolous law suits which would cause prosecutors to spend their time in needless litigation instead of investigating and prosecuting criminals. The present provision would dilute prosecutors' ability to determine if a drug dealer has "substantially" cooperated. In effect, our leverage to get to the suppliers would be eliminated for certain types of drug traffickers. We cannot stand idly by and allow this very effective tool to be taken from us and the citizens we are sworn to protect.

The bill's present language is intended to address low level drug traffickers who are so minimally involved that they cannot have their sentences reduced because they truly cannot provide information or cooperation which would be deemed to be "substantial". In some instances under mandatory minimums (and the Department of Justice's requirement that prosecutors had to charge the most serious provable crime), some injustices occurred. We believe that should be corrected. However, Attorney General Reno fixed this problem some time ago by no longer requiring Assistant United States Attorneys to charge the most serious readily provable offense if that would result in a miscarriage of justice. In addition, our Association proposed minor revisions to the present bill which would codify the intent to appropriately treat first time low level traffickers. We are not opposed to these goals and objectives. We are, however, very much opposed to the way the present bill achieves them.

We believe that prosecutors are in the best position to determine if an individual has cooperated substantially or truly has nothing to offer and therefore meets the other criteria to receive a reduced sentence in accordance with this bill's present language. We have proposed, therefore, that in order to qualify for "safety valve" relief, the current language be amended as follows:

"(f)(5) is hereby amended by striking the current language and inserting:

"(f)(5) the government certifies that the defendant has timely and truthfully provided to the government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan."

We urge the Committee to make the change we have proposed.

Sincerely,

LAWRENCE J. LEISER, AUSA,
President, NAAUSA.

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS—POLICY BRIEF

MANDATORY MINIMUMS

The National Association of Assistant United States Attorneys represents frontline federal prosecutors, including criminal narcotics prosectors and designated Organized Crime Drug Enforcement Task Force prosecutors, charged with enforcing the federal narcotics laws. We are encouraged that "The Mandatory Minimum Sentencing Reform Act of 1994", H.R. 3979, as amended, and adopted by the Committee on the Judiciary's Crime Subcommittee, recognizes the importance of limiting relief from provisions of existing mandatory minimum sentences to those defendants who have made every effort to provide assistance to the government.

The proposed amendment to Section 3553 of Title 18, United States Code, to create a relief mechanism from application of mandatory minimum sentences in certain cases, includes the criteria as set forth in paragraph (5) that the defendant has provided to the government all information the defendant has concerning the offense or other criminal conduct related to the offense.

While we are encouraged by the obvious recognition that any relaxation from mandatory minimum application should be limited to those who provide information to the government, we suggest that the existing language is problematic in its application. The first difficulty arises as to who is in a position to determine whether a defendant has provided the government all information. Only the government is able to make that determination, by comparing the information provided with other evidence of the case. The current language would conceivably allow the defendant to self-servingly state "that's all I know," without the government being in a position to test that assertion by debriefings, polygraph results, etc. In order to assist in this process, the defendant should be required to provide any evidence he can, in addition to information.

Similarly, we are concerned that this relief mechanism not be available to a defendant who has provided information which is not truthful, or to a defendant who in providing certain truthful information, nevertheless, also lies about other aspects or details so as to mislead investigators or obstruct the investigation.

It also should be required that the information be timely. Under the current language, a defendant who goes to trial and is convicted, would presumably be able to stand up at sentencing, tell the government what it has already proved, and avoid the mandatory minimums under this escape provision.

Accordingly, we seek amended language which would require that the defendant must provide timely information, truthful information, other evidence, and that the determination as to whether a defendant has provided all this be by certification by the government. Otherwise the sentencing court will be inundated by litigation calling upon it to make determinations it is not equipped to make.

This is the natural complement to the existing "Substantial Assistance" reduction mechanism currently embodied under Section 3553(e) of Title 18, United States Code. This provision has been responsibly applied by federal prosecutors throughout the country.

It reflects the recognition that the government is in the best position to make such a determination, and provides the incentive to the low-level defendant to work with the government in working up the ladder to identify and target higher-up drug traffickers. The current amendment properly recognizes that there are simply those who are not able to provide "substantial assistance" but who nevertheless have done everything they can to assist.

Simply put, society has a right to ask that a defendant provide all that he knows. If what he knows constitutes "substantial assistance" he will have already earned relief. (18 U.S.C. 3553(e)) If it does not, and he meets the other requirements of the currently proposed legislation, then justice dictates that he receive a lesser sentence.

The amended language which we have suggested (attached) will assure that defendants continue to have an incentive to cooperate with the United States by providing all truthful information in a timely manner, while allowing those who, through no fault of their own, are simply not in a position to provide "substantial assistance," an opportunity to receive a sentence below current mandatory minimums.

(f)(5) is hereby amended by striking:

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement."

and inserting:

"(5) the government certifies that the defendant has timely and truthfully provided to the government all information, and evidence that defendant has concerning the offenses or offenses that were part of the same course of conduct or of a common scheme or plan."

Mr. HATCH. As my colleagues know, I have also opposed wasteful social spending in the bill. Specifically, I have opposed the Local Partnership Act, the YES Program, and the Model Intensive Grants Programs, to just name a few. These three programs alone account for nearly $3.6 billion of pork-barrel programs in the crime bill, and they should be dropped.

Ironically, I have not heard many defenders of the crime bill defending these pork feeding frenzies. Instead, my colleagues on the other side of the aisle have suggested that Republicans once supported similar programs in the past.

The crime bill's Model Intensive Grants Program is an $895 million pork program for 15 cities handpicked by the administration. Republicans oppose it. My friend from Delaware has suggested that this program is similar to a measure Senator D'AMATO and Senator GORTON supported. The measure he cites is a bill to provide emergency aid of up to $50 million to cities which the President declares to be major drug emergency areas. This was a 1991 bill. This was a bill Senator BIDEN introduced. Senators GORTON and D'AMATO were only 2 of the bill's 16 cosponsors. To suggest that limited Republican support for this 1991 disaster areas bill somehow excuses the big-city ripoff of the model intensive grants is not just a stretch, it's an extraordinary leap. Such as argument illustrates the extreme lengths to which some will go to defend this crime bill.

Senator BIDEN has suggested that since midnight basketball may have been one of President Bush's so-called points of light, we have to make a $50 million Federal program out of it. The fact of the matter is, the point-of-light concept was intended to encourage private sector involvement in crime prevention and education efforts. Indeed, midnight basketball programs are largely funded by the private sector. Supporters of midnight basketball say its a success and it has done so without huge Government handouts.

Another reason Republicans oppose the crime bill is its soft truth-in-sentencing provision. It has been suggested that the Republican conferees voted against tough truth-in-sentencing. True, the Senate Republican conferees did vote against the Biden prison amendment which incorporated a truth-in-sentencing amendment. But that was only after the Democrat conferees had rejected a tougher Republican prison proposal which contained truth-in-sentencing.

We did not oppose the Biden prison amendment because of its truth-in-sentencing provision—and my colleague from Delaware should know that. We opposed it because the amount it proposed for prison construction was inadequate. Furthermore, the amendment contained a reverter provision which required that the truth-in-sentencing grants be diverted into other programs if the money was not spent quickly.

Mr. President, I ask unanimous consent that a copy of the Hatch prisons amendment, which all Senate Republican conferees supported, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TITLE I—VIOLENT REPEAT OFFENDER INCARCERATION

SEC. 101. PRISON GRANTS.

(a) IN GENERAL.—The Attorney General may provide formula grants to eligible States and to eligible States organized as regional compacts to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities and jails, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

(b) FEDERAL FUNDS.—

(1) FORMULA FOR DISTRIBUTION OF FUNDS.—Of the total amount of funds appropriated under this section for each fiscal year—

(A) $500,000 or 0.40 percent, whichever is greater, shall be allocated to each of the participating States; and

(B) of the total funds remaining after the allocation under subparagraph (A), there shall be allocated to each participating State an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the participating States.

(2) DISTRIBUTION OF FUNDS.—

(A) GENERAL FUND.—50 percent of the total amount of funds appropriated under this section for each fiscal year shall be allocated to each State (including a State that is participating in a regional compact) that meets the eligibility requirements of paragraph (3) according to the formula stated in paragraph (1).

(B) INCENTIVE FUND.—50 percent of the total amount of funds appropriated shall be allocated under an incentive fund to each State (including a State that is participating in a regional compact) that meets the eligibility requirements of paragraph (4) according to the formula stated in paragraph (1).

(3) ELIGIBILITY FOR GENERAL FUND.—In order to be eligible for a grant from the general fund under paragraph (2)(A), a State or States organized as regional compacts shall submit an application and give the Attorney General assurances that each State applying—

(A) will make a good faith effort to become eligible for a grant under paragraph (5); and

(B)(i)(I) since 1993 has increased the percentage of convicted violent offenders sentenced to prison;

(II) since 1993 has increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(III) since 1993 has increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison; or

(ii) in the case of a State that on the date of enactment of this Act practices indeterminant sentencing, experiences average times served for the offenses of murder, rape, robbery, and assault in the State that exceed by at least 10 percent the national average of times served for such offenses in all of the States.

(4) ELIGIBILITY FOR INCENTIVE FUND.—

(A) IN GENERAL.—In order to be eligible for a grant from the incentive fund under paragraph (2)(B), a State or States organized as regional compacts shall submit an application and demonstrate that each State applying—

(i) has in effect, or has enacted legislation that will result in the State's having in effect within 3 years after the date of enactment of such legislation, laws and regulations that include—

(I) truth-in-sentencing laws requiring that, except as provided in subparagraph (B), a person convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing;

(II) pretrial detention similar to and at least as restrictive as that provided in the Federal system under section 3142 of title 18, United States Code;

(III) laws requiring that the sentencing or releasing authorities notify and allow the defendant's victims or the family of victims the opportunity to be heard regarding the issue of sentencing and any post-conviction release; and

(IV) laws requiring that, except as provided in subparagraph (B), a person who is convicted of a serious violent felony shall be sentenced to life imprisonment if—

(aa) the person has been convicted (and those convictions have become final) on 2 or more prior occasions in a court of the United States or of a State of a serious violent felony, or of 1 or more serious violent felonies and 1 or more serious drug offenses; and

(bb) each serious violent felony or serious drug offense used as a basis for sentencing under this subparagraph, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense; or

(ii) in the case of a State that on the date of enactment of this Act practices indeterminant sentencing, experiences average times served for the offenses of murder, rape, robbery, and assault in the State that exceed by at least 10 percent the national average of times served for such offenses in all of the States and the State meets the requirements of clause (i) (II) and (III).

(v) laws prohibiting the consideration of an inmate's residency status in determining release dates.

(B) RELEASE OF OLDER PRISONERS.—A law described in subparagraph (A) (i) or (iii) may provide that the Governor of the State may allow for the release of a prisoner over the age of 70 after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

(5) EXPEDITION OF OUTLAYS.—All funds appropriated for the purposes of this section shall be distributed by the Attorney General within 180 days after the appropriation is made. The Attorney General may not require States to expend distributed funds as a condition of eligibility.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,250,000,000 for fiscal year 1995, $2,500,000,000 for fiscal year 1996, $3,750,000,000 for fiscal year 1997, and $5,500,000,000 for fiscal year 1998.

(2) PRIORITY.—No funds for other purposes authorized by this Act to be appropriated for purposes other than the purposes of this section for fiscal years 1995, 1996, 1997, 1998, or 1999 shall be appropriated unless the programs under this section are fully funded in those years.

(3) LIMITATIONS ON FUNDS.—

(A) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(B) PROHIBITED USES.—Funds made available under this section shall not be used for treatment, education, or recreation costs associated with convicted violent offenders.

(C) ADMINISTRATIVE COSTS.—Not more than 1 percent of the funds available under this section may be used for administrative costs.

(D) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 75 percent of the costs of a proposal as described in an application approved under this section.

(E) CARRYOVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and shall be made available until expended.

(d) DEFINITIONS.—

(1) IN GENERAL.—In this section—

"arson", subject to paragraph (2), means an offense that has as its elements maliciously damaged or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive.

"assault with intent to commit rape" means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code).

"extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person.

"firearms use" means an offense that has as its elements those described in section 924(c) or 929(a) of title 18, United States Code, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and in relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both.

"indeterminate sentencing" means a system by which the court has discretion on imposing the actual length of the sentence, up to the statutory maximum and an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence.

"kidnapping" means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force.

"serious violent felony" means—

(i) a Federal or State offense, by any designation and wherever it may be committed, consisting of murder (as described in section 1111 of title 18, United States Code); manslaughter other than involuntary manslaughter (as described in section 1112 of that title); assault with intent to commit murder (as described in section 113(a) of that title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of that title); abusive sexual contact (as described in sections 2244(a)(1) and 2244(a)(2) of that title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)(2) or (n)(2)); robbery (as described in section 2111, 2113, or 2118 of title 18, United States Code), subject to paragraph (2); carjacking (as described in section 2119 of that title); extortion; arson, subject to paragraph (3); firearms use; or attempt, conspiracy, or solicitation to commit any of the offenses described in this subparagraph; and

(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.

"serious drug offense" means—

(A) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; and

(B) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

"State" means a State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(2) OFFENSES NOT COUNTED IN CERTAIN CIRCUMSTANCES.—

(A) ROBBERY AND OTHER SERIOUS VIOLENT OFFENSES.—A case of robbery or an attempt, conspiracy, or solicitation to commit robbery, or an offense described in clause (ii) of the definition of "serious violent penalty" in paragraph (1) shall not be counted for the purposes of this section if the defendant establishes by clear and convincing evidence that—

(i) no firearm or other dangerous weapon was involved in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

(B) ARSON.—A case of arson shall not be counted for the purposes of this section if the defendant establishes by clear and convincing evidence that—

(i) the offense posed no threat to human life; and

(ii) the defendant reasonably believed that the offense posed no threat to human life.

Mr. HATCH. Mr. President, many Republicans have raised concerns about the crime bill's rejection of the community notification provision of the child predator language. It has been suggested by supporters of the crime bill that the community notification provision is in the crime bill. That simply is not the case.

The Senate-passed crime bill allowed local law enforcement agencies to release to the public the identity of convicted sex offenders living in our neighborhoods. It also granted law enforcement limited immunity when they chose to notify a community. The crime bill conference report, on the other hand, protects the privacy of registered sex offenders and child molesters. Information collected under the conference report "shall be treated as private data." The information may be released only for law enforcement purposes and to "notify the victims of the offender." That is found on page 283 of the conference report. Could somebody please tell me how this permits community notification? Who is kidding who.

I ask unanimous consent that the relevant Senate-passed language and the conference report language be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM SENATE AMENDMENT TO CRIME BILL

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency may release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

EXCERPT FROM CONFERENCE REPORT ON CRIME BILL

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for law enforcement purposes or to government agencies conducting confidential background checks with fingerprints. A law enforcement agency may release relevant information concerning a sex offender required to register under this section when such release of information is necessary to carry out law enforcement purposes or to notify the victims of the offender.

Mr. HATCH. Mr. President, another concern of ours has been the crime bill's failure to include the Simpson criminal alien deportation provisions which passed the Senate. Here again, Democrats have suggested that the crime bill contains these provisions. Once again, that is not accurate. The crime bill does contain some enhanced penalties for failure to depart, of for reentry, by criminal aliens. Yet, several major criminal alien deportation reforms were dropped including a judicial deportation provision, an expanded definition of aggravated felony, and restrictions on certain deportation defenses where certain crimes have been committed.

I ask unanimous consent that the relevant conference report language and a copy of the Simpson language be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIMPSON CRIMINAL ALIEN AMENDMENT REJECTED IN CONFERENCE

TITLE L—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 33 months;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense relating to perjury or subornation of perjury if the offense involved causing or threatening to cause physical injury to a person or damage to property;

"(M) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(N) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(O) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(P) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section;

"(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(R) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(f) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216 or 216A) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(5) Pending a determination of deportability under this section, the Attorney General shall not release the alien. An order of deportation entered pursuant to this section shall be executed by the Attorney General in accordance with section 243. Proceedings before the Attorney General under this section shall be in accordance with such regulations as the Attorney General shall prescribe and shall include requirements that provide that—

"(A) the alien is given reasonable notice of the charges;

"(B) the alien has an opportunity to have assistance of counsel at no expense to the government and in a manner that does not unduly delay the proceedings;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by reasonable, substantial, and probative evidence; and

"(E) the final order of deportation is not adjudicated by the same person who issued such order.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) Technical Amendments.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) In General.—" and inserting the following:

"(b) Deportation of Permanent Resident Aliens.—

"(1) In general.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) Implementation.—" and inserting "(2) implementation.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) Expedited Proceedings.—(1)" and inserting "(3) expedited proceedings.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) Review.—(1)" and inserting "(4) review.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by redesignating subsection (f), as added by subsection (a) of this section, as subsection (c);

(7) by inserting after the section heading the following new subsection:

"(a) Presumption of Deportability.—An alien convicted of an aggravated felony shall be deportable from the United States."; and

(8) by amending the section heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) Effective Date.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) Judicial Deportation.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) Judicial Deportation.—

"(1) Authority.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) Procedure.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the Service, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) Notice, appeal, and execution of judicial order of deportation.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) Denial of judicial order.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) Technical Amendment.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) Rule of Construction.—Nothing in this section may be construed to alter the privilege of being represented at no expense to the Government set forth in section 292 of the Immigration and Nationality Act.

(d) Effective Date.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) Defenses Based on Seven Years of Permanent Residence.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final. For purposes of this section, the term 'sentence' does not include a sentence the execution of which was suspended in its entirety.".

(b) Defenses Based on Withholding of Deportation.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) Failure To Depart.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) Reentry.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) Collateral Attacks on Underlying Deportation Order.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) Form of Deportation Hearings.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C.

1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media, in the discretion of the special inquiry officer, or, where waived or agreed to by the parties, in the absence of the alien.".

(b) Construction of Expedited Deportation Requirements.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) Operation.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) Purpose.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1994 and $6,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

SENATE-PASSED CRIMINAL ALIEN DEPORTATION

TITLE L—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) Expansion of Definition.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),

for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5 years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) Effective Date.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) Elimination of Administrative Hearing for Certain Criminal Aliens.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) Deportation of Aliens Who Are Not Permanent Residents.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) Limited Judicial Review.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) Technical Amendments.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) In General.—" and inserting the following:

"(b) Deportation of Permanent Resident Aliens.—

"(1) in general.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) Implementation.—" and inserting "(2) implementation.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) Expedited Proceedings.—(1)" and inserting "(3) expedited proceedings.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) Review.—(1)" and inserting "(4) review.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors invoving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.— No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

TITLE LI—GENERAL PROVISIONS

SEC. 5101. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

CONFERENCE REPORT

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $3,400,000 for fiscal year 1996;

(2) $3,600,000 for fiscal year 1997;

(3) $3,700,000 for fiscal year 1998;

(4) $3,800,000 for fiscal year 1999; and

(5) $3,900,000 for fiscal year 2000.

* * * * *

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

"(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

"(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

"(A) the number of such nonimmigrants admitted;

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

"(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

"(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

"(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Naturalization Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(i)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) If, in the sole discretion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

"(B) the provision of such information has substantially contributed to—

"(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

"(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

"(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(i))" after "five years".

SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

"(B) is not eligible for any relief from deportation under this Act.

"(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

"(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

"(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proccedings, as the alien shall choose;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and

"(E) the final order of deportation is not entered by the same person who issues the charges.".

(b) Limited Judicial Review.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

"(A) whether the alien is in fact the alien described in the order;

"(B) whether the alien is in fact an alien described in section 242A(b)(2);

"(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

"(D) whether the alien was afforded the procedures required by section 242A(b)(5).

"(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).".

(c) Technical Amendments.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES";

(2) in subsection (a), as designated prior to enactment of this Act, by striking "(a) In General.—" and inserting the following:

"(a) Deportation of Criminal Aliens.—

"(1) IN GENERAL.—";

(3) in subsection (b), as designated prior to enactment of this Act, by striking "(b) Implementation.—" and inserting "(2) IMPLEMENTATION.—";

(4) by striking subsection (c);

(5) in subsection (d)—

(A) by striking "(d) Expedited Proceedings.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)"; and

(B) by striking "(2)" and inserting "(B)"; and

(6) in subsection (e)—

(A) by striking "(e) Review.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

(d) Effective Date.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) In General.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) Employment Authorization.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.".

(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $64,000,000 for fiscal year 1995;

(2) $90,000,000 for fiscal year 1996;

(3) $93,000,000 for fiscal year 1997; and

(4) $91,000,000 for fiscal year 1998.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) Authorization of Appropriations.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

(1) $228,000,000 for fiscal year 1995, of which $181,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $47,000,000 is authorized from the General Fund of the Treasury;

(2) $185,000,000 for fiscal year 1996, of which $137,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(3) $204,000,000 for fiscal year 1997, of which $156,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(4) $58,000,000 for fiscal year 1998, of which $10,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) Report.—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) In General.—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) Detention and Removal of Criminal Aliens.—Subject to the availability of appropriations, the Attorney General may—

(1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and

(2) provide for the detention and removal of such aliens.

(c) Report.—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $55,000,000 for fiscal year 1995;

(2) $54,000,000 for fiscal year 1996;

(3) $49,000,000 for fiscal year 1997; and

(4) $2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) In General.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) Limitation.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) In General.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title, imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544 by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title, imprisoned not more than 10 years";

(3) in section 1545 by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title, imprisoned not more than 10 years";

(4) in section 1546(a) by striking "five years" and inserting "10 years";

(5) in section 1546(b) by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title, imprisoned not more than 5 years"; and

(6) by adding at the end the following new section:

"§ 1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

SEC. 130010. ASYLUM.

(a) FINDINGS.—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

Mr. HATCH. Mr. President, another issue: mandatory restitution for victims of violent crime. The conference committee rejected the Senate-passed Nickles provision which requires mandatory restitution to victims of violent crime. Here again, it has been suggested that we are wrong. It has been suggested that there is a comprehensive mandatory restitution provision in the bill. Yet, the crime bill only mandates restitution in Federal sex offenses and certain crimes against children. Why did the conferees stop there? Why did they reject the Nickles amendment? Other victims of violent crime are left out in the cold.

I ask unanimous consent that the Senate-passed Nickles amendment and the relevant conference report language be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE AMENDMENT—VICTIMS RIGHTS RESTITUTION

SEC. 902. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(5) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h); and

(7) by adding at the end the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 903. SENSE OF THE CONGRESS CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Congress that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing * * *

* * * * *

SEC. 3213. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 3214. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

* * * * *

SEC. 3704. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 3705. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

CONFERENCE REPORT—VICTIMS RIGHTS

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 230101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

(b) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (c)(3)(C);

(2) striking the period at the end of subdivision (c)(3)(D) and inserting "; and";

(3) inserting after subdivision (c)(3)(D) the following:

"(E) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.";

(4) in subdivision (c)(3)(D), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (c)(4), striking "and (D)" and inserting "(D), and (E)";

(6) in the last sentence of subdivision (c)(4), inserting "the victim," before "or the attorney for the Government."; and

(7) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on December 1, 1994.

SEC. 230102. SENSE OF THE SENATE CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Senate that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 230201. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48.5 percent shall be available for grants under section 1403;

"(B) 48.5 percent shall be available for grants under section 1404(a); and

"(C) 3 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

SEC. 230202. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay,—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 230203. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 230204. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 230205. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 230206. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 230207. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

SEC. 230208. AMENDMENT OF THE VICTIMS OF CRIME ACT.

Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended to read as follows:

"(B) $200,000 thereafter.".

* * * * *

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—

(1) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Mandatory restitution.".

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

(1) $500,000 for fiscal year 1996;

(2) $500,000 for fiscal year 1997; and

(3) $500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

* * * * *

Subtitle E—Violence Against Women Act Improvements

SEC. 40501. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 40502. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 40503. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.".

(b) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 40504. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 40505. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, "Federal benefit" means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States.".

SEC. 40506. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

Mr. HATCH. Mr. President, these are just some examples of the way in which supporters of the crime bill are trying to confuse the public about what is and what is not in this crime bill. In the coming days, congressional Democrats and the administration will need to reconcile whether they want a crime bill or an issue. Republicans want a crime bill but it has to be a tough bill. We are not willing to support a bill which diverts billions of dollars of crimefighting resources to special interest spending programs, which expands the rights of criminals, and which drops so many urgently needed crimefighting measures.

Continued obfuscation and denial by the administration in the face of growing opposition to this legislation will not produce a tough crime bill for the American people. Accordingly, I renew my call for a bipartisan effort. If President Clinton wants to pass a crime bill, Republicans will deliver the necessary votes provided our concerns—and they are legitimate concerns—are addressed.

I thank the Chair.

MEASURE PLACED ON THE CALENDAR—S. 2380

The PRESIDENT pro tempore. There are several bills on the calendar, bills and joint resolutions, which are addressed the first time.

The Senate, having adjourned last evening, this day is a new legislative day. Therefore, the bills are eligible to be called up.

The clerk will read the first bill.

The assistant legislative clerk read as follows:

A bill (S. 2380) to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that fans will be able to enjoy the remainder of the baseball season and the playoffs of the world season.

Mr. STEVENS. Mr. President, in order that these bills may go to the calendar, under the rule, I wish to be recorded as objecting to each one of them in behalf of my side of the aisle.

The PRESIDENT pro tempore. Objection to the proceedings having been heard, the bill will go over and will be printed on the general orders calendar. It will be eligible for a motion to proceed on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2381

The PRESIDENT pro tempore. The clerk will report the next bill.

The assistant legislative clerk read as follows:.

A bill (S. 2381) to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes.

Mr. STEVENS. Mr. President, similar objection, please.

The PRESIDENT pro tempore. Objection having been heard, the bill will go over on the general orders calendar, and will be subject to a callup on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2396

The PRESIDENT pro tempore. The clerk will report the next bill.

The assistant legislative clerk read as follows:

A bill (S. 2396) entitled "The Affordable Health Care Now Act."

Mr. STEVENS. Similar objection, please, Mr. President.

The PRESIDENT pro tempore. The Senator from Alaska objects.

Objection having been heard, the bill will go over on the general orders calendar subject to a callup by a motion on the next legislative day.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I desire to be recognized to make a statement after morning business has expired.

The PRESIDENT pro tempore. The chair thanks the Senator.

TRIBUTE TO ROBERT F. MORAN

Mr. HEFLIN. Mr. President, today, I want to congratulate Mr. Robert F. Moran on the occasion of his retirement after 52 years of service to the Federal Government. In a career of military and civilian service spanning over five decades, Robert has earned a tremendous amount of respect and a reputation as a committed and effective health care administrator.

Integrity and humility have been hallmarks of his career. He began naval service as a hospital corpsman on combat duty during World War II, rising through the ranks to lieutenant commander in the Medical Service Corps.

Continuing to increase his knowledge and expertise in health care management and medicine, Robert joined the staff of the Office of the Attending Physician as its Administrator in 1966. During 28 years of service at the U.S. Capitol, Robert oversaw the medical aspects of the planning, preparation, and execution of Presidential swearing-in ceremonies, State of the Union Addresses, joint and special sessions of Congress, and all aspects of health care delivery for the highest officials of the U.S. Government.

Throughout his career, Robert Moran has always advocated the concepts of professional growth and development, networking, and continuing education. A humble and dedicated man, he has constructed a career of service and accomplishments using the values and principles he brought with him to work each day. His commitment to patients and dedication to duty and service are unsurpassed.

I ask my colleagues to join me in recognizing Robert Moran for his exemplary leadership, selfless dedication, and outstanding service to the U.S. Government and many patients, staff, and tourists at the Capitol.

TRIBUTE TO ALBERT ELVIS WILLIAMS

Mr. HEFLIN. Mr. President, Albert Elvis "Al" Williams, the manager of Listerhill Employees Credit Union in Sheffield, AL, for 22 years, died on August 2. He had served as chairman of the Credit Union National Association as well as holding other national offices.

Al was the first vice president of the World Council of Credit Unions; chairman of the Credit Union National Association's Election and Governance Task Force; vice chairman of its bylaws committee; and a member of the governmental affairs committee.

He was the former chairman of the Alabama Credit Union League; a board member of the Alabama Credit Union Administration; chairman of the Alabama Credit Union Legislative Action Council; and president of the State Credit Union Forum. Al was named Outstanding Alumnus of the Year by the University of North Alabama in 1988.

Al Williams contributed a great deal to his community and State over the course of his career, and he will be sorely missed. I extend my sincerest condolences to his wife, Charlotte Young Williams, and her entire family in the wake of their painful loss.

MIKE BOX SELECTED TO HEAD NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. HEFLIN. Mr. President, a nominating committee recently tapped Mobile County, AL, legislator Mike Box for the vice presidency and later presidency of the National Conference of State Legislatures. In 1996, Mike will become the first Alabama lawmaker ever named president of the national conference. He is already the first Alabamian ever elected to the conference's prestigious executive committee.

Mike's selection by the nominating committee places him at the heart of the national conference's efforts to improve the country's State legislatures through the exchange of ideas and technological advances.

The National Conference of State Legislatures was formed to share ideas, prevent duplication of efforts, and provide a united front to the Federal Government. It also allows States to develop expertise needed to deal with modern government problems. In this era of shrinking fiscal resources at the national, State, and local levels, the goals supported and fostered by the conference are more important than ever before. I am proud that Alabamian Mike Box has been entrusted with the leadership of this outstanding organization. I commend him and wish him much continued success.

UKRAINIAN INDEPENDENCE

Mr. LEVIN. Mr. President, on August 24, 1991, the Parliament of Ukraine declared Ukraine's independence. This long-awaited triumph was the culmination of the struggle waged by generations of Ukrainians who never lost faith in the ultimate victory of a free and independent Ukraine.

This coming Sunday there will be an observation of the third anniversary of Ukrainian independence celebrated at the Ukrainian Cultural Center in Warren, MI.

Mr. President, the program this Sunday will commemorate the emergence of Ukraine as a free member of the international community of independent nations, to be followed by a cultural program that celebrates the rich traditions of a culture, language, and people who were not crushed by 70 years of Communist oppression.

Ukraine faces many daunting challenges and has encountered many difficulties since the collapse of the Soviet Union. Yet its people and spirit continue to inspire freedom-loving people everywhere.

I join the people of Michigan in commending the people of Ukraine for never losing faith, for shouldering the burdens that come with restructuring a society, and for emerging in victory to bear witness to this third anniversary of the proclamation of Ukrainian independence.

THE REPLACEMENT OF ROBERT FISKE WITH KENNETH STARR AS SPECIAL COUNSEL

Mr. LEAHY. Mr. President, the recent firing of Robert Fiske and his apparent replacement by Kenneth Starr continuous to trouble me. The most recent revelation in this regard is Mr. Starr's reported plan to stay active with his prestigious law firm, to maintain active relationships with his other clients, to retain his seat on his firm's management committee and continue to draw his reported seven-figure salary.

The fact that Mr. Starr is approaching this as a part-time pursuit is among the most troubling aspects of this matter that has dragged on far too long for such little cause—other than the political hay being thatched by the President's political opponents. I think the American people have long since lost interest in events that occurred in Arkansas two decades ago. The only thing that is continuing the investigation is the investigation, itself. The firing of Robert Fiske serves only to delay its conclusion even further.

Now we learn that Mr. Starr, who was anxious to accept this appointment, is proceeding with his vacation plans, has not decided what staff he can retain, has not assembled new staff, has not gotten up to speed, is still reviewing matters, and plans to pursue a leisurely pace being a part-time investigator and full-time partner in a demanding, sophisticated and well-connected law practice. What is going on here?

Some time ago I noted my concern that the firing of Robert Fiske and appointment of Kenneth Starr had done nothing to improve appearances. Some have been concerned from the outset that Mr. Starr might be motivated by personal or political gain. I refuse to subscribe to that view, but did call upon Mr. Starr to provide public reassurances by renouncing any interest in seeking or accepting public office in the future. His having served as a special counsel investigating the President of the United States should not be something that supplements a political résumé and is later used as a basis for obtaining appointed office or even elective office. In other words his personal fortunes in the future ought not be tied in any way to the outcome of the investigation. Otherwise the investigation will not be seen as impartial and its results will not be accepted.

Mr. Starr has ignored suggestions to renounce future political aspirations. Now we find that we do not have to wait until the future to become concerned. We must also be concerned about the present. How is Mr. Starr going to juggle his responsibilities, his personal career interests and the financial interests he shares with his partners? Where is he going to devote his time and attention once he returns to work?

At this point I ask that the August 15 article from the Legal Times entitled "Starr Plans To Stay Active at Kirkland & Ellis" be reprinted in the RECORD.

I also ask that the editorial from today's New York Times entitled "Mr. Starr's Duty To Resign" be reprinted, as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MR. STARR'S DUTY TO RESIGN

When a special Washington court replaced Robert Fiske with Kenneth Starr as Whitewater independent counsel two weeks ago, the judges specifically cited the need for the appearance, as well as the reality, of impartial justice. But it is now clear that the chairman of that panel, Judge David Sentelle, violated the court's own standard for purity of appearances by meeting with a Senator eager to have the court dump Mr. Fiske as counsel. For that reason, the appointment of Mr. Starr is fatally tainted.

This situation was brought about by Judge Sentelle's flamboyantly bad judgment in meeting with Senator Lauch Faircloth and another Clinton opponent, Senator Jesse Helms. At the time, Judge Sentelle and his two colleagues on the court were considering the appointment of a new prosecutor. Mr. Starr is in no way to blame for this untoward meeting, but he has to recognize that a cloud of political favoritism now hangs over his appointment and will undermine public confidence in it. As a matter of public service and personal honor, he should resign the appointment.

The independent counsel law, recently renewed, is designed to make sure that Federal investigations involving high government officials—in this case President and Mrs. Clinton—are evenhanded and appear so. Yet last month, while the court was studying whether to keep Mr. Fiske or make its own choice, Judge Sentelle lunched with Senator Faircloth, leader of a group pressing the Justice Department to remove Mr. Fiske.

Joining them in the Senate dining room was Senator Helms, Judge Sentelle's political patron and one of the Clintons' most outspoken foes in Congress. They all deny discussing the pending appointment. But the public must not be asked to take such matters on faith, any more than it should have to take on faith that all the suspicious circumstances of Whitewater were innocuous coincidence. A crisis of political confidence cannot be cured by an inquiry that has the look of political collusion.

In regard to public confidence, there is another troubling circumstance. It now emerges that Mr. Starr was working on a legal brief for a conservative women's organization opposing President Clinton in the Paula Jones sexual harassment lawsuit against him. Mr. Starr's legal view, that the President enjoyed no constitutional immunity from the suit for alleged actions when the Governor of Arkansas, had been well known. But by undertaking the friend-of-the-court brief Mr. Starr passed from public commentator to litigating opponent of the President, a clear conflict with his independent counsel assignment. Though his firm has ended its participation in the Jones case, Mr. Starr's original decision to take it on further blemishes the appearance of impartiality his present assignment requires.

Replacing Mr. Fiske was a reasonable step. His own appearance of impartiality was beclouded by the fact that he had been recruited by Attorney General Janet Reno. Indeed, the court placed such a high value on appearance that it said its only reason for replacing him was the need to provide "an apparent as well as an actual independence on the part of the counsel."

By that standard, the Starr appointment cannot stand, nor should Judge Sentelle participate in the naming of a new counsel. He can step aside and leave the matter to his colleagues. Failing that, the Chief Justice ought to name a new chairman for the panel to replace Judge Sentelle.

At the time of the Starr appointment two weeks ago, this page applauded the court's decision and retains respect for Mr. Starr's service as Solicitor General. But his appointment now looks terrible under the law and the ethical precepts the judges say they recognize. The appearance of impartial justices is not some finicky rule of etiquette but the essence of justice itself. Moreover, President Clinton and others in the Administration deserve a prosecutor who cannot be accused either of favoring them or of being tied too closely to their opponents. Mr. Starr, rightly proud of an honorable career, stands in the way of justice as long as he clings to this unfortunate assignment.

STARR PLANS TO STAY ACTIVE AT KIRKLAND & ELLIS

(By Robert Schmidt)

When Robert Fiske Jr. was tapped in January as Whitewater independent counsel, he immediately severed all ties with his law firm, New York's Davis Polk & Wardwell.

He stopped working for clients, drew out his share of the firm's profits, and ceased participating in firm activities, says firm chairman and managing partner Henry King.

"We never even discussed the issue," says King. "We just though it was appropriate for Bob to take a leave."

Fiske's replacement, Kenneth Starr, and his law firm, Chicago-based Kirkland & Ellis, are playing it quite differently.

Starr not only is maintaining his partnership and his reputed seven-figure salary, but also is planning to keep active client relationships and will even retain his seat on the management committee of the 450-lawyer firm.

"Under the independent-counsel statute, Ken is free to remain a partner of Kirkland & Ellis, and Kirkland & Ellis is free to compensate Ken like any other partner," says Edward Warren, a partner in the firm's D.C. office who is helping Starr manage the transition to independent counsel, a job Starr officially began last week.

THE SAME, BUT DIFFERENT

Starr's arrangement is perfectly legal, and he enjoys freedoms Fiske did not—since Fiske was appointed by Attorney General Janet Reno and considered an executive-branch employee, while Starr, selected under the independent-counsel statute, is not. Further, Starr is following the lead of most previous independent counsel.

Still, some earlier independent counsel were tripped up by perceived conflicts stemming from their private practices.

And Starr's decision to maintain an active law practice is now drawing fire from government-watchdog groups. They argue that the unique circumstances of the Whitewater probe and Starr's background demand a higher standard of conduct.

These advocates say that Starr, whose firm represents numerous corporate clients before the federal government, should avoid even the appearance of conflict—and that means cutting his ties to the firm.

"I don't care what is in the canon of ethics or what the law is, that's not relevant," says Charles Lewis, executive director of the Center for Public Integrity, a non-profit watchdog group.

"To clearly avoid an appearance problem—he only arguably holds the future of the Clinton administration in the palm of his hand—he would at the very least sever his ties and not receive any remuneration from his law firm," Lewis says.

Warren does acknowledge that the firm is still looking into some of the issues surrounding Starr's appointment.

But he says that firm leader met on Aug. 8, and voiced their strong support for Starr's taking on the Whitewater case and his remaining an active partner.

"Kirkland & Ellis certainly wants Ken to remain as active as possible in representing clients," says Warren. "The only question is the time constraints imposed by his new job."

Ironically Starr's decision to keep working at Kirkland & Ellis leaves him vulnerable to criticism similar to that leveled against Fiske.

Last month, conservative activist Floyd Brown and 10 Republican Congress members wrote letters to D.C. Circuit Judge David Sentelle, who heads the three-judge panel that appointed Starr, urging that Fiske not be given the post.

Among other issues, the lawmakers complained that Fiske could not be impartial because his firm represented the International Paper Co., which sold land to the Whitewater development.

Starr's own impartiality has already been questioned in light of his strong Republican background—and his earlier comments that President Bill Clinton should not be able to claim presidential immunity in the sexual-harassment suit brought against the president by Paula Corbin Jones, a former Arkansas state employee.

Starr, a former solicitor general and D.C. Circuit judge, joined Kirkland & Ellis in February 1993. He has litigated on behalf of General Motors, financier Victor Posner, and Anglo Irish Beef Processors International.

Kirland & Ellis longtime clients include General Motors' Abbott Laboratories, the largest producer of baby formula in the United States; the Hughes Aircraft Co.; and the JMB Realty Corp.

None of the critics know of any actual conflicts involving current Kirkland & Ellis clients and the Whitewater probe. They say that since disclosure of clients is not required, however, it's impossible at this point to know what potential conflicts lurk.

Specific conflicts aside, critics contend that Starr's firm or its clients could receive special treatment from the government because of their association with the man running such a politically sensitive and potentially explosive probe.

"Who's to say Starr's name won't be invoked by some junior partner," asks Lewis of the Center for Public Integrity. "No one [in the government] wants to tick off Starr and his firm."

Adds Pamela Gilbert, director of Congress Watch, a non-profit founded by consumer crusader Ralph Nader: "Independent counsel should not be drawing a salary nor should they work at their firm. . . . There should be, at minimum, a temporary severing of ties."

SPECIAL STATUS

Starr is required to fill out a standard financial disclosure statement, says Gary Davis, general counsel at the Office of Government Ethics. But Davis is unsure if Starr's clients will be listed on the form.

If Starr's clients are listed, their names won't become public until he files the form, which he doesn't have to do until May 1995.

Under the independent-counsel law, Starr is not a full-time government employee, so the usual ethical and disclosure requirements for government workers don't all apply. (Such requirements did apply to Fiske, since he was appointed under regulatory authority during a period in which the independent-counsel law had lapsed).

It's that part-time status that allows Starr to remain at his firm. Warren, the Kirkland & Ellis D.C. partner helping Starr, says that the firm "informally consulted with a few [former independent counsel] to be sure of our own ground on this."

Former Independent Counsel Lawrence Walsh, who investigated the Iran-Contra matter, says that he supports Starr's arrangement.

Although Walsh, now of counsel at Oklahoma City's Crowe & Dunlevy, put aside his private practice while independent counsel, he says that the job "contemplates part-time work," by providing per-diem compensation.

"The concept of an independent counsel is a person who is a practicing lawyer who is asked to take on a case for the government," says Walsh, noting that some of his senior staffers, including Dan Webb, a partner at Chicago's Winston & Strawn, worked part time.

The notion of allowing independent counsel to keep their outside work is in part meant to entice the best lawyers to take the job, says Katy Harriger, associate professor of politics at Wake Forest University and author of Independent Justice, a study of the history and legal underpinnings of independent counsel.

On the other hand, potential conflicts loom, and an independent counsel's outside work could take time away from the investigation, thus costing taxpayers more money than necessary, Harriger offers.

"It's always been sort of an unresolved issue," says Harriger, who notes that one former independent counsel, Alexia Morrison, provoked controversy with her outside work.

Lewis and some other activists are also troubled that Starr's law firm, Kirkland & Ellis, does not have to disclose publicly its clientele. It is unclear whether Starr will have to disclose his own client list.

Starr would not comment for this article, and Warren declines to discuss Starr's or the firm's clientele.

Morrison, a partner in D.C.'s Swidler & Berlin, was appointed independent counsel in 1986 to investigate charges that Theodore Olson, when he was assistant attorney general for the Justice Department's Office of Legal Counsel, lied to Congress.

During her investigation, Morrison also represented Carl "Spitz" Channell, a fundraiser for the Nicaraguan Contras who at the time was being probed by Walsh and who eventually pleaded guilty to criminal tax charges.

Despite an outcry from Congress, the Justice Department, and other D.C. lawyers, Morrison remained in her post and kept her client. She did not return calls last week.

That wasn't the first time an independent counsel's private practice caused the counsel some problems.

Morrison had taken over the job as independent counsel from James McKay, who was forced to remove himself because of a conflict. McKay, then a partner at D.C.'s Covington & Burling and now senior counsel, stepped down because one of his partners, Charles Ruff, had done work for the House Judiciary Committee conducting the investigation that prompted the inquiry on Olson.

Harriger notes that independent counsel are checked for conflicts by the secretive three-judge panel that selects them. But after that, the counsel must be trusted to recuse themselves if any conflicts arise.

"If the judges do their job, they can uncover most of the conflicts," says Harriger. "Most of the [independent counsel] did continue to do some work for their firms. I also think they made a conscious effort to remove themselves from any conflicts of interest."

Starr, through a spokesman, declines to say anything about his disclosures to the three-judge panel. The head of the panel, Sentelle, was out of town and did not return phone calls.

It is precisely the lack of public discussion of Starr's law practice that most disturbs his critics.

Says Ellen Miller, director of the Center for Responsive Politics: "I think there could be some serious problems here. The bottom line is that the public is in the dark about this."

Meanwhile, Rep. John Bryant (D-Texas), who heads the House Judiciary subcommittee with jurisdiction over the independent-counsel law, got in his own jab at Starr.

Bryant on Friday introduced a bill requiring the three-judge panel to appoint independent counsel "without any real or apparent personal, financial, or political conflict of interest."

ONE LANDMINE'S LEGACY

Mr. LEAHY. Mr. President, I have spoken about the problem of landmines many times. There are 100 million unexploded landmines in over 60 countries. Each month these weapons, which are often no larger than a can of shoe polish, kill or maim another 1,200 people. In some countries as many as a quarter to a third of the casualties are children, who lose their legs, their arms, parts of their face, or their eyesight. And they are the lucky ones, who are not killed outright, or who do not die from loss of blood.

Landmines do not distinguish between civilians and combatants. They will blow the legs off whoever steps on them, and usually it is a civilian. But we should not forget that thousands and thousands of American soldiers have also been killed and maimed by landmines. At least 7,300 American troops were killed by mines and booby traps in Vietnam, and many thousands more were injured.

One of those injured was Lt. Robert "Mike" Ransom, Jr., of Bronxville, NY, whose family spent their summers in Dorset, VT and whose mother now lives in Williston, VT. On April 22, 1968, Robert was injured by shrapnel from an exploding landmine. He described the accident this way:

> * * * one of my men jumped right into a mine. Both his feet were blown off, both legs were torn to shreds; his entire groin area was completely blown away. It was the most horrible sight I've ever seen. Fortunately, he never knew what hit him. I tried to revive him but it was hopeless.

Robert Ransom died a few weeks later. We remember him today as one of the tens of thousands of brave Americans who gave their lives in that tragic war. His mother, Louise Ransom, has spent the last 2½ decades fighting to improve the lives of Vietnam veterans. I have been proud to work with her and her late husband—two of Vermont's most respected citizens.

Mr. President, this is the legacy of landmines. As we try today to stop the carnage landmines cause day after day, we remember Robert Ransom.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about the weather but nobody does anything about it. Many Senators talk a good game when they are back home about bringing Federal deficits and the Federal debt under control, but look how so many of them vote on bloated spending bills that roll through the Senate.

As of Wednesday, August 17, at the close of business, the Federal debt stood—down to the penny—at exactly $4,668,682,813,919.54. This debt, do not forget, was run up by the Congress of the United States. The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend a dime unless and until it had been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes they falsely claim that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush. These buck-passing declarations are false because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big-spenders.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt totaling 4,668 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at 4 trillion, 668 billion, 682 million, 813 thousand, 919 dollars and 54 cents.

CRIME

Mr. DOLE. Mr. President, during the past 2 days, the distinguished chairman of the Judiciary Committee, Senator BIDEN, has made a number of regrettable comments on this floor that have mischaracterized not only my views, but the views of other Republican Senators. I would like to take a few moments now to set the record straight.

On Tuesday, and again yesterday, Senator BIDEN claimed that the crime bill incorporates the Megan Kanka Law, named after the 7-year-old girl who was raped and strangled to death near her home in Hamilton Township, NJ. The Megan Kanka Law would require State law enforcement agencies to notify the public when a violent sexual predator is living in their neighborhoods. Contrary to Senator BIDEN's assertions, this public-notification provision, modeled after a successful Washington State law, was stripped out of the conference report. It is not part of the crime bill, as Senator BIDEN claims.

The distinguished Senator from Delaware suggested that Senators HATCH, THURMOND, and SIMPSON supported the crime bill's retroactive repeal of mandatory minimum sentences for convicted drug dealers. They did not, and they do not now.

This misguided proposal could result in the early release of 10,000 Federal prisoners, a get-out-of-jail-free card brought to you by the U.S. Congress.

Yesterday, my good friend from Delaware cited a Bureau of Prisons study indicating that only 400 persons would be affected by the retroactive repeal of the mandatory minimums. Of course, Senator BIDEN ignores the study conducted by the Administrative Office of the U.S. Courts, which estimates that as many as 10,000 convicted drug offenders would be eligible for early release. Princeton University professor, John DiIulio, a self-described registered democrat, estimates an even higher number—16,000. And, just yesterday, the National Association of Assistant U.S. Attorneys, which represents nearly 4,000 Federal Career Prosecutors, publicly registered its own opposition to the mandatory minimum reform provision, estimating that it could result in 20,000 petitions for early release.

The distinguished Senator from Delaware suggested that Senators HATCH, THURMOND, SIMPSON, and GRASSLEY voted against truth-in-sentencing during the conference deliberations. In reality, what they voted against was a watered-down version of a prison and truth-in-sentencing amendment offered by Senator BIDEN. What Senator BIDEN failed to mention is that he and the other Democrat conferees voted against a tougher Republican amendment that would have strengthened the truth-in-sentencing language and provided more funding for prisons.

Senator BIDEN claimed that the crime bill contains mandatory restitution for crime victims. Yes, the Conference report mandates restitution in Federal sex offense cases. Yet, the Nickles proposal mandating restitution to the victims of all violent crimes was dropped in conference. Senator BIDEN should know better.

Senator BIDEN suggested that the crime bill restores Senator SIMPSON's provision requiring swift deportation of criminal aliens. Wrong again. The crime bill does contain some enhanced penalties for criminal aliens who fail to depart, or reenter, our country. But it does not contain Senator SIMPSON's important proposals establishing judicial deportation authority, restricting the defenses to deportation for some criminal aliens, and expediting the deportation process. Nor does it contain the Alien Terrorist Removal Act, which would hasten the departure of vicious terrorists from American soil.

So, Mr. President, it is important for the American people to hear both sides of the story, particularly when one side resorts to exaggerations and factual inaccuracies. I appreciate this opportunity to set the record straight.

STATEMENT ON THE NOMINATION OF HAROLD J. CREEL, JR., TO BE FEDERAL MARITIME COMMISSIONER

Mr. HOLLINGS. Mr. President, I am pleased that the Senate has approved Harold J. Creel to be a Member of the Federal Maritime Commission [FMC]. I have known Hal for nearly 5 years, and I assure my colleagues that he will bring significant experience and enthusiasm to this important position.

Hal has an impressive background. The FMC will be gaining the services of an individual with exceptional understanding of this nation's maritime industry. Hal, a South Carolina native, is currently serving as senior counsel to the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation. Prior to his service on the committee, he served for 6 years as attorney/adviser for the National Oceanic and Atmospheric Administration [NOAA] of the Department of Commerce, 1983–89. From 1982 to 1983, Hal was an associate attorney with Courtenay, Forstall, Grace, and Hebert in New Orleans.

Mr. Creel received a bachelor's degree in political science from Wofford College in Spartanburg, SC, in 1979 and a law degree from the University of South Carolina Law School, (J.D. 1982).

I believe that the President has made a very wise choice in nominating Hal Creel for this position. Hal is capable, intelligent, easy to work with, and a person of integrity. He knows the Hill, maritime issues, and the regulatory process well. Hal has rendered invaluable service to me and the Commerce Committee, and I know he will do the same for the FMC. He is well-qualified and well-suited for his new position and he will do an outstanding job.

The FMC's gain is our loss. However, I take comfort in the fact that I, and the rest of my colleagues, will continue our relationship with Hal, although in a different capacity.

I thank my colleagues for their support for Hal Creel's nomination.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. There being no further morning business, morning business is closed.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senator from Alaska will be recognized following the reading of the bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2351) to achieve universal health coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Daschle amendment No. 2564 (to amendment No. 2560), to improve the access of individuals in rural areas to quality health care.

The PRESIDENT pro tempore. The pending business is S. 2351. The pending question is on amendment No. 2564, which amendment is open to amendment in the second degree. Of course, the underlying bill is open to amendment in two degrees.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, is there a time agreement on this amendment?

The PRESIDENT pro tempore. There is not.

Mr. STEVENS. Thank you.

Mr. President, I have taken some time to review the Mitchell proposal for health care reform, and have concluded that it comes up short when weighed against the need of my Alaska constituents.

Alaskans tell me to take care of the people who have fallen through the cracks, and for the rest, to find ways to hold down price increases for them.

I do not, however, want to speak about only what I am opposed to. I intend to discuss what I am in favor of in terms of health care reform, also.

Significant progress could be made on health care with reform measures on which most of us already agree. We actually agree more than we disagree. Many of us want to act now on the best proposals to cover the uninsured. Funding for those proposals, I believe, is the major problem.

Bills have been introduced which promise expanded benefits and greater Federal taxpayer support. But there is no way I feel those promises can become a reality without destroying the taxpayers who support the system now.

One of my greatest concerns is for the small business community. In our State, small business is the major part of our economy. I think that is true throughout our Nation. Small businesses are really where the jobs are. In 1990, there were 12,843 businesses in Alaska. 12,433 of those were small businesses; 88 percent of those small businesses in Alaska had fewer than 20 employees.

I believe it is unfair to expect these small business men and women who are struggling to survive now to bear the increased taxes and costs of this bill. There are few opportunities for today's young Alaskans to carve out a homestead from the wilderness. There are fewer and fewer areas of employment in our declining economy which those young Alaskans can hope to enter.

In our State, the average age is 28.9, Mr. President. If these young people stay in our State, they take marginal and seasonal jobs and cannot pay ever-increasing taxes to support expanded benefits for the population as a whole and for those who are unemployed.

Alaska is a primarily resource-driven State. This administration's policies, unfortunately, primarily in the Interior Department and the Forest Service, have limited our State's responses to unemployment for our own citizens. In most areas, Alaska will have great difficulty in maintaining current services, such as schools, child protection, and environmental protection, as our resource income declines. We continue to see fishing, timber, tourism, and oil as the backbone of our economy—some mining—but there are consistent, difficult problems in covering those employed in those areas with health insurance.

I have talked to a great number of individuals, Alaskans and non-Alaskans, about the problems, and I find most people want for themselves and their employees the best of what our health system can bring now. They want to take care of themselves and their families, obviously.

So that Alaskans and all Americans can achieve that goal, I believe that any health care bill we pass must include the elements that we have already agreed to, basically: Every American should be able to obtain health insurance even if he or she has a preexisting medical condition. If a person changes jobs, that person should be able to transfer his or her medical insurance with them to the next job and should not lose insurance if they do not get a job immediately. Illness or loss of a job should not be a reason for canceling insurance. Every American should be able to choose his or her doctor or hospital, to the greatest extent possible. People, even in remote villages of my State, like Holikachuk or Shishmaref, should have access to both a doctor and a hospital, even if there are no doctors or hospitals in those villages.

Mr. President, I will show to the Senate now an overlay of my State on the Nation. It shows the locations of the villages and highways in Alaska. You will note that the highways are predominantly in the south central area and connect to Canada. There are no highways or roads anywhere in the rest of the State that connect the villages. As I have mentioned, in the villages out on the west coast, residents can only commute by air into the medical centers of our State. I am concerned that the Mitchell bill does not adequately address the needs of Alaskans—the small business men and women and their employees. These include Natives and rural residents. They have to fly hundreds and even thousands of miles across that enormous State of ours to get the medical attention.

Mr. President, my colleagues have heard me speak in the past about how Alaska is unique, and I think it is, and that different solutions are necessary for our problems, and that our problems probably are not shared anywhere else in the United States. I tried to discuss this with Mrs. Clinton when she came to visit the Republicans on the issue of health care, and I indicated to her that if her bill would address health care access in Alaska, real health care access, I would support her bill. Her answer made it clear to me that she did not understand what I meant. I am sorry that is the case. But she responded to me that to deal with our transportation problems in Alaska—as I say, they are critical to real health care access in my State—we should raise the premiums.

Alaska, unlike many other rural areas in the country, is a high-cost area. This is largely because of transportation, as I earlier mentioned, to these very remote areas in our State. We must transport every commodity by air to these rural areas. Even bricks and mortar and hay for horses are transported to those areas by air. And they are transported to the remote sites for the construction of housing units for the Native people in those areas. It is all done by air. We must use aircraft to deliver the bulk U.S. mail, mail that is trucked to the communities of even the rural States in the south 48.

To serve our Indian Aleut and Eskimo villages, we must import doctors and nurses from residential centers like Anchorage and Fairbanks, again by air. And they must take all of their equipment and their belongings with them. And when their temporary duties are over, we transport them back, because they are unable to have the facilities in each of these villages to deal with the people who live there and, of course, they must go back to their families who are either in the medical centers of Alaska, or somewhere on the west coast.

We have no medical or dental schools in Alaska. We do not have academic health centers, and we have difficulty in attracting and retaining specialists. For that reason, Alaska cannot support health care reform approaches which prevent the training of additional specialists in areas that we need very critically—trauma surgeons, for instance, or specialists who will work with developmental disabilities. We are especially interested in expansion of training opportunities for nurse practitioners and physician assistants. We need them very much in our rural communities. Their importance to rural health care has been proven over and over again.

Labor and supply costs are high in our State. It is not surprising that we are unable to attract providers of any kind to stay in these communities of 50 to 100, or even 500, particularly, if those communities do not have housing, running water, flush toilets, and the normal amenities of life in America.

Hard as it may be to believe, more than 200 of our rural communities lack water and sewer facilities—adequate ones, that is.

We have now developed an approach that generally works for Alaska and which the General Accounting Office, in 1993, acclaimed as "a creative approach for Alaska." The distinguished occupant of the chair has helped me frame that approach over the years, and I am proud of it. It is the Community Health Aide Program. We call that the CHAP Program. CHAP employs residents of Native villages. Some of them may have only a seventh- or eighth-grade education.

After a few weeks of training, the community health aides serve, in most instances, as the sole medical provider in their community, and those funds available to them are provided through the subcommittee that the distinguished occupant of the chair has chaired in the past and still chairs and the Appropriations Committee which he chairs.

These community health aides, through the Indian Health Service, are provided a detailed manual. They are given a telephone connection to nurses or nurse practitioners or doctors or physician assistants who are in the nearest hub, the nearest center, and that is good if the weather does not knock the power out, that gives them both the telephone access and ability to operate their clinics.

They cope with all the tragedy that these rural communities experience—injuries and death due to alcohol abuse, chronic diseases such as tuberculosis and diabetes; high rates of lung and cervical cancer; self-inflicted ailments due to tobacco, or misuse of alcohol or inhalants; and drownings and hyperthermia and fetal alcohol syndrome and disease. Burns are a constant problem because many of these communities do not have adequate fire protection. A community health aide in one of those villages deals with that full spectrum of the health care delivery.

While the Mitchell bill includes many of the same rural provisions which the Dole bill has, it does not include those provisions that are critical to Alaska.

Those seek to address the critical issue of transportation—and real access to health care—in a place such as our State.

Many primarily rural States will have the problem that they are low-cost States and expansion of new or even existing technology will be limited by this bill. That is also a serious problem for Alaska, even though we are a high-cost State. Many areas of Alaska are now just getting basic technology. Some have just gotten access to an x-ray machine. Some of our health facilities are housed in old tuberculosis sanitariums built in the fifties.

The Mitchell bill, I feel, will stop the progress of medical technology in my State and force us into yesterday's medicine. It is unlikely that any rural village will ever see a CAT scan machine or MRI machine, equipment we take for granted now in urban areas like Washington, DC, or even Anchorage, AK. I question under the Mitchell bill whether Alaska will ever receive the technology it will need and I believe those rural citizens deserve.

I recall many years ago when the senior Senator from Massachusetts asked us to consider legislation on the subject of CAT scanners. My concern then was whether Alaska would get a CAT scan, or if they would be rationed on the basis of population. That was the suggestion early in that debate.

When I survived a plane crash in 1978, it was a CAT scan that told physicians then that I did not need brain surgery, an operation I surely would have had if the CAT scan had been rationed by population.

We cannot have technology rationed on the basis of population. Rationing of care continues to be my recurrent nightmare after my own experience. Our population between 570,000 and 580,000 approaches one individual per square mile. Our land area is 586,412 square miles, 365 million acres. I show that to the Senate, that vast area, how it spreads from coast to coast and from north to south as far as the 48 States' circumference is concerned.

The implication of this legislation before us is that resources would be distributed on a population basis. We must examine how we approach the distribution of resources that provide medical technology and innovation, and that is particularly true in the area of telemedicine. We must examine how we treat States and communities with academic health centers and those who have none and ask, for those who have none how we can get the technology to them. The wrong approach to health care reform will be the difference between access to new standard therapy and diagnostic procedures and the lack of access for rural and less populated areas for a long time to come.

I ask the Senate if we really have a commitment to medical research and infrastructure development in this bill. The Indian Health Service proposals in the Mitchell bill I believe are not what the Indian community had hoped for. They are not what was recommended by the Committee on Indian Affairs.

My concern with the initial proposals concerning the Indian programs offered by the administration was that those programs could not be supported by the resources that have been available in the past under the Interior appropriations bill. In particular, I was advised that the Federal Indian Health Insurance Fund to which third party insurance dollars and appropriated funds would be contributed was not adequate to implement the policies we want to provide for Native Americans, but that still remains in the majority leader's bill.

It is my belief that we cannot raise expectations beyond what we can afford to fulfill, and all too often those expectations are raised in rural, less populated areas and left unfunded because Federal health dollars flow disproportionately to the heavily populated areas.

I believe we must keep in place the system which works and which has been a safety net for American Indians and Alaska Natives on reservations and in villages in my State and keep it in place until we have a proven new system that also works.

I have compassion for the Indians in urban areas. In the past, they have not received medical resources because of our historic distribution system based upon reservations. But we cannot expand our resources into new missions and new places if we cannot keep the commitments we have already made. We have already promised to provide basic medical service, including the construction and renovation of critical medical facilities in North American Indian communities, and in Native American communities.

Alaskans have consistently supported two areas of what we call supplemental benefits which we have been unable to provide as quickly as we would like. One of those areas is patient travel, which I mentioned before. The other is sanitation.

In Alaska, travel to a medical facility may cost more than the care that one goes to the medical facility to get. For many Alaska communities, the Indian Health Service in Alaska used to pay emergency travel expenses to a health facility, often to an Indian Health Service facility. But the IHS only provides one-way fares. If a village wanted to see its family member come back to the community after discharge from the hospital, residents had to raise funds to return the patient home. We still have that problem. It is made more acute when there is an emergency transfer of a patient from the village to the hub community where a regional hospital exists. Doctors in that hospital decide whether a more sophisticated medical approach is needed. Travel then becomes necessary from that regional hospital to the flagship of the Indian Health Service in Anchorage, the Alaska Native Medical Center.

Patient travel expenses come from contract care funds in the Indian Health Service. Using those funds for travel takes money away from patient care, and that is not an answer to access. Diminishing the amount of patient care funds in order to provide patient access is not an answer for health care in rural Alaska.

Alaska's problem with sanitation is an issue that a number of my colleagues here in the Senate are aware of and have worked on with me through work on the appropriations subcommittees or the full committee or through service on the Indian Affairs Committee or the relevant authorizing committees in dealing with sanitation problems.

The Indian Health Service has told us that providing clean water and sanitation facilities is the most significant and necessary public health expenditure in Alaska. Health care access requires a health clinic have clean water and sanitation facilities. To expect those clinics to function without these basics makes health care reform meaningless in rural Alaskan communities.

So I ask the Senate to refuse to eliminate the Federal systems which are the safety net in my State until we know whether these reform proposals for health care work.

Throughout this debate on health care, we have heard a lot of laudatory comments about the Federal Employees Health Benefits Program and deservedly so. I think I have served on the committee having jurisdiction over the Federal Employees Health Benefits Program longer than any other Member of the Senate. The FEHB Program is part of an American health care system that works. It provides affordable quality health care to over 9 million Federal employees, retirees, and their dependents.

The FEHB Program, this Federal employee program for health care, is the largest medical plan in the United States.

It is not perfect. OPM works continually with carriers and participants to improve this system and the benefits offered through its customer satisfaction service, annual call letters, and its oversight. But the program has had more than its share of successes and deserves to be recognized as a basic success in health care insurance.

The FEHB Program has been successful in holding down costs—over the last 12 years, the program's average premium cost per person rose approximately 3.5 percent less than private sector premiums for large businesses. The system holds down growth in costs by forcing insurers to compete for customers by providing the best service at the lowest premiums.

The program provides flexibility through its annual open season, which allows individuals and families to change their policy to adjust to changing circumstances. And, the FEHB Program gives its participants the ability to choose the health care plan which is offered that is best for them.

Every enrollee has a choice among many health plans with varying levels of benefits and premiums. It has benefits that I believe we all would agree should be included in health care reform.

For example, FEHB includes the ability with copayment or deductibles, to choose one's own physician; it basically insures everyone, regardless of preexisting condition; and there is no cancellation of FEHB insurance for catastrophic illness.

Rural areas, particularly like Alaska, need the flexibility of health plans which provide options to meet individual and family needs.

Unfortunately, instead of serving as a model for reform, the FEHB plan would be drastically changed by the Mitchell plan.

The Mitchell bill essentially attempts to turn the program into an almost monolithic single-payer plan, to the detriment of Federal employees, retirees, and dependents.

Ultimately, it challenges the very viability of the plan itself. Rather than treating the plan, as I believe it should be, as a large employer plan, and preserving it as a model to judge the effectiveness of new plans for employees, retirees, and dependents, the debate has now turned to how to open up FEHB. I do believe that people throughout the United States have told us they want a medical reform bill that gives every American a right to get a plan as good as FEHB. But I do not think I have heard from anyone that we ought to destroy FEHB in order to try to accomplish that.

Instead of a straightforward repeal of the program, as was proposed in President Clinton's health care reform bill, the Mitchell bill would repeal the FEHB Program by overwhelming it.

The Mitchell bill would open up the FEHB Program to welfare recipients, employers with fewer than 500 employees, the self-employed, and the unemployed. To maintain contact with those people, Mr. President, who are not Federal employees, throughout this country would require a bureaucracy almost as large as the Federal Government itself.

The reason that the Federal Employees Health Benefits Program works is the Federal Government is a very large employer. The Mitchell bill will not treat the Federal Government as a large employer anymore. It seeks to treat the Federal Employees Health Benefits Program as a series of very small employers throughout the United States.

Initially under the Mitchell plan, Federal employees and non-Federal participants would be in separate risk pools, which is intended, apparently, to protect Federal employees from sharp increases in premiums. But the pools will soon be merged, creating a massive new system.

I want to read what the Mitchell bill specifically states so there is no disagreement about it. The Mitchell bill would eliminate this model plan in 10 years. It says specifically:

> The Office of Personnel Management shall implement rules to blend after January 1, 2005, the premiums for FEHB plans offered through purchasing cooperatives to Federal employees and community-rated individuals in each community-rated area.

What that means is, after 2005, the FEHB plan that is offered through these purchasing cooperatives and the FEHB plan offered by the Federal Government as employer will merge.

The Mitchell bill eliminates the model FEHB plan in 10 years.

The merging of the risk pools will expose Federal employees to sharp increases in premiums. This problem is made even more difficult by the fact that there is no estimate of the number, age, or medical condition of people who may opt to join the plan. That, of course, will depend in large part on the premiums for the non-Federal entrants, which will not be set until January 1997, although they are free to enter the pools immediately.

However, we can make some estimates of the number of entrants by using Medicaid figures.

The Medicaid population alone this year is approximately 34.6 million people. But not all Medicaid recipients would turn to the FEHB Program. Four million Medicaid recipients who are over the age of 65 also participate in Medicare and use Medicaid only as a supplement.

Another 5.5 million Medicaid recipients are blind or disabled, 3.7 million of them receive SSI benefits and would be excluded from the FEHB Program by the Mitchell bill. That is probably because the risk that would be added to the pool by that high-cost group would dramatically drive up health care costs and premiums for both the employee and the employer.

Let me explain that that is a vital concern to us also, because when you look at the children with fetal alcohol syndrome in the villages, we are talking about some of the people who would be excluded from the benefits of this plan. That leaves almost 27 million people who could potentially join the FEHB Program from Medicaid alone. And that number does not include individuals who are uninsured, self-employed, or whose employers choose to participate in this system.

The potential for increase in the number of people in the FEHB Program is four to five times the size of FEHB now and, as I said, that is the largest system in the United States today.

In addition to the problems of the sheer size of the system the Mitchell plan would create, the plan has the potential to wreak havoc with the premiums of Federal employees.

As I said, the FEHB Program is currently experience-rated, with premium rates based on the entire group. It is not a community-rated system.

Under the Mitchell plan, the move to community rating will have a devastating impact on Federal employees in high cost areas, such as Alaska. And it will have an increasingly devastating impact on the Federal taxpayer who pays 72 percent of the cost of that plan.

The premiums of most FEHB fee-for-service plans, such as the Blue Cross & Blue Shield plan, which covers 40 percent of all FEHB participants, are not currently affected by local costs.

But beginning in 2005, Federal employees and retirees will pay the same community-rated premiums as non-Federal employees.

That means that Federal employees working in Alaska will pay higher premiums than Federal employees with the exact same health care plan living in low-cost areas in the south 48. The costs to the taxpayers, as their employer, will similarly go up. As I said, 72 percent of those increased costs will be paid by the taxpayers.

Look at the average cost of the various health care services around the country. They demonstrate the impact that community rating will have on the Federal employees health benefits system, particularly the employees.

According to the Health Insurance Association of America Source Book on Insurance Data, the average cost of a semiprivate hospital room in the country costs $297 in 1990, with cost varying from $215 in South Carolina to $407 in Alaska and $456 in Connecticut. Now that is 1990.

In 1990, the average cost for an inpatient surgical procedure was $980, but it rose as high as $1,348 in Alaska and $1,400 in Maryland.

Under the Mitchell plan, the disparity among Federal employees' premiums increase when risk is added to the pool through the inclusion of millions of potentially high cost, non-Federal participants and the costs to the taxpayers for the FEHB plan will similarly go up dramatically.

I do not know why we cannot recognize that the Federal Government is a major employer and, as such, the taxpayers who support that system should have the advantages that any other major employer should have.

At the same time, premium costs will vary substantially from State to State and the pool then becomes subject to community rating.

Now, another problem in the Mitchell bill arises from the use of the phantom or "Big Six" formula. And I think this is one of the most difficult things for some people to really dig into.

By law, OPM must now use a formula based on what is known as the Big Six plans' premiums to set the Government's contribution—the taxpayer's contribution—for employee health insurance.

The Government contribution to each enrollee's premium is an amount equal to 60 percent of the average of the high option premiums for the Big Six Plans.

The Big Six average is currently calculated using the premiums for the six plans.

The first five plans of the Big Six in FEHB are: the Blue Cross/Blue Shield high option, two employee organization plans—Government Employees Health Association [GEHA] and mail handlers—and two HMO's with the highest number of enrollees—the Kaiser Health Plan of Northern California and the Kaiser Health Plan of Southern California.

The sixth part of the Big Six formula is a fictitious premium based on Aetna's 1989 premium updated by the annual change in the premiums of the five remaining Big Six plans.

Aetna withdrew from FEHB as an underwriter in 1989. Since Aetna's withdrawal, this mathematical formula replaced Aetna in the 1990 through 1998 calculations.

The Big Six formula was recently reauthorized through 1998, primarily to get the plans through health care reform with the assumption that this would be reevaluated.

But the Big Six formula would continue to be used to set premiums for Federal enrollees under the Mitchell bill.

It would continue the Big Six fictitious formula to establish the hypothetical premiums which are used to calculate the Federal Government's employer contribution to FEHB plans.

I am told there is real concern among the carriers that the Big Six formula may not be workable under the Mitchell plan, particularly with a standardized benefit plan.

Remember, there are a series of options now under FEHB; there is no standardized plan. And the merging of risk pools—there are a series of pools to be created by the Mitchell bill, some of them Federal employees, some of those who enter by being employees who select the plan, some unemployed, and others who can come into this FEHB Program now. And the blending of those premiums will take place in 2005.

At that time there is no escaping the conclusion the cost to the taxpayers will go up, the cost to the Federal employees will go up, and there will be no real benefit to the others in the process. They belong primarily in the pools of their own communities. They would benefit more in the long run by being in those communities.

The FEHB Program in this bill will be unworkable, as with many other provisions in the Mitchell bill, the provisions mandate change now, but will determine the details later.

As the saying goes: "The devil is in the details." These are issues that cannot wait.

We ought to know the details now. We ought to know how our premiums are going to be figured for the FEHB entrants who come in from the public at large into this large pool who are not employees of the Federal taxpayer.

The Mitchell bill will place more and more individuals in the FEHB plans.

My major concern is that carriers will drop out of the old FEHB plan, rather than be forced to accept potentially high-cost, community rated applicants in the new Mitchell pools.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. STEVENS. I will yield when I finish my statement.

FEHB under the Mitchell bill, will be an uncertain program which will be destabilized when the separate pools are merged in 2005. Carriers will have no incentive to participate in an uncertain plan which has no future. At most, FEHB has a maximum 10-year shelf life under the Mitchell bill.

I understand that some concern has been expressed in the past that the modest and incremental expansion of the FEHB Program to employees of certain small businesses included in the Dole bill might destabilize the FEHB plan premiums.

Think of that, the Dole bill, which has a modest access to the FEHB plan for the employees of some small businesses, has been criticized already. The enormous, enormous expansion in the Mitchell bill has really not been examined at all.

The Dole FEHB Program provisions, to me, are far preferable to the sweeping and dramatic changes in the Mitchell plan, which I believe would ultimately lead to the collapse of the FEHB Program. It certainly leads to the demise of it and a future for FEHB that is uncertain when these pools are merged in 1995.

Another issue that concerns me deeply is whether cost containment and managed care will ever be viable in our State of Alaska because of Alaska's geographic uniqueness.

In addition to the access and cost containment problems I have mentioned, I want to discuss some of the other concerns that I have with the Mitchell bill.

Specifically, the Government would set price controls which will unfairly burden Alaskans. Under the plan, health insurance premiums growing faster than the reference premium would be taxed at 25 percent.

The Congressional Budget Office has stated that "few, if any, areas would meet that test more than the first year or two, because the reference premiums would be constrained to grow far more slowly than the expected growth of health insurance premiums." This is from page 12 of the CBO's preliminary analysis of Senator MITCHELL's health proposal.

This means that some Alaskans and other Americans will be taxed at 25 percent on some portion of their health care package, because their premiums will exceed the premium that the Mitchell bill determines is reasonable for the country as a whole.

Senator MITCHELL's health plan also includes an employer mandate that will drive jobs out of Alaska and other States that fall below 95 percent coverage. This is on page 14 of the CBO report. Employers would be required to pick up half the cost of employee health insurance plans. These are the small employers.

The Congressional Budget Office reported that the cost of this mandate would drive businesses out of States which have the mandate into States that do not have the mandate.

The mandate is triggered by the failure to achieve 95 percent coverage and by definition we will never exceed 95 percent because of the geographic area that we have to cover in the State.

Alaska, with approximately 13,000 businesses, many low-income families, and high uninsured rates, is one of the States which will likely fall below the 95-percent coverage target. Alaska businesses will emigrate to States without the mandate.

With unemployment rates higher than 20 percent in some remote villages, Alaska cannot afford to lose any small businesses and the jobs they provide.

Although estimates are not yet available for the Mitchell bill, the National Federation for Independent Business estimates that 6,532 jobs would be lost in Alaska in the Clinton health plan were adopted. Another 38,297 workers would have reduced wages and/or benefits.

Under the Dole plan individuals would not lose their jobs, income, or benefits, because the Dole plan does not impose a mandate on businesses or individuals.

The Mitchell plan also discriminates against self-employed individuals by allowing only a 50-percent deduction for health insurance premiums. In 1992, there were approximately 27,000 self-employed workers in Alaska.

The fishing industry, our largest employer, includes thousands of self-employed fishermen who would lose out under the Mitchell bill.

Alaskans and all Americans will be hit hard by the 17 new taxes or tax increases included in the Mitchell plan.

Every middle-income family will have to pay $500 in new taxes. Based on three taxes alone: the 1.75 percent tax on all health insurance premiums; the 25 percent excise tax on excess premiums; and the State 1 percent tax on premiums to cover State administrative costs.

This does not even include the other tax increases such as tobacco, hollow point bullets, and Medicare that are included in the bill. In contrast, the Dole bill includes no new taxes or tax increases.

Over the past few days and weeks the Senate has spent a great deal of time discussing the merits and shortcomings of both the Mitchell and Dole plans.

I have made a careful analysis of the provisions contained in both bills and based on the health care needs of Alaskans, I have concluded that the Dole plan goes further in meeting those needs in Alaska than does the Mitchell bill.

Let me, in closing, comment specifically on the pending health care amendments. I am disappointed that the Members from the other side of the aisle, members of the Senate Rural Health Caucus, did not work with those of us on this side of the aisle in the caucus on a bipartisan package for these amendments. We have had a rural health care caucus on a bipartisan basis. I appreciate the fact that the Democratic group saw fit to adopt a provision from the Dole plan that they added to their package. The States of Alaska, Montana, and Wyoming I think ought to be described as frontier rather than rural; although rural can be in any area in the country and our needs sometimes coincide with the Midwest and rural States. But sometimes they are vastly different.

We have not yet suggested convening a frontier caucus. I do not know whether there is a phone booth big enough for us. But I suggest the Western States group in which both parties are represented and the health care caucus in which both parties are represented could have done a better job to present a bipartisan approach to rural health care amendments.

In particular, Alaska's issues differ from those of nearly every other rural State because of the high-cost environment. The rural caucus is dealing with a low-cost environment. We in Alaska are dealing with problems and costs associated with geography and the related transportation issues.

As I said before, we are a young population. The average age is 28.9. The typical rural health economy that exists relies heavily on Medicare. As a result, those of us from Alaska have supported Medicare provisions for rural areas which did not as directly benefit our State of Alaska because we recognized there is diversity in the rural areas and we look to this core group of the Senate Rural Health Caucus to support Alaska when it has specific provisions when they are probably not relevant to other rural States.

As I say, many of these provisions in this package—and I generally tend to support the package—we recognize they are needed for the States that are represented by the Senators who have presented these provisions.

Let me point out that the Dole bill recognized that Medicaid provisions for Alaska were 25 percent higher. The Dole bill had specific provisions allowing Alaskans to require insurers marketing in Alaska to include emergency and nonemergency, medically necessary transportation to health care and needed diagnostic procedures in any policy marketed in the State. That would be up to the State if it wished to do so.

We also included in the Dole bill rural infrastructure and development formulas which recognize Alaska's higher costs and extreme distribution problems and that the land base is a factor because of transportation.

I do hope, as we review this rural health care package, that there will be consideration given, as the final bills are put together, to the unique needs of our State. Our people have unique needs that need to be met, and I hope to see they are met.

If the Senator from Massachusetts has a question for me, I will be pleased to respond.

Mr. KENNEDY. Mr. President, I thank the Senator from Alaska. As I was listening to the Senator from Alaska, I gather then since we, as Members of Congress, have the Federal employees health insurance program, that under the Senator's position you are not prepared to include the American people in the same kind of program that we have and, as the majority leader has suggested, will be effectively open immediately to all Americans, and then with the blending of the programs, all Americans will have the same plan available to them as we have. Am I right?

I have difficulty understanding why. If we do nothing at all, we are still going to have ours as Members of Congress and the Senate. There has not been a Member of this body who has been willing to give up all of their Federal employee health benefits. That is the fact of it.

I am just wondering why the Senator from Alaska is reluctant to include all Americans into the same kind of plan, to have what we have.

Mr. STEVENS. Mr. President, if the Senator will allow me to answer, apparently the Senator from Massachusetts did not hear me.

Mr. KENNEDY. I heard you.

Mr. STEVENS. I said I have no problem at all creating a plan similar to FEHB for all Americans. You are saying "the same kind of plan." The trouble with the Mitchell bill is it puts them in the same plan.

Mr. KENNEDY. That is exactly——

Mr. STEVENS. I still have the floor, and I will answer the Senator. The difference is that the model, which is a good model and which could be used for a plan for all Americans, is to be blended in with a plan that is uncertain, that has no possibility of any kind of rating, and which is going to impose risk; that we feel the carriers will leave the old plan, the FEHB plan because of the uncertainty of all of these new entrants into it.

I encourage the Senator to look at the FEHB plan as a model—and I urged that. As a matter of fact, the Heritage Foundation, to its great credit, first proposed to create a plan for all America based upon FEHBP. That system is a viable system. It is possible. But we have ratings, we have experience in the FEHB plan. We ought to use it as a yardstick to measure any plan.

Incidentally, the Congress does not have a separate plan. I keep hearing that all over. The Federal employees have a plan, and we opted to become part of it. No Member is forced to join it. It is all voluntary. And some of us do obtain our insurance through one of the health plans. I use the Treasury one. I do not know what anyone else uses, but I chose to use the Treasury one.

There are a series of options, as the Senator from Massachusetts knows, and those options are unique. Under the Mitchell proposal, there will be one option. There will be the basic plan for the United States and the FEHB Program. That is no way to compare—and we do not want to transition the FEHB plan, which has a series of options, into a single monolithic, single-payer plan. That is where we go in 2005. That is what the instructions say. Blend them all in 2005.

Mr. KENNEDY. Give exactly to the American people what we have.

Mr. STEVENS. No, no, it will not.

Mr. KENNEDY. That is what that says.

Mr. STEVENS. It is exactly what the Mitchell plan will give the American people. There is a difference.

Mr. KENNEDY. That is exactly what it said, Senator. You said it very eloquently, did you not——

The PRESIDENT pro tempore. The Senator from Alaska has the floor.

Mr. STEVENS. I will be glad to yield for a question.

The PRESIDENT pro tempore. The Senators will address other Senators in the third person, not in the second person.

Mr. KENNEDY. Did you not say after the transition period, in 7 years, that effectively the Members of the U.S. Congress and Senate, who are members of the Federal employees plan which include 10 million of our fellow citizens, that they would be effectively in the same plan that would be offered under the Mitchell plan?

Mr. STEVENS. Mr. President, I say again, at 2005, there will be one single, monolithic plan under the FEHB label. It will not be the FEHB plan. It will be a community-rated system, not an experience-rated system. It will be a plan with one basic medical plan and penalties if you do not take that plan, as compared to our plan now which has a series of options offered by a series of carriers, many of whom I think will leave us as soon as they discover that in 2005 the Mitchell bill will merge everyone who is not under a large employer plan into the single, monolithic plan under FEHB.

There will be community ratings, there will be different premiums, there will be different premiums for an employee that works for the Forest Service in Alaska as compared to one in South Carolina. There will even be a different payment for employees of our offices, some who work here in Washington and some who work in Alaska. There will be a different payment for the Federal Government in Fairbanks as compared to Anchorage as compared to Washington.

The impact of the Mitchell changes on the FEHB plan will be to create a single, monolithic, single-payer plan using a single benefit package, a national standard benefit package which we do not want.

We want the options under the Federal Employees Health Benefits Program. I would like to see the Nation have a chance to have options under a plan similar to the one we have. That will take some doing. It will take some time to do that. It will take some infrastructure to support bringing all the small businesses in.

Can OPM, with its current employees, support a plan that would cover, instead of 9 to 10 million, 50 to 60 million people, people who have no employment connection with the U.S. Government? They are not employees, they are not all going to the office everyday, they are not people who have an administrative contact.

We will have to have an enormous cost to support that program. It is wrong to do that. It is better to have the people who do not have insurance be able to get insurance as people do under the major plans, who work for major employers out there in the areas in which they work, instead of having us change our experienced national system into a community-rated system where every Federal employee must take the plan that exists in his or her community and the Federal employees will pay into that plan and the employer, the Federal Government, the taxpayers will support different premium costs all over the country. This is wrong.

I do not know when the leaders are going to wake up. As I said, to me this means the Federal Employee Health Benefits Program has a 10-year shelf life. That is, in 10 years, the plan, as we know it, will go. It will no longer be experience rated. It will no longer have a series of options. It will no longer have an employee option to go in and out of plans without impunity, just entirely voluntary. You can come and go.

Under this system, when you come into it, you will take the national benefit plan, the one that is outlined in the Mitchell bill, by 2005. Federal employees will have that. It is not that the American public will have what we have now, we will have what they have then, if it works, and God hope it works. We know this one works.

I do not want to forecast the demise of FEHB now. I do not want to forecast the demise of the Indian Health Service now. I think the Federal systems that are working should be preserved until this experiment is proven. This is an experiment. This is an experiment with one-seventh of the economy of the United States. And it is wrong for us to tell the American people, as so many people have, "We're going to give you what we have." Wrong. We are going to change what we have in the hopes that they might have something better than what they have.

I say they will have a better system if we use the FEHB as a model, if we create a system under the Mitchell bill that will create a plan like the FEHB and try to offer some options.

But the bill itself does not do that, I say to the Senator from Massachusetts. The bill does not do that. It does not envision that those people who come into the FEHB pools will have available a series of options similar to what we have under FEHB. They will have the standard benefit option, and if they do not have that, they are going to be taxed more. If they have more, they will be taxed more—by definition, they cannot get less.

But that means our Federal employees, when they go into that, will have to pay more to get what they have today. Today, we have the best plan in the country, if not the world. I think it should be a model for America. We have offered time and time again, and the Heritage Foundation did, in fact, set forth a plan of transition to just that, without increased taxes, without mandates. It can be done. It was contained in Senator NICKLES' bill, which I cosponsored.

Mr. President, I have talked a long time. I will be glad to answer any questions if the Senator has any. And I do not want to walk away without answering questions.

Mr. KENNEDY. I would like to, if I could. I know my colleagues are here and want to talk about it.

Then, I am correct that the Senator's position is that he wants to maintain the Federal employees program, of which he is a member, of which I am a member, all 100 Members of the Senate, and the House and 10 million Americans, he wants to maintain that as a separate program?

The effect of the Mitchell bill will be that in 10 years every Member of the Congress, every Member of the Senate as well as individuals across this country, if they so choose, would also be able to participate in the same program.

Now, as I understand it, the Senator's position is that he wants to maintain what we have, and he finds that the idea of having the Federal employees program, which has been expanded, supported by the chairman of the committee, Senator GLENN, in the Senate, the chairman of the committee in the House of Representatives, Mr. CLAY, and has even been accepted by Senator ROTH in a more limited way, who talked about that for several years, he wants to make sure that our program, the Federal employees program, will be maintained as a separate program and is not willing to put us in the same pool as the rest of Americans.

Mr. STEVENS addressed the Chair.

Mr. KENNEDY. Is that not the effect of the Senator's position?

Mr. STEVENS. If I still have the floor—I think I do still have the floor.

The PRESIDENT pro tempore. The Senator from Alaska has the floor.

Mr. STEVENS. I say to my friend—and he is my great friend, and I have great admiration for what he is trying to do—I just wish he would listen again. Let me find the section that deals with this.

Let me tell the Senate and the Senator from Massachusetts, Mr. President, that he still does not hear me. I know what we have, and I think it is a good plan and I hope we can create another plan that will give every American access to the same kind of plan. The Mitchell bill does not present the same options for Americans that we have under FEHB. It says the "standard benefit plan." Beyond that, let me tell you, it also says—and it is what has moved my friends who are the leaders of the Federal employees. I am reading from section 1342.

> The Office of Personnel Management shall develop FEHBP supplemental health benefit plans. The Office of Personnel Management shall meet and confer with representatives of Federal employees and annuitants regarding the supplemental services plans and the cost-sharing plans to be offered—including premium contributions, if any, to be made by the Federal Government with respect to such plans for Federal employees and annuitants—through a process to be established by the National Partnership Council.
>
> The Federal Government shall offer FEHBP supplemental health benefit plans developed in accordance with subsection (a) and cost-sharing plans as provided in section 1141 to Federal employees, annuitants, and any other community-rated individual.

What is that saying, Mr. President? It says after 2005, you merge everybody into these plans. You tell the public that they have the same plan as everybody else, but you negotiate with the leaders of the employees and you give them supplemental benefits that are not under this bill to be made available to the public. The most duplicitous section is right there, section 1342. It says, contrary to what the Senator from Massachusetts says, the public will not be getting what the Federal employees will get.

The Federal employees, after they are downgraded by the Mitchell plan, will then be given supplemental benefits. You talk to the labor leaders. They will tell you it is the supplemental benefits section that tells them, "Don't worry, boys; we are going to see to it that your employees still get what they have got now"—supplemental benefits above what the average American has under the health benefit plan paid for by small employers.

I say we could use the FEHB plan as a model. Heritage showed us the direction in how that could be done. I have some slight disagreement with some of the suggestions they made, but they made basically a good suggestion. Take FEHBP as a model, keep it intact, make sure you make it work and compare it to these other plans as they develop. Do they offer the public the same kind of options, the same freedom that Federal employees have, including Members of Congress?

And the cost to the taxpayer the Senator from Massachusetts forgets entirely. As the cost to the employees goes up, the cost to the taxpayer maintaining the existing coverage for medical insurance for employees will likewise go up. The Federal Government pays 72 percent of those costs. So by definition, when they go to community-rated policies under carriers in these communities all over the country, there will be a difference between what we now get with the bid system.

Under the "big six" formula, whoever comes into the plan gets reimbursed, based upon the formula of what the big six provided to Federal employees. They take 60 percent of those premiums, and that is the average that no carrier under the FEHB program will exceed.

There is nothing like that in the Mitchell bill for the public. The public is not told that. They have said, "Look, we will bring the public into these separate pools and then in 2005 we are going to merge them."

"Oh, but don't worry, employees, because when we do merge them, section 1342 has special rules for FEHBP supplemental plans. We are going to devise a supplemental plan for all Federal employees."

Now, I ask you, Mr. President, is that not misleading the American people? All I am asking is that we maintain the FEHB Program, make it viable, maintain it—it is the lowest possible cost to the taxpayers, who are really our employers—and extend that concept out to the public, as suggested by Heritage, as suggested by Mitchell, in effect, but Mitchell does not do it that way. It leads to the demise of FEHB in 10 years. The model will be gone. Oh, but the model will then be supplemented under plans to be negotiated to keep the support of the labor leaders as far as this bill is concerned.

I think it is wrong, Mr. President.

I have taken a lot of time of the Senate.

I yield the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from New Jersey.

RETURN OF LISA AND SAMI ABEQUA

Mr. LAUTENBERG. Mr. President, I regret that I am the one who is interrupting this debate because I think there is still a lot of ground to cover, and I hope that at a later moment perhaps we can determine what the facts are and get on with the discussion that has been taking place here.

Mr. President, for the last several days, the Senate has been absorbed in a painstaking debate over health care reform. But while we do that, we dare not forget our other duties to the American people, to our constituents. I wish to discuss one of those duties now, a special need to help a constituent requiring a solution to an overwhelming problem.

As my colleagues may recall, some weeks ago, a Jordanian man named Mohammad Abequa strangled his estranged wife at her home in New Jersey. And after murdering their mother, he abducted their two children, Lisa, a girl 6 years of age, and Sami, a boy 3 years old, and took them to his sister's home in Jordan.

Now, he was charged with murder by an American court, and the Jordanian authorities in a cooperative effort located him, charged him with murder and with kidnapping and arrested him. He has confessed to the crimes and is now in jail in Jordan, but his arrest left the children, Lisa and Sami, in legal limbo because the murderer's family seized custody of the American-born children.

Last month, during consideration of the foreign operations bill, the Senate supported an amendment that I offered calling for the children's safe return to the United States. Since then, along with other members of the New Jersey delegation, I have worked through the State Department and the Jordanian Government, including King Hussein, to accomplish a very simple goal, and that is the release of Lisa and Sami and their return to the legal custody of their maternal aunt in Paterson, NJ. She was awarded guardianship by a State court in New Jersey.

Today, Mr. President, I am delighted to announce that Lisa and Sami Abequa are on their way back home.

In an earlier era, the children's saga could have turned into an international bureaucratic nightmare. It might have taken months or even years before the children were able to return to America. But thanks to an unprecedented international effort, Lisa and Sami are coming home today. They are in the air right now on their way from Frankfurt, Germany, accompanied by their tenacious aunt, courageous aunt, Nesime Dokur of Paterson, NJ, who traveled to Jordan on August 1 and stayed there until yesterday to take custody of her niece and nephew.

Our negotiations for the release of Lisa and Sami are symbolic of the new spirit of warmth and cooperation that now characterizes our relationship with King Hussein and the Jordanian Government. Lisa and Sami's homecoming would not have been possible without the support and intervention of President Clinton who took the time, despite a pressing agenda of getting a Washington declaration signed, the agenda with health care, and crime legislation, to effect the release of these two children.

It would not have been possible without the personal involvement and the commitment of King Hussein, who met with us more than once last month when he was in the United States to hear our concerns about the welfare of these two children. He worked with us to expedite the process of bringing the children home.

In addition to President Clinton and King Hussein, I must thank Secretary of State Warren Christopher and our Ambassador Wesley Egan in Amman for their tireless efforts to facilitate our negotiations with the Jordanian Government.

I want to say a special thanks for the work of a member of my staff, Sharon Waxman, whom I sent over there to accompany Ms. Dokur and to give her advice and counsel, and to be in touch with our office. She went for what she thought was a 4-day stay. She was there 17 days. She helped work through the legal and diplomatic issues involved, and I am grateful to her.

I also must say how grateful I am to the occupant of the chair, the President pro tempore of the Senate, Senator BYRD, because he helped make that trip possible, thereby helping to expedite today's homecoming.

Finally, I want to thank other members of the New Jersey delegation who worked with me to make sure that these children would be brought home to the family and the country they know and they love.

My colleague, Senator BRADLEY, with whom I work on so many issues, was with me when we met King Hussein and offered our cooperation with him if he, in turn, could assure us that he would lend the power of his office to the release of those children; Congressman KLEIN, and Congressman TORRICELLI, and all contributed to this process.

Mr. President, Lisa and Sami's return to America will be at best bittersweet. These two young children, just 3 and 6 years of age, will never again see their mother. They do not know at this point that their mother was murdered, that they will not see a father with whom there was a very troubled relationship. Nevertheless, children's affinity for a parent, sometimes even if they are harmed by a parent, is something that they regard as a precious legacy. These children will never see the loving mother or the father that they knew. They do not know that. They are in a state of some confusion. They have been taken away from their homes. They have been away for a month in a country where the language is strange, and the family was estranged. They never saw these relatives before they were spirited away in the dark of night by their criminal father.

So this return we hope will be the beginning of a period of love and affection, repair and consolation for these children. They are going to have to make enormous adjustments to the traumatic change in their lives.

We are going to help them in whatever way we can. Thanks to our cooperative efforts, all of us, Mr. President, Lisa and Sami will have a chance to rebuild their lives at home in New Jersey under the custody of their loving and dedicated aunt and their maternal grandmother.

Mr. President, this effort to bring these children home I think reminds all of us about what it is that we are here for in Washington, about the human element that sometimes gets lost in the maze of legislative language and debates. It reminds us that our job is to listen to the American people, to hear their problems, and hear them when they cry out for help, and to try to help them. The rewards for each one of us—and there is not anyone here who has been in the U.S. Senate or the Government for any length of time who has not taken great satisfaction out of seeing the result of some special effort that you supply.

So, when we focus on one individual plight or intervene to help one family as we did here, we can feel just a mite better about the job that we have.

Sometimes we do it by learning from a single tragedy, like the recent murder, also in New Jersey, of a 7-year-old named Megan Kanka, who was first sexually attacked by a frequent sexual pervert, and then he killed her. We have to try to in some way make that young life, 7 years of age, a lasting memorial to what happens when you do not pay attention to signs that you see, or have laws that can protect children, as we know exist in the crime bill that is under contemplation.

Sometimes we do our job by listening more to the general concerns of the American people and passing comprehensive legislation like health care reform to improve conditions for all Americans now and in the future.

Mr. President, some days, as the occupant of the chair knows perhaps better than most, many days are very discouraging, hard work, little progress to show. But every now and then, whether it is the prospect of a health care bill, or a crime bill, or helping Lisa and Sami to come home, or create a law in the honor and the memory of Megan Kanka, that says we have to press forward, that is our mission. And we all occasionally, Mr. President, have to take the pledge that we will continue on to try to serve our people.

I thank you. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the completion of Senator BRADLEY'S remarks—which he has just stated will be no longer than 15 minutes and probably a little shorter, the Senate vote on the pending Daschle amendment.

The PRESIDING OFFICER (Mr. MATHEWS). Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. I ask unanimous consent that it now be in order to request the yeas and nays on that vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that following Senator BRADLEY'S remarks, Senator HUTCHISON be recognized for 5 minutes, and following Senator HUTCHISON'S remarks, Senator DASCHLE be recognized 5 minutes, and then the Senate vote on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senators should be aware that a vote will occur in approximately 20 to 25 minutes on the pending amendment. I thank my colleagues and I thank the Senator from New Jersey.

Mr. BRADLEY addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Jersey [Mr. BRADLEY] is recognized.

Mr. BRADLEY. Mr. President, let me say first of all that I would like to salute my colleague, Senator LAUTENBERG for his efforts in the Abequa case. I was pleased and proud to join him in the efforts. But he made the difference, and I think his conduct is in the best tradition of public service, helping another human being in the time of stress. I think FRANK LAUTENBERG has had many fine moments in the U.S. Senate. But today when he—and hopefully I will be joining him—meets these children coming off of the plane in Newark, NJ, from Jordan, this will be one of his finest moments. I think he deserves the gratitude not only of the families, but the salutations and praise of his colleagues. I am giving that to him today.

I hope, also, that if the crime bill is reopened, Megan's law will be tightened. Now the bill has a Megan's law in it, but if it is reopened, I hope that it will be tightened. Again, that will be because both he and I have talked to the President and urged that it happen if the bill is reopened.

Mr. President, last spring I gave a speech on violence in which I called for a national rebellion against violence with a goal to reduce violent crime by 75 percent in 10 years. I tried to point out that the blaze of violence is fed by many fires, and I tried to point out seven truths about violence in America.

Truth 1: There is no miracle cure, and the answer lies closer to home than to Washington, DC.

Truth 2: Violence will not be stopped by soft words. Every person who uses violence must pay the price in lost freedom, and doing time, especially for the young, must be a memory that one does not ever want to repeat.

Truth 3: We will never counter violence unless we restrict handguns used in 80 percent of America's gun murders. What is common sense to people in virtually every other country of the world becomes a constitutional crisis for us.

Truth 4: There is no substitute for a job. If we can move those on the bottom of the economic ladder up just a few rungs, our efforts against violence will have acquired a powerful ally.

Truth 5: Violence is a phenomenon caused by twisted values and a loss of self-esteem and self control. The formation of values and self-discipline begins in childhood, and teaching them is the job of parents. Unless we instill them in all our children, we will have only ourselves to blame.

Truth 6: We need to make it as unfashionable to sell violence in America as it is to smoke cigarettes. We do not need censorship; we need enhanced citizenship, particularly in the boardrooms.

Truth 7: Drugs and violence go together like gunpowder and a match. To ignore an addiction as a national problem is to sentence more Americans to death.

Mr. President, like so many other issues of public life and in the debate about violence, people do not listen to each other. They are frozen in a dichotomy between conservative or liberal, Republican or Democrat, tough or coddling. Those who believe the answer is gun control do not listen to those who want the death penalty. Those who believe severe punishment is the answer cannot see the necessity of limiting guns. Often, neither gun control advocates nor tough sentencers see the connection between societal violence and poverty, family disintegration and exploitive media violence. Instead of confronting reality, more and more people look for magic bullets to stop violence in its tracks.

Mr. President, the truth is much harder. The crime bill, under the leadership of Senator JOE BIDEN, tried to face the truth and to deal with the reality. With only 13 percent of the crime-fighting resources available to the Federal Government, the answer to violence is truly closer to home than it is to Washington, DC. But a sound Federal effort can make a difference.

The crime bill is such an effort. It combines punishment—100,000 more police on the streets, the police corps, three strikes and you are out, boot camps and more prisons, tougher death penalty—with preventive measures, including everything from an assault weapons ban to community schools.

The House of Representatives voted down the rule last week. I hope the House will vote again and reverse its decision. Mr. President, there were two groups, roughly, opposed to this crime bill. Members of the Black Caucus and Republicans from New Jersey and other northeastern States should have known better, because they know the situation in America's cities. Many of the others who voted the bill down represent small towns far from high-crime areas, towns where kids walk to school, join debate clubs, sing in the high school glee club, play in the band, compete in sports such as football and basketball. And it is these Congressmen I would like to address my remarks today to.

Some say these Congressmen voted "no" because of pressure from the NRA. I would like to think that was not so. I would like to think they voted "no" because they just do not know. Maybe they really do not know what people of good will are up against in America's cities. Maybe if they did know, they would change their vote.

So, Mr. President, today I would like to share a letter that I received just a short time ago from Patricia Roberts, describing a visit that she made with a Catholic nun, Sister Piper. The letter says:

> DEAR SENATOR BRADLEY: Every so often I accompany Sister Piper, a part-time prison chaplain, to an evening meeting with young inmates at the Bordentown Juvenile Medium Security Facility. Recently, we took your speech on violence, reviewed its highlights, and asked the young people what they thought of it and what suggestions they might have. None of our group of three young people knew what a Senator was, and when we told them that it was someone in Washington, DC, might have their interests at heart, they were amazed. We told them we would send their ideas on to you, Senator Bradley, and you might respond to them.
>
> They agreed that violence destroys trust and love, as you said in your speech, and all three spoke about how being in prison killed their self-respect. Each spoke about his mother and how sorry they were for her sorrow at their deeds. The only reference to a father was from one young man who said he learned bad things from his father who was in jail.
>
> One young man said that he was not brought up to land in jail but, "The streets took control of me * * * I was upset and pushed to the limit."
>
> Another suggested that if someone had said to him, "Do you really want to do this," if he had a guardian angel or two or three, someone he could trust, it might make a difference."
>
> All of the young men spoke about school. One said, "Einstein and Benjamin Franklin mean nothing to me." They asked for more practical studies—how to cope in the world, on the streets, skills so they could get a job. Jobs that pay money are crucial to them.
>
> One, a 19-year-old father of seven, said his kids come before money. He also literally did not know that it is customary to have one person as the mother of all your children. Sister Piper, by no means a conservative, believes we need to teach basic moral procedures that most of us take for granted.
>
> In an earlier meeting, one young man said he wished there were more parks in cities where there would be someone to talk to. He told us his father beat him from as early on as he could remember and he took to the streets to escape.
>
> Most of the young men seem very bright—not educated but certainly not stupid. All acknowledged that going back to where they came from—Camden, Newark, Jersey City—is going to be hard if they want to go straight. They acknowledged that they need help, someone to talk to and learn from. Sister Piper tells them that unless they try hard to change she is likely to see their names on the obituary pages.
>
> One fellow believes that 9 out of 10 of his problems started in school because what he was learning had no relevance and said: "We want to learn about other good people in good communities and how good communities get along. Maybe we could study communities in Colorado or Montana." It was as though he, from Camden, could not imagine a "good community existing" in New Jersey.

There you have it, Mr. President: A father who beats his son; sons who do not know that it is customary to have one person as the mother of all their children; kids who want someone to trust, someone who would have said "no" to them, someone to talk to in a park, some idea of how good people in good communities get along.

Mr. President, if crime is to be controlled, not only must criminals be arrested, prosecuted, jailed and disarmed, but civil society must be armed to protect itself. This is a matter not only of putting more police on the streets, but also of giving the institutions of civil society the resources they need to prevent crime, by confronting a criminal counterculture in which violent crime is believed to be the only effective means to wealth, status, and self-respect. It is self-defeating to lock up one criminal in prison while allowing two more to grow to maturity on the streets.

In those neighborhoods in which the fabric of civil society is most unraveled, research has found that the most effective organizations holding the fort against the culture of the streets are neighborhood-based youth organizations. These organizations are diverse in character—theater groups, tumbling teams, basketball teams, boys and girls clubs, churches that open their basements—but they all share some common characteristics. They are multipurpose organizations.

They are aggressive in seeking out kids to work with. They do not just wait for them to come to the door. They act as shields against the streets. They are decidedly local in their orientation and leadership. They view kids not as problems but as resources to be developed. Kids are not treated as if something is wrong with them but as if something is right with them that needs to be exposed and encouraged. They provide stable and consistent relationships with adults. They develop flexible programs that often fly in the face of bureaucratic conventions, making use of nontraditional settings, nontraditional hours and nontraditional personnel.

Finally, Mr. President, they require deeply committed local leaders who have themselves been through the trials that confront the children that they work with.

Mr. President, in this crime bill one thing we tried to do in the preventive section was strengthen the institutions of civil society. We tried to develop community schools, schools that are open to the neighborhood, to allow kids to come in after school, to be mentored, to provide stimulative educational experiences for these kids, and maybe some chance to interact with an adult over a longer period of time.

Mr. President, midnight basketball has also taken a hit here in the course of the last few days. On one level midnight basketball is important because the people who are playing the game in the gym are not on the street. But it is not just about basketball. A friend of mine, a former pro, a Celtic named Jo Jo White, runs a program in Rochester, NY, and the points in his program are scored not only how many balls go in the basket but on what a student's grades are and what community projects he has been involved with.

Finally, basketball itself, I would have to say, is not without inherent merit in terms of promoting unselfishness, discipline, teamwork, and goal setting.

In closing, Mr. President, I say to those who voted "no" in the House on the crime bill, think of your community without the Little League or the Boy Scouts or the high school football team. Think of your high school without the glee club or the band or the debate team. Think of your parks filled with danger and drugs. Think of your children going to school through a war zone where violence takes another life every day. Ask yourself what you would do if you could not afford to move. Ask how understandable it would be to you to have the crime bill voted down.

What we tried to do in the crime bill was give communities some more resources to fight against the counter culture of violence. What we tried to do is give those three kids in the Bordentown Juvenile Center some hope when they return to Camden or Newark or Jersey City, or countless other cities, that there will be someone to talk to, someone to say, "Do you really want to do that?"—someone to trust, someone maybe in the clergy, maybe a community leader, maybe a politician and, maybe a basketball coach, who will turn one life in the right direction.

Mr. President, that is what we tried to do in the crime bill. I think we succeeded much more than anyone has focused on, and I hope that those Congressmen from the small towns who voted "no" might understand what is at stake and this time vote "yes."

I yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I want to rise today to thank the Senator.

The PRESIDING OFFICER. The Chair needs to relate to the Senator from Montana that under the previous order the Senator from Texas was to be recognized for up to 5 minutes and then the Senator from South Dakota and then open debate.

Mr. BURNS. I ask unanimous consent that I might be allowed 5 minutes to make my statement.

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection.

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator objects.

Mr. BAUCUS. Mr. President, I understand that my colleague, the Senator from Montana, would like to speak on this amendment. I, too, would like to speak on this amendment. I think it is a very important amendment. I understand there is a vote scheduled fairly soon.

I am wondering if we could ask for an additional 10 minutes before the vote occurs so that my colleague and I can address this amendment.

Mr. MOYNIHAN. I am sorry. I did not know anything about this.

The PRESIDING OFFICER. The Senator from Montana asks for an additional 10 minutes.

Is there objection?

Without objection, it is so ordered.

Mr. BURNS. Mr. President, I thank my colleague from Montana. As we move into this area, I just want to state, with these provisions in rural health, and, of course, our State of Montana which is entirely rural—in fact, it is considered one of the frontier States. We are not using wagons in the historical sense, but when it comes to delivering health care services, we might as well be.

I displayed these maps the other night on the floor, but they are certainly worth showing again. Montana has nine counties with no physicians at all. These two counties down in the southeast, Carter and Powder River Counties, are as big as Massachusetts. Sure, they only have 3,600 people who live there, but they have to go a long way for their basic health care. In fact, if you consider the 39 counties in Montana without ob/gyn services—and this will give you an idea what that looks like—I would say I would have to worry about women's health care issues in the middle of Garfield County, which is over here. This red, by the way, in the central part of the State represents an area about the size of Indiana. So we have an access problem. It is not because of high-cost health care, Mr. President. It is because providers are not there. It would not matter how cheap health care was, these folks still would not have access.

And we have to remember when we start talking about the Canadian system or the American system, the two differences are that in Canada you have universal coverage but you do not have universal access, and in this country we have universal access but we do not have universal coverage. It is just the other way around.

Basically, we have a mix of the two in the State of Montana. So they have to travel many, many miles just for their basic health care needs.

Have no doubt, I am all for some of these provisions that expand health care to rural areas. My colleagues here in the Senate, and the folks at home, know well the work I have done to promote telemedicine in the State of Montana. And I appreciate Mr. HARKIN's hard work in this area. He knows the challenges of getting health care delivered to rural areas. And as encouraging as grant money for these projects may be, what is really needed is for the Government to get out of the way, let the private sector move forward, and eliminate the barriers that now exist. Namely, Medicare reimbursement. Telemedicine is ready to explode all across the country. The No. 1 barrier holding it back is not money—though that always helps—it is not doctor resistance, it is not lack of technology, it is the lack of reimbursement by HCFA that is slowing down progress.

But, Mr. President, these amendments expanding access to rural areas would not benefit these underserved areas one bit if the rest of the Clinton-Mitchell bill is left intact. Let me explain.

In rural areas there is a predominance of small businesses and self-employed individuals. Montana is an agricultural State. The eastern part of my State is nearly all agriculture—farming, ranching, and the support that goes along with it. These folks will be so burdened by other provisions, that health care will be the least of their problems.

The mandate, though not triggered for a few years, will no doubt have a profound effect on rural America, and most of Montana. Even if the business was exempt, having fewer than 25 employees, the mandate would fall on the employees. Requiring employees then to pay 100 percent is a hardship. This is an individual mandate on folks whose income doesn't have a lot of wiggle room.

On top of that, the self-employed are not allowed to deduct 100 percent of their health insurance costs. Big business can. We do not have a whole lot of big business in Montana. In fact, of 22,223 businesses in Montana, 21,752 of those are considered small business—that is 98 percent, Mr. President.

The provision we struck last night would have had such an impact on those businesses who already provide comprehensive health care to their employees, I am not sure these small businesses could have survived. And I think that is just one justification for going through this bill with a fine tooth comb—although painstakingly slow, it is necessary, because Americans want to know. As my colleague from Oklahoma, Senator NICKLES, reported last night, this provision would easily have turned for-profit companies into not-for-profit companies.

The taxes on health plans, again, would cut into the operating expenses of small business. Adding a 1.75 percent tax on all health insurance premiums, most of which goes to fund Academic Health Centers—which we don't even have in Montana—simply adds to the cost of health care. This does nothing to make insurance more affordable. If anyone is under the impression that the Clinton-Mitchell plan would not grow Government, why do we need all these new taxes? History clearly shows more taxes grows Government.

Here you are, encouraging and mandating—some now, some later—employers to provide health care insurance. And then you tax them for doing so. I'm not saying the hardships will be felt only in rural areas. They will be felt all across the board. But in rural areas, there is not much room to maneuver. The options are limited. And if we tack on burden after burden, pretty soon, our ability to provide food and fiber for Americans is seriously impeded.

And if we cut Medicare and Medicaid by hundreds of billions, funding that makes up the majority of the payments received by rural hospitals, those facilities will close. We have already experienced hospitals closing and whittling down services in Montana. The Medicare payments don't cover costs as it is. Cut those more and we'll have nowhere to deliver the services. Telemedicine won't even be an issue if there is no facility on the rural end.

Mr. President, my point is this. We can do all sorts of things to expand access to these rural areas—and I think we should—but if we fail to keep these same areas in mind when crafting the rest of the package, then these provisions are useless. Rural America is already on the edge, let's not push them over.

I look forward to working with both sides of the aisle on making sure health care is affordable and accessible in every sector of our fine country. And I am going to fight to make sure that this operation does not include a massive rural-ectomy.

Mr. President, I yield to my colleague from Montana to make a statement on this issue, because I do not think there are two people in this body that better understand the challenge that rural health faces in order to serve the people of the State of Montana.

I appreciate his work in this area. And I yield the floor.

The PRESIDING OFFICER. Under the earlier previous order, the Senator from Texas has reserved 5 minutes.

The Senator is recognized.

Mrs. HUTCHISON. Mr. President, I will be happy to yield to the other Senator from Montana to continue this process, and then take up after he has finished.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Senator from Texas.

It is fine with me if the Senator from Texas wishes to proceed.

Mrs. HUTCHISON. I just felt that, since Senator BURNS had started talking about Montana, that you would like to continue talking about the unique problems there, and then I will talk about the unique problems in Texas.

Mr. BAUCUS. I thank the Senator.

Mr. President, I rise in very strong support of the amendment offered by the Senator from South Dakota [Mr. DASCHLE], because it will improve the quality of health care in rural areas and give rural communities more access to the health care system.

One in four Americans today lives in a rural area. Rural areas are going through a health care crisis in many ways even worse than the crisis everyone else faces. Rural areas suffer high rates of uninsurance and underinsurance. Rural counties have chronic and severe shortages of doctors, pharmacists, nurses, and other health professionals.

Rural Americans get very little preventive care. And rural hospitals are closing. One in 10 shut down in the last decade.

In Montana, the statistics are truly alarming. Over 20 percent of Montanans have no health insurance. That is one in every five. Three quarters of our State is a health professional shortage area. Almost half of our 56 counties have no doctor who can deliver a baby. And eight Montana counties have no doctor at all.

As we consider national health reform, rural counties must get the help they need to provide high-quality health care to their people.

The Mitchell bill already contains strong rural health provisions. This amendment has several rural health provisions which will strengthen the bill even further. I intend to speak this morning on just three.

NATIONAL HEALTH SERVICE CORPS

First, this amendment provides more money to the National Health Service Corps. Under this program, physicians and other health professionals agree to work in underserved areas in return for a scholarship or loan repayment.

This program is the only way to get access to hundreds of rural counties. Most young doctors leave medical school hundreds of thousands of dollars in debt. Since salaries in rural areas are so much lower than in urban areas, they simply cannot afford to practice in rural counties.

The National Health Service Corps now provides Montana with nine physicians and four physician assistants. Several Montana communities would have no primary care at all if not for this program.

Take the example of our hospital in Culbertson. Culbertson is a little town, population 796, about 25 miles west of the North Dakota border. Thanks to the loan repayment program, Culbertson has a physician and a physician assistant. Without them, the hospital would close. That would make it impossible for all of Roosevelt County to get emergency room services and basic primary care.

The National Health Service Corps is already making a difference in the lives of thousands of Montanans. With Senator DASCHLE's amendment, the corps can recruit about 40 more doctors to Montana counties that now have shortages. This means the men, women, and children in these counties will be healthier. And because they will get preventive care, Montana will save health care dollars down the line.

TELEMEDICINE

The Daschle amendment would also help end the isolation of rural health care providers, and improve the quality of the care they provide by funding a Rural Telemedicine Grant Program.

Telemedicine allows providers to use modern communications technology to consult with highly trained specialists in distant areas. It lets doctors transfer x rays or lab slides for analysis in top-quality laboratories. And it allows communities to develop innovative health education programs.

This amendment provides for telemedicine critical for rural areas.

This amendment also makes technical changes to the medical assistance facility program, a new hospital program contained in the underlying bill.

The medical assistance facility program is a critical reform for rural areas. It allows small hospitals to operate under more flexible rules. For example, it lets nurse practitioners and physician assistants admit patients even when a doctor is not present. It also gives them higher reimbursement from Medicare.

MAF's provide more than just inpatient care. They make it easier to provide other health services which the community otherwise would never have. An MAF is a base for 1-day-a-week dental service. It offers weekly physical therapy sessions, mobile mamography units, counseling services.

At least six rural towns in the State of Montana would have no hospital services—none—if it were not for this innovative program. Jordan, Ekalaka, Circle, Terry and all the farms and ranches nearby would have no medical service were it not for this very specialized program which makes or breaks rural health care in those parts of the country.

Mr. President, for all these reasons I strongly support the amendment and urge its adoption.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to speak for the amendment. Texas is made up of 254 counties, 196 of those counties are considered rural.

Let me tell you about the Dairy Queen test—On weekends I travel through Texas and walking in and out of coffee shops and Dairy Queens I listen to people in rural Texas. What I hear is that they do not want the bureaucrats in Washington ruining their health care. They ask me, as their Senator, to bring that message back to Washington: They know we have problems for rural health care in our system—but they are concerned about the solution being talked about here. They are concerned that the system has a cold and the solution prescribed is chemotherapy.

The problems of health care delivery in rural America are real. The underlying health care bill encompasses many of the reforms that are necessary to improve the delivery system in rural America. However, there are a number of negative impacts on rural America that are evident throughout the bill. I support and agree with the Senator from South Dakota about his desire to improve the status quo in rural America. Many rural States are heavily dependent on the Federal Government for assistance in maintaining and enhancing rural health care resources. We must continue to be helpful—but we should also be focusing on ways of providing incentives as the Dole bill does and the development of infrastructure into rural America to yield to the States the flexibility to create viable programs.

Every county in rural America is different. Just as I do not believe that the Federal Government should be dictating to every individual what benefits to buy, I do not believe that we, as legislators, have the right to dictate what every county, city, town in rural America needs, wants, and should have. I grew up in LaMarque, a town of 15,000 outside of Galveston. I know our needs are a whole lot different from the needs of Sonora clear across the State. The point is that rural health care needs differ, rural Americans face unique health care situations and we should enable rural communities and States to play a strong role in designing and implementing solutions.

I heard both of my friends from Iowa talking about amendments that can improve this bill and I would like to support their efforts to make health care more accessible to rural Americans.

What are rural Americans concerned with? Rural Americans especially are concerned about the cost of insurance and mandates on employers. They would like to see health care coverage become more affordable and accessible; 100-percent tax deductibility should be available to individuals and the self-employed. This is achieved in the Dole bill, but not in the Mitchell plan. The American Farm Bureau Federation has estimated that for a typical family of four at a 15-percent tax level—$36,900—a full tax deduction could generate over $1,200 in saving per year.

That is an incentive for people to be able to go into the health care system. The self-employed deserve the same tax incentives that large corporations have. Medical savings accounts are another tool that rural Americans could benefit greatly from. Americans, rural, or otherwise, could save money for their health care needs without being penalized by the Tax Code. That option is not allowed in the underlying Mitchell bill. I am going to cosponsor an amendment to put it there. Small businesses in rural Texas oppose mandates. Farmers, ranchers, and small businesses across this country are already burdened with federal mandates. One more mandate is just another tax. I believe we can improve the rural health care delivery system without forcing many of these farmers and ranchers to cut employment or go out of business. Employer mandates will hit rural areas hard and have a devastating impact on fragile rural economies.

TAXES

Taxes will hit rural Americans hard. The Dole proposal provides solutions to many of these concerns without imposing new taxes or mandates. It will provide incentives for primary care practitioners to go to rural areas, it will raise the tax deductibility for the self-insured, it will allow small businesses, farmers, and ranchers to pool together to buy more affordable health care coverage. These reforms are steps in the right direction.

Mr. President, I want to conclude by expressing my support for what the Senator from South Dakota has proposed but also with my concerns that this one improvement, is one small step. We must go much further to address the needs of rural America as we address health care reform.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, under the unanimous-consent agreement, I have 5 minutes. I will yield that back to accommodate some Senators who must leave Washington.

I have a couple of unanimous-consent requests to make. First, I ask unanimous consent to make some technical changes. They have been approved by the managers.

I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2564), as modified, is as follows:

On page 112, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 644, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to rural health clinics, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population .

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one underserved rural area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed care network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d–51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"'(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.'".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant or nurse practitioner described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services",

(3) by inserting "physician assistant or nurse practitioner," after "physician",

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of primary care services furnished by a physician, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of primary care services furnished by a physician assistant or nurse practitioner, as described in section 1861(a)(2)(k), a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished by physicians in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

Mr. DASCHLE. I also ask unanimous consent Senator PAUL WELLSTONE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, as I explained briefly last night, the amendments we are proposing would help rural communities attract and retain doctors, nurse practitioners, and physicians assistants; clarify types of collaborative efforts and joint ventures that are permissible in rural areas; ensure that financial and other assistance is available to help rural facilities adjust to the changing health care environment, and assist rural providers in forming their own health care networks.

I would like to take a bit more time today to explain what each provision in our amendment does.

NATIONAL HEALTH SERVICE CORPS

The centerpiece of this rural health package is increased funding of the National Health Service Corps—one of the most important, respected work force programs in the country.

Why does the NHSC funding need to be increased? Most do not know that the National Health Service Corps Program was nearly eliminated in the 1980's, despite the fact many rural communities are completely dependent upon corps doctors as their only source of physician care.

While the program has been slowly built back up over the last few years, rural America still badly needs more of these doctors.

In my home State of South Dakota there are only 14 National Health Service Corps [NHSC] physicians. However, South Dakota needs 43 physicians in order to eliminate its rural underserved areas. We know that if the corps had better funding, many more physicians would be willing to serve in rural and other underserved areas.

For example, over 4,000 scholarship applications were submitted to the NHSC Program last year, but only 406 awards were made.

The Office of Rural Health in South Dakota tells me that if the NHSC funding was increased, our State would be better able to recruit these critical primary care providers.

This amendment would simply restore funding for the National Health Service Corps [NHSC] to its pre-1980 levels so that those willing to work in rural underserved areas are not denied the opportunities they seek.

ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

This amendment would clarify existing and subsequent antitrust "safe harbors" specifically for rural providers.

A "safe harbor" is merely a statement by the Department of Justice and Federal Trade Commission that if you meet the criteria established in the safe harbor, you don't need to worry about antitrust prosecution by the DOJ, FTC, and private parties.

For example, the DOJ and FTC safe harbor guidelines make it clear that these agencies will not challenge a merger between two hospitals if one of the hospitals has less than 100 beds and has an average caseload of 40 patients. This is an example of safe harbor. All our amendment would do is help rural providers to know how these safe harbors would apply to them.

I know from speaking with rural providers that this type of clarification is badly needed. Rural doctors and hospitals tell me they are hesitant to collaborate, to share equipment, to form joint ventures or to create networks because they fear antitrust prosecution by the Government.

Even though the DOJ and FTC rarely bring antitrust suits against rural providers, the perceived threat of prosecution is inhibiting collaborative ventures and networking among rural providers.

These are exactly the kind of activities we want to be encouraging in rural areas—yet providers are reluctant because they don't have the type of legal counsel that can clarify for them the complicated antitrust guidelines. This provision would provide rural providers with clear, easily understood information about antitrust safe harbors.

I also know that many rural providers are not even aware that these antitrust safe harbor guidelines exist. That is why this provision would have the DOJ, FTC, and the Department of Health and Human Services work together to develop a plan to disseminate this information.

I would like to say one word about what this amendment does not do. The provision would not establish any additional safe harbors for rural providers nor would it give rural providers broad antitrust immunity. I believe as do others that the antitrust safe harbors established by the DOJ and FTC are simply not well understood. They need to be explained more clearly to rural providers.

MEDICARE BONUS PAYMENTS FOR NPPS

This provision would make nonphysician practitioners [NPP's] such as nurse practitioners and physicians assistants practicing in rural underserved areas eligible for the same Medicare bonus payments we already provide to doctors.

As many of you may know, this provision is based on a recommendation from the respected Physician Payment Review Commission [PPRC], which advises Congress on Medicare part B and other issues.

Why does the PPRC think we need bonus payments for NPP's? The answer is simple—we need to do whatever we can to attract primary care providers to rural underserved areas. That's why we already provide bonus payments for doctors providing services in rural areas.

It is also important to remember that many of the same disincentives to relocating to rural underserved areas that exist for physicians exist for NP's and PA's. These include lack of professional peers, lack of health care facilities, and insufficient population base to sustain a practice. Providing stronger economic incentives to locate in rural areas is the one way to overcome these other disincentives.

So, it makes sense to extend the bonus payments to other primary care providers like nurse practitioners and physicians assistants.

Making bonus payments available to them will increase access to primary care services.

Moreover, advanced practice nurses receive only 75 percent to 85 percent of what physicians receive for the same service. These lower payments make it more difficult for NP's to set up independent practices. Extending the Medicare bonus payments to NP's would help to offset this lower payment rate and make it more feasible for them to open up practices in rural underserved areas.

Finally, I want to point out that this provision is budget neutral relative to the Mitchell bill.

The increase in bonus payments for physicians included in the Mitchell bill would be only slightly reduced, and the savings achieved would finance the NPP bonus payment. The NPP's and the physicians would receive the same percentage bonus payments. Our best estimates indicate that both physicians and NPP's would receive 17-percent bonus payments.

RURAL MANAGED CARE DEMONSTRATIONS

We all know that few managed care plans have entered rural areas.

To encourage the creation of these plans in rural areas, this provision would establish a grant program for the development and operation of rural-based managed care networks.

These grant funds could be used for the development of a rural-based managed care networks, for data and information systems including telecommunications, for meeting solvency requirements under Medicare, for the recruitment of health care providers and for enabling services such as transportation and translation services.

The grant program would be authorized at $10 million annually for 1996 through 2000.

Special priority would be given to those plans that would serve rural underserved areas and those that involve rural residents and providers in the planning and development of the managed care network.

RURAL HEALTH CLINIC FUNDING

As Senator ROCKEFELLER clearly explained last night, the Mitchell bill establishes three grant and loan programs to improve access to health care in urban and rural underserved areas.

The first program provides grants for the development of health care networks, sites and services.

The second program provides grants for and loans capital costs such as modernization, renovation, and construction.

The third program provides grants for supplemental and enabling services such as transportation and translation services.

Under the Mitchell bill, rural health clinics could only receive developmental, enabling, and supplemental services funds as part of a consortium of community based providers.

I believe that RHC's, as important providers to the underserved in rural areas, must be given the same opportunities Senator MITCHELL's bill gives other providers to enhance their ability to serve the rural communities that depend on them.

This amendment would allow nonprofit and public rural health clinics to be eligible for the development, capital, supplemental and enabling funds provided under Senator MITCHELL's bill.

I understand the concern that some have raised regarding Federal grants to for-profit rural health clinics. That is why under this provision, for-profit RHCs would only be eligible to receive loans for capital costs.

I cannot overemphasize the importance of rural health clinics in ensuring access to care in rural communities. These clinics serve a disproportionate number of patients that have traditionally lacked access to health care.

A 1994 survey of RHC's revealed that nearly 28 percent of the patients in RHC's are on Medicaid, and 14 percent are uninsured. While 63 percent of the U.S. population has private insurance, only 28 percent of the patients cared for in an average RHC have private insurance.

I would like to tell you about a rural health clinic that I visited in Wall, SD. Wall is a community of about 850 people. The clinic is run by Dave Custis who is a physician's assistant.

Dave has been working in the clinic for the past 10 years. He is a PA practicing alone in the rural health clinic. The physician affiliated with his clinic is in Rapid City, and the physician comes to the clinic only half a day a week.

The clinic was one of the first rural health clinics in the country, opening in the late 1970's. Prior to the clinic opening, no one provider consistently worked in the community.

Physicians had practiced in Wall, but because of hospital closures and other factors, the town was not able to consistently keep a rural health care provider until the clinic opened.

The clinic estimates that between 20 and 30 percent of the population it serves is uninsured. Without Dave and his clinic, these people probably would not receive any health care services, and certainly not preventive care.

Seeking the providers in this and other rural health clinics in my State work tirelessly, often under adverse conditions, has convinced me we need to help these facilities in enhancing their ability to provide care.

In closing, let me emphasize that these amendments build on the strong base Senator MITCHELL's bill provides and they would simply enhance and supplement the rural provisions contained in his bill to ensure that health reform benefits rural and urban areas alike.

I ask unanimous consent the USA Today article that featured Dave's clinic be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

[From USA Today, Feb. 18, 1994]

IN SOUTH DAKOTA, PROBLEM IS PLAIN—TOO FEW DOCTORS—STATE TYPIFIES THE PROBLEMS OF MEDICAL CARE IN RURAL AREAS

(By Richard Wolf)

Nestled between the Badlands and the Black Hills deep in cattle country, health-care reform is a four-letter word: Dave.

Forget managed competition, employer mandates and a menu of health plans. The ranchers and farmers out here—30 miles from the nearest doctor and hospital—are dependent on physician assistant Dave Custis for their care.

"I do all my own X-rays, I draw all the blood, I give all the shots," Custis says, while juggling his Wall Clinic caseload of colicky infants, frail Medicare patients and occasional emergencies. "We're out here on the front line of medicine, and we don't have the technology to go with it."

The slice of rural America Hillary Rodham Clinton visits today in Lennox, S.D., needs health-care help far more basic than the complex prescriptions now under review in Washington, to solve problems far more life-threatening:

Manpower. Doctors are hard to find and keep, making physician assistants, nurse-practitioners and county nurses a godsend for people in small towns. The nation has one doctor for every 400 people; in South Dakota, it's one for 600.

Distances. When emergencies or illnesses are too much for those front-line medics to handle, it's not unusual for expectant mothers, accident victims or heart-attack patients to travel an hour or two to the nearest hospital.

In the 1940s, South Dakota had doctors in 165 places. Today they're at just 69 locations.

Money. Rising insurance premiums and medical bills take a toll on a population dominated by the elderly, the self-employed and small businesses. Clinics and hospitals struggle to balance books, with lower federal reimbursements.

All those hardships come together in places like Wall, home of Wall Drug Store. Billboards all along Interstate 90 tout the store's 5-cent coffee and buffalo burgers.

Custis sees 6,000 patients annually and sends some an hour away to Rapid City. The clinic, which lost its lone doctor in 1991, turned a $985 profit last year—far short of the mark needed to get Custis some help.

"If we didn't have 'Doc,' we would be lost," says Betty Dunker, 43, who visits Custis for anything from a bad cold to treatment for multiple sclerosis. "He'll make house calls."

That's the kind of care required in rural America:

It's home to one-quarter of the U.S. population, but more than one-half of all Americans living in areas officially designated as short on doctors.

More than 14 percent of rural residents go without insurance for at least a year; 18 percent of farm families lack insurance.

The South Dakota story is like others. About 100,000 residents, one-seventh of the population, go "bare"—without insurance. Two-thirds of the state has a shortage of primary care.

"Health care is tentative. You can't count on it," says Sen. Tom Daschle, D-S.D., as he pilots a plane to Wall to meet with ranchers.

At the Wall Clinic, mammograms are a road show from Rapid City, a dentist stops by once a week, and orthodontia is offered every six weeks.

Thirty miles east in Philip, two doctors staff a clinic, 20-bed hospital and 30-bed nursing home for the area's 3,500 people. They're the only doctors between Pierre and Rapid City, a distance of about 150 miles—and their stories illustrate the manpower problem.

George Mangulis, 71, is a Latvian-born doctor with a medical degree from Germany who has hunkered down in western South Dakota for four decades. Over the years, U.S.-educated doctors recruited to help him have come and gone.

"We are like a transit station," Mangulis says. "We are struggling about how to make the ends meet."

Coenraad Klopper, 46 is a South African doctor recruited in 1991 from Saskatchewan after battles over residency and certification. Unlike his predecessors, he has remained, but, as Mangulis reduces his hours, Klopper is overworked.

"We do anything which comes along," he says. "Out here, you're it. You don't have any off time. You can't go anywhere, you can't do anything."

To these and other rural Americans, health-care reform holds both promise and peril.

Among the promises are incentives aimed at boosting the number of medical school graduates who enter primary care, placing them in rural areas and expanding the roles of non-physician providers.

Among the perils are additional cuts in Medicare, which could further reduce already restrictive rural reimbursement rates, and a system of mandatory consumer purchasing groups that could prove difficult to implement in sparsely populated states.

Those new alliances—plus mandates that employers must provide insurance, and price caps on insurance premiums—are supposed to create President Clinton's vision of "managed competition."

But in Wall, where there's just one physician assistant and few insurance plans, there's no competition to manage.

Says Daschle, a defender of the Clinton plan: "There is a realization that you can't run South Dakota's health care program like New York or Florida would run theirs."

Mr. DURENBERGER. Mr. President, there is no single issue that unites the concern of rural Americans more than access to quality health care. It is one of the crucial components of rural quality of life, which keeps and attracts people to small towns. A major obstacle is the financial squeeze faced by many rural hospitals and physicians because the reimbursements from Medicaid and Medicare are often much less than the cost of the specific medical procedures. These inequities are what I have been working to resolve during my years in the Senate.

Approximately 27 percent of the Nation's population lives in rural America. However, the rural population is disproportionately poor, experiences significantly higher rates of chronic illness and disability, and is aging at a faster rate than the Nation as a whole. In rural areas, the elderly accounted for 13.8 percent of the population, but 22.5 percent of all physicians visits.

The Medicare payment has had a negative effect on many rural hospitals. A CBO report concluded that payments to rural hospitals have been much lower, relative to their costs, than payment to urban hospitals. And there is a constant threat of closure of rural hospitals, clinics, and other rural health care providers. Since 1986, 14 rural hospitals have closed in Minnesota and another 8 are identified as high financial risk institutions.

The goal of this amendment is laudable. I believe my colleagues look at this as a means to improve access to quality health care in rural America. But it falls far short of addressing the inequities in current law and perpetuated in the Mitchell bill.

RURAL PHYSICIANS

If we want to help rural physicians, we should not burden them with more Medicare cuts and then on top of it mandate that they accept the Medicare rate as payment in full. The Mitchell bill gives physicians two choices: Either accept Medicare payment in full or do not treat Medicare patients at all. It eliminates their ability to help meet their costs by billing those patients who can afford to pay more. Current law, allows physician to balance bill up to 110 percent of the Medicare allowable charge.

The Physician Payment Review Commission [PPRC] reported to Congress that Medicare is now paying physicians only 59 percent of what private insurers pay. And health reform takes another chunk out of Medicare payment rates. What impact will this have on beneficiary access to physicians—especially in rural areas? To date, we have seen a number of physicians already refuse to accept new Medicaid patients because payment rates markedly fell.

RURAL HOSPITALS

If we want to help rural hospitals we should eliminate the need to shift costs to make up for Medicare's underpayment. In rural areas and the poorer areas of our cities, this is a recipe for disaster because they lack a large base of private payers to make up the loss.

My colleagues from States with rural areas will want to take a look at this chart. For United Hospital, which serves a largely middle-class population in St. Paul, we see that 42 percent of the patients are on Medicare or Medicaid. The loss that the hospital suffers on those patients can be passed on to the larger population of patients, nearly 58 percent, who pay themselves or have private insurance.

Fairview Ridges Hospital in Burnsville, which serves a suburban, upper-middle-class population, has a much easier time absorbing Medicare's underpayment since it only accounts for 14.4 percent of patients and private insurance account for nearly 80 percent.

But look at what Medicare cuts do to a rural county hospital in northern Minnesota. The Tri-County Hospital in Wadena has 70 percent of their patients paid for through Medicare and Medicaid. How is this hospital going to make it? They have a mere 27 percent of their patients in private plans and another 3 percent who self pay. Where can Tri-County shift its losses from the Government-run program? Twenty-two percent of the population is below the poverty level.

This rural hospital is not going to make it unless Congress does something about the Medicare Program. Universal coverage will do nothing for them. Reforming the Medicare Program, on the other hand, will give them the chance they need to survive and continue to serve that area.

RURAL MANAGED CARE

Mr. President, this amendment seems to recognize that need on the surface. It provides grants to develop managed care networks in rural areas if they incorporate the Medicare population. But if we want to help rural managed care develop—first, we must address the payment problems. This amendment tells the Secretary to study the payment problems—without even requiring a timetable to report back. It's the long-term instability of payment that is a problem for rural areas.

What good will grants do if we fail to address the way we pay private health plans for accepting Medicare beneficiaries? Even if we help networks develop, why will they want to seek to enroll Medicare beneficiaries? The payment is now tied to the historical cost of fee-for-service care county by county.

Rural areas are plagued by access problems. Yesterday, my colleague from Nevada, Mr. REID told us that some counties in his State do not even have a physician or have only one. Obviously, we can expect some low historical patterns of utilization in these counties. For example, Medicare will pay plans serving residents of White Pine County, NV, $251.10 per month. Yet the national average per capita cost is $378.13 per month. And, the payment rates vary more than 300 percent nationally. This does not leave much question regarding why plans may not be attracted to serve Medicare beneficiaries in this area of Nevada. Providing grant money alone to set up in the area wouldn't do it either. More importantly, paying plans based on the fee-for-service cost of a rural area with little access to quality care will not support the formation of managed care networks.

Today's Medicare managed care plans flock to high-cost areas where they are doing very well—because we pay them based solely on fee-for-service cost—not based on their cost in a more efficient system.

The only way to help rural America is to support rural America. To pay the cost of care—not to discount it and expect rural providers to make it up elsewhere. Inherent cost-shifting will not attract efficient care delivery. The answer is to give every American the opportunity to purchase a private health plan. In the underlying amendment, the Mitchell bill does it for the Medicaid population. But why is Congress choosing to deny seniors and the disabled the very same opportunities as the rest of America? The problems of rural America will be better addressed when all individuals are insured through the private system.

We can do so much more. Both this bill and this amendment fail to send a strong message to rural America. It fails to say "Washington cares about your problems and wants to help ensure access to quality health care."

Only a commitment to reforming all parts of the health care system, the publicly paid and the private, can we give rural America a fair opportunity.

Mr. DORGAN. Mr. President, I rise in strong support of the Daschle amendment on rural health care. America's rural communities have unique health care needs that we must address if we ever hope to achieve truly national health care reforms. The rural health amendments offered by my good friend and colleague TOM DASCHLE will significantly improve health care in rural America.

First, we must make sure our rural communities have the medical professionals necessary to provide high-quality care: 85 percent of North Dakota's counties do not have enough health care providers to provide adequate care for the county's residents; 13 North Dakota counties had no physician residing in them in 1992; and 2 counties had neither a hospital or a clinic.

By increasing funding for the National Health Service Corps [NHSC], this amendment will encourage individuals to join health care professions and work in areas with shortages of health care providers. This amendment will provide scholarships and student-loan repayment programs for more than 14,000 physicians, nurses, and physicians assistants over the next 10 years.

North Dakota's small communities are spread far apart. People rightfully worry how they are going to get health care in an emergency. So, second, this amendment will establish grant programs to allow States to develop rural emergency medical systems. I have cosponsored similar legislation in the Senate and I am encouraged that States will have these grants available to create or enhance air medical transport systems that effectively will bring rural residents closer to critical lifesaving treatment.

Third, this amendment will provide grants for telemedicine programs to bring sophisticated medicine to small-town health care providers. A physician in Bismarck, or even across the country, literally could read the x ray or analyze the heartbeat of a patient at a clinic 100 miles away. These grants will bring telemedicine hookups to more North Dakota communities.

Fourth, health care reform must expand the role of nonphysician practitioners and I am glad this amendment will help tear down the barriers that advanced practice nurses and physician assistants face when they try to set up practice in rural areas. In some North Dakota communities, these medical professionals provide the only health care available, and we ought to help them.

North Dakota has one of the few successful rural health maintenance organizations [HMO] in the Nation, the Heart of America Health Plan. This health care plan has been extremely successful in delivering high-quality care to the residents of Rugby, ND, in a very cost-effective manner. A fifth provision of this amendment will fund development of more rural managed-care organizations like Heart of America.

Sixth, antitrust provisions in this amendment will encourage partnerships between urban and rural providers to expand medical services available to rural communities. Many collaborative ventures and mergers already have expanded access to health care services in North Dakota. This provision will help clear the way for other projects that expand access in rural communities.

Health care reform must address the needs of rural America. This amendment will go a long way to ensure that rural Americans receive the High-quality health care we all expect. Mr. President, I urge my colleagues to support the amendment.

Mr. CAMPBELL. Mr. President, it is with great pleasure that I cosponsor the rural health amendments offered by Senator DASCHLE. The majority leader's bill includes a substantial set of rural health provisions, and he should be commended for trying to ensure that rural communities are included in health care reform. The Daschle amendments build on the base set in the Mitchell bill to expand much-needed health care services in rural communities.

Rural health care issues are especially important to me and my State. More than 17 percent of Colorado residents live in rural communities. Rural residents, whether they have health insurance coverage or not, are at a particular disadvantage when it comes to receiving health care. The problem for rural residents is primarily one of access.

These amendments would increase access by offering incentives for health care providers to locate in rural areas or expand current services. Managed care programs would be offered developmental and operational grants to encourage rural-based managed care networks. The bonus payments now available to doctors would be extended to advanced practice nurses and physicians assistants, vital providers of health care in rural areas.

The National Health Service Corps scholarship and loan repayment programs would be expanded to encourage more medical students to become primary care physicians. This program carries an obligation to provide 1 year of medical services for each year of educational assistance. Although the National Health Service Corps is an important source of primary health care professionals in underserved areas, this program has been drastically cut back in recent years. The proposed amendments would increase funding for this valuable program and boost the number of much-needed health professionals serving rural areas.

More providers and more clinics mean greater access to care. By providing greater access to health care services to rural residents, we can encourage preventive health care. The resident who has to drive 50 miles to see a doctor most likely will not do so until he or she is very sick.

If a doctor is only 10 to 20 miles away, a mother is more likely to take her child in for a measles shot, a diabetic is more likely to get treatment before going into a diabetic coma. Preventive care saves money by treating a condition before it exists or before it advances to a more serious stage that is more costly to treat.

And so, Mr. President, it is with great pride that I add my support to the Daschle rural health amendments. Rural areas need different things from health care reform than urban and suburban areas. Health care reform presents an opportunity to improve health care in rural areas. These provisions seek to supply greater access to care in underserved rural communities. Americans deserve to have the same access to health care as their Representatives in Congress do, regardless of where they live.

Mr. SIMPSON. Mr. President, rural health care is experiencing a renaissance of interest in Congress. In fact, even frontier health care—a term several of us coined for what we have in Wyoming and other similarly situated States—is even gaining the attention of policymakers. I want to join Senator STEVENS for acknowledging earlier today that the States of Alaska, Montana, and Wyoming have unique needs. Our States have much in common regarding the delivery of health care to our constituent populations. I want Senator STEVENS to know that I will most gladly join his Frontier Health Caucus.

The last few years have witnessed an alarming number of hospital closures in rural areas, the loss of physicians to more sophisticated and profitable urban settings, and a shrinking pool of allied health and community service professionals in virtually every field. At the same time, the population of rural America is growing older and more frail—requiring more and higher levels of service.

Clearly, we in Congress have reason to be seriously concerned about issues of access to health and supportive services in rural and frontier regions. Our challenge is to craft a public policy response that is appropriate to all rural regions, including—and particularly from my perspective—frontier Wyoming.

I am pleased to see the inclusion of many provisions pertaining to rural health care in this bill. As Senator GRASSLEY noted last evening, many of these provisions were recommended previously by the bipartisan rural health care task force. This is one area of health care that has always been bipartisan, and it is important for all of us to work together in furthering our main objective—bringing the highest quality health care to rural and frontier America.

However, I did notice that "frontier" is not mentioned anywhere in Senator MITCHELL'S 1,400 page document. All of us from rural and frontier areas—including both Senators from Alaska—worked very hard in the Republican health care task force to get our message across that rural and frontier States have unique needs. Finally they heard us. Everyone on the task force finally understood that rural health care must be addressed within the context of the health care debate—and, I was very pleased to see that "frontier" health care was given a distinct status and definition in both the Chafee and Dole bills.

Rural America, as we have heard today is quite diverse and complex. Although close in population, Vermont and Wyoming are vastly different in terms of heritage, resources, economic base, and geography. In fact the entire State of Vermont could fit into two of Wyoming's southwestern counties.

Iowa, with its urban centers and small towns sprinkled every 10 or 20 miles in between is considered by Washington, DC regulators to be the very epitome of a rural state. Wyoming clearly does not fit that model. No indeed. Not in the land of high altitude and low multitude—where our major towns are far apart and the people are scarce in between. Yet my colleagues here in Washington seem to believe that if a program or a rule or regulation will work in Iowa, then it will work anywhere rural, including Wyoming. We have been hearing a lot about rural health care today so I wanted to come to the floor and talk about what kind of health care we have in Wyoming.

In Wyoming, we are talking about nearly 98,000 square miles with an average population density of less than five people per square mile. Twenty percent of the population is in either Cheyenne or Casper which each have about 50,000 people. The remainder of the State has a density of less than four persons per square mile.

Wyoming has 26 acute care hospitals or one hospital for every 3,600 square miles—or one hospital for every 18,000 people. The population per hospital is why so many of them are on the ropes financially. The area covered is why they are medically essential.

We need basic providers in Wyoming. With only 26 hospitals, no federally qualified community health centers, and only 5 rural health clinics, we are in desperate need of just basic providers. For example, at the present time, the Basin-Greybull area in northwest Wyoming has been reeling over the past year from the effects of a hospital closing between those two towns. The county hospital district in this area has established a rural clinic located at the closed hospital and has just applied for rural health clinic designation for the clinic. This designation would allow the clinic to receive cost-based reimbursement for each of the Medicare-Medicaid patients seen there.

This rural clinic designation is much easier to obtain than the federally qualified health center designation. Still we only have five rural clinics, but hopefully more of them coming in the future. This type of clinic would go a long way for us in treating people in the basin area and in most areas of Wyoming, especially for emergency services, which are always so desperately needed in rural areas.

What primarily concerns me about the rural provisions contained in the finance bill, and the Mitchell bill is that they do not contain enough flexibility for frontier States. My colleagues here in Congress seem to have this know best approach to rural health which has limited flexibility. This lack of flexibility saps the vitality, creativity, and resourcefulness from the very programs that have been developed to help rural areas, and may drain funds from other areas that local policymakers have identified as more pressing priorities. In a State like Wyoming, with so few resources at its own disposal and so many urgent needs, this lack of flexibility can be devastating. When we look at these bills, we are looking for greater flexibility in obtaining needed Federal grants and loans. For example in the Mitchell bill, under Subtitle E, Health Services for Medically Underserved Populations, there are much needed grants available for the planning and development of networks of providers and plans. These grants can be used for the expansion, development, and ongoing operation of health delivery sites. Direct loans and grants are also available for capital costs including the modernization, conversion, and expansion of facilities. There is a list of entities that are eligible to receive these grants and loans—and lo and behold, most of the eligible entities are located in urban underserved areas. By limiting eligibility, this section has the perverse effect of excluding the very communities that are most in need of capital and infrastructure funds. We need a flexible definition of eligible entities included in this section, if this bill is going to accomplish assisting all underserved areas—not just urban underserved areas.

Finally, I want to briefly discuss telemedicine and the promise it holds for rural and frontier areas. I was particularly heartened to see that demonstration projects for telemedicine are included under the Mitchell bill as they are under the Dole bill. Physicians and nonphysicians in Wyoming could benefit greatly from the use of telemedicine. They could be connected through interactive video for consultations with hospital and medical school staff from across the country. A solo practitioner would not feel as isolated while practicing in a rural area if he or she knew he or she could consult with other physicians on a particular case. In addition, physicians in rural areas would not have to travel to educational seminars and conferences if they could receive continuing education training through computer video. I believe telemedicine is the future for rural areas and that we should do everything we can to promote its use. Rural areas need start-up moneys and capital for planning telemedicine systems and for the purchase of computer hardware, software, and interactive video equipment. The moneys included in both the Mitchell and Dole bills would go toward these types of worthwhile projects.

I wholeheartedly support all of our bipartisan efforts in Congress to implement rural health care policies that are responsive to the very special needs and circumstances of all of the rural, including frontier States, which we represent.

Mr. WELLSTONE. Mr. President, I am delighted to support the amendment of my colleague from South Dakota.

Nearly half the population of Minnesota and nearly half the people in the Nation live outside our major metropolitan areas. Often when we discuss health care reform we focus on urban communities because that is where the high-technology subspecialty care is found. But health care in rural American is an essential link in our health care system. We need a strong rural health care system to have a health care system that works for all Americans.

When we discuss universal care we must remember that access to a health care provider is a necessary component of that universality. In a growing number of rural areas there is shrinking choice of provider and it is increasingly difficult to find a doctor or other health care provider in many rural areas. People in rural Minnesota tell me they really want to keep their doctor in town.

The revival of the National Health Service Corps that this amendment calls for is an important emergency measure while we rebuild the primary care system in rural America.

We must also support the work of health care providers in our rural communities who are working to organize a revitalization of rural health care. There are many rural physicians and health care professionals in Minnesota who are leading the way.

These are real people who have committed their lives to this effort. I think of Dr. Ray Christensen, who lives and practices in the town of Moose Lake, MN. Dr. Christensen is a life long rural resident and a leader in rural health care in Minnesota. And I think of Terry Hill, executive director of the Northern Lakes Health Care Consortium in Duluth, MN. They are both working on recruitment of primary care physicians to rural communities and have had some important successes.

Two important examples of success achieved by the rural health community are Grand Marais, MN, where a few years ago the hospital was in danger of closing and with a lot of work has been turned around. It is now a growing concern. And Silver Bay, MN, where a rural clinic was near closing and has been kept open. Both of these victories for rural health have been enabled by the ongoing support from their local communities and health care providers in the region.

We must also support the work of those medical schools that have taken on the challenge of training rural physicians. Dr. Ron Franks, dean of the Medical School at the University of Minnesota, Duluth has done tremendous work in this area. At UMD they understand the importance of recruiting medical students from rural communities. During their medical education they get these students into rural clinics to see what rural practice is like. And they help the students develop contacts in the rural health community to support them in their rural practices.

This amendment also gives needed support for nurse practitioners and physician assistants with more adequate reimbursement, by allowing some of them to receive Medicare bonus payments at the same rate as physicians providing primary care in underserved areas.

Another issue that is addressed by this amendment is the important concern of rural residents that they do not want the rural health care system taken over by urban based insurance companies. In Minnesota, there is growing concern that urban based insurance companies are not sensitive to the real needs of the rural population. We have to make sure these rural voices are heard.

In this amendment, steps are taken in this direction by increasing the rural representation on boards created in the Mitchell legislation. We must listen to rural physicians, nurses, physician assistants and nurse practitioners, and rural consumers. They are in the trenches every day making our rural health care system work and they have a lot to teach us.

This amendment does not solve all the health care problems facing rural America but it makes a start. I hope we will all pledge that as we continue our efforts to reform the health care system we will set the same standards for rural health care that we do for ourselves here in the Senate—all rural Americans should be covered with a decent benefits package, all should be ensured accessibility of care not just insurance, people should be guaranteed that needed care is affordable and they should have a choice of health care provider.

I urge my colleagues to support the Daschle amendment.

Mr. MOYNIHAN. Mr. President, I believe the time has come to vote.

VOTE ON AMENDMENT NO. 2564, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question is on amendment No. 2564, as modified, by the Senator from South Dakota [Mr. DASCHLE].

Mr. MOYNIHAN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—94

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—4

Danforth
Durenberger
Gregg
Roth

NOT VOTING—2

Cohen
Mikulski

So the amendment (No. 2564), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. As I understand now, the Republicans will offer an amendment.

Mr. MOYNIHAN. Yes.

Mr. DOLE. Mr. President, I just wanted to clarify, it is my understanding under our sort of loose arrangement here the Democrats offered the rural amendment. Some of us may still want to speak on that amendment, because we tried to accommodate a couple of colleagues who had to catch a plane, so there may be some speeches after the fact. I think Senators MACK and COATS are prepared to offer their amendment. I wonder, if they wanted to lay their amendment down, if I might be permitted to speak for 5 minutes on the amendment we just passed.

AMENDMENT NO. 2568

(Purpose: To assure that decisions critical to the health and well-being of all Americans be made with public knowledge and not in secret)

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from Florida.

Mr. MACK. I have an amendment to send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK] for himself and Mr. COATS, proposes an amendment numbered 2568.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, strike line 13 and all that follows through line 16.

On page 263, insert between lines 15 and 16 the following new section:

SEC. 1604. APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT AND THE PROVISIONS OF TITLE 5, UNITED STATES CODE.

(a) FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to any entity that—

(A) is established by or pursuant to this Act or is established or required to be established by an entity created under this Act; and

(B) is an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of the Federal Advisory Committee Act shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such specified provision (or all provisions) of the Federal Advisory Committee Act shall not apply to such entity.

(b) TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of title 5, United States Code, shall apply to any board or other similar entity that—

(A) is established by or pursuant to this Act; and

(B) is not an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of title 5, United States Code, shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such provision (or all provisions) of title 5, United States Code, shall not apply to such entity.

On page 605, strike line 3 and all that follows through line 13.

On page 1409, strike line 1 and all that follows through line 3.

Mr. MACK. Mr. President, I know that there will be quite a discussion on this amendment which really has to do with the issue of secrecy and the number of commissions. The Mitchell proposal, in fact, exempted certain of the commissions from public scrutiny. This amendment goes to the heart of that issue, and will strike that exemption.

I yield the floor.

Mr. MOYNIHAN. Mr. President, may I just say briefly to my friend from Florida that I am sure he will find a good deal of support on this side of the aisle for his amendment, and look forward to the debate.

Mr. DOLE. Mr. President, we have just adopted, I guess by an overwhelming vote, an amendment dealing with rural health care. Some of us did not have an opportunity to speak because we were accommodating a couple of our colleagues who had to catch a 12 o'clock plane.

Mr. President, I commend my colleague, Senator DASCHLE from South Dakota, for bringing the issue before the Senate because health care for rural Americans is a very important issue.

Mr. President, on January 21, 1993, I was in this Chamber and I laid out the initiatives that I hoped Congress would accomplish in the 103d Congress. On that day I said I was going to introduce a comprehensive health care reform proposal because of my strong belief that responsible health care reform was going to have to be drafted on a bipartisan basis with the support of at least 80 or 90 percent of the Senate. I have not given up on that effort either. However, I did say January 21 that there was one area I was concerned about that I would be working on that we could not afford to delay, and that was health care reform for rural America.

So I on that day, Mr. President, I introduced the rural health care bill to improve access to health care in rural America, and that bill received broad bipartisan support.

The point I would make is that I am happy to see that we have the groundswell for support for rural health care. Rural Americans make up about 20 percent of the population. Contrary to what some may believe, rural Americans are as much of a diverse group of Americans as any living in other parts of the country. That is why, when proposing health care reforms, rural Americans are no more likely to adopt a one-size-fits-all model than are Americans living in any other part of the country.

Many of these provisions we have now put in the Mitchell bill, if adopted, are in the so-called Dole-Packwood bill which was sponsored by 38 Republicans along with myself and Senator PACKWOOD.

Again, I say it is not a partisan bill. It is called The American Option. We still have to attract colleagues on the other side of the aisle to this bill. Many of these provisions are quite technical, but I think they follow along. In fact, probably the amendment that we just passed would supplement some of the things we have done in our bill.

So, while we do have our fair share of disagreements in this Chamber on the issue of health care reform, I am happy to see the groundswell of support to make rural health care better and more accessible.

Rural Americans make up about 20 percent of the population. And, contrary to what some may believe, rural Americans are as diverse a group as Americans living in any other part of the country. That's why when proposing health care reforms, rural Americans are no more likely to adapt to a one-size-fits-all model than are Americans living in any other part of the country.

Mr. President, Senator PACKWOOD and I, along with 38 of our colleagues have incorporated many of these provisions in the American option plan that we introduced on August 9. In that bill, we give special consideration to rural Americans.

Mr. President, as rural Americans know all too well, access to health care providers can be just as much of a challenge in rural America as is cost. That is why in our bill we have special provisions to improve access to health care in rural America.

Many of these provisions are quite technical, but let me just summarize what they would accomplish.

More primary care: The way Medicare reimburses medical education would be changed so that young physicians can be trained in places like community health centers, or other out-patient settings, where more primary care providers are likely to be trained.

Improved reimbursement for nurse practitioners and other nonphysician providers to encourage more of these providers to practice in rural areas.

Better access to rural hospital by extending payments for Medicare dependent hospitals through 1998. The Dole-Packwood proposal recognizes that these payments may make the difference between keeping a hospital's doors open or not.

Establishment of telecommunication grants in rural areas, so that providers practicing in these areas have better information and the ability to communicate with providers in distant areas.

Mr. President, take for example a case involving a doctor in Hays, KS. He was stumped by a young boy experiencing paralysis of the right side. Unlike stroke victims, the paralysis was sporadic and difficult to diagnose. During one such episode, the doctor and patient used a new telemedicine link-up site. Two hours later, a specialist 266 miles away in Kansas City diagnosed the condition and prescribed the proper medication. The boy is now back on his feet again, all without leaving his hometown.

No doubt about it, two-way interactive video, through telemedicine provisions in this amendment, as well as in the Dole-Packwood bill, improves health care and can save lives.

Mr. President, I support this amendment because of provisions such as this. The Dole-Packwood bill would also help rural Americans through many of its insurance market reforms.

For example, rural Americans are more likely to be self-employed or work for a small business that does not provide health insurance. In fact, over 90 percent of the businesses in my home State of Kansas have fewer than 10 employees.

Under current law, individuals who purchase their own insurance are not able to deduct the cost of that insurance. The Dole-Packwood bill would phase in full deductibility of health insurance so that those who are self-employed or who buy their own insurance are treated the same as those employed by large businesses.

I would note that the bill introduced by the majority leader would only allow for a 50-percent deductibility of insurance premiums by the self-employed. For those buying their own insurance, the difference between 50-percent deductibility and 100-percent deductibility may greatly influence the decision to purchase insurance or not.

Mr. President, I ask unanimous consent that a list of provisions in the Dole-Packwood bill that specifically target rural areas be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROVISIONS IN DOLE-PACKWOOD PROPOSAL SPECIFICALLY TARGETED TO RURAL AREAS

1. Extend Essential Access Community Hospital program and Rural Primary Care Hospital program (E.A.C.H./R.P.C.H.) to all states. Currently only seven seven states have these grants available to them. The purpose is to enable these smaller hospitals to continue in their mission to provide primary care services to the residents of rural areas.

2. Better access to rural hospitals by extending payments for Medicare dependent hospitals through 1998. The Dole-Packwood proposal recognizes that these payments may make the difference between a hospital keeping its doors open or not.

3. Expand the Medical Assistance Program to all states. Currently, this program is limited only to the state of Montana—a state which has had a lot of success assisting small rural communities to establish medical facilities.

4. Non-refundable tax credits for health care personnel who establish practices in medically underserved communities.

5. Improved reimbursement for nurse practitioners and other non-physician providers to encourage more of these providers to practice in rural areas.

6. Federal funds available for the development of health care networks in underserved rural communities. Grants and low interest loans would assist with resources needed to develop rural health care facilities.

7. States may designate medically underserved areas which will then receive special considerations, including service from health plans in adjoining geographic areas, increased compensation for health services, and federal assistance for development of health care services.

8. Establishment of telecommunication grants in rural areas, so that providers practicing in these areas have better information and the ability to communicate with providers in distant areas.

9. Provides resources for medical transportation for rural and frontier areas.

10. Upgrades the federal office of rural health to increase the attention to rural health care needs in the federal establishment.

11. More primary care: the way Medicare reimburses medical education would be

changed so that residents can learn in places like community health centers, or other outpatient settings, where more primary care providers are likely to be trained.

12. Increased federal support for primary care services for groups most likely to be uninsured or high risk: childhood immunization, maternal and child health, breast and cervical cancer prevention, HIV early detection, tuberculosis prevention, and health care for the homeless.

13. Increase support for public health service programs, including community health centers, migrant health centers, and federally qualified health centers.

14. Prospective payment assessment commission (PROPAC) will conduct studies and make recommendations on ways to improve access to health care for vulnerable populations in rural areas.

Mr. DOLE. I thank my colleague from Florida, Senator MACK, for letting me intervene during his debate.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator GREGG.

Mr. GREGG. Thank you, Mr. President.

Mr. President, I wanted to address the Senate generally on the issue of health care reform. We heard a tremendous amount of discussion about the issue of health care reform over the last few days. I think it has been extremely informative and worthwhile as we have tried to digest and understand this incredibly complex document called the Clinton-Mitchell bill.

The implications of that bill for not only health care delivery in this country, but actually for the country itself as it moves into the next century, are overwhelming and very pervasive.

I want to talk a little bit about the philosophy of the health care reform effort as represented by the Clinton-Mitchell bill, and by the attempts put forward by Senator DOLE, and Congressman ROWLAND, and then talk a little bit about the specifics of what this bill does in the area of impacting States' rights and State's obligations because it is overwhelming in its effect on States and how they are going to function as we go into this next decade, should it be passed.

We started out here as a Congress and as a people with the leadership of the President and the First Lady, which I certainly commend, in the area of saying to the American public that the health care system of this country needs some repair.

There was set out a series of goals, and amongst those goals I think there was general agreement; an agreement that we should extend coverage, an agreement that we should increase quality, and an agreement that we should control costs. I think we also understood that in trying to reach those goals, they were inherently in conflict to some degree.

It is difficult, for example, to control costs while expanding coverage and to control costs while increasing quality. But still, these were very substantive, very appropriate goals for our Nation to pursue, and for this Congress to try to address as we look at the health care delivery system.

The President and his people sat down, the First Lady leading the exercise, and it was sort of an exercise. And 500 or so people met in secret for an extended period of time. They came forward with this large opus called "The Clinton health care bill." It was a bill which put forward a certain philosophy, not only of how health care should be delivered in this country, but actually how Government should function in this country.

When you look at this health care debate, you have to recognize that it goes beyond the issue of health because when you are dealing with 14 percent of the American economy, you are talking about impacting not only everybody's life as they pursue it, as to whether or not it is a healthy lifestyle or a non-health lifestyle or how they are cared for; but we are talking about a large percentage of Americans' financial well-being, and the manner in which the economy of the country reacts to that financial well-being, especially the relationship of the Government to the financial well-being of individuals, and the size of the Government specifically as it relates to the individuals, as it relates to the Nation as a whole and its percentage of absorption of the gross national product.

So we had in this whole debate from the beginning, not only a desire to reach these goals of coverage, quality, and cost control, but we had an underlying philosophical debate in trying to reach these goals which involved the question of how we govern ourselves as a society.

There is no question in my mind but that in the President's proposal, which has basically borne these additional proposals which we see today in the area of the Clinton-Mitchell plan or in the Gephardt proposal, but in these proposals we see a philosophy of government which subscribes to one set of values. Whereas, in proposals set forth by Senator DOLE, we see here, having been presented in this House with 39 sponsors, Senator NICKLES or Senator GRAMM, we have a different philosophy, and a different approach.

I think it is important to analyze or talk at least a little bit about these philosophies before we make a decision on this bill, because which philosophy we decide to ascribe to is going to clearly impact not only the delivery of health care and the quality of health care in America for the foreseeable future and for generations to come, but it is going to dominate the quality of lifestyle in the area of the relationship of individuals to Government, in the area of tax policy, in the area of the size of Government, and in the area of employment and who employs who, for decades to come.

Obviously, the philosophy put forth by the administration, by President Clinton and by Mrs. Clinton, is one that basically arises from the belief that Government knows best and that Government can be a dominant force in our life and should be the dominant force in our lives in determining public policy and how public policy is pursued.

That has been a philosophy that has been, obviously, not only strong but, to a significant degree, successful in our country for an extended period of time. I remember sitting on the floor of the House one time and expressing some frustration about a very important piece of legislation coming through, and the size of the legislation, and the effect it was going to have on the capacity of us to remain a productive society, because it was going to take so much in the way of Government activity to take over the private sector by such a large degree. At the time, a very thoughtful and knowledgeable Member of Congress, who had served many more years than I, came up to me, and he knew of my frustration, and he said to me, JUDD, just remember this: All government moves to the left." There is certainly no question about that, all government does move to the left. It is the question of how fast and how far it goes to the left.

In this case, what the Clinton administration has proposed and what the Mitchell bill carries forward is a giant leap forward to the left, a giant expansion in our Government activity as it intrudes into the private sector, as it intrudes into individual lifestyles and into, specifically, the health care delivery of the American people. And this is not something that is unique to this time. This is a continuum of events that has occurred. If you look at it in a historical perspective, in my opinion, it is a logical continuum of events, and it really represents one of the key strains between different philosophies and within different cultures, especially democratic cultures, throughout this century and the prior century.

If you trace it back, I suppose you would go back to the French Revolution and our own Revolution being the two defining events which set the course of action where you had basically the philosophy of the politics of the state versus the politics of the individual.

You had Marxism being the ultimate expression of the politics of the state, which arose in the 19th century, and in the 20th century was totally discredited. But as the concept of the politics of the state evolved from decade to decade—or devolved, as the case was, certainly in the area of Marxist philosophy—you ended up in the late 20th century coming to something in democracies which is basically the politics of dependency. Essentially, the politics of dependency says that you structure a government around a philosophy that says you can get elected to a position if you create enough people that are dependent on the Government so that they are inclined to vote for you because their dependence is tied to getting their support through the government, either direct or indirect.

That got sort of coupled with a politics of Populism, as we went through this century—Populism being defined in a lot of different manners, but essentially it says you can get a free lunch. That is essentially what Populist politics is about. It says that somebody else will pay for a benefit, do not worry about it; we will promise you the benefit. Somebody else will pay for it, and that is usually someone who represents an easy target, either an ethnic or financial, group, that is, either a rich person or an ethnic group. We are going to take from them, and we justly have a right to take from them, because they have abused the system, and we are going to transfer it to you, the individual, who will be the recipient of the Populist politics.

Populist politics has always had a strong stream in American political thought throughout our time. When you couple Populist politics with dependency politics, you have a very effective force for political success and political elections—Huey Long being probably one of the best examples of that in our history, and one of the most egregious examples, also. That is not to say that all of it is Huey Long-type politics, but clearly that is the ultimate caricature of where those politics go.

On the other side of the coin, you have the politics of the individual as expressed, obviously, by John Locke, but carried forth through our own Constitution through our Founding Fathers who believe very strongly that it was the individual who carried the force within the society, and there was a responsibility that individual took on and pursued, and the government had a role, but the role was prescribed to very defined areas. And the more freedom and rights we gave the individual, the more success the individual would be and, as a result, the more successful and the more prosperous society would become. That could also be carried to its extreme. But in the essence of this debate are those two core philosophical approaches: the politics of dependency versus the politics of the individual, and the politics of the State versus the politics of the entrepreneur.

Granted, that may be too philosophical a tag to put on this whole debate, in many of its images that have occurred around here, but it is not too philosophical a tag to put on the outcome of this debate, because when you are dealing with 14 percent of the American economy, when you are dealing with everyone's lifestyle, you are obviously undertaking an act which is going to have catastrophic effect on the future course of this country.

So there is a great deal more at risk here, or at issue here—"risk" may be the wrong term—than simply health care reform. At issue here is whether that continuum that came out of the politics of the State and politics of dependency, which is too large to have been discredited throughout this century, is going to be the course America follows.

So whether we are going to say we do not need to take that course—to put it in its most obvious example, the question is whether or not we as a Nation wish to pursue a course which takes us down the path that a country like Sweden has taken, or many other European nations have taken, where essentially the Government becomes such an overbearing and major part of the entire lifestyle of everybody's existence that you have a cradle-to-grave society, where Government tells you how to do things, when to do things, where to do things and, in effect, ends up becoming a force of such dominance that it undermines the four characteristics of individuality, aggressiveness, entrepreneurship, and productivity, most importantly, that are the essence of producing prosperity.

That is I think the key issue in this because what we are talking about is the prosperity of America, whether or not the culture that has produced a greater opportunity for prosperity and economic well-being and individual freedoms than any other culture that has ever been seen on this Earth, certainly any multiethnic culture seen on this Earth—I presume some narrow ethnic cultures, very small, that maybe have been competitive with us in economics and prosperity and maybe even in individual rights, but no multiethnic culture has ever accomplished what America has accomplished. And we have accomplished it because we have put great reliance on and confidence in entrepreneurship and the individual and the capacity of people other than the Government in Washington to resolve problems, whether it is in education or whether it is in just day-to-day life activities.

Yet today we confront, I honestly believe, a philosophical choice of such significant proportions or maybe I should say a political choice of such significant proportions that the outcome philosophically will be to dramatically adjust our course as a nation down the road of being a government that is a dependency-politics-driven government. And I recognize that that is good politics if you want to get reelected and if you want to maintain power, as has been shown for years by the House of Representatives. The best thing to do is vote programs, vote benefits, vote for something for someone, and then create an atmosphere where that individual or that group or that philosophically identified organization finds itself dependent on you, the elected official, for some percentage of either their financial well-being or their political placement.

That has always worked throughout time, and it works very well today, and you find yourself admiring those who within our institutions are so successful at promoting that as a way of maintaining power. And that is what it is about when you get right down to it—maintaining power.

But as you look at these documents you have to say to yourself, where do we draw the line? At what point do we as a nation say we just cannot take that extra step because that step puts us on a slippery slope that moves us so quickly into a society dominated from the center without the freedom of the individual initiative, without the capacity of the entrepreneur to be successful, that we will undermine the inherent engines of prosperity that make us work as a society. You can only succeed in this concept of the politics of dependency and the politics of the State as long as you have producers who can carry the burden.

Mark Twain wrote a nice little short story on this topic where he talked about it in very simple terms. But essentially the success or capacity to survive in the politics of dependency requires that you still have a productive sector that you can raid every so often in order to fund the free lunch and the guarantee of something-for-nothing government. Yet at some point you cross a line as nations like Sweden have found that they have and New Zealand, and you find their productivity has dropped so far and your sectors that your individuals who were aggressive initiators and inventors are no longer that and no are longer productive, and the quality of life and standard of living for everyone starts to drop. It is a bell curve basically of what happens in this area.

But this administration understands that. I suspect if Huey Long had gone to Wellesley he would have produced this document. It is an excellent piece of populist politics, and it is a true exercise in dependency politics. Therefore, I think and I feel very strongly that it must be defeated.

The complexity of it, which has been talked about at some length, is only one example of its natural elitism. You know there is an attitude—it is almost an utopian attitude of elitism that says essentially anyone who drafts something like this is saying: "Hey, listen; I know a lot more than you know." The 500 people who gathered in this room of intellectuals and academics and congressional staff, if there were any of any significance—there was not a provider person. "We actually know better than you do how to run your lifestyle."

The essential theme of this bill and the original Clinton bill was: "Listen. We can fix the health care system because we are smart, smarter than you, and if you do not understand that we will. We regret it. It means you are probably not bright enough to understand it."

That is the theory behind this. Or "You are just not compassionate enough to understand it. So, therefore, just stand back and let us manage your life for you and everything will be fine."

It is utopian elitism that runs through all of this that creates these types of documents with these huge imaginations of structure in their attempt to address problems that are humorous. Sometimes they are so complex, and yet when passed they have immediate and personal impacts on people, and affects their life and how their life is going to proceed.

The original goals of health care do not require this sort of action to be accomplished. They do not require the results of the folks sitting in the room and thinking up all the answers to all the problems in order to address them.

The original goals of health care were to improve quality, to control costs, and to expand coverage. And it does not take this opus to do that. In fact, I would argue and shall argue as I proceed in this discussion that this proposal has substantially reduced the quality of health care in this country and well-expanded coverage—I will give it not dramatically—but a well-expanded coverage and every expansion is helpful. It certainly will not control cost and will aggravate the Federal deficit dramatically.

So, if we wish to address these goals, I think we can do a much better job than this, and we can do it without the officiousness and huge bureaucracy and top-down approach that is designed in this bill.

Let us talk about a few specifics, a few of the areas that this bill, this 1,400-plus page bill creates problems in. Right off the top there are 10 major problems with this bill.

First, it creates 17 new taxes, some fairly substantial new taxes, and these are taxes that are going to have to fall basically on the middle class. You are talking about raising $300 billion of new taxes in this bill over the 1995 to the year 2004 period. That is a huge amount of revenue to come out of the American sector, and it means that funds that might have been used for education, funds that might have been used for infrastructure, funds that might have been used just to create a new job here or there, will be going into this bill.

And what will they be going for? They will be going for a subsidy program which involves subsidizing one out of every two Americans. Under this bill, one out of every two Americans end up getting subsidized. That is a staggering figure. Somewhere between 115 million and 120 million people are going to end up being subsidized. That is good politics of dependency. I have to argue that is the ultimate.

One out every two Americans coming to depend on the Government for a benefit inevitably puts in power a lot of people for a long time who are going to guarantee that benefit. It also means you have inherently undermined the capacity of the rest of society to be productive when you get to that level of subsidy, with $1.5 trillion in new entitlements over the period of time, just a huge expansion in spending and entitlement action activity.

Here we have this President appointing an entitlement commission and asking that entitlements be brought under control. We have here speech after speech on the floor of this Senate about bringing entitlements under control so we can balance the budget and start to do something about the huge debt passing on to the children and the next generation making their capacity for survival dramatically reduced because we are giving them so much debt they have to bear.

We are going to take this piece of legislation here and create, I lost count because nobody ever seems to be able to figure it out, it seems like five major new entitlements costing well over $1 trillion, and we are not going to raise $350 billion in taxes to pay for them, but we are not going to pay for them all. So we are going to aggravate the deficit, in my opinion, dramatically under this bill.

That is unconscionable. We have put a mandate in place in this bill on the employer and the individuals mandates across the board, not just on the idea that what they must pay in insurance premiums, which is a payroll tax, which is in this bill, and you know it is called the trigger. There is this argument there is a trigger. The payroll tax is really never going to occur or may not occur. It may occur in some States and may not occur in other States. The trigger event is 95 percent coverage, which is an interesting number. I am not sure how it was picked, but I suspect it was picked because even Hawaii, which has had allegedly universal coverage for years does not have 95 percent coverage.

It has somewhere in the vicinity of 93 or 94 percent coverage. So every State is going to get triggered in, and there will be a mandate. It is just that it is structured politically very intelligently. Nobody in this Presidency is going to be in office when the trigger hits, so nobody is going to have to pay the political price for it. And, obviously, a lot of people who are involved in this bill will not be around, so they will not have to pay the political price for it. But it is there and it is going to occur.

It is a mandate of significant proportions on small and medium-sized business men and women running a business that is trying to be fairly productive or just barely making it or maybe not even making it. This type of a new payroll tax is going to just have a horrendous impact on them.

Take New Hampshire, my State, for example, which has its largest employment in the sector of hospitality activity, which is hotels, restaurants, and tourism activity. They are our largest employers.

Most of these folks offer their people insurance, but they have a large percentage of people, usually, who are part-time people. They are spouses of somebody who has a full-time job and they do this to supplement their income, or they are college students supplementing their income, or somebody in transition in lifestyle supplementing their income, or maybe they are just ski bums. They come up and work for a few months and take a few months off, and that is the lifestyle they pursue.

But, in that industry, for example, a mandate is devastating.

I recall very vividly somebody who runs a small motel up in Conway, NH, testifying before one of the many health care forums which I have held, and I have held a tremendous number throughout the State. He said, simply, "Listen, I have pushed the numbers. I have taken a pencil to the paper on this. For me to be able to pay for the mandate in this bill"—it was the Clinton bill at that time, but the mandate in this bill is only 30 percent less than that—"I am going to have to sell another thousand rooms a year. I can't sell another thousand rooms a year." He said, "If I could sell another thousand rooms a year, I would sell another thousand rooms a year."

Like President Clinton telling a pizza seller, "Well, just raise your prices to cover this." He cannot do it.

And his reaction was, "I am going to have to lay people off. I am not going to be able to maintain the number of people."

A little later, I want to get into how this actual mandate works if one State should, by chance, end up out from underneath it. It is an overwhelming implication for the States in their activities as to how they would ever comply with it.

Another major problem with the bill is price controls. How many times have we, as a society, and has this world proven in a democratic society that price controls do not work; that price controls inherently constrict an economy in a way that undermines not only the goal, which is to contain costs, but also, more significantly, undermines initiative and incentive and creativity.

Take the drug industry, for example. The drug industry has been one of the popular whipping boys for this administration as it has gone down the road in pursuing health care. And, of course, populism demands an enemy list, and drug companies have been excellent to put on that list. That list has been sort of a rotating list. It was once doctors and then Congressmen with their health plans, and then it is drugs. But they make a good target, let us face it. They make a lot of money.

But if you take the biotechnology industry, which does not make a lot of money—it costs $300 million to bring a new drug on the market and it takes 10 years to bring that drug on the market. What is the effect of price controls on a industry like that? Well, the effect of price controls on an industry like that is they are not going to get anybody to invest $300 million and wait 10 years for them to bring a new drug on the market.

It does not work that way. If you are an investor or group of investors and you have that type of money to invest and you get to the end of the line after it has been out for 10 years, looking to see if this experimental drug is going to work, and you find that drug is going to be subject, when it does work, which a long shot, is going to be subject to a price controlled event of some nature—granted, the Mitchell bill is not as restrictive as the Clinton bill on this, but the concept is still there. And you can see it, the gleam is still in the back of somebody's mind, that somebody is going to figure out how to take this Clinton price language and upgrade it to some sort of control.

But the practical effect is the investment, instead of going into research on a drug or new drugs that might cure some sort of neurological disease, is going to go into developing some software or developing a new widget or gadget in some other sector of the economy.

And we saw this almost instantaneously. After the Clinton bill was initially introduced, there was a dramatic drop in investment in initial offerings for biotech companies. There has been some abatement of that now, because there is less fear of it, but still the philosophy of price control has that impact on the marketplace. It retards research and it does not in the end ever control costs in any significant way.

Then the bill imposes new taxes that will raise the cost of coverage for families for health care. There is a 1.75 premium tax in this bill, plus, because of all the obligations they put on the States, which they do not pay the States to execute so the States are going to have to probably go out and raise revenue to pay for the administration cost, which they are required to do under this Federal bill. And under the Federal bill, in our graciousness, the Clinton-Mitchell bill has said, well, the States can go out and tax premiums. So they are going to get hit, on top of this 1.75 percent, with probably an additional State tax to pay for the costs which are generated by this bureaucracy which the States are going to have to put in place in order to comply with the Federal bill.

And, of course, the bill does have massive bureaucracies. And I am going to talk at length about that and especially as it affects States. And the bill really takes health choices away from us as American people and puts them in the hands of the bureaucracy.

Those are just some of the problems with this which basically underlie this huge piece of legislation that has been brought forward here by Senator MITCHELL and which is basically the Clinton-Mitchell bill.

It is a massive document. We have not had the time, even though we have been at it now for a few days, to really analyze the whole thing. We keep finding these little problems within it, fairly significant problems, and we bring them forward, but I do not think we have seen all the problems that exist in this bill. And so, I do think we need to go forward and continue to air the issues which this bill raises.

What I want to talk about in specifics relative to this bill today is its impact on the States, because I used to serve as the executive of a State. I looked at this bill and I was stunned at the burden which this bill is going to put on State governments.

There are 177 new responsibilities in this piece of legislation that States are going to have to comply with—177. Now, I have to tell you, as a former Governor and as a State administrator, one or two Federal responsibilities can ruin your day, can make your life miserable.

Take, for example, some of the Federal responsibilities that are put on States through the EPA.

I recall in New Hampshire, it took us 16 years—16 years—to build a 17-mile section of road in New Hampshire. We had four lanes going in and four lanes going out and it narrowed down to two lanes. For 16 years, we had to deal with Federal regulations coming out of the EPA to try to get those two lanes up to four lanes. That was the only major east-west highway in the State. And during that time, approximately 20 people died in that two-lane piece of road. That was the most dangerous piece of road certainly in the State and probably in New England.

But we could not get the Federal Government to change its regulations, to modify its regulations, to allow us to go forward in a timely manner and to build a road. Even though all the major groups had signed off on it in the State, even though Federal Highway signed off on it, and Fish and Wildlife had signed off on it, the Corps of Engineers had signed off on it, we still could not get it built.

That was just one group of responsibilities that were put on us by the Federal Government. Now we are going to have 177 new responsibilities put on the State governments, none of which, by the way, are paid for under this bill. So the Federal Government is telling the State government to pursue all these new actions, but it is not saying to the State governments we are going to help you pay for these costs.

I want to run through some of these because they are significant. Even though they are only a small section within the bill, they are very significant responsibilities. And somebody has thought these up, that is what amazes you. Somebody in some room somewhere in this building, one of these buildings, thought up all these little ideas—well, not little ideas—these grandiose ideas and said, "Let us stick that in the legislation." It is like dropping a very huge rock in a small pond, because the waves this is going to create out in the States are going to be overwhelming. The unintended consequences cannot even be conceived. Obviously they are unintended, but the unintended consequences will be massive and the effects will be dramatic.

In many cases the effects will be to significantly diminish the quality of life and the health care of various people throughout our country. I will give specific examples of why I think so, why specifically in New Hampshire it is going to significantly diminish the quality of health care. But first let me go into some of these 177 new responsibilities, because they are really overwhelming in their impact on the States. You have to feel sorry for the State legislatures and Governors and bureaucracies within the States that are going to get stuck with these.

They start right off with one that sort of sums it all up in some ways. "Satisfy all its responsibilities." This is section 1412, "Satisfy all its [the State's] responsibilities under the Act," including the development of a health care system that can obtain Health and Human Services approval, or face a variety of sanctions including having the Health and Human Services Secretary assume the State's responsibility under the act and having a 15-percent premium tax imposed on its citizens.

In simple language what that says is, if you do not do it our way, States, we are going to come in and we are going to tax your people into oblivion. This is true Federal bureaucratic elitism.

Yesterday we had an amendment to knock out the $10,000 fine, which was the penalty fine against any employer who decided they wanted to offer more of a benefit than the standard care benefit, or less of a benefit. It applied to every employee. So that was an example, another example of this type of attitude.

But this one says, essentially, every citizen in the State will be subject to a 15-percent premium tax if the State government does not meet the arbitrary, capricious, officious attitudes or views of the Health and Human Services Department here in Washington, developing these health delivery services. I find that insulting. I thought we are a federal system. We are obviously not a federal system—not as far as President Clinton is concerned, or the Mitchell-Clinton bill is concerned. We are a system where you put a gun to the head of the folks out there in the States and say either you do it my way or we are going to come in and tax you into oblivion.

Mr. COATS. Will the Senator yield at that point for a question?

Mr. GREGG. I will certainly yield to the Senator.

Mr. COATS. I would just note the Senator from New Hampshire is a former Governor. Of course we have heard the rhetoric here all week: No, this is not the Federal Government takeover of the health care system. Much of it is going to be administered by the States.

I think the point the Senator from New Hampshire is making is that a great deal of the responsibility of the State is being dictated by the Federal Government.

I wonder, as a former Governor of New Hampshire, if the Senator could give us his perspective on just what a State like New Hampshire would be faced with in terms of putting together the kind of agencies and governmental functions in order to carry out some of the responsibilities that are now going to be laid on the States through the Mitchell bill?

Mr. GREGG. I thank the Senator from Indiana for his question. I think it is a good point. Essentially, the States have no flexibility in this bill. The States are told how to structure their health care system and then they are told how they are going to administer the system. And then the Federal Government does not even have the courtesy of paying for it after they tell them they have to do all these things.

The practical implications for a State like New Hampshire, which is a small State, are, we would literally probably have to add more bureaucracy and more new State employees to administer this plan than we presently have in our largest department, which would be Health and Human Services or our Highway Department. We would probably have to create literally a brand new government simply to administer this plan.

I said sort of off-the-cuff, and half seriously, we would have to pick a new place to have a State capital in order to handle the number of people we would have to add to administer what is requested of us in this proposal.

Let me go through some of these additional things. You can understand that fairly quickly—well, not fairly quickly, because it takes a long time to go through 177, and I plan to go through maybe them all or at least a high percentage of them. But I think it is important to go down them because we cannot take this bill up until we understand what we are doing to our States. So let us talk about it.

The first was, if you do not do it our way we fine you 15 percent. Unbelievable; everybody in the State gets fined 15 percent. They are not comfortable just going out and fining the Governor. As Governor I used to get sued all the time. No, they are going to fine everybody in the State 15 percent.

Second:

> Require that each health plan (whether insured or self-insured) or long-term care policy issued, sold, offered for sale, or operated in the State be certified by the appropriate certifying authority as a certified standard health plan, a certified supplemental health benefits plan, or a certified long-term care policy.

That means the insurance—I presume in most States it is going to be the insurance commission who is given the obligation of checking every plan offered in the State to see it meets, not a State definition of what is a standard plan, supplemental health plan or long-term care plan, but a Federal definition. And, for anyone who has ever tried to figure out what a Federal definition is of anything, it is a very difficult process because of the complexity of the situation. I suspect these will be moving targets which will be very hard for any insurance commissioner to confirm. So it is going to be a huge regulatory burden.

Third, "Establish rules for the event a capacity limitation applies to a plan."

That is section 1111. I do not know what it is. I do not know what the rules would be, but obviously they have to put some rules in place.

Fourth:

> Establish procedures and methods to assure equal opportunity of enrollment for all families, regardless of when during the open enrollment period, or the method by which, the enrollment has been sought, in accordance with rules established by the HHS Secretary.

Again, what we are saying to the States is you shall set up a bureaucracy to basically monitor everyone in the State on the issue of open enrollment, on the issue of equal opportunity. But you shall do it under a set of standards set up by the Health and Human Services Secretary.

The burden there is, just statistically, probably beyond the capacity of most States to do.

Fifth:

> Implement procedure by which individuals enrolled in a standard health plan may disenroll from such plans for good cause (as defined [guess who] by the Health and Human Services Secretary) at any time during a year and enroll in another standard health plan, in a manner that ensures continuity of coverage for standard benefits package or the alternate standard benefits package for such individual during the year.

Again, what you are saying to the States is that basically they have to be the mother, here, of all these different individual plans and all the different enrollment activities within these plans. Not within the context of what they deem to be appropriate, what the State regulatory authority deems to be appropriate, but within the context of what is given to them from on high, from the mount, the Health and Human Services Secretary.

Again, I am not sure how you would set up a computer system to handle that one, but you would have to probably have every State in this country purchase a supercomputer, not just a regular computer system. I suspect just to administer that one section, you would require some sort of supercomputer capabilities, because I do not think your standard computer systems that most States have in place can handle it.

Sixth:

> In accordance with HHS standards—

Once again Health and Human Services standards.

> ensure the broad availability and processing of enrollment forms, including direct enrollment through the mail, and other such processes as the HHS Secretary may designate.

I think the important point to note here is that everything—everything—the State has to do, comes from a directive from the Health and Human Services or the Labor Department in each one of these. There is no flexibility. The States are not given any flexibility. What we are setting up here is a massive bureaucracy of disproportionate impact in a small State like New Hampshire where you will, basically, have the Government from Washington telling the government of the States exactly what they will do and, basically, telling every individual through the States exactly how they shall act as it comes to their health care structure. It is Orwellian in the extreme, to say the least.

Seventh:

> With respect to a child-State supervised care, consider the child as a family of one and enroll the child with State agency who has been awarded temporary or permanent custody of the child in a high-cost sharing plan, unless the State agency has established a special health service delivery system designated to customize and more efficiently provide health services to children in a State-supervised care, in which case the State agency will enroll the child in the plan appropriate to ensure access to such a special health service delivery system.

That sounds fairly benign, but what it means is, that for every child who is in the State of New Hampshire's DCYS system, we are going to have to get a Federal waiver for each child and the process of getting a waiver is not simple. You are talking about a huge number of people having to fill out a tremendous number of forms and then do it again and again and again for each child who we want to move into a system that is something other than what is the high-cost plan which the State presently has.

Believe me, in New Hampshire, we do an excellent job of taking care of our children. We are rated No. 1 in the country for caring for disadvantaged children. We are No. 1 in the country in the area of immunization. We are No. 1 in the country for mental health care, both for children and for adults. We have a very strong commitment in this area, and we have unique services which I suspect would not fall into this category that is being set out as a high-cost plan.

Therefore, we are going to find ourselves having to waiver each one of these children in order to have them take advantage of a service which we have been delivering and which has been doing good things for that child for years.

Eighth:

> Establish fair marketing practice laws standards, including to prevent selective marketing, to govern the marketing of standard health plans through use of direct marketing, agency, or other arrangements to distribute health plan information.

That is, the Federal Government is telling the States that they are going to have to become the marketers of the health care plan. So States not only are going to have to manage the health care plans, they are going to have to market the health care plans. That means a whole new agency.

The State of New Hampshire will now have, I guess, a State of New Hampshire agency for the purposes of advertising health care plans and will have to go out and buy TV time, radio time, and newspapers, and put out press releases and do all that sort of stuff. Not something that really a public entity is all that good at usually, especially on a complex issue like health care.

Ninth:

> Impose no limit on the ability of any plan to contract with a provider of health services located outside the geographic boundaries of a community rating area or the State.

If you are going to go to this concept of community rating and you are going to go to this concept of managed care, you basically have punched a huge hole in cost control when you start saying, "But there shall be no limits on who a provider can contract with." You are essentially saying a New Hampshire community-rated HMO will have to contract with, let us say, somebody on Cape Cod who has a service in alcohol treatment, or something like that. It is a huge hole in the cost containment elements of health care if you are going to go to managed care promotion programs.

I do notice there are other people who want to speak. So let me move along to some of the other issues I think are significant in this bill.

I appreciate the President's attention.

The PRESIDING OFFICER. The Chair inquires, did the Senator indicate there were 177 points?

Mr. GREGG. That is correct. There are 177 of these obligations that the States undertake. I was on No. 9. So I am going to give you a break and move ahead a little bit to some of the more egregious ones and their impact on the States.

No. 19—but believe me, the ones in between are pretty egregious.

Nineteenth:

> Have a program of reinsurance and risk adjustment that governs how a purchasing cooperative that requires direct payment of premiums shall forward to the standard health plan the amounts collected on behalf of the enrollees in such plan.

It is just staggering to imagine how you are going to do that.

Twentieth:

> Develop rules under which each purchasing cooperative in a community rating area shall provide the State with information on its membership and marketing fees.

Again, this gets the State into the business of being the public relations agency on health care within the State.

Twenty-second:

> Use the actuarial data to make a determination that each plan's marketing fees are based on a legitimate variation in marketing and distribution costs across alternative distribution sources.

Again, very complex to do that.

Twenty-third:

> Have a program of reinsurance and risk adjustment that governs how the purchasing cooperative selected by the employer shall be responsible for forwarding premium payments to the appropriate plan or cooperative for each community-rated employee.

They are talking about setting up a system in New Hampshire under that little section there that will affect 1.1 million people. How you do that without creating a massive new bureaucracy is beyond me. You have to add literally hundreds of employees to the State payrolls to track that one item right there. That does not account for all these other items we have put in here that are just beyond comprehension in the level of new management burden put on the States.

Twenty-eighth: "Manage premium and cost-sharing discounts and reductions."

Thirty-eighth:

> Consult with the HHS Secretary in its establishment of standards for guaranty funds to be established by States for community-rated health plans.

So the State becomes the insurer and has to set up the insurance accounts to make sure that these community-rated plans, if they do go under, are properly indemnified. And to do that, we have to go to Health and Human Services for direction.

Thirty-fourth:

> In order to obtain start-up grants, provide assurances, satisfactory to the HHS Secretary, that amounts of State funds (at least equal to the amount made available) will be expended for start-up purposes.

That is pure blackmail, that is what that section is. That is blackmail. First, they are going to dump all these new programs on the States, and then they say to the States, "We're not even going to give you the start-up funds; we are not even going to give you the start-up funds unless you put forward a certain amount of money."

It is hard to believe that the people who drafted this amendment have ever gone back to their States—that section right there. If they have, they would be tarred and feathered if they ever admitted to having put that amendment together.

Forty-third:

> Enter into agreements with the Secretary of Labor in order to enforce responsibilities of employers and large employer purchasing groups and requirements for employer-sponsored health care plans.

This is an interesting one. Now we have the Secretary of Labor, that we have to negotiate with on the issue of enforcement, and before we can do anything on enforcement, it looks like we are going to have to follow the directives of the Secretary of Labor for the same sort of precision and officiousness that we are seeing here in the area of Health and Human Services.

Seventieth:

> Designate public access sites within each community rating area through which residents of such areas can obtain consumer information concerning health plans and purchasing cooperatives offered in such areas, in a manner that ensures access to such information by the health care consumers.

That means, once again, that the State is in the PR business, and I presume it also means that the State is essentially going to have to set up kiosks which they are going to have to man, where they are going to talk about health care. It does not say how we are going to pay for that. It just says States have to do it; they will probably have to have a kiosk in every mall in the State. Every mall will have its own New Hampshire health insurance State government information center. How much is that going to cost? How confusing is that going to be to the public?

Seventy-second:

> Provide such public access materials to employers located within the State.

That is the effect of what I was mentioning.

Moving on to 86, which I find to be one of the most egregious in the entire group. There are so many egregious ones it is hard to differentiate standards of level of aggravation they are going to create to States.

But this one certainly is one of the worst. This is classic special interest politics.

Eighty-sixth:

> Before initiating the process of implementing its home and community-based care program—

Before it can do that, the State must:

> Commence negotiations with labor unions representing the employees of affected hospitals or facilities, to address the impact of

the implementation of the program upon the work force, and methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. GREGG. Well, I am glad to see that this bill has not been affected by special interests. States must under this language negotiate with the labor unions before they can set up the home- and community-based programs. They are told what they have to negotiate, what the outcome of the negotiations have to be, for all intents and purposes.

Talk about special interest politics. When did State governments get into the business of labor negotiations dealing with health care centers? What expertise, to begin with, and what right does the State government have to go in and be the negotiator of this issue? Clearly none.

But they are demanded. It is a demand in here. Why? Because some labor union said it is important, probably for support of this bill. I do not know. But clearly it was put in there to take care of the special interests known as the health care labor unions.

Seventy-eighth:

Enact or adopt long-term care standards that conform with the Federal standards to be promulgated by the Health and Human Services Secretary, at the risk of having the HHS Secretary assume responsibility over long-term care policies in the State.

Now we were back at this other page where the State—that is, that other authority where the State—remember this one—must satisfy all responsibilities under the act and if it does not satisfy all responsibilities as approved by HHS, the State gets hit with a 15-percent premium on every consumer in the State. Every consumer gets hit with a 15-percent premium if we do not do it exactly the way HHS wants us to do it.

Now we have a section that says not only that, but we are not happy with hitting you with a 15-percent premium, State governments. We are going to take over your system on long-term health care if you do not do it exactly as the Secretary of HHS promulgates.

By the way, HHS has promulgated nothing in this area. And I presume when you look at the length of this act and number of initiatives—I think there are 800 initiatives that the Secretary of Health and Human Services is required to pursue under this act; there are 50 new bureaucracies also, but at the time they got around to promulgate this, the States would obviously have had to go forward, and then the States would find that they were not in compliance and the Secretary of Health and Human Services would come in and take over their plan.

That is clearly an aggressive use of the Federal power to dominate the States, and it delivers a blow to the States from which they would not be able to recover.

The theme of this bill is either you do it our way or we put a gun to your head and we shoot you. And our way is this huge bureaucratic entity called the Mitchell-Clinton bill, which creates all this in cost for the States.

Ninety-third:

Not later than January 1, 2001, achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by the health plans pursuant to title I of this act.

I do not know how that works, but I do know that when you start talking mental health and start talking about, in New Hampshire at least, having the Federal Government come in and tell us how to do mental health, we get very upset. Why? Because we deliver the best mental health care in the country. We have spent a lot of resources and effort on our mental health delivery in New Hampshire, and we are very proud of it. It has been rated the best, not by us—obviously, we would rate it the best—but by such diverse groups as Ralph Nader and his organization. We are very sensitive when we start seeing the Federal Government coming in and telling us how to manage our mental health system. But this bill tells us exactly how to manage it, every part of it.

Ninety-seventh:

Report annually to the Health and Human Services Secretary on the incidence and prevalence of mental illness and substance abuse disorders in prison population, changes in such incidence and prevalence in prison population, and the potential causative factors with respect to such changes, including an estimate of the extent to which the denial of treatment—

Now catch that one.

to which the denial of treatment, or the provision of inadequate treatment, to the individuals with mental illness and substance abuse disorders is contributing to criminal activity of such individuals.

I get the feeling here that we are setting up for something, some special agenda. We are not treating those prisoners nicely enough. We do not have enough TV's, not enough basketball courts. We are very concerned about that. And we are setting up here for a nice little lawsuit brought by some organization which is interested in pursuing prisoners' rights. States are going to have to comply with this language or they lose, or they get hit with a 15-percent surtax on all their individuals because this is a part of the bill and if you do not comply with this language, if the States did not supply this information on denial of treatment, then they get sued, then they get hit with a 15-percent premium, and the HHS Secretary has the right to come in and take over the plan.

Ninety-eighth:

Receive grant assistance for the State's development and operation of comprehensive managed mental health and substance abuse programs that are integrated with the health delivery systems established under this act, provided such programs promote the development of integrated delivery systems for the management of the mental health and substance abuse services provided under the comprehensive benefits package, give priority to providing services to low-income adults with serious mental illness or substance abuse disorders and children with serious emotional disturbance or substance abuse disorders and provide for the phase-in of such services for all eligible persons within 5 years, ensure that individuals participating in the program have access to all medically necessary mental and substance abuse services—

Remember, "medically necessary" is now a term defined not by the doctor but by a bureaucracy here in Washington. A group of seven people will be defining what is medically necessary and appropriate under this bill, not your doctor.

promote the linkage of mental health and substance abuse services through primary and preventive health services, and meet such other requirements—

Such other requirements. My goodness, how many other requirements can they think of?

as the Secretary may impose; and provided the State has a detailed plan that is approved by the Secretary.

Now, of course, if you do not do that, they come in and they take over your mental health system. They are not content with taking over your health care system generally. They are not content with taking over your long-term care system generally. They want to take over your mental health system, too, because they know best. They know best. The people who wrote this bill, who sit down here in Washington, know best for you how your health care system should be delivered in your State and how you, as an individual, should interface with your doctor and your hospital. It is the ultimate in utopian elitism and arrogance.

One hundred third:

Establish a limited service hospital program that includes a rural primary care hospital program and/or medical assistance facility program.

I think most States have already done that. And they have worked hard at it. I do not think we need the Federal Government to come in and tell us we should do it again. If we do not do it, I guess they come in and they take over our rural delivery systems.

It will make the States make the maintenance of efforts payments. Maintenance of efforts payments are a tax on States, and a fairly significant tax. In many instances under this bill it is going to be rather large. Essentially, it says that the States shall pay the Federal Government for the right to participate in this new health care consortium which basically tells the States exactly what to do, when to do it. It does not reimburse the States. But we do have maintenance of efforts payments in here to make sure the States send tribute to Washington.

Then there is a requirement to make available through a consumer information advocacy center to all individuals a summary of the State health plan reports in the consumer report cards. That is an interesting authority required of the States. Remember, if we do not comply with that, we will end up once again with the HHS Secretary having the right to come in and take over the system, and assess a 15 percent premium tax on all consumers in the State.

What this essentially says is that there is going to be an advocacy group set up, another new Federal advocacy agency I presume with all of new advocates in it. And those advocates are under this. What they produce as their report card the State are going to have to distribute throughout the States. Maybe it will work. Advocacy is always good. But you know what you are saying here is that essentially we basically have nationalized the system. So in order to replace what is usually a market force event which would have businesses going out and talking to the employer, or yourself, or your labor union going out and talking to different insurance companies, trying to offer a plan, who has the best plan, and who offers what, we will have to have a group of advocates do it now because essentially we set up a structure which has eliminated the market face and the forces of exercise of the delivery of health care.

The list goes on and on. I skipped over an awful lot to get to No. 116. But I want to talk about a few more of them in specifics also because some of the ones I just laid out I think are reasonably egregious. In fact, they are dramatically egregious. But in addition, there are some that are even in my opinion more significant.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. GREGG. While I am searching through my papers, I yield to the Senator from West Virginia for the purposes of a question.

Mr. ROCKEFELLER. I am just interested in terms of the time, my own schedule, and perhaps others. The Senator has taken about hour and a half. I wonder how long the Senator plans to continue to talk for the purpose of convenience of Senators, including the Senator from West Virginia?

Mr. GREGG. I would expect that I will be speaking on this subject for an additional half an hour, I inform the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator.

Mr. GREGG. Mr. President, we have gone through some of the highlights of some of the 177 additional requirements put on the States remembering that the basic schematic goal of this whole exercise is to have the Federal Government take over the health care system of America, and specifically to put the States in the position of being a functionary of the Federal HHS Secretary, making them essentially the carriers of the water of the bad news of the bureaucracy to the people in their States, with very little flexibility. It is not going to work obviously. Common sense tells you it is not going to work. But I recognize that common sense does not necessarily hold the day.

So let us talk in specifics, beyond the items that I mentioned about some of the more major events that this bill puts on the States, and how they will impact the States. Probably the most significant one, from the standpoint of how people's lives are affected is this whole issue of subsidies, the integration of subsidies, and how the States integrate subsidies, because how States take care of their medically needy people today, Medicaid people and people who are not on Medicaid but are low-income individuals, is obviously important.

In New Hampshire I think we have done a fairly good job. There is more we can do, and we are trying to do. In fact, in the last legislative session, many initiatives were passed. But under this bill, I think people need to understand the complexity of the new premium subsidy program and how it impacts the States.

Under this bill, there is a full subsidy for low-income individuals from 100 percent of poverty phased out as they get up to 200 percent poverty. There is a full subsidy for children under 19, and pregnant women 3 months after their pregnancy up to 185 percent of poverty. It phases out to 300 percent poverty. There is a subsidy for unemployed people up to wages of 75 percent of poverty for a period of 6 months.

What does that do to States? Remember that the States already have Medicaid. So they must continue to comply with the Medicaid Programs, and administer their Medicaid Programs under this bill. But under the Mitchell-Clinton plan, the States must offer wraparound coverage; that is, to continue to offer Medicaid services that are not offered in the Medicaid recipients standard plan. In other words, the Medicaid recipient falls under the standard plan. But, to the extent that Medicaid services exceed the quality that you would get from the standard plan, the States must offer a wraparound so that the Medicaid recipient will actually receive a higher benefit package—this is the welfare recipient—than the average American would receive under the standard plan. The States have to pay for this.

This would be extremely complex to undertake. The plans would have to have an incentive to limit coverage. They would have no incentive to limit coverage, and you would end up with an increased Medicaid wraparound. The coverage and the costs would shift directly to the State. It would be a dramatic cost shifting event.

Further, States set Medicaid income eligibility thresholds within the Federal parameters. But the Clinton-Mitchell subsidy thresholds do not correspondence to the State threshold. This will make for an administrative nightmare.

Also, the subsidy programs would be a tremendous undertaking because you would have problems confirming involuntary determinations as to unemployment subsidies, and determining pregnancy. You have to go in now and you have to determine when someone is pregnant, and when they are not pregnant. Can you imagine the personal information we are going to have to take from someone on that issue? Then you have the issue of when someone is working and when someone is not working. You have to verity State residency claims and income claims.

The complexity is huge. I am not saying it cannot be done. I suspect those complex things can be done. But what they are going to require is a dramatic increase in costs.

CBO has questioned this implementation of this system. In fact, they have estimated it would cost the States $50 billion over 10 years just to institute the subsidy. Where do they get that $50 billion? And $50 billion I know in Washington does not sound like much money for some reason.

I was stunned when I went to one of my first committee markups. They knocked all the zeros off, and all they were talking about was 50. I said, "What is 50?" They said, "That is $50 billion." Well, $50 billion would run the State of New Hampshire, actually run the entire State government, for 50 years-plus. So $50 billion is a lot of money when you are talking about passing the health care costs on to the States. All is not going to fall to New Hampshire. I hope not. But a significant number of dollars are going to fall on New Hampshire and all the other States, $50 billion among our States. And $50 billion per State over 10 years, that is $100 million if you were to spread it evenly. Obviously, you cannot spread it per capita. But that is a huge sum put on our State governments.

You also have a new program called the outreach enrollment system. Under this provision, States would have to establish a system under which individuals would be presumptively eligible for a subsidy and enroll in the plan at the point of service by the provider.

So what you have is when somebody walks into the doctor's office, they are presumed to be a subsidized individual. I can understand why the Clinton-Mitchell plan takes that view, because they are subsidizing to 115 to 120 million people—1 out of every 2 people. If you do not happen to be a subsidized person and you are walking down the street, you could probably be safe to say the person walking beside you is subsidized and be accurate. The point is that there is a presumption of eligibility when the person walks into the provider's office, and the enrollment and subsidies are valid for 60 days.

In other words, people can declare themselves eligible for subsidies at the doctor office and have a plan pay for. Then the actual eligibility is determined later. If mistakes are made, who bears the cost? Well, the taxpayers bear the cost. This type of enrollment works in increasing coverage only if significant followup occurs to determine actual eligibility and to permanently enroll the individuals in the plan. States are thus required to undertake significant outreach efforts of this type, including the provision of an enrollment package to each provider in the State;

However, given the significant burdens, even standard enrollment and reconciliation would impose the followup outreach efforts and would be likely to fall by the wayside. This could lead to a significant drain on the Treasury. It is a payment taxpayers would have to make. Over 30 States now have provider enrollment already through contracting through private vendors. New Hampshire is one of them. If you do not, you are going to have to set up a system, and it will be extremely expensive. The Clinton plan authorized a 1-percent tax on States. I mentioned that earlier. States can assess this tax on premiums in order to pay for the cost. Well, I would hate as a Governor—and I suspect most legislators in the State legislature would not want to —to raise the premium tax in order to comply with a Federal rule which they had an absolute inability to monitor, to adjust, to effect. But that is what is being asked here.

The Health and Human Services Secretary essentially says you shall do this one—there are 177 mandates—and then you are going to have to add probably half again as many new State employees to administer as you presently have, and they say: "We will be nice and let you assess a tax on the premiums that your people pay." That is not something that I think most States want to do. But it is, again, a gun-to-the-head type of legislative action undertaken by the elite few here in Washington.

There is also the 1.75-percent tax, which is assessed against all people's premiums in this country, which is in the bill, and which is already in place if this bill passes. Remember, that is assessed against everybody, so State governments pay it, too, on their employees. That is a big dollar item, a 1.75-percent premium tax on State employees. That is a big number, and where does that come from? Well, in New Hampshire, it will come from the taxpayers to fund that tax on their State employees, and then they will also have to pay that tax on themselves, so they get to pay it twice. Are they not lucky as citizens of our country living in the States?

I have tried to go through this and analyze this bill as it is in a New Hampshire-specific way. I will read through some of the effects of this as it impacts New Hampshire. New Hampshire will have to develop a brand new untested health care system and get HHS approval or face the prospect, as I have mentioned before, of having New Hampshire citizens subject to a 15 percent premium tax. That is for starters. New Hampshire will have to submit—and all States will actually—a complex application to HHS by January 1997, and have it approved and updated every year.

Even if we could do it, I would not want to do it that fast. It is just very hard to take a system like the New Hampshire system, which is working extremely well, and throw it out the window and replace it with this new we-know-best Federal system, and do it in the timeframe that this bill has suggested.

I have mentioned a couple times that the New Hampshire system is doing very well. I want to read some statistics to support that, because if this goal is to improve health care—and I think that should be one of our goals—we ought to acknowledge that there are some places in this country where health care is fairly good, and in those places we are trying to solve the problems we have, but we think we are doing a good job. New Hampshire, for example, in national rankings, was rated No. 3, I guess, in the health of its people. It was rated the third most healthy State in the country. There are a lot of different statistics that went into that. We are rated the second best State in the country in the area of infant mortality. We have one of the lowest rates in the country. We are rated the lowest State in the country in the cost people have to pay for their health care, even though we have the best health care and the healthiest people in the country. We are No. 1 in the country in childhood vaccination. We are right in the top of the country in annual health care payments—we are in the bottom, but the top as far as cost goes. We have one of the lowest costs in the annual health care payments made by families and by individuals, so that we are a very inexpensive place to purchase health care. Yet, we deliver extremely good health care. As I mentioned, we are rated first in the country in mental health care.

We have accomplished this through a lot of work. It has been creating a very integrated system. Yes, we have uninsured people in New Hampshire, about 10 percent. We have tried to address that, most recently in legislation passed this year by the New Hampshire House. We do have a lot of services that are supplied to the State for free by many of our service providers. But we have a system that is working very, very well, for the vast majority of the people who live in the State. They get first class health care, and get it promptly and at a fair price. Before we throw that system out for this huge new bureaucratically-driven health care, I think we ought to expect that we are going to get something better. And we are definitely not.

To continue, under this proposal, if New Hampshire fails to meet the conditions of compliance, HHS can reduce the amount of payments for academic health centers and health research entities. And even if New Hampshire wants to continue to deliver the type of health care we are delivering—and it would probably be significantly different from what is planned under this bill—if we were continue to give the people the best health care in the country at the lowest cost in the country, with the best vaccination rates, mental health care, the best care for children in disadvantaged situations, we would be fined. Then we would start to see that in order to force compliance with this brand new huge bureaucracy, which would create mediocrity, in my opinion, we would start losing some of our payments to critical institutions, such as all academic health centers—and we do have one excellent one in New Hampshire—the acute care portion of the Medicaid program in New Hampshire would retain responsibility for continuing the Medicaid program, which includes the highest cost parts and the long-term care, plus determining eligibility and administering three new subsidy programs, huge cost to the State. New Hampshire would be responsible for implementing at least three new multibillion-dollar subsidy programs for the temporary unemployed, the low-income, pregnant woman and child, and hard to reach low-income groups like the homeless, and again no reimbursement for those costs, and CBO has acknowledged that it would be difficult for States to pursue that.

New Hampshire can expect that this would affect almost 370,000 individual residents in these subsidies programs. New Hampshire must pay the amount of the premium assistance subsidy directly to the health plan in which the individual is enrolled.

New Hampshire must receive review applications once a year and revision of whenever estimates of income change and changes to complement status of family members.

New Hampshire must then revise the amount of premium to reflect the changes. All this is required of the States to do.

New Hampshire must conduct year-end reconciliation to each family income for the year based on each recipient's time with the State.

New Hampshire does not have a State income tax. How are we going to do this one? Reconcile everybody's income or at least 370,000 citizens' income in the State? What an outrage.

New Hampshire is required to verify the information by cross-checking with the Federal tax returns. I presume we can do that if we ever get a computer big enough. New Hampshire has to determine who underpaid, who overpaid, and how to make adjustments.

New Hampshire would be financially responsible for premium assistance based on eligibility determination error to the extent New Hampshire's error rate exceeds a maximum permissible error rate set by the omnipresent Secretary of HHS.

New Hampshire has to determine which families in the area have adjusted income below 200 percent of the applicable poverty level. New Hampshire would have to assure broad availability and processing of enrollment forms and provide direct enrollment through the mail while remaining in compliance with any other rules established by HHS, the omnipresent Health and Human Services Secretary.

New Hampshire would have to set up an outreach program and require certain health center providers to fill out application forms for new patients declaring they are financially eligible for subsidy.

Enrollee disenrollment from each standard plan must be reviewed to determine whether there is a pattern disenrollment that does not reflect the distribution of such plans reenrolling membership.

New Hampshire will need to establish a new 1 percent premium tax to pay.

New Hampshire is required to set up new insurance regulations. New Hampshire would be required to enforce complex new insurance laws, certify and accredit and enforce health plan standards, charter HIPC's and monitor the transfer of billions of dollars in insurance premiums paid by employers and individuals.

I think that is an important point: the idea that the State governments are essentially going to be conduits for all the cash and payments that are flowing through this system. Most States are not capable of managing those types of cash transactions and certainly not for overseeing them, taking the marketplace entirely out of the exercise. It is now all government, no marketplace.

New Hampshire would need to establish fair marketing practicing laws and standards, prevention of selective market and governance of State health plans through the use of direct marketing, agency and other arrangements to distribute health plan information.

We will probably have to buy a television station and go public 24 hours a day on this issue. Maybe we can get a new license they auction off down there. New standard, data, and other documentation in addition.

New Hampshire would need to comply with the HHS omnipresent standards to be published relating to management of finances, maintenance of records, audit procedures, and financial recording requirements.

New Hampshire would be required to establish a new risk adjustment organization, and using the methodologies developed by the omnipresent Health and Human Services Secretary, apply the per capita adjustment amount to community-rated and experience-rated and the multi-State plans and the health plans offered within each community rating area.

We are smart in New Hampshire, but I do not think smart enough to do that one.

New Hampshire would have to comply with the new community rating requirements.

New Hampshire would have to collect data on patient care, health spending, the functioning and efficiency of health plans, and the omnipresent Health and Human Services Secretary will determine what those reports and audits by New Hampshire were required.

Remember, under this bill your private medical information becomes a very public event. Under this bill researchers have the right to query you on your health care situation even without notice. They can come to your house and say "I want to know how your health care is doing. I want to know what happened here."

You have to theoretically respond to them. I expect in New Hampshire you will run into folks who will not take kindly to that and throw you out the door. As a practical matter under this law you are supposed to respond.

New Hampshire would have to develop and publish annually—in a format designated by the National Quality Council, an agency of the omnipresent Health and Human Services Secretary—the performance of each plan offered in New Hampshire with respect to a set of national standards.

New Hampshire would have a new State health care delivery system. Ours is not good enough. The fact its plans are ranked to be the best in the country with the lowest cost in the country does not matter. Out the door. Get a new one here, something designed in Washington by a group of folks who know best what the people of New Hampshire should have.

A new cap on entitlement replaces the disproportionate share hospital payments. While disproportionate share payments are reduced according to level of insured, New Hampshire has a new national $2.5 billion program which bypasses State government and goes straight to the hospitals serving vulnerable populations.

So you change the playing field fundamentally.

New Hampshire is required to identify all hospitals in which the low-income utilization rate exceeds 25 percent and provide a list to the Secretary. The State must also report the total of inpatient hospital days for hospitals in New Hampshire for the year in accordance with reporting procedures established by the omnipresent Secretary of HHS so the Secretary can calculate low-income days and each hospital receives an allotment directly from the Secretary on a quarterly basis.

New Hampshire must designate medical assistance facilities, rural primary facilities, hospitals that serve the population and essential community providers.

New Hampshire must have planning and have startup funds. New Hampshire must match the planning and startup funds. I talked about that earlier, the fact we get hit with a penalty if we do not match startup funds. New Hampshire would be required to oversee the HIPC's. New Hampshire, will have to charter and certify the HIPC's and establish the voting rights of members to select its board of directors.

Maybe New Hampshire does not need a HIPC. We do have the best health care in the country and do it without a HIPC. We probably do not need a HIPC. Under this we have to establish one.

New Hampshire will have to determine the regional boundaries, and community rating areas must contain at least 250,000 individuals and not divide metropolitan areas. That is going to be an interesting statistical event in a State of 1,150,000 people.

New Hampshire would need to coordinate operations in a community rating area when a HIPC has operations in neighboring States, including the adoption of rules, contracting health with plans, enforcement activities and establishment of fee schedules for health providers. So we will end up obviously because we, like most States, have a number of sister States in a very complex operating structure with our sister State of Vermont, or sister State of Maine, or our sister State of Massachusetts.

I am not sure what happens to the people who live along the Canadian border who go over to Sherbrook for an operation. It will be an interesting exercise to say they are treated but the complexity for doing it is extraordinary. They would lose choice under the Clinton-Mitchell plan also, the standard benefit package, and the alternate benefit package will contain the same benefits. Only the costs sharing will vary.

For example, in New Hampshire, Christian Scientists complained forcing them to buy assistance will be a double blow. They will not use the benefits they pay for and will not get the benefits they will use.

New Hampshire opthalomologists have spoken to me about the Clinton plan, the Government funded centers for cataracts. They will not be able to compete, and a patient will lose the choice of eye doctors.

New Hampshire residents, really I suspect, as they look in depth at this plan are going to find that its massive expansion of obligations on the State create huge new bureaucracies which will fundamentally undermine the quality of care our State has. I do not today, which is excellent.

I do not think I have to rely on my own hypothesis on this. CBO, which has done analysis of this bill, which probably did one of the most devastating statements in this area, it said in addressing State responsibilities it said like several other proposals this one would place significant responsibilities on the States. I am quoting CBO on the States for developing and commending the new system, and it is doubtful that all States would be ready to assume that new responsibility in the timeframe envisioned. In addition, it says many of the States would simply be unable to comply with this language. States would bear the responsibilities for the requirement of the end of the year reconciliation processing which the income of subsidized families was checked to ensure that the families receiving the appropriate premium subsidy, reconciliation would be a major undertaking. Even if Federal income tax information could be used, many of the families receiving the subsidies would not be tax filers. Tracking people who move from one State or another during the year would also be difficult and would require extensive cooperation among the States. Probably be impossible. That is my parenthesis.

And it goes on and on.

It just basically points out that—another language: "It is doubtful that all States could develop the capabilities to perform these functions in the near future," talking there about monitoring the health insurance industries.

The language of the CBO report is just replete with statement after statement of the affects of this plan and its inappropriateness on the impact on the States.

In addition, the National Governors Conference, taking a long look at the Mitchell-Clinton plan, concluded also that large sections of it are going to have extensive negative impacts on the States. In one area, the plan concerns the following four categories.

One, that it does not integrate Medicaid into the new low-income programs.

Two, the adjustment factors to increase the States' main efforts of the contribution over time is higher for most States than the expected Medicaid growth.

What that means is the Federal Government is essentially extorting from the State money that it would not have gotten under the traditional payment process. There is no Federal funds to administer low-income programs, as I pointed out before, which cost almost $50 billion to the States, which is a huge sum.

And most standards, results, and regulations set by the Federal Government are nearly impossible—in the National Governors Association—nearly impossible to administer the plan.

Well, I have gone on for quite awhile here, but I think it was important. I could have gone on for a lot more time. I think it was important to go through in some depth how this plan basically takes control of State governments' function in the area of health care and how it puts onto the States this huge new structure of bureaucracy.

What is the bottom line? Many people sort of tune out and say, "Well, that's just the State government. So what?"

The bottom line is it affects the people who live in those States. The people who live in those States and have to pay new taxes and are put under the auspices of having basically to deal with Washington for their health care rather than their State government, are confronted with this huge new bureaucracy which will be confusing and hard to deal with.

In States like New Hampshire, which have such a strong tradition of delivering quality health care, it essentially undermines everything we have worked so hard to accomplish.

Now, yes, we all recognize that there needs to be reforms, that we need to address things like portability and preexisting conditions, and small-market reform, antitrust reform, and malpractice reform, and make sure that the low-income working person has fast and first insurance.

But this is not the way to do that. We do not need to have a basic national Federal takeover in the name of dependency politics of our health care system in order to accomplish those goals.

And, in fact, this language—I think I have made the case—will significantly diminish the quality of care that is delivered, at least in the State of New Hampshire, because it will create huge bureaucracies and drain off huge amounts of resources to comply with ideas and initiatives which come there from Washington which may either, one, have no bearing on the quality of care in New Hampshire; or, two, which may actually undermine our present quality of care in New Hampshire.

The arrogance of this bill to come forward and say that we know best here in Washington how you in New Hampshire should run your health care system is what I find most frustrating about it. Because there are places in this country—and there are a lot of them—that are working hard to address health care and improve health care. They do not need to have the Health and Human Services Secretary essentially take over the government of the State in order to address that issue.

Rather, what they need is targeted reform, which will improve those functions of the health care system, which should be addressed from the national level. Those targeted reform ideas have been proposed. They have been proposed by Senator PACKWOOD and they have been proposed on the House side by Congressman BILIRAKIS and Congressman ROWLAND, Dr. ROWLAND. They are out there.

The only reason we are going forward with this bill is because of the point I made at the beginning of this discussion. It is this philosophical drive to move to dependency politics, the politics of the State, where you bring everybody under the control of—not under the control, but at least under the obligation; or not everybody, but a large percentage of the population becomes committed to or dependent on the Federal Government. And the Federal Government or the central Government becomes the center of power for the domination of the style and activities and delivery of the service.

That is a mistake. We do not need to step off onto this road with a giant leap. Regrettably, all government is moving to the left. But we do not need to assist it by taking this giant handspring in that direction through the passage of this bill.

I yield back my time.

I thank the Chair for her courtesy and I thank the Senator from West Virginia for his patience.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from New Hampshire and others.

I wish to speak, Madam President, on health care reform. But it just seemed to me that, almost without exception, those who have come to speak on the other side about health care reform have, in almost identical words, disparaged the Mitchell plan.

What I keep looking for is something that they say they are for, and I just never hear it.

If we are discussing health care plans, we ought to be looking at the Mitchell plan and at the Dole plan. So that is a little bit of what I propose to do today. If the majority leader comes in, he may want to do a unanimous-consent request and I will yield to that.

Madam President, in the very simplest of terms, our debate on health care reform has come down to defining objectives. I have been working on health care—as has the Senator from Oregon, who is on the floor, and the Senator from Iowa, who is also on the floor, and others—for a long time. It has been a major concern, taking up a lot of my time for many years. I have looked at and I have studied more proposals, more plans, more analyses, more bills than I can count or that I wish to think about counting. And today I support Senator MITCHELL's bill.

But I also see, happily, some areas of agreement with those on the other side of the aisle. It might be nice to mention that. I understand it might be hard to tell from watching all of this, but it is true; I think there are areas of agreement.

For example, Democrats are as committed as Republicans to ensuring that every American will be able to keep the health care plans that they now have if they want to. Both parties are in agreement on that.

If you have Blue Cross and if you like Blue Cross, you should be able to keep Blue Cross. If you have health coverage with Aetna and you are satisfied with that health coverage with Aetna, you should keep Aetna, by all means.

The Mitchell bill lets Americans do just that, stick with the insurer that they have if they like that insurer. So we do agree on some key health care issues.

But behind this agreement there are some important differences, and it is important to talk about both plans and some of these differences. Let me try to explain why the Mitchell bill stands out to this Senator as the proper course for reform and why the Dole plan worries me.

In simplest terms, the Mitchell bill is intent on providing health care security for the American people. That is what we have said from the beginning. But the Dole plan tips the balance in favor of insurance companies. This difference is, obviously, very critical and I believe it is what makes the Dole bill dangerous and the Mitchell bill a far safer course for all of us.

With the Mitchell bill, we can see the progress that this Nation will make toward ensuring health insurance. Ensuring the insurance is always worth the premiums that people pay, always affordable and always secure; always there when you need it.

With the Dole bill, every American will still be at risk of paying premiums month after month, year after year—but finding their claims rejected just at the time that they need to use the coverage. The Mitchell plan offers reforms that will mean something to American families, real substance for real people in my home State of West Virginia, in the Presiding Officer's home State of Illinois. As we think of real families, working families, people we know, we want them to have health insurance that they can count on. The Mitchell bill does that for them and it will mean a great deal to them. It eliminates loopholes.

I refer to this chart. The Mitchell bill eliminates loopholes, limits on coverage, fine print, and deceptive practices. Too often fine print is used to deny people care when they need it most, or to let insurance companies cut and run from people just when medical bills get too high.

That bit of common sense in the Mitchell bill is long past due. Is that not exactly why people purchase insurance? So they have this kind of protection? That is what they pay their money for, to help them in the event their medical expenses get too costly. That is what insurance is for.

Today, insurance for senior citizens has a large hole in it. A visit to the doctor to find out that you need medicine is covered, but the medicine that the doctor may say that you need is not. That is a very large hole. The Mitchell plan plugs that hole by covering prescription drugs.

For senior citizens, the Mitchell plan has prescription drugs and long-term coverage.

Consumers will never have to fear losing their coverage under any circumstances. No more being dropped arbitrarily or canceled. The Mitchell bill stops those practices, and it provides help with premiums if you are between jobs.

We are told that in the course of a lifetime, young people will have 5, 7, 8, even 10 different jobs. There are a lot of people "between jobs" in my State, and I want them to have insurance between jobs while they are looking for other jobs.

So, the Mitchell bill is about getting and helping people keep good, reliable health insurance.

The Dole bill, however, is another story.

I refer to this second chart. Those insurance company loopholes and fine print that today can be used to deny or cancel insurance, stay in place in the Dole bill. Promises made in the Dole bill are meaningless because they apply to coverage that people cannot afford to buy or keep. Insurance does not mean anything unless you can keep it. Insurance companies' costs are completely uncontrolled in the Dole bill, and insurance bureaucrats can continue to dictate to doctors what care they give.

The story I love to tell in West Virginia is of a two-physician practice. In the two-physician practice in one of our cities there are 18 people working, 9 of those people practice medicine, 9 of those people do paperwork. Four of the nine people who do paperwork spend all day on the telephone to the insurance companies asking permission to do what the doctor in that office knows perfectly must be done, but they have to get permission from the insurance company to do that. That is outrageous. That is anachronistic, but that is our current system and that system is preserved under the Dole bill.

For those fortunate enough to get and keep coverage, there is not much to gain. The Dole bill offers no protection against sudden premium hikes. Even the most fortunate will be constantly at the mercy of insurance companies' radical rate hikes.

Under the Dole plan, Medicare gets cut. Yes, it does under the Mitchell plan as well, but under the Mitchell plan there is prescription drug and long-term care covreage in return for those cuts. Under the Dole plan, no prescription drug or long-term care coverage is offered. So that is a very substantial difference: The Dole plan cuts Medicare and offers no long-term care, no prescription drugs; the Mitchell bill cuts Medicare but provides prescription drug and long-term care coverage. Major, major differences. The Dole bill not exactly the reform people want and need.

People who lose jobs, people changing jobs are simply out of luck with the Dole plan. Perhaps it boils down to a different understanding of what the word "insurance" means. I have with me Webster's Dictionary. I want to read what the word "insurance" means in the Webster's Standard Dictionary: "To guarantee protection and safety."

To guarantee protection and safety. To guarantee protection and safety. I repeat that because I fear that if we keep going the way that we are, or if we choose the Republican route, insurance will no longer mean a guarantee of protection and safety. Instead the word "insurance" will, more and more often, be linked with the words "abuse," "fraud," "loopholes."

Democrats want to restore the value of having health insurance.

Today, too many policies are downright dangerous—in fact, even hazardous to people's health care. Filled with loopholes and fine print that can leave you financially and physically ruined when the medicine or the care that you need is denied because your coverage is incomplete.

Remember those employees in the doctor's office spending their days on the phone to insurance offices trying to get permission for treatment? Well, they do not always get the answer yes. And when the answer from the insurance company is no, the American people are the losers.

Americans should not need a magnifying glass to understand what they are buying in a health insurance policy. We do not have to be auto mechanics to go out and buy a car and know that it will not blow up when we step on the gas pedal. We do not need to be chemists to buy pajamas for our kids and know that they are fire retardant. We should not have to be lawyers or insurance experts to be sure our health care coverage is worth the premiums we will pay.

Democrats want Americans to choose among a wide variety of good insurance plans. The Mitchell bill guarantees a choice of plans, and it also guarantees that the plans are sound.

Let me read to you some clauses from a couple of health insurance plans. These are real health insurance policies—not from fly-by-night companies or tiny companies run out of the trunk of a car, but mainstream companies with well-known services that have limits and exclusions.

(The PRESIDENT pro tempore assumed the chair.)

Mr. ROCKEFELLER. Here is one example. I urge those listening to try to keep up with this as best they can. This is on page 6 under "Sickness," and it says:

> Sickness means illness or disease of any insured which first manifests itself 30 days after the effective date of this policy and while this policy is in force. All sickness due to the same or related cause or causes which continues or recurs shall be considered one and the same sickness or "any one sickness" unless periods of confinement to a hospital or service, treatment or expenses incurred resulting from such Sickness are separated by an interval of at least 90 consecutive days—

At the beginning in the same paragraph, we had 30 consecutive days.

> between the end of one such period and the beginning of a subsequent such period.

And then it says:

> Any loss which results from hernia, disease or disorders of the reproductive organs, hemorrhoids, varicose veins, tonsils and/or adenoids, or ottis media shall be covered only if such loss occurs after this policy has been in force for a period of 6 months —

This is 30 days, 90 days and now 6 months, all within two sentences of one paragraph.

> from the Effective Date of This Policy provided these Sicknesses are not excluded by rider and endorsement and these Sicknesses are not preexisting conditions.

Mr. President, this is absurd. The people of West Virginia are highly intelligent. But when you get something like this, it is impossible to understand what it means. This is what would be allowed to continue under the Dole plan and would not be allowed to continue under the Mitchell plan.

Just one more. On page 10—and there is a lot more reading here—there is something called "Exclusions, Exceptions and Limitations." And then it says: "Coverage is not provided under this policy for loss due to"

And then a list of things which goes on for 15 different exclusions. Number 6 excludes "childbirth or pregnancy." Childbirth or pregnancy cannot be covered.

It is just incredible to me that in America, if a woman gets married, then gets pregnant, does not have health insurance, and she and her husband go out and try to buy health insurance so they can have good prenatal care, they cannot buy it because they have—here it is—pregnancy is a preexisting condition. I do not think they would necessarily know that with this insurance policy unless they read it very, very carefully.

There is another exclusion here, number 5, which amazes me:

> Participation in aviation except as a fare-paying passenger traveling on a regularly scheduled airline flight.

I can draw no conclusion from that except it means if you are in one of those cost-saving or frequent-flier plans, it may be that if you get sick, you are not covered. I do not know what that means, though I am trying my best to make sense of it.

I will read exclusion number 14:

> The correction of a congenital anomaly or abnormality after an insured is age 19.

Congenital anomaly means that you had something all your life. It is congenital. Your insurance coverage is clearly, on this last issue, wiped out.

This should be very distressing to us all. This is a major company's insurance policy, and it is something that most people, would put faith in and surely accept. But indeed there is the work of the devil in the details. This is just outrageous.

I will just use one more example from another health insurance policy written by a major company. And on page 11, under "Limitations and Exclusions," it reads:

> This certificate does not cover any charges for any services, treatment, or supplies: furnished as a result of, or in any way related to a Pre-Existing condition.

Mr. President, that is what the Mitchell bill eliminates and what the Dole bill allows to continue. And once again, here in another health care policy it excludes "for pregnancy or childbirth, except for Complications of Pregnancy."

Well, that means no prenatal care. And since it says "childbirth" is not covered, I assume it means no well-baby checkups.

Insurance policies are major forces in people's lives. And within this handful of insurance policies are some extraordinary exclusions and limitations which are stopped in the Mitchell bill yet which will continue in the Dole bill.

Some have argued for years against requiring seat belts in cars. They called seat belts expensive and unnecessary. Some still argue against helmets for motorcycle riders because they want the freedom to take risks with their physical safety, not necessarily understanding that their physical safety could coincide with the physical safety of another person.

The truth is that the costs for victims of accidents without seatbelts or without helmets are not borne by the individual who takes the risk—too often we all pay the cost for those reckless decisions. That is wrong

Those who argue today that we should allow dangerous and hazardous insurance policies to be sold using the rhetoric of freedom and choice are simply protecting insurance companies' power and profit. Nothing more.

We do not want any bureaucrat—no Government bureaucrat and certainly no insurance company bureaucrat—to decide what illnesses or accidents qualify for care.

If you buy insurance, and you go to your doctor and your doctor tells you that you have cancer or that you are suffering from depression or you have some other ailment, your doctor should not have to call any insurance company to ask for permission to treat you. It will not happen under the Mitchell bill and it will continue under the Dole bill.

Increasingly, that is the system that we have in this country. Insurance company bureaucrats blocking coverage for whole categories of services. I am not talking about legitimate arguments against questionable or experimental treatments. I am talking about the wholesale exclusion of whole categories of necessary care: Preventive care, prenatal care, pregnancy-related services, preexisting conditions, prescription drugs—all legitimate and necessary services, all denied today by health insurance companies.

Republicans want to protect insurance companies' prerogatives, speeding us on a path to insurance company dictatorship.

This is not just a fear for the future—it is a reality that many Americans are now living with.

I have visited with them in West Virginia. Whenever possible, I visit families that have some kind of health care problem so I can better understand their concerns and better represent them.

Let me just share a letter from a constituent who has been frustrated and exhausted by insurance company rules and insurance company control. In a letter written just 3 weeks ago, Clarence Wickline, of Peterstown, WV, wrote:

> I have Blue Cross and Blue Shield insurance. They take it out of my check every week.
>
> My daughter was scheduled for surgery last week. She had all of her blood work and everything done and was going to check in the hospital the next day. The insurance company called the surgeon and refused to pay for it. So she couldn't have surgery.

Clarence Wickline concludes with:

> I really don't think it's fair. Thanks for listening.

That a straightforward letter from a straightforward West Virginian who pays his insurance premiums and gets left out in the cold the one time his family needs their insurance.

Now, there has been plenty of technical talk about reform over the past year—mandates, triggers, alliances, cost shifting, redlining. It is hard to keep track of all of it, there is so much of it. And for the American people watching us and following the debate, it must be pretty confusing.

I am trying to put reform in simple terms. In real-life terms that tell people how the different health care reform plans will affect them, because we have two different plans—the Dole plan and the Mitchell plan.

If you are a middle-class, hard-working American consumer, the Mitchell plan looks out for you and delivers a real measure of reform that you will see. You can keep your plan or choose a new option, but no matter what, your insurance will always be worth the premiums that you pay for it.

If you are an insurance company, the Dole plan looks out for you. Business as usual. Loopholes for preexisting condition exclusions, limits on portability, higher premiums, no guarantee of choice—as full of holes as swiss cheese. In short, allowing this kind of insurance represents a reckless disregard, in this Senator's judgment, for public safety.

With those objectives, it is pretty clear that the Mitchell plan, in this Senator's judgment, is a moderate, thoughtful, and sensible approach that seeks to be effective but not intrusive. It makes sure insurance will be, for you and your kids, "a guarantee of protection and safety." And you and your doctor will always know that your insurance will provide the care that you need. Insurance company bureaucrats will not be able to cut you off.

That is meaningful reform. That is real reform for real people who I represent. It is not enough to say, as Republicans do, that we want you to keep your insurance. Getting to keep something labeled insurance that is gutted and loophole-ridden and weakened is not worth much. But that is what the Republican plan will do.

For all of those people whose letters that I read earlier, and the millions of others whose letters and phone calls we get, we must pass reform that makes health insurance a dependable, sure thing, not a gamble left to the whim of insurance companies.

I thank the Presiding Officer. I yield the floor.

Mr. MITCHELL. Mr. President, I hope in a few moments to be able to announce or propound a unanimous-consent agreement with respect to further proceedings on the pending amendment.

I know the Senator from Indiana was going to seek recognition. I merely request that we are ready to proceed, if he would permit us to go ahead and propound the agreement.

Mr. COATS. Mr. President, I would be happy to accommodate the majority leader's request in that regard.

Mr. COATS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, Senator MACK and I have an amendment at the desk which I think would most appropriately be entitled "Let the sunshine in."

In 1972, the Congress enacted an important act which has greatly contributed to openness and accountability in the executive branch. It is called the Federal Advisory Committee Act.

That act requires that any Presidential or executive task force, which includes private citizens, conduct its meetings in public. Let me restate that. The Federal Advisory Committee Act requires that any Presidential or executive task force, which includes private citizens, conduct its meetings in public.

The requirements of the Federal Advisory Committee Act, I think, are reasonable—Congress has determined that—and are there to ensure that the public, not included in those meetings, have access to Government activities which will directly affect their lives.

The Congress now has for over 20 some years upheld that particular statute. I think it is important. What it means is that all meetings will be open to the public. This is a Government of, by, and for the people. We can only assure that right, if the people are given access to what this Government is saying and doing.

The act requires that there be advanced notice of meetings. The act requires that the public be informed of the agenda of the meetings.

That means in this case that decisions made relative to medical care for 250 million-some Americans, whether it be the benefits that they will be entitled to, whether it will be medical services that are deemed appropriate and necessary, whether it be the cost of certain procedures, that those decisions, some affecting the most personal of all matters that affect our daily lives, be decided in a forum whereby the public is aware of the agenda up for discussion, where it has an opportunity to comment, where it has an opportunity to respond, testify, and to file statements; that those meetings be open to the general public. Records would have to be kept as mandated under FACA. The minutes, working papers, drafts, subsidies, et cetera, would be made available to the public.

I note that the majority leader is seeking recognition. I would be happy to suspend at this particular point.

The PRESIDENT pro tempore. Without objection, the Senator will retain his right to the floor.

The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague.

ORDER OF PROCEDURE

Mr. President, I have discussed with the distinguished manager of the bill, Senator MOYNIHAN, and the minority manager, Senator PACKWOOD, and others how best to proceed.

The pending amendment is amendment No. 2568 offered by Senator MACK. The amendment is not disputed. We are prepared to accept the amendment without further debate and by voice vote.

I inquire of my colleague from Oregon whether that would be agreeable for our colleagues, or whether they wish a vote on it, and further amendments?

Mr. PACKWOOD. No. We would like to vote on it. When I talked to the majority leader earlier he was saying 6 o'clock or so. I ran it by our side. We would like to vote at 6:45, if we could.

Mr. MITCHELL. Accordingly, then, Mr. President, I ask unanimous consent that the Senate vote on the Mack amendment at 6:45 p.m. today; that the time between now and then be equally divided, and under the control of Senators MOYNIHAN and PACKWOOD, or their designees; that no second-degree amendments to the amendment be in order, or amendment language may be stricken by the amendment; further, that following the vote on the Mack amendment I be recognized to offer the next amendment.

Mr. COATS. Reserving the right to object, just for a matter of clarification, I do not know if Senator MACK asked for the yeas and nays on the vote. My understanding is that there will be a recorded vote at 6:45 p.m.

Mr. PACKWOOD. We will ask for the yeas and nays. There will be a recorded vote.

I might say to the majority leader, the amendment is perfectly acceptable. It is one that I think will have good support, and is not a surprise amendment.

Mr. MITCHELL. Mr. President, I want to make clear that this vote at 6:45 will not be the last vote. We will continue.

Mr. PACKWOOD. As the majority leader indicated, he is hoping we will accept his amendment. I indicated there might be some people who would want to talk it, and would want to vote on it tonight.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hearing no objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleague. I thank the Senator from Indiana.

The PRESIDENT pro tempore. As the Chair understands the request, the time beginning now is equally divided, which includes the time which will now be used by the Senator from Indiana.

Mr. MITCHELL. That is correct.

Mr. PACKWOOD. It does not include the time used today, but equally divided from 2:30 on.

I yield further time as the Senator may require.

The PRESIDENT pro tempore. Is it the Chair's understanding that the time that will be used by Mr. COATS will be charged against the time under the control of Mr. PACKWOOD?

Mr. PACKWOOD. No. The time that he has used to date is not charged, and it starts running right now.

The PRESIDENT pro tempore. The Chair thanks the Senator.

The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I thank both the majority leader and the managers of this bill.

Mr. President, to pick up where I was, we were discussing the Federal Advisory Committee Act.

I noted that it was an important act that was enacted by the Congress in 1972. The purpose was solely to give the right of the American people the opportunity to know what was being debated by members of the executive branch that affected their interests. They would have the right to know what the agenda of the meeting was, and they would have the right to receive minutes of the record. They would have the right to insist that such meetings be held in public.

It is important, particularly in the context of the legislation that we are talking about now because, while most Federal meetings obviously have an effect on some Americans, when and if the legislation here regarding health care is passed, particularly if the Mitchell bill is passed, the decisions will be made that are among the most, if not the most sensitive, and the most intimate, regarding not just a few but all Americans. It is important that our Government continue to allow each of us who are affected by these decisions the opportunity to comment and respond.

We have heard, time and time again, that the bill before us is not a Government-run bill. As I have pointed out on this floor, there are 55 new Government agencies created by the bill that is before us—55. I have detailed and outlined those by section. There are 815 new duties that flow to the Secretary of Health and Human Services and 83 that flow to the Secretary of Labor. But I am especially troubled by the fact that in the creation of two of these agencies—perhaps the two most powerful agencies—perhaps the two new agencies that have the most influence over the personal lives of more than 250 million Americans, those agencies being the National Health Benefits Board and the National Health Care Cost and Coverage Commission. Those two agencies will be exempt from the provisions of the Federal Advisory Committee Act. That means that the decisions of those agencies will not be available to the public for scrutiny until those decisions have already been made. It will be a fait accompli. What is deemed medically necessary and appropriate, what prices, what price controls, what cost controls may be placed on the development of new technology, new innovations, and the diagnosis and treatment of disease, those decisions will not be available to the public under the provisions of the Mitchell bill.

I think that is wrong.

So the purpose of the amendment Senator MACK and I are offering is to strike those two sections—actually, we are striking three sections, and I will explain the third in a moment—because that opens up the decisionmaking process to the public.

Let me describe what the National Health Benefits Board does. Under the Mitchell bill, the National Health Benefits Board is given the authority to decide what benefits will be contained in the standard benefits package that every American will be required to purchase. Everyone offering a health care plan in America will be required to incorporate the decisions of the National Health Benefits Board as to what those benefits shall be. There will be no opportunity for discretion.

Fortunately, yesterday we removed a provision which would have fined any provider of health care $10,000—or any individual who purchased health care would have been fined $10,000—if that provider or that individual had a health care policy that deviated in terms of benefits provided, deviated one iota from the decision of the National Health Benefits Board as to what the package should be. It is a one-size-fits-all mentality. If you are an 18-year-old single individual, just out of school, on your first job, earning perhaps a lower wage than you would like, but the going rate for a new hire, you are going to be mandated to have coverage for a package designed by the National Health Benefits Board. That package is the same package that will be available to a married couple with two children, and it is the same package that will be mandated to individuals whose children are grown, who might be in their retirement years. Every American will have to have exactly the same package, regardless of your health care needs.

Obviously, we know that the insurance industry today and the health care coverage today is designed with a whole cafeteria of benefits that you can select and choose based on your own particular health needs or the health needs of your family. Obviously, there are those who do not choose certain lifestyle behaviors, who would like to have the opportunity to purchase health care at perhaps a discount by not engaging in those behaviors. So there are policies today that are available to those who do not smoke. We know that that lowers their health risk, the risk of lung cancer, and so they are able to reduce their premiums somewhat.

Obviously, an individual or a couple, where the female of that marriage is past childbearing age, does not need to have a policy covering childbirth and does not need to have a policy providing maternity benefits, and, therefore, they can purchase policies that exclude that particular type of coverage. It is that selection, that wide array of benefits and opportunities for different benefit packages, that is an important competitive component of our health care system today. Yet, the Mitchell bill would require that we all obtain exactly the same benefit package.

Those decisions are going to be made by the National Health Benefits Board, and the public ought to have input as to what those decisions are. Yet, there is a specific exclusion for that board's actions, based in the Mitchell bill. On page 129, section 1216 is "Applicability of Federal Advisory Committee Act." It says on line 15: "The Federal Advisory Committee Act shall not apply to the Board"—the board being the National Health Benefits Board. The Federal Advisory Committee Act is specifically exempted, and all its provisions, from actions by the board. We do not think that is right, and that is why we attempt to strike it.

The National Health Care Cost and Coverage Commission is the Government-appointed rationing agent which is authorized to monitor all health care expenditures in the United States and propose premium caps and other mechanisms to control prices and limit health care spending. This Government bureaucracy will be making hundreds of health care decisions which affect the health care of every American. Decisions which are currently made by patients and their families and their doctors will be made by bureaucrats in Washington.

That particular board is also exempted from the provisions of the sunshine law, the law that I have been referring to. The Federal Advisory Committee Act does not allow these practices to take place. I might note that it is in section 10001, page 1390.

Mr. President, one of the reasons why we insisted on some time to understand this bill—and just now we are able to delve into the minutia of the bill and expose provisions which we do not think are in the best interest of Americans—is because it is so complicated. When we are talking about section 10001, we are talking about a lot of words between the first section and that section. That section also specifically exempts a new Government agency, the National Health Care Cost and Coverage Commission, from the FACA. That language reads on page 1409, specifically: "FACA Not Applicable. The Federal Advisory Committee Act shall not apply to the Commission."

There is another somewhat more obscure agency, called the Agency for Health Care Policy and Research, created in this bill. That panel is also exempted from portions of the sunshine law. It is somewhat different, but we strike that also, because it says that that particular agency is covered by this provision. It says:

> Panels convened for the purpose of carrying out paragraphs (1) and (2)—

Which refers to the actions of the Health Care Policy and Research Agency.

> shall not be considered advisory committees within the meaning of section 3(2) of the

Federal Advisory Committee Act, and prior to publication by the Administrator, clinical practice guide, performance measures, and review criteria as described in section 912(a) are not subject to the requirements of section 552 of Title 5, United States Code.

They are exempted from the provisions of the act. So the amendment before us is designed solely for the purpose of giving the public access to decisions made by Federal boards created under the Mitchell bill which will affect every living American.

I am pleased to join my colleague, Senator MACK, in offering this amendment. We think it is important. We have reason to believe that Senator MITCHELL and his proponents have had an opportunity now to review the bill and apparently will agree with us that this amendment is necessary to correct provisions that are incorporated now in the Mitchell bill.

Senator GLENN, the distinguished chairman of the Senate Committee on Governmental Affairs stated:

> I do know that openness in Government spawns confidence. Secretiveness in Government begets suspicion, and that is what I think we have a surplus of in Washington right now.

Mr. President, openness does spawn confidence. Secretiveness does beget suspicion. And we do have a surplus of suspicion in Washington right now. It is almost paralyzing our efforts.

We keep hearing several of our colleagues talk about the numerous public hearings held in the Labor Committee and Finance Committee on health care reform. But yet we are presented with a bill that is not the Labor Committee bill nor the Finance Committee bill, but a new bill written behind a closed door, written in secret—true, incorporating provisions of the Labor Committee bill and the Finance Committee bill—but with many new provisions.

So when it is presented to us, first in volume 1, then in the corrected volume 2, and then in the corrected volume 3, I think it is perfectly appropriate to ask for time to study this mammoth volume and understand the provisions, as we have done in the last 2 or 3 days.

We are now beginning to shed light on the Mitchell bill and as light is shed on the Mitchell bill, we find provisions that not even the majority can support or defend, and they are coming to the floor saying either, "Yes, that is there inadvertently," or "We now recognize it should not be there, and we will join with you, almost unanimously join with you, in removing that section."

We have removed the $10,000 fine for an employer offering an additional benefit to an employee. Perhaps an employer says, "I do not agree with the National Health Benefits Board. I would like to offer two mammograms per year to my female employees over 50 years of age." That would have been subject until yesterday to a $10,000 fine for offering an additional benefit. Perhaps there is something unique about the business of that particular employer and they want to provide a benefit that the board has overlooked or excluded for whatever reason. That employer would have been subject to a $10,000 fine. Fortunately, we have been able to eliminate that.

This now goes to the heart of the secret matter, the meetings in secret. This whole row started, of course, back last year with the meetings with the First Lady and Mr. Magaziner. There is now a Federal lawsuit on the matter. That was attempted to be settled. But I think there is interest in receiving the documents that were part of all that discussion. That is now in Federal court. I will not delve much into that.

But what we are after here is openness. If we are going to define the benefits, if we are going to define the costs, if we are going to define the procedures, if we are going to make the decisions that go to the personal, intimate details of individuals' lives or loved ones' lives, it ought to be done in the open.

Mr. President, I will close by quoting from Justice Brandeis, who said, "Sunshine is the best disinfectant." We are now in the process of letting the sun shine on the Mitchell bill, and we are finding that it is a great disinfectant. There is a lot of infection in here that needs to be disinfected.

Mr. President, let the sun shine in.

With that, I yield the floor.

The PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I enjoyed my colleague's statement.

The PRESIDENT pro tempore. Who yields time?

Mr. PRYOR. Mr. President, I think I am managing for the moment. So, I yield myself as much time as I need. I just have a question.

The PRESIDENT pro tempore. The Senator is recognized for as much time as he needs.

Mr. PRYOR. Mr. President, I enjoyed the statement of the Senator from Indiana. He is talking about letting the sun shine in, letting all Government decisions be made out in the public in the sunshine, in meetings, et cetera; meetings with the First Lady.

I wonder if the Senator from Indiana would state his position on how much sunshine there should be present when two U.S. Senators meet with a Federal judge. Should that meeting be in the sunshine? Should that meeting be in public, I ask the Senator from Indiana?

Mr. COATS. Mr. President, if that is a question propounded to the Senator from Indiana, I will be happy to respond to the Senator.

First of all, it is a question that we are not deciding here today. Obviously, it would be nice to shift the focus from what the amendment says and what we are attempting to do with the Mitchell bill. On that, however, a vote has been ordered so Members of Congress all have the opportunity to comment on that.

Mr. President, I have no idea what two Members of Congress discussed with a member of the Federal judiciary over lunch. I was not at that meeting. I was not invited to that meeting.

If the question is, does a U.S. Senator have the right to have lunch with a member of the judiciary to discuss the baseball strike, to discuss family—perhaps they are from the same State and they are personal friends: How is the family doing; how is your wife; how are the kids since we have seen them last—I think they should have every opportunity and right to do that.

I have no idea what was discussed in the meeting that the Senator from Arkansas is raising. And so whether or not his question is even applicable to the situation which we are discussing now, I have no idea.

Mr. PRYOR. Mr. President, I do not have any reference, when I asked the question through the Presiding Officer, I have no specific reference to a particular meeting between a Federal judge and two U.S. Senators.

What I would like to assure the Senator from Indiana is that I strongly support the amendment giving this additional sunshine into these particular boards and these meetings. I support that position. I am going to vote for it.

But I just wondered how far the Senator from Indiana wanted to carry this, and how much sunshine the Senator from Indiana wanted to actually penetrate some of these decisions and some of these so-called meetings that affect people's lives.

Mr. COATS. Mr. President, if I could respond to the Senator from Arkansas, clearly when Congress has established an agency or a function of Government that comes within a law that Congress has passed, and that agency is making decisions relative to things which affect Americans, I think we want to uphold the law and not exempt that agency from discussion and debate that affects their lives.

But it is impossible for this Senator to say, well, every meeting between a U.S. Senator and some other representative of Government—for instance, we have a new special prosecutor in the Whitewater case, Kenneth Starr. We go to church together. Now, sometimes after church, we happen to run into each other leaving church.

Is the Senator from Arkansas saying that if I say hello to Mr. Starr on the way out of church, that should be a public meeting, or if he says "How is the family?"—our two sons play Little League baseball together, so we have gotten to know each other on an informal, personal basis—is that meeting supposed to be subject to the open sunshine law?

What if Mr. Starr said, "How about breakfast in the morning?" We both live out in the same area. "How about getting together for bacon and eggs at McDonald's, or a cup of coffee?" Am I supposed to give notice that we are meeting, that the public is invited, and that minutes should be taken of our discussion?

I am not sure what the Senator is referring to.

Mr. PRYOR. Mr. President, I am not sure this argument is really going anywhere, and I will conclude and yield to my friend from Pennsylvania.

But I do think serious questions arise when Members of this body meet with a U.S. Federal District Judge or a member of the court of appeals, or what have you, relative to a matter which might or might not be pending at the moment.

If I might ask the Senator from Indiana one final question along this line; that if the Senator might support maybe an amendment or maybe a clarification of his amendment to include such meetings between U.S. Senators and a Federal judge?

Mr. COATS. Well, Mr. President, I think a good question has been propounded to the Senator from Indiana. I think if the Senator from Arkansas has a concern about meetings between Senators and other Federal officials, that Senator should offer an amendment addressing that concern.

Right now we are dealing with an amendment to the Mitchell health care bill which specifically goes to two agencies, three agencies, actually, that are created in the bill. It is a written provision in this bill that states that those agencies will be exempt from the law.

I think Congress wants to uphold that law in regard to the meetings with Federal agencies that involve the public, particularly when they meet to decide questions that are so personal and go directly to their health. That is the issue before us.

If the Senator from Arkansas wants to address a separate issue relative to whom Senators can meet, when they can meet, under what conditions they can meet, I think that is a subject for lengthy debate. We are going to have to understand what it is exactly the Senator is propounding. Does it include lunch in the Senate dining room? Does it include a casual greeting at church? Does it include a conversation in the dugout at the little league field? Does it include riding on the same plane where you happen to sit next to each other in the seats in the plane?

I am not sure what the Senator is getting at. I do not have any idea why two Senators in the U.S. Senate, what the purpose of meeting with the Federal judge was in the Senate dining room, what they discussed. And so, I guess I am at a loss to respond to the Senator from Arkansas, because I do not know what it is he is asking us to do.

Mr. PRYOR. Mr. President, I would just like to conclude by saying that we will probably never know what was discussed, because it was not in the sunshine, it was not in a public forum, the particular meeting that the Senator brings up.

But with that in mind, Mr. President, I just want to reassure the Senator from Indiana that I support his amendment. I think it is a good amendment. I think there will be a lot of votes for that amendment. I assume it will prevail.

Mr. President, I yield as much time to the Senator from Pennsylvania as the Senator from Pennsylvania so desires.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. WOFFORD], is recognized for as much time as he may consume under the control of the Senator from New York [Mr. MOYNIHAN], or his designee.

Mr. WOFFORD. Mr. President, I, too, am happy to support the amendment of the Senator from Indiana and the Senator from Florida. I think the amendments so far presented and adopted in this body have thrown light on the problem—the preventive care for children and pregnant women amendment; the amendment ending the fine proposed, instead allowing my preference of letting State insurance regulations prevail as the main method for compliance; major steps forward in building on the rural health delivery provisions in the Mitchell bill. These were all good steps.

And I am happy to see that we will have a sunshine provision applying to the agencies in the bill.

It seems to me, Mr. President, that indeed our duty right here in this body is to throw light—I hope it is sunshine—on the problem and on the issues. Because the people certainly have been enduring a fog of confusion that, outside this body, if not within it, has spread over this vital problem of guaranteeing for all Americans the kind of health insurance options in the private health insurance system that we Members of Congress enjoy and benefit from and have arranged for ourselves.

That duty of ours to throw light is made heavier because on this issue, which is so vital to one-seventh of our economy, a study of the whole lobbying and advertising effort by the Annenberg School of Communications at the University of Pennsylvania, has concluded that more money has been spent on the onslaught related to this bill and the President's bill than in the whole Presidential campaign of 1992 for Bush and Clinton combined.

So, indeed, we have a duty to throw light and to cut through the fog of confusion.

And we will need to throw that light on the issues that the Senator from Indiana also moved into about why we need a standard benefits package, not to create one size fits all. It is not to limit people from going beyond what the minimum standard benefits package is. People can do that. No one is proposing taking that away in any form. But it is necessary, among other reasons, to give consumers the kind of protection from lemon policies and dishonest insurance companies, the kind of proper protection that Members of Congress have.

We need basic standard benefits and consumer safety in lots of fields in our life. You can get any size or flavor of baby food, but not baby food that has glass in it. Cars; we can choose any make of car, but it must include safety belts. Kid's pajamas, any size or color. They cannot be a pajama that is going to burst into flames.

And, as to health insurance, we need to see that fee-for-service, HMO, or preferred provider choices are available. But that we do not have the fine print and loopholes that can cut you off just when you need it, which is as bad a crisis to any individual or family as any of the examples I just gave.

So, let us cut through the fog of confusion. Part of the need for sunshine, I believed, when I came to this body 3 years ago, was on what the benefits are that the Congress had arranged for itself. I found, through a friendly letter from the attending physician, that we had free health care through the attending physician, while working families certainly have no such free medical care.

Well, we fixed that. We got rid of the free health care Members used to get from the very fine office of the attending physician that we have. Now we pay an annual fee for that extra service, along with our contribution to the health insurance plan of our choice.

But, apparently, some of our colleagues still do not understand what working families go through; that, in this very period of talk, it is estimated that some 700,000 Americans have lost their health insurance in less than a week and a half, but no Member of Congress has lost his or her health insurance during that period.

Up in Pennsylvania, I have been pressing a very simple proposition, that our duty in this great debate is to see that we extend to all Americans the kind of affordable coverage and choice of private health insurance plan that Members of Congress have arranged for themselves.

Mr. President, I find that that proposition does more to cut through the fog of confusion than all of the complexity that is being used as an excuse for doing nothing. It reminds me of a proposition I put forth in 1991 that the people of Pennsylvania responded to. If under our Constitution you have a right to a lawyer when you are charged with a crime, it is even more important to have a right to see a doctor if you are sick. People exploded with recognition of this self-evident truth. And I am finding today up and down Pennsylvania there is that same kind of igniting of people's reason, leading them to say yes. Leading them to say "Yes, that's right," when I say that it is self-evident that the kind of choice of private health insurance that Members of Congress have should be the model for the kind of choice the American people deserve to have.

Mr. REID. Will the Senator from Pennsylvania yield for a question?

Mr. WOFFORD. I will happily yield to the Senator from Nevada.

Mr. REID. The Senator from Pennsylvania has raised an interesting point.

I ask the Senator if he believes that one reason our health care package has hit such a hard note with the American public is because under our plan, our employer, the taxpayers of the country, pay 72 percent of our premiums? Is that true?

Mr. WOFFORD. That is true. That is the average. That is the average portion, depending on which plan you choose. It is not a one-size-fits-all plan. You may choose a fee-for-service plan that might be a little higher, an HMO plan that might be less, and the proportion of the Federal Government's contribution varies according to that. But the average contribution is 72 percent. For the standard option Blue Cross & Blue Shield, the most popular choice, it is a 75-percent contribution from our employer.

Mr. REID. That is what this Senator has. Would the Senator agree that one reason the American public likes our plan is because it prohibits preexisting condition exclusions?

Mr. WOFFORD. It does.

Mr. REID. Would the Senator agree that is a reason the American public likes our plan?

Mr. WOFFORD. It does.

Mr. REID. Probably——

Mr. WOFFORD. May I read from the plan? This is what I would like the American people to hear because I think they would like it: Coverage without medical examination or restrictions because of age, current health or preexisting medical conditions.

Mr. REID. In fact, would the Senator agree that millions of Americans are envious of our health care plan? Would the Senator agree with that?

Mr. WOFFORD. As they learn about it, as we put some sunshine on the kind of system that we have arranged for ourselves.

Mr. REID. Would the Senator also acknowledge that one reason our plan is so important to us—and I would assume the American public would like it also—is because, as the Senator has so well stated, there is a choice of plans?

Mr. WOFFORD. There is a choice of a whole menu of plans. Do you recall how many you had to choose from?

Mr. REID. So many I could hardly keep track of all of them.

Mr. WOFFORD. My wife tells me it was 25 or 30 different plans, Blue Cross & Blue Shield, Aetna, a whole variety of HMO's.

Mr. REID. Is the Senator also aware that one of the things in Senator MITCHELL's bill that is patterned after what we have, and that is that when people are provided the choice, if this legislation passes, like the Federal plan, there would be comparative information on price and coverage?

Mr. WOFFORD. That is what we all need in order to choose well. And we are given it. In fact, I think the Federal employees plan could do a little better job, but as we begin to think through how to make our system better, and once we have a standard benefits package in this country, I think any agency that is helping to provide choices—whether they are new, voluntary purchasing cooperatives or the Federal Employees Health Benefit Plan open to people—will give more consumer information, therefore more real choice to people, to know how to choose well.

(Mrs. MURRAY assumed the chair.)

Mr. REID. Would the Senator also acknowledge one reason our plan—and I ask the Senator if he would agree—works so well is because it is a community-rated system? That is, no one is discriminated against because they are of childbearing age or they are senior citizens. There is no discrimination as to age or gender. Is that true in the plan that we have?

Mr. WOFFORD. Yes.

Mr. REID. I also ask the Senator—in our plan, it is my understanding that the overhead costs are extremely low. In fact, our plan, which has, including all the rest of the employees, about 9 million employees——

Mr. WOFFORD. And their families; including their families.

Mr. REID. And their families. It is my understanding that plan is administered by fewer than 200 people; is that true?

Mr. WOFFORD. I think the last I heard it was something like 170 employees.

Mr. REID. Yes. So would the Senator agree that for these and many other reasons, the American public is beginning to focus on what we have and what they do not have?

Mr. WOFFORD. As they should be, it seems to me, Senator.

Mr. REID. I would just close by rhetorically stating to the Senator, there has been no Senator in the U.S. Senate who has raised this issue earlier or more loudly than the Senator from Pennsylvania. The Senator from Nevada applauds the outstanding work the Senator has done in trying to bring this out into the open and put some sunshine on it.

Mr. WOFFORD. I appreciate the kind words. In addition to being loud and early, I hope the proposition is clear. And this is the way I would put the question to our colleagues who are saying there should be no such system made available to the American people; that it should not be guaranteed, the kind of guaranteed health insurance we have for the American people, with the employer contributing about three-quarters.

I say to my colleagues on the other side of the aisle, support the plan you live under or live under the plan that you seem to support.

Mr. LEVIN. Will the Senator yield for an additional question?

Mr. WOFFORD. I will yield to the Senator from Michigan.

Mr. LEVIN. Among the many points which have just been made in the conversation between the Senator from Pennsylvania and the Senator from Nevada, there was a reference to a number of private insurance companies. I think that is an important point. I want to make sure we are correct, that the Government plan that was made reference to, the so-called Government plan that we have, is a private insurance plan. We have a whole menu of private insurance that we are offered through a Government plan. But it is not Government-run insurance. Is that correct?

Mr. WOFFORD. The Senator has made a crucial point for people to understand.

Mr. LEVIN. We hear over and over again, Government-run insurance, Government-run health insurance. That is the attack on the Mitchell bill, despite the fact that the Democratic leader has over and over again gotten up and said this is not Government-run insurance. This is private insurance which, hopefully, will be made available to every American the way private insurance is made available to Members of Congress, our families, and all Federal employees.

So I wanted to be sure that point is clear, that the so-called Government insurance that is made available to us is not Government-run insurance. It is made available to us by the Government—mostly at taxpayers' expense—but it is private insurance. All those companies with all those plans that are offered to us on that menu are private insurance.

Mr. WOFFORD. One reason our premiums are reasonable is that, with that big purchasing power of a pool of 9 million people, Madam President, with that big purchasing power, those insurance companies are competing for our business and we have the choice, an opportunity within 31 days from the date of your appointment, to enroll in the health benefits plan with group-rated premiums and benefits, a choice of plans and options so you can get the kind and amount of protection best suited to your personal and family and health needs and finances; guaranteed protection that cannot be canceled by the plan.

Mr. LEVIN. One final question I could perhaps ask and that is the reference in the first paragraph, "An opportunity within 31 days from the date of your appointment to enroll in a health benefits plan." That is a private insurance health benefits plan; is that correct?

Mr. WOFFORD. Yes. The most popular one chosen, as chosen by the Senator from Nevada, is the standard option Blue Cross & Blue Shield plan.

Mr. LEVIN. I thank the Senator.

Mr. WOFFORD. That is what Congress gets. Yet our Republican colleagues are getting hoarse talking about the dangers socialized medicine and a Government bureaucrat telling them what doctor to go to. They do not have Government-run health care that tells them what doctor to go to. They have this range of private health insurance options. Not only the year they enroll, but they have it every year. They can vote with their feet. They can choose and they can make these plans compete for our business, which is one reason, I think, we like this.

Some may have heard that I, myself, as a sign of how serious I am about winning this battle that Harry Truman started for private health insurance, a little while ago sent my first check back to the Treasury of the United States for $306.41, the Government's, my employer's, the taxpayers' contribution to my health insurance. I sent it back and said I am going to continue doing so until we win this battle and the American people have that kind of choice of private health insurance.

I have not seen any volunteers. I challenged my colleagues who will not even discuss, will not consider a rule, even in the year 2001, by which employers are asked to contribute—the way most people with private health insurance in this country today get it. They get it with the help of their employer. I challenge them to practice what they preach. If they do not believe that the American people should have that kind of choice of private health insurance plan, then give it back. Give it back to their employer, the American taxpayer. I will renew that challenge from time to time. So far there are no takers.

I went a little beyond that the other day, and I am serious about this, too. If in this battle—is this the battle of Gettysburg? I come from the State that saw the Civil War battle surge right into our State. I do not know whether this is the battle of Gettysburg. I do not know how far we are in the war. I thought we were further along than we seem to be at this moment and this hour, in that long battle Harry Truman started.

But if we should get blocked this year and this Congress by the naysayers, if we get blocked, I will offer an amendment to disqualify every Member of Congress from participating in the Federal employees benefits plan until we take action so that the American people have that kind of protection and guarantee.

Let me tell you, if we are going to end up having more study, then let us study it while we are on the same playing field as the American people. When they go to sleep at night, they are afraid if there is great restructuring—we had two great corporations announced thousands of new jobs that are being lost in Pennsylvania just this very week. All of those families now have had the fear come to them as a reality that they are one pink slip away from losing their health insurance.

If we are going to study more, if we get blocked in taking action, let us study with that kind of fear over ourselves and that kind of heat below us. Let us be on a level field with the American people. That is why the Mitchell bill, I think, among the many other ways, is reasonable, moderate, good, has responded to the concerns that people have had, has disposed of some of the problems that many of us had, for example, took the mandatory alliances off the field—that horse was taken off the field, even though it continues to be flogged.

What we have is voluntary purchasing groups that give the American people the kind of purchasing power that we, Members of Congress, enjoy. And we have opened up the Federal employees benefits plan to small business and individuals so they can actually buy into the Federal plan if they want to have that as one of their choices.

That is why I say we have it within reach to get private health insurance for the American people, private health insurance the way Congress has arranged for itself.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I wonder if the Senator will yield for a question?

Mr. WOFFORD. I yield to the Senator from Arkansas.

Mr. PRYOR. Madam President, I would like to compliment the distinguished Senator from Pennsylvania on his statement. I hope I have not interrupted him at a bad time. But I first ask the Senator from Pennsylvania if he had the opportunity to hear a speech yesterday by the distinguished majority leader. In my opinion, it was the best political analysis of where we are at this moment on this particular issue. I wonder if the Senator had the opportunity to hear his very fine statement.

Mr. WOFFORD. I did, and I agree with the Senator from Arkansas. As one who has lived, breathed, eaten, stayed up at night on this issue for now 3 years in this body, I think it was the most important, perhaps, single speech in this debate, and I urge every one of my colleagues who missed it to read the majority leader's talk yesterday.

Mr. PRYOR. Madam President, if I might have a few more moments of the Senator's time, I think it is worthy to quote a paragraph or two from Senator MITCHELL's speech of yesterday, if I may have the liberty to do that. And I do quote from Senator MITCHELL's speech as follows:

> So I hope the American people will not be fooled by the rhetoric they are hearing here today. And I hope the American people will also think about the irony of these Republican Senators getting up here day after day after day and denouncing Government health insurance and Government health care as bad for their constituents, even as they benefit from it themselves . . . participates in the Government-run health insurance system that is available to all Federal employees, and the Government pays 72 percent of the cost of that health insurance for these Republican Senators who are standing here and telling their constituents that it is bad for their constituents, even as they participate in it for themselves and for their families.

I am wondering, because the Senator from Pennsylvania had great experience in this whole issue of health care from the time of many years ago—especially highlighted in his campaign, his brilliant campaign, I might say, when he was elected to the Senate—I am wondering if the Senator from Pennsylvania has heard of any of our colleagues on the Republican side, or even the Democratic side of the aisle, canceling their particular Federal Employees Health Benefits Program?

Mr. WOFFORD. Not yet, but let the heat go higher.

Mr. PRYOR. I want to say I think what the Senator from Pennsylvania has done has been very unique in, basically, saying that until we pass something, the Senator from Pennsylvania is not going to participate in it. I admire the Senator from Pennsylvania very much in doing that.

I think yesterday Senator MITCHELL, in his statement, also talked about Walter Reed Hospital, and the Bethesda Naval Hospital. I quote again from Senator MITCHELL's speech:

> If Government health care is so bad, why do these Republican Senators insist on having it for themselves? And then if they get sick, if the doctor says, "You've got to go to the hospital," they go to Bethesda Naval Hospital or the Walter Reed Army Hospital—Government hospitals.
>
> Well, my gosh, ask yourself, Mr. and Mrs. America—

So spake the majority leader yesterday—

> if these Government facilities are so bad, why do these Republican Senators want to go there themselves?

Madam President, I think Senator MITCHELL's speech was a timely speech. It was certainly one, I think, that was timely to the extent it sort of set the record very clear on what we are doing here at this moment on the health care issue. I did not want to take all the time of the distinguished Senator from Pennsylvania. I, at this time, relinquish the floor back to him.

Mrs. BOXER. Will the Senator yield to me for a question?

Mr. WOFFORD. I yield to the Senator from California.

Mrs. BOXER. I just want to thank the Senator for raising this issue. It makes a lot of people uncomfortable around here because they have something for themselves and their families, but they are standing here and basically saying they do not think the American people should have what they have.

It reminds me, when I was growing up—that was a long time ago, I say to my friend—we used to have an expression, a shuck and a jive, and that meant you are kidding somebody. It was like somebody would come over to you, I say to my friend from Pennsylvania, and say, "I live in a beautiful home. It's a large home. It has six bedrooms. It has a swimming pool. It's fully air conditioned. It's fabulous."

And the person says, "Gee, I'd just love to have a place like that."

And the person looks at you and says, "Oh, but there's so much maintenance. It's really rough. If I were you, I'd just stay where you are. You don't really need to live like me because, you know, it may look good on the outside, but on closer inspection it's not so good."

That is a shuck and a jive, because the American dream is to have a home and to have health care and to have a reasonable job, a good education for our kids. When someone tells you, "It's good for me but not for you," you have to start worrying about it.

I think yesterday when the majority leader made that statement which was quoted by my friend from Arkansas, it hit to the nub of it. It hit to the nub of it.

So I ask my friend this question, and I do not like to use the word "hypocrisy" because it is not a nice word, so I will not. But I would say to my friend, does he believe that when a Member of the U.S. Senate stands up here and says that that Senator does not believe the American people deserve to have health care that can never be taken away, health care that is basically a benefits package that is reasonable, one in which the responsibility is shared by the employer, and the irony of it is, these Republican Senators see nothing wrong with the taxpayers paying for their insurance because our boss—our boss—the people of America—they are the taxpayers—and they pay that share, they see nothing wrong with it? I do not know whether they have given it up. I do not think so. Outside of the Senator from Pennsylvania, I have not heard of anyone else.

Does the Senator think that is—not to use the word hypocritical—shall we say, a little suspect? Would the Senator say that a person's motives might be a little suspect or a little bit—I do not want to characterize it in a way that will hurt my friend because that is not the point here—a little disingenuous, perhaps a little disingenuous, when he has good health care for himself and his family, he sees nothing wrong with taking it, his employer pays for it, and yet he does not want to have that for the people in his State? Does the Senator see something a little disingenuous with that?

Mr. STEVENS. Madam President, will the Senator yield?

Mrs. BOXER. I ask that question to my friend from Pennsylvania, who has raised this issue.

Mr. WOFFORD. May I respond first, if the Senator from Alaska will wait for a moment.

I agree with the Senator's characterization. I also appreciate how she told me that she was uncomfortable, she told us how she was uncomfortable having this guaranteed health insurance even more so since her spouse also has health insurance.

Madam President, that is one of the facts of life at this very moment that all of us should ponder. Those spouses of employees in Pennsylvania who just lost their jobs this week, they are going into the job centers that I used to run, the unemployment offices, they are going into those offices and I know what will happen if I visit them in those offices. I have been doing it the last 6, 7 years.

I ask people in the front row of the unemployment office waiting to apply for unemployment compensation, "Do you have health insurance?" And usually 7 or 8 out of 10 say "No." And they are scared. The other two or three have spouses working somewhere else where their employer contributes to their health insurance. And that is the roll of the dice—7 or 8 out of 10 when they lose their job lose their health insurance.

I think, as we move forward in this debate, we should remember that every day as we talk, more Americans fall into that gap, into that hole.

I see my frequent TV debating partner, Senator GRAMM, is on the floor, and I know he now or soon in these days will tell us more about the horrors of Government-run medicine. But he looks well to me. He is fine on the stump, in our debates, without any noticeable ill effects of his Government-provided plan with Blue Cross/Blue Shield through the Federal Employees Health Benefits Plan.

Mr. STEVENS. Will the Senator yield?

Mr. WOFFORD. The Senator from Alaska.

Mr. STEVENS. Madam President, I hear the Senator say quite often that Members of Congress have something different from other people. I am sure he is aware of the massive plans that are out there for employees living in Pennsylvania, for instance, of United States Steel, the major industries. Their plans are much better than that for the Federal employees. As a matter of fact, they are much better than that for Members of Congress.

I wonder if the Senator knows that Members of Congress pay an additional premium for their health insurance. Right down here at the Capitol Physician's Office, we pay an additional premium of almost $1,000, I think it is between $600 and $1,000—it depends on how it is established each year—in addition to the premiums we pay for Federal Employees Health Benefits. We pay more than any other Federal employee. Does the Senator know that? We pay more than any other Federal employee for health insurance coverage. Does the Senator know that?

Mr. WOFFORD. Does the Senator from Alaska recall that before this Senator came into this body, the Senators and Members of Congress got that service from the attending physician free? I put a motion before this body to see that we paid the fair market price of that extra service, and action was taken on that after I had about 30 cosponsors of my amendment.

So I do, indeed, recall that, one, Congress for decades had that additional free health care; and, second, that now Congress pays that extra fee. But I am talking about now—

Mr. STEVENS. Madam President, I wonder if the Senator will yield again. Even before the Senator's initiative, the health insurance coverage that we had as Government employees paid a portion of the cost at the Capitol Physician's Office, at Walter Reed, and at Bethesda. Those were not free. They were paid for as employees of the Federal Government.

The Senator is correct that we now pay an additional amount for the special emergency services down here. But if the Senator goes down and has a blood test, if he goes down and has an x ray, those are repaid by the health insurance and have been for many years.

I keep hearing the Senator say that somehow or other, Members of Congress are different from other people in this country. We have a plan that is quite similar to the larger employers' plans. It is less beneficial than the employees of United States Steel, the big union companies of the automobile industry; the massive plans of this country are not as beneficial to the employees of the Federal Government as this plan is, and Members of Congress are treated no differently from any other employee in the Federal Government.

Why does the Senator from Pennsylvania mix that with Members of Congress? Why does the Senator not put up the benefits of all Federal employees?

Mr. WOFFORD. If the Senator will yield——

Mr. KENNEDY. Regular order.

Mr. STEVENS. Postal employees go beyond that, far beyond that.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. WOFFORD. The Senator is, in my humble opinion, taking my points both too personally and falsely. I am in no way saying that the Federal Employees Benefits Health Plan is a bad plan. I am in no way saying it is the best plan. The State employees plan in Pennsylvania, of which I once was part, is somewhat better than the Federal employees plan.

That is not my point at all. I am very pleased that there are 9 million Americans, Federal employees and their families, who have these benefits, who have a guaranteed private health insurance choice that cannot be taken away, with their employer contributing approximately three-fourths.

The point is, let us do it for the American people. And my point to the Senator is, if he supports this kind of plan, then make it available to the American people. And if the Senator opposes making this available to the American people, making this a model of what the American people can have, then live under the system he supports, which is not making it available to the American people. Do not ask our taxpayers, our employer, to pay for our health insurance unless we establish this principle for the American people.

Mr. STEVENS. Madam President, I hope that the Senator was listening to me this morning. I tried to point out in conversation with the Senator from Massachusetts that the system we have is a model system. There is no question about that. I am sure the public knows that this is a model system. It is a plan that ought to be followed for other people in the country. We ought to find a way to extend it.

I invite the Senator's attention to the Heritage Foundation proposal of 2 years ago. It would have done just that. I do not see any Member on the other side of the aisle endorsing the Heritage Foundation plan. Instead, they are trying to tell the American people to come join this plan that we have for Federal employees. But Senators do not take the time to tell the American people that by 2005, you will destroy that plan. You have enlarged it out to the point where it is no longer a plan. But you have offered the Federal employees supplemental benefits beyond this plan after 2005.

There is a promise in the Mitchell bill to negotiate supplemental benefits. Why do you not tell the American people that as soon as they join this plan, you are going to give Federal employees supplemental benefits beyond the plan? That is what the Mitchell bill says. It is duplicitous for us to try to present to the American people the health benefits of Congress, what Congress gets. Congress does not get any benefits. We get benefits as Federal employees. There is no congressional plan. There is no congressional plan.

Mr. WOFFORD addressed the Chair.

Mr. STEVENS. I belong to the Treasury Department plan.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. WOFFORD. Madam President, me thinks the Senator protests too much.

Mr. STEVENS. Not if he answers the questions, I will not.

Mr. WOFFORD. I—and more importantly, the majority leader, in his bill—am not saying this is the cure-all that every American will be part of. We do open it to a lot of Americans as a choice. But the main choice that is new, in my opinion, is the voluntary purchasing cooperative, not the mandatory alliance but the purchasing groups that on smaller scales in communities will be one of the choices people will have through which they can get private health insurance at reasonable rates the way we have arranged for ourselves.

Mrs. BOXER. Will the Senator yield? Madam President, will the Senator yield to me?

The PRESIDING OFFICER. Will the Senator from Pennsylvania yield?

Mr. WOFFORD. I yield to the Senator from California.

Mrs. BOXER. I thank the Senator for yielding to me. I want to really thank the Senator. We have hit a sore spot today—I think that is good—because what it really comes down to is a very simple point.

People get up here on the floor, and they talk about sunshine and opening up the commissions. I am with you on that. I am for sunshine. But what I am really for in addition to the sunshine, what is to the main point, is that the American people have a chance to have what every single Member of Congress has—health care that can never be taken away; a nice package, so nice, that not one Republican who opposes giving that to the people of America has ever given it up, according to the Senator from Pennsylvania and according to the Senator from Arkansas.

My question to the Senator is this, and my last question to the Senator, so that this debate will be understood. That question to the Senator is this: Is it not so that under the Mitchell plan we are amending and debating, the Federal Employees Health Benefits Program will be opened up on a voluntary basis to all Americans who at this time have no access to such a good plan? Am I correct on that?

Mr. WOFFORD. The Senator is correct.

Madam President, I know that Senator MACK from the Sunshine State of Florida has been wanting to talk about his amendment for some time, or Senator GRAMM, whoever it may be. But I appreciate Senator MACK a little earlier saying he is agreeable to my going forward on this.

I just want to say a last word about sunshine; for the moment, just a last word. When I think of sunshine, I think of something that is warm, and constructive, that is trying to make things grow. It is not just harsh light. It is the warmth that you get from the sun. I realize there is a certain heat, a sore point that the Senator from California said we were touching that produced the heat from the Senator from Alaska.

But what I recommend, I beg of ourselves, is that we recall the first great Republican, Abraham Lincoln, who asked us and who did everything in his power to show how you tap the better angels of our nature.

As we talk about sunshine, let us somehow recognize that the spirit of destruction of saying no, the negative case is, of course, the easy case. The hard thing to do is to build and to come together, and reach beyond party lines. We have a historic chance to do that in these next days. Let us raise our sights to that standard.

Mr. PACKWOOD. Madam President, I listened to the debates on amendments and how the amendments changed the bill all the time, and that when we offer amendments there are mistakes. I am reminded of little kids with a dead body where the kids kept changing the clothes, but the body was still dead. The Clinton-Mitchell bill is that body. It is dead. We can change the clothes on it all we want. It is still dead.

I yield 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank our colleague from Oregon.

I want to remind my colleagues, especially those on the Democratic side of the aisle, that we do not have health insurance that is always there. After the votes are counted in November and many of your colleagues are back in their State working for a living, they could lose their Government health insurance. They do not automatically get to take it with them.

Let me also say I am going to take my Democratic colleagues seriously on this issue when they offer an amendment stripping away these insurance benefits. When they offer an amendment taking these benefits away from Government employees, including Members of Congress, I am going to view this tactic as something other than a PR stunt that was discovered after spending $2 million on focus groups. The pollsters posed the question, when the American people disagree with us on the total substance of the President's health care proposal, what can we say that they would agree with? That is where this element of the debate came from.

I am not going to spend my 10 minutes trying to convince the American people that everything they just heard about choice is not true. The American people already know it is not true. One of the wonderful things about the health care debate is that the President and our dear Democratic colleagues have grossly underestimated the ability of the American people to understand.

Let me just say in simple English in about a minute why everything that I have heard about these great choices and about this so-called freedom of choice is simply not true.

The Mitchell bill by law tells you what your health insurance has to cover. If you are a widow in Arkansas, 64 years of age, you are going to have to pay for prenatal care and for immunization benefits for children who you do not have. If you do not drink, and if you are a teetotaler and you had never touched drugs, nonetheless you are going to have to pay for alcohol and drug rehabilitation services that will drive up your premium by 12 percent, and you are going to have to do that because the Government is going to make you have it.

But on the other hand, if you now have a particular benefit that you like, say a pharmaceutical benefit, or perhaps coverage for orthodontist services in your policy that you and your employees picked because you wanted it for your families, there could be as much as a 66-percent tax placed by the Mitchell bill on that benefit.

The Mitchell bill's proponents will say, "Well, you can keep it. You just have to pay the 66-percent tax." Well, other than my family and my dog, I do not have an asset that is valuable enough to me that I could afford to pay a 66-percent tax to keep. On either my family or my dog, I would pay that tax to keep them. But I would not do it for my truck. And most Americans would not be able to afford it.

If that is freedom of choice, you have it under their plan. There is only one problem that our colleagues on the left hand side of the aisle have, and that is that the American people have broken this code. Where are we in this debate? Basically where we are is that the Mitchell bill is deader than Elvis. If we had a vote on the Mitchell bill today, it probably would not get 35 votes.

The House is getting ready to adjourn on Saturday, and they are not coming back until after Labor Day. The question is what should we do?

I want to make a proposal. First of all, I want to let my colleagues know something that I assume most of them already know. But I would suggest they go back to their office and check on it.

First, we all get a lot of mail. Senator KENNEDY and I go back and forth as to who gets the most mail in the Senate from one month to another. Maybe all the right-thinking people write me and the wrong-thinking people write him. I do not know what kind of message he is getting. But we get a lot of mail. Yesterday, I got over 3,500 letters, and that is a new record for me.

Yesterday, 1,005 people called my office in calls that were completed, and they said to me, "Kill the Mitchell-Clinton bill." Most of them said it in a more emphatic way, the way we talk in Texas. But I am not going to say that here. And 133 said pass the Mitchell bill.

I also got calls about this so-called crime bill that will let 10,000 drug felons out of jail early. Seven-hundred and sixty-two people said do not pass that bill, and 68 people said pass it.

The House is getting ready to go home, and here is what the chairman of the Health Subcommittee of the Ways and Means Committee in the House said about that. He said, "I have said repeatedly the one thing leadership does not have to give away is time," said Representative PETE STARK of California, chairman of the Ways and Means Subcommittee on Health. "Members go home for 2 weeks. It gives people a lot of time to complain," he said.

Obviously, there are a lot of people around here who are scared to death that, if they go back home to the source of political power in America, if they listen to the people who do the work, pay the taxes, and pull the wagon in the country, that this health bill is dead.

I submit that come Saturday when the House leaves, it is only a matter of a day or two until we too are going to go back home.

When we go back home, all these people who are calling your offices are going to be able to tell you how they feel. I believe that it is time to go back and listen to the voice of America. We have a so-called mainstream group of Democrats and Republicans who have been working on a health care reform plan. I do not know the details of their plan. But I know two things about it that tell me that when they are talking about mainstream, they are talking about mainstream Washington. They are not talking about mainstream America.

Their first idea is to have the Government tell us what kind of insurance we have to have and what it has to include. Their second idea is to impose a 25-percent tax on those who dare to buy insurance that is beyond what the Government says they ought to have.

I submit that this so-called mainstream group is out of touch with mainstream America. We can fix that by having Congress admit that the Mitchell-Clinton bill is dead. We can do it by stopping carrying around this corpse, changing its clothes, putting more powder on its face, and, instead, admit that the American people have rejected this bill.

Let us go back home, listen to the people, come back in September and see if we can sit down and write a bill that has broad, bipartisan support.

Mr. DASCHLE. Will the Senator yield for a question?

Mr. GRAMM. I have only 10 minutes, and I have listened for hours as my colleagues have gone on.

Let me tell you why I believe the Mitchell bill is dead. Listen to these numbers and see if this does not stun you—even for Washington, DC.

The purpose of the Clinton health care plan was to do something about the fact that 14.1 percent of the GNP of the United States is spent on health care. The President, the First Lady, everybody at the White House, and most Democratic Members of Congress have said: My goodness, this has to be stopped, it is killing the country, bankrupting the Nation.

So CBO looks at the Mitchell-Clinton bill and what does CBO say? They say, sure enough, you have done something. Within 10 years, under your bill, we will not be spending 14.1 percent of GNP on health care; we will be spending 21 percent of GNP on health care. Is that a solution? Is that solving the problem?

Listen to this as an example of Government work. There is a great problem in that 37.3 million people last year, on at least one day, did not have private health insurance. About 75 percent of those people changed jobs. So if we made insurance portable, we would solve a big problem. How does the Clinton-Mitchell bill fix this problem? To try to help 37.3 million people get insurance, the Clinton-Mitchell bill provides subsidies to 100.3 million people to try to help the 37.3 million people who do not have insurance. Their bill provides subsidies to over 100 million people. But guess what? The subsidies are so poorly targeted, that they still leave 13.3 million people uninsured. So you begin with a problem of 37 million people without insurance. You subsidize 100 million people, and yet you do not solve the problem of 13.3 million. Does this bill deserve to be saved? Should we not put this bill out of its misery and let it die a quiet death, in dignity and privacy?

Mr. PRYOR. Will the Senator yield? I would like to yield the distinguished Senator 3 additional minutes so that he might have the opportunity to answer some questions from our side.

Mr. GRAMM. If I may have the 3½ minutes, I would be happy to yield.

Mr. PRYOR. I will yield if you will answer some questions.

Mr. GRAMM. I will certainly yield for a question.

Mr. PRYOR. I yield 3 minutes more to the Senator.

Mr. DASCHLE. I thank the Senator. The Senator said it is imperative that this body support the will of the people. A poll came out this morning that indicated 77 percent of the American people support an assault weapons ban.

I would ask the Senator from Texas whether he supports an assault weapons ban using the criteria he laid out, the criteria by which he maintained we should determine our support for legislation.

Mr. GRAMM. I am looking for the same poll. Let me say that when you ask the American people if they would rather have the anticrime alternative I offered, which was 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging it, life imprisonment for killing somebody, and the death penalty in aggravated cases, by a substantial margin the American people prefer that option over gun control.

Mr. DASCHLE. The Senator did not answer the question. The question was: Do you support what 77 percent of the people said in this morning's poll that they support? Is the Senator prepared to vote according to the will of the people?

Mr. GRAMM. If I can reclaim my time, I control the floor.

Mr. DASCHLE. It is my time.

Mr. GRAMM. If I might reclaim my time, my response is that I offered an alternative that is more strongly supported by the American people, that is a better, more effective alternative. I do not believe gun control works.

If you do not give the American people criminal control, out of frustration they say, "Let us blame guns." But if you are willing to grab violent criminals by the throat and not let them go, to get a better grip, something I am eager and willing to do, then the American people respond very strongly to it.

I would have to say, Madam President, that the American people get very frustrated when they are told they have a tough crime bill, and it turns out that it has $8 billion of unadulterated pork in it, and it has a provision that overturns mandatory minimum sentencing, so that possibly 10,000 drug felons, who are in prison today for drug trafficking, will end up being let out of prison by this bill.

So my response is that there is a better alternative that is more strongly supported by the American people. I say to my colleague, also, that if he will look at the poll this morning in the newspaper U.S.A. Today—and I hope they will note I mentioned their name—they will see the American people do not support this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I yield Senator LEVIN 5 minutes.

Mr. LEVIN. Madam President, I think we have hit a sensitive nerve this afternoon on this Federal employees insurance. I noticed that sensitive nerve ending both by the response of the Senator from Alaska and the nonresponse from the Senator from Texas.

It is not just us, it is 9 million Federal employees and their families who have this insurance. If it is good enough for us, why is it not good enough for the rest of the people of America? Is it the best plan in America? No, there are some better. Yes, there are some companies that offer even better plans than this. That is not the issue.

We voted this for ourselves and 9 million Federal employees. The American people are entitled to an answer. If we voted it in for ourselves and the 9 million Federal employees and their families, why will we not provide them the same protection? That is the question they are asking.

There can be a lot of give and take as to what is good and what is bad. But one thing is real clear, and that is this green booklet. This is available to every American. Ask your Member of Congress for a copy. Call up the office of your Member of Congress and say, "I would like to take a look at that plan that you folks have provided for Federal employees and yourselves." It is a green book, called Supplement 890–1. In that book, on page 4, it says that we are guaranteed "protection that can't be canceled by the plan." Listen to this one.

Mr. DASCHLE. If the Senator will yield. You mentioned a point raised by the Senator from Texas about what happens when a Senator retires or is defeated in an election. I believe the Senator misspoke.

The fact of the matter is that if you serve in the body for 5 years and are eligible for Federal retirement benefits, you are entitled to maintain your FEHBP coverage. That coverage can never be taken away. Does that not make it similar to what the majority leader is proposing in his bill?

Mr. LEVIN. It is not only true for current Federal employees; it also provides it for former Members of Congress, which is the point of my friend. This is obviously now a very sensitive question with the opponents of health care. They are not about to answer this question. Why, if we provide it to 9 million Federal employees, including ourselves, should we not take the steps within our power to make it available to the people who pay our salary, the taxpayers of this country, the ones who pay three-quarters of our premium?

There is another provision in here, too. This is page 4. This green book is available to everybody. Go into your Member of Congress' office. Give him a call. Ask him to read the booklet. Page 4:

> Coverage without restrictions because of age, current health or preexisting medical condition. No Federal employee can be denied health care because of a preexisting medical condition.

It is right here in the book. If we hire someone on our staff back in our home State or here in Washington, that person could have diabetes, could have a heart condition, could have skin cancer. That person is entitled to health coverage.

Some of us are trying to provide that kind of assurance to every American. Hey, we provide it to ourselves and 9 million Federal employees and their families. Why is it not good enough for every American family? The answer is it is. They are paying our salaries. They are paying three-quarters of our health care. They ought to have the same opportunity as every Federal employee has.

Mrs. BOXER. Madam President, will the Senator yield for a question?

Mr. LEVIN. I am happy to yield for a question.

Mrs. BOXER. I thank the Senator.

I want to just underscore the point that was made by the Senator from South Dakota. The distinguished Senator from Texas, who has been a real critic of the Mitchell bill, said it was as dead as Elvis, although you never know with Elvis. Elvis does pop up now and then. To make that kind of remark about a bill that we are amending on the floor, and then to make a misstatement that if the voters knock us out of here we do not have insurance, let me say to make sure that—

The PRESIDING OFFICER. The time yielded to the Senator from Michigan has expired.

Mrs. BOXER. Madam President, I ask unanimous consent that the Senator be given an additional 2 minutes.

Mr. PACKWOOD. On whose time?

The PRESIDING OFFICER. Does the Senator from Arkansas yield?

Mr. PRYOR. If the Senator from Oregon will allow this, we yield 2 additional minutes from this time.

Mr. PACKWOOD. That is fine.

Mrs. BOXER. I thank the Senator from Oregon for his generosity.

I say to the Senator from Michigan we had a Senator on the other side who has been a leading critic of the Mitchell bill. He declared it dead and he said on the floor of this Senate that if the voters kick us out we lose our health insurance.

The Senator from Texas, who made that statement, has been around a long time in Congress. As a matter of fact, I remember when he used to be a Democrat, and I served over on the House side.

He has his health insurance. If the voters were to knock him out or knock me out—they have that chance—the truth is we would have health insurance that could not be taken away because we have been here in excess of 5 years.

So I say to my friend from Michigan, just by way of underscoring his point, if it is good enough for us, should it not be good enough for Mr. and Mrs. America.

Mr. LEVIN. I thank my friend from California.

Mr. KENNEDY. Madam President, will the Senator yield for one final question?

Mr. LEVIN. Could I quickly respond to that question, first?

The PRESIDING OFFICER. The Senator has 50 seconds.

Mr. LEVIN. I have 50 seconds to respond.

The quick answer to that question is all Americans should have the same opportunity that we do for health care. That is what some of us are trying to achieve. It is not right that we have access to health care which is not available to all Americans, that we can obtain health insurance despite any preexisting condition, but other Americans do not have that opportunity.

I would be happy to yield to my friend from Massachusetts.

Mr. KENNEDY. Just a final question, and I ask the Senator from South Dakota the same question.

Does he know of any job in America where after you have worked for that period of time, up to 5 years, and then you retire that you are guaranteed health insurance for the rest of your life effectively? Do you not think that ought to be of interest to some Americans as well?

The PRESIDING OFFICER. The time has expired.

Mr. KENNEDY. Could I have a minute to let him respond?

Mr. PRYOR. I yield one additional minute to the Senator.

Mr. DASCHLE. Madam President, the answer to the question from the Senator from Massachusetts is "no." In fact, it is often just the reverse. I know so many occasions where people lose their health benefits when they are laid off or retire from their factory or their office job. They are no longer insured. They have limited access to care. They have no confidence that their insurance will be continued. It does not matter whether they are sick, whether they are healthy, whether they are rich or poor. They may lose their coverage.

It is really ironic, Madam President, that this body on so many occasions exempts itself from laws that we insist the rest of America comply with, but on health care it is just the reverse. We are prepared to accept benefits that we are not willing to share with the rest of the country. That ironic twist is something we do not talk enough about.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. PACKWOOD. Madam President, I yield such time as the Senator from Florida requires.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Madam President, I can understand why the discussion is not on the issue of my amendment. Frankly, I would suggest that this is probably somewhat embarrassing to those who have endorsed the Clinton-Mitchell proposal. There might be those who feel that the discussion of meetings in secrecy somehow might be a silly idea. But I believe there is something very significant about a health care proposal which we claim is basically Government dominated, and Government controlled. We think the point that a couple of the major commissions that have been established under this bill will be able to carry out their work in secrecy is wrong.

There may be those who want to say they did not know this was in the bill. Or they might say I certainly would not have supported that concept if I knew it was in there.

But the reality is these boards, and two I am going to specifically talk about are exempt from having their meetings held in public. One of the demands we place on Government because of the freedoms we enjoy is the right to participate in actions taken by the Government which affect our daily lives. Our constituents can write us. They can call our offices, they can meet with us. They can attend hearings. They can read proceedings of the Senate in the CONGRESSIONAL RECORD. They are watching us in this historic Chamber today.

But when it comes to health care, these freedoms are slowly being eroded by the Clinton-Mitchell legislation. This bill expressly grants secrecy to boards and commissions which will be making life or death decisions affecting ourselves and our families.

The amendment we offer today restores some of the freedoms which have been taken away from the American people in the Clinton-Mitchell bill.

Our amendment requires that all boards and commissions established under this bill must operate in the sunshine. It is not surprising, however, that secrecy has made its way into this bill. It began in secrecy at the White House with minutes and notes of meetings pried out only through court action.

This bill has also been crafted in secrecy. Secrecy in Government is not the American way. Secrecy in Government has led to all sorts of abuses and denial of freedom in other lands. We must keep our system of Government open and accountable to the citizens of our country for public inspection and scrutiny.

It is simply wrong that this legislation has in it so many elements of secrecy.

The Clinton-Mitchell bill states that the Federal Advisory Committee Act shall not apply to the national health benefits board, the national health care cost and coverage commission, and the agency for health care policy and research. In addition, panels created by the agency for health care policy and research are exempted from the Government in the Sunshine Act.

Let me try to put this into some perspective. This chart shows the requirements under the Federal Advisory Committee Act. It says that these meetings should be meetings in public, published notice of meetings in the Federal Register, let public know of the agenda for those meetings. The act requires boards to permit persons to obtain transcripts, appear and testify or file statements, make a record, minutes, working papers, drafts, et cetera, available, keep detailed minutes, permit citizens to purchase manuscripts and transcripts, keep adequate financial records. The act also requires there should be a 2-year time period for the boards and commissions.

That is the requirement for most Federal agency meetings. But for one reason or another, these two boards, the national health benefits board and the national health care cost and coverage commission, are exempted from those requirements.

I want people to think about that for a moment because these two boards have a potentially significant impact on the lives of our friends, families and loved ones.

The national health benefits board will meet at least four times per year. It define benefits. It will develop cost sharing schedules, address parity of mental illness and substance abuse service, decide what is medically appropriate and necessary, promulgate regulations or guidelines to clarify items and services covered, and submit to Congress an implementing bill with fast-track authority.

Keep in mind that it is going to go on behind closed doors in secrecy, with no way for the public to have input on probably what is the most significant piece of this legislation, the determination of the benefits that will be in policies.

Let me once again put this on a personal basis.

Several years ago, my wife Priscilla told me she had discovered a lump in her breast. It was cancer. But, fortunately for her, it was discovered early. She is alive today, frankly, because of that early discovery.

This benefit board is going to make the determination as to whether women are going to receive mammograms at the age of 50 and above, or whether it will be 40 and above.

Mr. President, I have been active on this issue with respect to breast cancer. I have attended meetings where there were discussions as to whether the scientific data really does question whether it should be 50 or whether it should be 40. And there is one tremendous debate that is going on.

But the thought occurs to me that allowing this board, behind closed doors and without input, is, in fact, a tragedy. It is an outrage.

Now, my friends on the other side of the aisle do not want to focus on this, and I can understand why. But this is a significant issue. The key term is "medically appropriate and necessary." How that board comes to a conclusion on almost every single medical procedure available to us in this country will affect each one of us personally, our moms and dads, our brothers and sisters, our grandchildren. And it is going to be done behind closed doors?

Let me make another point. This same board, under "medically appropriate and necessary," will promulgate regulations and/or guidelines to clarify items and services covered.

A couple of days ago, I talked about a British citizen that had gone to a generalist and was referred to a specialist in England, and received a letter from the governing board indicating to him that it would be 2 years before he would be able to get an appointment with that specialist. My point is, in that same country, under these kinds of terms and with a similar board, they have decided—at least it used to be—they have decided if you are 55 years of age or older, kidney dialysis is not available to you.

I do not think those kinds of decisions should be made by a seven-member board behind closed doors. I think it is fundamentally wrong. I think people want to have confidence in their Government, confidence in their health care system. They want to have the ability to have input. It is that straightforward and that simple.

Now, let me address this other commission, the National Health Care Cost and Coverage Commission. I know some people might say, "Well, gee, I do not know, that is really one that is too important to focus on. After all, is the National Health Benefits Board not the key concern?"

It is the key concern. There is no question about that.

But I think it is important, as well. Because there are several things that this coverage commission is empowered to do. "Determine if our Nation and each State has achieved 95 percent coverage." And then, "Develop legislation to achieve 95 percent coverage."

That legislation comes to us under fast track, and we lose our ability to effect that legislation. I do not think that a board of this kind, dealing with that kind of significant legislation, should do it behind closed doors.

Mr. President, I suggest that when this does come to a vote, I imagine that most of my colleagues will agree with me. And I am happy that they will, because a health care plan, whatever kind of health care plan makes it through the Senate, the House, and eventually becomes law, should not have as one of its basic tenets, secrecy. The people of America demand that they have a right to express their concerns. They want to be able to say more specifically what kind of health care coverage and what kind of medical procedures may be available to them.

I was driven to offer this amendment because of personal reasons.

I go back to the point I made a minute ago. I think it is important that the people of our country have confidence, not only in the process, but in the people who make these kinds of delicate decisions. And I suspect that every Member of the Senate and most people who are hearing this debate have found themselves in positions where they have had to make some very difficult and tough decisions about the kind of health care for their loved ones to receive.

Those decisions are being taken away from them. Those decisions are going to be made by these kinds of boards. These boards are going to determine what is "medically appropriate and necessary."

No longer will that precious relationship that exists between the doctor and patient be the same if legislation like this is passed. Boards, acting behind closed doors, in the darkness of night, will decide what benefits you and your family will receive.

Again, it is much more than just benefits. What we are talking about is specific medical procedures. They are going to decide what drug, for example, might be available. They are going to decide what kind of operating procedure might be available. And, under this legislation, you and I, as average Americans, will not have one opportunity to input the outcome of that decision.

That is wrong and I think the American people reject it out of hand.

I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). Who yields time?

Mr. PRYOR. Mr. President, I yield such time as the Senator from South Dakota may desire.

Mr. DASCHLE. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I had the opportunity to clarify the statement made by the Senator from Texas a couple of minutes ago with regard to what happens when a Member of the Senate exits the Senate. The answer is that a Senator is entitled to the same benefits beyond the time he or she may serve in the Senate, for 18 months, and then he or she may convert their group policy to an individual policy, through the same insurance company. This is an important point.

Can we be consistent? Can we say, if it is good enough for us, it ought to be good enough for them? The question is not whether we have a government program or a private program. We can argue about the merits of either, and no one has done that more eloquently, as the Senator from Arkansas has stated, than Senator MITCHELL. The majority leader has said over and over again, we can call this a horse if we want to, and we can continue to refer to it as a horse, but it is a desk, regardless of how many times we say it is a horse. We can call the health system under Senator MITCHELL's bill a government program, but the bottom line is what we are trying to do for the American people is what we have already done for ourselves. We are simply trying to extend the Federal employees health benefits plan, a plan that 9 million Americans use as employees of the Federal Government, to all Americans. Is that a government plan or is it a private plan?

We have made reference several times today to a speech made by the majority leader. I had the good fortune to hear another speech Monday evening, August 15, given by one of the real students of health care in the Senate, our colleague from Minnesota, Senator DURENBERGER. I doubt that he would mind if I read what he said that night:

> If we cannot understand the difference between the Federal Employee Health Benefit Plan and a Government-run program like Medicare and Medicaid, I, for one, am going to spend a lot of time here educating my colleagues, and I do not want to have anyone call it a filibuster. The Federal Employee Health Benefit Plan or plans, if you will, are a series of health plans which all of us have the opportunity to buy. But they are all private plans everybody in this community can buy, if they have an employer who provides it to them, or they can buy it in the open market. There are Blue Cross-Blue Shield plans in that, and I think there is a Kaiser plan in this community. But they are private plans.
>
> What they do is ensure all of us access to the doctors, hospitals and so forth that we need in this area, Washington, DC, northern Virginia, Maryland, and so forth. But it is basically a private plan.

That is what our colleague from Minnesota said about what we have as Members of the Senate. It has been described on so many occasions as a government plan, but as he, the majority leader and so many others have so ably stated again this afternoon, what we want to do is simply provide the American people with the opportunity to have what we have; to give them the same access we have; to give them the confidence we have that when you lose your job or when you retire, you have the ability to cover yourself and your family. We have the confidence in knowing that if we get sick, we are still going to have the same coverage we have right now.

I do not know that we can do any better than that. We have the luxury of knowing that we have a standardized plan that precludes preexisting condition exclusions or limitations, that precludes the fine print, that precludes a lot of the surprises that one finds in so many of the plans most Americans have today. We have an ability to go about our work, to do the best job we can as U.S. Senators, knowing we are well covered. There are no surprises in our policies. When we most rely upon the FEHB, we know it is there for us.

I hope we can recognize that there is a substantial degree of misinformation in this debate. It is crucial that we recognize the importance of portability, the elimination of preexisting condition exclusions and fine print, and the extension of benefits regardless of one's employment status—that is all we are saying we want. We can categorize that as a government plan if we want to, but that does not change the facts. The fact is, very simply, that Members of Congress have a good system. If it is good enough for us, it ought to be good enough for all Americans.

I do not know how many speeches I have heard on the floor over the last many years about why it is we ought to exempt ourselves from this or that law. Some of us are now arguing just the reverse. We have something many Americans do not have, and the question is, should we extend what we have to them? I believe that really is the essence of this debate.

Mr. WELLSTONE. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I will ask the Senator a question. I followed the debate from my office. This point came up some yesterday. I know we are going to come back to this in the debate.

In the Federal employees benefit package there are a variety of different, if you will, benefit packages but in each and every one of them, you have a list of what is covered. In other words, you have a standard basic benefit package, and there are a number of them that you choose from.

But would the Senator agree with me that the differences have to do with copays or deductibles, but it is not a situation where people can say, "Listen, I am not a woman expecting a child." We went through this with the amendment of the Senator from Connecticut, Senator DODD. Or, "I am not a spouse or woman expecting a child or I do not struggle with mental illness or I do not know anybody who does; I do not come from an underserved community, I am not interested in public health."—and therefore you can say, "I want nothing to do with that."

Is it not true that in each one of these plans you have a standard package, the idea being we are all in this together? Is that not a part of what makes this insurance work?

Mr. DASCHLE. The Senator is absolutely right. He was a participant in the debate yesterday when we discussed that issue. What we do not want to do is protect the fine print. What we do not want to do is allow practices utilized by some insurance companies, in which they surprise policyholders at the moment when they are most vulnerable. We do not have to worry about that as Federal employees. One ought not to have to worry about that under any circumstances in this country. But people do worry. There are so many tricks, there are so many gimmicks, there are so many ways insurance companies are able to get around their responsibilities even if someone has paid tens of thousands of dollars over the years to ensure protection for themselves and their families. They may not know their policy has a lifetime limit. They may not know their policy has a preexisting condition clause. They may not know their policy has many different categories of exceptions that sometimes get buried in the fine print on page 77 of their insurance plan.

That is really what we are trying to address here. We are trying to standardize plans to keep the surprises out of insurance. We have that security. All Americans ought to have that same confidence. I appreciate the point the Senator from Minnesota made.

Mr. WELLSTONE. If the Senator will yield? Let me just ask a couple of other questions because this will go to an amendment I will introduce on the floor soon.

Is it not true—we have had this debate about universal coverage—each Senator or Representative is covered and in a sense it is universal coverage? We do not have 90 or 95 percent; all of us are covered?

Mr. DASCHLE. All of us are covered, all our families are covered, everyone who serves in the U.S. Senate is completely covered.

Mr. WELLSTONE. Then, finally, is it not also true that there are no preexisting condition?

Mr. DASCHLE. The Senator is correct. There are no "preexisting condition exclusions or restrictions allowed." In fact, these kinds of exclusions are specifically prohibited under FEHBP.

Every insurance plan that contracts with the FEHBP has to meet certain conditions. It has to be willing to accept certain criteria if it is sold through FEHBP. That is exactly what we are trying do here. We are trying to require insurers to say, "We are not going to have preexisting condition exclusions, we are not going to have lifetime limits, we are not going to write into a plan the kind of fine print that is so often found in non-FEHBP private plans. FEHB plans are willing to accept this criteria. Why? Because FEHBP has access to 9 million well-paid American people and their families. That is why these plans are willing to agree to go into that pool. That is why the plans are willing to leave out preexisting condition restrictions and the fine print they put in other policies.

Mr. WELLSTONE. Because everybody is in this together.

Mr. DASCHLE. Everybody is in this together. The universal coverage we get gives us the ability not only to have the confidence that we are not going to be surprised by what is in our policy, but it gives us the power to purchase. It gives us the ability to choose among plans that compete along with all the other plans for 9 million Americans. Through this system we get the cheapest, most accessible health care you can find in America today.

Mr. WELLSTONE. I see my colleague on the floor. If I may make just the final point, if the Senator will let me ask a question and make a comment. The other thing that makes this work is that our employer contributes what, about 72 percent? Is that correct?

Mr. DASCHLE. Our employer contributes 72 percent today, we contribute 28 percent. Which is approximately the average in the country today. Employers in large corporations generally provide that kind of contribution to their workers' coverage. The Senator from Alaska was a little sensitive about that earlier, when he was trying to make the point we do not have anything unique. To a certain extent he is right, but there are truly unique aspects about what we have.

The luxury of knowing that we cannot be dropped from our policy, the luxury of knowing that we have a significant purchasing power that gives us a good price for our policy. So we have some benefits that a lot of people do not have today.

Mr. WELLSTONE. To conclude, let me ask the Senator's reaction to this. The point we are trying to make, which seems to be maybe the standard, almost 100 percent of the people in the country—is, "Look, when you do your work representing us, we would like for you in your reform bill to make sure what is available to you and your loved ones"—and they do not say that in the spirit of angry people—"is a available to us." That is really the goal.

Would the Senator think it would be a good idea, since this is the yardstick by which we measure our work, for an amendment to be offered? I am going to work out an amendment that essentially captures the spirit of that—what it is that you have and what you consider to be a plan that is good for you and your loved ones. This is what we want in the reform effort, this is what we want the final bill to live up to, to move toward, to capture.

Mr. DASCHLE. I commend the Senator for his interest in this issue. I think that sends the right message. We want for you what we have for ourselves. We want to be sure that you have the same opportunities, the same confidence, the same stability that this provides all of our families and ourselves. As we go about our daily business, as we try to do the best job we can here in the U.S. Senate, we do not have to worry. We are protected. Why? Because we, over the years, decided it is in our best interest to have this kind of insurance. We have had the luxury to do that. A lot of Americans do not have that luxury or that power.

Mr. WELLSTONE. I thank the Senator. I think what I will do, I am going to, the first chance I get, offer an amendment where we can have a vote and have everybody on record to this proposition that really, in this final reform bill and what we are working for, what we are working for is to make sure the people we represent have health care like we have: High-quality health care available to themselves and their loved ones. I will make sure we have a vote on the amendment and everybody can be on record, and then we can measure the different proposals in what we finally do by that standard.

Mr. DASCHLE. I hope the Senator from Minnesota will share that with all of us.

Mr. WELLSTONE. I will share that.

Mr. DODD. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator.

Mr. DODD. I would like to address two questions to my distinguished colleague. The first picks up on the comment of Senator WELLSTONE. Yesterday, during some of the debate regarding the amendment that we adopted dealing with the accelerated benefits for pregnant women and children in the area of prevention, I heard one of my colleagues express the notion that we are all sort of islands unto ourselves and that there is a need to have so-called cafeteria plans where individuals, based on their family circumstances, their age and the like would tailor their health care plans according to their own specific needs. There is, I think, a genuine appeal to that approach.

But I ask my colleague, whether there is not also a sense of community in this country that also should inform this debate. I see my colleague from Iowa on the floor, and his description of the barn-raising effort is a good example. It was a great notion of community there. It was not possible for one family to put up the barn. We have all heard those stories over the years.

In the educational system, I suppose in an ideal world, maybe each person or family would educate their own child, but we appreciate the value of the community coming together to provide education.

There are certain issues that transcend the individual's needs, and it struck me that in a number of these areas, that is where the sense of community comes into play. A younger generation pays for the Social Security of a retired population. There are some younger people who argue, "Why should I be paying for some retiree?" And yet because there is this notion of community, we have accepted the idea that one generation contributes to the retiring generation's financial security, and it makes sense for all of us.

I just wanted to emphasize that particular point. My colleague from Minnesota has raised it and I think it has value, the notion of community. It does not apply in every situation, but I think in a number of areas it clearly does. I just ask him for his particular comments on that.

Additionally, I think it is important to expand on an issue raised by my colleagues from Michigan, Minnesota, and South Dakota—the idea of a Government plan. No one here that I know of is advocating a Government plan. Now some have argued for a single payer system, and I have great respect for those who do.

But what is before us and what we are discussing is really an expansion of the private insurance industry. I am from Connecticut. No State has a greater interest in this issue. In my State of Connecticut, I have 55,000 constituents that work directly in the private insurance industry. Despite some of the comments that are made around in this Chamber from time to time, we think it is a good industry and has contributed significantly to the health and well-being of this country.

One of the reasons why I am supportive of the general notions put forward by the distinguished majority leader, is because it takes the industry in my State, the private insurance industry, and it builds upon that industry. It does not try to set up a competing operation within the Federal Government or State governments, but it takes the private insurance industry, principally located in my home State of Connecticut, and says we are going to utilize that system and see to it that we can try to reach the other 40 million Americans, who have no insurance. Is that not, in fact, what we are doing?

Mr. DASCHLE. The Senator from Connecticut is absolutely right on both points. Let me talk about the first one for just a minute, because I think he makes a point we do not talk about often enough on the floor: The sense of community. That really has been one of the most pervasive values that I think this country was based upon, all the way through the history, the development of this country. When my State was being discovered by the early pioneers, it was really the pioneers coming together as neighbors, as people in a very desolate part of the country helping each other so that they could survive first and flourish second.

The interesting thing is that sense of community comes up the most when it is a time of peril or personal difficulty, as the Senator from Connecticut has indicated. It is at a time when a barn burns, or it is at a time of a flood, or a time when a community has been ravaged by a disaster of some kind. That is when we really see the value of that community spirit that built this country in the first place.

What greater peril is there than for a family to experience a life crisis in health—a cancer, a serious illness of any kind, a death? That is the time when we really rely upon the community to help each other, to try to get through that difficult time financially and emotionally and in every other way. That is really the essence of insurance. That is really what we are trying to do here.

Frankly, whether it is Government or private, that ought not matter. Let us get out of the semantics for a minute and just recognize that insurance is insurance regardless of what source that insurance may come from.

As the Senator said—and that leads to a second point—we can call this desk a horse, as the majority leader has said, and if it is repeated often enough, somebody soon enough will call this a horse, but the fact is it is a desk.

Someone can continue to insist what we are trying to do is provide Government insurance, but as Senator DURENBERGER said on Monday night, as the majority leader said often, as we continue to insist here, let us get the facts straight. Let us get rid of the misinformation. Let us quit the miscategorization here. Let us get down to the real essence of what it is we are trying to do. We are simply trying to provide the same coverage, the same insurance in that same community spirit to all the American people that we have felt to be so important for ourselves.

Mr. DODD. I thank my colleague for yielding. I see our friend and colleague from Oregon here, Senator PACKWOOD. He was my best and strongest supporter, I point out to my colleagues, on family and medical leave. I recall a day here during that debate when he was eloquent in describing the evolution of the concept of family and medical leave when people worked on farms. And if something happened to a child, there was always someone there. There was a sense of community on those farms.

The world has changed, our Nation has changed and, unfortunately, when a child gets sick or a family member, there is not always someone there to be with them. Arguably, not everybody has a family in this country. Some people are single, some people are retired and family and medical leave is of marginal significance to them.

But when we passed that legislation by almost 70 votes in the Senate—Democrats and Republicans coming together for the final version of that bill—no one made the argument that because it only benefited a certain percentage of the population, that it was not worth doing, because we understood, I believe, the sense of community and the sense that from time to time we need to pull together, and even though someone else may be paying some small amount for that benefit, it is in everyone's interest to make that benefit available.

I thank my colleague for yielding.

Mr. DASCHLE. The Senator from Connecticut makes a very good point.

There are others waiting to speak, and I will conclude with this.

We talk about preexisting conditions and the fine print, Mr. President. I have something here that was offered to us by a representative of the insurance industry recently as an example of the fine print that is so often found in insurance policies today. References in these policies are made frequently to "sickness." Here is what a standard policy includes as its definition of sickness. This is not an FEHBP policy, because we do not have this type of fine print. But you can find this type of language in other plans that are available across the country. And I quote from the insurance policy:

> Sickness means illness or disease of any insured which first manifests itself 30 days after the effective date of this policy and while this policy is in force. All sickness due to the same or related cause or causes which continues or recurs shall be considered one and the same sickness or any one sickness unless periods of confinement to a hospital or service treatment or expense incurred resulting from such sickness are separated by an interval of at least 90 consecutive days between the end of one such period and the beginning of a subsequent such period. Any loss which results from hernia, disease, or disorder of the reproductive organs, hemorrhoids, varicose veins, tonsils, or adenoids shall be covered only if such loss occurs after this policy has been in force for a period of 6 months from the effective date of this policy, provided these sicknesses are not excluded by rider or endorsement and these sicknesses are not preexisting conditions.

This is what the American people are up against, Mr. President. It takes not one lawyer but a bank of lawyers to interpret this. If I had this policy today, I would not have the slightest idea whether or not I was covered for my medical condition. That is the surprise method used by some insurance companies to avoid responsibility, to avoid having to own up to the expectations of their policyholders when that moment comes and they need care the most.

So I am hopeful that we can end the surprises; that we can ensure that this piece of legislation does not become the "Fine Print Prevention Act." We want to be sure that we can, of all the things we do, take out the fine print, put in the confidence, and do what is right not only for ourselves but the rest of the country.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 15 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 15 minutes.

Mr. CRAIG. I thank my colleague from Oregon for yielding.

I have been enthralled by the discussion that has gone on on the other side over the last few minutes in their use of the word "community," and the discussion of my colleague from Connecticut of the barn raising.

I come from a rural State. I come from a State that is just 100 and a few years old. The reason we had barn raisings in our State was because there was not a government. The reason we developed a sense of community is because there was not a government. Governments do not create communities. They destroy communities. They destroy voluntarism. They destroy individuals coming together to provide for themselves and their community. We all know that.

The reason there was a barn raising and the community gathered was because there was no FHA loan. There was no Federal program. No, the Government did not pay for the barn. The individual paid for the barn. He called up his neighbors and he said, "Would you come and help me raise the barn?" That is community action. That is in the absence of government.

My colleague also mentioned he had 55,000 insurance employees in his State. My guess is that after the Clinton-Mitchell bill passes, within 10 years, he will probably have 150,000 insurance employees in his State.

One of the reasons that more than likely will occur is because of the phenomenal complication, the phenomenal intricacy that is involved in little terms like "community ratings" and "geographic areas that result in 250,000 or more," that establish certain levels of costs and the kinds of necessary threadings and the loopholes or absence thereof that the insurance industries of this country will have to begin to comply with and the paperwork that will be required.

Now, is that going to happen? Well, let me suggest that in any other, not federally run but federally controlled, federally monitored, federally designed health care system around the world, that is all true. I have to believe that in the Clinton-Mitchell approach that, too, will be the case—not tomorrow, or 2 or 3 years from now, but progressively over time as a National Health Benefits Board begins its approach put upon it by the pressure of the politics of America to say add this benefit and add this benefit and add more. There will be no Government program, or should I say Federal employees insurance program, after that.

I thought that was a fascinating debate this afternoon. It will be the standardized approach that will be designed by this board. So let me at this moment then talk about the Mack-Coats amendment that is very important if we are going to march down the very dangerous path that this huge bill that none of us have really yet had the opportunity to detail may send us.

If I as a Senator am going to be subject to the National Health Benefits Board, then I wish to know publicly what they are doing. I do not agree with Senator MITCHELL that they ought to meet in private. I do not agree that their decisions ought to be secret. And the reason I do not agree with that is because it will affect me. But it will also affect every other American citizen.

In 1974, I was a freshman State senator in Idaho, and one of the first pieces of legislation that I ever voted on was a bill called the Idaho Sunshine Act. That was a bill that came out of the State of Florida. We all know about it. It was the beginning of a period in time starting in the mid-1970's when we moved toward openness in government like never before, when we believed as legislators, whether it was at the State or the Federal level, that, doggone it, we were making decisions that were important enough that the public ought to be allowed to participate. And, thank goodness, we had a free press that said: You are darned right; it ought to be open. And we are going to continue to push you, public legislators, until you open government. And we opened it. We opened it aggressively through the 1970's and into the early 1980's, and we all are better off for it.

Now, we are talking about probably the largest piece of legislation that in my 14 years of service to the State of Idaho I have ever had the responsibility of analyzing and voting for or against, the largest entitlement program in the history of the world, potentially the largest economic program ever in the history of this country. And yet, embodied within it, are boards and commissions that are to meet in secrecy.

Why in the heck would anybody on that side of the aisle or this side of the aisle ever bring a bill to the floor of the Senate that had that kind of provision in it?

The reason is simple. They did not know what was in it. They had not read what was in it. It had not been written in a committee. There were no committee hearings. It was a cobbled up piece of legislative trivia that now is falling apart. The reason I use those terms is because it is time we became very, very serious about what we do here. And that seriousness says that if we are going to redirect through a Government program one-seventh of the U.S. economy, we deserve to have open, public hearings, open committee hearings and subcommittee hearings, and bring about all the details and all of the tests that we normally afford any given piece of legislation.

Why? Why, in the last minutes of this Congress before we go out on recess, were we asked to vote now on a 1,400-page piece of legislation?

Well, there are a lot of reasons, I suspect. None of them are pressure from the American people. The American people are not saying we have to have this now. They are saying go carefully and go cautiously, because what you will do to us will be greater than anything you have done to us or for us since the Social Security Act of the 1930's. And so you must go carefully and you must go cautiously.

As you go, why in the heck are you suggesting that any of those deliberations, any of those decisions that will provide or examine or determine or lay out, and therefore proscribe, all of the benefits that would be in a package, why should they be done secretly?

Now we have a quasi-governmental body known as the Federal Reserve. They are allowed to operate in secrecy even though, after they have made their decision and implemented it, they can then announce it. Here is the reason: Because it is possible, if it were done in an open public forum, that an individual could move rapidly to profit by it. The Congress of the United States said that ought not be allowed. We ought not allow an individual to personally profit by an act of the Federal Reserve Board because they were in the right place at the right time, tied to the right institution, and could move rapidly to cause that to happen.

But the Senate knows that a National Health Benefits Board is an entirely different creature. Because what they do, and their determinations, and as they send them to the U.S. Congress, they are going to tell the American people for what they will be covered, how their health care will respond as it relates to their needs. So it is time that we work the process, but a great deal more diligently than we have been allowed to on this most important piece of legislation.

It is time that the meetings be public. It is time that we do everything that the Federal Advisory Committee asked us to do. And, by the way, we all know that the Federal Advisory Committee Act is a creature of this Senate, of this Congress. When we say to the executive branch of Government, here is how you will operate, here is how, or here is the forum in which you will make these decisions, and you know the litany as I know the litany—public meetings, published notice of meetings in the Federal Register except for reasons of national security, making meeting agendas public, permit interested persons to attend, to testify, to file written statements, make records, meetings of minutes, graphs, and other documents available to the public, keep detailed minutes or transcripts, and allow the public to buy them, make records of funds received and disclose them to the public.

This is a simple summary of what that law requires. Why would possibly the most important piece of legislation in a quarter century be exempt from that process? Why would the boards and the commissions that are embodied and, therefore, created by this piece of legislation allowed to do that or to do differently than that?

I will tell you why I think it is so. Because this was a badly thought up and quickly cobbled together piece of legislation, and therein lies the great tragedy. That is why we now day by day, hour by hour have to go through it section by section. And, yes, we are reading the fine print. We are finding out that there is a lot in it that we do not like. We are bringing those amendments to the floor, and our colleagues on the other side are agreeing with us. Neither they nor us want to be embarrassed by a final product that might leave this Senate.

So I hope we would stay here and continue the process, and that the public is allowed to listen, as they are—this is an open forum and what we say and do here is public, and it is observed by the public—and that we would work our way through this page by page, section by section until such time as it is either determined that this vehicle cannot pass, nor can it stand on its own, or we have simply been able to correct it.

I am one who believes you cannot correct that much. I am also one who believes in health care reform in a substantially different approach than is embodied in this legislation. But everything that I believe in that relates to health care reform is open, is public, allows the citizens who will most be affected by the law to watch the determination of how that law will be administered and the effects it might have based on the policies that are created by it.

So I hope that the Senate will support the Mack-Coats amendment. I thank my colleagues for bringing that issue to the floor as we work. I hope we will continue to try to make a very bad piece of legislation a slightly better piece of legislation.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. I yield such time as he may consume to the Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. I will not take much time here. I intend to digress from the subject matter of health care briefly to talk about the pending crime legislation.

But before I do, I want to respond to my colleague from Idaho. Sometimes, in debate we engage in a little hyperbole. I know I have. But I do not want to let stand the notion that Government has destroyed voluntarism in this country. Quite the contrary. I served as a Peace Corps volunteer for 2½ years representing my country. That program was created by Government.

There are thousands of others who serve as VISTA volunteers all across this Nation—another program set up by Government. The National Service Program, which in a bipartisan fashion we passed in this Congress, will ask thousands of young Americans to make a contribution to their communities. The United Ways across this country receive substantial support and backing from State, local, and the National Government. Teach America asks young Americans who finish college to go out and work in some of our toughest schools in this Nation. The Points of Light Program, which George Bush championed, encouraged and expanded voluntarism and has been strongly backed by Congress over the years.

And the list goes on—Big Brothers, Big Sisters, police athletic leagues, and Boys Clubs—all rely on volunteers. In fact, I would argue that today there is a greater sense of voluntarism in America than maybe at any other point in our history.

So the notion that Government destroys voluntarism or a sense of community I just cannot let stand without challenging——

Mr. CRAIG. Will the Senator yield?

Mr. DODD. I will be glad to yield briefly.

Mr. CRAIG. I believe when the Senator served on the Peace Corps as a volunteer he was provided with the cost of living, to some extent. I do not dispute the fact that there are some Government programs that provide certain things that allow people to do something they otherwise would not. I doubt that the Senator could have personally volunteered on his own time without his own money to serve in the Peace Corps. I am not disputing that. What I am suggesting to the Senator is that while there are a good number of Government-sponsored programs that are called volunteer programs, the true definition of a volunteer is when you do something for someone else and you are not paid for doing it. That is the true sense of voluntarism.

Mr. DODD. Mr. President, if I can reclaim my time. Let me reclaim the time.

Mr. CRAIG. I do not dispute that.

The PRESIDING OFFICER. The Senator will withhold.

The Senator from Connecticut has the floor.

Mr. DODD. I say to my friend that at $100 a month I considered my service in the Peace Corps to be volunteering, as do most of the people who have been through that program and similar programs.

I just do not want to let stand here the notion somehow that is destructive. Over the years, many good people have served or volunteered and contributed to our country and our communities. The notion that Government programs destroy voluntarism just does not stand up in the light of day when you consider the thousands of people who have served and who continue to serve as a result of programs sponsored by the Government.

Mr. LOTT. Mr. President, parliamentary inquiry.

Mr. DODD. I would like to proceed, if I could, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. Mr. President, we are talking here about health care. Obviously, that is a critically important issue, critical to every working family in the country; in fact, to every American citizen regardless of age or geography. And it is vitally important that we continue this debate, in my view, and hopefully complete it with a product that we can all be proud of and return to our respective States and districts at the end of this process having done something that has defied 7 American Presidents and 30 Congresses over the past 60 years.

However, Mr. President, that is not the only issue which presently occupies the minds and attention of the American public.

THE CRIME BILL

Mr. DODD. Mr. President, it is very clear that one issue is a source of even greater concern to most of our citizens than even health care, and that issue is crime.

In many of our communities our children are being slaughtered before our very eyes. People in communities that used to be secure from even the prospect of any violence are no longer immune. We all know that, whether you live in rural America, suburban America, or urban areas, crime is a complex, disturbing, frightening issue that defies any immediate solution. And we are all striving to find some answers so that we can begin to turn the tide.

But the answer to these problems is not simply more police officers, more jails, and more prosecutors.

I do not know of anybody who believes that. Obviously, we need more police officers, jails, and prosecutors because of the wave of crime that is affecting our Nation. But anyone who believes that merely providing more resources, more manpower in those areas, is going to ultimately solve the problem, must be living on another planet. We are going to have to address the underlying causes that turn some of these young people to a life of crime, that causes them to engage in violent behavior.

A lot has been said about the crime bill in a last few days, and a lot has been made of the so-called pork in the crime bill. I want to take a minute and talk about one of those areas that has been so designated as pork, or unnecessary, or unrelated to the issue of dealing with crime in our country.

There was a proposal that was authored here in this body in a bipartisan way by the Senator from New Mexico [Mr. DOMENICI], the Senator from Missouri, [Mr. DANFORTH], the Senator from New Jersey, [Mr. BRADLEY], myself, and others—an ounce-of-prevention program to take resources and make them available to community-based organizations that are trying to find alternatives for the youth of this Nation.

Many of these organizations, such as the Boys Clubs, Girls Clubs, Big Brothers, Big Sisters, Police Athletic Leagues, and church groups, are out there every single day in the trenches trying to make a difference in the lives of young people. They do not have all the answers. But they offer these young people activities to be involved in, and role models, and the hope that there is a better way of life than the life of crime. With additional support for these programs, we can make a significant difference in their lives.

If you believe these young people are inherently evil, I suppose the idea of Senator DOMENICI, Senator DANFORTH, Senator BRADLEY, and Senator DODD does not make any sense. But if you believe that these young people are not born evil, are not born cruel, are not born determined to engage in a life of crime and thievery and the like, then you ought to at least listen to the people out there every day who are trying to make a difference in these people's lives.

I will cite one example if I can, Mr. President. I have visited and spoken in every single public high school in my State in the last 10 years, sometimes on several occasions. I have tried to attend as many after-school programs in my State as possible. I spent a few hours recently in Stowe Village in Hartford, CT. It is arguably one of the toughest neighborhoods in my State. It is a classic example of what has gone bad in housing in urban areas, where there are older brick buildings with not a blade of grass, graffiti everywhere, and not much to offer anyone.

There are thousands of people who live in that development, and many of them are children. In fact, it is estimated that some 2,000 to 4,000 young people live in these housing complexes. Mr. President, there is an after school program at Stowe Village. It can serve only 125 kids. There are no athletic facilities, no playgrounds with organized sports activities. What they can look forward to after school and on summers nights are gangs, corridors that are crime-infested, and drug problems running rampant. The 125 people who work with those young people every day are struggling to try to offer them a better, different path.

Senator DOMENICI, principally, along with Senator DANFORTH, Senator BRADLEY, myself, and others, came up with the idea of trying to take some of these crime dollars to support these community-based organizations. The dollars would go directly to them. Not through your State, not through your local mayor's office, but directly back to the community-based organization. They could apply to one place, not to seven Federal agencies. One-stop shopping. So the dollars would go directly back to these community-based organizations and give them a chance to expand the enrollment for these young people in after-school, night, and summer programs. That is now called pork in this bill.

This idea did not come just from a bunch of Senators and staffers sitting around here. It came from our police officers, our streets, from the people out there who do not give speeches, who do not issue press releases, but who run these programs every day. They see the value of it. They have seen examples, day after day, of turning a young life around.

I think it is deplorable and shameful that as we consider this crime bill today we have people in ads on television and people standing up and saying that is not what a crime bill ought to be about.

I accept and strongly support, Mr. President, additional police officers, prosecutors, and jails. But do not tell me that trying to turn a kid away from having to face that police officer, or to stand before that judge, or having to get in a cell in a jail, is not a better piece of investment than the alternate path. But investment in our youth is now called pork. That is one of the reasons the rule was defeated in the House, because programs like the Domenici-Danforth-Bradley-Dodd proposal have been indicted.

I think we did a good job here on incorporating that provision in the crime bill. I would hope that as the President searches for votes to try to get the rule passed, he would not placate those elements who are ripping the heart out of some of these good programs that would make a difference in our cities and towns across America.

Mr. President, I hope that those who felt so strongly here in the Senate when we fought for those provisions will stand up and defend these so-called pork programs in the crime bill. That will, I think, make a difference.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY], is recognized.

Mr. GRASSLEY. Mr. President, I rise in support of the amendment that is pending. But we are not hearing anything from the other side of the aisle about the pending amendment because I think it is very difficult for people on the other side of the aisle, or even anybody on this side of the aisle, to defend secrecy in Government. So you are hearing debates on everything else other than the Mack amendment from the other side of the aisle.

But since they have raised some issues unrelated to the pending amendment, I would like to take just a little bit of my time to respond to some of those points that have been made, because we have spent a lot of time this afternoon on other subjects of health care. That has been the point of departure expressed on the other side of the aisle, because in talking about other issues, they can avoid the issue of whether or not we ought to have secrecy in Government, which this legislation provides for.

It is kind of like a graduate seminar on how to reshuffle one-seventh of the gross national product. The other side of the aisle—those who have great faith that Government always does well, always does good—do not really want us to focus on the fact that a 1,400-page bill would do that.

So instead they want to talk about the health care that Members of Congress have. They do not even want to talk about it factually, as they should. I think that is demonstrated by the points that my good friend from Alaska, Senator STEVENS, made a couple hours ago.

They are making a point about having health care like we in Congress have. But what the American people are sending from the grassroots is a very clear message, that they are very scared of what Congress is going to do to their, our people's, our constituents' health care plans, when Congress acts.

There is a message coming up from the grassroots, that if you in Washington have a problem like people who are uninsured, then take care of that problem. But do not screw up our health care plans.

The 1,400 page bill before us will screw up a lot of the good health care plans that Americans have already.

I would like to refer to the cafeteria plan of the employees of the Pella Corp., Pella, IA, a Dutch community that every spring has a famous festival of the tulips. This Pella Corp. manufactures outstanding Pella windows, windows for homes, windows generally, an outstanding product, a very good company, I believe a very profitable company, with a very good plan of health care for their employees, a cafeteria plan that can be tailored to the needs of each individual employee.

This 1,400 page bill that we have before us will do away with cafeteria plans in America, so that those employees at Pella who are so satisfied with their programs will have to go into some plan that cannot be tailored to individual family needs.

What does this bill do with the plans for the self-insured? Remember this, that there are 22 million employees in America covered by self-insured plans and for all of those who are working at a place with less than 500 employees, the legislation before us does away with the health coverage of those people.

Twenty-two million Americans if this was over 1,000 employees would be deprived of this option. And so you talk about the health care, on the other side of the aisle, that we have in the Congress of the United States because you want to avoid what this 1,400 page bill does to the health care plans of a lot of American workers.

What these American workers are sending in their message to Congress is that they just want to be left alone. That is a plea that we ought to hear as we try to take care of the problems of those who are not insured. We ought to be able to do it in a way that we do not foul up other people's health plans.

Now, to the issue before us, the issue of secrecy, the people who back this bill want this National Health Board to be able to meet in secrecy. They have great faith in Government. So, consequently, they have greater faith if that Government can act in secret.

The New York Times had this to say about the First Lady's task force when it was meeting in secret. The New York Times reported: "It is easier to find out who is in charge of military intelligence for the Joint Chiefs of Staff than to find out who is designing cost controls for President's Clinton's health care plan."

This spirit of secrecy has permeated the deliberations of the executive branch, their plan presented to Congress last fall, and it has found its way into a supposedly whole new approach in the Clinton-Mitchell bill.

To exempt, then, the deliberations of these boards from the FACA now in spite of the plain meaning of this statute, the proponents of this legislation do not want to conduct the business of these policymaking boards in the sunshine. The position of the authors of this legislation is very disappointing, particularly because they represent the party of a President who rode into Washington on a horse called "Change." Some of the arguments that are put forward in support of secrecy by the national board or even by the lawyers who are trying to defend the secrecy of the First Lady's task force stretch credulity.

You might be able to argue, on the one hand, as the Justice Department did, that Mrs. Clinton's position as First Lady was a very unique status and might exempt her from the Federal Advisory Committee Act, the act that the national board is exempted from here. But it seems quite a different thing to say that actual determination of the national board ought to be exempted.

Obviously, complying with the Federal Advisory Committee Act is not as efficient or as pleasant for the executive branch as meeting in secret and cooking up a health care plan or making policy decisions on whatever we pass in the basement of some Government bureaucracy, kind of a shadow Government-type approach to policymaking.

Our Government, does not always make efficiency the highest value.

The court chided the administration for seeking "the judicial rewriting of an inconvenient statute." Judge Lamberth regretted, as I do, that one of the first actions taken by a new President is in direct violation of a statute enacted by Congress.

But the decision was not a complete victory on behalf of open government. Because in addition to the task force itself, 300 to 400 experts have formed working groups to devise a health care plan. Their identity, according to the New York Times, is treated as a White House secret, and they have been told not to discuss their work. In fact, few have been identified and their status in the Government is murky at best.

The court held that the Federal Advisory Committee Act is unconstitutional as applied to these cluster groups. It found that requiring openings at the meetings of these groups would violate the President's power under article II, section 3 to make legislative recommendations to Congress.

But it is within these cluster groups that the detailed work of devising a national health care system is being done. These cluster group meetings are closed to the public. The specific issues being addressed by particular cluster groups are not even fully known to the public. These cluster groups compose the health care task force, and as such should be subject to the same laws as the task force itself. It is simply fiction to suggest that the cluster groups are somehow distinct from the task force itself.

The President stated before the court decision that opening task force deliberations:

> Would be like opening the White House at every staff meeting we have. We can't do that.

Unfortunately, this statement misses the point of the statute. Opening task force working group meetings to the public is not at all like opening White House staff meetings. The President has every right to keep private the meetings of his staff at which policy is developed. His staff also can certainly meet privately with individuals. But the formal cluster groups include many individuals from the private sector whose identities have not been publicly announced. Who are these people? What interests do they represent? What interests are gaining access to the making of very important public policy unbeknownst to the public?

Reports indicate that many of the outside advisors are academics. The assumption, I suppose, is that they are neutral experts without interests to advance and protect, or without ideological axes to grind. Unfortunately, that is not the way the world works. The fact that they might be academics certainly does not provide sufficient assurances that they are without real-world commitments. If the President is not going to have his own advisers develop health care policy, then the public has every right to know who is developing it.

Could I have 5 additional minutes, please? If you do not have it, I can understand.

Mr. PACKWOOD. I do not have it. I have six more people coming, and I have less than an hour and a half.

Mr. GRASSLEY. I ask my colleagues to adopt the Mack amendment because we ought to be doing everything in the sunshine. If we do, the mold will not grow there.

Mr. PACKWOOD. I like that for the closing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Oregon for yielding me some time and for the outstanding job he is doing as one of the managers of the bill, along with, of course, the distinguished chairman of the Finance Committee.

Mr. President, earlier I tried to make a point of order to inquire about what we were debating. We have talked baseball, crime, health care, just about everything has been discussed on the other side of the aisle but the issue and the amendment before us.

The issue is secrecy. I just wanted to remind the Members what the amendment that is actually pending here, because it would be very difficult to figure it out if you were actually listening to the debate as we go back and forth.

But I think it is very appropriate that it has been offered by the Senator from Florida—the Sunshine State. This is a sunshine amendment. Let us let the Sun shine in. Let us find out exactly what these boards and commissions are going to be doing if, in fact, they are created, which I certainly hope they will not be.

I think we have found with this amendment another bullet in the Lethal Weapon 3, which is what we have called the latest rendition of the Clinton-Mitchell bill. The bullet here is secrecy. And it is not just an accident.

We heard yesterday on the $10,000 penalty, "Oh, gee, surprise. We really did not know that was in there."

We all knew it was there, though, the truth be known.

And now, we have another surprise, another bullet.

Secrecy? Oh, you mean this bill? This monstrous bill allows for boards and commissions that will determine the future health of the American people to be determined in secret? How could that be?

Well, let us talk about that. And that is what this amendment is all about.

On the other side of the aisle, you cannot say that "This is once again something we did not know was in there, so we will accept your amendment. We embrace it. We love it to death. No, we did not want secrecy."

It is in here repeatedly and it is a very fundamental point that is involved. This amendment would require that all boards, commissions, and advisory committees established under the Clinton-Mitchell bill operate in sunshine. The Clinton bill exempts the National Health Benefits Board in section 1216 of the bill. It also exempts the National Health Care Cost and Coverage Commission in section 10005, and the Agency for Health Care Policy and Research in section 3202(c) from Federal Advisory Committee Act and the Government and Sunshine Act.

Under these acts, it says that a Federal board, panel, and committee must meet in public. Let the public know the agenda, permit interested persons to attend and testify, make records of what happened, keep detailed minutes; basically just to keep it open and let everybody see what is going on within their government. These are Federal employees.

So that is what the amendment would do. It would strike out the secrecy in this bill and say they must all be public hearings.

Now, I think the reason why we are in trouble here is because this whole process began in secret. We had the task force put together by the First Lady, Hillary Clinton, and Ira Magaziner a year and a half or so ago. They met in secret. Then we found that those recommendations were sent to Congress. And eventually the bill that is before us, the Clinton-Mitchell bill, was compiled in secret. The Finance Committee had a meeting in the public. They had debate, they had votes on into the night, and something came out, an outline came out. And then there was a bill developed behind that.

But this one was something that has been merged together, again in some meetings back here in the back corridors. So, again, secrecy was involved.

Now we are saying, let us air it out, let us find out what is in the bill. But the bill, as a matter of fact, has in it the requirement that these boards and commissions could or would also meet in secrecy. I do not think the American people want that with their health care.

Next month, the Clinton administration must go to trial. The First Lady, Hillary Rodham Clinton, and her health care aide, Ira Magaziner will have to testify about the so-called health care task force that created the original Clinton health plan.

Three groups, including the Association of American Physicians and Surgeons Inc., sued the Clinton task force in February 1993, saying that the task force violated the Federal Advisory Committee Act. This act says that if a task force is not made up totally of Federal employees, then the panel must meet in public.

Mr. President, the secret Clinton health care task force worked in secret. The inner workings of this task force were kept away from the American people. You would think that an issue which affects all Americans would be discussed openly, and decisions made by a health care task force would have public input.

The First Lady and Mr. Magaziner, though, refused to open their meetings to the public—they refused to tell the American people what they were doing. Mr. Magaziner testified under oath in March 1993 that only Federal employees were on the secret task force—so the Federal Advisory Committee Act didn't apply to them.

Now the Clinton administration has changed its tune. Mr. Lloyd Cutler, the White House counsel, says today that the White House will release all documents related to the task force—in 3 weeks. How convenient. Let's wait until we're done here on Capitol Hill, then spill the beans. Thank you, Mr. Cutler.

When lawyers for the groups who brought suit found about 357 people on the task force who were not Federal employees, the First Lady and Mr. Magaziner say now the task force had nothing to do with President Clinton or his health plan. The way Mr. Magaziner put it, all those 500 to 1,000 people were in the Old Executive Building chatting about health care over tea and cookies on Government expense.

Why on January 25 of this year, during his State of the Union Address, did the President thank the task force and his wife for work on health care? Why did Mr. Magaziner, in a letter to the court, say that the task force's goal was to "prepare comprehensive health care reform legislation." Let's be honest here—the Clinton-Magaziner secret task force was charged by the President to create a plan for the gargantuan Government takeover of health care, the remnants of which—the Clinton-Mitchell bill—we are considering today.

If the administration loses next month, the White House will have to repay the almost $20 million spent on the task force, mostly made up of special interest representatives.

The reason why we have the Federal Advisory Committee Act and the Government in the Sunshine Act is to stop things like what happened with the secret health care task force. The Clinton-Magaziner task force was mostly made up of people who had an interest in heavily-regulated, Government-directed health care. Representatives from two managed care proponents—the Kaiser Family Foundation and the Robert Wood Johnson Foundation were on the panel. Legislation dealing with one-seventh of the economy and all Americans should not be made in the dark by special interests.

It's comical that the excuse the First Lady and Mr. Magaziner used for the task force's secrecy was that they didn't want "special interests" to pressure the task force participants. There was no pressure, alright—the special interests were the task force representatives.

So we have an administration that came to town and said there would be no more business as usual. They were right—they now do their business in the dark, away from the American people. We have an administration that said it wanted to get rid of special interest influence. We see, though, that the Clintons have turned the White House into a Romper Room for special interests.

The Clinton-Mitchell bill continues to hold up this veil of secrecy. The bill exempts several bureaucracies it created from the Federal Advisory Committee Act, including the National Health Board, which sets the standards benefits package; the National Health Care Cost and Coverage Commission; and the Agency for Health Care Policy and Research. Clinton-Mitchell also exempts certain panels it creates from the Government in the Sunshine Act.

The Mack-Coats amendment, which should be passed, makes all of these bodies open to the public. These bodies would have to meet in public, publish notices of meetings in the Federal Register, allow interested people to attend the meetings, and keep minutes of proceedings.

The Mack-Coats amendment makes sense to me. The boards that would tell Americans what health benefits are "medically appropriate," the commissions that would put heavy mandates on businesses, the panels that would determine the direction of a Clinton-Mitchell health care system—shouldn't all of these bodies be open to the American people?

This amendment would stop callous social engineers like Mr. Magaziner, who care nothing for ordinary Americans. The arrogance of power can only be curtailed by letting the American people participate in debates. How many Magaziners would, without this amendment, try to foist harmful policies on this country through Clinton-Mitchell's boards, commissions and panels? I urge my colleagues to support Mack-Coats—vote to stop Mr. Magaziner from meeting again. Vote for the American people's right to know.

THE CRIME BILL

Mr. LOTT. Mr. President, since I have some time remaining, I would like to join the fun and talk about some other issues; not baseball at this time, but I have been wanting to comment a little bit on the crime legislation we hear so much about.

Never have I seen more—I do not know how to describe it because I do not want to impugn anybody's integrity, but—misstatements about what is in the crime bill. It has continued to be reported in the press, first of all, that it is paid for: Do not worry about it; we are going to pay for it by savings, cutting back the size of the Federal Government.

But remember, this bill went from $5 billion when it was originally proposed to $22 billion when it passed the Senate last year to $26 billion when it passed the House to $33 billion. I am sure that probably at least $13 billion of this bill will be added to the deficit. It is not paid for.

Second, you continue to hear assertions that this is going to put 100,000 new law enforcement people on the streets. Nobody in the Senate believes that. It will not even put 20,000 there.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LOTT. I know we have limited time, so at this point I will yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I will yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, let me say I join my colleagues, Senator MACK and Senator COATS, in strongly endorsing and cosponsoring their amendment that probably goes to the essence of this ludicrous excuse of a health care program for this Nation. I use those words, and they are strong words, because it is a ludicrous excuse. And the reason we find ourselves in such an untenable position is because of the manner in which this document was produced.

Most of it comes from the great task force. Most of this was done in private. Most of this was done in a manner such that, as we now read this bill, we find glaring, glaring deficiencies—deficiencies that, if there had been public hearings, would never have existed.

I understand at some point in time the majority leader is going to move to rectify this monster. Some time ago, we had "taxasaurus." I said kill the "taxasaurus." That goes for this. We should kill it. We should kill it because it is a danger to the health and welfare and well-being of America and America's families. That is this monster, the Clinton-Mitchell proposal.

Let me say, this is really, for all intents and purposes, the Clinton bill. As a result of the manner in which this bill came to life, we find ourselves in this terrible predicament where even its strongest supporters must admit that it is replete with errors, with substantial deficiencies. And then we hear "We will correct it."

Let me cite just one of them. Behind closed doors, a group of people got together and came up with this wonderful idea: We want insurance for all—not a bad idea—and they went so far as to say that because we want to guarantee universal coverage and coverage for all, if a person were not to pay his premiums or her premiums, that family would not lose coverage. Can you imagine that? I think it is page 1432—I want to read this incredible provision. In other words, you enroll in a program and you pay for a month, 2 months. And if you read this literally, just by your enrolling and paying a premium for 1 month, in the second month when your premium comes due, if you do not pay, guess what—you cannot be canceled.

What a terrific plan. Everyone in America should run and sign up for this plan. This is the plan that will not cost you a penny. It will not cost you a penny. All right, it will cost you the first month's premium. You sign up for this great plan; you pay 1 month, and then forget it. You do not have to pay. You do not have to pay because you cannot be canceled. What a terrific plan. How could the geniuses who put this forth have come to this point? Was it in error? Was it a mistake? Did they somehow make a mistake? The language is, "In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage."

I am wondering if the Senator from Oregon had an opportunity to take a look at that. I ask, does it mean what I think it means? In no case? Listen to this: "In no case shall the failure to pay amounts owed under this act result in an individual's or family's loss of coverage."

It does not say if the person forgets the premium for 60 days or 30 days, or if there is a terrible accident and they are inconvenienced somehow. It says "in no case." Is that an accident? Was that thoughtful legislation? Who is going to pay?

What happens if you have a million people in this one plan and one person says they are not going to pay because it says "in no case." And then 10 others find out. And then 100 find out. And then 10,000 find out and do not pay. And then people begin to wonder what is going on? And the cost goes up and up and up for the rest remaining in the pool.

If the cost goes up for the rest remaining in the pool, what takes place?

Mr. DASCHLE. Will the Senator yield on that point?

Mr. D'AMATO. For a question?

Mr. DASCHLE. Well, for a question or clarification. A question.

Mr. D'AMATO. I would like to make my point. When I finish I will be happy to yield. I do not intend to speak long, but I want to make the point. The point is that this thing was put together behind closed doors. That is why you have error after error. Penalties: $10,000 penalty if a person gives a benefit that is too high. How did that get in there? And then the whole Senate votes to change it.

I will tell you how. It got in because you had people who may have been well meaning, but they have their own intentions, their own program; they are going to put this through come hell or high water. So here we are. Now someone will offer an amendment and they will drop that provision. But this was the great legislation. How did it come to pass?

If you had open hearings, open meetings, do you not think that people who provide coverage, insurance companies—of course, all insurance companies are bad now, according to the proponents of this legislation; they would have you think insurance companies are some evil monster—do you not think maybe they would come and contribute something to the debate?

And they might say, "Look, if you do this, why, you will discourage people from paying; you will have large numbers of people who will not pay; you will have premium costs shooting up for the balance of people who pay. You create a lack of incentive for people to be responsible. You tell them, 'Don't pay because you can't lose your coverage.'"

That is ridiculous. And here we have—in this very same grotesque monster of a bill that would cripple health care in this country if enacted into law—we have this board that is going to operate outside of current law. It is a board that will make some of the most important and crucial decisions as it deals with the health care needs of our country.

This board is going to determine the actuarial value of the standard and alternative benefits packages. If the health task force could put together a bill that is so deficient and secret, imagine giving this board, under the color of law, the ability to go ahead and make these kinds of determinations. They are going to determine for us the kind of medical programs that can and should be undertaken and utilized. They will be determining for us the future of medicine—the future of medicine—in terms of defining the kind of care considered medically necessary and appropriate.

My colleagues have spoken before me and have enumerated the incredible powers that this board will have. I suggest, No. 1, that today if we look at a board that operates almost entirely in the light of day in determining coverage under the Medicare program, we find incredible problems. When new devices and medical procedures are going to come into being, even that board has open, public hearings where people can present their case, where people on both sides can be heard, with certain exceptions, and that is only when there is written notice and reason posted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. It is inconceivable we would allow this provision to stand and, therefore, I strongly support the Mack-Coats amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, just to ask a question of the chairman and, I think, to explain an arrangement we hope we have worked out. After we vote on the Coats-Mack amendment at a quarter of seven, the majority leader has an amendment—and we have worked out a pretty good system of comity of going back and forth —we would have an amendment then for tomorrow morning. I assume that is when we would go.

Then, as I understand, we will go on an amendment from Senator MOYNIHAN relating to the number of residents, interns, whatnot.

Mr. MOYNIHAN. Mr. President, that is our understanding. It is informal, but we have had no difficulty at any time and are not going to. I believe the distinguished Republican manager is going to join me in the amendment I will offer.

Mr. PACKWOOD. Absolutely.

Mr. MOYNIHAN. Mr. President, I have the great pleasure to yield the remainder of our time, which I believe to be about 25 minutes?

The PRESIDING OFFICER. The Senator has about 27 minutes.

Mr. MOYNIHAN. Twenty-seven minutes. I yield the full 27 minutes, if he should so wish, to our revered President pro tempore, the Senator from West Virginia.

The Senator has been thinking about this matter for some length. He, of course, is the master of legislative procedure and detail in this body, and he is going to give us the benefit of his judgment as to where we stand in terms of deliberating this particular issue and, I think, the Senate calendar.

We do have to acknowledge that the calendar is implacable in its forward movement, and there is other work yet to be done before we can close out the appropriations bills, which have to be enacted, and that whole range of things.

In this setting, I think we very much need the mature judgment and the deep, deep learning of the former majority leader, the President pro tempore.

I know that we have felt that there is still good time in which to enact a good bill. We have seen a great deal of comity as we go back and forth on amendments, and we have seen near unanimity on last evening, and we shall see it again this evening as we debate the measure laid down earlier today by the Senator from Florida [Mr. MACK]. I hope we might find the same degree of accommodation to the majority leader's amendment when that vote comes later in the evening.

The point, Mr. President, is that we are here, and this is the first week of the typically normal recess. The calendar is running, and we need the counsel of the great wisdom—I took the liberty of saying—and the profound learning of the President pro tempore.

Mr. President, I yield the remainder of our time to the President pro tempore.

The PRESIDING OFFICER. The Senator from West Virginia has 24 minutes.

Mr. BYRD. Mr. President, I certainly am grateful to the very distinguished manager of the bill, the senior Senator from New York [Mr. MOYNIHAN], of whom I shall say—not in the past tense—as Shakespeare said it:

> He [is] a scholar, and a ripe, and good one, exceeding wise, fair-spoken, and persuading.

I thank Senator MOYNIHAN for yielding me this time. I hope I will not have to take all the time he has yielded me.

Mr. President, this debate, in many respects, has been for me one of the most discouraging of my political career.

Like many other Americans who are watching and listening to this debate, I feel a sense of confusion and apprehension after listening to the claims and counterclaims that have been conjured up by the lobbying groups on all sides of the issue and by the charges which have been hurled from both sides of the aisle on this floor.

Compounding my sense of frustration is my belief that the health care issue is one of the most fundamental problems facing our Nation.

I know that our present health care system is inefficient and costly and that these costs are not equally distributed. I know that in the Federal budget, health care costs are one of the primary causes of our continuing deficits.

I also know that our present system of health care amounts to a cost equal to 14 percent of our gross domestic product and that the experts claim that, by the year 2004, if we do not change our course, those same costs will rise to 20 percent of our gross domestic product.

The last, best hope of real deficit reduction lies in getting these spiraling costs under control. Spending in every other category of the budget known as discretionary, which is simply everything which is not automatic spending mandated by law, has been cut to dangerously low levels. We cannot look to this area of the budget for much more in the way of further cuts.

Therefore, other than raising taxes dramatically in coming years, we must look to reductions in entitlement spending and to health costs, in particular, if we are to achieve further meaningful deficit reduction.

I am concerned when I note the CBO projections of the total deficit reduction in the bill that has been introduced by the distinguished majority leader, Mr. MITCHELL.

By the year 2004, the projection by CBO estimates that only $13.8 billion in total deficit reduction will have occurred.

It is essential that we not enact a plan that squanders our last real remaining chance for significant deficit reduction. We have an opportunity to address rising entitlement costs in this health care bill, and we must not let that important goal be forgotten as we consider and write massive health care reform.

I believe the word "reform" is the operative word in this debate. What constitutes reform is central to much of the discussion we have heard.

There is vast agreement, it seems to me, on the goals of fairness, universal coverage, cost containment, minimization of cost shifting, and maintaining a quality standard for health care. Those, to me, are the central pillars of reform. The disagreements arise when we venture into areas which are more indirectly related—rather than directly related—to health care reform, and I believe that the costs rise as we go beyond trying to address much more than those generally agreed-upon central goals.

There is much in the Mitchell bill that I can support. I compliment the majority leader for his extraordinary contribution to the cause of health care reform. He has devoted many days and months and years to this effort. He is one of the Senate's most knowledgeable and dedicated experts in this area, and he has moved the debate forward by the introduction of the pending measure.

Mr. President, I have stated my concerns to the distinguished majority leader, and he has said to me that he will respond to my concerns. He knows, and I know, that this bill is going to be changed, and I am going to look at his responses to my concerns with great interest. It will be then that I will be better able to judge as to just where I will stand on this legislation at the end of the day.

Beyond the sheer budgetary folly of not trying to get our health care costs under control, the basic human tragedies that unfold daily as a result of no coverage or less-than-adequate coverage compel us to act.

But what has been obscured in the debate, it seems to me, and what President Clinton emphasized so well in his early statements on health care, is that reform of the health care system means a more economically secure nation better able to compete in the global marketplace.

In the President's 1995 budget document, of particular note is the statement on page 179 under the heading "Why We Must Act Now."

> The costs of doing nothing are enormous. Without reform health care costs will consume an additional $56 billion of our national output in the year 2000—money that could more than double Federal spending on transportation or education and training. Put another way, these savings could also boost productivity and wage growth by increasing the resources available to lift capital invested per worker by roughly half. If current trends continue, real wages will be further eroded by almost $600 per worker by the end of the decade. If we do not curb increasing health costs, we will not be able to continue bringing down the deficit or make the investments in jobs and infrastructure that we need to keep the U.S. economy healthy.

I believe that the President's statement remains correct today. It is in the overall national interest to enact health care reform. However, this bill, as it is written, goes beyond what I believe should be the scope of health care reform. The Clinton bill would reduce health costs in the year 2004 by $150 billion. By contrast, the pending measure would increase health costs in the year 2004 by at least $25 billion and by over $250 billion for the period 1995–2004.

Under the guise of reform, we cannot, we must not, try to address every issue that can be lumped under the loose category of health care. We simply cannot do it. We cannot micromanage every aspect of the social and economic fabric which touches health care in some way.

We must not use health care reform as a vehicle to increase every health-related spending program in the budget. Because, if we go down the road, we will squander most of the economic benefits of enacting health care reform. We must not enact a piece of legislation that eats away at our national productivity potential because we are frustrated over years of too tight budgets and now want to address every health care problem in our land. We just cannot do it. We have to restrain ourselves. That is not to say that there are not health care programs that deserve increased funding in health reform legislation. It is to say, however, that we should only strive to accommodate any justifiable increases in programs that are directly related to the health of our citizens without adding to overall health care spending. That should be doable—President Clinton's bill, as I said, would cut overall health care spending in 2004 by $150 billion.

Our national heart may be large—our national heart is large—but our national pocketbook, sadly, is quite small. I know. In our Appropriations Committee, we fund, as best we can, most of these programs. And I think we have done rather well in meeting the needs.

But the spending in this bill goes beyond reform.

I do not believe that that is what most Americans thought was meant by reform of the health care system. Reform of health care was explained by Mr. Clinton, and it received public support as a cost-saving measure. This was the only way to reduce our budget deficit, we were told. That was one of the primary things that most appealed to me; one of the things. But we seem to be moving away from that goal. We may be breaking faith with the people if our version of reform becomes a cover for more back door spending.

To be specific, we do not have to increase spending for WIC. I support funding for WIC, and I think we have responded fairly generously within our means in the Appropriations Committee from year to year. But we do not have to increase spending for WIC to have sound, effective reform. We do not have to increase funding for the NIH to have sound, effective reform. We do not have to set up a quota for the various medical disciplines in which a medical student may be trained to have sound, effective reform. We do not have to enact $15.4 billion worth of new public health programs to have sound, effective reform. As laudable as it may be, we do not have to add money for the Indian Health Service to have sound, effective reform.

We who claim that we are committed to reform, perhaps unwittingly, are cloaking these spending programs in the guise of reform at our own peril. We risk our credibility, because I do not believe that additional spending is what most people have in mind when they think about health care reform. The American people think we are talking about fairness, cost containment, basic coverage for all, simplicity, and reducing deficits when we advocate health care reform.

This bill, in my view, would be vastly improved if it adhered more closely to the American people's understanding and their expectations of reform. I fear if this bill were to pass in its present form—again, I say Senator MITCHELL has indicated that he will respond to my concerns, and he expects changes in this bill. We all expect changes in it. I am going to look at his responses carefully, together with the future actions of the Senate, and make my final judgment as to my own vote at that time.

But I fear that if this bill were to pass in its present form, this Senate will have destroyed any possible chance for significant deficit reduction, and will have seriously damaged our overall economic future.

On the other hand, we have a significant opportunity to reduce budget deficits, and address the serious need for health care reform, if we will but streamline this vast piece of legislation. Change is always painful. Massive legislative proposals such as this one always, in my experience around here, always attract too much baggage. And the longer we are on the floor, the more excess baggage it attracts. We have seen some of this just in the last day or so; good programs, but we are spending more money. We are not reducing the deficit. They say "Well, it is within the cushion in the bill." That may be true. But I understood from the President's appeal to the American people and to the Congress for health care reform that it was the one way in which we could get control over these burgeoning deficits. I fear that, as we keep going down the road that we are on with this measure as it is presently written, we are not going to cut the deficit. We are going to add to it. Massive legislative proposals, as I say, always have a way of attracting too much baggage. But this effort, Mr. President, and my colleagues, is too critical for the usual program load-up and interest group wish lists.

This President has the economy growing, and he ought to say so more and more. And he has the deficit headed downward. Let us not tie his hands. If we can get entitlement programs under control, this Nation might be able to continue in these positive directions.

Much of this debate has totally obscured those basic economic considerations. I have elected to sit in the chair often this week. I have sat in the chair 3 or 4 hours a day. Why? I wanted to listen to the debate. I will not read it tomorrow morning in the CONGRESSIONAL RECORD. Instead, I will be signing mail or will be meeting with constituents, or I will be doing this or that, which is very important. But if I sit in that presiding chair up there, I will hear and learn from what is being said.

I do not sit on the Committee on Finance over which the distinguished Senator from New York presides with a degree of dignity and skill that is so rare as a day in June. I do not sit on that committee. I do not sit on Mr. KENNEDY's committee. Both committees have jurisdiction over this bill.

I have to make some decisions here based in part on what my colleagues say. Some of the speeches have been very illuminating, interesting, and informative for me. There have been some, however, that I must confess I had a hard time staying awake in the chair.

I compliment Senators on both sides of the aisle for their enlightened speeches. But there has been a great deal of needless rhetoric—and there has to be some rhetoric, of course. That is all right when one is trying to sway a great audience. But I want some answers, some substantive answers. Nobody has to sell me on the need for health care reform.

But much of the debate has totally obscured those basic economic considerations. I hope that in the coming days we can refocus our attention on those critically important concerns, tone down the rhetoric just a little bit, and try to remember why we began the discussion of health care reform in the first place.

I thought it was the way that we could get control over the entitlement and mandatory programs, which will increase over the next six years by $824 billion. Our little, puny discretionary funds—which include defense spending—are going to be increased over that period by only $6 billion.

So, that is where I thought we were going. Yet, as the days have passed, I have become more and more concerned that we really are not going in that direction, but we are going in the opposite direction.

This Senator, for one, is tired of Harry and Louise, tired of scare tactics, tired of claims that this legislation could represent the undoing of the Republic, or that it is the greatest boon to representative democracy since the writing of the Constitution. It is, of course, the fear and the slick TV ads, and some of the scare tactics emanating from the floor, and from outside the Capitol, that are mostly the products of attempts to win elections and promote political agendas.

Of course, we all like to win elections. But I think we ought to focus our attention on this, one of the most critical problems that we will ever face, on this legislation, on this debate, and keep our eyes on that ball.

Although there have been some thoughtful statements made on this floor, unfortunately, those thoughtful statements have been largely drowned out by the more highly partisan debate that we have been subjected to. Frankly, I do not have any partisan interest in this bill, one way or the other. The American people expect us to act and to act wisely. I am interested in legislation that will promote real healthcare reform, and that, once and for all, will really help to get control over our massive budget deficits.

I am sure that the American people are very sick of it all. I am also sure that all of the noise has succeeded in thoroughly frightening and totally confusing the citizens who will either be the beneficiaries of, or the victims of, what we will do here. I can only hope that we will somehow come to our senses, take a reality check, try to put our political agendas aside, pare down this bill, salvage the essential reform elements in it, and enact sound, effective health care reform. I want to do something about this problem. I see it as a bedrock issue for the good of our economy and for the welfare of our people today and far into the future.

However, I cannot be a party to any legislation, no matter how well-intentioned, that goes far afield from what is needed for solid health care reform. Neither will I be a party to the political circus, the partisan jockeying and interest group tug-of-war which have been too much in evidence on this issue.

It is my hope that in the coming days, the American people—whom we have confused, frightened and manipulated—will urge us to stop the hype and deal with this issue as they would if they served here—forthrightly, honestly, and with an eye toward the worthy goals on which most of us agree.

In closing, Mr. President, I congratulate the Senators who are on the Finance Committee and on the Labor and Public Welfare Committee for the yeoman's work that they have done. Many hearings have been held by both of those committees. There are many Senators in this body who are experts in this field. I salute them. I am sorry to say I am not one who is an expert.

I hope that what I have said will be accepted in the spirit in which I have offered it. I have not offered it as anything other than constructive criticism by which I hope we will benefit. I realize that I can be wrong, and often am wrong, but I view this in my heart as being so serious and as being our only opportunity—maybe—I do not quite agree that it is the only opportunity forever. I think that this is an idea whose time came some time ago. But it is also an idea that is going to take the best of our talents, our patients, and our expertise, if we are going to really develop a product of which the American people can be proud and of which we in the days to come can be justly proud.

Mr. President, I yield the floor.

(Ms. MIKULSKI assumed the chair.)

Mr. PACKWOOD. Madam President, I thank the Senator from West Virginia. That speech, which was only 20 to 25 minutes, has put in better perspective the problem this Senate faces than it could ever be put. We have seen graphs upon graphs upon graphs upon graphs, attempting to illustrate the same thing, but they have not illustrated it as well as you have said it.

What the Senator is saying is simply this: We have some programs in this country that are on automatic pilot. If you look back only 30 years, and took only four programs—Social Security, other Government retirement, civilian retirement, military retirement, Medicare and Medicaid, and then interest, which we have to pay, those four programs, plus interest, 30 years ago were 23 percent of our budget. They are today 56 percent of our budget. And if we do not make any change in the laws, in 10 years they are going to be 69 percent of our budget. They will squeeze out education, highways, water and air pollution, Forest Service, Park

Service, Amtrak, and everything else that we do. What the Senator from West Virginia is saying is that in this bill we are now considering, we vastly expand those programs and add new programs to them. So that the figure is not going to be 69 percent, it will be 75 or 76 percent. I have never heard it better put by anybody on this floor than you have put it. We are indebted to you, and I thank you.

Mr. BYRD. I thank the distinguished Senator.

Mr. PACKWOOD. I yield 10 minutes to my senior colleague from Oregon.

Mr. HATFIELD. Madam President, I want to also commend the Senator from West Virginia for a very excellent and thought-provoking speech. I would also like to say, concerning the Senator's speech, that the remarks I plan to make, I can share with my colleagues—and I am sure the Senator from West Virginia could also assure my colleagues—that we did not engage in any kind of collaboration on these remarks that we intend to share together this afternoon.

Mr. HATFIELD. Madam President, yesterday I came to the floor to explain my position on comprehensive health care reform. As I said, I believe the Mitchell bill is fatally flawed. I also believe that the Dole-Packwood bill leaves too many problems unsolved, and I am realistic enough to know that it cannot pass in what has become a politically charged atmosphere.

For these reasons, I have joined in the search for a middle ground as a participant in the bipartisan mainstream coalition. This group meets almost hourly to work through the difficult and contentious issues that constitute health care reform, including the cost of providing subsidies to those who are unable to afford health care coverage. But as our meetings continue, and the days pass by, it is becoming increasingly clear to this Senator that the window may well have closed on the opportunity for comprehensive bipartisan reform of our health care reform this year.

I want to emphasize my identification of comprehensive health care reform. Incremental legislation may be another issue.

Some may believe that such a result is a lost opportunity. But I believe—and from the calls and letters coming into my office, I can say that the vast majority of Oregonians believe—that it offers a chance to catch our breath, check our bearings, and chart a course for the future.

Am I advocating that Congress do nothing this year? I most assuredly am not.

There are, as we know, a number of concepts for how to reform our health care system on which we can likely find agreement. These provisions include:

Some form of State flexibility and minimal Federal preemption; assistance to rural and underserved areas; small business pools for the purchase of insurance; assurance that Americans with preexisting conditions cannot be denied coverage and that their insurance is portable if they lose their job; and a commitment to the goal of universal coverage.

I believe that the bipartisan congressional leadership should sit down with the President and write a bill that includes these areas of agreement, and then we should pass it into law.

Not everyone will be pleased that the bill will not include every component of an ideal health care reform bill, but millions of Americans in need will be happy when health care insurance is made more affordable and more accessible to them.

Madam President, I truly believe that the procedure I have just outlined is the only road that will lead to a result that is beneficial for our country at this juncture.

Let us look at what results are possible if we continue on our current path. And that means continuing the process of debating and amending—and believe me, it is going to be a long, long process. Mandates. Taxes. Entitlements. Medical malpractice. There will be amendments and debates on all of these issues—and on many more. And this road leads to one of two destinations.

The first is that the Senate and the House eventually pass a bill by the slimmest of partisan majorities. And when the House-Senate conference committee puts the two bills together and comes up with another bill, which again passes by the barest of majorities, amidst a chorus of loud voices and pointed fingers.

Such a bill will be one that nobody in this Chamber—and more important—nobody across the country—truly understands. Nobody will be able to say with any confidence that it will work, or what its consequences will truly be. It will be a bill that clearly will not have the confidence of the American people.

Senator MITCHELL spoke on Wednesday about the disillusionment that the American people have with Government. I guarantee you that this disillusionment will only increase if Congress narrowly passed a bill after a bitter partisan debate.

The second destination of the road we are on at the present will be that somewhere along the way, the bill is defeated, that nothing is done, that no one is helped.

Neither of these destinations, Madam President, is good for my State of Oregon, and neither destination is good for America.

So, perhaps we better listen to what the American people are saying. They have followed this debate, listened to it carefully, and, as I have had communicated to me, the overwhelming majority have concluded that they need more time—and Congress needs more time—to think about this issue, to examine the side effects of legislation, and to come up with a solution that does not create as many problems as it solves.

And, Madam President, there is another reason why I feel we need to revisit the issue of comprehensive reform. And that is because somewhere along the way, we have lost sight of the fact that reducing the deficit must be a goal of health care reform legislation, and that was clearly stated by the President of the United States in the Budget Act that we passed earlier on.

I would recommend to my colleagues an article in the July 25, 1994 Newsweek, by Peter Peterson. Many of us know Mr. Peterson as a former Secretary of Commerce and a member of the President's Commission on Entitlement Reform.

A brief quote from this article, he states:

> Federal health care spending now amounts to roughly $800 billion in direct outlays, much distributed without regard to need, plus an additional $75 billion in tax subsidies for employer health plans. If we do not change course, health spending 10 years from now will consume more than a third of the federal budget, compared to 20 percent today. . . . Further ahead, the outlook is even worse. By 2040, again baby boomers could push the total cost of Medicare past 20 percent of taxable payroll, up from 5 percent today.
>
> In the face of these alarming trends, you might think Congress would be obsessed by controlling health spending . . . Instead, members are busily spelling out new entitlements that will likely exacerbate the cost spiral. To help more Americans gain coverage, most of the bills offer tens of billions of dollars in new subsidies. Thousands of lobbyists are working overtime to make sure that additional goodies, from prescription drugs to long-term care, are included. The major House bill calls its new open-ended entitlement Medicare Part C. The benefit package in the major Senate Bill might as well be called Medicaid for the Middle Class.
>
> Whatever legislation Congress passes will be officially stamped 'deficit-neutral'—meaning, one presumes, that lawmakers now think that they will have done their job if only they do not make an already unsustainable situation more unsustainable. But even here there is a problem.
>
> The history of health entitlements is one of wildly over optimistic projections that always understate the cost of new benefits, while overstating the savings from reforms.

Madam President, no one can doubt that Mr. Peterson is absolutely right in that statement.

In 1965, it was projected that Medicare Hospital Insurance would cost the Government $9 billion in 1990. Well, we missed by about $58 billion, because the actual cost was $67 billion.

In 1987, we projected that Medicaid special hospital subsidies would cost $100 million. By 1992, the actual cost was over 100 times that much—it was $11 billion.

When the Medicare catastrophic legislation was passed in 1988, the cost of the new drug benefit was projected at $5.7 billion over 5 years. Just 1 year after passage, the Government reestimated the cost at $11.8 billion over 5 years—triggering repeal of the legislation.

I could go on and on, Madam President. But my point is clear. The $965 billion in entitlements that Senator MITCHELL's bill would create will cost much, much, more than current estimates.

The true impact of these entitlements is something that must be carefully and thoroughly analyzed. And I do not think that can occur in the current atmosphere.

Madam President, President Clinton and Congress have made great progress on an issue that has challenged us for many years. I commend the President and Mrs. Clinton for moving the Nation forward in its effort to reform our health care delivery system. I also have great respect for the work of JOHN CHAFEE and the mainstream coalition, in which I will continue to work. The Nation owes them their gratitude as they search to build the bridge between the Democrats and Republicans.

We all have learned a great deal about the strengths and weaknesses of America's health care system. And we all have much more to learn. Let us accept the progress we have made, let us help millions of Americans, and let us go home with our heads held high.

And bear in mind as the scripture often said there are those who are called to sow and those who are called to reap. Maybe we see this, as a futile exercise, but I see it as a very rich and fruitful possibility of sowing seed for a future harvest.

Madam President, we are building the foundations for a medical reform act but this is not the moment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Oregon.

Madam President, I compliment the Senator from West Virginia and the Senator from Oregon, who have spoken for the last 30 minutes or more about the wisdom which they have brought to bear on the pending legislation in suggesting that the legislation has not moved in the direction which was originally intended, and their statements are true.

The original thrust of the legislation had as its purpose coverage and cost containment, coverage for the millions of Americans not now covered, coverage for preexisting conditions, and for change of jobs, but also cost containment. And 50 percent of the job has not been done.

I have been meeting with the task force chaired by Senator CHAFEE going back to 1991 in a little room down the hall every Thursday where a group of Republicans would meet in an effort to craft legislation. That group has now been expanded until today there were some 20 Senators present from 9:30 to noon this morning, with Senators coming and going because of the complications of other schedules, in an effort to find a bipartisan solution to the pending problem.

Our group was joined by Senator NUNN and Senator DOMENICI, who have approached the issue from a slightly different angle with their previous work on trying to hold down entitlements which have risen so tremendously in cost.

Also present in the group were Senator KERREY of Nebraska, and Senator DANFORTH, who have worked on a bipartisan commission to hold down entitlements so we do the best we can within our limited resources without bankrupting the country.

We continue to work on that problem, Madam President. I have had doubts all along as to whether we could succeed, but I think we should make a maximum effort.

I think the business of a filibuster was really beyond the pale on this bill. No filibuster has been attempted. But, similarly, we cannot be rushed to judgment. It is important to have health care reform, but it is equally important, perhaps more important, to do it right.

And when Senator BYRD from West Virginia comes and speaks—for those who do not know, Senator BYRD is chairman of the Senate Appropriations Committee. He has been in the U.S. Senate now finishing his 36th year. For those who do not know, Senator HATFIELD is the ranking Republican on Appropriations. He was for 6 years the chairman of the committee and has been in the U.S. Senate for 28 years.

During all of my 14 years in the Senate, I have been on the Appropriations Committee working with Senator HATFIELD as chairman, and now with Senator BYRD as chairman, and I can say from firsthand experience—having managed most recently the Appropriations Subcommittee report on Labor, Health and Human Services, and Education with $70 billion in discretionary spending—how hard it is to make ends meet. When you talk about a budget of $1.5 trillion, it is a great deal of money, but when you try to meet all the needs of the Federal Government, it does not really stretch far enough.

When Senator BYRD and Senator HATFIELD say that this bill has enormous problems in terms of creating new entitlements, and Senator HATFIELD outlines what has happened when estimates have gone off by 10 times what you figure in 1965 will be the costs in 1990, we have to pause and we have to take note as to what the implications are.

We had an opportunity, back in July 1992, to craft important legislation which would have taken a significant step toward additional coverage, with an amendment to provide full deductibility to the self-employed and an amendment for insurance market reform. Those amendments might have removed a third to one-half of the 37 million to 40 million Americans now not covered. Those amendments were defeated because people in this body said, "Let's not do it piecemeal, because if we do part of it, it will destroy the incentives to do the rest of it." I think that was a mistake and said so on the floor back on July 29, 1992, when that amendment, which I offered, was tabled.

When Senator HATFIELD talks about some piecemeal legislation, Madam President, I think he is on target; not that we will not be committed to comprehensive health care. I share Senator HATFIELD's compliments to President Clinton, who has brought this issue to center stage. I compliment the members of the Finance Committee, under the chairmanship of Senator MOYNIHAN, and Labor and Human Resource, under the chairmanship of Senator KENNEDY, who have brought these bills to the floor, and what Senator MITCHELL has tried to do.

I am not sure at this point that we will be unable to produce a good bill. I am sure, however, that we ought not to be rushed to judgment and there ought not to be any political timetable.

Madam President, I had originally sought recognition to comment about the pending amendment, but wanted to speak about Senator BYRD's comments and Senator HATFIELD's comments because I think they are so important and will have a real sobering effect on this body in having us focus on what we are doing. A reality check. Maybe a sobriety check.

There is an important amendment pending, Madam President, offered by Senator MACK, which would strike lines of secrecy in the pending legislation. I compliment Senator MACK for going through this lengthy bill to find the three provisions which provide an exemption for the National Health Benefits Board, for the National Health Care Cost and Coverage Commission, and for the Agency for Health Care Policy and Research exemptions from the Federal Advisory Committee Act which would allow those boards, commissions, agencies to operate in secret.

Madam President, the requirements of the Federal Advisory Committee Act specify that there must be public meetings, that there must be notice, that there must be an opportunity for the public to comment, and their findings must be made public.

It is indispensable in a free society—especially when you have this kind of a bill which creates 140 new agencies, boards, and commissions and gives new jobs to 40 existing bureaus—that we at least know what they are doing.

Madam President, I will not display the chart again, in the interest of brevity. We have seen it perhaps enough on the Senate floor.

But sunshine is indispensable in a democracy. This is especially evident, Madam President, when we take a look at what is pending in court today, as reported in today's press, on a lawsuit which has been brought against the Clinton administration for violating the provisions of Federal law which require public disclosure and open meetings.

The Court of Appeals for the District of Columbia ruled last year that the working groups which were put together by President Clinton's administration would be subject to the 1972 Federal Advisory Committee Act if any of the members were non-Government employees.

A very unique thing happened, Madam President.

Finally, after 18 months, the Clinton administration yesterday agreed to release the records from the task force because they were compelled to do so by the litigation. There has been an effort made to settle the litigation because, as Lloyd Cutler, the President's legal counsel, says, they want to focus on health care as opposed to the distractions.

But the opposing groups have refused the settlement. As they characterize it and as reported in the Washington Post, the plaintiffs, the board rejected the settlement partly because it would have allowed Ira Magaziner, President Clinton's health care adviser, to avoid publicly answering a pending contempt of court accusation, where there is a contention that Mr. Magaziner did not tell the truth when he filed an affidavit saying that all members of the working groups were either Government employees or consultants.

So here you have the White House, the administration, working to structure health care reform legislation. They do not comply with the law. They are working with groups who, by all indications—and we are not absolutely sure yet, because the litigation has not been concluded—groups that represent special interests. They violate the provisions of law which requires that they be open. When they are challenged, a ranking Presidential assistant takes an affidavit that they are all Government employees or consultants, which would remove them from the obligation for the public disclosure.

A long, drawn out lawsuit follows, which is taken to the appellate court and says they have to be made public. Now the issue arises where the White House, the administration, finally is willing to make them public, but the plaintiffs who brought the lawsuit refuse to accept that on the ground that there was a lie in an affidavit filed trying to thwart the lawsuit.

Now this, Madam President, is simply unacceptable in a democracy. Where you have public activity, governmental activity, the public is entitled to know. And when it is challenged, to have an affidavit taken, which on its face appears to be untrue, is totally unacceptable.

That is why, Madam President, when these three boards are challenged by the pending Mack amendment, we ought to put the imprimatur of the Senate on it very squarely in saying that these secrecy provisions have to be stricken from the act.

Beyond these expressed provisions, Madam President, I think that it is another indication of the kind of care that has to be undertaken in examining this 1,400-plus page bill to be sure that we know what is in it.

You would have thought, after the experience of this very bitter and painful litigation, that legislation would not be offered to make these kinds of boards a secret.

So I hope we will adopt this amendment—all of the indications are that the amendment will be adopted—and we will pursue the examination of the pending legislation, trying to understand all of its ramifications and, hopefully, we will yet be able to craft legislation which will meet what Senator BYRD and Senator HATFIELD have talked about, an overwhelming majority. That figure has been put generally at 70 Senators, so we will have the confidence of the American people in what we are to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I yield myself such time as I may take.

The PRESIDING OFFICER. The Senator has 17 minutes.

Mr. ROTH. Madam President, I yield myself 5 minutes.

I rise in support of the pending amendment and I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I want to thank Senator MACK and Senator COATS for offering this amendment today and applaud them for their efforts to ensure that the special commissions created by the Mitchell bill are accountable to the American people.

The Mitchell bill is trying to prescribe a new medication for the health care of all Americans, but we know there is one tried and true treatment for the expansion of bureaucracy and government—openness and accountability.

After all, if we left it to this administration, we would have a bunch of F-O-B's and F-O-H's lock themselves in a closed room, and impose their will on the American people.

That is what they tried to do in concocting their health care plan, and luckily a Federal judge is forcing accountability.

The health care task force, Ira Magaziner would have us believe, was all government officials, and that it cost only $100,000.

But the task force was filled with hundreds of people who had direct economic interests in the outcome of health care reform, and the tab to the American people for this exercise was somewhere between $4 and $20 million.

Now, Mr. Magaziner and Mrs. Clinton may find themselves before the Federal judge to tell the whole truth.

So, we want to avoid any repeat of the health care task force debacle. The American people have learned from the experience of Mrs. Clinton's task force: Her scheme was a plan for social engineering that would herd all Americans into a Government-controlled health care system—not an attractive option to the vast majority of Americans.

And that's why it is important that any new boards, councils, or agencies—and there are plenty of them in the Mitchell bill—be accountable to the American people.

One of the intents of Congress when it passed the Federal Advisory Committee Act back in the early 1970's was to ensure that committees established by Congress or the President are truly advisory in nature.

But, the National Health Benefits Board and the National Health Care Cost and Coverage Commission—two powerful committees established by the Mitchell bill—are exempt from FACA. These committees are empowered with determining what health services Americans can and cannot receive, with deciding what forms cost controls should take, and with ordering mandates to be imposed on employers. And, under the Mitchell bill, they will be able to operate behind closed doors and will be totally unaccountable to the public—because the Mitchell bill would exempt them from the sunshine laws.

If the heavy hand of Government regulation is going to fall hard on health care, then the regulators must operate within the bounds of the law. Compliance with the Federal Advisory Committee Act will ensure just that. And, anything less represents the arrogance of power.

The American people have learned that such discussions must be held in public, that the groups who devise reform plans must be accessible by, and accountable to, the American people.

Whether or not one agrees with the premise that we need a national health benefits board, or a national health care cost and coverage commission, we should all be able to agree that these committees must be accountable to the public, to the very people whose health benefits and lives will be impacted by their decisions.

Mr. ROTH. Madam President, as the ranking Republican at the Senate Committee on Governmental Affairs which has jurisdiction over the Federal Advisory Committee Act, I would like to take this opportunity to explain why I believe this amendment is a good one to support, and critical for the public.

In 1972, the Federal Advisory Committee Act [FACA] was enacted in order to assure that Federal Commissions meet under the scrutiny of the public eye. FACA was enacted in order to build in assurances to the public that all federally appointed Commissions are accountable to the public.

There are several commissions in the pending legislation which are exempted from the requirements of public access and scrutiny assured by FACA. The two most prominent commissions to which I am referring are the National Health Benefits Board, and the National Health Care Cost Coverage Commission. The Benefits Board will be the sole entity responsible for crafting the final product—the final and only standard benefit package that all health insurance plans in this Nation will offer. The Cost and Coverage Commission will report on whether the employer mandate should be triggered or not.

The reports to be issued by both of these Commissions could have immense—I repeat—immense repercussions on the health care of every American in the Nation, and every employer in the country. In fact, if this bill is enacted in its current form, then, I believe, that these two commissions will be the most important and powerful commissions in the United States—yet—the legislation as drafted would exempt them from current law requirements imposed on virtually all Federal advisory committees—the Federal Advisory Committee Act.

As one of the coauthors of FACA in the Senate in the 92d Congress, I said then that, "There is a role for advisory committees to play in our Government. Advisory committees provide an opportunity for citizens to participate and become involved in our Government."

I think it is worth taking a moment to recall the situation that Congress faced in 1971. First, we did not know how many advisory committees there were—or how much they cost—and we could not find out the answer to either of these questions. There were educated guesses that ranged from 1,800 to over 3,000 commissions. No agency had the responsibility to keep track of the creation, operation, or termination of the advisory committees.

Second, there were no guarantees of public access to the deliberations of these advisory committees. Some met in closed sessions. And, there was no requirement that public notice be given of advisory committee meetings that were open to the public. Accordingly, many were concerned that special interests could exercise undue influence on Government decisions without scrutiny. So, we addressed these concerns in FACA.

One of the most important aspects of FACA is its sunshine requirement which sheds light on the activities of commissions. The importance of this requirement was exemplified during a hearing at the Committee on Governmental Affairs on December 3, 1987. At that time, the Governmental Affairs Committee heard testimony from Adm. James D. Watkins, U.S. Navy, ret., who was chairman of the first Presidential Commission on the Human Immunodeficiency Virus Epidemic. Ultimately, the Commission issued a report which received wide bipartisan acclaim for its findings. However, Admiral Watkins was invited to testify because there had been questions regarding the Commission's compliance with FACA prior to the completion of the report. The hearing brought attention to the need for commissions to comply with FACA. Without compliance, the integrity of the first report on AIDS would have been questioned by the public, and undermined the educational efforts made at that time.

Just to point out, that FACA is not an impediment for the functioning of a health care commission, I quote from Admiral Watkins' testimony at the hearing:

> I believe very strongly in the government in the sunshine. I feel that almost all advisory committees or commission meetings should be conducted in public. * * * I think nothing so far that I have seen in the Federal Advisory Committee Act has deterred us or slowed us down from getting this Commission underway, so I do not feel that it has been a major bar.

Clearly, we do not want to set the Commissions in the Clinton-Mitchell bills back to the situation we faced before the 1972 law. The Benefits Board, the Cost and Coverage Commission, and the other Commissions in the bill should be subject to FACA requirements for commissions. Again, Mr. President, I lend my full support for the pending amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. ROTH. I yield such time to the Senator from Florida as he needs.

The PRESIDING OFFICER. The Senator has approximately 9 minutes.

Mr. MACK. Madam President, I only rise, really, for a couple of matters. I ask unanimous consent that the following Senators be added to the amendment as original cosponsors: Senator PACKWOOD, Senator COVERDELL, Senator CRAIG, Senator D'AMATO, Senator NICKLES, Senator MCCONNELL, Senator LOTT, Senator HELMS, Senator HUTCHISON, Senator GREGG, Senator KEMPTHORNE, and Senator ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MACK. Madam President, at this time I yield the remainder of my time.

Mr. DOLE. Mr. President, there are many reasons why President Clinton's health care plan failed to win the support of the American people. And one of those reasons was the result of how the Clinton plan was created.

As we know, the Clinton plan was not written in the light of day. Rather, it was written in the dark. It was pieced together in the back room of the White House by Mrs. Clinton, Ira Magaziner, and 500 anonymous so-called experts.

The secrecy surrounding the writing of the Clinton plan was not only poor policy, it may well have been illegal. The process may have been a violation of the Federal Advisory Committee Act, and the Clinton administration is now involved in a lawsuit that was filed to find out exactly who, and what, was involved in crafting the bill.

I do not know how the lawsuit will turn out, but I do know that any legislation as important and far-reaching as health care reform legislation cannot succeed if it does not have the trust of the American public.

And plain and simple, the American people did not trust the Clinton plan. They did not trust the secrecy in which it was written. They did not trust the principle that "government knows best." And they did not trust the endless maze of new government boards and bureaucracies that would have been created.

Unfortunately, Senator MITCHELL's legislation is also riddled with provisions creating more bureaucracy, more government control, and more boards and commissions.

And as Republicans carefully read the bill to fully understand the authority and power of these commissions, we discovered that at least 3 of the 55 bureaucracies it creates—the National Health Benefits Board, the National Health Care Cost and Coverage Commission, and the Agency for Health Care Policy and Research, were all exempted from the Government in the Sunshine Act.

Under this act, Federal boards, panels, and committees must, among other things: meet in public, publish notice of their meetings, publish the agenda for their meetings, permit the public to attend and testify at the meetings, and keep detailed minutes of the meetings, and make them available to the public.

Let me take a moment to describe the responsibilities of the commissions and boards that the Mitchell bill would allow to meet in secret.

The Cost and Coverage Commission is charged with determining if America and the 50 States have achieved 95 percent health insurance coverage. If the Commission determined that 95 percent coverage has not been achieved, it has the authority to draft legislation to achieve 100 percent coverage.

That legislation might include price controls, it might include mandates, it might include taxes, or it could include anything else. We have no way of knowing. And we will have no way of knowing, because under Senator MITCHELL's bill, all decisions can be made in secret—without one word of input from the American public.

And then there's the health benefits board. No doubt about it, this will be a very, very, powerful board. It will have the authority to draft legislation and regulations regarding what benefits are to be included in a standard benefits package.

Included in that authority, is the power to determine what benefits are and are not "medically appropriate and necessary."

I guess I'm a bit confused. I thought doctors and nurses went to professional schools to be able to determine what was medically appropriate and necessary.

But now if the President appoints you to the Health Benefits Board, you can skip to the head of the class. You have been instantly awarded the qualifications to determine what is medically appropriate and necessary.

Let me cut through the Bureaucratese and say that what all this means is that this board can—as a similar board in Great Britain already has—determine that if you're 55 years of age or older, you are no longer eligible to receive kidney dialysis through the Government program. You can use your own money if you have it. But if you do not, you will not receive the lifesaving treatment.

Needless to say, Mr. President, these boards and commission will be making decisions that will affect the financial health of America, and the physical health of our citizens.

There is no reason why these boards should be granted the power to meet in secrecy. Indeed, there is every reason why they must meet in public. It is simply unjustifiable to exclude 260 million Americans from taking part in a decisionmaking process that will have so massive an effect on their lives. And the Mack-Coats amendment will ensure that these boards comply with all provisions of the Federal Advisory Committee Act.

I congratulate Senator MACK and Senator COATS for the leadership on this issue.

And I conclude by saying that this amendment—like the Nickles amendment which was unanimously passed yesterday—are precisely the reason why we need to take our time to thoroughly examine the bill.

The fact is that there are many, many, many more troubling provisions in this 1,400-page bill. Some on the other side of the aisle have sought to justify quick consideration of the Mitchell bill, by holding up bills of similar length that prior Congresses have passed in short time periods.

I believe, however, our duty to the American people requires that we do just as Republicans have been doing: That we take out time. That we read every page of the bill. And that we do all we can to ensure that other wacky provisions do not slip through—which is just what will happen if we are denied the opportunity to carefully study this massive bill.

The PRESIDING OFFICER. All time is yielded back on the amendment.

The question occurs on agreeing to amendment No. 2568 offered by the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered.

Mr. ROTH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to establish if a quorum is present.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2568 offered by the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—100

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

So the amendment (No. 2568) was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Madam President, may I take yet another opportunity to note that we are progressing. We have just had a unanimous vote in the body. Once again, we in a spirit of comity, cogency, and unity prevailed. It ought not to be missed. It should be celebrated, emulated, and continued.

As the majority leader will be addressing us briefly, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, pursuant to the previous order, I shortly intend to seek recognition to offer an amendment. I have discussed it with the managers. The amendment has been provided to our colleagues, I believe, last evening or earlier today.

I am advised that the amendment will not require a recorded vote, that it will be accepted. Therefore, there will be no further rollcall votes this evening. We will take up and pass this amendment by voice vote, unless someone now requests a recorded vote. Then, we will proceed to the amendment that I believe will be offered by Senator PACKWOOD or one of his colleagues.

Mr. PACKWOOD. I believe, Mr. President, what the chairman and I worked out earlier is that we were planning to go after the Senator from Maine, and probably start that in the morning. Senator MOYNIHAN has an amendment on residents and interns and numbers. Then we come back to the Republican side again. I did not think we were planning to go tonight. We were hoping when we were finished with the amendment of the Senator from Maine that we would be finished.

Mr. MITCHELL. That is agreeable with me. I was under the impression that the amendment was going to be offered by Senator PACKWOOD as the next Republican amendment.

Mr. PACKWOOD. I think we will have it ready tonight, but we will offer it in the morning.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I now suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold the request for a unanimous-consent request to put something in the RECORD?

Mr. MITCHELL. Certainly.

THE SENIOR SENATOR FROM ALASKA, TED STEVENS

Mr. COCHRAN. Mr. President, the Anchorage Daily News has published a series of articles on our good friend from Alaska, the senior Senator.

The first article was entitled "Senior Senator, Big Voice for Alaska." It has a fine, flattering photograph of TED STEVENS on the front page.

I hope that Senators will have an opportunity to read the entire series. The articles talk about the life and career of our good friend, the senior Senator from Alaska, TED STEVENS. There are seven in all, beginning on Sunday, August 7, and continuing through August 13.

They confirm for all of us what we all have known, and that is that TED STEVENS is a very effective, influential Member of the U.S. Senate and makes sure that the interests of Alaska are always taken into account whenever legislation is pending here.

All of us who know TED STEVENS respect him. Most of us who know him, including this Senator, have a great feeling of affection for him and consider him a valuable friend.

I personally congratulate him on the flattering content of these articles and invite the attention of all Senators to the series.

These articles add to our knowledge of his early years and confirm that our respect and affection for him are well placed.

Senator STEVENS is one of the most influential Members of this body, and he has been for many years. His tireless and effective efforts to insure that the interests of Alaska are taken into account by the Congress are well known by all of us in the Senate, and these articles remind us of some of the most important legislative battles he has won for his State over the years.

I urge all Senators to read this series on our good friend and colleague, knowing that when you do you will understand more fully why he is so deeply appreciated by the citizens of his State.

Mr. President, I ask unanimous consent that all of the articles in the series entitled "Senior Senator" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News, Aug. 7, 1994]

BIG VOICE FOR ALASKA

(By David Whitney)

(The milestone in Sen. Ted Stevens' career this season is his 25th year in the U.S. Senate, but his impact on Alaska extends much further. From his earliest days of public service, he's demonstrated a remarkably single-minded vision: Get more for Alaska. Though sometimes criticized for pork barrel politics, for a famous temper and for his atypical stands on traditional party issues, he has more often been celebrated as an effective champion for his vision of the state. Repeatedly, he emerges an overwhelming victor at election time. By nearly any yardstick, Ted Stevens belongs in the front rank of Alaska statesmen. From his little-known private history through his role shaping state history, this is the story of Alaska's senior senator.)

WASHINGTON.—When Ted Stevens rose earlier this year to oppose a balanced-budget amendment on the floor of the U.S. Senate, he was also standing against the main political currents of his party and his state.

The Alaska Legislature has supported such an amendment. So have Rep. Don Young and Sen. Frank Murkowski, Stevens' partners in the state's all-Republican congressional delegation. So did virtually all other Republicans in Washington.

But not Stevens. Stevens was doing the same thing he has done for more than two decades in Washington: ignoring party pressure and political currents to fight anything that might threaten the flow of federal dollars to Alaska.

It's a drive that dates back to the 1950's, when the battle for Alaska statehood was being fought and Stevens was a junior bureaucrat in the U.S. Interior Department. There, he helped write the federal law that let Alaska become a state, and he helped overcome President Dwight D. Eisenhower's fears that Alaska was too large in size and too small in population to sustain itself as a state.

Nearly 40 years later, Stevens' 70th birthday is behind him and his body is aging, but the fight hasn't left him.

"We have worked and worked and worked to get out from under the yoke of Uncle Sam and we cannot do it," Stevens said during the debate on the balanced-budget amendment. "We are economically dependent on the federal government."

Only three other Republicans joined Democrats in Congress to kill the amendment.

"How will I ever get a waiver of the balanced budget amendment to try and get special money to meet special problems in Alaska?" Stevens asked plaintively.

In the Senate, seniority is power and only seven senators have served longer than Stevens. During 25 years in Washington, his clout has shaped legislation on a series of defining Alaska issues, from North Slope oil to Native land claims to preservation-vs.-development battles.

That clout has also brought home everything from defense installations and logging subsidies to tax favors for Native corporations—billions of dollars in federal largesse.

This has made him a favorite target of congressional watchdogs, such as Citizens Against Government Waste. The group regularly criticizes him in its annual "pig book" for slipping Alaska projects into the federal budget.

"He certainly stands high in the pantheon of pork," said the group's spokesman, Sean Paige.

Stevens bristles at these criticisms.

"If I leave in what the president has requested, it's not controversial," Stevens said. "But if I take that money out and put another item, of higher priority for Alaskans, in, then it's very controversial. Everyone says Stevens is increasing the deficit. It's not true."

THE STATE BUILDER

When Stevens joined the Senate in 1968, the State of Alaska was only a decade old. Over the next few years, his hand was in a stack of major bills that determined the final shape of the 49th member of the union:

The 1971 Alaska Native Claims Settlement Act, which created profit-making Native corporations and seeded them with 44 million acres and nearly $1 billion in cash. Stevens fought for a provision requiring about half the money to come from state funds.

The 1973 Trans-Alaska Pipeline Authorization Act, which permitted the development of Prudhoe Bay, the state's cash cow for nearly two decades. Stevens worked on a key amendment to bar court review of environmental questions about the project, but it took the tie-breaking vote of Vice President Spiro Agnew to get the measure out of the Senate. Stevens also voted for an amendment restricting oil exports. The amendment was considered crucial to win passage of the act, but it since has come to be viewed in Alaska as an unfair abridgement of the state's rights.

The 1976 Magnuson Fishery Conservation and Management Act, which gave the state a majority voice in managing the $1 billion annual fishery in federal waters off the Alaska coast. Stevens was a leading architect of the bill and lobbied a reluctant President Ford to sign it.

The 1980 Alaska National Interest Lands Conservation Act, which set aside more than 104 million acres of federal lands as national parks and refuges. Though Stevens voted against the final measure, he tried to negotiate the smallest possible set-aside and he obtained an annual $40 million federal subsidy for logging in the Tongass National Forest.

"Ted Stevens has been instrumental in shaping the state with his seat in the Senate," said Claus-M. Naske, a history professor at the University of Alaska Fairbanks and author of several books on Alaska.

In many of the battles to pass major acts affecting Alaska, Stevens had to fight the state's business establishment, ordinarily a Republican lawmaker's best friend.

When he helped work out a compromise on the Native claims bill with Sen. Mike Gravel—it was one of the few times they worked together—the Alaska business community screamed.

Many business leaders didn't think Natives should get any land or property. Stevens argued that any legislation that would take lands away from the federal government and give them to Alaskans was good for the state.

But what was most galling back home was that Stevens endorsed a compromise giving Native corporations nearly $1 billion, half of which was to come out of state royalties from Prudhoe Bay.

The Anchorage Times, then the state's leading newspaper, said Alaskans should not have to pay a dime for the settlement and that any money for Natives should come out of federal coffers.

Stevens didn't blink.

He believed the cash settlement was vital if the Native corporations were to succeed. Besides, he said, the money would stimulate the state's economy.

"Given the circumstances at the time, Stevens behaved admirably and maybe even heroically," said Don Mitchell, an Anchorage lawyer who has represented the Alaska Federation of Natives.

Later, as construction of the trans-Alaska pipeline geared up in the early 1970s, Stevens was hung in effigy in downtown Fairbanks for suggesting that pipeline contractors refurbish Army property at Fort Wainwright to house their offices and equipment rather than build new facilities in town.

But Stevens prevailed. And, when the pipeline construction crews left, the Army took over the modernized facilities and they became a major draw for the 6th Infantry Division (Light), which Stevens had helped steer to the state.

A LEGISLATIVE TACTICIAN

Stevens' long tenure in the Senate has earned him considerable clout.

He is the leading Republican on defense spending and, when Republicans were in charge of the Senate from 1980 to 1986, Stevens helped engineer President Reagan's huge military buildup, which added billions of dollars to the national debt.

"I've certainly always thought of Stevens as quite strong and solid on defense matters," said Baker Spring, senior defense analyst for the conservative Heritage Foundation.

But Stevens also has been a potent force on other national issues, some of which put him at odds with more conservative members of his party.

He is a strong supporter of federal funding for the Corporation for Public Broadcasting, despite Republican complaints that its news programming has a liberal slant.

Stevens is a leading advocate of women's rights, including the right to abortion. He also was an early supporter of increased federal research into the AIDS virus.

Stevens' position on these issues has contributed to an impression that he is a social liberal. But, overall, his record is that of a Republican moderate.

For example, he voted against a bill to let teen-agers get abortions without notifying their parents. And last year Stevens voted against allowing people with the AIDS virus to immigrate to the United States.

On foreign policy, his views are in line with those of Texas Republican Phil Gramm, one of the Senate's most conservative members.

In action on the Senate floor, Stevens uses parliamentary procedures and rules to his advantage. He is not the Senate's most gifted orator, but he is an effective advocate because few have his institutional memory or detailed grasp of the issues.

Stevens works his way most effectively by tagging add-ons to major bills. The bills are usually so long and complex that Stevens' special Alaska provisions are difficult to spot and harder still to decipher.

One example is a huge financial break he arranged for Alaska Native corporations in the mid-1980s. Despite the vast sums of money conferred by the 1971 Native Claims Settlement Act, some of the corporations were on the brink of bankruptcy 15 years later. In 1986, when Congress was working on a sweeping tax-reform bill, Stevens came to their aid again.

Since 1984, federal tax law had allowed unprofitable corporations to "sell" their net operating losses (or NOLs) to corporations that were making money. The money-losing corporation would get a cash infusion to erase some of its red ink, while the profitable corporation would get a reduction in its tax bill. But now Congress was about to end the transactions.

When Stevens learned that the depressed steel industry was trying to get an exemption from the cut-off, he quietly attached a provision to the tax-reform bill giving the same break to Alaska Native corporations. He argued that the Natives had suffered huge losses because congressional actions had delayed the conveyance of all 44 million acres promised by the 1971 settlement act.

The steel industry didn't get its exemption, but the Natives did.

Stevens estimated at the time that the Native exemption would cost federal taxpayers maybe $50 million. But the volume of transactions quickly swamped all projections, and Congress shut down the exemption two years later.

Then-House Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., said in April 1988 that the huge volume of transactions was fueled by profitable corporations approaching Natives with "schemes" to create paper losses that the money-making firms could then buy.

"If Congress does not move to restrict this unintended tax avoidance, it may cost $200 million or more in additional lost revenue that very profitable companies would otherwise pay in federal taxes," Rostenkowski said.

Even Rostenkowski apparently underestimated the money at stake.

Steve Colt, an economist at the Institute of Social and Economic Research at the University of Alaska in Anchorage, said the Natives had sold more than $3 billion in operating losses by the time the exemption was terminated in 1988. He estimated the tax loss to the federal government exceeded $1 billion.

The final cost could turn out to be lower because the Internal Revenue Service is intensely auditing the sales. Stevens has met with Treasury Department officials to promote the best resolutions he can for the Natives.

Stevens said he considered the provision social legislation that helped restore the economic vitality of several Native corporations while pumping hundreds of millions of federal dollars into the state.

"It deserved to be in Alaska," he said.

According to Wally Powers, vice president of finance for Nome-based Bering Strait Native Corp., which sold $35 million of its losses still under IRS audit, the transactions could be a lifesaver.

"We were officially in bankruptcy when the NOLs went through," Powers said. "They give us a second chance to achieve the promise of the Native Claims Settlement Act."

A FIERY TEMPER

Stevens has a reputation as one of the Senate's most incendiary members, and he's proud of it.

He believes his angry outbursts are one of his most effective tools.

"I don't lose my temper," he quips. "I always know where it is."

Shortly after Stevens was appointed to the Senate in 1966, the Nixon White House got a taste of that temper.

The Labor Department wanted to fill a position in Alaska with a Californian. Stevens thought an Alaskan should get the job, but had recently refused to support the White House on one of its issues—he doesn't remember just which one.

A Nixon bureaucrat named Fred Webber called Stevens' office and asked why the administration should bend over backward for Stevens if he wouldn't help the president.

Stevens still remembers the showdown with Webber. So does Ron Birch, who was Stevens' top aide at the time and witnessed the blowup.

Stevens summoned Webber to his office and politely inquired about pending legislation important to the Labor Department. Webber courteously ticked off a list of bills.

"You go back and tell your boss that I am putting a hold on every one of those bills," Birch recalls Stevens telling Webber. Because much of the Senate's routine business depends on unanimous consent, even a rookie like Stevens then was, can keep legislation off the floor. It is an especially potent tool toward the end of a congressional session when a last-minute "hold" can effectively spike a bill.

"Yeah, I got a little exercised," Stevens remembers. "I got up, opened my door, grabbed him by the seat of his pants and his collar and threw him out on the god....d floor."

According to Birch, Stevens was willing to risk offending the White House to make clear that he could not be bought.

"He said that the first time you sell your vote, you're a whore," Birch said. "And once you're marked as a whore, you are marked forever."

Stevens instructed Birch that he would take no more calls from the White House, even from Nixon, until there was an apology for trying to pressure a vote out of him. It was delivered by a delegation from the White House the next day, Birch said.

Neither Webber nor people in the White House delegation could be located for comment.

"I've heard many stories about Ted Stevens' temper," said Bill Van Ness, a former congressional lawyer and now the senior partner in a Washington, D.C., law firm that lobbies on Alaska issues.

"But I've always believed that he is in control, that he always knows what he is doing," Van Ness said. "And I think it has had an intimidating effect. There aren't many in the Congress who will take him on, head to head."

Stevens' prickly independence may have worked well for Alaska, bringing billions of dollars in federal spending, but it has not necessarily served him well personally.

In 1984, Stevens narrowly lost a race against Kansas Sen. Bob Dole for Republican majority leader. The majority leader sets the agenda for the entire Senate and usually serves as one of his party's leading policymakers.

Stevens believed he had enough votes to win the job. He had worked his way up to the position by serving as the chairman of the Republican Senatorial Campaign Committee, which raises money to elect Republicans to the chamber, and later as Republican whip—the party's second-ranking leadership post.

The defeat cost Stevens his job as whip. Among the perks were a suite of offices in the Capitol and a chauffeured car.

Press accounts at the time attributed Stevens' loss to the desire among other senators for the committee chairmanships that would be opened up by Dole's elevation.

But press reports also cited Stevens' fabled temper. He said in a recent interview that he believes he was hurt by the fact that he had angered so many of his colleagues over the years.

"I think I didn't get the votes I should have from some people because I had offended them in some connection or other, but it was something I had to do to get bills passed for Alaska," Stevens said.

Despite his long public career, Stevens' private life has been marked by family hardship, tragedy and regrets.

Stevens, born in Indianapolis, was the third of four children in his family. His parents divorced in 1929 just as the Great Depression was beginning. He lived with his grandparents until he was a teen-ager, helping support a blind father and a mentally retarded cousin by hawking newspapers on the street and later by working at a soda fountain.

Stevens flew Army cargo planes in China during World War II. After the war, he earned a law degree at Harvard University, then worked for law firms in Washington, D.C., and Fairbanks. But he abandoned the lure of big money to enter public service and then politics.

Roger Ernst, who worked with Stevens at the Interior Department during the Eisenhower administration, recalled Stevens working even on Sundays. It was a habit he kept up when he entered the Senate.

He came to regret those long hours away from his family.

On Dec. 4, 1978, a Learjet carrying the Stevenses and several others hit gusty crosswinds and crashed while attempting to land at Anchorage. The senator was one of two survivors. His wife was not.

In the months of grieving that followed, Stevens seemed to blame Alaska's other senator, Democrat Mike Gravel, for Ann's death. At the time of the crash, the Stevenses were en route to a fund-raiser for a lands act lobbying group. Stevens said at a congressional hearing that the trip was necessary only because Gravel had blocked a compromise on the Senate floor that would have let the lands act pass two months earlier.

It took months for Stevens to work through Ann's death. He read a book by Arthur Freese called "Help for Your Grief." Though the book is now out of print, Stevens sends a photocopy of it to friends when they have a death in the family, inscribed with remarks about how it got him through Ann's death.

Two years later, Stevens married Catherine Bittner Chandler. In 1981, when he was 57, Catherine gave birth to his sixth child, Lily, upon whom he dotes. He reserves time to go to movies with Lily now that she is a young teen-ager, and he drives her and her friends to weekend soccer games. A corner of Stevens' office is filled with Lily's artwork. When Lily was younger, Stevens would hold hot-dog and ice-cream parties for her in a Senate dining room.

By 1980, his nemesis, Gravel, had been defeated and the major pieces of law affecting Alaska had been enacted. Stevens began what amounted to a second life. It was comfortable until financial problems beset his new family.

An untimely investment in a crab boat in 1979, named the Lady Ann after his first wife, saddled him with more debt than his Senate salary could absorb, and Catherine's investment in an Arizona cattle ranch drew an Internal Revenue Service tax claim in the mid-1980s.

The Stevenses settled their debts by selling their Maryland home in December 1986 and moving into a rented house in the District of Columbia.

Stevens' financial situation didn't completely turn around for another three years. C.W. Snedden, the longtime publisher of the Fairbanks Daily News-Miner who had helped give Stevens his political start three decades earlier, died in August 1989. Snedden bequeathed Stevens an expensive motor yacht. Stevens immediately sold it to pay off his bills and buy the house he and Catherine were renting.

Stevens' failure to accumulate much wealth due to his public service has at times left him sounding somewhat bitter.

In 1988, a year before the bequest from Snedden and when his financial situation seemed bleak, Stevens was beginning to think about his 1990 re-election campaign.

He said in an interview that he could have made millions of dollars as a lawyer and that voters needed to understand the personal sacrifice he had made for a life of public service. He said he viewed the 1990 election as a turning point in his life and for the state.

Stevens' remarks drew letters to the editor attacking him for arrogance, but they didn't dent him at the polls. In the 1990 Republican primary, his conservative rival, Bob Bird, ridiculed Stevens as "his highness"—and got just 30 percent of the vote.

At 70, Stevens' hair is graying and, despite a passion for exercise and healthy foods, he has had serious medical problems—including prostate cancer two years ago and back problems requiring surgery in February. But Stevens has already said he will run again in 1996.

Anything can happen in an election, but at least for now Stevens is looked upon even by many Democrats as the workhorse who can get things done for Alaska.

In May 1993, a group of Alaska Democrats fanned out over Washington. They were trying to figure out if they had any sway with the Clinton administration, coming as they did from a state with a Republican-turned-independent governor and an all-Republican congressional delegation.

Just months before, Stevens had predicted that Clinton's policies would bring economic ruin to Alaska. Now the Democrats courted him as if he were the only person who could hold their own president at bay.

"I remember being asked once what one thing we could do that would be best for the state," said Anchorage lawyer Tony Smith, who ran against Sen. Frank Murkowski in 1992. "I said that the best thing we could do would be to take $20 million out of the state's permanent fund to find a fountain of youth to keep Stevens alive and in office."

Smith—who is now running for Republican Don Young's seat in Congress—says he still stands by that statement.

[From the Anchorage Daily News, Aug. 8, 1994]

STEVENS' LIFE WASN'T EASY GROWING UP IN THE DEPRESSION WITH A DIVIDED FAMILY

(By David Whitney)

WASHINGTON.—A wooden surfboard stands amid the plaques and letters of appreciation in Ted Stevens' office in the marble-walled Hart Senate Office Building.

Polished to a gleam and parked in the corner nearest Stevens' desk, the board is a memento of a rare mellow period in the life of a politician not known for mellowness.

Stevens paid $40 for it when he was a teenager in Manhattan Beach, Calif. He lived there with an aunt and uncle who took him in when he was 15.

"In 1940, I bought a surfboard and a gold 1931 Pontiac convertible," he said. "The surfboard cost almost as much as my car."

With the board in the back of his car, Stevens and high school friend Russell Green would head for San Onofre to ride the waves.

"We were beach bums," Stevens said.

Theodore Fulton Stevens was born Nov. 18, 1923, in a small cottage behind his grandparents' home in Indianapolis. His grandfather built the little house after Stevens' father, George, married Gertrude Chancellor.

The couple divorced when Stevens, the third of George and Gertrude's four children, was 6, and the 1929 stock market crash was plunging the nation into the Great Depression.

At the time of their divorce, Stevens' parents lived in Chicago. The Depression cost Stevens' father his job, and the children went back to Indianapolis to live with their grandparents.

They were soon followed by Stevens' father, an accountant who developed severe eye problems and went blind for several years.

Stevens' mother landed in California and, as she could afford it, she moved Stevens' siblings out to be with her. Stevens said he stayed behind to help care for his blind father and a mentally retarded cousin who also lived with his grandparents.

Stevens helped raise money for the household as a newsboy on the streets of Indianapolis.

"I remember selling lots of newspapers on the day of the Lindbergh kidnapping," Stevens said. Charles Lindbergh Jr., the son of the famous aviator, was kidnapped on March 1, 1932. Stevens was 8 years old.

In 1934, Stevens' grandfather, the only one in the house with a job, tumbled down a flight of stairs and punctured a lung. He contracted pneumonia and died.

Stevens stayed in the house until 1938, when his grandmother could no longer afford the bills. Stevens, then 15, moved with his retarded cousin, Patricia Acker, to Manhattan Beach to live with her mother, Gladys Swindells.

Before and after classes at Redondo Union High School, he still had to work. But there also was time for his growing friendship with Russell Green, son of the president of Signal Gas and Oil Co.

For three years, Green and Stevens partied, surfed and studied together. They're still close friends.

Green recalled cutting classes with Stevens to hear Glenn Miller's orchestra, Miller was making a movie at the time and also doing nightly radio broadcasts from a nearby town.

He said they approached Miller and told him they had cut class to see him. "Miller said, 'Just tell your teacher you were up seeing Glenn Miller and they will let you out,'" Green said.

"Ted has a lot of fun in him and a great sense of humor," Green said. "But he was serious enough to get absolutely top grades."

Except when the now-famous Stevens temper surfaced in an English class, Green remembered.

"One of our classmates was an A student but he was always talking," Green said. "So the teacher gave the student a B. Ted got into an argument with the teacher, saying that the grade should be for the work he's done and not his deportment. The teacher got so mad at Stevens that she knocked his grade down to a B, too."

OFF TO WAR

After graduating from high school in 1942, Stevens attended classes at Oregon State University for a semester and then, with World War II raging, tried to enlist in the Navy Air Corps.

He flunked the vision exam.

"I had strained my eyes considerably in an engineering course I was in." Stevens said. Facing the prospect of being drafted, he moved to Los Angeles and took eye exercises six days a week.

There, Stevens met a former military officer and member of the Selective Service board who helped arrange another test for flight training.

This time, Stevens passed. The Army sent him off to study at Montana State University. He said he scored at the top of an aptitude test and immediately was transferred to preflight training in Santa Ana, Calif.

"We went right down to join a group that already had started in preflight," he said. "We got our wings in the early part of 1944. The other group at Montana State got its wings just in time to be discharged. They never went overseas."

From Santa Ana, Stevens went to Bergstrom Field in Texas, where he trained to fly P–38s. Because of an incident during graduation, Stevens never got the chance to fly the fighters in combat.

"Someone in the class booed the godd--n colonel who gave the speech to our graduating class," said Stevens, who recalls that the colonel was supposedly the son of an Army big shot. "Suddenly we were copilots in a troop carrier squad."

Stevens was dispatched to China to fly for the 14th Army Air Corps Transport Section, which supported the Flying Tigers.

Leroy Parramore, who flew with Stevens in China, said they piloted C–46 and C–47 cargo planes, often without escort, throughout the China theater to resupply mostly Chinese units fighting the Japanese.

"We transported everything from bombs to Chinese troops to gasoline," said Parramore, a retired Internal Revenue Service agent in Texas.

Parramore said their worst enemy was the weather.

"I remember one occasion when we were flying and we were running out of gas," Parramore said. "Ted was in one C–46 and I was in another. We hit a strong headwind and we started looking for an alternate landing field. I landed first. And when Ted finally landed, he had run out of gas on the approach."

"If I had anyone I would have trusted my life to, it would have been Ted," Parramore said.

When Stevens left the Army Air Corps in March 1946, he had collected a Distinguished Flying Cross for flying behind enemy lines, an Air Medal and a Yun Hai Medal, awarded by the Chinese Nationalist Government.

After the war, Stevens returned to California, where he received a bachelor's degree in political science at UCLA in 1947.

By then, Stevens had decided to go to law school. He applied at Stanford University and the University of Michigan.

But, when he told Green's father he planned to go to Stanford, he said he was told to "look East."

Stevens did, graduating from Harvard in 1950. He was able to finance part of the cost with money from the GI Bill because of his military service. But, he said, he also had to sell his blood, work several jobs—including one as a Boston bartender—and borrow money from an uncle.

Alaska Supreme Court Justice Jay Rabinowitz praised Stevens' scholarship at Harvard. Rabinowitz said the Alaska Supreme Court issued an opinion recently that cited an article on admiralty law Stevens wrote for the Harvard Law Review 45 years earlier.

After graduation, Stevens headed off to a Washington, D.C., job that put him on the road to Alaska.

[From the Anchorage Daily News, Aug. 9, 1994]

THE ROAD NORTH—NEEDING WORK, STEVENS BORROWS $600, ANSWERS CALL TO ALASKA

(By David Whitney)

WASHINGTON.—For Ted Stevens, the long, unexpected road to Alaska began in the Washington, D.C., law office of Mike "Northcut" Ely.

Ely had been an assistant secretary in the Interior Department during the Hoover administration. Twenty years later, he had a high-profile law firm specializing in natural-resources issues. He recruited Stevens out of Harvard Law School in 1950.

"He was a vigorous chap, highly effective," Ely, now 90, said in a telephone interview from Redlands, Calif., where he still maintains a office, "He was very personable, with a good sense of humor."

Stevens was assigned to handle the legal affairs of Emil Usibelli, an Ely client in Alaska who was trying to sell Healy coal to the military.

Stevens was interested in natural-resources law, but he wanted to pursue that interest in government, not private practice.

So he volunteered for the 1952 presidential campaign of Dwight D. Eisenhower, the World War II hero who would become the first Republican to occupy the White House since the defeat of Herbert Hoover in 1932. Stevens hoped an Eisenhower victory would mean a federal job for him.

Stevens said in an interview that campaign volunteers would meet at a Washington, D.C., hotel to write position papers. Stevens was assigned Western water law and the problems of Western lands.

Eisenhower's election in November 1952 looked like perfect timing for Stevens.

"I had done several papers for them. I had met several people by the time Eisenhower won. They said, "We want you to come over to Interior.'"

Eight months earlier, Stevens had married the former Ann Mary Cherrington, the adopted daughter of the chancellor of the University of Denver. A graduate of Reed College in Portland, Ore., Ann was a Democrat who worked for the State Department in the Truman administration.

Stevens told Ely he was quitting to look for work in the Eisenhower administration.

But the job didn't come through, and suddenly Stevens was out of work, with a new wife and no place to go. About this time, Stevens got a call from Charles Clasby inviting him to join his law firm in Fairbanks. Stevens knew Clasby because Clasby was the Alaska lawyer for Emil Usibelli, the coal miner Stevens had represented in Washington.

ALASKA CALLS

"Ann and I were both from the West," Stevens said. "We liked Clasby and Usibelli. We had done some things together when they were down here. And Clasby was in a hard spot. He had told me he had lost one of his people."

Ely said he was sad to see Stevens go. But he recalls Stevens offering another reason for leaving Washington.

"He said he'd like to settle in the West and get into politics," Ely said. "I told him he should stay in law."

Stevens recalls saying no such thing. According to Stevens, the job in Fairbanks came along at a time when he needed work and he had no idea that he would eventually get into politics.

The Stevenses packed their bags and began the long drive north in the dead of winter, traveling on $600 borrowed from Clasby. They hit Fairbanks in February 1953.

Stevens said he kids Gov. Wally Hickel about the loan from Clasby.

"He likes to say that he came to Alaska with 37 cents in his pocket," Stevens said of Hickel. "I came $600 in debt."

Stevens quickly cultivated the city's Republican establishment. One of his new friends was C.W. "Bill" Snedden, who had recently bought the Fairbanks Daily News-Miner. Helen Snedden, Bill's widow, said her husband and Stevens were "like father and son."

"The only problem Ted had was that he had a temper," Helen Snedden said. "My husband helped and guided him along the way. He kind of steadied him, like you would do with your children. My husband taught him the art of diplomacy."

Helen Snedden became especially close to Ann.

"I don't think you could have found a better person," she said. "She was very smart, very caring. She fit in very easily. The children came along, year after year. It was hard. It was a struggle. But she made a home and she didn't complain."

Stevens lasted six months with Clasby. By September, Fairbanks U.S. Attorney Bob McNealy, a Democrat, had resigned and, Stevens said, U.S. District Judge Harry Pratt asked him if he wanted the job.

"I said, 'Sure, I'd like to do that,'" Stevens said. "Clasby said 'It's not going to pay you as much money, but, if you want to do it, that's your business.' He was very p----d that I decided to go."

Stevens was confirmed for the position by the Senate on March 30, 1954.

"He was a very active D.A.," said Mike Stepovich, a Fairbanks lawyer at the time who a few years later would become territorial governor. "He was a prosecutor all the way through."

Olga Steiger, a former court clerk in Fairbanks, said Stevens' explosive temper often was fixed on Warren A. Taylor, a criminal defense lawyer.

"They didn't get along," she said. "Ted would get red in the face, blow up and stalk out of the courtroom."

GUN TOTIN' D.A.

Jay Rabinowitz, now an Alaska Supreme Court Justice, arrived in Fairbanks not long after Stevens left. He recalls tales of Stevens packing pistols and accompanying U.S. marshals on raids.

In one particular vice raid, Rabinowitz recalled, "U.S. marshals went in with Tommy-guns and Ted led the charge, smoking a stogie and with six guns on his hips."

"It makes me sound like Eliott Ness," Stevens said. He remembers only one such incident. It was in Big Delta, about 75 miles southwest of Fairbanks.

"We decided we'd take a combined force down there because of information we'd received about a lot of different violations of federal and territorial law. There was a prostitution ring, and drugs and violations of liquor laws.

"They wanted to make sure everything was done right, that the evidence would be admissible, the arrests would be legal, so they asked me if I wanted to go along. I said, yeah.

"So one of them suggested I ought to take a gun," he said. "So he checked me out a gun. It was a holster with a gun. It wasn't two guns. I never had two guns. I never walked around town with it.

"But someone did see it," he said. "Someone saw us coming back in or going out of the federal building that day and said, 'Jesus Christ, there's the damn district attorney carrying a gun.'"

The report spread "up and down Fourth Avenue in every bar."

"And, to this day, kids come in and tell me their dads have told them about me and they think a lot about me when they see stories about Eliott Ness and that it must have been the same," he said.

Stevens' most famous trial came at the end of his career as federal prosecutor. The case managed to link tax evasion to the cause of Alaska statehood—and Stevens lost.

Jack Marler, a former Internal Revenue Service agent, had been accused of failing to file tax returns and there were concerns that other Fairbanks residents were beginning to follow his example.

In Marler's first trial, which Stevens did not handle, the jury deadlocked and a mistrial was declared.

Marler hired Edgar Paul Boyko, a flamboyant young lawyer from Anchorage, to defend him in the second trial.

Stevens and a local judge decided to clean up the mess, Boyko recalls. "They decided that Marler would be a good start.

"Ted, who was young and full of piss and vinegar, decided to take over the retrial," he said. "He assembled an entourage to help him.

"I built a defense around the theory that there should be no taxation without representation," Boyko said.

"I gave a rabble-rousing closing argument to the jury," he said. "I said this man wanted to raise the issue that we had no representation in Congress. I said this case was the jury's chance to move Alaska toward statehood."

Newspapers around the country carried stories on the trial.

In his closing argument to the jury, Boyko called the panel "twelve Alaskans with a rendezvous with destiny."

He appealed to the jury to "strike a blow for Alaskan freedom."

"The shock of acquittal will be felt all the way to Washington," he told the jury.

"Ted had done a hell of a job in the case," Boyko recalled. "The jury's announcement of not guilty dropped like a bomb."

After the acquittal on April 3, 1956, Stevens issued a statement.

"I don't believe the jury's verdict is an expression of resistance to taxes or law enforcement or the start of a Boston Tea Party," he said. "I do believe, however, that the decision will be a blow to the hopes for Alaska statehood."

But it wasn't. The long battle for statehood had only two more years to run. Within two months of the Marler trial, Stevens was on his way back to Washington to help fight it.

[From the Anchorage Daily News, Aug. 10, 1994]

SEEKING STATEHOOD—STEVENS BENT RULES TO BRING ALASKA INTO THE UNION

(By David Whitney)

WASHINGTON.—When a brash young federal prosecutor named Ted Stevens arrived in Washington in June 1956 to take a job as assistant to Interior Secretary Douglas McKay, the prospects for Alaska statehood seemed no brighter than they had for at least a decade.

The battle had been going on since 1943 and had at least once seemed about to pay off. That was in 1950, when the U.S. House passed a bill to bring Alaska into the United States. President Harry Truman, a Democrat, supported the bill but it died in the Senate.

Two years later, Republicans captured Congress and the White House. The Republican Party opposed statehood, partly out of fears that Alaska would elect Democrats to Congress.

The Republican president, Dwight D. Eisenhower, saw Alaska as too large and sparsely populated to be economically self-sufficient as a state. Eisenhower also worried that statehood would hamstring the military's strategy for defending Alaska against an invasion by the Soviet Union.

The U.S. plan was to fight a delaying action in Alaska, gradually abandoning the hinterlands of the territory, if necessary, to an invading Soviet army. Eisenhower thought that strategy would be harder to pull off if Alaska became a state, because more people and politicians would have to be dealt with as abandonment proceeded.

The only idea that had much support in Washington was to divide Alaska, carving out its most populated areas for statehood and keeping the rest as a federal territory. That idea had little support in Alaska, particularly among rural Natives, who complained that they would be disenfranchised.

Within a couple of weeks after Stevens' arrival, however, the statehood movement got a considerable boost. McKay resigned to run for the U.S. Senate in Oregon and his replacement was Fred Seaton, a statehood advocate. McKay was not personally opposed to statehood but had never pushed for it, either, according to Claus M. Naske, a history professor at the University of Alaska Fairbanks.

Seaton was a close friend of Fairbanks Daily News-Miner publisher C.W. Snedden, one of the territory's leading negotiators in that phase of the statehood battle.

"The day after Seaton took office, he asked Snedden if he knew any Alaskan that could come to Washington to work on statehood," Naske said.

"Snedden told him that person was already working for him as his assistant," Naske said. "That person was Ted Stevens."

As a young federal staffer, Stevens was no power broker. But he quickly became an aggressive soldier in the statehood movement, earning the nickname of "Mr. Statehood" at the Interior Department.

"Ted probably spent more time with Secretary Seaton than any of us," said Roger Ernst, who was Seaton's assistant secretary for public land management.

"He did all the work on statehood," Ernst said. "He wrote 90 percent of all the speeches. Statehood was his main project."

FOCUS ON STATEHOOD

Stevens discussed his work on statehood in an interview with a researcher at the Eisenhower library in October 1977. He made clear that he was willing to bend the rules and manipulate the press to keep Alaska statehood on the administration's agenda.

"We set Ike up quite often at press conferences by planting questions about Alaska statehood," Stevens said in the interview. "We never let a press conference go by without getting someone to try to ask him about statehood."

Eisenhower's problem, Stevens said, was the he "took the position that land up there was very sparsely populated and very much an open invitation to invasion."

"I think he honestly believed that we had special vulnerability and also special significance as far as military strategy was concerned," Stevens said.

The Soviet threat to Alaska drew the top echelons of the Pentagon into the statehood debate.

Jack Stempler, who was then a top lawyer at the Defense Department, said Eisenhower relied heavily on the views of Gen. Nathan Twining, the chairman of the Joint Chiefs of Staff who had served in Alaska.

"Eisenhower wanted to make sure that there was adequate military for Alaska to protect itself." said Stempler, who is now retired, "And also, he wanted to assure himself that it would be economically viable. Without a military payroll, he had questions about whether it could be economically viable."

Two years earlier, in March 1954, Eisenhower had drawn a line on a map where he thought the state should end, with the areas north and west of the Porcupine, Yukon and Kuskokwim river remaining in federal hands.

"He said, 'Everything up there has got to be federal because the state can't protect it,'" Stevens said. "'There's a chance we're going to have terrorism; we've got a potential invasion up there. We've got to have federal powers up there.'"

With Seaton actively pressing for statehood, a compromise was fashioned to bring the entire territory into the union but with special federal protections for the sparsely populated northern and western regions that so worried Eisenhower.

Stempler said that he, Stevens and Twining then set about to define where the final version of the line should be drawn. Much of that work occurred in a room at Walter Reed Army Hospital, where Seaton was being treated for back problems.

"I remember sitting in Seaton's hospital room on Sunday mornings with Twining and Stevens talking about this," said Stempler. "Maps were taped to the walls. We discussed what wilderness areas would be hard for a young state to handle. The line was negotiated and after that, statehood moved forward."

The line became known as the PYK Line. From the northeast corner of the territory, it followed the Porcupine, Yukon and Kuskokwim rivers to the Bering Sea, then went south and east to clip off the lower half of the Alaska Peninsula and the Aleutian Islands.

The PYK line became the basis for Section 10 of the statehood act, which Stevens wrote. The land north and west of the line was included in the new state, but Section 10 gave the president emergency powers to take direct federal control of those areas, which include Prudhoe Bay and the Arctic National Wildlife Refuge.

Section 10 was a key to statehood.

"It's still in the law but it's never been exercised," Stevens said. "Now that the problem with Russia is gone, it's surplusage. But it is a special law that only applies to Alaska."

With the PYK Line settled, Stevens worked with Snedden, Anchorage Times publisher Bob Atwood and the Alaska Statehood Committee to lobby for statehood.

BENDING THE RULES

By 1956, Alaskans had held a convention in Fairbanks to adopt a constitution for the state they hoped to become. And they had elected three Democrats to go to Washington as unofficial delegates to Congress. Ernest Gruening and William Egan were Alaska's U.S. "senators," and Ralph Rivers was its U.S. "representative."

Stevens hired Atwood's daughter, Marilyn Atwood, to help him at the Interior Department. Together they drew up cards on members of Congress.

"I had made a study on each member of the Senate and this goes on now into '57, '58—whether they were Rotarians or Kiwanians or Catholics or Baptists and veterans or loggers, the whole thing," Stevens said in the 1977 interview.

"And we'd assigned these Alaskans to go talk to individual members of the Senate and split them down on the basis of people that had something in common with them," he said.

"We were violating the law . . . we were lobbying from the executive branch, and there's been a statute against that for a long time," Stevens said. "We more or less, I would say, masterminded the House and Senate attack from the executive branch."

The lobbying campaign also targeted newspapers.

"We planted editorials in weeklies and dailies and newspapers in the district of people we thought were opposed to us or states where they were opposed to us so that suddenly they were thinking twice about opposing us," Stevens said.

The long campaign for statehood paid off in 1958, when Congress passed a bill admitting Alaska to the Union. Eisenhower signed the act on July 7, 1958.

The act authorized the new state to select 103.5 million acres of "vacant and unappropriated public domain" to develop an economy.

Three years later, in the last days of the Eisenhower administration, when Stevens was the Interior Department's top lawyer, he wrote the public land order creating what is now the Arctic National Wildlife Refuge. The signing of that order was Seaton's last official act.

ANWR was created in an effort to end a much more sweeping land order that had withdrawn the whole of Alaska's Arctic during World War II, Stevens said.

"It was a great goal of people, particularly at Interior, who were quite interested in a gas field (near Barrow) at the time," Stevens said.

The withdrawal was supported by the state, according to Phil Holdsworth, Alaska's first commissioner of natural resources.

What Alaska got out of the deal was the lifting of the federal ban on state land selections in a large middle section of the North Slope bordered by the 9 million-acre arctic refuge to the east and the Naval Petroleum Reserve to the west.

That midsection contained a then-obscure landmark called Prudhoe Bay. Ten years later, it would become the site of the biggest oil strike in North American history and the foundation of Alaska's economy.

Now, as Prudhoe Bay reserves decline, the oil industry insists that the best hope for keeping up oil production in Alaska is the coastal plain of the refuge that Stevens helped create.

The 1980 Alaska Lands Act requires a vote of Congress to open it to oil drilling and, so far, environmental opposition has prevented that from happening. But Stevens maintains the creation of the refuge was—at the time, at least—a small price to pay for opening Prudhoe Bay and much of the rest of the North Slope to oil exploration. The land order he wrote more than 30 years ago contained no legal barriers to drilling, he insists.

"The order specifically allowed oil and gas exploration in the arctic range subject to stipulations to protect fish and wildlife," Stevens said. "I think it was a very good deal."

[From the Anchorage Daily News, Aug. 11, 1994]

PENCHANT FOR POLITICS—RULE CHANGE ENABLED HICKEL TO APPOINT STEVENS TO SENATE

(By David Whitney)

WASHINGTON.—Ted Stevens says he had no clue he would become Alaska's next U.S. senator when E.L. "Bob" Bartlett died in 1968.

In fact, Stevens may have been the politician least likely to replace the popular Democratic incumbent.

After completing a four-year stint with the Eisenhower administration, where he rose to be top lawyer at the Interior Department, Stevens had packed up his wife, Ann, and their five small children and headed for Anchorage in 1961.

He opened a law practice representing, among other clients, oil companies seeking to drill on state leases. He also did legal work for the state's two largest newspapers—The Anchorage Times and the Anchorage Daily News.

And, less than a year after leaving Washington, Stevens got into politics.

In 1962, he ran against U.S. Sen. Ernest Gruening and lost to the Democrat by a 3-2 margin.

He ran for the state House in 1964, won, and won again in 1966, the same year Wally Hickel was elected to his first term as governor. Stevens served as House majority leader in 1967 and 1968.

Stevens ran again for Gruening's seat in 1968, just months before Bartlett's death, but this time he didn't even make it into the general election. He lost the primary to Anchorage banker Elmer Rasmuson. On the Democratic side of the ballot, Mike Gravel beat Gruening, then did the same thing to Rasmuson in the general election.

What seemed pretty well-established by the time Bartlett died in December 1966 was that the cigar-smoking Stevens didn't have much of a statewide following.

In his book on Bartlett, University of Alaska history professor Claus M. Naske said Bartlett had been having heart trouble long before he was hospitalized in Cleveland in November 1968. Until his heart surgery, however, it appears that Bartlett's declining health was little-known in Alaska.

Nonetheless, Republican leaders in the state legislature were aware that both of the state's U.S. senators—Bartlett and Gruening—were getting along in years and they wanted to make sure Hickel could pick a fellow Republican as successor.

At the time, state law required the governor to appoint someone of the imcumbent's party. Republican lawmakers, who for the first time since statehood held a majority in both houses of the legislature and also had a Republican governor, set out to change the law in early 1967.

The sponsor of the legislation was Senate Majority Leader John Butrovich. He said in a recent interview that he had no idea that the change in the appointments law would be used so soon.

He said he was aware that Bartlett had health problems but he never suspected how serious they were.

"When he passed away, it sure was a surprise to me," Butrovich said.

The legislation quickly moved to the House, where Stevens was in charge of the agenda. But Stevens says he doesn't remember much about it and certainly didn't expect to be its first beneficiary. The new rule took effect in mid-1967.

"I had no inkling that I would be appointed should there be a vacancy," Stevens said. "I had no reason to believe we would have a vacancy. I considered Bartlett's health to be robust."

Anchorage lawyer Joe Josephson, who worked in Bartlett's Senate offices between 1957 and 1960, said he can understand how Alaskans could have been ignorant about Bartlett's health.

"My general impression was that he had a lot of ailments but it never affected his performance," Josephson said. "It's fair to say that I doubt he sent out bulletins on his condition. He would not have been very forthcoming about health problems."

Indeed, an Associated Press report of Bartlett's death at the time made no mention of persistent health problems.

Had the law not been changed, the most likely prospect to fill Bartlett's seat would have been Edgar Paul Boyko, a Democrat whom Hickel had appointed attorney general.

Boyko still thinks about the Republicans' maneuvering.

"I don't think it was aimed at me personally," Boyko said recently, "It was aimed at heading the Democrats off at the pass. But Stevens had no reason to think that he would have been Hicken's first choice, either."

HICKEL'S QUANDARY

Bartlett's death on Dec. 11, 1968, set off an immediate scramble for a replacement. Among the strongest contenders were Elmer Rasmuson and Hickel's longtime friend Carl Brady. Stevens' name, though mentioned, was not prominent on anyone's list—except Hickel's.

Hickel was in Washington at the Shoreham Hotel on Dec. 11, awaiting President-elect Richard Nixon's announcement of a slate of Cabinet nominations—including Hickel's for Secretary of the Interior.

"I was handed a note that Bartlett had died," Hickel recalls. "I went over to (Nixon) and he mentioned that he knew Ted.

"Nixon said 'Wally, what are you going to do?'" Hickel said, "I told him the people I had in mind. There was Rasmuson, Brady and Stevens.

"The president looked at me and said, 'Wally, do you have the courage to appoint Ted?'" Hickel said.

"And I said, 'I want to do what is right,'" Hickel said. "Carl Brady was a close friend of mine. I had known Rasmuson for many, many years. But Ted Stevens was a survivor, in my opinion."

Once the tenacious Stevens was in office, Hickel was convinced, no candidate would be able to unseat him.

Stevens insists he was unaware any of this was going on.

He said he and Ann were in Mazatlan, on the first real vacation they had taken since they were married in 1952.

"We got a collect telegram," he said. "It said 'Call Hickel.'"

Stevens said he telephoned Juneau and learned of Bartlett's death. "Hickel told me that he wanted me to come back and talk to him about taking Bartlett's place."

On the way back from Mexico, Stevens stopped in Seattle for a meeting with Hickel about the Senate seat, setting off speculation that he might be a candidate for the job. But news reports at the time said Stevens was more likely to go to Washington to work with Hickel at the Interior Department than to join the U.S. Senate.

Stevens put that speculation to rest when he flew into Anchorage the next day. Stevens said the only way he would return to Washington would be as U.S. senator.

Stevens' oldest child, Susan Covich, remembers her father and mother gathering the children in their Anchorage home about this time to discuss the possibility of moving to the capital. Covich was 15.

"It was definitely a family discussion as to whether we would go," she said.

Covich, now a computer tutor at a North Kenai elementary school, said the discussion came as a surprise to her because, after her father's primary defeat in August, "there was some talk of him stepping out of politics for a while."

Stevens seemed like a long shot for the Senate job. Interior Republicans were supporting Butrovich for the appointment. And, when Robert A. Davenny, chairman of the state Republican Party, called a meeting of the state central committee to recommend names for the seat, Stevens at first didn't make the list.

The central committee ultimately sent Hickel a more expansive list of 10 people for the seat. Stevens' name had been added, along with two members of the ultra-conservative John Birch Society.

Within a couple of days, Hickel had narrowed his choice to Brady and Stevens. His problem, he said, was that sometime before he had promised Brady to appoint him to any vacancy.

Hickel summoned both men to his Anchorage home Dec. 23 to talk about the seat. By the time they arrived, Brady had already concluded that Hickel really wanted Stevens and that he should bow out.

"My wife and I decided that, why would we want to be back in Washington if the governor didn't want me there?" Brady said. "I agreed to withdraw if Hickel would appoint Stevens."

"There's no question Hickel did the right thing," said Brady, who went on to make a fortune as operator of Era Aviation. "Ted is more popular with Democrats and Republicans. He is well-loved by everybody. I am more conservative."

Stevens said he was stunned by Brady's decision.

"I was really very humbled," Stevens said. "I told Carl that he had a commitment from Hickel, that he could have held Hickel to it, and I think Hickel would have stayed with it."

Sitting in Hickel's home Dec. 23, just minutes after the governor announced Stevens' appointment, Stevens pulled a dollar bill from his wallet.

Stevens signed his name to one end and handed it to Brady to sign the other. Stevens tore the bill in two, giving Brady the half with Stevens' signature.

"I said, 'If you ever need help, and you really want my help from in or out of the Senate, send that to me.'" Stevens said. "I've never received the other half."

But, in 1978, when Hickel was running in the gubernatorial primary against Republican incumbent Jay Hammond, Brady came close to cashing in his half of the dollar bill.

"I wanted him to support Hickel in the primary," Brady said. "Ted refused. He said he couldn't oppose a Republican incumbent."

By Senate tradition, members don't take sides in contested state primary elections.

"I said that I'd never called in my half of the tab," Brady said. "'What if I did that?' And he said, 'My friend, I'd have to resign from the Senate.'"

Stevens doesn't remember the incident but, whether he was serious or not about leaving the Senate, that was that. Brady dropped the matter. Stevens didn't support anybody in the primary, and Hickel lost.

[From the Anchorage Daily News, Aug. 12, 1994]

BITTER BATTLE—NO LOVE LOST BETWEEN STEVENS, GRAVEL

(By David Whitney)

WASHINGTON.—One of the biggest influences on the Senate career of Ted Stevens was Mike Gravel, and not a moment of their 12-year relationship was pleasant.

Years after Gravel, a maverick Democratic senator, was unseated by Republican newcomer Frank Murkowski in 1980, Stevens still seems haunted by the man.

They fought over just about every Alaska issue that came up before Congress.

They disagreed over extending the U.S. territorial limit 200 miles out to sea—the catalyst for the Magnuson Fishery Conservation and Management Act of 1976, which gave Alaskans a dominant voice in the management of commercial fishing in federal waters off the Alaska coast.

They fought over the 1971 Alaska Native Claims Settlement Act. They feuded over the 1973 Trans-Alaska Pipeline Authorization Act. And—most famously and bitterly—they fought over the Alaska National Interest Lands Conservation Act of 1980.

Gravel thinks the animosity resulted from the 1968 election, which he won by defeating incumbent Ernest Gruening in the Democratic primary and then beating Anchorage banker Elmer Rasmuson in the November general election.

Stevens had lost to Rasmuson in the Republican primary. Gravel, who now lives in California, thinks Stevens blamed him for attracting Democrats who, Stevens felt, would otherwise have crossed over and helped him beat Rasmuson in the primary.

Stevens saw Gravel as a grandstander and himself as the pragmatic workhorse willing to cut the best deals he could for the state—even when the best deal was not popular in Alaska.

Year by year, the feud worsened.

It reached its pinnacle in the congressional battle over ANILCA, finally enacted in August 1980.

President Jimmy Carter had made the lands act his top environmental priority. The final bill placed 104.3 million acres of the state under federal protection, more than doubling the size of the nation's park and refuge system and nearly tripling the amount of land set aside as wilderness in the country.

Gravel wanted to prevent any bill from passing, while Stevens believed stonewalling would only make things worse.

COMPROMISE BATTLE

In October 1978, with the Carter administration threatening to use presidential authority to lock up Alaska lands from state selection until a lands act was law, such a deal seemed at hand. It involved turning about 96 million acres of federal lands in the state into national parks, refuges and preserves.

With environmentalists arguing for protection of even more lands, Stevens warned that the compromise was about as good a deal as the state was likely to get. Under pressure from state interests, Gravel indicated he would not block its passage.

But in the closing hours of the 1978 session, Gravel suddenly made new demands. Among other things, he wanted better access to oil drilling and mining sites and a ban on any future taking of Alaska lands. Gravel's 11th-hour appeal killed the compromise.

"You've got yourself in a big battle now, buddy," Stevens screamed at Gravel on the Senate floor. Stevens said the collapse would delay the transfer of 100 million acres of federal lands still owed to the state and Natives under the 1958 Alaska Statehood Act and the 1971 Alaska Native Claims Settlement Act.

"You carry that burden," Stevens told Gravel.

Stevens wasn't alone in blasting Gravel.

Sen. John Durkin, a New Hampshire Democrat who was one of the Senate's leading environmentalists, attacked Gravel for killing the compromise.

"The people of Alaska should know that this compromise foundered on two words," Durkin said. "Those two words are Mike Gravel."

Later, when reporters asked him about Gravel's action, Stevens said that "my mistake was in trusting him."

Gravel responded by accusing Stevens of "being prepared to sell out too much." He returned to Alaska bent on convincing voters that Stevens should not be returned to office in the 1978 elections.

According to news accounts at the time, Gravel pumped $24,000 of his own campaign money into the coffers of Stevens' 1978 Democratic challenger, Anchorage electrical contractor Don Hobbs. The money supported advertisements telling Alaskans that a vote for Ted Stevens was a vote for compromise. A vote for Hobbs was a vote to fight.

The ads barely dented Stevens, who was easily re-elected.

CRASH KILLS WIFE

But Gravel's action in killing the compromise meant a continued congressional battle over the lands act. And that meant more money was needed for the lobbying activities of Citizens for the Management of Alaska Lands, the state's leading organization battling environmentalists over the bill.

The group scheduled a fund-raiser for Dec. 4, 1978, in Anchorage.

Stevens was in Juneau that day for the second inauguration of Gov. Jay Hammond. To make the fund-raiser after the inauguration, Stevens, his wife, Ann, and five others boarded a private Learjet for the trip to Anchorage.

The plane hit gusty crosswinds and flipped on approach to Anchorage International Airport. Stevens and Tony Motley, the head of the citizen group, were the only survivors of the crash.

Ann's death devastated Stevens.

Testifying before a House panel on the lands act two months later, at the beginning of the 1979 legislative debate, the grieving senator made statements widely interpreted as accusing Gravel of killing his wife.

Stevens said the flight wouldn't have been necessary if Gravel had kept his word and supported the compromise.

"As I am sure you realize," Stevens somberly told the House Interior Committee, "the solution of the issue means more to me than it did before."

"I don't want to get personal about it, but I think, if that bill had passed, I might have a wife sitting at home when I get home tonight, too," Stevens said.

Those remarks appear in newspaper accounts but not in the printed transcript of the House hearing. They were most likely excised by Stevens' aides, although no one interviewed for this story could recall who might have done so. Aides to senators often rewrite parts of hearing transcripts to make their bosses look better.

Stevens now says his remarks were misinterpreted.

"People said I accused him of killing Ann," Stevens said. "I was just stating a fact. We would not have gone on that plane if it were not the fact that we had to raise money. But I don't think he killed her."

Gravel said he interpreted Stevens' remarks as accusing him of Ann's death. He also said he now doesn't think Stevens meant it to come out that way.

"I think when things didn't go well, he focused his anger on me," Gravel said. "It was a ridiculous accusation. It was a product of the trauma of the accident. It had to be the trauma. He is not an unstable person."

By this time, Alaskans were wondering if the intensifying hostilities between Stevens and Gravel would undermine their interests.

Hammond and several other government officials convened a "unity meeting" in 1979 to urge the two senators to present a common front.

The open hostilities subsided. But Gravel, facing re-election in 1980, continued to fight any lands act while Stevens worked with Senate and House leaders to craft the best deal he could.

The final deal that cleared Congress, as Stevens predicted, locked up more land than the 1978 compromise.

The 1978 deal would have protected 96 million acres, putting 50 million acres of that into wilderness off-limits to any form of development. The final bill protected 104.3 million acres, of which nearly 58 million acres was wilderness.

According to Steve Silver, who worked on the lands act for Stevens, the difference between the two versions was more than just the additional 8 million acres of land.

The 1978 compromise, said Silver, "had smaller parks and refuges, more carve-outs for mining and larger preserves where hunting was allowed," he said.

But Gravel said he also objected to the final version of the lands act because it contained an automatic $40 million annual appropriation for logging in the Tongass National Forest. He opposed the subsidy on principle and predicted, correctly as it turned out, that the provision would make subsidized logging in the forest a continuing controversy.

Gravel's objections made no difference, however. The lands act was approved Nov. 12 in a lame-duck congressional session just eight days after Murkowski defeated Gravel's bid for re-election.

Gravel said he has no regrets about trying to stop the bill in the hope that a less restrictive version would be approved in 1981, when Ronald Reagan would be president and the Senate would be controlled by Republicans.

"Had we delayed, I thought we could bring about a more balanced bill," Gravel said.

Stevens also voted no on the bill. Even though he had helped work it into its final form, he thought it was still too restrictive.

Even today, Stevens winces at the mention of Gravel's name. He began a series of interviews for this profile saying that he didn't want to talk about Gravel. Although he reluctantly answered a few questions, he did so in terse responses and never spoke kindly of his old foe.

But incidents recounted by friends and former aides of Stevens indicate his feelings have slowly softened.

Tim McKeever, Stevens' top aide in 1980, said he was at Stevens' home that November watching election returns showing Murkowski defeating Gravel.

"I remember Stevens saying, 'I wonder how his kids must feel,'" McKeever said, "My impression is that Stevens felt genuine concern about what Gravel's family must be feeling."

The second incident was in 1985, at a surprise birthday party for Ron Birch, a former Stevens aide who now is a Washington, D.C., lawyer and lobbyist.

Birch said Gravel was at the party when Stevens arrived.

"Stevens came up to me and said that it is time to stop this," Birch said, "And then he went over and shook Mike's hand."

Stevens remembers that event but said it didn't clear the air.

"It was a gesture on my part that has never been repeated by Gravel," Stevens said.

Gravel is sorry now he didn't reciprocate.

"It's always been a personal regret to me" Gravel said. "It's unfortunate because he is a very good person. We just got off on the wrong foot."

[From the Anchorage Dailey News, Aug. 13, 1994]

STEVENS' PRIORITIES CHANGE AFTER MARRIAGE, BIRTH OF DAUGHTER

(By David Whitney)

WASHINGTON.—The death of his first wife, in 1978, began a difficult transition to a new life for Sen. Ted Stevens.

As he grieved, he came to regret all the years he had worked around the clock, leaving Ann at home to take care of their five children.

"I was busy trying to earn a living, working hard no matter where it was and what we did," Stevens said, "And the time when I came to the Senate—my God, what a period.

"We were constantly on the move, plus it was hard to campaign. One year I was away from home 50 weekends * * * going to Alaska, going to make speeches, raising money," he said, "I spent a lot of time away from my family."

In December 1980, Stevens married Catherine Bittner Chandler, the lawyer daughter of a prominent Alaska family. Catherine's roots, like Ann's, were solidly Democratic and liberal. Lily, his sixth child, was born the following summer.

Lily's birth reinvigorated Stevens, who was then 57.

"It was wonderful," Stevens said. "Not many people have the privilege of being a father at that age."

"I've talked to a lot of fathers who have children later in life, who have had two families," Catherine said. "I think Ted is no different than almost any that I have talked to.

"The first time, you really have to be busy going to the office, and you don't really think about it when you're young and making your career," she said. "When they have a child later, it's, 'What's this precious little thing?' It's really exciting for them. It's not that it wasn't exciting in the beginning. It's just that they were dedicated to making a living."

Stevens' children from his first marriage are adults now, most with their own families.

Susan Covich, his oldest daughter, is 40. She's married, has children of her own and is a computer tutor for students at North Star Elementary School in North Kenai. Elizabeth Stevens, 39, works with the U.S. Fish and Wildlife Services in Colorado. Walter Stevens is a multimedia management specialist in Arizona. Ted Stevens, Jr., 37, just completed law school in California, and is awaiting results of the July bar examination. Ben Stevens, 35, is a fishing vessel captain living in Anchorage.

Susan and Ben said in interviews they remember their father being gone a lot when they were children. Many weekends, a baby sitter would move into their house while Stevens and his wife were off in Alaska. But they said they don't have any regrets.

"I remember Dad working hard during the week and playing hard on the weekends," said Covich.

She said her father was especially busy in 1971, her senior year in high school. Stevens was working long hours on the Alaska Native Claims Settlement Act and on trans-Alaska pipeline legislation.

"We didn't get much of a chance to see him," Covich said. But still, she said, her father made time for important family events, including her high school graduation.

Ben was 9 when his parents moved the family to Washington. He said he never felt neglected during his father's frequent absences.

"He was dedicated to his job," Ben said. "As we grow older, we realize this."

He said his father has "mellowed" since Lily's birth, and dotes on his youngest child.

"He is not as strict as he used to be," Ben said. "He ran a regimented family when we were younger."

"It is fortunate that he gets a chance to do what he thinks he should have done (with us)."

Stevens' new family in 1981 came just as he reached the pinnacle of his power in the Senate.

COSTLY DEFEAT

In 1975, Stevens was elected chairman of the Republican Senatorial Campaign Committee, which raised money to elect Republicans to the chamber. Republicans were worried that voters would savage the party in the 1976 elections because of the Watergate scandal and the resignation of President Richard Nixon in August 1974.

But, when all the votes were tabulated, Senate Republicans had held their ground with 38 seats. Two months later, Stevens was unanimously elected Republican whip, or assistant leader—the party's second-highest post in the Senate.

In 1980, Republicans riding on the coattails of Ronald Reagan won control of the Senate for the first time since 1954, and Stevens was elevated from minority whip to majority whip. The job gave him considerable influence over the Senate's agenda, a large office suite in the Capitol and a chauffeured car.

In 1984, Stevens ran for majority leader, the top job in the Senate. He lost to Sen. Bob Dole, R-Kan., by three votes.

Dole was seen as more likely to run the Senate independently from the Reagan White House, according to newspaper reports at the time.

But Stevens thinks power politics was partly to blame for his defeat. He said some Republicans on whom he had counted instead voted for Dole because the Kansan's election meant new committee positions for them.

Stevens was devastated by the loss. He had had to give up the job of whip to run, and the Dole victory ended his 10-year climb up the leadership ladder.

But the defeat improved the personal side of Stevens' life. For the eight years he was whip, he had arrived early to open the Senate and stayed late to close it.

"Now I can take Lily (then 3) to school in the morning and maybe even pick her up at night sometimes," Stevens said after the vote. "It's not all bad."

The aftermath of that defeat has led to some of the best years in Stevens' public life, he said in a recent interview.

In 1985, Dole appointed Stevens chairman of a Senate group created to observe arms-control negotiations in Geneva. With most of the pressing Alaska issues already resolved, the appointment gave Stevens the chance to travel frequently with Catherine and Lily.

"We flew Alaska salmon over to Geneva and had parties for the Russians," he said. "First they came alone, then they came with their wives. Before we were through they were walking around the lake with us and we were talking to them on Sunday afternoon. Those were good days."

FINANCIAL PROBLEMS

But the private side of Stevens' life was anything but comfortable. He was in deep money trouble.

In 1979, three years after helping shepherd the Magnuson Fishery Conservation and Management Act through Congress, Stevens and nine partners invested in the industry the act was intended to stimulate. They built a $2 million crab boat and christened it the "Lady Ann," in honor of Stevens' first wife.

Stevens said at the time that his work on the Magnuson Act was no ethical bar to investing in the fishery, adding that "I'd like to be accused of being the only senator that owns a fleet of fishing boats."

The investors included Catherine's brother, William Bittner, and Ron Birch, a former Stevens aide who had formed a law partnership with Bittner.

Birch said in a recent interview that each investor put up $20,000 to secure a bank note. Cash calls came later for equipment and supplies, he said.

By the time Lady Ann hit the water, the crab industry was on the rocks, and investors in the vessel were facing payments on a debt with interest rates soaring to 21 percent, Birch said.

Stevens' partners were lawyers and businessmen making more money than he did as a senator. They could handle the strain, but Stevens said he had trouble making his payments.

But the bigger burden, Stevens said, was Catherine's investment in an Arizona cattle ranch.

Neither would go into much detail but Catherine said her investment in the 39,000-acre ranch ran into problems with the Internal Revenue Service.

"We had a big tax bill," Catherine said. "We had been hassling with them over depreciation schedules and various things like that. The problem is that if you owe back taxes, with the interest, it was enough money. I don't even remember how much money it was."

In December 1986 the couple sold their suburban Maryland house to pay off debts and rented a home in Washington, D.C.

"Those were bad days," Stevens said. "Those were the tough times."

Frustrated by his own financial predicament and facing another re-election campaign in 1990, Stevens seemed discouraged.

In an interview in 1988, he complained about how much he had given up for a public-service career. He said he considered the 1990 election "pivotal" for him and the state.

"Politics is a very fickle thing," he said. "I see this election as determining whether the state wants someone with great seniority.

"I just want people to understand the commitment I'm making if I stay on," he said. "This is a period I could go out and make $1 million a year without any question."

Then, in March 1989, it seemed Stevens might not be a candidate for re-election.

President George Bush's nomination of John Tower to be secretary of Defense was rejected by the Senate, and the White House went searching for a less-controversial candidate who would be easy to confirm. Stevens' name was among those floated for the job.

Sean O'Keefe, then Stevens' top military aide, said he thinks Stevens was seriously considered.

According to O'Keefe; who later became Navy secretary under Bush, the White House called the morning of March 10—the day the nomination was to be announced—wondering where Stevens could be reached, if needed.

Less than an hour before the announcement, Stevens was in his office anxiously contemplating his options.

Alaskans had repeatedly elected him to be their senator, Stevens told a reporter that morning. That was not something that could be easily dismissed.

"I have a real feeling about the presidency," Stevens later said. "If the president asks you to do something, if it's within your power, I think you should do it. I never faced that problem."

In the end, he never had to. The Defense Department job went to former Wyoming Rep. Dick Cheney, who had served in the U.S. House with Bush.

Stevens' reaction was to dismiss the episode as a flash in the pan. He said he doesn't think Bush ever seriously considered him because he had backed Bob Dole—not Bush—in the 1988 Republican primary.

"Bush personally asked me for my support. I told him that Dole has been very generous to me and that I intend to support Dole," Stevens said. "Presidents don't forget things like that."

Bush wouldn't comment on how seriously he considered Stevens for the job. The ex-president is writing a book and "he's keeping his powder dry on this one," figures aide Jim McGrath. "I don't think he wants to scoop himself."

FINDING THE BALANCE

Today, at 70, Stevens seems more at peace. He travels to the state about 10 times a year, staying when time allows at his Girdwood chalet—his official residence. Though he still maintains a rigorous schedule in Washington, he takes time to drive Lily and her schoolmates to soccer games.

But he's as political as ever. He's already said he plans to run for re-election in 1996. And, on the Senate floor, he is as tenacious as ever, doing everything he can to keep federal money flowing north.

Thanks to the dying gift of one of his first friends in Alaska, his own money problems seem to be behind him.

That friend was former Fairbanks Daily News-Miner publisher C.W. Snedden, who died in 1989.

Snedden willed Stevens one of his most cherished possessions—a 55-foot motor yacht called the Lorichuck. Unable to afford the vessel's moorage fees in Seattle and in need of cash himself, Stevens put the vessel up for sale at an asking price of $650,000.

It is not clear how much the vessel actually fetched. But a Seattle boat broker said about the time the yacht was sold that he knew of a pending $420,000 offer. Stevens said he and Catherine used the proceeds to pay off bills and buy the house they had been renting.

Stevens described Snedden's bequest as "one of those great testimonials to friendship."

"He had personal knowledge of my personal finances over the years," Stevens said in a 1989 interview. "It was a gesture to help me stay in the Senate."

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL HEALTH

Mr. MOYNIHAN. Mr. President, New York State is best known for its large metropolitan areas; however, there are nearly 3.1 million rural residents in the State. The rural population in New York is larger than the population of 21 States. In many rural areas of New York, the existing health care delivery system is inadequate, inappropriate, or generally unavailable.

Rural communities of New York State and the Nation are experiencing serious challenges in attracting and retaining health care providers and health care services. Hospitals and primary care facilities continue to close. Communities are concerned about the availability of emergency medical services [EMS]. Physicians are retiring and some are leaving the rural areas which only adds to the health professional shortage problem.

In recognizing the needs of rural areas, the Federal Government has supported initiatives to assist States and local communities in meeting their health care needs. New York State is one of seven States that receive grants under the Essential Access Community Hospital [EACH] and the Rural Primary Care Hospital [RPCH] program. These grants help develop rural health networks by linking at least one full service hospital [EACH] and one or more limited service hospitals [RPCH's]. However, even before the Federal program was initiated in 1989, New York State supported the development of rural health networks.

Currently, New York's rural health network initiative supports four rural health network demonstration sites—Upper Hudson (Adirondack Rural Health Network), Chenango Health Network, Northern New York Rural Health Care Alliance, Southern Tier Healthcare System—and has been working with a number of other rural provider groups to develop additional integrated networks of health care providers. Specifically, the State of New York is helping networks to coordinate and integrate services in three major service categories: (a) hospital services; (b) primary care services; and (c) emergency medical services. These services must be integrated both within each category and among the categories.

The rural health amendments offered by Senator DASCHLE and other members of the rural coalition will certainly assist rural areas in New York. Providers in underserved rural Counties such as Jefferson, Essex, Yates, and Cortland would be eligible to apply for the following: Funding for the development of health care plans and networks; bonus payments under Medicare for primary care physicians and nonphysician practitioners practicing in rural areas; tax incentives for health care providers who locate in rural areas; more generous expensing for medical equipment used to provide primary care services in rural areas; additional funding for the National Health Service Corp.

All rural areas, some 44 counties in New York State, would benefit from the following provision: Grants for the development of rural telemedicine; rural emergency medical services [EMS] program grants; higher payments for small rural Medicare dependent hospitals; Medicare rural health transition grants for rural hospitals to modify the extent and type of services they provide; the rural based managed care program to increase the number of rural managed care plans.

Indeed, this is a significant step toward expanding our capacity to delivery health care services in rural communities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2569 TO AMENDMENT NO. 2560

(Purpose: To clarify the grounds for the nonrenewal or termination of a health plan in the event of the nonpayment of premiums)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] *proposes an amendment numbered 2569 to amendment No. 2560.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1432, strike lines 21 through 24, and insert the following:

SEC. 10135. PROVISIONS REGARDING NONPAYMENT OF PREMIUMS.

(a) IN GENERAL.—A health plan may terminate coverage if amounts owed to the plan for a month with respect to an individual or an individual's family members have not been fully paid for a time period established under State law, or in the absence of such a law, a period of not less than 60 days, and the heath plan has made reasonable attempts to collect such amounts.

(b) NOTICE.—Notwithstanding any other provision of this Act, a health plan may terminate coverage for nonpayment of premiums under subsection (a) only after providing notice of amounts overdue (in a form and manner and at such times as prescribed by the appropriate certifying authority).

Mr. MITCHELL. Mr. President, under the legislation which I introduced, a sponsor of a standard health plan has the authority to terminate an insurance policy for nonpayment of premiums. That is an authority which currently exists and is administered under State law with respect to insurance policies.

Under the legislation, if 95 percent of coverage is obtained by the year 2000, then no employer requirement with respect to participation in the cost of insurance would be required, and the status as I have just described it would be permanent thereafter.

So under the amendment, for at least a period of 7 years, and then depending upon what occurred thereafter, possibly permanently a company would retain existing legal rights to terminate a policy for nonpayment of premiums.

However, under the legislation, in the event that 95 percent of coverage is not achieved by the year 2000, and in the further event that Congress does not act thereafter to remedy that situation, then beginning in the year 2002 an employer requirement is created under which employers having 25 or more employees would be required to participate in the cost of health insurance for employees on a 50-50 cost-sharing basis. Employees of firms with fewer than 25 employees would be exempt from that requirement.

In order to prevent a situation under those circumstances in which an employee of a covered firm paid his or her premium but the employer failed to make the contribution required by law, the legislation is intended to prohibit termination of a policy in that circumstance; that is to say, in the event the employee paid his share of the premium and thought he was covered, but the employer failed to make his required payment, under which circumstance the concern was that the employee's policy would be canceled even though the employee had paid his share and might not even be aware of the employer's lack of contribution.

The language of the proposal which was intended to achieve this narrow result has been interpreted by some in a way which creates an ambiguity and which some have suggested prohibits in all circumstances, at all times, under the legislation, a circumstance in which a policy could never be canceled for nonpayment of premium.

That is clearly not the intent of the legislation, and this amendment is intended to resolve any ambiguity in that regard.

The amendment provides that a health plan may terminate coverage if the premiums are not paid for a time period as established under State law, and if there is no State law, then a period of 60 days.

Now, I emphasize again, this applies only in the period after the year 2002 if the employer requirement is triggered and that employer does not meet the responsibility of the law even though the employee may have paid his premium or, of course, in the event the employee did not pay his premium.

Almost all and perhaps all States have grace periods prior to the cancellation of policies. They generally are in the range of 30 days. They vary somewhat depending upon the type of policy and the State.

So what this says is in that situation, if a premium is not paid either by the individual employee or by the employer, the termination of the policy could occur subject to State law with respect to the grace period.

In the event that the nonpayment of premium by either the individual employee or the employer occurred and the State did not have a law containing a grace period, the grace period would be 60 days.

So, Mr. President, this is an effort to clarify a possible ambiguity in the manner in which the underlying legislation is interpreted and to make clear again, first, that for the period between 1995 and 2002, and perhaps on a permanent basis, depending upon whether the employer requirement is triggered, insurance companies and other health plan providers retain their right to terminate policies for nonpayment of premiums consistent with applicable State law.

Mrs. FEINSTEIN. Mr. President, will the Senator yield for a question?

Mr. MITCHELL. Yes, certainly.

Mrs. FEINSTEIN. If I may, as the majority leader knows, this was a section that troubled me very greatly. I think it is title X, section 10135. It is my understanding of what the majority leader is saying that this section, first of all, does not come in until after the year 2000; and second, it applies only if the mandate is triggered and the employer does not pay his share. Am I correct in this?

Mr. MITCHELL. If the employer does not pay his share or if the employee does not pay his share.

Mrs. FEINSTEIN. My next question is what would happen after the 60 days expired?

Mr. MITCHELL. In the event that the premium remained unpaid and the plan had made a reasonable attempt to collect and had notified the employee, the policy would be terminated.

Mrs. FEINSTEIN. The policy would terminate?

Mr. MITCHELL. Yes.

Mrs. FEINSTEIN. So there would be no need for someone to sue to gain payment; the policy would terminate?

Mr. MITCHELL. That is right. The insurer, the insuring party has the power and authority to terminate the policy as under current law.

Mrs. FEINSTEIN. I thank the majority leader very much. I think that is a substantial improvement, and I am very pleased to see it.

So I thank the majority leader.

Mr. MITCHELL. Mr. President, that completes my explanation of the amendment.

I was earlier advised and announced that no recorded vote would be necessary.

I will be pleased now to yield the floor and permit my colleague from Oregon to make such remarks as he may wish.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, there will be no vote on this amendment, and we will be prepared to accept it.

I think a few Members have some things they would like to say, and it is understandable. I appreciate the majority leader's reasonableness on this.

All you have to do is stand here on the floor next to the majority leader, 5 feet away, and listen to the demands on his time: Please vote by 5 o'clock; I want to be home by 5 p.m.; Do not vote before 6 because I will not be back. And 100 voices, majority and minority Members, a cacophony of people talking to him. It is understandable that you cannot know everything that is in your own bill. You cannot go through 1,400 pages and find every possible permutation.

When he says the bill was intended not to cancel employees if the employer did not pay the premiums, I realize that in the hearts and minds of the drafters, that is what they hoped.

It is simply, I think, not unlike the $10,000 penalty we had yesterday. It slipped into the bill somehow unnoticed.

This slipped into the bill somehow unnoticed. And my hunch is there are other things in the bill unnoticed that will be unearthed before we are finished.

I am delighted the majority leader caught the error and was willing at least to remedy this slight mistake in the bill.

But I say again, I can perfectly understand how it is impossible to know everything in a bill even when it is your own bill.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind remarks.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I am sure the Senator has had the same experience. In 1986, he managed the Tax Reform Act, which was even longer than the bill that is now before us and which had a lot of arcane provisions that were hard to understand, some deliberately so and some not.

So I thank the Senator.

Mr. PACKWOOD. I had the advantage that I discovered, in taxation, most people concede they do not know and do not bother you. In health, everyone knows what it is about.

Therefore, the majority leader has to put up with a lot more than I had to put up with.

Mr. MITCHELL. Mr. President, we are prepared to proceed to act on the amendment by voice vote at this point.

Mr. D'AMATO. Mr. President, will the majority leader yield for an observation?

Mr. MITCHELL. Yes.

Mr. D'AMATO. Mr. President, first of all, let me say personally that there is no one I respect more than the majority leader, both as a leader and for the way he conducts himself personally. There is no fairer or finer advocate than the majority leader.

I say that because I do not want my remarks to be misinterpreted, because they may be, and they are, somewhat critical of the process we have engaged in. But we do not pick the process. Events, time, and other circumstances have thrust it upon us.

I could not help but pick up on the leader's remarks about 1986 and the tax bill. Probably in my mind the greatest single mistake that I made—and I have made lots of them in terms of legislation I have voted for or against—was my vote for that 1986 tax bill. I remember coming down on the floor with Senator DODD, my colleague, who I see over here. We fought like the dickens to keep the IRA's from being knocked out. We actually had the votes. And then, because of subtle pressure, et cetera, we lost it.

We should have kept those IRA's. We fought in a bipartisan way. Now, years later, I have seen some of the Senators who worked assiduously to defeat us on that became the sponsors and champions of IRA's, working to reclaim them, to bring them back. I remember that.

I remember provision after provision being worked against. I remember it was fashionable to get the real estate buys. It was, "Let's get 'em." And, by the way, we did it in a retroactively manner. We talk about the disaster that we crated with the banks. We helped bring some of that about because people who had contracts all of the sudden found the tax rules had changed retroactively. It did not matter that they had invested their life's savings. It was, after all, these real estate guys.

I have no problem with saying that prospectively, in the future, we will not longer allow people to get these shelters. Some of those shelters were nonproductive.

Now, why do I say that? Because there were provisions after provisions that I worked to change, and we did not change them. And there were some redeeming features in that bill. If you want to knock out tax relief for wealthy people that is not productive, fine. Do it prospectively, but do not reach back. That was wrong. But we did it because we needed the revenue.

And I have to tell you something, we are doing things here in this bill because we are trying to meet goals and revenue targets. We do not come close to understanding the import of what we are doing in this bill.

And in 1986, I am telling you again, I went down in that well, and I went along with the crowd. I was wrong. And I vowed that when I feel strongly on a subject from now on, I am not going to keep quiet and I am not just going to go with the flow.

And, again, there were redeeming aspects to the bill. I remember tax credits for working people. That is the way that I rationalized it in my mind. I think that was a good part of the 1986 bill. That really was good for working poor people.

To my amazement, the leader voted against that tax bill. And I say to him, it is to his credit. I always said to myself, "Yeah, Senator MITCHELL voted the other way, and I applaud him. He stood up and he voted that way. I wish I had."

Mr. MITCHELL. If the Senator would yield, I thank the Senator for giving me credit, but I think I better make clear that I voted for it.

Mr. D'AMATO. I always thought you voted the other way. I always gave you credit for that.

Mr. MITCHELL. I appreciate the fact that for the past 8 years I have gotten credit for something which I did not do.

Mr. D'AMATO. In my mind, you did. I was always amazed.

Mr. MITCHELL. I thought one thing we better do around here now is correct the RECORD as soon as we can.

Mr. D'AMATO. I was upset with myself for not having gone down there and voted that way. I will not tell you why. I try to do it in my diary. I hope the diary does not lie.

But, it is one of the two incidents that I have cited in terms of lack of courage. It was my lack of courage at that time.

Why do I bring this up? Because, it bears upon the leader's amendment to clarify what was done on page 1432, section 10135, lines 21 through 24. And I understand his clarification.

But I must say, when it comes to an issue, that is as important to the health and welfare of every American and every family as health reform, we should not be thrust in a position, any of us, where we are reading through this voluminous document in this manner.

I do not lay blame upon anyone in this Chamber for our finding ourselves in this circumstance. But I do think we do ourselves and the people great harm if we attempt to proceed and enact legislation in this manner.

And I think the reasons come down to, we find that it is important politically. I think we do damage to the political process—the governmental process—if we insist on pursuing this course.

I believe the whole health care issue has been moved forward in a manner which has already resulted in some substantial improvements, which has already focused attention on some important issues.

I give the President credit for that. I give Mrs. Clinton credit for that. We have seen greater cost containment in certain areas. In the private sector, we have seen hospitals, drug manufacturers, and others undertake certain actions that probably never would have been taken were it not for the seriousness of purpose that has arisen around addressing this important national issue.

But I implore my friends and colleagues in this body, Democrats and Republicans, to take a step back now and let us see if we cannot continue the process of narrowing our differences, and attempting to come up with a bill that will do the job and not one which is driven by time or by elections; one in which we come together and do the business of the people the right way.

That is the nature of the calls which I am getting from my constituents—not lobbyists, but New Yorkers. And by an overwhelming margin, about 3.1 to 1, the calls that come in are saying, "Yes, we know there is a need for health care. Please don't rush to judgment."

I think this is a rush to judgment.

I yield the floor.

And I thank my distinguished friend and colleague for setting me straight on his 1986 vote.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we are prepared to proceed to have the amendment adopted.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment offered by the majority leader.

The amendment (No. 2569) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSITION ON VOTE 290

Mr. COHEN. Mr. President, I regret that earlier today a medical appointment prevented me from voting on an amendment offered by Senator DASCHLE which sought to expand access to health care in rural areas. Representing a rural State like Maine, I am well aware of the special problems that rural areas face. In fact, the first comprehensive health care bill I introduced in 1990 included a number of provisions to address the health care needs of rural areas. My efforts with respect to health care have routinely included particular focus on the need to expand quality health care services in Maine and other rural States. Accordingly, had I been able to vote, I would have joined my other colleagues in unanimously supporting the Daschle amendment.

FEDERAL EMPLOYEES HEALTH BENEFIT PLAN

Ms. MIKULSKI. Mr. President, I rise today to speak to the importance of opening up the Federal Employees Health Benefit Plan to all Americans and to explain what this decision will mean to Federal employees. I would also like to respond to comments made by the senior Senator from Alaska who said two things that concern me:

First, that Federal employees get less in the standard benefit package; and

Second, that they get a supplemental benefit package not available to others.

Opening up FEHBP is a wise decision. It allows Americans to have access to the very same choice of health insurance plans that we have, that the President has, that Federal employees have.

FEHBP enrolls over 9 million employees and their families. It is a structure that exists everywhere in the country. You can go to Frederick, MD and there are FEHBP enrollees or you can go to Fairbanks, AK and there will be FEHBP enrollees. It is a system which is in place and it works for its enrollees. I am an FEHBP enrollee. I am a Blue Cross/Blue Shield standard option single only. I like my coverage and I think that it is only right that Americans have access to the same health insurance plans.

But while are are opening up FEHBP, I have worked hard to make sure that we are not taking anything away from the Federal employees. When concerns were raised during the Labor Committee markup, I worked with the Federal employee unions to meet those concerns. They said that the bill treated them differently from other Americans and from what I could see they were right.

Why was that?

First, coverage might be lost for some Federal employees.

Second, unlike workers in the private sector, Federal employees could not get a supplemental benefit package to close the gap between what they get in the standard package. Because the Office of Personnel Management is not required to offer supplemental plans to Federal employees, they could end up with less than they have now.

So, I worked with Senator KENNEDY in the Labor Committee markup to resolve these issues. I offered an amendment that was accepted that achieved the following goals:

First, the Federal employees health benefit program must offer a supplemental benefit package;

Second, it allows Federal employee organizations to meet and confer with O.P.M. for these policies and agree upon a contribution toward the premiums; and

Third, it allows any American covered by a health plan offered by FEHBP to buy the FEHBP supplemental plan.

This provision leveled the playing field. Federal employees would have access to supplemental benefit packages that many private sector employees now have access to and would continue to have access to through negotiations with their employers.

We needed to correct this situation and this amendment allowed that. This is the provision that Senator MITCHELL agreed to include in his bill and this is the understanding of the Federal employee unions.

It doesn't mean that the Federal Government will necessarily pay for the supplemental benefits package for Federal employees. Nor does it mean that there will be a Federal contribution to non-Federal FEHBP enrollees who want to purchase a supplemental package.

It simply means that Federal employees, like workers in private industry, can negotiate with their employers to receive a contribution toward a supplemental benefit. Federal employees are just being treated fairly—just like many other Americans.

I hope this clarifies the record. I believe that we should have a health care system for all Americans—that is accessible, affordable, rewards people who play by the rules, and lets people choose their own providers. That is what this provision does. That is why opening up FEHBP is a good idea.

THE BASEBALL STRIKE

Mr. METZENBAUM. Mr. President, there are a lot of games being played here on the floor of the U.S. Senate, but there are not many games being played on the baseball fields in America. There just "ain't no baseball being played in the major leagues these days."

The strike in major league baseball is now 1 week old. There is no sign that millions of baseball fans are likely to see their favorite teams play any time in the near future.

As a matter of fact, the rest of the season, the playoffs, and the World Series are all in serious jeopardy.

We must bring this strike to a speedy resolution. Last week, Senator HATCH and I introduced legislation to do just that. As you would expect, the owners told the media that the Metzenbaum-Hatch bill would not do any good. But the players said nothing. So I called Don Fehr, head of the players association, and asked him what he thought. Last night I received Fehr's response. The way I read this letter it represents a strong indication that this strike could be brought to an early conclusion, and the season could get underway very shortly after we act.

Here is what he said:

> Had S. 2380, the Metzenbaum-Hatch bill, become law prior to the strike, it would have been a major step forward. Indeed, it might well have had a beneficial effect on the negotiations because the owners would have understood that they could not unilaterally impose the salary cap free from antitrust scrutiny. Moreover, the players would have options to consider other than going on strike.
>
> Although one cannot know for certain, it is my best judgment that had S. 2380 been law, it is much less likely that players now would be on strike.

The same letter, I believe, was sent to Senator HATCH.

The players believe that the Metzenbaum-Hatch bill provides the key elements to end this strike. What the bill lacks is a way to protect the more than 600 major league players who could have their pay cut arbitrarily because they do not have contracts for next season while the players challenge the owners in court. The players have a good point which, I am frank to say, we did not consider when crafting this legislation. I do not see any reason why we could not amend our bill to protect players from these arbitrary salary reductions while their labor dispute is worked out in court. According to the players, if Congress passes the Metzenbaum-Hatch bill with this slight modification they are likely to go back to work. Fehr promised that:

> If * * * these critical and fundamental problems can be addressed, we would seriously consider asking the players to return to the field while negotiations continue.

This is clearly good news. The head of the players association is telling us that if we pass a bill that applies the antitrust laws when any unilateral conditions are imposed, and protects against automatic salary reductions during an antitrust lawsuit, he might recommend that the players take the field and complete the season.

Our task is obvious. At the appropriate point in time, the Senate should set aside the health care bill just for a few hours—because certainly the national health care bill has far more importance and priority than this matter—but for a few hours to move a bill that would put an end to the baseball strike. I will continue working with Senator HATCH and any other Senator interested in fine-tuning our bill so that we can move quickly.

Frankly, this is the best hope the fans have to preserve the remainder of the baseball season, the playoffs, and the World Series for America's baseball fans.

Mr. President, I ask unanimous consent that the letter from Mr. Fehr be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAJOR LEAGUE
BASEBALL PLAYERS ASSOCIATION,
New York, NY, August 17, 1994.

Hon. HOWARD METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: It was with great interest that I reviewed the bill, S. 2380, the "Baseball Fans Protection Act of 1994", which was recently introduced by you and Senator Hatch in an effort to bring baseball back to the field, and save this season for the fans. More than anyone, the players regret that the owners left them no choice but to strike, and to interrupt a season as great as this one, disappointing fans everywhere, and, unfortunately, affecting individuals employed at or around major league stadiums during the season. The players understand and appreciate very much the ongoing efforts by you and Senator Hatch to bring this matter to resolution as soon as possible.

You have asked that I give you the views of the Major League Baseball Players Association with respect to S. 2380. Moreover, you have asked what legislation would cause the players to consider ending the strike without reaching a new collective bargaining agreement with the owners.

As you know, there has been a strike or lockout in major league baseball every time the MLBPA has negotiated with the owners over the last 22 years. The strike which began last Friday, 12 August, is the eighth consecutive work stoppage in that period. S. 2380 is significant, because it directly addresses the relationship between the owners' antitrust exemption and their collective bargaining relationship with the players. Without question, the unique exemption from the antitrust laws enjoyed by baseball's owners has been, and in the current dispute continues to be, a major contributing factor to this sorry history. The owners are a legal cartel; it is no surprise that they act like one.

Simply put, the owners' position in this year's talks, as it is in every bargaining round, is to insist that the players accept substantial restraints on the free market for employment of players, designed to limit players' freedom to seek employment and to artificially depress the free market value of players. And the owners so insist because they are secure in the knowledge that, due to their exemption from the antitrust laws, no terms or conditions of employment that they can force upon the players, or unilaterally impose following an impasse in bargaining, may be challenged under the antitrust laws, no matter how unreasonably anticompetitive those terms and conditions may be.

It is this freedom from the antitrust laws—the antitrust laws are in place everywhere else except in highly regulated industries—which gives the owners the incentive to continue to act as they have. They have monopoly power; why should anyone expect them not to use it? In other industries, and in particular in the other professional team sports, this is not the case. Rather, as those owners know, and indeed, as the NFL owners recently learned, sooner or later their actions are subject to antitrust review. Baseball's owners have no such worries.

In the ordinary circumstance under our labor laws, should bargaining fail, management can lock out or, assuming a valid impasse in bargaining, unilaterally impose terms and conditions of employment consistent with its bargaining position. Should that occur, the employees can strike and/or, if the terms would otherwise violate the antitrust laws, seek court review. In the current situation, the owners have made it clear that they intend to impose their salary cap in the off-season. Needless to say, the players can neither strike in November nor challenge the cap under the antitrust laws. Hence, as in past years, the players' only option was to strike.

Had S. 2380 become law prior to the strike, it would have been a major step forward. Indeed, it might well have had a beneficial effect on the negotiations because the owners would have understood that they could not unilaterally impose the salary cap free from antitrust scrutiny. Moreover, the players would have options to consider other than going on strike. Although one cannot know for certain, it is my best judgment that had S. 2380 been law, it is much less likely that players now would be on strike. If the owners had been required to consider the antitrust laws when they formulated their proposal to the union, and if the players had known that they had protection under the antitrust laws, the result might well have been different.

We are, however, not at that point. S. 2380 is not law; the owners are committed to the salary cap, and clearly intend to impose it after the season; and a strike has begun. Even were S. 2380 to be now enacted, it would be very difficult to ask players to end the strike without an agreement. That would permit the owners to impose the salary cap in the off-season, with the players' only remedy being a suit of indefinite duration filed after the cap was imposed, leaving the players stuck with the cap during the pendency of the litigation (unless they determined to go on strike next season). In the interim, all of the new player contracts would be negotiated under the owners' unilaterally imposed rules. (There are more than 600 major league players who do not have contracts for next season.) One cannot expect the players to put themselves in that position. Moreover, S. 2380 would apply only to this current dispute, leaving the players—and the fans—in the same boat next time.

If, however, these critical and fundamental problems can be addressed, we would seriously consider asking the players to return to the field while negotiations continue. Absent the assurance that new contracts will be signed under the provisions of the prior agreement, rather than under any unilaterally imposed terms and conditions, the players will not give up, even temporarily, the only recourse that the Congress has provided for them. And the players are fully prepared to stay on strike as long as is necessary to secure an appropriate new agreement.

Finally, I note that several fan and consumer groups (such as Sports Fans United and the Consumer Federation of America, among others) have today once again indicated their view that the Congress should act to eliminate the owners' antitrust exemption, and that in their view, the exemption is a major contributing cause to the current strike. It is worth remembering that, so far as I am aware, no fan, consumer or public interest group takes a different view.

Needless to say, I would be pleased to answer any further questions you may have, and to work with you and Senator Hatch on the precise details of any such legislation.

Sincerely,

DONALD M. FEHR.

Mr. METZENBAUM. Mr. President, I say to my colleague and friend from New York, I am very grateful for him permitting me to have a few minutes for the interruption of a more important debate on the health care bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 2:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4906. An Act to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation.

The message also announced that the House insists upon its amendments to the bill (S. 1485), a bill to extend certain satellite carrier compulsory licenses, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BROOKS, Mr. HUGHES, Mr. SYNAR, Mr. BOUCHER, Mr. FRANK of Massachusetts, Mr. MOORHEAD, Mr. COBLE, and Mr. FISH as the managers of the conference on the part of the House.

At 3:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced, that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1587) entitled "An Act to revise and streamline the acquisition laws of the Federal Government, and for other purposes":

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003 (a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, and Mr. MOORHEAD.

ENROLLED BILLS SIGNED

At 8:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2947. An act to extend for an additional two years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial; and

H.R. 4790. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4906. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 2380. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series.

S. 2381. A bill to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes.

S. 2396. A bill entitled the "Affordable Health Care Now Act."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3230. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice relative to military personnel accounts for fiscal year 1995; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1975, to the Committee on Appropriations, to the Committee on Budget, and to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 4228. A bill to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California (Rept. No. 103-340).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 215. A concurrent resolution honoring James Norman Hall and recognizing his outstanding contributions to the United States and the South Pacific.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1329. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Judith A. Miller, of Ohio, to be General Counsel of the Department of Defense;

Walter Becker Slocombe, of the District of Columbia, to be Under Secretary of Defense for Policy;

Sandra Kaplan Stuart, of North Carolina, to be an Assistant Secretary of Defense;

Jan Lodal, of Virginia, to be Deputy Under Secretary of Defense for Policy;

Joseph Nye, of Massachusetts, to be an Assistant Secretary of Defense; and

Philip Edward Coyle, III, of the District of Columbia, to be Director of Operational Test and Evaluation, Department of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Neil H. Offen, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 1998;

Ralph Earle, II, of the District of Columbia, to be Deputy Director of the United States Arms Control and Disarmament Agency;

Richard Holbrooke, of New York, to be an Assistant Secretary of State;

Richard L. Greene, of Maryland, to be Chief Financial Officer, Department of State;

Phyllis E. Oakley, of Louisiana, to be an Assistant Secretary of State; and

Brady Anderson, of Arkansas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Nominee: Brady Anderson.

Post: Ambassador to Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, $200, June 1992, Bill Clinton.
2. Spouse, none.
3. Children and spouses: Helen L. Anderson, none (both children are unmarried); Elizabeth H. Anderson, None.
4. Parents: Joe L. Anderson, deceased—1978; Maurine T. Anderson, none.
5. Grandparents: Stonewall Anderson, deceased—1950; Nora B. Anderson, deceased—1982; Harvey Thorn, deceased—1963; Sadie Thorn, deceased—1976.
6. Brothers and spouses: I have no brothers.
7. Sisters and spouses: Jon Anderson Purifoy, $500, Oct. 1991–Apr. 1992, Bill Clinton; Philip B. Purifoy, none.

Robert L. Gallucci, of Virginia, a Career Member of the Senior Executive Service, to be Ambassador at Large.

Nominee: Robert L. Gallucci.

Post: Ambassador at Large.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Jennifer Sims, none.

3. Children and spouses: Jessica, 13 and Nicholas, 11 (Gallucci), none.

4. Parents: Mae Gallucci, none.

5. Brothers and spouses: Betty and Vincent Gallucci, $50.00 to Democratic Party; $50.00 to Senator McDermott.

Eileenn A. Malloy, of Connecticut, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Nominee: Eileen A. Malloy.

Post: Bishkek, Kyrgyzstan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Jim McLachlan, none.

3. Children and spouses: Mary Kathryn Paegle, and Christina McLachlan, none.

4. Parents: John and Helen Malloy, $100 a year each, National Republican Party.

5. Grandparents: Joseph E Malloy, deceased—died 1940's; Kathryn Langan, deceased—died 1984.

6. Brothers and spouses: Not available.

7. Sisters and spouses: Kathryn Malloy O'Dell, none; Bo O'Dell, none.

I also have four step-sisters with whom I have no contact.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

Nominee: Curtis Warren Kamman.

Post: Ambassador to Bolivia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Mary C. Kamman, none.

3. Children and spouses: Edward Kamman and Esta Salmon, none; John Kamman and Nichole Becker, none; W. Stephen Kamman, $55, Aug. 1, 1990, NC, Democratic Party.

4. Parents: Mildred Kamman, none; Glenn Kamman, $25, Jan. 4, 1990 GOP Victory Fund; Glenn Kamman, $35, Jan. 14, 1991, Republican National Committee.

5. Grandparents: Horace Kamman, deceased, none; Warren Merry, deceased, none, Bertha Kamman, none; Ella Merry, deceased, none.

6. Brothers and spouses: Jonathan Kamman and Beverly Medlyn, none; Robert Kamman, none.

7. Sisters and spouses: No sisters.

E. Michael Southwick, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

Nominee: Southwick, E. Michael.

Post: Nairobi.

Nominated: Not yet nominated: Advised of possible nomination January 1994.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self: E. Michael Southwick, none.

2. Spouse: Susan Southwick, none.

3. Children and spouses: Edward M. Southwick, Andrew D. Southwick, Katherine G. Southwick, none married, none.

4. Parents: Gertrude R. Southwick, none.

5. Grandparents: None living.

6. Brothers and spouses: John O. Southwick (Dixie), Monte R. Southwick (Audrey), William Ray Southwick (Linda), Fred Dean Southwick (Jayne), none.

7. Sisters and spouses: Mrs. Kimber Johnson (Diane), and Mr. Kimber Johnson, none.

Dorothy Myers Sampas, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Nominee: Dorothy M. Sampas.

Post: American Embassy Nouakchott, Mauritania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self: Dorothy M. Sampas, none.

2. Spouse: James G. Sampas, $50, Apr. 13, 1992, Tsongas Committee; $100, June 1, 1993, Tsongas Committee.

3. Parents: Mrs. Lawrence Myers, none; Mr. Lawrence Myers, deceased.

4. Grandparents: Mr. and Mrs. Otto F. Henkel, deceased; Mr. and Mrs. George Myers, deceased.

5. Brothers and spouses: No brothers.

6. Sisters and spouses: Mr. and Mrs. James Rast, none.

7. Children and spouses: Lawrence Sampas, $50, spring 1992, Tsongas Committee; $50, summer 1992, Clinton Campaign; $450, December 1992, Presidential Inaugural Committee (2 tickets); $24, Jan. 24, 1993, Montgomery County Democratic Action Committee; $40, Sept. 6, 1993, Maryland Democratic Party; $35, Oct. 3, 1993, Maryland Democratic Party; $50, Oct. 3, 1993, Democratic National Committee Federal Account; $49, Nov. 7, 1993, Montgomery County (Maryland), Democratic Central Committee; $50, Dec. 4, 1993, Democratic National Committee Federal Account; $100, Apr. 28, 1993, Montgomery County (Maryland) Democratic Central Committee (2 tickets, spring ball).

Carl Burton Stokes, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Nominee: Carl B. Stokes.

Post: Seychelles.

Nominated: Dec. 17, 1993.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Cordell and Laura Stokes, none; Cordi Stokes McBee, (divorced), none; Carl B. Stokes, Jr., none.

4. Parents: Charles and Louise Stokes, deceased.

5. Grandparents: Fannie and Dock Stone, deceased.

6. Brothers and spouses: Congress Louis Stokes,—See Attached

LOUIS STOKES FOR CONGRESS COMMITTEE CONTRIBUTIONS TO FEDERAL CAMPAIGNS, 1990 THRU 1993

Yates for Congress Committee, Sidney R. Yates, U.S. House, 9th District–IL, $500.00, 2/9/90.

Committee to elect Harold E. Ford, U.S. House, 9th District–TN, $1,000.00, 2/9/90; $1,000.00, 3/13/93.

Bonior for Congress Committee, David E. Bonior, U.S. House, 12th District–MI; $500.00, 6/25/90.

Eleanor Holmes Norton for Congress Committee, U.S. House, Delegate–D.C., $500.00, 7/10/90.

Committee to Re-Elect Floyd E. Flake, U.S. House, 6th District–NY, $1,000.00, 8/10/90, $1,000.00, 4/18/91.

Harvey Gantt for U.S. Senate, (NC), $1,000.00, 11/5/90.

Committee to Re-Elect Charles Hays, U.S. House, 1st District–IL, $1,000.00, 2/25/92.

Gus Savage for Congress Committee, U.S. House, 2nd District–IL, $300.00, 2/28/92.

Eva Clayton for Congress Committee, U.S. House, 1st District–NC, $500.00, 5/28/92.

Oakar for Congress Committee, Mary Rose Oakar, U.S. House, 10th District–OH, $1,000.00, 5/19/92.

Friends of David Strand, U.S. House, 6th District–CA, $500.00, 5/29/92.

Carol Moseley-Braun for U.S. Senate, IL, $1,000.00, 8/1/92.

Richard Ray for Congress Committee, U.S. House, 3rd District–GA, $300.00, 12/11/92.

Friends of Bennie Thompson, U.S. House, 2nd District–MS, $500.00, 4/7/93.

7. Sisters and Spouses: No sisters.

James W. Swihart, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Nominee; James W. Swihart, Jr.

Post: Vilnius, Lithuania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. James W. Swihart, Jr., none.

2. Spouse, Ellen C. Swihart, none.

3. Children and spouses: Jennifer A. Swihart, none; Christopher J. Swihart, none.

4. Parents: James W. Swihart, Sr., deceased; Mary Ruth Inge Swihart, deceased.

5. Grandparents: Homer D. Swihart and Hazel S. Swihart, deceased; John Inge and Ruth Inge, deceased.

6. Sisters and spouses: Susanna Swihart Armstrong and Peter Armstrong, deceased, none; Melinda Cox Swihart, none; Mignon Swihart Gregg and Jerry, Gregg, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of July 17, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the secretary's desk were printed in the RECORD of July 27, 1994 at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIEGLE (for himself, Mr. FEINGOLD, Mr. SIMON, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Mr. BREAUX):

S. 2402. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. DOLE, and Mrs. KASSEBAUM):

S. 2403. A bill to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

By Mr. LOTT:

S. 2404. A bill for the relief of John T. Monk; to the Committee on Veterans Affairs.

By Mr. FEINGOLD:

S. 2405. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON (for herself and Mr. HATCH):

S. 2406. A bill to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes; considered and passed.

By Mr. HEFLIN (for himself, Mr. BIDEN, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 2407. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. FEINGOLD, Mr. SIMON, Mrs. BOXER, and Ms. MOSELEY-BRAUN):

S. 2402. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOMEOWNERS INSURANCE DISCLOSURE ACT

• Mr. RIEGLE. Mr. President, today I rise to introduce the Homeowners Insurance Disclosure Act of 1994, a bill aimed at making homeowners insurance available, affordable, and accessible to all Americans. This bill will help us determine which insurance companies refuse to provide coverage merely due to location, charge more for insurance coverage, or offer restricted coverage without justification.

Many urban areas have insurance problems because of insurance discrimination based on the racial and socioeconomic characteristics of a geographic area. This phenomenon is known as redlining. As the chairman of the Committee on Banking, Housing, and Urban Affairs, I have come to understand the inextricable link between financial services, like insurance, and housing. As one Federal judge has written: "lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable."

That is why we have included provisions in virtually every bill the committee has passed during my chairmanship to ensure that credit is available to all communities. The committee included provisions in the Financial Institutions Reform, Recovery, and Enforcement Act, and amended the Home Mortgage Disclosure Act to require regulators to notify the Justice Department about instances of lending discrimination. And we have also held hearings to make sure that fair lending laws are being enforced aggressively and effectively. Since lenders require their borrowers to secure property insurance, addressing homeowners insurance discrimination is a logical progression of the committee's efforts to guarantee not only an adequate flow of capital into distressed communities, but also access to financial services.

The bill that I am introducing today is patterned after the highly successful Home Mortgage Disclosure Act and would require the disclosure by insurance companies of the type, cost, and location of policies by census tract in 100 urban areas and by 5-digit zip code in 25 rural areas across the Nation. The bill would also require the disclosure of loss data, which is critical in determining whether differences in premium costs are due to actual losses or racial and ethnic stereotypes. The bill does not preempt States from imposing more stringent requirements and would exempt companies from Federal reporting standards if those that are prescribed by the State are equivalent or higher. Finally, the bill merely requires insurance companies to provide data similar to what they are already giving to the National Association of Insurance Commissioners, but which is not currently available to the Federal Government.

Although the Fair Housing Act of 1968 banned redlining, this problem has been ongoing for the last 26 years. The issue first gained attention after a series of urban riots in the late 1960's, inducing the Federal Government to create the National Advisory Panel on Insurance. The Panel's reported noted that:

> Insurance is essential to revitalize our cities. It is a cornerstone of credit. Without insurance, banks and other financial institutions cannot make loans. New housing cannot be constructed and existing housing cannot be repaired.
>
> New businesses cannot be opened and existing businesses cannot expand, or even survive. Without insurance, buildings are left to deteriorate; services, goods, and jobs diminish. Efforts to rebuild our nation's inner cities cannot move forward. Communities without insurance are communities without hope.

The Panel concluded that there was a serious lack of property insurance in these inner cities, and that this shortage had been exacerbated by the recent riots. It recommended the creation of State-run Fair Access to Insurance Requirements [FAIR] programs for residents of high risk neighborhoods who are unable to purchase insurance in the voluntary market, and a Federal program to protect against loss due to riots. Numerous States responded and developed FAIR plans.

Unfortunately, problems persisted. In 1974, the Federal Insurance Administration noted that the FAIR plans were being used to "relegate significant numbers of risks to second-class coverage, treatment, and cost on the basis of arbitrary underwriting judgments that ultimately benefited neither the consumer nor the insurer." Similarly, in 1978, HUD issued a report which concluded that redlining was widely practiced by insurers, that it had an "undeniable racial component," and that the practice "was not based on any sound underwriting standards but rather on highly subjective criteria that would appear to result from unfounded generalizations or preconceptions about urban property risks."

Federal efforts to address redlining languished during the Reagan-Bush era, but the issue reemerged in 1992 when the Los Angeles riots revealed potential problems with the availability and affordability of insurance. This committee heard testimony about the tremendous shortage of property insurance in the Los Angeles area, including the California Department of Insurance's finding that 61 percent of the businesses damaged in the riots after the Rodney King verdict were uninsured because coverage was too expensive or not available. An additional 4 percent said the agent that they contacted would not quote rates in their area.

But the problem is not confined to California alone. At a hearing before the Committee on May 11, 1994, we heard testimony about how one insurer drew a line around the entire city of St. Louis and labeled it "ineligible property." In addition, we learned that testers from the National Fair Housing Alliance experienced discrimination while seeking homeowners insurance 47 percent of the time in Louisville, 60 percent of the time in Atlanta and Milwaukee, and an incredible 95 percent of the time in Chicago.

In Milwaukee, a district sales manager of a large insurance company was taped giving the following advice to several subordinates:

> Very honestly, I think you write too many blacks. * * * You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * *. Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is to get away from blacks.

Other States have their fair share of problems. In Georgia, insurance regulators are investigating charges of insurance discrimination. Texas recently fined Allstate $850,000 for discriminatory practices, and the Ohio Insurance Department fined Farmers Insurance for determining rates by ZIP Codes instead of by municipality, which led to underpricing insurance in the suburbs. In the Washington metropolitan area, some current and former employees, as well as a local chapter of the NAACP, recently alleged that GEICO, a local insurance company, systematically screens out blacks. In one instance, a supervisor of one of these employees said that the owner of a large house and several luxury cars in southeast Washington, "must be a drug dealer."

Numerous studies have documented this widespread discrimination against low-income minorities. One study performed by the Missouri Department of Insurance indicated that policy holders in certain minority low-income ZIP Codes in St. Louis and Kansas City paid significantly more than policy holders in white low-income ZIP Codes, and that substantially more of the policies sold in the minority low-income ZIP Codes were limited policies compared to those sold in low-income white ZIP Codes. At the same time, insurers paid more in claims in the white low-income neighborhoods than in minority low-income neighborhoods. In other words, residents of minority low-income ZIP Codes paid more for their insurance, but received less comprehensive coverage and were paid fewer claims than residents in white low-income ZIP Codes.

A study released in February 1993 by ACORN, analyzing by ZIP Code St. Louis, Kansas City, Milwaukee, Chicago, and Minneapolis-St. Paul, found that homeowners in inner city neighborhoods were underinsured as compared to those in wealthier areas, and housing units in minority areas were less likely to be insured than those in predominantly white areas of comparable income levels. Moreover, the study showed that insurance agents are five times less likely to offer inner city homeowners a chance to buy insurance than they are residents of high-income areas.

The Texas Office of the Public Insurance Counsel also released its own report on redlining in automobile insurance. It found that Houston drivers in predominantly minority ZIP Codes paid higher premiums for liability insurance, not including theft and vandalism, relative to drivers with the same driving records in predominantly white ZIP Codes. The office also discovered underwriting guidelines that excluded applicants on the basis of marital status and place of birth, as well as those that mandated minimum coverage amounts of $70,000, even though median house value in the State is $42,500.

And finally, the General Accounting Office recently issued a report noting that most currently available data are not useful in determining whether availability, affordability, and accessibility problems in fact exist. The report concluded that:

> Data that are collected for homeowners insurance will be more useful in examining availability and affordability once the data are collected on a ZIP-Code level (beginning in 1994) and analyzed in conjunction with Census Bureau data. However, data on accessibility are not collected. Reducing the size of the reporting unit to census tracts would, in most cases, increase the value of data by enabling more homogeneous units to be analyzed.

The report stated further that "to review affordability-related issues, premium and coverage amounts as well as loss data would be needed." Accessibility determinations would require data "on marketing activities and agents' locations." And availability could be determined with information on "the number of properties insured, by company and by type of policy." The Homeowners Insurance Disclosure Act would provide exactly the type of information that the GAO requests.

This persistant form of discrimination demands immediate congressional action. There are those who have realized this need already, and I commend Representatives COLLINS and KENNEDY and Senators FEINGOLD and BRYAN for their leadership on this very important subject. I urge my colleagues to support this bill so that we can make affordable homeowners insurance a reality for all Americans.

I ask that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeowners Insurance Disclosure Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Establishment of general requirements to submit information.
Sec. 4. Reporting of noncommercial insurance information.
Sec. 5. Study of commercial insurance for residential properties and small businesses.
Sec. 6. Reporting of rural insurance information.
Sec. 7. Waiver of reporting requirements.
Sec. 8. Reporting by private mortgage insurers.
Sec. 9. Use of data contractor and statistical agents.
Sec. 10. Submission of information to secretary and maintenance of information.
Sec. 11. Compilation of aggregate information.
Sec. 12. Availability and access system.
Sec. 13. Designations.
Sec. 14. Improved methods and reporting on basis of other areas.
Sec. 15. Annual reporting period.
Sec. 16. Disclosures by insurers to applicants and policyholders.
Sec. 17. Enforcement.
Sec. 18. Reports.
Sec. 19. Task force on agency appointments.
Sec. 20. Studies.
Sec. 21. Exemption and relation to State laws.
Sec. 22. Regulations.
Sec. 23. Definitions.
Sec. 24. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition; and

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) to promote insurance availability and affordability in areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the

Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA'S.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term "designated rural area" means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section apply, any of the 25 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 25 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

SEC. 7. WAIVER OF REPORTING REQUIREMENTS.

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the "Council") shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met

or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.

(a) PERIOD OF MAINTENANCE.—The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

SEC. 11. COMPILATION OF AGGREGATE INFORMATION.

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

SEC. 12. AVAILABILITY AND ACCESS SYSTEM.

(a) AVAILABILITY TO PUBLIC.—

(1) IN GENERAL.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) TIMING.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) PUBLIC ACCESS SYSTEM.—

(1) IMPLEMENTATION.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) BASES OF AVAILABILITY.—The system shall provide access in accordance with the following:

(A) ACCESS TO ITEMIZED INFORMATION.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) ACCESS TO AGGREGATE INFORMATION.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) METHOD.—The access system shall include a telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) FORM.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary shall charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(c) PROTECTIONS REGARDING LOSS INFORMATION.—

(1) PROHIBITION OF DISCLOSURE OF LOSS INFORMATION.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) PROTECTION OF IDENTITY OF INSURER.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) CONFIDENTIALITY OF INFORMATION DISCLOSED TO GOVERNMENTAL AGENCIES.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

SEC. 13. DESIGNATIONS.

(a) DESIGNATION OF MSA'S.—For purposes of this Act, the term "designated MSA" means the following MSA's:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 100 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 50 additional MSA's, on a basis that provides for—

(i) geographic diversity among the designated MSA's under this paragraph;

(ii) diversity in size of the populations among such MSA's; and

(iii) the inclusion of MSA's with a high concentration of racial minorities.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 100 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) DESIGNATION OF INSURERS.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) HIGHEST AGGREGATE PREMIUM VOLUME.—

(A) GENERAL RULE.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) DETERMINATION.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) MINIMUM AGGREGATE PREMIUM VOLUME.—For each State, the Secretary shall designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association;

that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

SEC. 15. ANNUAL REPORTING PERIOD.

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the

Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

SEC. 17. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) INSURER LIABILITY.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

SEC. 18. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems.

(b) GAO REPORTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) TIMING.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) CONTENTS.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) CONSULTATION.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the "Task Force"). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) FUNCTION.—The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) REPORT AND TERMINATION.—The Task Force shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

SEC. 20. STUDIES.

(a) STUDY OF INSURANCE PRESCREENING.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) REPORT.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) STUDY OF INSURER ACTIONS TO MEET INSURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act.

(c) STUDY OF DISPARATE CLAIMS TREATMENT.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act.

(d) STUDY OF RATING TERRITORIES.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 12 months after the date of enactment of this Act.

(e) STUDY OF INSURER REINVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) REPORT.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.

(a) EXEMPTION FOR UNITED STATES PROGRAMS.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) RELATION TO STATE LAWS.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

SEC. 22. REGULATIONS.

(a) IN GENERAL.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) BURDENS.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 23. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AGENT.—The term "agent" means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) APPLICABLE REGION.—The term "applicable region" means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) COMMERCIAL INSURANCE.—The term "commercial insurance" means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) DESIGNATED INSURER.—The term "designated insurer" means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) DESIGNATED LINE.—The term "designated line" means a line of insurance designated by the Secretary under section 13(c).

(6) EXPOSURES.—The term "exposures" means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(7) EXPOSURE UNITS.—The term "exposure units" means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(8) INSURANCE.—The term "insurance" means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(9) INSURER.—Except with respect to section 8, the term "insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(10) ISSUED.—The term "issued" means, with respect to an insurance policy, newly issued or renewed.

(11) JOINT UNDERWRITING ASSOCIATION.—The term "joint underwriting association" means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(12) MORTGAGE INSURANCE.—The term "mortgage insurance" means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(13) MSA.—The term "MSA" means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(14) PRIVATE MORTGAGE INSURANCE.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(15) PROPERTY AND CASUALTY INSURANCE.—The term "property and casualty insurance" means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract.

Such term does not include workers' compensation, professional liability, or title insurance.

(16) RESIDUAL MARKET.—The term "residual market" means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(17) RURAL AREA.—The term "rural area" means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(18) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(19) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 24. EFFECTIVE DATE.

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 2 years after the date of enactment of this Act.•

• Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Michigan [Mr. RIEGLE], the chairman of the Senate Banking, Housing, and Urban Affairs Committee, in introducing legislation focused on the problem of insurance redlining. Although I will only have had the opportunity to work with Senator RIEGLE for 2 years, it has indeed been an honor, and a privilege to serve with him. His leadership on the Banking Committee, as exemplified in his introduction of this critical piece of legislation, will be sorely missed.

On March 10, 1994, I introduced similar legislation, S. 1917. On May 11, 1994, Senator RIEGLE chaired a hearing on the problem of redlining. Although I do not serve on that committee, Senator RIEGLE graciously invited me to join him at that hearing and to participate in the committee's questioning of the witnesses. Subsequently, my staff worked closely with Senator RIEGLE's staff in preparing the measure being introduced today.

Mr. President, there are few issues of greater importance to millions of Americans. "Communities without insurance are communities without hope." That was the conclusion over 25 years ago by the National Advisory Panel on Insurance. This panel was charged with examining the riot-stricken areas of our Nation in 1968, and they determined that the key to revitalizing our inner cities and bringing economic opportunity to all Americans rested on the ability of these communities to obtain affordable, quality insurance. With proper insurance, you can buy your own home, you can start a small business, and you can purchase an automobile so you can expand your employment opportunities.

Unfortunately, in 1994, too many of our low-income and minority communities have been denied access to the necessary insurance that is required to obtain that home loan or small business loan. The underwriting industry is supposed to be based on economic principles such as loss claims and associated risk. But as decades of research, studies and reports have shown, these economic principles have frequently been replaced by much more reprehensible factors such as the race or income status of the insurance applicant.

This legislation would, among other things, give Federal agencies and affected individuals the ability to effectively detect and address the problem of insurance redlining and enforce the Fair Housing Act. It would accomplish this by requiring insurance companies to disclose and report the number and types of policies made along census tract lines along with the race and income of the applicants and whether the applicants were accepted or rejected. Such information would be invaluable to Federal prosecutors and individuals seeking redress from discriminatory redlining practices. And of course, insurance companies that are in compliance with the law would have nothing to fear from any such disclosures.

I am pleased that the Clinton administration has expressed its support for legislation to address this problem and has urged Congress to act quickly on this important matter. The House of Representatives has recently passed similar legislation by an overwhelming margin. Hearings also already have been held in the Senate Commerce Committee, chaired by my friend from Nevada, Senator BRYAN. As a result of the strong interest in this issue by the Members of the Senate, I am confident we can move forward on this issue in the very near future.

In conclusion, I would like to again thank Senator RIEGLE for his work in this area. I look forward to working with him and others in making sure that we do all that we can to end the practice of insurance discrimination.•

By Mr. FEINGOLD:

S. 2405. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1994

• Mr. FEINGOLD. Mr. President, I introduce a bill that is related to S. 2012, the Protection From Coercive Employment Agreements Act of 1994, which I introduced on April 13, 1994. This bill mirrors a House bill just introduced by Representatives PATRICIA SCHROEDER, EDWARD MARKEY, and MARJORIE MARGOLIES-MEZVINSKY as companion legislation to S. 2012.

This bill, however, approaches a rapidly growing problem in a slightly different, but equally effective manner. The problem is the practice of requiring employees to submit claims of discrimination or harassment to arbitration as a term or condition of employment or advancement, and prohibiting the employee from resolving their claim in a court of law.

While S. 2012, would proscribe employers from implementing such requirements, this bill amends seven specific civil rights statutes to make clear that the powers and procedures provided under those laws are the exclusive ones that apply when a claim arises. The legislation would invalidate existing agreements between employers and employees that require the employment discrimination claims to be submitted to mandatory arbitration.

The statutes this bill would amend are title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the revised statutes, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act [FAA]. The amendment to the FAA extends the protections of the bill to claims of unlawful discrimination that arise under State or local law and other Federal laws that prohibit job discrimination.

Mr. President, I want to reiterate that this legislation, as in the case of S. 2012, is in no way intended to bar the use of voluntary arbitration, conciliation, mediation, or other informal quasi-judicial methods of dispute resolution. In fact, I strongly support the use of voluntary dispute resolution methods as a way of reducing the caseloads of civil and criminal courts where appropriate.

This bill closes a widening loophole in the enforcement of civil rights laws in our Nation. An entire industry—Wall Street—and a growing number of companies and firms in many other industries have been able to circumvent formal legal challenges to their unlawful employment practices in court, a right intended to be protected by the statutes this bill amends. Employers can tell current and prospective employees, "If you want to work for us, you'll have to check your rights at the door."

Mr. President, this practice must be stopped now. It is simply unfair to require an employee to waive in advance his or her statutory right to seek remedy in a court of law in exchange for employment or a promotion. This bill will restore integrity in the relations between employees and employers.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Procedures Protection Act of 1994".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 719. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 16. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to resolve such right or such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on right under section 501, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES OF THE UNITED STATES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a right to make and enforce a contract of employment under this section, such procedures shall be the exclusive procedures applicable to a claim based on such right unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal statute of general applicability that would modify any of the powers or procedures expressly applicable to a claim based on violation of this subsection, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:

"SEC. 406. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right provided under this Act or under an amendment made by this Act, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising on and after the date of the enactment of this Act.•

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 359, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1917

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1917, a bill to provide for public access to information regarding the availability of insurance, and for other purposes.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2247

At the request of Mr. GORTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 2247, a bill to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, and for other purposes.

S. 2305

At the request of Mr. AKAKA, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2305, a bill to provide that members of the Board of Veterans' Appeals be referred to as veterans law judges, to provide for the pay of such members, and for other purposes.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

AMENDMENT NO. 2564

At the request of Mr. DASCHLE the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of amendment No. 2564 proposed to S. 2351, an original bill to achieve universal health insurance coverage, and for other purposes.

AMENDMENTS SUBMITTED

THE HEALTH SECURITY ACT

MACK (AND OTHERS) AMENDMENT NO. 2568

Mr. MACK (for himself, Mr. COATS, Mr. PACKWOOD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. NICKLES, Mr. MCCONNELL, Mr. LOTT, Mr. HELMS, Mrs. HUTCHISON, Mr. GREGG, Mr. KEMPTHORNE, and Mr. ROTH) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

On page 129, strike line 13 and all that follows through line 16.

On page 263, insert between lines 15 and 16 the following new section:

SEC. 1604. APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT AND THE PROVISIONS OF TITLE 5, UNITED STATES CODE.

(a) FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to any entity that—

(A) is established by or pursuant to this Act or is established or required to be established by an entity created under this Act; and

(B) is an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of the Federal Advisory Committee Act shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such specified provision (or all provisions) of the Federal Advisory Committee Act shall not apply to such entity.

(b) TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of title 5, United States Code, shall apply to any board or other similar entity that—

(A) is established by or pursuant to this Act; and

(B) is not an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of title 5, United States Code, shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such provision (or all provisions) of title 5, United States Code, shall not apply to such entity.

On page 605, strike line 3 and all that follows through line 13.

On page 1409, strike line 1 and all that follows through line 3.

MITCHELL AMENDMENT NO. 2569

Mr. MITCHELL proposed an amendment to amendment No. 2560 proposed by him to the bill S. 2351, supra; as follows:

On page 1432, strike lines 21 through 24, and insert the following:

SEC. 10135. PROVISIONS REGARDING NONPAYMENT OF PREMIUMS.

(a) IN GENERAL.—A health plan may terminate coverage if amounts owed to the plan for a month with respect to an individual or an individual's family members have not been fully paid for a time period established under State law, or in the absence of such a law, a period of not less than 60 days, and the health plan has made reasonable attempts to collect such amounts.

(b) NOTICE.—Notwithstanding any other provision of this Act, a health plan may terminate coverage for nonpayment of premiums under subsection (a) only after providing notice of amounts overdue (in a form and manner and at such times as prescribed by the appropriate certifying authority).

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1994

EXON AMENDMENT NO. 2570

Mr. FORD (for Mr. EXON) proposed an amendment to the bill (S. 839) to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) high-speed rail offers safe and transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this Act is to encourage far-sighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation), is amended by adding at the end the following new chapter:

"CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE

"§ 25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institution plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) Economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 per centum of the publicly financed costs associated with eligible activities.

"(2) No less than 20 per centum of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater.

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossing;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'State'' means any of the several States, the District of Columbia, Puerto Rico, the Northern Marian Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(5) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

"§ 25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FISCAL YEAR 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49 United States Code.

(b) AUTHORIZATION FOR FISCAL YEAR 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATION FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49 United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

AUTHORITY FOR COMMITTEES TO MEET

ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, August 18, 1994, at 9:30 a.m. in open session, to receive testimony on the military implications of the chemical weapons convention [CWC].

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 10 a.m. to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, August 18, 1994 at 10 a.m. for a markup on the following item: S. 1697, the Federal Disaster Preparedness and Response Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 9:30 a.m., in room 226, Senate Dirksen office building on the nomination of Lois Jane Schiffer, of the District of Columbia, to be assistant Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 10 a.m., in room 628, Senate Dirksen office building on the nominations of Nancy Gist to be Director of the Bureau of Justice Assistance, Laurie Robinson to be assistant attorney general for the Office of Justice programs, Jan Chaiken to be Director of the Bureau of Justice Statistics and Jeremy Travis to be Director of the National Institute of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

S. 784, DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HARKIN. Mr. President, I am very pleased that the Senate on Saturday unanimously passed S. 784, the Dietary Supplement Health and Education Act. This was an important moment for American consumers and for preventive health care. And it has been a long-time coming. My colleague from Utah, Senator HATCH, and I have been working for months to bring about this bipartisan compromise which promotes consumer protection and education and freedom of choice.

The Hatch-Harkin compromise adopted by the Senate is the result of many weeks of discussions and alterations. It guarantees the American people access to supplements to their diets that promote improved health and well-being. It also takes steps to assure that consumers will receive truth and nonmisleading information about these products without excessive, biased regulation by the Federal Government.

Mr. President, there is an overwhelming irony in a government that subsidizes to the tune of a billion dollars a year the advertising and promotion of tobacco, which kills over 450,000 Americans a year, while running roughshod on the promotion of products that aim to promote health and save lives.

Taxpayers are being asked to subsidize activities that are designed to hook our kids on a habit that we know robs health. At the same time the FDA wants to deny people access to information they can use to take charge of their own health. Something is out of whack here. And the Hatch-Harkin substitute changes that.

Our substitute includes four major modifications to the bill adopted by the Labor Committee in May.

First, health claims will be subject to the pre-approval process and standard established by the Nutrition Labeling and Education Act while a Commission studies what and provides us recommendations on the best way to handle these claims. This is a significant change from the original S. 784 and shows a great willingness to compromise.

Second, it assures that consumers can receive truthful, nonmisleading articles, books or other publications at health food stores and elsewhere in connection with the sale of dietary supplements. This information has to be presented in a manner that ensures that consumers receive a balanced view of the scientific evidence about the health effects of dietary supplements. I believe this will make for more informed consumers and better consumer decision by reducing the great confusion that exist today due to the almost daily reports—often conflicting and confusing—we take in from newspapers and others on the latest new study on the health effects of vitamins, minerals, and other dietary supplements.

Third, the compromise assures that prescription drugs cannot escape appropriate review and oversight by being classified as dietary supplements. This concern was raised by a number of Senators and the legislation before us addresses it in a sensible manner.

Fourth, our compromise assures that so-called structure-function claims can be made while assuring that these claims are not health or disease claims.

Mr. President, this compromise is a critical first step toward final enactment of S. 784. The bill now goes to the House for its consideration. Our staffs have been meeting for months with leaders in the House. They have made significant progress in a number of important areas. I believe that with the unanimous passage of the Hatch-Harkin compromise here in the Senate, and with these ongoing discussions, we can see a good bill signed into law this year. I will continue to do all I can to make sure that happens, and happens as quickly as possible.

As you know, I have been a long-time advocate of preventive health care. And this proposal is an important part of that. We don't have a health care system in this Nation. We have a sick care system. We spend billions patching and mending. But we flunk when it comes to helping people stay healthy in the first place. If all we do is change how we pay the bills, we're just rearranging the deck chairs on the Titanic. We're going down. The only way we'll really get costs under control is to emphasize prevention and giving people the wherewithal to stay healthy.

This bill is an important step in that direction.

ORDER FOR CONSIDERATION OF COMMERCE-STATE-JUSTICE APPROPRIATIONS CONFERENCE REPORT

Mr. FORD. Mr. President, I ask unanimous consent that at 9:30 a.m. Friday, August 19, the Chair lay before the Senate a conference report accompanying H.R. 4603, the Commerce-State-Justice appropriations bill, and that the Senate then proceed to its immediate consideration; that there be a time limit of 1 hour for debate, with the time equally divided and controlled in the usual form; that upon the use or yielding back of the time without intervening action the Senate proceed to vote on the adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I now ask that it be in order to request the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. I thank the Chair.

JUDICIAL AMENDMENTS ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2407, the Judicial Amendments Act of 1994 introduced earlier today by Senators HEFLIN, BIDEN, HATCH, GRASSLEY, and SPECTER; that the bill be read three times, passed, motion to reconsider be laid upon the table, and that any statements relating to this legislation be placed in the record at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I am pleased to introduce with several of my colleagues on the Judiciary Committee a bill that will extend several authorities relative to the operation of the U.S. judiciary. I know that I and my colleagues would have liked to have done more, but the Senate schedule precludes a more comprehensive courts bill this year. I would expect that if I continue as chairman of the Courts Subcommittee in the next Congress, I will, in cooperation with all members of my subcommittee, hold hearings early next year to consider legislation on behalf of the administrative office of the U.S. courts as well as the U.S. Court of Federal Claims.

Section 1 of this legislation designates the name of the bill as the Judicial Amendments Act of 1994.

Section 2 extends the authorization of the Judiciary Automation Fund by 3 years to September 30, 1997 and clarifies the purposes for which the fund can be used, authorizing other agencies within the Federal judiciary to contribute to and use the fund if they deem it appropriate.

Congress established the fund, which is administered by the administrative office of the U.S. courts, in 1989 to create a multiyear source of funding to allow the judiciary to develop and implement a long-term plan to automate the Federal courts.

The General Accounting Office in a report to Congress on June 30, 1994 advises that the fund obligations for fiscal years 1990–93 were approximately $351 million for automation services, equipment, and support for the Federal courts.

The GAO report states that the fund has financed the expansion of automation to 190 of 197 courts by March of this year. This has been, however, not without problems—the systems are cumbersome to use and maintain. The GAO report notes that the Federal judiciary has begun to establish life cycle management standards to ensure quality systems design and implementation and to develop greater user involvement in systems development.

The GAO report recommends that Congress should reauthorize the fund for less than 5 years, and this legislation would follow that recommendation by reauthorizing the fund for 3 additional years to September 30, 1997.

Section 2 also incorporates three other recommendations of the GAO report. It will require the judiciary to report annually to Congress on the progress in developing a strategic business plan for the courts, implementing a long-range automation plan based on the strategic business plan, and require effective administrative office oversight of court automation efforts. It is my belief that if Congress follows the recommendation of the GAO report that these actions will, as the report states, "result in more effective use of the judiciary's automation resources."

Section 3 of this legislation is a simple reauthorization of 3 years to December 31, 1997 of 10 pilot programs of mandatory court-annexed arbitration which are currently operating in selected Federal district courts as well as 10 additional pilot programs of voluntary court-annexed arbitration.

The Judicial Conference has recommended that Congress adopt legislation to continue authorization for court-annexed arbitration in the 20 districts which are operating such programs, and the conference has gone only so far as to recommend authorization for the remaining Federal district courts of voluntary court-annexed arbitration. Thus the conference has not recommended the expansion of mandatory court-annexed arbitration for the remainder of the Federal district courts. This section of the legislation follows the recommendation of the Judicial Conference.

It is my understanding from discussions with Department of Justice officials that the administration expects to present a comprehensive civil justice reform plan to congress early next year and that in this plan the issue of alternative dispute resolution will be addressed. Additionally, later this year I expect to introduce legislation that would address this issue as regards voluntary A.D.R.

Section 4 of this bill extend the Rand Corp's study of civil litigation for 1 additional year. More than 3½ years have passed since the Civil Justice Reform Act [CJRA], the Biden bill, was signed into law. Each of the 94 U.S. district courts has implemented expense and delay reduction plans in accordance with the dictates of the CJRA. The Judicial Conference is required to submit a final report evaluating certain case management principles included in the expense and delay reduction plans in December 1995 28 U.S.C. §471 notes.

The Rand Corp. was designated by the Judicial Conference to conduct the study by examining 5,000 cases selected from 20 courts. Ten of these courts—pilot courts—were required to implement their expense and delay reduction plans on an expedited basis and include the six principles of case management outlines in 28 U.S.C. §473(A). The remaining 10 courts—comparison courts—implemented expense and delay reduction plans but were not required to adopt the six principles. The study will determine whether the six principles contribute to reducing expense and delay in Federal courts.

In May, the Judicial Conference Committee on Court Administration and Case Management sent a letter to Chairman BIDEN outlining Rand's concerns about completion of the study. As a result of unforeseen problems in implementing plans, some of the courts in the study did not implement an expense and delay reduction plan as quickly as expected. Rand estimates that 20 percent of the cases chosen as part of the study will not be closed by the statutory deadline for completion of the study.

While Rand can estimate the results of the remaining cases, concrete results from the open cases are integral to the study and should not be the subject of speculation. Both the Judicial Conference and Rand maintain that the remaining 20 percent of the cases will represent the most complex segment of the caseload—those cases requiring significant amounts of judicial involvement, discovery and court time. One of the primary purposes behind the CJRA was to develop methods to expedite consideration of complex cases. Rand asserts that an additional year for the study would leave less than 8 percent of the cases unresolved.

Again, the provisions of this legislation are designed to address the immediate concerns and needs of the Federal judiciary. I urge my colleagues to support its immediate passage.

Mr. SPECTER. Mr. President, I am pleased to join in introducing this legislation to reauthorize certain important programs for the Federal judiciary that must be reauthorized this year or they will expire. All of the provisions of this bill are vital to the judicial branch and not controversial.

The legislation would reauthorize for 3 years the Judiciary Automation Fund, through which the Federal courts purchase automation equipment and services to improve their efficiency. The bill makes some changes to the Automation Fund in response to a recent study by the General Accounting Office, which was critical of certain aspects of the fund's operation. These changes will improve the management of the Automation Fund, and I thank Senator HEFLIN and Senator GRASSLEY for making them in order to improve the operation of the fund.

The bill will also extend the Rand Corp.'s study of Federal civil litigation that was authorized in the Civil Justice reform Act of 1990 for an additional year. In order to ensure that this study is most useful to Congress and the courts, it must include a review of the most complex cases that can take the longest time to resolve. Permitting a 1-year extension will allow the Rand Corp. to prepare a broader report that will be of greater use to Congress in evaluating the Federal civil justice system.

Finally, and of most interest to me, the bill would reauthorize for 3 years the 20 court-annexed arbitration programs in the Federal courts. Currently, 10 Federal judicial districts are authorized to employ voluntary, nonbinding arbitration programs and another 10 are authorized to employ mandatory, binding arbitration for small civil cases.

The eastern district of Pennsylvania, under the leadership of Judge Raymond Broderick, pioneered the use of mandatory court-annexed arbitration. Today, all segments of the bar of the eastern district of Pennsylvania, plaintiffs' lawyers and defense counsel, strongly support the program. The judges of the court also strongly favor the program, which enables the court to resolve small cases expeditiously and with minimal cost to the litigants. I have heard from many judges of the eastern district and the court of appeals for the third circuit supporting this reauthorization.

While there has been debate over whether to expand mandatory, court-annexed arbitration programs throughout the Federal judiciary, there is no reason to prevent those courts that have been employing it successfully at their own option to continue to do so.

I am grateful to both Senator HEFLIN and Senator GRASSLEY, the chairman and ranking Republican of the Subcommittee on Courts and Administrative Practice, for moving so expeditiously on this bill, which will benefit not simply the judges, lawyers, and litigants of the eastern district of Pennsylvania, but this Nation as a whole. Because the programs reauthorized by this bill will expire this year, it is imperative that Congress act promptly. By introducing and passing the bill on the same day, the Senate is doing its part to ensure the uninterrupted continuation of these programs. I hope that the House will act responsibly and adopt this bill promptly so that this legislation may be signed into law before the programs expire.

I thank the presiding officer and yield the floor.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator HEFLIN in cosponsoring the Judicial Amendments Act of 1994. This bill is designed to address three elements important to the operation of our Federal court system.

First, the bill reauthorizes for 3 years the existing court-annexed arbitration programs. Currently, 10 district courts have mandatory, nonbinding arbitration for cases involving less than $150,000. And another 10 districts have voluntary, nonbinding programs. The authority for these programs would otherwise expire this December without our legislation.

Court-annexed arbitration is designed to let individuals and small businesses obtain speedier and less costly relief from the Federal courts. The Federal Judicial Center studied court-annexed arbitration and concluded that alternative dispute resolution works. I strongly agree. But because limited time remains in this Congress, this bill will only extend the existing programs, despite the overwhelming evidence that all judicial districts should be allowed to create these programs.

The second feature of the bill is to extend the Rand Corp.'s study of civil litigation for another year. In the Civil Justice Reform Act of 1990, the Rand Corp. was tasked with studying various kinds of civil cases in the Federal judicial system. A large number of cases have been examined. However, the process did not start as early as might have been ideal. As a result, the kinds of cases that have not been fully studied are the largest, most complex cases that take the longest time to proceed to resolution. For the Rand study to be most useful to the subject to civil justice reform, it must examine the largest and most complex cases, because these cases have a disproportionate impact on the quality of civil justice provided by the Federal courts and on resources expended. By extending the study for another year, the Rand study will be more useful when the 104th Congress considers civil justice reform.

The third element of this bill is a reauthorization of the Judiciary Automation Fund. The Federal courts must use this fund for their purchase of automation equipment and services. Automation services are used by Federal courts for case, financial, and personnel management.

The Automation Fund is worthy and should be reauthorized. We have followed a recent General Accounting Office report which recommends a 3-year reauthorization rather than 5 years. During these 3 years, the judiciary will be able to assess the quality of its ongoing automation efforts and demonstrate progress in responding to the criticisms of the GAO report.

The bill conditions reauthorization of the fund on the judiciary's development of an overall strategic business plan to identify the missions, goals, and objectives of judicial automation. The judiciary is required to develop a long-term automation plan based on the strategic business plan and estimated user needs. Moreover, the judiciary needs to establish effective oversight by the Administrative Office to ensure the effectiveness of existing system and control over development of future systems. At the moment, there are multiple systems of automation in various courts, some of which are incompatible with each other. There are a few additional conditions for the Administrative Office, such as auditing and financial systems, contained in the bill that derive as well from the GAO report.

Mr. President, because of the immediate need to reauthorize these functions in light of the short time remaining for the 103d Congress, the bill is limited to these areas. Nonetheless, the importance of civil justice reform remains as important as ever. Although I am pleased to see this effort undertaken to keep existing reforms continue, and I appreciate chairman HEFLIN's efforts, this bill is not enough. I will work in the 104th Congress to ensure that civil justice reform is a top priority of the Judiciary Committee. By then, the administration will have issued its recommendations in this area, and the Rand study will be completed.

So the bill (S. 2407) was passed, as follows:

S. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Amendments Act of 1994".

SEC. 2. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by inserting after "equipment for" the following: "program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence by striking out all after "personal services" and inserting in lieu thereof ", support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1) by striking out "judicial branch" and inserting in lieu thereof "activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(3) in subsection (b)(2) by striking out "judicial branch of the United States" and inserting in lieu thereof "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting after "surplus property" the following: ", all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(5) in subsection (e)(1)—

(A) by striking out "(A)"; and

(B) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) in subsection (h) by amending the subsection to read as follows:

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(2) ADDITIONAL CONTENTS OF REPORT.—The annual report submitted under this subsection shall include—

"(A) the specific actions taken and the progress made to improve the plan developed under subsection (b) and the long range automation plan and strategic business plan developed under subsection (k); and

"(B) a comparison of planned Fund expenditures and accomplishments with actual Fund expenditures and accomplishments, and the reasons for any delays in scheduled systems development, or budget overruns.

"(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m), shall be submitted no later than 9 months before the date of such termination.";

(7) in subsection (i) by striking out all after "Judicial Conference of the United States," and inserting in lieu thereof "may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227).";

(8) in subsection (j) in the second sentence by inserting "in statute" after "not specified";

(9) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

"(1) develop an overall strategic business plan which would identify the judiciary's missions, goals, and objectives;

"(2) develop a long range automation plan based on the strategic business plan and user needs assessments;

"(3) establish effective Administrative Office oversight of court automation efforts to ensure the effective operation of existing systems and control over developments of future systems;

"(4) expedite efforts to complete the development and implementation of life cycle management standards;

"(5) utilize the standards in developing the next generation of case management and financial systems; and

"(6) assess the current utilization and future user requirements of the data communications network."; and

(10) in subsection (m) (as redesignated under paragraph (9) of this section—

(A) in the first sentence by striking out "1994", and inserting in lieu thereof, "1997"; and

(B) in the second sentence by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931 of this title".

SEC. 3. COURT ARBITRATION AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended—

(1) in the first sentence by striking out "for the fiscal year ending September 30, 1989, and for each of the succeeding 7 fiscal years," and inserting in lieu thereof "for each of the fiscal years 1994 through 1997"; and

(2) in the third sentence by striking out all beginning with ", except that" through "this Act".

(b) REMOVAL OF REPEALER.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note), and the item relating to such section in the table of contents contained in section 3 of such Act, are repealed.

SEC. 4. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PILOT PROGRAMS.

Section 105 of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note; 104 Stat. 5097) is amended—

(1) in subsection (a)(1) by striking out "4-year period" and inserting in lieu thereof "5-year period";

(2) in subsection (b)(3)—

(A) in the first sentence by striking out "3 years" and inserting in lieu thereof "4 years"; and

(B) in the second sentence by striking out "3-year period" and inserting in lieu thereof "4-year period"; and

(3) in subsection (c)(1) by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1996,".

LOCAL SERVICE AREA OF PRIMARY TRANSMITTER

Mr. SIMPSON. Mr. President, I send a bill to the desk on behalf of Senators HUTCHISON and HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 2406) to amend title 17, United States Code, relating to the definition of local service area of a primary transmitter, and for other purposes.

There being no objection, the bill (S. 2406) was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 2406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.

(a) IN GENERAL.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "local service area of a primary transmitter"—

(1) by striking out "comprises the area" and inserting in lieu thereof "comprises either the area"; and

(2) by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any subsequent modifications to such television market made pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

(b) EFFECTIVE DATE.—The amendment made under subsection (a), relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar number 561, S. 2060, the Small Business Administration Reauthorization.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Small Business, with an amendment to strike out all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American tribal governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan demonstration program grants.
Sec. 209. Eligibility to participate as a microloan intermediary and a technical assistance provider.
Sec. 210. Loans to exporters.
Sec. 211. Working capital international trade loans.
Sec. 212. Guarantees on international trade loans.
Sec. 213. Accredited lenders program.
Sec. 214. Interest rate on certified development company loans.
Sec. 215. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 216. Participating securities for smaller SBICs.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Sec. 301. Size standard criteria.
Sec. 302. Sunset on preferred surety bond guarantee program.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Service Corps of Retired Executives (SCORE) program.
Sec. 406. Information concerning franchising.

Subtitle B—Development of Woman-Owned Businesses

Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. National Commission on Women in Business.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Sec. 501. Short title.
Sec. 502. Prepayment of development company debentures.

TITLE VI—MISCELLANEOUS AMENDMENTS

Sec. 601. Consolidation of funding accounts.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Secondary market study due date.
Sec. 607. Study and data base: Guaranteed Business Loan Program and Development Company Program.
Sec. 608. SBIR vendors.
Sec. 609. Program extension.
Sec. 610. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 611. Office of advocacy employees.
Sec. 612. Prohibition on the provision of assistance.
Sec. 613. Certification of compliance with child support obligations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(*l*) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make $110,000,000 in direct and immediate participation loans, and $45,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,315,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $15,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $33,000,000 in purchases of preferred securities;

"(B) $275,000,000 in guarantees of debentures, of which $65,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $500,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $450,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $25,000,000, to remain available until expended.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make $175,000,000 in direct and immediate participation loans, and $65,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,320,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $39,000,000 in purchases of preferred securities;

"(B) $300,000,000 in guarantees of debentures, of which $70,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $750,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $500,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,750,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,250,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make $250,000,000 in direct and immediate participation loans and $98,000,000 in technical assistance grants as provided in section 7(m), to remain available until expended.

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,020,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $12,000,000,000 in general business loans as provided in section 7(a);

"(B) $3,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $45,000,000 in purchases of preferred securities;

"(B) $375,000,000 in guarantees of debentures, of which $75,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $1,125,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,500,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration."

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans. Subject to the availability of appropriations, the Administration may make payments to lenders on behalf of intermediaries in order to achieve such interest rate.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102–140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1998".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "50 grants"; and

(B) by striking "$125,000" and inserting "$150,000"; and

(2) by striking paragraph (7) and inserting the following:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—In carrying out paragraph (1)(B)(i), the Administration may fund, on a competitive basis, not more than—

"(i) 150 microloan programs in fiscal year 1995; and

"(ii) 200 microloan programs in each succeeding fiscal year.

"(B) STATE LIMITATIONS.—A State shall not receive more than $10,000,000 in loan funds during any year of program participation.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will further microloan availability for small businesses in all industries located throughout each State, especially small businesses located in economically distressed urban and rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2,000,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 20 percent of the grant funds authorized under paragraph (1)(B)(ii) to provide marketing, management, and technical assistance to small business concerns that are not borrowers under this subsection.".

SEC. 208. MICROLOAN DEMONSTRATION PROGRAM GRANTS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

SEC. 209. ELIGIBILITY TO PARTICIPATE AS A MICROLOAN INTERMEDIARY AND A TECHNICAL ASSISTANCE PROVIDER.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) by striking "(2) ELIGIBILITY FOR PARTICIPATION.—An" and inserting the following:

"(2) ELIGIBILITY FOR PARTICIPATION.—

"(A) IN GENERAL.—An";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) PARTICIPATION AS INTERMEDIARY AND TECHNICAL ASSISTANCE PROVIDER.—A single entity may simultaneously receive 1 grant as an intermediary pursuant to paragraph (1)(B)(ii) and 1 grant as a nonintermediary technical assistance provider pursuant to paragraph (1)(B)(iii) if the Administration determines that—

"(i) the purposes of the grants are not duplicative;

"(ii) the grants will enable the entity to provide technical assistance to different geographic areas, or to support both guaranteed and direct loans in the same geographic area; and

"(iii) the entity meets all of the requirements of the programs authorized pursuant to clauses (ii) and (iii) of paragraph (1)(B).".

SEC. 210. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 211. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 212. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 213. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a reasonable and acceptable loss rate on the company's debentures;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program authorized by sections 502, 503, and 504.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 214. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 215. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 216. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of less than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of less than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of $20,000,000 or more.".

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) SIZE STANDARD CRITERIA.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years; and

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; and

"(iii) is approved by the Administrator.".

SEC. 302. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—No recipient of funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $100,000; or

"(bb) $200,000; and

"(II) except as provided in clause (ii), in each succeeding fiscal year, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $200,000; or

"(bb) $300,000.

"(ii) EXCEPTION.—The provisions of clause (i)(I) shall apply in any fiscal year after fiscal year 1995 in which, based on funds appropriated, a small business development center would, under the provisions of clause (i)(II), receive less than the small business development center received in fiscal year 1995.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1995;

"(II) $77,500,000 from October 1, 1995 through September 30, 1996; and

"(III) $85,000,000 beginning October 1, 1996.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—A small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns, if the contract is approved in advance by the Associate Administrator of the small business development center program.

"(B) APPROVAL CRITERIA.—Each approval of a contract under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph may not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biannual programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. SERVICE CORPS OF RETIRED EXECUTIVES (SCORE) PROGRAM.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) In carrying out subparagraph (B), the Administration shall encourage the Service Corps of Retired Executives (SCORE) established pursuant to such subparagraph, to the maximum extent practicable, to consult and work in conjunction with the Corporation for National and Community Service and the Points of Light Foundation established under the National and Community Service Act of 1990.".

SEC. 406. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. NATIONAL COMMISSION ON WOMEN IN BUSINESS.

(a) ESTABLISHMENT.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 401. ESTABLISHMENT.

"There is hereby established a Commission to be known as the 'National Commission on Women in Business' (hereafter in this title referred to as the 'Commission').".

(b) DUTIES OF THE COMMISSION.—Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 402. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) review, promote, coordinate, and monitor plans and programs, developed in the public and private sectors, which affect the ability of woman-owned businesses to obtain capital and credit;

"(2) promote and assist in the development of the Intermediate Census on Women's Business Ownership and other surveys of woman-owned businesses;

"(3) provide assistance to and outreach for the involvement of women business owners in White House Conference on Small Business;

"(4) study and assess—

"(A) the obstacles faced by women seeking to establish businesses and women seeking senior management positions in large and small businesses and in the professions; and

"(B) the contributions to the Nation's economy by businesses owned or managed by women; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of woman-owned businesses.

"(b) REPORT.—Not later than January 31, 1996, the Commission shall submit a report to the President and the Committees on Small Business of the Senate and the House of Representatives describing the plan developed pursuant to subsection (a)(5).".

(c) MEMBERSHIP.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 403. MEMBERSHIP OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

"(1) 7 members shall be the individuals described in subsection (b); and

"(2) 7 members shall be appointed in accordance with subsection (c).

"(b) PUBLIC SECTOR MEMBERS.—For purposes of subsection (a)(1), the individuals described in this section are—

"(1) the Administrator of the Small Business Administration;

"(2) the Assistant Administrator of the Office of Women's Business Ownership of the Small Business Administration;

"(3) the Secretary of the Treasury, or the Secretary's designee;

"(4) the Secretary of Labor, or the Secretary's designee;

"(5) the Secretary of Commerce, or the Secretary's designee;

"(6) the Administrator of the General Services Administration, or the Administrator's designee; and

"(7) 1 member of the Board of Governors of the Federal Reserve System, or the designee of a member.

"(c) PRIVATE SECTOR MEMBERS.—

"(1) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the President shall appoint an individual to serve as the chairperson of the Commission (hereafter in this title referred to as the 'Chairperson') who shall be a prominent business-woman who is qualified to head the Commission by virtue of her education, training, and experience.

"(2) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the Administrator of the Small Business Administration shall appoint 6 members of the Commission, of whom—

"(A) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is a member of the same political party as the President;

"(B) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is not a member of the same political party as the President; and

"(C) 4 shall be representatives of national women's business organizations.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) RESTRICTION.—The members of the Commission appointed pursuant to subsection (c) shall not be officers or employees of the Federal Government.

"(2) VICE CHAIRPERSON.—The member of the Commission appointed pursuant to subsection (b)(2) shall serve as vice chairperson of the Commission.

"(3) TERMS.—The term of service of the members of the Commission appointed pursuant to subsection (c) shall be 1 year. No member of the Commission may serve for more than 2 consecutive terms.

"(4) DESIGNEES.—Each designee appointed pursuant to subsection (b) shall—

"(A) be a policy-making official whose duties are consistent with the duties of the Commission; and

"(B) report directly to the head of the agency on the activities of the Commission.

"(5) COMPENSATION AND TRAVEL EXPENSES.—

"(A) PUBLIC SECTOR MEMBERS.—The members of the Commission described in subsection (b) shall serve on the Commission without additional compensation.

"(B) PRIVATE SECTOR MEMBERS.—The members of the Commission appointed pursuant to subsection (c) shall serve without pay for membership, except that such members shall be entitled to reimbursement for domestic travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(6) VACANCIES.—A vacancy on the Commission shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairperson not less than 4 times each year.

"(8) QUORUMS.—

"(A) RECEIPT OF TESTIMONY.—Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

"(B) APPROVAL OF RECOMMENDATIONS.—A majority of the members of the Commission shall constitute a quorum for the approval of recommendations or reports issued pursuant to sections 402 and 406.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 404. EXECUTIVE DIRECTOR AND STAFF.

"(a) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson and the Assistant Administrator of the Small Business Administration Office of Women's Business Ownership. Upon the recommendation by the Executive Director, the Chairperson may appoint and fix the pay of 4 additional employees at a rate of pay not to exceed the maximum rate of pay payable for a position at GS-15 of the General Schedule.

"(b) ADMINISTRATIVE PROVISIONS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (a), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Executive Director so appointed may not receive pay in excess of the annual rate of basic pay payable for a position at ES-1 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"(c) DETAIL OF ADDITIONAL PERSONNEL.—Upon request to the Chairperson, the head of any Federal department or agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 405 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission"; and

(2) by adding at the end the following new subsection:

"(f) COOPERATION WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—Subject to the requirements of paragraph (2), the Commission may carry out its duties under section 402 through cooperation with private nonprofit and for-profit entities.

"(2) RESTRICTION.—If the Commission cooperates with private entities pursuant to paragraph (1), the Commission shall ensure that—

"(A) the Commission receives appropriate recognition and publicity;

"(B) the cooperation does not constitute or imply an endorsement by the Commission of the products and services of the cosponsor; and

"(C) the Commission avoids unnecessary promotion of the products and services of the cosponsor and minimizes utilization of any 1 cosponsor in a marketing area.".

(f) REPORTS.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission";

(2) by striking "December 31, 1989" and inserting "not later than 1 year after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994"; and

(3) by striking "based upon its reviews conducted under section 402".

(g) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 in fiscal year 1995;

"(2) $500,000 is fiscal year 1996; and

"(3) $100,000 in fiscal year 1997."; and

(2) by striking subsection (c).

(h) TRANSITION REIMBURSEMENT.—In order to facilitate the transition from the National Women's Business Council, established by title IV of the Women's Business Ownership Act of 1988, to the National Commission on Women in Business established by this section, the National Commission on Women in Business may, during the 30-day period beginning on the date on which the Chairperson of the National Commission on Women in Business is appointed pursuant to section 413 of this Act, reimburse the costs and salaries, where appropriate, of the Chairperson, Executive Director, and staff of the National Women's Business Council for transition activities.

(i) SUNSET.—The authority of the National Commission on Women in Business established under title IV of the Women's Business Ownership Act of 1988, as amended by this section, shall terminate on November 30, 1996.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 508. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance clause (ii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 9.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by sections 504 and 505, are used to prepay the debenture; and

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2) of this section—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.".

(b) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administration shall promulgate such regulations as may be necessary to carry out this section, including regulations establishing a deadline for receipt of applications for prepayment and refinancing under title V of the Small Business Investment Act of 1958.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. CONSOLIDATION OF FUNDING ACCOUNTS.

(a) IN GENERAL.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking "(c)(1) There" and all that follows through paragraph (4) and inserting the following:

"(c) LOAN LIQUIDATION FUND.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is hereby established in the United States Treasury a fund to be known as the Loan Liquidation Fund (hereafter in this subsection referred to as the 'Fund').

"(B) AMOUNTS CONTAINED IN FUND.—All amounts received by the Administration prior to October 1, 1991, from the repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to section 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(l), 7(m), or 8(a) of this Act, or title III, IV, or V of the Small Business Investment Act of 1958, shall be paid into the Fund. Balances existing in the revolving funds on or after the effective date of this paragraph shall be transferred to the Fund on such date.

"(C) OPERATING EXPENSES.—The Fund shall have available, without fiscal year limitation, such funds as may be necessary to finance the operational needs of the Fund.

"(2) ANNUAL STATUS REPORT.—As soon as practicable after the end of each fiscal year, the Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives a complete report on the status of the Fund.".

(b) INTEREST PAYMENTS TO TREASURY.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (3); and

(2) in paragraph (3)(B), as redesignated, by striking clause (ii) and inserting the following:

"(ii) Upon the expiration of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest the Administration has collected during the preceding fiscal year on all financings made under the authority of this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $300 for each loan servicing action requested after disbursement of the loan, including any substitution of collateral, loan assumption, release or substitution of a guarantor, reamortization, or similar action; and

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94–305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. SECONDARY MARKET STUDY DUE DATE.

Section 6 of the Small Business Credit Enhancement Act of 1993 (15 U.S.C. 634 note) is amended by striking "16 months after the date of enactment" and inserting "November 1, 1994".

SEC. 607. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—After conducting the study under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a) on an annual and aggregated basis during the most recent 4-year period for which data are available. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 608. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 609. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1995".

SEC. 610. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 611. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94–305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 612. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that is determined to be obscene.".

SEC. 613. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 612, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—Each applicant for financial assistance under this Act, including an applicant for a direct loan or a loan guarantee, shall certify that the applicant is not in violation of the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the applicant and the custodial parent or State agency providing child support enforcement services,

that requires the applicant to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall issue such regulations as may be necessary to enforce compliance with the requirements of this subsection.".

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, and the bill, as amended, be deemed read the third time, passed, and the motion to reconsider to laid upon the table; that the title amendment be agreed to, and the motion to reconsider be laid on the table; further that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

So the bill (S. 2060), as amended, was deemed read the third, and passed, as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—AUTHORIZATIONS
Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS
Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American tribal governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan demonstration program grants.
Sec. 209. Eligibility to participate as a microloan intermediary and a technical assistance provider.
Sec. 210. Loans to exporters.
Sec. 211. Working capital international trade loans.
Sec. 212. Guarantees on international trade loans.
Sec. 213. Accredited lenders program.
Sec. 214. Interest rate on certified development company loans.
Sec. 215. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 216. Participating securities for smaller SBICs.
TITLE III—SIZE STANDARDS AND BOND GUARANTEES
Sec. 301. Size standard criteria.
Sec. 302. Sunset on preferred surety bond guarantee program.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.
TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE
Subtitle A—General Provisions
Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Service Corps of Retired Executives (SCORE) program.
Sec. 406. Information concerning franchising.
Subtitle B—Development of Woman-Owned Businesses
Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. National Commission on Women in Business.
TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES
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Sec. 613. Certification of compliance with child support obligations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(l) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make $110,000,000 in direct and immediate participation loans, and $45,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,315,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $15,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $33,000,000 in purchases of preferred securities;

"(B) $275,000,000 in guarantees of debentures, of which $65,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $500,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $450,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $25,000,000, to remain available until expended.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make $175,000,000 in direct and immediate participation loans, and $65,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,320,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $39,000,000 in purchases of preferred securities;

"(B) $300,000,000 in guarantees of debentures, of which $70,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $750,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $500,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,750,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,250,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make $250,000,000 in direct and immediate participation loans and $98,000,000 in technical assistance grants as provided in section 7(m), to remain available until expended.

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,020,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $12,000,000,000 in general business loans as provided in section 7(a);

"(B) $3,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $45,000,000 in purchases of preferred securities;

"(B) $375,000,000 in guarantees of debentures, of which $75,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $1,125,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,500,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) Deferred Participation Loan Pilot.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) Number of Loans.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) Term of Loans.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) Interest Rate.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans. Subject to the availability of appropriations, the Administration may make payments to lenders on behalf of intermediaries in order to achieve such interest rate.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102–140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1998".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "50 grants"; and

(B) by striking "$125,000" and inserting "$150,000"; and

(2) by striking paragraph (7) and inserting the following:

"(7) Program Funding for Microloans.—

"(A) Number of Participants.—In carrying out paragraph (1)(B)(i), the Administration may fund, on a competitive basis, not more than—

"(i) 150 microloan programs in fiscal year 1995; and

"(ii) 200 microloan programs in each succeeding fiscal year.

"(B) State Limitations.—A State shall not receive more than $10,000,000 in loan funds during any year of program participation.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) Distribution of Intermediaries.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will further microloan availability for small businesses in all industries located throughout each State, especially small businesses located in economically distressed urban and rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2,000,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) Assistance to Certain Small Business Concerns.—Each intermediary may expend an amount not to exceed 20 percent of the grant funds authorized under paragraph (1)(B)(ii) to provide marketing, management, and technical assistance to small business concerns that are not borrowers under this subsection.".

SEC. 208. MICROLOAN DEMONSTRATION PROGRAM GRANTS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) In General.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

SEC. 209. ELIGIBILITY TO PARTICIPATE AS A MICROLOAN INTERMEDIARY AND A TECHNICAL ASSISTANCE PROVIDER.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) by striking "(2) Eligibility for Participation.—An" and inserting the following:

"(2) Eligibility for Participation.—

"(A) In General.—An";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) Participation as Intermediary and Technical Assistance Provider.—A single entity may simultaneously receive 1 grant as an intermediary pursuant to paragraph (1)(B)(ii) and 1 grant as a nonintermediary technical assistance provider pursuant to paragraph (1)(B)(iii) if the Administration determines that—

"(i) the purposes of the grants are not duplicative;

"(ii) the grants will enable the entity to provide technical assistance to different geographic areas, or to support both guaranteed and direct loans in the same geographic area; and

"(iii) the entity meets all of the requirements of the programs authorized pursuant to clauses (ii) and (iii) of paragraph (1)(B).".

SEC. 210. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 211. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 212. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 213. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a reasonable and acceptable loss rate on the company's debentures;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program authorized by sections 502, 503, and 504.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 214. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 215. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 216. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of less than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of less than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of $20,000,000 or more.".

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) SIZE STANDARD CRITERIA.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years; and

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; and

"(iii) is approved by the Administrator.".

SEC. 302. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—No recipient of funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $100,000; or

"(bb) $200,000; and

"(II) except as provided in clause (ii), in each succeeding fiscal year, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $200,000; or

"(bb) $300,000.

"(ii) EXCEPTION.—The provisions of clause (i)(I) shall apply in any fiscal year after fiscal year 1995 in which, based on funds appropriated, a small business development center would, under the provisions of clause (i)(II), receive less than the small business development center received in fiscal year 1995.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1995;

"(II) $77,500,000 from October 1, 1995 through September 30, 1996; and

"(III) $85,000,000 beginning October 1, 1996.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—A small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns, if the contract is approved in advance by the Associate Administrator of the small business development center program.

"(B) APPROVAL CRITERIA.—Each approval of a contract under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph may not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biannual programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. SERVICE CORPS OF RETIRED EXECUTIVES (SCORE) PROGRAM.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) In carrying out subparagraph (B), the Administration shall encourage the Service Corps of Retired Executives (SCORE) established pursuant to such subparagraph, to the maximum extent practicable, to consult and work in conjunction with the Corporation for National and Community Service and the Points of Light Foundation established under the National and Community Service Act of 1990.".

SEC. 406. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. NATIONAL COMMISSION ON WOMEN IN BUSINESS.

(a) ESTABLISHMENT.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 401. ESTABLISHMENT.

"There is hereby established a Commission to be known as the 'National Commission on Women in Business' (hereafter in this title referred to as the 'Commission').".

(b) DUTIES OF THE COMMISSION.—Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 402. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) review, promote, coordinate, and monitor plans and programs, developed in the public and private sectors, which affect the ability of woman-owned businesses to obtain capital and credit;

"(2) promote and assist in the development of the Intermediate Census on Women's Business Ownership and other surveys of woman-owned businesses;

"(3) provide assistance to and outreach for the involvement of women business owners in White House Conference on Small Business;

"(4) study and assess—

"(A) the obstacles faced by women seeking to establish businesses and women seeking senior management positions in large and small businesses and in the professions; and

"(B) the contributions to the Nation's economy by businesses owned or managed by women; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of woman-owned businesses.

"(b) REPORT.—Not later than January 31, 1996, the Commission shall submit a report to the President and the Committees on Small Business of the Senate and the House of Representatives describing the plan developed pursuant to subsection (a)(5).".

(c) MEMBERSHIP.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 403. MEMBERSHIP OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

"(1) 7 members shall be the individuals described in subsection (b); and

"(2) 7 members shall be appointed in accordance with subsection (c).

"(b) PUBLIC SECTOR MEMBERS.—For purposes of subsection (a)(1), the individuals described in this section are—

"(1) the Administrator of the Small Business Administration;

"(2) the Assistant Administrator of the Office of Women's Business Ownership of the Small Business Administration;

"(3) the Secretary of the Treasury, or the Secretary's designee;

"(4) the Secretary of Labor, or the Secretary's designee;

"(5) the Secretary of Commerce, or the Secretary's designee;

"(6) the Administrator of the General Services Administration, or the Administrator's designee; and

"(7) 1 member of the Board of Governors of the Federal Reserve System, or the designee of a member.

"(c) PRIVATE SECTOR MEMBERS.—

"(1) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the President shall appoint an individual to serve as the chairperson of the Commission (hereafter in this title referred to as the 'Chairperson') who shall be a prominent businesswoman who is qualified to head the Commission by virtue of her education, training, and experience.

"(2) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the Administrator of the Small Business Administration shall appoint 6 members of the Commission, of whom—

"(A) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is a member of the same political party as the President;

"(B) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is not a member of the same political party as the President; and

"(C) 4 shall be representatives of national women's business organizations.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) RESTRICTION.—The members of the Commission appointed pursuant to subsection (c) shall not be officers or employees of the Federal Government.

"(2) VICE CHAIRPERSON.—The member of the Commission appointed pursuant to subsection (b)(2) shall serve as vice chairperson of the Commission.

"(3) TERMS.—The term of service of the members of the Commission appointed pursuant to subsection (c) shall be 1 year. No member of the Commission may serve for more than 2 consecutive terms.

"(4) DESIGNEES.—Each designee appointed pursuant to subsection (b) shall—

"(A) be a policy-making official whose duties are consistent with the duties of the Commission; and

"(B) report directly to the head of the agency on the activities of the Commission.

"(5) COMPENSATION AND TRAVEL EXPENSES.—

"(A) PUBLIC SECTOR MEMBERS.—The members of the Commission described in subsection (b) shall serve on the Commission without additional compensation.

"(B) PRIVATE SECTOR MEMBERS.—The members of the Commission appointed pursuant to subsection (c) shall serve without pay for membership, except that such members shall be entitled to reimbursement for domestic travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(6) VACANCIES.—A vacancy on the Commission shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairperson not less than 4 times each year.

"(8) QUORUMS.—

"(A) RECEIPT OF TESTIMONY.—Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

"(B) APPROVAL OF RECOMMENDATIONS.—A majority of the members of the Commission shall constitute a quorum for the approval of recommendations or reports issued pursuant to sections 402 and 406.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 404. EXECUTIVE DIRECTOR AND STAFF.

"(a) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson and the Assistant Administrator of the Small Business Administration Office of Women's Business Ownership. Upon the recommendation by the Executive Director, the Chairperson may appoint and fix the pay of 4 additional employees at a rate of pay not to exceed the maximum rate of pay payable for a position at GS-15 of the General Schedule.

"(b) ADMINISTRATIVE PROVISIONS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (a), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Executive Director so appointed may not receive pay in excess of the annual rate of basic pay payable for a position at ES-1 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"(c) DETAIL OF ADDITIONAL PERSONNEL.—Upon request to the Chairperson, the head of any Federal department or agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 405 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission"; and

(2) by adding at the end the following new subsection:

"(f) COOPERATION WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—Subject to the requirements of paragraph (2), the Commission may carry out its duties under section 402 through cooperation with private nonprofit and for-profit entities.

"(2) RESTRICTION.—If the Commission cooperates with private entities pursuant to paragraph (1), the Commission shall ensure that—

"(A) the Commission receives appropriate recognition and publicity;

"(B) the cooperation does not constitute or imply an endorsement by the Commission of the products and services of the cosponsor; and

"(C) the Commission avoids unnecessary promotion of the products and services of the cosponsor and minimizes utilization of any 1 cosponsor in a marketing area.".

(f) REPORTS.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission";

(2) by striking "December 31, 1989" and inserting "not later than 1 year after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994"; and

(3) by striking "based upon its reviews conducted under section 402".

(g) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 in fiscal year 1995;

"(2) $500,000 is fiscal year 1996; and

"(3) $100,000 in fiscal year 1997."; and

(2) by striking subsection (c).

(h) TRANSITION REIMBURSEMENT.—In order to facilitate the transition from the National Women's Business Council, established by title IV of the Women's Business Ownership Act of 1988, to the National Commission on Women in Business established by this section, the National Commission on Women in Business may, during the 30-day period beginning on the date on which the Chairperson of the National Commission on Women in Business is appointed pursuant to section 413 of this Act, reimburse the costs and salaries, where appropriate, of the Chairperson, Executive Director, and staff of the National Women's Business Council for transition activities.

(i) SUNSET.—The authority of the National Commission on Women in Business established under title IV of the Women's Business Ownership Act of 1988, as amended by this section, shall terminate on November 30, 1996.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 508. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance with clause (ii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 9.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by sections 504 and 505, are used to prepay the debenture; and

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2) of this section—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.".

(b) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administration shall promulgate such regulations as may be necessary to carry out this section, including regulations establishing a deadline for receipt of applications for prepayment and refinancing under title V of the Small Business Investment Act of 1958.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. CONSOLIDATION OF FUNDING ACCOUNTS.

(a) IN GENERAL.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking "(c)(1) There" and all that follows through paragraph (4) and inserting the following:

"(c) LOAN LIQUIDATION FUND.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is hereby established in the United States Treasury a fund to be known as the Loan Liquidation Fund (hereafter in this subsection referred to as the 'Fund').

"(B) AMOUNTS CONTAINED IN FUND.—All amounts received by the Administration prior to October 1, 1991, from the repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to section 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(l), 7(m), or 8(a) of this Act, or title III, IV, or V of the Small Business Investment Act of 1958, shall be paid into the Fund. Balances existing in the revolving funds on or after the effective date of this paragraph shall be transferred to the Fund on such date.

"(C) OPERATING EXPENSES.—The Fund shall have available, without fiscal year limitation, such funds as may be necessary to finance the operational needs of the Fund.

"(2) ANNUAL STATUS REPORT.—As soon as practicable after the end of each fiscal year, the Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives a complete report on the status of the Fund.".

(b) INTEREST PAYMENTS TO TREASURY.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (3); and

(2) in paragraph (3)(B), as redesignated, by striking clause (ii) and inserting the following:

"(ii) Upon the expiration of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest the Administration has collected during the preceding fiscal year on all financings made under the authority of this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $300 for each loan servicing action requested after disbursement of the loan, including any substitution of collateral, loan assumption, release or substitution of a guarantor, reamortization, or similar action; and

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. SECONDARY MARKET STUDY DUE DATE.

Section 6 of the Small Business Credit Enhancement Act of 1993 (15 U.S.C. 634 note) is amended by striking "16 months after the date of enactment" and inserting "November 1, 1994".

SEC. 607. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—After conducting the study under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a) on an annual and aggregated basis during the most recent 4-year period for which data are available. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 608. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 609. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1995".

SEC. 610. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 611. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 612. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that is determined to be obscene.".

SEC. 613. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 612, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—Each applicant for financial assistance under this Act, including an applicant for a direct loan or a loan guarantee, shall certify that the applicant is not in violation of the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the applicant and the custodial parent or State agency providing child support enforcement services,

that requires the applicant to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall issue such regulations as may be necessary to enforce compliance the requirements of this subsection.".

The title was amended so as to read: "A bill to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.".

Mr. PRESSLER. Mr. President, I rise today as ranking member of the Senate Small Business Committee and as a cosponsor of S. 2060, the "Small Business Administration Reauthorization and Amendment Act of 1994." This legislation marks the culmination of the most thorough review of the Small Business Administration [SBA] in 4 years.

I am very pleased with the substance of S. 2060 for many reasons. This bill addresses the needs of the SBA and America's small business men and women in a comprehensive and fair manner. Not only does this act provide authorization levels for the SBA's programs for fiscal years 1995 through 1997, it also improves numerous programs in a variety of ways.

The road leading to this bill's consideration on the floor today is the result of cooperative efforts of many individuals, including my colleagues on the Small Business Committee, our counterparts on the House Small Business Committee, the Small Business Administration, and the millions of small business owners across the Nation. I especially would like to thank the chairman of the committee, Senator BUMPERS, for his good efforts on this legislation and for taking the leadership necessary to bring S. 2060 to the Senate floor. This being my first experience with a major SBA reauthorization bill since becoming ranking member of the committee last year, I truly have enjoyed the opportunity to work with Chairman BUMPERS.

Mr. President, S. 2060 is largely the result of many oversight hearings held during this second session of the 103d Congress. The committee met on February 22, 1994, to discuss the SBA's proposed budget for fiscal year 1995. In this hearing, SBA Administrator Erskine Bowles unveiled his plans to revamp many of the programs within the SBA. Of particular concern to me was the lack of far-reaching internal reorganization of the SBA nationwide. At this hearing, I stated my disappointment to Administrator Bowles for having abandoned attempts truly to reorganize the agency [due to] parochial interests. The SBA, although it serves a very worthwhile function in the Nation's small business community, has been fraught with waste, fraud, and abuse. I commend Administrator Bowles for pursuing the noble cause of streamlining the SBA. However, it was, and still is, my hope that the Administrator will take even bolder action to prevent future scandals.

Subsequent oversight hearings explored the effectiveness of other programs and possible modifications to them. On March 2, 1994, the committee held a hearing on the SBA's increasingly popular 7(a) business loan guaranty program and the Disaster Assistance Loan Program. This hearing was followed by a March 17 hearing covering the Microloan Demonstration Program and the business development programs, which include Small Business Development Centers [SBDC's], the Service Corps of Retired Executives [SCORE], and Small Business Institutes [SBI's]. Since that time, the committee also has conducted hearings to analyze the effectiveness of the section 503/504 development companies on May 17, and the minority small business/capitol ownership development [MSB/COD], or section 8(a) program on July 27.

S. 2060, in its reported form, owes a great deal to the findings of those hearings. The testimony provided by the administration, trade associations, and entrepreneurs played a significant role in this legislative process. Without their input, the bill before us would be incomplete. Mr. President, I would now like to outline some of the key provisions of S. 2060.

TITLE I—AUTHORIZATIONS

Title I of this bill establishes the SBA's authorization levels for fiscal years 1995, 1996, and 1997. I believe the authorization levels reflect a realistic expectation of what these programs will be able to receive in appropriations. These figures will allow these important programs to continue to serve small businesses and, in some cases, even expand those services. With these funding levels as a guidepost, programs vital to stimulating small business growth like the 7(a) and 504 loan programs can continue to provide much needed credit. The title also authorizes Microloans, Small Business Investment Company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. In addition, the title provides "such sums as may be necessary" for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities which have been affected by natural disasters. I believe the bill does an excellent job of responding to the requests of the small business community and proposals offered by the administration while taking into account this Nation's current fiscal constraints.

As the centerpiece of SBA's assistance programs, the section 7(a) business loan guaranty program is of particular importance. Under this program, the agency acts as a partial guarantor of loans made by commercial lenders to small businesses across the country. Recent years have seen an explosion in demand for these loans. While there are a variety of reasons for this increased demand, the most significant has been the "credit crunch" faced by small entrepreneurs. In recent years—at least partially driven by the savings and loan crisis—lenders have become more reluctant to lend to small firms because of increased regulatory pressures. As a result, the 7(a) loan guaranty program has seen unprecedented activity.

A similar strain has been seen in SBA's 504 development company loan program in recent years. Under this program, the SBA guarantees 10- and 20-year debentures issued by Certified Development Companies [CDC's]. The proceeds of these debentures are used to fund loans with similar terms to small companies for plant acquisition, construction, conversion, expansion, or equipment. Mr. President, this is truly an amazing program. Virtually nowhere else does the Federal Government get this kind of bang for its buck. The program's subsidy rate is roughly one-half of 1 percent. This means that for every half cent we appropriate, one dollar is loaned to small business. This astounding leveraging capability, together with the stringent job creation requirements connected with the program, make the 504 program one of the most cost-effective economic development tools available to any state or local economy.

The increased program levels authorized by this bill reflect the committee's belief that Congress should demonstrate a strong commitment to providing adequate financing assistance to America's job creating engine—small business. Quite simply, both programs provide the kind of long-term financing not available in private markets. In addition, each does so at an extremely modest cost as compared to the job creation they provide.

Title I of the bill also authorizes the SBIC debenture program at the administration's requested levels, although the committee authorized levels for the SBIC participating security program are less than requested by the administration. This reflects the committee's view that the SBA's venture capital program, although it has a troubled history, has an important role to play in financing small business development. However, given the as yet untested nature of the SBIC participating securities program, the committee felt the most prudent course was not to expand the program too quickly. Quite frankly, the authorized levels also reflect a realistic view of what the programs can expect in terms of appropriations. In other words, the committee did not wish to send an unwarranted signal regarding future actual funding levels for these programs. I am hopeful that in the not too distant future, the new participating securities program will take a leading role in SBA's venture capital financing program.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Title II of the bill makes changes to the financial assistance programs of the SBA. These programs include the Microloan Demonstration Program, export assistance and international trade loans, the CDC Accredited Lenders Program, and the SBIC, and specialized SBIC programs.

The legislation makes a number of changes to the SBA's Microloan Demonstration Program. In this area, the administration proposed that the microloan program be converted from direct to guaranteed loans. I am pleased with the way this legislation handles the administration's request. The program currently makes direct loans to non-profit and private lenders called "intermediaries." The intermediaries, in turn, make very small loans to disadvantaged businesses. In my view, the SBA failed to provide a compelling need to suddenly route loans to intermediaries through private lenders on a guaranteed basis. I believe that given the Microloan Program's demonstration status, such a dramatic shift should not be introduced at this time. Section 201 of this bill, consequently, allows the SBA to establish a pilot program to provide guaranteed—rather than direct—loans for up to twenty intermediaries. This is an excellent compromise.

Among the other changes made to the Microloan Program was an amendment I offered during markup. This amendment resulted directly from a field hearing I chaired last September on the Pine Ridge Indian reservation in South Dakota. During that hearing, witnesses testified as to the extreme scarcity of credit for businesses owned by American Indians. Many of the witnesses also discussed how technical assistance, in some cases including the teaching of basic business skills, was a vital part of effective small business assistance. Several witnesses also provided examples that demonstrated how small business developed through microlending effectively creates jobs and economic opportunities for often economically depressed American Indian reservations because micro-business development is a concept well suited to the American Indian culture.

This amendment creates incentives for intermediaries to make loans and provide technical assistance to small businesses owned by American Indians. Under current law, each loan made by the SBA to an intermediary is accompanied by a 25-percent grant to be used to provide technical assistance to those microenterprises borrowing from the intermediary. This grant is subject to a 25 percent non-Federal matching requirement. Additional technical assistance grant money equal to 5 percent of an intermediary's total outstanding balance of loans is available to those intermediaries maintaining a loan portfolio average of not more than $7,500. Thus, these intermediaries can receive a maximum of 30 percent in technical assistance grants. This additional grant is not subject to the matching requirement.

My amendment, which passed the committee on a unanimous vote, provides the extra 5 percent technical assistance grant to any intermediary making 25 percent of its loans to businesses owned by members of federally recognized American Indian tribes. Such intermediaries, in effect, would be treated just as those maintaining an average loan portfolio of not more than $7,500. However, in no case would an intermediary be able to receive more than 30 percent in technical assistance grants. In addition, my amendment provides additional incentives for intermediaries making 50 percent or more of their loans to businesses owned by members of federally recognized American Indian tribes. These intermediaries will receive the full 30 percent maximum in technical assistance grants. However, none of the grant would be subject to a matching requirement.

My amendment fits well with section 202 of the bill in making the Microloan Program more accessible to American Indian entrepreneurs. The Small Business Act in its current form does not allow governmental or quasi-governmental agencies to act as intermediaries. Unfortunately, adequate resources to provide the services that an intermediary must provide are scarce on most Indian reservations and to most tribal members. Often, the tribal government must take responsibility for providing such services.

Section 202, therefore, allows tribal entities to act as intermediaries. I fully support this change.

I also want to touch on Section 213 of this bill. This section establishes an Accredited Lenders Program for certain 504 development companies. As a part of the Accredited Lenders Program, the SBA is directed to develop a procedure for the expedited processing of loan applications or servicing actions submitted by qualified development companies.

In some instances, statewide development companies fall under the jurisdiction of more than one SBA district office. In the past, some statewide development companies have found loans it makes in one part of the State are treated differently than those made in another. This has not had so much to do with differences in the borrower or terms of the loans as with different consideration given by different SBA district office personnel. This being the case, the committee's report clearly states the committee's intent that any such development company qualifying for the Accredited Lenders Program shall be provided the same procedure for the expedited processing of its loan applications or servicing actions, regardless of which district office has responsibility for the particular transaction. This is not meant as a criticism of anyone within SBA. It simply is necessary to insure uniform treatment of development companies qualifying for the program.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Section 301 of the bill clarifies requirements under the Small Business Act that allow Federal departments or agencies other than the SBA to issue size standards with the approval of the SBA Administrator. This section broadens the criteria available for setting such size standards, but does nothing to change the requirements that the standard be set by a rulemaking, including a proposal and an opportunity for public comment, and that the standard be approved by the Administrator.

I believe it may be necessary for the Committee to revisit this issue in the future as it seems not all Federal agencies understand the requirements relating to the setting of size standards contained in the Small Business Act. Specifically, I am referring to a recent rulemaking in which the Federal Communications Commission [FCC] set a size standard to define a "small cable system." It appears the FCC failed to secure the statutorily required approval by the SBA Administrator in this case. As a result, on July 21, Chairman BUMPERS and I, together with 14 of our Senate colleagues, wrote a letter to SBA chief counsel for advocacy Jere Glover requesting that he file an amicus brief in a lawsuit brought by the small cable industry against the FCC over the issue.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

I am pleased with the opportunities that will be created for SBDCs in title IV of the bill. Section 402 of this title raises the minimum level, also known as a "floor," that an SBDC may receive in Federal funds from $200,000 to $300,000, and raises the base level of funding from $100,000 plus the state's pro rata share to $200,000 plus the pro rata share. This increase is absolutely vital to the so-called "big rectangular" Western states, like South Dakota, that have a large geographic area to cover, but too small a population from which to draw a large enough pro rata share to support disproportionately large travel and programming expenses.

The title also authorizes the SCORE and SBI Programs for the next 3 fiscal years. These important programs provide grass roots counseling to small businesses for an extremely nominal Federal expenditure. The SCORE program teams experienced small business men and women and their wealth of experience with fledgling entrepreneurs who sometimes have little more than an idea and a great deal of enthusiasm.

I remain somewhat concerned with the manner in which SCORE funds are apportioned among the local chapters and have been studying this issue for some time. I am not convinced reliable standards exist to guide the national SCORE office in its decisionmaking process in this regard. While I considered amending this legislation in an effort to ensure equitable distribution of SCORE funding, after discussions with Chairman BUMPERS we have agreed to ask the General Accounting Office to study the program before any modifications are made. I will consider further legislative options once the results of that study are released.

SBI's throughout our Nation provide a valuable service and help our small businesses create jobs. This program, in conjunction with State colleges and universities, provides teams of business students and faculty members to work one-on-one with existing businesses. Although the administration did not request funding for the SBI Program, I am extremely pleased the committee acted to reauthorize it. The SBI program provides invaluable assistance to small businesses—especially those with little or no access to an SBDC—in a very cost effective manner. It also provides the students involved with invaluable hands on experience in the workings of an actual business.

I would be concerned if the committee or the administration were to seek an increase in SBA's financial assistance programs at the expense of technical assistance programs such as SCORE or SBI. If this were to happen, new businessowners could find themselves with capital, but with little or no additional assistance. If businesses should fail as a result and, in the process, default on their loans, neither our communities nor the Federal treasury would come out ahead.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Title V of the committee's bill tackles a very difficult problem that has been with us for several years. This title is designed to provide relief for borrowers stuck with onerous prepayment penalties under the former section 503 Development Company program. Like the 504 program, 503 loans were used to provide long-term, fixed-rate financing to small companies for plant acquisition, construction, conversion or expansion, equipment and job creation. However, presently some 3,500 borrowers under the old 503 program are locked into SBA-backed loans with interest rates reflecting the Government's cost of money 10 or more years ago. Thus, rates on these loans can run 12 to 15 percent and higher. Unfortunately, these borrowers are unable to refinance these loans because of extremely high prepayment penalties of which many borrowers say they were either unaware of or mislead about at the time they took out the loan.

Another unfortunate reality is that the Federal Government is simply not in a position to absorb the cost—by some estimates well over $100 million—of totally relieving these borrowers of their obligations. However, this year for the first time, we were able to secure $30 million in appropriated funds to address the problem. It then became the committee's challenge to determine how to spread this relief as equitably as possible. I believe the bill accomplishes this goal. Borrowers wishing to refinance will be required to pay a reduced penalty. However, the legislation at least makes refinancing possible for many who simply find it impossible under current law.

TITLE VI—MISCELLANEOUS AMENDMENTS

Title VI of the committee bill makes a number of improvements and corrections in a wide variety of SBA programs. In addition, the title allows for certain fees to be collected and requires that studies be conducted.

Throughout the reauthorization process, one proposal that caused me great concern was the administration's request that it be allowed to collect a $15 per hour fee for SBDC counseling services. SBDC's provide valuable counseling service to established and fledgling entrepreneurs. In some areas of the country, the fee may not have been unreasonable. However, in many rural States such a requirement could easily close the door of opportunity for a potential or new entrepreneur with limited resources. In addition, I feel that such a fee would unnecessarily encumber SBDC staff already faced with limited time and money. I am extremely pleased that S. 2060 does not authorize SBA to charge or collect such fees.

The last topic I will discuss involves another amendment I offered during markup of S. 2060. This amendment, also adopted on a unanimous committee vote, prohibits the SBA from providing assistance to businesses engaged in the production and/or distribution of obscene products or services. The amendment was offered in response to the SBA's recent repeal of its "opinion molder rule" promulgated in 1953. Under that rule, the administration, with few exceptions, could not provide assistance to small businesses engaged in the "creation, origination, expression, dissemination, propagation or distribution of ideas, values, thought, opinions, or similar intellectual property, regardless of medium, form, or content." With the repeal of the rule, businesses such as newspapers, movie theaters, radio stations, and bookstores now are eligible for administration assistance.

However, members of the committee shared my concern that a blanket repeal of the rule also would allow businesses involved in the production and distribution of obscene products and services to seek SBA support and that the agency would have no means by which to deny such loans or other assistance. My amendment makes it clear the SBA is not authorized to provide any assistance to those engaged in obscene businesses—and thus not entitled to first amendment protection—as defined by the U.S. Supreme Court. The amendment is intended to cover the narrow range of adult theme businesses, including adult book stores, adult theaters, adult film and video producers, and adult film and video distributors. It is not meant to apply to businesses such as convenience stores that may carry adult materials that do not fall within the Supreme Court's definition of obscenity.

Mr. President, I once again offer my full support for this legislation. I truly believe the program levels authorized will adequately provide the SBA with the ability to continue to provide its invaluable services. The SBA is vital to the small businesses of this country. Without the support of 7(a) loans, SBIC's, Microloans, 502/504 development companies, and the many business development programs, the viability of this Nation's small businesses certainly would be placed in jeopardy. For many budding entrepreneurs, the assistance the SBA can provide is just the catalyst they need to flourish. As you know, Mr. President, America's No. 1 job creators are this Nation's small businesses. In a time when so much Congressional action stymies the growth of small businesses, I firmly believe that S. 2060 is an excellent vehicle by which Congress can improve the economic environment for Main Street businesses.

Mr. BUMPERS. Mr. President, S. 2060 is the first SBA reauthorization to be considered by Congress since President Clinton took office. It is a dramatic departure from the hold-the-line, do-as-little-as-necessary policy of the previous two administrations. President Clinton's fiscal year 1995 budget and legislation contain significant increases in SBA loan programs aimed at economic development and meeting the credit needs of small firms in a changing economy. This bill is major economic legislation which is badly needed and which can and will help further the Nation's recovery.

The committee-reported bill responds to the President's requests to the greatest extent possible in a time of fiscal constraints and sends a strong economic message. The small business sector has been and will remain the major source of new jobs in the American economy. Paradoxically, small businesses face more difficulty than ever in obtaining the capital required for business startups, expansion, and operating capital.

In business loans, loan guarantees and bond guarantees, S. 2060 as reported by the Small Business Committee authorizes $16.033 billion in financial assistance to small businesses in 1995, $18.599 billion in fiscal year 1996, and $23.048 billion in 1997. The role of the Small Business Administration under the energetic leadership of Administrator Erskine Bowles is more vital than ever before in sustaining and expanding the economic recovery now underway.

I introduced S. 2060 on May 3, 1994. The bill authorizes SBA programs for 3 years, makes changes in a number of existing programs, and extends certain expiring provisions of law. At a markup on August 10, 1994, the committee considered and adopted a chairman's substitute amendment and several other amendments detailed below.

Prior to the markup, the committee held budget or oversight hearings on February 22, March 2, and March 17. Additionally, on May 17, a full committee hearing examined problems with prepayment penalties under the former section 503 Development Company Program and oversight of the section 504 program which succeeded the 503 program. The committee heard testimony on S. 737, a bill introduced by Senator HATFIELD which eases prepayment penalties imposed on borrowers of high interest bearing loans under the section 503 program. The committee has included a substitute for S. 737 as title V of the committee amendment.

TITLE I—AUTHORIZATIONS

Section 101 of the committee amendment authorizes SBA loan programs and certain business development programs. Included are sec. 7(a) loan guarantees, section 502 and 504 development company loans, microloans, Small Business Investment Company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. Also included is a "such sums as may be necessary" authorization for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities which have been affected by natural disasters.

Funding for SBA programs with the exception of disaster loans are detailed in the following chart. The committee considered the administration's funding requests and the levels set in a House-reported bill, H.R. 4801, which has not yet passed the House. It is possible that final House levels represented in the chart could be changed by floor action.

I ask unanimous consent to print the chart in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SBA REAUTHORIZATION FUNDING LEVELS

	Appropriated and reprogrammed fiscal year 1994	Proposed fiscal year 1995			Proposed fiscal year 1996			Proposed fiscal year 1997		
		Senate	House	Admin	Senate	House	Admin	Senate	House	Admin
7(A) Guarantees [1]	[2] $8.788.4 billion.	$9 billion	$7.815 billion	$11.5 billion	$10 billion	$10.93 billion	$13.5 billion	$12 billion	$14.2 billion	$15.5 billion
Defense conversion (7(A)(21)) (not funded)		$2.0 billion	$1.5 billion	$0	$2.5 billion	$0	$0	$3.5 billion	$0	$0
Microloans direct	$86.6 million	$110 million	$130 million	[3] $110 million	$175 million	$195 million	[3] $175 million	$250 million	$270 million	[3] $250 million
Microloan-TA	$9 million	$45 million	$0	$15.1 million	$65 million	$0	$0	$98 million	$0	$0
Micro guarantee pilot (new)		$15 million	$20 million	[3] $15 million	$20 million	$20 million	[3] $20 million	$20 million	$20 million	[3] $20 million
504/502 Development Cos.	$1.54 billion	$2.3 billion	$2.2 billion	$2.3 billion	$2.8 billion	$2.5 billion	$3.8 billion	$3.5 billion	$3 billion	$5.7 billion
SBIC debentures	$100 million	$230 million	$260 million	$210 million	$250 million	$350 million	$250 million	$310 million	$500 million	$310 million
SBIC participating	$207.8 million	$500 million	$500 million	$550 million	$750 million	$750 million	$1.1 billion	$1.125 billion	$1.125 billion	$1.7 billion
Mesbic stock (SSBIC)	$15 million	$33 million	$33 million	$23 million	$39 million	$39 million	$24 million	$45 million	$45 million	$25 million
Mesbic guaranty (SSBIC)	$17.9 million	$55 million	$25 million	$65 million	$70 million	$55 million	$70 million	$75 million	$55 million	$75 million
Surety bond	$1.7515 billion	$1.8 billion	$1.8 billion	$2 billion	$2 billion	$1.8 billion	$2 billion	$2.2 billion	$1.8 billion	$2 billion
Score	$3.5 million	$3.5 million	$3.5 million	[4] $3.08 million	$3.75 million	$3.67 million	$0	$4 million	$3.86 million	$0
SBI	$3 million	$3 million	$3 million	[4] $0	$3.25 million	$3.15 million	$0	$3.5 million	$3.31 million	$0
SBDCs: Regular	$71.3 million	$70 million	$70 million	[4] $67 million	$77.5 million	$77.5 million	$0	$85 million	$85 million	$0

SBA REAUTHORIZATION FUNDING LEVELS—Continued

	Appropriated and reprogrammed fiscal year 1994	Proposed fiscal year 1995			Proposed fiscal year 1996			Proposed fiscal year 1997		
		Senate	House	Admin	Senate	House	Admin	Senate	House	Admin
SBDCs: Defense conversion (not funded)		$25 million	$0	$0	$25 million	$0	$0	$25 million	$0	$0

[1] The Administration request includes the non-guaranteed portion of Sec. 7(a) loans which, in SBA's view, is required by credit reform. The House and Senate bills include only the SBA share of the program in conformance with section 20 of the Small Business Act.

[2] Includes $1.8 billion carryover.

[3] The Administration request combines direct and guaranteed amounts.

[4] Administration requests are from Budget submission only for these programs. No authorizing language was requested.

SEC. 7(a) BUSINESS LOANS

Mr. BUMPERS. Mr. President, SBA's flagship program remains the sec. 7(a) business loan guaranty program under which the agency acts as a partial guarantor of loans from commercial lenders to small firms. With SBA's guaranty of 70-90 percent of the loan amount, banks and other lenders are willing to provide longer term financing than would otherwise be available, and also larger loan amounts at lower interest rates than the market and the regulatory environment would permit without SBA's participation.

The committee has provided separate authorizations for the regular 7(a) program and defense conversion loans under section 7(a)(21). Demand for 7(a) loan guarantees has risen sharply since 1991, and Congress has labored to ensure that adequate program levels are available to meet small business credit needs in a recovering economy. No decrease in demand is expected in the foreseeable future for regular 7(a) loans, while the 7(a)(21) program anticipates new borrowers as the economy continues to shift away from the heavy emphasis on national defense before the end of the cold war. This bill looks to the needs of a post-cold-war economy.

Defense conversion loans under sec. 7(a)(21) were authorized in 1991 but have received no funding to date. The program will assist businesses which have been severely adversely affected by reductions in defense expenditures, and those located in communities which have been adversely affected by base closings and curtailment of defense procurement. Members of the Armed Forces who have left the service earlier than planned and who wish to establish small businesses are also eligible for financing under section 7(a)(21).

For defense conversion loans, S. 2060 authorizes $2 billion in fiscal year 1995; $2.5 billion in fiscal year 1996 and $3.5 billion in fiscal year 1997. These are in addition to regular 7(a) program levels of $9 billion in fiscal year 1995; $10 billion in fiscal year 1996; and $12 billion in 1997. While these are substantial increases, they are supported by the administration and by program experience in the last 3 years.

Several factors have contributed to the growth of the 7(a) program in the decade of the 1990's. These include increased regulatory pressure on banks following the savings and loan collapse and ensuing reform legislation, an interest rate environment which made purchase of government securities more profitable for banks than small business lending, and perhaps increased paperwork burdens for banks. All of these trends discouraged small business loans. As a result, unprecedented numbers of borrowers have turned to the SBA 7(a) program, and the section 504 Development Company Program for financing which the private market was unable to provide.

Congress responded to increased demand for 7(a) loans in 1992 with an emergency supplemental appropriation which, unhappily, added to the deficit. In 1993, escalating demand caused the program to shut down for several weeks before Congress again responded, but this time with a reprogramming of unexpended Federal funds from other programs. This action did not add to the deficit, but this course could not be relied on for future funding for the 7(a) program. Congress also responded in 1993 with legislation which reformed the 7(a) program and substantially reduced the cost of loans. Public Law 103-81 reduced the guaranteed percentages of some loans by SBA and imposed a fee of 40 basis points of 7(a) loans sold to investors in the secondary market. This legislation reduced the subsidy cost of the program as calculated under the Credit Reform Act from 5.45 percent to 2.15 percent, thereby more than doubling the program levels which would be available from a fixed amount of appropriated funds. This reform was sought by the Clinton administration and generally supported by the lending community as the responsible course of action in a time of limited federal resources and obvious need for small business financing.

Growth of the 7(a) and 504 program has contributed to the economic recovery in many areas of the country and has prevented the credit crunch from causing even more pain in regions which have yet to fully benefit from the recovery. The program levels in this legislation represent a strong commitment by Congress to furthering and broadening the economic recovery by ensuring that adequate and affordable financing is available to the most vibrant sector of the economy, small business.

DIRECT LENDING

The committee amendment does not authorize SBA direct loan programs which have existed in the past, with the exception of the Microloan Program, the Specialized SBIC Preferred Stock Program, and the Disaster Loan Program, previously noted. This course is consistent with an amendment I offered earlier this year to the Senate Appropriations bill for SBA. That amendment moved funding from direct loans to raise fiscal year 1995 program levels for the sec. 504 and SBIC participating security programs. Appropriations for direct loans have so diminished over the last several years that they can hardly be called national programs. Often, the meager funds appropriated for direct loans have given business owners false hope that a direct loan could be obtained from SBA when, in fact, insufficient funds were available.

The committee concluded that the limited resources could more effectively be used to support loan guaranty programs which have lower subsidy costs under credit reform. Moreover, the Microloan Program is being expanded so that borrowers who might have been served under the direct loan programs should be able to seek financing from a microloan intermediary. Microloan borrowers receive training and technical assistance which is not available to direct loan borrowers.

SEC. 504 DEVELOPMENT COMPANY LOANS

Under the 504 program, SBA guarantees a 10- or 20-year debenture issued by a Certified Development Company [CDC], the proceeds of which fund a loan to a small firm for plant acquisition, construction, conversion, expansion or equipment. The SBA portion of the loan covers not more than 40 percent of the project, with a conventional lender providing 50 percent financing and the borrower providing the remaining 10 percent as equity.

The program is attractive to banks because SBA and the CDC agree to take a secondary position on all of the collateral, so the back is effectively overcollateralized. The borrower gets a long-term, fixed-rate loan with an interest rate comparable to the government's cost of money for a similar term.

The committee has worked to meet the ambitious funding levels proposed by the administration for the 504 program because it provides a cost-effective economic development tool. With a subsidy cost of barely more than one-half of one percent and a strong job creation requirement, the 504 program has boosted economic growth in the communities where it has been utilized.

Congress recently approved and the President signed legislation increasing the fiscal year 1994 authorization level for sec. 504 from $1.2 billion to $1.5 billion. The committee amendment raises the fiscal year 1995 program level to $2.3 billion, with further increases to $2.8 billion in fiscal year 1996, and $3.5 billion in fiscal year 1997. The program levels for fiscal year 1996 and 1997 are less than sought by the administration but more than provided by the House. For a program which was funded at $500 million in 1992, these are large increases, but they are warranted both by need for long-term, fixed-rate, financing which the market does not provide and by the modest cost of the program.

SBIC DEBENTURES AND PARTICIPATING SECURITIES

Program levels for SBIC debentures in the committee amendment are somewhat less than those set by the House because limited resources should be focused primarily to the new participating security program which was enacted in 1992 but which remains untried. Debenture financing, however, remains an important financing mechanism for some SBIC's and their clients whose business plans do not fit with the participating program.

The administration has sought extremely ambitious increases for the participating security program. The House bill provides $500 million of the $550 million request for 1995. In the outyears, the House bill authorizes $750 million in 1997 compared with the request of $1.1 billion. In 1998, the House bill provides $1.125 billion of the administration's $1.7 billion request. The Senate bill agrees with the House for all 3 years.

The committee concluded that the administration's proposed levels for participating securities are not prudent in light of nonexistent experience with this new but promising program. Moreover, the appropriations environment makes increases of the magnitude sought by the administration extremely unlikely. With a subsidy cost of almost 16 percent for the debenture program and approximately 9 percent for the participating security program, SBIC financing remains among the most expensive of all SBA loan programs. At the same time, I am hopeful that the new participating security will reinvigorate venture capital financing for small business and perhaps produce economic successes comparable to the SBIC program's past economic marvels which include Apple Computer, Intel, Federal Express, Cray Research, Compaq and others.

BUSINESS DEVELOPMENT PROGRAMS

The committee amendment gives statutory authorization for three important business development programs: the Service Corps of Retired Executives [SCORE], Small Business Institutes [SBI], and a special authority for assistance to firms affected by defense budget reductions through Small Business Development Centers [SBDC's]. SCORE and SBI both leverage private sector resources on a volunteer basis to provide valuable management counseling to small business owners. SCORE uses the talents of retired business people to counsel small business owners, while SBI works through faculty and graduate business-school students.

The authorized levels of $3.5 million for SCORE in fiscal year 1995, and $3 million for SBI, with modest inflation adjustments in the outyears, are more than matched in value by the time contributed by volunteers.

The committee adopted an amendment by Senator LEVIN which authorizes SBA, as part of its management assistance duties, to counsel small businesses and entrepreneurs of the benefits and risks of franchising. Franchising is an important and growing facet of our economy and can be an opportunity for people who want to be their own boss and who are willing to work hard. However, there are risks associated with franchising. This amendment aims to avoid problems before they happen by educating prospective franchisees.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

MICROLOAN DEMONSTRATION PROGRAM

At the March 17 oversight hearing and in its budget submission, the administration enthusiastically endorsed the Mircoloan Demonstration Program and called for its expansion. The administration also proposed a pilot program to test the idea of SBA guaranteeing loans to microloan intermediaries.

The committee strongly supports the Microloan Program and has included a statement of policy in S. 2060 clarifying that the program should be accessible to eligible small businesses regardless of their industry or geographic location. Some areas of the country are served by intermediaries which provide microloans only to certain types of businesses such as manufacturing. In those cases, SBA should permit more than one intermediary to serve the given area.

Other areas are not served by any intermediary. To help remedy this situation, the committee included a provision to permit certain native-American tribal organizations to become intermediaries. Previously, such entities were ineligible to participate in the program because they did not meet the statutory definition of intermediaries. SBA should actively seek and train potential intermediaries to serve areas where microloans are currently unavailable.

As also requested, the committee has authorized a 3-year guaranteed loan pilot program under which the SBA may guarantee between 90 and 100 percent of loans to 20 intermediaries from for-profit or non-profit lenders, or groups of such lenders. Ten intermediaries will be located in urban areas and 10 in rural areas. The loans will be for 10 years with no interest or principal due during the first year. Only interest will be payable during the second through fifth years and both interest and principal will be due during the final 5 years of the term. SBA may use appropriated funds to support these guarantees, including a buy-down of interest rates from lenders.

The committee has increased the authorized number of Microloan Demonstration Programs from 110 to 150 in fiscal year 1995 and to 200 in subsequent fiscal years. We increased the maximum amount an intermediary may borrow from SBA from $1.25 million to $2 million, eliminated the cap on the number of programs per State and, to conform with these two changes, increased the cap on the total loans a State may receive under the Microloan Program from $2.5 million to $10 million.

EXPORT ASSISTANCE LOAN PROGRAM

The administration requested three provisions intended to harmonize SBA's Export Loan Program with the Export-Import Bank's Export Loan Program. These provisions will enable SBA to work together with the Export-Import Bank and the Department of Commerce on jointly operated Export Assistance Centers. These centers will function as one-stop shops for businesses to obtain export counseling and financing, regardless of the size of the business.

The included provisions allow SBA to guarantee a variety of forms of credit, including standby letters of credit and revolving lines of credit for small businesses, small business export trading companies, and small business export management companies. SBA may guarantee between 85 and 90 percent on such credit. The maximum amount of an export loan under SBA's program is increased to $1.25 million, and the limit for working capital, supplies, or other export purposes has been increased to $750,000.

504 DEVELOPMENT COMPANY ACCREDITED LENDERS PROGRAM

The committee has included provisions to establish an Accredited Lenders Program [ALP] for certain section 504 development companies. This Program is based on a bill introduced by Senator WELLSTONE on June 23, 1994, S. 2235, the Small Business Accredited Lenders and Packagers Act. Senator WELLSTONE, as chairman of the Subcommittee on Rural Economy and Family Farming, held a hearing on July 21, 1993, on the Federal role in rural economic development. Testimony indicated a need for expedited processing of section 504 loans in rural areas.

As part of the Accredited Lenders Program, the administration is directed to develop a procedure for expedited processing on loan applications or servicing actions submitted by qualified development companies.

SMALL BUSINESS INVESTMENT COMPANY AND SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY PROGRAMS

In April 1994, the General Accounting Office [GAO] issued a report entitled "Small Business Administration: Inadequate Documentation of Eligibility of Businesses Receiving SSBIC Financing," which was requested by Congressman LAFALCE, chairman of the House Small Business Committee. GAO noted that 37 percent of all specialized small business investment companies [SSBIC's] had poor records or no records concerning the eligibility of their borrowers for financial assistance under the program.

The committee amendment includes a requirement that small businesses seeking financial assistance from SBIC's and SSBIC's certify to SBA that they meet the eligibility requirements of the program. S. 2060 also requires an SBIC or SSBIC to certify to SBA that it has reviewed the application for assistance and that there is no documentary or other indication that the applicant does not meet the program requirements.

With respect to the SBIC participating security program, I am concerned with the number of high-dollar applications the administration has received and with the lack of a policy with respect to funding applications for participating securities submitted by smaller SBIC's. The Committee included a provision which requires half of each year's appropriations for participating securities to be reserved for smaller SBIC's, those with private capital of less than $20 million. Since proportions are not always obtainable or desirable, the bill permits the administrator to use more than 50 percent of the annual appropriations for participating securities for larger SBIC's if, during the last quarter of the fiscal year, there is a lack of qualified applicants among smaller SBIC's.

TITLE III—SURETY BOND GUARANTEES

PREFERRED SURETY BOND GUARANTEE PROGRAM

Section 302 of the committee substitute extends the pilot Preferred Surety Bond Guarantee Program for 1 year, until September 30, 1995.

The Preferred Surety Bond Guarantee [SBG] Program was authorized on a test basis by title II of Public Law 100-590, the Small Business Administration Reauthorization and Amendments Act of 1988. The Preferred SBG Program is aimed at encouraging the participation of the large, so-called standard surety firms in the SBA Surety Bond Guarantee Program. Under the pilot program, a surety firm approved for participation is permitted to use its own bond underwriting, administration, and claims procedures without obtaining SBA's approval for the application of the SBA guarantee on a case-by-case basis. In exchange, the preferred surety's guarantee is limited to 70 percent rather than the 80 or 90 percent SBA guarantees available in the so-called SBA Prior-Approval SBG Program. One main objective of the pilot Preferred SBG Program is to expand access to surety bonding for small business concerns owned and controlled by socially and economically disadvantaged businesses often referred to as SDB's.

Regulatory implementation of the pilot Preferred SBG Program was slower than anticipated. To provide an adequate test period, the program's expiration date was previously extended from September 30, 1992, to September 30, 1994, by section 216 of Public Law 101-574, the Small Business Administration Reauthorization and Amendments Act of 1990.

The preferred surety program permits SBA to delegate to a surety carrier the authority to issue, monitor, and service surety bonds subject to the administration's guarantee without prior approval. Although less than 20 percent of SBA's surety bond guarantees are issued under this program, it is an efficient method. S. 2060 extends this authority for 1 year until September 30, 1995, in order to afford the Committee additional time to conduct thorough oversight hearings on the pilot program.

MANUFACTURING APPLICATIONS AND EDUCATION CENTERS

The committee has included a provision that directs the SBA to promote the award of contracts to manufacturing application and education centers. These centers are entities which have the capacity to assist small businesses in a shared-use production environment and which offer technology demonstration, technology education, technology application support, and technology advancement support services. The administration is to promote such awards by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently being provided by foreign sources.

In addition, S. 2060 further supports small businesses participating in the centers by authorizing an exception to the requirement that 50 percent of the work on a contract be performed by the business to whom the contract is awarded. The exception applies to any manufacturing contract performed by a small business in conjunction with a manufacturing application and education center.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

COSPONSORSHIP AUTHORITY

Since 1984, SBA has had authority to cosponsor business development activities with non-profit and for-profit entities. After some initial difficulties with for-profit cosponsorship, Congress imposed certain restrictions on the Agency's use of such cosponsorships. SBA must ensure that it receives appropriate recognition and publicity, that the cosponsorship does not constitute or imply an SBA endorsement of the cosponsor's product or service, and that SBA avoids unnecessary promotion of products or services.

Since the enactment of these requirements, cosponsorships with for-profit entities have enabled SBA to leverage its resources to reach a larger population of small businesses. The current authority is extended in S. 2060 to September 30, 1997.

SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

The Small Business Development Center [SBDC] Program is a public-private partnership administered by the SBA which provides counseling, training, and other business development assistance to small businesses at over 900 sites nationwide. The Federal contribution is fully matched by State governments and other SBDC participants. The administration intends to make even greater use of the SBDC program than in previous years, and other Federal agencies are considering using the SBDC network to provide information and other services to small businesses. Demand for the program has outstripped its abilities based on current funding.

Since both Houses have passed fiscal year 1995 appropriations bills which contain SBDC funding, the committee has included provisions to increase the authorized national program for SBDCs beginning in fiscal year 1996. The program level will increase to $77.5 million in fiscal year 1996, and in fiscal year 1997 and later years, the authorized level will be $85 million.

In addition, beginning in fiscal year 1996, the funding floor will be raised from $200,000 to $300,000. Eleven States—Delaware, North Dakota, South Dakota, Wyoming, Montana, Vermont, Rhode Island, Idaho, Alaska, the Virgin Islands and the District of Columbia—are currently funded at the $200,000 floor. Together with matching funding requirements, the changes will provide those States with a minimum of $600,000 to operate their SBDC networks. Both the increase in the national program and in the funding floor will only take place if adequate appropriations are made available. If not, the current funding formula will remain applicable.

The committee has also included a provision that permits an SBDC to contract with another Federal department or agency to provide small business services, if the contract is approved in advance by the associate administrator for SBDCs. The 50 percent matching funds requirement is not applicable to such contracts.

WOMEN'S BUSINESS DEMONSTRATION PROJECTS

S. 2060 extends the authority for the women's business training demonstration projects for 3 years until September 30, 1997. This program was designed to permit private organizations to provide financial assistance, management assistance, and marketing assistance to women entrepreneurs. The women's demonstration projects were created by the Women's Business Ownership Act of 1988.

NATIONAL COMMISSION ON WOMEN IN BUSINESS

The committee unanimously adopted an amendment offered by Senator MOSELEY-BRAUN on behalf of herself and Senator LAUTENBERG which creates a National Commission on Women in Business. The amendment was cosponsored by Senators BUMPERS, HARKIN, WOFFORD, and KOHL. The Commission will replace the National Women's Business Council which will expire shortly. The commission is in lieu of a 32-member interagency committee created in the House bill. The existing council, created by the Women's Business Development Act of 1988, was a nine-member board charged with strengthening opportunities for women businessowners. The committee chose creation of the new commission over an extension of the council or the more cumbersome structure chosen by the House because we believe the public-private structure of the commission is preferable to a large committee of Federal bureaucrats in addressing the issues facing women in business. The commission's duties are streamlined to increase the group's focus and effectiveness.

The commission will be composed of 14 members selected equally from both the public and private sectors. The commission's investigative and reporting responsibilities include the following: First, access to credit and capital, second, data collection on women-owned businesses, third, encouragement of women's participation in the White House Conference on Small Business, fourth, advancement of female executives, and fifth, development and growth of women-owned businesses.

The private sector members shall include three female small businessowners and four representatives of national women's business organizations. Terms of service for commission members is 1 year, but a member may serve for two consecutive terms.

Public sector members will include representatives from the Departments of Treasury, Labor, and Commerce, the General Services Administration, the Federal Reserve Board, and also the Administrator of the SBA and the Assistant Administrator of the SBA Office of Women's Business Ownership.

The commission's chairperson will be one of the women businessowners who shall be selected by the President. The vice-chairperson will be the Assistant Administrator of the SBA's Office of Women's Business Ownership.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Title V of the committee amendment provides relief from onerous prepayment penalties now imposed on borrowers under the former section 503 development company program. The 503 program provided long-term, fixed-rate financing to small firms for plant acquisition, construction, conversion or expansion, and equipment. The program differed from the current 504 program chiefly in that development company debentures—which finance individual loans—were sold to the Federal Financing Bank with SBA's endorsement.

Since 1986, these same debentures have been sold in the private capital markets with SBA's guaranty. When the Treasury was the sole purchaser of 503 debentures, the Government was able to dictate terms to the borrowers which have proved burdensome and unfair in light of changes in interest rates since the early 1980's.

Presently, some 3,500 section 503 borrowers nationally are saddled with SBA-backed loans with interest rates reflecting the Government's cost of money more than a decade ago. Many 503 loans carry interest rates from 12–15 percent and higher, and borrowers are unable to refinance at today's lower rates because of the prepayment penalties contained in the debentures. Borrowers have been hampered in growth and job creation by these onerous interest rates. Some borrowers testified that they were unaware of the prepayment issue when they entered into the loan. Others said that they were actually misled by either development company officials or by SBA employees on the issue when the loan was made. Senator HATFIELD characterized the Government's policy toward these borrowers as "loansharking."

The prepayment penalty problem has festered for many years, and this is not the first congressional effort to resolve the problem. In 1988, Congress passed S. 437, a bill introduced by Senator METZENBAUM which would have modified the prepayment penalty and would have benefited both borrowers and the Treasury. That bill was scored by the CBO, under rules then in effect, as reducing the deficit by about $50 million in the ensuing fiscal year. President Reagan pocket vetoed this bill following the adjournment of Congress. Subsequent changes in scoring rules under the 1990 Credit Reform Act prevented loan prepayments from being considered as revenues, and this scoring change seriously delayed resolution of the issue.

Last year, Senator HATFIELD took up the cause of the section 503 borrowers and introduced S. 737. Our committee held a hearing on the Hatfield bill on May 17, 1994, at which SBA representatives and several 503 borrowers testified. Additionally, the Clinton administration endorsed prepayment relief for these borrowers, and the President's fiscal year 1995 budget proposal contains $30 million in funding.

Unfortunately, the administration proposal falls short of meaningful relief to all borrowers. The administration would substitute the current 504 prepayment penalty for the 503 loans.

This change would allow any borrower who had repaid his loan for more than half of its term to face no penalty at all. However, the administration proposal of only $30 million in appropriated funds would assist a much smaller group of borrowers than the plan included in S. 2060.

The committee concluded that the Hatfield bill, which was estimated by CBO to cost $167 million, was too expensive, and the administration bill and budget request of $30 million was too meager. The House bill, on the other hand, allows a very small amount of help in the form of an interest rate buy-down for all borrowers. Relief, under the House bill, would be limited by the amount of appropriated funds available, which seems certain to be $30 million in fiscal year 1995, and probably zero thereafter.

Complete relief for a very few and meager relief for all borrowers were equally unacceptable, so the committee adopted a third course of action which supplements appropriated funds with the proceeds of new, reduced prepayment penalties.

I believe that any solution to this problem must include fairness to the taxpayers and the Treasury as well as the distressed and aggrieved borrowers. The committee amendment compromises these competing interests. While no borrower will get off scot-free, as some would under the administration's proposal, virtually all borrowers should be able to refinance at today's rates upon the payment of a modest penalty.

The committee amendment provides borrowers the right to prepay 503 loans upon the payment of a substitute penalty set forth in the following schedule: First, with respect to a 10-year term loan, 9.5 percent; second, with respect to a 15-year term loan, 9.5 percent; third, with respect to a 20-year term loan, 10.5 percent; and fourth, with respect to a 25-year term loan, 11.5 percent.

These penalties are based on the outstanding principal balance of the loan and accrued interest at the time of prepayment and are estimated to cover approximately half of the cost of these refinancings to the Federal Financing Bank. The remainder of the cost will be covered by SBA appropriated funds contained in the President's fiscal year 1995 budget and in the House and Senate fiscal year 1995 appropriations bills for the Departments of Commerce, Justice, State and Related Agencies. The committee estimates, based on data from SBA, that the sum of these two amounts will allow at least 75 percent of all affected borrowers to prepay, which should include virtually all borrowers likely to choose prepayment.

The committee amendment makes clear that all costs of refinancing may be included in a new section 504 loan, including the penalty here enacted. A borrower may, however, choose any other sources of financing available to him.

TITLE VI—MISCELLANEOUS AMENDMENTS

The committee amendments permits SBA to collect and retain certain user fees and loan action fees. The administration requested and the committee agreed to permit the agency the authority to impose fees for loan servicing actions such as loan extensions or other modification of the terms of a loan. Commercial lenders routinely charge substantial fees for such actions. SBA is permitted under the amendment to charge not more than $300 for loan actions. This figure represents a maximum which will be imposed only for the most costly loan actions.

The amendment also permits SBA to collect and retain reasonable fees for publications produced by SBA. SBA has for many years produced and distributed pamphlets and the like on a variety of business issues. These range from general information on starting a business to specialized information on particular types of businesses such as day care centers. A number of valuable publications from years past are outdated, and SBA has not had resources sufficient to develop and publish new ones. The committee urges SBA to make publications available through its resource partners, including SCORE, SBDC's, and SBI's.

The committee amendment does not include the administration proposal to authorize the SBA to collect fees for SBDC counseling.

Section 607 of the committee amendment requires SBA to conduct a broad-ranging economic impact study for the 7(a) and 504 programs. This requirement parallels a similar requirement contained in the Senate report to accompany H.R. 4603, the appropriations measure for SBA for fiscal year 1995.

Insofar as the 7(a) program is concerned, SBA should build on the results of the Price Waterhouse study released in 1991, and should conduct the most comprehensive assessment possible of the macroeconomic impact of these programs, including job creation and the impact on Federal and State revenues from business expansions. The study should also consider the default and loss rates and projections for both programs. The administration may use outside contractors to the extent necessary.

The committee adopted an amendment offered by Senator MOSELEY-BRAUN on behalf of Senator LAUTENBERG which requires applicants for SBA financial assistance to certify in writing that he or she is not in violation of any court order, administrative order, or any other agreement requiring the applicant to pay child support. This amendment was cosponsored by Senators BUMPERS, KOHL, HARKIN, MACK, and HUTCHISON.

Since 1975, Congress has made a concerted effort to combat the problem of parents who fail to honor their commitments to provide financial support for their children. Almost 20 years ago, the Child Support Enforcement program was enacted. Since that time and with every change to that program, the rate of collection has increased. This amendment will provide another tool against those parents who refuse to acknowledge or comply with their obligations to provide for their offspring. The cost of implementation of this requirement will be nominal.

Mr. President, this bill has been cosponsored by Senators PRESSLER, NUNN, LEVIN, HARKIN, KERRY, LIEBERMAN, WELLSTONE, HEFLIN, MOSELEY-BRAUN, and CHAFEE. It is good legislation which can only help the economy move forward and help to address the difficult challenges facing America's small business men and women. I urge all my colleagues to support S. 2060.

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 337, S. 839, the High-speed Ground Transportation Development Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 839) to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) high-speed rail may offer a safe and efficient complement to existing intercity transportation modes in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal financial capital assistance may be required to supplement the financial commitments of State and local governments and the private sector to ensure the development of the infrastructure required for high-speed rail systems;

(8) new technologies and, particularly, defense conversion initiatives can facilitate the development of high-speed rail in the United States;

(9) the development of these technologies can expand the competitiveness of United States industry in this country and overseas; and

(10) Federal assistance is required for research and development of high-speed rail technologies for commercial application in high-speed rail service in the United States.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

The Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) is amended by adding at the end the following new titles:

"TITLE X—HIGH-SPEED RAIL ASSISTANCE

"SEC. 1001. DESIGNATION OF CORRIDORS

"(a) PETITION.—The Governor or Governors (or the duly authorized officer or officers) of a State or States that substantially encompass a proposed corridor may petition the Secretary for designation under this section.

"(b) CONTENTS.—Any petition submitted pursuant to subsection (a) shall include such information as the Secretary determines by regulation to be necessary to evaluate the merits of that corridor. Any such petition shall also designate a public agency, for each petitioning State, that is authorized by the State to be responsible for coordination of activities under the high-speed rail program proposed for that corridor, and authorized to receive financial assistance under section 1002 or 1003.

"(c) DETERMINATIONS AND CRITERIA FOR DESIGNATION.—(1) The Secretary is authorized to designate as a designated corridor any corridor where the Secretary determines that—

"(A) the high-speed rail service proposed for the corridor offers the potential for cost-effective intercity passenger transportation as part of the Nation's transportation system; and

"(B) high-speed rail development will not create unfair competition for existing transportation service in operation or under development in such corridor.

"(2) Determinations under paragraph (1)(A) and (B) shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the integration of the designated corridor into metropolitan area and Statewide transportation planning undertaken pursuant to sections 134 and 135 of title 23, United States Code;

"(B) the interconnection of the proposed high-speed rail service with other parts of the Nation's transportation system, including the relationship of the proposed service to intermodal terminals;

"(C) the anticipated effect of the proposed high-speed rail service on the congestion of other modes of transportation;

"(D) any adverse impact on existing mass transit services and other intercity passenger transportation modes in the corridor;

"(E) the effect of the proposed service on the efforts of State and local governments to attain compliance with the Clean Air Act;

"(F) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(G) the estimated level of ridership;

"(H) an evaluation of existing highway-rail grade crossings on the corridor that need to be closed or separated;

"(I) the estimated capital cost of the proposed service, including the cost of closing or separating highway-rail grade crossings in the corridor;

"(J) the extent to which the projected revenues of the proposed service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(K) the level of support and cooperation of any owners and operators of existing rail facilities proposed for improvement in developing the high-speed rail service.

"(d) ADDITIONAL DESIGNATIONS.—(1) The Secretary shall, upon the written request of the State or States that substantially encompass the proposed corridor, designate as a designated corridor—

"(A) any intercity rail corridor designated as a high-speed rail corridor by the Secretary under section 104(d)(2) of title 23, United States Code; or

"(B) any discrete portion of such a corridor.

"(2) The Secretary shall, upon the written request of the State or States that substantially encompass the proposed corridor, designate as a designated corridor any intercity rail corridor, other than the main line of the Northeast Corridor between Washington, District of Columbia, and Boston, Massachusetts, that includes a substantial segment where regularly scheduled rail passenger service operates at speeds in excess of 100 miles per hour as of the date of enactment of the High-Speed Ground Transportation Development Act of 1993.

"(3) Any request under this subsection shall include the designation of a public agency, for each requesting State, that is authorized by the State to be responsible for coordination of activities under the proposed high-speed rail program, and authorized to receive financial assistance under section 1002 or 1003.

"(e) ADMINISTRATIVE EXPENSES.—The Secretary may provide financial assistance to a public agency designated under subsection (b) for up to 80 percent of the administrative expenses incurred by such agency, and determined eligible by the Secretary, in carrying out its responsibilities in connection with the development of a designated corridor. The Secretary shall establish a formula for the allocation of assistance under this subsection.

"SEC. 1002. CORRIDOR MASTER PLANS.

"(a) REQUIREMENT.—An applicant shall prepare and submit to the Secretary, and may periodically amend, a corridor master plan for a corridor, subject to the approval of the Secretary.

"(b) CONTENTS.—A corridor master plan prepared under subsection (a) shall identify a coordinated program of improvements to advance the establishment of high-speed rail service in the corridor, including those improvements not eligible for financial assistance under this title. Such plan shall include—

"(1) identification of how the proposed high-speed rail service relates to State and metropolitan area transportation plans of the affected States and metropolitan areas;

"(2) identification of the specific elements that comprise the program to achieve the high-speed rail service, including their estimated costs, schedules, timing, and relationship with other transportation projects;

"(3) identification of the transportation benefits expected to be derived from each element, including reductions in trip times and increases in speeds;

"(4) identification of specific improvements that comprise each element, a representation of the extent to which such improvements are eligible for financial assistance under this title, and an identification of all proposed sources of funding for such specific improvements;

"(5) identification of anticipated levels of ridership and projections of revenues and expenses associated with the proposed high-speed rail service when completed and for each element undertaken to achieve high-speed service, including estimates of any operating subsidies that would be required and the sources of such subsidies;

"(6) an operating plan identifying the proposed schedule and frequency of the high-speed rail service and the coordination of such service with any other rail operations on the corridor;

"(7) identification of specific improvements that will permit sustained operating speeds substantially in excess of 125 miles per hour, including such improvements as electrification, line straightening, and use of advanced locomotive and rolling stock;

"(8) identification of specific enhancements to passenger convenience, including such enhancements as interline ticketing with other modes of transportation, parking and other means of passenger access, and use of intermodal terminals, particularly at airports;

"(9) consideration of the effect on existing rail passenger service provided in the corridor by the National Railroad Passenger Corporation; and

"(10) such other information as may be required by the Secretary.

"(c) PLAN PREPARATION ASSISTANCE.—The Secretary, by regulation and to the extent the Secretary considers reasonable, may provide financial assistance to an applicant preparing a corridor master plan for up to 50 percent of the costs associated with preparation of such plan incurred after the date of enactment of the High-Speed Ground Transportation Development Act of 1993, including the costs of design, environmental and route selection analysis, and preliminary engineering necessary to support such analyses. The Secretary shall not provide financial assistance under this subsection in an amount that exceeds the amount provided by State and local governments for such preparation costs.

"SEC. 1003. FINANCIAL ASSISTANCE FOR DESIGNATED CORRIDORS.

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant to fund improvements eligible under subsection (c). No financial assistance shall be provided under this title—

"(1) for improvements to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts; or

"(2) for improvements relating to a designated corridor in a State where the State prohibits the expenditure of State funds for such improvements.

"(b) TERMS, CONDITIONS, AND PROCEDURES.—(1) The Secretary shall establish appropriate terms, conditions, and procedures for the provision of financial assistance under this section.

"(2) The Secretary shall not provide financial assistance under subsection (a) for improvements in a designated corridor unless the Secretary finds that the applicant is in compliance with the requirements of section 1005(a) relating to an arrangement for insurance coverage.

"(c) ELIGIBLE IMPROVEMENTS.—Improvements eligible for financial assistance under subsection (a) shall be those improvements, other than the acquisition of rolling stock, that are necessary to facilitate the development of high-speed rail service, including—

"(1) final engineering and design;

"(2) site specific environmental analyses and environmental mitigation;

"(3) acquisition of right-of-way and related property;

"(4) acquisition, construction, rehabilitation, upgrading, or replacement of roadbed, structures, track, guideway, signal and communications systems, electric traction systems, propulsion or guidance systems incorporated as part of a guideway, maintenance-of-way facilities, maintenance-of-equipment facilities, private highway-rail grade crossings (including payments to property owners to close such crossings where appropriate) and public highway-rail grade crossings to the extent authorized under subsection (f)(3), and those portions of terminals and stations directly related to the operation of the high-speed rail service.

Improvements that are eligible for funding under other Federal transportation programs shall not be eligible for financial assistance under subsection (a).

"(d) MINIMUM FUNDING.—Financial assistance may not be provided under subsection (a) unless such assistance enables the completion of at least one full element of a program to achieve high-speed rail service.

"(e) PRIVATE FUNDING.—In providing financial assistance under subsection (a), the Secretary shall ensure that the element or elements for which such assistance is provided include the maximum practicable private funding.

"(f) FUNDING PROPORTIONS.—(1) In providing financial assistance under subsection (a), the Secretary may provide financial assistance for up to 80 percent of the cost of specific eligible improvements. No less than 20 percent of the costs of such improvements shall be provided by State or local funds.

"(2) The Secretary shall not provide financial assistance to an applicant under subsection (a) in an amount which exceeds the amount provided for the development of the designated corridor by State and local governments, and other Federal transportation programs, after April 29, 1993.

"(3) The Secretary may provide financial assistance to an applicant under subsection (a) for a public highway-rail grade crossing improvement that is part of the development of a designated corridor only if such improvement was not, as of the date of enactment of the High-Speed Ground Transportation Development Act of 1993, included as a high priority for highway-rail grade crossing improvement in the State to be funded with funds apportioned to the State under section 104(b)(3) of title 23, United States Code, and allocated under section 133(d)(1) of such title.

"(g) CRITERIA.—In determining whether to provide financial assistance to fund an element under subsection (a), the Secretary shall consider how the element meets the criteria identified in section 1001(c), the information contained in the relevant corridor master plan, commitments by State and local governments to fund any increases in the operating deficit of the National Railroad Passenger Corporation with respect to that Corporation's operation over the designated corridor that result from the completion of the element, and such other information as the Secretary considers appropriate.

"(h) FINAL SAFETY REGULATIONS; DISBURSEMENT LIMITATION.—(1) The Secretary shall issue final regulations concerning the safety of high-speed rail service that address, at a minimum, the following subjects:

"(A) rail vehicle integrity;

"(B) passenger and crew protection and emergency evacuation;

"(C) rail vehicle-track interaction;

"(D) separation and closure of highway-rail grade crossings;

"(E) necessary train control and signaling systems;

"(F) the operation of high-speed and conventional passenger trains, commuter trains, and freight trains in the same corridor (including the means for ensuring safety in a corridor while preserving the existing level of rail service generally); and

"(G) protection against undetected incursions into the right-of-way.

"(2) Upon disbursing any funds for improvements under subsection (c)(4), the Secretary shall publish a notice in the Federal Register—

"(A) certifying that any final safety standards that are essential to ensure that those specific improvements are consistent with a safe operating environment for high-speed rail service are in effect; and

"(B) specifying what those standards are.

"(i) EARLY ASSISTANCE.—The Secretary may provide financial assistance under subsection (a) for an element not contained in a corridor master plan prepared under section 1002 only if such financial assistance is provided, with respect to a designated corridor, before the expiration of 30 months after the date of enactment of the High-Speed Ground Transportation Development Act of 1993.

"SEC. 1004. HIGH-SPEED RAIL TECHNOLOGY DEVELOPMENT.

"(a) AUTHORITY.—The Secretary is authorized to undertake research and development of high-speed rail technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) DEFENSE CONVERSION.—The Secretary shall give a high priority to proposals under this section which encourage civilian application to high-speed rail of defense-related technologies.

"SEC. 1005. INSURANCE REQUIREMENTS.

"(a) INSURANCE CONTRACT AND CERTIFICATION.—(1) Before financial assistance may be provided under section 1003 for a designated corridor, the applicant shall—

"(A) enter into an arrangement for the provision of liability insurance coverage, in an amount (subject to subsection (c)) of $500,000,000 per occurrence, to compensate for any and all loss from compensatory and punitive damage claims, against such applicant, the operator of the proposed high-speed rail service, or the owners and operators of the track and other rail facilities that will be used for such high-speed rail service, for death, bodily injury, or loss of or damage to property resulting from an accident or incident involving—

"(i) on designated corridors having intercity rail passenger service on October 1, 1993, operation of a train in excess of maximum speeds for intercity passenger trains in timetables in effect on October 1, 1993, on the applicant's corridor;

"(ii) on designated corridors having rail service but no rail passenger service on October 1, 1993, operation of a train in excess of maximum speeds for passenger trains permitted on the applicant's corridor under section 213.9 of title 49, Code of Federal Regulations, on October 1, 1993; and

"(iii) on designated corridors for which new rail lines are being built, operation of rail passenger service, regardless of the nature of the conduct causing such death, bodily injury, loss, or damage; and

"(B) certify to the Secretary that the applicant has entered into such arrangement for insurance coverage.

"(2) For purposes of this section, the term 'insurance coverage'—

"(A) as applicable to the primary layer of insurance up to $25,000,000 per occurrence, includes self-insurance by any person insured under the applicable coverage and mutual indemnification agreements among any combination of such persons; and

"(B) as applicable to layers of insurance above $25,000,000 per occurrence, includes self-insurance and mutual indemnification agreements that are agreed to by all persons required to be insured under the applicable coverage.

Such term includes self-insurance or mutual indemnification agreements described under subparagraphs (A) or (B) only to the extent authorized under the law of any State in which the applicable rail service is operated.

"(b) RESTRICTION ON OPERATIONS.—On designated corridors upgraded with assistance provided under section 1003, unless insurance coverage as described in subsection (a) is in force, rail passenger service shall not—

"(1) on designated corridors having intercity rail passenger service October 1, 1993, be operated in excess of maximum speeds for intercity passenger trains in timetables in effect on October 1, 1993, on the applicant's corridor;

"(2) on designated corridors having rail service but no rail passenger service on October 1, 1993, be operated in excess of maximum speeds for passenger trains permitted on the applicant's corridor under section 213.9 of title 49, Code of Federal Regulations; and

"(3) on designated corridors for which new rail lines are being build, be operated.

"(c) INTERSTATE COMMERCE COMMISSION JURISDICTION.—Upon the petition of a person insured under insurance coverage purporting to be as described in subsection (a), the Commission shall, within 90 days after its receipt of such petition, determine the adequacy of such coverage. The petitioner shall have the burden of proving, by a preponderance of the evidence, the inadequacy of such insurance coverage (including the sufficiency of the amount specified in subsection (a)) with respect to the corridor for high-speed rail service is proposed and with respect to the potential liability of the petitioner. In making its determination, the Commission shall employ the usual and customary underwriting methodology of insurers of rail activities, taking into account the speeds at which passenger trains are proposed to operate in the corridor, any safety features, rules, and procedures created in connection with such proposed high-speed rail service, and the existence and applicability of other insurance coverage for the petitioner. In no event shall the Commission provide for a lower level of insurance coverage than is provided by subsection (a). In the event the Commission determines that insurance coverage is inadequate, the Commission shall determine the level of insurance coverage that is adequate. The applicant shall then provide coverage at that level.

"(d) MULTIPLE CORRIDORS.—Nothing in this section shall preclude respective applicants from jointly procuring the insurance coverage required pursuant to subsection (a) so that such insurance covers more than one corridor.

"SEC. 1006. BUY AMERICA REQUIREMENTS.

"(a) GENERAL RULE.—Except as provided in subsection (b), an applicant receiving financial assistance under section 1003 shall ensure that the articles, materials, and supplies purchased with such financial assistance are substantially all of United States manufacture or production. An applicant that fails to meet the requirement of this section may not receive further assistance under section 1003.

"(b) EXEMPTION.—The Secretary may grant an exemption from this section to an applicant with respect to the purchase of articles, materials, or supplies, or may grant an exemption for any improvement incorporating such articles, materials, or supplies, if the Secretary determines that—

"(1) the application of this section is inconsistent with the public interest;

"(2) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable;

"(3) such articles, materials, or supplies are not produced or manufactured in the United States in sufficient and reasonably available quantities or of a satisfactory quality;

"(4) such articles, materials, or supplies cannot be purchased and delivered in the United States within a reasonable time; or

"(5) such articles, materials, or supplies are produced or manufactured in a country that the President has determined, in its government procurement contracts, treats articles, materials, or supplies produced or manufactured in the United States on a national treatment basis.

"(c) EXCEPTION.—This section shall not apply with respect to an element in any case in which the total cost of the articles, materials, or supplies purchased in connection with such element with financial assistance provided under section 1003 is less than $1,000,000.

"SEC. 1007. LABOR STANDARDS.

"(a) REQUIREMENT TO PROVIDE PROTECTIVE ARRANGEMENTS.—A recipient of Federal assistance under section 1003, for improvements described in section 1003(c)(4), shall provide fair and equitable arrangements to protect the interests of rail employees who may be affected by such assistance. Such arrangements shall include the guidelines issued by the Secretary of Labor under subsection (c). The Secretary shall be satisfied that the arrangements include the Secretary of Labor's guidelines before providing financial assistance under section 1003.

"(b) Operator Responsibility for Costs.—Where State law prohibits the recipient of Federal assistance under section 1003 from paying the costs of protecting the interests of rail employees in accordance with this section, such costs shall be the responsibility of a beneficiary of such assistance formally identified by the State as having such responsibility or, in the absence of such an identification, the operator of high-speed rail service operating within the applicable designated corridor.

"(c) Issuance of Guidelines.—The Secretary of Labor shall, within 90 days after the date of enactment of this title, issue guidelines on what arrangements are needed to satisfy this section. The guidelines shall be as protective of employee interests as the requirements of section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b)) and shall include provisions regulating subcontracting of work funded by financial assistance provided under section 1003.

"SEC. 1008. APPLICABILITY OF OTHER LAWS.

"The operator of a high-speed rail service operating in interstate commerce or over a rail line operated in interstate commerce, within a designated corridor that receives financial assistance under section 1003, shall, with respect to such high-speed rail service, be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"SEC. 1009. DEFINITIONS.

"For purposes of this title—

"(1) the term 'applicant' means a public agency designated under section 1001(b) or (d)(3), or a group of such public agencies, seeking financial assistance under this title for development of a designated corridor;

"(2) the term 'corridor' means an existing or proposed route for high-speed rail serving two or more major metropolitan areas in the United States;

"(3) the term 'designated corridor' means a corridor designated by the Secretary under section 1001;

"(4) the term 'element' means a discrete portion of a program to develop a designated corridor that has a demonstrable intercity ground transportation benefit independent of other improvements to such corridor;

"(5) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(6) the term 'high-speed rail' has the meaning given such term under section 511(n) of this Act;

"(7) the term 'improvement' means a discrete activity that contributes to the development of the infrastructure of a designated corridor;

"(8) the term 'rolling stock' means locomotives and rail passenger cars;

"(9) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(10) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

SEC. 4. EXEMPTIONS FOR NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 705 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 855) is amended by adding at the end the following new subsection:

"(c) Applicable Exemptions and Procedures.—For the purpose of any State or local requirement for permit or other approval for construction of any improvement undertaken by Amtrak as part of the Northeast Corridor Improvement Project, the exemptions and procedures applicable to a project undertaken by the Federal Government or an agency thereof shall apply.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) High-Speed Rail Assistance.—There are authorized to be appropriated to the Secretary of Transportation for the national high-speed rail assistance program authorized under sections 1001, 1002, and 1003 of the Railroad Revitalization and Regulatory Reform Act of 1976—

(1) $96,000,000 for fiscal year 1994;
(2) $166,000,000 for fiscal year 1995;
(3) $183,000,000 for fiscal year 1996;
(4) $238,000,000 for fiscal year 1997; and
(5) $299,000,000 for fiscal year 1998.

(b) Technology Development.—There are authorized to be appropriated to the Secretary of Transportation for high-speed rail technology development authorized under section 1004 of the Railroad Revitalization and Regulatory Reform Act of 1976—

(1) $15,000,000 for fiscal year 1994;
(2) $15,000,000 for fiscal year 1995;
(3) $15,000,000 for fiscal year 1996;
(4) $15,000,000 for fiscal year 1997; and
(5) $15,000,000 for fiscal year 1998.

(c) Administrative Expenses of Secretary.—Of the amounts authorized to be appropriated under subsections (a) and (b), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under title X of the Railroad Revitalization and Regulatory Reform Act of 1976, as added by section 3 of this Act.

(d) Administrative Expenses of Public Agencies.—Of the amounts authorized to be appropriated under subsection (a), the Secretary of Transportation may reserve up to 1 percent for the purpose of providing financial assistance under section 1001(e).

(e) Funds To Remain Available.—Funds made available under this section shall remain available until expended.

SEC. 6. GRADE CROSSING SIGNAL DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) by redesignating the subsections after the first subsection (r) as subsections (s), (t), (u), and (v), respectively; and

(2) by adding at the end the following new subsection:

"(w) Grade Crossing Signal Devices.—The Secretary shall, within 1 year after the date of enactment of this subsection, establish nationally uniform standards regarding the allocation of responsibility for selection and installation of signal devices at public railroad-highway grade crossings.".

SEC. 7. COLUMBUS AND GREENVILLE RAILWAY.

(a) Redemption of Outstanding Obligations and Liabilities.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, d/b/a the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825, 831).

(b) Value.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

AMENDMENT NO. 2570

(Purpose: To authorize appropriations for high-speed ground transportation)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. Ford], for Mr. Exon, proposes an amendment numbered 2570.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) Findings.—

The Congress finds that—

(1) high-speed rail service offers safe transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) Purpose.—The purpose of this Act is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) In General.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation) is amended by adding at the end the following new chapter:

"CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE

"§ 25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

"(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

"(2) No less than twenty percent of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater;

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving or separating highway-rail grade crossings;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"§ 25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaption, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"§ 25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State and local governments;

"(4) the term "State" means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(5) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

"§ 25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FY 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49, United States Code.

(b) AUTHORIZATION FOR FY 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATIONS FOR FY 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49, United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

Mr. EXON. Mr. President, I am pleased to offer a compromise substitute amendment to the High-Speed Ground Transportation Act. I was pleased to work on this compromise with the Secretary of Transportation and the chairman of the Senate Commerce Committee. This legislation focuses attention and resources on high-speed rail research and corridor planning as well as incorporates the vision for high-speed rail into the comprehensive national transportation plan.

Admittedly, this proposal is a scaled-back version of the bill which won bipartisan, unanimous Senate Commerce Committee support. While I am very proud of that more comprehensive bill, the compromise before the Senate comes to terms with constraints of the Senate Calendar, the concerns of my colleagues, and the Federal budget. As the author of the Exon-Grassley budget amendment, I frankly welcome making tough choices of this nature.

The compromise plan lengthens the horizon for high-speed rail deployment and defers some questions which will arise with construction, such as liability and fair treatment for labor. These issues must eventually be addressed. I predict that these problems will be addressed in a manner very similar to the high-speed rail bill which won the support of the Senate Commerce Committee last year.

That being said, I am pleased with the substitute amendment. It keeps the vision of high-speed rail service and increased rail employment alive. It focuses in on the key precursors to construction as the administration develops transportation strategy for the next century.

After 12 long years of fighting to defend subsistence investments in Amtrak, the significance of this day can not be underestimated. With the adoption of this legislation, the Nation enters a new era of rail transportation. Just as ribbons of steel and billows of steam helped unite a young America in the 1800's, sleek trains and advanced technology will carry a modern America into a prosperous new century.

Rail transportation is safe, fuel efficient, and environmentally friendly. Today's investment in high-speed rail will pay significant dividends in the next century. High-speed rail holds great promise for reducing traffic congestion on the ground and in the air, boosting employment, and regaining America's edge in rail and maglev technology.

As a Senator from the great State with a long, rich rail history, I am especially proud to help create a new American industry. High-speed rail and maglev service, technology research and manufacturing will create good American jogs at good wages. This initiative also holds a key to converting defense industries into civilian powerhouses. It also creates an opportunity for America to become a player in a major export sector. In recent years European and Japanese companies have won significant contracts for high-speed rail service in Korea, China, and elsewhere.

Because American passenger rail service has been starved for investment for so long, by and large, American firms were not even players in these major export opportunities. A major step is being taken to at last join the fray.

Even for States which will not see high-speed rail service or related manufacturing jobs in the near future, the benefits of this legislation will be real and significant. Modern high-speed rail service will help make airport capacity problems at high-density airports more manageable. Presently, commuter service consumes a significant number of limited landing slots at America's four most popular airports. As high-speed rail attracts short and medium distance travelers, limited airport landing slots will become more available for long distance travelers. In other words, it will become easier for Nebraskans to fly to destinations such as Chicago, New York, and Washington, DC.

For States like Nebraska, with many railroad retirees, the future of those seniors will be made more secure with the revitalization of railroad employment and the increased contributions to the railroad retirement system that employment brings. For the conventional rail industry, this high-speed rail will bring new technology development, grade crossing elimination, and infrastructure improvements which will enhance all passenger and freight service.

In summary, Mr. President, when it comes to American high-speed rail and maglev, it is all aboard.

I encourage my colleagues to support this landmark legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2570) was agreed to.

Mr. FORD. I move to reconsider the vote, and to lay that on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to and the bill, as amended, be read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment, as amended, was agreed to.

The bill was read the third time.

Mr. GORTON. Mr. President, I am pleased to have another opportunity to express my strong support for the High Speed Rail Development Act.

I am especially excited that Washington State directly benefits from its implementation. Having one of the five national high-speed rail corridors extending from Vancouver, BC to Eugene, Or will alleviate many of the clogged highways in Washington State.

I am delighted that action is being taken to expand our Nation's use of new transportation technology. I have heard from numerous frustrated Washington State residents about the need for alternative cost-effective intercity passenger service. The development of the high-speed rail corridors is exactly the answer.

High-speed rail will offer a safe and efficient complement to existing intercity transportation modes. It has a distinct environmental advantage over other forms of intercity transportation and the Northwest will clearly benefit from its development.

I would like to especially thank my colleague in the House, Representative AL SWIFT, who has been a tireless advocate for improved Amtrak and high speed rail service in the Northwest. I have worked with Representative SWIFT on language that is very important to the development of our corridor in the Northwest and I am very pleased that the committee has included my suggested amendments to this legislation.

Mr. HOLLINGS. Mr. President, today we are considering S. 839, the High-Speed Ground Transportation Development Act, as amended. What is before the Senate is an amendment in the nature of a substitute, offered by Senator EXON to the bill reported by the Commerce Committee. I support this substitute amendment.

I have endorsed for some time a federal role in the promotion of high-speed ground transportation development in the United States. I view the Federal role as important in this area for two reasons. First, Federal support for research and development of new high-speed ground transportation technologies can enhance our Nation's economic and technology competitiveness and manufacturing base. Second, I believe that establishing new high-speed surface transportation systems to serve the national transportation needs of our country represents an important policy objective for our Nation.

The technologies that underlie high-speed rail systems can improve the safety and efficiency of our surface transportation system. Moreover, these technologies can lead to a reduction in traffic congestion, a favorable impact on our environment, and the conservation of energy resources.

Of course, this legislation by itself will not provide us with all of these benefits but this amendment is a first and very necessary step to that end. It allows the planning for high-speed rail to begin. It allows the Federal Government, in partnership with the states, to develop a workable program for high-speed rail, beginning with the basic determination of which of the Nation's transportation corridors can support high-speed rail systems. Finally, it will help to ensure that when high-speed rail is a reality, it will meet the national transportation needs and be cost-effective. I urge the Senate to support the substitute amendment offered by Senator EXON.

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1993

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4867, the House companion now at the desk and that all after the enacting clause be stricken and the text of S. 839, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table, the title be appropriately amended; further, that upon disposition of H.R. 4867, the Senate measure be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4867), as amended, was passed.

The title was amended so as to read: "A bill to authorize appropriations for high-speed ground transportation, and for other purposes."

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Friday, August 19; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30, with Senators permitted to speak therein for up to 5 minutes each; that upon disposition of the conference report accompanying H.R. 4603, the Senate then resume consideration of S. 2351, the Health Security Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL FRIDAY, AUGUST 19, 1994, AT 9 A.M.

Mr. FORD. If there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:09 p.m., recessed until Friday, August 19, 1994, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, August 18, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D. offered the following prayer:

We pray, O gracious God, that You would strengthen us in our inner being and give us the grace to be at peace in body, mind, and spirit. Your Word reminds us that You are our shepherd and that Your love is for the welfare of Your flock. We pray that You will bless us with the gift of a sturdy faith, a faith that withstands the pressures of the day. Give us the assurance that deep in our hearts is Your peace that passes all human understanding. Amen.

JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wyoming [Mr. THOMAS] please lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

NEED FOR CRIME BILL IS NATIONWIDE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, witnesses are killed, shootouts happen in broad daylight by city hall, and the police are outgunned. I am not talking about Washington, DC, or New York City. This is happening in the Indiana district I represent.

We need a crime bill now.

The extremists who are preventing us from passing a strong bill are playing Russian roulette with the public's safety for cynical political gain.

What is wrong with putting 100,000 new police officers on the streets?

What is wrong with banning assault weapons designed to kill large numbers of people as quickly as possible?

What is wrong with locking repeat violent criminals behind bars forever?

And what is wrong with preventing the pain and horror of crime before it happens?

Mr. Speaker, there is nothing wrong with these provisions that will take our streets back. Let us stop the politics and put the people first.

THE PRESIDENT'S VISION

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, according to the latest poll, 68 percent of the people agree that President Clinton "has a vision for the country." Today's poll, however, indicates that only 37 percent of Americans agree with that vision.

The President's vision is far different than that of the average American family.

President Clinton views the American taxpayer as the primary provider for his social welfare programs. He views the Federal Government as the primary job creator of the economy. He views the social welfare worker as the best criminal justice enforcer. He views the Federal Government as the best provider of health care. He views the individual with distrust and the Government with complete trust.

Mr. Speaker, President Clinton does indeed have a vision for the country; unfortunately, his vision is a nightmare for most American families.

THE IRS WILL TAKE IT ALL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS recently threatened to seize a Colorado sprinkler company for underpayment of withholding taxes. The underpayment: One copper coin, one cent, one red penny. This is no joke. Unbelievable.

The IRS said they are going to rain all over the Rainmaker Sprinkler Co. Think about it: What is next? They are going to tell us where to eat? What to eat? Where to sleep? Where to go to the john?

We have an IRS agency out of control, ripping us off, and I want to give credit today to Congressman SCOTT MCINNIS. He not only signed Discharge Petition No. 12 that would change the burden of proof in a tax case, he sent a little note with a penny and said, "Straighten this thing out."

Ladies and gentlemen, it has gotten so bad that they will just come in without proof one day and take your wife, take your kids, your dog, your goldfish, and Congress is allowing this to go on. When for one penny the IRS can seize property or threaten to, the Congress should pay some attention.

CLINTON-GEPHARDT: BAD MEDICINE FOR SENIORS

(Mr. GOSS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, seniors in my district have been outspoken critics of the AARP's recent endorsement of the Clinton-Gephardt health bill. Like most Americans, they do not like the idea of giving Government greater control over their health decisions and they are saying so loud and clear. Seniors are right to rebel. For the Clinton-Gephardt bill is worse for seniors than even the recent catastrophic health debacle.

The bill would open up Medicare to a whole host of nonelderly persons—including noncitizen aliens. And it would limit total spending in the program—in effect, rationing care. Seniors' choices would also be restricted. They would be forced to pay for the new drug benefit, even if they have more generous coverage elsewhere. Under the Clinton-Gephardt bill, seniors could also be forced out of the Medicare system altogether and into a State-run health plan.

Very simply, the Clinton-Gephardt bill is bad medicine for America's seniors. For seniors' sake, we must reject it. That is what they are asking us to do.

PLAY BALL

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Major league ball players, big-league owners, play ball.

HEALTH CARE—NFIB JOB LOSS

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, there is another kind of insurance that the Clinton-Gephardt plan should include—job loss insurance. According to a new report from the National Federation of Independent Business, the Clinton-Gephardt bill will destroy 1.3 million jobs

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and cost another 11 million workers over $13 billion in reduced wages.

These jobs losses and reduced wages are a direct result of employer mandates in the plan. Clinton-Gephardt might be guaranteeing universal health insurance coverage, but will it also find jobs for all the people it puts out of work?

For a President that brags about low-paying job creation as one of his accomplishments—you have to wonder why his health care scheme does more to destroy jobs than its does to provide good, solid bipartisan health care.

PUBLIC GETS CONFUSING MESSAGES ON CLINTON-GEPHARDT HEALTH CARE

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, there is mass confusion surrounding the health care debate, and it is only getting worse as the war of the ads heats up.

Consider the back-to-back messages going out to the American public:

First they are told, "We'll all be forced into giant HMO's."

Then they are warned, "They'll take away our HMO's."

First they are told, "Reform will mean the end of life-saving technology."

And then they are warned, "Without reform, your family may lose access to life-saving technology." I guess next will come the Mueslix ad.

Many people bombarded with these conflicting ads thing they are all addressing the Clinton-House bill, rather than the many versions of reform on the table. Is it any wonder they are confused as to what is actually in the legislation and whether it is important?

It is incumbent on us and the media to educate the public, not only as to what the bill will do, but why we must act now, that there is still an emergency in health care in this country.

That 5 years ago, we talked of a $500 billion price tag, and now we are talking a trillion and it is fiscally irresponsible to wait any longer.

And that the only reason the cost of health care has slowed this year is that there is a bill out there dealing with universal coverage and reform. It is not altruism.

If we do not act now, the costs will shoot back up and we will return to the expensive and amoral system we confronted at the start of this debate.

That would not only be unfortunate. It would be unforgiveable.

□ 1010

THE JOB-KILLING CLINTON-GEPHARDT HEALTH BILL

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, a report, which we have already heard about, released by the National Federation of Independent Business, recently shows that the Clinton-Gephardt health care bill would cost 1.3 million working men and women their jobs, and another 11 million of them might see their wages reduced if this plan were passed.

In my own State of Illinois, the Clinton-Gephardt bill could kill almost 65,000 jobs, and more than 553,000 Illinoisans would see their wages reduced because of this bill.

The mandates in the Clinton-Gephardt bill for businesses to pay for insurance is more than they can afford. It could cause many small businesses to face closing or reducing their employees.

Mr. Speaker, the Illinois economy has had its problems with recession, and through it all small business has been there for the working men and women. The mandates in the Clinton-Gephardt plan would put an end to that. We should not pass the Clinton-Gephardt plan. We should look out for the working men and women of this country.

WRONG AGAIN, THIS TIME ABOUT UNIVERSAL HEALTH CARE COVERAGE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. There they go again. They are making those numbers up, and every day they can come out here and make up a new set of numbers about what health care will do to this country.

But the record is pretty clear. The record is clear that, when we passed the Budget Act, they were wrong. They said the Budget Act would end up destroying jobs. The Budget Act passed only with Democratic votes. They said it would kill the economy. What has happened? We have produced more jobs in the last 16 months than the previous 4 years.

Mr. Speaker, the people on the Republican side of the aisle that will say that having universal health care coverage will somehow damage the economy have been wrong consistently. They were wrong when they were against Social Security, they were wrong when they were against Medicare, they were wrong when they were against the Budget Act which has reduced the deficit, about to be for the third year in a row, the first time since Harry Truman.

I say to my colleagues, "Let's stop fabricating the crisis that isn't going to exist. Universal health care will strengthen small business, it will level the playing field, and in my State it means small business will stop subsidizing McDonald's and other large corporations that don't provide health care for their workers."

THE PORK IN THIS BILL IS A CRIME

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, as my colleagues know, one section of the President's so-called anticrime bill that he frequently tries to gain support with is that there are going to be 100,000 new cops on the street. It is just another myth. However, the National Center for Policy Analysis discovered the numbers do not quite add up to 100,000.

According to a Princeton University criminologist, Mr. Speaker, it takes 10 police officers to keep 1 full-time officer on the street. Therefore the bill would actually fund only about 2,000 round-the-clock cops. Based on 200 jurisdictions, this would increase actual street strength by only 10 police per city. In reality this bill would fund more social workers than police officers.

Mr. Speaker, the vote last week spoke loud and clear. The pork in this bill is a crime, and Americans do not want, do not need, and do not deserve more pork. America wants a real anticrime bill.

FISCAL RESPONSIBILITY AND THE CRIME BILL

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, we are talking about crime again, and, yes, it is a matter of who we like and who we think is correct. I think that children are important. I think it makes more sense to prevent crime than to spend $24,000 in my State to incarcerate people, and in the Federal level alone it pays $20,000. For those who will say it is fiscally irresponsible, Mr. Speaker, I will say that is nonsense.

So, I want to be a voice for reason. I want to be a voice for logic and say, "How best should you spend $24,000? Should you spend it on basketball? Should you spend it on education? Should you spend it on preventing young people from becoming criminals? I would rather spend $24,000 on a basketball team that produced taxpayers, contributing citizens, than to spend $24,000 a year draining on the society and no productivity at all."

Mr. Speaker, I say, "Let's make sense. Prevention is a part of that strategy, just as incarceration."

TEN REASONS WHY REPUBLICANS OPPOSE THE CRIME BILL

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, we all want a crime bill, but we have a different vision of what a crime bill ought to look like. So, why do the Republicans oppose the President's version of a crime bill? Let me give my colleagues ten reasons:

No. 1, inadequate funding for building prisons;

No. 2, inadequate funding for hiring more cops on the beat;

No. 3, weakened sexual predators provision;

No. 4, various pork-barrel projects, including $10 million for Lamar University located in Chairman BROOKS' district;

No. 5, may result in the release of 10,000 convicted drug felons;

No. 6, does not include victims restitution provisions of Senate-passed bill;

No. 7, does not include strengthened death penalty procedures to end endless appeals process;

No. 8, does not include tough penalties for violent juvenile gang offenses;

No. 9, includes $9 billion in repetitive, wasteful social welfare spending; and

No. 10, Republicans were not included in this process, nor did they even know until the report came to the table what was going to be in it.

Mr. Speaker, there are 10 reasons, and we could give many more, of why Republicans do not share the President's vision of what a crime bill ought to look like.

PRESIDENT BUSH NAMED MIDNIGHT BASKETBALL AS ONE OF HIS 1,000 POINTS OF LIGHT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, over the last week, midnight basketball has become the favorite scapegoat of Republicans trying to explain their votes against the crime bill. Republicans say that midnight basketball is nothing more than social pork. Republicans say that it is a feel-good program that has nothing to do with crime. But, that is not what Republican President George Bush was saying just a few short years ago. In fact, the former leader of the Republican party named midnight basketball as 1 of his 1,000 points of light.

And, in 1991, when President Bush visited a pilot midnight basketball league he had this to say, and I quote: "Here everybody wins * * *. Everyone gets a better shot at life. It's about providing opportunity for young adults to escape drugs and the streets * * *."

Midnight basketball may not work everywhere. But, it works in New Haven, CT, and in many other urban areas struggling to provide young people with alternatives to crime and drugs. It is a crime that some Republicans are using partisan politics to snuff out a point of light.

PRESIDENT WANTS CREDIT FOR A CRIME BILL, IGNORES OFFERS OF COOPERATION FROM REPUBLICANS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I would like to remind President Clinton of November 1992 when he said

> Americans want us to work together * * *. They want the finger-pointing and the blame-placing to stop * * * and I don't really care who gets the credit for this if we can actually make some headway on these profound challenges we face.

President Clinton is not using his own advice.

Instead, he is blaming Republicans and special interests for tricking him. He is arm twisting those in his own party to pass the same bad bill in a new vote. And he is ignoring all offers for cooperation from Republicans.

It is obvious the President doesn't really care about fighting crime, he just wants a victory and he will do anything to get it. Even if it means compromising the safety of the American people.

PARTNERSHIP FOR VETERANS HEALTH CARE REFORM

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, the Partnership for Veterans Health Care Reform speaks for millions of American veterans. Its members include: The American Legion; AMVETS [American Veterans of WWII, Korea, and Vietnam]; Veterans of Foreign Wars of the United States; Disabled American Veterans; Jewish War Veterans of the USA; Blinded Veterans Association; Military Order of the Purple Heart of the U.S.A., Inc.; Non Commissioned Officers Association of the USA; Paralyzed Veterans of America, and Vietnam Veterans of America, Inc.

Listen to what this partnership has to say about reform: The Guaranteed Health Insurance Act meets "the needs of the brave men and women who sacrifice their health for our country." The partnership states that they "will continue to inform Members of Congress and our membership that [the Guaranteed Health Insurance Act] contains our stated policy goals."

Support health care reform that is good enough for our veterans, and all Americans.

□ 1020

PARTISAN POLITICS HOLDING UP ACTION ON THE CRIME BILL

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, I would like to remind the gentlewoman from Connecticut that some of Mr. Bush's remarks are the reason he is not president any longer. Maybe Mr. Clinton ought to take a lesson from such.

Mr. Speaker, the crime bill has turned to 100 percent politics. That is right, the debate has turned from locking up criminals to locking up votes—votes on this House floor and votes in November.

Mr. Speaker, the message from the people of the Third District of Georgia is that they want criminals locked up. They want them prosecuted, and they want them punished. They are tired of partisan politics coming from the White House and from this House. The vote on the rule last week to stop the crime bill was a strong bipartisan vote and was a true representation of the wishes of the people of this country.

LAW ENFORCEMENT OFFICIALS RATE PREVENTION KEY IN ANTI-CRIME LEGISLATION

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, yesterday a number of law enforcement officials from all across the country came and met with many Members of Congress. They were here not just to talk about more cops on the street, which they have a direct interest in. They were here not just to talk about building more prisons which will incarcerate violent offenders. They were not here just to talk about tougher laws like, "three strikes and your out", which we all support.

They were here because they believe prevention is the only way we can stem the tide of an inexorable number of young people moving into a life of crime.

Yet we listen to the Republican partisan spin doctors today flying into the teeth of the views of law enforcement from across the country, yelling, "Pork, pork, pork." This is a good example of how partisanship overcomes good policy;

So much of what is in this bill has been proposed in past administrations. We have never before found the courage to come together and put a bill before this Congress that touches every element of the problem; prevention, punishment and increased policing. And now when we do get there, what do we find? Charges that somehow we have, through code words like "midnight basketball," prostituted the real goals of fighting crime.

Mr. Speaker, it is an outrage. It ought not to be allowed to last beyond Saturday. I think this Congress will act on a crime bill, and Republicans who do not wish to stand with us will pay the price.

THE CLINTON-GEPHARDT HEALTH CARE PLAN IS A STEP TOWARD THE CLINTON WELFARE STATE

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, President Clinton has promised to end welfare as we know it. I agree with that goal. But the President is going to create an even larger welfare state than we now know, because a major step toward the Clinton welfare state is the Clinton-Gephardt health care plan.

The payroll taxes alone which are in the Clinton-Gephardt plan will kill millions of jobs and reduce wages. Those taxes will place Americans in a position where they may need to resort to Government assistance. A Government-run health care plan that costs jobs and stagnates economic growth will cause more people not only to depend on the welfare state for health care but also to support them while they are out of work.

Mr. Speaker, there are alternatives: Rowland-Bilirakis, Cooper-Grandy, and the new bipartisan proposal on health reform legislation. The bipartisan proposal does not contain job-killing taxes, Government-run alliances, employer mandates, global budgets, and, worst of all, the rationing of needed health care services. That is why I support the bipartisan proposal.

Mr. Speaker, let us get smart. Let us use common sense. Let us agree on a bipartisan approach to one of the most important issues facing many Americans.

COSPONSORS SOUGHT FOR BILL TO REPEAL THE CUBAN ADJUSTMENT ACT

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, yesterday the Governor of Florida asked for Federal assistance in dealing with the increasing immigration problem from Cuba.

I want to remind my colleagues that Cubans enjoy special treatment under United States immigration and political asylum law. Specifically, the Cuban Adjustment Act allows Cuban nationals who have been living in the United States for 1 year under any circumstances to become permanent residents of the United States. They can come here whether for political reasons or economic reasons. Other asylum-seekers cannot come for economic reasons; they need to seek the safety of political asylum into the United States.

In practical terms, the act creates an exception to our immigration law for Cubans which is not available to persons of any other nation. As long as this preferential treatment exists, Cuban migration will continue.

Mr. Speaker, some are estimating that as many as 1.5 million Cubans may arrive in south Florida in the coming weeks. The Governor of Florida is right to ask for Federal assistance because a special-interest loophole in Federal policy is unfairly punishing his State. Let us end this now.

Mr. Speaker, I urge my colleagues to cosponsor my bill, H.R. 3854, to repeal the Cuban Adjustment Act.

WELFARE REFORM RESOLUTION INTRODUCTION

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute.)

Mr. KNOLLENBERG. Mr. Speaker, this Saturday marks the 30th anniversary of the war on poverty. Three decades and $5 trillion ago, President Johnson told America that the war on poverty would be a temporary investment. Today, President Clinton tells us much the same thing about this welfare plan.

I believe it is time to set a different course in the welfare reform debate. It is time we gave the people who pay the bills as much consideration as the people on the dole. After all, the American taxpayer has paid dearly for our failed welfare policies—an average of $50,000 per household.

That is why today I am introducing a taxpayer protection resolution for welfare reform. It simply states that any plan which passes the House: Will result in a net savings to the taxpayer, will cap welfare spending at rate of inflation, will not be financed by new taxes, will not add to the Federal deficit, and will not place new mandates on States and localities.

I urge you to become a cosponsor. Welfare reform in the 1990's has to be about doing more with less. We owe it to the taxpayer, and we owe it to people we are trying to help.

EVIDENCE OF PARTISAN POLITICS IN APPOINTMENT OF SPECIAL PROSECUTOR FOR WHITEWATER INVESTIGATION

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, as the saying goes, appearance is everything. If that is indeed the case, how does this appear to you?

A judge who presides over a three-judge panel is given the authority to chose a special prosecutor to lead the investigations into what detractors say appears to be improprieties by the President in connection with the Whitewater case.

During his deliberations, the judge meets on Capitol Hill with a U.S. Senator who has led efforts to oust the first special prosecutor because the first special prosecutor's professional ties appears to conflict with his duties as special prosecutor.

Shortly after the meeting between the judge and the Senator, the three-judge panel replaces the first special prosecutor with a new special prosecutor, never mind that public statements made by the new special prosecutor against the President appears to bring into question his objectivity in conducting the investigation.

Meanwhile, the judge and the Senator tell us that appearances can be deceiving, and are insisting that nothing untoward occurred during their lunchtime meeting.

Mr. Speaker, this whole thing appears to me to be nothing more than partisan politics while wasting the taxpayers time and money in search of something—anything—which appears of substance in this whole Whitewater washout.

BURUNDI THREATENED WITH MASS GENOCIDE

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I want to speak about Burundi, but before I do, let me just say that Ken Starr, who has been appointed special prosecutor, is a good friend of mine, and he is one of the most honest, decent, ethical, and moral men I think I have ever seen in this city. He is somebody that we have on both sides shown a lot of confidence in.

Mr. Speaker, the lessons of Rwanda are clear. Quick action by the international community could have prevented mass slaughter in Rwanda. It could have saved thousands of lives and millions of dollars in humanitarian assistance. Let us not let another chance to pre-empt genocide in Burundi slip away.

We had reports in June from missionary groups in Burundi that the potential for massive bloodshed was there. The same Tutsi factions responsible for the death of 20,000 Hutus last fall have plans to get rid of any Hutu leaders who stands in the way of assuming full control of the government. Trouble is brewing and tensions are rising. On Tuesday, the New York Times reported that the United Nations, CARE, Doctors without Borders, and other remaining relief organizations have all pulled their people out over the weekend.

The interim President set an August 26 deadline for naming a new President and forming a new coalition government after missing a constitutionally mandated July 12 deadline. Last weekend the factional leaders snubbed a United Nations proposal to send in a peacekeeping force and international monitors to calm the tensions. The United States should be helping bring the sides together.

If this deadline goes by without reconciliation we could be looking at mass chaos. There is a small window of opportunity here to be peacemakers, rather than crisis managers.

Please understand that I am not talking about sending in American troops, only American diplomats. Maybe Secretary Christopher should go over to help broker peace. Maybe we should send a special envoy. All I know is that we should do something now to prevent another humanitarian disaster. Let us not sit on our hands. And watch many more men, women, and children be brutally killed.

CONFRONTATION POLITICS THREATENS ENACTMENT OF THE CRIME BILL

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, the eyes of the world are upon us, and we are looking at how we are going to deal with the crime bill. As a House conferee and a Member of this House for 20 years, I am saddened as I leave because I see confrontation politics being the order of the day, and it is very evident, particularly in the crime bill.

The crime bill is not essentially different than it was when it left the House. This side of the aisle, unfortunately, or much of this side of the aisle, does not want to see a crime bill. Thirty-seven Members on this side of the aisle voted for the crime bill when it left the House, and it had midnight basketball in it. It also had a lot of other initiatives that have been criticized but which most of the Members support—such things as alternatives for youthful offenders, to try to do something to provide sentencing judges with more options so we can intervene with juvenile offenders earlier in the process and not wait for the 15th time they get into the system, but try to intervene the third time.

On this side of the aisle we lost a lot of votes because of assault weapons. On both sides of the aisle we have seen confrontation politics, and that is why the crime bill is in trouble.

□ 1030

DEPOLITICIZE THE CRIME BILL

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, over on 1600 Pennsylvania Avenue, White House spin doctors are working overtime to try and convince Americans that their so-called crime bill actually fights crime instead of providing exciting new job opportunities for Washington, DC, bureaucrats and giving criminals new loopholes through which to wiggle.

Meanwhile, average Americans are still waiting for real relief from the daily threat of violent crime.

That is why 58 courageous Democrats, nearly 1 out of every 4 Democrats, joined Republicans last week in a bipartisan effort, temporarily stopping this boondoggle.

Once again President Clinton is looking at scoring political points with cheap rhetoric and expensive Government giveaway programs. Unfortunately, he is doing this instead of actually cracking down on the violent thugs terrorizing American neighborhoods.

IMMIGRATION EMERGENCY WITH CUBA

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the United States is facing an immigration emergency. The immigration emergency which now we face is with respect to Cuba. We had a briefing of our Subcommittee on International Law, Immigration, and Refugees, at our request, yesterday regarding the preparations that we are making in the United States to deal with this immigration emergency.

I might say that something like 6,000 Cubans have already come to the United States this year, compared to 3,000 last year, 1,000 already in August which is only half over, and as many as 500 are coming a day.

I am pleased to know the administration has a kind of broad plan to deal with the emergency, but it is impossible to deal effectively with the emergency, Mr. Speaker, so long as the 1966 Cuban Adjustment Act remains on the Statute books. The act allows Cubans, unlike any people in the world, to come to the United States, even for economic reasons, and be resettled and eventually get their citizenship. I think the President ought to examine some way by Executive order to suspend some applications of the Cuban Adjustment Act.

I might also remind everyone, Mr. Speaker, that there is nothing in the Cuban Adjustment Act which prevents interdiction of Cubans as we do with Haitians. I think it also should be considered in interdicting Cubans that they be landed in places other than the United States to avoid triggering the Cuban Adjustment Act as we await other administration decisions on how to deal with this immigration emergency.

BURUNDI MUST NOT BECOME ANOTHER RWANDA

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, clear evidence of increasing ethnic tensions and violence in Burundi, Rwanda's neighbor, is demanding that the international community not only imagine but that it demonstrate what it has learned from the horror in Rwanda. With alarm, we are witnessing in Burundi a familiar pattern of deteriorating conditions, but I fear we can only find marginal efforts by the international community to intervene, to make the timely and critical difference, to effectively mitigate the spiraling pattern of violence. If the international community does not heavily insist on conflict resolution in Burundi it will never know if it could have prevented yet greater instability in central Africa.

Bipartisan American leadership in providing humanitarian relief to refugees in complex emergencies is well established. I call upon the administration, in the strongest possible terms, to urgently provide an equal degree of leadership in addressing with all possible ways and means the alarming escalation of conflict in Burundi. We cannot once again say, "Who could have imagined."

SOCIAL PROGRAMS TO PREVENT CRIME ARE NOT PORK

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, the crime bill is far from perfect, but I'm getting a little bit tired of hearing from some Members who criticize every program that will try to prevent young people from turning to crime, violence, and drugs as pork.

Let me be very clear, I do not consider it as pork or wasteful spending if we are successful in developing approaches which keep young people from turning to crime, drugs, and violence. In fact, I consider that money very well spent and an important investment for the future of this country. Further, when we spend $25,000 a year to keep one prisoner in jail, I consider crime prevention to be very cost effective for the taxpayers, in other words, I would prefer to spend a few hundred million dollars on a program which keeps kids from turning to crime than a hundred times more money keeping those same young persons in jail.

Mr. Speaker, given the fact that we already have the highest rate per capita of incarceration in the entire world, I think that it's high time that we begin to look at the root causes of crime which have an enormous amount to do with poverty, lack of education, lack of jobs, and lack of hope.

Mr. Speaker, I find it interesting that when some Members of the Congress vote for huge tax breaks for the wealthy, that's not pork, but when we vote for funds to save the lives of our children and the most at-risk people in this country, that is pork.

I find it interesting that when some Members vote to spend almost $3 billion for star wars that's not pork, but when we vote $1.8 billion to protect women against violence, that somehow is pork. I find it interesting that when some Members vote $70 billion for the space station that's not pork but when we vote a few hundred million dollars for after school programs and athletic programs, that is pork. I find it interesting that when we level-fund spending for the intelligence agencies, despite the end of the cold war, that's not pork, but when we put money into athletic programs and boys and girls clubs, that is pork.

My conclusion, Mr. Speaker, is that for some Members of Congress any legislation that helps the wealthy, the Defense Department or the CIA, is a great investment for America. However, any legislation which will improve life for the poor, and the most vulnerable, and will keep young people out of jail, is considered pork and wasteful. Mr. Speaker, let us get our priorities right.

HEALTH CARE PLAN: BIGGER IS NOT BETTER

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, in this health care debate, we have gone from the Clinton plan to the Clinton-Mitchell plan and now to Clinton-Gephardt. The plans have gotten bigger, but not better. In fact, it is hard to imagine these Government-controlled health reform ideas becoming any worse for America's small businesses and their employees.

An independent study for the National Federation of Independent Businesses shows that Clinton-Gephardt will cost more than 1.3 million jobs and cause pay cuts for 11 million more workers.

My State of Georgia would lose more than 33,000 jobs. Almost 300,000 people in my State will face wage cuts if the Democrats are able to ram the ill-conceived Clinton-Gephardt bill through Congress and down the throats of the American people.

We all agree that Americans should not have to lose health care coverage when they lose their jobs. But that does not mean the Government should force employers to issue 1.3 million pink slips to test the theory.

CHARLTON HESTON WILL BE REMEMBERED FOR LYING TO AMERICANS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the actor Charlton Heston should be remembered for his great career as an actor, but he will not be. He is going to be remembered for not telling the American public the truth, because that is what he is doing by joining the National Rifle Association in its campaign of lies against the crime bill. He is using his credibility as a respected actor to give credibility to those lies and distortions by the NRA against the crime bill.

Charlton Heston should understand that the crime is lying to the American public.

LEANER, MEANER HEALTH CARE PLAN NEEDED

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, we have heard time and time again from the current administration that their goal for health care is to reduce costs and improve efficiency. However, I fear we will have the opposite. An example is what I hold in my hand, an inch-thick survey response submitted by an ambulatory health care facility in my district in response to a questionnaire from the Health Care Financing Administration.

The physician who gave this to me estimated it took 120 hours of staff time, plus a considerable amount of his time, at a total cost of approximately $10,000 simply to respond to this survey from the Federal Government. This, I fear, is a prime example of what Government involvement in health care will do.

Ultimately, it is the users, the patients, who will pay the bill for this sort of thing. It will not reduce health care costs. What we need is a leaner, better, more efficient health administration, not a more bureaucratic one that is going to result in surveys such as this.

I recommend that we work in the direction of a leaner, better, health care plan.

ADVICE TO CHARLTON HESTON: THOU SHALT NOT BEAR FALSE WITNESS AGAINST THY NEIGHBOR

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, first Charlton Heston thought he was Ben-Hur.

Then he thought he was Moses.

Now he thinks he is an expert on the crime bill.

The truth is, Charlton Heston is simply another movie actor, playing another role, reading someone else's words.

And the script Charlton Heston is reading, Mr. Speaker, was written and paid for by the National Rifle Association.

If anyone in this House thinks Charlton Heston has actually read—much less mastered—this crime bill, there is a bridge up in Brooklyn I would like to sell them. The truth is, Charlton Heston does not know a darned thing about this crime bill. He is simply lobbying for assault weapons.

It is shameful—shameful—for a man who played the role of Moses, the original lawgiver, to now be selling lies for the NRA in the name of killing machines.

I say to Charlton Heston, remember the Commandment Moses gave us: Thou shalt not bear false witness against thy neighbor.

□ 1040

THE CLINTON HEALTH BILL

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, as we wait to vote on health care reform, and that should not happen until after we return in September or better in the new year, let us keep one thing in mind: Whatever we pass could have easily been passed in February 1993.

The original Clinton bill was a mistake. The House bill now being drafted is a mistake. Reports state that there are about 160 votes for it. The liberal leadership in the House has ignored the moderate coalitions that voted in Clinton, Bush, and Reagan.

Here is the proof: The committee and subcommittee chairs of Ways and Means and Energy and Commerce all had their own reform bills and none have made it to the floor in the last two Congresses. Of the two Democratic bills we will probably vote on, one is a single payer plan that is supported by less than 50 percent of their party and the other is the leadership bill that could only make it to the floor by circumventing the entire legislative process.

The congressional Woodstock generation should stick to music, for they have failed miserably at health care reform.

CRIME BILL DEBATE

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, the Republicans have crowed about some victories they have had this year. Correctly so, they did achieve mayoral victories in two major U.S. cities, Los Angeles and New York. I would like to inform my friends on the other aisle that the two Republican mayors of those two cities visited this town yesterday to deliver a strong message to this body—pass this crime bill now.

Both Mayor Riordan and Mayor Guiliani, a former prosecutor, were on one accord with their Democratic colleagues in urging this body to act swiftly in passing the Omnibus Crime Control bill. They were not partisan in their approach because they realize that crime affects all of their citizens.

The crime bill which we will soon have the opportunity to vote upon is a good prescription for the pervasive crime problems which are so common to our Nation's cities. It includes a "three strikes and you're out" provision which I proposed last year. The "three strikes and you're out" part of the bill removes repeat violent offenders from our society who have proven by their actions that they no longer deserve to be part of an ordered society. Additionally, the bill is tough on criminals and provides additional funding for prisons to house them. Moreover, it provides for an additional 100,000 police officers to protect our communities and it provides for programs to keep kids off the streets and out of gangs.

We cannot let our cities down. This crime bill is essential to their ongoing struggle to combat crime. We need to quickly pass this crime bill so that Mayors Guiliani, Riordan, and other mayors throughout this country can do what their constituents elected them to do.

FAILED CUBAN POLICY

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, we have seen this administration's bungled policy that brought 12,000 Haitians to my State last year and 15,000 now being held in Guantanamo.

As a Member of Congress from Florida, I am now gravely concerned about our policy relating to Cuba.

This administration says it will stop another *Mariel* boatlift.

Unfortunately our current policy is not working. Last year only 2,800 Cubans fled their island prison for the United States. In the last 2 weeks nearly that number has reached our shores.

By the end of this week 8,000 new Cuban refugees will crowd Florida's hospitals, schools, streets, and social service centers. Yesterday, more than 500 arrived.

Let us face it. As reported in the media today, a slow-motion Mariel is already taking place.

Unfortunately, we have allowed Fidel Castro to dictate our foreign policy. Our present policy provides transportation and potential death for those fleeing by sea. Hundreds are dying, if not by Castro's hand, by our policy.

We need a policy to stop this influx and one to promote freedom in Cuba now.

Only a policy to free Cuba will provide a permanent solution. Only a policy to bring down Fidel Castro will resolve this dilemma.

RESTORE TAX FAIRNESS

(Mr. JEFFERSON asked and was given permission to address the House for 1 minute.)

Mr. JEFFERSON. Mr. Speaker, I rise to suggest that Congress made a mistake last year. By reducing business meal deductions to 50 percent, Congress hurt thousands of hard-working Americans in the transportation industry.

To ensure public safety, Federal regulations force truckers, bus drivers, railroad crews, and airline flight crews to eat and rest at regular intervals.

So, many federally regulated transportation workers eat at truckstops and sleep at modest motels 200 or more days a year—clearly ordinary and necessary business expenses, anything but lavish or frivolous.

These costs for meals and lodging are legitimate expenses forced by Federal regulations, not three-martini lunches; and Congress should eliminate this tax injustice.

Mr. Speaker, I have introduced legislation to restore tax fairness and the 80 percent business meal deduction for these transportation workers. I will work with Senator HERB KOHL who has introduced similar legislation and I urge Congress to correct this mistake before adjourning.

HAWAII WOULD LIKE TO SAY ALOHA TO MANDATES

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last night I participated in a special order on employer mandates. The State of Hawaii was used to portray how successful this approach is in achieving universal coverage.

Earlier this year the owner of the Paradise Flower Farms, Inc., employing 17 full-time people on the Island of Maui testified before Congress.

> In thinking they were doing employees a favor by increasing State mandates, the State of Hawaii only caused worse hardship for workers. Their wages rose at slower rates, and they ultimately received less health care than they previously had. We are at a point in our business that we will do anything to avoid hiring one more person—not for lack of need, but because we cannot afford them.

An HMSA, Hawaii's Blue Cross/Blue Shield, small business premium for a single individual was $57.54 in 1987 and was $214.98 in 1993, which is an increase of nearly 375 percent in 6 years. For a family plan which covered the employee and dependents, the cost of the premium in 1987 was $213.34, and in 1993 it had escalated to $597.92. That represents over a 300-percent increase for families wishing to purchase health care coverage.

Additionally, in the August 5, 1993, edition of the New England Journal of Medicine it was pointed out that Hawaii currently led the Nation in terms of hospital expenses and throughout the 1980's it was fourth, behind only New York, Alaska, and Connecticut. This means that Hawaii's mandate has not decreased the number of people uninsured in the State, or has it been successful in controlling increases in health care expenditures relative to the rest of the Nation.

We should remember this history of mandates in Hawaii and not make the same mistakes with the Gephardt-Clinton plan. No employer mandates, Mr. Speaker.

COURT RULING IN TEXAS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, it is appropriate that you are in the chair this morning.

Yesterday, a three-judge Federal panel in Houston, all of whom were appointed by Republican administrations, ruled that three Texas congressional districts were unconstitutional. They stated these districts were drawn to maximize participation of minorities, that they violated the 14th amendment to the Constitution.

The 29th District, which I am honored to represent, is one of these minority districts. It is comprised of hard-working men and women who share more than their race or their ethnicity. The people of this district are working-class citizens that are the backbone of this Nation, and this court ruling seeks to divide them and to minimize their voices and to even confuse the electorate even more on what district they live in.

This court case is not about the pigmentation of someone's skin. It is about politics. We in Washington sometimes let our partisanship get in the way of lots of issues, but it should not happen in a Federal court and that is what is happening now.

In the end I am certain that we will prevail and that this district that I am proud to represent will remain intact. We cannot allow a partisan ploy by a three-judge Federal panel to disrupt the election process, whether it be in Louisiana, North Carolina, or Texas.

MIDNIGHT BASKETBALL

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, midnight basketball. How many of us have heard about midnight basketball. We on this side of aisle have used it as a laughline for the past couple of weeks. We have heard Members try to define it on the other side of the aisle.

Let us think about midnight basketball for just a minute. What is the history of evening sports leagues in our country?

Think about this: the YMCA has been running evening sports leagues for a long time. Maybe not at midnight but certainly the 7, 8, 9, 10 at night. It gives people something to do at night. It uses their facilities at night. It is a good idea.

What about this idea of spending Federal money at $40 million for midnight basketball? If you are going to have a basketball game that starts at midnight or at 12:15 or 12:30 and it goes for a couple of hours, you are finished at 2, 2:30, shower. What on Earth are we thinking about? Why are people up, and we are talking about youth, I assume, why are people up until 3 in the morning and we are spending Federal dollars so that they can be up playing basketball? Should not kids be in bed between 12 and 3 in the morning? Or is this some sort of legislative blackmail that would suggest if they are not playing basketball they are going to be committing crimes. It does not make any sense. Think about it.

□ 1050

LAW ENFORCEMENT EXPERTS WANT CRIME BILL WITH CRIME PREVENTION PROGRAMS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, I would like to make an admission to all those listening to my statement. I am not an expert on crime. I would like to also concede that there has not been a single Member of the House of Representatives, Democrat or Republican, in the well this morning who is an expert on crime. We rely on other people and their judgment.

I went back to my home district of Illinois and met with the judges, the prosecutors, the probation officers, the men and women who put on their uniforms every day to protect us in our homes and communities. I said to them "What do we need in America to reduce the threat of crime against our families?"

They said many of the things that are included in this crime bill: more policemen, tougher sentencing, more prisons, take the assault weapons off the street, and in each and every conversation after they had finished that litany, they said "and, Congressman, incidentally, you cannot reduce crime just by building more and better prisons. You have to do something to reach these kids before they turn to drugs, before they turn to violence, before they turn to gang activity."

The previous speaker here was mocking the idea of midnight basketball. He thought $40 million was an outrageous sum. I am sorry to report to him that we are now building the latest Federal prison in my district at the cost of $58 million. Let us do something to get to these kids before they turn to crime.

AMERICA RECOGNIZES HAWAII FOR EXCELLENT HEALTH CARE

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, the Speaker always asks for what purpose does the gentleman want to be recognized. I see we are recognizing Hawaii for something besides being a vacation place. Thank you very much. I am very pleased to have one Member of the opposition come up and try and say why Hawaii does not have part of the answer for health care.

I ask any of these Members who are so anxious to downgrade the Hawaii program, come out to Hawaii and run for office. Come out to Hawaii and run against health care. We have had health care for 20 years in Hawaii, and I defy any Republican Member to come out there and run against health care in Hawaii and see how far you get.

You cannot take it away because we have the answer out there, universal coverage, coverage that cannot be taken away from anyone, coverage that is totally portable. We cover our employees out in Hawaii.

We are proud of our health care system out in Hawaii, and if the Republicans do not want to have it, then they can have the same situation they have out in Hawaii; namely, they are in a minority that cannot even be seen because they are against the interests of people. Be for health care. come out to Hawaii and you will see how it works.

HAWAIIAN COVERAGE NOT UNIVERSAL, AND AMERICA'S THREE BIG PAPERS DESCRIBE LATEST VICTIMS OF WHITEWATER

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, Hawaii, 91.32 percent coverage, not universal; unacceptable to liberal Democrats on the mainland, but I will go there any time. The problem is, there is no Republican Party in Hawaii, just like there was no Republican Party in Arkansas since the Civil War; hence, this strange focus of Clinton ignoring the loyal opposition.

Mr. Speaker, I know members want to hear from the three big papers in America: First, our national paper, the U.S.A. Today: "Poll reflects Clinton setbacks, disapproval rating up, as Altman resigns." The Los Angeles Times: "Altman is the highest-ranking victim of Whitewater." The New York Times: "Roger Altman under fire."

It looks like they are caning him on the streets of one of our cities. The New York Times is cute when they select their photographs.

Here is the Washington Post, liberal paper of record: "Whitewater reverses banker's ambitions," and members are sacrificing their ambitions, at least 50 of them, on the altar of being a friend to Bill.

However, there is a last one, Mr. Speaker, what a sad picture. It says he is the third victim. What about Vince Foster? He is the fourth victim. Hansen to come, then Josh Steiner, then about 20 of you.

INTRODUCING LEGISLATION EXTENDING PREVENTIVE HEALTH CARE THROUGH MEDICARE

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. Speaker, today I, along with the gentleman from New Jersey, Mr. BILL HUGHES, Chairman of the House Older Americans Caucus, I am introducing legislation which expands preventive health care services through Medicare, saving both lives and Federal tax dollars.

The bill establishes a 4-year demonstration project which would provide Medicare patients with preventive services such as screening for colon cancer, prostate cancer, and osteoporosis. If cost and health improvement criteria found the program effective, such services could then become reimbursable nationwide under Medicare.

Our proposal is based on a pilot project I sponsored 5 years ago—reimbursing Medicare patients for flu shots. The flu shot program is estimated to save $60 million annually in Medicare outlays and nearly 60,000 lives. Moreover, the program improved the flu shot delivery system.

Through expanding Medicare benefits with the preventive services outlined in our bill, I believe that we can further reduce our Medicare and health care costs. I urge all Members who support improving Medicare services while preventing thousands of unnecessary deaths of senior citizens to join us in cosponsorship.

TIME FOR GOVERNMENT TO ASSIST FLORIDA WITH CUBAN IMMIGRATION PROBLEMS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, as we sit here this morning, a tragedy is playing out in the straits of Florida, that body of water 90 miles wide separating the Florida keys from Cuba. Thousands of Cubans, thirsting for freedom, are risking their lives to come out to the 12-mile limit where they know that our ships are moored.

These ships right now have the policy of staying there, picking these Cubans up, and bringing them into the State of Florida. Yet the Federal Government has yet to release one single dollar of Federal assistance. What these ships are doing is what the flotilla did during the Mariel boatlift. We are picking up the Cubans and bringing them to the United States.

We are the magnet. We are the attraction. We are responsible for the death of hundreds of Cubans who are dying at sea, coming in no more than an inner tube, thinking they can make that 12-mile voyage.

It is time that we get the word to Cuba: The people must stay there. They are endangering their lives. They must not take this dangerous journey, and it is time for the Federal Government to live up to its responsibility and answer the people of Florida, who are asking no more than the assistance for a mess that is being caused by the Federal Government.

AMERICA NEEDS MORE CRIME FIGHTERS, NOT MORE SOCIAL PROGRAMS

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, my colleague, the gentleman from New York [Mr. SCHUMER], has just blamed Charlton Heston for the failure of this pork barrel boondoggle that we humorously refer to as the crime bill. He even criticized Mr. Heston's role as Moses in the Ten Commandments.

Coming from his big government district in New York, Mr. SCHUMER probably would have preferred a movie entitled "Pharoah Knows Best." Charlton Heston did not kill the crime bill. The American people looked at the promise of the gentleman from New York [Mr. SCHUMER] to make the rest of the country as safe as New York City, and the American people said "that is what we are afraid of."

If pouring social programs into New York City solved crime, there would not be a single pickpocket left. Hug-a-thug does not work. We need more Ben Hurs, more Will Pennys, more Andrew Jacksons, and more Moseses.

□ 1100

I DON'T THINK THAT'S GOOD NEWS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, a few days ago, the former Member of Congress, Mr. Coelho, was named as the senior adviser to the Democratic National Committee and he appeared on television this morning on "The Today Show." He said an absolutely astounding thing on "The Today Show." this morning. He said that what the Fed did on interest rates this week, raising them by a half a point, was, and I quote him, "Good news really."

Well, that is a rather amazing statement. This is the administration that just a few months ago was telling us how low interest rates were a sign of the success of their economic policy. Now you have the new head of the Democratic National Committee telling us that when the Fed is raising interest rates because the administration's policies are leading us into inflation. "That's good news really for the economy."

I don't think that's good news for the person trying to buy their home. I don't think that's good news for the person trying to buy a new car. I don't think that's good news for the small businessman trying to get started. I don't think that's good news for the economy as a whole.

Mr. Speaker, it is not good news to have inflation going up and interest rates going up. And when the head of the Democratic National Committee suggests it is, there is something really wrong in the economy.

A BIG SLIP AND A PINK SLIP

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, according to a CNN poll, the first time a majority of Americans, 52 percent, disapprove of the President's performance. At the same time, only 39 percent approve of the President's performance.

Perhaps, the President's big slip in the polls has something to do with the pink slip his health care plan would send American workers.

The National Federation of Independent Business, America's premier small business association, recently sent this to my office.

It is a pink slip. As anyone who works for a living knows, it means "you're fired."

This one says 82,000 Texans will lose their jobs if the Clinton health care plan passes.

A pink slip is the last thing anybody wants to see in their pay envelope, but it will be one of the first things folks will see if the Clinton health plan passes.

According to the NFIB, the Clinton health care bill will send out 1.3 million of these across the country. And 11 million workers who do not see one of these, will see less of these [dollar bill] if Congress enacts this big government, big spender, big-job-loser Clinton health care plan.

A big slip for President Clinton and a pink slip for American workers. Congress should remember this before it starts playing doctor.

WAIT TILL NEXT YEAR

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I have listened with interest to the analysis of our fellow colleagues on the other side talking about how great the economy is doing and how President Clinton deserves all of the credit. Let me note that the jury is still out on what the Clinton program will do to the American economy.

Many of us remember what happened during Jimmy Carter's administration, where for the first 2 years it was very good, we had a very good economy. But then Jimmy Carter's economic policies began to impact on the economy and very quickly things went to hell in a hand basket. I would suggest, having worked in the White House, that it does take 2 years for a President's policies to fully impact the economy. We are already seeing warning signs that the increased taxation, the increased level of regulation and government interference brought by this administration is having a deleterious effect on the economy. We will be able to know full well next year.

As the interest rates rise and the dollar overseas is embattled, do not tell us that this administration is having a positive effect. Just wait until next year.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 523 and ask for its immediate consideration.

H. RES. 523

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4603) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary one-half hour to our colleague, the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 523 is the rule providing for the consideration of the conference report on H.R. 4603, the fiscal year 1995 appropriations bill for Commerce, Justice, State, Judiciary, and Related Agencies.

The rule waives all points of order against the conference report and against its consideration. Under the rule, the conference report shall be considered as read.

Mr. Speaker, in granting this rule, the Rules Committee recognized that it is especially urgent that this conference agreement be considered today because it includes $470 million in fiscal year 1994 supplemental appropriations for the Small Business Administration's Disaster Loans program account. That program provides relief for the victims of the Los Angeles earthquake, which had an especially disastrous effect on districts of some of those who represent those unfortunate areas, as well as for those who suffered losses from the recent floods in Georgia, Florida, and Alabama. In Los Angeles alone, the SBA has been faced with an overwhelming number of applications for loans from homeowners and from small businesses. The Small Business Administration ran out of disaster loan funds on August 17, and in order to provide this much-needed assistance for the victims of these disasters as quickly as possible, and to complete the work of the bill, a rule was requested to waive all points of order against the conference report, thereby allowing expeditious consideration of the bill by the House.

The rule waives clause 2(a) of rule 28, requiring a 3-day layover of the report before it is considered. The prohibition on legislation in an appropriation bill is waived against several amendments, including one dealing with the Omnibus Crime Control and Safe Streets Act and another dealing with bankruptcy judges.

The rule prohibiting unauthorized appropriations is waived against amendments dealing with the Border Patrol, the Immigration Emergency Fund, and over $2 billion in funding for programs included in the crime bill, which as we all know or think we know awaits our final approval, including $1.3 billion for community policing; $450 million for Byrne formula grants; $284 million for the immigration initiative; and $130 million for the State Criminal Aliens Assistance Program.

Clause 3 of rule 28, dealing with scope, is waived for an amendment which restores Securities and Exchange Commission funding, changes in the Asia Foundation figures, and a new title providing funding for a variety of programs through the crime bill's trust fund.

Mr. Speaker, the waivers also protect sections of the agreement against points of order because it contains appropriations for several agencies that have not been reauthorized, and a number of general provisions, most of which have been carried for several years.

Authorization has not yet been enacted for most of the appropriations items in the Department of Justice needed for the war on crime and drugs, including the FBI, the DEA, the INS, the U.S. Attorneys, and the Byrne grants for State and local law enforcement assistance.

Mr. Speaker, the conference agreement on H.R. 4603 provides over $26 billion in funding for fiscal year 1995. This amount is nearly $90 million less than the administration request and about $3 billion above the amount enacted in fiscal year 1994, most of which is for law enforcement and Border Patrol enhancements. According to the House Committee on the Budget, the conference report is $108 million in budget authority and $37 million in outlays below the section 602(b) allocations for the subcommittee. As passed by the House originally, the bill appropriated $27.2 billion while the Senate version appropriated $28 billion.

In addition to the supplemental appropriation for the SBA which I mentioned earlier, the agreement provides $12 billion for the Department of Justice, $4.2 billion for the Department of Commerce programs, nearly $3 billion for the Federal Judicial System, and $4 billion for the Department of State, including $533 million for international peacekeeping activities.

Mr. Speaker, as both the chairman and ranking minority member of the subcommittee testified, this bill is a major crime-fighting initiative, with billions of dollars for police hiring, prison construction, and a restoration of proposed cuts in Federal law enforcement personnel.

The agreement includes several new immigration initiatives to help in the fight against illegal immigration, which is being waged primarily in several States, about half a dozen principally, including California, Florida, Texas, New York, and a couple of others. Substantial increases in the number of Border Patrol agents are funded by the agreement, and for the first time the Federal Government is appropriating funds for the State Criminal Alien Assistance Program which was first authorized back in 1986, reimbursing States at least partially for the costs of incarcerating undocumented criminal aliens.

Mr. Speaker, I commend the new chairman of the subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN] and the ranking minority member, the gentleman from Kentucky [Mr. ROGERS], for their cooperation in bringing us this measure for financing some of the functions of our Government that are most obvious and necessary for all of us and for our constituents. I know it has been a difficult task but their agreement on the provisions of the conference report and their ability to work cooperatively is, we think, in the Committee on Rules a good example for all of us.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Commerce, Justice, State, and Judiciary appropriations conference report contains money for many vital programs as the gentleman from California [Mr. BEILENSON] has just outlined, including funds to combat the No. 1 problem in America, crime. In fact it was suggested yesterday in the Committee on Rules that perhaps we should scrap the so-called crime bill and just concentrate on this bill because we know we are going to get something done and get some money focused on the problem this way, because this calls for real crime prevention, drug enforcement, and prison construction. Those are the kinds of things Americans are asking for and are apparently a lot less controversial than some of the other sort of more welfare-social programs that are included in the crime bill that we were discussing last week and around the edges on this.

□ 1110

The conference report for H.R. 4603 contains important increases in programs aimed at controlling the rising tide of illegal immigration: $2.1 billion will help beef up safety and security of our borders and provides almost a thousand new Border patrol agents.

Now that is terrific news, but it is not enough, and it is not enough because we know as we stand here that we have yet another problem coming across the Florida Straits, this time from Cuba, which is no surprise, and we apparently are not ready again to deal with this. And even with a thousand new Border Patrol agents, the estimates are we are not going to be able to control the illegal immigration problems we have got. And of course, the Federal Government, as has been pointed out by several speakers in the 1 minutes this morning, still has not paid up their debt to the States that have been most affected by the illegal alien problem and the lack of the Clinton administration and previous administrations to provide adequate border safety.

California, Texas, Florida, and States like that come to mind. That is a good step in the right direction, and for that we should be happy. But it is not enough. States such as Florida, California, and Texas are currently suffering the fiscal and social consequences of the Federal Government's failure to control illegal immigration.

I guess it is interesting that it has become such a point of desperation that the Governor of Florida, who happens to be in the same party as the President of the United States, is now suing the Clinton administration to get the money back to the State of Florida to pay for the failure of that Federal program.

Increases in this bill certainly will not solve all of the problems. But it is going in the right direction, and it is doable. While I still have specific concerns over specific items such as the tremendous sums in this bill for U.N. preacekeeping missions, and it is not just myself that is concerned on that, we have plenty of cards and letters, and I know every other Member of this body does about how much money we are paying for peacekeeping, and where is it coming from, and what are we doing actually in peacekeeping missions, what are the beginnings of them and what are the ends of them. I think a majority of the Members recognize the importance of bringing the legislation to the floor despite these problems.

However, I am troubled by the fact that this is the second rule granted for the consideration of this bill. Under the standing rules of the House, appropriations bills and conference reports, as we all know, are privileged, making them come to the floor without any special rules. This June the House considered H.R. 4603 under an open amendment rule, but one which waived all points of order against the bill. That means it protected whatever was in the bill. While that rule was supposedly open, that meant any Member could make an amendment, it did not provide for an equal playing field for the amendments because the amendments were not protected. So what that means to say is that people who put the bill together were given special protection and those Members who had legitimate debate points that they wanted to bring up were not given the same treatment, and they were subject to points of order, while the people who put the bill together were not. That just does not seem fair, and unfortunately it is getting to be a trend.

We face a similar dilemma today. This rule provides blanket waivers for the conference report.

Yesterday I asked subcommittee Chairman MOLLOHAN what parts of the conference report violated House rules, and he said he did not actually know, that the appropriations subcommittee had not prepared such information. And to be very fair to the gentleman, who gave candid and good testimony, the gentleman from West Virginia [Mr. MOLLOHAN], is certainly not the first chairman to seek a blanket waiver against all points of order and to not know exactly what they are. The gentleman from West Virginia [Mr. MOLLOHAN], in his defense, did offer to try and provide the information, so this is not about what happened yesterday in the Rules Committee. It is about what has become an all too common occurrence in the Rules Committee to provide a waiver without even attempting to go compile and understand what violations exist in the bill.

Another problem with the waiver will be highlighted by the gentleman from California [Mr. ROHRABACHER]. He came before the Committee on Rules seeking to defend his right, and the right of all Members to seek a separate vote on an item of disagreement in the conference report. I find it very disturbing that a Member has to trek over to the Rules Committee to defend his right to seek a vote on the floor. I find it even more disturbing that the Committee on Rules, by recorded vote, is subsequently going to deny him that right.

Mr. Speaker, while these problems might seem like small stuff to some, remember we are charged with upholding the constitutional rights of every American. It seems a very dangerous precedent to ignore the rights of their elected representatives, thereby refusing those Americans equal representation in the House. The people back in the district of the gentleman from California [Mr. ROHRABACHER] may not realize that he is not being treated with the same advantage as the people in the district of a member of Committee on Rules, or a member of the committee that has brought forward this legislation, and that puts Americans on an unequal footing, and that is not fair.

I think one of the things the Rules Committee is supposed to do is try and ensure openness, deliberation, and fairness in a debate, and I am not sure we have achieved that in this case, and I am not sure we are achieving it often enough. We have a situation today where we have a disaster relief fund of the Small Business Administration as the reason we are moving this thing so critically through. Presumably that fund expired on August 27, not a good time to have it expire when we have floods going on in Georgia, typhoons or tornadoes in South Carolina, flooding in Florida, and who knows what else going on. These are important things that we can expect we are going to be looking for some disaster relief.

It strikes me as curious that we are taking up in the Rules Committee the remedy for this problem on the very day the fund expires, and that becomes our sense of urgency to rush through a fairly large piece of legislation. It is not exactly new, first impression legislation, but when we look at the number of amendments there were, well over 140, 150 or so amendments that were considered in this conference process, obviously we did not have time to look at the whole, big pile. And I want to thank my friend, the gentleman from California [Mr. BEILENSON], who has sought out some of the points that we are protecting because they have not had a chance to go all through this report in order to find out exactly what we are protecting by the waiver of the rules. We were given a short, abbreviated list of scope, germaneness, and of legislating, and appropriations problems that needed to be protected that would otherwise have points of order against them. But it was not by any means the whole list. It is certainly not the fault of the gentleman from West Virginia [Mr. MOLLOHAN], and certainly it is nobody's fault in this case. But it is bad business.

The gentleman from California [Mr. BEILENSON], in good faith has tried to provide as much information as he can, and he has been very helpful. I still have not had an opportunity to review all of this. I am not really concerned about it because I think this bill has been through enough of a process. But I know there are some things in here that we probably do not know about that we would like to ask questions about, and we are providing them protection, and that does worry me because I know we can do better.

Having said that, again I am not making a big fuss about this rule because there is so much important to go forward. But there are patterns here that are disturbing, and I think we have the opportunity to repair those problems. I hope we will take that opportunity. I do want to thank my friend, the gentleman from California [Mr. BEILENSON], for sharing with me the new information this morning.

Mr. Speaker, I include for the RECORD the rollcall vote in the Rules Committee on this conference report, as follows:

ROLLCALL VOTE IN THE RULES COMMITTEE ON THE RULE FOR THE CONFERENCE REPORT ON H.R. 4603, COMMERCE, JUSTICE, STATE APPROPRIATIONS, WEDNESDAY, AUGUST 17, 1994

1. Dreier Motion on Blanker Waiver Exception—It was moved that a point of order lie against Senate Amendment #131 (relating to immigration) for failure to comply with clause 2 of Rule XX (prohibiting unauthorized or legislative Senate provisions in a conference report). Rejected: 3-4. Yeas: Quillen, Dreier and Goss. Nays: Moakley, Beilenson, Hall and Slaughter. Not Voting: Derrick, Frost, Bonior, Wheat, Gordon, and Solomon.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield so much time as he may desire and consume to the distinguished gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank my distinguished colleague and friend from California, Mr. BEILENSON, for yielding me this time.

I have some problems with this bill, and I am not quite sure about the proper way to approach it. I likewise have some problems with this rule which I will describe in some detail. They follow the comments made by the distinguished gentleman from Florida [Mr. GOSS], who indicated that there were some problems from his standpoint with the rule also.

Before I get to that, let me briefly recite some history which is the basis for some of his concerns, and it goes back at least 2 years ago, and actually before, in this same period of the year when we had appropriation conference reports coming before us with waivers of all points of order, with no notice to the authorizing committees as to material contained in the conference, which was within the jurisdiction of the authorizing committee. We even had a few examples where an effort was made to obscure and obfuscate the content of the conference report in order to prevent its full consideration by the Members of the House.

This is a serious problem. It is a procedural problem. It is a problem with orderly process in the House which needs to be remedied.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, those instances the gentleman is referring to were not with regard to the bill out of this subcommittee, however. We have always been completely forthcoming.

Mr. BROWN of California. The gentleman is correct.

□ 1120

The specific remarks that I am making are not aimed at this subcommittee unless I specifically identify that they are. I will say to the gentleman from Iowa [Mr. SMITH], and I have told him before, that I have enjoyed an unusual degree of cooperation from him when he was subcommittee chairman and an equally unusual amount of cooperation from the present chairman, who has gone out of his way to keep me notified of material in this bill and in this conference report which he thought would preempt the areas of my concern and the concerns of the Committee on Science, Space, and Technology.

I will use this opportunity to thank both the gentleman from Iowa [Mr. SMITH] and the gentleman from West Virginia [Mr. MOLLOHAN] for the obvious and sincere concern. That does not mean that we have reached perfection. I think they recognize that, and I know the gentleman from West Virginia [Mr. MOLLOHAN] has recognized that because I have gone into some detail to tell him why this bill is not perfect and what improvements I would expect in future years.

Many of the problems in this bill have been, over the years, in large part caused by failures on the part of authorizing committees to fully authorize programs that are contained within this bill. As one of those authorizing committee members, I accept my share of the responsibility for these failures. These failures cumulatively, however, have contributed to a breakdown of the orderly processes of the House, have required that the Subcommittee on Appropriations chairman go to the Committee on Rules and ask for a waiver of all points of order. And this is not really being very helpful to maintaining the orderly course of business in the House.

Now, as a result of the events of 2 years ago, as I started to describe, I and a number of other chairmen of authorizing committees proposed some modest changes in the rules of the House which were intended to require that authorizing committee chairmen be notified of material in the conference report in advance and that we be given the opportunity to discuss these with a certain allotment of time during the debate on the conference report.

All points of order against this bill have been waived. The subcommittee chairman made a good-faith effort to notify me. I cannot say for certain that he has notified me of everything within the jurisdiction of my committee. I have not had the opportunity nor has my staff to review it in full detail.

That is more or less immaterial because the rules have been waived. And if he had not said a word to me, there would still be no point of order that I could raise because the rules are waived.

Similarly, as the gentleman from Florida [Mr. GOSS] pointed out, there has not been a full presentation of all of the violations of the rules contained in this bill. So that the Rules Committee could not have specifically said the rules are waived on this and this and this, but not on this, for whatever the reason.

I would suggest that to the degree that it is possible we probably ought to consider making some additional changes in the rules that would allow at least the Rules Committee to know which rules they were waiving. And if that is not the case at the present time, I think it would be generally helpful. Not that this is absolutely essential in connection with most legislation, but there are many age-old statements about the predisposition of people who have power to use that power. And sometimes to use it in ways which are not in the best interests for all of the community in which they are using that power.

Now I am deeply concerned about that, because to the degree that other Members of the House feel that power is being inappropriately used in the House—and this applies to both Republicans and Democrats, I may assure my friends on the Republican side—to the degree that that perception exists, it creates conditions under which orderly legislation becomes impossible. And we have seen many examples of that.

To the degree that the public perceives that the rules of this body are being violated for the interest of a few people in preferred positions, the confidence of the public in the workings of our democratic system are eroded. And this is at the root of some of the distrust, which we are all aware of, that the public has in their elected representatives.

Now I am taking this time to make this statement in order to let all of my friends know that I am not trying to nitpick with the members of the Appropriations Committee, even less with my good friends on the Committee on Rules. I am trying to make the case that we need to make some changes here in observing the orderly process of the House for the protection of the institution and for its continued credibility in the eyes of the people of the United States.

Now, I do not like this rule waiving all points of order. I have notified the Rules Committee in writing on behalf of my committee that we object to rules waiving all points of order. I intend to vote against this rule because it waives all points of order.

I have not attempted to mount a campaign to secure the defeat of this rule, but I do not want my good friends on the Rules Committee to be surprised if I should choose to do that in connection with some of the other appropriation bills which are currently pending.

Now, I have reviewed this bill, as I have already indicated, with the chairman, who has been unusually gracious in talking to me about it. And while it is not a perfect bill, it is one that I am going to support. And if the rules passes, as I assume that it will, I will vote for this conference report on final passage.

I hope the chairman of the subcommittee will allow me a little bit of time during debate on the bill to say some of the good things about the bill and also some of the things I might object to in the bill. If he is willing to do that, it will be another indication of his generosity and his respect for his colleagues in the authorizing committee, which I have already praised so eloquently.

Mr. Speaker, I hope it is not merely a reflection of the fact that he is a new chairman, and that these traits will not rapidly dissipate as he gains experience; that he will continue to demonstrate the traits of statesmanship and respect for his colleagues during his tenure as chairman of this important subcommittee.

Mr. GOSS. Mr. Speaker, I would like to commend the chairman, the gentleman from California [Mr. BROWN], who just spoke, on his excellent remarks. I think they are very much on target. I take them to heart as a member of the Committee on Rules, and I hope the Committee on Rules will deal with the points he has raised.

Mr. Speaker, I yield 5 minutes to my distinguished colleague and friend, the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today on a matter of grave import to the integrity of our country's laws and our Nation's fiscal solvency.

Mr. Speaker, Senate amendment 131, as amended in this conference report, is a legislative provision attached to this appropriations bill, which we have heard an eloquent description of why we should not be doing these things, from my friend and colleague from California, but this opens up a 3-year window for people who wish to flout our country's laws; to do so with impunity.

I want to repeat this, Mr. Speaker, because this provision, put into our bill by Senator KENNEDY, is a violation of both House rules and common sense. We should defeat it. It would, starting this October until October of 1997, if the Kennedy amendment becomes law, we will see that there will be no reason for people who want to come to this country to bother with the normal legal channels. That will be the result of the Kennedy amendment.

All they will have to do is sneak across our border and come up with about $800 by any means possible and then they will be granted temporary residence as long as their application for permanent residence is pending.

The bill makes very clear they may be granted temporary residence for as long as their application for permanent residence is pending. Thus they will be eligible to go through the application process, and during that process they will be here legally. Under this status they will be given a work permit and they will be eligible for all taxpayer-paid benefits, even those that by law are supposed to be denied to illegal aliens.

Mr. Speaker, I would like to read this pertinent part of this section. It says, "an alien physically present in the United States who, (A) entered the United States without inspection; or (B) is within one of the classes enumerated in subsection (c)," which means people who have overstayed their visa, "may apply to the Attorney General for the adjustment of their status."

What we see here is people who are present, who entered the United States without inspection, may apply.

□ 1130

That means they are part of the process. This is nothing more than another loophole that is being created in the same way that people were asking for political asylum have a loophole now, and are costing the taxpayers hundreds of millions of dollars, if not billions of dollars, a year.

Mr. Speaker, my opponents claim that somehow the INS will be able to permit the number of people, or limit the number of people, applying by accepting only those applications from those whose green card applications will be approved. No, they will be all put into the process, a process that will last years, just like political asylum seekers. I do not see from the reading of this language how they can deny people and limit the number of applicants by the way this is written.

Mr. Speaker, I read the House language, and it says, "If you're here, and you snuck across the border or overstayed your visa, you may apply." But let us assume for the purpose of argument that they are right and this new immigration law will not permit anyone who sneaks over the border or overstays their visa to apply. Even if we assume all of that to be true, and I do not, they are still rewarding people who have blatantly violated our laws.

Yes, there are some problems they are trying to correct, but there is the law of unintended consequences, like political asylum, where they are creating vast new problems and expenses for the American taxpayer.

Under this provision, Mr. Speaker, anyone who thinks they are eligible would be a fool to obey our immigration laws and go through the normal process. My opponents' arguments are only about how many illegal aliens we will be rewarding, not whether this provision will make it easier for illegal aliens.

The rules of this House are supposed to protect us against facing such a stark choice as rejecting an entire conference report on a major appropriations bill on one hand or swallowing an egregious legislative provision on the other. Legislative provisions, such as the Kennedy amendment, are supposed to be brought back as amendments in disagreement so the House can vote on them separately. However, the House is now being asked to waive all points of order against this conference report so this violation of the House rules and common sense can go forward.

Well, I beg my colleagues not to permit this to happen, but to allow the normal rules to apply to consideration of the Kennedy amendment so that we can debate this most serious matter separately from the appropriations bill. Thus I am asking my colleagues to vote "no" on the previous question. If the previous question is defeated, I will offer an amendment to the rule which will permit a separate vote on the Kennedy amendment.

Whatever the good intentions of the gentleman from California [Mr. BERMAN], and others, the gentleman from Massachusetts [Mr. KENNEDY], this bill, I believe, and the experts with whom I have conferred also believe, and common sense tells us; a common sense reading, as well as the experts; believe that this bill will be used by illegal aliens and their lawyers to legally stay in our country while their case is pending. They may apply. Thus their case is pending. Lawyers around this country will use this to increase the time and money that it costs us for illegal aliens to stay in this country.

Mr. Speaker, this is another loophole even bigger than the political asylum loophole. It will cost us hundreds of millions, even billions, of dollars to open this legal loophole so any illegal aliens can cross our border and have a legal avenue to stay in our country and receive benefits, Federal benefits, in the meantime. This, as I say, is a political asylum loophole. Why are we doing it?

Vote "no" on this rule. A no vote on the previous question will permit us to have a separate vote on the issue. Those that vote "no" will be responsible. Those who vote "yes," and, if this does come to where illegal aliens are using this and their lawyers are using this as a loophole, costing the taxpayers billions of dollars like political asylum, the voters will hold those Members in Congress responsible who have done this to the American people.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman from California [Mr.

BEILENSON] for yielding this time to me, and I just want to initially state that I think this is a very important bill. My sincerest congratulations go out to both the chairman of the subcommittee and the ranking member for putting together a very important bill, a bill of particular importance to people who want to do something about the problem of illegal immigration because, as has been mentioned, there is significant new funds for border patrol, for tougher enforcement of immigration laws, and, for the first time, for the reimbursement for the incarceration of illegal criminal aliens.

My friend, the gentleman from California [Mr. ROHRABACHER] has made what I know to be a sincere point about his concern about a specific provision in this bill, this provision which was sponsored initially on the State Department authorization bill by Senators ALAN SIMPSON and KENNEDY and was actively supported in this conference by Senators SIMPSON and KENNEDY, as well as Senators BYRD and HOLLINGS and DOMENICI and has been reviewed by the appropriations members, both majority and ranking, does not do anything close to what the gentleman from California [Mr. ROHRABACHER] has suggested that it does.

Mr. Speaker, what this amendment is about is, where legally qualified immigrants, immigrants who are entitled to come to this country and to have their status adjusted because either through an employer petition or a family petition, and they have gone through the entire process, and for the process, the very final part of that process, which is the filing of the application and the receiving of the visa papers, the immigration papers, this is about where those people can get their legal immigrant visa. It has nothing to do with whether they get them; it has nothing to do with their eligibility for getting them. It does not create a new immigrant eligibility category or an amnesty window as the gentleman from California [Mr. ROHRABACHER] has referred to in the past. It will not give anyone an immigrant visa who will not get one anyway. It will not increase the total number of immigrants. It does provide, however, substantial, and I am talking about $50 million for new funding for the INS to enforce the borders, to enforce the immigration laws, and it helps, in addition, to fight illegal immigration by freeing State Department consular staff from the useless paperwork that is now a routinized process for granting the visa after the entire process has been completed. It frees them to do the important work of fighting visa fraud and checking out applications for people who seek to enter this country to determine whether their purposes are appropriate and whether they qualify for any of the nonimmigrant visas that these people are supposed to handle.

To suggest that I would support a provision which would say, for $800 somebody who would not otherwise qualify to come to this country legally, can now get immigrant status is an insult to my intelligence, but that has been insulted many times in the past. to suggest that Senators ALAN SIMPSON, or PETER DOMENICI, or the gentleman from Kentucky, Mr. ROGERS, or any of the other people who have looked at this provision would support such an interpretation is a tremendous leap into fantasy.

I want to give my colleagues one specific example of what this bill is about. This was told to me by a friend, a former Foreign Service officer, worked in the consular office in Guyana. One airline flies to Guyana. When Guyanese who want to come to the United States as illegal immigrants, have been petitioned for, have gone through the entire process, are in the United States, they take that one airline, fly to Guyana. It gets into Guyana that evening. The next morning they go to the American embassy, pick up their visa, their legal immigration papers, and take that afternoon flight back to the United States. This happens over and over again. Ninety-nine percent of these visas are routinely approved. What we are doing with this present ineffective and inefficient system is subsidizing primarily foreign airlines.

So what people like Senator SIMPSON thought was that it made sense instead to raise the fees fivefold, provide a meaningful source of revenue for the INS to fight the illegal immigration, cut out the fiction that something is happening by this ridiculous process, and free up the embassy officials, the consular officials in our foreign posts, to check on whether or not somebody who is claiming to come here on a tourist visa and intends to return, on whether or not they have any kind of criminal background, on all the kinds of things that we do, our consular officials, to be watching for, to protect, American interests.

□ 1140

It is as simple as that. I appreciate the gentleman's misreading one provision in the bill to assume that it allows something that it does not allow or that something might happen that will not happen. This is a revenue producer, and this is an intelligent rationalization of our limited resources. It is supported on a broad bipartisan basis, and I do not think it should be the basis for anyone voting against the previous question.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in opposition to the rule. In particular, I am opposed to the over $27 million in pork-barrel spending appearing under the Small Business Administration budget. What do I mean by pork barrel? I mean totally unauthorized spending.

Mr. Speaker, this represents over 10 percent of the total Small Business Administration budget for fiscal year 1995, and this amount doesn't even include the totally unauthorized spending for the Tree Program. The Tree Program represents another $15 million in totally unauthorized spending that no one even saw fit to mention at the many hearings and the markup of the Small Business Reauthorization Act.

This is particularly outrageous when you consider that we just had to authorize emergency spending to keep the SBA from running out of money. Why is the SBA out of money? Because over 17 percent of the spending in its budget is pork and unauthorized programs.

Mr. Speaker, I oppose this rule and I oppose this misuse of the taxpayer's money.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I do not want to take very much time. I simply want to take this opportunity to express my admiration for the work that has been done by the new subcommittee chairman, the gentleman from West Virginia [Mr. MOLLOHAN], and the great cooperation he has received from the gentleman from Kentucky [Mr. ROGERS], the ranking Republican.

As the Members in this House understand, the gentleman from West Virginia [Mr. MOLLOHAN] took over this chairmanship in midstream. He has demonstrated, I believe, an amazingly quick ability to master the contents of this bill. I know he has had an awful lot of help from the gentleman from Iowa [Mr. SMITH], who so ably chaired this subcommittee for years, and I know he has had a great deal of help from the gentleman from Kentucky [Mr. ROGERS]. Despite the fact that we have had some serious and strong differences of opinion on several occasions, those differences of opinion have been worked out in an extremely honorable and gentlemanly manner with the gentleman from Kentucky [Mr. ROGERS].

I just want to say that I think this overall product is very defensible, and I simply want to congratulate the subcommittee for being able to produce this bill and finish its work so quickly, especially under the circumstances, with a new chair at the helm. I simply want to congratulate both gentlemen and indicate my happiness with the way in which the bill has been handled.

Mr. MOLLOHAN. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Surely, I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Speaker, I would just like to take this opportunity to thank the chairman of the committee, who also has assumed his responsibilities this year in midstream. I thank him for his help and his cooperation, and I also thank him very much for his kind remarks. I would like to reciprocate and tell the Members what a fine job he has done and express my appreciation for the guidance he has given both the gentleman from Kentucky [Mr. ROSS], and me as we have processed this legislation through the subcommittee.

Mr. OBEY. Mr. Chairman, I think that with all the turmoil surrounding the crime legislation, we have had a remarkable display of leadership from the gentleman and from the ranking Republican as well.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I believe the gentleman from Kentucky and the gentleman from West Virginia have done a very fine job with this bill, given very difficult budgetary circumstances. They have prioritized spending to provide funds for the most vital programs.

One of these priority programs is surrogate radio broadcasting to the nations of Asia—Radio Free Asia. Last week, the House adopted the Pelosi bill as amended by Mr. HAMILTON, outlining a framework for promoting human rights and democracy in China. One of the primary elements of the Hamilton amendment was enhanced radio broadcasting to China through VOA and Radio Free Asia. In addition, the President has repeatedly highlighted Radio Free Asia as a cornerstone of his policy toward China and, as you know, the House adopted by an overwhelming margin a floor amendment to the Commerce, Justice, State bill making funds available for Radio Free Asia. Clearly, Radio Free Asia is an idea whose time has come.

This conference report contains $10 million for startup costs for Radio Free Asia and an additional $85 million for short wave radio construction in the Pacific to benefit Radio Free Asia and VOA. The funds are dependent on a report from the Broadcast Board of Governors regarding feasibility, and we will watch carefully what the Board decides. I just want to take a minute to tell Members why this small investment in surrogate broadcasting is so important.

Tyrants use access to information as a tool to keep their hold on power. during the cold war, this practice was used in Eastern Europe by the Soviet-backed Governments there to try to keep their people in the dark about the free world. The United States responded with Radio Free Europe and Radio Liberty. These broadcasts ultimately proved to be instrumental in keeping the people's spirits alive and weakening communism.

Similarly, the North Koreans have practically no access to outside information. The people of North Korea, including right up to the highest levels of the military and government, have no idea what is really happening regarding their country's nuclear program and its standoff with the rest of the world or regarding North Korea's failed economy compared to other nations. They do not know about the economic and political transformations in South Korea. They are kept by their Government from being members of the world community.

Although some Chinese can receive transmissions from Hong Kong or Taiwan, the vast majority have access only to Government-controlled sources of information. They must have access to news that is relevant to them—surrogate broadcasting.

Democracy activists, and potential activists, must know that there are others out there who share their aspirations. VOA is an important voice telling the world about our country and what we believe in. VOA may have a few minutes of China-related news a week. In China, Radio Free Asia would cover solely issues of interest and relevance to Chinese, from Chinese to Chinese, not from Americans to Chinese.

Radio Free Asia will tell the people of North Korea, China, Burma, Vietnam, and Laos exactly what their Governments do not want them to know. Once the silence is broken, the people in these countries, I believe, will be on a path toward democracy, free markets, and greater freedom.

Mr. Speaker, I think the Commission on Broadcasting to the People's Republic of China said it best when they wrote, "The fate of America is intertwined with the fate of American ideals." For individuals around the world, knowledge is freedom. The 1.3 billion people in the countries served by Radio Free Asia have no freedom. I support this investment in freedom, and I urge Members to vote for this conference report.

□ 1150

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time.

Mr. Speaker, I rise today in strong support of this rule. For the people of my State of Georgia, the passage of this rule and subsequently the conference report is critical if they are to be allowed to pick up the pieces of their lives, move forward, and once again become productive in the aftermath of the recent floods.

Many of us represent areas that have experienced disasters. It is one thing to see the results of these disasters on a television screen. It is an entirely different experience to meet with the people affected, talk with them, and understand their hardships.

This bill is just the first of several that we will consider which addresses this crisis. But in some ways it is the most important. To begin with, it is time-critical. The Small Business Administration has already depleted all their disaster relief payments. Quick passage of this bill will let the SBA continue to help small businesses recover and give the people of Georgia, Alabama, and Florida an opportunity to once again become productive within the work force.

Finally, this bill is also important because it will set the tone for our assistance. This is not the time to bicker over methods and procedures. It is time to help our citizens who have been touched by misfortune. I ask for your support and the people of the Southeast ask for your help. I urge overwhelming support and passage of the rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. DREIER], my colleague on the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding.

Mr. ROGERS. Mr. Speaker will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Kentucky, the distinguished ranking member of the subcommittee.

Mr. ROGERS. Mr. Speaker, I just wanted to take a few seconds here to compliment the gentleman from Illinois [Mr. PORTER], who most recently spoke, for his dedication and persistence in pushing for the moneys for Radio Free Asia. This is a very historic moment I think in the history of the USIA and the broadcasting sponsored by this Government, because this is the first moneys that will be going into broadcasting on Radio Free Asia.

We all know what has happened with the tremendous success of Radio Liberty and Radio Europe and the Voice of America. But now we enter a new era, and it is thanks in no small measure to the work of the gentleman from Illinois, who pushed and cajoled and worked ceaselessly to get this program off the ground. I wanted to thank the gentleman from Illinois [Mr. PORTER] for his work, and thank the gentleman for yielding.

Mr. DREIER. Mr. Speaker, yesterday the chairman of the Rules Committee half-jokingly referred to those of us who insist on abiding by House rules as a "vigilante committee."

It is a clear indication of just how far we have strayed from normal parliamentary procedure when the chairman of the Rules Committee, of all committees, ridicules those who believe in upholding the rules of this House—as if we are some kind of a lawless mob intent on violence and vengeance against this body. What have we come to?

Mr. Speaker, last week, when we were debating the crime rule in the Rules Committee, the majority cited to us how many times we have waived all points of order against conference reports in recent times, as if the number of repeat offenses against the standing rules makes it right.

Today we have another rule that waives all points of order against a conference report—your standard, boiler-plate rule for such conference reports, we are led to believe and accept.

I wonder how many Members even know that conference reports do not require special rules—that they are privileged for House floor consideration so long as they are in compliance with the rules?

They only need special rules when they are in violation of House rules. And this conference report apparently is in violation of every important rule that applies to conference reports.

It has not been available to Members for 3 days and therefore violates clause 2 of rule 28. It only became available yesterday. We could take this up tomorrow and it would not need a waiver of the 3-day availability rule.

It contains numerous legislative and unauthorized Senate amendments in violation of clause 2 of rule 20. We were given a list of six such examples, but I understand this is incomplete. There are probably closer to two dozen, but we have not been given an accurate count.

The chairman of the Appropriations Subcommittee who testified before us indicated he did not have such a list.

This conference report contains an unspecified number of provisions that are beyond the scope of anything committed to conference by either body, in violation of clause 3 of rule 28. This is the most serious offense against the House—writing new legislation in conference.

Ordinarily, the Appropriations Committee reports Senate amendments which are legislative in nature or beyond scope as amendments in disagreement to be dealt with separately by motions after the conference report has been agreed to.

In this way, we do not risk defeating the conference report and we can separately examine and vote on those Senate provisions which violate our rules. That applies as well to Senate provisions that are nongermane to the House passed bill.

Under clause 4 of rule 28, if such nongermane Senate provisions are in the conference report, and a point of order is sustained, a motion to reject the provision is debatable for 40 minutes and then voted on. Since the rejection of a nongermane provision defeats the conference report, these are usually reported outside the conference report as amendments in disagreement. In that way, they can be dealt with without defeating the conference report.

Mr. Speaker, I have taken the time to recite these rules since they are not specifically waived in this rule. Instead, we have a so-called blanket waiver that literally covers, or cover up, a variety of sins of which we have not been made fully aware, either by the Rules Committee majority or the committee bringing a conference report.

Last year, in January, when this House adopted its rules, a new rule was adopted allowing an authorizing chairman, and we have one of them sitting right here on the House floor, to have a preferential motion to disagree to any Senate amendment of a legislative nature that is reported in disagreement on an appropriations bill.

That was presumably done to protect the prerogatives of authorizing committees against Senate authorizing language in an appropriations bill. But, when such provisions are included in the conference report and protected against points of order, and has been done today in some two dozen instances, the authorizing committees have no recourse or protection. They must swallow the violations whole or reject the conference report.

Mr. Speaker, this is a wakeup call for authorizing chairmen out there as well as for all House Members. This is not just minority moaning, and it is certainly not vigilantism. These rules were designed to protect all of us, regardless of party, against the abuses being perpetrated by the other body.

You have a right to know what those violations are and to deal separately with them. That right is being denied by rules such as this.

I say this is not in criticism of our conferees who had a very difficult task in dealing with some 162 Senate amendments. This may well be a very good conference report and the best that they could get.

But that does not recuse them from bringing this up in the normal manner of reporting egregious violations as amendments in disagreement and letting the House deal with each separately.

Mr. Speaker, I realize that this conference report is time sensitive due to the expiration on Wednesday of this week of the SBA Disaster Assistance Loan Program. But I do not think waiting 1 more day so that Members do have the opportunity to review this within the 3 days required by our rules would do great violence to that program or the rest of this report.

Nor do I think the conference report would suffer any setbacks if we had taken up the various Senate provisions that violate our rules as amendments in disagreement.

Let us get back to upholding our rules for the sake of more rational, deliberative, and informed decisionmaking around here.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. ROHRABACHER].

□ 1200

Mr. ROHRABACHER. Mr. Speaker, I would like to remind my colleagues that this vote and the vote that I will call on the previous question, a yes vote on the previous question will be interpreted by the organizations that are fighting illegal immigration as a proillegal immigration vote.

Let me note, I have the bill in front of me here. It states that those people who can apply for the process, thus get into the process, they may apply, including those people who have entered the United States without inspection.

This will be interpreted by lawyers throughout the United States as just another loophole, as we have seen through the asylum cases. It will cost us hundreds of millions of dollars. If that happens, the people who have voted yes on the previous question will be responsible, because they will be denying me a right to bring this up and have a separate vote on this very important issue.

Let us note the procedures have not been properly seen to on this whole debate. The fact is, there were never any hearings in the Committee on the Judiciary on this.

This is a bad procedure. It is a bad law. Vote "no" on the previous question.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

I want to say that we have already seen what happens. We have had a couple of authorizers come to the well and say that they have been a little surprised.

The gentlewoman from Kansas [Mrs. MEYERS], our ranking member on the Committee on Small Business, has said that she is outraged that what has been put in this bill that she did not know about.

That is the problem that my colleague, the gentleman from California [Mr. DREIER], has spoken about, legislating outside of the legislative rules of the House in the conference committee. That causes surprises, and I am looking here at the CONGRESSIONAL RECORD. It has pages of projects with lots of money involved. If I started reading these, I am sure that a lot of Members would be surprised about what is in here, and I am sure a lot of Americans would be asking questions about what exactly are we doing.

I think that perhaps the conferees can answer those questions, and the appropriations can answer those questions. But when we do it this way, we do not know what we are waiving. That is the mistake.

I want to thank the gentleman from California [Mr. BEILENSON], my friend, for trying to share with us as complete information as he had on this, but even with those extra efforts made by the gentleman from California [Mr. BEILENSON], we still have not come to a good solution on this.

I think that there is a problem brewing. I think we know about it. We can fix it. I hope we will fix it in the Committee on Rules.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in concluding, let me say that it is my belief, and the belief, I think, of the majority of Members who have listened to this debate, both here today and on the floor of the House and also yesterday for some period of time in the Committee on Rules that the understanding of our colleague, the gentleman from California [Mr. ROHRABACHER], on the bill is totally and utterly incorrect.

I refer again to the thoughtful comments of our colleague and friend, the gentleman from California [Mr. BERMAN], who just several minutes ago spent some time explaining why in fact that is the case.

Mr. Speaker, in concluding, let me also remind our colleagues that the waivers granted by this rule protect agencies without authorization, which I believe the great majority of us strongly and fully support, and for several general provisions, most of which have been carried for years in previous bills, also protected as they have to be this year.

Mr. Speaker, I urge our colleagues to support this rule so that we may proceed to consideration of the conference report.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution. This is a 15-minute vote that may be followed by a 5-minute vote.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 172, not voting 21, as follows:

[Roll No. 406]

YEAS—241

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Regula
Richardson
Roemer
Rogers
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—172

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Clinger
Coble
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Becerra
Clement
Cooper
Flake
Ford (TN)
Gallo
Klein
Klink
Lantos
McDade
Owens
Pickett
Rangel
Reynolds
Rose
Skeen
Slattery
Smith (MI)
Sundquist
Torkildsen
Washington

☐ 1223

Messrs. JACOBS, BUYER, HAYES, STENHOLM, and McCURDY changed their vote from "yea" to "nay."

Messrs. CONDIT, RUSH, EVERETT, and INSLEE changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 175. not voting 24, as follows:

[Roll No. 407]

YEAS—235

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate

Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Roemer
Rogers
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—175

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brown (CA)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thurman
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—24

Becerra
Clement
Cooper
Deutsch
Flake
Ford (TN)
Furse
Grams
Johnson (CT)
Klein
Lantos
Livingston
Lowey
McDade
Owens
Pickett
Reynolds
Rose
Slattery
Smith (MI)
Sundquist
Thomas (WY)
Valentine
Washington

□ 1233

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment, a bill of the House of the following title:

H.R. 4790. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Speaker, I request that the record show that I was absent for rollcall votes number 406 and number 407 for medical reasons. Had I been here I would have voted "no" on the previous question and "no" on the rule.

MODIFICATIONS IN APPOINTMENT OF CONFEREES ON S. 1587, FEDERAL IMPROVEMENT ACT OF 1994 ACQUISITION

The SPEAKER pro tempore (Mr. FIELDS of Louisiana. Without objection, under the authority granted in clause 6 of rule X, the Speaker hereby modifies the appointment of conferees on the Senate bill (S. 1587) to revise and to realine the acquisition laws of the Federal Government, and for other purposes, as follows:

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003(a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference: Messrs. DINGELL, SWIFT, and MOORHEAD.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATION FROM THE HONORABLE PAUL McHALE, MEMBER OF CONGRESS

The SPEAKER pro tempore. Laid before the House the following communication from the Honorable PAUL MCHALE, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 17, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House, that my office has been served with a subpoena issued by the Commonwealth of Pennsylvania, County of Lehigh.

After consultation with the General Counsel to the House, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,

PAUL MCHALE.

CONFERENCE REPORT ON H.R. 4603, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995, AND FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

Mr. MOLLOHAN. Mr. Speaker, I call up the conference report on the bill (H.R. 4603) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 523, the conference report is considered as having been read.

(For conference report and statement see Proceedings of the House of August 16, 1994, at page 22576.)

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

GENERAL LEAVE

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report now under consideration, and that I may include tabular and extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present this conference report to this body for its consideration today. Members should know that throughout the many months of hearings and markup and conference this has been, for the most part, a bipartisan effort. The distinguished ranking minority member, the gentleman from Kentucky [Mr. ROGERS], has been a partner in fashioning this legislation. He is especially capable. His constituents know that, obviously, returning him year after year, and his input has been incorporated throughout this legislation. Whether in supporting or opposing various provisions, his efforts have always been constructive.

Members know how important the funding provisions in this bill are to them and to their constituents. I think that Members will be pleased, especially pleased to go back home and tell their constituents that they are supporting significant increases in crime fighting, and crime fighting is the centerpiece of this appropriations legislation. And they will be pleased to tell their constituents that they are supporting emergency funding relief to those who are suffering from the ravages of floods, fires, and the aftermath of earthquakes.

□ 1240

Mr. Speaker, the conference agreement provides a total of $26,345,687,000 in discretionary new budget authority for the fiscal year 1995. This amount is $851,071,000 below the President's request, and $108 million below this committee's section 602(b) allocation for the bill.

The conference agreement includes the following supplemental appropriations for the fiscal year 1994, and I would bring them to the Members' special attention, Mr. Speaker, because they are important. They address dire imminent needs facing those who have suffered the ravages of disasters recently. The conference agreement appropriates $470 million in emergency supplemental appropriations for the Small Business Administration's disaster loans program account to aid the victims of the flooding in Georgia, Florida, and Alabama. These funds go to provide the remaining requirement for the victims of the Los Angeles earthquake, and also, Mr. Speaker, go to aid the victims of the wildfires in several of our western States that are now burning.

In addition, the supplemental includes $55 million in emergency appropriations for the Economic Development Administration to provide emergency assistance for the disasters that I just mentioned. Also, in the supplemental, Mr. Speaker, there is $670 million for the United States' assessed contributions for international peacekeeping operations.

Mr. Speaker, in regard to these emergencies, the body should understand that the Small Business Administration has advised our committee that, as of this week, the SBA has no more disaster loan funds available. Therefore, Mr. Speaker, it is absolutely critical that the House and the Senate approve this conference report this week and send it to the President so that the disaster funds that I just mentioned will be provided to those victims of the floods in Georgia, Florida, and Alabama and the Los Angeles earthquake and those wildfires in the western States.

Mr. Speaker, beyond the supplementals, I hope that the body agrees, and I know the gentleman from Kentucky [Mr. ROGERS] and I and members of the committee who have worked so hard believe that this is an excellent conference report.

With respect to the Department of Justice, the conference agreement provides $12,304,550,000. That is an increase of $162 million above the House-passed bill.

Mr. Speaker, that is a $2.7 billion increase in crime-fighting money over the fiscal year 1994 funding. Now, this total includes $2.2 billion for the FBI, and that is an increase of $28 million above the amount we had in the House bill when it passed a few weeks ago.

This bill contains $757 million for the Drug Enforcement Administration, and that is an increase of $15 million above the House bill. It includes $2.4 billion to operate the Federal Prison System and $397 million for the Marshals' Service, and that is an increase of $7 million above the House bill.

The conference agreement also includes $2.345 billion to fund the Justice Department programs that would be authorized to be appropriated out of the crime trust fund in the pending crime bill, and that includes, Mr. Speaker, $1.3 billion for the President's community policing initiative. It includes $284 million for the President's immigration initiatives, and that includes, Mr. Speaker, money for an additional 1,000 new Border Patrol agents on the line that are attempting to keep illegal aliens out of the country.

Mr. Speaker, we also have $130 million to reimburse States for the incarceration of illegal aliens. When the bill came through the House, that was not a separate line item. We listened to the concerns of Members, particularly from those States that have the greatest illegal alien problem and have a large number of illegal criminal aliens that they are incarcerating.

This authorization was created, I believe, in the late 1980's. We are pleased, as a matter of fact, to be the first subcommittee to fund this, and out of conference, we are bringing it out as a separate line item in response to the interests, concerns, and expressions of a number of Members in the House and the Senate.

There is also $100 million in this legislation to implement the Brady Act.

The conference agreement is also very responsive, Mr. Speaker, to the President's initiative to create jobs through the civilian technology and economic development initiatives in the Department of Commerce.

The conference agreement provides a total of $4,218,138,000 for the Department, and that is an increase of $188 million above the House.

For the Small Business Administration, the conference agreement provides a total of $815 million.

The conference agreement provides a total of $4,196,000,000 for the Department of State. That is an increase of $15 million above the House amount.

And for the Federal Judiciary, Mr. Speaker, the conference agreement provides a total of $2.9 billion, an increase of $15 million above the House bill.

Mr. Speaker, in closing my initial remarks on the conference report, I am very pleased to give recognition to a fine group of staff who throughout this long process, throughout the hearings and the conferences and the floor appearances, have worked especially hard and very competently to make sure that we were prepared: To John Osthaus, who is the staff director, I express my appreciation, as well as to George Schafer, Sally Chadbourne, and Soo Jin Kwon, and to the minority staff, Mr. Speaker, who have been of tremendous help and worked just as hard, Liz Dawson and Jennifer Miller. I express my sincere appreciation for all of their hard work.

Mr. Speaker, I repeat, this is an excellent conference report, and I commend it to our colleagues.

Mr. Speaker, I will insert a comparative table at this point in the RECORD which shows the fiscal year 1994 enacted level, the fiscal year 1995 budget request, the House level, the Senate level, and the conference level for each of the appropriations accounts in the bill:

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603)

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF JUSTICE AND RELATED AGENCIES						
DEPARTMENT OF JUSTICE						
Office of Justice Programs						
Justice Assistance	90,105,000	79,575,000	94,100,000	98,800,000	98,100,000	+7,995,000
State and local law enforcement:						
Discretionary grants	474,500,000	125,000,000	68,500,000	68,000,000	62,000,000	-412,500,000
Byrne formula grants (crime trust fund)			804,280,000	423,000,000	450,000,000	+450,000,000
Total, State and local law enforcement	474,500,000	125,000,000	872,780,000	491,000,000	512,000,000	+37,500,000
Juvenile justice programs	115,000,000	160,000,000	157,750,000	153,750,000	155,250,000	+40,250,000
Crime trust fund:						
Upgrade criminal history records				100,000,000	100,000,000	+100,000,000
Community policing			1,332,000,000			
State Correctional Grants				175,000,000	24,500,000	+24,500,000
Drug Courts				100,000,000	29,000,000	+29,000,000
Violence Against Women Grants				86,000,000	26,000,000	+26,000,000
Community Schools Supervision Grants				37,000,000		
Ounce of Prevention Council				3,000,000	1,500,000	+1,500,000
State Criminal Alien Assistance Program		350,000,000			130,000,000	+130,000,000
(Transfer from international organizations and peacekeeping activities)				(350,000,000)		
Other crime trust fund		403,000,000				
Public safety officers benefits program:						
Death benefits	28,936,000	27,645,000	27,645,000	27,645,000	27,645,000	-1,291,000
Disability benefits		2,072,000	2,072,000	2,072,000	2,072,000	+2,072,000
Total, Office of Justice Programs	708,541,000	1,147,292,000	2,486,347,000	1,272,067,000	1,106,067,000	+397,526,000
General Administration						
Salaries and expenses:						
Direct appropriation	119,000,000	121,267,000	119,904,000	121,267,000	120,185,000	+1,185,000
Executive Office of Immigration Review (crime trust fund)		24,300,000	24,069,000	24,300,000	17,400,000	+17,400,000
Total, salaries and expenses	119,000,000	145,567,000	143,973,000	145,567,000	137,585,000	+18,585,000
Office of Inspector General	30,000,000	30,423,000	30,500,000	30,500,000	30,500,000	+500,000
Community policing (crime trust fund)		1,720,000,000		1,300,000,000	1,300,000,000	+1,300,000,000
Weed and Seed Fund	13,150,000	13,456,000	13,150,000	13,456,000	13,456,000	+306,000
Total, general administration	162,150,000	1,909,446,000	187,623,000	1,489,523,000	1,481,541,000	+1,319,391,000
United States Parole Commission						
Salaries and expenses	9,123,000	8,951,000	7,451,000	7,451,000	7,451,000	-1,672,000
Legal Activities						
Salaries and expenses, general legal activities:						
Direct appropriation	403,968,000	430,751,000	411,786,000	428,664,000	417,202,000	+13,234,000
Civil division (crime trust fund)		4,700,000	4,695,000	2,000,000	4,600,000	+4,600,000
Total, salaries and expenses	403,968,000	435,451,000	416,481,000	430,664,000	421,802,000	+17,834,000
Vaccine injury compensation trust fund	2,000,000	3,000,000	2,500,000	2,500,000	2,500,000	+500,000
Independent counsel (permanent, indefinite)	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	
Civil liberties public education fund (permanent, definite)	100,000,000					-100,000,000
Civil liberties public education fund		5,000,000	5,000,000	5,000,000	5,000,000	+5,000,000
Salaries and expenses, Antitrust Division:						
Budget authority	70,717,000	75,155,000	79,355,000	85,155,000	85,155,000	+14,438,000
Offsetting fee collections - carryover	-3,900,000		-3,500,000		-4,500,000	-600,000
Total, new budget authority	66,817,000	75,155,000	75,855,000	85,155,000	80,655,000	+13,838,000
Offsetting fee collections - current year	-20,820,000	-20,820,000	-20,820,000	-20,820,000	-25,000,000	-4,180,000
Existing law change - increased fees		-12,640,000	-14,840,000	-12,840,000	-14,840,000	-14,840,000
Direct appropriation	45,997,000	41,695,000	40,195,000	51,495,000	41,015,000	-4,982,000
Salaries and expenses, United States Attorneys:						
Direct appropriation	813,797,000	827,131,000	820,177,000	832,723,000	829,723,000	+15,926,000
Violent crime task force				25,000,000	15,000,000	+15,000,000
Immigration initiative (crime trust fund)		6,800,000	6,799,000		6,800,000	+6,800,000
Total, salaries and expenses	813,797,000	833,931,000	826,976,000	857,723,000	851,523,000	+37,726,000
United States Trustee System Fund	99,000,000	106,260,000	100,469,000	104,889,000	103,190,000	+4,190,000
Offsetting fee collections	-37,487,000	-40,597,000	-38,876,000	-40,597,000	-40,597,000	-3,110,000
Direct appropriation	61,513,000	65,663,000	61,593,000	64,292,000	62,593,000	+1,080,000
Salaries and expenses, Foreign Claims Settlement Commission	940,000	830,000	830,000	830,000	830,000	-110,000
Salaries and expenses, United States Marshals Service	339,808,000	364,705,000	390,185,000	403,055,000	396,847,000	+57,039,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Support of United States prisoners	312,884,000	369,916,000	299,465,000	296,216,000	298,216,000	-14,668,000
Fees and expenses of witnesses	103,022,000	78,000,000	78,000,000	78,000,000	78,000,000	-25,022,000
Salaries and expenses, Community Relations Service	26,106,000	20,379,000	20,379,000	20,379,000	20,379,000	-5,727,000
Assets forfeiture fund	55,000,000	55,000,000	55,000,000	55,000,000	55,000,000	....
Total, Legal activities	2,269,035,000	2,277,570,000	2,200,604,000	2,271,354,000	2,237,705,000	-31,330,000
Radiation Exposure Compensation						
Administrative expenses	2,868,000	2,855,000	2,855,000	2,855,000	2,855,000	-13,000
Interagency Law Enforcement						
Organized crime drug enforcement	382,381,000	369,943,000	383,250,000	369,943,000	374,943,000	-7,438,000
Federal Bureau of Investigation						
Salaries and expenses	1,974,305,000	2,046,667,000	2,093,818,000	2,146,111,000	2,122,471,000	+148,166,000
FBI Fingerprint identification	84,400,000	84,400,000	84,400,000	84,400,000	84,400,000	....
Total, Federal Bureau of Investigation	2,058,705,000	2,131,067,000	2,178,218,000	2,230,511,000	2,206,871,000	+148,166,000
Drug Enforcement Administration						
Salaries and expenses:						
Budget authority	764,123,000	763,773,000	785,928,000	804,232,000	800,635,000	+36,512,000
Diversion control fund	-42,123,000	-43,431,000	-43,431,000	-43,431,000	-43,431,000	-1,308,000
Direct appropriation	722,000,000	720,342,000	742,497,000	760,801,000	757,204,000	+35,204,000
Immigration and Naturalization Service						
Salaries and expenses:						
General fund appropriation	1,048,538,000	1,146,930,000	1,098,602,000	1,164,856,000	1,102,871,000	+54,333,000
Immigration initiative (crime trust fund)	....	264,200,000	251,157,000	264,200,000	100,800,000	+100,800,000
Border control system modernization (crime trust fund)	....	....	....	....	154,600,000	+154,600,000
Subtotal	1,048,538,000	1,411,130,000	1,349,759,000	1,429,056,000	1,357,871,000	+309,333,000
Immigration legalization fund	(4,344,000)	(3,499,000)	(3,499,000)	(3,499,000)	(3,499,000)	(-845,000)
Immigration user fund	(287,012,000)	(321,291,000)	(321,291,000)	(321,291,000)	(321,291,000)	(+34,279,000)
Land border inspection fund	(1,500,000)	(1,585,000)	(1,586,000)	(1,585,000)	(1,586,000)	(+86,000)
Immigration examinations fund	(277,971,000)	(362,296,000)	(362,296,000)	(362,296,000)	(291,097,000)	(+13,126,000)
Breached bond fund	(5,900,000)	(6,221,000)	(6,221,000)	(6,221,000)	(6,221,000)	(+321,000)
Total, Salaries and expenses	(1,625,265,000)	(2,098,022,000)	(2,034,651,000)	(2,113,946,000)	(1,981,564,000)	(+356,299,000)
Immigration Emergency Fund	6,000,000	....	....	8,500,000	75,000,000	+69,000,000
Construction	....	....	....	100,000,000	50,000,000	+50,000,000
Total, Immigration and Naturalization Service	(1,631,265,000)	(2,098,022,000)	(2,034,651,000)	(2,222,446,000)	(2,106,564,000)	(+475,299,000)
Federal Prison System						
Salaries and expenses:						
Budget authority	1,980,000,000	2,406,504,000	2,356,404,000	2,400,104,000	2,386,404,000	+406,404,000
Prior year carryover	-30,000,000	....	....	....	-30,000,000	....
Direct appropriation	1,950,000,000	2,406,504,000	2,356,404,000	2,400,104,000	2,356,404,000	+406,404,000
National Institute of Corrections	10,211,000	10,144,000	10,344,000	10,144,000	10,344,000	+133,000
Buildings and facilities	269,543,000	191,021,000	236,094,000	243,324,000	280,494,000	+10,951,000
Federal Prison Industries, Incorporated (limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
Total, Federal prison system	2,229,754,000	2,607,669,000	2,602,842,000	2,653,572,000	2,647,242,000	+417,488,000
Total, Department of Justice	9,598,895,000	12,588,065,000	12,143,246,000	12,696,433,000	12,304,550,000	+2,705,655,000
(Limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
RELATED AGENCIES						
Commission on Civil Rights						
Salaries and expenses	7,776,000	10,146,000	9,500,000	8,413,000	9,000,000	+1,224,000
Equal Employment Opportunity Commission						
Salaries and expenses	230,000,000	244,804,000	238,000,000	240,000,000	233,000,000	+3,000,000
Federal Communications Commission						
Salaries and expenses:						
Budget authority	160,300,000	166,832,000	166,832,000	198,232,000	185,232,000	+24,932,000
Offsetting fee collections - current year	-60,400,000	-95,000,000	-116,400,000	-116,400,000	-116,400,000	-56,000,000
Existing law change - increased fees	....	-72,400,000	....	....	....	....
Direct appropriation	99,900,000	-568,000	50,432,000	81,832,000	68,832,000	-31,068,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Maritime Commission						
Salaries and expenses	18,900,000	18,569,000	18,569,000	18,569,000	18,569,000	-331,000
Federal Trade Commission						
Salaries and expenses:						
Budget authority	92,660,000	95,428,000	98,928,000	98,928,000	98,928,000	+6,268,000
Offsetting fee collections - carryover	-3,920,000		-3,500,000		-4,500,000	-580,000
Total, new budget authority	88,740,000	95,428,000	95,428,000	98,928,000	94,428,000	+5,688,000
Offsetting fee collections - current year	-20,820,000	-20,820,000	-20,820,000	-20,820,000	-25,000,000	-4,180,000
Existing law change		-12,640,000	-14,640,000	-12,640,000	-14,640,000	-14,640,000
Direct appropriation	67,920,000	61,968,000	59,968,000	65,468,000	54,788,000	-13,132,000
National Commission to Support Law Enforcement						
Salaries and expenses (by transfer)	(500,000)					(-500,000)
Securities and Exchange Commission						
Salaries and expenses:						
Budget authority	269,150,000	306,000,000	59,643,000	304,582,000	133,599,000	-135,551,000
Offsetting fee collections - carryover	-30,840,000		-50,148,000		-50,148,000	-19,308,000
Total, new budget authority	238,310,000	306,000,000	9,495,000	304,582,000	83,451,000	-154,859,000
Offsetting fee collections - current year	-180,454,000	-306,000,000		-238,131,000		+180,454,000
Investment adviser fee - offsetting collection			-8,595,000	-8,595,000	-8,595,000	-8,595,000
Direct appropriation	57,856,000		900,000	57,856,000	74,856,000	+17,000,000
State Justice Institute						
Salaries and expenses 1/	13,550,000	15,000,000	13,550,000	13,550,000	13,550,000	
Total, related agencies	495,902,000	349,919,000	390,919,000	486,688,000	472,595,000	-23,307,000
Total, title I, Department of Justice and related agencies	10,094,797,000	12,935,984,000	12,534,185,000	13,081,121,000	12,777,145,000	+2,682,348,000
(By transfer)	(500,000)			(350,000,000)		(-500,000)
(Limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
TITLE II - DEPARTMENT OF COMMERCE						
National Institute of Standards and Technology						
Scientific and technical research and services	226,000,000	316,006,000	279,420,000	260,000,000	265,000,000	+39,000,000
Working capital fund transfer	-1,500,000					+1,500,000
Industrial technology services	232,524,000	518,960,000	495,960,000	554,000,000	525,000,000	+292,476,000
Construction of research facilities	61,686,000	100,000,000	64,686,000	64,686,000	64,686,000	+3,000,000
Total, National Institute of Standards and Technology	520,210,000	934,966,000	840,066,000	878,686,000	854,686,000	+334,476,000
National Oceanic and Atmospheric Administration						
Operations, research and facilities:						
Budget authority	1,694,753,000	1,831,029,000	1,792,978,000	1,850,000,000	1,835,000,000	+140,247,000
Offsetting collections:						
Fishery fees		-82,000,000	-35,000,000			
Sanctuary and aero chart fees		-6,000,000	-6,000,000		-6,000,000	-6,000,000
Direct appropriation	1,694,753,000	1,743,029,000	1,751,978,000	1,850,000,000	1,829,000,000	+134,247,000
(By transfer from Promote and Develop Fund)	(54,800,000)	(55,500,000)	(55,500,000)	(55,500,000)	(55,500,000)	(+700,000)
(By transfer from Damage assessment and restoration revolving fund, permanent)	1,500,000	8,500,000	8,500,000	8,500,000	8,500,000	+7,000,000
(Damage assessment and restoration revolving fund)	-1,500,000	-1,500,000	-1,500,000	-1,500,000	-1,500,000	
Total, operations, research and facilities	1,694,753,000	1,750,029,000	1,758,978,000	1,857,000,000	1,836,000,000	+141,247,000
Coastal zone management fund	(7,800,000)	(7,800,000)	(7,800,000)	(7,800,000)	(7,800,000)	
Mandatory offset	(-7,800,000)	(-7,800,000)	(-7,800,000)	(-7,800,000)	(-7,800,000)	
Construction	106,703,000	36,197,000	52,000,000	100,000,000	97,600,000	-9,103,000
Fleet modernization, shipbuilding and conversion	77,064,000	23,040,000	23,040,000	23,040,000	23,040,000	-54,024,000
Aircraft procurement and modernization	43,000,000					-43,000,000
Fishing vessel obligations guarantees	459,000		459,000		250,000	-209,000
Fishing vessel and gear damage fund	1,273,000	1,273,000	1,273,000	1,273,000	1,273,000	
Fishermen's contingency fund	999,000	999,000	999,000	999,000	999,000	
Foreign fishing observer fund	550,000	400,000	400,000	400,000	400,000	-150,000
Total, National Oceanic and Atmospheric Administration	1,924,801,000	1,811,938,000	1,837,149,000	1,982,712,000	1,959,562,000	+34,761,000
General Administration						
Salaries and expenses	33,042,000	36,510,000	36,510,000	36,510,000	36,510,000	+3,468,000
Office of Inspector General	16,000,000	16,847,000	16,900,000	17,250,000	16,900,000	+900,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Working capital fund (by transfer)	(1,500,000)					(-1,500,000)
Total, general administration	49,042,000	53,357,000	53,410,000	53,760,000	53,410,000	+4,368,000
Bureau of the Census						
Salaries and expenses	128,286,000	146,816,000	141,272,000	135,000,000	136,000,000	+7,714,000
Periodic censuses and programs	110,000,000	158,588,000	142,576,000	145,000,000	142,576,000	+32,576,000
Total, Bureau of the Census	238,286,000	305,404,000	283,848,000	280,000,000	278,576,000	+40,290,000
Economic and Statistical Analysis						
Salaries and expenses	45,220,000	54,276,000	46,615,000	46,937,000	46,937,000	+1,717,000
Economics and statistics administration revolving fund		1,677,000	1,677,000	1,677,000	1,677,000	+1,677,000
International Trade Administration						
Operations and administration	248,590,000	261,790,000	266,723,000	262,000,000	266,450,000	+17,860,000
Export Administration						
Operations and administration	34,747,000	43,122,000	38,823,000	36,181,000	38,823,000	+4,076,000
Minority Business Development Agency						
Minority business development	41,600,000	44,839,000	42,428,000	44,000,000	43,900,000	+2,300,000
United States Travel and Tourism Administration						
Salaries and expenses	17,120,000	17,907,000	14,907,000	17,907,000	16,407,000	-713,000
Proposed fees, offsetting receipts	-3,000,000	-3,000,000		-3,000,000		+3,000,000
Patent and Trademark Office						
Salaries and expenses	88,329,000		88,329,000	75,000,000	83,000,000	-5,329,000
Loss of offsetting receipt		107,000,000				
Technology Administration						
Salaries and expenses	5,700,000	11,237,000	10,000,000	11,237,000	10,000,000	+4,300,000
National Technical Information Service						
NTIS revolving fund		18,000,000	12,000,000		8,000,000	+8,000,000
National Telecommunications and Information Administration						
Salaries and expenses	19,927,000	22,122,000	21,056,000	20,981,000	20,981,000	+1,054,000
Public broadcasting facilities, planning and construction	24,000,000	10,742,000	26,000,000	30,000,000	29,000,000	+5,000,000
Endowment for Children's Educational Television	1,000,000	1,006,000	2,500,000	2,500,000	2,500,000	+1,500,000
Information infrastructure grants	26,000,000	99,968,000	70,000,000	52,000,000	64,000,000	+38,000,000
Total, National Telecommunications and Information Administration	70,927,000	133,838,000	119,556,000	105,481,000	116,481,000	+45,554,000
Economic Development Administration						
Economic development assistance programs	322,642,000	327,024,000	338,524,000	412,196,000	408,024,000	+85,382,000
Economic development guaranteed loans		50,000,000				
(Limitation on guaranteed loans)		(269,000,000)				
Administrative expenses		1,976,000				
Salaries and expenses	28,000,000	32,539,000	32,205,000	36,000,000	32,205,000	+4,205,000
Total, Economic Development Administration	350,642,000	411,539,000	370,729,000	448,196,000	440,229,000	+89,587,000
Total, title II, Department of Commerce	3,632,214,000	4,207,710,000	4,030,260,000	4,240,756,000	4,218,138,000	+585,924,000
(By transfer)	(56,300,000)	(55,500,000)	(55,500,000)	(55,500,000)	(55,500,000)	(-800,000)
TITLE III - THE JUDICIARY						
Supreme Court of the United States						
Salaries and expenses:						
Salaries of justices	1,616,000	1,657,000	1,657,000	1,657,000	1,657,000	+41,000
Other salaries and expenses	21,384,000	22,666,000	22,500,000	22,666,000	22,583,000	+1,199,000
Total, salaries and expenses	23,000,000	24,323,000	24,157,000	24,323,000	24,240,000	+1,240,000
Care of the building and grounds	2,850,000	3,080,000	3,000,000	3,045,000	3,000,000	+150,000
Total, Supreme Court of the United States	25,850,000	27,403,000	27,157,000	27,368,000	27,240,000	+1,390,000
United States Court of Appeals for the Federal Circuit						
Salaries and expenses:						
Salaries of judges	1,727,000	1,758,000	1,758,000	1,758,000	1,758,000	+31,000
Other salaries and expenses	11,173,000	12,880,000	11,680,000	11,604,000	11,680,000	+507,000
Total, salaries and expenses	12,900,000	14,638,000	13,438,000	13,362,000	13,438,000	+538,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
United States Court of International Trade						
Salaries and expenses:						
Salaries of judges	1,331,000	1,385,000	1,385,000	1,385,000	1,385,000	+54,000
Other salaries and expenses	9,669,000	10,380,000	10,300,000	10,380,000	10,300,000	+631,000
Total, salaries and expenses	11,000,000	11,765,000	11,685,000	11,765,000	11,685,000	+685,000
Courts of Appeals, District Courts, and Other Judicial Services						
Salaries and expenses:						
Salaries of judges	172,131,000	172,590,000	172,590,000	172,590,000	172,590,000	+459,000
Salaries of Bankruptcy judges		47,838,000	47,838,000	47,838,000	47,838,000	+47,838,000
Other salaries and expenses	1,996,669,000	2,256,265,000	2,103,027,000	2,188,890,000	2,119,699,000	+123,030,000
Offsetting fee collections	-12,800,000					+12,800,000
Direct appropriation	2,156,000,000	2,476,693,000	2,323,455,000	2,409,318,000	2,340,127,000	+184,127,000
Vaccine Injury Compensation Trust Fund	2,160,000	2,250,000	2,250,000	2,250,000	2,250,000	+90,000
Defender services	277,000,000	290,263,000	250,000,000	250,000,000	250,000,000	-27,000,000
Fees of jurors and commissioners	77,096,000	74,071,000	62,892,000	58,000,000	59,346,000	-17,748,000
Court security	86,000,000	97,532,000	97,000,000	97,532,000	97,000,000	+11,000,000
Total, Courts of Appeals, District Courts, and Other Judicial Services	2,598,256,000	2,940,829,000	2,735,397,000	2,816,100,000	2,748,723,000	+150,468,000
Administrative Office of the United States Courts						
Salaries and expenses	44,900,000	48,804,000	46,500,000	47,734,000	47,500,000	+2,600,000
Federal Judicial Center						
Salaries and expenses	18,450,000	19,739,000	18,828,000	19,739,000	18,828,000	+378,000
Judicial Retirement Funds						
Payment to Judiciary Trust Funds	20,545,000	35,375,000	28,475,000	28,475,000	28,475,000	+7,930,000
United States Sentencing Commission						
Salaries and expenses	8,468,000	9,200,000	8,468,000	9,200,000	8,800,000	+332,000
Total, title III, the Judiciary	2,740,368,000	3,107,753,000	2,869,948,000	2,972,743,000	2,904,689,000	+164,321,000
TITLE IV - RELATED AGENCIES						
DEPARTMENT OF TRANSPORTATION						
Maritime Administration						
Operating-differential subsidies (liquidation of contract authority)	(240,870,000)	(214,356,000)	(214,356,000)	(214,356,000)	(214,356,000)	(-26,514,000)
Operations and training	76,423,000	76,969,000	76,100,000	78,000,000	76,100,000	-323,000
Ready reserve force:						
Maintenance, operations and facilities	138,000,000	250,000,000	179,415,000	138,000,000	150,000,000	+12,000,000
Fleet addition	160,000,000					-160,000,000
Rescission			-27,000,000	-158,000,000	-158,000,000	-158,000,000
Total, ready reserve force	298,000,000	250,000,000	152,415,000	-20,000,000	-8,000,000	-306,000,000
Maritime Guaranteed Loan Program Account:						
Guaranteed loans subsidy		50,000,000	25,000,000	25,000,000	25,000,000	+25,000,000
(Limitation on guaranteed loans)		(500,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(+250,000,000)
Administrative expenses		4,000,000	2,000,000	2,000,000	2,000,000	+2,000,000
Total, Maritime guaranteed loan program account		54,000,000	27,000,000	27,000,000	27,000,000	+27,000,000
Total, Maritime Administration	374,423,000	380,969,000	255,515,000	85,000,000	95,100,000	-279,323,000
Commission on Immigration Reform						
Salaries and expenses	618,000	1,494,000	1,494,000	1,894,000	1,894,000	+1,276,000
(By transfer)	(500,000)					(-500,000)
Commission on Security and Cooperation in Europe						
Salaries and expenses	1,099,000	1,090,000	1,090,000	1,090,000	1,090,000	-9,000
Competitiveness Policy Council						
Salaries and expenses	1,140,000	1,140,000	1,000,000	1,000,000	1,000,000	-140,000
Marine Mammal Commission						
Salaries and expenses	1,290,000	1,384,000	1,320,000	1,384,000	1,384,000	+94,000
Martin Luther King, Jr. Federal Holiday Commission						
Salaries and expenses	500,000	300,000	300,000	300,000	300,000	-200,000
Office of the United States Trade Representative						
Salaries and expenses	21,150,000	20,949,000	20,949,000	20,949,000	20,949,000	-201,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Small Business Administration						
Budget Authority	258,900,000	252,199,000	268,250,000	259,818,000	267,525,000	+8,625,000
Offsetting fee collections		-26,350,000	-9,350,000	-26,350,000	-9,350,000	-9,350,000
Direct appropriation	258,900,000	225,849,000	258,900,000	233,468,000	258,175,000	-725,000
Office of Inspector General	7,962,000	8,452,000	8,500,000	8,500,000	8,500,000	+538,000
Business Loans Program Account:						
Direct loans subsidy	16,946,000		8,500,000	9,221,000	9,596,000	-7,350,000
Guaranteed loans subsidy	191,941,000	310,161,000	287,419,000	245,927,000	274,439,000	+82,498,000
Micro loan guarantees		7,906,000	3,648,000	1,216,000	1,216,000	+1,216,000
Section 503. prepayment		30,000,000	30,000,000	30,000,000	30,000,000	+30,000,000
Administrative expenses	94,737,000	97,484,000	97,000,000	97,000,000	97,000,000	+2,263,000
Total, Business loans program account	303,624,000	445,551,000	426,567,000	383,364,000	412,251,000	+108,627,000
Disaster Loans Program Account:						
Direct loans subsidy		52,153,000	52,153,000	52,153,000	52,153,000	+52,153,000
Emergency supplemental appropriations	254,750,000					-254,750,000
Administrative expenses	76,101,000	78,308,000	78,000,000	78,000,000	78,000,000	+1,899,000
Emergency supplemental appropriations	55,000,000					-55,000,000
Subtotal	385,851,000	130,461,000	130,153,000	130,153,000	130,153,000	-255,698,000
Contingency fund	(140,000,000)		(125,000,000)	(125,000,000)	(125,000,000)	(-15,000,000)
Surety bond guarantees revolving fund	7,000,000	5,369,000	5,369,000	5,369,000	5,369,000	-1,631,000
Total, Small Business Administration	963,337,000	815,682,000	829,489,000	760,854,000	814,448,000	-148,889,000
Thomas Jefferson Commemoration Commission						
Salaries and expenses	62,000					-62,000
Legal Services Corporation						
Payment to the Legal Services Corporation	400,000,000	500,000,000	415,000,000	400,000,000	415,000,000	+15,000,000
Total, title IV, related agencies	1,763,619,000	1,723,008,000	1,526,157,000	1,272,471,000	1,351,165,000	-412,454,000
(Liquidation of contract authority)	(240,870,000)	(214,356,000)	(214,356,000)	(214,356,000)	(214,356,000)	(-26,514,000)
TITLE V - DEPARTMENT OF STATE AND RELATED AGENCIES						
DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Diplomatic and consular programs	1,704,589,000	1,780,439,000	1,700,200,000	1,780,439,000	1,731,416,000	+26,827,000
Registration fees	665,000	700,000	700,000	700,000	700,000	+35,000
Total	1,705,254,000	1,781,139,000	1,700,900,000	1,781,139,000	1,732,116,000	+26,862,000
Salaries and expenses	396,722,000	391,373,000	385,000,000	391,373,000	385,000,000	-11,722,000
Office of Inspector General	23,469,000	23,798,000	23,850,000	23,850,000	23,850,000	+381,000
Representation allowances	4,780,000	4,780,000	4,780,000	4,780,000	4,780,000	
Protection of foreign missions and officials	10,551,000	8,579,000	9,579,000	9,579,000	9,579,000	-972,000
Acquisition and maintenance of buildings abroad	410,000,000	421,760,000	396,000,000	421,760,000	421,760,000	+11,760,000
Emergencies in the diplomatic and consular service	7,805,000	6,500,000	6,500,000	6,500,000	6,500,000	-1,305,000
Repatriation Loans Program Account:						
Direct loans subsidy	593,000	593,000	593,000	593,000	593,000	
(Limitation on direct loans)	(741,000)	(741,000)	(741,000)	(741,000)	(741,000)	
Administrative expenses	183,000	183,000	183,000	183,000	183,000	
Total, Repatriation loans program account	776,000	776,000	776,000	776,000	776,000	
Payment to the American Institute in Taiwan	15,165,000	15,465,000	15,465,000	15,465,000	15,465,000	+300,000
Payment to the Foreign Service Retirement and Disability Fund	125,084,000	129,321,000	129,321,000	129,321,000	129,321,000	+4,237,000
Total, Administration of Foreign Affairs	2,699,606,000	2,783,491,000	2,672,171,000	2,784,543,000	2,729,147,000	+29,541,000
International Organizations and Conferences						
Contributions to international organizations, current year assessment	860,885,000	873,222,000	873,222,000	873,222,000	873,222,000	+12,337,000
Arrearage payments accumulated before FY 1994		40,719,000	40,719,000		4,000,000	+4,000,000
Total	860,885,000	913,941,000	913,941,000	873,222,000	877,222,000	+16,337,000
Contributions for international peacekeeping activities, current year assessment	401,607,000	222,212,000	222,212,000	222,212,000	222,212,000	-179,395,000
Arrearage payments accumulated in FY 1994		288,000,000	288,000,000	254,696,000	288,000,000	+288,000,000
Arrearage payments accumulated before FY 1994		23,092,000	23,092,000	23,092,000	23,092,000	+23,092,000
Total	401,607,000	533,304,000	533,304,000	500,000,000	533,304,000	+131,697,000
International conferences and contingencies	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	
Total, International Organizations and Conferences	1,268,492,000	1,453,245,000	1,453,245,000	1,379,222,000	1,416,526,000	+148,034,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
International Commissions						
International Boundary and Water Commission, United States, and Mexico:						
Salaries and expenses	11,200,000	15,358,000	13,947,000	12,858,000	12,858,000	+1,658,000
Construction	14,400,000	10,396,000	6,644,000	7,733,000	6,644,000	-7,756,000
American sections, international commissions	4,290,000	7,561,000	5,800,000	5,800,000	5,800,000	+1,510,000
International fisheries commissions	16,200,000	14,669,000	14,669,000	14,669,000	14,669,000	-1,531,000
Total, international commissions	46,090,000	47,986,000	41,060,000	41,060,000	39,971,000	-6,119,000
Other						
United States Bilateral Science and Technology Agreements	4,275,000					-4,275,000
Payment to the Asia Foundation	16,000,000	16,088,000	15,000,000	15,000,000	10,000,000	-6,000,000
Total, other	20,275,000	16,088,000	15,000,000	15,000,000	10,000,000	-10,275,000
Total, Department of State	4,034,463,000	4,300,790,000	4,181,476,000	4,219,825,000	4,195,644,000	+161,181,000
RELATED AGENCIES						
Arms Control and Disarmament Agency						
Arms control and disarmament activities	53,500,000	61,195,000	54,500,000	54,500,000	54,500,000	+1,000,000
Board for International Broadcasting						
Grants and expenses 2/	210,000,000					-210,000,000
Commission for the Preservation of America's Heritage Abroad						
Salaries and expenses	200,000	206,000	206,000	206,000	206,000	+6,000
International Trade Commission						
Salaries and expenses	43,500,000	44,857,000	44,200,000	43,500,000	42,500,000	-1,000,000
Japan - United States Friendship Commission						
Japan - United States Friendship Trust Fund	1,250,000	1,247,000	1,247,000	1,000,000	1,247,000	-3,000
(Foreign currency appropriation)	(1,420,000)		(1,420,000)	(1,420,000)	(1,420,000)	
United States Information Agency						
Salaries and expenses	728,000,000	494,882,000	476,362,000	480,362,000	476,362,000	-251,638,000
Office of Inspector General	4,247,000	4,247,000	4,300,000	4,300,000	4,300,000	+53,000
Educational and cultural exchange programs	241,150,000	221,812,000	237,812,000	242,388,000	238,279,000	-2,871,000
Eisenhower Exchange Fellowship Program, trust fund	300,000	300,000	2,400,000	2,800,000	2,800,000	+2,500,000
Israeli Arab scholarship program	159,000	397,000	397,000	397,000	397,000	+238,000
International Broadcasting Operations 3/		536,078,000	476,796,000	475,478,000	468,796,000	+468,796,000
Radio construction	73,164,000	99,271,000	85,314,000	93,165,000	85,314,000	+12,150,000
Radio Free Asia:						
Operations				10,000,000	10,000,000	+10,000,000
Facilities				8,000,000		
(By transfer)			(10,000,000)			
Broadcasting to Cuba				24,809,000	24,809,000	+24,809,000
Radio Marti	14,000,000		8,825,000			-14,000,000
Television Marti	7,000,000					-7,000,000
East-West Center	26,000,000	24,500,000	20,500,000	24,500,000	24,500,000	-1,500,000
North/South Center	7,700,000		5,000,000		4,000,000	-3,700,000
National Endowment for Democracy	35,000,000	45,000,000	33,000,000	35,000,000	34,000,000	-1,000,000
Total, United States Information Agency	1,136,720,000	1,428,467,000	1,350,508,000	1,401,199,000	1,373,557,000	+236,837,000
Total, related agencies	1,445,170,000	1,536,772,000	1,450,659,000	1,500,405,000	1,472,010,000	+26,840,000
Total, title V, Department of State and related agencies	5,479,633,000	5,836,562,000	5,632,135,000	5,720,230,000	5,667,654,000	+188,021,000
TITLE VI - GENERAL PROVISIONS						
Procurement: General Provisions		-39,052,000	-39,052,000	-39,052,000	-39,052,000	-39,052,000
Procurement: General Provisions (Function 150)		-7,128,000	-7,128,000	-7,128,000	-7,128,000	-7,128,000
Total, title VI, general provisions		-46,180,000	-46,180,000	-46,180,000	-46,180,000	-46,180,000
TITLE VII - SUPPLEMENTAL APPROPRIATIONS, FY 1994						
CHAPTER I - EMERGENCY APPROPRIATIONS						
DEPARTMENT OF COMMERCE						
Economic Development Administration						
Economic Development Assistance Programs:						
Assistance programs				50,000,000	50,000,000	+50,000,000
Salaries and expenses				5,000,000	5,000,000	+5,000,000
Total, Economic Development Assistance Program				55,000,000	55,000,000	+55,000,000

COMMERCE-JUSTICE-STATE-JUDICIARY APPROPRIATIONS BILL, FY 1995 (H.R. 4603), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Small Business Administration						
Disaster Loans Program Account:						
Direct loans subsidy		250,000,000	265,000,000	335,000,000	335,000,000	+335,000,000
Administrative expenses		150,000,000	135,000,000	135,000,000	135,000,000	+135,000,000
Total, Small Business Administration		400,000,000	400,000,000	470,000,000	470,000,000	+470,000,000
DEPARTMENT OF TRANSPORTATION						
Federal Highway Administration						
Federal-aid highways (Highway Trust Fund):						
Emergency relief program		-400,000,000	-400,000,000	-400,000,000	-400,000,000	-400,000,000
Total, emergency appropriations				125,000,000	125,000,000	+125,000,000
CHAPTER II						
DEPARTMENT OF STATE						
International Organizations and Conferences						
Contributions for international peacekeeping activities, arrearage payments accumulated in FY94		670,000,000	670,000,000	670,000,000	670,000,000	+670,000,000
Total, title VII, Supplemental, FY 1994		670,000,000	670,000,000	795,000,000	795,000,000	+795,000,000
TITLE VIII - VIOLENT CRIME CONTROL APPROPRIATIONS ACT, 1994						
Crime trust fund 4/						
Scorekeeping adjustments		-34,255,000	-34,255,000	-34,255,000	-34,255,000	-34,255,000
Grand total	23,710,631,000	28,400,582,000	27,202,230,000	26,001,886,000	27,633,356,000	+3,922,725,000
Fiscal year 1994		(670,000,000)	(670,000,000)	(795,000,000)	(795,000,000)	(+795,000,000)
Fiscal year 1995	(23,710,631,000)	(27,730,582,000)	(26,532,230,000)	(27,206,886,000)	(26,838,356,000)	(+3,127,725,000)
Appropriations	(23,710,631,000)	(24,957,582,000)	(24,136,230,000)	(24,850,386,000)	(24,651,356,000)	(+940,725,000)
Rescission			(-27,000,000)	(-158,000,000)	(-158,000,000)	(-158,000,000)
Crime trust fund		(2,773,000,000)	(2,423,000,000)	(2,514,500,000)	(2,345,000,000)	(+2,345,000,000)
(By transfer)	(57,300,000)	(55,500,000)	(65,500,000)	(405,500,000)	(55,500,000)	(-1,800,000)
(Limitation on administrative expenses)	(3,395,000)	(3,463,000)	(3,463,000)	(3,463,000)	(3,463,000)	(+68,000)
(Limitation on direct loans)	(741,000)	(741,000)	(741,000)	(741,000)	(741,000)	
(Liquidation of contract authority)	(240,870,000)	(214,356,000)	(214,356,000)	(214,356,000)	(214,356,000)	(-26,514,000)
(Foreign currency appropriation)	(1,420,000)		(1,420,000)	(1,420,000)	(1,420,000)	

1/ The State Justice Institute is authorized to submit its budget directly to Congress. The President's request includes $1,250,000 for the Institute.

2/ $256,708,000 is included in USIA, International Broadcasting Operations for transfer to the Board for International Broadcasting.

3/ Includes $243,761,000 for VOA S&E, $10,000,000 for Radio Free Asia, $27,509,000 for Broadcasting to Cuba and $256,708,000 to be transferred to the Board for International Broadcasting.

4/ See Title I, Department of Justice; total appropriations is $2,345,000,000.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, let me open by again saying how much we appreciate the work of the new chairman of this subcommittee. This was Chairman MOLLOHAN'S maiden voyage, and this is, we hope, the terminal of that, terminus of that great voyage. He encountered so many icebergs along the way and so many gale-force winds blowing, swirling around on this bill this time that it is remarkable that we are where we are at this moment.

He did a masterful job, and we thank him for his patience and perseverance and his willingness to listen and to take constructive advice from time to time, although he was in charge of this ship, and the command post was his alone. But he was able to let many of us in to give him constructive advice from time to time, and that went across the aisle on his side and mine as well.

So I commend Chairman MOLLOHAN for a tremendous job. He came in here almost cold on this bill, and immersed himself and staff for weeks on end in order to bring us to where we are.

And like the chairman, I want to thank the other members of the subcommittee on both sides of the aisle who have been constructive and helpful and who all have a part of this bill and, of course, the staff that has been mentioned, both majority and minority staff. On our side, Jennifer and Liz have been, of course, especially helpful to us, and the majority staff of the committee has been likewise very, very helpful.

Mr. Speaker, I am in strong support of the report. This conference agreement provides $26.8 billion in budget authority. That is a $3.4 billion increase over 1994, but of that increase, 80 percent of it goes to fight the war on crime, the No. 1 problem in the country and the No. 1 priority in this bill. Mr. Speaker, this may very well be the crime bill this year. I certainly hope it is. I think the crime bill that has been in the news in the last few days is an abomination, but this bill provides essential, direct-line crime fighting moneys to the core agencies, the FBI, the Drug Enforcement Administration, the Border Patrol, prison guards, and those people who are on the front lines of the war on crime.

This bill brings those agencies up to historically high levels of 1992. For the Department of Justice, the conference agreement provides $12.2 billion. That is a 30-percent increase over last year and $161 million over the House-passed bill.

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Mr. Speaker, I am very pleased to report that this conference agreement specifically rejects the Clinton administration's attempts to cut Federal law enforcement. For the FBI, not only did we restore the 436 FBI agents the administration has cut over the last 2 years, we provided funds to redeploy another 300 agents to the front lines. So this puts 736 more agents on the street, bringing the FBI above their peak agent strength in 1992.

Now I want to repeat again that the budget request the administration sent to us for the FBI would have required further laying off the FBI agents, as they have forced us to do over the last 2 years.

We reject that and in fact increase FBI.

Same for the Drug Enforcement Administration. We restore the 311 special agents the administration has cut over the last 2 years, and we bring DEA, or the Drug Enforcement Administration, back to their 1992 peak strength.

Prisons: This agreement will allow 24 more prisons to be opened and 11 more facilities to be built or expanded. This is a real crime bill, Mr. Speaker.

On our borders, the conference agreement includes almost $300 million for a major immigration initiative, including an almost 1,000 more border Patrol agent force on the front lines guarding our borders. That is on top of the 600 new agents we provided last year.

For our State and local law enforcement efforts, we have $1.3 billion to put more cops on the street, $100 million to help States update and improve their criminal records.

We rejected the administration's proposal to cut the Byrne Formula Grant Program and instead gave it a 26-percent increase. That is money to State and local law enforcement agencies.

For other agencies in the bill, Commerce, Judiciary, State Department, we were also able to do a little better than the House-passed bill, but not much.

Mr. Speaker, this conference report is a tough crime bill. Within tight budget constraints it puts the emphasis where it belongs, putting cops on the street. This is not just talk, this is action. We increase FBI. We increase the lawyers out there fighting drugs, Drug Enforcement Administration, and we build more prisons to put more prisoners away.

This is a good bill. I urge support for it.

Mr. Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank the distinguished chairman of the subcommittee for allowing me to have a few minutes here.

Mr. Speaker, I rise in support of the Commerce, Justice, and State appropriations conference report and I commend the gentleman from West Virginia and the conferees for their efforts.

I am pleased with the substance of the bill as it pertains to programs in the jurisdiction of the Committee on Science, Space, and Technology. I am gratified that is not overburdened with efforts to bypass the proper authorizing committees with inappropriate legislative language. I wish I could say that the bill is free of earmarks, but I cannot—a point I will return to later.

The conferees have produced a bill that is fundamentally responsive to the administration's requests for substantial increases in technology investment programs. Increasingly, economists and other public policy analysts have come to recognize that arguments for Government support of research and development activities apply not only to basic research but also farther down the R&D scale toward commercial development. R&D investments like those in the advanced technology program, for example, are critical to raising the Nation's productivity and standard of living, yet they all too often are singled out for reduction or elimination by zealous deficit cutters who overlook their longer term payoffs in order to achieve short term budget savings.

This did not happen in this conference report. Instead, funding for the National Institute of Standards and Technology was increased 64 percent over last year's level, to $855 million.

I am also pleased that the committee was able to increase funding for NOAA operations, research, and facilities above the fiscal year level in a tight budget environment. But I want to mention an item of particular concern contained in the statement of managers related to the Department of Commerce's plan to modernize our Nation's weather system. The statement of managers includes language intended to mandate the installation of an advanced weather radar system, called Nexrad, in Jackson, KY.

Since the proposal was made in 1988 to modernize the national weather radar system, the Committee on Science, Space, and Technology has maintained an active interest in ensuring that all areas of the country receive the benefits of this program and suffer no degradation of service. Congress passed Public Law 102–567, the Weather Service Modernization Act, to ensure that the administration carried out a fair and technically sound implementation program. Just last month, the committee held hearings in Huntsville, AL, to review this issue.

As a result of those hearings, the committee has asked the Secretary of Commerce to commission an independent review of certain areas of the country which may not receive adequate coverage under the current National Weather Service plan. Legislation guiding that review will be introduced shortly. I believe that the question of coverage in eastern Kentucky as well as six or seven other geographic areas is serious enough that it deserves an independent technical review by knowledgeable experts. The issues are complex and, I might say, beyond the technical capabilities of the conferees on this bill. It may well be that after a thorough technical review, it would be appropriate to procure and site several additional Nexrad radars in affected areas of the country.

I have been approached by many well-meaning Members who have made similar claims and have similar concerns for their districts. Yet, I believe that the only responsible approach is one in which a serious examination of the data and the technical factors is carried out. The language in the statement of managers on page 57 of the conference report undercuts the intent of this review.

I want to remind the Secretary of Commerce that this report language is not binding and should not override Public Law 102-567.

I would be happy to have the proponent of this language join with us in calling for a fair, technically credible, and independent review of his situation. He is not alone in his concern and I will ensure that eastern Kentucky is made a part of this review.

Finally, as Members know, I remain concerned about the level of academic earmarking effected through our appropriations bills and reports. This bill comes back from conference with several new earmarks, and the House and Senate reports contain many more. Although the number and cost of earmarks in this appropriations bill and its associated reports is about the same range as last year, and down substantially from a few years ago when I and other members of the Science Committee first began addressing the problem, I am disappointed that we have not made further progress. I include a chart showing those earmarks we have been able to identify.

Cabinet Secretaries should remember—and I know the distinguished chairman of the Commerce, Justice, and State Appropriations Subcommittee would join me on this point—that report language is not binding upon their Departments. None of us here on the floor can offer amendments to that language, nor do we vote on it. Report language does not represent the law of the land, nor is it explicitly or implicitly endorsed by the House when we vote in favor of passage of the conference report.

Despite my concerns about these earmarks, Mr. Speaker, I believe that, on balance, this is good report. I urge all Members to support it.

The chart referred to is as follows:

Academic Earmarks Commerce, Justice, State, Judiciary and related agencies appropriations bill, 1995

Agency—school	*Amount*
In the bill	
Commerce:	
Florida State University—construction of a meteorological sciences building	(1)
Rutgers University—Multispecies Aquaculture Center	$3,500,000
Indiana State University—Center of Interdisciplinary Research and Education	5,200,000
Saint Francis College & Saint Vincent College—Center for Global Competitiveness	1,200,000
Wheeling Jesuit College—Minority Apprenticeship Program in Technology Management	600,000
Savannah State College—U.S.-African Trade and Technology Center	200,000
SBA:	
University of Arkansas, Fayetteville—Genesis Small Business Incubator Facility	1,000,000
Seton Hill College—Center for Entrepreneurial Opportunity	1,000,000
Hazard Community College—Small Business Consulting, Information & Assistance Center	1,000,000
University of Central Arkansas—National Data Center Small Business Institute	200,000
Total	13,900,000
In the reports	
Justice:	
University of Arkansas, Little Rock—a National Rural Law Enforcement Center for rural crime research	(1)
Lamar University, TX—instructional facility for criminal justice, drug treatment and correctional education	(1)
FCC:	
Rutgers University—wireless information network subscription	30,000
Commerce:	
University of Maryland—Chesapeake Bay observation buoys	400,000
University of Scranton's National Institute for Environmental Renewal—pollution affecting the Chesapeake Bay	500,000
University of Miami's Rosenstiel School of Marine and Atmospheric Sciences—oil spill research	800,000
Southeast Consortium on Severe Tornadoes and Thunderstorms—Florida State University; Georgia Institute of Technology; North Carolina State University; and Univ of AL, Huntsville	400,000
University of Miami—SE US/Caribbean FOCI (marine research)	450,000
University of North Dakota—agricultural weather information initiative	300,000
University of South Carolina's Baruch Institute—small, high-salinity estuaries research	700,000
Oregon State University—Hatfield Marine Science Center	350,000
University of Alaska—Fishery observer training	300,000
University of Hawaii—Hawaii Stock management plan	500,000
Texas A&M University—Beluga whale committee	200,000
University of Hawaii—Hawaiian fisheries aquaculture technology	750,000
Oregon State University's Hatfield Marine Science Center—establish a groundfish unit	2,000,000
University of Nebraska at Lincoln—National Drought Mitigation Program	200,000
University of Southwestern Louisiana—interagency Estuarine Habitats Research Laboratory	11,000,000
Oregon State University's Hatfield Marine Science Center—wharf and support facilities	2,600,000
University of Alaska—Kodiak Fisheries Center	(1)
Oregon Graduate Institute—interactive computer-moderated dialog work	(1)
Wheeling Jesuit College—integrate resources of the National Technology Transfer Center with Technology Administration	(1)
University of New Mexico & University of CA, Los Angeles—Latin American data bases	1,500,000
New Mexico State University—U.S.-Mexico Conflict Resolution Center	500,000
University of Arizona—National Law Center for Inter-American Free Trade	500,000
Michigan and Canadian universities—International Center for Study of Canadian-American Trade	300,000

Agency—school	*Amount*
University of Miami—North/South Center	4,000,000
Total	28,280,000
Grand total, bill and reports	42,180,000

[1] Unspecified.

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. KOLBE], a very hard-working member of our subcommittee, who has been of immeasurable help to us.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding this time to me and for his kind comments.

Mr. Speaker, I rise in strong support of the fiscal year 1995 Commerce, Justice, State, and Judiciary bill. I commend the new chairman of our subcommittee, the gentleman from West Virginia [Mr. MOLLOHAN], for his leadership and judgment in steering his first bill through the subcommittee. I would also like to thank the ranking Republican, the gentleman from Kentucky [Mr. ROGERS], for his guidance and leadership on this bill.

Mr. Speaker, this bill is the real McCoy—a genuine crime bill. The focus of this crime bill is making our streets safer, making our borders more secure, locking up more criminals. It's tough on criminals and sends a message that Americans are serious about fighting the scourge of crime in America.

While Congress debates the politics of crime in another bill that bears the label "crime bill," this is legislation that in a quiet, unassuming way goes after the problem that confronts law-abiding Americans everyday. This is a bill that walks tall against crime and carries a big stick; the other crime bill beats its chest, but carries heaping platefuls of lard. So today we have an opportunity to pass a meaningful crime bill.

Eighty percent of the bill's increase, $2.8 billion, is for crime fighting initiatives. A total of 736 more FBI agents will be on the front lines to fight crime after this bill becomes law. This will restore the level of agents to its peak 1992 level—the level that existed before the administration began its 2-year assault on FBI staffing levels.

The Drug Enforcement Administration will also see its numbers restored to its peak 1992 level—before the administration took the meat ax to this important crime fighting agency. Your vote today gives DEA a $37 million increase over President Clinton's budget submission.

The bill makes a clear policy statement that we are serious about securing our borders. It does this by increasing fiscal year 1994 levels for INS by $310 million. There is $55 million in this bill to hire 700 new Border Patrol agents and deploying 250 additional agents to the front lines. There is $117 million to provide for technology enhancement to help in the struggle to protect our borders.

Put all these numbers together and you have 950 additional agents on our southern border to help make it safer and more secure. The 950 new agents, according to INS, will enable them to implement the highly successful El Paso model with high-intensity, line-of-sight, operations.

The bill, at long last, also recognizes that cost associated with illegal immigration are a Federal responsibility. For the first time since it was authorized 7 years ago, we have included funds for the State criminal alien assistance program. This fund reimburses States for the cost of incarcerating illegal aliens. Its high time—in fact, it is past time—that we acknowledge that illegal aliens in our communities are there because of a failure of Federal law enforcement—not because local governments brought them in. And it is time our national Government help State and Local governments with these skyrocketing and budget-breaking costs.

A total of $450 million is provided in the bill for the Byrne Formula Grant Program. This represents a 26-percent increase over last year and a 100-percent increase over the administration's request for this program. The Byrne formula grants have been of critical importance in targeting highly organized drug trafficking networks in States such as Arizona. The multijurisdictional task forces formed with funds from these grants have provided invaluable assistance in the war on crime.

Finally, this bill provides substantial funding to build more Federal prisons to keep more criminals where they belong—behind bars. There is an $89 million increase over the administration's request and $11 million more than last year for construction or expansion of 10 detention-prison facilities. Additionally, the bill provides $406 million additional to activate 24 new or expanded facilities coming on-line in fiscal year 1995.

We cannot fight the war on crime without resources. This bill provides some of the resources we need to make our communities safer. As the political battles continue on the other crime bill, we can all do our constituents a great service by supporting this bill and providing real help to our communities.

□ 1300

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I thank the gentleman from West Virginia [Mr. MOLLOHAN] for yielding this time to me, and I rise in strong support of this conference report, and I want to congratulate Chairman MOLLOHAN and the ranking member, the gentleman from Kentucky [Mr. ROGERS], for doing what I think is a remarkable job on a very, very complex bill with a tight budget; in fact, having to make some very tough priorities. I want to address on area in this bill. There is a lot to like in this bill. But I want to talk about disaster assistance.

My district, as well as many others in the southeast United States, particularly in Georgia, particularly in Florida, particularly in Alabama, and now, as it looks, South Carolina, North Carolina, and Virginia; we have major disaster needs that have to be met, and in that we have to recognize that the SBA ran out of money, as I understand it, last night. This bill is absolutely important to the recovery of those areas of the United States.

Just for some statistics: There were 33 deaths in Georgia, Alabama, and Florida; declared disaster counties, 43 in Georgia, 13 in Florida, and 10 in Alabama, just from Alberto, and now we are going back through and having to deal with the remnants of the disaster created by Beryl just last week. So, we are in a position of having to go through a rebuild.

I think it would be an absolute disaster, a second disaster, if we fail to put money in for SBA so they can help families suffering from the problems of these disasters, if we cannot get in the help them now. So, I urge my colleagues to declare this an emergency, declare this conference report an emergency for passage, and to work to make our constituents have a package where they can, in fact, recover, and in closing let me say my Governor of the State of Florida has very well made a statement about the problems we have in the moneys available in the emergency immigration fund. This bill contains $75 million that will help States like Florida, Texas, and California deal with the problems we have in that area as well.

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. TAYLOR], another hard working member of our subcommittee who has been of great importance to us.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to comment, first of all, on the hard work our chairman did in the very responsible effort in this legislation and our ranking member, the gentleman from Kentucky [Mr. ROGERS]. There are some things inside this legislation with which I cannot agree, but I do plan to support the bill and find a great majority of it supportable by me.

There is something amazing about to happen in this country, and I think we are taking a very serious step forward in combating crime in this country with little notice by the media or the people.

This step forward has been crafted in a bipartisan fashion by both Democrats and Republicans in the House and Senate that serve on the Commerce, State, Justice, and the Judiciary Appropriations Subcommittee.

The efforts we are making against crime are real and substantive insofar as Congress can make those efforts.

This conference report does not reduce funding for the Drug Enforcement Agency as the President wanted.

This conference report does not cut the FBI as the President wanted.

This conference report does not abolish capital punishment as the President wanted in his crime bill.

This bill does not eliminate the millions of dollars of support for local law enforcement efforts that comes from the Edward Byrne Formula Grant Program as the President's crime bill would.

This report will not release 16,000 drug pushers from Federal prison as the President's crime bill desires.

This report will not abolish mandatory minimum sentences for drug kingpins as the President's crime bill does.

This report does not weaken our second amendment rights with an "assault weapons" provisions that the police benevolent association in my State called "phoney." They know, as does a respected Member of this House, LEE HAMILTON, that real assault weapons are responsible for very few of the crimes in the country.

Many people recognize that the President's crime bill would list hundreds of sport guns as "assault weapons" even though few people would think of these guns as that today.

This report does not abolish mandatory sentences for the commission of a crime with a gun as this administration desires.

This report does not contain the "pork, posturing, and partisanship" of the President's crime bill, not even $10 million to selected colleges or universities.

What this report does do is increase funding for the FBI. It will allow the hiring of 400 new FBI agents, and the transfer of some 600 desk agents to the field.

This report increases funding for the DEA. The appropriation will allow the DEA to hire 300 new agents.

The increased funding for the FBI and DEA will allow them to hire up to their 1992 levels, making them more effective crime fighting tools.

This reporting increases funding for almost all areas within the Justice Department and the judiciary, from the U.S. Marshals Service to the courts of appeals, district courts, and other judicial services.

This report provides funds to activate 11 new or expanded prison facilities.

This report expands the Edward Byrne Formula Grant Program, which provides $450 million in assistance to State and local law enforcement agencies.

Programs funded by the Byrne Program include State and local prosecution initiatives; innovative programs that attack drug use and violent crime; and multijurisdictional programs, an example being State and local police officers working with State troopers.

The Byrne Program was targeted for elimination by the administration, but local law enforcement officers from all over the country and Members of Congress rallied in support of this Program because it's effective in fighting crime.

We not only continued the Program, but expanded its funding levels.

We also include $54.5 million for new Border Patrol agents.

This money will allow the Border Patrol to hire 700 new agents and transfer an additional 200 agents from their desks to the field. It also calls for the hiring of added support personnel.

This increased funding allows the Border Patrol to implement the same strategy in place in El Paso along the entire United States-Mexico border.

In El Paso, agents are stationed within eyesight of each other and keep a continuous watch on 20 miles of river and desert. It makes it extremely difficult to cross illegally without being spotted and few bother to try.

In addition to the Border Patrol increases, this report appropriates $130 million in assistance to the States to offset their high costs in jailing illegal aliens.

This report also includes $24.5 million for bootcamps, which keeps lesser offenders off the streets and our prisons less crowded.

We include $29 million for drug courts, permitting the swifter trials of drug offenders.

The report includes $26 million to combat violence against women, which will support battered women's shelters, promote rape-awareness education and establish a national family violence hotline.

In sum, Mr. Speaker, this conference report spends over $15 billion for crime prevention and the judiciary.

In prioritizing the needs and addressing the concerns of the people across this country and Members of Congress, we decided in a bipartisan manner not to fund the social spending initiatives that the President has promoted.

These include proposals that have been criticized on a bipartisan basis—like midnight basketball, interpretive dance classes, arts and crafts, and the like.

We had to go with proven methods of crime fighting and crime deterrence, and I believe we did the best possible job.

I urge the Members to support this legislation.

□ 1310

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Colorado [Mr. SKAGGS], a distinguished and hard-working member of our subcommittee.

Mr. SKAGGS. Mr. Speaker, this was the subcommittee's first year under the direction of Chairman MOLLOHAN. I would like to commend him for his leadership in working with the Senate to produce a report that provides funding for the country's crime-fighting, economic development, diplomatic, and myriad other needs under very tight budgetary constraints. Chairman MOLLOHAN deserves the appreciation of this House, and this report deserves its support. I also want to recognize the great and positive contributions of the gentleman from Kentucky [Mr. Rogers].

This conference report appropriates $26.9 billion for fiscal year 1995. That's an increase of $3.1 billion over last year. Most of that increase—$2.3 billion—is targeted to fund programs created under the proposed Violent Crime and Law Enforcement Act, the crime bill which I hope we will pass later this week. This increase notwithstanding, the bill is $900 million less than the administration requested.

One area in which I wanted to make further cost cuts was our broadcasts to Cuba. Our subcommittee had ended all funding for TV Marti. That decision was based on the results of an independent panel report which concluded that TV Marti is not being seen in Cuba. The conference, however, decided to provide $11.395 million for the program and included an extra $1.2 million to convert the broadcast from VHF to UHF, funds that were not even requested by the administration.

A year ago we set up a process that was intended to develop an objective basis for an assessment of TV Marti by the Director of USIA. We said then that TV Marti was to be kept on the air only if it was "consistently being received by a sufficient audience to warrant its continuation." The panel we authorized to examine the issue found that TV Marti was not getting through. "The Panel is able to state categorically that at present TV Marti's broadcasts are not consistently received by a substantial number of Cubans * * *. Whatever TV Marti's shortcomings, they are negligible compared to its inability to reach its intended audience." (Advisory Panel Report, p. 5.) The Panel also cited a survey conducted by the U.S. Interests Section in Havana late last year, which revealed "an unprompted viewing rate for TV Marti of zero and a prompted rate of four percent." (Advisory Panel Report, Appendix J.) By comparison, CNN had a better unprompted rate of 1 percent.

A reasonable person might have thought that the combination of these facts and the legal requirement in last year's conference report would produce a logical conclusion: shut down TV Marti and save $10 or $15 million a year. Amazingly, the Director of USIA chose to charge ahead, ignoring the fact that, for all practical purposes, TV

Marti has no viewing audience. I can only describe his decision as one in willful disregard of the facts and the law, and we should not be endorsing it. Sadly, the Senate did endorse it, and it has survived in conference.

Despite its own findings about viewing audience, the advisory panel went beyond what we authorized them to do and came up with the notion that it might help break through Castro's jamming if TV Marti switched from a VHF signal to UHF. Technical experts at the National Association of Broadcasters, Maximum Service Television, and the FCC have examined that idea and found it seriously defective. A UHF signal would actually degrade more than VHF over the distance involved, especially given the over-ocean atmospherics, and the technical means for jamming UHF are simpler and cheaper than VHF. Nonetheless, we are faced with a Senate bill that not only continues TV Marti, but increases funding for it, including money for the ill-conceived UHF option.

The argument is now offered up that, even though TV Marti is a technical flop and a no-show in the ratings, we must keep it on the air. To show the people of Cuba we care; to deny Castro what he would claim as a propaganda victory, and to have it available for our message when the inevitable overthrow of Castro occurs. Well, I think the Government is, and will continue, doing plenty to demonstrate that it cares about freedom in Cuba, even without TV Marti. We cannot afford to waste millions of tax dollars on empty symbolism. And it is clear from the U.S. interests section's own survey that the Cuban people have a wide range of alternative media and information sources available to them, including Radio Marti, which we can exploit when the time comes. So, these arguments for continuing TV Marti, notwithstanding the fact that nobody sees it, are unconvincing, to say the least.

The decision to go forward with TV Marti is a loss to the American taxpayers.

Even with this glaring defect, this bill is a good one overall, and I urge my colleagues to support it.

The House conferees were successful, however, in retaining provisions on improving where and how resources are spent in our operations abroad. Included in the conference report is language I authored directing the State Department to prepare a pilot program for colocating support services for U.S. missions overseas. Such a joint administrative operation already exists in Vienna, where one main center serves the various missions headquartered there, including the U.S. missions to the International Atomic Energy Agency and the Commission on Security and Cooperation in Europe. The result of replicating the Vienna model on a regional level will be increased efficiency and reduced expenses in future fiscal years.

We were also successful in improving the way in which we invest in our most important science and technology programs. Despite working under very tight spending caps, by being smarter in the way we allocate resources we were able to increase investment in important Department of Commerce research programs that are key to ensuring a strong and competitive economy in the future. Improving operations is critical to the success of the National Oceanic and Atmospheric Administration [NOAA], the National Institute of Standards and Technology [NIST], and the National Telecommunications and Information Administration [NTIA]. Many of these initiatives will help revitalize the American economy and improve the environment for generations to come.

I'm also pleased that we were able to restore funding for the Wind Profiler Demonstration Network, a network which NOAA has called an unqualified success. We've seen the human and economic costs of unexpected severe weather phenomena. It strikes me as unwise to shut down a system that's providing vital and accurate forecasting information.

The conference also provided a funding increase for NIST's Scientific and Technical Research Program, which represents NIST's core research function. This, coupled with an increase in funding for the Industrial Technology Services Program, will allow NIST to fund more of the research necessary to improve American industries' global competitiveness.

Funding for NTIA is vital to support the administration's efforts to help develop an information superhighway. NTIA is the lead agency working to make the information superhighway a reality. Our support for NTIA in this report will go a long way to making up for a decade of neglect of public telecommunication facilities.

We've also made critical investments in some basic programs that matter to every American every day. To answer the call for safer streets, we increased funding for three of the four Department of Justice programs that fight crime: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and Organized Crime Drug Enforcement. This means more agents in the field. These law-enforcement agencies are the backbone of the Federal anticrime effort. Their work bolsters State and local crime fighting efforts which increasingly have to extend beyond city and State lines.

Another thing we've done to assist local law enforcement is to enhance funding for the Edward Byrne Memorial Formula Grant Program. Byrne grants have proven a valuable resource for State law enforcement programs, such as drug and alcohol treatment and programs to divert youth away from criminal activities. The conference report includes $450 million for this valuable program. That's almost $100 million more than in fiscal year 1994, it will make a real difference in the ability of police departments to fight crime. For instance, in 1995 Colorado will receive $6.326 million in Byrne grants, an increase of more than $1 million over 1994 funding. That is a positive step in our fight against crime.

The report also includes funding for the National Institute of Corrections [NIC], which is located in Longmont, CO. The NIC is the national center where State correction departments can turn to for information on how to make their operations more efficient and cost-effective, and I am glad we were able to provide the funding they need to continue their excellent work.

I'd also like to say a little about funding for the Legal Services Corporation [LSC]. The $415 million included in the conference report is far less than LSC's $500 million request—and far less than it needs. One of the basic principles of our system of justice is that every American is entitled to a fair hearing in a court of law, and we have an obligation to provide legal representation to those who cannot afford it. The poor are entitled competent representation, and this is important in civil cases as it is in criminal. The LSC is an essential part of the effort to provide this assistance, I support their efforts, and I hope we will be able to provide more resources for this valuable program in the future.

In sum, Mr. Speaker, this conference report strikes a sound and realistic balance between needs and resources in the many important areas of responsibility and programs in the subcommittee's jurisdiction. I urge its adoption. And, once again, I thank the chairman for his excellent work.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY] a member of the full committee and a Member who has made an historic effort in obtaining the Radio Free Asia moneys, which are now in this bill, due to a great effort by the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I want to thank my distinguished colleague, the gentleman from Kentucky [Mr. ROGERS], the ranking minority Member on this committee, for yielding time, and for his leadership on the report. I would be remiss if I did not commend the leadership of the gentleman from West Virginia [Mr. MOLLOHAN] as chairman of the subcommittee in very recent times.

Mr. Speaker, I rise in support of the conference report on the fiscal year 1995 Commerce-Justice-State appropriations bill. Specifically, I want to draw Members attention to the fact that this bill provides first time funding for a Radio Free Asia broadcast service that is long overdue.

For decades, we successfully operated a Radio Free Europe and Radio Liberty service for Eastern Europe and the former Soviet Union. Through this service, we provided the truth to millions and millions of people who routinely were denied accurate information by their governments. There is no question that our radio broadcasts helped precipitate the downfall of the Iron Curtain and its Berlin Wall.

Unfortunately, for too long, we have been behind the curve in terms of targeting radio broadcasts to many critical regions of Asia where information is monopolized by regimes intent on keeping their citizens in the dark—in China, Burma, Vietnam, North Korea, Cambodia, Tibet, and Laos. Our international radio broadcasting is cost effective and is a very important tool in our diplomatic arsenal.

I would be remiss if I neglected to mention my disappointment that a Radio Free Asia broadcast service was not established several years ago because valuable time has slipped away. However, the important thing is that we are on the right track with this bill here today. The next important step in the process will rest with decisions made by the new Broadcasting Board of Governors and it is my hope that the appointment of these new members will receive priority attention from the White House, which supports the Radio Free Asia effort. I urge a "yes" vote.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume for two colloquies.

Mr. Speaker, I yield to the gentleman from Texas [Mr. ORTIZ] for a colloquy.

Mr. ORTIZ. Mr. Speaker, I rise to enter into a colloquy with the distinguished chairman of the Subcommittee on Commerce, Justice, State, and Judiciary.

Mr. Speaker, it is my understanding that if funds become available through limiting the National Undersea Research Program's national office duties to oversight of the regional centers and continuation of the Alvin Program, and if it is determined that it is feasible to establish an undersea research center in the Gulf of Mexico, then some of these savings may be used to fund such a center in the Gulf of Mexico.

Mr. MOLLOHAN. Yes, that is my understanding, consistent with the 1992 NOAA Authorization Act.

Mr. Speaker, I yield to the distinguished gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Chairman, the conference report provides NOAA $4.1 million out of the CZM fund for program support. Is it your view that this is an adequate amount for NOAA/OCRM administrative funding needs?

Mr. MOLLOHAN. Yes, it is.

Mr. HOCHBRUECKNER. So, in your view, it would be inappropriate for NOAA or OCRM to take any further administrative deduction out of the CZM fund in fiscal year 1995?

Mr. MOLLOHAN. Yes.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. DEUTSCH], a very active freshman Member.

Mr. DEUTSCH. Mr. Speaker, I rise today in support of the conference committee report, and particularly praise the conference committee for the funding of Radio and TV Marti. Today, south Florida, my district in particular, is threatened by actions that Castro is taking in Cuba. I think we are in a position today where we are ready for those actions, and part of the reason for that is because of Radio and TV Marti.

Castro has been killing his own people. We know that from other independent sources. And the people of Cuba know that because of Radio Marti. It is the most-listened-to station in Cuba today. We have factual, definite information about that.

Castro is an anachronism in this world today, an anachronism of a cold war era that does not exist except for 90 miles off our shore and in very limited places in the world. Both in the present and the future, it is a needed cause that I support, and praise the conferees for including it in the final report.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the very able and helpful ranking member on the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to thank the ranking member for yielding, because I will be speaking against this bill.

There is $27 million in totally unauthorized spending in this bill. Now, is this all pork? I do not know. Probably most of it is. Or, if some of it is good programs, it certainly should be local programs and not federally funded programs.

The unconscionable part of this and the reason I am calling attention to the Members, is that this is rolled in with really essential spending. There is an extension of SBA disaster spending in here. It is the entire SBA budget.

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This unauthorized spending is 15 percent of our salaries and expenses budget and 5 percent of our total budget. And it is totally unauthorized. I am probably not going to end this practice by calling attention to it today, but I would like to mention just one or two of these programs and see what they sound like to Members.

There is $500,000 for the Van Emmons Population Analysis Center in Pennsylvania; $1 million for the city of Prestonberg, KY, that is about the only explanation I have of that. There is $1.5 million for what is called a consortium in Buffalo, NY. There is a program in Bowling Green that would change garbage to a marketable product. And there is $500,000 for the New York City Public Library for construction.

There is $250,000 for the city of Espanola in New Mexico for a plaza of some sort.

I would urge Members to vote their conscience on this bill. It is a big bill. It is Commerce, State, Justice, all independent agencies. There is probably some good crime provisions in this bill. But I think personally I am going to vote "no" on this bill, because sooner or later, we have to begin to take a stand on unauthorized spending where nobody knows what it is for.

Mr. MOLLOHAN. Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a Member who has done more for TV and Radio Marti than most anybody I can think of.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman and commend him as well as the gentleman from West Virginia [Mr. MOLLOHAN] for their expert leadership on the multiple issues involved in this very positive legislation that is before the Congress in final form today.

I want to join my colleague, also from south Florida [Mr. DEUTSCH] who spoke earlier, commending the conference committee for having included full funding for radio and television broadcasting to Cuba. I think it is, especially at these times, in these times, more than ever, it is important to continue to inform the Cuban people about what is going on within their unfortunate and distressed island. It is important to be able to improve the technological ability of Television Marti, to penetrate Castro's jamming and reach a higher percentage of viewership in Cuba.

As the report of the panel created by this Congress just a year ago stated, it can be done. I am pleased that within this bill there is funding for the necessary technological, technical conversions required to significantly increase the television viewership of this program, as well as to maintain, of course, the overwhelming radio audience that our broadcasting has. At this time when it is so important to tell the Cuban people how unsafe it is to cross the Florida Straits, it is important also to let them know that they should maintain their hope that better times are coming, that freedom will soon arrive. And so these programs, now more than ever, are critical. And I commend the conference committee for having included them in this important and very positive conference committee report.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I would like to thank the chairman for yielding the time to me and also for his work.

I rise in support of the Commerce, State, and Justice conference report.

Like my colleague from Florida, I am particularly happy to see that we have not undone an investment that we have made in surrogate broadcasting to the people of Cuba. At this point in time in history, it would be the worst possible decision we could have made. As we face the possibility of Castro's unraveling in these final chapters, as we look at the question of communicating to the people of Cuba as it relates to the dangers of crossing the Florida straits, as it relates to these very same debates for which we have honest disagreements on this issue, as it relates to the tens of thousands of people 2 weeks ago who rose up in Havana against the Castro government, to communicate with the rest of the people on the island, this is the time, however, to take care of some of the concerns and to use our technology either through a C–130, through our satellite transmissions, through our ship-to-shore transmissions, by raising the level of technology of television Marti so that that investment can reach all of the people on the island of Cuba.

If we were able to do that, then, in fact, our investment would pay off, our investment in opening up a window for the people of Cuba who have a very closed society. That is what is at stake here. This time shows us how important it is to have such an opportunity to transmit to the people of Cuba. That is why it is very important that we include it in the conference report.

I think it is the right thing to do. We have now got to use our ability to transmit to permeate throughout the island.

I also want to thank the chairman for his work with us on Hispanic recruitment in the State Department. We have one of the worst records of any Federal department. I think we have made some efforts to bring that along.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the very able ranking Republican on the Committee on Science, Space, and Technology.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

I must admit that as I went down through this bill I became concerned about the same things that we have been raising with regard to the crime bill, and that is that there are so many things down in here that are particular projects that my have individual merit but, in many cases, are absolutely unauthorized and the money should not be spent.

For instance, in the SBA section of the bill, we find $750,000 for the North Carolina Biotechnology Center. We find $500,000 for a population analysis center in Towanda, PA. We find $1 million for the city of Prestonberg, KY. We find $375,000 for the Nebraska Micro Enterprise Initiative. We find $3 million for the National Center for Genome Resources in New Mexico, $1 billion for the Genesis Small Business Incubator Facility in Fayetteville, AR; $500,000 for the SBIR in Bozeman, MT; $1 million for the Center for Entrepreneurial Opportunity in Greensburg, PA.

I have just read 8 of the 25 unauthorized projects. It is not just in that section of the bill.

If we go into another section of the bill that covers NOAA, we find things like $2.5 million for a grant to Kansas City, MO, for the development of a weather and environment information and demonstration center; $1 million to Mystic Seaport; $3.5 million for a multispecies aquaculture center in the State of New Jersey; $2 million for the construction of the Massachusetts Biotechnology Research Institute in Boston; $5.2 million for the Center for Interdisciplinary Research and Education in Indiana; $11 million for the construction of the Interagency Estuarine Habitats Research Laboratory in Lafayette, LA; $2.6 million for the Marine Science Center in Newport, OR; $7.5 million for the National Marine Fisheries Service Southeastern Laboratory; $980,000 for an estuarine reserve in South Carolina.

If Members flip the page over, they find $1 million for a grant to the Emerging Technologies Institute in Sacramento, CA; $930,000 for a grant in the Michigan Biotechnology Institute, and many, many more.

This is a problem down in these bills. It ought to be cured. It was not cured in this report.

□ 1330

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Intellectual Property and Judicial Administration of the Committee on the Judiciary.

Mr. HUGHES. Mr. Speaker, first I want to thank the distinguished gentleman from West Virginia [Mr. MOLLOHAN] for yielding me some time.

I want to congratulate him, I think HAL ROGERS said it best, on his maiden voyage on the conference report, and I know this is the first of many that the gentleman will usher through the Congress in the years ahead. I congratulate him, and also the gentleman from Kentucky [Mr. ROGERS] and their committees and staffs on a very fine conference report.

Frankly, I have heard the bill described over and over again today as being a good crime bill, but it is broader than that. There are a lot of provisions in here that I think show the kind of balance and the kind of thought that has come out of this particular appropriations subcommittee for many years.

In fact, if all the committees of the Congress worked together in a bipartisan fashion like this particular Committee on Appropriations does, we would probably have better legislation. We might have a little more comity around here, and we would certainly get a lot more done. I think that is what our constituents expect of us.

I am lucky, because I chair a subcommittee where I have that kind of a relationship with my ranking Republican. We are full partners, and we get a lot of things done. I am talking about the gentleman from California [Mr. MOORHEAD].

This is a good bill for a lot of reasons. This subcommittee takes a great deal of time in taking testimony, probably as much as any subcommittee, because it deals with some very, very important issues, not just in Justice and in the State Department and in Commerce and in the Judiciary, and in some of the independent agencies, but because it also has so many provisions that are very important.

The reason why this bill enjoys so much support is because the allocation this subcommittee received was not very generous this year, so you had very narrow limits to walk. You have done an excellent job in providing in all subject areas.

In the area of crime control and law enforcement, I think it has been mentioned over and over again, $1.3 billion for community policing. This is real money; it is going to enable us to put policemen on the street to do the kind of community policing that all law enforcement agencies across the country have told us we need.

The Byrne formula grant program, you have all heard from your prosecutors. This is one of their priorities because it is a program that works.

I was a prosecutor for some 10 years, and frankly, I would like to have had the kind of resources we are providing for local law enforcement in the Byrne grant program. It works because it enables them to put together the task force operations to deal with drug problems in their communities. They are able to get all kinds of good, hard intelligence because of the Byrne formula grant programs.

Mr. Speaker, the immigration initiative, there is $284 million in there for immigration. I do not have to tell the Members, immigration unfortunately is chaotic. It is out of control. We have not done a good enough job, not just at the southern border, but we have not done a good enough job in bringing the Immigration Service into the 20th century, let alone the 21st century, in providing the kind of data we need to track aliens who are in this country.

We do not have that capacity. We need to provide more resources.

Mr. Speaker, upgrading of criminal history records, $100 million. We have heard over and over again how we have to turn criminal history records over quicker than we do. The FBI is backlogged. Many of their records, tens of thousands of their records, are not automated. This $100 million will enable us to upgrade our criminal history record system. That is something that we have not done.

The moneys, the $130 million for the criminal alien assistance program for the States, is desperately needed in many parts of the country, particularly the southern border, in Florida, and in California. It is out of control. Those States are saddled with humongous bills because of the immigration problems.

The disaster assistance in the bill is essential. Moneys for the State Department, their peacekeeping operations, is needed, and it provides that.

It is a good bill, Mr. Speaker. I congratulate my colleagues on bringing an excellent bill from conference. I urge my colleagues to support it.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, like other Members, there are some provisions of this bill with which I do not agree, but I think the overwhelming majority of provisions are so positive and so beneficial that I intend to vote for this conference report, and I urge my colleagues to vote for it, also.

I particularly want to congratulate the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from Kentucky [Mr. ROGERS], the ranking member; and all the members of the subcommittee and the House and the Senate conferees for dealing appropriately with law enforcement appropriations.

Mr. Speaker, the House of Representatives, when we took up the bill originally, already addressed the issue of the administration's proposal to reduce the staffing at the Federal Bureau of Investigation and the Drug Enforcement Administration. I am pleased that on a bipartisan basis the House of Representatives rejected that idea, and in fact increased those two agencies.

There was, however, in the original House bill one issue with which I had a disagreement. That dealt with the United States Attorneys' offices. These are the front line Federal prosecutors against violent and other criminal activity.

Although the House recommended an increase for the U.S. attorneys, it was so small as I felt to be negligible, and I do believe that we will pass a crime bill this year. I believe that we have to have the resources in the U.S. attorney's offices to implement that crime bill.

Mr. Speaker, I proposed an amendment on the House floor to increase the U.S. attorneys by simultaneously reducing some of the increase in the Antitrust Division; not lowering the Antitrust Division, but not increasing them as much as in the House proposal.

Mr. Speaker, that amendment was rejected by my colleagues because they wanted to increase, as recommended, the Antitrust Division. The conference committee was able, with a judicious use of funds, to both give an increase to the U.S. attorneys of $9 million over the original House recommendation and to increase the Antitrust Division.

Mr. Speaker, I support both of those actions, and I urge a yes vote on the conference report.

The SPEAKER pro tempore. The Chair would like to inform the managers that the gentleman from West Virginia [Mr. MOLLOHAN] has 3 minutes remaining, and the gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining.

Mr. MOLLOHAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from North Carolina [Mr. PRICE], a very distinguished, hardworking member of our subcommittee.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me. I want to add my words of commendation and praise for the chairman for his successful work during this, his first year at the helm of the subcommittee, and also for the gentleman from Kentucky [Mr. ROGERS], our ranking minority member.

This is a good bill. It is a model of bipartisan cooperation. I only wish we had this kind of bipartisan cooperation on more of our authorization bills, including the omnibus crime bill now awaiting final action.

As many speakers have stressed, in many ways this appropriations measure is a downpayment on that crime bill. It will get us off to a good start on the prevention, policing, and punishment efforts that are going to be required to make our communities safe again.

This bill, of course, contains funding for many Federal departments, including high priority research, development, and technology transfer programs in the Commerce Department, and the work of the Small Business Administration, now revitalized under the leadership of Erskin Bowles. But our focus this year has been especially on the plague of crime and violence in our country.

In this bill we are making a significant start on community policing, on the upgrading of criminal history records, so that local law enforcement has access to good information when they pick up someone, and on immigration initiatives such as controlling the borders, expedited deportation, and enhanced asylum processing.

Byrne formula grants and increased by 26 percent. I just had a meeting 2 weeks ago with the three sheriffs in my district. All of them said "Go to Washington, pass the crime bill, and pass the funding bill, so we are assured of continued support for local law enforcement from the Byrne fund."

This is a good bill, Mr. Speaker, a practical, well-crafted bill that will make a great deal of difference in our communities. I urge its adoption.

Mr. ROGERS. Mr. Speaker, may I inquire as to the time remaining on each side?

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] has 4 minutes remaining, and the gentleman from West Virginia [Mr. MOLLOHAN] has 2 minutes remaining.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to a very effective spokesman who has been one of the major defenders of Radio and TV Marti, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, the inclusion of funding for Radio and TV Marti is very pertinent given the recent dramatic events occurring in Cuba. Over the last few weeks, the Cuban people have begun to openly show their great discontent and disgust with the cruel Dictator, Fidel Castro, and have exhibited thirst for freedom as they have taken to the streets to condemn the continuous repression they are subjected to by the Castro regime.

Cries of "Libertad, Libertad" were heard in many parts of Cuba in the past days.

No longer are the Cuban people frightened or intimidated by the tyrants's threats to use whatever means necessary to keep them enslaved. Instead, the Cuban people are risking life and limb to achieve their goal of freedom and democracy.

This is why Radio and TV Marti are so important. Because they bring to the Cuban people the truth about the situation on the island and the violations of human rights that the people in Cuba are subjected to.

When the Castro regime blamed the United States for the death of more than 30 people after the sinking of the tugboat "13 De Marzo," it was Radio and TV Marti which carried the truth to the island interviewing survivors who told of the Cuban authorities merciless attack against the fleeing refugees, mostly women and children.

□ 1340

It is Radio and TV Marti which told the Cuban people of the mass demonstrations in Havana where the people demanded freedom, liberty and justice.

Mr. Speaker, I thank the conferees for fighting to restore those funds for TV and Radio Marti and for getting them in the bill.

Mr. MOLLOHAN. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. SERRANO] a distinguished member of our committee.

Mr. SERRANO. Briefly, Mr. Speaker, I think it is very interesting to hear people say that we need Radio Marti now to send a message to Cubans to stay home. For years, Radio Marti has been the number one culprit in asking Cubans to rebel and to come here. Radio Marti is as responsible for the tragedy that is taking place in the Florida straits as is the Government of Cuba.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Speaker, in spite of the many good things we have heard so far about this report, I rise in opposition to the conference report. In particular I am opposed to the $27 million in specific earmarked pork-barrel spending appearing under the Small Business Administration budget. This represents over 4 percent of the total SBA budget for fiscal year 1995. In addition to this $27 million, the SBA budget also contains one of the biggest cases of wasteful spending, the tree planting program, another $15 million in unauthorized spending that no one even saw fit to mention at the many hearings in the markup of the Small Business Reauthorization Act. Those who supported this pork knew it would not pass in committee so they had the appropriators do their dirty work.

What in the world are we trying to do? Why are we wasting these resources? Tree planting is even more outrageous considering we just had to authorize emergency spending to keep the SBA from running out of money. We are always short on loan funds, disaster funds, and all types of funds, but we never seem to run out of pork.

Mr. Speaker, I oppose this bill, I oppose this process. I oppose the betrayal of taxpayers in the small business community. What does it take for us to wake up and start listening to the people we represent? This is why we need an A-to-Z process to get rid of waste and inefficiency in Government spending.

Mr. ROGERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this is a good bill. It is strong in law enforcement. It may be the only crime bill that Members have a chance to vote for this year. I certainly hope it is. But it does strengthen the FBI, it restores the FBI to the 1992 levels, which was the highest ever. It restores the DEA to the 1992 levels, which was the highest ever. There is money in here for new prisons. We are going to open up several of them this year. In fact, there are 24 new or expanded prison facilities coming on line in 1995 under this bill and we appropriate the funds for an additional 11 new or expanded prison facilities in the coming year.

There is money for the Byrne grant formula program which States and locality law enforcement agencies desperately need. In fact, a 26-percent increase over last year, and 100 percent over the administration's request.

There is money for the first time for State criminal alien incarcerations, reimbursements to States who are using their moneys now for that purpose. There are 950 new Border Patrol agents and moneys to support them, not to mention the other items that we have heard here today. I urge a vote for the conference report.

Mr. MOLLOHAN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH], the distinguished former chairman of our subcommittee.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, first I want to congratulate the new chairman of the subcommittee and the ranking Member again. This is a very difficult bill to handle. I was just thinking as I sat here today that this is the first time in 15 years that I have not heard any discussion of Legal Services Corporation. We have finally gotten that behind us, I hope. But actually the rest of the Congress and even the country is even catching up with this subcommittee with regard to crime. A lot of people would not know it, but the big crime bill we are talking about is mostly just an authorization and the money has to be provided by this subcommittee, and the things that we do are limited by the money that this subcommittee can find. That is not true with regard to rules of evidence and penalties but as far as the money is concerned, it is provided in this bill.

Also I think I must respond briefly to the gentleman from New Hampshire. Fifteen million dollars for trees for urban areas all over the whole United States happens to be exactly the same amount of money that we provided for a computer center in New Hampshire that the gentleman did not want rescinded 3 or 4 years ago. I think trees for our children and grandchildren and great grandchildren all over the United States will do a lot more good for this country than a project in only one place such as New Hampshire.

Also this is an important bill with regard to the competitiveness in the world. This is the bill where we really provide funding to encourage private sector development of new high technology to meet world competition as the gentleman from California knows.

This is the bill where NIST was increased from $520 million up to $855 million. We are now centering our attention on the National Institute of Standards and Technology. We are going to go for civilian development of products; we are going to help NIST make the United States competitive in this world. We have been depending too much on the military to do this kind of research and development assuming we get some spinoff from military research and development.

Also there are expert promotion activities funded in this bill that are terribly important to this country. Also funding for the State Department is provided in the bill. I congratulate the gentleman from West Virginia and also from Kentucky for handling this bill. I think it is a very controversial bill at times, but this conference agreement is as good as could be put together this year.

Mr. HUGHES. Mr. Speaker, I rise in support of the conference report on H.R. 4603, the Commerce, Justice, State and Judiciary appropriations bill for fiscal year 1995 and to commend the distinguished chairman of the subcommittee, ALLAN MOLLOHAN and the subcommittee's ranking Republican, HAL ROGERS, on a job well done. Chairman MOLLOHAN took over the helm of this subcommittee at a very difficult and critical time this year. However he and his outstanding staff have done a yeoman's job in crafting and managing this bill.

This is an important bill that provides needed funding for a number of departments and agencies, including the Department of Justice, the Judiciary and the National Oceanographic and Atmospheric Administration. However, on this occasion, I would particularly like to point out the important funding provided in this bill for administering our Nation's fishery related programs.

As the representative of a coastal district, I know that each day brings more and more restrictions on commercial fishing. Ocean resources that we once thought were limitless are proving to be fragile. This bill provides funding that will help us perform needed research into the status of our fishery resources and ways to sustain and manage them. In order to protect our resources and still provide consumers with the fish and seafood products they demand, the bill provides funding to look at new and innovative alternatives to traditional seafood harvesting methods.

One very important alternative source of seafood is aquaculture and I am pleased that this legislation provides some $3.5 million for construction of a multispecies aquaculture facility in New Jersey currently being developed by Rutgers University and Cumberland County College. This demonstration facility is just the type of experimental farm we need to get aquaculture moving in our State. The Rutgers-Cumberland County project will take a multispecies approach to aquaculture; that is, the facility will culture both finfish and shellfish. This unique approach is critical to support development of small-scale culture operations and larger commercial ventures. Supporters of the facility, like me, hope that culture of all these species will lead to new knowledge and developments that will continually make aquaculture a more viable business opportunity in New Jersey and elsewhere.

The lack of demonstration facilities that serve the function of experimental farms is the principal factor limiting aquaculture development in New Jersey—and in most other States. So, perhaps the most important service the Rutgers-CCC facility will perform is to act in a similar manner to a traditional agricultural extension service. In fact, that is why the Northeastern Regional Aquaculture Center is eager to see this facility completed.

The Rutgers-CCC Facility will perform outreach to help entrepreneurs set up businesses. To maintain these businesses, the facility will work to show farmers how to work with various finfish and shellfish species, to cope with diseases, and how to maintain the proper water quality. The aquaculture facility will even work with them to help market their products. These are the services that will really help to minimize the risks for private entrepreneurs and foster a healthy, thriving aquaculture industry in our State and throughout the Northeastern region.

Mr. Speaker, this is an important bill that will help people, not only in New Jersey, but throughout our Nation. I urge my colleagues to pass this measure.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on H.R. 4603, the bill that funds the Commerce, Justice and State Departments, the Federal Judiciary, and related agencies for fiscal year 1995.

The conference report funds a wide variety of programs. It provides the resources for the punishment and prevention initiatives in the anticrime bill. It supplies resources for attacking the overwhelming problem of crime in our neighborhoods and communities, focusing attention and resources on the State and local levels—the front lines, where the bulk of the responsibility for responding to crime lies.

This year, the conference report includes support for the Emerging Technologies Institute [ETI] in Sacramento, CA. ETI is a nonprofit consortium made up of local businesses, local colleges and universities, and McClellan Air Force Base and is designed to attract public and private sector investment to the Sacramento region in three main areas: Agricultural biotechnology; medical biotechnology; and defense dual-use technology. Local community leaders believe that ETI will be the catalyst for promoting economic development and improving international competitiveness of high-technology businesses in our region.

I am also pleased that this conference report recognizes the important work of the Economic Development Administration. In my district in northern California, the EDA has made a tremendous impact on the economic development of the region and I have been impressed with the broad support the EDA enjoys from the people who are on the front lines of economic development in the communities in my district.

I myself have worked closely with the Tri-County Economic Development Committee [TCEDC], the federally recognized Economic Development District which serves Glenn, Tehama and Butte Counties in my district, and I know the difference these programs have made in these economically distressed areas. TCEDC provides the cities and counties in this region with a wide variety of economic development services, including economic development planning, grant writing, administration of public works and technical assistance projects, management of local, State, and federally funded revolving loan funds [RLF's] and small business financing.

I am specifically pleased that the conference report recognizes the EDA's involvement in efforts underway to expand the Red Bluff, CA Community and Senior Center, a project which could play a pivotal role in the development of the local economy. This addition would enable the community center to better attract business meetings, conventions, and seminars to the community. An expanded community center would assist the community in retaining its present jobs, help promote new jobs, and attract new businesses and industries.

Further, I support the committee's reaffirmation that there be no reductions or degradation of service at the Redding, CA Weather Service Office under the National Weather Services' modernization plan. The importance of accurate weather information for this region has far ranging implications. Plans to close the Redding weather station would seriously jeopardize interstate commerce along the Interstate 5 corridor, agricultural crops, and public safety. I support the report's direction that an independent review of the NWS plan should ensure there is adequate weather forecasting coverage in the Redding area as well as other targeted parts of the country.

The conference report also includes increased funding for the Byrne Grant Program—an initiative that is critical for our communities in California. The Byrne Program provides grants to State and local law enforcement agencies for a wide variety of programs to control violent crime and drug abuse, and to improve the criminal justice system. I first became aware of the critical role that Byrne funding plays in rural law enforcement in a meeting that I set up earlier this year between Attorney General Reno and law enforcement representatives from my district. These sheriffs and police chiefs were concerned because the administration had eliminated Byrne funding from its initial budget request.

Although Byrne funding is important to local law enforcement around the country, rural America is particularly dependent on Byrne formula grants for support for its law enforcement efforts and for its participation in Federal law enforcement assistance programs. Without this funding, the crime-fighting ability of our rural communities is greatly hampered.

I, along with my colleague from Michigan [Mr. STUPAK] introduced a sense-of-Congress amendment which was included in the House anticrime bill and is also present in the conference report for the anticrime initiative. This amendment stresses that Congress must maintain its support for Byrne formula grants and helps ensure that rural communities do not lose ground as the rest of the country moves forward on new anticrime strategies. The amendment puts Congress firmly on record that, as we attempt to attack crime in the cities and suburbs throughout America, rural communities do not get left behind.

As a result of this and similar efforts by other Members, the conference report for the Commerce/Justice/State appropriations bill provides $450 million—a 26-percent increase over fiscal year 1994—for the nationwide Byrne Program. These resources are vital for my State, which traditionally receives roughly 10 percent of these funds and therefore stands to get about $45 million of this money. Equally important is the fact that approximately 60 percent—or $27 million—of California's allocation will be passed through to our local jurisdictions.

The conference report also includes increased funding for the Immigration and Naturalization Service [INS] for additional Border Patrol agents, improved border control capabilities, and improved deportation and asylum processing.

Funds in this bill will also be used for reimbursement to State and local governments for the costs of criminals who are in this country illegally, have been convicted of a felony, and are being incarcerated at State and local expense. It is estimated that approximately 40 percent—or $52 million—of the $130 million provided for these costs will go to our State. This is the first time that these funds, though authorized, have ever been appropriated.

The programs funded in this conference report safeguard our children, neighborhoods, and communities, and preserve our resources. They protect our industries, both locally and globally, and help us maintain our position as an international leader—economically, socially, and politically. Mr. Speaker, I urge my colleagues on both sides of the aisle to vote for maintaining our quality of life to and support final passage of this conference report.

Ms. SNOWE. Mr. Speaker, there are many admirable provisions in the fiscal year 1995 appropriations conference report for the Departments of Commerce, Justice, State and the Judiciary. I would like to highlight for my colleagues, however, the fact that the conferees dropped a Senate provision from the conference report that was virtually identical to legislation, H.R. 2730, I originally introduced last year in the House. This bill, which has been bottled up in the Judiciary Committee, would deny U.S. visas to known members of terrorist organizations unless a high foreign policy decision is made on a case-by-case basis to grants such a visa.

In opposing this Senate amendment, offered by the distinguished Senator from Colorado [Mr. BROWN], the conferees chose to continue the current outrageous practice of putting American lives at risk in deference to some imagined right of foreign terrorists to travel freely to and within the United States. Under current law, a visa can be denied to a known member of a terrorist organization only if the United States has compelling evidence that the individual was personally involved in a past terrorist act or if it is known that the person is coming to the United States to conduct such an act.

Mr. Speaker, some of the appropriations conferees may try to argue that this action was taken to avoid legislating on an appropriations bill. That might be a reasonable argument if this appropriations conference report were otherwise devoid of such items. But it is not.

Nor can the conferees argue that my legislation could not be included in the conference report due to the jurisdictional claim of the Judiciary Committee. I have two comments on this. First, if the Judiciary Committee would move its own immigration reform legislation it would never have been necessary to use a non-Judiciary Committee bill to get enacted this urgently-needed change in law to protect the American people. Second, the chairman of the Judiciary Committee did, ultimately, agree to allow some legislative provisions under his committee's jurisdiction to remain in this bill. Once the Democrat members of the Judiciary Committee agreed to this, they could no longer make a procedural argument against my legislative provision. They could only legitimately make an argument against my legislation on substance, an argument that I am certain would fail to convince most Members of this body, much less the American people.

I discovered this dangerous loophole in our immigration laws last year during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to and reside in the United States since 1990. Sheikh Rahman is the spiritual leader of Egypt's terrorist Islamic Group. His followers have been convicted for the 1993 bombing of the World Trade Centers in New York, and the Skeikh himself is set to go on trial soon for his alleged role in planning and approving terrorist acts in the United States.

Earlier this year, I also found out that the State Department has in the past used this legal loophole to grant a visa to Tunisia's Sheikh Rashid el-Ghanoushi, the convicted leader of the Islamic fundamentalist terrorist organization Ennadha. At this very moment, the State Department is considering a new visa request by Sheikh Ghanoushi. A letter I received from the State Department on this matter confirmed that they interpret current law to require them to issue a visa to Ghanoushi—an acknowledged member of a terrorist organization—unless they can prove that he personally was involved in a terrorist act. Apparently his conviction in Tunisia for his part in an assassination plot against Tunisia's pro-Western President Ben Ali is not enough. Nor is the fact that he fled his country after his underground Islamic fundamentalist terrorist group launched violent attacks against the government. Nor, apparently, do his virulently antiwestern and anti-Israel statements have any relevance to the visa decision, as far as the State Department is concerned.

Mr. Speaker, after the recent rash of terrorist bombings in Argentina, Panama, and London, many countries are waking up to their vulnerability to terrorists. As reported in the July 28 Christian Science Monitor, the British Parliament is now considering enacting legislation similar to my legislation that the conferees so casually cast aside.

It is well known that many foreign terrorist organizations depend on money raised in the United States for a major portion of their funding. There are also disturbing indications that many of these organizations are working to develop networks of members and supporters in our own country. The first step we need to take to combat these criminal activities is to slam the door on foreign members of such terrorist organizations who now freely travel to the United States unfettered by our visa laws.

I am deeply disappointed in the action of both the Democrat and Republican conferees who supported deleting the Senate Brown amendment. Whether they fully understand the issue or not, the sad truth is that now American lives will continue to be put at risk out of deference to some imagined first amendment right of foreign terrorists. In my reading of the U.S. Constitution I see much about the protection of the safety and welfare of U.S. citizens, but nothing about the rights of members of terrorist organizations to visit Disneyland.

I hope that the next time this issue comes before the House it will not be in reaction to an avoidable loss of American lives to a terrorist act. I hope that next time this issue is allowed to be considered on its merits, and not anonymously deleted in an en bloc package of staff agreements.

Mr. KIM. Mr. Speaker, I was shocked to learn that there are 25 unauthorized pork projects contained in title IV of H.R. 4603, which provides appropriations for the Small Business Administration Appropriations. These projects amount to 16 percent of the total SBA appropriation. This is an outrageous abuse of the American taxpayer.

Mr. Speaker, I do not have time to go into the entire list, but let me mention just a few of these projects: $750,000 for a North Carolina Biotechnology Center; $1.5 million for a consortium in Buffalo, NY; $1 million for a Genesis Small Business Incubator Facility in Fayettesville, AR; $500,000 for a Mississippi Delta Small Business Technology project in Little Rock, AR; and $15 million for a tree planting program of which $500,000 is earmarked for Buffalo, NY.

I am amazed that there were no hearings on these projects. Interestingly, there are no projects for my State of California which is still mired in economic troubles with an unemployment rate of 8.2 percent. If we are to earmark funds, shouldn't we earmark them to stimulate the economies of those areas of our country still affected by recession?

But of course, as a freshman Republican I could not get these types of unauthorized projects inserted into an appropriations bill. I am deeply disturbed by the unauthorized inclusion of these projects in this bill. The American people should be outraged by this wasteful spending, and this contemptuous and secretive process.

Mr. CRAMER. Mr. Speaker, I rise in support of the conference report to accompany H.R. 4603, the Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for fiscal year 1995.

First, I would like to commend Chairman ALAN MOLLOHAN for his leadership in moving through the Appropriations Committee and bringing to the House floor this important bill that will provide the necessary capital to address the problems of child abuse, to fund needed anti-crime initiatives, to assist small and emerging businesses, and to support efforts in developing and implementing strategies to enable U.S. industry to fully realize the commercial benefits of new technology.

Additionally, I would like to commend the staff for their professionalism and attention to details.

Mr. Speaker, the Appropriations Committee has been charged with an almost insurmountable task: funding significant programs on the one hand and acting in accordance with budgetary limitations requirements on the other hand. Chairman MOLLOHAN and the other members of the Subcommittee have performed admirably.

I am very supportive of one particular section of this bill. The bill includes funding for the Children's Advocacy Center Program that was authorized in the 1992 Amendments to the Victims of Child Abuse Act. The administration included the Children's Advocacy Center Program in its 1995 budget request.

Why is this program important? It is important for several reasons. Based on 1990 revised data, States received and referred for investigation approximately 1.7 million cases of child abuse out of an estimated report of 2.6 million children who are the alleged subjects of child abuse and neglect. In 1991, the number of cases referred for investigation rose to nearly 1.8 million reports. The number reported in 1991 represents an increase of approximately 2.4 percent from 1990 data.

In 1992, approximately 918,263 substantiated and indicated victims of child maltreatment cases were reported from 49 states. Of these, approximately 14 percent (129,982) were sexually abused. The Carnegie Corp. of New York reported, in its publication Starting Points, that one in three victims of physical abuse is a baby less than a year old and that in 1990, more 1-year olds were maltreated than in any previous year for which data are available. Additionally, Starting Points reported "almost 90 percent of children who died of abuse and neglect in 1990 were under the age of 5; and 53 percent were less than a year old." Further, based upon its annual telephone survey of States, the National Committee for Prevention of Child Abuse reported that at least three children a day die from physical abuse inflicted by a parent or caretaker.

The Children's Advocacy Center Program addresses this problem. The mission of this program is to provide technical assistance, training and networking opportunities to help communities establish and maintain child abuse prevention, intervention, prosecution and investigation programs which provide quality services for helping victims of child abuse, particularly child sexual abuse. The purpose of Children's Advocacy Centers is to help abused children by providing a safe and comfortable environment designed to meet their needs for support and protection.

The cornerstone of this program is the use of multi-disciplinary teams. A multi-disciplinary team consists of representatives from law enforcement, child protective services, prosecution, victim advocates, medicine and mental health who meet on a regular basis to review cases and issue joint recommendations in the best interest of each child. The multi-disciplinary team concept that is incorporated in the Children's Advocacy Program works to coordinate the activity of all involved public and private agencies to intervene in the lives of abused children in a meaningful way and to ensure that the judicial system does not revictimize them through repeated interviews and examinations.

Preventing the inadvertent revictimization of an abused child by the judicial and social service systems in their efforts to protect the child is a major goal of this program. As a consequence of a coordinated response, child victims are spared the pain and confusion of multiple interviews by prosecutors, protective service workers and social workers.

This program may not be a panacea for the increasing problem of child abuse. However, it is more than a first step toward addressing the problem. This program has served and will continue to serve as a model for communities that are working to focus attention and efforts on the best interests of the child and non-offending family members.

Funding this program speaks volumes to the House of Representatives' commitment to support a necessary pro-family and anti-crime initiative. Without question, this program improves the lives of communities, children and non-offending family members. Communities from Hawaii to Vermont and cities as diverse as Miami and Salt Lake City have established multi-disciplinary teams and mobilized professionals to respond to child sexual abuse. In every instance, when the model outlined in the 1992 amendments to the Victims of Child Abuse Act has been incorporated into a community's unique program, that community has seen positive results.

Mr. Speaker, the Children's Advocacy Center Program is an effective response to child abuse. I commend Chairman MOLLOHAN for his leadership efforts. I urge my colleagues to support the bill.

Mr. STOKES. Mr. Speaker, I rise in strong support of H.R. 4603, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for fiscal year 1995. This bill will enhance many of our Nation's most important functions so that the interests of the American people will be best preserved. I want to take this opportunity to commend my distinguished colleague, the gentleman from West Virginia, Chairman MOLLOHAN, for his leadership in crafting this intelligent and thoughtful legislation, and his expeditiously bringing it before the House for consideration.

This bill contains a great number of essential services to our Nation. In the justice portion of the bill the committee has continued its unprecedented efforts to fight crime. The bill provides for over $12 billion for the Department of Justice. This includes funding for many programs that will play an essential role in our efforts to make our citizens safer. The bill also contains important funding for our Nation's judicial system, essential for the swift, fair, and effective administration of justice for all Americans. The list of important functions supported by this bill is substantial and makes additional substantial contributions in the areas of disaster relief, civil rights, and commerce—to name just a few.

Mr. Speaker, I would also like to address several programs funded by the bill that will greatly assist the citizens of my home State of Ohio. Overall, the bill includes a total of almost $5 billion to continue critical efforts to create jobs and improve the national economy through technology enhancements, economic development programs, and small business administration initiatives. For northeast Ohioans, the bill extends funding for the manufacturing technology center, provides funds for the Cleveland Technology District, the Unified Technology Center, and establishes a minority economic opportunity center. All of these efforts will bring many job opportunities to the region.

This is the kind of bill that will result in the overall enhancement of our Nation by the strategic and wise investment of Government funds in programs that are good for all Americans. In closing, I would again like to express my sincere appreciation for the efforts of Chairman MOLLOHAN and the other members of the subcommittee for the efforts they have made to bring this bill before us today. I strongly encourage all of my colleagues to support the important efforts contained in H.R. 4603.

The SPEAKER pro tempore (Mr. CARDIN). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 322, nays 98, not voting 14, as follows:

[Roll No. 408]

YEAS—322

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)

NAYS—98

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Bartlett
Barton
Bliley
Boehner
Bunning
Burton
Callahan
Camp
Coble
Combest
Condit
Cox
Crane
Crapo
DeLay
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Fawell
Fields (TX)
Franks (NJ)
Gekas
Goodlatte
Goodling
Goss
Grams
Greenwood
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Huffington
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Klug
Knollenberg
Lazio
Levy
Lewis (FL)
Lewis (KY)
Lucas
McCandless
McCollum
McHugh
Meyers
Miller (FL)
Minge
Moorhead
Murphy
Nussle
Paxon
Penny
Peterson (MN)
Petri
Portman
Pryce (OH)
Ramstad
Roberts
Rohrabacher
Roth
Royce
Santorum
Saxton
Schaefer
Sensenbrenner
Shuster
Smith (MI)
Smith (OR)
Solomon
Spence
Stenholm
Stump
Swett
Talent
Taylor (MS)
Walker
Weldon
Young (AK)
Zeliff
Zimmer

NOT VOTING—14

Andrews (TX)
Clement
Cooper
Ford (TN)
Klein
Lantos
McDade
Owens
Reynolds
Rose
Rush
Slattery
Sundquist
Washington

□ 1408

Ms. MOLINARI, Messrs. QUILLEN, LEWIS of California, SHAYS, THOMAS of California, and LINDER changed their vote from "nay" to "yea."

So the conference agreement was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR MANAGEMENT OF PORTIONS OF THE PRESIDIO

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 516 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 516

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed seventy-five minutes, with forty-five minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule for a period of not to exceed three hours (excluding time consumed by recorded votes and proceedings incidental thereto). It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, modified by the amendments recommended by the Committee on Ways and Means now printed in the bill and by the amendments printed in the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. No amendment directly or indirectly changing section 3(h)(9), section 3(h)(12), section 3(h)(13), or section 3(j) of the amendment in the nature of a substitute, as modified, shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1410

The SPEAKER pro tempore (Mr. MCNULTY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 516 is a modified open rule providing for the consideration of H.R. 3433, to provide for the management of the Presidio.

The rule provides for 75 minutes of general debate, with 45 minutes equally divided and controlled by the Natural Resources Committee and 30 minutes equally divided and controlled by the Ways and Means Committee.

All points of order against consideration of the bill are waived.

The rule makes in order an amendment in the nature of a substitute now printed in the bill, as modified by the Ways and Means Committee amendments now printed in the bill and the amendments printed in the report to accompany the rule, as an original bill for the purposes of amendment. The substitute, as modified, shall be considered as read and all points of order against the substitute, as modified, are waived.

The rule is an open rule with the exception that amendments shall not be in order which directly or indirectly change sections 3(h)(9), 3(h)(12), 3(h)(13), or 3(j) of the substitute. These sections, which are in the jurisdiction of the Ways and Means Committee, have to do with budgetary and tax aspects of the bill's proposed Presidio Trust. It was not the intention of the Rules Committee to preclude the offering of substitutes when protecting these sections from amendment. Substitutes which do not include the establishment of the Trust will be in order. Alternatively, substitutes which include the specified sections without change in their text will also be in order.

The rule further provides for a limit of 3 hours, excluding the time for votes, for consideration of the bill for amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3433, the bill for which the Rules Committee has recommended this rule, provides a framework for the conversion of the Presidio from a military base to an urban national park. The Natural Resources Committee has carefully crafted the bill to protect the nationally significant natural and cultural resources of the Presidio, while at the same time reducing the net cost to the taxpayer through the generation of substantial revenues to offset the overall costs of operation and restoration.

Mr. Speaker, I ask my colleagues to support this modified open rule so that we may proceed with consideration of the merits of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

As the gentlewoman from New York [Ms. SLAUGHTER] has described, this rule waives all points of order against the bill and its consideration and against the substitute, as modified. I cannot support this blanket waiver, Mr. Speaker, and I cannot support his rule.

A list of potential points of order that may lie against the bill and the substitute was made available to the Rules Committee, and it included budget act violations, appropriations in a legislative bill, and nongermane amendments. I understand that the budget problems may be solved, but the other rules violations still stand.

In addition to my objection to the waivers provided by this rule, I am also concerned that certain sections of the bill are closed to amendment and that a time limitation has been established for consideration of the bill for amendment. A letter was sent to the chairman of the Rules Committee, which is signed by the minority leader, the Republican whip, and the ranking Republican members of the Natural Resources and Budget Committees, requesting a completely open rule. A motion was made in the Rules Committee to report an open rule, but this effort was defeated.

Mr. Speaker, the Presidio has been a controversial subject from the start, and we have had heated debate during consideration of appropriation bills on this issue. I think this bill should be completely open to amendment without restriction or limitation. I ask unanimous consent to insert extraneous materials into the RECORD following my statement, and I urge my colleagues to vote "no" on this rule.

Mr. Speaker, I include for the RECORD statistics on open versus restrictive rules, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	91	25	27	66	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 12, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	
H. Res. 516, Aug. 10, 1994	MO	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to this rule, and I rise in strong opposition to this legislation.

Mr. Speaker, the bill before us provides $25 million for a park we cannot afford and has no business being a national park.

The Presidio may be a beautiful area, but it clearly does not qualify as a national park. It has various resources which are clearly unsuitable for inclusion in a park such as: a shopping mall, warehouses, and a Burger King. This is not exactly my vision of what our national park should be.

More importantly, is the fact that we do not have the resources to be funding such projects at this time. As we all know, funding for the park service is extremely low and many of our Nation's crown jewels in the National Park System are not receiving the money they need to adequately operate.

One of our Nation's truly magnificent jewels is Yellowstone National Park. Everyone knows about Yellowstone's magnificent scenery, outstanding geological features and incredible wildlife. It is truly one of our national treasures.

What many people do not know is that Yellowstone has many problems. The roads throughout much of the park are in horrible shape, many of the buildings need repair and there are not enough rangers to adequately staff the area.

What is incredible is that Yellowstone's operating budget in 1993 was only $17 million. The bill before us today provides $25 million for the Presidio.

This simply is not right. National parks such as Yellowstone and Yosemite should not be underfunded at the same time we are providing $25 million a year for the Presidio.

The National Park Service currently faces a 37-year backlog in construction funding over $5 billion and a $400 million shortfall in its annual operating funds at the same time we ask for an inappropriate park and grant $25 million a year.

The agency needs help and does not need to be burdened with massive new projects that will simply stretch limited resources even further.

The time has come for Congress to step-up and stop designating areas as national parks that do not belong in the system that we are unable to finance.

The facts are clear Mr. Speaker, we do not need this park at the Presidio. We need to fund the parks we already have in the system.

□ 1420

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, for the last 14 years I have had the distinct pleasure to represent the great State of Utah in this body. That State is well known as home of some of the most beautiful scenery and greatest national park areas in the country. I suspect that many Members have visited and most Members have heard of such great Utah national parks as Zion, Bryce, Arches, Canyonlands, Glen Canyon, et cetera. I have enjoyed many hours of family togetherness in our parks; camping, fishing and hiking and I continue to visit our great national parks every chance I get.

In the 122 years since the establishment of the first national park, Yellowstone, Congress has established in this country the best park system in the world. While we started with great natural areas like Yellowstone and Yosemite, the park system was later expanded to include some of the most important historic sites in the country, such as Independence Hall and Lexington-Concord, the place where the shot was heard around the world. Relatively recently, Congress began to designate Federal parks whose primary value was recreational use.

However, today as we survey our park system, many of us who love it are very concerned. We see park areas which are complete fabrications of history, we see local open space initiatives siphoning land acquisition dollars from acquiring lands necessary to protect such national treasures as Everglades National Park and we even see economic redevelopment projects masquerading as parks. Not only do these questionable additions to the park system whittle away at the integrity of the park system, but they make an already underfunded park system that much worse off.

Almost every week, there are media stories about the deteriorating conditions in our national parks. Congress has had, for at least the last 10 years, clear documentation of the shortfalls facing our parks. Again, for the RECORD I will reiterate that the construction backlog in the National Park Service is 37 years at existing funding levels, and for land acquisition the backlog is 25 years at the existing funding levels. In the past, I have stated that the annual operational shortfall was about $400 million, but a recent letter signed by the deputy Director indicates that the annual operating shortfall may be closer to $800 million.

And how has Congress responded to this crisis? What is the committee of primary jurisdiction doing to solve these fundamental and financial problems besetting this most-loved Federal agency? Literally by throwing its arms around every conceivable new park expansion proposal in sight. I ask my colleagues to remember that just the other week the House wisely rejected a proposal advanced by the Natural Resources Committee to authorize the expenditure of millions of dollars through establishment of the Tenement National Historic Site. Earlier this session, the House passed the California Desert bill, after adopting an amendment limiting its costs to $336 million. In all, the Natural Resources Committee has reported nearly $4 billion in new parks and public lands spending this Congress. These bills represent promises which this Congress is making around the country, almost none of which are paid for.

On the other side of the issue, what has the Natural Resources Committee done to help pay for its appetite to turn everything in sight into a national park? This Congress has acted on two measures which had the potential to generate new revenue for parks. The first was a measure to reform the concession policies of the Park Service. Probably one of the most worthwhile features of that bill was a proposal to return additional concession revenues to the parks. Unfortunately, by the time the bill reached the floor, it included an amendment adopted by the rule which will result in even less money to parks from concession operations than the Natural Park Service receives today.

The other measure before our committee to increase funds for the NPS is a proposal to increase entrance fees and to permit those increased fees to remain with the National Park Service. Vice President GORE claimed this initiative would generate $996 million in new funding for parks over 6 years. However, the measure under consideration by our committee is projected to generate only $20 million annually, and even that minimal measure has little chance of passage.

H.R. 3433 is one of the more costly park and public land bills to be reported by the Natural Resources Committee this session. The proposal to develop a Global Center for social, cultural and environmental awareness at the Presidio of San Francisco is estimated to cost $1.2 billion in construction and operations over the 15-year life of the National Park Service plan.

Supporters of this measure claim that the National Park Service plan, as embodied in the bill before us today provides a great cost-savings to taxpayers. That is certainly not the case. The annual cost of operating the Presidio under the National Park Service plan represents only a 10-percent reduction in cost of operation compared to its operation as a military base and that is after removal of nearly ⅓ of the buildings. The National Park Service plan moves tens of millions of dollars off-budget and requires taxpayer subsidies of bonds for the Presidio Global

Center. In fact, the National Park Service consultant found it would cost the taxpayers less if not a single building was leased than if this legislation is implemented.

Mr. Speaker, there is no definition of a national park written down in law. But, I think the American public knows a park when they see one. And I believe that the public is not buying the fact that the Presidio's hospitals, warehouses, apartment complexes, Burger King, bowling alleys, and pet cemetery are worthy of inclusion in the park system.

The list of supporters of this measure is revealing. Basically, the support for this measure comes first from the bay area, which stands to gain financially from the expenditure of hundreds of millions of Federal dollars, and second from a handful of environmental groups. But this legislation is not an environmental issue. Rather, many of the environmental groups supporting this legislation have already indicated their interest in securing office space at the Presidio; office space which would be subsidized at taxpayer expense.

The list of environmental groups which have indicated an interest in leasing subsidized space at the Presidio include: the Sierra Club, the Sierra Club Legal Defense Fund, Fund for Animals, Greenpeace, and Earthwatch, to name but a few. Many of these groups already have offices in the bay area, but would prefer to relocate to offices subsidized by the American taxpayer.

So Mr. Speaker, when the time comes for amendments, a number of amendments will be offered today which will reduce the responsibility of the Federal Government at the Presidio. I intend to offer an amendment to turn surplus lands at the Presidio over to the city of San Francisco. Opponents of my amendment will compare it to turning Yellowstone Park over to the town of Cody, WY. As the debate unfolds today, it will become clear to everyone who is not already aware that the Presidio is no Yellowstone. I hope this body will act with some restraint before serving up the billion dollar Presidio Global Center which is authorized in H.R. 3433.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, again I ask my colleagues to support this rule so that we can proceed with the merits of the legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 516 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3433.

□ 1425

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to House Resolution 516, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 22½ minutes, the gentleman from Utah [Mr. HANSEN] will be recognized for 22½ minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 15 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of this important legislative initiative introduced by the gentlewoman from California [Ms. PELOSI] and scores of cosponsors in the House which provides for the management of the Presidio following the historic transfer of the installation from the U.S. Army to the National Park Service on October 1 of this year.

The Presidio is a 1,480-acre military post located at the base of the Golden Gate Bridge in San Francisco and is literally surrounded by the Golden Gate National Recreation Area, a unit of the National Park System. The Presidio was determined in 1972 to be included in the Golden Gate National Recreation Area by law, the assumption being, as the military left or needed less space, that this important cultural, this important historic, resource over 220 years in age, having served continuously as a military installation, would indeed become part of the Golden Gate National Recreation Area.

Mr. Chairman, this is a logical and consistent proposal. It is one of the most important historical or cultural resources in our Nation. This area consists of lands that have unique ecological characteristics and recreational opportunities. In fact, the Golden Gate National Recreation Area, is one of the most used national park units. It has more visitors than nearly any other national park unit in the Nation.

Mr. Speaker, the Presidio is a complex unit. About half this space is open space. Other parts have buildings and is developed. It has nearly 6,000,000 square feet in 870 buildings and 1,200 housing units. It is an unusual responsibility for the National Park Service, and because of that this legislation puts in place a public benefit corporation known as the Presidio Trust which will have the responsibility to, in fact, go into adaptive leasing and utilization of these buildings and removal of large numbers of these buildings.

The fact is that as a military base the Presidio costs $60 to $70 million a year to operate. Under this legislation that figure would be cut at least in half, and so, as a transfer is occurring, there is a savings to the American public that is represented, but at the same time there is and has been a commitment for 22 years to move this resource into the care of the National Park Service.

This legislation is must-pass legislation. In the absence of its passage, the preparation for nearly 5 years that has gone on with the National Park Service, they would be unable to exercise the responsibility and responsiveness to the needs that are evident to everyone that has looked at it and thought about it at the Presidio.

□ 1430

The bill is an unusual proposal, but it is very important to the community of San Francisco. They are relying upon the Federal Government to be a good partner after 5 years of planning. It is absolutely essential that we in fact provide the tools necessary for the National Park Service and for our Federal Government to respond to the needs of this important parcel of land.

H.R. 3433 is a complex bill, which responds to a number of public policy goals. Many concerns have been raised, and I think most of them have been resolved. But some continue to advocate the abandonment of this area.

It would be impossible to predict what the consequences would be if the Park Service or Federal Government were to try to release this land. It would be tied up for decades in controversy concerning the rezoning of it. So in fact it would have to be mothballed and sitting, of no use to the Federal Government.

We expect that with the actions taken here, the Presidio will largely, based on a private-public partnership, pay its own way. These buildings that will be leased, in fact about half of the space, half of the 6 million square feet, half of that space has already been leased to the State of California and the U.S. 6th Army, which will retain a presence here, but, of course, in a much different mode.

So what is left to do is fund the removal of buildings that have no historical significance, to deal with the housing needs and maintenance of this facility. The legislation before us, one of its primary missions is to set up this special benefit corporation.

The decision on the designation of this area was made in 1972. What we are doing here 22 years later is responding and putting in place a rational basis in which the National Park Service, and the Department of the Interior, can deal with the responsibility that has been ordained in law, as I said, some 22 years ago.

This bill is subject to appropriations. The Committee on Ways and Means made important changes to the bill. I have some concerns about those changes, but, nevertheless, am willing at this point to continue to work with them.

The Congress will have the opportunity to hold accountable the trust, to hold accountable the Park Service, in terms of review of the dollars being spent. But we need some flexibility.

We have all kinds of speeches in this body about public-private partnerships. This in fact puts in law such a partnership, provides for the expertise of the private sector, and the retention or attainment of the goals that are sought in terms of preservation of this important resource.

This is the cutting edge of what is part and parcel in terms of historical and cultural resource management.

I note my colleagues have complained and pointed out, and rightfully so, the shortfall in terms of the Park Service operating budget. But I would suggest to my colleagues that the answer in that is not by defeating an important resource like this, which I think needs to be addressed. But we need to in fact deal with our priorities and ask ourselves why the parks are not receiving the money that they have been assured through the land and water conservation fund or the historic preservation fund, and why the priorities have not changed, as there is overwhelming support for parks in this country, and why indeed we do not appropriate the proper amounts to the operating funds of these parks.

In terms of trying to address some of the systems, as is being suggested here, does the Park Service really need 5,000 units of housing, when other land management agencies do not find that necessary? We must ask are we getting our fair share of the highway funding and tax dollars that are supposed to flow for roads that help retain and maintain and build the roads to and from and within our parks.

I think there are a lot of questions, and I think very often the Park Service has been shortchanged in these endeavors, Mr. Chairman. But the answer is not in reneging on commitments we made to maintaining and preserving important historic resources such as the Presidio. The answer is in dealing with our priorities and giving the parks the resources they need, not by abandoning those which we are committed to protect.

Mr. Chairman, H.R. 3433 is an important legislative initiative, introduced by Representative PELOSI, and scores of cosponsors in this House, to provide for the management of the Presidio following the historic transfer of the installation from the U.S. Army to the National Park Service on October 1, 1994. The Presidio is a 1,480 acre military post located at the base of the Golden Gate Bridge in San Francisco. In 1972, Public Law 92–589, which established the Golden Gate National Recreation Area [GGNRA], directed that the Presidio be transferred to the National Park Service and administered as part of the GGNRA when it was determined to be excess to the Army's needs. The 1989 Base Realignment and Closure Commission recommended closure of the Presidio because it was excess to the Army's needs. As a result of this recommendation, the Army stated its intention to vacate the Presidio by October 1, 1994, and transfer all property to the jurisdiction of the Secretary of the Interior. Planning for the transition of the Presidio from the Army to the National Park Service has been ongoing since 1990.

The 1,480 acres of the Presidio consists of park lands, distinctive historic features, unique ecological characteristics, and recreational opportunities. Within the Presidio boundary are significant historic resources representing more than 200 years of military history. The site has been a National Historic Landmark since 1962, recognized as a Spanish colonial military settlement founded in 1776 and as a U.S. Army post from 1846 to the present. Buildings, sites, structures, and objects related to Spanish, Mexican, and American military history have been identified as contributing to its landmark status.

During its 200-year history the Presidio has protected commerce, trade, and migration into the area and has been an influence on the settlement and growth of the West. It has played a logistical role in every major U.S. military engagement since the Mexican-American War. The Presidio's coastal and harbor defense structures display the evolution of such technology from the Civil War through World War II.

Other historical activities and events have contributed to the Presidio's national significance. In 1884, San Francisco National Cemetery was established as a resting place for soldiers and their families. Today it contains over 30,000 interments. In 1898, the Army opened its first general hospital at the post—the Letterman Facility—which has remained at the forefront of military medical research and care to the present day. In the 1920's, Crissy Field, the first Army coastal defense airfield on the Pacific Coast, was built along San Francisco Bay.

Of the total land area of the Presidio, about 700 acres are developed and 780 acres are open space. Within the boundaries are 870 buildings representing architectural styles from every major military construction period since 1848. The historic Presidio Forest is a dominant feature on the post. Designed and planted 100 years ago, it covers about 300 acres of the post, primarily on ridges, along boundaries, and at entrances.

Geological formations, favorable climate, water resources, and open space have contributed to the biological diversity of the site. Ten rare plant communities survive within the Presidio that have disappeared in the rest of San Francisco. Sites throughout the Presidio provide views of the Pacific Ocean, the Golden Gate, the Marin Headlands, San Francisco Bay, and the skyline of San Francisco. The Presidio also contains numerous recreational resources where visitors hike, bike, and tour scenic trails and drives. The Presidio currently attracts more than 3.5 million visitors every year. Coastal attractions include Baker Beach and the Golden Gate Bridge, the Crissy Field shoreline and Golden Gate Promenade on San Francisco Bay.

The conversion of the 1,480 acre military base into an urban national park presents a number of challenges. Although the National Park Service has inherited properties from the Department of Defense in the past, it has never received a property as large and complex as the Presidio. The Presidio's 870 buildings contain over 6 million square feet of interior space, 1,200 units of housing and an extensive infrastructure system including roads, water systems and electric utilities. Given the unique nature of the Presidio and its resources, innovative approaches and authorities will be needed to manage the Presidio as part of the Golden Gate National Recreation Area. This is especially true in an era of increasing fiscal constraint for the National Park Service.

Although the National Park Service has experience in adaptive reuse and historic leasing, they have never had to manage a park unit with such a large array of buildings, housing, and infrastructure. Early on in the planning process, the National Park Service recognized that managing the Presidio will require skills not typically held by National Park Service personnel including property management, leasing, real estate and finance. H.R. 3433 provides authority to the National Park Service to establish a public benefit government corporation—the Presidio Trust—to manage certain properties of the Presidio consistent with the purposes of the GGNRA and the approved general management plan.

H.R. 3433 is a complex bill which responds to a number of public policy goals. Concerns have been expressed by Members of Congress and the public about the cost of the Presidio in relation to other units of the National Park System and the fiscal constraints facing the system as a whole. Concerns have also been expressed that the Presidio should be managed no differently than any other unit of the National Park System, whatever the costs may be. The Committee on Natural Resources was mindful of these concerns and attempted to craft legislation that both protects the nationally significant resources of the Presidio while at the same time reducing its costs to the taxpayers. The purpose of establishing the Presidio Trust is to have the Presidio managed in a unique and innovative partnership which makes use of private sector resources to promote the public interest.

With regards to costs, I would note that the transfer of the Presidio to the National Park Service will be a significant savings to the Federal Government in comparison to its operation as a military base. The Presidio was operated by the Department of the Army at a cost of some $60 to $70 million a year. The Army and the Department of the Interior have calculated the annual cost to operate the Presidio as a national park to be $38 million.

Thus the taxpayer will be spending significantly less for the operation of the Presidio by the National Park Service and will have an enhanced ability to enjoy its natural, historical and recreational resources.

I would also note the projections of the National Park Service which show that the total funding needs of the Presidio will go down substantially over time, perhaps the only unit of the National Park System where this is the case. This is due to the increasing revenues to be derived from the leasing of Presidio buildings which are expected to offset the need for additional appropriated funds. The committee certainly understands that there are risks associated with a project of this magnitude. Ultimately, there is no way to predict future economic trends or tenant behavior or other factors which may influence the revenue generating capabilities of the Presidio. Professionals in the field of real estate management are optimistic about the Presidio's ability to attract a critical mass of high quality tenants. We intend to carefully monitor the activities of the National Park Service and the Presidio Trust to see if modifications in authorities are needed. I am aware that some concerns have been expressed about the level of autonomy and accountability of the Presidio Trust. As such, the bill clearly defines the Presidio Trust as a Government corporation subject to all Government laws except those specifically exempted. The Presidio Trust is established within the Department of the Interior, and its budget will be formulated through and in consultation with the Secretary of the Interior. The activities of the National Park Service and the Trust will be monitored closely by the authorizing and appropriations committees of Congress. The bill ensures that the activities of the Trust are consistent with both the purposes of the act establishing GGNRA and the approved general management plan. The Director of the National Park Service will serve on the Board of the Presidio Trust, as do two other Federal officials. The Secretary of the Interior has the authority to review major leases for consistency with the general management plan. The bill also contains a number of other provisions to increase accountability including requirements for public meetings and maintaining liaison with the GGNRA Advisory Commission as well as other financial reporting requirements.

The bill before the House today contains amendments recommended by the Committee on Ways and Means. The amendments will have a significant impact on how the rehabilitation of the hundreds of buildings located on the Presidio will be financed. Rather than obtain loans through direct borrowing from the Treasury, which were to have been paid back from lease revenues, the bill now places such borrowing subject to appropriations. Nonetheless, this bill must move forward in order to place the National Park Service in a position to bring this significant national resource into the National Park System. For regardless of what we do or say here today, the Presidio will become part of the GGNRA on October 1, 1994.

H.R. 3433 is an important measure which provides for the responsible management of the numerous nationally significant resources of the Presidio. I would urge Members to support the bill and resist any weakening amendments that may be offered.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DeLAY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, there is no doubt that the Presidio is one of the most scenic and historic areas in the Nation. Why, then, are we forcing our park system to shoulder the enormous costs of what will certainly be our most expensive acquisition yet, when we cannot make ends meet for other national treasures? Contained in this legislation is Government assistance for movie theaters and bowling alleys while at the same time the Park Service is complaining that it does not have adequate personnel to man park entrances. If that was not enough, the Park Service is cutting 1,200 positions this year. Staffing the Presidio will require 350 additional employees, making an already unacceptable situation worse.

Let us look at the facts. The Park Service is faced with a 37-year, $5.6 billion backlog in its construction budget, a $1.2 billion shortfall in its land acquisition account, and a $400 million operations shortfall. The nearly 1,500 acre Presidio will cost an additional $25 million annually. By comparison, the entire 2.2 million acres of Yellowstone Park, unarguably more of a natural wonder than an old Army base, is appropriated only $17 million. Congress has decided that there will be no increase in money for the Park Service, so why are we loading this legislation on the back of a system which is already overwhelmed?

As an appropriator, I have other concerns which deal with accountability to the American taxpayer. This bill authorizes the creation of a corporation within the Department of the Interior and grants this corporation unprecedented powers to operate simultaneously as both a Government and non-Government entity. This entity is not subject to many Federal controls. How can we authorize any entity to spend taxpayers' money without accountability?

If that was not enough, the bill also inflicts Davis-Bacon requirements on construction projects at the Presidio. While this would not be any big surprise if it were a Federal construction project, the fact is that most of the funds for construction will be private. This legislation is precedent setting in that it extends Davis-Bacon rules and regulations to private money. Davis-Bacon is a Federal law intended to cover Federal projects. There is no basis whatsoever to extend these onerous rules and regulations to the private sector. Davis-Bacon requirements have been proved to add an additional 5 to 15 percent to construction costs for no other reason than to line the pockets of the unions. This is an outrage.

Despite the fact that this park will largely benefit San Francisco and the State of California, this bill neither asks for, nor do the parties offer, any payment or assistance to alleviate the enormous costs. Recently, Californians rejected a referendum that would have approved a State bond issues to finance parks and historic sites. Of course, if the Federal Government wants to spend money for such projects, Californians have no objection whatsoever.

Let us get in tune with what is happening here. We cannot afford to continue designating every historic site and environmentally fragile area as a national park. Those areas that we do designate, we should be able to adequately fund. This bill has serious flaws and I ask all Members to defeat it.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL], a supporter of the bill.

Mr. RAVENEL. Mr. Chairman, I am a cosponsor of this legislation. I do not know how many of you Members have been out there and taken a look at the Presidio. But it would just be unconscionable to me that this Congress does not take this opportunity, which could not be a rarer opportunity, to incorporate 1,400 acres in downtown San Francisco, which is so absolutely starved for open spaces, green spaces in particular.

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The concept is innovative and it is a new type concept. It is going to be a public/private enterprise. I do not know how many of my colleagues have taken the trouble to read the brochure that has been brought out on it. It is just simply marvelous.

After I read it, I was absolutely convinced that the bill of the gentlewoman from California [Ms. PELOSI] was the right way to go. Those of us in Charleston, where we have 1500 acres right there on the Cooper River and we are in the throes now of redeveloping that property, we are looking very keenly at what is being done out here in the San Francisco area with the Presidio as a guide for us.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in opposition to 3433, and I think we are talking about priorities in the National Park System. When most of us visit our Nation's parks, we have an idea of what we expect to see in our national parks.

Here we are, we are talking about spending millions and millions of dollars of taxpayers' money on the presidio. Let me show colleagues some of the things that our money is buying.

Right here we have the only pet cemetery in the National Park Service. Is that what we expect to see when we visit our Nation's parks? Right here we have one of two hospitals totaling 800,000 square feet. Again, I ask my colleagues, is this what we expect as Americans spending all our tax dollars on parks to see in our National Park System. I do not believe so.

Let me talk about another area. We have one of two Presidio bowling alleys. I do not believe that the American people really want to see their tax dollars go for this purpose. Is this really what they had in mind when they were designating those dollars for pristine areas?

Next here is some of the over 400 residences and dormitories, totaling 2.5 million square feet in the Presidio. I do not believe this is what the American people want to see in their park system.

Right here we have the only Burger King in the National Park System. Again, I ask my colleagues, as American taxpayers, is this where we expect our tax paying dollars to be spent? I do not believe so. This is not what I perceive our priorities should be in the National Park System. I do not think the American taxpayer expects to have their dollars spent in this manner. They truly want to see their tax dollars go to parks that are going to preserve a pristine area, that is going to preserve the beauty of this country.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me stipulate that the Presidio is unusual and historic and, yes, a national treasure. But the troublesome issue with this bill, as it came to us, was the unlimited, direct borrowing authority, not subject to appropriations, that was granted specially and uniquely to the Presidio and to no other park in the United States of America.

In order to be a national park, I looked up the criteria today. I am going to read two of the four requirements, which all must be met in order for any location to be designated a national park.

First, an outstanding example of a particular type of resource. Second, possesses exceptional value or quality. The Presidio meets those criteria. But so do all of the other national parks in this country today, which are suffering, as we have just heard, from lack of resources to do their job, to make them suitable for public enjoyment.

The trust that would be created uniquely for the Presidio under this legislation would have allowed, in effect, that trust to issue public debt without accountability to the budget, without accountability to the appropriations project. And they would do this through a unique creative mechanism whereby the Treasury could off-budget, directly borrow, up to $150 million, thereby directly increasing the national debt.

The basic issue of increasing the public debt through off-budget financing, which, in effect, creates a new entitlement program, should concern all of us. So in committee, I offered an amendment, which was adopted on a bipartisan 18 to 16 vote, to restrict any Treasury purchase of Presidio debt to only those amounts already appropriated within existing Federal spending caps. The Presidio should have to compete with all of the other national parks as national treasures for adequate funding.

That amendment, which remains in the bill before us today, prevented the financing structure of the Presidio from increasing the Federal deficit and debt, which would be left to our children and their children forever, by $150 million over the next 5 years.

If this bill is approved today, it is extremely important that we preserve that important financing restriction throughout the legislative consideration of this measure. I want to serve notice right now that I will personally lead the fight to eliminate any effort, coming back from the Senate or in a conference report, to restore the kind of off-budget financing for the Presidio which my amendment addressed.

The Presidio is truly a beautiful place. I have been there. It will continue to be a beautiful place when the National Park Service takes it over. As I mentioned, it meets the criteria for a national park, but that alone is not sufficient cause to bypass the budget constraints that we have struggled to uphold. As beautiful as the Presidio is, I cannot justify leaving our children and grandchildren with more bills to pay for a brand new specific entitlement program, nor can I justify the enormous precedent this would set for funding other such projects outside the constraints of our budget law.

As it stands now, the Presidio bill will compete for appropriations, along with every other worthy project the Members of this body want to see funded by Federal tax dollars. Members will have to make tough choices, and that is the way it should be. That is what our tax paying public expects of us.

Mr. Chairman, I intend to continue to try to make any of these kinds of programs fiscally responsible. I still question spending another $150 million, even though it might work under the spending caps. And I also question the inclusion of the Davis-Bacon Act.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

I rise to support the legislation that we have before us now. It was referred to the Committee on Ways and Means because of some unique financing and tax exemption provisions in here. We worked cooperatively with the Committee on Natural Resources, and I believe we came up with an acceptable arrangement.

We want to make it very clear, though, that the bill, as reported by the Committee on Natural Resources, contained really an exception to the normal funding process. It should never be used in the future for any project that is or is not unique, like the Presidio.

One of the problems we have here is that earlier Congress decided that the Presidio, when it ceased to be used as a military installation, would be made a part of the National Park Service; would become part of the national park system. That was probably a good decision because the Presidio is so unique. However, it requires so much funding that it would completely disrupt the rest of the Park Service budget, if funded in the conventional manner. The Natural Resources Committee arranged unique funding for the Presidio.

In light of the Ways and Means Committee's actions, essentially, we expect that the managers of the Presidio Trust, when they take over, will organize a 501(c)(3) corporation. Any debt obligations that the Presidio trust may issue would be purchased only by the Department of the Treasury. Treasury's purchase of that debt would be limited $150 million outstanding at any one time, and would be at the Treasury's discretion based on their assessment of the creditworthiness of the trust's projects. The Treasury would be there to ride herd over the 501(c)(3) corporation by controlling its borrowing.

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Additionally, any borrowing by the Presidio Trust would be fully subject to the customary budget process. Treasury's lending to the Presidio Trust would be subject to advance appropriations. It would be scored as the rest of the budget process is scored.

Mr. Chairman, I think, considering the national treasure that we have in the Presidio, and the fact that this bill attempts to guarantee that the Presidio will always be available to the public as a great national asset, that this is the acceptable method of getting this work done.

Mr. Chairman, the Committee on Ways and Means wants to point out that we hope we will not need to do this again for any other project. That is the reason why we have changed the funding procedure. We recognize the uniqueness of this project.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 7 minutes to the gentlewoman from San Francisco, CA [Ms. PELOSI], the principal sponsor of this measure.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Minnesota for yielding time to me.

Mr. Chairman, it is a proud day for me to be able to come to the floor of this House of Representatives to talk to my colleagues about the Presidio of

San Francisco. I urge them to support my legislation, which outlines a plan for cost savings to the American taxpayers that could, for the first time, actually reduce Federal costs for a national park. I am very proud of the 124 of our colleagues who have placed their names on this legislation as cosponsors. I am also very proud of the fact that I can come here today and say to my colleagues that we have the support of the environmental community and of the business community, of labor, of the academic community, and the arts. The League of Women Voters has lobbied on Capitol Hill for this legislation. I think it is very unusual that we are able to build a national constituency for this national park, and one that is diverse and ardent.

Mr. Chairman, I particularly want to thank the gentleman from California, GEORGE MILLER, Chairman of the Committee on Natural Resources, and the gentleman from Minnesota, Mr. BRUCE VENTO, subcommittee chairman, who have been essential to the success of this legislation. They have contributed immeasurably to bringing it to the floor, and I appreciate their efforts. They are true champions of the Presidio in the tradition of Philip Burton, a colleague of so many of the Members here.

Mr. Chairman, the reason that we are here today is not to see if we can make the Presidio a national park. We are here because the Presidio will become a national park. In 1972, Philip Burton, in his great wisdom, passed legislation designating the Presidio a national park when the properties were in excess of the needs of the Department of Commerce. Under the 1988 base closure law, the Army determined that the Presidio's lands were in excess of its needs, and recommended that the base be closed.

Subsequent to that, Mr. Chairman, BRAC decided that a small contingent of the Sixth Army would remain at the Presidio, so the Presidio will be a park, and the Army will be a tenant of the National Park Service. We are proceeding with this legislation to provide the maximum access for the public to this magnificent area, with a minimum of exposure to the taxpayers.

The Presidio will not only be a park, it will be a park for the 21st century, in which the concepts of environmental sustainability, innovative technology, and environmental education and stewardship can be brought to reality. H.R. 3433 would create a nonprofit, public benefit trust to rehabilitate, lease, and manage the bulk of Presidio properties, while the Park Service would be responsible for the traditional management of open space areas. Cost savings would be achieved by introducing certain private sector management techniques to the administration of the Presidio.

The Presidio Trust will be a reinventing government model of private-public sector management.

Private sector management techniques would be combined with public sector control and accountability to maximize Federal spending at the Presidio.

Mr. Chairman, my full statement for the RECORD goes into more detail about the participation of the private sector and involvement of the Presidio Council, which is a national private group, in obtaining the $2.5 million in paid or pro bono services of independent financial management experts.

The Presidio conversion quite possibly has had the benefit of more outside, objective analysis than any other base closure in history. Mr. Chairman, I would like to submit for the RECORD a list of private organizations, and I referred them earlier, but I will submit that list for the RECORD.

Mr. Chairman, at the conclusion of this process of examining different models, the passage of this legislation, America will have a 21st century national park dedicated to the stewardship of the world's human and physical resources through global cooperation. As a national park, the Presidio will build on the significance of its past to become one of America's most prominent and innovative urban parks.

Mr. Chairman, there are three characteristics that I want to call to our colleagues' attention. The Presidio's historic attributes have been judged so significant that in 1962, the entire base was declared a national historic landmark. It is rich in military history, and I will submit that history for the RECORD.

Second, Mr. Chairman, the post's biological diversity and rare ecosystems caused it to be declared the world's only urban international biosphere reserve. The Presidio's coastal bluffs abut the Nation's largest chain of marine sanctuaries.

Third, Mr. Chairman, the Presidio is located amid some of the most magnificent scenery in the world. Anchoring the Golden Gate Bridge, the Presidio guards the rugged and strategically important confluence of the San Francisco Bay and the Pacific Ocean.

The post is located in this unusual combination of scenic, natural, and historic values that caused Congress to mandate in 1972 that the Presidio should become the centerpiece of the Golden Gate National Recreation Area once it is no longer needed for military purposes.

Now I would like to address some of the statements made by some of our colleagues. The Golden Gate National Recreation Area, of which the Presidio is part, is the most visited park in the nation, with 20 million visitors a year.

The Federal cost per visitor to the GGNRA and the Presidio is $2, while other parks can account for as much as $13 per visitor. More visitors come to the GGNRA each year than Yellowstone, Yosemite, and Grand Canyon combined. I respect those great national parks, but the fact is that more come to the GGNRA than all three of them combined.

Mr. Chairman, I would like to quote from a former Secretary of the Interior, Secretary Hickel, who said "Our existing national parks are unique, strikingly beautiful, and absolutely necessary elements of nature's wild systems, but they are located in areas remote from the less affluent members of our society. Many of our people cannot get to parks. Therefore, we must get parks to the people."

That is what the Presidio does? It is an urban park that is readily accessible to the people. If we are serious about reinventing and streamlining government, if we really want to save the taxpayers money, then I urge our colleagues to support my legislation.

The gentleman from Colorado [Mr. ALLARD] showed some posters there of different aspects of the Presidio, and in fact what he was describing was the morale and recreation program of the Army.

Yes, indeed, we do have a pet cemetery. It is managed by the Boy Scouts. It is an Army facility. I think it is not anything to be mocked, but something that is appreciated by the Army personnel who live at the Presidio.

Yes, they do have bowling alleys, because that is something that the Army wants for its personnel. The Army will be there. The Army will be using those facilities.

What we are talking about is maintaining and operating a national park of national and international significance, one that I say to my colleagues I do not ask you lightly to support. I am asking you to be part of something great for this country. Please vote for this legislation. It is a vote that you will be very proud of.

Mr. Chairman, for the RECORD, I include the material referred to earlier:

SUPPORT FOR H.R. 3433

Governor Wilson, State of California.
State Assembly, California Legislature.
Mayor Jordan, City of San Francisco.
Board of Supervisors, City of San Francisco.
American Federation of Labor and Congress of Industrial Organizations.
American Institute of Architects.
American Society of Landscape Architects.
Asian American Architects and Engineers.
Bay Area Council.
Bay Area Economic Forum.
Brett Harte Terrace and Francisco Street Neighborhood Association.
Earth Island Institute.
Environmental Defense Fund.
Fort Mason Center.
Friends of the Earth.
Golden Gate National Park Association.
Golden Gate National Recreation Area Advisory Commission.
Hispanic Contractors Association.
Laborers' International Union of North America.

League of Conservation Voters.
League of Women Voters of California.
League of Women Voters of San Francisco.
League of Women Voters of the United States.
Los Californianos.
National Audubon Society.
National Park System Advisory Board.
National Parks and Conservation Association.
National Japanese American Historical Society.
Natural Resources Defense Council.
Neighborhood Associations for Presidio Planning.
North Beach Neighbors.
People for a Golden Gate National Recreation Area.
Presidio Council.
Presidio Heights Association of Neighbors.
San Francisco Bay Area Interfaith Coalition.
San Francisco Chamber of Commerce.
San Francisco Hispanic Chamber of Commerce.
San Francisco Chronicle.
San Francisco Examiner.
San Francisco Independent.
San Francisco Planning and Urban Research Association.
Sierra Club.
Sierra Club of San Francisco.
Travel Industry Association of America.
Trust for Public Land.
United Brotherhood of Carpenters and Joiners of America.
Wilderness Society.

THE PRESIDIO COUNCIL,
San Francisco, CA, August 17, 1994.

DEAR MEMBER OF CONGRESS: We are writing once again to urge you to vote for H.R. 3433 when the bill comes to the Floor this week.

H.R. 3433, introduced by Congresswoman Nancy Pelosi, is designed to create savings at the Presidio, which becomes part of the national park system in October of this year. Inclusion of the Presidio in the Golden Gate National Recreation Area was mandated by Congress in 1972. Because the park is already federal land, there will be no acquisition costs associated with the Presidio's transfer to the Park Service.

The bill under consideration would not create a new park; it would establish a more cost-effective management structure for an existing park. The "Presidio Trust" that would be created by the bill is expected to reduce the cost of operating the park substantially by employing private sector property management techniques to rehabilitate and lease facilities to park tenants. Revenues from these tenants will be used to offset federal costs.

H.R. 3433 is a good government approach to managing the Presidio as a national park. The bill's approach is based on recommendations of a wide variety of experienced independent financial and managerial experts.

We believe H.R. 3433 would result in a magnificent national park and savings for the American taxpayer. We urge you to vote YES on H.R. 3433 and against any weakening amendments.

Sincerely,

JAMES R. HARVEY,
Chair, Presidio Council; Chair, Transamerica Corporation.
TOBY ROSENBLATT,
Chair, Golden Gate National Park Association.

For the Presidio Council:

Patrick Foley, Chair and CEO, DHL Airways, Inc.

John Bryson, Chair and CEO, Southern California Edison.

M.J. Brodie, Former Executive Director, Pennsylvania Avenue Development Corp.; Senior VP, RTKL.

Walter A. Haas, Jr., Honorary Chair of the Board, Levi Strauss & Co.

James P. Miscoll, Vice Chairman (Ret.), Bank of America.

Roger Heyns, President, The William and Flora Hewlett Foundation, (Ret).

Bruce Spivey, MD, President and CEO, Northwest Healthcare System.

Richard A. Clarke, Chair and CEO, Pacific Gas and Electric Co.

Virginia Smith, President Emerita, Vassar College.

Herman Gallegos, Chair, Gallegos Institutional Investors Corp.

Gyo Obata, Chairman and CEO, Hellmuth, Obata, & Kassabaum, Inc.

John W. Gardner, Stanford Graduate School of Business and former U.S. Secretary of H.E.W.

Francis Ford Coppola, President, American Zoetrope.

Roy Eisenhardt, Vice Chair, Presidio Council.

John Sawhill, President and CEO, The Nature Conservancy.

Joan Abrahamson, President, The Jefferson Institute.

Carl Anthony, President, Earth Island Institute.

Edward Blakely, Professor, College of Environmental Design, University of California.

Rodger Boyd, Executive Director, Economic Development, Navajo Nation.

Dr. Noel J. Brown, Director, Regional Office for North America, UNEP.

Adele Chatfield-Taylor, President, The American Academy in Rome.

Robert K. Dawson, Vice Chair, Cassidy and Associates.

Tully M. Friedman, Hellman & Friedman.

Jewelle Taylor Gibbs, Professor, University of California.

William Graves, Editor, National Geographic Society.

Antonia Hernandez, President/General Counsel, Mexican American Legal Defense and Education Fund.

Maya Lin, Architect and Designer, Vietnam Veterans Memorial.

Ellen Ramsey Sanger, Coro Foundation.

Lucy Shapiro, Ph.D., Chair, Dept. of Developmental Biology, Stanford Univ. School of Medicine.

Mimi Silbert, President and CEO, Delancey Street Foundation.

Richard Allan Trudell, Executive Director, AILTP/American Indian Resources Institute.

Dr. Robin W. Winks, Townsend Professor and Chair, Yale University.

In 1972, Phillip Burton passed a law designating the Presidio a national park when its properties were no longer required by the Department of Defense.

Under the 1988 base closure, the Army determined that the Presidio's lands were excess to its needs and recommended that the base be closed. In 1993, the Base Closure Commission revisited and revised their decision by recommending that a small contingent of the 6th Army remain at the Presidio. The recommendation was adopted and as a result, the 6th Army headquarters will remain as a park partner at the Presidio. The remaining Army functions at the Presidio will be terminated and ownership of the Presidio will transfer to the National Park Service effective October 1, 1994.

Cost savings would be achieved by introducing certain private-sector management techniques to the administration of the Presidio.

Authorities for the Presidio Trust would include: A reinventing Government model of private-sector management; Relief from some of the regulatory burdens borne by Government agencies; A private sector skill base; Centralized responsibility for building upgrades; and Retention of revenues to continue rehabilitation of properties.

These private sector management techniques would be combined with public sector control and accountability to maximize Federal savings at the Presidio.

The Presidio Council, comprised of prominent professionals from the fields of business, finance, education, architecture and planning, Government and philanthropy, was formed in 1991 to provide the Park Service with assistance in converting the Presidio to a national park. In the past 3 years, the Council has obtained nearly $2.5 million in paid or pro bono services of independent financial and management experts. The list of consultants who have studied this project include Arthur Anderson & Co., McKinsey & Co., Keyser Marston Associates, Mancini-Mills and the law firm of Morrison and Foerster.

The public benefit corporation established in H.R. 3433 is based on the results of this analysis. In developing the blueprint for the Presidio Trust, 19 public-private management models in the United States and Canada were studied. Specific qualities of the Presidio were then considered and a management model and financial strategy developed. The Presidio conversion quite possibly has had the benefit of more outside objectives analysis than any other base closure in the country. H.R. 3433 is the culmination of this process.

As we consider H.R. 3433 today, steps are already underway to secure major tenants in order to generate needed revenues for the park. Negotiations are in progress to obtain an anchor tenant for the park's biggest income producing property—the Letterman-LAIR complex; The University of California, San Francisco, and the Tides Foundation are under active consideration for this space at the Presidio. The Presidio Trust must engage good tenants who will pay fair market value and contribute to the objectives of the park.

The Army will remain on a limited basis as a park partner. It will occupy 1.8 million square feet of the Presidio's total 6 million square feet and contribute to park operations. Other current tenants include: Red Cross, FEMA, the Gorbachev Foundation, U.S. Postal Service, the U.S. Department of Agriculture, the National Oceanic and Atmospheric Administration and Clean Sites.

Altogether, the Park Service has received over 400 responses to the Call for Interest from individuals requesting space at the Presidio.

The Park Service has been preparing for this transfer for almost 5 years. Its General Management Plan for the Presidio will be finalized this month and an agreement will be signed between Army and Interior for reuse of some military facilities.

In addition to the progress on tenants, a philanthropic plan has been finalized which projects a sizable contribution to the overall financial viability of the Presidio. Under the leadership of the Golden Gate National Park Association, the philanthropic community is being mobilized in an effort to achieve the goal of $30 million in contributions within the next 15 years.

The word that most aptly characterizes the current state of affairs at the Presidio is "momentum." As we approach the official transfer of the post to the Park Service, there is a solid conversion plan based on extensive analysis, a Park Service General Management Plan that is being finalized this month, an accord between the U.S. 6th Army and the Park Service that will maintain a limited Army presence at the park and will reduce Interior Department costs, a major lease for 1.3 million square feet of building space at Letterman/LAIR is under negotiation, and a philanthropic campaign is in progress. H.R. 3433, creating the overarching management structure, is a critical component of the conversion and essential to maintaining the momentum that we are now experiencing at the Presidio.

At the conclusion of this conversion process, America will have a 21st century national park dedicated to the stewardship of the world's human and physical resources through global cooperation. As a national park, the Presidio will build on the significance of its past to become one of America's most prominent and innovative urban parks. Its conversion from a military post to a national park will also demonstrate to America and the world the importance that we place on educating the future by interpreting the past.

We will have also preserved a place unique in American history—a place which has blended history, architecture, biological diversity and scenic beauty in the national interest since it was obtained from Mexico in 1846.

I am convinced of the wide range of possibilities that exist at the Presidio and consider this venture a challenge to our collective creativity. I also believe that the members of this body will meet this challenge and work to develop a national park that will make us proud of its contribution to the national system.

The conversion of the Presidio, from post to park, on September 30, marks an unprecedented opportunity to reshape a cultural and human-made resource into a world-class urban park and global center for seeking solutions to problems of the natural and human environments.

I urge my colleagues to vote for H.R. 3433.

Mr. HANSEN. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I have great respect for the gentlewoman who just spoke, and I can see that she represents her area very well. I know when most of us were elected to this body, we came here to be fiscally responsible, and everybody who campaigned talked about the idea, how they were going to straighten up the budget. They would do everything in their power to live within our means.

Our Founding Fathers gave a lot of great talks in this city about living within our means and not going beyond that. However, now we find ourselves in a huge deficit. It does not come by huge things, it comes by $1 million here, $1 million there, and before you know it, we have trillions of dollars that we are in debt.

Mr. Chairman, we have at this particular time 368 parks. I would hope that Members, as they go this summer, if we get any vacation, if they go to some of these parks, that they go see the superintendent, take time to talk to the superintendent in whatever State they are in.

Go to Yellowstone, go to Yosemite, go to Grand Canyon, Zion, Bryce, Great Smokies, whatever it may be, and ask the superintendent, "Do you have enough money to just handle the infrastructure, the roads, the buildings, the sewer lines, the water lines?" He will say, "No, we are falling apart."

We know ourselves that we have an $800 million operation shortfall. We are 37 years behind on our construction, and we are 25 years behind on our land acquisition.

□ 1500

Here we are, Mr. Chairman. We are standing here today saying to the people, "Hey, we don't care about your tax-paying dollars. We're just going to go spend, spend, spend." That is the theory around here. What is wrong with San Francisco taking this over if they want this so bad?

What we are creating today is a city park for San Francisco paid for by Government funds. I really cannot understand why the other 49 States want a city park or feel that that is the kind of thing that they want.

I really feel that running pell-mell into debt for this tremendous amount of money does not make much sense.

Mr. Chairman, I would hope you would listen to this. We have a Secretary by the name of Bruce Babbitt. Bruce Babbitt is a very liberal man who believes in all of these things. But he was asked a question the other day regarding a Fort Wadsworth. Let me say this about Fort Wadsworth. Recently on the east coast, Secretary Babbitt has adopted an approach identical to what we have got here dealing with surplus military property located within the boundaries of Gateway National Recreation Area in New York. The facts of these 2 cases bear an uncanny similarity. A military base, Fort Wadsworth, entirely within the authorized boundary of Gateway National Recreation Area in New York City within the last year has been declared surplus to the needs of the Navy. Same as the Presidio, surplus to the needs of the Army. It also contains a collection of both historic and nonhistoric facilities, but the major difference is that the facilities at Fort Wadsworth are in very good condition compared to those at the Presidio. Not only is there a minimal development cost but the annual operating costs are only 25 percent of the cost of operating the Presidio.

Keep in mind, Members watching in your offices, look at this comparison. However, on June 15, the Secretary of the Interior wrote to the Secretary of the Navy as follows:

> Increasingly in a period of severely limited resources, the National Park Service must focus on protecting resources directly related to the mission of the agency. After a Department of the Interior review of the Fort Wadsworth acquisition in early June of this year, we are extremely concerned about the inappropriateness of the National Park Service acquisition of facilities not directly related to accomplishing its mission, and further the absence of any specific appropriations or positions for the National Park Service stewardship of this property.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Utah to yield as he sees fit.

The CHAIRMAN. Without objection, the gentleman from Utah [Mr. HANSEN] is yielded an additional 10 minutes.

There was no objection.

Mr. HANSEN. Mr. Chairman, I am back on the Wadsworth-Presidio comparison.

> Due to these concerns and the reality that funds will be difficult to obtain in the foreseeable future, we simply cannot afford to manage Fort Wadsworth as a National Park Service site as presently configured.

There is the Secretary of the Interior, Mr. Babbitt. He takes Fort Wadsworth, which is in better shape than the Presidio, and says we cannot afford it.

I just ask my colleagues, if we want to go ahead and dig a deeper hole into debt, go ahead and vote for this. I agree with the gentlewoman from California, it is a beautiful spot, it is an outstanding spot. But can we afford everything, can we buy everything we want? That is the reason we are in debt. I would just respectfully say, let us reject this particular bill and let us let the City of San Francisco take this.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the gentleman knows that unlike the Presidio where there was a conscious decision and an evaluation of the Presidio for inclusion into the National Park System and a law passed by the Congress to do so, in the Wadsworth situation, what you had was the State of New York trying to foist off onto Fort Wadsworth to prevent other actions from taking place with respect to the housing on the base that they did not want to have happen in their community. They were trying to use the Park Service to circumvent the law around BRAC and about the use of the facilities in the community. That is what was going on there. That had nothing to do, and the Secretary made the proper decision in that case.

Mr. HANSEN. If I may respond, in 1972, the Gateway Park that was right there was put in the same category as the Presidio, and I think the gentleman can find that in the RECORD.

Mr. MILLER of California. If the gentleman will yield further, the intent in the Wadsworth case was the community trying to avoid having housing opened up to the community generally or to the homeless or what have you. An entirely different intent. Nothing to do with the Park Service. I appreciate that Gateway is a wonderful facility.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent to reclaim my time.

The CHAIRMAN. Without objection the gentleman from Florida reclaims his 12 minutes.

There was no objection.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent to yield my time, for purposes of control, to the gentleman from Minnesota [Mr. VENTO.]

The CHAIRMAN. Without objection the gentleman from Minnesota will be given the 12 minutes.

There was no objection.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute, and I would just point out to my colleague, the gentleman from Utah that the taxpayers did elect us to make prudent, fiscal, responsible decisions. The fact of the matter is that by establishing this public-private partnership, Members of Congress can vote for this and in fact can save the Federal Government money. We can make certain that these buildings do not end up boarded up and shut up like some of the buildings in Gateway National Recreation Area. I visited that park and I would point out to the gentleman, they have a movie theater there, and it is boarded up. They have bowling alleys and they are not being used. They have housing units that are empty and not being used. It is a more remote area, it is not a complete corollary, but the point is that that is an example of just transferring things over to the Park Service and then not having anything happen with them. The problem is, what we are trying to do is avoid that particular situation at the Presidio. The best way to save the taxpayers money is to provide for this public-private partnership that the gentlewoman from California [Ms. PELOSI] is advocating in the legislation before us. So the idea that the military has built a lot of facilities that are inappropriate is hardly the issue. The issue is how are we going to take care of the Presidio as we move forward.

Mr. Chairman, I yield 1½ minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, in the context of the general discussion about the Presidio, some commentary has been made by a couple of the Members with respect to the Davis-Bacon Act. I am sure everyone is familiar with it, but nonetheless, let us just go over what is involved here and I hope we will not have this discussion because I think it will only prolong and interrupt what is otherwise a discussion well worth pursuing. The bill's provisions with respect to the projects that are to be funded by the Presidio trust have in them the Davis-Bacon standards. All that is involved in the Presidio trust for Members who may not be totally familiar with the legislation is as a Government corporation, the Presidio Trust is subject to Davis-Bacon and the Davis-Bacon provisions simply establish the prevailing wage standards. Surely with all of the photos that we saw of the various projects including hospitals and everything else that is in the Presidio right now, we would want the prevailing wage standards to be in this legislation. It is consistent with dozens and dozens of national park projects that are federally financed and federally assisted construction projects.

I do hope we will not get into a side discussion at this time about Davis-Bacon. I think that should be saved for Labor-Education Committee activity.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to this bill. I have twice offered amendments to hold down the funding for the Presidio or the conversion of it into a national park, not to eliminate funding but to at least hold it down to some reasonable level. I am not leading the charge this time and I have been asked about this, but let me make it clear—I am still very much opposed to this bill. I think it very much shortchanges and will be very harmful to all our other parks.

Our other units of the national park system, some 368, in number, are already underfunded. The National Park Service says there is a $5.6 billion construction backlog. There is a $1.2 billion shortfall in acquisition funding and a $400 million shortage in operating funding each year. There is a portion of the Presidio that should be protected as a national park. The Park Service recommended many years ago that roughly 20 percent along the shore, that that be protected as a park. Certainly I do not think anyone objects to that.

□ 1510

But to convert this entire military base into a national park, the General Accounting Office has estimated it could cost as much as $1.2 billion over the course of the next 15 years. I certainly do not think that the Federal Government should carry this burden alone. As bad a shape financially as our cities are in, still they are in better financial shape than in our Federal Government. As bad as shape financially as our State governments are in, they are not in as bad a shape as our Federal Government. This Federal Government is over $4.5 trillion in debt. We are still losing hundreds of millions of dollars each day on top of that.

So I would say that at least the city could do some part of this, let the State do their share. That is why I particularly support the amendment of my friend, the gentleman from Colorado [Mr. ALLARD]. I also support the amendment by my friend, the gentleman from Minnesota [Mr. GRAMS], that I think he is going to propose to put a cap on this spending at $25 million each year.

The National Park Service has estimated that to operate the Presidio as a park could cost $45 million a year. That is three times what is spent each year on the Yosemite National Park, three times what is spent each year on the Yellowstone Park and five times the rate of spending at Great Smoky Mountains National Park. Even if the amendment to cap the spending at $25 million a year is adopted, that would still make the Presidio the most expensive national park in this country.

All of this is being done to protect areas that include a pet cemetery, a Burger King, an old bowling alley, a movie theater, many rundown acres of 1950's rambler-style housing, and many other things I do not think one would classify as national park material.

I would say I would urge adoption of some of these amendments that would at least make this a little better bill, and I urge defeat of the overall legislation. I think as I said earlier that it would be very harmful to our other national park units in this country, and I thank the gentleman for yielding the time.

Mr. VENTO. Mr. Chairman, I am pleased to yield 2 minutes to the dean of the California delegation, Mr. EDWARDS.

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, this is a very important bill. The Presidio is one of our great national treasures, not just for the West Coast, not just California. It is unique. Its history goes back to 1776 when the first Spanish forts were established, and for the entire time since then it has been very involved in all of the wars that the United States has been involved in.

It is so unique because it is an urban park in the midst of many millions of people, 5 million, 6 million, 7 million people. I know the people from my city of San Jose, some 30 or 40 miles south of San Francisco, on public transit can come and do come and join the 20 million tourists and visitors that visit this area every single year, as the gentlewoman from California [Ms. PELOSI], author of the bill pointed out, more visitors than the three great parks, Yosemite, Grand Canyon, and Yellowstone have visitors in 1 year. I think that is unique. They get there on public transportation from across the bay, Oakland, Alameda and all of the great East Bay people, children, and classes can come and do come. This must not be lost. This is the only way that it can be handled in an economical way with the Presidio trust, a system, a device that has been used successfully. It is by far the very best way to handle this challenge and promise of the Presidio, which as I said earlier, is not only a State and local treasure, but a great national treasure.

So I would urge an overwhelming vote for this bill and congratulate my colleagues from California, Ms. PELOSI, Mr. MILLER, the gentleman from Minnesota, Mr. VENTO, and all those involved in this great enterprise.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of this bill reluctantly for some reasons, but let us get some of the facts out.

We have heard about pet cemeteries and Burger Kings and so on. Those were put there by the U.S. Army, the Federal Government. They are there. As of October 1 this land will belong to the Park Service. That decision has been made several years ago. So now the question is what do we do on October 1.

There is 1,500 acres of prime land that title is in the U.S. Park Service as of October 1 with all of the warts that might be there, and we have to address the problem. I am concerned about the financing mechanism of this bill. Why? Because the Interior Appropriations Committee is going to be forced to take right off the top of its budget an amount equal to whatever the revenue bonds are that are issued pursuant to the authority in this bill. That means, as the gentleman from Utah pointed out, there will be a lot less money for the other parks. All of the things that he mentioned are true. There are road needs, there are sanitation needs, there are all kinds of needs in our parks.

I would hope that when this bill goes to the other body that we try to find a better financing mechanism, because we have to deal with this problem. I think the trust is the right way to go because it gets a public-private partnership. Otherwise the Park Service gets the whole bill, and they are not going to be that good at managing all of that real estate.

It is there. We have to do something with it. Hopefully we can get a financing mechanism that would perhaps have the revenue bonds needed to repair these buildings and make them leasable, guaranteed by the State of California and/or the city of San Francisco.

It is not that the money will be a direct expenditure, but under the terms of this bill, and I do not fault the Committee on Ways and Means for I think it is a responsible thing to do under the circumstances. We have to set aside an amount equal to the revenue bonds which will restrict our ability to adequately fund the needs of other parks. Hopefully in the long term of things the revenues from these some 800 structures will be more than enough to retire the bonds, plus interest, for that reason it makes a lot of sense. I think that it is a realistic thing that we need to do.

The 6th Army is going to take 30 percent of the Presidio by leasing it back from the Park Service. So it will be used to serve the people by the 6th Army in meeting its needs. The hospital that is there has a couple of different groups interested in leasing it as a research facility. I think in the long term the revenues from the structures will more than offset the costs of rehabbing them and making them useful to the public generally.

In the meantime, we will have a great addition to Golden Gate national recreation area that will be used by people from all over the United States.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I thank the gentleman from Ohio for his bipartisan support and realistic approach and the work he does in the Interior Appropriations Subcommittee. The gentleman is really a leader and a good ally on national parks and public land issues. I want to associate myself with his remarks and the desirability of dealing with the overall budget in terms of financing.

I would point out that the funding for the rehabilitation of many of these buildings will in fact generate the revenue necessary to pay back the money. The idea is this can be successful, it is in San Francisco. Furthermore, nearly 400 of the 870 buildings that are present are anticipated to be demolished and taken down, so that is part of the process here on some of the buildings they are pointing out. I do not know if it is the Burger King or not, but some of the other buildings.

With respect to the gentleman from Colorado, the veterinarian and our friend and colleague, he will of course address himself to the amendment on the pet cemetery. He has assured me that he had nothing to do with any of the dogs that are present in that cemetery.

Mr. HANSEN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I think again we need to seek an innovative financing system here. We have a goal I believe on both sides of preserving this for the public. But it is there, and we have to address it as is on October 1 it is ours, the National Park Service's and this body's. I believe we can achieve a program of innovative financing in the other body by working with them on this bill, and I thank the gentleman for yielding me the time.

□ 1520

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 3433. I wish to congratulate my colleague, the gentlewoman from California [Ms. PELOSI], for the very innovative approach which has been taken in this legislation.

The Presidio Trust is new and different and also the "least-cost" approach to providing for one of the most impressive urban national parks anywhere in this land. Today we have seen the beautiful vistas. Most of us have been to the area. We know how unique it is.

This is still a rather pristine area, in some ways; 300 acres of historic forest, 10 rare plant communities, 11 miles of trails for hiking and biking.

There is nothing wrong with having a national park that is close to 7 to 10 million people. This is a unique opportunity, and it will be available to the people of this country and to the West for half the cost of what we were paying for it when it was a military reservation.

Now, what the gentlewoman from California [Ms. PELOSI] has done is put together a concept that allows for the Federal cost to decline over time. What we are providing for here is a method of earning income off the assets of the Presidio so that the taxpayers will have a lessened responsibility as we proceed through the next couple of decades. We do it in a way that, I think, deserves the support of all of us here.

There will be continued review from Treasury, from Interior. This is not an open-ended, unmonitored idea. But I think it goes a long way to meeting the needs of people in cities who have traditionally had to travel long distances to get this kind of access to nature and to opportunities for recreation in pristine places.

This is an augmentation of the already nationally known Golden Gate National Recreation Area, and it does, I think, provide for a model of future conversion of military facilities to public use.

I think the gentlewoman from San Francisco deserves to be congratulated.

Mr. Chairman, H.R. 3433 creates a nonprofit Government corporation, the Presidio Trust, to manage Presidio properties in a more cost-effective manner. The Presidio Trust will have a long-term leasehold interest in the Presidio's assets. The Trust will manage the rehabilitation of these properties and lease buildings to rent paying tenants.

This measure is fiscally responsible in that it uses the Presidio's assets to help pay for management of the facility. Revenues from leases will be used to offset costs at the Presidio, driving operating costs down and reducing the need for Federal appropriations. These lease revenues will also be used to repay funds borrowed for the initial rehabilitation of the Presidio's historically significant assets.

The bill preserves strong Federal oversight of the Trust by requiring annual reports and independent audits of the Trust's activities. The bill also mandates that the Trust adhere to the publicly supported Park Service Plan for the Presidio. The Trust's budget and borrowing authority will be subject to Interior and Treasury Department review. The oversight features in this bill recognize fiscal realities and offer a less costly, more business-like approach to managing this important Federal asset.

Amazingly, the Presidio as a national park will cost less than half the cost of operating the Presidio as a military base. The financial plan projects declining Federal costs over time due to rent abatement and private sector support.

Mr. Speaker, the Presidio is a unique historical treasure. The Presidio embodies over 200 years of military history in one location. It has played a logistical role in every U.S. military engagement since the Mexican-American war.

I want to congratulate the bill's author, Congresswoman PELOSI, on her fine efforts. She has put together a bill that maximizes our Federal investment in the Presidio and does so in a fiscally responsible manner. I urge my colleagues to support the bill as brought to the floor by the gentlewoman from California and ask for an "aye" vote on H.R. 3433.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as we debate whether the Federal Government should spend close to $1 billion in the years ahead to operate an urban park for the city of San Francisco, I think we should take into consideration some remarks made by the gentleman from the other body, Senator WALLOP, a few weeks ago. Senator WALLOP announced he would offer an amendment to every park bill that came through his committee which would defer spending on the new unit unless the Interior Secretary could affirm the Government had the money and really wanted to spend this money on a given project. He also suggested some projects should be delayed until the respective budgets for maintenance and personnel were increased.

I think there is a lot to be said for that idea, and so apparently do many of Senator WALLOP's colleagues in the Senate.

Let me repeat a figure that has been bandied about in the House for at least the last 4 years, and that figure is that the National Park Service has a $6 billion maintenance backlog. A similar backlog exists for land acquisitions. The director of the Park Service has said Park Service employees are living in Third World conditions.

Most of the reforms suggested over the past 10 years for the Park Service have never been implemented.

With all of that, do we really need, or can we afford, the Presidio? Senator WALLOP said it best, "The Federal Government is gaining the reputation of being a bad neighbor, of being someone who buys up land left and right and cannot take care of it." Before we vote to approve this, we should give it a little more thought.

Yes, there are parts of it that are scenic, and there are parts of it that are even historic. I was out there this summer, as the gentlewoman from California [Ms. PELOSI] knows. We have talked about this. I was out there this summer. I particularly went to the Presidio and looked at it, because I knew we were going to be discussing this kind of thing. There are parts of it that are incredibly beautiful and ought to be preserved as a park. But the great majority of it is composed of what you have heard here today. It is composed of the bowling alleys and the office buildings and the housing and parking lots and those kinds of things.

I think we should consider giving the park to the city of San Francisco. It is a city park, after all. That is what it will amount to. I think we maybe should consider giving the beautiful parts and the historic parts, give it to the city of San Francisco, make a gift to them. But the part that has the commercial enterprises and the housing and so forth, let us sell that. Let us sell it to developers or whoever and let us get money back for that.

We simply cannot afford this project. And this, with me—I am often up here making amendments to cut this or cut that out of the budget. But this, to me, this is not a cost-saving effort that I am making here today.

Because I would love to take every dime we can make off of selling much of the Presidio and put it back into the Park Service to take care of the deficits we have within the Park Service. Even if we do not save a penny on the overall Park Service thing, let us put it into some of the jewels of our system. Let us put it into the Yosemites, the Yellowstones, and Grand Canyons that are going begging right now because we do not have the budget to actually keep it up.

Let me quote from that great American, that great Senator from the State of Arkansas, Senator BUMPERS, who, by the way, happens to be the Senate Park Subcommittee chairman. When he is talking about the Presidio, Senator BUMPERS says, "And in any event, the thing—obviously this is a highly desirable thing to do, but I must confess to you, despite my very best efforts, I have not been able to reconcile myself to these costs." And I have to say, my friends, that I agree with Senator BUMPERS.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FARR], a member of the committee.

Mr. FARR of California. Mr. Chairman, I rise in support of this measure. I think those that speak in opposition to it really do not understand it. Because this is really best management practices.

There are those who would say that we ought to sell this. It is Federal property. It might be used for purposes of a locale. That same concept could be used for this building. We could sell this room. It could be used for convention centers. This is a national asset.

We think of the east coast; you think of New York City, and you think of the great Federal Statue of Liberty which is a symbol to our country on the east coast. The Presidio, San Francisco, is the symbol to the Pacific rim. It began in 1776. It has been in military ownership.

Yes, there are a lot of buildings there, and they are out of code. Military does not build buildings by going before boards of supervisors and city councils and getting building permits. They build it their own way, and when it comes to using them in an area that is prone to earthquakes, you have to rehab those buildings. It takes money.

The best way to do that is to set up a management structure that will allow the loans to be repaid through the process of leasing and selling and managing those buildings. That is what this bill does. This is good management practices. It is used in all smart activities by this Government and State governments.

It would be absolutely ludicrous to defeat this bill. The best thing for the United States is to preserve this in public trust for public use under sound public-private management.

I urge an "aye" vote.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

☐ 1530

Mr. REGULA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to point out to the Members that there is a trust arrangement in this plan, and it is a public-private arrangement. Many people in San Francisco are interested in contributing private funds to the trust. I think we will be surprised at the broad support, at least I get that feeling from talking with some of the leadership in San Francisco, that will exist in the city, in providing private money to help address this problem. In the long term I believe the trust should appeal to our Members because it does achieve a nonprofit private-sector arrangement. That is what we seek to accomplish.

I think, likewise, it would generate a lot of matching funds that would be helpful in converting the Presidio to a very useful purpose for the people of this Nation.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO] a member of the committee.

Mr. DE LUGO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to commend the gentlewoman from California [Ms. PELOSI] for this legislation. I had the pleasure of serving in this House back in 1972, while Phil Burton had the great vision about the Presidio. At that time he had the vision to say, and to put into legislation, that at such time as the military would no longer need the Presidio, it should be turned over to the national park.

I know a little about the Presidio. During the occupation of Japan I used to ship out from Fort Mason nearby and I trained at the Presidio. And when I went out recently for the dedication of the statue in memory of Phil Burton, I visited the Presidio then and I visited it again on a recent trip, because to me I think thank everyone who is connected with this legislation should be commended.

Mr. Chairman, this shows the type of creativity that can hold precious resources for our people for all time. Yes, it will cost money; but they have put together a private-public plan here that makes it financially possible to retain this precious piece of property.

As I walked in the Presidio last time down by the bay, I thought, "Why, Phil, you really knew what you were doing to preserve this for the people."

Mr. Chairman, I want to commend the gentleman from Minnesota, BRUCE VENTO, chairman of the subcommittee, and I commend the gentleman from California, GEORGE MILLER, my chairman, and I want to commend those on the other side of aisle who support this legislation. This is a good bill, and I urge its support.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. DE LUGO. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from the Virgin Islands. I think many words have been spoken on this floor, but I think the essence of what this is about has been captured by our esteemed colleague, Congressman DE LUGO. This is like, if we had the fate of Central Park before us today, would we be talking about breaking it up and selling it? Mr. Chairman, the Presidio is in the middle of San Francisco, and obviously the history that it has, from early Spanish settlement, and the natural, cultural, and recreational resources and so forth are a vital and significant public asset. I would hope that my colleagues would recognize that and support this legislation.

Mr. DE LUGO. One of the things that impressed me the most on my visits to the Presidio were the numbers of visitors to this area. Not only American citizens but people from all over the world were visiting this area. This is a great piece of legislation, and I urge all of the Members to support it.

Mr. Chairman, I rise in support of H.R. 3433, legislation to provide for the management of the Presidio, and to commend the gentlelady from California [Ms. PELOSI] for her efforts and dedication to the preservation of this most spectacular area.

Mr. Chairman, the Presidio is an approximately 1,500-acre military base located at the foot of the Golden Gate Bridge in San Francisco. When the Golden Gate National Recreation Area was established, in 1972, my good friend and our former colleague, Phil Burton, recognizing the uniqueness and magnificence of the area, provided that if the Presidio was ever determined to be excess to the needs of the Army, it would be turned over to the National Park Service and would become a part of the Golden Gate National Recreation Area.

Because of concerns that operating and repairing the Presidio would drain money from the other national parks, even though millions of dollars would be transferred from the DOD budget to the Park Service, H.R. 3433 would establish a public benefit corporation to manage certain properties at the site to generate income to support park operations.

H.R. 3433, Mr. Chairman, is supported by the National Parks and Conservation Association, the Sierra Club, the National Audubon Society, the Wilderness Society, the Friends of the Earth, the National Trust for Historic Preservation, the National Conference of State Historic Preservation Officers, the AFL–CIO and several other national organizations.

This is a good bill, Mr. Chairman. The gentlelady from California deserves our support. I urge my colleagues to support passage of this bill.

Mr. HANSEN. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DELLUMS], chairman of the Committee on Armed Services.

Mr. DELLUMS. I thank the subcommittee chairman for yielding this time to me.

Mr. Chairman and members of the committee, first of all, our former colleague, Phil Burton, has been referred to on a number of occasions during the course of this discussion and debate. He has been alluded to as a visionary. He was a very clear and substantive thinker. If anyone believes that Phil Burton did not understand exactly what he was doing, living in a never-never land, did not understand him. He understood it very clearly and unequivocally.

Mr. Chairman and members of the committee, on the 9th of August a notice was sent to every Member of the U.S. Congress from the Department of the Army office of the Secretary of the Army, laying out the agreement that the Department of the Army and the Department of the Interior announced that they had agreed upon terms and conditions by which the Army will retain the headquarters, 6th U.S. Army, at the Presidio of San Francisco to perform its defense mission while maximizing public use of the Presidio as an urban national park. What the gentlewoman from California's legislation simply seeks to do, Mr. Chairman, is to establish a public interest corporation to manage the assets there.

Let me, in that regard, make a couple of important points. That corporation would have a wide range of borrowing authorities, including private borrowing, limited public borrowing, and the ability to negotiate lease terms that encourage third-party borrowing for the purposes of upgrading Presidio properties.

These financial tools, Mr. Chairman, and the authority to retain lease revenues at the park will greatly reduce the need for Federal funding. I underscore that for the purpose of emphasis.

Finally, this bill represents a new reinventing government approach to the management of public assets, combining private and public sector techniques to enhance responsiveness at lower cost to the taxpayer. Again, I underscore that, because a number of my colleagues have marched into the well speaking to the magnitude of the cost of what this transfer is all about. It is in this gentleman's humble opinion, Mr. Chairman, good government approach, it recognizes financial and fiscal realities, it is fiduciarily sound yet provides for the protection of the historic, scenic, and ecological treasure not only for the bay area in California, not only for this Nation, but indeed the world, and for the benefit of all of our people.

For all of these reasons I urge my colleagues to enshrine and enframe and to put into significant frame the vision that Phil Burton had to make sure that we transferred this land for higher and better use, and that is to serve the people of our country.

I ask my colleagues to resist the effort to diminish, to reduce, to significantly harm or, in any other way, compromise the legislation that is before us.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in strong support of H.R. 3433. I commend my colleague, the gentlewoman from California [Ms. PELOSI], for crafting this excellent legislation.

The district I am proud to represent, the Sixth Congressional District of

California includes part of the Golden Gate National Recreation Area, which is soon to be home to the Presidio. I have received letter after letter from my constituents urging the House to ensure that the Presidio is transferred to the National Park Service in its entirety, and to pass H.R. 3433.

The House recognized the national significance of the Presidio in 1972, when it passed Phil Burton's legislation specifying that the Presidio would be transferred from the Department of Defense to the Department of Interior. The House must continue to recognize the significance of the Presidio, in 1994, by passing Congresswoman PELOSI's bill today.

In this time of base closures, Mr. Chairman, it is important that we support and encourage smooth transitions from military use to peace-time purposes. H.R. 3433 is a model for a smooth transition of the Presidio lands from military to peace-time purposes.

In addition, H.R. 3433 will ensure that the Presidio is managed in a cost-effective manner. This bill establishes a nonprofit government corporation, known as the Presidio Trust, which will reduce Federal operating costs by aggressively recruiting tenants that will pay fair market rent for Presidio space. This innovative approach will result in a valuable national park, to be enjoyed by future generations at a significantly reduced cost to the Federal Government.

Mr. Chairman, I urge my colleagues to preserve this national treasure and save American taxpayer dollars by passing H.R. 3433.

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Mr. VENTO. Mr. Chairman, I yield the remainder of our time to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, I rise in strong support of H.R. 3433, which provides for the smart and sound management of the Presidio.

As the Nation's oldest continually operated military post, the Presidio is a national historic landmark—it has played a logistical role in every U.S. military engagement since the Mexican-American War.

This unique landmark which is at the heart of the Golden Gate National Recreation Area is the most visited national park in our Nation. It is characterized by acres of historic forest, historically significant buildings, a national cemetery, and scenic views.

The Presidio will be transferred by statute from the Army to the National Park Service on October 1. This bill is designed to reduce the cost of managing the Presidio under the Park Service by creating a nonprofit Government corporation known as the Presidio Trust.

The Trust would manage the rehabilitation of the Presidio's properties and would lease buildings to rent-paying tenants. Revenues from leases would be used to offset costs at the Presidio driving operating costs down and reducing the need for Federal appropriations. Lease revenues would also be used to repay funds borrowed for the initial rehabilitation.

The Trust brings to the Presidio a proven successful model of public-private partnership. It offers a less costly, business like approach to managing Federal properties.

Indeed, heads of the academic and business communities which comprise the Presidio council have stated that the Presidio Trust is "essential to the success of this * * * conversion project."

Mr. Chairman, the Presidio as a national park will cost less than half of what was spent on it as a military base. It's financial plan projects declining Federal costs over time due to rent abatement and private sector support.

I urge my colleagues to support this smart and sensible approach to management and support this critical legislation.

Mr. PICKLE. Mr. Chairman, I rise to compliment Chairman GIBBONS for his leadership in the Committee on Ways and Means consideration of H.R. 3433, relating to the management of the Presidio. I also appreciate to concerns of Mr. ARCHER, for his efforts to ensure that the funding of the improvements to the Presidio, which are authorized by this legislation, are provided for in a manner that does not subject this important legislation to a budget point of order.

As the result of the amendments supported by Chairman GIBBONS and Mr. ARCHER, the bill before us today will allow for the orderly transfer of the Presidio from the Department of Defense to the Department of the Interior. It will also promote a unique public-private partnership which will allow for certain portions of the Presidio to be commercially developed in a manner consistent with its very special historical and environmental characteristics.

While I support this effort to manage the Presidio in a way that takes full advantage of its public and private sector assets, I have been concerned with the financing approach that was originally proposed. In my judgment, Congress must be very careful that efforts to promote creative solutions to unique problems do not undermine established appropriations, budget, and debt management procedures. If such exceptions to the normal spending and borrowing procedures are allowed, we risk doing great damage to the system of budget discipline that we have established in recent years.

As the result of the modifications to H.R. 3433 which were adopted during its consideration by the Committee on Ways and Means, this important legislation is now in compliance with all of our debt management rules and policies. It is my hope that this legislation will receive favorable consideration, and that the Presidio will become a vital part of our great National Park System. We also must be vigilant that the other body does not try to circumvent the decisions of the Ways and Means Committee.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise in strong support of H.R. 3433, a bill to create a nonprofit Government corporation to manage specified portions of the Presidio under the jurisdiction of the Secretary of the Interior.

Most Americans do not know what the Presidio is and I have been asked on a number of occasions to explain not only what it is, but why I feel it is important to protect this national treasure.

First established in 1776 as a military post, the Presidio's history reads like a page out of American history. As a military installation, the Presidio has played a critical role in providing for our national defense and international security and it is no accident that its history coincides with our country's emergence as a world leader.

Now that the military has determined it no longer needs to maintain the Presidio as a military facility, the responsibility now falls to us to establish a public trust to manage the facilities of the Presidio of San Francisco in a manner befitting its proud history.

Mr. Chairman, H.R. 3433, sponsored by the gentlelady from California, NANCY PELOSI, will do precisely that.

In addition to its other important provisions, H.R. 3433 will establish the Presidio Trust to manage the leasing, maintenance, rehabilitation, repair, and improvement of the property that is transferred to the National Park Service.

Opponents of the Presidio have fought to sell all but 200 of its 1,400 acres to private developers. This would not only rob our future generations of this magnificent resource—but the sight of condominiums on this site would degrade the memory of those who have proudly served our country at this national treasure.

Mr. Chairman, I would like to commend the gentlelady from California, NANCY PELOSI, for sponsoring this important legislation, and also pay tribute to the late Philip Burton, who long ago recognized the importance of preserving this vital piece of American history.

I urge my colleagues to support H.R. 3433.

Mr. LAUGHLIN. Mr. Chairman, I urge my colleagues to vote for H.R. 3433 when it comes to the House this week. The bill provides a more cost-effective management structure for the Presidio in San Francisco, one of the most significant historic sites in our Nation.

The Presidio has guarded against invasion from the Pacific since 1776. It has played a major role in every American engagement since the Mexican-American War. Now, by an earlier act of Congress, the Presidio, a national historic landmark, is slated to become part of the Golden Gate National Recreation Area.

In addition to its historic importance, the Presidio's national, scenic and recreational resources qualify it as a national park. It is an international biosphere reserve, a home for threatened species and a neighbor to the largest chain of marine sanctuaries in the country.

There should be no question about the Presidio's significance to the United States—by now, its value is established fact.

H.R. 3433 would enable us to protect the Presidio while saving money for the American taxpayer. The bill establishes a Presidio Trust with streamlined management and operations to manage leasing and rehabilitation at the Presidio. This management structure would result in significant savings for the Presidio over traditional park management.

H.R. 3433 is responsible legislation which addresses taxpayers' concerns while protecting a very important national resource for the enjoyment of future generations. I strongly urge the Members to vote for H.R. 3433 and to oppose any amendments to weaken the bill.

Mr. FAWELL. Mr. Chairman, I rise in opposition to H.R. 3433, which includes a wage requirement provision, adopted as an amendment to the bill in the Committee on Natural Resources. Section 3(v) provides that the labor standards provisions under the Davis-Bacon Act and the Service Contract shall apply to the activities of the Presidio Trust. This new provision represents an unwarranted expansion of the requirements under both acts to contracts for services which are paid for primarily, or entirely, through private funds.

Under the Davis-Bacon Act, contractors on construction or renovation projects funded by the Federal Government must pay Government mandated, inflated wages to laborers and mechanics employed on these projects. The procedures used by the Department of Labor for determining the wages in the area of a construction project, as well as the classifications of workers who receive them, favor union wage rates. The General Accounting Office has estimated that Davis-Bacon requirements increase the cost of construction projects by 5 to 15 percent. Likewise, Davis-Bacon reduces the opportunities for the employment of less-skilled workers, women, and minorities.

H.R. 3433 would expand the impact of the wage requirements to projects which would be funded wholly or partially through private sources. If only $1 of Federal funds is contributed to the project, Congress is going to mandate that Davis-Bacon requirements must apply. Under the bill, the Presidio Trust would have the flexibility to negotiate a lease agreement which would allow the tenant to finance the repair or rehabilitation of part or all of the building it is occupying. Clearly, in this type of situation, we are not talking about a Federal project where Federal mandates should apply. We are talking about private construction funded entirely by private sources.

The Service Contract Act, on the other hand, sets basic labor standards for employees on Government contracts whose principal purpose is to furnish labor, such as laundry, custodial, and guard services. Contractors covered by this act generally must provide their employees with wages and fringe benefits that are at least equal to those prevailing in their locality, or, those contained in a collective bargaining agreement of the previous contractor.

In 1983, having reviewed the application of the Service Contract in 1978 and 1982, the GAO recommended repeal of the act. The report stated that the Department of Labor's principles and methods for making wage determinations under the Service Contract Act resulted in inaccurate, inflationary, and unrealistic determinations. Once a prevailing rate is established in a wage determination as the minimum that can be paid, it then becomes the floor for adjusting the wage differentials for higher skilled and more experienced workers in the same job class and for later revising that rate in future determinations. This can quickly escalate wages paid to service workers on Federal contracts and further widen the gap between the federally mandated rates on Service Contract Act contracts and those rates paid to private sector workers in the same jobs.

Both the Service Contract Act and the Davis-Bacon Act, in the years since their adoption, have been used to bring under Federal wage-setting requirements, workers who do not need, and industries which do not require Federal regulation. In all applications, the wage requirements increase the cost of contracted services over what similar work would cost on the open market. Additionally, where the financial contribution by the Federal Government is minimal or nonexistent, Congress has no business mandating Federal wage requirements for work that is being funded by the private sector, the States, or other localities.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for a period of debate not to exceed 3 hours.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Natural Resources printed in the bill, modified by the amendments recommended by the Committee on Ways and Means printed in the bill, and by the amendments printed in House Report 103-696 is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 3433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Presidio of San Francisco, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continually operating military post in the Nation dating from 1776, and was designated as a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use would give due recognition to its significant role in the history of the United States;

(4) the Presidio in its entirety will transfer to the jurisdiction of the National Park Service on September 30, 1994, in accordance with Public Law 92-589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's outstanding natural, historic, scenic, cultural and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protect the Presidio from development and uses which would destroy the scenic beauty and natural character of the area;

(6) activities and management at the Presidio must be consistent with both the Act establishing the Golden Gate National Recreation Area (Public Law 92-589) and the General Management Plan for the Golden Gate National Recreation Area, as amended;

(7) the Presidio will be a global center dedicated to addressing the world's most critical environmental, social, and cultural challenges and a working laboratory at which models of environmental sustainability shall be developed;

(8) the Presidio, as an urban park, will be managed in a manner that is responsive to the concerns of the public and cognizant of its impact on the local community, and as a public resource, will reflect, in both activities and management, of the diversity that exists in the surrounding community; and

(9) the Presidio will be managed in an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources that could be utilized in the public interest.

SEC. 2. AMENDMENT OF ACT ESTABLISHING GOLDEN GATE NATIONAL RECREATION AREA.

(a) STATEMENT OF PURPOSES.—Section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), is amended by inserting the following after the second sentence: "In addition, the Secretary may utilize the resources of the Presidio of San Francisco to provide for and support programs and activities that foster research, education or demonstration projects, and relate to the environment, energy, transportation, international affairs, arts and cultural understanding, health and science.".

(b) ADMINISTRATION.—Section 4 of such Act is amended by adding the following new subsection at the end thereof:

"(g) INTERIM AUTHORITY.—(1) In addition to other available authorities, the Secretary may, in his discretion, negotiate and enter into leases, as appropriate, with any person, firm, association, organization, corporation or governmental entity for the use of any property within the Presidio in accordance with the General Management Plan and any of the purposes set forth in section 1 of this Act. The Secretary may further, in his discretion, negotiate and enter into leases or other appropriate agreements with any Federal agency to house employees of the agency engaged in activities or programs at the Presidio.

"(2) In addition to other available authorities, the Secretary may, in his discretion, enter into—

"(A) interagency permitting agreements or other appropriate agreements with the Secretary of Defense and the Director of the Federal Emergency Management Agency, and

"(B) leases with the American Red Cross, to house their activities and employees at the Presidio.

"(3) Any leases or other appropriate agreements entered into under this subsection shall be subject to such procedures, terms, conditions and restrictions as the Secretary deems necessary. The Secretary is authorized to negotiate and enter into leases or other agreements, at fair market value and without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), fair market value shall take into account the uses permitted by the General Management Plan and this Act. The preceding sentence shall not apply to any interagency permitting agreement entered into between the Secretary and the Secretary of Defense regarding the housing of activities and employees of the Sixth United States Army. For purposes of any such lease or other agreements, the Secretary may adjust the rental by taking into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to the leased properties.

"(4) The proceeds from leases under this subsection, and from concession and other use authorizations and from other services that may be provided by the recreation area under this subsection shall be retained by the Secretary for 5 years after the date of enactment of this paragraph or until the leased property is transferred to the Presidio Trust and shall be available without further appropriation and used to offset the costs of preservation, restoration, maintenance, improvement, repair and related expenses including administration of the above, incurred by the Secretary with respect to Presidio properties, with the balance used to offset other costs incurred by the Secretary in the administration of the Presidio.

"(5) Each lessee of a lease entered into under this subsection shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the lease have been and are being faithfully performed. The Secretary and the Comptroller General and their duly authorized representatives shall, for the purpose of audit and examination, have access to financial records pertinent to the lease and all the terms and conditions thereof.

"(6) The Secretary shall annually prepare and submit to Congress a report on property leased under this subsection.

"(7) In addition to other available authorities, the Secretary may, in his discretion, enter into cooperative agreements and permits for any of the purposes of the recreation area set out in section 1 of this Act.".

SEC. 3. THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established within the Department of the Interior a nonprofit public benefit government corporation to be known as the Presidio Trust (hereinafter in this Act referred to as the "Trust"). The Trust shall manage, in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and with this Act, the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio which is transferred to the Trust by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"). The Trust may participate in the development of programs and activities at the properties that have been transferred to the Trust.

(b) TRANSFER.—Except as provided in this subsection, the Secretary shall transfer to the Trust, under such terms and conditions as the Secretary deems appropriate, a leasehold in the following properties within the Presidio under the control of the Secretary: the Letterman-LAIR complex, Fort Scott, Main Post, Cavalry Stables, Presidio Hill, Wherry Housing, East Housing, the structures at Crissy Field, and such other properties, within the Presidio as the Secretary and the Trust deems appropriate. Any such property shall be transferred within 60 days after a request is made by the Trust. The leasehold shall be of sufficient term to enable the Trust to obtain necessary and beneficial financing arrangements and to carry out the purposes of this Act. The Secretary may withhold transfer to the Trust of any buildings necessary to house or support activities of the National Park Service. The Secretary may not transfer to the Trust any property irrevocably permitted to the Department of Army. The Secretary shall transfer, with any transferred property, all leases, concessions, licenses and other agreements affecting such transferred property. The Secretary may transfer any properties within the Presidio to the Trust not requested by the Trust subject to terms and conditions mutually agreed to by the Secretary and the Trust. All proceeds received by the Presidio Trust from the leasing of properties managed by the Trust within the Presidio shall be retained by the Trust without further appropriation and used to offset the costs of administration, preservation, restoration, operation, maintenance, repair, and related expenses incurred by the Trust with respect to such properties.

(c) BOARD OF DIRECTORS.—(1) The powers and management of the Trust shall be vested in a Board of Directors consisting of 13 members, as follows:

(A) The Director of the National Park Service.

(B) Secretary of the Army.

(C) Administrator of the Environmental Protection Agency.

(D) Ten individuals, who are not employees of the Federal Government, appointed by the Secretary within 6 months after the date of the enactment of this Act, 6 of whom shall have knowledge and experience in one or more of the fields of the environment, energy, transportation, international affairs, health, science, education, or any other such field related to the activities at the Presidio; 4 of whom shall have knowledge and experience in one or more of the fields of city planning, finance, real estate, labor or historic preservation. With respect to the 10 individuals, 5 shall meet the additional requirement of possessing extensive knowledge of the region in which the Presidio is located.

Each member of the Board of Directors specified in subparagraphs (A) through (C) paragraph (1) may designate (through written notice to the Secretary and Chairman of the Board) an alternative senior official (classified as Senior Executive Service) of his or her department or agency who may serve on the Board in his or her stead. The Secretary of the Army shall serve on the Board until such time as the Sixth Army Headquarters ceases to maintain a presence at the Presidio. In such an event, the Secretary of Energy shall replace the Secretary of the Army on the Board.

(d) TERMS OF BOARD MEMBERS.—Each member of the Board of Directors appointed under subparagraph (D) of subsection (c)(1) shall serve for a term of 5 years from the expiration of his or her predecessor's term; except that the Secretary, in making the initial appointments to the Board under subparagraph (D), shall appoint 3 Directors to a term of 2 years and 3 Directors to a term of 3 years. Any vacancy on the Board of Directors shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. Each member shall continue to serve after the expiration of his or her term until his or her successor is appointed. No appointed director may serve more than 10 years in consecutive terms.

(e) ORGANIZATION AND COMPENSATION.—(1) The Board of Directors shall elect at the initial meeting a Chairman and a Vice Chairman from among the members of the Board of Directors. The Director of the National Park Service shall serve as Chairman until such time as the Board holds such election.

(2) The Board of Directors may establish an Executive Committee within the Board and other such committees within the Board as it deems appropriate, and delegate such powers to such committees as the Board determines appropriate to carry out its functions and duties. Any such committees established by the Board may meet and take action on behalf of the Board between meetings to the extent the Board delegates such authority. Delegations to such committees shall not relieve the Board of full responsibility for the carrying out of its functions and duties, and shall be revocable by the Board in its exclusive judgment.

(3) Members of the Board of Directors shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Trust.

(4) The Board of Directors shall meet at the call of the Chairman, who shall require it to meet not less often than once every 6 months. A majority of the members of the Board of Directors (or their designated alternates) shall constitute a quorum. The Board shall hold at least one public meeting per year at the Presidio at which time the Board shall report on its operations, accomplishments and goals for the upcoming year.

(5) Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and other statutes defining legal liability.

(f) STAFF.—The Board of Directors shall have the power to appoint and fix the compensation and duties of an Executive Director and such other officers and employees of the Trust as may be necessary for the efficient administration of the Trust. Officers and employees of the Trust may be appointed and compensated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code (relating to classification and General Schedule pay rates), except that no such officer or employee may receive a salary which exceeds the salary payable to officers or employees of the United States classified a level IV of the Executive Schedule.

(g) EXPERTS AND CONSULTANTS.—The Board of Directors is authorized to procure the services of experts or consultants, or organizations, including but not limited to urban planners, architects, engineers, and appraisers.

(h) AUTHORITIES.—In exercising its powers and duties, the Trust shall act in accordance with both the approved General Management Plan, as amended (hereinafter in this Act referred to as the "Plan") and the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589: 86 Stat. 1299; 16 U.S.C. 460bb), and have the following authorities:

(1) The Trust shall manage, maintain, improve and repair those properties within the Presidio which are transferred to the Trust by the Secretary.

(2) The Trust shall publish and disseminate information and make known to potential occupants, by advertisement, solicitation, or other means, the availability of the property within the Presidio which the Trust manages.

(3) The Trust may prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the rehabilitation, improvement, alteration, or repair of any property managed by the Trust, and from time to time may modify such plans, specifications, designs, or estimates.

(4) The Trust may negotiate and enter into contracts, including leases, cooperative agreements, or other agreements with any person, firm, association, organization, corporation, or governmental entity for the occupancy of any property within the Presidio which the Trust manages. Such leases may be entered into without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b).

(5) The Trust shall establish procedures to be used for the issuance of leases and contracts under this Act.

(6) The Trust shall establish (through easements, covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure the maintenance, protection, and aesthetic character of the property managed by the Trust.

(7) The Trust may make commercially reasonable loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(8) The Trust may provide technical assistance to the occupants of property managed by the Trust, to assist such occupants in making repairs or improvements to the property or applying for loans under paragraph (7) of this section.

(9) The Trust and the Secretary may solicit and the Trust may accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(10) The Trust may retain any revenues from leases or other agreements concerning property managed by the Trust, including preexisting leases or agreements and any donations, and use the proceeds without further appropriation to offset any costs for any function of the Trust authorized by this Act, except for those moneys transferred to the Secretary as stipulated in paragraph (11).

(11) The Secretary and the Trust shall agree on an amount of revenues received by the Trust to be transferred to the Secretary, to be applied by the Secretary, without further appropriation or offset to appropriation, for common operating and maintenance expenses at the Presidio.

(12)(A) The Trust may not (directly or indirectly) borrow funds from any source other than the Secretary of the Treasury as provided in this paragraph.

(B) Except as provided in subparagraph (F), if at any time the funds available to the Trust are insufficient to enable the Trust to discharge its responsibilities under this Act, the Trust may issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy.

(C) The aggregate amount of obligations issued under this paragraph which are outstanding at any one time may not exceed $150,000,000.

(D) Obligations issued under this paragraph—

(i) shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and

(ii) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(F) The Secretary of the Treasury may purchase obligations issued under this paragraph only to the extent provided in advance in appropriation Acts.

(13) Upon the request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust, as determined by the Trust, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(14) The Trust may enter into and perform such contracts and other transactions with any person, firm, association, organization, corporation or governmental entity as may be necessary or appropriate to the conduct of activities authorized under this Act.

(15) The Trust may execute all instruments necessary or appropriate in the exercise of any of its functions under this Act, and may delegate to the Executive Director such of its powers and responsibilities as it deems appropriate and useful for the administration of the Trust.

(16) The Trust may obtain by purchase, rental, donation, or otherwise, such goods and services as may be needed to carry out its duties. In the event of the termination of the Trust, all property and unexpended funds shall be transferred to the Department of the Interior, except that such funds shall only be expended for the purposes of this Act.

(17) The Trust shall procure insurance against any loss in connection with the properties managed by it as is reasonable and customary; and shall procure such additional insurance for losses arising out of any of its authorized activities as is reasonable and customary.

(18) The Trust may sue and be sued in its name. All litigation arising out of the activities of the Trust shall be conducted by the Attorney General; the Trust may retain private attorneys to provide advice and counsel on transactional issues.

(19) The Trust may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised.

(20) The Trust shall have perpetual succession.

(21) The Trust shall have an official seal selected by the Board which shall be judicially noticed.

(22) The Trust shall have all necessary and proper powers for the exercise of the authorities invested in it.

(23) For purposes of complying with section 106 of the National Historic Preservation Act, the Trust may work directly with the National Park Service, the State Historic Preservation Office, and the Advisory Council on Historic Preservation and enter into programmatic agreements, where appropriate.

(i) USE OF FEDERAL PERSONNEL, FACILITIES, AND SERVICES.—The Secretary and the heads of other Federal departments and agencies may provide personnel, facilities, and other administrative services to the Trust to assist it in carrying out its duties under this Act. Furthermore, the Secretary and the heads of other Federal departments and agencies may loan or donate to the Trust excess or surplus personal property deemed necessary for the management of the Presidio.

(j) TAXES.—Since the exercise of the powers granted by this section will be in all respects for the benefit of the people, the Trust is hereby declared to be devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of every kind of the State of California, and its political subdivisions, including the City and County of San Francisco.

(k) VOLUNTEERS.—The Secretary may accept, without regard to the Civil Service classification laws, rules, or regulations, the services of the Trust, the Board, and the officers, and employees and consultants of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g et seq.).

(l) SAVINGS CLAUSE.—Nothing in this section shall preclude the Secretary from exercising any of his or her lawful powers within the Presidio.

(m) AFFIRMATIVE ACTION.—The Trust shall ensure that affirmative steps are taken, consistent with other Federal law, to afford equal access and equal opportunities for leases, concessions, contracts, subcontracts, and other contracting and employment opportunities to minorities, women, and other socially and economically disadvantaged individuals, commensurate with local availability.

(n) FINANCIAL RECORDS.—The financial records of the Trust shall be available for inspection by the Secretary, the Inspector General of the Department of the Interior, and the Comptroller General at any time and shall be audited by a reputable firm of certified public accountants not less frequently than once each year. Such audit shall be made available to the Secretary and the Congress. The Trust shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 9109 et seq.), including the budget and credit provisions, except that the Trust shall submit its budget through and in consultation with the Secretary.

(o) LEASING.—In managing and leasing the properties transferred to it, the Trust should consider the extent to which prospective tenants maximize the contribution to the implementation of the General Management Plan and to the generation of revenues to offset costs of the Presidio. If the Trust has difficulty securing a tenant for a property under its control, it may enter into negotiation with a prospective tenant whose proposed use may be inconsistent with the approved General Management Plan. The Trust may not enter into a lease which is inconsistent with the approved General Management Plan unless the Secretary makes a finding that the proposed lease will not have a detrimental effect on the natural, historical, scenic and recreational values for which the Golden Gate National Recreation Area was established. For major leasing actions, the Trust shall submit the proposed lease to the Secretary of the Interior or his designee for a period of 10 working days for his review of the lease for consistency with the General Management Plan. Before executing the lease, the Trust shall consider issues of consistency raised by the Secretary or his designee.

(p)' APPLICATION OF OTHER LAWS.—(1) All general penal statutes relating to the larceny, embezzlement, or conversion of public moneys or property of the United States shall apply to the moneys and property of the Trust.

(2) With respect to the public or Federal contracts for the acquisition of goods and services, the Trust shall be exempt from the following laws and attendant regulations:

(A) The Federal Property and Administrative Services Act (40 U.S.C. 471 et seq. and 41 U.S.C. 251–260).

(B) The Office of Federal Procurement Policy (41 U.S.C. 401 through 424).

(C) Section 111 of the Act of June 30, 1949 (40 U.S.C. 759).

(D) The Contract Disputes Act of 1978 (41 U.S.C. 601–612).

(q) GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION.—The Trust shall maintain liaison with the Golden Gate National Recreation Area Advisory Commission in matters relating to the General Management Plan, and shall meet with the Commission at least annually.

(r) REVERSION.—In the event of failure or default, all interests and assets of the Trust shall revert to the United States to be administered by the Secretary.

(s) REPORT.—The Trust shall transmit to the Secretary and the Congress, annually each January, a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes, in general terms, the Trust's goals for the current fiscal year. The portion of the report containing the audited financial statement may be submitted at a later date, but no later than the first day of March of such year.

(t) AUTHORIZATION OF APPROPRIATIONS FOR PRESIDIO.—For purposes of the Presidio, including the Presidio Trust, there is authorized to be appropriated to the Secretary such sums as may be necessary, but the aggregate of funds appropriated for purposes of the Presidio (excluding the Presidio Trust) under this subsection and

under the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb) may not exceed $25,000,000 in any one fiscal year. Funds appropriated under this Act (other than funds appropriated for operations) remain available until expended.

(u) SEPARABILITY OF PROVISIONS.—If any provisions of this Act or the application thereof to any body, agency, situation, or circumstance is held invalid, the remainder of the Act and the application of such provision to other bodies, agencies, situations, or circumstances shall not be affected thereby.

(v) The provisions of the Act of March 3, 1931 (40 U.S.C. 276a et seq.; commonly known as the Davis-Bacon Act), and the provisions of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), shall apply to the Corporation. All laborers and mechanics employed on the construction, rehabilitation, reconstruction, alteration, or repair of projects funded in whole or in part by the Corporation and projects financed in whole or in part by loans, grants, loan guarantees, or any other assistance by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq.; commonly known as the Davis-Bacon Act). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

The CHAIRMAN. No amendment directly or indirectly changing section 3(h)(9), section 3(h)(12), section 3(h)(13) or section 3(j) of the substitute, as modified, is in order.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 5, line 24, strike "The" and all that follows through page 6, line 2.

Page 26, Subsection 3(v), strike the word "Corporation" wherever it appears in the subsection and insert in lieu thereof the word "Trust".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Chairman, is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, I shared this amendment with the minority, and those interested in the bill. This amendment strikes authority of the Secretary to negotiate Federal agency housing for various employees of an agency engaged in activities or programs of the presidio. The amendment retains the two specific references which provides authority for housing for the Department of Defense, and for the Federal Energy Management Agency, and for the Red Cross, so there are other provisions in the bill that adequately meet the needs of housing. The concern here is that without this amendment it could end up resulting in a significant amount of housing resources used for other Federal employees. As justifiable as some may think that is, I have very significant concerns about that and so seek to eliminate that particular authority, and furthermore the amendment deals with a technical change when we change the management entity, the Public Benefit Corporation, to a trust. We left the word "corporation," so this changes that particular phrase and is clearly technical in nature.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Minnesota [Mr. VENTO] yielding to me.

Mr. Chairman, we have looked at the amendment, we have no problem with it, and we accept it on this side.

Mr. VENTO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. ALLARD: Page 26, strike line 3 through 14 and insert the following:

"(t) AUTHORIZATION OF APPROPRIATIONS FOR PRESIDO.—(1) For development of the recreation area within the Presidio as is necessary to meet the essential administrative and resource protection needs of Golden Gate National Recreation Area, there is authorized to be appropriated an amount not to exceed the development ceiling authorized in section 6 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb).

"(2) For management of lands and facilities within the Presidio, there is authorized to be appropriated $25,000,000 for fiscal year 1995. For each fiscal year thereafter, funds authorized to be appropriated to the Secretary for management of visitor use programs and development of visitor use facilities at the Presidio shall be expanded in the ratio of $1 of Federal funds for each $1 of funds contributed by State, city, and other non-Federal sources.

"(3) Except as provided in section 3(h)12 of this Act, no funds may be appropriated for operation or development of facilities within the Presidio which are not directly related to the administration of Golden Gate National Recreation Area or general public use programs.".

Mr. ALLARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. VENTO. Mr. Chairman, I reserve all points of order against the amendment.

Mr. ALLARD. Mr. Chairman, my amendment that is before us has several goals that I would like to go over with the Members of the House.

This amendment will reduce the cost of implementing the Presidio plan for both the taxpayer and the National Park Service budget. It will cut the National Park Service cost by $200 million to $300 million over the 15-year life of the plan. This amendment asks for a 50–50 split between the Federal Government and the local and State government for visitor use programs, operations and the development of a visitor use facility at the Presidio. It ensures State and local participation in the funding of the visitors services. It precludes the Federal Government from subsidizing the Presidio Global Center for Social, Cultural, Environmental Awareness.

Mr. Chairman, the impact of H.R. 3433 on the Park Service will be staggering. The annual cost of the Presidio is greater than the combined total annual cost of all 30 new parks established by Congress since 1980. The funding allocated to the Presidio in fiscal year 1995, $25 million, is greater than the total increase in the operational funding provided to all other 367 areas managed by the National Park Service. The Park Service already faces an enormous backlog of 37 years for construction, 25 years for land acquisition, and $400 million for park operations.

Now cost sharing is common at other national parks, and I would like to share a few examples:

The State parks within the Federal parks like Indiana Dunes and the Assateague in Maryland, the State pays 100 percent of all costs.

The Golden Gate National Recreation Area, which passed last year, the land acquisition of the Flagler property in this area is a 50–50 split between the Federal and non-Federal source.

The Jefferson Arch, passed last Congress, lands were added to the park on the other side of the river in Illinois. The State of Illinois pays a portion of land acquisition, at least 25 percent of the development costs.

The Everglades in Florida, passed in the 101st Congress, in the State of Florida is to contribute 50 percent of the costs for that land acquisition.

Congress required the State to fully fund acquisition of such parks such as Shenandoah, the Great Smoky Mountains, and Mammoth Caves, and in this case the States paid 100 percent of the costs.

If we look at some of the broad legislation, such as the land and water conservation fund, they require a Federal-State match, and it is a cost sharing program using a 50–50 match.

I would like to look a little bit at who is using the park.

□ 1550

The Presidio gets an estimated number of 3.4 million visitors a year. As detailed in the NPS environmental impact statement on the Presidio, visitor use of the Presidio is almost exclusively local. According to the National Park Service environmental impact statement, the tourists that are nonlocal usually come visit the northern and western segments of the Presidio along the 49 mile scenic drive, which includes Fort Point National Historic Site that already has a $300,000 annual budget. The EIS states, "Many people stop for a short time, and their focus is the Golden Gate Bridge and the bay, not the Presido." Despite the enormous costs of the Presidio, it ranks only 17th in visitation of national park areas.

So who are the beneficiaries? Well, according to the National Park Service environmental impact statement, conversion of the Presidio to a national park area would have a positive cumulative effect on the local and regional economy. There will be positive effects on employment opportunities, income, and local businesses and tax revenues.

Let us look at jobs and payroll. By the year 2010, more than 5,400 jobs would be created and the annual payroll would increase by $57 million. Total employment, construction, and other employment in the city would increase by 9,100 jobs, and in the region by 12,020 jobs. Total earnings in the city would increase by somewhere around $281 million, and in the region by $411 million. There would be an increase in sales and tax revenues.

The city of San Francisco would generate revenues from a number of sources. It will make over $4 million a year in taxes, property, sales, business, and hotel, by the year 2000. Yet H.R. 3433 has no requirement that the city contribute anything to the cost of taking care of the Presidio.

Mr. VENTO. Mr. Chairman, I withdraw my point of order.

Mr. Chairman, I rise in strong opposition to the amendment. I would explain to my colleague the amendment or line numbers or page numbers are different, and that is the basis. Unless I have the amendments here, I will reserve points of order.

Mr. Chairman, I would say I rise in opposition to the amendment. This really takes us back to 22 years ago.

The CHAIRMAN. The Chair would like to make sure it is clear.

Mr. VENTO. Mr. Chairman, I was saying I will reserve points of order for the benefit of my colleagues, unless I have current copies of the amendment. This amendment is offered on page 26. The amendment they shared with me was page 23, line 10. This gentleman has withdrawn his point of order.

The CHAIRMAN. The gentleman's reservation is not to this amendment.

Mr. VENTO. Mr. Chairman, I have been recognized in opposition to the amendment.

Mr. ALLARD. Mr. Chairman, if the gentleman will yield, I believe we have provided the current amendment, and if Members do not have it on that side, we will be glad to pass it over.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment. With the right page numbers or the wrong page numbers, it is the wrong amendment at this time.

Mr. Chairman, this amendment takes us back to 22 years ago, to the development ceiling which was appropriate, I guess, then for he GGNRA. This would vitiate the effect of this particular bill. This would undercut and negate the purposes of the bill that we have before us. It would limit the development of the area to $48 million. It would limit the annual appropriation overall to $25 million for the appropriation and require matching funds. We do not limit operating funds in any national park or require matching funds on a one-to-one match.

Mr. Chairman, the assumption that we are making in the bill is that the State, the city government, the nonprofit sector, that the private philanthropic sector, will in fact participate significantly in the development and other activities for this park.

But, nevertheless, this amendment restricts funds appropriated for the operation and development of facilities, those directly related to the administration of the GGNRA or public use programs. That would in essence mean that the efforts of the Presidio Trust, the public benefit corporation that is being moved forward here, could not use any of the leverage or dollars that are anticipated to be appropriated for them to in fact accomplish their purpose. This is, as I say, again, negating the effect of having a public benefit corporation.

Now, the fact of the matter is that the public-private partnership cannot go forth unless we provide the resources and the flexibility for them to in fact invest and take the actions that are necessary to take down the buildings that are nondesirable, to keep and repair the buildings that are necessary, and will be leasable, and over half of which already has been leased to the State of California and to the 6th Army. This would in essence stop that process.

In addition, it would unnecessarily tie the hands of the Trust from bringing the facilities up to code and to standards that would assure their being leased and reducing to the cost to the Federal Government of operating the Presidio.

Further, it is patently unfair to tie the Presidio's operations to a development ceiling that was established over 20 years ago for a much smaller park unit that does not include the Presidio's nearly 1,500 acres and nearly 900 buildings.

Finally I would note that the bill as amended already places a dollar cap on the trust borrowing authority. That was by virtue of the action of the Committee on Ways and Means. It certainly is a development cap that is much different than the cap that is being proposed here.

Mr. Chairman, it is just this type of amendment which I think has resulted in actually having the Federal Government spend more money. We are asking for a private-public partnership. But the first thing that happens is that Members get up on the floor and they want to renege. They want to renege on the ability of the national government to respond to or engage the private sector.

Here you have a 5-year plan that was put forth. For 5 years, the National Park Service has been planning in good faith with the city of San Francisco, with the other entities that are interested, and with the private sector. And what this does is throw out this plan and start over with some idea, and I think a flawed idea, that is being presented on this floor in order to change how we are going to run the park.

They want to have it both ways. If you want to engage in a public-private partnership, then you have to do so in good faith. You cannot at the first hand abandon that particular process before it even has a chance to be tried. We have plenty of controls, plenty of accountability. This amendment is harmful and deleterious. I urge Members to defeat it.

Mr. Chairman, I rise in opposition to the Allard amendments to H.R. 3433. The amendments strike section 3(t) of the bill, which is the authorization of appropriations for the Presidio in its entirety and inserts: No. 1, limits on development of recreation area to $48 million; No. 2, limits annual appropriation of $25 million, beginning in fiscal year 1996, to $1 of Federal funds for each $1 of funds contributed by State, city and other non-Federal sources, and No. 3, restricts funds appropriated for operation or development of facilities to those directly related to administration of GGNRA or general public use programs.

Extensive studies have been done identifying rehab costs for each structure and area of the Presidio. To arbitrarily limit the amount of funding associated with rehab or the Presidio would negate the ability of the NPS and trust to achieve the goals and very purpose of the act. In addition, it would unnecessarily tie the hands of the trust from bringing the facilities up to code and standards that would assure their being leased and reducing the cost to the Federal Government of operating the Presidio. Further, it is patently unfair to the Presidio operations to a development ceiling that was established over 20 years ago for a much smaller park unit that did not include the Presidio's 1,400 acres and 870 buildings. Finally, I would note that the act as amended already places a dollar cap on the trust's borrowing authority.

With regards to the second amendment, the amount of funds expended by a local, State, or other non-Federal source on a unit of the National Park System cannot be used as a measuring stick as to how much Federal funds should be appropriated to assure the continued operation of that unit. Furthermore, there is no assurance that a local or State government will provide any funds to a unit of the National Park System. In this case, if the city of San Francisco or the State of California provided no funds in any given year to the Presidio then no Federal appropriation could be expended for visitor use programs or visitor use facilities.

Finally, I would point out that the act already provides that all activities and management of the Presidio must be consistent with the establishment of the GGNRA, the general management plan of the GGNRA, and the general management plan amendments for the Presidio. Therefore, the third amendment restricting the use of funds is unnecessary and appears to be an attempt to thwart the management of the Presidio.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield to my friend, the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this amendment is just merely an attempt to try and bring some common sense and some local participation in this park. It is a park that is mainly used by the local inhabitants of the area.

I would like to share with the House some additional figures that I have on the cost-per-visitor to this park. I would like it to do some comparisons.

The majority report states the cost of the Presidio is similar to that of other parks. However, when considering the actual costs of operating the Presidio, the number of visitors each year, we see the Presidio is not similar to costs in our great national parks. Rather, it is more than five times the cost.

The Yosemite figures out on a per visitor basis of $4.47; the Grand Canyon, $2.67; Gettysburg, $2.67; Cape Cod, $.74; Rocky Mountain National Park, $2.53; and yet the Presidio is figured out at $7.35 per visitor.

The costs of the Presidio are driven up because the Federal Government is having to subsidize all the tenants at the Presidio which have nothing to do with the mission of the National Park Service.

The cost of construction of the Presidio is $600 million. The cost of operations is $40 million a year. And over 15 years, this is an additional $600 million, bringing the total cost to $1.2 billion.

The cost of operating the park today is $25 million, which has already been provided for in the next budget year. Today the National Park Service is managing 150 acres of the park with the most intensive visitor use for only $700,000. No justification has been provided to this body suggesting that the cost of managing visitor use on the other less-visited portions of the Presidio will be five times more expensive.

Finally, this amendment precludes the secretary from subsidizing tenants at the Presidio. This is probably the real reason that costs are so high. Although the National Park Service budgets are so obscure by smoke and mirrors, it is difficult to be certain.

I believe that this is a common sense approach. I do not believe that we are asking too much by asking San Francisco to be a participant in a park that is used by local residents.

□ 1600

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Allard amendment. Before talking about the contribution of the city of San Francisco, I want to point out that the Golden Gate National Recreation Area, of which the Presidio will be a part, gets visited by 20 million people per year, that is more than Yosemite, Yellowstone, and Grand Canyon combined, combined, and that the cost per visit is $2 per visit for the GGNRA.

Mr. ALLARD. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Colorado.

Mr. ALLARD. If we talk just about visitation, the gentlewoman's figures include the Golden Gate Bridge Park and all the parks in that area. But if we talk just about the park itself, the Presidio Park, we are talking about 3.4 million.

Ms. PELOSI. It becomes a park on October 1.

Mr. ALLARD. That Presidio area, that is what our visitation is right now, 3.4 million.

Ms. PELOSI. I appreciate the gentleman's point, but we are talking about a park that will not come into existence until October 1 and the park facility, of which it is a part, receives that many visitors now. We anticipate that with the designation of park and all of the amenities and interpretations that the Park Service will be providing at that time, that the visitations will increase.

Mr. ALLARD. I thank the gentlewoman for yielding. I just wanted to clarify for the record that we actually have 3.4 million visitors to the Presidio area itself.

Ms. PELOSI. Again, I call to my colleague's attention that the gentleman is talking about what is happening now. I am, too, in terms of the GGNRA. When the Presidio becomes a national park, the visitation for both the GGNRA and its component, the Presidio, will even be greater than three times Yosemite, Yellowstone, and Grand Canyon. It is greater now but it will even be greater than those remarkable and incredible monuments in our country, of which we are all very proud.

I would like to get to the point that first of all I would like to rise in opposition to the Allard amendment. It would, in fact, gut our legislation. It would undermine our attempts to have maximum use for the park, a magnificent park with minimum exposure and cost to the taxpayer. That is our goal, our responsibility for the taxpayers, what drives this. This is the most cost effective way to proceed. We have studied 19 models. We have considered every possible option.

We are very proud of the proposal that we are putting forth. It would be seriously undermined by the Allard amendment.

The gentleman from Colorado [Mr. ALLARD] mentioned in his comments, what is the contribution of the city. Mr. Chairman, I would like to place in the RECORD a letter from the mayor of San Francisco to the gentleman from Minnesota [Mr. VENTO], chair of the subcommittee, spelling out the city's commitment. It is a reiteration of what the mayor presented to the House subcommittee in hearings as well as the Senate subcommittee.

It talks about utility services and improvements, the contributions from the city are pages long. Time would prevent me from reading all of it, but it talks about the city's role for operation and maintenance of the Presidio's water, electrical, and sewer systems, which could help reduce Presidio's operating costs. It talks about a reclaimed water plan to supply 1 million gallons of treated reclaimed water per day to meet the Presidio's irrigation needs.

It talks about an extension of the Richmond transport project, which we are hoping to do, which would eliminate a sewer out fall at the Presidio's Baker Beach. It goes on to the cost savings involved in that. Talks about transit and traffic improvements, community transit planning process for capital and operational improvements will incorporate the needs of the Presidio. The city and county will pursue potential funding sources for increased capital, capital and operating costs for the Presidio. And longer range plans to extend bus, light rail and water taxi service to the Presidio as described in the draft Presidio plan.

Talks about public safety, services, the city and county will provide backup assistance from our police department, fire department and emergency medical services, technical assistance and services for the Presidio, which go into great detail.

I urge our colleagues who are concerned about this, the city's contribution, to make reference to the mayor's letter. The city has a strong commitment to do its share, but the recognition is that this is a national park and, therefore, we have a national responsibility as spelled out by the law.

Mr. Chairman, I include for the RECORD the letter to which I referred.

OFFICE OF THE MAYOR,
San Francisco, CA, March 24, 1994.

Hon. BRUCE F. VENTO,
House of Representatives,
Washington, DC

DEAR CONGRESSMAN VENTO, Thank you for your recent letter on the conversion of the Presidio to National Park Service management. On behalf of the people of the City and County of San Francisco I want to thank you for your ongoing efforts to preserve the Presidio of San Francisco. I truly believe that the successful transformation of the Presidio from a military installation to a national park will be a project that will be appreciated by generations to come.

I also want to express my strong support for H.R. 3433, the legislation that would create a public benefit corporation at the Presidio. I believe that this type of creative legislation represents the type of partnership between the public and private sector that will be necessary to make this project work.

As I stated in my testimony to the Golden Gate National Recreation Area Advisory Commission on December 11, the City and County of San Francisco's commitment to the transformation of the Presidio to a National Park is very strong. City officials and department staff have devoted hundreds of hours over the past three and a half years to help facilitate the smooth conversion of the Presidio and the planning for its future management.

We are very aware of the importance of reducing costs and generating revenues at the Presidio. We understand the difficult economic climate faced by all levels of government, as San Francisco confronts continuing budget shortfalls and the need to make painful cuts in City services. Despite our current economic difficulties, the City and County is committed to providing a range of critical services and valuable technical assistance to the Presidio which will help assure its successful conversion.

Some of these contributions to the Presidio by the City and County of San Francisco are described below.

UTILITY SERVICES AND IMPROVEMENTS

The San Francisco Public Utilities Commission and Department of Public Works are currently assisting the Park Service to explore potential roles for the City in operation and maintenance of the Presidio's water, electrical and sewer systems which could help reduce Presidio operating costs. One possibility would be for the City to assume responsibilities for specific aspects of these utility systems and help implement the ambitious program of conservation and resource management outlined in the Plan, which includes many conservation programs already in place in the City.

The City is currently preparing a Reclaimed Water Plan which includes spending approximately $25 million to supply 1 million gallons of treated reclaimed water per day to meet the Presidio's irrigation needs. Serving the Presidio has required a significant increase in the capacity of the City's planned reclaimed water treatment plant and delivery system to a total of 14 million gallons in flow capacity. The reclaimed water will reduce the Presidio's potable water demand and treatment and distribution costs and enable restoration of groundwater levels and surface water flows in Lobos Creek. The $25 million to serve the Presidio represents over 12% of the total City project cost, which is anticipated to be funded from revenue bonds and State loans to be repaid through local sewer service and water rates.

While the rate structure for reclaimed water has not yet been established, it will be set at or below that of potable water. Since the cost of producing reclaimed water will exceed that of potable water, and the Presidio will be consuming primarily reclaimed water, this reclaimed water will be provided at a significant discount.

In addition to the reclaimed water investment, the City is currently constructing an extension to its Richmond Transport project which will eliminate a sewer outfall at the Presidio's Baker Beach. The extension, which added $2.2 million to the cost of designing and constructing the City's Richmond Transport project, will completely eliminate the possibility of wet weather sewer overflows at the beach, which previously occurred roughly 40 times per year, protecting the health of the public and the natural environment. As with the reclaimed water, these expenditures were funded with bonds repaid from local sewer service charges. Additional City investments made on Presidio land as part of the project include $300,000 for revegetation and a restoration study of Lobos Creek and $120,000 for new restroom facilities at the beach.

TRANSIT AND TRAFFIC IMPROVEMENTS

The Draft Presidio Plan and EIS rely on a number of extensions and realignments of existing San Francisco public transit lines to increase service to the Presidio and reduce the impacts of dramatic increases in Presidio visitors. We will incorporate these recommendations in the San Francisco's MUNI transit planning process for capital and operational improvements.

The capital costs of the recommended service extensions of MUNI's 41 and 45 Union lines from the Presidio boundary to the Main Post alone are estimated at $1.7 million. MUNI estimates its increased operating costs for extending service on the various lines serving the Presidio to be $300,000 annually. The City and County will pursue potential funding sources for these increased capital and operating costs so these Presidio transit service improvements can be made.

The Park Service and their consultants have concluded that increased express transit service between the Presidio and downtown is also needed to help attract Presidio tenants. A number of options to provide such service are being studied, including expanding MUNI express service. The annual operating cost of such additional service for the county's MUNI transit service would be approximately 41 million. A large portion of these operating costs are subsidized by the City's general fund.

Longer-range plans to extend bus, light-rail and water taxi service to the Presidio as described in the Draft Presidio Plan would require millions in capital costs and ongoing operating subsidies from MUNI and other operators. The City and County will continue to coordinate transportation planning with the Park Service to realize plans for transit improvements to serve future Presidio visitors.

Traffic improvements to City streets and intersections near the Presidio to accommodate the traffic increases projected in the Plan EIS will cost the City and County an additional $2.5 million, according to estimates by the Park Service.

PUBLIC SAFETY SERVICES

The City and County will be providing backup assistance from our Police Department, Fire Department and Emergency Medical services staff to the Presidio's public safety operations. We are currently exploring the potential for lease of Presidio facilities by the City's police and fire department. This arrangement could help preserve and upgrade historic buildings while providing Park Service fire and law enforcement personnel with assistance from specially trained City staff and their equipment.

TECHNICAL ASSISTANCE AND SERVICES

The City will continue to provide substantial technical assistance from experts in a wide range of City departments to Park Service staff in reviewing infrastructure requirements, overseeing toxic remediation efforts, planning transportation improvements, operating facilities and utility systems, projecting staffing requirements, meeting environmental requirements, and numerous other areas. Over the past three years this collaboration has required an average of one meeting each month by the 85 designated department representatives involved, at a cost of over $300,000 in senior staff time. This collaboration is expected to extend well into the future given the multitude of operational and planning decision to be made and coordinated between the two agencies.

OTHER CITY AND COUNTY SERVICES

In addition to these services of specific value to the National Park Service management of the Presidio, the Presidio's residents, employees and visitors will benefit from a whole range of City and County services which increase the attractiveness of the Presidio as a place to live, work and visit. Among City services provided to residents are public schools, parks and recreation facilities, libraries and public health services. Among services provided to employees are child care services, transit service and City street improvements and employment programs. Among services provided to visitors are convention facilities and services, the San Francisco International Airport, and an unparalleled collection of publicly maintained tourist attractions which make San Francisco a favorite destination for national and international travelers. Because the Army provided many of these services to Presidio employees and residents, and generated far less visitor traffic than is projected under Park Service management, use of these kinds of City and County services and facilities by Presidio residents, employees and visitors is likely to be significantly higher in the future.

I look forward to working with Congresswoman Pelosi and Park Service representatives to identify opportunities for revenue growth to help support both Park Service and City capital and operational expenses related to the Presidio. Although setting aside local revenues for Presidio services, as you suggested, is constrained by both State law and the City Charter, I am willing to assure City services and improvements to serve the Presidio are a priority in my budget proposals. We will also examine the potential for the City to provide financing assistance.

In closing, I want to reiterate the City's commitment to the transfer of the Presidio to become part of the Golden Gate National Recreation Area, completing the late Philip Burton's vision for a great national park at the Golden Gate. The 1972 federal legislation has helped to preserve for public use some of the most spectacular historic and natural areas in the Bay Area. The City has been a partner with GGNRA in realizing the park's potential since the park's inception. The City recently purchased a key parcel linking

Ocean Beach and Land's End with over $3 million dollars in open space acquisition and sewer project funds for transfer to GGNRA. This land donation was the latest of many City contributions to GGNRA's necklace of waterfront open space which include much of Ocean Beach and Land's End.

We know you share our strong belief that the Presidio's extraordinary historical, natural and scenic resources, coupled with its accessible location, guarantee that it will be a national Park of truly international significance. Its preservation and successful conversion to civilian use in a project which will benefit all Americans. Please let us know if we can be of any further assistance to you in this important effort. Thank you again for your support.

Sincerely,

FRANK M. JORDAN,
Mayor.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would point out that there is no requirement on any national park for a matching contribution in terms of operating funds. This is a completely unprecedented addition that would be placed on this unit.

Furthermore, the Presidio itself, there is an expectation with regards to operation and maintenance that the projected costs that are in the materials that have been presented would be expected to decrease, down to 15 million over a period of 20 years. So that the actual cost would actually go down.

So I think it is very important to recognize the commitments that have been made. But to mandate them would be completely unprecedented. I think we expected the contributions to be made, but we do not mandate this for any other park. It may be a new innovative thing. We ought to do it for each park. There is no reason to treat this particular park, even today the dollars that are going to GGNRA, the park portion that is already in the park system would have this applied to it.

So I thank the gentlewoman for yielding and for permitting me to make that point.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment and I rise in strong opposition to the amendment. I will explain myself a little bit.

I came here on the House floor wanting to fight against the Presidio proceedings. I will explain why. I look at most of the Members that are supporting this, and I think the gentlewoman from California [Ms. PELOSI], who I have worked with and have immense respect for, has gotten to the tail end of the California desert plan, which most of the Members supporting this thing totally disagree with property rights and some of the other issues that we fought on the California desert plan.

I look at base closures and I know that almost everyone in this room, Mr. Chairman, in base closures fought for their bases. That BRAC delegation looked at the value of closing a base and saving taxpayer dollars.

I also know that this body has not fully funded BRAC, has become an immense burden on our Armed Forces, which causes the existing money that they have in the defense bill to be dwindled even more. I have talked to the gentlewoman from California [Ms. PELOSI].

I would like to enter into a dialog with the gentlewoman, if she would. The reason I am for and against this, I have not made up my mind on how I am going to vote on this blasted thing.

On one side of me, I know that the parks are going to have problems because of the funding, but yet I am told there are more people going into the Presidio than any other park. It looks like it ought to be able to pay for itself. Yet I know that we are going to tear down a lot of those buildings. That costs money. But yet the gentlewoman has told me, and I would like her to assure me, that this money is a loan and not a grant and will be repaid.

I would like the gentlewoman to speak to that.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding. I would like to back up to some of his previous remarks.

First of all, as the gentleman knows, the Army has been a good neighbor to the San Francisco Bay area, to California for over 100 years. It was with great dismay that we learned that the Army would be closing the Presidio. My colleague, Senator BOXER, and I, when she was a congresswoman, fought very hard to say to the Army, please stay, "it would be more cost effective if you stay than if you leave." As a matter of fact, not one member of the BRAC commission or the base realignment and closing commission came to the Presidio, not one staff person walked the grounds.

We think that if they had, they might have seen that the teaching hospital there and the mission of the 6th Army that was there, they might have kept the Presidio open and I would have been pleased with that. The mission was not eliminated but reduced at the Presidio, so the Army will be the major tenant, occupying 30 percent of the Presidio.

That leaves the Park Service two thirds, 70 percent of the Presidio to maintain.

So what we have come up with is, I think, a very cost effective way to protect the taxpayer. We have that interest as well as the gentleman has that interest. We have our credibility on the line on this.

We have come up with a way where the Presidio Trust will be formed. It will not receive grants from the Federal Government. It will have the borrowing authority. The money borrowed will be used to rehab or take down facilities in order to rent these properties. It will produce a revenue stream which will, in turn, repay the loans and also reduce the cost of the Presidio to the Federal Government, because on the ongoing cost of maintaining the grounds. And that would be reduced over time.

Mr. CUNNINGHAM. Mr. Chairman, once the loan is paid off, would the dollars from the residents and constituents coming into the park be used to pay for the park itself once the loan is paid off?

Ms. PELOSI. Mr. Chairman, if the gentleman will continue to yield, according to our plan, as the loans are paid off, then the operating cost of the Presidio would then be reduced as well by the funds that we will have coming in. But once we pay off our loans, we are in a whole other arena. That is about 10, 12, 13 years from now.

□ 1610

At that time, all of the costs to the taxpayer will be reduced, even beyond—we see the Presidio becoming a park as drastically reducing the cost to the taxpayer immediately, but once we pay off the loans and we have a revenue stream coming in and we pay back the loans, then the costs will even go down further than they are now.

Mr. CUNNINGHAM. Does the gentlewoman have an estimate of when that loan will be repaid, based on the revenue coming into the park?

Ms. PELOSI. If the gentleman will continue to yield, the fact is the more authority that the Congress—we will be able to do this most expeditiously to the extent that Congress will enable us to. That is why this legislation is so important. To the extent that we are able to invest in rehab and tearing down of properties and bringing tenants on and producing a revenue stream, then we can reduce it faster. I would imagine that in 15 years we will be at that point.

Mr. CUNNINGHAM. Reclaiming my time, I still have not made up my mind on the vote on this thing, but I think we need to support national parks. However, I also look, as I said, at the California desert plan, in which the extremes were used and extreme arguments, and what little bit of my negative feeling carries over to this thing because of what we went through in the California desert plan.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important that the membership focus on what is taking place here today. We have an opportunity with the passage of this legislation to react to a situation that is forced upon us already because of current law.

That is a decision made by the Congress of the United States in 1972 that, should the Army vacate the Presidio, it would become part of the national park system of this country. It is clearly, as people on both sides of the aisle have said, worthy of that designation, and deserves that designation. That is going to happen. The Army has concluded its negotiations. It is reserving a small portion for itself, and the rest of it is to be turned over to the park system.

Anticipating that, Mr. Chairman, for the last 5 years—for the last 5 years the Park Service has undertaken a study to determine how they can absorb the Presidio into the system. A private and public effort has been made to see how we could do that in the least costly fashion.

The principles that are being used here are to minimize the public exposure and maximize the private exposure for the renovation and the conversion of the Presidio from an Army base to a park and to some commercial development that will support the park on an ongoing basis. That has involved the leading citizens of San Francisco, leaders in the financial community, banks, insurance companies, and others that have lent their time, lent their staffs, their computers, to try to figure out how to do this.

What they have come up with is now what the gentlewoman from California [Ms. PELOSI] has presented to our committee, passed by our committee, where we had this same amendment and some of the other amendments, all of which were determined by the Park Service to be more expensive than the way the committee and the people of San Francisco, the Park Service, and the private sector determined this should be done.

Mr. Chairman, that is the choice, to pass the committee bill and transfer this property and utilize this property as a national park in the most cost-efficient way possible. As Ms. PELOSI just said in response to the gentleman from California [Mr. CUNNINGHAM], the point here is to borrow some money to do some up-front venture capitalism, some infrastructure work.

We have many, many people who are interested in being tenants in that limited part of the park where we are going to have that kind of development, because of the preexistence of these buildings and the opportunity to help pay for this park. Then, Mr. Chairman, we will use the receipts from that development to help defray the cost of this park.

If we choose any of the other alternatives that will be presented here today, either in this amendment or in the other amendments, they all become more expensive, because the city of San Francisco is not going to take this as a city park, because it is a national park.

If the National Park System gets this property without this authority, we will start simply cocooning these buildings, boarding up these buildings, and they will start to deteriorate, and the expenses will go on with no visible means of supporting those expenses. Mr. Speaker, in that case we will lose the opportunity to form a public and a private venture to support the rest of the park system for the utilization and the enjoyment of millions of Americans and citizens from around the world.

The gentleman talks about the people who visit The Presidio. I dare say that most people do not believe that they have public access to the Presidio today if they are not on official Army business. Most people do not realize that there is a great ability of the public to utilize that Army base even today, as an Army base. They do not go there. They do not go there because there is a guardhouse and a sign and restricted hours of use, the whole thing. Let us not compare it as an Army base to how it is going to be as a park.

Finally, Mr. Chairman, let me say on this notion of local contribution, the city of San Francisco is going to be contributing tens of millions of dollars, some in one-time cases for infrastructure work in response to the Presidio becoming a park, and millions of dollars on an ongoing basis to provide the services, police, fire protection, health, all of those kinds of services, that we do not ask Estes Park to provide to Colorado. No, we provide fire protection for the people living in Estes Park, outside, as part of the national parks.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 4 additional minutes.)

Mr. MILLER of California. The point is what the gentleman says he wants to be done, no other park in the country is required to have that burden placed upon them. We do not ask the citizens of New York to cost-share the cost of the Statue of Liberty. This is a national park. It happens to be an urban national park. The people in urban centers ought to be able to enjoy that experience, especially when they have an asset the caliber of that.

The point, however, is this: That I appreciate that there are a lot of good ideas floating around on the floor today with some of the amendments, but none of them make this a less costly venture for the Federal taxpayer. It makes it a different venture, a different kind of venture. None of them make it less expensive for the taxpayer than the committee bill.

This was not chosen by me as chairman of this committee. This effort was not chosen by Ms. PELOSI or the gentleman from Minnesota, Mr. VENTO, or anyone else. This was chosen by the Park Service, along with a public panel, to make a determination about what was the best and the most effective way to get this park up and running, and to be able to sustain it on a long-term basis.

The way that that could be done, Mr. Chairman, was with this plan to try to maximize the private participation to the extent that is consistent with this designation as a national park, and the values that the national park designation brings to this park and to the expectations of the citizens of this country.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would just like to clarify for the record that the city of Estes Park is outside of the Rocky Mountain National Park. The Rocky Mountain National Park provides their services. The Estes Park city provides their services as far as sewer and water and police protection.

It just seems to me that if there is a concern about the cost of government and what is happening in that area, we ought to just privatize it. The Burger King, let them own the property and pay the taxes. It benefits the local school districts, it helps the local taxes.

Mr. MILLER of California. Reclaiming my time, the whole point is, ordinarily that would be fine. The fact is we are looking like a smart landlord. People always come up to you in your townhall business and say, "Why don't you run it like a business?"

We are trying to use those business principles. That is why we asked the business community of San Francisco and people across this country to donate their time, to donate their understanding of real estate, to develop this trust, because the Park Service does not have the capability or the expertise to do this, so we could start thinking smart on behalf of our taxpayers, so we could use the revenues of the Burger King as the landlord in that portion of the park to defray the expenses in the rest of the park, to get these other buildings up to code where necessary, to tear some down that will make part of the park more attractive, to do all of that, to think smart, instead of just thinking, inherit this, inherit this as a burden of the Federal Government.

□ 1620

We have gone out and tried to share this. This is a very, very Republican plan—a very Republican plan, in the context of trying to utilize the business community.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. The Republican plan does not include government ownership of business.

Mr. MILLER of California. If I may reclaim my time, there is no support for a Republican plan that says you are going to sell off the national parks. Let us not put a different burden on the Presidio National Park than we would put on any other park. If the gentleman wants to put it to a debate in Colorado about selling off Rocky Mountain Park, if he wants to let the citizens of Boulder and Estes Park and Denver who enjoy that, and he talks about the fact that they use the park to a great extent, he is right, they do. The citizens of Colorado use it to a greater extent than anyone else.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, the citizens of Utah use the national parks in Utah to a greater extent than do citizens in Colorado and in California use their parks. So let us not use rhetoric to try to denigrate what is taking place here with one of the most incredible assets in this country and a decision that was already made by this Congress to make this a national park.

This amendment should be defeated because it simply guts the ability to incorporate the private sector into the financing and the support of this park. It guts the ability of the Park Service to hold on to the remaining part, and it leaves us with simply a sort of an old military ghost town. That is not what this bill is about and that is not what should be allowed to take place.

All of this borrowing, all of this has to be screened by the Secretary of the Treasury. It has limitations on it because we are trying to encourage the private sector to participate.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. REGULA. Two questions. One, to your knowledge, is there any other park where a portion of the operating cost is paid by another level of government than the Federal Government?

Mr. MILLER of California. There are local communities that contribute to the purchase of land for the park. They sometimes contribute services, but as a condition of that park existing, would we require that contribution, no. But we use those same things throughout the country, where we try to get people to help us.

Mr. REGULA. The second question. The trust arrangement which I think will be a unique arrangement to move the private sector into a position of responsibility here that has not been historically the case. Would that be correct?

Mr. MILLER of California. That is exactly the case. I appreciate the remarks the gentleman made earlier. This is sort of ground-breaking in terms of how the Park Service has developed the park, the involvement of the private sector. We have witnessed as taxpayers who have been taken to the cleaners sometimes because of bad deals the Park Service made on concession contracts and what have you. We are trying to redo that policy. Now we are trying to redo this one, where we can take the best of the private sector and the protection of public ownership for the assets of the park and combine those.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I think there are going to be three or four amendments here, but let me just say, none of them make it less expensive for the Federal taxpayer to maintain this park, to protect this park, and to open it up to the citizens of this country and to the citizens of the world. The view that is over here of the bridge and the Presidio is one of the most famous views in the entire world. We have an opportunity with a very unique, first time-ever public-private partnership to maintain that for the future generations of this country.

We ought to reject this amendment and the other amendments that will be offered to this bill.

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from California.

Ms. PELOSI. I thank the gentleman for yielding.

Mr. Chairman, one point I want to make in response to the question of the gentleman from Ohio [Mr. REGULA] is that the proposal that we have put forth, we wrote with the Treasury Department in terms of the borrowing power and the rest and signed off on by OMB. Although it is an innovative and fresh approach, public-private cooperation and the rest, it is not in a vacuum, it was with the cooperation of the Treasury Department and OMB that we brought this legislation to the committee.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 30 additional seconds.)

Mr. MILLER of California. Finally, if Members are concerned that somehow San Francisco is getting a free ride, they are welcome to examine the letter from the mayor that outlines millions of dollars that San Francisco is going to have to expend on behalf of the utilization of this park by all of our citizens, all of our constituents, that that is what the city has committed itself to do. We should reject the Allard amendment and reject the other amendments to make this a more expensive effort.

Mr. Chairman, I submit four letters for the RECORD regarding consideration of H.R. 3433, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, July 29, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor; House of Representatives, Washington, DC.

DEAR CHAIRMAN FORD: Thank your for your letter dated July 27, 1994 regarding HR 3433, a bill to provide for the management of the Presidio by the Secretary of the Interior.

As noted in your letter, Section 3(v) of the legislation as reported by the Committee on Natural Resources provides that the Davis-Bacon Act and the Service Contract Act apply to the activities of the Presidio Trust. I recognize that the Committee on Education and Labor has jurisdiction over matters pertaining to the Davis-Bacon Act and the Service Contract Act. I understand that your decision not to seek action on HR 3433 does not waive your right to jurisdiction over section 3(v) of the bill, as reported, nor does it hinder your right to pursue conferees on that section, should a conference committee convene.

I will request that our exchange of letters on this matter be printed in the Congressional Record during the floor consideration of HR 3433.

Thank you for your Committee's cooperation in this matter which will expedite the consideration of this legislation by the House.

Sincerely,

GEORGE MILLER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, July 27, 1994.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This week the House of Representatives is scheduled to consider H.R. 3433, a bill to provide for the management of the area known as the Presidio by the Secretary of the Interior. Section 3(v) of the proposed legislation, which was adopted at full Committee markup, provides that the Davis-Bacon Act and the Service Contract Act shall apply to construction contracts at the Presidio which are federally assisted.

The scope of coverage of the Davis-Bacon Act and the Service Contract Act are matters which are within the Rule X Jurisdiction of the Committee on Education and Labor. The Committee, however, has no objection to the language of the amendment of these issues which was adopted at the full Committee markup. Accordingly, the Committee on Education and Labor has no reason to take action with regard to H.R. 3433. Our decision to forego action should not be construed as a waiver of the Committee's Rule X jurisdiction. We would appreciate it if this letter and your response could be printed in the Congressional Record with the debate on H.R. 3433.

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, August 18, 1994.

Hon. GEORGE MILLER,
Chair, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR GEORGE: It is my understanding that H.R. 3433, to provide for the management of the Presidio under the jurisdiction of the Secretary of the Interior, is to be considered by the House in the near future. It is also my understanding that the bill, as reported, contains a provision that affects matters under the jurisdiction of the Committee on Public Works and Transportation and that did not come to our attention until well after the report on the bill was filed.

While we recognize that any claim we have to sequential referral is no longer timely, we are concerned that our jurisdiction regarding this bill be protected. Specifically the bill would in Section 3(h)(4) authorize the Presidio trust to negotiate and enter into leases "without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b)." Pursuant to Rule X, clause 1(p), our Committee enjoys jurisdiction over this provision of law. There may be other provisions in the bill which are also under our jurisdiction.

Therefore we would appreciate your acknowledging our jurisdiction regarding this bill. We also reserve our right to pursue conferees on the bill. Lastly, we request that you include our exchange of correspondence on this matter in the CONGRESSIONAL RECORD during debate on the bill.

Thank you in advance for your cooperation in this matter.

Sincerely yours,

NORMAN Y. MINETA,
Chair, Committee on Public Works and Transportation.

HOUSE OF REPRESENTATIVES, COMMITTEE ON NATURAL RESOURCES,
Washington, DC, August 18, 1994.

Hon. NORMAN Y. MINETA,
Chair, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIR: Thank you for your letter regarding consideration of HR 3433, to provide for the management of the Presidio under the jurisdiction of the Secretary of the Interior.

I acknowledge your Committee's jurisdiction over section 3(h)(4) of the bill and any other program of the bill which may be under your jurisdiction. I also recognize your right to pursue conferees on the bill.

I thank you for your cooperation in this matter, and will gladly include our exchange of correspondence in the Record during general debate on the bill.

Sincerely,

GEORGE MILLER,
Chair, Committee on Natural Resources.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, in opposition to the Allard amendment and in support of H.R. 3433—a bill to provide for efficient and effective management of the Presidio.

Mr. Chairman, the Presidio Army Base in San Francisco is one of our Nation's most significant historic sites.

Designated as a National Historic Landmark in 1962, the Presidio holds the distinction of being the oldest continually operating military base in the country.

The base was established by the Spanish in 1776, was later controlled by Mexico, and came under the command of the United States in 1846. It also holds special significance for Americans of Japanese ancestry.

It was at Crissy Field that the U.S. military started the Military Intelligence Service Language School, just prior to our entry into the Second World War.

The Japanese-American instructors and students at the school were to play a crucial role in our ability to fight the war in the Pacific. General McArthur's Chief of Intelligence estimated that their efforts shortened the war by as much as 2 years.

The Presidio trust—established by this legislation—will ensure that the precious natural, cultural, and historic resources at the Presidio are managed in the proper way.

H.R. 3433 will streamline the operation of the Presidio. It will transfer operation of the Presidio from the Park Service to a Public Benefit Corporation and is projected to save the Federal Government millions of dollars.

The Presidio is a national treasure that must be preserved. I urge my colleagues to suppport sound management of the Presidio and support H.R. 3433, and to vote "no" on the Allard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Mr. Chairman, I demand a record vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 244, not voting 24, as follows:

[Roll No. 409]

AYES—171

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Bateman
Bentley
Bilirakis
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Crane
Crapo
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lambert
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—244

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Boehlert
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Cox
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moorhead
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy

Porter
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Roemer
Romero-Barcelo (PR)
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—24

Barton
Blackwell
Bliley
Bonior
Brewster
Clement
Collins (IL)
Cooper
Faleomavaega (AS)
Ford (TN)
Gallo
Gephardt
Houghton
Klein
Lantos
McDade
Moran
Owens
Reynolds
Rose
Sisisky
Slattery
Sundquist
Washington

□ 1648

The Clerk announced the following pair:

On this vote:

Mr. Barton for, with Mrs. Collins of Illinois against.

Mr. SOLOMON, Mr. KIM, and Mrs. SCHROEDER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

□ 1650

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

Page 25, after line 13, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is a Buy American amendment. It provides for a notice to those who would receive funds under the act, and encourages them to buy American-made products. It is similar to the other amendments passed on the floor.

As you know, Mr. Chairman, offering buy American amendments is a standard procedure for me.

The Traficant amendment to H.R. 3433, The Presidio Management bill, is composed of three subsections. The first subsection simply ensures compliance with the buy American Act of 1933, by requiring a contract recipient under H.R. 3433 or to comply with sections 2 through 4 of buy American Act. The second subsection would provide for a notice to be sent to a recipient of funding under H.R. 3433. The notice expresses that it is the sense of Congress to encourage all recipients of funding to purchase American-made equipment and products. The third subsection in the Traficant amendment prohibits the fraudulent use of made in America labels on any products or equipment purchased through contractual agreements or funding under this Act or amendments made by this Act.

Entities in violation of the fraudulent label section would be ineligible to bid for contracts.

I believe that it is imperative that buy American measures, such as this one, be incorporated into all bills that reach the House floor for consideration.

Mr. Chairman, I thank my colleagues for their continued support.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, we have no objection to this amendment. I think it is applicable to this bill. I do not anticipate any problems with it.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the ranking minority Member, the gentleman from Utah.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Chairman, we have examined the amendment, we have no problem with it, and we accept it on the minority side.

Mr. TRAFICANT. Mr. Chairman, with that, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLINGER: In section 3(h), amend paragraphs (4) and (5) to read as follows:

(4)(A) The Trust may negotiate and enter into agreements, including contracts, leases, and cooperative agreements, with any person (including any governmental entity) for the occupancy of any property within the Presidio which the Trust manages.

(B) Agreements under this paragraph shall be subject to procedures established by the Secretary under paragraph (5).

(C) Agreements under this paragraph may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(5) The Secretary shall establish procedures for agreements under paragraph (4), including a requirement that in entering into such agreements the Trust shall obtain such competition as is practicable in the circumstances.

In section 3(p), amend paragraph (2) to read as follows:

(2)(A) Except as provided in subparagraphs (B) and (C), Federal laws and regulations governing procurement by Federal agencies shall apply to the Trust.

(B) The Secretary may authorize the Trust, in exercising authority under section 303(g) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 253(g)) relating to simplified purchase procedures, to use as the dollar limit of each purchase or contract under that subsection an amount which does not exceed $500,000.

(C) The Secretary may authorize the Trust, in carrying out the requirement of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) to furnish to the Secretary of Commerce for publication notices of proposed procurement actions, to use as the applicable dollar threshold for each expected procurement an amount which does not exceed $1,000,000.

In section 3(i), in the second sentence, strike "donate" and insert "transfer".

Mr. CLINGER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. CLINGER. Mr. Chairman, I offer an amendment to H.R. 3433 as reported by the Committee on Natural Resources. The bill establishes a Government corporation called the Presidio Trust within the Interior Department for the management of the numerous properties that are part of the Presidio. But it provides authority for the trust to be exempt from major Federal procurement laws. The special circumstances that would face the trust in disposing of leasehold interests in many buildings at the Presidio and in procuring property and services required in the management activities have been cited by the bill's proponents as justification for these sweeping exemptions.

But these exemptions go too far. Adequate justification has not been made for such a separation from current procurement controls.

My amendment, Mr. Chairman, would provide flexibility to the trust in out leasing building space and in contracting for goods and services and yet would maintain much of the current law.

With regard to the outleasing of space in Government's buildings, my amendment would set a standard of obtaining such competition as is feasible in the circumstances.

In addition, my amendment would relax certain provisions of Federal procurement statutes in order to expedite the making of awards. Current law provides for simplified acquisition procedures to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors. The law provides a ceiling of $25,000 for purchases under this authority. My amendment would permit the trust to use these simplified acquisition procedures for each contract under $500,000 and would reduce certain other administrative requirements with respect to purchases under $1,000,000. These are very sizable steps.

Mr. Chairman, the Committee on Government Operations, which has jurisdiction over matters relating to Government procurement, must be vigilant in ensuring the basic integrity of Federal procurement laws and regulations in order to protect the taxpayers' dollars. As the ranking minority member of that committee, I believe the flexibility afforded by my amendment maintains that basic integrity yet properly recognizes the unusual, one-time need that establishment of the trust is intended to address. I strongly urge my colleagues to support this amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment. I think the improvements are workable improvements to the procurement provisions. I understand the gentleman's concerns, and I think that these improvements satisfactorily resolve them and give some necessary flexibility to the trust corporation.

Mr. CLINGER. I thank the gentleman from Minnesota for his statement.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Utah.

Mr. HANSEN. I thank the gentleman for yielding.

Mr. Chairman, we have looked at this amendment. We feel it is a good amendment. We find it is interesting that this is the very thing we raised in our dissenting views. So we are glad to see the gentleman carried it out so that it becomes part of this bill. We felt all along that it should be, and we accept the amendment.

Mr. CLINGER. Mr. Chairman, I thank the gentleman very much for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRAMS

Mr. GRAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAMS:

Page 26, line 12, strike "year." and insert the following: "year, which amount may not be adjusted upward for inflation before the end of fiscal year 2009.".

Page 26, after line 14, insert the following: Of such aggregate amount, not more than the following amounts may be made available for operations for the fiscal year indicated:

(1) $24,100,000 for fiscal year 1996.
(2) $20,400,000 for fiscal year 1997.
(3) $19,100,000 for fiscal year 1998.
(4) $16,500,000 for fiscal year 1999.
(5) $16,100,000 for fiscal year 2000.
(6) $15,900,000 for fiscal year 2001.
(7) $14,300,000 for fiscal year 2002.
(8) $12,600,000 for fiscal year 2003.
(9) $12,400,000 for fiscal year 2004.
(10) $12,600,000 for fiscal year 2005.
(11) $12,700,000 for fiscal year 2006.
(12) $12,600,000 for fiscal year 2007.
(13) $12,500,000 for fiscal year 2008.
(14) $13,000,000 for fiscal year 2009.

Mr. GRAMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GRAMS. Mr. Chairman, polls show that the American people are rapidly losing faith in the integrity of their Government. This phenomenon is triggered by the results of people for years hearing one thing from their elected officials and then finding out later that they have been deceived.

There is no area of Government where this problem is as prevalent as it is on issues related to congressional budgeting. Only recently have American taxpayers been alerted to the fact that the budgets they see are not what they seem. Congress has played too many tricks, too many gimmicks and covered up their actions for too long.

It is time to change the way Congress and Federal agencies prepare their budget. This House made a step in the right direction by rejecting the use of inflated baselines in the budget process. But now just one week later we have a bill before us which does just that, contrary to what its supporters may claim.

The language in H.R. 3433 claims that the aggregate level of funding for the Presidio will be capped at $25 million per year. Yet the conference report accompanying this bill would enable the National Park Service to adjust this cap upward for inflation.

□ 1700

Assuming a minimum 3 percent annual inflation rate, Mr. Chairman, this legislation would allow the Park Service to spend $40 million or more by the year 2009, if they choose to do so while claiming to cap such spending at $25 million. In other words, Mr. Chairman, this clever piece of legislation is not intended simply to fool the American people. It is also intended to fool us, the elected Representatives of the people.

Then another budget gimmick contained in this legislation is one we have seen before, and that is the so-called $25 million cap is an aggregate figure comprising of both operating expenses and repair/rehabilitation costs. Now in the past standard operating procedures have been to low-ball the operating expenses and then to use other sources of funding to cover repair/rehab costs, and that includes funding from other parks. Now this little budget trick has resulted in annual operating shortfalls for parks in all 50 States, and it has meant that the Park Service has to return to this Congress for supplemental appropriations to cover the shortfalls. Now that is pretty clever because it is one thing to ask for more money for one park which affects one congressional district and one Member of Congress, but to compound these shortfalls so they affect every State in the Union, that is something only the Federal Government can do, and it is called abusive budget practices, and it must come to an end.

Mr. Chairman, my amendment today would do just that. It establishes specific caps for operating expenses of the Presidio at the levels estimated, estimated for the National Park Service. In other words, it holds the Park Service's feet to the fire by making them live by their own numbers. If 25, 15, or 13 million is all they said they will need for operating expenses in any given year, that is all they will receive, and this change is not without precedent. Just 3 weeks ago a similar amendment was adopted by the House to the California Desert Protection Act. There is no reason why we should not adopt this same policy today.

My amendment would also prohibit the use of upward inflationary adjustments for the management of the Presidio, and in doing so it would put an end to the budget gimmickry in this bill, and it would show the American people that what they see is what they will get, and that is honest budgeting for a change, and I realize this may be a new concept here in Washington, but it is the way the Federal Government should conduct its business, and under my amendment it is how it will be doing so in the future, at least for this portion of the NPS.

Now for the sake of honesty in congressional budgeting I urge my colleagues to support this amendment today, and by doing so we will begin the process of restoring the American people's faith in their elected officials, a difficult——

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the gentleman referred to the conference committee report. Does the gentleman mean the committee report?

Mr. GRAMS. That is right.

Mr. VENTO. I would point out to the gentleman the bill provides for no inflationary increase. The committee report talks about 1994 dollars. The gentleman said there is an inflationary increase, that would lead this to be $40 million in annual costs. Could the gentleman explain what he means by that? There is no inflationary factor in the bill or in the committee report. Could the gentleman point out those specific provisions in the bill or in the committee that he is referring to?

Mr. GRAMS. Yes. It is on page 24 of the committee report, section 3t which says: "authorizes appropriations of no more than $25 million annually."

But then it goes on, if one reads down a couple of lines. It says: "The ceiling refers to 1994 dollars, and it does not apply to the Golden Gate National Recreational Area——"

Mr. VENTO. If the gentleman would yield further, would the gentleman yield?

Mr. GRAMS. Yes.

Mr. VENTO. Well, that reference is, of course, to the Presidio. Does the gentleman understand that there are two entities that we are dealing here, the Presidio and the Golden Gate National Recreational Area?

Mr. GRAMS. That is correct.

Mr. VENTO. And that there is no limitation on the Golden Gate National Recreational Area? Now does the gentleman understand that?

Mr. GRAMS. That is correct.

Mr. VENTO. And that under the park enabling laws that we do not have operating ceilings in any of our national parks; does the gentleman understand that?

Mr. GRAMS. But this is asked for specifically in this bill——

Mr. VENTO. If the gentleman would yield further, I will be happy to ask for additional time, if the gentleman needs it, but I would just point out there is a development ceiling in this bill, there is an operating ceiling in this bill to the Presidio.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. GRAMS] has expired.

(On request of Mr. VENTO and by unanimous consent, Mr. GRAMS was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, if the gentleman would yield further, I would just point out that whatever the other differences the gentleman and I or others may have with regard to this, I just want to point out that the $25 million development in operating ceiling is absolute to the Presidio, that there is no suggestion that somehow there is a $40 million ceiling with regard to the Presidio, that is not correct. There are separate provisions in here for the Golden Gate National Recreational Area.

So the policy we have before us is in the bill to put a development and operating ceiling on the Presidio.

Mr. GRAMS. What we want to make very clear is that where some of the budget gimmickry comes into because what we are talking about is the bill specifically says: this would be capped at $25 million a year, including operating expenses and rehab as well, and what we are saying is that in the bill, if this is to be even a friendly amendment——

Mr. VENTO. Well, if the gentleman would yield——

Mr. GRAMS. Go ahead; I will yield.

Mr. VENTO. Yes, the bill, of course, does it. I would agree to that. Obviously the gentleman then goes off in a different direction with regards to policy. At least at the starting point there ought to be no difference in terms of view with regard to it, but there are other provisions to the gentleman's amendment. His amendment then takes this ceiling down in a descending order without any adjustment for inflation to $12.5 million by the year 2008 and then begins going back up, I guess, for the year 2009 and beyond.

Mr. GRAMS. These are just the operating expenses, and these are the expenses that the Park Service asked for in the bill that was approved, and what we are saying is we would just like to hold the National Park Service's feet to the fire and say:

> If this is what you asked for in the bill, these are the numbers that you have requested, we're just saying that we want to put these numbers or clarify the amendment to ensure that operating expenses will not exceed these dollars and will not eat into the capital or rehab expenditures in the future over the period of these 15 years.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

Mr. Chairman, first of all I would say that to my colleague from Minnesota that the Park Service did not request a limitation on its operating expenses with regard to Presidio. It did, Mr. Chairman, specifically project what the cost would be, but these are merely that. They are projections.

Mr. Chairman, they did not seek that type of limit. As I said, and I would call my colleague's attention to it, that in fact there are not operating limitations on park units across the Nation, even those that have relatively high operating costs, such as the Steamtown National Historic Site in Scranton, and others do not have these limitations. The fact is that they have to come before the Appropriations committee each year. The budgets, which include the operating budget for the National Park System, they make actual recommendations on that. The reason the Committee placed a limitation on the Presidio is to make certain that we do have limitations on this.

The committee has already anticipated this and put on an operating and development ceiling on the Presidio because we are concerned about the costs of this particular project. What Mr. GRAMS is attempting to do here is absolutely unique, and, of course, what it does is put into a straitjacket the limitations that would be put on place in terms of operating the Presidio. We do not know. There may be exceptional expenses from one year to another. One year the operating expenses may go down, but there may be other activities or expenses that increase in a different year.

So, while it is, I think, important to recognize the descending costs as the leases and other types of private and public partnership activities benefit the Presidio take place. As they get a greater flow of revenue, it is quite likely that they will be able to reduce these costs, but because this amendment offers no flexibility, no opportunity to deal with the various problems, the various challenges that may arise, I am forced to oppose this amendment.

□ 1710

I understand the gentleman's concern and those that might share it with him. But this makes it impossible by tying the Park Service's hands. The Committee on Appropriations each year brings before the House an overall operating budget for over 300 national parks that we have. We have not got this type of limit on the St. Croix, or on the Mississippi, or on any other park, because it comes before the Congress each year. And we need to have that flexibility to deal with the types of problems that they face. The bill already has a limitation, and that is unprecedented.

Mr. GRAMS. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Minnesota.

Mr. GRAMS. Mr. Chairman, what this does is set into law that they do not have to be accountable for the budget. They can overspend and come back to Congress and ask for further funding.

I would just like to point out in the closing minutes here that when you call for flexibility and to give the Park Service the flexibility, that is fine. But what we are talking about, mainly, or what usually happens, is that flexibility results in more dollars being asked from the taxpayers to supplement a budget that has gone over budget. We are trying to put into the law a friendly amendment.

Mr. VENTO. Mr. Chairman, reclaiming my time, I appreciate the gentleman's friendly amendment and assistance here. But the effect of this is to severely limit and tie the Park Service's hands. Most other parks do not have an operating ceiling. We put a ceiling in this bill because we are concerned about passing this responsibility to the National Park Service. So the gentleman fails to understand the nature of the limitations that already are present in the bill.

The fact is here that the amendment's type of limitation simply is not desirable or workable. Every year this comes before the Congress. We can make decisions on what parks receive. Some parks receive or need more or less operating expenses because of unforeseen events that occur, in Yellowstone when they had the fire. They may have other types of problems.

I am not talking about construction. We have an overall ceiling on this park because of the nature of the work and what is going on. To further restrict this is unworkable in terms of what the gentleman is proposing, and that is why I oppose the amendment. I think the gentleman has a solution in search of a problem. There is no problem yet, and you are trying to solve it. This is the sort of micro-management that results in mismanagement of a park and mismanagement and destruction of the private-public partnership which this legislation tries to establish.

So the gentleman really has a faulty policy amendment, and I urge a rejection of this amendment.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we have heard all afternoon about how this public-private partnership will save funds. All day we have been hearing about the projections that would make the park cost-effective. Now we have got a reversal on our hands. I hope the body realizes this. Now we want got to reject the same assumptions and estimates that we have supported all day.

I remain unconvinced in that regard. However, I strongly support this amendment because it does hold the National Park Service accountable to the claims that the costs will do down. Here is the brochure they talk about about this area, and the exact figures that are in here are in the gentleman's amendment. So all we are saying is they have said, look, we can do it for that amount. We stand up and tell the Congress we can do it. And now all we are saying is let us freeze that into law. If you can say you can do it, put your money where your mouth is.

So I support the gentleman's amendment.

I yield to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. What this does, the way the bill is written, it allows a big door for a bus to be driven through. We can appreciate the flexibility that one park needs at a certain time or all the parks need. But when we set an overall budget, what we have allowed the Park Service to do is abuse this budget by taking money from one fund to another, from present operating funds to rehabilitation funds, from one park to another park. Then they can come back after draining these funds in excess and ask for a supplemental appropriation.

I can appreciate what the gentleman mentioned about disasters or extra dollars needed, but we do have supplemental bills that also pay for that. So to say this is coming out of the park budget is not true.

Again, this is not without precedent. Three weeks ago a similar amendment was adopted by this House dealing with the California Desert Protection Act. We should close the loophole. If we are going to have an overall budget that the National Park Service says they can live by, we should make them live by this budget.

This amendment just corrects some of the technical amendments.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what we did in the California desert is not what we have here. That was an aggregate ceiling. This amendment puts a year-by-year operating ceiling. It would point out that what we did in California was put an aggregate ceiling on the operating and development costs. We did not put a year-by-year operating ceiling in place. So this is a step further. We already have an operating ceiling in the bill. That has already been addressed.

The ceiling, of course, prevents the moving of any additional money into the park. You cannot spend beyond the $25 million ceiling. The appropriators may appropriate less. I think that is likely to happen. It is unprecedented to put this type of limitation on a year-by-year basis.

I would further point out to my colleague from Utah, while that is in the plan based on the number of leases and the revenue flows, much of that is uncertain as to how readily that plan and how fully the objectives will be accomplished. I would point out that the National Park Service and the Department of the Interior did not request those dollar amounts in each of those years. That was simply an extrapolated number that may or may not be achieved in a given year.

I think they are reasonable, but I do not think they are likely. You would have to have a lot more flexibility if you are trying to show a general reduction in the operating expenses over that period of time.

Mr. GRAMS. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. GRAMS. Mr. Chairman, with the time remaining, I would like to ask the gentleman from Minnesota [Mr. VENTO] to answer one quick question. How can you account for shortfalls in operating budgets in all 50 States of the National Park Service? In Minnesota alone, in your district alone, it is $1.2 million in shortfalls in operating expenses, this year alone.

Now, you take that in all 50 States. If we do not start putting a cap on this and stop this runaway spending, how are we going to bring the National Park Service budget under control, without allowing them to come back to this Congress in all 50 States, putting more pressure to supplement this money, and ask for a supplemental appropriations bill?

This calls out a real need for my amendment, when you look at a shortfall in every State of the Union. I think it is time to put a cap on this and make sure the National Park Service lives up to what they state.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I would just point out the wish-list of the park superintendents with regard to what they would like with regard to operating dollars is not necessarily a valid shortfall, first of all. I think those numbers, I am sure the gentleman from Minnesota, my colleague, if he had the responsibility to go through them, would not fund every request of a superintendent or of a park.

I would admit that I think there are problems in meeting park needs, but they are not necessarily related to the lack of or the need of a ceiling with regard to the Presidio or those parks. I think the gentleman is adding together apples and pineapples in terms of trying to come up with a solution.

This is a solution in such of a problem. There is no problem. The ceiling is already on this park. No other parks have that type of ceiling. We think it is necessary because we want to send a message to the private-public partnership. We want it to function, and this amendment will effectively vitiate the ability of the private-public partnership to function.

Mrs. MINK of Hawaii. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to redirect the debate to the essence of the legislation that we have before us. Obviously there are budgeting problems in the National Park Service.

□ 1720

I think it would be a real mistake to use the errors and difficulties of the overall system and try to adjust them in this pending legislation. All of us have put forth many requests for funding for our national parks that have not been able to be satisfied by the Congress. But the point is that the Congress does meet in appropriations committees each year and they can decide as to what the priorities ought to be.

In this instance, we are embarking upon a new project, upon a new proposal which is coming to pass on October 1, 1994: the creation of a whole new park addition to the Golden Gate Natural Recreation Area.

It seems to me we ought to give the parties that have brought forth this idea a chance for success. We are being preached at constantly about the importance of a public/private partnership in all of these huge enterprises and endeavors for the public good. This is not a park for San Francisco. This is a park for the enjoyment of all of the people of the United States.

It is a national park, and it is one where we do not have to spend one additional cent for the acquisition of lands. It is in a gorgeous, beautiful area, where already millions of people come to visit.

Now, when the Presidio will be open as part of a national park, there will be tens of millions of people that will come to enjoy its beautiful setting, its historic place of over 200 years as a military site.

We have to trust in the analysis that has been poured over the last 4 years by private and public individuals in coming forth with this public/private venture, their estimates of the kinds of investments that will be forthcoming to make this into a productive, profitable venture in the National Park System.

It is unique. It is remarkable. It is visionary. And we ought to really stand up and applaud the gentlewoman from California [Ms. PELOSI] for coming forth with this bold idea which captures the sentiment of the people and the Congress of the current moment, that the private sector ought to be enlisted to come forth to help us save these great areas for the national public to enjoy.

We should not put any kind of hamstrings and restrictions on the possibility of this park to grow, to enable the private sector to use the charitable contributions that are going to be forthcoming, to allow it to flow with whatever the estimates are. Estimates of the national park should not be engaged in some ironclad provision in legislation. Those are estimates based upon economics, upon the flow of generosity, of a huge amount of considerations that may not be as predicted in these reports on a year-to-year basis.

Therefore, I urge this body not to adopt this straitjacket, not to adopt these restrictions and to allow the private/public partnership that we are engaging for the first time in the history of the National Park Service to be able to come forth with the evolution of a beautiful park which will be to the great credit of the United States.

Mr. GRAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Minnesota.

Mr. GRAMS. Mr. Chairman, I am not here to argue about the beauty of this park or what we want to accomplish under this bill. What we are arguing is that we have to be responsible for the taxpayers. And we have said this is what we are going to do for this many dollars.

The gentlewoman is standing there and arguing that no matter what the cost, that we have to go ahead. The taxpayers will write us a blank check. I do not think that is fair. Let us hold the feet to the fire. Let us live within the budget that the gentlewoman or this bill asks for.

Mrs. MINK of Hawaii. Mr. Chairman, reclaiming my time, the point is that the legislation does an unusual thing. It puts a limit on the annual authorizations at $25 million. It seems to me that is more than good faith on the part of the committee, given the limitations of our budget situation and our deficit problem. It has taken that into consideration. And going beyond that, it has embraced the idea of a Presidio trust, which will bring in charitable contributions and engage the private sector into the development of what I believe will be one of the most beautiful, most visited national parks on the west coast, to the great tribute of the taxpayers and the people of this country.

I urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRAMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 227, not voting 22, as follows:

[Roll No. 410]

AYES—190

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Cox
Cramer
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—227

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)

Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Huffington
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy
Kennelly
Kildee
Kleczka
Klink
Kopetski
Kreidler
LaFalce
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy

McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Richardson
Roemer
Romero-Barcelo
(PR)
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer

Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—22

Barton
Bliley
Bonior
Clement
Collins (IL)
Cooper
Faleomavaega
(AS)

Ford (TN)
Gallo
Gephardt
Houghton
Klein
Lantos
McDade
Moran

Owens
Reynolds
Rose
Sisisky
Slattery
Sundquist
Washington

□ 1743

The Clerk announced the following pair:

On this vote:

Mr. Barton for, with Mrs. Collins of Illinois against.

Mr. BACHUS of Alabama, Mr. HEFLEY, and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

I thank the Chair for presiding over this debate today, and I thank the chairman of the full committee, the gentleman from California [Mr. MILLER]; the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO]; and the ranking member, the gentleman from Utah [Mr. HANSEN] for his courtesy in the debate today.

There is a saying attached to the Presidio, Mr. Chairman, that a shot has never been fired in anger from the Presidio and I think that that has carried over into this debate today. As different as our opinions are on the subject, I want to thank the minority for their courtesy in the course of the debate.

Mr. Chairman, I sought recognition to acknowledge the fact that one of our colleagues is not present today and that is TOM LANTOS, with whom I share representation of the city of San Francisco and who has worked very hard on this Presidio issue. The gentleman from California [Mr. LANTOS], as Members know, has had surgery, he is resting well, he is a strong supporter of the Presidio and he sends his support to us today.

In closing, I want to say that I hope that many of our colleagues will visit us at the Presidio, to visit the African-American Buffalo Soldier exhibit, to visit the Presidio and its Spanish heritage, to visit the magnificent ecological place that it is.

In closing, in addition to thanking the chairman and the ranking members, I want to acknowledge the hard work of Judy Lemons, John Lawrence, Rick Healy, Mark Trautwein, Sandy Scott, and Michael Yaki.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. DURBIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3433) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, pursuant to House Resolution 516, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

he SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HANSEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 168, not voting 21, as follows:

[Roll No. 411]

AYES—245

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Cox
Coyne
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest

Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Lowey
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)

Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Richardson
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOES—168

Allard
Archer
Armey

Bachus (AL)
Baker (LA)
Ballenger

Barca
Barcia
Barrett (NE)

Bartlett
Bateman
Bentley
Bilirakis
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Cramer
Crane
Crapo
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kanjorski
Kaptur
Kasich
King
Kingston
Klug
Knollenberg
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Long
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Barton
Bliley
Clement
Collins (IL)
Cooper
Ford (TN)
Gallo
Hall (OH)
Houghton
Klein
Lantos
Livingston
McDade
Moran
Owens
Reynolds
Rose
Sisisky
Slattery
Sundquist
Washington

□ 1815

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Barton against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 3433, the bill just passed.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBERS AS COSPONSOR OF H.R. 3222

Mr. GORDON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 3222.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

LEGISLATIVE CALENDAR

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I take this time for the purpose of inquiring of the Chair whether or not we have any idea what the program might be for tomorrow and the balance of the week. I am trying to ascertain whether or not the Chair can inform the House what we are going to be doing tomorrow, you know, how long the Members might expect to be in town tomorrow, whether or not this session is going to extend into the weekend, whether or not Members might be expected to cancel schedules for early next week.

Mr. Speaker, there are an awful lot of questions floating around the floor and many, many rumors to go with those questions. It would be extremely helpful at this point to at least have some idea where we might be tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be pleased to yield to the distinguished Speaker, the gentleman from Washington [Mr. FOLEY], so that he might update the House a bit in that regard.

Mr. FOLEY. Mr. Speaker, I will say to the gentleman that, in the absence of the majority leader, who is off the floor for a moment, we intend to be in communication with the gentleman's leadership tonight on the schedule. We are meeting tomorrow. The House will be in session tomorrow.

We hope that we can conclude the pending business of the House, which is the consideration of the crime legislation, perhaps if not late tomorrow night, on Saturday. But we are going to be in discussion with the gentleman's Members about that and about how we can best effectuate the most expeditious way to proceed in a way that provides the Members with the ability to have some plans for what will happen next week.

Mr. WALKER. I thank the Speaker for that because the real issue is there are a number of rumors running around that we might quit as of tomorrow, we might come back next week, and Members are trying to figure out whether or not to hold the weekend open or whether or not to begin to open up their schedule next week.

Mr. FOLEY. At this juncture the only thing I can tell the gentleman is that we will be in session tomorrow and we intend to communicate with the gentleman's leadership tonight and tomorrow as well. We will have some additional information for Members early tomorrow.

Mr. WALKER. But the feeling is at this time if we did stretch it, it would probably go into the weekend rather than next week?

Mr. FOLEY. I would not rule that out. It depends, to some degree, again, on the recommendations made by the gentleman's side as to how they feel it best to proceed as well. We intend to have very cooperative consultation on that question for the mutual advantage of Members on both sides. We understand the concern of Members with respect to planning for this weekend and what might happen next week.

We want to give Members the maximum opportunity to know, as best we can, how to plan their affairs.

Mr. WALKER. My assumption is that we will proceed with the hydrogen fusion bill tomorrow, is that right? That was scheduled for tomorrow.

Mr. FOLEY. The gentleman is correct.

Mr. WALKER. And that we would do that tomorrow. As ranking member on that committee, it does appear as though that would be a relatively noncontroversial bill that would move fairly quickly at this point, so that that probably will not take a lot of Members' time if that proceeds forward. And we would then, as I gather, hope that by that point we will be able to take up the crime bill, is that it?

Mr. FOLEY. Well, I cannot promise the gentleman exactly when the crime bill will be taken up. But I certainly will say that we will have a better idea tomorrow when we are in session and advise the Members on the schedule for the remainder of the week and/or the possibility as to whatever might happen next week.

Mr. WALKER. I thank the Speaker, and I thank the Chair.

AMERICANS WANT PUNISHMENT FOR CRIMES, NOT MORE SOCIAL PROGRAMS

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COX. Mr. Speaker, for the last 30 years America has lived through a prolonged failed liberal social experiment that has explained away and justified criminal behavior; indeed, subsidized it with ever more Federal programs. Like the war on poverty, the Great Society war on crime has failed.

These words contain mistaken premises: First, insufficient federally mandated welfare is the cause of crime; second, more welfare would reduce crime; third, more Federal programs will reduce crime.

In California where I come from, we have nearly 400 convicted murderers on death row. They are awaiting their executions and have been for decades. We have not executed but one convicted murderer since the 1960's.

The American people want swift, certain, and severe punishment for crimes, and by the way, they want that punishment to be accomplished as inexpensively as possible. Instead, this crime bill takes $9 billion away from working families through taxes, it takes $9 billion that could have been used to actually punish crimes and deter them in that fashion, and spends it on things like midnight basketball.

We have heard some defense for it. Let me explain why midnight basketball was fine point of light when it was a locally organized program, but why it will not work when it is a new Federal social program.

Mr. Speaker, it is clear: Midnight basketball is about to become the next victim of Federal regulation.

Mr. Speaker, I will include for the RECORD the following information:

SUBTITLE F—MIDNIGHT SPORTS

The Secretary of Housing and Urban Development, in consultation with the Attorney General of the United States, the Secretary of Labor, and the Secretary of Education, shall make grants, to the extent that amounts are approved in appropriations under subsection (k) to the following entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b) for a grant under section 520(a) of that Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally assisted low-income housing. . .

Any eligible entity that receives a grant under subsection (a) may use the grant only—

(1) to establish or carry out a midnight sports league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d).

Each eligible entity receiving a grant under subsection (a) shall establish a midnight sports league program as follows:

(1) The program shall establish a sports league of not less than 80 players.

(2) Not less than 50 percent of the players in the sports league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):.

(a) A substantial problem regarding use or sale of illegal drugs. . . .

(c) A high incidence of persons infected with HIV or sexually transmitted disease.

Mr. Speaker, It is clear: Midnight basketball is about to become the next victim of Federal regulation.

□ 1820

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. THURMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WE HAVE GOT TO GET TOUGH WITH FIDEL CASTRO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Madam Speaker, we are coming along from Florida, and we discover another crisis today having to do with refugees. Today it is not Haitians. It is Cubans. The Florida delegation is of very much the same mind on what the problem is, and we agree very much on two things. The problem is Fidel Castro, and the people of Florida cannot solve the problem alone, nor can they afford to pay the bill of solving the problem, nor can they afford to pay the single-handed bill of taking care of all of the people who are now being allowed unconscionably to come across the Florida Straits in inadequate boats, life rafts, rafts and other devices, basically trying to get to the magnet that is offshore, the life saving of the Coast Guard, or the American Navy, or any ship that is out there to get them out of the clutches of Fidel Castro's Cuba.

Of course there is a magnet. Things are very terrible in Cuba, and of course we need to do something about that. But I do not think that it is a reasonable proposition to encourage people to go to sea in boats that we know are going to sink or might not make it, where lives are not only going to be lost, they have been lost tragically, and more lives inevitably will be lost if this keeps up.

Why has this suddenly become serious? This is nothing new. People have been hearing about this for a long time.

Not so. There is a new policy by Fidel Castro. It is basically to let people go and, in fact, to sort of encourage people to go to sea in these unsafe conditions in the idea that he is going to make a problem for the United States of America, another Fidel Castro tactic.

Fidel Castro is not our friend. He has never been our friend. He is our avowed enemy. He is a Marxist, and maybe not a Marxist of the European style, maybe more a Marxist of the Latin style, but nonetheless he is an avowed enemy of the United States of America who has pledged to do his best to do us all in. Now that he no longer has the muscle of his Soviet Union friends and their client states, obviously his threats are not as serious, but he is still the avowed enemy of the United States willing to make mischief and trouble for us wherever he can, even to the extent of victimizing Cubans to make his point. That is unconscionable, and it is probably the essence of human rights violations.

Is this serious? You bet it is serious. We picked up 574 Cubans escaping yesterday. They have, of course, come to Florida. Governor Chiles, and this is many days in a row going on, and it is accumulating so we are now dealing with thousands of people I understand, Governor Chiles has declared an immigration emergency. The Members of the Florida delegation have asked President Clinton to implement the Federal mass immigration emergency plan. This plan has never been tested. Now is the time we need to test it because we know we have got thousands of Cubans fleeing, on the move, more to come, and inevitably this is a crisis that is escalating, not going away, and, if you remember Haiti, it is sort of deja vu all over again.

We have created this magnet for people to come off shore because they think, if they can just get outside these territorial waters, we will pick them up and bring them to a life of well-being and prosperity in Miami. Unfortunately it does not quite work that way, and that is why the administration needs to get serious and have a plan that works a whole lot better than what they did in Haiti—I guess I should say what they did not do in Haiti which led to a serious crisis there with refugees, and now, interestingly enough, has left a refugee camp on Guantanamo which is nothing more than a tent city of some 16,000 people where they have had not one, but two, riots in the past few days because conditions are so bad, and just as an unnecessary, unwanted wrinkle, we have got a hurricane bearing down, coming across the Atlantic. You can imagine what that is going to do to a tent city of 16,000 people in Guantanamo Bay, to say nothing of those ships that we have, our Navy ships, our amphibious assault ships loaded with Marines, rattling the sabre, flying the flag off of the shores of Haiti, which has been a friendly neighboring country, or to say nothing of what that hurricane might do to our other ships in the Florida Straits who are now out there on patrol duty.

So, we have got a series of problems on our hands, and I think it is time the administration got serious about dealing with this thing.

The first point is the problem of Fidel Castro. This is not a problem of dealing with Cuban people. It is a problem of Fidel Castro. He is the enemy. The leaders of Haiti are not our enemies in the sense that they have decided war or mischief on the United States. Yes, they violated democratic principles, and, yes, they brutalized human rights, but Fidel Castro makes them look pretty much like kindergarten compared to what he has done.

We have got to get tough with Castro, we have got to have sanctions, and we have got to focus on that problem, and the administration needs to do it now.

HEALTH CARE QUOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, one of our larger daily newspapers, and in fact a Democratic paper, said it all at the top of its front page this past Sunday.

The Headline said: "Health Bill Hides Big Pricetag."

The sub-headline read: "Middle-class takes the hit in all plans."

Later in the story—but unfortunately not until page A–8, where many people would not read them, were these words:

> Whatever is chosen, the pain is likely to wind up hitting the pocketbooks of average working families earning $25,000 to $40,000 a year: Whether they pay the bills as workers, taxpayers or consumers, they are footing most of the costs of health reform.

The middle-class pays no matter what.

Another important thing to remember: Employer mandates really mean higher prices or job layoffs, or both.

Sometimes, I think that some people hear about opposition to employer mandates and they think that person is siding with big business..

Not true—employer mandates are most harmful to small business and simply result in higher prices and/or job layoffs.

Time Magazine reported several months ago that the administration itself has an internal report that estimates their plan could cost as much as a million jobs lost over the next 5 years.

No matter how good something may sound on the surface, if its going to result in a million jobs lost, this Congress should not pass it.

Also, no matter how good something may sound on the surface, we should not pass it unless we can afford it.

This sounds like simple common sense—yet this Congress has passed all kinds of things we could not afford in recent years.

This is why our Federal Government is over $4½ trillion in debt and losing hundreds of millions on top of that every day, even as I speak.

I wish the Federal Government could afford to buy everybody a $200,000 house and a fancy new car each year, but it cannot.

There are limits to what government can do, and there is no way we can afford the most expensive social programs ever when we are already spending many billions each year more than we take in.

We cannot even afford to do what we are already doing, much less adding new programs every week.

Already our health care costs almost three times more as a percentage of our gross national product than it did before the Federal Government got involved in our health care system in a big way a little over 30 years ago.

Now, if we pass the Gephardt bill, or some version thereof, costs will go way up from where they are now.

In last Friday's Washington Post, Charles Krauthammer, a very moderate columnist, wrote this:

> It was clear and much remarked that expanding coverage to 37 million Americans now uninsured, by increasing demand, would substantially raise health care costs.

Later in the same column, he wrote this:

> In the end, there is no way out of the dilemma: Both extending health care coverage and improving health care quality will increase health care costs. We must pay for that cost by pushing yet health care's share of GDP.
>
> Or we must ration. No one, of course, dares speak the word. There is not a politician who does not recoil from it. But after this debate—If it produces any bill, costs will increase—we will have the rationing debate. Having boosted medical costs even beyond the bank-breaking level of today, we will have to begin deciding which people with which diseases at which ages will be denied the public provision of which medical producers.

Then Mr. Krauthammer noted that in Britain, if your kidneys fail and you are over 55, you are routinely denied life-saving dialysis, among other things. And he says: "Others have done it * * * and so will we."

But I say, why? Sure, we have problems with our heath care—mainly that it costs way too much.

But it costs too much because of too much government involvement already—not too little.

When has the Federal Government ever done anything more cheaply or more efficiently than the private sector?

George Will, in his column on Monday, quoted Senator ROCKEFELLER who told a newspaper in West Virginia that "We're going to push through health care reform regardless of the views of the American people."

This is the same Senator ROCKEFELLER who was quoted in the Washington Post a few months ago as saying that Medicaid, another Federal medical program, was "a horrible program, a vile program, and it ought to be abolished."

Then, George Will summarized our current situation in this way:

> Many Democrats profess to believe that they must pass something, anything, lest they face punishment at the polls. But Clinton and the diminishing cohort of Democrats willing to be associated closely with him really want to force health care legislation now for the same reason Clinton does not want to seek congressional approval for any invasion of Haiti: He and his allies are struggling to govern against the American grain.

RATIONING—JUST WAIT

(By Charles Krauthammer)

Ever since the Clinton health care reform was unveiled 11 months and a dozen plans ago, it has been dogged by an obvious contradiction: It promised both universal coverage and control of exploding health care costs, now 14 percent of American gross domestic product. It was clear and much remarked that expanding coverage to 37 million Americans now uninsured, by increasing demand, would substantially raise health care costs.

More care means more cost. That is obvious. But there is another, less obvious and quite perverse contradiction buried at the heart of the health care debate: Better care makes for more cost too. The ordinary progress of modern medicine—quite apart from the cost of high-tech machines and tests and procedures—makes health care more and more of a fiscal drain.

"It is often difficult for lay people to appreciate that good medicine does not reduce the percentage of people with illnesses," writes physician-philosopher Willard Gaylin in a brilliant critique of the health care debate (Harper's, October 1993). "It increases that percentage." Good medicine keeps sick people alive, people with heart disease, diabetes, hypertension and other chronic diseases. And sick people are expensive. The dead are a burden to no one.

Even preventive medicine, that sacred health care cow, increases costs, points out Gaylin. Diphtheria and whooping cough, once the two leading causes of childhood death, have ceased to exist. "But they were rarely expensive. The child either lived or died, and, for the most part, did so quickly and cheaply." Now that child "will grow up to be a very expensive old man or woman."

Because of these hard truths, the great health care debate of '94 will turn out to have been both preliminary and peripheral. Consider: Among the welter of disagreements now highlighted in the Senate debate, there is a clear national consensus for some reforms. Even the Dole plan mandates that health care insurance be portable (you retain it when you change jobs) and accessible (you cannot be denied it for a pre-existing condition).

Inevitably, however, such guarantees must increase health care costs. If the currently screened or dropped out are to be included and cared for, someone will have to pay for their care. There is no free lunch. Either insurance premiums go up, taxes go up or business pays through "employer mandates."

In the end, there is no way out of the dilemma: Both extending health care coverage and improving health care quality will increase health care costs. We must pay for that cost by pushing yet higher health care's share of GDP.

Or we must ration. No one, of course, dares speak the word. There is not a politician who does not recoil from it. But after this debate—if it produces any bill, costs will increase—we will have the retaining debate. Having boosted medical costs even beyond the bank-breaking level of today, we will have to begin deciding which people with which diseases at which ages will be denied the public provision of which medical procedures.

Others have done it, and so will we. In Britain, if your kidneys fail and you are over 55, you are routinely denied life saving dialysis by the National Health Service. If you cannot afford private insurance or the out-of-pocket expense, chances are you die.

Even the Clinton plan had some rationing, though it had to be kept covert. It would, for example, have severely restricted the number of medical specialists. This is indirect rationing. If you reduce by, say, one-third the number of people who can do brain surgery, then many people who need it and would now get it will not be able to.

The Clintons defended that measure, tellingly, not as rationing but as an effort to promote currently fashionable primary care over "specialization." No one is ready to talk now about rationing. That talk is too unpleasant, the tone too pinched, the vision too Carteresque.

Instead, the politicians are holding a picnic and giving away the food. The Democrats are offering "health care that cannot be taken away," a new fundamental right of, literally, untold cost. Even the limited Republican reforms would subsidize health care for more than 35 million Americans.

That costs money. Where do we get it? Gaylin is right: When this round is over and we are quite through giving away what we cannot afford, the real health care debate, the debate about rationing, will have to begin. And if, like Hillary Clinton, you think Round 1 was nasty, just wait for Round 2.

DUG IN TO FIGHT RADICAL EXPANSION OF GOVERNMENT INTO HEALTH CARE

(By George Will)

WASHINGTON.—George Mitchell, master of the Senate's health-care revels, spoke in a voice mingling reproach and regret. Republicans, he said have been violating the democratic spirit by filibustering promiscuously.

The next day, Texas Republican Phil Gramm and Alabama Democrat Richard Shelby promised to oppose, like Horatius at the bridge, and with a filibuster if necessary, any radical expansion of government control of health care.

So, within the health-care debate there is a debate about the ethics of obstructing. The latter debate illuminates the former by revealing the political weakness that is dictating the Democrats' desperate dash to pass a radical program before the November elections register the public's desires.

The idea that filibusters have become a serious problem is preposterous. Can anyone name anything of significance that an American majority has desired, strongly and protractedly, but has not received because of a filibuster? Who believes that insufficient activity is a defect of modern government?

It takes 60 votes to end a filibuster. Newsweek's entirely plausible poll shows 65 percent of Americans wanting Congress to delay health-care reform until next year. So Democrats sound strange when they say that it is an offense against majority rule to make them get 60 votes before they can override the wishes of 65 percent of the public.

Mitchell says that, in the 19th century, "there were only 16 filibusters" and "for three-fourths of this century, there were fewer than one filibuster a year." And: "In this Congress alone, I have had to file motions to end filibusters 55 times." But Mitchell's numbers about filibusters, like his numbers about health care, are misleading.

In the 19th century, before there was a cloture process for curtailing Senate Debates (before 1917), the mere hint of a filibuster often sufficed to kill a bill. And Mitchell files cloture motions promiscuously, often merely in anticipation of a slight possibility of delaying tactics.

Filibusters, although important in protecting minority rights and indispensable in registering intensity as distinct from mere numbers in controversies, can be trivialized when used against mild policy proposals. The filibuster Mitchell orchestrated against President Bush's proposal to cut capital gains taxes was trivializing.

However, Mitchell's 1,400-page health-care bill is not mild. It would produce a more sweeping and intrusive expansion of government than has been produced by any permanent measure in American history. Clearly, Mitchell's bill involves large issues of freedom, privacy and prudence. So a filibuster is a reasonable, proportionate recourse for opponents.

They believe, reasonably, that Mitchell's bill would be literally lethal as law. For example, by slowing development of new pharmacological and other technologies, it would disrupt the pain-relieving, life-prolonging therapeutic revolution that America's health-care system has produced in our lifetimes.

Many Democrats profess to believe that they must pass something, anything, lest they face punishment at the polls. But Clinton and the diminishing cohort of Democrats willing to be associated closely with him really want to force health-care legislation now for the same reason Clinton does not want to seek congressional approval for any invasion of Haiti: He and his allies are struggling to govern against the American grain.

Recently William Kristol, a Republican strategist, discerned "the opportunity to turn the health-care debate into liberalism's Afghanistan—the over-reaching that exposes liberalism's weaknesses and causes its collapse." And the debate has indeed high-lighted the spirit of modern liberalism, as when Democratic Sen. John Rockefeller IV of West Virginia, with a hauteur that would have made his great-grandfather proud, said, "We're going to push through health-care reform regardless of the views of the American people."

The liberals' strategy is to pass bills—almost any bills will do—in both houses, then go to conference and write a third bill as liberal as they can make it and still win final passage in both houses. By then, Democrats will be eager to pass something and go home to campaign, so a bill more liberal than even Mitchell's might pass.

A conference report cannot be amended. It would have to be physically filibustered—stopped with nonstop talking, rather than with the scores of amendments that many Republicans and some Democrats will propose in the next few weeks in order to illuminate the myriad perversities lurking in Mitchell's bill.

Any filibuster will cast a Senate minority in the role of defenders of the desires of a large American majority. Filibusterers will risk being accused of "obstructionism"—obstructing the largest peacetime expansion of Government in history.

That is a risk they should relish running.

PERMISSION TO UTILIZE SPECIAL ORDER TIME OF ANOTHER MEMBER

Mr. WAXMAN. Madam Speaker, I ask unanimous consent to exchange time with the gentlewoman from Hawaii [Mrs. MINK].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1830

THE GUARANTEED HEALTH INSURANCE ACT OF 1994

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Madam Speaker, I'm proud to have this opportunity to speak on behalf of the health reform legislation submitted by the majority leader—and its vital importance to the Nation's children. We owe Mr. GEPHARDT a great debt for his leadership in bringing this bill before the House.

We are at a critical turning point. We can choose to continue down the same path we've been on: More Americans will lose their health insurance. Health care costs will escalate. Health programs for children, the elderly, and the poor will be cut back more and more. And providers will continue to shift their losses from caring for uninsured and vulnerable people onto their private patients and their employers.

That is basically the direction the Republican and bipartisan proposals will take us.

Or, we can decide to end our national embarrassment and guarantee every American coverage for basic health care. That's the path the majority leader believes the country should take, and I vigorously agree with him.

This is a particularly important point for the Nation's families and for the Nation's children. Almost 39 million Americans are uninsured. Eight million of them are children.

Think of that—in a country as rich as ours, 8 million children without insurance. And most of them are the children of working parents, because the sad fact is that most Americans who are uninsured work.

The Gephardt bill has put together a basic benefits package for all children, services that every child in America should be guaranteed to ensure their best chance at a healthy future: prenatal care, well-baby care, immunizations, lead screening, infectious disease screening, and the regular checkups that are needed for every growing child.

And, in addition to this package of screening and preventive services, the Gephardt bill also provides ongoing coverage and special services for children with chronic illnesses and disabilities.

Earlier this year, the Cacho family from Berkeley, CA—Ann and Bernard and their 8-year-old son Philip with cerebral palsy—testified before my subcommittee.

Their struggles to get real health care to raise their son at home with dignity are unforgettable. They told of not only fighting the disease that was disabling their child but also fighting the very system that was supposed to help them. They told of insurance premiums that rose from $3,000 a year to over $10,000. They described the limitations of the insurance that they could buy even at that price. And they told of the ongoing effort to get their child the care that everyone agreed that he needs.

Their testimony was compelling. Everyone who attended the hearing was moved by their story. I told them we would work to make their future secure. Mr. GEPHARDT has put together a bill that does that for the Cacho's and for all American children and their families, both those with special needs and disabilities and those who simply need the routine care that all children deserve.

The Gephardt bill assures that most Americans who now have insurance coverage through their jobs will be able to keep that coverage. Health insurance paid for by employer and worker contributions is the way most Americans get coverage today, and the Gephardt bill builds on these arrangements. That's the most practical and direct way to achieve universal coverage. And we owe our children that coverage.

In closing, I just want to ask the opponents of the Gephardt bill to answer one question for me. As you argue for incremental approaches, as you settle for less than universal coverage, as you plan to go slower and slower—

Which children do you want to leave uncovered?

Which of the newborns do you want to leave without screening?

Which of the children with cerebral palsy do you want to leave without home care?

Which of the next generation do not deserve our help?

The only honest answer to that question from any Member of Congress should be none "None." And the only real way to reach that goal is the Gephardt bill.

I thank my colleagues.

□ 1840

WHO IS GOING TO RUN THE HEALTH CARE SYSTEM?

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

Mr. EHLERS. Madam Speaker, the previous speaker spoke about the desire for health care on a national level. Frankly, his desire is shared by many in this Chamber on both sides of the aisle. I suspect that is not the real issue.

I think the real issues before us are, who is going to run the health care system and who is going to pay the bill. And it is the first one of those questions which I would like to address this evening. Who is going to run the health care system.

Because, you see, the proposals submitted by the administration and most of the bills that we have had presented in this House and in the Senate have assumed that the Federal Government will have a major role in running the health care system. I think that is going to be a problem.

I have in my hands this evening a document furnished me by a physician in my district. Notice the size of this. And this document was prepared in response to a survey, a request, a questionnaire by the Health Care Financing Administration, asking this physician and his colleagues to fill out this document, to let the Federal Government know what they were doing in their office. They were supposedly randomly selected. They were told they did not have to fill it out. But it was implied that if they did not, they might lose the Medicaid approval for their particular facility.

That certainly is a strong arm approach to ensuring that they better fill it out. It took them over 120 hours of staff time. They had to work some weekends to get it done on time. They were given very little time. They estimated it cost them $10,000 in total to complete this survey form.

When you look at the survey and you look as some of the issues that were dealt with, they had to, as an example, list all the supplies that were used in the various procedures done in that office. When you look at the things they had to list, they had to include disposable supplies, such as a tonopen tip cover for 25 cents; a temo probe cover, 3 cents; chart forms at 11 cents each; gonio lens at 22 cents. They had to list pharmaceuticals. And in this case they used A-K Dilate, two drops, they estimated approximately 10 cents for that; Alcaine, 3 drops, at about 12 cents. And then on to head covers at 6 cents, shoe covers at 15 cents a pair, masks at 30 cents, surgeons gloves at 48 cents and on and on.

I really wonder if this makes economic sense for a Federal agency to be requiring physicians to fill out forms in such great detail, with such minutiae. What is going to be done with that information? I hope something useful, but I would not be too sure of that.

What is even worse is the information that was not asked for. Presumably this is being done to determine what the costs were for providing health care and trying to get a handle on this so that perhaps health care costs could be reduced. But, for example, they did not include information about whether or not the facility, cost of the facility was amortized or not. So these physicians, who have a relatively new facility and are still paying it off, are put in the same bag as other facilities which have their property totally paid off and depreciated. No differentiation was made on that score.

That is a very important piece of information that should be included. The reason I bring this here and the reason I discuss this issue is getting at the question, who is going to run the health care system. My concern about a number of the proposals that have been proposed have nothing to do with universal access, which I think we should all have. They have nothing to do with dealing with preexisting conditions, which I think we should ensure are covered by all insurance plans.

The issue of who is running the system, I think, is crucial, because if we have a Federal Government running the system, it is going to involve more and more and more of this.

I believe we have to stay with the type of system we have. We have to, in the legislation we develop, ensure that we continue to have an efficient, well-operating health care system that provides good service, as the current system does, and makes sure that it is available to everyone. That should be our goal.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Madam Speaker, I, too, would like to talk for just a few minutes about health care reform and the health care system that we have and what is good about it and perhaps what is not good about it.

And I would like to particularly point out to my friends from the other side of the aisle that there is a great deal of good that we have done, and I know we all can agree on this in our current health care system. Very few people complain about the capabilities that we have, very few people complain about the modern facilities and the great technology that we have been able to develop in our country. We have developed it through the free enterprise system and the system that we know as our current immediate care system, medical care system.

But not everything is good about our medical care system. I would like to suggest to my friends that it is really the economics of medical care that do not work and the economics of medical care that need attention and the economics of medical care that need to be fixed.

That is what needs attention. The big question for me is, how do we fix the economics of medical care without disrupting the great medical care system that we currently have. We can cure diseases that we could not cure not long ago. We keep people in hospitals less time for various procedures than we did not long ago. Doctors are more skilled today than they were not long ago. The same goes for other medical providers.

I have traveled a little bit around the world in places where they have different types of systems. I would much prefer to take part as a patient in our system than anyplace else in the world that I can think of. But you are right about one thing: The economics of medical care is not working the way it should.

Our country, as we all have said over and over again, has been successful economically because we have a free enterprise system. As a matter of fact, 85 percent of our economic system, our free enterprise system, works quite well. It is the 15 percent of our economic system that is involved with medical care that does not work very well. So the real question is, what can we do with that 15 percent of our economy that does not work like it should and why is it that it does not work the way we would like it to?

If we look at the activities that take place in our economic system generally, we can begin to get a pretty good idea about what makes us work. We manufacture goods and we provide services throughout our economy, we have activities that involve buying and selling of goods and services throughout our economy. That all works. We have marketing programs and advertising programs for goods and services, and that all works. And that is all part of our free enterprise system. And health care fits within those types of activities as well.

Implicit in all those activities, manufacturing, buying, selling, marketing, advertising, and all the other economic activities that we take place in, competition is implicit in all of those things that work in the 85 percent of our economy that work, competition is implicit in all of those activities.

When we as American business entrepreneurs begin to look at how to make a business successful, we look at locations for our businesses, because it is important in competition to have the right location. We look at the aesthetics of our plan, particularly retail stores, because it is important to attract customers, and that is part of competition.

We have stocks and inventories that are developed. To get the right inventory is important because of competition. And we set prices fairly, we set prices fairly because of competition.

□ 1850

Competition is missing today in health care. It is missing for a very simple reason. Eighty-three percent of our medical bills, yours and mine and all of America's all Americans', is paid by someone other than the consumer. We go to our employers and say "We want to negotiate benefits." That means we want to negotiate how you, Mr. Employer, are going to pay for our health care benefits.

When we retire, we have a Medicare program that pays for our benefits. If we are not wealthy, if we are poor Americans, we have a Medicaid program that pays for our benefits. That is right, 83 percent of the time, of the services that we receive in medical care, 83 percent are paid by somebody else, so we don't have to care.

When we go to the doctors, if the doctor says "You need four tests," we don't ask if two will do or if one will do, because 83 percent of the time we don't have to care. Somebody else pays for it.

If the doctor says "This is going to take six visits," we don't have to ask "Can't you do it in three?" because 83 percent of the time somebody else is going to pay for it.

If the doctor says "You need to go the hospital for a procedure," we don't have to ask "Can't we do this as an outpatient?" because 83 percent of the time somebody else pays for its.

There are some ways that we can restore competition to our health care system through a variety of programs which will be discussed in legislation that I'm going to introduce either before we leave here or in September when we come back.

These will take as their essence principles that are encompassed in two dynamic and creative plans I have studied in my home region. The first is a program already put in to place at Forbes, Inc.; the second is a plan Jersey City Mayor Bret Schundler has enacted for municipal employees. Both plans have built-in incentives for employees to select as good and as much health care as they need.

I enclose the statement Mayor Schundler delivered before the Republican Joint Economic Committee Forum held August 16.

HEALTH CARE REFORM TESTIMONY TO THE JOINT ECONOMIC COMMITTEE

I'd like to thank Representative Saxton and all the Republican members of the Joint Economic Committee for inviting me to share my thoughts about health care reform in America. This is an important issue that affects every American, and I believe it is vital that we have a thorough public debate before approving my legislation.

We now have two Democratic proposals before us. The Gephardt bill promises universal coverage by 1999, with employers mandated to pay 80 percent of their employees' health insurance costs. Low income workers would be covered through a huge new entitlement called "Medicare Part C", which the New York Times estimates would soon cover over 100 million Americans. Make no mistake about it, passing the Gephardt bill means turning over the health care needs of every American to the federal bureaucracy. Anyone who lives in public housing knows how frustrating that will be.

The Mitchell bill differs only slightly from the Gephardt bill. If we pass it, we don't get Gephardt's government-run health care system until 2002. Clearly, the fundamental difference between Mitchell and Gephardt is that Mitchell pulls the 'trigger' a few years further into the future. But both bills are guns aimed at the heart of American medicine.

Under no circumstances should Congress pass either bill.

Rather, I propose that Congress should keep what works and reform what does not. President Clinton, Senator Mitchell, and Representative Gephardt believe that our current health care problems arise from market failures, i.e. the failures of a free society. I believe that government failures are the problem. Any health care reform bill should move away from government control and third party payment, and move towards empowering patients to choose their own doctors, make their own decisions, and control their own health care costs.

Just over two weeks ago, President Clinton came into Jersey City to campaign for his version of reform. He challenged his opponents to come up with a constructive alternative to his bureaucratic quagmire. The alternative has already been offered in both the House and Senate, but the President doesn't want to talk about it. It is a system of refundable tax credits to enable Americans to be able to afford to purchase their own combination of catastrophic health insurance and Medical Savings Accounts (MSAs).

In Jersey City, I am working to change how we provide health insurance to our workers. Under the Jersey City plan, the City will purchase catastrophic insurance with a $2,000 deductible, and then deposit $2,000 into a Medical Savings Account to cover 100 percent of employees' out-of-pocket medical expenses. This money can be used to cover routine physical examinations, which are not covered under most traditional health care policies, and will improve our employees' access to prevention care. But since our employees will get to keep as income any money not spent in the MSA, they will also have an incentive to spend their health care dollars more prudently.

Through this approach, not only are our employees likely to stay healthier, but they will be able to take some money home on December 31st, and the City will be able to save money too.

Let me expand on this latter point. First, the City will save money because the combined cost of the catastrophic premiums and the MSA deposits already in the first year will be less than its current health care premiums for its present traditional coverage. (This is because there are immediate administrative savings to be achieved since the insurance carrier really does not have to examine bills closely until a family's expenses exceed $2,000 in a single year.) Second, increased preventative care will make for healthier employees who are a better risk for insurance carriers. Third, there will be reduced cost-shifting when our employees are incentivized to negotiate with their doctors for lower prices and doctors are less like to cost shift onto our employees when they know that our employees will be personally affected by a padded bill. Fourth, because the insured stand to keep money not spent from the MSAs, this plan almost totally eliminates fraudulent claims.

This plan will work for Jersey City employees just as it has worked for employees of Forbes, Inc., where insurance premiums have dipped almost 30 percent in the first two years. Perhaps more importantly, it can work for Americans nationwide.

We can create a federal MSA system by replacing the current system of tax deductions for employer-provided health care with a system of refundable tax credits for individually-purchased insurance and MSA coverage. This would allow every American, regardless of income or employment status, to buy basic health insurance for less than what we spend as a nation right now.

Under this plan, all Americans with an income would use their tax credits to buy a health plan from any carrier they choose, whether through their employer, church, or even their bowling league.

Those who are unemployed or without sufficient income to benefit from a tax credit would receive a voucher to purchase their own health insurance and MSAs in the same way.

Finally, for that 1 percent of Americans whose severe health problems make them uninsurable, we could establish a very high premium, government subsidized risk pool for basic health coverage.

This simple plan expands access, contains costs, and maintains quality care. Perhaps more importantly, it enhances freedom. It will give Americans the freedom to leave a job without fear of losing their benefits by detaching health insurance from one's employer, thus eliminating the "job lock" so prevalent in our current system. It will free people to get off welfare by eliminating the risk that they will lose medical coverage if they take an entry level job. And it will do all of this without bureaucrats and centralized health boards telling us what treatments shall be covered and when we may get them and from whom.

It seems that there are two broad sides in this debate: those who want government control over the health care decisions of the American people, and those who want we the people to have the power to make the decisions that could mean our life or death. I believe we should empower the people to choose what is best for their own health.

President Clinton deserves credit for starting the debate on health care reform. Now we must ensure that change comes in the proper form.

The President claims it is the moral obligation of government to make sure that every American can obtain affordable health care. I totally agree. But then the President passes the buck. He says to businesses, "You do it!"

His approach takes as its foundation every thing that is wrong with the current health care system and builds upon it. The result of his approach will be to increase costs, decrease quality, and very significantly increase unemployment—all serving no interest save for one: that is, expanding opportunities for government bureaucrats.

My proposal will decrease costs, increase quality, and expand private sector job creation and acceptance. But through the tax credits or vouchers expended, and through the replacement of Medicare and Medicaid with self-purchased private insurance, it will surely reduce government jobs in the federal and state bureaucracies.

Perhaps this is the reason the President refuses to opt for this approach. He seems to have forsaken being the President of the People, and has chosen instead to be the President of Government. In fact, it seems to me that instead of proactively using government to empower all, including the poor, he is choosing to use government to disempower all—including the rich.

I seriously doubt that the America people will stand for this, and I hope that you will do everything in your power to reject it.

Thank you again for giving me the opportunity to address the members of this committee, and I ask permission to enter a prepared statement of my remarks and my Wall Street Journal article concerning this subject matter into the written record.

BRET SCHUNDLER,
Mayor, Jersey City, NJ.

HEALTH CARE REFORM FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Madam Speaker, before I make the comments that I was going to this evening, I would like to make a couple of comments about my colleague who just spoke before I came up to the well.

I agree with my colleague that the United States has the best health care in the world. It is the reason why so many people come from all over the world to avail themselves of the medical care that we have here.

I further agree that the issue is cost, and that in fact, while we have the best medical care in the world, many people today in this Nation cannot avail themselves of that health care because of the cost of that health care.

I further agree that what we need to do is to address this issue of cost, and in fact the Gephardt plan does that very, very well, and helps to look at bringing that cost down by making sure that all Americans are covered, that all Americans have private, guaranteed health insurance that is affordable and that can never be taken away from them.

Part of the Gephardt plan is to make sure that, because all are covered, and we have what is known in this effort as cost shifting, that someone else pays the bill for those who are not now covered, and most of those folks who are now not covered are working Americans, working, and in my State of Connecticut they work in small businesses of less than 25 people and do not have insurance coverage.

If we were able to cover all of those people through the shared responsibility, as our current system is today, where the employer pays a portion, the employee pays a portion, 9 out of 10 people who are insured today in this Nation receive their health care coverage through their place of employment. The Gephardt plan builds on that system, and says that employers and employees who are now not participating in this shared responsibility need to do that, in fact, to help pay for the cost of health care which today, while they are not paying for it, everyone else is paying for them.

Madam Speaker, I want to agree with my colleague on some of these issues, and say that the way in which we can correct this is a piece of legislation that the majority leader of this House, the gentleman from Missouri, DICK GEPHARDT, has put together, and that we ought to come together and support that for the American public.

Madam Speaker, let me move on to the issue that I wanted to discuss today, that has, again, to do with health care.

Madam Speaker, 2 days ago, the other body took the first step in moving the health care reform process forward by adopting an amendment which would make sure that insurance policies offer prenatal care for women and well-baby and immunization services for children. I applaud my colleague from Connecticut, Senator DODD, for his sponsorship of that action, and am proud to be joined by several of my colleagues here tonight who support comprehensive health care reform that includes guaranteed coverage for children and pregnant women.

In a country as wealthy as ours, with the world's best health care system, it is disgraceful that 17 million American children are uninsured for all or part of the year. In my home State of Connecticut alone, more than 40,000 children are uninsured, 8,000 in my district. During some of the most critical years of a child's development, between birth and their sixth birthday, one out of 10 American children is uninsured.

Of the children that do have health insurance, many are woefully underinsured. Only 42 percent are covered for routine immunizations. Only one-third of health insurance policies provided in medium and large firms cover well-baby care. Millions of children have private insurance that fails to cover preventive services. Millions of children have private insurance that fails to cover special treatment for those with physical and emotional disabilities.

Who are these children left out in the cold by our current health care system? The significant majority of them, 58 percent, are dependents of parents who work full-time, every day of the year. According to the Children's Defense Fund, for two decades, employer cost-cutting and the rising cost of health insurance have forced millions of children out of the private health insurance system. Had coverage for children stayed at even the 1987 rates, an additional 3 million children would have had employer-based insurance in 1992.

And if we do nothing to make sure that every working parent receives health insurance through his or her workplace, this trend will only get worse. By the year 2000, only 50 percent of our children will receive health care through insurance provided by employers.

These figures speak for themselves and should be enough to spur Congress to act. But if all these statistics leave any of our colleagues in doubt, then let them listen to what the children themselves are telling us.

Ian Cook, a 12-year-old boy from Lake Charles, LA, has told us that his mother's health insurance doesn't cover all the costs of the liver screenings he needs every 3 months and his medicine—without which he cannot attend school—that costs $173 per month.

Jennifer Bush, a 7-year-old girl from Coral Springs, FL, lost her hearing in one ear due to chronic infections. Her insurance company dropped her because her medical bills exceeded $2 million.

And Asha Thune, an 11-year-old girl from Austin, TX, has juvenile diabetes. Her family is afraid they may lose their insurance as a result.

Madam Speaker, now is the time to correct this intolerable situation. We have made great strides recently in this House to invest more in our children. We have increased funding for Head Start. We have increased funding for WIC. And we are on the verge of enacting a crime bill that will help make our streets safer for our children.

Now let us give our children proper health care—perhaps the most important thing they need to ensure that they grow up healthy and able to learn. Let us give their parents the peace of mind that if their children do get sick they will be taken care of and that their insurance won't be taken away. Let us pass the Gephardt bill which guarantees that every child will get newborn and well-baby services and that every woman will get pre-natal care, all with no cost sharing. We have given enough speeches about our support for children—let us stand and deliver.

A TRUE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Madam Speaker, a surprising thing took place in this Chamber. We passed a crime bill in the Commerce, Justice, and State appropriation bill, 322 to 98. That was a true crime bill.

It is true, this conference report that we passed did not abolish capital punishment, as the President wanted to do in his crime bill. It did not release 16,000 drug pushers from the Federal prisons, as the crime bill desires. It did not abolish mandatory minimum sentences for drug kingpins, as the President's crime bill calls for. It did not weaken the second amendment rights, called for in the present crime bill.

It did, however, restore funding for the Drug Enforcement Agency, which the President had sought to reduce; it provided some 400 new agents, as well as removing 600 agents from desk duty and reassigning them to the field.

It provided funds for activating 11 new or expanding prisons facilities. It provides $54.5 million for new border patrol guards, providing almost 1,000 new agents in the field. It gives $24.5 million for boot camps, punishing small-time offenders, while leaving prisons open for violent offenders.

It supports increased drug courts, $29 million, permitting swifter action against drug offenders. It grants $26 million to combat violent crime against women, which will support battered women's shelters, promote rape awareness education, and establish a national family hotline service. It restores the Byrne formula grants, and will give States and local governments some $450 million.

In total, Madam Speaker, this bill provides over $15 billion for prevention of crime and the judiciary. It prioritizes the needs. It does not include the President's social spending. It is a real crime bill.

□ 1900

It was put together on a bipartisan basis and passed this House and when it clears the Senate tomorrow and goes to the President, it can be our crime bill.

I would like, Madam Speaker, at this time to yield to the distinguished gentleman from North Carolina [Mr. COBLE] who is a member of the Committee on the Judiciary, for further remarks in this area.

Mr. COBLE. Madam Speaker, I thank the gentleman from North Carolina for yielding. I was scheduled to speak on this bill last Thursday pending passage of the rule. Of course the rule was defeated and this is the first time I have had a chance to address matters concerning the crime bill.

What bothers me, I say to my colleague from North Carolina and to you, Madam Speaker, when it first came to the Senate, to the other body, as best I remember, there was a price tag of $16 billion. When it cleared the other body and came to us, it was $21 billion. After it sailed through the House, it reached the figure of $28 billion. It then was assigned to a conference where, you guessed it, continuing upward, now it is in excess of $33 billion.

That is not the way it is done in the real world. In the real world, if you have to renovate your home or your small business and you start at $25,000, you try to work downward. Here on the banks of the Potomac, it works in just the opposite way. The moral of the story, Madam Speaker, is simply this: It is easy to spend money that belongs to others, and we in this Congress do it every day. I am afraid that we do it recklessly and imprudently.

I am concerned, I say to the gentleman from North Carolina, about some of the accusations that have been made directed to those of us who voted against the rule last week, and the accusations have been, "Well, you only voted no just simply to embarrass the President." This is poppycock and ludicrous. I voted no because the meter continued to run.

Now, when you go from $16 billion to in excess of $33 billion spending public moneys, spending your constituents' moneys and mine wrapped in the package titled crime bill, something is indeed wrong. I say to the gentleman from North Carolina, I would like to see us prior to adjournment in October to instill and restore, if there ever was any before, some sort of fiscal sanity in the manner in which we spend taxpayers' money on this river and on this Hill. I think our constituents deserve better and I think we owe it to ourselves to do better.

I thank the gentleman from North Carolina, and I yield back to him.

Mr. TAYLOR. Madam Speaker, in closing, I think we see that this costly crime bill, so-called, is kind of like side pockets on a hog as far as its benefit in fighting crime. The bill we passed today is a solid crime-fighting bill and it can be one we can all be proud of for this Nation.

CHANGE OF SPECIAL ORDER

Mrs. MINK of Hawaii. Madam Speaker, I ask unanimous consent that I may take the place of the gentleman from California [Mr. WAXMAN].

The SPEAKER pro tempore (Mr. THURMAN). Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

SUPPORT THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Madam Speaker, today I rise in strong support of the crime bill, and I want to take just a few minutes to elaborate on the reasons why I think it is so urgent that the Congress come to some agreement and allow this bill to become law.

One of the very strong provisions in the bill has to do with violence against women. Sometimes this Nation comes to a point of wanting to do something about a terrible situation in our country when there are acts of violence that commend our attention. This is a time when people are focused on this issue and I think it is important to realize that the Congress for the first time is allocating substantial sums of money, $1.8 billion, for this particular problem in our society. I like most Members of Congress have received dozens of phone calls. Most of them argue that we should support the crime bill and put it into law. Some of them say what would also echo the phrases that we have heard on radio and television about the soft social programs and other measures that have been added that have been frequently referred to as pork. The pork that people are fingering in the crime bill has to do with prevention. I would like to say that this is a crime control and prevention proposal. It is not simply to act after the fact when criminals are caught and convicted and to find new prisons and more punitive measures to deal with them. Crime in this country has to be dealt with from two perspectives, and one is to be tough on the criminals that have been caught and convicted, but also to look to our society to find ways to prevent violence and crime in our society. That is the situation with violence against women.

It is too late to look upon the men who have created the violence and have assaulted women and battered women and killed women and say, "What are we going to do with these individuals" with respect to the trial and the conviction and the imprisonment. What we need to pay attention to is what we are going to do to prevent this violence. All too long in our society women have called the police, complained, noticed situations that were aggravating their lives, and people have simply ignored it, paid no attention. A woman could be on the kitchen floor bleeding to death with her husband standing over her and the police would do nothing if she refuses at that particular moment to file a complaint against her husband. In many cases, she has no choice.

This provision in the crime bill for the first time recognizes that prevention of violence against women is really the way to go. They have put in a substantial amount of money, supported by both sides of the aisle. As a matter of fact, the provisions on violence against women was in the Republican proposal submitted in July 1994 at $1.8 billion. We are in agreement on this.

But the point I am trying to make is not that this provision is in agreement but that the concept of prevention is the key to the substantiation of this entire program of $1.8 billion. It will provide for the establishment of centers for women and do counseling and establish ways in which we can sensitize police officers and prosecutors as to what they must do under these circumstances to afford greater protection to women who file complaints regarding violence. By all agreeing on the $1.8 billion in the crime bill, we have acknowledged that prevention is a very important part of any crime bill.

Going back, then, to the public excitement with respect to prevention programs, given that the provisions for violence against women are substantiated and agreed to by everybody, let us look at some of the other provisions which have been included that deal with youth offenders, with youth at risk. We note with great interest that although almost with unanimity those who are opposed or have voted against the rule or voted against the crime bill argue that there is just too much pork in it, let us see where the pork came from. I have a very interesting analysis here which says that, for instance, this much-touted midnight basketball provision which is funded at $40 million was acknowledged by President Bush as one of the outstanding points of light in his program. It is included in some of the Republican measures. The same thing is true for the community schools program. We have Senator HATCH and Senator DOLE being sponsors for a $630-million program for youth programs in our schools, tutoring and so forth.

I ask those who oppose the bill on these frivolous grounds to look to the sponsors of some of these prevention programs and agree that they belong in any crime bill that this House passes.

A CALL FOR UNIVERSAL HEALTH CARE COVERAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Mr. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Madam Speaker, health care reform without universal coverage is no reform at all.

I am pleased to join with my colleagues as we underscore the need for health care coverage for everyone.

I would like to remind my colleagues of the six principles of health care reform: First, security; second, simplicity; third, savings; fourth, quality, fifth, choice; and sixth, responsibility. They are included in the Gephardt bill and must be a part of any reform that is meaningful.

After waiting for so long, hard-working families from Georgia's 11th District and throughout America can no longer wait for health security—their interests will not be served by tinkering at the margins.

Mr. Speaker, we were sent here to Washington with a mandate from the people—to change the business as usual politics into a government that looks after the needs of its people. We anticipated resistance from the obstructionist, divisive Republican Gridlock Gang, and we have been fighting them with full force every step of the way.

Politics, gridlock, and partisan positioning can no longer keep us from accomplishing what is within our grasp: Health care reform that guarantees that health care will be there when we need it.

Without universal coverage, "health care reform" is a meaningless phrase. We must not fall short of our promise. Health care reform, after all, is for the people.

I applaud the Senate on putting people first by passing the Dodd amendment this week. The amendment will put children and pregnant women at the top of the list to be covered under health care reform. Nothing should be of greater importance than the health and well being of our children. Unfortunately, the Gridlock Gang does not care about America's children and pregnant women.

About 6 years ago, I took my 2-year-old son to Scottish Rite Children's Hospital in Atlanta for a procedure. As expected, health care providers ran their standard tests for a child that age.

What I did not expect, however, were the results to come back saying that my son carried the gene for sickle-cell anemia.

I was shocked. This disease that predominately strikes African-Americans and wiped out so many—how could it have found its way into my son's little body?

After more tests, it was determined that he only carried the trait and he does not have the disease. He is a happy healthy boy who plays soccer and baseball and does well in school. But in the back of my mind, every time he has stomach pains or his arms and legs ache, I worry of what it might be. And I get angry that still today there is not enough research on sickle cell anemia.

At the National Institutes of Health, researchers are working to find effective treatment for sickle cell. However, without access to health care, hundreds of thousands of uninsured African-American children will not reap the benefits of this research. We need to pass health care reform now. Our kids must not be forgotten.

The Gephardt bill does not forget the importance of research in meaningful health care reform. Mr. GEPHARDT's bill will put a 1 percent tax on health insurance premiums, which will go into a trust. A portion of that trust will go to NIH research that will find new cures and treatments, giving hope to those who battle diseases such as sickle cell and breast cancer. The funding from this trust for NIH will begin at one-half billion dollars and will grow to three-quarters of a billion over 10 years.

I urge all Members of this House to do the right thing for the people of America. Passage of the Gephardt bill assures health care reform that puts people first. And health care reform without universal coverage is no reform at all.

□ 1910

ORDER OF BUSINESS

Mr. HOYER. Madam Speaker, I ask unanimous consent that I might go out of order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

DEMOCRATS AND REPUBLICANS SUPPORT THE CRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Madam Speaker, I rise today to commend the bipartisan—indeed nonpartisan—exchange of views on the crime bill during last night's special order.

If you did not hear it, I suggest you read the transcript in the CONGRESSIONAL RECORD. There was one brief, shining moment of high-minded discussion on the issues before us in this crime bill.

Mr. SHAYS, Republican from Connecticut, and Mr. WYDEN, Democrat from Oregon, cast aside the partisan rancor that has all but consumed debate on this issue. They did not agree on every issue, but they did agree on this: We must pass this "punish and prevent" anticrime bill now.

I share the Connecticut gentleman's "real concern that in the process of debating this bill, a lot of misinformation has been discussed that has distorted the issue."

I share his hope that "in the next day or two we get to focus back on how we can deal with crime both from an enforcement and a preventative side and what we can do to help our cities."

That is what this bill is about. Protecting our families. Putting more police into our streets. Ensuring that our children are safe from the violence that plagues too many of our communities.

This bill will punish criminals.

This bill will prevent crime from happening in the first place. That is what the American people want from this legislation. This is what they demand that we do.

Some would turn this serious issue into a political football. You see, there is an election coming in November. Every seat in this House is up: Some of us will return, some will not. Some feel that their return ticket and political fortunes hinge on their political gamesmanship with this critical legislation.

But the people on the frontlines know that crime is no game. They know that this bill will make a difference in people's lives.

On Tuesday, I quoted President Bush's prescient remarks about the value of the prevention program this bill provides for. Today, I am pleased to quote from a letter signed by 13 mayors from across the Nation:

Ashe of Knoxville,
Riordan of Los Angeles,
Mystrum of Anchorage,
Smith of Newark,
Drinkwater of Scottsdale,
Turner of Dayton,
Mullins of Palatine,
Lashutka of Columbus,
Johanns of Lincoln,
Helmke of Fort Wayne,
Gardner of Jefferson City,
Stewart of Provo,
Norick of Oklahoma City.

Mayors from across the continent. Mayors on the frontlines. They know what works. They think that this bill will work. And they are all Republicans. They write:

> Last fall, a bipartisan group of mayors worked with police chiefs to draft the National Action Plan to Combat Violent Crime. Many of the elements of that plan are included in this crime bill: 100,000 officers; local flexibility; more prisons and alternative forms of incarceration; strong prevention measures; enhanced penalties; and strengthened Federal drug control efforts.

They continue:

> The conference agreement provides important help to us, important tolls in our efforts to prevent and control crime. * * * As the elected officials closest to the people, we know that crime has been and will continue to be the most important concern of our citizens. They are looking to all of us for help, the kind of help that we can deliver through this crime bill.

They are not alone in urging that this bill be passed. Bipartisan support for this crime fighting bill seems to be breaking out all over the country if not within this Chamber.

My colleagues on the other side of the aisle were rightly proud when two Republicans gained the highest office in the Nation's two largest cities—New York and Los Angeles.

New York's Mayor Giuliani, a well-known crime fighter and one of the Republican Party's brightest stars, got it right when he said that this "crime bill is as much my bill as it is anyone else's * * * It reflects my philosophy. It reflects my sense that there has to be a balance between enforcement and prevention."

Mayor Riordan of Los Angeles said that this "crime bill is the boost that we've all been waiting for to make our cities safe."

Ultimately, this comes down to one question: How does this affect Americans who play by the rules and pay the bills?

Carolyn McCarthy is someone who plays by the rules. Her husband was killed and son wounded last December on the Long Island Railroad. Mrs. McCarthy issued a clarion call to every Member in this Chamber yesterday: "Congressmen need to put aside their differences. This is for the common good of all of us. Children are shooting children. Something is wrong."

Something is wrong, Madam Speaker. We can do something about it: If we tone down the rhetoric; if we turn away from partisan bickering; if we listen to those Americans on the frontlines, in our communities, in our neighborhoods who want this anticrime package.

□ 1920

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentlman from Oklahoma [Mr. ISTOOK] is recognized for 5 minutes.

ORDER OF BUSINESS

Mr. KINGSTON. Madam Speaker, I ask unanimous consent that I be allowed to proceed out of order with my 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

TRIBUTE TO PAUL ANDERSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Madam Speaker, today, in the city of Vidalia, located in the First Congressional District, Paul Anderson was remembered in a Memorial Service. There will be many testaments and many memories of his spiritual heart, which will continue to beat for many generations.

Because he was a native and life-long resident of Georgia, thousands of my fellow Georgians will pause today to remember Paul and the remarkable story of his life—a life that brought him world-wide attention and acclaim.

Paul Edward Anderson was born on October 17, 1932 in Toccoa, GA. He suffered from kidney inflammation and rheumatic fever before he was six, however, he overcame problems with these childhood problems and was awarded a football scholarship to Furman College in Greenville, SC. It was at Furman that he began to lift weights. Finding that he had the physical and mental strengths necessary for such a demanding activity, he began a routine of training that found him lifting heavier and heavier weights and starting his own high-protein diet to put on more weight.

His weight lifting talents helped him to be selected as a substitute on a United States team going to the Soviet Union to compete against the best Soviet lifters in 1955 in the first athletic competition held solely between the two countries since World War II. The heavyweight lifters were to provide the climax event for the competition.

The top Russian heavyweight lifter tied the Olympic record with a lift of 330 pounds in the two-hand press. Paul Anderson followed with an unheard of lift of 402.4 pounds, 20 pounds over the existing world record. This lift was to catapult him into overnight international fame as the Strongest Man in the World. Paul Anderson had spent years of dedication, hard work, and faith to become this overnight success. He knew all along he could outlift any other human. He only needed the opportunity to prove it.

This fame was further validated when he broke two world records in winning the World Championships in Munich later that year. In the 1956 Olympics in Melbourne, Australia, he could clean and jerk over 414 pounds and become the first person ever to lift a combined 1,102 pounds in the three Olympic weightlifting events. Paul was awarded a gold medal in the super heavyweight division—a division no American has won since; he became an instant hero in America, a country that needed a man of action, of physical power to counter the Soviet Union's domination in international athletic competition.

He not only brought home the gold medal with him, he brought a renewed commitment to God. During his Olympic winning lift, he initially failed at the first two lifts needed to win. On his third—and final—attempt, Paul related that he asked God for the little extra help he needed to push the weight up over his head. He made the lift that literally set the direction for the rest of his life. As an Olympic hero, he made many demonstration tours. During one of these tours, he saw youths incarcerated with hardened criminals. He found his way to fulfill his promise to God by serving others through the establishment of a youth home for delinquent boys.

With his accomplishments and his size, Paul Anderson was not an easy man to miss. His olympic size was 5 feet, 9 inches tall, 375 pounds, a 58-inch chest, 36-inch thighs and a 22-inch neck. Using his booming voice, Paul began a series of speaking engagements that saw him witnessing for God and then performing some kind of demonstration lift, such as lifting people from the audience on a table, that would prove to be a crowd pleaser and help bring in the money needed to get the youth home started.

In 1957, Paul made the ultimate lift in his hometown when he piled weights onto a specially constructed table. He lifted this table—a total of 6,270 pounds—with the strength in his back and legs. This lift is still listed in the Guinness Book of World Records as the greatest weight ever lifted by a human.

In 1959, he met and married his wife Glenda who shared his vision of a home for troubled youth. In 1961, they founded the Paul Anderson Youth Home in Vidalia with the purpose of providing a Christian home for young men between the ages of 16 and 21 who would otherwise be confined to penal institutions. They developed a daily routine that includes spiritual guidance, academic training, physical fitness, emotional development, social awareness, and work assignments. In 1976, an on-campus school began operation to give students the opportunity to earn a high school diploma. The staff at the home provides counseling for the boys as well as their families.

Since the Paul Anderson Youth Home began, 2,000 young people have benefited from Paul's philosophy of life: "Give more than you get and lend you ability in any way you can to help somebody else". Teaching young men to work hard and diligently at any task is a foundation stone of the home's philosophy. The obligation for carrying out work assignments instills in the hearts of young people a sense of responsibility and the personal satisfaction of a job well done. This social awareness is something that is sorely missing in many of today's young people and had helped to lead to many of the criminal problems we see daily.

Paul's wife, Glenda Anderson has overseen its operation. She supervised the staff and the boys while Paul was on his speaking tours; and she continued to provide leadership when later health problems prevented him from his daily activities at the home. Glenda has provided administrative leadership, given personal counseling and attention, and maintained day-to-day contact with alumni and families of the boys. All this while being a mother of their daughter Paula, born in 1966.

Even as he used his life to help others, Paul Anderson faced a personal struggle as his health declined because of his battle against kidney failure. In 1983, Paul's sister gave him a kidney; in 1984, a ruptured colon caused him to be in a coma for 10 days. In 1986, he required double hip joint replacements, and then became confined to a wheel chair. Throughout all these physical ailments, his faith in God never wavered.

Many public honors were presented to Paul Anderson. These are too numerous to be listed now, but I will ask that they be entered into the CONGRESSIONAL RECORD along with just a few of many articles written about the life of this dedicated Christian gentleman. With the 1996 Olympic Games coming to Atlanta, Georgia, Paul was the subject of some recent articles about what has happened since the last time there was much attention to the Olympics in the State, that time being when Paul won his medal. I also wish to share two letters sent to Mrs. Anderson by Billy Payne, the President of the Atlanta Committee for the Olympic Games, and by Lindsay Thomas, the Director of Government Relations for the Committee. Lindsay served as Paul's Congressman from 1983–1992 and came to know him well.

Madam Speaker, I rarely utilize printed space in the RECORD for the inclusion of such articles, but Paul was such a special individual, with such a special story, that I would like to make these stories available to those who want to learn more about this unique person.

Paul Anderson's legacy will be in the thousands of lives that he touched, in the thousands of lives that he and his family changed. His words will be available through the video and audio messages he produced and the books that he wrote. In my congressional office, I have copies of such materials that tell about the life of Paul Anderson, including this copy of his autobiography, "A Greater Strength", which tells the story of the real power behind the world's strongest man.

I look forward to reading this book in its entirety. Before coming to the House floor tonight, I quickly looked through its contents and two passages of Paul Anderson's own words caught my eye. Both of these come from public remarks that he made. After talking about some of his weight lifting feasts, he told one crowd:

> They call me the strongest man in the world. I want you to know, ladies and gentlemen, that all these things are secondary in my life. I, Paul Anderson, the strongest man on the face of the earth, can't get through a minute of the day without Jesus Christ. The greatest thing in my life is being a Christian.

At another public event in his hometown, just prior to his kidney replacement operation, he was being honored on Paul Anderson Day with the dedication of a granite marker in his honor. In part, the monument was inscribed with this message: All our strengths come from God: to achieve—to excel—to succeed—to serve—to share—to forgive—to live and die—to gain eternal life through Jesus Christ.

When he departed this banquet to face the uncertainty of an operation that could take his life—or prolong his life of service, Paul Anderson left the gathering by saying:

> If someday you hear that Paul Anderson is dead, he's not dead. He's gone to live with God. He can't live anymore in this tired old vehicle. Don't weep for Paul Anderson.

Today, in Vidalia at the Memorial Service and in many other places where Paul Anderson's accomplishments are known, there will be weeping by those who were privileged to know him personally or to see the great good that he did with his God-given talents. With tears in their eyes and joy in their hearts, they will remember a saying once written by a reporter who wrote a feature story on Paul: "Paul Anderson is the strongest man in the world and he lifts weights too."

The Kingston Family and our Congressional office extend our prayers to his wife, Glenda Garland Anderson; his daughter, Paula Dean Anderson Schaefer; his sister, Dorothy Anderson Johnson; and his aunt, Betty Anderson Guest. We also send our prayers of thanksgiving to God for sending Paul Edward Anderson to share his time on earth with so many.

Mr. Speaker, I am including at this point in the RECORD two letters and a letter to the editor concerning Paul Anderson and a list of the medals and honors earned by Paul Anderson, as follows:

ATLANTA COMMITTEE,
FOR THE OLYMPIC GAMES,
Atlanta, GA, August 16, 1994.

MRS. PAUL ANDERSON,
Paul Anderson Youth Home, Vidalia, GA.

DEAR MRS. ANDERSON: I was certainly very saddened by the news of Mr. Anderson's death. There are very few people in this state who have enjoyed the very high acclaim and wide recognition that Mr. Anderson attained. Being a gold medal winner in the Olympics and the "strongest man in the world" are truly unique accomplishments. The great thing is that Mr. Anderson took his fame and ability and turned it into a life dedicated to doing good for others.

I think, often, of the lives that he touched and the many great inspirations he left for others. To me, the mark of a truly great person is measured in the person's influence on others. In Mr. Anderson's case, these persons, too, are doing great things for the lives of others as well. And so, his great tradition is passed on from generation to generation.

I will always have fond memories of Mr. Anderson and I claim some sort of personal friendship with him, although we were often not in close contact. My acquaintance with him, in addition to reading about him in the news, goes back to Athens "Y" Camp in the late 1950's when, as a young camper, I saw him duplicate the world record press that he later performed in the Olympics.

It was a pleasure this past year when I helped in some small way to see that he received the very special Olympic tag that commemorated the year of his great performance. He was the only person who received such a tag.

I hope you will share my feelings and my condolences with your entire family and all of Mr. Anderson's many friends. He will be an inspiration for generations to come.

Sincerely,

LINDSAY THOMAS,
Director, Government Relations.

ATLANTA COMMITTEE
FOR THE OLYMPIC GAMES,
Atlanta, GA, August 16, 1994.

MRS. PAUL ANDERSON
Paul Anderson Youth Home, Vidalia, GA.

DEAR MRS. ANDERSON: It was with sincere regret that I learned of the passing of your husband on Monday of this week, and on behalf of all of the employees of The Atlanta Committee for the Olympic Games I extend to you and your family our deepest sympathy.

As a young person in the late 1950's I, like many other Georgians, shared a special, great admiration and respect for the many accomplishments attributed to Paul Anderson as an athlete, and most especially as a gold medal Olympian. As I have grown older, however, and learned more about Paul Anderson, the man and humanitarian, those athletic feats, though impressive by any measure, pale in comparison to his many contributions to the youth of our society who for various reasons needed special attention and a friend.

Like the true Olympian that he was, Paul Anderson reached beyond himself in every phase of life and in doing so set an example for the rest of us that will live forever. We have lost a truly great person, but the legacy that he leaves behind is one that can only be measured in Olympic proportions. In his memory it would be most appropriate that those of us who remain strive to follow that legacy and touch the lives of our fellowman in the positive way that Paul Anderson demonstrated for us.

God bless you and your family, and thank you for sharing your wonderful husband and father with us.

With best regards, I am

Sincerely,

WILLIAM PORTER PAYNE,
President and Chief Executive Officer.

[From the Advance-Progress, Sept. 16, 1992]

PAUL ANDERSON IS THE STRONGEST MAN IN THE WORLD AND HE LIFTS WEIGHTS TOO

With the announcement that Atlanta will host the 1996 Olympics, newspapers throughout the state, including our own Advance-Progress, have begun running numerous articles concerning the upcoming games. Though a good four years away, the impact these games will have on our state has already begun to take shape, creating a tremendous interest among Georgians. With this in mind, I thought the local readers would enjoy learning more about Vidalia's own Olympic hero Paul Anderson.

Paul Anderson was born in 1932 in the midst of The Great Depression in Toccoa, Georgia, where he spent the majority of his early life, graduating from Toccoa High in 1949. In 1952, at twenty years of age, the young man from Toccoa appeared on the weightlifting scene where he immediately gained the attention of lifters throughout the United States, breaking records that had taken old time lifters dozens of years to establish. Anderson, who stood 5'9" tall, weighed around 300 pounds and sported huge 21" biceps, 16" forearms, 58" chest, and massive 34" thighs. Those who witnessed his lifts in person, described the young man as a new strength sensation. The stories coming back from his competitions were so amazing that for some time many of the magazines refused to believe he actually existed.

Between 1952 and 1955, however, magazines and newspapers throughout the United States and then overseas saw the new sensation in person as he quickly took control of the heavyweight division, smashing record after record. Lifting magazines described the young man as one of the greatest lifters of all times.

Paul gained worldwide attention, however, in 1955, when he shattered the egos of the Russians, who had ruled the heavyweight division for years. Paul's performance behind the iron curtain in Moscow was far beyond a simple win. He dominated the competition with such ease that the Russian newspapers labeled him a wonder of nature. One elderly Russian stated, "I can die happy now, I have seen the greatest thing on earth". Throughout the world Paul Anderson was recognized unquestionably as the strongest man in the world. Paul continued his march through the record books right up to the 1956 Olympics in Melbourne, Australia, where, despite a horrible fever, he won a gold medal in the then heavyweight division.

1996 will mark forty years since Paul's Olympic performance. It also marks forty years since an American has won a gold medal in the heavyweight division. Nine Olympic games have passed since Anderson's performance, yet the ever elusive Olympic gold medal remains only a dream to the many American heavyweight lifters who have trained and competed for the last four decades.

For many athletes this would be their top achievement. For Paul Anderson, however, his life had only just begun. The gentle giant from Georgia yearned for more, and in 1961 Paul and his wife Glenda established The Paul Anderson Youth Home in Vidalia.

For over thirty years The Paul Anderson Youth Home has provided thousands of homeless and troubled teenagers, most of whom would otherwise be in juvenile or adult institutions, a home where academic training, physical fitness, emotional development, and spiritual guidance are instilled. Their unique approach has been duplicated in numerous other homes throughout the nation by those wishing to accomplish the tremendous results achieved by the home in Vidalia. The Andersons, who are devout Christians, attribute their success to the spiritual guidance they give to the young men. One only has to talk to present and past students to realize the wonderful results the Vidalia home achieves.

Anderson is known throughout this country and even the world, however, not just for his athletic abilities, but for the tremendous Christian values he has carried with him over the years, and for his untiring devotion to helping his fellow man. That untiring devotion had him traveling untold hundreds of thousands of miles where he appeared before as many as five hundred audiences a year. During those appearances Anderson would astound his audiences as he lifted objects that no other human could lift and then, with a booming voice that very rarely required a microphone, shared with his audiences his love of God, country and the free enterprise system.

Over thirty years later one only has to ride out highway 297 to the north end of town where the beautiful Paul Anderson Youth Home stands to see that one man can make a difference, and that true heroes do, indeed, exist. Anderson's unselfish giving and his tremendous spiritual devotion has propelled him into a category very few athletes ever achieve.

Though Anderson plays down the many records he set years ago, instead wanting to discuss the youth home and his many Christian achievements, lifting experts throughout the world continue to discuss his legendary strength. Many believe Paul Anderson is the strongest man who has ever walked on earth. This was no more apparent than in February of this year when at the first ever held Power and Strength Symposium in Orlando, Florida, his peers recognized him as the strongest man of the century. One only had to be there in person to feel the tremendous respect these athletes hold for the man they have loved for years. Once again, however, the talk around the tables after Anderson left for his return trip home was not just of his athletic strength, but centered around the tremendous Christian principles he has shared with untold thousands over the years.

Those close to Anderson have adopted a saying once written by a reporter who spent some time with Paul for an upcoming feature story. Though the reporter's name has long been forgotten, his words have not: "Paul Anderson is the strongest man in the world and he lifts weights too."

Sincerely,

LARRY COLEMAN.

PAUL ANDERSON

1955—Won World Championship in Munich, Germany, by breaking two world records.

1955—Appointed Lieutenant Colonel, Aide De Camp, Governor's staff by Georgia's Governor Marvin Griffin.

1955—Georgia's Governor Marvin Griffin proclaimed July 5 "Paul Anderson Day."

1955—Goodwill Ambassador for America through the United States Information Service.

1956—Olympic Gold Medalist, last American to win in the super heavyweight division.

1961—Founder of Paul Anderson Youth Home, alternative to juvenile and adult penal institutions for boys between the ages of sixteen and twenty-one.

1964—Helms Athletic Foundation—Helms Hall of Fame Award.

1966—Appointed Lieutenant Colonel, Aide De Camp, Governor's staff by New Mexico's Governor Jack M. Campbell.

1966—Named one of Five Outstanding Young Men in Georgia by Georgia Jaycees.

1970—Governor Jimmy Carter appointed him to State Physical Fitness Council.

1971—District Toastmasters International Georgian of the Year.

1974—Inducted into the Georgia Athletic Hall of Fame.

1975—Appointed member Advisory Committee on Juvenile Justice and Delinquency Prevention by Governor George Busbee.

1975—Presented Branch Rickey Memorial Award, highest honor presented to laymen by Fellowship of Christian Athletes.

1977—Recipient of the Golden Plate Award presented by the American Academy of Achievement.

1983—Appointed Lieutenant Colonel, Aide De Camp, Governor's Staff, by Georgia's Governor Joe Frank Harris.

1983, May 25—Citizens of Toccao, Georgia, placed a permanent marker at his original home in Toccoa.

1983, May 25—Governor Joe Frank Harris proclaimed "Paul Anderson Day" in Georgia.

1983, May 25—Congressional Record paid tribute to Paul Anderson.

1983—Granted the Honorary Presidential Sports/Fitness Award for his contribution to sports in the USA by President Ronald Reagan.

1984—National Powerlifting Hall of Fame.

1984, May 30—Awarded Father of the Year by Southeast Farther's Day Committee.

1986, October 5—Declared "Paul Anderson Day" by Governor Joe Frank Harris in commemoration of the Paul Anderson Youth Home's twenty-fifth anniversary.

1990, June 29—Awarded Honorary Doctorate of Education from Piedmont College, Demorest, Georgia.

1992, February 14—Inducted into the Fellowship of Christian Athletes Hall of Champions.

1992, February 29—Presented "Strongest Man of the Century" award at the 1992 USA Power and Strength Symposium.

Awarded keys to cities including: Memphis, Tennessee; Salisbury, Maryland; Anniston, Alabama; Gainesville, Georgia; Toccoa, Georgia; Shreveport, Louisiana.

Listed in "Guinness Book of World Records" ". . . raised the greatest weight ever lifted by a human—6,270 pounds."

Member National Board FCA.

Author of three books, weightlifting courses, and poetry, as well as numerous newspaper and magazine articles.

Philanthropist whose speaking engagements and weightlifting exhibitions have provided a majority of the funding for the Paul Anderson Youth Home.

Highly acclaimed speaker for churches, Christian organizations, colleges, universities, high schools, corporations, and civic organizations.

Serves on the Board of Advisors of the Fellowship of Christian Athletes (FCA).

HEALTH CARE REFORM AS IT AFFECTS THE 85 PERCENT WHO ARE NOW COVERED—THOUGH NOT FULLY

The SPEAKER pro tempore. (Mrs. THURMAN). Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

Mr. BECERRA. Madam Speaker, I was going to devote a few minutes to talk about health care reform, but rather than do that I would like to just address some of the points made by some of my colleagues a little earlier today.

First, let me say a little bit about health care reform. I want to do that because I look at things from the context of what has happened to my family. I will speak most specifically about my mother and, if I have a chance, I will talk about my child, who is now about 15 months old.

I know a few of the gentlemen, my colleagues who came up before me, talked about the system and how it does not work. I think all of us would agree there are things about our health care system that do not work and dramatically do not work. But when one of my colleagues, Mr. SAXTON, from New Jersey, mentioned that 85 percent of the system works well because 85 percent of Americans are covered and 15 percent are not covered and it is that 15 percent that we have to address, this is a very major point. The 85 percent or so of the people who are insured are not getting the best type of coverage they deserve, whether it is my mother or someone working out there in the world or someone working in a business.

Talk to them, and they will tell you. They are right now concerned about whether or not they are going to keep their coverage or whether or not they are going to be able to afford it. That is what we have to address. Not just the 15 percent of America, which constitutes 39 million Americans, who are not insured, though we have to take a comprehensive approach to reform of our health care system.

Why do I say that? Well, I look at my mother. Years ago she had an operation in which she was in and out of the hospital within 24 hours. She was receiving some treatment because she was having calcification in her ears and was losing some of her hearing.

The doctor said it was a fairly routine procedure. It was surgery, they did have to go inside. But they said if all goes right, she would be out within 24 hours. Well, sure, she was in and out within 24 hours, with a bill of about $13,000. Now my mother had health insurance because my father was employed as a laborer for about 27 years of his life in road construction and he had partial coverage, 50 percent coverage—50 percent of $13,000, which they had to pay out of pocket is a lot of money for anyone, especially for someone who never earned more than $20,000 or $23,000 in his or her life before retirement. When my mother tried to deal with the situation and figure out why it was $13,000, she called, and she called not just the hospital but she had to call the insurance company. I must tell you my mother quickly learned what it is like to be an attorney, because she had to become her own attorney because she did not want to spend another $7,000 trying to, now, get an attorney to help her resolve the problems with her bill.

Interestingly enough—and I am her son, so she calls her son, who happens to be an attorney—when we finally had a chance to get access to that bill, let me tell you it was like extracting teeth to finally get the insurance company to give us copies of the bill.

I see why we have people complaining all the time about $5 aspirin tablets, because some of the expenses, some of the charges on that bill were ludicrous. Yet, she is someone who is covered. She is considered among the 85 percent of Americans who receive health insurance because she is able to get it through my father's employment, now in retirement.

Yet, can she afford to pay out $7,500, $6,000, even $1,000 in any given year for health care? It is tough. It is tough for anyone.

Now, put on top of that the fact that most people are seeing their deductibles go up, their copayments go up, their overall cost of premiums go up, and you see that the 85 percent who are covered do not have it easy.

On top of that, take a look at the 12 to 14 percent rate of inflation for medical costs, and you see something is wrong when the rate of inflation overall is about 2 or 3 percent.

Something is wrong.

Then I look back at my father's experience, and I had a chance to work with him when I was trying to pay my way through college, working out in road construction as well, more and more you find people who are working, working men and women who are constantly having to negotiate down their salaries to maintain their health care benefits.

That to me is not a sign of a system that is working. That is why we have to change, not only for the 15 percent who are not insured but for everyone, because sooner or later those who are insured are going to find themselves in the category of those who are not.

Interestingly enough, one of the reasons we have gridlock in this House is because people are saying, mostly on the other side of the aisle, that we cannot have what is being called the employer mandate or, as some would call it, shared responsibility, where the employer would pay a percentage, normally 80 percent, and the employee would pay a percentage, 20 percent, of the insurance.

Strangely enough, we are having a debate over something that goes on in America every day. Most of those 85 percent of Americans who are covered right now by insurance get it through their employer. They get it because the employer pays a good percentage of it right now, employer mandate or not. That is why I think what we have to do is understand that there is some good and some bad and make sure we deal with it for everyone, not just those who have it now.

I would hope that the debate on health care deals with those small issues, whether it is not those who—those who are not covered or the issue of those who are seeing too much bureaucracy, and we see there is a greater good in getting universal coverage.

HEALTH CARE REFORM: THE IMPACT OF TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes as the designee of the minority leader.

Mr. WALKER. Thank you very much, Madam Speaker.

I am going to talk a little bit about health care myself this evening. I am going to talk, and hopefully be joined by some of my colleagues in this effort, about the taxes that are included in a variety of health care bills that are before this Congress, and try to put into perspective why some of us are concerned about how health care will be paid for, if in fact some of those particular measures pass.

But what I really want to do is begin by putting this into a little larger context because I believe the debate about health care also characterizes the debate going on in the country and a number of other arenas.

In Washington today the debate is often characterized as between conservatives and liberals or Republicans and Democrats or varieties of other kinds of groupings and that we have these battles that involve those kinds of political factions.

In my belief, that is not the real battle that is going on here. The real battle in Washington today and in the Congress is between those who believe that Government is too big and spends too much and another faction that believes just as sincerely that bigger Government means a better America.

Now, I number myself among those who believe that Government is too big and spends too much. Many of my Republican colleagues, I think, would probably be in that same category, although not all. Even some Republicans would agree that bigger Government means a better America.

But the health plans that we are considering here are very much involved with those two kinds of philosophies. In one case you have some health plans that stem from the idea that Government is too big and spends too much, and they are plans oriented toward keeping the present system of private care, private choice, and having the free enterprise system have a chance to work in health care. That particular system has produced the best health care system in the world. Many of us think it ought to be kept.

Those who believe that bigger Government means a better America have fashioned some new bills in Washington, some of which are coming before us in the form of the Clinton-Mitchell bill and the Clinton-Gephardt bill. In those cases they are also not only remaking the health system but they are figuring out ways to pay for it that involve new taxes, which is the subject of our special order this evening. This is happening in the context of an America where more and more people are coming to the conclusion that they need to take more responsibility for their own lives and that other people need to take more responsibility for their own lives. They also believe Government needs to have more accountability. It should not grow bigger; as a matter of fact, it ought to get smaller and be more accountable to the people.

And they want some idea of a hopeful future. They want some hope about what future generations are going to have in this country. In fact, many Americans think that one of the goals that we should be pursuing is the renewal of the American dream.

Now, I would contend that it is very, very difficult for more people to assume responsibility for their own lives if you raise their taxes, if you cut their wages and you take away their jobs.

I would also contend that it is very difficult to hold people more accountable within their own communities and hold the Nation more accountable if what we are doing to Americans is raising their taxes, cutting their wages and taking away their jobs.

And I would suggest there is very little hope involved in any kind of measures that pass the Congress that in fact raise the taxes of Americans, cut the wages of Americans, and take away the jobs of Americans.

□ 1940

And yet, and yet, the proposals that have been brought to us in the form of the Clinton-Mitchell health care plan and the Clinton-Gephardt health care plan would have exactly that impact on the country.

I am not going to discuss the problems that it would create for health care. I believe that these are plans that would create massive problems in the delivering of health care in the country, but I am not going to talk about those this evening. I am going to talk about the economics of the plans, and in those plans I am going to suggest that those plans have the potential for raising taxes, cutting wages, and taking away American jobs, and that is, in fact, a major concern, I think, for all of us if that is, in fact, what this Congress is going to do. I believe it is, and that will be a part of our discussion this evening.

What I would like to do is yield, first of all, to my colleague from Colorado [Mr. ALLARD] who is working with me on a task force looking into this whole problem of the tax problem within the health care plans and how those taxes can lead to cutting wages, increasing the tax burden on Americans, and taking away their jobs, and I yield to the gentleman.

Mr. ALLARD. Madam Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER]. I would also like to compliment you, Mr. WALKER, on your fine work on the floor and your fine work on this issue because unfortunately there are too many Members of Congress that do not want to talk about the cost of health care, who want to continually talk about the benefits, but somehow or the other this is going to end up in a free ride. Nobody is going to have to pay for it, and every American knows that you are not going to get something for nothing, that the costs have to come from somewhere, and that is why this discussion is so very critical.

The focus that I would like to bring to this discussion is as somebody who has been in business for himself. I came to the Congress as a small business man. I was a veterinarian, started my own business, and I understand how sensitive small businesses are to just small changes in tax rates, and here we are, for example, with the Mitchell-Gephardt plans that are talking about tax increases that are going——

Mr. WALKER. That is Clinton-Mitchell and Clinton-Gephardt.

Mr. ALLARD. That is right. We got the Clinton-Mitchell and the Clinton-Gephardt plans that have been put out before us.

We are talking about increases of revenue. Most of them are tax increases that are going to be applied to the insurance policy, going to amount somewhere to a hundred billion dollars. That is a 20-percent increase in the income tax. Now——

Mr. WALKER. Now wait. Let us clarify that. You are suggesting that the tax increases involved in these two health care plans could amount to as much as a hundred billion dollars a year, which is the equivalent of a 20-percent increase in income taxes in the country.

Mr. ALLARD. A 20-percent increase in personal income taxes in this country, and what that does is that takes away from the spendable resources that individuals have.

Many small business people are individuals because they do not have a large enough company or large enough business to incorporate or to get organized, so they fall under this individual, and this is money that is going to be taken from their net profit and sent to Washington——

Mr. WALKER. But you are not suggesting that any of these plans actually come right out and include a 20-percent increase in the income taxes for Americans; are you?

Mr. ALLARD. Well, the effect——

Mr. WALKER. Effect is that, but in actuality what they have done is they have nicely hidden down in a lot of these bills a lot of taxes that they then do not want to discuss; is that not the case?

Mr. ALLARD. There is a lot of little taxes hidden in all these proposals. One of them has 12 taxes, and another one has somewhere around 17 taxes. But the biggest composite of all this is what we call premium taxes.

Now I had a proposal in the Committee on the Budget that said that any mandated revenues and mandated expenditures had to be on budget. Now the reason that is so very important to this discussion and so very important to the American people is that, when we talk about premiums, people get the impression that we are talking about premiums, people get the impression that we are talking about something that is voluntary, you go down and decide you need your insurance, you pay for this voluntary assessment so you can get your coverage, but in this case it is a mandated revenue. In other words, you are going to be required to pay it by the Federal Government, and, if you do not pay it, there is going to be some kind of dire consequences.

That in my mind is a tax. That is so important to why we framed this discussion about what is going to have an actual impact on budget and not off budget. If it is off budget, there is no accountability on expenditures, no accountability on revenues, and the American people, I believe, want accountability on the health care system. That is part of their concern today.

Mr. WALKER. The gentleman from Georgia [Mr. KINGSTON] would like to join us here, and I would be happy to recognize him at this point.

Mr. KINGSTON. Madam Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding to me.

The question that I had when you were talking about this, you are basically talking about the old payroll tax concept, but has a few fancy slick titles, but it is still the payroll tax; is that correct?

Mr. ALLARD. In my view it is going to have an impact on the bottom line on what the employee is going to take home. It is going to have an impact on the bottom line, what the employer has available to create new jobs and to buy new equipment——

Mr. WALKER. The gentleman from Georgia makes an interesting point here, and it is an important point. Every time you hear someone talk about an employer mandate, that is a fancy word. What it means is payroll tax because when you say employer mandate, a lot of people say, "Well, that's not me. I'm not an employer. I work for an employer. Sounds to me as though my employer is going to get stuck for more money. Maybe that is a bad thing or good thing, but it really doesn't affect me."

What they have not heard is that employer mandate is an 80–20 split, which means that 20 percent of the cost of this they are going to pay. Employer mandate is really an employer-employee mandate with employees picking up 20 percent of the costs of all of these programs——

Mr. KINGSTON. If the gentleman would yield, now I understand a lot of unions have 100 percent of it paid by their employer, so what you are saying, if I have constituents who are members of a union, they are actually going to lose 20 percent.

Mr. WALKER. Right. At the present time anybody that has 100-percent health coverage at their place of work will now be required to pay 20 percent under the plan that has been put fourth here called the Clinton-Gephardt plan because they have an 80–20 split, and so it becomes a 20-percent payroll tax or— or 20 percent of the overall payroll is going to be paid by those union workers in your district. That is absolutely correct.

Mr. KINGSTON. So a rank and file union member working in a papermill in south Georgia who is maybe making $20,000 to $25,000 a year better be aware that he is about to lose a substantial portion of his payroll if this socialized medicine plan ever passes. •

Mr. WALKER. If Clinton-Gephardt passes, there is absolutely no doubt that that employer is going—employee is going to end up with an additional payroll tax, and most employees now have awakened to the fact that that is real money. For most employees out there at the present time, for most middle class employees, for most average families in this country, they pay more in Social Security payroll taxes than they pay in income taxes, and so this is a very, very real expense in the pocketball when you start talking about that level of payroll tax.

But let me tell the gentleman the gentleman from Colorado was mentioning another thing. There is a premium tax. If you go over to the Clinton-Mitchell bill, there they do not have the payroll tax in it as such. Over there what they have done is they have put in place a 1.75, 1¾-percent tax on all private and self-insured health care plans, a premium tax on your actual health insurance. So, get this:

If you are buying health insurance, what they are now going to do is tax the health insurance that you are buying to take care of your health, and so what they are going to do is raise the price of all health insurance all across the country that not only then affects the employee and the employer, but it also has a massive inflationary impact on the society because all of a sudden you have raised the cost of health care all the way across the board by taxing the premiums on your health care policy.

□ 1950

To those union workers in your district that have particularly good health care plans, guess what? They are going to pay particularly more, because this is an 1.75-percent tax on the entire premium of the insurance.

Mr. ALLARD. If the gentleman would yield, obviously you are not going to get something for nothing. We talk about the current payroll taxes for Medicare, and then we have Medicaid. We are talking about 60 million people covered by both. We have now got a program that is going to bring in another 60 million people. And no matter whether you do something to try and keep yourself healthy, right now there are incentives in the system to be healthy. If a business sets up a health plan for regular checkups, exercise, and whatnot, they can do things to try and control their health care costs.

This is an uncontrollable cost that is going to go to individuals. It is going to go to the business people. It is a payroll tax that hits both sides. It hits the employer and the employee, no matter what you do, and I think that is devastating.

Mr. WALKER. You know, that is kind of interesting. We wanted to make certain we are bipartisan in some of this. I want to quote here from a Dear Colleague letter we recently got from one of our Democratic colleagues who tells us that when all these premium taxes are added up, it really is not going to pay for better health care. He makes the point, quoting from Congressman TIM PENNY, "Over half of the new taxes in the leadership bill," which is the Clinton-Gephardt bill, "come from premium payments for non-enrolling employees." Listen to this. "These are fees the employers pay for employees covered somewhere else, through their spouse, et cetera. Until the year 2003, the Treasury keeps this money to finance the cost of the legislation, thereby helping the 10-year outlook tremendously. After 2003, this money would be returned to the employer who provides the insurance."

Why isn't this money given to the employer who provides the insurance immediately? Because the money is needed to cover the higher health costs in the first 10 years.

So they are boosting the health care cost. They are charging the employees. We are going to collect the money here, use it to make the books look better, and everybody loses. The employee loses, the employer loses, everybody loses, and we get tremendously more expensive health care in the country.

Mr. KINGSTON. If the gentleman will yield, the thing that I have been told about Medicare during its first 5 years is that it was 70 percent over projection. So the cost of that, and when we are talking billions and billions of dollars, it is so important to remember, 70 percent over projection, when as the gentleman from Colorado says, we are talking about a $100 billion cost, we have absolutely no idea what we are talking about in truth, because we cannot predict over-utilization.

Another thing, my office is getting bombarded by provider groups saying "I want to be in on the standard benefit package." The history of these State-run programs in places like Hawaii is that new provider groups every year have come in and said include this, include that. And as they do, that $100 billion that the gentleman talked about goes through the roof. Then the payroll tax will not be just the end of it. There will be more and more taxes.

Mr. WALKER. The history of payroll taxes is every time you have one, it keeps increasing. It is always for things that look like they are good reasons. But the bottom line is that they have a tremendous impact on the pocketbook of the average American family, and it keeps that American family from being able to be responsible for itself. It keeps that family from being able to pursue the things that it regards as most important, because too much of its money is headed back to Washington or someplace else in payroll taxes, that they end up not being able to afford.

Mr. ALLARD. On this discussion on the cost to the employer and the cost to the employee, I am looking at a study here put out by the Heritage Foundation. They are talking about the impact on both the employer and the employee. Here is a chart that talks about the wage effects of the Gephardt bill, for example. It applies to my State of Colorado.

It states here the net change in wages per employee is $705. In other words, that employee is going to take home that year $705 less than what he has been all along, without a salary increase.

Then let us look at the other side and how that is going to impact the small businessman or the employer. It says here that we are looking at a cost per employee to the business person of $802. So we have the employer facing a cost of $802, additional cost per year per employee, and then we are looking at each employee is going to be looking at taking home $705 less. That is just in the State of Colorado.

It is going to have an impact on all employers and employees.

Mr. WALKER. The gentleman raises an interesting point. Recently I was contacted by the National Federation of Independent Businesses, the small business organization in Washington, who has done some studies of their own. I was shocked to find out that if the Clinton-Gephardt health reform bill were to pass, 66,120 Pennsylvanians would end up losing their jobs.

Now, I looked at that figure, and it stunned me. And then all of a sudden I realized if you divide that out, that is on an average 3,150 people in my congressional district that are going to lose their jobs as a result of this. It is not just the wages are going to go down, it is the fact that actual people are going to lose their jobs, 3,150 people in my district.

Then to go along with what the gentleman just said, NFIB looked and figured out how many jobs were going to get wage cuts if we passed the Gephardt bill. This is a pretty stunning figure. In my State, 539,754 people are going to end up having their wages cut as a result of this bill. That is almost an entire congressional district in my State that is going to have their wages cut under this bill.

In my district, if you average it out, in my district under this, 25,700 people in my congressional district are going to have their wages cut if this bill passes and becomes law.

Now, I do not know a lot of people in my district that can afford to take wage cuts at this point. I sure do not know people who can afford to lose their jobs.

Mr. KINGSTON. Especially after the tax increase they were hit with last year.

Mr. WALKER. They are already paying increased taxes.

Mr. BECERRA. Would the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BECERRA. I am interested in the discussion. I had spoken a little earlier on some of the issues on health care. I do not know if the gentleman from Colorado's figures are accurate or not. We always hear figures. Assuming there might be some accuracy in the figures of $705 less in take-home pay, it seems to me those Coloradans who will now be given full coverage at an expensive $705, which is probably 2 month's worth of premiums in this day and age, might be benefited by having the Gephardt plan if that is the case.

In terms of the gentleman from Pennsylvania's point that there might be 3,000 or so people who might lose their jobs in his congressional district, which is again, of course, about the same size as my congressional district, I know that the Department of the Treasury has told me according to their surveys and studies, and again we can question whether they are accurate or not, but that there are 179,000 people in my congressional district who are not insured. A third of those are children. Eighty-five percent of those 179,000 people are working, but they do not have insurance.

Mr. WALKER. Let me tell you how phony those figures are. One of the things the figures included in my districts are the Amish. They do not have insurance because they do not believe in insurance. Yet they are carried as part of the figure here that is told to us about uninsured Americans. So I have real questions about whether or not those figures reflect much beyond a decision that we ought to have a bigger government that provides health care for everyone.

I do not believe, to begin with, that that is possible to happen. But second, I also question whether or not the cost is too enormous. For many of those people that the gentleman from Colorado was talking about, their employers cover them pretty fully with health care insurance right now. What you are saying to them is you ought to give up $705 so that other people who are not covered can get health care coverage.

Mr. BECERRA. I think the gentleman has misconstrued the plan that Mr. GEPHARDT has presented. The majority leader's plan does not say that an employer cannot continue to fund 100 percent of a plan. It says the employer is only required to fund 80 percent of a plan. If we have generous employers who wish to fund 100 percent, that is great. I think employees would rather have an employer that would like to fund 100 percent of a plan. We have too many employers who cannot afford to fund 80 percent.

Mr. COX. I assume that the gentleman is aware that the Clinton-Gephardt bill proposes $7 billion in new taxes on health care premiums themselves, a direct tax on individuals who buy health insurance, if they happen to be self-employed, and obviously a pass-through tax for anyone who gets insurance through their employer.

□ 2000

That explicit $7 billion tax is just the base of what Martin Feldstein has determined is a $100 billion annual tax increase. You cannot have a tax increase of this magnitude on the American economy without destroying jobs.

So the real question is not how many people right now are without health insurance and how many people right now are at the margin. The question is, after this enormous new tax plan passes, $100 billion a year, according to the former chairman of the Council of Economic Advisors, how many more people will be without jobs and how many more people will be on the margin and what overall for America will be the reduction in the quality of care and the availability of care?

If fewer people are working, if we destroy as many jobs as it is estimated we shall with this magnitude of tax increase, what will be the availability to the Government of revenues necessary to run what is obviously the largest expansion of entitlements in American history?

Mr. WALKER. Just to emphasize the gentleman's point, the total job loss under the Gephardt plan, Clinton-Gephardt plan, is 1,323,961 jobs, according to NFIB. The numbers of people who will have their wages cut under the Clinton-Gephardt plan is 10,986,106 people. Those are enormous figures. Imagine, 10 million Americans are going to have their wages cut as a result of this plan.

Mr. BECERRA. The gentleman is being very gracious with the time.

We do not know if the numbers that we are all talking about are accurate or not.

Mr. WALKER. These are NFIB numbers.

Mr. BECERRA. Whatever the source might be, we all have to just assume that what we are saying is somewhat accurate. But if in fact 10 million Americans will now see their wages decrease as the gentleman has explained it, is that not as a result of trying to provide these Americans who do not have health insurance coverage with coverage?

I would ask the gentleman from Pennsylvania, how much is he paying a month right now for his health insurance?

Mr. WALKER. I personally pay, I think, about $100 a month.

Mr. BECERRA. So in 7 months, you would recoup the $705 that you are saying the people in your State or the State of Colorado will pay?

Mr. WALKER. I personally pay that. I do not think anybody, I do not think anybody is going to reduce that for me. It is not going to be reduced. I still have to pay it right now. Right now I pay 25 percent. My guess is that that is exactly what I will end up paying in the end. I am not going to have that reduced and no one else is either.

What the gentleman from California is making the point, and he is absolutely right, in addition to that, you are now going to put a premium tax on that insurance that is going to cost me more. The cost of my insurance is now going to go up because of the premium tax that is included in these bills. So you are going to charge me more for my insurance now. I am not going to get any break. Maybe some additional people are going to get covered, but it is not going to help me.

Mr. KINGSTON. Let me say this, if you lose your job, even for a good intention, like to get health care, you still lose your job. I do not think it is the Government's right.

I want to back up a little bit, because in some way we are talking about the paint of a car, the color of a car that we are going to buy, but we do not have the money to buy the car. We have all somewhat agreed, and if I could paraphrase the gentleman from the other side of the aisle, you said we are not sure about these figures, which I agree with. We are not sure about these figures at all.

The reason why we are here, the reason why we were all sent from 435 congressional districts is to know the figures, know the facts.

If you all remember political science 101, whatever your background is, you know that when a bill is introduced, how a bill becomes law. It is read on the floor of the House. It is referred to a committee. The committee assigns it to a subcommittee and sometimes three or four subcommittees, sometimes it goes to two or three major committees. Then it is reported out of it. It goes to the House floor, comes back for a vote.

During that period of time there are countless hearings, countless letters, countless studies done to find out, are we talking 600,000 jobs or 11 million jobs. How many jobs are we talking about? How much money. This is how a bill becomes law.

If you took it in political science 101 in college, you learned you did not need to buy Sominex ever again because this gave you all the facts.

Now, what we are doing with one-seventh of the economy is a little bit different. We are talking about the Clinton-Gephardt bill, which we do not have, unless any of my colleagues have got the bill. Is there anybody here that has a bill?

Mr. BECERRA. It was printed up as of last week in the CONGRESSIONAL RECORD, every single word.

Mr. KINGSTON. Has that been distributed to all the Members?

Mr. BECERRA. It is available now.

Mr. WALKER. Let me just say, it is available. The problem is, the cost estimates are not. A lot of what we are talking about here is cost estimates. The cost estimates are not, because it has not been through the process. We do not have any idea what some of these provisions cost.

Mr. KINGSTON. And remember, Mr. GEPHARDT has already said he is going to rewrite Clinton's bill. So if you have one right there, that is not the bill that your leader has said he is going to rewrite. So here is where we are. We are in a position that a bill has been introduced, read into the RECORD, and that is supposed to be it. I do not know any other bill that has gone through a process like that. We are voting on it because we have been held hostage in Washington, DC.

The President is going to sign it and, presto, rather than this going through a deliberative process and knowing the real numbers on the taxes, how we will pay for it and all of that, we are going to have this. As a result, the American people are going to have this.

Mr. COX. If the gentleman will continue to yield, I think we have to focus on the numbers we do have. The gentleman is right. We are operating in an environment of uncertainty.

Over in the Senate I understand Senator MITCHELL went down to the White House tonight to say that his Clinton-Mitchell bill is in trouble. We are obviously spinning our wheels here waiting for the majority leader to try and put together enough votes on the Democratic side so he might be able to bring his bill here to the floor. That is why the bill is constantly changing. Because in order to get the votes, it has to change.

But notwithstanding that there is no health care bill that has a rule to come to the floor, the Clinton-Gephardt bill that was submitted to CBO, that was printed in the CONGRESSIONAL RECORD that our colleague is holding up in the air, has been scored by CBO in such a fashion that there are $63 billion per annum, per year, in new taxes on top of current levels in addition to the stated taxes in the Clinton-Gephardt bill. Those $63 billion have been understated, according to Professor Feldstein of Harvard and the National Bureau of Economic Research, by yet another $40 billion, getting us to $100 billion.

Let me illustrate where some of these billions and billions in annual new taxes on American working families are coming from.

Medicaid is nearly abolished by the Gephardt-Clinton bill, a fact of which the majority leader is quite proud. We are going to save, he believes, all sorts of money by requiring private insurance companies to provide Medicaid benefits. But here is the rub, the standard benefit plan in the Gephardt bill is much less generous than Medicaid. So what poor Americans are now being guaranteed by Medicaid is better than what all Americans will get out of the standard benefit package.

And under the Clinton-Gephardt bill, the Government is going to guarantee to the private insurance companies that are now responsible for Medicaid only the same subsidy that they are going to pay to all Americans for the Government standard benefit plan, even though the private companies are going to continue, under the Gephardt-Clinton bill, to have to provide the higher level of care that is currently guaranteed to Medicaid recipients.

That is $29 billion of difference outlined in this piece by Professor Feldstein and the National Bureau of Economic Research.

What do you think happens to that $29 billion that insurance companies have to pay out but that they do not get from the Government for Medicaid recipients? They shift that entire $29 billion cost onto the premium payers that are private.

Mr. WALKER. Over and above the premium tax.

Mr. COX. This is $29 billion that gets sucked out of working Americans' pockets because private insurance companies are mandated by law to provide the Medicaid benefits that the subsidies do not cover. The money has to come from someplace. That is $29 billion of it right there in an annual new tax that is quite nicely hidden inside the Clinton-Gephardt bill.

Mr. BECERRA. I thank the gentleman for yielding. You are right, it is difficult to read through this. I would not encourage anyone to have to read such small print. That is the case with just about any bill you pass, because are you dealing with so much language. One thing I did not learn in poli sci 101 is politics. For anyone to come to the floor of this House and say that we have not had a chance to discuss the guts of what is health care reform, I think it is unfair.

Because my predecessor, I just came in, this is my first year in Congress, my first session in Congress, my predecessor, who was here for about 30 years, constantly, for years, tried to push through health care reform, major health care reform. He was not able to do it.

We can go back to the early 1970's when President Nixon tried to push through similar health care reform as we see on the floor being debated today. It is there. Clearly a lot of the components of the Gephardt bill were not in language that was seen 4 months ago, 3 months ago. But we have debated just about every component of it. Now it is a matter of ways to get it scored to see how much it costs so we can have an honest debate. But to say that we have not had a chance to discuss meaningfully just about every component, I think is an unfair statement for the American people to hear.

□ 2010

Mr. KINGSTON. If I may respond, I find it appalling that you are suggesting that cost is not a major component. Listen, we are not talking about letting the Government run it. We already know that the purpose of the Clinton-Gephardt-Mitchell approach is to let the Government run health care. That is not right. We are talking about the cost of it, and what you have just said, if I heard you correctly, is we have talked about all the major components.

We believe on this side of the aisle, and I believe most of our constituents do, too, that a major component of health care is cost. That is what we are talking about here tonight, and we all know we do not have any idea what it is truly going to cost. That is why we have not even had a bill.

Mr. WALKER. The gentleman from Colorado [Mr. ALLARD] has been very patient, and I will yield to him.

Mr. ALLARD. We are throwing billions of dollars here and a billion dollars there, Madam Speaker, and I think back to my small business background, every $10 made a big difference. I was in the State senate and we ran things off to the closest thousand. Here we are talking about billions and billions of dollars.

The bottom line is, is this going to cost us more? It is going to cost us jobs and it is going to be reflected in tax rates, the amount of taxes people have to deal with.

Mr. WALKER. All of these billions we are talking about is 3,150 jobs in my district that are going to be lost. The people of Lancaster and Chester Counties in Pennsylvania are going to lose 3,150 jobs that we cannot afford to lose. That is what the billions of dollars mean. That means that practically every community in my district will lose at least one job, and maybe several. We can talk about the billions, but those kinds of specifics do need to be debated here.

Mr. BECERRA. Are not the four gentlemen on the floor here debating one major piece of legislation?

Mr. ALLARD. We have a lot of people working part time who are going to be impacted. They may hold down two or three or four part-time jobs. Those are part of the loss that we are going to—that is going to make it more difficult for these hard-working Americans on the lower end of the pay scale to keep a job, and then to have the revenue that they need to support their families.

Mr. WALKER. I do not think it is going to be the chairman of the board of one of my major industries that is going to lose his job. My guess is it is going to be people who can ill afford to lose their jobs, who are going to be those who are out jobs as a result of this.

Mr. BECERRA. If the gentleman will continue to yield, and I thank the gentleman for yielding again, it seems to me that one of the important things that the four gentlemen here are excluding or omitting from their discussion in talking only about the Government taxes that may be increased, is what I would call private taxes that are already increasing upon all Americans, either insured or uninsured.

We have a system where close to $1 trillion right now is being spent on health care, yet we have about 39 million Americans who are not yet covered. If we let things continue the way they are going, in the next 6 years, by the time we hit the next century, we are going to see that the cost will have increased dramatically on Americans.

So whether we call it a tax from the Government or a tax from private industry which has not been able to corral its costs, there is still a tax. Whether it is paid out to the Government or paid out to an insurance company in a premium or a copayment or a deductible, it is still coming out of the pocket of the American people. We have to take the whole picture into account.

Mr. WALKER. I say to the gentleman, before yielding to the gentleman from California, private industries pay taxes, they do not create taxes. Taxes are that which is coerced out of people's pockets by government. That is what is happening here. I will tell the gentleman, that is very specifically what this special order is all about.

We are talking here tonight about what is going to end up being coerced out of the pocketbooks of working Americans as a result of the passage of the Clinton-Gephardt plan. In our view, that is a legitimate subject, because the Clinton-Gephardt plan is in fact a big-Government plan that relies on big-Government taxes.

We want the American people to understand that those big taxes are going to impact on them; that when many people on your side of the aisle talk about employer mandates, the American people need to really know that is a payroll tax. We are talking about a payroll tax, a payroll tax that is not only going to take more money out of their pockets but is going to cost some of them their jobs.

I yield to the gentleman from California.

Mr. COX. I think the gentleman is quite right to focus on this very euphemistic term, "employer mandate." It is a payroll tax, and it is a substantial one. Of course, a payroll tax is a tax on jobs. It is not only a tax on people who currently work, but it is the worst of all, a prohibitive penalty tax on people who do not yet have jobs, because it raises the cost of creating that new job.

If you are trying to get your first job, if you are unemployed and you are looking for work, would it not be a shame if that job that you might have gotten is destroyed because a new tax was placed on that job that made the cost of hiring you prohibitive, and the employer could not hire the margin worker?

What we are looking at with $100 billion in annual new taxes, according to professor Martin Feldstein, again, at Harvard, the former chairman of the President's Council of Economic Advisers, and the National Bureau of Economic Research, is the equivalent of raising personal income taxes 20 percent across the board.

Mr. WALKER. Can you imagine the outcry that would happen if they actually put that in the bill, that they were going to raise personal income taxes 20 percent to pay for all of the things they want to do?

Mr. COX. If the gentleman will yield, of course that is exactly what is in the bill. The fact that we have not had time to read it in committee, as has been pointed out so eloquently, is the only reason that more people are not aware of the fact that we do in fact have such an enormous increase in taxes in this bill.

Let me just explain where $13 billion of that new annual tax burden comes from. It comes from Medicare cuts. Again, the majority leader is proud of the fact that his bill cuts Medicare. The bill actually requires that hospitals and other providers continue to provide the same level of Medicare services, no reduction in the services that they are required to provide, but it cuts billions of dollars, $13 billion a year, out of what they can get for it.

Naturally, the hospitals and the providers are going to have to shfit that cost onto their paying patients and onto people who are privately insured, so that those people, working Americans who are not getting the Government subsidies, are going to pay 100 percent of this new $13 billion annual tax.

That, taken together with the $29 billion annual tax from the Medicaid shift to private insurance without an accompanying sufficient subsidy, and the $7 billion in explicit new taxes on health care premiums, of all things—obviously we were supposed to be reducing the cost of health care in this exercise, and now we are levying a tax directly on the health care insurance itself, and that is on all health insurance, I should add, in the Gephardt bill. Over in the other body the Mitchell bill has a 25-percent tax, a huge tax on any insurance plan that does not fit the prescribed form of the national benefit plan.

Mr. WALKER. So in other words, if you get one of these good plans that some people around here call the Cadillac plan, the Mitchell-Clinton bill would actually tax those plans?

Mr. COX. That is exactly right. But here the Gephardt plan is going to tax you even if you do conform with the standard benefit plan, the one-size-fits-all plan for America. When you add all these taxes together, that is where $7 billion, the premium tax, $20 billion, the Medicaid tax, $13 billion, the Medicare annual tax that I explained, $27 billion in additional tax burden on the American people that Professor Feldstein explains will be caused by people changing their behavior to, in essence, game the system, so they qualify for more subsidies, all that adds up to $100 billion a year in new taxes, or the equivalent of a 20-percent income tax increase across the board for all Americans. It is just extraordinary to think of the economic impact this will have on America. It will destroy jobs.

Mr. WALKER. I yield to the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

Ms. EDDIE BERNICE JOHNSON of Texas. Could I just get a clarification, Madam Speaker?

Are you speaking about the working people that have no opportunity to be covered on their jobs by private insurance, those people that other working people have to take care of, simply because they have no mechanism by which to pay their insurance? Is that the population you are speaking about?

Mr. WALKER. What I'm talking about is the fact that the increased taxes that are in the Clinton-Gephardt bill are going to, in fact, cost a lot of those people their jobs. In fact, I gave a figure earlier, before you came here: 3,150 people in my area, according to the National Federation of Independent Businesses, are going to actually lose their jobs; 25,700 people in Lancaster and Chester Counties, PA, are going to have their wages cut as a result of this bill. A lot of those are people who can ill afford to have their wages cut.

Ms. EDDIE BERNICE JOHNSON of Texas. Are you telling me that businesses would rather lay people off than share the cost of their insurance?

Mr. WALKER. What I am telling you is that the cost of the taxes that are included in this bill are in fact going to have impact. I realize there are a lot of people in the Congress who think we can pass taxes and they have no economic impact. The fact is they do have economic impact, and it causes people to lose jobs.

In this particular case the enormity of the taxes is going to cause literally, according to NFIB, 10,968,106 Americans to have their wages cut, and over 1 million Americans will lose their jobs.

Ms. EDDIE BERNICE JOHNSON of Texas. What is this going to cost the working people, unless they have the opportunity to pay for their own insurance? A lot of working people do not have the opportunity to pay for their own insurance.

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Mr. WALKER. Our point has been the working people are going to pay a terrible price here.

Ms. EDDIE BERNICE JOHNSON of Texas. They already are, paying for those people who have no opportunity to pay for their own private insurance because their companies will not offer them a plan. These are the companies that are pulling out of the taxpayers' pockets because they will not offer an opportunity to people to pay for their own insurance.

Mr. WALKER. The gentlewoman has a rather strange view of the American economy, but I would say that I thoroughly agree—as I said to begin my remarks, I thoroughly believe that there are many people on your side who believe that bigger Government leads to a better America. That is exactly what I am hearing.

Ms. EDDIE BERNICE JOHNSON of Texas. We are not talking about a bigger Government. We are talking about an opportunity to stop paying so many taxes for working people. We want them to have the opportunity to pay the taxes for themselves by having an opportunity to have their own insurance.

Mr. WALKER. Your opportunity is more taxes on both employees and employers.

Ms. EDDIE BERNICE JOHNSON of Texas. You like saying that. But that is not the truth.

Mr. WALKER. It is.

Mr. KINGSTON. Is it not true that the Michel and Rowland-Bilirakis plan does address the working poor, that $5-an-hour brick mason who may work 8 months a year, he is serviced by the Rowland-Bilirakis plan without a tax increase? He gets to keep his job and his insurance.

Mr. WALKER. There are a number of options around here other than the Clinton-Gephardt big Government plan.

Ms. EDDIE BERNICE JOHNSON of Texas. You want to protect those businesses who do not want to protect their employees.

Mr. WALKER. Madam Speaker, I think I have been very generous in terms of yielding time here on both sides, and I am willing to do that, but I think that we ought to be given the courtesy of pursuing the issue that we brought to the floor. I will be very happy to yield to the gentlewoman and allow her to have some time, too, but I wish she would allow my colleagues to make their points without trying to outshout them. It seems to me we ought to have a dialogue here that is helpful and does not become a shouting match. I will be very happy to yield in a way that makes that happen.

Mr. COX. I think I can answer the gentlewoman's question directly from the Congressional Budget Office report that we have seen on the bill that we are discussing. The CBO's report, and I am reading from it, and this is a quote, acknowledges that the effective marginal levy on labor compensation, and now we are talking about, in other words, the effective marginal tax on labor compensation could increase by as much as 30 to 45 percent for workers in families eligible for low-income subsidies, the very people we are supposedly trying to help, so that "some low-wage workers would keep as little as 10 cents of every additional dollar earned." This is a quote from the Congressional Budget Office report on the bill. This is how steep the effective marginal taxes are on low-wage workers. Of course the ultimate tax is losing your job.

Virtually all economists agree that if there is a new payroll tax, it is going to have to come out of either employee wages or other fringe benefits or it will result in reduced employment. All of the studies presented to the Joint Economic Committee, whether it is from the Rand Corporation, the State of California or what have you all show that that is where the money comes from. That is how the cost is paid. And the only tradeoff is some people say that you lose a few more jobs and you do not reduce wages quite as much. Other studies say, no, you reduce wages a lot and you do not lose quite as many jobs. Everybody agrees that you lose jobs and you cut wages. Of course if the magnitude of the tax is $100 billion a year, it is just absolutely mind-boggling to contemplate what an enormous tax increase this is. It makes last year's largest tax increase in history pale by comparison. It is absolutely certain that we are hurting low-wage working Americans. The Joint Economic Committee found in a report by our staff economists that the people bearing the greatest burden from this so-called employer mandate, the new health care payroll tax, are people with annual incomes of $14,000 to $24,000. Those are the people that are bearing the burden.

Mr. ALLARD. The bottomline is we are pulling in 60 million Americans over and beyond the 60 million that are covered by Medicare and Medicaid. We have to pay for this additional coverage some way. The only way we are going to do that is we are going to have to apply a tax. I was looking at some figures here that is looking at somewhere around $100 billion.

Mr. WALKER. That is $100 billion a year.

Mr. ALLARD. One hundred billion dollars a year. We are talking about part-time employees. I am trying to think here. Who are part-time employees? It might be the neighborhood fellow over here that cuts your lawn. It may be someone you hire to come in and clean your house. It might be someone you are paying to baby-sit your pet or even baby-sit your child. So when you stop to think about the myriad of part-time jobs that we have in this economy, it is not hard to understand how you lose jobs when you have these expenses that go over—we are not talking about large corporations, these are individuals who hire people to come in and do work for them on a part-time basis. When both parties get hit with these types of tax increases, it reduces productivity, it has an adverse impact on revenue to the Federal Government, to everybody. And there is a limit there on how high we can go on taxing people, and I think that is a lot of what this discussion is about.

Ms. EDDIE BERNICE JOHNSON of Texas. I just want to clarify with my colleagues. When working poor, marginal workers, whatever way you want to define them, have no opportunity to pay for their own insurance, are you not keenly aware that taxpayers pay that bill? Are we not going to look for an opportunity for them to have a way to pay their own way with it being shared by the employer? Or do you expect that the working people are going to continue to pick up the tab for both the employer and the employee?

Mr. WALKER. I would say to the gentlewoman, that is exactly what we attempt to do in both the Michel bill that is here and the Rowland-Bilirakis bipartisan bill.

Ms. EDDIE BERNICE JOHNSON of Texas. That is what is being done in the Gephardt bill.

Mr. WALKER. One of the provisions in there is aimed at providing the kinds of encouragement that employers need in order to provide that kind of broad-based insurance, and we believe that that will help in the situation. Does it solve the entire situation? No, it does not. But it provides coverage for millions more Americans than now have coverage. But it does so without raising taxes.

What the gentlewoman is suggesting is, it seems to me, that the country is better off if we simply raise taxes, grow Government bigger, because that will help these people.

Ms. EDDIE BERNICE JOHNSON of Texas. You have grossly misunderstood me. May I clarify my point?

Mr. WALKER. Sure. Go ahead. I yield to the gentlewoman.

Ms. EDDIE BERNICE JOHNSON of Texas. I know that it is important to you to label my side of the hall here as tax-and-spend. That seems to be quite important. But the truth of the matter is the Gephardt bill is attempting to take some of the burden off middle-class America so that persons who are working can have an avenue by which to help pay for their own insurance.

Mr. WALKER. I would say that I think we are attempting that in the proposals that we will put forth as alternatives.

Ms. EDDIE BERNICE JOHNSON of Texas. We are talking about people taking on their own responsibilities. Not raising taxes.

Mr. WALKER. Once again, I remind the gentlewoman that I control the time and I would like an opportunity to answer without her outshouting me.

Ms. EDDIE BERNICE JOHNSON of Texas. I am listening.

Mr. WALKER. We think that we do provide the opportunity within the alternative bills that we have put forward for people to have those kinds of plans and that we do so without raising taxes, but I would simply say to the gentlewoman that the tax plans that are a part of the Gephardt-Clinton plan that you endorse in fact will lead most of those low- and middle-income Americans or for many of them to a situation that is going to raise their taxes, cut their wages, and take away their jobs. We simply say that that is unacceptable, that is unacceptable as national policy. You may think that there is a common good at the end of that process that justifies doing that, but I suggest to you, when you raise people's taxes, cut their wages, and take away their jobs, you have done something wrong.

Ms. EDDIE BERNICE JOHNSON of Texas. Are you assuming that employers are just that unscrupulous? It sounds to me that you are assuming that the employers are irresponsible, that they do not want to take on their proper share.

Mr. WALKER. I am not assuming that at all. I am assuming that if you give them the kind of incentives that they have in the Rowland-Bilirakis bill that they will be very happy to step forward and do this and in fact will do much more than the initial estimates suggested. But right now we have provided disincentives within our State for that. We want to reincentivize the economy to allow employers to step up to that plate and we think that is possible, and you can do so without raising taxes, without cutting jobs, and without cutting wages.

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It seems to me that is the right thing to do. Let me yield to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. I think it is important for us to recognize that there are philosophical differences as to what the role of Government should be in private industry, in health care, in individual people's lives. I think that less Government is better Government. I think often the Government goes into this picture of the struggling middle class who wakes up in the morning and hopes Government will do something for him or her, and I find that kind of like getting fish out of the water to keep them from drowning when the Government gets involved. I do not think the middle class sits forlornly and says only the Government is going to get me out of this one.

You know we have a good bill that does not turn health care over to the Government in the Michel bill.

But there is also the bipartisan Rowland-Bilirakis bill with many of the same things like eliminating preexisting illness, doing away with some of the antitrust problems with the hospitals and health care providers, some tort reform and no tax increases.

But there are philosophical differences here, and really what we are debating as much as anything is that there are good alternatives here. There are two fundamental questions to health care. First, who is going to run it? In the Gephardt bill it already says the Government is going to run it in its entirety because that is the bottom line of universal care. The second question is, Who is going to pay for it? The debate here tonight is really we are not willing to engage in the first question because we have already made up our mind and the other side of the aisle has made up their mind on that. But what we are talking about is who is going to pay for it, and that is why it is so important we talk.

Mr. BECERRA. Madam Speaker, will the gentleman yield?

Mr. WALKER. I want to do a summation and I am told I am down to about my last 3 minutes.

Mr. BECERRA. I will be brief.

Mr. WALKER. I yield briefly to the gentleman.

Mr. BECERRA. Madam Speaker, I think it is important to point out that the bills that the gentleman has referred to, all three gentlemen have referred to, the Republican proposals and the Rowland-Bilirakis bill do not cover anyone, in fact probably leave close to 25 million Americans without insurance, which means, as my colleague from Texas tried to point out, which means again middle-class taxpayers will again have the burden of the problem of paying for the health care costs for those uninsured.

Mr. WALKER. Let me say to the gentleman if I can just take back my time, we simply do not agree with that. That is your analysis of the bill designed to try to say that these bills are going to fail. I agree with what the gentlewoman from Texas told us here a minute ago, that employers, given the right incentives, will step up to the plate, and if they do, we will cover far more than the numbers of people the gentleman suggests in some of these wild kinds of figures that he gives us.

Mr. BECERRA. This is actual fact. If the gentleman will yield, there was a study done in New York based on incremental reform. This was done in New York which showed that very few people became insured. As a result, the middle-class taxpayer still held the burden of paying the bills for the uninsured, and that is what happens when you have 25 million Americans who remain uninsured. The middle-class taxpayer always has the burden.

Mr. WALKER. Let me say to the gentleman, there can be no study made of the Rowland-Bilirakis plan or the Michel plan because they simply were not introduced in this House until a couple of days ago. There is no way that there can be a study that covers all of the various component parts of those bills that we think add up to an incentive system. There is no plan across the country that does that. The gentleman simply does not have a study that is relevant to the plans that are before us.

Mr. BECERRA. We have a case study of New York, if the gentleman will yield.

Mr. WALKER. You have a case study of New York and a plan that is much different than anything that has been introduced in this House. So it seems to me it is not a relevant kind of program.

The point of this special order tonight, let me just make the point again, the point of this special order tonight is to suggest that you never get something for nothing. If the American people want to assume responsibility for their own lives, they do not want the Clinton-Gephardt plan because the Clinton-Gephardt plan is in fact more big Government interfering in their lives. The Clinton-Gephardt plan then not only interferes in their lives in terms of health care coverage, it takes money specifically away from them, and it does so in increased taxes that go across the board in many, many different ways. Those increased taxes will in fact not only come out of their pocketbook and reduce the amount of money that they have to spend on themselves, but it will in fact cut their jobs and cut their wages.

For most middle class Americans that I am aware of, the thing that they can ill afford at the present time is to have their taxes raised, their job cut and their wages cut. Yet those are the impacts of the Clinton plan on America.

We are simply suggesting that whatever good you hear about the things that you are going to get out of the plan, remember that there is a cost to the Clinton-Gephardt plan. The Clinton-Gephardt plan is aimed not at improving health care for most Americans, because most Americans are very satisfied with the health care that they now have. It is aimed at, as some people have mentioned here tonight, kind of spreading the cost, redistributing the money, and in the redistribution what they end up doing is raising taxes, cutting jobs and cutting wages.

Now I think that America has to make a choice. Middle-class America cannot afford to have their job cut, cannot afford to have their wages cut, and cannot afford to have their taxes raised. That is what the Clinton plan promises, and it is something which we think America needs to fully understand.

I yield briefly to the gentleman from Georgia.

Mr. KINGSTON. All I want to say is I think one of the big differences tonight is the figures of 25 million jobs, or uninsured people, or 100 million in costs, whatever. That is why I think it is in our own judicial interest to have a good process with a health care bill, with all of the facts and figures laid out on the table.

I also want to thank our friends on the other side of the aisle for joining us tonight. As your favorite talk show host, Rush Limbaugh says, it is like hitting the ball over the net without an opponent when you do not have anyone to talk to.

Mr. BECERRA. I thank the gentleman for yielding me so much of his time.

Mr. WALKER. I thank the gentleman.

THE CRIME BILL AND HEALTH CARE REFORM

The SPEAKER pro tempore (Mrs. THURMAN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 60 minutes as the majority leader's designee.

Mr. CLYBURN. Madam Speaker, I want to begin by thanking my fellow Members of the freshman class for joining me in this special order for the evening.

Madam Speaker, this week the hot topics on the minds of our constituents are the crime bill and health care.

The crime bill took a beating on the floor of this House last week, when its opponents voted against it on a rule.

The one-two punch was delivered by those who objected to the crime bill for one reason or another. Some said they voted against the rule because of the assault weapons ban. Others said they voted against the rule because the crime bill was laden with pork.

Let us take a closer look at these two so-called sticking points in the crime bill.

First, let us take up the argument against the assault weapons ban. When we here in the U.S. House of Representatives initially voted on the assault weapons ban back in May, my office was inundated with calls and letters from people who both supported and opposed my vote.

I received a lot of angry letters from gun owners and constituents who saw a vote for the assault weapons ban as a vote against what they view as their constitutional right to bear arms.

Let me say that this ban does not tamper with those rights. I support the second amendment and that for which it stands. The assault weapons ban prohibits the future sale of only 19 types of assault weapons, while protecting the right of the American people to own at least 650 other types of guns.

Let me also add that for every angry call or letter I received opposing my vote, I have received just as many calls in support of the ban. These calls are coming from people, who, like me are finding it difficult to understand why anyone would fight so hard to keep these deadly weapons on our streets.

As you know, Madam Speaker, I represent a mostly rural district in South Carolina. Unfortunately my district's demographics do not make it immune from the ravages of crime.

I remember back in January, when the President was winding up his State of the Union Address, a shoot-out was occurring at a college in my district. Two students were injured.

Earlier that day, a high school student lay dead in the hallway outside his classroom—shot by a fellow classmate with a .22-caliber semi-automatic weapon and a grudge to settle.

The student told police he purchased the gun for $90 from a man in a nearby apartment complex. I don't have to reach as far back as January to recall instances of violence involving semi-automatic weapons in my district. All I have to do is turn on the local news or open the local newspaper.

And all I have to do is listen to the constituents who talk to me when I go home to my district every weekend.

My constituents are becoming increasingly appalled by these violent acts. These are constituents who are afraid to leave their neighborhoods, attend community functions, or participate in family outings. These people, in short, have become prisoners in their own homes.

And what about our children? It breaks my heart to get letters like the ones I recently received from fifth grade students complaining about drugs and the rise of violence in their communities.

What do I say to youngsters who write to me asking for more jails in their communities? What do I say to youngsters who fear the rising tide of violence will engulf the Earth?

I would like to be able to say to them that Congress did its part by passing the crime bill, which represents the most comprehensive and balanced legislative initiative ever undertaken by the Congress to prevent crime and punish those who commit crime.

It is especially for these young people—our future—that I support a crime bill that will provide half of the 100,000 new officers to small cities and rural counties. Each State will be eligible for a minimum of 500 new police officers or equivalent sized grants.

It is for my frightened constituents that I support a crime bill that will work to combat drug trafficking in rural areas by authorizing $250 million for rural law enforcement agencies and specialized drug enforcement training for rural law enforcement officers.

These are the types of programs in the crime bill that have come under attack by some who see it as only so much pork.

Let us look more closely at this complaint. The crime bill went into conference at $27 billion and came out at $33 billion. Why? The crime bill was increased by $6 billion to provide more funds for police officers, FBI and drug enforcement agents, and local prosecutors, to combat violence against women.

In fact, 85 percent of the $33 billion in the crime bill is for police, Federal and State law enforcement, prisons, and detection facilities.

The so-called pork programs account for the other 15 percent. These programs were actually cut in conference by $478 million.

One so-called pork program in particular that has taken a severe beating from the opposition is the midnight basketball program, which has been allocated $7 million—a mere drop in the bucket when compared to the total $33 billion allocated for the crime bill.

I want to talk about midnight basketball, because the program has been ridiculed for being nothing more than a Government-funded recreational outlet for thugs.

To the young people who participate in and benefit from midnight basketball programs around the country, it is so much more.

A midnight basketball program has been operating in my district on the East Side of Charleston, SC since 1991.

The program began as a result of a resident's desire to participate in meaningful recreational activity in an area where residents are often stigmatized by the criminal activity occurring in their community.

This year, the Charleston Inner City Midnight Basketball Association ended its most successful season ever with a total of 530 inner-city youth participating in a program designed to build their self-esteem and character, and to enhance a dream that they can improve their lives.

These are children who did not get to go to summer camp, these are children who didn't get a summer job. These are children who are readily written off by the larger society because of where they live.

A program like the one in Charleston goes one step further. During the school year, many of these academically at-risk youngsters participate in the educational aspect of the program—Project Rescue.

According to the program's senior organizing director, the Rev. Dallas Wilson, thanks to Project Rescue, 11 midnight basketball participants will be attending prep schools this fall. Several are currently in college.

This program is heavily supported by the State and local community. But many more youngsters could benefit from midnight basketball and other so-called pork programs—that are instrumental in redirecting the energies of our young people away from the false attractions of drugs and crime and toward the positive lessons of team work, hard work, and school work.

Although crime is first up on our agenda, the health care debate still rages and we must not forget this legislation or the millions of American people it will affect.

In our country today, there are currently 37 million uninsured people in the United States. If we pass health care legislation without universal coverage, there is no way to guarantee that these Americans and their families will have health coverage they can never lose.

Take a look at this pie chart. It is a very simple chart and the message is very clear. The gold portion represents the 1.1 million currently uninsured Americans that will receive coverage under a plan with insurance market reforms. That's a very small piece of the pie.

If you look at the blue portion, you will see about 40 percent or 13.8 million of the uninsured Americans who will receive insurance when subsidies are added for low-income populations.

After taking these two pieces of the pie, there is still an enormous red slice containing 22.3 million Americans who will remain without health care coverage. This piece of the pie is too big to think we can get away with passing any kind of legislation with less than universal coverage.

In my State of South Carolina 406,632 working people do not have health care protection. Over 97,000 children do not have health care coverage.

These people are no different from the millions of others in our country who work hard to make a living for themselves and their families. They deserve affordable health care insurance that can never be taken away.

In my district alone, there are 94,000 people from working families who have no health insurance. This means, almost 79 percent of all of the uninsured in my district are from working families.

On top of this astounding figure—of the lucky ones who have coverage—33,000 people living in the State of South Carolina lose their health insurance each month. Of the uninsured in my district, 26,000 of these people are young children.

Madam Speaker, the uninsured are people just like you and me who may have unexpected medical emergencies and need attention in the middle of the night, the uninsured are persons who need preventive care, they are school-aged children who have ear infections, they are children whose required immunizations should be covered under their families health insurance plans.

Under a plan with universal coverage, 5,424 2-year-olds will have improved coverage for immunization in my district; 40,355 women will have better opportunities for breast cancer screening; 160,801 people will no longer have lifetime limits on their coverage, and, 84,632 people will no longer have preexisting condition exclusions in their insurance.

Madam Speaker, I remind you that these are real numbers, and there are real people behind the numbers.

I recently received this letter from a lady in Florence, SC. She is the mother of two children, one of whom has a pulmonary condition she has had since 3 months old. The daughter has never taken any medicine for her condition, nor does she require any special needs. In fact, she runs 3–5 miles a day.

This young woman's father purchased health insurance for their family while he was self-employed. However, the insurance offers no coverage whatsoever for their daughter, simply because of this preexisting condition.

This young woman is a college graduate, and doesn't have a full-time job yet. She maintains three part-time jobs—none of which offer her health insurance.

In other words, Madam Speaker, this is one of millions of deserving people who will gain health insurance with universal coverage. This is one of 1,142,949 South Carolinians with a preexisting condition who will not be discriminated against any longer if we pass comprehensive health care legislation with universal coverage.

As this debate continues, we hear from a lot of people on each side of the argument. We hear about how the elderly will be affected, the young mothers and children, and many other vital sectors of our population.

However, I believe we often overlook the monetary affects that what we do or don't do will have on the so-called middle class, the working people that make up the core of America, the ones that are currently insured.

If you are a middle class, working taxpayer, making between $20,000 and $75,000 a year in the Sixth Congressional District of South Carolina—or any other Congressional district in the country, for that matter; and if we pass a plan which covers only 91 percent, such as that under the Cooper, Managed Competition bill, you can expect to see an increase in your yearly premium.

Let us take a look at the figures on this chart.

The columns represent changes in health care premiums, if we only do incremental reform, as many opponents of universal coverage are advocating.

You can readily see that the biggest increase in premiums is the column which represents those who make over $30,000 but less than $40,000 a year. And if you make between $20,000 and $30,000 a year, you can expect an increase of over $200 per year in your annual premiums.

If you make over $40,000 a year, but less than $50,000, you will experience an increase of $137 per year. Under this plan, you will only experience a decrease if you make less than $20,000 or between $75,000 and $100,000 a year.

Now, I do not know about you, but to me and the people of my district, that could mean a car payment for those who make between $30,000 and $40,000 a year, or child care payments for those who make between $20,000 and $30,000 a year, and a college student's textbooks for those who make between $40,000 and $75,000 a year. In my district alone, this increase would hit 89,376 families. My fellow colleagues, I wager my bet that you have many people who fit into this average-American household category living in your districts as well.

This information, as you all can see, shows that the managed competition concept of health care reform delivers devastating body blows to middle-income Americans at almost every level.

If you are a middle-class, working taxpayer and we pass a health care reform bill with universal coverage, you can expect to pay less than you are currently paying for health insurance premiums each year.

Let us look at another chart, the other picture, if you please.

What you can readily see is that the same people who would see a dramatic increase in their premiums under the incremental reform plan would experience a large decrease in their annual premiums under universal coverage.

If you make between $30,000 and $39,000 a year, your savings could be as much as $165 each year. Again, that's $165 hard-earned dollars that you could save with universal coverage.

Under universal coverage, everybody in America making less than $100,000 a year will experience dramatic savings.

And those making over $100,000 a year would experience only a $210 increase in their annual premiums.

Health care reform, without universal coverage, will mean significantly higher—not lower—health care costs for middle-class Americans who presently have health insurance.

By implementing universal coverage, the increase in average premiums is averted because, not only would the sick and medically needy be included in the insurance pool, but also the young and healthy people who don't require as much medical service.

By including everyone, the people who don't regularly use the insurance services drive down the premiums for everyone.

Just think of this concept in simple terms. If the only people in the pool are the elderly and medically needy who require excessive amounts of medical attention, the premiums will be high because these "high use" patients will be supporting the costs of others just like themselves.

However, if universal coverage is implemented, many more young, healthy people will be in the insurance pool. When this diversity is reached in the pool, the picture is quite different.

The low use people who rarely use medical services will cause the costs to drop dramatically because the total dollar amount of medical care required by all of those in the pool is much lower. When this happens, the premiums dramatically go down for all of those in the pool. That's the beauty of universal coverage.

Besides, without universal coverage, young, healthy people will opt out of the insurance market when premiums are raised, thus causing higher premiums for the medically needy who remain.

Also, without universal coverage, many employers who presently provide health insurance for their workers are likely to reduce coverage or stop coverage altogether.

With 9 out of 10 insured Americans currently receiving health care through their employers, we cannot afford to risk reducing their share of health care coverage. When dealing with the employer share of the costs, it is important to notice the significant savings, once again, by passing health reform legislation with universal coverage.

Madam Speaker, we continually hear people from all walks of life ask: "Where is the promised middle-class tax cut?" I maintain it is right here in health care reform with universal coverage, and those of us who fail to recognize or acknowledge it are either shortsighted or a bit disingenuous.

The middle class of America is deserving of universal coverage and the men and women of this Congress, in my opinion, are duty-bound to grant it.

Madam Speaker, I thank you for allowing me and my colleagues the time to participate tonight in these special orders. As we contribute to this ongoing conversation for the Chamber where decisions affecting each and every one of us will be made in the coming days.

The mother who wrote me a letter from my district which I quoted from earlier, reminded me the America people hear lots of talk about health reform from both sides of the aisle—but she and her families and many others are ready to see some concern shown and pass universal health coverage.

Madam Speaker, with that I remind you and my colleagues once again, universal health care coverage which can never be lost should be guaranteed to every American, because there is no such thing as a lifetime guarantee of good health.

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Madam Speaker, I have with me tonight some others of my colleagues who would like to participate in this special order.

First I want to call upon the president of the freshman class for the first session, the Honorable EVA CLAYTON of North Carolina. Mrs. CLAYTON is going to share with us some of her feelings on the crime bill and what we ought to be doing. She is going to be followed by EDDIE BERNICE JOHNSON, the congresswoman from Texas, who, as many know, is a professional nurse. She is going to share with us some of her feelings about health care, and then we will move to Congressman HINCHEY, who will talk about whatever he wants to, but I think it will be health care.

I now yield to the gentlewoman from North Carolina [Mrs. CLAYTON].

□ 2100

Mrs. CLAYTON. Madam Speaker, I appreciate the fact that the gentleman from South Carolina [Mr. CLYBURN] has organized this special order, and, Madam Speaker, facts and figures have been tossed around during our debate on the crime package ad nauseam, but facts and figures are not the issues at hand here—the issues are the amount of crime and the number of young Americans at risk and how to fight crime.

In regard to crime, there are those in this Chamber that would like to have you believe that locking people up and throwing away the key is the toughest and most effective means of curbing crime, while prevention programs are just a waste of taxpayer dollars.

It is a myth that this crime bill has allocated most of its funds to social programs—more than $7 out of every $10 dollars in the bill is for law enforcement, prisons and detention facilities—not social programs.

Those same members would also have you believe that the Midnight Basketball Program especially is the most egregious waste of Federal money. That is simply not the case. For example, a midnight basketball league was awarded a Point of Light by then President George Bush in 1990.

A professor at the University of North Carolina, Chapel Hill, was kind enough to provide me with a copy of just-completed study on a Milwaukee midnight basketball league. The facts are: 74 percent of the participants feel that there are not enough recreational opportunities for children, teens, and young adults; 65 percent of the participants in the program believe that the league is helping to reduce crime in the community; and 78 percent of the participants feel that midnight basketball is a much-needed recreational outlet for young black men.

It has been documented that black youths under the age of 18 are the group most frequently involved in violent activity. Why should we not reach out to those youngsters at risk?

Many of the proposed prevention programs contained in the crime bill are already implemented and working on the State level.

According to the North Carolina Governor's Commission on Crime: The three different boot camps are working; the youth employment and skills program incorporated into the Cities in Schools Program is working, and anticrime youth councils are working.

These programs are making a significant difference. So why shouldn't Federal funds be allocated to programs that work? Being tough on crime and prevention programs are not mutually exclusive. It is possible to be strong, smart and tough on crime and support prevention.

It makes much more sense to nip crime in the bud through prevention programs, to get those young adults before they become criminals and are locked into the criminal justice system.

If we head the young adults at risk off at the pass through prevention programs, it just might be possible to help them to be productive, contributing members of society instead of people supported by society.

Mr. CLYBURN. Madam Speaker, I thank the gentlewoman from North Carolina [Mrs. CLAYTON] for that very insightful analysis of the prevention side of our crime bill.

☐ 2110

I think that you are right to raise an old adage that so many of us were raised on. I find it very strange sometimes that we tend to go off and get all of these degrees and all this learning, and really what is basic is what our grandparents taught us: An ounce of prevention is, in fact, worth a pound of cure. And if we can just apply that to those simple, everyday things that we do here in this hall, I do believe that we would come with much better legislation. And that is something that I hope we will apply to this crime bill. Thank you so much for your insight.

Let me at this time yield to the gentlewoman from Texas, the Honorable EDDIE BERNICE JOHNSON, who will talk to us a little bit about the second aspect, health care.

Ms. EDDIE BERNICE JOHNSON of Texas. Thank you, Mr. Leader of the hour, and Madam Speaker.

To my colleagues, let me just comment very briefly on crime before I move to health care. I represent District 30 in Dallas, TX. Our statistics indicate that crime is going down, but you cannot tell that by the newspapers. Every day most of the headlines have to do with crime, and they really are crimes committed by young people.

School has only been open less than 2 weeks now, and already teachers have had guns in their faces. They found a gun arsenal under the side of the building. It is overwhelming, but we must do something about it.

The presence of all these weapons and drugs and gangs will continue to terrorize our communities and our schools, unless we take a hand to do something about it. And if we do not put a hand in to alter this activity by young people, they will commit crimes with these weapons. That is a proven fact.

We are no longer safe in our homes. We do not even use parks anymore for what they were intended because no one feels safe walking through parks.

We simply must do something about crime, and it must be balanced.

We have to prevent, as well as punish and then treat, because we have learned that 70 percent of the crimes committed are committed under the influence of drugs. All of us know that the influence of drugs simply does not just disappear. It must be a treatment modality, and there must be after-care, and then there must be activities that will prevent the need to fall back into a gang and that environment that starts this cycle again and causes what we call recidivism.

We simply must do something about what is going on. We have that responsibility. We are responsible to the citizens of this country, and we must do something about it.

We must fund the additional police. You know, I used to fear policemen, before I got to know who they really were. Now I would not live in a neighborhood, on a block, that I did not feel had some attention from the police. They are really our friends. But we have put them out there with not much protection as well. We must have more, and they must be trained properly, and we must supply that need.

Our communities, our inner-cities, and our rural areas, are overcome with this influx of activity that they have not been accustomed to dealing with. The money that will help put the additional cops on the street, an almost 20-percent increase in the Nation's 504,000 local police officers, will go a long way in addressing this area.

I cannot understand why there is so much opposition and so much rhetoric and so much demagoguery surrounding the bill that will address these issues. It is unfortunate that the NRA has so many people hostage. It is almost like holding them hostage with a gun.

You know, I have noticed television recently with Charlton Heston, a very well-known popular actor, but, unfortunately, he does not have a clue about crime and how to fight it. His commercial, sponsored by NRA and the Republican party, is not only unbelievable, it is filled with untruths about funding police officers. It is unfortunate that we cannot tell the real truth to the public. But they are not fooling them. It is clear to me they understand very well about what is going on in their own communities.

So when we say all of this and we avoid the truth, we are simply fooling ourselves. The ban on assault weapons has been endorsed by every major law enforcement group in the country, and police across America report that semiautomatic weapons are the weapons of choice for drug traffickers and street gangs. There is really no real legal use for all of these handgun assault weapons. We must stop the flow. And the only way we can do that is take on our rightful responsibility.

People across America, police officers, ministers, students, are pleading for us to give them some attention.

You know, in my district was a 5-year-old boy sitting on his grandmother's porch one Sunday afternoon eating ice cream, and a stray bullet took his life away. And I received a letter from his aunt recently that pleaded for something to be done. She said I will never forget seeing my nephew. And more than that, I see my son every day, who is afraid every time he moves around. He will not go on the porch. He is afraid to go to school, because all he can think about is his cousin sitting innocently eating an ice cream cone and glancing up to take his last glance at his parents, and then being hit by a bullet and his life snuffed away.

I appreciate my colleague taking this time to address the issue of crime, and I would encourage all of my colleagues to let us have a swift passage of the crime bill. I do not agree with everything that is in the crime bill. Clearly no legislation that we pass do I agree with every bit of it. But that is the process we are in, and it is called a democracy.

Madam Speaker, I would like to include a statement by the African-American religious leader who supports the crime bill.

STATEMENT OF AFRICAN-AMERICAN RELIGIOUS LEADERS

Washington—The White House today released the following statement by African-American religious leaders supporting the crime bill.

"In the words of an African proverb 'It takes an entire village to raise a child.' We believe there is no more important responsibility of society than to raise its children to become upstanding adults. Parents and families must shoulder the burden of this duty, but all of society—including government—must pitch in. that is why we support the President's crime bill.

While we do not agree with every provision in the crime bill, we do believe and emphatically support the bill's goal to save our communities, and most importantly, our children.

We believe and support the $8 billion in the bill to fund prevention programs such as grants for recreation, employment, anit-gang and comprehensive programs to steer our young people away from crime.

We believe in drug treatment to help get federal and state inmates out of the cycle of dependency.

We believe in programs to fight violence against women.

We believe in banning assault weapons, and preventing these deadly devices from falling into the hands of criminals and drug dealers.

We believe in putting 100,000 well-trained police officers on the streets of our most violence-plagued communities and urban areas.

We believe in that 9-year-olds like James Darby of New Orleans, who was killed by a stray bullet only days after writing a plea to President Clinton to stop the violence, must have the opportunity to live and learn and grow in safe, decent communities.

For all these reasons, we support the crime bill and we urge others to join us in this crusade."

Charles Adams, National Progressive Baptist Convention, President, Detroit, Michigan.

Bishop H.H. Brookins, AME Denomination, Los Angeles, California.

Rev. Dr. Amos Brown, Third Baptist Church, San Francisco, CA.

Bishop E. Lynn Brown, Christian Methodist Episcopal, Los Angeles, California.

Rev. John A. Cherry, Full Gospel AME Zion Church, Temple Hills, MD.

Rev. Howard Chubbs, Providence Baptist Church, Greensboro, N.C.

Father George Clements, The Alliance for Rights and Responsibilities, Washington, D.C.

Bishop J. Clinton Hoggard, AME ZION Church, Washington, DC.

Rev. John Doggett, Superintendent, United Methodist Church, St. Louis, MO.

Rev. Jerry Drayton, New Bethel Baptist Church, Winston-Salem, N.C.

Rev. Walter Fauntroy, New Bethel Baptist Church, Washington, D.C.

Bishop Louis Ford, Church of God in Christ, Chicago, Illinois.

Bishop William Graves, Christian Methodist Episcopal Church, Memphis, Tennessee.

Rev. Joe Hardwick, Praises of ZION Baptist Church, Los Angeles, CA.

Rev. Calvin A. Harper, Morning Star Baptist Church, Cincinnati, OH.

Bishop Fred James, AME Denomination, Washington, DC.

Dr. T.J. Jemison, President, National Baptist Convention USA, Baton Rouge, LA.

Rev. E. Edward Jones, Galilee Baptist Church, Shreveport, LA.

Rev. Odell Jones, Pleasant Grove Baptist Church, Detroit, Michigan.

Rev. William A. Jones Jr., Bethany Baptist Church, Brooklyn, NY.

Rev. W.B. Lewis, President, North Carolina General State Baptist Convention, Raleigh, NC.

Bishop S.C. Madison, United House of Prayer, Washington, DC.

Bishop Haskell Mayo, African Methodist Episcopal, Fourth Episcopal District, Chicago, Illinois.

Rev. Randall McCaskill, Concerned Black Clergy of Philadelphia, President, Philadelphia, Pennsylvania.

Dr. John Miles, Morning Star Missionary Baptist Church, Kansas City, Missouri.

Rev. James E. Milton, Southern Baptist Church, Cincinnati, OH.

Rev. Dr. Frank Pinkard, Evergreen Baptist Church, Oakland, CA.

Bishop Norman Quick, Church of God in Christ, New York, New York.

Dr. W. Franklyn Richardson, General Secretary, National Baptist Convention USA, Mt. Vernon, NY.

Joseph L. Roberts Jr., Ebenezer Baptist Church, Atlanta, GA.

Bishop J.H. Sherman, Church of God in Christ, Charlotte, North Carolina.

Rev. Dr. E.E. Stafford, Mt. Tabor Baptist Church, Los Angeles, CA.

Rev. Charles Stith, Union United Methodist Church, Boston, Massachusetts.

Bishop Frederick Talbot, African Methodist Episcopal, Arkansas/Oklahoma.

Dr. M.T. Thompson, Berkeley Mount ZION Baptist, Berkeley, CA.

Wyatt T. Walker, Canaan Baptist Church, New York, NY.

Bishop George W. Walker Sr., AME Zion Denomination, New York, NY.

Bishop L.T. Walker, Church of God in Christ, Little Rock, Arkansas.

Dr. Kenneth Whalum, Olivet Baptist Church, Memphis, Tennessee.

Rev. Frederick Williams, Episcopal Church of the Intercession, New York, NY.

Bishop Milton Williams, AME Zion Church, Washington, DC.

You win some, and you lose some. But you try to do the best you can for the people of this Nation.

Now, Mr. Leader, I want to talk a bit about health care, and just a bit, because that is my profession. I could talk all night on health care. I want to talk a little bit about what was talked about earlier, and that is the overburden on businesses.

Mr. Leader, I believe that the Gephardt bill is giving an opportunity to businesses to take on their rightful responsibility. You know, I am a small business owner, and I could not afford a policy. After I paid worker's compensation in Texas, I could not afford a policy to cover my employees. I do not have more than 11. But with the insurance approach that is being offered by the Gephardt bill, an opportunity for small businesses to be able to afford to offer insurance coverage for their employees is the best opportunity that my small business has had.

You see, we understand clearly that when people have access to insurance, they will go for the preventive measures, they are in better health conditions, they are better workers, and they are more stable. Because when they come on to a job that does not offer insurance, they are constantly looking for another job. And they will not take preventive care, because they cannot afford it. All of us know that prevention is much less costly than sick care.

I am standing here because of prevention. You know, that is why I believe so much in research. I had a pap smear over 30 years ago that was positive, and I had surgery. It was a routine physical examination. But if I had not had that surgery, if I had not had access to going for a routine physical without it costing me more than I was making, I would not have had the opportunity to keep myself in good health by having early detection, early surgery, and then back to work.

If I had not had that surgery, I would have probably had to go through a long modality of some kind of chemotherapy, going through lots of misery, putting a lot of strain emotionally on my family, and then not being able to perhaps go back to work, and then maybe losing my life at a time when my young son was less than 3 years old. Then he would have had to grow up without a mother.

There is real value in having access to health care, health care coverage, for preventive measures.

□ 2120

Even young children that do not have immunizations against measles will cost. For every dollar that an immunization costs, we save $14, because if they do not have them, they are subject to be blind and all kinds of complications and side effects that might come from having measles.

It is so simple to me because I have lived the life of watching people be sick and be well, depending on what is offered to them. Clearly, we must move rapidly to address the issue of health care coverage for all Americans, and we certainly ought to see that the people who are working have an opportunity to have access to affordable health care coverage.

We are attempting to do that, and we hope that the big insurance companies and the big businesses that hire lots of people that do not pay them very much will not spend so many millions of dollars trying to sway the public away from health care reform. We simply must have it.

Mr. CLYBURN. Madam Speaker, I thank the gentlewoman so much for her very comprehensive talk on both crime and health care. I thought that crime would be 1 minute, but I wish she had taken the whole time for that since that is the most immediate thing upon us.

Let us move now to our distinguished colleague, the gentleman from New York [Mr. HINCHEY], for his remarks.

I yield to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Madam Speaker, I really appreciate the opportunity to spend this time with you and appreciate your yielding this time so that I can engage in this discussion with you about the two issues confronting the American people and the two issues which we are discussing this evening, which are, of course, our efforts to deal with the problems of crime as well as our efforts to ensure that every American has adequate health care coverage.

I would like to touch just very briefly on both of those subjects, following your example, but doing it in a much more abbreviated form. I think this crime bill, although as has been mentioned by previous speakers, it contains some elements which are questionable and, frankly, with which I do not agree, nevertheless, on balance, this crime bill makes an extraordinary contribution to our efforts to deal with the problem of crime in this country.

It does so, of course, in a variety of ways. It does it by increasing the number of police officers who will be available in our communities, whether those communities are urban communities or rural communities, such as the ones that you and I represent for the most part, although I do have some urban areas in my district as well.

The additional police officers which will be available through this bill will be available in both rural and urban communities. That, of course, is a major factor.

But quite frankly, the portion of the bill which intrigues me the most and which I think, frankly, is the most valuable is that which focuses on prevention, because as has been said here a number of times already this evening, prevention is much more appropriate, much more efficacious, it works much better than dealing with the problem after it occurs.

I learned that old axiom at my mother's knee, just as did you, an ounce of prevention is worth a pound of cure. That is true with regard to health care as it is true with regard to many of the kinds of social problems we face in this country, including and specifically, perhaps particularly, the problem of crime.

In the connection of this bill with its efforts at prevention, we have heard a lot of criticism about that particular aspect of the bill. As you mentioned in your address a little bit earlier, that aspect of the bill has been labeled pork. One wonders why. Because it is not that at all. It is simply an effort to direct resources at a serious problem in a way that is appropriate so that it can be dealt with effectively.

One of the aspects of this attempt at prevention which has gotten the most criticism is so-called midnight basketball. I would just like to read a statement that was made a couple years ago, in 1991, by President Bush. He said then, in 1991, President Bush said this:

> The founders of the midnight basketball program in Hyattsville, Maryland contribute to the struggle against crime and delinquency. This country is finally catching on to the fact that whenever drugs are involved, everybody loses. But here everybody wins. And some may get better at basketball, but everyone gets a better shot at life, every participant.

That particular point of view, I think, represents a much more enlightened attitude about the way that we need to deal with the crime problem that has been expressed by many of the Members of this House who are in the minority party in this Chamber.

I think that it is unfortunate that they did not learn more from President Bush while he was in office about this particular problem, because I think what he said there is really on target.

Prevention is what is important. If we spend a little bit of our energies and resources on preventing crime, then we are going to have to spend a lot less in the future on dealing with the problems of crime after they occur. I think that ought to be obvious to everyone.

I would like to turn for a couple minutes to the problem of health care. I would like to begin by saying that I was fascinated by the discussion that took place here earlier this evening, which was led by the deputy whip of the minority party, the gentleman from Pennsylvania, when they attempted to deflate the Gephardt health care bill, a bill which will provide universal health care coverage to all Americans.

Frankly, I could not help thinking that those Members who were trying to oppose universal health care coverage for all Americans here in this House this evening, as they have been for weeks and months and, frankly, over the course of the last year, that those folks who currently inhabit this House and who are opposed to universal health care are in a real way the philosophical and political descendants of a previous group of people who tried to defeat the passage of Social Security in 1935, who tried to defeat the passage of benefits for returning veterans after the Second World War, who tried to defeat the passage of Medicare in 1965. And some of the arguments that we have heard in this House against universal health care coverage resound in a very familiar way back and harken back to the kinds of arguments that were made against Social Security and against the GI bill and against Medicare coverage, health care coverage for older people in this country.

It is the same attitude. It is the same philosophy. And it is the same arguments that were used against those very important programs. But you can be sure that not one of them would have the audacity to stand up today and oppose Social Security or the GI bill or Medicare. No, they focus their attention now on what we are trying to achieve for people in this decade, the decade of the 1990's, the last decade of the 20th century, to try to ensure that every American, regardless of their stature, regardless of their station in life, regardless of their past experiences, regardless of what will happen to them in the future, will have good, solid quality health care.

I would like to read to you, if I may, an excerpt from a letter than I received recently from a constituent of mine.

He said, "Dear Congressman Hinchey, I am one of many Americans, after 32 years of employment with one company, terminated due to 'corporate downsizing.' As of today," he says, "I must convert to an individual health conversion policy. Under COBRA," which was available to him, of course, after he was laid off as a result of the corporate downsizing of his company, "I was paying a premium of $848 per quarter. My premium now," now that COBRA has expired for him, "will be $1661 per quarter. This is a 96-percent increase. I have been insured by the same company for almost 34 years and have had no major health problems. I am now facing one of the hardest decisions of my life, to pay the mortgage payment or the health insurance premium. This would not be a decision that citizens of most other countries would have to make. What has happened to the American dream?"

□ 2130

We talk about the 40 or so million people currently without health care in this country, but we ought to also recognize that every single day in this country someone else, large numbers of people, lose their health care coverage. They fall into the kind of condition that this gentleman finds himself in currently.

After paying into an insurance company for 34 years, without ever having any problems of health care, after having worked for a company for 32 years, giving his energy, his sweat, his intellectual and physical resources to that company, he has now been laid off, now been put out in the street, and he has to worry about whether he is going to spend what little resources he has left to keep a roof over his head for himself and his family, or use that money to pay the premiums on his health insurance so that if he gets sick or someone else in his family becomes ill, that they at least will have health coverage.

As he observes, that decision would not confront any other person in any other advanced, civilized country on this planet, and it ought not to afflict citizens of this country, either. We need to pass universal health care. We need to do it this term.

We need to have the courage and foresight that our predecessors in this House had when they passed Social Security, when they passed the G.I. bill, and when they passed Medicare. Those ought to be the banners which we follow. They ought to lead us on to overcome the unenlightened opposition which is offered by the minority party in this House, not all of them, but unfortunately, many of them, and which was exemplified by the discussion we heard earlier this evening.

I thank the gentleman very much for giving me this opportunity, and I think it is important that we get on with this work.

Mr. CLYBURN. Thank you so much, Mr. HINCHEY, for your contributions to this special order tonight. I think that on both counts they were very enlightened.

Madam Speaker, I would like to say, I do not think we have to go back to

Social Security and to Medicare and the G.I. bill in order to see the shortsightedness that we are getting from the other side. In fact, you need to only go back 1 year.

In fact, the same people who we heard here tonight talk about the dangers of the job losses that we will get if we do something about health care, those are the same people I think I heard in August of last year, who told us that if we pass the President's budget, that the economy would end up in the ditch; that in another year, we will all be back here doing something to get the economy going again, trying to bail the Nation out.

The fact of the matter is that anybody who can read and anybody who can see and feel, and especially those people who are going to work every day, we see that what has happened is the creation of now over 4 million new jobs. We see home building increasing, and we see that it is working.

In fact, I think I read, I think it was Al Hunt's column in the Wall Street Journal, and nobody can call the Wall Street Journal any kind of a fan of this administration or the party we represent, but the fact of the matter is, that they say it is working. So those people who last year said that we are going to have all these dire consequences, what we are finding this year is that they are passing it off, saying that this is a lucky President, and we are a lucky party.

I always learned that the harder you worked, the luckier you get. The fact of the matter is, this President works hard; he is visionary. This party is working hard to show leadership, and I think that you are right to talk about the history, but you do not have to go back that far.

Mr. HINCHEY. Will the gentleman yield?

Mr. CLAYBURN. I yield to the gentleman from New York.

Mr. HINCHEY. I just wanted to say how right you are. I remember that column on the op ed page of the Wall Street Journal a week or 2 ago by Al Hunt, and he made the point that you have just made so well: that those persons who are giving the same kind of argument about job losses with regard to the passage of health care, were trying to argue with us over a year ago when we passed the President's economic program, back last year, that we would see those same kinds of job losses, and we would see utter destruction of the economy coming about as a result of the passage of that economic program which was designed to reduce the annual budget deficit, and has succeeded enormously, and beyond even our expectations.

The budget deficit is down now substantially below even where we expected it to be as a result of the passage of that program; no job losses. As a matter of fact, there have been more jobs created across the country in the last 18 months than were created in the previous 4 years.

So the same kind of scare tactics that they are trying to use now against health care were used against us and against the American people a year ago when we, fortunately, had the ability as a party, without one vote from the other side, to pass an economic development program which has succeeded in reducing the annual budget deficit substantially, and placing this country and its economy back on a steady, level footing once again.

Mr. CLAYBURN. Thank you so much for joining me tonight.

EXAMINING THE CENTERPIECE OF THE CRIME BILL

The SPEAKER pro tempore (Mrs. THURMAN). Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 30 minutes.

Mr. MANZULLO. Madam Speaker, crime is serious. It is very serious in this country. We have been wrestling with a crime bill for some time in the U.S. Congress. It has been touted that the centerpiece of the crime bill are the cops on the beat and the prisons.

Tonight I want to take a look at this in depth, to describe exactly what this means. The crime bill states on its face that there will be 100,000 new cops on the beat, and they will be involved in community policing, but nowhere is community policing defined. The bill states what the cops must be doing. They must be involved in community policing, but we wrestle with the definition, and then find out in Title I, part Q, section F, "Technical Assistance," subparagraph 2, model, which states, "The Attorney General defines what is community policing," how it will be implemented. This means a Federal bureaucrat decides what a community means, as opposed to a community.

For example, cities may use the funds in the following ways: They can go to enhance police officers' conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community; to develop new technologies; to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime; and to develop and establish new manage administrative and managerial systems to facilitate the adoption of community oriented policing as an organization-wide philosophy.

Madam Speaker, this means that a Federal bureaucrat can tell local police officers how to resolve conflicts and solve problems. It also means a Federal Bureaucrat could tell a community that instead of apprehending criminals, it should be preventing crimes from taking place. Granted, both are necessary, but why should the Federal Government be involved in telling the police force what it needs to do?

Second, the bill sets up a quota system for hiring police. Section 1702(c)(11) states the hiring guidelines by the Attorney General must "provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within the sworn positions in the law enforcement agency."

That quota section speaks for itself.

Third, the Clinton crime bill provides only seed money for a community that wants to hire police officers. Here is the irony. For a community to get a grant to hire police officers, it must show a specific financial need. The grant runs out in equal stages over 5 years.

However, a community must also show that as a grant runs out in steps, the community must be able to afford to keep the cops permanently. This does not make sense. A community applies for a grant because it needs the money, but must show that as the money runs out, it has the financial ability to continue the program.

□ 2140

If a community has the money in the first place, then it could not receive the grant, yet it has to show it has the money in order to continue the program.

Fourth, the actual amount of money allocated in the crime bill for cops will hire 20,000 at most, not 100,000 cops. The reason is in the application. The Clinton administration itself estimates it will cost $75,000 per year to hire one cop. So if you stretch out the money allocated for the program over 5 years, it comes out to $14,500 per cop. That is why we have police officers all the way from down in Florida from a city that employs 17 police officers, to say that we are in a tight budget now, so why should we hire more policemen on this program when the money will be whittled away in a short period of time, essentially leaving us with an unfunded mandate? These are the words of Terry Chapman, acting police chief of the Brooksville, FL police department.

And Paul Logli, the State's attorney for Winnebago County, IL, which I represent, the county that leads the State in crime, and he is saying we have all these programs and yet the money that is held out is just seed money and after a few short years, it is reduced on a periodic basis, still leaving the city and the municipalities involved with the prospect of raising all this money, essentially an unfunded mandate, to keep the programs going.

Who runs community policing? Do local law enforcement agencies or social agencies? We have probably never heard this argument before. The application and the proposed statutory language show how little emphasis is placed on the crime rate in a community.

Here are some of the 11 mandatory requirements to get a grant. The police department has to have a long-term strategy that is devised not by the police but by "community groups and appropriate private and public agencies."

What does that mean? Those words are not defined. It means the Federal Government is saying the sheriffs and chiefs of police do not know how to use police officers but "community groups and appropriate private and public agencies"—which are never defined—do. And the police department has to identify related governmental and community initiatives which complement or will be coordinated with a proposal.

This is the United States Congress empowering the Attorney General and bureaucrats to micromanage local police departments. This application process demonstrates the hoops through which a municipality must jump to get the money that already belongs to the citizens.

Madam Speaker, there is no Federal money, only money provided by the ordinary taxpayer that is sent to Washington, legally shrunk and then waved by a Federal bureaucrat in the face of local officials who fight like heck to get back money that already belongs to them.

Sixth, to implement the cops on the beat, the bill states the Attorney General shall have access over the purpose of audit and examination to any pertinent books, documents, papers or records of a grant recipient under this part and to the pertinent books, et cetera or records of State and local governments, persons, businesses and other entities that are involved in programs, projects or activities for which assistance is provided under this part. "The Attorney General may promulgate regulations and guidelines that carry this out."

This is called red tape. This conceivably means that a businessperson who has a contrast with the local or State police could have their entire operations audited by the Federal Government if the law enforcement agency participates in this program.

What is the other half of the centerpiece of this crime bill? Prisons. The Clinton crime bill claims that $10.9 billion will be spent on building prisons. But a closer look shows that $2.2 billion is authorized but not funded. $8.7 billion would then be left allegedly for building prisons. However, $1.8 billion of that goes toward refunding States incarcerating illegal aliens. That leaves the bill with a total of $6.5 billion for prison construction. Or is it really for prisons?

Title 2 Prisons authorizes funding with the following language:

> The Attorney General may make grants to individual States and to States organized as multistate compacts to develop, expand, operate or improve correctional facilities and programs including boot camp facilities and programs and other alternative confinement facilities and programs that can free conventional prison space for the confinement of violent offenders to ensure that prison space is available for the confinement of violent offenders and to implement truth-in-sentencing of violent offenders.

At this point it appears the Clinton crime bill will allow the States to spend the prison money the best way the States see fit. However, a further reading of the bill shows the Federal strings attached to it. For example, if a State qualifies for assistance to build a prison, it must still come up with 25 percent of the funding.

The Federal Government must approve the manner in which the State prison is operated or in which the local jail that applies for these grants is operated.

From Section 20101, Grants for Correctional Facilities, B-4, the States must have a "comprehensive correction plan which represents an integrated approach to the management and operation of correctional facilities and programs which include diversion programs, particularly drug diversion programs, community correction programs, prison screening, security classification systems, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities, jobs skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance and an assessment of recidivism rates."

This means once the Federal Government gives money to a State to build that prison or to a locality to build a jail, then the Federal Government will determine through approving the comprehensive correctional plan the following: These are the new powers, the nine new powers of the Federal Government when it comes to these prisons.

No. 1. The Federal Government will determine, No. 1, how to manage and operate a correctional facility.

No. 2. The Federal Government will determine all the drug programs.

No. 3. The Federal Government will define and determine and make sure they are enacted a "community corrections program."

No. 4. The Federal Government will determine the security systems of the State and local secured facilities.

No. 5. The Federal Government will set forth the requirements and oversee and approve the training of officers who work with violent offenders.

No. 6. The Federal Government will determine the prisoner rehab programs.

No. 7. The Federal Government will determine prisoner work activities. That is, the daily life of a prisoner.

No. 8. All job skills programs and educational programs must be approved by the Federal Government.

No. 9. The Federal Government must determine the prisoner pre-release programs. That means that the strings that are attached by the Federal Government as the price for a State receiving money which already belongs to it and as the price that a local government must pay to receive money that already belongs to it is that it is turning over the local correctional facilities and the State correctional facilities to the fiat of the Attorney General and her bureaucrats.

That is not all of the prisons program. There is something called the Task Force on Prison Construction Standardization and Techniques, Section 20406 C-1.

The Federal Government now determines how the State prison is built or how the local jail facility is built and dictates the materials. This task force is comprised of Federal bureaucrats and engineers, architects, construction experts to come up with a performance requirement. The task force shall work to "establish or recommend standardized construction plans and techniques for prison and prison component construction."

That is the money that goes to a local sheriff that wants to expand his jail. That is the money that goes to a Governor that wants to expand the prison system. The price for it is the federalization of all correctional facilities that receive this money. Arguably you do not have one comprehensive plan for part of a jail that does not receive Federal money and another correctional plan for the other part that does receive the Federal money. That means the Federal Government will now be in the business of running all State and local prison and jail facilities. That has never been brought out in this Congress before. The reason is in the reading of the bill where the red tape and the strings comes, somebody in Washington has made a determination that the Attorney General knows better than all 50 Governors, than all 50 State legislatures, than every single sheriff and every single county administrator in the United States.

□ 2150

That is the centralization of power in the Federal Government, and that is what is wrong with the two very centerpieces of this Clinton crime bill.

How do we fight crime? We passed today a measure, very quietly passed by an overwhelming majority in the grants and the appropriations for Commerce, State and Justice. We were contacted several months ago by the State Line Area Narcotics Team that operates in the counties, the rural areas of Winnebago County and Stevenson County, Boone County and up into one county in Wisconsin called Monroe. We were told that this group called the State Line Area Narcotics Team, SLANT, that the money that they were receiving under the Edward Byrne fund that coordinates all of the different agencies to fight narcotics on the local level, that this program had been eliminated in the budget plan of President Clinton, and it became our passion in my office to work very diligently and very hard to restore that, because the Federal Government's role in crime is very limited. Think about it: Interdiction of drugs at the borders, working with multijurisdictional task forces on following those drugs as they come over the borders and go into the hands of the individuals. Here was an area where if we could stop the flow of drugs into Winnebago and Boone and Stevenson County, if we could do that, then Winnebago County, IL, which leads the State in violent crimes, Winnebago County, where 65 percent to 75 percent of the violent crimes are the result of people involved in drug trafficking, whether they are trying to buy the drugs or sell the drugs or being used for their ingestion, or being shot as a result of the underworld activity of drug traffickers. And we wrote letters and succeeded to get that money put back in.

Today I talked with Capt. Earl Hernandez of Rockford, talked to him on the telephone and I said, "Captain, today the crime bill was passed. There was no fanfare. Today this crime bill was passed called, in a not very glamorous term, the annual appropriations bill to fund the Departments of Commerce, Justice and State."

That bill allows the hiring of 400 new FBI agents, the transfer of some 600 desk agents to the field. This bill increases funding for the Drug Enforcement Agency. The appropriation will allow the DEA to hire 300 new agents. The increased funding for the FBI and DEA will allow them to hire up to their 1992 levels, making them more effective crime fighting tools. And the bill increases funding for almost all areas within the Justice Department, the Judiciary, from the U.S. Marshal Service to the courts of appeals, district courts and other judicial services. The report expands the Edward Byrne formula grant program.

Programs funded by the Byrne program include State and local prosecution initiatives, innovative programs that attack drug use and violent crimes and multijurisdictional programs, an example being State and local police officers working with State troopers.

As we talked, Captain Hernandez said, "Congressman, thank you. Thank you for voting to give us local law enforcement officers the tool of our choice to go after these drug people."

Madam Speaker, look at the results of what this organization has done in 4 years, in 4 years working in three counties, mostly in rural areas. The total number of new drug investigations, 708; total of arrests for delivery of cocaine, 253; total arrests for possession of cocaine, 135; total of arrests for delivery of cannabis 114; total of arrests for possession of cannabis 78. Listen to this: Cocaine seizures in grams, 44,260; street value of cocaine seized, $10,622,400. Cannabis seized in grams, 542,000; street value of cannabis seized, $4,340,000.

The report from Captain Hernandez says none of these cases, 708, would have been investigated, none of these people, 580, would have been arrested, none of the cocaine, 44,260 grams or cannabis 542,547 grams, would have been accomplished without this multijurisdictional effort that we call SLANT.

The bill that passed today will not make the headlines, and the Captain Hernandezes will not be quoted in newspapers, not really. They are the heroes. They are on the front lines. They see exactly what is going on.

You know it is amazing that it is people like this, people like this that have the opportunity to know firsthand. These are the ones that should be defining exactly what programs that they need.

If you take the crime bill and break it out in its most simple terms and say if we are going to give money to the local and State law enforcement authorities, then block grant it out. Let the Earl Hernandezes determine how to spend the money. Yes, let Terry Chapman, acting police chief of Brookville, FL Police Department which employs 17 police officers, let him determine how that money is used. And yes, let us take a look at Paul Logli. Paul Logli is the State's Attorney, Winnebago County at large, the county that leads the State in terms of high crime. And Paul Logli says yes, we need cops, we need the system fixed. There are plenty of things that we need, but we do not need the Federal Government to tell us how to run our law enforcement agencies. We do not need the Federal Government determining the hoops through which we must jump. We do not need these things. We simply need to have the ability to use the money that already belongs to us.

Madam Speaker, that is really what the crime bill is about. When I was in law school, actually undergraduate at the American University here in Washington, there was a professor of constitutional law who used to ask the same rhetorical question. I think he got it from the ancient days in Greece when parading before the courts of justice the lawyers would carry these signs. It was actually the Latin courts in Rome. Written on these signs would be these words in Latin: Cui he produs, in whose interest is this trial being directed.

□ 2200

And this professor of constitutional law used to ask the same rhetorical question: What is the locus of sovereignty? And I sat there for months before I came to the realization that here was a man earnestly seeking to define the role of the Federal Government in its relationship to the States and the localities vis-a-vis the tender working relationship of the inner workings as it were of the 9th and 10th amendments of the U.S. Constitution. And after prodding with that question, "What is the locus of sovereignty," I came to the conclusion that the locus of sovereignty is not the State Government, it is not the local government, it is not the Federal Government. The locus of sovereignty is the people. It is the people that elect me to represent them, the 600,000 people in the 16th Congressional District of Illinois and the 600,000 or so people in the 434 other congressional districts. But ultimately it is the people who are sovereign, because they determine the governments, and they can bring down a government every 2 years through turning over of a majority or all of the Members of the House of Representatives.

That constitutional argument rings true today. What is the locus of sovereignty? And the issue is who knows best about how to fight a local problem. Does the Attorney General? Certainly not the CIA with the horrible Ames scandal, with a Benedict Arnold living in its midst, driving a fancy sports car, living in a half-million-dollar home, spending money like crazy to pay off credit card bills, in charge of a sensitive area of counterintelligence in Europe, nobody checking on him, a man personally responsible for the deaths of at least 10 people worldwide.

And do we really want the local police chiefs and the sheriffs, do we really want them to concede the authority that they have, to cede the authority that has been given to them by the people to the Attorney General and to the bureaucrats that operate under her? Do we really want a Government, a U.S. Government, that determines the manner of operation of local jails? Do we really want a U.S. Government, as determined by the Attorney General, that tells local police chiefs the manner in which they must train and recruit and equip the officers that work for them?

That is what is wrong with this crime bill. It is fatally flawed because of the philosophy behind it, and the philosophy behind it says Washington knows much better than Rockford, IL, and Washington knows much better than this little town in Florida, the little town of Brooksville, FL, on how to run the system of government.

The locus of sovereignty is with the people, and that is where the decisions must be made in the effective war against crime.

Mr. BECERRA. Madam Speaker, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from California. I thank the gentleman for his patience. You have been sticking around here all night, have you not?

Mr. BECERRA. Madam Speaker, I have been here listening intently to much of what has gone on today, and I listened intently to what the gentleman had to say. I wonder if the gentleman would allow me to ask him a couple of questions, because he went into great detail about the crime bill. I think that is good, because the American public often wants to know the guts of what we are talking about in the different bills, whether it is health care or crime.

Is the gentleman suggesting that he is opposed to the idea of putting cops on the street as the President has proposed or providing additional funds for incarceration or building prisons as the President proposed, or is it more the details of the crime bill with which he objects?

Mr. MANZULLO. The devil is always in the details. The issue here is this, if we are saying let us put cops on the beat, give a community grant and say, "If you need detectives, hire detectives."

Let me read a quote here. This was also from a group in Florida, the Hillsboro sheriff, Cal Henderson, a Democrat, he likes what is in the bill, but he does not agree, he likes some of what is in the bill, but he does not agree with the centerpiece, 100,000 officers. He says, "At this point, the most important thing is the prison beds and juvenile detention facilities." His deputies are arresting the same offenders over and over. He said more deputies made more arrests, but no real change, no real impact. "Give me a break," says Manatee Sheriff Charlie Wells, a Republican, "100,000 police to arrest people to put them where?" Put them where? I mean, Washington cannot determine the needs of a local police force. That is the whole point.

Mr. BECERRA. To my question, it is not the gentleman objects to the idea that the President has of putting more cops on the beat or providing more funds for prison construction, it is the details and the way the conditions, perhaps, arose that are imposed in the bill in trying to implement those particular programs, in that sense?

Mr. MANZULLO. What I am opposed to is the presumption of the U.S. Congress that it knows the needs of a local police department in trying to combat crime. That is the primary opposition.

Let me follow that through with an answer, because as you see by all the comments from these, the different principles involved, they may not need police. They may not need prisons. They may need other backup personnel. But we are determining the needs of the local communities, and that is what is wrong about it.

Mr. BECERRA. But in terms of the programs themselves, community policing, helping provide more community police.

Mr. MANZULLO. Can you define community police? It is not defined in the bill.

Mr. BECERRA. That is because the local government, the police department, is allowed to define what a local community police officer will be which goes to your point about trying to provide local control.

Mr. MANZULLO. We are out of time. Let me thank the gentleman, thank him very much, and I would state in conclusion that the community policing definition is not included in the bill.

Mr. BECERRA. I hope the gentleman does support the concept of community police and more money for prison construction.

Mr. MANZULLO. We can go on and on. I support the concept of letting the local police departments determine what their needs are and letting the U.S. Congress give them the money to spend the way they determine it.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today through August 26, on account of official business in the district.

Mr. CLEMENT (at the request of Mr. GEPHARDT), for Thursday, August 18, on account of official business.

Mr. MCDADE (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. SAXTON, for 5 minutes, today.

Mr. TAYLOR of North Carolina, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. ISTOOK, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. KREIDLER, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. FINGERHUT, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BECERRA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. THOMAS of California.
Mr. CALVERT.
Mr. BALLENGER.
Mr. PACKARD.
Mr. KASICH.
Mr. BEREUTER.
Mr. DORNAN in three instances.
Mr. SOLOMON in two instances.
Mrs. MORELLA.
Ms. MOLINARI.
Mr. SHAYS.

(The following Members (at the request of Ms. DELAURO) and include extraneous matter:)

Mr. BROWN of California.
Mr. HAMILTON.
Mr. KILDEE.
Mr. NEAL of North Carolina.
Mr. LANTOS.
Mr. LIPINSKI in three instances.
Mr. MANN.
Mr. BONIOR.
Mr. ENGEL.
Mr. STARK in two instances.
Ms. LONG.
Mr. FAZIO.
Ms. ROYBAL-ALLARD.
Mr. SYNAR.

(The following Members (at the request of Mr. MANZULLO) and to include extraneous matter:)

Mr. PAYNE of Virginia.
Mr. BARCIA of Michigan.
Ms. VELÁZQUEZ.
Mr. GINGRICH.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes; to the Committee on Public Work and Transportation.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2947. An act to amend the Commemorative Works Act, and for other purposes; and

H.R. 4790. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

ADJOURNMENT

Mr. MANZULLO. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, August 19, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3719. A letter from the Acting Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1999 resulting from passage of H.R. 4429, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3720. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period April 1, 1994, through June 30, 1994, pursuant to 2 U.S.C. 104a. (H. Doc. No. 103–294); to the Committee on House Administration and ordered to be printed.

3721. A letter from the Comptroller General of the United States, transmitting the ninth report on the assignment or detail of General Accounting Office (GAO) employees to congressional committees as of July 8, 1994; jointly, to the Committees on Appropriations and Government Operations.

3722. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report required by section 508 of the FREEDOM Support Act, pursuant to 22 U.S.C. 5852; jointly, to the Committees on Foreign Affairs and Appropriations.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

Referral of H.R. 2680 to the Committee on Government Operations extended for a period ending not later than September 23, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. MARGOLIES-MEZVINSKY:

H.R. 4984. A bill to amend the Solid Waste Disposal Act to regulate the use of hazardous waste as fuel for energy recovery, the operation of cement kilns that burn hazardous waste as fuel, the disposal of cement kiln dust waste, and related activities; to the Committee on Energy and Commerce.

By Mr. BARTON of Texas:

H.R. 4985. A bill to prohibit aircraft from flying over The Ballpark in Arlington, in Arlington, TX, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JEFFERSON:

H.R. 4986. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal hours of limitation; to the Committee on Ways and Means.

By Mr. KIM (for himself, Mr. COX, Mr. DORNAN, Mr. PACKARD, and Mr. ROYCE):

H.R. 4987. A bill to authorize the Secretary of the Interior to participate in the construction of the Orange County Regional Water Reclamation Project; to the Committee on Natural Resources.

By Mr. REGULA (for himself and Mr. HUGHES):

H.R. 4988. A bill to provide for a 4-year demonstration project under Medicare which shall establish a preventive health care screening examination program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TRAFICANT (for himself, Mr. MINETA, Mr. SHUSTER, Mr. DUNCAN, Mr. HYDE, Mr. HASTERT, and Mr. GINGRICH):

H.R. 4989. A bill to designate the Federal building and United States courthouse located at 100 Northeast Monroe Street in Peoria, IL, as the "Robert H. Michel Federal Building and United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. CAMP:

H.R. 4990. A bill to amend title 10, United States Code, to require the Secretary of Defense to establish a commission to collect and investigate reports by members of the Armed Forces of illnesses incurred during or shortly following their service in combat zones during a war on contingency operation; to the Committee on Armed Services.

By Mr. INSLEE:

H.R. 4991. A bill to provide that Oregon may not tax compensation paid to a resident of Washington for services as a Federal employee at a Federal hydroelectric facility located on the Columbia River; to the Committee on the Judiciary.

H.R. 4992. A bill to accept redesignation by the Yakama Tribal Council of the name Confederated Tribes and Bands of the Yakima Indian Nation to the "Confederated Tribes and Bands of Yakama Indian Nation" to conform to wording of the Treaty with the Yakamas; to the Committee on Natural Resources.

H.R. 4993. A bill to authorize the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, Washington, for certain lands owned by Public Utility District No. 1 of Chelan County, WA, and for other purposes; to the Committee on Natural Resources.

By Mr. SYNAR (for himself, Mr. BUNNING, Mr. OWENS, and Mr. BILIRAKIS):

H.R. 4994. A bill to apply the antitrust laws of the United States to major league baseball; to the Committee on the Judiciary.

By Ms. MOLINARI (for herself, Mr. BAKER of California, Mr. CAMP, Mr. HOEKSTRA, Mr. KING, Mr. LEVY, Mrs. MALONEY, Mr. McCRERY, Mrs. MORELLA, Mr. QUINN, Mrs. ROUKEMA, Mr. SANDQUIST, Mr. TORRICELLI, Mr. TRAFICANT, and Ms. VELÁZQUEZ):

H.J. Res. 403. Joint resolution to designate October 1, 1994, as "National Incest and Sexual Abuse Healing Day"; to the Committee on Post Office and Civil Service.

By Mr. STUPAK:

H.J. Res. 404. Joint resolution designating March 26, 1995, as "Native American Heritage Day"; to the Committee on Post Office and Civil Service.

By Mr. KNOLLENBERG (for himself, Mr. SOLOMON, Mr. McCOLLUM, Mr. KIM, Mr. HOEKSTRA, Mr. BARTLETT of Maryland, Ms. MOLINARI, Mr. WALKER, Mrs. MEYERS of Kansas, Mr. CRAPO, Mr. SAM JOHNSON of Texas, Mr. UPTON, Mr. BALLENGER, Mr. TORKILDSEN, Mr. EVERETT, Mr. STUMP, Mr. KLUG, Mr. HOBSON, Mr. FIELDS of Texas, Mr. DORNAN, Mr. EWING, Mr. CANADY, Mr. KINGSTON, Mr. McKEON, Mr. LEWIS of Kentucky, Mr. HORN, Mr. WOLF, Mr. ROYCE, Mr. SMITH of Texas, and Mr. INGLIS of South Carolina):

H. Res. 525. Resolution expressing the sense of the House of Representatives with respect to welfare reform legislation; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. HOAGLAND.

H.R. 291: Mr. SANTORUM.

H.R. 799: Mr. POMEROY.

H.R. 966: Mr. NADLER.

H.R. 1500: Mr. KLEIN, Ms. FURSE, Mr. PALLONE, Mr. ACKERMAN, and Mr. GORDON.

H.R. 1509: Mr. MANTON.

H.R. 1600: Mr. SAXTON.

H.R. 1671: Mrs. MALONEY.

H.R. 1840: Mr. MILLER of Florida.

H.R. 1897: Mr. HALL of Ohio and Mr. GEJDENSON.

H.R. 1928: Mr. McCOLLUM.

H.R. 2113: Mr. CALVERT.

H.R. 2229: Mr. MINETA and Mr. VENTO.

H.R. 2663: Mr. MILLER of California.

H.R. 2717: Mr. MANZULLO.

H.R. 2898: Mr. VENTO.

H.R. 3005: Ms. MOLINARI.

H.R. 3250: Mr. CANADY.

H.R. 3261: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TORRES, Mr. BRYANT, Mrs. FOWLER, and Mrs. BENTLEY.

H.R. 3293: Mr. THOMAS of Wyoming.

H.R. 3348: Mr. UNDERWOOD.

H.R. 3363: Mr. ACKERMAN.

H.R. 3421: Ms. MOLINARI.

H.R. 3491: Mr. ZELIFF.

H.R. 3538: Mr. PASTOR, Mr. PORTER, and Mr. RUSH.

H.R. 3646: Mr. HILLIARD, Mr. BARRETT of Nebraska, Mr. DIAZ-BALART, Mr. CRAMER, Mr. STEARNS, Mr. GILLMOR, Mr. BACHUS of Alabama, and Mr. SENSENBRENNER.

H.R. 3695: Mr. ROYCE.

H.R. 3762: Mr. KIM and Mr. UNDERWOOD.

H.R. 3812: Mr. BACHUS of Alabama.

H.R. 3854: Mr. KANJORSKI.

H.R. 3951: Mr. PASTOR.

H.R. 4000: Mr. GOODLATTE and Ms. ENGLISH of Arizona.

H.R. 4069: Mr. INGLIS of South Carolina and Mr. FOGLIETTA.

H.R. 4070: Mr. INGLIS of South Carolina and Mr. FOGLIETTA.

H.R. 4071: Mr. INGLIS of South Carolina and Mr. FOGLIETTA.

H.R. 4095: Mr. ROBERTS.

H.R. 4142: Ms. VELÁZQUEZ, Mr. VENTO, Mr. THOMAS of California, Mr. MCNULTY, Mr. MARKEY, Mr. WATT, Ms. FURSE, Mr. HUFFINGTON, and Ms. ROYBAL-ALLARD.

H.R. 4178: Mr. DOOLITTLE.

H.R. 4179: Ms. CANTWELL.

H.R. 4251: Mr. HASTERT.

H.R. 4343: Mr. WOLF.

H.R. 4412: Mr. BARLOW and Mr. CHAPMAN.

H.R. 4491: Mr. CALVERT and Mr. BACHUS of Alabama.

H.R. 4514: Mr. CALVERT and Mr. POMBO.

H.R. 4546: Mr. RANGEL.

H.R. 4566: Mr. SENSENBRENNER and Mr. ZIMMER.

H.R. 4592: Mr. POMBO.

H.R. 4654: Mr. HASTINGS.

H.R. 4698: Mr. VENTO.

H.R. 4708: Ms. ROYBAL-ALLARD.

H.R. 4765: Mr. SHAYS.

H.R. 4831: Mr. WILSON and Ms. MOLINARI.

H.R. 4846: Mr. VALENTINE.

H.R. 4919: Mr. ZIMMER, Mr. VISCLOSKY, and Mr. ROEMER.

H.R. 4940: Mr. REED.

H.R. 4951: Mr. DORNAN.

H.R. 4952: Mr. DORNAN.

H.R. 4953: Mr. DORNAN.

H.R. 4957: Ms. DANNER.

H.J. Res. 355: Mr. HAYES, Mr. DICKEY, Mr. STOKES, Mrs. UNSOELD, Mr. LAZIO, Mr. CONYERS, Mr. SHARP, Mr. BAKER of California, Mr. HAMILTON, Mr. FRANK of Massachusetts, Mr. OWENS, Mr. MOORHEAD, Mr. GRAMS, Mr. ANDREWS of New Jersey, Mr. BATEMAN, Ms. DUNN, Mr. LEVY, Mr. PASTOR, Mr. FILNER, Mr. MARKEY, Mr. JOHNSON of Georgia, Mr. MYERS of Indiana, Mr. CRANE, Mr. ABERCROMBIE, Mr. BILBRAY, Mr. SAXTON, Mr. WYDEN, Mr. NADLER, Mr. FRANKS of New Jersey, Mr. ENGEL, Mr. COYNE, and Mr. BLACKWELL.

H.J. Res. 381: Mr. OWENS, Ms. DELAURO, and Mr. ENGEL.

H.J. Res. 385: Mr. SERRANO.

H.J. Res. 399: Mrs. MINK of Hawaii, Mr. OWENS, Mr. JOHNSON of South Dakota, Mr. WYNN, Mr. BEVILL, Mr. HORN, Mr. MARTINEZ, Mr. BILBRAY, Mr. WOLF, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HASTINGS.

H. Con. Res. 173: Mr. LEACH, Mr. DOOLITTLE, Ms. MARGOLIES-MEZVINSKY, Mr. HANCOCK, and Mr. KIM.

H. Con. Res. 264: Mr. GINGRICH and Mr. GOODLING.

H. Res. 432: Ms. NORTON, Mrs. UNSOELD, and Mr. KLEIN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3222: Mr. GORDON.

EXTENSIONS OF REMARKS

HEALTH CARE REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. PACKARD. Mr. Speaker, President Clinton and the liberal leadership are launching an invasion on our medical schools. An army of new Government bureaucrats will decide the course of study for thousands of medical students.

Presently there are 72,347 medical students enrolled at America's 141 medical schools. These bright, young energetic students will lose their right to choose a career path.

Instead, under the Clinton-Gephardt health care reform scheme, a national commission will ration the number of medical students per school and decide what kind of medicine these students will study. The fate of thousands of medical students will rest in the hands of Government bureaucrats.

Mr. Speaker, the Clinton-Gephardt attack does not stop at the medical school door. Health care consumers will also feel the consequences of this new rationing system. We only need to look over our northern border to see the results.

Every day thousands of Canadians seek care in the United States because they are denied access to specialists. In essence, they are refugees of the Canadian health care system. Socialized medicine sabotages a patient's right to quality care.

If the Clinton-Gephardt bill is enacted, Americans will join the ranks of the socialized medicine refugees. What border will we have to cross to get the kind of health care we need?

As a dentist, I am aware of the vast opportunities the medical profession offers. The Clinton-Gephardt bill takes away that opportunity. The Government did not infringe upon my career choice. Do not let bureaucracy smother the aspirations and dreams of future medical students.

Mr. Speaker, I urge my colleagues to consider the Michel and Dole health care bills. We must protect the rights of our future health care providers. Do not let Government limit the choices and career paths of future medical students.

TENTH ANNIVERSARY OF ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to commemorate the 10th anniversary of the Illinois and Michigan Canal national heritage corridor.

Designated by Congress on August 24, 1984, the Illinois and Michigan Canal national heritage corridor extends from Navy Pier and Calumet Harbor in Chicago 120 miles to La Salle-Peru. Illinois, the sixth most populous State in the Nation, had no national park until the corridor's designation, which was seen as an innovative model for preserving the natural heritage of an urban area. The Illinois and Michigan Canal national heritage corridor was the first partnership park of its kind and is now a model for such parks throughout the Nation.

While significant strides have been made in preserving the corridor, much work remains to be done. Presently, the Illinois and Michigan Canal itself, a national historic landmark, is included on the Federal Government's list of endangered landmarks. Local funding efforts have been instrumental in enhancing the historical, natural, and recreational resources of the corridor. However, Federal investment for capital improvements remains an important objective. Federal funding would address some of the capital projects along the corridor and tie the region as a great urban cultural park.

I have introduced two bills designed to enhance and preserve the corridor. H.R. 1828 would provide Federal funding for capital improvements, define the eastern boundaries of the corridor and extend the National Heritage Corridor Commission for another 10 years. Another bill, H.R. 3999 simply defines the eastern boundaries of the corridor and extends the life of the commission.

In the last 10 years, we have seen significant progress being made along the corridor. The corridor's rich heritage and recreational opportunities attract countless visitors to the area and enhance the pride of local residents. The Illinois and Michigan Canal national heritage corridor is of great historical significance to the State of Illinois, as well as the Nation. We must continue to work to preserve this unique treasure for future generations.

RSVP PROGRAM IS SUCCESS IN ESSEX COUNTY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. SOLOMON. Mr. Speaker, there are a number of Federal programs that are inefficient, or just plain don't work. But let me say a few words today about one of the good programs, one which performs a vital service for an important segment of the population.

It is the Retired and Senior Volunteer Program [RSVP] in Essex County, which is funded by the National Community and Service Corp., and locally by Catholic Charities of the Diocese of Ogdensburg.

RSVP makes use of retired persons after 55 or older who still have enormous talents and energies to offer. These volunteers assist public and nonprofit agencies and licensed health care facilities in meeting urgent social needs. Their efforts are directed to older Americans who are frail, ailing, and homebound, and deal with such areas as nutrition, health, independence. They assist hospitals, nursing homes, schools, libraries, and a variety of other human service agencies.

Have they been successful? You bet! RSVP-Essex County has 530 enrolled volunteers, who have logged 68,500 hours annually. They serve at 74 agencies and organizations throughout the county. It's one of 38 such programs in the State of New York, with a total of 45,000 volunteers.

In Essex County, over 1,556 volunteers have joined this program since 1974, and contributed 788,860 hours of service.

Mr. Speaker, this is America at its best. It is an example of neighbor helping neighbor. The staff and all volunteers deserve our Highest praise.

RSVP-Essex County will be celebrating its 20th anniversary on September 15, and I would ask this House to join me in congratulating RSVP-Essex County for its 20 years of outstanding service.

BEYOND THE CALL OF DUTY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to bring attention to the extraordinary efforts of three young people who have selflessly donated the last few days of their summer vacation to the U.S. House of Representatives. I am referring to Caroline Andrews, Sarah Raimo, and Dan Malin.

As you may be aware, Mr. Speaker, the second session for our summer pages ended on Friday, August 12. Caroline and Sarah have gone above and beyond the call of duty, and volunteered to continue their dedicated service in the Democratic Cloakroom. As the only pages left in the House, they have also taken on a number of additional duties. They should be commended for their loyalty and spirit.

Finally, I would be remiss if I failed to mention the fine job Dan has done as a volunteer intern. He is a student at the Nichols School in Buffalo, NY, and his arrival here could not have been more timely. On behalf of my colleagues in the House, I would like to thank each of you for your help.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CONGRATULATIONS TO MRS. CARMEL DOYLE SLEVIN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. CALVERT. Mr. Speaker, the 20th century is rapidly drawing to a close. It has been a period of astounding change—an era that has seen more progress in more fields of human endeavor than all previous years of man's existence on Earth. And, if there is any one country that has shaped and molded the 20th century in its own image, it is the United States of America. Clearly, this has been an American century.

In just a few days—on August 23, 1994, a California woman who has lived in every decade of this American century will celebrate her 90th birthday. To truly understand the reasons for America's greatness, we must understand lives such as hers, because she personifies the American spirit and the American dream.

Mrs. Carmel Margaret Doyle Slevin was born in her mother's home in San Francisco in 1904. Teddy Roosevelt was President and most vehicles were described by the number of horses rather than the amount of horsepower.

At the age of 19, Miss Doyle took her first job as a schoolteacher. She had to commute by horseback to a rural school outside of San Francisco in the hills of San Mateo County. It was a one-room schoolhouse with children of all different ages.

But, Carmel was a city girl at heart and returned the next year to take a job teaching in her hometown. She passed the San Francisco city teacher's exam and taught from 1925–43, resigning to give birth to her second child.

During the 1940's, 1950's, and 1960's, Carmel and her husband, Edward M. Slevin, lived the American dream. They worked hard, raised a family and participated actively in their church and community. And, they made sure that their children, Edward J. Slevin and Patricia Carmel Slevin Mantoani, would have even greater opportunities than they had.

After her children were grown, Mrs. Slevin returned to teaching school, once again, sharing her knowledge and experience with a new generation of Americans. She continued teaching until required to retire at age 55.

Since the death of her husband in 1973, Carmel has kept active with the two most important things in her life—her family and her religion. She has eight grandchildren and 6 great grandchildren.

Mrs. Carmel Margaret Doyle Slevin has witnessed more change then most of us will have the opportunity to see. She rode on horseback to her first job and now watches space flights on television. She read about the horror of World War I, saw newsreels about World War II, and watched as the Vietnam war was fought in living color on her television.

But, we congratulate Mrs. Slevin on her 90th birthday, not because she has witnessed almost the entire American century, but because she has contributed so much of her talent and spirit to making the 21st century the next American century.

CONGRATULATIONS TO TULARE COUNTY DAIRY INDUSTRY: NO. 1 IN THE NATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. THOMAS of California. Mr. Speaker, I would like to congratulate the dairy farmers of Tulare County, CA, for realizing a significant accomplishment. Tulare County dairy farmers, through a blend of hard work, perseverance, and the use of modern technology, have become the Nation's leading milk-producing region. Making Tulare County's achievement even more significant is the instrumental role this accomplishment had in helping the State of California overtake Wisconsin as America's dairy land.

The reasons for Tulare County's rise to the top read like a typical American success story. Building upon an already strong base of 230 dairies in 1970, Tulare County now has 286 dairies. And using strong management practices, economies of scale, the most-advanced technologies, and taking advantage of favorable weather and local resources, the dairy farmers of Tulare County made the decisions and took the risks that led to the increase in their production. And what a record they have achieved. Tulare County dairy farmers have annual gross receipts of $455 million or about 15 percent of the State's total receipts of $3 billion.

But the good news does not end here. Based on the strength of the diary industry, several new large scale-milk processors have opened facilities in the county including the California Milk Processors, the State's largest milk cooperative and Kraft, which will soon complete a bulk cheese facility.

However, Tulare's accomplishment had not been made without the need to overcome several challenges including a statewide recession to roller-coaster prices for milk. But drawing on the strengths of the county, family-owned dairies and tightknit communities, Tulare County's dairy farmers were able to pool their resources during the tough times and ultimately persevere. The result is what we know today. Tulare County is the No. 1 milk-producing region in the county—no small achievement—because I know well the pride in which the Wisconsin delegation held that distinction. And if I know them, they will work hard to rebound. It is a challenge that I and the dairy farmers of Tulare County and the entire State of California look forward to meeting.

TRIBUTE TO WEBER BAKERY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today to offer my hearty congratulations to the Weber Bakery on the occasion of their 64th anniversary.

Weber's, founded in 1930 near 45th and Kedzie by German immigrant, Erich H. Weber, moved to 63d and St. Louis in 1937 and was a venerable member of the Chicago lawn business community until 1980. Erich H. Weber retired in the mid-1960's turning the business over to his son, current business president, Erich R. Weber. The senior Mr. Weber, 86, is living in retirement in Florida.

I first met Erich R. Weber in 1960, when I was a physical education instructor at Marquette Park. They sold the best hot dog buns in the world, and I would purchase them for the 350 youngsters in the Marquette Park day camp.

In 1979, the family decided to start a full-service branch in the thriving Garfield Ridge area and opened up at Archer and Nottingham. The Garfield Ridge Bakery located in the 23d ward of the city of Chicago, where I served as Alderman from 1975 to 1982. The Weber Bakery is also located in the Third Congressional District of Illinois, the district I have served since 1982.

After the Weber's closed their Chicago lawn shop, they poured all their energy into the Archer location, expanding, remodeling, and improving their property. In their years in the 23d ward and Third Congressional district, under the leadership of Erich R. Weber, the Webers have sponsored countless patriotic, cultural, and athletic events for the youth of the area. They have also contributed to senior citizens picnics, bingos, and awards programs. They have truly been outstanding citizens of the community. Their community involvement has helped the southwest side of Chicago become the garden spot.

Today, Weber's is managed by two of Eric R. Weber's sons, Michael and David. Like their father before them they literally grew up in the business, working weekends and summers learning the art of baking.

"We're very proud of our operation here, and we're proud that over the years we have expanded our offerings to meet the tastes of our many customers," states Michael Weber. "Our German specialties, as well as our Polish, Italian, and Mexican items, have proven quite popular with a wide audience."

On a personal note, I would like to add that the many conversations I have had with Erich and Michael Weber have been excellent informational experience for me. Those conversations have kept me informed on what was going on in the community, what the people were thinking and how government was affecting small business.

Once again, let me thank the Weber's for their total contributions to our community and congratulations on your 64th year in business.

TRIBUTE TO COMMEMORATE THE THIRD ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. BONIOR. Mr. Speaker, I rise today to commemorate the third anniversary of Ukrainian independence. To celebrate, members of the Ukrainian Cultural Center in Warren, MI, are hosting a commemorative and cultural program this Sunday evening, August 21.

Much has been achieved in the 3 years since the Parliament of Ukraine declared independence. Barely 3 months after the proclamation, over 90 percent of the population ratified the proclamation in a referendum. In the past year, parliamentary and presidential elections have been held. The people of Ukraine face many challenges; however, they are in the process of building a free and democratic society.

I believe the United States must reach out to the people of Ukraine. Americans can and should assist Ukrainians in their quest to build a prosperous free-market society. As a Member of the House of Representatives, I have worked to see that Ukraine receives a fair portion of the aid designated for the New Independent States. On a more personal level, I have worked with individual Ukrainians who have come to America to learn about our system of government and to acquire entrepreneurial skills. Ukrainian citizens have worked in my Washington and Mount Clemens offices studying the American political system. I have been fortunate to have the opportunity to provide assistance with the exchange program between the Lvov Institute of Management and Wayne State University. Currently, I am making arrangements for Ukrainian students participating in this M.B.A. program to spend time with small business owners in Michigan. I encourage all Americans committed to Ukraine's future to participate in these types of one-on-one experiences. These efforts will undoubtedly make an important impact on Ukraine.

On the third anniversary of Ukrainian independence, Ukrainian-Americans share in the joy of a free Ukraine. I ask that my colleagues join me in saluting the Ukrainian Congress Committee of America and the Ukrainian American Coordinating Council for their vigilance through the many difficult years, and for organizing and hosting this commemorative cultural program.

SENIOR COMPANION PROGRAM IS GREENE COUNTY SUCCESS STORY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. SOLOMON. Mr. Speaker, there are a number of Federal programs that are inefficient or just plain do not work. But let me say a few words today about one of the good programs, one which performs a vital service for an important segment of the population at a reasonable cost.

I'm speaking about the Senior Companion Program, which has brightened the lives of both the volunteers and those whom they have served in Greene County in upstate New York since 1989.

The Senior Companion Program consists entirely of volunteers aged 60 or over. They provide a variety of services that professional, full-time health-related agencies would be hard-pressed to offer. For example, many volunteers simply provide companionship, keeping an eye on home-bound older Americans, many of whom no longer have living relatives. These volunteers often become advocates and advisors for their charges, informing them about available services and helping them enroll in other programs. Or, volunteers might give family members responsible for an ailing relative a few hours of relief. Some even do some light housekeeping chores, or help with managing household budgets.

Invariably, solid friendships are often formed between volunteers and the beneficiaries of this program. Many even spend holidays with them.

The volunteers get a great deal of satisfaction, Mr. Speaker, from their participation in this program, and so does the entire community. Imagine how far this program goes in cutting down the cost of home health aids and other expenses, which can be prohibitive.

Beyond that, Mr. Speaker, I can think of few things more all-American than this program, which features neighbor helping neighbor.

The Senior Companion Program of Greene County will be holding its annual recognition luncheon on September 6, and I'm looking forward to being there.

Meanwhile, Mr. Speaker, I would like this House to commend Terry La Sala, program director, whose enthusiasm and dedication are such important factors in the program's success, and everyone else affiliated with this effort. Thanks to such people, the Senior Companion Program has become a success story of which we can all be proud.

HONORING THE LIBERATION OF MAASTRICHT, HOLLAND

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. ENGEL. Mr. Speaker, I wish to call to the attention of the U.S. Congress a special group and its celebration of a historic event.

This September marks the 50th anniversary of the liberation of Maastricht, Holland, by elements of the 30th Infantry Division of the U.S. Army. The city of Maastricht was the first Dutch community liberated from Nazi occupation, and it would take 9 months to overcome the ferocious counterattack by the enemy. More than 76,000 American troops lost their lives in the Ardennes, in the final and bloodiest Nazi onslaught that became known as the Battle of the Bulge.

During the opening days of this military campaign, a moving relation was formed among the American troops and the Dutch people. Ten years earlier in 1934, a jeweler from the city of Maastricht named Knijf founded an athletic club known as AV34—Athletiekverening. This physical fitness program for the area's youth was suspended and disrupted by the advent of Nazi occupation in 1940. When Maastricht was finally liberated 5 years later, AV34 was reborn as an athletic club with an added, noble cause—to pay homage to the soldiers who fought and died to free their homeland.

Over the years, the members of AV34 and the American troops who liberated Holland have participated in a series of special events. The first dedication was a torch designed by Mr. Knijf that was carried in a relay from Maastricht to the American military cemetery in Margraten, some 6 miles away. That initial run of the Liberation Torch has evolved into a 600-mile relay run from Omaha Beach in Caen, through western France following the battle route of the 30th Infantry Division to Holland. Every 5 years, members of AV34 are joined by veterans and athletes from around the world to run this course.

Members of AV34 have also visited our shores, participating in a commemorative run dubbed Torch 200 during the U.S. bicentennial, and in 1986 for the ceremonies marking the 100th anniversary of the Statue of Liberty.

Again this year, American veterans will travel to Europe to mark the liberation of Maastricht. Just as the ceremonies marking the 50th anniversary of D-day revived memories and evoked emotions, the ceremonies in Maastricht will highlight five decades of brotherhood and freedom.

At this time, I must commend the efforts of one American veteran who has dedicated his time and energy to continuing the special relationship with AV34. Philip Capotorto, a resident of my home borough of the Bronx, served with distinction in Holland and literally acts as a living tribute to the men who fought there.

To Philip Capotorto and all the members of AV34, I extend my congratulations and best wishes. I am sure my constituents and the American people share this sense of gratitude and admiration. Your efforts are not forgotten, and your courage will live on throughout history.

TRIBUTE TO PEARL MAZE MacLEECH

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Ms. ROYBAL-ALLARD. Mr. Speaker, it is an honor for me to pay tribute to the life of Mrs. Pearl Maze MacLeech, cofounder and secretary of the senior citizens club at Angelus Plaza. With her death on August 12, 1994, Mrs. MacLeech has left a legacy of dedication and commitment to the senior citizen community.

Mrs. Pearl Maze MacLeech was born in New York City on October 5, 1908. She spent her teenage years on her family's ranch in Freehold, NJ. Determined to learn from life's classroom, Pearl left home at 16 and moved to New York City, where she successfully advocated for the American Association of Retarded Children and the Foundation for the Blind. She was a cofounder of the Institute for Handicapped Adolescents and Young Adults.

In 1955, she married Bert MacLeech. The couple moved to southern California where Mr. MacLeech joined the University of Southern California's faculty in 1967. Pearl and Bert's home became a satellite classroom where students shared their intellectual and cultural pursuits.

When Bert retired, they moved to Angelus Plaza in Los Angeles, where they cofounded the senior citizens club. The club is one of the largest local senior advocacy groups in the Nation.

I wish to extend my sympathy to the MacLeech family and friends. Thanks to the work of Ms. Pearl Maze MacLeech, the lives of the elderly, the physically challenged, and all who knew her have been enriched.

I will always be eternally grateful for having the privilege of knowing her as a constituent, but more importantly, as a friend.

INTRODUCTION OF THE BASEBALL FANS AND COMMUNITIES PROTECTION ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. SYNAR. Mr. Speaker, it is a sad and unfortunate fact that throughout our great Nation this summer baseball fans from Little Leaguers to the President are sorely disappointed that for the eighth time in eight negotiations major league players are on strike. While fans are disappointed, many others feel a real economic impact of the strike. Those communities that host major league teams have lost valuable jobs and millions in revenue because their major league stadiums have all been shuttered by the strike.

To make matters worse, in the 2 weeks since the strike began, little progress in resolving the strike has been made and it appears that neither side seems intent on ending the strike any time soon. Frustrated fans sit on the sidelines and watch the remainder of the season dwindle away while the negotiations between players and owners stall.

That is why I join today with Congressmen BUNNING, OWENS, and BILIRAKIS to introduce the Baseball Fans and Communities Protection Act. This legislation will apply the Federal antitrust laws to major league baseball in a manner designed to spur the now stagnant negotiations between the players and owners of major league baseball. This bill is specifically designed to allow the players to get back to the field while all parties to the strike have their rights and bargaining positions protected through the application of the antitrust laws.

The current impasse between owners and players is that owners are committed to imposing a salary cap following the season and players feel the only way to negotiate on the imposition of the salary cap by the owners is to strike now, during the season, when their bargaining leverage is at a maximum. What the Baseball Fans and Communities Protection Act will do is allow the players to retake the field by giving them access to the rights and remedies of the antitrust laws from which major league baseball is currently exempt.

I believe giving the players antitrust remedies will preserve their bargaining positioning during the upcoming negotiations without having to resort to a strike. This will allow all parties, players and owners, to sit down and bargain in good faith until an agreement that is satisfactory to both sides is reached. In the meantime, players can play ball.

I urge my colleagues to cosponsor this important legislation, and I look forward to its swift consideration by the House Judiciary Committee and the entire Congress.

INTRODUCTION OF NATIONAL INCEST AND SEXUAL ABUSE HEALING DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Ms. MOLINARI. Mr. Speaker, today I am introducing a resolution to designate October 1, 1994, as "National Incest and Sexual Abuse Healing Day."

As the crime bill has dominated our attention this week, I think it is important to reflect on why it is so important that anti-crime legislation strongly address the problems of sexual abuse through such measures as strengthening evidentiary rules for the prosecution of child molesters and notifying communities when sexual predators are present.

The statistics on child abuse and sexual abuse of children are grim. In 1992, 2.9 million child cases were reported to child protective service [CPS] agencies. This represents a 50-percent increase in reported child abuse cases between 1985 and 1992. But despite this increase in the reporting of cases, there remain thousands of children whose cries go unheard.

In addition, it is estimated that nearly 1,300 child abuse and neglect-related fatalities in 1992 were confirmed by CPS agencies—an average of over three child deaths a day. Almost 84 percent of these children were under 5 years old at the time of their deaths.

The futures of those who survive these crimes follow two paths. The fortunate ones may be able to overcome child abuse by speaking out, creating an open and honest dialog on the subject. Others, unable to come to terms with what has occurred, may face years of physical and emotional problems. Many will grow up to become the next generation of abusers, perpetuating a vicious cycle of violence.

Mr. Speaker, I encourage all my colleagues to join me in bringing attention to these crimes and recognizing the brave survivors of incest and child abuse by commemorating October 1, 1994 as "National Incest and Sexual Abuse Healing Day." And I hope we will join together to pass a crime bill that helps protect our children and prevent such crimes in the future.

TRIBUTE TO THE PREMIUM MARKETING SYSTEMS ON THEIR 25TH ANNIVERSARY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize Premium Marketing Systems on their 25th anniversary. It is an honor to participate in the celebration of this prosperous business, one that has contributed so much to my community and the State of Illinois.

Mr. Bill Stephansen, the president of Premium Marketing System, and Barbara Stephansen, secretary-treasurer, began their telemarketing business in 1969 with one small office. In the 25 years since their humble beginning, Premium Marketing Systems has grown to become the fifth largest employer in Cicero. It also has the distinction of being the oldest telemarketer in the world in one location.

Premium specializes in the sale of family magazines such as TV Guide, McCalls, and Good Housekeeping. Their sales and employment have soared since 1991 with the introduction of state-of-the-art computer driven predictive dialing equipment, which automatically calls prospective customers, statistically evaluates data, and enters orders. In fact, verified annual sales totaled $11 million last year, a dramatic increase from Premium's first year of sales of $75,000 in 1969.

Premium has become an integral part of the business community of Cicero, providing employment for hundreds of Illinois residents throughout its history. On August 26, 1994, Premium will officially celebrate their anniversary at a barbecue with their current and former employees.

Mr. Speaker, I am proud to recognize Premium Marketing Systems on their 25th anniversary. Its contributions to the business community, as well as its service and dedication to Cicero, and deserving of recognition. I urge my colleagues to participate in this worthy celebration.

TRIBUTE TO BROOKEVILLE'S BICENTENNIAL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mrs. MORELLA. Mr. Speaker, I rise in recognition of the 200th birthday of Brookeville, MD, a lovingly preserved link with our early American past. Once a Quaker mill town serving the farms of northeast Montgomery County, Brookeville a picture-perfect backdrop in the autumn, for pumpkins and falling leaves. With its fieldstone and clapboard houses, period street lamps, and strict building restrictions, the 45-household, 4-block village invokes the past.

Brookeville played a significant role in the events surrounding the War of 1812. On August 26, 1814. President James Madison fled burning Washington, DC, and was given refuge by Henrietta Bentley, wife of the town's postmaster. With the President came his military attache, General Mason, and the Secretary of the Treasury, and the assets—gold bars—from the National Treasury. For 2 days, our Federal Government was located at the Bentley farm. Later, the Bentley farm was renamed the Madison House in honor of the presidential visit. The town of Brookeville had been laid out in September 1794 by Richard Thomas, who married Deborah Brooke—one of four Brooke sisters, on whose land the town was built. The Maryland State Assembly officially recognized the town of Brookeville in 1808; 5 years later, the town of Brookeville was authorized by the State Assembly to appoint its first constable. By 1890, Brookeville made clear to all visitors who passed through its boundaries that it had an agricultural identity. Many of the town's laws dealt with the conduct of Brookeville's animals. One regulation stated that "no hogs or hog pen or pens or slaughter house" were allowed within town limits, nor were barking dogs.

The population of the town of Brookeville at the time was 250, making it the third largest town in Montgomery County. The town was incorporated by the State Assembly in 1890. Today, Brookeville has a population of 150, and retains its rural, small-town flavor.

In conclusion, Mr. Speaker, I want to offer my congratulations to the town of Brookeville and its citizens on its 200th birthday.

JUDICIAL ASSISTANCE FOR GUATEMALA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. HAMILTON. Mr. Speaker, in March 1993, the Agency for International Development proposed to renew a judicial sector reform support project for Guatemala. Included in that proposed project was assistance to the Public Ministry in Guatemala. Given the past record of that institution, I requested that the portion of the proposed project which would provide assistance to the Public Ministry be placed on hold until certain benchmarks were met. My correspondence with AID at that time is included in the CONGRESSIONAL RECORD of August 3, 1993 [19109].

AID has since that time consulted closely with the Committee on Foreign Affairs on this project. Based on recent developments in Guatemala, I am not prepared to support the release of those funds. I commend Administrator Atwood and his staff for the careful consultation with the committee and commend my most recent correspondence with Administrator Atwood, which follows, to the attention of my colleagues.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, August 15, 1994.

Hon. J. BRIAN ATWOOD,
Administrator, Agency for International Development, Washington, DC.

DEAR BRIAN: Thank you for your letter of August 10 regarding the hold I placed on portions of AID project number 520-0407, the Judicial Sector Reform Support project for Guatemala.

As you know, I have had continuing concerns over several elements of this program, in particular aid to the Public Ministry. I believe that the developments cited in your letter, and the specific steps you have taken to structure such aid, meet my concerns. I am therefore lifting that hold.

I would like to commend you and your staff, Mr. Administrator, for the manner in which you have consulted with this committee on these issues. I commend particularly Mr. Neil Levine, Congressional Liaison Division, for his careful and tireless work in ensuring that these serious concerns were addressed. This kind of consultation helps to strengthen executive-legislative relations.

Thank you for your cooperation in this matter.

With best regards,
Sincerely,

LEE H. HAMILTON,
Chairman.

AUGUST 10, 1994.

Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to update you on recent developments in Guatemala and to inform you of the Agency's desire to move forward at this time with $1.5 million in assistance for the Justice Sector Reform Project.

As you may recall, last year we agreed to withhold assistance to the Guatemalan Public Ministry until we had confidence both in the leadership of the Ministry and that our program would enhance the protection of human rights for Guatemala's citizens. We strongly believe that because of key changes within the Public Ministry, as well as historic developments related to the Guatemalan Peace Process, the time has come to put these funds to work.

Since the time of the original notification in March 1993, important events have transformed the Guatemalan political landscape. The former Human rights Ombudsman, Ramiro De Leon Carpio, emerged from the June 1993 constitutional crisis as the new President of Guatemala. He is determined to make Guatemalan institutions serve the majority of Guatemala's people. He has called for a "depuracion" or cleansing of Guatemala's judicial and legislative branches and worked to ensure that a greater share of Guatemala's national budget goes to those areas of the country in greatest need.

In the justice sector, a new criminal procedures code designed to transform an antiquated, closed and inefficient system of justice into one that is transparent, accountable and more accessible to the traditionally disenfranchised went into effect on July 1 of this year. One of the principal features of the new code is the creation of an empowered Public Ministry able to investigate and prosecute criminal cases with complete autonomy. In May of this year, the Guatemalan Congress also passed a new "organic law" which codifies the changes in the Public Ministry needed to implement the new criminal procedures code. The Government of Guatemala's commitment to judicial reforms has also been expressed through increased budget authority for justice sector institutions.

As part of the package of constitutional reforms negotiated between the executive and legislative branches and then ratified through a popular referendum last January, the Public Ministry has been reorganized, dividing the functions of the old Public Ministry into two separate entities: a new Public Ministry responsible for the investigation and prosecution of all criminal cases, and a Solicitor General's Office charged with representing the State in all civil (non-criminal) matters. This division delinks the functions of the Public Ministry and the Chief Prosecutor who heads it from the functions of counsel to the President and line ministries, thus greatly increasing the autonomy of the new Public Ministry and curtailing the tendency toward political interference in the vigorous prosecution of any and all criminal cases.

The process for selecting a Prosecutor General was also changed by requiring the President to select from a list of nominees established by a blue ribbon commission from the judicial sector. On May 14, President De Leon appointed Ramses Cuestas Gomez, a respected law professor, as the new Prosecutor General and head of the Public Ministry. One of Cuestas' early decisions was to dismiss the entire investigative unit of the Public Ministry and to institute a new process for the recruitment and selection of qualified candidates based on thorough background checks, thus assuring that new investigators would be technically competent and without any previous affiliation with military intelligence.

Reinforcing our conviction that this is the right time to go forward with the justice sector project is the historic progress made this year in the protracted negotiations between the De Leon government and the URNG, the Guatemalan armed guerrilla movement. Since January, the parties have signed a framework accord setting a calendar aimed at achieving a comprehensive peace settlement by the end of the year, and three substantive agreements on human rights, refugees, and a commission to examine and report on abuses during the armed conflict. The human rights agreement, signed on March 29, calls for the dispatch of a UN mission to Guatemala, charged with monitoring compliance with a detailed human rights agreement, through the strengthening of national institutions.

We see a strong connection between the operations of this mission and the justice sector reform project, and expect to coordinate our work closely with it. The presence of a human rights verification team in-country means that new cases may soon flow into a system that is ill-prepared to carry out its functions. Our assistance is targeted specifically to assist Guatemalan institutions in implementing a new legal code, designed to move to a system of oral proceedings, provide adequate public defense and to improve investigative and prosecution functions. While we have already begun work with the Supreme Court and the San Carlos Law School, without training prosecutors and investigators of the Public Ministry, the project lacks a critical feature for accomplishing its goal. In short, we have a "two-legged stool" which fails to bring us closer to the goal that we share—i.e., advancing respect for human rights by making the justice system function better for all Guatemalan citizens.

State Department and USAID representatives have shared our views on these developments with your staff and with representatives of human rights organizations here and in Guatemala. We felt those meetings were very productive and we want to be as responsive as possible to the concerns raised. We fully agree that all investigators and prosecutors receiving U.S.-financed training must undergo background checks. This will be accomplished by the U.S. Embassy in Guatemala and through consultations with our local counterparts. Should any questions arise concerning the background of an individual, the individual will not receive training. Concerning other employees of the Public Ministry, we are prepared to suspend assistance to the project if, at any time, we believe that any individual in a significant position of responsibility has compromised the integrity of the project. We will make this clear to the Guatemalans as a condition of our collaboration.

In response to concerns raised in your letter, I have asked the State Department to prepare the enclosed paper on the status of the major human rights cases in Guatemala. As you will note, the record is mixed. Release of the suspended project funds now sends a message of support for the peace process, provides important resources to reform a weak and outdated judicial system, and provides positive reinforcement to the work of the human rights verification mission. Although we continue to push for progress on individual cases, we believe that developments in Guatemala warrant moving forward now to advance institutional change and to help ensure that future cases can be prosecuted and justice delivered.

Mr. Chairman, judicial reform in Guatemala is a long-term process requiring concerted efforts by Guatemalans with the sustained support of the international community. Although the wholesale violence of the early 1980s thankfully has not returned, major and egregious violations continue. More importantly, impunity remains one of Guatemala's most severe problems. Developments under President De Leon, a reform-minded leader who shares our commitment to human rights and democratic governance, and advances in the peace process provide us an opportunity to put U.S. assistance to work. We seek to bring about institutional change to advance democracy and human rights and to hasten the day that the longest civil war in Central America is finally and peacefully brought to an end.

As I pledged to you last year, I want to see USAID's administration of justice activities succeed in furthering respect for human rights, not only in Guatemala, but around the world. I want to renew that pledge and with your agreement, I propose that USAID move forward with the $1.5 million in assistance for the Justice Sector Reform Project.

Sincerely,

J. BRIAN ATWOOD.

The following is an update of the status of the major human rights cases in Guatemala.

AMILCAR MENDEZ

Human rights activist Amilcar Mendez is the leader of the Consejo de Comunidades Ethnicas Runujel Junam (CERJ), a rural-based human rights organization. Over the years, a number of CERJ activists, including Amilcar Mendez, have received threats. Some CERJ activists have been killed. CERJ often has had difficulties with Civil Defense Patrollers (PAC's) since it pays close attention to alleged PAC violations.

A number of specific incidents have involved Amilcar Mendez or his extended family over the last two years. In October 1992, he was charged with providing explosives to Guatemalan guerrillas. In November, the Chargé d'Affairs personally accompanied Mendez to a Quiche tribunal to face the charges. The charges were dropped in March 1993, Mendez never having served time in jail. Throughout this period, the U.S. was active in meeting with legal and human rights authorities to seek justice in this case.

CERJ's Guatemala City office was broken into on May 8, 1993 and, later that year, one of Mendez' teenage nieces was kidnapped and raped. The U.S. Embassy was in rapid contact with police authorities following the break-in, as well as with CERJ members manning the office. In the case of the niece, the Ambassador paid a personal call to the girl's family the day after her release and raised this matter with Government officials. The police conducted an investigation, but no arrests were made.

In January of this year, a motorcyclist (with his face covered) apparently tried to run over Mendez' sixteen-year-old daughter. The police investigated the case, but no arrest was made. The Ambassador met with Mendez that same day, who sent his daughter to the U.S. until June for her own safety. She has not been bothered since her return. Nonetheless, on June 29, Mendez' son called the Embassy to say armed men were outside his home. The Embassy contacted the Presidential Human Rights Commission Office (COPREDEH) and the National Police Chief. This led to the dispatch of a police patrol to the Mendez home. The armed men had left by the time the police arrived.

Amilcar Mendez continues to be active and in the news. Recently, he filed a motion to have the Defense Minister tried for permitting forced recruitment. The U.S. Embassy maintains close and fluid contact with Mendez. Guatemalan authorities have responded to incidents directly affecting him and recognized his right to pursue his human rights work. Guatemalan authorities have also shown a willingness to meet with Mendez.

MYRNA MACK

Myrna Mack, a Guatemalan anthropologist studying displaced persons, was killed in September 1990. Noel de Jesus Beteta Alvarez, then a member of the Presidential Defense Staff ("Estado Mayor Presidencial"), was implicated in the case. He fled to California, but was returned to Guatemala in December 1991.

In February 1993, a trial court convicted Beteta, sentencing him to 25 years for the Mack murder and five years in an unrelated case. Beteta filed an appeal, as did Helen Mack, Myrna's sister. Helen Mack's appeal requested that the case against the alleged intellectual authors remain open. In late 1993, Beteta briefly escaped from prison, but was recaptured within hours.

In February 1994, in two milestone rulings, the Supreme Court confirmed the sentence against Beteta and ruled the investigation into the intellectual authors should remain open. The alleged intellectual authors (retired military officers) have appealed this ruling to the Constitutional Court. The Embassy was in close contact with Helen Mack and Judicial and Executive Branch officials at this time urging a speedy and just decision on these appeals.

Helen Mack has a separate appeal pending with the Constitutional Court concerning the release of Executive Branch documents concerning the case. The Executive Branch maintains that it does not have any files not already released to the courts.

The U.S. Embassy maintains close contact with Helen Mack and has spoken repeatedly to Government authorities over the need for justice in this case.

MICHAEL DEVINE

Michael Devine was an U.S. citizen resident of Poptun, Peten for 18 years prior to his June 8, 1990 abduction and murder. Several persons saw the abduction; none witnessed his murder. Subsequently, the U.S. Embassy became aware that Guatemalan military personnel had killed Devine. Lack of movement in the case and attempted coverup led to the suspension of U.S. military assistance in December 1990.

After persistent Embassy prodding, five enlisted men were tried and convicted for participation in the killing; charges were dismissed against one officer believed involved. This dismissal was appealed.

On appeal, Captain Contreras was convicted in the case and sentenced to 20 years. Immediately after this May 11, 1993 decision, Contreras escaped from custody on a military base. He remains at large. The enlisted men convicted in the Devine murder are appealing their conviction and a decision is not expected for several months.

The Ambassador and other Embassy officials have consistently pressed for justice in this case, including seeking the return of Captain Contreras.

During the last seven months, there have been several violent acts committed against relatives of persons who testified in the court trial leading to the above convictions. Two persons have been killed and another was the target of an attempted shooting. The Embassy is in close touch with Guatemalan officials and human rights organizations over the safety of these persons and is also pursuing the possibility of parole in two cases.

SANTIAGO ATITLAN

In the early morning hours of December 2, 1990, a large group of Santiago Atitlan residents gathered in front of the local army detachment to protest incidents of military harassment and violence against townspeople. The detachment opened fire, killing 12 adults and 2 children.

Following the incident, then-President Cerezo sent a December 6 letter to residents of Santiago Atitlan stating he had ordered the withdrawal of the military from the town. He added that Santiago Atitlan residents could henceforth be responsible for their own security. Two army personnel were arrested and convicted in this case.

Since that time, there have been occasional complaints from residents that the army has entered village limits. The military has publicly stated it is free to pursue the guerrillas if they enter the town, but has been more cautious in practice.

The latest incident occurred in February of this year, when residents complained of army patrols within town limits. A delegation came to the capital and met with the Army Chief, Human Rights Ombudsman and U.S. Embassy, among others. The then-Army Chief provided the group with his phone number in case other incidents arose, though he reiterated the army right to pursue the guerrillas. To the best of our knowledge, no further incidents have occurred.

CRIME BILL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Omaha World-Herald on August 18, 1994.

HOW ABOUT A BILL THAT REALLY FIGHTS CRIME?

Congress and the White House should be able to draft a realistic crime bill to take the place of the monstrosity that stalled last week in the House of Representatives.

A realistic crime bill would have these features:

Federal subsidies to add police officers where violent crime is the worst.

The improvement of sentencing laws and appeal procedures that currently allow dangerous felons to avoid prison sentences.

A prison-construction program to deal with the chronic shortage of cells in some states.

In our opinion, President Clinton's proposed ban on 19 varieties of assault-style weapons is also a worthy idea. But if including the ban is likely to jeopardize the rest of a realistic crime bill, the ban should be considered at another time.

Above all, a realistic crime bill would be presented honestly. It would contain no hidden bonanzas for the districts of influential congressmen—bonanzas such as the $10 million crime research center that would go to a college in the Texas district of Jack Brooks, the chairman of the House Judiciary Committee.

Neither should the next crime bill pretend to get tougher on drug offenders while allowing them the opportunity to appeal by the thousands for new trials. That's what the House-stalled bill would have done. It would have been a victory for the muddleheaded view that drug users, many of whom are also pushers or thieves, are victims, not criminals.

A realistic crime bill wouldn't be loaded with huge grants disguised as crime-prevention spending. Under the stalled legislation, taxpayer dollars would be used to teach teenagers how to dance. Midnight basketball leagues would be organized, with special preferences for neighborhoods with a higher rate of HIV infection.

There would be self-esteem programs and subsidized jobs, which often amount to no more than getting paid for killing time. Someone slipped funds into the bill to track down Alzheimer's patients who wander away from home. Someone else put in money to retrain spray-paint vandals as muralists.

Skepticism has materialized about the 100,000 police officers. Much of the cost would fall on state and local governments, with federal funds by some accounts covering the equivalent of 20,000 officers. Hubert Williams, a former New Jersey police chief who heads a law-enforcement research organization in Washington, said the police buildup "sounds better than it is." The officers would be spread thinly across the country for political benefit, thereby diluting the impact in high-crime areas.

A realistic crime bill would address that concern. Obviously, the new officers should be placed where crime is worst. If that means a large number of Miami, the Bronx, South Central Los Angeles or the Anacostia area of Washington, D.C., so be it. Omaha's most crime-ridden neighborhoods should get some of these officers, but if the number is less than the number for Houston, per capita, so what?

The White House angled Wednesday for votes to revive the stalled measure. President Clinton's people held out the possibility of reducing the social spending by 5 percent, watering down the gun control provisions and taking out the $10 million for the Texas college. All to buy support.

But how much better it would be to start over. Begin with a police-buildup provision that puts more officers where they are needed. Add a prison-construction program that actually builds prisons. Require more prison time for repeat felons, tougher penalties for violent offenders, a greater certainty of jail time for those who break the law.

These are not revolutionary concepts. Most have already received majority House and Senate support as part of the original bill. Repackaged without the social spending, which would remain huge even if reduced by Clinton's token 5 percent, they would constitute a crime bill that really fought crime. The World-Herald would be pleased to urge Midlands senators and representatives to support such a bill.

TRIBUTE TO SEBASTIAN MINABERRI

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. THOMAS of California. Mr. Speaker, I would like to take this opportunity to pay tribute to a Kern County, CA, resident, Mr. Sebastian MInaberri. Mr. Minaberri, a French immigrant, has helped tackle a complicated problem by using a little common sense.

As we in California know all too well, fires in the dry forest of the Los Angeles basin are common—and destructive. Solutions to reduce the number and intensity of the fires are difficult to come by. But Mr. Minaberri is contributing to a solution with a low-cost, low-technology answer that is proving successful. You see, Mr. Minaberri is a successful sheep farmer. And by simply grazing his sheep on ridgetop firebreaks, Mr. Minaberri's sheep keep the grasses and brush low, thereby denying fires fuel and thus an opportunity to spread from mountain to mountain.

These firefighting sheep benefit just about everyone, sheep included. They are cheaper than machinery, far better for the environment than herbicides, and they help protect the residents of communities threatened by uncontrolled brush fires. In addition, according to Mr. Minaberri, the sheep "thrive better in the cooler temperatures of the national forests" than they would in the 100-degree-plus heat of the lower altitudes.

For his contribution to reducing the number of fires in the LA Basin my hat goes off to Mr. Sebastian Minaberri—an American success story, and a practitioner of one of our greatest arts—common sense.

CONGRATULATING EAGLE SCOUT DAN CURLEY

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. MANN. Mr. Speaker, I want to take this opportunity to recognize Dan Curley on his accomplishment of earning the rank of Eagle Scout. This is a substantial achievement demonstrating Dan's abilities and perseverance, as only 2 percent of all Scouts ever achieve the Eagle rank.

Dan began his Scouting odyssey as a member of Den 1, Pack 27. In 1980, he joined Troop 27, sponsored by Church of the Assumption, and earned his Tenderfoot 2 short months later. In 1993, he completed his Eagle Scout requirements having organized a major landscaping project at the Winton Woods Golf Course.

While blazing the trail to Eagle Scout, Dan held leadership positions from patrol leader to senior patrol leader. He is also a recognized honor camper as a member of the Order of the Arrow.

Dan Curley is also active outside of scouting. He is a junior at LaSalle High School, where he is student technical director. Dan is responsible for all of the lighting and special effects for school plays, musicals, and concerts.

I extend my congratulations to Dan who should be justifiably proud of his accomplishments. I also congratulate his parents, Robert and Janet Curley, and his adult Scout leaders whose support and encouragement helped make his goal a reality.

CBO—BEST HUSH PUPPIES AROUND

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. STARK. Mr. Speaker, there has been some grumpiness at CBO recently because of the logjam over health care analysis.

Prof. Uwe Reinhardt offers a refreshing look at this excellent corps of public servants:

HAIL TO THE GOVERNMENT NUMBER CRUNCHERS

(By Uwe E. Reinhardt, Ph.D.)

Much sport is made these days of the hapless government actuaries who, in 1965, so vastly underestimated the eventual cost of the Medicare program. The error is deemed typical of a government widely believed to be incapable of walking and chewing gum at the same time. We remind ourselves incessantly of that ancient error as we behold the CBO's current cost projections for the new health reform proposals before us.

It is fair to ask, however, whether anyone could have done better, then or now. Do we sincerely believe that the actuaries of, say, the General Motors Corporation (or, for that matter, of any other American corporation) could have predicted with any greater accuracy, in 1965, how many dollars per employee the company would spend on health care in, say, 1994? If you think so, think again!

In its 1991 annual report, GM told its shareholders that the company's year-end networth (the reported value of all assets owned by GM minus all debt it owed) was $27.4 billion. But only one year later GM told its shareholders that the company's year-end networth was, Oops!, really only $6.2 billion. In both years, GM's outside auditor certified, for a fee, that the year's figure represented "fairly, in all material respects," the financial position of General Motors. But how could both numbers possibly be true? What could explain this sudden massive meltdown of GM's networth? A massive operating loss? There was a loss; but it amounted to less than $3 billion "before extraordinary items." It must have been an "extraordinary item."

A clue to that item can be found in the footnotes. Here GM admits to a little error the company had made, year after year, for several decades, when it promised its workers generous post-retirement benefits without ever reporting to shareholders the probable cost of these reckless promises. By 1992 these unreported and unfunded promises had run up a tab amounting to $33.1 billion. That is the estimated amount of money GM ought to have set aside, by 1992, to guarantee payment for all of the post-retirement health benefits it already had promised current and former workers. Fessing up to this liability in 1992 forced the company to make a sudden after-tax hit of $21 billion on the $27 billion net worth it had reported to shareholders only a year earlier.

In fairness, it must be said that GM was by no means alone in fibbing thus. Many other American corporations had made similar promises to their workers, and virtually none had been more forthcoming on the issue than GM. Their shareholders learned about these liabilities (and the corresponding meltdown of their companies' net worth) only in 1992, when the Financial Accounting Standard Board literally forced management to come clean, at long last.

In my accounting classes at Princeton, I regularly ask my students what we are to make of adults who claim to be describing, "fairly, in all material respects," the financial status of the companies they manage, all the while overstating knowingly the firm's net income and networth, and correspondingly understating its liability. Perhaps these executives, far from being inept, simply found it expedient to lie to their shareholders. Paying workers with promises whose cost could go unreported and that required cash outlays only decades hence allowed management to overstate the earnings on which performance pay tended to be based. Not surprisingly, I have yet to meet an executive willing to plead guilty to that cynical charge. Instead, the excuse invariably is that it was just too difficult to estimate accurately the liability for post-retirement benefits. The CBO's brave number crunchers, of course, would laugh at that feeble excuse.

But if that really be these executives' excuse, then how can they even presume to comment on the quality of the government's number crunchers? Indeed, apparently unbeknownst to many, the decision makes in corporate America and on Wall Street routinely dispose of billions of other people's money on the basis of information whose quality is much below that given by the CBO to the decision makers on the Hill. I am speaking here of the accounting data that drive so many mega deals in the private sector. While the intellectual foundation for the CBO's work rests heavily on highly sophisticated simulation models and equally sophisticated econometric studies, the intellectual foundation for decision makers in the private sector is furnished largely by the so-called Generally Accepted Accounting Principles (GAAP), a set of relatively simplistic rules written on a rubber sheet that can be stretched in any number of ways. All too frequently, these GAAP allow private executives to march to the motto "Better to be precisely wrong than to be about right."

With appeal to the GAAP, for example, private-sector number crunchers busily add up apples and oranges and then pretend that the sum means something. They do this when they add asset values stated in, say, 1993 dollars to asset values stated in, say, 1975 dollars, without any adjustments for general price inflation or, alternatively, for changes in the market values of these assets. They do likewise when they calculate net income by deducting from revenues expressed in, say, 1993 dollars depreciation expenses and, sometimes, cost-of-goods-sold figures expressed in dollars of distant years past, once again without any adjustment for inflation. Worse still, with appeal to the hallowed GAAP these private sector number crunchers routinely disregard any quantitive effects they cannot measure "objectively"—as GM evidently did when it strung along its shareholders for so many years.

All of which makes one wonder why casting aspersions at the government's number crunchers is such a favorite sport among Americans—particularly among corporate executives. My own hypothesis is this: Americans in general hold the public sector to much higher standards than they impose upon the private sector. Deep down we know, or should know, that when it comes to structuring data in imaginative and sophisticated ways, the wing-tip booted number crunchers of the business sector could not even tie the shoes of the hush-puppied civil servant at the CBO. Sheer bluster helps them camouflage that inferiority.

FRANK MURPHY: A MODEL AMERICAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today to call attention to the dedication of the Frank Murphy Memorial Museum this Saturday in the city of Harbor Beach, MI. Frank Murphy was best known as an Associate Justice on the U.S. Supreme Court, having been named to the Court by President Franklin Roosevelt in 1940. To the people of Michigan, and Harbor Beach in particular, Frank Murphy is much, much more. He is a model American who continues to serve as a worthy role model for our young people who love our Nation as much as Justice Murphy.

The Harbor Beach birthplace of Frank Murphy at 142 South Huron, has served as a museum since 1960. This building, along with his boyhood home, furnishings, mementos, and surrounding structures will provide an appropriate tribute to a man who rose from a chief assistant U.S. attorney in Detroit, to a potential Vice Presidential candidate with Franklin Roosevelt in 1944. The ceremony this Saturday recognizes the purchase of the Murphy Estate by the State of Michigan and transfer of ownership to the city of Harbor Beach, for the preservation and promotion of the life and times of the most famous native son of Harbor Beach, Frank Murphy.

Frank Murphy had an unerring sense of justice. He prosecuted World War I profiteers who cheated the Federal Government out of $30 million. He defended minority rights as a recorder's court judge in the 1920's. He served as mayor of Detroit, Governor General of the Philippines, and as the Governor of Michigan before his appointment to the Supreme Court. He died in 1949 at the age of 59.

He is responsible for General Motors having recognized the United Auto Workers as the bargaining agent for workers in 1937, and then within a few years dissented in the historic case that allowed the internment of Americans with Japanese ancestry in camps during World War II.

As a young person, I knew the life story of Frank Murphy, a man who stood up for his beliefs, even when those beliefs might be contrary to popular views. His selfless devotion to his community, his State, and his Nation, played a major role in my personal growth and that of countless other Michiganites. It has been a privilege of my public career to be a supporter of the Murphy Museum. It is a major regret that I cannot personally join his family, his supporters, the distinguished Michigan Secretary of State Richard Austin, the esteemed Michigan Attorney General Frank Kelly, UAW President Owen Bieber, and Justice Murphy's colleague Judge James Lincoln. The people's business keeps us in session, and I trust that Frank Murphy would once again say that the people's business must come first.

Mr. Speaker, it is rare that we get to celebrate true American heroes. Frank Murphy is one. I urge our colleagues to join in paying him this richly deserved tribute, and encourage them to visit the museum when they visit Michigan.

SUPPORT FOR KASICH-STENHOLM-PENNY AMENDMENT TO H.R. 4906

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. KASICH. Mr. Speaker, as further evidence of strong support for prohibiting extraneous measures on emergency supplemental appropriation bills, I submit the following list of groups that have publicly commended the Kasich-Stenholm-Penny amendment to H.R. 4906: The American Business Conference; The Chamber of Commerce of the United States; Citizens Against Government Waste; Citizens for a Sound Economy; Committee for A Responsible Federal Budget; The Concord Coalition; The Financial Executives Institute; The National Home Builders Association of America; The National Taxpayers Union.

The following are some of the letters in support of the amendment:

AMERICAN BUSINESS CONFERENCE,
Washington, DC, August 16, 1994.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KASICH: On behalf of the members of the American Business Conference (ABC) I congratulate you for your leadership in attempting to curtail the ability of members of Congress to insert pork barrel spending into emergency supplemental appropriations.

Your work deserves the unqualified support of all Americans who seek to maintain the integrity of the discretionary spending caps and the budgetary accountability of Congress.

We at ABC will do all we can to urge Congress to pass your proposal in its current form.

Sincerely,

BARRY K. ROGSTAD,
President.

COMMITTEE FOR A RESPONSIBLE
FEDERAL BUDGET
Washington, DC, August 10, 1994.

Hon. JOHN KASICH,
Ranking Republican, Committee on the Budget,
House of Representatives, Washington DC.

DEAR JOHN: This is to express strong support for your efforts to restrict the use of emergency exemptions to the discretionary spending caps. Including classic pork barrel spending in so-called "emergency supplemental appropriations" makes mockery of the word "emergency" and flaunts the limits the caps are intended to impose.

We would have gone even further than your proposal. We would prefer to see Congress budget for unanticipated contingencies within the spending caps. But failing that, we would hate to see your proposal weakened in any manner and we encourage the House to pass your proposal.

We understand that hard work on budget process issues often goes unrewarded. We appreciate your efforts. Keep up the good work.

Best regards.

CAROL COX, WAIT,
President.

NATIONAL ASSOCIATION OF
HOME BUILDERS,
Washinton, DC, August 11, 1994.
Hon. JOHN R. KASICH,
House of Representatives, Longworth House Office Building, Washington, DC

DEAR CONGRESSMAN KASICH: On behalf of the 170,000 member firms of the National Association of Home Builders (NAHB), I offer our strong support for the Kasich-Stenholm-Penny Amendment to the Emergency Spending Control Act, H.R. 4906.

As long-standing advocates of real deficit reduction and meaningful budget reform. I believe that Congress provides a great disservice to the American taxpayer by allowing funding unrelated to the emergency situation addressed in an emergency spending bill to be appended to the measure, thereby avoiding the firm discretionary budget caps in the Budget Act.

Your amendment would correct this situation by requiring the Office of Management and Budget (OMB) to include the emergency-designated funding within the budget caps if the legislation contains extraneous items, and also would allow Members to raise a point of order to block consideration of the measure.

NAHB congratulates you for your leadership on this issue and stands ready to offer assistance.

Sincerely,

THOMAS N. THOMPSON,
President.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, August 10, 1994.
Hon. JOHN R. KASICH,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE KASICH: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I applaud and support your efforts to pass H.R. 4906, the Kasich-Stenholm-Penny amendment to the Emergency Spending Control Act. Our members have worked long and hard to help reduce wasteful spending on pork-barrel projects and see your proposal as another means to halt extraneous spending items from being attached to emergency supplemental appropriations bills.

In fact, our CSE members were instrumental in stopping the so-called "stimulus" spending package last year that would have used the emergency spending rules to deficit spend on numerous pork-barrel projects such as tree planting and bike paths. Therefore, your bill, H.R. 4906 will help in our efforts to stop such unnecessary deficit spending by not allowing emergency legislation to contain funding for items unrelated to the specific emergencies addressed.

We believe your legislation would help keep Congress and the President from simply using emergency bills to launch new, non-emergency spending and pork projects that waste taxpayers hard-earned dollars.

CSE supports your efforts on H.R. 4906 and is happy to work with you on these budget changes to ensure that Congress does not continue to spend taxpayers' money unwisely.

Sincerely,

PAUL BECKNER
President.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, August 10, 1994.
Members of the House of Representatives:

The U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 69 American Chambers of Commerce abroad urges Congress to reform the current process of appropriating "emergency" funds through passage of the Kasich-Stenholm-Penny amendment to the Emergency Spending Control Act. The Kasich-Stenholm-Penny amendment will be offered as an amendment in the nature of a substitute to the watered-down Spratt bill, H.R. 4906, much of which simply restates current law.

The Chamber realizes that unanticipated emergencies arise for which a designated appropriation may exceed the cap without triggering an across-the-board cut in all discretionary programs. However, such a circumstance should not signal an opportunity for proponents of pork-barrel projects to attach extraneous items to an emergency supplemental appropriations bill. The Kasich-Stenholm-Penny amendment would compel Congress and the President to keep emergency spending bills free of pork and other non-emergency spending, and would allow financial assistance to reach disaster victims faster than when legislative conflicts arise over controversial add-ons.

The Chamber strongly supports this amendment as part of a greater effort to regain control of the federal budget. Vote YES for the Kasich-Stenholm-Penny substitute to the Spratt floor vehicle and take a stand in support of meaningful budget reform.

Sincerely,

R. BRUCE JOSTEN.

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, August 10, 1994.

DEAR REPRESENTATIVE: Tomorrow, votes are expected on essential reforms of the budget process and emergency spending procedures, reforms which in the opinion of our more than 600,000 members are needed to help correct the course of fiscal practice in Congress.

Acknowledging that no "process" is ever a complete substitute for good decisions, the Council for Citizens Against Government Waste (CCAGW) nonetheless is committed to the common-sense principle that "process" can make it easier or more difficult to reach good decisions—decisions which cut wasteful spending and contain budget deficits. The present practices of phony baseline budgeting and non-accountability of pork-barrel spending on emergency supplemental bills make good decisions more difficult, and it's time to change.

It is no secret that the Spratt alternatives on baseline budgeting and emergency spending legislation, as presently constituted, are cosmetic only. Worse, they seek to mislead taxpayers by giving the illusion of real reform where none exists. The battle which is set before you has been engaged by the leadership with a truly hollow army, and this phantom force deserves to be defeated soundly.

As you prepare to vote tomorrow, you can stand with the toy soldier proposals of Representative Spratt, or you can join with Representatives Stenholm, Penny and Kasich, who like our Marines are looking for a few good men and women who can get the job done.

The Stenholm-Penny-Kasich alternatives merit your support not because CCAGW intends to count them in our 1994 Congressional Ratings, but because they are the right choices in order to move Congress toward greater spending discipline.

One further note: The expected King-of-the-Hill strategy requires us to notify you that CCAGW will pay special public attention to those who try to have it both ways by first supporting the "SPK" amendments and later undercutting them by voting for Representative Spratt's proposals. Our suggestion: choose a side and have the courage to stay there.

Sincerely,

JOE WINKELMANN,
Director of Government Affairs.

THE OMNIBUS CRIME PACKAGE

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Ms. VELÁZQUEZ. Mr. Speaker, tonight I rise to take strong exception to the rightwing attacks on the crime bill. To those of my colleagues who oppose this bill because of its prevention programs, I say, "Wise up." These programs are not pork, they are prevention, and are essential to an effective anticrime initiative. Prosecution without prevention is a formula for failure, and maybe if you came down from your ivory suburban towers to inner-city areas like my district, you would learn to recognize the difference between pork and prevention.

Groups and individuals closest to the crime problem can tell the difference. The prevention programs are endorsed by every police organization in this country, and are supported by the Republican majors of our two largest cities, Los Angeles and New York.

The critics call them waste. They're wrong. These provisions are an investment, an investment in our youth. Prevention programs are vital to inner-city kids. They provide an alternative to a life of crime, poverty, and drug use—an escape from the harsh realities that too many of our kids face every day of their lives.

Throughout my district we have areas where our youth have little to do; there are few job opportunities, no recreational facilities, and few ball fields. When school is out, these kids are limited to hanging out on street corners where they are seduced by drug dealers by offers of easy money, and by the temptations of the streets.

Just one block away from my home in Brooklyn is a park that last year hosted a summer softball league for teenagers. This program was run by the local police precinct, and it involved over 100 local teenagers. This year, due to budget constraints, the police had to cancel the program. Not surprisingly, there has been an increase in petty street crimes, drug sales, and youth gang activity in the neighborhood this summer. The local police captain is convinced that the increase is directly related to the elimination of the softball league.

He and his youth officer, on the front lines in the battle against crime, recognize firsthand the need for prevention programs. Parents in my district also recognize the need for prevention programs. They face a daily struggle to offer options to their children.

These programs are cost-effective deterrents, prudent alternatives. Attacks on these programs are nothing more than transparent disguises to hide the true opposition behind the bill: Republican hopes to embarrass the President and to get rid of an assault weapons ban supported by the majority of the voting population.

Mr. Speaker, I had strong reservations about the conference report brought before this body last week. I thought then, and still do now, that a provision on racial justice should have been included for prisoners sentenced to death based on racially biased decisions. Nevertheless, I voted for the rule and was prepared to support the bill because it has struck a balance between prevention and punishment.

I urge the President and the leadership of this House to maintain that delicate balance. I cannot, and will not support a compromise that slashes critical social programs in order to appease the critics on the right. I will not play politics with the future of America's youth. I urge my colleagues and the American people to see through this charade of deception and support this legislation.

To quote Major Rudolph Giuliani, "Crime is not a political issue; it's a public safety issue." We must support prevention today for less prisons tomorrow.

LET'S NEGOTIATE A BETTER CRIME BILL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. GINGRICH. Mr. Speaker, in light of our current effort to pass a crime bill, I would like to bring two items to the attention of my colleagues: First, an editorial from the Marietta Daily Journal, and, second, a letter from the National Association of Assistant U.S. Attorneys. The latter goes right to the heart of the problems with the crime bill conference report in its current form. The former is relevant to our current debate as well as the upcoming debate on health care.

[From the Marietta Daily Journal, Aug. 16, 1994]

Crime Bill a Warning

The blocking of a bad crime bill by the House of Representatives on Thursday was a clarifying event. Its most important effect by far is to slow down the Democratic leadership's rush to health reform.

If the majority party could not corral the votes to enact a $33 billion something-for-everyone crime grab bag at a time when crime is on the voters' minds, it has no chance of passing Majority Leader Richard Gephardt's latest version of Clintoncare. That is good news for the country. An ill-conceived, compulsory, government-heavy, comprehensive overhaul would make our health system worse.

The crime bill—which fell 8 votes short and was opposed by 58 Democrats and 187 Republicans—was a perfect example of undisciplined legislation, driven by polls and posturing and riddled with pork.

"It's hard to argue it's a strong crime bill when it cuts the FBI budget and the Drug Enforcement Agency budget," said Minority Whip Newt Gingrich, R-east Cobb, who led the fight against the bill.

Still, the crime bill's effects on the budget and on average people would have been minute by comparison with those of a permanent universal entitlement to health insurance. The legislators should take the crime bill's fate as a warning on health reform: Don't do it at all if you're not going to do it right.

Specifically, avoid last-minute legislating. Republicans got the final 972-page crime bill less than 24 hours before the key vote. The health debate is only now shaping up. An interesting bipartisan bill was introduced into the House only Thursday, and the Congressional Budget Office still hasn't produced its analysis even of Rep. Gephardt's plan. The push to vote on health this month is unrealistic.

Finally, legislate with good government and sound budgeting in mind. On this score, the crime bill was flawed at its core. Crime is a local issue, and national politicians' desire to ride it does not make it Washington's business. This bill mainly ignored the legitimate federal role in fighting crime—the FBI, the Drug Enforcement Agency, and so on—while promising to pay for local cops and neighborhood amenities and state prisons with money the federal government doesn't have.

As Rep. Gingrich put it: "The average American doesn't want to see cuts in the FBI and DEA and $9 billion worth of social-work spending, including money for 'midnight basketball leagues' and two social workers' for each new police officer. That's not an anti-crime bill they wrote. This so-called crime bill is weak on crime and strong on social work."

Democrats and Republicans can work together to pass essential legislation: They did it on the North American Free Trade Agreement nine months ago. But even—or especially—on important issues like crime and health, gridlock is preferable to irresponsible action.

National Association of
Assistant U.S. Attorneys,
Alexandria, VA, August 17, 1994.

Hon. Orrin Hatch,
U.S. Senate, Washington, DC.

Dear Senator Hatch: The National Association of Assistant United States Attorneys has as its members front-line litigators. Our members represent the United States in all civil and criminal matters. We are our nation's lawyers. Most of our members are prosecutors who work very closely with federal and local law enforcement agents.

In 1987, Congress the Federal Sentencing Guidelines, which, in part, had stiff but appropriate sentencing provisions, incorporating mandatory minimum sentences for certain drug traffickers. Those mandatory minimums have given our prosecutors the ability to get drug dealers to cooperate by forcing them to work with us in giving up their source(s) of supply or face years of incarceration. When their cooperation is deemed to be "substantial" by a committee of Assistant United States Attorneys (or, in some cases, the United States Attorney), their sentences may be reduced by a federal Judge. In fiscal 1993, almost one-fifth of convicted defendants benefited by having their sentences reduced because they cooperated with law enforcement authorities. The results of that cooperation led to the arrest and conviction of numerous drug suppliers and their sources.

The present Crime Bill contains a provision which not only severely negate the benefits of "mandatory minimums" for a certain class of offenders, but also would permit the filing of 10,000 to 20,000 frivolous law suits which would cause prosecutors to spend their time in needless litigation instead of investigating and prosecuting criminals. The present provision would dilute prosecutors' ability to determine if a drug dealer has "substantially" cooperated. In effect, our leverage to get to the suppliers would be eliminated for certain types of drug traffickers. We cannot stand idly by and allow this very effective tool to be taken from us and the citizens we are sworn to protect.

The bill's present language is intended to address low level drug traffickers who are so minimally involved that they cannot have their sentences reduced because they truly cannot provide information or cooperation which would be deemed to be "substantial". In some instances under mandatory minimums (and the Department of Justice's requirement that prosecutors had to charge the most serious provable crime), some injustices occurred. We believe that should be corrected. However, Attorney General Reno fixed this problem some time ago by no longer requiring Assistant United States Attorneys to charge the most serious readily provable offense if that would result in a miscarriage of justice. In addition, our Association proposed minor revisions to the present bill which would codify the intent to appropriately treat first time low level drug traffickers. We are not opposed to these goals and objectives. We are, however, very much opposed to the way the present bill achieves them.

We believe that prosecutors are in the best position to determine if an individual has cooperated substantially or truly has nothing to offer and therefore meets the other criteria to receive a reduced sentence in accordance with this bill's present language. We have proposed, therefore, that in order to qualify for "safety valve" relief, the current language be amended as follows:

(f)(5) is hereby amended by striking the current language and inserting:

(f)(5) the Government certifies that the defendant has timely and truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

We urge the Committee to make the change we have proposed.

Sincerely,

Lawrence J. Leiser, AUSA,
President, NAAUSA.

National Association of Assistant U.S. Attorneys Policy Brief

MANDATORY MINIMUMS

The National Association of Assistant United States Attorneys represents frontline federal prosecutors, including criminal narcotics prosecutors and designated Organized Crime Drug Enforcement Task Force prosecutors, charged with enforcing the Federal narcotics laws. We are encouraged that "The

Mandatory Minimum Sentencing Reform Act of 1994", H.R. 3979, as amended, and adopted by the Committee on the Judiciary's Crime Subcommittee, recognizes the importance of limiting relief from provisions of existing mandatory minimum sentences to those defendants who have made every effort to provide assistance to the government.

The proposed amendment to Section 3553 of Title 18, United States Code, to create a relief mechanism from application of mandatory minimum sentences in certain cases, includes the criteria as set forth in paragraph (5) that the defendant has provided to the Government all information the defendant has concerning the offense or other criminal conduct related to the offense.

While we are encouraged by the obvious recognition that any relaxation from mandatory minimum application should be limited to those who provide information to the government, we suggest that the existing language is problematic in its application. The first difficulty arises as to who is in a position to determine whether a defendant has provided the government all information. Only the Ggovernment is able to make that determination, by comparing the information provided with other evidence of the case. The current language would conceivably allow the defendant to self-servingly state "that's all I know," without the Government being in a position to test that assertion by debriefings, polygraph results, etc. In order to assist in this process, the defendant should be required to provide any evidence he can, in addition to information.

Similarly, we are concerned that this relief mechanism not be available to a defendant who has provided information which is not truthful, or to a defendant who in providing certain truthful information, nevertheless, also lies about other aspects or details so as to mislead investigators or obstruct the investigation.

It also should be required that the information be timely. Under the current language, a defendant who goes to trial and is convicted, would presumably be able to stand up at sentencing, tell the Government what it has already proved, and avoid the mandatory minimums under this escape provision.

Accordingly, we seek amended language which would require that the defendant must provide timely information, truthful information, other evidence, and that the determination as to whether a defendant has provided all this be by certification by the Government. Otherwise the sentencing court will be inundated by litigation calling upon it to make determinations it is not equipped to make.

This is the natural complement to the existing "substantial assistance" reduction mechanism currently embodied under Section 3553(e) of Title 18, United States Code. This provision has been responsibly applied by federal prosecutors throughout the country.

It reflects the recognition that the Government is in the best position to make such a determination, and provides the incentive to the low-level defendant to work with the Government in working up the ladder to identify and target higher-up drug traffickers. The current amendment properly recognizes that there are simply those who are not able to provide "substantial assistance" but who nevertheless have done everything they can to assist.

Simply put, society has a right to ask that a defendant provide all that he knows. If what he knows constitutes "substantial assistance" he will have already earned relief. (18 U.S.C. 3553(e)) If it does not, and he meets the other requirements of the currently proposed legislation, then justice dictates that he receive a lesser sentence.

The amended language which we have suggested (attached) will assure that defendants continue to have an incentive to cooperate with the United States by providing all truthful information in a timely manner, while allowing those who, through no fault of their own, are simply not in a position to provide "substantial assistance," an opportunity to receive a sentence below current mandatory minimums.

(f)(5) is hereby amended by striking—

"(5) no later than the time of the sentencing hearing, the defendant has provided to the government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement."

And inserting—

"(5) the government certifies that the defendant has timely and truthfully provided to the government all information, and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan."

THE TRUTH IS ALWAYS BEST

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. DORNAN. Mr. Speaker, one of our former members, Mr. Lionel Van Deerlin, who served here for 18 years and was defeated by DUNCAN HUNTER in the Reagan Landslide of 1980 was always the quintessential gentleman. He and I were always cordial to one another and when he was unfairly mentioned in the 1982 Capitol Hill cocaine scandal I defended Lionel. As a matter of fact, I defended him in a sworn court deposition. I supported his proper defense of his reputation and he was vindicated.

Then, for a while, he functioned as a lobbyist here in Washington on important legislation, even lobbying me. He had some success I'm told. So, it was with much surprise and annoyance that I read an article in October 1992 by Lionel blaming me a wee bit for President Bush's defeat. Pathetic. Now to be sure, there were several statements about me, his friend, in his hit-piece article. But, the few kind words were lost in a plethora of historical inaccuracies and gross distortions, which I know for a fact were fed to Lionel Van Deerlin by the yuppie assassins at the Democratic Congressional Campaign Committee. I vowed in those gloomy days of the meltdown of the Bush Presidency that someday hence I would rewrite the Van Deerlin article retaining the good vibes but correcting the very bad history. It's a pretty darn good profile now, and historically accurate. It will be in my press kit, and I'll save it as embryonic research for my autobiography which will be published in 2001 anno Domini. I trust Lionel as a gentleman will take counsel with the truth.

So, Mr. Speaker, here it is.

FIGHTER DORNAN'S LATEST BATTLE TOO LATE TO HELP

(By former Congressman Lionel Van Deerlin as corrected for truth by U.S. Congressman Robert K. Dornan (R–CA/46))

Congressman Robert K. Dornan was not a "spin doctor" at the first presidential debate on October 12, 1992, because he was representing President Bush with the oldest of the nine Dornan grandchildren on the island of San Salvador in the Bahamas to commemorate the 500th Anniversary of the first landfall in the New World by Christopher Columbus. But Bush needed Dornan in Richmond, Virginia that October night because there was virtually no other real fighter in the President's reelection team corner except for Mary Matalin.

Dornan is the outspoken congressman from Garden Grove, California, who represents the only democrat seat in Orange County. Dornan's dedication to truth has often catapulted him into the national scene. For example, on October 6, 1992, he lead to the White House three congressmen (a Navy ace, an Air Force seven-year POW hero and a former Army paratrooper officer—all Vietnam War decorated combat veterans) to advise bady-trailing-the-polls George Bush on a campaign strategy that recommended aggressive public discussion of Bill Clinton's lack of character and his lying about not using drugs and not dodging the selective service draft during wartime three, that's three, times. They also begged the president to go after Clinton for an explanation of a solo trip he made in January 1970 to Moscow, heart of the then communist world. (That month Moscow was 27 degrees below zero and under 10 inches of snow cover.) Bill was then a 23 years-old Rhodes scholar who apparently was also dodging his classes at Oxford. (He never took any of his 1970 exams so was denied an Oxford degree.) Only four of Clinton's class of 32 American students failed as he did to justify the two years of very generous scholarship money advanced to Rhodes students from the United States.

With everything else going badly, Bush should have heeded the counsel of Dornan and the three decorated Vietnam vet congressmen. In retrospect, it is apparent that voters would have been willing to revisit the Vietnam war issue in deciding the November 3 presidential election if they had been given the truth by the media regarding Clinton's disloyal overseas conduct as an organizer of demonstrations against the United States—conduct that blocked him for life from ever even getting a security clearance except by election to federal office. This was and is a valid and crucial national security issue.

One must wonder about Bush's advisers on political matters in general since there seems to have been no solid response to attacks or any fighting strategy in his campaign whatsoever.

Dornan is a man who may wish he had lived in more stirring times—during the medieval Crusades, perhaps, or circa King Arthur's Camelot. He would gladly have been with Davy Crockett at the Alamo, with Clive in India, the 300 Spartans at the Thermopylae pass, scaling Pointe du Hoc cliffs on D-Day, or have flown against Hitler's Luftwaffe with the Eagle Squadrons or against Tojo with the Flying Tigers in China, and certainly Dornan would have been with Horatio at the bridge.

Dornan joined up at age 19 in October 1952 and spent 23½ years as an Air Force enlisted man, cadet and officer, active and reserve. During his active duty years he was a fighter pilot flying F-86 and F-100 Sabers. Only God sets birth dates, and Bob got his wings too late for service in Sabre jets over the Yalu River in North Korea. After leaving active duty, he worked his way to Vietnam eight times to report for his own "Robert K. Dornan" television show on what he called "the Washington ordained no-victory-non-strategy in Southeast Asia, with the inevitable result—killing fields and boat people." He filmed combat as close as any journalist who ever covered the war, including scrounging combat flights on helicopter gunships and in two-seat jet fighters.

Dornan considers himself blessed that he has never had to fire at other young men misled by aggressors. He prays that all our military forces will be as fortunate under Clinton as he was serving during peacetime under a decisive President Eisenhower.

Dornan could have been one of the most colorful military figures since George Patton had he been born in 1903 or 1913 instead of 1933. Republicans think him their best and toughest debater. Democrats call him irrepressible. Some Democrats view him with intense frustration but not with dislike. The man is lively company. High-spirited and with easy command of the language, Dornan always draws attention on the House floor, and he loves the competitive exchange of ideas and the political give and take.

His flair for a bold and fearless approach to most problems was made apparent shortly after his arrival on the Washington scene; elected from a Santa Monica centered coastal district in L.A. County in 1976. A domestic terrorist band, the Hanafi Muslims, had taken more than 200 hostages at three Washington, D.C., locations, one of them the downtown headquarters of the B'nai B'rith. During a siege lasting days, with several shotgun murders at point blank range, Dornan, following his former investigative reporter instincts, appeared at police lines outside the occupied District Building where a police captain named Callahan described to him a desperate standoff. Several hostages already had been wounded and Dornan could hear them calling out to police, "food" and "water, please." A newsman had been murdered by a shotgun blast to his chest on the fifth floor. Dornan, without hesitation, offered himself in exchange for all the hostages in order to give the terrorists at least one hostage to ensure their safe passage to Dulles airport where they had demanded a waiting, fully fueled 747 jumbo jet. Dornan's offer was under consideration when the terrorists unexpectedly surrendered.

And if we don't yet have the truth about Chappaquiddick, it's not because Bob Dornan hasn't tried to uncover it. He took the well of Congress one day in 1979 to assert that Ted Kennedy had lied and still lies when he claims to have swum that swift channel on that fateful July 18/19, 1969 night.

"Only one member of either the House or Senate has ever made that swim," he announced. "And it is Bob Dornan, not Ted Kennedy!" On July 26, 1969, Dornan had truly traced every step of Kennedy's movements and filmed it all with his own 16 mm Bolex camera, including a channel swim, for an investigative report aired on his Emmy Award winning "Tempo" television show.

The parents of Mary Jo Kopechne, whose only child was left to die at Chappaquiddick at age 29, said Dornan came to their Pennsylvania home on November 6, 1979, seeking their side of the tragic event. For seven hours, the Kopechnes related to Dornan how they had been cruelly manipulated in 1969 by Kennedy lawyers, a labor leader, Rose Kennedy (who had beckoned them to visit her and a monsignor at the New York City apartment) and even by a Catholic bishop. They all coerced the Kopechnes into silence and extracted a promise from them not to seek an independent investigation. Dornan took their heart-breaking story to the public for the very first time to stop Sen. Kennedy from taking the nomination away from President Carter in the primaries of 1980. That year was also a presidential election where "lack of character" became a battle cry.

Dornan's legislative efforts include a successful move to deny Pentagon-funded abortions for military personnel or their dependents whether overseas or in the U.S., thereby saving diminishing security dollars for the defense of lives instead of for the destruction of innocent preborn lives.

Certainly, because of his stands on moral and social issues, a few liberal reporters take great liberties in conjuring up tales about Dornan that simply never happened. For example, when he referred to Tom Downey (D–NY) as a "draft-dodging wimp" during a March 1985 conservative conference at the Mayflower Hotel in Washington, D.C., the press wrote and still write that it led to a shoving match the next day on the House floor. It never happened. There were strong words between them, but Dornan never "straightened Downey's tie!" Here's another distortion: during California's 1982 Senate primary, Dornan assailed Rep. Barry Goldwater Jr. for attending a party at the Playboy mansion. True enough. Goldwater admitted that, but liberal press falsely added that Dornan claimed the revelers indulged in bestiality. Wow. Ex-porno performer Linda Lovelace charged that, not Dornan, and she never mentioned Goldwater Jr. Sometimes the liberal press can really lose it!

In 1985, Dornan also successfully fought to have the California GOP deny recognition to "Log Cabin Clubs" formed by homosexual and bisexual activists who register as Republicans for political mischief. Dornan has prevailed to this day in blocking their recognition by the Republican Party.

During Dornan's 1984 comeback, a radical Catholic priest (since gone over the hill) lied that Dornan once "stormed into his church rectory" to denounce a "certain Catholic bishop as communist," and, of course, the liberal press reported the priest's tale without checking with Dornan on the veracity of such a vicious charge. This political priest was a constant traveler to Nicaragua where he schmoozed with the Marxist Sandinistas, hence his animosity toward the pro-Contra Dornan.

When Radio Moscow's communist propagandist Vladimir Posner, who grew up Jewish in the United States, was featured on ABC television for 7 uninterrupted minutes calling President Reagan a liar, Dornan went after him on the House floor exposing him as the liar and betrayer of his own Jewish heritage in the measure. (Posner for years relentlessly lied that there was absolutely no anti-semitism anywhere throughout the Soviet Union, even though he had been kicked out of Moscow University because of his Jewish heritage.) Dornan had just returned from his 8th of 10 trips to the Soviet Union to meet with the terribly abused and oppressed Jewish "refuseniks." Dornan, who created the POW/MIA bracelet, had already resurrected the concept with dozens of names of courageous Soviet Jews engraved on bracelets above the date they had been arrested and imprisoned by the KGB.

Dornan, in September 1992, described 23-year-old "student" Clinton during his Oxford years and his 1970 USSR/Czechoslovakia trekking as "a nerdy little flower-child peacenik." Dornan, in a series of Sept./Oct. 1992 House speeches, said Clinton was not a traitor, but nevertheless did give "aid and comfort to an enemy locked in very bloody combat with over 500,000 brave American troops." (In 1992, Clinton referred to himself in 1970 as a "23-year-old boy.") The average age of the fighting men in Vietnam was only 19. (When Dornan was 23, he was the father of two with another on the way and flying supersonic F-100 fighters at George Air Force Base in the Mojave desert.)

It's hard to understand why President Bush never used Dornan's fighting strategy to defend himself and the Bush administration. George Bush would probably be serving out his second term if he had heeded only three of Battling Bob's impassioned pleas: first, pick Bob Dole or Colin Powell as Veep; second, capture and bring to justice Saddam Hussein, especially since Bush had called him "an Adolph Hitler"; and, three, most important of all, probably sufficient unto itself to reelect Bush, Dornan begged "Please, Mr. President, don't unread your lips and break your no new taxes pledge." Irish-American Robert K. Dornan obviously has a no-fear approach to life, and in politics he can strategize with the very best.

CHIEF OF ARMY CHAPLAINS, MAJ. GEN. MATTHEW A. ZIMMERMAN, JR., A STEWARD OF SOULS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 18, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of Chaplain, Maj. Gen. Matthew A. Zimmerman, Jr., Chief of Army Chaplains. Major General Zimmerman will retire on August 31, 1994 after 26 years of dedicated service.

There is always a sense of renewal in acknowledging the development, growth and success of men and women who are destined to lead and make changes. Major General Zimmerman has made a difference in many lives and will continue to do so. He has served at virtually every level of the Chaplaincy, from a Battalion Chaplain in Vietnam to Chief of Army Chaplains—the first African-American to become Chief of Chaplains of any service.

When we talk of leading by example, we can speak of no one more stellar or better prepared than Matthew A. Zimmerman, Jr. to "shepherd the flock". Chaplain Zimmerman was born in Rock Hill, SC. He holds a bachelor of science degree in biology and chemistry from Benedict College, a master of divinity degree from Duke University, and a master of science degree in guidance and counseling from Long Island University. Chaplain Zimmerman is ordained by the National Baptist Convention and is a member of Omega Psi Phi Fraternity and Kiwanis International. Major General Zimmerman uses his educational, spiritual, and social talents to foster the good in mankind, to protect and nurture those who need comforting, and to challenge those who need a "jump start" in life.

On March 20, 1990, I had the privilege of welcoming then Brig. Gen. Matthew A. Zimmerman, Jr. to the House of Representatives when he served as a guest chaplain. He offered the following prayer:

Almighty God, our Creator, as we pause here today in work and fellowship, we acknowledge, appreciate, and applaud the uniqueness of this body's interests, talents, and work. We are grateful that its efforts can be defined in terms of stewardship; stewardship of the well-being of this Nation and its people.

Help each Member, we pray, better to maintain an understanding and profound appreciation of the nature and the implications of their charter. Bless this body and its Members as agents of change and facilitators for excellence in the quality of our citizens' lives. As stewards of effectiveness and excellence, continue to challenge them with a firm recognition of the dignity and worth of our citizens.

Give to each of them generous portions of Your wisdom, grace, and strength. Enable them to believe strongly in what they do; remain confident in their objectives and abilities, to be aware of and celebrate the humanity of our people, and certainly to maintain a good sense of humor.

In Your name and with your peace we pray. Amen.

These words attest to the type of community and spiritual leader Major General Zimmerman is, indeed a steward of man and his soul. Mr. Speaker, the apple doesn't fall far from the tree. His father, the Rev. Matthew A. Zimmerman, Sr., pastor of the Greater Abyssinian Baptist Church in my hometown of Newark, NJ, is the same type of leader. Always at the forefront of major issues the senior Reverend Zimmerman has used his vision and stability to prepare his congregation for the 21st century.

Mr. Speaker, I know my colleagues will want to join me as I congratulate Chaplain, Maj. Gen. Matthew A. Zimmerman, Jr. on his outstanding career and wish him well in his retirement.